

Constitution

The Congregation of the Enmore Spiritualist Church Incorporated

Turner Freeman
Lawyers
Level 13
39 Martin Place
SYDNEY NSW 2000
DX 152 SYDNEY
T 02 8222 3333
F 02 8222 3349

www.turnerfreeman.com.au

Our reference TLG:125386:055
E laura.robinson@turnerfreeman.com.au

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CONSTITUTION

Part 1: Name, Principles and Objects

1. Name

The name of the association is The Congregation of the Enmore Spiritualist Church Incorporated ("the Church").

2. Fundamental Principles

2.1 The Church accepts the fundamental principles of spiritualism as follows:

- (a) The Universal Fatherhood of God;
- (b) The Universal Brotherhood of Man;
- (c) The Communion of Spirits and the Ministry of Angels;
- (d) The Survival of Bodily Death;
- (e) Personal Responsibility;
- (f) Compensation and Retribution, here or hereafter, for all the Good and Evil Deeds done on Earth; and
- (g) Eternal Progress open to every Human Soul.

2.2 The aforesaid principles are not presented as a confession of faith, or as a standard to which assent is required. They are to be construed as a moral and ethical framework on which all Spiritualists can agree and unite in fellowship.

3. Objects

The charitable objects of the Church are the advancement of religion through:

- (a) the promotion of belief in the religion of Spiritualism;
- (b) facilitation of worship of Spiritualism through conducting public spiritual services;
- (c) building and/or maintaining and/or repairing the Church's place of worship;
- (d) advancing understanding of Spiritualism for all through the provision of information, organising seminars, lectures and workshops;
- (e) facilitation of spiritual healing;
- (f) strengthening the fraternal relations between Spiritualists;
- (g) promoting and maintaining links with other charitable religious organisations having similar objects; and
- (h) doing all such lawful things for the advancement of Spiritualism.

- (i) to assume control of and conduct of the business of and the Ministry of the Enmore Spiritualist Church Inc (in liquidation).
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4. Type of Association

- 4.1 The Church is to operate at all times as a non-profit organisation.
- 4.2 The assets and Net Income of the Church shall be applied solely in furtherance of the objects listed in clause 3.
- 4.3 No income or property of the Church will be paid, transferred or distributed, directly or indirectly, by way of dividend or otherwise to any Members of the Church. However, nothing in this Constitution will prevent payment in good faith to a Member:
 - (a) in return for any services rendered or goods supplied in the ordinary and usual course of business to the Church;
 - (b) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent to the Church; or
 - (c) of reasonable and proper rent for premises leased by an Member to the Church.
- 4.4 The Church must be located in Australia.

Part 2: Membership

5. Membership Eligibility

- 5.1 A person is eligible to be a Member of the Church if the person:
 - (a) is a natural person;
 - (b) is over the age of 18 years;
 - (c) accepts the fundamental principles of Spiritualism as set out in clause 2, providing a moral and ethical framework for his or her belief;
 - (d) has been a Parishioner of the Church for at least 5 years,
 - (e) has engaged in regular activities held by the Church to assist in furthering the Church's fundamental principles, and
 - (f) has been nominated and approved for Membership of the Church in accordance with clause 7.
 - 5.2 All those who were Members of the Enmore Spiritualist Church Inc (in liquidation) as at the date that entity entered administration under the Act are taken to be the Members of the Church, whose names appear in schedule 2 to this Constitution, subject to their written authorisation.
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6. Register of Parishioners

- 6.1 For a Parishioner to be recognised, the Secretary of the Church must establish and maintain a register of Parishioners of the Church specifying the name and current

residential address of each person who is a Parishioner of the Church together with the date on which the person became a Parishioner.

- 6.2 A person does not have to be registered as a Parishioner to take part in worship or spiritual services; however, they are only guests of the Church until such time as they are officially registered.
- 6.3 A Parishioner may only maintain his/her registration as a parishioner if he/ she is a regular attendee at worship or spiritual services conducted by the Church, and for the purposes of regular attendance such attendance must be at least once per month on average, each year.
- 6.4 Removal from the register of Parishioners may be made by the Secretary in the event that a Parishioner does not attend the Church regularly, but this does not bar a person from being re-admitted as a Parishioner, or from attending the Church as a guest.

7. Nomination for Membership

- 7.1 A nomination of a person for Membership of the Church:
 - (a) must be made by a Member of the Church in writing in the form set out in schedule 1 to this Constitution, and
 - (b) must be lodged with the Secretary of the Church.
- 7.2 As soon as practicable after receiving a nomination for Membership, the Secretary must refer the nomination to the Committee which is to determine whether to approve or to reject the nomination, and the determination by the Committee will be final.
- 7.3 As soon as practicable after the Committee makes that determination, the Secretary must:
 - (a) notify the nominee, in writing, that the Committee approved or rejected the nomination (whichever is applicable), and
 - (b) if the Committee approved the nomination, request the nominee to pay the sum payable under this Constitution by a Member as entrance fee and annual subscription within the period of 28 days from service of the notice.
- 7.4 The Secretary must, on payment by the nominee of the amounts referred to in subclause 7.3 within the period referred to in that provision, enter or cause to be entered the nominee's name in the register of Members and, on the name being so entered, the nominee becomes a Member of the Church.

8. Register of Members

- 8.1 The Secretary of the Church must establish and maintain a register of Members of the Church specifying the name and current residential address of each person who is a Member of the Church together with the date on which the person became a Member.
- 8.2 The register of Members must be kept in New South Wales:
 - (a) at the main premises of the Church; or
 - (b) if the Church has no premises, at the Church's official address.

