

St Catherine's School Waverley Ordinance 1922 Amendment Ordinance 2008

No 13, 2008

Long Title

An Ordinance to amend the St Catherine's School Waverley Ordinance 1922.

Preamble

A. The Council of St Catherine's School Waverley (the "Council") is constituted pursuant to St Catherine's School Waverley Ordinance 1922 (the "Principal Ordinance") and has the responsibility to govern St Catherine's School Waverley (the "School").

B. The Council has resolved to request Standing Committee to amend the Principal Ordinance in relation to the membership of the Council and various other matters for the purposes of better governance of the School.

The Standing Committee of the Synod of the Diocese of Sydney Ordains as follows.

1. Name

This Ordinance is the St Catherine's School Waverley Ordinance 1922 Amendment Ordinance 2008.

2. Amendments

Clauses 3 to 20 of the Principal Ordinance are deleted and the clauses in the Schedule are inserted in the Principal Ordinance in their place.

3. Transitional

(1) Despite the amendments to the Principal Ordinance made by clause 2, the transitional arrangements concerning the membership of the Council set out in this clause shall apply.

(2) A person who is a member of the Council immediately prior to the date assent is given to this Ordinance shall continue in office until the first day of the first ordinary session of the 48th Synod as if the Principal Ordinance had not been amended by this Ordinance. The Council may not elect a person as a member of the Council under clause 6(d) of the Principal Ordinance, as amended, until the first day of the first ordinary session of the 48th Synod.

(3) If, immediately prior to the first day of the first ordinary session of the 48th Synod, the number of persons appointed as members of the Council by the Archbishop exceeds two, the person who has held office the longest since last being appointed shall at that time retire.

(4) The two persons holding office on the first day of the first ordinary session of the 48th Synod as members of the Council appointed by the Archbishop shall, subject to clause 8 of the Principal Ordinance, as amended, remain in office –

- (a) in the case of the person who has held office the longer since last being appointed, until the first day of the second ordinary session of the 48th Synod, and
- (b) in the case of the other person, until the first day of the third ordinary session of the 48th Synod,

provided that both persons are eligible for reappointment upon the expiry of their term of office.

(5) The person holding office on the first day of the first ordinary session of the 48th Synod as a member elected by the Old Girls' Union of St Catherine's Waverley ("OGU") shall, subject to clause 8 of the Principal Ordinance, as amended, remain in office until the next annual general meeting of the OGU whereupon the OGU shall elect a person under clause 6(c) of the Principal Ordinance, as amended, to fill the vacancy. The person retiring as a member at the annual general meeting is eligible for re-election.

(6) On the first day of the first ordinary session of the 48th Synod, the two clergymen who have held office the longest as members of the Council elected by the Synod shall retire and the eight lay persons who have held office the longest as members of the Council elected by the Synod shall retire. The Synod shall elect at that session one member of the clergy and two lay persons under clause 6(b) of the Principal Ordinance, as amended, provided that the members

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holding office as members elected by the Synod shall following each election include at least two women (whether clergy or lay persons).

(7) If, for the purposes of this clause, there is competition between two persons who have held office the longer or longest since last being elected or appointed, such competition is to be determined by the persons concerned and, if those persons cannot agree, the competition is to be determined by lot.

Schedule

3. Definitions and Interpretation

In this Ordinance unless the context otherwise requires or indicates –

“Archbishop” means the Archbishop of Sydney or, if the See is vacant, the Administrator of the Diocese;

“Clergy” means a member of the clergy of the Anglican Church of Australia;

“Council” means the Council of St Catherine's School Waverley constituted from time to time under this Ordinance;

“Diocese” means the Diocese of Sydney;

“Head” means the headmistress, headmaster, principal or teacher in charge of the School;

“Old Girls' Union” means the Association known as the Old Girls' Union of St Catherine's School, Waverley;

“School” means the St Catherine's School Waverley;

“Synod” means the Synod of the Diocese;

the singular includes the plural and vice versa and the masculine includes the feminine and vice versa.

4. Primary aim of the Council

The primary aim of the Council is to educate young women in ways consistent with the teaching of the Bible and gospel of Jesus Christ and to maintain and uphold the Christian faith in teaching and practice.

