



General Secretary
Rev Heather den Houting

Wednesday, 17 May 2023

Hello and welcome to the next chapter of our governance- fit for purpose journey!

The church changes even if God does not

The nature of God does not change. However, the structures of the church do.

Over the millennia of Christianity as an organised religion, we have seen multiple models of how to best organise ourselves to give life to the mission and discipleship we have been called to by Jesus as the people of God.

It's important for us to regularly consider whether we are doing this well.

Attached to this letter is a document which is unashamedly a resource to promote discussion around the governance of our church in the Queensland Synod. Some people will love this paper and some people's eyes are glazing over already. Please persist.

This extraordinary resource can be used to guide our discussions and decision making around how we govern for the next decade at least.

The report is being released knowing that community expectations about the way we do things has changed. There is a high level of accountability to others to make sure we are looking after our people, the people we serve and the opportunities we are given to practice our discipleship in our communities. We need to respond to these expectations in an intentional way.

You also need to know that this paper is not recommending changes to the Act, Constitution or Regulations of the church. If you are interested in these areas, you might participate in the Assembly's ACT2 project. You can find more about that here: <https://www.act2uca.com/>

If you are interested in the manner that we govern the activities of the church, including whether we should make activities institutions of the church, whether we should incorporate activities, and the strength, purpose and capacity of our governing bodies, then please respond to the invitation to be part of this discussion.

A brief guide to the paper

Guiding principles for the discussion

The brief that was given to Elizabeth Jameson, the author of this report, was to ensure that any governance model examined needed to be evaluated against the following principles:

- I. Staying true to our purpose and values
- II. Empowering our people
- III. Adapting for context



- IV. Being accountable to ourselves and our stakeholders
 - V. Connecting the parts of the 'body' into a cohesive whole.
- During the research, Elizabeth recommended two additional criteria:
- VI. Respecting the Immutable Polity and Government of the Church; and
 - VII. Protecting and enhancing the assets and resources available for delivery of mission.

An invitation to you to participate in the conversation

Please read the Executive Summary to discover the seven observations and the 7 recommendations that arise from the report. It's your chance to make some responses to the material that has been collated and to point us in the direction of any gaps you may have noticed.

Some questions that may help you fully engage with the paper are:

1. What do you think of the models that are suggested in Chapter 6. Can you suggest any others?
2. Read Chapter 7. What activities of the church should be incorporated? What should never be incorporated? Are the points in recommendation 3 sufficient for us to continue these conversations?
3. Read Chapter 8 and recommendation 6. What principles should be included in the guidelines we could develop around this? What might a model Trust Deed look like?

What do you think?

We would love your feedback. This paper will be circulated across the Synod now so that it is available to all. Please forward this link to others to access if you think they might be interested.

If you have some first thoughts let me know before **14 July 2023**. This feedback will be incorporated in a report to the Synod Standing Committee so that they may consider how to present the paper to the Synod in October 2023.

Please respond by email to me directly at generalsecretary@ucaqld.com.au

Please be assured that the discussion does not end there. This is a large body of work and will take time to unpack. However, it is designed to help us in framing our future together.
With many thanks and with God's grace as we journey together in making our church fit for purpose.
Kind regards
Heather

In grace and peace,

Rev Heather den Houting
General Secretary

GOVERNANCE RESEARCH BRIEF REPORT

Project Plenty: Fit-for- Purpose Governance

FOR: Uniting Church in Australia (Queensland Synod)

CONTACT: Elizabeth Jameson, Founder Consultant

Delivered on 17 May 2023



Board
Matters

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**Important Notices*

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1. Executive Summary

1.1 The Queensland Synod (**Synod**) of the Uniting Church in Australia (the Church) has embarked on a body of work under the banner Plenty, dedicated to tackling four ‘Mission Priorities’ and 11 Commitments which form part of the strategic ambition of the Uniting Church. The four Mission Priorities are:

- Discipleship
- Transforming Communities
- Fit-for-Purpose
- Life Together

1.2 In late 2022 Board Matters was engaged to conduct a body of research in relation to the third Mission Priority, Fit-for-Purpose. This research was to enable decisions to be presented to Synod in October 2023 in relation to ‘Governance Reform’ which is an explicit Commitment under the Fit-for-Purpose Mission Priority. Hence, we were charged with the following:

To capture an overview of other existing governance models and apply the criteria as part of an evaluation process, which would result in a short-list of models for more detailed and in-depth exploration to assess application to the Uniting Church in Queensland governance requirements.

1.3 This Report is designed to serve the above stated purpose.

1.4 Over past decades, we observe something of a piecemeal approach to decisions about the way in which any single Body within the bounds of the Synod in Queensland ought to be established and governed. This is *not* to say that such decisions have been taken lightly, thoughtlessly or with ill-intent. Rather, we mean that it would appear that decisions have often been taken about the establishment and/or governance of one Body without regard to the full impacts for the government and polity of the rest of the Church within the bounds. In our view it is commendable that Synod has sought a more comprehensive and wholistic approach in the form of the Plenty project and the ‘fit-for-purpose’ governance sub-project.

1.5 In Chapter 2, we have outlined the nature of the project. This includes explaining the Evaluation Criteria used to analyse whether the current governance model of the Church in Queensland is fit-for-purpose. The criteria are summarised at paragraph 2.14 and set out in full in **Annexure A**. They are later used in Chapter 9 to analyse the current governance model adopted by the Church in Queensland. The same criteria are used to make a series of recommendations about ways in which it could be improved into the future.

1.6 Chapter 3, outlines the ecclesiological context for this review and is contributed by Rev Heather den Houting, General Secretary of the Queensland Synod. In Chapter 4 we describe the polity and government of the Church in Queensland. We conclude that it is an extremely complex and unique model, with some aspects of Church governance being immutable under the UCA Foundational Documents (the Basis of Union and UCA Constitution).

1.7 Chapter 5 describes some of the key ways other Synods in Australia, with the same immutable foundations as the Church in Queensland, have variations in their governance models as they have developed over time. We also look very briefly at aspects of the sister church in Canada, the United Church of Canada that exhibits yet other features again.

- 1.8 In Chapter 6, we identify and describe five different Governance Models seen amongst large complex organisations. Each of them feature some elements that might offer enhancements to the governance of the Church’s presence in Queensland. Those models are:
- (a) The Command and Control Model (Model 1)
 - (b) The Family of Enterprises Model (Model 2)
 - (c) The Government Entities Model (Model 3)
 - (d) The Matrix Governance Model (Model 4)
 - (e) The Hybrid Model (Model 5)
- 1.9 Chapters 7 and 8 are dedicated to the topics of ‘incorporation’ and dealing with Church property respectively. The first of those Chapters provides insights into the considerations when deciding, as part of this exercise, whether Bodies ought to be permitted or even encouraged to be designated as an institution of the Church and, moreover, separately to incorporate. The latter Chapter explores some of the associated, but separate, questions that arise about how the property of the Church ought to be held in such cases.
- 1.10 The Report culminates in the analysis of the current governance model in the Church in Queensland in Chapter 9. As a result, we go on in Chapter 9 to make three Findings about the current governance model in Queensland. They are followed by eight Observations and corresponding Recommendations.
- 1.11 The **Findings** in relation to the existing governance model in Queensland are:
- (a) As explained at paragraph 9.5 - The **relative strengths** of the current governance model, against the Evaluation Criteria, are:
 - (i) Staying true to our purpose and values;
 - (ii) Adapting for context; and
 - (iii) Respecting the immutable polity and government of the Church;
 - (b) As explained at paragraph 9.6 - The **relative weaknesses** of the current governance model against the Evaluation Criteria are:
 - (i) Empowering our people;
 - (ii) Being accountable to ourselves and our stakeholders;
 - (iii) Connecting the parts of the ‘body’ into a cohesive whole;
 - (iv) Protecting and enhancing the assets and resources for Mission;
 - (c) As explained at paragraph 9.7 - the Governance Models identified in Chapter 6 offer a number of potential ways to strengthen the governance model in Queensland.
- 1.12 The concluding observations and recommendations in Chapter 9 are repeated in full below.

Observation 1 - Goodwill, purpose and Mission: The governance model chosen by any organisation or community of interest is only as effective as the will of those charged with implementing it to ensure it achieves the shared purpose, Mission and agreed priorities.

Recommendation 1 - Goodwill, purpose and Mission: In view of Observation 1 and the Evaluation Criteria decide what ‘matters most’ when exercising its proper powers and authority drawn from the UCA Foundational Documents (Basis of Union and UCA Constitution) to limit and distribute decision-making powers and/or devolve assets of the Church, amongst the Councils and Bodies that operate within the bounds of Synod.

Observation 2 - Decide which imperatives matter most: No Governance Model delivers perfectly effectively against all of the Evaluation Criteria. The current polity and government of the Church delivers well against some and poorly against others of the Evaluation Criteria as analysed in Chapter 9. It can be improved, drawing on the learnings from variations within the Church itself as outlined in Chapter 5 and the Governance Models identified in Chapter 6.

Recommendation 2 - Decide which imperatives matter most: Based on the Foundational Documents as they stand today, but noting that they may be impacted over time by decisions of Assembly arising out of the Act2 body of work, depending what Synod determines ‘matters most’ using the Evaluation Criteria, Synod ought to draw on those elements of the Governance Models which might be expected most to help improve that the government of the Church, and governance of the Councils and Bodies within the bounds of Synod, to deliver against Synod’s priorities. Specific ways to improve governance in the Church in Queensland, drawing on other Governance Models, are set out in paragraph 9.7 of this Report.

Observation 3 - Understand the pros and cons of incorporation: Implementation of the chosen governance arrangements for Councils and Bodies in Queensland requires careful consideration of the positive and negative role separate incorporation of entities can play and the means by which Bodies could be incorporated. As explained in Chapter 7, incorporation especially of large, complex, specialist Bodies within the Church offers many advantages. Done correctly it can even strengthen the ability of the Church to hold those Bodies to account for their use of assets and resources that are held “on behalf of” the Church in Queensland.

Recommendation 3 - Set criteria to guide formation and incorporation decisions: Develop a set of criteria and guidelines (see Chapter 7 for some of the matters which should be addressed) for determining:

- (i) Whether and when it is desirable that a Body or other group or body within the bounds be established as an institution under Regulation 3.7.4.7, based on the implications of doing so;
- (ii) Whether and when it is desirable that an institution also be separately incorporated as an entity and if so under what incorporation regime, based on the implications of doing so;
- (iii) Whether and when it is desirable that a Body or other group or body within the bounds be separately incorporated as an entity but not also established as an institution, based on the implications of doing so;
- (iv) In the case of separately incorporated entities, the membership structure which will deliver the most rigour in accountability (see **Recommendation 4**); and
- (v) In the case of Bodies that are not separately incorporated entities, how to optimise rigour of accountability by the Body through enhancing the capability of all of the Councils (including Synod itself) to hold other Councils and Bodies, as appropriate, to account.

Observation 4 - Church Membership of incorporated entities as highest form of accountability: As explored in Chapter 7, if Synod decides to allow incorporation of some Bodies the most suitable form for larger more complex Bodies is the not-for-profit company limited by guarantee under the *Corporations Act 2001*. The strongest accountability mechanism provided by that legislation is company ‘membership’. The ‘member/s’ of a company retain control through what is contained in the company’s constitution, including the purpose and objects of the company and the power of appointment and removal of members of the board of the company. Indeed, in our view this option provides far stronger accountability mechanisms than the current governance model of the Church in Queensland.

Recommendation 4 - Favour UCQ Property Trust as Sole Member of incorporated entities: When permitting incorporation of any Body as a not-for-profit company limited by guarantee, prefer the simplest membership structure creation of the company with the UCAQ Property Trust as the sole member, having the powers of appointment and removal of directors of the company, with provisions entrenched in the constitution of the company ensuring adherence to Mission and that the board of the company is required to serve the interests of the sole member ‘parent’ of the company in accordance with s.187 of the *Corporations Act*.

Observation 5 - Learn from other Synod experiences: As explored in Chapter 5, other Synods in Australia have permitted incorporation of entities within their bounds with some distinct lessons learned.

Recommendation 5 - Set relationship expectations on incorporation: Drawing on the Government Enterprises Model and the NSW/ACT and Vic/Tas Synod experiences in particular, permit establishment of a separately incorporated Bodies, if at all, only on the following bases:

- (a) The membership structure for any permitted companies should be as simple as possible, preferring the UCAQ Property Trust as the sole corporate member (see also Recommendation 4) to hold the board of directors of the company to account through reporting mechanisms;
- (b) Adopt a Model Constitution for all such companies that sets out clearly:
 - (i) required Church Mission-related Objects and any limitations on activities outside Mission; and
 - (ii) the powers of the Church around appointment and removal of a majority of the directors in consultation with the board of the company itself; and
- (c) there should be an additional (model) Relationship Agreement, specifying reporting and accountability requirements between the Church and the incorporated Body, including the requirement to submit annually to the Property Trust, Synod Standing Committee or other designated oversight group, a Mission and Ministry Plan and Strategic Plan for the Body (not for the purposes of approval but as a means of oversight enabling the Property Trust to make appropriate and informed decisions about appointment (and, sparingly, removal) of directors on the board of the Body).

Observation 6 - The importance of UCAQ Property Trust holding Church property: Irrespective of the chosen governance arrangements for holding to account the Councils and Bodies within the bounds of Synod, and the means of establishment and/or incorporation of entities, a material issue which must be considered is the continued ownership of the property of the Church in the UCAQ Property Trust and the circumstances, if any, in which it ought to be devolved into other special purposes trusts or other ownership arrangements.

Recommendation 6 - Set guidelines and Model Trust Deed for making property holding decisions: Drawing on Chapter 8 for some of the relevant considerations, develop a set of Trust Property guidelines for Synod, based on existing work of Synod Office, to guide decisions about the best means of holding of any property which is for the exclusive use of a Body. especially when deciding whether to permit or require incorporation of the Body. Require any special purpose trusts created for property relating to individual Bodies to be governed by a Model Trust Deed drawing on the United Church of Canada example (see paragraph 5.11).

Observation 7 - The importance of Legal Due Diligence: a range of matters must be carefully considered by Synod in relation to any change to the current model operating in Queensland. This includes, for example, the impact on PBI status of Bodies within the Church and whether the legal indemnities under the Act and the Regulations (see paragraphs 4.36 and 4.39) would still be available to the same extent, or could be lost or eroded, for members of boards or governing bodies of Church Bodies that are required or permitted to incorporate separately and/or the property of which is placed into a special trust.

Recommendation 7 - Full Legal Due Diligence: Ensure that all decisions about establishment and/or separate incorporation of institutions and establishment of special trusts in keeping with these Recommendations, includes full legal due diligence as contemplated by Observation 7.

Observation 8 - Synod Standing Committee Governance Oversight Capabilities: Irrespective of whether Synod chooses to retain its current fundamental polity and government or to move towards establishment of some Bodies as institutions with or without separate incorporation, the governance oversight capabilities of SSC should be enhanced to tackle present limitations (see paragraphs 7.21 and 7.22).

Recommendation 8 - Enhance Synod Standing Committee Governance Oversight Capabilities: Draw on the experience of the strengths of the Synod board implemented in NSW/ACT to review the composition of SSC in Queensland. We do not recommend the addition of a separate Synod board, creating yet another decision-making layer, but instead recommend a review of the composition of SSC itself. This would enable Synod to balance perspectives of individuals within SSC coming from existing major Bodies with those of persons bringing greater independence, objectivity and relevant technical expertise, potentially even from outside the Church.

2. Introduction and Overview of the Research Project

2.1 The Queensland Synod (**Synod**) of the Uniting Church in Australia (the Church) has embarked on a body of work under the banner Plenty, dedicated to tackling four ‘Mission Priorities’ and 11 Commitments which form part of the strategic ambition of the Uniting Church. The four Mission Priorities are:

- Discipleship
- Transforming Communities
- Fit-for-Purpose
- Life Together

2.2 In late 2022 Board Matters was engaged to conduct a body of research in relation to the third Mission Priority, Fit-for-Purpose. This research was to enable decisions to be presented to Synod in October 2023 in relation to ‘Governance Reform’ which is an explicit Commitment under the Fit-for-Purpose Mission Priority. Hence, we were charged by the Project Brief with the following objective:

To capture an overview of other existing governance models and apply the criteria as part of an evaluation process, which would result in a short-list of models for more detailed and in-depth exploration to assess application to the Uniting Church in Queensland governance requirements.

2.3 This project requires clarity about several matters, namely:

- (a) what is meant by the expressions “governance” and “governance models” (see this Chapter below)?
- (b) what criteria will be used to analyse the fitness for purpose of the current and other possible models (see this Chapter below)?
- (c) what is the ecclesiological context for this review (see Chapter 1)?
- (d) what is the current “governance model” of the Church in Queensland (see Chapter 4)?
- (e) what other “governance models” might be considered to offer useful features for adoption by the Church as the next stage in the continuous evolution and improvement of the governance of the Church and its activities in Queensland (see Chapter 1)?
- (f) what decisions need to be undertaken in relation to proposals for the establishment of Bodies as institutions and/or their incorporation (see Chapter 7)?
- (g) what factors ought to be considered in relation to the important issue of the way Church property is held in Queensland into the future (see Chapter 8)?
- (h) what aspects of the current governance model of the Church in Queensland can be regarded as fit-for-purpose and what aspects cannot?

Defining “governance” and “governance models”

2.4 Much is written about “governance” - its definition, contemporary ideas about its ‘best practice’ and ‘fitness-for-purpose’ and the resulting implications. This Report assumes the reader has a moderate level of understanding about such concepts. Nonetheless it is worth beginning this overview at the beginning, recognising the kernel of truth at the heart of the word, governance, itself. With its origins in the Greek word *kubernaein* meaning ‘to steer’, it is useful to think of the job of governing an organisation as one of stewardship - steering the organisation safely to its destination, managing all the hurdles and conditions it faces.

- 2.5 When we talk about the governance arrangements or ‘architecture’ of an organisation or ‘community of Mission-driven interest’ like the Church, this generally means how the organisation or community has defined and allocated decision-making authority amongst those with a governance - or stewardship - role. It also refers to the resulting accountabilities for the decisions taken by those stewards in relation to the deployment of the assets and resources of the organisation for the achievement of Mission, goals and/or objectives. This is an internal-facing view focussing on the design of the governance arrangements within the organisation.
- 2.6 By extension of these concepts, for the purposes of this review and in absence of any specific direction on this point, we have interpreted the expression “governance model” more widely. We interpret it to mean the wider view of the whole organisation, combining an understanding of both the overarching legal structure and the internal architecture of governance decision-making authorities and accountabilities within the structure.
- 2.7 Understood in this way, there is an almost limitless number of “governance models” available for the governance of organisations in Australia. Just one example of this diversity of options is found in the Church itself. This is seen in the ways governance models adopted by Synods across Australia (and the World) have diverged starkly over past decades (see Chapter 5). Yet all Synods share the common, prescribed and immutable polity and government of the Church in Australia as described in Chapter 4 of this Report.
- 2.8 There are also many examples of the array of possible governance model variations amongst listed public companies. This is despite all listed companies being subject to the same rigid legal rules about their governance prescribed by the Australian Securities Exchange. For instance, depending on scale, maturity, risk profile, complexity of the company and its business lines and other factors, a listed company may choose to organise itself into one large corporate group with the same unified branding and overarching board and management team (consider Virgin Australia). However, it may also choose to arrange itself through quite separately established, badged and governed subsidiaries (consider Qantas Airways and its wholly-owned but separately operated and badged subsidiary, Jetstar).
- 2.9 Furthermore, the extent to which any company distributes and delegates decision-making authority throughout the organisation can and does vary significantly. A large, complex, well-established company is often highly bureaucratic, holding significant decision-making authority at the top and only carefully delegating to the bottom. A small new start-up company might be expected to delegate powers freely, encouraging innovation and fleetness of foot to help build the business fast. This too should be considered an aspect of governance architecture and so of the governance model chosen.

Choosing the comparator governance models

- 2.10 Given the long list of possible “governance models” for analysis, it was important for the purposes of this project to confine the options considered in some manner.
- 2.11 To be a valid comparator, we therefore considered only governance models found in group enterprises relatively ‘on par’ with Synod. The Church in Queensland comprises a community of worship, witness and service in the name of Jesus Christ. As we will explore in Chapter 4, this community has evolved over the past five decades into a very complex community. Today it includes a range of large and, in some cases, high legal-risk community service activities across health, education, disability, aged care and others. As explained in Chapter 5, other Synods have likewise evolved and yet have chosen different models for the government (and governance) of the Churches within their bounds.

