

Berrima cum Moss Vale Ordinance 2002

No 68, 2002

Long Title

An Ordinance to authorise the sale of certain lands in the parish of Berrima cum Moss Vale to provide for the application of the proceeds of sale and for incidental purposes including the application of certain proceeds of insurance.

Preamble

A. Anglican Church Property Trust Diocese of Sydney (the "Property Trust") is the registered proprietor of the land specified in Part 1 of Schedule 1 (the "Moss Vale Land") and Part 1 of Schedule 2 (the "Glebe Land") and holds the same upon the trusts set out in the corresponding Part 2 of Schedules 1 and 2.

B. Certain proceeds of insurance (the "Proceeds of Insurance") are payable in respect of the cottage erected upon the Glebe Land.

C. By reasons of circumstances which have arisen after the creation of the trusts on which the Moss Vale Land and the Glebe Land (together the "Land") and the Proceeds of Insurance are held it is inexpedient to carry out those trusts and it is inexpedient to deal with or apply the Land solely for the use or benefit of the parish of Berrima cum Moss Vale (the "Parish") and it is expedient that the Land be sold and the proceeds of sale and the Proceeds of Insurance be applied in accordance with the trusts declared in clauses 4 and 7.

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

1. Name

This Ordinance is the Berrima cum Moss Vale Ordinance 2002.

2. Declaration

By reason of circumstances which have arisen after the creation of the trusts on which the Land and the Proceeds of Insurance are held –

- (a) it is inexpedient to carry out or observe those trusts or to apply the Land and the Proceeds of Insurance for the same or like purposes as those trusts, and
- (b) it is inexpedient to deal with or apply the Land solely for the use or benefit of the Parish; and
- (c) it is expedient that the Land be sold and the proceeds of sale and the Proceeds of Insurance be applied in accordance with the trusts declared in clauses 4 and 7.

3. Authority

(1) The Property Trust is authorised to sell the Land or any part or parts thereof within 3 years from the date of assent to this Ordinance and thereafter only with the consent of the Standing Committee given by resolution provided that the Glebe Land shall not be sold for a sum less than \$600,000 without the prior consent of the Bishop of Wollongong.

(2) The sale or sales authorised under clause 3(1) may be by public auction or private agreement and for such price or prices and subject to such terms and conditions as the Property Trust may determine.

4. Application of sale proceeds

(1) The proceeds arising from the sale of the Moss Vale Land, after deduction of costs and fees of and incidental to this Ordinance and the sale, are to be paid to the Property Trust and applied as follows –

- (a) first, in payment of any goods and services tax (as defined in *A New Tax System (Goods and Services Tax) Act 1999*) payable in connection with the sale;
- (b) secondly, towards the costs of purchasing or erecting on land held upon trust for the Parish or on land purchased in the Parish for such purpose a residence or residences for the minister or an assistant to the minister or person employed by the churchwardens of any church in the Parish; and
- (c) the balance, if any, to be applied in accordance with clause 4(2) of this Ordinance.

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(2) The proceeds arising from the sale of the Glebe Land, after deduction of costs and fees of and incidental to this Ordinance and the sale, are to be paid to the Property Trust and applied as follows –

- (a) first, in payment of any goods and services tax (as defined in *A New Tax System (Goods and Services Tax) Act 1999*) payable in connection with the sale;
- (b) secondly, as to the sum of \$30,000 to the trustee of the property held under the Diocesan Endowment Ordinance 1984 as an addition to the capital of that property;
- (c) thirdly, to the balance, if any, of the costs of the residence referred to in clause 4(1)(b) or in repayment or reduction of any debt incurred to purchase or erect the residence or residences referred to in clause 4(1)(b) (provided that the total sum expended for such purpose under this Ordinance shall not exceed \$350,000);
- (d) fourthly, an amount not exceeding \$350,000 to be applied at the written request of a majority of the parish council of the Parish for the purposes and in the priorities set out in Schedule 3; and
- (e) the balance, if any, for such other purposes as may be requested in writing by a majority of the parish council of the Parish for capital purposes of the Parish.

5. Investment

Pending the application of the proceeds of sale under clause 4, the proceeds of sale (or the balance remaining from time to time) are to be invested and the income applied as follows –

- (a) to the churchwardens of St John's Moss Vale (the "Churchwardens") an amount sufficient to pay any assessments or cost recoveries charge levied on or payable by the Parish with respect to such income;
- (b) such sum as shall upon the written request of the Churchwardens be applied towards rent paid for accommodation for an assistant minister or person employed by the Churchwardens; and
- (c) the balance shall be capitalised.

6. Minimum sum

If the balance of the proceeds of sale and any capitalised interest after any application or applications made pursuant to clause 4 is less than the minimum sum such balance is to be paid to the Churchwardens and applied for the purposes set out in clause 4. The expression "minimum sum" at any time means the amount last determined prior to that time by the Property Trust to be smallest sum in relation to which the Property Trust wishes to act as trustee.

7. Proceeds of Insurance

The Proceeds of Insurance are to be applied as follows –

- (a) as to the sum of \$8,056 to be paid to the churchwardens of Holy Trinity, Berrima for the maintenance and refurbishment of Holy Trinity, Berrima;
- (b) as to the balance to be invested and the income arising therefrom to be applied at the written request of a majority of the Parish Council of the Parish for capital purposes of the Parish.

Schedule 1

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| Part 1 | The whole of the land in Certificate of Title Folio Identifier 19/258713 known as 50 Lytton Road, Moss Vale. |
| Part 2 | Upon trust for the Parish although there are no written trusts. |

Schedule 2

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| Part 1 | The whole of the land in Certificate of Title Folio Identifier 1/875157 known as Berrima Glebe. |
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Part 2 Upon trust for the appropriation thereof as a Glebe annexed to the church of the United Church of England and Ireland, as by Law Established, to be erected at Berrima in conformity with the Provisions of an Act of the New South Wales Parliament 8 William IV No.5.

Schedule 3

1. A sum of \$150,000 to be applied towards the refurbishment and repair of the fabric of Holy Trinity Church Berrima.
2. A sum of \$100,000 to be applied towards the refurbishment and repair of the fabric of Christ Church Bong Bong.
3. A sum not exceeding \$100,000 to be applied towards any of the following -
 - (i) For improvements to the parish hall at St John's Moss Vale.
 - (ii) For the sealing and landscaping of the carpark at St John's Moss Vale.
 - (iii) For improvements to the Church of St John's Moss Vale.
 - (iv) For improvements to other building in the Parish held upon trust for the Parish.
4. The balance to be invested and the income arising therefrom to be applied towards the capital purposes of the Parish as determined by the Parish Council of the Parish.

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

R TONG
Deputy Chairman of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 9 December 2002.

MA PAYNE
Secretary

I Assent to this Ordinance.

PETER F JENSEN
Archbishop of Sydney
10/12/2002