

The Christ Church Cathedral Foundation Ordinance 2012

1 PREAMBLE

AN ORDINANCE to establish the Christ Church Cathedral Foundation (‘the Foundation’) for the Conservation of the Heritage Buildings and for the enrichment and benefit of the Heritage Buildings’ occupants, visitors and the broader community of Newcastle and the Hunter Region (‘Primary Purpose’).

BE IT THEREFORE Ordained and ruled by the Bishop Clergy and Laity of the Diocese of Newcastle in Synod assembled as follows:

2 SHORT TITLE

This Ordinance may be cited as the **Christ Church Cathedral Foundation Ordinance 2012**.

3 DEFINITIONS

In this Ordinance unless the context otherwise requires or indicates:

- 3.1 **‘Bishop’** means the Diocesan Bishop for the Diocese of Newcastle.
- 3.2 **‘Board’** means the Board appointed under Clause 7 of this Ordinance.
- 3.3 **‘Burra Charter’** means *‘The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance, 1999’*.
- 3.4 **‘Conservation’** means preservation, restoration, Protective Care, adaptation and reconstruction works and projects undertaken:
 - (a) by the Trustees of the Heritage Buildings and pursuant to their own arrangement, management, supervision, and responsibility with respect to the works and projects undertaken;
 - (b) in compliance with the Burra Charter (as may be amended from time to time), a nationally accepted standard for conservation processes;
 - (c) considering the reasonable needs of occupiers in the course of such works and projects; and
 - (d) at all times, in compliance with all applicable State and Commonwealth legal and regulatory obligations.
- 3.5 **‘Diocese’** means the Diocese of Newcastle.
- 3.6 **‘Diocesan Council’** means the Diocesan Council of the Diocese of Newcastle.
- 3.7 **‘Endorsed DGR’** means a deductible gift recipient endorsed by the Australian Taxation Office as covered by an item in any of the tables in Subdivision 30-B

of the *Income Tax Assessment Act 1997* (Cth) and which complies with the requirements of item 1 of the table in section 30-15 of that legislation

- 3.8 **‘Financial Year’** means the financial year of the Foundation is a calendar year, commencing on the first day of January and ending on the 31st day of December.
- 3.9 **‘Foundation’** means the Christ Church Cathedral Foundation incorporated under the *Anglican Church of Australia (Bodies Corporate) Act 1938* in the Diocese of Newcastle.
- 3.10 **‘General Fund’** means a fund established to hold property, assets or money received or held by the Foundation that does not qualify as allowable deductions (which may include but is not limited to sponsorships, grants or bequests). The fund is to be administered as specified in clause 12.2 of this Ordinance.
- 3.11 **‘Gift Fund’** means a fund established under section 30-130 *Income Tax Assessment Act 1997* into which donations of property or money, received by the Foundation from the public, that qualify as allowable deductions are placed. The fund is to be administered as specified in clause 12.1 of this Ordinance.
- 3.12 **‘Heritage Buildings’** means buildings, with their grounds, known as ‘Christ Church Cathedral’, comprising the Cathedral, its moveable cultural heritage and rare collections, cemetery and park (Lots 1 and 2 - DP 36886 and Lot 3 - DP 1149011 at 52A Church Street, Newcastle, NSW, 2300), the Anglican Cathedral Hall known as the ‘Horbury Hunt Hall’ (Lot 1 - DP 198891 at 52A Church Street, Newcastle, NSW, 2300) and grounds as outlined in the Second Schedule of the *Christ Church Cathedral, Newcastle, Cemetery Act 1966 No.20* (NSW).
- 3.13 **‘Hunter Region’** means the Hunter Valley which is an area in NSW, extending approximately 310 kilometres north of Sydney and including the local government municipalities of Newcastle, Lake Macquarie, Cessnock, Dungog, Gloucester, Maitland, Muswellbrook, Great Lakes, Port Stephens, Singleton and Upper Hunter.
- 3.14 **‘ICOMOS’** means the ‘*International Council on Monuments and Sites*’, a non-government international organisation, with a national chapter in Australia, primarily concerned with the philosophy, terminology, methodology and techniques of cultural heritage conservation.
- 3.15 **‘Member’** means a member of the Board of the Foundation;
- 3.16 **‘Newcastle’** means the city situated 162 kilometres north-north-east of Sydney, at the mouth of the Hunter River, and includes the Newcastle City local government municipality and areas of the Lake Macquarie local government municipality as may be determined by the Foundation.

