

**RESOLUTION OF THE TRUSTEES
FOR THE
JA & GM WECKERT SUPERANNUATION FUND
("Fund")**

Pursuant to clause 3.4 of the governing deed of the Fund ("**Governing Deed**")

TRUSTEES:

Jeffrey Alan Weckert ("**Jeff**")

Gail Marie Weckert ("**Gail**")

Scott David Weckert ("**Scott**")

RECEIPT OF LAND:

The Trustees note that Jeff, Gail and Scott are members of the Fund. Jeff and Gail were over 66 years of age, and Scott was under 67 years of age on 1 July (i.e. at the commencement of the current income year).

The Trustees further note that Jeff, Gail and Scott were the registered proprietors of the whole of the land described in Certificates of Title Volume 5574 Folios 446, 669 and 670 ("**Subject Land**").

By way of a land transfer dated on the date of this Resolution ("**Transfer**") Jeff, Gail and Scott contributed the Subject Land to the Trustees on the basis set out in the Schedule.

The Trustees wish to confirm the receipt of the Subject Land by way of member contributions.

**VALUATION
METHODOLOGY:**

The Trustees have received an independent professional appraisal from Ray White Rural Clare for substantiation of the market value of the Subject Land ("**Appraisal**"). The Appraisal was obtained by Jeff and Gail.

Based on the Appraisal, the Trustees have determined that the market value of the Subject Land is \$4,307,331.

The Trustees consider that the Appraisal is an accurate reflection of the market value of the Subject Land as at the date of this resolution.

**IN SPECIE
CONTRIBUTION:**

The Trustees note that, pursuant to clause 5.1.1 of the Governing Deed, the Trustees are empowered to accept contributions from eligible contributors at such times and in such manner as the Trustee determines.

The Trustees confirm that Jeff, Gail and Scott are eligible contributors pursuant to clause 1.2.13 of the Deed.

Moreover, clause 5.1.6 of the Governing Deed confirms that contributions may be made by way of a transfer of an asset *in specie* to the Fund, which must be credited to the member's account.

The Trustee is therefore entitled to accept an *in specie* contribution from Jeff, Gail and Scott.

CONTRIBUTION CAPS:

As noted, Jeff, Gail and Scott accessed a combination of contributions caps in the manner set out in the Schedule ("**Contributions**").

The Trustees note that, at the time of the Contributions, Jeff, Gail and Scott had not made any concessional or non-concessional contributions for the current income year. Further, Scott had not used the bring forward rule under section 292-85(3) of the ITAA97 in any of the three previous income years. The Trustees also note that Jeff, Gail and Scott have not previously accessed the CGT cap.

The Trustees note that in making the above concessional contributions, Scott has accessed his available unused carry forward concessional contributions in accordance with sections 291-20(3)-(7) of the ITAA97. The Trustees are satisfied that Scott has met the requirements to make these concessional contributions.

As Scott was under the age of 67 at the time of making the Contributions, he was not required to be gainfully employed for the purposes of regulation 7.04 of the *Superannuation Industry (Supervision) Regulations 1994* (Cth) ("**SISR**").

As Jeff and Gail were over 66 years of age at the time of making the Contributions, they were each required to have been gainfully employed and to have worked for at least 40 hours during a consecutive 30 day period in the current income year for the purposes of the SISR. The Trustees are satisfied that Jeff and Gail met this criterion for the purposes of making the Contributions.

CGT CAP:

Specifically in relation to the CGT cap, the Trustees confirm:

- Jeff, Gail and Scott have completed the necessary ATO capital gains tax cap election form ("**Forms**") to access the CGT cap and provided the Forms to the Trustees immediately prior to the making of the Contributions;
- Jeff, Gail and Scott's contributions under the CGT cap were equal to, or less than, their respective entitlement to the capital proceeds arising from the disposal of the Subject Land by Jeff and Gail in their capacity as trustees of the Weckert Farm Trust; and
- Jeff, Gail and Scott's contributions under the CGT cap were made on or before the date upon which they are to lodge their income tax returns for the year of the CGT event.

The Trustees are therefore satisfied that each of Jeff, Gail and Scott were able to access their CGT cap and the Trustees were able to accept Jeff, Gail and Scott's contributions under the CGT cap.

RELATED PARTY ACQUISITION:

The Trustees note that section 66 of the *Superannuation Industry (Supervision) Act 1993* (Cth) ("**SISA**") prohibits the Trustees from intentionally acquiring assets from related parties (in this instance, Jeff, Gail and Scott).

The Trustees note that the Subject Land is used wholly and exclusively in a primary production business carried on by J G & S Weckert Pty Ltd ACN 131 545 465 as trustee of the Boconnoc Park Family Trust.

The Trustees also note that the Subject Land has been contributed by Jeff, Gail and Scott at market value, and thus, has been acquired by the Trustees for the SISA purposes at market value.

Therefore, the Trustees are of the view that the Subject Land is business real property that was acquired at market value and, as such, the acquisition of the land will not infringe section 66 of the SISA.

RESOLUTIONS:

RESOLVED that, as at the date of this resolution, the Trustees:

1. confirm that, pursuant to the powers contained in the Governing Deed as referred to in this resolution, the Trustees acquired the Subject Land on the date of the Transfer in the manner described by this resolution; and
2. confirms the nature of the Contributions made by Jeff, Gail and Scott pursuant to the Schedule.

SECRETARIAL MATTERS:

RESOLVED that the secretary attends to all secretarial matters and other things or acts to be done, including effecting appropriate journal entries in the financial records of the Fund so as to give full effect to the matters resolved upon above.

Signed as a true and correct record.



.....
JEFFREY ALAN WECKERT

30 / 06 /2022



.....
GAIL MARIE WECKERT

30 / 06 /2022



.....
SCOTT DAVID WECKERT

30 / 06 /2022

SCHEDULE

- \$3,719,831 of the market value of the Subject Land represented an *in specie* member's contributions under the capital gains tax cap pursuant to section 292-100(4) of the *Income Tax Assessment Act 1997* ("**ITAA97**") made by Jeff as to \$1,435,777, Gail as to \$1,435,777 and Scott as to \$848,277, respectively;
- \$137,500 of the market value of the Subject Land represented an *in specie* member contribution that was a concessional contribution made by Jeff as to \$27,500, Gail as to \$27,500 and Scott as to \$82,500¹, respectively; and
- \$450,000 of the market value of the Subject Land represented an *in specie* member contribution that was a non-concessional contribution made by Jeff as to \$110,000, Gail as to \$110,000 and Scott as to \$230,000², respectively.

¹ Scott applied the catch-up concessional cap pursuant to sections 291-20(3)-(7) of the ITAA97.

² Scott applied the non-concessional bring-forward rule pursuant to sections 292-85(3)-(7) of the ITAA97.