

MINUTES OF TRUSTEE

HELD AT: 24 ANDREAS STREET, PETERSHAM, NSW 2049

ON:

PRESENT: Glen Spencer and Bronwyn Elizabeth Spencer

CHAIRPERSON: Glen Spencer was elected to chair the meeting.

BUSINESS: At a meeting of the Directors convened on this date, with the agenda accepted and notice waived and a quota met, the Directors met and unanimously resolved the following.

RESOLUTION 1: It is **RESOLVED UNANIMOUSLY** by the Directors to approve the updating of the Investment Strategy to accommodate a Limited Recourse Borrowing Arrangement and Holding Trust Arrangement.

DISCUSSION: The Chairperson recommended updating the Investment Strategy, as marked and shown at **Annexure 1**, which considers the appointment of a holding trustee, establishment of a Holding Trust, entering into of a Limited Recourse Borrowing Arrangement ("**LRBA**") and acquisition of a Single Acquirable Asset, being: Property Address: . ("**Asset**"), as permitted by section 67A of the *Superannuation Industry (Supervision) Act 1993* (**SISA**).

RESOLUTION 2: It was **RESOLVED UNANIMOUSLY** by the Directors to appoint a holding trustee, settle a holding trust, enter into a limited recourse borrowing arrangement and acquire an asset.

DISCUSSION: The Chairperson recommended the appointment of GLENWYN PROPERTY HOLDINGS PTY LTD - ACN 650 161 238 ("**Holding Trustee**"), to act as custodian for the Fund on Bare Trust, for the acquisition of the Asset on terms tabled and marked to this document as **Annexure 1**.

The Chairperson recommended the undertaking of a Limited Borrowing Arrangement, in accordance with section 67A of the SISA on terms compliant with PCG 2016/5 and TD 2016/16 and the Superannuation Laws generally, being terms which are arm's length and commercial in arrangement.

CLOSURE: There being no further business the meeting is closed.

Executed as a record of the matters above confirmed by the Chairperson:

The Chairperson

Glen Spencer

Dated: _____

ANNEXURE 1 – UPDATE TO INVESTMENT STRATEGY OF THE FUND

GLENWYN SUPER FUND PTY LTD - ACN 637 774 531 ("Trustee") for the **GLENWYN SUPER FUND** ("Fund") updates the Investment Strategy of the Fund as follows:

The Trustee has considered and consulted with the Members, and updates the Investment Strategy to detail the terms of settlement of a Holding Trust and appointment of Holding Trustee, document the consideration of a Limited Recourse Borrowing Arrangement ("LRBA") and provide additional terms in respect to the acquisition of Property Address: . ("Asset") for such purpose, including, but not limited to an allowance for the acquisition from a Member or Related Party of a Member of the Fund, having regard to the subsequent considerations:

- (a) The Fund must remain a regulated superannuation fund within the meaning of the Superannuation Laws;
- (b) The Asset acquired must satisfy the definition of a Single Acquirable Asset;
- (c) If the Asset acquired under a LRBA is Real Property and acquired from a Part 8 Associate (in summary, Member or related party of a Member), then:
 - (i) the Members or Trustee may receive written advice from a SMSF Advisor that the transaction is compliant with the Superannuation Laws;
 - (ii) the Real Property must be Business Real Property;
 - (iii) the acquisition of the Real Property must not be a Prohibited Related Party Transaction;
 - (iv) the acquisition is not an In-House Asset, or in the event the acquisition is an In-House Asset, that the In-House Asset Test is not failed as a consequence of the acquisition of the Asset;
 - (v) the acquisition of the Real Property will not result in the Fund breaching the Superannuation Laws;
 - (vi) if the Real Property is to be leased to a Part 8 Associate, that such lease will be on arm's length and commercial terms (including but not limited to rent, rent reviews, outlays, and conditions of use and access), with any default by the Part 8 Associate enforced in accordance with market standard enforcement processes;
 - (vii) the Fund would acquire the Real Property even if it was not going to be leased to a Part 8 Associate; and
 - (viii) the Fund would acquire the Real Property even if it was not acquired from a Part 8 Associate (if applicable);
- (d) If the Asset acquired under the LRBA is shares and/or units, then the Trustee will not enter into a dividend reinvestment plan, if such plan would violate the Superannuation Laws (which at this time it does);
- (e) The acquisition must not be a Prohibited Borrowing or Prohibited Related Party Acquisition;
- (f) The Asset will be insured properly by the Trustee, including but not limited to, where appropriate, Replacement and Reinstatement Value;
- (g) The Sole Purpose for acquiring the Asset is to further the development and funding required to pay retirement and death benefits for the Members of the Fund;

