Uniting Church. **Uniting People.**

PROPERTY BY-LAW 18.5

Note: The comments, which are not part of the by-law, are intended to help readers understand and use the by-law and policy, e.g. by providing background information.

PROVISIONS	*COMMENTS*
A. Objects	
1. To support the implementation of our belief that all our church property belongs to God. 2. To provide a framework for the use and sale of property which is based on the principle that all property must best serve the mission of God. 3. To enable the Uniting Church to respond effectively to social change, population growth, changes in its distribution and increases in its diversity in ways which promote justice and equity. 4. Through partnership, to discern God's will for the life of worship, witness and service of each Congregation and the implications for property. 5. To enable Congregations to be faithful to their forebears' vision and missional purposes rather than to their buildings. 6. To take local circumstances into account by incorporating appropriate flexibility and local choice. 7. To provide definitions of terms and procedures which are aligned with the Regulations.	
B. Definitions	
In this By-law, unless the context or subject matter otherwise indicates: Congregational Property is classified as available for **Alternative Missional Use** if the Synod or Synod Standing Committee in session resolves to make such classification following the process defined by Regulation 4.11.10 (a). **Approved Adaptation** is the adaptation of Congregational Property, including newly purchased Congregational Property, using Property Sales Proceeds for which the adaptation is part of a Property Proposal approved by the Resources Board. **Approved Construction** is the construction of any Building on Congregational Property using Property Sales Proceeds for which the construction is part of a Property Proposal approved by the Resources Board. **Approved Debt** is debt incurred by a Congregation to fund Capital Expenditure provided that the reduction or elimination of the debt using Property Sales Proceeds is part of a Property Proposal approved by the Resources Board. **Approved Projects** are New Church and Ministry Development Projects approved by the process prescribed in clause F 5.	This Regulation is very long. This process identifies underutilised property.

PROVISIONS	***COMMENTS***
Approved Purchase is the purchase of property or an interest in property or a long term lease of property using Property Sales Proceeds for which the purchase or lease is part of a Property Proposal approved by the Resources Board.	Must be read in conjunction with section D. "Interest in property" allows a rural congregation to sell its property and buy an 'interest' in another local property, for example. Appropriate agreements would have to be developed with involvement of Property Services prior to gaining approval. "Lease" similarly.
Boundary Value means a value which divides one condition from another.	For example, the value which divides Tier 1 from Tier 2 in funds allocation.
Building includes any building used solely or in part for educational, charitable, social, residential, business, commercial or professional purposes.	From Regulation 4.1
By-law means this Synod By-law.	
Capital expenditure is defined as expenditure on building upgrades, non-routine major maintenance and new building work including routinely associated furniture, fittings and equipment but does not include expenditure to meet stipends, staff costs, existing mission activities, ongoing programs and operations and routine maintenance.	E.g. Painting the outside of a Church building is 'routine maintenance' whereas replacing major air conditioning plant when at the end of its useful life is capital expenditure.
Church Building means any building ordinarily used for the holding of services for the worship of God.	From Regulation 4.1
A **Closed Congregation** is one for which the processes defined in Regulation 3.4.3 have been completed.	Related Property Proposals will not be enacted until closure is final.
Congregation, as the embodiment in one place of the one holy catholic and apostolic church, means those people (members and adherents) who worship, witness and serve as a fellowship of the Spirit in Christ, meeting regularly to hear God's Word, to celebrate the sacraments, to build one another up in love, to share the wider responsibilities of the Church, and to serve the world, and who are recognised as a Congregation by the Presbytery.	As defined in the UCA Constitution
Congregational Property means property acquired or held for the use or benefit of the Congregation and for which the Church Council is responsible for management and administration.	From Regulation 4.11.10 (a) (iii)
A **Faith Community** has the same opportunities and obligations as a Congregation for the purposes of this By-law.	Part 4 of the Regulations regards the two as equivalent - e.g. see 4.11.9
Future Mission Reserve is an amount within a Property Sales Account in the name of a specific Congregation or Responsible body which is held while waiting for that Congregation or body to determine its future mission initiatives, to be disbursed when the prescribed conditions are met.	
Heritage building is any building which has been formally listed by a Government or Local Government body in a register of heritage buildings but excludes any building which is listed only as contributing to heritage.	
Investment Property means property which is neither a church building nor a manse, not currently used for approved activities of the Congregation but generates income for the Congregation. It is	

