

TABLE OF CONTENTS

1. PART A GENERAL NOTICE FOR INVESTORS ..... 1

2. PART B TRUSTEE INFORMATION ..... 2

## PRODUCT DISCLOSURE STATEMENT

B2. About Self-Managed Superannuation Funds ..... 2

B3. Definition of ..... 2

Date of Issue: 24-1-2008

B4. Trustee ..... 4

B5. Eligibility to act as Trustee ..... 5

B6. Proceeding to be a Member or for Trustee of the Fund ..... 5

Fund Name: The Moffat Superannuation Fund

Trustee: Patricia Margaret Moffat and Ronald John Moffat

Trustee Address: 10 Woolah Place, South Yunderup WA 6208

Member: Ronald John Moffat

Member Address: 10 Woolah Place, South Yunderup WA 6208

Member Signature

  
Signature

24/1/08  
Date

## TABLE OF CONTENTS

1.	PART A GENERAL NOTICE FOR INVESTORS .....	1
2.	PART B TRUSTEE INFORMATION .....	2
	B1 About Superannuation .....	2
	B2 About Self Managed Superannuation Funds .....	2
	B3 Definition of an SMSF .....	2
	B4 Trustee .....	4
	B5 Eligibility to act as Trustee .....	5
	B6 Ceasing to be a Member and/or Trustee of the Fund .....	5
	B7 Fund Registration with the ATO .....	6
	B8 Provision of PDS .....	6
	B9 Steps to be taken to be a Regulated Superannuation Fund .....	6
	B10 Trustee Covenants .....	7
	B11 Investment Strategy .....	8
	B12 Fund Investments .....	8
	B13 Compliance and Disclosure Requirements .....	11
3	PART C MEMBER INFORMATION .....	11
	C1 How can you Invest in the Fund? .....	11
	C1.1 Types of Contributions .....	11
	C1.2 Rollovers .....	12
	C1.3 Superannuation Guarantee Contributions .....	12
	C1.4 Contribution Rules .....	13
	C1.5 Superannuation contributions splitting .....	13
	C2 Your Benefit Entitlements .....	14
	C2.1 Categories of Benefits .....	14
	C2.2 When may you withdraw your preserved benefits? .....	14
	C2.3 What are the conditions of release? .....	14
	C2.4 What is your preservation age? .....	15
	C2.5 Non-Preserved Benefits .....	15
	C2.6 Amount of your Benefit .....	16

C2.7 Forfeited Benefits..... 16  
C2.8 Can the Trustee Rollover your Benefit without your Consent? ..... 17  
C2.9 Mode of Payment of Benefits ..... 17  
C2.10 Death Benefits ..... 17  
C2.11 Compliance Requirements ..... 18  
C3 Taxation ..... 18  
C3.1 Contribution Taxes and Rebates ..... 18  
C3.2 Tax on Fund Earnings ..... 21  
C3.3 Tax on Benefits ..... 21  
C3.4 Goods and Services Tax ..... 23  
C3.5 Non-Compliance with Superannuation Laws ..... 24  
C4 Insurance ..... 25  
C5 Fees and Charges ..... 25  
C6 Complaints Resolution..... 25  
C7 Cooling-Off..... 26  
C8 Fund Investments ..... 26  
GLOSSARY ..... 27



## **PART A GENERAL NOTICE FOR INVESTORS**

This Product Disclosure Statement ("PDS") describes the main features of a superannuation fund that adopts a trust deed prepared by Norton & Smailes ("Fund").

The PDS should be read carefully before making a decision to join the Fund. It will help you to:

- decide whether this financial product will meet your needs; and
- compare this financial product with others you may be considering.

The information provided in this PDS is a general guide only. It does not take into account your individual objectives, financial situation or needs. Moreover, changes are constantly being made to the rules and requirements affecting superannuation funds. Accordingly, you should consider the appropriateness of this product having regard to your objectives, financial situation and needs, and we recommend you seek advice from your financial adviser before investing. A person who wants advice about superannuation products should consult a financial services licensee or an authorized representative.

Your investment in the Fund is subject to risks and is not guaranteed. Future investments can vary from past investment performance. Accordingly you should not base your decision to invest in this Fund on past investment performance.

The offer made in this PDS is available only to persons receiving this PDS within Australia. Applications from outside Australia will not be accepted.

Full details of the Fund are contained in the trust deed of the Fund ("Trust Deed") which is available for your inspection from the trustees of the Fund.

### **Outline of PDS**

This PDS contains four parts. Part A contains a general notice to investors about this PDS. Part B is directed towards those individuals acting as an individual trustee or as a director of a corporate trustee of the Fund and contains general information about superannuation and the Fund. Part C contains information that a member should know in relation to the Fund.

### **DISCLAIMER**

This PDS has been prepared by Norton & Smailes. The PDS is a general guide only to the main features of the Fund that has adopted a trust deed prepared by Norton & Smailes and does not constitute advice. If any member is unsure of the nature of the superannuation interest being acquired, they should make further inquiries with the Trustee of the Fund or seek expert advice. As supplier of the trust deed adopted by the Fund, Norton & Smailes is unable to provide all of the specific information required to be disclosed by the Trustee of the Fund to a member in a PDS under the Corporations Act. Accordingly, insofar as the PDS does not contain all the information required to be contained in a PDS under the Corporations



Act, Norton & Smailes, its officers, employees, servants and agents disclaim liability for any loss or damage however arising.

## **PART B TRUSTEE INFORMATION**

### **B1 About Superannuation**

Superannuation provides you with income for your retirement. Superannuation funds pool the money and/or property received and invest those assets for the benefit of the fund members.

Tax concessions apply to contributions to superannuation funds which comply with the superannuation laws. Tax concessions also apply to investment earnings in the fund and to certain benefit payments. In addition, tax deductions are available for some contributions.

Members can normally only withdraw their investment in a superannuation fund when they retire. Benefits can also be paid if a member dies or becomes totally and permanently disabled or in other limited circumstances.

This means that you should only invest in superannuation money and/or property you can afford to put away until you retire.

