Stewarding Congregational Property By-law

18.7 STEWARDING CONGREGATIONAL PROPERTY

PREAMBLE

18.7.1 The Church exists to serve God. The Church is the Church with or without property. Although the work of God in Jesus Christ through the Holy Spirit is not bound to property, the Church has acquired and established properties over many years as places for Congregations to gather as the people of God and places from which Congregations engage in service to the world as they engage in the mission of Christ.

18.7.2 The UCA Synod of SA acknowledges and pays respect to the first peoples, the traditional custodians that have, for thousands of years, walked on and cared for the lands on which the Church gathers. The Synod also acknowledges the continued deep spiritual attachment and relationship of Aboriginal and Torres Strait Peoples to this country.

18.7.3 The Property assets of the Church are among God's generous provision for those who seek to join God's mission. Congregational Property is a gift to enable God's mission through the Church. We recognise that we momentarily share in the stewardship of these properties; gifts from those who went before us and held in trust for those who will come after us.

18.7.4 In 1977, properties previously held by the Congregational Union of SA, the Presbyterian Church of SA and the Methodist Church (S.A.) Property Trust were vested into the Uniting Church in Australia Property Trust (S.A.). At this moment, when the Uniting Church in Australia was formed, the Councils of the Church: Synod, Presbytery(s) and Congregation Church Councils shared Stewardship responsibilities for the properties.

18.7.5 The UCA Regulations provide guidance regarding the responsibilities of each Council of the Church. The Synod has responsibility for the effective supervision of all properties within its bounds, including properties held for the benefit of Congregations (Responsible Body). That is, Congregations have use (which has been called ‘Beneficial Use’) of the property in which they gather and serve and take responsibility for the management and administration of the property.

PURPOSE AND SCOPE

18.7.6 This By-law provides key principles relating to good Stewardship of Congregational Property, giving consideration to missional needs and priorities across the whole Synod.

18.7.7 This By-law intends to provide the Synod with a mechanism by which to engage with a Congregation and to attend to matters relating to the Congregational Property(s) entrusted to that Congregation for its use.

18.7.8 This By-law is intended to ensure that Congregational Property(s) is applied to the best use of the Church as a whole and aligns with the missional goals of the Church, the Responsible Body and the community they serve.

18.7.9 This By-law sets out the principles for allocating, retaining and returning 'Beneficial Use' of Congregational Property across the Uniting Church in Australia Synod of SA.

18.7.10 This By-law should be read in conjunction with the UCA Constitution and Regulations.

DEFINITIONS (FOR THE PURPOSES OF THIS BY-LAW)

18.7.11 'Beneficial Use' means use by a Congregation in its worship, witness and service, and its Stewardship responsibilities for Congregational Property. It does not mean ownership. Beneficial ownership is vested in the Church proper (UCA Constitution Para 50), legal title being held by the Property Trust (Act Section 21). Beneficial Use comes within the oversight of the Resources Board (By-law 18.1.4a).

18.7.12 'Church' - means the Uniting Church in Australia Synod of SA.

18.7.13 'Church Council' – means the body defined in UCA Constitution Para 24, Regulation 3.1.2.

18.7.14 'Congregation' – means the body a defined in UCA Constitution Para 23, Regulation 3.1.1.

18.7.15 '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 (UCA Regulation 4.4.1). This includes income generating property administered and managed by the Church Council.

18.7.16 'Faith Community' means Faith Communities as described in UCA Regulation 3.9.2.

18.7.17 'General Secretary' - means General Secretary (or their delegate) as appointed by the Synod of SA as described in the UCA Regulations 3.6.3.3 and 3.6.3.4.

18.7.18 'Life and Witness Consultations' – means the process and requirements described within Regulation 3.1.4 - Consultation on Life and Witness of a Congregation.

18.7.19 'Mission Plan' – means a document which describes how the Congregation will participate in God's mission in the world. A Mission Plan includes:

18.7.19.1 the agreed future mission and finance plans and goals of the Congregation and the action plan that proposes strategies to achieve the plans; and

18.7.19.2 the resources and property that will be utilised to achieve the goals and plans over a stated time period.

18.7.19.3 how good stewardship of those resources will be achieved and funded.

