

GEOFFREY BURFOOT FUND ORDINANCE (No. 2) 2022
Ordinance No. 23 of 2022

An ordinance to replace a previous ordinance amending the terms of the Geoffrey Burfoot Fund to enable the property in it to be more broadly applied consistent with its primary purpose.

PREAMBLE

Whereas Geoffrey Robert Burfoot died on 8 January 2018 leaving a Will dated 13 November 2017 (the Will); and

Whereas clause 13 of the Will provided "I GIVE AND BEQUEATH unto my Trustee the sum of One Million Dollars (\$1,000,000) for the benefit of The Ministry of the Anglican Church of Murwillumbah upon the Trust known as the GEOFFREY BURFOOT FUND such funds are to be invested and remain untouched. The interest earned from the Fund shall be used for the travelling and accommodation expenses of Australian and overseas speakers at a legitimate conference"; and

Whereas the Will appointed Graeme John Hodgkinson as Executor and Trustee; and
Whereas Probate of the Will was granted to Graeme John Hodgkinson on 7 June 2018; and

Whereas Graeme John Hodgkinson had completed his executorial duties by 14 August 2020 and was holding \$1,000,000 as trustee on the trusts set out in clause 13 of the Will (the Geoffrey Burfoot Fund); and

Whereas the money in the Geoffrey Burfoot Fund is church trust property because it is held on trust for or for the use, benefit, or purposes of the Anglican Church in the Grafton Diocese; and

Whereas by a Deed dated 14 August 2020 (the Amending Deed), Graeme John Hodgkinson, desirous of retiring as Trustee of the Geoffrey Burfoot Fund, sought to retire as Trustee and to appoint The Corporate Trustees of the Diocese of Grafton (the Corporate Trustees) as Trustee of the Geoffrey Burfoot Fund, which sought to accept that appointment; and

Whereas the Amending Deed also sought to amend the terms of the Geoffrey Burfoot Fund to make its application more flexible by stating:

1. That the income derived from the Trust shall be entitled to be used for the purposes set out in the Trust but shall include generally within the Diocese.
2. The said funds shall be invested by The Corporate Trustees of the Diocese of Grafton and the income shall be used for the new purposes set out in this Deed.
3. That the Parish of Murwillumbah shall have priority in relation to the distribution of funds for the purposes set out in the terms of the Will.

and

Whereas it has been found that, for various reasons, the Amending Deed was ineffective; and

Whereas it has also been found that the purported amendment of the terms of the Geoffrey Burfoot Fund are too limited and are not sufficiently effective in promoting conferences in the Diocese to which speakers of quality can be invited so that the members of the Diocese, and the Parish of Murwillumbah in particular, can benefit from attendance; and

Whereas the stated desire of Graeme John Hodgkinson to retire as the trustee of the Geoffrey Burfoot Fund makes it expedient to effect a change of the trustee of the Geoffrey Burfoot Fund from Graeme John Hodgkinson to The Corporate Trustees; and

Whereas it is the opinion of the Bishop-in-Council that it is inexpedient to carry out or observe the terms of the Geoffrey Burfoot Fund by reason of circumstances subsequent to the creation of the Geoffrey Burfoot Fund and that the terms of the Geoffrey Burfoot Fund should be replaced with terms which provide more broadly for conferences of the Diocese of Grafton.

Whereas, on 1 September 2022, the Bishop-in-Council passed an ordinance appointing a trustee and prescribing terms of the trust, however that ordinance was found to be deficient in that it exposed the Corporate Trustees as potentially liable for circumstances outside of their control;

Therefore, the Bishop-in-Council in pursuance of such powers and in the name of the Synod hereby ordains, directs and rules as follows:

REPEAL

1. The Geoffrey Burfoot Ordinance 2022 is hereby repealed.

CHANGE OF TRUSTEE

2. That, pursuant to section 19 of the *Anglican Church of Australia Trust Property Act 1917*, the Bishop-in-Council consents to the property of the Geoffrey Burfoot Fund becoming vested in The Corporate Trustees which replaces Graeme John Hodgkinson as the trustee of the Geoffrey Burfoot Fund.

AMENDED TERMS OF TRUST

3. That, pursuant to section 32 of the *Anglican Church of Australia Trust Property Act 1917*, by reason of circumstances subsequent to the creation of the Geoffrey Burfoot Fund, the Bishop-in-Council is of the opinion that it has become inexpedient to carry out or observe the terms of the Geoffrey Burfoot Fund and declares that those terms be replaced by the following terms:
 - a. **Purpose:** That the income arising from the investment of the funds in the Geoffrey Burfoot Fund is to be used to support the holding of conferences (including any organised gatherings of people for learning and/or information sharing) of the Anglican Diocese of Grafton including but not limited to paying the travelling, accommodation and attendance expenses of speakers from outside the Diocese; venue, promotion and materials costs; and subsidising the attendance of members of the Diocese.
 - b. **Capital Preservation:** If the balance of the Geoffrey Burfoot Fund falls under \$1,000,000, the income of the fund must not be used for the purposes set out in paragraph a. until the balance is restored to \$1,000,000.
 - c. **Parish of Murwillumbah:** The Corporate Trustees, when considering how to use the income of the Geoffrey Burfoot Fund, is to consider benefitting the Parish of Murwillumbah and may benefit the Parish of Murwillumbah more than other entities of the Diocese.
4. The Corporate Trustees are to administer the Geoffrey Burfoot Fund in accordance with the terms of this Ordinance.

COMMENCEMENT

This Ordinance shall come into effect upon the assent of the Bishop.

SHORT TITLE

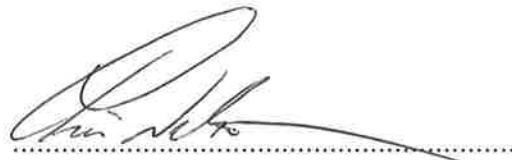
This Ordinance may be cited as the Geoffrey Burfoot Fund Ordinance (No. 2) 2022.

ASSENT

We hereby certify that this Ordinance was passed by Bishop-in-Council on the Fifteenth day of December 2022 and that the Ordinance as printed is in accordance with the Ordinance as passed.



Chair of Committees



Registrar

I assent to this Ordinance.



Bishop



Date