

Archbishop's Strategic Commission on Structure, Funding and Governance

Final Report

15 August 2011

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Section 1: Introduction

1.1 Background

In 2008 Australia succumbed to the impact of the Global Financial Crisis (GFC), which among other things caused a significant downturn in the value of shares on the Australian Stock Exchange. At that time the portfolio of the Diocesan Endowment, managed by the Glebe Administration Board (GAB), was highly leveraged in the share market, the value of which plummeted over the course of the year. Since equity in its shares was a significant component of the security for the bank loans (which enabled the leveraging), when the shares dropped in value it became obvious that some shares needed to be sold to repay the loan. This action, at the end of 2008, resulted in a loss of over \$140m in the total equity of the Diocesan Endowment.

The Synod was informed of these events and of the consequences of a decreased income from the Diocesan Endowment to the Synod for the funding of vital ministries across the Diocese. At the 2009 Synod the GAB gave a presentation on the reasons for its failure to fulfil its mandate of maintaining the real value of the Endowment together with an explanation of the actions the GAB had undertaken to address the situation.

In early 2010, the Endowment of the See (EOS) Committee was informed that there would be no distributions from St Andrew's House in 2012-14, owing to the likely departure of a key tenant in St Andrew's House in 2011 and the need to upgrade the property to meet new environmental standards in order to re-lease the three vacant floors. This news followed a period of operational difficulty for the EOS where the expenditure of the EOS had exceeded its income for some time. It also came upon the heels of both the ongoing failure of the development of the Greenoaks Apartments (on the backblock of Bishopscourt) to realise any increased income for the EOS, and the loss of value in its share portfolio (due to the GFC) which further reduced the income available to the EOS. This trifecta of financial bad news prompted the Archbishop to form a Commission.

1.2 The Role of the Commission

In March 2010 the Archbishop of Sydney established a Strategic Commission on Structure, Funding and Governance, with the following terms of reference:

In light of the serious potential downturn in the distributions from the Diocesan Endowment and the amount available to the Endowment of the See, and the effects this may have on the ability of the Diocese to fund some of its essential work and services, to recommend to the Archbishop and the Standing Committee:

- (1) What steps should be taken to maximise the funds available, consistent with prudent management, and in particular what can be done to sustain funding for the Endowment of the See in 2011 and beyond?
- (2) What changes need to be made to the operations and interdependence of the Endowment of the See, Glebe Administration Board, Sydney Diocesan Secretariat, St Andrew's House Corporation and Anglican Church Property Trust and any other Diocesan resource that might impact upon the task of the

Commission in order to maintain the essential work while living within our means?

- (3) What other changes should be made to the governance of these Diocesan bodies in order to improve their performance?

The Commission was asked to offer an interim report within 3 months of its first meeting and a final report within 12 months. A list of members of the Commission is found in Annexure 2 to this Report.

In his Presidential address to Synod in October, 2010 the Archbishop said:

When I became aware of the magnitude of the problems facing us, and the reasons for them, I decided that we needed something more than our present structures could provide to re-think our situation and help both with the immediate crisis and also the long term renewal. We needed nothing short of an Archbishop's Commission to transcend our present structures, re-think and advise. I was able to draw together a group of experts under the chairmanship of Mr Peter Kell and asked them to do two things for us. I asked them in the space of three months if they would report on how we may resolve our current cash flow problems, especially in the Endowment of the See. Then I gave them twelve months to advise on our structures, to help us to see what changes we need to make in the way we do business. At the same time, I asked a parallel group of mature Christians to pray for the work of the Commission and at every point their work has been bathed in the intercessory prayer of these saints.

Since March 2010 the Commission has met 20 times and produced an Interim Report to the Archbishop on 28 July 2010, which was subsequently provided to members of Synod.

1.3 Diocesan Mission

In its work, the Commission has been conscious that the mission of the Diocese is to glorify God by proclaiming our Saviour the Lord Jesus Christ in prayerful dependence upon the Holy Spirit and that all other objectives and goals are subsidiary to this.

Consequently there should be a greater focus on the effectiveness of Diocesan structures in pursuit of this mission, but this needs to be balanced by an emphasis upon efficiency and prudent management. Efficient structures will liberate resources to pursue the mission objective.

The goal of the Diocese is growth. Under God the Diocese has an ambition to see many people come to a saving knowledge of the Lord Jesus and for them to grow into mature discipleship. Growth in numbers and growth in maturity over time will generate financial surplus, but in the short term it requires investment. Structural changes must seek to support growth at the front line in terms of services, support and finances.

1.4 The Challenges of 'Getting it Right'

The Diocese is a substantial business with net assets at the Centre of \$190m (excluding parish property, organisations such as Anglican Retirement Villages (ARV), Anglicare, the Schools Corporation and other Anglican schools). Although it is a 'business' which has a spiritual rather

than a commercial objective, this should not preclude the application of prudent business thinking or the development of a culture of accountability.

Unlike commercial organisations, the Diocese is not a centrally controlled entity. The parishes are autonomous and to a certain degree resent too much intervention or interference from the Centre.

In framing its recommendations, the Commission has therefore sought (1) to render honour to God, while being aware of the constraints of mammon; and (2) to recognise and respect the autonomy of the parishes, which are the operational units of the Diocese engaged in the daily work of proclamation and pastoral care.

1.5 Diagnosis of the Current Situation

The Commission has had access to recent field research of attitudes towards the Diocesan Centre, opportunity to engage with representatives of the Central Diocesan Boards and has received many submissions directly from members of Synod.

1.5.1 Inputs from Parish Fieldwork

- (1) Historically there has been a low level of trust of the Centre which is mitigated by a loyalty to the Archbishop and others in the leadership team.
- (2) Notwithstanding the reforms of the GAB during 2010, the historical problems of the Board and the EOS Committee are regarded as symptomatic of poor governance.
- (3) There is a recognition that the Centre can be helpful in areas such as bulk purchasing of services, but there is a frustration with 'form-filling' and compliance exercises which are not regarded as essential to mission.
- (4) There is, in response to these frustrations, a widespread desire for change.

1.5.2 Submissions to the Commission

- (1) The GAB provided a very helpful submission to the Commission and extracts of this submission are set out in Annexure 3. In it the GAB gives its views on the cultural issues behind the present problems, including the EOS Committee and St Andrew's House Corporation (SAHC), and the history of aspects of GAB investment policies and practices. It also outlines the efforts made to reform the governance of GAB and the Sydney Diocesan Secretariat (SDS).
- (2) The Commission received a number of submissions from Synod members and these are summarised in Annexure 4. The Commission took these into account when framing its recommendations and thanks all those who took the time to compose them.
- (3) In summary these submissions make two main points.

- (i) The number of entities at the Centre and the overlap of board membership across them lead to confusion of roles, duplication of tasks, conflicts for volunteers who sit on more than one board and a dilution of talent.
- (ii) The Diocese is widely regarded as not having 'lived within its means'.

1.5.3 Conversations with Central Diocesan Organisations

Since the Interim Report of the Commission, a number of conversations have been held with representative Board members of various Diocesan organisations.

- (1) EOS – Apart from the receipt of a detailed report by the EOS Committee, there was a meeting with representative members.
- (2) GAB – Apart from the receipt of a detailed report from the GAB, there was a meeting with the Chair and other representative members.
- (3) SDS – Apart from the receipt of a detailed report by the SDS, there were two meetings with the CEO, Mark Payne.
- (4) SAHC – Attendance at a stakeholders' meeting for all interested parties in St Andrew's House (including the EOS Committee, GAB and ACPT) and numerous discussions between Robert Freeman and the SDS property management team.
- (5) ACPT – Limited engagement with the Board, but helpful engagement with the Chairman.
- (6) ARV – A meeting was held with the CEO and Chair.

These conversations have afforded excellent opportunities to engage with each of the relevant Diocesan bodies. There is a clear desire to find solutions and several bodies have been actively improving their governance and efficiencies.

1.5.4 The Commission's Observations

The Commission considers that progress has been made in a number of areas.

- (1) The GAB has restructured and refreshed its Board in response to the recommendations from an independent review. In the Commission's view these are positive steps.
- (2) Since 2008 the SDS has reduced its cost base by 50% and has put in place other reforms such as Service Level Agreements.
- (3) The EOS has reduced its staff costs by 50% and has sought to balance its budget in extremely difficult circumstances, which are mostly beyond its control.

However, it is the Commission's view that a more holistic structural approach is required to address the governance, culture and cost issues.

1.6 Options for a Way Forward

The Commission has considered a range of structural options in formulating its recommendations. At one end of the spectrum was a radical approach, effectively moving the Diocese towards a regulated corporate model with simplified structures and processes driving cost efficiencies. Such a model would involve the creation of a Diocesan Executive with a Board of Directors comprising an appropriate mix of business people and clergy. The Commission came to the view that such a major series of changes would be ‘too much too soon’ for the Synod. Indeed it recognises that similar corporate models have been suggested before and rejected. That is not to say that the model is wrong and **the Commission recommends that this more fundamental reform be re-visited after the recommendations presented below are implemented and have been in place for a few years.** A number of the elements of this radical option are incorporated in the Commission’s recommendations but not the major structural reform.

At the other end of the spectrum the Commission also considered a more incremental model of change. This option contemplates largely leaving the Centre structurally unchanged and focusing on incremental changes at the level of smaller entities and across the governance structures of the various Diocesan bodies. The objective would be to reduce duplication, address conflict issues, and keep driving efficiencies. In the Commission’s view this incremental option does not go far enough. Addressing the issues that have been identified requires more than tinkering at the edges. Some significant structural changes to drive efficiencies at the Centre are required, and significant reform of governance, performance measurement and accountabilities is also necessary.

The essence of the Commission’s recommendations can best be described as a balance between the radical and incremental options outlined above.

Section 2: Analysis and Recommended Actions

In line with the Terms of Reference of the Commission, the body of this report addresses in turn, the short term funding needs of the EOS, the required changes to the operations and interdependence of the Central Diocesan bodies, including changes to their governance and a consideration of other relevant Diocesan bodies.

2.1 Funding Needs of the Endowment of the See

The financial stress afflicting the EOS is well understood, and indeed was a presenting issue for the formation of the Commission. The bare facts are that the EOS cannot fund its projected cash flow requirement over the next two years without asset sales or a continuation of the parish levy authorised by the 2010 Synod for 2011.

In its Interim Report, the Commission recommended the sale of Bishopscourt as the best option for addressing the EOS' financial problems in the medium term. In the light of Synod's rejection of this recommendation in 2010, it is not clear whether Bishopscourt is seen as a Sydney Anglican icon which may never be sold, or whether it is simply an asset that, if sold, must be replaced with assets, the value of which must never be depleted by any future mismanagement of the investment by the EOS Committee, as was perceived to be the case in the past. Either way, it is an emotive issue. Yet Bishopscourt is a costly asset to maintain and further inaction costs the Diocese both in terms of maintenance and forfeited income close to \$1m per annum.

The Commission has done further work on the various options available to EOS to restructure its financial position. It concludes that:

2.1.1 Bishopscourt

As previously recommended in numerous reports (see Annexure 5), **the Commission recommends the EOS should sell Bishopscourt and apply part of the proceeds to acquire suitable alternative accommodation for the Archbishop.** The balance of the proceeds should then be invested to provide a much needed increase in income to enable the EOS Committee to fulfil its primary function to pay the stipend of the Archbishop, the expenses of his residence and the travel, secretarial and other expenses of his office.

The Commission has estimated that the net positive impact from lower operating/maintenance costs and additional investment income would be \$800k–\$1m annually, based on the following calculation.

	2009	2010
Sale price (independent valuation Dec 2009/2010)	24,000,000	22,000,000
<i>less</i> Costs of sale, purchase and relocation	(1,000,000)	(1,000,000)
Net sale proceeds	23,000,000	21,000,000
<i>less</i> Purchase price of replacement property	(8,000,000)	(8,000,000)
Net cash available to reinvest	<u>15,000,000</u>	<u>13,000,000</u>
Annual return on cash invested at 4.5%	675,000	585,000
<i>add</i> Saving from net reduction in average annual maintenance/operating costs	300,000	300,000
Annual earning benefit to EOS	<u>975,000</u>	<u>885,000</u>

Previous reports have identified the main issues with Bishops court as follows.

- (1) High maintenance costs – related to the age of the building, some of the materials are not particularly durable, numerous alterations and additions required to adapt to more contemporary uses.
- (2) Heritage issues – being listed on the State Heritage Register means that work must meet NSW Government standards, which may not necessarily suit the building’s current function and utility.
- (3) Suitability – it is a difficult house in which to provide a family with reasonable privacy while conducting some of the public business of our church (eg, larger meetings and social events, accommodation for guests, parking for day visitors).
- (4) Perception – it is “too grand”, the image of a prince living in a palace is inconsistent with the message of the gospel and may even be an obstacle to our Diocesan Mission to connect with the community.
- (5) Capital value – the size, style and location of the property mean that it has a market value far greater than its primary function as a suitable residence for the Archbishop requires, which means the EOS has a substantial portion of its total net worth tied up in a non-income producing asset.
- (6) Alternative residences – recent investigations by the EOS Committee have confirmed that suitable properties offering both an appropriate residence and a place for ministry involving hospitality and entertainment are available in a number of suburbs. The retention of Bishops court as a venue for conferences and more extensive hospitality and entertainment is not warranted.

Much of the opposition to the sale of Bishops court voiced in Synod in 2010 centred on concern that the present governance and financial administration of the EOS may not be sufficient to properly protect the investment of the net proceeds. When combined with a sentimentalist argument these concerns were sufficient for Synod to vote narrowly against the sale with a majority of just 53% (218 for / 249 against). However, concerns about financial administration have now been addressed with the proposed changes to structures, investment strategy and processes. The EOS urgently needs to change its

asset mix in order to maximize its income, and the sale of Bishops court remains a vital component of this restructure.

2.1.2 Half Share in St Andrew's House

The EOS holds a one half interest in St Andrew's House. The other half is held by the GAB as part of the Diocesan Endowment. It is essential that the EOS maximise its rental income from SAH in the short term and potentially reduce the weighting of its asset in the EOS investment portfolio in the medium term on the basis of recovered rental yields. Various measures have already been taken to improve the performance of SAH, but further recommendations are outlined in 2.3.1 below.

2.1.3 Immediate Prospects for Endowment of the See

Unfortunately neither of these recommendations will support the cash requirements of EOS for the next two years. Therefore, in the absence of an ongoing parish levy, EOS will need to accept a further run down of its asset base to fund itself until SAH rental yields recover.

A number of other measures, which the Commission highlighted in its Interim Report have been considered and rejected.

- (1) Reduce the number of Assistant Bishops. The Commission considered this was properly a matter for the Archbishop and the EOS Committee to determine, and in any case the Archbishop has indicated that he was not in favour of this course of action.
- (2) Reduce the administrative support provided for Bishops, Registry and Archives. The Commission recognises that the EOS has already undertaken a cost review and considered that further action in this area was properly a matter for the EOS Committee to determine. Any further such action is, however, unlikely to be sufficient on its own to address the cash deficit over the next two years.
- (3) Shift responsibility for funding some recurrent expenditure to Synod (eg, Assistant Bishops). This is effectively 'robbing Peter to pay Paul' and the Commission believes this is something for the Synod to determine.
- (4) Appropriate a portion of the ACPT Church Insurance Fund. The ACPT has resisted requests for information and has said its actuarial reports indicate that all present funds are needed for its purposes.
- (5) Appropriate a portion of some of the Archbishop's Discretionary Trusts. These are a small number of discrete testamentary trusts which permit the Archbishop to allocate income, and in some cases the capital, for various purposes, some specific, some very broad. The Archbishop indicated he was not prepared to support this option.

