



The Parish Building Kit is a guide for parish building projects where the major works contract exceeds \$100,000, GST inclusive. These contracts must be executed by the Anglican Church Property Trust Diocese of Sydney (ACPT). This document explains what you have to do before your ACPT regional manager can arrange to have the contract signed. It contains official policy of the ACPT Board in relation to building works, however recent amendments may not be included so if you have any questions please contact your ACPT regional manager. Of course the principles outlined follow best practice and should be applied to smaller contracts which can be managed by the wardens under delegation in order to minimise the risk of conducting building works.

This kit has been prepared by the ACPT. The ACPT is the Corporate Trustee of the Anglican Diocese of Sydney and the legally registered owner of parish property.

Have a question or comment about the Parish building kit? Please contact your ACPT regional manager as below:



Western, South Western and Wollongong Regions

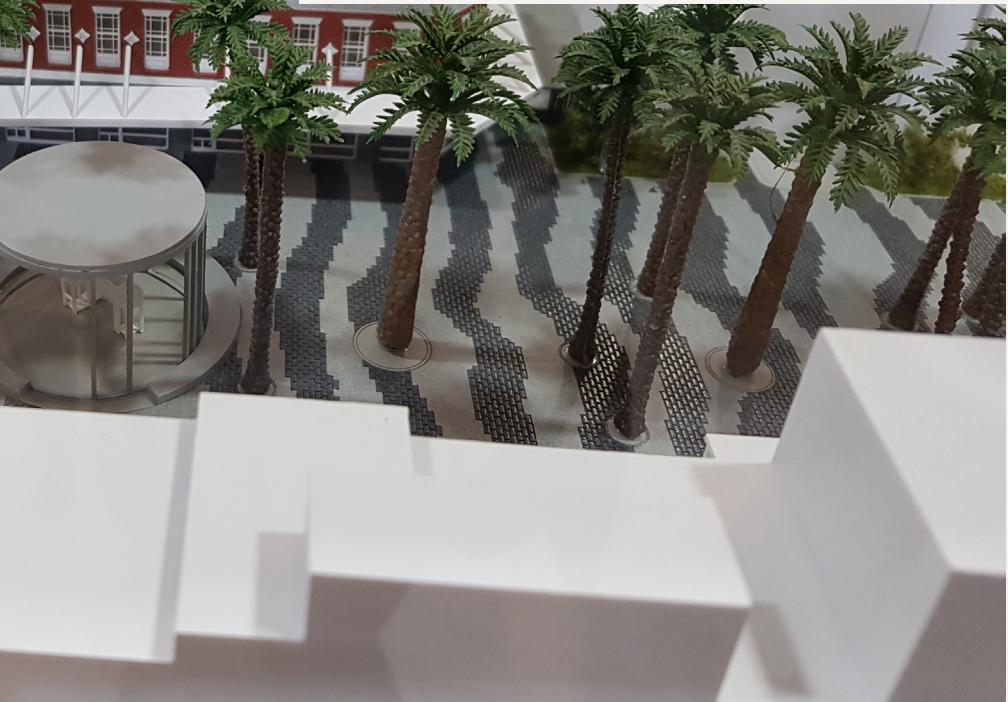
Scott Lincoln
02 9265 1633
sxl@sydney.anglican.asn.au

Northern and South Sydney Regions

Penny Barletta
02 9265 1561
pxb@sydney.anglican.asn.au

Contents

- 1. Introduction 4
- 2. Steps in Undertaking Building Wor 5
- 3. Step 1 – Planning 7
- 4. Step 2 - Approvals 9
- 5. Step 3 – Preparing and Signing the Contract 15
- 6. Step 4 – Contract Administration 23



Introduction

A building project is a major event in the life of a parish. For the people who are responsible to make it happen, just getting started can be overwhelming. Our aim with this Parish Building Kit is to give you all the information you need to plan and deliver a building project. The other important resource available to you is the regional parish property services manager employed by Sydney Diocesan Secretariat to help you to navigate the sometimes complex world of dealing with parish property.

