

East Sydney (Kings Cross) Leasing Ordinance 2000

No 7, 2000

Long Title

An Ordinance to authorise the leasing of the property known as 120A Darlinghurst Road, Darlinghurst and the distribution of the rent.

Preamble

- A. The land (Land) described in the First Schedule and the Second Schedule is vested in the Property Trust.
- B. Under the St Johns Darlinghurst Vesting and Leasing Ordinance 1962 the Land is held on trust as to part to be used as a church, parsonage or parish hall in connection with the Church of England in the Parish of St Johns Darlinghurst and as to the remainder (being the land described in the Third Schedule) (the Leased Site) to be leased for a term not exceeding 20 years on the conditions, and with the rent to be applied in the manner, specified in the Ordinance.
- C. The Parish of St Johns Darlinghurst is now known as the Parish of East Sydney (the Parish).
- D. Under the St Johns Kings Cross Leasing Ordinance 1988 the trusts on which the Land is held were amended to authorise the Property Trust to lease the Leased Site for a term not exceeding 5 years on the conditions, and with the rent applied in the manner, specified in the Ordinance.
- E. Under the St Johns Kings Cross Leasing Ordinance 1992 the Property Trust was authorised to lease the Leased Site for a term not exceeding 5 years on the conditions, and with the rent applied in the manner, specified in the Ordinance.
- F. Under the East Sydney (Kings Cross) Leasing Ordinance 1997 (1997 Ordinance) the Property Trust was authorised to lease the Leased Site for a term of 1 year and to grant an option to renew the lease for a further term of 1 year on the conditions, and with the rent applied in the manner, specified in the Ordinance.
- G. The option to renew referred to in recital F was exercised by the lessee and it is anticipated that the lessee will vacate the Leased Site no later than 13 April 2000.
- H. Under the East Sydney (Kings Cross) Development Ordinance 1999 (1999 Ordinance) the trusts on which the Leased Site was held were amended to authorise the Property Trust to lease the Leased Site for a term of 60 years with two options for further terms of 20 years and 19 years respectively and to permit the redevelopment of the Leased Site by the construction by the lessee of a serviced apartment complex.
- I. The Property Trust proposes not to proceed with the redevelopment outlined in the 1999 Ordinance.
- J. The Property Trust proposes to lease the Leased Site for a further term not exceeding 5 years and to distribute the rent from such lease in the manner set out in this Ordinance.
- K. By reason of circumstances which have arisen after the creation of the trusts created by the 1997 Ordinance and the 1999 Ordinance in respect of the Leased Site it is inexpedient to carry out and observe those trusts and it is expedient that they be varied in the manner set out below, and it is also inexpedient to deal with the Leased Site or apply the rent in the manner provided in those Ordinances and it is expedient that the Leased Site be leased in the manner set out below.

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

1. Name of Ordinance

This Ordinance is the East Sydney (Kings Cross) Leasing Ordinance 2000.

2. Variation of Trust

By reason of circumstances which have arisen after the creation of the trusts created by the 1997 Ordinance and the 1999 Ordinance in respect of the Leased Site it is inexpedient to carry out and observe those trusts and it is expedient that they be varied in the manner set out below, and it is also inexpedient to deal with the Leased Site or apply the rent in the manner provided in those Ordinances and it is expedient that the Leased Site be leased in the manner set out in this Ordinance.

3. Authority to Lease

The Property Trust is authorised to lease the Leased Site for a term (including any option of renewal) not exceeding 5 years at the best rent achievable to be used for a commercial purpose which is approved by the local council and which does not breach any written policy of the Standing Committee relating to the use of land and on such other terms and conditions as the Property Trust thinks fit.

4. Application of Proceeds

The rent received by the Property Trust under the lease authorised by this Ordinance, after payment of the costs of and incidental to this Ordinance and any charges and commissions properly payable to the Property Trust (the net proceeds) is to be applied as follows:

- (a) first, as to 12.5% of the net proceeds, to the South Sydney Regional Council for the purposes of that Council;
- (b) secondly, as to 1% of the net proceeds, to the Church Missionary Society to be used in such manner as the New South Wales General Committee of that Society shall determine from time to time;
- (c) thirdly, as to 66% of the net proceeds received in the first year of the lease and as to 67% of the net proceeds received thereafter, in payment of stipends, allowances, salaries or fees of clerical and/or lay persons (other than the stipends or allowances of the Rector) employed or contracted on a full or part time basis within the Parish or within adjacent areas in the Diocese;

