

Anglican Church of Australia - Diocese of Brisbane

## **DIOCESAN COUNCIL CANON**

### **A Canon constituting the Diocesan Council and declaring its powers.**

#### **Short Title**

1. This Canon may be cited as the "Diocesan Council Canon".

#### **Constitution of Council**

2. The Diocesan Council shall consist of the following persons -
  - (a) the Archbishop,
  - (b) the Assistant Bishops,
  - (c) the Chancellor,
  - (d) members elected or appointed as hereinafter provided.

#### **Election of members by Synod and nominations**

3.
  - (1) At the first ordinary session of each term of the Synod there shall be elected five clerical members of Synod and five lay persons who are Electors to be members of the Diocesan Council.
  - (2) Subject to this Canon, a person elected under subsection (1) holds office until the end of the first session of the next term of the Synod and is eligible for re-election.
  - (3) The Diocesan Council may nominate candidates for election to the Diocesan Council and must provide to the Synod reasons for its recommendations. No nomination is required under the Election by Synod Canon in respect of candidates for election nominated by the Diocesan Council. Other candidates for election may be nominated in accordance with the Election by Synod Canon.
  - (4) There shall be a nominations committee comprising four persons appointed by the Diocesan Council and one person appointed by the Archbishop. A member of the nominations committee may be removed from office by their appointer. The persons appointed must be qualified to be elected as members of Diocesan Council under this Canon and may be members of Diocesan Council. The nominations committee:
    - (a) must make recommendations to the Diocesan Council of candidates for election as members of the Diocesan Council; and
    - (b) may be asked by the Diocesan Council to assess and make recommendations in respect of persons proposed to be appointed to the Diocesan Council under this Canon.

- (5) The nominations committee must:
- (a) consider the mix of skills required to carry out the functions of the Diocesan Council, the time that current members of Diocesan Council have served and whether new members would contribute and add value to the Diocesan Council;
  - (b) endeavour to identify candidates both clerical and lay from each region of the Diocese; and
  - (c) endeavour to achieve a balance of gender amongst the candidates.

The Diocesan Council must consider these matters in nominating candidates for election.

- (6) The Diocesan Council must provide to the members of Synod a list of candidates together with biographical details, to the extent such details are provided by the candidates.

#### **Appointment by Archbishop**

4. (1) The Archbishop may from time to time appoint up to two persons who are qualified under this Canon to hold office as members of the Diocesan Council.
- (2) A person appointed under this section must either be a clerical member of Synod or an Elector.
- (3) Subject to this Canon, a person appointed under this section holds office until the end of the first session of the next term of the Synod after the term during which they were appointed and is eligible for re-appointment.

#### **Certain persons disqualified**

- 4A. (1) Despite any other provision of this Canon, a person must not be appointed or elected as a member of Diocesan Council under this Canon, and such appointment or election will be of no effect if:
- (a) in the case of an appointment, the person holds a Disqualifying Office at the time that they are appointed;
  - (b) in the case of election, the person holds a Disqualifying Office at the time that they are elected and does not resign that office within 7 days of being elected as a member of Diocesan Council; or
  - (c) the person is, or was during the immediately preceding term of the Synod, a member of the Diocesan Council and has been a member of the Diocesan Council for the Maximum Period.

- (2) A Disqualifying Office under this Canon means:
  - (a) General Manager;
  - (b) Chair of a Commission formed under the Diocesan Governance Canon;
  - (c) executive director, chief executive or like position of a Commission formed under the Diocesan Governance Canon;
  - (d) executive director, chief executive or like position of an Agency, as defined in the Diocesan Governance Canon; and
  - (e) Principal of a School, each as defined in the Diocesan Governance Canon.
- (3) The Maximum Period under this Canon means four consecutive terms of the Synod provided that for the purpose of calculating that period:
  - (a) if a person is appointed to the Diocesan Council during a term of the Synod, they will be taken to have served the entire term during which they were appointed; and
  - (b) if a person resigns or is removed from the Diocesan Council during the fourth consecutive term of the Synod in which they have been a member of the Diocesan Council, then they will be taken to have served for that entire term.
- (4) If a member of the Diocesan Council ceases to be an Elector, then they will cease to be member of the Diocesan Council four months after ceasing to be an Elector unless before that time the person again qualifies as an Elector.

**Chairman**

5. (a) The Archbishop shall be Chairman of the Council, provided that if he shall be unable to be present he may by writing under his hand appoint a person, being a member of the Council, to preside at that meeting.
- (b) If the Archbishop shall not have appointed a Chairman as aforesaid, or if that person so appointed shall be unable to be present, the Archbishop's Commissary shall preside, and if he be unable to be present, then the person next in ecclesiastical rank, as provided for in the Constitution, shall preside at that meeting.

**Quorum**

6. The quorum for any meeting of the Diocesan Council shall be the Chairman as aforesaid, and in addition three Clerical and three lay members of the Council.