2.2 Structural and Governance Issues

There are many areas of concern about Diocesan structures and processes which have been raised in the various submissions to the Commission. The Commission makes recommendations in three areas.

- (1) **Investment functions:** The area which has resulted in the present financial strain on the Diocese is the investment function. Therefore, the recommendations in the area of structure and governance apply specifically to the GAB and the changes to its investment function, and to a lesser extent to other Diocesan organisations.
- (2) **Accountability of Diocesan Organisations:** As was noted in the submission to the Commission by the GAB, there is currently no systematic way that the Central organisations are subject to periodic review, both as to their success or otherwise in achieving their objectives, and in relation to their internal systems of governance and control. While organisations are required to report under the Accounts, Audit and Annual Reports Ordinance 1995 about financial matters and internal systems, recent experience has shown that such reports are not sufficient to enable the Standing Committee to be satisfied that organisations are operating effectively within prudent limits and in accordance with principles of good practice. **The Commission recommends that a process of review of governance and internal controls be adopted for the Central Diocesan organisations.**
- (3) **Conflicts of interest:** A common theme in many submissions is the extent to which conflicts of interest, or perceived conflicts of interest, including cross membership of our volunteer boards and committees, may have contributed to the environment in which losses and difficulties occurred. The mandate of each organisation from Synod, through its ordinances and, in the case of ACPT, its Act of Parliament, clearly differs. A summary of the functions and responsibilities from the ordinances of the Central bodies is contained in Annexure 6. The Commission observes that the manner in which these mandates are interpreted by the boards of each body can mean that the operation of each body on occasions conflicts with the perceived mandate of another Diocesan body. At a minimum, this results in the duplication of effort. At worst, however, it creates disharmony, a significant risk of overlooking both risks and opportunities that impact upon the Diocese overall and the potential to display a poor witness to the world outside the Church. Useful work should be done on exploring greater alignment of mandates being expressed in the various ordinances.

2.2.1 Glebe Administration Board (GAB) and Changes to the Investment Function

The quality of the report by the GAB to the Commission and the apparent transformation of its culture, practices and approach over the last year or two are very encouraging. The GAB report has very constructively developed several aspects identified by the Commission in its Interim Report. It has refreshed its membership with some highly qualified directors and these new members are contributing well. It identifies

opportunities to work more closely with other Diocesan bodies, particularly ACPT in relation to investments. It has subsequently identified a need to reconsider the role it plays as a 'banker' among Diocesan bodies. It has also identified opportunities to report on investment performance by different asset classes in a way that will better identify those investment performance criteria it can directly affect (eg, shares and fixed interest) and those which it cannot directly affect (eg, its investment in SAHC).

It is now time within the Diocese for the investment errors of the past to be forgiven, even if not forgotten. There is evidence that the GAB, as presently composed and the SDS as presently staffed, having conducted their own review and successfully adopted the external consultant's advice, have sufficiently learnt from the mistakes of the past to establish strategies that significantly limit the chance of the Diocesan Endowment being materially depleted again.

The Commission makes the following recommendations in relation to the GAB.

(a) **Centralised Investment**

It appears that the greatest financial expertise serving the Diocese is within the SDS and the GAB. It is also evident that while there are some very able and financially aware individuals serving on other Boards, there is a general scarcity of committed Christians willing to serve with a genuine depth of financial management experience and insight. To some extent this limited human resource is spread too widely, too thinly and ineffectively. **The Commission therefore recommends that a Central Investment Management Board (CIMB) be established.** This board would consist largely of those within the Diocese who have investment and financial acumen, particularly from the existing GAB and SDS.

The Commission also recommends that Diocesan bodies should work towards ensuring that all investment activity of assets in excess of \$5m in aggregate is undertaken through the investment management expertise of the CIMB or an external manager appointed by them. This recommendation is contrary to a recent tendency for division of effort, in part based upon the prior investment mistakes of GAB. It is not, however, justifiable, when an overall perspective of the Diocesan financial interests is paramount.

As the CIMB would be the sole body making investment decisions, there would not be the need to spread investment expertise across other boards. There would be no reason why the investment assets of Anglicare and ARV could not also be invested by the CIMB on behalf of these Diocesan bodies. Indeed, there would be a strong preference to do so.

(b) **Investment Strategy**

The CIMB will draw on expertise both from within the existing GAB and SDS and from outside Board members with deep investment experience. As such, it will be best placed to define the CIMB investment strategy and to monitor performance. It is clear to the Commission that the GAB has taken all necessary measures to ensure that, with its present membership, it is very unlikely to make the mistakes in investment strategy that previously occurred.

However, there is merit in ensuring that, no matter what the future composition of the Board, the likelihood of such events occurring again is minimised. **The Commission therefore recommends that Standing Committee's approval of the investment strategy should be at the level of asset allocation, as outlined in the GAB Report in response to Synod Resolution 3/10. It is further recommended that material variations of asset mix should require approval of Standing Committee** (on the advice of its Finance Committee). It should be noted that with the establishment of a Chairmen's Committee (see 2.2.5 below) there will be an additional layer of oversight of the CIMB performance as a result of regular review by that body.

(c) **Borrowing Limits**

Even in circumstances where the portfolio of assets may be in accordance with a stipulated mix, the manner in which the investments are funded can also be a source of risk. It is noted that the GAB had borrowed significantly to invest in the stock market at the time the GFC so significantly reduced the value of the equities portfolio. For this reason, **the Commission also recommends that the CIMB be subject to a borrowing limit approved by the Standing Committee** (on the advice of its Finance Committee).

Clearly the CIMB will need to borrow. However, financial prudence would dictate that the borrowing should be matched by financially secure and/or liquid assets. Hence, by way of example, the limit could be calculated by reference to the portfolio of assets as follows –

Banking assets (if they remain)	85%-90%
Property	35%-40%
Bonds and equities	0%-10%

Accordingly, the borrowing limit would be by reference to a formula, rather than a fixed amount. Such limits would preclude the possibility of the reoccurrence of the strategy adopted formerly by the GAB of borrowing to invest in equities. It would also preclude the practice of having such a significant level of debt borrowed against St Andrew's House.

The above suggested formula is indicative of a desire to ensure that the Standing Committee has a role to play to ensure that, regardless of the

composition of the Board from time to time, the present prudence of the GAB endures (in its reconstituted form, the CIMB).

It is likely that the above may be seen as 'an abundance of caution' and in some ways limits the degree of flexibility and agility that the CIMB may desire. However, it would represent a significant back stop that should rebuild confidence among Synod members. Furthermore, it more appropriately appoints the Standing Committee as the watch dog,

(d) ***GAB Banking Function Review***

The GAB is presently conducting a review as to whether the banking function is sufficiently capitalised. The Commission endorses this review. In short, the GAB has assumed liabilities by borrowing from various Diocesan bodies and parishes. It has invested these monies in various assets, a number of which are illiquid, although probably realisable with around 12 months notice. However, included within the loans advanced by the GAB are loans that would have to be seen as more strategic than commercial. By way of example, the amount of loan advanced to fund St Andrew's House would be in excess of the amount a bank would lend to such an owner. There are other examples of loans that support church-related activity that would be in excess of what a third party lender would be willing to advance. The present project by the GAB is expected to draw conclusions as to whether there is a more effective way to run this banking service for parishes and to recognise more clearly which of the GAB investment assets are purely commercial and which are compromised by other non-investment functions. How the GAB responds to this report will be a test of the evolution of its culture. It is acknowledged that at present there appears to be a margin of approximately \$1.6m derived by the GAB from adopting the banking functions. It is clear, therefore, that there is a degree of financial dependence by the Diocese on the banking activities, based upon present pricing.

(e) ***GAB Ordinance Review***

Through its ordinance the GAB has been given the objective of acting as trustee of church trust property vested in it, otherwise known as the Diocesan Endowment, in a way which both preserves the real value of that property and provides a reasonable income therefrom. There is an obvious tension between these two objectives. In its response to Synod resolution 3/10 the GAB has indicated that the ordinance appears to infer that the second of those objectives should be understood in the light of the capital maintenance requirement, and has sought to develop its investment charter in that light. In order to remove any doubt, **the Commission recommends that the constituting ordinance be amended to clarify that the objective should be to first preserve the real value and then provide a reasonable income.**

2.2.2 Endowment of the See Committee

There is a broadly held concern about the governance of EOS. In its submission to the Commission (see Annexure 3), the GAB writes:

Difficulties with the finance of the EOS have been evident for several years. Consistently over the last 10 years, the EOS has had a cash flow deficit from operations. The operating cash flow needs have been financed through the sale of capital assets and by borrowings (which, in turn have been repaid from the sale of capital assets), a process which was not sustainable in the long run... The trustee of EOS is ACPT. However, under the Endowment of the See Ordinance 1977 the EOS Committee has been constituted to exercise certain functions in relation to the EOS. While the line of demarcation between the rights and responsibilities of the EOS Committee and ACPT is unclear in several key respects, the practice, at least in recent years, has been for the EOS Committee to exercise management functions in relation to EOS and for ACPT to exercise a role akin to that of a bare trustee.

The submission also makes reference to the confusion historically caused by the role of the SDS Chief Executive Officer being a member of both the EOS Committee and the ACPT. These overlaps have now been addressed, but in its recommendations below, the Commission seeks further to clarify the role and limitations of the EOS Committee. The existing composition of the EOS Committee with the Archbishop as Chair (with a casting vote only) plus 3 members appointed by the Archbishop and 3 members elected by the Standing Committee should be retained.

To ensure the EOS Committee is accountable for the prudent management of all EOS expenditure including the maintenance, repair, renovation and refurbishment of the residential properties, for which the Committee can receive recommendations from the Archbishop, and about which it is to report to Synod, **the Commission recommends that the EOS ordinance be amended to:**

- (1) **Insert a clause that establishes the objective to preserve the real value of the EOS;**
- (2) **Enable the CIMB to be responsible for managing the EOS investments and allocate income from those investments to the EOS Committee;**
- (3) **Enable the EOS Committee to be responsible for budgeting and expenditure, within the allocated amount (as determined by the CIMB), on the recommendation of the Archbishop; and**
- (4) **Clarify that all real property transactions, including mortgage, sale or lease, are to be authorised by the Synod or the Standing Committee.**

2.2.3 Anglican Church Property Trust

In relation to the ACPT, apart from a meeting between the Commission and members of the ACPT Board and various exchanges in relation to a specific fund managed by ACPT, there has been limited opportunity for the members of the Commission to understand the

activities of ACPT. The following information has been provided by the Chairman of ACPT.

- (1) The investment and finance sub-committee of the ACPT and the GAB jointly agreed earlier this year, to streamline the process of engaging with Mercer, who is the investment adviser to the ACPT-managed Long Term Pooling Fund (LTPF) and the GAB-managed Diocesan Endowment. An initial joint meeting of the two groups occurred during the second quarter of 2011 and ongoing joint quarterly meetings are planned.
- (2) The current method of calculating the ACPT management fee was approved by the Standing Committee and commenced on 1 January 2006. It is a charge of 1.10%pa on the funds held by the ACPT as trustee for parishes. While the cost of supporting the ACPT's work is largely covered by this fee, both SDS management and the ACPT Board have formed the view that, while efficient in its collection, it is inequitable. A minority number of parishes and Diocesan organisations hold investment assets in the LTPF or Glebe Income Accounts and they effectively subsidise all other parishes and Diocesan organisations. SDS management and the ACPT Board are evaluating alternative methods of meeting ACPT costs for recommendation to the Standing Committee for decision.
- (3) The ACPT has several distinct roles.

(a) *Corporate trustee*

Constituted under the *Anglican Church of Australia Trust Property Act 1917*, the ACPT is the corporate trustee of church trust property in the Diocese of Sydney. Property held by the ACPT is subject to trusts created by the trust instrument and fiduciary obligations govern the management of those trusts.

(b) *Property Manager*

Pursuant to the Anglican Church Property Trust Diocese of Sydney Ordinance 1965 the ACPT is required to manage church trust property in accordance with policies established by the Synod.

ACPT discharges this duty to manage parish church trust property in various ways:

- (i) Managing the responsibilities and obligations of a land owner or licensee of third party property (for parishes without property), which includes arranging insurances and ensuring compliance with various Acts and Codes such as occupational health and safety, fire safety, and heritage.
- (ii) Managing the parish property interests of the Diocese in the political arena in response to government legislation, actual and

proposed, that may restrict the rights of the parish churches to operate.

- (iii) In co-operation with parish wardens, overseeing property developments, leasing or licensing of church trust property, and representing parish interests where property development adjacent to church property may impact upon value or enjoyment.

(c) *Investment Manager*

ACPT manages investments on behalf of various parishes, usually arising from the ordinance authorising the sale of parish property. There are also bequests from estates, and investments held for Diocesan organisations.

In 2006, the ACPT Board initiated a review of the strategic asset allocation of the Long Term Pooling Fund (LTPF), established to pool the long term investments of parishes and certain Diocesan organisations in order to harness economies of scale from those investments.

Following the 2007 revision of the strategic asset allocation within the LTPF, the ACPT established an investment and finance sub-committee to advise the Board in relation to specific financial, insurance and investment matters. Since being formed, that sub-committee has overseen refinement of the strategic asset allocation and a revamping of the distribution policy as well as the implementation of a formal investment policy and the appointment of a professional investment advisor/manager. Mercer was appointed in 2010 to manage the funds in the LTPF.

(d) *Insurance Fund Manager*

Pursuant to the Church Insurances Ordinance 1981, the ACPT is the trustee of the Church Insurances Fund. That fund receives the Parish Cost Recovery amounts and is maintained to meet claims up to the amount of the various insurance deductibles on specific policies and the uninsured and uninsurable risks of parishes and certain Diocesan organisations.

During 2007 in the lead up to the GFC, the ACPT Board approved a fixed long term agreement (FLTA) that aligned the premium rate in relation to the Industrial Special Risk, Professional Indemnity and several other insurance products (representing approximately 60% of the annual insurance premium). The current FLTA, which is subject to 2007 premium rates, matures in 2012. Discussions are under way with the insurers to convert the FLTA to an evergreen arrangement.

As the registered proprietor of the bulk of Diocesan property, it is appropriate for ACPT to oversee the insurance arrangements associated with such property. An illustration of this is the manner in which the St Barnabas, Broadway parish buildings are being rebuilt after the 2006 fire that destroyed the original buildings. In consultation with the parish wardens, the ACPT negotiated directly with insurers and mutually agreed on a payout under the insurance policy. Subsequently there was a need for the ACPT to appoint consultants (including the demolition team, architects, project managers and building contractor) as well as assisting in dealings with lenders, government and fund-raising consultants.

Since 2010, following the deleterious impact of the GFC on the DE, ACPT has been periodically requested to consider funding the costs of 'care and assistance payments' as recommended by the Professional Standards Unit. Such claims may arise from actions taken against a Diocesan body within nominated events such as clerical or lay malpractice or molestation.

