

ST. MATTHEW'S BOTANY VARIATION OF TRUSTS AND
SALE ORDINANCE 1973

No. 45 1973

AN ORDINANCE to authorise the variation of trusts and sale of certain land in Lord Street Botany and to provide for the application of the proceeds of such sale.

WHEREAS by Ordinance No. 51, 1972 after the trusts hereinafter mentioned were declared in respect of the lands described in the Third Part of each of the First and Second Schedules thereto Church of England Property Trust Diocese of Sydney (hereinafter called "the Corporate Trustee") was authorised to mortgage the said lands for a sum not exceeding One hundred and twenty-five thousand dollars (\$125,000) to be applied as therein set out AND WHEREAS such lands are identical with the lands more particularly described in the First and Second Schedules hereto respectively (which lands are hereinafter referred to collectively as "the said lands") AND WHEREAS by the said Ordinance it was declared that the said lands be held by the Corporate Trustee upon trust to permit the same to be used for the erection thereon of factory and other business or commercial premises and other buildings ancillary thereto or partly for one or another or others of such purposes and to enter into such contract or contracts as should be necessary in accordance with plans and specifications as approved by the Corporate Trustee to erect upon the said lands such buildings and other premises as aforesaid and that by reason of the circumstances which had arisen subsequent to the creation of the trusts upon which the said lands were held it was expedient that such lands be mortgaged as hereinbefore mentioned AND WHEREAS the said lands are church trust property held for the benefit of the Parish of St. Matthew Botany AND WHEREAS 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 to which the same are hereby varied AND WHEREAS it is expedient to sell the said lands and apply the nett proceeds 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 DIRECTS RULES AND ORDAINS as follows:-

1. 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 that the said lands be sold.

2. The Corporate Trustee is hereby authorised and empowered to subdivide and to sell the said lands in one or more lots by public auction or private contract at such time or times for such price or prices and upon such terms and conditions as it may think fit freed from the trusts upon which they are held.

3. The proceeds of the sale or sales of the said lands shall after paying thereout all outgoing and all other debts to which the said lands are subject, be applied as follows:-

- (a) First in the payment of the costs of and incidental to this Ordinance and of the sale or sales (including the costs of and incidental to any subdivision) and any conveyance or transfer in pursuance thereof.
- (b) Secondly in payment of all architects' and property consultants' fees legal costs and fees and all other costs charges and fees incurred incidental to and arising out of the proposed development of the said lands in pursuance of the provisions of Ordinance No. 51, 1972 as aforesaid.
- (c) Thirdly an amount not exceeding Thirty thousand dollars (\$30,000) or such other amounts as may be determined by resolution of the Standing Committee in meeting the cost of erecting a rectory on other land held upon trust for the said Parish.

- (d) Fourthly in meeting the costs of demolition of the existing toilet block adjoining the Parish Hall and erecting a new toilet block on other land held upon trust for the said Parish.
- (e) Fifthly in meeting the costs of relocation of the Parish Hall sewerage system and the removal of a large tree growing adjacent to the boundary between the said lands.
- (f) Sixthly subject to the foregoing the balance thereof shall be invested by the Corporate Trustee and the income arising from such investment shall be applied and paid as follows:-
 - (i) As to 10% thereof or such lesser percentage as shall be determined from time to time by resolution of the Standing Committee at the request of the Parish Council of St. Matthew's Church Botany the same shall be added to the principal sum of the investment as aforesaid.
 - (ii) Subject thereto to the Churchwardens for the time being of the said Church to be applied by them for any one or more of the following purposes:-
 - (a) The acquisition, development, maintenance and repair of church trust property within the said Parish,
 - (b) The salary or stipend of the said Parish staff or workers,
 - (c) The cost of literature and promotion of literature for use within or outside the said Parish,
 - (d) The support or assistance of organisations and corporate bodies under the control of the Synod which engage in the furtherance of the Gospel,
 - (e) Such amount as the said Churchwardens may determine to be the increase in diocesan assessments caused by the aggregation of the said income to other receipts of the said Parish, or
 - (f) For such other purpose or purposes as the Parish Council of the said Parish may from time to time determine with the approval by resolution of Standing Committee

PROVIDED HOWEVER that the said principal sum for the time being of the investment or any part thereof may be paid or applied for such parochial or extra parochial purpose or purposes as may from time to time be determined by the said Parish Council and as may be approved by the resolution of the Standing Committee.

4. This Ordinance may be cited as "St. Matthew's Botany Variation of Trusts and Sale Ordinance 1973."

FIRST SCHEDULE

ALL THAT piece of land containing 1616 square metres being Lot 2 as shown upon a Plan of Subdivision of part of Lot 10 of the Booralua Township and part of the land in Certificate of Title Volume 4738 Folio 41 signed by Mr. Surveyor R.J. Holmes and dated 21st September 1973 situated at Botany in the Municipality of Botany Parish of Botany County of Cumberland and State of New South Wales COMMENCING at a point on the north western alignment of Lord Street being the north western corner of Lot 2 as shown upon Deposited Plan No. 532667 and bounded thence on the north east by part of the south western boundary of Lot 2 as shown upon Deposited Plan No. 532667 being a line bearing 168°53'20" for 42.655 metres thence on the south east by the north western boundary of Lot 4 as shown upon the abovementioned plan of

subdivision dated 21st September 1973 being a line bearing 253°53'35" for 36.485 metres thence on the south west by the north eastern boundaries of Lot 1 as shown upon that Plan of Subdivision dated 21st September 1973 being lines bearing 348°53'20" for 8.32 metres and 341°58'40" for 33.97 metres thence on the north west by part of the south eastern alignment of Lord Street being a line bearing 73°32' for 40.615 metres to the point of commencement.

SECOND SCHEDULE

ALL THAT piece of land situated as aforesaid and being that part of the land comprised in Certificate of Title Volume 4738 Folio 41 adjoining the southern boundary of the land described in the First Schedule hereto and having the same dimension of about 36.485 metres along such common boundary with a dimension of about 31.07 metres along the eastern boundary of the land in the said Certificate of Title and with a dimension of about 37.065 metres along the southern boundary thereof and with a dimension of about 20.64 metres along the western boundary thereof.

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