

HER MAJESTY THE QUEEN
(Acting by and through the Minister
of Education)

and

THE ROMAN CATHOLIC BISHOP OF THE
DIOCESE OF AUCKLAND

INTEGRATION AGREEMENT
Mary MacKillop School
Mangere, Auckland

THE SECRETARY
MINISTRY OF EDUCATION
NATIONAL OFFICE
WELLINGTON

DEED OF AGREEMENT

THIS DEED OF AGREEMENT is made the 21st day of January 2000.

BETWEEN THE ROMAN CATHOLIC BISHOP OF THE DIOCESE OF AUCKLAND a Corporation Sole (hereinafter with his successors referred to as "**the Proprietor**")

AND

HER MAJESTY THE QUEEN acting by and through the Minister of Education (hereinafter referred to as "**the Minister**")

WHEREAS:

- A** The Proprietor intends to establish **Mary MacKillop School**, Mangere, Auckland (hereinafter referred to as "**the School**").
- B** The Proprietor has leased the land and buildings from the Crown for the purposes of establishing the School. A copy of the lease between Her Majesty the Queen acting by and through the Minister of Lands as Lessor and the Proprietor as Lessee is set out in the **Third Schedule** hereto ("**the Lease**").
- C** The School is to be a Roman Catholic Primary School for boys and girls from Year 1 to Year 8 offering Education with a Special Character.
- D** The Minister and the Proprietor have agreed to enter into this Deed of Agreement pursuant to the Private Schools Conditional Integration Act 1975 ("**the Act**"), whereby the School is to be established as an integrated School.

NOW THIS DEED OF AGREEMENT WITNESSETH THAT IT IS HEREBY COVENANTED AGREED AND DECLARED BY AND BETWEEN THE PARTIES HERETO as follows:

- 1 **THAT** the Minister and the Proprietor **HEREBY AGREE** that the School is to be established and be an integrated School pursuant to the Act.
- 2 **THE** School's Special Character as is hereinafter described shall incorporate the Education with a Special Character as provided in the School **AND IT IS HEREBY AGREED AND DECLARED** that the School shall at all times in the future be conducted and operated so as to maintain and preserve the School's Special Character and these presents shall be interpreted so as to maintain and preserve the Special Character of the School.
- 3 **ON** behalf of the Proprietor it is hereby agreed that :-



- 3.1 The Proprietor is the occupier under the Lease as Lessee of all the land and improvements more particularly described in the **First Schedule** hereto ("**the School Premises**").
- 3.2 The Proprietor shall set apart and appropriate all the School Premises and all the chattels and other assets of the Proprietor associated with the School exclusively for the purposes of the School as an integrated School, so that Mary MacKillop School Board of Trustees ("**the Board**") shall have the exclusive right to the possession and use of the School Premises and chattels:

PROVIDED THAT

- 3.2.1 At the request of the Proprietor, the Board may grant the use of the School Premises and chattels to the Proprietor or other person or persons at any time when the School Premises and chattels are not required for School purposes and the Board shall not unreasonably or arbitrarily withhold its consent. The Board may require the Proprietor or other person or persons to pay a reasonable fee to the Board as a condition of such use.
- 3.2.2 With the consent of the Proprietor, the Board may grant the use of the School Premises and chattels to other person or persons at any time when the School Premises and chattels are not required for School purposes and the Proprietor shall not unreasonably or arbitrarily withhold his consent. The Board may require any such person or persons to pay a reasonable fee to the Board as a condition of such use.
- 3.3 The Proprietor and the Minister have agreed to share equally the costs involved in the works required more particularly described in the **Fourth Schedule** hereto ("**the Reinstatement Works**") to reinstate the School buildings and associated facilities forming part of the School Premises to the minimum standard for a comparable State School of the same roll as at the effective date of this Deed of Agreement.
- 3.4 The Proprietor shall plan, execute and pay for such capital works and associated facilities at the School as may be approved or required, from time to time, by the Minister pursuant to Section 40(2)(d) of the Act.
- 3.5 The Proprietor may own, lease or hold upon trust, and control and maintain, any land, buildings and associated facilities that, although not part of the integrated School Premises in terms of this Deed of Agreement, are regarded by the Proprietor as appropriate to maintain the Special Character of the School.
- 3.6 The Proprietor shall insure all the buildings forming part of the School Premises and the Proprietor's chattels (if any) owned or held upon trust for

the purposes of the School and other assets owned by the Proprietor for the purposes of the School against risk normally insured against, in some reputable insurance office in New Zealand, and further acknowledges the obligation on him created by Section 40 (2)(h) of the Act.

