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## Smithfield Ordinance 1984

(Reprinted under the Interpretation Ordinance 1985.)

The Smithfield Ordinance 1984 as amended by the Smithfield Ordinance 1984 Amending Ordinance 1986 and the Smithfield Ordinance 1984 Amendment Ordinance 1989.

### Long Title

An Ordinance to authorise the sale of certain property and to vary the trusts on which certain property is held.

### Preamble

Whereas

- <sup>1</sup>
- A. Anglican Church Property Trust Diocese of Sydney (hereinafter called the "Corporate Trustee") is the owner of the land described in the First and Second schedules hereto and is the registered proprietor of the land described in the Fourth Schedule hereto.
  - B. The land described in the First Schedule hereto (which land is hereinafter called "the Smithfield land") is held upon the trusts set forth in the St. James' Smithfield Ordinance 1970-1981.
  - C. The land described in the Second Schedule hereto (which land is hereinafter called "the Wetherill Park land") is 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 or others of such purposes in connection with the Anglican Church of Australia at Wetherill Park in the Parish of Smithfield and subject to the provisions of the "Sydney Church Ordinance 1912" or any other Ordinance of the Diocese of Sydney for the time being in force and applicable to the said land.
  - D. The land described in the Third Schedule hereto (which land is hereinafter called "the Bossley Park land") is held upon trust for the Anglican Church of Australia in the Diocese of Sydney.
  - E. By reason of circumstances which have arisen subsequent to the creation of the respective trusts upon which the said lands are held, it is expedient that the Smithfield land and the Wetherill Park land be sold and that the said trusts be varied to the extent that the same are hereby varied.

Now the Standing Committee of the Synod of the Diocese of Sydney Hereby Ordains Declares Directs and Rules as follows:-

- <sup>2</sup>
- 1. This ordinance may be cited as "Smithfield Ordinance 1984-1986".
  - 2. (1) By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the Smithfield land is held, it is expedient that the Smithfield land be sold.
    - (2) The Corporate Trustee is authorised and empowered to sell the Smithfield land within three years from the date of assent to this Ordinance and thereafter only with the consent of the Standing Committee by public auction or private contract at such time for such price and upon such terms and conditions as it may think fit free from the trusts upon which it is held.
  - 3. (1) By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the Wetherill Park land is held, it is expedient that the Wetherill Park land be sold.
    - (2) The Corporate Trustee is authorised and empowered to sell the Wetherill Park land within five years of the date of assent to this Ordinance and thereafter only with the consent of the Standing Committee after the Parish Council of the Parish of Smithfield is satisfied that a satisfactory place of worship has been constructed on the Bossley Park land and is in use (which satisfaction shall be expressed by a resolution of the Parish Council) by public auction or private contract at such time for such price and upon such terms and

conditions as it may think fit free from the trusts upon which it is held.

3 4. The Bossley Park land shall be held upon trust for the Anglican Church of Australia in the Parish of Smithfield to permit the erection thereon and the use of the improvements described in paragraphs (a) and (b) of clause 5.

4 5. The proceeds from the sale of the Smithfield land (after payment of all costs of and incidental to this Ordinance and to the sale of that land) and from the Wetherill Park land (after payment of all costs of and incidental to the sale of that land) shall be applied in or towards repayment of all moneys borrowed for all or any of the purposes mentioned in paragraph (i) of clause 4(e) of the St James' Smithfield Ordinance 1970 and then in or towards repayment of all moneys borrowed pursuant to the St James' Smithfield Mortgage Ordinance 1973 and the Smithfield Ordinance 1981. The balance remaining thereafter (which balance is hereinafter called "the capital") shall be invested and the capital and the income derived therefrom (which income is hereinafter referred to as "the income") shall be applied by the Corporate Trustee in or towards meeting the cost of;

- (a) constructing on the Bossley Park land a building suitable for use as a church and hall,
- (b) constructing on the Bossley Park land carparking facilities, and
- (c) maintaining and repairing and improving the church building, rectory, hall and grounds on the Smithfield land.

