

**PYMBLE ORDINANCE 1989**

No 26, 1989

**AN ORDINANCE to authorise the variation of trusts for the sale of certain land at Pymble in the Municipality of Ku-ring-gai and provide for the application of the proceeds thereof and to authorise the mortgaging of certain land, to provide for the application of the proceeds of such mortgaging and for purposes incidental thereto.**

**WHEREAS**

**A. The land described in the First Schedule hereto (hereinafter called "the land") is vested in the Anglican Church Property Trust Diocese of Sydney (hereinafter called "the Corporate Trustee") and is held pursuant to the Pymble Mortgaging Ordinance, 1981 upon trust for the purposes of and in connection with the Church of England in Australia in the Parish of Pymble.**

**B. The land described in the Second Schedule hereto is vested in the Anglican Church Property Trust Diocese of Sydney and is pursuant to St Swithuns Pymble Land Sale Ordinance 1971 held upon trust for the sole benefit of the Parish of St Swithun, Pymble.**

**C. By reason of circumstances which have arisen subsequent to the creation of the said trusts upon which the land is held it is inexpedient to carry out and observe the same and it is inexpedient to deal with or apply such property or any part thereof for the same or like purpose to the extent that they are hereby varied and it is expedient to sell the land.**

**NOW the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod HEREBY ORDAINS DECLARES DIRECTS AND RULES as follows:**

**1. By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the land is held it is inexpedient to carry out and observe the same and it is inexpedient to deal with or apply such property or any part thereof for the same or like purpose and it is expedient that the land should be sold.**

**2. The Corporate Trustee is hereby authorised to sell the land within three (3) years after the date of assent to this Ordinance and thereafter only with the consent of the Standing Committee by public auction or private agreement in one or more lots and for such price or prices and on and subject to such terms and conditions as to the Corporate Trustee may seem appropriate freed from the trusts upon which the land is now held.**

**3. The proceeds arising from the sale or sales shall be applied by the Corporate Trustee as follows:-**

**(a) Firstly, in payment of the costs of and incidental to this Ordinance and of any sale or sales of the land.**

**(b) Secondly, in purchasing one or more parcels of land to be held upon the same trust as the land is held upon for use for a residence for an assistant minister and/or youth worker and/or Sunday School accommodation and/or for building a residence for an assistant minister and/or youth worker and/or Sunday School accommodation upon such land and/or alterations and/or extensions to existing buildings erected upon the land for the purposes aforesaid.**

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- (c) Thirdly, in payment for repairs and/or alterations to the existing parish buildings and property held upon trust for the Anglican Church of Australia within the Parish of Pymble and the re-arrangement, re-furnishing and re-furbishing of furnishings, fixtures and fittings and other equipment therein and all ancillary and associated costs, fees and expenses in relation thereto.
- (d) Fourthly, the net balance to be held upon trust to be applied for such purposes within or without or partially within or partially without the Parish of Pymble as the Parish Council shall determine from time to time and the Standing Committee shall approve.

Pending any application pursuant to this clause (and such application may be made toward any one or more of the purposes set out in this clause and not necessarily in the same order as prescribed hereto) the said proceeds shall be invested and the income capitalised.

4. If upon the land at 4A Merrivale Road, Pymble becoming church trust property within the meaning of the Anglican Church of Australia Trust Property Act 1917 (as amended) and held upon trust for the Parish of Pymble the Corporate Trustee is hereby authorised to mortgage or charge the whole or any part of such land for the purpose of borrowing such sums of money as may from time to time be approved by the Standing Committee by resolution thereof.

5. In addition to or in the alternative to the land referred to in clause 4 hereof, the Corporate Trustee is hereby authorised to mortgage or charge the whole or any part of the land referred to in the Second Schedule hereto in respect of which the Corporate Trustee is the proprietor for the purpose of borrowing such sums of money as may from time to time be approved by the Standing Committee by resolution thereof.

6. Any document purporting to be verified by the Archbishop or the Diocesan Secretary of the said Diocese as a copy of any such resolution of the Standing Committee passed pursuant to the provisions of this Ordinance shall in favour of a mortgagee or any person or corporation claiming under a mortgage granted pursuant to this Ordinance be conclusive evidence that such resolution was duly passed and is the last resolution to have been passed by the Standing Committee pursuant to this Ordinance.

7. (1) The proceeds of any mortgage duly authorised shall be applied by the Corporate Trustee as follows:-

- (a) When the power is first exercised, in payment of the costs of and incidental to any mortgage or charge executed in pursuance of this Ordinance and the balance shall be applied towards any one or more of the purposes described in clause 3 sub paragraphs (b) and (c) hereof as determined by the Parish Council and not necessarily in the same order as prescribed therein.
- (b) When the power is subsequently exercised, then for such other purpose or purposes as the Standing Committee shall be resolution determine.

(2) Any mortgagee advancing moneys pursuant to the provisions of this Ordinance is hereby authorised to pay the same direct to the Churchwardens for the time being of St Swithun's at Pymble.



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8. Whilst any money is secured by any mortgage granted pursuant to this Ordinance, the said Churchwardens, in every statement prepared pursuant to Section 41 of the Sydney Church Ordinance 1912 (as amended), shall disclose the account so secured on the last day of the financial year to which the statement relates.

9. This Ordinance may be cited as "Pybble Ordinance 1989".

**FIRST SCHEDULE**

**ALL THAT** piece or parcel of land in the Municipality of Ku-ring-gai Parish of Gordon and County of Cumberland being Lot A in Plan annexed to instrument of transfer number D563833 and being the whole of the land comprised in Certificate of Title Volume 5678 Folio 183.

**SECOND SCHEDULE**

**ALL THAT** piece or parcel of land in the Municipality of Ku-ring-gai Parish of Gordon and County of Cumberland being Lot 1 in Deposited Plan 553039 and being the whole of the land comprised in Certificate of Title Volume 11759 Folio 9.

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

**R.D. CAMERON**  
Chairman of Committees

I CERTIFY that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on the 25th day of September 1989.

**W.G.S. GOTLEY**  
Secretary

I ASSENT to this Ordinance.

**DONALD ROBINSON**  
Archbishop of Sydney  
25 / 9 / 89