
St. Anne's (Ryde) Glebe Leased Lands Sale (Further Amendment) and Variation of Trusts and Mortgaging Ordinance 1968

No. 27, 1968

AN ORDINANCE to amend further St. Anne's (Ryde) Glebe Leased Lands Sale Ordinance 1927 by authorising the appropriation of the funds accumulated thereunder or any moneys to be paid to the Fund created under the said Ordinance to or towards the cost of the erection of certain shop and residential flat buildings to be erected on lands within the said Parish AND to vary the trusts and to authorise the mortgaging of certain lands situated in Church Street Ryde.

WHEREAS by virtue and in pursuance of the provisions of "The St. Anne's (Ryde) Glebe Land Sale Ordinance 1918" the Church of England Property Trust Diocese of Sydney (hereinafter called "the Corporate Trustee") holds certain investments and the income therefrom for the benefit of the Parish of St. Anne Ryde such income to be applied in the manner therein appearing AND WHEREAS such Ordinance was amended by the next recited Ordinance in a manner not material to those presents AND WHEREAS by an Ordinance styled "St. Anne's (Ryde) Glebe Leased Lands Sale Ordinance 1927" certain lands were authorised to be sold and it was also provided that after payment out of the proceeds of any sales of certain amounts therein specified the net proceeds of the sale of any such lands should be invested and the residue of income after provision was made for certain annual payments should be accumulated and such accumulations should be added to the principal until such principal and accumulations should amount to the sum of Forty-one thousand two hundred dollars (\$41,200) or until otherwise determined by Synod AND WHEREAS the said lastly recited Ordinance and the trusts thereunder were amended in certain respects by "St. Anne's (Ryde) School Land Sale and Building Ordinance 1935" by "St. Anne's (Ryde) Glebe Leased Lands Sale (Amendment) Ordinance 1937" by "St. Anne's (Ryde) Glebe Leased Lands Sale (Amendment) Ordinance 1954" by "St. Anne's (Ryde) Glebe Leased Lands Sale (Further Amendment) Ordinance 1962" and by "St. Anne's (Ryde) Glebe Leased Lands Sale (Further Amendment) Ordinance 1964" (all of which principal and amending Ordinances collectively are hereinafter referred to as "the Investment Ordinances") AND WHEREAS the said principal and accumulations now amount to a sum in excess of Forty thousand dollars (\$40,000) AND WHEREAS it is

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proposed to erect shop and residential flat buildings at Ryde on the land described in the First and Second Schedule hereto and for such purpose to apply the said accumulated funds as to as well the capital as the income thereof towards such purposes AND WHEREAS by reason of the circumstances which have arisen subsequent to the creation of the trusts recited in St. Anne's (Ryde) Glebe Leased Lands Sale Ordinance 1927 as amended as aforesaid it has become inexpedient to carry out and observe such trusts in their entirety and it is expedient to vary the said trusts in the manner hereinafter appearing AND WHEREAS by Declaration of Trust bearing date the 28th day of November 1916 and Registered No. 846 Book 1255 John Charles Wright Archbishop of Sydney did declare for himself and his successors as Archbishop of Sydney and did hold (inter alia) the lands more particularly described in the First and Second Schedules hereto UPON TRUST to permit the same to be used for a site for a dwelling house for the Clergyman from time to time appointed to officiate as Rector in the Parish of St. Anne Ryde but subject to the powers and provisions conferred by or contained in any Ordinance or Ordinances affecting the same or any part thereof and also subject to any sale or other disposition of any part of the said land theretofore made AND WHEREAS there is erected on the land more particularly described in the First Schedule hereto a rectory but a new rectory is now in the course of erection on other land held by the Corporate Trustee for the sole benefit of the said Parish AND WHEREAS on the completion of such construction of the new rectory as aforesaid it is proposed to demolish the existing rectory standing on the land described in the First Schedule hereto and to erect on the lands described in the First and Second Schedules hereto certain shop and residential flat buildings AND WHEREAS for such purposes it will be necessary to borrow a sum or sums not exceeding Five hundred and ten thousand dollars (\$510,000) in respect of the development of the land described in the First Schedule hereto to be applied towards the costs thereof AND WHEREAS it is expedient that the said lands be mortgaged or charged to secure such advances NOW the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod HEREBY DECLARES ORDAINS AND DIRECTS as follows:—

1. By reason of circumstances which have arisen subsequent to the creation of the trusts made and in pursuance of the provisions of the Investment Ordinances it is inexpedient to carry out and

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observe the same and it is expedient to vary such trusts in the manner hereinafter provided.

