

# The Illawarra Grammar School Ordinance 1958

(Reprinted under the Interpretation Ordinance 1985.)

The Illawarra Grammar School Ordinance 1958 as amended by or in accordance with The Illawarra Grammar School Constitution Amending Ordinance 1961, The Illawarra Grammar School Constitution Amending Ordinance 1966, The Illawarra Grammar School Ordinance 1983, The Illawarra Grammar School Further Amendment Ordinance 1983, The Illawarra Grammar School Further Amendment Ordinance 1986 and the Diocesan Officers (Retirement) Ordinance 1987, the Investment of Church Trust Property Ordinance 1990, the Accounts, Audits and Annual Reports Ordinance 1995, the Diocesan Officers (Retirement) Repeal Ordinance 2001 and the Borrowing Limits of Diocesan Organisations Amendment Ordinance 2016.

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## Long Title

An Ordinance to confirm the establishment of "The Illawarra Grammar School" to provide a constitution for the Council of such School and for purposes connected therewith.

## Preamble

Whereas there have been many requests for the establishment of a Church of England School for boys in the Wollongong District over recent years And Whereas certain land more particularly described in the Schedule hereto has now been acquired for the purpose of erecting and conducting such a school thereon And Whereas it is expedient that a Council should now be constituted by the Synod for the management conduct and control of such school to be known as "The Illawarra Grammar School" and with the powers and subject to the provisions hereinafter set forth and should hold and use the assets of the School in manner hereinafter declared Now therefore the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod Hereby Ordains and Declares as follows –

## Introduction

1. The acquisition of the land and premises described in the Schedule hereto and the foundation and establishment of the said School are hereby confirmed and adopted.

## Name

2. The name of the School shall be "The Illawarra Grammar School" and shall be governed by a Council appointed as hereinafter mentioned.

## Definitions

3. In this Ordinance, unless the context otherwise requires or indicates –

- (a) "The School" means The Illawarra Grammar School and a reference to "The Council" means the Council of the School constituted from time to time pursuant to this Ordinance.

- (b) "The Archbishop" means the Archbishop of the Diocese of Sydney or in his absence his Commissary or if the See be vacant, the Administrator of the Diocese.
- (c) "Synod" means the Synod of the Diocese of Sydney.
- (d) "The Illawarra Grammarians Association" means the association of past students of The Illawarra Grammar School.
- (e) The singular includes the plural and vice versa and the masculine includes the feminine and vice versa.

### **Membership**

4. Subject to clause 5 (1) the Council shall consist of the following members –
  - (a) The Archbishop who shall be President of the Council.
  - (b) The Bishop of Wollongong.
  - (c) Twelve (12) persons elected by the Synod of whom four (4) shall be clergymen of the Anglican Church of Australia and eight (8) shall be lay persons (which said persons will be referred to herein as "Synod members").
  - (d) One person elected by The Illawarra Grammarians Association as long as such association is in existence and consists of no less than 50 financial members and such person will be referred to herein as "the Grammarian member".
  - (e) Two (2) persons, one of whom has a child or children at the School at the time of election and is a member of The Illawarra Grammar School Parents and Friends Association and the other has or has had a child or children at the School, elected by the members referred to in paragraphs (a), (b) and (c) and the members (if any) referred to in paragraph (d) in the manner hereinafter provided (which said persons will be referred to herein as "Council nominees").
  
5. (1) On the first day of the next ordinary session of Synod held in 1984, or as soon as conveniently may be after that day, the Synod shall elect the Synod members.
 

(2) As soon as conveniently may be after the said first day, the members appointed pursuant to clause 4(b) and subclause (1) of this clause and the members (if any) elected under clause 4(d) shall elect the Council nominees referred to in clause 4(e).
  
6. (1) Of the Synod members elected pursuant to clause 5(1) three (3) (one clergy and two lay persons) shall retire on the first day of the ordinary session of Synod in each respective year.
 

(2) In each of the next three succeeding years three (3) Synod members (one clergy and two lay persons) shall retire on the first day of the ordinary session of Synod in each respective year.