PROVISIONS	***COMMENTS***
anticipated that this income would fund the missional activities of the Congregation.	
Manse means a residential property used by a Congregation to provide accommodation for a minister or pastor in placement with that Congregation or reserved for such use in the future.	A manse is eligible to be classified as available for Alternative Missional Use pursuant to Regulation 4.11.10
Mission Plan is a document which describes how the Congregation will participate in God's mission in the world in a format approved by the Standing Committee.	See the definition of "Congregation" above and Regulation 3.1.1.
New Church and Ministry Development Fund is the dedicated fund held in the name of the Property Trust specifically to fund Property Proposals relating to new or expanding Congregations or new mission developments.	
Net Sale Proceeds means the Property Sale Proceeds less all costs involved in: • the Approved Purchase of a replacement property, and/or • the Approved Adaptation or Approved Construction of a replacement property, and/or • reducing or eliminating Approved Debt in cases for which the purposes of the original and replacement properties are the same. *(See also **Property Sale Proceeds**)*	
Policy means the Property Sales Proceeds Policy.	
Property means real property and includes any building and fixed improvement and may also include any non-fixed property used in conjunction with the building.	From Regulation 4.11.10 (a) (ii).
Property Compliance and Consultation Fund is the dedicated fund held in the name of the Property Trust specifically to fund work required on Congregational Property so that it meets statutory compliance requirements and to meet Synod staff costs incurred in the implementation of this By-law and the Policy.	
Property Proposal means a proposal for the purchase, sale, mortgage, lease or the granting or acquiring or disposing of or surrender of any estate or interest in any real property or the erection, demolition or enlargement of a church or other building, or any borrowing of money for these purposes.	From Regulation 4.6.1 (a)
Property Sales Account is an account held by the Property Trust in the name of a specific Congregation or Responsible body for receiving and managing funds allocated to it from Property Sales Proceeds.	
Property Sale Proceeds means the amount received from a sale less all charges relating to the sale as determined by the Resources Board. (See also **Net Sale Proceeds**)	Provides some flexibility. In many cases this is the same as the Net Sales Proceeds.
Property Trust means The Uniting Church in Australia Property Trust (S.A.).	
Regulations means the Regulations of the Uniting Church in Australia.	
Responsible body means a body which is responsible for the management and administration of property, and which either itself carries out those responsibilities or appoints another body to undertake them either in whole or in part.	From Regulation 4.1. For example, includes Church Councils and the Uniting College for Leadership and Development.

PROVISIONS	***COMMENTS***
Surplus Property is all or part of a Congregational Property not otherwise classified, and determined by the Congregation or the Church Council (following consultation with the Congregation) not to be needed for the Mission Plan and for which a Property Proposal requesting it be sold has been adopted by the Resources Board pursuant to Regulation 4.6.1 and this By-law or the equivalent for a Responsible body or one if its committees. **UAICC Capital Fund** is the dedicated fund to be used specifically for capital works which are approved by the UAICC Regional Council and endorsed by Standing Committee. An **unsafe property** is any Property which is deemed unsafe pursuant to Regulation 4.11.1.	Includes Work Health and Safety provisions.
C. Future Mission Committee	
1. The purpose of a Future Mission Committee is to assist a Congregation to have an achievable Mission Plan together with a plan for the associated physical and financial resources. The Future Mission Committee is an advisory body. 2. A Future Mission Committee for a Congregation may be established as follows: (1) by a decision of a Congregation or a Church Council, in which case (a) the Congregation shall elect the convenor and two additional members, and (b) the Executive Officer, Pastoral Relations and Mission Planning shall appoint a member *OR* (2) by a decision of the Executive Officer, Pastoral Relations and Mission Planning, in which case (a) the Executive Officer, Pastoral Relations and Mission Planning shall appoint the convenor, and (b) the Congregation shall elect three additional members. 3. Once established, the Committee may co-opt up to two additional members. 4. The meetings of the Committee shall be conducted in accordance with the "A Manual for Meetings in the Uniting Church" unless the Committee has adopted other standing orders or meeting procedures. 5. ***Role and responsibilities*** (1) (a) If the Congregation has a current Mission Plan, then the Committee shall review that plan and its relationship to the current life and context of the Congregation. (b) When reviewing a Mission Plan, it is essential that the Committee consider how the plan will assist the Congregation to both fulfil the role of a Congregation more completely and to better achieve the purposes of the Church as defined in clauses three and four of the UCA Constitution and in the Regulations.	Property Proposals will go to the Resources Board for final decision as detailed in section E. Alternative starting points - only use one of these options. It is not necessary to hold a meeting to do this. Normally this would be the linked member of the Pastoral Relations and Mission Planning Team. From Regulation 3.8.4 Refer to paragraphs 1, 15 and 17 of the Basis of Union, the definition of Congregation and Regulation 3.1.1. Synod person would not need to attend all meetings in person and much work can proceed between (formal) meetings.

