
*St. Stephen's Willoughby Variation of Trusts Land
Dedication and Sale Ordinance 1972*

No. 35, 1972

AN ORDINANCE to vary the trusts of certain lands at Willoughby to authorise the sale and dedication of certain of those lands to provide for the application of the proceeds of such sale to declare the trusts of certain of those lands and personalty and to establish the St. Stephen's Assets Replacement Fund.

WHEREAS by The Daniel Murphy Trust Vesting Ordinance 1933 (No. 2 of 1933) all his real and personal estate vested in the Church of England Property Trust Diocese of Sydney (hereinafter called the "Corporate Trustee") AND WHEREAS by the said Ordinance inter alia the lands contained in Conveyances No. 934 Book 559 No. 594 Book 369 No. 234 Book 553 were vested in the Corporate Trustee AND WHEREAS under the Will of the late Daniel Murphy dated 11 March 1895 the said lands are held upon trust for the purpose of a parsonage to be used in connection with Saint Stephen's Church Willoughby but so long only as the Church should require the same AND WHEREAS the said Will gave the Trustee the power to sell such lands if in his opinion and discretion they should not be required for the purpose of a parsonage as aforesaid and to stand possessed of all moneys arising therefrom whether principal or income in trust for and to be devoted to his discretion for the purpose of augmenting the stipend of the incumbent for the time being of the District and Parish of Saint Stephen's aforesaid only and not for any other purpose whatsoever AND WHEREAS there is a building on part of the said lands which is used as a parsonage or rectory but which is now in a dilapidated condition AND WHEREAS it is proposed to demolish such building and erect a new rectory and to acquire a curate's residence AND WHEREAS such lands are included in the lands described in the First and Second Schedules hereto AND WHEREAS the Corporate Trustee holds the land contained in Conveyance No. 766 Book 265 upon trust for the erection thereon of a church or chapel of ease of the United Church of England and Ireland as by law established or for the erection of a minister's house or for glebe land in conformity with the provisions of the Act of the Governor and Legislative Council of the said Colony made and passed in the eighth year of the reign of his late Majesty King William the fourth entitled "an Act to Regulate the Temporal Affairs of Churches and Chapels of the United Kingdom of England and Ireland in New South Wales" and of a certain other Act of the Governor and Legislative Council of the said Colony made and passed in the seventh year of his late

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Majesty King William the fourth entitled "an Act to promote the Building of Churches and Chapels and to provide for the Maintenance of Ministers of Religion in New South Wales" AND WHEREAS such land is included in the lands described in the Second Third and Fourth Schedules hereto AND WHEREAS the Corporate Trustee holds the land contained in Conveyance No. 452 Book 129 upon trust for the erection thereon of a church or chapel of ease of the United Church of England and Ireland as by law established in conformity with the provisions of the beforementioned Acts AND WHEREAS such land is included in the lands described in the Second and Third Schedules hereto AND WHEREAS all of the said lands described in the Schedules hereto are church trust property AND WHEREAS by reason of circumstances which have arisen subsequent to the creation of the trusts of the said lands it is expedient that such trusts be varied to the extent hereinafter set out AND WHEREAS it is expedient that the land described in the First Schedule be sold and the proceeds applied as hereinafter set out and that the land described in the Fourth Schedule be dedicated for road-widening purposes AND WHEREAS it is expedient that new trusts be declared in respect of the lands described in the Second and Third Schedules AND WHEREAS it is desired by the Parish Council of the said Parish that an Assets Replacement Fund be established for the purpose of acquiring real estate or erecting renovating renewing or repairing any buildings held upon trust for the said Parish NOW the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod HEREBY DECLARES DIRECTS RULES AND ORDAINS as follows:—

1. By reason of circumstances which have arisen subsequent to the creation of the trusts of the lands described in the First Second Third and Fourth Schedules it is inexpedient to carry out and observe the same to the extent that the same are hereby varied.

2. The Corporate Trustee is hereby authorised and empowered to subdivide the lands described in the said Schedules and:—

(a) Sell the land described in the First Schedule in one or more parcels by public auction or private contract upon such terms and conditions and for such price or prices as the Corporate Trustee shall determine freed from the trusts upon which it is now held.

(b) Dedicate to the Council of the Municipality of Willoughby the land described in the Fourth Schedule freed from the trusts upon which it is held.

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3. The proceeds arising from such sale or sales after paying thereout all outgoings to which the land may be subject and the costs of and incidental to this Ordinance and the subdivision and sale or sales and conveyances in pursuance thereof shall be paid to the Churchwardens for the time being of St. Stephen's Church Willoughby and applied by them to the costs of and incidental to the demolition of the existing rectory the erection of a new rectory on the land described in the Second Schedule and the acquisition of a Curate's residence and any balance to be paid into the Fund mentioned in Clause 6 hereof.

