



Lutheran Education South Australia, Northern Territory and Western Australia Incorporated

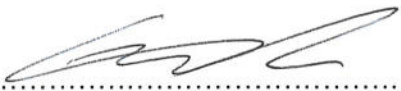
Incorporated under the Associations Incorporation Act 1985

(LESNW)

CONSTITUTION

Resolution to adopt this Constitution was passed by Association members

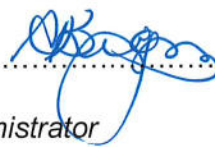
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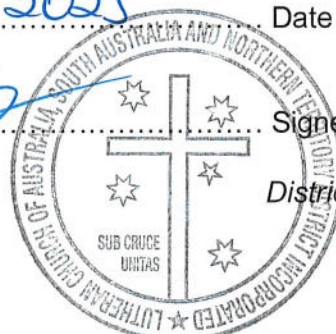
Signed..... Signed.....

Chairperson
Lutheran Education SA, NT & WA

Approved by the Lutheran Church of Australia
South Australia and Northern Territory District Incorporated, District Church Council

Date26-06-2025..... Date26-06-2025.....

Signed..... Signed.....
Bishop District Administrator



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Part 1 – Preliminary

1. Name

The name of the incorporated association is Lutheran Education South Australia, Northern Territory and Western Australia Incorporated.

2. Definitions

In this constitution:

Act means the *Associations Incorporation Act 1985* (SA);

Association means Lutheran Education South Australia, Northern Territory and Western Australia Incorporated ABN 54 668 475 377;

Bishop means the Bishop of the Lutheran Church of Australia, SA-NT District Inc;

Board means the committee of management of the Association;

Board Member means a member of the Board of the Association;

Business Day means any day except a Saturday or Sunday or public holiday in South Australia;

Chaplain means a Pastor called by the Board or any other person appointed by the Board to assist a Member deliver a ministry program;

Church means the Lutheran Church of Australia Incorporated ABN 36 763 133 867;

Commonwealth means the Commonwealth of Australia;

Districts means the LCA SA-NT District and LCA WA District;

Educational Leader Board Member means a Board Member that is an employee of a Member in an executive role (i.e. a principal or director);

Executive Director means the Executive Director and Chief Executive Officer of the Association appointed by the Board under rule 19;

Fees means any joining fees, membership fees, annual subscriptions and any other fees or levies as determined in accordance with this constitution;

Finance Risk and Audit Standing Committee means the committee appointed by the Board that is responsible for undertaking finance risk and audit functions in accordance with its Terms of Reference;

Governance Standing Committee means the committee appointed by the Board that is responsible for undertaking governance administration functions in accordance with its Terms of Reference;

Independent Board Member means a Board Member that is not employed by, a Representative of, or an officer of a Member;

Internal Board Member means a Board Member that is a Representative of or an officer of a Member but not an employee of a Member;

Law means the common law of, and any legislature in force in, the State (or States) in which the Association operates and the Commonwealth;

LCA SA-NT District means the Lutheran Church of Australia, South Australia and Northern Territory District Incorporated ABN 84 490 129 361;

LCA SA-NT District Church Council means the committee of management (or governing council) of LCA SA-NT District;

LCA WA District means the Lutheran Church of Australia, Western Australia District Incorporated ABN 75 110 702 651;

LEA means Lutheran Education Australia Limited ABN 44 143 905 373;

Member means a provider of Lutheran education that is a member of the Association, and may include preschools, kindergartens, childcare centres, early years centres, primary schools, secondary schools (or any combination of these) and related agencies;

Pastor means an ordained pastor of the Church;

Pastor Board Member means a Board Member that is a Pastor nominated by LCA SA-NT District Church Council;

Person includes an ordinary person, a corporation, joint venture, association, government body, firm, educational institution and any other entity;

Representative has the meaning given in rule 11(a);

Special Resolution has the meaning given in rule 29.7(a);

State means any state or territory of Australia (as the case may be);

Term of Office means a term of three (3) years, commencing on the date that a Board Member is appointed or elected to the Board in respect of that term and expiring on the date which is three years less one day from the date the Term of Office commenced, with a maximum of three (3) consecutive terms;

Terms of Reference means a governing document for a standing committee or sub-committee (as the case may be), which sets out the name, membership, method of appointment of chairperson, responsibilities and, in the case of a sub-committee the duration of the work to be performed;

Unless stated otherwise, as at the date this constitution is adopted by the Members, terms defined in the Act have the same meaning as given in this constitution.

3. Confessional Basis

The Association holds to the Confessions of the Church and declares that it:

- (a) accepts without reservation the Holy Scriptures of the Old and New Testaments, as a whole and in all their parts, as the divinely inspired, written and inerrant Word of God, and as the only infallible source and norm for all matters of faith, doctrine and life;
- (b) acknowledges and accepts as true expositions of the Word of God and as its own Confession all the Symbolical Books of the Evangelical Lutheran Church contained in the Book of Concord 1580, namely, the three Ecumenical Creeds: the Apostles' Creed, the Nicene Creed and the Athanasian Creed; the Unaltered Augsburg Confession; the Apology of the Augsburg Confession; the Smalcald Articles; the Small Catechism of Luther; the Large Catechism of Luther; and the Formula of Concord;
- (c) acknowledges that the Church requires that all who teach in or administer the affairs of schools shall carry out their responsibilities and duties in accordance with this Confession.

