

# MINUTES OF MEETING

Page No.

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**MINUTES OF A MEETING OF THE DIRECTORS OF  
DUFFY ASSETS PTY LTD  
A.C.N. 163-889-174  
AS TRUSTEE FOR:  
P & L DUFFY SUPER FUND**

We don't have a signed  
copy of these docs  
The client has them  
Both trustees are ill  
The Fund will be wound  
up this month

HELD AT: 295/39 WEARING ROAD  
BARGARA QLD 4670  
AT: 4.00 PM  
ON: 11th December, 2019

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PRESENT: GERARD PAUL DUFFY  
LYNETTE DUFFY

ACCEPTANCE OF  
TRUSTEE: The Chairman tabled a Superannuation Fund Trust Deed  
known as:  
P & L DUFFY SUPER FUND

RESOLVED that the Company accept the Trusteeship of the  
Superannuation Fund and agree to administer the Fund in  
accordance with the terms and conditions set out in the Deed.

DIRECTORS NOT  
DISQUALIFIED: Each of the directors stated that they are not disqualified  
persons for the purposes of the Superannuation Industry  
(Supervision) Act 1993.

EXECUTION OF  
TRUST DEEDS: RESOLVED that the Company apply its seal and execute the  
Superannuation Fund Trust Deeds.

BANK ACCOUNT: RESOLVED that the Trustees take appropriate steps to  
establish a Banking Account for the Fund.

CLOSURE OF  
MEETING: There being no further business, the meeting ended at 4.30 PM.

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Signed as a correct record.

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**MINUTES OF A MEETING OF THE DIRECTORS OF  
DUFFY ASSETS PTY LTD  
A.C.N. 163-889-174  
AS TRUSTEE FOR:  
P & L DUFFY SUPER FUND**

HELD AT: 295/39 WEARING ROAD  
BARGARA QLD 4670  
AT: 4.30 PM  
ON: 11th December, 2019

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PRESENT: GERARD PAUL DUFFY  
LYNETTE DUFFY

ACCEPTANCE  
AS MEMBER:

An application for Membership was received from:  
GERARD PAUL DUFFY  
LYNETTE DUFFY

RESOLVED to accept the Application for Membership and  
that the applicant be entered into the Register of Members and  
notified accordingly.

CLOSURE OF  
MEETING:

There being no further business, the meeting ended at 5.00 PM.

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Signed as a correct record.

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MINUTES OF MEETING

Page No.

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**MINUTES OF A MEETING OF THE DIRECTORS OF  
DUFFY ASSETS PTY LTD  
A.C.N. 163-889-174  
AS TRUSTEE FOR:  
P & L DUFFY SUPER FUND**

HELD AT:

AT: AM/PM

ON:

---

PRESENT:

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Signed as a correct record.

.....

/ /

11/12/2019

P & L DUFFY SUPER FUND  
C/- LEVEL 1, 1454 LOGAN ROAD  
MOUNT GRAVATT QLD 4122

**RE: ACCEPTANCE OF TRUSTEESHIP OF  
P & L DUFFY SUPER FUND**

The company hereby accepts the appointment as trustee of the above superannuation fund and agrees to be bound by the terms and conditions, duties and obligations specified in the Deed.

Yours faithfully,

.....  
GERARD PAUL DUFFY

.....  
LYNETTE DUFFY

For and on behalf of  
DUFFY ASSETS PTY LTD  
A.C.N. 163-889-174

11th December, 2019  
GERARD PAUL DUFFY  
295/39 WEARING ROAD  
BARGARA QLD 4670

*Dear Sir/Madam,*

*Re: Notice to New Member pursuant to the Superannuation Industry (Supervision) Regulations 1993 in relation to the following Superannuation Fund:-*

**P & L DUFFY SUPER FUND**

*We wish to advise that your Application for Membership of the above Superannuation Fund has been accepted.*

*The Superannuation Fund is governed by a Trust Deed which is available for inspection by Members at the office of the Trustee(s) during business hours. The Deed sets out the terms and conditions upon which the Trustee administers the Fund.*

*The Deed is established as a complying superannuation fund the income of which is taxed at a concessional rate pursuant to the provisions of the Income Tax Assessment Act. Contributions made to the Fund are taxable in the hands of the Trustee at a rate fixed by the Government. Currently the rate is 15% per annum.*

*Contributions to the Fund can be made by both yourself and your employer. As the maximum amount which can be contributed in respect of a Member of the Fund is determined by criteria specified by legislation, you should ascertain what contributions are being made by your employer if you desire to make personal contributions. The Fund is conducted as an allocated accumulation Fund.*

