Berowra Ordinance 1993

No 48, 1993

An Ordinance to authorise the sale of certain lands situated at Berowra, the transfer of land held at Bar Island to the Council of the Shire of Hornsby and for matters related thereto.

Whereas

A. The Property Trust is the owner of the land described in schedules 1 and 2 except such parts thereof as have been resumed.

B. The land is situated in and held upon trust for the Anglican Church of Australia in the provisional parish of Berowra ("Provisional Parish") but there is no written record of those trusts.

C. The Property Trust is the trustee of a fund (the "Fund") established pursuant to clause 3(b)(i) of the Berowra (Brooklyn and Cowan) Sale Ordinance 1986, held for the purpose defined in that clause, namely, to be applied towards the cost of acquiring a residence for a minister or the acquisition of land and/or the cost of erection and fitting out of a residence for a minister.

D. The capital of the Fund is of the order of $110,000.00.

E. The land described in schedule 3 separates the land described in schedule 1 from the land described in schedule 2.

F. It is proposed that the Property Trust -

(a) purchase the land described in schedule 3;

(b) mortgage the whole or any part or parts of the land described in schedules 1, 2 and 3;

(c) subdivide and sell the land described in schedule 2 and part of the land described in schedule 3;

(d) use the Fund (including accumulated but undistributed income) and moneys borrowed on the security of the mortgage to pay the price for the land described in schedule 3, to meet the costs of the subdivision and sale and to pay all interest and other costs and expenses incurred in connection with the foregoing; and

(e) repay the moneys borrowed from the sale of the land described in schedule 2 and part of the land described in schedule 3.

G. The Property Trust holds the land ("Bar Island") described in the schedule to the Berowra Land Sale Ordinance 1992 upon trust (inter alia) which permits the sale of Bar Island and provides for the application of the proceeds of sale.

H. It is also proposed that the Property Trust transfer Bar Island to The Council of the Shire of Hornsby (or some other government, statutory or local government authority) (collectively, an "Authority") in exchange for cash or other consideration including the Authority executing work on land described in schedules 1, 2 and 3.

I. By reason of circumstances which have arisen after the creation of the respective trusts upon which the land described in schedules 1 and 2 and Bar Island are held, it is inexpedient to carry out and observe the same.

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

1. This ordinance may be cited as the "Berowra Ordinance 1993".

2. (1) By reason of circumstances which have arisen after the creation of the respective trusts upon which the land described in schedules 1 and 2 and Bar Island are held, it is inexpedient to carry out and observe those trusts.

(2) The land described in schedule 1 and so much of the land described in schedule 3 as is not sold is to be held upon trust for the Anglican Church of Australia in the Provisional Parish.

(3) The proceeds from the sale of the land described in schedule 2 and so much of the land described in schedule 3 as is sold are to be held upon trust to be applied in accordance with this ordinance.

(4) Without prejudice to the provisions of the Berowra Land Sale Ordinance 1992, Bar Island is to be held upon trust to permit the exchange referred to in recital H.

3. The Property Trust is authorised and empowered to implement the proposal described in recital F during the 3 years following the date on which assent is given to this ordinance and thereafter with the approval, given by resolution, of the Standing Committee provided that the power to mortgage granted by this clause is limited to a total sum not exceeding $450,000 or such greater amount as may be approved from time to time by the Standing Committee by resolution.

4. So much of the proceeds from the sale of the land described in schedule 3 as are not applied as indicated in recital F are to be applied -

(a) in meeting all costs and expenses not paid from moneys borrowed;

(b) if the exchange referred to in recital H takes place, a sum, equal to the value of Bar Island as estimated by the Property Trust - in accordance with clause 4 of the Berowra Land Sale Ordinance 1992;

(c) in payment of the debt of $9,000 (or thereabouts) owing by the Provisional Parish to the Church Army; and

(d) thereafter in or towards the cost of improvements to buildings or to land held upon trust for the Anglican Church of Australia in the Provisional Parish approved by the parish council thereof,

provided, if and when the amount held for the purpose described in paragraph (d) is less than $20,000, the Property Trust may pay the same to the churchwardens of St Mark's Church Berowra to be held and applied by them for that purpose.

Berowra Ordinance 1993

Schedule 1

The land in Certificates of Title Volume 1506 Folio 119, Volume 1506 Folio 120, Volume 1704 Folio 82 and Volume 11032 Folio 245.

Schedule 2

The land in Certificate of Title Volume 3848 Folio 125.

Schedule 3

The following land -

Lot 4	Volume 4301	Folio 198
Lot 5	Volume 4301	Folio 211

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 25 October 1993.

W.G.S. Gotley
Secretary

I Assent to this Ordinance.

R.H. Goodhew
Archbishop of Sydney
25/10/1993