18.7.20 'Property' – means property of whatsoever nature whether real or personal, and includes money, investment, and rights to property (UCA Regulation 4.1).

18.7.21 Property Trust' – means the Uniting Church in Australia Property Trust (S.A.) The Property Trust is the legal entity in which the Uniting Church in Australia Synod of SA properties are vested.

18.7.22 'Resources Board' – means the Synod Property Board, the governance entity described in UCA Regulation 4.2, which has authority and oversight relating to property matters.

18.7.23 'Responsible Body' – means a body that is currently 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.

18.7.24 'Stewardship' – means exercising responsibility for the maintenance of Congregational Property and discerning its best missional use, for the common life and wealth of the Church.

18.7.25 'Synod' – refers to the Uniting Church in Australia, Synod of SA or its Standing Committee. The Synod is the beneficial owner of the Uniting Church in Australia Synod of SA properties.

BENEFICIAL USE

18.7.26 The Synod, through the Resources Board, has responsibility for providing effective supervision of property matters within its bounds, including the allocation (including transfer), retention, return and cessation of Beneficial Use of Congregational Property. The Resources Board's mandate is to "*serve the Church by maximising financial and property resources available to the Synod and Presbyteries for mission, and to assist the Synod and Presbyteries in allocating such resources efficiently in accordance with the mission priorities and ethos of the Church whilst managing the risk associated with these decisions*" (Synod By-law 18.1.1).

18.7.26.1 Allocation and/or eligibility for Beneficial Use of a Congregational Property may arise when a new Congregation is formed or when an existing Faith Community applies to its Presbytery to be recognised as a Congregation or when a Congregation wishes to move into a different, or new Congregational

Property owned by the Church, or other circumstances agreed by the Presbytery and the Resources Board.

18.7.26.2 In accordance with the 'Managing Properties Transfer to the Synod' framework, a Memorandum of Understanding may be utilised to facilitate the assignment of Beneficial Use.

18.7.26.3 Beneficial Use will normally be retained while a Congregation continues to fulfill its statutory and UCA Constitutional and Regulatory responsibilities.

18.7.26.4 Return of Beneficial Use occurs when a Congregation dissolves or ceases to be recognised by the Presbytery and the Synod or when circumstances occur as detailed in paragraph 18.7.29 below.

18.7.27 Beneficial Use of Congregation Property returns to the Synod when the Congregation dissolves or when it ceases to be recognised. A Congregation may not transfer property for which it has Beneficial Use to another Congregation nor should a Congregation accept Beneficial Use from another Congregation., A Congregation can return any or part of a property for which it has Beneficial Use following consultation with the Synod. Shared Beneficial Use arrangements can be entered into with the agreement of the Resources Board (or its delegate).

18.7.28 (a) UCA Regulations (UCA Regulation 3.1.4) requires Presbyteries to undertake consultation on the life and witness of a Congregation on a regular basis. These consultations should assist in developing and maintaining Congregation Mission Plans that detail how property is being used to support the Mission Plan priorities. The plans will inform the decisions concerning the Beneficial Use of the property by the Congregation.

(b) Prior to a Congregation(s) or its Church Council(s) approving a resolution that would precipitate a change in Responsible Body, the presbytery/(s) will consult with the Synod, through the Resources Board which will allocate the future Beneficial Use of all Congregational Property.

18.7.29 To promote and achieve good missional and stewardship purposes, the Synod has capacity to exercise executive functions within its bounds (UCA Constitution Para 32). In consultation with a Congregation and its Presbytery, the Synod's General Secretary, for reasons which they consider to be in the best interests of the mission, witness and service of the Church, may direct a Congregation to return Congregational Property to the Synod, for which it has Beneficial Use, when one or more of the following is applicable:

18.7.29.1 Church Council is not and is no longer able to fulfil the purpose and responsibilities of a Church Council (UCA Regulation 3.1.2); or

18.7.29.2 Funds of the Congregation are not managed (Books of account, budget and audit) in accordance with UCA Regulations 3.8.6 and 3.8.7; or

