

## SYDNEY CORPORATION (DEED RATIFICATION) ACT.

Act No. 20, 1939.

George VI.  
No. 20, 1939.

An Act to ratify a certain deed made between The Municipal Council of Sydney of the first part, the Most Reverend Michael Kelly, the Most Reverend Michael Sheehan, the Very Reverend Thomas Phelan, the Reverend John Halpin of the second part, The Trustees of the Roman Catholic Church for the Archdiocese of Sydney of the third part; to provide for the carrying into effect of the said deed; and for purposes connected therewith. [Assented to, 28th October, 1939.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

**1.** This Act may be cited as the "Sydney Corporation (Deed Ratification) Act, 1939."

Ratification  
of deed.

**2.** (1) The deed, a copy of which is set out in the Schedule to this Act (in this section referred to as "the deed"), is hereby ratified and validated, and the doing or performance of all such acts, matters or things as are to be or may be done or performed under or in pursuance of the deed is hereby authorised and the deed may be carried into effect notwithstanding the provisions of any other Act and notwithstanding the terms of any trust.

(2) Without prejudice to the generality of subsection one of this section all acts, matters and things for or with respect to which provision is made in the deed, or which by the deed are agreed, directed, authorised or permitted to be done or performed by any one or more of the parties to the deed are hereby sanctioned, authorised and confirmed.

(3) The land described in Schedule Three to the deed shall, when transferred in pursuance of clause four  
of

of the deed, be held by the Trustees of the Roman Catholic Church for the Archdiocese of Sydney as church trust property within the meaning of the Roman Catholic Church Trust Property Act, 1936.

(4) The Municipal Council of Sydney is hereby released and discharged from all claims for compensation on account of the resumption by that Council of the land referred to in the deed as the resumed land, and more particularly described in Schedule One and Schedule Two to the deed.

This subsection shall not be construed so as to affect in any way whatsoever the operation of the deed.

#### SCHEDULE.

THIS DEED made the seventh day of June One thousand nine hundred and thirty-nine BETWEEN THE MUNICIPAL COUNCIL OF SYDNEY (hereinafter called "the Council") of the first part MOST REVEREND MICHAEL KELLY Roman Catholic Archbishop of Sydney MOST REVEREND MICHAEL SHEEHAN of Sydney VERY REVEREND THOMAS PHELAN of Sydney REVEREND JOHN HALPIN of Granville Clerks in Holy Orders (hereinafter called "the Releasers" which expression shall include the survivors or survivor of them and the executors or administrators of such survivor) of the second part and THE TRUSTEES OF THE ROMAN CATHOLIC CHURCH FOR THE ARCHDIOCESE OF SYDNEY a body corporate under and by virtue of the Roman Catholic Church Trust Property Act 1936 (hereinafter called "the Corporation" which expression shall include its successors and assigns) of the third part WHEREAS the Council by Notice of Resumption published in the Government Gazette and the Sydney daily newspapers duly resumed on the sixth day of September one thousand nine hundred and twenty six inter alia the land described in Schedules One and Two to this Deed (which land is hereinafter referred to as "the resumed land") and thereupon the resumed land became for the purposes of and subject to the provisions of the Sydney Corporation (Amendment) Act 1905 as amended vested in the Council for an estate in fee simple in possession freed and discharged from all trusts obligations estates interests contracts charges rates rights of way or easements whatsoever AND WHEREAS at the date of such resumption the land described in the said Schedule One was vested in the Releasers and one Right Reverend Monsignor Patrick Lewis Coonan for an estate in fee simple upon the trusts set out in Crown Grant dated thirty-first day of March one thousand eight hundred and forty-six and registered in the Register of Roman Catholic Church Grants No. 94 Page 3 AND WHEREAS at the date of the said resumption the Releasers and the said Right Reverend Monsignor Patrick Lewis Coonan were the registered proprietors in fee simple by virtue of Certificate of Title Registered Volume 714

Folio

No. 20, 1939.

