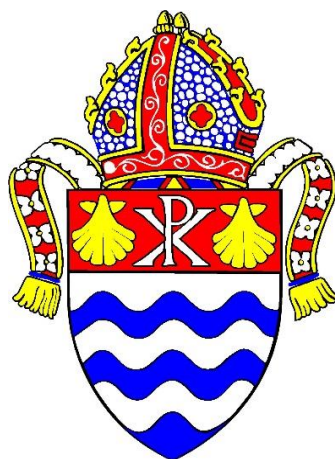


# THE CORPORATE TRUSTEES OF THE DIOCESE OF GRAFTON



## GOVERNANCE POLICY

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| <b>SUBJECT: The Corporate Trustees Governance Policy</b>            |  | <b>PROCEDURE REFERENCE NUMBER</b><br>CTS-001                                      |
| <b>DATE APPROVED</b><br>19 September 2019 by The Corporate Trustees |  | <b>REVISION NUMBER</b><br>Revision 2 replacing Revision 1 dated 15 September 2016 |
| <b>POLICY IMPLEMENTATION DATE</b><br>19 September 2019              | <b>REVIEW DATE AND FREQUENCY</b><br>3 Yearly | <b>RESPONSIBLE FOR REVIEW</b><br>The Corporate Trustees                           |

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## **INTRODUCTION**

1. The Corporate Trustees Governance Policy was endorsed by The Corporate Trustees on 17 July 2008 with amendments endorsed on 14 July 2016 and 19 September 2019. This policy is subject to regular review.
2. The Corporate Trustees are a not-for-profit charitable entity to support the advancement of religion, educational and welfare work of the Anglican Church of Australia in the Diocese of Grafton.
3. The Mission of The Corporate Trustees is to be a good and prudent steward of the property and assets of the Diocese and its Ministry Units. To this end, The Corporate Trustees will be a fiscally responsible commercially-minded entity which generates financial resources ethically to support and serve the Church that is the Anglican Diocese of Grafton.
4. The Mission of The Corporate Trustees does not include the property and the assets of those bodies corporate of the Anglican Diocese of Grafton established in accordance with the Anglican Church of Australia (Bodies Corporate) Act 1938 who have the trust responsibility for property and assets included in their constitution.
5. The operation of the Corporate Trustees is within the terms of the Anglican Church of Australia Trust Property Act 1917 and Chapter 15 of the Diocesan Governance Ordinance 2008 (as amended).
6. The Corporate Trustees role is to hold and manage Diocesan and Ministry Unit funds and property in trust. It is the legal entity of the Diocese and of Diocesan Ministry Units.
7. The Corporate Trustees will act in the positive interests of the beneficiaries of all trust funds and property, maximise returns on investment funds within prudent limits, avoid speculative and high risk investments and seek investment diversity. The Corporate Trustees will always act in good faith with the interests of the Church paramount.

## **Purpose**

8. The purpose of this Policy is to complement The Corporate Trustees obligations under relevant legislation through:
  - (a) governance principles appropriate to The Corporate Trustees accountabilities, responsibilities and duties;
  - (b) mechanisms to establish and maintain an ethical culture through a transparent, committed, self-regulatory and efficient approach to governance;
  - (c) benchmarks against which to gauge The Corporate Trustees and Trustee performance.

## **AUTHORITY**

9. The *Anglican Church of Australia Trust Property Act 1917* ('the Act') is the legislation under which The Corporate Trustees acquires and manages Church property on trust. The Corporate Trustees of the Diocese of Grafton is an incorporated entity operating under this Act.
10. Pursuant to powers provided for in the Act, Synod and Bishop-in-Council under delegation have passed a number of Ordinances in relation to Church Trust Property and the duties and responsibilities of The Corporate Trustees. The duties and powers of The Corporate Trustees have been consolidated in Chapter 15 of the *Grafton Diocesan Governance Ordinance 2008*.

## **GOVERNANCE OBJECTIVES**

11. The objective of this Policy is to focus on purpose and outcomes and improve the culture of governance by
  - (a) Enhancing The Corporate Trustees performance and reputation;
  - (b) Understanding and effectively managing risk while adding value;
  - (c) Improving accountability;
  - (d) Assessing and reviewing performance;
  - (e) Preventing and detecting fraudulent, dishonest and/or unethical behaviour;
  - (f) Developing the capacity and capability of the Corporate Trustees to discharge effectively their legal, financial and ethical obligations;
  - (g) Safeguarding integrity in financial reporting.

