



SYNOD 2023 REPORT

PROPERTY TRUST

MEMBERSHIP

Chair	Rev Des Cousins
Moderator	Suzy Thomas
Property Officer	Rev Dr Andrew Williams
Member	Fiona Bentley
Member	Bruce Murdoch
Member	Yvonne Robinson
Member	Rev Lorraine Stokes
Member	Ian Watson

REPORT

Functions

The “Uniting Church in Australia Property Trust (W.A.)” is established by the *Uniting Church in Australia Act 1976 (WA)* and has the functions of:

- Holding all the real and personal property of the Church (Trust Property) in trust for the Church.
- Entering into all contracts for dealing with Trust Property.
- Being sued in court actions against the Church, and suing in the name of the Church.
- Administering Trust Property held under the terms of any bequests, gifts or trusts.
- Determining grant applications from Trust and Special Purpose Funds.

Church agencies and schools can be separately incorporated under the Act enabling them to operate as legal entities in their own right under constitutions approved by Synod. This has been done for the Schools and community service Agencies of the Church.

Membership

The membership of the Property Trust comprises the Moderator, the Property Officer and 6 Members of the Church appointed by the Synod for two-year terms. The Synod appoints one of the members of the Property Trust as Chairman.

In recent years, the Synod's normal nominating procedures seem to have been followed in dealing with casual vacancies in the membership of the Property Trust, resulting in all six of the Synod appointed members becoming due for election at this 2023 Synod. The Act has its own provision for filling casual vacancies which operates in a way that ensures that only 3 of the elected member full two year terms fall due for election at any Synod. As six persons were elected for a two year term at the 2021 Synod, the Property Trust will bring a proposal to this Synod to regularise the elected membership of the Property Trust by appointing, on this one occasion, three members for a two year term and three members for a one year term.

Two Members of the Property Trust are nominated as members of the Resources Commission: currently, these are Revd Des Cousins and Mrs Yvonne Robinson.

The operations of the Property Trust are facilitated by the Resources Division Property Services Unit (Executive Officer, Property: Tim Fallows) in matters relating to real property, Investment and Corporate Finance Committee of the Resources Commission (Chief Financial Officer: Peter Hollins) for Trust and Special Purposes Funds transactions, and the General Secretary (Revd Dr Andrew Williams) and Insurance Services Unit (Executive Officer, Insurance: Muralee Nair) in matters relating to legal action and liability claims against the Church.

Activities of the Trust 2022-23 Year

In addition to attending to routine document execution and grant approvals, the Trust has this year dealt with:

1. Review of the Trust and Special Purpose Accounts

Note: *All account balances in this report (cents ignored) are as at 14 July 2023.*

The Property Trust has continued its review and reorganisation of the Trust and Special Purpose Funds which began last year. The review has the purpose of putting

these Funds to work in supporting the purposes for which they were given and of simplifying the operation of the Trust and Special Purpose Funds.

This report and accompanying proposals do not address the issue of retaining the value (purchasing power) of the various funds: such matters will be left to those managing the investment of these funds in the future.

(a) Accounts to be transferred to the Beneficiary – these relatively small bequests should be made available for the purpose for which they were given rather than continue being held and managed by the Property Trust :

1. Harper Bequest (\$8,268). For the benefit of Ross Memorial Church. The Property Trust has agreed that the funds held should be transferred to the Uniting Church in the City for the Ross Memorial Congregation.
2. Joan Tollefsen Bequest (\$3,999). For the religious and charitable purposes of the Applecross Congregation but not for general or administrative purposes. The Property Trust has agreed that the funds should be transferred to the Applecross Congregation following their acceptance of the condition prescribed by the benefactor.
3. Charis Jean Page Bequest (\$41,174). For the benefit of St Peter Emmaus Church in Joondanna. The Property Trust has agreed that the funds should be transferred to the St Peter Emmaus Congregation at a time convenient to the beneficiary.
4. Charis Jean Page Bequest (\$41,174). For the benefit of Uniting Aid. The Property Trust has agreed that the funds should be transferred to Uniting Aid at a time convenient to the beneficiary.
5. JAC Kilfoyle Pension Fund (\$44,004). For Aboriginal missions, schools and hospitals in WA north of Derby. The areas north of Derby are in the Northern Synod. The Property Trust has agreed that the funds should be transferred to the Northern Synod.