(3) As soon as conveniently may be after the election of Synod members pursuant to clause 5(1) to establish the orderly retirement of Synod members by rotation for the succeeding years until all original appointees referred to in clause 5 (1) have retired, the members of that group (or the available members of that group, a decision of the Chairman on any question of availability being final) shall determine (by agreement or failing agreement by lot) which of the members shall retire by rotation in accordance with subclauses (1) and (2) of this clause and shall forthwith report the determination to the Chairman in writing signed by the persons taking part in the determination, and the Chairman shall inform the President of the determination.

(4) Subject to subclauses (1) and (2) of this clause and clause 12 the term of office of a Synod member shall be four (4) years.

(5) For the purpose of retaining the number of Synod members required by subclause (c) of clause 4, in each subsequent year after election of members pursuant to clause 5, an election shall be held as soon as conveniently may be on or after the first day of each annual ordinary session of Synod.
  
7. The Council nominees shall be elected as follows –
  - (a) The Chairman shall give not less than fourteen (14) days notice in writing to each member of the Council of the date for the closing of nominations.
  - (b) On or before the date for the closing of nominations each member may, by writing addressed to the Chairman, nominate not more than two (2) persons for election. A nomination –

- (i) shall include the name, age, address and occupation of the nominee, whether the nominee has children at the School and such other matter as the Chairman may deem appropriate or as the Council may from time to time determine, and
  - (ii) shall state that the nominee consents to serve, if elected, for a term of 4 years or such lesser term as may be determined in accordance with this Ordinance.
- (c) As soon as practicable after the date for the closing of nominations, the Chairman shall give not less than fourteen (14) days notice in writing to each member of the Council of the date of a special or ordinary meeting of the Council at which the election will be held. The notice shall include the matter referred to in paragraph (b) (i) in relation to each nominee.
- (d) The members present at the special or ordinary meeting of the Council of which notice has been given under paragraph (c) may, before the election, resolve, by simple majority, that any one or more of the nominees shall be excluded from the election.
- (e) If, after the exclusion of any nominees pursuant to paragraph (d), the number of nominees does not exceed the number of vacancies, the Chairman shall declare those nominees duly elected.
- (f) If, after the exclusion of any nominees pursuant to paragraph (d), the number of nominees exceeds the number of vacancies, a vote shall be taken by secret ballot.
- (g) On the taking of a vote –
- (i) A returning officer will be appointed by the Chairman;
  - (ii) where there is one vacancy to be filled:-
 

each voter will number the nominees in order of preference, and in the event of no nominee gaining an absolute majority, then the lowest scoring nominee will be eliminated. The second choice, or preference, on which the eliminated nominee appears as first preference, will then be distributed. This procedure will be continued until there is an absolute majority for one nominee or the remaining nominees have an equal number of votes. If all nominees or two (2) or more remaining nominees receive an equal number of votes the nominee to be elected shall be determined by the Chairman exercising a casting vote;
  - (iii) where there is more than one vacancy to be filled:-
 

each voter will number the nominees in order of preference, the lowest scoring nominee will be eliminated. The second choice, or preference, on which the eliminated nominee appears as first preference will then be distributed. This procedure will be continued until two nominees remain or the remaining nominees have an equal number of votes. If all nominees or three (3) or more remaining nominees receive an equal number of votes the nominees to be elected shall be determined by the Chairman exercising a casting vote.

8. (1) Of the Council nominees elected pursuant to clause 5 (2) and Clause 7, one (1) shall retire on the second anniversary of the nominees election.

(2) Subject to subclause (1) of this clause and clause 12 the term of office of a Council nominee shall be four (4) years.

(3) At the first election of Council nominees pursuant to clause 5 (2) and clause 7, the nominee who receives the lesser number of votes, or if the number of votes be equal the nominee determined by the Chairman, shall retire pursuant to subclause (1) of this clause.

(4) For the purpose of retaining the number of Council nominees required by subclause (e) of clause 4 an election shall be held as nearly as practicable on or after the date of retirement of each Council nominee.

