

A BILL FOR A NEWCASTLE EPISCOPAL RESIDENCE LEASING ACT (VARIATION OF TRUST) ORDINANCE 2017

WHEREAS by a deed of grant from the Crown bearing date the twenty-second day of October, one thousand eight hundred and fifty-five, the lands described in the Schedule hereto were granted to the Bishop of Newcastle and his successors upon trust for the erection thereon of an episcopal residence for the Bishop of Newcastle and his successors, Bishops of Newcastle, and of such buildings (if any) for educational purposes as he or they might think fit to cause to be erected thereon, and on condition that the said Bishop of Newcastle and his successors should not use the said land or any part thereof for any other purpose than in accordance with the said trusts, and

WHEREAS the Parliament of NSW varied the trusts by which that land was held by the Newcastle Episcopal Land Leasing Act 1900 to enable the Trustees of Church Property to grant leases and derive income to be used for the maintaining and supporting an episcopal residence for the Bishop of Newcastle and his successors, and upon further trust if the Bishop of Newcastle shall so direct to apply any money so directed towards the erection, purchase, and maintenance of such buildings for educational purposes as the said Bishop may think fit, or towards the Cathedral revenue of Christ Church Cathedral, Newcastle, and

WHEREAS the Diocese operated a school on the site known as the Newcastle Girls Grammar School and in 1976 transferred the operation of the school to Pittwater House Grammar School Limited who leased the land for that purpose, and whereas in 1991 Pittwater House Grammar School Limited transferred the operation of the School to Newcastle Grammar School Limited who continue to run a school on that site and lease the land for that purpose, and

WHEREAS the Trustees of Church Property have entered into a licence arrangement with Newcastle Grammar School Limited for the use of the Cathedral Hall and Vergers Cottage which are on the said land but do not form part of the lease, and

WHEREAS the Anglican Church of Australia Trust Property Act 1917 defines church trust property to include all or any part of any real and personal property which may for the time being be subject to any trust whether by dedication, consecration, trust instrument, or otherwise, for or for the use, benefit, or purposes of the Church of England in any diocese, and

WHEREAS the Anglican Church of Australia Trust Property Act 1917 defines a trust instrument to include ordinances of synod and Acts of Parliament, and

WHEREAS the Anglican Church of Australia Trust Property Act 1917 provides that where by reason of circumstances subsequent to the creation of the trusts, including trusts declared under this section, to which any church trust property is for the time being subject, it has in the opinion of the synod of the diocese for which such property is held become impossible or inexpedient to carry out or observe such trusts, it shall be lawful for the synod of such diocese by ordinance to declare such their opinion, and by the same or any subsequent ordinance to declare other trusts for or for the use, benefit, or purposes of the Anglican Church of Australia within the said diocese instead of such first-mentioned trusts, and such

first-mentioned trusts shall thereupon by force of the said ordinance cease and determine, and such property shall thereupon be held upon such other trusts, and

WHEREAS the Anglican Church of Australia Trust Property Act 1917 authorises the Synod to delegate its authority to another body and the Synod has delegated its authority to the Diocesan Council of the Diocese of Newcastle, and

WHEREAS the Diocesan Council notes prior to the passing of this Ordinance that the Commissary for the Bishop of Newcastle has authorised the Trustees of Church Property to make a grant of \$150,000 in four equal instalments from the funds derived under this trust to Christ Church Cathedral Newcastle in repayment of a loan from the Trustees of Church Property to Christ Church Cathedral Newcastle, and

WHEREAS the Diocesan Council wishes to affirm the power of the Trustees of Church Property to enter into further leases and licences with Newcastle Grammar School Limited, and

WHEREAS the Diocesan Council has formed the view that it has become impossible or inexpedient to carry out or observe the trusts prescribed in the Newcastle Episcopal Residence Lease Act 1900.

BE IT ORDAINED AS FOLLOWS

Short title

1. This Ordinance may be cited as the Newcastle Episcopal Residence Leasing Act (Variation of Trust) Ordinance 2017.

Power to lease to Newcastle Grammar School Limited for two further terms of 25 years

2. The Trustees of Church Property are hereby authorised to grant to Newcastle Grammar Schools Limited a further lease and related licence for the lands described in the Schedule hereto from the expiration of the current term of twenty-five years for a further term not exceeding twenty-five years at such rental as the Trustees shall specify and otherwise subject to the same covenants agreements and provisos as are contained in current lease with the provision to renew that lease for a further term not exceeding twenty-five years at such rental as the Trustees shall specify and otherwise subject to the same covenants agreements and provisos.

Variation of Trust

3. By reason of circumstances which have arisen after the creation of the trust it is impossible or inexpedient to carry out and observe that trust, the trust shall be held in the following manner
The rents, income, and payments from the said lands shall be received by the Trustees of Church Property for the Diocese of Newcastle (the Trustees), and after payment of all related and necessary expenses, shall be held by the Trustees upon trust for the purpose of

- a. providing by lease or purchase and any other expenditure that may be required, and of maintaining and supporting an episcopal residence for the Bishop of Newcastle and his successors,
and upon further trust if the Bishop of Newcastle shall so direct to apply any money so directed
- b. towards making a distribution to the Diocesan Council to be used for the purpose of meeting the stipend, allowances or other expenses of the Bishop of Newcastle and any assistant Bishop,
- c. towards making a distribution to the Newcastle Anglican Schools Corporation for the purpose of supporting educational activities or chaplaincy ministry in a school operated by the Corporation or in Newcastle Grammar School, or
- d. towards the Cathedral revenue of Christ Church Cathedral, Newcastle
Provided that all expenditure upon the maintenance and support of a residence for the Bishop shall be made with the consent of the Bishop.

SCHEDULE

Part Folio Identifier 1/198891 being 60 Newcomen Street Newcastle excluding the Cathedral Hall and the cottage to the west of the Cathedral Hall

I HEREBY CERTIFY the Ordinance as printed is in accordance with the Ordinance as reported.

WAS PASSED BY DIOCESAN COUNCIL on the 27th day of April 2017.



**The Venerable Canon Sonia Roulston
Acting Secretary, Diocesan Council**

THE ASSENT of the Right Reverend Dr Peter Stuart the Commissary to the Bishop of the Diocese was given to the above Ordinance on the 5th day of **May 2017** in the **Ninth** year of our Consecration.



PRESIDENT