

# UCA - Bidwill Uniting

ABN 21 653 795 879

## Constitution

# Constitution

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## 1 Name

The name of the Organisation is **UCA – Bidwill Uniting**

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## 2 Preamble

- 2.1 The Organisation is an institution established by or on behalf of The Uniting Church in Australia. All institutions of the Church, in carrying out their tasks and responsibilities, must embrace the values and ethos of the Church. As referred to in its Basis of Union, the Church acknowledges that Christ alone is supreme in the Church and that responsibility for government within the Church belongs to the people of God by virtue of the gifts and tasks God has laid upon them.
- 2.2 Attention is directed to the Church Regulations and By-Laws and in particular Church Regulation 3.7.4.7.
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## 3

### 3.1 Interpretation

#### Definitions

In this constitution:

**ACNC Act** means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth).

**Act** means the *Uniting Church in Australia Act 1977*.

**By-Laws** means any by-laws made under the Act, the UCA Constitution, or the Church Regulations in force for the time being.

**Board** means the body responsible for managing the Organisation.

**Chair** means the person appointed as chairperson of the Board under clause 14.1(a).

**Charity** means a charity that is registered under the ACNC Act.

**Church** means The Uniting Church in Australia.

**Church Regulations** means any regulations in force for the time being made under the Act or the UCA Constitution.

**Organisation** means the organisation established by this constitution by whatever name it is known from time to time.

**Presbytery** means the Parramatta Nepean Presbytery of the Church.

**Secretary** means the person appointed as secretary of the Board under clause 14.1(a).

**Standing Committee** means the Standing Committee of the Parramatta Nepean Presbytery of the Church

**Synod** means the Synod of New South Wales and the ACT of the Church (and includes any body designated by the Synod to oversee organisations such as the Organisation).

**Treasurer** means the person appointed as treasurer of the Board under clause 14.1(a).

**UCA Constitution** means the document known as The Uniting Church in Australia Constitution.

**Uniting Financial Services** means the financial treasury and investment services provided by the Synod under any approved and relevant organisations.

### 3.2 Other rules of interpretation

In this constitution:

- (a) headings and bold print are for convenience and do not affect interpretation;
- (b) the singular includes the plural and vice versa;
- (c) reference to a document (including this constitution) includes any variation or replacement of it;
- (d) “law” includes common law, principles of equity and legislation (including regulations);
- (e) reference to any legislation includes any consolidation, amendment, re-enactment or replacement of it and any regulations and statutory instruments issued under any of them;
- (f) “regulations” includes instruments of a legislative character under legislation (such as regulations, rules, by-laws, ordinances and proclamations);
- (g) “person” or “entity” includes an individual, a firm, a body corporate, an unincorporated association, an authority or a trust; and
- (h) the words “including”, “for example” or “such as” when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind.

## 4 Object

### 4.1 Object

The Organisation’s object is to pursue the following charitable purpose:

To break the chains of entrenched and generational poverty, disadvantage and other forms of abuse, injustice, inequity and marginalization of the people in Bidwill, Mt Druitt and surrounding areas.

In the furtherance of the Organisation’s object, the Organisation may:

- (a) raise funds by borrowing or any other means approved by the Church including accepting gifts and donations; and
- (b) do all other things incidental or ancillary to achieving the object as set out in this clause.

## 5 Not-for-profit

The Organisation must use its income and assets to fulfil its object in accordance with clause 4.1.

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## **6 Authority**

The Organisation is subject to:

- (a) the authority of the Standing Committee as provided in this constitution; and
- (b) without limiting the Church Regulations, oversight by the Presbytery and the Synod.

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## **7 Board**

### **7.1 Role**

The Board is responsible for the governance and management of the Organisation, subject to the terms of this constitution, and for ensuring the Organisation pursues the object set out in clause 4.1.

### **7.2 Size of Board**

The Board must have at least 5 and no more than 12 members.

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## **8 Appointment of Board members**

### **8.1 Appointment process**

- (a) The Standing Committee appoints the members of the Board and the Chairperson of the Board. The Chairperson of the Board shall be a member or member in association of the Church.
- (b) Before appointments are made, the Board may submit nominations for consideration by the Standing Committee.

