

Macarthur Anglican School Amendment Ordinance 2003

No 17, 2003

Long Title

An Ordinance to change the name of The Macarthur Regional Anglican Church School and to amend the Macarthur Region Anglican Church School Ordinance 1982.

Preamble

A. By the Macarthur Region Anglican Church School Ordinance 1982 (the “1982 Ordinance”), the Council of the Macarthur Region Anglican Church School was constituted for the purpose of establishing and administering a school in the Macarthur region.

B. By notice published in the Government Gazette on 3 August 1984 following the making of the Macarthur Region Anglican Church School Incorporation Ordinance 1984, the Council was incorporated under the name “The Macarthur Region Anglican Church School”.

C. By reason of circumstances arising after the passing of the 1982 Ordinance, it is expedient that the 1982 Ordinance be amended, and the name of the Council changed.

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

1. Name

This Ordinance is the Macarthur Anglican School Amendment Ordinance 2003.

2. Change of Name

Pursuant to section 10 of the Anglican Church of Australia (Bodies Corporate) Act 1938 the name of The Macarthur Region Anglican Church School is changed to Macarthur Anglican School.

3. Amendment of the Macarthur Region Anglican Church School Ordinance 1982

The Macarthur Region Anglican Church School Ordinance 1982 is amended as follows -

- (a) In the Long Title the matter “The Macarthur Region Anglican Church School” is deleted and “the Macarthur Anglican School” is inserted instead.
- (b) The heading “Short Title” before clause 1 is deleted.
- (c) Clause 1 is deleted and the following is inserted instead -

“1. Name of ordinance

This ordinance is the Macarthur Anglican School Ordinance 1982.”.

- (d) The heading “Preliminary” before clause 2 is deleted.
- (e) In clause 2 –
 - (i) the heading “2. Definitions and Interpretation” is inserted, and
 - (ii) the definition of “Archbishop” is deleted and the following is inserted instead-
“Archbishop’ means the Archbishop of Sydney or, if the See is vacant, the Administrator of the Diocese of Sydney”, and
 - (iii) the definition “Basis and Statement of Faith” is deleted, and
 - (iv) the definition “Clergyman” is deleted, and
 - (v) the definition of “Council” is deleted and the following is inserted instead -
“Council’ means the Council of Macarthur Anglican School constituted from time to time under this Ordinance;”, and
 - (vi) the definition of “Headmaster” is deleted and the following is inserted instead-
“Head’ means the Head or the teacher in charge of the School;”, and
 - (vii) the definition of “School” is deleted and the following is inserted instead -
“School’ means Macarthur Anglican School”, and
 - (viii) the definition of “Regional Council” is deleted, and
 - (ix) the definition of “Synod members” is deleted.

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- (f) The heading "Council and members" before clause 3 is deleted.
- (g) Clause 3 is deleted and the following is inserted instead -
- 3. Primary object of the Council**
- The primary object of the Council is to educate young people in ways consistent with the teaching of the Bible and gospel of Jesus Christ, and to maintain and uphold the Christian faith in teaching and practice."
- (h) The following new clause is inserted as clause 4 -
- 4. President**
- The Archbishop is the President of the Council."
- (i) Clause 5 is deleted and the following is inserted instead -
- 5. Membership of the Council**
- The members of the Council are -
- (a) 2 persons appointed by the Archbishop, one of whom is to be a person in holy orders, and
- (b) 6 persons elected by the Synod, and
- (c) up to 2 persons elected by the members of the Council."
- (j) The following new clause is inserted as clause 6 -
- 6. Qualifications or restrictions on membership of the Council**
- (1) A person is not eligible to be appointed or elected as a member of the Council if the person -
- (a) is an employee of the Council, or
- (b) is the spouse of a permanent employee of the Council.
- (2) A person is not eligible to be appointed or elected as a member of the Council unless the person has first given the appointing or electing person or body a signed copy of the declaration set out in the Schedule.
- (3) A copy of the declaration referred to in subclause 6(2) signed by each person appointed or elected as a member of the Council is to be delivered by the appointing or electing person or body to the Council within 1 month from the date of the appointment or election and is to be retained by the Council in its records."
- (k) Clause 7 is deleted and the following new clause is inserted -
- 7. Term of office of members**
- (1) Subject to clauses 8, 9 and 10, 2 members of the Council elected by the Synod are to retire on the first day of each ordinary session of the Synod.
- (2) The members of the Council to retire under subclause 7(1) are those who have held office the longest since last being elected but, in the case of competition, is to be determined by the members concerned. If those members cannot agree, the order of retirement is to be determined by lot.
- (3) Subject to clause 9, a member of the Council appointed by the Archbishop holds office until their appointment is revoked by the Archbishop.
- (4) Subject to clause 9, a member of the Council elected by the other members holds office for a period of 3 years, but is eligible for re-election."
- (l) Clause 8 is deleted and the following is inserted instead -
- 8. Further provisions regarding term of office**
- Subject to clause 9, a retiring member of the Council elected by the Synod is eligible for re-election."
- (m) Clause 9 is deleted and the following is inserted instead -