- 4 No person employed at the School and paid for his services in whole or in part out of moneys appropriated by Parliament, shall be paid by the Proprietor or his servants or agents any remuneration additional to that provided for by the Act or shall be granted or permitted any condition of service more favourable than that permitted in the case of a person employed in a comparable position in a State School.
- 5 THE parties acknowledge that: -
 - 5.1 The School Premises have been leased to the Proprietor by the Crown at the request of the Minister,
 - 5.2 It is the intention of the parties that there be no conflict between the provisions of the Lease and the terms of this Deed of Agreement. The parties acknowledge that a conflict may arise in the interpretation of a provision or provisions of the Lease and a term or terms of this Deed of Agreement. Where such a conflict arises in future the parties will actively and in good faith negotiate with a view to a speedy resolution of such conflict.
6. THE Proprietor undertakes and agrees that up to the effective date hereof he has, to the best of his knowledge and belief observed, performed, fulfilled and kept all and singular the covenants, conditions and agreements contained or implied in the Lease AND the Proprietor hereby further agrees that he will well and faithfully observe perform fulfil and keep all and singular the covenants conditions and agreements contained or implied in the Lease and on the part of the Proprietor as Lessee thereunder to be observed performed fulfilled and kept AND the Proprietor accordingly indemnifies the Minister in respect of any breach of the obligations of the Proprietor as Lessee under the Lease PROVIDED ALWAYS that the Minister shall be responsible to maintain the School Premises in accordance with the provisions of **clause 27** hereof.
7. THE Minister on behalf of the Crown as Lessor consents to the Proprietor parting with the possession of the School Premises, more particularly described in the **First Schedule** hereto, to Mary MacKillop School Board.
- 8 THE Special Character of the School is that it is a Roman Catholic School for boys and girls established by the Roman Catholic Bishop of the Diocese of Auckland for the Roman Catholic Community of the Diocese of Auckland which promotes and supports the School and of which the School is part, to provide and to continue to provide Education with a Special Character, that is to say:-

The School is a Roman Catholic School in which the whole school community through the general School programme and in its Religious instructions and observances, exercises the right to live and teach the values of Jesus Christ. These values are as expressed in the Scriptures and in the practices, worship and doctrine of the Roman Catholic Church, as determined from time to time by the Roman Catholic Bishop of the Diocese of Auckland.

- 9 **THE** Proprietor of the School subject to the provisions of this Deed of Agreement:-
- 9.1 Shall continue to have the responsibility to supervise the maintenance and preservation of the Education with a Special Character provided by the School;
- 9.2 Shall continue to have the right to determine from time to time what is necessary to preserve and safeguard the Special Character of the Education provided by the School and described in this Deed of Agreement;
- 9.3 May invoke the powers conferred upon him by the Act, if in the opinion of the Proprietor the Special Character of the School as defined and described in this Deed of Agreement has been or is likely to be jeopardised or the Education with a Special Character provided by the School as defined and described in this Deed of Agreement is no longer preserved and safeguarded.
- 10 **THE** Board of Mary MacKillop School shall be the Controlling Authority of the School and shall be constituted pursuant to Part IX of the Education Act 1989.
- 11 **THE** control and management of the School shall be exercised subject to the provisions of Section 25(6) of Act and Section 75 of the Education Act 1989.
- 12 **IT** is agreed by and between the parties hereto that the maximum roll of the School shall be 200 pupils.
- 13 **THE** Proprietor agrees that pursuant to **clause 3.3** and **3.4** of this Deed of Agreement he will bring the School up to the minimum standard of accommodation laid down from time to time by the Secretary of Education for a comparable State School.
- 14 **PREFERENCE** of enrolment at the School under Section 29 (1) of the Act shall be given only to those children whose parents have established a particular or general religious connection with the Special Character of the School and the Board shall not give preference of enrolment to the parents of any child or other persons accepting responsibility for the education of a child unless the Proprietor has stated that those parents, or other persons have established such a particular or general religious connection with the Special Character of the School.

