

Asquith/Mt Colah/Mt Kuring-gai Land Sale and Variation of Trusts Ordinance 2007

No 10, 2007

Long Title

An Ordinance to permit the sale and variation of the trusts of certain land located at Asquith.

Preamble

A. Anglican Church Property Trust Diocese of Sydney (the "Property Trust") is the registered proprietor of the property known as 4-8 Royston Parade Asquith, comprised in folio identifiers 91/1043350 (the "Land") and 6/9913 (the "New Land").

B. The Land is church trust property and by clause 1 of the St John's Asquith with Mt Colah Declaration of Trusts and Mortgaging Ordinance 1968 the Land is held on trust to permit the same to be used for a church, parsonage or parish hall or partly for one and partly for another of such purposes in connection with the Church of England in Australia in the Provisional Parish of St John's Asquith with Mt Colah.

C. The New Land is church trust property and is held on trust for the parish of Asquith/ Mt Colah/Mt Kuring-gai (the "Parish") although there are no written trusts.

D. The Parish wishes to consolidate the Land and the New Land, subdivide it into 3 lots and sell lot 3 in the proposed subdivision.

E. By reason of circumstances which have arisen after the creation of the trusts on which the Land is held, it is inexpedient to carry out or observe those trusts and it is expedient that the trusts be varied, that the Land and the New Land be subdivided and a subdivided part sold by the Property Trust and the proceeds of sale applied 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 Asquith/Mt Colah/Mt Kuring-gai Land Sale and Variation of Trusts Ordinance 2007.

2. Declarations

By reason of circumstances which have arisen after the creation of the trusts on which the Land is held, it is inexpedient to carry out or observe those trusts and it is expedient that –

- (a) the trusts be varied in the manner set out in clause 3,
- (b) the Land and the New Land be subdivided and a subdivided part sold by the Property Trust in the manner set out in clause 4, and
- (c) the proceeds of sale be applied in the manner set out in clause 5.

3. Variation of Trusts

The Land is henceforth held on trust for the purposes of the Parish.

4. Power of Sale

The Property Trust is authorised –

- (a) to sell part of the Land (being lot 3 in the proposed plan of subdivision signed by the Diocesan Secretary and dated 20 April 2007) within 3 years after the date of assent to this Ordinance and thereafter only with the consent of the Standing Committee given by resolution, and
- (b) to take all such actions and do all acts and things necessary to prepare the lots for sale including the subdivision of the Land and New Land.

5. Allocations from proceeds of sale

(1) The Property Trust is directed to make the following payments in the following priority from the proceeds of any sale authorised by clause 4 –

- (a) firstly, the costs and expenses of and incidental to this Ordinance and the purchase and sale of part of the Land and New Land together with all costs incurred by the Parish including subdivision costs, and

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- (b) secondly, in payment of any goods and services tax (as defined in *A New Tax System (Goods & Services Tax) Act 1999*) payable in connection with any sale authorised by clause 4, and
- (c) thirdly, for the costs of erecting and fitting out residences suitable for a minister or an assistant minister, and
- (d) fourthly, for the repayment of loans taken out in connection with the acquisition of the New Land, and
- (e) fifthly, for the repayment of loans taken out in connection with the construction of the church building.

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 28 May 2007.

R WICKS
Secretary

I Assent to this Ordinance.

PETER F JENSEN
Archbishop of Sydney
29/5/2007