

GOVERNANCE DURING AUSTRALIAN COVID-19 PANDEMIC EMERGENCY ORDINANCE 2020

BE IT ORDAINED by the Diocesan Council of the Diocese of Newcastle as follows:

PART 1 – PRELIMINARY

Short Title

1. This Ordinance may be cited as the ***Governance during Australian COVID-19 Pandemic Emergency Ordinance 2020***.

Limited period of application of the Ordinance

2. This Ordinance shall cease to have effect:
 - (a) on a date determined by the Bishop; or
 - (b) six (6) months after the Minister of Health removes the restrictions on public worship made by the Public Health (COVID-19 Places of Social Gathering) Order 2020 or any successor public health instrument restricting public worship,whichever is the earlier.
3. The period during which this Ordinance shall be in force may be cited as the “COVID-19 Emergency Period”.
4. At the time determined under clause 2, any amendment to or repeal of an Ordinance made in accordance with this Ordinance shall cease to have effect and the Ordinance shall revert to the form it had immediately prior to the commencement of this Ordinance.

PART 2 – OPERATIVE PART

Variation of procedure for calling meetings and variation of Quorum at meetings of the Diocesan Council

5. The *Diocesan Council Ordinance 1929* is amended by the repeal of section 14 and its substitution by a new section to read:

“The quorum for any meeting of the Diocesan Council shall be the Chairperson and five (5) other members.”

Variations to ordinances and the operation of canons during the COVID-19 Emergency Period

6. The ordinances and canons identified in Schedule One of this ordinance shall be amended in accordance with the provisions set out in that schedule.
7. The Diocesan Council may amend the provisions of Schedule One by ordinary resolution approved by the Bishop.
8. Whereas the *Anglican Church of Australia Constitution Act 1902 (NSW)* and the *Anglican Church of*

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Australia Trust Property Act 1917 (NSW) and the *Constitution of the Anglican Church of Australia* provide for the administration of the Diocese during the absence of the Bishop from New South Wales, for the purposes of this Ordinance (with the exception of section 13), the Bishop means the Bishop of Newcastle and should the Bishop be unable, on medical grounds, to exercise the authority conferred by this Ordinance, then such authority may be exercised by the next available person in the following list who is not disabled on medical grounds (in order of priority):

- (a) The Bishop for the Inland Episcopate;
- (b) The Bishop for the Coastal Episcopate;
- (c) The Archdeacon of Newcastle;
- (d) The Dean of Newcastle;
- (e) The Archdeacon for Chaplaincy and Justice Ministries;
- (f) The clerical members of the Diocesan Council determined by order of seniority based on the date of their ordination provided that no clerical member who is suspended may exercise this ministry; and
- (g) A member of the clergy licensed in the Diocese of Newcastle appointed by the Primate.

Accountability

9. The Board of the Newcastle Anglican Church Corporation, the Diocesan Council and the Bishop shall report to the next ordinary session of the Synod:
 - (a) any amendment to Schedule One; and
 - (b) any exercise of authority conferred by this Ordinance or by Schedule One.
10. The Bishop shall report to the Diocesan Council at each ordinary meeting any exercise of authority conferred by this Ordinance or by Schedule One.

Exercise of Powers under this Ordinance

11. In the exercise of any powers provided in Schedule One, the Bishop, The Newcastle Anglican Church Corporation and/or the Diocesan Chief Executive (as appropriate) shall have due regard to any legislative, contractual or other consideration or obligation that may affect, confine or impact upon the exercise of the relevant power.

Disclosures to NACC

12. To support the Newcastle Anglican Church Corporation in its functions set out in Schedule One, the Chief Executive Officers of Anglican Care, Samaritans Foundation, Samaritans Housing and the Newcastle Anglican Schools Corporation shall within fourteen (14) days of the date of this Ordinance provide a written report to Diocesan Chief Executive disclosing full details of all contracts and other obligations already in place at the commencement of this ordinance that will involve capital expenditure by the relevant entity during the period from 1 April 2020 to 31 December 2020 in excess of \$250,000 (exclusive of GST).

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Other Approvals required from NACC and Bishop

13. Where the Chief Executive Officers and/or Boards of Anglican Care, Samaritans Foundation, Samaritans Housing and the Newcastle Anglican Schools Corporation identify any business decision during the period of operation of this ordinance that does not fall within the scope of clause 12 or Schedule One but, in the reasonable opinion of the relevant CEO or Board, may materially affect the financial viability of the relevant entity, approval must be sought for any such decision from the Board of the Newcastle Anglican Church Corporation and the Bishop.