- 8.3 The register of Members must be open for inspection, free of charge, by any Member of the Church at any reasonable hour.
- 8.4 A Member of the Church may obtain a copy of any part of the register on payment of a fee of \$1.00 per page, or such other amount as determined by the Committee.
- 8.5 If a Member requests that any information contained on the register about the Member (other than the Member's name) not be available for inspection, that information must not be made available for inspection.
- 8.6 A Member must not use information about a person obtained from the register to contact or send material to the person, other than for:
- (a) the purposes of sending the person a notice in respect of a meeting or other event relating to the Church or other material relating to the Church; or
 - (b) any other purpose necessary to comply with a requirement of the Act or the Regulation or any other laws
- provided the Member complies with all applicable privacy laws and principles.
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9. Fees and Subscriptions

- 9.1 If the Church is the beneficiary of a charitable trust, any remuneration for the trustee's services will be paid in accordance with the charitable trust deed; or if the deed is silent, by the trustee of the charitable trust from the trust fund prior to the balance being distributed to the Church.
- 9.2 A Member of the Church must, on admission to Membership, pay to the Church a fee of \$100 or, any other amount as determined by the Committee.
- 9.3 In addition to any amount payable by the Member under subclause 9.2, a Member of the Church must pay to the Church an annual Membership fee of \$100 or, any other amount as determined by the Committee:
- (a) except as provided by paragraph (b) below, on or before the last business day in February each year, or
 - (b) if the Member is newly admitted as a Member – on becoming a Member and before 28 days upon being served with notification of acceptance of his or her Membership application.
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10. Members' Liabilities

- 1.1 Subject to this Constitution, each person who is a Member and each person who was a Member during the year ending on the day of the commencement of the winding up of the Church, undertakes to contribute to the property of the Church for:
- (a) payment of debts and liabilities of the Church;
 - (b) payment of the costs, charges and expenses of winding up; and
 - (c) any adjustment of the rights of the contributories among Members.

- 10.1 The amount that each Member or past Member is liable to contribute is limited to the amount, if any, unpaid by the Member in respect of Membership of the Church as required by clause 9.
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11. Membership Entitlements Not Transferable

A right, privilege or obligation which a person has by reason of being a Member:

- (a) is not capable of being transferred or transmitted to another person, and
 - (b) terminates on cessation of the person's Membership.
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12. Cessation of Membership

- 12.1 A person ceases to be a Member of the Church if the person:

- (a) dies;
- (b) resigns Membership;
- (c) is expelled from the Church; or
- (d) fails to pay the annual Membership fee under clause 9.3 within two (2) months after an invoice is issued and the fee is due.

- 12.2 If a Member of the Church ceases to be a Member under clause 12.1, the Secretary must make an appropriate entry in the register of Members recording the date on which the Member ceased to be a Member.
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13. Resignation of Membership

A Member of the Church may resign from Membership of the Church by first giving to the Secretary written notice of at least seven days (or such other period as the Committee may determine) of the Member's intention to resign and, on the expiration of the period of notice, the Member ceases to be a Member.

14. Disciplining of Members

- 14.1 Committee Acting In Its Own Initiative

- (a) The Committee may act in its own initiative to expel or suspend a Member if it considers that a Member of the Church:
 - (i) has refused or neglected to comply with a provision or provisions of this Constitution, or
 - (ii) has wilfully acted in a manner prejudicial to the interests of the Church.
- (b) Before the Committee acts under subclause 14.1(a), it:
 - (i) must cause notice to be served on the Member concerned of the resolution proposed and the reasons why it is proposed,
 - (ii) must give the Member at least 14 days from the time the notice is served within which to make submissions to the Committee, and

- (iii) must take into consideration any submissions made by the Member.
- (c) The Committee may, by resolution, expel or suspend the Member from Membership of the Church if, after considering any submissions made, it is satisfied that the expulsion or suspension is in the best interests of the Church.

14.2 Committee Acting upon Complaint from a Person

- (a) A person may make a complaint to the Committee that a Member of the Church:
 - (i) has refused or neglected to comply with a provision or provisions of this Constitution, or
 - (ii) has wilfully acted in a manner prejudicial to the interests of the Church.
- (b) The Committee may in its discretion refuse to deal with a complaint if it considers the complaint to be trivial or vexatious in nature.
- (c) If the Committee decides to deal with the complaint, the Committee:
 - (i) must cause notice of the complaint to be served on the Member concerned,
 - (ii) must give the Member at least 14 days from the time the notice is served within which to make submissions to the Committee in connection with the complaint, and
 - (iii) must take into consideration any submissions made by the Member in connection with the complaint.
- (d) The Committee may, by resolution, expel the Member from the Church or suspend the Member from Membership of the Church if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved and the expulsion or suspension is in the best interests of the Church.

14.3 Notification of Expulsion or Suspension

- (a) If the Committee expels or suspends a Member, the Secretary must, within 7 days after the action is taken, cause written notice to be given to the Member of the action taken, of the reasons given by the Committee for having taken that action and of the Member's right of appeal under clause 15.
- (b) The expulsion or suspension does not take effect:
 - (i) until the expiration of the period within which the Member is entitled to appeal against the resolution concerned, or
 - (ii) if within that period the Member exercises the right of appeal, unless and until the resolution to suspend or expel the Member is confirmed in General Meeting under clause 15,

whichever is the later.

15. Right of Appeal of Disciplined Member

- 15.1 At his or her own cost, a Member may appeal to the Church in General Meeting against a resolution of the Committee under clause 14, within 7 days after notice of the

resolution is served on the Member, by lodging with the Secretary a notice to that effect.

- 15.2 The notice must be accompanied by a statement of the grounds on which the Member intends to rely for the purposes of the appeal.
- 15.3 On receipt of a notice from a Member under subclause 15.1, the Secretary must notify the Committee which is to convene a General Meeting of the Church to be held within 2 months after the date on which the Secretary received the notice.
- 15.4 At a General Meeting of the Church convened under subclause 15.3:
 - (a) no business other than the question of the appeal is to be transacted;
 - (b) the Committee and the Member must be given the opportunity to state their respective cases orally or in writing, or both, and
 - (c) the Members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- 15.5 The appeal is to be determined by a majority of votes cast by Members of the Church, and the deciding vote will be made by the Chairperson in the event of a tie.