From time to time a parish's ministry strategy may indicate that a building project is needed. The building work proposed may include the construction of a new building (church, hall, ministry housing etc) the alteration, extension, demolition or relocation of an existing building, placement of a demountable building and / or landscaping, car parking etc. In some cases it may include significant fixtures, for example a church organ, or a sound system.

The purpose of this kit is to assist parishes to achieve successful building projects. This is achieved by summarising the requirements of all Diocesan stakeholders as well as outlining the steps the parish will need to take to plan for the project.

For some large projects there are additional resources available from your ACPT Regional Manager. Particularly useful is the Major Projects Kit which goes into greater detail about the preliminary work that needs to be done before the parish can embark on a building project. This includes consideration of ministry planning, the people involved and financing a project.

People

The Parish Administration Ordinance 2008 gives the parish council the responsibility of setting the property strategy and approving the building works.

The wardens are responsible for confirming that finance is available to carry out the property strategy and that all parish business is conducted appropriately.

The regional bishop must also give approval for all parish building projects and relies on the regional architectural panel for guidance.

The parish will select consultants, such as architects, project managers and builders on whom they will rely for professional advice.

Your ACPT Regional Manager, will guide you through the process, from planning to post construction, and plays a large role in contract execution and payments.

Steps in undertaking building work

If a parish wants to undertake building work the following general steps apply:

Step 1 > [Planning](#)

Step 2 > [Approvals](#)

Step 3 > [Signing the Contract](#)

Step 4 > [Contract Administration](#)

Acting under delegated authority from the ACPT Board, wardens have the delegated power to undertake works that are minor - ie. less than \$100,000 (including GST) in value. All other contracts over \$100,000 in value need to be submitted to the ACPT for execution in accordance with the guidelines in this document. Where an architect, project manager or other contractor is to be engaged, the ACPT will also need to sign an appropriate agreement/contract with that party (where the value of the contract is over \$100,000 in value). For projects involving total construction costs that exceed (or are likely to exceed) \$500,000 (including GST) in value, parish representatives should refer to the, "Major Projects Kit" (available from your ACPT Regional Manager upon request).



Step 1 - Planning

Ministry Strategy

A building project must be considered in conjunction with the wider parish ministry strategy as it requires significant resources. It is important to recognise the implications of a building project on other parish activities before you begin. Unless the project is critical from a safety or maintenance perspective, the project should be timed to take ministry opportunities into account.

Property Strategy

In order to avoid an ad hoc approach it is wise to have a holistic plan for property management. Ideally this addresses not only routine and anticipated maintenance, but also plans for the future vision for the parish. A consultant can be appointed to advise on long term maintenance needs, however it is suggested that the parish does not commit funds to complex master planning before having a good understanding of the funds likely to be available for building work.

Budget

The ACPT requires the parish has all the funds for a building project (either cash or loan) before a contract is signed, so financing the project is an important consideration. The project costs will be much larger than the contract price as consultants, fit out, approvals etc add to the budget. We advise that the parish conduct a feasibility study before committing major funds to the project. This will help the parish to understand the realistic costs of what is being proposed.

The table below may be helpful in assessing the costs of a project and identifying potential costs. Your ACPT regional manager can assist with estimates for some aspects of the project or you may seek professional advice from a project manager or independent advisor. Before an architect is appointed the parish should be in a position to set the budget for construction as a parameter for the architect.

If the budget relies on a loan, land sale or funds held on trust, please note that an ordinance may be required to allow the funds to be used for the project. Check with your ACPT Regional Manager early in the process to ensure this can be done in a timely way.



Step 2 - Approvals

Discuss the matter with the regional Archdeacon or Bishop

Any proposal to undertake building work should first be discussed with the [Regional Bishop](#). Early consultation with the Bishop is essential to minimise the possibility of unnecessary cost and delays at a later time. In particular, the Regional Bishop can advise about guidelines issued by the regional architectural panel which must be satisfied to obtain its approval for the proposed building works (see step 3 following).

