Large Property Receipts Policy

(A report from the Standing Committee.)

Key points

- Synod approved the Large Property Receipts Policy in principle at its last session in October 2014 and asked the Standing Committee to consult with parishes and bring a revised form of the policy for consideration at the 2015 session of Synod.
- The Standing Committee has prepared a revised form of policy which, among other things, increases the large property receipts thresholds in the policy and provides that the Standing Committee will be guided by the parish in determining its reasonable property needs.
- However a property receipts levy may be preferable to a Large Property Receipts Policy and accordingly the Synod will be asked whether it wishes the Standing Committee to undertake further work on a levy for consideration by the Synod no later than its 2020 session.

Purpose

1. The purpose of this report is to provide recommendations to the Synod regarding a revised form of the Large Property Receipts Policy ("LPRP") and the alternative of a Property Receipts Levy.

Recommendations

2. The Synod receive this report.

3. The Synod pass the following motion to be moved at the forthcoming session of Synod "by request of Standing Committee" –

'Synod –

(i) noting the Large Property Receipts Policy ("LPRP") approved in principle at its last session in October 2014,

(ii) noting its request that the Standing Committee consult with parishes about the LPRP with a view to bringing a revised form to this session,

(iii) noting the revised form of the LPRP included in the Standing Committee's report to Synod on this matter ("Report") together with an outline of a possible Property Receipts Levy as an alternative to the LPRP,

(iv) noting that during the consultation process there appeared to be a preference for a form of Property Receipts Levy instead of a LPRP,

(a) agrees that a Property Receipts Levy along the lines described in the Report may be preferable to a LPRP, and therefore requests the Standing Committee to collect the necessary financial data from parishes, and undertake the necessary modelling and further consultation to bring to the Synod no later than its session in 2020 a proposal for a Property Receipts Levy to replace the LPRP, and

(b) in the meantime –

(i) resolves to resume forthwith consideration of the LPRP in the revised form, with a view to finalising the LPRP as a policy of the Synod pending the Synod's consideration of a form of Property Receipts Levy in its place, and

(ii) confirms that it would be appropriate to index threshold amounts in the LPRP if it were to continue beyond 2020.'

Background

Historical background

4. This Diocese has had a policy relating to large receipts since 1960, when it established a "Special Receipts Committee" in response to the following recommendation of the Property Trust –

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

5. This policy position was ultimately reflected in regulations made by the Standing Committee and became known as the Large Receipts Policy ("LRP"). The sale threshold, beyond which the policy applied,

was set at $100,000 in 1975, which was gradually increased to its current level of $500,000 in 2004. Similarly, a threshold for lease income was set at $20,000 pa in 1997 and has been increased to its current threshold of $50,000 pa (set in 2012).

6. The rationale for the LRP arises from the character of the trusts on which all property is held for every parish: church trusts are not private trusts for the benefit of individual beneficiaries or even for the group of persons who meet and exercise ministry on that property at a particular time. Rather, they are charitable trusts under which the property is devoted to designated purposes of the Diocese in perpetuity, subject to a power to vary those trusts under section 32 of the Anglican Church of Australia Trust Property Act 1917.

The current Large Receipts Policy

7. The current LRP broadly provides that where the expected sale proceeds from parish property will exceed $500,000 or where the expected lease proceeds will exceed $50,000 pa, the normal expectation is that 15% of the proceeds will be made available for the broader ministry needs of the Diocese. The policy also provides that a higher percentage may be appropriate if the large receipt from a sale exceeds $1,000,000.

8. As an indication of the volume of funds generated through the LRP, sale contributions under the LRP each year generate in the order of $450,000, although this fluctuates dramatically. Lease contributions under the LRP have contributed –

(a) an average of $1,146,000 pa over the last five years to the Synod budget, which typically forms between 20% and 25% of the Synod budget (derived largely from the contributions of four parishes – see paragraphs 22 and 25(a)), and

(a) in the order of $250,000 pa directly to other ministries in the Diocese.

9. There are several areas where the current policy has proved unsatisfactory –

(a) The sale threshold is set at such a level that almost every property sale triggers the policy.

(b) The 15% amount is presented as a flat contribution against the whole of the sale (or lease) proceeds with no provision for offsets or expenses that would reasonably be excluded from the income figure before a contribution is expected.

For various reasons, including the matter referred to in (b), it has become common when a parish submits a bill for an ordinance for lease or sale of a property, to seek a partial or full exemption from the application of the policy. This has led to a perception that the policy is applied inconsistently and therefore is unpredictable in its operation.

