

# Montmorency Community Church Incorporated Rules



**13<sup>th</sup> November 2020**

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**Note**

The persons who from time to time are members of the Church are an incorporated association by the name given in rule 1 of these Rules.

Under section 46 of the **Associations Incorporation Reform Act 2012**, these Rules are taken to constitute the terms of a contract between the Church and its members.

**PART 1—PRELIMINARY**

**1 Name**

The name of the incorporated association is "Montmorency Community Church Incorporated", which for brevity hereafter will be called the "Church".

**Note**

Under section 23 of the Act, the name of the association and its registration number must appear on all its business documents.

**2 Purposes**

The purposes of the Church are — To give everyone in Montmorency Community Church and its wider community the opportunity to know and follow Jesus according to the statement of faith in Appendix A.

**3 Financial year**

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

**4 Definitions**

In these Rules—

**Absolute majority of the Eldership Council** means a majority of the Elders currently holding office and entitled to vote at the time (as distinct from a majority of Elders present at a Eldership Council meeting);

**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).

**Associate member** means a member referred to in rule 14(1);

**Chair** means the Elder appointed to that position under rule 53(1).

**Chairperson**, of a general meeting or Eldership Council meeting, means the person chairing the meeting as required under rule 46;

**Church – the term used for Montmorency Community Church Incorporated, an Incorporated Association**

**disciplinary appeal meeting** means a meeting of the members of the Church convened under rule 24;

**disciplinary meeting** means a meeting of the Eldership Council convened for the purposes of rule 21;

**Elder** means a person elected or appointed as an Elder under Division 3 of Part 5;

**Eldership Council** means the Eldership Council having management of the business of the Church, only comprised of the individual Elders;

**Eldership Council meeting** means a meeting of the Eldership Council held in accordance with these Rules;

**financial year** means the 12 month period specified in rule 3;

**general meeting** means a general meeting of the members of the Church convened in accordance with Part 4 and includes an annual general meeting, a special general meeting and a disciplinary appeal meeting;

**member** means a member of the Church;

**member entitled to vote** means a member who under rule 13(2) is entitled to vote at a general meeting;

**Pastor** means a person holding a Pastor role other than Senior Pastor and reporting to the Senior Pastor i.e. Youth Pastor, Associate Pastor.

**Secretary** means the Church member appointed to that position under rule 53(4).

**Senior Pastor** means the person appointed by the Eldership Council to the role of Senior Pastor as defined in Appendix B.

**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;

**Statement of Faith** means the *Statement of Faith in Appendix A*;

**the Act** means the **Associations Incorporation Reform Act 2012** and includes any regulations made under that Act;

**the Registrar** means the Registrar of Incorporated Associations;

**Treasurer** means the Church member appointed to that position under rule 53(4).

**Vice Chair** means the Elder appointed to that position under rule 53(1).

## **PART 2—POWERS OF THE CHURCH**

### **5 Powers of the Church**

- (1) Subject to the Act, the Church has power to do all things incidental or conducive to achieve its purposes.
- (2) Without limiting subrule (1), the Church may—
  - (a) acquire, hold and dispose of real or personal property;
  - (b) open and operate accounts with financial institutions;
  - (c) invest its money in any security in which trust monies may lawfully be invested;
  - (d) raise and borrow money on any terms and in any manner as it thinks fit;
  - (e) secure the repayment of money raised or borrowed, or the payment of a debt or liability;
  - (f) appoint agents to transact business on its behalf;
  - (g) enter into any other contract it considers necessary or desirable.
- (3) The Church may only exercise its powers and use its income and assets (including any surplus) for its purposes.

### **6 Not for profit organisation**

- (1) The Church must not distribute any surplus, income or assets directly or indirectly to its members.
- (2) Subrule (1) does not prevent the Church from paying a member—
  - (a) reimbursement for expenses properly incurred by the member; or
  - (b) for goods or services provided by the member—if this is done in good faith on terms no more favourable than if the member was not a member.

#### **Note**

Section 33 of the Act provides that an incorporated association must not secure pecuniary profit for its members. Section 4 of the Act sets out in more detail the circumstances under which an incorporated association is not taken to secure pecuniary profit for its members.

# **PART 3—MEMBERS, DISCIPLINARY PROCEDURES AND GRIEVANCES**

## **Division 1—Membership**

### **7 Minimum number of members**

- (1) The Church must have at least 5 members.

### **8 Who is eligible to be a member**

- (1) Any person who supports the purposes of the Church and agrees with and strives to live according to the Statement of Faith is eligible for membership.

### **9 Application for membership**

- (1) To apply to become a member of the Church, a person must submit a written application to an Elder stating that the person—
  - (a) wishes to become a member of the Church;
  - (b) supports the purposes of the Church;
  - (c) agrees to comply with these Rules; and
  - (d) agrees with the Statement of Faith .
- (2) The application—
  - (a) must be signed by the applicant; and
  - (b) must include a signed recommendation for membership supporting the applicant by a current member.

### **10 Consideration of application**

- (1) As soon as practicable after an application for membership is received, the Eldership Council must decide by resolution whether to accept or reject the application.
- (2) The Eldership Council must notify the applicant in writing of its decision as soon as practicable after the decision is made.
- (3) No reason need be given for the rejection of an application.

### **11 New membership**

- (1) If an application for membership is approved by the Eldership Council—
  - (a) the resolution to accept the membership must be recorded in the minutes of the Eldership Council meeting; and
  - (b) 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.
- (2) A person becomes a member of the Church and, subject to rule 13(2), is entitled to exercise his or her rights of membership from the date on which the Eldership Council approves the person's membership.

### **12 Annual subscription and fee on joining**

- (1) The Church must not charge a joining fee or annual subscription.

