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**ANGLICAN CHURCH OF AUSTRALIA (ALL SAINTS CHURCH)  
ACT 1989**

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**No. 47 of 1989**

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**ANGLICAN CHURCH OF AUSTRALIA (ALL SAINTS CHURCH)  
ACT 1989**

No. 47 of 1989

**AN ACT to confer on the Trustees of the Property of the Anglican Church of Australia in Tasmania, as the holder of certain land situated at Macquarie Street, Hobart, power of sale in respect of that land**

[Royal Assent 21 December 1989]

**Preamble**

**WHEREAS—**

- (a) by an Indenture of Conveyance made on 29th November 1861, Thomas Macdowell, John Forster and Alfred Garrett all of Hobart Town in Tasmania conveyed certain land situated at Macquarie Street, Hobart Town together with a church, school house and other buildings erected on the land to The Right Reverend Francis Russell Nixon of New Town in Tasmania Lord Bishop of Tasmania on trust that the land and church were to be forever dedicated to the service of the United Church of England and Ireland; and
- (b) a memorial of the Indenture of Conveyance registered number 5/489 is specified in Schedule 1; and
- (c) the land included in the Indenture of Conveyance is shown as lots 3 and 4 in the plan of survey specified in Schedule 2; and
- (d) the United Church of England and Ireland is now known as the Anglican Church of Australia; and

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- (e) by virtue of the *Anglican Church of Australia Constitution Act 1973*, the present trustee of the trust property is a body corporate known as “**The Trustees of the Diocese of Tasmania**” (in this Preamble referred to as “**the Corporate Trustee**”); and
- (f) the powers and duties of the Corporate Trustee conferred by that Act are subject to the trust referred to in paragraph (a) of this Preamble; and
- (g) part of the land included in the conveyance and shown as lot 3 in the plan of survey specified in Schedule 2 is no longer needed in the service of the Anglican Church of Australia and it is expedient to empower the Corporate Trustee to sell that part of the land in accordance with this Act in exchange for the land shown as lot 2 in that plan of survey to the intent that that land shall become subject to the trusts specified in the Indenture; and
- (h) all the land included in the plan of survey specified in Schedule 2 is shown by way of illustration only as that plan is subject to examination and approval by the Recorder of Titles:

**B**E it therefore enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

### Short title

1—This Act may be cited as the *Anglican Church of Australia (All Saints Church) Act 1989*.

### Commencement

2—This Act shall commence on the day on which it receives the Royal Assent.

### Interpretation

3—In this Act, unless the contrary intention appears—

“**the Corporate Trustee**” means The Trustees of the Diocese of Tasmania;

“**the Indenture**” means the Indenture of Conveyance referred to in paragraph (a) of the Preamble to this Act;

“**the Parish**” means the Parish of All Saints;

“**the plan**” means the plan of survey specified in Schedule 2.

**Power to sell land at Macquarie Street, Hobart**

4—(1) Notwithstanding the trusts contained in the Indenture, the Corporate Trustee may, with the consent of the Rector and Churchwardens for the time being of the Parish, sell by private contract the land shown as lot 3 on the plan in exchange for the land shown as lot 2 in the plan.

(2) For the purposes of subsection (1), the Corporate Trustee may, in addition to all other powers vested in it by law in that behalf, exercise all the powers conferred on trustees for sale by the *Trustee Act 1898*, except the powers conferred by section 15 of that Act.

**Application of *Local Government Act 1962***

5—(1) Notwithstanding section 4 and the trusts contained in the Indenture, the application of Division 2 of Part XVI of the *Local Government Act 1962* extends to all the land in the plan.

(2) For the purposes of giving effect to section 4, the Corporate Trustee may, notwithstanding the trusts contained in the Indenture—

- (a) grant an easement for drainage to the Corporation of the City of Hobart; and
- (b) comply with any other requirement made by that Corporation as a condition of granting approval of a subdivision under Division 2 of Part XVI of the *Local Government Act 1962*.

**Merger of lots 2 and 4 and of lots 1 and 3**

6—On an exchange of land as mentioned in section 4—

- (a) the land shown as lot 2 in the plan shall be adhered to the land shown as lot 4 in that plan and shall become subject to the trusts contained in the Indenture; and
- (b) the land shown as lot 3 in that plan shall be adhered to the land shown as lot 1 in that plan freed and discharged from those trusts.

**Appropriation of proceeds of sale**

7—The Corporate Trustee shall apply the net proceeds of the sale of land pursuant to this Act for the benefit of the Parish.

**Powers in Act in addition to powers vested pursuant to the Indenture**

8—The powers and authorities conferred by this Act on the Corporate Trustee are in addition to the powers vested in it pursuant to the Indenture.

