

Manly Corso Property Ordinance 2013 Amendment Ordinance 2017

No 46, 2017

Long Title

An Ordinance to amend the Manly Corso Property Ordinance 2013.

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

1. Name

This Ordinance is the Manly Corso Property Ordinance 2013 Amendment Ordinance 2017.

2. Amendment

The Manly Corso Property Ordinance 2013 is amended as follows –

- (a) In the Long Title, insert the words “to authorise the obtaining of financial accommodation in connection with that property, to authorise the mortgaging of that property and to authorise the application of the proceeds of the financial accommodation” after the second occurrence of the word “property”,
- (b) in Preamble B, insert the words “the Parish of” before the second occurrence of the word “Manly”,
- (c) insert a new Preamble C as follows, with subsequent re-lettering, –

“C. The Parish wishes to mortgage the Land to finance the construction on the Land of:

 - (a) 7 ground floor retail shops with approximately 532 square metres of premium lettable retail space; and
 - (b) an additional 2 floors inclusive of fitout and furnishings that will be used as ministry space inclusive of classrooms, a breakout area, modern amenities and a professional auditorium,

(together, the “Building Works”).”,
- (d) in Preamble C, delete the matter “it is expedient that those trusts be varied in the matter set out in this Ordinance” and insert instead –

“:

 - (a) it is expedient that those trusts be varied in the manner set out in this Ordinance, so that the whole and each part of the Land is henceforth held on the trusts specified in clause 4; and
 - (b) it is expedient to obtain financial accommodation to mortgage the Land and to apply the proceeds of such financial accommodation in the manner set out in this Ordinance.”
- (e) in clause 1, delete the matter “*Manly Corso Property Ordinance 2013*” and insert instead “*Manly Corso Property and Mortgage Ordinance 2017*”,
- (f) in clause 2, insert a new definition as follows –

“1928 Building” means the building site comprising of existing offices and retail shops on The Corso at Manly, built on the land contained in Certificate of Title Folio Identifier Y/162102.”,
- (g) in clause 3, delete the number “9” and insert instead “13”,
- (h) in clause 5(3), delete the matter “clause 5(1)” and insert instead “this Part or Part 4”,
- (i) in clause 5(3), insert the words “and the Wardens” after the second occurrence of the word “Parish”,
- (j) insert a new Part 4 and new clauses 6 to 9, as follows, with subsequent re-numbering, –

“Part 4 – Powers of Trustee with respect to financing

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6. Authority and power to borrow, to obtain financial accommodation and to indemnify

The Trustee is authorised and empowered to borrow and raise moneys and obtain financial accommodation of any kind, whether alone or jointly with any other person, upon such terms and in such manner and with or without security as the Trustee may in its absolute and uncontrolled discretion determine, including but without diminishing the generality of the foregoing by way of unsecured or secured –

- (a) loan,
- (b) overdraft facility,
- (c) letter of credit facility,
- (d) bank of guarantee facility, and
- (e) bill of exchange facility,

and any such borrowing raising or obtaining of financial accommodation may be made whether or not the liability arising out of such transaction is joint and/or several. The Trustee is also authorised and empowered to give an indemnity, whether alone or jointly with any other person, for the payment of money, or the performance of any contract, obligation or undertaking by any person, upon such terms and with or without security as the Trustee thinks fit, in connection with the financial accommodation contemplated in this clause.

7. Authority and power to mortgage

The Trustee is authorised and empowered to mortgage the whole or any part of the Land by one or more mortgages, upon such terms and in such manner as the Trustee may in its absolute and uncontrolled discretion determine, for any one or more of the following purposes –

- (a) to secure financial accommodation (and to secure any indemnity given by the Trustee in respect of such financial accommodation) the principal of which does not exceed the sum of \$10,000,000 obtained to finance the Building Works,
- (b) to secure financial accommodation (and to secure any indemnity given by the Trustee in respect of such financial accommodation) obtained to refinance in whole or in part any prior financial accommodation for the purposes referred to in paragraph (a), where the amount of financial accommodation being obtained does not exceed the amount being refinanced,
- (c) to secure financial accommodation (and to secure any indemnity given by the Trustee in respect of such financial accommodation) not exceeding such other amount as the Standing Committee may determine by resolution.

8. Authority and power to enter into derivatives

The Trustee is authorised and empowered to enter into any derivative, swap or other hedge or risk management transaction or any financial arrangement of a similar nature, permitted or required under the terms of any financial accommodation referred to in clause 6.

