

# Future Governance Working Party

## Final Report

'...so that they can flourish into the future'



INSTITUTE OF  
**SISTERS *of* MERCY**  
OF AUSTRALIA & PAPUA NEW GUINEA

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## Executive Summary

A Future Governance Working Party (FGWP) was established in August 2018 by the Institute Leadership Team (ILT). It was asked to review options for future canonical governance of the Institute's ministries, to make a recommendation to the ILT on a preferred future canonical governance arrangement, and develop a transition plan for that new arrangement. This report of the FGWP responds to these three requests.

The FGWP separated its work into three domains.

The first domain considered the mission of Mercy, and particularly the hope that the mission of Mercy might see its ministries change and evolve in response to needs of the poor and vulnerable in the years ahead. Through a discernment process, a mission purpose statement was formulated and is proposed to the ILT for adoption. It is intended to guide the establishment of new canonical governance and the initial mission focus of new canonical leaders.

The second domain considered seventeen canonical governance options, each of which could serve the future governance of the Institute's ministries. Following due consideration, the FGWP recommends that the establishment of a new ministerial public juridic person (PJP), to be known as Mercy Ministries, be proposed to the Holy See. Upon its enactment, Mercy Education Ltd, Mercy Health Australia Ltd, McAuley Property Ltd and a new holding company, Mercy Community Services Ltd (comprising the Institute's community service ministries), would be transferred to the new PJP's canonical governance.

Current co-sponsorship arrangements for Mercy Works, MacKillop Family Services, Emmanuel College, Damascus College and St Francis Xavier Primary School are recommended to be gradually wound up. Mercy Works is proposed to be auspiced by the new company, Mercy Community Services Ltd. Emmanuel College is in the process of transitioning to the auspices of Mercy Education Ltd. It is proposed to invite MacKillop Family Services to come under the auspices of Mercy Community Services Ltd. It is proposed to invite Damascus College and St Francis Xavier Primary School to determine their own future canonical sponsorship arrangements, with an invitation for these schools to be warmly welcomed to the auspices of Mercy Education Ltd or alternatively to seek full diocesan sponsorship with the blessing of the Institute. Damascus College and St Francis Xavier Primary School should be supported in this discernment process by the Institute.

Further, it is proposed that the Institute retain oversight of McAuley Ministries and Catherine McAuley Services for the foreseeable future.

The third domain involved testing future arrangements with leaders of the Institute's ministries, members of the Institute, founders and trustees of other PJPs, and canon lawyer Sr Mary Wright ibvm. Rich learnings from previous transitions to lay-led governance have been gathered, and these will inform the establishment of the new PJP.

Understandings that arose from this period of testing can inform how the Institute and the new PJP establish and manage their initial and future relationship. The testing revealed that, whereas there was some interest in Mercy Partners playing a role in canonical governance of Institute ministries, there was more commitment to an intentional alliance with Mercy Partners and MercyCare. Advice was received

to help guide identification of future lay canonical leaders, and the initial and ongoing formation of the PJP's canonical leaders, ministry leaders and managers. The testing also revealed options for treatment of property, while the advice of Sr Mary identified no significant barriers to the establishment of the new PJP.

The most significant feedback that arose from the FGWP's testing was the strong support for a new PJP from most ministry leaders and Institute members, and their willingness to engage constructively in the process of transition from the Institute to the new PJP's canonical governance.

This report near to concludes the work of the FGWP. The establishment of a new body, titled the Institute Ministry Transition Group, is proposed to enable the work of preparing the petition to create the new PJP, and overseeing the transition of ministries over the next two to three years. As this Transition Group is established, it is further proposed that the ILT mission an inaugural seven Trustee Directors of the new PJP to allow them to prepare for exercise of their future canonical role.

## Background to Future Governance Working Party and review Terms of Reference

The FGWP was established in August 2018 by the ILT with Terms of Reference to:

1. Undertake comprehensive exploration of real options for canonical governance of the Institute's incorporated ministries;
2. Recommend preferred options to the ILT for decision; and subsequently
3. Develop a draft implementation plan for each preferred option.

The full Terms of Reference can be found at [Attachment A](#).

FGWP segmented its work into three domains:

1. **Mission:** To undertake discernment in relation to the Mercy mission, as expressed in documentation from the Institute's ministries and other sources, and recommend a statement of mission purpose for the future governance entity;
2. **Governance Options:** To identify canonical governance options, assess their appropriateness as "real options for governance of the Institute's incorporated ministries", and arrive at an option fitting with the mission purpose of the Institute's ministries for the coming decades;
3. **Testing:** To consult with ministry canonical and civil leaders on both the mission purpose and canonical governance options prior to making recommendations to the ILT (and subsequently devising an implementation plan for the ILT's consideration).

The five members of the Future Governance Working Party are:

### **Mrs Bobby Court**

Bobby was Principal of Guilford Young College, the only Catholic co-educational senior secondary college in Tasmania. The college was founded in 1994 by the Archdiocese of Hobart in cooperation with five religious orders. Bobby is the Chair-elect of Edmund Rice Education Australia and a Director on the Board of Southern Cross Care (Tas.). She has a Bachelor of Arts, Diploma of Education and Master of Educational Leadership. Bobby has a strong interest in governance structures and is a graduate of the Australian Institute of Company Directors.

### **Adjunct Professor Martin Laverty (Convenor)**

Martin is the Secretary General of the Australian Medical Association. He was previously Chief Executive of the Royal Flying Doctor Service of Australia, and before that was Chief Executive of Catholic Health Australia. He serves as a Board Director of the National Disability Insurance Agency and Health Direct, and is Deputy Chair of the Australian Charities and Not-for-profits Commission. Martin holds a master's degree in Indigenous Constitutional Laws, and a PhD in corporate governance; his thesis addressed board director contributions to mission outcomes of ministerial public juridic persons.

### **Professor Gabrielle McMullen AM**

Gabrielle, who has a Bachelor of Science (Hons) and Doctor of Philosophy in organic chemistry, was Pro-

and then Deputy Vice-Chancellor (Academic) at Australian Catholic University. She has extensive experience on boards and advisory committees in the areas of education, health, pastoral research, social services and theology. Her commitment to education has extended to East Timor and Papua New Guinea. From 2011-2017 Gabrielle was a Trustee of Mary Aikenhead Ministries.

**Sister Sharon Price RSM**

Sharon's ministry started in secondary education as a teacher and principal and she was the last religious principal of a large Mercy college with responsibility for the establishment of structures for transition to lay leadership. After 18 years as Executive Director of CLRI(NSW), Sharon has moved to the new Catholic Religious Australia, supporting its committees and events. She held various leadership roles within the North Sydney Congregation and, as part of the Institute, has supported the governance of its incorporated ministries, including Mercy Works, Fraynetwork and McAuley Ministries. Sharon holds a Bachelor of Arts, Diploma of Education and Master of Arts.

**Sister Kath Tierney RSM AO**

Kath has given more than 30 years of service to the community through her work within children's and family services, education, health and aged care. She held various leadership roles within the former Melbourne Congregation and, as part of the Institute, has supported the governance of its incorporated ministries including MacKillop Family Services, McAuley Community Services for Women and McAuley Ministries. Until the end of October 2019, Kath's major ministry role was Senior Advisor to the Vicar General, Catholic Archdiocese of Melbourne. She holds a business degree and is well known for her strong administration skills and strategic thinking.

**The work of the above-listed members of the FGWP has been assisted by the Executive Officer Ministry Governance, Mr Jonathan Campton.**

Jonathan has worked since late 2013 as the Institute's Executive Officer Ministry Governance to embed new governance structures. He has served as a director on various boards outside of the Institute and held executive positions, including Deputy CEO of the St Vincent de Paul Society in NSW. Jonathan has practised law and is admitted in Tasmania and New South Wales. He has a Bachelor of Science, Bachelor of Laws and a Bachelor of Information Systems (Hons). Jonathan is a qualified mediator and graduate of the Australian Institute of Company Directors.

**Consultation schedule**

The FGWP worked over a seventeen-month period to consult with relevant parties and prepare this report for the ILT. The key stages saw:

- FGWP draft a mission purpose statement and identify 17 canonical governance options in October 2018 (and receive feedback on both from the ILT in January 2019);
- FGWP materials sent to ministry Board Chairs, the ILT and community leaders on 1 February 2019, outlining the initial mission purpose statement and the preferred canonical governance option;
- Presentation by the FGWP to ministry Board Chairs in Melbourne on 11 February 2019;
- ILT commencing consultation with Institute members from February 2019;
- Presentation by the FGWP to the Governance Forum in Sydney on 14 March 2019;

- Request for formal written responses to FGWP's intended recommendations from ministry Board Chairs by May 2019;
- Visit to Ballarat in May 2019 to hear from leaders of St Francis Xavier Primary School and Damascus College;
- Gathering of 'learnings' from 11 ministerial PJPs and sponsor congregations from March through to August 2019;
- Further consultation with key ministry stakeholders at the Future Governance Symposium on 21 October 2019;
- Consultation with canon lawyer Sr Mary Wright ibvm in October and November of 2019;
- Drafting of this report in November and its presentation to the ILT in draft form in early December 2019.

## Discussion of future mission, arising from consultation

The FGWP drafted a statement of mission purpose in October 2018, received initial feedback on it from the ILT in January 2019, and then distributed the statement to Board Chairs on 1 February 2019 and invited responses from the ministries.