4. Objects or purposes of the Association

The Association is a not-for-profit association and the objects of the Association, are to:

- (a) manage and administer an association of Members in South Australia, Northern Territory and Western Australia as agencies of the Church and Christian education;
- (b) uphold and safeguard the confessional teachings of the Church, especially as these relate to the nature, purpose and program of Members;
- (c) work in close co-operation with the boards of LEA, the Lutheran Church of Australia Queensland District ABN 93 527 332 340, the Lutheran Church of Australia Victorian District ABN 49 108 117 667, the Lutheran Church of Australia NSW District ABN 55 137 191 133, the Districts and departments of the Church and Districts;
- (d) advocate, represent and promote the interests of Members in liaising with government, government authorities, political parties, the media and the community;
- (e) administer funds on behalf of the Members as determined by policy and procedure from time to time;
- (f) provide advice, direction and professional learning opportunities to Members' board members, principals, directors, business managers and staff in keeping with the objects of the Association;
- (g) assist Members in pedagogical development and delivery, including professional development of staff and communities;

- (h) pursue opportunities for the development and expansion of Lutheran education in consultation with approving authorities;
- (i) negotiate enterprise agreements on behalf of the Members in each State and Territory, where appropriate;
- (j) deliver initiatives that assist Members deliver on their objectives;
- (k) manage government funding to Members and act as liaison with government funding authorities;
- (l) raise funds for the operation of the Association by means of annual subscriptions, fees, donations, levies or other means, from Members or from members of the public;
- (m) ensure the Association complies with the Law and to use, where desirable, the means provided by Law to enforce compliance by another Person with the provisions of any Law that governs or bears upon any industrial matters, disputes, awards, determinations or agreements;
- (n) advise Members in the matter of staffing and be involved in staff recruitment, including without limitation:
 - (1) the selection of principals and early years directors by way of participation of the Executive Director (or the Executive Director's nominee) on interview panels;
 - (2) the calling of Chaplains or Pastors to Member positions.
- (o) give guarantees or indemnities in respect of the obligations of any person, corporation or body corporate whether or not it benefits the Association, with or without security, and with or without remuneration, as the Board sees fit; and
- (p) operate a building fund or funds as allowable under taxation laws in Australia for the sole purpose of developing and advancing the development of new or existing Members within South Australia, Northern Territory and Western Australia. Such a fund may be eligible to receive tax deductible donations from donors where legally registered to do so.

5. Relationships

5.1 The Church and Districts

The Association will:

- (a) accept the constitution and by-laws of the Church and LCA SA-NT District (as applicable) and act in accordance with their requirements;
- (b) conform with the resolutions of the LCA SA-NT District Church Council subject to prior consultation with the Board having occurred;

- (c) ensure that any amendments, alterations, additions or repeals to this constitution will be submitted to the LCA SA-NT District Church Council and will not be implemented by the Association until approved by the LCA SA-NT District Church Council;
- (d) cooperate with the relevant officials, boards, councils and committees of the Church and the Districts and will report to them as they require;
- (e) promote the advancement of Lutheran education as a mission and ministry arm of the Church;
- (f) take all lawful steps necessary to ensure that the Association does not act (or omit to act) in a manner contrary to the Confessions and religious principles of the Church;
- (g) agree that the LCA SA-NT District Church Council may, by resolution by two-thirds majority of the LCA SA-NT District Church Council, remove from office any, or all, Board Members. In the event that all Board Members have been removed from office, and until elections are held in accordance with this constitution to appoint new Board Members, all Board duties and responsibilities will vest in the LCA SA-NT District Church Council and then any caretaker Board which the LCA SA-NT District Church Council may appoint.

5.2 Lutheran Education Australia

The Association will:

- (a) promote, support and uphold the policies and associated procedures of the LEA Board;
- (b) collaborate with the LEA Board on respective responsibilities.

5.3 Members

The Association will:

- (a) provide guidance and direction to Members in keeping with the objects of the Association;
- (b) where applicable, administer government funding to Members in accordance with policy from time to time;
- (c) act as a certifier for Members in respect of compliance reporting;
- (d) provide governance advice to and assist Members with their constitutional reviews, ensuring adherence to unalterable rules and approving changes prior to ratification by the relevant District;
- (e) call for nominations from Members in respect of vacant positions on the Board;
- (f) provide Members with risk management and compliance support;
- (g) appraise Members' loan applications;

- (h) advise on Members' standing committees as required;
- (i) act as approving authority for the dissolution of a Member.

6. Powers of the Association

The Association will have all the powers conferred by section 25 of the Act.

Part 2 - Membership

7. Members

- (a) The Members agree to be bound by this constitution and the decisions of the Association in keeping with the objects of the Association.
- (b) The rights and privileges of Members include, without limitation:
 - (1) the right to receive notices of general meetings and all other documents sent to Members in respect of general meetings;
 - (2) the right to attend and speak at general meetings; and
 - (3) the right to vote at general meetings on any matter.
- (c) The details of all Members will be kept on the Association's register of members in accordance with rule 14.

8. Continuing Members

The Persons recorded as Members on the Association's register of members maintained by, or on behalf of, the Association at the date of adoption of this constitution are deemed to have fulfilled the requirements of the Association for membership in the relevant membership period and will be Members at the date of adoption of this constitution.

9. Applications for membership

- (a) Unless otherwise specified in this constitution, any Person that identifies as a prospective member (and if accepted as a Member would fall within the definition of a Member) may apply for membership.
- (b) The applicant must:
 - (1) complete the application form provided by the Association and deliver it to the Association; and
 - (2) agree to be bound by this constitution.

