

Summary of Key Differences between the WellSpring Constitution (2010) and the proposed WellSpring Rules of Association (2017)

Updated 9 June 2017

Background:

In late 2015 Moores Legal conducted a free comprehensive Health Check for WellSpring Centre as part of a corporate membership offered through the Baptist Union of Victoria. Areas covered included: Privacy Policy and Practices, Commercial Operations, Employment Policies and Practices, Charity Law, Governance and Tax. At that time Moores noted that ‘the constitution appears to have been last updated on 29 August 2010. Significant changes have been made to the relevant legislation for Victorian incorporated associations since then (the *Associations Incorporation Reform Act 2012* (“**the Act**”)) and we recommend that the rules be updated.’

The WellSpring Board engaged Moores Legal to consult and provide an initial draft of an updated Constitution, to be followed by a second version that incorporated feedback from WellSpring. Board members have worked through the two versions in close detail, and consulted with the deacons of Ashburton Baptist Church.

We now have a final version of the constitution that will be presented to the WellSpring membership for acceptance in a manner according to the Australian Charities and Not-for-profits Commission (Consequential and Transitional) Act 2012 (Cth).

Key changes in the WellSpring Rules of Association 2017.

In general each category in the Rules contains more detail than the Constitution but usually the intent remains the same.

1. The Name of the Governing Document:

- a. Generally, an incorporated association has Rules, whereas a company has a Constitution with clauses.
- b. The WellSpring Centre Constitution (referred to as the Constitution) has been changed to the WellSpring Centre Inc Rules of Association (referred to as the Rules).

2. The Principal Purpose

- a. Organisations are required to have a Principal Purpose.
- b. The Constitution does not clearly state a Principal Purpose.
- c. The Rules state the Principal Purpose as being:
 - i. The principal purpose for which the Organisation exists is to foster a contemplative awareness of the presence of God and encourage people to explore what this means for them in everyday life. [See 1.2 in the Rules](#)

3. **Membership – new Rule**
 - a. The Board may create additional categories of membership (e.g. honorary and associate). There is no scope for this in the Constitution. [See 3.2 in the Rules](#)

4. **Grievance Procedure:**
 - a. ‘The Board will determine the procedure to be followed to determine any dispute’ [See 3.13\(a\) and \(b\) in the Rules](#)

5. **Meetings**
 - a. **Use of technology:** ‘A member not physically present at a general meeting may participate in the meeting by the use of technology’ [See 4.6\(a\) in the Rules](#)

6. **Board**
 - a. **Composition of the Board:**
 - i. **Constitution** – 9 members: 4 elected by WellSpring, 4 appointed by Ashburton Baptist Church (ABC) one of whom is to be the Director of WellSpring, 1 chairperson to be appointed by ABC. [See 10.1 in the Constitution](#)

 - ii. **Rules** – 9 members: 4 elected by WellSpring, 4 appointed by ABC, the Director of the Organisation. [See 5.3\(a\) in the Rules](#)

 - b. **Election of Board Members:**
 - i. **Rules** – if the number of members nominated for the position of Board member is less than or equal to the number to be elected, each of those members to be elected to the position. [See 5.8\(b\) in the Rules.](#)

 - c. **Director of the Organisation:**
 - i. **Constitution:** The Director of the Organisation will be appointed by ABC in consultation with the Board of WellSpring. [See C 7.1 in the Constitution](#)

 - ii. **Rules:** The Director of the Organisation will be appointed jointly by the Organisation and Ashburton Baptist Church under terms and conditions agreed by both parties. [See 5.3\(b\) in the Rules](#)

 - d. **Office Bearers:**
 - i. **Constitution:** The Board will consist of 9 members.
 1. Chairperson appointed by the Ashburton Baptist Church. [See D 10.1 in the Constitution](#)

 - ii. **Rules:** The Board must appoint:
 1. a Chair, Deputy Chair,[See 5.5\(a\) \(i\) in the Rules](#)

Moores
9 Prospect Street Box Hill
Victoria Australia 3128

PO Box 340 Box Hill
Victoria Australia 3128



T 03 9898 0000
F 03 9898 0333
E info@moores.com.au

moores.com.au

Rules

WellSpring Centre Inc

ABN: 16 587 973 201

MOORES

9 Prospect Street
BOX HILL VIC 3128

Tel: (03) 9898 0000
Fax: (03) 9898 0333
Ref: 160666

Moores Legal Pty Ltd
ACN 005 412 868

1.	PRELIMINARY	1
1.1	Name	1
1.2	Principal purpose	1
1.3	Financial year	1
1.4	Definitions.....	1
1.5	Interpretation	2
2.	POWERS OF ORGANISATION	2
2.1	Powers of Organisation	2
2.2	Not-for-profit organisation.....	3
3.	MEMBERS, DISCIPLINARY PROCEDURES AND GRIEVANCES	3
3.1	Who is eligible to be a member	3
3.2	Membership categories	3
3.3	Application for membership.....	4
3.4	Consideration of application	4
3.5	New membership.....	4
3.6	Annual subscription fee and joining fee.....	5
3.7	General rights of members	5
3.8	Rights not transferable	6
3.9	Ceasing membership	6
3.10	Resigning as a member	6
3.11	Register of members.....	6
3.12	Disciplinary Action	6
3.13	Grievance Procedure	7
4.	GENERAL MEETINGS OF THE ORGANISATION	7
4.1	Annual general meetings.....	7
4.2	Special general meetings	8
4.3	Special general meeting held at request of members	8
4.4	Notice of general meetings.....	9
4.5	Proxies	10
4.6	Use of technology	10
4.7	Quorum at general meetings	10
4.8	Adjournment of general meeting	10
4.9	Voting at general meeting.....	11
4.10	Determining whether resolution carried.....	11
4.11	Minutes of general meeting	12
4.12	Regulation of general meetings	12