The Commission notes the streamlining and governance work that has occurred and encourages ACPT to continue in this direction. The Anglican Church Trust Property Act 1917, the Anglican Church Trust Property Diocese of Sydney Ordinance 1965, the Insurance Ordinance 1981 and policies set by Synod and Standing Committee require ACPT to be more than a bare trustee or custodian of titles. The responsibility to carry out the tasks set by the 1917 Act, the ordinances and the policies and the attendant fiduciary duties are discharged by ACPT members and implemented by SDS staff.

At present funds held by ACPT for investment on behalf of parishes or the Synod are invested through Mercer. With the establishment of the Central Investment Management Board with a mandate to centralise Diocesan investment management, **the Commission recommends that ACPT's investment function be passed over to that body and that the Board be comprised of members with the skill set to conduct its core business.** It is noted that ACPT only invests on a trustee basis and any other body investing trust funds on behalf ACPT would be required to do likewise.

2.2.4 Sydney Diocesan Secretariat

Discussions with the CEO have extended to the manner in which the SDS serves various Diocesan bodies, ranging from the GAB to individual parishes. There is now more clarity in service agreements between the SDS and a number of the Diocesan bodies the Commission has reviewed. There has been a considerable effort put into reducing the cost structure of the SDS which has led to some welcome reduction in the overheads of the Diocesan bodies it supports. This is pleasing to see and the Commission believes

that cost containment will need to be policed vigilantly in the future. It could be argued that there is a pivotal function that the SDS must perform on behalf of parishes, which an external provider could not provide.

The role of the SDS, however, is not well understood by its users. In particular, each Diocesan body often retains the SDS to staff all of its needs and expects the SDS to do so on a basis that retains confidentiality of the information of that particular Diocesan body. This leads to the conundrum that staff within the SDS deal with the affairs of several Diocesan bodies, without being able to disclose this knowledge to the other body. At a minimum, this means that the advice provided to each Diocesan body is suboptimal, since a broad Diocesan perspective is not always present in the advice provided. However, at worst, it creates an unacceptable degree of confusion and uncertainty among the SDS staff.

The SDS should supply administrative, secretarial and accounting services to the parishes, to the CIMB and the EOS (and may also be given responsibility for managing the residential properties on behalf of the EOS Committee), as well as other Diocesan organisations from time to time. The first task to be undertaken is to review the scope of services that the SDS provides to its clients. **The Commission therefore recommends a quantitative and qualitative survey needs to be undertaken of the parishes** where the greatest criticism of the Diocesan 'Centre' currently exists. **Research of the needs of the CIMB and EOS also needs to be undertaken** to determine the services to be provided.

In determining the scope of service provision by the SDS the extent to which centralisation will deliver benefit to the end-user (eg, through economies of scale or the retention of specific expertise at the Centre) will need to be weighed against the benefits of the service being delivered at a local level. This will necessarily vary by service type.

To ensure high quality services being delivered at lowest cost, **the Commission recommends that a degree of contestability should be introduced in the provision of services by the SDS.** Accordingly a number of principles which should be considered include:

- (1) Fixed term service contracts (3 to 5 years);
- (2) 'Opt out' provisions for client organisations at time of tendering – so that the SDS does not have monopoly provision status; and
- (3) Clear Service Level Agreements (SLAs) and appropriate incentives and sanctions.

The Commission notes that the SDS has already made progress in areas such as SLAs.

There are certain functions that the SDS provides to other Diocesan bodies that could be provided by external professionals. While on occasions this may be on a higher standard, there are two compromises. The first is that the cost, at least in some circumstances, of the external professional will be higher. The second is that there is an ongoing need for the SDS to have a more overall perspective of the activities, risks and opportunities of the Diocesan bodies as a whole. The retention of external advisers and service providers to the exclusion of the SDS will limit the capacity of the SDS to develop this broader perspective. For this reason, it is considered more appropriate for the SDS to be involved in each of the key service needs of Diocesan bodies. However, there is a clear need for the SDS to accept that external professional input of the highest quality is more often required than presently acknowledged by some within the management team. This was evident in the process of leasing St Andrew's House. It is evident that this is the direction in which the recently appointed CEO is already heading. Because the SDS operates as a specialist service provider, **the Commission recommends that the SDS be headed by a Board different from that of the GAB, comprising individuals with experience in the service industry, and that the SDS be rebadged as Sydney Diocesan Services.**

2.2.5 Chairmen's Committee

The Commission recommends that a Chairmen's Committee be established, chaired by the Archbishop or his nominee, which consists of the chair of each of the most financially influential Diocesan bodies. In addition one or two other individuals who have sufficient financial acumen would be appointed by the Archbishop. The relevant CEOs could attend as observers at the Archbishop's invitation. It would be anticipated that these individuals would be financial counsellors conferring directly with the Archbishop. Membership would include the GAB, EOS, ACPT, SDS, but should be widened to include non-central bodies such as Moore College, Sydney Anglican Schools Corporation, Anglicare and Anglican Retirement Villages. The mandate of this committee would be to report to the Standing Committee every quarter on the following matters.

- (1) Observations as to the overall financial risks of the Diocese when viewed as an aggregation of the various Diocesan bodies.
- (2) The identification of means by which efficiencies in financial management and investment strategy can be enhanced.
- (3) Identify particular inconsistencies in the actual or perceived mandates of each of the constituent Diocesan bodies and recommend a means of resolving these. At first instance it would be hoped that the mere discussion of these issues, in the light of common purpose and common faith, would lead to practical resolution. However, where necessary, the recommendations of this committee could

extend to amendment of ordinances of the relevant bodies to ensure further alignment, clarity of purpose and reduction of actual or perceived duplication.

The Chairmen's Committee should also oversee the implementation of a system for review of the governance and internal controls of the Central Diocesan organisations, to monitor compliance with their ordinances, governance statements and policies, with findings reported to the relevant organisation and to Standing Committee. If necessary an external consultant could be engaged to conduct periodic reviews, similar to the review of the GAB.

2.2.6 Governance and Conflicts of Interest

Many of the submissions made to the Commission were critical of the governance procedures of the Central bodies. The Commission notes that Synod has established a committee to prepare a governance policy for Diocesan organisations. In 2010 that committee made an interim report to Synod, a debate occurred, and further work has been done. The Commission has received a further draft but now understands that their report will not be available for Synod until 2012. The Commission commends the committee's work to date and notes particularly the three draft Guiding Principles: Godly leadership shaped by the Bible; Mission alignment; and Board member responsibility. It will be important for the committee's work to be completed and for a suitable Diocesan Governance Policy to be adopted as soon as possible.

Classic conflicts of interest occur where a board member has a choice between advancing the interests of the corporate entity, their own interests or the interests of some other person or entity. The law makes the duty to the corporation paramount. In the context of synod-created corporate bodies, served by entirely voluntary board members, conflicts of interest may occur where a member of one board also serves on another board and an agenda subject is common to both boards. **The Commission recommends that members of all Diocesan boards annually declare to their own board their memberships of other Diocesan boards.**

Corporate information available to board members also imposes duties not to use that information to the detriment of the corporation. **The Commission recommends that Standing Committee examine whether it is possible to amend the constituting ordinances of the Central Diocesan bodies to permit the sharing of 'confidential' corporate information between those bodies for the better financial health of the Diocese.**

To ensure that each of the Central Diocesan organisations is properly performing its functions required under its ordinance, good governance practices are essential. Only the GAB has been subjected to a review of its governance policies and practices. Each of those bodies should be requested to report to Standing Committee on its system of

governance and internal controls. To assist in this process the Synod Committee on governance should be asked to complete its work as soon as possible, a Diocesan policy on governance should be adopted, and as a minimum each of the Central bodies should be directed to comply with that policy.

The Commission recommends the Standing Committee be requested to draft and implement appropriate policies and protocols to minimise the risk of conflicts arising from volunteer cross membership of boards and committees. Standing Committee should consider including such principles as:

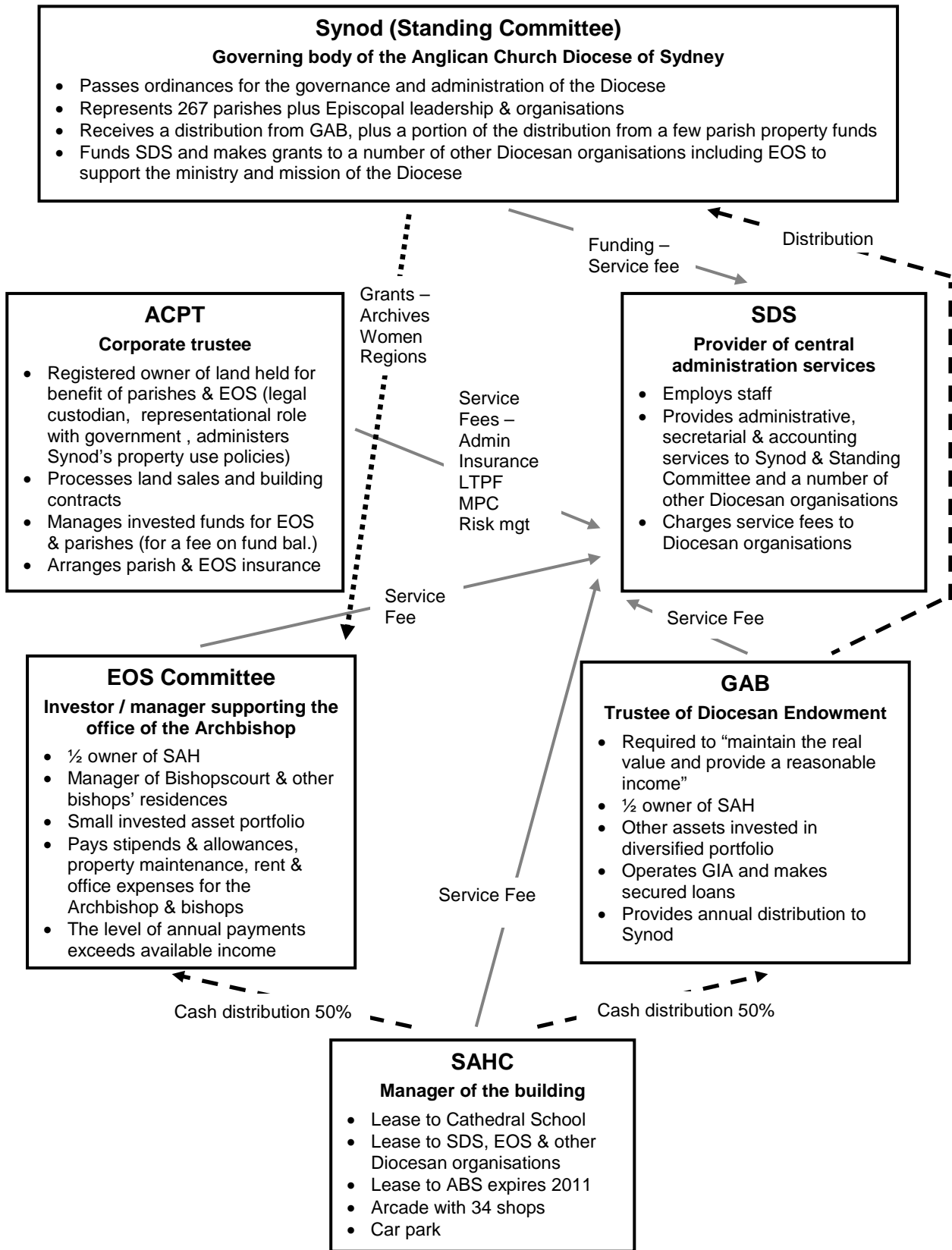
- (1) When a candidate is considered to fill a vacancy on the board or committee, the membership of the candidate of other boards and committees should be brought to the attention of the electing body to consider whether such a candidate should be elected as a member of the board or committee for which there is a vacancy;
- (2) If a person is a member of a board or committee which has a relationship with a second board or committee of which that person is also a member, that person should be required to declare an interest and absent themselves from meetings of both boards and committees when matters relevant to that relationship are discussed or decided.

As noted above, the Commission sees the Chairmen's Committee as having a central role in ensuring that governance standards are lifted across the Diocesan bodies.

2.2.7 Overview of Restructuring of Central Diocesan Bodies

The following two diagrams represent the present interrelated structure of the GAB, SDS, EOS and ACPT and the proposed structure recommended by the Commission.

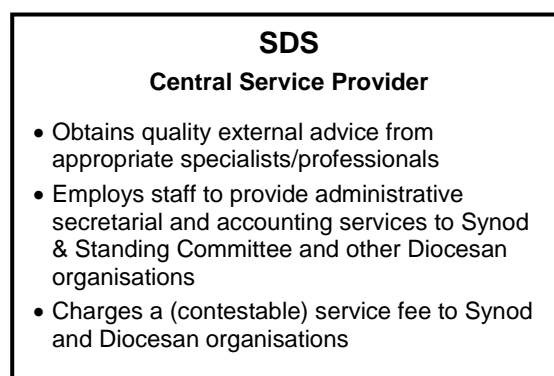
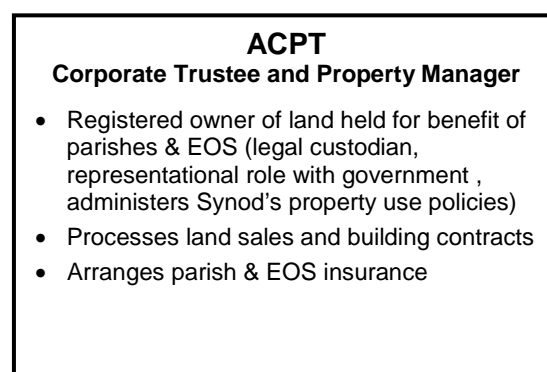
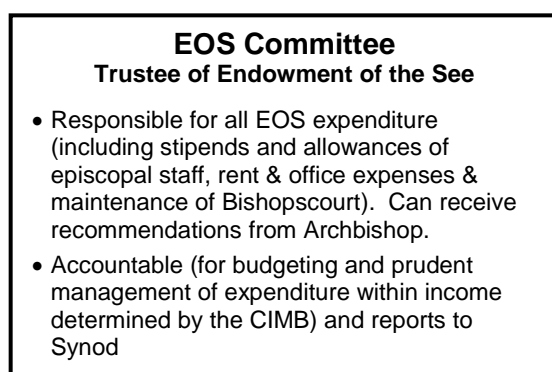
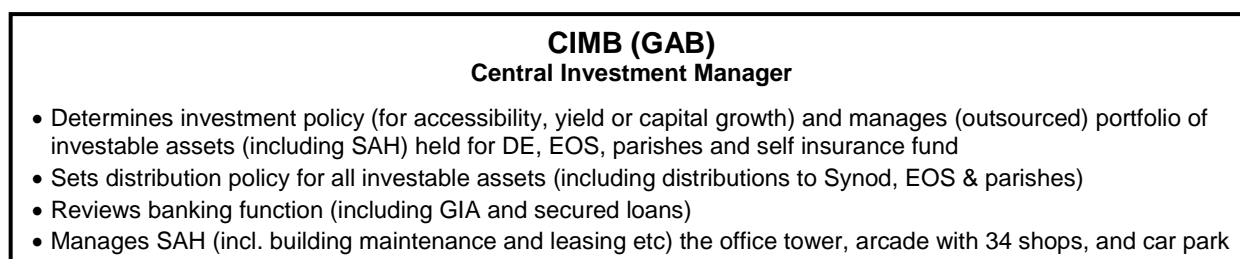
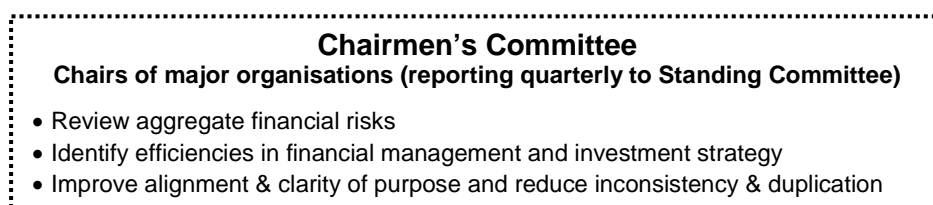
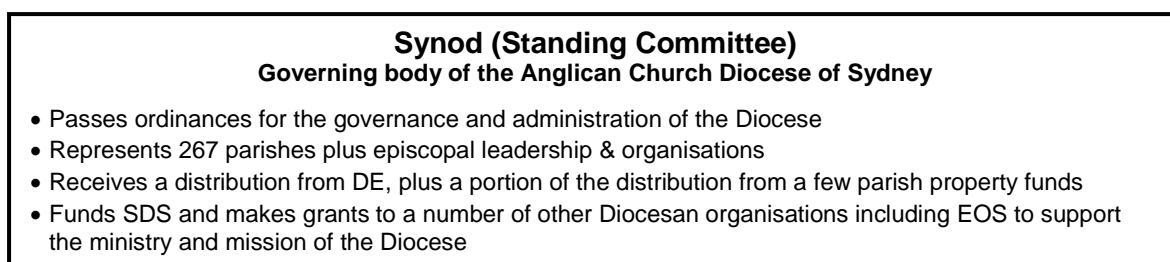
Existing Structure