- (h) The Trustee will assist the risks of borrowing in respect to each Asset and proposed arrangement, and proceed on the basis that:
 - (i) the risks of borrowing are limited to the Asset acquired,
 - (ii) the borrowing is appropriate to the funding of the SMSF's financial obligations and investments, despite the risks involved in the borrowing;
 - (iii) the investment and borrowing is reasonable, given the liquidity requirements and cash flow consequences of the borrowing and Asset acquisition;
 - (iv) the investment and borrowing is appropriate, notwithstanding the potential timing of retirement of Members, as well as the possibility of early access to Member Interests as a consequence of the disability, death or payment splitting requirements of a Member; and
 - (v) the investment and borrowing are appropriate having regard to the diversification of the SMSF resources and returns necessary to achieve the Sole Purpose of the Fund;
- (i) If the Trustee acquires an Asset from a Part 8 Associate, the Trustee will be satisfied that the SMSF would have acquired the Asset even if the Asset was not acquired from a Part 8 Associate;
- (j) The Trustee will use the borrowed monies from the LRBA solely for the acquisition and/or maintenance of the Asset, which costs can include borrowing (financing or refinancing), acquisition costs (such as conveyancing fees, stamp duty, brokerage or loan establishment fees) and/or maintenance of the Asset (which costs may be by way of a draw down or redraw facility, provided the Superannuation Laws permit);
- (k) The Trustee will not enter into a LRBA with any party whereby the Loan to Value Ratio (LVR) in respect to the Asset and monies lent exceed the LVR allowed by the Superannuation Laws;
- (l) The Lender's rights against the SMSF will always be limited to the Asset;
- (m) The Asset may not be subject to any charge, excepting the Security allowed taken under the LRBA;
- (n) The Trustee will not improve or replace the Asset, except as permitted by the Superannuation Laws, having regard to Section 67B of the SISA and the Regulator's directions; and
- (o) The Trustee will not permit Part 8 Associates to have use or control over the Asset, except as expressly limited by the Superannuation Laws.

The following definitions apply to the Investment Strategy, as updated herein:

"Asset" includes one or more assets and any Replacement Asset allowed under Part 7 of the SISA and the Superannuation Laws generally, for purposes of sections 67, 67A and 67B of the SISA to be held by the Holding Trustee on Bare Trust for the absolute entitlement of the Borrower.

"Acquisition Costs" includes all monies required by the Borrower and Holding Trustee to acquire the Asset, including stamp duties, conveyancing costs and alike.

"arm's length" includes terms which, for purposes of sections 62 and 109 of the SISA are of nature and type which unrelated parties would agree to in commercial arrangements, and includes, but is not limited to the terms of Safe Harbour 1 and Safe Harbour 2 as

published in PCG 2016/5, and the terms on offer by commercial unrelated lenders to borrowers in respect to the acquisition of a substantially similar Asset under a Limited Recourse Borrowing Arrangement.

"Bare Trust" is the arrangement whereby one party holds an asset for the absolute entitlement and benefit of another party.

"Business Real Property" has the meaning given at section 66 of the SISA and includes any freehold or leasehold interest in Real Property, or any interest that is capable of assignment or transfer, or any other class of interest in relation to Real Property prescribed by the SISR for purposes of the Superannuation Laws as belonging to that class, where the Real Property is used wholly and exclusively in one or more businesses, but does not include any interest in the capacity of beneficiary of a trust estate.

