Large Property Receipts Policy

(A report from the Standing Committee.)

Purpose

1. The purpose of this report is to present a proposed Large Property Receipts Policy for endorsement by the Synod.

Recommendations

2. The Synod receive this report.

3. The Synod pass the Large Property Receipts Policy set out in Annexure 2 of this report as a policy of the Synod.

4. The Synod pass the following procedural motion moved "by request of the Standing Committee" to facilitate consideration of the Policy –

> 'Synod agrees, for the purposes of considering the motion appearing at item X (the "In Principle Motion"), to the following arrangements –
>
> (a) the In Principle Motion will be taken to have been moved and seconded, and
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> (b) the mover may speak up to 15 minutes about the In Principle Motion, and
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> (c) the seconder may speak up to 5 minutes about the In Principle Motion, and
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> (d) the procedures for the making of ordinances under Part 5 of the business rules (from and including rule 5.5(2) but excluding rules 5.7(3)(b), 5.9 and 5.10) are to apply as if the Large Property Receipts Policy were an ordinance,
>
> and suspends so many of the business rules as would prevent these arrangements.'

Background

5. The Standing Committee established a "Special Receipts Committee" in 1960 at the request of the Property Trust which recommended –

> "That in cases where parishes are to have greatly enhanced receipts and such amounts are, in fact beyond the reasonable needs of the parish, then the surplus should be allocated for other parishes etc and/or diocesan objectives."

6. This policy position was ultimately reflected in regulations made by the Standing Committee and became known as the Large Receipts Policy. A copy of the current Large Receipts Policy is set out Annexure 1.

7. In broad terms, the Large Receipts Policy provides that where the expected sale proceeds from parish property will exceed $500,000 or where the expected lease proceeds will exceed $50,000 pa, the normal expectation is that 15% of the proceeds will be made available for the broader purposes of the Diocese. The policy also provides that a higher percentage may be appropriate if the large receipt from a sale exceeds $1 million.

8. The rationale for the sharing of parish property in this way arises from the character of the trusts on which such property is held for the parish. In particular, church trusts are not private trusts for the benefit of individual beneficiaries or any group of persons who may have the right to use such property for the time being. Rather, they are charitable trusts under which the property (subject to a power to vary those trusts under section 32 of the *Anglican Church of Australia Trust Property Act 1917*) is devoted to designated purposes of the Diocese in perpetuity.

9. While efforts have been made in recent years to give proper effect to the Large Receipts Policy, history has shown that the Large Receipts Policy has often been observed 'in the breach', that is, there has been a tendency for parishes to apply for and be granted relief from the prescribed operation of the policy as a matter of course. Equally, the Standing Committee's granting or refusal of such relief has tended to rely on factors which have not always been clear. Therefore, there existed and, to a degree still exists, a sense of unpredictability and lack of transparency around the operation of the current policy.

10. At its meeting in June 2012, the Standing Committee commenced a review of its policies concerning parish property, including the Standing Committee's Large Receipts Policy. The review was completed in February 2014. During the course of considering this matter, the Standing Committee agreed that the operation of any new policies concerning large receipts should be deferred until after the Synod has endorsed them as policies of the Synod.

11. Set out in Annexure 2 is the new policy concerning large receipts proposed by the Standing Committee. It has been renamed the Large Property Receipts Policy.

Commentary on the proposed Large Property Receipts Policy

Rationale for proposed policy

12. The rationale for the proposed policy is to ensure that a large property receipt arising from the sale or leasing of parish property is shared with the rest of the Diocese only after the reasonable property needs of the parish have been met. For this purpose, "reasonable property needs" means that combination of land, buildings and associated infrastructure (and the means to maintain such property) that is reasonably required by the parish to effectively undertake its ministry both currently and into the foreseeable future.

13. The proposed policy is similar to the existing policy in some respects. It retains the expectation that in certain circumstances it is appropriate for proceeds of the sale or leasing of parish property to be shared for broader diocesan purposes. It also retains a large receipts threshold (namely $500,000 in the case of sales and $50,000 per annum in the case of leases) under which the policy will have no application. Further, it continues to provide for some scope for a grant of relief from the application of the policy in exceptional circumstances.

14. However the proposed policy differs from the current policy in a number of important respects. These are outlined as follows.

Reasonable property needs of a parish to be met as a first priority

15. Firstly, if the expected proceeds from the sale or lease of parish property exceeds the relevant large property receipts threshold (ie. a large property receipt), the question under the proposed policy is whether the large property receipt is beyond the reasonable property needs of the parish. This question is not relevant under the current policy which is interested simply in whether the large receipts threshold will be exceeded.

16. If the parish identifies that its reasonable property needs are not currently met, the proposed policy provides that the sale or lease proceeds must, as a first priority under the ordinance, be applied toward meeting those property needs. Once a sufficient amount has been set aside under the ordinance to meet the reasonable property needs of the parish, a proportion of the remaining balance is to be applied for broader diocesan purposes.