5.	BOARD	13
5.1	Role and powers.....	13
5.2	Delegation	13
5.3	Composition of Board.....	13
5.4	Chairperson for General Meetings and Board Meetings	14
5.5	Office bearers	14
5.6	Who is eligible to be a Board member	15
5.7	Nominations.....	16
5.8	Election of Board members	16
5.9	Ballot	16
5.10	Term of office.....	16
5.11	Vacation of office	17
5.12	Term of office of Director.....	17
5.13	Filling casual vacancies.....	17
5.14	Meetings of Board	18
5.15	Use of technology	18
5.16	Quorum	18
5.17	Voting	18
5.18	Minutes of meeting.....	19
5.19	Leave of absence	19
6.	FINANCIAL MATTERS	19
6.1	Source of funds	19
6.2	Management of funds	19
6.3	Financial records.....	20
6.4	Financial statements	20
7.	GENERAL MATTERS.....	20
7.1	Common seal.....	20
7.2	Registered address	21
7.3	Notice requirements.....	21
7.4	Custody and inspection of books and records.....	21
7.5	Winding up and cancellation	22
7.6	Alteration of Rules.....	22

1. PRELIMINARY

1.1 Name

The name of the incorporated association is "WellSpring Centre Incorporated" (referred to in these Rules as "the Organisation").

1.2 Principal purpose

The principal purpose for which the Organisation is established is to foster a contemplative awareness of the presence of God and encourage people to explore what that means for them in all of life.

1.3 Financial year

The financial year of the Organisation is each period of 12 months ending on 31 December.

1.4 Definitions

In these Rules:

"**ACNC**" means the Australian Charities and Not-for-profits Commission.

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

"**annual subscription fee**" means the annual subscription fee payable by all members in accordance with rule 3.5(b).

"**Organisation**" means the Organisation named in rule 1.1.

"**Board**" means the Board having management of the business of the Organisation.

"**Board meeting**" means a meeting of the Board held in accordance with these Rules.

"**Board member**" means a member of the Board elected or appointed under Division 3 of Part 5.

"**Chair**" means the person appointed to that office bearer position under rule 5.5(a).

"**chairperson**" of a general meeting or Board meeting, means the person chairing the meeting as required under rule 5.4.

"**Deputy Chair**" means the person appointed to that office bearer position under rule 5.5(a).

"**Director**" means the Director of the Organisation appointed under rule 5.3(b).

“**financial year**” means the 12 month period specified in rule 1.3.

“**general meeting**” means a meeting of the members of the Organisation convened in accordance with Part 4 and includes an annual general meeting, a special general meeting and a disciplinary appeal meeting.

“**joining fee**” means the fee payable by any member who joins after the start of a financial year and determined in accordance with subrule 3.5(c).

“**member**” means a member of the Organisation.

“**member entitled to vote**” means a member who under rule 3.7 is entitled to vote at a general meeting.

“**office holder**” shall have the same meaning given to that term in the Act.

“**person**” includes an individual and an organisation (whether incorporated or unincorporated), as context requires.

“**principal purpose**” means the purpose set out in rule 1.2.

“**Secretary**” shall mean the person appointed to that position by the Board under rule 5.5(a).

“**special resolution**” means a resolution that requires not less than three-quarters of the members voting at a general meeting, whether in person or by proxy, to vote in favour of the resolution.

“**the Act**” means the *Associations Incorporation Reform Act 2012 (Vic)*.

“**the Registrar**” means the Registrar of Incorporated Associations.

“**Treasurer**” shall mean the person appointed to that position by the Board under rule 5.5(a).

1.5 Interpretation

- (a) In these Rules, unless expressly provided otherwise, reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments passed under it.
- (b) “Writing” and other parts of speech and grammatical forms of that word or expression includes any mode of representing or reproducing words, figures, drawings or symbols in a visible form (including email).
- (c) Footnotes do not form part of these Rules.

2. POWERS OF ORGANISATION

2.1 Powers of Organisation

Subject to the Act, the Organisation has the capacity and powers of an individual and may do all things incidental or conducive to achieve its principal purpose.