- (c) The Board must decide to accept or reject the application as soon as reasonably practicable after receipt of the application. Notwithstanding this rule 9(c), the Board may defer making a decision to allow for further inquiry of the applicant and consideration of the application for a period not exceeding three (3) months.
 - (d) The Association must, as soon as reasonably practicable, notify the applicant in writing whether the application is accepted or rejected.
 - (e) The applicant becomes a Member from the next day that is 1 January if:
 - (1) the Board accepts the application; and
 - (2) within 28 days after the Association notifies the applicant of acceptance, the applicant pays any Fees.
 - (f) Any Fees paid by the applicant prior to the acceptance or rejection of its application will be refunded by the Association as soon as reasonably practicable if the application is rejected.
 - (g) The Board may delegate some or all of its powers under this rule 9 to the Executive Director or such other person as the Board may determine from time to time.
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10. Fees

- (a) The designated Fees will be a monetary sum (if any), which will be an amount determined by the Board from time to time.
 - (b) The designated Fees will be payable annually on 1 January or at such other times as the Board determines in its absolute discretion from time to time.
 - (c) The rights of any Member under this constitution will be automatically suspended if Fees owed by that Member remain outstanding for more than three (3) months after the due date for payment, until such time as that Member pays all outstanding Fees to the Association.
 - (d) The Association may sue for, and recover, any unpaid Fees as a debt due to the Association.
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11. Representative

- (a) A Member that is not a natural person will be represented by the following two (2) persons:
 - (1) A representative of the governing body of the Member; and
 - (2) The principal or director of the Member,(both **Representatives**).
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- (b) The Representatives will represent the Member at a particular general meeting or at all general meetings of the Association, will be entitled to exercise all the rights granted to the Member under this constitution and will be subject to all the obligations and responsibilities of the Member under this constitution.
- (c) The Representatives of the Member must agree between themselves which of the Representatives will exercise one (1) vote on behalf of the Member at general meetings.
- (d) An act or omission of a Representative will, for the purposes of the Member's membership with the Association, be treated as the act or omission of the Member.
- (e) A Member must give written notice to the Association of the identity of its Representatives, and by doing so the Member warrants and confirms to the Association the valid appointment of the Representatives as the authorised representatives of the Member for the purpose of this rule 11.
- (f) A Representative will be deemed to be the authorised representative of the Member for all purposes until the Member provides written notice to the Association stating that the authority of the Representative is revoked.
- (g) A Member may replace its Representative from time to time by providing written notice to the Association.
- (h) Any Member unable to be present at a general meeting of the Association, through one (1) or both of its Representatives, will have the right to appoint a proxy in accordance with rule 29.8.

12. Resignations

- (a) A Member may resign from membership of the Association by giving written notice to the Executive Director or public officer of the Association.
- (b) Any Member so resigning will be liable for any outstanding Fees or any other debt owing to the Association, which may be recovered as a debt due to the Association.
- (c) Fees paid in advance will not be refunded except at the discretion of the Board.
- (d) The resignation of a Member will take effect on the expiry of the twelfth (12th) calendar month after receipt of the resignation notice by the Association and all Fees ordinarily payable by a Member within the 12 month period will be payable by the Member and will not be refunded except at the discretion of the Board.
- (e) The public officer of the Association must record the resignation of any Member in the register of members.

13. Expulsion of a Member

13.1 Expulsion for outstanding membership fees

The Board may resolve to expel a Member if Fees payable by that Member remain outstanding for more than three (3) months after the due date for payment, provided always that the Board may reinstate the membership on terms as it thinks fit.

13.2 Expulsion for dissolution or cessation of engagement with Lutheran education

The Board may resolve to expel a Member if the Member:

- (a) is dissolved, deregistered, placed in liquidation, or a resolution is passed or an order is made for its winding up;
- (b) has a receiver and/or manager (as those terms are used in the Act) appointed to control or manage the business or business affairs of the Member;
- (c) in the opinion of the Board, has ceased to be engaged in Lutheran education, has not carried on any business in connection with Lutheran education in the previous twelve (12) months or no longer identifies as being engaged in or a provider of Lutheran education.

13.3 Expulsion for misconduct

- (a) Subject to giving a Member an opportunity to be heard or to make a written submission, the Board may resolve to expel a Member upon a charge of misconduct detrimental to the interests of the Association, which may include, without limitation, a breach or failure to comply with this constitution.
- (b) Particulars of the charge must be communicated to the Member at least 1 month before the meeting of the Board at which the matter will be determined.
- (c) The determination of the Board must be communicated to the Member, and in the event of an adverse determination the Member will, (subject to rule 13.3(d)), cease to be a Member 14 days after the Board has communicated its determination to the Member.
- (d) It will be open to a Member to appeal the expulsion to the Association at a general meeting. The intention to appeal must be communicated to the Executive Director or public officer of the Association within 14 days after the expulsion determination of the Board has been communicated to the Member.
- (e) In the event of an appeal under rule 13.3(d), the appellant's membership of the Association will not be terminated unless the determination of the Board to expel the Member is upheld by the Members in a general meeting after the appellant has been heard by the Members, and in such event the appellant's membership will be terminated at the date of the general meeting at which the determination of the Board is upheld.

14. Register of Members

- (a) A register of members must be kept and contain:

- (1) the name, address, email and other such contact details of each Member;
 - (2) the contact details of the current authorised contact person or Representatives of a Member;
 - (3) the date on which each Member was admitted to the Association; and
 - (4) if applicable, the date of and reason(s) for termination of membership.
 - (b) The confidentiality of Members' information (including the details of their current authorised contact person or Representatives) will be maintained in accordance with the *Privacy Act 1988* (Cth) and any other applicable privacy laws.
 - (c) Subject to any applicable privacy laws, the register of members will be available for inspection by any Member who provides reasonable notice of their request for inspection.
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15. Rights and Responsibilities of Members

- (a) Members are bound to comply with all decisions and determinations made by the Association in keeping with the objects of the Association.
- (b) Members that are schools will have Commonwealth Government recurrent funding distributed according to need as prescribed in a formula approved by the Members.
- (c) Members must comply with all laws and conditions governing Commonwealth and State Government funding.
- (d) Members will participate and share in the benefits of all activities of the Association.
- (e) Members may, if invited to do so by the Board, voluntarily subscribe to Association funds for charitable or special purposes and, if the funds are received by a Member, the Member must apply the funds in full only for the purpose for which the funds were subscribed.