9. (1) As soon as conveniently may be after the day upon which this Ordinance comes into force, The Illawarra Grammarians Association shall elect one of its members.

(2) The Grammarian member shall hold office for four (4) years after the date of their election and the Association subject to the proviso contained in clause 4(d) hereof shall as soon as conveniently may be after the expiration of the term of election of a member elect a replacement.

10. (1) Subject to clause 11 hereof a retiring member (of any category) shall be eligible for re-election and notwithstanding anything contained in this Ordinance shall remain a member (and continue to hold any office to which he may have been elected or appointed by the Council) until the vacancy caused by his retirement has been duly filled.

(2) Nothing in subclause (1) shall apply in respect of a Grammarian member where, on the expiration of his term of office, the membership of the Grammarians Association is less than the number of financial members required for the Association to retain that particular membership.

11. A member shall not be an employee of the Council.

12. (1) A casual vacancy shall occur if an elected member –

- (a) dies;
- (b) resigns his office by writing addressed to the Chairman, and in such a case shall unless the writing specified a later date be deemed to occur when the Chairman receives the writing;
- (c) ceases to have any qualification which was necessary for his election;
- (d) becomes bankrupt or signs any authority effective under Section 188 of the Bankruptcy Act 1966 as amended or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with or assigns his property for the benefit of his creditors;
- (e) becomes within the meaning of the Mental Health Act 1958 as amended an incapable person, a patient, a protected person or a voluntary patient;
- (f) is for a continuous period of three months absent without the leave of the Council from meeting of the Council held during that period; or
- (g) at a meeting of the Council duly convened expressly for the purpose, is declared by a resolution passed by a majority of not less than two-thirds of the members present and voting to have vacated his office, provided that before the meeting, the Council shall have -
  - (i) informed him of the proposed resolution and the grounds on which it will be proposed and
  - (ii) given him 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.
- (h) . . . . .

(2) A casual vacancy in the office of a Synod member shall be filled by the election of a new member by Synod, or when Synod is not in session by the election of a new member by the Standing Committee of Synod, provided that the Synod may by resolution determine that a casual vacancy existing during a session of Synod shall not be filled during that session, and thereupon after the close of that session that vacancy shall be filled by the election of a new member by the Standing Committee.

(3) A casual vacancy in the office of Grammarian member shall be filled by the election of a new member by the Illawarra Grammarians Association.

(4) A casual vacancy in the office of a Council nominee shall be filled by the election of a new member by the remaining members.

(5) A person who becomes a member pursuant to this clause shall hold office until and retire on the day on which the person whose vacancy he fills would have retired had the vacancy not occurred.

### **Council Meetings**

13. (1) The President when present shall preside at meeting of the Council.

(2) The President may from time to time by notice in writing addressed to the Chairman appoint (and change the appointment of) a Deputy who should be entitled to attend all meetings of the Council and in the absence of the President the Deputy shall act as a member and have a deliberative vote. A Deputy President shall continue in office during a vacancy in the See.

(3) The Council shall elect from among the members appointed or elected pursuant to clause 4(b) or (c) a Chairman who in the absence of the President shall preside at meetings; provided that in the absence of both the President and the Chairman the meeting may appoint

one of the members appointed or elected pursuant to clause 4(b) or (c) then present to act as Chairman of the meeting.

(4) The President, the Chairman or the Acting Chairman shall while presiding at a meeting have both a deliberative vote and a casting vote on any matter at that meeting.

(5) At a meeting of the Council six (6) members of whom at least three shall be Synod members shall be a quorum. For the purposes of this subclause a deputy appointed by the President shall in the absence of the President be reckoned as a member.

(6) Subject to the concurrence of the Chairman the Council may invite any person not a member to be present for the whole or any part of a meeting.

#### **Observance of Acts of Parliament and Ordinances**

14. (1) The Council shall manage and carry on the affairs of the School in accordance with the provisions of every Act of Parliament and Ordinance (including this Ordinance) specifically or otherwise applicable to the School.

