

The Anglican Church of Australia

DIOCESE OF RIVERINA

RIVERINA DIOCESAN TRUST AMENDMENT ORDINANCE 2008-2017

AN ORDINANCE to make provision for the amendment to the Riverina Diocesan Trust Ordinance

The Synod of the Diocese of Riverina ordains:

Name of Ordinance

1. This Ordinance is the Riverina Diocesan Trust Amendment Ordinance 2008

Preamble

Whereas Riverina Diocesan Trust (hereinafter called ‘The Trust’ or ‘Corporate Trustee’) is a body corporate under the provisions of the Anglican Church of Australia Trust Property Act 1917 as amended (hereinafter called the ‘Act’).

And whereas pursuant to Section 11 of the Act the Synod of the Diocese may from time to time declare what may be the number of the members of the corporate Trust and pursuant to Section 9 of the Act may also vary the number of members to constitute a quorum.

And whereas it is expedient that the number of members or the Corporate Trustee and of the quorum thereof be increased.

And whereas by Section 24 of the Act the Synod may from time to time by ordinance provide and vary any provision for governing and controlling the management and use of church Trust property vested in the Corporate Trustee and for all things incidental to such government and control.

And whereas the Synod may pursuant to the Constitutions set forth in the Schedule to Anglican Church of Australia Constitutions Act 1902 make ordinances upon and in respect of all matters and things concerning the order and good government of the Church within the said Diocese including the management and disposal of all church property moneys and revenues.

And whereas it is expedient to provide for governing and controlling the management and user of such property moneys and revenues to the extent hereinafter appearing.

Now the Diocese Council of the Synod of the Diocese of Riverina in the name and place of the said Synod Hereby Ordains Declares Directs and Rules as follows’

1. **Repeals**

Anglican Church of Australia Property Trust Ordinance 2/1923. The Riverina Diocesan Trust (Membership) Ordinance 4/1973.

2. **Dictionary**

In this Ordinance:

‘The Act’ means the Anglican Church of Australia Trust Property Act, 1917 of New South Wales as amended and in force from time to time.

‘Trust’ means the Riverina Diocesan Trust

‘Elected Members’ means members elected to the Synod of the Diocese of Riverina

‘Bishop’ means the Bishop of the Diocese of Riverina

‘Church Body’ means:

- a. A parish, or
- b. Any body corporate, organisation or association that exercises ministry within, or on behalf of, or in the name of, the Church formed by or by the authority of the Synod of the Diocese.

‘Trustees’ means elected members of the Riverina Diocesan Trust

‘Agency of the Diocese’ means agency such as ‘Anglicare Riverina’ or ‘Riverina Anglican Development Fund’ which has been duly constituted by an Ordinance

‘Holy Orders’ means a person who has been Deaconed or Priested in the Anglican Church of Australia

- 2 a. The title of the body corporate for the Church Trust Property of the Diocese, as defined by Section 4 the Act, is confirmed to be “Riverina Diocesan Trust”, as established under *The Trust Property (Change of Title) Ordinance 1972* pursuant to Section 10 of the Act.

3. **Constitution and Quorum of the Trust**

- a. Section 6A of the Act applies to the Diocese of Riverina
- b. The number of members of the Corporate Trustee is nine (9) comprising the Bishop (ex officio) and eight (8) other members of whom at least two (2) shall be in Holy Orders and at least four (4) shall be lay persons not in Holy Orders who shall before their election declare themselves to be members of the Anglican Church of Australia having an active affiliation with the said Church.

One member in Holy Orders and three members not in Holy Orders are elected by Synod (commencing with the 2009 Synod) and hold office for a period of three years. After a period of three years the members are eligible for re-election for a period of six years. Four members either in holy Orders or not in Holy Orders are elected by Synod for six years and are then eligible for re-election for a further six years thereafter.

