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*St. Barnabas' Fairfield Mortgage Variation and  
Declaration of Trust Ordinance 1965*

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No. 45, 1965.

AN ORDINANCE to authorise the mortgaging of certain land at Fairfield in the Municipality of Fairfield to provide for the application of the proceeds and to vary and declare certain trusts.

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 1108 Folio 140 and Volume 1174 Folio 81 more particularly described in the first part of the Schedule hereto and also of the lands comprised in Certificate of Title Volume 7708 Folio 200 more particularly described in the second part of the Schedule and also of the land comprised in Certificates of Title Volume 9954 Folios 201, 202, and 203 more particularly described in the third part of the Schedule AND WHEREAS by Declaration of Trust dated 21st July, 1924 the Corporate Trustee declared that it held the land comprised in Certificate of Title Volume 1174 Folio 81 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 the Parish of Smithfield and Fairfield AND WHEREAS the Church of St. Barnabas in the Parish of Fairfield is now erected on such land AND WHEREAS the lands comprised in the other recited Certificates of Title are also situated in the said Parish and are held for the sole benefit thereof but no trusts in writing have been declared concerning the same AND WHEREAS by Ordinance No. 20, 1964 authority was given to the Corporate Trustee to sell the land comprised in Certificate of Title Volume 7708 Folio 200 but such land has not yet been sold AND WHEREAS it is expedient to declare the trusts upon which all the lands other than that authorised to be sold should be now held AND WHEREAS it is proposed to erect a Church upon the land described in the third part of the Schedule and partly for such purpose and partly to repay an unsecured advance now owing to the Bank of New South Wales made for the purpose of erecting the said Church of St. Barnabas and other purposes in connection with the said Parish it is necessary that the lands described in the Schedule be mortgaged for a sum not exceeding £10,000 NOW the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod HEREBY DECLARES RULES and ORDAINS as follows:-

1. By reason of circumstances which have arisen subsequent to the trusts on which the land secondly described in the first part of the schedule is held it is inexpedient to carry out and observe the same and it is expedient that the trusts be varied as hereinafter set out.

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2. The lands described in the Schedule hereto other than that comprised in Certificate of Title Volume 7708 Folio 200 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 or partly for another of such purposes in connection with the Church of England in Australia in the Parish of St. Barnabas Fairfield.

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

4. (i) The Corporate Trustee is hereby empowered to mortgage the said lands or any part or parts thereof:-

(a) When the power is first exercised for a sum not exceeding £10,000 PROVIDED THAT the debt shall be repaid when the power is first exercised at the rate of not less than £1,800 per annum principal and interest and when the power is subsequently exercised at such rate as Standing Committee shall by resolution determine PROVIDED further that no person or corporation advancing money pursuant to the provisions of this Ordinance shall be concerned to enquire whether such reductions shall have been made.

(b) When the power is subsequently exercised for such sum (not exceeding £10,000) as Standing Committee shall by resolution determine.

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

5. The proceeds of the mortgage hereby authorised 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 mortgage executed in pursuance thereof and the balance shall be applied firstly in repayment of the existing loan by the Bank of New South Wales to the said Parish and secondly towards the cost of erection of a new church or church hall upon the land described in the third part of the Schedule or upon some part thereof.

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- (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.
- (iii) Any mortgagee advancing moneys to the Corporate Trustee pursuant to the provisions of sub-clause (i) of this clause is hereby authorised to pay the same to the Churchwardens of St. Barnabas' Church, Fairfield.

6. The Churchwardens of St. Barnabas' Church Fairfield shall within seven (7) 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 to be forwarded to the Diocesan Secretary giving details of the original amount borrowed the amount paid off and the balance owing.

7. This Ordinance may be cited as "St. Barnabas' Fairfield Mortgage Variation and Declaration of Trust Ordinance 1965."

**SCHEDULE  
FIRST PART**

All that piece or parcel of land situated at Fairfield in the Municipality of Fairfield Parish of Saint Luke County of Cumberland having a frontage of 99 feet to Lackey Street by depth of 203 feet 11½ inches being Lots 24, 25 and 26 of Section B Deposited Plan 2814 and the whole of the land comprised in Certificate of Title Volume 1108 Folio 140 ALSO all that piece or parcel of land situated as aforesaid having a frontage of 66 feet to Lackey Street and depth along Frederick (formerly John) Street of 203 feet 11½ inches being Lot 27 of Section B Deposited Plan 2814 and the whole of the land comprised in Certificate of Title Volume 1174 Folio 81.

**SECOND PART**

All that piece or parcel of land situated as aforesaid having a frontage of 45 feet 7½ inches to Eustace Street by depth of 134 feet 5½ inches on the north and 138 feet 0½ inches on the south being Lot B in plan lodged with Transfer No. G 734434 and the whole of the land comprised in Certificate of Title Volume 7708 Folio 200.

**THIRD PART**

All that piece or parcel of land situated at West Fairfield in the Parish and County aforesaid having a frontage of 65 feet to Maud Street by depth of 98 feet 11½ inches being Lot 5 Deposited

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Plan 512988 comprised in Certificate of Title Volume 9954 Folio 201 ALSO all that piece or parcel of land having a frontage of 57 feet to Maud Street a splay corner to Hamilton Road and depth along that road of 90 feet 11½ inches being Lot 6 Deposited Plan 512988 and the whole of the land in Certificate of Title Volume 9954 Folio 202 ALSO all that piece or parcel of land situated as aforesaid having a frontage of 50 feet to Hamilton Road by depth of 130 feet being Lot 7 Deposited Plan 512988 and the whole of the land in Certificate of Title Volume 9954 Folio 203.

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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 this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on the twentieth day of December, 1965.

W. L. J. HUTCHISON, Secretary.

I assent to this Ordinance.

HUGH SYDNEY, Archbishop of Sydney.

20/12/1965.

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