

# St James' Sydney Phillip Street Property Amendment Ordinance 2015

No 44, 2015

## Long Title

An Ordinance to amend the St James' Sydney Phillip Street Property Ordinance 1962.

## Preamble

- A. The St James' Sydney Phillip Street Property Ordinance 1962 (the "Principal Ordinance") provides for the leasing of the property known as 169 Phillip Street Sydney (the "Property"), and the distribution of the income earned therefrom.
- B. It is expedient to vary the provisions of the Principal Ordinance to –
- (a) allow the Trustee to borrow up to \$2,000,000 for the repair and maintenance of the Church building; and
  - (b) vary the purposes for which the Reserve Fund (formerly the Refurbishment Fund) can be applied;
  - (c) vary management powers relating to the Building; and
  - (d) provide for the distribution of income for the period of 5 years from and including 1 July 2015 and matters incidental thereto.

The Standing Committee of the Synod of the Diocese of Sydney Ordains as follows.

### 1. Name

This Ordinance is the St James' Sydney Phillip Street Property Amendment Ordinance 2015.

### 2. Definitions

Terms used in this Ordinance which are defined in the Principal Ordinance have the same meaning in this Ordinance as they do in the Principal Ordinance, unless the contrary intention is stated.

### 3. Amendments

The Principal Ordinance is amended as follows –

- (a) in clause 1(1) insert new definitions –
  - "Committee of Management" means the committee established pursuant to clause 3A(2).
  - "Consultants Fees" means fees incurred and payable to professional consultants including, without limitation, lawyers, accountants, architects, valuers, town planners and real estate agents engaged pursuant to clause 5(c) to advise in relation to the repair, renovation, refurbishment, improvement, development or redevelopment, consolidation, acquisition and similar matters relating to the Land, the Building and adjoining properties.
  - "Trigger Event" means where an amount of \$500,000 or more is raised by gifts, donations or grants towards the replacement of the pipe organ in the Church building.
- (b) delete the words "Refurbishment Fund" wherever appearing and insert the words "Reserve Fund",
- (c) in clause 2 delete sub-clause (e) and insert a new sub-clause to read –
  - "(e) to carry out repairs and maintenance to the Church building and the replacement of the pipe organ to a limit of \$2,000,000; and",
- (d) in clause 3A(3)(b) delete the words "by an auditor approved by the Trustee";
- (e) insert a new clause 3AA to read –
  - "3AA In undertaking the proper management and administration of the Building and the Land, the Churchwardens:

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- (a) may enter into contracts with third parties (including managing agents) where the contract value is up to \$500,000 (whether in a lump sum or spread over 3 years);
  - (b) must refer any contract where the value exceeds \$500,000 (whether in a lump sum or spread over 3 years) to the Trustee, unless the Trustee has resolved to exempt the contract or contracts from this sub-clause (b).”,
- (f) in clause 5(b), insert the following matter at the commencement of the clause –
- “(b) except for monies borrowed pursuant to clause 2(e) which will be repaid, or reimbursed, by the Churchwardens from the distribution payable under clause 7(a)(i), ... ”,
- (g) delete clause 5(c) and insert the following –
- “(c) by crediting to the Reserve Fund an amount considered by the Churchwardens (acting on the advice of the Committee of Management) to be appropriate to be applied or set aside for:
    - (i) the repair, renovation, refurbishment or improvement of the Building; or
    - (ii) the redevelopment of the Land and/or the Building; or
    - (iii) the acquisition of the whole or part of an adjoining property; or
    - (iv) payment of Consultants Fees;”,
- (h) in clause 5(d)(i), delete “2012” and insert “2015”,
- (i) in clause 6 –
- (i) in sub-clause 6(2) delete the clause and insert the following –
    - “(2) The Churchwardens are authorised to invest the Reserve Fund in any mode of investment in which the Trustee is authorised to invest moneys.”,
  - (ii) delete clause 6(3) and insert the following –
    - “3. The Reserve Fund is to be applied –
      - (a) in or towards the reduction of any borrowings pursuant to clause 2 (with the exception of subclause 2(e)); or
      - (b) in or towards future distributions pursuant to clause 7;
      - (c) in or towards payments pursuant to clause 5(c).”,
- (j) delete clause 7 and insert the following –
- “7. (a) The following distributions are authorised for the period commencing 1 July 2015 to 30 June 2020 or until the occurrence of a Trigger Event, whichever is the earlier –
    - (i) an amount equal to 80% of the balance remaining is to be paid to the Churchwardens for the use and benefit of the Parish except payment of the stipend, allowances and benefits paid or provided to the Minister of the Parish; and
    - (ii) an amount equal to 20% of the balance is to be paid to the Sydney Diocesan Synod Fund, for the use and benefit of the Anglican Church of Australia in the Diocese of Sydney as determined from time to time by the Synod.
  - (b) While ever the second and third floors of the Parish Area are not occupied by the parish and let to a third party, the income from those floors will be regarded as income for the purposes of clause 5 and distributed to the Parish and the Synod in the percentages authorised in this clause 7.

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- (c) If an ordinance or policy is passed or approved by the Synod which has the effect of imposing a levy or tax upon the property receipts of parishes within the Diocese, the Parish shall pay the greater of –
  - (i) the amount payable pursuant to such tax or levy, and
  - (ii) the amount payable under clause 7(a)(ii),and such payment shall be taken to be in full satisfaction of the amounts otherwise payable pursuant to such tax or levy and under clause 7(a)(ii).”,
- (k) delete clause 8 and insert the following –
  - “8. The Churchwardens will promote an Ordinance to the Synod of the Diocese or to the Standing Committee for the purpose of considering and if thought fit varying the provisions of clause 7 –
    - (a) on or before 30 June 2020 for a period commencing from and including 1 July 2020; or
    - (b) on the occurrence of a Trigger Event for a period commencing from and including the date the Synod or the Standing Committee vary the provisions of clause 7.”.

### 4. Costs

The reasonable costs (including legal costs and expenses) of the Parish of and incidental to this Ordinance are to be paid from the income of the Building under clause 5(a) of the Principal Ordinance.

### 5. Savings Provisions

Nothing in this Ordinance affects the distribution of income earned from the Property prior to 30 June 2015 and such income is to be applied in accordance with the provisions of the Principal Ordinance in effect immediately prior to the commencement of this Ordinance.

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

PETER YOUNG  
Deputy Chair of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 7 December 2015.

R WICKS  
Secretary

I Assent to this Ordinance.

GN DAVIES  
Archbishop of Sydney

14/12/2015