- 2.12 It was therefore important that the “other existing governance models” identified in this Report (see Chapter 6) could bear comparison to the governance of the life of the Church within the bounds of Synod. Little is to be gained from a comparison between Church governance and the governance structures of standalone enterprises, no matter how large, that have only one or a small number of closely allied activities under one banner. We have also preferred governance models adopted for human services or similar enterprises, as opposed, say, to those manufacturing or selling goods, or mining resources.
- 2.13 Chapter 6 explains the resulting five Governance Models identified and used for this review.

Evaluation Criteria

- 2.14 In order to compare and contrast different governance models as required, it is important to be clear about the criteria used to analyse any model’s ‘fitness for purpose’. For example, if ‘group profitability’ were the most important criterion in assessing the fitness of an organisation’s governance, there is little doubt that many public listed company group governance models would provide amongst the strongest comparators. In this review, the Evaluation Criteria were set out in the Project Brief (see **Annexure A** to this Report). With the addition of two criteria (for the reasons stated below) as indicated those criteria are:

Project Plenty Stated Criteria

- I. Staying true to our purpose and values
- II. Empowering our people
- III. Adapting for context
- IV. Being accountable to ourselves and our stakeholders
- V. Connecting the parts of the ‘body’ into a cohesive whole

Recommended Additional Criteria

- VI. Respecting the Immutable Polity and Government of the Church (this was additional to the criteria set out in the project brief, for the reasons set out below)
- VII. Protecting and enhancing the assets and resources available for delivery of Mission (this was additional to the criteria set out in the project brief, for the reasons set out below).

- 2.15 As the first criterion implies, the starting (and finishing) point for the assessment must be the ecclesiology of the matter of governance within the Church. This forms the basis for the ecclesiology in Chapter 3.
- 2.16 As the third criterion implies, it is also critical to understand the context of this body of work. Chapter 4 of this Report is dedicated to describing ‘current state’ polity and government applicable to the Queensland Synod of the Uniting Church as part of the wider Church in Australia. It describes a complex web of interrelationships between a range of constitutionally established Councils and Bodies within the Church.
- 2.17 Importantly in the context of the Church, some matters must be assumed and accepted as immutable, and we have done so in this Report. Those matters include the laws of Australia and its sovereign States and Territories (including the Act that created the UCAQ Property Trust) and the equally legally immutable ‘laws’ of the Uniting Church in Australia. These are found in the UCA Foundational Documents, namely the Basis of Union and the Constitution of the Church. Hence the existence of the UCAQ Property Trust and the five types of “interrelated” Councils as outlined in paragraph 4.6 is regarded as immutable for the purposes of this Report.

- 2.18 Conversely applicable Church Regulations and By-Laws are *not* assumed to be immutable. They are capable of change, if necessary, provided the case for change (or suspension in the case of Regulations) can be properly made to the Assembly (Regulations) and/or Synod (By-Laws). Hence the addition of the sixth criterion to reflect those matters which are immutable and those which are not.
- 2.19 We have also added the seventh criterion as an explicit extension of a point that we assume to be intrinsic to the third and fourth criteria. It would not be a proper discharge of the Synod's accountability for the stewardship of Church resources in Queensland (criterion four) to disregard the importance of protecting and growing those same Church resources into the future (criterion three) for the sustained life of the Church into the future.

Other Definitions and Expressions Used in this Report

- 2.20 Expressions used throughout this Report that are not defined below have the same meaning as set out in the UCA Constitution, the Regulations and/or the By-Laws (as the case requires). The expressions set out below have the meanings shown except to the extent that the context demands otherwise:
- (a) **ACNC** means the Australian Charities and Not-for-Profits Commission;
 - (b) **Act** means the *Uniting Church in Australia Act, 1977 (Qld)*;
 - (c) **Assembly** means the national assembly of the Church referred to in clause 15(e) of the Basis of Union (see also s.5 of the Act);
 - (d) **Associations Incorporation Act** means the *Associations Incorporation Act, 1980 (Qld)*;
 - (e) **Basis of Union** means the document of that name adopted upon formation of the Church and set out in the Schedule to the Act;
 - (f) **Body** and **Bodies** have the meanings set out in the By-Laws, which also incorporate the definitions of those expressions set out in the UCA Constitution;
 - (g) **By-Laws** means the by-laws of the Queensland Synod;
 - (h) **Church** means the Uniting Church in Australia;
 - (i) **Congregation** has the meaning given to it in clause 23 of the constitution;
 - (j) **Corporations Act** means the *Corporations Act, 2001 (Cwlth)* and, when the context requires, predecessor Acts in relevant States and Territories of Australia providing for the incorporation and registration of companies;
 - (k) **Council/s** means, as the context demands, one or more of the interrelated councils referred to in clause 15 of the Basis of Union (see paragraph 4.6 of this paper);
 - (l) **Evaluation Criteria** means the seven criteria set out in paragraph 2.14, being the five criteria prescribed by the Project Brief and the two additional criteria recommended by the author of this Report;
 - (m) **Fiduciary** has the meaning explained in paragraph 7.5;
 - (n) **FIP Board** means the Finance Investment and Property Board formed in Queensland to carry out the duties and responsibilities of the Property Board set out in Regulation 4.2.1 and other functions and responsibilities as delegated to it by Synod;

- (o) **General Secretary** means the General Secretary of the Queensland Synod as established under the UCA Foundational Documents;
- (p) **Governance Models** means the five governance models described in Chapter 6 of this Report;
- (q) **Letters Patent Entities** means organisations incorporated under the *Religious Educational and Charitable Institutions Act, 1878 (Qld)* or equivalent legislation in other States prior to the advent of Associations Incorporations legislation in the various States of Australia in the 1980s;
- (r) **NSW/ACT Synod** means the New South Wales and Australian Capital Territory Synod of the Church formed as a regional Council pursuant to clause 3.4.8 of the UCA Constitution;
- (s) **PBI** means a public benevolent institution for the purposes of Australian charity taxation laws, examples of which are Wesley Mission Queensland and UnitingCare Queensland;
- (t) **Presbytery** is a council of the church and has the meaning given to it under clause 25 of the constitution;
- (u) **Project Brief** means the brief for the provision of this Report, a copy of which is set out in **Annexure A**;
- (v) **property** includes real and personal property and any estate or interest in any property real or personal, and any debt, and anything in action, and any right to receive income, and any other right or interest (s.5 of the Act);
- (w) **Regulations** means the regulations of the Uniting Church in Australia adopted by the Assembly;
- (x) **Queensland Synod** means the synod of the Church formed within the bounds of the Church in Queensland in accordance with clause 15(d) of the Basis of Union;
- (y) **Synod** means the Queensland Synod or other synod of the Church in Australia as the context requires;
- (z) **Synod Standing Committee** or **SSC** means the committee created by By-Law Q2.2 to discharge certain functions on behalf of Synod between its meetings;
- (aa) **UCA Constitution** means the constitution of the Uniting Church in Australia adopted by the Assembly and acknowledged in the Act and the Basis of Union;
- (bb) **UCA Foundational Documents** means the Basis of Union and the UCA Constitution;
- (cc) **UCAQ Property Trust** means the Uniting Church in Australia Property Trust (Q.) constituted by this Act (s.5 of the Act);
- (dd) **UCQ** means UnitingCare Queensland;
- (ee) **Vic/Tas Synod** means the Victoria and Tasmania Synod of the Church formed as a regional Council pursuant to clause 3.4.8 of the UCA Constitution; and
- (ff) **WMQ** means Wesley Mission Queensland.

3. Ecclesiology

We are grateful to Rev Heather den Houting, General Secretary of the Queensland Synod of the Uniting Church for the contribution of this Chapter.

The Uniting Church recognises that responsibility for government in the Church belongs to the people of God by virtue of the gifts and tasks which God has laid upon them. The Uniting Church therefore so organises her life that locally, regionally and nationally government will be entrusted to representatives, men and women, bearing the gifts and graces with which God has endowed them for the building up of his Church. The Uniting Church is governed by a series of interrelated councils, each of which has its tasks and responsibilities in relation both to the Church and the world.

Basis of Union, Clause 15

The Ecclesiology of the UCA

- 3.1 The Basis of Union at Paragraph 15 is a reflection of the fact that when a church organises itself into a movement, it requires a form of government. This reality has seen multiple forms over the last millennia of the Christian Church. To claim one form of church governance is superior to another is to not heed the lessons of multiple forms of church, from the early Christian communities to the Roman Empire to the scattered ecclesial forms of Protestantism that exist today.
- 3.2 However, what is abundantly clear is that there is a justified critique of church government, when the systems and processes of government do not reflect the call of discipleship to Christian witness, and instead become in itself a self-sustaining goal. We too must be prepared to face such critique.
- 3.3 Geoff Thompson describes the Protestant suspicion of ecclesiastical authority as something that is very real in the Uniting Church in Australia. He reflects on the benefits and gifts of belonging to an organised community, where accountability and trust are essential features. But recognises that we must sit lightly with the institutions of our church without denying our need of them¹.
- 3.4 Instead, he reflects on the idea of organised pilgrims² where he suggests that the biblical compulsion toward Christian witness must be served by our structure. We cannot choose the context in which we find ourselves, the ministry to the people we serve, or the way individual people relate to God, but we can recognise that the Basis of Union seeks to hold the “necessity and provisionality” of the church structure in tension with the “cosmic work of reconciliation of Christ”. In this manner, while church government is inevitable, it is not fixed, but must seek to find the way to reflect in its essence the journey to the eschaton.

¹ Geoff Thompson, *Disturbing Much, Disturbing Many: Theology Provoked by the Basis of Union*, UAP, Northcote (2016) at page 261.

² Thompson (2016) at page 259.

- 3.5 This piece of work unashamedly reflects our contemporary context and wonders whether our current form of government truly reflects the Christian compulsion to unity and reconciliation. In essence we question today whether the legal identity of the Church, as conferred by the combination of the Basis of Union, UCA Constitution, the Regulations and By-Laws and the Queensland Act which created the Property Trust (Q.), have stood the test of time to give heed to this continuing call.
- 3.6 The Queensland Synod, under the Fit for Purpose working group under Plenty, offers this discussion paper to remain a church that listens to our environment and review and reimagines itself in a way that way of the Pilgrim people. It is a conversation about the church’s inner structures, but one that better seeks to reflect the world in which we live and move and have our being.
- 3.7 The propositions in this paper are that while we may hold the ecclesial compulsion formed uniquely in the post war era and found in the BOU the regulations and consequent “machinery of government” on which we have built the current organisation are not entirely fit for purpose. As such we ask ourselves what might be open to change - that is, which parts of our church government should be open to constant correction as encouraged by the BOU at para. 18.
- 3.8 What then are the characteristics of a church that understands its context, holds its commitment to church structures lightly, and commits itself again to correcting that which may be no longer in service to the constant call to reconciliation?
- 3.9 Some key clues in UCA theology can be found in the understandings of hope, love and justice. These theological lenses can assist us to assess that things are done in a manner where we recognise that we do not own our property, or our people or our systems, but rather we recognise our stewardship of these resources for the coming of God’s reign.
- 3.10 Does the way we organise ourselves bear witness to these goals? Does what we do engender trust, is it built on hope, does it reflect a just distribution of resources amongst ourselves and with others, are we vulnerable to those we serve, are we imagining in a future for the next generation of church that builds and enhances their capacity to worship, witness and serve?
- 3.11 The ACT2 process in its governance and resourcing stream is asking similar questions. This work is guided and shaped by the bigger questions but must be done as part of our own unique context and circumstances³.

Rev Heather den Houting
 General Secretary
 Queensland Synod
 Uniting Church in Australia

³ ACT2 resources - <https://www.act2uca.com/where-to-from-here>

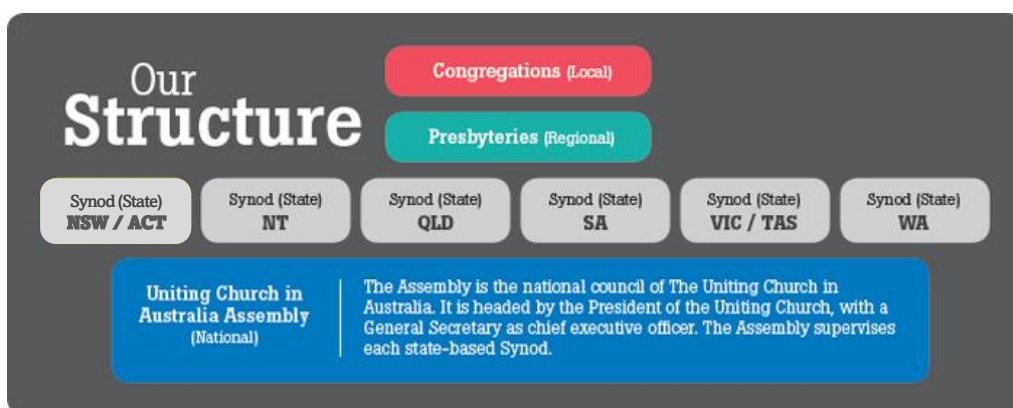
4. Overview of Uniting Church Polity and Government in Queensland

What is Polity and Government?

- 4.1 In this Report, we use the word “government” somewhat interchangeably with “governance”. The reason for this is out of respect for the importance of the Basis of Union in the Uniting Church. The Basis of Union uses the word “government” in a manner and context in which, if this document were being negotiated today, it is possible that the more popular modern-day expression “governance” might have been used.
- 4.2 The word “government” today is more frequently used to reference the group of people elected or otherwise empowered to govern any given community and is generally used in a more civic sense. By contrast “governance” is the term typically used today to describe the act of governing or leading in a more organisational or corporate sense. Arguably, however, the Basis of Union uses the word “government” rather than “governance” quite deliberately. After all the Church comprises a community of people - even a community of communities - serving the same Christian Mission. Along the way some Bodies have emerged from this community and developed some actual or perceived autonomous powers and the intersection between the ‘governance’ of those Bodies and the ‘government’ of the community (and communities) of the Church does not always sit easily together.
- 4.3 In seeking to describe the current ‘polity and government’ of the Church in Queensland, then, we are seeking to describe the structures and the framework adopted for the allocation of decision-making authority, responsibility and accountability within the bounds of the Synod. This requires an understanding of the following elements of the governance architecture of the Church in Queensland:
- (a) **Authority** : To whom decision-making authority has in fact been allocated (and equally important, to whom it has not) relating to the use of the precious resources of the Church in Queensland, including decisions about such matters, amongst others, as employment and deployment of staff, the strategic direction of the Church in Queensland and of the Bodies within the its bounds, and the policies and procedures for the optimisation of resources and protection of people served and/or affected by the activities of the Church;
 - (b) **Responsibility**: The ethical, legal and policy limits or boundaries within which, irrespective of actual and explicit authority, each such decision must be made;
 - (c) **Accountability**: who has ultimate accountability for the impact each decision, to whom they owe their accountabilities and how their accountability is to be expressed; and
 - (d) **Source of Truth**: in respect of each of the above elements, where the ‘source of truth’ about the governance model in the life of the Church can be found to validate the identified allocation of authority, responsibility and accountability.
- 4.4 The extent to which the polity and government of any community of interest can be easily and clearly articulated and understood by those within the community itself, reflects to no small degree the effectiveness of the framework. If it cannot be easily and clearly described, it carries high levels of risk that people taking decisions might exceed their actual decision-making authority and/or fail to be held accountable for them. Conversely it can lead to a tendency for decisions to become bureaucratic and to be sometimes unnecessarily slowed down or impeded due to uncertainty, confusion or sheer complexity of decision-making layers. After almost 50 years since formation of the Church, the framework for the polity and government of the Church in Queensland (and elsewhere) cannot be easily articulated and is commonly misunderstood by many within and without the Church (and hence this body of work).

UCA Foundations: Basis of Union and UCA Constitution

- 4.5 The principal ‘source of truth’ concerning the “government” of the Church and its various agencies, bodies and institutions is indeed the Basis of Union, as adopted upon formation of the Church in Australia in 1977. Alongside the Basis of Union sits the UCA Constitution. Together these documents set out the theological underpinnings and rules surrounding the ‘government’ of the Church in Australia. They are both referenced, and the Basis of Union is set forth in the Schedule to, the Act in Queensland which created the UCAQ Property Trust.
- 4.6 The Act in s.9 (see **Annexure B**) and the Basis of Union both recognise that the Church is also to be governed in accordance with the UCA Constitution and with any Regulations made by Assembly to further supplement (but not supplant) those core documents. Likewise, the Synod may issue, and has issued, By-Laws in relation to the government of the Church in Queensland. These By-Laws must not be inconsistent with the Basis of Union, the UCA Constitution, the Regulations or the Act.
- 4.7 The starting point for Church polity and government then is clause 15 of the Basis of Union. It prescribes the matter of “Government in the Church” (although notably the headings have been added for ease of interpretation subsequent to the adoption of the Basis of Union as it is contained in the Act). Clause 15 gives us the first important signpost for the purposes of our analysis, when it declares that the Church is “governed by a series of interrelated councils each of which has its tasks and responsibilities in relation to both the Church and the world”. Those Councils set out in clause 15 are:
 - (a) The Congregations - as the heart of witness, worship and service within the Church;
 - (b) The Elders’ or Leaders’ Meeting (now regulated as the Church Council) being the council within the congregation or group of congregations;
 - (c) The Presbytery as the district council;
 - (d) The Synod as the regional council;
 - (e) The Assembly as the national council.



Source: NSW and ACT Synod web page at <https://nswact.uca.org.au/about-us/our-structure/>

- 4.8 Within the bounds of the Queensland Synod today there are also a great many other distinct Bodies operating in the name of the Church. In **Annexure D** we have included a Queensland Synod Galaxy Chart provided by the Synod Office which shows visually the complexity of the relationships between interrelated Councils listed above and many external-facing Bodies of the Church.
- 4.9 The enforceability of the Basis of Union in the secular legal system is recognised and reinforced in each State and Territory of Australia by enabling Acts of State Parliaments. In the late 1970s, at the request of the Church, the Parliament of each State and Territory created incorporated vehicles, known as Property Trusts, to hold the Church’s property on trust for the Church in each respective State and/or Territory. This is also reflected in Division 5 of the UCA Constitution and Regulation 4.
- 4.10 The entity created in Queensland for this purpose is The Uniting Church in Australia Property Trust (Q.) (the **UCAQ Property Trust**).

The Property Trust and Dealings with Church Property

- 4.11 Misleadingly, the UCAQ Property Trust is not, in law, a trust at all. It is a separately incorporated legal entity, created by the Act, to be the trustee for all property vested in it. It holds the property on behalf of the Church in Queensland. In other words, legally UCAQ Property Trust is the trustee, not the trust. The distinction is of critical importance to the government and polity of the Church.
- 4.12 The Property Trust holds “on behalf of” the Church all property (with a small number of exceptions carved out by the Act) which is used by the Councils and Bodies within the bounds. As a trustee at law, the designated members of the Property Trust⁴ have strict legal and fiduciary duties to make decisions in relation to the property held on trust for the Church (see also Chapter 8). These are the same legal obligations as for any trustee under the *Trusts Act, 1972 (Qld)* and the general law and demand that the members of the Property Trust ensure all dealings with the property held by the Property Trust are in keeping with these obligations and the trust on which the property is held.
- 4.13 Regulation 4.2 requires each Synod to establish a “Property Board”. This is styled as the Finance and Property Board in Queensland. It is required to take a Synod-wide perspective of the use and application of the property and financial resources available to the Synod. This body is not mentioned in the Act and so its advisory relationship to the Property Trust has evolved through development of the By-Laws, and an element of custom and practice rather than being prescribed by the core Foundational Documents of the Church.
- 4.14 A range of important questions and issues surrounding the continued ownership of property within the UCAQ Property Trust arise in the context of considering the Church governance model for Queensland Synod into the future. Some of those questions and issues are outlined and addressed separately in Chapter 8 of this Report.

⁴ Under clause 13 of the Act, the UCAQ Property Trust comprises the Moderator, the General Secretary and the Property Officer as well as five others nominated by Synod from time to time. By-Law 3.1 supplements this today with the rules relating to the selection and appointment of the members of the UCAQ Property Trust.