LPRP approved in principle at Synod in 2014

10. Out of a desire to address these problems, the Standing Committee promoted to the Synod in October 2014 a proposed LPRP. The LPRP specified that contribution amounts should only apply after the “reasonable property needs” of the parish have been met. The concept of ‘Reasonable Property Needs’ was not extensively defined in the LPRP however the LPRP contemplated that further clarity as to the meaning of reasonable property needs would be provided by guidelines prepared by the Standing Committee.

11. The LPRP also introduced progressive contribution bands for sale and lease income.

12. Although the Synod approved the LPRP in principle in October 2014, it requested that the Standing Committee consult with parishes and bring a revised form of the LPRP to the 2015 session of Synod taking into account feedback received during the consultation.

Consultations

13. As a first step in consulting with parishes, the Standing Committee invited all parishes to provide written feedback regarding the LPRP by 31 December 2014. In February 2015, following consideration of the written feedback, a subcommittee appointed by the Standing Committee met with the four parishes contributing the largest amount of lease income under the existing policy. Finally, all parishes in the Diocese were invited to participate in consultation sessions held in May 2015.

Revised Large Property Receipts Policy

14. As a result of the consultation process, the subcommittee has prepared the attached revised form of the LPRP for consideration at the 2015 session of Synod. Aside from editorial changes, the changes incorporated into the revised form are described below.

Increased large receipts thresholds

15. In response to feedback that the thresholds were too low, the thresholds have been increased from $500,000 to $1,000,000 for sales and from $50,000 to $100,000 pa for leases. [8]

16. As a consequence, the assumed minimum reasonable property needs of a parish have been increased from $500,000 to $1,000,000 for sales and $50,000 to $100,000 pa for leases. [12]

Meaning of reasonable property needs

17. In response to feedback indicating the need for a wider understanding of reasonable property needs, the general description of reasonable property needs of a parish has been revised to specifically refer to renovation and replacement of property, whereas previously only maintenance had been specified. [9]

How reasonable property needs will be determined

18. Under the previous form of LPRP, the Standing Committee was to produce guidelines to assist in identifying reasonable property needs. In the revised form, the Standing Committee will be guided by the parish in identifying its reasonable property needs. This change in approach arose out of feedback which highlighted the impracticality of Standing Committee producing workable guidelines to identify reasonable property needs. [10]

Guidelines for contributions

19. While feedback indicated that parishes generally felt that progressive contribution bands were advantageous as they set an expectation of proportional giving, they also resulted in several negative consequences –

(a) the prescriptive nature of the bands were perceived as likely to result in a policy that did not encourage or assume generosity in giving, and

(b) the higher end of the contribution bands were suggested to be sufficiently large so as to discourage good stewardship of the asset.

20. In response to this feedback, the revised policy –

(a) provides a guiding contribution percentage for sale and lease receipts of 15% and 30% respectively, of the amount in excess of the reasonable property needs of the parish. These contribution rates should apply to the majority of cases, [13 & 15] and

(b) indicates that a higher contribution percentage will be expected for larger amounts, so as to allow greater consideration of the appropriate contribution while also leaving room for the parish to propose a generous amount themselves. [13 & 15]

Sunset

21. The revised policy includes a sunset clause to ensure that the Synod has another opportunity to consider the policy in conjunction with a proposed property receipts levy as an alternative to the policy. [20]

Property Receipts Levy

22. During the course of the consultations, the option of a property receipts levy as an alternative to the LPRP was considered. A principle reason for considering a levy flowed from the desire to share the responsibility for contributing to Synod funded ministry among more parishes. Currently, four parishes provide 96% of lease contributions to the Synod budget. A levy would have the advantage of applying to the aggregate of all lease and licence income in a parish, which should provide for a more consistent and broader funding base than a policy.

23. The characteristics of a levy broadly proposed included that it would –

(a) apply to certain categories of income within the Property and Finance sections of each parish's annual Prescribed Financial Statement, net of property-related expenses,

(b) be structured to ensure that the amount currently contributed to ministry needs of the wider Diocese through the existing LRP is at least replaced by funds from the levy, and

(c) likely be implemented over a transition period in order to minimise disruption to parishes and to ministries funded by the Synod.

