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*St. Stephen's Lidcombe Variation of Trusts and  
Mortgage Ordinance 1965*

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No. 39, 1965.

AN ORDINANCE to authorise the mortgaging of certain land at Lidcombe in the Municipality of Auburn and to provide for the application of the money borrowed and to vary the trusts relating to the said land.

WHEREAS by a certain Indenture of Conveyance dated 4th October 1875 made between George Marsden the Elder of the one part and The Bishop of Sydney of the other part Registered No. 800 Book 153 all that piece or parcel of land described in the First Schedule hereto was conveyed unto The Bishop of Sydney and his successors for ever subject to the provisions of the Act of the Governor and Legislative Council 8 William IV Number 5 upon trust to permit the same to be used as a site for the erection of a Church to be devoted to the service of Almighty God according to the use of the Church in the said Act described as "The United Church of England and Ireland" and upon further trust to permit the same to be used as a site for the erection and maintenance of a School to be managed under such rules as the Bishop of Sydney or his successors should from time to time make with respect to the same and upon further trust to permit the same to be used as a site for the erection of a dwelling house for the Minister for the time being licensed or otherwise authorised to officiate in the said church or for such one or more of the said uses exclusively or in lieu and substitution of the others or other of them as the said Bishop or his successors should from time to time think fit AND WHEREAS by Deed Poll dated 16th July, 1965 Registered No. 895 Book 2753 under the hand and seal of the Most Reverend Hugh Rowlands Gough Archbishop of Sydney and Primate of Australia he the said Archbishop of Sydney did pursuant to the provision of Section 19 Church of England Trust Property Act 1917 consent that the said land vest in Church of England Property Trust Diocese of Sydney (hereinafter called the Corporate Trustee) AND WHEREAS by virtue of the provisions of the said Section the land is now vested in the Corporate Trustee AND WHEREAS the said land has been subdivided into two allotments more particularly described in the first and second parts of the Second Schedule hereto AND WHEREAS the Church of St. Stephen Lidcombe is erected upon the land described in the Second part of such Schedule and a School hall is erected on the land described in the first part thereof AND WHEREAS by Conveyance dated 4th October, 1938 Registered No. 409 Book 1828 made between Richard Ord Todd of the one part and the

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Corporate Trustee of the other part the land described in the Third Schedule was conveyed to the Corporate Trustee in fee simple subject to a certain Indenture of Mortgage Registered No. 341 Book 1167 made between the said Richard Ord Todd of the one part and Henry Wallace Mort James Montague Sandy and Keith Brougham Docker of the other part AND WHEREAS the said mortgage was by Memorandum dated 19th March, 1923 Registered No. 889 Book 1297 transferred to the said Corporate Trustee AND WHEREAS by Declaration of Trust dated 14th April, 1939 the Corporate Trustee declared that it stood seised of and interested in the said land described in the Third Schedule upon trust to permit the same to be used as a Rectory in connection with St. Stephen's Church of England in the Parish of Lidcombe but subject to the principal and other moneys secured by the said recited Indenture of Mortgage and the further sum of Five hundred pounds (£500) advanced by the Sydney Diocesan Board of Finance AND WHEREAS all moneys secured by the said recited Mortgage and that owing to the Sydney Diocesan Board of Finance have long since been repaid AND WHEREAS St. Stephen's Rectory is now erected upon the said last mentioned land AND WHEREAS it is proposed to erect a new Parish Hall upon the land described in the first part of the Second Schedule and for such purpose it is expedient that the trusts of the land be varied to permit of the land being so used and that such land together with the land described in the Third Schedule be mortgaged for a sum not exceeding Twelve thousand five hundred pounds (£12,500) to be applied towards the cost thereof NOW the Standing Committee of the Synod of the Diocese of Sydney in the name and place of such Synod HEREBY ORDAINS AND RULES as follows:-

1. (i) By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the land described in the first part of the Second Schedule is held it is inexpedient to carry out and observe the same and it is expedient that the trusts be now varied to the extent hereinafter set out.
- (ii) The land described in the first part of the Second Schedule shall henceforth be held upon trust to permit the same to be used as 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 in the Parish of St. Stephen Lidcombe.

