

DAPTO VARIATION OF TRUSTS, LAND SALE,
MORTGAGING AND DEDICATION ORDINANCE 1985

NO. 51, 1985

AN ORDINANCE to authorise the variation of trusts of certain land at Dapto in the City of Wollongong Parish of Calderwood and County of Camden to permit part thereof to be sold and part to be mortgaged and to provide for the application of the proceeds thereof and part to be dedicated for use as a public road and matters incidental thereto.

WHEREAS

A. Anglican Church Property Trust Diocese of Sydney (hereinafter called the "Corporate Trustee") is seized of an estate in fee simple in the land described in the First Schedule hereto.

B. The land described in the First Schedule is held for the use and on behalf of The Anglican Church of Australia in the Parish of Dapto. 5

C. The Corporate Trustee is the registered proprietor of the whole of the land comprised in Certificate of Title Volume 15223 Folio 62 more particularly described in the Second Schedule hereto. 10

D. The land in the Second Schedule is held for the use and on behalf of The Anglican Church of Australia in the Parish of Dapto subject to the trusts impressed thereon by St Luke's Dapto Leasing Ordinance No 38 of 1960.

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 they are hereby varied.

F. It has been determined to seek approval for the subdivision of the land in the First and Second Schedules into the land described in the Third Fourth and Fifth Schedules. 20

G. It is expedient to sell the land described in the Third Schedule and to apply the proceeds as hereinafter set out.

H. It is expedient that the land described in the Fourth Schedule be mortgaged or charged to secure a loan of THREE HUNDRED THOUSAND DOLLARS (\$300,000) to be applied towards the construction on the said land of a residence for a minister and a pre-school kindergarten. 25

I. It is expedient that the land described in the Fifth Schedule be dedicated as a public road. 30

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:-

1. By reason of the circumstances which have arisen subsequent to the creation of the trusts upon which the land described in 35

the First and Second Schedules are held it is inexpedient to carry out and observe the same and it is inexpedient to deal with or apply such property or any part thereof for the same or like purposes and it is expedient that such trusts be varied and that the land be dealt with as hereinafter set out. 40

2. Subject to clause 3 hereof the land described in the Fourth Schedule shall henceforth be held upon trust for a:-

- (a) residence for a minister, assistant to the minister, or person employed by the churchwardens; 45
- (b) hall or halls;
- (c) school, pre-school or other place of assembly;

or partly for one or another or others of those purposes in connection with the Anglican Church of Australia within the Diocese of Sydney for the sole benefit of the Parish of Dapto or any parish or ecclesiastical district into which it may subsequently be formed or form a part. 50

3. (1) The Corporate Trustee is hereby empowered to mortgage or charge from time to time the whole or any part of the said land for the purpose of borrowing the sums following:- 55

- (a) when the power is first exercised by a sum not exceeding THREE HUNDRED THOUSAND DOLLARS (\$300,000);
- (b) when the power is subsequently exercised such sum as Standing Committee may by resolution determine;

PROVIDED that such debt shall be reduced when the power is first exercised at the rate of ^{not less than} FIVE THOUSAND DOLLARS (\$5,000) per month towards principal and interest and when the power is subsequently exercised at such rate as to principal and interest as Standing Committee may by resolution determine. 60

(2) Any renewal of a mortgage or charge shall be deemed to be a subsequent exercise of the power. 65

(3) 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 be conclusive evidence that such resolution was duly passed. 70

4. (1) The proceeds of any mortgage or charge hereby authorized shall be applied by the Corporate Trustee as follows:-

- (a) when the power is first exercised in making progress payments towards the construction on the land described in the Fourth Schedule of a residence for a minister and 75

a pre-school kindergarten or partly for one and partly for another or others of such purposes; and

- (b) when the power is subsequently exercised in payment of the principal interest and costs of and incidental to the discharge of any existing mortgage or charge or the renewal thereof or of any new mortgage or charge or for such other purpose or purposes not inconsistent with the trusts of the land described in the Fourth Schedule as Standing Committee may by resolution determine;

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(2) Any mortgagee advancing monies pursuant to the provisions of sub-clause (1) of this clause is hereby authorised to pay the same direct to the Churchwardens for the time being of the Church of St Luke at Dapto.

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5. The Churchwardens for the time being of the Church of St Luke at 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 or amounts from time to time borrowed the amount paid off and the balance owing.

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6. The Corporate Trustee is hereby authorised to sell the land described in the Third Schedule within three (3) years after the date of assent to this ordinance and thereafter only with the consent of the Standing Committee by public auction or private agreement in one or more lots and for such price or prices and subject to such terms and conditions, as to the Corporate Trustee, may seem appropriate.

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7. The proceeds arising from the sale of the land described in the Third Schedule after paying thereout the costs of and incidental to this Ordinance and the subdivision and sale or sales and the mortgage shall be invested by the Corporate Trustee and until 30 June 1986 the income arising therefrom shall be applied towards the repayment of the mortgage over the land in the Fourth Schedule and any monies not so required shall be capitalised PROVIDED THAT on or before 30 June 1986 the Parish Council of the Parish of Dapto shall promote a bill for an ordinance to provide for the distribution of the proceeds ~~after that date.~~

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8. The Corporate Trustee is hereby authorised to dedicate the land in the Fifth Schedule to the Wollongong City Council for use as a public road.

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9. This ordinance may be cited as the "Dapto Variation of Trusts, Land Sale, Mortgaging and Dedication Ordinance 1985".

FIRST SCHEDULE

ALL THAT piece or parcel of land at Dapto in the City of Wollongong Parish of Calderwood and County of Camden being Lot D in MPS (OS) H63825, now known as File Plan 164575.

SECOND SCHEDULE

ALL THAT piece or parcel of land similarly situated being Lot 2 in Deposited Plan 215970 and the land in Certificate of Title Volume 15223 Folio 62.

THIRD SCHEDULE

ALL THAT piece or parcel of land similarly situated being Lot 1 in a proposed Plan of Subdivision by Mr Surveyor Richard John Holmes Reference 30665 and intended to be registered.

FOURTH SCHEDULE

ALL THAT piece or parcel of land similarly situated being Lot 2 in a proposed Plan of Subdivision by Mr Surveyor Richard John Holmes Reference 30665 and intended to be registered.

FIFTH SCHEDULE

ALL THAT piece or parcel of land similarly situated being shown as an extension of Moombara Street (20.11 and Var. width) intended to be dedicated to the public as public road on proposed Plan of Subdivision of Mr Surveyor Richard John Holmes Reference 30665 and intended to be registered.

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



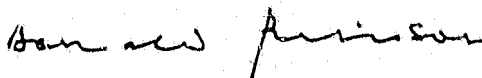
Chairman of Committees

I CERTIFY that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on the *16th* day of *December* 1985.



Secretary.

I ASSENT to this Ordinance.



Archbishop of Sydney.
16 / 12 / 1985