**Voting at meetings**

7. All resolutions and decisions of the Council shall be passed in the following manner -

the votes of clerical and lay members of the Council shall unless required to be taken separately be taken collectively and any resolution or decision so taken shall be deemed to have been duly passed by the Council, provided that on the request of the Chairman or any three of the clerical or three of the lay members the votes of the Clergy and laity shall be taken separately and in that case the assent of the Chairman and a majority of the Clergy and a majority of the laity shall be requisite to the passing of such resolution or decision.

### **Meetings**

8. The Council shall meet once every month unless the Council decides otherwise and also at such other times as shall be necessary for the transaction of business; special meetings may be convened by the Archbishop as may be required.

### **Conduct of business**

9.
  - (1) The Council may conduct its business in any way it sees fit subject to the Canons and Constitution.
  - (2) Without limiting subsection (1), the Diocesan Council:
    - (a) may invite any person to observe its meetings or to provide information to it; and
    - (b) will, in the ordinary course, invite the executive director or chair of each Commission formed under the Diocesan Governance Canon to attend its meetings and speak to any report of the Commission and provide such other information as is required by the Diocesan Council but this does not prevent the Diocesan Council from meeting without such executive directors or chairs as it determines and in accordance with good governance practice.

### **Resolution outside meetings**

10.
  - (1) The Archbishop may circulate at any time to members of the Council a draft resolution which, if agreed to by a majority of the Clerical members and a majority of the lay members of the Council and received by the Registrar, shall be deemed to be a resolution of the Council duly passed at a meeting thereof.
  - (2) Any such resolution may consist of several documents in like form, each containing assent by one or more members of the Council and may be circulated and received by facsimile or electronically.

### **Seat on Council may be declared vacant**

11. In the event of any member of Council being absent for four consecutive meetings without permission or being guilty of such misconduct as to interfere seriously with the conduct of business it shall be lawful for the Council to declare the seat of such member vacant.

### **Functions and powers of Diocesan Council**

12. (1) The functions of the Diocesan Council are to:
- (a) provide advice to the Archbishop, as required between sessions of Synod, for the good governance of the Church;
  - (b) oversee and direct the broad directions and priorities of the Church in this Diocese and oversee, monitor and control the directions, policies and operations of the Commissions formed under the Diocesan Governance Canon, so as to achieve the mission and fundamental objectives of the Church in this Diocese;
  - (c) prepare the business for each session of the Synod to ensure the effective governance and management of the Church in this Diocese;
  - (d) listen to, debate and formulate responses to issues confronting this Diocese, the Anglican Church of Australia or the Worldwide Anglican Communion in order to fully participate in the Anglican Communion; and
  - (e) discharge its responsibilities under the Constitution and Canons.
- (2) The powers conferred by this Canon and each other Canon on the Diocesan Council may be exercised by it from time to time and it shall not be necessary for the Diocesan Council to submit to the Synod for ratification any act done by virtue of the powers delegated to the Diocesan Council.

### **Transitional**

- 12A. At the first ordinary session of the Synod to be held in June 2008, the Diocesan Council may nominate candidates for election to the Diocesan Council pursuant to Section 3(3) notwithstanding that a nominations committee has not been appointed.
- 12B. To avoid doubt, it is declared that membership of the Diocesan Council prior to the commencement of the Diocesan Council Canon Amendment Canon 2008 is not taken into account for the purpose of section 4A.

### **Powers of the Diocesan Council**

13. It shall be the duty of the Diocesan Council when the Synod is not in session and they are hereby authorised and empowered subject to any general or special direction of the Synod to do all or any of the following things that is to say -
- (a) to manage and administer all the real and personal property held by the Synod or by any person or corporation in trust for the Synod;

- (b) to purchase such real or personal property as they may think fit for the purposes of the Church or of the Diocese;
- (c) to sell mortgage lease or otherwise deal with any real or personal property held by the Synod or any person or corporation in trust for the Synod;
- (d) to manage and administer any funds raised or received for the purposes of the Diocese including any special grants intrusted to their disposal by the Synod or by any person;
- (e) to take such action in all matters which may from time to time be referred to or delegated to it by the Synod as appears necessary or expedient;
- (f) to manage and invest funds held by the Corporation and in the exercise of these powers and responsibilities the Council is authorized to:
  - (i) accept money on deposit;
  - (ii) borrow, raise or otherwise obtain financial accommodation, including by the issue of debentures, bonds or other securities;
  - (iii) advance or lend money or otherwise make financial accommodation available or enter into financial arrangements with or without security, at such rate of interest (if any) or for such other consideration (if any) and on such terms as to repayment and otherwise as the Council may authorize;
  - (iv) issue, draw, accept, endorse or discount bills of exchange, promissory notes, payment orders or other negotiable instruments;
  - (v) enter into any transaction for the purpose of managing or varying financial returns or financial or currency risks or obligations or returning a gain or avoiding a loss by reference to currency exchange rate movements, interest or discount rate movements or any other risk management transaction or agreement.

