

ST JAMES' SYDNEY PHILLIP STREET
PROPERTY AMENDMENT ORDINANCE 1987

NO. 26, 1987

AN ORDINANCE to vary the trusts on which certain income is to be applied.

WHEREAS

A. The Glebe Administration Board (hereinafter called "the Trustee") is seised in fee simple of the whole of the land comprised in Certificate of Title Volume 1352 Folio 218 more particularly described in the Schedule hereto in lieu of the Anglican Church Property Trust Diocese of Sydney.

B. The said land is Church Trust property held for the sole benefit of the Parish of St James, Sydney.

C. Clause 7A of the St James' Sydney Phillip Street Property Ordinance, 1962-1981 provides that the income arising from the lease of the property known as 169-171 Phillip Street, Sydney erected on the said land (hereinafter called "the building") is to be applied towards certain purposes therein set forth.

D. Clause 7A further provides that certain of the Provisions for the Application of the said income are to be reviewed at any time and from time to time at the request of the Parish Council of the said Parish as may be determined by resolution of Standing Committee and in any event at the expiration of four years from 1 January 1981.

E. The said Provisions have been reviewed.

F. It is now expedient to vary the Order in which the said income is applied and to provide for further future review of the Principal Ordinance.

G. By reason of circumstances which have arisen subsequent to the creation of the trust upon which the income from the said lease is held it is inexpedient to carry out and observe the same and it is expedient to vary the same as hereinafter set out.

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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. (1) This Ordinance may be cited as "St James' Sydney Phillip Street Property Amendment Ordinance 1987";

(2) The St James' Sydney Phillip Street Property Ordinance 1962-1981 is in this Ordinance referred to as the "Principal Ordinance";

(3) The Principal Ordinance as amended by this Ordinance may be cited as "St James' Sydney Phillip Street Property Ordinance 1962-1987".

2. The Principal Ordinance is amended as follows:-

(1) By inserting the following new Clause 3AA therein:-

"3AA (a) The Trustee is hereby empowered from time to time to mortgage charge and to grant a mortgage over the said land which mortgage shall be in addition to the first mortgage and said second mortgage raised pursuant to Clauses 1 and 3A hereof respectively if such first and second mortgages have not been discharged and to borrow on the security thereof such sum or sums as might be determined by resolution of Standing Committee at the request of the Parish Council of the said Parish;

(b) The moneys so borrowed shall be applied by the Trustee in payment first of the costs charges and expenses of and incidental to any mortgage or mortgages granted pursuant thereto and the balance in meeting the payment of survey, architects', other professional and legal fees and all building costs, expenses and outgoings incidental to the restoration, preservation, renovation and refurbishment of the building (including those portions reserved for parochial use pursuant to Clause 5 hereof)".

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(2) By omitting the existing Clause 7A and inserting in lieu thereof the following:-

"7AA The income arising from all leases granted in respect of any part of the land described in the schedule hereto and which has not been distributed on or prior to the date on which assent is given to this Ordinance (hereinafter called "the lease income") shall be applied by the Trustee for the time being of the land described in the Schedule hereto as follows:-

(a) That part of the lease income gained in ~~each year~~ the calendar years 1987, 1988, 1989 and 1990. ~~on and from the year commencing on 1 January 1987~~ to be applied in the year in which it is gained in the following order of priority:-

- (i) in payment of all sums falling due for payment under the said mortgage raised pursuant to Clause 1 hereof;
- (ii) in payment of all sums falling due for payment under the said second mortgage raised pursuant to Clause 3A hereof;
- (iii) in payment of all sums falling due for payment under any mortgage or mortgages raised pursuant to Clause 3AA hereof;
- (iv) in payment of all expenses and outgoings incidental to the day to day maintenance and upkeep of the building (other than those portions reserved for parochial use pursuant to Clause 5 hereof) so far as such maintenance and upkeep are not carried out by the tenant or tenants of the building;
- (v) in payment of the sum of One hundred and ten thousand dollars (\$110,000) per year to the Churchwardens of the Parish of St James' Sydney for the use and benefit of the said Parish such payment to be made by quarterly

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instalments the first of which is due on the 1st day of March;

(vi) in payment of the sum of One hundred and ten thousand dollars (\$110,000) per year to the Diocese of Sydney for the use and benefit of the Anglican Church of Australia as shall from time to time be determined by the Synod of the said Diocese such payment to be made by quarterly instalments the first of which is due on the 1st day of March;

(vii) in payment of the sum of Fifty thousand dollars (\$50,000) per year to the Churchwardens of the Parish of St James' Sydney, the first such sum to be paid simultaneously with the first quarterly payment of the sums set out in sub-paragraphs (a)(v) and (a)(vi) of this clause and annually thereafter to be applied to the restoration, preservation, renovation and refurbishing of the church building of the Parish of St James' Sydney, together with such costs and expenses as are incidental thereto;

