

PROPERTY APPROVALS ACT

(Previously known as the Property Approvals Board Act 1997 and amended in 2006.)

Be It Enacted by the Bishop, the Clergy and the Laity of the Anglican Church of Australia within the Diocese of Bendigo duly met in Synod according to law as follows :-

1. This Act may be cited as the ‘Property Approvals Act’.
2. “Executive Committee” means the Executive Committee of the CoD.
3. Whenever any parish or agency or organization of the Diocese proposes to undertake the construction, extension, alteration, demolition, removal or substantial repair of buildings or proposes to undertake the sale, purchase, lease, exchange or subdivision of property (being all real or leasehold property or other property in respect of which the sale or purchase price is in excess of the specified amount) or the erection or placement of any article or monument in or on any part of a building or in the churchyard irrespective of the value the parish or agency or organization shall abide by the requirements set forth in the Schedule to this Act.
4. Nothing in this Act shall detract from the requirement for the grant of a faculty when the grant of a faculty is required pursuant to the provisions of the Parish Administration Act.
5. The requirements set forth in the Schedule may be altered, varied, added to or deleted from time to time by the Council of the Diocese (but not by the Standing Committee of the Council) or by a simple majority of the members of Synod voting together.
6. Upon the sale or other disposition of any property the proceeds of such sale or other disposition shall be remitted to the Registrar forthwith and the Council of the Diocese after consultation with the parish, agency or organization concerned shall decide in what manner and for what purposes those proceeds shall be applied.
7. All contracts relating to any work or transaction shall be executed in the name of and by the Bendigo Diocesan Trusts Corporation.
8. (1) All references in the Regulations to “the Parish Council” shall be read so as to include where appropriate the managing council or body of an agency or organization of the Diocese.

- (2) The provisions of clauses 1.5, 1.6 and 2.2.5 of the Regulations apply only to applications made by or on behalf of a parish and do not apply to applications made by or on behalf of an agency or organization of the Diocese.

SCHEDULE

Construction, extension, alteration, demolition, removal or substantial repair of buildings.

- 1.1 Any parish, agency or organization of the Diocese seeking to undertake the construction, extension, alteration, demolition, removal or substantial repair of a building (“the work”) shall comply with the following directions:
- 1.1.1 An application for the approval of the work, together with a certified copy of the minuted resolution of the Parish Council relating to the work, shall be submitted to the Bishop who as expeditiously as possible shall follow the procedure set out in either clause 1.1.2 or clause 1.1.3
 - 1.1.2 If the Bishop is of opinion that it is appropriate to do so, he shall advise the Parish Council that the application has been referred to the Executive Committee.
 - 1.1.3 If the Bishop is of opinion that it is appropriate to do so, he shall advise the Parish Council that the application will not be referred to the Executive Committee and shall provide reasons for his decision.
 - 1.1.4 Upon advice from the Bishop that the application has been referred to the Executive Committee the parish Council shall provide to the Executive Committee the following:
 - (a) a sketch plan for the work setting out all the relevant measurements;
 - (b) a site plan for the work;
 - (c) a general description of the work and the materials, if any, to be used;
 - (d) where appropriate, advice as to the extent to which the work may require consultation and / or approval from any recognized body concerned with the preservation of historical buildings;
 - (e) as estimate of the cost of the work; and

- (f) a statement of the method whereby the work will be financed.
- 1.2 Upon receipt of the material referred to in the preceding sub-clause, any member of the Executive Committee who believes that he or she may be involved in a conflict of interest shall declare the same to the Chairman and shall take no further part in the deliberations of the Executive Committee in respect of that work save that he or she is permitted to answer specific questions relating to the work which are asked by the Chairman on behalf of the Executive Committee.
 - 1.3 If it thinks that it is appropriate to do so, the Executive Committee may require that specified amendments be made in respect of the work.
 - 1.4 If it thinks that it is appropriate to do so, the Executive Committee may require that plans for the work, incorporating any amendments required pursuant to the preceding clause, and the site plan be prepared by an architect or other competent person.
 - 1.5 When it is satisfied that there has been compliance with the provisions of clauses 1.1.4 and, if applicable, 1.3 and 1.4, the Executive Committee shall require the exhibition in close proximity to the entrance of the principal church in the parish and the relevant church for a continuous period of 21 days the following:
 - (a) the plan of the work;
 - (b) the site plan;
 - (c) the general description of the work and the materials, if any, to be used;
 - (d) the estimate of the cost of the work;
 - (e) the statement of the method whereby the work will be financed;
 - (f) a statement that objections to the carrying out of the work shall be given in writing to the secretary of the Parish Council within the period of 21 days;
 - (g). notice of the date, being after the expiration of the period of 21 days, the time and the place of a general meeting of parishioners to discuss the proposal.

