

NOTICE OF ANNUAL GENERAL MEETING KU CHILDREN'S SERVICES



Children's Services
Since 1895

The Annual General Meeting (Meeting) of KU Children's Services (Company) will be held on Tuesday, 30 May 2023 at 4:00pm (EST) in the Grace Hotel, Level 2 – Kirralaa Room, 77 York Street, SYDNEY NSW 2000.

AGENDA

- 1. Welcome and Apologies.**
- 2. Presentation of Annual Report including Annual Financial Report, and Directors, and Auditors Report for financial year ended 31 December 2022.**
Chair, Sema Whittle, Chief Executive Officer, Christine Legg, and Chief Financial Officer, Walter Galanti.
- 3. Resolution 1: Appointment of Peter Roberts as a Life Member.**
To appoint by ordinary resolution Peter Roberts as a Life Member of the Company.
- 4. Resolution 2: Appointment of Tamara Robinson as a Life Member.**
To appoint by ordinary resolution Tamara Robinson as a Life Member of the Company.
- 5. Resolution 3: Appointment of Janet Verden as a Life Member.**
To appoint by ordinary resolution Janet Verden as a Life Member of the Company.
- 6. Resolution 4: Change of Auditor – Ordinary resolution.**
Subject to the consent of the ASIC to the resignation of the current auditor, Crowe Audit Australia, being qualified to act as auditor of the Company and having consented to so act be appointed as the auditor of the Company with effect from the conclusion of the Meeting, and the Directors be authorised to agree the remuneration.

Explanatory statement:

The Corporations Act 2001 (Cth) requires that Members approve the appointment of a new auditor. As part of good governance practice, the Board decided to compare and shortlist a range of proposals from audit firms. The Board met with shortlisted firms and has decided to endorse the proposal of Crowe Audit Australia.

In accordance with section 329(5) of the Corporations Act 2001 (Cth), the current auditor has provided the Company with notice that it will resign as auditor of the Company effective from the conclusion of the Annual General Meeting. Accordingly, the Directors on behalf of the Company will need to determine what amount of remuneration is to be paid to meet the expenses of the auditors.

The Directors recommend that the Members vote in favour of the resolution.

- 7. Resolution 5: Constitutional changes (inserting new Preamble immediately before heading titled 'A. The Company's Names and Aims') – special resolution.**

That the constitution of the Company be amended by inserting a new preamble before the heading titled 'A. The Company's Names and Aims' as follows:

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(a) Preamble

In pursuing its aims, KU Children's Services is committed to the inclusion of all children together with the revitalisation and advancement of the cultures, histories and beliefs of Aboriginal and Torres Strait Islander children, families and communities.

Explanatory statement:

The Company's constitution currently does not contain a preamble. Including a preamble outlining the Company's commitment to the inclusion of all children will demonstrate the Company's values and embrace diversity in all its forms at the core of the organisation. This includes but is not limited to setting the tone for how the Company sees its employees, the board and members conducting themselves as part of day-to-day operations or decision-making processes, as the case may be, for the benefit of children.

The Directors recommend that the Members vote in favour of the resolution.

8. Resolution 6: Constitutional changes (Amending wording regarding Company's aims) – special resolution.

That the constitution of the Company be amended as follows:

(b) Amend clause 2 as follows:

2. The Company aims to:

provide and support a range of **safe early** educational and care services for children, **and it also aims to** demonstrate commitment to excellence in meeting the needs of children while responding to changing social and family circumstances.

Explanatory statement:

Amending the Company's aims by inserting the proposed words 'safe early' helps to clarify the precise market segment in which the Company operates.

The Directors recommend that the Members vote in favour of the resolution.

9. Resolution 7: Constitutional changes (miscellaneous amendments to defined terms) – special resolution.

That the constitution of the Company be amended as follows:

(a) the below definitions be inserted:

WORD	MEANING
ACNC	Australian Charities and Not-for-profits Commission
ACNC Governance Standards	A set of core minimum standards, established under the <i>Australian Charities and Not-for-profits Commission Act 2012 (Cth)</i> and its support regulations, which relate to charity governance and how a charity is run, including its processes, activities and relationships

(b) the definitions in clause 4 of the constitution of the Company be re-ordered in alphabetical order.