- c. Five (5) members of the Trust constitute a quorum of whom one member at least shall be a member in Holy Orders and one member at least shall be a lay person not in Holy Orders.’
 - d. The members of the Trust (other than the Bishop) shall, subject to the Anglican Church of Australia Trust Property Act be elected by the Synod.
 - e. Subject to Section 12 of the Act, an elected member holds office for a term commencing on the date on which he or she is elected by the Synod and ending on the expiration of the second day of the sixth ordinary session of the synod following the election.
 - f. Subject to Section 12 of the Act, a member elected in accordance with that Section, in place of a members whose office has become vacant, holds office for the balance of the term of office of the member in whose place he or she was elected.
4. a The Bishop shall preside at a meeting of the Trust at which the Bishop is present.
- b. In the event of the absence of the Bishop from a meeting of the Trust the members of the Trust shall elect one of their numbers to preside at the meeting.

5. Application of Certain Sections

Section 26A, 27A and 32A of the Act to the Diocese of Riverina

6. Delegation to Standing Committee

The Standing Committee of the Synod of the Diocese, otherwise know as the Diocesan Council of the Diocese, is hereby appointed for the purpose of exercising and accordingly may during the recess of the Synod of the Diocese exercise in place of such synod all or any of the powers and functions and do and make all or any of the things referred to in the following Sections of the Act namely:

- a. Section 12 to 16 inclusive constituting portion of Part 3.
- b. Section 19 constituting portion of Part 4
- c. Sections 24 to 32 inclusive constituting Parts 5,6 and 7; and
- d. Section 37 constituting portion of Part 9, so far as it related to Ordinances passed under Parts VI or VII or under any Act by the said Act of 1917 repealed.

Provided that any Ordinance proposed to be made by the Diocesan Council partly or wholly under the powers conferred by the said Section 32 shall be dealt with by the Diocesan Council resolving:

- (i) whether it be impossible or inexpedient to carry out and observe the existing Trusts;

- (ii) whether it be impossible or inexpedient to apply the said property or part thereof for the Parish or Parishes, if any, for which it was immediately theretofore held in Trust, and for the same or like purposes; and
- (iii) afterwards, at the same or an adjourned meeting; for what other purposes and what other Parishes the property or part should be applied.

any may at any stage before assent thereto be referred to the Synod by the person for the time being authorised to assent to the ordinance, and shall be so referred upon the request in writing of one-third of the members of the Diocesan Council present when the Ordinance was under consideration by it.

7. Report to Synod on action taken under Section 32

The procedure of the Diocesan Council in acting under the last preceding section shall be in accordance with the standing orders of Synod for the time being and in accordance with the provisions of the *Ordinances Initiation Ordinance* pf. Expected that the Diocesan Council instead of reporting to Synod as in that Ordinance provided, shall from time to time specially report to Synod all action taken by the Diocesan Council under the last preceding section.

8. Powers and Other Duties

In this Ordinance:

- a. Any real property acquired by, or held on Trust for, a church body shall be vested in and held by the Trust.
- b. Moneys or other personal property:
 - (i) received by a church body; or
 - (ii) raised by a church body;

for the purpose of being held as capital funds with the income or capital being applied for the relevant purposes shall be vested in and held by the Trust.

- c. Where moneys or other personal property:
 - (i) are received, by way of gifts or bequest or is raised by an agency of the Diocese or a Parish for application for a particular purpose or purposes or for a purpose or purposes included in a class of purposes; and
 - (ii) it is expected that the moneys or property will not be so applied within the period of six (6) months next following the receipt or raising of moneys or property;
the moneys or property shall be vested in and held by the Trust.

