

DIOCESE OF ARMIDALE

THE ARMIDALE SCHOOL (ELECTION OF SEPARATE TRUSTEE)
ORDINANCE 2009

Long Title

An Ordinance to provide for the election of a separate trustee of church trust property held for the use, benefit or purposes of the Anglican Church in Australia in the Diocese of Armidale and for the management, government and control of The Armidale School by The Corporate Trustees of the Diocese of Armidale and The Armidale School Council.

Preamble

Whereas:

A. The Armidale School Council is a body corporate (**‘the Body Corporate’**) constituted under the provisions of the *Anglican Church of Australia (Bodies Corporate) Act 1938* pursuant to *The Armidale School Incorporation Ordinance*;

B. Upon the constitution of the Body Corporate by publication on 8 October 2004 all of the lands then held under the provisions of the Real Property Act 1900 unencumbered inclusive of some of those lands described in Schedule 1 vested in the Body Corporate pursuant to the provisions of the *Anglican Church of Australia (Bodies Corporate) Act 1938* and (where relevant) remain vested in the Body Corporate, and other lands also described in Schedule 1 have since vested (by way of purchase, discharge of mortgages, or otherwise), or will vest (upon discharge of mortgage, or otherwise), and remain vested in the Body Corporate;

C. The Body Corporate holds real and personal property, including the land described in Schedule 1 and such other lands (if any) as may also be held, for the use, benefit or purposes of The Armidale School (**“School Property”**);

D. Section 16 of the *Anglican Church of Australia Trust Property Act 1917* confers upon the Synod of the Diocese of Armidale power to elect a separate trustee for any part or parts of church trust property; and upon the election of a separate trustee pursuant to section 23 of that Act such church trust property becomes vested in such separate trustee in place of the previous trustee, and the separate trustee has the same powers, authorities, and discretions, and is able in all respects to act as if it had been originally made trustee on the creation of the trust;

E. It is expedient for the purposes of managing, governing and controlling The Armidale School, and for the purpose of holding, managing and dealing with church trust property held for the use, benefit and purposes of the School, to elect a separate trustee of the School Property.

F. A company limited by guarantee is to be incorporated at the instance of the Body Corporate in accordance with the Corporations Act 2001 in the form of the Constitution attached hereto, is to be registered with the Australian Securities & Investments Commission (ASIC), is to be known as The Armidale School (“**the Company**”), and is to take over the administration of The Armidale School from the Body Corporate;

G. By virtue of the change in structure and administration of The Armidale School and upon the request of The Armidale School it is appropriate to elect the Company upon its coming into being as the separate trustee for the School Property;

H. It is the intention of the Synod of the Diocese of Armidale that the Company shall be elected and shall remain the separate trustee of the School Property for so long as it manages, governs and controls The Armidale School for the objects of the Company set out in clause 4 of the Constitution of the Company and in fulfilment of the trust purposes;

Ordinance

Now the Synod of the Diocese of Armidale assembled in pursuance of the powers conferred upon it HEREBY Ordains Declares Directs and Rules as follows:-

1. Name

This Ordinance is The Armidale School (Election of Separate Trustee) Ordinance 2009.

2. Election of Separate Trustee

The Company, to be a public company limited by guarantee, to be registered at the application of The Armidale School Council under the Corporations Act 2001, is, upon its registration, hereby elected as a separate trustee of the School Property. It is the intention of the Synod of the Diocese of Armidale that the Company shall remain the separate trustee of the School Property for so long as it manages, governs and controls The Armidale School for the objects of the Company set out in clause 4.1 of the Constitution of the Company and in fulfilment of the trust purposes. The Synod:

- (a) will act reasonably in terminating the election of the Company as separate trustee under this Ordinance; and
- (b) will not terminate the election for any failure to manage, govern or control The Armidale School for the objects of the Company set out in clause 4.1 of the Constitution of the Company or in fulfilment of the trust purposes (“breach”) without giving the Company ninety (90) days’ written notice to remedy such breach.

3. Further Assurance

The Body Corporate, The Corporate Trustees, and the Bishop are each authorised and directed to execute such agreements, deeds, transfers, applications, requests and other documents as may be necessary or desirable to transfer legal title of all School Property to the Company as separate trustee referred to in clause 2 subject to the trust purposes.