

ST LUKE'S MOSMAN HEYDON STREET SALE ORDINANCE 1986

NO. 15, 1986

AN ORDINANCE to authorise the sale of certain land situated at and known as Number 6 Heydon Street, Mosman and of certain other land and to provide for the proceeds of sale.

WHEREAS

A. The Anglican Church Property Trust Diocese of Sydney (formerly known as Church of England Property Trust Diocese of Sydney) (hereinafter called "the Corporate Trustee") is the registered proprietor of all that land more fully described in the First Schedule and is also the registered proprietor of an estate in fee simple of all that land more fully described in the Second Schedule.

B. It is desirable to subdivide the land in the Second Schedule so as to enable the sale of that part of the land more fully described in the Third Schedule and to enable the retention of residue of that land as more fully described in the Fourth Schedule.

C. It is convenient for the land described in the First and Third Schedules to be hereinafter called "the Land".

D. The land is church trust property held for the benefit of the Anglican Church of Australia Diocese of Sydney.

E. With regard to the property contained in the First Schedule the only trusts which have been declared in writing are trusts:-

- (a) enabling the property to be mortgaged or charged pursuant to the St Luke's Mosman Mortgage Ordinance 1970 (No. 58 of 1970); and
- (b) enabling the property to be leased to Sarah Ruth McKinnon of 6 Heydon Street, Mosman for the term of forty years, subject to the immediate determination of the said lease upon her earlier death pursuant to the St Luke's Mosman Lease and Deed Ordinance 1980 (No 7 of 1980).

F. The property contained in the First Schedule is presently subject to a lease to Sarah Ruth McKinnon which will expire on her death or 31 July 2020, whichever first occurs.

G. With regard to the property contained in the Second Schedule the only trusts which have been declared in writing are trusts enabling the property to be mortgaged or charged pursuant to the St Luke's Mosman Mortgage Ordinance 1973 (No 23 of 1973)

H. By Declaration of Trust bearing date the 21st day of July, 1924 an attested copy whereof was filed as No. 14357 in the Land Titles Office the Corporate Trustee declared, inter alia, that it held the property described in the Second Schedule upon trust to permit the same to be used for a Church Parsonage or Parish Hall or partly for one and partly for another or others for such purposes in connection with the Church of England in the Parish of Mosman.

I. The said trust was varied by the words "the Parish of Mosman" being altered to "the Parish of St Luke Mosman" in the St Luke's Mortgaging Ordinance 1937 (No. 7 of 1937).

J. That part of the Land, being the part more fully described in the Third Schedule, is no longer required for the purposes stipulated in the Declaration of Trust, as amended.

K. By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the Land is held:-

- (c) it is inexpedient to carry out and observe the same and it is expedient that the Land be sold and the proceeds applied towards the purchase of two other properties within the Mosman area and for the balance of the proceeds of sale to be applied as hereinafter set out; and
- (d) it is inexpedient to deal with or apply the proceeds of sale of the Land for the sole use and benefit of the Parish of St Luke Mosman or for the same or like purposes.

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

1. By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the Land is held:-

- (a) it is inexpedient to carry out and observe the same and it is expedient that the Land be sold, and
- (b) it is inexpedient to deal with or apply the proceeds of sale of the Land for the sole use and benefit of the Parish of St Luke Mosman or for the same or like purposes.

2. The Corporate Trustee is hereby empowered to seek approval of the subdivision referred to in Recital B in such manner as it shall think fit and subsequently to proceed with the registration of such plan of subdivision as may be approved.

3. The Corporate Trustee is hereby authorised to sell the Land 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 on and subject to such terms and conditions as the Corporate Trustee may deem appropriate, freed from the trusts upon which it is now held.

4. (1) The proceeds arising from the sale after paying thereout the costs of and incidental to this Ordinance and the sale or sales and transfer or transfers pursuant thereto and all outgoings to which the Land is subject shall be applied as follows:-

- (a) subject to sub-clause (2) towards the purchase by the Corporate Trustee of a property within the Mosman area (hereinafter called "the Tenant's Property") to be used to house the person currently holding the lease of the property contained in the First Schedule;
- (b) towards the purchase by the Corporate Trustee of a property within the Mosman area to house staff of the Parish;
- (c) as to the sum of thirty thousand dollars (\$30,000) to the Archbishop of Sydney's Vision for Growth Appeal Fund; and
- (d) in payment to the Churchwardens of St Luke's Mosman to be applied by them:-
  - (i) towards the costs of extending, refurbishing, repairing, renovating and redecorating the residence presently occupied as a Rectory by the Minister of the Parish;
  - (ii) towards the cost of erecting office partitioning and the purchase of office equipment to be used by the Minister of the Parish, the secretary of the Parish and any parish staff; and

(e) as to any balance remaining after applying the proceeds arising from the sale with paragraphs (a), (b), (c) and (d) for such other general purposes within the Parish of St Luke Mosman or such other general purposes within the Diocese of Sydney as may be resolved by a majority of the Parish Council from time to time;

provided however that pending such applications the proceeds shall be invested by the Corporate Trustee and the income arising therefrom shall be capitalised.