*Upon retirement, normally at age 65, a Member is entitled to a pension (which may be commuted to a lump sum) benefit of an amount equal to the Member's Accumulation Account.*

*Benefits payable in respect of Total and Permanent Disability are the same as those payable upon retirement. In addition, any amounts received by the Trustee from any policy of insurance as result of the Total and Permanent Disability of the Member will be payable to such Member.*

*In the event of the death of a Member prior to normal retirement age, the Trustee may pay to the Dependants, Spouse or Estate of such Member an amount equal to the Member's Accumulation Account. In addition, any amounts received by the Trustee from any policy of insurance as result of the death of the Member may be payable to the Dependants of such Member.*

*Further information regarding the above and other matters can be obtained by reading a copy of the Trust Deed.*

*Yours faithfully,*

.....  
*Signed for and on behalf of the Trustee (s)*

11th December, 2019  
LYNETTE DUFFY  
295/39 WEARING ROAD  
BARGARA QLD 4670

*Dear Sir/Madam,*

*Re: Notice to New Member pursuant to the Superannuation Industry (Supervision) Regulations 1993 in relation to the following Superannuation Fund:-*

**P & L DUFFY SUPER FUND**

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*Further information regarding the above and other matters can be obtained by reading a copy of the Trust Deed.*

*Yours faithfully,*

.....  
*Signed for and on behalf of the Trustee (s)*

.....  
.....  
.....

**RE: CHOICE OF SUPERANNUATION FUND  
P & L DUFFY SUPER FUND**

For your information, we confirm that .....  
is a member of the superannuation fund identified above (the "Fund"). We have been informed that this person is an employee of yours and that they have (or will) complete a Standard Choice Form, for the purposes of nominating the Fund for the receipt of employer contributions. In this regard, we confirm the following:-

1. The Fund has received notification from the Australian Taxation Office that it is a regulated superannuation fund, for the purposes of the *Superannuation Industry (Supervision) Act 1993*, as amended. A copy of this notification is attached.
2. The Fund is being operated in accordance with the provisions the relevant legislation, the trustees believe that the Fund is a "complying" superannuation fund for the purposes of that legislation and have not received any notices which would indicate otherwise.
3. The Fund will accept employer contributions made in respect of the above member of the Fund from any of the member's employers, which may be made either by cheque or by direct deposit. The Fund does not set limits on the frequency with which contributions are made.

Yours sincerely,

GERARD PAUL DUFFY  
on behalf of  
P & L DUFFY SUPER FUND

C/- LEVEL 1, 1454 LOGAN ROAD  
MOUNT GRAVATT QLD 4122

**REGISTER OF MEMBERS OF: P & L DUFFY SUPER FUND**

***FOLIO No: 1***

[illegible]



**REGISTER OF MEMBERS OF: P & L DUFFY SUPER FUND**

**FOLIO No: 2**

[illegible]

THE TRUSTEES  
P & L DUFFY SUPER FUND  
C/- LEVEL 1, 1454 LOGAN ROAD  
MOUNT GRAVATT QLD 4122  
Re: Application For Membership

I, the undersigned person, being eligible, hereby apply for admission to membership of the  
P & L DUFFY SUPER FUND

I undertake as follows:

- (i) I will be bound by the Trust Deed governing the Fund as it is presently constituted or as it may be varied from time to time.
- (ii) I understand the terms and conditions of the Trust Deed including benefits payable to Members and understand my rights and the rights of my dependants pursuant to the Trust Deed.

My personal details and my employer(s) details are attached.

I hereby acknowledge that the discretion vested in you by Rule 12.2 of the Fund is an absolute free and unfettered discretion but I express the wish that in the exercise of such discretion you give consideration to paying any death benefit in the following proportions:-

Name of Designated Beneficiary	Address of Designated Beneficiary	Relationship to Member	Proportion of Death Benefit
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....

I understand that the trustee is required to request that I provide my tax file number for the purposes of the Income Tax Assessment Act. I further understand that I am under no obligation to supply this number, but that should I fail to do so, tax may be deducted at a higher rate from my account.

My tax file number is: .....-.....-.....

