

# Endowment of the See Capital Ordinance 2012

No 12, 2012

## Long Title

An Ordinance to redeclare the trusts on which 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 7<sup>th</sup> Schedule of the *Endowment of the See Ordinance 1977*.

B. By the *Endowment of the See Expenditure Ordinance 2012* the sum of \$3 million will be 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 it is inexpedient to carry out and observe those trusts.

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 Property Trust from time to time, and such other property as may be paid to, applied or acquired by the Property Trust to be held on the trusts set out in this Ordinance.

"EOS Committee" means the Endowment of the See Committee constituted under the *Expenditure Ordinance*.

"Expenditure Fund" means the fund established by the *Expenditure Ordinance*.

"Expenditure Ordinance" means the *Endowment of the See Expenditure Ordinance 2012*.

"Existing Property" means the property which is, immediately prior to the date of commencement of this Ordinance, held by the Property Trust on the trusts set out in the 7<sup>th</sup> 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 and includes distributions from time to time to the Property Trust from the St Andrew's House Fund.

### 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 Property Trust 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 4 of the *Expenditure Ordinance*, and

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- (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 Property Trust in performing its functions and exercising its powers under this Ordinance.

### **5. Functions**

(1) The Property Trust is to invest, manage and administer the Capital Fund and, in connection therewith, is to –

- (a) maintain the real value of the Invested Property, and
- (b) receive distributions from the St Andrew's House Fund, and
- (c) 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 Property Trust 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 Property Trust in relation to the Capital Fund are those set out in the *Anglican Church Property Trust Diocese of Sydney Ordinance 1965*.

### **7. Costs and Expenses**

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

### **8. Distributions from the Capital Fund**

(1) The Property Trust is to determine before 30 June each year the amount which may be distributed to the Expenditure Fund from the distributions received in respect of the St Andrew's House Interest and 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 Property Trust to fulfil the function under paragraph 5(1)(a), and
- (c) the retention of an appropriate amount to enable the Property Trust to fulfil the function under paragraph 5(1)(c) in the following year.

(2) The Property Trust is to give notice of its determination to the EOS Committee as soon as is practical after the making of the determination and, in any event, by 30 June.

(3) The amount determined by the Property Trust is to be paid by the Property Trust to the Expenditure Fund for the purposes of the trusts on which the Expenditure Fund is held, by 4 equal instalments each due on 1 January, 1 April, 1 July and 1 October in the calendar year following the year in which the determination is made.

### **9. Reporting**

Parts 3, 4 and 6 of the *Accounts, Audits and Annual Reports Ordinance 1995* apply to the Property Trust as trustee of the Capital Fund as if the Property Trust, in that capacity, was an "Organisation" for the purposes of those parts.

### **10. Commencement**

This Ordinance commences on the date of assent.

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

PG KELL  
Chairman of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 23 July 2012.

R WICKS  
Secretary

I Assent to this Ordinance.

PETER F JENSEN  
Archbishop of Sydney  
14/08/2012