East Sydney (Kings Cross) Leasing Ordinance 2000

- (d) fourthly, as to 8.3% of the net proceeds received in the first year of the lease only, to the Property Planning Development Reserve Fund currently administered by the Property Trust to be applied towards the costs of preparing a development strategy of the Leased Site;
- (e) fifthly, as to 7.7% of the net proceeds, to be paid to the Church Wardens of St Johns Darlinghurst to be applied by them in or towards estimated diocesan assessments (including the payment of Parish Ministry/Property costs) payable by the Parish during 2003 and 2004 provided that if the amount of such assessments is less than the amount of such provision an amount equal to the excess shall be paid to the Sydney Diocesan Secretariat for application by an ordinance of the Synod for the maintenance of historical buildings in the region administered by the South Sydney Regional Council;
- (f) sixthly, as to the residue of the net proceeds, to be paid to the churchwardens of St John's Church Darlinghurst for the maintenance, refurbishment, repair, renovation and restoration of St John's Church building, church organ and other fittings, fixtures and furniture, the rectory and the church hall and fencing and walls adjacent to the church.

5. Investment of Proceeds Pending Application

Pending the application of the rent under clause 4 all amounts received by the Property Trust are to be invested and the income capitalised.

First Schedule

All that piece or parcel of land in Our said Territory, containing by admeasurements Three roods, thirty seven perches and three quarters of a perch, be the same more or less, situated in the County of Cumberland and Parish of Alexandria, City of Sydney at Darlinghurst, commencing on the West Side of Victoria Street at the South East corner of the Church of England School allotment and bounded on the east by Victoria Street bearing south three chains and eighty links; on the South by a line bearing West two chains fifty nine links and one half link to Brougham Street; on the West by Brougham Street bearing North three chains and eighty links, and on the North by the South boundary of the School allotment aforesaid being a line bearing East two chains fifty nine links and one half link to the point of commencement. Advertised in the Government Notice dated 5 March 1857.

Second Schedule

All that piece or parcel of land in Our said Territory, containing by admeasurement, one rood, fourteen and one half perches be the same more or less, situated in the County of Cumberland and Parish of Alexandria at Woolloomooloo City of Sydney, commencing at the North East corner of the Church allotment and bounded on the east by Victoria Street northerly one chain thirty three and one half links; on the North by Westerly line of two chains and Sixty links to Brougham Street; on the West by that Street southerly one chain thirty links; and on the South by an easterly line of two chains fifty nine and one half links, dividing it from vacant land and from the Church allotment, to the commencing corner aforesaid.

Third Schedule

All that piece or parcel of land containing about 1 rood 12 perches being part of the land in Crown Grants of 28th October 1857 and 27th March 1850 for Church, parsonage and school situated in the City of Sydney Parish of Alexandria County of Cumberland State of New South Wales, commencing at a point on the Western alignment of Victoria Street being 1 degree 3 minutes and distant 383 feet 5 inches from the intersection of the western alignment of that street with the northern alignment of Liverpool Street and bounded thence on the east by part of the aforesaid western alignment of Victoria Street being a line bearing 1 degree 3 minutes for 123 feet to the south eastern corner of land comprised in Primary Application No 28790 on the north by the southern boundary of the land comprised in that Application being a line passing along the southern face of a brick wall bearing 269 degrees 31 minutes 20 seconds for 125 feet 8½ inches to the south eastern alignment of Darlinghurst Road as fixed 10 feet south west of a very old stone kerb on the north west by part of the south eastern alignment of Darlinghurst Road by lines bearing consecutively 196 degrees 27 minutes for 4 inches, 196 degrees 1 minute for 96 feet 6½ inches and 194 degrees 28 minutes 30 seconds for 3 feet 1¼ inches and on the south west by lines bearing consecutively 92 degrees 17 minutes for 119 feet 5 inches and 123 degrees 37 minutes for 38 feet to the point of commencement be the said several dimensions all a little more or less.

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

N M CAMERON
Chairman of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 3 April 2000.

M A PAYNE
Secretary

I Assent to this Ordinance.

R H GOODHEW
Archbishop of Sydney
6/4/2000