Intra Synod Governance

4.15 As outlined above, the Basis of Union establishes the polity of the Church in Queensland (and elsewhere), revolving around a series of “interrelated councils” (see paragraph 4.6 above). To understand the more detailed working and governance of these interrelated Councils, it is necessary to look to the UCA Foundational Documents, as well as the Regulations and, in Queensland, the Queensland Synod By-Laws. It is through the interaction of these various documents that a range of decision-making bodies within and associated with each of the listed Councils are established.

4.16 In summary, each of the relevant Councils operates under the stewardship of one or more decision-making groups, namely:

- (a) The **Congregations**, each of which operates under the stewardship of a Church Council as designated by clause 22 of the UCA Constitution;
- (b) The **Church Council** (being one and the same as the Elders’ or Leaders’ Meeting as designated by the Basis of Union and restyled by the Regulations) to act as the Council within the congregation or group of congregations;
- (c) The **Presbytery**, which acts as Council at the district level, and which is delineated by the relevant Synod in terms of the geography, and so the congregations, within its bounds in order to “have such oversight as is necessary to the life and mission of the Church in the area committed to it” (see UCA Constitution clauses 25 and 26);
- (d) The **Synod** - in this case the Queensland Synod - as the regional Council which in turn is designated by the Assembly to have “general oversight, direction and administration of the Church’s worship, witness and service within its bounds” (see clauses 31 and 32 UCA Constitution); and
- (e) The **Assembly** as the national council with the following broad decision-making power vested in it by clause 38(a) of the UCA Constitution:

The Assembly shall have determining responsibility in matters of doctrine, worship, government and discipline, including the promotion of the Church’s mission, the establishment of standards for theological education and the reception of Ministers from other denominations, and is empowered to make final decisions on all matters committed to it by this Constitution.

4.17 Clause 32 of the UCA Constitution sets out the responsibilities of Synod. This clause includes the responsibility “to establish and maintain such boards, institutions, committees and agencies as are appropriate to the furtherance of its responsibilities”.

4.18 Clause 38(b) of the UCA Constitution sets out a non-exhaustive list of specific matters falling within the authority of the Assembly. Clause 38(b) is set out in full in **Annexure C**. Of relevance to this analysis, we highlight three particular provisions:

- (a) Clause 38(b)(i) which makes clear that Assembly’s authority includes the power and responsibility to make “guiding decisions on the tasks and authority to be exercised by the other councils of the Church”;
- (b) Clause 38(b)(viii) which empowers Assembly “to act in all matters in respect of which exclusive authority is not vested in any other council by this Constitution.” - which combined with the prior mentioned clause, gives Assembly a national role within the Church somewhat analogous (but not perfectly so) to the Federal Parliament of the Commonwealth of Australia; and

- (c) Clause 38(b)(vi) which specifies that Assembly has power to “provide for the control and management of the property and funds vested in the Church” - which in a strict legal sense, based on these words, does not appear to extend the power to providing for control and management of property “vested in” the various State and Territory Property Trusts rather than the Church, which is purely the beneficiary of the trusts created by the Act and its equivalents in other States and Territories.
- 4.19 The Regulations promulgated by Assembly and the By-Laws of the Queensland Synod set out in more detail the operation of each of the interrelated Councils and create of a range of other Bodies, officers and decision-making groups having stewardship oversight over various activities of the Church. In terms of the Bodies created within the bounds of the Synod, we will examine some of the governance matters relating to them in more detail in the next section of this paper (see paragraphs 4.27 to 4.31 below).
- 4.20 In terms of the relevant officers and decision-making groups created within the bounds of the Synod, the structure is observably complex and quite specific to the Uniting Church in Australia. It has evolved considerably over the decades since establishment of the Church in the 1970s as the Church has endeavoured to adapt its bespoke legal form to successive contemporary ideas, models and ‘fashions’ in the practice and discipline of governance.
- 4.21 Some of the provisions relevant to the authority and responsibilities of key officers (and offices) and decision-making bodies within the bounds of the Synod include:
- (a) By-Law Q2.1 - setting out provisions relating to the composition, operation and powers of the Synod (with its overarching operation, powers and responsibilities drawn from the Basis of Union, the UCA Constitution and the Regulations of the Assembly), and requiring it to meets every 18 months;
 - (b) By-Law Q2.2 - setting out the composition, operation and powers of Synod Standing Committee, which exercises such of the powers of Synod as it permits between regular meetings of Synod;
 - (c) By-Law Q2.3 -setting out the provisions with respect to the role of the Moderator (in addition to those set out in the Regulations);
 - (d) By-Law Q2.4 - setting out the provisions with respect to the role of the General Secretary as Secretary of the Synod and CEO of the Queensland Synod Office;
 - (e) By-Law Q2.5 - acknowledging the role of Queensland Property Officer created pursuant to the Regulations of the Assembly and the Act;
 - (f) By-Law Q2.6 - recognising the Office of the Synod created “to support the Moderator, General Secretary and the functioning of the Church”;
 - (g) By-Laws Q2.7 and 3 dealing at length with the rules applicable to the governance roles and responsibilities of a range of bodies and boards and committees formed in Queensland; and
 - (h) By-Law Q4 dealing at length with the “institutions” of the Church in Queensland, with only UnitingCare Queensland referenced in this section of the By-Laws.
- 4.22 Of note, the language associated with the polity and government of the Church causes a high degree of confusion for many. This is particularly evident as people from outside the Church join “boards” and “committees” related to Bodies with expectations that these types of expressions have the same meanings as they do in non-Church legal entities and contexts. A proper reading of the UCA Foundational Documents and the Regulations and By-Laws reveals that such an assumption is flawed.

4.23 An example is the very specific way the Church uses the expression “institution”. Regulation 3.7.4.7 occupies two and half pages, 9 clauses and 18 sub-clauses (not to mention sub-sub-clauses) and defines the term as follows:

Institution means any body whether incorporated or unincorporated established by or on behalf of the Church or any of the uniting churches or in which the Church participates for a religious, educational, charitable, commercial or other purpose;

4.24 This meaning is not the same, for example, as the way the expression is used for the purposes of taxation laws applicable to charitable institutions in Australia. It is therefore conceivable that a Uniting Church “institution” may not automatically fulfil the requirements of an “institution” for the purposes of Australian taxation laws.

4.25 Regulation 3.7.4.7 empowers Synod to create institutions, subject to certain directions of Assembly, and requires those institutions to submit Synod’s authority in several respects:

- Synod:
 - determines the existence of institutions (Reg 3.7.4.7(b))
 - may authorise an institution’s “separate incorporation” (Reg 3.7.4.7.(c))
 - may determine how the property of the institution is to be held on trust (Reg 3.7.4.7(d))
 - may oversee the institution, appoint an official visitor and “intervene in such manner as it is able and as it considers necessary or proper in the interests of the Church” (Reg 3.7.4.7(e))
 - authorises the institution’s constitution and any changes to it (3.7.4.7(i)(ii))
- the institution is:
 - responsible and accountable to Synod - and reports to it - and exercises the powers and functions “delegated to it by Synod” (3.7.4.7(f))
 - required to include “effective representation” of Synod or other relevant Councils of the Church

4.26 Subjecting Church institutions to important accountabilities and responsibilities to Synod on behalf of the Church results in a sometimes uneasy intersection between the governance of Church Bodies that are institutions and the broader government of the whole community of the Church. This tension is not unlike that experienced in many wholly-owned or majority-owned subsidiaries operating in a Command and Control Model group (see paragraph 6.6) or a Government Entities Model (see paragraph 6.11).

External Facing Bodies of the Church

4.27 As mentioned earlier, it is evident that few people, within or without the Church, have any real understanding of the whole of the polity and government of the Church, and its complexity, as described above.

4.28 Most persons outside the Uniting Church, and many within it, would be unaware of the existence, nature or working of the Queensland Synod or of its role and function. It is likely that even most people within Bodies operating under the Uniting Church banner in Queensland would struggle to understand and explain the nature of the Synod and the UCAQ Property Trust. This is because it is an extremely unusual structure in today’s world. We are aware,

anecdotally, that this often causes great difficulty for those Bodies dealing with regulators, joint venture partners and a range of other third parties who simply do not understand the unusual, bespoke structure of the Church.

4.29 To the outside world, the Uniting Church in Queensland might simply appear to be comprised of a number of separate ‘organisations’, with a range of different legal structures and governance arrangements. Many people, no doubt, would expect that these are simply ‘subsidiaries’ of some overarching parent legal entity that ultimately controls their existence. As described under the prior heading this is not an accurate way to describe the polity of the Church in Queensland.

4.30 The legal reality is quite different from what many might expect. By contrast with the structures of the more “vanilla” charities and not-for-profits commonly contemplated by laws and regulations, the Uniting Church comprises its own unique blend of legal structures and realities. In legal terms, the Bodies in Queensland can be loosely categorised (but imperfectly given the number of variations within each category listed below) as:

- (a) **unincorporated associations** - this category includes the Church, the Assembly and Queensland Synod itself and the vast majority of what might appear to those outside the Church who are dealing with them to be separately run Bodies, including for example:
 - each separate Congregation and/or its Church Council;
 - each individual UCAQ School or College;
 - each of the large and well-known public-facing Bodies like UnitingCare Queensland and Wesley Mission Queensland;
- (b) **separately incorporated organisations** - there are a small number of separately incorporated entities which are *associated* with the Church in Queensland in a range of ways, but are legally *separate from it*, with further sub-categorised here being:
 - (i) **Letters Patent Entities** - being organisations such as:
 - the Presbyterian and Methodist Schools Association (**PMSA**) and
 - the Uniting Church residential colleges at the University of Queensland, all of which are incorporated by Letters Patent under the *Religious Charitable and Educational Institutions Act, 1861 (Qld)*, having their governance and decision-making authority prescribed by their own separate rules or constitution; and
 - (ii) **Bespoke Statutory Incorporated Entity** - being the UCAQ Property Trust which was established by its own Act of Parliament in Queensland in 1977 as part of the establishment of the Church across Australia;
 - (iii) **General Incorporations Acts bodies** - being a small handful of Church activities established under the same generic incorporation regime as tens of thousands of other companies (under the *Corporations Act*) and associations (under the *Associations Incorporation Act*) in Queensland such as:
 - Australian Remote and Regional Community Services (**ARRCS**) incorporated as a company limited by guarantee under the *Corporations Act* with, we understand, the Property Trust as the sole member; and
 - Newlife Community Care Inc. (being a Qld incorporated association) established we understand by one of the Presbyteries (although a search of the website public corporate and charity records in Australia does not disclose any such association).

- 4.31 Also distinguishing the Church’s Bodies from most other common or ‘vanilla’ non-church legal structures used by charities in Australia is the matter of ownership and occupation of property. In most (but not all) cases the property used by these Church Bodies is generally not legally owned or leased directly by the relevant Body. Rather it is held on trust by the UCAQ Property Trust as explained in paragraphs 4.10 and Chapter 8.
- 4.32 Legally and practically the appearance to the outside world of the Church as an organisational ‘parent’ of a number of quite separately formed and governed ‘subsidiary’ organisations has arguably become only more pronounced by regulatory regimes that apply to charities in relevant sectors, such as aged care, disability and schools. However, this parent/subsidiary classification is not an accurate way to understand the relationship between the Church and its Bodies. Nonetheless, Synod is empowered to lay down rules relating to their operation.
- 4.33 Typically, regulatory regimes such as those applying to charities, aged care, disability and schools make a range of assumptions that do not fit neatly with the polity of the Uniting Church in Queensland (or within the bounds of its other Synods). The same is true for many other churches and faith-based groups in Australia. Two key assumptions seem impliedly to underpin the legislation for these types of regulatory regimes, neither of which is correct for the Uniting Church (and many other churches), namely that:
- (a) all legal structures used for those carrying on operations in these sectors are standard or ‘vanilla’ structures, such as companies formed under generic State or Federal incorporation legislation and carrying on one or more services within that entity or its similarly generically incorporated and controlled subsidiaries; and
 - (b) property used by the relevant legal entity is generally owned by them or under their direct legal control through standard or ‘vanilla’ arrangements, such as an arms-length lease or licence arrangement.
- 4.34 An example of these types of regulatory assumptions not fitting the polity and government of the Church was the requirement, with the advent of the ACNC and the expectation that a range of matters, such as charitable purpose, would be easily identified by the “governing documents” of the entity. For most “vanilla” not-for-profit organisations incorporated under the *Corporations Act, 2001* or as Letters Patent Entities, this was easily enough satisfied through producing the ‘constitution’ or ‘rules’ of the entity. The various Councils and Bodies of the Uniting Church, and other churches, frequently did not have any such integrated governing document. Suffice to say that producing the Basis of Union, UCA Constitution, Regulations and By-Laws of the Church was an inadequate alternative for Queensland Synod Bodies, when dealing with Regulators, outside agencies and third parties trying to establish the powers, authorities and responsibilities of those with whom they dealt.
- 4.35 As was common practice amongst a great many organisations associated with churches, the discrete Bodies in Queensland over the past decade have therefore undertaken the time-consuming and costly exercise of creating “constitutions” drawing together principles and provisions taken from the formal constituent documents of the Church (Basis of Union, UCA Constitution, Regulations and By-Laws). This was purely to alleviate the challenges of contracting and otherwise dealing with Regulators and third parties generally. Ironically these documents add little or nothing to the existing reality laid down in the UCA Foundational Documents, Regulations and By-Laws and yet were needed to satisfy outside parties of the powers and authorities of Church Bodies.

Indemnification for Certain Persons

- 4.36 Tucked at the end of the Act that created the UCAQ Property Trust and legally recognised the polity and government of the Church prescribed by the UCA Foundational Documents is an important “indemnification clause”. This is found in s.36 of the Act (see **Annexure B**). It provides “indemnification” - a legal concept meaning an agreement to cover the financial cost of personal liabilities of a person - to certain individuals. Specifically, s.36 it indemnifies the members of the Property Trust itself and “...any other person, exercising a power or performing a duty in relation to trust property pursuant to this Act or pursuant to any resolution or direction of the assembly...”.
- 4.37 This indemnity is a critical piece of the puzzle for those agreeing to join the boards or governing bodies of Bodies in the Church. It ensures that, except in the case for instance of deliberate or knowing breaches of duty by a person, they are not exposed to personal liability for their decisions “in relation to trust property”. Notably the wording of this indemnity is narrower than might be expected to have been included if the Act were being passed today. The wording leaves room to argue legally over whether the indemnity extends to liability for all of the decisions of all Bodies where they do not strictly “relate to trust property”. For instance, failures of the kind addressed through redress for harm to those in the care of Church Bodies. Although we are not aware of an instance where this indemnity has been legally tested in Queensland, It could be argued that the Property Trust *may not* be used to indemnify board members of Bodies in the Church if they were to be held personally liable for such matters.
- 4.38 It is also not entirely clear whether this indemnification would extend to providing and indemnity for decisions of persons within Church Bodies in relation to property held on a special trust, apart from the general trust created by the Act.
- 4.39 A seemingly wider indemnity is also provided by Regulation 4.11.2, which is set out in full in **Annexure C**. It provides that “a member of a Church Council or other body responsible for the management and administration of property” is indemnified out of the Property Trust for their actions, “except in the case of fraud, criminal act, gross negligence or wilful misconduct”.

Key Takeouts from Existing Polity and Government

- 4.40 The extent to which the polity and government of any community of interest can be easily and clearly articulated and understood by those within the community itself, reflects to no small degree the effectiveness of the framework. If it cannot be easily and clearly described, it carries high levels of risk that people taking decisions might exceed their actual decision-making authority and/or fail to be held accountable for them. Conversely it can lead to a tendency for decisions to become bureaucratic and to be sometimes unnecessarily slowed down or impeded due to uncertainty, confusion or sheer complexity of decision-making layers. After almost 50 years since formation of the Church, the framework for the polity and government of the Church in Queensland (and elsewhere) cannot be easily articulated and is commonly misunderstood by many within and without the Church (and hence this body of work).
- 4.41 A review of the UCA Foundational Documents as they are outline above leads us to the following takeouts and assumptions for the purposes of this review:
- (a) The Basis of Union, the UC constitution and the Act (and thus existence of the five inter-related Councils and the UCAQ Property Trust) ought to be regarded as immutable, or not capable of being avoided or changed, for the purposes of our assessment of options; and

- (b) The Church Regulations and By-Laws ought not to be regarded as immutable as they are capable of change if necessary, provided the case for change (or suspension in the case of relevant Regulations) can be properly made to the Assembly (Regulations) and/or Synod (By-Laws) as the case may be;
- (c) All models considered for the future organisation of the work of the Church in Queensland must be capable of being operated consistent with the Basis of Union, the UCA Constitution and the Act and any necessary suspension (of Regulations) or amendments (to By-Laws) must be taken into account;
- (d) The Church may appear wrongly to many outside its community to be a ‘parent entity’ with a host of ‘subsidiary entities’ when the reality is much more complex; and
- (e) The UCA Foundational Documents establish the Church in a way that does not easily ‘fit the mould’ of most ‘vanilla’ charities operating today under complex laws that are designed for those more vanilla entities, presenting difficulty for Bodies within the Church dealing with Regulators and other third parties; and
- (f) The UCA Foundational Documents nonetheless provide great flexibility (as we will see in the next Chapter) to design the structure of “institutions” and other Bodies in the Church in ways which do meet the Evaluation Criteria for this review.

5. Uniting Church Government: Some Variations

- 5.1 Notwithstanding the shared and immutable remit of the Basis of Union, there are several fundamental differences between the expressions of governance within the bounds of Queensland Synod and of the other Synods within Australia. During this review, we also became aware of the significantly different expression of polity and government, and the holding of property in the Canadian sister Church the United Church of Canada. Some aspects of each of these other expressions of polity and government within the Church in Australia and its sister church in Canada are instructive.
- 5.2 The project did not require a full review of the government of the Church in the other Synods, or the equivalent church in Canada, and so a full review is not within scope. The brief summary of some of the differences in this Chapter does not purport to be anything more. It is incomplete and is provided purely for the purposes of demonstrating just some of the experience and potential options available to the Church in Queensland when considering the next steps in the continuing evolution of the government of the Church.
- 5.3 We are grateful to NSW/ACT and Vic/Tas Synod Offices in particular, as well as the Act2 project team, for making available relevant people and publicly available information to assist us with gathering information required for this part of the Report.
- 5.4 We will first describe one aspect of the United Church of Canada that may be instructive and then provide an overview and some observations about some of the key divergences between Queensland Synod and other Synods, but particularly the two largest Synods in Australia, namely NSW/ACT and Vic/Tas.

United Church of Canada

- 5.5 The United Church of Canada has over very recent years gone through a material revision of its internal structure, government and polity. Their Basis of Union was adopted 1925 upon formation of the church in that country. Interestingly, unlike in Australia, Canada's Basis of Union uses the word "polity" to describe the internal structures and government of that church.
- 5.6 A key difference between the United Church of Canada and the Uniting Church in Australia is the quite distinct ways the two churches were established legally. The enabling Act for the United Church of Canada incorporated the church itself (see Chapter 7 for an explanation of the effects of incorporation of an entity) making it a separate legal person. The incorporated Church was able to hold property and do a range of things itself as a separate legal person. A number of trusts were effectively created by its enabling legislation, with some property held by different councils and parts of the church in Canada on separate special purpose trusts.
- 5.7 This is contrasted with the Church in Australia. As explained in Chapter 4 of this Report, the enabling Acts in each separate State and Territory did not incorporate the Church nor its Synods. Rather each Synod is an 'unincorporated association' for secular legal purposes.
- 5.8 This made it necessary in the Australian Church to create the separately incorporated Property Trusts. They were able to hold property, employ staff and enter into contracts with others in keeping with the laws of the land. The enabling Act in Queensland contains very little detail about the terms and requirements of the trust, simply relying on the declaration that the Property Trust hold the property "on behalf of" the Church and leaving the rest to the general laws relating to trusts and duties of trustees in Queensland and Australia.

- 5.9 The model of incorporation and property ownership within the United Church of Canada is thus quite different from that within the Church in Australia. This makes close comparison difficult. However, at least one aspect is potentially instructive. Through recent legislative changes in Canada (e.g. in Ontario under the *United Church of Canada Act, 2019*), the property of the church in Canada is vested in a series of different special purpose trusts right down to the level of the congregations. Each congregation therefore has not only a governing board (equivalent of the Church Council) but also a ‘Board of Trustees’ to hold church property on the trust.
- 5.10 The Canadian approach would seemingly make it easier for bodies within the church to deal with third parties outside it. From the internal perspective of the church itself, however, the Canadian model creates perhaps an even more complex and high risk model in some respects. This is because of the need to establish so many different trusts and to populate with appropriate skills so many boards of trustees, in addition to church councils. The use of property, however, held within each such trust is strictly regulated by a ‘Model Trust Deed’ set out in the legislation. This removes at least the need to negotiate the terms of the trust in relation to each such trust.

