

ST. JAMES SMITHFIELD ORDINANCE 1973

No. 1 1973

AN ORDINANCE to authorise the sale of certain land in the Municipality of Fairfield and to provide for the application of the proceeds thereof and to amend the St. James Smithfield Variation of Trusts Vesting and Leasing Ordinance 1970.

WHEREAS:

A. Church of England Property Trust Diocese of Sydney (hereinafter called "the Corporate Trustee") is seised of an estate in fee simple of the lands described in the First and Second Schedules hereto;

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

C. The said lands are at present held upon the trusts set forth in St. James Smithfield Variation of Trusts Vesting and Leasing Ordinance 1970 (hereinafter referred to as the "Principal Ordinance");

D. The Principal Ordinance authorised the leasing of certain lands including the lands described in the First and Second Schedules hereto upon certain terms and conditions;

E. By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the said lands are held it is inexpedient to carry out and observe the same to the extent that the same are hereinafter varied and it is expedient that the land described in the First Schedule hereto be sold.

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

1. (1) This Ordinance may be cited as "St. James Smithfield Ordinance 1973".

(2) The Principal Ordinance as amended by this Ordinance may be cited as "St. James Smithfield Ordinance 1970-1973".

2. By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the said lands are held it is inexpedient to carry out and observe the same to the extent that the same are hereinafter varied and it is expedient that the land described in the First Schedule hereto be sold.

3. The Corporate Trustee is hereby authorised and empowered to sell the land described in the First Schedule hereto by private contract or by auction at such time and for such consideration and upon such terms and conditions as the Corporate Trustee may think fit freed from the trusts upon which it is now held.

4. The proceeds of such sale or disposition of the land described in the First Schedule hereto shall be applied in or towards the removal of the kindergarten hall from the land described in the Schedules hereto the re-erection of the same on other land the acquisition of easements or other rights for the benefit of land held upon trust for the said Parish the carrying out of drainage work on the land described in the Second Schedule hereto and in effecting other work and improvements on other land held upon trust for the said Parish.

5. The Principal Ordinance is hereby amended as follows:-

- (1) By inserting the words "such rental and" after the words "subject to" where firstly appearing in clause 3 thereof.
- (2) By deleting paragraphs B and C of clause 3 thereof:-
- (3) By omitting the words "by the Lessee as a supermarket" where first appearing in paragraph D of clause 3 thereof and inserting in place thereof the words "for such purposes as the Lessor may approve".
- (4) By omitting paragraphs (a) to (g) of clause 4 and inserting the following in lieu thereof:-

"(a) First in payment of the costs and disbursements of and incidental to the St. James Smithfield Ordinance 1973 of the sale of land pursuant hereto and of any lease granted pursuant hereto to the extent that such costs and disbursements are not paid by the Lessee.

(b) Secondly in payment of all fees and other outgoings incurred from time to time in connection with the said lease.

(c) Thirdly in payment of such amount as the Churchwardens from time to time of St. James Church Smithfield may establish to be the increase in diocesan assessments caused by the aggregation of the income from the said lease to other receipts of the said Parish PROVIDED THAT:-

(i) No such payment shall be made except in respect of assessments that are due or will become due within three months of the date of such payment;

(ii) Such payment shall be made from rents received under the said lease after the said Churchwardens make such claim; and

(iii) If any assessment payable by the said Parish is unpaid for one month after the same becomes due for payment and the said Churchwardens have not made such claim within that period the Corporate Trustee may calculate such increase in lieu of the Churchwardens.

(d) Fourthly in reimbursement of all monies disbursed by the said Parish in providing any temporary accommodation which may be necessary for the rector between the time vacant possession of the present rectory is required and the erection or purchase of the new rectory.

(e) Fifthly:-

(i) A sum not exceeding Thirty thousand dollars (\$30,000) towards the cost of erecting or purchasing a new rectory a sum not exceeding Forty-five thousand dollars (\$45,000) towards the erection of a new parish hall in the said Parish and a sum not exceeding Three thousand dollars (\$3,000) towards the cost of restoration or beautification of the cemetery known as St. James Church Cemetery at Smithfield PROVIDED that all or any of the said amounts may be increased to such amounts as the Standing Committee may by resolution approve; or

(ii) In repaying such of any monies borrowed for all or any of the purposes mentioned in paragraph (i) as may become repayable from time to time together with interest

thereon; or

(iii) Any combination of paragraphs (i) and (ii).