Notify the ACPT

For situations where the ACPT will be entering into the building contract (contracts with a value over \$100,000 incl. GST), or if approval from an authority such as the local council is required for the building work, the [ACPT should be notified](#) (preferably in writing) as early as possible about the proposal. The initial notification need not be detailed or extensive.

Obtaining the approval of the regional architectural panel

The terms of the [Parish Administration Ordinance 2008](#) require a parish wishing to construct or alter a building intended for use as a church or hall, or to construct or effect structural alterations to a house for the use of clergy or other members of the Anglican Church of Australia, to first obtain approval for the proposed works from the regional architectural panel. No building work may commence unless that approval has been obtained. The contact person for each regional architectural panel is the bishop's assistant for the region.

An application for approval from the regional architectural panel is to be lodged with the regional archdeacon or bishop. The application must:

- Be approved by resolution of the parish council of the parish in which the relevant building is (or will be) situated; and
- Be signed by the minister and a majority of the members of the parish council of that parish; and
- Be accompanied by site plans, building plans and specifications in relation to the proposed work; and
- Contain information sufficient to satisfy an architectural panel that arrangements will be made for the proper and adequate supervision of the proposed works.

It should be noted that the Board of the ACPT has determined as a matter of policy that principles of Environmentally Sustainable Design (“ESD”) are to be incorporated into alterations, additions, and construction of new buildings. The regional architectural panel can provide guidance about principles of ESD.

The [Parish Administration Ordinance](#) requires that all site plans, building plans and specifications must be prepared by a suitably qualified person substantially in accordance with the current guidelines issued by the regional architectural panel.

The ACPT will require a letter or email from the chairman of the architectural panel advising the panel’s approval, before the ACPT will execute the development application (if applicable) and any building contract relating to the proposal.

Obtain government authority approval(s)

Approval for building work will generally be required from the local municipal council. This will usually mean obtaining development consent (or sometimes an exempt or complying development certificate) and, a construction certificate. Apart from the development consent, statutory approvals related to and conditional to the major approval may become necessary. These all need to be signed by ACPT representatives.

For example, if it is proposed to build on land which is listed on the local or State Heritage Register, or alter (or even repair) a building listed on such a register, the approval of the Heritage Council of New South Wales will also be required.

If a heritage grant is being applied for to fund or partially fund the work, it is important to note that an approved heritage grant is not considered by the ACPT to constitute “sufficiency of funds” for the ACPT to sign a building contract. Where grant funds will be used to pay for building works, they will need to have been received by the ACPT before the contract can be signed. Alternately a bridging loan can be established to cover the grant until the funds are received.

Signing Development Applications (and other statutory forms)

All applications for approval from local councils and statutory authorities must be sent to the ACPT for signing. Before the ACPT will sign the, “Owner’s Consent” section of a Development Application (DA) or combined DA / Construction Certificate Application, or any other statutory form, the ACPT will require:

- The form itself, filled in and signed by the Applicant (the Applicant should be the Wardens or the Parish’s appointed consultant (eg. Architect). Only the

“Applicant” section should be signed. Do not sign the “Owner’s Consent” section of the form;

- A letter signed by at least two Wardens (scanned by email is acceptable) requesting that the ACPT sign the particular form;
- The written approval of the Regional Archdeacon or Bishop; The written approval letter from the Regional Archdeacon (or Bishop) will usually be the same letter or email that has been issued by the Archdeacon (or Bishop) in his capacity as Chairman of the Regional Architectural Panel
- For projects above \$100,000 and below \$500,000 (GST inclusive) submission of a project cost estimate prepared by the parish ;
- For projects above \$500,000 (GST inclusive) submission of a preliminary cost estimate prepared by a Quantity Survey or an appropriately qualified person.
- Wardens to list the proposed funding sources (whether funds held or the intended fundraising).