Part 3 – The Committee

16. Powers of the Committee

Subject to the Act, the Regulation and this Constitution and to any resolution passed by the Church in General Meeting, the Committee:

- (a) is to control and manage the affairs of the Church,
 - (b) may exercise all such functions as may be exercised by the Church, other than those functions that are required by this Constitution to be exercised by a General Meeting of Members of the Church, and
 - (c) has power to perform all such acts and do all such things as appear to the Committee to be necessary or desirable for the proper management of the affairs of the Church.
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17. Composition of Committee

- 17.1 The Committee is to consist of:
 - (a) the office-bearers of the Church, and
 - (b) at least one ordinary Committee Member
- 17.2 The minimum number of Committee Members is to be 5, or such other number as agreed from time to time by the Members in General Meeting.
- 17.3 The office-bearers of the Church are as follows:
 - (a) the President;

- (b) the Vice-President;
 - (c) the Secretary; and
 - (d) the Treasurer.
- 17.4 A Committee Member may hold no more than 2 offices (other than both the offices of the President and the Vice-President).
- 17.5 Each Committee Member except the President is, subject to this Constitution, to hold office until the conclusion of the Annual General Meeting following the date of the Member's election, and there is no limit to the number of times they may be re-elected.
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18. Eligibility of Committee Members

- 18.1 Each Committee Member must:
- (a) be a current Member of the Church;
 - (b) have been a Member of the Church for at least 2 consecutive years immediately prior to the appointment;
 - (c) in the opinion of the other Committee Members, have good character and integrity; and
 - (d) not be an undischarged bankrupt.
- 18.2 The Committee Members as at the time of adoption of this Constitution are deemed to have met the above requirements.
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19. Election of President

- 19.1
- (a) The Minister (or if there are multiple Ministers, the Senior Minister) is automatically held to be the President unless he or she does not wish to be the President.
 - (b) If the Minister in accordance with clause (a) does not wish to be President, then (excluding that Minister) the longest serving Minister according to the records maintained in accordance with clause 47.3 is automatically held to be the President.
 - (c) If there is no other Minister or he or she does not wish to be President in accordance with clause (b), then an election will take place in accordance with clause 19.2.
- 19.2 In accordance with clause 19.1, nominations of candidates for election as President:
- (a) must be made in writing, signed by 2 Members of the Church and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination),
 - (b) must be delivered to the Secretary of the Church at least 7 days, or any other period as determined by the Committee, before the date fixed for the holding of the Annual General Meeting at which the election is to take place, and
 - (c) a person nominated as a candidate for election as President must meet the eligibility criteria in clause 18 of this Constitution.

- 19.3 The President is to be elected by a three-fifths majority vote of the Members of the Church at the Annual General Meeting unless the candidate for the office of the President is also a Minister of the Church in which case a simple majority vote of the Members of the Church at the Annual General Meeting shall be sufficient for election to the office of President.
- 19.4 The office of President shall not be open for re-election at each Annual General Meeting unless a majority of Members resolve that the office of President be vacated.
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20. Election of Committee Members

- 20.1 All Committee Members of the Church, except the President, are to be elected by a majority vote of the Members of the Church at the Annual General Meeting.
- 20.2 Nominations of candidates for election as Committee Members:
- (a) must be made in writing, signed by 2 Members of the Church and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination),
 - (b) must specify the position(s) for which the candidate is being nominated, and
 - (c) must be delivered to the Secretary of the Church at least 7 days, or any other period as determined by the Committee, before the date fixed for the holding of the Annual General Meeting at which the election is to take place.
- 20.3 If insufficient nominations are received, any vacant positions remaining in the Committee are taken to be casual vacancies.
- 20.4 If the number of nominations received is equal to the number of vacancies in the Committee to be filled, the persons nominated are taken to be elected.
- 20.5 If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.
- 20.6 The ballot for the election of Committee Members is to be conducted at the Annual General Meeting in such a manner as the Committee may direct.
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21. Secretary

- 21.1 The Secretary of the Church must, as soon as practicable after being elected as Secretary, lodge notice with the Church of his or her current residential address.
- 21.2 It is the duty of the Secretary to keep records of:
- (a) all appointments of office-bearers and Members of the Committee,
 - (b) the contact details of all Committee Members,
 - (c) the names of Committee Members present at a Committee meeting or a General Meeting, and
 - (d) all proceedings at Committee meetings and General Meetings.

- 21.3 Minutes of proceedings at a meeting must be signed by the Chairperson of the meeting or by the Chairperson of the next succeeding meeting.
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22. Treasurer

The Treasurer of the Church is to ensure:

- (a) that all money due to the Church is collected and received and that all payments authorised by the Church are made, and
 - (b) that correct books and accounts are kept showing the financial affairs of the Church, including full details of all receipts and expenditure connected with the activities of the Church.
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23. Casual Vacancies

- 23.1 In the event of a casual vacancy occurring in the Membership of the Committee, the Committee may by resolution appoint a Member of the Church to fill the vacancy. The Member so appointed is to hold office, subject to this Constitution, until the conclusion of the Annual General Meeting next following the date of the appointment.

- 23.2 A casual vacancy in the office of a Committee Member occurs if the Committee Member:

- (a) dies;
 - (b) ceases to be a Member of the Church;
 - (c) becomes bankrupt or makes any arrangement or composition with his or her creditors generally;
 - (d) resigns office by notice in writing given to the Secretary;
 - (e) is removed from office under clause 24;
 - (f) becomes a mentally incapacitated person;
 - (g) is absent without the consent of the Committee from 3 consecutive meetings of the Committee;
 - (h) is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than 3 months; or
 - (i) is prohibited from being a director of a company under the *Corporations Act 2001*.
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24. Removal of Committee Members

- 24.1 The Church in General Meeting may by special resolution remove any Committee Member from the office held by that Member before the expiration of the Member's term of office and may by resolution appoint another person to hold office until the expiration of the term of office of the Member so removed.

