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ALL SAINTS FIGTREE BERKELEY CEMETERY ORDINANCE 1988

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No. 41 1988

AN ORDINANCE to vary the trusts upon which certain land situate at Unanderra in the City of Wollongong is held, to authorise the disposition of that land and to provide for the care control and management thereof.

WHEREAS

A. By Conveyance dated 31st March 1862 Registered No. 513 Book 77 (hereinafter called "the Conveyance") land described in the First Schedule hereto a more accurate description of which is set out in the Second Schedule (hereinafter called "the Land") was conveyed to the Right Reverend Frederick Barker Lord Bishop of Sydney.

B. By virtue of the provisions of Section 20 of the Anglican Church of Australia Trust Property Act 1917 the Land is now and for the time being vested in the Most Reverend Donald William Bradley Robinson Archbishop of the Diocese of Sydney.

C. It is expedient that the Land being church trust property be now vested in the Anglican Church Property Trust Diocese of Sydney (hereinafter called "the Corporate Trustee").

D. Pursuant to the trusts set forth in the Conveyance the Land is held upon trust "for the erection thereon of a church or chapel and of a burial ground in connection with the United Church of England & Ireland as now by law established" which church is known as the Anglican Church of Australia.

E. A cemetery (hereinafter referred to as "the Cemetery") is situated upon the land but no church or chapel is presently erected thereon.

F. The cemetery has not been used for the burial of the dead for many years.

G. The Land is situated in the Parish of All Saints Figtree and by virtue of Section 29 of the Sydney Church Ordinance 1912 the Cemetery is under the charge and administration of the churchwardens and minister of that Parish.

H. The Cemetery contains several historic graves and headstones and it is inexpedient that the resources of the minister and churchwardens of the said Parish be used to maintain them and other graves in the cemetery.

I. It is expedient that further provision be made for the care control and management of the Land and the Council of the City of Wollongong has expressed willingness to assume responsibility for the care control and management of the Cemetery upon having the Land conveyed to it.

J. By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the Land is held it is expedient to vary the same to the extent hereinafter set forth.

NOW the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod HEREBY ORDAINS DECLARES DIRECTS AND RULES as follows -

1. Consent is hereby given to the Land being vested in the Corporate Trustee.

2. By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the Land is held it is inexpedient to carry out and observe the same and it is expedient that the Land now be held on trust as an historic burial ground in connection with the Anglican Church of Australia.

3. (1) The Corporate Trustee is hereby authorised and empowered to convey the Land to the Council of the City of Wollongong within three (3) years after the date of assent to this Ordinance and thereafter only with the consent of the Standing Committee in consideration of the said Council assuming all responsibility for the care control and management of the Land and the Cemetery.

(2) Upon completion of the said conveyance to the Council of the City of Wollongong the provisions of Section 29 of the Sydney Church Ordinance 1912 shall cease to apply to the Land.

4. The Corporate Trustee is hereby authorised and empowered to enter into such agreement with the Council of the City of Wollongong pursuant to paragraph (b) of Section 452E(4) of the Local Government Act 1919 as may be necessary to facilitate the publication of a notification in The Gazette pursuant to Section 452E(1) of the said Act. The said agreement shall contain such provisions as may seem fit to the Corporate Trustee.

5. The Ordinance may be cited as "All Saints Figtree Berkeley Cemetery Ordinance 1988".

#### FIRST SCHEDULE

ALL THAT piece or parcel of land being part of the Berkeley Estate situated in the County of Camden and Colony of New South Wales containing by admeasurement 1 acre more or less situated in the Parish of Camden near the Village of Charcoal COMMENCING at a point on a leasehold of Moses Woods and bounded on the north by a line bearing east thirty five (35) degrees south two (2) chains fifty (50) links; on the east by a line bearing south thirty five (35) degrees west four (4) chains; on the south by a line bearing west thirty five (35) degrees north two (2) chains fifty (50) links and on the west by a line bearing north thirty five (35) degrees east four (4) chains and being the whole of the land comprised in Registered Conveyance No. 513 Book 77 and being now situated in Berkeley in the City of Wollongong Parish of Kembla and County of Camden.

#### SECOND SCHEDULE

ALL THAT piece or parcel of land known as Berkeley Cemetery off Investigator Drive, Unanderra COMMENCING at a point being the north east corner of Lot 381 in Deposited Plan No. 739597 and bounded on the north by the southern boundary of Lot 7 in Deposited Plan No. 255721 bearing 135 degrees 38 minutes distance 48.695 metres thence on the east by the western boundary of Lot 3A in Deposited Plan No. 396725 bearing 224 degrees 13 minutes 45 seconds distance 79.425 metres on the south by the northern boundary of Lot 382 in Deposited Plan No. 739597 bearing 313 degrees 58 minutes 30 seconds distance 49.45 metres thence on the west by the eastern boundary of Lot 381 in the aforementioned plan bearing 44 degrees 47 minutes distance 80.87 metres be the said all or a little less 3934 square metres or thereabouts.

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

E.D. CAMERON  
Chairman of Committees

I CERTIFY that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on this 12th day of December 1988.

W.G.S. GOTLEY  
Secretary

I ASSENT to this Ordinance.

DONALD ROBINSON  
Archbishop of Sydney

12/12/1988