

POLICY: PR001 'SALE ORDINANCE PROCEDURE'

Date Created: 29 June 2007

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ANGLICAN DIOCESE OF CANBERRA AND GOULBURN



SALE, LEASE OR MORTGAGE OF PROPERTY

ORDINANCE PROCEDURES

The following are procedures to initiate a Land Sale ordinance under the provisions of the Ordinances Initiation Ordinance

Advice of Sale

- 1) Where a ministry unit or Diocesan Agency wishes to sell, exchange, mortgage, lease or otherwise deal with church trust property as provided for in the Trust Property Act, it must lodge a proposal with the Registrar in a form approved by the Registrar but which must:
 - (a) include the particulars of the proposal to deal with the property; and
 - (b) show how the proposal is within the provisions of the Trust Property Act; and
 - (c) be signed by the relevant persons; in the case of a parish the Rector and Churchwardens, in the case of a chaplaincy, the chaplain and chair of the chaplaincy unit council and in the case of a Diocesan Agency the chair of the governing body and the chief executive officer however described; and
 - (d) where the property is property held for the sole benefit of a parish as referred to in section 26 of the Trust Property Act, be accompanied by the consent in writing of a majority of the members of the parish council; and
 - (e) where the property has been gratuitously granted or assured by a private donor within the preceding 20 years, with the written consent of the donor, if living.

Surplus Property

It should be noted that sale of surplus property will require the payment of 15% of the net proceeds of the property to the Foundation. However, the ministry unit or Diocesan Agency may apply to Bishop-in-Council for a reduction in or exemption from the payment of 15% of the net proceeds to the Foundation.

In considering such an application, Bishop-in-Council shall take into account

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- a) The financial position of the ministry unit or Diocesan Agency;
- b) How the property came to be church trust property;
- c) Any trust provisions relating to the property;
- d) The proposed use of the proceeds of the sale; and
- e) The Diocese's mission objectives.

On receipt of a proposal, the Registrar shall provide to the ministry unit or Diocesan Agency a notice of the dealing with the property in a form approved by the Registrar for this purpose. As soon as practicable after its receipt, the Registrar shall provide a copy of the proposal to the Area Dean or relevant Archdeacon and to the Property Trust.

2) Ministry Unit Diocesan Agency Responsibilities

a. The ministry unit shall, on receipt of the notice from the Registrar display it in a conspicuous position at the entry to the Church and, where the dealing affects the whole Parish, at the entry to each Church in the Parish, for a consecutive period of 3 weeks, note on it the date on which it is first displayed and read it out at the morning and evening services held in the Church or each Church on all Sundays in that period.

b. The Diocesan Agency shall, on receipt of the notice from the Registrar, display it in a conspicuous place at the entry to the offices of the Agency and, if the dealing affects the whole Agency, at each office of the Agency for a consecutive period of 3 weeks and note on the notice the date on which it is first displayed.

c. No earlier than 5 weeks after the notice has been displayed but as soon as practicable after that time, the Area Dean or relevant Archdeacon shall provide to the Registrar a Report in a form approved by the Registrar but which will include particulars of any comments on any objections received by the Registrar and the proposed use of the proceeds of any sale of the property, of any rental income from the leasing of the property, or of any loan proceeds from the mortgaging of the property exchange and the details of any exchange of the property.

d. The Property Trust, having been advised out of session of the proposed action in respect of the property, may within a reasonable period of time as set by the Registrar, provide to the Registrar any comments it considers appropriate on the proposal and any objections to it.

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The Registrar will prepare an Ordinance and information on the proposal in respect of the land and provide that information to BIC/Synod who will deal with the matter in accordance with the *Ordinances Initiation Ordinance 1937* a copy of which is attached.