The proportion of the amount invested with the Corporate Trustee as at 31st July, 1989 which shall be designated for (a) and (b) above is to be eighty-five per cent (85%) and the proportion which shall be designated for (c) shall be fifteen per cent (15%) and so much of the income as shall accrue after 31st July, 1989 shall be applied for the abovementioned purposes in the same proportions.

Provided Always that on and from the tenth anniversary of the date on which assent is given to the Principal Ordinance the capital and income not applied previously pursuant to the provisions of this clause shall be held upon trust for such purposes of the Anglican Church of Australia within the Diocese of Sydney as may be agreed, at that time, by a majority of the Parish Council of the Parish of Smithfield and a majority of the Standing Committee of the Synod of the Diocese of Sydney.

5 **First Schedule**

All That piece or parcel of land in the Municipality of Fairfield Parish of St. Luke County of Cumberland situate at Smithfield commencing on the north eastern corner of Lot 2 in Deposited Plan No. 208678 being approximately 355 feet west from the intersection of Liverpool Road and The Horsley Drive bounded thence on the east bearing 179 degrees 59 minutes 20 seconds distant 120 feet bounded thence on the north by a line bearing 90 degrees 49 minutes 30 seconds for 51 feet bounded again on the east by a line bearing 179 degrees 59 minutes 20 seconds for 65 feet ½ inches bounded on the south by a line bearing 269 degrees 59 minutes 20 seconds distant 20 feet 11 inches bounded thence on the east by a line bearing 179 degrees 37 minutes distant 141 feet 9 inches bounded thence on the south by lines bearing 270 degrees 41 minutes 30 seconds distant 130 feet 11 ¾ inches 272 degrees 29 minutes distant 51 feet 5 inches bounded thence on the west by lines bearing 359 degrees 59 minutes 20 seconds distant 108 feet 6 inches 353 degrees 22 minutes distant 28 feet 7 ⅝ inches bearing 359 degrees 59 minutes 20 seconds distant 190 feet 0 inches bounded thence on the north by the southern alignment of The Horsley Drive bearing 90 degrees 49 minutes 30 seconds distant 154 feet 8 inches to the point of commencement having an area of 58,009 square feet or 1 acre 1 rood 13 perches.

**Second Schedule**

All That piece or parcel of land situated at Wetherill Park in the Parish of St. Luke County of Cumberland and State of New South Wales being part of Lot 4 of Section E of the subdivision known as Wetherill Park commencing on the northern side of Daniel Street at a point distant 660 feet easterly from the intersection of that street with Lilly Street and being the south western corner of said Lot 4 and bounded thence on the west by a line being the eastern boundary of part of Lot 5 of said Section E bearing northerly 165 feet thence on

the north by other portion of said Lot 4 bearing easterly 66 feet thence on the east by other portion of said Lot 4 being a line bearing southerly 165 feet to Daniel Street aforesaid and thence on the south by part of the northern boundary of that street being a line bearing westerly 66 feet to the point of commencement be the said bearings and dimensions all a little more or less.

#### Third Schedule

All that land situated at Bossley Park being Lot 1 in Deposited Plan 545647 and the whole of the land in Certificate of Title Volume 11555 Folio 3.

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#### Endnotes

1. There is no "Fourth Schedule" - it was omitted before the 1984 Ordinance was passed.
2. Amended by Ordinance No 57, 1986.
3. Amended by Ordinance No 25, 1989.
4. Amended by Ordinances Nos 57, 1986 and 25, 1989. The review of trusts set up by the proviso is to operate on and from 10 December 1994 (10 years after the date of assent).
5. The land referred to in this Schedule is also the described in the St James' Smithfield Ordinance 1970.

K.R. BOWDEN  
**Assistant Diocesan Secretary**

W.G.S. GOTLEY  
**Diocesan Secretary**

10 January 1990