17. In many cases, the priority given to meeting the reasonable property needs of a parish will result in the entire net sale or leasing proceeds being applied to meet those needs. However the parish must satisfy the Standing Committee that its property needs are reasonable. To this end the proposed policy enables the Standing Committee to make guidelines to assist parishes in identifying their reasonable property needs for the purposes of the policy.

18. On the other hand, if the reasonable property needs of the parish are currently met or the parish is not able to adequately identify its reasonable property needs, the policy provides that a proportion of the sale or lease proceeds in excess of the relevant large receipts amount (ie $500,000 for sales and $50,000 pa for leases) is to be applied for broader diocesan purposes. In these circumstances the proposed policy operates in a similar way to the existing policy.

Amount of diocesan contribution based on sliding scale

19. Secondly, the amount to be applied for broader diocesan purposes is not a fixed percentage of the net sale or lease proceeds (currently 15%) but is a proportion in excess of the parish's reasonable property needs determined in accordance with tables set out in the policy. These tables provide for a sliding scale of contributions.

Application of diocesan contribution to Mission Property Fund or Synod Fund

20. Thirdly in the case of diocesan contributions arising from sale ordinances, the policy provides for such contributions to be paid to the Mission Property Committee as an addition to the Mission Property Fund. If the parish has a preference for a particular Mission Property project to which such contributions should be applied, this preference can be set out in the statement of evidence which accompanies the sale ordinance.

21. In the case of leasing ordinances, any diocesan contribution is to be paid to the Synod for distribution as part of the Synod's annual budgeting process or, upon special application, to other diocesan beneficiaries to further the Diocesan Mission.

For and on behalf of the Standing Committee

ROBERT WICKS
Diocesan Secretary

2 June 2014

Annexure 1

Extract from the Regulations and Committees of Standing Committee of Synod

10. Ordinance Procedures

Large Receipts

Church Trust Property

10.4 Property is "church trust property" if it is subject to any trust for or for the use, benefit or purposes of the Anglican Church in the Diocese of Sydney or any parochial unit or diocesan organisation in the Diocese.

10.5 All church property in this Diocese has been donated to trustees, or has been acquired with money placed in the hands of trustees, for the purposes of parochial units or diocesan organisations or for specific or general purposes within the Diocese.

10.6 Church trusts are not private trusts for the benefit of individual beneficiaries but are charitable trusts under which the property (subject to the power to vary those trusts under section 32 of the Anglican Church of Australia Trust Property Act 1917) is devoted to designated purposes in perpetuity. It is not held on trust solely for a group of persons who may have the right to use it for the time being and the obligation to maintain it.

10.7 When an Ordinance is promoted to provide for the sale or lease of church trust property the Standing Committee represents the interest of the Diocese as a whole and has established these guidelines to assist promoters in an appropriate sharing with the Diocese.

Large Receipts

10.8 The Synod and the Standing Committee have recognised that many sale ordinances (and some leasing ordinances) may contain a "windfall" element.

10.9 Among several Synod and Standing Committee resolutions on this subject, 3 can be summarised as –

(a) Where parishes have greatly enhanced receipts which are beyond their reasonable needs, then the surplus should be shared with the rest of the Diocese.

(b) It is not in the interests of any parish to be in a position where free-will offerings of the people are not needed to maintain its work.

(c) Parishes should review their resources and incomes to identify any which might be allocated to new housing areas.

10.10 A bill for an ordinance involves a "Large Receipt" if –

(a) expected sale proceeds exceed $500,000; or

(b) expected leasing income exceeds $50,000 pa.

Sharing with the rest of the Diocese

10.11 The normal expectation for a large receipt is that 15% of the proceeds will be added to the capital of the Diocesan Endowment and benefit the Diocese generally by helping to increase distributions of income available to the Synod. Notwithstanding this, upon special application, 15% of the proceeds may be allocated to other Diocesan beneficiaries to further the Diocesan Mission.

10.12 A higher percentage may be appropriate if the large receipt exceeds $1 million.

10.13 In addition to any allocation under 10.11 or 10.12 the promoters of an ordinance may recommend specific allocations for parochial or extra-parochial purposes.

10.14 A bill for an ordinance meeting these guidelines would not normally be referred to an ordinance review panel.

10.15 The promoters of a bill involving a large receipt may give reasons why these guidelines should not be followed for their bill.

Annexure 2

Large Property Receipts Policy

Church Trust Property

1. Property is "church trust property" if it is subject to any trust for the use, benefit or purposes of the Anglican Church in the Diocese of Sydney or any parochial unit or diocesan organisation in the Diocese.

2. All church trust property in this Diocese has been donated to trustees, or has been acquired with money placed in the hands of trustees, for the purposes of parochial units or diocesan organisations or for specific or general purposes within the Diocese.