Input indicated that the statement of mission purpose was broadly supported, but that deeper engagement with both Institute members and ministry leaders was desirable to refine the articulation of future mission purpose.

The FGWP invited this engagement and recorded participants' feedback at the Future Governance Symposium on 21 October 2019.

Informed by this input and the earlier written feedback, the FGWP revised the statement of mission purpose, including adding a contextual introduction. The recommended Statement of Mission Purpose is at [Attachment B](#).

The statement's intent is to guide the development and initial conduct of new canonical leadership of the Institute's ministries. It captures aspirations of today's canonical and ministry leaders for the future mission of the Institute's education, health and aged care, and social service ministries. It seeks to ensure into the future that the Institute's ministries remain Catholic works at the core, but more so that they animate mercy. Further, canonical leaders should feel empowered to grow, refocus and change the direction of ministries under their stewardship in response to the demands of the times.

The statement is recommended to the ILT for affirmation and adoption.



## Future governance, arising from consultation

Seventeen different canonical governance options were identified by the FGWP in October 2018. From those options, the FGWP developed a model for future canonical governance of the Institute's ministries as follows:

1. A new ministerial public juridic person (PJP) of pontifical right be established to oversee three groupings of ministries in the tradition of Catherine McAuley, namely in education, health and aged care, and community services;
2. In supporting the transition to a new PJP, the Institute retain oversight of some ministries (mainly those related to religious life and Papua New Guinea);
3. In establishing the new PJP, an intentional alliance of Mercy Partners, MercyCare and the new PJP be pursued.

This model was subject to consultation during 2019 and supported by stakeholders during the consultation process. While the FGWP did not directly consult on a name for the new PJP, it is nonetheless proposed that the new PJP be called Mercy Ministries.

The FGWP consulted about grouping ministries into three domains. The proposal reflects the existing education grouping through Mercy Education Ltd and health and aged care grouping through Mercy Health Australia Ltd. The proposal leaves these corporate structures as they are and, in the case of Mercy Education, sees Emmanuel College and Fraynetwork folded under its corporate governance.

A new grouping of community services is proposed. A new charitable company limited by guarantee is recommended to be established to oversee operation of the five community service ministries currently under Institute canonical governance. The new company is proposed initially to be a holding company of five subsidiary companies, established for the purpose of fostering formal cooperation between the subsidiaries, developing a shared mission and strategic direction, and reporting to its future shareholder, the proposed new PJP. The initial directors of the holding company are proposed to be the five chairpersons of the existing ministry companies, with the PJP granted the authority to appoint all future directors.

The FGWP was asked where the new PJP should be principally domiciled. The FGWP proposes the new PJP be located in Melbourne, initially in premises of either the Institute or one of its ministries. Melbourne is proposed because it is the location of the civil law governance of Mercy Health and Mercy Education, and is more proximate to the Institute's community service ministries than any other capital city. The proposal that Melbourne initially house the new PJP should not constrain the PJP to determine its own needs in future years.

Potential Canonical Arrangement	Ministry
New ministerial PJP	<p><b>Education Grouping</b></p> <ul style="list-style-type: none"> <li>• Mercy Education Ltd</li> <li>• Emmanuel College as part of Mercy Education</li> <li>• Fraynetwork Ltd</li> </ul> <p><b>Health Grouping</b></p> <ul style="list-style-type: none"> <li>• Mercy Health Australia Ltd</li> </ul> <p><b>Community Services Grouping</b></p> <ul style="list-style-type: none"> <li>• McAuley Community Services for Women Ltd</li> <li>• Mercy Connect Ltd</li> <li>• Mercy Services Ltd</li> <li>• MacKillop Family Services*</li> <li>• Mercy Works Ltd</li> </ul>

*\*potentially shared governance*

## A new ministerial PJP

Establishing a new ministerial public juridic person (PJP) of pontifical right has been supported by stakeholders over other available options.

What is a PJP?	Church's canonical equivalent of a corporation. Ministerial PJPs represent the Church in the same way as religious institutes previously with respect to the ministries.
What will it do?	Provide sponsorship and stewardship of ministries, in a similar way to the oversight currently provided by the Institute.
When will it start?	If the ILT determines to establish a PJP, a petition to the Holy See's Congregation for Institutes of Consecrated Life and Societies of Apostolic Life will take 12-18 months to be determined, suggesting a new PJP could commence in mid-2021.
Who will govern it?	Lay trustees would be appointed, initially by the Institute. Statutes would determine how subsequent appointments would be made.
What will change for the Institute?	The Institute would transfer designated ministries to the new entity to ensure their continuation as Catholic ministries.
What will change for the ministries?	Instead of reporting to the Institute, ministries would report to the new PJP. The PJP would not involve itself in ministry operations but would continue the Institute's current oversight of Catholic identity and mission fulfilment.
Who else uses lay-led PJPs?	For example: Mercy Partners governs schools, hospitals and aged care services, and former works of other congregations in Queensland. St John of God Hospitals operate under a PJP. Former Sisters of Charity schools, hospitals and aged care services operate under the Mary Aikenhead Ministries PJP. Edmund Rice Education Australia (EREA) provides Catholic education in all States and Territories.
Why should some ministries not transition?	A small number of ministries are suited to remaining under Institute supervision, particularly those primarily involving Institute members.

Illustrative feedback from members of the Institute is:

- “We could not imagine a model we thought was a better approach than that of a new PJP. It does address the significant need of developing a governance structure that is not dependent on personnel from the Institute.”
- “A new PJP offers sufficient flexibility and creativity to address future governance needs.”

From ministries, examples of supportive feedback include:

- “On balance, we believe the strengths of a new PJP clearly outweigh the weaknesses.”
- “A new PJP will continue the work of the Religious Institute, but with a sustainable future of lay persons.”

Most commentary related to the detail as to how such a ministerial PJP would work. Illustrative feedback is:

- There are “Risks associated with failure to properly clarify or delineate governance roles and responsibilities and failure to properly form trustees”.
- “There was concern as to whether the commitment to the Catholic principle of subsidiarity would continue. Feedback at the Governance Forum on these issues suggested the PJP would operate as a leadership council, that membership would be paid, and that commitment to subsidiarity would be maintained. Is this correct?”
- “The weakness will come from the articulation of the mission and the ongoing management of that mission. The devil will be in the detail!”

## Co-sponsorship

The FGWP recommends that co-sponsorship as a model of governance be wound up during the period of transition to the canonical governance by the new PJP. Presently, the Institute has co-sponsorship of the following ministries:

1. Mercy Works;
2. MacKillop Family Services;
3. Emmanuel College;
4. Damascus College; and
5. St Francis Xavier Primary School.

## Mercy Works

There is support from both the Members and Directors of Mercy Works for the four Mercy congregations in Australia to end their co-sponsorship of Mercy Works and transfer the canonical governance to the new PJP. Each congregation will enter into an agreement with the new PJP about the future relationship with Mercy Works Ltd.

## MacKillop Family Services

MacKillop Family Services is a national community services organisation, which has its origins in ministries previously conducted by various congregations of the Sisters of Mercy, the Christian Brothers and the Sisters of St Joseph. MacKillop Family Services is today co-sponsored by the Institute, the Christian Brothers Oceania Province and the Sisters of Saint Joseph of the Sacred Heart. This co-sponsorship is an illustration of successful shared canonical governance.

As the Institute currently exercises its co-sponsorship through the appointment of a single member to join two other members appointed by the Christian Brothers and the Sisters of St Joseph, it would be feasible for this arrangement to continue for some time into the future. However, the long-term ability of the Institute to continue this canonical role is not apparent, and the transition to the new PJP gives rise to an opportunity to put in place a long-term alternative.

It is proposed that the Institute formalise currently informal considerations for MacKillop Family Services to be offered future canonical governance by the new PJP. To this end, it is proposed that the ILT:

1. First, through its appointed member of MacKillop Family Services, authorise consultation with the appointed members of the Christian Brothers and the Sisters of St Joseph about the potential for the new PJP, once established, to become the canonical sponsor of MacKillop Family Services and, informed by this consultation;
2. Formally invite the Congregational Leaders of the Christian Brothers Oceania Province and the Sisters of Saint Joseph of the Sacred Heart to consider the transition of canonical sponsorship to the new PJP.

In inviting transition to sponsorship by the new PJP, the ILT is recommended to allow as much time as might be required for discernment within these two congregations, even if doing so might delay inclusion of MacKillop Family Services in the petition for the new PJP. The ILT need not outline an intention to withdraw Institute sponsorship should the invitation not be taken up, but it should flag an intention to review its continued role in co-sponsorship at the time of the Institute's next Chapter.

### **Emmanuel College**

It is understood that co-sponsorship with the Christian Brothers of Emmanuel College has ended and co-sponsorship with the local parish will end on 31 December 2020. Emmanuel College will then be transferred into Mercy Education Ltd from 2021 and no longer be a co-sponsored ministry.