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(iii) By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the lands described in the first part of the second Schedule and in the third schedule hereto is held it is expedient that the same be mortgaged.

2. (i) The Corporate Trustee is hereby authorised to mortgage the said land

(a) When the power is first exercised for a sum not exceeding Twelve thousand five hundred pounds (£12,500)

(b) When the power is subsequently exercised for such sum not exceeding Twelve thousand five hundred pounds (£12,500) as Standing Committee may by resolution determine

PROVIDED that the said debt shall be reduced at the rate of not less than One thousand two hundred and ninety pounds (£1,290) per annum principal and interest when the power is first exercised and thereafter at such rate as Standing Committee may by resolution determine

PROVIDED FURTHER that no person or corporation advancing moneys 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 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.

3. The proceeds arising from the said mortgage shall after paying thereout the costs of and incidental to this Ordinance and of any Mortgage executed in pursuance thereof be applied as follows:-

(i) When the power is first exercised towards the erection of a new Parish Hall on part of the land described in the first part of the second Schedule.

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- (ii) When the power is subsequently exercised in payment of the principal interest and costs of and incidental to the discharge of any then existing mortgage and the costs and expenses of such further mortgage or mortgages.
- (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. Stephen's Church of England Lidcombe.

4. The Churchwardens for the time being of St. Stephen's Church Lidcombe shall within 7 days of the date of holding 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 amounts paid off and the balance owing.

5. The land described in the third Schedule is hereby released from any charge in favour of the organisation formerly known as Sydney Diocesan Board of Finance.

6. This Ordinance may be cited as "St. Stephen's Lidcombe Variation of Trusts and Mortgage Ordinance 1965."

#### FIRST SCHEDULE

All that piece or parcel of land in the Colony of New South Wales containing by admeasurement One rood and thirty two perches be the same more or less situate in the County of Cumberland in the Parish of Liberty Plains in the Township of St. Joseph being part of George Sunderlands Sixty Acres Grant and being also portion of Lots thirty three, thirty four and thirty five of the said Township commencing at the south east corner of Lot thirty five distant fourteen chains ten links from the south east corner of the said Grant and bearing North fifty one degrees forty five minutes west from the said corner and bounded on the east by the west side of Mark Street being a line bearing North forty minutes west one chain to a point distant four chains thirty links from the junction of Mark Street with Railway Street. On the north by a line at right angles with Mark Street being a line bearing west forty minutes south four chains fifty links on the west by a line at right angles with the northern boundary bearing south forty minutes East one

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chain to the south west corner of Lot thirty three and on the south by the southern boundary lines of Lots thirty three thirty four thirty five being a line bearing East forty minutes North four chains fifty links to the point of commencement.

**SECOND SCHEDULE**

**FIRST PART**

All that piece or parcel of land situate at Lidcombe, in the Municipality of Auburn, State of N.S.W., being part of the land comprised in Conveyance Book 153 No. 800 and part of Lots 33 and 34 of the township of St. Joseph, Parish of Liberty Plains, County of Cumberland and containing an area of 1 rood 2 perches, a little more or less.

Commencing at a point on the Southern side of Taylor Street, bearing and distant 268 degrees 56 minutes 125 feet 5 inches along that side of that street from its intersection with the Western side of Mark Street, and bounded thence on the east by the western boundary of Lot 2, being a line bearing and distant 179 degrees 11 minutes 30 seconds 67 feet 5 $\frac{1}{2}$  inches to the North Western corner of Lot 3, thence on the south by lines bearing and distant 269 degrees 8 minutes 124 feet 4 $\frac{1}{2}$  inches and 268 degrees 50 minutes 45 feet 4 $\frac{1}{2}$  inches, thence on the west by a fenced line bearing and distant 358 degrees 32 minutes 67 feet 1 inch to the southern side of Taylor Street aforesaid and thence on the north by that side of that street bearing 88 degrees 56 minutes and distant 171 feet 7 inches to the point of commencement and being Lot 1 D.P. 226846.

