
*St. Philip's Sydney York Street Property Leasing Ordinance
Amendment Ordinance 1969*

No. 15, 1969

AN ORDINANCE to amend Ordinance No. 10, 1966 entitled "St. Philip's Sydney York Street Property Leasing Ordinance, 1966".

WHEREAS pursuant to Clause 2 of the Ordinance No. 10, 1966 entitled "St. Philip's Sydney York Street Property Leasing Ordinance 1966" (as amended by Ordinance No. 20, 1966 entitled "St. Philip's Sydney York Street Property Leasing Amendment Ordinance, 1966") the Church of England Property Trust Diocese of Sydney (hereinafter called "the Corporate Trustee") granted an option to Bambro (No. 11) Pty. Limited (hereinafter called "Bambro") or its nominee to lease from the Corporate Trustee the lands described in the Third Schedule thereto and pursuant to Clause 4 thereof the Corporate Trustee entered into an agreement with Bambro AND WHEREAS since the passing of such Ordinance it has become inexpedient to carry out and observe in certain respects the provisions of such Ordinance in connection with the land thereby authorised to be leased and it has become expedient to amend such Ordinance and in so far as such amendment may vary further the said trusts to now vary the same and make the further provisions hereinafter contained NOW the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod HEREBY ORDAINS AND DIRECTS as follows:—

1. By reason of certain circumstances which have arisen subsequent to the variation of the trusts declared in Ordinance No. 10, 1966 (as amended by Ordinance No. 20, 1966) it has become inexpedient to carry out and observe the same to the extent (if any) to which such trusts are hereby varied and it is expedient (so far as it may be a variation of trusts) that the said trusts be varied further as hereinafter set out.

2. The said Ordinance is amended as follows.

3. The following clauses shall be inserted after Clause 9:—

"10. The Corporate Trustee is hereby authorised to enter into an agreement with Bambro (No. 11) Pty. Limited (hereinafter called "the Lessee") and Hammersons (or if the case requires, the execution of such agreement by the Corporate Trustee is hereby ratified and confirmed) under which the Corporate Trustee agrees to grant a lease to the Lessee and the Lessee agrees to take a lease from the Corporate Trustee of the land

*St. Philip's Sydney York Street Property Leasing Ordinance
Amendment Ordinance 1969*

described in the Fourth Schedule hereto in or to the effect of the terms and conditions contained in the draft memorandum of agreement produced to the Corporate Trustee and signed for identification by the Secretary thereof and by the Rector for the time being of the Parish of St. Philip Sydney including inter alia the following provisions:—

- (a) The lease shall be in the form of the lease set forth in the Schedule thereto and shall bear the date which is the day following the date of the occurrence of the last to occur of the events mentioned in paragraph (c) following or bear the date, the First July, 1969, whichever is the later.
- (b) A covenant by the Lessee that in the event of the Lessee deciding to re-develop the site in accordance with the terms of this lease, there shall be erected upon the site a building which shall, at the time of such erection, be the highest and best use (subject to the terms of this Ordinance) to which the land may be put and in the event of any dispute as to the nature of such building the same shall be referred to the President of the Real Estate Institute for the time being or, if there shall then be no such body, to another arbitrator acceptable to both parties in accordance with the Arbitration Act in force at the time.
- (c) A covenant by the Corporate Trustee to subdivide the area marked "B" on the plan produced to the Corporate Trustee and signed by the Secretary thereof for identification.
- (d) A provision that if the Corporate Trustee fails to obtain the consent of the authorities to the subdivision and to lodge the plan of subdivision for registration as a deposited plan or if the execution of the agreement by the Corporate Trustee is not authorised by Ordinance, in either event, within three months from its date, the Lessee may at its option terminate the Agreement.
- (e) A covenant by the Lessee to pay the legal expenses incurred by the Corporate Trustee in connection with the preparation and stamping of the Agreement.

*St. Philip's Sydney York Street Property Leasing Ordinance
Amendment Ordinance 1969*

- (f) A provision that the Agreement shall not affect the rights and obligations under the option granted pursuant to clause 2 hereof, but such option shall terminate with effect from the end of that day upon which the last to occur of the events mentioned in paragraph (c) of this clause occurs.
- (g) A provision that any part of the option fee payable under the option granted pursuant to clause 2 hereof which is paid in respect of a period in respect of which rent is payable under the lease shall be refunded by the Corporate Trustee.
- (h) A guarantee by the Hammerson Property and Investment Trust Limited of the obligations of the Lessee.