- 24.2 If a Committee Member to whom a proposed resolution referred to in subclause 24.1 relates makes representations in writing to the Secretary or the President (not exceeding a reasonable length) and requests that the representations be notified to the

Members of the Church, the Secretary or the President may send a copy of the representations to each Member of the Church or, if the representations are not so sent, the Member is entitled to require that the representations be read out at the meeting at which the resolution is considered.

25. Committee Meetings and Quorum

- 25.1 The Committee must meet at least 4 times each year at such place and time as the Committee may determine.
- 25.2 Oral or written notice of a meeting of the Committee must be given by the Secretary to each Member of the Committee at least 48 hours (or such other period as may be unanimously agreed by the Committee Members) before the time appointed for the holding of the meeting.
- 25.3 Notice of a meeting given under subclause 25.3 must specify the general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business which the Committee Members present at the meeting unanimously agree to treat as urgent business.
- 25.4 Any majority of the Committee Members constitute a quorum for the transaction of the business of a meeting of the Committee.
- 25.5 No business is to be transacted by the Committee unless a quorum is present and if, within half an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to the same place and at the same hour of the same day in the following week.
- 25.6 If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be dissolved.
- 25.7 At a meeting of the Committee:
- (a) the President or, in the President's absence, the Vice-President is to preside as Chairperson, or
 - (b) if the President and the Vice-President are absent or unwilling to act, such one of the remaining Committee Members as may be chosen by the Members present at the meeting is to preside as Chairperson.
- 25.8 A meeting of the Committee must be held in person.

26. Delegation by Committee

- 26.1 The Committee may, in writing, delegate to one or more Sub-Committees (consisting solely of such Member or Members of the Church as the Committee thinks fit) the exercise of such of the functions of the Committee as are specified in the instrument, other than:
- (a) this power of delegation, and
 - (b) a function which is a duty imposed on the Committee by the Act or by any other law.
- 26.2 At least one Committee Member must be a member of each Sub-Committee.

- 26.3 A function which has been delegated to a Sub-Committee may be exercised from time to time by the Sub-Committee in accordance with the terms of the delegation.
- 26.4 A delegation under this clause may be made subject to such conditions or limitations as may be specified in the instrument of delegation.
- 26.5 Despite any delegation under this clause, the Committee may continue to exercise any function delegated.
- 26.6 Any act or thing done or undertaken by a Sub-Committee acting in the exercise of a delegation under this clause has the same force and effect as it would have if it had been done or undertaken by the Committee.
- 26.7 The Committee may, in writing, revoke wholly or in part any delegation under this clause.
- 26.8 A Sub-Committee may meet and adjourn as it thinks proper.
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27. Voting and Decisions

- 27.1 Questions arising at a meeting of the Committee or of any Sub-Committee appointed by the Committee are to be determined by a majority of the votes of the Committee Members or members of the Sub-Committee eligible to vote at the meeting.
- 27.2 Each Committee Member present or members of a Sub-Committee (including the Chairperson of the meeting) is entitled to one vote but, in the event of an equality of votes on any question, the Chairperson may exercise a second or casting vote.
- 27.3 Subject to clause 25.5, the Committee may act despite any vacancy on the Committee.
- 27.4 Any act or thing done or suffered, or purporting to have been done or suffered, by the Committee or by a Sub-Committee, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any Member of the Committee or Sub-Committee.
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28. Reimbursement of Expenses

The Members of the Committee and Sub-Committees are entitled to reimbursement of reasonable out-of-pocket expenses in connection with the administration of the Church, and those expenses may be charged against the assets of the Church.

29. Indemnity of Committee Members

- 29.1 The Committee Members are, jointly and severally, indemnified out of the assets of the Church against all liabilities incurred by them through any act or omission in the exercise or bona fide intended or purported exercise of the powers, duties and discretions as Committee Members.
- 29.2 Except where due to the Committee Members' own dishonesty or recklessness, the Committee Members are not liable for any:
- (a) act or default done or omitted to be done in the exercise or bona fide intended or purported exercise of those powers, duties and discretions;
 - (b) loss or expenses incurred by the Church through the insufficiency of any security in or on which any of the money of the Church are invested;

- (c) loss or damage arising from the bankruptcy, insolvency or tortious acts of any person with whom money or securities are deposited; or
 - (d) other loss, damage or misfortune whatsoever.
- 29.3 References in this clause and clause 30 to the Committee Members include Members of Sub-Committees appointed by the Committee under this Constitution.
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30. Payment of Indemnity Policy Premium

- 30.1 To the extent permitted by law the Church may at the discretion of the Committee enter into and/or pay a premium in respect of a policy of insurance insuring a Committee Member of the Church against any liability incurred by such person in that capacity (whether in respect of acts or omissions prior to or after the date of the issue of the policy or both) except for a liability arising out of conduct involving a wilful breach of duty in relation to the Church.
- 1.2 The Committee shall have the discretion to approve the terms and conditions of any such policy of insurance.
- 30.2 Where a Committee Member (or former Committee Member) has the benefit of an indemnity pursuant to an insurance policy in respect of his actions or omissions then the Church shall not be required to indemnify the Committee Member under clause 29 except to the extent that the indemnity affected by the insurance policy does not fully cover the persons liability.
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31. Indemnity to Continue

The indemnity granted by the Church contained in clauses 29 and 30 shall continue in full force and effect notwithstanding the deletion or modification of that clause, in respect of acts and omissions occurring prior to the date of the deletion or modification.

Part 4 – General Meetings

32. Annual General Meetings - Holding Of

The Church must hold its Annual General Meetings:

- (a) within 6 months after the close of the Church's financial year, or
- (b) within such later time as may be allowed by the Director-General or prescribed by the Regulation.