### **13 General rights of members**

- (1) A member of the Church who is entitled to vote has the right—
  - (a) to receive notice of general meetings and of proposed special resolutions in the manner and time prescribed by these Rules; and

- (b) to submit items of business for consideration at a general meeting; and
  - (c) to attend and be heard at general meetings; and
  - (d) to vote at a general meeting; and
  - (e) to have access to the minutes of general meetings and other documents of the Church as provided under rule 75; and
  - (f) to inspect the register of members.
- (2) A member is entitled to vote if—
- (a) the member is a member other than an associate member; and
  - (b) more than 10 business days have passed since he or she became a member of the Church; and
  - (c) the member's membership rights are not suspended for any reason.

## **14 Associate members**

- (1) Associate members of the Church include—
- (a) any members under the age of 18 years; and
  - (b) any other category of member as determined by special resolution at a general meeting.
- (2) An associate member must not vote but may have other rights as determined by the Eldership Council or by resolution at a general meeting.

## **15 Rights not transferable**

- (1) The rights of a member are not transferable and end when membership ceases.

## **16 Ceasing membership**

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

## **17 Resigning as a member**

- (1) A member may resign by notice in writing given to the Church.

### **Note**

Rule 74(3) sets out how notice may be given to the Church. It includes by post or by handing the notice to a member of the Eldership Council.

- (2) A member is taken to have resigned if—
- (a) the Secretary has made a written request to the member to confirm that he or she wishes to remain a member; and
  - (b) the member has not, within 3 months after receiving that request, confirmed in writing that he or she wishes to remain a member; or
  - (c) the member confirmed in writing that he or she wishes to remain a member but has not engaged in any church program for a period of 6 months and the Eldership Council decides by resolution that engagement within the foreseeable future is unlikely.

## **18 Register of members**

- (1) The Secretary must keep and maintain a register of members that includes—
- (a) for each current member—
    - (i) the member's name;
    - (ii) the address for notice last given by the member;
    - (iii) the date of becoming a member;
    - (iv) if the member is an associate member, a note to that effect;
    - (v) any other information determined by the Eldership Council; and

- (b) for each former member, the date of ceasing to be a member.
- (2) Any member may, at a reasonable time and free of charge, inspect the register of members.

**Note**

Under section 59 of the Act, access to the personal information of a person recorded in the register of members may be restricted in certain circumstances. Section 58 of the Act provides that it is an offence to make improper use of information about a person obtained from the Register of Members.

## **Division 2—Disciplinary action**

### **19 Grounds for taking disciplinary action**

- (1) Disciplinary action may be taken against a member in accordance with the Rules if the Eldership Council is satisfied that a member has:
  - (a) failed, neglected or refused to support the purposes of the Church; or
  - (b) failed, neglected or refused to comply with these Rules; or
  - (c) engaged in conduct prejudicial to the interests of the Church and or Christian faith; or
  - (d) made statements which are inconsistent with or contrary to the Statement of Faith or is no longer willing or able to subscribe to the Statement of Faith.

### **20 Notice to member**

- (1) If the Eldership Council has resolved to take disciplinary action against a member upon any of the grounds in rule 19, the Chair of the Eldership Council is to instruct the Secretary to notify the member:
  - (a) That it is to take disciplinary action and on what grounds.
  - (b) Of the date, time and place of the proposed disciplinary action meeting.
  - (c) That the member may do one or both of the following:
    - (1) attend the disciplinary action meeting to address the Eldership Council;
    - (2) provide a written statement to the Eldership Council at any time prior to the proposed disciplinary action meeting; and
  - (d) That the member has the right to appeal a decision per Appeal Rights
- (2) The disciplinary action meeting:
  - (a) must occur within twenty eight [28] days of the date of the notice issued under rule 20(1) but not less than fourteen [14] days after that date; and
  - (b) is to be held at place where the Church normally meets, similarly convenient location or a mutually agreed location for the member to attend.

### **21 Disciplinary Action Meeting**

- (1) Prior to the disciplinary action meeting, the Chair of the Eldership Council is to invite the Secretary to take minutes, or invite another Elder to do so.
- (2) At the disciplinary action meeting the Eldership Council is to:
  - (a) Give the member an opportunity to be heard;
  - (b) Give due consideration to any written statement submitted by the member; and
  - (c) Consider all evidence without bias and in accordance with Christian principles.

### **22. Outcome of Disciplinary Action Meeting:**

- (1) Upon deliberation of the evidence presented in respect of the disciplinary action, the Eldership Council may resolve to:
  - (a) take no further action;



- (b) reprimand the member without loss of membership;
  - (c) suspend the member's membership rights for a period of time but for no longer than six months;  
or
  - (d) remove the member from the Church.
- (2) Any action taken by the Eldership Council under clause (1)(c) or (1)(d) is to apply with immediate effect after the decision is taken.
- (3) the Eldership Council may not fine the member.
- (4) where the Secretary was not able to record the minutes, the Chair of the Eldership Council is to advise the Secretary of the Eldership Council's decision on the first business day following the decision.
- (5) the Secretary, on the same day he or she is notified, must give to the member written notice of the Eldership Council's decision and that the member has a right to appeal the Eldership Council's decision, where it has elected to suspend or remove the member.

## **23 Appeal rights**

- (1) A person whose membership rights have been suspended or who has been expelled from the Church under rule 22 may give notice to the effect that he or she wishes to appeal against the suspension or expulsion.
- (2) The notice must be in writing and given—
- (a) to the Eldership Council immediately after the vote to suspend or expel the person is taken; or
  - (b) to the Secretary not later than seven days after the decision.
- (3) If a person has given notice under subrule (2), a disciplinary appeal meeting must be convened by the Eldership Council as soon as practicable, but in any event not later than 21 days, after the notice is received.

