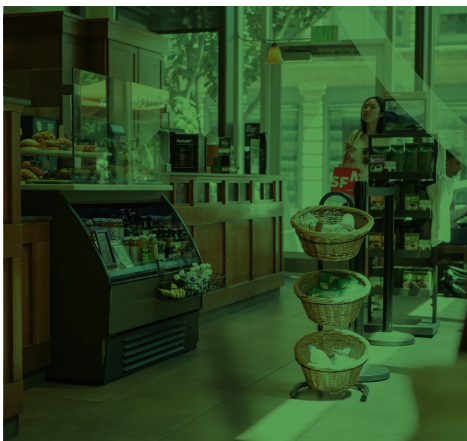
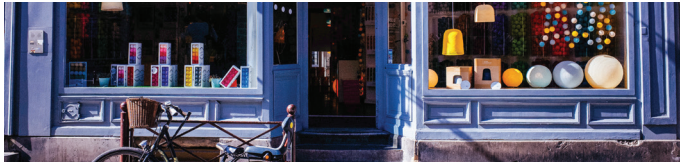




PREPARING BUILDINGS FOR COMMERCIAL LEASE





Leasing out of missional buildings for commercial use can provide congregations with a sustainable income stream to fund mission.

There are some key considerations in preparing and negotiating a commercial property for lease.

What Are the Types of Commercial Leases?

► Retail Lease

is where a tenant has exclusive use of a fit for purpose premises from which goods or services are being (or will be sold) to the public. The Church must offer the lease in accordance with the *Retail Leases Act 2003 (Vic)* or *Fair Trading (Code of Practice for Retail Tenancies) Regulations 1998 (Tas)*. The building must be maintained in the same condition as the premises were in when the lease was entered into. The church council is responsible for maintaining the Essential Safety Measures.

► Non Retail Commercial Lease

is where a tenant has exclusive use of a fit for purpose premises that will **not** be used to sell goods or services to the public. Lease provisions are largely open to negotiation in terms of who maintains the building, however, landlord responsibility for structural repairs of inherent defects can remain. The church council is responsible for maintaining the cost of **Essential Safety Measures** and the **Annual Essential Safety Measures Report** even if the tenant arranges the compliance servicing.

► Commercial Ground Lease

involves leasing land which may be offered with existing buildings. A ground lease usually involves a long-term agreement. A commercial ground lease enables the lessee to largely develop the land under agreed conditions, therefore a ground lease is suitable only when a church council does not hold a vision for the existing building or site, but wants to retain responsible body status. Under a ground lease the lessee is in control of the site and is required

to meet all of the responsibilities ordinarily of the landlord, ie the lessee is required to maintain a 'fit for purpose' premises compliant to the legislation. The lessee is also required to meet all of the obligations for structural repairs and Essential Safety Measures.

What Is Meant by Fit for Purpose?

Fit for purpose describes an appropriate and satisfactorily maintained building in good repair and meeting all duty of care obligations for a safe and accessible building. Arranging a professional assessment of a building for structural defects and compliance upgrades will assist the church council in understanding what work will be required prior to leasing and what allowances need to be set aside in future budgets for long term maintenance.

Why Are Essential Safety Measures Necessary?

Essential Safety Measures is the responsibility for the upkeep, management and maintenance of all safety protections for persons who use the building. This includes items such as emergency exit signage, lighting, firefighting equipment, fire and emergency exit doors, smoke alarms, paths of travel to exit, fire sprinklers to name just a few.

How Do I Manage Asbestos?

Asbestos management obligations are mandated under the *Occupational Health and Safety Act 2004* and the *Occupational Health and Safety Regulations 2007*. In preparing a building for commercial lease, a Division 5 Asbestos Register must be prepared with the assistance of the Synod OHS Safety Officer. It is an obligation of the church council to provide the Asbestos Register for the knowledge of the tenant and their workers. A Division 5 Asbestos Register must be updated every five years or upon any alteration to the building. Any damaged or loose asbestos must be removed by a licensed asbestos removalist and a clearance inspection certificate provided by an occupational hygienist, prior to the commencement of a lease agreement.



Will the Tenant Need Statutory Approval for Their Business Operation or Fitout?

The obligations to town planning and authority approvals, including obtaining building permits, will depend upon the circumstances of use and fit out of a building. Generally the tenant remains responsible for the approved type of use, however always seek the assistance of Property Services for advice. Legislation requires compliance with current requirements whenever any building upgrades, change of use or major works are being undertaken. In addition, when new work is being undertaken within an existing building, those parts of the building not being changed may also require upgrades to comply with the current requirements. This includes disability access and egress obligations.

It Is Necessary to Consult on All Lease Arrangements?

All lease arrangements need to be carefully considered and negotiated to ensure that the

decision to lease out the missional building or land will align to the missional objectives of the congregation and not put at risk the Church. All lease agreements are entered into with The Uniting Church in Australia Property Trust (Victoria) and can only be signed by the Synod Property Officer. Church councils need to be aware there may be costs that cannot be passed on to the tenant which will impact the capacity to fund mission commitments. It is essential the lease terms retain the ability of the Church to utilise the property for an alternative missional use at some time in the future.

The Federal Government Commercial Building Disclosure (CBD) program requires lessors of commercial buildings of 1000m² or more to obtain a Building Energy Efficiency Certificate (BEEC) before the building is marketed for lease or sublease. The building's NABERS Energy star rating, from the BEEC, must be included in any advertising material for lease or sublease of the building or office space.

PLANNING COMMERCIAL LEASING