- 3.17 **‘Objects’** means the Objects of the Foundation as specified in clause 5 of this Ordinance.
- 3.18 **‘Protective Care’** means ‘Maintenance’ as defined in the ‘Burra Charter’ of a sufficient degree and importance to be considered by the Foundation to be reasonably necessary for the conservation of the Heritage Buildings.
- 3.19 **‘Primary Purpose’** means the purpose of the Foundation as described in the Preamble to this Ordinance.
- 3.20 **‘Responsible Persons’** means persons having a degree of responsibility to the community as a whole as specified in clause 7.4 of this Ordinance.
- 3.21 **‘Synod’** means the Synod of the Diocese of Newcastle.
- 3.22 **‘Trustee Securities’** means securities that meet the legal requirements relating to the use of funds by trustees under the Trustee Act 1925 No.14 (NSW).
- 3.23 **‘Trustees’** means the Trustees of Church Property for the Diocese of Newcastle.

4 INTERPRETATION

In this Ordinance unless the context requires otherwise:

- 4.1 **(Headings)** headings are inserted for convenience only and do not affect interpretation of this Ordinance.
- 4.2 **(Person)** a reference to a person includes a natural person, corporation, statutory corporation, partnership, the Crown and any other organisation or legal entity, and a reference to a person includes their personal representatives, successors and permitted assigns.
- 4.3 **(Requirements)** a requirement to do any thing includes a requirement to cause that thing to be done, and a requirement not to do any thing includes a requirement to prevent that thing being done.
- 4.4 **(Including) including and includes** are not words of limitation.
- 4.5 **(Corresponding meanings)** a word that is derived from a defined word has a corresponding meaning.
- 4.6 **(Singular)** the singular includes the plural and vice-versa.
- 4.7 **(Legislation)** a reference to any legislation or provision of legislation includes all amendments, consolidations or replacements and all regulations or instruments issued under it.
- 4.8 **(Writing)** a reference to a Notice, consent, request, approval or other communication under this Ordinance or an agreement between the parties means a written Notice, request, consent, approval or agreement.

- 4.9 **(Replacement bodies)** a reference to a body (including an institute, association, authority, government department or register) which ceases to exist or whose powers or functions are transferred to another body is a reference to the body which replaces it or which substantially succeeds to its power or functions.
- 4.10 **(Month)** a reference to a month is a reference to a calendar month.
- 4.11 **(Year)** a reference to a year is a reference to twelve consecutive calendar months.
- 4.12 **(Gender)** words importing one gender include all other genders.

5 OBJECTS

The Objects of the Foundation are:

- 5.1 To advance the Principal Purpose of the Foundation as specified in the Preamble to this Ordinance.
- 5.2 To recognise, support and promote the Heritage Buildings importance as iconic urban architecture, as a hub for the cultural life and activities of Newcastle and the Hunter Region, and as a venue for the consolation of the community regardless of religious preference or indifference.
- 5.3 To provide grants for the Conservation of the Heritage Buildings and support, encourage and promote for community benefit the economic sustainability and self-sufficiency of the Heritage Buildings necessary to support their long-term Conservation.
- 5.4 To advance for community benefit the long-term Conservation of the Heritage Buildings in a manner the Foundation may decide from time to time

6 NOT-FOR-PROFIT-STATUS

- 6.1 The Foundation is to operate as a non-for-profit organisation.
- 6.2 The funds of the Foundation are to be derived from subscriptions, other fees, gifts, donations, grants, sponsorships and such other sources of monetary contribution as the Board of the Foundation determines.
- 6.3 The profits, income and property of the Foundation, however derived, shall be applied solely towards the promotion of the Principal Purpose and Objects.
- 6.4 No portion of the profits, income or property shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise, to the Members of the Foundation. This provision does not prevent the payment, in good faith, of:

- (a) reasonable and proper remuneration to any employee of the Foundation, or to any Member of the Foundation in return for any services actually rendered to the Foundation;
 - (b) interest at a rate not exceeding interest at the rate for the time being charged by bankers in Newcastle for overdrawn accounts on money lent; and
 - (c) reasonable and proper rent for premises demised or let by any Member to the Foundation.
- 6.5 No Member shall be appointed to any salaried position within the Foundation or any capacity of the Foundation paid by fees.
- 6.6 No remuneration or other benefit in money or money's worth shall be given by the Foundation to any Member, except repayment of out-of-pocket expenses or interest on money lent or reasonable and proper rent for premises demised or let to the Foundation.