ACPT = Anglican Church Property Trust Diocese of Sydney
SDS = Sydney Diocesan Secretariat
EOS = Endowment of the See
GAB = Glebe Administration Board
SAHC = St Andrew's House Corporation

LTPF = Long Term Pooled Fund
MPC = Mission Property Committee
SAH = St Andrew's House
GIA = Glebe Income Accounts
ABS = Australian Bureau of Statistics

Proposed Structure



CIMB = Central Investment Management Board
EOS = Endowment of the See
ACPT = Anglican Church Property Trust Diocese of Sydney
SDS = Sydney Diocesan Services

DE = Diocesan Endowment
SAH = St Andrew's House
GIA = Glebe Income Accounts

2.3 Other Strategic Assets

2.3.1 St Andrew's House

From discussions with the GAB, it is clear that the CEO and the Board are open to all options as to how to deal with St Andrew's House. This is to be applauded. However, from broader discussions, it is likely that St Andrew's House is generally seen as a Sydney Anglican icon. There is a certain permanence and substance imputed to the Diocese by virtue of this significant asset. However, as was evident from the Commission's discussions with the SDS and attendance at the SAHC stakeholders' meeting, St Andrew's House faces significant challenges. By any measure, it has not realised its full value, nor is it producing maximum rental returns. It should also be noted that St Andrew's House, from a GAB perspective, not only represents a significant investment in the form of its 50% ownership, but also the principal security of its most significant non-property asset namely its loan to SAHC. Any strategy adopted to manage St Andrew's House must distinguish between the GAB's role as an owner and as principal secured lender.

The structure of SAHC is unnecessarily complex and has proved inefficient in that it did not serve the interests of either party — having GAB manage SAH was not in the interest of EOS, and SAHC was until recently a totally passive manager. Moreover, SAHC over-distributed its cash flows in prior years, leaving it with no option recently but to suspend all distributions in order to fund essential refurbishment and re-lease expenditure.

Having one of the two equal owners also a substantial lender means the owner's interests are compromised: GAB want early repayment of their loan in preference to distributions; EOS are overly dependent on income from distributions and ambivalent towards the loan.

Both the EOS (and to a lesser extent the GAB) want to divest themselves of SAH. It represents an excessive concentration of their portfolio, the return achieved is dependent on the cycles in the commercial property market and both owners want steady income, while it is currently in need of substantial investment to refurbish.

The announced vacation of the key office tenant, Australian Bureau of Statistics, who occupies levels 3, 4 & 5, has led to a focused performance from both SAHC and SDS. The realities of the commercial leasing markets are that significant tenancies take many months to attract and, in addition to extensive upgrading of vacancies, substantial incentives have to be provided.

The property itself needs to be managed more aggressively (partly through appointment and monitoring of qualified experts/consultants) to maximize returns and to prepare for full or partial sale. Nevertheless, the present SAHC has undertaken a serious review of its operations and is actively addressing the following areas.

- (1) The marketing of levels 3, 4 & 5 has led to the signing of a 'Heads of Agreement' with a substantial tenant for levels 3 & 4 on market terms which is expected to be finalised shortly. Level 5, together with potential space to be released on levels 1 & 2, is to be promoted vigorously in a tightening leasing environment as CBD oversupply reduces.
- (2) The feasibility study of strata titling the elements of St Andrew's House indicates that obtaining such title would be both practical and affordable. Further work is to be undertaken to consider the legal, physical and planning aspects prior to proceeding.
- (3) NABERS (National Australian Built Environment Rating System) upgrade of the office tower is being pursued, but all costs need to be critically reviewed to ensure the work is cost effective.
- (4) Property Management is currently undertaken with a mixture of onsite employees, an external Managing Agent and SDS staff. This mixture, coupled with the reporting lines through SAHC to the two major shareholders is sub-optimal in a commercial sense and steps must be taken to rationalise the process and reduce the 'coal face' involvement of the SDS.
- (5) Church use of levels 1 & 2 needs to be compressed and surplus space let commercially.
- (6) The St Andrew's Cathedral School's 'put option' over levels 5 & 6 needs to be extinguished, the 'soft' loan from GAB repaid, and the balance of the GAB loan refinanced externally.
- (7) A 'tender process' has been undertaken on the Car Park and a number of responses are being assessed from Commercial Operators. The objective is to ensure maximum return and potentially create a 'stand alone' investment.
- (8) Arcade rental income needs to be maximised through refurbishment and a new focus on shop mix, and all church tenants need to vacate (or at least move to full commercial rent).

To quote the recent valuation report 'St Andrew's House comprises an older style commercial office building which was constructed in 1974 – it presents in good working order taking into consideration its age and current use...'

Considerable capital has been expended on the property in recent years to upgrade the foyer and common areas and to comply with the NABERS energy rating system. The property will continue to require capital works into the future in order to keep a 37 year old structure competitive in the leasing market.

To hold the property is to invite the cyclical effect of office vacancies triggering capital outflows both in terms of refurbishment and plant upgrades and the cash flow effect of incentives. These elements are manageable in a portfolio of commercial properties but problematic with a single asset. Once the re-leasing is in place and the strata title approval is obtained, **the**

Commission recommends that a decision then be taken to either sell the investment at its optimum level of performance or sell selected strata sufficient to repay its current debt.

2.3.2 Other Diocesan Resources

The Commission has also been charged by the Archbishop to consider and make recommendations concerning possible changes to the operations of any “other Diocesan resource” which might impact favourably upon maintaining the essential work of the Diocese.

The Commission considered a number of Diocesan organisations, Anglican schools and parishes. However, it was considered that the trusts surrounding both schools and parishes were such that there was no justification for considering ways in which these bodies could be restructured to release any assets for the essential work of the Diocese. While it was recognised that Synod did have the power to override any local objections to the sale of parish property, it was agreed that this was a power to be used sparingly, if at all. As a general observation, Anglican schools and other organisations in the Diocese gain a benefit by their Anglican brand name and it would not be unreasonable for these organisations to make a contribution to the Diocese as a whole, as is the case in the Dioceses of Brisbane and Perth.

The Commission recommends that Standing Committee commission a strategic review of the benefit to Diocesan organisations of the Anglican brand name.

Section 3: Recommendations

The two imperatives for the Diocese to recover from the financial strain imposed by significant losses in the Diocesan Endowment and the EOS are a combination of asset reconfiguration together with structural and governance changes at the Centre. It is clearly important not only that the Diocesan assets be placed on a sustainable, financial footing but that the various bodies that make up the Diocesan Centre change, so that issues which underlie the mistakes made in recent years are properly addressed. The key recommendations of the Commission therefore seek to address both the financial and structural problems.

3.1 Asset Reconfiguration

3.1.1 It is recommended that the EOS should sell Bishopscourt and apply part of the proceeds to acquire suitable alternative accommodation for the Archbishop.

The balance of the proceeds should then be invested to provide a much needed increase in income to enable the EOS Committee to fulfil its primary function to pay the stipend of the Archbishop, the expenses of his residence and the travel, secretarial and other expenses of his office.

3.1.2 It is recommended that a strategic plan be developed for St Andrew's House which seeks to maximise the short term yield while creating the option to realise, partially or wholly, the equity value of the asset. Once the re-leasing is in place and the strata title approval is obtained, **the Commission recommends that a decision then be taken to either sell the investment at its optimum level of performance or sell selected strata sufficient to repay its current debt.**

3.1.3 It is recommended that the Standing Committee commission a strategic review of the benefit to Diocesan organisations of the Anglican brand name.

3.2 Structural and Governance Issues

3.2.1 It is recommended that a new centralised investment body, the Central Investment Management Board (CIMB) be established drawing on the investment and financial acumen within the Diocese, particularly from the existing GAB and SDS. **Diocesan bodies should work towards ensuring that all investment activity of assets in excess of \$5m in aggregate is undertaken through the investment management expertise of the CIMB or an external manager appointed by them.** This will maximise economies of scale without loss of performance and thus improve net investment returns.

3.2.2 It is recommended that Standing Committee's approval of the CIMB's investment strategy should be at the level of asset allocation, as outlined in the GAB Report in response to Synod Resolution 3/10. **It is further recommended that**

material variations of asset mix should require approval of Standing Committee (on the advice of its Finance Committee). It is also recommended that the CIMB be subject to a borrowing limit approved by the Standing Committee (on the advice of its Finance Committee). It is also recommended that the constituting ordinance be amended to clarify that the objective should be to first preserve the real value and then provide a reasonable income.

3.2.3 It is recommended that the EOS ordinance be amended to:

- (1) **Insert a clause that establishes the objective to preserve the real value of the EOS;**
- (2) **Enable the CIMB to be responsible for managing the EOS investments and allocate income from those investments to the EOS Committee;**
- (3) **Enable the EOS Committee to be responsible for budgeting and expenditure, within the allocated amount (as determined by the CIMB), on the recommendation of the Archbishop; and**
- (4) **Clarify that all real property transactions, including mortgage, sale or lease, are to be authorised by the Synod or the Standing Committee.**

3.2.4 It is recommended that a quantitative and qualitative survey of parishes and research of the needs of the CIMB and the EOS be undertaken to clarify the role of the SDS and determine the services to be provided. It is also recommended that a degree of contestability should be introduced in the provision of services by the SDS. Further, it is recommended that the SDS be headed by a Board different from that of the GAB, comprising individuals with experience in the service industry, and that the SDS be rebadged as Sydney Diocesan Services.

3.2.5 It is recommended that the ACPT's investment function be passed over to the CIMB and that the Board of the ACPT be comprised of members with the skill set to conduct its core business. It is noted that the ACPT only invests on a trustee basis and the CIMB would be required to do likewise in respect of funds invested on behalf of the ACPT.

3.2.6 It is recommended that a Chairmen's Committee be established. This Committee will comprise the Chairmen of the most financially influential Diocesan bodies together with two external business people nominated by the Archbishop, and the relevant CEO's as observers at the Archbishop's invitation. The role of the Committee will be to manage overall financial risk, to ensure coordination of policy and strategy between Diocesan bodies and to provide regular oversight of the various Diocesan bodies. In essence it will provide a level of coordination, oversight and risk management that hitherto has not existed.

- 3.2.7** It is recommended that a process of review of governance and internal controls of the Central Diocesan organisations be undertaken by the Chairmen's Committee.
- 3.2.8** It is recommended that Standing Committee be requested to draft and implement appropriate policies and protocols to minimise the risk of conflicts of interest arising from volunteer cross memberships of boards and committees. It is also recommended that members of all Diocesan boards annually declare to their own board, their memberships of other Diocesan boards.
- 3.2.9** It is recommended that the Standing Committee examine whether it is possible to amend the constituting ordinances of the Central Diocesan bodies to permit the sharing of 'confidential' corporate information between those bodies for the better financial health of the Diocese.
- 3.2.10** It is recommended that a more fundamental reform of the Central Diocesan bodies be re-visited after the recommendations presented above are implemented and have been in place for a number of years.

3.3 Conclusions

The Commission appreciates the trust committed to it by the Archbishop amid challenging times for the Diocese. While the recommendations of the Commission may be controversial for some members of Synod, it is our conviction that the obstacles are surmountable and if the recommendations are adopted under God the Diocese will be better placed to fulfil its mission of glorifying God by proclaiming our Saviour the Lord Jesus Christ in prayerful dependence upon the Holy Spirit, so that everyone will hear his call to repent, trust and serve Christ in love, and be established in the fellowship of his disciples while they await his return.

PETER KELL
Chairman
15 August 2011

Annexure 1

Glossary – a narrative history

The Diocese of Australia was created in 1836 with William Grant Broughton as Bishop. The Diocese was divided in 1847, on the creation of the Dioceses of Adelaide, Melbourne and Newcastle, and Broughton became **Bishop of Sydney** and Metropolitan of Australasia.

The **Endowment of the See (EOS)** comprised Crown Grants, a portion of the Thomas Moore Estate and various residences 'for the benefit of the Bishop of Sydney and his successors'. In 1977, by ordinance the EOS Committee was established to provide advice to the Archbishop on the management of the EOS. The Committee is chaired by the Archbishop and has three persons elected by the Standing Committee and three appointed by the Archbishop.

In 1866 the **Synod of the Diocese** was constituted with power to pass ordinances for the 'order and good government of the' Church in the Diocese. Crown Grants of glebe lands were made between 1842 and 1857, to 'give income to the colonial church and its schools and to make the church less of a burden upon the colonial government' (Cable & Judd, *Sydney Anglicans*, 1983 p269). In 1930, the **Glebe Administration Board (GAB)** was constituted by ordinance to manage these properties on behalf of the Synod. After a number of properties were sold and the proceeds reinvested the diversified capital base has become known as the **Diocesan Endowment (DE)**. The Standing Committee elects the members of the Sydney Diocesan Secretariat, who for some years now are also the members of the GAB.

Anglican Church Property Trust Diocese of Sydney (ACPT) is presently constituted by the Anglican Church of Australia Trust Property Act 1917 and discharges its functions pursuant to a 1965 ordinance of the Synod. ACPT was previously constituted in 1881 and is the trustee of the EOS properties and parish and Diocesan property unless there are private or other trustees. ACPT members are elected by Synod.