11th December, 2019

Yours faithfully,

.....  
LYNETTE DUFFY

**EMPLOYEE'S PERSONAL AND EMPLOYMENT DETAILS**

Full Name: LYNETTE DUFFY  
Address: 295/39 WEARING ROAD  
BARGARA QLD 4670  
D.O.B.: 20th September, 1946

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Salary: \$  
Employer:  
Address:

Date Employment Commenced:        /    /

THE TRUSTEES  
P & L DUFFY SUPER FUND  
C/- LEVEL 1, 1454 LOGAN ROAD  
MOUNT GRAVATT QLD 4122  
Re: Application For Membership

I, the undersigned person, being eligible, hereby apply for admission to membership of the  
P & L DUFFY SUPER FUND

I undertake as follows:

- (i) I will be bound by the Trust Deed governing the Fund as it is presently constituted or as it may be varied from time to time.
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I understand that the trustee is required to request that I provide my tax file number for the purposes of the Income Tax Assessment Act. I further understand that I am under no obligation to supply this number, but that should I fail to do so, tax may be deducted at a higher rate from my account.

My tax file number is: .....-.....-.....

11th December, 2019

Yours faithfully,

.....  
GERARD PAUL DUFFY

**EMPLOYEE'S PERSONAL AND EMPLOYMENT DETAILS**

Full Name: GERARD PAUL DUFFY  
Address: 295/39 WEARING ROAD  
BARGARA QLD 4670  
D.O.B.: 13th July, 1944

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Salary: \$  
Employer:  
Address:

Date Employment Commenced:        /    /



**EMPLOYEE'S PERSONAL AND EMPLOYMENT DETAILS**

Full Name:

Address:

D.O.B.:

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Salary: \$

Employer:

Address:

Date Employment Commenced:        /    /

# PRODUCT DISCLOSURE STATEMENT

Name of Superannuation Fund: P & L DUFFY SUPER FUND

Date of Notice: 11/12/2019

Name of Member: GERARD PAUL DUFFY

Address of Member: 295/39 WEARING ROAD  
BARGARA QLD 4670

This Product Disclosure Statement (PDS) may be required by Part 7.9 of the *Corporations Act 2001*, as amended, to be given to members of superannuation funds being issued with an interest in the above superannuation fund (the “Fund”) for the first time. An interest in this Fund includes the acceptance of your initial application for membership and may also include your change from an accumulation or growth phase, to pension phase.

This PDS applies in respect of the Fund, so long as it remains a self-managed superannuation fund (SMSF), pursuant to the *Superannuation Industry (Supervision) Act 1993*, as amended.

Much of the information required to be provided in a PDS for a SMSF will fall into one of the following categories:-

- Information of which you are already aware (e.g. your address and contact details for the above SMSF).
- Information which your duties and responsibilities as a trustee of the above SMSF require that you be aware of, prior becoming a trustee (e.g. the terms of the trust deed and governing rules of the above SMSF).
- Where the Fund is a newly established superannuation fund, information which has not come into existence at the date of this PDS being issued (e.g. fees and charges, investment strategy and returns, etc.)

It is important to note that this information relates to your membership of the Fund, not to your obligations as a trustee of the Fund. It is up to you to decide whether or not you wish to take on the responsibility of trusteeship of a SMSF, however you cannot be a member of a SMSF without also being a trustee or director of a corporate trustee of the Fund. You should separately familiarise yourself with your trustee duties.

Pursuant to Section 1013D of the *Corporations Act 2001*, as amended, the following information is provided to you:-

## **Name and Contact Details of the Product Issuer**

The above SMSF is the issuer of this PDS. The Fund’s contact details are determined by you and (where applicable) your co-trustee(s) (or director(s) of a corporate trustee). They will either be your own address, or an address to which you have previously agreed and been made aware of.

## **Benefits**

The benefits available to you are set out in the above SMSF’s trust deed. As a member of a SMSF, with the agreement of your co-trustee(s), you can choose any form or combination of retirement benefits legally available – you have as much flexibility as is possible.

Your primary form of retirement benefit is a “pension”, as that term is defined in the *Superannuation Industry (Supervision) Regulations 1994*, however you may choose a lump sum benefit, by request made in writing at the time you wish to take your benefits. Other benefits potentially available to you include: death benefits, total and permanent disablement benefits and total and temporary disablement benefits.

Once you have “retired” after age 55 years, you will be entitled to commence to take your superannuation benefits. Any decision (except for the option to take a lump sum) may be verbal, but should preferably be in writing. It should be noted that the timing and types of superannuation benefits you may be entitled to take is the subject of regular legislative change. As such, you should check what options are available to you, at the time you are ready to start taking your benefits.



There may be significant taxation and other implications, should you choose to take your retirement benefits in one form or another. The area of benefits design is a complex, but critical area to ensuring the value of your superannuation savings are maximised. As such, we strongly recommend that you seek professional advice, prior to taking any benefits.