Key takeouts from United Church of Canada Example

- 5.11 **Model Trust Deeds** - If Queensland Synod pursues the notion of separate special-purpose trusts for declared institutions that are permitted to incorporate (see Recommendation 6 in Chapter 9 of this Report), consideration should be given to the establishment of a ‘Model Trust Deed’ as was done in Canada setting out very clearly the terms of the trusts so created. This would also require separate legal advice to ensure that the creation of separate special purpose trusts complies with all applicable trust and taxation (and other) laws and the existing trusts on which the affected property is held by the UCAQ Property Trust.
- 5.12 **Changing the enabling Act** - For completeness, we also mention that albeit very difficult to achieve and so not a process we recommend pursuing, it is possible to persuade Parliaments to make changes to enabling legislation that created the Property Trusts in Australia, as the church in Canada did. However, this is a process that takes many years to achieve, only after securing clarity and agreement at the whole of Church level to do so, as well needing an appetite for the Parliament(s) of Queensland (and other States and Territories) to legislate for the benefit of an independent Church.

Other Synods of the Uniting Church in Australia

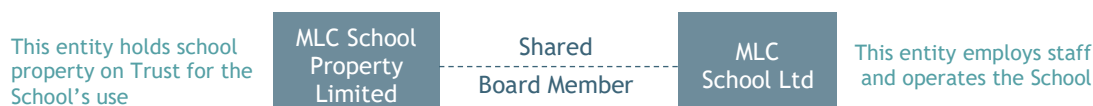
- 5.13 As mentioned, the polity and government of the Church within the bounds of all Synods share all the same immutable fundamentals as the Queensland Synod as described in Chapter 4.
- 5.14 However, the life of the Church has evolved quite separately and differently across Synods over the decades since formation in 1977. Different Synods have, within their bounds, a variety of quite different activities and other expressions of Church Mission. A simple demonstration of this is shown on the website for the UnitingCare network in Australia (<https://unitingcare.org.au>). Under the ‘Our Network’ tab are the logos of 19 different ‘organisations’ operating under the network umbrella, but only one of which - UnitingCare Qld - uses the same logo as UnitingCare Australia. Within this network there are:
- (a) two shown as operating in Queensland, namely UnitingCare Queensland (UCQ) and Wesley Mission Queensland (WMQ), neither of which is separately incorporated and only one of which (UCQ) has been declared to be an institution of the Church, whilst WMQ is a ‘parish mission’ subject to its own Regulations and By-Laws;

- (b) three in NSW/ACT, being Wesley Mission and Parramatta Mission and Uniting NSW/ACT - one of which (Wesley Mission) is separately incorporated as Wesley community Services Ltd but with its property still held in the general Property Trust and one of which (Uniting) is an institution of the Church that shares its core name (Uniting) and logo with Bodies operating in Vic/Tas and WA but, unlike Uniting in Vic/Tas and WA is not separately legally incorporated;
 - (c) two in Vic/Tas, one of which provides services in the aged care space under the name Uniting AgeWell, with its own unique logo and the other being Uniting Vic/Tas, and BOTH of which are separately legally incorporated as companies limited by guarantee (see Chapter 7 for the effects of incorporation);
 - (d) eight which operate in SA, being:
 - (i) UnitingSA - which shares the Uniting name, but not the logo, used in three other States and, like Uniting NSW/ACT and unlike Uniting Vic/Tas, is not separately legally incorporated; and
 - (ii) seven other Bodies with separate individual names and logos and which do not appear to be separately incorporated (although we have not verified this point given the limited purpose and scope of this aspect of the review); and
 - (e) three which operate in WA, including Uniting WA (although this entity is registered with ACNC under both this name and its formal name, UnitingCare West), which shares the Uniting name and logo with NSW/ACT and Vic/Tas and, like Uniting in Vic/Tas is separately legally incorporated but under quite different legislation from Vic/Tas as explained at paragraph 5.20 below.
- 5.15 A simple review of the Annual Reports of the 19 Bodies operating under the UnitingCare banner (but not logo) alone show the variety of very different activities undertaken within this network across Australia, even amongst Bodies that share the name and logo but adopt their own Strategic Plans. This is perfectly permissible but may appear confusing to external stakeholders - Regulators, clients, donors, joint-venture partners, suppliers and others.
- 5.16 There are also a range of very different approaches taken, for instance, to the formation and structure of Uniting Church schools (see <https://assembly.uca.org.au/fed/schools-a-tertiary>) across different States and Territories. Several Uniting Church ‘badged’ schools have over recent years been separately incorporated in NSW/ACT and Vic/Tas in particular but most schools across Australia, including in Queensland, are not separately incorporated (other than the four schools in Queensland operating under the banner of the separately incorporated Letters Patent Entity, the Presbyterian and Methodist Schools Association or PMSA). Some schools moreover are affiliated with the Church but also with another church or churches and so are owned in a variety of Joint Venture structures.
- 5.17 On any view, these differences are confusing. They also show clearly that the Church has quite a different “risk profile” within the bounds of each Synod. The simplest example of this for the purposes of this review is the high concentration of exposure to the risks associated with hospitals in Queensland compared to other Synods. In spite of different risk profiles, there is no clear and intentional difference apparent between how governance accountability mechanisms have been established across Synods to more rigorously govern and/or closely monitor high risk activities and operations vis-à-vis lower risk ones.
- 5.18 Below are some of the interesting ways in which Church government has evolved in other Synods with particular focus on the two largest Synods in Australia.

Some Instructive Examples of Variations in Church Government in Other Synods

- 5.19 The Western Australian Synod provides perhaps the most different of the governance models within the Church in Australia. This is because of a series of special provisions in the 1976 Act that established the WA Property Trust. Unlike the Queensland or other Synods, the Western Australian *Uniting Church in Australia Act, 1976*, conferred an additional power on the Synod under s.28 to separately incorporate bodies within its bounds. The effect of s.33 of the WA Act is that the Synod controls the provisions of the constitutions of all entities incorporated in this way, in the same way as it authorises the passage of By-Laws. This effectively gives Synod the same powers as the member/s of a company limited by guarantee formed under the *Corporations Act, 2001* (see paragraph 7.29).
- 5.20 This power has, we understand, been used to incorporate a number of entities in WA, including Uniting WA (established as UnitingCare West).
- 5.21 Whilst the WA model provides the advantage of ease, with the Synod being able simply to resolve that an entity is incorporated, this would require significant change to the Act in Queensland to achieve. For the reasons mentioned in paragraph 5.12, this is not in our opinion a viable option for Queensland Synod.
- 5.22 More importantly, the *Corporations Act* provides a well-established and widely accepted way to incorporate in Australia, with the highest possible levels of board accountability. It also makes dealing with Regulators and third parties easy as they are invariably familiar with the operation of companies under that Act, unlike incorporation under the special power conferred by the WA Act. In other words, in our view nothing would be gained from pursuing such an option when the well-trod path of incorporation exists under the *Corporations Act*.
- 5.23 In NSW/ACT, one of the three major community services Bodies, Wesley Mission is incorporated as a company limited by guarantee with its property held in trust for the Church by the relevant Property Trust in that State. Uniting, by contrast, is a declared institution in NSW/ACT but is not separately incorporated. Synod Standing Committee in NSW/ACT appoints the members of the board of Uniting and has a range of other controls not dissimilar to the way the Synod in Queensland has oversight of UCQ.
- 5.24 Unlike any other Synod to our knowledge, a separate ‘Synod Board’ was formed in NSW by a specific By-Law in 2021. It is a smaller group than SSC, which meets more frequently. Whilst SSC focuses more on strategic matters for NSW/ACT, the Synod Board has more of a compliance oversight focus, and so comprises persons, selected by SSC, with appropriate technical skills.
- 5.25 We understand that some five schools in NSW/ACT, and more in Vic/Tas, have been separately incorporated as companies limited by guarantee over the course of the past decade. Typically, in the case of NSW/ACT Synod, the schools have a strong ongoing relationship with the Church through one or both Property Trusts (given that there are two Property Trusts associated with NSW/ACT Synod) being a legal member of the company and Synod (or SSC) appointing two members of the school’s board.
- 5.26 The approach to the membership structure of the respective companies running each school has not been entirely uniform. In the case of several of the NSW/ACT schools, the legal ‘members’ of the company operating the school, to whom the board of the company accounts at the AGM for instance, comprises one of the relevant Property Trusts PLUS a member nominated by the School Council itself. This presents a curious accountability challenge as the School Council accounts to the ‘members’ that comprises their own nominee as to 50% (and the Property Trust for the other 50%) of the votes.

5.27 Without examining each school in detail, one example in NSW/ACT is the well-established and well-known MLC school in Sydney. According to its 2021 Annual Report MLC school was restructured that year so that the ownership and operation of the school itself was transferred from the NSW Property Trust to a new company limited by guarantee, known as MLC School. The property on which the school stood was then transferred from the NSW Property Trust to a special purpose trust, the trustee of which is a company limited by guarantee, known as MLC School Property Limited, of which the Property Trust is the sole member. The property is held on trust for the exclusive use by MLC School. The board of the trustee company (MLC School Property Limited) are persons who also form part of MLC School Council. MLC School Property Trust is consolidated with the operations of the school for financial purposes.



5.28 The relationship between the Church and each school in the case of NSW/ACT is considered by that Synod Office to be strong and productive. We heard that at least one well-established school was asked in the process of incorporation if and why they wished to continue the connection with the Church after incorporation. Their School Council responded with not only willingness but a strong positive desire to do so. Hence agreements were entered between the Church and the schools in question in NSW/ACT upon incorporation, to supplement and reflect the strength of the continuing close connection with the Church through:

- (a) The constitution of the Company Limited by Guarantee for each school, setting out clearly the Mission as part of the Objects of the company and the powers of the Church around appointment and removal of the directors of the Company in each case;
- (b) An additional Relationship Agreement regulating reporting and accountability requirements of the Church and the school in question;
- (c) A requirement to submit annual plans (like all Church Councils), namely:
 - (i) The Mission and Ministry Plan for the school;
 - (ii) The Strategic Plan for the school.

5.29 This set of documents setting out the mutual expectations is not unlike the requirements that Governments effect through statutory bodies and others in the Government Enterprises Model (Model 3: see Chapter 5), to ensure that the entities deliver against explicit Government priorities and requirements.

5.30 The Vic/Tas Synod has also permitted, and even facilitated, the incorporation of even more schools over the past decade. The experience in Vic/Tas, we heard, has been that it is advisable to put significant time and energy into the right membership structure for incorporated Bodies, and putting in place a clear constitution and/or 'Relationship Agreement' (or equivalent) that assures appropriate accountabilities back to the Church. Once the incorporation has occurred it is difficult to renegotiate such agreements and so it pays to negotiate such matters upfront if and when permitting separate incorporation of a school or any other type of Body.

- 5.31 The other point of departure between NSW/ACT and Vic/Tas when it comes to schools, is that the Vic/Tas Property Trusts appear to have generally transferred property outright to several of the schools. This potentially further weakens the relationship and accountability mechanisms back to the Church.
- 5.32 Finally, we also note that Vic/Tas has incorporated a number of other Bodies to a greater extent than any other Synod to our knowledge. As mentioned earlier, this includes their community service provider institution, Uniting Vic/Tas, and their aged care provider institution, Uniting AgeWell. In each case, we understand, the two Property Trusts (Vic and Tas) are the voting members of the entities and the property is also held by the Property Trusts but on special trusts.

Key takeouts from Other Australian Synod Examples

- 5.33 **Setting relationship expectations on incorporation** - Drawing on the Government Enterprises Model and the NSW/ACT and Vic/Tas experiences, it is advisable to ensure that when permitting or requiring the establishment of a separately incorporated institution or other Body this should include requirements that:
- (a) The membership structure for the company is as simple as possible, preferring the Property Trust as the sole member of the company to hold the board of the company to account through corporate reporting mechanisms (we explore this point further in Chapter 7);
 - (b) The constitution of permitted companies limited by guarantee should be prepared taking careful legal advice to ensure, for instance, compliance with all PBI and other applicable requirements, and to the extent possible should set out clearly:
 - (i) required Church Mission-related Objects and any limitations on activities outside Mission; and
 - (ii) powers for Synod to appoint and remove a majority of the directors of the company in consultation with its board of directors; and
 - (c) there be an additional (model) Relationship Agreement regulating any reporting lines and accountability requirements between the Church and the Body in question, including the requirement to submit annually to the Property Trust, Synod Standing Committee or other designated oversight group, a Mission and Ministry Plan and Strategic Plan for the Body (not for the purposes of approval but as a means of oversight enabling the Property Trust to make appropriate and informed decisions about appointment and removal of directors for the Body).
- 5.34 On the assumption that the relationship with the Church is to remain in place irrespective of the incorporation of a Body, prefer models whereby all property of incorporated Bodies is to continue to be held by the Property Trust, questions also arise whether this should be within the existing general trust or on a special trust (using a Synod-approved Model Trust Deed as referenced above in relation to the United Church of Canada example) to ensure the strong relationship to the Church remains in place. We will address this further in Chapter 8.

6. Comparator Governance Models

6.1 For the purposes of this analysis, we identified a number of alternative potential governance models that might be instructive. The alternative models considered were selected because they relate to organisations that bear comparison with the Queensland Synod and the Councils and Bodies within its bounds. In particular:

- (a) We chose models based on organisations that were reasonably comparative based on scale and complexity, having regard to such matters of scale as staff establishment, customers/stakeholders served, balance sheet and other financial measures, and in terms of complexity, preferring organisations with multiple activities and service lines;
- (b) A preference was given to inclusion of models used by organisations that provide human or other services as opposed to, say, manufacturing and/or selling goods;
- (c) We also sought models where there is a common thread of a clearly articulated ‘mission’ that underpins and is required to be served in all of the activities of the group;
- (d) Not all models chosen apply to Christian or faith-based organisations, with a view to taking a wider view than purely within the Church or other faith-based organisations; and
- (e) It was nonetheless identified as important for our analysis to include comparison with the two largest of the Church’s Synods in Australia, NSW/ACT and Vic/Tas Synods, given that they operate within the same immutable limits of the polity and government of the Church in Australia and yet key components of the governance of each of Queensland, NSW/ACT and Vic/Tas Synods have diverged in some important respects.

6.2 Initially, we sought to compare the Queensland Synod model described in Chapter 4 with the governance models and arrangements of a range of other types of organisations having most or all of the above characteristics. This included:

- (a) NSW/ACT and Vic/Tas Synods of the Uniting Church in Australia, given that each of these Synods has taken materially different paths from each other and from Queensland Synod over the recently past decades in order to tackle some of the same issues confronting Queensland Synod (see **Annexure E**), and yet have, of course, remained true to the overall immutable polity and government of the Church;
- (b) Education and community and human services groups or conglomerates operated by other Christian churches or faith-based groups in Australia which have evolved from similar origins to the Uniting Church for self-evident reasons;
- (c) Not-for-profit charitable groups from church and non-church or -faith-based backgrounds;
- (d) Government Owned Corporations (or GOCs) in Queensland and their equivalents, such as Statutory Owned Enterprises (or SOEs), in other States and Territories of Australia, in which the board of the GOC or SOE is empowered to undertake some decisions without prior consent of shareholding Ministers but accountability to the government on behalf of the community that elects it is seen as paramount;
- (e) Superannuation Funds and other member-mutual financial service houses in Australia, given the prudential regulation requiring separation of ownership and control of fund assets, wherein they are legally held by a ‘custodian’ separately

from the superannuation fund trustee that operates the fund and the day to day ‘manager’ of the Fund; and

- (f) Mutuals and co-operatives operating agricultural or other common businesses and services for and on behalf of their members, albeit most of these operated one or a small number of closely related activities in a regulatory sense.

6.3 There are almost limitless variations of governance models within each of the categories listed in the prior paragraph. Hence, we concluded that a more useful way to consider the governance models available to Synod was to draw on the above types of organisations and consider the combination of legal structural and governance design features that are typically open to variation within and between different types of organisations. We have as a result identified five comparator Governance Models and describe them below.

The Five Comparator Models Described

6.4 Our description of five Governance Models below requires some understanding of the concept of “incorporation”. The key relevant concepts relating to incorporation are explored in detail in Chapter 7. Briefly however, for the purpose of understanding the models described below, incorporation is conferred strictly by the laws of the land, and not by the internal laws of the Church. Incorporated entities are of several kinds. They include (but are not limited to):

- (a) Companies - being the most common type of incorporated entity in Australia, formed under the *Corporations Act*;
- (b) incorporated associations - being the second most common type of incorporated entity in Australia, used for grassroots non-trading community organisations, formed under the *Associations Incorporation Act*;
- (c) corporations - formed under the *Government Owned Corporations Act, 1993* (Qld) for the delivery on behalf of Government of critical community utilities and services;
- (d) statutory bodies and statutory authorities - formed under their own bespoke Acts of Parliament and having close affiliation with Government by virtue of one or more Ministers of the Crown having power to appoint and remove most or all board members; and
- (e) statutory corporations - like UCAQ Property Trust formed under their own specific legislation, but with no other relationship to Government.

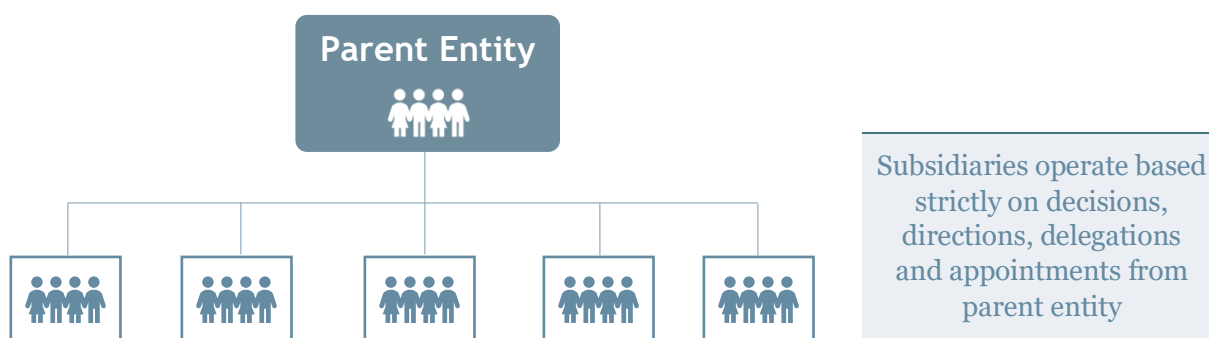
6.5 All incorporated entities share two critical features, namely separate ‘legal personality’ and limited liability (see paragraph 7.11). Separate legal personality enables them to operate in the eyes of the law like a natural person. An incorporated entity can buy, own and sell land, employ people, enter into contracts and sue or be sued by others, just like natural persons. None of these features apply to Bodies within the Church in Queensland.

Model 1: The Command and Control Model

6.6 We have adopted this description for a model commonly adopted by complex not-for-profit and for-profit group enterprises having the following features:

- (a) there is a recognised parent entity, usually separately incorporated;
- (b) in the case of an incorporated parent entity, there is one or more shareholders or members electing some or all of its board and holding the board to account;
- (c) there are a range of business units within the entity and/or incorporated subsidiary entities that are either wholly or majority owned by the parent entity, and usually

- featuring all or a majority of subsidiary directors who are also directors or executives of the parent entity;
- (d) the parent entity is regarded externally, and regards itself, as having ultimate responsibility for the performance and actions of the overall enterprise, and so also as having ultimate liability for the actions and inactions of all business units and subsidiaries;
- (e) the parent entity devolves decision-making authority only carefully and sparingly, if at all, and always subject to strict controls to the business units or subsidiaries;
- (f) the subsidiaries and their directors and officers enjoy full indemnity for their actions from the parent entity.