- 15 **IN** accordance with Section 7 (6) (h) of the Act unless the Proprietor and the Secretary of Education otherwise agree and subject to places being available, the number of pupils whose parents or other persons accepting responsibility for the education of a child do not have a preference of enrolment at the School in accordance with the provisions of Section 29 (1) of the Act shall be limited at all times to five 5 per cent of the maximum roll as determined by **clause 12** hereof and the Board shall not enrol more than that number **PROVIDED THAT** to maintain and preserve the Special Character of the School the Board in classifying such pupils so enrolled shall endeavour to reasonably distribute them through the range of classes offered by the School.
- 16 **IT** is agreed by and between the parties hereto that as Religious observances and Religious instruction form part of the Education with a Special Character to be provided by the School, Religious observances and Religious instruction in accordance with the determination made from time to time by the Roman Catholic Bishop of the Diocese of Auckland shall form part of the School programme in accordance with Sections 31 and 32 of the Act.
- 17 **THE** Proprietor, together with his servants, agents and licensees shall, subject to the proviso to Section 40 (2) (i) of the Act, have at all reasonable times access to the School to ensure that the Special Character of the School is being maintained.
- 18 **THE** Proprietor, together with his servants, agents and licensees, shall have at all reasonable times access to the land and buildings constituting the School Premises sufficient to enable him to exercise the powers and carry out the responsibilities vested in him and imposed on him by the Act and by this Deed of Agreement.
- 19 **THE** Minister and officers of the Ministry of Education shall have at all reasonable times the right to enter the School Premises for the purpose of viewing the state and condition of the buildings and other improvements.
- 20 **AN** advertisement for the position of Principal of the School shall in accordance with Section 65(1)(a) of the Act state that a willingness and ability to take part in Religious instruction appropriate to the Special Character of the School shall be a condition of appointment. Any person so appointed to the position of Principal shall accept these requirements as a condition of appointment. The Principal so appointed shall accept and recognise a responsibility to maintain and preserve the Special Character of the School.
- 21 **IN** accordance with the Second Schedule hereto there shall be a position of responsibility at the School to be designated Director of Religious Studies in accordance with Section 65 (1)(b) of the Act, which position shall be a position of responsibility and part of the Total Staffing Entitlement of the School as established pursuant to the Education Act 1989. Any advertisement for that position shall state that a willingness and ability to take part in Religious instruction appropriate to the Special Character of the School shall be a condition of appointment. Any person so appointed to the position of Director of Religious Studies shall accept these requirements as a condition of appointment. The Director of Religious Studies shall give guidance and provide effective leadership

in Religious instruction and observances throughout the School. A person appointed to the position of Director of Religious Studies at the School shall undertake such teaching duties, if any, as may be required by the Principal of the School.

- 22 **THE** number of other teaching positions (if any) which, in accordance with section 65(1)(c) of the Act shall be positions of importance carrying a responsibility for Religious instruction shall be determined from the Total Staffing Entitlement of the School as established pursuant to the Education Act 1989 by reference to the **Second Schedule** hereto. Any advertisement for those positions shall state that a willingness and ability to take part in Religious instruction appropriate to the Special Character of the School shall be a condition of appointment. Any person so appointed to these positions shall accept these requirements as a condition of appointment **PROVIDED HOWEVER** that in the event of the staffing entitlement of the School altering at any time during the currency of this Deed of Agreement then the number of teaching positions designated under Section 65(1)(c) of the Act as positions of importance carrying a responsibility for Religious instruction shall be determined in accordance with the then Total Staffing Entitlement and as is more particularly described in the **Second Schedule** hereto.
- 23 **WHENEVER** there is a position of Deputy Principal at the School, however designated, it is agreed pursuant to Section 66(1) of the Act that the position is to be a special position that requires particular capabilities in the teacher appointed, namely to maintain programmes and activities that reflect the Special Character of the School and an advertisement for the position of Deputy Principal shall state that possession of these capabilities shall be a condition of appointment. Any person so appointed to the position of Deputy Principal shall accept these requirements as a condition of appointment.
- 24 **IT** is agreed by and between the parties hereto that as Religious observances and Religious instruction form part of the Education with a Special Character provided by the School the Proprietor may employ any person as a chaplain or otherwise for the purposes of Religious observances or instruction and the provisions of Section 69(2) and (3) of the Act shall apply.
- 25 **THE** Proprietor of the School shall have the right to enter into an Agreement with the parents or other persons accepting responsibility for the education of a child providing that, as a condition of enrolment and attendance of that child at the School, the parents or other persons shall pay attendance dues established in respect of the School or group of Integrated Schools owned by the Proprietor or Proprietors of other Roman Catholic Integrated Schools at such rates and subject to such conditions as may be approved from time to time by the Minister, by notice in the New Zealand Gazette in accordance with Section 36 of the Act.
- 26 **THE** School is a Primary School for boys and girls from Year 1 to Year 8 and shall remain so until such time as an agreement to a change in this organisation of the School is reached between the Proprietor and the Minister and the parties hereto enter into a supplementary Deed of Agreement to give effect thereto.