- d. Moneys and personal property of a kind described in subsection c. shall be listed in the annual financial statements of the agency or Parish concerned separately from other moneys or property of the agency or Parish and the financial statement shall state whether the moneys and property are held by the Trust, and if not held, the manner in which they are held, including particulars of any investments representing the moneys and property.
 - e. Moneys or other personal property held by the Trust or by a church body for a particular purpose or purposes included in a class of purposes shall not be applied for any other purpose unless that other purpose has been declared under Section 32 of the Act.
9. a. With respect to all church Trust property vested or to become vested in it the Corporate Trustee shall have and may subject to the policy and direction of the Synod or Diocesan Council exercise absolute and full powers of managing and controlling such property and without limiting the generality of such powers and so far as may be necessary or convenient in the name and on behalf of the Corporate Trustee may:
- (i) Let or demise the said property or any part or parts thereof for any term not exceeding ten years or on building lease for any term not exceeding twenty years at such rents fixed or progressive and subject to such conditions as the Trust shall think fit save and except as hereinafter provided or grant a license in respect of the said property or any part or parts thereof for any term not exceeding ten years
 - (ii) Accept surrenders of leases licenses and tenancies and release tenants and licenses from claims there under.
 - (iii) Receive and give effectual receipts for all moneys accruing from the said property for rent or on any account whatsoever.
 - (iv) Sub-divide the said property or any part or parts thereof and lay out and make roads streets and ways to be dedicated to the public or not and close existing roads streets and ways and grant easements rights of way or drainage.
 - (v) Carryout repairs renovations and alternations of existing buildings on the said property and erect thereon new building or buildings.
 - (vi) Borrow such sum or sums of money on the security of the said property or of the future rents profits and other income arising there from or without security as it may deem necessary fro any of the purposes set forth in this clause.
 - (vii) Use the revenues of the property not otherwise appropriated for any of the purposes aforesaid and for the payment of all costs charges and expenses of and incidental to the management and control of the said property
 - (viii) Appoint and remove officers servants and agents and fix their remuneration if any.

- (ix) Give or procure the funds in the nature of reserve funds sinking funds or otherwise.
- (x) Establish special funds in the nature of reserve funds sinking funds or otherwise.
- (xi) For the purpose of developing any such property consisting of real estate for or join in forming a company.
- (xii) Insure against loss or damage whether by fire or otherwise any insurable property and against any risk or liability which it would be prudent for a person to insure if he were acting for himself.

Provided that no part of the said property shall be let licensed or used for any such purpose as the Synod or the Diocesan Council may by resolution disapprove.

- b. The powers and authorities aforesaid shall not apply to church Trust property the control management or user of which is by Ordinance committed to a church body unless such church body by resolution assents to the exercise thereof and Synod or Diocesan Council by Ordinance authorities same.
10. a. For the purpose of investing church Trust property held by the Trust.
- The Trust may, from time to time:
- (i) establish one or more investment pools; or
 - (ii) abolish an investment pool previously established by it.
- b. An investment pool comprises those separate church Trust properties held by the Trust for the purposes of investment as are allocated by the Trust to that pool for the time being.
 - c. The Trust may determine, from time to time, whether particular church Trust income held by it shall be allocated to an investment pool for the purposes of investment or invested separately.
 - d. The Trust shall so manage an investment pool as to average gains, losses and income among the separate church Trust properties allocated to the pool and may, in its discretion, determine the times when the averaging shall take place.
 - e. In exercising its discretion under sub-section d., the Trust shall have regard to its general fiduciary duties as Trustee.
 - f. Where the Trust abolishes an investment pool, it shall:
 - (i) determine the capital value of each separate church Trust property allocated to that pool;

- (ii) allocate any unallocated income among those properties; and
 - (iii) invest separately each church Trust property that was allocated to the pool or allocate it to another pool.
- g. In performing its functions under sub-section (f), the Trust may:
- (i) treat any of the pool investments as investments of separate church Trust property that was allocated to the pool immediately before its abolition; or
 - (ii) transfer any of the pool investments to another investment pool as representing church Trust property that was allocated to the abolished pool immediately before its abolition and is being re-allocated to that other pool.
11. With respect to all moneys held by it for investment the Corporate Trustee:
- a. In addition to investing the same in Trustee securities authorised by law, may exercise the following powers:
- (i) to invest in shares of any company listed on any Australian Stock Exchange (other than companies carrying on a business of which Synod or Diocesan Council may be resolution disapprove) and exercise rights to take up shares if such rights become available to it.
 - (ii) to invest in debentures issued by any such company;
 - (iii) to invest in any secured or unsecured notes (whether or not convertible into shares or stock) issued or to be issued by such company.
 - (iv) to invest in units of any unit Trust;
 - (v) to purchase any land;
 - (vi) to lend moneys;
 - (vii) without limiting the generality of sub-paragraph (vi), to place moneys on deposit; and
 - (viii) to invest in any security authorised by an ordinance of Synod or authorised from Diocesan Council.
- b. The Corporate Trustee may:
- (i) appoint any corporation to hold, on behalf of the Corporate Trustee, any church Trust property being moneys referred to in sub clause 1, of this clause or investments made pursuant to powers conferred on the Corporate Trustee by that clause and of which the Corporate Trustee is the Trustee, and

