

Declaration Deed

**Beenleigh Steel Fabrications Superannuation Pty Ltd ACN 140 078
548 as trustee for Berrinba Superannuation Fund**

**Beenleigh Steel Fabrications Superannuation Pty Ltd ACN 140 078
548 as trustee for Beenleigh Steel Fabrications Superannuation
Fund**



BPL Advisory Pty Ltd ABN 16 630 886 190
Corbett Chambers, Level 2, 283 Elizabeth Street, Brisbane Qld 4000
(07) 3153 6608
bpladvisory.com.au

Table of Contents

1. Definitions and Interpretation.....	1
2. Declaration.....	3
3. Encumbrances.....	3
4. Warranties.....	3
5. Other Assets.....	4
6. General.....	4
Execution Page.....	6

Parties

Beenleigh Steel Fabrications Superannuation Pty Ltd ACN 140 078 548 as trustee (Original Trust)
for Berrinba Superannuation Fund

of 215 Gilmore Road, Berrinba, Queensland 4117

Beenleigh Steel Fabrications Superannuation Pty Ltd ACN 140 078 548 as trustee (New Trust)
for Beenleigh Steel Fabrications Superannuation Fund

of 215 Gilmore Road, Berrinba, Queensland 4117

Background

- A. The Trustee is the owner of the Units in its capacity as trustee for the Original Trust.
- B. The Trustee in its capacity as trustee of the Original Trust wishes to declare that it ceases to hold the Units on the terms of the Original Trust and commences to hold the Units on the terms of the New Trust.
- C. The Trustee enters into this Deed to give effect to that Declaration.

Terms and Conditions

1. Definitions and Interpretation

1.1 Definitions

In this Deed, unless the context requires otherwise the following definitions apply:

Business Day	means a day, other than a Saturday, Sunday or public holiday, on which banks are open for commercial business in Brisbane, Queensland and in the place or places where performance of a relevant obligation occurs or is required to take place.
Declaration	means the declaration made under clause 2.1 of this Deed.
Declaration Power	means clause 4.5.26 of the Original Trust Deed.
Deed	means this Declaration Deed including the Background.
Encumbrance	means any one or more of the following: <ul style="list-style-type: none">(a) any interest, right or power that in substance secures payment or performance of any obligation, for example, a mortgage, charge or security interest under the <i>Personal Property Securities Act 2009</i> (Cth);(b) any preferential or adverse interest of any kind;

- (c) a right to buy or use assets, for example a hire purchase agreement, option, licence, lease or agreement to purchase;
- (d) a right to set-off or right to withhold payment of a deposit or other money;
- (e) an easement, restrictive covenant, caveat or similar restriction over property;
- (f) an agreement to create any of the items referred to in paragraphs (a) to (e) above or to allow any of those things to exist; or
- (g) a notice under section 255 of the *Income Tax Assessment Act 1936* (Cth), subdivision 260-A in schedule 1 of the *Taxation Administration Act 1953* (Cth) or any similar legislation.

Original Trust Deed	means the deed of trust establishing the Original Trust made on 9 November 2020 by Berrinba Superannuation Pty Ltd ACN 645 744 501 as trustee.
Trustee	means Beenleigh Steel Fabrications Superannuation Pty Ltd ACN 140 078 548.
Units	means 1,250,000 fully paid units in the Wembley Property Trust, being 50% of the Units on issue in the Wembley Property Trust.
Wembley Property Trust	means the trust known as "Wembley Property Trust" established by deed dated _____ between Berrinba Superannuation Holdings Pty Ltd ACN 645 736 778 as trustee and the Original Trust as initial unit holder.

1.2 Interpretation

In this Deed, unless the context requires otherwise:

- (a) a reference to:
 - (i) a clause, schedule, annexure or party is a reference to a clause, schedule, annexure or party to this Deed;
 - (ii) a party includes its executors, personal representative, administrators, successors and assigns;
 - (iii) 'document', 'deed' or 'agreement' (including a reference to this Deed) includes the document, deed or agreement as varied, amended, novated or supplemented and includes all recitals, schedules, appendices and exhibits to it;
 - (iv) one gender includes all other genders;

- (v) legislation or a legislative provision includes any statutory modification or substitution of that legislation or provision and any subordinate legislation issued under that legislation or provision; and
- (vi) 'person' includes a corporation, trust, partnership, unincorporated body, government, local authority or agency, or other entity, whether or not it constitutes a separate legal entity;
- (b) headings and any table of contents do not form part of this Deed or affect its interpretation;
- (c) a word or phrase that is derived from or is another grammatical form of a defined word or phrase has corresponding meaning;
- (d) the meaning of general words is not limited by specific examples introduced by 'including', 'for example' or similar expressions;
- (e) the singular includes the plural and vice versa;
- (f) monetary amounts are expressed in Australian dollars;
- (g) a 'day', 'month' or 'year' means a calendar day, month or year;
- (h) all or part of this Deed must not be construed against the interests of a party because that party or its lawyers were responsible for its drafting or because that party relies on a provision of this Deed to protect itself; and
- (i) if any day on or by which a person must do something under this Deed is not a Business Day, then the person must do it on or by the next Business Day.