PROVISIONS	***COMMENTS***
(c) The Mission Plan should include an assessment of the property, financial and other resources needed to successfully achieve the outcomes of the plan. The Mission Plan should identify the extent to which these resources are currently available to the congregation. Where resources are identified as no longer being required, the Congregation may make recommendations as to who should benefit from the disposal of the resources. If the Mission Plan includes such an assessment, then the Committee will review it. (d) If there is no such assessment then the Committee shall develop a draft assessment. (e) As a result of its work, the Committee shall make such recommendations about the Mission Plan and its assessment as it considers appropriate. (2) If the Congregation does not have a current Mission Plan, then the Committee shall develop a draft plan containing the elements outlined in (1) above. (3) If any property is identified in the Mission Plan - current or draft - as being available for Alternative Missional Use, then the Committee shall develop recommendations for such use or sale. If sale is proposed then the Committee shall recommend how the Net Sale Proceeds should be used consistent with this By-law and the Policy. (4) The recommendations and draft assessment relating to a current Mission Plan resulting from (1) and (3) or the draft Mission Plan and associated documentation resulting from (2) and (3) shall be sent to the Congregation and the Church Council for consideration and decision. The advice of the Executive Officer, Pastoral Relations and Mission Planning may be sought during this process. (5) The Committee may recommend that the Congregation amalgamate or close. (6) The Committee shall act expeditiously.	Revised distribution table, which is in the Policy, allows for less discretion overall but more determination by the Congregation. The handbook will assist in this process.
D. Property Proposals	
1. A Property Proposal may originate (1) as part of a decision regarding its future mission by a Congregation or a Church Council (following consultation with the Congregation) pursuant to Regulation 4.6.1 or other Responsible body or one if its Committees. (2) as part of a decision to amalgamate by two or more Congregations pursuant to Regulation 3.4.4. (3) as part of a decision to close by a Congregation. (4) as a result of a consultation conducted by the Presbytery with one or more Congregations pursuant to Regulation 3.1.4. (5) as a result of a Congregational Property being declared unsafe pursuant to Regulation 4.11.1. (6) as a result of the adoption by the Resources Board of a recommendation by the Executive Officer, Pastoral Relations and Mission Planning that the Congregation is no longer able to fulfil its responsibilities. (7) as a result of property being classified as available for Alternative Missional Use pursuant to Regulation 4.11.10. 2. Where two or more Congregations share or plan to share premises or have a joint arrangement pursuant to Regulation 3.4.5, then each Congregation or Church Council as suits the case must consent to	See Regulation 3.1.1 for the primary definition of these responsibilities.

PROVISIONS	***COMMENTS***
any Property Proposal described in D1 before it is a valid proposal and there must be a memorandum of understanding established pursuant to Regulation 4.11.9 before any property transaction takes place. 3. For any Property Proposal to be categorised as being the result of an amalgamation the provisions of Regulation 3.4.4 (a) and (b) must have been completed. 4. Property Proposals shall include a justification of the proposed actions based on the Mission Plan of the body which uses or will use the property. 5. Within the constraints of this By-law and the Policy, Property Proposals shall state the category of sale and include proposals, where known, for the use of any Net Sales Proceeds. 6. Any Property Proposal originating pursuant to D 1 (1), (2) or (3) above and involving an amount estimated to be in excess of $20,000 shall only be considered in conjunction with the relevant Mission Plan(s) and report(s) of the associated Future Mission Committee(s). This boundary value shall be indexed annually by the Resources Board. 7. In the case of property (other than property for which a Church Council is the Responsible body), acquired or held for the use of a Synod, a Presbytery, or any body within the bounds thereof, the Responsible body shall determine the manner in which such property is managed and controlled pursuant to Regulation 4.5.	
E. Property Transactions	
1. (a) The Resources Board shall consider all Property Proposals and may carry out any property transactions in accordance with the Regulations which are consistent with this By-law and the Policy. (b) If the Board considers that a Property Proposal is not consistent with the Regulations, this By-law and the Policy, then the proposal shall be returned for amendment. (c) If the Board considers that a Property Proposal is not acceptable, then it shall communicate its reasons to the proposer and invite a written submission within 30 days. Following consideration of the submission, if any, the Board shall determine the matter.	Regulations 4.2.1 to 4.7.5 provide the relevant details. The term "Resources Board" includes its official delegates. Generally any necessary correction would occur before this stage is reached. This process is based on Regulation 4.7.10. It allows the proposer to provide more detail and discussion on those aspects which the Board considers not acceptable.
2. Pursuant to Regulation 4.6.3, the Synod declares the following circumstances are special and the stated provisions shall apply: (1) If a Property has been deemed to be an Unsafe Property and the Resources Board is satisfied that the Responsible body would not be able to pay for it to be made safe or compliant, then the Resources Board shall consult with the Responsible body and determine the action to be taken.	Effectively this is a delegation pursuant to Regulation 4.11.1 (b) which makes the process consistent with other special cases.
(2) If a relevant authority requires that work be done on a Heritage Building and the Resources Board is satisfied that the Responsible body would not be able to pay for it to be carried out, then the Resources Board shall consult with the Responsible Body and determine the action to be taken.	This requirement could arise in relation to maintaining a heritage feature. Cases vary too much to fit within a simple general rule. Often specialist advice is needed.