**Report and accounts**

14. The Council shall prepare for presentation to the Synod at each ordinary session a report of their proceedings during the past year together with a full account of the receipts and disbursements of all funds under the control and management of the Council and the same shall be printed and sent to every member thereof at least fourteen days before the meeting thereof.

**Minute book to be kept**

15. A minute of every resolution or proceeding agreed to at any meeting of the Council shall be entered in a book to be kept for that purpose and such minute book or a certified copy thereof shall be laid before the Synod at the commencement of each session of the Synod.

**Delegation to Committees**

16. The Diocesan Council may delegate any portion of its powers except the power of delegation to Committees the membership of which is not limited to members of the Council but the powers so delegated shall be strictly defined and shall be revocable by the Diocesan Council at pleasure.

**Advisers and committees of advice**

17. (1) The Diocesan Council from time to time may appoint individual persons as advisers and may appoint committees of advice in any matters which relate to the duties or responsibilities of the Synod or the Council, and at the request of the Archbishop in any matters which relate to the duties or responsibilities of the Archbishop, in each case to hold such appointment until the first meeting of the Diocesan Council held next after the annual session of Synod, or as provided in the next sub-section.
  - (2) Any appointment as an adviser or as a member of a committee of advice may be revoked by the Diocesan Council at pleasure, and shall expire if the person so appointed resigns in writing to the Archbishop.
  - (3) The Archbishop may with the consent of the Synod and when the Synod is not in session with that of the Diocesan Council appoint from time to time any such advisers or members of a committee of advice not exceeding six in all who are qualified to be Electors to be members of the Synod to hold office until the first day of sitting of the annual session of Synod held next after the session of Synod at which or for which they shall have been appointed and in the event of the office of any member of Synod thus appointed becoming vacant may fill the same in like manner.

**Disposal of income**

18. All property now vested in or hereafter to become vested in the Corporation, the Synod or in Trustees on behalf of the Church or any person holding office therein shall, so far as the same is not subject to any express trust, and so far as any such trust shall not extend, be held, managed, mortgaged, charged, alienated, or otherwise dealt with and disposed of in such manner that any income or revenue derived therefrom and all moneys raised or received by or from any sale, mortgage, or lease shall be applied in accordance with the provisions set out in Section 19.

**Priorities in the disposal of income**

19. Income, revenue and moneys derived from the property referred to in Section 18 shall, subject to any statutory requirements, be applied in the following manner and priority –
  - (a) the payment of all arrears in contributions required pursuant to the Canons to be made to the Corporation, being contributions of the Parish, if any, which has last had the use of the property;

- (ab) in the case of proceeds from a disposal of real property or any improvements thereon, including sale, long term lease or the declaration of a trust, from the balance of proceeds remaining after the application under paragraph (a):
- (i) payment of up to 20% of the remaining proceeds to a capital fund, being the Going for Growth Fund or such other fund established for the purpose of funding ministry in the Diocese; and
  - (ii) payment of up to 5% of the remaining proceeds to the Diocese to offset operational costs in relation to property management,
- as determined by Archbishop-in-Council or under any policy adopted by Archbishop-in-Council which must provide for consultation, where practicable, with the parish or institution which last used the property.
- (b) satisfying any local wants or requirements of the Parish or institution which has last used the property, if the Synod or the Archbishop-in-Council considers that appropriate after taking into account:
- (i) those local wants or requirements, and
    - a. in the case of a Parish, any relevant Parish strategy as expressed by resolution of the Parish Council,
    - b. in the case of an institution, any relevant strategy as expressed by resolution of its governing body; and
  - (ii) any strategy in the mission of the Church in this Diocese as expressed from time to time by resolution of the Synod;
- (c) such general Diocesan purposes as shall from time to time be set out by resolution of the Synod.

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## NOTES

1. The *Diocesan Council Canon* is part of Schedule 2 of the *Consolidating Canon 1990* [assented to: 12 June 1990].
2. By the *Diocesan Advisers Canon 1995* [assented to: 19 June 1995] - Sec. 17 was inserted.
3. By the *Triennial Synod Canon 1998* [assented to: 20 June 1998] - Sec. 3 was amended.
4. By the *Deputy Chancellor Canon 2003* [assented to: 28 June 2003] - Sec. 2 was amended.



5. By the *Diocesan Governance Canon 2004* [assented to: 20 June 2004, Schedule 2 Part A in operation: 1 October 2004] -
    - Sec. 10 was deleted and a new section inserted.
    - Sec. 13 was amended.
    - Secs 18 & 19 were inserted.
  
  6. By the *Diocesan Council Canon Amendment Canon 2008* [assented to: 21 June 2008]
    - Secs 2, 3, 4, 9 and 12 were deleted and new sections 2, 3, 4, 4A, 9, 12, 12A and 12B were inserted.
    - Secs 11 & 16 were amended.
  
  7. By the *Treasurer (Abolition of Office) Canon 2013* [assented to: 22 June 2013]
    - Sec 2 was amended.
  
  8. By the *Diocesan Council Canon Amendment Canon 2015* [assented to: 28 June 2015]
    - Section 19(ab) was inserted.
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