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**SCHEDULE 1** Preamble, paragraphs (a),  
(b) and (c) and section 3

**MEMORIAL OF INDENTURE OF CONVEYANCE**

MEMORIAL of an Indenture to be registered pursuant to Act of Council in such case made and provided	
Date	The twenty ninth day of November one thousand eight hundred and sixty one.
Names and additions of the parties	<i>Thomas Macdowell</i> of Hobart Town in Tasmania Esquire <i>John Forster</i> of Hobart Town aforesaid Esquire and <i>Alfred Garrett</i> of Hobart Town aforesaid Esquire of the one part and The Right Reverend <i>Francis Russell Nixon</i> of New Town in Tasmania Lord Bishop of Tasmania of the other part.
Name and additions of the Witnesses	W. R. Giblin, Hobart Town is the Witness to the execution by the said Thomas Macdowell John Forster and Alfred Garrett.
Nature and object	By recitals contained in the now memorialising Indenture it is shown that the Land Church School House and buildings hereinafter described were vested in the said Thomas Macdowell John Forster and Alfred Garrett as Trustees for the purposes therein mentioned That the said Thomas Macdowell John Forster and Alfred Garrett were desirous of being discharged from the said Trusts and that they had requested the said Lord Bishop of Tasmania to accept a Conveyance of the said Land and hereditaments Upon the Trusts thereafter mentioned <i>And the now memorialising Indenture</i> is a Conveyance of the Land Church School House and Hereditaments hereinafter described by the said Thomas Macdowell John Forster and Alfred Garrett unto and to the use of the said Lord Bishop of Tasmania and his Successors for ever Upon Trust that the said Land and Church should be and continue to be for ever dedicated to the purposes and holden solely for the uses and be appropriated to the Service of the United Church of England and Ireland.

SCHEDULE 1—*Continued*

Description	<p><i>All That</i> piece or parcel of Land containing by admeasurement Two roods and twenty eight perches or thereabout situate and being in the City of Hobart Town in Tasmania and bounded On the North east by Five chains fourteen links and one half-link north westerly along an allotment granted by the Crown to William Harper commencing at the South angle thereof on Macquarie Street at a point distant four chains sixteen links and one quarter of a link in a south westerly direction from Gore Street and extending to the Hobart Town Rivulet On the north west by one hundred and thirty three links and one half link or thereabout south westerly along that Rivulet Thence on the south west by a line of Twenty eight feet and six inches, by another line of sixty feet, and by another line of Twenty nine feet all extending in a south easterly direction but in different bearings along Land conveyed by James Ludovick Burnett to one William Searle Again on the north west by a south westerly line of four feet also along that Land Again on the south west by a south easterly line of one hundred and seventy two feet and two inches along other Land of the said William Searle (lately belonging to William McRobie) to Macquarie Street aforesaid and Thence on the South east by two chains north easterly along that street to the point of commencement <i>And also All That</i> the said Church <i>And all</i> that the said School House and all other buildings to the said Land belonging.</p>
Where situate	In Hobart Town.
Consideration	The premises.
<p>I William Robert Giblin Clerk to Messieurs Allport Roberts and Allport Solicitors Hobart Town make Oath and say that the above written Memorial contains a just and true account of the several particulars therein set forth } (sgd) Alfred Garrett</p> <p>Sworn at Hobart Town aforesaid this thirtieth day of Novem (sic) October one thousand eight hundred and sixty one } (sgd) W. R. Giblin</p> <p>Before me,</p> <p>(sgd) Wm Giblin Registrar of Deeds</p>	



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**SCHEDULE 2** Preamble, paragraphs (c), (g) and (h) and section 3

**PLAN OF SURVEY**

Owner: <i>Treasure Island Hire Boat Company Pl. &amp; Cairre Investments Pl. (Lots 1 &amp; 2) All Saints Church (Lots 3 &amp; 4)</i>	<p align="center"><b>PLAN OF SURVEY</b></p> by Surveyor..... <i>R. A. Connor</i> of land situated in the <i>J. B. MEDBURY PL. SURVEYORS                  OF 224 CAMPBELL ST. HOBART.</i>	Registered Number:
Title Reference: <i>C.T. 3851-99 Lots 1 &amp; 2. CONK. 5/489</i>	<p align="center"><b>CITY OF HOBART</b></p>	Approved Effective from: .....
Grantee: <i>Part of 0-1-28% Gtd. to William Searle &amp; 0-2-30 Gtd. to James Ludbrick Burnett.</i>	SCALE 1: 500. MEASUREMENTS IN METRES	Recorder of Titles

*Lot 2 to be adjoined to Lot 4.  
 Lot 3 to be adjoined to Lot 1.*



