

**NEWCASTLE ANGLICAN SCHOOLS BANKING (MORTGAGING)
ORDINANCE 2013**

AN ORDINANCE to authorise the mortgaging of certain land as security for borrowings by and on behalf of the Newcastle Anglican Schools Corporation and for purposes incidental thereto.

BACKGROUND

- A. The Synod of the Diocese by the creation of the Newcastle Anglican Schools Corporation has indicated the desire to establish a centralised banking facility for member schools of the Newcastle Anglican Schools Corporation (NASC).
- B. In establishing the centralised banking facility, the NASC with the support of the Diocesan Council intends to facilitate centralised lending and to provide security for that lending other than by the granting of episcopal certificates.
- C. The Land in Schedule 1 is church trust property and is held on trust for the use, benefit and purposes of the Diocese of Newcastle.
- D. The Land in Schedule 2 is church trust property and is held on trust for the use, benefit and purposes of the respective Schools and is vested in the corporate bodies of those schools by virtue of section 9(d) of the Anglican Church of Australia (Bodies Corporate) Act 1938.
- E. The Newcastle Anglican Schools Corporation (NASC) with the support of the Diocese wishes to mortgage all of the Land in both Schedule 1 and Schedule 2 as part of the security arrangements for the centralised lending facility.
- F. Pursuant to section 26 of the Anglican Church of Australia Trust Property Act 1917 the Synod may determine that it is expedient to direct that church trust property be mortgaged.
- G. Pursuant to section 10 of the Anglican Church of Australia (Bodies Corporate) Act 1938, the Synod has the power to make ordinances with respect to any church trust property vested in a body corporate.
- H. All property vested in a body corporate is deemed church trust property for the purposes of the Anglican Church of Australia Trust Property Act 1917.
- I. The Synod has by section 7 of the Church Trust Property Ordinance 2012 has conferred on the Diocesan Council the authority to exercise the powers contained in the Anglican Church of Australia Trust Property Act 1917.

BE IT THEREFORE Ordained by the Bishop and Diocesan Council as follows:

PART 1 – PRELIMINARY

1. Short Title

This ordinance may be cited for all purposes as ***“Newcastle Anglican Schools Banking (Mortgaging) Ordinance 2013”***.

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| <small>In Force Date: 28 April 2016</small> | <small>Last Review: 30 April 2020</small> |
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PART 2 – OPERATIVE PART

2. Declaration

- a. By reason of circumstances which have arisen after the creation of the trusts on which the Land in Schedule 1 it is expedient to mortgage the Land and apply the proceeds of such mortgage in the manner set out in clause 5.
- b. By reason of circumstances which have arisen after the creation of the trusts on which the Land in Schedule 2 is held it is expedient to mortgage the Land and apply the proceeds of such mortgage in the manner set out in clause 5.

3. Authority to Mortgage

Pursuant to section 27 of the Anglican Church of Australia Trust Property Act, 1917, the Trustees are authorised to grant a mortgage or mortgages from time to time over the Land in Schedule 1 and the Land in Schedule 2.

4. How the Mortgages are to be Carried Out

- a. The Trustees of Church Property for the Diocese of Newcastle are hereby authorised and directed to execute and do all necessary deeds and documents and to do all things for giving full and complete effect to the provisions of this ordinance according to its true intent and meaning.
- b. The Board of a school is hereby authorised and directed to execute and do all necessary deeds and documents and to do all things for giving full and complete effect to the provisions of this ordinance according to its true intent and meaning.
- c. The Diocesan Council may amend Schedule 1 and Schedule 2 by resolution adopted with the concurrence of the Trustees and the assent of the Bishop.

5. Application of Proceeds of Mortgage

The proceeds of any mortgage authorised under clause 2 are to be applied by the Trustees as follows:

- a. In payment of the costs, charges and expenses of and incidental to this Ordinance and any such mortgage; and
- b. The balance is to be applied to discharge the existing loan facilities of the member schools.

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PART 3 – SCHEDULES

Schedule One

Land

Folio Identifier 102/1020129 being the land at 134 King Street, Newcastle

Folio Identifier 1/798865 being the land at 34 Brown Street, Newcastle

Folio Identifier 3/594939 being the land at 48 Newcomen Street, Newcastle

Folio Identifier 1/594939 being the land at 50 Church Street, Newcastle

Schedule Two

Land

Folio Identifier 8/834636, Folio Identifier 16/856622, Folio Identifier 18/856622 and Folio Identifier 54/856621 being the land at 94 Princes Highway, Cundletown

Folio Identifier 12/1149487 being the land situate at Sparkes Road, Warnervale

Folio Identifier 1/1176704 being the land at 256 Minmi Road, Fletcher

Folio Identifier 22/239808, 23/239808, 24/239808, 25/239808 being land situated at 60 Kingdon Street, Scone

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PART 4 – ORDINANCE ADMINISTRATION

Table of Amendments

| Date | Current Section | Amending Instrument | Section Amended |
|----------------------|------------------------|---|------------------------|
| 28 April 2016 | 4c | <i>Newcastle Anglican Schools Banking (Mortgaging) Ordinance Amendment Ordinance 2016</i> | New |