

# SUPERCENTRAL



## SELF MANAGED SUPERANNUATION FUND AMENDMENT DEED

Byrne Superannuation Fund

Document provided by

**TOWNSENDS BUSINESS & CORPORATE LAWYERS**

Tel 02 8296 6222 [www.townsendslaw.com.au](http://www.townsendslaw.com.au)

**THIS AMENDMENT DEED** is made on the Date set out in the Reference Schedule

**BY** the Company or Individuals named in the Reference Schedule as the Current Trustee or Trustees ("Trustee")

#### **RECITALS**

- A. The Trustee is the trustee of the Superannuation Fund identified in the Reference Schedule.
- B. The Superannuation Fund is a self managed superannuation fund and is a regulated superannuation fund.
- C. The Trustee intends to amend governing rules of the Superannuation Fund by completely replacing all of the current provisions with the provisions of this Amendment Deed (which provisions include the SUPERCentral Governing Rules, as later defined in this Deed).
- D. The Trustee is empowered under the Amendment Power identified in the Reference Schedule to make the proposed amendment.
- E. The proposed amendment is not intended to and does not adversely affect a member's right or claim to benefits accrued immediately before the date of this Amendment Deed or to the amount of those accrued benefits.
- F. The proposed amendment is not intended to constitute a resettlement of the Superannuation Fund or the establishment of a new superannuation entity.
- G. The current members of the Superannuation Fund are those persons identified in the Reference Schedule as the Current Members and they consent to the proposed amendment as evidenced by their signing this Amendment Deed.

#### **OPERATIVE PART**

##### **1. Continuation of superannuation fund**

###### **1.1 Continuation of Fund**

The Trustee holds the trust fund of the Superannuation Fund pursuant to the trusts, powers and discretions applying to the Superannuation Fund for the benefit of the Members and their Dependents.

###### **1.2 Indefinitely continuing**

The Superannuation Fund continues as an indefinitely continuing fund which provides individual personal benefits, pensions or retiring allowances for the Members and their Dependents.

###### **1.3 Name**

The Superannuation Fund will be known by the name set out in the Reference Schedule or by such other name as the Trustee determines.

#### 1.4 Current Members

Each Current Member continues to be a Member of the Superannuation Fund.

## 2. Replacement of current provisions

### 2.1 Replacement of Rules

- (a) Pursuant to the amendment powers conferred on the Trustee (whether under the Current Deed or otherwise) the Current Deed is amended with effect on and from the date of this Amendment Deed by completely replacing all the provisions of the Current Deed with the provisions of this Amendment Deed and of the SUPERCentral Governing Rules made by Super Governing Rules Pty Limited ACN 117 737 381 ("SGR").
- (b) For the purposes of clause 2.1(a), the SUPERCentral Governing Rules are expressly incorporated into this Amendment Deed as if they had been set out at length in this Amendment Deed.

### 2.2 Identification of SUPERCentral Governing Rules

The SUPERCentral Governing Rules are:

- (a) where the date of this Amendment Deed falls within a Governing Rules Update Notice Period then:
  - (i) in respect of the balance of the Update Notice Period - the SUPERCentral Governing Rules made by SGR which apply as at the date of this Amendment Deed; and
  - (ii) from the end of the Update Notice Period - the SUPERCentral Governing Rules made by SGR and which apply on and from the end of the Update Notice Period;
- (b) where (a) does not apply – the SUPERCentral Governing Rules made by SGR which apply as at the date of this Amendment Deed,

as those Rules are, in either case, subsequently amended from time to time by SGR pursuant to clause 3.2.

For the purposes of this provision, the Governing Rules Update Notice Period is the period commencing on the date on which SGR executes a deed replacing the then current version of the SUPERCentral Governing Rules with a new version of the SUPERCentral Governing Rules and ending on the date on which the new version of the SUPERCentral Governing Rules replaces the then current version.

## 3. Amendment Powers

- 3.1 The Trustee may by deed amend, alter, delete or replace any or all of the provisions of this Amendment Deed or of the Governing Rules applying to the Superannuation Fund.
- 3.2 SGR may by deed amend, alter, delete or replace any or all of the provisions of the SUPERCentral Governing Rules.

