

*St. Matthew's West Pennant Hills Variation and Declaration of Trust and Mortgage (Amendment) Ordinance 1970*

No. 30, 1970

AN ORDINANCE to amend St. Matthew's West Pennant Hills Variation and Declaration of Trust and Mortgage Ordinance No. 11 of 1965 and to authorise further mortgaging or charging of certain land at West Pennant Hills in the Shire of Hornsby and to provide for the application of the proceeds of such further mortgaging.

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 Certificate of Title Volume 6299 Folio 131 more particularly described in the first part of the Schedule to St. Matthew's West Pennant Hills Variation and Declaration of Trust and Mortgage Ordinance 1965 (No. 11, 1965 and hereinafter called the "Principal Ordinance") AND WHEREAS the Corporate Trustee is also registered as proprietor in fee simple of the land comprised in Certificates of Title Volume 6299 Folio 131 and Volume 9475 Folio 180 more particularly described in the second part of the Schedule to the Principal Ordinance AND WHEREAS by the Principal Ordinance it was declared (inter alia) that by reason of circumstances which had arisen since the creation of trusts upon which the land described in the first part of the said Schedule was held it was inexpedient to carry out and observe the same and it was expedient that the said trusts be varied AND WHEREAS by the Principal Ordinance the land described in the first and second parts of the said Schedule should 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 at West Pennant Hills in the Provisional District of St. Matthew West Pennant Hills with St. James' West Beecroft or any Provisional Parish or Parish into which it may subsequently be formed AND WHEREAS since the passing of the Principal Ordinance the Provisional Parish of West Pennant Hills has been created out of the former Provisional District of St. Matthew West Pennant Hills with St. James' Beecroft AND WHEREAS the land described in the first and second parts of the said Schedule is now situated within the Provisional Parish of St. Matthew West Pennant Hills AND WHEREAS by the Principal Ordinance the Corporate Trustee was empowered to mortgage the land described in the said Schedule or any part thereof AND WHEREAS pursuant to the Principal Ordinance the Corporate Trustee has charged the whole of the land in the first

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of Trust and Mortgage (Amendment) Ordinance 1970***

and second parts of the said Schedule AND WHEREAS it is proposed to erect on the said land a new church building and for such purpose and for other purposes incidental thereto it is necessary and expedient to further mortgage or charge the said land to borrow a further sum not exceeding Thirty-five thousand dollars (\$35,000) NOW the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod HEREBY ORDAINS DECLARES RULES AND DIRECTS as follows:—

1. By reason of circumstances which have arisen subsequent to the passing of the Principal Ordinance it is expedient that the said land be further mortgaged or charged.

2. The Principal Ordinance is amended by adding the following Clause 3A following Clause 3 of the Principal Ordinance:—

“3A (i) The Corporate Trustee is hereby empowered to further mortgage or charge the land described in the Schedule or any part thereof:—

(a) When the power is first exercised for a sum not exceeding Thirty-five thousand dollars (\$35,000).

(b) When the power is subsequently exercised for such sum not exceeding Thirty-five thousand dollars (\$35,000) as Standing Committee may by resolution determine.

PROVIDED that the debt shall be reduced when the power is first exercised at the rate of not less than Three thousand nine hundred and twenty-four dollars (\$3,924) principal and interest per annum and thereafter at such rate as Standing Committee may by resolution determine PROVIDED FURTHER that no person or corporation advancing money pursuant to this Ordinance shall be concerned to enquire whether such reductions shall have been made.

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

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

AND by adding the following Clause 4A following Clause 4 of the Principal Ordinance:—

St. Matthew's West Pennant Hills Variation and Declaration  
of Trust and Mortgage (Amendment) Ordinance 1970

"4A The proceeds of any further mortgage or charge authorised by Clause 3A hereof shall be applied as follows:—

- (i) When the power is first exercised in payment of the costs of and incidental to this Ordinance and any further mortgage or charge executed in pursuance thereof and the balance shall be paid to the Churchwardens of St. Matthew's Church West Pennant Hills to be applied by them in and towards the erection of a new church building on the said land, the furnishing and equipping of such new church, the cost of providing new access to the rectory now erected on the said land, the erection of a new rectory garage and the removal of the existing rectory garage and the cost of work incidental thereto.
- (ii) When the power is subsequently exercised towards the repayment of any then existing mortgage or mortgages over the said lands and the costs of and incidental to the discharge thereof and of such new mortgage or mortgages.

3. The Principal Ordinance as amended by this Ordinance may be cited as "St. Matthew's West Pennant Hills Variation and Declaration of Trust and Mortgage Ordinance 1965-1970".

4. This Ordinance may be cited as "St. Matthew's West Pennant Hills Variation and Declaration of Trust and Mortgage (Amendment) Ordinance 1970".

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

H. G. S. BEGBIE,  
Deputy Chairman of Committees.

I CERTIFY that the Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on the 31st day of August, 1970.

W. L. J. HUTCHISON,  
Secretary.

I ASSENT to this Ordinance.

MARCUS LOANE,  
Archbishop of Sydney.

31/8/1970.