

ST. JOHN'S PADSTOW ORDINANCE 1973

No. 37, 1973

AN ORDINANCE to vary the trusts of certain land at Padstow and to authorise the mortgaging of portion of such land and the sale of certain land situate as aforesaid.

WHEREAS

A. Church of England Property Trust Diocese of Sydney (hereinafter called "the Corporate Trustee") is registered as proprietor of the lands comprised in the First Schedule hereto;

B. The said lands are church trust property within the meaning of Church of England Trust Property Act 1917;

C. The said lands are at present held upon trust for the sole benefit of the Provisional Parish of St. John at Padstow but no trusts in writing have been declared concerning the same;

D. It is expedient that part of the said lands be mortgaged and that the remaining part of the said lands be sold.

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

1. (1) By reason of circumstances subsequent to the creation of the trusts to which the said lands are subject it has become inexpedient to carry out and observe such trusts to the extent (if any) to which the same are hereinafter varied.

(2) By reason of circumstances subsequent to the creation of such trusts it is expedient that the land comprised in the First Schedule hereto (but excepting thereout the land described in the Second Schedule hereto) be mortgaged or charged and that the land described in the Second Schedule hereto be sold.

2. (1) The Corporate Trustee is hereby authorised and empowered from time to time to mortgage the land described in the First Schedule hereto or any part or parts thereof for the purpose of borrowing the sums following:

(a) When the power is first exercised a sum not exceeding Sixty-five thousand dollars (\$65,000);

(b) When the power is subsequently exercised such sum not exceeding Sixty-five thousand dollars (\$65,000) as the Standing Committee may by resolution determine;

PROVIDED that such debt shall be reduced at the rate of not less than Six thousand one hundred dollars (\$6,100) per annum (or such lesser rate as the Standing Committee may by resolution determine) inclusive of principal and interest when the power is first exercised and thereafter at such rate as the Standing Committee may by resolution determine PROVIDED HOWEVER that no person or corporation advancing money under the provisions of this Ordinance shall be concerned to enquire whether such reductions have been made.

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

(3) A document purporting to be certified by the Archbishop or the 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.

3. The proceeds of any mortgage or charge granted pursuant to the provisions of Clause 2 hereof 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 this Ordinance, the costs fees and other outgoings of and incidental to the said mortgage or charge executed in pursuance hereof and the balance in or towards the cost of erecting on the land comprised in the First Schedule hereto or any part thereof of a new building suitable for use as a church and hall;
- (b) When the power is subsequently exercised in payment of the principal and interest and costs of and incidental to the discharge of any then existing mortgage or charge and the costs and expenses of any such further mortgage or charge or for such other purpose or purposes as the Parish Council of the Provisional Parish of St. John's Padstow shall determine and the Standing Committee shall by resolution approve.

4. Any mortgagee advancing moneys pursuant to the provisions hereof is hereby authorised to pay such mortgage moneys to the Churchwardens for the time being of St. John's Church Padstow.

5. The Churchwardens for the time being of St. John's Padstow shall within seven (7) days of the holding of the annual vestry meeting during such time as any money is owing to any mortgagee or chargee pursuant to this Ordinance cause an account to be forwarded to the Diocesan Secretary giving details of the original amount borrowed the amount paid off and the balance owing.

6. The Corporate Trustee is hereby authorised and empowered to subdivide the land comprised in the Second Schedule hereto (hereinafter referred to as "the subject land") out of the lands comprised in the First Schedule hereto and to sell the subject land by private contract or public auction for such price and upon such terms and conditions as the Corporate Trustee may think fit freed from any trusts upon which it is held and to do any such act or execute any such documents as may be necessary to give effect to this and any other provisions of this Ordinance.

7. The proceeds of the sale of the subject land after paying thereout all outgoings to which the land is subject and all costs of and incidental to the implementation of the provisions of this Ordinance shall be applied in or towards the cost of erecting a new Rectory and other building suitable for use as a church and hall or in or towards repayment of any loan granted for that purpose.

8. This Ordinance may be cited as "St. John's Padstow Ordinance 1973".

FIRST SCHEDULE

ALL THOSE pieces or parcels of land at Padstow in the Municipality of Bankstown Parish of Bankstown and County of Cumberland being Lots 47, 48 and 49 of Section B in D.P. 1644 being the whole of the land in Certificates of Title Volume 3513 Folio 231 and Volume 5709 Folio 181.

SECOND SCHEDULE

ALL THAT piece or parcel of land at Padstow in the Municipality of Bankstown Parish of Bankstown and County of Cumberland being part of Lot 47 of Section B in D.P. 1644 containing an area of 22 perches or thereabouts having a frontage of 50 ft. to Iberia Street and a rear line of 50 ft. and a depth of 120 ft. being part of the land in Certificate of Title Volume 3518 Folio 231 be all the said dimensions a little more or a little less.

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

D. Cameron  
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 19th day of November 1973.

W.G.S. GOTLEY  
Secretary

I ASSENT to this Ordinance.

Marcus Loane  
Archbishop of Sydney  
19/11/1973