

# Constitution

St Paul's Anglican Grammar School Limited  
ACN 005 949 539

**26 May 2011**

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**Corporations Act**  
**A Company Limited by Guarantee**

**CONSTITUTION**  
**OF**

**ST PAUL'S ANGLICAN GRAMMAR SCHOOL LIMITED ACN 005 949 539**

**1. Nature of the Company**

- 1.1 The Company is a public company limited by guarantee.
- 1.2 The name of the Company is St Paul's Anglican Grammar School Limited.

**2. Definitions and interpretation**

2.1 Definitions

In this Constitution unless the contrary intention appears.

**Alumni Members** means former students admitted as Alumni Members in accordance with clause 6.6 on or after the date this Constitution is adopted and who are not otherwise eligible for membership;

**Application Fee** means a fee as determined by the Board from time to time payable by a person upon application to become an Ordinary Member of the Company being a sum not less than \$20.00;

**Auditor** means the Company's auditor;

**Bishop** means the Bishop of the Anglican Diocese of Gippsland;

**Board** means the Board of Directors of the Company;

**Business Manager** means the individual engaged by the Company (however titled) with responsibility for the financial and business administration of the Company and who reports the financial position to the Board;

**Chairperson** means the chairperson for the time being elected to chair the Board;

**Company** means St Paul's Anglican Grammar School Limited ACN 005 949 539;

**Constitution** means this constitution of the Company as amended, supplemented or replaced from time to time;

**Corporations Act** means the *Corporations Act 2001 (Cth)* as amended from time to time;

**Director** means any person occupying the position of Director of the Company;

**Directors** means all or some of the Directors acting as a Board;

**Existing Alumni Member** means a member who was a Member as at the date of adoption of this Constitution, having been accepted as member under the Previous Constitution on the basis that they were a former student;

**Existing Benefactor Member** means a person who was a Member as at the date of adoption of this Constitution, by virtue of having been a Benefactor under the Previous Constitution;

**Ex-officio Members** means a person admitted as a Member of the Company in accordance with clause 6.4;

**Honorary Life Member** means any person considered by the Board to have made a contribution to the life of the School and to whom the Board grants life membership to the Company;

**Member** means a person who is member of one of the membership classes set out in clause 6.3;

**Office** means the registered office for the time being of the Company;

**Ordinary Member** means a person admitted as a Member of the Company in accordance with clause 6.6;

**Previous Constitution** means the constitution of the Company which was effective prior to this Constitution;

**Principal** means the Principal of the School;

**Register** means the register of Members of the Company;

**Registered Address** means the last known address of a Member as noted in the Register;

**School** means St Paul's Anglican Grammar School Limited ACN 005 949 539;

**Seal** means the Company's common seal;

**Secretary** means any person appointed by the Directors to perform any of the duties of a secretary of the Company and if there are joint secretaries, any one or more of the joint secretaries;

**Special Resolution** means a resolution:

- (a) of which notice as required in accordance with the Corporations Act has been given; and
- (b) that has been passed by at least 75% of the votes cast by Members entitled to vote on the resolution.

**Subscription Fee** means the annual subscription fee as determined by the Board from time to time being a sum not less than \$20.00.

**Voting Member** means Members who are entitled to vote under clause 11.2.

## 2.2 Interpretation

In this Constitution, unless the contrary intention appears:

- (a) a reference to:
  - (i) any statute, ordinance, code or other law includes regulations and other statutory instruments under any of them and consolidations, amendments, re-enactments or a replacement of any of them by any government body;
  - (ii) any officer of the Company includes any person acting for the time being as such an officer; and
  - (iii) writing includes any mode of representing or reproducing words in a tangible or visible form, and includes facsimile transmission;
- (b) words importing:
  - (i) the singular include the plural and vice versa;
  - (ii) a gender include all other genders; and
  - (iii) natural persons include partnerships, associations and corporations;
- (c) headings do not affect the construction of this Constitution;
- (d) if a word or phrase is defined cognate words and phrases have corresponding meanings;
- (e) references to notices in this Constitution include not only formal notices of meetings but also all documents and other communications from the Company to its Members; and
- (f) 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 or any other Part or Division has, in any of this Constitution that deals with a matter dealt with by the relevant Part or Division, the same meaning as applies in or in respect of that Part or Division.

### 2.3 Replaceable Rules

To the extent permitted by the Act, the replaceable rules in the Act do not apply to the Company except insofar as they are repeated in this Constitution.

## 3. Obligation of Members

Every Member undertakes to:

- (a) promote and further the objects, interest, influence and standing of the Company; and
- (b) observe this Constitution,

to the best of their ability.

## 4. Principal purpose

4.1 The principal purpose of the Company is to be an Anglican School based in the Diocese of Gippsland.

4.2 The Company will pursue its principal purpose so as to provide a comprehensive and excellent modern academic education which:

- (a) empowers and supports the school community to undertake a broad range of academic and other educational opportunities.
- (b) prepares students to enter the next phases of life in the wider community;
- (c) provides an educational environment in which:
  - (i) students may develop an understanding of the social and moral values consistent with the Christian faith as expressed in the Anglican tradition;
  - (ii) opportunities are provided to explore the implications of the above for human relationships with God and with each other; and
  - (iii) opportunities are provided to make a commitment to Christian life.
- (d) students may develop a concern for and to be involved in the life of the local, wider, and global community and the natural environment; and
- (e) provide a choice in schooling at a cost that is accessible for as many families in the community as practicable.

