



# All Saints Church Lands Act 1960

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**Reprint note—**

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Queensland

# All Saints Church Lands Act 1960

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## All Saints Church Lands Act 1960

**An Act relating to the land comprised in certificates of title numbers 302745 and 302746, being subdivisions 1 and 2 of allotment 1 of section 27A, county of Stanley, parish of North Brisbane, City of Brisbane, held upon trust for Anglican Church purposes**

### Preamble

WHEREAS by deed of grant from the Crown numbered 12528 all that piece or parcel of land in the State, situated in the county of Stanley, parish of North Brisbane, City of Brisbane, being allotment 1 of section 27A and more particularly described in the said deed of grant, was granted to John Douglas Richard Fitzgerald Phelan and the Reverend Bowyer Richard Shaw and the survivors and survivor of them for the appropriation thereof for Church of England purposes and for no other purposes whatsoever.

And whereas the *All Saints Church Lands Act 1924*, conferred upon the then trustees of the said land and their successors in office certain powers of mortgaging the said land and of leasing or letting any buildings thereon.

### Schedule

And whereas part described in the schedule to this Act of the said land (which part is called the *All Saints Church lands*), is now held under certificates of title numbers 302745 and 302746, by John Henry Hitchin, Frank Burgess and William Daniel and the survivors or survivor of them as trustees for Anglican Church purposes.

And whereas it is desirable that the trustees of the All Saints Church lands should have with respect thereto the powers to sell, mortgage, lease and let herein conferred upon them.

## 1 Short title

This Act may be cited as the *All Saints Church Lands Act 1960*.

## 2 Saving of existing transactions affecting the All Saints Church lands

- (1) Nothing in this Act shall prejudice or affect any mortgage of the All Saints Church lands or any part thereof or any lease or letting, or agreement with respect to the lease or letting, of any building erected on the said land existing at the passing of this Act.
- (2) Subject to subsection (1), the *All Saints Church Lands Act 1924* shall, to the extent necessary to give operation and effect to this Act, be read and construed subject to this Act.

## 3 Meaning of terms

In this Act—

*diocesan council* means the standing committee called the diocesan council appointed by the synod.

*synod* means the synod of the branch of the Anglican Church in the diocese of Brisbane under and within the meaning of the *Anglican Church of Australia Act 1895*.

*trustees* means the said John Henry Hitchin, Frank Burgess and William Daniel and their successors in office who for the time being are trustees of the All Saints Church lands, and includes any person or association of persons whom the trustees may, in writing, whether generally or in any particular case, authorise to carry into effect the purposes and objects of this Act or any of them.

## 4 Powers of the trustees

Subject to this Act the trustees may from time to time—

- (a) sell for an estate in fee simple completely freed and discharged from the trusts upon which the same are held

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by the trustees, the All Saints Church lands or any part thereof; or

- (b) mortgage such lands or any part thereof; or
- (c) lease or let such lands or any part thereof or any building or any part of any building erected upon such lands.

## **5 Consent of diocesan council**

- (1) The trustees shall not sell or mortgage or lease or let, or agree to sell or mortgage or lease or let the All Saints Church lands or any part thereof or any building or any part of any building erected thereon—
  - (a) without the consent of the diocesan council; or
  - (b) where the diocesan council consents subject to any term or condition—contrary in any respect to such term or condition.
- (2) The diocesan council may, and is hereby empowered to, subject any consent under this Act to such terms and conditions as it deems fit including, but without limit to the generality of such power, terms and conditions providing for, determining, directing, requiring or ensuring—
  - (a) in relation to any sale, cash or terms, reserve price, offer at public auction before private sale, if terms, such terms including the deposit and security for the unpaid amount of the purchasing price, and interest amount of the purchasing price, and interest upon the unpaid amount of the purchasing price;
  - (b) in relation to any mortgage—the amount or maximum amount of the money to be raised by the mortgage, and the duration thereof;
  - (c) in relation to any lease, agreement to lease, or letting—the amount and manner of payment of rental, premium or consideration additional to rental, and term of tenancy.
- (3) The diocesan council may, at any time before any transaction referred to in this Act has been effected, revoke any consent

given by it to such transaction, or subject its consent to such transaction to any term or condition it deems fit, or revoke, alter, add to or otherwise modify any terms or conditions to which it has already subjected such consent.

## **6 Application of moneys derived from any sale, mortgage, lease or letting**

All moneys derived from or raised by any sale, mortgage, lease or letting or agreement referred to in this Act shall be applied firstly in payment of the costs, charges and expenses duly incurred by the trustees in respect of such transaction and, subject to such payment, to and for such uses and purposes and generally in such manner for the benefit of the Parish of All Saints as the trustees with the consent of the diocesan council shall direct.

## **7 Powers of mortgage**

- (1) Any mortgage referred to in this Act may contain a power of sale by the mortgagee, the mortgagee's executors, administrators or assigns in case of default in payment of any principal or interest moneys secured by such mortgage, or of breach of any of the conditions therein contained.
- (2) In the due exercise of such power the mortgagee may, and is hereby empowered to, sell the land comprised in such mortgage for an estate in fee simple absolutely freed and discharged from the trusts upon and subject to which such land is held by the trustees.

## **8 Exoneration of party to transaction**

The receipt in writing of the trustees for any moneys paid or advanced to them in respect of any sale, mortgage, lease or letting or agreement referred to in this Act shall be a good and sufficient discharge for such moneys to the person paying or advancing the same, and such person shall not be required to see to the application or be affected by the misapplication or non-application thereof.



## Schedule

Certificate of title number 302745, volume 1650, folio 235.

All that piece or parcel of land situated in the county of Stanley, parish of North Brisbane, City of Brisbane, containing an area of 1rd  $32^{19}/_{100}$ p, be the same a little more or less, described as subdivision 1 of allotment 1 of section 27A.

Certificate of title number 302746, volume 1650, folio 236.

All that piece or parcel of land situated in the county of Stanley, parish of North Brisbane, City of Brisbane, containing an area of 2rd  $15^2/_{10}$ p, be the same a little more or less, described as subdivision 2 of allotment 1 of section 27A.