Part 3 – The Board

16. Powers and Duties

- (a) The affairs of the Association will be managed and controlled by the Board which, in addition to any powers and authorities conferred by this constitution, may exercise all such powers and do all such things as are within the objects of the Association, and are not by the Act or by this constitution required to be done by the Association in general meeting.
 - (b) Without limiting rule 16(a), the Board has authority to:
 - (1) exercise any power conferred on the Association by section 25 of the Act;
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- (2) invest, manage and control the funds and other property of the Association as it determines; and
 - (3) interpret the meaning of this constitution and any other matter relating to the affairs of the Association on which this constitution is silent.
- (c) The Board will appoint a public officer as required by the Act.
- (d) The Board will be accountable to the Association and the Districts for:
 - (1) upholding and safeguarding the confessional teachings of the Church, especially as these relate to the nature, purposes and program of the Association;
 - (2) ensuring the development and implementation of the educational policy of the Church and the Districts;
 - (3) keeping the Members and Districts informed of plans, and facilities required, for the development of the Association's educational program;
 - (4) being responsible for the overall program, supervision of the work, and being concerned with the general welfare of the Executive Director;
 - (5) working in collaboration with the Bishops of the Districts in respect of the ratification by the District of the appointment of the Executive Director;
 - (6) approving policies which affect the administration and educational program of the Association, in keeping with the objects of the Association;
 - (7) being accountable to government authorities for the use of funds from government sources;
 - (8) purchasing or acquiring real estate and other property as is necessary to carry out the activities of the Association in accordance with its objects;
 - (9) managing the real estate and other property held by LCA SA-NT District on behalf of the Association and to administer the LCA SA-NT District's funds in accordance with LCA SA-NT District policies;
 - (10) seeking approval from LCA SA-NT District Church Council for fund-raising appeals involving the wider Lutheran church community;
 - (11) receiving regular reports from Members, standing committees, sub-committees and officers appointed by the Board;
 - (12) encouraging co-operation between the governing bodies of Members in matters of common interest and working with other educational bodies as appropriate; and
 - (13) receiving the annual report of the chairperson of the Association and Executive Director.

17. Composition

- (a) The Board will comprise of a minimum of seven (7) and a maximum of ten (10) Board Members, as follows:
 - (1) up to four (4) Independent Board Members;
 - (2) up to two (2) Internal Board Members;
 - (3) up to two (2) Educational Leader Board Members;
 - (4) one (1) Pastor Board Member; and
 - (5) the Executive Director who will be an ex-officio, non-voting Board Member.
- (b) The offices of the Pastor Board Member and the Executive Director must be filled on the Board at all times.
- (c) Board Members must support the Objects or purposes of the Association as set out in rule 4, with a majority of Board Members confirmed and communing members of the Church.
- (d) Internal Board Members and Educational Leader Board Members must be confirmed and communing members of the Church.
- (e) A Board Member must be a natural person.
- (f) Except for the office of the Executive Director and subject to rules 18.2(c), 18.3(c) and 18.4(c), and subject to clause 18.5(a) in respect of the Pastor Board Member, a Board Member's tenure in the office of the Board must not exceed three (3) consecutive Terms of Office.
- (g) If a Board Member wishes (and is eligible) to serve multiple Terms of Office, the Board Member must be nominated for re-election or re-appointment for each subsequent Term of Office, including any second and, if relevant, third Term of Office.
- (h) After serving three (3) consecutive Terms of Office as a Board Member, no person may be re-nominated for election or appointment, or eligible for re-election or re-appointment for any subsequent Term of Office.

18. Appointment and Election of Board Members

18.1 Nomination

- (a) The Governance Standing Committee will be responsible for calling for nominations to fill Board vacancies.
- (b) When calling for nominations, the Governance Standing Committee must state whether any person filling a particular Board vacancy shall have a right to nominate for re-election or re-appointment for a consecutive Term of Office or whether such

vacancy is limited to one (1) Term of Office only without a right to nominate for re-election or re-appointment for a consecutive Term of Office.

- (c) A person may nominate for election or appointment to the Board as long as that person is eligible to be elected or appointed to the Board under this rule 18 and the nomination is:
 - (1) in writing;
 - (2) if applicable, on the form prescribed by, or on behalf of, the Board from time to time;
 - (3) to include details of the nominee's suitability for the position, including the nominee's skills, knowledge and experience;
 - (4) signed by the nominee, the proposing Member and another Member; and
 - (5) provided to the Association at least 28 days before the meeting at which they are seeking to be elected or appointed.

18.2 Appointment of Independent Board Members

- (a) Subject to rule 17(a), up to four (4) Independent Board Members may be appointed to the Board at any one time.
- (b) Independent Board Members will be appointed by the Board at a Board meeting, from time to time.
- (c) No more than half of the Independent Board Members at any one time may be re-appointed for a consecutive Term of Office. If there is only one (1) Independent Board Member appointed to the Board at any one time, that Independent Board Member may nominate to be re-appointed for a consecutive Term of Office.
- (d) Notice of all persons seeking appointment (including re-appointment) to the Board as Independent Board Members will be given to the Board with the notice calling the meeting at which the appointment is to take place.
- (e) The nominations of Independent Board Members will be assessed on the basis of each nominee's skills, knowledge and experience and the benefit of those skills, knowledge and experience to the Association, as identified by the Board.
- (f) The appointment of Independent Board Members will be communicated to the Members in writing as soon as practicable after the appointment.