## **MEMBERSHIP QUALIFICATIONS**

12. The Corporate Trustees shall be "fit and proper" persons and are elected by the Synod or appointed by the Bishop-in-Council while seeking appropriate skills and experience.<sup>1</sup>
13. The Australian Prudential Regulatory Authority (APRA) advises that when considering a person for a 'responsible person position' who is a "fit and proper" person, it would be prudent to ensure that the person "possesses the competence, character, diligence, honesty, integrity and judgement to perform properly the duties of the responsible person position."<sup>2</sup>
14. The Corporate Trustees have extensive, and at times complex, duties, powers, rights and liabilities. The Corporate Trustees are individually and collectively accountable for their actions. The Corporate Trustees must therefore obtain an in-depth knowledge and understanding of relevant legislation and ordinances. The Corporate Trustees should also become familiar with recognised reference material, including but not limited to Equity and Trusts (Michael Evans, Butterworths 2003).

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<sup>1</sup> Clause 154.1 Diocesan Governance Ordinance 2008

<sup>2</sup> Paragraph 33 Prudential Standard CPS 520-8 August 2014

15. The Corporate Trustees will review the mix of skills and experience of its members on a regular basis and ensure that it has appropriate expertise relevant to its operations.
16. Where the appropriate skills are not within the skills of The Corporate Trustees, it will make arrangements for ready access to such skills.
17. The Corporate Trustees mindful of its current mix of skills and experience and the tenure of its members shall encourage potential new members who are eligible for appointment and who have appropriate skills and experience and, where possible, who will contribute to the diversity within the Corporate Trustees. Skills in law, finance, business and governance are pertinent to the work of the Corporate Trustees.
18. Each Corporate Trustee shall seek to apply appropriate personal qualities consistent with modern governance standards.

## **RESPONSIBILITIES**

### **The Corporate Trustees**

19. Responsibilities of The Corporate Trustees include:
  - (a) Setting the strategic direction of The Corporate Trustees and reviewing and approving the strategy to manage the substantial assets held in trust;
  - (b) Setting performance indicators, reviewing performance against them and initiating corrective action when required;
  - (c) Ensuring compliance with applicable laws;
  - (d) Ensuring that risks facing the entity have been identified, assessed and are being properly managed;
  - (e) Ensuring that policies on key issues are in place, are appropriate and reflect modern governance standards;
  - (f) Fostering an appropriate culture matched to the Church's values and strategies.
20. The general duties imposed by the Corporations Act on directors and officers of companies are instructive for the Corporate Trustees and these include:<sup>3</sup>
  - (a) the duty to exercise your powers and duties with the care and diligence that a reasonable person would have which includes taking steps to ensure you are properly informed about the financial position of the company and ensuring the company doesn't trade if it is insolvent;
  - (b) the duty to exercise your powers and duties in good faith in the best interests of the company and for a proper purpose;
  - (c) the duty not to improperly use your position to gain an advantage for yourself or someone else, or to cause detriment to the company; and

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<sup>3</sup> <http://asic.gov.au/regulatory-resources/insolvency/insolvency-for-directors/directors-what-are-my-duties-as-a-director/#1> 1 July 2016

- (d) the duty not to improperly use information obtained through your position to gain an advantage for yourself or someone else, or to cause detriment to the company.
21. The Corporations Act also imposes a duty upon directors to not trade while insolvent<sup>4</sup> and a duty keep adequate financial records to correctly record and explain transactions and the company's financial position and performance.<sup>5</sup> This guidance is also instructive for The Corporate Trustees.
22. To act consistently in accordance with 18 and 19 above, it is important that The Corporate Trustees:
- (a) Understand their responsibilities: in particular responsibility for other people's money, property and investments and responsibilities under the law;
  - (b) Have a healthy scepticism: The Corporate Trustees are accountable to the Diocese and to trust beneficiaries; The Corporate Trustees must understand the state, direction and activities of The Corporate Trustees and associated financial data; The Corporate Trustees must scrutinise, ask questions and be thorough;
  - (c) Maintain a rigorous and reliable financial reporting system: an accurate, timely, cogent, coherent and reliable financial reporting system is essential. Monthly budgeting and detailed reporting against key performance indicators is necessary to maintain a correct picture of The Corporate Trustees performance;
  - (d) Cultivate trust: particularly important is the relationship The Corporate Trustees have with auditors and the Audit Committee and the trust and respect of Diocesan management and staff and other Diocesan stakeholders;
  - (e) Display due care and diligence.
23. In accordance with statutory and Ordinance requirements and in keeping with developments at common law, The Corporate Trustees have a number of roles and should, *inter alia*:
- (a) Discharge their duties and obligations in good faith and honesty in the best interests of beneficiaries and the Diocese. The Corporate Trustees must always act in good faith with the interests of the Church paramount;
  - (b) Use the powers of office for proper purpose;
  - (c) Act with care, diligence and prudence, demonstrating commercial and ethical reasonableness in their decisions;
  - (d) Avoid conflicts of interest especially in relation to other Diocesan entities;
  - (e) Not make improper use of information gained through their Trustee position;
  - (f) Not profit from office;
  - (g) Not allow personal interests, or the interest of any associated person, to conflict with the interests of the Diocese;

