

Western Australia

**Roman Catholic New Norcia Church Property
Act 1929**

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Roman Catholic New Norcia Church Property Act 1929

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Roman Catholic New Norcia Church Property Act 1929

An Act to vest in the Abbot Nullius of New Norcia and his successors in office land and other property belonging to the Roman Catholic Church within the “Territory Nullius of New Norcia,” and to make further provision for disposing of such property, and for other relative purposes.

1. Short title

This Act may be cited as the *Roman Catholic New Norcia Church Property Act 1929*, and shall come into operation upon a day to be fixed by proclamation ¹.

2. Interpretation

In this Act the word “**property**” includes property of every kind whatsoever, both legal and equitable, real and personal, and choses in action.

3. Certain property vested in Abbot Nullius

The lands comprised in the instruments of title set out in the schedule hereto, and all other property now or hereafter belonging to the Roman Catholic Church or vested in any person as trustee on account of the said Church and situated within the Territory Nullius of New Norcia, shall by virtue hereof vest absolutely in the Abbot Nullius of New Norcia for the time being and his successors in office, subject to all trusts and dispositions respectively affecting the same.

4. Abbot Nullius to be a corporation sole

For the purposes of this Act the said Abbot shall be a corporation sole by the name of “The Abbot Nullius of New Norcia” with perpetual succession, and by and in that name may sue and be sued and shall have power to purchase, hold, and take property and (subject to the trusts and dispositions aforesaid and to the provisions of this Act hereinafter contained), to sell, mortgage, lease, and dispose of any property hereby vested.

5. Power to lease

Subject to section 8, the said Abbot and his successors in office may, from time to time, lease any lands vested in him or them as such Abbot as aforesaid for any term with or without a right of renewal, and either by way of building lease or otherwise, and subject to such covenants, conditions and agreements as the lessor may think fit.

6. Power to mortgage

- (1) Subject to section 8, the said Abbot and his successors in office may from time to time borrow and take up at interest any sum or sums of money on security of any lands vested in him or them as such Abbot as aforesaid,
 - (a) for the purpose of building upon any of such lands or otherwise improving the same, and for any other purpose or purposes whatsoever which the said Abbot or his successors in office may deem necessary from time to time;
 - (b) for the purpose of paying and discharging debts heretofore incurred and which are secured by existing mortgages on church lands within the Territory Nullius of New Norcia, and to mortgage in fee or for a term of years any of such lands so vested as aforesaid as security for the amount of any such loan, and either with or without a power of sale and leasing respectively in case

of default being made in payment of the principal and interest moneys at the time or times by such mortgage appointed for the payment thereof respectively, and with or without a power of distress and such other and accompanying powers, clauses, and provisions as he or they shall deem expedient, and to give receipts for the moneys so advanced.

- (2) The lands so to be mortgaged shall thenceforth be held by the mortgagee or mortgagees thereof, and his or their executors, administrators and assigns, freed and absolutely discharged from the trusts upon which the same may for the time being be held by the said Abbot.
- (3) Unless otherwise therein expressed, no covenant, proviso or other matter or thing contained in any such mortgage shall be deemed or construed to impose on the mortgagor, his executors, administrators, or assigns any personal obligation or responsibility for the repayment of the principal moneys or interest thereby secured.
- (4) Any moneys raised by way of mortgage under this section, or any part of such moneys may be expended in building on or otherwise improving the lands comprised in the security or any other lands within the Territory Nullius of New Norcia not therein comprised.
- (5) This section shall not authorise a mortgage of any land held upon any express trust or condition against alienation.

7. Power to sell

Subject to section 8, the said Abbot and his successors in office may, from time to time, sell any lands or any part thereof vested in him or them as such Abbot as aforesaid, and transfer or otherwise assure the same to a purchaser, unless such land is held upon any express trust or condition against alienation.

8. Governor's approval required for certain sales etc.

No assurance on sale or mortgage or any lease for a term exceeding 21 years of lands granted by the Crown to or for the use or benefit of the Roman Catholic Church, without pecuniary consideration therefor, shall be valid unless countersigned as approved by the Governor for the time being with the advice and consent of the Executive Council.

