
St Philip's Sydney Ordinance 1975

(Reprinted under the Interpretation Ordinance 1985.)

St Philip's Sydney Ordinance 1975 as amended by St Philip's Sydney Ordinance 1977 and St Philip's Sydney Ordinance Amendment Ordinance 1983.

Long Title

An Ordinance to authorise Anglican Church Property Trust Diocese of Sydney to receive certain compensation moneys and interest and to vary the Trust upon which said moneys and interest are held.

Preamble

Whereas by Crown Grant dated 26th day of March 1850 registered in the Register of Grants of the United Church of England and Ireland No. 79 page 63 certain lands were granted to The Right Reverend William Grant Broughton the Lord Bishop of Sydney and his successors Bishops of Sydney forever John Campbell and Francis Mitchell upon trust for the erection thereon a School House in connection with the United Church of England and Ireland and for no other purposes whatsoever And Whereas by Crown Grant dated the 11th day of February 1858 registered in the Register of Grants of the United Church of England and Ireland No. 1 page 58/2 certain lands were granted to John Campbell, George Kilgour Ingelow and John Alexander Matthews upon trust for the erection thereon a Church of the United Church of England and Ireland and for no other purpose whatsoever And Whereas by Ordinance No. 16 of 1935 the said lands were vested in the Anglican Church Property Trust Diocese of Sydney (hereinafter called "the Corporate Trustee") upon the aforesaid trusts And Whereas by notification pursuant to Section 42 of the Public Works Act 1912 published in the New South Wales Government Gazette No. 62 of the 15th day of May 1970 there was resumed and vested in The Commissioner for Main Roads the land comprised in Lots 5, 6, 7 and 8 in deposited plan registered number 239163 (which Lots are hereinafter called "the resumed lands") being part of the land comprising Conveyance No. 832 Book 537 and Conveyance No. 929 Book 1468 and also being part of the lands described in the said Crown Grant dated 26th day of March 1850 and the said Crown Grant dated 11th day of February 1858 And Whereas the lands described in the Schedule hereto have been vested in the Corporate Trustee in exchange for part of the resumed lands And Whereas doubt exists as to the Trusts on which the lands described in the Schedule are held And Whereas the Corporate Trustee has received an amount of two hundred and fifty thousand dollars (\$250,000.00) (hereinafter called "the instalment moneys") from The Commissioner for Main Roads on account of compensation for the resumption of the resumed lands and is entitled to receive a further amount of two hundred and sixty-two thousand dollars (\$262,000.00) (hereinafter called "the balance moneys") together with interest on the sum of five hundred and twelve thousand dollars (\$512,000.00) from the date of resumption to the sixth day of December 1973 and interest on the balance moneys from the seventh day of December 1973 to the date of payment of the balance moneys (which sum of \$512,000.00 and amounts of interest are hereinafter called "the compensation moneys") And Whereas the Corporate Trustee has invested the instalment moneys And Whereas by reason of circumstances which have arisen subsequent to the creation of the said Trusts it is expedient that the trusts upon which the interest on the instalment moneys and the entitlement to the compensation moneys are held be varied to the extent hereinafter provided Now the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod Hereby Ordains Declares Rules and Directs as follows -

1. By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the resumed lands were held, it has become inexpedient to carry out the same to the extent to which the same are hereby varied.
2. The Corporate Trustee is hereby authorised to receive and give discharge for the compensation moneys received from The Commissioner for Main Roads by way of compensation for the resumption of the resumed lands in full satisfaction of all claims in respect of the said resumption.

3. (1) The Corporate Trustee shall pay out of the compensation moneys all costs charges and expenses incidental to the resumption and to this Ordinance not otherwise provided for, and, subject to the next succeeding subclause, shall invest the balance then remaining of the compensation moneys (hereinafter called "the Balance") in such manner as it shall in its utmost discretion determine.