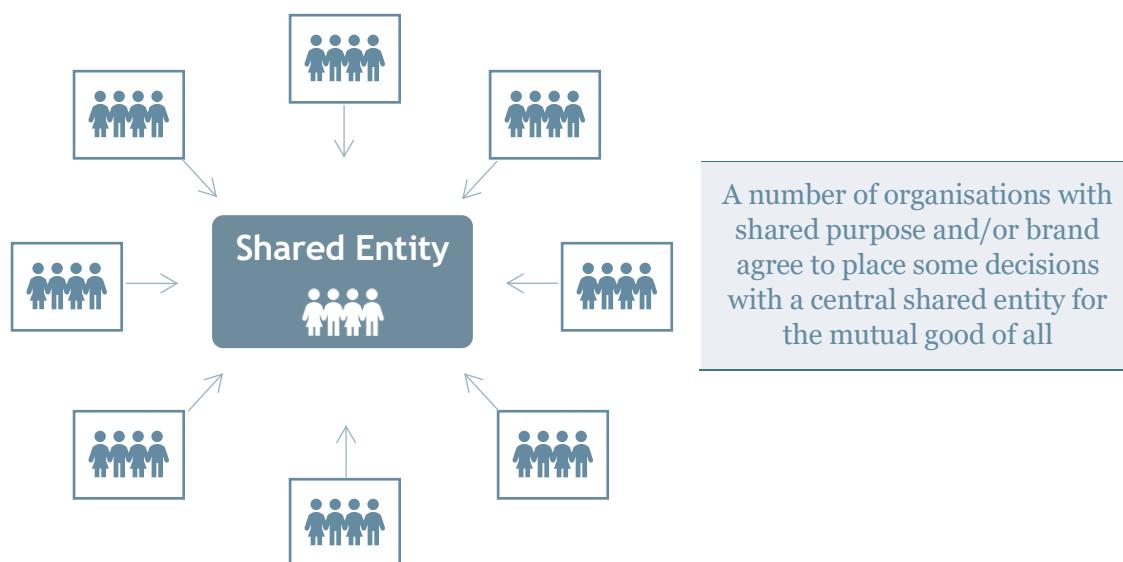


6.7 **Model 1 Examples:** The Command and Control Model is frequently seen in large complex national - or even international - enterprises like Red Cross Australia, Mission Australia and in for-profit and not-for-profit providers within high-risk and heavily regulated industries like aged care or the disability sector. Typically, there is a clear hierarchy, topped by an entity, usually incorporated (whether a for-profit company or a not-for-profit charitable company), which is clearly the ‘parent’. The parent entity keeps strict control over the activities of the enterprise throughout its geographic territory, no matter how vast. The higher risk the activities of the enterprise (e.g. aged care and disability with high levels of legal duty of care) the more likely the controls are heavily centralised and decisions are made only by the central decision-making authority and not by individual facilities or locations, even if they have separately incorporated subsidiaries or licenced entities in each location.

Model 2: The Family of Enterprises Model

- 6.8 We have adopted this description for a model sometimes adopted by group enterprises, most often found in industry peak bodies, having the following features:
- (a) there is a recognised single, usually incorporated, central entity, although it generally is not be considered the ‘parent’ and in fact may be formed to serve or support the interests of others in the family of enterprises;
 - (b) the incorporated central entity generally has one or more shareholders or members (frequently being the other entities in the family of entities) electing some or all of its board and holding the board to account;
 - (c) there are a range of associated incorporated entities as the members/shareholders of the central entity that might themselves be owned or structured in a range of different ways;
 - (d) the separate entities are regarded as separate enterprises with responsibility and liability for their own performance, actions and inactions even if there is common or shared joint ownership, brand, purpose or mission amongst some or all of them;

- (e) the central entity is not regarded by itself or others as responsible for decision-making authority of the other entities in the family of entities, although may seek to negotiate some agreed group policies and limits for the use of common brand etc;
- (f) any form of guarantee to third-party financiers or general financial indemnity is provided on a case-by-case basis by the parent entity and only if warranted.

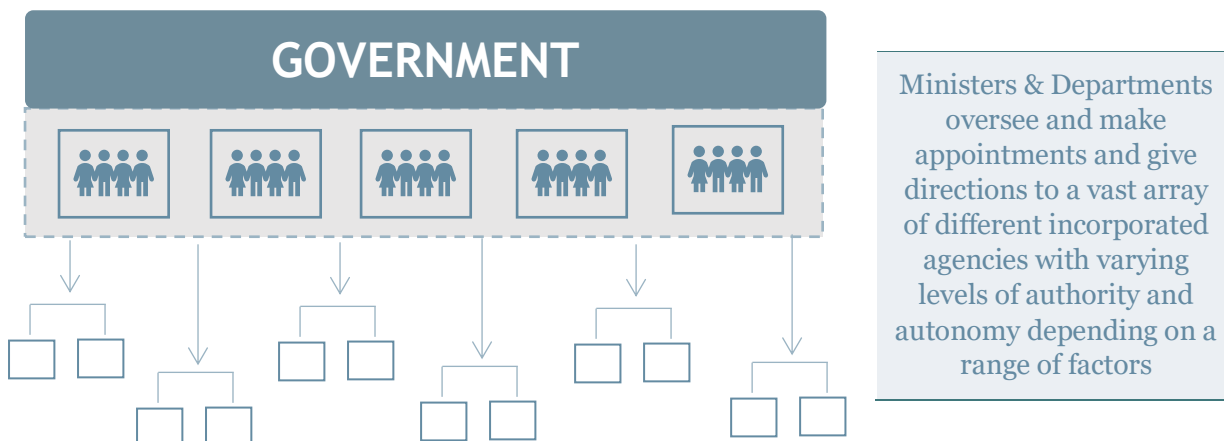


6.9 **Model 2 Examples:** The Family of Enterprises Model is frequently seen within federated State and Territory peak industry bodies like those formed by medical practitioners or other professional groups or cause-related advocacy bodies like Heart Foundation or Cancer Council. Often such groups may have formed over time in each State or Territory, and at some point have agreed to form a central entity to act as the national advocate and/or support body for them. The State or Territory bodies are frequently still autonomous and, unless they reach agreement on such matters, may run their own activities, adopt their own policies and use their own resources. Challenges arise over the use of logos and brands which may or may not reside in the central entity.

Model 3: The Government Enterprises Model

6.10 We have adopted this description for the model found in groups of enterprises in the public sector, with the following features:

- (a) Federal or State government establishes different entities over time to deliver a disparate range of services across sectors as diverse as health, arts, energy, water and more;
- (b) the ultimate ‘shareholder/s’ of the entities is one or more Ministers of the Crown;
- (c) the entities are incorporated, whether under generic government-owned incorporation legislation or special purpose legislation; and
- (d) decision-making power is delegated to differing degrees, depending on scale, complexity, risk and political factors, to the entities subject to specified strategic and policy parameters and directions from the ‘shareholding minister/s’ whose ultimate influence over decisions comes through publishing Reports in Parliament and extensive powers to appoint and remove all members of the governing body.



6.11 **Model 3 Examples:** As the name implies, this Government Enterprises Model is used by Federal and State and Territory Governments in Australia to incorporate bodies that carry out service provision (as opposed to regulation which is retained internally by the bureaucratic arm of the Government in question). In Queensland, for instance, the State Government has over many decades established a range of different types of incorporated entities, with different accountability and reporting obligations applying to them depending on their level of risk, complexity and nature, predominantly comprising:

- (a) Government-Owned-Corporations (or GOCs) for core services once provided by Government to its citizens, like power and water, and to which high standards are imposed for directors' duties, accountabilities and reporting obligations analogous to those found in private companies listed on the Australian Securities Exchange;
- (b) Statutory bodies established under special purpose legislation for groups of entities delivering the same types of critical services in (e.g. *Hospital and Health Boards Act, 2011 (Qld)*) or one-off special purpose legislation for smaller one-off entities (e.g. *Queensland Performing Arts Trust Act, 1977 (Qld)*); and
- (c) Statutory authorities (meaning, unlike statutory bodies, they do not have control over their own funds) under special purpose legislation (e.g. *Stadiums Queensland established under the Major Sports Facilities Act, 2001*).

Model 4: The Matrix Governance Model

6.12 We have adopted this description, drawing on the concept of the recognised 'Matrix Management' model, for a model commonly adopted by faith-based or other mission- or purpose-driven collective enterprises with the following features:

- (a) there is a recognised 'brand' for a community of interest, which is generally a church or faith-based community or otherwise founded in a set of shared common goals, values, beliefs or experiences;
- (b) there is no single overarching 'parent' entity or shareholder in the same easily discernible way as for Models 1-3;
- (c) nonetheless, decisions pertaining to the use and protection of the shared community 'brand' or the protection of the shared assets are the subject of explicit and enforceable prescribed rules in a set of interacting governing documents;
- (d) different activities and services under the umbrella are organised into a range of different groupings that cannot properly be described as 'subsidiaries' in the secular legal sense because there is no discrete 'parent' entity;

- (e) there are multiple ‘governance masters’ for the separate activities within the community due to the array and complexity of the activities of the collective, and the specialist groups within it, as well as the specialist nature of decisions to be taken within the smaller groups and across the community as a whole.
- 6.13 This model is difficult to represent in diagrammatic form because its nature varies from one organisation to another. It generally involves a series of different hard accountability and dotted reporting lines between a number of different entities in the community of organisations.
- 6.14 **Model 4 Examples:** The Church itself exhibits features of this Model in many respects (see **Annexure D** for the Queensland Synod Galaxy Chart). This Model is commonly observed amongst church and faith-based groups, political parties and other groups sharing significant life experiences and/or values (such as returned servicemen). Such groups are perhaps described more accurately as a community of interest than an enterprise at all. Such communities hold dear concepts of ‘grass-roots’ self-determination and distributed decision-making for members of the group and so have designed their own form of government that respects these rights whilst attempting to centralise or corral some key governance decisions that might affect the shared ‘logo’ or ‘brand’ or might put the assets of the whole group at risk if not carefully managed.

Model 5: The Hybrid Model

- 6.15 We have adopted this description for group enterprises exhibiting a combination of attributes found in Models 1-4. We have not represented it in diagrammatic form because, by definition, it can involve a range of different combinations and permutations of aspects of other Models.
- 6.16 **Model 5 Examples:** In our view the Vic/Tas and NSW/ACT Synod models fall more into this category than in Queensland because of decisions of those other Synods to permit or facilitate incorporation of certain Bodies and devolve property for that purpose. A non-Church example is the member mutual auto clubs in Australia (RACQ in Queensland). When owning heavily regulated high-risk activities, such as insurance, they often do so in joint venture with specialist insurers that provide significant expertise through appointments to the subsidiary board and technical support. The parent club, that otherwise generally operates a Command and Control Model (Model 1) for its other activities, may mimic aspects of the Government Enterprises Model (Model 3). The parent club may permit such a group subsidiary to enjoy almost full decision-making autonomy because of the specialist technical, and highly regulated, nature of the activities of the subsidiary and the greater technical expertise of the subsidiary board over the parent board. However it may also impose specified strategic and policy parameters and directions (like Government does to its various enterprises) to protect a shared brand, and retain power to appoint and remove some or all board members.

Key Takeouts from Comparator Governance Models

- 6.17 Different Governance Models are appropriate for different types of organisations or communities of interest depending on a range of factors, such as the disparate nature of the activities of the group and the risk profile within each entity forming part of the group and across the whole community. It is therefore useful to consider which aspects of each Governance Model offers high levels of governance accountability and effectiveness in context. What works well in one context may not always works in all other contexts.
- 6.18 Adoption of any of the outlined Governance Models does not automatically determine several matters that also need to be addressed before applying the Evaluation Criteria to each of the possible Identified Governance Models, namely:

- (a) **Forming entities:** How the ‘subsidiaries’ (Models 1 or 2) or ‘entities’ (Model 4) should be formed - see Chapter 7;
- (b) **Accountability mechanisms:** who or what will comprise the controlling member, or body of voting members or shareholders (for an incorporated entity) or will otherwise be the group designated to hold its board of directors or other governing body to account for the actions and inactions of the entity (for an unincorporated entity) - see also Chapter 7; and
- (c) **Property ownership:** How the property used by or for a subsidiary or entity is to be owned, held or accessed - see Chapter 8.

7. Formation v Incorporation of Entities

7.1 As noted in the previous Chapter, to understand fully the variations amongst identified comparator Governance Models it is important to understand the concept of incorporation and the associated accountability mechanisms for holding boards of incorporated entities to account.

Understanding incorporation

7.2 When interpreting the Governance Models described in the previous Chapter, it should be appreciated that the way a ‘subsidiary’ or ‘entity’ is formed can vary between enterprises even in the same sector. Two broad alternatives are possible:

- (a) An entity can be formed as an unincorporated body, which is simply a group of usually like-minded people coming together for a share purpose but without creating a separate new entity in the eyes of the law (which is the case for the Councils and Bodies within the bounds of the Synod, including institutions like UnitingCare Queensland); or
- (b) An incorporated entity can be formed under the general laws of Australia such as:
 - (i) A company under the *Corporations Act, 2001* (which is the case for a range of entities within the bounds of NSW/ACT and Vic/Tas as described in Chapter 5);
 - (ii) An incorporated entity under special purpose legislation (which is the case for the UCAQ Property Trust incorporated under the Act); or
 - (iii) An incorporated association under the Associations Incorporation Act, used for non-commercial community-oriented activities.

7.3 Companies or incorporated associations can be formed freely by all citizens who fulfil the requirements of the legislation in question. By contrast, special purpose incorporated entities, like the UCAQ Property Trust, require the cooperation to Parliament to create and pass special legislation to create the entity. It is unlikely that such a vehicle as the Property Trust could even be created today by the Parliament without great difficulty for a range of political reasons.

7.4 If forming a company under the *Corporations Act*, this may be formed as either:

- (a) A not-for-profit company limited by guarantee for those enterprises carrying out charitable purposes; or
- (b) A proprietary company limited by shares (a ‘Pty Ltd’ company) for enterprises carrying out more commercial purposes.

7.5 In either case, each company has its own board of directors, who owe the company strict legal duties as “Fiduciaries” to oversee the operations of the company so formed in the interests of the company as a whole (as distinct from the interests of the parent of the company.⁵ These duties are described at law as “Fiduciary” due to the “Fiduciary relationship” which arises, meaning the relationship of “fidelity and trust” between company directors who control the assets of the company and the members or shareholders who

⁵ In the case of wholly-owned subsidiary companies it is possible under s.187 of the *Corporations Act, 2001* to establish them in such a way that the directors of the company be required by the constitution of the company to act in the interests not only of the company but also of its wholly-owned parent company and the group of companies under the umbrella of the parent company.

entrust them with significant powers to do so. Such companies can be thought of as “Fiduciary” companies for these purposes as the directors of them are fully accountable, and sometimes personally liable, for the way they govern the company. This is not quite so clear-cut for entities, including Bodies within the Church, that are not separately incorporated in this way.

Pros and Cons of Incorporation v Unincorporated Associations

- 7.6 Incorporation is a concept of the general laws of Australia. It is not conferred by the internal laws of the Church.
- 7.7 Even those Bodies declared to be institutions under Regulation 3.7.4.7 are not incorporated purely by virtue of being established as institutions. However, as outlined earlier (see paragraphs 4.23 to 4.26), the power to create institutions under this Regulation also includes power to authorise it to become “separately incorporated”. This power has indeed been used by the other Synods in Australian as demonstrated in Chapter 5. In other words, it is possible to form an institution of the Church that *is* or *is not* separately incorporated under the laws of Australia.
- 7.8 Specifically, incorporation is a process of the general law that confers continuous ‘legal personality’ on a group of people under its umbrella, even when that group of people changes constantly over time. The incorporated entity becomes a ‘legal person’ and, in the eyes of the law at least, operates like a natural person. It can buy, own and sell land, employ people, enter into contracts and sue or be sued by others.
- 7.9 This is generally considered a distinct advantage over an unincorporated association. As a collective of like-minded people with a shared purpose, an unincorporated association cannot contract in its own name. Rather one or more of its members must sign contracts in their own personal names when buying land, signing leases, employing people or entering into contracts.
- 7.10 Given the prevalence of unincorporated associations within the Church upon formation⁶, the Church founders secured the establishment of a Property Trust associated with each Synod. This enabled the Councils and Bodies within the bounds of each Synod to enter into legal contracts (e.g. employment of staff) and otherwise deal with the world outside the Church, through the Property Trust, without legal impediment⁷. Without the Property Trust, individual members of the Church Council in each Congregation or other Body would have to enter into contracts in their own name, exposing themselves and their assets to personal liabilities.
- 7.11 Conversely, third parties entering into contracts with ‘the Church’, whether for the supply of goods or services or the provision of funding or for any other reason, would be highly unlikely to wish to contract with individuals. The UCAQ Property Trust provided a ready solution for this concern for third parties, but today adds a layer of complexity for people unaware of the polity and government of the Church.

⁶ Unincorporated associations were very common in 1977 when the Church was created. The *Associations Incorporation Act*, permitting community groups to incorporate as associations was only passed in Queensland in 1980. Prior to that time the only viable way for many smaller community groups to incorporate was by Letters Patent which was difficult to achieve or by incorporation as a Company Limited by Guarantee in a corporate regime that was more predominantly developed for for-profit enterprises and so was seen as too costly and complex involving significant compliance obligations.

⁷ This is contrasted with the United Church of Canada, where the church itself was incorporated upon formation (see paragraph 5.6).

- 7.12 Importantly, companies and other incorporated entities also enjoy the distinct additional advantage of “limited liability” over unincorporated associations.
- 7.13 Limited liability means that, with some exceptions, the shareholders or members of an incorporated body are legally immune from having to pay the debts and liabilities of the enterprise. Only the resources of the incorporated entity itself can be called upon on for this purpose. Further, with some exceptions, the liabilities of the incorporated body do not extend to the assets and resources of those who govern it (its directors) or comprise it (its members or shareholders) or other related bodies (other subsidiaries in the group). The important exception to this is if those others are found in some way also to be culpable for the harm, loss or failure caused by the company that caused it to be sued.
- 7.14 In contrast with the UCAQ Property Trust, the Councils and Bodies of the Church in Queensland are, at law, unincorporated associations. The only real advantage today of these types of bodies is the flexibility they enjoy. Their rules can be freely written and rewritten, provided the group that comprises them, agree.
- 7.15 In the past it was also often cited as an advantage that unincorporated associations are lower cost to establish and maintain (no incorporation or registration fees and only the cost of the creating the Rules of the Association) and have lower compliance obligations than companies under the *Corporations Act* or the *Associations Incorporation Act*. Today, those arguments cannot be sustained because:
- (a) In relation to the cost argument, the Church has expended a great deal of its precious resources over past decades to establish, re-establish and rewrite the ‘Rules’ (in the form of various versions of Regulations and By-Laws) which is now harder for a bespoke governance model like the Church than those operating in more conventional structures using standardised constitutions and other tools; and
 - (b) In relation to the compliance issue, we assume that community and internal Church expectations mean that the Church would in any case seek to hold itself to the highest levels of accountability (as indicated by the Plenty priorities and the Evaluation Criteria) and so is unlikely to ‘drop its standards’ because a lighter-touch legal structure is chosen.

Key Takeouts on Incorporation v Unincorporated Structures

- 7.16 **Incorporation preferred for some Bodies** - In conclusion on this aspect, the considerable disadvantages of unincorporated associations in dealing with third parties outside the Church as explained above, make it a difficult form to sustain for large operating entities today. By contrast the ability to hold those in governance roles of incorporated entities to account for their oversight of the enterprise is a considerable advantage today. Indeed, it is for this reason that a number of churches (including the Catholic Church, a range of protestant churches and the NSW/ACT and Vic/Tas Synods) have moved to a blend of incorporated and unincorporated bodies over recent years.
- 7.17 **Company Limited by Guarantee preferred** - For PBI and other charitable non-trading activities, the most suitable form of incorporation is generally the company limited by guarantee under the *Corporations Act*. Even if such a model is chosen, a further decision is required about what membership structure will deliver optimal accountability.