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<tr><th>PROVISIONS</th><th>COMMENTS</th></tr>
<tr><td>(3) If any Property Proposal includes Property which involves a bequest or trust then the Resources Board shall consult as appropriate and determine the action to be taken.</td><td>Includes real property given and funds given which are tied to real property. The secular legal framework provides the details.</td></tr>
<tr><td>F. Distribution and Use of Net Sale Proceeds</td><td></td></tr>
<tr><td>1. Determinations of the distribution and use of sale proceeds should be based on discerning and embodying God’s will for the life of the whole Church, always seeking ways to use property to better serve the Gospel.
2. In the case of a Property Proposal which involves an amalgamation, for the purposes of this By-law and the Policy all the entities involved in the amalgamation shall be deemed to be a single entity and the sales proceeds and calculations aggregated accordingly.
3. Distribution of Net Sale Proceeds
The wider church shall share in the Net Sales Proceeds as follows:
<table>
<tr><th>Tier</th><th>Net Sale Proceeds</th><th>Wider Church share</th></tr>
<tr><td>1</td><td>The portion of Net Sale Proceeds between $0 and $100,000</td><td>15%</td></tr>
<tr><td>2</td><td>The portion of Net Sale Proceeds between $100,001 and $600,000</td><td>30%</td></tr>
<tr><td>3</td><td>The portion of Net Sale Proceeds exceeding $600,000</td><td>50%</td></tr>
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These boundary values shall be indexed annually by the Resources Board.</td><td>Refer to paragraphs 1, 15 and 17 of the Basis of Union, the definition of Congregation and Regulation 3.1.1.</td></tr>
<tr><td>4. The following may benefit from Net Sale Proceeds:
• Congregations and Responsible bodies
• Approved New Church & Ministry Development Projects
• Property Compliance and Consultation Fund
• UAICC Capital Fund
• Uniting Foundation</td><td>Must conform to Regulation 4.8.
See the table in the Policy.</td></tr>
<tr><td>5. Approved New Church and Ministry Development Projects
(1) The Synod or Standing Committee may determine at any time on its own motion that a particular project may qualify for such funding on terms and conditions it determines.
(2) In alternate years there shall be a call for submissions for projects to be considered for such funding. Reduction or elimination of Approved Debt may be an Approved Project.
(3) The Executive Officer (Mission Resourcing) and Executive Officer (Pastoral Relations and Mission Planning) shall jointly assess such submissions and make recommendations to the Presbytery Strategic Planning Team for recommendation to the Standing Committee for approval.
(4) The Presbytery Strategic Planning Team shall endeavour to ensure that the list of projects submitted for approval includes projects of a range of sizes and also both in the metropolitan area and in a range of rural locations.
(5) The list of Approved Projects including a summary of each shall be available on the website.
(6) Where applicable, Congregations and Responsible bodies are encouraged to state which of the Approved Projects they wish their Net Sales Proceeds to support.</td><td>As per Regulation 4.11.10 (a).</td></tr>
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PROVISIONS	***COMMENTS***
6. Congregations and Responsible bodies are strongly encouraged to consider taking less than the percentage provided in the Policy table for local use. They may determine which one or more of the approved New Church and Ministry Development projects receive the additional funds.	
7. (1) A Congregation or Responsible Body may use its Net Sales Proceeds locally for implementing its agreed Mission Plan as stated in its approved Property Proposal through: (a) Property Purchases. (b) Capital Expenditure. (c) Major equipment – new items and replacements. (d) New local initiatives in mission and ministry that will either be self-funding within 3 years or achieve its goals with the funds available, provided that the cash flow requirements are included in the Property Proposal. (2) In determining such local use, the recommendations of the Future Mission Committee shall be given careful consideration, where applicable. (3) If a Congregation wishes to defer making a decision regarding all or some of the funds allocated for local use, that amount shall be designated as a Future Mission Reserve within its Property Sales Account. (4) The Net Sales Proceeds resulting from the sale of a manse which is not replaced may be reserved with the capital value of the reserved amount being maintained in real terms over time in a manner determined by the Resources Board and with the excess interest or other benefit being used towards paying an Accommodation Allowance for a minister or pastor in placement at that Congregation.	Cash flow could be uniform ('flat') or 'stepped'.
G. Management of Net Sale Proceeds	
1. Role of Resources Board (1) The Resources Board shall be responsible for implementing the Policy, monitoring its operations and amending it as prescribed. (2) The Resources Board shall manage the investment of all funds which become available from the sale of property at its sole discretion. The Board may provide Congregations and Responsible Bodies with a choice of alternative forms of investment. (3) The Resources Board shall determine the method of annually indexing the boundary values defined in this By-law (4) The Resources Board shall determine the expenses to be paid from the proceeds of a property sale prior to the determination of the Property Sales Proceeds. (5) The Resources Board shall determine the costs to be paid from the Property Sales Proceeds, if any, prior to the determination of the Net Sales Proceeds. (6) If any disagreement arises over whether or not a specific cost is Capital Expenditure or for major equipment, the Resources Board shall determine the matter. (7) The Resources Board shall be responsible for disbursements from the Property Sales Accounts. (8) (a) The Resources Board may delegate any of its functions to any officers of the Presbytery and Synod acting alone or jointly or to any committee. (b) Such delegation does not prevent the Board acting in any matter on its own motion.	See part H below. Provision of local choice may be helpful but may be difficult to manage for some - hence only optional. Any decision must be consistent with this By-law and the Policy.