### **Damascus College and St Francis Xavier Primary School**

Several stakeholders within Damascus College and St Francis Xavier Primary School expressed objection to the option that these two Ballarat schools, currently co-sponsored by the Institute and either the eight central parishes of Ballarat (Damascus College) or the Diocese of Ballarat (St Francis Xavier Primary School), be transferred to solely diocesan canonical governance. In response, the FGWP has engaged separately with the Boards of Damascus College and St Francis Xavier Primary School to consider which canonical governance option might best suit the furtherance of the mission of these two schools. It is proposed that the ILT make the future canonical governance of Damascus College and St Francis Xavier Primary School a decision for the authorities of each of these schools by advising:

1. The Institute's canonical co-sponsorship of Damascus College and St Francis Xavier Primary School will cease at the commencement of the new PJP's canonical role;
2. The PJP will not be structured with capacity to provide co-sponsorship to any education ministry;
3. Prior to lodgement of the petition to establish the new PJP, the ILT will invite the authorities of Damascus College and St Francis Xavier Primary School to recommend their own preferred canonical oversight from options of:
  - a. Being welcomed warmly into full canonical sponsorship by the new PJP under the corporate governance of Mercy Education Ltd; or

- b. Seeking full canonical sponsorship by the Diocese of Ballarat or its new entity, Diocese of Ballarat Catholic Education Ltd, with the sincere blessing of the Institute.

Damascus College and St Francis Xavier Primary School should be supported in this discernment process by the Institute.

### **Institute Retention of McAuley Ministries and Catherine McAuley Services**

Stakeholder consultation endorsed the recommendation for McAuley Ministries and Catherine McAuley Services to remain under Institute canonical governance for the foreseeable future.

## Learnings from previous transitions to lay-led governance

The design of a new PJP can be informed by the challenges and successes experienced by canonical stewards and congregational leadership teams who have previously transitioned ministries from congregational to lay leadership. The wisdom contained in the advice received by the FGWP is invaluable. Eighty-five learnings were solicited from leaders of ministerial PJPs, congregations which have transitioned ministries to lay leadership, and the Association of Ministerial PJPs Ltd. These learning are summarised in [Attachment C](#). Some of the main themes to emerge were:

- Canonical leadership is ecclesial, about the spirit, and is conducted communally. Those of professional corporate skill unable to embrace this style of Church leadership are not suited to canonical leadership.
- Distinguishing the role of canonical leadership in a ministerial PJP from that of business leadership in a ministry board and management team is essential to mission fulfilment.
- Formation of stewards, councillors, board directors and executive leaders for ministries is essential. In particular, canonical leaders need to be formed for their role of ecclesial oversight of a Church body. It is also critical that board directors and executives gain an understanding of, and recognise, the role and authority of the canonical leaders.
- The member should establish a member's council with membership specified to ensure sustainability (e.g. congregational and/or non-professed members; the latter might include members or trustees of other ministerial PJPs).
- Properties transferred to the ministerial PJP should be under the ownership of the trustees and not a ministry company to ensure stewardship of the ministries aligned with mission.

A list of PJPs and congregations which the FGWP consulted, together with the Association of Ministerial PJPs Ltd, is provided at [Attachment D](#).

## Key issues for ILT consideration

### Future relationship with the Institute

Rich advice from congregations which have established PJPs was provided to the FGWP. A major focus was that, as a new ministerial PJP and its founding congregations are separate PJPs, it is essential to draw and maintain an appropriate 'boundary' between them. At the same time, importance was placed on congregational members being invited to relevant ministry events and rituals and regularly being acknowledged as the original founders of the ministries. It was also seen as apposite that some congregational members may be officially engaged in professional or governance roles in the ministries.

A formal and ongoing relationship between the new PJP and the Institute is proposed through the Institute's role in appointing initial Trustee Directors to the PJP, and then its ongoing role in that process into the future. Additionally, the FGWP sees four more informal phases of the future relationship, each of which should be approached with sensitive but deliberate consideration.

#### *Phase 1 - The petition*

The Institute, through the work of the proposed Institute Ministry Transition Group (see recommendations below), will prepare its petition to the Holy See for the establishment of the new ministerial PJP, Mercy Ministries. This process will be informed by the input of Sr Mary Wright ibvm, who has provided draft petition material (see [Attachment E](#)). She has also provided initial canon law advice and offered further assistance, including facilitating the interface with the Holy See (see below). The timeline for this phase can vary.

During the time in which the petition for the establishment of the new PJP is being developed and assessed for approval, ILT communication to ministry leaders and members of the Institute on the purpose of the new PJP and progress towards its achievement is paramount.

#### *Phase 2 - Establishment*

This stage may commence following Phase 1 or potentially in parallel with it as the timeline for the submission and the Holy See's consideration of the petition is clarified. The FGWP proposes that the ILT act on one of the learnings from previous transitions to lay-led governance, namely that a group of potential Trustee Directors for the planned PJP be convened from about the time the petition to establish the new PJP is approved by the Holy See and thus significantly ahead of formal establishment of the PJP. The purpose of the early establishment of this group is to:

- Identify a likely pool of Trustee Directors, and commence their involvement in formation and induction into the charism of Mercy and the works of the Institute's ministries;
- Allow the ILT to ascertain the aptitude of the pool of Trustee Directors for their canonical task, prior to their formal appointment as Trustee Directors;
- Enable early commencement of a communal approach to canonical governance, and discernment from within the pool of Trustee Directors as to selection of its leader and design of administrative functions.

During Phase 2 preparations will also be made to establish the civil entity to be associated with the new PJP as well as other necessary arrangements for transfer of canonical responsibilities. Effective ILT

communication to ministry leaders and members of the Institute on progress towards the formal creation of the PJP remains critical.

### *Phase 3 - Transition*

Assuming approval of the petition for the new PJP, the planning for its formal establishment and the transition of canonical stewardship of different ministries are tasks that should be undertaken jointly by the Institute and the new PJP. The two groups, each with their own canonical authority, should plan communally for the timing and method of transfer, driven by principles that:

- The foundational history of each ministry should be acknowledged, both in events to mark the transition but also in ongoing story telling of the ministries in the future;
- The leadership roles played by particular members of the Institute in relation to specific ministries should be recognised;
- From the time the decision is made to transfer ministries to a new PJP and during and after the transition, acceptance that some may find the change difficult should be exercised in a compassionate manner;
- The Institute should invite the new PJP to seek guidance and advice where needed, but also actively authorise the new PJP to make its own way endowed with both its successes and challenges.

### *Phase 4 - The new era*

At the conclusion of the transition of ministries to the new PJP, a new era of Mercy is hoped to emerge. This requires the canonical leaders of both the Institute and the new PJP to show genuine, warm-hearted and ongoing respect and understanding for each other's independent canonical authority. Both should seek to maintain honest lines of communication, and to hear and respond to each other's priorities, but to do so as peers rather than as one responding to the other's authority. The practice of spirit-led diplomacy will ensure a continuing and strong bond.

## **Reserved powers**

The following reserved powers are proposed for inclusion in the PJP statutes – the ILT will:

- continue to appoint the Trustee Directors and designate their Chair; and
- retain the right:
  - to uphold the purpose of the juridic person and its fidelity to the teachings and law of the Catholic Church;
  - to endorse changes to the Statutes before they are submitted to the Holy See for approval; and
  - endorse major financial decisions including alienations before they are submitted to the Holy See for approval, in accord with canon law.

Whereas the FGWP proposes the ILT appoint Trustee Directors and designate the Chair, it is further proposed that a future where the Institute is no longer able to exercise such power also be contemplated. This is not a matter for immediate determination, but the FGWP proposes each future Chapter of the Institute consider the retention, reduction, cessation or passing of reserved powers to



another canonical body or group of canonical bodies. To this end, the FGWP proposes future Chapters of the Institute contemplate the ability of:

- the delegate members of the Association of Ministerial PJPs Ltd; or
- a new Council for Trustee Director Appointments to be created from the intentional alliance proposed for Mercy Partners and MercyCare,

to appoint the Trustee Directors and designate their Chair.

### **Future relationship with Mercy Partners and MercyCare**

Some feedback during the consultation period focused on the future relationship of Mercy Partners with the Institute's ministries.

There was a call from a number of Institute members for a 'reimagining' or 'refounding' of Mercy Partners such that it might take on canonical governance of the Institute's ministries.

The FGWP wrote to Mercy Partners on 5 February 2019 inviting discussion of this proposal. A response was received on 15 April 2019, and Dr Laverty subsequently met with Mercy Partners Chair Dr Ricki Jeffrey on 14 May 2019. The discussion at that time revealed Mercy Partners did not see itself as the future canonical home for Institute ministries, but that Mercy Partners would support the Institute in establishing a new PJP by developing an intentional relationship with the new PJP. A set of principles was drafted and shared with Mercy Partners to suggest the shape of this intentional relationship; those principles are:

- Strengthen our witness to the Gospels and our expression of our unifying mission of Mercy;
- Speak prophetically so that our ministries remain authentic Catholic ministries;
- Lead the mission and identity of ministries as the baptised people of God, with the full authority of the Catholic Church;
- Develop new charisms with confidence and boldness and rebuild ministries to meet the signs of the time;
- Accept our role in Church, support the role of other ministerial PJPs across Australia, and work with the Bishops in leading the Church in Australia;
- Recognise the role of multiple Mercy PJPs across the vast continent of Australia and together support the development of Mercy Partners and MercyCare, and the formation of a ministerial PJP by ISMAPNG, so that the Catholic ministries overseen by each PJP may also flourish into the future;
- For the sake of mission, and recognising the efforts of the Sisters of Mercy to unite around their common origin, commit to moving towards greater unity;
- Together provide solid theological, scriptural and spiritual formation to those working in our ministries; and
- Together find common opportunities to form the people of God for opportunities of stewardship and governance of ecclesiastical ministries.