"11. The Corporate Trustee is hereby authorised (subject to the determination, pursuant to clause 10 of the Agreement specified in clause 10 hereof, of the option granted pursuant to clause 2 hereof, of the option granted pursuant to clause 2 hereof) to lease to Bambro (No. 11) Pty. Limited (hereinafter called "the Lessee") the land described in the Fourth Schedule hereto subject to its being at the date of such lease vested in the Corporate Trustee and any part of that land not vested in the Corporate Trustee at such date and/or any land contiguous with such land other than to the land of the Corporate Trustee contiguous with the boundary of Lots 1 and 2 on the said plan, which becomes vested in the Corporate Trustee in or to the effect of the terms and conditions contained in the draft Deed of Lease annexed to the said Agreement for Lease which shall include inter alia the following provisions:—

- (a) The Lease will commence from the date thereof and expire one hundred and twenty (120) years after the date of completion of the building herein referred to.
- (b) Rent of Fifty-five thousand dollars (\$55,000) per annum from the date thereof to the date of completion of the building herein referred to but—
if the existing buildings are not demolished within four (4) months from the date thereof the rate to be Eight thousand five hundred dollars (\$8,500) per

*St. Philip's Sydney York Street Property Leasing Ordinance
Amendment Ordinance 1969*

annum from the expiration of the said period of four (4) months until the date of completion of demolition.

- (c) Payment by the Lessee of rent at the rate of Eighty thousand dollars (\$80,000) per annum for the period commencing on the date of completion of the building herein referred to until the Thirty-first day of December next following.
- (d) Payment by the Lessee of a base annual rent of Eighty thousand dollars (\$80,000) and an additional rent of Sixteen thousand seven hundred and twelve dollars (\$16,712) during each of the five (5) years commencing on the First day of January next following the date of completion of the building herein referred to and a profit rent after the fifth year.
- (e) A covenant by the Lessor to demolish the existing buildings at its expense within four (4) months after the date thereof and a provision that in default the Lessee may complete the demolition at the expense of the Lessor.
- (f) Covenants as specified in sub-clauses (e), (f), (g), (h), (i), (j), (k), (m), (n), (o), (p), (q), (r), (s), (t), (u), and (y) of clause 3 hereof.
- (g) A covenant by the Lessor to grant supplementary leases at no additional rent of any part not included in the lease which subsequently becomes vested in it of the land edged red on the said plan and/or any land contiguous to such lands other than to the land of the Lessor contiguous with Lot A on the said plan. Such leases are to be for the balance of the term of the lease and upon the same terms and conditions provided that such lease shall be supplementary with the lease and vice versa.
- (h) A provision for the ownership of certain plant by the Lessee.
- (i) A provision for the terms upon which the Lessee may re-develop including covenants as specified in sub-clauses (e), (f), (g), (h), (i), (m), (n), (o), (p), (q), (r) and (s) of clause 3 hereof, and a

*St. Philip's Sydney York Street Property Leasing Ordinance
Amendment Ordinance 1969*

guarantee of limited period by a guarantor acceptable to the Corporate Trustee of the obligations of the Lessee.

- "12. The Corporate Trustee is hereby authorised to enter into an agreement with Bambro (No. 11) Pty. Limited (or if the case requires, the execution of such agreement by the Corporate Trustee is hereby ratified and confirmed) under which:—
- (a) That Company agrees to lend to the Corporate Trustee Seventy thousand dollars (\$70,000) on the completion of the demolition of the existing buildings referred to in the draft Deed of Lease referred to in clause 11 of this Ordinance and the Corporate Trustee agrees to repay to that Company the principal sum together with interest at the rate of Seven dollars per centum (7%) per annum computed from the first January then next following the date of completion referred to in the said Deed of Lease by equal and consecutive quarterly instalments of principal and interest, the first of such instalments to be paid three months after the first January then next following the date of completion referred to in the said Deed of Lease.
 - (b) That Company shall accept payment of each of the said quarterly instalments of principal and interest at the option of the Corporate Trustee either by payment by the Corporate Trustee of such instalment or by the Corporate Trustee giving to the Lessee in the said Deed of Lease a set off of a like amount by way of reduction in the said quarterly instalment of rent then due and payable under the said Deed of Lease, and
 - (c) That if pursuant to clause 10 of the Agreement referred to in clause 10 of this Ordinance, the option granted pursuant to clause 2 of this Ordinance terminates, then the Agreement executed pursuant to clause 4 of this Ordinance shall cease to have any effect. It is acknowledged that the said sum of Seventy thousand dollars (\$70,000) is not payable in addition to the like amount referred to in clause 4 of this Ordinance.

