

Endowment of the See Capital Ordinance 2012

(Reprinted under the Interpretation Ordinance 1985.)

The Endowment of the See Capital Ordinance 2012 as amended by the Endowment of the See Capital Ordinance 2012 Amendment Ordinance 2013, the Anglican Church Property Trust Diocese of Sydney (Financial Reporting) Amendment Ordinance 2014, Endowment of the See (Chatswood) Land Sale Ordinance 2014, St Andrew's House Trust Ordinance 2015 Amendment and Variation of Trusts Ordinance 2018, and the Endowment of the See Variation of Trusts and Amendment Ordinance 2019.

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Long Title

An Ordinance to redeclare the trusts on which part of the property comprising the Endowment of the See is held, and for purposes related thereto.

Preamble

A. Anglican Church Property Trust Diocese of Sydney (the "Property Trust") is the trustee of the property held on the trusts set out in the 7th Schedule of the Endowment of the See Ordinance 1977.

B. By the Endowment of the See Expenditure Ordinance 2012 the sum of \$3 million was paid from such property to create a fund for the purposes of administering the expenditure of the Endowment of the See.

C. By reason of circumstances which have arisen after the creation of the trusts on which the remainder of such property is held the Property Trust has agreed to resign as trustee of such property and it is expedient to appoint a new trustee in its place.

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

1. Name

This Ordinance is the Endowment of the See Capital Ordinance 2012.

2. Definitions

In this Ordinance –

"Capital Fund" means such of the Existing Property as remains held by the Trustee from time to time, and such other property as may be paid to, applied or acquired by the Trustee to be held on the trusts set out in this Ordinance.

"EOS Corporation" means the body corporate constituted under the Endowment of the See Corporation Ordinance 2019.

"EOS Fund" means the fund established by the Endowment of the See Trust Ordinance 2019.

"EOS Trust Ordinance" means the Endowment of the See Trust Ordinance 2019.

“Existing Property” means the property which is, immediately prior to the date of commencement of this Ordinance, held by the Trustee on the trusts set out in the 7th Schedule of the Endowment of the See Ordinance 1977, other than the Initial Sum.

“Initial Sum” means the sum referred to in paragraph B of the Preamble.

“Real Property” means that part of the Capital Fund which is real property, but does not include the St Andrew’s House Interest.

“Invested Property” means that part of the Capital Fund which is not the Real Property or the St Andrew’s House Interest, and includes income received from time to time from the Real Property. “St Andrew’s House Interest” means the right, title and interest in the St Andrew’s House Fund, being the fund constituted by the St Andrew’s House Ordinance 1975, which forms part of the Capital Fund.

“Trustee” means the trustee of the Capital Fund from time to time.

3. Declaration of Inexpediency

By reason of circumstances which have arisen after the creation of the trusts on which the Existing Property is held it is inexpedient to carry out and observe those trusts and it is expedient that the trusts be varied.

4. Trusts

The Capital Fund shall be held by the Trustee on trust for the following purposes of the Anglican Church of Australia in the Diocese of Sydney –

- (a) to provide in perpetuity income to enable the payment of the amounts, expenses and costs referred to in clause 3 of the EOS Trust Ordinance, and
- (b) to make the applications referred to in clause 8 for the purposes specified in that clause, and
- (c) to pay the costs and expenses of the Trustee in performing its functions and exercising its powers under this Ordinance, and
- (d) in respect to that part comprising the Real Property, to provide housing for the Archbishop of Sydney and such other senior clergy of the Diocese as he may determine.

5. Functions

- (1) The Trustee is to invest, manage and administer the Capital Fund and, in connection therewith, is to –
 - (a) maintain the real value of the Invested Property unless relieved of this obligation or as otherwise directed by Ordinance of the Standing Committee, and
 - (b) care for, repair, renovate and refurbish the Real Property to an appropriate standard having regard to the age and use of the Real Property.
- (2) Subject to subclause 5(1), the Trustee is to provide for distributions from the Capital Fund in accordance with clause 8.
- (3) For the purposes of paragraph 5(1)(a) –
 - (a) “real value” is to be measured having regard to the movement of the value of the Invested Property and the corresponding movement in the CPI All Groups Index published by the Australian Bureau of Statistics, and
 - (b) the objective specified in that paragraph is to be measured over rolling 10 year periods, the first such period to commence on the date of commencement of this Ordinance.

6. Powers

The powers of the Trustee in relation to the Capital Fund are those set out in the constituting ordinance of the Trustee.

7. Costs and Expenses

The costs and expenses of the Trustee in performing its functions and exercising its powers under this Ordinance are to be paid from the Capital Fund.

8. Distribution from the Capital Fund

(1) The Trustee is to determine before 25 November each year the amount which may be distributed to the EOS Fund from the returns from the Invested Property after having taken into account –

- (a) the costs and expenses referred to in clause 4(c) in the following calendar year, and
- (b) the retention of an appropriate amount (if any) from the returns from the Invested Property, to enable the Trustee to fulfil the function under paragraph 5(1)(a), and
- (c) the retention of an appropriate amount to enable the Trustee to fulfil the function under paragraph 5(1)(b) in the following year.

(2) The Trustee is to give notice of its determination to the EOS Corporation as soon as is practical after the making of the determination and, in any event, by 25 November.

(3) The amount determined by the Trustee is to be paid by the Trustee to the EOS Fund for the purposes of the trusts on which the EOS Fund is held, by 4 equal instalments each due on or before 15 January, 15 April, 15 July and 15 October in the calendar year following the year in which the determination is made.

9. Reporting

The provisions in the Accounts, Audits and Annual Reports Ordinance 1995 relating to the preparation and tabling at Synod of financial statements and an auditor's report in relation to such statements apply to the Trustee as trustee of the Capital Fund as if the Trustee, in that capacity, was an "Organisation" referred to in the Third Schedule of that Ordinance.

10. Commencement

This Ordinance commences on the date of assent.

Table of Amendments

Long Title	Amended by Ordinance No 11, 2019.
Preamble	Amended by Ordinance No 54, 2019.
Clause 2	Amended by Ordinances Nos 8, 2018, 11, 2019 and 54, 2019
Clause 4	Amended by Ordinances No 17, 2014, 11, 2019 and 54, 2019.
Clause 5	Amended by Ordinances Nos 18, 2013, 8, 2018 and 54, 2019.
Clause 6	Amended by Ordinance No 54, 2019.
Clause 7	Amended by Ordinance No 54, 2019.
Clause 8	Amended by Ordinances Nos 18, 2013; 8, 2018; 11, 2019 and 54, 2019.
Clause 9	Omitted and new clause inserted by Ordinance No 11, 2014. Amended by Ordinance No 54, 2019.

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12 December 2019