### **8.2 Eligibility for appointment**

- (a) A majority of the Board members must be members, or members in association, of the Church.
- (b) In appointing the Board members, the Standing Committee must consider the diversity of the members and take into account gender diversity and relevant experience as required.
- (c) Subject to clause 8.3(b), a Board member who retires under clause 9.1 may be reappointed.
- (d) A current employee of the Organisation or an individual who had been an employee of the Organisation within the last 12 months cannot be a Board member.
- (e) A person cannot be a Board member if ineligible under the ACNC Act.

### **8.3 Term of appointment**

- (a) Subject to the following provisions, each Board member appointed under clause 8.1 is appointed for a term of 3 years.
- (b) A person who has been a Board member for a continuous period of nine years or more may only be re-appointed where there are exceptional circumstances and the Synod approves the re-appointment.

#### **8.4 Exceptions**

In the event that exceptions to the provisions of clauses 8.1 – 8.3 inclusive arise, Presbytery Standing Committee will advise Synod in writing of the exceptions and seek Synod approval to implement said exceptions.

### **9 Retirement and removal of Board members**

#### **9.1 Annual retirements**

At each annual meeting of the Board:

- (a) any Board member appointed by the Board to fill a casual vacancy under clause 9.3(c) must retire, and
- (b) one third (or the nearest whole number greater than one third) of the remaining Board members must retire.
- (c) The Board members who must retire under clause 9.1(b) will be those who have been longest in office since being last appointed. For Board members appointed on the same day, the Board member(s) to retire will be as those Board members agree or, if not agreed, as decided by lot.

#### **9.2 Ceasing to be a Board member**

A Board member ceases to be a member of the Board if:

- (a) the member resigns by written notice to the Chair or Secretary or retires;
- (b) the member is absent from three consecutive Board meetings without leave;
- (c) the member dies;
- (d) the member becomes of unsound mind or becomes a person who is or whose estate is liable to be dealt with in any way under a law relating to mental health or is bankrupt;
- (e) the member becomes ineligible to be a Board member under the ACNC Act; or
- (f) the person's membership of the Board is revoked by the Presbytery or the Synod.

#### **9.3 Vacancies on the Board**

- (a) At any time, the Standing Committee or the Synod may revoke the position of any Board member. Where practicable, prior to taking such action, the Standing Committee or the Synod (as the case may be) must consult with the Board member involved, the Chair and the Chairperson of the Presbytery.
- (b) The Standing Committee may fill any vacancy occurring on the Board between annual appointments of members. The person appointed holds office for the remainder of the term of the member replaced.
- (c) The Board may temporarily fill a vacancy. The person appointed holds office until the Standing Committee fills that vacancy or the next annual meeting, whichever first occurs.

## **10 Remuneration and expenses of Board members**

### **10.1 Remuneration**

Board members are not entitled to remuneration for acting as a Board member or for providing services to the Board.

### **10.2 Expenses**

The Board may reimburse members for their reasonable travelling, accommodation and other expenses when engaged on the business of the Organisation.

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## **11 Duties of the Board**

### **11.1 Governance role**

The Board's responsibilities and powers include:

- (a) ensuring the Organisation complies with the requirements of:
  - (i) any relevant law including ACNC Act obligations and governance standards;
  - (ii) the Church Regulations and By-Laws; and
  - (iii) any directions of the Presbytery and the Synod.
- (b) employing, supervising, suspending and dismissing staff;
- (c) supervising the activities of the Organisation;
- (d) taking care of the property used in the Organisation's activities;
- (e) properly and efficiently managing the Organisation's financial affairs;
- (f) approving the audited annual financial statements and budget of the Organisation;
- (g) providing reports at least six monthly to the Standing Committee;
- (h) providing the annual report, audited annual financial statements and budget to the Standing Committee, Presbytery and the Synod; and
- (i) providing promptly such other reports and information as the Standing Committee, Presbytery or Synod may require from time to time.



## **11.2 Rules and policies**

The Board may make rules and policies to ensure the efficient development, operation and financial stability of the Organisation and may alter, rescind or replace any of those rules or policies. Such rules and policies must be consistent with clause 11.1(a).