## **5. Assets and income of Company**

- 5.1 All assets and income of the Company will be applied solely towards the promotion of the objects of the Company and no portion thereof will be paid or transferred directly or indirectly by way of dividend, bonus or otherwise to the Members of the Company or be paid as fees to the Directors of the Company.
- 5.2 All other payments by the Company to the Directors must be approved by the Board.

## **6. Membership**

### **6.1 Number of Members**

The minimum number of Members is three. The number of Members of the Company is unlimited.

### **6.2 Continuity of Membership**

No person who is a member as at the date of adoption of this Constitution ceases to be eligible for membership as a result of the adoption of the Constitution.

### **6.3 Classes of Members**

(a) The Members of the Company will consist of the following classes:

- (i) Ordinary Members;
- (ii) Ex-officio Members;
- (iii) Alumni Members;
- (iv) Existing Benefactor Members; and
- (v) Existing Alumni Members.

### **6.4 Admission of Ex-officio Members**

(a) The Ex-officio Members of the Company will be such of the following persons who agree in writing to being admitted as a Member of the Company:

- (i) The Bishop.
- (ii) a representative of the Gippsland diocese of the Anglican Church of Australia nominated by the Bishop and approved by the Board;
- (iii) the Rector or Rectors of the Anglican Church or Churches of Australia of the Parish or Parishes in which the Company may be from time to time situate or their nominee or nominees approved by the Board;

- (iv) Honorary Life Members;
  - (v) the Principal; and
  - (vi) one other person in a senior executive position within the School
- (b) None of the persons specified in this clause 6.3 are required to submit an application to become a Member of the Company and will not be liable to pay the Subscription Fee.

#### 6.5 Eligibility for membership as an Ordinary Member

- (a) A person is eligible for membership as an Ordinary Member of the Company if at the date of lodgement of the application the person is either:
- (i) a parent or guardian of a student enrolled at the School;
  - (ii) a person with whom a student enrolled at the School permanently resides;
  - (iii) an employee of the Company; and
  - (iv) a person who in the opinion of the Board is sympathetic to the aims and objectives of the Company and possesses skills and abilities of possible benefit to the Company being a person otherwise ineligible to apply for membership of the Company.

#### 6.6 Admission of Ordinary and Alumni Members

- (a) Applications for membership as an Ordinary Member or Alumni of the Company must be submitted in writing in a form approved by the Board for that purpose and must:
- (i) specify the name, address of the applicant;
  - (ii) specify,
    - (A) in the case of an Ordinary Member, the applicant's proposed grounds for eligibility under clause 6.5; or
    - (B) in the case of an Alumni Member, the years in which the applicant attended the School;
  - (iii) be submitted with the Application Fee; and
  - (iv) be signed by the Applicant.
- (b) The Board will consider the application and will - in good faith, considering the interests of both the applicant and the Company, and considering the inclusive values of the School - in its absolute discretion and without assigning any reason:
- (i) determine the admission or rejection of the applicant; or

- (ii) decide to call on the applicant to supply any evidence of eligibility that they consider reasonably necessary.
- (c) An applicant will be admitted to membership if a majority of the Directors present and entitled to vote at the Board meeting vote to admit the applicant. A ballot can be conducted if requested by a Director.
- (d) If the Directors reject an application for membership, the Secretary must as soon as practicable, notify the applicant in writing that the application has been rejected.
- (e) If the Directors approve an application for membership, the Secretary must, as soon as practicable notify the applicant in writing of approval for membership.
- (f) The Secretary must, within 30 days of admission of an applicant under this clause 6.6 enter the applicant's name on the register of Members in accordance with clause 6.9.

#### 6.7 Subscription Fee

- (a) The Subscription Fee is payable in advance for each year beginning 1 March and is payable by 31 March each year.
- (b) The Subscription Fee is not payable by Ex-officio Members or by Ordinary Members in the first year of membership.

#### 6.8 Transfer of membership

A right, privilege or obligation of a person by reason of membership:

- (a) is not capable of being transferred or transmitted to another person; and
- (b) terminates upon the cessation of membership.

#### 6.9 Register of Members

Upon admission of membership under clauses 6.4 or 6.6, the Secretary will cause to be entered into the Register the name and address of the new Member, as supplied by the Member on their application for membership. The Secretary will hold all signed applications and produce them if required to verify the identity of any person voting at any election or meeting of the Company.

#### 6.10 Lapse of membership

If an Ordinary Member's Subscription Fee remains unpaid on the 31<sup>st</sup> day of March of each year the Member will at that time automatically and without notice cease to be a Member.

