
St. Michael's Sydney (St. David's Surry Hills Development)
Ordinance 1972

No. 54, 1972

AN ORDINANCE to vary the trusts of certain lands in Surry Hills Sydney, to authorise the mortgaging of such lands, to provide for the application of the proceeds of such mortgage, to authorise the erection of buildings containing units or flats for residential purposes and of buildings for other purposes, to authorise the letting management and use of such units flats and other buildings to provide for the application of the proceeds and for allied purposes.

WHEREAS Church of England Property Trust Diocese of Sydney (hereinafter called the "Corporate Trustee") has applied to the Registrar-General in pursuance of the provisions of the Real Property Act 1900, as amended, to become registered as proprietor in fee simple of the lands bounded by Crown Street, Arthur Street, Withers Lane and the Northern boundary of a private right of way as shortly described in the First Schedule hereto AND WHEREAS the Corporate Trustee has the intention of making a similar application to the Registrar-General in respect of land fronting Arthur Street (being the site of the buildings formerly in use as St. David's rectory and church hall) as shortly described in the Second Schedule hereto AND WHEREAS the said lands are church trust property within the meaning of the Church of England Trust Property Act 1917, and held upon various trusts for the purposes of the Church of England in the former Parish of St. David Surry Hills now incorporated in the Parish of St. Michael Sydney AND WHEREAS there are now erected upon the land in the said First Schedule a number of premises viz. Nos. 427/439 Crown Street and Nos. 14/22 Arthur Street, Surry Hills AND WHEREAS there are now erected upon the land in the said Second Schedule buildings formerly in use as St. David's rectory and church hall 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 continue to carry out and observe the same to the extent to which they are hereby varied AND WHEREAS it is proposed to redevelop the said lands such redevelopment involving the ultimate demolition of all the existing premises and the construction in stages on the land in the First Schedule of a number of buildings with units or flats for residential purposes and on the land in the Second Schedule of a building or buildings for parish purposes and otherwise to carry out improvements on all the said lands AND WHEREAS it is expedient that the

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said lands or part or parts thereof be mortgaged or charged and otherwise dealt with and the proceeds of such mortgage or charge be dealt with and applied 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 RULES ORDAINS AND DIRECTS as follows:—

1. By reason of circumstances which have arisen since the creation of the trusts upon which the lands described in the First and Second Schedules hereto are held it is inexpedient to continue to carry out and observe the same to the extent to which they are hereby varied and it is expedient that the lands be mortgaged or charged and that certain improvements be carried out thereon and that new trusts be declared in respect of the said lands.

2. (1) The Corporate Trustee is hereby empowered to mortgage or charge the lands described in the First and Second Schedules hereto or any part thereof.

(2) A document purporting to be certified by the Archbishop or Diocesan Secretary as a copy of any such resolution shall in favour of a mortgagee or chargee or any person or corporation claiming under the mortgage or charge be conclusive evidence that such resolution was duly passed.

(3) The moneys borrowed pursuant to any such mortgage or charge shall be applied—

- (a) first, when the power is first exercised, in payment of the costs and expenses of and incidental to this Ordinance and to the giving of any such mortgage or charge and on each subsequent exercise in or towards the payment of any moneys then owing under any mortgage charge or other security previously granted and the costs and expenses of and incidental to discharging any mortgage, charge or other security previously granted and to the granting of any further mortgage or charge, and
- (b) in or towards the cost of demolishing buildings and other improvements presently erected on the lands or any part or parts thereof and of erecting new buildings and other improvements thereon including all costs, fees and expenses in connection therewith.

3. The Corporate Trustee is hereby empowered to govern and control the management and use of the said lands and, without limiting the generality of the foregoing or the power conferred by Clause 2 of this Ordinance, may

- (a) grant a lease or leases in respect of the whole or any part or parts of the said lands,

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- (b) accept surrenders of leases and tenancies,
- (c) carry out repairs, renovations and alterations to existing buildings on the said lands, demolish any existing building on the said lands and erect thereon one or more new building, and
- (d) borrow a sum not exceeding \$200,000 or such other sum or sums as may be approved from time to time by resolution of the Standing Committee (by drawing or accepting a bill or bills of exchange, by borrowing on the security of the said lands or otherwise or by any combination of these means) for the purpose of exercising all or any of the powers conferred upon it hereunder.

4. The Corporate Trustee shall exercise all powers conferred upon it hereunder in accordance with the policies laid down from time to time by the Synod and the Standing Committee but subject thereto shall exercise all such powers in accordance with the policies laid down from time to time by the Advisory Committee hereinafter constituted.

