

# Mission Property Ordinance 2002

No 40, 2002

## Long Title

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

## Preamble

- A. The Archbishop has set before the Diocese the following mission -  
"To glorify God by proclaiming our Saviour the Lord Jesus Christ in prayerful dependence on the Holy Spirit, so that everyone will hear his call to repent, trust and serve Christ in love, and be established in the fellowship of his disciples while they await his return."
- B. The Archbishop has also proposed the following goal -  
"To see 10% of the population of the Diocese in Bible-based Christian Churches in 10 years."
- C. The mission and the goal require that a number of property issues be addressed.
- D. It is desirable to constitute a Mission Property Fund and a Mission Property Committee to enable those issues to be addressed.
- E. Anglican Church Property Trust Diocese of Sydney (the "Property Trust") holds the New Sites property on the trusts specified in the New Sites Ordinance.
- F. By reason of circumstances which have arisen after the creation of the trusts on which the New Sites property is held, it is inexpedient to carry out and observe those trusts and it is expedient that those trusts be varied in the manner set out in this ordinance.

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

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.

"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 car park, or
- (f) such other purpose which is incidental to a purpose specified in paragraph (a) to (e) inclusive.

"Mission Property Fund" means the fund constituted by clause 5.

"New Sites Ordinance" means the New Sites Ordinance 1982.

"New Sites property" means -

- (a) the real property specified in the Schedule, and
- (b) the personal property which, at the date of assent to this ordinance, is comprised in client fund 390 and any accumulated or undistributed income (whether or not capitalised) derived from such property, and
- (c) any debts which, at the date of assent to this ordinance, are owed by a parish or other body under the New Sites Ordinance in relation to property which is or was New Sites property.

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

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### Part 2 - Mission Property Fund

#### 3. Declarations

By reason of circumstances which have arisen after the creation of the trusts on which the New Sites property is held, it is inexpedient to carry out and observe those trusts and it is expedient to amend those trusts on the terms set out in this Ordinance.

#### 4. Variation of Trusts

The New Sites property will henceforth be held upon trust in a fund to be known as the Mission Property Fund to be used -

- (a) for or in connection with ministry buildings, and
- (b) to acquire land for the purpose of, or for purposes which include, the use of the land for ministry buildings, and
- (b) to construct or renovate ministry buildings, and
- (c) to enable the Mission Property Committee to carry out its functions under clause 9.

#### 5. Mission Property Fund

The Mission Property Fund consists of -

- (a) the New Sites property, and
- (b) all real and personal property from time to time received as an addition to the Mission Property Fund or which is derived or realised from the property of the Mission Property Fund, and
- (c) all personal property from time to time borrowed by the Property Trust pursuant to clause 13(1)(d).

### 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

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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).

(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 prepare and submit for the Standing Committee's approval -
    - (i) as soon as possible after the Mission Property Committee's members are first appointed, and
    - (ii) no later than 6 months before the 1st session of each Synod,a strategic plan which deals with the matters referred to in clause 10, and
  - (b) to implement a strategic plan approved by the Standing Committee,
  - (c) in the course of implementing a strategic plan, to give directions to the Property Trust from time to time-
    - (i) for the acquisition of land in the Diocese from the property of the Mission Property Fund, or
    - (ii) for the subdivision and development of land which forms part of the Mission Property Fund, or
    - (iii) for the construction or renovation of ministry buildings on land which is property of the Mission Property Fund, or
    - (iv) 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
    - (v) 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 development of land forming part of the Mission Property Fund, or
    - (vi) for the sale or other realisation of all or part of the land or other property of the Mission Property Fund, or
    - (vii) for the payment or transfer of funds forming part of the property of the Mission Property Fund to another fund or person or corporation for the purpose of constructing or renovating ministry buildings on land which is church trust property but which is not part of the property of the Mission Property Fund, and
  - (d) to make suggestions to the Archbishop about projects for the acquisition of land or the construction or renovation of ministry buildings which might be funded from funds under the Archbishop's control, and
  - (e) to provide advice and support to churches 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
  - (f) to investigate the availability of community buildings for use by parochial units or churches and to take such action as it considers desirable to assist parochial units or churches in obtaining the use of such buildings, and
  - (g) to give directions to the Property Trust for the payment of consultants and advisors under clause 11 from the property of the Mission Property Fund, and
  - (h) to give directions to the Property Trust about the making of a declaration under clause 14, and
  - (i) to give directions to the Property Trust about the repayment of the loan referred to in clause 15, and
  - (j) to report to the Standing Committee each 3 months (or at the end of such other period of time as the Standing Committee may specify by resolution) about-
    - (i) the progress of the implementation of the strategic plan last approved by the Standing Committee, and
    - (ii) its other activities, and
  - (k) to exercise such other functions as the Standing Committee 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.
- (3) The Standing Committee may, from time to time, by resolution, determine policies which are relevant to how the Mission Property Committee is to perform its functions and exercise its powers. The Mission Property Committee is to comply with those policies.

