



KINROSS WOLAROI — SCHOOL —

Kinross Wolaroi School Limited

(ACN 645 079 607)

59 - 67 Bathurst Road, Orange
www.kws.nsw.edu.au

Constitution

As approved by the Synod Standing Committee of The Uniting Church in Australia, Synod of New South Wales and the Australian Capital Territory on 13 October 2020.

Table of Contents

1.	Name of the Company	6
2.	Definitions and Interpretations	6
	2.1 Definitions	6
	2.2 Interpretation	8
	2.3 Headings	10
	2.4 Application of the Corporations Act and ACNC Act	10
3.	Objects of the School	10
	3.1 Preamble	10
	3.2 Legal Successor	10
	3.3 Objects	11
4.	Institution	11
5.	Powers of the School.....	11
	Legal Capacity.....	11
6.	Income and Property of the School.....	11
	6.1 Real property	11
	6.2 Application to Objects.....	11
	6.3 No payments to Council Members and Members	12
	6.4 No payment of fees to Council Members and Members	12
	6.5 Certain payments acceptable	12
7.	Membership	13
	7.1 Number of Members.....	13
	7.2 Notification to the School.....	13
	7.3 Register	13
	7.4 Limited Guarantee	13
	7.5 Contribution by Members	13
	7.6 No transfer of membership.....	13
8.	Cessation of Membership.....	13
	8.1 Death, resignation and other events	13
	8.2 Resignation of a Member	14
	8.3 Removal of a Member	14
	8.4 Casual vacancy	14
9.	General Meetings	14
	9.1 Annual General Meeting.....	14
	9.2 Power to convene General Meeting	14
	9.3 Notice of General Meeting.....	15
	9.4 Auditor entitled to notice	15
	9.5 Cancellation or postponement of General Meeting	15
	9.6 General conduct of meeting	16

9.7	No vote contrary to the Corporations Act	16
10.	Proceedings at General meetings and other meetings	16
10.1	Business	16
10.2	Attendance by Member	17
10.3	Quorum.....	17
10.4	Chair	17
10.5	No casting vote for the chair.....	17
10.6	Determination of questions.....	17
10.7	Majority	18
10.8	Poll.....	18
10.9	Adjournment	18
10.10	Voting rights.....	18
10.11	Appointment of proxy	19
10.12	Right to appoint attorney	19
10.13	Receipt of proxy and other instruments.....	20
10.14	Validity of vote in certain circumstances	20
10.15	Electronic meeting.....	20
11.	Council	20
11.1	Eligibility.....	20
11.2	Composition of the Council	20
11.3	Term of Council Members	21
11.4	Election of Council Members.....	21
11.5	Office Bearers.....	21
11.6	Election of Office Bearers.....	21
11.7	Rotation of office of Chair	22
11.8	Casual vacancies	22
11.9	Removal of Office Bearer	22
11.10	Transitional	22
12.	Vacation of office	23
12.1	Vacancy of office of Council Member	23
12.2	Removal of a Council Member	23
12.3	Notice to a Council Member	24
13.	Powers and duties of the Council	24
13.1	Council to Manage the School	24
13.2	Specific powers of Council	24
13.3	Specific duties of Council Members	24
13.4	Discretion to exercise powers	25
13.5	Powers of delegation	25
13.6	May appoint attorney or agent.....	25
13.7	Execution of School cheques etc.	25
13.8	Council Member's contracts with the School.....	25

13.9	Restrictions on Council Member voting	26
13.10	Professional capacity.....	26
13.11	May affix Seal notwithstanding interest	26
13.12	Disclosure of interest	26
13.13	Record of disclosures	27
13.14	Meaning of "contract"	27
14.	Proceedings of the Council.....	27
14.1	Meetings	27
14.2	Quorum.....	27
14.3	Convening meetings.....	28
14.4	Notice of meeting.....	28
14.5	Chair and Deputy Chair	28
14.6	Voting	28
14.7	Committees of the Council	28
14.8	Written resolution.....	29
14.9	Use of technology.....	29
14.10	Validity of acts of Council Members	29
15.	Minutes	29
15.1	Minutes of all proceedings to be kept.....	29
15.2	Minutes to be signed by Chair	30
15.3	Minutes to be presumed accurate	30
15.4	Inspection of minutes	30
16.	Secretary	30
16.1	Appointment of Secretary	30
16.2	Suspension or removal of Secretary	30
16.3	Powers of Secretary	30
17.	Principal	30
18.	Business Manager.....	30
18.1	Appointment	30
18.2	Role	31
19.	Auditor.....	31
19.1	Appointment	31
19.2	Role	31
20.	Seals	31
20.1	The Common and Duplicate Common Seal.....	31
20.2	Affixing Seal.....	31
20.3	Electronic signature	31
21.	Dispute Resolution Mechanism.....	31
21.1	Application	31
21.2	Reference to Dispute Resolution Committee	32
21.3	Nomination of Council Member	32

22.	Inspection of books	32
23.	Notices.....	33
23.1	Method of service of notices.....	33
23.2	Time of service	33
23.3	Time of service electronically	33
23.4	Signature on notices.....	33
23.5	Calculation of notice period	33
24.	Accounts	34
24.1	School to maintain	34
24.2	Annual Accounts.....	34
24.3	Copy of Accounts	34
24.4	Accounts conclusive	34
24.5	Financial year	34
24.6	Not-for-profit	34
24.7	Charitable fundraising	34
25.	Winding up	35
25.1	Voluntary winding up	35
25.2	Prohibition on Transfer	35
26.	Indemnity and Insurance	35
26.1	Indemnities by the School	35
26.2	Indemnity by UCA Property Trust.....	36
26.3	Insurance.....	36
26.4	Interpretation	37
27.	Deductible Gift Recipient Status	37
27.1	Deductible Gift Recipient endorsement.....	37
27.2	Deductible Gift Recipient accounting	37
27.3	Transfer on Dissolution or Cessation of Deductible Gift Recipient Endorsement.....	37
27.4	Synod	38
28.	Alteration of the Constitution	38
28.1	Amendment	38
28.2	Approval of the Standing Committee.....	38
29.	Regulations	38

Kinross Wolaroi School Limited

Constitution

1. Name of the Company

The name of the company is Kinross Wolaroi School Limited.

2. Definitions and Interpretations

2.1 Definitions

In the Constitution:

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

Annual Accounts mean the accounts prescribed in clause 24.

Assembly means the national council of the Church as defined in the Basis of Union and in section 5 of the UCA Act.

Auditor means the auditor for the time being of the School appointed pursuant to clause 19.

Basis of Union means the Basis contained in Schedule 2 to the UCA Act.

Business Day means a day on which banks are open for general business in Sydney.

Business Manager means the individual appointed by the Council pursuant to clause 18.

Charitable Fundraising Legislation means the *Charitable Fundraising Act 1991* (NSW).

Chair and **Deputy Chair** means the individuals elected pursuant to clauses 11.5 and 11.6.

Church means The Uniting Church in Australia.

Church Constitution means the Constitution of the Church adopted by the Assembly pursuant to section 9 of the UCA Act.

Church Law means the UCA Act; the Basis of Union; the Church Constitution; the Church Regulations; Synod By-Laws and all policies and rules of the Church.

Church Member means an individual who is a member of the Church in any of the forms prescribed in Reg. 1.1.2 of the Church Regulations.

Church Regulations means the Church Regulations promulgated by the Assembly pursuant to the Church Constitution and the UCA Act.

Committee means a committee established by the Council pursuant to clause 14.7.

Constitution means this constitution of the School.

Corporations Act means the *Corporations Act 2001* (Cth).

Constitution

Council means the Council Members acting as a board of directors pursuant to this Constitution.

Council Members mean the individuals who are members of the Council.

Deed of Trust means the deed prescribed in clause 6.1(a).

Dispute Resolution Committee means the committee prescribed in clause 21.2.

Dispute Resolution Mechanism is the means by which a dispute between the Members shall be resolved pursuant to clause 21.

Finance Committee means the committee of Council established to discuss, consider and make recommendations to Council in connection with the financial management of the School otherwise in accordance with its charter prescribed by the Council and whose chair shall be the Treasurer.

General Meeting means a meeting of the Members of the School.

General Secretary means the General Secretary of the Synod.

Imported Provisions means the following provisions of the Corporations Act:

- (a) Section 139 (*Company must send copy of constitution to Members*);
- (b) Sections 191, 192, 193 and 195 (*Disclosure of and voting on matters involving, directors' material personal interests*);
- (c) Divisions 3 and 5 of Part 2G.2 (*Meetings of Members of companies*) (excluding any replaceable rules); and
- (d) Part 2G.3 (*Minutes and Members' access to minutes*).

