

12.1 TRUSTEES OF CHURCH PROPERTY OF THE DIOCESE OF NEWCASTLE

All the money, investments, buildings and property used by the Church is held in a different way to that of our property as individuals or that of companies. These resources have been accumulated over time for the use by the Anglican Church. They don't belong to any one person or group. There are no shareholders. They must be watched over and managed in each successive generation.

The way that the law recognises this sort of management is through the law of trusts. The law recognises the resources held for the purposes of the Anglican Church as money, investments, buildings and property held under a charitable trust. Sometimes this is expressed formally through a will or trust deed and often informally. We don't have trust deeds for the Sunday collection but we are guided by the Ordinances.

In the early years of the Diocese of Newcastle there were a number of different trustees including the Bishop. Trustees have important responsibilities and obligations under statute and common law.

After a careful process of negotiation, in which the Diocese of Newcastle took a leading role, the Colonial Parliament allowed the establishment of a Corporate Trustee and provided a mechanism by which individual trustees could pass their trusteeship over to the Corporate Trustee. The initial law has changed. The current act is the Anglican Church of Australia Trust Property Act 1917.

The Diocese of Newcastle has accepted the trust approach offered by the NSW Parliament and established the Trustees of Church Property for the Diocese of Newcastle (TCP). We colloquially call the members of the TCP 'Trustees' – technically there is one trustee – the TCP with the members of the TCP acting like a Board. The members of the TCP are elected by the Synod or Diocesan Council, acting as Synod.

Ultimately, the TCP is responsible to ensure that the use of money, investments, buildings and property is used in accordance with the law, the relevant trust documents and the ordinances. Many of the churches in NSW have been given considerable power to vary trusts when they consider the existing trusts to be impossible or inexpedient to carry out or observe. The Anglican Church has this power under the Anglican Church of Australia Trust Property Act 1917.

Many aspects of trust responsibility are delegated through the Administration of Parishes Ordinance 2010 and the Church Trust Property Ordinance 1929 to the Incumbent, Churchwardens, Parish Council and Resourcing Team, if there is one. These people and bodies need to understand the trusteeship that has been placed in them. In a number of matters the parish, these people and bodies, cannot act alone. They need to present proposals to the Property Approval Board, the Diocesan Council and the Synod.

There are always significant matters before the TCP – these include property transactions and investments. The TCP is responsible for the stewardship of the Tyrrell trusts.

In normal circumstances a matter will reach the TCP on the request of the Synod, the Diocesan Council and a parish or other Anglican entity. The TCP must be satisfied that a request conforms to relevant instruments and laws. If the TCP are not satisfied they can decline a matter or refer it back for further consideration.

The Synod has empowered the Diocesan Business Manager through the Execution of Instruments Ordinance 2000 and the Diocesan Management Ordinance 2003 to act on some things on behalf of the Trustees.

The TCP gives careful attention to the management of investments, and is an important part of the decision making process when the Bishop is asked to guarantee a loan and is regularly involved in a range of property matters.