Please note the following in relation to council and other statutory forms:

- Regardless of the value of the proposed works, Wardens do not have the delegated authority to sign the “Owner’s Consent” section or field of government or statutory forms (for instance, in the case of Development Applications, the [Local Government Act 1993](#) requires that the “Owner’s Consent” section of the application be signed by the legal owner);
- Forms can be hand delivered by Parish representatives to St. Andrew’s House, however, due to work scheduling arrangements, forms cannot be signed “on the spot”. Please make an appointment in advance if there is a need to discuss the proposed application with the your [ACPT Regional Manager](#);
- Most paperwork received by the ACPT for reviewing and signing is mailed to the ACPT, and can be sent to the following postal address

Anglican Church Property Trust Diocese of Sydney

PO Box Q190

QVB POST OFFICE NSW 1230

- Please ensure that a contact person and daytime contact phone number and email address is included in case the ACPT needs to contact the Parish about the submitted paperwork;
- Do not send blank forms to the ACPT for signature;

- The written approval letter from the Regional Archdeacon (or Bishop) will usually be the same letter or email that has been issued by the Archdeacon (or Bishop) in his capacity as Chairman of the Regional Architectural Panel; and

For Construction Certificate Applications, the completed form (signed by the Applicant) should be send to the ACPT under cover of a letter signed by at least two Wardens requesting that the ACPT sign the Construction Certificate Application.

It should be noted that the neither the signing of a Development Application, nor the signing of a Construction Certificate Application by the ACPT constitutes ACPT approval of the proposed works, or approval for commencement of the proposed works.

For a [Section 4.55 \(previously Section 96\) application](#) (modification to an existing development consent) the Parish will need written confirmation from the Regional Archdeacon or Bishop that the proposed changes will not trigger the need for the proposal to be re-considered by the Regional Architectural Panel. Section 4.55 applications should be prepared and submitted to the ACPT for signature following the same process as the submission of development applications.

The ACPT has prepared a checklist for the lodgement of DA and other Statutory forms with the ACPT for signing.





Step 3 – Preparing and Signing the Contract

The building contract

Contract terms

Parish Wardens are responsible for arranging and negotiating building contracts with contractors and suppliers. Regardless of the value of the proposed works, a written contract will be required.

Consistent with prudent commercial practice, there is an expectation by the ACPT that more than one quotation from reputable, certified, independent tradesmen/consultants will be obtained for all projects in order to benchmark quotations and mitigate the prospect for non market contracts to be entered into.

For contracts

- between \$100,000 and \$500,000 (GST inclusive), ACPT will require that at least two quotations be obtained before a decision is taken to let a contract, and
- in excess of \$500,000 (GST inclusive), ACPT will require that at least three quotations be obtained before a decision is taken to let a contract.

For contracts in-excess of \$500,000 (GST inclusive), evidence is to be provided in the form of a tender summary that at least three quotations have been obtained. As a risk mitigation measure in addition to the competitive quotations, ACPT requires that a preliminary cost estimate prepared by a quantity surveyor or other qualified person be provided prior to submission of the development application.

Industry standard building contracts are required, and are available from:

- [Standards Australia](#);
- [Department of Fair Trading](#);
- [Housing Industry Association](#);
- [Master Builders Association](#); and
- [The Royal Australian Institute of Architects](#)

Advice should be obtained from a suitably qualified and independent architect or solicitor as to the best type of contract to use. Further information can be obtained from the [Department of Fair Trading](#) which can also advise whether a builder is appropriately licensed for the work that is proposed to be undertaken, and

whether any charges or complaints have been lodged about a particular builder's work.

The contract should specify a minimum of 14 days (21 is preferred) payment terms. This is to enable sufficient time for the parish to review invoices and complete payment authorisations before sending them to the ACPT for processing. Payments are only made on two weekdays so we need to receive the documentation as early as possible to ensure prompt payment.