5. (1) There shall be an advisory committee which shall consist of—

- (a) the Archdeacon having the jurisdiction of the area within which the lands are situated,
- (b) two persons appointed by resolution of the Parish Council of the Parish of St. Michael Sydney, and
- (c) two persons appointed by resolution of the Inner City Committee as constituted under the Inner City Ordinance 1972.

(2) The first members of the advisory committee shall be appointed as soon as practicable after the date on which this Ordinance is assented to.

(3) A person appointed to the advisory committee pursuant to subclause (1) shall cease to be a member if—

- (a) he dies,
- (b) he resigns in writing given or sent to the said Archdeacon,
- (c) he becomes bankrupt or insolvent,
- (d) he is convicted of any offence punishable by imprisonment for one month or longer,
- (e) in the case of a person appointed by the said Parish Council, his appointment is revoked by resolution of the said Parish Council, and

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(f) in the case of a person appointed by the Inner City Committee, his appointment is revoked by resolution of the Inner City Committee.

(4) Three members of the management committee shall form a quorum.

(5) Subject to sub-clause (1) of this clause and to any other provision contained therein, the members of the advisory committee (notwithstanding any vacancy on the Committee) shall meet at such times and in such places and conduct the business of the advisory committee in such manner as the said members consider appropriate.

6. The rents issues and profits from the land shall be applied by the Corporate Trustee:—

(a) first, in meeting all costs and expenses incurred by the Corporate Trustee in exercising its powers hereunder,

(b) second, in meeting interest payable on moneys borrowed on the security of the lands,

(c) third, in providing for the repayment of the moneys so borrowed to such extent as may be determined by the Corporate Trustee from time to time,

(d) fourth, as to such part thereof as is approved from time to time by the Archbishop — to the Churchwardens for the time being of St. Michael's Church Sydney to be applied by them towards the stipends of clergy working full-time in the said Parish,

(e) fifth, as to such part thereof as is approved from time to time by the Archbishop — towards the stipends salaries and allowances of ordained and lay people working full-time or part-time in the said Parish or the inner city area as defined in the Inner City Ordinance 1972 PROVIDED that such amount or amounts shall be paid to the respective person or persons responsible for meeting such stipends salaries or allowances,

(f) sixth, in maintaining buildings in the said Parish which, in the opinion of the said Archdeacon, ought to be maintained, and

(g) lastly, for such other purposes as the Standing Committee may approve by resolution.

7. This Ordinance may be cited as "St. Michael's Sydney (St. David's Surry Hills Development) Ordinance 1972".

SCHEDULES

FIRST SCHEDULE

ALL THAT piece or parcel of land at Surry Hills in the City of Sydney Parish of Alexandria County of Cumberland being Lot 1 in Deposited Plan No. 558748 and being the whole of the land

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comprised in Real Property Application No. 49529 and having thereon the premises presently known as Nos. 427-439 Crown Street Surry Hills and Nos. 14-22 Arthur Street, Surry Hills.

SECOND SCHEDULE

ALL THAT piece or parcel of land situated at Surry Hills in the County of Cumberland and Parish of Alexandria, be the hereinafter mentioned several dimensions a little more or less being part of Block G22 Riley Estate Surry Hills appropriated to Mrs. Ann Sophia Campbell and containing by admeasurement 1 rood 30 $\frac{1}{2}$ perches Commencing at a point on the Southern building line of Arthur (late Church) Street bearing North 88 degrees 26 minutes West 199 feet 10 inches from its intersection with the Western building line of Crown Street and bounded thence towards the North by part of the Southern building line of Arthur Street aforesaid being a line bearing North 88 degrees 26 minutes West 159 feet 10 inches to its intersection with the Eastern building line of Riley Street thence towards the West by part of the Eastern building line of Riley Street being a line bearing South 1 degree West 188 feet 10 $\frac{1}{2}$ inches to its intersection with the Northern building line of Tudor (late Davy) Street thence towards the South by part of the Western building line of Tudor Street being a line bearing South 87 degrees 42 minutes East 159 feet 10 $\frac{1}{2}$ inches and thence towards the East by the Western boundaries of the adjacent properties as occupied by lines bearing successively North 1 degree 20 minutes East 41 feet North 39 seconds East 26 feet 5 inches North 50 minutes East 53 feet 6 $\frac{1}{2}$ inches to the point of commencement EXCLUDING THEREOUT ALL THOSE pieces or parcels of land situated as aforesaid comprised in Certificate of Title Volume 1205 Folio 31 and Certificate of Title Volume 1204 Folio 129.

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 11th day of December, 1972.

W. L. J. HUTCHISON,
Secretary.

I ASSENT to this Ordinance.

11/12/1972.

MARCUS LOANE,
Archbishop of Sydney.