Institution means an Institution of the Church as defined in the Church Regulations and in accordance with clause 4.

KWS Trustee means Kinross Wolaroi School Property Limited, a company limited by guarantee incorporated under the Corporations Act established for the charitable objects prescribed in its constitution which is to hold certain real property assets on a charitable trust for their use by the School for its charitable purposes.

Member means a member of the School pursuant to clause 7.

Moderator means the Moderator of the Synod.

Notice means a notice pursuant to, or for the purposes of, this Constitution or the Corporations Act and/or the ACNC Act.

Objects means the Objects of the School prescribed in clause 3.

Office means the registered office for the time being of the School.

Office Bearers mean the Chair, Deputy Chair and Treasurer of the School.

Principal means the Principal of the School appointed by the Council pursuant to clause 17 or the individual appointed by the Council to act temporarily as the Principal from time to time.

Constitution

Register means the register of Members kept under the Corporations Act.

Registered Entity means a body corporate registered under the ACNC Act.

Relationship Agreement means an agreement between the School, KWS Trustee and the Synod (or other entities on their behalf of them) from time to time (if any) that prescribes their intentions for the ongoing relationship between them and without limitation includes the document of that name proposed to be entered into by the company and the UCA Property Trust at or soon after the time of incorporation of the company.

School means Kinross Wolaroi School Limited.

Seal means the common seal of the School.

Secretary means the individual(s) appointed by the Council pursuant to clause 16.

Special Resolution means a resolution that has been passed by at least a seventy five per cent (75%) majority.

Staff means any paid employee of the School, whether casual, full or part time and (without limitation) includes the Principal.

Standing Committee means the Standing Committee of the Synod.

State means the State of New South Wales.

Synod means the Synod of NSW and ACT of the Church or the Standing Committee when acting on behalf of the Synod between meetings of the Synod.

Synod By-Laws means the by-laws of the Synod made by the Synod pursuant to clause 63 of the Church Constitution.

Tax Act means the *Income Assessment Act 1936* (Cth) or the *Income Tax Assessment Act 1997* (Cth) as the context requires.

Treasurer means the individual elected to chair the Finance Committee pursuant to clauses 11.5 and 11.6.

UCA Act means the *Uniting Church in Australia Act 1977* (NSW).

UCA Property Trust means The Uniting Church in Australia Property Trust (N.S.W) (ARBN 134 487 095).

2.2 Interpretation

In this Constitution unless the context requires otherwise:

- (a) Part 1.2 Division 8 of the Corporations Act applies, so far as it can with such changes as are necessary, to this Constitution as if this Constitution was a provision of the Corporations Act except where such provision conflicts with the ACNC Act then the ACNC Act shall apply to the extent of any inconsistency whilst the School is a Registered Entity;
- (b) an expression in a clause that deals with a matter dealt with by a provision of the Corporations Act has the same meaning as in that provision of the Corporations Act;

Constitution

- (c) words (including defined expressions) importing the singular include the plural and vice versa;
- (d) words (including defined expressions) importing any gender include the other gender;
- (e) words (including defined expressions) importing persons shall include corporations and bodies politic;
- (f) "writing" and "written" includes printing, typing and other modes of reproducing words in visible form including any representation of words in a physical document or in an electronic communication or form or otherwise including signatures affixed electronically in accordance with the *Electronic Transactions Act 2000* (NSW);
- (g) the meaning of general words is not limited by specific examples introduced by "including", "for example" or "such as" or similar expressions;
- (h) a reference to a document (including this Constitution) includes any variation or replacement of it;
- (i) a reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements in any of them (whether of the same or any other legislative authority having jurisdiction);
- (j) references to writing include any mode of representing or reproducing words in tangible and permanently visible form and includes electronic mail and facsimile transmission;
- (k) any power, right, discretion or authority conferred upon any person or groups of persons under this Constitution may be exercised at any time and from time to time;
- (l) the word "present" in the context of a person being present at a meeting includes participation in the meeting using technology approved by the Council in accordance with this Constitution;
- (m) a reference to an entity includes any successor entity;
- (n) reference to a month and cognate terms means a period commencing on any day of a calendar month and ending on the corresponding day in the next succeeding calendar month but if a corresponding day does not occur in the next succeeding calendar month the period shall end on the last day of the next succeeding calendar month;
- (o) a reference to a clause is a reference to one of the clauses or sub-clauses of this Constitution;
- (p) references in this Constitution to particular councils or officers of the Church or bodies within the Church include references to the councils, officers or bodies that from time to time have the same or similar responsibilities or functions within the Church;
- (q) if any provision in this Constitution contravenes the Corporations Act, the ACNC Act or any other law, it shall not apply only to such extent as is necessary for compliance with the Corporations Act, the ACNC Act or the other law as the case may be; and
- (r) section 25 of the *Acts Interpretation Act 1901* (Cth) (that deals with electronic documents) and section 46 of the said Act (that deals amongst other things with severance of invalid provisions) applies in the interpretation and operation of this Constitution as if it were an instrument made under that statute.

Constitution

2.3 Headings

Headings do not affect the interpretation of this Constitution.

2.4 Application of the Corporations Act and ACNC Act

- (a) Each of the provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and do not apply to the School except as explicitly provided in this Constitution.
- (b) If, while the School is a Registered Entity the Corporations Act operates such that an Imported Provision does not apply to the School because the School is a Registered Entity:
 - (i) a clause in the same terms as the Imported Provision, along with any relevant definitions in the Corporations Act, is deemed to be included in this Constitution and to apply to the School to the extent the Imported Provision would have applied to the School were the School not a Registered Entity (**Equivalent Rule**);
 - (ii) a reference in this Constitution to an Imported Provision is deemed to be a reference to the Equivalent Rule.
- (c) An expression used in a particular Part or Division of the Corporations Act that is given by that Part or Division a special meaning for the purposes of that Part or Division has in any provision of this Constitution that deals with a matter dealt with by that Part or Division the same meaning as in that Part or Division.
- (d) Where the Corporations Act and/or ACNC Act authorises or permits a company to do any matter or thing if so authorised by its constitution the School is and will be taken by this clause to be authorised or permitted to do that matter or thing, despite any other provisions of this Constitution.

3. Objects of the School

3.1 Preamble

Kinross Wolaroi School (**KWS**) was founded in 1886 as Weymouth House changing its name to Wolaroi Grammar School in 1893. Presbyterian Ladies School Orange was founded in 1928 and in 1975 the two schools amalgamated to form KWS.

With the inauguration of The Uniting Church in Australia in 1977, KWS became a Uniting Church school.

To reflect contemporary corporate structure and governance in the best interests of KWS whilst continuing as a school of the Uniting Church, as a fellowship of reconciliation, a body within which the diverse gifts of its community are used for the building up of the whole and as an instrument through which Christ may work and bear witness to himself in accordance with the Basis of Union, and as part of the mission and ministry of the Church, each of KWS and the Synod resolved in 2020 that KWS be constituted as a company limited by guarantee in accordance with the Corporations Act.

3.2 Legal Successor

The School is the successor to and is to assume the right, title, interest, assets and liabilities of the unincorporated KWS and conduct all of its charitable activities.

Constitution

3.3 Objects

The charitable objects for which the School is established are to provide a co-educational school for students regardless of their race, religion or creed, consistent with Christian principles, the Basis of Union and the ethos and polity of the Church.

4. Institution

- (a) The School is an Institution of the Church.
- (b) The School, its officers and Council Members, recognise the Synod's powers and responsibilities in respect of the School as an Institution as are prescribed in the Church Law.
- (c) The Synod recognises the Corporations Act, the ACNC Act, the *Education Act 1990* (NSW) and other regulatory powers and requirements of the School as an incorporated body and educational institution.
- (d) In the event of any conflict arising between the legal or regulatory obligations of the School and the Church Law, the legal and regulatory obligations take precedence.
- (e) Except as may be agreed in writing between the School and the Synod, the Synod shall have no other powers and responsibilities over the School pursuant to Church Law other than as prescribed in this Constitution.

5. Powers of the School

Legal Capacity

Solely for the purpose of carrying out its Objects, the School has the legal capacity and powers of an individual and as prescribed in section 124(1) of the Corporations Act.

