

Section 9

HERITAGE LISTINGS, LOCAL AUTHORITY CONTROLS & OTHER CONSTRAINTS ON PROPERTY USE

This section deals with ways in which the use of Church property can be constrained by legal processes. There are many different ways in which this can happen, but the most common ones are heritage listings, easements across the property, land use restrictions in district plans and compulsory purchase of a property.

Sometimes the law provides little opportunity for the Church to do anything about the constraints placed on the property, but other times action can be taken to avoid or minimise the effect of the constraints.

Because constraints come in so many forms, it is difficult to provide specific guidance that will cover all situations. This means MCPC are guided by some basic principles.

As a Church, we do not own property for its own sake. We own property when it is the best way to achieve God's mission in our area, both now and in the future. For this reason, MCPC's basic position is that:

The Church should avoid having any constraints on its property as far as possible.

Avoiding constraints not only means that the current congregation can use its property in the best way possible to achieve God's mission, but it also keeps open the possibility that the congregation of the future may have a different view of what mission is and how the building fits into it. Heritage listings are a particular concern because many congregations have found the authorities want to "freeze" the building in its original form rather than acknowledging that this building is a church that grows and changes. This attitude may limit the congregation's ability to remodel the property as worship styles and mission outreach options change.

However, sometimes it is only reasonable for us to agree to have a constraint on our property. MCPC take the view that when legal constraints are placed on our property, the Church should receive the same compensation that any other property owner would receive in the situation.

Sometimes the Church is seen as a "soft touch", and so a less generous offer of compensation is made than would otherwise be the case. This is unacceptable. The Church does not exist to provide the community with cheap resources: it is to fulfil God's mission for the area. Financial compensation can be used by the congregation to offset any issues caused by the constraint or to establish a new mission.

Finally, in some cases, the constraints are requested by neighbouring property holders. MCPC take the view that we should be good neighbours, but that does not mean that we always need to agree with what our neighbours want. The basic principle here is:

Requests from neighbouring property owners should be evaluated from the perspective of their impact on the mission of the congregation, both now and long term.

We should not be unduly swayed by wanting to be kind in the short run, only to risk damaging our ability to fulfil God's mission in the long term. This includes the damage to the long-term mission of the congregation if the property falls in value because of the constraints on it.

The two biggest risks - Local Authority Decisions and Heritage Protection

Constraints can come in many forms, but some of the most restrictive constraints come from local authority decision-making and heritage listing, so we have provided some explicit advice around these two issues.

Local authorities can place restrictions on your property via a district plan, including:

- incorporating Heritage Status listing into the district plan
- the imposition of drainage easements
- boundary setbacks or
- taking land for public schemes.

What to do if you are advised of pending district planning changes affecting Church-owned sites

MCPC have attempted to advise all local authorities that any requests or notices regarding site change use or code changes affecting that site should be sent to The Methodist Church of New Zealand Connexional Office as the party responsible for property ownership matters.

If a congregation is issued with a notice of a pending code change or site restriction, it should be copied and immediately sent to The Methodist Church of New Zealand Property Manager and the Synod Secretary.

If the notice is part of a congregation's development consenting process, then the congregation's design team and the BOA's lawyer should be asked to advise on the consequence, and their advice should be passed to MCPC as soon as possible.

What are MCPC prepared to do where a parish's plan to alter or develop a site is restricted by district planning requirements?

Because the rules around property developments are mostly set by local authorities, it is important that parishes use experienced professional advisors who are familiar with your local authority's requirements. They, in turn, may suggest more specialist advisors for complex resource consent issues. You should also consult with your Synod and MCPC on heritage constraints as, depending on how widely they may impact our network, MCPC and the local Synod may want to appeal these through a regional or national process rather than each congregation appealing the same rules individually.

The effect of local authority decisions relating to adjacent landowners

Local authority decisions can also lead to restrictions on the site development, use or potential use because of actions taken during development by adjacent landowners and developers. Applications from neighbours requesting support for exemptions to height or site lines requirements and permission for encroachment to allow development to take place without a formal dispensation, such as Resource Consent hearings, may seem simple requests, but they can result in imposing permanent restrictions on future development and hence diminishing the value of Church-owned land.

What to do if you are asked to agree to an endorsement or restriction being placed on the legal title of a Church-owned site

Any changes to the site title plan have to be approved by MCPC, and the documentation signed by them. The congregation, or the BOA's lawyer, should advise MCPC and the Synod immediately and forward any request and related correspondence.