(b) Trusts to be varied under s 25 of the UCA Act.

[Note: The UCA Act section 25 empowers the Synod, on the application of the Property Trust, to vary a trust if

- *the purpose is impossible, impractical or inexpedient;*
- *the amount available is inadequate;*

- *the purpose has already been effected;*
 - *the purpose is illegal or useless or uncertain; or*
 - *the Trust property or income is more than necessary for the purpose.]*
1. Ada Purnell Bequest (\$21,533) -- for an annual award at Kingswood-St Columba (now Trinity Residential College), provided by Trinity Church from the bequest from Ada Purnell. The original goal (1982) was an annual award of \$200, Trinity Church made a further contribution in 1988 to increase the award (sometimes called the Ada Purnell Scholarship) to \$1,000. The capital is now inadequate to provide an annual award of \$1,000 and Trinity Residential College has proposed that the funds be returned to the donor, Trinity Church. The Property Trust applies to the Synod for the balance to be transferred to the Uniting Church in the City for the benefit of the Trinity Church Congregation on the grounds that the amount in the Fund is inadequate for the purpose.
 2. John Brickhill Memorial Prize (\$29,341) – for an essay prize for theological students on the recommendation of the Perth Theological Hall faculty originally provided when the Presbyterian Theological Hall in WA was re-opened in 1954. The structure of courses now in the Theological Hall makes this purpose impossible. The Property Trust applies to the Synod for the original purpose of the Fund be declared impossible and the funds to be allocated to the general support of theological education.
 3. Sampson Bequest (\$6,192) – for the resourcing of Christian education through Sunday Schools, originally within the state electorate of Swan as in 1929. The Property Trust applies to the Synod for the original purpose of the Bequest be declared inexpedient and the funds to be allocated to the Christian Education of young people.
 4. Margie Patullo Bequest (\$149,876) -- no specific purpose stipulated in the Will but donor was known to have had a strong interest in the Christian education of children and young people. The Property Trust applies to the Synod for the original purpose of the Bequest to be declared uncertain and allocate the funds to the Christian Education of young people
 5. Gibbs Bequest (\$744,514 in cash **and** investments with Euroz Hartley valued at \$699,551 at 30/06/2023) – for the education, maintenance and advancement of Aboriginal children under the care of Sister Kate's. Sister Kate's Children's Home is no longer in operation and the purpose of the

Bequest is impossible. The Property Trust is of the opinion that the children who were intended to benefit from the Bequest would be best served if the funds were made available to meet Redress payments and claims from former residents of Sister Kate's Children's Home. Accordingly, the Property Trust applies to the Synod for the purpose of the Bequest to be declared impossible and to allocate the funds towards meeting Redress claims from former residents of Sister Kate's Children's Home.

6. Ian Marshall Memorial Fund (\$48,365) can be used for three purposes - to employ a tutor in the theological college, to provide financial support to candidates and to provide study or research fellowships to enable a minister to engage in study or research in an area of theology, with a view to publication or a higher degree. Only interest can be used. The Property Trust applies to the Synod for the purpose of the Fund to be declared impractical and to allocate the fund to the sole purpose of providing fellowships for ministers for study or research in an area of theology.

(c) Funds to be varied under s 26 of the UCA Act

[Note: The UCA Act section 26 empowers the Synod, on the application of the Property Trust, to vary the mode of administering a trust to facilitate the carrying out of the responsibilities of the Property Trust.]

1. Fairbairn Trust (\$171,257) – for the education of Aboriginal children and advancement of Aborigines. Following the covenants made with the Uniting Aboriginal and Islander Christian Congress (UAICC), the mission of the Church among Aboriginal people is carried out by the UAICC. The Property Trust applies to the Synod for the administration of the Fairbairn Trust to be facilitated by incorporating these funds in the Indigenous Ministries and Programs Endowment.
2. Dorothy Green Memorial Fund (\$114,663) – for missionary programs with Aboriginal people or overseas, including preparation of people to serve in mission. Following the covenants made with the Uniting Aboriginal and Islander Christian Congress (UAICC), the mission of the Church among Aboriginal people is carried out by the UAICC. The Property Trust applies to the Synod for the administration of the Dorothy Green Memorial Fund to be facilitated by incorporating these funds in the Indigenous Ministries and Programs Endowment.