6. Income and Property of the School

6.1 Real property

- (a) All real property prescribed in a Deed of Trust between UCA Property Trust, the pre-incorporated Kinross Wolaroi School, the School and KWS Trustee used by the School shall be vested in KWS Trustee as trustee and held in accordance with the purposes of the trust pursuant to the Deed of Trust.
- (b) The trust prescribed in clause 6.1(a) is a charitable trust for the purposes of the endowment, conduct and advancement of education consistent with Christian principles, the Basis of Union and the ethos and polity of the Church in and through the School's educational activities in accordance with the Objects.

6.2 Application to Objects

The income and property of the School, irrespective of its source, must be applied solely towards the promotion of the Objects of the School.

Constitution

6.3 No payments to Council Members and Members

Except as provided for in clause 6.5 of this Constitution, no part of the income or property of the School must be paid or transferred directly or indirectly by way of dividend, bonus or otherwise to the Council Members or Members.

6.4 No payment of fees to Council Members and Members

The payment of fees to Council Members or Members as remuneration for their services as Council Members or Members in whatever form by the School is prohibited.

6.5 Certain payments acceptable

Clauses 6.3 and 6.4 do not prevent the payment in good faith of:

- (a) remuneration to any officers or employees of the School in return for any services actually rendered to the School or for goods supplied in the ordinary and usual way of business;
- (b) out-of-pocket expenses incurred on behalf of the School including, in the case of a Council Member or Member, in carrying out the duties of a Council Member or Member, where the payments do not exceed an amount previously approved by the Council;
- (c) remuneration for any service rendered to the School by a Council Member in a professional or technical capacity, other than in the capacity as a Council Member of the School, where:
 - (i) the provision of the service has the prior approval of the Council; and
 - (ii) the amount payable is not more than an amount that commercially would be reasonable payment for the service;
- (d) expenses for goods supplied in the ordinary and usual course of business;
- (e) reasonable and proper rent for premises or personal property leased to the School by any Council Member; and
- (f) payments pursuant to the Relationship Agreement.

6.6 Tax exempt and Registered Entity

The School shall take all such action and do all such things as are necessary or expedient to obtain and thereafter to maintain at all times its status as a:

- (a) tax-exempt body within the meaning of s.50-5 of the Tax Act; and
- (b) a Registered Entity.

Constitution

7. Membership

7.1 Number of Members

The membership of the School shall consist of:

- (a) Three (3) individuals who shall be appointed by the Synod; and
- (b) Three (3) individuals who shall be appointed by the Council.

7.2 Notification to the School

Each of the Synod and the Council shall promptly notify the Secretary of the appointment of an individual as a Member.

7.3 Register

- (a) Upon admission as a Member, that individual's details (including the appointer) will be recorded in the Register; and
- (b) A Member must promptly notify the School of any change in the Member's details that are recorded in the Register.

7.4 Limited Guarantee

A Member has no liability as a Member except as prescribed in clause 7.5.

7.5 Contribution by Members

Each Member undertakes to contribute to the property of the School if it is wound up whilst the Member is a Member, or within one (1) year after the Member ceases to be a Member, for the payment of the debts and liabilities of the School (contracted before the Member ceases to be a Member) and the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding ten (10) dollars.

7.6 No transfer of membership

A Member must not sell, transfer or dispose of their interest in the School to another Member or third party.

8. Cessation of Membership

8.1 Death, resignation and other events

A Member immediately ceases to be a Member if the individual:

- (a) dies;
- (b) resigns by giving notice in writing to the School;
- (c) becomes of unsound mind or an individual whose estate is liable to be dealt with in any way under the law relating to mental health;

Constitution

- (d) becomes bankrupt or suspends payment or liquidates by arrangement or compounds with or assigns the Member's joint and separate estate for the benefit of the Member's creditors;
- (e) is or becomes a registrable person for the purposes of the *Child Protection (Offenders Registration) Act 2000* (NSW);
- (f) being a member appointed in accordance with 7.1(a) is removed in accordance with clause 8.3(a);
- (g) being a member appointed in clause 7.1(b) is removed in accordance with clause 8.3(b);
- (h) is terminated in General Meeting in accordance with this Constitution;
- (i) is convicted on indictment of an offence and the Council does not within one (1) month after that conviction resolve to confirm the Member's membership of the School; or
- (j) is precluded or becomes precluded from holding office as a member or director of a company by virtue of the Corporations Act, the ACNC Act, the Australian Education Act 2013 (Cth) or as a consequence of any order of, or action by any judicial, administrative or legislative body of competent jurisdiction.

8.2 Resignation of a Member

An individual shall give one (1) months' notice of intention to resign that shall take effect upon the expiry of that notice or by earlier acceptance of the notice by the Council.

8.3 Removal of a Member

- (a) The Synod may at any time terminate the membership of a Member appointed in accordance with clause 7.1(a) by giving notice in writing of such termination to the School.
- (b) The Council may at any time terminate the membership of a Member appointed in accordance with clause 7.1(b) by giving notice in writing of such termination to the Synod.

8.4 Casual vacancy

In the event of a casual vacancy the Synod, in respect of an individual appointed pursuant to clause 7.1(a), or the Council, in respect of an individual appointed pursuant to clause 7.1(b), shall appoint an individual to fill the vacancy.

9. General Meetings

9.1 Annual General Meeting

An annual General Meeting must be held in accordance with the Corporations Act.

9.2 Power to convene General Meeting

The Council may convene a General Meeting whenever it thinks fit and must convene a General Meeting when requisitioned by Members in accordance with the Corporations Act. No Member may call a General Meeting except as provided by the Corporations Act.

Constitution

9.3 Notice of General Meeting

- (a) Except where section 249H(2) of the Corporations Act applies, at least twenty one (21) days' notice must be given of a General Meeting.
- (b) A notice of a meeting must be given in accordance with section 249J and the replaceable rule in section 249J(4) applies.
- (c) A notice convening a General Meeting must:
 - (i) specify the place, date and time of the meeting and state the general nature of the business to be dealt with at the meeting and if the meeting is to be held in two or more places, the technology that will be used to facilitate the holding of the meeting in that manner;
 - (ii) state that:
 - (A) a Member entitled to attend and vote is entitled to appoint a proxy; and
 - (B) a proxy must be a Member.
- (d) If a Special Resolution is to be proposed the notice of meeting must set out an intention to propose a Special Resolution and state the resolution.
- (e) The non-receipt of a notice of a General Meeting or advance notice pursuant to clause 9.3(a) by, or the accidental omission to give notice of a General Meeting or advance notice under clause 9.3(a) to a person entitled to receive notice, does not invalidate any resolution passed at the General Meeting.

9.4 Auditor entitled to notice

The School must give its Auditor:

- (a) notice of a General Meeting in the same way that a Member is entitled to receive notice; and
- (b) any other communications relating to the General Meeting that a Member is entitled to receive.

9.5 Cancellation or postponement of General Meeting

- (a) Where a General Meeting (including an annual General Meeting) is convened by the Council, it may, whenever it thinks fit, cancel the meeting or postpone the holding of the meeting to a date and time determined by it.
- (b) Written notice of cancellation or postponement of a General Meeting must be given to all persons entitled to receive notices of General Meetings from the School at least three (3) days before the date for which the meeting is convened and must specify the reason for cancellation or postponement.
- (c) A notice postponing the holding of a General Meeting must specify:
 - (i) a date and time for the holding of the meeting;
 - (ii) a place for the holding of the meeting, which may be either the same as or different from the place specified in the notice convening the meeting;

Constitution

- (iii) if the meeting is to be held in two or more places, the technology that will be used to facilitate the holding of the meeting in that manner.
- (d) The number of clear days from the giving of a notice postponing the holding of a General Meeting to the date specified in that notice for the holding of the meeting may not be less than the number of clear days' notice of the meeting required to be given by this Constitution or the Corporations Act.
- (e) The only business that may be transacted at a General Meeting that is postponed is the business specified in the notice pursuant to clause 9.3 that convened the meeting.
- (f) The accidental omission to give notice of the cancellation or postponement of a meeting to, or the non-receipt of any such notice by, any person entitled to notice does not invalidate that cancellation or postponement or any resolution passed at a postponed meeting.
- (g) Where:
 - (i) by the terms of an instrument appointing a proxy, a proxy is authorised to attend and vote at a General Meeting to be held on a specified date or at a General Meeting or General Meetings to be held on or before a specified date;
 - (ii) the date for holding the meeting is postponed to a date later than the date specified in the instrument of proxy;then, by force of this clause, that later date is substituted for and applies to the exclusion of the date specified in the instrument of proxy unless the Member appointing the proxy gives to the School at the Office notice in writing to the contrary not less than forty-eight (48) hours before the time to which the holding of the meeting has been postponed.
- (h) Clauses 9.5(a) to (g) (both inclusive) do not apply to a General Meeting convened by the Members pursuant to section 249F of the Corporations Act or by the Council pursuant to a requisition of Members pursuant to the Corporations Act.