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<sup>4</sup> Refer to ASIC Regulatory Guide 217

<sup>5</sup> <http://asic.gov.au/regulatory-resources/insolvency/insolvency-for-directors/directors-what-are-my-duties-as-a-director/#1> 1 July 2016

- (h) Make reasonable inquiries to ensure that The Corporate Trustees are operating efficiently, effectively, legally and ethically in achieving goals;
- (i) Undertake diligent analyses of all proposals placed before the Board;
- (j) Serve on committees established by The Corporate Trustees, as required.

### **The Chair**

24. The Bishop of Grafton is the Chair of The Corporate Trustees however in the Bishop's absence another Trustee may be elected to be Chair for that time. The Chair's additional responsibilities include:

- (a) Ensuring appropriate leadership and vision;
- (b) Establishing the agenda for meetings of The Corporate Trustees;
- (c) Presiding at meetings of The Corporate Trustees and directing discussions to effectively use the time available to address critical issues;
- (d) Ensuring The Corporate Trustees minutes properly reflect decisions;
- (e) Making sure that The Corporate Trustees has the necessary information to undertake effective decision making and actions;
- (f) Developing an ongoing and effective relationship with the Registrar as Secretary of The Corporate Trustees and other Diocesan staff;
- (g) Guiding the ongoing effectiveness and development of The Corporate Trustees.

### **The Secretary**

25. The Registrar as Secretary is responsible to The Corporate Trustees for the management of Church Trust Property and for policies held and determined by The Corporate Trustees as well as carrying out The Corporate Trustees administrative requirements.

26. The Secretary's responsibilities include:

- (a) Taking and approving actions and initiatives required to deliver The Corporate Trustees strategic and operational plans as approved by The Corporate Trustees;
- (b) Ensuring transactions outside the Secretary's delegation levels are referred to The Corporate Trustees for approval;
- (c) Ensuring that all actions comply with The Corporate Trustees policies;
- (d) Ensuring that the agenda for The Corporate Trustees meetings is developed in a timely and effective manner for review and approval by the Chair;
- (e) Ensuring that the papers for The Corporate Trustees meetings are developed and distributed in a timely and effective manner;
- (f) Coordinating, organising and attending the Corporate Trustees meetings and ensuring that correct procedures are followed;
- (g) Drafting and maintaining The Corporate Trustees minutes;
- (h) In conjunction with other senior staff, carry out the instructions of The Corporate Trustees and give practical effect to the Corporate Trustees decisions;
- (i) Meeting statutory reporting requirements in accordance with relevant legislation;

- (j) Working with The Corporate Trustees to establish and deliver best practice governance;
- (k) Other responsibilities as delegated by The Corporate Trustees.

## **INVESTMENT**

27. The Corporate Trustees shall put in place an Investment Strategy. This Strategy will be reviewed each year. The annual review will also assess the performance of investment properties, equity investments and financial assets.
28. The Corporate Trustees Investment Strategy will reflect the following objectives:
- (a) Maximise, within prudent limits, the annual returns to the Diocese;
  - (b) Be prudent as to the level of financial risk;
  - (c) Diversify investment so as to spread risk;
  - (d) Take into account the wishes of beneficiaries and the policies of the Diocese.
29. The *Trustee Act 1925*, although not directly applicable, is instructional for The Corporate Trustees in that it requires trustees to “... *exercise the care, diligence and skill that a prudent person would exercise in managing the affairs of other persons.*” Mindful of the standard set by the *Trustee Act 1925*, The Corporate Trustees will “*have regard to:*
- (a) *the purposes of the trust and the needs and circumstances of the beneficiaries;*
  - (b) *the desirability of diversifying trust investments;*
  - (c) *the nature of, and the risk associated with, existing trust investments and other trust property;*
  - (d) *the need to maintain the real value of the capital or income of the trust;*
  - (e) *the risk of capital or income loss or depreciation;*
  - (f) *the potential for capital appreciation;*
  - (g) *the likely income return and the timing of income return;*
  - (h) *the length of the term of the proposed investment;*
  - (i) *the probable duration of the trust;*
  - (j) *the liquidity and marketability of the proposed investment during, and on the determination of, the term of the proposed investment;*
  - (k) *the aggregate value of the trust estate;*
  - (l) *the effect of the proposed investment in relation to the tax liability of the trust;*
  - (m) *the likelihood of inflation affecting the value of the proposed investment or other trust property;*
  - (n) *the costs (including commissions, fees, charges and duties payable) of making the proposed investment;*
  - (o) *the results of a review of existing trust investments ... ”*



