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# Ryde (Kirkby Gardens, Archbold Building and 2 Little Church Street) Ordinance 1968

(Reprinted under the Interpretation Ordinance 1985.)

St Anne's (Ryde) Glebe Leased Lands Sale (Further Amendment) and Variation of Trusts and Mortgaging Ordinance 1968 as amended by the St Anne's Ryde Further Mortgaging and Amending Ordinance 1969, the St Anne's Ryde Variation of Trusts Ordinance 1976, the St Anne's Ryde (Kirkby Gardens) Ordinance 1977, the St Anne's Ryde (Kirkby Gardens) Ordinance 1980, the St Anne's Ryde (Kirkby Gardens) Ordinance 1986, the St Anne's Ryde (Kirkby Gardens) Ordinance 1986 Amendment Ordinance 1991, the Ryde (Kirkby Gardens, Archbold Building and 2 Little Church Street) Ordinance 1968 Amendment Ordinance 1992 and the Ryde (Kirkby Gardens, Archbold Building and 2 Little Church Street) Ordinance 1968 Amendment Ordinance 1999.

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## Long Title

An Ordinance to amend further St Anne's (Ryde) Glebe Leased Lands Sale Ordinance 1927 by authorising the appropriation of the funds accumulated thereunder or any moneys to be paid to the Fund created under the said Ordinance to or towards the cost of the erection of certain shop and residential flat buildings to be erected on lands within the said Parish And to vary the trusts and to authorise the mortgaging of certain lands situated in Church Street Ryde.

## Preamble

Whereas by virtue and in pursuance of the provisions of the St Anne's (Ryde) Glebe Land Sale Ordinance 1918 the Anglican Church Property Trust Diocese of Sydney (hereinafter called the Corporate Trustee) holds certain investments and the income therefrom for the benefit of the Parish of St Anne Ryde such income to be applied in the manner therein appearing And Whereas such Ordinance was amended by the next recited Ordinance in a manner not material to those presents And Whereas by an Ordinance styled St Anne's (Ryde) Glebe Leased Lands Sale Ordinance 1927 certain lands were authorised to be sold and it was also provided that after payment out of the proceeds of any sales of certain amounts therein specified the net proceeds of the sale of any such lands should be invested and the residue of income after provision was made for certain annual payments should be accumulated and such accumulations should be added to the principal until such principal and accumulations should amount to the sum of forty-one thousand two hundred dollars (\$41,200) or until otherwise determined by Synod And Whereas the said lastly recited Ordinance and the trusts thereunder were amended in certain respects by St Anne's (Ryde) School Land Sale and Building Ordinance 1935 by St Anne's (Ryde) Glebe Leased Lands Sale (Amendment) Ordinance 1937 by St Anne's (Ryde) Glebe Leased Lands Sale (Amendment) Ordinance 1954 by St Anne's (Ryde) Glebe Leased Lands Sale (Further Amendment) Ordinance 1962 and by St Anne's (Ryde) Glebe Leased Lands Sale (Further Amendment) Ordinance 1964 (all of which principal and amending Ordinances collectively are hereinafter referred to as the Investment Ordinances) And Whereas the said principal and accumulations now amount to a sum in excess of Forty thousand dollars (\$40,000) And Whereas it is proposed to erect shop and residential flat buildings at Ryde on the land described in the First and Second schedule hereto and for such purposes to apply the said accumulated funds as to as well the capital as the income thereof towards such purposes And Whereas by reason of the circumstances which have arisen subsequent to the creation of the trusts recited in St Anne's (Ryde) Glebe Leased Lands Sale Ordinance 1927 as amended as aforesaid it has become inexpedient to carry out and observe such trusts in their entirety and it is expedient to vary the said trusts in the manner hereinafter appearing And Whereas by Declaration of Trust bearing date the 28th Day of November 1916 and Registered No. 846 Book 1255 John Charles Wright Archbishop of Sydney did declare for himself and his successors as Archbishop of Sydney and did hold (inter alia) the lands more particularly described in the First and Second Schedules hereto Upon Trust to permit the same to be used for a site for a dwelling house for the Clergyman from time to time appointed to officiate as Rector in the Parish of St Anne's Ryde but subject to the powers and provisions conferred by or contained in any

Ordinance or Ordinances affecting the same or any part thereof and also subject to any sale or other disposition of any part of the said land theretofore made And Whereas there is erected on the land more particularly described in the First Schedule hereto a rectory but a new rectory is now in the course of erection on other land held by the Corporate Trustee for the sole benefit of the said Parish And Whereas on the completion of such construction of the new rectory as aforesaid it is proposed to demolish the existing rectory standing on the land described in the First Schedule hereto and to erect on the lands described in the First and Second Schedules hereto certain shop and residential flat buildings And Whereas for such purposes it will be necessary to borrow a sum or sums not exceeding Five hundred and ten thousand dollars (\$510,000) in respect of the development of the land described in the First Schedule hereto to be applied towards the cost thereof And Whereas it is expedient that the said lands be mortgaged or charged to secure such advances Now the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod Hereby Ordains Declares Directs and Rules as follows.