PROVISIONS	***COMMENTS***
(c) Such delegation may be withdrawn at will. (d) Sub-delegation is not permitted.	
2. Property Sales Accounts (1) Following settlement, the Property Sale Proceeds shall be paid into the respective Property Sales Account. (2) Once the Net Sales Proceeds have been determined, the allocated amounts shall be disbursed to those funds or bodies which are to benefit according to this By-law, the Policy and approved Property Proposals, with an acknowledgement to both Congregations.	
3. Future Mission Reserve (1) Interest and other benefits gained through prudent management of the Property Sales Accounts will be allocated to participating Congregations less management costs as determined by the Resources Board. (2) A Congregation may apply for some or all of its Future Mission Reserve to be paid to it for the purposes prescribed in section F 6 (1) on the basis of its Mission Plan. (3) In the case of demonstrated financial need, up to $10,000 during a calendar year and not more than $20,000 in total over a 3-year period may be released to meet normal operating expenses on condition that within that time the Congregation negotiates a plan with the Executive Officer, Pastoral Relations and Mission Planning to achieve future sustainability.	
4. (a) Congregations are expected to use the Net Sales Proceeds allocated for local use within three years. (b) An extension of three years may be granted by the Resources Board for specific items in the Mission Plan. (c) All balances remaining after six years shall be transferred to the Uniting Foundation unless the Resources Board determines there are exceptional circumstances. (d) If at any time the balance in the Property Sales Account for a Congregation or Responsible body falls below $5,000, the balance will be distributed to that Congregation or Body on request or paid to an approved project nominated by the Congregation or Body. If there is no request or nomination or the Congregation is closed, the balance shall be transferred to the Uniting Foundation.	For example, placing the Net Sales Proceeds in the Manse Reinvestment Scheme to generate funds to pay an Accommodation Allowance is considered as 'using' them for the purposes of 4(a). Exceptional circumstances may include a building program delayed by insolvency.
H. Property Sales Proceeds Policy	
The Property Sales Proceeds Policy contained in the schedule to this By-law may be amended by the Resources Board in ways necessary or expedient to achieve the purposes of this By-law provided that 7 days notice of the amending motion has been given to members and at least two thirds of all the members of the Board concur with the final form of the amendment.	Allows Resources Board to amend the Policy after due consideration and strong support. Under laws governing meetings, the intention of an amendment cannot negate the intention of the original motion to amend the Policy.

Approved by the Annual Meeting of the Presbytery and Synod, 30 October 2015

Commencement: 1 July 2016