## 6.11 Cessation of membership

- (a) A Member will cease to be a Member:
  - (i) if the Member resigns from the Company by giving written notice of their resignation, from the date of receipt of that notice by the Secretary;
  - (ii) if their subscription lapses in accordance with clause 6.10;
  - (iii) if the Member ceases to be eligible to be a Member, from the date the Member ceases to be eligible; or
  - (iv) dies.
- (b) The Board may, by resolution, expel from the Company any Member:
  - (i) who does not comply with this document; or
  - (ii) whose conduct in the opinion of the Board is prejudicial to the interests of the Company,and remove that Member's name from the Register.
- (c) At least 21 days before the Board holds a Board meeting to consider a resolution to expel a Member, the Board must give a written notice to the Member which states:
  - (i) the date, place and time of the meeting;
  - (ii) the allegations against the Member;
  - (iii) the proposed resolution for the Member's expulsion;
  - (iv) that the Member has an opportunity at the meeting to address the allegations either orally or in writing; and
  - (v) that if the Member notifies the Secretary in writing at least 48 hours before the meeting, the Member may elect to have the question of that Member's expulsion dealt with by the Company in general meeting.
- (d) If the Secretary receives a notice under sub-clause (v), he or she must notify the Board and the Board must convene a general meeting of the Company -
  - (i) to be held within 28 days after the date on which the Secretary received the notice; and
  - (ii) for which the notice of meeting specifies the resolution to be considered.

- (e) At a general meeting of the Company convened under sub-clause (d)
  - (i) no business other than the question of the expulsion may be conducted;
  - (ii) the Board must state the allegations against the member;
  - (iii) the Member, or his or her representative, must be given an opportunity to be heard either orally or in writing; and
  - (iv) the Members present must vote by secret ballot on the question whether the resolution should be passed.
- (f) The Company must expel a Member and remove the Member's name from the Register where:
  - (i) a general meeting is held to expel a Member; and
  - (ii) a resolution is passed at the meeting by a majority of two-thirds of those present (in person or by proxy) and voting for the Member to be expelled.
- (g) A Member expelled from the Company does not have any claim on the Company, its funds or property.
- (h) Any Member expelled from the Company may at any time apply to the Board to be readmitted as a Member.
- (i) No person may be a Director following expulsion as a Member unless such a person is subsequently readmitted as a Member.
- (j) Any Member ceasing to be a Member:
  - (i) will not be entitled to any refund (or part refund) of a Subscription Fee; and
  - (ii) will remain liable for and will pay to the Company any Subscription Fee which was due at the date of ceasing to be a Member and for any sum not exceeding \$50 for which they may become liable under clause 7.2.

## **7. Contribution of Members**

7.1 The liability of Members of the Company is limited.

7.2 Every Member undertakes to contribute to the assets of the Company, in the event of the same being wound up while they are a Member or within one year after they cease to be a Member, for the payment of debts and liabilities of the Company incurred before the time at which the Member ceased to be a Member and for the costs charged and expenses of winding up and for the adjustment of rights of the contributories among themselves, such amount as may be required not exceeding \$50.00.

## **8. Powers of attorney**

- 8.1 If a Member executes or proposes to execute any document or do any act by or through an attorney which affects the Company or the Member's membership in the Company, that Member must deliver the instrument appointing the attorney to the Company for notation.
- 8.2 If the Company asks the Member to file with it a certified copy of the instrument for the Company to retain, the Member will promptly comply with that request.
- 8.3 The Company may ask for whatever evidence it thinks appropriate that the power of attorney is effective and continues to be in force.

## **9. General meetings**

### **9.1 Annual general meeting**

The Company must hold annual general meetings of the Company in accordance with the Corporations Act.

### **9.2 Power to convene general meeting**

- (a) Any two Directors may, whenever the Directors think fit, convene a general meeting of the Company's Members.
- (b) The directors of the Company must convene a general meeting of the Company's Members on the request of:
- (c) Members with at least 5% of the votes that may be cast at the general meeting; or
- (d) at least 100 Members who are entitled to vote at the general meeting.

### **9.3 Notice period**

- (a) Subject to the Corporations Act and clause 9.3(b), the Company must give 21 days notice of general meetings (including annual general meetings).
- (b) The Company may call, on shorter notice than that specified in clause 9.3(a):
- (i) an annual general meeting, if all the Members entitled to attend and vote at the annual general meeting agree prior to the annual general meeting; and
- (ii) any other general meeting, if Members holding at least 95% of the votes that may be cast at the general meeting agree prior to the general meeting.

#### 9.4 Notice of general meetings

Written notice of a general meeting must be given as provided in this Constitution to:

- (a) every Member;
- (b) every Director; and
- (c) the Auditor (if any).

#### 9.5 Content of notice of general meetings

A notice of a general meeting must:

- (a) specify the place, date and time for the meeting;
- (b) except as provided by clause 9.6, state the general nature of the business to be transacted at the meeting;
- (c) if a Special Resolution is to be proposed at the meeting, set out an intention to propose the Special Resolution and state the resolution; and
- (d) contain a statement of:
  - (i) each Voting Member's right to appoint a proxy; and
  - (ii) the fact that a proxy need not be a Member of the Company.

#### 9.6 Content of notice of annual general meeting

It is not necessary for the notice of an annual general meeting to state that the business to be transacted at the meeting includes:

- (a) the consideration of the financial statements and the reports of the Directors and Auditor (if any);
- (b) the election of Directors and other officers in place of those retiring;
- (c) the appointment and fixing of the remuneration of the Auditors; and
- (d) any other business which, under this Constitution or the Corporations Act, is required to be transacted at an annual general meeting.

#### 9.7 Nature of business

All business will be special that is transacted at a general meeting, with the exception of:

- (a) the consideration of the financial statements and the reports of the Directors and Auditors; and
- (b) the election of the Directors and Auditors (if any).