Exception

14. Nothing in this ordinance has the effect or may be construed to have the effect of depriving the Bishop or any person from an office held in accordance with the canons and ordinances in force in this Diocese.
15. Nothing in this ordinance shall derogate the authority, rights or privileges of the Bishop of Newcastle.

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PART 3 – SCHEDULES

Schedule One

Creation of a Diocesan Council Budget Committee to approve the Diocesan Ministries Budget

1. From 26 March 2020, the *Diocesan Council Ordinance 1929* is amended by the repeal of sub-section 22(j) and its substitution by a new section to read:

“22(j) *The budget for Diocesan Ministries may be approved by a Diocesan Council Budget Committee comprising the Chairperson of the Diocesan Council, an archdeacon appointed by the Bishop, the Chair of the Newcastle Anglican Church Corporation and the Chair of the Finance and Investment Committee of the Newcastle Anglican Church Corporation.*”

Review of Parish Expenditure and Payments by the Diocesan Chief Executive

2. From 26 March 2020, the *Administration of Parishes Ordinance 2010* is amended by:

- (a) the insertion of a new sentence at the end of section 53 to read:

“...provided however that no parish may authorise expenditure in excess of \$2,500 without the prior approval of the Diocesan Chief Executive Officer or her/his delegate with the exception of expenditure arising from invoices raised by the Diocesan Office, utilities expenses or expenses related to ensuring health and safety.”; and

- (b) the insertion of a new sentence at the end of section 71 to read:

“...provided however that no parish may authorise withdrawal of funds in excess of \$2,500 without the without the prior approval of the Diocesan Chief Executive Officer or her/his delegate with the exception of withdrawal of funds associated with payments for invoices raised by the Diocesan Office, utilities expenses or expenses related to ensuring health and safety.”

Suspension of the requirement to hold parish annual general meetings

3. With effect from 19 March 2020, the *Administration of Parishes Ordinance 2010* is amended by the repeals of sections 44, 45, 46, 47, 48 and 49.

Work, Health and Safety Policies may be approved by the Bishop alone

4. From 26 March 2020, the *Administration of Parishes Ordinance 2010* is amended by the repeal of section 93 and its substitution by a new section to read:

“93. *The Bishop may establish, alter, rescind or amend policies for the purposes of ensuring welfare, health and safety of people within the parishes and ministries of the Diocese, and to ensure compliance with the Work Health and Safety Act 2011, such policies to be known as Diocesan Work Health and Safety Policies.*”

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Suspension of obligations and rights of Incumbents to access church buildings

5. From 26 March 2020, the Bishop may issue directions to ensure compliance with any Public Health Order or similar instrument issued by the Minister for Health in relation to or during the COVID-19 Emergency Period, to the extent that is necessary, any direction issued by the Bishop may suspend the right of an Incumbent to have access to a church building granted in accordance with the *Administration of Parishes Ordinance 2010*.

Direction to Parish to stop certain activities

6. From 26 March 2020, either the Bishop or his/her delegate or the Diocesan Chief Executive Officer or her/his delegate may issue a binding direction or order to a parish to stop any activity which in the opinion of the Bishop or the Diocesan Chief Executive (as appropriate) is contrary to the public health requirements arising from or during the COVID-19 Emergency Period, prejudices the financial sustainability of the parish, or prejudices the financial sustainability of the Diocese. Any such notice may be revoked by the person issuing the notice. In the event of any doubt or dispute about the notice, the decision of the Bishop shall be final.

Consultation with Parishes about Trust Property Matters to be with Incumbent and Churchwardens rather than whole parish council

7. From 26 March 2020, the *Church Trust Property Ordinance 2012* shall be amended by:
- (a) the repeal of sub-section 67(c); and
 - (b) the repeal of sub-section 68(1) and its substitution by a new section to read:
“68(1) to a parish unless such application includes advice on the consultation undertaken with the Incumbent and the Churchwardens.”

Clergy Emoluments Advisory Board

8. From the 26 March 2020, the operation of the *Clergy Emoluments Advisory Board Ordinance 1979* is suspended. The Diocesan Council shall have the authority to set the stipends and allowances to be paid to the clergy and lay persons engaged in stipendiary ministry.