## **11.3 Duties of Board members**

Board members must comply with their duties as members of the Board under law, including the duties described in governance standard 5 of the regulations made under the ACNC Act which are:

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a Board member;
- (b) to act in good faith in the best interests of the Organisation and to further the charitable purpose(s) of the Organisation set out in clause 4.1;
- (c) not to misuse their position as a Board member;
- (d) not to misuse information they gain in their role as a Board member;
- (e) to disclose any perceived or actual material conflicts of interest in the manner set out in clause 11.4;
- (f) to ensure that the financial affairs of the Organisation are managed responsibly; and
- (g) not to allow the Organisation to operate while it is insolvent.

## **11.4 Conflicts of interest**

- (a) A Board member must disclose the nature and extent of any actual or perceived conflict of interest in a matter that is being considered at a meeting of the Board (or that is proposed in a circular resolution) prior to the matter being considered:
  - (i) to the other Board members, or
  - (ii) if all the Board members have a conflict of interest, to the Standing Committee and the Synod.
- (b) The disclosure of a conflict of interest by a Board member must be recorded in the minutes of the meeting.
- (c) A Board member who has a material personal interest in a matter that is being considered at a meeting of the Board (or that is proposed in a circular resolution) must not, except as provided in clause 11.4(d), vote on the matter or be present during discussion of the matter.
- (d) A Board member may still be present and vote if:
  - (i) the Board members who do not have a material personal interest in the matter constitute a quorum and pass a resolution that:
    - (A) identifies the member, the nature and extent of the member's interest in the matter and how it relates to the affairs of the Organisation; and
    - (B) states that those members are satisfied that the interest should

not stop the member from voting or being present; or

- (ii) the Standing Committee or the Synod so consents.

## **12 Meetings of the Board**

### **12.1 Convening meetings**

Subject to clauses 12.2 and 12.3, meetings of the Board are convened by the Secretary or the Chair at such dates, times and places as the Chair or the Board determine.

### **12.2 Frequency of meetings**

The Board must meet at least quarterly.

### **12.3 Members may convene meetings**

A meeting must be convened as soon as practicable after a written request for a meeting, signed by at least three Board members, is provided to the Secretary or the Chair.

### **12.4 Notice of meeting**

Prior notice of Board meetings must be given to each member as follows:

- (a) for the annual meeting: 14 days' notice; and
- (b) for all other meetings: 7 days' notice (unless all members agree to waive this requirement).

### **12.5 Quorum**

- (a) The quorum for Board meetings is a majority of Board members.
- (b) No business may be transacted unless a quorum is present.

### **12.6 Chair absent**

The members at a Board meeting may choose a member to be the chairperson for a meeting if the Chair is:

- (a) not present within 15 minutes after the starting time set for the meeting; or
- (b) present but does not want to act as chairperson of the meeting; or
- (c) has given prior notice of absence.

### **12.7 Meeting procedures**

- (a) Board meetings are to be conducted in accordance with "A Manual for Meetings in the Uniting Church" unless the Board has adopted other standing orders or meeting procedures.
- (b) Concerning electronic decision making:
  - (i) clause 12.8 is subject to the requirements in the Manual for Meetings unless the Board has adopted other meeting procedures; and
  - (ii) the Board is deemed to have adopted meeting procedures to allow clause 12.9 to operate.

### **12.8 Meetings by technology**

- (a) Each Board member, by consenting to be a member (or by reason of the adoption of this constitution), consents to the use of each of the following technologies for holding a meeting of the Board:
- (i) video;
  - (ii) telephone;
  - (iii) any other technology which permits each member to communicate with every other participating member; or
  - (iv) any combination of these technologies.
- (b) Where members are not all in attendance at one place and are holding a meeting using one or more of the technologies referred to in clause 12.8(a) and each participating member can communicate with the other members:
- (i) the participating members are, for the purpose of every provision of this constitution concerning Board meetings, taken to be assembled together at a meeting and to be present at that meeting; and
  - (ii) all proceedings of those members conducted in that manner are as valid and effective as if conducted at a meeting at which all of them were physically present in the one location.

### **12.9 Decisions by circular resolution**

If a Board decision is required on a matter and the Chair agrees, then the resolution may be submitted to Board members for decision by circular resolution. Any circular resolution is a valid resolution of the Board if it is approved by all Board members. Board member approvals may be delivered in writing by letter, facsimile or email.

