

Kellyville Variation of Trusts Ordinance 2010

No 3, 2010

Long Title

An Ordinance to vary the trusts and authorise the consolidation of certain land at Kellyville and matters incidental thereto.

Preamble

A. Anglican Church Property Trust Diocese of Sydney (the "Property Trust") is the registered proprietor of the land contained in folio identifier 1/558307 and known as 47 President Road, Kellyville (the "MPC Land").

B. The MPC Land is church trust property and by clause 5A of the Mission Property Ordinance 2002 is held on trust for the purposes of the Anglican Church of Australia in the Diocese of Sydney.

C. Anglican Church Property Trust Diocese of Sydney (the "Property Trust") is the registered proprietor of the land contained in folio identifier 200/1049196 and known as 45 President Road, Kellyville and the site of St Stephen's Church (the "Parish Land").

D. The Parish Land is church trust property and by declaration under clause 3(5) of the New Sites Ordinance 1982 is held on trust for the parish of Kellyville (the "Parish").

E. The Property Trust holds an amount of \$145,000 in Client Fund 585 on the trusts set out in the Seven Hills Sale Ordinance 1977 (the "Sum").

F. By reason of circumstances which have arisen after the creation of the trusts on which the Land and the Sum are held, it is inexpedient to carry out and observe those trusts, and it is expedient that the trusts be varied and that the MPC Land and the Parish Land be consolidated in the manner set out in this Ordinance.

The Standing Committee of the Synod of the Diocese of Sydney Ordains as follows.

1. Name

This Ordinance is the Kellyville Variation of Trusts Ordinance 2010.

2. Declaration

By reason of circumstances which have arisen after the creation of the trusts on which the Land and the Sum are held, it is inexpedient to carry out and observe those trusts, and it is expedient that the trusts be varied in the manner set out in clause 3 and that the MPC Land and the Parish Land be consolidated in the manner set out in clause 4.

3. Variation of Trusts

On and from the date of assent –

- (a) the MPC Land is held upon trust for the purposes of the Parish, and
- (b) the Sum is held on trust for the purposes of the Anglican Church of Australia in the Diocese of Sydney as an addition to the capital of the Mission Property Fund held under the Mission Property Ordinance 2002 (the "Mission Property Fund").

4. Land Consolidation

The Property Trust is authorised to do all things necessary and incidental to consolidate the MPC Land and the Parish Land and create such easements and restrictions as are reasonably necessary in connection with the consolidation.

5. Payments to be made by the Parish

(1) The Parish is to pay the sum of \$380,000 to the Property Trust in three instalments as follows (such amounts to be held on trust by the Property Trust as additions to the capital of the Mission Property Fund) –

- (a) \$50,000 by 31 December 2010,
- (b) \$100,000 by 31 December 2011, and
- (c) \$230,000 by 31 December 2012.

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(2) The Parish is to repay the amount of \$145,000 to the Western Regional Council (the "Council") in two instalments as follows –

- (a) \$70,000 by 31 December 2013 and
- (b) \$75,000 by 31 December 2014.

6. Procedure in the event of default by the Parish

(1) In the event that the Parish is in material default of its obligation to make a payment or payments under clause 5(1) by the due date, the Mission Property Committee (the "MPC"), after prior consultation with the Parish, may promote an ordinance to again vary the trusts of the MPC Land so that it reverts to its former trusts and forms part of the Mission Property Fund.

(2) If following variation of the trusts pursuant to subclause (1) the MPC Land is sold, the MPC is to pay to the Council the sum of \$145,000 less any amount or amounts paid by the Parish under clause 5(2) subject to the sale price of the MPC Land, after payment of the costs of and incidental to the subdivision and sale, not being less than \$525,000. If the sale price, after payment of the costs of and incidental to the subdivision and sale, is less than \$525,000 the payment to the Council is to be reduced in proportion to the shortfall.

7. Amendment to the Mission Property Ordinance 2002

The Mission Property Ordinance 2002 is amended by deleting the following matter in the table in the schedule –

Lot 2 President Avenue, Kellyville	Lot 2 in Deposited Plan 558307 (excepting the area of 2.2 acres held on trust for the parish of Kellyville)
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I Certify that the Ordinance as printed is in accordance with the Ordinance as reported.

PG KELL
Chairman of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 29 March 2010.

R WICKS
Secretary

I Assent to this Ordinance.

PETER F JENSEN
Archbishop of Sydney
30/03/2010