2.2 Not-for-profit organisation

- (a) The income and property of the Organisation must be applied solely towards the principal purpose.
- (b) No portion of the surplus, income or assets of the Organisation may be paid or transferred directly or indirectly to members by way of dividend, bonus or otherwise in their capacity as members.
- (c) This rule 2.2 does not prohibit indemnification of, or payment of premiums on contracts of insurance for, any Board member to the extent permitted by law and these rules.
- (d) Despite sub-rule 2.2(b) payment may be made in good faith to any member of the Organisation:
 - (i) in return for any services actually rendered to the Organisation;
 - (ii) for goods supplied in the ordinary and usual way of business;
 - (iii) by way of interest on money borrowed from any member of the Organisation at a rate not exceeding the rate for the time being fixed by the Board; and
 - (iv) of reasonable and proper rent for premises demised or let by any member of the Organisation.

3. MEMBERS, DISCIPLINARY PROCEDURES AND GRIEVANCES

Division 1 - Membership

3.1 Who is eligible to be a member

- (a) The Organisation must have at least five members.
- (b) A Member of the Organisation can be any person:
 - (i) who supports the Principal Purpose of the Organisation; and
 - (ii) whose name appears on the Register of Members.

3.2 Membership categories

- (a) The Board may, at its sole discretion, create additional categories of members (for example, associate and honorary members).
- (b) Subject to sub-clause 3.2(c), the Board may determine for each additional category of members:
 - (i) any eligibility criteria in addition to those set out in clause 3.1(b);
 - (ii) voting rights; and
 - (iii) the amount of the annual subscription fee and joining fee.

- (c) The Board may not vary the eligibility criteria and voting rights of those members accepted into membership prior to the creation of additional categories of members.

3.3 Application for membership

- (a) To apply to become a member of the Organisation, a person must submit an application to the Secretary in writing or by email stating that the person:
 - (i) wishes to become a member of the Organisation; and
 - (ii) agree to comply with these Rules.
- (b) The application:
 - (i) must be signed by the applicant;
 - (ii) must state the membership category that the applicant wishes to join; and
 - (iii) must be accompanied by the joining fee (if any).

3.4 Consideration of application

- (a) As soon as practicable after an application for membership is received, the Board must decide by resolution whether to accept or reject the application.
- (b) The Board may delegate the responsibility for accepting or rejecting applications for membership to the Director.
- (c) The Organisation must notify the applicant in writing of its decision as soon as practicable after the decision is made.
- (d) If the Director or the Board rejects the application, it must return any money accompanying the application to the applicant.
- (e) No reason need be given for the rejection of an application. No appeal shall be available to the rejected applicant.

3.5 New membership

- (a) If an application for membership is approved by the Director or the Board the Secretary must, as soon as practicable, enter the name and address of the new member, and the date of becoming a member, in the register of members.
- (b) A person becomes a member of the Organisation and, subject to rule 3.6(d), is entitled to exercise his or her rights of membership from the date, whichever is the later, on which:
 - (i) the Board approves the person's membership; or
 - (ii) the person pays the joining fee.

3.6 Annual subscription fee and joining fee

- (a) At each annual general meeting, the Organisation must determine:
 - (i) whether the members will be required to pay an annual subscription fee for the following financial year; and
 - (ii) the amount and date for payment of the annual subscription fee (if any) for each membership category.
- (b) Members must pay any annual subscription fee determined by the Organisation in accordance with rule 3.6(a).
- (c) The Board may determine that any new member who joins after the start of a financial year must, for that financial year, pay a joining fee equal to:
 - (i) the annual subscription fee (if any) set at the last annual general meeting; or
 - (ii) a pro rata annual subscription based on the remaining part of the financial year; or
 - (iii) a fixed amount determined from time to time by the Board.
- (d) The rights of a member (including the right to vote) who has not paid the annual subscription fee or joining fee by the due date are suspended until the subscription is paid.
- (e) The liability of a member to contribute towards the payment of the debts and liabilities of the Organisation or the costs, charges and expenses of the winding up of the Organisation is limited to the amount, of any joining fee and annual subscription fee unpaid by the member.

3.7 General rights of members

- (a) A member of the Organisation has the right:
 - (i) to vote (unless the member belongs to a category of members that do not have voting rights pursuant to clause 3.2(b)(ii));
 - (ii) to receive notice of general meetings and of proposed special resolutions in the manner and time prescribed by these Rules; and
 - (iii) to submit items of business for consideration at a general meeting; and
 - (iv) to attend and be heard at general meetings; and
 - (v) to have access to the minutes of general meetings and other documents of the Organisation as provided under rule 7.3(a); and
 - (vi) to inspect the register of members as provided in rule 7.4.

3.8 Rights not transferable

The rights of a member are not transferable and end when membership ceases.

3.9 Ceasing membership

- (a) The membership of a person ceases on resignation, expulsion or death.
- (b) If a person ceases to be a member of the Organisation, the Secretary must, as soon as practicable, enter the date the person ceased to be a member in the register of members.

3.10 Resigning as a member

- (a) A member can resign from membership at any time by giving notice to the Board.
- (b) A member is taken to have resigned if:
 - (i) the member's annual subscription fee or joining fee is more than 12 months in arrears; or
 - (ii) the Secretary has made a written request to the member to confirm that the member wishes to remain a member and the member has not, within three months after receiving that request, confirmed in writing that he or she wishes to remain a member.