Folio 225 of inter alia the land described in the said Schedule Two subject however to Memorandum of Mortgage Registered Number B111287 to the Bank of New South Wales which mortgage has since the date of the said resumption been discharged AND WHEREAS by Notice of Claim dated 1st day of November one thousand nine hundred and twenty six the Releasors and the said Right Reverend Monsignor Patrick Lewis Coonan claimed compensation in respect of the land described in the said Schedule Two as Trustees of St. Benedicts Church AND WHEREAS no instrument of trust in respect of the land described in the said Schedule Two has been registered in the Office of the Registrar General nor has any such instrument been produced to the Council AND WHEREAS at the date of the said resumption the Releasors and the said Right Reverend Monsignor Patrick Lewis Coonan were not entitled to sell or convey the land described in the said Schedule Two except under the provisions of the Public Works Act 1912 AND WHEREAS by the said Notice of Claim the Releasors and the said Right Reverend Monsignor Patrick Lewis Coonan claimed compensation for the resumption of the land described in the said Schedule One AND WHEREAS in respect of the resumed land the Releasors and the said Right Reverend Monsignor Patrick Lewis Coonan claimed from the Council compensation in money in the sum of One hundred and twenty two thousand nine hundred and ninety pounds (£122,990) AND WHEREAS since the date of the said resumption the said Patrick Lewis Coonan has died AND WHEREAS since the date of the said resumption and at the present time there stands upon the land described in the said Schedule One a portion of the St. Benedicts Roman Catholic Church and a stone wall and upon the land described in the said Schedule Two a portion of the presbytery used and occupied in connection with the said Church and a stone wall AND WHEREAS the Releasors have with the consent of the Council continued in occupation of the resumed land as if they had remained the owners thereof and are with such consent still so in occupation thereof AND WHEREAS by virtue of the Roman Catholic Church Trust Property Act 1936 the whole of the land comprised in Certificate of Title registered Volume 714 Folio 225 and the whole of the land comprised in the hereinbefore recited Crown Grant other than the resumed land were vested in the Corporation AND WHEREAS the parties hereto are desirous that the claims of the Releasors arising out of the said resumption shall be settled in the manner hereinafter set forth NOW THIS DEED WITNESSETH that the parties hereto mutually covenant and agree as follows:—

1. THIS Deed is subject to ratification by an Act of the Parliament of the State of New South Wales so as to validate its execution and so as to authorise the doing or performance of all such acts matters or things as are to be or may be done or performed under or in pursuance of this Deed and shall not be of any force or effect until so ratified.

2. THE covenants herein contained on the part of the Releasors shall be deemed to have been made by them jointly and severally And covenants herein contained on the part of the Releasors and the Corporation shall be deemed to have been made by each of the Releasors and the Corporation jointly and severally.

3.

3. THE Council at the request and by the direction of the Releasors shall pay to the Corporation the sum of Forty thousand six hundred and twenty three pounds ten shillings and one penny (£40,623 10s. 1d.) less the sum which the Council shall be entitled to deduct therefrom in accordance with Clause Nine hereof and the sum so payable shall be paid to the Corporation as hereinafter provided.

4. THE Council at the request and by the direction of the Releasors shall transfer to the Corporation the land described in Schedule Three to this Deed and the Corporation will accept such transfer. The Council shall pay to the Corporation its reasonable and proper legal costs not exceeding Ten pounds ten shillings (£10 10s. 0d.) in connection with the said transfer and shall pay the stamp duty and registration fees payable in connection with the stamping and registering of the said transfer.

5. THE Council shall be entitled to the rents and profits and shall pay or bear all rates taxes and outgoings in respect of the land described in the said Schedule Three up to the date of the transfer referred to in Clause Four hereof from which date the Corporation shall be entitled to the rents and profits and shall pay and bear such rates taxes and outgoings properly chargeable and any necessary apportionments thereof shall be made at the date of such transfer.

6. EITHER the Releasors or the Corporation shall pay and bear all rates and taxes properly chargeable in respect of the resumed land up to the date of the said transfer from which date the Council shall subject to Clause Seven hereof be entitled to the rents and profits and shall pay and bear such rates taxes and outgoings and any necessary apportionments shall be made and adjusted on the date of the said transfer and for the purposes of this clause the Releasors and the Corporation shall be deemed to have remained the owners of the resumed land up to the date of the said transfer.

7. THE Releasors and the Corporation will on or before the expiration of a period of three months from the date on which notification of the Governor's assent to the Act of Parliament of the State of New South Wales referred to in Clause One hereof is published in the New South Wales Government Gazette demolish to the ground level of the resumed land and subject to the following paragraph of this clause remove from the resumed land all the buildings or portions thereof and the fences and other obstructions standing on the resumed land.

The Releasors and the Corporation shall be entitled for a period of twelve months commencing on and from the date on which notification of the Governor's assent to the Act of Parliament of the State of New South Wales referred to in Clause One hereof is published in the New South Wales Government Gazette to place and store upon the land described in Schedule Four to this Deed the whole of the demolished materials of the said buildings fences and other obstructions which are now standing on the resumed land. Such materials shall be placed and stored in a safe condition and sightly manner and to the satisfaction of the Town Clerk of the Council and the Releasors and the Corporation hereby indemnify the Council against all actions claims or demands which may be made or taken against the Council arising out of the Council having granted to the Releasors  
and

No. 20, 1939.

and the Corporation the right to place and store the said materials and/or arising out of such placing and storing thereof upon the land described in the said Schedule Four. The demolished materials of the said buildings fences and obstructions shall become the property of the Corporation upon demolition and either the Releasors or the Corporation shall remove from the land described in the said Schedule Four the said buildings fences and obstructions and the materials thereof not later than the expiration of the said period of twelve months referred to in this Clause and on such date shall leave the land described in the said Schedule Four clear of all obstructions to ground level of the resumed land and in a clean condition.

