

The William Branwhite Clarke College Ordinance 1987

(Reprinted under the Interpretation Ordinance 1985.)

The William Branwhite Clarke College Ordinance 1987 as amended by the William Branwhite Clarke College Ordinance Amending Ordinance 1991, the Accounts, Audits and Annual Reports Ordinance 1995, the William Branwhite Clarke College Ordinance 1987 Amendment Ordinance 1996, the Diocesan Officers (Retirement) Repeal Ordinance 2001, the William Branwhite Clarke College Ordinance 1987 Amendment Ordinance 2007 and the Borrowing Limits of Diocesan Organisations Amendment Ordinance 2016.

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Long Title

An Ordinance to constitute The William Branwhite Clarke College Council and for other matters in connection therewith.

Preamble

Whereas

A. It is desired to establish a School in the Hills Region to provide an education which in its content and environment allows for full individual development in the spiritual academic physical and social domains based on a clear biblical perspective in accordance with the doctrines and principles of the Anglican Church of Australia in the Diocese of Sydney.

B. It is expedient that provision be made for the constitution and election of a council to establish and then to carry on the School and to vest authority in the council for such purposes as are hereinafter mentioned.

Now the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod Hereby Ordains Declares Directs and Rules as follows.

1. Name of ordinance

This ordinance is the William Branwhite Clarke College Ordinance 1987.

2. Definitions and Interpretation

In this Ordinance unless the context otherwise requires or indicates –

- (a) “Archbishop” means the Archbishop of Sydney or, if the See is vacant, the Administrator of the Diocese of Sydney;
- (b) “Basis and Statement of Faith” means:
 - (i) the Book of Common Prayer and the Thirty Nine Articles;
 - (ii) belief that God's written word conveys to us in many and varied ways the revelation of Himself which is fulfilled in our Lord Jesus Christ; that the holy scriptures of the Old and New Testaments contain all the necessary doctrine required for eternal salvation through faith in Jesus Christ; and that such holy scriptures contain God's standard whereby all matters of doctrine and conduct are judged;
- (c) “Clergyman” means a clergyman of the Anglican Church of Australia;
- (d) “College” means the William Branwhite Clarke College;
- (e) “Council” means the Council of the William Branwhite Clarke College constituted from time to time under this Ordinance;
- (f) “Diocese” means the diocese of Sydney;
- (g) “Episcopal Region” means that Region of the Diocese in which the Bishop of Parramatta exercises episcopal authority from time to time;
- (h) “Principal” means the head or teacher in charge of the School;
- (i) “Synod” means the Synod of the Diocese of Sydney;
- (j) the singular includes the plural and vice versa and the masculine includes the feminine and vice versa.

3. Primary aim of the Council

The primary aim of the Council is to educate young people 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.

4. Membership of the Council

The members of the Council are –

- (a) the Archbishop;
- (b) three persons appointed by the Archbishop;
- (c) six persons elected by the Synod, three of whom shall be members of the Clergy and three of whom shall be lay persons;
- (d) three persons elected by the members of the Council.

5. 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) A person is not to be appointed or elected as a member of the Council unless the person has first lodged with the Council –

- (a) a signed declaration in which he or she agrees to abide by the “Basis and Statement of Faith”, and
- (b) a signed copy of the Schedule.

6. Term of office of Members

(1) Subject to clauses 6(3), 7 and 8, two members of the Council elected by the Synod are to retire on the first day of each ordinary session of the Synod.

(2) The members of the Council to retire under sub-clause 6(1) are those who have held office the longest since last being elected but, in the case of competition, is 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 7, all members of the Council hold office for a term of three years but are eligible for re-appointment or re-election.

7. Casual vacancies

(1) A casual vacancy in the office of a member of the Council arises –

- (a) if the person resigns by notice in writing to the Chairman of the Council;
- (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;
- (c) if the Council, at a meeting of the Council duly convened expressly for the purpose, passes, by majority of not less than two thirds of the appointed and elected members of the Council, a resolution that the office of a member of the Council appointed or elected pursuant to clause 4 be declared vacant provided that before that meeting the Council shall have –
 - (i) informed the member of the proposed resolution and the grounds on which it will be proposed; and
 - (ii) given the member a reasonable opportunity at a meeting of the Council duly convened expressly for the purpose of showing cause why his office should not be declared vacant; or
- (d) if the spouse of that member becomes an employee of the Council.

8. 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.

(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.

9. President

The Archbishop is the President of the Council

10. Chairman of the Council

(1) The members of the Council are to appoint one of their number to be the Chairman of the Council.

(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.

11. 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 –

- (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.

12. 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 sub-clause 12(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.

13. 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 sub-clause 13(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.

14. 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.

15. Duties of the Council

(1) The Council shall establish the College and manage the College and its assets.

(2) The Council shall make financial and other arrangements and decisions for the present and future conduct of the College, 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 College.

16. 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.