3. Church trusts are not private trusts for the benefit of individual beneficiaries but are charitable trusts under which the property (subject to the power to vary those trusts under section 32 of the Anglican Church of Australia Trust Property Act 1917) is devoted to designated purposes in perpetuity. It is not held on trust solely for a group of persons who may have the right to use it for the time being and the obligation to maintain it.

Rationale for this Policy

4. The Synod considers that it is the responsibility of each parish to ensure, as far as possible, that its reasonable property needs for effectively undertaking ministry are met.

5. The Synod recognises that in order to meet a parish's reasonable property needs it is sometimes necessary or desirable to sell or lease church trust property held for the parish.

6. The Synod also recognises that sometimes the sale and leasing of parish property will give rise to a large property receipt which is beyond the reasonable property needs of the parish.

7. In these circumstances, the Synod considers that a portion of the large property receipt in excess of the reasonable property needs of the parish should be shared with the rest of the Diocese.

What is a large property receipt?

8. For the purposes of this policy, a large property receipt will arise if –
   (a) the net sale proceeds of parish property is expected to exceed $500,000, or
   (b) the net leasing income from parish property is expected to exceed $50,000 pa.

What are the reasonable property needs of a parish?

9. The reasonable property needs of a parish means that combination of land, buildings and associated infrastructure (and the means to maintain such property) as is reasonably required by the parish to effectively undertake its ministry both currently and into the foreseeable future.

10. The Standing Committee may make guidelines to assist in identifying the reasonable property needs of a parish in more detail.

Promotion of bills which give rise to a large property receipt

11. The statement of evidence accompanying a bill for the sale or lease of parish property which gives rise to a large property receipt should identify the reasonable property needs of the parish. If those reasonable property needs are currently not met –
    (a) the statement of evidence should also include a plan to ensure the parish meets those needs, and
    (b) the bill should provide, as a first priority, for the application of the large property receipt in or toward meeting those needs in accordance with that plan and in conformity with any policy of the Standing Committee concerning the application of sale proceeds and property income.

12. If the large property receipt is beyond the reasonable property needs of the parish, a portion of the large property receipt in excess of the reasonable needs of the parish should be shared with the rest of the Diocese.

13. If –

(a) the reasonable property needs of the parish are currently met, or

(b) the parish does not adequately identify its reasonable property needs,

the amount necessary to meet the reasonable property needs of the parish is, for the purposes of this policy, taken to be $500,000 in the case of a bill to sell parish property and $50,000 pa in the case of a bill to lease parish property.

Sharing with the rest of the Diocese

14. The normal expectation for a large property receipt arising from a bill for an ordinance to sell parish property is that where the receipt is beyond the reasonable property needs of the parish, an amount in accordance with the following table will be paid from the net proceeds of sale to the Mission Property Committee as an addition to the Mission Property Fund –

Progressive Contribution Bands	
Balance of net sale proceeds in excess of reasonable property needs	**Contribution**
$0-$1m	25c for each $1 over $500k
$1m-$3m	$125,000 plus 50c for each $1 over $1m
$3m+	$1,125,000 plus 67c for each $1 over $3m

15. Any preference that the parish wishes to express concerning the application of a large property receipts payment to a particular Mission Property Committee project should be expressed in the Statement of Evidence which accompanies the bill rather than in the bill itself.

16. The normal expectation for a large receipt arising from a bill for an ordinance to lease property is that where the receipt is beyond the reasonable property needs of the parish, an amount in accordance with the following table will be paid from the net rental proceeds to the Synod Fund for allocation by the Synod as part of its annual budgeting process or, upon special application, to other Diocesan beneficiaries to further the Diocesan Mission –

Progressive Contribution Bands	
Balance of net rental proceeds (pa) in excess of reasonable property needs	**Contribution**
$0-$100k	34c for each $1 over $50k
$100k-$500k	$17,000 plus 25c for each $1 over $100k
$500k+	$117,000 plus 80c for each $1 over $500k

Review of bills for large property receipts ordinances

17. A bill for an ordinance which gives rise to a large receipt but is promoted on the basis that the reasonable property needs of the parish are currently met (under paragraph 13 above) will not usually be referred to an Ordinance Review Panel provided the bill makes provision for the sharing of a portion of the large property receipt in accordance with this policy.

Grant of relief from policy

18. The Standing Committee will consider any request for relief (in part or whole) from the payment of an amount in accordance with the relevant large property receipts table. Such relief will not be granted unless the promoters of a bill involving a large property receipt give sufficient reasons for an exception.

Reports concerning payments made under Large Property Receipts Policy

19. A report will be provided to the Synod each year identifying all payments under the Large Property Receipts Policy made to the Mission Property Fund and to other diocesan beneficiaries in the preceding year and to the Synod Fund for the purposes of Synod allocations in the following year.

Amendment of Large Property Receipts Policy

20. The Standing Committee may make amendments to this Large Property Receipts Policy provided such amendments are reported to the next ordinary session of the Synod.