Heritage Protection

Our purpose is God's mission into the future

We are privileged to have many beautiful and historic buildings. However, we are a Church – not a provider of monuments for the population. Although MCPC appreciate the work of those who advocate the preservation of our New Zealand-built heritage and of those who want to mark the historical and social significance of sites owned by the Church, MCPC is required to support the work of active congregations and to maintain the value of the assets held in the name of The Methodist Church of New Zealand.

Our view of our heritage buildings is that they should not be allowed to impede the ability of our parishes to fulfil God's mission and, just as they were built to meet the mission needs in the past; they should change and develop to meet the mission purpose of congregations of the present and the future. In our experience, congregations show respect for their heritage when they seek to make such changes.

MCPC is aware that many parishes are faced with troubling realities when it comes to maintaining their existing buildings. It is a situation that calls for careful and discerning congregational decision-making, if necessary, looking beyond the current buildings for the sake of God's mission. We believe that the time is right for bold action to take risks, to try new things as our forebears did, as we undertake our journey towards reimagining mission and the Church for today's world.

We don't have to own the building for it to exist

We also know from experience that we do not have to continue to own a building for its heritage value to continue. These days, alternative uses of significant heritage sites and buildings may well be a way of funding the strengthening and restoration of historic real estate. The sale of such sites to community interests may release local parishes from the burden of maintaining and preserving heritage sites and allow the local community to continue to appreciate the significant heritage values of the location.

However, one of the biggest issues with a formal heritage listing is the loss of value when parishes and Synods see advantages in selling land and buildings or when a parish is dissolved. MCPC is bound to support the realisation of the maximum value for land and buildings in order to release funds to the Synod for God's mission. MCPC, therefore, does not want to see any long-term restrictions or constraints placed on land and buildings that could delay opportunities to realise assets and create more flexible ways of resourcing mission.

What can MCPC do to assist local parishes in terms of District Plans and Reviews where recommendations are made to list Church-owned sites as significant historic heritage places?

The effect of significant historic heritage place listings will vary depending on the District Scheme recommendations of particular local authorities. The heritage values may be evaluated under a number of categories such as historical, social, manu whenua, knowledge, technology, physical attributes, aesthetic, and context. The relevance of a particular site will be shown in proposed or adopted schedules.

Under District Plans, some or all of the following historical heritage place restrictions (local authorities will have their own specific requirements) may apply:

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- Maintenance and repairs of scheduled buildings and structures will likely be permitted and can be undertaken within a resource consent.
- Heritage rules are likely to impose restrictions on:
 - Total or substantial demolition or deconstruction of scheduled buildings
 - Relocation of scheduled buildings
 - Construction of new buildings or structures on the land
 - Modification of scheduled buildings
 - Subdivision of the land and seismic strengthening work.

These or similar rules could obviously impact the use/redevelopment of Church buildings or the redevelopment or sale of the land on which a building stands.

By passing on information to MCPC as soon as congregations have been advised that scheme changes are proposed, then, in conjunction with the Synod, it may be possible and desirable in some circumstances to engage specialist legal and planning advice and engage with the local authority before any hearings, as well as to make sure the local and national interests of the Church are represented at any formal hearings.

Can a parish agree to a heritage listing (under a District Plan or proposed by Heritage New Zealand) in order to get financial assistance to develop or preserve an item on the site?

Sometimes congregations seek to have heritage listing because the local authority or Heritage New Zealand indicates that funding may be available. One of the unfortunate realities at present is that the public funding for the upkeep of heritage buildings is very small, and the requirements are extremely expensive (particularly for Heritage New Zealand Category 1 buildings). For this reason, we do not recommend congregations seek this kind of funding.

In addition, a congregation that does wish to obtain a heritage listing must obtain the approval of its Synod and MCPC before seeking a voluntary heritage listing. This is because it may have implications for the regional and national mission of the Church. In addition, MCPC must also be involved in any request or application for funding that requires a grant application likely to result in restrictions being placed on the site status and/or requiring repayment of any grant.

Open Space Covenant

The open space covenant is akin to heritage protection in its impact but is administered by the Queen Elizabeth II National Trust rather than a local authority. An open space covenant provides private landowners in New Zealand with a mechanism for protecting special natural and cultural features on their land.

The purpose of the covenant is to preserve areas of land or bodies of water that have special aesthetic, cultural, recreational, scenic, scientific or social interest or value. The National Trust assists landowners with the ongoing management of the special features covered by the covenant and may meet some of the costs of securing or managing the covenanted land.

The covenant is voluntary but once registered on the title of the land affected it binds the current and subsequent landowners for all time.

For this reason, any parish wishing to enter into an open space covenant must obtain the prior approval of the Parish Council, the congregation, Synod and MCPC.