18.3 Election of Internal Board Members

- (a) Subject to rule 17(a), up to 2 Internal Board Members may be elected to the Board at any one time.
- (b) Internal Board Members will be elected to the Board by the Association in general meeting or by ballot (which ballot procedure shall be determined by the Board).

- (c) No more than half of the Internal Board Members at any one time may be re-elected for a consecutive Term of Office. If there is only one (1) Internal Board Member elected to the Board at any one time, that Internal Board Member may nominate to be re-elected for a consecutive Term of Office.
- (d) Notice of all persons seeking election (including re-election) to the Board as Internal Board Members will be given to all Members and informing them of the election process.
- (e) The Board will communicate to Members the skills, knowledge and experience sought for Internal Board Member nominations, including the requirement under rule 17(d) that Internal Board Members must be confirmed and communing members of the Church.
- (f) The Board may appoint an Internal Board Member to fill a casual vacancy or as an addition to the Board. Any Board Member appointed under this rule 18.3(f) will hold office until the date that a general meeting or ballot is held to elect Board Members and will be eligible for re-election.

18.4 Election of Educational Leader Board Members

- (a) Subject to rule 17(a), up to two (2) Educational Leader Board Members may be elected to the Board at any one time.
- (b) Educational Leader Board Members will be elected to the Board by the Association in general meeting or by ballot (which ballot procedure shall be determined by the Board).
- (c) No more than half of the Educational Leader Board Members at any one time may be re-elected for a consecutive Term of Office. If there is only one (1) Educational Leader Board Member elected to the Board at any one time, that Educational Leader Board Member may nominate to be re-elected for a consecutive Term of Office.
- (d) Notice of all persons seeking election (including re-election) to the Board as Educational Leader Board Members will be given to all Members and informing them of the election process.
- (e) The Board will communicate to Members the skills, knowledge and experience sought for Educational Leader Board Member nominations, including the requirement under rule 17(d) that Educational Leader Board Members must be confirmed and communing members of the Church.
- (f) The Board may appoint an Educational Leader Board Member to fill a casual vacancy or as an addition to the Board. Any Educational Leader Board Member appointed under this rule 18.4(e) will hold office until the date that a general meeting or ballot is held to elect Board Members and will be eligible for re-election.

18.5 Appointment of Pastor Board Member

- (a) The Pastor Board Member's tenure in office of the Board must be filled at all times, although each person who serves as a Pastor Board Member may only serve up to two (2) consecutive Terms of Office.
- (b) The Pastor Board Member will be appointed by the LCA SA-NT District Church Council, following prior consultation with the Executive Director regarding the Pastors nominated for consideration by the LCA SA-NT District Church Council.
- (c) The appointment of the Pastor Board Member will be communicated to the Members by written notice as soon as practicable after the appointment.

19. Appointment of office holders and Executive Director

- (a) The Association will have a chairperson, a deputy chairperson and Executive Director (appointed in accordance with this rule 19).
- (b) Subject to rules 22(b)(1) and 22(b)(2), the chairperson and deputy chairperson will be appointed by the Board from time to time on such terms as the Board may determine in its discretion.
- (c) The Executive Director will be appointed by the Board from time to time on such terms (including remuneration) as the Board may determine in its discretion.
- (d) The chairperson, deputy chairperson and Executive Director will be Board Members.
- (e) The Executive Director is not eligible to be appointed as chairperson or deputy chairperson.
- (f) Unless otherwise determined by the Board, the Executive Director will be also be the secretary of the Association.

20. Office holder roles

20.1 Chairperson and deputy chairperson

- (a) The chairperson will be the Association's presiding officer.
- (b) In the absence of the chairperson the deputy chairperson will act as, and have the rights and powers of, the chairperson.
- (c) The tenure of the chairperson and deputy chairperson is twelve months and may be renewed by the Board from time to time.
- (d) The chairperson has the right to vote at meetings of the Board.

20.2 Public officer

- (a) The public officer will cause to keep all files and records as directed by the Board and as required by the Act.
- (b) The public officer will attend to all Association accounts and matters of finance. This will include preparation and maintenance of financial statements and returns as required by law.

21. Disqualification of Board Members

- (a) A Board Member ceases to be a Board Member if that Board Member is:
 - (1) an Educational Leader Board Member who is no longer an employee of a Member in an executive role (i.e. a principal or director);
 - (2) an Internal Board Member who is no longer a Representative of or an officer of a Member;
 - (3) an Internal Board Member who becomes an employee of a Member;
 - (4) disqualified from being a Board Member by the Act;
 - (5) expelled as a Member under this constitution;
 - (6) a Representative and the Member that it represents has been expelled pursuant to rule 13;
 - (7) permanently incapacitated by ill health or dies;
 - (8) absent without apology from more than three (3) consecutive meetings without special leave of absence from the Board;
 - (9) is removed from office by resolution by three-quarters majority of the Board and that resolution is ratified by LCA SA-NT District Church Council; or
 - (10) resigns from office by giving written notice to the Board.
- (b) In accordance with rule 5.1(g), the LCA SA-NT District Church Council may remove from office any or all Board Members.