### 9.8 Notice of adjourned meeting

When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for 30 days or more.

### 9.9 Failure to give notice

Any resolution passed at a meeting is not invalidated by:

- (a) the accidental omission to give notice of a meeting to any Member or non-receipt of that notice by a Member; or
- (b) the accidental omission to send out the instrument of proxy to a person entitled to receive notice or non-receipt of that instrument.

## 10. Proceedings at General Meetings

### 10.1 Use of technology

The Company may hold a meeting at two or more venues using any technology that gives Members a reasonable opportunity to participate. The technology used must enable each member present at all places the meeting is held to clearly and simultaneously communicate with every other such member.

### 10.2 Quorum

- (a) Except as otherwise provided in this Constitution, the quorum for a general meeting of the Company is 15 Members present in person and the quorum must be present at all times during the meeting.
- (b) No business will be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business.

### 10.3 Effect of no quorum

If a quorum of the Company's Members is not present within half an hour after the time appointed for the meeting in the notice:

- (a) if the meeting was convened on the requisition of Members, the meeting must be dissolved; or
- (b) in any other case:
  - (i) the meeting will be adjourned to the date, time and place that the Directors specify (or if the Directors do not specify such details, the meeting is adjourned to the same day in the next week at the same time and place) except that if the meeting is adjourned for 30 days or more, notice of the resumed meeting must be given; and
  - (ii) if at a meeting resumed under clause 10.3(b)(i) a quorum is not present within half an hour after the time appointed for the meeting, the meeting must be dissolved.

#### 10.4 Chairperson

- (a) The Chairperson, or in the Chairperson's absence the deputy Chairperson, of Directors' meetings will be the Chairperson at every meeting of Members.
- (b) If:
  - (i) there is no Chairperson or deputy Chairperson; or
  - (ii) neither the Chairperson nor deputy Chairperson is present within 15 minutes after the time appointed for holding the General Meeting; or
  - (iii) the Chairperson and deputy Chairperson are unwilling to act as chairperson of the General Meeting,the Directors present may elect a chairperson of the General Meeting.
- (c) If no election is made under clause 10.4(b), then:
  - (i) the Members may elect one of the Directors present as Chairperson; or
  - (ii) if no Director is present or is willing to take the chair, the Members may elect one of the Members present as Chairperson.
- (d) If there is a dispute at a General Meeting about a question of procedure, the Chairperson may determine the question.

#### 10.5 Adjournment

The Chairperson must adjourn a general meeting if the Members present with a majority of votes at the general meeting agree or direct that the Chairperson must do so.

#### 10.6 Adjourned meetings

- (a) Only unfinished business is to be transacted at a meeting resumed after an adjournment.
- (b) A resolution passed at a meeting resumed after an adjournment is passed on the day it was in fact passed.

## 11. Voting at general meetings

### 11.1 Voting

- (a) A resolution put to the vote at a general meeting must be decided on a show of hands unless a poll is demanded.
- (b) Before a vote is taken, the Chairperson must inform the general meeting whether any proxy votes have been received, the number of those votes and by whom held.
- (c) On a show of hands, a declaration by the Chairperson is conclusive evidence of the result provided that the declaration reflects the show of hands and the votes of the proxies received. Neither the chairperson nor the minutes need to state the number or proportion of the votes recorded in favour or against the resolution.

### 11.2 Voting rights

- (a) All Members other than Alumni Members are entitled to vote.
- (b) Each Member entitled to vote may vote in person, by proxy or attorney as authorised under the Corporations Act, at a meeting of the Members of the Company, and each Voting Member has one vote whether on a show of hands or on a poll.

### 11.3 Voting by poll

- (a) A poll may be demanded by:
  - (i) the Chairperson;
  - (ii) at least 3 Members present in person or by proxy or attorney entitled to vote on the resolution; or
- (b) A poll may be demanded:
  - (i) before a vote is taken; or
  - (ii) before or immediately after the voting results on a show of hands are declared.
- (c) The demand for a poll may be withdrawn.
- (d) If a poll is duly demanded, it must be taken in such manner and, subject to clause 11.3(e), either immediately or after an interval or adjournment or otherwise as the Chairperson directs. The result of the poll is the resolution of the meeting at which the poll was demanded.
- (e) A poll demanded on the election of a Chairperson or on a question of adjournment must be taken immediately.

- (f) The demand for a poll does not prevent a meeting continuing for the transaction of any business other than the question on which a poll has been demanded.

#### 11.4 Casting vote of chair

In the case of an equality of votes, whether on a show of hands or on a poll, the Chairperson of the meeting at which the show of hands takes place or at which the poll is demanded has a casting vote (in addition to any vote that the Chairperson may have had as a Member).

#### 11.5 Votes counted in error

If any vote is counted which ought not to have been counted or might have been rejected, the error will not invalidate the resolution unless the error is:

- (a) detected at the same meeting; and
- (b) of sufficient magnitude, in the opinion of the Chairperson, as to invalidate the resolution.

## 12. Proxies

#### 12.1 Who can appoint a proxy

A Member who is entitled to attend and vote at a general meeting may appoint a person as that Member's proxy to attend and vote for that Member at a meeting of the Company. A proxy need not be a Member of the Company.

