

**The Syro Malabar- Eparchy of St Thomas the Apostle, Melbourne**



**Property Council guidelines**

# Table of Contents

<b>Preamble</b>	<b>2</b>
<b>Property Services – What do we provide?</b>	<b>2</b>
<b>Stewardship and Extraordinary Administration</b>	<b>3</b>
<b>The Trustees of the Syro-Malabar Eparchy of St Thomas</b>	<b>4</b>
<b>Eparchial Procedure for Extraordinary Administration</b>	<b>4</b>
<b>Custody of Documents</b>	<b>5</b>
<b>Valuation Advice</b>	<b>5</b>
<b>Land Acquisition</b>	<b>5</b>
<b>Goods &amp; Services Tax (GST) &amp; Real Property</b>	<b>5</b>
<b>Rates &amp; Taxes</b>	<b>6</b>
<b>Insurances</b>	<b>6</b>
<b>Finances</b>	<b>6</b>
<b>Application Forms</b>	<b>7</b>
<b>Approvals</b>	<b>7</b>
<b>Annexures</b>	
<b>Application to Purchase Property</b>	<b>8-11</b>
<b>Application to Lease Property</b>	<b>12-14</b>
<b>Application to Sell Property</b>	<b>15-17</b>
<b>Document check list</b>	<b>18</b>

## 1. Preamble

This Property Council guidelines has been prepared in order to assist Parishes and other bodies within the Syro Malabar- Eparchy of St Thomas in dealing with their respective property issues. The Property Services team provides a range of services to serve the Eparchy and is available to help you with your property questions.

The information provided in this resources manual streamlines the Eparchial procedures relating to property matters. Please read carefully the information relevant to the transaction you wish to undertake. If you still have queries Eparchial property council is available to assist.

Our office is located at 5 Clifton Grove, Preston, 3072 and all correspondence should be sent to Attention: Property Council .

Contact details are Tel: (03) 9480 5379

Email: office.melbourne@syromalabar.org.au

## 2. Property Services – What do we provide?

The Property Council department provides support to the Bishop, Parishes and other Church organizations within the Eparchy with specialist professional and reliable **advice** over a wide spectrum of property related issues including:

- Purchase of property (property search, procurement and review of valuation advice, due diligence, negotiation, conveyancing etc...)
- Leasing / Licensing to or from other bodies
- Project Management of Land subdivision and other development
- Advice and assistance on heritage and planning matters (for example town planning applications, objections, rezoning applications / planning scheme amendments...)
- Advice on how to maximize the utility of property in a mission context
- Central repository for all information and records for property held by The Trustees of the Syro-Malabar Eparchy of St Thomas.
- Advice on all other property related issues (fencing, adverse possession claims, site remediation, legal matters etc.)
- Sale of property (utilizing highest and best use practices, negotiation and appointment of agent, preparation of contracts, valuation advice, conveyancing etc.)

## 3. Stewardship and Extraordinary Administration

Independent of any secular power, the Eparchy has the inherent right, to acquire, retain, administer, and alienate temporal goods in pursuit of its proper objectives (c. 1254).

Temporal goods are in essence the assets and property held in common stewardship for the benefit of the Church and furtherance of its earthly ministry. The Bishop supports the concept of

proper stewardship of temporal goods and the important function that , Property Council provides in the assistance to Parishes in the delivery of this objective.

The role of Property Council is to serve the Eparchy .

#### **4. The Trustees of the Syro-Malabar Eparchy of St Thomas ABN 67 291 009 733 (TSMET)**

While at Canon Law a Parish Priest is the administrator of the Parish and therefore has the authority to convey, assign or transfer property, legislative provisions in Roman Catholic Church Trust Property Act 1936 No 24 [NSW] provide that all property of the Eparchy is held by **The Trustees of the Syro-Malabar Eparchy of St Thomas**. The effect of this legislation is that only **TSMET** have the authority to execute documentation pertaining to property utilized by the Eparchy that is valid in Civil Law. Those documents include but are not limited to lease agreements, mortgages, licenses, contracts of sale, covenants, easements, and town planning applications amongst others.

The **TSMET** is also the legal entity upon which it initiates and defends any legal action in the name of the Syro Malabar- Eparchy of St Thomas and upon that land which it holds under trust. The execution of the documents relating to property will be facilitated by Property Council, providing that procedures outlined in this manual have been adhered to and necessary approvals granted.

#### **5. Eparchial Procedure for Extraordinary Administration**

The following information provides the procedure for applications to sell, purchase and lease / license property:

1.1 Parish Priest consults with the Parish Council / Committee and passed a majority resolution.

1.2 Complete appropriate Application Form

1.3 Submit completed Application Form together with covering letter addressed to the Bishop for approval. If you need help preparing your proposal please contact Property Services.

1.4 The Bishop will forward the proposal to the Property Council for their consideration

1.5 Property Council consults with Parish, appraises proposal and offers advice. Property council may seek legal, town planning and valuation reports prior to preparing a report to Bishop.

