

St James' Sydney Phillip Street Amendment Ordinance 2004

No 40, 2004

Long Title

An Ordinance to vary the trusts set out in the St James' Sydney Phillip Street Property Ordinance 1962 and to authorise distributions from the property held on those trusts.

Preamble

A. The Glebe Administration Board (the "GAB") is the registered proprietor of the land contained in Folio Identifier 1/61495 (the "Land").

B. Upon the Land is erected a 15 storey office building known as 169-171 Phillip Street, Sydney (the "Building").

C. The St James Sydney Phillip Street Property Ordinance 1962 (the "Principal Ordinance") provides for GAB to lease the land and apply the income in a certain manner.

D. Clause 8 of the Principal Ordinance provides that on or before 31 December 2004 the churchwardens of St James Sydney King Street (the "Churchwardens") must promote an ordinance for the purpose of reviewing and if thought fit varying the provisions of clause 7 of the Principal Ordinance for the 4 year period commencing from and including 1 January 2005.

E. It is expedient to amend the Principal Ordinance and to vary the trusts upon which the Land and the Building are held so as to provide for the application of and distribution of income from the Building for a further 2 year period commencing 1 January 2005.

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

1. Name of Ordinance

This Ordinance is the St James' Sydney Phillip Street Amendment Ordinance 2004.

2. Declaration

By reason of circumstances which have arisen after the creation of the trusts on which the Land and the Building are held, it is inexpedient to carry out and observe those trusts and it is expedient that the trusts be varied in the manner set out in this Ordinance.

3. Payment of costs

GAB is authorised to pay from the income received from the Building the costs incurred by the Churchwardens of and incidental to the promotion of this Ordinance.

4. Application of income in 2005 and onwards

The Principal Ordinance is amended as follows -

(a) in clause 5 the matter "1999-2004" is deleted and "1999-2006" is inserted instead;

(b) insert a new clause 7A as follows -

"7A. (1) To the extent that the income from the Building (excluding the Parish Area) is insufficient to make the distributions referred to in clauses 7(d), 7(e), 7(f), 7(g) and 7(h) (as indexed pursuant to clause 7(i)), GAB may make such payments from the capital of the Building, or funds borrowed by GAB for that purpose.

(2) For the avoidance of doubt, the mortgaging powers given to GAB pursuant to clause 2 extend to GAB granting a mortgage or borrowing moneys to make the payments referred to in clause 7A(1); and

(c) in clause 8 -

(i) the heading "Review after 5 Years" is deleted and the heading "Review after 2 Years" is inserted instead; and

(ii) the year "2004" is deleted and "2006" is inserted instead, and

(iii) the number "4" is deleted and "2" is inserted instead, and

St James' Sydney Phillip Street Amendment Ordinance 2004

(iv) the year "2005" is deleted and "2007" is inserted instead.

5. Variation of Trusts

The trusts of the Land and Building are varied to the extent necessary to enable GAB to make the payments and grant a mortgage or charge in accordance with clause 7A of the Principal Ordinance.

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

PG KELL
Chairman of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 15 November 2004.

MA PAYNE
Secretary

I Assent to this Ordinance.

PETER F JENSEN
Archbishop of Sydney
16/11/2004