8. THE said sum of Forty thousand six hundred and twenty three pounds ten shillings and one penny (£40,623 10s. 1d.) less the sum which the Council shall be entitled to deduct therefrom in accordance with Clause Nine hereof shall as to Ten thousand pounds thereof be paid to the Corporation within seven days after the date on which notification of the Governor's assent to the Act of the Parliament of the State of New South Wales referred to in Clause One hereof is published in the New South Wales Government Gazette and as to the balance thereof on the day on which the transfer of the land referred to in Clause Four hereof shall take place in accordance with the next succeeding paragraph of this clause.

The transfer of the land referred to in Clause Four hereof shall take place on a day chosen by the Town Clerk of the Council and which is within fourteen days after the completion of the demolition and removal subject to the second paragraph of Clause Seven of the buildings fences and obstructions referred to in the said Clause Seven hereof.

9. THE Council shall be entitled to deduct from the said sum of Forty thousand six hundred and twenty three pounds ten shillings and one penny the rates and interest on such rates outstanding upon the properties as shown in Schedule Five to this Deed and such deduction shall be made on the day on which the said sum of Ten thousand pounds is paid as provided by Clause Eight hereof.

10. IN consideration of the premises the Releasors and the Corporation hereby remise release and forever quit claim unto the Council its successors and assigns all claims demands actions suits cause or causes of action or suit sum or sums of money compensation interest damages costs and expenses which either the Releasors or the Corporation had or now have or at any time hereafter may have against the Council its successors and assigns for or on account of the resumption and taking of the resumed land or for or by reason or on account of any matter or thing arising out of or in respect of the said resumption or otherwise howsoever in respect of the premises And the Releasors and the Corporation hereby indemnify the Council against all claims demands actions suits cause or causes of action or suit sum or sums of money compensation interest damages costs and expenses which may arise out of the said resumption or be in any way connected therewith on the part of the Releasors or the Corporation or any person or persons claiming under or by virtue of them or any of them.

IN WITNESS WHEREOF the parties hereto have duly executed  
these presents. SCHEDULE

SCHEDULE ONE.

No. 20, 1919.

All that piece or parcel of land containing an area of 12½ perches situate in the City of Sydney Parish of Alexandria County of Cumberland being part of the land comprised in Certificate of Title Registered Volume 5,001 Folio 114 and being also part of 1 rood 10 perches originally granted to Most Reverend John Bede Polding, Very Reverend Henry Gregory Gregory, Reverend John McEnroe, Charles Henry Chambers and Michael Byrne by Crown Grant dated the 31st March 1846 commencing at a point being the intersection of the southern building line of Broadway with the western building line of Abercrombie Street and bounded thence on the east by that building line of Abercrombie Street bearing 167 degrees 10 minutes 30 seconds for 45 feet 3¼ inches thence on part of the south-west by an arc of a circle whose length is 30 feet 11½ inches whose radius is 20 feet and whose chord lies on the south-west of the arc and bears 302 degrees 50 minutes 45 seconds for 27 feet 11½ inches thence on the south by a line bearing 258 degrees 31 minutes for 101 feet 2 inches thence on the west by a line bearing 346 degrees 50 minutes for 11 inches thence on the remainder of the south-west by a line bearing 326 degrees 46 minutes for 27 feet and ¾ inch to the southern building line of Broadway aforesaid and thence on the north by that building line bearing 78 degrees 39 minutes 40 seconds for 130 feet 2 inches to the point of commencement.

SCHEDULE TWO.

All that piece or parcel of land containing an area of 1½ perches situate as aforesaid being part of Lot 14 Section 5 Deposited Plan 466 and being part of the land comprised in Certificate of Title Registered Volume 5001 Folio 114 formerly part of Certificate of Title Registered Volume 714 Folio 225 commencing at a point being the north-western corner of the land comprised in Certificate of Title Registered Volume 714 Folio 225 and bounded thence on the north by the southern building line of Broadway bearing 78 degrees 39 minutes 40 seconds for 8 feet 11¼ inches to the land comprised in Schedule One thence on the north-east and east by boundaries of the land comprised in that Schedule being lines bearing 146 degrees 46 minutes for 27 feet and ¾ inch and 166 degrees 50 minutes for 11 inches respectively thence on the south by a line bearing 258 degrees 31 minutes for 18 feet 2½ inches and thence on the west by part of the western boundary of Lot 14 aforesaid being a line bearing 346 degrees 47 minutes 10 seconds for 26 feet 1 inch to the point of commencement.

SCHEDULE THREE.