The principles were also shared with MercyCare, as part of the FGWP proposing an intentional relationship for the new PJP and the two existing PJPs that draw their origins from Mercy congregations.

MercyCare Chair Mrs Jennifer Stratton expressed an openness to a future intentional relationship of the Mercy-originated PJPs.

By way of a letter of 30 August 2019, Dr Jeffrey advised that Mercy Partners had rethought its position and may be open to taking on a canonical role in relation to the Institute's health and aged care ministries. Dr Jeffrey met with the FGWP on 21 October 2019, expressing a willingness to receive Mercy Health into Mercy Partners' new "One Mater" hospital and aged care structure, pointing to the business synergies of such a merger. The potential for Mercy Partners to 'refound' was proposed by the FGWP, with Dr Jeffrey believing Mercy Partners governance approach was sufficiently settled (but that new Trustee Directors might be recruited in the future). Mercy Partners did not propose a role of sponsorship for the education or community service ministries of the Institute; this factor can assure the ILT that the Institute does not have the option of transferring its canonical governance to Mercy Partners at this time and accordingly requires an alternate option.

From its consultation with leaders of other PJPs, the FGWP learnt of growing recognition that, in generations ahead, the lay-led PJPs established in Australia in the last three decades are likely increasingly to interact with each other in relation to formation, recruitment of Trustee Directors, and representation within Church. There is also a possibility of PJPs merging or transferring canonical governance roles between one another, just as congregations have and will continue to merge or transfer canonical roles. With this in mind, the FGWP proposes that, at this time, the Institute should establish a new PJP to which to transfer its health and aged care, education and community service ministries rather than transferring them to an existing PJP. Whereas this proposal would not restrain the new PJP from making its own decision to transfer canonical governance of a ministry to another PJP in the future, it is proposed the ILT encourage the new PJP to build healthy relationships with other PJPs and other parts of the Church by empowering the new PJP to participate:

1. As a member in an alliance with Mercy Partners and MercyCare, with the ILT formally proposing such an alliance to Mercy Partners and MercyCare at the time of a decision to seek to establish a new PJP;
2. In the Association of Ministerial PJPs Ltd;
3. In other Church associations relevant to advancement of Catholic health, aged care, education and community services.

### **Identification of lay canonical leaders**

It is proposed that the ILT identify seven leaders suited for appointment as the initial Trustee Directors of the new PJP, and that these seven be identified during the time the petition for establishment of the new PJP is under consideration by the Holy See. It is proposed the seven leaders commence meeting as Trustee Directors-elect of a 'shadow' PJP about a year before transition of canonical governance from the Institute. In partnership with the ILT, the Trustee Directors-elect should be inducted into their roles about a year before assumption of responsibility, and they should commence development of the mission for the new PJP.

The learnings from previous transitions to lay-led governance revealed the role of communal canonical leadership differs starkly from corporate leadership. The advice of other PJPs was that someone 'formed' for a corporate board is not necessarily 'formed' for canonical governance. Whereas those vowed to religious life have experience of communal canonical decision-making, many gifted lay people

may be new to exercising Church authority and should be afforded opportunity to be formed for this role. Whilst this development will mostly be supported through ongoing formation, any Trustee Directors for the new PJP must be selected for their aptitude to relate to and exercise canonical authority appropriately.

The learnings from previous transitions to lay-led governance also revealed that PJPs require a skill mix that differs from that commonly used in corporate governance. PJP stewardship requires a group of Trustee Directors to possess attributes such that:

- All members demonstrate an authentic and confident connection with the Catholic mission of the ministries;
- Sufficient members have functional expertise relevant to the types of ministries under canonical governance;
- Some members have expert experience in formation for ministry;
- Members are drawn equally from across the geographic footprint of the ministries; and
- In recognition of the role of a PJP as an entity for the management of Church property and assets, some members possess expertise in finance and property (or capability to receive and apply professional finance and property advice).

The FGWP proposes these attributes be expressed in the PJPs statutes to guide future appointments. It is also proposed that the statutes articulate terms of appointments, and that up to three terms of three years each be stipulated.

The FGWP proposes the new PJP seek membership of the Association of Ministerial PJPs Ltd. One of several reasons for this proposal is to seek the support of the Association in identifying candidates suited to appointment as canonical stewards to aid future selection of Trustee Directors for the new PJP.

Finally, the FGWP has given consideration to an ongoing method of appointing future Trustee Directors to the new PJP. The learnings from previous transitions to lay-led governance revealed differences in how Trustee Directors are appointed. The Congregational Leader of the Sisters of Charity is the single member representative of Mary Aikenhead Ministries, who in this capacity appoints Trustee Directors. St John of God Health Care has a members council that comprises nominees of the Congregations of the St John of God Sisters and St John of God Brothers and of the Bishops in whose Dioceses the ministries operate; the Trustees, in practice, propose new Trustees for appointment and the members council ratifies or can amend a recommendation. Mercy Partners has a Council of Stewards, the six members of which appoint Council Members as Trustee Directors of the PJP; the Council of Stewards comprises members drawn from the congregations that have transferred canonical governance of ministries to Mercy Partners.

There are accordingly several options that could be embedded in the statutes of the new PJP to instruct how the second and subsequent appointments to the new PJP are made. These options include:

- Authority for the Trustee Directors to manage all future succession planning and Trustee Director appointments. This option is not desirable, as it denies the benefit of the Trustee Directors being accountable to a membership body;
- The Institute Leader or the Institute's Leadership Team appointing future Trustee Directors, unaided or in response to a recommendation of the Trustee Directors. Burdening the Institute

Leader with this decision is not desirable. Asking either the Leader or Leadership Team to make the appointments is also unsustainable, given the reality of the Institute itself preparing to evolve in response to the profile of its members;

- Creating a membership group tasked solely with overseeing appointment of Trustee Directors. The membership group could either conduct its own appointments or ideally receive and consider a recommendation of the Trustee Directors. This option is seen as preferred, in that it creates accountability of Trustee Directors to a member body and allows the member body to be sufficiently large such that it can be sustainable into the future.

The FGWP proposes a membership group for the new PJP be established. The new PJP's statutes should allow for this membership group by instructing that its purpose is to meet only as required to:

1. Receive and adopt or reject a recommendation of the Trustee Directors in relation to appointment of Trustee Directors; and
2. Manage succession planning and appointments to the membership group so as to maintain five active participants drawn from Catholic canonical bodies overseeing the types of ministries conducted by the new PJP. Terms of appointment to the membership group should normally be limited to six-year single terms.

The statutes would see the initial membership group being the five members of the Institute's Leadership Team. In time, its membership would evolve. It would be open for the ILT to invite to membership an appointee of Mercy Partners, MercyCare, any other ministerial PJP and/or any other canonical body involved in the types of ministries conducted by the PJP.

### **Formation expectation for canonical leaders, board directors and ministry key managers**

Critical to the establishment of the PJP and its role of taking Catholic ministries purposefully into the future is the formation not just of the Trustee Directors but also of board directors, CEOs and executives of the ministries. Further, the induction and ongoing professional learning of all staff and volunteers in the ministries should include formation opportunities to promote understanding, at the appropriate level, of serving in a Catholic ministry.

The above-listed formation activities require appropriate resourcing and there should be a dedicated budget line for formation under the oversight of each of the Trustee Directors, board directors and CEOs. The Trustee Directors might also make provision for a regular (annual) conference for leaders across the PJP, i.e. Trustee Directors, board directors and senior staff, as a joint formation opportunity.

While the Institute would be expected to play a leading role in formation during the period of transition of the ministries to the PJP, this responsibility should then be transferred to the PJP since the Trustee Directors are missioned to ensure that the ministries remain and flourish as works of the Church.

### **Financing**

The learnings from previous transitions to lay-led governance revealed the importance of resourcing a PJP sufficiently for it to be able to perform its canonical role.

Assessment of seven Australian ministerial PJPs established in the last three decades indicates that they have annual operating costs of anywhere between \$550,000 per annum for small PJPs through to in

excess of \$2 million for large healthcare PJPs. Fees paid to Trustee Directors range from between \$15,000 per annum to \$88,000, with Chairs of Trustees and Chairs of their committees receiving additional payment. All ministerial PJPs remunerate their Trustee Directors.

Informed by published annual accounts of seven ministerial PJPs, the FGWP proposes that allowance be made for PJP expenditure of between \$1.8 to \$2 million per annum. A summary of forecast expenses is detailed below.

<b>Expenditure Category</b>	<b>Annual Expenditure</b>	<b>Notes</b>
Employees	\$ 500,000	
Trustee Remuneration	\$ 500,000	6 x \$75,000 stipends plus chair's allowance
Travel and Accommodation	\$ 130,000	
Administration	\$ 200,000	
Program Costs	\$ 200,000	Including an annual conference
Formation	\$ 200,000	
Rent	\$ 100,000	
Legal, audit and other fees	\$ 30,000	
<b>Total</b>	<b>\$ 1,860,000</b>	

Financing these ongoing operational costs is likely possible through one or a combination of the three following options:

1. The Institute provides an initial endowment to resource the PJP at the time of its establishment, through the provision of an asset, equities or cash to be held in trust for the purpose of earnings funding the ongoing canonical governance, administration and programs of the new PJP. Assuming a long-term average five percent return on investment, an endowment of \$40 million would be required to generate annual revenue of \$2 million. An endowment of such size is not possible (and probably not even desirable);
2. The PJP charges its ministries a rental cost for use of real property; and/or
3. The PJP charges a levy or governance fee to its ministries.

