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*Peakhurst and Lugarno (St. Stephen's Lugarno) Variation  
of Trust and Mortgage Ordinance 1963.*

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No. 4, 1963.

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

WHEREAS Church of England Property Trust Diocese of Sydney (hereinafter called the Corporate Trustee) is registered as proprietor of an estate in fee simple of the land comprised in Certificate of Title Volume 4873 Folio 174 more particularly described in the Schedule hereto AND WHEREAS the said land was at the time it was acquired by the Corporate Trustee situated within the Parish of St. John Penshurst but is now within the Provisional Parish of Peakhurst and Lugarno and the church of St. Stephen is erected on part of the said land AND WHEREAS the land is Church Trust Property held for the benefit of the Parish of St. John Penshurst but no trusts in writing have been declared concerning the same and it is expedient that such trusts be now declared AND WHEREAS the Parish Council of the Parish of St. John Penshurst has consented that the trusts of the said land be declared in favour of the Provisional Parish of Peakhurst and Lugarno AND WHEREAS it is intended to erect a new Parish Hall on part of the said land and for such purpose it is necessary to borrow the sum of Four thousand pounds (£4,000:) and to mortgage the said land for such amount NOW the Standing Committee of the Synod of the Diocese of Sydney in the name and place of such Synod HEREBY ORDAINS AND DIRECTS as follows:-

1. By reason of circumstances which have arisen since the creation of the trusts upon which the land described in 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.

2. The said land shall henceforth 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 of such purposes in connection with the Church of England in Australia at Lugarno in the Provisional Parish of Peakhurst and Lugarno.

3. By reason of circumstances which have arisen subsequent to the creation of the trusts aforesaid it is expedient to mortgage the same.

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- (i) The Corporate Trustee is hereby empowered to mortgage from time to time the whole or any part of the said land for the purpose of borrowing the sums following:-
  - (a) When the power is first exercised a sum not exceeding Four thousand pounds (£4,000).
  - (b) When the power is subsequently exercised such sum not exceeding Four thousand pounds (£4,000) as the Standing Committee shall by resolution determine.

PROVIDED that such debt shall be reduced at the rate of not less than One hundred and seventy pounds (£170) per annum 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 under 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 said power.
- (iii) A 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.

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

- (i) When the power is first exercised in payment of the costs charges and expenses of and incidental to this Ordinance and subject thereto shall be paid to the Churchwardens for the time being of St. Stephen's Church Lugarno who shall apply the same towards the cost of erecting a new Parish Hall on part 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 then existing mortgage or mortgages and the costs of any such further mortgage or mortgages.

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5. The Churchwardens for the time being of St. Stephen's Church Lugarno shall within seven 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 amounts paid off and the balance owing.

6. This Ordinance shall be cited as "Peakhurst and Lugarno (St. Stephen's Lugarno) Variation of Trust and Mortgage Ordinance 1963."

**SCHEDULE**

All that piece or parcel of land situated at Lugarno in the Municipality of Hurstville having a frontage of 90' to Old Forest Road being Lots 18 and 19 D.P. 13473 and the whole of the land in Certificate of Title Volume 4873 Folio 174 upon which St. Stephen's Church Lugarno is now erected.

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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 25th day of February 1963.

**W. L. J. HUTCHISON,**  
Secretary.

I assent to this Ordinance.

25/2/1963.

**HUGH SYDNEY,**  
Archbishop of Sydney.