



## **Port Kembla Ordinance 1995**

No 2, 1995

### **Long Title**

An Ordinance to permit the sale of certain land at Windang and Primbee, to authorise the application of the proceeds of sale, to vary the trusts on which certain sums are held and to amend the Berkeley Variation of Trusts and Land Sale Ordinance 1987.

### **Preamble**

Whereas

A. Anglican Church Property Trust Diocese of Sydney (the "Property Trust") is the registered proprietor of the land comprised in Certificate of Title Volume 5287 Folio 49 being the residue of lot 30 in Deposited Plan 9944 (the "Windang Land").

B. The Windang Land is church trust property held on trust for the purposes of the parish of Port Kembla (the "Parish") although there are no written trusts.

C. By reason of circumstances which have arisen after the creation of the trusts on which the Windang Land is held it is inexpedient to carry out and observe those trusts and it is expedient that the Windang Land be sold and the proceeds of sale be applied in the manner set out in this ordinance.

D. The Property Trust is the registered proprietor of the land comprised in Certificate of Title Volume 6113 Folio 239 being lot 129 in Deposited Plan 9753 (the "Primbee Land").

E. The Primbee Land is church trust property held on trust for the purposes of the Parish although there are no written trusts.

F. By reason of circumstances which have arisen after the creation of the trusts on which the Primbee Land is held it is inexpedient to carry out and observe those trusts and it is expedient that the Primbee Land be sold and the proceeds of sale be applied in the manner set out in this ordinance.

G. Certain property ("Client Fund 433") comprising the balance of insurance proceeds received following the destruction by fire of a hall formerly erected on land comprised in lot 564 in Deposited Plan 36794 owned by the Property Trust at Berkeley, and accumulated income thereon, is church trust property which under the St Philip's Berkeley Declaration of Trust and Mortgaging Ordinance 1968 is held by the Property Trust upon trust to permit the same to be used for a church, parsonage or parish hall or partly for one or partly for another of such purposes in connection with the Anglican Church of Australia at Berkeley in the parish of St Stephen, Port Kembla.

H. By reason of circumstances which have arisen after the creation of the trusts on which the Client Fund 433 is held it is inexpedient to carry out and observe those trusts and it is expedient that the trusts be varied and that the Client Fund 433 be dealt with and applied as set out in this ordinance.

I. Under the Berkeley Variation of Trusts and Land Sale Ordinance 1987 ("the 1987 Ordinance") a sum (the "Sum") is held upon trust to be applied towards the cost of alterations to the Church of St Philip at Berkeley.

K. By reason of circumstances which have arisen subsequent to creation of the trusts on which the Sum is held it is inexpedient to carry out and observe those trusts and it is expedient that the trusts be varied and that the Sum be dealt with and applied as set out in this ordinance.

Now the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the Synod Hereby Ordains, Directs, Declares and Rules as follows -

### **Part 1 - Citation**

1. This Ordinance may be cited as the "Port Kembla Ordinance 1995".

### **Part 2 - Windang Land**

#### **Declaration**

2. By reason of the circumstances which have arisen after the creation of the trusts on which the Windang Land is held it is inexpedient to carry out and observe those trusts and it is expedient that the Windang Land be sold and that the proceeds of sale be applied in the manner set out in this ordinance.

#### **Power of Sale**

3. (1) The Property Trust is authorised and empowered to sell the Windang Land within 3 years after the date of assent to this ordinance and thereafter only with the consent of the Standing Committee given by resolution.

(2) Such sale may be by public auction or private agreement in one or more lots and for such price or prices and subject to such terms and conditions as the Property Trust may deem appropriate.

#### **Application of Proceeds**

4. (1) The proceeds arising from the sale of the Windang Land shall first be applied towards the payment of all outgoings to which that Windang Land may be subject and the costs of and incidental to this ordinance and the sale.

(2) The balance of proceeds of sale shall be applied by the Property Trust towards either or both of -

(a) the cost of purchasing land within the Parish to be held upon trust for the Parish;

(b) the cost of the erection of new buildings or the alteration or addition to existing buildings, in each case upon land within the Parish held upon trust for the Parish.

### **Part 3 - Primbee Land**

#### **Declaration**

5. By reason of the circumstances which have arisen after the creation of the trusts on which the Primbee Land is held it is inexpedient to carry out and observe those trusts and it is expedient that the Primbee Land be sold and that the proceeds of sale be applied in the manner set out in this ordinance.

#### **Power of Sale**

6. (1) The Property Trust is authorised and empowered to sell the Primbee Land within 3 years after the date of assent to this ordinance and thereafter only with the consent of the Standing Committee given by resolution.

(2) Such sale may be by public auction or private agreement in one or more lots and for such price or prices and subject to such terms and conditions as the Property Trust may deem appropriate.

#### **Application of Proceeds**

7. The proceeds arising from the sale of the Primbee Land after the payment of all outgoings to which that Primbee Land may be subject, the costs of and incidental to the ordinance and the sale shall be applied by the Property

Trust in the same manner as the proceeds arising from the sale of the Windang Land are to be applied under clause 4(2) hereof.

#### **Part 4 - Client Fund 433**

##### **Declaration**

8. By reason of circumstances which have arisen after the creation of the trusts on which Client Fund 433 is held it is inexpedient to carry out or observe those trusts and it is inexpedient to deal with or apply Client Fund 433 for the same or like purposes as the trusts on which it is presently held.

##### **Variation**

9. The trusts on which Client Fund 433 are held are varied so as to permit the application of Client Fund 433 in the same manner as the proceeds arising from the sale of the Windang Land are to be applied under clause 4(2) hereof.

#### **Part 5 - 1987 Ordinance**

##### **Declaration**

10. By reason of the circumstances which have arisen after the creation of the trusts on which the Sum is held it is inexpedient to carry out or observe such trusts and it is inexpedient to deal with or apply the Sum for the same or like purposes as the trusts on which it is currently held.

##### **Variation**

11. The trusts on which the Sum is presently held are varied so as to permit the application of the Sum in the same manner as the proceeds arising from the sale of the Windang Land are to be applied under clause 4(2) hereof.

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

**N.M. Cameron**  
*Chairman of Committees*

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 1 February 1995.

**W.G.S. Gotley**  
*Secretary*

I Assent to this Ordinance.

**R.H. Goodhew**  
*Archbishop of Sydney*  
1/2/1995