The issue of PJP financing was raised during the consultations. The advice of some other PJPs is that ministry leaders do not welcome funding the operations of their PJP. Whereas it may not be possible to endow the PJP with sufficient assets for it to be funded entirely from interest earnings, and it should be questioned as to whether tying up such a large amount of funds would be in the best interests of mission, the FGWP nonetheless proposes that a combination of each of the three above-listed measures be endorsed by the ILT for the initial and ongoing funding of the new PJP.

## Property

The learnings from previous transitions to lay-led governance revealed different approaches to ownership of property by PJPs. A summary of the approaches taken by different Australian ministerial PJPs established in the last three decades is detailed below.

Calvary Ministries Ltd	The PJP does not hold property. LCM Health Care holds the properties in a single holding company. Calvary Ministries additionally rent property owned by the Congregation.
Dominican Education Australia	The PJP does not hold property. Property is held by the six separately incorporated ministries (colleges).
Edmund Rice Education Australia Council	The PJP holds the property. As the schools are not separately incorporated, there is no need to deal with leases.
Good Samaritan Education	The PJP holds the property. As the schools are not separately incorporated, there is no need to deal with leases.
Kildare Ministries	The PJP holds the property and establishes leases with separately incorporated ministries (groups of colleges). The leases form an important part of the revenue stream for the PJP.
MercyCare	The PJP holds property but does not have separately incorporated ministries.
Mercy Partners	The PJP does not hold property. Separately incorporated ministries hold properties in a variety of formats depending on the ministry.
St John of God Australia Ltd	The PJP does not hold property. Property is held separately in 11 incorporated ministries.
Trustees of Catholic Healthcare	The PJP does not hold property. Catholic Healthcare Ltd holds the property for all of the ministries.
Trustees of Mary Aikenhead Ministries	The PJP does not hold property. Mary Aikenhead Education and St Vincent's Health Australia hold the properties.

Given that there is no consistent approach in relation to PJPs' direct ownership or indirect control of property, the FGWP presents three options for the Institute's consideration:

1. The Institute retains ownership of all property in McAuley Property Ltd, and arranges lease of relevant ministry assets to the new PJP. This approach is not favoured, as it would leave a

- petition to establish the new PJP with no real property. It also avoids resolving the question of long-term ownership of current Institute assets to a later date;
2. The Institute allocates ownership of property to ministries, or to property holding companies in the groupings of health, education and community services. This approach is also not favoured, as it constrains the PJP's ability to levy a lease charge for property use if required, and also diminishes the PJP's influence with respect to guiding mission through exercise of direct authority over Church assets;
  3. McAuley Property Ltd be transferred by the Institute to the new PJP, with conditions that:
    - a. A deed of trust be established to stipulate the use of McAuley Property Ltd and its assets for advancement of the purposes of the new PJP;
    - b. Any real property currently in McAuley Property Ltd intended to be retained by the Institute be removed;
    - c. Indicative advice be affirmed that there is no stamp duty or transfer cost obligations and
    - d. Real property currently held by Mercy Health Australia Ltd or any other ministry remain in its ownership, but be subject to review by the new PJP at a later date.

The FGWP favours this third and final option. It is viewed as being in the best interests of all ministries, and affords the new PJP a direct rather than indirect authority in exercising its canonical role as steward of Church assets.

### Canon law advice

The FGWP consulted with Sr Mary Wright ibvm, a canonist, former General Superior of the Institute of the Blessed Virgin Mary, and previously a canon lawyer at the Holy See's Congregation for Institutes of Consecrated Life and Societies of Apostolic Life. Sr Mary has confirmed her willingness to be engaged by the Institute in 2020 to assist in developing the petition to establish a new PJP, should the ILT determine to seek her support.

Sr Mary has provided initial guidance to the FGWP on the process of preparing a petition for consideration by the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life (see [Attachment E](#)). Noting this guidance is not formal advice, Sr Mary has indicated:

- There are no foreseen grounds on which a petition from the Institute to the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life would not be approved, given the scale of the Institute's ministries;
- Informed by the experience of previously established Australian ministerial PJPs, there is now a template favoured by the Holy See for the development of a new PJP's statutes, and the effort in developing such statutes is far simpler than was the case for earlier Australian PJPs;
- A 12-month period is anticipated for development of the statutes and receiving a response to the petition;
- Because a PJP is an entity for holding of Church assets, the petition must designate real property assets proposed to be placed therein. Preparation of the necessary detail to identify Church assets to be placed in the PJP can be time-consuming, and should be commenced early. Assessment of these assets is a key element of the approval process;

- A PJP should be built around the desired civil law structure for the new entity;
- The petition will require written consent to its submission by individual Archbishops and Bishops of dioceses within which ministries operate;
- Presence of a bishop/s in the ongoing structure is favoured by the Holy See;
- Some earlier PJPs have struggled or failed to unite their ministries or have not structured their ongoing interaction with their ministries sufficiently. Whereas this is not an issue of focus for the approval process, it is nonetheless a practical consideration to address in designing the civil structures that relate to the canonical governance.

The FGWP proposes that the ILT engage Sr Mary at the time of any decision to establish a PJP. Sr Mary has indicated her travel schedule in 2020 will see her overseas for large parts of the year, but that she is willing to aid the petition lodgement despite her significant travel load.



## Notional transition timetable

To assist the ILT in contemplating the phases of the decision and transition timetable, the FGWP recommends the ILT work to the high level schedule described in the table below. The schedule will require variation in the event of the ILT adopting some but not all FGWP recommendations.

**Table: Notional transition timetable**

Phase	Task	Description	Notional Time Frame
The Petition	Discernment and discernment communication	FGWP and ILT advise ministries and Institute members that report has been completed and will be considered by ILT through December.  ILT consider report and resolve its position on agreeing to petition for the establishment of the new PJP.	Mid-December  By Mid-February 2020
	Decision communication	ILT to communicate its response to the FGWP, the ministries and Institute members. A communication plan for the Petition Phase be adopted and implemented.  ILT advise co-sponsors of ministries of the FGWP's recommendations, and invite responses by the end of May 2020.  ILT invite Mercy Partners and MercyCare to alliance, subject to petition approval.  ILT announce the Institute Ministry Transition Group, which commences work against its terms of reference.	By Mid-February 2020
	Canon law engagement	ILT formally engage Sr Mary Wright ibvm to commence drafting the petition.	End of February 2020
	Bishop engagement	The Institute Leader seek written consent to the petition by visiting Archbishops and Bishops of dioceses within which ministries operate (see <a href="#">Attachment F</a> ).	End of April 2020
	Initial Vatican visit	The Institute Leader, Sr Mary Wright and a support staff member visit Rome to introduce the draft petition.	End of May 2020

Phase	Task	Description	Notional Time Frame
	Petition lodgement	ILT complete and lodge the petition for a new PJP.	End of July 2020
Establishment	Trustee Director identification	ILT discern a pool of potential Trustee Directors.	From July 2020
	Ministry and Institute engagement	ILT communicate the approval of the petition. A communication plan for the Establishment Phase be adopted and implemented.	On approval of the petition, from possibly 2021 onwards
	Civil law engagement	The ILT instruct legal counsel to implement FGWP's proposed Mercy Ministries corporate law structure.  ILT implement decisions on property to be placed in McAuley Property Ltd.	On approval of the petition, from possibly 2021 onwards
	Trustee Directors	The ILT announce the incoming Trustee Directors, who commence their formation program and 'shadow' period as canonical leaders.	On approval of the petition, from possibly 2021 onwards
	Ministry preparation	Institute Ministry Transition Group provide its transitional timetable for hand-over of canonical authority and, with the ILT, prepare ministries for transition of canonical governance.	On approval of the petition, from possibly 2021 onwards
Transition	Transfer	Determined by Institute Ministry Transition Group schedule, ILT and PJP work with Ministries to effect transition of canonical governance.	Anticipate from mid-2021 to 2022 onwards
New Era	New governance	The new PJP commence its stewardship role and steer the mission into the future.	Anticipate from mid-2021 to 2022 onwards

## Working party recommendations

1 - The ILT determine to establish a new ministerial PJP called Mercy Ministries with its office located initially in Melbourne.

2 - The ILT adopt the proposed mission purpose statement to guide the 'design' of the new PJP and assist the new PJP in its initial approach to fulfilment of its mission.

3 - The ILT dissolve the FGWP and establish an Institute Ministry Transition Group that may contain some members of the FGWP but also other members from the Institute's Leadership Team and staff, tasked to:

3.1 - Embrace the mission purpose and rationale for the planned transition of canonical governance of the Institute's ministries to a new PJP;

3.2 - Support development and adoption by the Holy See of the petition to establish Mercy Ministries;

3.3 - Communicate with and guide members of the Institute and Institute ministries through the transition from Institute to Mercy Ministries canonical governance;

3.4 - Ensure appropriate communication with other canonical bodies about the transition plan; and

3.5 - Project manage the canonical and civil law requirements of the transition.