(2) If the Balance exceeds \$500,000.00 the Corporate Trustee shall pay thereout

(a) an amount of \$25,000.00 to Anglican Retirement Villages (Diocese of Sydney) provided that that body corporate undertakes that it shall endeavour to give priority of admission to such clergy and officials of the Diocese of Sydney, spouses of such clergy and officials and parishioners of St Philip's Sydney of long standing as may be unable to pay a founder or benefactor's donation and to attribute four units in any new project that it may establish to St Philip's Church Sydney;

(b) an amount of \$20,000.00 to St Andrew's Cathedral Chapter provided that that body undertakes to apply the said amount towards meeting the cost of electrical work in St Andrew's Cathedral

Provided that if the Balance exceeds \$500,000.00 but is less than \$545,000.00 the amounts referred to in paragraphs (a) and (b) of this subclause (2) shall be reduced pro rata.

4. Until the date on which the Corporate Trustee receives the whole of the compensation moneys the income which accrues prior to the thirty-first day of December preceding that date from so much of the compensation moneys as the Corporate Trustee may have received whether before or after the date on which this Ordinance is assented to shall be paid to the Church Wardens for the time being of St Philip's Church Sydney to be applied for the purpose specified in paragraph (a) of clause 5 of this Ordinance Provided that if the said income exceeds forty thousand dollars (\$40,000.00) in any period of twelve months ending on the thirty-first day of December the balance thereof will be applied in accordance with paragraph (b) of clause 5.

5. Subject to clause 4 hereof the Corporate Trustee shall apply all income derived by it from the Balance (whether before or after the date on which this Ordinance is assented to) as follows -

(a) as to \$40,000.00 per annum or the income derived from the Balance for the year whichever is the less for the first twenty years from the 1st day of August 1975 to the Church Wardens for the time being of St Philip's Church, Sydney to be applied by them towards meeting the cost of repairs and renovations to and the restoration and reconstruction of the church building known as St Philip's Church of Sydney, which in the opinion of the Church Wardens ought to be carried out including, without limiting the generality of the foregoing, the restoration of the organ;

(b) as to the balance thereof annually for the benefit of any one or more of the following in such proportions as the Standing Committee of the Synod of the Diocese of Sydney may from time to time by resolution determine:-

(i) educational purposes within the Diocese of Sydney;

(ii) inner city parishes as defined in the Inner City Ordinance 1972-1973 (as amended);

(iii) special purposes assessment grants as determined by the Synod;

(iv) the restoration of historic church buildings within the Diocese of Sydney;

Provided that the Standing Committee, if called upon by the Church Wardens shall, or on its own motion, may, review every three years the amount to be paid under paragraph (a) of this clause 5.

5A. (1) Subject to clause 4 but as soon as possible after this clause 5A takes effect and notwithstanding clause 5 the Corporate Trustee shall realise from the Balance a sufficient sum to repay the loan granted by Westpac Banking Corporation (formerly Bank of New South Wales) to the Churchwardens of St Philip's Sydney for the restoration of the Church building and discharge the said debt.

(2) Subject to clause 4 hereof the Corporate Trustee shall apply all income derived by it from the Balance or so much thereof as shall remain after the deduction of amount referred to in subclause (1) (whether before or after the date on which this clause 5A takes effect) annually for the benefit of any one or more of the

following in such proportions as the Standing Committee of the Synod of the Diocese of Sydney may from time to time by resolution determine -

- (a) educational purposes within the Diocese of Sydney;
- (b) inner city parishes as defined in the Inner City Ordinance 1972-1973 (as amended);
- (c) special purposes assessment grants as determined by the Synod;
- (d) the restoration of historic church buildings within the Diocese of Sydney.

6. The land described in the Schedule hereto shall be held upon trust for the Anglican Church of Australia in the Parish of St Philip, Sydney.

- ii 7. This Ordinance may be cited as "St Philip's Sydney Ordinance 1975-1983".

The Schedule

All Those pieces of land situate in the City of Sydney Parish of St Philip and County of Cumberland being Lots 1 to 4 in Deposited Plan No. 239163 being the lands comprised in Certificates of Title Volume 12046 Folios 4 and 5 and Volume 11879 Folios 106 and 107 respectively.

Note:

The Blue Mountains Grammar School and St Philip's Sydney Ordinance 1975 has some bearing on this Ordinance.

Endnotes

- i. Clause 5A – Inserted by Ordinance No 19, 1983.
- ii. Clause 7 – Amended by Ordinance No 19, 1983.

K.R. BOWDEN
Assistant Diocesan Secretary

W.G.S. GOTLEY
Diocesan Secretary

11 January 1990