

**GLEN WILLIAM LAND SALE AND BOUNDARY ADJUSTMENT ORDINANCE 2019**

**AN ORDINANCE** to authorise a boundary adjustment and disposal of certain lands at Glen William in the Parish of Wallarobba in the County of Durham as well as accepting a right of way easement benefitting the residual land.

**BE IT THEREFORE** Ordained by the Diocesan Council of the Diocese of Newcastle as follows: -

**BACKGROUND**

- A. The Trustees of Church Property for the Diocese of Newcastle is the registered proprietor of the Land at Glen William.
- B. The Land is Church Trust Property for the Parish of Church Buildings Under Care of the Bishop, following the recent closure of Clarence Town Parish.
- C. By reason of circumstances which have arisen after the creation of the trusts on which the Land is held, it is expedient that part of the Land be sold and that the proceeds be applied in the manner set out in this Ordinance.
- D. The Land includes the former St Thomas’s Church building and associated cemetery.
- E. Burial rights that have been historically granted at the cemetery are recognised under the *Cemeteries and Crematoria Act 2013* as having been granted in perpetuity. Additionally, reservations that have been accepted for future burial rights can only be revoked after a period of 50 years from when they are granted.
- F. As a result, the part of the Land containing the cemetery (being approximately the eastern half) is to be retained by the Trustees of Church Property at this time in order to honor burial rights that have been granted.
- G. Town planning requirements do not permit the Land to be subdivided to create two new lots to separate the cemetery from the residual land as it is of insufficient scale to meet the minimum lot size.
- H. A process of adjusting the boundaries between the Land and an adjoining lot is an alternate way to separate the cemetery area from the residual land which is permitted by town planning requirements.
- I. An adjacent property owner has offered to adjust the boundaries between the Land and his property such that approximately half of the Land, including the former church building would become part of his property. In doing so he would become responsible for ongoing maintenance of the building.

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- J. Access to the Land is only available via 'Glen William Church Road' which is a private road owned and controlled by the adjoining land owner. Use of the road has historically been by the grace of the adjoining land owner but there is no formally recognised right to use the road.
- K. An adjacent property owner has offered to grant a formal right of way over Glen William Church Road as part of the boundary adjustment process. This would provide a legally recognised right for people to use the road when visiting the cemetery and protect against access being restricted by a future land owner.
- L. The adjacent property owner is not seeking compensation that would normally be payable for granting the right of way and has offered to pay costs of the necessary survey and legal documentation.
- M. The Synod has conferred on the Diocesan Council the authority to exercise the powers contained in the *Anglican Church of Australia Trust Property Act 1917 (NSW)*.

### PART 1 – PRELIMINARY

#### Title

1. This Ordinance may be cited as the ***Glen William Land Sale and Boundary Adjustment Ordinance 2019***.

#### Definitions

2. In this Ordinance, unless the contrary intention appears:

<b>Church Trust Property</b>	means Churches, Rectories, Parish Halls and other buildings vested in the Trustees of Church Property and used for Church purposes.
<b>GST</b>	means Goods and Services Tax as defined in <i>A New Tax System (Goods and Services Tax) Act 1999 (Cth)</i> .
<b>Land</b>	means the land contained in Folio Identifier 1/1128608.

### PART 2 – OPERATIVE PART

#### Boundary Adjustment

3. By reason of circumstances which have arisen after the creation of the trusts on which the Land is held, it is expedient to adjust the boundaries of the Land.

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## Authority to Adjust Boundaries

4. The Trustees of Church Property are authorised to re-configure the boundaries of the Land as shown in Attachment 1.

## Authority to Accept Right of Way

5. The Trustees of Church Property are authorised to accept the granting of a right of way easement over certain parts of Lot 103 DP 1058804 for the benefit of the Land.

## Sale of Land

6. By reason of circumstances which have arisen after the creation of the trusts on which the Land is held, it is expedient that part of the Land (as shown in Attachment 1) be sold and that the proceeds be applied in the manner set out in section 10 of this ordinance.

## Authority to Sell

7. The Trustees of Church Property shall sell the part of the Land shown in Attachment 1 by private contract, on such terms and conditions as may be determined by the Newcastle Anglican Church Corporation.
8. The Land shall be freed from any trusts which shall by force of this ordinance cease.

## Authority to Execute

9. The Trustees of Church Property shall execute all necessary deeds, conveyances, transfers, assurances and other instruments, acts and things for giving full and complete effect to the provisions of this ordinance according to its true intent and meaning.

## Disposition of proceeds

10. The proceeds of sale are to be paid to the Trustees of Church Property and allocated in the following order:
  - (1) the costs of and incidental to this Ordinance and the disposal of the Land; then
  - (2) the payment of GST payable in connection with the sale of the Land; then
  - (3) the remainder of the funds shall be disbursed in the following manner –
    - (i) 40% of the proceeds of sale to be held by the Trustees of Church Property for the payment of redress or related purposes as the Diocesan Council may direct;
    - (ii) 40% of the proceeds of sale to be held by the Trustees of Church Property as part of the Diocesan Mission and Ministry Trust; and
    - (iii) 20% of the proceeds of the sale to be held by the Trustees of Church Property for the Parish of Dungog to be known as Glen William Trust the income from that trust to be used for parish purposes.

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I HEREBY CERTIFY the Ordinance as printed is in accordance with the Ordinance as reported.

PASSED BY DIOCESAN COUNCIL on the 25<sup>th</sup> July 2019.



Mrs Jemma Hore  
Acting Secretary, Diocesan Council

THE ASSENT of Peter Derrick James Stuart, Bishop of the Diocese was given to the above Ordinance on the 25<sup>th</sup> day of July 2019 in the Eleventh year of our Consecration.



PRESIDENT

This document is current at the date of last review and is maintained electronically by the Anglican Diocese of Newcastle. Users should refer to the [Newcastle Anglican website to confirm the currency of the instrument.](#)

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