### **Statement of Trusts**

1. By reason of circumstances which have arisen subsequent to the creation of the trusts made and in pursuance of the provisions of the Investment Ordinances it is inexpedient to carry out and observe the same and it is expedient to vary such trusts in the manner hereinafter provided.

2. (i) The Corporate Trustee is hereby directed and authorised

(a) To sell and convert into money the investments representing the accumulated funds as to as well the capital as the income thereof held by the Corporate Trustee under the provisions of the Investment Ordinances as aforesaid or such part or parts thereof as shall not consist of money at such time or times and in such manner as the Corporate Trustee shall deem fit.

(b) To pay the said moneys and the net proceeds of such sale or sales and conversions as to as well the capital as the income thereof to the Churchwardens for the time being of the said Parish (whose receipt shall be sufficient discharge therefor) to be applied by them for or towards the cost of the erection of certain shop and residential flat buildings to be erected on the said lands.

(ii) The Churchwardens of the said Parish are hereby released and freed from any further payments to the Corporate Trustee under or in pursuance of the provisions of any of the Investment Ordinances which shall be deemed to be rescinded when the payments referred to in paragraph (b) of subclause (i) of this Clause shall have been made by the Corporate Trustee to the Churchwardens of the said Parish.

3. The lands described in the First and Second schedules hereto be and the same are hereby vested in the Corporate Trustee subject to the trusts on which the same are now held.

4. By reason of 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 to declare and it is hereby declared that the Corporate Trustee shall hold the said land upon trust to permit the same to be used for the erection thereon of shop and residential flat buildings or partly for one and partly for another of such purposes and to enter into such contract or contracts as may be necessary in accordance with plans and specifications as approved by the Corporate Trustee to erect upon the said lands such buildings as aforesaid.

### **Mortgage Provisions**

5. By reason of the circumstances which have arisen subsequent to the creation of the trusts upon which the land described in the First Schedule hereto are held it is expedient that such lands be mortgaged.

6. (i) The Corporate Trustee is hereby empowered to mortgage from time to time the whole or any part of the land described in the First Schedule hereto for the purposes of borrowing the sums following -

(a) When the power is first exercised a sum not exceeding five hundred and ten thousand dollars (\$510,000).

(b) When the power is subsequently exercised such sum not exceeding five hundred and ten thousand dollars (\$510,000) as the Standing Committee may by resolution determine Provided that such debt shall be reduced by payments of principal and interest as hereinafter set forth when the power is first exercised and thereafter at such rate as Standing Committee shall by resolution determine and Provided Further that no person or corporation advancing moneys under the provisions of this Ordinance shall be concerned to enquire whether such reductions shall have been made.

(ii) Any renewal of a 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.

### **Application of Mortgage Proceeds**

7. The proceeds of any mortgage hereby authorised shall after paying the costs of and incidental to this ordinance and such mortgage be applied by the Corporate Trustee as follows -

- (i) When the power is first exercised towards the cost of erection of the residential flat buildings on the land described in the First Schedule hereto.
- (ii) When the power is subsequently exercised (other than by renewal of the original mortgage) in payment of the principal interest and costs of discharge of any existing mortgage and the costs and expenses of such mortgage.
- (iii) Any mortgagee advancing moneys pursuant to the provisions of subclause (i) of this clause shall pay the same direct to the Churchwardens for the time being of St Anne's Ryde.