‘Members’ as accountability mechanisms

- 7.18 Within any entity today, incorporated or not, it is widely accepted that the job of the board or other designated governing body is to hold to account the management team of the entity. In turn management hold to account those in the chain below them on the expectation of the replication of this notion right throughout the organisation.
- 7.19 The key question, then, is who holds the board or governing body to account.
- 7.20 To date, the accountability obligations of the Councils and other Bodies within the bounds have been somewhat dispersed. Bodies are required to seek approval from some other discrete Bodies (e.g. the Finance and Property Board and the Property Trust) within the bounds and to report to others (e.g. Synod and Synod Standing Committee) depending on the matter in question. It has, over time, become difficult and in some ways unrealistic for the large and infrequent nature of Synod, to genuinely to hold to account some of the larger and more specialist Bodies.
- 7.21 The creation of Synod Standing Committee (SSC) has gone some way to assisting with this challenge. SSC is a much smaller group than Synod, selected for relevant experience and skills. It meets regularly throughout the period between gatherings of Synod. It is without doubt the most suitable existing group within the current structures of the Church in Queensland to carry out oversight of the large, complex and specialist Bodies within the bounds.
- 7.22 The main inhibiting factor for SSC in overseeing the largest and most specialist Bodies within the bounds is the strong representation on SSC of persons having board or executive roles with those same Bodies. Naturally this raises important ‘conflict of interest’ challenges. In some cases, the only individuals on SSC with relevant experience and expertise for the purposes of SSC monitoring the most high-risk Bodies, also hold governance or management roles withing those same Bodies.
- 7.23 From a ‘fit-for-purpose’ perspective, we respectfully suggest that these accountability mechanisms are no longer meeting appropriate standards for the Church. We have therefore made a recommendation in this respect in Chapter 9 (see Recommendation 7).
- 7.24 Amongst incorporated entities a range of (also imperfect but in our view stronger and more well-tested) accountability mechanisms exist. The most fundamental accountability mechanism is “membership” of the company or incorporated association. In companies that are commercial enterprises these members are known as shareholders, because they share in the profits of the enterprise.
- 7.25 Members of charitable not-for-profits and shareholders of commercial companies are typically extremely vocal - often quite literally at the Annual General Meeting of the company - in holding the board to account for its actions. One important way they express their views about director accountability is through voting directors on and off the board and, in the case of shareholders of for-profit enterprises, buying more shares or selling their parcel of shares.
- 7.26 There are many variations possible for the structure of the ‘membership’ of a not-for-profit company but the most viable (but not only) options to ensure that incorporated Bodies remain accountable to the Church from which they have evolved would appear to be the use of a not-for-profit company limited by guarantee structure with:
 - (a) a sole member, being either the UCAQ Property Trust or a bespoke entity, itself an incorporated entity with the Property Trust as its member, formed to hold incorporated entities within the bounds to account; or
 - (b) a group of individual ‘members’ identified by Synod, such as the current members of SSC for the time being.

Key Takeouts on Members as Accountability Mechanism

- 7.27 **Governance Model and incorporation** - Deciding which elements of the identified Governance Models may be appropriate for the Church is separate from the question of whether or not to permit Bodies to incorporate. Decisions about incorporation should be made irrespective of which Governance Model/s is/are chosen.
- 7.28 **Institutions and incorporation** - A range of considerations apply to a decision whether to permit an institution of the Church to separately incorporate:
- (a) **Why (and why not) incorporate** - Done the right way, incorporation of Synod Bodies would bring a great many advantages, and no appreciable disadvantages as explained in paragraphs 7.6 to 7.15 particularly for larger and more complex activities of the Church.
 - (b) **Some or all Bodies incorporate** - it is important for Synod to ask the question whether the advantages of incorporation apply equally to all Bodies. In our view they do not. It is important, if moving down the path of incorporation for one or more Bodies in Queensland, to determine criteria for separate incorporation based on a range of pre-determined factors, such as:
 - (i) Closeness and criticality to Mission;
 - (ii) Regulatory and compliance considerations;
 - (iii) The need to contract and otherwise deal with external parties;
 - (iv) Potential liability and asset protection considerations;
 - (v) Size, complexity and the specialist nature of Bodies warranting more specialist governance and swiftness of decision-making;
 - (vi) Due diligence confirming no negative legal, taxation or other impacts; and
- 7.29 **Preferred accountability mechanism/s through ‘sole member’ companies** - The simplest option when permitting incorporation, which delivers the strongest accountability, is the creation of a sole member company limited by guarantee under the *Corporations Act, 2001* with the UCAQ Property Trust as the sole member. First, the ‘group of members’ option would offer no greater integrity and would arguably be more confusing because the group of members would be constantly in a state of flux as individuals in roles change over time. Moreover, the prescribed composition of the Property Trust means it is comprised of people with a range of appropriate skills and capabilities.
- 7.30 **Constitution of sole member companies** - The sole member option would enable the Church to prescribe a range of things in the constitution of the entity so that the company is required to act in the interests of the ‘parent’ entity (the UCAQ Property Trust) and the associated ‘group’ of entities (such a provision is only possible for the Church as sole member option based on s.187 of the *Corporations Act*).

8. Ownership and Use of Property

- 8.1 As we have stated in the prior Chapters, the decision which Governance Model best delivers to the priorities of Synod, or meets the Evaluation Criteria, cannot be taken in isolation of the separate decision about how to hold the property of the Church into the future.
- 8.2 We will not repeat in full the nature of the UCAQ Property Trust which is explained at paragraphs 4.10 and 4.11. As explained in those paragraphs the law imposes strict obligations on those who are specified as comprising the UCAQ Property Trust to ensure it holds the property on trust for the Church and to discharge important duties in relation to the oversight and use of the property.
- 8.3 The effect of the *Trusts Act, 1973* is that property vested in any trust, including that created by the Act, cannot be used for purposes other than the purposes designated by the declaration of trust without some contrary court or legislated authorisation. In the case of the UCAQ Property Trust, the Act makes clear that the property is held on trust “for the church” and must be used in accordance with the Regulations and directions of the Assembly (see s23 set out in **Annexure B**).
- 8.4 Relevantly, we note that Synod has previously confirmed that the allocation of property to the Balance Sheet of a Church PBI for taxation purposes has the consequence that the property cannot, at least without dire consequences for the PBI status of the entity, be used for any other purpose.
- 8.5 Separate from the decision of how, if at all, to modify the governance framework within the Church in Queensland and whether or not to incorporate some of its Bodies, is the decision how property used by each Body should be owned and applied. Some insights on this point can be taken from the NSW/ACT and Vic/Tas Synods (see Chapter 5).
- 8.6 Certainly, if Bodies in Queensland were to separately incorporate, conferring on their directors and officers unarguable statutory and fiduciary duties, it would be essential to ensure that each such Body, and the Church, have clarity and certainty about legal title to and use of property. Just some of the options on this score include (subject to appropriate legal and taxation advice):
- (a) **Status quo** - Continue to hold all Church property presently held in the UCAQ Property Trust on the general trust for the Church and applied to the uses to which it has already been allocated based on the PBI or other charitable tax status of each Body;
 - (b) **Usage charges** - Move towards more commercial terms (e.g. lease or licence) for such use of property by Bodies where possible depending on the size, nature and level of independence of the income of the Body, giving the Body certainty of title, access and use;
 - (c) **Divest and hold property on special trusts** - transfer the property for each Body or some Bodies into special purpose trusts created for the purpose in each case, as is the case for a number of Uniting Church schools and other agencies within the bounds of the Vic/Tas Synod as outlined in the previous paragraph;
 - (d) **Divest and transfer property to Bodies** - Divest relevant property out of the UCAQ Property Trust and transfer it outright to relevant Bodies, again with possible variations being for this to occur for anywhere between ‘peppercorn’ consideration and full value.

Indemnification out of Property Trust

- 8.7 In paragraphs 4.36 to 4.39 of this Report we outlined the important consideration of the limited indemnities that are available to apply to certain person within the Church out of property held by the UCAQ Property Trust. The issue of the continuing availability of those indemnities ought to be taken into account in any decision about the establishment of institutions and/or their separate incorporation.
- 8.8 Typically, a separately incorporated Body would be expected to take out Directors and Officers Liability insurance to provide a level of indemnity through insurance for all but wilful or deliberate failures. This protects the entities assets (in this case the assets held in the Property Trust) from such risks, to the extent that they are insurable.

Key Takeouts on Church Property

- 8.9 **Trust Property is still Church Property** - Even where property in the UCAQ Property Trust has been allocated in the balance sheet of a particular PBI or charitable Body and it can be used only for that specific purpose, this does not alter the central legal fact that it is still held "on behalf of" the Church in Queensland. This raises the question of how the property is to be applied by any given Body "on behalf of" the Church. It is also why it is appropriate that the Church impose rules on a Body that has the use of property held in a charitable trust on behalf of the Church.
- 8.10 **Fiduciary duties of members of Property Trust** - The Fiduciary duties of the UCAQ Property Trust (which are analogous to those of directors of companies in Australia - see paragraph 7.5) mean that it would not be appropriate simply to transfer property of the Church to separately incorporated Bodies without regard to the legal consideration (or payment) that ought to flow to the Property Trust in return for that transfer. The legal duties of the members of the UCAQ Property Trust, to protect the assets and Mission of the Church would demand no less in the interests of the wider Church. In this regard the Vic/Tas and NSW/ACT Synods provide useful precedents for the ways in which this can be achieved, albeit even they do not represent the only way to achieve such an outcome.
- 8.11 **Whole of Church benefits** - It should be recognised that the exposure of the assets and resources of the Church to liabilities arising out of the actions or failures of one Body can and do severely impact the exposure of the assets and resources of other Bodies within the bounds. This was seen starkly in the redress process over recent years. This legal reality should be taken into account. In other words, the protection of Church assets by placing them in special trusts for the use of identified Bodies may offer a degree of overall benefit to the ongoing life and sustainability of the Church by not exposing assets used by other Bodies to the risks associated with activities totally beyond their control whilst holding the directors of incorporated Bodies to a higher level of account personally. All Bodies and institutions should also be covered by adequate insurances, including Directors and Officers liability insurance.

9. Findings, Observations and Recommendations

- 9.1 In Chapter 4, we attempted to describe the polity and government of the Church in Queensland.
- 9.2 As explained in Chapter 2 of this paper, we were engaged to assist Synod to consider that question against some clearly identified criteria and two additional criteria that we have added (see paragraph 2.14 above), namely:
- (a) Staying true to our purpose and values
 - (b) Empowering our people
 - (c) Adapting for context
 - (d) Being accountable to ourselves and our stakeholders
 - (e) Connecting the parts of the ‘body’ into a cohesive whole
 - (f) Respecting the Immutable Polity and Government of the Church
 - (g) Protecting and enhancing the assets and resources available for delivery of Mission.

Analysing the efficacy of status quo against the criteria

- 9.3 One of the great strengths of the polity and government of the Church, as we have described it in Chapter 4 of this Report, is the flexibility to arrange the Church’s activities in a range of different ways and entities whilst still pooling the resources of the Church to apply them for the advancement of the Mission. This strength has however been observably eroded over time by several factors. Just four examples of how it has been eroded are as follows:
- (a) The boards of the largest Bodies have over time rightly become more ‘professionalised’. This has brought stronger skills-based board composition over time, with board members from careers as executives and non-executives of large listed, private, public and other non-Church businesses. This has to no small degree diluted the ability of the extremely large and only periodically convened Synod (and even of the smaller Synod Standing Committee on its behalf) to oversee such complex Bodies with their own sophisticated governing bodies and governance arrangements.
 - (b) The present composition of Synod Standing Committee (see By-Law Q2.2) has resulted in a concentration of influence within Synod Standing Committee coming from two of the more significant Bodies within the bounds, namely UCQ and WMQ. This leads to the question whether there is a sufficient degree of rigour and independence in the SSC oversight role in respect of those major Bodies when the relevant skills at SSC are drawn from those having key roles with the very Bodies being overseen.
 - (c) The Church rightly regards itself at least as ethically responsible (and in many instances has thus assumed legal liability out of the assets and resources held in the Property Trust) for the actions of employees and officers within Bodies bearing the name of the Church. This led to the need for the Property Trust and/or the Synod Office to promulgate Synod-wide policies, practices, monitoring and reporting for the appropriate protection of the interests of the Church and its associated communities of interest. Such policies are not always regarded by boards or management of some Bodies as most desirable or suitable to that Body.

- (d) As the taxation and associated regulatory environment for PBIs has evolved, property which is allocated to the Balance Sheet of a PBI can no longer be regarded as usable by the Church (or the Property Trust on its behalf) for other purposes of the Church. This significantly hampers the ability the Church once had in the current model to grow its assets and income for wider Church purposes once they are allocated to specific uses.

9.4 Specifically analysing the current model described in Chapter 4 against the criteria for this review (see paragraph 2.14):

- (a) **Staying true to our purpose and values** - There are no impediments in the existing structure of the Church’s polity and government to the delivery of the purpose and adherence to values. This, we suggest, is predominantly dependent on the will of individuals, irrespective of structure, to stay true to purpose and values. Having said that, the status quo keeps the overarching authority of Synod and ultimately Assembly to determine “responsibility in matters of doctrine, worship, government and discipline, including the promotion of the Church’s mission” throughout the Church including through its Bodies.
- (b) **Empowering our people** - This criterion is perhaps the hardest to satisfy with the current polity and government of the Church as it operates in Queensland. It comprises observably complex and cumbersome structures, as a result of the foundations laid upon formation of the Church in the 1970s. Whilst large corporate groups of any kind are invariably complex and cumbersome, there is an added complexity in the case of the Church because of:
 - (i) the very specific and unusual language and concepts surrounding the polity and government of the Church that many unsurprisingly struggle to understand within and without the Church;
 - (ii) there is confusion, for instance, about the nature of the Property Trust acting as it does as the trustee of the property it holds on behalf of the Church and in respect of which it has certain fiduciary obligations, as trustee, at law;
 - (iii) as mentioned above this has become further confused by the overlay of taxation laws that result in property allocated to the Balance Sheet of a PBI entity no longer being capable of use for any other purpose;
 - (iv) the multiple decision-making layers, given the role and responsibilities of the Synod Standing Committee and Synod and the Property Trust, is frustrating and confusing to many, seemingly resulting in double-handling (or more) of so many key decisions, including by decision-making bodies or groups who cannot realistically be expected to understand the depth and complexity of issues involved;
 - (v) there is often frustration, especially for those with ample experience of boards outside the Church to assume, in error, that the ‘boards’ that govern Bodies within the bounds of the Synod have the same unfettered powers as boards of separately incorporated companies, with legal responsibility to act in the interests of the Body alone - without regard to the wider interests of the community associated with the Church - in keeping with statutory and fiduciary duties applicable in separately incorporated entities.

The need to govern and manage the Bodies within the bounds of the Synod in the more complex environment of the Church requires ultimate adherence to the overall Mission of the Church and the directions and decisions of Assembly and

Synod within the framework of the complex rules applicable. Naturally people within Bodies of the Church, and even within the interrelated Councils established by the Basis of Union (see paragraph 4.6) can feel - and be - quite disempowered in such a structure as decisions must pass through multiple layers of decision-makers sometimes without clarity about where the power to make decisions ultimately lies. This research did not extend to testing this assumption with individuals, but has been observed by the consultant over many years and many consultations to various employees, officers and Bodies within the Synod.

- (c) **Adapting for context** - By definition, the existing polity and government of the Church in Queensland is certainly ‘adapted for context’ in the sense that it is a bespoke, and in some respects even unique, model of governance developed specifically by and for the Church as described in this Chapter 4. However, in terms of adaptation to the context of today’s world, this model now struggles to deliver an effective and efficient form of governance as it requires multiple layers of decision-making, sometimes creating evident tensions between:
- (i) Synod (particularly through its Synod Office and relevant officers who are charged with carrying a range of the delegated responsibilities and protecting the interests of Synod between its formal sessions); and
 - (ii) Some of the Bodies that have, in some cases, evolved quite considerably in size and complexity over time and experience difficulty dealing with external stakeholders (including regulators) who have very poor understanding of the multiple complex decision-making layers within the Church.

It is also observable that it has become unrealistic for a body as large as Synod, composed in a purely ‘representational’ (rather than skills-based) manner, and meeting as infrequently as it does, be in a position to provide a layer of oversight of the activities of these Bodies. Moreover, Synod Standing Committee (see paragraph 4.21(b)) serves to act in place of Synod in most respects between sessions of Synod, but is itself comprised of an unwieldy maximum of 17 people, including prescribed seats for the Chairperson of each of the two largest Bodies - WMQ and UCQ - which it ‘oversees’ on behalf of Synod. It is arguable whether SSC as designed today is able to provide the accountability checks and balances it was no doubt intended to provide and could do if differently composed.

- (d) **Being accountable to ourselves and our stakeholders** - Like the first criterion, accountability is a posture or mindset that can thrive or fail in any structure or environment. People must choose to embrace (or not) such a posture or mindset within any structure. Nonetheless, it is our assessment that accountability to self and to others, especially in the stewardship roles of those governing or managing the resources of the Church, is made more difficult in a complex and confusing structure. It becomes easier for those feeling disempowered by the structure and confused by the layers of decision-making and the logic applying to them, to lose respect for other decision-makers within the structure. This can lead to individuals regarding themselves as accountable only to their immediate peers and not to other stakeholders within the Church, including Synod and Assembly.
- (e) **Connecting the parts of the ‘body’ into a cohesive whole** - For the same reasons of the confusion and disempowerment caused by the current model and the resulting lack of accountability to others, this is one of the most difficult criterion to satisfy with the current structure. There is arguably a positive sense of disconnection between many of the Councils and Bodies within the Church under the current model as a result.

- (f) **Respecting the Immutable Polity and Government of the Church** - The current structure has resulted from the evolution of Church polity and government and so this criterion is satisfied. Nonetheless, as an analysis of the NSW/ACT and Vic/Tas models of polity and government reveal (see Chapter 5), this is not to say that the structure in Queensland is the only way to deliver against this criterion.
- (g) **Protecting and enhancing the assets and resources available for delivery of Mission** - The events of recent years have taken a toll on the assets of the Church in ways that have demonstrated the need for the stewards of the Church - those in governance roles - to think more deeply about how they can achieve this imperative. The current governance arrangements of the Church no longer serve to clearly identify and separate the responsibilities and accountabilities of those who expose the people and assets within the Church to harm of any kind. As a result, the assets of the Church across the board have been needed to fulfil responsibilities to those suffering harm, irrespective of where responsibility or accountability lay. This aspect demands greater separation of assets and greater rigour in the Church's ability to hold to account those with responsibility for the deployment of those assets and the care of people in relation to their use.

Finding 1: Strengths of the Current Model in Queensland

- 9.5 Considering the analysis set out in paragraph 9.4, the strengths of the current model in Queensland, in the context of fitness for purpose against the Evaluation Criteria are:
- (a) **Staying true to our purpose and values** - albeit we note that *all* of the Governance Models enable those in governance stewardship roles in an organisation with the appropriate mindset to achieve this criterion;
 - (b) **Adapting for context** - the ability for the Church, and in this case the Synod, to write and rewrite its own internal rules of government, constantly refining how governance works in the Church, gives it great flexibility to adapt to the context of the times (noting that this is what gives Synod the ability to consider the range of steps not yet taken that are contained in the Recommendations following); and
 - (c) **Respecting the Immutable Polity and Government of the Church** - the current status quo for governance within the bounds of Synod reflects the elements of the formation of the Church as described in Chapter 4.

Finding 2: Weaknesses of the Current Model in Queensland

- 9.6 Considering the analysis set out in paragraph 9.4, the weaknesses of the current model in Queensland, in the context of fitness for purpose against the Evaluation Criteria:
- (a) **Empowering our people** - the complex, unusual and confusing nature of the organisational structures and governance arrangements within the Church create a level of bureaucracy and frustration that risks disempowering people (and its flipside around accountability as addressed below);
 - (b) **Being accountable to ourselves and our stakeholders** - the same complexity has over time led to a considerably lower level of holding to account for decisions and actions within the Church than is observed in many of non-Church Governance Models, demonstrated by the difficulty of Synod or Synod Standing Committee being able to hold to account today the large technical/specialist Bodies that have grown up within the Church over the decades; and

- (c) **Connecting the parts of the ‘body’ into a cohesive whole** - with disempowerment of people and failures of internal accountability mechanisms come a corresponding disconnection between the Councils and Bodies within the Church in Queensland, observable in the ways in which Bodies in the Church approach decisions and requests of Synod, Synod Office, the Property Trust or other officers and Bodies within the Church as if pursuing an independent Mission rather than delivering against the Mission of the Church together; and
- (d) **Protecting and enhancing the assets and resources available for delivery of Mission** - the events of recent years have taken a material toll on the assets and resources of the Church, demonstrating that the current arrangements are not enabling the Church to hold individuals to account in a meaningful way for their safe stewardship of people and resources within the Church, and thus exposing the assets and resources of the Church to material depletion, undermining its future sustainability as a Mission-driven community.

