
*St. Philip's Sydney York Street Property Leasing
Ordinance 1966*

No. 10, 1966.

AN ORDINANCE to vary the trusts of certain property in York Street Sydney to authorise the granting of an option to lease and the leasing of the same property and for other purposes incidental thereto.

WHEREAS by Crown Grant dated, the 26th day of March 1850 registered in the Register of Grants of the United Church of England and Ireland No. 79 page 63 the lands described in the First Schedule hereto 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 of 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 the lands described in the Second Schedule hereto were granted to John Campbell George Kilgour Ingelow and John Alexander Matthews upon trust for the erection thereon of 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 CHURCH OF ENGLAND PROPERTY TRUST DIOCESE OF SYDNEY (hereinafter called "the Corporate Trustee") upon the aforesaid trusts AND WHEREAS it is proposed to grant an option to BAMBRO (No. 9) PTY. LIMITED (hereinafter called "the Optionee") or its nominee to lease from the Corporate Trustee that part of the said lands described in the Third Schedule hereto AND WHEREAS by reason of circumstances which have arisen subsequent to the creation of the aforesaid trusts upon which the said lands are held it is inexpedient to carry out and observe the same to the extent to which the same are hereby varied and it is expedient to vary such trusts in manner hereinafter mentioned and to 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 circumstances which have arisen subsequent to the creation of the trusts upon which the lands described in the said First and Second Schedules are held it is inexpedient to carry out and observe the same to the extent to which such trusts are hereby varied and it is expedient—

- (a) That an option be granted to lease from the Corporate Trustee the land described in the Third Schedule hereto, and
- (b) That the land described in the Third Schedule hereto be leased.

*St. Philip's Sydney York Street Property Leasing
Ordinance 1966*

2. The Corporate Trustee is hereby authorised to grant an option to the Optionee or its nominee approved by the Standing Committee of Synod either being hereinafter included in the term "Optionee" to lease from the Corporate Trustee the land described in the Third Schedule hereto substantially upon the terms and conditions contained in the draft deed of Option 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's Sydney including inter alia the following provisions—

- (a) Payment by the Optionee of Twelve thousand dollars (\$12,000) for an option of one year by two instalments of Six thousand dollars (\$6,000) each.
- (b) Option may be renewed for any consecutive period or periods not exceeding three (3) years in the aggregate.
- (c) Payment by the Optionee of Five thousand dollars (\$5,000) for the first renewal of one (1) year by two (2) instalments of Two thousand five hundred dollars (\$2,500) each.
- (d) Payment by the Optionee of Three thousand dollars (\$3,000) for each three (3) months of subsequent renewals.
- (e) A covenant by the Corporate Trustee to use its best endeavours to perfect its title and expeditiously to enter into an agreement for the exchange of lands upon the widening of York Street and the variation of the Clarence Street alignment.
- (f) 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 upon being requested so to do by the Optionee.
- (g) A covenant by the Optionee to pay stamp duty on the option real estate consultants' fee not exceeding Three thousand dollars (\$3,000) legal expenses of the preparation and stamping of the option not exceeding Two hundred and fifty dollars (\$250) and reasonable legal expenses in connection with the preparation registration and stamping of the Lease.
- (h) A guarantee of limited period by the Hammerson Property and Investment Trust Limited of the obligations of the Optionee.
- (i) A provision whereby in the event of the Corporate Trustee being divested of any of the land described in the Third Schedule hereto other than land contained in the areas marked X Y1 Y2 and Z1 on the plan referred to in the said Schedule for any reason whatsoever before the Optionee exercises its option the Optionee may at any time thereafter (but not later than six (6) months after the Corporate Trustee shall notify the Optionee in writing thereof) require the

*St. Philip's Sydney York Street Property Leasing
Ordinance 1966*

Corporate Trustee to refund to it all moneys paid by it to the Corporate Trustee pursuant to sub-clauses (a) (c) and (d) of this Clause whereupon such moneys shall become payable forthwith and upon payment the option (if not otherwise terminated) shall be deemed to be at an end.

3. The Corporate Trustee is hereby authorised to lease to the Optionee or its nominee the land described in the Third Schedule hereto subject to its being at the date of exercise of the option 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 substantially upon the terms and conditions contained in the draft Deed of Lease annexed to the said draft Deed of Option which shall include inter alia the following provisions—

- (a) The Lease will commence from the date the option is exercised and expire sixty (60) years after the date of completion of the building herein referred to.
- (b) (i) If the option is exercised within two (2) years from the date of the option payment by the Lessee of Eight thousand five hundred dollars (\$8,500) per annum until the demolition of the Existing Buildings or until the expiration of the period of two (2) years (whichever first occurs) and then at the rate of Twelve thousand dollars (\$12,000) per annum
- (ii) If the option is exercised after the period of two (2) years payment by the Lessee of Twelve thousand dollars (\$12,000) per annum until the date of completion but—

in either event if the Existing Buildings are not demolished within four (4) months from the exercise of the option the rate to be Eight thousand five hundred dollars (\$8,500) from the expiration of the said period of four (4) months or until the date of completion of demolition.