### **Application of Lease Income**

<sup>2</sup> 8. (i) The Corporate Trustee is hereby empowered to lease from time to time the said shop residential flat buildings to be erected on the land described in the First and Second Schedules hereto upon such terms and conditions as to the Corporate Trustee shall seem fit but nevertheless subject to the provisions of the Standing Committee of Synod's investment policy and the annual net income arising from such leases shall be applied by the Corporate Trustee as follows -

- (a) By payment of interest on the mortgage on the land described in the Second Schedule to this ordinance and the further mortgage or charge authorised by the St Anne's Ryde Further Mortgaging and Amending Ordinance 1969 at a rate not exceeding seven dollars seventy-five cents (\$7.75) per centum per annum for the first five years of such advance and thereafter principal and interest to be repaid by forty half-yearly instalments of Twenty-seven thousand two hundred and seventy-three dollars sixteen cents (\$27,273.16) and principal and interest on the further mortgage or charge authorised by the St Anne's Ryde (Kirkby Gardens Archbold Building and 2 Little Church Street) Ordinance 1968 Amendment Ordinance 1999.
- (b) Twenty-eight thousand dollars (\$28,000) shall be credited to the fund described in paragraph (iii) and subject to the provision of sub-clause 8(iv) hereof the maximum amount to be held at the end of each calendar year shall be four hundred thousand dollars (\$400,000) and any balance in excess of that amount shall be applied in accordance with the provisions of sub-paragraph 8(i)(d)(cc) hereof.
- (c) In the years commencing 1 January 1992 and 1 January 1993 the sum of Sixty thousand dollars (\$60,000) per annum towards the reduction of a mortgage debt due to the Corporate Trustee by the Churchwardens of St Stephen's Thirlmere in the Parish of Picton in the Diocese of Sydney.
- (d) after the deduction of the amounts referred to in clauses 8(i)(a), (b) and (c) hereof, the balance remaining shall be applied as follows -
  - (aa) Fifty per centum (50%) to be held by the Corporate Trustee and allocated and distributed in accordance with the annual Diocesan Income and Expenditure Ordinance of the Synod towards the mission and ministry of the Anglican Church of Australia Diocese of Sydney;
  - (bb) Seven and one half per centum (7.5%) to be paid to the said Churchwardens and applied only towards the maintenance, repair, restoration or replacement of the property and improvements held on trust by the Corporate Trustee for the Parish; and
  - (cc) Forty two and one half per centum (42.5%) to be paid to the said Churchwardens for such intra-parochial and extra-parochial purposes as the Parish Council of the Parish shall determine in its absolute discretion.

(ii) At the expiration of each year commencing from 1st January 1976 to 31 December 1991 the Corporate Trustee after paying or making provision for the repayments referred to in paragraph (a) of subclause (i) hereof and crediting to the fund described in paragraph (iii) such amount as may be agreed upon by the said Churchwardens and the Corporate Trustee shall divide the balance of such income into four (4) equal parts and

- (a) As to three (3) of such four (4) equal parts shall pay the same to the said Churchwardens to be allocated and distributed by them for such extra-parochial purposes as the Parish Council shall determine and for such parochial purposes as may be requested by the Parish Council and approved by resolution of the said Standing Committee.
- (b) As to the remaining equal part to allocate and distribute the same in accordance with an ordinance or ordinances of the Synod. The Parish Council may make a recommendation (in writing) to the Standing Committee as to the manner in which such part of the said moneys shall be allocated and in the event that the said ordinance

fails to give effect to any recommendation so made Standing Committee shall publish the recommendation in its report to Synod.

(iii) Moneys held under this subclause shall be applied for such repairs renovations and maintenance of the said shop and residential flat buildings as the Parish Council considers appropriate and any moneys to be so applied shall be paid to the Churchwardens as required by them for these purposes.

(iv) The Property Trust is hereby empowered to pay to the Churchwardens of the Parish all moneys held in the fund established under paragraph 8(i)(b) in excess of Four hundred thousand dollars (\$400,000.00) as at 31 December 1998 and such moneys shall be applied -

- (i) to meet the costs of converting the land and buildings constructed on the land held in Certificate of Title Volume 13114 Folio 43 into strata units; and
- (ii) the costs of the Parish Ministry Centre.

### **Review Date**

<sup>3</sup> 8A. The provisions of clause 8 of this Ordinance shall be revised as soon as reasonably possible after 31 December 2002.

### **Parish Ministry Centre**

<sup>4</sup> 8B. For the purposes of this ordinance the Parish Ministry Centre shall mean the new building for worship and Parish purposes proposed to be constructed on land held on certain trusts for the Parish being the land described in the Third Schedule to this Ordinance and the costs associated therewith shall include all necessary statutory and other approvals including development consent, building approval, consultants' fees, construction costs, fitting out and furnishing expenses.

### **Accounts**

<sup>5</sup> 9. The said churchwardens shall within seven (7) 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 Secretary of the Corporate Trustee giving details of the original amount borrowed the amounts paid off and the balance owing at the 31st day of December preceding such annual vestry meeting.