#### 12.2 Execution and form of proxies

An instrument appointing a proxy:

- (a) may be contained in a facsimile or e-mail;
- (b) must be in writing under the hand of the appointer or of an attorney duly authorised in writing or, if the appointer is a body corporate, either under seal or under the hand of an officer or attorney duly authorised;
- (c) may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument;
- (d) is deemed to confer authority to demand or join in demanding a poll; and
- (e) must (except in the case of proxies appointed under power of attorney), as nearly as the circumstances permit, be in the following form or in such other form as the Directors prescribe.



### 12.3 Life of proxy

An instrument appointing a proxy will not be valid after 12 months from the date of its execution, unless it is expressly stated to be a standing appointment or to extend for a longer period.

### 12.4 Lodgement of proxies

- (a) If a Member appoints a proxy, the proxy's appointment form must be given to the Company at the Office or at the place specified for the purpose in the notice calling the general meeting.
- (b) The appointment of a proxy is valid for a meeting if the appointment and any authority are given to the Company at least 48 hours before the general meeting at which the proxy is to be used.

## 13. Board

### 13.1 Board

- (a) The Board of the Company will consist of:
  - (i) a representative of the diocese of Gippsland of the Anglican Church of Australia nominated by the Bishop and approved by the Board;
  - (ii) two persons appointed by the Board (**Appointed Directors**):
    - (A) one of whom is an active communicant member of the Anglican Church of Australia or a member of a Christian Church aligned with the principles, values and beliefs of the Anglican Church of Australia; and approved by the Bishop
    - (B) one of whom, in the opinion of the Board, possesses skills and abilities of possible benefit to the Company.
  - (iii) six persons elected by the Members of the Company (**Elected Directors**)
- (b) Appointments to the Board where possible, will have regard to representation from all campuses of the School.
- (c) Subject to 13.1(d), any Member may nominate for office as a Director however a Member must only hold office in one position.
- (d) No member of staff of the School including individuals who have been admitted as members under Clause 6.4 (v) or (vi) is eligible to hold office as a Director.
- (e) All nominations of Directors:
  - (i) must be made in writing in such form as the Board from time to time determines and be signed by two current Members; and

- (ii) be delivered to the Secretary not less than 30 days before the date fixed for the annual general meeting.

### 13.2 Director qualifications

- (a) Subject to clause 13.2(b), a Director must be a Member of the Company and consent in writing before being appointed.
- (b) In the event that a Director ceases to be a Member in accordance with clause 6.11, that Director will still continue to hold office as a Director unless their office is vacated or they cease to be a Director in accordance with this clause 13.

### 13.3 Elected Directors

- (a) The Company may from time to time by resolution, passed at a general meeting, elect a person to be a Director of the Company.
- (b) Elected Directors will hold office for a period of three years and be eligible for re-election.
- (c) In the event there are equal number of Board nominations for the elected Director vacancies there shall be no cause for a vote to be taken and those persons nominating shall be duly elected as filling the elected Director vacancies.

### 13.4 Removal of Directors

Subject to the relevant provisions of the Act, the Company may by simple majority vote to remove any Director from office.

### 13.5 Vacation of office

In addition to the circumstances in which the office of a Director becomes vacant by virtue of the Corporations Act, the office of a Director immediately becomes vacant if the Director:

- (a) ceases to be a Director by virtue of the Corporations Act or this Constitution;
- (b) becomes bankrupt or makes any arrangement or composition with his or her creditors generally;
- (c) is prohibited from being a Director by reason of any order made under the Corporations Act;
- (d) becomes physically or mentally incapable of performing the Director's duties;
- (e) resigns by written notice to the Company; or
- (f) is absent from Directors' meetings without the consent of the other Directors for a period of more than three months.

### 13.6 Appointment to fill casual vacancy

- (a) The Board may at any time appoint any person to be a Director to fill a casual vacancy provided that such person appointed to fill a casual vacancy is a Member.
- (b) The Board may expressly resolve not to fill a casual vacancy.
- (c) Any Member appointed to fill a casual vacancy of the Board will be eligible to hold office only until the next Annual General Meeting of the Company, but will be eligible to stand for re-election to hold office until the end of the term of the vacating Director.

### 13.7 Maximum period of office

- (a) A person who has served as a Director for a period of 15 years in total will cease to hold office as from the next annual general meeting of the Company.
- (b) The maximum period of office pursuant to clause 13.7(a) will commence from the date of the first annual general meeting of the Company following adoption of this Constitution.

## 14. Powers and duties of Directors

### 14.1 General management power

Subject to the Corporations Act, this Constitution and any resolution of the Company, the Directors:

- (a) will manage the business of the Company in good faith, for the best interests of the Company, and with an emphasis on good governance principles;
- (b) may exercise all such powers of the Company that are not, by the Corporations Act or this Constitution, required to be exercised by the Company in general meeting, provided that:
  - (i) no resolution of the Company in general meeting will invalidate any prior act of the Directors which would have been valid if such a resolution had not been made; and
  - (ii) any sale or disposal by the Directors of the Company's main undertaking or a substantial proportion of its assets will be subject to ratification by the Company in general meeting.

