

## **POLICY DOCUMENT**

### **BAPTIST CHURCHES OF NEW SOUTH WALES PROPERTY TRUST**

#### **Funding a pastor's housing allowance from the proceeds of the sale of a manse**

When a manse is sold, the local church usually purchases another property. The decisions on this are entirely in the hands of the local congregation which will direct the Property Trust on the sale price, the new purchase price, any new mortgage finance and other such details. This of course is perfectly consistent with Baptist Churches of New South Wales Property Trust Act 1984 which lists the purposes for which such trust funds can be used as follows:

1. The improvement of trust property (e.g. repair, enlargement, erection of a church, a school on church property, or a manse)
2. The purchase of another property
3. Those purposes which are ancillary to the attainment of the following objects:
  - a. The public worship of God according to the usages of (meaning "practices accepted within") the Baptist denomination.
  - b. The instruction of children or adults, or both.
  - c. The provision of a residence for a Baptist pastor or a person employed in the work of a Baptist Church or other work connected with the Baptist denomination.
  - d. The provision of recreational and community welfare services ancillary to the work of a Baptist Church or other work connected with the Baptist denomination.
  - e. The promotion of such religious or philanthropic purposes as the Executive Committee of the Baptist Union of NSW from time to time determines.

Investment of the proceeds of sale in the purchase or improvement of church property is clearly what was primarily intended by the denomination when it framed the prescribed purposes listed above.

Sometimes however (and over recent years, increasingly often) the local church may not wish to purchase a new manse, either immediately or at all. There can be many reasons for this. The pastor may have decided to purchase a home in the district for occupation by the pastor and family. The church may wish to invest the net proceeds of sale and use those proceeds for a housing allowance, or to otherwise subsidise the pastor's stipend, or perhaps to rent another property in order to house the pastor.

Please note that funds from the sale of property, in the name of the Property Trust as trustee for the church, if not simultaneously applied in the purchase of other property, must be held in an account or other trustee investment, with at least 2 members of the Property Trust as essential signatories.

The church may direct the Property Trust to approve the use of the capital and any investment income (interest etc) for any purpose as set out in Baptist Churches of New South Wales Property Trust Act 1984. Is its use for stipend or housing allowance an approved purpose under the Act? As presently advised, the Property Trust believes that it

can be so, if it is “for the public worship of God according to the usages of the Baptist denomination”.

It is important to understand however, that the use of capital (and income) for the payment of current outgoings, such as stipend, introduces an additional element which the Property Trust (as trustee of the funds) must take into account, namely that it is possible to use up or spend the fund so that it is dissipated either substantially or entirely over time. The Property Trust accordingly has a duty to enquire into, or question, the direction of a church in any such case.

For the assistance of churches, the Property Trust has resolved to adopt a general policy which is set out below.

In the case of a church wishing to use funds from the sale of property to pay a housing allowance to a pastor buying or renting a home, the trust would consider the following –

1. Are the proceeds of sale likely to be dissipated (i.e. the value significantly diminished) without reasonable prospect of replenishment? Is there a prospect that the church might cease to exist some years down the track? Does the church have a viable strategy and plan for the future? The Property Trust may need to request the church to obtain a report on its ministry from the Ministry Support & Development Council (MSD) advising whether the strategy of the church is feasible for growth. The Property Trust may also need the church to obtain and submit expert reports on other relevant matters, such as real estate opinions, valuation certificates or development advice.

The legal opinion of Mr. R. Ellicott QC (see the Summary under the Heading “The Obligations of Members of Local Churches in Relation to Baptist Church Property” at [www.nswactbaptists.org.au](http://www.nswactbaptists.org.au) ) confirms that funds, including the purchasing power of such funds, should not be dissipated, particularly where the church does not have a viable plan for the future. In such circumstances, and where there is no reasonable prospect of the church continuing in existence, the capital from the sale of property could be used up in running expenses, such as salaries and maintenance. Approval of the release of funds would be unlikely in these circumstances.

2. Is the capital from the sale proceeds being preserved? While the Property Trust may approve payment from the investment earnings of the sale proceeds, it would be very reluctant to allow the housing allowance to be paid from the capital.

3. Is the purchasing power of the sale proceeds being maintained? In other words – is the church’s stewardship of the sale proceeds such that the church will be able to purchase an equivalent property in the future, if it so chooses? The church may be in a very comfortable cash position after the sale of a manse. However it is possible or even likely that the church may have to purchase another manse some years later under a different pastorate and proceeds from the sale of the original manse may turn out to be only a fraction of the funds required to purchase even the same property ten years later.

The Property Trust would encourage churches selling a manse to endeavour to grow the capital for a future property purchase. The Property Trust acknowledges the financial stresses which can arise in the local church scene, and it will try to help, but its trustee duties might mean that it cannot approve the use of all the investment income as a housing allowance.

4. Does the housing allowance represent a fair agreement? In other words is the amount to be paid as an allowance unreasonably advantageous or disadvantageous to either the church or the pastor?

The level of allowance recommended by the Baptist Association and comparative house rental values would be measures of the fairness of the payment.

5. How long is the payment required? A housing allowance would normally be considered a budget item and the church would need to consider at what point the allowance could be paid from budgeted income (offerings) rather than investment money.

It is likely that any payment approved by the Property Trust would have limited duration (perhaps one to two years) and be reviewed after that time.

Please note that the Property Trust has no financial interest in any of these matters and no desire to have control over church activities and finance. The Property Trust will examine all proposals, particularly bearing in mind that often there are changing worship and ministry models in our churches. However, in its role as trustee, the Property Trust is bound to interpret and abide by all the requirements of its own Act as well as the Trustee Act NSW (which applies to all trustees), and the general law (which also applies to all trustees). The advice given in this article is intended to give some insight into the ideas and policies which will influence the Property Trust in making its decisions as to the permissible uses of the proceeds of sale of a manse.

Note: Although this Policy refers to manses, the same principles apply to the proceeds of sale of any church real estate.

Adopted: 10 April 2008

Updated: October 2020.