(d) Funds to be grouped

The *Uniting Church in Australia Act 1976* section 26 empowers the Synod, on the application of the Property Trust, to vary the mode of administering a trust to facilitate the administration of the Trust property or the carrying out of the trust. The Property Trust holds a number of trusts, bequests and gifts with similar purposes and the Property Trust considers their administration, and application to the purposes for which they were given, would be facilitated by them being grouped. There would be a welcome reduction in administration tasks and costs. To provide a distinctive name and identity, we propose that these grouped funds be referred to as “endowments”.

The original capital, accumulated income and annual income can be used for grants from these endowments except where the donor has stipulated that income only can be used. In these cases, a capital amount that must be retained is stated.

A. Theological Education Endowment

Purposes:

- To provide financial support to candidates for ordained ministries.
- To provide funding to maintain Uniting Church theological education in WA, including costs of staffing and facilities.

Recommending Body:

- Presbytery Standing Committee

Funds to be grouped into this Endowment:

- John Brickhill Memorial Prize (\$29,119) – following its re-allocation to the general support of theological education in WA.
- Emma Leake Bequest (\$66,930) -- designated for theological education.
- Noall Fund (\$86,170) -- allowances for theological students preparing for ordination.
- Marcia Thorpe Memorial Fund (\$27,925) -- assistance to men and women in training for full time Christian service.
- 50% of Claremont Memorial Fund (\$577,568) -- designated for theological education.

Capital amount that must be retained:

- Claremont Memorial Fund \$340,496
- Noall Fund \$11,760

B. Post Graduate Theological Education Endowment

Purposes:

- To provide grants to ordained ministers who wish to
- undertake post graduate studies in theology; or
- engage in practical field experiences which will expand their skills for ministry, either in Australia or overseas.

Recommending Body:

- Presbytery Standing Committee on the recommendation of CEDAL

Funds to be grouped into this Endowment:

- Roland Giese Memorial Study Fellowship (\$28,197) -- funding for ministers undertaking further studies, including practical field experience and other non-academic training in Australia or overseas.
- Ian Marshall Memorial Fund (\$47,999) – following its re-allocation to the sole purpose of providing fellowships for ministers for study or research in an area of theology.

Capital amount that must be retained:

- Ian Marshall Memorial Fund \$11,000

C. Children's and Youth Ministries Endowment

Purpose:

- To provide funding for the promotion of Christian education of children and young people.

Recommending Body:

- Presbytery Standing Committee

Funds to be grouped into this Endowment:

- Jean Ailsa Craig Bequest (\$89,800) -- care, maintenance and Christian education of young people.
- Sampson Bequest (\$6,145) – following its re-allocation to the

Christian Education of young people.

- May Marshall Bequest (\$51,765) -- Christian education, mission and outreach to young people.
- Youth Development Fund (\$176,692) youth development and outreach.
- Margie Patullo Bequest (\$158,689) – following its re-allocation to the Christian Education of young people

Capital amount that must be retained:

- Jean Ailsa Craig Bequest \$28,512
- Sampson Bequest \$1,405

D. Church Extension Endowment

Purposes:

- To provide funding for the establishment of new congregations or faith communities, including costs of
 - Employment of ministers or other staff for pioneering ministries; and
 - Purchase of land, erection of buildings or rental of appropriate premises.

Recommending Body:

- Presbytery Standing Committee on the recommendation of Thrive Mission Committee

Funds to be grouped into this Endowment:

- Roy Rowe Bequest (\$166,678) for Church extension and home mission work.
- Beverley McWhirter Bequest (\$191,780) for the erection of new Churches.
- Edward Smyth Bequest (\$110,811) for home mission work.
- Church Extension Fund (\$530,430) to provide for Church extension in new areas.
- CM Wilson Bequest (\$348,940) to augment the stipend of a minister or home missionary.
- East Fremantle Trust (\$17,907) to establish new work.

- 25% of Claremont Memorial Fund (\$288,784) for provision of new Church facilities and ministries.
- Trinity Strategy and Extension Fund (\$616,428) to assist with purchase of property or establishment of new congregations. (Subject to negotiation with UCIC Church Council).

Capital amount that must be retained:

- Edward Smyth Bequest \$69,266
- CM Wilson Bequest \$59,289
- Claremont Memorial Fund \$170,248
- Trinity Strategy and Extension Fund \$512,500

E. Mission Support and Development Endowment

Purposes:

- To promote and develop the mission of the Church by providing training, resources and support to congregations and faith communities to engage in mission in their local communities.

