
*St. Luke Miranda Variation of Trusts and Mortgage
Ordinance 1953.*

No. 34, 1953.

AN ORDINANCE to vary and declare the trusts of certain lands situate at the corner of Gymea Bay Road and Sylvania Road and also in Gymea Bay Road Gymea and to authorise the mortgaging of the said lands and to provide for the application of the proceeds.

WHEREAS Church of England Property Trust Diocese of Sydney (herein referred to as the "Corporate Trustee") is registered as proprietor of the land comprised in Certificate of Title Registered Volume 4082 Folio 86 more particularly described in the First Schedule hereto AND WHEREAS by Declaration of Trust dated the tenth day of February one thousand nine hundred and twenty-eight registered in the Lands Title Office Sydney No. 15524 It was declared that the said land should be held upon trust to permit the same to be used for a Church Parsonage or Parish Hall or partly for one and partly for another or others of such purposes in connection with the Church of England in the Parish of Sutherland at Gymea Bay AND WHEREAS since the creation of the said trusts the Parochial District of St. Luke's Church of England Miranda has been formed AND WHEREAS it is expedient to carry out or observe the said trusts and it is expedient to vary such trusts in manner hereinafter declared AND WHEREAS there is erected on the said land a Church Hall known as St. Barnabas' Gymea Bay AND WHEREAS the Corporate Trustee is the purchaser under a certain contract of sale dated the 7th November 1953 from George Wyndham of the land and premises known as No. 60 Gymea Bay Road more particularly described in the Second Schedule hereto for the sum of Three thousand six hundred pounds (£3,600) AND WHEREAS the deposit paid on account of the purchase money for the said land and premises has been provided by the Parochial District of Miranda and the equitable interest of the said land and premises is Church Trust Property held for the sole benefit of the said Parochial District but no express trusts in writing have been declared concerning the same AND WHEREAS it is expedient to declare the trusts in respect of the said land as hereinafter declared

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AND WHEREAS it is necessary and expedient that the lands described in the Schedules hereto be mortgaged to provide for the balance of purchase money required to complete the said recited Contract for the acquisition of the land described in the Second Schedule Now the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod hereby ordains and declares as follows:—

1. By reason of circumstances subsequent to the creation of the trusts to which the lands more particularly described in the First Schedule hereto are now subject it has become inexpedient to carry out or observe such trusts to the extent to which the same are varied by this Ordinance and it is expedient that such trusts should be varied accordingly.

2. The Corporate Trustee shall hold the said land more particularly described in the First Schedule hereto upon trust to permit the same to be used for a Church Parsonage or Parish Hall or partly for one or partly for another or others of such purposes in connection with the Church of England in the Parochial District of St. Luke, Miranda.

3. The Corporate Trustee shall hold the said land more particularly described in the Second Schedule hereto upon trust to permit the same to be used for a Church Parsonage or Parish Hall or partly for one or partly for another or others of such purposes in connection with the Church of England in the Parochial District of St. Luke Miranda.

4. By reason of circumstances subsequent to the creation of the trusts to which the lands described in the schedules hereto are subject it is expedient to mortgage the said lands and the Corporate Trustee is hereby empowered to mortgage from time to time the whole or any part of the said lands for the purpose of borrowing the sums following:—

- (i) (a) When the power is first exercised a sum not exceeding Three thousand six hundred pounds (£3,600).
- (b) When the power is subsequently exercised such sum not exceeding the sum of £3,600 as the Standing Committee shall by resolution determine.

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PROVIDED that such debt shall be reduced at the rate of not less than one hundred and thirty pounds per annum but no mortgagee advancing moneys in pursuance of this Ordinance shall be concerned or obliged to see that this proviso is complied with.

- (ii) Any renewal of 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.

5. The proceeds of such mortgage hereby authorised shall be applied by the Corporate Trustee as follows:—

- (a) In payment of the costs charges and expenses of and incidental to this Ordinance and of such mortgage or any mortgages executed in pursuance thereof.
- (b) Subject thereto the balance shall be paid to the Churchwardens of St. Barnabas' Gynea Bay in the Parochial District of St. Luke Miranda to be applied by them in payment of the balance purchase money payable under the contract of sale for the completion of the purchase of the land described in the Second Schedule hereto and of the costs charges and expenses of and incidental to such purchase.

6. The Churchwardens for the time being of St. Barnabas Gynea Bay in the Parochial District of St. Luke Miranda shall within seven 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.

7. This Ordinance shall be styled and cited as "St. Luke Miranda Variation of Trusts and Mortgage Ordinance 1953."

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FIRST SCHEDULE.

All that piece of land situate in the Shire of Sutherland Parish of Sutherland and County of Cumberland situate at corner of Gynea Bay Road and Sylvania Road containing 27½ perches being Lot 1 in Deposited Plan No. 14346 and the whole of the land comprised in Certificate of Title Volume 4082 Folio 86.

SECOND SCHEDULE.

All that piece of land situate as aforesaid having a frontage of 60 feet to Gynea Bay Road by a depth of 315 feet being Lot 18 in Deposited Plan No. 18622 and the whole of the land comprised in Certificate of Title Volume 3915 Folio 193.

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

W. G. HILLIARD, Bishop,

Chairman of Committees.

I certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on the first day of December, 1953.

H. V. ARCHINAL,

Diocesan Secretary.

I assent to this Ordinance.

HOWARD SYDNEY,

Archbishop of Sydney.

3/12/1953