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(c) the below definitions be amended as follows:

WORD	MEANING
Appointment Board Meeting	The first Board meeting held after each Annual General Meeting to elect a Chairperson and to appoint an Appointee Director
Corporations Act	Corporations Act 2001 (Cth) as amended and in force from time to time
Director	Means a A person who is a Director of the Company under the Corporations Act and where appropriate, an alternate Director

Explanatory statement:

The above proposed changes improve the clarity of the document, and in particular they clarify the purpose of the Appointment Board Meeting, and that future versions of the Corporations Act 2001 (Cth) will continue to apply to the Company. The Directors recommend that the Members vote in favour of the resolution.

10. Resolution 8: Constitutional changes (amending the defined term 'Centre' to 'Service' throughout entire constitution) – special resolution.

That the constitution of the Company be amended as follows:

(a) the definition of Centre in clause 4 be amended as follows:

WORD	MEANING
Centre Service	Any kindergarten, pre-school, childcare centre service , or other type of children's service that the Company operates either alone, or in association with anyone else

(b) in clauses 12, 15, 16, 31, 69 and 104, replace the word 'Centre' with 'Service'.

(c) in clause 15 insert the words ', and' immediately after the words 'Any email address provided by a Member' under bullet point three.

(d) in clause 16 insert the words ',and' after 'Service'.

(e) in clause 69 delete ';' after first bullet point and replace with ','.

Explanatory statement:

The current defined term 'Centre' does not accurately capture the full scope of the Company's functions and activities. By amending 'Centre' to 'Service' this more precisely accounts for any additional operational activities the Company undertakes.

The Directors recommend that the Members vote in favour of the resolution.

11. Resolution 9: Constitutional changes (amending the defined term 'Insane' to 'Unsound mind' throughout entire constitution) – special resolution.

That the constitution of the Company be amended as follows:

(a) amend the definition of 'Insane' in clause 4 as follows:

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WORD	MEANING
Insane Unsound mind	A person is insane of unsound mind when, through mental or physical infirmity, that person is incapable of managing his or her affairs.

(c) in clauses 17 and 76 replace the word 'insane' with the words 'of unsound mind'.

(d) amend clause 43 as follows:

A proxy vote is valid even if the Member who appointed the proxy dies or becomes of unsound mind ~~insane (or is mentally incapacitated)~~ or revokes the appointment, but not if the Company has received written notice of the death, ~~insanity~~ unsound mind or revocation before the start of the relevant General Meeting.

Explanatory statement:

The Company's current constitution makes several references to the defined term 'Insane'. The expression 'unsound mind' is now more commonly used in company constitutions as it is more inclusive language which recognises the diversity and complexity of mental health. The word 'insane' is a stigmatised and outdated term that is often associated with extreme and rare cases of mental illness, whereas 'unsound mind' can refer to any condition that impairs a person's mental function.

The Directors recommend that the Members vote in favour of the resolution.

12. Resolution 10: Constitutional changes (amending the defined term meaning of member from 'he/his or she/her' to 'they or their' throughout entire constitution) – special resolution.

That the constitution of the Company be amended as follows:

(a) amend the following definitions in clause 4 as follows:

WORD	MEANING
Insane	A person is insane when, through mental or physical infirmity, that person is incapable of managing his or her their affairs
Member	A person is a Member of the Company if he or she they: (a) Is a Are a Member of the Company on its registration; or (b) a Agrees to become a Member of the Company after its registration and his or her their name is entered on the Register of Members

(b) amend clause 14 as follows:

A person is a Life Member if ~~(while he or is a Parent or General Interest Member)~~ the Board nominates ~~him or her~~ them as a Life Member and a General Meeting of the Company elects them as a Life Member. ~~A Life Membership ends either when the Member dies, becomes insane or resigns in writing to the Board. However, a Life Member may not resign if the resignation will mean that there are no Members of the Company.~~

(c) in clause 22 and 90 replace the words 'he or she' with the word 'they' and the words 'his or her' with the word 'their'.