*St. Philip's Sydney York Street Property Leasing Ordinance
Amendment Ordinance 1969*

"13. The Corporate Trustee is hereby authorised to grant the supplementary lease or leases referred to in clause 11 (g) of this Ordinance.

"14. In the event that the option referred to in clause 2 of this Ordinance terminates, pursuant to clause 10 of the Agreement referred to in clause 10 of this Ordinance, the provisions of clause 7 of this Ordinance shall be thereupon inoperative and this clause 14 shall apply, namely:—

The proceeds of the borrowing referred to in clause 12 of this Ordinance and the income arising from the lease granted pursuant to the Agreement referred to in clause 10 of this Ordinance shall be paid by the Corporate Trustee as follows:—

- (a) As to the sum of Seventy thousand dollars (\$70,000) referred to in clause 12 of this Ordinance to the Churchwardens of the Parish of St. Philip Sydney to be applied by such Churchwardens in the provision of accommodation to replace the accommodation lost as a result of the demolition of the existing buildings.
- (b) As to the additional rent payable by the Lessee and referred to in clauses 11 (d) and (e) of this Ordinance in repayment of the principal and interest pursuant to the loan agreement referred to in clause 12 of this Ordinance.
- (c) As to the rent payable by the Lessee from the date of the lease until the completion of the new building or buildings less management and/or administration charges incurred in connection with the lease to the Churchwardens of the Parish of St. Philip Sydney to be applied by such Churchwardens for parochial purposes but principally for restoration and maintenance of the Church of St. Philip Sydney.
- (d) As to the rent payable by the Lessee during the twelve months immediately following the completion date of the new building or buildings less the additional rent referred to in clauses 11 (d) and (e) of this Ordinance payable in respect of that part of such twelve months period which commences on

*St. Philip's Sydney York Street Property Leasing Ordinance
Amendment Ordinance 1969*

the First day of January next following and management and/or administration charges incurred in connection with the lease to the Churchwardens of the Parish of St. Philip Sydney to be allocated by such Churchwardens to the St. Philip's Restoration Fund.

(e) As to the rent payable by the Lessee for the succeeding nine years inclusive of the lease less the additional rent referred to in clauses 11 (d) and (e) of this Ordinance and management and/or administration charges incurred in connection with the lease:—

(i) Seven-sixteenths thereof to the Churchwardens of the Parish of St. Philip Sydney to be applied by them to the following purposes each year—

Stipends and Allowances	\$6,400
Diocesan Assessments	6,000
Secretarial and Office Equip- ment	3,000
Organists, Music—	4,000
Maintenance of Organ, Choir and Robes, Verger and Cleaning	2,500
Maintenance of Church, Rec- tory, Parish Rooms, Offices and Church Grounds	4,000
Maintenance of Bells and Payment of Bellringers	1,300
Insurances	400
Contingency Fund for Lec- ture Tour (overseas or local lecturer)	2,900
Restoration and Preservation of the Church Building except insofar as the same is provided for under clause 6 hereof	4,500
	\$35,000

Provided that if the total sum received by the Churchwardens shall be more or less than the sum of \$35,000 each of the amounts allocated

St. Philip's Sydney York Street Property Leasing Ordinance
Amendment Ordinance 1969

and set opposite each of the purposes referred to above shall be increased or reduced in the like proportion or in such manner as may be approved by the Standing Committee of the Diocese provided further however, that at the end of each financial year the Churchwardens of the Parish of St. Philip Sydney shall pay to the Free Fund hereinafter referred to for the Diocese of Sydney a sum equal to the amount expended by such Churchwardens during the preceding financial year out of moneys received by them from the Corporate Trustee as aforesaid.