### **B2 About Self Managed Superannuation Funds**

There are many types of superannuation funds including industry funds, retail funds, employer-sponsored funds and small Australian Prudential Regulation Authority ("APRA") funds. This Fund has adopted a trust deed prepared by Norton & Smailes in which the fund is structured as a self-managed superannuation fund ("SMSF"). A SMSF is regulated by the Australian Taxation Office and is restricted to no more than 4 members. If you wish this Fund to have more than 4 members, we recommend that you first contact your professional adviser.

### **B3 Definition of an SMSF**

Generally, for funds other than single member funds, an SMSF is one where:

- there are fewer than 5 members;
- all members are trustees, or directors of the trustee company;
- there are no trustees or directors who are not members;
- there are no members who are employees of other members (unless certain exceptions apply); and
- no trustee of the fund receives any remuneration for his or her services as a trustee or

director of a corporate trustee.

For funds that are single member funds, an SMSF is one where:

- If the fund has a corporate trustee:
  - the member must be the sole director of the company;
  - the member must be one of only two directors where the other director is a relative; or
  - the member must be one of only two directors and not an employee of the other director.
- If the fund does not have a corporate trustee;
  - the member must be one of only two individual trustees and the other trustee must be a relative; or
  - the member must be one of only two individual trustees and not an employee of the other trustee.

There are, however, some exceptions to these general rules. For full details of the definition of an SMSF refer to section 17A of the SIS Act, which governs SMSFs.

#### Definition of Employee

The term employee has its general meaning at law but a member who is an employee of an employer-sponsor is also defined, in the case of an SMSF, to be an employee of:

- Any relative of an individual employer-sponsor;
- Any director of an employer-sponsor company and any relative of those directors (but see exceptions referred to below);
- Any beneficiary of an employer-sponsor trust and any relative of those beneficiaries;
- Any partner of an employer-sponsor partnership and any relative of those partners;
- Any director (and his or her relatives) of a company that is a partner in an employer-sponsor partnership; or
- Any beneficiary (and his or her relatives) of a trust that is a partner in an employer-sponsor partnership.

Subject to some limited exceptions below, this means that the above individuals cannot be in the same SMSF as the employee member.

*Exception 1: Relatives*

Where the above individual is a relative, they may be in the same SMSF. A relative is defined widely, in relation to an individual, to mean:

- (a) a parent, child, grandparent, grandchild, sibling, aunt, uncle, great-aunt, great-uncle, niece, nephew, first cousin or second cousin of the individual or of his or her spouse or former spouse; or
- (b) another individual having such a relationship to the individual or to his or her spouse or former spouse because of adoption or remarriage; or
- (c) the spouse or former spouse of the individual, or of an individual referred to in paragraph (a) or (b).

*Exception 2: Fellow Directors of an Employer-Sponsor*

Generally, a director of an employer-sponsor will not be considered to be an employee of a fellow director of the employer-sponsor for the purposes of membership of an SMSF. This allows fellow directors of an employer-sponsor to be within the same SMSF even if they are not related to each other.

*Exception 3: Spouse of a Director of an Employer-Sponsor*

Generally, an individual who is employed by a company in which his/her spouse is a director will not be deemed to be an employee of another unrelated director of the company and is therefore able to be within the same SMSF as that unrelated director.

For example, assume Mr A, Mrs A, Mr B and Mrs B are all members of a superannuation fund. They are all employed by company X of which only Mr A and Mr B are directors. Ordinarily, Mrs A would be deemed to be an employee of Mr & Mrs B and Mrs B would be deemed to be an employee of Mr & Mrs A. Accordingly, Mr and Mrs A would be unable to be in the same SMSF as Mr and Mrs B. However, under the exception to the general rule, Mrs A and Mrs B are not deemed to be an employee of any other member of the SMSF as both Mrs A and Mrs B are related to other members of the fund.

**B4 Trustee**

The Fund must appoint a Trustee who is responsible for ensuring that the Fund is properly managed and complies with all relevant superannuation and taxation laws. As the Fund is an SMSF, there is a general requirement that all members be trustees or directors of a corporate trustee and vice versa.



The SIS Act requires the Fund to have either:

- (a) two or more individuals appointed as trustees, in which case the primary purpose of the Fund must be the provision of old-age pensions; or
- (b) a company appointed as trustee.

We recommend that you contact your professional adviser on whether the Fund should have individual trustees or a corporate trustee.

#### **B5 Eligibility to act as Trustee**

Under the SIS Act an individual is unable to become a trustee or trustee director if they are a disqualified person. Such an individual is therefore unable to be a member of the Fund. An individual is a disqualified person if:

- (a) the individual has been convicted in Australia or overseas of dishonest conduct at any time;
- (b) a civil penalty order has been made in relation to the individual; or
- (c) the individual is an insolvent under administration (for example, a bankrupt).

A corporation cannot be appointed as a Fund Trustee if it is a disqualified person. A corporation is a disqualified person if:

- the company knows or has reasonable grounds to suspect that one of its directors is a disqualified person as indicated above;
- a receiver or a receiver and manager has been appointed in respect of the property beneficially owned by the company;
- an official manager, deputy manager or administrator has been appointed in respect of the company;
- a provisional liquidator has been appointed in respect of the company; or
- the company is in the process of being wound up.

#### **B6 Ceasing to be a Member and/or Trustee of the Fund**

Under the terms of the Trust Deed, an individual that ceases to be a member of the Fund shall cease to be a Trustee or a director of a corporate Trustee (unless determined otherwise by the other individuals acting as Trustee or the other directors of a corporate Trustee) and a person that ceases to be a Trustee or director of a corporate Trustee shall cease to be a member of the

Fund (unless determined otherwise by the other individuals acting as Trustee or the other directors of a corporate Trustee).

### **B7 Fund Registration with the ATO**

If the Fund is to be a complying superannuation fund for the purposes of the Tax Act and therefore be eligible for concessional tax rates, the Trustee must make an election to the Australian Taxation Office to become a regulated superannuation fund under the SIS Act within **60 days** of the Fund being established or within such further period as the ATO may allow.