Variations to the Newcastle Anglican Church Corporation Ordinance 2017

9. From 26 March 2020, the *Newcastle Anglican Church Corporations Ordinance 2017* is amended by:
- (a) the repeal of section 9 and its substitution by a new section to read:
“9. The Bishop shall settle and determine any doubt or dispute arising in reference to any matter subject to this Ordinance and may from time to time make directions for remedying any breach, error or omission related to the administration of the Newcastle Anglican Church Corporation. Any determination or direction from the Bishop shall be final.”
 - (b) in subsection 28.1 the repeal of the words “seven days” and their substitution by the words “24 Hours”; and
 - (c) the repeal of section 31.1 and its substitution by a new section to read:

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“31.1 *The quorum for a meeting of the Board is four members of the Board.*”

Variations to the Newcastle Anglican Schools Corporation Ordinance 2007

10. The *Newcastle Anglican Schools Corporation Ordinance 2007* is amended by:

- (a) in subsection 9.2 the repeal of the words “seven days” and their substitution by the words “24 hours”;
- (b) the insertion of a new subsection 9.4 to read “Nothing in this section shall prohibit the Bishop from attending and speaking at an ordinary meeting of the Board or a School Council.”;
- (c) in subsection 21(e) the repeal of the words “fourteen days” and their substitution by the words “24 hours”;
- (d) the repeal of section 22 and its substitution by a new section to read:

“22. *The quorum for a meeting of the Board is four members of the Board*”;

and

- (e) the repeal of section 45 and its substitution by a new section to read:

“45. *The Bishop shall settle and determine any doubt or dispute arising in reference to any matter subject to this Ordinance and may from time to time make directions for remedying any breach, error or omission related to the administration of the Newcastle Anglican Schools Corporation. Any determination or direction from the Bishop shall be final.*”

11. From a date to be determined by the Bishop, in consultation with the Board of the Newcastle Anglican Church Corporation, the *Newcastle Anglican Schools Corporation Ordinance 2007* is amended by the insertion of a new sentence at the end of section 7.1 to read:

“...*provided however that during the COVID-19 Emergency Period as prescribed in the **GOVERNANCE DURING AUSTRALIAN COVID-19 PANDEMIC EMERGENCY ORDINANCE 2020** the Board must seek the approval of the Board of the Newcastle Anglican Church Corporation to*

- (a) *approve capital expenditure where the aggregate total of capital expenditure in the COVID-19 Emergency Period exceeds \$100,000*
- (b) *enter into any contract for capital expenditure*
- (c) *enter into any borrowing arrangement*
- (d) *enter into any leasing arrangement.*”

Variations to the Anglican Care Ordinance 2007

12. From 26 March 2020, the *Anglican Care Ordinance 2007* is amended by:

- (a) the repeal of section 10 and its substitution by a new section to read:

“10. *The Bishop shall settle and determine any doubt or dispute arising in reference to any matter subject to this Ordinance and may from time to time make directions for remedying any breach, error or omission related to the administration of Anglican Care. Any determination or direction from the Bishop shall be final.*”;

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- (b) the insertion of a new sub-section 15.5 to read, “Nothing in this section shall prohibit the Bishop from attending and speaking at an ordinary meeting of the Board or at a committee of the Board.”
 - (c) in subsection 28.1, the repeal of the words “seven days” and their substitution by the words “24 hours”; and
 - (d) the repeal of subsection 30.1 and the substitution in its place of a new subsection to read:

“30.1 *The quorum for a meeting of the Board is four members of the Board.*”
13. From a date to be determined by the Bishop, in consultation with the Board of the Newcastle Anglican Church Corporation, the *Anglican Care Ordinance 2007* is amended by the insertion of a new sentence at the end of both sections 21.1 and 21.3 to read:
“...*provided however that during the COVID-19 Emergency Period as prescribed in the **GOVERNANCE DURING AUSTRALIAN COVID-19 PANDEMIC EMERGENCY ORDINANCE 2020** the Board must seek the approval of the Board of the Newcastle Anglican Church Corporation to*
- (a) *approve capital expenditure where the aggregate total of capital expenditure in the COVID-19 Emergency Period exceeds \$100,000*
 - (b) *enter into any contract for capital expenditure*
 - (c) *enter into any borrowing arrangement*
 - (d) *enter into any leasing arrangement.*”

Variations to the Samaritans Foundation Ordinance 1994

14. From 26 March 2020, the *Samaritans Foundation Ordinance 1994* is amended as follows:
- (a) by the repeal of section 10 and its substitution by a new section to read:

“10. *The Bishop shall settle and determine any doubt or dispute arising in reference to any matter subject to this Ordinance and may from time to time make directions for remedying any breach, error or omission related to the administration of the Samaritans Foundation. Any determination or direction from the Bishop shall be final.*”
 - (b) the insertion of a new sub-section 15.5 to read, “Nothing in this section shall prohibit the Bishop from attending and speaking at an ordinary meeting of the Board or at a committee of the Board.”
 - (c) in subsection 28.1, the repeal of the words “seven days” and their substitution by the words “24 hours”; and
 - (d) the repeal of subsection 30.1 and its substitution by a new section to read:

