

Endowment of the See Property Ordinance 2021

(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, the Endowment of the See Variation of Trusts and Amendment Ordinance 2019, and the Endowment of the See Funds Amendment Ordinance 2021.

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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.

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

1. Name

This Ordinance is the Endowment of the See Property Ordinance 2021.

2. Definitions

In this Ordinance –

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

“EOS Trust Income” means that part of the EOS Trust Property that comprised ‘income’ under the *Endowment of the See Trust Ordinance 2019* immediately prior to the date of commencement of the *Endowment of the See Funds Amendment Ordinance 2021*.

“EOS Trust Property” means the property which is, immediately prior to the date of commencement of the *Endowment of the See Funds Amendment Ordinance 2021*, held on the trusts set out in 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.

“Invested Property” means that part of the Fund which is not the EOS Trust Income, 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 Fund.

"LTIF Distribution" means the amount or amounts distributed to the Fund from time to time from the Long Term Investment Fund held under the *Endowment of the See Investment Ordinance 2019*.

"Real Property" means that part of the Fund which is real property, but does not include the St Andrew's House Interest.

"Trustee" means the Endowment of the See Corporation or such other person or corporation who or which, from time to time is trustee of the Fund.

3. Declaration of Inexpediency

By reason of circumstances which have arisen after the creation of the trusts on which the Existing Property and EOS Trust 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 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 make the applications referred to in clause 8 for the purposes specified in that clause, and
- (b) to pay the costs and expenses of the Trustee in performing its functions and exercising its powers under this Ordinance, and
- (c) 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 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 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

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

(2) The Trustee may invest the Fund in one or more of the investments permitted under subclause 7(2) of the *Diocesan Endowment Trust Ordinance 2016*.

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 Fund.

8. Application of the Fund

(1) The Trustee is to determine the amount which may be applied from the returns from the Invested Property and the LTIF Distribution each year 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) Any amounts arising from the LTIF Distribution and the returns from the Invested Property that are not the subject of a determination under subclause 8(1) in any year are capitalised.
- (3) The amount determined under subclause 8(1) and the EOS Trust Income may be applied by the Trustee for the following purposes –
- (a) to pay the stipend of the Archbishop of Sydney, the expenses of his official residence and travelling, and the provision of other benefits and allowances,
 - (b) to pay the stipends of the assistant bishops and the archdeacons, and the costs of, or associated with, the provision of their housing, travel and other benefits and allowances,
 - (c) to pay the salaries and provide other benefits to the staff of the Archbishop's Registry and Diocesan Archives, and other staff engaged to support or assist the Archbishop, the assistant bishops and archdeacons in undertaking their functions,
 - (d) to pay the expenses and other costs incurred to enable the Archbishop, the assistant bishops, archdeacons and the staff referred to in paragraph (c) to fulfil their functions including, without limiting the generality of the foregoing –
 - (i) office rent and occupancy costs, and
 - (ii) management fees charged by any organisation engaged to support the Archbishop, the assistant bishops, archdeacons and staff referred to in paragraph (c),
 - (e) to pay the costs and expenses incurred by the Trustee in performing its functions under this Ordinance including, without limiting the generality of the foregoing, management fees charged by an organisation engaged to support the Trustee in performing its functions, and
 - (f) to provide for the payment of such other amounts in connection with the Diocese of Sydney as may be determined by the Standing Committee and approved by the Archbishop.

9. Not-for-profit and dissolution of the Fund

- (1) The property comprising the Fund is church trust property within the meaning of the *Anglican Church of Australia Trust Property Act 1917*, and therefore must not, as a matter of law, be distributed for the private benefit of individuals either during the operation of the Trust or on its winding up or dissolution.
- (2) If the Fund is wound up or dissolved, the Property, after satisfaction of all its liabilities, must be applied for such purposes of the Diocese as the Synod may determine.

10. Commencement

This Ordinance commences on the date of assent.

Table of Amendments

Long Title	Amended by Ordinance Nos 11, 2019 and 9, 2021.
Preamble	Amended by Ordinance No 54, 2019. Deleted by Ordinance No 9, 2021.
Clause 1	Amended by Ordinance No 9, 2021.
Clause 2	Amended by Ordinance Nos 8 2018; 11, 2019; 54, 2019 and 9, 2021.
Clause 3	Amended by Ordinance No 9, 2021.
Clause 4	Amended by Ordinances Nos 17, 2014; 11, 2019; 54, 2019 and 9, 2021.

- Clause 5 Amended by Ordinances Nos 18, 2013; 8, 2018; 54, 2019 and 9, 2021.
- Clause 6 Amended by Ordinance Nos 54, 2019 and 9, 2021.
- Clause 7 Amended by Ordinance Nos 54, 2019 and 9, 2021.
- Clause 8 Amended by Ordinances Nos 18, 2013; 8, 2018; 11, 2019; 54, 2019 and 9, 2021. Omitted and new clause inserted by Ordinance No 9, 2021.
- Clause 9 Omitted and new clause inserted by Ordinance No 11, 2014. Amended by Ordinance No 54, 2019. Omitted and new clause inserted by Ordinance No 9, 2021.

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