9. Proceeds of financial accommodation

The proceeds of any financial accommodation authorised under clause 6, after payment of costs, charges and expenses of and incidental to this Ordinance and incidental to establishing any such financial accommodation authorised under clause 6 or any mortgage authorised under clause 7, are to be applied by the Trustee as follows –

- (a) in and towards the charges, costs and expenses of, and incidental to, the Building Works,
- (b) where financial accommodation is obtained to refinance any prior financial accommodation, in repaying any moneys owing under that prior financial accommodation, or secured by the previous

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mortgage given in respect of such prior financial accommodation (if applicable), and

- (c) in any other case for such purpose as the Standing Committee approves by resolution.”,
- (k) in clause 6(4)(a)i, delete the number “9” and insert instead “13”,
- (l) in clause 6(4)(c), delete the matter “6(4)(b) and insert instead “10(4)(b)”,
- (m) in clause 6(4)(c), delete the number “9” and insert instead “13”,
- (n) in clause 6(4)(c), delete the number “7” and insert instead “11”,
- (o) in clause 6(4)(e)(iii), delete the matter “6(3)” and insert instead “10(3)”,
- (p) in clause 6(4)(f), delete the number “9” and insert instead “13”,
- (q) delete clause 7 and insert instead –
 - “11. **Redevelopment Sinking Fund**
 - (1) Amounts paid to the Redevelopment Sinking Fund under clause 13 prior to commencement of the redevelopment are to be applied to the redevelopment project in accordance with the terms agreed to within the financing arrangements entered into in accordance with clause 6 and applied to the Building Works proposed under clause 9(b).
 - (2) Application of all sinking fund monies is to be clearly recorded in the annual audited accounts provided to the Diocese in accordance with clause 10(d).”
- (r) in clause 8, delete the number “6” and insert instead “10”,
- (s) in clause 9(1), delete the word “Land” and insert instead “retail and commercial leases of premises on the ground floor from the Land”.
- (t) in clause 9(1), delete the matter “9(2)” and insert instead “13(2)”,
- (u) in clause 9(1), insert a new paragraph (b) as follows, with subsequent renumbering –
 - “(b) secondly, from the balance after the payments referred to in paragraph (a) have been made or provided for, in and towards payment of such amounts of interest, principal, costs and expenses that are required to be paid to a financier during that Financial Year under the terms of any financial accommodation obtained to finance the Building Works, or (as applicable) under the terms of any financial accommodation obtained to refinance any prior financial accommodation associated with the Building Works, and”
- (v) delete the matter in clause 9(1)(b) and insert instead the following –

“thirdly, from the balance after the payments referred to in the preceding paragraphs have been made or provided for, a payment in each Financial Year specified in the Schedule (if any) of the relevant percentage of that balance set out in the Schedule (or such other percentage as may be specified by the Standing Committee by resolution) is to be paid –

 - (i) prior to the demolition of the 1928 Building, into the redevelopment sinking fund, and
 - (ii) following the demolition of the 1928 Building, as additional capital loan repayments, and”
- (w) delete the matter in clause 9(1)(c) and insert instead the following –

“fourthly, from the balance after the payments referred to in paragraphs (a), (b) and (c) have been made or provided for, in payment to the Trustee of a trustee fee of an amount being 1.1% (or such other rate as the Standing Committee may determine by resolution from time to time) of the gross income of the Land for that Financial Year, and”
- (x) delete the matter in clause 9(1)(d) and insert instead the following –

“fifthly, from the balance after the payments referred to in paragraphs (a), (b), (c) and (d) have been made or provided for, an amount equal to 5% of that balance is to be

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paid to the Wardens (or provision made for such payment) for application towards the payment of the costs and expenses of or incidental to –

- (i) the alteration, extension, addition, demolition or redevelopment of buildings or structures held for the general or specific purposes of the Parish, and
 - (ii) the construction of new buildings or structures whether inside or adjacent to, or in replacement of the shops, offices, halls, function room, church and other spaces on the Land, and
 - (iii) the provision of fixtures and fittings in or adjacent to, or incidental to, such alteration, extension, addition, redevelopment or construction, and”
- (y) in clause 9(1)(e), delete the word “fifthly” and insert instead “sixthly”,
 - (z) in clause 9(2), delete the matter “9(1)” and insert instead “13(1)”,
 - (aa) in clause 9(3), delete each occurrence of the matter “9(1)(b), 9(1)(d) and 9(1)(e)” and insert instead “13(1)(c), 13(1)(d) and 13(1)(f)”,
 - (bb) in clause 9(3), delete the matter “6(4)(a)” and insert instead “10(4)(a)”,
 - (cc) in clause 10(2), delete the matter “10(1)” and insert instead “14(1)”,
 - (dd) in clause 11, delete the number “2017” and insert instead “2029”,
 - (ee) in clause 11, delete the number “2018” and insert instead “2030”,
 - (ff) in clause 12, delete the number “2014” and insert instead “2018”,
 - (gg) delete the table in the Schedule and insert instead the following –

Year	Percentage
2018	100%
2019	100%
2020	100%
2021	100%
2022	100%

I Certify that the Ordinance as printed is in accordance with the Ordinance as reported.

R TONG
Chair of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 4 December 2017.

R WICKS
Secretary

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I Assent to this Ordinance.

GN DAVIES
Archbishop of Sydney
04/12/2017