The **Sydney Diocesan Secretariat (SDS)** was created by ordinance in 1973 to manage the central administrative functions of the Diocese. Its members are elected by the Standing Committee.

The St Andrew's House Ordinance in 1975 established a council to manage St Andrew's House; it was incorporated as the **St Andrew's House Corporation (SAHC)**. Three members are appointed by the GAB and three members, representing the interests of the EOS are appointed by the Standing Committee.

(The *Year Book of the Diocese of Sydney 1976*, at pp229-235, describes the relationship between the Archbishop of Sydney, the EOS and St Andrew's House.)

Annexure 2

List of members of the Commission

Mr Tony Clemens	Partner, PricewaterhouseCoopers Member, Moore Theological College Council <i>St Thomas' North Sydney</i>
Bishop Glenn Davies	Bishop of North Sydney Member, Endowment of the See Committee Member, St Andrew's House Corporation (from 29 March 2010) Member, Moore Theological College Council Chairman, Anglican Education Commission Member, Robert Menzies College Member, Standing Committee
Mr Robert Freeman	Managing Director, Finch Freeman (property consultancy) <i>St Saviour's Redfern</i>
Mr Peter Kell (Chair)	CEO, Anglicare (until 30 June 2011) Chairman, Mission Board Strategy Committee Member, Mission Property Committee (until 16 July 2011) Member, Standing Committee <i>St Michael's Wollongong</i>
Mr Simon Pillar	Managing Director, Pacific Equity Partners (private equity) <i>St Thomas' North Sydney</i>
Dr Laurie Scandrett	CEO, Sydney Anglican Schools Corporation Deputy Chairman, Sydney Diocesan Secretariat (until 25 May 2011) Chairman, St Andrew's House Corporation Member, Standing Committee <i>St Matthias' Centennial Park</i>
Mr Robert Tong AM	Solicitor Chairman, Anglican Church Property Trust Diocese of Sydney Member, Moore Theological College Council Member, Standing Committee Deputy Chancellor <i>Christ Church St Ives</i>

Annexure 3

Extract from GAB's submission to the Commission – 13 December 2010

The Archbishop address to Synod said:

"In the absence of one presiding brain – an element of our way of doing things – we have not observed the dangers in time. Change is required."

Regarding EOS

"The trustee of the EOS is ACPT. However, under the *Endowment of the See Ordinance 1977*, the EOS Committee has been constituted to exercise certain functions in relation to the EOS. While the line of demarcation between the rights and responsibilities of the EOS Committee and ACPT is unclear in several key respects, the practice, at least in recent years, has been for the EOS Committee to exercise management functions in relation to the EOS and for ACPT to exercise a role akin to that of a bare trustee."

"In retrospect, this may have contributed to the perception that SDS and GAB, through its Chief Executive Officer, were exercising a Diocesan executive function which was far broader than the function prescribed for them by ordinance."

"It is apparent that the governing boards and committees of the EOS have been aware of the financial issues facing the EOS for several years. The development of the back-block at Bishops Court was part of an intentional strategy to address those issues. All key decisions in relation to the Bishops Court back-block development project were approved by ACPT, as trustee of the EOS, and by the EOS Committee. However, the related nature of the organisations involved (including GAB as development manager) and the multiple roles of senior management may have meant that the processes for supervision and review were suboptimal."

St Andrew's House

"The increases in the loans in 2006 and 2008 were in part to allow distributions to be sustained to the EOS. We also understand that such distributions were paid on the basis of an interpretation of the *St Andrew's House Income Ordinance 1999* which required that distributions of a prescribed amount be paid annually. At the time this ordinance was made, there were projections that the income from the building would grow to enable such distributions to be paid. It is regrettable that the ordinance was not reviewed when it became apparent that the projections would not be realised and the prescribed level of distributions could not be sustained from cash generated from operating activities."

- (a) Did management provide and did the respective organisations require sufficient information in a form which enabled them to make proper decisions?
- (b) Did the relevant boards and committees have the skills and capacity to make decisions and deal with the matters before them?
- (c) It is apparent that several individuals served on more than one of the boards and committees responsible for key decisions made in relation to the EOS and SAH Fund and this may well have impacted on decisions.
- (d) In relation to the Bishops Court back-block and the St Andrew's House refurbishment, GAB was the development/project manager and, in retrospect, this may not have been a suitable arrangement."

SDS

"During late 2009 and 2010, SDS has undertaken significant work in reviewing the services it provides to its core clients. It has documented the services provided and is negotiating service standards and fees. A crucial issue has been to ensure that the services provided are within SDS's capacity and core competency. A further issue has been to review SDS's costs. GAB has adopted the policy of seeking a third party review of its arrangements with SDS to ensure the transparency and propriety."

"An example of the recent review of the core competencies of SDS is the decision to outsource key property functions such as the property management of St Andrew's House and St James' Hall. Historically, SDS has provided these property management services but they have recently been

outsourced to external service providers. A review of core competencies has also seen investment management and investment accounting outsourced."

"Our problem with this comment [by the Commission that SDS should have a broader role] is that SDS is a contracted service provider to its clients and accordingly it must act in the interests of that client and is subject to duties of confidence and good faith. To require that we perform an overall executive function which may involve a breach of duties to a particular client) would, we believe, require us to exercise a role which more properly should be exercised by the Standing Committee on behalf of the Synod.

In particular, we agree with the Archbishop that the Chief Executive Officer of SDS is not the Chief Executive of the Diocese as a whole. Confusion about the role of the Chief Executive Officer in the past may have been a contributing factor to many of the current problems. However, we believe that the Chief Executive Officer of SDS is a valuable source of advice to the Archbishop, the Synod, the Standing Committee and other organisations and are happy for him to provide this service."

Overall Diocese Structure

"In times past other inquiries have suggested a far more centralized and authoritarian structure (the Trigg Commission in the 1960s suggested that ACPT exercise a more centralised function and the Nicholson Commission in the early 1990s suggested a Diocesan Executive board to exercise a more centralized function)."

"Such structures go against the ethos and culture of the Diocese where there is a general suspicion of, if not antagonism towards, centralism. The implementation of the recommendations of the Trigg and Nicholson Commissions would have involved massive political reactions and this is almost certainly why they were never adopted."

"The Central Diocesan organisations, including GAB and SDS, undertake a range of functions such as property custodial services (ACPT), parish property management (ACPT), commercial property management (GAB and ACPT), administration (SDS), banking/lending (GAB and Finance & Loans Board) and investment (GAB and ACPT long term pooling fund). A more radical restructuring could see a common function being exercised by one organisation. That organisation may or may not exercise another common function."

"However, if the existing structure is retained, we recommend a review of the ordinances relevant to the existing organisations to ensure consistency and that they incorporate good and consistent corporate governance principles."

Investment Management

"An example could be the responsibility of the management of investments. Currently both GAB and ACPT have investment portfolios which they separately manage. There could be considerable advantages in bringing those functions together within a new organisation. Such advantages may include the consolidation of specialist skills, the opportunity for cost savings through aggregation and a greater consistency in policy and decision making.

Another example involves the banking activities undertaken by GAB and the lending activities of the Finance & Loans Board. If banking and lending are considered to be key functions, those activities might be more efficiently undertaken if combined in one new organisation. There is no reason why such an organisation could not continue not maintain lending policies which assist parishes."

"However, if the existing structure is retained, we recommend a review of the ordinances relevant to the existing organisations to ensure consistency and that they incorporate good and consistent corporate governance principles."

Monitoring Performance of Diocesan Bodies

"An appropriate model may be for an external organisation to be engaged, to be tasked to review the processes of ACPT, GAB, SDS, SAHC and the EOS Committee and to monitor compliance with their ordinances, governance statements and policies. The external organisation could be the external

auditor, with its terms of engagement suitably widened. These reviews could be done annually or on a rotational basis. Discussion with the organisation concerned would occur if any problems are identified by the reviewer. If the outcome of those discussions is not satisfactory, the reviewer would then report to the Standing committee for its consideration.

There will be costs involved in undertaking this work, which would need to be funded by the relevant organisations.”

“A system for the review of the governance and internal controls of the major St Andrew’s House based organisations ought to be considered. An appropriate model may be for ACPT to periodically review the processes of GAB, SDS, SAHC and the EOS Committee to monitor compliance with their ordinances, governance statements and policies, with findings reported to the relevant organisation and, if necessary, to the Standing Committee. An external consultant would be engaged to periodically review the governance and internal controls of ACPT.”

Annexure 4

Summary of Synod Members' submissions to the Commission

Synod members were invited to make submissions to the Commission and submissions were received from the following members:

Mr Guy Amon, Belrose
 Mrs Lynn Bannerman, Christ Church St Laurence
 The Rev David Clarke, St Marys
 The Rev John Cornish, Epping
 The Ven Ian Cox, Archdeacon Georges River Region
 The Rev John Gray, Castle Hill
 Mr Niall Henderson, Willoughby
 Mrs Susan Hooke, Cremorne
 The Rev Bruce McAteer, Dr Jocelyn Chey & Ms Margaret Whight, St Luke's Mosman
 The Rev John Reid, Mr Brian Dunn & Mr Keith Bennett, Mona Vale
 Mrs Pamela Shaw, Killara
 Mr Ian Steward, Waitara
 Mr Martin Sumpter, Manly
 The Rev Brian Tung, Chatswood

The submissions are summarised under various headings.

1. Structure: General

- 1.1 It is imperative that the Georges River Region be retained with a bishop exercising oversight.
- 1.2 Archbishop must be the leader of everything, with ministry matters given absolute priority and organisations for 'good works' should be self funding.
- 1.3 SDS staff numbers should be reduced.
- 1.4 Give SDS oversight of all Central organisations.
- 1.5 Too many separate and independent committees/boards and decision makers; better to have a single board of 8-10 members accountable to Synod with responsibility for administering the whole Diocese, including all organisations.
- 1.6 Interrelationships between organisations are complex and confusing (particularly given trustee relationships and endowments), where the objects of each organisation are not clearly defined and communicated.
- 1.7 Reduce the number of boards and committees, reduce the size of boards and diversify board membership with selection based on appropriate skills not representative roles.
- 1.8 Build a broad register of parishioners with skills who are willing to serve on Diocesan committees and boards. Provide information on qualifications and experience of all candidates for election.
- 1.9 Precluding the remuneration of board members may eliminate some of the best talent. Out-of-pocket and in-service training expenses should be paid.
- 1.10 Given the size of Synod (800) and Standing Committee (60), Synod should elect a core Mission Board comprising bishops and appropriate property, legal, education, HR and other skills to execute mission strategy and give them power to employ a CEO and appoint committees to implement that strategy and then report back and be accountable to Synod.
- 1.11 Simplify Diocesan structures and committees.
- 1.12 Obtain outside advice to simplify governance and management structures.

2 Structure: Synod & Standing Committee

- 2.1 Review size of Synod & Standing Committee, the representative nature of both bodies, their division of powers, the information flow to Synod members, and arrangements for elections.
- 2.2 Reduce the number of Synod representatives to one lay person per parish.
- 2.3 Extend the length of Synod to allow committee activity to review and report on business of Synod.
- 2.4 All elections for board positions should specify obligations of the position and nominees should provide a CV focussed on relevant skills.
- 2.5 All elections should have information provided to the Synod of nominees' relevant skills and experience.
- 2.6 Non-political guidebook for Synod members. Ban party endorsement and 'how to vote' cards.
- 2.7 Election of board members by the whole Synod may not be desirable: it is not practical to expect Synod members to have significant, informed interest in each organisation, where information provided to Synod members on nominees is inadequate and could be better handled by a panel to review nominees.
- 2.8 Improve the management of Synod by making significant changes to the conduct of business (with timely, accessible and transparent reporting, and increased time for debate); ordinances (with written objectives and governance requirements); and budget approvals (providing the case for and against each item).
- 2.9 Improve the management of Standing Committee by reducing its size and by appointing a 'treasurer' accountable to the Archbishop.
- 2.10 Standing Committee should be reduced to 10 (selected with a wide range of professional skills) plus Archbishop with a focus on core ministry (preaching 'salvation by faith'), rather than commercial matters and fine detail, thus freeing the bishops to preach and pastor.

3. Funding

- 3.1 Give the Archbishop ultimate responsibility for all Diocesan financial and business affairs, and provide support in the form of a Business Manager.
- 3.2 Establish a Board of Management to have overarching financial responsibility across all Central organisations and ensure expenditure is contained within available income to avoid further depletion of assets.
- 3.3 Establish a Board of Management (a rebadged GAB?) with responsibility spanning all Central organisations, assessing all financial matters, reporting to Standing Committee and Synod. Establish an independent organisation appointed by Standing Committee to set and review goals and targets for Diocesan funding and governance standards.
- 3.4 Borrow on interest free basis from parishes amounts needed to meet cash shortfalls particularly to recapitalise EOS rather than impose a levy.
- 3.5 All parishes should contribute a levy (say 2% of net receipts) to pay for a (reduced) Central Diocesan structure.
- 3.6 Invest conservatively for a regular income flow and contain expenditure within that limit by concentrating on fewer activities.
- 3.7 Short term greed and poor investment decisions have compromised the long term sustainability of organisations, which need funding certainty over a three year period. Would amalgamations reduce costs of duplication? Should parishes pay assessments for training ministers?
- 3.8 Consolidate financial reporting.
- 3.9 Funds should be managed in a professional manner with an overall plan and strategy.
- 3.10 Create greater accountability by benchmarking expenditure against other dioceses.

3.11 Give Synod power to limit investment policies.

4. Governance

- 4.1 Integrate Standing Committee's review of corporate governance with Archbishop's Commission, with latter extended to oversee implementation.
- 4.2 Synod, Standing Committee and boards of organisations should move to adopt a more flexible, relational model of governance.
- 4.3 Replace the 'Statement of Personal Faith' with a simple requirement that the person be a communicant member of the Anglican Church of Australia.
- 4.4 No committees or boards should exceed nine members.
- 4.5 Board members should be selected on the basis of relevant experience and expertise, to include women (appointed mid-career).
- 4.6 Give Archbishop (in capacity as Visitor) the power to intervene and dismiss boards and CEO.

5. Transparency

- 5.1 Publish a breakdown of the EOS's \$3 million annual expenses for Synod members.
- 5.2 Organisations should produce comprehensive, modern annual reports, on a timely basis, in a readily accessible form, that track performance against objectives and budgets.
- 5.3 Review the reports that are produced in a way that is not compromised by conflicts of interest on the Finance Committee and/or Standing Committee.
- 5.4 Develop a regular, independent review of the membership of boards which are compromised by conflicts of interest among members serving on multiple boards.
- 5.5 Improve accountability and financial reporting: access, structure & content.
- 5.6 Improve Synod members' access to Standing Committee activities and decisions.
- 5.7 Make full Standing Committee minutes accessible to all Synod members.

Annexure 5

Bishopscourt

(A report from the Standing Committee to Synod 2010.)

Executive Summary

A. The property at 11 Greenoaks Avenue Darling Point known as Bishopscourt has been the residence of the Archbishop of Sydney for almost 100 years.

