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*St. Peter's Mortdale Declaration and Variation of Trust and  
Sale and Mortgage Ordinance of 1957.*

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No. 31, 1957.

AN ORDINANCE to declare and vary certain trusts and to authorise the sale and mortgaging of certain land situate at the corner of Morts Road and Victoria Avenue Mortdale and to provide for the application of the proceeds thereof.

WHEREAS by Certificate of Title Registered Volume 1094 Folio 23 Church of England Property Trust Diocese of Sydney (hereinafter referred to as "the Corporate Trustee") is the proprietor of an estate in fee simple in the land more particularly described in the first schedule hereto.

AND WHEREAS erected upon the said land are certain buildings used by the Church of England at Mortdale.

AND WHEREAS the original Declaration of Trust made in respect of the said land and buildings has been mislaid.

AND WHEREAS the said land is Church Trust Property held for the Church of England in the Provisional District of St. Peter Mortdale.

AND WHEREAS it is expedient hereinafter to declare the trusts upon which the said land and buildings are held.

AND WHEREAS by Certificate of Title Registered Volume 1064 Folio 184 the Corporate Trustee is the proprietor of an estate in fee simple in the land more particularly described in the second schedule hereto.

AND WHEREAS erected upon the said land lastly referred to is a Kindergarten Hall used by the Church of England in the said Provisional District.

AND WHEREAS the said land is Church Trust Property and no trust in respect thereof has been declared.

AND WHEREAS it is expedient hereinafter to declare the trusts upon which the said land and buildings are held.

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AND WHEREAS by Certificates of Title Registered Volume 2246 Folio 89 and Volume 2246 Folio 4 the Corporate Trustee is the Registered proprietor of an estate in fee simple in the land more particularly described in the third schedule hereto.

AND WHEREAS the lastly mentioned lands are Church Trust Property and were purchased by funds provided by the Church of England of St. Peter Mortdale.

AND WHEREAS no trusts have been declared in respect thereof and it is expedient to declare the trusts upon which the said land is held.

AND WHEREAS the members of the Church of England in the said Provisional District of St. Peter Mortdale have collected the sum of nine hundred and sixty-five pounds eighteen shillings (£965 18s.) for the purpose of erecting a new church upon the land described in the First Schedule hereto.

AND WHEREAS the Members of the Church of England in the said Provisional District of St. Peter Mortdale have collected the sum of Four hundred and ten pounds nine shillings and four pence (£410 9s. 4d.) for general building purposes.

AND WHEREAS by reason of circumstances which have arisen subsequent to the creation of the trusts upon which the said moneys are held it is inexpedient to carry out and observe the same in their entirety and it is expedient to vary the said trusts as hereafter set out.

AND WHEREAS it is expedient to erect a new Church and buildings for the Church of England at Mortdale upon the land comprised in the third schedule hereto.

AND WHEREAS it is necessary and expedient that the land comprised in the first and second schedule hereto and the buildings thereon be sold either separately or together and that the land comprised in the third schedule hereto be mortgaged to provide the funds to complete the erection of the said new Church and buildings.

Now the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod ordains and declares as follows:—

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1. The Corporate Trustee shall hold the said land comprised in the Schedules hereto upon trust to permit the same respectively to be used for a Church Rectory and Parish Hall or partly for one and partly for another or others of such purposes in connection with the Church of England in the Provisional District of St. Peter Mortdale or any parochial district or parish into which it may be formed or of which it may form a part.

2. By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the said sum of Nine hundred and sixty-five pounds eighteen shillings (£965 18s.) and Four hundred and ten pounds nine shillings and four pence (£410 9s. 4d.) are held it is inexpedient to carry out and observe such trusts in their entirety and it is expedient that the same be varied to the extent hereinafter set out.

3. The trustees shall hold the said sum of Nine hundred and sixty-five pounds eighteen shillings (£965 18s.) and Four hundred and ten pounds nine shillings and four pence (£410 9s. 4d.) upon trust to pay the same to the Churchwardens for the time being of St. Peter's Mortdale to be applied by them in or towards the erection of the new Church and Buildings upon the land described in the third schedule hereto.

