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# St James' South Canterbury Variation of Trusts and Sale Ordinance 1986

(Reprinted under the Interpretation Ordinance 1985.)

The St James' South Canterbury Variation of Trusts and Sale Ordinance 1986 as amended by the St James' South Canterbury Variation of Trusts and Sale Amendment Ordinance 1991 and the St James' South Canterbury Variation of Trusts and Sale Ordinance 1986 Amendment Ordinance 1996.

## Long Title

An Ordinance to authorise the sale of certain property and buildings situated at the intersection of Mons, Cressy and Lorking Streets, in the Municipality of Canterbury to vary certain trusts and to provide for the application of the proceeds of such sale.

## Preamble

Whereas

A. Anglican Church Property Trust Diocese of Sydney formerly known as Church of England Property Trust Diocese of Sydney (hereinafter called the "Corporate Trustee") is the registered proprietor of the land and property described in the Schedule hereto (hereinafter called "the Property").

B. The Property is church trust property held by the Corporate Trustee upon trust to permit the same respectively to be used for a Church Rectory and Parish Hall or partly for one and partly for another or others of such purposes in connection with the Church of England in the Parish of St James' South Canterbury.

C. The said Parish of St James' South Canterbury has been amalgamated with certain other areas which together now consist of the Parish of Belmore with McCallums Hill and Clemton Park (hereinafter called "the Amalgamated Parish").

D. By reason of the said amalgamation and other circumstances which have arisen subsequent to the creation of the trusts upon which the Property is held -

- (a) it is inexpedient to carry out and observe the same to the extent that the same are hereby varied and it is expedient that the Property be sold and the proceeds from the sale be applied as set out in this Ordinance; and
- (b) it is inexpedient to deal with or apply the proceeds from the sale for the sole use and benefit of the Amalgamated Parish.

Now therefore the Standing Committee of the Synod of the Diocese of Sydney in the name and in the place of the said Synod Ordains and Declares as follows -

## Citation

1. This Ordinance may be cited as "St James' South Canterbury Variation of Trusts and Sale Ordinance 1986".

## Declaration of Inexpediency

2. By reason of circumstances which have arisen subsequent to the creation of the trusts on which the Property is held -

- (a) it is inexpedient to carry out and observe the same and it is expedient that the Property be sold; and
- (b) it is inexpedient to deal with or apply the proceeds from the sale for the sole use and benefit of the Amalgamated Parish or for the same or like purposes.

## Power of Sale

3. The Corporate Trustee is hereby empowered to sell the Property within three (3) years after the date of assent to this Ordinance and thereafter only with the consent of the Standing Committee by public auction or private contract in one or more lots and for such price or prices and upon and subject to such terms and conditions as the Corporate Trustee may determine freed from the trusts upon which the said Property is now held.

## Application of Proceeds of Sale

4. The proceeds from the sale of the whole or any part of the Property shall be applied in meeting all costs of and incidental to this Ordinance and to the sale of the said Property including any incidental subdivision costs and then in or towards the following -

- (a) first, the sum of Thirteen thousand six hundred dollars (\$13,600) shall be paid to the churchwardens for the time being of St Albans Belmore for such purposes of the Amalgamated Parish as the Parish Council thereof may in its sole discretion determine;
- (b) secondly, if the existing dwelling on the Property is sold, the sum of up to One hundred and fifty thousand dollars (\$150,000) shall be applied in or towards the cost of any purchase and renovation (if necessary) by the Corporate Trustee of a residential property within the Amalgamated Parish for a minister, assistant minister or person or persons employed by the Churchwardens for the time being of St Albans Belmore;
- (c) thirdly, up to and including 30 September 1996 the balance not paid or applied as aforesaid from time to time shall be held upon trust by the Corporate Trustee to pay or apply the income therefrom:
  - (i) as to twenty percentum (20%) thereof such income shall be capitalised; and
  - (ii) as to eighty percentum (80%) thereof such income shall be paid to the churchwardens for the time being of St Albans Belmore to be applied for such purposes within or without or partially within or partially without the Amalgamated Parish as the Parish Council thereof may from time to time determine.
- (d) fourthly, after 30 September 1996 and including 30 September 2001 the Corporate Trustee must pay out of the capital the sum of \$5,000 for expenditure upon the church building known as St Markffs Church Clenton Park and hold the balance of the capital sum and apply the income as follows -
  - (i) 30% of the income must be capitalised; and
  - (ii) the remaining 70% of the income must be paid to the churchwardens for the time being of St Albanffs Church Belmore to be applied for such purposes within or without the Amalgamated Parish as the Parish Council may from time to time determine.

<sup>2</sup> 5. The churchwardens for the time being of St Albanffs Church Belmore shall, prior to 30 June 2001, make application to the Standing Committee for an ordinance to deal with the disposition of the said balance as to capital and income after 30 September 2001.

#### Schedule

All that land in the Municipality of Canterbury Parish of St George and County of Cumberland being Lot 1 in Deposited Plan No 520091 being the whole of the land in Certificate of Title Volume 10524 Folio 12.

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#### Endnotes

WARREN GOTLEY  
**Diocesan Secretary**

MARK PAYNE  
**Legal Officer**

24 April 2008

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- 1. Amended by Ordinances Nos.1, 1991 and 23, 1996.
  - 2. Inserted by Ordinance No. 23, 1996.