

AND LAND SALE ORDINANCE 1978

NO. 45 1978

AN ORDINANCE to vary the trusts of certain land at Hornsby, to authorise the sale of part thereof and to provide for the application of the proceeds thereof.

WHEREAS

5 A. ___ Church of England Property Trust Diocese of Sydney (hereinafter called "the Corporate Trustee") is the registered proprietor of the land described in the First Schedule hereto which land is hereinafter called "the First Schedule land".

B. ___ The Corporate Trustee is the registered proprietor of the land described in the Second Schedule hereto which land is hereinafter called "the Second Schedule land".

10 C. ___ The First Schedule land is church trust property held upon trust for the Parish of St. Peter Hornsby and for the erection and maintenance thereon or on part thereof of a Church or Churches for the celebration of Divine Service according to the rites of the Church of England and for the erection and maintenance thereon of a School Hall and Rectory and such other building or buildings (if any) as shall be requisite or necessary to be used in connection
15 with the said Church or Churches or otherwise for the purposes of the Church of England.

20 D. ___ The Second Schedule land is church trust property 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 of such purposes in connection with the Church of England in the Parish of Hornsby.

25 E. ___ By reason of the 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 to the extent that the same are hereby varied and it is expedient that the land described in the Third Schedule hereto (hereinafter called "the Third Schedule land") being part of the lands described in the Second Schedule hereto be sold.

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:-

30 1. ___ By reason of the 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 that such trusts be varied as hereinafter set out.

35 2. ___ By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the land described in the Third Schedule hereto is held it is inexpedient to carry out and observe the same and it is inexpedient to deal with or apply such property or any part thereof for the same or like purposes and it is expedient that the said land be sold.

40 3. ___ The Corporate Trustee is hereby empowered to sell the Third Schedule land by public auction or private contract at such time or times and at such price or prices and upon such terms and conditions as it may determine freed from the trusts upon which the said land is now held.

4. ___ The proceeds arising from the sale or sales of the Third Schedule land after payment of the costs and expenses of and incidental to this ordinance and

45 the sale or sales and transfer or transfers in pursuance hereof in excess of
 those payable by the purchaser and any outgoings to which the Third Schedule
 land may be subject shall be held on trust to be applied for such purposes
 within or without or partially within and partially without the said Parish
 as the Standing Committee at the written request of a majority of the Parish
 Council of the said Parish may by resolution from time to time determine and
 50 to be entirely freed and discharged from the trusts upon which the Third Schedule
 land was held provided that in default of agreement either party may refer the
 question of the application to the Synod for determination.

5. Pending any such determination as to the application of the balance of
 the proceeds of sale as aforesaid such balance shall be invested by the Corporate
 55 Trustee and the income arising from such investment shall for the meantime be
 capitalized.

6. By reason of the circumstances which have arisen subsequent to the creation
 of the trusts upon which the lands described in the Fourth Schedule hereto
 (hereinafter called "the Fourth Schedule lands") being the land in the First
 60 Schedule hereto and the residue of the land in the Second Schedule hereto after
 the sale or sales of the Third Schedule land as aforesaid are held the Fourth
 Schedule lands shall henceforth be held upon trust for a:-

- (a) church;
- (b) residence for a minister, assistant to the minister or person
 65 employed by the churchwardens;
- (c) hall or halls;
- (d) school or other place of assembly;

70 or partly for one or another or others of those purposes in connection with the
 Church of England in Australia within the Diocese of Sydney for the sole benefit
 of the parish or other ecclesiastical district of Hornsby or any parish or
 ecclesiastical district into which it may subsequently be formed or form a part.

7. This Ordinance may be cited as "St. Peter's Hornsby Variation of Trusts
 and Land Sale Ordinance 1978".

FIRST SCHEDULE

ALL THAT piece of land in the Shire of Hornsby Parish of South Colah County of
 Cumberland being Portion 296 of the said Parish and the whole of the land in
 Land Grant Volume 1236 Folio 191.

SECOND SCHEDULE

ALL THAT piece of land in the Shire of Hornsby Parish of South Colah County of
 Cumberland being Portion 332 of the said Parish and the whole of the land in
 Land Grant Volume 2512 Folio 104.

THIRD SCHEDULE

ALL THAT piece of land in the Shire of Hornsby Parish of South Colah and County
 of Cumberland being part of Portion 332 and being part of the land comprised in
 Certificate of Title Volume 2512 Folio 104 and being an area of 9154 square
 metres more or less commencing at the south western corner of Portion 296 and
 bounded on the east by the western boundary of that portion and its northerly
 prolongation being a line bearing 1 degree 48 minutes for 67.01 metres, on the
 north by part of the southern boundary of Portion 332 bearing 271 degrees 48
 minutes for 137.5 metres on the west by part of the eastern boundary
 of Portion 75 bearing 180 degrees 16 minutes for 67.03 metres and on the south
 by part of the northern boundary of portion 658 and its westerly prolongation
 being a line bearing 91 degrees 48 minutes for 135.71 metres to the point of
 commencement.

FOURTH SCHEDULE

ALL THAT piece of land in the Shire of Hornsby Parish of South Colah and County of Cumberland being Portion 296 of the said Parish and the whole of the land in Land Grant Volume 1236 Folio 191 TOGETHER WITH ALL THAT piece of land in the Shire Parish and County aforesaid being part of Portion 332 of the said Parish and being part of the land in Land Grant Volume 2512 Folio 104 and being an area of 1555 square metres more or less commencing at the north eastern corner of Portion 296 and bounded on the east by the Pacific Highway being a line bearing 1 degree 48 minutes for 28.285 metres on the north by part of the southern boundary of Portion 331 bearing 271 degrees 48 minutes for 54.98 metres on the west by a line bearing 181 degrees 48 minutes for 28.285 metres being also part of the eastern boundary of Lot 1 firstly described on the south by the northern boundary of portion 296 bearing 91 degrees 48 minutes for 54.98 metres to the point of commencement.

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

E.D. Cameron
Chairman of Committees

I CERTIFY that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on the 20th day of November 1978.

W.G.S. Gotley
Secretary

I ASSENT to this Ordinance.

M.L. Loane
Archbishop of Sydney
20/11/1978