Finding 3: Strengthening the Current Model drawing on the Governance Models in Chapter 6

9.7 Against the Evaluation Criteria, and drawing on the identified Governance Models set out in Chapter 6, there are several ways in which the current polity and government of the Church in Queensland could be strengthened:

Project Plenty Stated Criteria

- (a) **Staying true to our purpose and values** - We are of the view that no Governance Model delivers a superior ability to do this which comes down to the good will of those in governance stewardship roles in the Church to foster this intent.
- (b) **Empowering our people** - draw on Model 3 (Hybrid) to take the best of Model 1 (Command and Control) and Model 2 (Family of Enterprises), namely the ability to set very clear expectations, delegate real decision-making power and hold people to account for it.
- (c) **Adapting for context** - In today’s world, and reflecting on Model 3 (Government Enterprises) draw on the ability to incorporate Bodies within the Church, just as State and Federal Parliaments have done, by creating separately incorporated entities and holding them rigorously to account as a shareholder/member that appoints and removes their boards and sets clear expectations of operating for the overall benefit of the Church (or the wider community in the case of State and Federal Parliaments).
- (d) **Being accountable to ourselves and our stakeholders** - This criterion even more strongly suggests that incorporation of some of Bodies within the Church, akin to Model 3 (Government Enterprises) should be considered, where separate incorporation would enable Synod to place more stewardship responsibility on the shoulders of the ‘boards’ of incorporated entities and hold them more rigorously to account for the careful use and deployment of Church assets (ownership of which ought to be considered separately as addressed below).
- (e) **Connecting the parts of the ‘body’ into a cohesive whole** - Drawing on Model 2 (Family of Enterprises), empowering some of the Bodies within the community of the Church within the bounds of Synod to have greater autonomy might be expected to result in a greater sense of responsibility and accountability for delivery of Mission and so connection to the whole.

Recommended Additional Criteria

- (f) **Respecting the Immutable Polity and Government of the Church** (noting this was additional to the criteria set out in the Project Brief) - the creation of institutions and permitting their incorporation can be done in ways that even more clearly entrench the immutable polity and government of the Church. Incorporation of entities with the Church as ‘sole member’ (see paragraph 7.30) and a constitution requiring the entity to deliver Mission and act in the interests of the ‘parent’ entity (see paragraph 7.5) consistent with s.187 of the *Corporations Act* offers higher accountability controls than currently apply. For Bodies that continue as unincorporated entities within the Bounds, similar provisions can of course be contained in the referable By-Laws.

- (g) **Protecting and enhancing the assets and resources available for delivery of Mission** (this was also additional to the criteria set out in the Project Brief) - the property of the Church within the bounds of Synod sits predominantly in the trust of which the UCAQ Property Trust is the trustee. Given that all such property, even where allocated to a particular Body (even one which is a PBI), is vested in the UCAQ Property Trust to hold “on behalf of” the Church, it ought to continue to be so held. Decisions should also be taken, drawing on the experience of NSW/ACT and Vic/Tas and appropriate legal due diligence, about the desirability on a case by case basis of creating special trusts, still held by the UCAQ Property Trust, for the property used by PBI Bodies within the bounds.

Concluding Observations and Recommendations

9.8 Taking into account the above Findings and the matters detailed in the prior Chapters of this Report, our concluding observations and recommendations are as follows:

Observation 1 - Goodwill, purpose and Mission: The governance model chosen by any organisation or community of interest is only as effective as the will of those charged with implementing it to ensure it achieves the shared purpose, Mission and agreed priorities.

Recommendation-1 - Goodwill, purpose and Mission: In view of Observation 1 and the Evaluation Criteria decide what ‘matters most’ when exercising its proper powers and authority drawn from the UCA Foundational Documents (Basis of Union and UCA Constitution) to limit and distribute decision-making powers and/or devolve assets of the Church, amongst the Councils and Bodies that operate within the bounds of Synod.

Observation 2 - Decide which imperatives matter most: No Governance Model delivers perfectly effectively against all of the Evaluation Criteria. The current polity and government of the Church delivers well against some and poorly against others of the Evaluation Criteria as analysed in Chapter 9. It can be improved, drawing on the learnings from variations within the Church itself as outlined in Chapter 5 and the Governance Models identified in Chapter 6.

Recommendation 2 - Decide which imperatives matter most: Based on the Foundational Documents as they stand today, but noting that they may be impacted over time by decisions of Assembly arising out of the Act2 body of work, depending what Synod determines ‘matters most’ using the Evaluation Criteria, Synod ought to draw on those elements of the Governance Models which might be expected most to help improve that the government of the Church, and governance of the Councils and Bodies within the bounds of Synod, to deliver against Synod’s priorities. Specific ways to improve governance in the Church in Queensland, drawing on other Governance Models, are set out in Chapter 9 of this Report.

Observation 3 - Understand the pros and cons of incorporation: Implementation of the chosen governance arrangements for Councils and Bodies in Queensland requires careful consideration of the positive and negative role separate incorporation of entities can play and the means by which Bodies could be incorporated. As explained in Chapter 7, incorporation especially of large, complex, specialist Bodies within the Church offers many advantages. Done correctly it can even strengthen the ability of the Church to hold those Bodies to account for their use of assets and resources that are held “on behalf of” the Church in Queensland.

Recommendation 3 - Set criteria to guide formation and incorporation decisions: Develop a set of criteria and guidelines (see Chapter 7 for some of the matters which should be addressed) for determining:

- (i) Whether and when it is desirable that a Body or other group or body within the bounds be established as an institution under Regulation 3.7.4.7, based on the implications of doing so;
- (ii) Whether and when it is desirable that an institution also be separately incorporated as an entity and if so under what incorporation regime, based on the implications of doing so;
- (iii) Whether and when it is desirable that a Body or other group or body within the bounds be separately incorporated as an entity but not also established as an institution, based on the implications of doing so;
- (iv) In the case of separately incorporated entities, the membership structure which will deliver the most rigour in accountability (see **Recommendation 4**); and
- (v) In the case of Bodies that are not separately incorporated entities, how to optimise rigour of accountability by the Body through enhancing the capability of all of the Councils (including Synod itself) to hold other Councils and Bodies, as appropriate, to account.

Observation 4 - Church Membership of incorporated entities as highest form of accountability: As explored in Chapter 7, if Synod decides to allow incorporation of some Bodies as the most suitable form for larger more complex Bodies is the not-for-profit company limited by guarantee under the *Corporations Act*, 2001. The strongest accountability mechanism provided by that legislation is company ‘membership’. The ‘member/s’ of a company retain control through what is contained in the company’s constitution, including the purpose and objects of the company and the power of appointment and removal of members of the board of the company. Indeed, in our view this option provides far stronger accountability mechanisms than the current governance model of the Church in Queensland.

Recommendation 4 - Favour UCQ Property Trust as Sole Member of incorporated entities: When permitting incorporation of any Body as a not-for-profit company limited by guarantee, prefer the simplest membership structure by creation of the company with the UCAQ Property Trust as the sole member, having the powers of appointment and removal of directors of the company with provisions entrenched in the constitution of the company ensuring adherence to Mission and that the board of the company is required to serve the interests of the sole member ‘parent’ of the company in accordance with s.187 of the *Corporations Act*.

Observation 5 - Learn from other Synod experiences: As explored in Chapter 5, other Synods in Australia have permitted incorporation of entities within their bounds with some distinct lessons learned.

Recommendation 5 - Set relationship expectations on incorporation: Drawing on the Government Enterprises Model and the NSW/ACT and Vic/Tas Synod experiences in particular, permit establishment of a separately incorporated Bodies, if at all, only on the following bases:

- (a) The membership structure for any permitted companies should be as simple as possible, preferring only the Property Trust as the sole corporate member (see also Recommendation 4) to hold the board of directors of the company to account through reporting mechanisms;
- (b) Adopt a Model Constitutions fir all such companies that sets out clearly:
 - (i) required Church Mission-related Objects and any limitations on activities outside Mission; and
 - (ii) the powers of the Church around appointment and removal of a majority of the directors in consultation with the board of the company itself; and
- (c) there should be an additional (model) Relationship Agreement, specifying reporting and accountability requirements between the Church and the incorporated Body , including the requirement to submit annually to the Property Trust, Synod Standing Committee or other designated oversight group, a Mission and Ministry Plan and Strategic Plan for the Body (not for the purposes of approval but as a means of oversight enabling the Property Trust to make appropriate and informed decisions about appointment (and, sparingly, removal) of directors on the board of the Body).

Observation 6 - The importance of UCAQ Property Trust holding Church property: Irrespective of the chosen governance arrangements for holding to account the Councils and Bodies within the bounds of Synod, and the means of establishment and/or incorporation of entities, a material issue which must be considered is the continued ownership of the property of the Church in the UCAQ Property Trust and the circumstances, if any, in which it ought to be devolved into other special purposes trusts or other ownership arrangements.

Recommendation 6 - Set guidelines and Model Trust Deed for making property holding decisions: Drawing on Chapter 8 for some of the relevant considerations, develop a set of Trust Property Guidelines for Synod, drawing on existing work of Synod Office, to guide decisions about the best means of holding of property to be used exclusively by a Body especially when deciding whether to permit or require incorporation of the Body. Require any special purpose trusts created for property relating to individual Bodies to be governed by a Model Trust Deed drawing on the United Church of Canada example (see paragraph 5.11).

Observation 7 - The importance of Legal Due Diligence: a range of matters must be carefully considered by Synod in relation to any change to the current model operating in Queensland. This includes, for example, the impact on PBI status of Bodies within the Church and whether the legal indemnities under the Act and the Regulations (see paragraphs 4.36 and 4.39) would still be available to the same extent, or could be lost or eroded, for members of boards or governing bodies of Church Bodies that are required or permitted to incorporate separately and/or the property of which is placed into a special trust.

Recommendation 7 - Full Legal Due Diligence: Ensure that all decisions about establishment and/or separate incorporation of institutions and establishment of special trusts in keeping with these Recommendations, includes full legal due diligence as contemplated by Observation 7.

Observation 8 - Synod Standing Committee Governance Oversight Capabilities: Irrespective of whether Synod chooses to retain its current fundamental polity and government or to move towards establishment of some Bodies as institutions with or without separate incorporation, the governance oversight capabilities of SSC should be enhanced to tackle present limitations (see paragraphs 7.21 and 7.22).

Recommendation 8 - Enhance Synod Standing Committee Governance Oversight Capabilities: Draw on the experience of the strengths of the Synod board implemented in NSW/ACT to review the composition of SSC in Queensland. We do not recommend the addition of a separate Synod board, creating yet another decision-making layer, but instead recommend a review of the composition of SSC itself. This would enable Synod to balance perspectives of individuals within SSC coming from existing major Bodies with those of persons bringing greater independence, objectivity and relevant technical expertise, potentially even from outside the Church.

Report delivered 17 May 2023.



**Ms Elizabeth Jameson
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Uniting Church (Queensland) Governance Reform Brief

1. Overview

(Further background content is provided as part of Appendix I)

The Uniting Church in Queensland is committed to conducting a governance review as part of its recently developed strategic directions (2021-2025).

The existing governance structures and processes of the Uniting Church in Queensland was established at its union of the Methodist, Congregational and Presbyterian churches in 1977, with no significant review or reform since this time.

The external and internal landscape in which the Church operates has substantially changed over the last 44 years, and it is considered necessary to review its governance model in the context of a more contemporary and agile operating environment.

Some of these risk, compliance, regulatory, funding and governance changes include –

1. Blue card system introduced in 2001
2. ASX corporate governance principles first came in during 2003
3. ACNC established in 2012 – and ongoing reforms in the NFP/charity sector
4. NDIS began in 2013
5. Royal Commissions which have had regulatory, compliance and governance implications:
 - a. Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability
 - b. Royal Commission into Aged Care Quality and Safety
 - c. Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry
 - d. Royal Commission into Institutional Responses to Child Sexual Abuse.
6. Increased and developing community and regulatory expectations in the Environmental, Social and Governance (ESG) space.

2. Purpose of research brief

It is proposed to identify other relevant governance models from a variety of organisations (not-for-profit included) to assess all elements of what is “best practice” governance that may inform a revised/reformed Uniting Church Queensland governance model.

It is acknowledged that there is a lack of literature in the governance space in relation to the not-for-profit sector, particularly with respect to larger and church-run organisations. Direct research and investigations with other organisations may be required.

Recommendations are sought as to which model or models represent best practice and are most fit for purpose in the context of the Uniting Church in Queensland as set out below.

3. Criteria for evaluation

Staying true to our purpose and values

- Clear and understood purpose which mirrors the mission of the Uniting Church
- Aligning activities to purpose
- Values-based and value creating
- Stopping activities that are not aligned to purpose

Empowering our people

- Clear roles and responsibilities
- Delineate between governance and management
- Decision-making as close as possible to activity
- Fostering innovation

Adapting for context

- Contemporary structures and processes
- Adapting processes and structures for local context
- Monitoring to optimise effectiveness and efficiency in fulfilling purpose according to our values

Being accountable to ourselves and our stakeholders

- Financial viability
- Sustainability
- Stewardship
- Well-being of our people
- Ethical
- Comply with regulations
- Holding people to account

Connecting the parts of the 'body' into a cohesive whole

- Identifying and communicating with relevant stakeholders
- Defining inter-relationships
- Minimising overlaps and duplication

4. Context

The Uniting Church Queensland Synod has embarked on a mission renewal process that responds to the many internal and external influences that have impacted the Church for some time. Some of these are identified in Section 1 (Overview) above. Other examples of these impacts include the changing demographic of congregations, a changing theological position and relation within the broader community, evolving digital landscape, and of course, more recently, a global pandemic.

The Church is committed to its work and ministry as one Church. Following an eighteen-month discernment process across the breadth of the Church, a five-year strategic direction document entitled *Shared life. Flourishing communities.* has evolved which outlines the Church's strategic ambition, four mission priorities and 11 commitments – outlined below.

The final document was endorsed with the mandate to complete a scoping phase which will produce a proposed roadmap to move the church closer to its strategic intent.

5. Theological considerations

It should be noted that any governance review is guided and informed by the Church's foundational document – The Basis of Union (BOU). The BOU sets out some matters clearly in relation to the purpose, mission and organisation of the Church however it also anticipates that in the areas of governance and internal law, there will need to be constant revision in order to ensure that the Church remains 'Fit for purpose'. This is specifically referred to in the following excerpt (cl17) –

“The Uniting Church acknowledges that the demand of the Gospel, the response of the Church to the Gospel, and the discipline which it requires are partly expressed in the formulation by the Church of its law. The aim of such law is to confess God's will for the life of the Church; but since law is received by human beings and framed by them, it is always subject to revision in order that it may better serve the Gospel. The Uniting Church will keep its law under constant review so that its life may increasingly be directed to the service of God and humanity, and its worship to a true and faithful setting forth of, and response to, the Gospel of Christ.”

6. Strategic ambition

The four mission priorities and 11 commitments which form part of the strategic ambition of the Uniting Church are –

Discipleship

- Culture
- Innovation
- Children, young people and families

Transforming communities

- Mental Health and Wellbeing
- Environment and Sustainability
- Covenanting with First Peoples

Fit-for-purpose

- Governance reform
- Leadership development
- Operational efficiencies
- Missional presence and resourcing

Life together

- Mission partnerships

This research brief relates to the governance reform commitment within the Fit-for-Purpose mission priority.

7. Current strengths and advantages

- We are a democratic organisation with major decisions made by representative members from across the organisation. While this can appear slower in the decision-making process, it is likely more efficient and effective long term in decisions holding and being implemented
- Our governance mechanisms enable representatives involved in the front line of our services (congregations, hospital staff etc) to have a say in the operation of the Church as a whole, in addition to those in formal governance roles, such as our CEOs and board chairs. For our size, our ability to “move with the times” relative to other organisations of our size and/or purpose, might be attributed to this diverse involvement in decision-making
- We have decision-making processes at Synod in Session that have been refined over a process of 45 years. They are somewhat unique but give voice to dissenters, provide mechanisms for quiet to be heard, and strategies to resolve conflict. These processes are well accepted
- For our size, complexity and risk, we have (mostly) avoided major catastrophes and crises relative to peers, and when we have been impacted, have responded in ways that (for the most part) have retained or restored public confidence

8. Current challenges and risks

- Lack of clarity in purpose across the charters
- Feedback across the Church that governance is not fit-for-purpose and is constraining the missional activity of the Church (putting it in the top 4 areas to address in Project Plenty)
- Resources across the whole are not leveraged well
- Services are disaggregated
- Single legal entity with multiple “brands” and unincorporated entities with separate ABNs which is difficult to categorise or understand for affiliated service entities, regulators, employees, volunteers, and funding providers
- Large number of governance forums with inconsistent charters, sizes, compositions and naming
- Compliance requirements not devolved to point of accountability
- Risk of non-compliance and increased cost of compliance with increased regulatory and compliance requirements
- Difficulty finding the appropriate resources for boards and committees
- Lack of clarity, and aligned governance, on who bears what residual risk
- How do we enable Synod to exercise risk/other oversight several layers up (eg. WMQ Council → WMQ Board → SSC)?
- Failure to comply with relevant standards or the imposition of sanctions on either UCQ or WMQ can jeopardise the other
- Sole use tests of assets and income applies to all charities, then PBI’s have additional rules around FBT
- Legal liability does not always sit in the same place as operational accountability
- Human services funding models have radically altered in an environment where underlying operating costs are increasing e.g.:
 - Governments are transitioning away from block funding in areas such as aged care and disability services, and focussing more on individual needs assessments and greater accountability and transparency of administrative costs,
 - Private hospitals are increasingly squeezed by the decrease in premium revenue of health insurers impacting health insurers’ willingness and ability to fund services and patient’s willingness and ability to fund gap payments.
- Increasingly prescriptive governance requirements on providers of human services (that do not always contemplate Church-run structures)

9. Stakeholders

It is not anticipated to engage with any internal or external stakeholders at this point, other than those necessary from the nominated and agreed organisations, specifically for the purposes of conducting the work outlined in this brief.

10. Research Requirements

In order to explore other relevant governance model concepts that could meet the above outlined criteria and respond to the inter-conciliary operating model of the Uniting Church (Queensland) in a modern context, the following has been agreed –

To capture an overview of other existing governance models and apply the criteria as part of an evaluation process, which would result in a short-list of models for more detailed and in-depth exploration to assess application to the Uniting Church in Queensland governance requirements.

(a) Other governance models to be considered include –

Other Uniting Church Synods.

- NSW/ACT, Vic/Tas, SA
- Wesley Community Services Limited (NSW)
- Uniting NSW.ACT
- Uniting (Victoria and Tasmania) Limited
- Uniting Communities Incorporated trading as Uniting Communities
- NSW school which has separately incorporated and taken land with them and put in a separate trust

Other NGOs

- St Vinnies

Other denominations

Government

- Queensland Health
- Government Owned Corporations (e.g. Annual Statement of Corporate Intent, shareholding ministers)

ACNC

- Governance Standards

(b) Governance models

When the reference is made to “governance models”, the following elements should be included -

- Purpose & not-for-profit nature
- Ownership/organisation type
- Organisational structure
- Governance structures
- Main funding source
- Accountability to members (if appropriate)
- Compliance with Australian Laws
- Suitability of Responsible Persons
- Duties of Responsible Persons
- Maintaining and enhancing public trust & confidence in the Australian not-for-profit sector.

(c) Specific responses to the following questions from each of the organisations/entities consulted

- What are the benefits and challenges you have with your governance model?
- What would you change about your governance model if you could?
- Who do you think is doing a good job of governance in organisations of this type?