33. Annual General Meetings - Calling of and Business at

- 33.1 The Annual General Meeting of the Church is, subject to the Act, and to clause 32, to be convened annually on such date and at such place and time as the Committee thinks fit.
- 33.2 In addition to any other business which may be transacted at an Annual General Meeting, the business of an Annual General Meeting is to include the following:
- (a) to confirm the minutes of the last preceding Annual General Meeting and of any Special General Meeting held since that meeting,
 - (b) to receive from the Committee reports on the activities of the Church during the last preceding financial year,
 - (c) to elect Committee Members of the Church, and
 - (d) to receive and consider any of the Church's financial statements or reports for the previous financial year required to be submitted to Members under the Act.
- 33.3 An Annual General Meeting must be specified as such in the notice convening it.

34. Special General Meetings - Calling of

- 34.1 The Committee may, whenever it thinks fit, convene a Special General Meeting of the Church.
- 34.2 The Committee must, on the requisition in writing of at least ten Members, or one eighth of the Membership, whichever is the greater, convene a Special General Meeting of the Church.
- 34.3 A requisition of Members for a Special General Meeting:
- (a) must state the purpose or purposes of the meeting,
 - (b) must be signed by the Members making the requisition,
 - (c) must be lodged with the Secretary, and
 - (d) may consist of several documents in a similar form, each signed by one or more of the Members making the requisition.
- 34.4 If the Committee fails to convene a Special General Meeting to be held within 6 weeks after that date on which a requisition of Members for the meeting is lodged with the Secretary, any one or more of the Members who made the requisition may convene a Special General Meeting to be held not later than 3 months after that date.
- 34.5 A Special General Meeting convened by a Member or Members as referred to in subclause 32.4 must be convened as nearly as is practicable in the same manner as General Meetings are convened by the Committee.

35. Notice

- 35.1 Except if the nature of the business proposed to be dealt with at a General Meeting requires a special resolution of the Church, the Secretary must, at least 14 days before the date fixed for the holding of the General Meeting, give a notice to each Member

specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.

- 35.2 If the nature of the business proposed to be dealt with at a General Meeting requires a special resolution of the Church, the Secretary must, at least 21 days before the date fixed for the holding of the General Meeting, cause notice to be given to each Member specifying, in addition to the matter required under subclause 33.1, the intention to propose the resolution as a special resolution.
- 35.3 No business other than that specified in the notice convening a General Meeting is to be transacted at the meeting except, in the case of an Annual General Meeting, business which may be transacted under clause 31.2.
- 35.4 A Member desiring to bring any business before a General Meeting may give notice in writing of that business to the Secretary who must include that business in the next notice calling a General Meeting given after receipt of the notice from the Member.
-

36. Quorum for General Meetings

- 36.1 No item of business is to be transacted at a General Meeting unless a quorum of Members entitled under this Constitution to vote is present during the time the meeting is considering that item.
- 36.2 A quorum for the transaction of the business of a General Meeting is five Members or one tenth of the Membership at that time, whichever is the greater (being Members entitled under this Constitution to vote at a General Meeting).
- 36.3 If within half an hour after the appointed time for the commencement of a General Meeting a quorum is not present, the meeting:
- (a) if convened on the requisition of Members, is to be dissolved, and
 - (b) in any other case, is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to Members given before the day to which the meeting is adjourned) and at the same place.
- 36.4 If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the Members present (being at least 3) are to constitute a quorum.
-

37. Presiding Member

- 37.1 The President or, in the President's absence, the Vice-President, is to preside as Chairperson at each General Meeting of the Church.
- 37.2 If the President and the Vice-President are absent or unwilling to act, the Members present must elect one of their number to preside as Chairperson at the meeting.
-

38. Adjournment

- 38.1 The Chairperson of a General Meeting at which a quorum is present may, with the consent of the majority of Members present at the meeting, adjourn the meeting from time to time and place to place, but no business is to be transacted at an adjourned

meeting other than the business left unfinished at the meeting at which the adjournment took place.

- 38.2 If a General Meeting is adjourned for 21 days or more, the Secretary must give written notice of the adjourned meeting to each Member of the Church stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.
- 38.3 Except as provided in subclauses 36.1 and 36.2, notice of an adjournment of a General Meeting or of the business to be transacted at an adjourned meeting is not required to be given.

39. Making of Decisions

- 39.1 A question arising at a General Meeting of the Church is to be determined by either:
- (a) a show of hands, or
 - (b) if on the motion of the Chairperson or if 5 or more Members present at the meeting decide that the question should be determined by a written ballot.
- 39.2 If the question is to be determined by a show of hands, a declaration by the Chairperson that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the Church, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- 39.3 If the question is to be determined by a written ballot, the ballot is to be conducted in accordance with the directions of the Chairperson.

40. Special Resolutions

- 40.1 The Church may pass any resolution as a special resolution, provided:
- (a) a notice of the meeting in which the resolution will be tabled is given to its Members no later than 21 days before the date on which the meeting is held;
 - (b) the notice includes the terms of the resolution and a statement to the effect that the resolution is intended to be passed as a special resolution; and
 - (c) the resolution is supported by at least three-quarters of the votes cast by Members of the Church who are entitled to vote on the proposed resolution.

41. Voting

- 41.1 On any question arising at a General Meeting, a Member who is entitled to vote has one vote only.
- 41.2 In the case of an equality of votes on a question at a General Meeting, the Chairperson of the meeting is entitled to exercise a second or casting vote.
- 41.3 A Member is not entitled to vote at any General Meeting unless all money due and payable by the Member to the Church has been paid.

42. Proxy votes Not Permitted

A person shall not:

- (i) attend or vote at any meeting of the Church or of the Committee or a Sub-Committee of the Church; or
- (ii) vote at any election of, or of a member of the Committee of the Church; as a proxy of another person.

43. Postal Ballots

- 43.1 A postal ballot may be held for the election of the Committee.
- 43.2 In the event that a postal ballot is held for the election of the Committee, postal ballots may be returned by any electronic means determined by the Committee.
- 43.3 Postal ballots are not otherwise permitted.
- 43.4 A postal ballot is to be conducted in accordance with Schedule 3 to the Regulation. Should there be a conflict between Schedule 3 to the Regulation and this clause 41, the terms of this clause 41 shall prevail.

