
St. Jude's Randwick Ordinance 1970

No. 65, 1970

AN ORDINANCE to vary the trusts of certain land in The Avenue, Randwick, to authorise the mortgaging of such land and to provide for the application of the proceeds of such mortgage, to authorise the erection of a building containing home units pursuant to the Conveyancing (Strata Titles) Act 1961, to authorise the sale of certain of such units, to declare the trusts in respect of one of the said units, to provide for the application of the proceeds of such sales, to vary the trusts of certain other land in Alison Road, Randwick, to authorise the mortgaging or charging of such land and to provide for the application of the proceeds of such mortgaging, to authorise the leasing of the said land, and to provide for the application of the proceeds of such leasing.

WHEREAS Church of England Property Trust Diocese of Sydney (hereinafter called the "Corporate Trustee") is registered as proprietor in fee simple of the land comprised in Certificate of Title Volume 1076 Folio 45 more particularly described in the First Schedule hereto AND WHEREAS the said land is church trust property within the meaning of the Church of England Trust Property Act 1917 and is held upon trust as a curate's residence in the Parish of St. Jude Randwick AND WHEREAS there is now erected on the said land a curate's cottage AND WHEREAS by reason of circumstances which have arisen subsequent to the creation of the trusts upon which the said land is held it is inexpedient to carry out and observe the same to the extent to which the same are hereby varied AND WHEREAS it is expedient to mortgage or charge the said land and to provide for the purpose of borrowing certain monies AND WHEREAS it is expedient to subdivide the whole of the said land and to carry out improvements thereon so as to make the said land a "parcel" within the meaning of the Conveyancing (Strata Titles) Act 1961 and to sell part of the said land and to declare the trusts in respect of another part of the said land and to apply the net proceeds of such sales as hereinafter set out AND WHEREAS the Corporate Trustee is registered as proprietor in fee simple of the land comprised in Certificate of Title Volume 10963 Folio 216 more particularly described in the First Part of the Second Schedule hereto AND WHEREAS the Corporate Trustee is claiming possessory title in respect of the land having a frontage to Alison Road contiguous to the land in the First Part of the Second Schedule and being the land more particularly described

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in the Second Part of the said Schedule AND WHEREAS the said land is church trust property within the meaning of the Church of England Trust Property Act 1917 and is held for the sole benefit of the Parish of St. Jude Randwick but no trusts in writing have been declared concerning the same AND WHEREAS by reason of circumstances which have arisen subsequent to the creation of the trusts upon which the said land is held it is inexpedient to carry out and observe the same to the extent to which the same are hereby varied AND WHEREAS it is expedient to mortgage or charge the said land and lease the said land and to apply the net proceeds as hereinafter set out NOW the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod HEREBY DECLARES RULES ORDAINS AND DIRECTS as follows:—

1. By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the land described in the First Schedule hereto is held it is inexpedient to carry out and observe the same and it is expedient that the land be mortgaged or charged and subdivided and to carry out certain improvements thereon so as to make the land a parcel within the meaning of the Conveyancing (Strata Titles) Act 1961 and it is expedient that certain parts of the said land be sold and that trusts be declared in respect of the remaining part or parts thereof.

2. By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the land described in the Second Schedule hereto is held it is inexpedient to carry out and observe the same and it is expedient that the land be mortgaged or charged and leased.

3. (i) The Corporate Trustee is hereby empowered to mortgage or charge the land described in the First Schedule hereto or any part thereof (when the power is first exercised or subsequently exercised) for a sum not exceeding One hundred thousand dollars (\$100,000) or such greater sum as the Standing Committee may by resolution approve.

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

4. The proceeds of the mortgage authorised by Clause 3

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hereof shall be applied by the Corporate Trustee as follows:—

- (i) First in payment of the costs charges and expenses of and incidental to this Ordinance and of any mortgage executed in pursuance hereof.
- (ii) Secondly the balance to be paid to the Churchwardens of St. Jude's Church Randwick to be applied by them in and towards the costs of erection of a block of nine home units on the said land and the costs of and incidental to registering a strata plan in respect of the said units pursuant to the *Conveyancing (Strata Titles) Act 1961* and any other costs and outgoings of and incidental to that purpose.

5. The Corporate Trustee is hereby authorised and empowered to sell the said strata units (with the exception of one unit excepted from sale by the Parish Council with the approval of the Corporate Trustee before any units are offered for sale) freed from the trusts upon which the land is now held at such time or times at such price or prices by public auction or private contract and upon such terms and conditions as it may think fit and to construct all necessary footways, kerbing and guttering and grant or reserve such easements and pay any such sums as may be necessary to provide water or other services as may be required by any authority as a condition of approving such subdivision.

6. The proceeds arising from the sale or sales of any of the land comprised in the First Schedule hereto or any home unit forming part of the parcel of land referred to shall after paying thereout the costs of and incidental to the transfer or transfers of the land in pursuance thereof and the rates charges and outgoings to which it may be subject be applied as follows:—

- (i) First in or towards repayment or reduction of the amount owing under any mortgage or charge granted pursuant to the preceding provisions of this Ordinance and of any costs of obtaining a partial discharge of mortgage in respect of the lot sold AND all such proceeds of sales shall be paid as aforesaid until such time as the mortgage is discharged in full.
- (ii) Secondly in payment of the costs of and incidental to the discharge of the said mortgage.
- (iii) Any residue to be paid to the Churchwardens of St. Jude's Church, Randwick to be applied by them in or towards the erection of a building on the land

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described in the Second Schedule hereto in accordance with the following provisions of this Ordinance.