B. However, Bishopscourt is no longer a suitable property for this purpose for four principal reasons –

- (i) its extensive facilities are not needed for the ministry of the contemporary office of the Archbishop,
- (ii) it is very expensive to maintain,
- (iii) it represents a large proportion of the total assets of the Endowment of the See (EOS) (the EOS is the fund which provides income to support the office of the Archbishop), and
- (iv) its “grand” appearance is not consistent with the style of residence for an Archbishop in the Twenty First Century.

C. These reasons have been amply documented in various reports over the last 30 years and together they present a compelling case to find a more suitable residence. Previous impediments to action, real or perceived, either no longer exist or are of less importance. Action now on this issue would provide the EOS with significant financial advantages.

D. This report therefore recommends that Bishopscourt should be sold as soon as practicable with a portion of the proceeds used to acquire alternative accommodation more appropriate to the contemporary needs of the office of Archbishop, and the balance invested to earn a return for the EOS.

Background

1. Bishopscourt is one of the assets held by the Anglican Church Property Trust on trusts set out in the 7th Schedule to the Endowment of the See Ordinance 1977, ie. principally “to pay the stipend of the Archbishop of Sydney, the expenses in relation to his official residence and travelling, secretarial and other expenses in respect of his office”.

2. The property (formerly known as Greenoaks) was built in the mid 1840’s by Thomas Sutcliffe Mort. It was purchased by the Diocese in 1911 to become the official residence of the then fifth bishop of Sydney, Archbishop Wright.

3. Prior to the purchase of Bishopscourt previous Bishops of Sydney had lived in –

- (a) a leased house in Darlinghurst (1837-1852),
- (b) a rented house in Millers Point (1855-1857), and
- (c) a new home built in Randwick (on land exchanged for a site in Newtown) (1858-1911).

4. Since its acquisition by the Diocese, Bishopscourt has been home to the Archbishop of Sydney and has been altered substantially to meet the requirements of successive incumbents. Extensive alterations and renovations were undertaken in 1911, the present chapel was added in 1935, and further major renovation works were undertaken in the 1960s, in the mid 1990s and in 2008-2009.

Previous reports

5. The question of the suitability of Bishopscourt has been examined on many occasions over the last 30 years, generally either shortly before or after the election of a new Archbishop. Numerous reports have been written on the subject, invariably covering many of the same issues – high maintenance costs, difficult heritage issues, image/perception problems, excessive capital value and possible criteria for alternative residences.

6. Previous reports have been commissioned too close to the election of a new Archbishop for effective action to be taken. The present Archbishop commissioned a report in 2007 to determine the future of Bishopscourt. This report, which was received in August 2010, again recommended its sale.

7. The most recent recommendation is the same as that of the majority of the earlier reports, but hitherto no action has ever been taken. There may have been particular obstacles at various times (such as the depressed property market in 1992), but the consistent underlying themes have been –

- (a) an understanding that the then current Archbishop did not want to move and/or a belief that the next Archbishop may wish to live in Bishops court, and
 - (b) a concern that it may not be possible to find a suitable replacement property.
8. Standing Committee examined the question of whether or not Archbishop Robinson should move in to Bishops court in April 1982, but he did move in and no further action was taken.
9. In July 1991 the EOS Committee was advised that “there are compelling [financial] reasons for selling Bishops court [as it] presents a continuing maintenance and conservation problem”. However, in October 1991 Archbishop Robinson advised the EOS Committee “my experience has led me to believe that the advantages of the present residence for the Archbishop’s task are very great, and could not easily, if at all, be had in any alternative arrangement”.
10. In November 1991 Standing Committee received a short report from the EOS Committee recommending that Bishops court be retained as the residence of the Archbishop and after receiving several further reports over following months and debating the matter at length in March and August 1992, resolved that the residence for the next Archbishop be approved by the Standing Committee.
11. In April 1993 Bishop Goodhew, when he was Archbishop-elect, stated “I think the time has come for the Diocese to build a new residence for the bishop; one which is functional but not opulent”. No further action, however, was taken and Archbishop Goodhew moved in.
12. In May 2001 Standing Committee resolved “that Bishops court not be offered to the future Archbishop but alternative accommodation secured” and appointed a committee to further investigate this matter. The committee’s report in August 2001 said “the retention of Bishops court is not an efficient use of the Diocese’s resources ... expensive to operate and maintain ... heritage restrictions ... [and] the very high value means that the EOS lacks income”. The committee recommended the sale of Bishops court.
13. In August 2001, however, the Standing Committee resolved to “refer the committee’s report to the Archbishop for his consideration and further report to the Standing Committee in due course” and then also to “invite the Archbishop to move into Bishops court until the matter is resolved”. The present Archbishop took up residence in Bishops court with the understanding that he would move elsewhere should this be required and a suitable alternative found. No further reports on this matter had been received until the EOS Committee reported to Standing Committee in August 2010 recommending the sale of Bishops court.
14. A more detailed account of the various previous reports may be found in the Attachment.

Reasons for selling

15. There are a number of strong reasons to reconsider the future of Bishops court now. Virtually all of the issues supporting the sale of the property that have been identified in the various previous reports on the subject remain, indeed some have recently become more acute.

Suitability for current ministry

16. Bishops court is too “grand”, its image is of a past era, and its retention represents poor stewardship of the resources of the Diocese, given the urgency of the fundamental aim of the Diocesan Mission to multiply Bible-based Christian fellowships, congregations and churches.

Reduce maintenance and operating costs

17. Maintenance and conservation work (excluding staff wages) undertaken at Bishops court in the last ten years has totalled approximately \$2.85 million, averaging therefore close to \$300,000 per year. This work has been conducted in accordance with a detailed project plan, as required for a heritage property, and has involved the removal of a large Moreton Bay fig tree in the north east corner of the property, as well as extensive stone and roof conservation work, stained glass window restoration, major electrical works and various plumbing, drainage, kitchen servery, painting and landscaping work.

18. The ongoing heritage issues both increase the cost of maintenance and limit the scope for renovations to increase functionality.

19. The heritage architects appointed by the EOS have submitted detailed plans indicating the need for a further \$880,000 to be spent over the next five years. Furthermore, given the age and nature of the building, history would suggest it is very likely that other presently unforeseen issues may arise over the next few years that will require additional urgent work.

20. The current operating costs of Bishopscourt (principally staff wages) are \$210,000 per year.

Increase cash flow

21. The EOS faces significant short and medium term financial challenges. Its recurrent expenditure needs, even after recent significant restructuring to reduce costs, exceed its income. The resolution of these challenges lies in a restructure of its balance sheet where the 'asset mix' is quite unsuitable for an endowment. The majority of the assets are in property which produces no, or very little, cash income. Amongst the EOS property assets, Bishopscourt is by far the worst performing – it produces no cash income, indeed requiring substantial annual expenditure on maintenance and operating costs, yet it represents a significant proportion of the total value of EOS assets.

22. Several external professional advisors as well as a number of the Diocese's own boards, committees and staff have all concluded that there will be significant financial benefits to the EOS from selling Bishopscourt and purchasing a less expensive residence for the Archbishop thereby allowing the release of a significant sum (net sale proceeds less cost of replacement property) to be invested and produce a cash income.

23. The Archbishop's Strategic Commission on Structure, Funding and Governance has estimated that the cumulative positive impact from the sale of Bishopscourt and the purchase of a replacement property should result in an additional amount of annual net income for the EOS of between \$800,000 and \$1,000,000.

Marketability

24. An independent valuation of Bishopscourt by Colliers International obtained by the EOS in December 2009 for the annual financial statements assessed the current market value of the property as \$24 million.

25. Two years ago a real estate agent familiar with Bishopscourt had indicated that there are buyers who are interested in such rare 'icon' properties, and that buyers in this market are not unduly concerned by the heritage issues involved. This view has been confirmed more recently by some other property professionals with a good knowledge of the current market for properties in the relevant price range in the Eastern Suburbs.

26. In due course, formal advice about the likely sale price, and the sales strategy, will need to be obtained. It is considered that given the prevailing market and the 'uniqueness' of Bishopscourt its true value will not be known until expressions of interest are sought.

27. The subcommittee appointed by the EOS Committee recently received indication from the real estate agent familiar with Bishopscourt that a number of potential residences would be available in the price range of \$5 million to \$10 million, subject to whatever requirements the Diocese may wish to include for entertainment areas and guest accommodation.

The Archbishop is prepared to move

28. The Archbishop has advised the Standing Committee that he and his wife are still prepared to move out of Bishopscourt if the Synod determines that it should be sold.

Other support for selling

29. Both the Archbishop's Strategic Commission on Structure, Funding and Governance and the EOS Committee recommend the sale of Bishopscourt.

Possible impediments to a sale

Symbolism

30. Bishopscourt is symbolic of the Anglican Church's historical place in the city of Sydney, and some may see its sale as a retrograde step that breaks with history and tradition.

31. The building itself has had a special place in many people's memories, and may evoke a certain fondness and nostalgia for particular aspects of ministry that have been conducted from there.

32. It has been a home and workplace for successive Archbishops and its facilities and location have been well utilised for entertaining and holding conferences and accommodating visiting guests.

Finding a suitable replacement

33. On most occasions over the last 30 years when the question of selling Bishopscourt has been raised one of the difficulties has been to identify a suitable replacement property. In part this is due to the fact that there has never been agreement on what is required of such a property.

34. Bishops court includes sizeable gardens, accommodation for up to 12 guests, a conference room for 20, dining room seating up to 36, and off-street parking for 10-15 cars. Attempting to replicate these in an alternative residence would be difficult and the cost would be prohibitive.

35. The home of the Archbishop is typically both a residence and a place of ministry. The Archbishop's ministry will always involve hospitality and entertainment, and the facilities for this should be available in a new residence. These objects however do not require a residence as large as the present Bishops court to accomplish them, and conferences and more extensive hospitality and entertainment can more economically be provided by outsourcing to other venues hired for specific events or purposes.

36. Recent investigations by the EOS Committee have confirmed that suitable properties certainly do exist in a number of suburbs in close proximity to St Andrews House.

Publicity

37. Some have expressed concern that any sale of Bishops court may attract media attention focussed on the high value of the property and its grand appearance. Any replacement property although of a significantly less value will also command a significant price and may therefore also attract similar comment.

38. While recognising the potential any sale and purchase has to attract unwelcome publicity, Standing Committee does not see that issue as sufficient to warrant the retention of the present property. Indeed, if well handled the sale of Bishops court should be seen for what it is, the most responsible course of action.

Recommendation

39. Standing Committee recommends that the following motion be moved at Synod by request of the Standing Committee –

"Synod, noting the report from the Standing Committee about Bishops court –

- (a) supports the sale of Bishops court and requests the Standing Committee to pass a suitable ordinance and take such further action as is necessary to facilitate the sale, and
- (b) requests the Endowment of the See Committee to make arrangements to provide suitable alternative accommodation for the Archbishop in consultation with the Archbishop and Mrs Jensen, having regard to the matters raised in the report."

For and on behalf of the Standing Committee

PETER KELL

16 September 2010



Attachment

Summary of previous reports

The recommendation that a new residence needs to be found for the Archbishop is not new! Shortly after his consecration in 1909 Bishop Wright observed that the property in Randwick that had served as the residence of the Bishop of Sydney for over 50 years was "too far from the centre of things to be a city dwelling; not far enough out to be a country retreat". The next year the Diocese bought the Greenoaks property in Darling Point.

1980s

In April 1982 Standing Committee resolved that arrangements should be made for Archbishop Robinson either to move into Bishops court or to rent or purchase a suitable residence near the city. In fact Archbishop Robinson moved in to Bishops court and no further action was taken.

1990s

In July 1991 the Standing Committee asked the EOS Committee to "make a recommendation concerning the housing arrangements for the next Archbishop of Sydney".

In July 1991 Mr B R Davies (then a member of SDS/GAB) reported to the EOS Committee that –

"In my view there are compelling reasons for selling Bishops court. If it is retained it will not only commit considerable capital resources which could be used for other urgent needs, but present a continuing maintenance and conservation problem."

However, in Oct 1991 Archbishop Robinson wrote to the EOS Committee saying –

“I accept the view that Bishops court should be retained only if this can be done in a way consistent with the other demands of the Endowment, but my experience has led me to believe that the advantages of the present residence for the Archbishop’s task are very great, and could not easily, if at all, be had in any alternative arrangement.”

In November 1991 the Standing Committee received a report from the EOS Committee recommending “that Bishops court be retained as the residence for the Archbishop of Sydney and that this residence be offered to the new Archbishop as his official residence.”

In February 1992 the EOS Committee offered a fuller explanation for its previous recommendation, noting –

- (a) the Committee was not of one mind concerning the desirability in the long term of retaining Bishops court as a residence for the Archbishop of Sydney,
- (b) arguments for – size and convenience for hospitality, location, parking, history, possible unwelcome media attention a sale would attract, suitability for ministry,
- (c) arguments against – cost of maintenance, amount of capital tied up, long term heritage related costs, general size and style not suitable for the principal Minister of a Christian church at this time,
- (d) the Committee was, however, in agreement that (due to the general economic climate and poor state of the property market) this was not the time to sell the property.

In March 1992 the Standing Committee voted 20:19 that “Bishops court be offered to the next Archbishop as his official residence, but with the proviso that a change of residence might be required in the course of his episcopate.”

In August 1992 the Standing Committee rescinded its resolution of the previous March and resolved “that the residence for the next Archbishop be a house ... approved by the Standing Committee after consultation between the next Archbishop and the trustee of the EOS after his election.”

In April 1993 Bishop Goodhew, when he was Archbishop-elect, stated –

“I think the time has come for the Diocese to build a new residence for the bishop; one which fulfils all the requirements, which is appropriate for the end of the 20th Century, which is functional but not opulent, within easy reach of St Andrew’s House and which is readily accessible by the public. It should be designed to serve the needs of successive Archbishops for the next 50 years.”

No further action was taken.

2000s

In a report to Standing Committee in May 2001 the then CEO of SDS said –

“Selling Bishops court would allow the purchase of an appropriate designed replacement property which would be less expensive, both to purchase and then to operate and maintain. The lower operating and maintenance costs would directly benefit the annual operating result of the EOS, and the lower capital cost to the property would release funds for more profitable investment by the EOS.”

In May 2001 Standing Committee resolved “that Bishops court not be offered to the future Archbishop but alternative accommodation secured” and then resolved to appoint a committee “to further investigate and report on the question of the future use of Bishops court and alternative accommodation for the Archbishop”.

The committee’s report to Standing Committee in August 2001 said –

“The retention of Bishops court is not an efficient use of the Diocese’s resources. The property is expensive to operate and maintain and heritage restrictions further complicate the work and increase the cost. In addition, the very high value of the land and building means that the EOS lacks income because too much of its capital is tied up in an asset that produces no return.

The sale of Bishops court and the development of an alternative property to provide a residence and (possibly) a function centre for the Archbishop is therefore desirable both from a financial perspective and because of the message it would convey to the Diocese and to the wider community.”

The committee recommended an ordinance be promoted to the next session of Synod to allow for the sale of Bishopscourt.

After receiving the committee's report the Standing Committee meeting in August 2001 resolved to –
“refer the report to the Archbishop for his consideration and further report to the Standing Committee in due course”

and then also resolved to –

“invite the Archbishop to move into Bishopscourt until the matter is resolved”.

The Archbishop indicated that he would move if asked to do so.

No further reports to Standing Committee on this matter have been received.