"Commercial terms" includes terms and arrangements which unrelated commercial parties would be expected to agree to in respect to a thing or matter, and includes but is not limited to the terms of Safe Harbour 1 and Safe Harbour 2 as published in PCG 2016/5, adopted in TD 2016/16, and the terms on offer by commercial unrelated Lenders to Borrowers in respect to the acquisition of a substantially similar Asset under a Limited Recourse arrangement.

"Complying Superannuation Fund Status" includes, but is not limited to, a notice in respect to a SMSF of complying fund status in accordance with Part 5, Division 2 of the SISA.

"Holding Trust" is a Bare Trust created for the purpose of acquiring an asset for the exclusive and absolute entitlement of another, and for purposes of the Superannuation Laws is the Fund.

"Holding Trustee" is the Person appointed to hold the Asset on Bare Trust for the Fund.

"In-House Asset" is an asset as defined at section 71 of the SISA, and otherwise at the Superannuation Laws.

"Investment Strategy" includes any instrument in writing or agreement of the Trustee and Members of the Fund which satisfies the meaning given at regulation 4.09 of the *Superannuation Industry (Supervision) Regulations 1994*, and as otherwise provided in the Superannuation Laws.

"Line of Credit" is the facility for the provision of Monies by a Lender to a Borrower and may, if permitted by the Superannuation Laws, allow for a redraw facility.

"Limited Recourse" means the enforcement and rights allowed by a Lender in regard to a financing arrangement to a complying superannuation fund in relation to a borrowing arrangement as allowed by sections 67, 67A and/or 67B of the SISA, or as otherwise allowed by the Superannuation Laws.

"Loan to Value Ratio" is the ratio between the value of the Monies and the value of the Asset at a given time.

"Monies" includes cash, assets and any other form of property which may be used as a medium of exchange.

"Part 8 Associate" means a Person as shall be included as such for purposes of Part 8, subdivision B of the SISA, including sections 70B, 70C, 70D and 70E of the SISA, and as otherwise defined by the Superannuation Laws.

"Person" means an individual, a firm, a body corporate, a partnership, joint venture, an unincorporated body or association or any government agency.

"Prohibited Borrowing" means a borrowing arrangement which is in contravention to section 67(1) of the SISA and the Superannuation Laws.

"Prohibited Related Party Transaction" means a transaction by Part 8 Associates and the Fund which is prohibited by section 66 of the SISA and the Superannuation Laws, but does not include the acquisition of Listed Securities acquired at market value (see section 66(2)(a)), the acquisition of Business Real Property at market value (see section 66(2)(b)), the acquisition of an asset under a merger between regulated superannuation funds (see section 66(2)(c)) or any other asset allowed by the Regulator (see section 66(2)(d)).

"Regulator" means the government body having responsibility for the administration of self-managed superannuation funds, or having responsibility for a matter considered.

"Regulator's Terms" means the requirements published by the Regulator, by rulings, guidance statements, variations in legislation or regulation or otherwise, in respect to the undertaking of Limited Recourse arrangements, Related Party Transactions, borrowing and/or any and all other matters relevant to the maintenance of a Complying Superannuation Fund Status, and the arrangements by the Fund.

"Real Property" means freehold, leasehold or Crown land, buildings on freehold, leasehold or Crown land and such other property which is not personal property.

"Replacement Asset" means the acquisition of an Asset, in substitution for an original Asset, for purposes of section 67B of the SISA and the Superannuation Laws generally.

"Replacement and Reinstatement Value" means the amount required to excavate, remove, decommission, relocate, rebuild, restore and otherwise reinstate a thing which is partially or totally damaged or destroyed, to a substantially similar condition as the thing was prior to the damage and/or destruction.

"SISA" means *Superannuation Industry (Supervision) Act 1993*.

