

# Mission Property Ordinance 2002

(Reprinted under the Interpretation Ordinance 1985.)

The Mission Property Ordinance 2002 as amended by the Mission Property (Appropriation and Amendment) Ordinance 2007, the Cranebrook Variation of Trusts Ordinance 2007, the Mission Property Amendment Ordinance 2007, the Mission Property Ordinance 2002 Amendment Ordinance 2010, the Kellyville Variation of Trusts Ordinance 2010, the Mission Property Ordinance 2002 Amendment Ordinance 2013, the Rouse Hill Trust Ordinance 2013, the Anglican Church Property Trust Diocese of Sydney (Financial Reporting) Amendment Ordinance 2014, the Glenmore Park Trust Ordinance 2015, the Mission Property Ordinance 2002 Amendment Ordinance 2018 and the Accounts, Audits and Annual Reports Ordinance 1995 Amendment Ordinance 2020.

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### Long Title

An Ordinance to provide for the creation of a Mission Property Fund and a Mission Property Committee and for related matters.

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

### Part 1 – Preliminary

#### 1. Name

This Ordinance is the Mission Property Ordinance 2002.

#### 2. Definitions

(1) In this Ordinance, unless the context otherwise requires –

“Archbishop” means the Archbishop of Sydney or, in his absence, his commissary or, if the See is vacant, the Administrator of the Diocese.

“Corporation” means the body constituted pursuant to the Anglican Church Growth Corporation Ordinance 2018.

“diocesan organisation” means an organisation constituted by an ordinance or resolution of the Synod or the Standing Committee.

“land” includes buildings.

“ministry building” means a building or improvement used or intended to be used, in whole or in part, for any of the following purposes –

- (a) a church, or
- (b) a meeting hall or room, or
- (c) an office, or
- (d) a residence for use by a minister, assistant minister or other person involved in full time ministry, or
- (e) a building used for or in connection with theological education, or
- (f) such other purpose which is incidental to a purpose specified in paragraph (a) to (e) inclusive.

“Mission Property Fund” or “Fund” means the fund constituted by clause 5.

“NCNC” means NCNC Fund Limited (ACN 606 270 357)

“parochial unit” means a parish or provisional parish recognised under the Parishes Ordinance 1979 and a recognised church or a provisional recognised church under the Recognised Churches Ordinance 2000.

“project” means any of the following –

- (a) the acquisition of land, or
- (b) the subdivision and development of land, or
- (c) the construction or renovation of ministry buildings, or
- (d) the repayment of a loan undertaken for the purposes of (a), (b) or (c).

“Specified Property” means –

- (a) real property which comprises part of the capital of the Mission Property Fund or which is to be acquired as an addition to that capital, and
- (b) real property held on trust for the purposes of a parochial unit or a diocesan organisation which is to be acquired or developed through the exercise of the Corporation’s functions, provided the Regional Bishop and a majority of the members of the parish council of the parochial unit, or the council of the diocesan organisation, as the case may be, have consented to such acquisition or development under clause 17(2) of the Anglican Church Growth Corporation Ordinance 2018; and
- (c) any other real property which is, or is to be, acquired or developed, in whole or part, using funds provided by NCNC or through the exercise of the Corporation’s functions.

(2) In this Ordinance a reference to a trust for the purposes of the Diocese includes a trust for the purposes of a parochial unit or a diocesan organisation.

## Part 2 – Mission Property Fund

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## **5. Constitution of the Fund**

The Mission Property Fund consists of –

- (a) the real property listed in the Schedule, and
- (b) the personal property which, at the date of assent to the Mission Property Ordinance 2002 Amendment Ordinance 2018, is comprised in ACPT Client Funds 0380, 0381, 0383, 0388, 0390, 0392, 0396, and 0398 and any accumulated or undistributed income (whether or not capitalised) derived from such property, and
- (c) all real and personal property from time to time received as an addition to the Mission Property Fund (including personal property received for projects involving the acquisition or development of Specified Property or the proposed acquisition or development of property which is or may become Specified Property) or which is derived or realised from the property of the Mission Property Fund, and
- (d) all personal property from time to time borrowed by the Property Trust pursuant to a direction under clause 9B(b).