9.6 General conduct of meeting

A chair of a General Meeting will be responsible for the general conduct of General Meetings and for the procedures to be adopted at General Meetings. The chair of the General Meeting may make rulings, adjourn the meeting without putting the question (or any question) to the vote if such action is required to ensure the orderly conduct of the General Meeting. A chair of a General Meeting may determine conclusively any dispute concerning the admission, validity or rejection of a vote.

9.7 No vote contrary to the Corporations Act

Notwithstanding any other clause, a Member present in person or by proxy will not be entitled to vote and any vote purported to be cast by a Member present in person or by proxy, will be disregarded, on a particular resolution where such a vote is prohibited by the Corporations Act.

10. Proceedings at General meetings and other meetings

10.1 Business

The business of an annual General Meeting is to elect the Council Members and to receive and consider the Annual Accounts and the reports of the Council and the Auditor.

Constitution

10.2 Attendance by Member

- (a) A Member may be present and vote in person or may be represented at any General Meeting by proxy.
- (b) Unless the contrary intention appears, a reference to a Member in clause 10 means a person who is a Member, or is a proxy of that Member.

10.3 Quorum

- (a) Subject to clause 10.3(d), four (4) persons, two (2) of whom shall be those persons appointed by the Synod and two (2) of whom shall be those persons appointed by the Council, each being a Member present in person or by proxy, are a quorum at a General Meeting.
- (b) An item of business may not be transacted at a General Meeting unless a quorum is present when the meeting proceeds to consider it, but if a quorum is present at the beginning of a meeting it is deemed to be present throughout the meeting unless the chair of the meeting on the chair's own motion or at the instance of a Member or proxy who is present, otherwise declares.
- (c) If within fifteen (15) minutes after the time appointed for a meeting a quorum is not present, the meeting:
 - (i) if convened on a requisition of Members is dissolved;
 - (ii) in any other case stands adjourned to the same day in the next week and the same time and place, or for such other day, time and place as the Council appoints by notice to the Members and others entitled to notice of the meeting.
- (d) At a meeting adjourned pursuant to clause 10.3(c)(ii), four (4) persons each being a Member or proxy present at the meeting are a quorum, and if a quorum is not present within fifteen (15) minutes after the time appointed for the adjourned meeting the meeting is dissolved.

10.4 Chair

The Members shall elect a chair of the General Meeting if the Chair is not a Member, but otherwise the Chair shall chair the General Meeting.

10.5 No casting vote for the chair

If there is an equality of votes, whether on a show of hands or on a poll, the chair is not entitled to a casting vote. A resolution in which there is an equality of votes may be withdrawn by the proposer of the resolution, otherwise the resolution shall be resolved pursuant to the Dispute Resolution Mechanism.

10.6 Determination of questions

- (a) Every question submitted to a meeting is to be decided by a show of hands, unless a poll is demanded:
 - (i) before the vote is taken;
 - (ii) before the voting results and a show of hands are declared; or

Constitution

- (iii) immediately after the voting results on the show of hands are declared by:
 - (A) the chair of the meeting; or
 - (B) at least the number of Members prescribed in clause 10.3(a) present in person or by proxy and having the right to vote at the meeting,and the demand for the poll is not withdrawn.
- (b) On a show of hands, a declaration by the chair is conclusive evidence of the result.

10.7 Majority

Subject to the requirements of the Act, a resolution is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it.

10.8 Poll

- (a) If a poll is properly demanded and the demand is not withdrawn, it must be taken in such manner and at such time and place and at once or after an interval or adjournment or otherwise as the chair of the meeting then or subsequently determines. The result of the poll is to be deemed the resolution of the meeting at which the poll is demanded.
- (b) A poll demanded on the election of a chair of a meeting or on a question of adjournment must be taken immediately.
- (c) A demand for a poll does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.
- (d) A demand for a poll may be withdrawn.

10.9 Adjournment

- (a) The chair of a meeting may, with the consent of any meeting at which a quorum is present and must if so directed by the meeting, adjourn the meeting to a new time, day or place, but the only business that may be transacted at an adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.
- (b) If the meeting is adjourned for thirty (30) days or more, notice of the adjournment must be given in accordance with clause 9.3(a).
- (c) Subject to clause 10.9(b), it is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting.
- (d) A resolution passed at a meeting resumed after an adjournment is passed on the day it is passed.

10.10 Voting rights

- (a) Subject to the rights and any restrictions attached to or affecting Members and to any other restrictions in this Constitution:
 - (i) on a show of hands, each Member present in person and each other present as proxy of a Member has one vote; and

Constitution

- (ii) on a poll, each Member present in person has one vote and each person present as proxy of a Member has one vote or each Member that the person represents.
- (b) A proxy's authority to speak and vote for a Member at a meeting is suspended while the Member is present at the meeting.

10.11 Appointment of proxy

- (a) A Member entitled to attend and vote at a meeting of Members may appoint an individual as the Member's proxy to attend and vote for the Member at the meeting. A proxy must be a Member.
- (b) An appointment of a proxy is valid if it is signed by the Member making the appointment and contains the following information:
 - (i) the Member's name and address;
 - (ii) the School's name;
 - (iii) the proxy's name or the name of the office held by the proxy; and
 - (iv) the meetings at which the appointment may be used.

An appointment may be a standing one.

- (c) An undated appointment is to be taken to have been dated on the day it is given to the School.
- (d) An appointment may specify the way the proxy is to vote on a particular resolution.
- (e) Except to the extent that the appointment of a proxy expressly limits the exercise by the proxy of the power to vote at a meeting, a proxy has the same rights to attend, vote and otherwise act at the meeting as a Member attending the meeting in person.
- (f) An appointment of a proxy does not need to be witnessed.
- (g) A later appointment revokes an earlier one if both appointments could not be validly exercised at the meeting.
- (h) An instrument appointing a proxy is to be taken to confer authority to demand or join in demanding a poll.

10.12 Right to appoint attorney

A Member may by power of attorney duly executed in the presence of at least one (1) witness (if necessary), appoint an attorney to act on the Member's behalf at all or any meetings of the School. An attorney must be a Member.

Constitution

10.13 Receipt of proxy and other instruments

To be effective, an instrument appointing a proxy and any power of attorney under which it is executed or a copy (verified by statutory declaration as a true copy) of the power of attorney, or an instrument appointing the attorney pursuant to clause 10.12, in either case together with such evidence of due stamping (if necessary) and evidence of non-revocation of the power of attorney as the Council may require, must be received by the School at the Office or at such other place as is specified for that purpose in the notice convening the meeting, prior to the time appointed for the meeting or adjourned or postponed meeting or poll which the appointee proposes to attend or on which the appointee proposes to vote.

10.14 Validity of vote in certain circumstances

A vote given in accordance with the terms of an instrument of proxy or of power of attorney is valid notwithstanding:

- (a) the unsoundness of mind of the appointer;
- (b) the revocation of the instrument, or the authority under which the instrument was executed, or of the power,

if notice in writing of the death, unsoundness of mind or revocation has not been received by the School at the Office before the commencement of the meeting or adjourned meeting of which the instrument is used or the power is exercised.

10.15 Electronic meeting

A General Meeting may be called or held using any technology consented to by all of the Members. The consent may be a standing one. A Member may only withdraw their consent within a reasonable period before the meeting.

11. Council

11.1 Eligibility

Any individual other than a current member of the Staff is eligible to be appointed as a Council Member.

11.2 Composition of the Council

The Council shall comprise individuals with a diversity of skills, qualifications and experience and shall consist of:

- (a) not less than nine (9) and not more than twelve (12) individuals including Office Bearers;
- (b) the Council will use its best endeavours to ensure that at least three (3) of whom shall be female and three (3) of whom shall be male; and
- (c) the Council will use its best endeavours to appoint at least two (2) individuals who shall be ordained ministers of the Church.

Constitution

11.3 Term of Council Members

- (a) Subject to clauses 11.3(d) and (e), a Council Member may not retain office for more than three (3) calendar years or beyond the third annual General Meeting following the Council Member's appointment (whichever is the longer period) without being re-elected.
- (b) At the annual General Meeting in each year every Council Member who has served a full term in office, must retire.
- (c) A retiring Council Member may act until the conclusion of the meeting at which the Council Member retires and is eligible for re-election.
- (d) A Council Member shall not be entitled to be elected for more than three (3) consecutive terms.
- (e) The Council excluding the Council Member concerned, may by a Special Resolution, vote to allow a Council Member otherwise not eligible for re-election pursuant to clause 11.3(a), to be re-elected for two (2) further terms of three (3) years provided that no more than a total of three (3) Council Members serving as Council Members in any one (1) year may have served for more than three (3) consecutive terms.