### **B8 Provision of PDS**

The Trustee of the Fund is required by the Corporations Act to provide this PDS to new members within three months of them becoming members of the Fund. The Trustee is also required to provide a PDS to members at other times when a "superannuation interest" is being issued to that member (for example when a benefit starts to be paid to that member, such as a lump sum, allocated or complying pension).

In preparing this PDS, Norton & Smailes have made a number of assumptions about the operation of the Fund. Accordingly, this PDS should be read carefully to determine whether these assumptions (mainly relating to fees and charges) are appropriate for your Fund and its members. If any statements contained in this PDS do not apply to your Fund, we recommend that expert advice be obtained and the PDS be amended accordingly.

In addition, the Trustee of the Fund is required to give to Fund members any information that it considers might have a material influence on the decision of a reasonable person to become a member of the Fund or any other information the Trustee considers relevant.

### **B9 Steps to be taken to be a Regulated Superannuation Fund**

By the time the Trust Deed has been executed and the Fund Registration form lodged with the ATO, the following steps should have been completed by the Trustee.

- (a) The Fund should have been structured as a self-managed superannuation Fund governed by the ATO. As previously outlined, there are a number of conditions contained in the SIS Act that must be satisfied both at the time of commencing the Fund and on a continuing basis. Where these conditions are not met on a continuing basis, we recommend that you contact your professional adviser as penalties may result including the Fund losing its complying status.
- (b) A written statement should be obtained from each individual trustee or each director, the company secretary and all executive officers of the Trustee company that the person is not a disqualified person under the SIS Act.

- (c) The Trustee must formulate and give effect to an investment strategy that has regard to the circumstances set out in the SIS Act including risk and return, diversification, liquidity and discharging liabilities (refer below).
- (d) If there are to be any reserves in the Fund, the Trustee is required to formulate and give effect to a strategy for their prudential management.
- (e) If there is an investment manager for the Fund, there must be an agreement in writing between the Trustee and the investment manager which complies with the requirements of the SIS Act.
- (f) The Trustee should implement a system to keep accounts in the manner required by the SIS Act and to retain the accounting records for 5 years.
- (g) The Trustee should implement a system to keep minutes of Trustee meetings, records of any changes in the Trustee and copies of reports to members for at least 10 years.
- (h) If the employer deducts members' personal contributions from their salaries, arrangements should be put in place for the employer to remit those contributions to the Trustee within 28 days after the end of the calendar month in which the contributions were deducted from salaries, as required by the SIS Act.
- (i) A separate bank account should be established for the Fund to ensure that money belonging to the Fund is kept separately from that of members, trustees and contributing employers.

#### **B10 Trustee Covenants**

Under the SIS Act, a number of duties are imposed on the Trustee of the Fund. These duties include:

- (a) to act honestly in all matters concerning the Fund;
- (b) to exercise, in relation to all matters affecting the Fund, the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with property of another for whom the person felt morally bound to provide;
- (c) to ensure that the Trustee's duties and powers are performed and exercised in the best interests of the beneficiaries;
- (d) to keep the money and other assets of the fund separate from any money and assets that are held by the trustee personally or that are money or assets, as the case may be, of a standard employee-sponsor or an associate of a standard employer-sponsor;



- (e) not to enter into any contract, or do anything else, that would prevent the trustee from, or hinder the trustee in, properly performing or exercising the trustee's functions and powers; and
- (f) to allow beneficiaries access to any prescribed information or any prescribed documents.

Both civil and criminal penalties may be imposed under the SIS Act for breach of these duties.

### **B11 Investment Strategy**

The Trustee of the Fund is required to formulate and give effect to an investment strategy that has regard to the whole of the circumstances of the Fund. The investment strategy should consider:

- The benefits of diversification such as investing across a number of asset classes (eg shares, fixed deposit and property);
- The benefits of adopting a long term investment strategy;
- Ways to maximise member returns having regard to the risk associated with holding the investment;
- The ability of the Fund to pay benefits upon members reaching retirement; and
- Liquidity and the Fund's ability to pay its liabilities.

We recommend that the Trustee seek professional advice in formulating the investment strategy.

The investment strategy should be documented and should detail the Fund's investment objectives and set out the investment methods the Fund will use to achieve these objectives. The Trustee should then make sure that all investment decisions are made in accordance with the investment strategy. The Trustee should evidence (for example by way of minutes) its regard to the Fund's investment strategy and its satisfaction that each investment is consistent with the strategy.

### **B12 Fund Investments**

The Trust Deed of the Fund gives a broad power to the Trustee to invest in shares, securities, real property, cash management accounts and any other type of investment allowed by the SIS Act.

However, the SIS Act places certain duties and responsibilities on the Trustee when making investment decisions. These duties and responsibilities aim to protect and increase member

benefits over time for retirement purposes by protecting superannuation fund members from being overly exposed to undue risk. They include:

#### Sole Purpose Test

Broadly, the Trustee must ensure that the Fund is maintained for the sole purpose of providing benefits to Fund members upon their retirement, or their dependants in the case of a member's death.

#### Prohibition against Lending Money to Related Parties

The Trustee is prohibited from lending money or providing financial assistance from the Fund to a member or a member's relative. The use of a Fund asset by a member or a member's relative for no cost or as a guarantee to secure a personal loan for example, would be in breach of this investment restriction.

#### Prohibition against Borrowing

The SIS Act provides that a trustee of a superannuation fund must not borrow money or maintain an existing borrowing of money. However, there are limited exceptions including allowing the Trustee to borrow for a maximum of 90 days in order to meet benefit payments due to members or to meet a surcharge liability provided that the borrowing does not exceed 10% of the Fund's total assets. The Trustee is also permitted to borrow for a maximum of 7 days in order to cover the settlement of security transactions if the borrowing does not exceed 10% of the Fund's total assets.

#### Prohibition against Charging the Fund's Assets

The Trustee must not give a charge over, or in relation to the assets of the Fund.

#### Prohibition against Acquiring Assets from a Related Party

The Trustee is prohibited from acquiring assets for the Fund from a related party of the Fund. Broadly, a related party of the Fund includes all members and employer sponsors of the Fund and their associates.