- (c) Payment by the Lessee of a base annual rent of Fifty-five thousand dollars (\$55,000) and an additional rent of Sixteen thousand seven hundred and twelve dollars (\$16,712) during each of the five (5) years following the date of completion aforesaid and a profit rent after the fifth lease year.
- (d) A covenant by the Lessor to demolish the Existing Buildings at its expense within not less than four (4) months nor more than six (6) months after the exercise of the option and a provision that in default the Lessee may complete the demolition at the expense of the Lessor.

*St. Philip's Sydney York Street Property Leasing
Ordinance 1966*

- (e) A covenant by the Lessee to erect a multi-storey tower building according to the plans and specifications approved by the Lessor within three (3) years of the completion of the demolition subject to extensions necessary due to such causes as the Lessor agrees.
- (f) A covenant by the Lessee to pay all the reasonable fees of the Lessor's Architects relating to the erection of the building.
- (g) A proviso for re-entry if the Lessee makes any default in the erection and completion of the building.
- (h) A covenant by the Lessee that should an auditorium be included in the building the Lessee will reserve or ensure there be reserved to the Lessor and the Rector and Churchwardens of St. Philip's Sydney the right to use the same up to ten (10) days in each calendar year for not less than three hours subject to at least six months' notice of each day and the Lessor to pay the same for such use as any other person or organisation on a casual basis.
- (i) A covenant by the Lessee that should apartments for residential purposes be included in the building and offered for letting to the public Hammersons and/or the Lessee will make first offer of one such apartment to the Lessor at current open market value.
- (j) A covenant by the Lessor to use its best endeavours to enter into an agreement for the exchange of lands upon the widening of York Street and the variation of the Clarence Street alignment.
- (k) A covenant by the Lessor to make application for and prosecute all claims for compensation resulting from such exchange of lands.
- (l) 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 the surface to a depth of R.L. 81.00 from the standard datum of lots Y1 and Y2 on the said plan and/or any land contiguous to such lands other than to the land of the Lessor contiguous with Lot E 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.
- (m) Payment by the Lessee of rates land tax insurance and other outgoings or charges on the land to be leased.
- (n) A covenant by the Lessee to keep in good repair and to yield up in the same condition at the expiration of the lease with a limit as to the amount of expenditure during the last ten years of the lease.

*St. Philip's Sydney York Street Property Leasing
Ordinance 1966*

- (o) A covenant not to use or permit the use of the premises for illegal or immoral purposes or otherwise than for commercial retail residential and garaging purposes and such other purposes including public entertainment as the Lessor with the prior consent of the Standing Committee of Synod may from time to time agree to in writing.
- (p) A covenant not to use or permit the use of the premises—
 - (i) for the sale by wholesale of tobacco in any form
 - (ii) in any way connected with betting
 - (iii) for the manufacture, sale or distribution of any wines spirits beers or other intoxicating liquors including the serving of same with meals
 - (iv) in any way connected with narcotic drugs except the normal trading practices of a registered chemist or registered pharmacist
 - (v) for Sunday trading except in so far as the law permits the sale of food and petrol or pharmacist's supplies or any other necessary or emergent services
- (q) A covenant not to erect or permit the erection of any sign or advertisement in such a position as to be visible from the outside of the premises without the approval of the Lessor.
- (r) A covenant by the Lessee not during the last seven (7) years to assign underlet or part with possession of the premises without the consent of the Lessor.
- (s) A covenant by the Lessee not without the consent of the Lessor to name or permit any other person or body to name the building by any name in any way imputing a connection with the Lessor or the Parish of St. Philip's Sydney.
- (t) A proviso for re-entry on non-payment of rent or non-performance of the covenants and conditions.
- (u) A covenant by the Lessor for quiet enjoyment.
- (v) A provision for extension of the lease by further terms of one year up to a maximum of five further terms with provision for re-appraisalment of the base rent.
- (w) A provision for determination of the lease after the forty-ninth year of the term of sixty years if the Lessee elects to redevelop the lands.
- (x) A provision for renewal of the lease for a maximum of sixty years (if the Lessee elects to redevelop) or for the economic life of the building (if the Lessee elects to remodel) with provision for re-appraisalment of the base rent.

*St. Philip's Sydney York Street Property Leasing
Ordinance 1966*

(y) A guarantee of limited period by The Hammerson Property and Investment Trust Limited of the obligations of the Lessee.

4. The Corporate Trustee is hereby authorised to enter into an agreement with Bambro (No. 9) Pty. Limited 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 3 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 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 date of completion referred to in the said Deed of Lease; and

(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.

5. The Corporate Trustee is hereby authorised to grant the supplementary lease or leases referred to in Clause 3 (1) of this Ordinance.

