

Trustee declaration

To be completed by new trustees and directors of corporate trustees of self-managed super funds.



Read this declaration in conjunction with *Self-managed super funds – Key messages for trustees* (NAT 71128).

WHO SHOULD COMPLETE THIS DECLARATION?

You must complete this declaration if you become a **new** trustee (or director of a corporate trustee) of:

- a **new** self-managed super fund (SMSF)
- an **existing** SMSF.

You must sign this declaration within 21 days of becoming a trustee or director of a corporate trustee of an SMSF.

A separate declaration is required to be completed and signed by each and every new trustee.

A legal personal representative who holds an enduring power of attorney granted by a member may become a trustee or a director of the corporate trustee of the SMSF in place of the member. If they do, they are also required to complete and sign this declaration.

INFORMATION YOU NEED TO READ

Make sure you read *Self-managed super funds – Key messages for trustees* (NAT 71128). It highlights some of the key points from the declaration and some important messages for you.

BEFORE COMPLETING THIS DECLARATION

Before you complete and sign this declaration, make sure you:

- read each section
- understand all the information it contains.

🔍 If you have any difficulties completing this declaration or you do not fully understand the information it contains:

- speak to a professional adviser
- visit www.ato.gov.au
- phone us on **13 10 20**.

If you're not familiar with some of the terms used in this declaration or you need more information, refer to *Running a self-managed super fund* (NAT 11032).

WHEN COMPLETING THIS DECLARATION

When you complete this declaration, remember to:

- insert the full name of the fund at the beginning
- sign and date it
- ensure it is signed and dated by a witness (anyone 18 years old or over).

WHAT SHOULD I DO WITH THE DECLARATION?

You must keep your completed declaration for at least 10 years and make it available to us if we request it.

We recommend that you keep a copy of your completed declaration and *Self-managed super funds – Key messages for trustees* (NAT 71128) and refer to them when making important decisions, such as those relating to investments, making contributions and paying a pension or lump sum.

🚫 Do not send your completed declaration to us.



Self-managed super fund trustee declaration

I understand that as an individual trustee or director of the corporate trustee of

Fund name

MIDGLEY AND LYNCH SUPERANNUATION FUND

I am responsible for ensuring that the fund complies with the *Superannuation Industry (Supervision) Act 1993 (SISA)* and other relevant legislation. The Commissioner of Taxation (the Commissioner) has the authority and responsibility for administering the legislation and enforcing the fund's compliance with the law.

I must keep myself informed of changes to the legislation relevant to the operation of my fund and ensure the trust deed is kept up to date in accordance with the law and the needs of the members.

If I do not comply with the legislation, the Commissioner may take the following actions:

- impose administrative penalties on me
- enter into agreements with me to rectify any contraventions of the legislation
- disqualify me from being a trustee or director of a corporate trustee of any superannuation fund in the future
- remove the fund's complying status, which may result in a significant tax penalty on the fund
- prosecute me under the law, which may result in fines or imprisonment.

SOLE PURPOSE

I understand it is my responsibility to ensure the fund is maintained for the purpose of providing benefits to its members upon their retirement (or attainment of a certain age) or their beneficiaries if a member dies.

TRUSTEE DUTIES

I understand that by law I must:

- act honestly in all matters concerning the fund
- exercise skill, care and diligence in managing the fund
- act in the best interests of all the members of the fund
- ensure that retirement benefits are only accessed by members upon a legitimate condition of release being met
- not enter into transactions that circumvent restrictions on the payment of benefits
- ensure that my money and other assets are kept separate from the money and other assets of the fund
- take appropriate action to protect the fund's assets (for example, have sufficient evidence of the ownership of fund assets)
- not enter into any contract or do anything that would prevent me from, or hinder me in, properly performing or exercising my functions or powers as a trustee or director of the corporate trustee of the fund
- prepare and implement an investment strategy that takes the whole of the fund's circumstances into account, which includes, but is not limited to
 - the risks associated with the fund's investments
 - the likely return from investments, taking into account the fund's objectives and expected cash flow requirements
 - investment diversity and the fund's exposure to risk due to inadequate diversification
 - the liquidity of the fund's investments having regard to the fund's expected cash flow requirements in discharging its existing and prospective liabilities
- allow all members of the fund to have access to information and documents as required, including details about
 - the financial situation of the fund
 - the investments of the fund
 - the members' benefit entitlements.