Formation documents

There are several documents which constitute the Uniting Church in Queensland and its various parts. The following documents bind the Synod and the manner in which it operates:

- *The Uniting Church in Australia Act 1977* (Qld)
- The Basis of Union
- The Uniting Church in Australia Constitution and Regulations (2018 edition)
- Queensland Synod By-laws (last revised June 2020)
- UnitingCare Queensland Constitution (and constitutions of Blue Care, UnitingCare Community and UnitingCare Health)
- ARRCs constitution

11. Reference documents

Uniting Church Queensland Synod
Mission priorities and directions 2021-2025
Shared life. Flourishing communities. Governance Reform (p.37)

Proposed Project Scope regarding amendments to the UCA Act
Emeritus Professor Myles Macgregor-Lowndes reflections, 2021

Review of By-laws and Governance Structure of The Uniting Church in Australia, Queensland Synod
Warren Tapp, April 2017

Life and Mission Consultation, Queensland Synod Presbyteries
Carolyn Kitto, 2017

The future of the Uniting Church in Australia
The application of scenario planning to the creation of four futures for the Uniting Church in Australia
Keith Suter, 2013

A Review of Religious and Certain Other Community Organisation Acts
Queensland Law Reform Commission, 2013

ACNC Governance Standards

The Aged Care Quality Standard - Standard 8 – Organisational Governance -
<https://www.agedcarequality.gov.au/providers/standards/standard-8>

The National Safety and Quality Health Service (NSQHS) Standards – Standard 1 Clinical Governance Standard - <https://www.safetyandquality.gov.au/our-work/clinical-governance/clinical-governance-standard>

NDIS Practice Standards and Quality Indicators – Provider Governance and Operational Management
- <https://www.ndiscommission.gov.au/sites/default/files/documents/2021-11/ndis-practice-standards-and-quality-indicatorsfinal1.pdf>

Childcare National Quality Framework – Quality Area 7 Governance and Leadership -
<https://www.acecqa.gov.au/nqf/national-quality-standard/quality-area-7-governance-and-leadership>

12. **Contact**

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Appendix I - Additional background notes

Formation

The Uniting Church was formed on 22 June 1977, by the union of the Congregational, Methodist and Presbyterian churches after the approval of the Basis of Union. The church was created by an Act of Parliament: *The Uniting Church in Australia Act 1977* (Qld) (the Act). The Property Trust is constituted under section 11 of the Act as a body corporate to hold property in trust for the church.

Units of church governance

- The constitution vests the powers and responsibilities of government and administration in the church in the congregation, the presbytery, the synod and the assembly as set out in Division 3 (clauses 22 to 48). The congregation is the primary expression of the corporate life of the church (clause 22) The synod is the council for the whole of Queensland and has the general oversight, direction and administration of the church's worship, witness and service within the State (clause 32)
- Separate to the basic church governance units constituted by the church's constitution are other entities able to be created by synod under the regulations, including:
 - institutions (being a body whether incorporated or unincorporated established by or on behalf of the church or in which the church participates for a religious, educational, charitable, commercial or other purposes) under regulation 3.7.4.7
 - alternative local church structures (parish missions, faith communities and church councils in small congregations) under regulation 3.9
- The regulations make more detailed provision for the government and administration of the church (regulation 3 (Government and Administration))

Church funds and property

- Division 5 of the constitution deals with the Funds and Property of the church. The beneficial ownership of all property whether real or personal is vested in the church (clause 50). The Uniting Church in Australia Property Trust (Q.) holds legal title to all the church's property (clause 51).
- The Uniting Church in Australia is an unincorporated association with membership and activities determined by its constitution.
- Section 12 of the Act constitutes the Uniting Church in Australia Property Trust (Q.) as a body corporate with perpetual succession and a common seal, capable of doing what 'bodies corporate' may do at law (i.e. sue, be sued).
- The Church (and its various entities) as an unincorporated association uses the property held by the Property Trust for its various charitable purposes. The Church (and its various entities) do not hold any legal or equitable interest in the Church's property.
- The regulations make more detailed provision for church funds and property (regulation 4 (Property)) including the constitution of the Finance Investment and Property Board as a synod property board for the purposes of regulation 4.2.1 with broad authority to deal with property matters within the synod.

- The Property Trust holds all legal title to property and is anticipated in the Constitution but is created by state-based Acts of Parliament.
- A Standing Committee (Church Board) is appointed by the Synod.
- The Synod is the overarching body formed to manage the activities of the church in the state.

Entities as part of the Uniting Church, Queensland

There are several institutions and parish missions which form part of the Uniting Church in Queensland.

The Property Trust **church enterprises** include:

- Trinity College Queensland
- Raymont Residential College
- Alexandra Park Conference Centre
- Uniting Education Early Learning

The Property Trust **institutions** include:

- UnitingCare Queensland
- Dostana
- Barnabas Council Durack

The Property Trust **schools** include:

- The Lakes College (Mango Hill)
- Calvary Christian College (Springwood and Carbrook)
- The Scots PGC College (Warwick)

Separately **incorporated organisations** for which the church holds some governance connection or responsibility are:

- Moreton Bay College (Manly West)
- Moreton Bay Boys College (Manly)
- Grace College (University of Queensland)
- Emmanuel College (University of Queensland)
- Kings College (University of Queensland)
- Cromwell College (University of Queensland)
- The John Flynn College (James Cook University, Townsville)
- Presbyterian and Methodist Schools Association (which includes Somerville House (South Brisbane), Brisbane Boys College (Toowong), Sunshine Coast Grammar School (Forest Glen) and Clayfield College (Clayfield))
- Australian Regional & Remote Community Services
- Leap in!
- Frederick Marsden Youth Centre
- Wesley Medical Research Limited
- New Life Care
- UCA Redress Limited

Ecumenical relationships are held with:

- Unity College (Caloundra)
- Emmaus College (Jimboomba)
- Jubilee Primary School (Gaven)
- Queensland Churches Together
- Wontulp Bi-Buya College
- Religious Instruction Alliance

The **sole parish** mission of the Church is Wesley Mission Queensland.

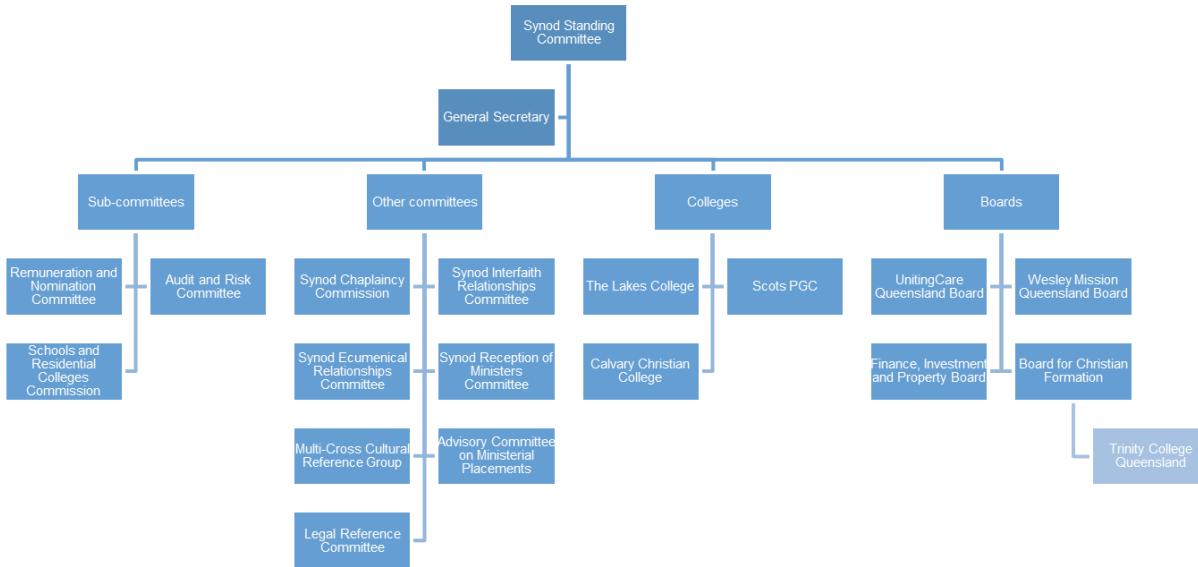
UnitingCare Queensland (UCQ)

UnitingCare Queensland is an institution constituted by the synod pursuant to regulation 3.7.4.7. The governance of UnitingCare Queensland is vested by the Synod By-laws in the UCQ board and is subject to the provisions of the Synod By-laws (section Q4.1) and the UCQ constitution. The UCQ board is accountable to Synod for the discharge of its responsibilities to Synod in accordance with the Synod By-laws.

Wesley Mission Queensland (WMQ)

The Albert Street Uniting Church Congregation is a Parish Mission of the Church under the name of Wesley Mission Queensland as designed by synod under regulation 3.9.1. The Congregation made a Constitution for its better governance as a Parish Mission. WMQ has all the powers of a Congregation designated as a Parish Mission by the Synod under the Uniting Church Regulations. The Church Council must delegate its responsibilities for managing and directing WMQ’s community services to the WMQ Board, a skills-based board constituted as a permanent committee of the Church Council with members approved by Synod on the recommendation of the church council.

Overview of Governance Committees (2021) Note: The Legal Reference Committee does not exist.



Inter-conciliary responsibilities

Congregations

The purpose and responsibilities of a congregation are outlined in paragraph 23 of the UCA constitution and within the Regulations, mainly Regulation 3.1.1. The responsibilities of a church council are outlined in paragraph 24 of the UCA constitution and within the Regulations, mainly Regulation 3.1.2.

Presbyteries

The responsibilities of a presbytery are outlined in paragraph 26 of the UCA constitution and within the Regulations, mainly Regulation 3.1.3.

Synod

The responsibilities of a synod are outlined in paragraph 32 of the UCA constitution and within the Regulations, mainly Regulation 3.1.5.

Assembly

The responsibilities of assembly are outlined in paragraph 38 and 39 of the UCA constitution and within the Regulations, mainly Regulation 3.1.6.

The Uniting Church in Queensland financial model

As previously mentioned, the Property Trust is constituted as the only legal entity for the Uniting Church in Queensland. As a result of this, our finances have been organised in a particular manner which allows funds to flow between different operations within the Church via internal transactions. A few examples of this type of model are:

- a centralised treasury body called Uniting Church Investment Services
- insurance premium reflected at the legal entity level
- central coordination of all payments and recovery associated with sexual abuse claims
- UnitingCare Queensland oversees fleet arrangements.

These arrangements operate within the context that some operations of the Church are registered as public benevolent institutions (PBI), and others are not and transfers from PBIs to non-PBIs within the Church as transfers for value in accordance with the tax requirements for PBIs.

Further considerations – challenges and risks

- Is delivery of human services through incorporated bodies a desirable governance reform, bearing in mind that exposure of governing bodies to the rigours of exposure to criminal prosecution and personal liability for failings acts as a powerful risk mitigant? If separate incorporation is seen as a desirable governance reform for delivery of the church's human services, what form should this take – for example, incorporation as a company limited by guarantee under the *Corporations Act 2001* or for synod to have the power to create and control a separate legal corporation under the Act (this will require amendment of the *Uniting Church in Australia Act 1977*) – see Emeritus Professor Myles McGregor-Lowndes' reflections. Will one size fit all; for example, should schools be incorporated?
- Some parts of the church are self-sufficient while the smaller congregations and most schools require administrative and system support. The degree of synod's general oversight, direction and administration can be risk assessed and directed where most needed. There are some similarities to health reforms where hospital and health services are separately incorporated and responsible and accountable for the delivery of services while the State departments of health act as system managers responsible for the overall management and strategic direction of the health system, ensuring the delivery of high quality, safe and timely health services. This model has system wide

support services such as payroll and ICT delivered by a separately incorporated health support services. The centre promulgates policy frameworks for hospital and health services to ensure service coordination and integration, and efficiency and effectiveness in the provision of health services across the system. The reforms enabled greater accountability and decision-making closer to service delivery and patient care.

Annexure B: Extracts of Relevant Provisions from the Act in Qld

9 Church constitution

- (1) The assembly may adopt a constitution for the church.
- (2) The constitution shall be consistent with the provisions of the basis of union.
- (3) Notwithstanding subsection (2) and notwithstanding any other provision contained in this Act or in the basis of union, the assembly may amend, alter, repeal or replace the constitution adopted by the assembly from time to time in accordance with provisions contained in the constitution in that regard.

12 Trust to be a body corporate

The trust shall—

- (a) be a body corporate with perpetual succession and a common seal;
- (b) be capable in law of—
 - (i) suing and being sued; and
 - (ii) acquiring, holding, dealing with and disposing of real and personal property; and
 - (iii) doing and suffering all such acts and things as bodies corporate may by law do and suffer.

13 Membership of the trust

- (1) The trust shall consist of—
 - (a) the moderator of the synod, the secretary of the synod and the property officer of the synod who shall be members ex officio; and
 - (b) 5 other persons appointed by the synod.
- (2) If—
 - (a) an appointment has not been made to 1 or more of the offices referred to in subsection (1)(a); or
 - (b) fewer than 3 persons have been appointed to hold all of those offices;the trust, notwithstanding the provisions of subsection (1), shall consist of—
 - (c) each person who is the holder of 1 or more of the said offices, who shall be a member whilst the person continues to hold at least 1 such office; and
 - (d) 6 other persons appointed by the synod.

23 Functions of the property trust

Subject to this Act and without derogating from any other provision of this Act with respect to any power, function or duty of the property trust:

- (a) property trust property held by the property trust shall be held in trust for the church and upon any other trust affecting such property;
- (b) the property trust shall hold, manage, administer and otherwise deal with property trust property in accordance with the regulations, directions and resolutions of the assembly.

27 Certain rights enforceable by the property trust

Where any property is vested in the property trust pursuant to this Act, the property trust shall, in relation to that property, have and be subject to all the rights, powers, remedies, liabilities and obligations and may exercise and discharge, in relation to that property, all or any of the rights, powers and remedies that the person in whom the property was theretofore vested or by whom it was theretofore held would have had and been subject to and might have exercised and discharged in relation to that property if the property had not been divested from the person and vested in the property trust.

33 Regulations etc.

- (1) The assembly may make regulations, give directions and pass resolutions, not inconsistent with this Act, for the control, management and administration of, and dealings with, property trust property.

36 Indemnification of certain persons

A member of the trust, and any other person, exercising a power or performing a duty in relation to trust property pursuant to this Act or pursuant to any resolution or direction of the assembly, and his or her executors and administrators, shall be entitled to be indemnified out of trust property against all expenses or liabilities incurred by the member or other person in connection with the exercise by the member or other person of the power and the performance by the person or other member of the duty unless incurred in the course of fraudulent or negligent breach of trust.

Annexure C: Extracts of Relevant Provisions from the UC Constitution & Regulations

Clause 38: Assembly

RESPONSIBILITIES OF THE ASSEMBLY

38. (a) The Assembly shall have determining responsibility in matters of doctrine, worship, government and discipline, including the promotion of the Church's mission, the establishment of standards for theological education and the reception of Ministers from other denominations, and is empowered to make final decisions on all matters committed to it by this Constitution.
- (b) Without limiting the generality of the preceding clause, the Assembly shall have the power:
- (i) to make guiding decisions on the tasks and authority to be exercised by the other councils of the Church;
 - (ii) to create to create or dissolve Synods, to determine the bounds of the Synods, to divide or alter the number or bounds of Synods;
 - (iii) to make provisions for and in respect of calls and appointments of Ministers;
 - (iv) to make provision for the transfer of Ministers between Synods and/or Presbyteries;
 - (v) to disallow any by-law, rule or decision of a Synod or Presbytery or any other body which contravenes this Constitution or Regulations of the Assembly;
 - (vi) subject to the provisions of this Constitution to provide for the control and management of the property and funds vested in the Church;
 - (vii) generally to provide for the control, management and discipline of the Church;
 - (viii) to act in all matters in respect of which exclusive authority is not vested in any other council by this Constitution;
 - (ix) to delegate to any other council any of the authorities vested in the Assembly for such period and on such terms as the Assembly shall think fit;
 - (x) to affiliate with ecumenical and other bodies;
 - (xi) to prescribe for the association of the Church or any council or other part of the Church with any other churches, activities of other churches, or congregations of other churches;
 - (xii) to receive into union any other denomination or any congregation or activity of any other church which in each case adheres to the Basis of Union;
 - (xiii) to negotiate and to unite with any other denomination of the Christian Church.

Regulation 4.11.2

- (a) Any person acting under the express or implied authority of the Church and who is not an independent contractor shall be indemnified out of trust property against all liability for any matter or thing done or liability incurred except in the case of fraud, criminal act, gross negligence or wilful misconduct.

- (b) Without detracting from the generality of paragraph (a), a member of a Church Council or other body responsible for the management and administration of property shall be indemnified out of trust property against liability for any matter or thing done or liability incurred in the performance of functions as a member thereof except in the case of fraud, criminal act, gross negligence or wilful misconduct.

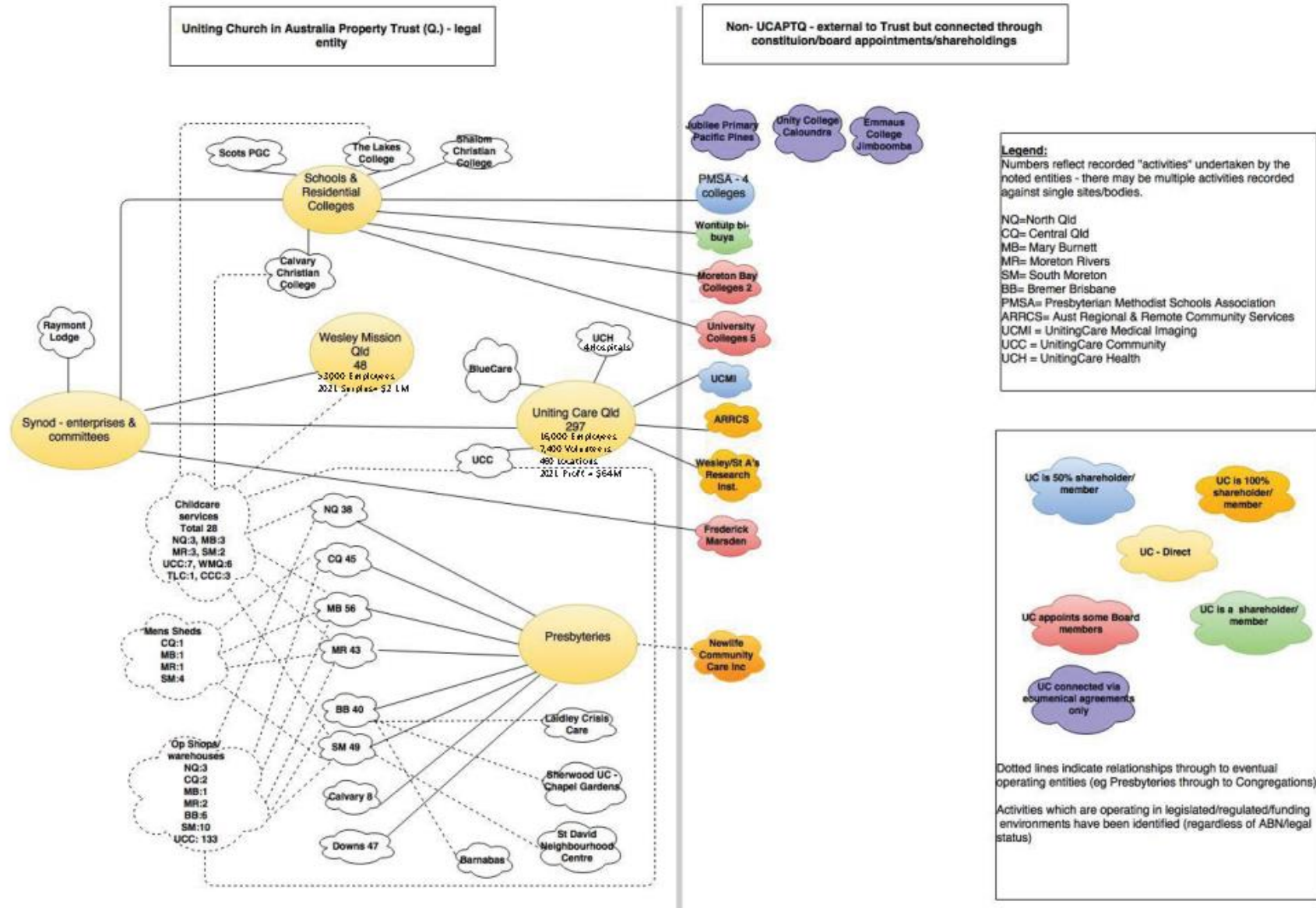
Annexure D: Galaxy Chart



Uniting Church in Australia Property Trust (Q.) – galaxy chart (correct as at 11/01/2017)

Data extracted from CARIS:Relationships – UC QldSynod database & UC Risk & Insurance Activity Surveys.

CARIS:Relationships data is regularly updated/amended, so care is required in interpreting the actual relationships which may exist between entities and activities within the Church.





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