- 1.6 Meeting of parishioners.
- 1.6.1 A general meeting of parishioners shall be held in accordance with the notice referred to in paragraph 1.5(g) ("the meeting").
- 1.6.2 At the general meeting:
- (a) minutes shall be taken;
 - (b) any objections received by the secretary of the Parish Council shall be read;
 - (c) there shall be proposed and seconded a resolution that the meeting resolves to proceed with the work which motion may be amended and shall be debated before being submitted to a vote.
- 1.6.3 If the meeting resolves not to proceed with the proposal, that fact shall be reported to the Executive Committee which may consult with representatives of the parish and may recommend what further action, if any, should be taken by the parish.
- 1.6.4 If the meeting resolves to proceed with the proposal, the Executive Committee shall be advised accordingly and shall be provided with -
- (a) a copy of the minutes of the meeting;
 - (b) copies of the letters of objection, if any;
 - (c) the sketch plan and site plan with any amendments shown in red;
 - (d) a statement signed by the incumbent and two wardens that there was compliance with the conditions required by clauses 1.5, 1.6.1 and 1.6.2.
- 1.7 The Executive Committee shall either grant unconditional approval for the proposal or grant approval conditional upon detailed plans and specifications being supplied or the provision of further evidence of the financial aspects of the proposal.

Transactions for the sale, purchase, leasing, exchange or subdivision of property.

2.1 In this Part the expression property H means all real or leasehold property and all other property in respect of which the sale or purchase price is in excess of the specified amount and, without limiting the generality thereof, includes the erection or placement of any article or monument in or on any part of a building or in the churchyard irrespective of the value.

2.2 Any parish, agency or organization of the Diocese seeking to undertake the sale, purchase, lease, exchange or subdivision of property (the transaction”) shall comply with the following directions and procedures:

2.2.1 An application for approval of the transaction shall be submitted to the Executive Committee together with -

- (a) a certified copy of the resolution of the Parish Council giving approval for the transaction;
- (b) an exact and full description and, where appropriate, an inventory of the subject matter of the transaction;
- (c) where applicable, the relevant zoning particulars;
- (d) a statement setting out the reasons for the transaction;
- (e) a statement of the consideration and two written valuations from two independent suitably qualified persons;
- (f)
 - (i) in the case of sale or exchange, a statement of the desired distribution of the proceeds;
 - (ii) in the case of purchase or lease, details of the proposed manner of financing the transaction;
 - (iii) in the case of granting a lease, a statement of the desired use of the rental and a statement of the financial standing of the tenant.

- 2.2.2 Upon receipt of an application for approval of a transaction concerning real or leasehold property, the Board shall supply a copy of the application and all supporting documentation to a solicitor nominated by it.
- 2.2.3 The solicitor shall provide the Executive Committee with such advice as is appropriate to the transaction and, in particular, shall advise the Executive Committee, giving reasons, if in the opinion of the solicitor the transaction should not be permitted.
- 2.2.4 In its discretion, the Executive Committee may seek such further information or advice from such person or persons as it desires and, if it so desires, may confer with one or more representatives of the applicant parish.
- 2.2.5 If in its discretion the Executive Committee considers that it is appropriate to do so, it may require a general meeting of parishioners to be held to consider the transaction and in such a case the provisions of clauses 1.5 and 1.6 shall apply with such changes as are necessary by reason of the circumstances.
- 2.3 The Executive Committee shall either grant unconditional approval for the transaction or grant approval conditional upon the provision of further evidence of the financial aspects of the transaction or such other material as it requires.
- 2.4 "The specified amount means the amount fixed from time to time by the Synod or the Council of the Diocese as provided for in section 5 and until otherwise so fixed is the sum of \$5,000.00.

Council of the Diocese.

- 3.1 In this Part the expression "Council of the Diocese" includes the Standing Committee of the Council.
- 3.2 The Board shall advise the Council of the Diocese of all applications received by it since the preceding meeting of the Council and of the progress of each application and whether the applications have been unconditionally approved or conditionally approved and, if so, upon what conditions or whether it has declined to approve an application and, if so, upon the grounds it has so declined.
- 3.3 No work or transaction shall be commenced unless and until the Council has approved of the work or the transaction, as the case may be.

Miscellaneous provisions.

- 4.1 The Executive Committee shall fix the regularity of its meetings and shall advise each parish of the proposed dates of its meetings and every change to the proposed dates or the regularity of the meetings.
- 4.2 All matters to be considered by the Executive Committee shall be submitted to the Registrar not less than two weeks before the date of the meeting at which it is to be considered.
- 4.3 The Executive Committee shall from time to time prepare and make available pro forma documents for all applications and other documentation required pursuant to the provisions of this Act.

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