3.11 Register of members

- (a) The Secretary must keep and maintain a register of members that includes:
 - (i) for each current member:
 - (A) the member's name;
 - (B) the address for notice last given by the member;
 - (C) the date of becoming a member;
 - (D) any other information determined by the Board; and
 - (ii) for each former member, the date of ceasing to be a member.

3.12 Disciplinary Action

- (a) The Board may take disciplinary action against any Member if the Board believes there are sufficient grounds to do so.
- (b) The Board has discretion to determine the procedure to be adopted to determine whether there are sufficient grounds for taking disciplinary action, subject to the following:
 - (i) The Member who is the subject of the disciplinary procedure:

- (A) must be informed of the grounds upon which the disciplinary action against the Member is proposed to be taken; and
- (B) be given an opportunity to be heard in relation to the matter – either by appearing in person and/or by providing a written statement according to the Member's preference; and
- (ii) the outcome of the disciplinary procedure must be determined by an unbiased decision-maker; and
- (iii) to the extent that doing so is compatible with paragraphs 3.12(b)(i)-(ii), the disciplinary procedure must be completed as soon as is reasonably practicable.
- (c) Disciplinary action under this rule includes, but is not limited to, suspension of any or all Membership rights, or expulsion.

3.13 Grievance Procedure

- (a) The Board shall determine the procedure to be followed to determine any dispute arising between:
 - (i) a Member and another Member;
 - (ii) a Member and the Board;
 - (iii) a Member and the Association.
- (b) The Board shall be subject to the following:
 - (i) A Member may appoint any person to act on behalf of the Member in the grievance procedure; and
 - (ii) Each party to the dispute has been given an opportunity to be heard on the matter which is the subject of the dispute;
 - (iii) The outcome of the dispute must be determined by an unbiased decision-maker.

4. GENERAL MEETINGS OF THE ORGANISATION

4.1 Annual general meetings

- (a) The Board must convene an annual general meeting of the Organisation to be held within 5 months after the end of each financial year.
- (b) The Board may determine the date, time and place of the annual general meeting.
- (c) The notice convening the annual general meeting must specify that the meeting is an annual general meeting.
- (d) The annual accounts of the Organisation must be produced at the Annual General Meeting.

- (e) The ordinary business of the annual general meeting is as follows:
 - (i) to confirm the minutes of the previous annual general meeting and of any special general meeting held since then;
 - (ii) to receive and consider:
 - (A) the annual report of the Board on the activities of the Organisation during the preceding financial year; and
 - (B) the financial statements of the Organisation for the preceding financial year submitted by the Board in accordance with Part 7 of the Act;
 - (iii) to ensure that the annual reports and financial statements are prepared in the way required by the Act and to appoint Auditors if necessary;
 - (iv) to elect the members of the Board in accordance with Part 5 of these Rules;
 - (v) to confirm or vary the amounts (if any) of the annual subscription fee and joining fee.
- (f) The annual general meeting may also conduct any other business of which notice has been given in accordance with these Rules.

4.2 Special general meetings

- (a) Any general meeting of the Organisation, other than an annual general meeting or a disciplinary appeal meeting, is a special general meeting.
- (b) The Board may convene a special general meeting whenever it thinks fit.

4.3 Special general meeting held at request of members

- (a) The Board must convene a special general meeting as soon as is practicable and no later than six weeks after a request to do so is made in accordance with sub-rule 4.3(b) by at least ten per cent of the members.
- (b) A request for a special general meeting must:
 - (i) be in writing; and
 - (ii) state the business to be considered at the meeting and any resolutions to be proposed; and
 - (iii) include the names and signatures of the members requesting the meeting; and
 - (iv) be given to the Secretary.
- (c) Notice of a special general meeting must be sent to all Members within 21 days of the request being received by the Secretary.

- (d) If the Board does not issue notice of a special general meeting within the 21 day period referred to in sub-rule 4.3(c), the members making the request (or any of them) may convene a special general meeting.
- (e) A special general meeting convened by members under sub-rule 4.3(c):
 - (i) must be held within three months after the date on which the original request was made; and
 - (ii) may only consider the business stated in that request.
- (f) If members propose to convene a special general meeting pursuant to sub-rule 4.3(d), the Board must, if required to do so by the convening members, provide the necessary contact details to enable the convening members to issue notice of the special general meeting to each member of the Organisation.
- (g) The Organisation must reimburse all reasonable expenses incurred by the members convening a special general meeting under sub-rule 4.3(c).

4.4 Notice of general meetings

- (a) The Secretary (or, in the case of a special general meeting convened under rule 4.3(c), the members convening the meeting) must give to each member of the Organisation:
 - (i) at least 21 days' written notice of a general meeting if a special resolution is to be proposed at the meeting; or
 - (ii) at least 14 days' written notice of a general meeting in any other case.
- (b) The notice must:
 - (i) specify the date, time and place of the meeting; and
 - (ii) indicate the general nature of each item of business to be considered at the meeting; and
 - (iii) if a special resolution is to be proposed:
 - (A) state in full the proposed resolution; and
 - (B) state the intention to propose the resolution as a special resolution.
- (c) A member can move a resolution about special business at a general meeting if he or she has the approval of the Board. However, if he or she delivers a notice to the chairperson's postal or email address 14 days before the meeting, setting out the resolution and his or her intention to move it, he or she can move it without the Board's approval.

