

PENRITH LANDS

VARIATION OF TRUSTS AND SALE ORDINANCE 1975

No. 17 1975

AN ORDINANCE to vary the trusts in respect of certain lands at Penrith and to authorise the sale of part of the said lands.

WHEREAS Church of England Property Trust Diocese of Sydney (hereinafter called "the Corporate Trustee") is the registered proprietor of a parcel of land having an approximate area of 11.84 hectares which said land is 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 at present held upon various trusts the terms of which are in dispute AND WHEREAS the Glebe Administration Board (hereinafter called "the Board") is the registered proprietor of a parcel of land having an approximate area of 9.446 hectares which said land is more particularly described in the Second Schedule hereto AND WHEREAS the said land referred to in the Second Schedule is also church trust property within the meaning of the said Act and at present held by the Board upon trust for the Church of England in the Diocese of Sydney and subject to the provisions of the Penrith Land Sale and Variation of Trusts Ordinance 1972 AND WHEREAS the Corporate Trustee is also the registered proprietor of a parcel of land having an approximate area of 930.2 square metres which said land is more particularly described in the Third Schedule hereto AND WHEREAS the said land referred to in the Third Schedule is also church trust property within the meaning of the said Act and is presently held upon trust for the sole benefit of the Parish of St. Stephen at Penrith AND WHEREAS there have been consultations between representatives of the said Parish, the Standing Committee of the Synod of the Diocese of Sydney and the Parramatta Anglican Regional Council as to the future use, development, management and control of the several parcels of land hereinbefore referred to AND WHEREAS agreement has now been reached between the said parties and it is desired by the terms hereof to give effect to such agreement NOW the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod hereby DIRECTS DECLARES RULES AND ORDAINS as follows:-

1. (1) The land which is described in the Fifth Schedule hereto (being that part of the land in the Fourth Schedule which is presently vested in the Board) shall be and is hereby vested in the Corporate Trustee.

(2) By reason of circumstances which have arisen subsequent to the creation of the several respective trusts upon which the various lands comprised in the Fourth Schedule are held it is inexpedient to carry out and observe the same and it is expedient to vary the same as hereinafter provided.

(3) The land in the Fourth Schedule shall be held by the Corporate Trustee for the following purposes:-

- (a) For the purposes of the Parish of St. Stephen at Penrith including the construction and use on the said land of church buildings, rectory and/or parish hall for the Parish of St. Stephen at Penrith provided that in relation to this sub-clause such construction shall not require other than approvals normally required for parish buildings.
- (b) For the purposes of the Parramatta Anglican Regional Council including the construction and use on the said land of administration facilities or buildings or a diocesan centre

for the region in which the Bishop in Parramatta exercises episcopal duties provided that no construction shall be effected without the joint consent of the Parramatta Anglican Regional Council and a majority of the Parish Council of the Parish of St. Stephen at Penrith; or

- (c) For such other purpose or purposes as the Standing Committee of the Synod of the Diocese of Sydney may from time to time determine by resolution passed at the joint request in writing of the Parramatta Anglican Regional Council and a majority of the members of the Parish Council of the Parish of St. Stephen at Penrith.

2. (1) By reason of circumstances which have arisen subsequent to the creation of the several trusts upon which the land described in the Sixth Schedule hereto and which is hereinafter called the residue land is held it is inexpedient to carry out and observe the same and it is expedient to respectively vary the same as hereinafter provided.

(2) The Board is hereby authorised and empowered to sell:

- (a) The whole of the land comprised in the Second Schedule excluding so much thereof as is comprised in the Fifth Schedule; and
- (b) The residue land;

or any part of such lands in such manner and in such parcels upon such terms and conditions and for such price or prices as the said Board may think fit.

(3) The residue land pending such sale and the proceeds from the sale of such land shall be held upon trust for the Church of England in the Diocese of Sydney and the said land and the said proceeds shall be deemed to be part of "the said Glebes" as defined in Clause 13 of the Glebe Administration Ordinance, 1930, as amended.

3. (1) The Board within one (1) calendar month from the development date (as hereinafter defined) shall pay to each of the Corporate Trustee and the Parramatta Anglican Regional Endowment Fund a sum of money (each of which sums shall hereinafter be called "the capital sum") each of which shall be respectively calculated in the manner provided in sub-clause (2) hereof provided that the Board in its discretion may pay such capital sums or either of them or any part thereof at any time prior to the time within which the Board is obliged to make such payments in accordance with this sub-clause.