All that piece or parcel of land containing an area of 4½ perches situate as aforesaid being part of Lots 15 and 16 Section 5 Deposited Plan 466 and part of the former site of Grafton Lane being also part of the land comprised in Certificate of Title Registered Volume 5001 Folio 114 commencing at a point being the south-western corner of the land comprised in Schedule Two and bounded thence on part of the east by part of the eastern boundary of Lot 15 being a line bearing 166 degrees 47 minutes 10 seconds for 44 feet 6½ inches thence on  
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No. 20, 1939.

part of the north by a line bearing 76 degrees 47 minutes 10 seconds for 3 feet thence on the remainder of the east by a line bearing 166 degrees 47 minutes 10 seconds for 14 feet thence on the south by a line bearing 256 degrees 47 minutes 10 seconds for 25 feet thence on the west by a line bearing 346 degrees 47 minutes 10 seconds for 59 feet 2½ inches to the new southern building line of Broadway and thence on the remainder of the north by that building line bearing 78 degrees 31 minutes for 22 feet and ⅓ inch to the point of commencement.

## SCHEDULE FOUR.

All that piece or parcel of land situate as aforesaid being part of the lands comprised in Schedules One and Two having a width of 6 feet extending from the western boundary of the land comprised in Schedule Two to the western building line of Abercrombie Street and adjoining on the north and north-east the southern boundaries of the lands comprised in Schedules Two and One and a south-western boundary of the land comprised in Schedule One.

## SCHEDULE FIVE.

## UNIMPROVED CAPITAL VALUE RATES.

Situation and Rate Number.				Daily Interest.		
Hall—Abercrombie Street.						
Rate No. 14095.	£	s.	d.	£	s.	d.
Arrears to 31/12/1938 ...	811	8	11			
Interest to 15/5/1939 ...	164	1	8			
Rates year 1939 ...	86	4	4			
				1,061	14	11
Land—Buckland Street.						1 7½
Rate No. 14163.						
Arrears to 31/12/1938 ...	440	8	10			
Interest to 15/5/1939 ...	97	7	7			
Rates year 1939 ...	38	9	9			
				576	6	2
Off Broadway.						10½
Rate No. O/N 13925.						
Arrears to 31/12/1931 ...	170	2	0			
Interest to 15/5/1939 ...	53	0	2			
				223	2	2
Abercrombie Street.						3½
Rate No. O/N 18444.						
Arrears to 31/12/1924 ...	727	13	3			
Interest to 15/5/1939 ...	461	12	11			
				1,189	6	2
						1 2¼
TOTAL ...				£3,050	9	5

NOTE:—Interest is calculated to 15th May, 1939, in respect of rates levied up to 31st December, 1938. Additional interest will accrue at approximately 4s. per day as shown above and if the rates for year 1939 or any portion thereof remain unpaid after 31st August, 1939, they or such portion will also become liable to interest as from 1st March, 1939, until date of payment at 4 per cent. per annum.

THE

**Sydney Corporation (Deed Ratification) Act.**

**281**

**No. 20, 1939.**

THE COMMON SEAL of THE MUNICIPAL COUNCIL OF SYDNEY was hereunto affixed by me FREDERICK JOHN SMITH Acting Town Clerk of the City of Sydney on the thirtieth day of May, 1939.  
F. J. SMITH, Acting Town Clerk.

L.S.

SIGNED SEALED AND DELIVERED by the MOST REVEREND MICHAEL KELLY in the presence of:

+ M. KELLY.

J. J. NORRIS.

SIGNED SEALED AND DELIVERED by the MOST REVEREND MICHAEL SHEEHAN in the presence of:

MICHAEL SHEEHAN  
by his Attorney  
THOMAS PHELAN.

J. H. QUAIN, Solicitor, Sydney.

SIGNED SEALED AND DELIVERED by the VERY REVEREND THOMAS PHELAN in the presence of:

THOMAS PHELAN.

J. H. QUAIN.

SIGNED SEALED AND DELIVERED by the REVEREND JOHN HALPIN in the presence of:

JOHN HALPIN.

J. H. QUAIN.

THE COMMON SEAL of the Trustees of the Roman Catholic Church for the Archdiocese of Sydney was affixed hereto in pursuance of a resolution passed at a meeting of the said Body Corporate, in the presence of:

+ M. KELLY,  
Archbishop of Sydney.  
THOMAS PHELAN,  
Trustee.  
JOHN MARTIN,  
Trustee.

PATRICK A. DOHERTY, Secretary.

L.S.

**MEMORANDUM OF NON-REVOCATION OF POWER OF ATTORNEY.**

Memorandum whereby the undersigned states that he has no notice of the revocation of Power of Attorney Registered Number 19154 Miscellaneous Register under the authority of which he has just executed the within Deed.

SIGNED at Sydney the seventh day of June One thousand nine hundred and thirty-nine.

THOMAS PHELAN.

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**APPROPRIATION**