24. The form of property receipts levy considered at the consultation sessions was primarily seen as a replacement for lease contributions under the LPRP. If the option of a levy is further developed, options considered may include –

(a) allowing a limited form of the LPRP to continue for property sales only,

(b) discontinuing any LPRP in respect of property sales and relying instead on the generosity of the parish concerned, and

(c) prescribing a means to levy a portion of sales proceeds.

25. The possible benefits of a levy include –

(a) sharing the responsibility for contributing to Synod funded ministry more broadly (currently most of the lease contributions under the LRP come from four parishes),

(b) consistency in application,

(c) treats all lease and licence income as an aggregate within a parochial unit,

(d) provides opportunity to establish a contribution-free threshold and successive contribution bands that represent the will of the Synod with regard to proportional giving,

(e) may incorporate a requirement or an incentive for parishes to set aside funds for future property maintenance and improvement as an encouragement to good stewardship, and

(f) is administratively simple.

26. During the consultation sessions there appeared to be a preference for a levy as opposed to a LPRP.

Next Steps

27. The subcommittee believes that a property receipts levy may be preferable to an LPRP. However, shifting from a policy to a levy is a significant change requiring careful analysis and modelling. It also requires information from parishes regarding property maintenance expenses that is not currently collected.

28. The subcommittee therefore considered that an appropriate way forward would be for the Synod to adopt the revised form of the LPRP (including a sunset clause of 2020) and ask the Standing Committee to collect the necessary financial data, and undertake the necessary modelling and further consultation, to bring a proposal for a Property Receipts Levy back to the Synod by 2020 as a possible replacement to the LPRP.

For and on behalf of the Standing Committee.

CRAIG ROBERTS
Subcommittee Chair

20 July 2015

Attachment

Large Property Receipts Policy

Church Trust Property

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

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

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

Rationale for this policy

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

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

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

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

When does this policy apply?

8. This policy will only apply if there is a large property receipt. For the purposes of this policy, a large property receipt will arise if –
   (a) the net sale proceeds of parish property is expected to exceed $1,000,000, or
   (b) the net leasing income from parish property is expected to exceed $100,000 pa.

What are the reasonable property needs of a parish?

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

10. The Standing Committee will be guided by the parish in identifying its reasonable property needs.

Promotion of bills which give rise to a large property receipt

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

12. If a bill for a sale or lease of parish property gives rise to a large property receipt and –
    (a) the reasonable property needs identified by the parish are less than the amount of the large property receipt, or
    (b) the parish does not adequately identify or plan to meet its reasonable property needs,

    the amount necessary to meet the reasonable property needs of the parish is, for the purposes of this policy, taken to be $1,000,000 in the case of a bill to sell parish property and $100,000 pa in the case of a bill to lease parish property.

Sharing with the rest of the Diocese

13. The Synod's normal expectation for a large property receipt arising from a bill for an ordinance to sell parish property is that the parish should share 15% of any amount in excess of its reasonable property needs with the Mission Property Committee as an addition to the Mission Property Fund. If the excess is expected to be greater than $500,000, the percentage shared should be higher than 15%.

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

15. The Synod's normal expectation for a large property receipt arising from a bill for an ordinance to lease parish property is that the parish should share 30% of any amount in excess of its reasonable property needs with the Synod for allocation as part of its annual budgeting process or, upon special application, with other Diocesan beneficiaries. If the excess is expected to be greater than $50,000 pa, the percentage shared should be higher than 30%.

Review of bills for large property receipts ordinances

16. A bill for an ordinance which gives rise to a large property receipt but is promoted on the basis that the reasonable property needs identified by the parish are less than the amount of the large property receipt (under paragraph 12(a) above) will not usually be referred to an Ordinance Review Panel provided the bill makes provision for the sharing of a portion of the large property receipt in accordance with the normal expectations of the Synod under this policy.

Grant of relief from policy

17. The Standing Committee will consider any request for relief (in part or whole) from the sharing of a portion of a large property receipt in accordance with the normal expectation of the Synod under this policy. Such relief will not be granted unless the promoters of a bill involving a large property receipt give sufficient reasons for an exception.

Reports concerning amounts shared under the policy

18. A report will be provided to the Synod each year identifying all amounts shared under this policy with the Mission Property Fund and other diocesan beneficiaries in the preceding year and with the Synod for allocation as part of its budget in the following year.

Amendment of the policy

19. The Standing Committee may make amendments to this policy provided such amendments are reported to the next ordinary session of the Synod.

Sunset

20. This policy ceases to operate on the first day of the ordinary session of the Synod in 2020.