## **24 Disciplinary Appeal Meeting**

- (1) To facilitate the Disciplinary Appeal Meeting, the Eldership Council will request that Christian Community Churches in Victoria and Tasmania identify a suitable person to perform the role of Appeal Determinant
- (2) This person must not be a person who—
- (a) has a personal interest in the dispute; or
  - (b) is biased in favour of or against any party.
- (3) The Appeal Determinant, in conducting the Appeal, must—
- (a) give each party every opportunity to be heard; and
  - (b) allow due consideration by all parties of any written statement submitted by any party; and
  - (c) Make a Determination to either uphold the original decision taken at the Disciplinary Action Meeting (i.e. the suspension or removal of the Member from the Church) or make an alternate Determination
- (4) The Determination of the Appeal Determinant is a final decision, no further appeal will be available within the Rules
- (5) The Eldership Council will comply with the Determination made by the Appeal Determinant

## **Division 3—Grievance procedure**

### **25 Application**

- (1) The grievance procedure set out in this Division applies to disputes under these Rules between—
  - (a) a member and another member;
  - (b) a member and the Eldership Council;
  - (c) a member and the Church.
- (2) A member must not initiate a grievance procedure in relation to a matter that is the subject of a disciplinary procedure until the disciplinary procedure has been completed.

### **26 Parties must attempt to resolve the dispute**

- (1) The parties to a dispute must attempt to resolve the dispute between themselves within 14 days of the dispute coming to the attention of each party.

### **27 Appointment of mediator**

- (1) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 26, the parties must within 10 days—
  - (a) notify the Eldership Council of the dispute; and
  - (b) agree to or request the appointment of a mediator; and
  - (c) attempt in good faith to settle the dispute by mediation.
- (2) The mediator must be—
  - (a) a person chosen by agreement between the parties; or
  - (b) in the absence of agreement—
    - (i) if the dispute is between a member and another member—a person appointed by the Eldership Council; or
    - (ii) if the dispute is between a member and the Eldership Council or the Church—a person appointed or employed by Christian Community Churches in Victoria and Tasmania.
- (3) A mediator appointed by the Eldership Council may be a member or former member of the Church including a person on the Eldership Council but in any case must not be a person who—
  - (a) has a personal interest in the dispute; or
  - (b) is biased in favour of or against any party.

### **28 Mediation process**

- (1) The mediator to the dispute, in conducting the mediation, must—
  - (a) give each party every opportunity to be heard; and
  - (b) allow due consideration by all parties of any written statement submitted by any party; and
  - (c) ensure that natural justice is accorded to the parties throughout the mediation process.
- (2) The mediator must not determine the dispute.

### **29 Failure to resolve dispute by mediation**

- (1) If the mediation process does not resolve the dispute, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

## **PART 4—GENERAL MEETINGS OF THE CHURCH**

### **30 Annual general meetings**

- (1) The Eldership Council must convene an annual general meeting of the Church to be held within 5 months after the end of each financial year.
- (2) Despite subrule (1), the Church may hold its first annual general meeting at any time within 18 months after its incorporation.
- (3) The Eldership Council may determine the date, time and place of the annual general meeting.
- (4) The ordinary business of the annual general meeting is as follows—
  - (a) to confirm the minutes of the previous annual general meeting and of any special general meeting held since then;
  - (b) to receive and consider—
    - (i) the annual report of the Eldership Council on the activities of the Church during the preceding financial year; and
    - (ii) the financial statements of the Church for the preceding financial year submitted by the Eldership Council in accordance with Part 7 of the Act; and
  - (c) to elect the members of the Eldership Council.
- (5) The annual general meeting may also conduct any other business of which notice has been given in accordance with these Rules.

### **31 Special general meetings**

- (1) Any general meeting of the Church, other than an annual general meeting or a disciplinary appeal meeting, is a special general meeting.
- (2) The Eldership Council may convene a special general meeting whenever it thinks fit.
- (3) No business other than that set out in the notice under rule 33 may be conducted at the meeting.

**Note**

General business may be considered at the meeting if it is included as an item for consideration in the notice under rule 33 and the majority of members at the meeting agree.

### **32 Special general meeting held at request of members**

- (1) The Eldership Council must convene a special general meeting if a request to do so is made in accordance with subrule (2) by at least 10% of the total number of members.
- (2) A request for a special general meeting must—
  - (a) be in writing; and
  - (b) state the business to be considered at the meeting and any resolutions to be proposed; and
  - (c) include the names and signatures of the members requesting the meeting; and
  - (d) be given to the Secretary.
- (3) If the Eldership Council does not convene a special general meeting within one month after the date on which the request is made, the members making the request (or any of them) may convene the special general meeting.
- (4) A special general meeting convened by members under subrule (3)—
  - (a) must be held within 3 months after the date on which the original request was made; and
  - (b) may only consider the business stated in that request.
- (5) The Church must reimburse all reasonable expenses incurred by the members convening a special general meeting under subrule (3).

### **33 Notice of general meetings**

- (1) The Secretary (or, in the case of a special general meeting convened under rule 32(3), the members convening the meeting) must give to each member of the Church—
  - (a) at least 21 days' notice of a general meeting if a special resolution is to be proposed at the meeting; or
  - (b) at least 14 days' notice of a general meeting in any other case.
- (2) The notice must—
  - (a) specify the date, time and place of the meeting; and
  - (b) indicate the general nature of each item of business to be considered at the meeting; and
  - (c) if a special resolution is to be proposed—
    - (i) state in full the proposed resolution; and
    - (ii) state the intention to propose the resolution as a special resolution; and
  - (d) comply with rule 34(5).
- (3) This rule does not apply to a disciplinary appeal meeting.