11.4 Election of Council Members

At the end of each calendar year the Council shall recommend to the Members for election or re-election subject to clause 11.3(e), such number of Council Members as prescribed in clause 11.3(a) as equates to the number of those Council Members who shall retire at the next annual General Meeting.

11.5 Office Bearers

- (a) The Office Bearers of the School will comprise a Chair, a Deputy Chair and the Treasurer, all of whom must be Council Members.
- (b) The School in General Meeting may increase or reduce the number of Office Bearers.

11.6 Election of Office Bearers

- (a) At the first Council meeting after the annual General Meeting, the Council Members must elect the Office Bearers.
- (b) Any two (2) Council Members may, at that meeting, nominate another Council Member for election as a bearer of a particular office.
- (c) If only one (1) candidate is nominated for a particular Office Bearer's position, that candidate is deemed elected.
- (d) The candidates who receive the most votes will be elected. If two (2) or more candidates receive an equal number of votes, the chair of the meeting has a casting vote.

Constitution

11.7 Rotation of office of Chair

- (a) The Chair shall be elected for a term of three (3) years. On the third anniversary following election at the annual General Meeting in that year, the Chair must retire from office. The retiring Chair may act until the conclusion of the meeting at which the next succeeding Chair is appointed and is eligible for reappointment for one (1) further term of three (3) years.
- (b) The Council excluding the Chair, may by a Special Resolution, vote to allow the Chair otherwise not eligible for re-election pursuant to clause 11.7(a), to be re-elected for one (1) further term of three (3) years beyond the additional term prescribed in clause 11.7(a).

11.8 Casual vacancies

Subject to clause 11.1 the Council may at any time appoint a person to the Council, either to fill a casual vacancy or as an additional Council Member, but so that the total number of Council Members is not at any time to exceed the maximum number fixed by this Constitution. The Council Member so appointed in the case of a casual vacancy holds office only until the next annual General Meeting but is then eligible for reappointment. If the Council Member is so reappointed the date of the relevant annual General Meeting shall be the date of initial appointment for the purposes of clause 11.4.

11.9 Removal of Office Bearer

An Office Bearer may be removed from that office by resolution of the Council of which not less than thirty (30) days' notice has been given to all Council Members. The Council may at any time replace an Office Bearer removed pursuant to this clause.

11.10 Transitional

Members of council of KWS at the date on which the approval of this Constitution was obtained at a meeting and their year of retirement and/or eligibility for reappointment are:

2021 Christine Ann McIntosh
Rev Andrew Cunningham
Joanna Myrel Hoskins
Sarah Barrett
Dr Kristine Battye
Dan Blyde
Dr Paul Bloomfield
Robert (Warrie) Holman
Caroline Myers
Andrew Kermode

12. Vacation of office

12.1 Vacancy of office of Council Member

The office of a Council Member is vacated if the Council Member:

- (a) dies;
- (b) becomes of unsound mind or a person whose estate is liable to be dealt with in any way under the law relating to mental health;
- (c) resigns the office of Council Member by written notice to the Chair;
- (d) is or becomes a registrable person for the purposes of the *Child Protection (Offenders Registration) Act 2000* (NSW);
- (e) is removed in accordance with clause 12.2;
- (f) who is an ordained minister of the Church has that minister's recognition withdrawn or is stood aside from the performance of ministerial duties by the Synod;
- (g) becomes a bankrupt or suspends payment or liquidates by arrangement or compounds with or assigns the Council Member's joint and separate estate for the benefit of the Council Member's creditors;
- (h) otherwise ceases to be, or becomes prohibited from being, by virtue of the Corporations Act or is removed from office as a Council Member by a resolution pursuant to the Corporations Act; or
- (i) is precluded or becomes precluded from holding office as a member or director of a company by virtue of the Corporations Act, the ACNC Act, the Australian Education Act 2013 (Cth) or as a consequence of any order of, or action by any judicial, administrative or legislative body of competent jurisdiction.

12.2 Removal of a Council Member

- (a) The Council may at any time if in its opinion a Council Member fails to comply with any provision of the Constitution or is guilty of any conduct that the Council considers unbecoming of a Council Member or is otherwise prejudicial to the interests of the School, requisition a meeting of Members of which notice pursuant to clause 12.3 shall be given, proposing a resolution that the Council Member be removed, which resolution shall be required to be passed in accordance with section 203D of the Corporations Act.
- (b) The Members may in accordance with section 203D of the Corporations Act and subject to clause 12.3, determine to remove a Council Member from office as a Council Member if in their opinion the Council Member fails to comply with any provision of the Constitution or is guilty of any conduct that the Members consider is unbecoming of a Council Member or is otherwise prejudicial to the interests of the School.

Constitution

12.3 Notice to a Council Member

The Members may not make a determination under clause 12.2 unless notice of the meeting in accordance with section 203D or section 249H(3) of the Corporations Act is given to the Council Member prescribing what is alleged against the Council Member and the possible determination and unless the Council Member has had an opportunity of giving at the meeting orally or in writing, any explanation or defence the Council Member may think fit before the resolution is considered by the Members.

13. Powers and duties of the Council

13.1 Council to Manage the School

- (a) The management of the business and affairs of the School is vested in the Council.
- (b) The Council may exercise all powers and do all such acts and things that the School is authorised or permitted to exercise and do and that are not by this Constitution or by statute directed or required to be exercised or done by the School in General Meeting.
- (c) The operation and effect of clause 13.1 is not limited in any way by the following provisions of clause 13.

13.2 Specific powers of Council

Without limiting the generality of clause 13.1 the Council may exercise all of the powers of the School to create regulations, to borrow or raise money, to charge any property or business of the School, to give any other security for a debt, liability or obligation of the School, to guarantee or to become liable for payment of money or the performance of any obligations by any other person and may exercise all of the powers of the School in relation to the Seal.

13.3 Specific duties of Council Members

In addition to their responsibilities at law, each Council Member is responsible and accountable for compliance by the School with its Objects and must:

- (a) exercise the Council Member's powers and discharge their duties in compliance with the Corporations Act and if applicable the ACNC Act and the Australian Education Act 2013 (Cth);
- (b) always act in the best interests of the School as a whole and such obligation shall be observed in priority to any duty that a Council Member may owe any other person or entity;
- (c) always act in good faith, honestly and for a proper purpose;
- (d) exercise appropriate care and diligence;
- (e) prevent the School from carrying on its business while it is unable to pay its debts;
- (f) not improperly use their position to gain an advantage for themselves or for some other person or company; and
- (g) whilst the school is a Registered Entity, comply with the duties prescribed in governance standard 5 of the regulations made under the ACNC Act.

Constitution

13.4 Discretion to exercise powers

The Council may exercise the powers conferred on it in clauses 13.1 and 13.2 in such manner and upon terms and conditions in all respects as it thinks fit.

13.5 Powers of delegation

- (a) The Council Members may delegate any of their powers to any individuals they select for any period, to be exercised for any objects and purposes in accordance with this Constitution on any terms and subject to any conditions and restrictions as they think fit and may revoke, withdraw, alter or vary the delegation of any of those powers.
- (b) The powers of delegation expressly or impliedly conferred by this Constitution on the Council Members are conferred in substitution for and to the exclusion of, the power conferred in section 198D of the Corporations Act.

13.6 May appoint attorney or agent

- (a) The Council may, by resolution, power of attorney and Seal or other written instrument, appoint any person or persons to be attorney or agent of the School for such purposes, with such powers, authority and discretions being powers, authorities and discretions vested in or exercisable by the Council for such a period and subject to such conditions as it thinks fit.
- (b) The appointment may be on such terms for the protection and convenience of the persons dealing with the attorney or agent as the Council thinks fit and may also authorise the attorney or agent to delegate all or any of the powers, authorities and discretions vested in the attorney or agent.

13.7 Execution of School cheques etc.

All cheques, promissory notes, banker's drafts, bills of exchange, electronic banking authorisations and other negotiable instruments signed, drawn, accepted, endorsed or otherwise authorised and executed by the School and all receipts for money paid to the School will be signed, drawn, endorsed or otherwise executed, as the case may be, in such a manner and by such persons as the Council shall determine.