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(d) in clause 40 replace the words 'he or she (or if a Joint Member, one of the Joint Members)' with the word 'they'.

(e) in clause 88 and 99 replace the words 'he or she' with the word 'they'.

(f) amend clause 89 as follows:

At a Board meeting, every Director (including the CEO) present in person or by ~~his or her~~ their alternate Director has one vote only, but a Director may not vote for so long as ~~he or she~~ they ~~has~~ lost the right to vote as a Member.

(g) amend the second arrow point in clause 104 as follows:

At any meeting of a Parent Advisory Group, an employee of the Company may not vote – even if:

- ▶ ~~He or she~~ They have a child at that Centre, or
- ▶ ~~He or she doesn't~~ They do not work at that particular Centre.

Explanatory statement:

The Company's current constitution refers to people using only the words 'he/his' or 'she/hers'. The changes facilitate the use of gender-neutral language throughout the constitution, which is more inclusive. It is a way to avoid misgendering individuals and acknowledging the diversity of gender identities. It also helps to challenge traditional gender norms and promote gender equality.

The Directors recommend that the Members vote in favour of the resolution.

13. Resolution 11: Constitutional changes (amending the defined term meaning of 'Secretary') – special resolution.

That the definition of 'Secretary' in clause 4 of the constitution of the Company be amended as follows:

WORD	MEANING
Secretary	Any person appointed to perform the duties of a secretary of the Company. Is an officer of the Company with specific responsibilities under the Corporations Act, including responsibility for ensuring that the Company notifies the Australian Securities and Investments Commission about changes to the identities, names and addresses of the Company's Directors and Company Secretary and that the Company lodges its annual return

Explanatory statement:

The meaning of the defined term 'Secretary' and their designated responsibilities under the Company's current Constitution are outdated, given annual returns were abolished from 1 July 2003 when ASIC introduced the annual company statement. To bring the wording of the constitution up to date with the law, and as a description of the secretary role is already covered in clause 101 of the Constitution, it desirable to implement this change.

The Directors recommend that the Members vote in favour of the resolution.

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14. Resolution 12: Constitutional changes (inserting new defined terms 'Virtual Meetings' and 'Virtual Meeting Technology' and applying changes throughout entire constitution to permit virtual meetings by the Board and Members of the Company) – special resolution.

That the constitution of the Company be amended as follows:

- (a) Insert the new defined terms 'Virtual Meetings' and 'Virtual Meeting Technology' in clause 4 as follows:

WORD	MEANING
Virtual Meeting	A meeting of the Board or Members or conducted using Virtual Meeting Technology, regardless of whether that meeting also involves any in-person attendees in addition to remote attendees
Virtual Meeting Technology	Any technology that allows the Board or Members entitled to attend a meeting, as a whole, a reasonable opportunity to participate in the meeting without being physically present at the meeting

- (b) at the end of clause 28 insert the words: If Virtual Meeting Technology is to be used to hold the meeting, the notice must include sufficient information to allow the members to participate in the meeting by means of the technology.
- (c) at the end of clause 39 insert the words: A Member or proxy who attends a meeting (whether at a physical venue or by using Virtual Meeting Technology) is taken for all purposes to be present in person at the meeting while so attending. These purposes include for the purpose of forming the quorum and voting.
- (d) in clause 40, insert the words 'or virtually' immediately after the words 'in person'.
- (e) in clause 94, insert '(s)' at the end of the word 'place' wherever it appears, to form the word 'place(s)'.
- (f) at the end of clause 95 insert the wording: A Director or alternate attends a meeting (whether at a physical venue or by using Virtual Meeting Technology) is taken for all purposes to be present in person at the meeting while so attending. These purposes include for the purpose of forming the quorum and voting.