## 14.2 Attorneys

- (a) The Directors may, by power of attorney under the Seal, appoint any person or persons to be the attorney or attorneys of the Company with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Directors), for such period and subject to such conditions as they think fit.
- (b) Any such power of attorney may contain provisions for the protection and convenience of persons dealing with the attorney and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.

## 14.3 Power to borrow and give security

- (a) Without limiting the generality of clause 14.1, the Directors may for the purposes of the Company:
  - (i) borrow money, with or without giving security for it; and
  - (ii) guarantee the performance of any obligation of the Company or of any other person.
- (b) The Directors may borrow or provide security as they think fit and in particular by the issue of bonds, debentures or any mortgage, charge or other security on the undertaking of the whole or part of the property of the Company (both present and future).
- (c) Debentures, bonds or other securities may be:
  - (i) made assignable free from any equities between the Company and the person to whom the same has been issued; or
  - (ii) issued at a discount, premium or otherwise and with any special privileges as to redemption, surrender, drawings, attending and voting at general meetings of the Company, appointment of Directors and otherwise, and any debentures may be re-issued notwithstanding that they may have been paid off or satisfied.

## 14.4 Register of mortgages and charges

The Directors must:

- (a) cause a proper register to be kept in accordance with the Corporations Act of all mortgages and charges affecting the property of the Company; and
- (b) comply with the Corporations Act in regard to the registration of mortgages and charges.

#### 14.5 Director may act in professional capacity

- (a) Subject to the Corporations Act and clause 14.5(b), any Director (or the Director's firm) may act in a professional capacity for the Company and the Director (or the Director's firm) is entitled to remuneration for professional services as if the Director were not a Director.
- (b) A Director (or the Directors) must not act as the Company's auditor.

#### 14.6 Payments to Directors

No payment will be made to any Director of the Company other than payment:

- (a) of out of pocket expenses incurred by the Director in the performance of any duty as Director of the Company where the amount payable does not exceed an amount previously approved by the Directors of the Company;
- (b) for any service rendered to the Company by the Director in a professional or technical capacity, other than in the capacity as Director, where the provision of the service has the prior approval of the Directors of the Company and where the amount payable is approved by the Directors of the Company and is not more than an amount which commercially would be reasonable payment for the service; and
- (c) relating to an indemnity in favour of the Director and permitted by section 199A of the Corporations Act or a contract of insurance permitted by section 199B.

### **15. Proceedings of Directors**

#### 15.1 Calling and holding Directors' meetings

A Director may call a Directors' meeting by giving reasonable notice to each Director.

#### 15.2 Circulating resolutions

- (a) The Directors may pass a resolution without a Directors' meeting being held if a majority of the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Identical copies of the document may be distributed for signing by different Directors and taken together will constitute one and the same document.
- (c) The resolution is passed when the last Director signs the document.

### 15.3 Use of technology

Without limiting the power of the Directors to regulate their meetings as they think fit, a meeting of Directors or committee of Directors may be held where one or more of the Directors is not physically present at the meeting, provided that:

- (a) all Directors consent to the calling and the holding of the meeting by means of telephone or other form of communication;
- (b) all Directors participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously by means of the agreed form of communication;
- (c) notice of the meeting is given to all the Directors entitled to notice in accordance with the usual procedures agreed on or laid down from time to time by the Directors and such notice does not specify that Directors are required to be present in person;
- (d) in the event that a failure in communications prevents clause 15.3(b) from being satisfied by that number of Directors which constitutes a quorum, then the meeting will be suspended until clause 15.3(b) is satisfied again. If clause 15.3(b) is not satisfied within 15 minutes from the time the meeting was interrupted, the meeting will be deemed to have terminated; and
- (e) any meeting held where one or more of the Directors is not physically present will be deemed to be held at the location specified in the notice of meeting provided a Director is present at that location. If no Director is present at the location specified, the meeting will be deemed to be held at the location where the Chairperson of the meeting is located.

### 15.4 Directors' resolutions

- (a) Subject to this Constitution, a resolution of the Directors must be passed by a majority of the votes of Directors present and entitled to vote on the resolution.
- (b) In case of an equality of votes, the Chairperson of the meeting, in addition to his or her deliberative vote (if any), has a casting vote.

### 15.5 Minutes

- (a) The Directors must keep minutes in accordance with the Corporations Act.
- (b) The minutes of a meeting must be signed by the Chairperson of the meeting or the Chairperson of the next meeting.
- (c) In the absence of evidence to the contrary, contents of the minute book that is recorded and signed in accordance with this clause 15.5 is evidence of the matters shown in the minute.

- (d) Members are not entitled to inspect or copy minutes of Board meetings.

#### 15.6 Director's personal interests

If a Director has a material personal interest in a matter that relates to the affairs of the Company other than an interest that does not have to be disclosed under section 191(2) of the Corporations Act and the Director discloses the nature and extent of the interest and its relation to the affairs of the Company to the other Directors, in accordance with section 191 of the Corporations Act, then the Director must not:

- (a) be present while the matter is being considered at the meeting; or
- (b) vote on the matter,

unless permitted by the Corporations Act to do so, in which case the Director may:

- (c) be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;
- (d) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
- (e) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.

