Botany/Mascot/Eastlakes Variation of Trusts Ordinance 1994

(Reprinted under the Interpretation Ordinance 1985.)

The Botany/Mascot/Eastlakes Variation of Trusts Ordinance 1994 as amended by the Botany/Mascot/Eastlakes Variation of Trusts Ordinance 1994 Amendment Ordinance 1997, the Botany/Mascot/Eastlakes Variation of Trusts Amendment Ordinance 2001 and the Botany/Mascot/Eastlakes Variation of Trusts Ordinance 1994 Amendment Ordinance 2006.

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Long Title

An Ordinance to vary the trusts on which certain property is held.

Whereas

A. Under the Botany/Mascot/Eastlakes Ordinance 1990 the Property Trust holds certain funds upon trust for the parish of Botany/Mascot/Eastlakes and the income arising from the investment of those funds is applied as follows –

(a) 40% is capitalised;

(b) 10% is paid to the Inner City Committee to be applied by that Committee for its purposes; and

(c) 50% is paid to the churchwardens for the time being of the parish of Botany/Mascot/Eastlakes to be applied by those churchwardens for purposes within that parish.

B. Under the St Matthew's Botany Variation of Trusts and Sale Ordinance 1973 the Property Trust holds certain funds and the income from the investment of those funds is applied as follows –

(a) 10% is capitalised; and

(b) the balance is paid to the churchwardens of St Matthew's Church Botany to be applied by them for such purposes as are specified in clause 3(f)(ii) of that ordinance.

C. The Property Trust is the registered proprietor of the land referred to in the First Schedule which, by clause 11 of the St Matthew's Botany (St John's Banksmeadow) Ordinance 1974, is held upon trust for the purposes of and in connection with the Anglican Church of Australia in the parish of Botany/Mascot/ Eastlakes.

D. The Property Trust is the registered proprietor of the land referred to in the Second Schedule which, by clause 11 of the St Matthew's Botany Variation of Trusts Sale Mortgaging Leasing Ordinance 1972, is held upon trust for a church parsonage or parish hall or partly for one or another or others of such purposes in connection with the Anglican Church of Australia in the parish of Botany.

E. The Property Trust is the registered proprietor of the lands referred to in the Third and Fourth Schedules which is held upon trust for the parish of Botany/Mascot/Eastlakes although there are no written trusts.

F. The Property Trust is the registered proprietor of the land referred to in the Fifth Schedule which, by clause 1 of the St Luke's Mascot Mortgaging Ordinance 1950, is held upon trust to permit the same to be used for a church, parsonage and parish hall or partly for one or partly for another or others of such purposes in connection with the Church of England at Mascot.

G. By reason of circumstances which have arisen after the creation of the trusts on which each of funds referred to in paragraphs A. and B. and the lands referred to in paragraphs C., D., E. and F. are held it is inexpedient to carry out and observe those trusts and it is expedient to amend those trusts in the manner set out in this ordinance.

Now the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the Synod Ordains Declares Directs and Rules as follows –

Citation

1. This ordinance may be cited as the "Botany/Mascot/Eastlakes Variation of Trusts Ordinance 1994".

Declaration of Inexpediency

2. By reason of circumstances which have arisen after the creation of the trusts on which the funds referred to in paragraphs A. and B. of the Preamble and the lands referred to in paragraphs C., D., E. and F. of the Preamble are held it is inexpedient to carry out and observe the same and it is expedient to amend those trusts in the manner set out in this ordinance.

Trusts of Investment Funds

3. (1) The funds referred to in paragraphs A. and B. of the Preamble shall be combined and the combined fund henceforth be held upon trust for the parish of Botany/Mascot/Eastlakes or such other parish in which St Matthew's Church Botany may from time to time be situated and the income from the investment of those funds is to be applied as follows –

(a) 30% shall be capitalised; and

(b) 70% shall be paid to the churchwardens for the time being of the St Matthew's Church Botany to be applied for such purposes of the parish as the parish council for the time being of that parish, of if there is no parish council the majority of such churchwardens, may determine.

(2) The capital of the funds or any part thereof may be paid or applied for such parochial or extra parochial purpose or purposes as may from time to time be determined by the churchwardens of St Matthew's Church Botany and as may be approved by resolution of the parish council (if any) of the parish and the Standing Committee.

4. The authority to apply income specified in clause 3 terminates on 31 December 2011 and the churchwardens of St Matthew's Church Botany must promote on ordinance providing for the application of the capital and income from that date.

Trusts of Botany Lands

5. The lands described in the First and Second Schedules shall henceforth be held upon trust for a –

(a) church;

(b) residence for a minister, assistant to the minister or person employed by the churchwardens;

(c) hall or halls;

(d) school or other place of assembly,

or partly for one or another or others of those purposes or any other ancillary purposes in connection with the Anglican Church of Australia within the Diocese of Sydney for the sole benefit of the parish of Botany/Mascot/Eastlakes or such other parish or ecclesiastical district in which St Matthew's Church Botany may from time to time be situated.

Trusts of Eastlakes Lands

6. The lands described in the Third, Fourth and Fifth Schedules shall henceforth be held upon trust for a –

(a) church;

(b) residence for a minister, assistant to the minister or person employed by the churchwardens;

(c) hall or halls;

(d) school or other place of assembly,

or partly for one or another or others of those purposes or any other ancillary purpose in connection with the Anglican Church of Australia within the Diocese of Sydney for the sole benefit of the parish of Botany/Mascot/Eastlakes or such other parish or ecclesiastical district in which St Stephen's Church Eastlakes may from time to time be situated.

First Schedule

Lot 32 in Deposited Plan 818991 and being the whole of the land comprised in Certificate of Title Folio Identifier 32/818991 being the property situated at 42A Brighton Street, Banksmeadow.

Second Schedule

Lot 1 in Deposited Plan 593463 and being the whole of the land comprised in Certificate of Title Volume 13574 Folio 2 and Lot 3 in Deposited Plan 593463 and being the whole of the land comprised in Certificate of Title Volume 13574 Folio 4 being the property situated at the corner of Botany Road & Lord Street, Botany.

Third Schedule

Lot 7 in Section 18 in Deposited Plan 5692 and being the whole of the land comprised in Certificate of Title Volume 2063 Folio 168 being the property situated at 6 Harry Street, Eastlakes.

Fourth Schedule

Lot 1 in Deposited Plan 536401 and being the whole of the land comprised in Certificate of Title Volume 11107 Folio 16 and Lot 2 in Deposited Plan 536401 and being the whole of the land comprised in Certificate of Title Volume 11107 Folio 17 being the property situated at 6 Walker Avenue, Mascot.

Fifth Schedule

Lot 1 in Deposited Plan 126345 and being the whole of the land comprised in Certificate of Title Folio Identifier 1/126345 being the property situated at 1051-1057 Botany Road, Mascot.

Notes

1. The original form of ordinance was assented to on 13 December 1994.
2. At its meeting on 15 September 2011 the Finance Committee resolved under clause 4, under delegation from the Standing Committee, to approve extension of the period in which the capital and income can be applied to 13 December 2016.

Table of Amendments

Clause 3	Amended by Ordinance No 3, 1997.
Clause 4	Amended by Ordinances Nos 3, 1997, 47, 2001 and 48, 2006.

STEVE LUCAS
Manager, Legal Services

ROBERT WICKS
Diocesan Secretary

30 September 2011