Explanatory statement:

The Company's current constitution does not provide for participation and voting at meetings of the Board or Members using technology. The Corporations Act was amended in February 2022 to allow for hybrid and virtual meetings. These proposed changes to the Constitution will provide increased accessibility, flexibility and convenience for those who may not be able to attend a meeting in person. In addition, the Australian Charities and Not-for-profits Commission (ACNC) is of the view that allowing for remote meetings also allows for greater responsiveness for charities and can provide for higher levels of meeting attendance and engagement.

The Directors recommend that the Members vote in favour of the resolution.

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15. Resolution 13: Constitutional changes (miscellaneous amendments to 'D. Membership' and 'E. Amounts Members Have to Pay') – special resolution.

That the constitution of the Company be amended as follows:

- (a) in clause 13 replace the words 'that is' with the word 'as'.
- (b) insert a new clause 15 after current clause 14 as follows:

A person who has pending charges against them, is found guilty or is convicted for a child abuse or sex related criminal offence in any jurisdiction, is not eligible to become a Member of the Company.
- (c) in current clause 15 insert the words ', and' at the end of the third arrow point and delete entire example section.
- (d) in clause 16 delete the word 'Parent' in the heading and insert the words ', and' at the end of the first bullet point.
- (e) in clause 17 insert the words 'Parent, General Interest or Life' at the start of the second sentence.
- (f) after current clause 18 (i.e. new clause 19) insert new clauses 20 through to 25 as follows:

Can Members be disciplined?

Clause 20. The Directors may resolve to warn, suspend or expel a Member from the Company if the Directors consider that:

- ▶ the Member has breached this Constitution, or
- ▶ the Member's behaviour is causing, has caused, or is likely to cause, harm to the Company.

Clause 21. At least 14 days before the Directors meeting at which a resolution under clause 20 will be considered, the Secretary must notify the Member in writing:

- ▶ that the Directors are considering a resolution to warn, suspend or expel the Member
- ▶ that this resolution will be considered at a Directors' meeting and the date of that meeting, and
- ▶ what the Member is said to have done or not done
- ▶ the nature of the resolution that has been proposed
- ▶ that the Member may provide an explanation to the Directors, and details of how to do so.

Clause 22. Before the Directors pass a resolution under clause 20, the Member must be given a chance to explain or defend themselves by:

- ▶ sending the Directors a written explanation before that Board Meeting; and/or
- ▶ speaking at the meeting.

New Clause 23. The Directors may:

- ▶ take no further action
- ▶ warn the Member
- ▶ suspend the Member's rights as a Member for a period of no more than 12 months

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- ▶ expel the Member
- ▶ refer the decision to an unbiased, independent person on conditions that the Directors consider appropriate (however, the person can only make a decision that the Directors could have made under this clause), or
- ▶ require the matter to be determined at a General Meeting.

Clause 24. The Directors cannot fine a Member.

Clause 25. The Secretary must give written notice to the Member of the decision under clause 23 as soon as possible.

(g) Amend clause 23 as follows:

How much do Members have to pay if the Company is wound up?

~~If the Company is wound up while a person is a Member (or within 12 months after a person stops being a Member), that person may have to pay up to \$2.00 to the Company so that it can pay:~~

- ▶ ~~Its debts that were incurred while the person was a Member~~ Each Member may contribute an amount not more than \$2.00 (the guarantee) to the property of the Company if the Company is wound up while the Member is a Member, or within 12 months after they stop being a Member, and this contribution is required to pay for the:
 - debts and liabilities of the Company incurred before the Member stopped being a Member, or
 - costs of winding up
- ▶ ~~The costs and expenses of winding up the Company and of adjusting the rights of those people who have to contribute to the Company.~~

Explanatory statement:

The proposed amendments are required to:

- broaden the scope of who may become a Life Member of the Company, by removing the precondition for that person to be a Parent or General Interest Member – the only requirement should be if a General Meeting of the Company elects them as a Life Member.
- include more stringent membership eligibility criteria, meaning persons with a history of child abuse or sex related criminal offences, are unable to become a Member of the Company in any capacity.
- remedy various grammatical and syntax errors, to improve the readability of the document.
- insert a clear and fair process for any disciplinary action in respect of Members. The process is consistent with the model clauses published by the ACNC. The process clarifies how Members may be disciplined through warnings, suspensions or expulsions, and that Members have the right to explain or defend themselves before the Directors decide on a disciplinary matter. This approach also aligns with the principles of natural justice, which emphasises the importance of fairness and impartiality.