#### 15.7 Quorum

- (a) At a meeting of Directors properly convened, the number of Directors whose presence is necessary to constitute a quorum is 5.
- (b) If the office of a Director becomes vacant, the remaining Directors may act but, if the total number of remaining Directors is not sufficient to constitute a quorum at a meeting of Directors, the Directors may act only for the purpose of increasing the number of Directors to a number sufficient to constitute a quorum or for the purpose of convening a general meeting of the Company.

#### 15.8 Chairperson

- (a) The Directors may elect a Director as Chairperson of Directors' meetings and may determine the period for which the Chairperson will hold office.
- (b) If no Chairperson is elected or if the Chairperson is not present at any Directors' meeting within ten minutes after the time appointed for the meeting to begin, the Directors present must elect a Director to be chairperson of the meeting.
- (c) The Directors may elect a Director as deputy Chairperson to act as chairperson in the Chairperson's absence.

### 15.9 Delegation to Committees

- (a) The Directors may delegate any of their powers to a committee or committees consisting of such of their number as they think fit.
- (b) A committee must exercise the powers delegated to it in accordance with any directions of the Directors.
- (c) The members of a committee may elect one of their number as Chairperson of their meetings.
- (d) Where a meeting of a committee is held and:
  - (i) a Chairperson has not already been elected to chair that meeting under clause 15.9(c); or
  - (ii) the previously elected Chairperson is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act,

the members present may elect one of their number to be Chairperson of the meeting.
- (e) A committee may meet and adjourn as it thinks fit unless otherwise directed by the Directors.
- (f) Questions arising at a meeting of a committee must be determined by a majority of votes of the members present and voting.
- (g) In the case of an equality of votes, the Chairperson has a casting vote, in addition to any vote the Chairperson has in the Chairperson's capacity as a member of the committee (if any).
- (h) The Board must establish an Executive Committee that will comprise:
  - (i) any Directors appointed to the Executive Committee by the Board; and
  - (ii) such other persons as determined by the Board from time to time.
- (i) The Honorary Treasurer, Business Manager and one or more members elected by the Board shall form a Finance Committee which will operate according to a charter approved by the Board. This Committee shall oversee the financial operation of the Company through the recommendation of budgets to the Board and the monitoring of income and expenditure.

### 15.10 By laws

The Directors have the power to make by-laws regulating the establishment and conduct of the Company and its committees.

### 15.11 Acts of Directors valid despite defective appointment

Any act done at any meeting of the Directors or of a committee of Directors by any person acting as a Director is, although it is later discovered that there was some defect in the appointment of any such Director or that the Director was disqualified, is valid as if the Director had been duly appointed and was qualified to be a Director or to be a member of the committee.

## 16. Bishop

The Bishop may visit the School on reasonable notice to the Chairman or Secretary, to inspect its operations and administration and is entitled, on giving notice to the Chairman or Secretary, to speak at any meeting of the Board.

## 17. Secretary

A Secretary of the Company holds office on such terms and conditions, as to remuneration and otherwise, as the Directors determine, and need not be a Member.

## 18. Principal

The Principal shall be an active communicant member of an Anglican Church of Australia or a member of a Christian Church aligned with the principles, values and beliefs of the Anglican Church of Australia and is to be appointed by the Board and approved by the Bishop upon and subject to such terms and conditions as it may think fit or shall otherwise be a person approved by the Bishop.

## 19. Business Manager

The Business Manager shall be responsible to the Board for the financial and business administration of the Company. In the execution of his/her duties the Business Manager shall comply with any directions given to him/her by the Principal but the Business Manager at all times shall have the right of direct approach to the Board and any Committee of the Board in relation to financial matters. The Business Manager shall attend such Meetings of the Board and Committees of the Board as directed by the Chair to attend.

## 20. Seal

### 20.1 Safe custody

Where the Company has a Seal, the Directors must provide for its safe custody.

### 20.2 Authority to use

Where the Company has a Seal, the Seal must only be used by the authority of the Directors, or of a committee of the Directors authorised by the Directors to authorise the use of the Seal.

### 20.3 Additional Seal

Where the Company has a Seal, the Company may have for use outside the state or territory in which the Office is located, one or more Seals each of which must only be used in accordance with the provisions of this clause 20.

## 21. Cheques

21.1 Cheques and other negotiable instruments paid to the Company's Banker for collection and requiring the endorsement of the Company may be endorsed on its behalf by the Secretary or the Honorary Treasurer or a Director so authorised by such person and in such manner as the Board may from time to time decide.

21.2 All cheques promissory notes and other negotiable instruments must be accurately made drawn or endorsed on behalf of the Company by any two of the following persons:

- (a) the Chairperson;
- (b) the Principal;
- (c) the Secretary;
- (d) the Honorary Treasurer of the Board;
- (e) a person or persons from time to time appointed for the purpose by the Board.

## 22. Execution of documents

### 22.1 Use of Seal optional

Except where required by the Corporations Act, the Company need not have or use the Seal to execute documents or deeds. The Directors may resolve whether or not the Company is to have or use a Seal.

### 22.2 Execution without the Seal

The Company may validly execute a document (including a deed) without using the Seal if the document is signed by a Director and countersigned by another Director, Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

### 22.3 Execution using the Seal

The Company may validly execute a document (including a deed) by fixing the Seal to the document and the fixing being witnessed by a Director and countersigned by another Director, a Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

## 22.4 Execution by authorised persons

Clauses 22.2 and 22.3 do not limit the ability of the Directors to authorise a person who is not an officer of the Company to execute a document for and on behalf of the Company.