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### 10. Strategic Plan

(1) A strategic plan to be prepared by the Mission Property Committee and presented to the Standing Committee is to provide information about -

- (a) each of the areas in the Diocese which are experiencing or, on the basis of the best information then available, will experience a rapid increase in population whether by reason or new development and redevelopment during the period of 15 years from the date of the strategic plan, and
- (b) having regard to the information referred to in (a), the areas in the Diocese in which the Mission Property Committee considers that during the 3 years from the date of the strategic plan-
  - (i) land should be acquired to construct ministry buildings or enable the better use of ministry buildings, and
  - (ii) ministry buildings should be constructed or renovated, and
- (c) the priority in which the Mission Property Committee recommends the actions referred to in (b) be undertaken or, if no priority has been determined, how that priority will be determined, and
- (d) the costs expected to be incurred in undertaking the actions referred to in (b), and
- (e) its recommendations about the source or sources of funds to enable the actions referred to in (b) to be undertaken.

(2) In preparing a strategic plan for the Standing Committee's consideration, and implementing a strategic plan approved by the Standing Committee, the Mission Property Committee must consult with each of the following -

- (a) the Archbishop, and
- (b) the Regional Bishops and archdeacons, and
- (c) the regional councils, and
- (d) the Property Trust, and
- (e) the Sydney Anglican Schools Corporation, and
- (e) local churches in affected areas, and
- (f) such other persons and organisations as the Mission Property Committee thinks should be consulted.

### 11. 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 property of the Mission Property Fund.

## Part 4 - Role of the Property Trust

### 12. Trustee of the Fund

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

### 13. Management of the Fund

(1) Subject to subclause 13(3), the Property Trust will, in accordance with the directions given by the Mission Property Committee under clause 9(1) -

- (a) acquire land in the Diocese from the property of the Mission Property Fund, and
- (b) subdivide and develop land which forms part of the Mission Property Fund, and
- (c) enter into contracts for the construction or renovation of ministry buildings on land which is part of the Mission Property Fund, and
- (d) 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, and
- (e) 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 development of land forming part of the Mission Property Fund, and
- (f) sell or otherwise realise all or part of the land or other property of the Mission Property Fund, and
- (g) pay or transfer any funds forming part of the property of the Mission Trust Fund to another fund or person for the purposes of constructing or renovating ministry buildings on land which is church trust property but which is not part of the Mission Property Fund, and
- (h) pay consultants and advisors appointed by the Mission Property Committee under clause 11, and
- (i) repay the loan referred to in clause 15.

(2) The Property Trust -

- (a) has all powers as are necessary to enable it to carry out a direction given to it under clause 13(1), and
- (b) subject to clause 13(5), must not take any of the actions referred to in clause 13(1) without the direction of the Mission Property Committee.

(3) The Property Trust is not required to comply with a direction under clause 13(1) 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
- (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.

(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 Standing Committee.

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- (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 13(1)(d); 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 4 - Miscellaneous

### 14. Glebe Loan

The Glebe Administration Board and the Property Trust are directed to amend the relevant terms of the loan of \$1 million made to the Property Trust under clause 2(2) of the New Sites Ordinance so that the terms of the loan include the following terms -

- (a) the loan is to be repaid by the Property Trust as and when the Mission Property Committee considers repayment appropriate; and
- (b) the liability of the Property Trust to repay the loan is limited to the personal property comprised in the Mission Property Fund from time to time; and
- (c) the Property Trust is not liable to pay interest on the loan except to the extent that moneys are allocated to and received by the Property Trust to pay such interest.

### 15. Other liabilities, obligations and commitments

All other liabilities, obligations and commitments incurred or made by the New Sites Committee or the Property Trust under the New Sites Ordinance prior to the date of assent to this Ordinance will be paid or satisfied from the Mission Property Fund.

### 16. Review of Ordinance

The Standing Committee will review the operation of this Ordinance on or before 31 December 2004.

### 17. Transition and Repeal

The New Sites Ordinance is repealed but not so as to affect the validity of any act by the New Sites Advisory Committee or the Property Trust under that Ordinance.

## Schedule

### Real Property being part of the New Sites Property

Description	Title Reference
Cnr Callisto Drive & Moxham Street, Cranebrook	Lot 1001 in Deposited Plan 746350
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
Lot 2 President Avenue, Kellyville	Lot 2 in Deposited Plan 558307 (excepting the area of 2.2 acres held on trust for the parish of Kellyville)
Windsor Road, Rouse Hill	Lot 1 in Deposited Plan 1033065
5 Lintina Avenue, Tahmoor	Lot 1 in Deposited Plan 584474
Cnr Dobel & Gould Roads, Claymore	Lot 3201 in Deposited Plan 807572
Part Lot 61 North Liverpool Road, Bonnyrigg	Lot 61 in Deposited Plan 813142 (excepting the rectory land with an area of about 970m <sup>2</sup> held on trust for the provisional parish of Hoxton Park)
Part Lot 100 Hyatts & Jersey Road, Oakhurst	Lot 100 in Deposited Plan 845891 (excepting Lot 1002 in a proposed plan of subdivision held on trust for the provisional parish of Oakhurst)
16 William Howell Drive, Glenmore Park	Lot 1 in Deposited Plan 853839
Lots 25-26 Lintina Street, Tahmoor	Lots 25 and 26 in Deposited Plan 246832

## **Mission Property Ordinance 2002**

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

N M CAMERON  
Chairman of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 26 August 2002.

M A PAYNE  
Secretary

I Assent to this Ordinance.

PETER F JENSEN  
Archbishop of Sydney  
27/08/2002