4.5 Proxies

All votes must be given personally. Voting cannot be given by proxy.

4.6 Use of technology

- (a) A member not physically present at a general meeting may be permitted to participate in the meeting by the use of technology that allows that member and the members present at the meeting to clearly and simultaneously communicate with each other.
- (b) A member participating in a general meeting as permitted under sub-rule 4.6(a) is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

4.7 Quorum at general meetings

- (a) No business may be conducted at a general meeting unless a quorum of members is present.
- (b) The quorum for a general meeting is the presence (in person or as allowed under rule 4.6) of twenty per cent of members entitled to vote.
- (c) If a quorum is not present within 30 minutes after the notified commencement time of a general meeting:
 - (i) in the case of a meeting convened by, or at the request of, members under rule 4.3(d) - the meeting must be dissolved;
 - (ii) in any other case:
 - (A) the meeting must be adjourned to the same day, time and place one week later;
 - (B) notice of the date, time and place to which the meeting is adjourned must be given at the meeting and confirmed by written notice given to all members as soon as practicable after the meeting.
- (d) If a quorum is not present within 30 minutes after the time to which a general meeting has been adjourned under sub-rule 4.7(c)(ii) the meeting must be cancelled.

4.8 Adjournment of general meeting

- (a) The chairperson of a general meeting at which a quorum is present may, with the consent of a majority of members present at the meeting, adjourn the meeting to another time at the same place or at another place.
- (b) Without limiting sub-rule 4.8(a), a meeting may be adjourned:
 - (i) if there is insufficient time to deal with the business at hand; or
 - (ii) to give the members more time to consider an item of business.

- (c) No business may be conducted on the resumption of an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.
- (d) Notice of the adjournment of a meeting under this rule is not required unless the meeting is adjourned for 21 days or more, in which case notice of the meeting must be given in accordance with rule 4.4.

4.9 Voting at general meeting

- (a) Only members who have paid any outstanding joining fee and annual subscription fee are entitled to vote at general meetings.
- (b) On any question arising at a general meeting:
 - (i) subject to sub-rule 4.9(d), each member who is entitled to vote has one vote; and
 - (ii) except in the case of a special resolution, the question must be decided on a majority of votes.
- (c) The chairperson has a normal vote as a member. If votes are divided equally on a question, the chairperson of the meeting has a second or casting vote.
- (d) If the question is whether or not to confirm the minutes of a previous meeting, only members who were present at that meeting may vote.
- (e) The chairperson or at least five members can ask for a formal vote to be taken on any question at a meeting.

4.10 Determining whether resolution carried

- (a) Subject to sub-rule 4.10(b), the chairperson of a general meeting may, on the basis of a show of hands, declare that a resolution has been:
 - (i) carried;
 - (ii) carried unanimously;
 - (iii) carried by a particular majority; or
 - (iv) lost; andan entry to that effect in the minutes of the meeting is proof of that fact.
- (b) If a poll (where votes are cast in writing) is demanded by one or more members on any question:
 - (i) the poll must be taken at the meeting in the manner determined by the chairperson of the meeting; and
 - (ii) the chairperson must declare the result of the resolution on the basis of the poll.

- (c) A poll demanded on the election of the chairperson or on a question of an adjournment must be taken immediately.
- (d) A poll demanded on any other question must be taken before the close of the meeting at a time determined by the chairperson.
- (e) A record in the minutes of the chairperson's declaration is conclusive evidence of the result of a resolution. The number of people in favour of or against the resolution does not have to be recorded.

4.11 Minutes of general meeting

- (a) The Board must ensure that minutes are taken and kept of each general meeting.
- (b) The minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.
- (c) In addition, the minutes of each annual general meeting must include:
 - (i) the financial statements submitted to the members in accordance with rule 4.1(e)(ii)(B); and
 - (ii) the certificate signed by two Board members certifying that the financial statements give a true and fair view of the financial position and performance of the Organisation; and
 - (iii) any audited accounts and auditor's report or report of a review accompanying the financial statements that are required under the Act.

4.12 Regulation of general meetings

- (a) The chairperson has discretion to regulate the conduct of general meetings, subject to any resolution of the members at the meeting.
- (b) The chairperson of a general meeting should provide a reasonable opportunity for members to ask questions of the Board, and any of the Board members. In all cases, the chairperson should have regard to the following in determining what is reasonable:
 - (i) the purpose of the meeting;
 - (ii) the time available at the meeting, and the need to ensure that there is sufficient time allocated to conduct the business included in the notice of meeting;
 - (iii) the desirability of the meeting closing on-time;
 - (iv) the relevance of the questions being asked to the business included in the notice of the meeting;
 - (v) the relevance of the questions being asked to the meeting as a whole and whether the matters being raised could be more appropriately addressed in another forum;

- (vi) the most appropriate person/s or entities to whom the questions should be addressed;
- (vii) the desirability of ensuring that members have an adequate opportunity to raise concerns about the governance of the Organisation; and
- (viii) any other matter considered relevant by the chairperson.