5. President

The Archbishop is the President of the Council.

6. Membership of the Council

The members of the Council are –

- (a) two persons appointed by the Archbishop;
- (b) nine persons elected by the Synod, three of whom shall be members of the Clergy and six of whom shall be lay persons and at least two of these nine persons shall be women (whether Clergy or lay persons);
- (c) one person elected by the Old Girls' Union provided that the right to fill this position by the Old Girls' Union shall lapse in the event that it has less than 50 financial members and any person appointed to the Council by the Old Girls' Union must be a member of the Anglican Church of Australia;
- (d) one person elected by the Council.

7. Qualification or restrictions on membership of the Council

(1) A person is not eligible to be appointed or elected as a member of the Council if the person –

- (a) is an employee of the Council, or
- (b) is the spouse of an employee of the Council.

(2) Upon being elected or appointed as a member, and before becoming a member, a person who is so elected or appointed under paragraphs 6(a), (b) or (d) is to sign the declaration specified in the Schedule 1, or if elected under paragraph 6(c) is to sign the statement specified in Schedule 2, and is to deliver it to the Council within 4 weeks of the person's election or appointment.

(3) A person who fails to sign and deliver the declaration or statement, as the case may be,

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within this time is to be taken not to have been elected or appointed as a member.

(4) A copy of the declaration or statement, as the case may be, referred to in subclause (2) is to be retained by the Council in its records.

8. Term of office of Members

(1) Subject to clauses 7, 9 and 10, three members of the Council (being one Clergy and two lay persons) elected by the Synod are to retire on the first day of each ordinary session of each Synod.

(2) The members of the Council to retire under subclause (1) are those who have held office the longest since last being elected or appointed but, in the case of competition, are to be determined by the members concerned. If those members cannot agree, the order of retirement is to be determined by lot.

(3) Subject to clause 9 –

- (a) a member of the Council appointed or elected by the Archbishop or the Synod holds office for a term of three years but is eligible for re-appointment or re-election, and
- (b) a member of the Council elected by the Old Girls Union or by the Council holds office for a term of one year but is eligible for re-election.

9. Casual vacancies

(1) A casual vacancy in the office of a member of the Council elected by the Synod arises in the circumstances set out in rule 7.1(2) of the Schedule to the Synod Elections Ordinance 2000.

(2) A casual vacancy in the office a member of the Council appointed by the Archbishop arises –

- (a) if the person holding that office resigns by notice in writing to the Archbishop, or
- (b) if a circumstance set out in rule 7.1(2)(a) (except rule 7.1(2)(a)(i)) of the Schedule of the Synod Elections Ordinance 2000 occurs in respect of that person, or
- (c) if the Archbishop by written notice to the person revokes the person's appointment.

(3) A casual vacancy in the office of a member of the Council elected by the Old Girls' Union or by the Council arises –

- (a) if the person resigns by notice in writing to the Chairman of the Council; or
- (b) if a circumstance set out in rule 7.1(2)(a) (except rule 7.1(2)(a)(i)) of the Schedule to the Synod Elections Ordinance 2000 occurs in respect of that person.

(4) A casual vacancy in the office of a member of the Council arises if the person or a spouse of the person becomes an employee of the Council.

10. Filling of casual vacancies

(1) A casual vacancy in the office of a member of the Council elected by the Synod is to be filled by the Synod, or by the Standing Committee if the Synod is not in session in accordance with rule 7.2 (2) of the Schedule to the Synod Elections Ordinance 2000.

(2) A person elected to fill a casual vacancy in the office of a member of the Council elected by the Synod holds office until the day on which the person whose vacancy he or she fills would have retired had the vacancy not occurred.

11. Chairman of the Council

(1) The members of the Council are to appoint one of their number to be the Chairman of the Council at the first meeting of the Council at the commencement of each calendar year.

(2) The Chairman of the Council is to be the Chairman of meetings of the Council.

(3) In the absence of the Chairman of the Council, the meeting is to appoint one of its number to be Chairman of the meeting.

12. Meetings of the Council

(1) The Council is to meet at such times as it may determine, and is to meet at a specific place at least once in any 3 month period.