- (ii) As to the remaining nine-sixteenths thereof to pay each year to each of the following the amount set opposite its name:—

Church Missionary Society	\$1,000
Australian Board of Missions	1,000
Home Mission Society—	
General	\$1,000
Counselling Service	1,000
	2,000
South American Missionary Society	500
Bush Church Aid Society	1,000
Moore Theological College for Library Research Work and/or Post Graduate Studies	2,000
Historic Church — Holy Trinity Miller's Point Re- storation Fund	1,000
Church of England Tele- vision Society	1,000
Sydney Church of England Retirement Villages Board	1,000
Youth Department for Inner City Work	1,000
St. Andrew's Cathedral Chapter	1,000
	\$12,500

*St. Philip's Sydney York Street Property Leasing Ordinance
Amendment Ordinance 1969*

As to the balance thereof to a Free Fund to be known as "St. Philip's Sydney Diocesan Free Fund" to be used from time to time as decided by resolution of the Standing Committee.

Provided that if the total sum received by the Corporate Trustee shall be more or less than \$45,000 each of the amounts allocated and set opposite each of the purposes referred to above including the Free Fund shall be increased or reduced in the like proportion.

- (f) During the ninth year after the completion of the building or buildings and every successive tenth year thereafter agreement shall be reached between the Churchwardens of the Parish of St. Philip Sydney and the Standing Committee of the Diocese of Sydney as to the allocation and distribution of income arising under the lease during the next succeeding ten years and the Standing Committee shall thereupon by Ordinance determine the allocation and distribution of such income in the manner agreed upon provided however that in the event of the said Churchwardens and the Standing Committee failing to reach agreement the income shall continue to be allocated and distributed until agreement is reached in the same manner as it was allocated and distributed during the preceding year in accordance with this Ordinance.

"15. When the consent or approval of the Standing Committee is required to any matter or thing herein specified a certificate by the Diocesan Secretary that such consent or approval was given to the matter or thing specified in such certificate shall in favour of any person corporation or lessee or anyone taking any estate or interest under the lease referred to in clause 11 of this Ordinance be conclusive evidence that such consent or approval was duly given.

"16. When the consent or approval of the Corporate Trustee is required in accordance with the provisions of the Agreement referred to in clause 10 hereof or of the lease annexed to such Agreement referred to in clause

*St. Philip's Sydney York Street Property Leasing Ordinance
Amendment Ordinance 1969*

11 hereof a certificate by the Secretary of the Corporate Trustee that such consent or approval was given by the Corporate Trustee to the matter or thing specified in such certificate shall in favour of Bambro (No. 11) Pty. Limited or the Lessee or anyone taking any estate or interest under the lease be conclusive evidence that such consent or approval was duly given."

4. By deleting the figure "10" at the commencement of clause 10 and inserting the figure "17" in lieu thereof.

5. By inserting before paragraph (c) of clause 7 the following new paragraph:—

"(bb) As to the rent payable by the Lessee from the date of the lease until the completion of the new building or buildings less management and/or administration charges incurred in connection with the lease to the Churchwardens of the Parish of St. Philip Sydney to be applied by such Churchwardens for parochial purposes but principally for restoration and maintenance of the Church of St. Philip Sydney."

6. By inserting a new Schedule after the Third Schedule, viz.:
"THE FOURTH SCHEDULE HEREINBEFORE REFERRED TO
All that piece or parcel of land being the unresumed portion of the land described in the First and Second Schedules as is shown as Lot 2 on a Plan of Subdivision dated 2nd December, 1965 and prepared by Mr. Surveyor Kenneth John Morrow and as is vested in the Church of England Property Trust Diocese of Sydney at the date of the lease referred to in clause 11 of this Ordinance together with certain adjacent land now forming parts of Grosvenor and Clarence Streets, Sydney subject to them becoming vested in the said Trust and which are shown diagrammatically and not by surveyed definition as Z1 and X on a Plan which has been signed by the Secretary of the Corporate Trustee for the purpose of identification."

7. This Ordinance may be cited as "St. Philip's Sydney, York Street Property Leasing Ordinance Amendment Ordinance, 1969".

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

ATHOL. RICHARDSON,
Chairman of Committees.

*St. Philip's Sydney York Street Property Leasing Ordinance
Amendment Ordinance 1969.*

I certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on the 26th day of May, 1969.

W. L. J. HUTCHISON,
Secretary.

I assent to this Ordinance.

MARCUS LOANE,
Archbishop of Sydney.

26/5/1969.