#### **Note**

Rule 23(4) sets out the requirements for notice of a disciplinary appeal meeting.

(4) A member desiring to bring any business before a general meeting may give notice of that business in writing, or by electronic transmission, to the Secretary, who must include that business in the notice calling the next general meeting after the receipt of the notice.

### **34 Proxies**

- (1) A member may appoint another member as his or her proxy to vote and speak on his or her behalf at a general meeting other than at a disciplinary appeal meeting.
- (2) The appointment of a proxy must be in writing and signed by the member making the appointment.
- (3) The member appointing the proxy must give specific directions as to how the proxy is to vote on his or her behalf.
- (4) If the Eldership Council has approved a form for the appointment of a proxy, the member may use any other form that clearly identifies the person appointed as the member's proxy and that has been signed by the member.
- (5) Notice of a general meeting given to a member under rule 33 must—
  - (a) state that the member may appoint another member as a proxy for the meeting; and
  - (b) include a copy of any form that the Eldership Council has approved for the appointment of a proxy.
- (6) A form appointing a proxy must be given to the Chairperson of the meeting before or at the commencement of the meeting.
- (7) A form appointing a proxy sent by post or electronically is of no effect unless it is received by the Church no later than 24 hours before the commencement of the meeting.

### **35 Use of technology**

- (1) 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.
- (2) For the purposes of this Part, a member participating in a general meeting as permitted under subrule (1) is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

### **36 Quorum at general meetings**

- (1) No business may be conducted at a general meeting unless a quorum of members is present.

(2) The quorum for a general meeting is the presence (physically, by proxy or as allowed under rule 35) of 25% of the members entitled to vote.

(3) If a quorum is not present within 30 minutes after the notified commencement time of a general meeting—

(a) in the case of a meeting convened by, or at the request of, members under rule 32—the meeting must be dissolved;

**Note**

If a meeting convened by, or at the request of, members is dissolved under this subrule, the business that was to have been considered at the meeting is taken to have been dealt with. If members wish to have the business reconsidered at another special meeting, the members must make a new request under rule 32.

(b) in any other case—

- (i) the meeting must be adjourned to a date not more than 21 days after the adjournment; and
- (ii) 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.

(4) If a quorum is not present within 30 minutes after the time to which a general meeting has been adjourned under subrule (3)(b), the members present at the meeting (if not fewer than 3) may proceed with the business of the meeting as if a quorum were present.

### **37 Adjournment of general meeting**

(1) 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.

(2) Without limiting subrule (1), a meeting may be adjourned—

- (a) if there is insufficient time to deal with the business at hand; or
- (b) to give the members more time to consider an item of business.

**Example**

The members may wish to have more time to examine the financial statements submitted by the Eldership Council at an annual general meeting.

(3) No business may be conducted on the resumption of an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.

(4) Notice of the adjournment of a meeting under this rule is not required unless the meeting is adjourned for 14 days or more, in which case notice of the meeting must be given in accordance with rule 33.

### **38 Voting at general meeting**

(1) On any question arising at a general meeting—

- (a) subject to subrule (3), each member who is entitled to vote has one vote; and
- (b) members may vote personally or by proxy; and
- (c) except in the case of a special resolution, the question must be decided on a majority of votes.

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

(3) 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.

### **39 Special resolutions**

(1) A special resolution is passed if not less than three quarters of the members voting at a general meeting (whether in person or by proxy) vote in favour of the resolution.

**Note**

In addition to certain matters specified in the Act, a special resolution is required—

- (a) to remove a Elder from office ;
- (b) to alter these Rules, including changing the name or any of the purposes of the Church.

## **40 Determining whether resolution carried**

- (1) Subject to subsection (2), the Chairperson of a general meeting may, on the basis of a show of hands, declare that a resolution has been—
  - (a) carried; or
  - (b) carried unanimously; or
  - (c) carried by a particular majority; or
  - (d) lost—and an entry to that effect in the minutes of the meeting is conclusive proof of that fact.
- (2) If a poll (where votes are cast in writing) is demanded by three or more members on any question—
  - (a) the poll must be taken at the meeting in the manner determined by the Chairperson of the meeting; and
  - (b) the Chairperson must declare the result of the resolution on the basis of the poll.
- (3) A poll demanded on the election of the Chairperson or on a question of an adjournment must be taken immediately.
- (4) A poll demanded on any other question must be taken before the close of the meeting at a time determined by the Chairperson.

## **41 Minutes of general meeting**

- (1) The Eldership Council must ensure that minutes are taken and kept of each general meeting.
- (2) The minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.
- (3) In addition, the minutes of each annual general meeting must include—
  - (a) the names of the members attending the meeting; and
  - (b) proxy forms given to the Chairperson of the meeting under rule 34(6); and
  - (c) the financial statements submitted to the members in accordance with rule 30(4)(b)(ii); and
  - (d) the certificate signed by two Elders certifying that the financial statements give a true and fair view of the financial position and performance of the Church; and
  - (e) any audited accounts and auditor's report or report of a review accompanying the financial statements that are required under the Act.

# **PART 5—ELDERSHIP COUNCIL**

## **Division 1—Powers of Eldership Council**

### **42 Role and powers**

- (1) The business of the Church must be managed by or under the direction of a Eldership Council.
- (2) The Eldership Council may exercise all the powers of the Church except those powers that these Rules or the Act require to be exercised by general meetings of the members of the Church.
- (3) The Eldership Council may—
  - (a) appoint and remove staff;
  - (b) establish subcommittees consisting of members with terms of reference it considers appropriate.