(2) A meeting of the Council may be convened by –

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- (a) the President, or
- (b) the Chairman of the Council, or
- (c) any 4 members of the Council.

(3) A quorum for a meeting of the Council is 7 members.

13. Meetings by way of an approved communications link

(1) If, through an approved communications link, one or more members of the Council absent from the place of meeting can hear and be heard by not only one another (if more than one) but also the other members present at the place of meeting, such of those absent members and the other members present at the place of meeting who are able to hear and be heard by one another are to be taken to be assembled together at a meeting held at that place. All proceedings conducted with the aid of the approved communications link are to be as valid and effectual as if they had been conducted at a meeting at which all of those members were present.

(2) In subclause (1), "approved communications link" means a link established by means of any system of telephone, audio or audio-visual communication approved by the members of the Council and made known to each member for the purpose of any meeting of the members.

14. Circular Resolutions

(1) In extraordinary circumstances if a document containing a statement that the signatories to it are in favour of a resolution in the terms set out or otherwise identified in the document has been signed by all the members of the Council, a resolution in those terms shall be taken to have been passed at a meeting of the members of the Council held on the day on which and at the time at which the document was last signed by a member.

(2) For the purposes of subclause (1) –

- (a) 2 or more separate documents containing statements in identical terms each of which is signed by 1 or more members together are to be taken to be 1 document containing a statement in those terms signed by those members on the respective days on which they signed the separate document; and
- (b) a facsimile message which is received by the Secretary of the Council and is expressed to have been sent by a member shall be taken to be a document signed by that member at the time of the receipt of the facsimile message by the Secretary of the Council.

15. Attendance of other persons at meetings of the Council

(1) The President may attend any meeting of the members of the Council and may –

- (a) put before the members any question or proposal for their consideration, or
- (b) express his views on any question or proposal being considered by the members of the Council.

(2) The Council may invite any person who is not a member of the Council to be present for the whole or part of any meeting of the Council.

16. Duties of the Council

(1) The Council shall govern the School and manage the School and its assets in order to fulfil the primary aim of the Council specified in clause 4.

(2) The Council shall make financial and other arrangements and decisions for the present and future conduct of the School, the maintenance, improvement and extension of and addition to the lands, premises and other property of any kind held occupied or used by the Council in connection with the School.

17. Seal of the Council

The common seal of the Council is not to be affixed to any instrument except in accordance with the resolution of the Council. Every instrument to which the common seal is so affixed is to be signed by 2 members of the Council.

18. Appointment of the Head

(1) In appointing a person to be the Head, the Council will (in addition to the other requirements of the position) appoint a person of Christian faith and character who has

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demonstrated an ability and commitment to further allegiance to Christ as Lord and the cause of Christian education.

(2) No application for the position of Head is to be considered by the Council until the applicant has signed and delivered to the Council the declaration specified in Schedule 1.

(3) The Council is to observe the following protocol in selecting and appointing a person as Head –

- (a) prior to the beginning of the selection process, the Chairman of the Council is to brief the President on the proposed process and the composition of any selection committee and seek the President's views on the principles of selection and the process involved, and
- (b) the President is to be invited to be involved in the final interview process, and
- (c) the President is to be consulted if any significant issue arises during the final interview process of which he should be aware, and
- (d) the President is to be immediately notified upon acceptance of any offer for the position of Head.

19. Advertising for Staff

No position for teaching in the School is to be advertised without the Council stating in the advertisement its commitment to being a Christian School and to furthering Christianity through the School and inviting applications from those who will be committed to the Christian aims of the School.

20. Reporting requirement of the Head

The Head is to provide an annual report for the Council at a regular business meeting as to the Christian involvement of the staff members of the School as a whole.

21. Application of the School Chapels and Chaplains Ordinance 1975

The School Chapels and Chaplains Ordinance 1975 shall apply to every School established by the Council.

