



## **St John's Park (Canley Heights) Land Sale and Variation of Trusts Ordinance 1998**

No 1, 1998

### **Long Title**

An Ordinance to authorise the sale of certain land at Canley Heights and the application of the proceeds of sale and the application of rentals from the lease of other land at Canley Heights and the distribution of certain accumulated income.

### **Preamble**

A. Anglican Church Property Trust Diocese of Sydney (the "Property Trust") is the registered proprietor of the land being Lot A in Deposited Plan 373764 and known as 269 Canley Vale Road, Canley Heights (the "Church Land").

B. By the St Paul's Canley Vale Declaration of Trusts and Mortgaging Ordinance 1963 the Church Land is held upon trust for a church, parsonage or parish hall or partly for one and partly for another or other of such purposes in connection with the Anglican Church of Australia in the provisional district of St Paul's Canley Vale or any other provisional parish or parishes into which it may be subsequently formed.

C. The provisional district of St Paul's Canley Vale is now part of the provisional parish of St John's Park with Canley Heights (the "Provisional Parish").

D. By reason of circumstances which have arisen after the creation of the trusts on which the Church Land is held it is expedient that the Church Land be sold and the proceeds applied in the manner set out in this Ordinance.

E. The Property Trust is also the registered proprietor of the land being Lot 1 in Deposited Plan 817982 and Lot 2 in Deposited Plan 984059 (the "Leased Land").

F. By the St Paul's Canley Heights Lease Ordinance 1981 the Leased Land is leased and the rentals applied in the manner set out in that Ordinance.

G. By reason of circumstances which have arisen after the creation of the trusts on which the Leased Land is held it is expedient to vary the provisions for the application of the rentals.

H. The Property Trust holds certain funds (the "Accumulated Income") under the St Paul's Canley Heights Lease Ordinance 1981 and it is expedient to provide for the application of those funds.

I. By reason of circumstances which have arisen after the creation of the trusts on which the Accumulated Income is held it is expedient that the Accumulated Income be applied in the manner set out in this Ordinance.

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

### **Name of Ordinance**

1. This Ordinance is the St John's Park (Canley Heights) Land Sale and Variation of Trusts Ordinance 1998.

### **Declarations**

2. By reason of circumstances which have arisen after the creation of the trusts on which the Church Land is held it is expedient that the Church Land be sold but it is inexpedient that the proceeds of sale be applied wholly for the

purposes of the Provisional Parish or solely for the same or like purposes as the trusts on which the Church Land is presently held and the proceeds applied as provided for herein.

3. By reason of circumstances which have arisen after the creation of the trusts on which the Accumulated Income is held it is inexpedient to carry out and observe those trusts and it is inexpedient that the Accumulated Income be applied wholly for the purposes of the Provisional Parish or solely for the same or like purposes as the trusts on which the Accumulated Income is presently held.

4. By reason of circumstances which have arisen after the creation of the trusts on which the Leased Land is held it is inexpedient that the income earned on and from 1 January 1998 be applied wholly for the purposes of the Provisional Parish or solely for the same or like purposes as the trusts on which the Leased Land is held.

#### **Sale Authority**

5. (1) The Property Trust is empowered to sell the Church Land by public auction or private contract at such time and at such price upon and subject to such terms and conditions as it may think fit.

(2) No such sale may be effected after the 3rd anniversary of the date on which assent is given to this Ordinance without the consent of the Standing Committee given by resolution.

#### **Application of Proceeds of Sale**

6. After payment of all outgoings to which the Church Land may be subject and the costs of and incidental to the promotion of this Ordinance and to the sale of the Church Land the balance remaining of the proceeds of sale shall be applied as follows -

(a) 30% of the balance remaining of the proceeds of sale shall be applied by the Georges River Regional Council for application as a capital sum towards the costs of capital works in the parish of Cabramatta on the property known as 42 Cumberland Street, Cabramatta;

(b) the balance shall be applied towards the building and fitting out of additional facilities in the Provisional Parish on the properties known as 73 Edensor Road and 7 and 8 Toorak Close, St John's Park.

#### **Application of Accumulated Income**

7. The Accumulated Income derived from rentals from the Leased Land earned on or before 31 December 1997 shall be applied as follows -

(a) an amount up to \$120,000 shall be applied by the Georges River Regional Council for application as a capital sum towards the costs of capital works in the parish of Cabramatta on the property known as 42 Cumberland Street, Cabramatta;

(b) in repayment of all loans made by the Sydney Church of England Finance and Loans Board prior to the date on which this Ordinance receives assent to or for the purposes of the Provisional Parish or any part thereof, including the payment of all interest and other charges thereon.

8. The balance of the Accumulated Income shall be applied towards the building and fitting out of additional facilities in the Provisional Parish of St Johns Park on the properties known as 73 Edensor Road and 7 and 8 Toorak Close, St John's Park.

#### **Distribution of Income**

9. The income earned from 1 January 1998 from any lease or licence of the Leased Land shall be applied as follows -

(a) 20% shall be retained by the Property Trust and applied for the benefit of the Provisional Parish for such purposes as the Standing Committee at the request of the said parish council may approve by resolution;

(b) 20% shall be paid to the Georges River Regional Council for application towards the costs of employing persons for gospel ministry within the region;

(c) 50% shall be paid to the churchwardens of the St John's Church, St John's Park (the "Churchwardens") to be applied towards the payment and provision of the stipend, salary, allowances and benefits for ministry workers in the Provisional Parish, other than the payment of the stipend, allowances and benefits of the minister; and

(d) 10% shall be paid to the Churchwardens to be applied towards the maintenance of Provisional Parish property.

**Review**

10. No later than 6 months after the first to occur of the following -

(a) the lessee of the Leased Land giving notice of the exercise of the option to renew the lease; and

(b) the expiry of the period within which the lessee may give such notice, the Churchwardens must promote an ordinance to deal with the future use of the Leased Land and income generated from that land, including the application of any amount retained by the Property Trust under clause 9(a).

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 27 January 1998.

**M.A. PAYNE**

*Secretary*

I Assent to this Ordinance.

**R.H. GOODHEW**

*Archbishop of Sydney*

30/1/1998