#### **Principal Teachers**

15. In appointing any person to be Headmaster, Headmistress, or other principal teacher of the School the Council shall have due regard (in addition to the other requirements of the position) to the importance of appointing a person of Christian faith and character who is committed to furthering and is capable of furthering the cause of Christian Education in the School as a Church School.

#### **School Chapels and Chaplains**

16. The School Chapels and Chaplains Ordinance 1975 shall apply to every school established managed or carried on by the Council.

#### **Management**

17. The Council shall, in such manner as it deems most expedient for the benefit of the School –

- (a) control the management and the use of the church trust property held for the purposes of or in connection with the School and of all other property of the Council;
- (b) make financial and other arrangements and decisions for the present and future carrying on of the School and maintenance improvement and extension of and additions to the lands premises and other property of any kind owned by the Council or occupied or used directly or indirectly by it in connection with the School;
- (c) use and apply for the benefit of the School all property of the Council and all monies derived therefrom or from the carrying on of the School;
- (d) determine consistent with this Ordinance the aims and objectives of the School and the course of action or procedure to be followed by employees of the Council and persons carrying out services for or functions in the School.

#### **Subsidiary Schools**

18. Provided that Standing Committee has first been informed the Council may acquire and/or establish a subsidiary school or subsidiary schools within the Diocese of Sydney when and where it may deem it expedient to do so in the interests of the School or of christian education and may for the purpose of assisting it in managing and controlling any such subsidiary school or schools from time to time appoint a committee or committees from among its members and such committee or committees may be authorised by the Council to co-opt other persons approved by the Council.

#### **Powers and Duties**

19. 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 (the conferring of which shall not be taken as limiting the generality of the preceding words of this clause) –

- (a) to borrow or raise money and secure the repayment thereof with or without interest in such manner as the Council may think fit and to secure the same or the repayment or performance of any debt contract guarantee 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 it in connection with the School;
- (b) to invest and deal with monies in accordance with the provisions of the Investment of Church Trust Property Ordinance 1990 as amended or any such other form or forms of investment as shall be approved by resolution of the Standing Committee at the request of the Council provided that no such approval shall be effective for a period in excess of three years;
  - (c) to purchase take on lease or on hire or in exchange or otherwise by any means whatsoever acquire any real or personal property and any rights or privileges which the Council may think fit;
  - (d) to sell improve manage develop exchange lease dispose turn to account or otherwise deal with all or any part of the lands premises and other property of any kind owned by the Council or occupied or used directly or indirectly by it in connection with the School;
  - (e) to enter into contracts of any kind (including contracts of guarantee and indemnity) and to draw make accept endorse discount execute and issue cheques and other negotiable or transferable instruments;
  - (f) to lend and advance money or give credit to any person or company whether on security or not and to take such security (if any) as the Council may think fit for money lent or advanced or credit given by it;
  - (g) to employ or appoint or cause to be employed or appointed such persons on such terms and conditions and for such periods as the Council or any person thereto authorised may think fit, and to dismiss or cause to be dismissed or terminate or cause to be terminated the appointment of any person so employed or appointed;
  - (h) to appoint such executive or other committee with such powers and duties and to delegate thereto or to a member or employees such matters as the Council may think fit;
  - (i) to solicit and accept real or personal property of any kind by way of gift, subsidy or subvention as the Council may think fit;
  - (j) to consult with the councils or governing bodies of other church schools and independent schools on matters of common interest and subject to this Ordinance to join with such councils or governing bodies in endeavours to:-
    - (i) maintain proper standards of education,
    - (ii) preserve and further freedom of choice in education by parents and guardians of children,
    - (iii) regulate relationships with Federal State and local governments;
  - (k) to make such rules regulations or by-laws not inconsistent with this Ordinance as the Council may think fit.

20. (1) The Council shall not execute or deliver and shall not have power to execute or deliver any mortgage, charge, 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 acknowledge and agree that the Council of The Illawarra Grammar School 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 Illawarra Grammar School may be able to pay to that party in the event of the Council of The Illawarra Grammar School being wound up”,

and such clause is not made subject to any qualification.