In May 2009 the EOS Committee appointed a committee to –

“review the question of the provision of accommodation for a future archbishop”.

A copy of this committee's report dated August 2010 recommending the sale of Bishopscourt was provided to the Standing Committee meeting in August 2010.

Annexure 6

Functions and responsibilities of the Central Diocesan organisations

6.1 *Endowment of the See*

(extracts from the Endowment of the See Ordinance 1977)

3. Functions of the Endowment of the See Committee

- (1) In this clause –
“Committee” means the Endowment of the See Committee constituted by clause 4; and
“Property” means the property held upon the trusts set forth in the Seventh Schedule.
- (2) The functions of the Committee are –
 - (a) to direct the investment policy of the Property, including the retention or realisation of any part of the corpus of the Property;
 - (b) to care for, repair, renovate and refurbish so much of the Property, from time to time, as is real property; and
 - (c) to recommend to the Archbishop how he should exercise the discretions referred to in the Seventh Schedule.
- (3) The Committee has such powers as are necessary to enable it to perform its functions including, without limiting the generality of the foregoing, power to appoint a property manager. The costs and expenses incurred by the Committee in carrying out its functions are to be paid from the Property.
- (4) Unless it has good and substantial reasons for refusing so to do, the Corporate Trustee is to –
 - (a) act in accordance with the investment policy as directed by the Committee; and
 - (b) carry out all determinations of the Standing Committee approved by the Archbishop as to the disposal of any income from the Property.
- (5) If the Corporate Trustee refuses to –
 - (a) carry out a direction made by the Committee; or
 - (b) carry out a determination of the Standing Committee,
 it must forthwith notify in writing its refusal and its reasons for the refusal to both the Committee and to the Standing Committee.

Seventh Schedule

Upon trust -

- (a) To pay the stipend of the Archbishop of Sydney, the expenses in relation to his official residence and travelling, secretarial and other expenses in respect of his office;
- (b) During the absence of the Archbishop or during any vacancy in the See to pay:
 - (i) an allowance to his Commissary or the Administrator of the Diocese for the time being;
 - (ii) the expenses incurred in the discharge of episcopal functions within the Diocese;
 - (iii) the expenses incurred on filling up the vacancy of the See;
 - (iv) travelling and other expenses and allowances to the incoming Archbishop.
- (c) Subject as aforesaid to pay such other amounts in connection with the Diocese for such purpose as may from time to time be determined.
- (d) Subject as aforesaid to pay such other amounts not exceeding \$10,000 in the year 1984 and in each subsequent calendar year or such greater amount per annum as may be determined from time to time by resolution of the Standing Committee on or towards such purposes of the Anglican Church of Australia in the Diocese of Sydney as may from time to time be specified by the Archbishop.
- (e) Subject as aforesaid to pay such amounts for such purposes of the Diocese beyond the Diocese as may be determined by resolution of Synod or by ordinance of Standing Committee but only insofar as those purposes include the provision of a capital sum to endow the see of another diocese.

The amounts to be paid pursuant to paragraphs (a), (b) and (c) shall be such as are from time to time determined by the Standing Committee and in the case of payments made under paragraphs (a) and (c) approved by the Archbishop and in the case of payments made under paragraph (b) approved by the Archbishop or his Commissary or Administrator as the case may be.

6.2 Glebe Administration Board

(extracts from the Glebe Administration Ordinance 1930)

Object

2. The object of the Board is to act as trustee of church trust property vested in it or in respect of which it may be appointed trustee and to do so in a way which both –
- (a) preserves the real value of that property; and
 - (b) provides a reasonable income therefrom.

Powers of the Board

11. (1) The Board shall have absolute and full powers of managing and controlling all church trust property (being real property) of which it may be appointed a trustee and without limiting the generality of such powers the Board may –
- (a) subject to sub-clauses (2), (3), (4), (5) and (6) of this clause, let or demise the said property or any part or parts thereof for any term not exceeding fifty years including any option of renewal or on building lease for any term not exceeding sixty-five years at such rents fixed or progressive and subject to such conditions as the Board shall think fit save and except as hereinafter provided;
 - (b) accept surrenders of leases and tenancies and release tenants from claims thereunder;
 - (c) receive and give effectual receipts for all moneys received in respect of such property for rent or on any other account whatsoever;
 - (d) sub-divide such property or any part or parts thereof and lay out and make roads streets and ways to be dedicated to the public and close existing roads streets and ways and grant easements and rights of way;
 - (e) carry out repairs renovations and alterations of buildings on such property, demolish any buildings on such property and erect thereon new building or buildings; and
 - (f) use the income from such property, not otherwise appropriated, for any of the purposes aforesaid and for the payment of all costs charges and expenses of and incidental to the management and control of such property.
- (2) Every lease granted by the Board shall contain a covenant restricting the use of the premises demised thereby during the term of the lease or any holding over thereof after the expiration of such lease to uses to which in the opinion of the Board at the time the lease is granted the premises may be suitably put Provided that with respect to the use of the premises for public entertainment or in the case of the use of any auditorium the prior consent of the Board to any use shall be first obtained in writing.
- (3) Every lease granted by the Board (except any lease containing covenants by the lessee restricting the use of premises demised thereby to use for private residential purposes or for offices, professional consulting rooms or as a banking chamber) shall subject to existing contractual commitments of the Board as at 25th September 1984 contain covenants forbidding the use of and requiring the lessee to refrain from permitting or suffering the use of the premises or any part thereof –
- (a) for any illegal or immoral purpose;
 - (b) for the sale by wholesale of tobacco in any form;
 - (c) in any way connected with gambling or betting;
 - (d) for the manufacture, sale, distribution or consumption on the said premises of liquor in any of the following ways –
 - (i) in a restaurant;
 - (ii) at social functions held in premises used commercially as reception rooms;
 - (iii) on the premises of a club or any like association;
 - (iv) in or from any hotel shop or other point of delivery
 Provided that the prohibitions contained in this paragraph (d) shall not apply to liquor manufactured sold or distributed for medicinal purposes or for purposes other than for human consumption,
 - (e) in any way connected with narcotic drugs except as part of the normal trading practices of a registered pharmacist or registered chemist;
 - (f) for the erection of any sign or advertisement which expressly or impliedly refers to tobacco or alcoholic liquor in such a position as to be visible from the outside of the premises or any part thereof

Provided that this prohibition shall not apply to non-illuminated signs relating to tobacco in or adjacent to any kiosk or shop premises which relate to goods sold therein, and the Board may waive this prohibition in any particular case;

- (g); and
- (h) for the sale or distribution of video cassettes as presently rated "X" and "R" by the Commonwealth Censorship Board.
- (4) Every lease granted by the Board containing covenants by the lessee restricting the use of premises demised thereby to use for private residential purposes shall subject to existing contractual commitments of the Board as at 25th September 1984 contain covenants forbidding the use of and requiring the lessee to refrain from permitting or suffering the use of the demised premises or any part thereof –
 - (a) for any illegal or immoral purpose;
 - (b) in any way connected with gambling or betting;
 - (c) in any way connected with narcotic drugs;
 - (d) (without prejudice to the covenants in the lease by the lessee not to use the premises other than for private residential purposes) for the manufacture, sale or distribution of liquor in any way; and
 - (e) for the sale or distribution of video cassettes as presently rated "X" and "R" by the Commonwealth Censorship Board.
- (5) Every lease granted by the Board containing covenants by the lessee restricting the use of the premises demised thereby to use for offices, professional consulting rooms or as a banking chamber shall subject to existing contractual commitments of the Board as at 25th September 1984 contain covenants forbidding the use of and requiring the lessee to refrain from permitting or suffering the use of the premises or any part thereof –
 - (a) for any illegal or immoral purpose;
 - (b) in any way connected with gambling or betting;
 - (c) in any way connected with narcotic drugs;
 - (d) (without prejudice to all other covenants by the lessee in the lease as to the use of the premises) for the manufacture, sale or distribution of liquor in any ways; and
 - (e) for the sale or distribution of video cassettes as presently rated "X" and "R" by the Commonwealth Censorship Board;

Provided that the Board may grant a lease containing the following proviso to either or both of the covenants in paragraphs (c) and (d) -

"except as part of the practice of a qualified medical practitioner or qualified dentist".

(6) The Board shall not let lease or demise any part of such property to any person corporation or any organisation whose main business or one of whose main businesses comprises the manufacture, sale or distribution of liquor.

(7) In this clause, the word "liquor" shall be construed as it was defined in the Liquor Act, 1912, as at 22nd August, 1966.

(8) For the purposes only of any lease which may be granted by the Board after 25 August 1998 in relation to the land being lot 1 in deposited plan 596863 and any adjoining land leased or to be leased from the Council of the City of Sydney, or any part thereof, (other than a lease which contains covenants by the lessee restricting the use of the premises to use for offices, professional consulting rooms or a banking chamber), paragraph (d) of clause 11(3) may be omitted from a lease of premises which permits either or both –

- (a) the sale or distribution of liquor for consumption with food;
- (b) the consumption of liquor with food,

and the restriction in clause 11(6) does not apply to such a lease.

12. In addition to the powers, authorities, duties and functions conferred or imposed by Clause 11, the Board shall have power –
- (a) to receive money on deposit or loan;
 - (b) to borrow such sum or sums of money on the security of any real or personal property vested in the Board or the income therefrom;
 - (c) to borrow or raise or secure the payment of money and financial accommodation made available to the Board by the issue of debentures, perpetual or otherwise, charged upon or by any other mortgage or charge over all or any real or personal property vested in the Board and to purchase, redeem or pay off any such securities;
 - (d) to draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange and other negotiable or transferable instruments; and
 - (e) to give guarantees and indemnities for the payment of money or the performance of contracts or obligations by Sydney Diocesan Secretariat or of any other person or corporation and to secure the same; to secure or undertake in any way the repayment of moneys lent or advanced to or financial accommodation made available to or the liabilities incurred by Sydney Diocesan Secretariat or any other person or corporation.

- 12A.
13. In addition to the powers, authorities, duties and functions conferred or imposed by Clauses 11 and 12, the Board shall have power –
- (a) to sell any of the said property subject to the trusts on which that property is held;
 - (b) to invest, in the purchase of real property, the proceeds of any property sold by the Board pursuant to the authority of any ordinance;
 - (c) to exercise and perform the powers, authorities, duties and functions delegated to the Board from time to time by the Standing Committee;
 - (d) to appoint and remove officers servants and agents and fix their remuneration if any;
 - (e) to determine by whom and in what manner all or any documents and instruments shall be signed and executed by for or on behalf of the Board;
 - (f) to establish special funds in the nature of reserve funds sinking funds or otherwise; and
 - (g) to provide building services to the owners or tenants of real property, whether such real property is church trust property or otherwise.
14. Any moneys received by the Board may be invested in any one or more of the following investments that is to say –
- (a) investments for the time being allowed by law of the State of New South Wales for investment of trust funds;
 - (b) purchase of real or leasehold estate situated within Australia;
 - (c) mortgage of land situated within Australia;
 - (ca) loans, whether secured or unsecured, to –
 - (1) any parish, provisional parish or assisted provisional parish constituted or recognised as such under the Parishes Ordinance 1979; or
 - (2) any organisation constituted by or under any ordinance of the Synod or the Standing Committee of the Synod of the Diocese of Sydney; or
 - (3) any individual or organisation not referred to in subparagraph (1) or (2) approved by the Board;
 - (d) debentures issued by any city, municipal or shire council in Australia or other corporation or company approved by the Board;
 - (e) deposit with or loan to any bank or other company or corporation approved by the Board;
 - (f) deposit with any corporation or company which is an authorised dealer in the short term money market in New South Wales and is carrying on business, as such, in New South Wales;
 - (g) bills of exchange accepted or endorsed by a bank carrying on business in New South Wales or a corporation or company which is an authorised dealer in the short term money market in New South Wales;
 - (h) purchase or other acquisition of shares, units and other interests and securities where such shares, units, interests or securities are not those of a corporation or trust which carries on a business which Synod or Standing Committee may by resolution disapprove;
 - (i) purchase or other acquisition of any personal property for the purpose of leasing that property;
 - (j) derivative instruments such as forwards, futures, options, warrants, swaps, share ratios, but not limited to such instruments, provided that such instruments are not used to gear the portfolio or create net short positions; and
 - (k) such other investments as may be suggested from time to time by resolution of the Standing Committee and approved by the Board;
- and the Board may from time to time vary release or raise moneys on the security of such investments.
- 14A. The Board shall have absolute and full powers of leasing the property referred to in paragraph 14(i) and, without limited generality of those powers, the Board may –
- (a) accept surrenders of leases and release lessees from claims thereunder;
 - (b) receive and give effectual receipts for all moneys received in respect of such property for rent or on any other account whatsoever; and
 - (c) use the income from such property, not otherwise appropriated, for any of the purposes aforesaid and for the payment of all costs, charges and expenses of and incidental to the management and control of such property.
15. The Board shall exercise and perform the powers, authorities, duties and functions conferred or imposed upon it by or pursuant to this Ordinance insofar as the same relate to the land comprised in Certificate of Title Volume 13705 Folio 170 and any adjoining land leased from the Council of the City of Sydney only to the extent authorised by and subject to the directions of St. Andrew's House Corporation.

16. The Board shall have power to and may appoint attorneys to execute for it and on its behalf deeds, documents and all kinds of instruments and dealings (including, but without limiting the generality, agreements, contracts, conveyances, transfers, mortgages, leases, consents to assignments, consents to sub-leases, surrenders, plans and all other kinds of instruments and dealings) all of which are hereafter in this sub-clause included in the term "document", to execute powers in favour of the said attorneys to act for and on its behalf as aforesaid and to revoke all or any such appointments and powers. A register shall be kept of all documents executed by every such attorney on behalf of the Board. A brief description of each document so executed and the date on which each document was executed shall be promptly entered in such register and each entry shall be initialled by the person who signed the document to which the entry relates. Part of the register shall be tabled at each meeting of the Board - such part being that part which contains entries of all documents executed by every such attorney on or subsequent to the day of the meeting of members of the Board last preceding that meeting.
17. The Board may cause itself to be registered as a foreign company or recognised in any State or Territory of Australia.
18. No purchaser, mortgagee, lessee, lender or other person on any sale, exchange, mortgage, lease from or any loan or provision or other financial accommodation to or in relation to the Board shall be concerned to see or enquire into the purpose, necessity or propriety thereof, or the power of the Board in relation thereto, or the mode of exercising the same nor be affected by notice that the exercise of the power is unauthorised, irregular or improper nor be concerned to see to the application or disposition of any purchase, mortgage or other money or rent paid by him.

