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*Holy Trinity Mowbray Variation of Trusts and Mortgage  
Ordinance 1969*

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No. 62, 1969

AN ORDINANCE to authorise the mortgage or charge of certain land at Chatswood and Lane Cove to provide for the application of the proceeds and to vary the trusts on which the said land is held.

WHEREAS Church of England Property Trust Diocese of Sydney (hereinafter called "the Corporate Trustee") is registered as proprietor in fee simple of the land comprised in Certificates of Title Volume 9590 Folio 61 and Volume 7350 Folio 40 more particularly described in the Schedule hereto AND WHEREAS the said land is church trust property held for the sole benefit of the Parish of St. Paul Chatswood but no trusts in writing have been declared concerning the same AND WHEREAS on the First day of December, 1969 the Provisional District of Holy Trinity Mowbray was formed comprising the Churches known as Holy Trinity Mowbray (formerly Mowbray Chapel) and St. John's Lane Cove AND WHEREAS it is intended that the land described in the Schedule hereto be held for the sole benefit of the Provisional District of Holy Trinity Mowbray AND WHEREAS the Parish Council of the Parish of St. Paul Chatswood has consented that the trusts be varied accordingly AND WHEREAS there is at present a debt of approximately Eight thousand three hundred dollars (\$8,300) owing to the Commercial Banking Company of Sydney Limited secured under a letter of guarantee and advanced to assist in the acquisition of the land firstly described in the Schedule hereto AND WHEREAS there is at present a debt of approximately One thousand three hundred dollars (\$1,300) owing to the Sydney Church of England Finance and Loans Board advanced for the purpose of acquisition of the land secondly described in the Schedule hereto AND WHEREAS it is expedient that the said existing debts be now discharged and that a further sum of Seven thousand nine hundred dollars (\$7,900) be paid to the Churchwardens for the time being of St. Paul's Church Chatswood by way of compensation for moneys provided in the acquisition of the said land AND WHEREAS it will be necessary to borrow a sum not exceeding Seventeen thousand five hundred dollars (\$17,500) to be applied firstly in repayment of the said existing debts and secondly in repayment of the said sum to the Parish of St. Paul Chatswood AND WHEREAS it is expedient that the land described in the Schedule hereto be mortgaged or charged to secure such advance NOW the Standing Committee of the Synod of the Diocese of Sydney in the name and place of such Synod HEREBY DECLARES ORDAINS AND DIRECTS as follows:—

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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 to the extent to which such trusts are hereby modified or varied.

2. The said land shall henceforth be held by the Corporate Trustee upon trust to permit the same to be used as a church parsonage or parish hall or partly for one and partly for another of such purposes in connection with the Church of England in Australia in the Provisional District of Holy Trinity Mowbray or any provisional parish or parish into which it may subsequently be formed.

3. By reason of the circumstances which have arisen subsequent to the creation of the trusts upon which the lands described in the Schedule hereto are held it is expedient that such lands be mortgaged or charged.

4. (i) The Corporate Trustee is hereby authorised and empowered to mortgage or charge from time to time the whole or any part of the lands described in the Schedule hereto for the purpose of borrowing the sums following—

(a) when the power is first exercised a sum not exceeding Seventeen thousand five hundred dollars (\$17,500)

(b) when the power is subsequently exercised such sum not exceeding Seventeen thousand five hundred dollars (\$17,500) as the Standing Committee may by resolution determine.

PROVIDED that such debts shall be reduced at the rate of not less than One thousand eight hundred dollars (\$1,800) per annum principal and interest when the power is first exercised and when the power is subsequently exercised at such rate as Standing Committee may 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 as aforesaid shall have been made.

(ii) Any renewal of a mortgage shall be deemed to be a subsequent exercise of the power.

(iii) A document purporting to be certified by the Archbishop or Diocesan Secretary as a copy of any such resolution

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shall in favour of a mortgagee or any person or corporation claiming under the mortgage be conclusive evidence that such resolution was duly passed.

5. The proceeds of any mortgage or charge hereby authorised shall be applied by the Corporate Trustee as follows:—

- (i) WHEN the power is first exercised in payment of the costs of and incidental to this Ordinance and any mortgage or charge executed in pursuance thereof and thereafter in repayment of the existing debts to the Commercial Banking Company of Sydney Limited and the Sydney Church of England Finance and Loans Board and the balance then remaining towards reimbursement of money provided by the Parish of St. Paul Chatswood and shall be paid to the Churchwardens for the time being of the said Church.
- (ii) WHEN the power is subsequently exercised in payment of the principal interest and costs of any existing mortgage or charge or the renewal thereof or towards the repayment of any then existing mortgage or mortgages over the said lands and the costs of and incidental to the discharge thereof or for such other purposes not inconsistent with the trusts upon which the said land is held as Standing Committee may by resolution determine.
- (iii) ANY mortgagee advancing money pursuant to the provisions of sub-clause (i) of this clause is hereby authorised to pay the same direct to the Churchwardens for the time being of Holy Trinity Church Mowbray to be applied by them for the purposes aforesaid.

6. The Churchwardens for the time being of Holy Trinity Church Mowbray shall within seven days of the holding of the Annual Vestry Meeting of such church during such time as any money is owing to any mortgagee pursuant to this Ordinance cause an account thereof to be forwarded to the Diocesan Secretary giving particulars of the amount borrowed the amount paid off and the balance owing.

7. This Ordinance may be cited as "Holy Trinity Mowbray Variation of Trusts and Mortgage Ordinance 1969".

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SCHEDULE

All that piece or parcel of land situate at Chatswood in the Municipality of Willoughby Parish of Willoughby and County of Cumberland having a frontage to Beaconsfield Road of 61' with a splay corner of 10' 8 $\frac{1}{2}$ " and a frontage to Dalrymple Avenue of 160' 11 $\frac{1}{2}$ " with an Eastern boundary of 156' 0 $\frac{1}{4}$ " and a rear line of 19' being Lot 1 in Deposited Plan No. 17879 and containing an area of 25 $\frac{1}{2}$  perches being the whole of the land comprised in Certificate of Title Volume 9590 Folio 61 together with improvements erected thereon known as 44 Beaconsfield Road, Chatswood And also all that piece or parcel of land situate at Lane Cove in the Municipality of Lane Cove Parish of Willoughby and County of Cumberland having a frontage to Mowbray Road West of 79' 6 $\frac{1}{2}$ " by a depth of 150' on one side and 152' on the other and a rear boundary of 79' 6 $\frac{1}{2}$ " being Lots 2 and 3 in Deposited Plan No. 7095 and containing an area of 1 rood 3 $\frac{1}{2}$  perches being the whole of the land comprised in Certificate of Title Volume 7350 Folio 40 together with the improvements erected thereon known as 660 Mowbray Road West, Lane Cove. All the above areas and dimensions being a little more or less.

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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 15th day of December, 1969.

W. L. J. HUTCHISON,

Secretary.

I assent to this Ordinance.

MARCUS LOANE,

Archbishop of Sydney

15/12/1969.