13.8 Council Member's contracts with the School

Subject to the Corporations Act and if applicable, the ACNC Act:

- (a) no Council Member will be disqualified from holding the office of Council Member by virtue of holding any office or place of profit in any corporation in which the School is a shareholder or is otherwise interested;
- (b) no Council Member will be disqualified from that office from serving the School in any other office or in any other professional capacity, except that of Auditor of the School;
- (c) no Council Member will be disqualified by virtue of holding the office of Council Member from contracting with the School or any corporation in which the School is a shareholder or is otherwise interested or in any related entity, either as vendor, purchaser or otherwise and nor will any contract or arrangement entered into by or on behalf of the School in which any Council Member is in any way directly or indirectly interested be avoided; and

Constitution

- (d) a Council Member is not liable to account to the School for any profit arising from that office or realised by the contract or arrangement, or by any participation in any association, institution, fund, trust or scheme or otherwise by reason only of the Council Member holding that office or of the fiduciary relations thereby established, provided that the disclosure required by clause 13.12 has been made.

13.9 Restrictions on Council Member voting

- (a) A Council Member who has a material personal interest in a matter that is being considered at a meeting of the Council, unless section 195 of the Corporations Act permits, must not:
 - (i) be present while the matter is being considered at the meeting; or
 - (ii) vote on the matter.
- (b) No act of the School is invalid or voidable by reason only of the failure of a Council Member to comply with such prohibition.

13.10 Professional capacity

Subject to the Corporations Act:

- (a) any Council Member may act or the Council Member's firm may act in a professional capacity for the School or any other corporation in which the School is a shareholder or any related entity of the School; and
- (b) the Council Member and that Council Member's firm will be entitled to remuneration for professional services as if that Council Member were not a Council Member, provided that this clause will not authorise a Council Member or that Council Member's firm acting as an Auditor of the School.

13.11 May affix Seal notwithstanding interest

Notwithstanding that a Council Member is interested in the contract or arrangement, that Council Member may be appointed as the Council Member to sign on behalf of the School or in whose presence the Seal is to be affixed, any instrument to which the interest relates.

13.12 Disclosure of interest

- (a) A Council Member who is in any way, whether directly or indirectly, interested in the matter in which the School has an interest will declare the nature of the interest at the meeting of the Council as soon as practicable after the relevant facts have come to the Council Member's knowledge.
- (b) For the purposes of clause 13.12(a) a general notice given to the Council by a Council Member to the effect that the Council Member is an officer or member of a specified corporation or a member of a specified firm or is otherwise interested in any corporation or firm and is to be regarded as interested in any matter, after the date of the notice, in which that corporation or firm may have an interest, will be deemed to be a sufficient declaration of interest in relation to the matter if:
 - (i) the notice states the nature and extent of the Council Member's interest in the corporation or firm;

Constitution

- (ii) when the matter is first considered, the extent of the Council Member's interest in the corporation or firm is not greater than as stated in the notice; and
 - (iii) the notice is given at a meeting of the Council or the Council Member takes reasonable steps to ensure that it is brought up and read at the next meeting of the Council after it was given.
- (c) It is also the duty of the Council Member who holds any office or possesses any property the holding of which office or the possession of which property might, whether directly or indirectly, create duties or interests in conflict with the Council Member's duties or interests as a Council Member of the School, to declare at the first meeting of the Council held after the Council Member becomes a Council Member, or if the Council Member is already a Council Member at the first meeting of the Council held after the Council Member commenced holding any such office or possess any such property, the fact of the Council Member's holding such office or possessing such property and the nature, character and extent of the conflict.

13.13 Record of disclosures

It is the Secretary's duty to record in the minutes any disclosure given by a Council Member pursuant to clause 13.12.

13.14 Meaning of "contract"

In clause 13.12, where the context permits, "*contract or arrangement*" includes a proposed contract or arrangement.

14. Proceedings of the Council

14.1 Meetings

- (a) The Council shall meet together on no less than four (4) occasions during each year for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit.
- (b) The Chair may invite and the Council Members may resolve that the Chair invite any person, despite such a person not being a Council Member, to a meeting of the Council and to participate in any discussions the Council Members think fit, provided that such a person shall not have any voting or other rights.
- (c) Where it is impracticable to meet in person the Council Members may meet together by telephone or other means of instantaneous communication otherwise in accordance with clause 14.9.

14.2 Quorum

- (a) The quorum necessary for the transaction of the business of the Council shall be one half of the Council Members plus one (1).
- (b) A meeting of the Council Members during which a quorum is present is competent to exercise all or any of the authorities, powers and discretions under this Constitution for the time being vested in or exercisable by the Council generally.
- (c) Where a quorum cannot be established for a meeting of the Council (or consideration of a particular matter) three (3) Council Members may convene a General Meeting to deal with a matter or the matters in question.

Constitution

- (d) Council Members may act notwithstanding a vacancy in their number but, if and so long as their number is reduced below the minimum prescribed by clause 14.2(a) as a quorum, the continuing Council Members may, except in an emergency, act only for the purpose of appointing individuals to fill the casual vacancies to the extent necessary to bring their number up to that minimum or of summoning a General Meeting.

14.3 Convening meetings

The Chair or any three (3) Council Members may at any time and the Secretary will on the request of the Chair or three (3) Council Members, convene a meeting of the Council.

14.4 Notice of meeting

Notice of every Council meeting will be given to each Council Member and may be given to any Council Member's nominated electronic address.

14.5 Chair and Deputy Chair

The Chair is entitled to preside at meetings of the Council but, if the Chair is not present and able and willing to act within fifteen (15) minutes after the time appointed for a meeting or has signified an intention not to be present and able and willing to act, the following may preside (in order of entitlement):

- (a) the Deputy Chair;
- (b) a Council Member chosen by a majority of the Council Members present.

14.6 Voting

Questions arising at a meeting of the Council are to be decided by a majority of votes and if there is an equality of votes the chair of the meeting has a casting vote. The chair has discretion both as to whether or not to use the casting vote and as to the way in which it is used.

14.7 Committees of the Council

- (a) The Council shall appoint a Finance Committee.
- (b) The Council may delegate any of its powers to Committees consisting of one or more Council Members and such other individuals as it thinks fit and the Council may from time to time revoke that delegation.
- (c) The Council may also appoint any member of Staff to any Committee provided that they shall not have the right to vote.
- (d) A Committee will conform to any regulations that may be imposed upon it by the Council in the exercise of its powers.
- (e) So far as they are capable of application and with the necessary changes, the provisions of this Constitution for regulating the meetings and proceedings of the Council govern the meeting and proceedings of Committees.
- (f) The Council shall appoint from amongst the Committee's members, a chair provided that the chair shall be a Council Member.

Constitution

- (g) Minutes of meetings of Committees maintained in accordance with clause 15 of this Constitution must be tabled at each subsequent meeting of the Council next after the Committee meeting.

14.8 Written resolution

- (a) If no less than three quarters of the Council Members have signed a document containing a statement that they are in favour of a resolution of the Council in terms set out in the document, a resolution in those terms will be deemed to have been passed at a meeting of the Council held on the day on which the document was signed and at the time at which the document was last signed by a Council Member or, if the Council Members signed the documents on different days, on the day on which and at the time at which the document was last signed by a Council Member.
- (b) For the purposes of clause 14.8(a):
 - (i) two (2) or more separate documents containing statements in identical terms each of which is signed by one or more Council Members will together be deemed to constitute one document containing a statement in those terms signed by the Council Members;
 - (ii) a reference to all Council Members does not include a reference to the Council Member who, at a meeting of the Council, would not be entitled to vote in the resolution;
 - (iii) any document so signed by a Council Member may be received by the School at the Office (or other place agreed by the Council Members) by post, by facsimile or other electronic means or by being delivered personally by that Council Member.

14.9 Use of technology

A meeting of the Council may be called or held using any technology consented to by all of the Council Members. The consent may be a standing one. A Council Member may only withdraw their consent within a reasonable period before the meeting.

14.10 Validity of acts of Council Members

All acts done at a Council meeting, or by a person acting as a Council Member, even if it is afterwards discovered that:

- (a) there was a defect in the appointment or continuance in office of a person as a Council Member or of the person so acting; or
- (b) a person acting as Council Member was disqualified or was not entitled to vote,

are as valid as if the relevant person had been duly appointed or had duly continued in office and was qualified and entitled to vote.

15. Minutes

15.1 Minutes of all proceedings to be kept

The Council will cause minutes of all proceedings of General Meeting and meetings of the Council, including meetings of Committees, to be duly entered in books kept for that purpose in accordance with the Corporations Act.