4. By reason of circumstances subsequent to the creation of the trusts of the land comprised in the first and second schedules hereto it has become inexpedient to carry out or observe such trusts and it is expedient to sell the same.

5. The said Corporate Trustee is hereby empowered to sell the land or any portion or portions thereof comprised in the first and second schedules and the buildings erected thereon either separately or together by public auction or private contract and either in one lot or in several lots at such price or prices and upon such terms and conditions as the Corporate Trustee may deem expedient free from such trusts as aforesaid.

6. The said Corporate Trustee is hereby authorised and empowered to execute the deed of transfer or other instrument or instruments and do all acts measures and things necessary for the purpose of carrying into effect any sale or sales or other dealing matter or thing authorised by this Ordinance.

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7. The purchase money to arise from such sale or sales shall be paid to the Corporate Trustee and shall be applied by the said Corporate Trustee in the manner set out in Clause 11 hereof.

8. By reason of circumstances subsequent to the creation of the said trusts upon which the land comprised in the third schedule hereto is subject it is expedient that the said land comprised in the third schedule be mortgaged.

9. (1) The Corporate Trustee is hereby empowered to mortgage from time to time the whole or any part of the said land comprised in the Third Schedule hereto for the purpose of borrowing:—

(a) When the power is first exercised a sum not exceeding Nine thousand pounds (£9,000).

(b) When the power is subsequently exercised such sum not exceeding Nine thousand pounds (£9,000) as the Standing Committee shall by Resolution determine.

Provided that such debt shall be reduced at the rate of not less than Two hundred and eighty pounds (£280) per annum as from the date of the first borrowing but no mortgagee advancing moneys in pursuance of this Ordinance shall be concerned or obliged to see that this proviso is complied with.

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

(3) A document purporting to be certified by the Archbishop or the Secretary of the Standing Committee 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.

10. The proceeds of any mortgage hereby authorised shall be applied by the Corporate Trustee as follows:—

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- (a) When the power is first exercised in the manner declared in Clause 11 hereof;
- (b) 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 any such further mortgage or mortgages.

11. The proceeds of any sale and mortgage hereby authorised shall be applied by the Corporate Trustee as follows:—

- (a) Firstly in payment of the costs charges and expenses of and incidental to this Ordinance and any such sale or sales mortgage or mortgages made or executed in pursuance of this Ordinance;
- (b) Subject thereto the balance shall be paid to the Churchwardens for the time being of St. Peter's Mortdale (whose receipt shall be a sufficient discharge therefor) and who shall apply such moneys received in or towards payment or satisfaction of the costs of and incidental to the erection on the said land comprised in the third schedule hereto of a new Church and buildings for the Church of England at Mortdale.

12. The Churchwardens for the time being of the said Provisional District shall within seven 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 Secretary of the Standing Committee giving details of the original amount borrowed the amounts paid off and the balance owing.

13. This Ordinance shall be styled and cited as "St. Peter's Mortdale Declaration and Variation of Trust and Sale and Mortgage Ordinance 1957."

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FIRST SCHEDULE.

All that piece of land situate in the Municipality of Hurstville Parish of St. George and County of Cumberland having a frontage of about 50 feet to Morts Road by a depth of about 120 feet along Victoria Avenue being Lot 3 Section 3 Deposited Plan Number 2778 and being the whole of the land in Certificate of Title Volume 1094 Folio 23.

SECOND SCHEDULE.

And also all that piece of land situate as aforesaid having a frontage of about 50 feet to Victoria Avenue by a depth of about 132 feet being Lot 4. Section 3 Deposited Plan 2778 and being the whole of the land in Certificate of Title Volume 1064 Folio 184.

THIRD SCHEDULE.

All that piece of land situate as aforesaid having a frontage of about 193 feet to Morts Road by a depth of about 247 feet 6 inches being Lots 26 to 28 inclusive in Deposited Plan Number 4374 and being the whole of the land in Certificates of Title Volume 2246 Folios 4 and 89.

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

W. G. HILLIARD, Bishop,  
Chairman of Committees.

I certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on the Seventeenth day of September, 1957.

W. L. J. HUTCHISON,  
Secretary.

I assent to this Ordinance.

HOWARD SYDNEY,  
Archbishop of Sydney.

17/9/1957.