(2) In the event that the Tenant's Property ceases to be occupied by Sarah Ruth McKinnon or is sold, the Parish Council shall, having regard to the recommendations of the Lands Committee and Special Receipts Committee convened for the purposes of this Ordinance, give consideration to the application of the whole or a substantial portion of the rent or the proceeds of sale, as the case may be, to purposes outside the parish.

5. The Corporate Trustee is hereby authorised to lease to the tenant presently in occupation of the property contained in the First Schedule the Tenant's Property within three (3) years after the date of assent to this Ordinance (and thereafter only with the consent of the Standing Committee) for such rent and on and subject to such terms and conditions as to the Corporate Trustee may seem appropriate in all the circumstances.

6. This Ordinance may be cited as the "St Luke's Mosman Heydon Street Sale Ordinance 1986".

#### FIRST SCHEDULE

ALL THAT piece and parcel of land in the Municipality of Mosman, Parish of Willoughby, County of Cumberland in the State of New South Wales being the land contained in Lot 2 in Deposited Plan 510370 and being the whole of the land contained within Certificate of Title 9768 Folio 74 together with all improvements erected thereon and commonly known as No. 6 Heydon Street, Mosman in the said State.

#### SECOND SCHEDULE

ALL THAT piece and parcel of land in the Municipality of Mosman, Parish of Willoughby, County of Cumberland in the State of New South Wales being the land contained in Lot 66 in Deposited Plan 3994 and being the whole of the land contained within Certificate of Title Volume 1436 Folio 21 and commonly known as Access Way and the Parish Centre.

#### THIRD SCHEDULE

ALL THAT piece or parcel of land situated at Mosman in the Municipality of Mosman, Parish of Willoughby, County of Cumberland and State of New South Wales commencing at a point on the eastern alignment of Brady Street bearing 180 degrees 07 minutes 20 seconds distant 40.245 metres from its intersection with the southern alignment of Ourimbah Road and bounded thence on the north by a line bearing 90 degrees 23 minutes 40 seconds distant 26.52 metres thence on the east by a line bearing 180 degrees 07 minutes 20 seconds distant 12.145 metres thence on the southeast by a line bearing 222 degrees 42 minutes distant 4.14 metres thence on the southwest by a line bearing 312 degrees 42 minutes distant 13.635 metres thence on the south by a line bearing 270 degrees 07 minutes 20 seconds distant 13.68 metres thence on the west by the eastern alignment of Brady Street aforesaid bearing 0 degrees 07 minutes 20 seconds distant 6.095 metres to the point of commencement containing by admeasurement 227.8 square metres and being part of Lot 66 in Deposited Plan 3994.

FOURTH SCHEDULE

ALL THAT piece or parcel of land situated at Mosman in the Municipality of Mosman, Parish of Willoughby, County of Cumberland, and State of New South Wales commencing at a point on the northwestern alignment of Heydon Street, bearing 222 degrees 42 minutes distant 64.58 metres from its intersection with the southern alignment of Ourimbah Road and bounded thence on the southeast by the northwestern alignment of Heydon Street aforesaid bearing 222 degrees 42 minutes distant 29.51 metres thence on the southwest by a line bearing 312 degrees 42 minutes distant 21 metres thence on the northwest by a line bearing 42 degrees 42 minutes distant 4.14 metres thence on the west by a line bearing 0 degrees 07 minutes 20 seconds distant 12.145 metres thence on the north by a line bearing 90 degrees 23 minutes 40 seconds distant 24.405 metres thence on the northeast by a line bearing 132 degrees 42 minutes distant 11.165 metres to the point of commencement containing by admeasurement 643.1 square metres and being part of Lot 66 in Deposited Plan 3994.

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

E.D. CAMERON  
Chairman of Committee

I CERTIFY that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on the 26th day of May 1986.

W.G.S. GOTLEY  
Secretary.

I ASSENT to this Ordinance.

DONALD ROBINSON  
Archbishop of Sydney.  
26/5/1986