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"9. Casual vacancies

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

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

(a) if the person holding that office resigns by notice in writing to the Archbishop, or

(b) if a circumstance set out in rule 7.1(2)(a) (except rule 7.1(2)(a)(i)) of the Schedule to the Synod Elections Ordinance 2000 occurs in respect of that person.

(3) A casual vacancy in the office of member of the Council appointed by the other members arises -

(a) if the person holding that office resigns by notice in writing to the Council, or

(b) if a circumstance set out in rule 7.1(2)(d) (except rule 7.1(2)(a)(i)) of the Schedule to the Synod Elections Ordinance 2000 occurs in respect of that person."

(n) Clause 10 is deleted and the following is inserted instead -

"10. Filling of casual vacancies

(1) A casual vacancy in the office of a member of the Council elected by the Synod is to be filled by the Synod, or by the Standing Committee if the Synod is not in session.

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

(o) Clause 11 is deleted and the following is inserted instead -

"11. Chairman of the Council

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

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

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

(p) After clause 11 the following new clauses are inserted (with the subsequent existing clauses renumbered as a consequence) -

"12. Meetings of the Council

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

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

(a) the President, or

(b) the Chairman of the Council, or

(c) any 4 members of the Council.

(3) A quorum for a meeting of the Council is 5 members.

13. Meetings by way of an approved communications link

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

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conducted with the aid of the approved communications link are to be as valid and effectual as if they had been conducted at a meeting at which all of those members were present.

(2) In subclause 13(1), "approved communications link" means a link established by means of any system of telephone, audio or audio-visual communication approved by the members of the Council and made known to each member for the purpose of any meeting of the members.

14. 'Circular' resolutions

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

(2) For the purposes of subclause 14(1) -

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

15. Attendance of other persons at meetings of the Council

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

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

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

(q) The heading "Duties and Powers of the Council" before existing clause 12 (renumbered as clause 16) is deleted.

(r) In existing clause 12 (renumbered as clause 16) -

(i) the following is inserted as the heading -

"16. Duties of the Council"

(ii) the matter "the said funds held by the Regional Council" is deleted and the matter "its funds" is inserted instead.

(s) Existing clause 13 is deleted and the following new clauses are inserted instead -

"17. Seal of the School

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

18. Appointment of the Head

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

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furthering allegiance to Christ as Lord and the cause of Christian education in the School as a church school.

(2) A person is not to be appointed as Head if he or she has not first produced to the Council a signed copy of the declaration set out in the Schedule.

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

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

19. Advertising for staff

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

- (t) The following is inserted as the heading to existing clause 14 (renumbered as clause 20) -

“20. Application of the School Chapels and Chaplains Ordinance 1975”.

- (u) In existing clause 15 (renumbered as clause 21) –

- (i) the following is inserted as the heading -
“21. Powers of the Council”, and
- (ii) in paragraph (b) the matter “objects of the School referred to in the preamble hereto” is deleted and “primary object stated in clause 3” is inserted instead, and
- (iii) in paragraphs (d), (e) and (i) the word “Headmaster” wherever appearing is deleted and the word “Head” is inserted instead, and
- (iv) at the end of paragraph (j) the matter “.” is deleted and the matter “, and” is inserted instead, and
- (v) the following new paragraph (k) is inserted at the end -
“(k) may reimburse any member of the Council for any out of pocket expenses incurred in attending meetings of the Council, or otherwise serving as a member of the Council.”.