6. The income arising from such option shall be paid by the Corporate Trustee to the Churchwardens of the Parish of St. Philip's Sydney to be applied by such Churchwardens for parochial purposes but principally for the restoration and maintenance of the Church of St. Philip's Sydney.

7. The proceeds of the borrowing referred to in Clause 4 of this Ordinance and the income arising from such lease shall be paid by the Corporate Trustee as follows—

(a) As to the sum of Seventy thousand dollars (\$70,000) referred to in Clause 4 of this Ordinance to the Churchwardens of the Parish of St. Philip's 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 Clause 3(c) of this Ordinance in repayment of the principal and interest pursuant to the loan agreement referred to in Clause 4 of this Ordinance.

**St. Philip's Sydney York Street Property Leasing
Ordinance 1966**

(c) As to the rent payable by the Lessee after the completion of the new building or buildings during the first year of the lease less the additional rent referred to in Clause 3(c) of this Ordinance and management and/or administration charges incurred in connection with the lease to the Churchwardens of the Parish of St. Philip's Sydney to be allocated by such Churchwardens to the St. Philip's Restoration Fund.

(d) As to the rent payable by the Lessee during the second to tenth years inclusive of the Lease less the additional rent referred to in Clause 3(c) of this Ordinance and management and/or administration charges incurred in connection with the lease—

(i) One half thereof to the Churchwardens of the Parish of St. Philip's Sydney to be applied by them to the following purposes in the following proportions each year—

Stipends and Allowances	\$6,400
Diocesan Assessments	3,000
Secretarial and Office Equipment	3,000
Organists, Music—Maintenance of Organ, Choir and Robes	4,000
Verger and Cleaning	2,500
Maintenance of Church, Rectory, Parish Rooms, Offices and Church Grounds	4,000
Maintenance of Bells and payment of Bellringers	1,300
Insurances	400
Contingency Fund for Lecture Tour (overseas or local lecturer)	2,900
	\$27,500

Provided that if the total sum received by the Churchwardens shall be more or less than the sum of Twenty seven thousand five hundred dollars (\$27,500) each of the amounts allocated and set opposite each of the purposes referred to above shall be increased or reduced in the like proportion provided further however that at the end of each financial year the Churchwardens of the Parish of St. Philip's Sydney shall pay to the Free Fund hereinafter referred to for the Diocese of Sydney a sum equal to the amount unexpended 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 one half thereof to pay each year to each of the following the amount set opposite its name—

**St. Philip's Sydney York Street Property Leasing
Ordinance 1966**

Church Missionary Society	\$1,000
Australian Board of Missions	1,000
Home Mission Society—	
General	\$1,000
Family Service Centre	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 Restoration Fund	1,000
Church of England Television Society	1,000
Sydney Church of England Aged Persons Homes Board	1,000
Youth Department for Inner-City Work	1,000
St. Andrew's Cathedral Chapter	1,000
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.	

- (c) During the ninth year of the lease and every successive tenth year of the lease agreement shall be reached between the Churchwardens of the Parish of St. Philip's 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.

8. This Ordinance may be cited as the "St. Philip's Sydney York Street Property Leasing Ordinance 1966."

THE FIRST SCHEDULE HEREINBEFORE REFERRED TO

All that piece or parcel of land containing by admeasurement One rood and eighteen perches be the same more or less situated in the County of Cumberland Parish of St. Philip and City of Sydney on Church Hill commencing in Clarence Street at the North West corner of the Church allotment and bounded on the West by that Street bearing North fifteen degrees West one chain thirty-nine links on the North by Charlotte Place bearing East fifteen degrees North two chains sixty-three links on the East by York Street bearing South fifteen degrees East one chain thirty-nine links to the North East corner of the Church allotment and on the South by that allotment bearing West fifteen degrees South two chains sixty-three links to the commencing corner.

*St. Philip's Sydney York Street Property Leasing
Ordinance 1966*

THE SECOND SCHEDULE HEREINBEFORE REFERRED TO

All that piece or parcel of land containing by admeasurement Two roods thirty perches and three-quarters of a perch be the same more or less situated in the County of Cumberland and Parish of St. Philip and City of Sydney commencing at the westerly intersection of York and Jamison Streets and bounded thence on the North by the south-west building line of York Street North westerly one hundred and seventy-four feet on the North West by a line South Westerly parallel to Jamison Street One hundred and seventy-three feet six inches to Clarence Street on the South West by the North East building line of Clarence Street South Easterly one hundred and seventy-four feet to Jamison Street on the South East by the North West building line of that Street North Easterly one hundred and seventy-three feet six inches to the point of commencement.

THE THIRD 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 the said option is exercised 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.

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 second day of May 1966.

W. L. J. HUTCHISON,
Secretary.

I assent to this Ordinance.

MARCUS L. LOANE,
Bishop Commissary.

2/5/1966.