Investment restrictions

I understand that, as a trustee or director of the corporate trustee of the fund, subject to certain limited exceptions specified in the law, I am prohibited from the following:

- lending money of the fund to, or providing financial assistance to, a member of the fund or a member's relative (financial assistance means any assistance that improves the financial position of a person directly or indirectly, including the provision of credit)
- acquiring assets (other than business real property, listed securities, certain in-house assets and acquisitions made under mergers allowed by special determinations or acquisitions as a result of a breakdown of a relationship) for the fund from members or other related parties of the fund
- borrowing money (or maintaining an existing borrowing) on behalf of the fund except in certain limited circumstances
- having more than 5% of the market value of the fund's total assets at the end of the income year as in-house assets (these are loans to, or investments in, related parties of the fund – including trusts – or assets subject to a lease or lease arrangement between the trustee and a member, relative or other related party)
- entering into investments on behalf of the fund that are not made or maintained on an arm's length (commercial) basis (this ensures the purchase or sale price of the fund's assets reflects their market value).

Accepting contributions and paying a benefit

I understand that I can only accept contributions and pay benefits (pensions or lump sums) to members or their beneficiaries when the conditions specified in the law and the fund's trust deed have been met.

Administration

I understand that the trustees of the fund must:

- keep and retain for at least 10 years
 - minutes of all trustee meetings at which matters affecting the fund were considered (this includes investment decisions and decisions to appoint members and trustees)
 - records of all changes of trustees, including directors of the corporate trustee
 - each trustee's consent to be appointed as a trustee of the fund or a director of the corporate trustee
 - all trustee declarations
 - copies of all reports given to members
- ensure that the following are prepared and retained for at least five years
 - an annual statement of the financial position of the fund
 - an annual operating statement
 - copies of all annual returns lodged
 - accounts and statements that accurately record and explain the transactions and financial position of the fund
- ensure that an approved auditor is appointed no later than 31 days before the due date of the fund's annual return to audit the fund for each income year, and provide that auditor with documents as requested
- lodge the fund's annual return, completed in its entirety, by the due date
- notify the ATO within 28 days of any changes in the
 - membership of the fund, or trustees or directors of the corporate trustee
 - name of the fund
 - details of the contact person and his/her contact details
 - postal address, registered address or address for service of notices for the fund
- notify the ATO in writing within 28 days of the fund being wound up or after becoming aware that the fund has ceased to be an SMSF.

DECLARATION

By signing this declaration I acknowledge that I understand my duties and responsibilities as a trustee or director of the corporate trustee of the self-managed superannuation fund named on this declaration (or if the fund's name changes, that name). I understand that:

- I must ensure this document is retained for at least 10 years or while I remain a trustee or director of the corporate trustee (whichever is longer) and, if I fail to do this, penalties may apply
- I may have to make this document available for inspection by a member of staff of the ATO and, if I fail to do this, penalties may apply.

Trustee's or director's name

NEIL EDWARD MIDGLEY

Trustee's or director's signature

X NM

Date

Day: 02 / Month: 12 / Year: 2011

Witness' name (witness must be 18 years old or over)

DEAN LYNCH

Witness' signature

D.S. Lynch

Date

Day: 02 / Month: 12 / Year: 2011

Karen Lynch

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Self-managed super fund trustee declaration

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- disqualify me from being a trustee or director of a corporate trustee of any superannuation fund in the future
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SOLE PURPOSE

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- not enter into any contract or do anything that would prevent me from, or hinder me in, properly performing or exercising my functions or powers as a trustee or director of the corporate trustee of the fund
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 - postal address, registered address or address for service of notices for the fund
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DECLARATION

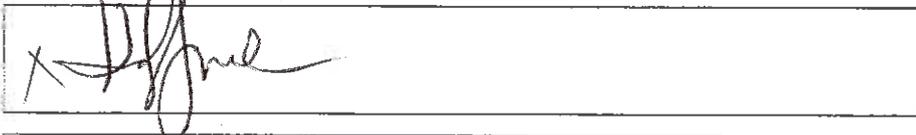
By signing this declaration I acknowledge that I understand my duties and responsibilities as a trustee or director of the corporate trustee of the self-managed superannuation fund named on this declaration (or if the fund's name changes, that name). I understand that:

- I must ensure this document is retained for at least 10 years or while I remain a trustee or director of the corporate trustee (whichever is longer) and, if I fail to do this, penalties may apply
- I may have to make this document available for inspection by a member of staff of the ATO and, if I fail to do this, penalties may apply.