Limited exceptions include:

- The asset is a listed security. For example, shares listed on the Australian Stock Exchange.
- The asset is business real property. Broadly, business real property of an entity relates to land used wholly and exclusively in a business.

### Restriction on In-House Assets

All superannuation funds are subject to restrictions on their investments in in-house assets. An in-house asset of the Fund is a loan to, an investment in, and leases with, a related party of the Fund.

Broadly, the in-house asset rules:

- impose a maximum limit of investments in on-house assets of 5% of total fund assets based on market value;
- require a fund with in-house assets in excess of the 5% limit as at the end of each income year to dispose of the excess in accordance with a written plan; and
- prohibit the acquisition of new in-house assets if the market value ratio of the fund's in-house assets exceeds 5%.

There are some limited exceptions to the in-house assets rules. The exceptions include allowing an exemption for business real property which is subject to a lease between the fund and a related party of the fund and a limited exemption for certain investments in related non-g geared trusts or companies.

### Requirement that Investments be made on an Arms Length Basis

The SIS Act specifically requires that the Trustee of the Fund must not invest Fund assets unless the Trustee and the other party or parties to the relevant transaction are dealing with each other at arm's length, or the terms and conditions are similar to what they would be if the parties were dealing at arm's length.

Factors that may be considered in determining whether the parties are acting at arms length include:

- whether or not the purchase price is fair, given the expected return on the asset, the risks to which the asset is exposed, and the relative liquidity of the asset;
- the projected returns of income and/or capital, and whether or not they are in line with market expectations;
- whether or not the contract or agreement adequately protects the interests of the Fund, with clear legal identification of all parties and their rights and obligations; and
- whether or not valuations have been obtained, where appropriate.

The rules relating to Fund investments are complex and we recommend that expert advice is obtained before the Fund makes an investment.



## **B13 Compliance and Disclosure Requirements**

At the end of each financial year, numerous documents have to be prepared and lodged with the relevant authorities. We strongly recommend that the Fund engage a professional adviser to assist in the preparation and timely lodgement of these documents as the penalties for non-compliance can be severe.

In addition, there are a number of disclosure requirements in relation to Fund members. Again, we recommend that the Fund engage a professional adviser to ensure compliance with these requirements.

### **PART C MEMBER INFORMATION**

#### **C1 How can you Invest in the Fund?**

You can invest in the Fund by making a contribution of money and/or property into the Fund. You can also rollover a benefit from another superannuation fund.

##### **C1.1 Types of contributions**

Provided you meet the contribution rules outlined below, the Fund can accept the following types of contributions on your behalf.

##### *Member contributions*

You may contribute to the Fund such amount as is agreed upon between you and the Trustee or you and your employer (if applicable). Contributions made by you are credited to your member account.

##### *Employer contributions*

Under the trust deed governing the Fund, your employer (if applicable) may contribute to the Fund such amounts as it, in its absolute discretion, determines. Contributions made by your employer in accordance with the Guarantee Act, an industrial award or agreement or pursuant to a salary sacrifice arrangement will be credited to your member.

Other employer contributions (i.e. non-award/agreement, not salary sacrificed and/or not required to meet your employer's superannuation guarantee charge obligations) are credited to your account. These amounts may be subject to a vesting schedule (depending on what category of membership of the Fund you are in), which determines what percentage of the amount in the account is payable to you on your retirement or termination of employment.

### *Spouse contributions*

Under the trust deed governing the Fund, an individual is able to make contributions to the Fund on behalf of their spouse who may or may not be gainfully employed. A spouse is a person who lives with another person on a bona fide domestic basis as husband and wife. Currently same sex partners are not treated as spouses.

### *Child contributions*

Parents, grandparents, other relatives and friends may generally make superannuation contributions of up to \$3,000 per three year period for the benefit of a child under the age of 18 years even though the child may not be gainfully employed.

Where a child under 18 years of age is gainfully employed on a full-time basis (i.e. for more than 30 hours per week) their employer may also be able to contribute to the Fund.

## C1.2 Rollovers

The Trust Deed of the Fund allows the Fund to accept rollovers, allowing you to transfer into the Fund money or property that you may have in other superannuation or retirement savings accounts.

From 1 July 2007 employees are no longer able to elect to have an employer ETP rolled-over to a superannuation fund. Rather, the ETP must be paid directly to the employee. The taxable component of the ETP, i.e. the post-June 1983 component, is taxable at 15% for amounts up to \$140,000 for employees aged 55 and over, and at 30% for those aged under 55 years. Amounts in excess of this are taxable at the highest marginal rate of 45%.

## C1.3 Superannuation Guarantee Contributions

Broadly, employers are required to provide a prescribed minimum level of superannuation support in each financial year for their employees. In general terms, for the 2004/2005 financial year and following years the minimum rate of superannuation contributions is 9% of an employee's salary or earnings base.

Employers are required to comply with their superannuation guarantee obligations on a quarterly basis. The quarterly periods end on 30 September, 31 December, 31 March and 30 June each financial year. Employers who fail to provide the prescribed minimum level of support within 28 days of the end of the relevant quarter are liable to pay a charge (known as a Superannuation Guarantee Charge) calculated on the shortfall plus interest plus an administrative charge to the government.

Although the superannuation guarantee is a minimum superannuation contribution on behalf of its employees, employers can also make contributions on behalf of their employees over and above their superannuation guarantee obligations.



#### C1.4 Contributions Rules

The rules governing when the Fund is able to accept contributions made in respect of a member are complex. They have been summarised below in the following table.

Employment Status						
Age	Gainfully Employed 30+ hours per week	Gainfully Employed 10+ hours per week	Gainfully Employed in the last 2 years	Not Gainfully Employed for over 2 years	Not Gainfully Employed due to illness	Authorised parental leave < 7 years with right to return
Under Age 65	You Your employer Your spouse	You Your employer Your Spouse	You Your employer Your spouse	You Your spouse	You Your spouse	You Your spouse
65-69	You Your employer Your spouse	You Your employer Your spouse	-	-	-	-
70-75	You Employer Mandated Contributions only	You Employer Mandated Contributions only	-	-	-	-
75 +	Employer Mandated Contributions only	Employer Mandated Contributions only	-	-	-	-

We recommend that expert advice be obtained before contributions are made by you on your behalf into the Fund.

