

CHURCH GROUNDS AND BUILDINGS ORDINANCE 1990

No. 37, 1990

AN ORDINANCE relating to church grounds and buildings.
NOW the Synod of the Diocese of Sydney ordains as follows —

PART 1 — PRELIMINARY

Citation

1. This Ordinance may be cited as the "Church Grounds and Buildings Ordinance 1990".

Definitions

2. (1) Words and expressions used in this Ordinance have the same meanings as in the Schedule to the Interpretation Ordinance 1985 and clause 2 of the Church Administration Ordinance 1990.

(2) In this Ordinance —

"Assistant Bishop" means a person holding office in the Diocese as an Assistant Bishop;

"building" includes part of a building;

"church committee" includes persons exercising the functions of a church committee;

"land" includes leasehold as well as freehold and any freehold or leasehold held under or subject to legislation relating to strata or community titles;

"parish council" includes persons exercising the powers of a parish council.

PART 2 — NEW BUILDINGS

New sites for churches

3. (1) A person who wants to provide land as the site for a church or a building which includes a church must —

(a) obtain the approvals of the Archbishop and the Property Trust; and

(b) thereafter transfer the land to the Property Trust.

(2) This clause does not apply to a person who wants to provide land by will.

(3) In this clause "person" includes a corporation.

Architectural panels

4. (1) There is to be an architectural panel for each episcopal area of the Diocese.

(2) The members of the architectural panels are to be appointed by the Archbishop. Each such appointment may be revoked at any time by the Archbishop. A person may be a member of more than one architectural panel at the same time.

(3) The architectural panels, from time to time, are jointly to prepare, revise and make available guidelines for the requirements to be satisfied in order to obtain an approval under clause 5.

Approval of plans and specifications

5. (1) A person wishing to erect or alter a building intended for use as a church or hall or to erect or effect structural alterations to a house for the use of clergy or other members of the Anglican Church of Australia as such must first obtain approval under this clause to the proposed works. If an approval is given subject to conditions the works may be executed only if the conditions are satisfied or complied with.

(2) An application for approval must —

(a) be approved by resolution of the church committee or parish council of the parish in which the relevant building will be or is situated;

(b) be signed by the minister and a majority of the members of the church committee or parish council of that parish;

(c) be accompanied with site plans, building plans and specifications in relation to the proposed works; and

(d) contain information sufficient to satisfy an architectural panel that arrangements will be made for the proper and adequate supervision of the proposed works.

(3) All site plans, building plans and specifications for any such works must be prepared by a suitably qualified person substantially in accordance with the current guidelines for the architectural panels.

(4) An application for approval may be lodged with the Assistant Bishop or Archdeacon of the area in which the relevant parish is situated.

(5) An Assistant Bishop or Archdeacon who receives an application for approval must refer the application to an architectural panel. The architectural panel must consider the application and recommend to —

(a) the Archbishop; or

(b) an Assistant Bishop authorised by the Archbishop to give approvals under this clause generally or in any particular case;

that the application be approved, unconditionally or subject to conditions, or rejected.

(6) On receipt of such recommendation, the Archbishop or Assistant Bishop must approve the application, unconditionally or subject to conditions, or reject the application.

(7) No building work may commence in relation to the execution of any works until an approval under this clause has been given to those works.

(8) At any time before an approval is given, the minister may and must, if requested in writing by the Archbishop or an architectural panel, refer the application or any matter relating to the application to the relevant parish council or church committee for further consideration and any resolution must be notified in writing to the Archbishop or the architectural panel as soon as reasonably possible after it is made.

Consecration and licence

6. (1) No building intended to be used regularly for the celebration of divine service is to be used for that purpose unless the building has been licensed or consecrated as a church.

(2) An application for a licence or sentence of consecration may be made by the minister or the trustee of the building.

(3) Subject to subclause (5), no building is to be licensed or consecrated as a church until —

- (a) the land on which the building is erected has been vested in the Property Trust or a trustee approved by the Archbishop-in-Council; and
- (b) the building has been provided with such things as may be requisite according to the law and usage of the Anglican Church of Australia in the Diocese of Sydney.