Part 4 – Proceedings of the Board

22. Proceedings of Board

- (a) The Board will meet together for the dispatch of business at least five (5) times per calendar year, at a time and place as determined by the chairperson.
- (b) Subject to rule 22(a):

- (1) if the position of chairperson is vacant due to the resignation of the chairperson or the chairperson not being re-elected or re-appointed to the Board, the deputy chairperson of the Association may convene a Board meeting at any time and the deputy chairperson will be the chairperson of that meeting. At that meeting the Board must appoint a chairperson on such terms as the Board may determine in its discretion;
 - (2) if the position of chairperson and deputy chairperson are both vacant due to the resignation of the chairperson and deputy chairperson or the chairperson and deputy chairperson have not been re-elected or re-appointed to the Board, the Executive Director may convene a Board meeting at any time and the Executive Director will be the chairperson of that meeting. At that meeting the Board must appoint a chairperson and deputy chairperson on such terms as the Board may determine in its discretion;
 - (3) the chairperson of the Association may convene a Board meeting at any time; and
 - (4) within one (1) month of receiving a requisition in writing by not less than three (3) Board Members delivered to the office of the Association (marked for the attention of the chairperson), the chairperson will convene a Board meeting.
- (c) Board meetings may be conducted face to face, or using technology to enable each Board Member to communicate with the other Board Members, as long as all Board Members are able to communicate to each other simultaneously.
 - (d) Subject to the rules of this constitution, questions for decision at a meeting of the Board, including the appointment of Independent Board Members, must be decided by a majority of Board Members who, being entitled to do so, vote at that meeting. For the avoidance of doubt, the chairperson has a casting vote as well as a deliberative vote.
 - (e) A quorum for a meeting of the Board will be one half of the Board Members (rounded up to the nearest whole number if the total number of Board Members is an odd number), which must not be less than four (4) Board Members.
 - (f) Subject to rule 5.1(g), if the number of Board Members falls below seven (7), the continuing Board Members may only act for the purpose of increasing the number of Board Members to seven (7).
 - (g) At a Board meeting at which the office of chairperson has been vacated and a new chairperson is to be appointed, the Executive Director will conduct the Board meeting to appoint the chairperson. After the appointment, the appointed chairperson will chair the remainder of the Board meeting.
 - (h) The Board, on behalf of the Association, will prepare plans for the distribution of funds between Members for approval at a general meeting.
 - (i) The Board may delegate any of its powers, functions and duties to the Executive Director or one or more standing committees or sub-committees.

23. Circulating resolutions

- (a) Subject to rule 23(b), the Board Members may pass a resolution without a Board meeting being held, if a majority of the Board Members entitled to vote on the resolution:
 - (1) sign a document containing a statement that they are in favour of the resolution set out in the document; or
 - (2) state by means of electronic communication (including by email), without the necessity of signing, that they are in favour of the resolution, or words of like effect.
- (b) The resolution will not be passed if any one Board Member entitled to vote on the resolution:
 - (1) signs a document containing a statement that they are not in favour of the resolution set out in the document; or
 - (2) state by means of electronic communication (including by email), without the necessity of signing, that they are not in favour of the resolution, or words of like effect.
- (c) Each Board Member must be given a copy of a document used for signing by Board Members or notice of the proposed resolution. The wording of the resolution in each copy must be identical.
- (d) Subject to rule 23(b), the resolution is passed when the last Board Member signs or states their assent.
- (e) Passage of the resolution must be recorded in the Association's minute book.

24. Seal

- (a) The Association will have a common seal upon which its corporate name will appear in legible characters.
- (b) The Board will provide for the safe custody of the seal in the office of the Association.
- (c) The seal must not be used without the express authorisation of the Board, and every use of the seal will be recorded in the minute book of the Association.
- (d) Any two (2) Board Members must sign every instrument to which the seal is affixed.

25. Disclosure of conflicts of interest

A Board Member having a direct or indirect pecuniary interest in a contract or proposed contract with the Association must disclose the nature and extent of that interest to the Board as required by the Act, and must not vote with respect to that contract or proposed contract. The Board Member must disclose the nature and extent of his or her interest in the contract at the next annual general meeting of the Association.

26. Standing committees

- (a) The Board may establish one (1) or more standing committees as the Board thinks fit.
- (b) The **Governance Standing Committee** and the **Finance Risk and Audit Standing Committee** will continue in existence from the date of the adoption of this constitution, in accordance with each standing committees' Terms of Reference.
- (c) Every standing committee must be established pursuant to, and adopt, Terms of Reference that have been approved by either the Board, or the Association in general meeting.
- (d) The Terms of Reference for a standing committee may be modified or replaced by the Board or the Association in general meeting, from time to time.
- (e) The Board will appoint to each standing committee such number of Board Members, Members or any other person as the Board thinks fit, who may, but need not be Members or Representatives.
- (f) The chairperson of a standing committee must be a Board Member.
- (g) The chairperson of a standing committee must report on the activities of the standing committee at the Board meeting immediately preceding the standing committee meeting, either in person, by delegation to another person, or in writing.
- (h) A standing committee must conform to any determinations or resolutions made by the Board or the Members which affect the standing committee, and the Board or Members may determine to dissolve a standing committee.

27. Sub-committees

- (a) The Board may establish one (1) or more sub-committees comprising three (3) or more persons, established for various purposes, consisting of such number of Board Members, Members or any other person as the Board thinks fit.
- (b) Each sub-committee must be formed pursuant to, and adopt, Terms of Reference that have been approved by the Board.
- (c) The Terms of Reference for a sub-committee may be modified or replaced by the Board, from time to time.
- (d) The chairperson of a sub-committee must report on the activities of the sub-committee, as requested by the Board from time to time.
- (e) A sub-committee must conform to any determinations or resolutions made by the Board or the Members which affect the sub-committee, and the Board or Members may determine to dissolve a sub-committee.

28. Special interest groups

- (a) The Board may recognise any number of special interest groups and invite one (1) or more special interest groups to make recommendations to, and engage with, the Board from time to time.

Part 5 – General Meetings

29. General meetings

29.1 Annual general meetings

- (a) The Board must call an annual general meeting in accordance with the Act and this constitution, to be held at a time and place as determined by the Board.
- (b) Annual general meetings must be held within five (5) months after the end of the Association's financial year (i.e. on or before 31 May each year).
- (c) The order of the business at the meeting will be:
 - (1) the confirmation of the minutes of the previous annual general meeting and of any special general meeting held since that meeting;
 - (2) the consideration of the accounts and reports of the Board (including the reports of the chairperson of the Board and the Executive Director) and the auditor's report (if an auditor's report is required);
 - (3) any other business requiring consideration by the Association in general meeting.