17. Appointment of the Principal

(1) In appointing a person to be the Principal, the Council will (in addition to the other requirements of the position) appoint a person of Christian faith and character who is committed to furthering allegiance to Christ as Lord and the cause of Christian education in the College.

(2) A person is not to be considered as Principal if the person has not first produced to the Council –

- (a) a signed declaration in which he or she agrees to abide by the “Basis and Statement of Faith”, and
- (b) a signed copy of the Schedule.

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

- (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 Principal.

18. Advertising for Staff

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

19. Reporting requirement of the Principal

The Principal 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 College as a whole.

20. Application of the School Chapels and Chaplains Ordinance 1975

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

21. 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 College and its affairs and to govern and control the management and user of the church trust property held in connection therewith in such manner as it may deem expedient for the benefit of the College;
- (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 3;
- (c) to determine all matters relating to the order and discipline of the College;
- (d) to appoint and may suspend or remove the Principal provided that any resolution for removal of the Principal 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 Principal 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 any persons 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 Principal to furnish regularly to the Council such reports as it desires relating to the College;
- (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 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 College, 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.

22. 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 The William Branwhite Clarke College 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 The William Branwhite Clarke College may be able to pay to that party in the event of the Council of The William Branwhite Clarke College being wound up.”

and such clause is not made subject to any qualifications.

23. 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 sub-clause 23(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 sub clause 23(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.

Paragraph (c) 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 sub clause 23(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 sub clause 23(1) and/or sub clause 23(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 sub clause 23(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 sub clauses 23(1), 23(2), 23(5) and 23(6) are incurred or are to be exercised (as the case may be) only to the extent permitted by law.

24. 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 College 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.

25. 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

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

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 apostolic church;
the communion of saints;
the forgiveness of sins;
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 written, the Bible, is the supreme authority in all matters of faith and conduct.
3. I shall endeavour to fulfil my duties as a member or as the Principal of the William Branwhite Clarke College Council (as the case may be) in accordance with its Christian ethos and the charter of the organisation.
4. I agree that my continuance as a Council member or as the Principal (as the case may be) is dependent upon my continuing agreement with this declaration and I undertake to resign if this ceases to be the case.

Confirmed
(signature)

Note

1. Pursuant to the Anglican Church of Australia (Bodies Corporate) Act 1938 the Council was incorporated under the name "The William Branwhite Clarke College Council" by Order published in the Government Gazette on 17 June 1988.
2. Transitional provisions apply in relation to amendments concerning membership of the council made by Ordinance 48, 2007. See clause 3 of Ordinance No 48, 2007.

Table of Amendments

Clause 1	Original clause deleted and new clause inserted by Ordinance No 48, 2007.
Clause 2	Amended by Ordinances Nos 44, 1996 and 48, 2007.
Clause 3	Original clause deleted and new clause inserted by Ordinance No 48, 2007.
Clause 4	Original clause deleted and new clause inserted by Ordinance No 48, 2007.
Clause 5	Original clause deleted and new clause inserted by Ordinance No 48, 2007.
Clause 6	Original clause deleted and new clause inserted by Ordinance No 48, 2007.
Clause 7	Original clause deleted and new clause inserted by Ordinance No 48, 2007.
Clause 8	Original clause deleted and new clause inserted by Ordinance No 48, 2007.
Clause 9	Original clause deleted and new clause inserted by Ordinance No 48, 2007.
Clause 10	Original clause deleted and new clause inserted by Ordinance No 48, 2007.
Clause 11	Original clause deleted and new clause inserted by Ordinance No 48, 2007.
Clause 12	Original clause deleted and new clause inserted by Ordinance No 48, 2007.
Clause 13	Inserted by Ordinance No 48, 2007.
Clause 14	Inserted by Ordinance No 48, 2007.
Clause 15	Original clause 13 renumbered and amended by Ordinance No 48, 2007.
Clause 16	Original clause 14 deleted and new clause inserted by Ordinance No 48, 2007.
Clause 17	Original clause deleted and new clauses inserted by Ordinances Nos 35, 1991 and 48, 2007.
Clause 18	Inserted by Ordinance No 48, 2007.
Clause 19	Inserted by Ordinance No 48, 2007.
Clause 20	Original clause 15 renumbered and amended by Ordinance No 48, 2007.
Clause 21	Original clause 16 renumbered and amended by Ordinances Nos 48, 2007 and 31, 2016.
Clause 22	Original clause 17 renumbered and amended by Ordinance No 48, 2007.
Clause 23	Original clause 18 deleted and new clause inserted by Ordinance No 48, 2007.
Clause 24	Original clause 19 renumbered and amended by Ordinance No 48, 2007.
Clause 25	Original clause 20 renumbered and amended by Ordinance No 48, 2007.
Schedule	Inserted by Ordinance No 48, 2007.

STEVE LUCAS
Legal Counsel

26 September 2016

ROBERT WICKS
Diocesan Secretary