### **5A. Trusts of the Fund**

The Mission Property Fund is held on trust for the purposes of the Anglican Church of Australia in the Diocese of Sydney (the “Diocese”).

### **5B. Application of the Fund**

- (1) The personal property comprising the Mission Property Fund is to be applied toward –
  - (a) Projects (including projects involving the acquisition or development of Specified Property or the proposed acquisition or development of property which is or may become Specified Property) in areas in the Diocese which are experiencing or are likely to experience a rapid increase in population, and
  - (b) Projects (including projects involving the acquisition or development of Specified Property or the proposed acquisition or development of property which is or may become Specified Property) which are likely to lead to a rapid increase in the number of persons attending churches in the Diocese,

in such priority and manner as is determined under clause 5C.

- (2) Without limiting the generality of subclause (1), the application of personal property may be made –
  - (a) by way of grant or loan, or
  - (b) as part of a scheme to subsidise the raising of funds for a project, or
  - (c) on the understanding that an amount applied toward a project be repaid once a financially viable ministry in connection with the project is established.

### **5C. Priority of application**

- (1) The Corporation is to determine from time to time the priority in which the personal property comprising the Mission Property Fund is to be applied toward projects under clause 5B(1).
- (2) Such priority is to be set out in a statement which is also to include –
  - (a) a brief description and the total anticipated cost of each prioritised project, and
  - (b) the total anticipated amount to be applied from the Mission Property Fund toward and the source or sources of any other funding for each prioritised project, and
  - (c) the manner in which the application of personal property from the Mission Property Fund is to be made to each prioritised project.
- (3) A copy of a statement made under subclause (2) is to be sent forthwith to the Mission Property Committee and the Property Trust.

## **Part 3 – Mission Property Committee**

### **6. Constitution**

The Mission Property Committee is constituted for the purposes of supporting the mission of the Diocese with the functions set out in this Ordinance.

## **7. Membership**

- (1) The members of the Mission Property Committee are –
  - (a) 6 persons elected by the Standing Committee under clause 7(2)(a), and
  - (b) 3 persons appointed by the Archbishop under clause 7(2)(b).
- (2) As soon as possible after the 1st ordinary session of each Synod –
  - (a) the Standing Committee is to elect 6 persons to be members of the Mission Property Committee, and
  - (b) the Archbishop is to appoint 3 persons to be members of the Mission Property Committee.
- (3) A vacancy in the office of member of the Mission Property Committee occurs if a member –
  - (a) dies, or
  - (b) resigns by written notice –
    - (i) to the Standing Committee, in the case of a member elected by the Standing Committee, or
    - (ii) to the Archbishop, in the case of a member elected by the Archbishop, or
  - (c) becomes an insolvent under administration, or
  - (d) becomes an incapable person, a patient, a protected person or a voluntary patient under any statute relating to mental health, or
  - (e) is absent without leave for 3 successive meetings of the Mission Property Committee over any 12 month period.
- (4) In addition to the circumstances set out in clause 7(3) –
  - (a) the Standing Committee may by resolution revoke at any time the membership of a person elected to the Mission Property Committee for any reason declared in the resolution, and
  - (b) the Archbishop may by notice in writing to the member revoke at any time the membership of a person appointed to the Mission Property Committee.
- (5) A vacancy in the office of a member elected to the Mission Property Committee may be filled by the Standing Committee and a vacancy in the office of a member appointed by the Archbishop may be filled by the Archbishop.
- (6) Subject to clauses 7(3) and 7(4), a person elected or appointed to the Mission Property Committee remains a member until their successor is elected or appointed, as the case may be. All retiring members are eligible for re-election or re-appointment.