29.2 Special general meeting

- (a) The Board may call a special general meeting of the Association at any time and from time to time.
- (b) Upon a requisition in writing of not less than ten (10) Members delivered to the office of the Association, the Board will, within two (2) months of the receipt of the requisition, convene a special general meeting for the purpose specified in the requisition.
- (c) Every requisition for a special general meeting must be signed by the relevant Members and must state the purpose of the meeting.
- (d) If a special general meeting is not convened within two (2) months, as required by rule 29.2(b) above, the requisitionists, or at least 50% of their number, may convene a special general meeting. Such a meeting must be convened in the same manner as nearly as practical as a meeting convened by the Board, and for this purpose the Board will ensure that the requisitionists are supplied free of charge with particulars of

the Members entitled to receive a notice of meeting. The reasonable expenses of convening and conducting such a meeting will be borne by the Association.

29.3 Notice of general meetings

- (a) At least 21 days' notice of any general meeting must be given to Members. The notice must set out where and when the meeting will be held, and particulars of the nature and order of the business to be transacted at the meeting.

29.4 Proceedings at general meetings

- (a) At least 50% of the Members are present personally or by proxy will constitute a quorum for the transaction of business at any general meeting.
- (b) If within 30 minutes after the time appointed for the meeting a quorum of Members is not present, a meeting convened upon the requisition of Members will lapse. In any other case, the meeting will stand adjourned to the same day in the next week, at the same time and place and if at such adjourned meeting a quorum is not present within 30 minutes of the time appointed for the meeting the Members present will form a quorum.
- (c) Subject to rule 29.4(d), the chairperson of the Association will preside as the chairperson at a general meeting of the Association.
- (d) If the chairperson is not present within five (5) minutes after the time appointed for holding the meeting, or he or she is present but declines to take or retires from the role of chairperson, the Members may choose a Board Member or one (1) of their own number to be the chairperson of that meeting.
- (e) Subject to this constitution and the Act, general meetings of the Association will be conducted in accordance with the rules for transacting business adopted by the Church.

29.5 Voting at general meetings

- (a) Subject to this constitution, each Member has only one (1) vote at a general meeting of the Association, whether in attendance or by proxy.
- (b) Subject to this constitution, a question for decision at a general meeting, other than where a Special Resolution is required, must be determined by a majority of Members who, being entitled to do so, vote in person or, where proxies are allowed, by proxy, at that meeting. For the avoidance of doubt, the chairperson has a personal deliberative vote if the chairperson is a Member, as well as a casting vote.
- (c) A Board Member that is not a Representative of a Member may attend general meetings of the Association in a non-voting capacity.
- (d) Unless a poll is demanded by at least 10 Members, a question for decision at a general meeting must be determined by a show of hands.

29.6 Poll at general meetings

- (a) If a poll is demanded by at least 10 Members, it must be conducted in a manner specified by the chairperson and the result of the poll is the resolution of the meeting on that question.
- (b) A poll demanded for the election of a person presiding or on a question of adjournment must be taken immediately, but any other poll may be conducted at any time before the close of the meeting.

29.7 Special and ordinary resolutions

- (a) As defined in the Act, a special resolution of an incorporated association where the rules of the association provide for membership of the association means a resolution passed at a duly convened meeting of the Members if:
 - (1) at least 21 days written notice specifying the intention to propose the resolution as a special resolution has been given to all Members; and
 - (2) it is passed at a meeting referred to in this paragraph by a majority of not less than three-quarters of such Members as, being entitled to do so, vote in person or, where proxies are allowed, by proxy, at that meeting.
- (b) An ordinary resolution is a resolution passed by a simple majority at a general meeting.

29.8 Proxies

A Member is entitled to appoint in writing a natural person who is also a Member or a Representative of a Member to be their proxy and attend and vote at any general meeting of the Association.

30. Minutes

- (a) Proper minutes of all proceedings of general meetings of the Association and of meetings of the Board, must be entered within one (1) month after the relevant meeting in minute books kept for the purpose.
- (b) The minutes kept pursuant to this rule must be confirmed by the Members or the Board (as relevant) at a subsequent meeting.
- (c) The minutes kept pursuant to this rule must be signed by the chairperson of the meeting at which the proceedings took place or by the chairperson of the next succeeding meeting at which the minutes are confirmed.
- (d) Where minutes are entered and signed they will, until the contrary is proved, be evidence that the meeting was convened and duly held, that all proceedings held at the meeting will be deemed to have been duly held, and that all appointments made at a meeting will be deemed to be valid.

Part 6 - General

31. Financial reporting

31.1 Financial year

The financial year of the Association is the period commencing on 1 January and ending on 31 December of each year.

31.2 Accounts to be kept

The Association must keep and retain such accounting records as are necessary to correctly record and explain the financial transactions and financial position of the Association in accordance with the Act.

31.3 Accounts and reports to be laid before Members and LCA SA-NT District

The accounts, together with the auditor's report on the accounts, the Board's statement and the Board's report, must be:

- (a) laid before Members at the annual general meeting; and
- (b) provided to LCA SA-NT District Church Council within one (1) month of the annual general meeting.

31.4 Annual returns

If required by the Act, the annual (periodic) return must be lodged in accordance with the Act within six (6) months after the end of each financial year. It must be accompanied by a copy of the accounts, the auditor's report, the Board's statement, and the Board's report.

31.5 Appointment of auditor

- (a) Unless directed otherwise by LCA SA-NT District, the Board must appoint an auditor to be the auditor of the Association by written notice given to the auditor.
- (b) The auditor will hold office until the auditor's appointment is revoked by written notice given to the auditor.
- (c) The auditor must hold qualifications as are generally recognised by the accounting profession from time to time.

