

# St James' King Street (Chatswood) Mortgaging and Sale Ordinance 2012

No 23, 2012

## Long Title

An Ordinance to authorise the mortgaging and sale of certain land at Chatswood and to provide for the application of the mortgage and sale proceeds.

## Preamble

A. Anglican Church Property Trust Diocese of Sydney (the "Property Trust") is the registered proprietor of the land and improvements comprised in Certificate of Title Folio Identifier 62/13880 and known as 17 Beaconsfield Road, Chatswood (the "Property").

B. The Property is church trust property held for the sole benefit of St James' King Street Sydney (the "Parish") as a clergy residence, although there are no written trusts.

C. The Parish wishes to sell the Property and use the sale proceeds to acquire another clergy residence.

D. By reason of circumstances which have arisen subsequent to the creation of the trusts on which the Property is held, it is expedient that the Property be mortgaged and sold and the proceeds applied in the manner set out in this Ordinance.

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

### 1. Name

This Ordinance is the St James' King Street (Chatswood) Mortgaging or Sale Ordinance 2012.

### 2. Declarations

By reason of circumstances which have arisen after the creation of the trusts on which the Property is held, it is expedient that the Property be mortgaged and sold and that the proceeds of mortgage and sale be applied in the manner set out in clauses 3 and 5.

### 3. Authority to Mortgage

The Property Trust is authorised with the written consent of a majority of the Parish Council to mortgage and charge the Property to a limit of \$1,300,000 ("loan") for the purpose of assisting in the purchase of another clergy residence ("the new residence").

### 4. Authority to Sell

The Property Trust is authorised to sell the Property by public auction or private treaty at any time during the 3 years following the date on which assent is given to this Ordinance (and thereafter only if approved by resolution of the Standing Committee) for such price and on and subject to such terms and conditions as the Property Trust may determine with the consent of the Wardens for the time being of the Parish (the "Wardens").

### 5. Application of the Proceeds of Sale

(1) The costs of and incidental to this Ordinance and the sale of the Property shall be paid from the proceeds of the sale of the Property.

(2) The remaining balance of the proceeds of sale shall 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 & Services Tax) Act 1999") payable in connection with the sale;
- (b) second, to discharge any mortgage secured over the Property;
- (c) third, towards the purchase of the new residence (or the repayment of loans incurred for the purchase of the new residence) and the costs of and incidental thereto and any furnishings for which the Wardens are responsible pursuant to the provisions of the Parish Administration Ordinance 2008; and
- (d) the balance to be held on trust to be applied for such purposes within or without or partially within or partially without the Parish as the Standing Committee at the request of the Wardens may by resolution from time to time determine and to be entirely freed and discharged from the trusts upon which the Property was held

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provided that in default of agreement either party may refer the question of the application of the balance proceeds to the Synod for determination.

### **6. Investment**

Pending the application of the proceeds for the sale of the Property, the proceeds or balance remaining from time to time are to be invested and the income capitalised.

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

PG KELL  
Chairman of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 17 September 2012.

R WICKS  
Secretary

I Assent to this Ordinance.

PETER F JENSEN  
Archbishop of Sydney  
09/10/2012