#### C1.5 Superannuation contributions splitting

From 1 January 2006, superannuation fund members can split contributions made to their fund to their spouse's superannuation account. Only contributions made on or after 1 January 2006 may be split and only if certain conditions are met.

Superannuation contributions that can be split include:

- employer contributions;
- personal contributions;
- allocated surplus contribution amounts;
- amounts transferred from the superannuation holding accounts special account;
- superannuation guarantee charge amounts from the ATO; and
- superannuation co-contribution amounts.



Members can apply to split an amount of either or both taxed splittable contributions and untaxed splittable contributions made on or after 1 January 2006.

The maximum splittable amount for any financial year is 85% of taxed splittable contributions and 100% of untaxed splittable contributions.

For income tax purposes, amounts split to a spouse's account are treated as a contributions-splitting eligible termination payment and are taken to have been rolled over to the spouse's account.

## **C2 Your Benefit Entitlements**

### **C2.1 Categories of benefits**

The ability to withdraw your benefits depends upon the various components which make up of your total benefits in the Fund. Each of the following components has different conditions imposed on their withdrawal:

- (a) Preserved;
- (b) Restricted non-preserved; and
- (c) Unrestricted non-preserved.

### **C2.2 When may you withdraw your preserved benefits?**

As superannuation is a long term investment that is designed to cater for your retirement, there are restrictions on when you can withdraw some of your superannuation benefits. These restrictions are known as the preservation rules. Generally, you may only withdraw your preserved benefits from the Fund in the following circumstances:

- (a) you satisfy a condition of release; or
- (b) you transfer your preserved benefit to another superannuation fund or to a retirement savings account.

### **C2.3 What are the conditions of release?**

The conditions of release can be summarised as follows:

- reaching 65 years of age;
- termination of employment after reaching 60 years of age;
- permanent retirement from the workforce on reaching your preservation age;
- becoming permanently disabled;
- your death;
- on compassionate grounds approved by APRA;
- you satisfy APRA that you are suffering severe financial hardship;

- if you are a temporary resident, permanent departure from Australia; or
- where the benefit payable is less than \$200.

When you request a benefit payment in cash, or when you decide to commence a pension, you will be required to demonstrate that you have satisfied the preservation rules by:

- If you are over 60, signing a declaration that you have terminated gainful employment;
- If you are between your preservation age and age 60, signing a declaration that you have genuinely retired from the workforce; or
- If you are totally and permanently disabled, by providing medical evidence as required by the Trustee as evidence of your disability.

Once you have reached age 65 you are automatically deemed to have retired permanently.

#### C2.4 What is your preservation age?

When were you born?	Preservation age
Before 1 July 1960	55
Between 1 July 1960 and 30 June 1961	56
Between 1 July 1961 and 30 June 1962	57
Between 1 July 1962 and 30 June 1963	58
Between 1 July 1963 and 30 June 1964	59
After 30 June 1964	60

#### C2.5 Non-Preserved Benefits

It is possible that some part of your benefit is not subject to the preservation rules. Prior to 1 July 1999, some superannuation benefits did not need to be preserved. However, from 1 July 1999, all contributions made to a superannuation fund are required to be fully preserved, aside from any non-preserved amounts accrued before that date. Accordingly, if you roll over non-preserved amounts from another fund to the Fund they will remain non-preserved, regardless of when they are received.

There are two categories of non-preserved benefits:

- Restricted non-preserved benefits – these amounts are able to be withdrawn when you have satisfied a condition of release or if you terminate your employment with the employer who has been contributing to the Fund; and
- Unrestricted non-preserved benefits – these amounts are able to be withdrawn at any time.

## 2.6 Amount of your benefit

The Fund is an accumulation fund.

This means that generally for a non-employer sponsored member, the amount of your benefit is calculated as the amount in your member's contribution account (i.e. the accumulated benefit in the Fund financed by your own contributions).

For an employer sponsored member, the amount of your benefit is generally calculated as the following:

- (a) the amount in your member's contribution account (i.e. the accumulated benefit in the Fund financed by your own contributions); plus
- (b) the amount in your vested employer's contribution account (if applicable); plus
- (c) such other additional benefits financed by contributions made by your employer determined in accordance with the vesting schedule in the trust deed for the Fund that applies to your particular category of membership; plus
- (d) such other accumulated benefit financed by contributions made by your employer as the trustee, in its absolute discretion, determines. These additional benefits are usually only paid in exceptional circumstances.

## C2.7 Forfeited benefits

The Trust Deed for the Fund provides that your benefit will be forfeited in the following circumstances:

- (a) If the Trustee is of the opinion that you have attempted to assign, alienate, charge or encumber all or part of your benefit;
- (b) If you are declared mentally ill or become liable to have your affairs dealt with under the laws relating to mental health; or
- (c) If your whereabouts cannot be traced by the Trustee for a period of 3 years after making reasonable enquiries.

The Trustee must apply your forfeited benefit in the manner stated in the Trust Deed. Broadly speaking, the Trustee must apply your forfeited benefit for the benefit of you or such of your Dependants as the Trustee decides. Any part of your forfeited benefit which the Trustee is unable to apply in this way must be credited to the forfeited benefit reserve account and then dealt with in the manner stated in the Trust Deed.



## C2.8 Can the Trustee Rollover your Benefit without your Consent?

In certain instances the Trustee is bound under the SIS Act to pay your benefit into an eligible rollover fund. You will be advised in writing before this happens to allow you the opportunity to select another superannuation fund which will accept your benefit.