30. To be effective trustees, The Corporate Trustees will adopt the following policies:
- (a) Individual trust accounts will be pooled for investment unless there is a good reason not to do so;
  - (b) Speculative and risky undertakings or investments will be avoided;
  - (c) For liquidity, there will be an appropriate balance between income earning and capital gain assets;
  - (d) Share assets will be purchased based on a sound credit rating, a sound performance history and their potential for earnings;
  - (e) Direct investment in international shares will be avoided. Investment in international shares will only be through managed funds with such investments being a minor part of the investment portfolio;
  - (f) Investments in property will be an appropriate and diverse mix of commercial and residential property with listed and unlisted property trusts considered;
  - (g) Investments where there is potential confusion between the investment performance and ministry objectives will be avoided;
  - (h) The performance of investments will be compared against benchmarks for that asset class;
  - (i) No investments will be made in known illegal activities or where there is a reasonable suspicion of illegal activities;
  - (j) Deposits will not be taken if there is any suspicion that the purpose of such deposits is money laundering;
  - (k) All investments will conform to ethical and responsible investment guidelines as determined by the synod or the Bishop-in-Council.
31. All major investment decisions by the Corporate Trustees are to be accompanied by the rationale for the investment.
32. The Corporate Trustees may make investments or joint undertakings with other churches or investors to achieve the aims outlined above if in the view of The Corporate Trustees it is prudent and beneficial to do so.
33. As a matter of financial prudence, The Corporate Trustees will utilise independent professional support in developing and implementing investment strategies and in investment decisions. The Corporate Trustees will seek such advice in relation to the timing of investment property sales.

#### **INTERACTION WITH DIOCESAN ENTITIES**

34. The minuted decisions of the Corporate Trustees will be reported to the Bishop-in-Council on the next occasion following confirmation of the minutes.
35. An overarching governance requirement is to avoid real or perceived conflicts of interest between The Corporate Trustees and other Diocesan entities. This is particularly important where there are specific Trustee legislative responsibilities. However, this does not mean that entities should operate in isolation from one another, i.e. they should not operate as “silos”. The most productive approach is one of partnership.

### **Diocesan Buildings and Property Committee**

36. The Diocesan Governance Ordinance 2008 requires the Diocesan Buildings and Property Committee to make recommendations to Bishop-in-Council and The Corporate Trustees concerning the sale, purchase, exchange, lease or subdivision of real estate held in the name of The Corporate Trustees. Where that property is an investment property such recommendations are to only go to The Corporate Trustees.

### **Anglican Funds Grafton Diocese (AFGD)**

37. The Diocesan Governance Ordinance 2008 requires AFGD to be under the control of The Corporate Trustees of the Diocese of Grafton and provides for The Corporate Trustees to delegate the administration and management of the Fund to the AFGD Board. The Corporate Trustees Deed of Delegation and Indemnity authorises and provides indemnity for the actions of the AFGD Board.
38. The Corporate Trustees is the single largest depositor with AFGD and as such will be mindful of impacts on AFGD operations of any major transactions.
39. The Corporate Trustees shall authorise major AFGD investments and actions in accordance with an approved Delegation Schedule.
40. Delegation does not absolve The Corporate Trustees from prudential responsibility for AFGD financial activity.

### **RISK MANAGEMENT**

41. The management of risk is one of the major governance responsibilities of The Corporate Trustees.
42. The Corporate Trustees shall develop a risk management plan to complement Diocesan risk management policy. Consideration will be given to appropriate risk management strategies, ranking of risks and a detailed monitoring program. The Diocesan Audit Committee will be asked to review this plan and its implementation on a regular basis.