(f) Sixthly the balance of such rents from time to time to such purpose or purposes as may be determined by resolution of the Parish Council of the said Parish and approved by resolution of the Standing Committee."

(5) By omitting all the words following under the title "Fourth Schedule" and inserting in lieu thereof the description in the Second Schedule hereto.

6. The Corporate Trustee is hereby authorised and empowered to grant easements and other rights over the land described in the Second Schedule hereto.

#### 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 at the south eastern corner of Lot 2 in Deposited Plan No. 208678 bearing and distant 269 degrees 39 minutes 30 seconds 58 feet 9 $\frac{1}{2}$  inches from the north western alignment of Liverpool Road and bounded thence on the south by a line bearing 270 degrees 41 minutes 30 seconds for 20 feet bounded thence on the west by a line bearing 359 degrees 37 minutes distant 141 feet 9 inches bounded thence on the north by a line bearing 89 degrees 59 minutes 20 seconds distant 20 feet 11 inches bounded thence on the east by the western boundary of Lot 1 in Deposited Plan No. 552539 distant 179 degrees 59 minutes 20 seconds and distant 142 feet 0 inches to the point of commencement having an area of 2,904 square feet or 10 $\frac{1}{2}$  perches.

#### SECOND 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 0 $\frac{1}{2}$  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 $\frac{1}{2}$  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  $\frac{5}{8}$  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.

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

ATHOL RICHARDSON  
Chairman of Committees

I CERTIFY that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on the 26th day of March, 1973.

W.G.S. GOTLEY  
Secretary

I ASSENT to this Ordinance.

MARCUS LOANE  
Archbishop of Sydney  
26/3/1973

No. 41 1973

AN ORDINANCE to declare the trust of certain land at Dapto in the City of Wollongong to authorise the mortgaging of such land and to provide for the application of the proceeds and matters incidental thereto.

WHEREAS Church of England Property Trust Diocese of Sydney (hereinafter called the "Corporate Trustee") is the purchaser in a certain contract for Sale of the fee simple in the whole of the land in Certificate of Title Volume 8203 Folio 27 more particularly described in the Schedule hereto AND WHEREAS such land will upon completion of the said purchase and transfer be church trust property held for the sole benefit of the Church of England in Australia at Dapto, in the Parish of St. Luke Dapto but no trusts in writing have been declared concerning the same AND WHEREAS it is intended after completion as aforesaid to use the property for the benefit of the said Parish AND WHEREAS for such purpose it is expedient that on completion as aforesaid the said land be mortgaged or charged to secure the sum of Thirty seven thousand dollars (\$37,000) to be applied in discharge of an existing overdraft debt due to the Bank of New South Wales Dapto and payment of the purchase money and otherwise as hereinafter set out NOW the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod HEREBY DECLARES ORDAINS AND DIRECTS as follows:-

1. Upon completion of the said purchase and transfer the land described in the Schedule hereto shall be held by the Corporate Trustee upon trust to permit the same to be used for the benefit of the Church of England within the Parish of St. Luke Dapto.

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

3. (1) Upon the completion of the said purchase and transfer the Corporate Trustee is hereby empowered from time to time to mortgage the land described in the Schedule hereto for the purpose of borrowing the sums following:-

- (a) When the power is first exercised a sum not exceeding Thirty seven thousand dollars (\$37,000)
- (b) When the power is subsequently exercised such sum not exceeding Thirty seven thousand dollars (\$37,000) as Standing Committee shall by resolution determine,

PROVIDED that such debt shall be reduced at a rate of not less than One thousand two hundred and fifty dollars (\$1,250) each quarter inclusive of principal and interest when the power is first exercised and thereafter at such rate as Standing Committee shall by resolution determine 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.

(2) Any renewal of a mortgage 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 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.

4. The proceeds of any mortgage hereby authorised 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 purchase and completion of transfer and the costs of and incidental to any mortgage or charge executed in pursuance of the said Ordinance and of the balance due to the Bank of New South Wales Dapto to pay out the overdraft account held by St. Luke's Church Dapto under the style of "Church of England Osborne Land Account" and of the purchase money and adjustments required to complete the said transfer.

- (b) When the power is subsequently exercised in payment of the principal interest and costs of and incidental to the discharge of any then existing mortgage and the costs and expenses of such further mortgage or for such other purpose or purposes as the Standing Committee shall by resolution determine,
- (c) Any mortgagee advancing moneys pursuant to the provisions of paragraph (a) of this Clause is hereby authorised to pay the same direct to the Churchwardens for the time being of St. Luke's Church Dapto.