Part 6 – Minister

44. Minister as Spiritual Leader

The Church shall have no less than one Minister as its spiritual leader.

45. Responsibilities of Minister

- 45.1 The responsibilities of the Minister shall include the following:
 - (a) ministering the spiritual needs of the Members and Parishioners of the Church;
 - (b) providing guidance to Members and Parishioners of the Church;
 - (c) conducting services for Members and Parishioners of the Church;
 - (d) facilitating classes to propagate Spiritualism; and
 - (e) administering holy sacraments including communion, marriages, and funerals.
- 45.2 In discharging their responsibilities, the Minister shall abide by the fundamental declarations of Spiritualism as set out in clause 2, and will uphold the philosophy and teachings of Spiritualism.
- 45.3 The Minister shall be answerable to the Committee for his or her actions.

46. Eligibility Criteria

46.1 The Minister must:

- (a) be a current Member of the Church;
- (b) subscribe and adhere to the fundamental principles of Spiritualism as set out in clause 2;
- (c) have been a Member of the Church and/or the Enmore Spiritualist Church Inc (in liquidation) for at least 10 years immediately prior to the appointment as Minister;
- (d) have been a Committee Member of the Church and/or the Enmore Spiritualist Church Inc (in liquidation) for at least two consecutive years out of the three years immediately prior to the appointment;
- (e) in the opinion of the Committee, have good character and high level of integrity; and
- (f) not be an undischarged bankrupt.

47. Appointment of Minister

47.1 The Church can appoint a person as Minister only if:

- (a) the Committee has passed a resolution to appoint that person as Minister; and
- (b) the Members at a General Meeting convened for the specific purpose of ratifying that appointment have ratified that appointment by special resolution.

47.2 The meeting referred to in subclause 45.1(b) must be convened no later than 2 months after the Committee has passed a resolution to appoint a person as Minister.

47.3 The Secretary must make a record of the date on which each Minister was appointed.

47.4 The Minister(s) of the Church as at the time of adoption of this Constitution is deemed to have been appointed in accordance with subclause 47.1.

48. Vacancy in the Office of Minister

48.1 The office of the Minister will become vacant if he or she:

- (a) dies;
- (b) ceases to be a Member of the Church;
- (c) becomes bankrupt or makes any arrangement or composition with his or her creditors generally;
- (d) resigns office by notice in writing given to the Secretary;
- (e) is removed from office under clause 47;
- (f) becomes a mentally incapacitated person;

- (g) is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than 3 months; or
- (h) is prohibited from being a director of a company under the *Corporations Act 2001*.

49. Removal of Minister

- 49.1 The Members in General Meeting may by special resolution remove any Minister.
- 49.2 A Minister to whom a proposed resolution referred to in subclause 49.1 may make representations in writing to the Secretary (not exceeding a reasonable length) and may request that the representations be notified to the Members of the Church. If requested, the Secretary must send a copy of the representations to each Member of the Church or, if the representations are not so sent, the Minister is entitled to require that the representations be read out at the meeting at which the resolution is considered.

50. Multiple Ministers

- 1.1 If the Church has more than one Minister, the Committee will appoint one of them as the senior minister (**Senior Minister**) who will act as the spiritual leader of the Church, and any other Ministers of the Church will work under his or her leadership in accordance with this Constitution.

51. Committee May Make Rules

The Committee may make rules and guidelines in respect of the procedure for appointment of a Minister and Senior Minister.

Part 6 – Miscellaneous

52. Funds

- 52.1 The funds of the Church are to be derived from entrance fees and annual subscriptions of Members, donations, fees, bequests and, subject to any resolution passed by the Church in General Meeting, such other sources as the Committee determines.
- 52.2 The Church must, as soon as practicable after receiving any money, issue an appropriate receipt and deposit the money to the credit of the Church's bank or other authorised deposit-taking institution account.
- 52.3 All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by any 2 Members of the Committee or employees of the Church, being Committee Members or employees authorised to do so by the Committee.

53. Funds Management

Subject to this Constitution and any resolution passed by the Church, the funds and property owned by the Church or for the benefit of the Church are to be used in pursuance of the objects of the Church in such manner as the Committee determines and in accordance with this Constitution.

54. Custody of Books

Subject to this Constitution, the Secretary must keep in his or her custody or under his or her control all records, books and other documents relating to the Church.

55. Inspection of Books

55.1 The following documents must be open to inspection, free of charge, by a Member of the Church at any reasonable hour:

- (a) this Constitution,
- (b) minutes of all Committee meetings and General Meetings of the Church.

55.2 A Member of the Church may obtain a copy of any of the documents referred to in subclause 53.1 on payment of a fee of \$1.00, or such other reasonable amount as determined by the Committee for each page copied.

56. Change of Name and Amendment of Constitution

56.1 The Members may, by way of a special resolution, at any time prior to the dissolution or winding up of this Church change the Church's name.

56.2 The Members may at any time by special resolution amend the constitution of the Church provided that any amendment does not disentitle the Church to registration as an income tax exempt charity.

57. Dissolution

57.1 The Church may be dissolved or wound up by the Members, by way of a special resolution, at any time.

57.2 If upon the winding up or dissolution of the Church there remains after the satisfaction of all its debts and liabilities any property whatsoever ("Surplus Assets"), such Surplus Assets must be transferred to a fund, trust, institution, authority, church, society or company which has:

- (a) objects which are similar to the objects of the Church as set out in clause 3;
- (b) a governing document which requires its income and property to be applied in promoting its objects; and
- (c) a governing document which prohibits it from paying or distributing its income and property amongst its Members to an extent at least as great as imposed on the Church by clause 4.3,

in such proportions or shares as the Committee may in their absolute discretion select and determine and to be held and applied by same for such objects and purposes to the extent to which the same are valid charitable objects or for purposes beneficial to the community.