- (v) In existing clause 16 (renumbered as clause 22) –

- (i) the following is inserted as the heading -
“22. Liabilities of the Council”, and
- (ii) subclause (1) is deleted, and
- (iii) in subclause (3) the matter “The Council and its members and each of them shall not” is deleted and the following matter is inserted instead -
“Neither the Council nor any member of the Council shall”, and
- (iv) in subclause (4) the matter “The Macarthur Region Anglican Church School” and “the Macarthur Region Anglican Church School” are deleted and, in each case, the matter “the Macarthur Anglican School” is inserted instead.

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- (w) after existing clause 16 (renumbered as clause 23) the following new clause is inserted (with the following existing clauses renumbered as a consequence) -

"23. Indemnity

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

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

This subclause 23(1) does not apply to a liability for legal costs.

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

- (a) in defending or resisting proceedings in which the person is found to have a liability for which they could not be indemnified under subclause 23(1), or
- (b) in defending or resisting criminal proceedings in which the person is found guilty, or
- (c) in defending or resisting proceedings brought by the Australian Securities and Investments Commission or a liquidator for a court order if the grounds for making the order are found by the court to have been established, or
- (d) in connection with proceedings for relief to the person under the Corporations Law in which the court denies the relief.

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

(3) For the purposes of subclause 23(2), the outcome of proceedings is the outcome of the proceedings and any appeal in relation to the proceedings.

(4) The Council need not indemnify a person under subclause 23(1) and/or subclause 23(2) for a liability to the extent that the person is entitled to an indemnity for that liability under a contract of insurance.

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

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

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- (c) the improper use of the person's position as a member of the Council to gain an advantage for himself or herself or for another person or to cause detriment to the Council.

This subclause 23(5) does not apply to a liability for legal costs.

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

(7) The obligations and powers under subclauses 23(1), 23(2), 23(5) and 23(6) are incurred or are to be exercised (as the case may be) only to the extent permitted by law."

- (x) In existing clause 17 (renumbered as clause 24) –
 - (i) the following is inserted as the heading -
"24. Reporting by the Council", and
 - (ii) the matter "and to the Regional Council" is deleted, and
 - (iii) the matter "or the Regional Council" is deleted.
- (y) The following is inserted as the heading to existing clause 18 (renumbered as clause 25) -
"25. Compliance with the Accounts, Audits and Annual Reports Ordinance 1995".
- (z) After existing clause 18 (renumbered as clause 25) the following new Schedule is inserted -
 - "**Schedule**
 - 1. I believe and hold to the truth of the Christian faith as set forth in the Apostles' Creed.
 - I believe in God, the Father Almighty,
maker of heaven and earth;
and in Jesus Christ, his only Son our Lord,
who was conceived by the Holy Spirit,
born of the virgin Mary,
suffered under Pontius Pilate,
was crucified, dead, and buried.
He descended into hell.
The third day he rose again from the dead
He ascended into heaven,
and is seated at the right hand of God the Father
almighty;
from there he shall come to judge the living and the dead.
I believe in the Holy Spirit;
the holy catholic church;
the communion of saints;
the forgiveness of sins;
the resurrection of the body,
and the life everlasting.
 - 2. In particular I believe -
 - (a) there is only one way to God which is through his Son, Jesus Christ, who died for us the death that everyone deserves; and
 - (b) that God's word, the Bible, is the one final authority in all matters of faith and conduct.
 - 3. I acknowledge that the Macarthur Anglican School Council (the "Council") aims to educate young people in ways consistent with the teaching of the Bible and the gospel of Jesus Christ,

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and to this end I support the Council's commitment to maintain and uphold the Christian faith in teaching and practice.

4. I shall endeavour to fulfil my duties as [a member of the Council/Head] in accordance with this declaration and the ordinance by which the Council of Macarthur Anglican School is constituted.
5. I agree that my continuance as [a member of the Council/Head] is dependent upon my continuing agreement with this declaration and I undertake to resign if this ceases to be the case.”.

4. Transitional provisions concerning membership of the Council

A member of the Council who, prior to the date of assent to this ordinance was a member of the Council elected or appointed by the Synod or the Archbishop, continues in office, on and from that date, as a member of the Council elected or appointed by the Synod or the Archbishop, as the case may be.

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

PG KELL
Chairman of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 28 April 2003.

MA PAYNE
Secretary

I Assent to this Ordinance.

PETER F JENSEN
Archbishop of Sydney
27/5/2003