- (ii) appoint the same or any other corporation to manage and advise on the investment realization and re-investment of all or any such property, and
- (iii) delegate to that corporation all or any one or more of the powers conferred upon the Corporate Trustee by sub-clause (i) of this clause.

Any such appointment or appointments may be made on such terms and conditions and at such remuneration as the Corporate Trustee may consider appropriate provided always that every such appointment shall contain a covenant to the effect that the corporation appointed shall not invest any church Trust property in or retain any investment of church Trust property in any company carrying on a business of which the Synod or the Diocesan Council may by resolution disapprove after notice of that resolution has been given by the Corporate Trustee to that corporation.

12. The Corporate Trustee may at the request of Diocesan Council investigate, or appoint some of its members to investigate, and report upon the audited accounts and financial position of any diocesan organisation or body.

13. The Corporate Trustee may for the purpose of its activities engage staff and may, subject to the approval of Diocesan Council take over staff engaged in the administrative activities of any diocesan organisation or body and may pay salaries and wages of persons engaged or taken over by it and make arrangements with the Diocesan Council and any such organisation or body for contribution towards such salaries or wages.

14. The Corporate Trustee may appoint an executive office with this or such other title with the approval of Diocesan Council and define his or her powers duties and functions in relation to property vested in it, administration of its policy or policies and all other activities and affairs under its government and control.

15. The Corporate Trustee shall take charge of and preserve all documents of title, securities and other instruments relating to church Trust property not otherwise kept or lodged under the provisions of an ordinance.

Fees for Management

- 16. a. The Corporate Trustee may charge a fee at the rate or rates last approved pursuant to Clause 16 c for services provided by the Corporate Trustee in relation to church Trust property held by it for the Diocese.
- b. The Corporate Trustee may waive the whole or any part of any fee which would otherwise be payable.
- c. A rate is or rates are approved for the purpose of this Clause if:
 - (i) notification of the rate or rates is given by the Trust to the Diocesan Registrar;
 - (ii) the notification is tabled at a meeting of the Diocesan Council by the Diocesan Registrar or any member of the Diocesan Council; and

- (iii) the rate or rates specified in the notification are either:
 - i. approved by resolution of the Diocesan Council;
 - ii not disallowed by resolution of the Diocesan Council passed at that meeting or at the next ordinary meeting of the Diocesan Council.

17. Proceeding of the Trust

- a. The Trust shall meet at such times as the Trust determines and at such other times as the President shall determine.]
- b. Not less than seven (7) days notice shall be given to every member of the Trust of the date time and place of the meeting of the Trust and the business to be transacted but if the President considers that an emergency exists he may give such later notice as he considers necessary and appropriate.
- c. A meeting of the Trust may be held by audio or visual telecommunication between members of the Trust or between members of the Trust present together in one or in more places and in audio and video telecommunication with other members of the Trust not present.
- d. A vote of members of the Trust otherwise than at a meeting of the Trust may be taken by mail, facsimile transmission, e-mail, telephone or other means of communication.
- e. The Trust can make such by-laws for carrying out the duties of the trust as provided in the Ordinance provided such by-laws are first approved by Diocesan Council

We certify that this Ordinance was passed by the Synod the Diocese of Riverina on the 14 day of June 2008.

Secretaries of Synod

I assent to this Ordinance

Bishop of Riverina
15 June 2008