## 22.5 Seal register

- (a) The Secretary must record details of every document to which the Seal, if any, is fixed in a Seal register.
- (b) Where the Company has a Seal, the Seal register must be produced at each Directors' meeting for the purpose of the Directors approving the fixing of the Seal to each document recorded in the Seal register since the last Directors' meeting.
- (c) If the Company does not have a Seal, details of every document executed by the Company must be recorded in a document register.

## 23. Inspection of records

23.1 The Directors must determine whether and on what terms the accounting records and other documents of the Company or any of them will be open to the inspection of Members other than Directors.

23.2 A Member other than a Director does not have the right to inspect any document of the Company except as provided by the Corporations Act or authorised by the Directors.

## 24. Notices

### 24.1 Notices in writing

Any notice given by the Company to any Member must be:

- (a) in writing, legible and in English; and
- (b) authorised by an officer of the Company.

### 24.2 Service

The Company must give a notice to any Member by:

- (a) serving it on the Member personally;
- (b) sending it by post to the Member's address as shown in the Register or an alternative address (if any) supplied by the Member to the Company for the purpose of giving notices;
- (c) sending it by facsimile to the facsimile number (if any) nominated by the Member; or
- (d) sending it by e-mail to the e-mail address (if any) nominated by the Member

### 24.3 Deemed receipt

A notice is deemed to be duly given or made in the case of:

- (a) delivery in person, when delivered;
- (b) delivery by post:
  - (i) in Australia to an Australian address, on the third day after posting; or
  - (ii) in any other case, on the tenth day after posting;
- (c) delivery by facsimile, on a transmission report being printed by the Company's facsimile machine stating that the document has been sent to the Member's facsimile number; or
- (d) delivery by email, on the date and time at which it enters the addressee's information system (as shown in a confirmation of delivery report from the sender's information system, which indicates that the email was sent to the email address of the addressee notified for the purposes of this clause);

but if delivery is not made before 4.00 pm on a day it will be deemed to be received at 9.00 am on the next day.

## 25. Audit and accounts

### 25.1 Company must keep accounts

The Board must cause the Company to keep written financial records that:

- (a) correctly record and explain its transactions (including transactions undertaken as trustee) and financial position and performance; and
- (b) would enable true and fair financial statements to be prepared and audited,

and must allow a Director and the auditor to inspect those records at all reasonable times.

### 25.2 Audit

The Board must cause the Company's financial report for each financial year to be audited and obtain an auditor's report if required by the Corporations Act. The eligibility, removal, remuneration, rights and duties of the auditor are regulated by the Corporations Act.

### 25.3 Financial reporting

The Board must cause the Company to prepare any reports required under the Corporations Act and must report to the Members in accordance with the Corporations Act no later than the deadline set by the Corporations Act.

## 25.4 Conclusive reports

Audited financial reports laid before the Company in general meetings are conclusive except as regards errors notified to the Company within three months after the relevant general meeting. If the Company receives notice of an error within that period, it must immediately correct the report and the report as corrected is then conclusive.

## 26. Winding up

Where on the winding up of the Company or dissolution of the Company, there is a surplus of assets after satisfying all the Company's liabilities and expenses, the surplus

- (a) must not be paid or distributed to the Members; and
- (b) will be given or transferred to such other fund, authority, institution or company which:
  - (i) has similar objects to those of the Company as described in this Constitution; and
  - (ii) prohibits the distribution of income, profit or assets to its Members.
- (c) The identity of the fund authority institution or company will be decided by the Members by Special Resolution on or before the time of such winding up or dissolution. If the Members fail to decide, the fund, authority, institution or company shall be determined by application to the Supreme Court in the State of Victoria.

## 27. Indemnity

### 27.1 Interpretation

In this clause 27:

- (a) **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 in their capacity as an officer of the Company (including proceedings alleging that they were guilty of negligence, default, breach of trust or breach of duty in relation to the Company); and
- (b) **officer** has the meaning given to that term in section 9 of the Corporations Act.

### 27.2 Scope of indemnity

To the extent permitted by law, the Company may indemnify any current or former officer out of the property of the Company against:

- (a) any liability incurred by the person in that capacity (except a liability for legal costs),

- (b) legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity, and
- (c) 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 Company or a subsidiary, if that expenditure has been approved in accordance with the Board's policy,

except to the extent that:

- (d) the Company is forbidden by law to indemnify the person against the liability or legal costs; or
- (e) an indemnity by the Company of the person against the liability or legal costs, if given, would be made void by law.

### 27.3 Insurance

In addition to the payment of any other insurance premium by the Company in accordance with the Corporations Act, and to the extent permitted by the Corporations Act, the Company may pay the premium in respect of a contract insuring an officer of the Company against a liability:

- (a) incurred by the officer of the Company in his or her capacity as officer, provided that the liability does not arise out of conduct involving a wilful breach of duty in relation to the Company or a contravention of sections 182 or 183 of the Corporations Act; or
- (b) for costs and expenses incurred by that officer of the Company in defending proceedings, whatever their outcome.

## 28. Variation or amendment of Constitution

This Constitution may be varied or amended from time to time in accordance with the Corporations Act.