### **12.10 Validity of acts of Board**

All acts done at a meeting of the Board are, even if it is later discovered that:

- (a) a member of the Board did not receive notice of the meeting;
- (b) there was a defect in the appointment, or continuance in office, of a person as a member; or
- (c) a person acting as a member was not entitled to vote,

as valid as if the relevant person had received notice, been duly appointed or had duly continued in office or was entitled to vote (as the case may be).

## **13 Annual meeting**

### **13.1 Deadline**

An annual meeting of the Board must be held no later than five months after the end of the Organisation's financial year.

### **13.2 Documents to be presented**

At the annual meeting:

- (a) a report by the Chair (or if there is no Chair, the Secretary) relating to the activities of the Organisation during the preceding financial year; and
- (b) an audited statement of accounts for the preceding financial year and a budget

and a schedule of any proposed fees and charges for the current financial year,

must be presented. Copies of the documents presented under paragraph (b) (as approved by the Board) must be given to Presbytery, Synod and to the next meeting of the Standing Committee.

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## **14 Officers**

### **14.1 Appointment**

Presbytery Standing Committee appoints the Chair of the Board from amongst the members.

At its annual meeting, from among its members, the Board:

- (a) must appoint separate individuals as:
  - (i) Secretary; and
  - (ii) Treasurer; and
- (b) may appoint such other officers as it considers necessary for the proper and efficient management of the Organisation.

### **14.2 Vacancies**

Any vacancy in a position referred to in clause 14.1 may be filled by the Board from among its members. The person appointed holds office until appointments are made at the Board's next annual meeting.

### **14.3 Role of the Chair**

The role of the Chair includes:

- (a) promoting the object of the Organisation;
- (b) chairing Board meetings and having oversight of the agenda;
- (c) ensuring the Board operates effectively;
- (d) resolving conflict among Board members;
- (e) performing the duties of a Board member; and
- (f) acting as the spokesperson for, and the representative of, the Board.

### **14.4 Role of the Secretary**

The role of the Secretary includes convening meetings of the Board, maintaining the minutes and other records of Board meetings (including notices of meetings) and circular resolutions and ensuring the requirements of clauses 15.1 and 15.2 are maintained.

### **14.5 Role of the Treasurer**

The role of the Treasurer includes:

- (a) maintaining the financial records of the Organisation;
- (b) ensuring compliance with relevant external financial reporting obligations,

including any reporting obligations imposed by the Standing Committee or Synod;

- (c) ensuring financial risks are managed with appropriate strategies and controls; and
- (d) overseeing the annual financial reporting and budgeting process and liaising with the auditor.

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## **15 Records**

### **15.1 Minutes**

The Secretary must ensure that:

- (a) within one month of a Board meeting, the passing of a circular resolution or a committee meeting, minutes of the proceedings, resolutions and any delegation of powers are prepared; and
- (b) the minutes are signed by the Chair or committee chairperson, as the case may be, within a reasonable period after the meeting or passing of the circular resolution.

### **15.2 Records**

- (a) The Secretary must keep written records that correctly record the operations of the Organisation. Such records must include information required to be maintained for compliance with relevant laws or contractual obligations.
- (b) These records must be retained for the minimum period legally required relevant to the document type.
- (c) Board members must take reasonable steps to ensure the Organisation's records are kept safe.

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## **16 Committees**

The Board may:

- (a) appoint committees (whose membership must include at least one Board member); and
- (b) delegate any of its powers (except this power of delegation) as it considers appropriate to its committees and regulate their operation.

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## **17 Property**

- (a) All property of the Organisation must be held and managed in accordance with the Act, the Church Regulations and the By-Laws.
- (b) Except as provided in clause 10.2, no property of the Organisation is to be distributed directly or indirectly to any members of the Organisation or any Board member.

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## **18 Funds and accounts**

### **18.1 Financial year**

The Organisation's financial year ends on 30 June each year.