32. Staff

- (a) Subject to rule 32(b), the Association may employ or engage professional and support staff to assist the Association to fulfil its objects.

- (b) Unless otherwise determined by the Board, no Representative of a Member may be employed to any wage-earning or salaried office of the Association.
- (c) The Association must pay salaries and wages of any employees and make due provision for long service leave and other conditions of service as may be required by Law.
- (d) Employee appointments will be made by the Executive Director within the constraints of the budget for the Association, as determined by the Board.
- (e) Employees of the Association are accountable to the Executive Director.
- (f) The Executive Director is accountable to the Association and the Board through the chairperson.

33. Prohibition against securing profits

The income and capital of the Association must be applied exclusively to the promotion of its objects and no portion may be paid or distributed directly or indirectly to any Member, Representative, Board Member or their associates except as bona fide remuneration or an honorarium of a Member, Representative, Board Member or their associates for services rendered or expenses incurred on behalf of the Association. This rule does not prohibit the reimbursement of reasonable expenses or the payment of reasonable remuneration or an honorarium to a Board Member.

34. Indemnity

- (a) Any Board Members, officers or employees of the Association will be indemnified out of the assets of the Association against any liability incurred by him or her in defending any proceedings, whether civil or criminal, brought by reason of his or her actions in relation to or connected with the Association, in which judgment is given in his or her favour or in which he or she is acquitted.
- (b) The Association may enter into contracts of insurance in respect of the liabilities contemplated in rule 34(a), as permitted by Law and the Act.

35. Winding up

- (a) The Association may be wound up in the manner provided for in the Act.
- (b) Without limiting the role of an external administrator or the Association, the Association must first pay its liabilities under any funding arrangements with the Federal or State Governments before being wound up.

36. Application of surplus assets

If after the winding up of the Association there remains 'surplus assets' as defined in the Act, such surplus assets will be distributed:

- (a) first, to LCA SA-NT District and applied for the benefit of not-for-profit bodies of LCA SA-NT District which provide related educational services to school-age children or students, provided that the LCA SA-NT District and the not-for-profit bodies have similar objects and have rules which prohibit the distribution of its assets and income to its members; and
 - (b) if the above is not lawful or possible, to an organisation or organisations that are eligible recipients of the surplus assets and which are identified and determined by a resolution of Members in general meeting.
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37. Notices

37.1 In writing

- (a) Notice must be in writing (which for the avoidance of doubt includes the text of an electronic communication such as email) and in English, and may be given by an authorised representative of the sender.

37.2 Notice to Members

- (a) The Association may give notice to a Member:
 - (1) personally;
 - (2) by sending it by post to the address of the Member in the register of members or the alternative address (if any) nominated by the Member;
 - (3) by sending it to the electronic address (if any) nominated by the Member.
- (b) A notice to a Member is sufficient, even if the Member (whether or not a joint Member) is dead, mentally incapacitated, an infant, bankrupt or an externally-administered body corporate, and the Association has notice of that event.

37.3 Notice to Board Members

- (a) The Association may give notice to a Board Member:
 - (1) personally;
 - (2) by sending it by post to the Board Member's usual residential or business address or any other address nominated by them;
 - (3) by sending it to the electronic address (if any) nominated by the Board Member.

37.4 Notice to the Association

- (a) A person may give notice to the Association:
 - (1) by leaving it at the Association's registered office;
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- (2) by sending it by post to the Association's registered office;
- (3) by sending it to the electronic address of the Association's registered office.

37.5 Time of service

- (a) A notice sent by post within Australia is taken to be given seven (7) Business Days after posting.
- (b) A notice sent by post to or from a place outside Australia is taken to be given fourteen (14) Business Days after posting.
- (c) A notice sent by email or other electronic means is taken to have been given when the sender's server indicates it has been sent or routed to the recipient's email server and it has not been rejected or returned.

38. Altering this constitution

- 38.1 Subject to rules 5.1(c) and 38.2, this constitution may be altered (including an alteration to the Association's name) by Special Resolution of the Members in general meeting. This includes rescission or replacement by substitute rules.
- 38.2 Rule 3 and 38.2 of this constitution are considered fundamental and shall not be amended, altered, added to or repealed so as to alter their intent and meaning.
- 38.3 The alteration must be registered as required by the Act.
- 38.4 The registered constitution will bind the Association and every Member to the same extent as if they have respectively signed and sealed them and agreed to be bound by all of the provisions thereof.

39. Standing orders and administrative policies and procedures

The Board may establish a set of administrative policies and procedures not inconsistent with this constitution and the Act, to facilitate the effective operation of the Association. These and any alterations and/or amendments must be made available to Members upon request.

40. Date of effect

This constitution will be effective from the date this constitution is adopted by the Members pursuant to rule 38.1 (following the approval by the LCA SA-NT District Church Council pursuant to rule 5.1(c)).

Part 7 – Transitional rules

41. Transitional rules

Despite anything else in this constitution, from the date this constitution becomes effective pursuant to rule 40:

- (a) the Board will comprise the natural persons then holding office as members of the Board, being the persons elected or appointed under rule 18 of the previous constitution of the Association;
- (b) the Board Members referred to in rule 41(a) shall hold office for the unexpired balance of the term of each respective Board Member's office unless such office is vacated pursuant to rule 21 of this constitution;
- (c) the chairperson and deputy chairperson will be the natural persons then holding the office of chairperson and deputy chairperson, being the persons elected under rule 19(b) of the previous constitution of the Association;
- (d) the chairperson and deputy chairperson referred to in rule 41(c) shall hold such positions for the unexpired balance of their respective terms.