1.6 Property Council prepares a report on the proposal which is then distributed to the Bishop and Vicar General. The report offers a recommendation as to whether the proposal should be accepted.

1.8 The Bishop's approval, should he give it, takes the form of a letter to the Parish Priest informing him that approval has been granted and that the proposal may commence.

Any lease / license proposed with a lease term in excess of nine years requires the same permission as for acts of extraordinary administration.

Those lease / license proposals less than nine years require the consideration of the Property Council.

## **6. Custody of Documents**

All original documents and other pertinent contractual documentation will be held by Property Council for safekeeping. Property Council at request can provide a copy of these documents.

## **7. Valuation Advice**

The provision of expert valuation advice is routinely sought by Property Council for and on behalf of Parishes to assist in purchase and sale, pre-purchase advice, GST margin scheme assessments, compensation and rental advice. The alienation or “transfer of ownership” or any transaction which may jeopardize ownership of Church property (which includes the leasing of a property) is subject to Canon Law. For an alienation to be valid there is a requirement amongst others for “written expert valuations of the goods to be alienated” (c.1293).

To accord with the norms of Canon Law, any report submitted by Property Council on behalf of a Parish or other body seeking approval for alienation (including acquisition submissions) incorporates a primary Eparchial valuation assessment.

While valuation advice may be sought directly by the Parish, preferably it should be obtained by Property Council, noting that the latter has familiarity in appropriately instructing valuers and reviewing the advice undertaken for specific purposes and property types. Please contact Property Council if you need assistance in this regard.

## **8. Land Acquisition**

While considering the plethora of regulatory approvals to construct a place of worship, it is suggested as far as possible the parishes should avoid buying land for construction of church. It is advisable to buy properties which already have place of worship or place of assembly permit. It also advisable to buy properties connected with all services such as water, power, gas, storm water and sewer.

## **9. Goods & Services Tax (GST) & Real Property**

Since the introduction of the Goods & Services Tax (GST) on 1st July 2000, The Trustees of the Syro-Malabar Eparchy of St Thomas and Parishes within the Eparchy may be liable to pay GST to the Australian Taxation Office (ATO) on its sales or leases of property and, where entitled, can claim back amounts paid in respect of GST by way of input tax credits from the ATO on its purchases. Property Council will assist Parishes in procuring advice to best determine how to treat various property related dealings and transactions from a GST perspective.

## Property Acquisition & Sale

As the **TSMET** holds legal title to property within the Eparchy , it is also treated as making the supply when selling property on behalf of a Parish. Accordingly, Property Council will issue tax invoices relating to the supply in the name and ABN of the **TSMET** in its capacity as trustee. The **TSMET** will also pay the relevant amounts in GST (and claim the relevant input tax credits) to the ATO in respect of property sales.

## Lease & License

With respect to the making of a supply under any lease or licence of property held on trust to third parties, the Parish will be directly responsible for the issue to third parties, in its Parish name, all tax invoices and adjustments relating to the supply. The Parish will also pay the relevant amounts in GST (and claim the relevant input tax credits) to the ATO in respect of leasing activities.

## 10. Rates & Taxes

Exemptions apply under varying legislation for properties that are used for religious, educational and charitable purposes. Such levies may include council rates, stamp duty and land tax. Property Services will co-ordinate the application for these exemptions at the time of acquisition, where applicable.

## 11. Insurances

Generally, the purchaser of property takes possession & title to the property as at settlement. To avoid any possibility for loss, it is recommended that Parishes obtain appropriate property insurance coverage no later than 5 days prior to settlement. An insurance cover note should be arranged with an insurance company or an insurance broker, the sum insured being the estimated replacement cost of the building and its contents.

The cover note should be in the name of the Parish when a policy application is made. Catholic Church Insurances (CCI) offers competitive rates for insurance.

## 12. Finances

To borrow funds for the purchase of property (assuming Bishop approval has been given) the buyer should contact the Catholic Development Fund in their respective regions as soon as possible to arrange financial approval. The Fund's Melbourne website [www.melbcdf.com.au](http://www.melbcdf.com.au), has online information and tools to assist the purchaser to determine your borrowing needs . CDF offers competitive interest rates.

### **13. Application Forms**

In order to facilitate the various property transactions undertaken by Parishes, Missions and other bodies within the Eparchy it is essential that care be given to completing the correct application form. There are individual application forms for the following:

1. Approval to purchase property
2. Approval to lease / license
3. Approval to sell property

The following application forms and procedures have been established to accord with Canon Law and assist the Eparchy in its consideration of all proposals. With a complete application being filed, two month's advance notice is required for the required approvals to be obtained from Bishop.

### **14. Approvals**

An approval for the proposed sale, purchase, lease or license of land:

14.1 Operates from the date on which the approval is granted, unless another date is specified in the approval; and

14.2 Expires if the proposal is not effected (as evidenced by the absence of executed documents within 12 months after the date on which the approval commences), unless another date is specified in the approval. Before an approval expires, the Bishop may grant an extension of time to complete the proposal, at his absolute discretion. If time is extended, the extension operates from the day the approval expires and is for the period stated in the Bishop's correspondence.