### **18.2 Receipts and facilities**

- (a) Subject to clause 18.2(b):
  - (i) all money received by, or on account of, the Organisation must be deposited in an account or accounts with a bank (or other financial institution) approved by the Synod; and
  - (ii) the Board may invest the whole or any part of its funds in such forms of investment as the Standing Committee approves.
- (b) Subject to any relevant law, the Organisation must comply with any Synod policies concerning depositing money with or sourcing money from Uniting Financial Services.
- (c) Any investments or financial facilities, including bank accounts, overdrafts or loan accounts, are to be recorded in the full name of the Organisation.

### **18.3 Payments**

All payments (other than petty cash items) made on account of the Organisation must be made by cheque, credit card or authorised electronic funds transfer.

### **18.4 Operation of accounts**

- (a) Any credit card account used on behalf of the Organisation must be operated in accordance with guidelines or directions issued by the Synod or, if none, as issued by the Board.
- (b) Any other account must be operated by any two signatories authorised by the Board.

### **18.5 Maintaining and auditing accounts**

The Organisation must ensure proper financial records, which:

- (a) correctly record and explain the Organisation's transactions and financial position and performance, and
- (b) enable true and fair financial statements to be prepared and to be audited,

are made and kept and are audited annually. More frequent audits must be done if the Standing Committee or Synod so requires.

## **19 Auditor**

### **19.1 Appointment**

At its annual meeting, the Board must appoint an auditor in accordance with the Church Regulations. When making an auditor appointment, the Board must consider the requirements of the ACNC Act as they relate to the audit obligations of the Organisation.

### **19.2 Qualification**

- (a) Subject to complying with the ACNC Act:
  - (i) the auditor must be a person who is a member of the Institute of Chartered Accountants in Australia or of CPA Australia or a registered company auditor under the Corporations Act; or
  - (ii) where the gross income of the Organisation in a financial year is below a figure that equates to 2.5 times the notional stipend (as referred to in the

Church Regulations), the Organisation's books of account may be audited and certified by two persons who are not qualified under clause 19.2(a)(i), but who are, in the opinion of the Church Council, fit and proper persons to undertake the responsibility.

- (b) The auditor must not be a Board member or an employee of the Organisation.

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## **20 Indemnity, insurance and access**

### **20.1 Indemnity**

An officer of the Organisation is indemnified in accordance with Church Regulation 4.11.2.

In this clause, 'officer' means a Board member or Secretary and includes a Board member or Secretary after they have ceased to hold that office.

### **20.2 Access**

A Board member has a right of access to the financial records of the Organisation at all reasonable times.

If the Board agrees, the Organisation must give a Board member or former Board member access to:

- (a) certain documents, including documents provided for or available to the Board members; and
- (b) any other documents referred to in those documents.

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## **21 Amendment of this Constitution**

21.1 This constitution may be amended by:

- (a) the Synod pursuant to the Church Regulations; or
- (b) resolution of the Board.

21.2 Amendment by resolution of the Board is valid only if:

- (a) at least 14 days' prior written notice of the proposed amendment has been given to each Board member; and
- (b) the amendment is approved by the Standing Committee and the Synod.

An amendment to this constitution must not be made if doing so causes the Organisation to no longer be a Charity.

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## **22 Dissolution**

- (a) If the Organisation is dissolved or if the endorsement of the Organisation as a deductible gift recipient is revoked (whichever occurs first), the following assets remaining after provision is made for the Organisation's liabilities to be met must be transferred to a fund, authority or institution to which income tax deductible gifts can be made:
  - (i) gifts of money or property for the principal purpose of the Organisation;
  - (ii) contributions made in relation to an eligible fundraising event held for the principal purpose of the Organisation; and
  - (iii) money received by the Organisation because of such gifts and contributions.
- (b) If the Organisation is dissolved, after payment of all liabilities, any surplus assets (other than the assets referred to in clause 22(a)) must be paid or transferred to



another fund, authority or institution of the Church that is a Charity. Preferably that fund, authority or institution will have aims and objects similar to those of the Organisation.

- (c) Provision for or payment of the Organisation's liabilities under clause 22(a) or clause 22(b) is to be made firstly from assets other than the assets referred to in clause 22(a) and only then from the assets referred to in clause 22(a).
- (d) The fund, authority or institution to which surplus assets are to be distributed under clause 22(a) or clause 22(b) may be selected by the Standing Committee, but is subject to the approval of the Synod.