2. (i) The Corporate Trustee is hereby directed and authorised
 - (a) To sell and convert into money the investments representing the accumulated funds as to as well the capital as the income thereof held by the Corporate Trustee under the provisions of the Investment Ordinances as aforesaid or such part or parts thereof as shall not consist of money at such time or times and in such manner as the Corporate Trustee shall deem fit.
 - (b) To pay the said moneys and the net proceeds of such sale or sales and conversions as to as well the capital as the income thereof to the Churchwardens for the time being of the said Parish (whose receipt shall be a sufficient discharge therefor) to be applied by them for or towards the cost of the erection of certain shop and residential flat buildings to be erected on the said lands.
- (ii) The Churchwardens of the said Parish are hereby released and freed from any further payments to the Corporate Trustee under or in pursuance of the provisions of any of the Investment Ordinances which shall be deemed to be rescinded when the payments referred to in paragraph (b) of sub-clause (i) of this Clause shall have been made by the Corporate Trustee to the Churchwardens of the said Parish.

3. The lands described in the First and Second Schedules hereto be and the same are hereby vested in the Corporate Trustee subject to the trusts on which the same are now held.

4. By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the lands described in the First and Second Schedules hereto are held it is inexpedient to carry out and observe the same and it is expedient to declare and it is hereby declared that the Corporate Trustee shall hold the said lands upon trust to permit the same to be used for the erection thereon of shop and residential flat buildings or partly for one and partly for another of such purposes and to enter into such contract or contracts as may be necessary in accordance with plans and

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specifications as approved by the Corporate Trustee to erect upon the said lands such buildings as aforesaid.

5. By reason of the circumstances which have arisen subsequent to the creation of the trusts upon which the land described in the First Schedule hereto are held it is expedient that such lands be mortgaged.

6. (i) The Corporate Trustee is hereby empowered to mortgage from time to time the whole or any part of the land described in the First Schedule hereto for the purpose of borrowing the sums following:—

(a) When the power is first exercised a sum not exceeding Five hundred and ten thousand dollars (\$510,000).

(b) When the power is subsequently exercised such sum not exceeding Five hundred and ten thousand dollars (\$510,000) as the Standing Committee may by resolution determine PROVIDED that such debt shall be reduced by payments of principal and interest as hereinafter set forth when the power is first exercised and thereafter at such rate as Standing Committee shall by resolution determine and PROVIDED FURTHER that no person or corporation advancing moneys under the provisions of this Ordinance shall be concerned to enquire whether such reductions shall have been made.

(ii) Any renewal of a mortgage shall be deemed to be a subsequent exercise of the said power.

(iii) A document purporting to be certified by the Archbishop or Diocesan Secretary of the said Diocese as a copy of any such resolution shall in favour of a mortgagee or any person or corporation claiming under the mortgage be conclusive evidence that such resolution was duly passed.

7. The proceeds of any mortgage hereby authorised shall after paying the costs of and incidental to this Ordinance and such mortgage be applied by the Corporate Trustee as follows:—

(i) When the power is first exercised towards the cost of erection of the residential flat buildings on the land described in the First Schedule hereto.

(ii) When the power is subsequently exercised (other than by a renewal of the original mortgage) in payment of the

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principal interest and costs of discharge of any existing mortgage and the costs and expenses of such further mortgage.

(iii) Any mortgagee advancing moneys pursuant to the provisions of sub-clause (i) of this clause shall pay the same direct to the Churchwardens for the time being of St. Anne's Ryde.

8. (i) The Corporate Trustee is hereby empowered to lease from time to time the said shop and residential flat buildings to be erected on the land described in the First and Second Schedules hereto upon such terms and conditions as to the Corporate Trustee shall seem fit but nevertheless subject to the provisions of the Standing Committee of Synod's investment policy and the annual net income arising from such leases shall be applied by the Corporate Trustee as follows:—

(a) By payment of interest on the mortgage on the land described in the First Schedule hereto at a rate not exceeding seven dollars seventy-five cents (\$7.75) per centum per annum for the first five years of such advance and thereafter principal and interest to be repaid by forty half-yearly instalments of Twenty-five thousand two hundred and eighty-nine dollars sixty-six cents (\$25,289.66).

(b) By repayment of principal and interest on any advance by way of Bank Overdraft under any letter of guarantee pursuant to the provisions of the Church of England Finance and Loans Board Ordinance.

(c) Subject to the payments hereinbefore provided and to the provisions hereinafter appearing the net income shall be applied by the Corporate Trustee by payment to the Churchwardens of the said Parish for parochial purposes.