- 18.7.29.3 Congregation has not regularly lodged annual audited financial statements (UCA Regulation 3.8.7g); or
- 18.7.29.4 Congregation has not lodged its annual property review (as described in UCA Regulation 4.4.3) when/if requested by the Synod; or
- 18.7.29.5 Congregation has not furnished returns to the Synod as prescribed (UCA Regulation 4.11.8); or
- 18.7.29.6 Congregation has wilfully not complied with Synod By-Laws and/or policy; or
- 18.7.29.7 Congregation has not recently and is not making full contributions to the Synod's Mission and Service Fund (UCA Regulation 3.1.5 (g)); or
- 18.7.29.8 Congregation has not adequately insured its buildings (UCA Regulation 4.4.3) adopting the latest replacement valuation or the valuation method required by the insurer; or
- 18.7.29.9 Congregation has not kept Congregational Property for which it is has Beneficial Use in an adequate state of repair; and/or demonstrated sufficient care and maintenance of the property (UCA Regulation 4.4.3 and 4.11.1) and/or attended to extreme and/or high risk matters, as identified by the Property Risk Management Committee in a reasonable manner; or
- 18.7.29.10 Congregation and /or its Church Council does not comply with Acts and Regulations of Parliament (Federal, State and/or Local); or
- 18.7.29.11 The Property Trust has determined that the Congregation and/or its Church Council has and/or is exposing the Church to an unacceptable high or extreme level of risk.
- 18.7.29.12 Other circumstances that the Synod Standing Committee determines.

18.7.30 These matters above are not intended to restrict the enactment of UCA Regulations relating to:

- 18.7.30.1 The designation of a Parish Mission (UCA Regulation 3.9.1); A Memorandum of Understanding may be utilised to facilitate the assignment of Beneficial Use from the Congregation to the Parish Mission; or
- 18.7.30.2 the designation of Congregation Property for 'Alternative Missional Use' (UCA Regulation 4.11.10); or
- 18.7.30.3 the responsibility of the Property Officer relating to 'Unsafe Buildings' (UCA Regulation 4.11.1).

CONSULTATION PROCESS

18.7.31 When the General Secretary becomes aware of a matter described in paragraph 18.7.29 above, they will consult with Synod's Resources Ministry Centre personnel to gain a clearer understanding of the context and circumstances.

18.7.32 The General Secretary will then engage in conversations with the Congregation's Church Council and its Presbytery through the lens of:

18.7.32.1 Mission: Use of Congregational Property should align with the Congregation's Mission Plan and the Synod's mission priorities.

18.7.32.2 Stewardship: as described in paragraph 18.7.24 considering the Congregation's mission and ministry.

18.7.32.3 Vitality: Congregational Property should be prioritised from where there is low missional vitality to where there is, or is anticipated to be, vitality and growth.

18.7.32.4 Common life and wealth: Congregational Property should be used for the common good of the Church and enable the whole of the Church to be greater than the sum of its parts. Consideration should be given to how the Congregational Property can help the wider Church achieve its mission and ministry activities across SA and across different generations.

18.7.33 Following consultation, the General Secretary will bring a recommendation in relation to the capacity of the Congregation to retain Beneficial Use of the Congregational Property to the Resources Board for its decision.

18.7.34 Should a Congregation disagree with the Resources Board's decision, it may, in partnership with its Presbytery Standing Committee, request the Synod Standing Committee at its next meeting or next following meeting to review the decision made, through the lens of Mission, Stewardship, Vitality and common life and wealth.

18.7.35 At times, due to the extreme nature or timing of circumstances, the General Secretary may initiate conversations with a Congregation Church Council about its capacity to be a Responsible Body and retain Beneficial Use of a Congregational Property.

PROPERTY INSPECTIONS

18.7.36 From time to time, the Synod in consultation with the Presbytery will undertake Congregational Property inspections. Congregations have an obligation to assist with inspections in a timely manner, including responding to requests for information by the Synod's Property Services team (or delegate).

CONGREGATIONAL PROPERTY REGISTER

18.7.37 The Resources Board will oversee the maintenance of the register of Congregational Properties (as described in UCA Regulation 4.11.6).

REVIEW OF BY-LAW

18.7.38 This By-law will be reviewed by the Resources Board within 3 years and any proposed changes will be considered by the Synod Standing Committee.