(4) Where a building has been licensed or consecrated as a church, the licence or sentence of consecration may be revoked by the Archbishop if —

- (a) the minister (if any) of the parish within which the building is situated consents in writing; and
- (b) a majority of the members of the parish council of the parish consents in writing.

(5) Where a building erected on church trust property in a parish is licensed or consecrated as a church, the Archbishop may license any other building in that parish to be used temporarily or from time to time as a church if requested so to do by the minister and a majority of the members of the parish council of the parish.

(6) A licence issued under subclause (5) (unless revoked under subclause (4)) is to be for the period specified in the licence and any building so licensed is a church of the parish concerned for the purposes of this Ordinance and the Church Administration Ordinance 1990 during that period.

(7) The name of a church is that specified in the licence or sentence of consecration. The name of a church may only be changed by the Archbishop at the request of the minister and churchwardens, if any.

PART 3 — CHURCHES AND THEIR USES, ETC

Persons permitted to officiate in churches

7. No person is permitted to celebrate divine service or preach any sermon in any church unless —

- (a) in the case of a clergyman other than a deacon, he has been licensed or approved by the Archbishop or an Assistant Bishop; or
- (b) in the case of a deacon, he or she has been licensed or approved by the Archbishop or an Assistant Bishop; or
- (c) in the case of a layperson, he or she has been authorised so to do pursuant to the Deaconesses, Readers and Other Lay Persons Ordinance 1981.

Uses of churches

8. (1) A church may be used for any one or more of the following purposes —

- (a) the celebration of divine service;
- (b) the giving of religious instruction in accordance with the Fundamental Declarations and Ruling Principles of the Anglican Church of Australia as specified in the 1961 Constitution;
- (c) the conduct of a vestry or prayer meeting;
- (d) such other purpose or purposes, being similar to or different from any purpose referred to in (a), (b) or (c), as the Archbishop may approve in writing from time to time either generally or in any particular case or classes of cases;

and for no other purpose or purposes.

(2) A person may not use a church for a purpose permitted under this clause, except with the consent of the minister (if any) for the time being of the church or, in the absence of the minister, with the consent of the Archbishop or an Assistant Bishop.

Alterations, ornaments and monuments

9. It is not lawful —

- (a) to alter, add to or take away from the fabric, utensils, ornaments or furniture of a church; or
- (b) to place any monument, memorial or tablet in or on any part of a church or church trust property but the parish Council may permit any alteration or addition to be made to an existing monument, memorial or tablet in a Burial Ground; or
- (c) to erect any wall on church trust property in which to inter the ashes of any deceased person or use any such wall for that purpose;

except with the approval of the Archbishop by a faculty or other form of permit.

Faculties

10. (1) Subject to any regulations made under this clause, an application for the Archbishop's approval under clause 9 is to be made —

- (a) in the case of a parish having only one church, by the minister and parish council but, if there is no parish council, then by the minister and the churchwardens of that church; or

- (b) in the case of a parish having more than one church, by the minister and church committee of the church concerned but, if there is no such church committee, then by the minister and the churchwardens of that church.

(2) The Archbishop-in-Council may from time to time make regulations relating to the practice, procedure, forms and fees to be paid in respect of all matters arising under this clause and clause 9.

(3) The Archbishop may, for the purpose of enabling him to deal with an application for his approval under this clause, direct that notices be given, meetings be summoned and other things be done in such manner as he determines.

PART 4 — CLOSURE OF CHURCHES

Revocation of licence, etc

11. (1) Should the minister or churchwardens of a church, or the Archdeacon with jurisdiction over the parish in which the church is situated, come to the view that the church should be closed, they must —

- (a) discuss the proposal with the parish council of the relevant parish and with any church committee of the church;
- (b) consult with the minister of the church and/or the relevant Archdeacon and obtain his or their views;
- (c) convene a vestry meeting of the church to ascertain the views of parishioners; and
- (d) if considered appropriate, recommend to the Archbishop that services be discontinued and the church be closed.