3.3 Any amendment, alteration, deletion or replacement may:

- (a) be retrospective and apply from a date preceding the date on which the amendment is made;
- (b) be prospective and apply from a date following the date on which the amendment is made; and
- (c) operate by way of complete replacement of all of the current provisions with new provisions.

3.4 Limitations to the scope of amendments

The amendment powers:

- (a) at any time when the Trustee consists of one or more natural persons – cannot be used to change the primary purpose of the Superannuation Fund from the provision of old-age pensions;
- (b) at any time when the primary purpose of the Superannuation Fund is not the provision of old-age pensions – cannot be used to remove the requirement that the Trustee of the Superannuation Fund be a constitutional corporation;
- (c) cannot be used to reduce the amount standing to the credit of the benefit accounts of a Member unless that Member has consented to the reduction or the reduction is permitted by Superannuation Law, by the Regulator or by Court Order;
- (d) in the case of the power conferred on the Trustee – cannot be exercised until the amendment power conferred on SGR has been terminated in accordance with either clause 3.8 or 3.9; and
- (e) cannot be used to amend this clause 3.4.

3.5 Trustee and Members bound by amendments to SUPERCentral Governing Rules

The Trustee and each Member of the Superannuation Fund is bound by any amendment made pursuant to this clause in the same manner as if the amendment had been made immediately before the Member joined the Superannuation Fund.

3.6 Trustee may request amendment made by SGR not to apply:

- (a) the Trustee may by notice to SGR request that an amendment (“current amendment”) made by SGR to the SUPERCentral Governing Rules not apply to the Superannuation Fund;
- (b) for the request to be effective, the notice must be in writing and be given to SGR within 14 days of the Trustee being notified of the current amendment.

3.7 Where the Trustee makes an effective request for the current amendment not to apply to the Superannuation Fund, then SGR will by deed revoke the current amendment so far as it applies to the Superannuation Fund and the current amendment will be taken never to have applied to the Superannuation Fund.



### 3.8 Repatriation of amendment power

Where SGR at the request of the Trustee has revoked an amendment made to the SUPERCentral Governing Rules then the following provisions apply:

- (a) the amendment power conferred on SGR terminates; and
- (b) amendments previously made by SGR to the SUPERCentral Governing Rules continue to apply to the Superannuation Fund despite the fact that the amendment power conferred on SGR has terminated.

### 3.9 Release of amendment power

SGR may by deed or written notice to the Trustee release the power conferred by clause 3.2 in which event:

- (a) the amendment power conferred on SGR terminates; and
- (b) amendments previously made by SGR to the SUPERCentral Governing Rules continue to apply to the Superannuation Fund despite the fact that the amendment power conferred on SGR has terminated.

## 4. Deed, Schedule & SUPERCentral Governing Rules

### 4.1 Deed includes schedule and rules

This Amendment Deed includes the Reference Schedule to this Deed and the SUPERCentral Governing Rules.

### 4.2 Inconsistency Between Parts of Deed

Where any provision of the SUPERCentral Governing Rules is inconsistent with the Amendment Deed, then to the extent of the inconsistency, the provision of the Amendment Deed shall take precedence.

## 5. Notification of amendments

5.1 SGR must notify the Trustee of each exercise of the amendment power conferred by clause 3.2 and such notification may be by electronic means (email or publication on such website as SGR considers appropriate).

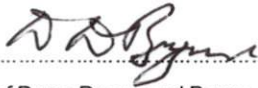
5.2 If SGR notifies the Trustee by email then SGR may use the email address details of the Trustee which has been provided for this purpose by or on behalf of the Trustee.

5.3 If SGR notifies the Trustee by a notice on a website, the notice must be on a publically viewable page on that website which is notified to the Trustee and to which the Trustee has access.

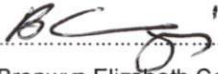
**EXECUTED AS A DEED**

Executed by DB Filia Pty Ltd ACN 134 955 847

in accordance with s.127(1) of the *Corporations Act 2001* (Cth):



.....  
Signature of Donn Desmond Byrne – Director



.....  
Signature of Bronwyn Elizabeth Carrigy – Director

4.6 Notice of updates to the SUPERCentral Governing Rules

**Noted** that any notice of an update to the SUPERCentral Governing Rules will be by electronic means whether by email or publication on such website as Super Governing Rules Pty Ltd considers appropriate.