## **8. Meetings**

- (1) The Mission Property Committee is to meet at such times as it may determine.
- (2) At a meeting of the Mission Property Committee, a quorum is 4 members.
- (3) The Archbishop may attend any meeting of the Mission Property Committee and may –
  - (a) put before the members any question or proposal for their consideration, and
  - (b) express his view on any question or proposal being considered by the members.
- (4) The Mission Property Committee is to elect from among its members a Chairman who is to chair the meetings of the committee. If the Chairman is not present at a meeting, the meeting may appoint one of its members then present to be acting Chairman of the meeting.
- (5) The members of the Mission Property Committee may pass a resolution without a meeting of the committee being held if all the members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. Separate copies of the document may be used for signing by members if the wording of the resolution is identical in each copy. The resolution is passed when the last member signs.
- (6) A document purporting to be certified by –
  - (a) the Chairman and 1 other member of the Mission Property Committee, or
  - (b) the acting Chairman and 1 other member of the Mission Property Committee,

as a copy of a resolution of the Mission Property Committee is conclusive evidence in favour of the Property Trust or any other person to whom the document is addressed for the purposes of a direction given by the Mission Property Committee under clause 9(1), 9A(1) or 9B.

(7) A vacancy in the membership of the Mission Property Committee or a defect in the appointment or election of a person acting as a member of the Committee does not invalidate any act or proceeding of the Mission Property Committee.

(8) Subject to the provisions of this Ordinance, the Mission Property Committee may regulate its own proceedings in such manner as it thinks fit.

#### **9. The functions of the Mission Property Committee**

(1) The functions of the Mission Property Committee are –

- (a) to implement the completion of projects in accordance with the statement of priority last made under clause 5C(2), and
- (b) to manage the property of the Mission Property Fund in a manner which is consistent with implementing the completion of projects under paragraph (a), and
- (c) subject to any strategy or policies determined by the Corporation, to provide advice and support to parochial units which seek to –
  - (i) acquire land, or
  - (ii) sell or otherwise realise land, or
  - (iii) construct or renovate ministry buildings, or
  - (iv) develop land, and
  - (v) rationalise or better utilise their land, and
- (d) to give directions to the Property Trust for the payment of consultants and advisors under clause 10, and
- (e) to give directions to the Property Trust about the repayment of loans, and
- (f) to exercise such other functions as the Corporation determines from time to time by resolution.

(2) The Mission Property Committee has such powers as are reasonably necessary to enable it to perform its functions.

#### **9A. Implementing the completion of projects**

(1) The Mission Property Committee may give directions to the Property Trust from time to time –

- (a) for the acquisition of land in the Diocese from the personal property of the Mission Property Fund or funds provided by the NCNC or through the Corporation, or
- (b) for the subdivision and development of Specified Property , or
- (c) for the construction or renovation of ministry buildings on Specified Property , or
- (d) to grant security over any property held on a trust for the purposes of the Diocese for the financial obligations of any person or corporation other than the Property Trust in connection with a subdivision, development, construction or renovation referred to in paragraphs (b) and (c), or
- (e) for the sale or other realisation of all or part of the Specified Property , or
- (f) for the payment or transfer of personal property forming part of the Mission Property Fund to another fund or person or corporation for any of the purposes specified in paragraphs (a) to (c).

(2) For the purposes of implementing a project involving land held on trust for the purposes of a parochial unit or a diocesan organisation, the Mission Property Committee may give a direction to the Property Trust under subclause (1)(f) but is not to give any other direction under subclause (1) without the written consent of a majority of the members of the parish council of the parochial unit or the consent of the council of the diocesan organisation given by resolution as the case may be.

(3) If the Mission Property Committee gives a direction under subclause (1)(f), the Mission Property Committee may require such fund or person or organisation to whom the payment or transfer is made to provide regular reports to the Mission Property Committee about –

- (a) the progress in completing the project and the anticipated timeframe within which the project will be completed, and
- (b) any contractual arrangements entered into for the completion of the project,

and the other fund or person or organisation is under an obligation to provide such reports.