(viii) in payment of the sum of Fifty thousand dollars (\$50,000) per year to the Archbishop of Sydney's "Vision for Growth Appeal" the first such sum to be paid simultaneously with the first quarterly payment of the sums set out in sub-paragraphs (a)(v) and (a)(vi) of this clause and annually thereafter;

(ix) in payment of all costs expenses and outgoings of the Churchwardens of the said Parish in relation to or arising out of the preparation and promotion of an Ordinance dealing with the sale of the said building;

(x) any residue to be paid into the capital fund to be established pursuant to paragraph (b) of this Clause for the purposes therein contained; and

(b) That part of the lease income which was gained before 1 January 1987 and not disposed of before that date to be applied for the establishment of a capital fund such capital to be invested at the discretion of the Trustee and such capital and the income shall be applied to the restoration, preservation, renovation and refurbishment of the said building (including those portions reserved for parochial use pursuant to Clause 5 hereof) or the redevelopment of the land and matters associated therewith together with such costs expenses and fees as are incidental thereto including but without limiting the generality of the foregoing architects', engineers', consultants' and other professional fees whether such costs expenses and fees are incurred by the Trustee or the Churchwardens or both PROVIDED ALWAYS that the Trustee shall not at any time exercise in relation to such capital and income any of its powers except with the previous consent of the Churchwardens of the Parish of St James' Sydney evidenced by the duly recorded and properly signed minutes of such consent.

W.K. The provisions of this clause 7AA shall be deemed to have ~~been~~ taken effect on 1 January 1988 *W.K.*

(3) By inserting the following new Clause 7C therein:

"7C At the beginning of each of the calendar years 1988, 1989 and 1990 the sums payable pursuant to subparagraph (a)(v) and (a)(vi) of Clause 7AA shall be reviewed by the Trustee and determined as follows:-

(a) In the case of the first review by multiplying the sum of One hundred and ten thousand dollars

W.K.

(\$110,000) by a fraction the numerator of which shall be the Price Index applicable on the date of review and the denominator of which shall be the Price Index applicable on the 1 July 1987.

- (b) In the case of each and every review subsequent to the first review, by multiplying each of the sums payable for the year immediately prior to the date of review by a fraction the numerator of which shall be the Price Index applicable on the date of review and the denominator of which shall be the Price Index applicable on the immediately preceding date of review.
- (c) The new revised sums shall become payable in all respects as if they were the sums payable pursuant to sub-paragraphs (a)(v) and (a)(vi) of Clause 7AA provided always that the sums payable following the date of review shall not be less than One hundred and ten thousand dollars (\$110,000) per year.
- (d) "Price Index" means the All Groups Consumer Price Index applicable to Sydney kept by the Commonwealth Statistician and in the event of such Price Index being discontinued or abolished then such Price Index as the Commonwealth Statistician shall substitute therefore and if no Price Index shall be substituted therefore by the Commonwealth Statistician then any Price Index kept by the Commonwealth or New South Wales Statistician as the Trustee may in its absolute discretion select."

(4) By inserting the following new Clause 7D therein:

"7D The provisions of Clauses 7AA and 7C shall be reviewed and if thought fit amended ^{by Ordinance} ~~at any time and~~ by Ordinance ^{at any time} ~~from time to time at the request of the Parish Council of the said Parish as may be determined by resolution of Standing Committee~~ and in any event

at the expiration of four years from 1 January 1987."

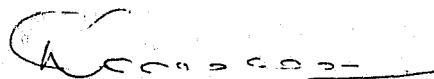
(5) By inserting the following new Clause 7E therein:

"7E The Trustee is hereby authorised and empowered and is deemed always to have had the authority and power, to pay from lease income the costs incurred for the period from 1 September 1983 to 31 December 1985 in airconditioning those portions of the said building reserved for parochial use under Clause 5 hereof and shall be entitled to any re-imbusement from any tenant or licensee of the same".

SCHEDULE

Land situate in the City of Sydney, Parish of St James and County of Cumberland containing 22.5 perches or thereabouts and being Allotments 14 and 15 of Section 40 of the Parish and having a frontage to Phillip Street at 77 Feet 7 1/4 inches by depth on the Northern Side of 78 feet 5 1/2 inches and on the Southern Side of 76 feet 7 3/4 with an irregular rear boundary and being the whole of the land comprised in Certificate of Title Volume 1352 Folio 218.

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



Chairman of Committees

I CERTIFY that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on the *21st* day of *September* 1987.



Secretary.

I ASSENT to this Ordinance.



Archbishop of Sydney.
21/9/ 1987.