**SECOND PART**

All that piece or parcel of land situate at Lidcombe, in the Municipality of Auburn, State of N.S.W. being part of the land comprised in Conveyance Book 153 No. 800 and part of Lots 34 and 35 of the township of St. Joseph, Parish of Liberty Plains, County of Cumberland and containing an area of 31 perches, a little more or less.

Commencing at the intersection of the southern side of Taylor Street with the western side of Mark Street and bounded thence on the east by the western side of Mark Street aforesaid bearing 179 degrees 11 minutes 30 seconds 67 feet 5 $\frac{1}{2}$  inches to the north eastern corner of Lot 3 of the abovementioned subdivision of the church lands, and being the north eastern corner of the land comprised in

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Conveyance Book 1828 No. 409, thence on the south by the northern boundary of that last mentioned conveyance, being a line bearing 268 degrees 56 minutes and distant 125 feet 5 inches, thence on the west by a line bearing 359 degrees 11 minutes 30 seconds and distant 67 feet 5½ inches to the southern side of Taylor Street aforesaid and thence on the north by that side of that last mentioned street bearing 89 degrees 56 minutes and distant 125 feet 5 inches to the point of commencement and being Lot 2 D.P. 226846.

### THIRD SCHEDULE

All that piece or parcel of land situate at Rookwood in the Parish of Liberty Plains in the County of Cumberland in the State of New South Wales being a part of allotment forty two of the Township of St. Joseph commencing at the north east corner of the said allotment forty two being a point on the west side of Mark Street five chains or thereabouts northerly from the intersection of said Mark Street with James Street and bounded thence on the north by the south boundary of allotment thirty five and part of the south boundary of allotment thirty four of the aforesaid township being in all a line bearing westerly one chain ninety one and four tenths links thence on the west by a line bearing southerly two chains thence on the south by a line bearing easterly and parallel to the north boundary one chain eighty nine and one tenth links to the point of commencement which by a more recent Survey is better described as follows All that piece or parcel of land situate at Lidcombe, in the Municipality of Auburn, State of N.S.W. being the whole of the land comprised in Conveyance Book 1828 No. 409 and part of Lot 42 of the Township of St. Joseph, Parish of Liberty Plains, County of Cumberland, and containing an area of 1 rood 20½ perches, a little more or less.

Commencing at a point on the western side of Mark Street bearing and distant 359 degrees 11 minutes 30 seconds 197 feet 5½ inches along that side of that street from its intersection with the northern side of James Street, and bounded thence on the South by a line passing along a paling fence bearing and distant 269 degrees 14 minutes 30 seconds 125 feet 5 inches to the eastern boundary of Lot A of M.P.S. (O.S.) 13167, thence on the west by part of the eastern boundary of that last mentioned land being a line bearing 359 degrees 11 minutes 30 seconds 131 feet 3¾ inches to the north eastern corner of Lot A of M.P.S. (O.S.) 13167 aforesaid and being the south weste: corner of Lot 2 of the subdivision of

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the church lands, thence on the north by the southern boundary of that lastmentioned allotment being a line bearing 88 degrees 56 minutes and distant 125 feet 5 inches to the western side of Mark Street aforesaid, and thence on the east by that side of that street bearing 179 degrees 11 minutes 30 seconds and distant 131 feet 11 $\frac{1}{2}$  inches to the point of commencement.

Lot 3 is subject to an easement four (4) feet wide for sewerage purposes which commences at a point on the northern boundary of Lot 3 bearing and distant 88 degrees 56 minutes 20 feet 0 inches, from the north western corner of that lot and bounded thence on the south west, the south and the north east by lines bearing and distant 163 degrees 39 minutes 65 feet 6 inches 88 degrees 56 minutes 4 feet 1 $\frac{1}{2}$  inches and 343 degrees 39 minutes 65 feet 6 inches, to the northern boundary of Lot 3 aforesaid, and thence on the north by part of that boundary bearing and distant 268 degrees 56 minutes 4 feet 1 $\frac{1}{2}$  inches to the point of commencement and now being the land comprised in Lot 3 D.P. 226846.

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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 1st day of November 1965.

W. L. J. HUTCHISON, Secretary.

I assent to this Ordinance.

HUGH SYDNEY, Archbishop of Sydney.

1/11/1965.