5. BOARD

Division 1 - Powers of Board

5.1 Role and powers

- (a) The affairs of the Organisation shall be managed by the Board.
- (b) The Board may exercise all the powers of the Organisation except those powers that these Rules or the Act require to be exercised by general meetings of the members of the Organisation, including the power to:
 - (i) set up sub-committees for the practical day to day running of the Organisation;
 - (ii) set up advisory groups to assist in developing and implementing the principal purpose of the Organisation;
 - (iii) appoint, employ, remove or suspend any employee or any other person whose services or expertise have been engaged by the Organisation; and
 - (iv) dismiss Members from membership.

5.2 Delegation

- (a) The Board may delegate any of its powers and functions.
- (b) The Board may revoke any delegation wholly or in part.
- (c) The Board may establish sub-committees consisting of such persons with such terms of reference it considers appropriate.
- (d) The membership of any sub-committee or advisory group created by the Board is not restricted to the members of the Organisation.

Division 2 - Composition of Board and duties of members

5.3 Composition of Board

- (a) The Board shall consist of nine members, comprising:
 - (i) four members appointed by the Ashburton Baptist Church;
 - (ii) the Director of the Organisation; and
 - (iii) four members elected under Rule 5.8.

- (b) The Director of the Organisation will be appointed jointly by the Organisation and Ashburton Baptist Church under terms and conditions agreed by both parties.

5.4 Chairperson for General Meetings and Board Meetings

- (a) Subject to sub-rule 5.4(b), the Chair or, in the Chair's absence or inability to preside, the Deputy-Chair is the chairperson for any general meetings and for any Board meetings.
- (b) If the Chair and the Deputy-Chair are both absent, or are unable to preside, the chairperson of the meeting must be:
 - (i) in the case of a general meeting - a member elected by the other members present; or
 - (ii) in the case of a Board meeting - a Board member elected by the other Board members present.

5.5 Office bearers

- (a) The Board must appoint:
 - (i) a Chair, Deputy Chair and a Treasurer from among its members;
 - (ii) a Secretary, who need not be a member of the Board.
- (b) The Chair, Secretary and Treasurer will be appointed by the Board for a term of one year.
- (c) A person may not be appointed to the position of Secretary unless the person:
 - (i) consents to being appointed as Secretary; and
 - (ii) is resident in Australia.
- (d) The Secretary must:
 - (i) maintain the register of members in accordance with rule 3.11; and
 - (ii) make appropriate arrangements for the custody of the common seal (if any) of the Organisation and all other books, documents and securities of the Organisation; and
 - (iii) keep minutes of the resolutions and proceedings of each general meeting and each Board meeting and a record of all people present at both; and
 - (iv) perform any other duty or function imposed on the Secretary by these Rules.
- (e) The Secretary must give to the Registrar of Associations notice of his or her appointment within 14 days after the appointment.

- (f) The Treasurer must:
 - (i) arrange for the collection and receipt of all moneys due to the Organisation and arrange for all payments authorised by the Organisation to be made; and
 - (ii) ensure that the financial records of the Organisation are kept in accordance with the Act; and
 - (iii) coordinate the preparation of the financial statements of the Organisation and their certification by the Board prior to their submission to the annual general meeting of the Organisation.
- (g) The Treasurer should ensure that at least one other Board member has access to the accounts and financial records of the Organisation.
- (h) The position of Secretary must not remain vacant for any period exceeding 14 days.
- (i) If the office of Secretary or Treasurer becomes vacant the Board must appoint another of its members to complete the term of office.

Division 3 - Election of Board members and tenure of office

5.6 Who is eligible to be a Board member

- (a) A person is eligible to be elected as a Board member if the person supports the Principal Purpose of the Organisation and:
 - (i) is a member of the Organisation;
 - (ii) is not disqualified:
 - (A) from managing a corporation by the *Corporations Act 2001* (Cth); or
 - (B) from being a Board member by the ACNC Commissioner under the provisions of the ACNC Legislation.
- (b) Sub-rule 5.6(a)(ii):
 - (i) shall only apply if the Organisation is registered with the ACNC, and the ACNC Legislation operates to disqualify the person; and
 - (ii) in any event, will not apply to disqualify a person if an exemption is obtained from the ACNC Commissioner.
- (c) The Secretary is responsible for identifying whether a person is disqualified under this Rule, to the extent applicable. The Secretary must:
 - (i) perform a search of the publicly available registers as soon as practicable after becoming aware that a person has been, or may be, elected as a Board member; and

- (ii) must obtain a declaration from each Board member to the effect that he or she is not disqualified under this rule, and that he or she will notify the Secretary as soon as possible in the event that he or she becomes disqualified.

5.7 Nominations

- (a) Prior to the election of any position, the chairperson of the meeting must call for nominations to fill that position.
- (b) Nominations will only be accepted if they are made:
 - (i) by a current member (other than the nominee); and
 - (ii) with the consent of the person being nominated.
- (c) A person who is nominated for a position and fails to be elected to that position may be nominated for any other position for which an election is yet to be held.