The Directors recommend that the Members vote in favour of the resolution.

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16. Resolution 14: Constitutional changes (miscellaneous amendments to 'F. Meeting of Members – Known as "General Meetings") – special resolution.

That the constitution of the Company be amended as follows:

- (a) in clauses 28 and 31 replace the words 'Australian Securities and Investments Commission' with the word 'ASIC'.
- (b) delete clause 29 in its entirety.
- (c) in clause 31 delete the words ';or' after the first sub-bullet point of the first bullet point and amend the third bullet point as follows:
 - ▶ By emailing a notice ~~using email~~ to each Member who has given an email address for inclusion on the Register of Members, ~~or~~
- (d) in clause 35 immediately before the word 'Company' delete the word 'a' and replace with the word 'the'.
- (e) in clause 38 delete the words 'the election of a Chairperson or on'.
- (f) in clause 46 insert the words ', the ACNC Governance Standards' after the word 'Constitution'.

Explanatory statement:

The proposed amendments:

- (a) remedy various grammatical and syntax errors, to improve the readability of the document.
- (b) remove the concept of Joint Members, which is not relevant to the membership structure of the Company.

The Directors recommend that the Members vote in favour of the resolution.

17. Resolution 15: Constitutional changes (miscellaneous amendments to 'G. The Board of Directors') – special resolution.

That the constitution of the Company be amended as follows:

- (a) amend clause 64 as follows:

64. No Director may serve for more than nine ~~consecutive~~ years (in aggregate and whether or not in consecutive periods) whether as Elected Director or Appointee Director or any combination thereof.
- (b) amend clause 66 as follows:

66. ~~Despite Clause 64, a Director who must retire under that clause is eligible for election at an Annual General Meeting or appointment at an Appointment Board Meeting in any year following that retirement.~~ No non-employee external appointment to any committee of the Board may serve on that committee for more than nine years (in aggregate and whether or not in consecutive periods). Where a non-employee external appointment is also a Director, they may not serve more than nine years on the Board or committee of the Board (in aggregate and whether or not in consecutive periods).
- (c) in clause 67 delete ';' and replace with ',' at the end of the second bullet point.
- (d) in clause 69 delete ';' and replace with ',' at the end of the first bullet point.
- (e) in clauses 71 and 76 replace all ';' with ','.

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Explanatory statement:

The proposed amendments place a maximum term criteria on Directors, and on 'non-employee external appointments' who serve on a committee of the board, so that they can only serve in those roles for a maximum of nine years, whether in aggregate or consecutively. This is consistent with good governance principles which typically suggest that the tenure of a director should be limited. The constitution should encourage the rotation of Directors so the board can stay fresh. The proposed amendments also remedy various grammatical and syntax errors, to improve the readability of the document.

The Directors recommend that the Members vote in favour of the resolution.

18. Resolution 16: Constitutional changes (miscellaneous amendments to 'H. The Board's Powers, Duties and Procedures) – special resolution.

That the constitution of the Company be amended as follows:

- (a) in clause 84 after the words 'Constitution,' insert the words 'the ACNC Governance Standards'.
- (b) in clause 91 delete the words 'first Board meeting after the Annual General Meeting' and replace with the words 'Appointment Board Meeting'.
- (c) in clauses 93 and 94 replace all ';' with ','.
- (d) in clause 97 uncapitalise the letter 'L' in the word 'Law', and insert the words 'and the ACNC Governance Standards' after the words 'Corporations Act'.
- (e) in clause 98 uncapitalise the letter 'C' in the word 'Clause' and replace all ';' with ','.
- (f) in clause 100 replace the word 'ex' with the word 'former'.

Explanatory statement:

The proposed amendments remedy various grammatical and syntax errors, to improve the readability of the document.

The Directors recommend that the Members vote in favour of the resolution.