## Annexures

### Application to purchase property

Please read the notes below before completing the attached application form.  
Any queries relating to this application should be directed to the Eparchial Property Council.

1. All applications must have the approval of the relevant authority (Parish council, Parish Priest/Chaplain)
2. All sections of the application form (where relevant) must be completed.
3. No negotiations can commence until such time as all approvals have been granted.
4. Any Contract of Sale must be signed by **The Trustees of the Syro-Malabar Eparchy of St Thomas** for the Eparchy . Only **Trustees of the Syro-Malabar Eparchy of St Thomas** have the authority to execute these documents.

<b>1. APPLICANT:</b> (Name and address)	
<b>2.PROJECT SUMMARY</b>  A. Location and description of property including real estate agent contact details	



**B. Background  
Information**

(state reasons for seeking  
to acquire this property)

<p><b>C. What is the estimated purchase price and capacity to finance the acquisition?)</b></p>	
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<b>3. PROPOSED DATE OF ACQUISITION</b>	
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<b>4. CONSULTATIONS:</b>		
Parish council approval	YES	NO
Town Planner - Town planning report	YES	NO
Legal advise - Conveyancing Solicitor	YES	NO
Valuation	YES	NO
Architect - for any concept sketch	YES	NO
Pre purchase meeting with council	YES	NO

<b>5. FUNDING</b>	<b>Amount \$</b>
Parish cash reserve	
Loan amount	
Others	

<b>6. FINANCIAL FEASIBILITY</b>	
Has the previous year's Parish Annual Report been submitted to the Eparchial Office?	YES NO
Has the five year Cash Flow Report been submitted to Eparchial Office? (Please submit with application)	YES NO
Has an application been made for a loan through the CDF?	YES NO

<b>7. SIGNATURE AND AUTHORITY OF PERSON MAKING APPLICATION</b>
Name (Please Print)
Signature
Authority (Parish Priest/Chaplain)

## **Application form to lease property**

Please read the notes below before completing the attached application form.  
Any queries relating to this application should be directed to the Eparchial Property Council.

1. All applications must have the approval of the relevant authority (Parish council, Parish Priest/Chaplain)
2. All sections of the application form (where relevant) must be completed.
3. No negotiations can commence until such time as all approvals have been granted.
4. Any Contract of lease must be signed by **The Trustees of the Syro-Malabar Eparchy of St Thomas** for the Eparchy . Only **Trustees of the Syro-Malabar Eparchy of St Thomas** have the authority to execute these documents unless a power of attorney has been granted for lease period less than 9 years.

<b>1. APPLICANT:</b> (Name and address)	
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<b>2.PROJECT SUMMARY</b>  A. Location and description of property including real estate agent contact details	
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<p><b>B. Background Information</b> (state reasons for seeking to lease this property)</p>	
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<p><b>C. What is the estimated term of the agreement, anticipated rental and requirement for any special conditions?</b></p>	
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<b>3. PROPOSED DATE OF LEASE</b>	
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<b>4. CONSULTATIONS:</b>	
Parish council approval	YES      NO

<b>5. SIGNATURE AND AUTHORITY OF PERSON MAKING APPLICATION</b>
Name (Please Print)
Signature
Authority (Parish Priest/Chaplain)

## **Application to alienate/sell property**

Please read the notes below before completing the attached application form.

Any queries relating to this application should be directed to the Eparchial Property Council.

1. All applications must have the approval of the relevant authority (Parish council, Parish Priest/Chaplain)
2. All sections of the application form (where relevant) must be completed.
3. No negotiations can commence until such time as all approvals have been granted.
4. Any Contract of Sale must be signed by **The Trustees of the Syro-Malabar Eparchy of St Thomas** for the Eparchy . Only **Trustees of the Syro-Malabar Eparchy of St Thomas** have the authority to execute these documents.

<b>1. APPLICANT:</b> (Name and address)	
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<b>2.PROJECT SUMMARY</b>  a). Location and description of property including real estate agent contact details / bank details	
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**b) Give reasons for alienation and purposes to which the proceeds will be put**



<p><b>c). What is the estimated net proceeds of sale? (Please contact Property Council to assist in determining the market value of the property.)</b></p>	
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<b>3. PROPOSED DATE OF SALE</b>	
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<b>4. CONSULTATIONS:</b>	
Parish council approval	YES      NO

<b>5. SIGNATURE AND AUTHORITY OF PERSON MAKING APPLICATION</b>	
Name (Please Print)	
Signature	
Authority (Parish Priest/Chaplain)	

## Document checklist

Completed Application Form	
Latest two years Annual Financial Statement	
Five (5) year cash flow (incorporating proposed project)	
Cost Plan Estimate	
Contract of sale	
Drawings	
Site/master plan	
Floor plans/elevation	



Bishop Bosco Puthur