(2) The capital sum payable to the Corporate Trustee shall be:

(a) The aggregate of the following sums:

- (i) The sum of Twelve thousand dollars (\$12,000.00).
- (ii) A sum equivalent to ten (10) times the average value per single acre of the lands described in the First Schedule and the Second Schedule;

Such average value per single acre shall be a sum agreed upon between a majority of the Parish Council of the Parish of St. Stephen Penrith of the one part and the Board of the other part, as at the development date or at such earlier date as the Board may nominate as the case may be (herein called

the relevant date) and failing such agreement within three months after the relevant date then such average value per single acre shall be as determined by the President of the Real Institute of New South Wales or his nominee;

- (b) Held by the Corporate Trustee upon trust for the purposes of construction of new church buildings, halls or other facilities in and for the benefit of the Parish of St. Stephen Penrith or for such other purpose or purposes within the Diocese of Sydney as the Standing Committee may approve from time to time by resolution passed at the written request of a majority of the members of the Parish Council of the Parish of St. Stephen Penrith PROVIDED HOWEVER that there shall be paid from such moneys such amount as may be necessary for repayment to the Finance and Loans Board of all moneys including principal and interest lent by the Board to St. Paul's Cambridge Park, and such repayment shall constitute a first charge thereon. Pending such application the capital sum or the balance thereof shall be vested in the Corporate Trustee and the income therefrom shall be added to the capital sum and be subject to the same trusts as are hereinbefore declared in respect thereof.

(3) The capital sum payable to the Parramatta Anglican Regional Endowment Fund shall be:

- (a) a sum equivalent to five (5) times the average value per single acre of the lands described in the First Schedule and the Second Schedule. Such average value per single acre shall be calculated in the same manner and within the times as hereinbefore provided in respect of the capital sum payable to the Corporate Trustee;
- (b) held by the said Fund for the purposes and pursuant to the terms of Clause 12 of the Parramatta Anglican Regional Council Constitution Ordinance, 1971, as amended.

(4) In the event that the said capital sums or either of them shall not be paid by the Board as aforesaid on or before the relevant date the Board shall pay to the Corporate Trustee or the Parramatta Anglican Regional Endowment Fund as the case may be interest upon such capital sum or sums or on so much thereof as from time to time remains unpaid computed from the relevant date and calculated on daily balances at the rate from time to time payable by the Permanent Building Societies in New South Wales in respect of moneys deposited at call such interest to be payable quarterly, the first of which payments shall be made three (3) calendar months after the relevant date and thereafter quarterly for so long as such capital sums or either of them or any part thereof shall remain unpaid. Such interest shall be added to the respective capital sums and is subject to the same trusts as relate thereto by the provisions hereof.

(5) For the purposes of this clause the "development date" shall be either:

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- (a) the date of completion of any sale or sales by the Board of land aggregating in area at least five (5) hectares or any part thereof pursuant to the exercise of its powers under sub-clause (3) of Clause 2 hereof; or

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- (b) the date being one year after the date upon which the Board has received rent in respect of such land or any part thereof;

ver shall be the earlier.

4. This Ordinance may be cited as "Penrith Lands Variation of Trusts and Sale Ordinance 1975".

FIRST SCHEDULE

ALL THAT land in the City of Penrith Parish of Castlereagh and County of Cumberland being Lot 1 in Deposited Plan No. 570662 having an area of 11.84 hectares and being the whole of the land in Certificate of Title Volume 12701 Folio 208.

SECOND SCHEDULE

ALL THAT land in the City of Penrith Parish of Castlereagh and County of Cumberland being Lot 3 in Deposited Plan No. 547964 being the whole of the land in Certificate of Title Volume 11633 Folio 161 and shown on the said Certificate of Title as having an area of 23a. 1r. 15¹/₂p. which is 9.446 hectares.

THIRD SCHEDULE

ALL THAT land in the City of Penrith Parish of Castlereagh and County of Cumberland being Lot 20 of section G of the Lemon Grove Estate in Filed Plan 978488 and being the whole of the land comprised in Deposited Plan No. 575128 and Real Property Application No. 51507 and having an area of 930.2 square metres.