(4) The Mission Property Committee is to report to the Corporation each 3 months (or at the end of such other period of time as the Corporation may specify by resolution) about progress in implementing the projects included in the statement of priority last made under clause 5C(2) including –

- (a) the amount applied towards each prioritised project from the Mission Property Fund, a brief description of the progress in completing the project and the anticipated timeframe within which the project will be completed, and
- (aa) the total anticipated amount to be applied from the Mission Property Fund in order to complete each prioritised project and the reasons for any difference between this amount and the total anticipated amount to be applied from the Mission Property Fund toward the project referred to in the statement of priority last made under clause 5C(2), and
- (b) a brief description of any contractual arrangements entered into for the completion of each prioritised project, and
- (c) the total amount of personal property comprising the Mission Property Fund which remains contractually uncommitted and the value of any other personal property of the Mission Property Fund which does not form part of a prioritised project.

#### **9B. Management of the Fund**

For the purposes of managing the property of the Mission Property Fund under clause 9(1)(c), the Mission Property Committee may give directions to the Property Trust from time to time –

- (a) for the subdivision and development of land which forms part of the Mission Property Fund, or
- (b) to borrow on the security of any property forming part of the Mission Property Fund for the purposes of or incidental to the purposes of the Fund, or
- (c) to grant security over any property of the Mission Property Fund for the financial obligations of any person or corporation other than the Property Trust in connection with the subdivision and development of land forming part of the Mission Property Fund, or
- (d) for the sale or other realisation of all or part of the land or other property of the Mission Property Fund.

#### **9C. Delegation of functions**

The Mission Property Committee may delegate to another person or body the performance of its functions under this Ordinance, provided that where such delegation is made to the Sydney Diocesan Secretariat, the Sydney Diocesan Secretariat may further delegate the exercise of such functions.

#### **10. Appointment of consultants and advisors**

The Mission Property Committee is authorised to appoint consultants and advisors for the purposes of enabling it to perform its functions under this Ordinance. The cost of those consultants and advisors is to be paid from personal property comprising the Mission Property Fund to the extent the trusts of that property permit such application.

### **Part 4 – Role of the Property Trust**

#### **11. Trustee of the Fund**

The Property Trust is the trustee of the Mission Property Fund.

#### **12. Compliance with directions given by the Mission Property Committee**

- (1) Subject to subclause 12(3), the Property Trust is to comply with a direction given by the Mission Property Committee under clause 9(1), 9A(1) or 9B.
- (2) The Property Trust has all powers as are necessary to enable it to carry out a direction given to it under clause 9(1), 9A(1) or 9B.

- (3) The Property Trust is not required to comply with a direction under clause 9(1), 9A(1) or 9B if –
- (a) the Mission Property Committee has not done a thing reasonably required by the Property Trust before carrying out the direction, or
  - (b) the direction will require that the Property Trust incur an obligation or liability which cannot be met or satisfied from the property of the Mission Property Fund or from the proceeds of the development or sale of Specified Property or from other funds held by the Property Trust, or
  - (c) compliance with the direction will cause the Property Trust to be in breach of trust, contract or any other legal requirement to which the Property Trust is subject, or
  - (d) the Property Trust considers that the direction does not comply with clause 9A(2).
- (4) If the Property Trust fails to comply with a direction made by the Mission Property Committee it must immediately notify in writing its failure and its reasons for the failure to both the Mission Property Committee and to the Corporation.
- (5) The Property Trust may apply any personal property forming part of the Mission Property Fund in or towards meeting –
- (a) any rates, taxes or other outgoings or expenses incurred by the Property Trust in connection with any real property forming part of the Mission Property Fund or interest payable on moneys borrowed pursuant to a direction given under clause 9B(b); and
  - (b) the costs of repairing and maintaining any property which forms part of the Mission Property Fund, and
  - (c) the reasonable costs and expenses incurred by the Property Trust and the Mission Property Committee in performing their functions under this Ordinance.
- (6) Pending the application of the property of the Mission Property Fund in accordance with a direction of the Mission Property Committee, the Property Trust is to invest the property in any mode of investment in which the Property Trust is authorised to make.