### **43 Delegation**

- (1) The Eldership Council may delegate to a member of the Eldership Council, a subcommittee or staff, or any other Member any of its powers and functions other than—
  - (a) this power of delegation; or
  - (b) a duty imposed on the Eldership Council by the Act or any other law.
- (2) The delegation must be in writing and may be subject to the conditions and limitations the Eldership Council considers appropriate.

- (3) The Eldership Council may, in writing, revoke a delegation wholly or in part.
- (4) A number of aspects of this delegation including some of the roles and assigned tasks within the Church will be listed in the 'Church Structure Manual'. This document will be held and approved by the Eldership Council, and available to all Members.

#### **44 Eldership Council composition**

- (1) The Eldership Council shall be comprised of Elders only
- (2) An Elder is automatically appointed to the Eldership Council upon their appointment as Elder
- (3) Other Church members may be present at some or all Eldership Council meetings to fulfill certain roles (i.e. taking minutes, ministry updates etc.) as requested by the Elders but are not considered to be the Eldership Council.
- (4) The minimum number of Elders is to be 3. If the number drops below this, a Special General Meeting is to be convened at earliest opportunity, with the required number of nominations requested prior to the meeting from amongst the Members.
- (5) If the Church is unable to fill the minimum number of Elders at two consecutive Annual General or Special General Meetings, the Motion shall be tabled at the next Annual General Meeting by the remaining Eldership Council or other Office Bearer(s) to consider winding up the Church per 'Winding up and Cancellation'.

#### **45 General Duties**

- (1) As soon as practicable after being elected or appointed to the Eldership Council, each Elder must become familiar with these Rules, the Act and the ACNC Legislation.
  - (2) The Eldership Council is collectively responsible for ensuring that the Church complies with the Act and the ACNC Legislation and that individual members of the Eldership Council comply with these Rules.
  - (3) Elders must exercise their powers and discharge their duties with reasonable care and diligence.
  - (4) Elders must exercise their powers and discharge their duties—
    - (a) in good faith in the best interests of the Church; and
    - (b) for a proper purpose.
  - (5) Elders and former Elders must not make improper use of—
    - (a) their position; or
    - (b) information acquired by virtue of holding their position—  
so as to gain an advantage for themselves or any other person or to cause detriment to the Church.
- Note**  
See also Division 3 of Part 6 of the Act which sets out the general duties of the office holders of an incorporated association.
- (6) In addition to any duties imposed by these Rules, a Elder must perform any other duties imposed from time to time by resolution at a general meeting.

#### **46 Chair and Vice-Chair**

- (1) Subject to subrule (2), the Chair or, in the Chair's absence, the Vice-Chair is the Chairperson for any general meetings and for any Eldership Council meetings.
- (2) If the Chair and the Vice-Chair are both absent, or are unable to preside, the Chairperson of the meeting must be—
  - (a) in the case of a general meeting—a member elected by the other members present; or
  - (b) in the case of a Eldership Council meeting—a Elder elected by the other Elders present.

## **47 Secretary**

(1) The Secretary must perform any duty or function required under the Act to be performed by the secretary of an incorporated Church.

### **Example**

Under the Act, the secretary of an incorporated association is responsible for lodging documents of the association with the Registrar.

(2) The Secretary must—

(a) maintain the register of members in accordance with rule 18; and

(b) keep custody of the common seal (if any) of the Church and, except for the financial records referred to in rule 70(3), all books, documents and securities of the Church in accordance with rules 72 and 75; and

(c) subject to the Act and these Rules, provide members with access to the register of members, the minutes of general meetings and other books and documents; and

(d) perform any other duty or function imposed on the Secretary by these Rules.

(3) The Secretary must give to the Registrar notice of his or her appointment within 14 days after the appointment.

## **48 Treasurer**

(1) The Treasurer must—

(a) receive all moneys paid to or received by the Church and issue receipts for those moneys in the name of the Church when necessary; and

(b) ensure that all moneys received are paid into the account of the Church within 5 working days after receipt; and

(c) make any payments authorised by the Eldership Council or by a general meeting of the Church from the Church's funds; and

(d) ensure all payments are approved by at least 2 Elders or their Nominees, or in accordance with any payment approval policy set by the Eldership Council.

(2) The Treasurer must—

(a) ensure that the financial records of the Church are kept in accordance with the Act; and

(b) coordinate the preparation of the financial statements of the Church and their certification by the Eldership Council prior to their submission to the annual general meeting of the Church.

(3) The Treasurer must ensure that at least one Elder has access to the accounts and financial records of the Church.

## **Division 3—Election of Elders and tenure of office**

### **49 Who is eligible to be an Elder**

(1) A member is eligible to be elected or appointed as an Elder if the member—

(a) meets the requirements for Elder per Appendix B;

(b) is a Member of the Church;

(c) is 18 years of age or over;

(d) is not disqualified:

(i) from managing a corporation by the Corporations Act 2001 (Cth); or

(ii) from being an Elder by the ACNC Commissioner under the provisions of the ACNC Legislation.

(e) Sub-rule 49(d)(ii):

(i) shall only apply if 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.



- (f) 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 Elder; and
  - (ii) must obtain a declaration from each Elder 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.

## **50 Positions to be declared vacant**

- (1) This rule applies to—
  - (a) the first annual general meeting of the Church after its incorporation; or
  - (b) any subsequent annual general meeting of the Church, after the annual report and financial statements of the Church have been received.
- (2) The Chairperson of the meeting must declare positions on the Eldership Council whose term of office has expired vacant and hold elections for those positions in accordance with rules 51 to 54.

## **51 Elder Nominations**

- (1) All nominations for the position of Elder must
  - (a) be made with the nominee's consent
  - (b) be vetted and approved by the Eldership Council per Appendix B
  - (c) announced to the members at least 14 days before the general meeting at which any election is to take place.