(2) The Council shall not execute or deliver any Bill of Exchange or other negotiable instrument other than a cheque drawn on the Council's Bank except in accordance with the Investment of Church Trust Property Ordinance 1990 as amended and except in the course of a specific scheme proposed by the Council's bank and approved by a resolution of Standing Committee from time to time.

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

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

(2) The Council and its members and each of them shall not represent to any person or persons 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 as amended shall or may meet or discharge all or any part of any liability or liabilities which have been or may or will be incurred wholly or partly by or on behalf of the Council.

23. Every order for goods and services or business letter involving the securing of credit for the supply of goods or services to the School issued by or on behalf of the Council shall contain the name of the Council and immediately thereafter or thereunder the words "Incorporated under Act of Parliament and constituted by The Illawarra Grammar School Ordinance 1958". The same information shall be shown adjacent to every application of the common seal.

24. Every member of the Council shall be indemnified out of the property of the School for any liability properly incurred by the Council for which he may become personally liable in so far as such liability was not incurred by reason of his misconduct or wilful default.

#### **Citation**

25. This Ordinance may be cited as "The Illawarra Grammar School Ordinance 1958".

#### **Schedule**

All that piece or parcel of land situate off Western Avenue West Wollongong, in City of Greater Wollongong, Parish Wollongong and County of Camden containing an area of 5 acres 2 roods 83/4 perches or thereabouts being Lot B in Miscellaneous Plan of Subdivision (R.P.) Dealing Number G952759 and being part of the land comprised in Certificate of Title Volume 4835 Folio 169 subject to a right of carriageway of variable width leading to Western Avenue from the subject land as created by Grant of Right of Carriageway No. C509348.

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#### **Notes**

By Order published in the Government Gazette on 13 January 1984 under the Anglican Church of Australia (Bodies Corporate) Act 1938 the Council was incorporated under the name "The Illawarra Grammar School".

#### **Table of Amendments**

Clause 3	Inserted by Ordinance No 25, 1983.
Clause 4	Inserted by Ordinance No 25, 1983.
Clause 5	Inserted by Ordinance No 25, 1983.
Clause 6	Inserted by Ordinance No 25, 1983.
Clause 7	Inserted by Ordinance No 25, 1983.
Clause 8	Inserted by Ordinance No 25, 1983.
Clause 9	Inserted by Ordinance No 25, 1983.
Clause 10	Inserted by Ordinance No 25, 1983.
Clause 11	Inserted by Ordinance No 25, 1983 and amended by Ordinances Nos 28, 1987 and 59, 2001.
Clause 12	Inserted by Ordinance No 25, 1983 and amended by Ordinances Nos 28, 1987 and 59, 2001.
Clause 13	Inserted by Ordinance No 25, 1983.
Clause 14	Inserted by Ordinance No 27, 1983.
Clause 15	Inserted by Ordinance No 27, 1983.
Clause 16	Inserted by Ordinance No 27, 1983.

- Clause 17      Inserted by Ordinance No 27, 1983.  
Clause 18      Inserted by Ordinance No 27, 1983.  
Clause 19      Inserted by Ordinance No 27, 1983 and amended by Ordinances Nos 5, 1990  
and 31, 2016.  
Clause 20      Inserted by Ordinance No 27, 1983 and amended by Ordinances Nos 2, 1986  
and 5, 1990.  
Clause 21      Inserted by Ordinance No 27, 1983 and amended by Ordinance No 34, 1995.  
Clause 22      Inserted by Ordinance No 27, 1983.  
Clause 23      Inserted by Ordinance No 27, 1983 and amended by the Interpretation  
Ordinance 1985.  
Clause 24      Inserted by Ordinance No 27, 1983.  
Clause 25      Amended by Ordinances Nos 24, 1961; 23, 1966; 25, 1983 and 27, 1983 and  
under the Interpretation Ordinance 1985.

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ROBERT WICKS  
**Diocesan Secretary**

26 September 2016