

DIOCESE OF ARMIDALE

**THE NEW ENGLAND GIRLS' SCHOOL (ELECTION OF SEPARATE TRUSTEE  
AND VARIATION OF TRUSTS) ORDINANCE 2006-2007**

**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 New England Girls' School by the Corporate Trustees of the Diocese of Armidale and The New England Girls' School and to vary the trusts upon which the property held for The New England Girls' School is held.

**Preamble**

- A. The New England Girls' School is a body corporate constituted under the provisions of the *Anglican Church of Australia (Bodies Corporate) Act 1938* pursuant to *The New England Girls' School Incorporation Ordinance 1978* (Body Corporate).
- B. Upon the constitution of the Body Corporate the land held under the provisions of the Real Property Act 1900 described in Schedules 1 and 2 vested pursuant to the provisions of the Anglican Church of Australia (Bodies Corporate) Act 1938, and remains vested, in the Body Corporate.
- C. Since the constitution of the Body Corporate the land held under the provisions of the Real Property Act 1900 described in Schedule 3 has pursuant to the provisions of the Anglican Church of Australia (Bodies Corporate) Act 1938 remained vested in the Corporate Trustees of the Diocese of Armidale (Corporate Trustees).
- D. The Body Corporate holds property including the land in Schedules 1 and 2 (School Property) for the use, benefit or purposes of The New England Girls' School.
- E. The Corporate Trustees hold the land in Schedule 3 (School Land) for the use, benefit or purposes of The New England Girls' School.
- F. The Body Corporate is entitled to become the registered proprietor:
  - a. of the land in Schedule 1 of which the Corporate Trustees are recorded as being the registered proprietor in the Register maintained under the provisions of the Real Property Act 1900 (Register);
  - b. of the land in Schedule 2 of which William Palmer is recorded as being the registered proprietor in the Register.
- G. Section 16 of the Anglican Church of Australia Trust Property Act 1917, when read with clause 16 of the Diocese of Armidale Diocesan Council Ordinance 1935-97 and clause 11 of the Church Property Act Procedure Ordinance 1935, confers upon the Diocesan Council 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 the Anglican Church of Australia Trust Property Act 1917 such church trust property becomes vested in the separate trustee in place of the previous trustee, and the

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separate trustee has the same powers, authorities, and discretions, and is able in all respects act as if it had been originally made trustee on the creation of the trust.

- H. It is expedient for the purposes of managing, governing and controlling The New England Girls' School, and for the purpose of holding, managing and dealing with church trust property held for the use, benefit or purposes of the said School, to elect a separate trustee of each of the School Land and the School Property.
- I. By reason of circumstances subsequent to the creation of the trusts to which the School Land and the School Property are for the time being subject, it has become impossible or inexpedient to carry out or observe those trusts.
- J. It is the intention of the Diocesan Council that NEGS Limited will remain the separate trustee of each of the School Land and the School Property so long as it manages, governs and controls The New England Girls' School for the objects of the company set out in clause 2.1 of the Constitution of NEGS Limited and in fulfilment of the trust purposes set out in clause 4 of this Ordinance. The Diocesan Council:
  - (a) will act reasonably in terminating the appointment of NEGS Limited as separate trustees under this Ordinance; and
  - (b) will not terminate the appointment for any failure to manage, govern or control The New England Girls' School for the objects of the company set out in clause 2.1 of the Constitution of NEGS Limited or in fulfilment of the trust purposes set out in clause 4 of this Ordinance ("breach") without giving NEGS Limited 28 days' written notice to remedy such breach.

The Diocesan Council of the Synod of the Diocese of Armidale, in the name and place of the said Synod, Ordains as follows.

### **1. Name**

This Ordinance is The New England Girls' School (Election of separate trustee and variation of trusts) Ordinance 2006-2007.

### **2. Election of separate trustee**

NEGS Limited (ACN 122 393 702), a public company limited by guarantee and registered under the *Corporations Act 2001*, is hereby elected as a separate trustee of each of the School Land and the School Property.

### **3. Declaration**

By reason of circumstances subsequent to the creation of the trusts to which the School Land and the School Property are for the time being subject, it has become impossible or inexpedient to carry out or observe those trusts.

### **4. New trusts**

The School Land and the School Property are held on trust for:

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- (a) the religious purposes of the Diocese of Armidale through The New England Girls' School that are consistent with the Fundamental Declarations of the Anglican Church and that do not contravene any principle of doctrine or worship in the Book of Common Prayer and Thirty Nine Articles of Religion; and
- (b) the educational purposes of the Diocese of Armidale through The New England Girls' School.

**Schedule 1**

- 1. Folio Identifier 613/755808;
- 2. Folio Identifier 614/755808;
- 3. Folio Identifier 615/755808 (current Certificate of Title is Volume 517 Folio 146);
- 4. Folio Identifier 20/713026; and
- 5. Folio Identifier 24/112882 (current Certificate of Title is Volume 10818 Folio 110).

**Schedule 2**

- 6. Folio Identifier 9/2430

**Schedule 3**

- 7. Auto Consol 15350-224 (current Certificate of Title is Volume 15350 Folio 224);
- 8. Folio Identifier 18/713026; and
- 9. Folio Identifier 19/713026.