Trustee's or director's name

KAREN ANNE LYNCH

Trustee's or director's signature



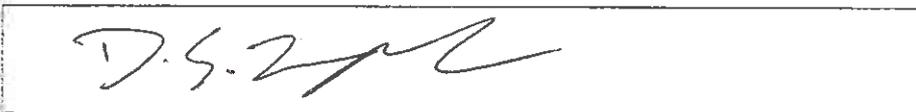
Date

Day: 02 / Month: 04 / Year: 2011

Witness' name (witness must be 18 years old or over)

DEAN LYNCH

Witness' signature



Date

Day: 02 / Month: 12 / Year: 2011

CONSENT TO ACT AS DIRECTOR OF TRUSTEE

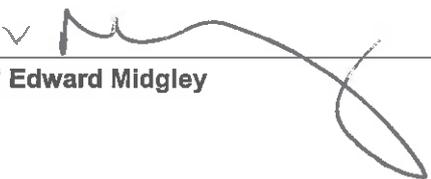
under section 118 of the *Superannuation Industry (Supervision) Act 1993*

Midgley and Lynch Superannuation Fund (Fund)

I, **Neil Edward Midgley** of 7 Padua Place, Boondall, QLD 4034 consent to act as a director of **Midgley and Lynch Nominees Pty Ltd ACN 153 846 050** acting in its capacity as trustee for the Fund (**Trustee**) and declare:

1. that I am not disqualified from acting as a director of a corporate trustee of a superannuation entity under the *Superannuation Industry (Supervision) Act 1993 (SIS Act)*; and
2. that I will notify the Australian Taxation Office immediately if I should become a disqualified person.

Dated: 2 / 12 / 2011



Neil Edward Midgley

Notes on disqualification

The SIS Act provides that the following persons are disqualified from acting as the sole director of the corporate trustee of a superannuation entity:

1. persons who have prior convictions involving dishonest conduct, wherever and whenever the conviction may have occurred;
2. persons who are insolvent, bankrupt or having entered into arrangements, assignments or compositions with creditors under Part X of the *Bankruptcy Act 1956* (Cth) or a similar foreign law;
3. persons in relation to whom a civil penalty order has been made under the SIS Act; and
4. persons expressly declared not to be "fit and proper" persons under sections 126A(3) or 126H(5) of the SIS Act.

CONSENT TO ACT AS DIRECTOR OF TRUSTEE

under section 118 of the *Superannuation Industry (Supervision) Act 1993*

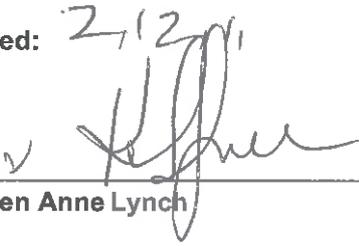
Midgley and Lynch Superannuation Fund (Fund)

I, **Karen Anne Lynch** of 7 Padua Place, Boondall, QLD 4034 consent to act as a director of **Midgley and Lynch Nominees Pty Ltd ACN 153 846 050** acting in its capacity as trustee for the Fund (**Trustee**) and declare:

1. that I am not disqualified from acting as a director of a corporate trustee of a superannuation entity under the *Superannuation Industry (Supervision) Act 1993 (SIS Act)*; and
2. that I will notify the Australian Taxation Office immediately if I should become a disqualified person.

Dated:

2, 12, 2011



Karen Anne Lynch

Notes on disqualification

The SIS Act provides that the following persons are disqualified from acting as the sole director of the corporate trustee of a superannuation entity:

1. persons who have prior convictions involving dishonest conduct, wherever and whenever the conviction may have occurred;
2. persons who are insolvent, bankrupt or having entered into arrangements, assignments or compositions with creditors under Part X of the *Bankruptcy Act 1956 (Cth)* or a similar foreign law;
3. persons in relation to whom a civil penalty order has been made under the SIS Act; and
4. persons expressly declared not to be "fit and proper" persons under sections 126A(3) or 126H(5) of the SIS Act.