- 27 **THE** Minister shall subject to **clause 3.3** and **3.4** of this Deed of Agreement after the effective date hereof maintain the School Premises and the associated facilities in a state of repair order and condition as for a comparable State School and provide for the maintenance of the chattels as though the School were a State School. The School shall be entitled to such furniture and equipment as the Minister supplies from time to time to comparable State Schools.
- 28 **THE** effective date of this Deed of Agreement shall be the *26th* day of January 2000. *PJP*
- 29 **ON** and after the effective date specified in this Deed of Agreement the School shall be an integrated school in terms of the Act.

IN WITNESS WHEREOF these presents have been executed the day and year first hereinbefore written.

SIGNED by **BISHOP PATRICK JAMES DUNN THE ROMAN CATHOLIC BISHOP OF THE DIOCESE OF AUCKLAND**
and sealed with his Seal of office in the presence of:

Judith M Hayden
Bishop's assistant

P J Dunn

SIGNED by **KATHY PHILLIPS**
Senior Manager, National Operations
Ministry of Education pursuant to
authority delegated by the Minister of Education
acting on behalf of **HER MAJESTY THE QUEEN**
in the presence of:

Kathy Phillips

Warren Henson
Public Servant
13a Feist Street
Naenae

FIRST SCHEDULE

Description of School Premises

All that land, buildings and other improvements occupied by the Roman Catholic Bishop of the Diocese of Auckland situate in McNaughton Avenue, Mangere, Auckland being known as Mary MacKillop School containing 2.3664 hectares and being Lot 161 DP 61363 and Lot 165 DP 64023 certificate of title volume 125B folio 790 (North Auckland Registry) **AND** leased by the Crown as Lessor to the Proprietor as Lessee under Deed of Lease bearing date the ~~27th~~ day of January 2000 ("Lease").

SECOND SCHEDULE

Schedule of staff appointments to Mary MacKillop School , Mangere, Auckland under Section 65 of the Private Schools Conditional Integration Act 1975 being special positions related to the Special Character of the School.

This Schedule has been prepared for use when the Total Staffing Entitlement of the School as established pursuant to the Education Act 1989 alters at any time during the currency of this Deed of Agreement.

1 Director of Religious Studies

- 1.1 Whenever the Total Staffing Entitlement of the School is 5.2 or more teachers, but not otherwise, there shall be a position at the School to be designated Director of Religious Studies in accordance with **clause 21** of this Deed of Agreement.
- 1.2 If the Total Staffing Entitlement of the School is 8 or more teachers then at least one Permanent Management Unit is to be allocated to the teacher holding the position of Director of Religious Studies.

2 Other Positions Carrying a Responsibility for Religious Instruction

- 2.1 Whenever the Total Staffing Entitlement of the School is two or more teachers but not otherwise there shall be one or more teaching positions (other than those of Principal and Director of Religious Studies (if any)) at the School which in accordance with **clause 22** of this Deed of Agreement shall be positions of importance carrying a responsibility for Religious Instruction.
- 2.2 The number of such positions shall be determined from the Total Staffing Entitlement of the School by reading the table below from left to right PROVIDED THAT if the Total Staffing Entitlement of the School falls between adjacent numbers in Column 1 of the table, the number in Column

2 opposite the smaller of those two adjacent numbers is the number of such positions.

Column 1	Column 2
Total Staffing Entitlement of the School	Positions of Importance in Terms of clause 21 Carrying a Responsibility for Religious Instruction
1.1	-
2.1	1
3.2	1
4.2	2
5.2	1
6.3	2
7.3	2
8.0	3
9.0	3
10.0	4
11.0	4
12.0	5
13.0	5
14.0	6
15.0	7
16.0	8
17.0	8
18.0	8
19.0	9
20.0	9
21.0	10
22.0	10
23.0	10
24.0	11
25.0	11
26.0	12
27.0	12
28.0	13
29.0	13
30.0	14

Handwritten initials/signature

THIRD SCHEDULE

The Deed of Lease

The Deed of Lease from Her Majesty the Queen acting by and through the Ministry of Lands as Lessor to the Proprietor as Lessee of the land, buildings and other improvements comprising the School Premises being Mary MacKillop School, Mangere, Auckland. A copy of the Lease is annexed as part of this **Third Schedule**.



FOURTH SCHEDULE

The Reinstatement Works

Description of Reinstatement Works to be undertaken by the Proprietor to the School Premises in accordance with **clause 3.3** of this Deed of Agreement. The Reinstatement Works is described in a report dated 19 October 1999 from Schools Secretariat Service Centre ("**Report**") and addressed to the Ministry of Education, Ponsonby, Auckland. A copy of the Report is annexed as part of this **Fourth Schedule**.

