

**Catholic School Governance  
Archdiocese of Melbourne**

## **Threshold Issue 4: Transfer of assets and liabilities**

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### **A. The Issue**

While all assets and liabilities generated in the conduct of the school operations will transition to the new governance structure, there will be no change to the ownership of school land in the governance change. Therefore, agreements establishing land occupancy rights need to be developed.

### **B. What is at Stake**

As the beneficial owner of the land and the proprietor of the school will no longer be the same public juridic person as is currently the case, land occupancy arrangements will need to be entered into between the legal land owner [Roman Catholic Trust Corporation of the Diocese of Melbourne (RCTC) on behalf of each of the beneficial owners] and the new school proprietor [the Incorporated body]. These arrangements are required in order to ensure certainty in the future operation of schools by providing long-term occupancy rights over the land on which each of the schools is operated, whilst acknowledging ownership of school buildings and other affixed assets by the Incorporated body. This evidence of long term occupancy rights will be required for the purposes of registration of the Incorporated body with the Victorian Registration and Qualifications Authority (VRQA) as the new proprietor of schools, and also for the purposes of capital government funding in the future.

The land occupancy arrangements are important for legal, as well as canonical issues. The terms of these arrangements will need to be carefully considered and determined in due course, noting the sensitivity of the issues involved and the contextual nature of shared use.

### **C. Some facts and some questions**

#### **Facts**

##### *Continuity*

While a change in governance will require careful and considered stakeholder engagement, canonical and legal advice, planning and implementation, the default position is that the current land ownership arrangements for schools will continue into the future. **These arrangements will need to be expressed in some form of long-term occupancy rights agreement to meet VRQA school registration requirements and ensure legal certainty for the school operations in future.**

##### *Planning and Property*

It is proposed that the land ownership will not change under the new governance model, with the Roman Catholic Trust Corporation of the Diocese of Melbourne (RCTC) continuing to be the legal owner on behalf of the relevant public juridic person. Recording of other categories of school assets, such as buildings for educational use within the financial records of each school, would be expected to continue, with all school assets and liabilities being transferred to the Incorporated body as part of the implementation.

In accordance with usual processes and as is legally required, the land owner would need to provide consent to all capital works proposed at a school site. It is proposed that each school community develops a Master Plan for its site in consultation with an Advisory Committee, with appropriate support from the management team of the Incorporated body. Just as is the case currently, priorities at the local level will need to be balanced with priorities at the Archdiocesan level, for example when established schools forego capital funds so that schools can be built in growth corridors.

The building projects in schools will therefore be developed locally within a diocesan strategic framework developed by the Board of the Incorporated body, and will be endorsed by the Board before proceeding to the Archdiocesan Planning Building and Finance Committee (PBFC) for approval by the Archbishop. It is proposed that the current practice continues, whereby all capital projects by diocesan-based schools valued above \$100,000 for primary schools and \$300,000 for secondary schools, are approved by the Archbishop on the recommendation of the Board of the Incorporated body.

#### *Shared facilities*

The availability and use of shared facilities provides a tangible sign to the wider community of the strong bond and partnership that exists between the parish and the school, and helps nurture a spirit of goodwill and cooperation.

Funding for the construction and maintenance of shared facilities has, and continues to be, derived from a variety of sources, including parishioner donations and government and school maintenance grants. Each site has their own context. A detailed mutual agreement (MOU) between a parish and school regarding the overall responsibility of coordinating the usage and maintenance of all shared facilities, as a part of the long-term occupancy rights agreement would be desirable. Government regulations place strict requirements on the use of school funds, such that they can only be used for educational purposes.

#### *Rental arrangements*

As the land owner and the schools proprietor would be separate entities under the new arrangement, it becomes legally possible for the land owner to charge a rent for the use of the land and buildings. Notwithstanding this legal possibility, the National Catholic Education Commission (NCEC) has agreed that for the time being, pending the development of a national framework to guide any rental arrangements, that it would not be appropriate for rents to be charged at this time. The Australian Catholic Bishops Conference is aware of this matter and the current the approach agreed at the NCEC.

#### **Questions**

1. What processes of consultation would help us build our capacity to recommend to the Board of the Incorporated body the best possible arrangements for the use of land on which the schools are operated and the use of any shared/other parish assets?
2. What information do you need in order to be engaged more effectively in the process of developing these arrangements?
3. What queries, issues or concerns do you have in regard to the issues that have been canvassed in this paper?

#### **D. A Proposal for Consideration**

That a Working Party is formed to consider issues and develop procedures for the use of the land on which the schools are operated and the use of any shared/other parish assets