4 - The ILT engage Sr Mary Wright ibvm to advise on the petition and statutes for the new PJP, with work to commence in February 2020 and the petition planned to be lodged in mid-2020.

5 - The ILT identify and convene a group of seven future Trustee Directors of the new PJP and support their formation as they commence their own preparations to assume canonical leadership of the Institute's ministries on establishment of the PJP.

6 - The ILT establish a membership group for the new PJP for the purpose of appointing subsequent Trustee Directors and with initial membership of the ILT.

7 - The ILT formally invite Mercy Partners and MercyCare to join an alliance of Mercy-focused ministerial PJPs, to be formalised on establishment of the new PJP.

8 - In the period prior to the new PJP being confirmed, the ILT obtain civil law advice regarding:

8.1 - A review of McAuley Property Ltd to ensure it holds only property to be transferred to ownership of the new PJP;

8.2 - Provision for the initial financing of the new PJP, either through an enduring endowment to be held in trust or a once-off seed funding gift; and

8.3 - Preparation for Mercy Education Ltd and Mercy Health Australia Ltd to be transferred to the ownership of the new PJP, and establishment of two new charitable companies limited by guarantee, one to be known as Mercy Ministries Ltd to accommodate the new PJP, and the second to be known as Mercy Community Services Ltd to accommodate the Institute's community service ministries in readiness for transfer to ownership of the new PJP (with the chairs of the Institute's community service ministry companies to be appointed the latter's initial board directors).

9 - The ILT invite the Province Leaders of the Christian Brothers Oceania Province and the Sisters of Saint Joseph of the Sacred Heart to consider the transition of canonical stewardship of MacKillop Family Services to the new PJP.

10 - The ILT invite the authorities of Damascus College and St Francis Xavier Primary School to recommend their own preferred canonical oversight from the two options of:

10.1 - Being welcomed warmly into the full canonical sponsorship of the new PJP under the corporate governance of Mercy Education Ltd; or

10.2 - Seeking full canonical sponsorship by the Diocese of Ballarat or its new entity, Diocese of Ballarat Catholic Education Ltd, with the sincere blessing of the Institute.

11 - McAuley Ministries and Catherine McAuley Services remain under Institute canonical governance for the foreseeable future.

12 - The Institute Leader meet with the Australian Catholic Bishops Conference President to seek his blessing for the new PJP to be conveyed as part of the petition to the Holy See.

13 - The Institute Leader visit Archbishops and Bishops of dioceses within which ministries operate to seek written consent for the petition.

14 – That in the event that the ILT accept the recommendations the FGWP propose a copy of the report being made to the Members of the Institute and the ministries at the time of the communication.

## ATTACHMENT A

### FUTURE GOVERNANCE WORKING PARTY

#### *Terms of Reference*

August 2018

#### CONTEXT

##### *Background*

Since coming to Australia in 1846, the Sisters of Mercy have established and administered a large number of ministries throughout the country in the areas of education, health and aged care, welfare, community services and hospitality. Over the decades, as intentional expressions of God's mission of mercy, these ministries have evolved in response to changing realities of society and Church. In that regard, the Sisters of Mercy, with their co-workers, have continued to enliven the founding inspiration of Venerable Catherine McAuley whose life commitment was to serve 'the poor, sick and uneducated' in the name of Christ.

In December 2011, fourteen of the seventeen autonomous Mercy congregations in Australia, along with the autonomous region of Papua New Guinea, came together to form the Institute of Sisters of Mercy of Australia and Papua New Guinea ('the Institute' or 'ISMAPNG'). Subsequently approximately 55 sisters of the other three Australian Mercy congregations have transferred to the Institute.

As well as enhancing the sisters' communion of life, the formation of the Institute was 'for the sake of mission'.

##### *The Present*

While God's mission as entrusted to ISMAPNG is carried out through the ministries of individual sisters, it is also invested to a significant degree in the various institutional ministries 'inherited' from the former congregations. These ministries are incorporated in civil law and their credibility and vibrancy derive from three key elements: the fact that they are clearly recognised by the Church and wider society as works within the Catholic tradition of faith and the Mercy tradition of service; the fact that they are judiciously governed by board directors and skilfully led by executive officers; the fact that, in their delivery of quality services, they are transparently accountable to all relevant authorities (Church, Institute, Government).

However, the Second Chapter of the Institute (August, 2017) requested the newly elected Institute Leadership Team (ILT) to initiate exploration of different options for

governance of the incorporated ministries 'so that they can flourish into the future' (Acts of Chapter, Direction to Leadership No 7).

Motivating the exploration is a need for change in the current model of governance. Such need for change was identified by many sisters during the period of consultation preceding the chapter, and then, by the chapter itself. It reflects two compelling factors: first, a maturing theology of the Laity with its welcome teaching that lay women and men who are personally committed to the Christian gospel have both the right and the responsibility to share directly in leadership of ministries of the Church; second, advancing diminishment of the Institute's capacity to continue to execute civil and canonical trusteeship of the ministries through its elected officers, namely, the Institute Leader and Councillors.

Other contributing factors relate to challenges of attracting board directors who can ensure standards of excellence for a large number of diverse ministries, and of meeting increasingly complex demands from governments for compliance in the critical elements of stewardship – ethical, industrial, financial, environmental, and so on.

In light of the above, the ILT wishes to appoint a Future Governance Working Party (FGWP).

## **PURPOSE**

The purpose of the FGWP is threefold:

- to undertake comprehensive exploration of real options for governance of the Institute's incorporated ministries;
- to recommend preferred options to the ILT for decision;
- to develop a draft implementation plan for each preferred option.

## **PRINCIPLES and SCOPE**

In carrying out its work, the FGWP will

- i. consider all real options for future governance of the ministries, for example, ministerial juridic persons, partnerships, divestment to dioceses or other agencies, and so on;
- ii. attend carefully to 'lessons learned' by organisations, in Australia and elsewhere, which have undertaken major changes in forms of governance;
- iii. be mindful of the need for ongoing formation of those who will be immediately engaged in the new model of governance so that all its initiatives, policies and practices consistently reflect the ideals of Gospel service;
- iv. examine all real options in the light of
  - relevant teachings of the Catholic Church

- the character of the Institute as an agent of God's mercy which professes preferential care for the poor
  - the patrimony of the Mercy tradition of service
  - the perspective of each option's potential to enable the ministries 'to flourish into the future'.
- v. be informed of pertinent corporate, civil and canon law.

## VALUES

Because the work of the FGWP will be critical to the life and mission of the Institute and is likely to generate major change, it should be characterised by

- understanding that mission and ministry must be the primary focus
- an open, critically reflective approach
- readiness for innovative possibilities
- inclusiveness of all stakeholders through prudent consultation with them (sisters, board directors, key personnel of present ministries, ILT) and appropriate communication
- sensitive awareness that the present mode of governance promotes a strong Mercy identity among many
- respect for all, especially those who could be affected by change in structures and relationships.

## OPERATION

1. The ILT will
    - appoint all members of the FGWP, including the Convenor
    - appoint the Institute's current Executive Officer Ministry Governance as Executive Officer to the FGWP.
  2. The FGWP will
    - determine its own way of working, including methods of conducting the exploration;
    - liaise through its Convenor with the designated member of the ILT, whenever necessary;
    - give a progress report to the Institute Leader and Council every two months, or as requested.
  3. Air travel and accommodation will normally be booked on request by Shirley Carter at the Stanmore Office
- [E: shirley.carter@ismapng.org.au; T: 02 9572-5400].**
4. A budget will be allocated for the work of the FGWP and receipts for all expenditures are to be submitted to the designated member of staff.

5. Any 'out of pocket' expenses incurred by individual members of the FGWP will be reimbursed according to usual practice.

## **TIMEFRAME**

It is anticipated that the FGWP will have completed its tasks of exploration, recommendation, and draft implementation plans by the end of March, 2020.

## **NOTE**

- i. The Institute Leader and Council intend two phases in their response to Direction to Leadership. No 7 (see above).*
- ii. The first phase is the work of the FGWP with its recommendations and draft implementation plans.*
- iii. The second phase, distinct from the work of the FGWP, will be actual implementation of the accepted recommendations.*
- iv. It was the mind of the Second Institute Chapter that, as far as possible, decisions about the future governance of the incorporated ministries, and their implementation, will be made during the period of office of the present Institute Leader and Council, that is, before December 2023.*



## ATTACHMENT B

### Statement of Mission Purpose for the Future Governance Entity

#### Context

The Future Governance Working Party commenced its task with the development of a *Statement of Mission Purpose for the Future Governance Entity*. The purpose of the statement is to guide the working party's deliberations towards a recommendation to the Institute Leadership Team. If the latter moves to establish a new entity, it is envisaged that the *Statement of Mission Purpose* would guide the several processes required to establish a new canonical and civil entity, including a discernment process to develop a Mission Statement for the new entity.

#### *Statement of Mission Purpose*

Since 1846 ministries in the tradition of Catherine McAuley have brought the "gift of mercy"<sup>1</sup> to our region. During that period the Sisters of Mercy have responded prophetically to the signs of the times "to ensure that God can be Mercy for others",<sup>2</sup> including through the recent establishment of the Institute of Sisters of Mercy of Australia and Papua New Guinea. Lay collaborators, in responding to their baptismal call to ministry, have been an integral part of realising the Mercy mission.