2. Declaration

2.1 Declaration

Pursuant to the Declaration Power, the Trustee declares that it ceases to hold the Units as trustee of the Original Trust and commences to hold the Units as trustee in accordance with the terms of the New Trust.

2.2 Consideration

The Declaration is made in consideration of the Trustee in its capacity as trustee for the New Trust paying the Consideration to the Trustee in its capacity as trustee for the Original Trust.

2.3 Consideration

The Declaration is made in consideration of the Trustee in its capacity as trustee for the New Trust paying the Purchase Price to the Trustee in its capacity as trustee for the Original Trust.

3. Encumbrances

The Trustee confirms that it acquires the Units as trustee for the New Trust subject to all Encumbrances.

4. Warranties

The Trustee in its capacity as trustee for the Original Trust represents and warrants that at the date of this Deed:

- (a) it is the owner of the Units;
- (b) it is capable of transferring the Units;
- (c) there is no unsatisfied judgment, order or writ affecting the Units; and
- (d) the Trustee or its predecessors in title have not entered into any unregistered agreements affecting the Units.

5. Other Assets

The Trustee confirms that nothing in this Deed constitutes a dealing in any other asset that the Trustee holds in its capacity as trustee for the Original Trust (or any other trust) other than the Units.

6. General

6.1 Notice

- (a) A notice, demand, consent, approval, request or other communication (**notice**) to be given under this Deed:
 - (i) must be in writing in English;
 - (ii) must be delivered by a method contemplated by the table in this clause 6.1;
 - (iii) may be given by the party, by a director of the party, or by a solicitor who states that they are acting on behalf of the party; and
 - (iv) will be deemed to have been received at the time and on the day set out in the table in this clause 6.1.

Delivery Method	Duly Received
Personal delivery to the party to whom the notice is addressed.	When it is personally delivered.
Sent by courier, registered post or express post to the party to whom the notice is addressed at the address provided in this Deed, or any other address notified by that party to all other parties from time to time.	<ul style="list-style-type: none"> (a) On the day that the courier records delivery of any notice sent by courier; (b) On the 3rd Business Day after posting by registered post; or (c) On the next Business Day after posting by express post.
Transmission by email to the party to whom the notice is addressed, to the email address notified by that party to all other parties from time to time.	On the day of transmission by email. This method of service is effective only if the message is not rejected or undeliverable (as evidenced by a message to that effect received by the sender).

- (b) Where any notice is personally delivered or transmitted by email after 5:00pm on any day, it shall be treated as having been duly given and received at 9:00am on the next Business Day.

6.2 Governing Law

- (a) This Deed is made under and will be governed by the laws of Queensland.
- (b) Each party irrevocably submits to the exclusive jurisdiction of the courts of Queensland.

6.3 Further assurance

Each party must, and must ensure that its employees and agents, do all things and execute all further documents necessary or reasonably required to give full effect to this Deed and refrain from doing anything that might hinder the performance of the obligations contemplated by this Deed.

6.4 No merger

The covenants, conditions, provisions and warranties contained in this Deed do not merge or terminate upon a termination of this Deed, but to the extent they are capable of having effect after termination, remain in full force and effect.

6.5 Severability

This Deed will, to the extent possible, be interpreted and construed so as not to be invalid, illegal or unenforceable in any respect. If a provision is found to be illegal, invalid or unenforceable:

- (a) that provision will be read down to the extent that it may be necessary to ensure that it is not illegal, invalid or unenforceable and as may be reasonable in the circumstances to give it a valid operation; or
- (b) if the provision or part of it cannot effectively be read down, that provision or part of it will be deemed to be void and severable and the remaining provisions of this Deed will not in any way be affected or impaired and will continue regardless of that illegality, invalidity or unenforceability.

6.6 Amendments in writing

No amendment to this Deed has any force unless it is in writing and signed by all of the parties to this Deed.

Execution Page

This Deed dated

2022.

Executed as a Deed.

SIGNED, SEALED AND DELIVERED by **Beenleigh Steel Fabrications Superannuation Pty Ltd ACN 140 078 548 as trustee for Berrinba Superannuation Fund** in accordance with section 127 of the *Corporations Act 2001*(Cth)

Signature of Director

Mark James Finney

Name of Director

Signature of Director

Frank Raymond Boyes

Name of Director

SIGNED, SEALED AND DELIVERED by **Beenleigh Steel Fabrications Superannuation Pty Ltd ACN 140 078 548 as trustee for Beenleigh Steel Fabrications Superannuation Fund** in accordance with section 127 of the *Corporations Act 2001*(Cth)

Signature of Director

Mark James Finney

Name of Director

Signature of Director

Frank Raymond Boyes

Name of Director