57.3 The identity of the fund, trust, institution, authority, church, society or company is to be determined by the Members in writing at or before the time of dissolution and failing such determination being made, by application to the Supreme Court for determination.

58. Resolution of Disputes

- 58.1 If any dispute arises between a Member and another Member (in their capacity as Members) of the Church, or between a Member or Members and the Church, neither party to the dispute shall commence any court proceedings relating to that dispute unless this clause has been complied with, except where the party seeks urgent interlocutory relief.
- 58.2 A party claiming that a dispute has arisen must give written notice to the other party or parties (as appropriate) and the President specifying the nature of the dispute.
- 58.3 On receipt of that notice by the other parties, all of the parties must use their best endeavours to resolve the dispute expeditiously.
- 58.4 If the parties have reasonably attempted to resolve the dispute, but not resolved the dispute within fourteen (14) days of receipt of the notice referred to in subclause 56.2, or such further period as agreed in writing by them, the dispute shall be referred to mediation.
- 58.5 A mediator appointed to resolve the dispute shall be:
- (a) as agreed in writing between the parties; or
 - (b) failing such agreement, appointed by the President of the Law Society of New South Wales, or his or her nominee.
- 58.6 The mediation shall be confidential with the costs of the mediator being borne by the parties to the dispute equally and each party shall bear their own legal costs in relation to the mediation.
- 58.7 If mediation does not resolve the dispute within twenty-eight (28) days, or such longer period as agreed by the parties in writing, a party may give written notice to the other parties that mediation has not resolved the dispute and request in writing that within fourteen (14) days an arbitrator be appointed.
- 58.8 The arbitrator appointed to resolve the dispute shall be:
- (a) as agreed upon by the parties; or
 - (b) failing such agreement, appointed by the President of the Law Society of New South Wales, or his or her nominee; and
- 56.9 The arbitration shall be carried out in accordance with the *Commercial Arbitration Act* 2010.

59. Service of Notices

- 59.1 For the purpose of this Constitution, a notice may be served on or given to a person:
- (a) by delivering it to the person personally;
 - (b) by sending it by pre-paid post to the address of the person; or
 - (c) by sending it by facsimile transmission or some other form of electronic transmission to an address specified by the person for giving or serving the notice.

- 59.2 For the purpose of this Constitution, a notice is taken, unless the contrary is proved, to have been given or served:
- (a) in the case of a notice given or served personally, on the date on which it is received by the addressee;
 - (b) in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post; and
 - (c) in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent or, if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.
-

60. Financial Year

The financial year of the Church is:

- (a) the period of time commencing on the date of incorporation of the Church and ending on the following 31 December, and
 - (b) each period of 12 months after the expiration of the previous financial year of the Church, commencing on 1 January and ending on the following 31 December.
-

61. Financial Reporting

- 59.1 As soon as practicable after the end of each financial year, the committee of the Church must cause financial statements for that year to be prepared in relation to the Church's financial affairs (including its affairs as trustee of any trust).
- 59.2 The financial statements must give a true and fair view of the Church's affairs and must include the following, unless otherwise required by the Act or Regulation:
- (a) an income and expenditure statement and a balance sheet that sets out the appropriately classified individual sources of income and individual expenses incurred in the operation of the association and the assets and liabilities of the association,
 - (b) details of any mortgages, charges and other securities affecting any property owned by the association, and
 - (c) a separate income and expenditure statement and balance sheet for each trust for which the association is the trustee.
- 59.3 In order to ensure compliance with clause 59.1 and 59.2 the Committee:
- (a) must keep records that correctly record and explain the Church's financial transactions and financial position, and
 - (b) must keep minutes of the proceedings of the Church's Committee Meetings and General Meetings.
- 59.4 If any document required to be kept under this clause 59, either in whole or in part, is in a language other than the English language, a copy of the document wholly in the English language must be kept with the document.

- 59.5 Lodgement of the Church's financial statements must be made in accordance with all relevant legislation.
- 59.6 Audits of the Church's financial statements and/or financial records are not required unless the Director General directs such an audit, or unless otherwise required by the Act or by any other law relating to charities applicable to the Church.
- 59.7 If an audit is directed or required in accordance with clause 59.6, the audit must be carried out by:
- (a) a registered company auditor within the meaning of the Corporations Act 2001 of the Commonwealth, or
 - (b) a person approved by the Director-General or a person who belongs to a class of persons so approved, and
 - (c) must not be carried out by any person who is, or who has at any time within the last 2 years been:
 - (i) a Member of the Church, or
 - (ii) an employee of, or provider of professional services (other than audit services) to, the Church or to a Committee Member or public officer of the Church.

62. Governing Law

This Constitution is governed by, and is to be construed in accordance with, the laws of New South Wales.

Part 7: Definitions and Interpretation

63. Definitions

- 63.1 In this Constitution, unless the context otherwise requires the following words and expressions shall have the meanings ascribed thereto:

"Act" means the *Associations Incorporation Act 2009 (NSW)*;

"Church" means the Congregation of the Enmore Spiritualist Church Incorporated;

"Chairperson" means the person holding that office under this Constitution and includes any assistant or acting chairperson.

"Committee" means the governing body of the Church;

"Constitution" means this constitution as amended or supplemented from time to time;

"Director-General" means the Director-General of the Department of Services, Technology and Administration in New South Wales or appropriate replacement (from time to time);

"General Meeting" means either of the Annual General Meeting or the Special General Meeting of the Church or both;

"ordinary Committee Member" means a Member of the Committee who is not an office-bearer of the Church.

"Other Committee Members" means all office bearers of the Church, except the President, and all ordinary Committee Members of the Church at any given time;

"Member" means a member of the Church.

"Minister" means a person authorised to perform religious functions at the Church and holding that position in accordance with Part 6 of this Constitution;

"Net income" means income less expenses;

"Parishioner" – means any person who attends Spiritualist worship or services at the Church and is registered by the Secretary as a Parishioner;

"Regulation" means the *Associations Incorporation Regulation 2010 (NSW)*.