7 BOARD

- 7.1 The Foundation shall be governed and controlled by a Board.
- 7.2 The Bishop shall be President of the Foundation.
- 7.3 The Board shall comprise a minimum of six (6) Members and a maximum of eight (8) Members, comprising:
- (a) the President;
 - (b) one (1) Chairperson appointed by the Bishop;
 - (c) one (1) Deputy-Chair appointed by the Bishop;
 - (d) one (1) Finance Officer appointed by the Board; and
 - (e) one (1) Secretary appointed by the Board who will also serve as the Public Officer;
 - (f) up to two (2) Ordinary Board Members appointed by the Diocesan Council; and
 - (g) The Dean of Newcastle
- 7.4 The Board shall be comprised of a majority of Responsible Persons who are residents of Australia and who fall within one (1) or more of the following categories:
- (a) a former or sitting Judge or Magistrate;
 - (b) persons holding public or elected office, including Mayors, Town Clerks, Councillors and Members of Parliament;
 - (c) a Barrister or Solicitor, Registered Medical Practitioner, Member of the Institute of Chartered Accountants in Australia, the Australian Society

- of Certified Practising Accountants or the Institute of Public Accountants, or other person belonging to a professional body which has a code of ethics and rules of conduct;
- (d) a person officially charged with spiritual functions by a church, including members of the Clergy;
 - (e) a Justice of the Peace;
 - (f) a Commissioner for taking affidavits;
 - (g) a person who has received formal recognition from government for services to the community (AO, OBE etc);
 - (h) trustees or Board Members of a not-for-profit school or college;
 - (i) teachers in senior positions such as Chancellors, Vice-Chancellors, School Principals, Senior Academics (Professors, Deans, Principal lecturers, as well as appointments made by Chancellors);
 - (j) a person known to a broad section of the community because he or she performs a public function (i.e. such as appointments made by Government ministers); and
 - (k) any other person whose appointment is approved by the Commissioner of Taxation or a Deputy Commissioner of Taxation.

- 7.5 All appointments to the Board, including the Chairperson, shall be made for the term of Synod. A casual vacancy of the Board shall be filled for the balance of the term of the relevant Synod in the case of a Synod or Diocesan Council appointee by the Diocesan Council, in the case of chairperson by the Bishop and in the case of a Board appointee by the Board.
- 7.6 The Office of any Member of the Board shall become vacant if that person:
- (a) resigns in writing under hand addressed to the Chairperson;
 - (b) becomes bankrupt;
 - (c) is convicted of any felony; or
 - (d) is absent from three consecutive ordinary meetings of the Board without leave of absence.

8 PATRONS

The Bishop may appoint Patrons of the Foundation to advise and assist the Foundation wherever possible. The Patrons shall hold office for a period determined by the Bishop. The Patrons may attend meetings of the Board but shall not be entitled to vote.

9 MEETINGS OF THE BOARD

- 9.1 Meetings of the Board shall be held bi-monthly or at other times called by the President or the Chairperson or by four Members of the Board. The times and places of meetings shall be decided by the Board or by the President or Chairperson. At least seven (7) days' notice in writing or by facsimile or email of the meetings of the Board shall be given to Board Members.
- 9.2 No meeting shall be held unless at least four Members of the Board are present.
- 9.3 Each Member shall have one vote, and the Chairperson may exercise a casting vote.

10 POWERS AND DUTIES OF THE BOARD

- 10.1 The Board shall have the following powers and duties:
- (a) To appoint a Committee or Committees of the Board to act on behalf of the Board and attend to the detailed administration of the Foundation on the basis that:
 - (1) committees must only operate within the scope of any authority granted by the Board and notified to the Committee in writing;
 - (2) committees must report in writing to each meeting of the Board;

- (3) committees may include persons who are not Members of the Board but a majority of members of a committee must be Board Members.