4. The lands described in the Second and Third Schedules shall be held upon trust as a church, parsonage or parish hall or partly for one or partly for another or other ancillary purposes in connection with the Church of England in Australia in the Parish of St. Stephen Willoughby.

5. (1) A fund to be termed "St. Stephen's Willoughby Assets Replacement Fund" shall be established by the said Churchwardens and from such Fund an amount of not less than One thousand dollars (\$1,000) per annum shall be invested in Sydney Church of England Investment Trust, the first such investment be made within twelve months from the completion of the Rectory.

(2) The interest arising from such investment shall be re-invested by the said Churchwardens in the said Investment Trust in addition to the said annual amount.

(3) Withdrawals from the Fund may be made from time to time by the Churchwardens pursuant to a resolution of the Parish Council PROVIDED that no withdrawal shall be for an amount less than One thousand dollars (\$1,000), and is subject to the approval of Standing Committee by resolution.

(4) Any moneys withdrawn from the said Fund shall be used only in connection with acquiring real estate or erecting renovating renewing or repairing any buildings held upon trust for the said Parish.

6. This Ordinance may be cited as "St. Stephen's Willoughby Variation of Trusts Land Dedication and Sale Ordinance 1972".

FIRST SCHEDULE

ALL THOSE pieces or parcels of land being Lots 1 2 and 3 in plan of subdivision prepared by Mr. Surveyor Degotardi dated 18 January 1971 of land in Conveyances No. 452 Book 129 No. 766 Book 265 No. 594 Book 369 No. 234 Book 553 and No. 934 Book 559 at North Willoughby in the Municipality and Parish of Willoughby

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County of Cumberland AS TO LOT 1 COMMENCING at a point on the Southern side of Stephen Street distant 328' 4½" Westerly from the intersection of the Southern side of the aforesaid Stephen Street with the Western side of Sydney Street being the North-east corner of Lot 1 bounded thence on the East by a line being the Western boundary of Lot 2 in above described plan of subdivision bearing 179° 56' 40" distant 120' 0" thence on the South by part of the Northern boundary of Lot 4 in above described plan of subdivision bearing 269° 58' 20" distant 50' 1½" thence on the West by a fenced line being the Eastern boundary of Lot B in File Plan 417050 bearing 0° 01' 00" distant 120' 0" thence on the North by a fenced line being part of the Southern side of the aforesaid Stephen Street bearing 89° 58' 20" distant 50' 0" to the point of commencement CONTAINING by admeasurement 22 perches be the above said several dimensions all a little more or less.

AS TO LOT 2 COMMENCING at a point on the Southern side of Stephen Street distant 278' 4½" Westerly from the intersection of the Southern side of the aforesaid Stephen Street with the Western side of Sydney Street being the North-eastern corner of Lot 2 bounded thence on the East by a line being the Western boundary of Lot 3 in above described plan of subdivision bearing 179° 52' 40" distant 120' 0" thence on the South by part of the Northern boundary of Lot 4 in above described plan of subdivision bearing 269° 58' 20" distant 50' 1½" thence on the West by a line being the Eastern boundary of Lot 1 in above described plan of subdivision bearing 359° 56' 40" distant 120' 0" thence on the North by a fenced line being the Southern side of aforesaid Stephen Street bearing 89° 58' 20" distant 50' 0" to the point of commencement CONTAINING by admeasurement 22 perches be the above said several dimensions all a little more or less.

AS TO LOT 3 COMMENCING at a point on the Southern side of Stephen Street distant 228' 4½" Westerly from the intersection of the Southern side of aforesaid Stephen Street with the Western side of Sydney Street being the North-eastern corner of Lot 3 bounded thence on the East by a fenced line being the Western boundary of land in File Plan 414018 and part of the Western boundary of land in Deposited Plan 220053 bearing 179° 44' 00" distant 93' 0" bearing 180° 03' 30" distant 27' 0" thence on the South by a line being part of the Northern boundary of Lot 4 in plan of subdivision above described bearing 269° 58' 20" distant 50' 1½" thence on the West by a line being the Eastern boundary of Lot 2 in above described plan of subdivision bearing 359° 52' 40" distant 120' 0" thence on

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the North by a fenced line being part of the Southern side of the aforesaid Stephen Street bearing $89^{\circ} 58' 20''$ distant $50' 0''$ to the point of commencement CONTAINING by admeasurement 22 perches be the above said several dimensions all a little more or less.