The Institute's 2017 Chapter envisaged a new era of stewardship of the Institute's incorporated ministries. This statement seeks to articulate the mission purpose of the future governance entity. The mission into the future builds on the rich heritage of the Institute and its predecessors. As the charism, the "gift of mercy", is taken resolutely into the future, it will find new expressions of service in contemporary and future communities in Australia and Papua New Guinea.

In moving forward, we remind ourselves that Mercy-inspired ministries:

- Continue the ministry of Jesus,
- Are works of the Catholic Church,
- Evolve the Mercy tradition of Catherine McAuley,
- Respond to Jesus' call to apostolic service.

Currently, in Australia and Papua New Guinea, the Mercy mission is expressed through the Institute's ministries in:

- Health
- Education
- Aged Care
- Community Services
- Community Development
- Advocacy
- Spirituality

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<sup>1</sup> Mercy International Association website: [www.mercyworld.org/](http://www.mercyworld.org/).

<sup>2</sup> Institute of Sisters of Mercy of Australia and Papua New Guinea website: [institute.mercy.org.au/](http://institute.mercy.org.au/).

In moving to a new governance model for the incorporated ministries, the Institute entrusts lay canonical leaders with this heritage and empowers them to develop new expressions of the “gift of mercy”. They must ensure, as faithfully as Catherine McAuley and her sisters, that they are attuned to the signs of the times so that Mercy ministries are responsive to need and flourish into the future.

In the new era for Mercy ministries, canonical stewards, directors, executives and management continue to embody the compassion, hospitality, integrity, care, justice, practicality and service which characterise the Mercy heritage; they are contemporary channels of Mercy. Through ongoing formation, they deepen their understanding of “the passion of Catherine McAuley”<sup>3</sup> to serve those at the margins.

Mercy ministries have a commitment to excellence and innovation, to collaborations for the sake of the mission, and to *communio* within, across and beyond the ministries. Leaders of Mercy ministries use their prophetic voice to seek justice within the Church, but also in the wider society to address poverty, exclusion, inequality and vulnerability.

Mercy ministries promote confident, courageous and dynamic leaders ready to go to the margins to respond to the needs of the vulnerable, “to hear both the cry of the earth and the cry of the poor”.<sup>4</sup> Across the ministries, staff will be offered formation opportunities to support them in their roles and potential leaders supported to undertake theology, scripture, ethics and leadership studies, and other professional learning. Importantly, as exemplified by Catherine, the ministries will champion female leadership within the Church and the wider community.

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<sup>3</sup> Mercy International Association website: [www.mercyworld.org/](http://www.mercyworld.org/).

<sup>4</sup> Pope Francis (2015) *Encyclical Letter, Laudato si'*, n.49; accessed at [w2.vatican.va/](http://w2.vatican.va/).

## **ATTACHMENT C**

### **Learnings from the Development of the Current Ministerial PJPs**

#### **Transition**

The reason for establishing a ministerial PJP (MPJP) is to provide a new 'owner' in the Catholic tradition for the ministries. Imparting this understanding to the ministries with the transfer of ownership gives authority to the new entity.

Some congregations regret that not all their members were well briefed before and at the time of creation of the MPJP. Meetings of congregational members and ongoing communication are critical for an effective process as is good canonical advice. A letter from the congregational leader clearly indicating the reasons for establishment of a MPJP is recommended.

It is suggested that the trustees be in place following the Holy See's approval of the MPJP but prior to its formal establishment and transfer of canonical governance. This allows the trustees to prepare for the role, establish working relationships and identify as a group, continue their formation, and be involved with the congregation in overseeing the transfer of the ministries to the MPJP. Further, it is suggested that this early role for the trustees signals to the ministries a degree of confidence in the new canonical leadership. There should be a missioning of the trustees and a formal ceremony marking the establishment of the MPJP.

Consideration might be given to a 'staged' approach to ministry transfer, with ample communication describing each stage. For example, some ministries (e.g. health or education ministries under a well-established company structure) might be transferred initially. Ministries which are 'struggling' or in transition should not be transferred to a newly established MPJP.

#### **Trustees**

Establishing the initial cohort of trustees with inclusion of some from the forming congregation may assist the transition and embedding of the charism in the MPJP. On the other hand, it may hinder realisation of the canonical independence of the new body. Any appointment of members of the congregation as trustees needs to take these two elements into consideration in the selection of suitable candidates.

An extended and well-developed discernment process leading to the appointment of the first and subsequent new trustees is critical. This allows candidates to develop an understanding of the MPJP's mission and charism, the nature of the stewardship role and the responsibilities of trustees prior to their appointment, and the member's council to discern on appropriate appointees. Trustees need to be recruited for their 'behaviours' and their knowledge and attitude towards the Church as much as for their expertise.

Means of establishing a pool of candidates for such a discernment process vary. One proposal, suggested to be best practice governance, is for competitive recruitment of trustees, with a call for

applications advertised and a nominations committee conducting interviews and recommending candidates on merit to the appointing authority.

Self-appointment of trustees is not best practice. Thus, importantly, for a sustainable future, it is suggested that the member's council include appointees beyond the congregation (e.g. a non-professed lay member, trustee or member representative from another MPJP, bishop).

The size of the trustee cohort depends, to some extent, on the number and breadth of the ministries and their geographical spread. The number of trustees needs to be large enough to facilitate their presence at ministry events and, potentially, trustee 'portfolios' to develop deeper knowledge of areas of ministry (e.g. education, health, community services, aged care) to ensure their effective stewardship.

Canonical stewards of MPJPs act communally, as a 'college', having inherited a communal tradition. There is not the experience of corporate board directors, and trustees should be selected for their ability to act communally. The trustees' chair should derive authority from the full complement of MPJP trustees, not act as an authority alone. This practice differs from the usual authority of a corporate board, where the chair carries additional authority. It also differs from that of other types PJP, where authority rests in an individual – for example, in a bishop for his diocese and a priest for his parish.

MPJP trustee meetings are not typical 'business' meetings – they should be a combination of prayer, formation, necessary 'business' matters and liaison with the ministries and the Church. They require adequate time, with a half-day meeting insufficient. Two-day meetings allow trustees to bond and undertake the necessary formation and discernment for their canonical role.

### **Relationships**

As the MPJP and the congregation are separate PJPs, it is essential to draw and maintain an appropriate 'boundary' between them. At the same time, congregational members are invited to appropriate ministry events and rituals and acknowledged as the original founders of the ministries. Some congregational members may also be formally engaged in professional or governance roles in the ministries.

The Australian MPJPs have different statute-specified and practical relationships with their member and boards. Clear documentation of the respective roles of the MPJP member, trustees and boards is critical. Examples of such documents include role charters, a governance matrix with the authorities of each body, and/or a delegations register. Those chosen as board directors and ministry leaders must understand the nature of ministry and embrace the canonical governance model. Further, subsidiarity needs to be understood and operationalised by the member and trustees in their respective domains. Foundation and subsequent board directors and CEOs of the ministries must be well briefed in relation to the MPJP's reserved powers.

Ministry leaders who have been used to dealing with the congregation may seek to continue to do so. If they do not transfer their relationship to the MPJP, this can give rise to blurring of governance authorities. Ministries need to realise that there will be no 'interference' from the congregation and that they are now accountable to the MPJP.

Of importance is a focus on relational interaction and ongoing discourse, with times to meet, get to know one another and develop trust in order to have effective formal member-PJP and trustees-board relationships. The trustees should visit individual ministries about once each year and meet occasionally with other stakeholders (e.g. local bishop).

The MPJP should have a newsletter or similar means to keep stakeholders, including congregational members, informed of developments.

### **Formation**

Conducting formation nationally for trustees, directors and leaders comes with practical challenges of geographical distance, cost, determination of meaningful 'curriculum' and access to quality program leaders. Some MPJPs have underestimated the cost and effort involved in formation. Formation may be best conducted regionally and not nationally. In some instances, the congregation was initially involved in formation of the MPJP's ministry personnel but withdrew after a period.

A MPJP formation committee or other forum with key ministry representation can be effective in establishing shared thinking on formation and developing and implementing a formation strategy. Annual formation programs, retreats and/or conferences with a formation focus, attended by the trustees, directors and key leaders, are also recommended. Immersion experiences in the founding congregation's history can support evolution of the MPJP's charism.

Formation is not sufficient to assure mission fulfilment. A method of "automation" or "industrialisation" of mission delivery should be required of the MPJP by its member. Elements are formation of key people, systems reporting of mission outcomes, clarity on where mission discernment is to be used, the role description of mission managers and their place in the management team, mission in the recruitment process, and external mission 'audits'.

The MPJP statutes should detail requirements for formation of key leaders, as should the constitutions of ministries. It is recommended that the MPJP receive and adopt ministry budgets for formation.

### **Property Ownership**

MPJP ownership of the ministry assets is recommended as this gives 'authority' over ministries. To varying degrees and with varying timelines, forming congregations have transferred ministry properties to the MPJP. Arrangements have been put in place for the 'gifting' of the properties and some transfer of monies to support congregational members. The MPJP should develop its own skill in property ownership to oversee ministry asset management. Co-location of the MPJP office with a ministry has pluses and minuses.