5.8 Election of Board members

- (a) At the annual general meeting an election must be held to fill any of the four positions on the Board pursuant to sub-rule 5.3(a)(iii) that are vacant.
- (b) If the number of members nominated for the position of Board member is less than or equal to the number to be elected, the chairperson of the meeting must declare each of those members to be elected to the position.
- (c) If the number of members nominated exceeds the number to be elected, a ballot must be held in accordance with rule 5.9.

5.9 Ballot

Any ballot required for election to a position may be held in the manner determined by the chairperson, provided that the election is by secret ballot.

5.10 Term of office

- (a) Subject to sub-rule 5.10(c), rule 5.11 and rule 5.12 a Board member (other than the Director and any Interim Board member) holds office for a period of two years.
- (b) A Board member may be re-elected or reappointed. A Board member may not be elected or reappointed for more than three terms consecutively.
- (c) A general meeting of the Organisation may:
 - (i) by special resolution remove a Board member from office; and
 - (ii) elect a person to fill the vacant position.
- (d) A member who is the subject of a proposed special resolution under sub-rule 5.10(c)(i) may make representations in writing to the

Secretary or Chair of the Organisation (not exceeding a reasonable length) and may request that the representations be provided to the members of the Organisation.

- (e) The Secretary or Chair may give a copy of the representations to each member of the Organisation or, if they are not so given, the Board member may require that they be read out at the meeting at which the special resolution is to be proposed.

5.11 Vacation of office

- (a) A Board member may resign from the Board by written notice addressed to the Board.
- (b) A person ceases to be a Board member if he or she:
 - (i) ceases to be a Member of the Organisation;
 - (ii) resigns;
 - (iii) is removed from office by special resolution;
 - (iv) ceases to meet the eligibility requirements in sub-rule 5.6(a);
 - (v) fails to attend three consecutive Board meetings (other than urgent Board meetings) without leave of absence under rule 5.19;
 - (vi) is convicted of an indictable offence; or
 - (vii) otherwise ceases to be a Board member by operation of section 78 of the Act.

5.12 Term of office of Director

- (a) The Director's position on the Board is an ex officio position for the duration of their employment as Director of the Organisation.
- (b) In addition to the circumstances set out in clause 5.11(b) above, the Director ceases to be a Board member immediately if their employment as Director of the Organisation is terminated by Ashburton Baptist Church for any reason.

5.13 Filling casual vacancies

- (a) If an office of a member of the Board becomes vacant:
 - (i) if the Board member was appointed by the Ashburton Baptist Church, the Ashburton Baptist Church must appoint a new Board member as soon as possible;
 - (ii) if the Board member was elected by the members:
 - (A) if there are three months or less until the next Annual General Meeting, the position shall remain vacant until the Annual General Meeting; or

- (B) if there are more than three months until the next Annual General Meeting, the remaining Board members must appoint an interim Board member. The term of the interim Board member will expire at the next Annual General Meeting. Time served as an interim Board member will not count towards a Board member's term of office for the purpose of clause 5.10.

Division 4 - Meetings of Board

5.14 Meetings of Board

- (a) The Board must meet at least once in each year at the dates, times and places determined by the Board.
- (b) The Secretary must give each member of the Board reasonable notice of meetings.
- (c) The Board may regulate its meetings as it sees fit.

5.15 Use of technology

- (a) A Board member who is not physically present at a Board meeting may participate in the meeting by the use of technology that allows that Board member and the Board members present at the meeting to clearly and simultaneously communicate with each other.
- (b) For the purposes of this Part, a Board member participating in a Board meeting as permitted under sub-rule 5.15(a) is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

5.16 Quorum

- (a) No business may be conducted at a Board meeting unless a quorum is present.
- (b) The quorum for a Board meeting is the presence (in person or as allowed under rule 5.15) of a majority of the Board members holding office.
- (c) If within half an hour of the time that the meeting was supposed to start a quorum is still not there the meeting must be adjourned.

5.17 Voting

- (a) All questions to be decided at a meeting will be decided by the members of the Board indicating their preferred answer. However, if a member of the Board asks for a formal vote, one must be held.
- (b) On any question arising at a Board meeting, each Board member present – including the chairperson – at the meeting has one vote.
- (c) A motion is carried if a majority of Board members present at the meeting vote in favour of the motion.

- (d) If votes are divided equally on a question, the chairperson of the meeting has a second or casting vote.

5.18 Minutes of meeting

- (a) The Board must ensure that minutes are taken and kept of each Board meeting.
- (b) The minutes must record the following:
 - (i) the names of the members in attendance at the meeting;
 - (ii) the business considered at the meeting;
 - (iii) any resolution on which a vote is taken and the result of the vote; and
 - (iv) any material personal interests disclosed in accordance with the Act.
- (c) Any act or thing done or suffered, or purporting to have been done or suffered, by the Board or by a sub-committee appointed by the Board, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any member of the Board or sub-committee.

5.19 Leave of absence

- (a) The Board may grant a Board member leave of absence from Board meetings for a period not exceeding three months.