(ii) At the expiration of five years after the practical completion of the erection of the shop and residential flat buildings to be erected on the land described in the First and Second Schedules hereto and at the expiration of every three years thereafter the Churchwardens of the said Parish after paying or making provision out of the net income as aforesaid for—

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- (a) All rates taxes and other outgoings (including items of a capital nature) charged or to be charged against the said lands and/or buildings
- (b) A sinking fund in respect of the said buildings
- (c) The General and Special Assessments and any other Diocesan Assessment which may be levied against the said Parish
- (d) All or any charges or deductions which may be made by the Corporate Trustee in respect of any collection of income as aforesaid

shall as to twenty-five per centum of the resultant balance of the net income allocate and distribute the same in accordance with the terms of agreement to be reached from time to time between the said Churchwardens and the Standing Committee and the Standing Committee shall thereupon by ordinance determine the allocation and distribution of such balance of twenty-five per centum of the balance of the net income in the manner agreed upon: Provided however in the event of the Churchwardens and the Standing Committee failing to reach agreement at the expiration of any of the triennial periods as aforesaid the said twenty-five per centum of the net income shall be allocated and distributed during the ensuing triennial period as determined by the Archbishop in Council.

9. The Churchwardens for the time being of St. Anne's Ryde shall within seven (7) days of the date of holding the Annual Vestry Meeting during such time as any money is owing to any mortgagee pursuant to this Ordinance cause an account to be forwarded to the Diocesan Secretary giving details of the original amount borrowed the amounts paid off and the balance owing.

10. This Ordinance may be cited as "St. Anne's (Ryde) Glebe Leased Lands Sale (Further Amendment) and Variation of Trusts and Mortgaging Ordinance, 1968".

FIRST SCHEDULE

All that piece of land containing 1 acre 1 rood 26 $\frac{1}{2}$ perches being part of St. Anne's Rectory Glebe being more recently shown as Lot 1 on plan signed by Mr. Surveyor W. R. Hardy and dated 14/11/61 situated in the Municipality of Ryde Parish of Hunters

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Hill County of Cumberland and State of New South Wales, Commencing at a point on the North Western alignment of Church Street as widened bearing 304 degrees 02 minutes 10 seconds and distant 13' 04" from the Easternmost corner of Lot 1 as shown upon plan annexed to Transfer No. G178736 and bounded thence on the South West by part of the North Eastern boundary of Lot 1 as shown upon panel annexed to Transfer G178736 the North Eastern boundary of Lot 4 as shown upon plan annexed to Transfer No. G178136 and part of the North Eastern boundary of land shown in Transfer No. C384443 being in all a line bearing 304 degrees 02 minutes 10 seconds for 276' 10" to the South Eastern alignment of Devlin Street thence on the North West by part of the South Eastern alignment of Devlin Street being a line bearing 27 degrees 55 minutes 50 seconds for 247' 9 1/2" thence on the North East by a line bearing 122 degrees 01 minutes 30 seconds for 149' 6", thence on the South East by a line bearing 211 degrees 22 minutes 40 seconds for 50' 0" thence again on the North West by a line bearing 122 degrees 04 minutes for 129' 0" to the North Western alignment of Church Street as widened thence on the South East by part of the North Western alignment of Church Street as widened being a line bearing 211 degrees 2 minutes 40 seconds for 206' 4 1/2" to the point of commencement.

SECOND SCHEDULE

All that piece of land containing 19 1/2 perches being part of St. Anne's Rectory Glebe and being more recently shown as Lots 2 and 3 on plan signed by Mr. Surveyor Walter Ross Hardy and dated 14/11/61 situated in the Municipality of Ryde Parish of Hunters Hill County of Cumberland and State of New South Wales. Commencing at a point on the North Western alignment of Church Street as widened bearing 211 degrees 22 minutes 40 seconds and distant 82' 2" from the intersection of the North Western alignment of Church Street as widened with the South Western alignment of Blaxland Road as widened and bounded thence on the North East by a South Western boundary of land in Real Property Application No. 40002 being a line bearing 302 degrees 07 minutes for 79' 9 1/2" thence on the North West by South Eastern boundaries of land in Real Property Application No. 40002 being lines bearing 211 degrees 28 minutes for 21' 2" and 209 degrees 45 minutes for 28' 10 1/2" thence again on the North East by part of a South Western boundary of land in Real Property Application No. 40002 being a line bearing

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302 degrees 01 minutes 30 seconds for 50' 04" thence again on the North West by part of a South Eastern boundary of Lot 1 as shown on plan signed by Mr. Surveyor Walter Ross Hardy and dated 14/11/61 being a line bearing 211 degrees 22 minutes 40 seconds for 10' 0" thence on the South West by a line passing along the North Eastern face of a brick wall and its North Western and South Eastern prolongations bearing 122 degrees 04 minutes for 129' 0" to the North Western alignment of Church Street as widened thence on the South East by part of the North Western alignment of Church Street as widened being a line bearing 31 degrees 22 minutes 40 seconds for 60' 0" to the point of commencement.

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

H. G. S. BEGBIE,

Deputy Chairman of Committees.

I certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on the 23rd day of September, 1968.

W. L. J. HUTCHISON,

Secretary.

I assent to this Ordinance.

MARCUS LOANE,

Archbishop of Sydney.

23/9/1968