- (b) To administer Gift and General Funds, as permitted by this Ordinance, and to solicit, accept and manage grants, donations, other monetary contribution and in-kind contributions from individuals, Government, the private sector, institutions, common interest groups, not-for-profit organisations and other organisations.
- (c) To investigate, scope, prioritise, select, and monitor Conservation works and projects that will benefit the Heritage Buildings, co-operatively with the owners and/or trustees of the Heritage Buildings.
- (d) To encourage the community to participate in the on-going work of the Foundation;
- (e) To control all monies received for the purpose of the Foundation and to authorise all expenditure necessary for the proper running of the Foundation;
- (f) To open banking accounts for the Foundation and to authorise operations thereon provided that no account shall be operated upon by less than two Members and shall not be overdrawn without the approval of the Board;
- (g) To invest monies from time to time in institutions that are limited to investment in authorised Trustee Securities with capital (which may include short-term government securities, bank accepted bills and bank certificates of deposits). The income derived from such investments shall be applied solely towards the promotion of the Objects;
- (h) To raise funds by appeal for the purpose of furthering the Objects;
- (i) To receive, administer and provide for the investment of donations, gifts and legacies and to receive, administer and distribute income in accordance with the Objects;
- (j) To present an annual report of the Foundation and duly audited statements of accounts at the end of each financial year;
- (k) To register business names under the Business Names Act in respect of any aspects of the work of the Foundation;
- (l) To do all such things as are incidental or conducive to the exercise and performance of all or any of the powers and duties of the Board, and to carry out the Objects.

11 INDEMNITY

Every Member of the Board, officers and servants of the Foundation, shall be indemnified by the Foundation from and against all costs, losses and expenses, which any such Member of the Board, officer or servant, may properly incur, or become liable to pay by reason of any contract entered into, or other act, or thing, any way in the discharge of his or her or their duties, and it shall be the duty of the Board to pay the same out of the funds of the Foundation.

12 GIFT AND GENERAL FUNDS

12.1 The Foundation shall establish and maintain a Gift Fund that upon establishment:

- (a) Donations will be deposited into the Gift Fund and will be kept separate from other funds of the Foundation and will only be used for the Objects.
 - (b) Funds in the Gift Fund will be administered by the Board.
 - (c) No monies or assets of the Gift Fund will be distributed to Members of the Foundation, except as reimbursement for out-of pocket-expenses incurred on behalf of the Gift Fund or proper remuneration for administrative expenses.
 - (d) The Australian Taxation Office will be notified of any proposed amendments or alterations to provisions for the Gift Fund, to assess the effect of any amendments on the Gift Fund's continuing Endorsed DGR status.
- (a) Receipts for donations to the Gift Fund will state:
- (1) the name of the Gift Fund and that the receipt is for a gift made to the Public Fund;
 - (2) the ABN of the Gift Fund;
 - (3) the fact that the receipt is for a donation; and
 - (4) any other matter required to be included in the receipt pursuant to the requirements of the *Income Tax Assessment Act 1997* (Cth).

12.2 The Foundation shall establish and maintain a General Fund of the Foundation which consists of such property, assets and money of the Foundation that is held for purposes that allow the application of capital and income derived there to be used towards the attainment of any of the Objects.

13 WINDING UP

11.1 If, upon winding up of the Foundation there remains 'surplus property' (i.e., property remaining after satisfaction of the debts and liabilities of the Foundation and the costs, charges and expenses of the winding up), such surplus property shall be distributed amongst those charities, non-profit organisations or associations as the Members may determine which have similar purposes to the Foundation.

11.2 If the Foundation is an Endorsed DGR at the time of its winding up, surplus property must be transferred to one or more entities as the Members may determine, which have similar purposes to the Foundation and which have status as an Endorsed DGR.

- 11.3 Where gifts to the Foundation are deductible only if, among other things, the conditions set out in the relevant item in the tables in Subdivision 30-B of the *Income Tax Assessment Act 1997 (Cth)* are satisfied, a transfer of surplus property must be made in accordance with those conditions.