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*All Saints' Figtree Declaration of Trusts and Mortgaging  
Ordinance 1971*

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No. 40, 1971

AN ORDINANCE to authorise the mortgaging of certain land at Figtree in the City of Wollongong Parish of Wollongong County of Camden and to provide for the application of the proceeds and matters incidental thereto.

WHEREAS Church of England Property Trust Diocese of Sydney (hereinafter called the "Corporate Trustee") has contracted to purchase as proprietor in fee simple the land more particularly described in the Schedule hereto AND WHEREAS the said land will upon completion of the said purchase and transfer be church trust property held for the sole benefit of the Church of England in Australia at Figtree in the Provisional Parish of All Saints Figtree to be used for the purpose of a church, parsonage or parish hall or partly for one and partly for another or others of such purposes AND WHEREAS for the purpose of completion of the said purchase and transfer it is expedient that on completion as aforesaid the said land be mortgaged or charged to secure a sum not exceeding Eleven thousand dollars (\$11,000) to be applied in payment of the purchase money and otherwise 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 ORDAINS AND DIRECTS as follows:—

1. Upon completion of the said purchase and transfer and subject to any mortgage thereon to be executed pursuant to this Ordinance the land described in the Schedule hereto shall be held by the Corporate Trustee 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 of such purposes in connection with the Church of England in Australia at Figtree in the Provisional Parish of All Saints Figtree.

2. By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the land described in the Schedule hereto will be held upon completion of the said purchase it is expedient that such land be mortgaged or charged.

3. (i) Upon completion of the said purchase the Corporate Trustee is hereby empowered to mortgage or charge from time to time the whole or any part of the said land for

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1. Upon completion of the said purchase and transfer and subject to any mortgage thereon to be executed pursuant to this Ordinance the land described in the Schedule hereto shall be held by the Corporate Trustee 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 of such purposes in connection with the Church of England in Australia at Figtree in the Provisional Parish of All Saints Figtree.

2. By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the land described in the Schedule hereto will be held upon completion of the said purchase it is expedient that such land be mortgaged or charged.

3. (i) Upon completion of the said purchase the Corporate Trustee is hereby empowered to mortgage or charge from time to time the whole or any part of the said land for

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the purpose of borrowing the sums following:—

- (a) When the power is first exercised a sum not exceeding Eleven thousands dollars (\$11,000).
- (b) When the power is subsequently exercised such sum not exceeding Eleven thousand dollars (\$11,000) 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 One thousand three hundred and seventy-five dollars (\$1,375) per annum principal and when the power is subsequently exercised at such rate as to principal and interest as Standing Committee may by resolution determine.

- (ii) Any renewal of a mortgage or charge 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 shall in favour of a mortgagee be conclusive evidence that such resolution was duly passed.

4. 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 secondly in payment of the balance owing in respect of the purchase of the said land.
- (ii) 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 said land as Standing Committee may by resolution determine.
- (iii) Any mortgagee advancing moneys 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 All Saints' Church Figtree.

5. The Churchwardens for the time being of All Saints' Church

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or thereabouts and *being subject* to an easement to drain water 10 feet wide which is more particularly described as following: COMMENCING on the Eastern boundary of the subject land bearing  $1^{\circ} 01' 30''$  for  $167' 10''$  from the South-eastern corner of the subject land bounded thence on the South-west by a line bearing  $314^{\circ} 57'$  for a distance of  $163' 11''$  to a North-western boundary of the subject land bounded thence on the North-west by part of a North-western boundary of Figtree 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 amounts paid off and the balance owing.

6. This Ordinance may be cited as "All Saints' Figtree Declaration of Trusts and Mortgaging Ordinance 1971".

### SCHEDULE

ALL THAT piece or parcel of land situate at Figtree in the City of Wollongong Parish of Wollongong County of Camden and State of New South Wales being Lot 1 of a recent subdivision of parts of Portions 5, 8, 21 and 23 COMMENCING at a point on the North-western side of Gibsons Road as widened being the South-western corner of the land contained in Miscellaneous Plan of Subdivision (O.S.) No. 10647 bounded thence on the South-east by part of the North-western side of Gibsons Road being a line bearing  $250^{\circ} 57' 50''$  for  $187' 6''$  to the South-eastern corner of Lot 2 of aforementioned recent subdivision bounded thence on the West by an Eastern boundary of Lot 2 being a line bearing  $1^{\circ} 35' 55''$  for  $322' 9''$  bounded thence on the North-west by a South-eastern boundary of Lot 2 being a line bearing  $68^{\circ} 09' 30''$  for  $70'$  to a South-eastern corner of Lot 2 bounded thence again on the West by an Eastern boundary of Lot 2 being a fenced line bearing  $3^{\circ} 23' 30''$  for  $442' 9\frac{1}{2}''$  bounded thence on the South-west by a North-eastern boundary of Lot 2 partly by a fenced line bearing  $324^{\circ} 00'$  for  $115'$  to the centre of American Creek bounded thence generally on the West, South-west, West, North-west and North by the centre of American Creek to the North-western corner of the land in M.P.S. (O.S.) No. 10647 bounded thence on the East by the Western boundary of the land in M.P.S. (O.S.) No. 10647 being a line bearing  $181^{\circ} 01' 30''$  for  $1,178'$  to the point of commencement be the said several dimensions all a little more or less and containing an area of 4 acres 0 roods 27 perches

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the subject land being a line bearing  $68^{\circ} 09' 30''$  for  $10' 6''$  to a North-western corner of the subject land bounded thence on the West by part of a Western boundary of the subject land being a line bearing  $3^{\circ} 23' 30''$  for  $0' 5\frac{1}{2}''$  bounded thence on the North-east by a line bearing  $134^{\circ} 57'$  for  $150' 5\frac{1}{2}''$  to the Eastern boundary of the subject land bounded thence on the East by part of the Eastern boundary of the subject land being a line bearing  $181^{\circ} 01' 30''$  for  $13' 10\frac{1}{2}''$  to the point of commencement be the said several dimensions all a little more or less.

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 22nd day of November, 1971.

W. GOTLEY,  
Acting Secretary.

I ASSENT to this Ordinance

MARCUS LOANE,  
Archbishop of Sydney.

22/11/1971.