## **52 Elder Election**

- (1) Subject to subrule (2) a ballot must be held to elect an Elder in accordance with rule 54 to accept or reject each nomination made by the representatives of the Elders, according to rule 51(1).
- (2) The role of Elder is automatically given to a successful applicant for position of Senior Pastor without the requirement to hold a ballot.

## **53 Election and appointment of office bearers**

- (1) The Eldership Council must elect, by an ordinary resolution, one of their number as Chair and another of their number as Vice Chair of Eldership Council meetings.
- (2) The Chair and the Vice Chair are to hold office for 12 months and at the end of that period will be eligible for re-election by the Eldership Council.
- (3) At a meeting of the Eldership Council:
  - (a) the Chair is to preside; or
  - (b) if the Chair is absent or unwilling to act, then the Vice Chair is to preside and, if the Vice Chair is also absent or unwilling to act, the remaining Eldership Council may choose one of their number to preside over the meeting.
- (4) The Secretary and Treasurer must be appointed by the Eldership Council and hold office on such terms and conditions as the Eldership Council may determine. Without limit to the foregoing, the Eldership Council may remove a person as Secretary or Treasurer and appoint another Member of the Church in his or her place by resolution of the Eldership Council.
- (5) The Secretary and Treasurer may, but need not, be a member of the Eldership Council but shall at all times be a Member of the Church.

## 54 Ballot

- (1) To complete a ballot, the Chairperson of the Annual General Meeting or Special General Meeting must appoint a member to act as returning officer to conduct the ballot.
- (2) The returning officer must not be a member nominated for the position.
- (3) Before the ballot is taken, each candidate may make a short speech in support of his or her election.
- (4) The election must be by secret ballot.
- (5) The ballot paper is to contain the names of the candidates with an ability to vote 'yes' or 'no'
- (6) The returning officer must give a ballot paper to—
  - (a) each member present in person; and
  - (b) each proxy appointed by a member.

### **Example**

If a member has been appointed the proxy of 5 other members, the member must be given 6 ballot papers—one for the member and one each for the other members.

- (7) In event of unclear markings on a ballot paper the returning officer will remove that ballot paper from the count
- (8) the returning officer is to declare all nominated candidates that received at least 75% of the votes

## 55 Term of office

- (1) Subject to subrule (2) and subrule (3) and subrule (5) and rules 56 and 57(3), an Elder holds office until the position of Elder is declared vacant at the annual general meeting which is held three years after the date of the Elder's election.
- (2) The Senior Pastor will continue to hold office as Elder until they cease to hold the position of Senior Pastor.
- (3) If, at an annual general meeting, more than one third of the Elders are due to retire from office, the Eldership Council may agree on the Elders that will retire at that annual general meeting or, failing such agreement, the Elders who will actually retire will be determined by lot so that not more than one third of the Eldership Council shall retire from office at any given annual general meeting. The remainder of the Elders that would have otherwise been due to retire will serve an additional twelve month term until the positions of the Eldership Council are declared vacant at the following annual general meeting.
- (4) A Elder may be re-elected for up to two terms, or longer if the additional terms are approved by a resolution of the members entitled to vote.
- (5) A general meeting of the Church may—
  - (a) by special resolution remove an Elder from office
- (6) A member who is the subject of a proposed special resolution under subrule (4)(a) may make representations in writing to the Secretary or Chair of the Church (not exceeding a reasonable length) and may request that the representations be provided to the members of the Church.
- (7) The Secretary or the Chair may give a copy of the representations to each member of the Church or, if they are not so given, the member may require that they be read out at the meeting at which the special resolution is to be proposed.

## 56 Vacation of office

- (1) An Elder may resign from the position of Elder by written notice addressed to the Eldership Council.
- (2) A person ceases to be a Elder if—
  - (a) they cease to be a member of the Church; or
  - (b) they fail to attend 3 consecutive Eldership Council meetings (other than special or urgent Eldership Council meetings) without leave of absence under rule 67; or
  - (c) their actions or beliefs are clearly inconsistent with the Statement of Faith; or
  - (d) they otherwise cease to be a Elder by operation of section 78 of the Act.

### **Note**

A Church member may not hold the office of secretary if they do not reside in Australia.

## **57 Filling casual vacancies**

- (1) The Eldership Council may appoint an eligible member of the Church to fill a position on the Eldership Council that—
  - (a) has become vacant under rule 56; or
  - (b) was not filled by election at the last annual general meeting.
- (2) If the position of Secretary becomes vacant, the Eldership Council must appoint a member to the position within 14 days after the vacancy arises.
- (3) Any Elder appointed by the Eldership Council under subrule (1) or (2) holds office until the position is declared vacant at the annual general meeting immediately following their appointment.
- (4) The Eldership Council may continue to act despite any vacancy in its membership.

## **Division 4—Meetings of Eldership Council**

### **58 Meetings of Eldership Council**

- (1) The Eldership Council must meet at least 4 times in each year at the dates, times and places determined by the Eldership Council.
- (2) The date, time and place of the first Eldership Council meeting must be determined by the members of the Eldership Council as soon as practicable after the annual general meeting of the Church at which the members of the Eldership Council were elected.
- (3) Special Eldership Council meetings may be convened by the Chair or by any 4 members of the Eldership Council.

### **59 Notice of meetings**

- (1) Notice of each Eldership Council meeting must be given to each Elder no later than 7 days before the date of the meeting.
- (2) Notice may be given of more than one Eldership Council meeting at the same time.
- (3) The notice must state the date, time and place of the meeting.
- (4) If a special Eldership Council meeting is convened, the notice must include the general nature of the business to be conducted.
- (5) The only business that may be conducted at the meeting is the business for which the meeting is convened.

