

Section 3

PURCHASE OF PROPERTY

General Guidelines

Ask yourselves how this purchase will contribute to the life and growth of the congregation and advance God's mission. This is the first thing Synod and MCPC will want to know, so it pays to clarify your thinking from the outset.

- Allow sufficient time to prepare your application and obtain the approval of the Parish Council, congregation and Synod or, for a property held in Trust, MCPC.
- Talk early on to your Synod and the Connexional Office about your general plans and time frames. It will help to make early contact to alert them that decisions are underway. Challenging or unusual proposals may take extra time.
- Find out from your Synod Secretary when Synod's Property Advisory Committee meets, as this Committee will consider the application and then make a recommendation to Synod. You should have your application to this Committee through the Synod Secretary at least a week before it meets.
- When Synod has considered an application and made its decision, the application will be passed on to MCPC for its decision. MCPC place considerable weight on Synod's view on any proposal to purchase a property.

Remember, this will be an asset 'in trust' for the congregation of the future as well as the present. The whole congregation needs to be involved in the decision-making. The asset will not belong to just one small group of the congregation. It is an 'asset' to be held in trust for the benefit of many others.

Do the thinking before you look

Talk through all the issues (purpose, function, location, financing, time frames as well as structure, price, legal title etc.) before you start the purchase process. It would be prudent to review these guidelines again once you've found a preferred property.

Get the necessary authorities in place as you proceed

You will need formal approval from the congregation to proceed. It is usual for a congregation to delegate the purchasing process to a subcommittee. If you are planning to borrow money for the purchase, you will also need to follow the borrowing procedures set out in Section 3 of this handbook.

Points to be considered when looking to purchase a property:

- Is the property within the price band approved by the congregation?
- Is the location suitable for the building's intended purpose?
- Is it located near the parish office and main worship centre?
- If this is to be a parsonage, is it near to schools?
- Is it convenient to public transport?

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- Is the property in good condition?
- Are there any deferred maintenance or ongoing maintenance issues?
- Are there any conditions associated with the title?
- Does it have good resale potential (particularly for a parsonage)?
- Are there any health and safety or seismic issues?
- Does the Local Authority LIM Report raise any concerns?
- Are there any actual or potential heritage issues that could affect the use of the property?
- If the property is to be used as a parsonage, please refer to the Ministers' Housing Requirements later in this section.
- Has an asbestos assessment been carried out and a report completed?

In order to purchase a property, approval will be required from:

- Parish Council
- Congregation
- Synod
- MCPC

Applications to MCPC require a completed application form and the appropriate documentation (appendix one at the rear of this handbook). All applications need to be sent to MCPC by your Synod with their approval.

Market valuation

You will be required to provide a market valuation from a registered valuer with your application. Rating valuations or estimates from real estate firms are not sufficient. A registered valuation provides a professional assessment of the property and should support the price being asked. The valuation must be no more than 90 days old at the time of application.

Land Story

See Section 8 - Kōrero Papatupu Whenua, Land Stories.

All applications require a Land Story.

Building Report

A building report must be obtained, and all issues in the report must be addressed with the vendor. A building report must accompany all applications. However, if there are time restrictions on the purchase, the offer can be made subject to receiving a builder's report.

What to do once MCPC have given their approval

- You will receive a letter from MCPC to confirm MCPC's approval for the purchase and advise any special conditions that approval may be subject to.
- Consult the BOA's lawyer when you find a suitable property. They can assist with drawing up the Agreement for Sale and Purchase and will be responsible for arranging the property settlement, the land transfer and mortgage registration (if applicable). The parish will be asked to sign a letter of engagement. This is appropriate, as MCPC do not engage the lawyer.

The Agreement for Sale and Purchase must be approved by the BOA's lawyer before it can be signed by a member of the BOA.

Unless the title is in the name of a Trust, the Sale and Purchase Agreement must be signed by a member of the BOA, as property title holder.

Important points about completing an Agreement for Sale and Purchase

- The purchaser is named The Board of Administration of the Methodist Church of New Zealand.
- The Agreement for Sale and Purchase needs to be signed by a member of the Board as the title is held in the name of the Board of Administration of the Methodist Church of New Zealand. The exception is when the title is in the name of a Trust, then it is signed by the Trustees.
- Include any applicable conditions, e.g. financing, due diligence period, building or LIM reports required.

The following clauses must be included in the Agreement:

Limitation of Liability

Notwithstanding any other clause in this Agreement, the liability of the Board of Administration of the Methodist Church of New Zealand as Purchaser in this Agreement shall be limited to the Purchase Price and shall not constitute a debt payable by the Purchaser or their successors in office out of any other fund or property.

The following clauses be included in future sale and purchase, and leasing agreements entered into by the Church:

BOA as the Title Holder

'This agreement is subject to and conditional upon the approval of the Board of Administration of the Methodist Church of New Zealand ('the Board') to the circumstances, form and content of this agreement in all respects, such approval to be given or withheld at the Board's sole, absolute and unfettered discretion. This condition is due for confirmation within '10 working days' of the date of this agreement and is for the sole benefit of the Board.'