## C2.9 Mode of Payment of Benefit

Broadly, subject to any requirements imposed by the SIS Act, the Trustee of the Fund is given discretion to pay your benefit by any one or more of the following:

- (a) a lump sum benefit;
- (b) an allocated pension;
- (c) a term allocated pension;
- (d) a flexi-pension;
- (e) a life expectancy pension;
- (f) a lifetime complying pension;
- (g) an annuity which may be acquired from an insurance company or a financial institution;
- (h) a non-commutable allocated pension;
- (i) a non-commutable pension; or
- (j) any other pension or annuity that complies with the SIS Act.

Because of the complexity of issues regarding benefit payments, we recommend that expert advice be obtained before the Fund makes a benefit payment to you.

## C2.10 Death Benefits

Upon your death, the Trustee is given a discretion to pay your death benefit to one or more of the following:

- (a) your Dependants including your current spouse (including a de facto), your children (including adult, step, adopted or ex-nuptial children) and any other person financially dependent upon you; or
- (b) your legal personal representative, which means the executor or administrator of your estate.

The Trustee is also given a discretion as to the manner in which the benefit is paid i.e. as a lump sum, income stream, or a combination of both.

To provide greater certainty on who receives your benefit when you die, the Application for Membership form contains two alternatives:

- (a) You may make a non-binding death benefit nomination which the Trustee is required to take into account in paying out your death benefit. However, this nomination is not

binding on the Trustee. The Trustee will consider the circumstances of all of your Dependants in choosing to whom to pay the benefit and in what proportion.

- (b) You may make a binding death benefit nomination which binds the Trustee to pay your benefit upon your death to one or more of your Dependants specifically nominated by you or your legal personal representative. If you nominate your legal personal representative, they will be responsible for distributing your death benefit in accordance with your Will. The manner in which your benefit is to be paid can also be specified in the binding death benefit nomination. We recommend that a binding death benefit nomination be prepared by a lawyer with superannuation, taxation and estate planning expertise.

Irrespective of whether or not the nomination is binding, we recommend that you should review by it regularly to take account of your changing circumstances.

### C2.11 Compliance requirements

The Trustee must complete various forms and notifications prior to and immediately after making a benefit payment from the Fund. Significant penalties apply if these documents are not completed and lodged with the ATO on a timely basis. Accordingly, prior to the Fund making any benefit payments, you should seek expert advice to ensure all compliance requirements are satisfied.

## C3 Taxation

The information provided in this section is a general guide to the way in which your investment will be taxed. We strongly recommend that you consult your taxation adviser before acting on the basis of this information. Further, the information provided is based on Australian tax laws at the time of this PDS being issued and are subject to change without notice.

### C3.1 Contribution Taxes and Rebates

#### *Concessional Contributions*

Concessional (generally assessable) contributions such as employer contributions, including salary sacrifice contributions are taxed at 15%. Deductible member contributions are also subject to contributions tax of 15%.

From 1 July 2007, the amount of concessional contributions that can benefit from the concessional tax treatment is capped at \$50,000 per person per year.

Contributions in excess of this cap will be taxed at an additional 31.5 per cent. This tax will be imposed on the individual, who will be able to withdraw from their superannuation fund an amount equal to their tax liability.

A five year transitional cap of \$100,000 per person per year (for the financial years 2007-08 to 2011-2012) applies for people who are aged 50 and over on the last day of a financial year in that period.

#### *Non-concessional contributions*

Non-concessional contributions (generally undeducted contributions or contributions that you do not claim a tax deduction for) are not subject to tax when received by the Fund.

From 1 July 2007, there is a cap of \$150,000 a year on the amount of non-concessional contributions a person can make.

From 1 July 2007, people under age 65 are able to bring forward future entitlements to two years worth of contributions, thus allowing a cap of \$450,000 over three years. Individuals aged 63 and 64 applying the bring forward rule are not required to meet a 'work test' in either of the following two financial years. Those aged 65 to 74 are subject to the non-concessional contributions cap of \$150,000 per year where they satisfy the work test set out in the SIS Regulations. They are not able to take advantage of the bring forward rule.

Non-concessional contributions in excess of a person's cap is taxed at 46.5 per cent. This tax will be imposed on the individual, who must withdraw an amount from their superannuation fund equal to their tax liability.

Excess concessional contributions are counted towards the cap on non-concessional contributions.

Transitional arrangements apply to non-concessional contributions made between 10 May 2006 and 30 June 2007. This includes a cap of \$1 million for this period for anyone eligible to contribute (eg. those aged 65 to 74 who satisfy the work test).

#### *Surcharge*

The surcharge will no longer apply from 1 July 2005, however the surcharge will continue to apply to superannuation contributions made and or received in respect to the financial years 1996/97 to 2004/05. Surcharge assessments which relate to surchargeable contribution or certain termination payments made or received in the 2004/05 or previous financial years will continue to be issued and payable.

The tax surcharge may be levied on contributions from your employer and any of your own deductible contributions. The surcharge applies on a sliding scale up to a maximum rate which was 12.5% for the 2004/05 financial year.

#### *Co-Contributions*

From 1 July 2004, if you earn less than \$28,000 and you make an after-tax undeducted contribution of \$1,000 or more, this will be matched by Government co-contributions of up



to a maximum of \$1,500 for each financial year. You must also be less than 71 years of age, entitled to receive employer contributions, and not self employed or a temporary resident. The co-contribution reduces when your earnings exceed \$28,000 and cuts out at \$58,000. You do not need to apply for the co-contribution. The ATO will determine if you are entitled to the co-contribution using information from the Fund and your annual tax returns. The co-contribution will be paid directly into the Fund.

### *Rollovers and Transfers*

Superannuation rollovers and transfers are not taxed when invested in the Fund. An exception to this is where your rollover or transfer is from an untaxed source, which may include your former employer or an unfunded superannuation scheme. In these circumstances, any portion of your investment that relates to service after 30 June 1983 will be taxed at a rate of 15%.

### *Rebate for Eligible Spouse Contributions*

Your spouse may claim a tax rebate of up to \$540 for contributions of up to \$3,000 that are made on your behalf, provided that you meet the following conditions:

- You and your partner are married and living together, or living in a de facto relationship (the legislation does not cover same-sex partners);
- You and your partner are both Australian residents for tax purposes;
- Your partner is under 65 years of age; and
- Your assessable income is less than \$13,800 in the year your partner made the contribution.