### **60 Urgent meetings**

- (1) In cases of urgency, a meeting can be held without notice being given in accordance with rule 59 provided that as much notice as practicable is given to each Elder by the quickest means practicable.
- (2) Any resolution made at the meeting must be passed by an absolute majority of the Eldership Council.
- (3) The only business that may be conducted at an urgent meeting is the business for which the meeting is convened.

### **61 Procedure and order of business**

- (1) The procedure to be followed at a meeting of a Eldership Council must be determined from time to time by the Eldership Council.
- (2) The order of business may be determined by the members present at the meeting.

## **62 Use of technology**

- (1) A Elder who is not physically present at a Eldership Council meeting may participate in the meeting by the use of technology that allows that Elder and the Elders present at the meeting to clearly and simultaneously communicate with each other.
- (2) For the purposes of this Part, a Elder participating in a Eldership Council meeting as permitted under subrule (1) is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

## **63 Quorum**

- (1) No business may be conducted at a Eldership Council meeting unless a quorum is present.
- (2) The quorum for a Eldership Council meeting is the presence (in person or as allowed under rule 62) of a majority of the Elders.
- (3) If a quorum is not present within 30 minutes after the notified commencement time of a Eldership Council meeting—
  - (a) in the case of a special meeting—the meeting lapses;
  - (b) in any other case—the meeting must be adjourned to a date no later than 14 days after the adjournment and notice of the time, date and place to which the meeting is adjourned must be given in accordance with rule 59.

## **64 Voting**

- (1) On any question arising at a Eldership Council meeting, each Elder present at the meeting has one vote.
- (2) A motion is carried if a majority of Elders present at the meeting vote in favour of the motion.
- (3) Subrule (2) does not apply to any motion or question which is required by these Rules to be passed by an absolute majority of the Eldership Council.
- (4) If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.
- (5) Voting by proxy is not permitted.

## **65 Conflict of interest**

- (1) A Elder who has a material personal interest in a matter being considered at a Eldership Council meeting must disclose the nature and extent of that interest to the Eldership Council.
- (2) The member—
  - (a) must not be present while the matter is being considered at the meeting; and
  - (b) must not vote on the matter.

### **Note**

Under section 81(3) of the Act, if there are insufficient Elders to form a quorum because a member who has a material personal interest is disqualified from voting on a matter, a general meeting may be called to deal with the matter.

- (3) This rule does not apply to a material personal interest—
  - (a) that exists only because the member belongs to a class of persons for whose benefit the Church is established; or
  - (b) that the member has in common with all, or a substantial proportion of, the members of the Church.

## **66 Minutes of meeting**

- (1) The Eldership Council must ensure that minutes are taken and kept of each Eldership Council meeting.
- (2) The minutes must record the following—
  - (a) the names of the members in attendance at the meeting;
  - (b) the business considered at the meeting;
  - (c) any resolution on which a vote is taken and the result of the vote;

(d) any material personal interest disclosed under rule 65.

## **67 Leave of absence**

- (1) The Eldership Council may grant a Elder leave of absence from Eldership Council meetings for a period not exceeding 6 months.
- (2) The Eldership Council must not grant leave of absence retrospectively unless it is satisfied that it was not feasible for the Elder to seek the leave in advance.

## **PART 6—FINANCIAL MATTERS**

### **68 Source of funds**

- (1) The funds of the Church may be derived from donations, fund-raising activities, grants, interest and any other sources approved by the Eldership Council.

### **69 Management of funds**

- (1) The Church must open an account with a financial institution from which all expenditure of the Church is made and into which all of the Church's revenue is deposited.
- (2) Subject to any restrictions imposed by a general meeting of the Church, the Eldership Council may approve expenditure on behalf of the Church.
- (3) The Eldership Council may authorise the Treasurer to expend funds on behalf of the Church (including by electronic funds transfer) up to a specified limit without requiring approval from the Eldership Council for each item on which the funds are expended
- (4) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by 2 Elders or their Nominees and payments by electronic funds transfers must be authorised by 2 Elders or their Nominees, or otherwise in accordance with any payment approval policy set by the Eldership Council.
- (5) All funds of the Church must be deposited into the financial account of the Church no later than 5 working days after receipt.
- (6) With the approval of the Eldership Council, the Treasurer may maintain a cash float provided that all money paid from or paid into the float is accurately recorded at the time of the transaction.
- (7) The Eldership Council must ensure that systems and procedures for the management of the Church's funds are appropriate for its size and circumstances, and the complexity of its financial affairs.

### **70 Financial records**

- (1) The Church must keep financial records that—
  - (a) correctly record and explain its transactions, financial position and performance; and
  - (b) enable financial statements to be prepared as required by the Act and ACNC Legislation.
- (2) The Church must retain the financial records for 7 years after the transactions covered by the records are completed.
- (3) The Treasurer must keep in his or her custody, or under his or her control—
  - (a) the financial records for the current financial year; and
  - (b) any other financial records as authorised by the Eldership Council.

### **71 Financial statements**

- (1) For each financial year, the Eldership Council must ensure that:
  - (a) the requirements under the Act relating to the financial statements of the Church are met; and
  - (b) the requirements of the ACNC Legislation are met..
- (2) Without limiting subrule (1), those requirements include—

- (a) the preparation of the financial statements;
- (b) if required, the review or auditing of the financial statements;
- (c) the certification of the financial statements by the Eldership Council;
- (d) the submission of the financial statements to the annual general meeting of the Church;
- (e) the lodgement with the Registrar of the financial statements and accompanying reports, certificates, statements and fee.

## **PART 7—GENERAL MATTERS**

### **72 Common seal**

- (1) The Church may not have a common seal.

### **73 Registered address**

- (1) The registered address of the Church is
  - (a) the address determined from time to time by resolution of the Eldership Council; or
  - (b) if the Eldership Council has not determined an address to be the registered address—the postal address of the Secretary.