FOURTH SCHEDULE

ALL THAT land situated at Penrith in the City of Penrith Parish of Castlereagh County of Cumberland containing by admeasurement 2.022 hectares COMMENCING at a point on the north side of Coreen Avenue being the south western corner of Lot 210 in Deposited Plan 31157 bounded on the south east by a line bearing 243 degrees 03 minutes 30 seconds for 183.00 m thence on the south west by a line bearing 355 degrees 50 minutes 20 seconds for 119.93m thence on the north west by a line bearing 63 degrees 03 minutes 30 seconds for 182.99m thence on the east by part of the western boundary of Deposited Plan 31157 by lines bearing 175 degrees 50 minutes 20 seconds for 115.66 m and 175 degrees 41 minutes 10 seconds for 4.265m to the point of commencement.

FIFTH SCHEDULE

ALL THAT land situated at Penrith in the City of Penrith Parish of Castlereagh County of Cumberland containing by admeasurement 4738 square metres COMMENCING at a point bearing 359 degrees 38 minutes 20 seconds for 144.02m from the north eastern corner of Lot 19 in Section G of the Lemon Grove Estate and bounded on the south east by a line bearing 243 degrees 03 minutes 30 seconds for 38.41 m thence on the west by a line bearing 355 degrees 50 minutes 20 seconds for 119.93 m thence on the north west by a line bearing 63 degrees 03 minutes 30 seconds for 47.31m thence on the east by a line bearing 179 degrees 38 minutes 20 seconds for 123.645m to the point of commencement.

SIXTH SCHEDULE

ALL THAT land situated at Penrith in the City of Penrith Parish of Castlereagh County of Cumberland containing by admeasurement 7.273 hectares COMMENCING at the south western corner of Lot 5 in Deposited Plan 239045

and bounded on the north by the southern boundary of Lot 5 aforesaid bearing 86 degrees 55 minutes for 74.03m to the south eastern corner of Lot 5 aforesaid being the south western corner of Lot 673 in Deposited Plan 212679 and again on the north by the southern boundary of Lot 673 aforesaid bearing 86 degrees 52 minutes 40 seconds for 63.59m to the south eastern corner of Lot 673 aforesaid thence on the east by the western side of a Road variable width bearing 159 degrees 33 minutes for 9.795m and bearing 176 degrees 28 minutes 40 seconds for 5.89m to the north western corner of Lot 232 in Deposited Plan 31157 thence on the east by part of the western boundary of Deposited Plan 31157 bearing 176 degrees 28 minutes 40 seconds for 168.88m and bearing 175 degrees 50 minutes 20 seconds for 72.53m thence on the south east by a line bearing 243 degrees 03 minutes 30 seconds for 135.69m thence on the west by a line bearing 359 degrees 38 minutes 20 seconds for 14.005m thence on the south by a line bearing 269 degrees 39 minutes 20 seconds for 238.41m thence on the north west by part of the south eastern boundary of Deposited Plan 216783 bearing 34 degrees 32 minutes 20 seconds for 94.16m. bearing 34 degrees 17 minutes 40 seconds for 159.55m and bearing 33 degrees 53 minutes for 93.51m and thence on the north west by part of the south eastern side of Hilltop Road bearing 34 degrees 38 minutes for 12.65m to the point of commencement.

AND ALSO ALL THAT land situated in the said City Parish and County containing by admeasurement 3.119 hectares COMMENCING at a point on the north side of Robert Street being the south eastern corner of Lot 19 in Section G of Lemon Grove Estate and bounded on the west partly by the eastern boundary of Lot 19 aforesaid by a line bearing 359 degrees 38 minutes 20 seconds for 190.28m thence on the north west by a line bearing 63 degrees 03 minutes 30 seconds for 144.59m thence on the east by the western boundaries of Coreen Avenue and Lot 62 and Lot 669 in Deposited Plan 31157 by lines bearing 175 degrees 41 minutes 10 seconds for 214.46m and 176 degrees 19 minutes for 107.77m thence on the south by the northern boundary of Deposited Plan 30113 by a line bearing 270 degrees 50 minutes 30 seconds for 126.55m and again on the south by the northern side of Robert Street by a line bearing 269 degrees 39 minutes for 20.115m to the point of commencement.

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 7th day of July 1975.

W. G. S. Gotley

Secretary

I ASSENT to this Ordinance.

A. Jack Dain

Commissary

7/7/1975