(2) Any recommendation to the Archbishop under this clause should contain —

- (a) the reasons for closure;
- (b) an assurance that there is no disagreement over the proposal, or, alternatively, details of any disagreement;
- (c) a declaration from the churchwardens of the other or another church in the relevant parish and the relevant parish council that they will assume responsibility for the payment of rates and other outgoings, and the care of the property, buildings and furnishings;
- (d) a report on any funds for which the churchwardens of the other or principal church and the parish council are to become responsible;
- (e) a list of any valuable items and details of where they will be stored;
- (f) the arrangements made for the removal of any memorials and for their storage; and

- (g) an indication of the possible future of the property.
- (3) After receipt of the recommendation, the Archbishop may revoke the licence of the church.

PART 5 — PRE-SCHOOLS, SCHOOLS, ETC

Commencement and conduct

12. (1) No long day care centre, pre-school, kindergarten, school or college, or similar educational activity requiring governmental registration, licence or authorisation is to be commenced or be conducted by any minister, churchwarden, parish council or church committee on any church trust property or other property except —

- (a) by a committee or body corporate established or constituted by ordinance of the Synod or of the Standing Committee; or
- (b) with the consent of the Synod or of the Standing Committee given by resolution thereof after it has determined that the application has satisfied any applicable diocesan guidelines; or
- (c) by a lessee or licensee under a lease or licence granted by the Property Trust.

(2) In this clause, "committee" does not include churchwardens exercising any powers granted to them under this Ordinance or the Church Administration Ordinance 1990, a parish council or a church committee.

PART 6 — TRUSTEES OBLIGATIONS

Provision of accounts

13. Where any real or personal property is held upon trust for a parish by trustees other than the Property Trust or the churchwardens, those trustees are subject to the same obligations with respect to providing accounts as are prescribed for churchwardens under clause 27 of the Church Administration Ordinance 1990.

PART 7 — BURIAL GROUNDS

Charge and administration

14. (1) Land (including church grounds) being church trust property consecrated for or being used as a burial ground is to be under the charge and administration of the churchwardens and the minister of the parish in which such land is situated.

(2) Any such land must not be used for any purpose other than the burial of the dead according to the rites and ceremonies of the Anglican Church of Australia.

(3) The Archbishop and the trustees of a burial ground together may make and from time to time alter rules, regulations and scales of fees —

- (a) for the management of the burial ground;
- (b) for interments in the burial ground;
- (c) for the enclosure of land in the burial ground by kerbing or otherwise; and
- (d) for any other matters including the application of any such fees.

PART 8 — NAMES OF PARISHES

Names of parishes

15. The name of a parish is that last designated by the Archbishop. The name of a parish may only be changed by the Archbishop at the request of the minister and parish council, if any.

PART 9 — DELEGATION

Archbishop may delegate

16. The Archbishop may delegate any or all of his functions under this Ordinance to an Assistant Bishop or to an Archdeacon.

PART 10 — ABSENCE, ETC OF ARCHBISHOP

What happens if the Archbishop is absence from the State?

17. In the absence of the Archbishop from the State of New South Wales the powers by this Ordinance vested in him (subject to such limitations as he may prescribe) will be exercised by a Commissary appointed by him and in default of such appointment or if the Archbishop is incapable of acting then by the person who if the See were vacant would be the administrator of the Diocese and if the See be vacant then by such administrator.

PART 11 — COMMENCEMENT

Commencement to be determined by Archbishop-in-Council

18. (1) This Ordinance commences on a day to be determined by the Archbishop-in-Council.

(2) The Diocesan Secretary is to notify the minister of each parish and the churchwardens of each church of the date so determined.

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

E.D. Cameron
Deputy Chairman of Committees

WE CERTIFY that this Ordinance was passed by the Synod of the Diocese of Sydney on this 11th day of October 1990.

W.G.S. Gotley
G.K. Clifton
Secretaries of Synod

I ASSENT to this Ordinance

Donald Robinson
Archbishop of Sydney

9/10/1990