Constitution

15.2 Minutes to be signed by Chair

Except in the case of written resolutions made in accordance with clause 14.8, the Council will cause the minutes of all proceedings of General Meetings and meetings of the Council, including meetings of Committees, to be signed by the chair of the meeting at which the proceedings took place or by the chair of the next succeeding meeting.

15.3 Minutes to be presumed accurate

Where the minutes of proceedings of General Meetings and meetings of the Council, including meeting of Committees, are signed in accordance with clause 15.2 those minutes shall be presumed to be an accurate record of the relevant proceedings unless the contrary is proved.

15.4 Inspection of minutes

Books containing the minutes of proceedings of General Meetings will be open for inspection by any Member without charge.

16. Secretary

16.1 Appointment of Secretary

- (a) There must be at least one (1) secretary of the School who is to be appointed by the Council on such terms and on such conditions as it thinks fit. Secretary includes the assistant or acting Secretary of the School and any substitute for the time being for the Secretary.
- (b) The Secretary may not be a Council Member.
- (c) The Secretary may be an employee of the School. If so, the Council Members may fix the remuneration of the Secretary.

16.2 Suspension or removal of Secretary

Subject to the terms of any employment contract between the School and the Secretary, the Council may at any time suspend or remove a Secretary from that office.

16.3 Powers of Secretary

The Council may vest in the Secretary such powers, duties and authorities as it may from time to time determine and the Secretary must exercise all such powers and authorities subject at all times to the control of the Council.

17. Principal

The Council shall appoint the Principal on such terms and conditions as the Council shall determine.

18. Business Manager

18.1 Appointment

The Principal after consultation with the Council shall recommend to the Council for its appointment an individual to fill the role of Business Manager of the School for such term and on such conditions as the Principal and the Council shall jointly determine.

Constitution

18.2 Role

The Business Manager shall perform such duties as may be prescribed by the Principal or the Council from time to time and shall be responsible to the Principal in the performance of those duties.

19. Auditor

19.1 Appointment

The School at the annual General Meeting shall appoint a properly qualified auditor.

19.2 Role

The auditor shall conduct an annual audit of the accounts of the School and report to the annual General Meeting in accordance with the Corporations Act.

20. Seals

20.1 The Common and Duplicate Common Seal

- (a) The School may have:
 - (i) a Seal; and
 - (ii) a duplicate Seal which must be a copy of the Seal with the words "Duplicate Seal" added.
- (b) The Council must provide for the safe custody of all Seals in such manner as it thinks fit.

20.2 Affixing Seal

- (a) The Seal will only be used by the authority of the Council or a Committee authorised by the Council in that regard.
- (b) Every instrument to which the Seal is affixed, subject to any provisions contained in this clause 20.2, will be signed by a Council Member and countersigned by the Secretary, another Council Member or by some other person appointed by the Council for that purpose.

20.3 Electronic signature

The Council may determine either generally or in a particular case and in any event subject to such conditions as it thinks fit that wherever a signature is required by this Constitution on a document to or in which the Seal is affixed or incorporated, that requirement will be satisfied by a facsimile of the signature affixed by mechanical, electronic or other means.

21. Dispute Resolution Mechanism

21.1 Application

If there is an equality of votes on a resolution of Members whether at an annual General Meeting or any other meeting of Members, unless the Members by majority vote otherwise, the resolution shall be resolved as prescribed in this clause.

Constitution

21.2 Reference to Dispute Resolution Committee

- (a) The Members must refer the dispute to the Dispute Resolution Committee that shall consist of:
 - (i) one (1) individual appointed by the Council;
 - (ii) one (1) individual appointed by the Synod; and
 - (iii) one (1) individual who shall be an individual experienced in mediation and otherwise whose experience and qualifications shall be relevant to the resolution in dispute, appointed by the individuals prescribed in clause 21.2(a)(i) and (ii). If the individuals cannot agree on the individual to be appointed that individual shall be appointed by the General Secretary.
- (b) All appointments under clause 21.2(a)(i) and (ii) must be made with 28 days of either party requesting resolution by the Dispute Resolution Committee, and in the case of clause 21.2(a)(iii) within 28 days of either party requesting the General Secretary to do so.
- (c) The Dispute Resolution Committee must decide the dispute by majority vote and the decision by the Dispute Resolution Committee in each dispute is final.

21.3 Nomination of Council Member

Where the dispute relates to the nomination of a person as a Council Member:

- (a) if the Dispute Resolution Committee accepts the nomination, the nominee is deemed approved on the day of the Dispute Resolution Committee's decision and is appointed for a term of three (3) years; and
- (b) if the Dispute Resolution Committee rejects the nomination the Council must submit a new nomination for approval pursuant to the Constitution.

22. Inspection of books

- (a) Subject to the Corporations Act and any resolution of the School in General Meeting, the Council may determine whether and to what extent and at what times and places and under what conditions and regulations the books and documents of the School or any of them will be open to inspection by the Members and other persons.
- (b) A person, not being a Council Member, has no right to inspect any of the books or documents of the School except as conferred by the Corporations Act, this Constitution or authorised by the Council, or by a resolution of the School in General Meeting and is not entitled to require or receive any information concerning the affairs of the School.

23. Notices

23.1 Method of service of notices

A notice may be served by the School on a Member or other person receiving notice under this Constitution by any of the following methods:

- (a) by serving it personally on the Member or other person;
- (b) by leaving it at the Member's address or the address of the other person;
- (c) by sending it by post in a pre-paid letter, envelope or wrapper addressed to the Member at the Member's address or for the other person at that person's address; or
- (d) by sending to the electronic address, or by facsimile transmission to a facsimile number, nominated by the Member or the person for the purpose of serving notices.

23.2 Time of service

- (a) Any notice sent by post, airmail or air courier will be deemed to have been served on the fifth Business Day following that on which the letter, envelope or wrapper containing the notice is posted or delivered to the air courier.
- (b) In proving service of any notice it will be sufficient to prove that the letter, envelope or wrapper containing the notice was properly addressed and put into the post office or other public postal receptacle or delivered to the air courier.
- (c) A certificate in writing signed by any Council Member, Secretary or other officer or Staff that the letter, envelope or wrapper containing the notice was so addressed and posted is conclusive evidence of the posting.
- (d) Subject to the Corporations Act, if this Constitution requires or permits notice to be given to the School or the officers, neither accidental omission to give the notice or non-receipt of the notice invalidates the meeting, resolution, procedure or other matter to which the notice relates.

23.3 Time of service electronically

Any notice sent by facsimile transmission or any other electronic means will be deemed to have been served on receipt of the transmission report or other means of confirmation of successful transmission, confirming successful transmission provided that if the receipt is after 5.00 pm on a Business Day it will be deemed to have been served at 9.00 am on the next Business Day.

23.4 Signature on notices

The signature on any notice to be given by the School may be written or printed on or a facsimile thereof may be affixed by mechanical or other means subject to the Corporations Act.

23.5 Calculation of notice period

Where a period of notice is required to be given, the day on which the notice is dispatched and the day of doing the act or other thing will not be included in the number of days or other periods.

24. Accounts

24.1 School to maintain

The School will keep such accounting, financial and other records of the business of the School as it is required to keep by the Corporations Act, the ACNC Act and the Charitable Fundraising Legislation.

24.2 Annual Accounts

At the annual General Meeting in every year the Council will present to the Members statements of financial performance and position for the last financial year of the School, together with such other accounts, reports and statements as are required by the Corporations Act, the ACNC Act and the Charitable Fundraising Legislation.

24.3 Copy of Accounts

Other than those Members who have provided written notice to the School stating that they do not wish to receive a copy of every document that is required to be presented to each annual General Meeting by clause 24.2, a copy of these documents will be sent to the Synod together with each person entitled to receive notices of General Meetings together with the notice of meeting, as required by the Corporations Act, the ACNC Act and the Charitable Fundraising Legislation.

24.4 Accounts conclusive

Every set of accounts of the Council when audited and approved or received by a General Meeting at which it is presented will be conclusive except as regards any material error discovered in it after its approval or adoption. Whenever any material error is discovered and if required by applicable accounting standards, the accounts will forthwith be corrected and then they will be conclusive.

24.5 Financial year

The financial year of the School is the year ending on 31 December in each year and so that the first financial year shall commence on the day of this Constitution and the last financial year shall commence on 1 January immediately preceding the day of winding up or dissolution of the School in accordance with the Corporations Act.