### **Citation**

<sup>6</sup> 10. This Ordinance may be cited as Ryde (Kirkby Gardens, Archbold Building and 2 Little Church Street) Ordinance 1968.

#### **First Schedule**

All That piece of land containing 1 acre 1 rood 26 3/4 perches being part of St Anne's Rectory Glebe being more recently shown as Lot 1 on plan signed by Mr Surveyor W.R. Hardy and dated 14/11/61 situated in the municipality of Ryde Parish of Hunters Hill County of Cumberland and State of New South Wales. Commencing at a point on the North Western alignment of Church Street as widened bearing 304 degrees 02 minutes 10 seconds and distant 13' 0 1/4" from the Easternmost corner of Lot 1 as shown upon plan annexed to Transfer No. G178736 and bounded thence on the South West by part of the North Eastern boundary of Lot 1 as shown upon plan annexed to Transfer G178736 the north Eastern boundary of Lot 4 as shown upon plan annexed to Transfer No. G178236 and part of the north Eastern boundary of land shown in Transfer No. C384443 being in all a line bearing 304 degrees 02 minutes 10 seconds for 276' 10" to the South Eastern alignment of Devlin Street thence on the North West by part of the South Eastern alignment of Devlin Street being a line bearing 27 degrees 55 minutes 50 seconds for 247' 9' 3/8" thence on the North East by a line bearing 122 degrees 01 minutes 30 seconds for 149' 6" a line bearing 211 degrees 22 minutes 40 seconds for 50' 0" thence again on the North West by a line bearing 122 degrees 04 minutes for 129' 0" to the North Western alignment of Church Street as widened thence on the South East by part of the North Western alignment of Church Street as widened being a line bearing 211 degrees 22 minutes 40 seconds for 206' 4 1/8" to the point commencement.

#### **Second Schedule**

All That piece of land containing 19 1/4 perches being part of St Anne's Rectory Glebe and being more recently shown as lots 2 and 3 on plan signed by Mr Surveyor Walter Ross Hardy and dated 14/11/61 situated in the Municipality of Ryde Parish of Hunters Hill County of Cumberland and State of New South Wales. Commencing at a point on the North Western alignment of Church Street as widened bearing 211 degrees 22 minutes 40 seconds and distant 82' 2" from the intersection of the north Western alignment of Church Street as widened with the South Western alignment of Blaxland Road as widened and bounded thence on the North East by a South Western boundary of land in Real Property Application No. 40002 being a line bearing 302 degrees 07 minutes for 79' 9 1/4" thence on the North West by South Eastern boundaries of land in Real Property Application No. 40002 being lines bearing 211 degrees 29 minutes for 21' 2" and 209 degrees 45 minutes for 29' 10 3/4" thence again on the North East by part of a South Western boundary of land in Real Property Application No. 40002 being a line bearing 302 degrees 01 minutes 30 seconds for 50' 03/4" thence again on the North West by part of a South Eastern boundary of Lot 1 as shown on plan signed by Mr Surveyor Walter Ross

Hardy and dated 14/11/61 being a line bearing 211 degrees 22 minutes 40 seconds for 10' 0" thence on the South West by a line passing along the North Eastern face of a brick wall and its North Western and South Eastern prolongations bearing 122 degrees 04 minutes for 129' 0" to the North Western alignment of Church Street as widened thence on the South East by part of the North Western alignment of Church Street as widened being a line bearing 31 degrees 22 minutes 40 seconds for 60' 0" to the point of commencement.

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**Third Schedule**

**All That land contained in Lot 2 Deposited Plan 541856 and Lot 1 Deposited Plan 113532.**

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**Endnotes**

**ROBERT WICKS**  
**Legal Officer**

**MARK PAYNE**  
**Diocesan Secretary**

**27 February 2008**

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1. Amended by Ordinance No 9, 1991.
2. Amended by Ordinances Nos 21, 1969; 51, 1976; 7, 1977; 51, 1978; 8, 1991; 2, 1992 and 14, 1999.
3. Inserted by Ordinance No 51, 1976 and amended by Ordinances Nos 33, 1980; 56, 1986; 8, 1991; 2, 1992 and 14, 1999.
4. Inserted by Ordinance No 8, 1991 and deleted by Ordinance No 2, 1992. New clause inserted by Ordinance No 14, 1999.
5. Amended by Ordinance No 51, 1976.
6. Amended by Ordinances Nos 33, 1980; 56, 1986 and 9, 1991.
7. Inserted by Ordinance No 14, 1999.