Recommending Body:

- Presbytery Standing Committee

Funds to be grouped into this Endowment:

- Blackwell Bequest (\$58,206) to help churches requiring assistance.
- 25% of Claremont Memorial Fund (\$288,784) funding for new mission programs.

Capital amount that must be retained:

- Claremont Memorial Fund \$170,248

F. Indigenous Ministries and Programs Endowment

Purposes:

- To provide financial support for the work of the UAICC in WA

Recommending Body:

- Synod Standing Committee

Funds to be grouped into this Endowment:

- Fairbairn Trust (\$169,963) education of Aboriginal children and

advancement of Aborigines. Consequent to the variation under s 26 of the UCA Act proposed above.

- Dorothy Green Memorial Fund (\$113,796) missionary programs with Aboriginal people or overseas, including preparation of people to serve in mission. Consequent to the variation under s 26 of the UCA Act proposed above.
- Phoebe Trust (\$628) projects to benefit Aboriginal communities in WA or in countries in the Indian Ocean Rim.
- Joy Devereux Bequest (\$113,190) enhance justice for Aboriginal people including UAICC and support ministry in rural WA where Churches cannot afford a minister.
- Church Extension Fund UAICC (\$90,650)
- UCA Foundation Trust UAICC (\$40,211)

G. Remote Area Ministries Endowment

Purposes:

- Support of Remote Area Ministries

Recommending Body:

- Synod Standing Committee

Funds to be grouped into this Endowment:

- Margaret Alberta Hutchinson Bequest (\$331,565) with "the wish that this gift be used for the purposes of its Frontier Services Division in Western Australia and the Northern Territory".
- Betty Lorraine Johnson Bequest (\$299,152) for "the Frontier Services of the Uniting Church in the northwest of Western Australia".
- Remote Area Ministry Fund (\$372,087): a combination of two gifts from St Andrews Church and Forest Lakes Congregation for "ministry in the Kimberley, Gascoyne, Murchison and Pilbara regions of Western Australia".

2. UCA (WA) Foundation Trust and the Council for Mission

The Synod Standing Committee established a review of the Foundation Trust and the Council for Mission at its meeting on 14 February 2022.

The Review Committee reported to the Standing Committee in June 2023 with two proposals in regard to the Foundation Trust:

- (a) that the Uniting Church in Australia (W.A.) Foundation Trust be terminated.
- (b) that the Uniting Church in Australia Property Trust (W.A.), which is the Trustee of the Uniting Church in Australia (W.A.) Foundation Trust, be requested to make an application to the Synod, on the grounds that Foundation Trust is impractical or inexpedient, to transfer the funds held in the Foundation Trust into a new Special Purpose Fund in the Uniting Church Investment Fund to be titled the “Future Mission Fund”, to be managed by the Resources Commission (or the Board of Finance and Investment if created by the September 2023 Synod) and to be made available for grants according to the procedures of the proposed “Mission Resourcing Committee”.

The Standing Committee endorsed these recommendations and the Property Trust has agreed to make an application to the Synod as requested.

The Review Committee has been made aware of a proposal resulting from the Review of the Resources Commission for a single body to be responsible for grants from various Church based funds, to be entitled the “Mission Resourcing Committee”. This proposal will be presented to the Synod by others.

The Proposal to Terminate the Foundation Trust

The Review Committee could not identify any reason for the Foundation funds to be held subject to a Trust Deed.

The present “Deed of Settlement” is unduly complex and detailed in the management and reporting procedures required to followed by the Trustee (Uniting Church in Australia Property Trust (W.A.)) when such procedures are already adequately provided for by the Property Trust using its normal management procedures required by the *Uniting Church in Australia Act 1976 (WA)*.

It would appear that there was no allowance made for the fact that the Trustee for the Foundation Trust is an established corporate Trustee body with its own management and reporting processes set out in its own originating statute. We cannot find any record of this issue having been the subject of discussion between the solicitors preparing the Deed of Settlement and the officers of the Synod.

An earlier justification for a more complex legal position captured in a Trust Deed was to enable the possibility of accepting donations as tax deductible gifts. No such gifts were ever received and that option has been removed from the present Deed so that evidence of compliance with additional taxation legislation accounting provisions need not be maintained or provided.