19. Resolution 17: Constitutional changes (miscellaneous amendments to 'I. The Secretary', 'J. The Board and Employees' and 'K. Indemnities and Insurance') – special resolution.

That the constitution of the Company be amended as follows:

- (a) in clause 101 and 109 replace all ';' with ','.
- (b) amend clause 102 as follows:

The Secretary has all necessary powers to fulfil the role, and the power to speak (but not to vote at) all meetings of the Company, the Board, and the Board's cCommittees. ~~However, the Board may give the Secretary the right to vote at meetings of any of the Board's Committees.~~
- (c) in clause 104 uncapitalise the letter 'C' in the word 'Clauses' and replace all ';' with ','.
- (d) delete clause 106 in its entirety.

Explanatory statement:

The proposed amendments:

- (a) remedy various grammatical and syntax errors, to improve the readability of the document.

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- (b) remove the express right for the board to give the secretary the right to vote at meetings of any of the board's committees.

The Directors recommend that the Members vote in favour of the resolution.

20. Resolution 18 (amend and update clause referencing, numbering, table of contents, footer and insert summary of amendments to constitution to date) – special resolution.

That the constitution of the Company be amended as follows:

- (a) where required, amend and update the clause referencing, numbering and table of contents and include a table confirming when it was originally adopted and when the various amendments were made.
- (b) delete existing document footer in its entirety and replace with the words 'Proudly a not for profit and for purpose organisation'.
- (c) immediately after the table under the heading 'L. Replaceable Rules', the following summary of amendments be inserted:

The Constitution was adopted by special resolution dated 30 May 2000, amended by special resolution dated 25 November 2009, amended by special resolution dated 27 April 2016, amended by special resolution dated 26 May 2020, and amended by special resolution dated 30 May 2023.

Explanatory statement:

The proposed amendments will allow the numbering to be amended in case some of the proposed amendments to the constitution to be considered at this AGM are not passed, and to update the constitution to improve the document's structure and readability. The addition of a summary will provide increased transparency regarding dates on which the constitution has been amended.

The Directors recommend that the Members vote in favour of the resolution.

To assist members a copy of the Constitution showing all the changes proposed is available to members on <https://www.ku.com.au/news/2023-agm-2>.

21. Election of Directors

There are three vacancies for Elected Director positions on the Board of Directors and nominations have been received from the following three candidates:

- ▶ **Norman Pack**
- ▶ **Elisa Holmes**
- ▶ **Ana Marinkovic**

As the number of nominations received is equal to the number of vacancies an election is not required.

22. Meeting Close

By order of the Board.



Company Secretary
KU Children's Services
28 April 2023

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FURTHER INFORMATION

Financial Report

In accordance with the requirements under the *Corporations Act 2001* (Cth) (Corporations Act), a copy of the Company's Financial Report is included with this Notice of Meeting for all members who have elected to receive such a copy. A copy of the Company's Financial Report is also available for viewing and download at <https://www.ku.com.au/news/2023-agm-2>.

Voting Entitlement

A member can vote at the meeting:

- (a) in person; or
- (b) by proxy.

You will be eligible to attend and vote at the Meeting if you are recorded in the register of members of the Company as at **3:59pm (EST) on Sunday, 28 May 2023**.

Proxy Votes

In accordance with section 249L(1) of the Corporations Act, members are advised that:

- (a) each member has a right to appoint a proxy;
- (b) the proxy does not need to be a member of the Company; and
- (c) a member who is entitled to cast 2 or more votes may appoint 2 proxies and may specify the proportion or number of votes each proxy is appointed to exercise.

To be effective, the instrument appointing the proxy must be received by the Company at the address specified below at least 48 hours before the time notified for the Meeting (proxy forms can also be lodged by email), being no later than **4:00pm (EST) on Sunday, 28 May 2023**.

If you would like to appoint a proxy, please complete, and sign the interactive proxy form enclosed and return it by one of the following means:

Postal address:	Company Secretary KU Children's Services PO Box Q132 QVB Post Office NSW 1230
Email:	CompanySecretary@ku.com.au