“30.1 *The quorum for a meeting of the Board is four members of the Board.*”
15. From a date to be determined by the Bishop in consultation with the Board of the Newcastle Anglican Church Corporation, the *Samaritans Foundation Ordinance 1994* is amended by the insertion of a new sentence at the end of both sections 21.1 and 21.3 to read:
“...*provided however that during the COVID-19 Emergency Period as prescribed in the **GOVERNANCE DURING AUSTRALIAN COVID-19 PANDEMIC EMERGENCY ORDINANCE 2020** the Board must seek the approval of the Board of the Newcastle Anglican Church Corporation to*

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- (a) *approve capital expenditure where the aggregate total of capital expenditure in the COVID-19 Emergency Period exceeds \$100,000*
- (b) *enter into any contract for capital expenditure*
- (c) *enter into any borrowing arrangement*
- (d) *enter into any leasing arrangement.”*

Variations to the Samaritans Housing Ordinance 2013

16. From 26 March 2020, the *Samaritans Housing Ordinance 2013* is amended by:

- (a) the repeal of section 10 and its substitution by a new section to read:

“10. *The Bishop shall settle and determine any doubt or dispute arising in reference to any matter subject to this Ordinance and may from time to time make directions for remedying any breach, error or omission related to the administration of the Samaritans Foundation. Any determination or direction from the Bishop shall be final.”;*

- (b) the insertion of a new sub-section 15.5 to read, “Nothing in this section shall prohibit the Bishop from attending and speaking at an ordinary meeting of the Board or at a committee of the Board.”

- (c) in subsection 27.2, the repeal of the words “seven days” and their substitution by the words “24 hours”; and

- (d) the repeal of subsection 29.1 and its substitution by a new section to read:

“29.1 *the quorum for a meeting of the Board is four members of the Board.”*

17. From a date to be determined by the Bishop in consultation with the Board of the Newcastle Anglican Church Corporation, the *Samaritans Housing Ordinance 2013* is amended by the insertion of a new sentence at the end of sections 20.1 and 20.3 to read:

*“...provided however that during the COVID-19 Emergency Period as prescribed in the **GOVERNANCE DURING AUSTRALIAN COVID-19 PANDEMIC EMERGENCY ORDINANCE 2020** the Board must seek the approval of the Board of the Newcastle Anglican Church Corporation to*

- (a) *approve capital expenditure where the aggregate total of capital expenditure in the COVID-19 Emergency Period exceeds \$100,000*
- (b) *enter into any contract for capital expenditure*
- (c) *enter into any borrowing arrangement*
- (d) *enter into any leasing arrangement.”*

Suspension of the Diocesan Ministry Council Ordinance 2017

18. The *Diocesan Ministry Council Ordinance 2017* is suspended provided however:

- (a) that any matter under the jurisdiction of the Diocesan Ministry Council may be dealt with by the Diocesan Council; and
- (b) that any Canon holding office under that Ordinance shall continue in office.

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Amendment to the Administration of Parishes Ordinance 2010

19. The *Administration of Parishes Ordinance 2010* is amended by the repeal of section 24 and its substitution by a new section to read:

“Incumbents, Ministers officiating at Public Worship, Churchwardens in a parish and persons designated by the Churchwardens to represent them at a church service or other gathering in a church building (Parish Official) must ensure the safety of any person attending Public Worship in that parish.”

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PART 4 – ORDINANCE ADMINISTRATION

Table of Amendments

Date	Current Section	Amending Instrument	Section Amended
4 April 2020	Schedule 1 (11)	<i>Governance during Australian COVID-19 Pandemic Emergency Ordinance 2020</i>	Schedule 1 (11)
	Schedule 1 (13)	<i>Governance during Australian COVID-19 Pandemic Emergency Ordinance 2020</i>	Schedule 1 (13)
	Schedule 1 (15)	<i>Governance during Australian COVID-19 Pandemic Emergency Ordinance 2020</i>	Schedule 1 (15)
	Schedule 1 (17)	<i>Governance during Australian COVID-19 Pandemic Emergency Ordinance 2020</i>	Schedule 1 (17)
15 May 2020	Schedule 1 (24)	<i>Governance during Australian COVID-19 Pandemic Emergency Ordinance 2020</i>	New

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