### **AUDIT**

43. The accounts of The Corporate Trustees of the Diocese of Grafton shall undergo an annual independent audit by a professional audit firm approved by Bishop-in-Council. The audited financial statements shall be subject to review by the Diocesan Audit Committee and presented to the synod for adoption.

### **PERFORMANCE ASSESSMENT AND REVIEW**

44. Performance assessment and review is a key part of The Corporate Trustees governance and operations.
45. Financial data prepared for each Corporate Trustees meeting should include explanatory notes on significant variations and a sub-split of items that are of

particular importance and sensitivity. The Corporate Trustees will compare outcomes with budget and with previous periods.

46. Key performance indicators (KPI's) should be directly relevant to the Corporate Trustees circumstances and activities, value-add, facilitate risk management and assist in providing early warning of potential problems.
47. KPI's should address, *inter alia*:
  - (a) Liquidity;
  - (b) Capital adequacy;
  - (c) Investment performance;
  - (d) Diversification;
  - (e) Trustee performance (e.g. attendance at meetings; notification of perceived as well as actual conflicts of interest; experience and competencies; and an annual review).

### **MEETINGS OF THE CORPORATE TRUSTEES**

48. The Corporate Trustees should meet as a minimum on a bi-monthly basis, with urgent matters dealt with by "Flying Minute" or special purpose telephone or video conference as appropriate.
49. The Corporate Trustees will be actively involved in the development of agenda for meetings.
50. Agenda papers and reports for consideration should be circulated no later than 5 days before each meeting.

### **PROBITY**

51. The Corporate Trustees will apply to due diligence and probity to:
  - (a) Sound decision making and accountability for decisions;
  - (b) Fairness, integrity and impartiality;
  - (c) Identification and management of conflicts of interest;
  - (d) Appropriate security and confidentiality arrangements;
  - (e) Transparency, consistency and comprehensible processes.
52. The Corporate Trustees will apply a high level of probity to their business activities and contractual dealings and will not:
  - (a) inappropriately use market power or influence;
  - (b) except in exceptional circumstances, seek to vary the terms of any existing contractual arrangement provided, however, that it shall be acceptable to renegotiate the terms of any new arrangement arising at the expiration of any existing arrangement; and
  - (c) give other than genuinely held opinions or feedback, constructively and based on reasonable criteria, in relation to any service provider or entity.
53. Individual Corporate Trustees will disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with their responsibilities. In this context, Corporate Trustees will provide Conflict of Interest Declarations covering the following:

- (a) Personal and other family investments in AFGD or in other institutions or entities in which The Corporate Trustees have invested or have an interest;
- (b) Personal and other family involvement in Diocesan organisations or institutions;
- (c) Personal and other family investments in financial products or equities that are, or being considered as, the subject of diocesan investments;
- (d) Other interests and relationships, including real estate investments, trusts or nominee companies, company directorships or partnerships, significant sources of income, significant liabilities, gifts, employment, voluntary, social or personal relationships or faith-based involvement that could or could be seen to impact upon Trustee responsibilities.

**ADMINISTRATION**

- 54. As required by Ordinance, the Registrar shall ensure that the Title Deeds of all Church Trust Property are held securely and are readily retrievable.
- 55. A Property Register in both electronic and hard copy will be maintained and contain at least:
  - (a) A photograph of each property;
  - (b) Real Property description;
  - (c) Insurance and valuation details;
  - (d) The name of the Ministry Unit utilising and/or managing the property;
  - (e) Details of mortgages, history and other relevant matters.
- 56. The Property Register, or relevant pages, will be readily available upon request to all Corporate Trustees, Bishop-in-Council members, Diocesan Buildings and Property Committee members and representatives of the relevant Ministry Unit.
- 57. Declarations of Trust will be prepared for all trusts accounts, specifying the source of the trust funds, the beneficiary and the purpose for which the trust fund and its income may be used. The Declarations of Trust will be housed safely in the Registry Office and be available upon request to all Corporate Trustees, Bishop-in-Council members, Diocesan Buildings and Property Committee members and representatives of the relevant Ministry Unit.
- 58. A copy of all leases entered into (whether as lessor or lessee), tenancy agents and licenses concerning real estate will as far as possible be maintained in the Registry. A register of Leases will be maintained and be available upon request to all Corporate Trustees, Bishop-in-Council members, Diocesan Buildings and Property Committee members and representatives of the relevant Ministry Unit.
- 59. Insurance will be taken out on all The Corporate Trustees' property, including that held as investment.

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