An independent solicitor will need to be engaged by the Parish to review the contract and to supply an "Australian Lawyer's Certificate" to the ACPT. The solicitor acting for the Parish may contact the Regional Manager, ACPT assigned to discuss the general requirements of the ACPT in relation to building contracts and any specific requirements that may also be applicable to the Parish's project. The ACPT can also supply a pro forma "Australian Lawyer's Certificate" for completion by the parish's solicitor. This is also available on the SDS website.

The terms and conditions of the contract should be read carefully and given due commercial consideration. Fixed price (often referred to as "lump sum") building contracts are required. It is a policy of the ACPT Board that Design and Construction ("D&C") contracts - where the final price is unknown - are not be entered into by the ACPT or Parish Wardens.

Residential Construction

The [Home Building Act 1989](#) requires that all residential building work over \$5,000 that is performed under a contract be insured by the builder. The builder must therefore take out and maintain the following insurance policies before a contract can be signed -

- Home building insurance;
- Builder's all risk insurance;
- Public liability insurance (for a minimum of \$10 million) which notes the interest of the "Anglican Church Property Trust Diocese of Sydney"; and
- Workers' compensation insurance.

Certificates of currency on the letter-head of the builder's insurer are to be provided to the ACPT before contracts can be signed.

Non-residential construction

For all non-residential building work a builder must provide insurance for:

- The building work;
- Building materials;
- Public liability insurance (for a minimum of \$10 million) which notes the interest of the Anglican Church Property Trust Diocese of Sydney; and
- Workers' compensation.

Certificates of currency on the letter-head of the builder's insurer are to be provided to the ACPT before the ACPT is asked to sign the building contract.

Defects Liability Period and Contract Security

The ACPT requires the following security be held during construction and for a defects liability period for non-residential building contracts

- The contract must include a security amount equal to 5% of the GST- inclusive contract sum and
- the building contract must include a defects liability period of 52 weeks;

It is critical that the parish communicate these requirements to prospective builders as part of the tender/quotation process.

In relation to the above:

For contracts up to \$500,000 (GST inclusive), cash retention is acceptable as a form of security. The security is to be provided by retention of cash by the ACPT from the first two progress claims – 2.5 % from the first payment and 2.5% from the second - and reflected in the builder's claim documentation.

For contracts above \$500,000 (GST inclusive) bank guarantees are the required method for providing security. Bank guarantees are to be provided by a major Australian trading bank as per the following criteria –

- Two bank guarantees (BG) should be prepared, each BG being equal to 2.5% of the GST-inclusive contract sum;
- Each bank guarantee is to be unconditional and without expiry date;
- The "favourite" is to be named as, "Anglican Church Property Trust Diocese of Sydney" ABN XX XXX XXX XXX [ABN to be provided by ACPT staff upon written application by an authorised parish representative]

Bank guarantees should be prepared and provided to the ACPT before the commencement of construction.

The ACPT will release the first security of 2.5% on the receipt of the occupation certificate. The second security of 2.5% will be released at the successful completion of the defects liability period as assessed and advised by the wardens.

Work Health and Safety

It is also important that builders be responsible for work health and safety matters on that part of the site where construction works are to be undertaken.

The following “principal contractor” clauses are required to be inserted in contracts where the cost of the construction work will exceed \$250,000. If there is any likelihood the contract sum could exceed \$250,000 with approved variations, then ACPT will still require the appointment of the builder as principal contractor, as below.

To ensure that the builder meets all obligations of a work health and safety nature under the *Work Health and Safety Act 2011 (NSW)* and the *Work Health and Safety Regulation 2011 (NSW)* (“**WHS Legislation**”), the ACPT requires that where any “construction work”, including “high risk construction work”, (as those terms are defined under the WHS Legislation) is undertaken, the builder:

