

ST PETER'S EAST MAITLAND ENDOWMENT TRUST ORDINANCE 2014

An Ordinance to vary the trusts on which certain property is held and to establish the ST PETER'S EAST MAITLAND ENDOWMENT TRUST

Preamble

- A. The Trustees of Church Property for the Diocese of Newcastle ("the Trustees" is the trustee of the property described in each of the cells in column 1 of the table in the Schedule (the "Existing Property").
- B. The property described in a cell in column 1 of the table in the Schedule is held on the trusts described in the corresponding cell in column 2 of the Schedule.
- C. By reason of circumstances which have arisen after the creation of the trusts on which the Existing Property is held, it is inexpedient to carry out and observe those trusts.
- D. It is desirable to clarify the trusts on which certain property held for the Parish of East Maitland are held.
- E. It is necessary to approve the sale of certain real property.
- F. It is expedient to enable the Parish of East Maitland to consider the development of certain lands and to authorise the Trustees to enter into contracts associated with the development of land

The Diocesan Council of the Diocese of Newcastle Ordains as follows.

Name of ordinance

1. This Ordinance is The ST PETER'S EAST MAITLAND ENDOWMENT Trust Ordinance 2014.

Declarations

2. By reason of circumstances which have arisen after the creation of the trusts on which the Existing Property is held, it is inexpedient to carry out and observe those trusts, and it is inexpedient that the Existing Property be held for the same or like purposes as the trusts on which the Existing Property is held.

Definition of Trust Fund

3. In this Ordinance –
"trust fund" means –
 - (a) the Existing Property, and
 - (b) all real and personal property received or acquired by the TRUSTEES from time to time as an addition to the trust fund.

Name of the trust fund

4. The trust fund is to be known as the ST PETER'S EAST MAITLAND ENDOWMENT.

New trusts

5. Subject to the terms of this Ordinance, the trust fund is held upon trust for the purposes of the parish of The ST PETER'S EAST MAITLAND ENDOWMENT (the "Parish").

Capital of the trust fund

6. (1) Any real property which forms part of the trust fund, may be used for one or more of the following purposes –

- (a) a residence a member of the clergy or any person employed by the Parish,
- (b) a hall or other place or places of assembly,
- (c) social housing including housing for aged people or people with a disability,
- (d) such other purpose as the Diocesan Council may approve by ordinance or resolution,
- (e) any purpose incidental to a purpose referred to in paragraph (a),(b), (c) or (d).

- (2) Any personal property which forms part of the capital of the trust fund may be applied by the TRUSTEES for one or more of the following purposes –

(a) the payment of all rates, taxes and charges incurred by the TRUSTEES in relation to the trust fund, any property forming part of the trust fund or any transaction with property forming part of the trust fund, and The ST PETER'S EAST MAITLAND ENDOWMENT Trust Ordinance 2014.

(b) the costs of maintenance and repair of any property forming part of the trust fund required to meet minimum standards of maintenance and repair prescribed by Act, Regulation, Order or other law and applying to that property, and

(c) to the extent such personal property arises from a payment made to the TRUSTEES by the Parish for the purpose of enabling the TRUSTEES to make a payment under any contract made or to be made by the TRUSTEES as trustee of the trust fund with the approval of a majority of the parish council, for that purpose, and

(d) for such purposes as the Diocesan Council may direct or approve by ordinance or resolution.

- (3) Any personal property which forms part of the capital of the trust fund may be invested in a temporary trust or with the Anglican Savings and Development Fund.

- (4) The personal property which forms part of the capital of the trust fund shall be invested in a permanent trust with the Trustees

(a) for such amount as determined by resolution of the Parish Council;

(b) for all funds remaining on temporary trust upon notification from the Parish Council that it does not intend to make any application or any further application in accordance with clause 6(2)(c).

(5) If the Parish make a payment to the TRUSTEES as an addition to the trust fund for the purpose of enabling the TRUSTEES to make a payment under any contract made or to be made by the TRUSTEES as trustee of the trust fund and –

(a) the full amount of the payment made by the parish is not required by the TRUSTEES for that purpose, the TRUSTEES may pay to the parish an amount equal to the excess, or

(b) the TRUSTEES claims an input tax credit (as defined in the New Tax System (Goods and Services) Act 1999) in respect of the payment made under the contract, the TRUSTEES may pay to the parish an amount equal to the amount of the input tax credit (or proportionate part thereof where the payment made by the parish is less than the payment made by the TRUSTEES).

Application of the income of the trust fund

7. The income of the trust fund after paying all rates, taxes and charges incurred by the TRUSTEES in relation to the trust fund, any property forming part of the trust fund or any transaction with property forming part of the trust fund, is to be applied as follows –

(a) such portion as determined by the Diocesan Council from time to time shall be capitalised,

(b) the balance is to be paid to the Parish to be applied for such purposes of the Parish as the parish council may from time to time determine, except that where payment is to be made for the stipend, allowances and benefits of the incumbent the written permission of the Bishop is required.

Power to sell

8. The Trustees is authorised to sell all real property upon such terms as are approved by the Property Approvals Board within 5 years after the date of assent to this Ordinance and thereafter only with the consent of the Diocesan Council given by resolution whether given before or after this date.

9. In the event that the real property other than the land known as the Tenambit Land is sold the disposition of the proceeds after payment of the costs of and incidental to this Ordinance and the sale of the Land, are to be paid to the Trustees and

a. First, to the payment of goods and services tax (as defined in A New Tax System (Goods and Services Tax) Act 1999) payable in connection with the sale,

b. ¹ Second, 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

c. Third, the balance applied to the St Peter's East Maitland Endowment Trust.

10. In the event that the real property known as the Tenambit Land is sold the disposition of the proceeds after payment of the costs of and incidental to this Ordinance and the sale of the Land, are to be paid to the Trustees and
- a. First, to the payment of goods and services tax (as defined in A New Tax System (Goods and Services Tax) Act 1999) payable in connection with the sale,
 - b. Second, \$60,000 or such higher sum as determined by the Property Approvals Board to be paid to the Property Acquisition Fund,
 - c. Third, the balance applied to the St Peter's East Maitland Endowment Trust.

Commencement

11. This Ordinance commences on the date of assent.

Schedule

Real Property

ALL THAT pieces or parcels of land known as:

1. Lot 195 of Deposited Plan 1153110 in the Parish of Maitland in the County of Northumberland Certificate of Title 195/1153110.
2. Lot 171 of Deposited Plan 243854 in the Parish of Maitland in the County of Northumberland Certificate of Title 171/243854
3. Lot 373 of Deposited Plan 772036 in the Parish of Maitland in the County of Northumberland Certificate of Title 373/772036 (the "Tenambit Land")

Personal Property

Funds held with the Trustees of Church Property on Permanent Diocesan Trust

General Trusts	Trusts described
P0176 CS Moresset Cemetery Trust	Upkeep of a family grave
P0177 Edward Frederick & Harriet Butler Memorial	Upkeep and repairs of family graves
P0178 Church Fabric Maintenance Endowment	No purpose described
P0179 Henry Harvey Bennett Bequest	Stipend Fund

Funds held with the Trustees of Church Property on Temporary Trust

General Trusts	Trusts described
T0066 CS Moresset Cemetery Trust	No purpose described
T0067 St Peters Fabric	No purpose described
T0068 HH Bennett Bequest	No purpose described
T0069 EF & H Butler Memorial	No purpose described

Amendments

- ¹ Amended by the *St Peter's East Maitland Endowment Trust Ordinance Amendment Ordinance 2018* passed by Diocesan Council on 26 July 2018