6.3 *Sydney Diocesan Secretariat*

(extracts from the Sydney Diocesan Secretariat Ordinance 1973)

Powers and duties

6. The Secretariat shall have and may exercise and perform the powers authorities duties and functions as follows –
 - (a) To carry out perform and provide administrative secretarial and accountancy services for the Anglican Church of Australia in the Diocese of Sydney.
 - (aa) To act as agent for any trustee holding church trust property (as defined in the Anglican Church of Australia Trust Property Act 1917) and for any person, persons or corporation having the management or control of any such property if authorised so to act by such trustee, person, persons or corporation.
 - (b) To employ persons for such purpose; to grant pensions and allowances for such persons; to provide superannuation and other benefits for such persons.
 - (c) To acquire and lease such plant equipment and machinery as may be needed for such purpose from time to time.
 - (d) To preserve care for and maintain the property of Standing Committee.
 - (e) To open and operate one or more accounts with any bank, and to draw make accept endorse execute and issue bills of exchange, cheques and other negotiable instruments.
 - (f) To borrow moneys on such terms as it may think fit.
 - (g) To invest and deal with the money of the Secretariat not immediately required in such manner (but consistent with the trusts (if any) of which such money may be held) as it may think fit.
 - (h) To lend and advance money or give credit to any person or company.
 - (i) To enter into and take out policies of insurance.

6.4 St Andrew's House Corporation

(extracts from the St Andrew's House Ordinance 1975)

Land to be managed by Council

1. On and from the date on which the members of the Council hereby constituted (hereinafter called "the Council") become and be a body corporate under the Anglican Church of Australia (Bodies Corporate) Act 1938, the said land shall cease to be managed and controlled by the Board and shall be managed by the Council.

Powers of the Council

6. (1) The Council shall have absolute and full powers of managing and controlling the said land and without limiting the generality of such powers the Council may –

- (a) let or demise the said land or any part or parts thereof for any term not exceeding twenty-five years at such rents and subject to such terms and conditions as the Council shall think fit save and except as hereinafter provided, and, in addition, let or demise any part or parts thereof to The Sydney County Council for the purposes of an electricity sub-station site for any term at such rent and on and subject to such terms and conditions as the Council shall see fit without containing the covenants specified in the proviso to this subclause.
- (b) accept surrenders of leases and tenancies and release tenants from claims thereunder,
- (c) receive and give effectual receipts for all moneys accruing from the said land for rent or on any account whatsoever,
- (d) complete the erection of the said buildings and other improvements upon the said land,
- (e) carry out repairs, renovations and alterations of any buildings upon the said land and to erect thereon any further building or buildings,
- (f) borrow such sum or sums of money on the security of the said land or of the future rents profits and other income arising therefrom as it may deem necessary,
- (g) appoint and remove officers, servants and agents and fix their remuneration, if any,

Provided that –

- (i) every lease of any premises to which this clause refers shall contain a covenant restricting the use of the demised premises during the term of the lease or any holding over thereof after the expiration of such lease to uses to which in the opinion of the Council at the time the lease is granted the premises may be suitably put Provided that with respect to the use of the premises for public entertainment or in the case of the use of any auditorium the prior consent of the Council to any use shall be first obtained in writing;
- (ii) every such lease (except any containing covenants by the lessee restricting the use of the demised premises to use for office professional consulting rooms or as a banking chamber) shall contain covenants forbidding the use of and requiring the lessee to refrain from permitting or suffering the use of the demised premises or any part thereof –
 - (a) for any illegal or immoral purpose;
 - (b) for the sale by wholesale of tobacco in any form;
 - (c) in any way connected with gambling or betting;
 - (d) for the manufacture, sale, distribution or consumption on the said premises of liquor in any of the following ways –
 - (A) in a restaurant,
 - (B) at social functions held in premises used commercially as reception rooms,
 - (C) on the premises of a club or any like association,
 - (D) in or from any hotel shop or other point of delivery
 Provided that the prohibitions contained in this sub-paragraph (d) shall not apply to liquor manufactured sold or distributed for medicinal purposes or for purposes other than for human consumption. Provided Further that the Council shall not let lease or demise any part of the said land to any person corporation or any organisation whose main business or one of whose main business or one of whose main businesses comprises the manufacture sale or distribution of liquor as is hereinafter defined;
 - (e) in any way connected with narcotic drugs except as part of the normal trading practices of a registered pharmacist or registered chemist;

- (f) for the erection of any sign or advertisement which expressly or impliedly refers to tobacco or alcoholic liquor in such a position as to be visible from the outside of the premises leased or any part thereof Provided that this prohibition shall not apply to non-illuminated signs relating to tobacco in or adjacent to any kiosk or shop premises which relate to goods sold therein, and the Council may waive this prohibition in any particular case; and
- (iii) every such lease containing covenants by the lessee restricting the use of the demised premises to use for offices, professional consulting rooms or as a banking chamber shall contain covenants forbidding the use of an requiring the lessee to refrain from permitting or suffering the use of the demised premises or any part thereof –
 - (a) for any illegal or immoral purpose,
 - (b) in any way connected with gambling or betting,
 - (c) in any way connected with narcotic drugs, and
 - (d) (without prejudice to all other covenants by the lessee in the lease as to the use of the premises) for the manufacture sale or distribution of liquor in any way.

Provided that the Council may grant a lease containing the following proviso to either or both of the covenants in paragraphs (c) and (d) –

“except as part of the practice of a qualified medical practitioner or qualified dentist”.

- (iv) The word 'Liquor' shall be construed in paragraphs (ii) and (iii) of this proviso as it was defined in the Liquor Act, 1912 as at 22nd August, 1966.

(1A) Paragraph (d) of proviso (ii) to clause 6(1) may be omitted from a lease of premises which permits either or both –

- (a) the sale or distribution of liquor for consumption with food;
- (b) the consumption of liquor with food.

(2) In addition to these powers, authorities, duties and functions, the Council shall have power –

- (a) to appoint the Board its attorney to act for and in the name and on behalf of the Council and to revoke any such appointment,
- (b) to receive money on deposit or loan, and
- (c) to draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange and other negotiable or transferable instruments,
- (d) to give guarantees and indemnities for the payment of money or the performance of contracts or obligations by Sydney Diocesan Secretariat and to secure the same; to secure or undertake in any way the repayment of moneys lent or advanced to or financial accommodation made available to or the liabilities incurred by Sydney Diocesan Secretariat,

and, in addition thereto, the Council shall have power –

- (i) to accept from The Council of the City of Sydney one or more leases in respect of any land vested in The Council of the City of Sydney adjoining or near the land described in the First Schedule hereto or in the Second Schedule hereto, and
- (ii) to enter into any agreement with The Council of the City of Sydney to accept any such lease or leases.

(3) In subclause (1) of this clause, the term “the said land” shall include the land described in the Second Schedule hereto and the land demised by any such lease or agreed to be demised by any such agreement.

(4) The Council (and the Board while acting as agent of the Council) may grant a lease or leases of any part or parts of the building on the said land known as St Andrew's House (the “Building”) to The Council of St Andrew's Cathedral School (the “School Council”) for any term, and at such rent and subject to such terms and conditions which the Council and School Council may agree upon and without the covenants specified in the proviso to clause 6(1).

(5) No purchaser, mortgagee, lessee, lender or other person on any sale, exchange, mortgage, lease from or any loan or provision of other financial accommodation to or in relation to the Council shall be concerned to see or enquire into the purpose, necessity or propriety thereof, or the power of the Council in relation thereto, or the mode of exercising the same nor be affected by notice that the exercise of the power is unauthorised, irregular or improper nor be concerned to see to the application or disposition of any purchase, mortgage or other money or rent paid by him.

(6) The Council (and the Board while acting as agent of the Council) may subdivide the said land into 2 or more lots by means of a plan or plans of subdivision (which may provide for stratum subdivision) or by a strata plan or strata plans.

(7) The Council (and the Board while acting as agent of the Council) may sell any part of the Building and other improvements on the said land (after subdivision of the same) to the School Council on such terms and for such price as may be agreed upon by the Council and the School Council.

6.5a Anglican Church Property Trust

(extracts from the Anglican Church Property Trust Diocese of Sydney Ordinance 1965)

Powers and Authorities

10. (1) With respect to all church trust property vested or to become vested in it the Corporate Trustee shall have and may subject to the policy and direction (if any) of Synod or the Standing Committee exercise absolute and full powers of managing and controlling such property and without limiting the generality of such powers and so far as may be necessary or convenient in the name and on behalf of the Corporate Trustee may –

- (a) Let or demise the said property or any part or parts thereof for any term not exceeding ten years or on building lease for any term not exceeding fifty years at such rents fixed or progressive and subject to such conditions as the Trust shall think fit save and except as hereinafter provided or grant a licence in respect of the said property or any part or parts thereof for any term not exceeding ten years.
- (b) Accept surrenders of leases licences and tenancies and release tenants and licensees from claims thereunder.
- (c) Receive and give effectual receipts for all moneys accruing from the said property for rent or on any account whatsoever.
- (d) Sub-divide the said property or any part or parts thereof and lay out and make roads streets and ways to be dedicated to the public or not and close existing roads streets and ways and grant easements rights of way or drainage.
- (e) Carry out repairs renovations and alterations of existing buildings on the said property and erect thereon new building or buildings.
- (f) Borrow such sum or sums of money on the security of the said property or of the future rents profits and other income arising therefrom or without security as it may deem necessary for any of the purposes set forth in this clause.
- (g) Use the revenues of the property not otherwise appropriated for any of the purposes aforesaid and for the payment of all costs charges and expenses of and incidental to the management and control of the said property.
- (h) Appoint and remove officers servants and agents and fix their remuneration if any.
- (i) Give or procure the giving of indemnities guarantees or undertakings.
- (j) Establish special funds in the nature of reserve funds sinking funds or otherwise.
- (k) For the purpose of developing any such property consisting of real estate form or join in forming a company.
- (l) Insure against loss or damage whether by fire or otherwise any insurable property and against any risk or liability which it would be prudent for a person to insure if he were acting for himself.

Provided that no part of the said property shall be let licensed or used for any such purpose as the Synod or the Standing Committee may by resolution disapprove.

(2) The powers and authorities aforesaid shall not apply to church trust property the control management or user of which is by ordinance committed to a board unless such board by resolution assents to the exercise thereof and Synod or Standing Committee by ordinance authorises the same.

(3) The powers and authorities aforesaid shall not apply to property held for the sole benefit of any parish provisional parish or provisional district unless a majority of the parish council in writing authorises the same.

11. (1) With respect to all moneys held by it for investment the Corporate Trustee –
- (a) may for the purpose of investment pool the same though subject to separate trusts and in respect of such pooled moneys may average gains losses and interests and deal with all matters and do all things incidental to such pooling.
 - (b) in addition to investing the same in trustee securities authorised by law, may exercise the following powers –
 - (i) to invest in shares of any company listed on any Australian Stock Exchange (other than companies carrying on a business of which Synod or Standing Committee may by resolution disapprove) and exercise rights to take up shares if such rights become available to it;
 - (ii) to invest in debentures issued by any such company;
 - (iii) to invest in any secured or unsecured notes (whether or not convertible into shares or stock) issued or to be issued by any such company;
 - (iv) to invest in units of any unit trust;
 - (v) to purchase any land;
 - (vi) to lend moneys,

- (vii) without limiting the generality of sub-paragraph (vi), to place moneys on deposit, and
- (viii) to invest in any security authorised by an ordinance of Synod.

Provided that nothing contained in this paragraph (b) shall be taken as authorising the Corporate Trustee to carry on the business of money-lending.

(2) The Corporate Trustee may –

- (a) appoint any corporation to hold, on behalf of the Corporate Trustee, any church trust property being moneys referred to in subclause (1) of this clause or investments made pursuant to the powers conferred on the Corporate Trustee by that clause and of which the Corporate Trustee is the trustee, and
- (b) appoint the same or any other corporation to manage and advise on the investment realisation and reinvestment of all or any of such property, and
- (c) delegate to that corporation all or any one or more of the powers conferred upon the Corporate Trustee by subclause (1) of this clause.

Any such appointment or appointments may be made on such terms and conditions and at such remuneration as the Corporate Trustee may consider appropriate provided always that –

- (i) every such appointment shall contain a covenant to the effect that the corporation appointed shall not invest any church trust property in or retain any investment of church trust property in any company carrying on a business of which the Synod or the Standing Committee may by resolution disapprove after notice of that resolution has been given by the Corporate Trustee to that corporation, and
- (ii) no such appointment shall be made by the Corporate Trustee in relation to church trust property held for the sole benefit of any parish or provisional parish unless a majority of the parish council thereof in writing authorises the same.

Any corporation appointed by the Corporate Trustee pursuant to this subclause shall not be bound to enquire as to whether or not the requirements of paragraph (ii) (if applicable) have been complied with by the Corporate Trustee and shall be entitled to rely on a certificate from the Corporate Trustee to the effect that the said requirements have been satisfied or are not applicable as conclusive evidence of that fact.

6.5b Anglican Church Property Trust

(extracts from the Anglican Church of Australia Property Trust Act 1917)

Part 4 – Vesting Trust Property

In corporate trustees by consent

19. Any church trust property which may at any time belong to or be vested in any trustee or trustees shall upon the consent of such trustee or trustees, or the majority of them given in writing, or upon the consent of the synod of the diocese for which such property is held, given by or under an ordinance of the synod of such diocese by virtue of such consent and without other assurance in the law, become vested in the corporate trustees of such diocese: Provided that if in consequence of death or disability the consent of any trustee or trustees cannot be obtained it shall be lawful for the bishop of the diocese to consent in the place of any such trustee.

Part 5 – Management and Investment of Trust Property

Management

24. It shall be lawful for the synod of a diocese for which any church trust property is for the time being held, from time to time by ordinance, to provide and to vary any provision now or hereafter to be made for governing and controlling the management and user of such property for the purposes for which the same is for the time being held in trust, and for all things incidental to such government and control, including constitutions of councils, committees, and other bodies, whether incorporated or not, and such property shall be held, managed, and used under and in accordance with such ordinance accordingly, the provisions of the trust instrument or instruments (if any) to the contrary notwithstanding.

Investment

25. It shall be lawful for the synod of a diocese for which any church trust property is for the time being held, from time to time by ordinance, to provide and to vary any provision now or hereafter to be made for the investment of such property, and for the pooling of separate church trust properties for the purpose of investment, and for averaging gains, losses, and interests, and for all other matters and things incidental to such investment and pooling.

Part 7 – Variation of Trusts

Power of Synod to vary trusts etc

32. In each case where by reason of circumstances subsequent to the creation of the trusts, including trusts declared under this section, to which any church trust property is for the time being subject, it has in the opinion of the synod of the diocese for which such property is held become impossible or inexpedient to carry out or observe such trusts, it shall be lawful for the synod of such diocese by ordinance to declare such their opinion, and by the same or any subsequent ordinance to declare other trusts for or for the use, benefit, or purposes of the Church of England within the said diocese instead of such first-mentioned trusts, and such first-mentioned trusts shall thereupon by force of the said ordinance cease and determine, and such property shall thereupon be held upon such other trusts accordingly: Provided that such property shall be dealt with and applied for the benefit of the Church of England in the parish or parishes (if any) for the benefit of which such property was immediately before such ordinance held in trust, and for the same purposes as nearly as may be as the purposes for which such property was immediately before such ordinance held unless the synod of such diocese shall by ordinance declare that by reason of circumstances, subsequent to the creation of the first-mentioned trusts, it is, in the opinion of the synod, impossible or inexpedient to deal with or apply such property or some part thereof for the use or benefit of such parish or parishes or for the same or the like purposes, in which case such property or such part thereof may be dealt with and applied for the use and benefit of the Church of England for such other purposes and in such other parish or parishes in the said diocese or otherwise as shall be declared by ordinance of the synod of the said diocese.

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