- agrees that for the purpose of the WHS Legislation, the builder, has the control of the site where construction works are to be undertaken;
 - must implement procedures, including the preparation of safe work method statements (if applicable), to identify all risks to the health and safety of any person arising from its use and occupation of the site and activities and in carrying out the construction work at the site and take all necessary steps to minimise those risks;
 - must comply with, and ensure that its subcontractors and other persons engaged by the builder comply with, the WHS Legislation;
 - must ensure that it does not do anything or fail to do anything that would cause ACPT to be in breach of the WHS Legislation; and
 - must immediately notify ACPT of any accident, notifiable incident under the WHS Legislation or injury which occurs at the site.
- In addition, where a “construction project” (as that term is defined under the WHS Legislation) is to be undertaken, the builder must also be:

- appointed as the principal contractor for the purposes of the WHS Legislation; and
- authorised to have management and control of each workplace at which construction work is to be carried out and to discharge the duties of a principal contractor under the WHS Legislation.

The builder's engagement and authorisation as principal contractor is to continue until practical completion of the construction works and while ever any defect rectification, that is construction work, is carried out.

Appropriate clauses relating to the above will need to be drafted by the solicitor acting for the Parish, and, negotiated with the builder for inclusion in the contract.

Signing the contract

Any contract to be signed by the ACPT is to be prepared in duplicate (or triplicate) and must be an original (due to Copyright laws photocopied contracts cannot be accepted by the ACPT).

All building plans, specifications, consents etc must also be prepared in duplicate (or triplicate) to match the number of contract counterparts (originals) submitted to the ACPT, and noted in the list of contract documents.

To avoid delays, it should be ensured that the builder has signed all counterparts of the contract before the ACPT is requested to sign.

Before the contract can be executed, your ACPT Regional Manager must have the following documents:

- Letter/email from regional Bishop (representing Regional Architectural Panel) approving the project
- Parish Council Consent (detailing contract specifics and signed by a majority of parish council)
- Warden's Declaration of Sufficient Funds (confirming project funds are to be used for specific contract obligations)
- Australian Lawyer's Certificate (certifying review of contract and explanation to wardens of contract implications)
- Builder's Certificates of Insurance (see above for details)

A separate checklist for contracts to be submitted to the Anglican Church Property Trust Diocese of Sydney is available on the SDS website for your convenience.

Project Funding

If funds already held in trust for the Parish by the ACPT are insufficient to meet the contract price, the wardens must transfer funds to the ACPT to meet the shortfall before the contract can be signed by the ACPT. Alternatively a loan facility controlled by the ACPT can be included in the available funds calculation. Payments can be made by cheque or direct bank transfer. Please contact the staff of the ACPT for more informati

Contingency

For contracts above \$100,000 and under \$500,000 (incl. GST) the ACPT will need to hold funds equal to or greater than the contract value, including the GST and a contingency sum of 5%. For example a building contract with a value of \$400,000 (inclusive of GST) will require a \$20,000 contingency sum (being 5% of \$400,000). Thus the ACPT would need to hold a minimum of \$420,000 in trust for the Parish before signing a \$400,000 (incl. GST) building contract.

For contracts over \$500,000 (incl. GST) the ACPT will need to hold funds greater than or equal to the contract value (incl. GST) and a contingency sum of 10%. For example a building contract with a value of \$1,000,000 (incl. GST) will require a \$100,000 contingency sum (being 10% of \$1,000,000). Thus the ACPT would need to hold a minimum of \$1,100,000 in trust for the Parish before signing a \$1,000,000 (incl. GST) building contract.

For contracts over \$5,000,000 (incl. GST) the ACPT will need to hold funds greater than or equal to the contract value (incl. GST) and a contingency sum of 5%.





Step 4 - Administering the contract

After the ACPT has signed the contract, one counterpart original will be retained by the ACPT, and the second counterpart will be returned to the Parish for handing to the Builder. In instances where the contract has been prepared in triplicate the remaining counterpart can be returned to the architect or parish.

All tax invoices must be issued by the builder with the following details

Anglican Church Property Trust Diocese of Sydney

PO Box Q190

QVB POST OFFICE NSW 1230

-so that the ACPT can claim any available input tax credits on behalf of the Parish. Input tax credits will be returned to the parish client fund held in trust for the parish by the ACPT and used to pay subsequent invoices

It should be carefully noted that all tax invoices (even though addressed to the ACPT) must be first sent to the Parish so that the Wardens can approve payment by the ACPT.