5.20 Passing resolutions without meetings

- (a) The Board may pass a resolution without a meeting if a majority of Board members consent to the resolution in writing. Such a resolution is valid and effectual as if it had been passed at a Board meeting that was properly convened and held. A resolution passed in this way is to be recorded by the Secretary in the Organisation's minute book.
- (b) For the purpose of this rule, approval in writing may be transmitted by post, email, facsimile or any other means of electronic transmission.

6. FINANCIAL MATTERS

6.1 Source of funds

The funds of the Organisation may be derived from joining fees, annual subscription fees, donations, fundraising activities, grants, interest and any other sources approved by the Board.

6.2 Management of funds

- (a) The Board may approve expenditure on behalf of the Organisation.
- (b) The Board may authorise the expenditure of funds on behalf of the Organisation without requiring approval from the Board for each item on which the funds are expended.

- (c) The Board must ensure that systems and procedures for the management of the Organisation's funds are appropriate for its size and circumstances, and the complexity of its financial affairs.

6.3 Financial records

- (a) The Organisation must keep financial records that:
 - (i) correctly record and explain its transactions, financial position and performance; and
 - (ii) enable financial statements to be prepared as required by the Act and ACNC Legislation.
- (b) The Organisation must retain the financial records for 7 years after the transactions covered by the records are completed.

6.4 Financial statements

- (a) For each financial year, the Board must ensure that:
 - (i) the requirements under the Act relating to the financial statements of the Organisation are met; and
 - (ii) the requirements of the ACNC Legislation are met.
- (b) Without limiting sub-rule 6.4(a), those requirements include:
 - (i) the preparation of the financial statements;
 - (ii) if required, the review or auditing of the financial statements;
 - (iii) the certification of the financial statements by the Board;
 - (iv) the submission of the financial statements to the annual general meeting of the Organisation;
 - (v) the lodgement with the Registrar of the financial statements and accompanying reports, certificates, statements and fee.

7. GENERAL MATTERS

7.1 Common seal

- (a) The Organisation may have a common seal.
- (b) If the Organisation has a common seal:
 - (i) the name of the Organisation must appear in legible characters on the common seal;
 - (ii) the Board must ensure that the Organisation's corporate seal is kept in a safe place and is only used on documents which the Board has approved it being used on;

- (iii) a document may only be sealed with the common seal by the authority of the Board and the sealing must be witnessed by the signatures of two Board members;
- (iv) the document must also be signed by either the Secretary or another person appointed by the Board.

7.2 Registered address

The registered address of the Organisation may be determined from time to time by resolution of the Board.

7.3 Notice requirements

- (a) Any notice required to be given to a member or Board member under these Rules may be given in person, by post or any electronic means to an address recorded in the register, or by any other means consented to by the member or Board member as the case may be.
- (b) Any notice required to be given to the Organisation may be given:
 - (i) by handing the notice to a member of the Board; or
 - (ii) by sending the notice by post to the registered address; or
 - (iii) by leaving the notice at the registered address; or
 - (iv) by email to the email address of the Organisation or the Secretary.

7.4 Custody and inspection of books and records

- (a) Members may not have access to the financial records, books, securities and any other document of the Organisation, including minutes of Board meetings, unless otherwise permitted by these Rules, law, or the Board.
- (b) Members may on request inspect:
 - (i) the register of members;
 - (ii) the minutes of general meetings; and
 - (iii) these Rules;subject to sub-rules 7.4(c), 7.4(e), and 7.4(f).
- (c) The Secretary must ensure that all books, documents and securities of the Organisation are kept in a safe place.
- (d) The Secretary may refuse to allow a member to inspect the register of members if permitted by the Act.
- (e) Members must not:

- (i) use information obtained about another person from the register of members to contact or send materials to the other person; or
- (ii) disclose information obtained about a person from the register of members knowing that the information is likely to be used to contact or send materials to the other person; unless

the purpose for which the information is used or disclosed is otherwise expressly permitted by these Rules or by law.

- (f) If the Organisation provides access to these Rules on the Organisation's website, the Board shall be deemed to have allowed a member to inspect and copy these Rules, unless the member informs the Organisation that he or she is unable to access the Rules on the website.
- (g) A member must be given a copy of these Rules and minutes of general meetings within one month of the Organisation receiving a request by the member and the member paying any fee prescribed by the Board.

7.5 Winding up and cancellation

- (a) The Organisation may be wound up in accordance with the Act.
- (b) Where on the winding up or cancellation of the incorporation of the Organisation, there is a surplus of assets after satisfying all the Organisations liabilities and expenses, the surplus:
 - (i) must not be paid or distributed to the members; and
 - (ii) will be given or transferred to such other fund, authority, institution or company which:
 - (A) has similar objects to those of the Organisation as described in these Rules; and
 - (B) is also exempt from the payment of income tax; and
 - (C) prohibits the distribution of profit or gain to its individual members in their capacity as members.
- (c) The body to which the surplus assets are to be given must be decided by special resolution. If the members fail to decide, the fund, authority, institution or company shall be determined by application to the Supreme Court in Victoria.

7.6 Alteration of Rules

These Rules can only be altered or rescinded in the manner described in the Act.