**Further noted** that if the notice is by means of:

- (a) an email then the email address which has been provided for this purpose by or on behalf of the Trustee will be used; and
- (b) website publication of the notice must be on a publically viewable page on that website which is notified to the Trustee and to which the Trustee has access.

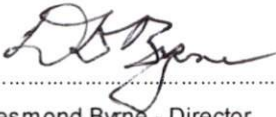
**Also noted** that:

- (c) if an email is sent or a notice published before 5pm Australian Eastern Standard Time (or Australian Eastern Standard Daylight Saving Time, if applicable) on a day then it will be treated as having been received on that day and otherwise it will be treated as having been received on the next day;
- (d) the inadvertent failure to notify the Trustee will not invalidate the notice;
- (e) the use of an email address (even if out of date) provided to Super Governing Rules Pty Ltd or its agent for this purpose will not invalidate the notice;
- (f) notice to one Trustee or Director will be treated as being notice to all Trustees or Directors; and
- (g) notice to a former Trustee or Director will be treated as being notice to all current Trustees or Directors if Super Governing Rules Pty Ltd or its agent has not been advised of the change of Trustee or Director.

5. Part E – Signing & dating – Trustees/Directors

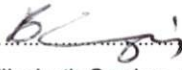
For the purposes of this Part "Trustee" means the company which acts as trustee or the group of individuals which constitute the trustee (as the case may be).

Signed as a Written Resolution of DB Filia Pty Ltd ACN 134 955 847 as Trustee of the Superannuation Fund



Donn Desmond Byrne - Director

Date: 7.3.2016



Bronwyn Elizabeth Carrigy - Director

Date: 7.3.16



Heather Lynne Byrne - Director

Date: 7.3.16



Marion Helen Byrne - Director

Date: 7.3.16



5.4 For the purposes of this clause, notification is received by the Trustee:

- (a) if the email is sent or the notice is published prior to 5pm Australian Eastern Standard Time or Australian Eastern Standard Daylight Saving Time (whichever applies) on the day on which the email is sent or the notice is published; and
- (b) if the email is sent or the notice is published on or after 5pm Australian Eastern Standard Time or Australian Eastern Standard Daylight Saving (whichever applies) on the next following day.

5.5 Despite the preceding provisions of this clause:

- (a) the inadvertent failure to notify the Trustee;
- (b) the use by SGR of an out of date address for the Trustee (so long as SGR reasonably believes that the address used is the current address for the Trustee);
- (c) notification to one or more but not all Trustees or one or more but not all directors of a company acting as Trustee;
- (d) notification to a former Trustee where there has been no effective notification to SGR of the change in Trustee (including electronic contact details of the new Trustee or its agent for this purpose),

does not affect the validity and effectiveness of the exercise of the amendment power.

5.6 For the avoidance of doubt SGR may at its absolute discretion but is not required to and need not provide notification to the Trustee by personal service, mail or other non-electronic means.

REFERENCE SCHEDULE – Byrne Superannuation Fund

Date of Amendment Deed

7, 3, 2016

Name of Current Trustee or Trustees

DB Filia Pty Ltd ACN 134 955 847

Suite 8a 'The Mews', 11 Bundaroo Street, Bowral, NSW 2576

Name and Current Deed of Superannuation Fund

Byrne Superannuation Fund ABN 59 685 141 139 established by a deed dated 19/01/2009 as subsequently amended.

Amendment Power

Paragraph 25.1 of the Current Deed.

Consent of Current Members

By signing the Members consent to the amendment of the Current Deed of the Superannuation Fund as set out in this Amendment Deed.



Donn Desmond Byrne of 12 Eastwood Place, Samford Valley, QLD 4520



Bronwyn Elizabeth Carrigy of 1 Pinewood Drive, Samford Valley, QLD 4520



Heather Lynne Byrne of 48 Highland Drive, Bowral, NSW 2576



Marion Helen Byrne of 12 Eastwood Drive, Samford Valley, QLD 4520