22. Powers of the Council

Subject to this Ordinance the Council shall have all powers necessary to enable it to perform the duties imposed upon it by this Ordinance, and in particular shall have the following powers –

- (a) to manage and conduct the School and its affairs and to govern and control the management and use of the church trust property held in connection therewith in such manner as it may deem expedient for the benefit of the School;
- (b) to approve the courses of instruction consistent with the objects of the Council referred to in the preamble hereto and the primary aim stated in clause 4;
- (c) to determine all matters relating to the order and discipline of the School;
- (d) to appoint and may suspend or remove the Head provided that any resolution for removal of the Head shall be supported by not less than two thirds of the members of the Council;
- (e) to approve the appointment or dismissal of teachers by the Head and may appoint such other officers as it may consider necessary to enable it to fulfil its objects;
- (f) subject to the provisions hereof, to regulate its own proceedings and for that purpose shall have power to make rescind or alter regulations;
- (g) to authorise or delegate any person or persons to do any act on its behalf;
- (h) to appoint sub-committees of Council either generally or specifically; to co-opt persons who are not members of the Council to such sub-committees;
- (i) to require the Head to furnish regularly to the Council such reports as the Council desires relating to the School;
- (j) to borrow or raise money and secure the repayment thereof with or without interest in such manner (otherwise than by means of bills of exchange or by a bill line facility except where such Bill of Exchange or Bill Line facility has been or shall subsequently be accepted or endorsed by a Bank authorised under the Banking Act 1959 or any other legislation of the Commonwealth of Australia or State or Territory thereof to carry on banking business in Australia) as the Council may

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think fit and to secure the same or other liability incurred or entered into by the Council in any way and in particular by charging all or any of the lands premises and other property of any kind both present and future owned by the Council or occupied or used directly or indirectly by is in connection with the School provided that the Council shall not exercise any power to borrow money except as may be secured by mortgage over real property vested in the School Council; and

- (k) may reimburse any member of the Council for any out of pocket expenses incurred in attending meetings of the Council or otherwise serving as a member of the Council.

23. Liabilities of the Council

(1) The Council shall remain and continue to be solely responsible for all liabilities incurred by it or on its behalf.

(2) Neither the Council nor any member of the Council shall represent to any person or corporation that the Archbishop of Sydney or the Synod of the Diocese of Sydney or the Standing Committee thereof or any person or persons or any other corporate body or corporation holding church trust property for the Anglican Church of Australia in the Diocese of Sydney or any other corporate body constituted by or pursuant to the Anglican Church of Australia (Bodies Corporate) Act 1938 shall or may meet or discharge all or any part of the liability or liabilities which have been or may or will be incurred wholly or partly by or on behalf of the Council.

(3) The Council shall not execute or deliver and shall not have power to execute or deliver any mortgage, charge, bills of exchange, debenture, guarantee, indemnity or promissory note unless the following clause is included therein –

“Notwithstanding anything contained herein to the contrary, each of the parties hereto acknowledges and agrees that the Council of St Catherine's School Waverley shall not be liable to any other party hereto for any amount whatsoever (whether by virtue of any express or implied obligation) beyond such amount (if any) as the Council of St Catherine's School Waverley may be able to pay to that party in the event of the Council of St Catherine's School Waverley being wound up.”

and such clause is not made subject to any qualifications.

24. Indemnity

(1) The Council must indemnify each person who is, or has been, a member of the Council against any liability which results directly or indirectly from facts or circumstances relating to the person serving or having served as a member of the Council other than a liability –

- (a) owed to the Council or a related body corporate, or
- (b) for a pecuniary penalty order under Section 1317G of the Corporations Law or a Compensation Order under Section 1317H of the Corporations Law, or
- (c) that is owed to someone other than the Council or a related body corporate and did not arise out of conduct in good faith.

This subclause (1) does not apply to a liability for legal costs.

(2) The Council must indemnify each person who is, or has been, a member of the Council against legal costs incurred in defending an action for a liability which results directly or indirectly from facts or circumstances relating to the person serving or having served as a member of the Council other than costs which are incurred –

- (a) in defending or resisting proceedings in which the person is found to have a liability for which they could not be indemnified under subclause (1), or
- (b) in defending or resisting criminal proceedings in which the person is found guilty, or
- (c) in defending or resisting proceedings brought by the Australian Securities and Investments Commission or a liquidator for a court order if the grounds for making the order are found by the court to have been established, or
- (d) in connection with proceedings for relief to the person under the Corporations Law in which the court denies the relief.