Further, there do not seem to be any funds held as part of the Foundation Trust that have any special or limiting trusts attached to them. The Manager of Investments reports that her records show that source of funds includes:

- Unallocated funds from the date of Union.
- Sale proceeds of property as instructed by board/committee resolutions (after the 10% deduction for prescribed purposes).
- Transfer of Embargoed Funds as per guidelines/policy (Embargoed Funds Guidelines Clause 2.6).
- Bequests.
- Funds gifted by Congregations.
- Funds from the Property Development Fund \$889.5K approx. (June 2012).
- Trust and Special Purpose funds transferred upon the approval of Synod.
- \$5M Grant from the UC Investment Fund made in November 2017.
- \$1.8M received from St Andrews UCA Embargoed Funds in 2021 and 2022.

The Review Committee has concluded that the appropriate action to be undertaken is to restructure the arrangements for the custody and management of these funds, by transferring the funds from the Foundation Trust into a Special Purpose Fund within the Uniting Church Investment Fund. The Uniting Church in Australia Property Trust (W.A.) will continue to hold the assets, but in its general role as custodian of Church property under the UCA Act rather than as trustee of the Foundation Trust. The significant change will be in the management of the funds; managing the Foundation funds as a Special Purpose Fund would be simpler and allow for more flexibility as the Church navigates the challenges of the coming years. A By-law will be prepared for enactment to describe and control the use and application of the Special Purpose Fund which the Synod could, in the exercise of its own powers, at any subsequent time amend and vary as deemed necessary.

This process would enable the establishment of a desirable governance separation between:

1. the body holding the funds (the Property Trust),
2. the body managing the funds (the Resources Commission Investment and Corporate Finance Committee or its successor), and
3. the body dealing with applications for grants from the funds (the proposed “Mission Resourcing Committee”).

The Process

The UCA Act section 25 provides that where property is vested in the UCA Property Trust for some particular purpose, and the Synod resolves that it is impractical or inexpedient to carry out the purpose, the Synod may (on the application of the Property Trust) resolve that the Trust property be applied to some other purpose of the Church.

The purposes of the Foundation Trust, as set out in clause 3.1 of the Trust Deed, are:

- (a) to raise funds in order to assist with:
 - (i) engaging in Christian work in places in Western Australia where the Uniting Church does not have a presence;
 - (ii) engaging in strategic new initiatives and/or developments in Christian work where the Uniting Church already has a presence;
 - (iii) education and training for mission-focussed ministry leadership;
 - (iv) supporting Church ministries engaged in such purposes with funding and administrative support;
- (b) to carry on any other objects in connection with the above purposes which are directly or indirectly capable of advancing the objects of the Trust and the Church; and
- (c) to receive gifts and donations from the Church and the general public in order to facilitate the purposes listed above.

There are ample grounds for the Synod to resolve that it is impractical or inexpedient to carry out these purposes through the Foundation Trust. The Foundation Trust does not engage in fund-raising and is not providing any significant assistance for the specified activities.

So, the Property Trust will make an application to the Synod, on the grounds that Foundation Trust is impractical or inexpedient, to transfer the funds held in the Foundation Trust into a new Special Purpose Fund in the Uniting Church Investment Fund to be titled the “Future Mission Fund”, to be managed by the Resources Commission (or the Board of Finance and Investment if created by the September 2023 Synod) and to be made available for grants according to the procedures of the proposed “Mission Resourcing Committee”.

Once the funds are transferred, the Foundation Trust will have no assets and no reason for continued existence. It will be terminated by a resolution of the Property Trust with the consent of the Synod.

This process has been checked with the Convener of the Church Law Committee who is a practising Senior Counsel.

3. Legal Action

We have been advised that a legal action against the Uniting Church in Western Australia has been begun in the Federal Court in relation to the termination of a candidate for the ministry. The case is in a very preliminary stage and various legal and procedural issues are currently being resolved.

Conclusion

Fiona Bentley and Yvonne Robinson are not offering themselves for re-appointment to the Trust at this Synod and I thank them for their contributions to the work of the Trust.

I am not intending to continue as Chair but will make myself available in the coming year to help in the completion of actions we have begun.

The Property Trust plays an important but “off-stage” role in the governance of the Uniting Church and I hope that senior experienced members of the Church will continue to make themselves available for this work.

Rev Des Cousins, Chair

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