SECOND SCHEDULE

ALL THAT piece or parcel of land being Lot 4 in plan of subdivision as aforesaid COMMENCING at a point on the Northern side of Mowbray Road distant $111' 0''$ Westerly from the intersection of the Northern side of the aforesaid Mowbray Road and the Western side of Sydney Street being the most South-eastern corner of Lot 4 bounded thence on the South by a fenced line being part of the Northern side of the aforesaid Mowbray Road bearing $269^{\circ} 39' 00''$ distant $56' 11\frac{3}{4}''$ by a fenced line bearing $285^{\circ} 13' 00''$ distant $226' 8''$ thence on the West by a fenced line being the Eastern boundary of Lot B in File Plan 374629 and part of the Eastern boundary of Lot B in File Plan 417050 bearing $0^{\circ} 01' 00''$ distant $235' 5\frac{1}{4}''$ thence on the North by the Southern boundaries of Lots 1, 2 and 3 in plan of subdivision above described bearing $89^{\circ} 58' 20''$ distant $150' 4\frac{1}{2}''$ thence on the East by a fenced line being part of the Western boundary of Deposited Plan 220053 bearing $180^{\circ} 03' 30''$ distant $43' 9\frac{3}{4}''$ by a fenced line being the Western boundary of Deposited Plan 220752 bearing $179^{\circ} 28' 00''$ distant $86' 7''$ by a fenced line being part of the Southern boundary of Deposited Plan 220752 bearing $101^{\circ} 55' 00''$ distant $67' 5\frac{1}{2}''$ by a fenced line bearing $89^{\circ} 54' 00''$ distant $169' 5''$ thence by a fenced line being the Western side of the aforesaid Sydney Street bearing $179^{\circ} 57' 12''$ distant $18' 0''$ thence by a line being the Northern boundary of Lot 5 in above described plan of subdivision bearing $269^{\circ} 54' 00''$ distant $97' 8\frac{3}{4}''$ thence by lines being the Western boundary of Lot 5 in above described plan of subdivision bearing $179^{\circ} 39' 00''$ distant $24' 4\frac{1}{4}''$ by a line bearing $269^{\circ} 39' 00''$ distant $9' 6''$ by a line bearing $179^{\circ} 39' 00''$ distant $57' 0''$ by a line bearing $269^{\circ} 39' 00''$ distant $4' 6''$ by a line $179^{\circ} 39' 00''$ distant $51' 0''$ to the point of commencement CONTAINING by admeasurement 1 acre 1 rood $19\frac{1}{4}$ perches be the said several dimensions all a little more or less.

THIRD SCHEDULE

ALL THAT piece or parcel of land being Lot 5 in plan of subdivision as aforesaid COMMENCING at a point on the Western side of Sydney Street distant $12' 0''$ Northerly from the intersection of the aforesaid Western side of Sydney Street with the Northern side of Mowbray Road bounded thence on the South by a line being the

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North-western boundary of Lot 6 in above described plan of subdivision bearing $224^{\circ} 48' 00''$ distant $17' 0\frac{1}{2}''$ thence on the South by a fenced line being part of the Northern side of the aforesaid Mowbray Road bearing $269^{\circ} 39' 00''$ distant $99' 0''$ thence on the West by lines being the Eastern boundaries of Lot 4 in above described plan of subdivision bearing $359^{\circ} 39' 00''$ distant $51' 0''$ by a line bearing $89^{\circ} 39' 00''$ distant $4' 6''$ by a line bearing $359^{\circ} 39' 00''$ distant $57' 0''$ by a line bearing $89^{\circ} 39' 00''$ distant $9' 6''$ by a line bearing $359^{\circ} 39' 00''$ distant $24' 4\frac{1}{2}''$ thence on the North by the part of the Southern boundary of Lot 4 in above described plan of subdivision bearing $89^{\circ} 54' 00''$ distant $97' 8\frac{1}{2}''$ thence on the East by a fenced line being part of the Western side of the aforesaid Sydney Street bearing $179^{\circ} 57' 12''$ distant $119' 11\frac{1}{2}''$ to point of commencement CONTAINING by admeasurement 1 rood $11\frac{1}{2}$ perches be the above said several dimensions all a little more or less.

FOURTH SCHEDULE

ALL THAT piece or parcel of land being Lot 6 in plan of subdivision as aforesaid COMMENCING at a point at the intersection of the Western side of Sydney Street and the Northern side of Mowbray Road thence by a line being part of the Northern side of the aforesaid Mowbray Road bearing $269^{\circ} 30' 00''$ distant $12' 0''$ thence by a line being part of the Southern boundary of Lot 5 in above described plan of subdivision bearing $44^{\circ} 48' 00''$ distant $17' 0\frac{1}{2}''$ thence by a line being part of the Western side of the aforesaid Sydney Street bearing $179^{\circ} 57' 12''$ distant $12' 0''$ to the point of commencement CONTAINING by admeasurement $0\frac{1}{2}$ perches be the above said several dimensions all a little more or less.

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

ATHOL RICHARDSON,
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, 1972.

W. L. J. HUTCHISON,
Secretary.

I ASSENT to this Ordinance.

MARCUS LOANE,
Archbishop of Sydney.

25/9/1972.