MIDGLEY AND LYNCH SUPERANNUATION FUND
(FUND)

MIDGLEY AND LYNCH NOMINEES PTY LTD
ACN: 153 846 050
(COMPANY)

RESOLUTION OF THE DIRECTORS

MADE ON THE *2nd* DAY OF *DECEMBER* 20 *11*

**Superannuation Fund
Trustee**

The Directors tabled a proposal that the Company accept the position of trustee for the Midgley and Lynch Superannuation Fund (**Fund**) constituted to commence forthwith in accordance with the terms and conditions set out in the trust deed of the Fund (**Trust Deed**) annexed to these resolutions.

After considering the contents of the Trust Deed, it was resolved that the Company consent to act as trustee of the Fund in accordance with the terms and conditions of the Trust Deed and that the Company, in its capacity as trustee of the Fund (**Trustee**) execute the Trust Deed.

**Consent to act and
Directors declaration**

The Directors noted the requirements of the *Superannuation Industry (Supervision) Act 1993 (SIS Act)*. Under the SIS Act the directors of a trustee of a superannuation fund must state that they are not disqualified to act as directors of the trustee and sign a declaration acknowledging that they understand their duties and responsibilities as a director of the trustee.

It was resolved that the Trustee accept the consents to act and trustee declarations signed by Neil Edward Midgley and Karen Anne Lynch stating that they are not disqualified to act under the SIS Act.

Investment strategy

It was resolved that the Trustee take steps to determine an investment strategy for the Fund in accordance with the requirements of the SIS Act and its regulations.

**Product disclosure
statement (PDS)**

It was resolved that each prospective member of the Fund be given a PDS, with an attached membership application form, containing such information required by the *Corporations Act 2001* as a member would reasonably need for the purpose of making a decision whether to acquire an interest in the Fund.

Bank account

It was resolved that the Trustee open a bank account in the name of the Fund at a nominated bank to facilitate the operation of the Fund.

Tax file number

It was resolved that the Trustee make an application for a tax file number for the Fund.

**Election to be a regulated
superannuation fund**

The Directors, being satisfied that:

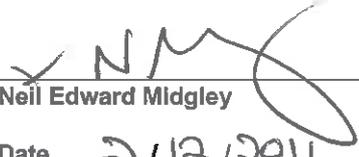
- (a) the Trust Deed allows the trustee of the Fund to be a constitutional corporation; and
- (b) the Trust Deed contains all necessary requirements to facilitate the operation of the Fund by the Trustee as a regulated superannuation fund,

resolved that the Trustee make an irrevocable election in the approved form that the Fund is to be a regulated superannuation fund under the SIS Act thereby entitling the Fund to concessional taxation treatment in accordance with the provisions of the SIS Act.

Trustee to lodge form
with ATO

It was resolved that the approved form be executed and lodged with the Australian
Taxation Office within 60 days.

Signed as a true and correct record.



Neil Edward Midgley
Date 2/12/2011



Karen Anne Lynch
Date 2/12/11

MIDGLEY AND LYNCH NOMINEES PTY LTD
ACN: 153 846 050
(COMPANY)
AS TRUSTEE FOR
MIDGLEY AND LYNCH SUPERANNUATION FUND

RESOLUTION OF THE DIRECTORS

MADE ON THE 2nd DAY OF December 2011

Membership of the Fund The Directors tabled written applications for membership of the Midgley and Lynch Superannuation Fund (**Fund**) received from the following persons:

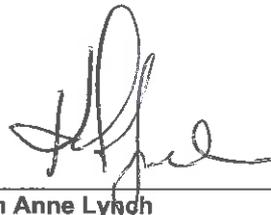
Member's Name	Address
Neil Edward Midgley	7 Padua Place Boondall, QLD 4034
Karen Anne Lynch	7 Padua Place Boondall, QLD 4034

Resolved that the Company accept the applications for membership and admit those persons to membership of the Fund, and that the membership of those persons will commence on and from the date of this resolution.

Signed as a true and correct record.

x 

Neil Edward Midgley
Date 2/12/2011

x 

Karen Anne Lynch
Date 2/12/11