The rebate is equal to 18% of rebatable contributions. Rebatable contributions are \$3,000 where your assessable income is less than \$10,800, and reduces by \$1 for each \$1 by which your income exceeds \$10,800.

### *Deduction for employer contributions*

All employer contributions are fully tax deductible by an employer up to your Maximum Deductible Contribution Limit.

An employer may make tax deductible superannuation contributions in respect of an individual up to 75 years.

### *Deduction for self-employed persons*

If you are a 'substantially self employed person' as defined under tax law, you can claim a tax deduction for personal contributions to a superannuation fund.

The definition of 'substantially self-employed person' is complex and you may wish to confirm you meet the definition before making contributions.

From 1 July 2007, a 'substantially self employed person' is able to claim a full tax deduction on contributions made to their fund provided certain conditions are met. They may also be eligible for the Government co-contribution on after-tax contributions made to the fund.

### C3.2 Tax on Fund Earnings

As a complying fund, all income and capital gains generated by the Fund are taxed at a rate of up to 15% in the Fund. Income includes investment income, employer contributions including salary sacrifice contributions and deductible member contributions made by substantially self-employed persons.

Any rebates, franking credits and foreign tax credits received in relation to the investments of the Fund may reduce the effective tax rate below 15%. The effective tax rate of the Fund is further reduced where the Fund is paying a pension as the Fund does not pay tax on investment earnings from the assets used to finance a pension.

Finally, the Fund may also receive a refund of any excess imputation credits over its tax payable.

### C3.3 Tax Benefits

#### *Tax on Pensions*

From 1 July 2007 superannuation benefits paid from a taxed fund, as either a lump sum or income stream such as a pension, are concessionally taxed depending on the age of the recipient. If you are:

- (i) at least 60 years, the benefits will be tax-free regardless of the form in which they were paid;
- (ii) between 55 and 60 years, the benefits generally be taxed at the rate of 15%.

#### *Tax on Lump Sum Benefits*

A lump sum benefit that you withdraw from the Fund is classified as an ETP. For taxation purposes, an ETP can be made up of several components that are all taxed in different ways.



The tax treatment from 1 July 2007 of each component is summarised in the table below.

Component	Source	Taxation	
Undeducted contributions	Contributions made after 30 June 1983 (other than by an employer), for which a tax deduction has not been claimed.	<b>Tax-free</b>	
Pre-July 1983 component	Benefits relating to service or fund membership accrued before 1 July 1983	<b>Tax-free.</b>	
Post-June 1983 'taxed' component	Benefits relating to service or fund membership accrued after 1 July 1983.	Age Under 55  55-59  60 and over	<b>Tax rate</b> 20% + Medicare levy of 1.5%  Up to threshold of \$135,590 for 06/07 – 0%; Over threshold – 15%  <b>Tax -free</b>
Concessional component	Payments made before 1 July 1994 as a result of a bona fide redundancy, invalidity or approved early retirement scheme.	<b>Tax-free</b>	
Post-June 1994 Invalidity component	Payments made since 1 July 1994 as a result of invalidity.	<b>Tax-free</b>	
CGT-exempt component	Proceeds from an amount elected to be exempt from CGT of up to \$500,000 resulting from the sale of a small business.	<b>Tax-free</b>	

### *Tax on Death Benefits*

A lump sum superannuation death benefit payment paid to a death benefits dependant will be tax-free.

A superannuation income stream death benefit payment paid to a death benefits dependant will be tax-free where either the dependant was at least age 60 when he receives the benefit or the deceased was at least age 60 at the time he or she died. However, so much of the death



benefit as constitutes the element untaxed in the fund will nevertheless be assessable income but qualifies for a 10% tax offset.

If both the dependant was under age 60 when he received the benefit and the deceased was under age 60 at the time he died:

- (a) the tax-free component of the superannuation income stream death benefit payment will be tax-free;
- (b) the element taxed in the fund will be assessable income with the dependant being entitled to a tax offset of 15%;
- (c) the element untaxed in the fund will be assessable income; and
- (d) the superannuation income stream death benefit payment will become tax-free when the recipient turns age 60. However, the element untaxed in the fund will be assessable but will qualify for a 10% tax offset.

Special rules apply if benefits are paid to non-dependants.

You should consult your taxation adviser for advice on this issue.

#### C3.4 Goods and Services Tax ("GST")

The GST was introduced on 1 July 2000 and is a broad-based tax of 10 per cent on the sales or supplies of most goods, services, or other items sold or consumed in Australia.

A fund must register for GST if:

- it is carrying on an enterprise; and
- its annual turnover is equal to or greater than the turnover threshold of \$50,000.

Even if a fund's annual GST turnover is less than \$50,000 the fund may still choose to register for GST purposes. However, before applying for registration, the fund should carefully consider the compliance costs associated with the quarterly lodgement of the Business Activity Statement. If a fund chooses to register for GST, it generally must stay registered for at least 12 months.

In considering whether a fund should be registered for GST purposes, the trustee of the fund must determine whether it makes any taxable supplies, input taxed supplies or GST-free supplies.

Generally, the investment activities of a superannuation fund will be input taxed. This means that the fund would not be required to charge GST on the supply nor would it be able to claim any input tax credits for GST paid on the things acquired by the fund to make the

supply. Broadly, a supply will be an input taxed supply where a fund deals with a member's benefit which is a provision, acquisition or disposal on an interest in a superannuation fund. For example, where a fund pays a benefit to a member, the fund will not have to charge the member GST on that benefit.

Other transactions undertaken by the fund will constitute a taxable supply. This means that the fund must charge GST on that supply but can also claim an input tax credit for inputs that are related to the taxable supply in question. The most common example of a taxable supply made by a superannuation fund is the rental of a commercial building to a third party.

In certain circumstances a fund's activities may involve inputs that produce a reduced input tax credit. Usually, this will arise where the fund pays for investment and administration services relating to:

- processing of contributions and benefits;
- production and distribution of reports and statements to members;
- maintenance of member and employer records and associated accounting;
- achieving, storage and retrieval services;
- handling of inquiries and complaints made by members;
- compliance with regulatory requirements, excluding taxation advice.