### **74 Notice requirements**

- (1) Any notice required to be given to a member or a Elder under these Rules may be given—
  - (a) by handing the notice to the member personally; or
  - (b) by sending it by post to the member at the address recorded for the member on the register of members; or
  - (c) by email or facsimile transmission.
- (2) Subrule (1) does not apply to notice given under rule 60.
- (3) Any notice required to be given to the Church or the Eldership Council may be given—
  - (a) by handing the notice to a member of the Eldership Council; or
  - (b) by sending the notice by post to the registered address; or
  - (c) by leaving the notice at the registered address; or
  - (d) if the Eldership Council determines that it is appropriate in the circumstances—
    - (i) by email to the email address of the Church or the Secretary; or
    - (ii) by facsimile transmission to the facsimile number of the Church.

### **75 Custody and inspection of books and records**

- (1) Members may on request inspect free of charge—
  - (a) the register of members;
  - (b) the minutes of general meetings;
  - (c) subject to subrule (2), the financial records, books, securities and any other relevant document of the Church, including minutes of Eldership Council meetings.

**Note**

See note following rule 18 for details of access to the register of members.

- (2) The Eldership Council may refuse to permit a member to inspect records of the Church that relate to confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the Church.
- (3) The Eldership Council must on request make copies of these rules available to members and applicants for membership free of charge.
- (4) Subject to subrule (2), a member may make a copy of any of the other records of the Church referred to in this rule and the Church may charge a reasonable fee for provision of a copy of such a record.
- (5) For purposes of this rule—

*relevant documents* means the records and other documents, however compiled, recorded or stored, that relate to the incorporation and management of the Church and includes the following—

- (a) its membership records;
- (b) its financial statements;
- (c) its financial records;
- (d) records and documents relating to transactions, dealings, business or property of the Church.

## **76 Winding up and cancellation**

- (1) The Church may be wound up voluntarily by special resolution.
- (2) In the event of the winding up or the cancellation of the incorporation of the Church, the surplus assets of the Church must not be distributed to any members or former members of the Church.
- (3) Subject to the Act and any court order made under section 133 of the Act, the surplus assets must be given to the Christian Brethren Trust provided that the Christian Brethren Trust:
  - (a) prohibits the distribution of profit or gain to its individual members in their capacity as members; and
  - (b) is charitable at law.
- (4) The body to which the surplus assets are to be given must be decided by special resolution.

## **77 Alteration of Rules**

- (1) These Rules may only be altered by special resolution of a general meeting of the Church.

**Note** An alteration of these Rules does not take effect unless or until it is approved by the Registrar.

## **Appendix A - Statement of Faith**

We believe the Bible as originally given by God is divinely inspired, infallible, entirely trustworthy; and is the supreme authority in all matters of faith and conduct, from which we can know that:

1. There is one true eternal creator God – existing in three Persons: Father, Son and Holy Spirit.
2. God created all things, making man and woman in His own image and for relationship with Him.
3. Sin entered into the world through human disobedience following rebellion against God.
4. The Son, Christ Jesus, was born of a virgin and lived as a sinless man. Christ died to save all people from sin. Christ rose from the grave defeating the power of sin.
5. The death and resurrection of Christ brings salvation by grace through faith to those who repent; seek forgiveness; and believe in Him.
6. The Holy Spirit, following Jesus' return to His Father in heaven, lives within those who have salvation as a comforter and guide; guaranteeing their eternal hope.
7. Those who trust in Jesus as their Lord and Saviour are called to live a transformed life and as such we have the responsibility to:
  - a. Encourage other Christians through meeting together for worship and fellowship;
  - b. Uphold moral directives and ethical values contained in the Bible as expressed within the context of their personal life, their marriage life (their covenantal relationship of one man and one woman), and their relationships with others;
  - c. Share the good news to all the world;
  - d. Be active in expressing God's love through social justice.
8. Jesus is the only way to a relationship with God. Those who have received salvation have eternal life as joint heirs with Christ. Those who do not believe in Christ are separated from God for eternity.
9. The true universal Church is a spiritual entity composed of all individuals who put their faith in Jesus Christ. God has called individual Christians to meet together as a local, autonomous congregation. The Lord Jesus mandated two ordinances for the church: believer's baptism and the Lord's Supper.
10. Christ will return as Lord to the earth and everyone will see him. There will be a new heaven and a new earth.



## **Appendix B – Qualifications and Vetting Criteria**

### **B.1 Qualifications - Elders**

The role of an Elder is based on the following biblical passages:

- Titus 1:6-9
- Acts 6:1-6
- 1 Timothy 3:1-16

### **B.2 Qualifications – Senior Pastor**

The Biblical qualifications of the senior pastor are those of a shepherd/Elder as found in the following biblical passages:

- Titus 1:6-9
- Acts 6:1-6
- 1 Timothy 3:1-16

### **B.3 Elders – Vetting Criteria**

Below are a set of Vetting Criteria that may be used by the Eldership Council in the vetting of potential applicants, however the actual process used at the time may be updated and minuted by the Eldership Council.

1. The candidate meets the character requirements of the role with consideration to the qualifications of the role in the applicable Bible passages listed above as well as with consideration to the role profile
2. The candidate meets the profile of the role including the gifting/capability to satisfy the role profile
3. The relative breadth of support of nominations for the applicant will be taken into consideration
4. Other known character or capability short comings, that may not be written in the role profile, will also be taken into account
5. Consider any capability appropriate to the immediate need of the role

### **B.4 Senior Pastor – Vetting Criteria**

The Vetting Criteria for role of Senior Pastor will be set by the Elders, and will include the Qualifications of a Senior Pastor listed above