

Anglican Church Property Trust Diocese of Sydney (“ACPT”) Purchase of Land Policy

Name of Policy

1. This policy is the, “ACPT Purchase of Land Policy”.

Commencement of Policy

2. This policy is effective 28 July 2017.

Delegation

3. SDS management is authorised to execute a contract for the purchase of land under power of attorney – or in the case of a proposed purchase by auction, SDS management is authorised to prepare auction letters – pursuant to the terms of this policy.

Scope of Policy

4. A proposed purchase of land will fall within the scope of the ACPT Purchase of Land Policy if the Conditions Precedent following have been satisfied. Where land is to be purchased at auction, certain additional requirements are noted.

Conditions Precedent

5. The following documents / requirements are the Conditions Precedent for a proposed Purchase of Land –
 - a) *Current trust instrument* authorising the proposed purchase, ie. An ordinance or Will with current purchase authority ¹;
 - b) *Parish Council Consent* signed by a majority of the Parish Council of the Parish;
 - c) *Declaration of Sufficient Funding* signed by at least two of the Parish Wardens, noting that unless sufficient cleared funds and/or an unconditional/irrevocable security deposit bank guarantee from a financial institution acceptable to the Head of Parish Property, is held by the ACPT for the purchase price, stamp duty and other purchase costs (including GST, if applicable) the ACPT will be unable to sign a purchase contract, or authorise the purchase of land at auction, unless written confirmation has been received from the lending institution that the loan is approved and that it can be drawn down by the ACPT when required;
 - d) *Australian Lawyer’s Certificate* supplied by the Australian Lawyer acting for the Parish/ACPT, noting that all legal/related purchase costs are to be met by the parish;
 - e) *Valuation* provided by a registered independent valuer, noting that for the proposed purchase to proceed the purchase price is not to be greater than 5% above the valuation figure. Under the rare circumstances where a purchase by a parish is proposed for a price that is greater than 5% above the valuation figure the Chair (or if the Chair is unavailable, the Deputy Chair) is authorised to approve such a figure ;

¹ A sale ordinance may specify, inter alia, that certain sale proceeds be applied towards a purchase. However, there is no general requirement for there to be an ordinance authorising a purchase if a parish determines to purchase land, is able to supply sufficient funds to the ACPT for the cost of purchase, and can satisfy all other ACPT conditions precedent for a proposed purchase of land.

² For the purposes of the Policy an independent valuer will be an Australian registered valuer or valuation provided by RF Data Pty Ltd (only for residential property sales).

³ The same principle applies to proposed auction purchases. Thus, auction authority letters are to limit the bid of the Wardens to a price no greater than 5% above the valuation figure, unless otherwise authorised by the Chair (or Deputy-Chair acting in their stead) with other conditions-precedent still being applicable.

- f) *Written approval* of the Regional Bishop or assistant to the Regional Bishop to purchase the land; and
- g) *Settlement period* – the completion date of a purchase contract is to be not greater than 6 months from the date of exchange unless approved by the ACPT Board.

Additional requirements for proposed auction purchases

- 6. Before property can be purchased at auction, the following additional requirements apply before SDS management is empowered to issue letters authorising a proposed auction purchase –
 - a) The lawyer acting for the parish / ACPT is to review the draft contract and provide an Australian Lawyer’s Certificate to the ACPT before the proposed auction date; and
 - b) In lieu of a Parish Council Consent form, the Wardens of the Parish are to provide a signed consent and declaration form that consents to the ACPT authorising a proposed purchase at auction including issuing auction letters.

Other requirements

- 7. Prior to settlement the lawyer is required to provide an Australian Lawyer Certificate (click <https://www.sds.asn.au/australian-lawyers-certificate> to download document). On completion (settlement) of the purchase, the lawyer acting for the parish / ACPT will be required to provide the following original documents to the ACPT in relation to the land purchased –
 - Certificate of Title;
 - Survey (the cost of the survey is to be met by the parish);
 - Sewerage Service Diagram; and
 - Building & Section 149 certificate
- 8. If a parish proposes to mortgage land to secure a loan for a proposed purchase, then a mortgaging ordinance will need to be passed by the Standing Committee of Synod prior to contract exchange;

Purchases for Diocesan Organisations

- 9. Where the ACPT is proposed to be the purchaser of land on behalf of a diocesan organisation, this ACPT Purchase of Land Policy still applies, except in lieu of Parish Council Consent, the Chief Executive Officer (or equivalent position) of the diocesan organisation is to provide reasonable written evidence that the proposed purchase has been approved by the governing board or committee of that organisation.

Review of Policy

- 10. Unless reviewed earlier, this policy is to be reviewed by the ACPT Board during 2020.

Policy Status

Effective	13.6.2013
Board approval	28.7.2017
Revised	28.7.2017
Review date	July 2020