24.6 Not-for-profit

- (a) The School must not be carried on for the purposes of profit or gain to individual Members. No portion of the income and property of the School, however it is derived, may be paid or transferred to Members as dividends, bonuses or otherwise, except as bona fide remuneration or reimbursement or payment for services rendered, goods supplied or expenses incurred on behalf of the School as prescribed in clause 6.5.
- (b) Nothing in clause 24.6(a) affects the entitlement of a Council Member to reimbursement pursuant to clause 6.5.

24.7 Charitable fundraising

If the School is an Authorised Fundraiser within the meaning of the Charitable Fundraising Legislation, the School must comply with relevant requirements of the Charitable Fundraising Legislation and conditions of its authority to the extent applicable. This includes:

Constitution

- (a) establishing and complying with proper and effective controls over fundraising appeals;
- (b) issuing receipts for money received;
- (c) management and administrative requirements; and
- (d) complying with requirements relating to conflicts of interest and dispute and complaint handling mechanisms.

25. Winding up

25.1 Voluntary winding up

The School can only be wound up or dissolved voluntarily by the School:

- (a) pursuant to a Special Resolution of a General Meeting; and
- (b) the Synod has been given sixty (60) days' notice of any such meeting to wind up the School, which notice must include supporting reasons and financial accounts for the School.

25.2 Prohibition on Transfer

If upon the winding up or dissolution of the School, there remains after satisfaction of all its debts and liabilities any property whatsoever, that property must not be paid to or distributed amongst the Members but must be given or transferred to one or more other funds, authorities or institutions which or each of which:

- (a) is an independent school within the bounds of the Synod;
- (b) has objects similar to the Objects; and
- (c) whose constitution prohibits a distribution of its income and property among its members to an extent at least as great as is imposed on the School pursuant to this Constitution,

to be jointly determined by the Synod and the Council at or before the time of dissolution or failing such a determination, by the General Secretary.

26. Indemnity and Insurance

26.1 Indemnities by the School

To the maximum extent permitted by law:

- (a) the School indemnifies out of the property of the School every person who is or has been a Council Member or other officer (current and former) of the School against liabilities, costs or expenses incurred by that person in defending any proceedings in which judgment is given in that person's favour, or in which the person is acquitted, or in connection with an application in relation to any proceedings in which the court grants relief to the person pursuant to the Corporations Act or which are withdrawn before judgment; and
- (b) the School indemnifies out of the property of the School every person who is or has been a Council Member or other officer (current and former) against any liability

Constitution

incurred by the person, as a Council Member or other officer (current and former) of the School, to another person (other than the School or a related body corporate of the School) unless the liability arises out of conduct involving a lack of good faith; and

- (c) the School indemnifies out of the property of the School every person who has been a Council Member or other officer (current and former) of the School against any liabilities, in connection with any administrative or legal proceedings relating to that person's position with the School except as prescribed in section 199A of the Corporations Act; and
- (d) the School indemnifies out of the property of the School every person who has been a Council Member or other officer (current and former) of the School against:
 - (i) reasonable legal costs incurred in defending or resisting or otherwise in connection with proceedings, whether civil or criminal or of an administrative or investigatory nature against the person or in which the person becomes involved because of that capacity; and
 - (ii) reasonable legal costs incurred in good faith in obtaining legal advice on issues relevant to the performance of their functions and discharge of their duties as an officer of the School.

26.2 Indemnity by UCA Property Trust

Except in the case of fraud, criminal act, gross negligence or wilful misconduct, the School as an Institution may seek an indemnity from the UCA Property Trust pursuant to 4.11.2 of the Church Regulations provided:

- (a) the School has at all times complied with its reporting obligations to the Synod, pursuant to this Constitution; and
- (b) the School's property and assets including the real property prescribed in clause 6.1(a) vested in KWS Trustee are insufficient to meet the relevant liability against which the indemnity is sought; and
- (c) if the UCA Property Trust makes any payment pursuant to this indemnity, then notwithstanding anything else to the contrary in this Constitution, the UCA Property Trust will be entitled at that time to exercise all of the rights of the Members under the Corporations Act including (without limitation) the UCA Property Trust will be entitled to terminate the appointment of any Council Member and make an appointment of new Council Members in their stead and all provisions of this Constitution to the contrary will cease to be of any effect.

26.3 Insurance

To the maximum extent permitted by law, the School must pay, or agree to pay, a premium in respect of a contract insuring a person who is or has been a Council Member or other officer (current and former) of the School against a liability:

- (a) incurred by the person in their capacity as an officer of the School or in the course of acting in connection with the affairs of the School or otherwise arising out of the officer's holding of such office, provided that the liability does not arise out of conduct involving a wilful breach of duty in relation to the School or a contravention of sections 182 and 183 of the Corporations Act; or
- (b) for costs and expenses (including legal costs) incurred by that person in defending

Constitution

proceedings, whatever their outcome.

26.4 Interpretation

In clauses 26.1 and 26.2:

- (a) the term “*proceedings*” means any proceedings, whether civil or criminal, being proceedings in which it is alleged that the person has done or omitted to do some act, matter or thing in their capacity as such an officer or in the course of acting in connection with the affairs of the School or otherwise arising out of the officer’s holding such office (including proceedings alleging that the officer was guilty of negligence, default, breach of trust or breach of duty in relation to the School); and
- (b) the term “*officer*” has the meaning given to that term in section 9 of the Corporations Act.

27. Deductible Gift Recipient Status

27.1 Deductible Gift Recipient endorsement

The School in the furtherance of its Objects is empowered to obtain and then comply with all relevant requirements to maintain, either as whole or in respect of a fund, authority or institution that the School owns or includes, endorsement as a Deductible Gift Recipient (DGR) under Subdivision 30-BA of the Tax Act so as to ensure that it is an organisation which can receive income tax deductible gifts and contributions within the meaning of the Tax Act.

27.2 Deductible Gift Recipient accounting

Without limiting the operation of clause 27.1, the School must:

- (a) ensure that all gifts and deductible contributions made to it for its principal purpose in relation to its status as an endorsed DGR are used for that purpose and that receipts issued contain all relevant information as required by the Australian Taxation Office (ATO) from time to time; and
- (b) maintain adequate accounting and other records that record and explain transactions that are relevant to its status as an endorsed DGR as required by the ATO from time to time.

27.3 Transfer on Dissolution or Cessation of Deductible Gift Recipient Endorsement

- (a) In the event of the School being dissolved or ceasing to be endorsed as a DGR, any remaining gifts, deductible contributions and any money received in respect of such gifts and contributions, acquired by the School by virtue of such endorsement, must be transferred to an institution or institutions which or each of which:
 - (i) is an independent school within the bounds of the Synod;
 - (ii) is charitable at law; and
 - (iii) gifts to which can be deducted under Division 30 of the Tax Act.
- (b) Where the School operates more than one fund for which it is a deductible gift recipient and its endorsement under Subdivision 30BA of the Tax Act is revoked only in relation to one of those funds, then it may transfer any surplus assets of that fund after payment of all liabilities to any other fund which is endorsed as a deductible gift recipient.

Constitution

27.4 Synod

The identity of the institution referred to in clause 27.3 will be jointly determined by the Synod and the Council at or before the time of dissolution, or failing such a determination by the General Secretary.

28. Alteration of the Constitution

28.1 Amendment

This Constitution may only be amended in accordance with the Corporations Act.

28.2 Approval of the Standing Committee

No amendment to the Objects of the School shall be made unless the Standing Committee first approves it in writing.

28.3 Reconstitution of the Church

- (a) It is recognised that the Church, the Synod and the UCA Property Trust are all constituted under and pursuant to the Church Laws. If as a consequence of any change to the Church Laws, the assets of the Church in New South Wales become vested in any other entity other than the UCA Property Trust, or the rights and obligations of the UCA Property Trust, the Church and the Synod become exercisable by and against any other entities, then the rights and obligations (to the extent provided for in that vesting) of the UCA Property Trust, the Church and the Synod will then rest with those new entities and may be enforced by and against those new entities as if they were originally the parties named in this Constitution with their equivalent status as the entities they have replaced.
- (b) If the Church or the UCA Property Trust shall be dissolved due to insolvency or reconstructed due to insolvency without any action being taken or foreshadowed within the provisions of clause 28.3(a), then the Members appointed pursuant to clause 7.1(a) shall not be entitled to vote at any General Meeting called to amend this Constitution and shall not be included in the calculation of the numbers required for the passing of a Special Resolution.

29. Regulations

Subject to the Corporations Act, the School in General Meeting may make, amend or repeal regulations consistent with this Constitution, for the internal management of the School.