9. Purchasers, etc., protected from certain irregularities

- (1) Subject to section 8, no purchaser, mortgagee or lessee of any lands vested in the said Abbot as aforesaid shall be bound or concerned to inquire whether any power of sale, mortgage or lease duly or regularly made or exercised, or in anywise to see to the application of any purchase, mortgage or other moneys, or to inquire into the necessity, regularity or propriety of any such sale, mortgage or lease, or be affected by notice that the same is or are unnecessary, irregular or improper.
- (2) No purchaser mortgagee or lessee shall be bound to enquire whether the buildings lands or premises to be affected by any dealing or dealings under this Act are within the Territory Nullius of New Norcia nor as to the appointment of the Abbot Nullius of New Norcia effecting or purporting to effect such dealing, nor be affected by notice that the person purporting to effect such dealing has not been duly and properly appointed The Abbot Nullius of New Norcia.

10. Land titles, registration and fees

The vesting of any land by this Act in "The Abbot Nullius of New Norcia" shall be registered and noted in the Office of Titles the Office of the Registrar of Deeds or the Department of Lands and Surveys² as the case may require, and on the document of title to such land free of charge.

11. Power to appoint attorneys

The said Abbot and his successors in office may, from time to time by an instrument in writing under his or their hand and seal, appoint the Vicar General of the Roman Catholic Abbey Nullius of New Norcia and a Priest of the same Abbey Nullius, or either of them, his attorney or attorneys to exercise all or any of the powers conferred upon the said Abbot by this Act during the absence of the said Abbot from the State of Western Australia, and it shall be lawful for such attorney or attorneys so appointed, subject to the provisions of this Act, in, the name and on behalf of the said Abbot to exercise such powers accordingly and to execute and sign all documents and writings required to give effect thereto.

12. Power to appoint administrator to act on death of Abbot

The said Abbot and his successors in office may, by an instrument in writing under his or their hand and seal, appoint an administrator or administrators to exercise the powers and perform the duties of the said Abbot from the date of his death until his successor has been canonically appointed and has taken possession of the Abbey Nullius; and it shall be lawful for any such administrator or administrators so appointed, subject to the provisions of this Act, to exercise such powers and perform such duties accordingly, and to execute and sign all documents and writings required to give effect thereto and such documents and writings shall have the same force and effect as if they had been duly sealed and signed by the said Abbot in his lifetime.

The Schedule

The Schedule

Grant Enrolled No. 1402 comprising Melbourne location 29.

Certificates of Title:

| | | | |
|------------|-----------|-------------|-----------|
| Volume 34 | Folio 40 | Volume 478 | Folio 57 |
| Volume 34 | Folio 41 | Volume 479 | Folio 85 |
| Volume 292 | Folio 31 | Volume 498 | Folio 1 |
| Volume 309 | Folio 33 | Volume 617 | Folio 131 |
| Volume 401 | Folio 105 | Volume 792 | Folio 101 |
| Volume 401 | Folio 114 | Volume 792 | Folio 102 |
| Volume 415 | Folio 175 | Volume 792 | Folio 103 |
| Volume 424 | Folio 193 | Volume 911 | Folio 180 |
| Volume 426 | Folio 187 | Volume 914 | Folio 2 |
| Volume 427 | Folio 2 | Volume 994 | Folio 48 |
| Volume 427 | Folio 3 | Volume 1004 | Folio 542 |
| Volume 446 | Folio 150 | Volume 1011 | Folio 626 |

Crown Leases: No. 2663/1915; No. 48/22.

Conditional Purchase Lease: No. 20464/47.

[The Schedule amended by No. 9 of 1930 s. 2.]

Notes

¹ This is a compilation of the *Roman Catholic New Norcia Church Property Act 1929* and includes the amendments made by the other written laws referred to in the following table.

Compilation table

| Short title | Number and year | Assent | Commencement |
|---|------------------------|---------------|---|
| <i>Roman Catholic New Norcia Church Property Act 1929</i> | 32 of 1929 | 23 Dec 1929 | 31 Dec 1930 (see s. 1 and <i>Gazette</i> 31 Dec 1930 p. 2733-4) |
| <i>Roman Catholic New Norcia Church Property Act Amendment Act 1930</i> s. 2 | 9 of 1930 | 19 Nov 1930 | 31 Dec 1930 (see <i>Gazette</i> 31 Dec 1930 p. 2733-4) |

² Under the *Public Sector Management Act 1994* the names of departments may be changed. At the time of this reprint the former Department of Lands and Surveys is called the Department of Land Administration.