"Secretary" means the Committee Member elected as secretary of the Church and includes any assistant or acting secretary;

"Special General Meeting" means a general meeting of the Church other than an Annual General Meeting;

"Spiritualism" means the theology founded upon the fundamental principles developed and derived through Emma Hardinge Britten which are set out in clause 2, and **"Spiritualists"** has corresponding meaning;

"Sub-Committee" means any person or group of persons to which certain functions are delegated by the Committee under this Constitution in accordance with clause 26;

63.2 The provisions of the *Interpretation Act 1987* apply to and in respect of this Constitution in the same manner as those provisions would so apply if this Constitution were an instrument made under the Act.

64. Interpretation

64.1 Legislation

A reference to legislation or a provision of legislation includes any change or re-enactment of the legislation or a legislative provision substituted for and legislation and statutory instruments and regulations issued under, the legislation.

64.2 Singular to Include Plurals

Words denoting the singular include the plural and vice versa; words denoting individuals or persons include bodies corporate and trusts and vice versa; and headings are for convenience only and will not affect interpretation.

64.3 References to Clauses

A reference to a clause, paragraph or schedule is a reference to a clause, paragraph or schedule of this document; and a reference to a document or agreement includes reference to that document or agreement as changed, novated or replaced from time to time.

64.4 Time

A reference to a time and date concerning the performance of an obligation by a party is a reference to the time and date in New South Wales, even if the obligation is to be performed elsewhere; and where the day on or by which anything is to be done is a

Saturday, a Sunday or a public holiday in the place in which that thing is to be done, then that thing will be done on the next succeeding business day.

Schedule 1

The Congregation of the Enmore Spiritualist Church Incorporated
(incorporated under the *Associations Incorporation Act 2009*)

APPLICATION FOR MEMBERSHIP

I, [full name of applicant] _____
of [address] _____ [occupation] _____

hereby apply to become a Member of the above-named incorporated Church.

In the event of my admission as a Member, I agree to be bound by the Constitution of the
Church for the time being in force.

Signature of applicant

Date:

I, [full name] _____

a Member of the Church, nominate the applicant for Membership of the Church.

Signature of proposer

Date:

I, [full name] _____

a Member of the Church, second the nomination of the applicant for the Church Membership.

Signature of seconder

Date:

Schedule 2

Members

**ENMORE SPIRITUALIST CHURCH
CURRENT MEMBERS**

	Surname	First name	Address	Telephone/ email	Years as a member	Paid 2009 as per Court 27.11.09	Paid 2010	Rec Written by
1.	Allen	Caroline	18 Caronia Avenue Cronulla NSW 2230	0414 550 979			Yes Rec No 0447	?
2.	Astbury	Rob	123/15 Albert Street Broadbeach QLD 4218 Approved 30.12.09	0421 937 864 rob@ozemail.com.au		N/A	Yes Rec No 0454	CA
3.	Bellemo	Vanessa	1A Amelia Street Waterloo NSW 2017			N/A	Yes Rec No 459	CA
4.	Booth	Jon	397 ½ (half) South Dowling Street Darlinghurst NSW 2010 Approved 30.12.09	02 9360 1881		N/A	Yes Rec No 0436	CA
5.	Curtis	Wayne	5/18-20 Tuffy Avenue Sans Souci NSW 2219	02 9529 0823 (H) 02 9691 1467 (W)		Yes	Yes Rec No 0465	CA cheque
6.	Duffecy	Alex	312/ 18 Danks Street Waterloo NSW 2017			Yes	Yes Rec No 0456	CA
7.	Grace	Frances	Unit 7/ 97-99 Ernest Street Lakemba NSW 2195	02 9399 7335 (H) 0404 245 990		Yes	Yes Rec No 0603	?

	Surname	First name	Address	Telephone/ email	Years as a member	Paid 2009 as per Court 27.11.09	Paid 2010	Rec Written by
8.	Grimes	Damien	329/55 Walker Street Redfern NSW 2016 Approved 30.12.09			N/A	Yes Rec No 0458	CA
9.	Grimes	Stacy	329/55 Walker Street Redfern NSW 2016			N/A	Yes Rec No 459	CA
10.	Kershaw	Alexander	312/18 Danks Street Waterloo NSW 2017 Approved 30.12.09	0404 655 792		N/A	Yes Rec No 0438	CA
11.	Kershaw	Diane	312/18 Danks Street Waterloo NSW 2017 Approved 30.12.09	0413 272 966		N/A	Yes Rec No 0433	CA
12.	Kershaw	Victoria	312/18 Danks Street Waterloo NSW 2017 Approved 30.12.09	0414 663 476		N/A	Yes Rec No 0435	CA
13.	Lightfoot	Faith	Unit 266/254 Crown Street Darlinghurst NSW 2010 Approved 30.12.09			N/A	Yes Rec No 0450	?
14.	Lindsay	Jon	3/349 Bourke Street Darlinghurst NSW 2010	0404 752 644		Yes	Yes Rec No 0450	?

	Surname	First name	Address	Telephone/ email	Years as a member	Paid 2009 as per Court 27.11.09	Paid 2010	Rec Written by
15.	McCarthy	Miranda (Mandy)	3/349 Bourke Street Darlinghurst NSW 2010	9361 6127		Yes	Yes Rec No 0449	?
16.	Rankin	Bill	17 Karinga, 5-7 The Esplanade Elizabeth Bay NSW 2011	info@adpro.com.au 9358 1055		N/A	Yes Rec No 0432	CA
17.	Smith	Melissa	18 William Street Paddington NSW 2021	9357 1353		N/A	Yes Rec No 0437	CA
18.	Symons	Mark	5a Glen Street Marrickville NSW 2204	0409 302 098		Yes	Yes Rec No 0604	Rev Cleary
19.	Vila	Matilda	15/47 Cobar Street Dulwich Hill NSW 2203	9558 2169		Yes	Yes Rec No 446	?