If tax invoices are sent directly to the ACPT by the Builder, a delay in payment will result as the ACPT will still be required to seek approval from the wardens before the payment can be processed. If the wardens choose, they can nominate, in writing, delegates (project manager with a single warden) to authorise payments at the start of the project.

wardens execute a contract for repairs or renovations (under \$100k inc GST contracts), all tax invoices must be issued by the builder in the name of the parish or church so that the parish or church can claim any available input tax credits. If the Wardens are making payments directly to the builder they should ensure that they comply with the Australian Taxation Office's requirements regarding GST and Pay-as-You-Go (PAYG) withholding tax.

A [Payment Authorisation](#) form is to be used for all claims sent to the ACPT for payment or reimbursement.

Variations

The need for variations can arise after the signing of the contract and commencement of the project works. While variations can be negotiated by wardens (or the project architect or manager as applicable), only the ACPT can approve variations. A proposal for a variation should be submitted to the ACPT by email or by post, with a request signed by at least two wardens. If the variation cost is equal to more than 5% of the contract price, the wardens may also be required to provide independent advice on the value of the variation works. If sufficient funds are not already held by the ACPT to cover the variation cost, the parish will be required to forward additional funds to the ACPT.

Your ACPT Regional Manager will advise the parish of the approval of any variations in writing. The wardens are not to accept variations without ACPT approval.

Post construction

Local councils are responsible for issuing fire safety schedules detailing Essential Fire Safety Measures (“EFSM”) for new or modified buildings. In the context of building work, it is a legal requirement that a [fire safety](#) schedule (of existing and proposed EFSM be attached to the construction certificate (or complying development certificate) for any applicable class of building. The ACPT is required to sign the statement as legal owner of the property. A copy of the fire safety schedule must be sent to the ACPT

When the occupation certificate is issued by the certifying officer, it is essential that your ACPT Regional Manager be notified so the property insurance can be updated. If there are any new fixtures, fittings or contents which the parish would like to have included on the insurance schedule, please send a list through to us as well.

The occupation certificate is also the trigger for the first security release to the builder. If there is any reason the parish feels that it is not appropriate to return the security to the builder, please inform your ACPT Regional Manager as a matter of urgency.

Contracts where third parties are involved

Occasionally a parish may want to allow a third party to undertake building work on parish land. A typical example might be where a parish has two halls, one of which is used by a pre-school pursuant to a licence agreement between the pre-school and the ACPT. The pre-school may have approached the parish with a proposal to refurbish the hall, install a new kitchen and toilets and carry out various other minor improvements.

In this situation it is important to note that (generally speaking) all building improvements will be held in trust for the parish, not the third party that has paid or contributed towards those improvements.

Under such circumstances, it is also important that parish representatives be aware of the risk that the offer of new facilities may cloud sound judgement.

Proposals submitted by third parties should be discussed by parish representatives with the ACPT Regional Manager before any commitments are made or given. There will be a number of issues specific to each set of parish circumstances that will arise and that will need to be properly addressed before the proposed works can proceed.

If you have any questions about the Parish Building Kit or would like to report any faulty or broken links please email the ACPT at <https://www.sds.asn.au/contact-us>.

CONTACT US

The following SDS staff can help with parish property and insurance related inquiries:

Western, South Western and Wollongong Regions

Scott Lincoln

sxl@sydney.anglican.asn.au 02 9265 1633

Northern and South Sydney Regions

Vacant

Insurance

Cindy Wong

cpw@sydney.anglican.asn.au 02 9265 1679

The contents of this document are for general information only. No person should rely on the contents of this document without first obtaining advice from a qualified professional person. Neither the Anglican Church Diocese of Sydney nor any organisation thereof is responsible for the results of any action taken on the basis of the contents of this document, nor for any error in or omission from this document.