Special Conditions

If there are special conditions required, the Sale and Purchase Agreement will need to ensure the appropriate clauses are included, and the document is confirmed to be in order for the Board to sign by the BOA's lawyer. Always have the Sale and Purchase Agreement checked by the BOA's lawyer.

Legal review of documents

All documents to be signed by the BOA's lawyer and approved as being in order for signing. This includes the Sale and Purchase Agreement and the land transfer instruction form. The cost of this review is an expense associated with the property purchase and will be paid by the parish.

What happens when an Agreement to Purchase goes unconditional?

- When an Agreement becomes unconditional, you will be required to pay a deposit to the real estate agency and then pay the final purchase amount and any amounts owed on local council rates to the BOA's lawyer prior to the agreed settlement date.
- If you are borrowing a portion of the purchase price, ensure the lender knows when and where to transfer the funds.
- The BOA's lawyer will prepare the Land Transfer Authority and Instruction (A&I) form and send this to the Connexional Office for signing by two members of the BOA, witnessed by the appropriate professional and BOA seal affixed, at least one week before the agreed settlement date.
- You will need to arrange full replacement insurance coverage to take effect on the settlement date. Contact the Connexional Office to arrange this through the Church's insurance scheme.

What happens if a suitable property is found before the required approvals have been obtained?

The situation sometimes arises where a parish intends to purchase a property and wishes to negotiate a purchase before the congregation, Synod, and MCPC approvals have all been obtained.

Purchasing a property can often be a more pressing situation than selling in that the opportunity to make an offer on a preferred property could be lost if an agreement cannot be signed prior to obtaining the required approvals.

If this situation arises, contact the Connexional Office for advice about how you can proceed and the special conditions that would need to be included in an Agreement for Sale and Purchase. For urgent purchase approvals, early approval from MCPC is possible. All appropriate documents, completed application forms and approvals are required to accompany the application.

If an offer is submitted, the Sale and Purchase Agreement must include:

'This agreement is subject to and conditional upon the approval of the Board of Administration of the Methodist Church of New Zealand ('the Board') to the circumstances, form and content of this agreement in all respects, such approval to be given or withheld at the Board's sole, absolute and unfettered discretion. This condition is due for confirmation within 10 working days of the date of this agreement and is for the sole benefit of the Board.'

GST

You need to carefully consider the GST aspects of the purchase, i.e. will the purchase price be inclusive or exclusive of GST where applicable.

The BOA is GST registered and (being the legal purchaser) must include the transaction in their GST return. The rule of thumb is that GST cannot be claimed on the purchase of a parsonage or other residential property, and the purchase price may be stated as "inclusive of GST (if any)".

The purchase of all other Church property (churches, halls, commercial buildings, land) is subject to GST, and the purchase price must be stated as "plus GST (if any)". Often sales in this category are zero-rated for GST purposes depending on the GST status of the seller and the intended use of the property by the purchaser.

The GST aspect is not always well understood, and the parish may wish to obtain professional advice in this regard.

General Checklist for Property Purchases

- Congregation's intentions discussed with Synod

- Approval by Synod
- Approval by Church Leaders/Parish Council
- Approval by Congregation
- Congregation's mission plan prepared, and the property purchase proposal is tested against this
- Registered valuation of the property obtained and is less than 90 days old
- Complete the Application for Approval to Purchase Property and forward it together with all other required documents to your Synod to forward with their approval to MCPC (Connexional Office):
 - Market Valuation
 - Parish Strategy
 - Floor Plan
 - Site Plan
 - Financial aspects of the project – including obtaining approval for any borrowing
 - Parish accounts for the last 12 months – income and expenditure
 - Parish Council approval
 - Synod approval
 - Investigate the history of the land and its acquisition by the vendor to ascertain any significance to the Treaty of Waitangi and the Land Commission. (See 1988 Conference Report Page 9191 Land Commission, see Section 8 of this booklet)
- Criteria checklist prepared, against which to measure potential properties. (This section of the handbook has suggestions; add to this any other factors special to your situation)
- Will you need to borrow money? If so, the congregation, Synod and MCPC all need to give formal approval
- Registered valuation obtained for preferred property (a copy of the valuer's report must be included with the approval application to Synod and MCPC)
- Complete the Application for Approval to Purchase Property and forward it with all other required documents to Synod, who will forward it to the Connexional Office with Synod approval
- Working party set up to oversee the sale and engage BOA's lawyer, and investigate any issues that may restrict the sale
- Appoint real estate agent(s) (if required). A sole agency must have a definite end date
- Negotiate and agree on purchase price and conditions
- Follow requirements with regard to the Agreement for Sale and Purchase and consider GST aspects of the sale
- Remember –the BOA must sign the agreement not the parish
- Building Report
- Insurance cover on the property is to be arranged once the sale has been completed and the title has been transferred to the new owner
- Asbestos Management Plan (if one is not provided, the parish will undertake to complete)
- Kōrero Papatupu Whenua Land Story completed