#### Part 5 – Miscellaneous

### 13. Reporting

The Property Trust, as trustee of the Mission Property Fund, is to comply with the *Accounts, Audits and Annual Reports Ordinance 1995*.

#### Schedule

<b>Real Property being part of the New Sites Property</b>	
<b>Description</b>	<b>Title Reference</b>
57 Moxham Street, Cranebrook	Lot 332 in Deposited Plan 705900
Cnr Hunter & Emmett Street, Callala Bay	Lot 1271 in Deposited Plan 836301
13 Gibson Crescent, Sanctuary Point	Lot 2754 in Deposited Plan 235301
5 Lintina Avenue, Tahmoor	Lot 1 in Deposit Plan 584474
Part Lot 100 Hyatts & Jersey Road, Oakhurst	Lot 1001 in a proposed plan of subdivision of Lot 100 in Deposited Plan 845891 (excepting the improvements thereon and a 31.45% interest in the land held by the Anglican Schools Corporation)
Lots 25-26 Lintina Street, Tahmoor	Lots 25 and 26 in Deposited Plan 246832
500 Bringelly Road, Austral	Lot 5 in DP1203674
Stanhope Parkway, Kellyville Ridge	Lot 701 in DP1157579

<b>Real Property being part of the New Sites Property</b>	
<b>Description</b>	<b>Title Reference</b>
33 Hamilton Street Riverstone	A 54% interest in Lots 111, 113, 114, 124, 125, 126 in DP1224241
30 Heath Road, Leppington	Lot 49 in DP8979
49-51 Excelsior Avenue, Marsden Park	Lot 9 in DP1225976
12 Fingleton Close, Rouse Hill	Lot 221 in DP876409
162 Badgerys Creek Road, Bringelly	Lot 31 in Section 3 of DP2650
Holy Innocent's Rossmore Church, hall, rectory and cemetery, corner of Church Street and Rossmore Avenue West, Rossmore	Lots 1, 2, 3 and 4 in DP 117688

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### **Table of Amendments**

Preamble	Amended by Ordinance No 8, 2007. Deleted by Ordinance 24, 2018.
Clause 2	Amended by Ordinances Nos 8, 2007; 5, 2013 and 24, 2018.
Clause 3	Deleted by Ordinance No 8, 2007.
Clause 4	Deleted by Ordinance No 8, 2007.
Clause 5	Amended by Ordinance Nos 8, 2007 and 24, 2018.
Clause 5A	Inserted by Ordinance No 8, 2007.
Clause 5B	Inserted by Ordinance No 8, 2007 and amended by Ordinances No 1, 2010 and 24, 2018.
Clause 5C	Inserted by Ordinance No 8, 2007.
Clause 8	Amended by Ordinance No 8, 2007.
Clause 9	Amended by Ordinances Nos 8, 2007; 1, 2010 and 24, 2018.
Clause 9A	Inserted by Ordinance No 8, 2007 and amended by Ordinances No 1, 2010 and 24, 2018.
Clause 9B	Inserted by Ordinance No 8, 2007 and amended by Ordinance No 1, 2010.
Clause 9C	Inserted by Ordinance No 8, 2007.
Clause 10	Renumbered by Ordinance No 24, 2018.
Clause 11	Amended by Ordinance No 24, 2018.
Clause 12	Amended by Ordinance No 24, 2018.
Clause 13	Amended by Ordinance Nos 8, 2007; 24, 2018, and 13, 2020.
Clause 14	Deleted by Ordinance No 47, 2007. New clause inserted by Ordinance No 11, 2014. Deleted by Ordinance No 24, 2018.
Clause 15	Deleted by Ordinance No 24, 2018.
Clause 16	Deleted by Ordinance No 24, 2018.
Schedule	Amended by Ordinances Nos 22, 2007; 3, 2010; 6, 2013; 19, 2015 and 24, 2018.

STEVE LUCAS  
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14 April 2020

DANIEL GLYNN  
**Diocesan Secretary**