### **Resourcing**

MPJPs require their own operating budgets to be viable and conduct their stewardship role. A planned MPJP needs to have a revenue source identified prior to its establishment. Options in place include rental/lease payments for properties occupied by the ministries and 'owned' by the MPJP. For schools, these tend to be calculated on a *per capita* basis with due regard to government funding restraints. There will be limits for some ministries to contribute to MPJP financing. One Australian MPJP has a foundation established by the founding congregations for partial support of the MPJP's resourcing.

Trustees and board directors should be remunerated at a market value relevant to their role. Remuneration is key to accessing sufficient time of 'high-quality' people, and a 'lever' for managing trustee (and director) performance.

### **Member**

The MPJP should have a member's council rather than a single member representative.

The reserve powers of the congregation should be detailed in the statutes/constitution. These normally relate to the mission, patrimony and financial outlays of the MPJP.

### **Agencies of the Church**

Like religious institutes, MPJPs will be expected to contribute practically and financially to Church priorities and developments (e.g. Catholic Professional Standards Ltd).

## ATTACHMENT D

Input was received in the consultation process from:

Calvary Ministries

Catholic Healthcare

Dominican Education Australia

Edmund Rice Education Australia Council

Good Samaritan Education

Kildare Ministries

Mary Aikenhead Ministries

Mercy Partners

MercyCare

Sophia Education Ministries

St John of God Trustees

The Association of Ministerial PJPs Ltd

Sr Jennifer Barrow LCM, Little Company of Mary

Br Peter Clinch CFC, Christian Brothers Oceania Province

Sr Patty Fawkner SJS, The Sisters of the Good Samaritan

Sr Mary-Clare Holland OP, Dominican Sisters of Eastern Australia and the Solomon Islands

Sr Isobel Moran SSJG, Sisters of St John of God

Sr Clare Nolan RSC, Religious Sisters of Charity of Australia



## ATTACHMENT E

**Outline of draft letter prepared by Sr Mary Wright ibvm from the Institute to Cardinal de Avis, concerning the establishment of the public juridic person “Name” at the request of the Institute of Sisters of Mercy of Australia and Papua New Guinea**

Date

His Eminence Cardinal João Braz de Avis,

Prefect, Congregation for Institutes of Consecrated Life and Societies of Apostolic Life

Piazza Pio XII, 3

00193 Roma

Italy

### **Petition for the Establishment of a Public Juridic Person**

#### ***“Name”***

Your Eminence,

The Institute of Sisters of Mercy of Australia and Papua New Guinea, a congregation of pontifical right with its generalate house in Sydney, Australia, is responsible for many ministries in various Australian dioceses. In order to ensure the continuation and flourishing of these Catholic facilities in the light of the decrease in membership of the Congregation, and after extensive consultation with the diocesan Bishops concerned, with legal and financial experts and with the leaders of similar ecclesial entities, we have decided to request the establishment of a pontifical Public Juridic Person which would govern these ministries in the name of the Church.

Before making this important decision we have ascertained, with the assistance of expert advisors, that this transfer will not jeopardise the future financial security of the Sisters.

It is proposed that the body (the Sponsor) which will appoint the canonical stewards of the PJP will consist of, for the time being, the Institute Leader and the general Council in the name of the Institute of Sisters of Mercy of Australia and PNG. We anticipate that other sponsors may be included in the future.

Their Excellencies Archbishops ..., and Bishops ... have been advised of this proposal and have expressed their approval. We anticipate that other Catholic ministries in these dioceses may in future be transferred to ....

The assets of each facility are currently owned by ISMAPNG, and the general council is the legal member of the civil corporations which govern them. This membership will be transferred to the canonical stewards of the mPJP when it is established.

For your information, I attach the draft proposed Statutes, our correspondence with the relevant Bishops, and the other documentation requested in support of our petition. We thank you for your assistance and support in the development of this new entity, [name].

We sincerely trust that this important initiative will ensure that the health, education and community service ministries of our Institute will continue to contribute to the wellbeing of the Church and the people of Australia and Papua New Guinea.

Yours sincerely

.....

Please find attached:

- a. A short description of the history and charism of the Institute of Sisters of Mercy of Australia and Papua New Guinea and their ministries.
- b. A description of the reasons for the decision, and the process of discernment and consultation with the Institute members and other relevant persons and institutions which led to the decision.
- c. A signed extract from the minutes of the ISMAPNG general council meeting approving the petition.
- d. Draft Statutes of ....
- e. A sample of the civil constitutions of [name] which will form the by-laws of the mPJP
- f. The correspondence indicating the consent of Archbishops and Bishops concerned.
- g. Attestation from an independent expert that the Institute will be financially secure and will not suffer privation from the properties being transferred.
- h. A list of the properties, their technical descriptions and approximate values.
- i. A summary of the formation policies and programs which will support the canonical leaders and executives of the new entity.

## ATTACHMENT F

<b>Ministry</b>	<b>Service Location</b>	<b>Archdiocese or Diocese</b>
<b>Damascus College</b>	Mount Clear	Diocese of Ballarat
<b>St Francis Xavier Primary School</b>	Ballarat East	Diocese of Ballarat
<b>Mercy Education</b>	Mercedes College, Perth St Brigid's College, Lesmurdie Santa Maria College, Attadale	Archdiocese of Perth
	Academy Of Mary Immaculate, Fitzroy Sacred Heart College, Geelong St Aloysius College, North Melbourne Sacred Heart College, Kyneton Mount Lilydale Mercy College, Lilydale Our Lady of Mercy College, Heidelberg	Archdiocese of Melbourne
	Catherine McAuley College Bendigo	Diocese of Sandhurst
	St Aloysius College, Adelaide	Archdiocese of Adelaide
	St Joseph's College, Mildura Emmanuel College, Warrnambool	Diocese of Ballarat
<b>Fraynetwork</b>	South Melbourne	Archdiocese of Melbourne
<b>Mercy Health Australia</b>	Mercy Hospital for Women, Werribee Mercy Hospital, Heidelberg Aged Care Montrose, East Melbourne, Wyndham, Abbotsford, Mentone, Newport, Mordialloc, Boronia, Edithvale, Parkville, Geelong, Dandenong, Rosebud, Sandringham, Springvale South, Reservoir, Lower Templestowe, Lynbrook	Archdiocese of Melbourne

<b>Ministry</b>	<b>Service Location</b>	<b>Archdiocese or Diocese</b>
<b>Mercy Health Australia</b>	Mercy Health Albury, Aged Care	Diocese of Wagga Wagga
	Mercy Care Centre Young, Aged Care	Archdiocese of Canberra and Goulburn
	Aged Care Bendigo, Shepparton	Diocese of Sandhurst
	Aged Care Ballarat, Colac, Warrnambool	Diocese of Ballarat
	Aged Care Edgewater, Claremont, Carlisle, Craigie, Mandurah, Lesmurdie	Archdiocese of Perth
	Aged Care Westcourt, Woree	Diocese of Cairns
	<b>MacKillop Family Services</b>	South Melbourne, Footscray, Broadmeadows, Forest Hill, Geelong, Maidstone, Melton, Preston, Whittington
	Bendigo, Wodonga	Diocese of Sandhurst
	Hamilton, Warrnambool	Diocese of Ballarat
	Blacktown	Diocese of Parramatta
	Balranald, Bourke, Brewarrina, Cobar, Condobolin, Nyngan, Warren	Diocese of Wilcannia-Forbes
	Batemans Bay, Bega, Cooma, Goulburn, Queanbeyan	Diocese of Canberra and Goulburn
	Coonabarabran, Coonamble, Dubbo, Gulargambone	Diocese of Bathurst

<b>Ministry</b>	<b>Service Location</b>	<b>Archdiocese or Diocese</b>
<b>MacKillop Family Services</b>	Lightning Ridge, Walgett, Weilmoringle	Diocese of Armidale
	North Sydney	Archdiocese of Sydney
	Nowra, Wollongong	Diocese of Wollongong
	Perth	Archdiocese of Perth
	Bunbury	Diocese of Bunbury
	Roebourne, South Headland	Diocese of Geraldton
<b>McAuley Community Services for Women</b>	Footscray	Archdiocese of Melbourne
	Ballarat	Diocese of Ballarat
<b>Mercy Connect</b>	Thurgoona	Diocese of Wagga Wagga
	Orange	Diocese of Bathurst
	Narrabri	Diocese of Armidale
<b>Mercy Services</b>	West Wallsend, Singleton, Cameron Park, Tighes Hill, Newcastle	Diocese of Maitland-Newcastle
<b>Mercy Works</b>	Adelaide	Archdiocese of Adelaide
	Parramatta	Diocese of Parramatta
	Ballarat	Diocese of Ballarat
	Melbourne	Archdiocese of Melbourne

<b>Ministry</b>	<b>Service Location</b>	<b>Archdiocese or Diocese</b>
<b>Mercy Works</b>	Perth	Archdiocese of Perth
	Shepparton, Bendigo	Diocese of Sandhurst
	Cova Lima and Maliana, Timor Leste	Diocese of Maliana
	Goroka, Papua New Guinea	Diocese of Goroka
	Mt Hagen	Metropolitan Archdiocese of Mount Hagen
	Kiunga	Diocese of Daru-Kiunga
	Wewak	Diocese of Wewak
	Port Moresby	Metropolitan Archdiocese of Port Moresby

The above list should be confirmed with the relevant incorporated ministry.