"Security" means the offering of a registered interest, which includes the offering of a mortgage, personal property security interest as defined at section 12 of the *Personal Property Securities Act 2009*, and such other thing or condition over an Asset capable of sale, disposal or dealing for the purpose of making a Person whole in respect to a loan, credit arrangement or other financial accommodation.

"Security Interest" means a Security that secures the payment of monies or servicing of obligations, giving priority to a Lender in rank to other lenders or creditors in relation to any real or personal property.

"Single Acquirable Asset" is an Asset or collection of Assets allowed to be acquired under a Limited Recourse Lending Arrangement as provided under section 67A of the SISA, and the Superannuation Laws.

"Sole Purpose" has the meaning given at section 62 of SISA, and the Superannuation Laws.

"SMSF" is a superannuation fund that meets all of the terms and conditions of a Complying Superannuation Fund as that term is defined under the Superannuation Laws.

"SMSF Advisor" is an accountant, financial planner or lawyer having knowledge and experience with the Superannuation Laws.

"Superannuation Laws" includes the *Superannuation Industry (Supervision) Act 1993* (SISA), the *Superannuation Industry (Supervision) Regulations 1994* (SISR), the *Income Tax Assessment Act 1936*, the *Income Tax Assessment Act 1997*, the *Income Tax Regulations*, the *Corporations Act 2001*, the *Corporations Regulations*, the *Social Security*

Act 1991, the Social Security Regulations, the Veterans Entitlement Act 1986, the Veterans Entitlement Regulations, the Family Law Act 1975, the Family Law Regulations, the Bankruptcy Act 1966, Superannuation (Departing Australia Superannuation Payments Tax) Act 2006, Superannuation (Excess Concessional Contributions Tax) Act 2006, Superannuation (Excess Non-concessional Contributions Tax) Act 2006, Superannuation (Self Managed Superannuation Funds) Supervisory Levy Amendment Act 2006 and any other law dealing with an Australian Superannuation Fund as amended from time to time, as required by the Regulator's Terms and adopted by the Trustee of the Fund.

**MINUTES OF MEETING OF THE DIRECTORS
GLENWYN PROPERTY HOLDINGS PTY LTD - ACN 650 161 238**

HELD AT: 24 ANDREAS STREET, PETERSHAM, NSW 2049

ON:

PRESENT: Glen Spencer and Bronwyn Elizabeth Spencer

CHAIRPERSON: Glen Spencer was elected to chair the meeting.

BUSINESS At a meeting of the Directors convened on this date, with the agenda accepted and notice waived and a quota met, the Directors met and resolved the following.

RESOLUTION 1: It is **RESOLVED** that the company accepts to act as the custodian for **GLENWYN SUPER FUND PTY LTD - ACN 637 774 531 OF 24 ANDREAS STREET, PETERSHAM, NSW 2049 AS TRUSTEE FOR GLENWYN SUPER FUND (Fund)**, and to enter into a Holding Trust Deed settling the Bare Trust arrangement.

DISCUSSION: The Directors discussed the request by the Fund to act as custodian on Bare Trust for the Fund, in the acquisition and holding of an Asset to be acquired by the Fund under a Limited Recourse Borrowing Arrangement (**LRBA**) in accordance with Section 67A of the *Superannuation Industry (Supervision) Act 1994 (SISA)*.

The Directors considered the appointment and obligations, as shown in the proposed Holding Trust Deed, shown at **Annexure 1**, and resolved unanimously to accept the appointment and to execute the proposed Holding Trust Deed.

RESOLUTION 2: It is **RESOLVED** that the company execute and do all things necessary to assist the Fund in the implementation of a LRBA, including but not limited to executing legal instruments which have the effect the acquisition of the Asset as Holding Trustee for the Fund, and the registration of a Security over the Asset, in favour of the Fund's lender(s).

DISCUSSION: The Directors considered the discussion above noted, and resolved unanimously to execute and do all things necessary to assist in the implementation of the LRBA arrangements.

CLOSURE: There being no further business the meeting is closed.

Executed as a record of the matters above confirmed by the Chairperson:

The Chairperson

Glen Spencer

Dated: _____