5. The Churchwardens for the time being of St. Luke's Church Dapto 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 Diocesan Secretary giving details of the original amount borrowed the amounts paid off and the balance owing as at the end of the last financial year.

6. This Ordinance may be cited as "St. Luke's Dapto Declaration of Trust and Mortgaging Ordinance 1973".

#### SCHEDULE

ALL THAT piece or parcel of land situate at Dapto in the City of Wollongong Parish of Calderwood and Count of Camden being Lot B in Miscellaneous Plan of Subdivision (R.P.) Registered No. 108019 having a frontage of 60' 0" to Byamee Street with depths of 191' 0 $\frac{1}{2}$ " and 190' 5 $\frac{1}{2}$ " and a rear line measurement totalling 60' 0" be the said several dimensions all a little more or less and being the whole of the land in Certificate of Title Volume 8203 Folio 27 together with the cottage erected thereon known as No. 95 Byamee Street Dapto.

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 10th day of December 1973.

W.G.S. GOTLEY  
Secretary

I ASSENT to this Ordinance.

M.L. Loane  
Archbishop of Sydney  
10/12/1973

ST. PETER'S CAMPBELLTOWN (LEUMEAH) SALE ORDINANCE 1973

No. 42 1973

AN ORDINANCE to authorise the sale of certain land at Leumeah and to provide for the application of the proceeds of such sale.

WHEREAS Church of England Property Trust Diocese of Sydney (hereinafter called the "Corporate Trustee") is the registered proprietor of the whole of the land contained in Certificates of Title Volume 9512 Folios 239, 240 and 241 more particularly described in the Schedule hereto AND WHEREAS the land is church trust property held for the benefit of the Parish of St. Peter Campbelltown but no trusts in writing have been declared concerning the same AND WHEREAS by reason of circumstances which have arisen subsequent to the creation of the trusts upon which the said land is held it is inexpedient to carry out and observe the same and it is expedient that the said land be sold and the net proceeds used and applied in the manner set out hereunder NOW the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod HEREBY ORDAINS DIRECTS AND RULES as follows:-

1. By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the land described in the Schedule hereto is held it is inexpedient to carry out and observe the same and it is expedient that the said land be sold.

2. The Corporate Trustee is hereby empowered to sell the land described in the Schedule hereto in whole or in part by public auction, or private treaty at such time or times and at such price or prices and upon such terms and conditions as the Corporate Trustee may determine freed from any trusts whatsoever.

3. (1) The proceeds arising from the sale or sales of the said land after paying thereout the costs of and incidental to this Ordinance and of the sale or sales and transfer or transfers in pursuance thereof shall be invested by the Corporate Trustee and the income arising shall be paid to the Churchwardens for the time being of St. Peter's Church Campbelltown and applied by them for general parochial purposes including the provision of transport to churches within the said Parish.

(2) The said principal sum for the time being of the investment or any part thereof may be paid or applied for any one or more of the following purposes as may from time to time be determined by the said Parish Council:-

(a) Up to the sum of Twenty-five thousand dollars (\$25,000) towards the cost of construction of a residence for a minister at Minto.

(b) Such parochial purpose or purposes as may from time to time be approved by resolution of the Standing Committee.

4. This Ordinance may be cited as "St. Peter's Campbelltown (Leumeah) Sale Ordinance 1973".

SCHEDULE

ALL THAT piece or parcel of land situate at Leumeah in the Municipality of Campbelltown Parish of St. Peter and County of Cumberland being Lot 1 in Deposited Plan No. 215240 and containing an area of about 22 perches and being the whole of the land contained in Certificate of Title Volume 9512 Folio 239.

ALL THAT piece or parcel of land situate as aforesaid being Lot 2 in Deposited Plan No. 215240 and containing an area of about 22 perches and being the whole of the land contained in Certificate of Title Volume 9512 Folio 240.

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ALL THAT piece or parcel of land situate as aforesaid being Lot 3 in Deposited Plan No. 215240 and containing an area of about 22 perches and being the whole of the land contained in Certificate of Title Volume 9512 Folio 241.

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 10th day of December 1973.

W.G.S. Gotley  
Secretary

I ASSENT to this Ordinance.

M.L. Loane  
Archbishop of Sydney  
10/12/1973