For example, a fund may be able to obtain a reduced input tax credit for fees paid to an accountant or financial planner that provides it with fund management services. The fund could claim a 75% input tax credit for the GST paid to the supplier of this service. One should note however that legal, accounting, auditing, actuarial and other professional services will usually be input taxed and therefore a reduced input tax credit will not generally be available for these types of services.

### C3.5 Non-Compliance with Superannuation Laws

All members and trustees of the Fund should be aware of the severe penalties that apply in situations where the Fund contravenes the relevant superannuation laws and becomes a non-complying fund. A superannuation fund will become a non-complying fund where it fails to satisfy the compliance test contained in section 42A of the SIS Act. Broadly, this test provides that after considering the seriousness of the breaches, all the relevant circumstances and the taxation consequences of being a non-complying fund, the ATO does not consider that the fund should be a complying fund.

A non-complying fund can potentially lose up to 47% of its assets in tax (refer to section 288A of the Tax Act). In addition, a range of civil and criminal penalties may be imposed depending upon the nature and severity of the breach involved.

#### **C4 Insurance**

The Trustee of the Fund may invest any part of your member account in the Fund in a policy or policies of life insurance. These policies may insure you for death and/or permanent disability etc.

Depending upon the life insurance policy obtained, the premiums on a life policy paid by a superannuation fund may be tax deductible to the Fund.

Expert advice should be obtained regarding what type of insurance is appropriate, if any, and what tax and other implications should be considered.

#### **C5 Fees and Charges**

Unless you are otherwise advised by the Trustee, there are no fees and charges imposed by the Fund in relation to the following:

- Establishment fees – the fees to set up your member account in the Fund.
- Contribution fees – the fees for the initial and every subsequent investment you make to the Fund (or that may be made on your behalf, eg by an employer).
- Withdrawal fees – the fees charged for each withdrawal you make from the Fund (including any instalment payments and your final payment).
- Termination fees – the fees when you close your account with the Fund.
- Switching fees – the fees charged when you switch between investment options offered by the Fund.

However, all members of the Fund will incur at least annually a share of the ongoing costs incurred by the Fund such as administration, investment, adviser etc. Unless otherwise determined by the Trustee, these expenses will be allocated on a proportionate basis among members' accounts.

#### **C6 Complaints Resolution**

Any query or complaint you may have in relation to the Fund should first be discussed with the Trustee. While the Trustee will generally attempt to accommodate your wishes and/or resolve your complaint, the Trustee is bound to act in accordance with the Trust Deed. If the Trustee is unable to resolve your complaint to your satisfaction, you should seek legal advice. This Fund, as a self-managed superannuation fund, is excluded from the jurisdiction of the Superannuation Complaints Tribunal.



**C7 Cooling-Off**

The Fund does not offer any "cooling-off" period. Thus, there is no simple way for you to cease to be a member and have your contributions to the Fund returned. In particular, once a contribution is made to the Fund, it becomes preserved in the superannuation environment and you can only obtain access to these funds if you satisfy a condition of release or roll-over your money to another complying fund.

**C8 Fund Investments**

As previously outlined, the Trustee of the Fund must have an investment strategy and review it on a regular basis. This investment strategy should be provided to you at the earliest available opportunity.

Unless you are otherwise advised by the Trustee, the Trustee does not take into account labour standards or environmental, social or ethical considerations for the purpose of selecting, retaining or realising investments in the Fund.

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If you require any further information in relation to this PDS, please contact the Trustee at the address shown above.

## GLOSSARY

While reading this PDS, you will need to know the meaning of some terms which are used. These terms are:

**“Dependants”** means, at the relevant date, your spouse or defacto spouse, widow, widower, children or any other person in which you have an interdependency relationship. You will have an interdependency relationship with another person if:

- (a) you both have a close personal relationship; and
- (b) you both live together; and
- (c) one or each of you provides the other with financial support; and
- (d) one or each of you provides the other with domestic support and personal care.

Where one of you has a physical, intellectual or psychiatric disability, only the requirement in paragraph (a) must be satisfied to have an interdependency relationship.

**“Guarantee Act”** means the *Superannuation Guarantee Charge Act 1992 (Cth)*.

**“Legal personal representative”** means:

- (a) if you have a Will, your executor; or
- (b) if you do not have a Will, the person appointed by the court to administer your estate.

**“MPCL” or Maximum Deductible Contribution Limits** for the 2006/2007 financial year are as follows:

Less than 35	\$15,260
35 to 49 years	\$42,385
50 years and over	\$105,113

These amounts are indexed each financial year.

**“SIS Act”** means the *Superannuation Industry (Supervision) Act 1993 (Cth)*.

**“Spouse”** means a person who lives with another person on a bona fide domestic basis as husband and wife. Currently same sex partners are not treated as spouses.

**“Tax Act”** means the *Income Tax Assessment Act 1936 (Cth)*.

DECLARATION OF PATRICIA MARGARET MOFFAT AND RONALD JOHN MOFFAT  
MADE AT *Mendocino* ON *24th January* 2008 AT *3:10* ~~AM~~/P.M.

**SUPERANNUATION  
FUND:**

IT WAS RESOLVED that the trust deed for **The Moffat Superannuation Fund** ("Fund") dated 10 August 1994 be amended to incorporate the latest legislative requirements.

IT WAS RESOLVED that the deed of amendment for the Fund tabled at the meeting be properly executed.

**PRODUCT  
DISCLOSURE  
STATEMENT:**

We declare that we have sighted and read the Product Disclosure Statement ("PDS") which is to be issued to the members of the Fund.

On the basis that the PDS is accurate and no further information is required to be supplied to the members of the Fund, IT WAS RESOLVED that the PDS sighted and read be issued to each member of the Fund.



Signed

**Patricia Margaret Moffat**

(Trustee)

*24/01/2008*



Signed

**Ronald John Moffat**

(Trustee)

*24/01/2008*