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This subclause (2) does not apply to costs incurred in responding to actions taken by the Australian Securities and Investments Commission or a liquidator as part of an investigation before commencing proceedings for the court order.

(3) For the purpose of subclause (2), the outcome of proceedings is the outcome of the proceedings and any appeal in relation to the proceedings.

(4) The Council need not indemnify a person under subclause (1) and/or subclause (2) for a liability to the extent that the person is entitled to an indemnity for that liability under a contract of insurance.

(5) The Council may pay, agree to pay, or cause to be paid a premium for a contract insuring the person who is, or has been, a member of the Council against any liability which results directly or indirectly from facts or circumstances relating to the person serving, or having served, in that capacity other than a liability arising out of –

- (a) conduct involving a wilful breach of duty in relation to the Council, or
- (b) the improper use of information by the person, obtained because the person is, or has been, a member of the Council to gain an advantage for that person or another person or to cause detriment to the Council; or
- (c) the improper use of the person's position as a member of the Council to gain an advantage for himself or herself or for another person or to cause detriment to the Council.

This subclause (5) does not apply to a liability for legal costs.

(6) The Council may pay, agree to pay, or cause to be paid a premium for a Contract insuring a person who is, or has been, a member of the Council against legal costs incurred in defending an action for a liability which results directly or indirectly from facts or circumstances relating to the person serving, or having served, in that capacity.

(7) The obligations and powers under subclauses (1), (2), (5) and (6) are incurred or are to be exercised (as the case may be) only to the extent permitted by law.

25. Reporting by the Council

The Council shall at least once in every year present a report on its proceedings and the progress and condition of the School to the Synod and shall furnish such other information as may be required from time to time by resolution of Synod or the Standing Committee thereof.

26. Compliance with the Accounts, Audits and Annual Reports Ordinance 1995

The Council shall comply with the provisions of the Accounts, Audits and Annual Reports Ordinance 1995 as amended from time to time.

Schedule 1

Statement of personal faith and support for the Christian ethos and charter of the Council

1. I believe and hold to the truth of the Christian faith as set forth in the Apostles' Creed.

I believe in God, the Father Almighty,
maker of heaven and earth;
and in Jesus Christ, his only Son our Lord,
who was conceived by the Holy Spirit,
born of the virgin Mary,
suffered under Pontius Pilate,
was crucified, dead, and buried.
He descended into hell.
The third day he rose again from the dead
He ascended into heaven,
and is seated at the right hand of God the Father almighty;
from there he shall come to judge the living and the dead.
I believe in the Holy Spirit;
the holy catholic church;
the communion of saints;
the forgiveness of sins;

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the resurrection of the body,
and the life everlasting.

2. In particular I believe –
 - (a) there is only one way to be reconciled to God which is through his Son, Jesus Christ, who died for our sins and was raised for our justification; and
 - (b) that God's word, the Bible, is the one final authority in all matters of faith and conduct.
3. I shall endeavour to fulfil my duties as a member of the Council or the Head of the School in accordance with this declaration and the ordinance by which the Council is constituted.
4. I agree that my continuance as a member of the Council or the Head of the School is dependent upon my continuing agreement with this declaration and I undertake to resign if this ceases to be the case.

Schedule 2

Statement of support for the Christian ethos and charter of the Council

1. I acknowledge that the School to whose Council I am elected or appointed aims to educate young people in ways consistent with the teaching of the Bible and the gospel of Jesus Christ, and to this end I support the Council's commitment to maintain and uphold the Christian faith in teaching and practice.
2. I shall endeavour to fulfil my duties as a member of the School Council to which I am elected or appointed in accordance with its Christian ethos and the charter of the organisation.
3. I agree that my continuance as a Council member is dependent upon my continuing agreement with this statement and I undertake to resign if this ceases to be the case.

I Certify that the Ordinance as printed is in accordance with the Ordinance as reported.

PG KELL
Chairman of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 28 July 2008.

R WICKS
Secretary

I Assent to this Ordinance.

ROBERT FORSYTH
Commissary of Sydney
01/08/2008