7. The home unit excepted from the sale provisions of Clause 5 of this Ordinance shall be held by the Corporate Trustee upon trust for the sole benefit of the Parish of St. Jude Randwick or any parish into which it may subsequently be formed for use as a curate's residence.

8. (i) The Corporate Trustee is hereby empowered to mortgage or charge the land described in the Second Schedule hereto or any part thereof (when the power is first exercised or subsequently exercised) for the purpose of borrowing the sum of Fifty thousand dollars (\$50,000) or such greater sum as the Standing Committee may by resolution approve.

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

9. The proceeds of the mortgage or charge authorised by Clause 8 hereof shall be applied by the Corporate Trustee as follows:—

(i) First in payment of the costs charges and expenses of and incidental to any mortgage executed in pursuance hereof.

(ii) Secondly the balance to be paid to the Churchwardens of St. Jude's Church Randwick to be applied by them in and towards the cost of erection on part of the land described in the Second Schedule of a building comprising two shops with professional offices and any other costs and outgoings of and incidental to that purpose.

10. The Corporate Trustee is hereby authorised and empowered to grant rights of carriage way, rights of foot way and/or other easements to provide access to land near or adjoining the land described in the Second Schedule over any part of the land described in the Second Schedule, which rights and easements may be limited in width and/or in height above standard datum.

11. The Churchwardens for the time being of St. Jude's Church Randwick shall within seven days of the holding of the Annual

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Vestry Meeting during such time as any money is owing to any mortgagee or chargee pursuant to the preceding provisions of this Ordinance shall cause an account to be forwarded to the Diocesan Secretary giving particulars of the amounts borrowed the amounts paid off and the balance owing.

12. The Corporate Trustee is hereby authorised and empowered to lease in whole or in part the said offices and/or shops to be erected on part of the land described in the Second Schedule for such period and upon such terms and conditions and at such rentals from time to time as may be resolved by the Parish Council of the Parish of St. Jude Randwick and approved by the Corporate Trustee but subject to the policy determined from time to time by the Standing Committee in respect of leases of church trust-property.

13. The proceeds of such leasing as authorised by Clause 12 of this Ordinance shall be applied by the Corporate Trustee in the manner following:—

- (i) First in payment of the costs charges and expenses of and incidental to any lease or leases from time to time granted pursuant hereto to the extent that such costs and disbursements are not paid by any lessee.
- (ii) Secondly in reimbursement of any costs and disbursements of and incidental to this Ordinance and of any lease granted pursuant hereto which have been paid by the said Parish.
- (iii) Thirdly in discharge of any mortgage or mortgages granted pursuant to the preceding provisions of this Ordinance and the costs and disbursements of and incidental thereto.
- (iv) Fourthly the balance of such rents from time to time to be paid to the Churchwardens of St. Jude's Church Randwick to be applied by them—
 - (a) In payment of any Diocesan Assessments due in respect of the income from the said lease or leases from time to time.
 - (b) In payment of the costs and expenses of keeping the building upon the land described in the Second Schedule in a state of good repair and of carrying out the obligations of the lessor pursuant to any leases granted in respect of the said building.
 - (c) For the maintenance and upkeep of any or all of

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the land buildings and burial grounds held within the said Parish and for such other purposes within the said Parish as the Parish Council of the said Parish may by resolution determine and Standing Committee may by resolution approve from time to time.

14. This Ordinance may be cited as "St. Jude's Randwick Ordinance 1970".

FIRST SCHEDULE

ALL THAT piece or parcel of land at Randwick in the Parish of Alexandria and County of Cumberland having a frontage of about 44' to The Avenue (shown on the Certificate of Title as Cross Street) by a depth on the Northern side of about 164' and a depth on the Southern side of about 164' 5" and a rear line of about 44' having an area of 26½ perches being the whole of the land comprised in Certificate of Title Volume 1076 Folio 45 and being the land known as Number 7 The Avenue, Randwick.

SECOND SCHEDULE

FIRST PART

ALL THAT piece or parcel of land in the Municipality of Randwick, Parish of Alexandria and County of Cumberland having a frontage to Alison Road Randwick of about 28' 6" and other irregular dimensions as shown on the Certificate of Title and being the whole of the land comprised in Certificate of Title Volume 10963 Folio 216.

SECOND PART

ALL THAT piece or parcel of land situate as aforesaid and having a frontage to Alison Road of about 7' 2" and being contiguous to the land described in the First Part of this Schedule and being the subject of Application No. 1969 M 174 to the Registrar-General for amendment of the land in Certificate of Title Volume 10963 Folio 216.

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

ATHOL RICHARDSON,
Chairman of Committees.

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I CERTIFY that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on the 14th day of December, 1970.

W. L. J. HUTCHISON,
Secretary.

I ASSENT to this Ordinance.

MARCUS LOANE,
Archbishop of Sydney.

14/12/1970.