### **Nominating Beneficiaries**

You may make two different types of nominations in relation to the payment of your benefits upon your death. The first is contained in your Application for Membership of the Fund. This nomination is not binding on the trustee and may be open to challenge by any potential beneficiaries. Nevertheless, the trustee must give this nomination serious consideration and would require good reasons not to distribute in accordance with these wishes.

The second type of nomination is called a Binding Beneficiary Nomination. This nomination must meet certain forms, including being signed by two independent witnesses and at least once every three years being confirmed, modified or repealed by notice in writing from you to the trustee. The requirements to be followed in relation to Binding Beneficiary Nominations are to be found in the trust deed. You should be aware that the trustee cannot deviate from the terms of a valid, binding nomination, even if the consequences of complying with it would result in higher tax than might be possible via other avenues, or where you have changed your mind about the beneficiaries or the amounts they should receive. As such, it is important that you seek professional advice, prior to submitting a Binding Beneficiary Nomination.

### **Risks**

This SMSF is an accumulation fund. This means that amounts (including contributions, transfers and rollovers and accumulated earnings) are invested as you and your co-trustees (or director(s) of a corporate trustee) see fit.

Depending upon the investment decisions which you as trustee and any of your co-trustees/co-directors make over time, you will either accumulate investment gains (including capital and income gains) or accumulate investment losses. In some years, gains may arise and in other years, losses may arise. This will affect the balance of your member's accumulation account. As a trustee, you have both the responsibility for and control over the manner in which the Fund's investments are made and, as such, you control the risks associated with the Fund's investments.

### **Amounts Payable and Fund Expenses**

As a trustee of the SMSF, you and your co-trustee(s)/co-director(s) control any amounts which might be payable for the issue of your membership in the Fund. Costs and expenses of the Fund may either be shared equitably among members by way of deduction from their accounts or, where the expense relates to identifiable members only, from those members' accounts.

### **Commissions**

As a trustee of the SMSF, you and your co-trustee(s)/co-director(s) control any appointments of financial professionals and investments into products which might include commissions.

### **Dispute Resolution**

The dispute resolutions mechanisms available to members are found in the Fund's trust deed. As a trustee, it is reasonable to presume that you have familiarized yourself with the contents of the trust deed. As such, pursuant to Section 1013F of the *Corporations Act 2001*, as amended, detailed information concerning the dispute resolution mechanisms available under the deed are not included in this PDS.

### **Taxation Implications**

All superannuation funds in the accumulation phase pay 15% tax on their net taxable incomes. Net taxable income includes assessable contributions, plus investment earnings, less deductible expenses. Other rebates and credits, such as franking rebates and imputations credits may reduce the amount of tax which a superannuation fund must pay. Net taxable capital gains of a superannuation fund are taxed at 10%.

Each year, the trustee will make a determination as to how these taxes are to be deducted from an individual member's account. The trustee is required to determine this in an equitable manner, as between the members.

Depending on your personal taxable income in a given year, there may also be a liability for the superannuation contribution surcharge tax in respect of any tax-deductible contributions made by your employer or yourself. Where surcharge is payable, this amount will be directly deducted from your member's account.

The income and capital gains of a superannuation fund which is paying one or more pensions will be exempt from tax, to the extent that the assets of the Fund are considered to be supporting those pensions (and taxable to the extent that those assets are considered to be supporting continuing accumulations and reserves). The amount of tax which you as trustee and your co-trustee(s)/co-director(s) consider to be a reasonable and equitable allocation for each member each year will be deducted from the balance of your member's accumulation account.

The rules regarding personal taxation of superannuation benefits are far too complex to address in this document. It is strongly advised that you seek professional advice regarding the taxation of your personal superannuation benefits and the options available to you.

### **Cooling-off Period**

There is a fourteen (14) day cooling-off period from the date you are issued with membership of the above SMSF, during which time you may cancel your membership of the Fund. Note that the trustee must receive notification of your membership cancellation prior to the expiry of this period, in order for it to be considered effective. Note also that the cooling off period relates to your membership only and does not give you a right to resile from your duties as a trustee of the Fund (including payment for the establishment of the Fund itself).

### **Insurance**

There is no obligation for the trustee of the Fund to take out life or other insurances on your behalf. Obviously, however, as a trustee of the Fund, you are in a position to make such application. As noted above, benefits can be paid out in similar circumstances to normal insurable events (death, total and permanent disablement, total and temporary disablement), however where the Fund has not undertaken insurance on your behalf, any payments will be limited to the value of your member's accumulation account.

### **Alternative Types of Superannuation Funds**

You should be aware that there are a number of alternative forms of superannuation available to you, each of which have different characteristics. You should consider your own situation carefully, prior to becoming a member of one form of superannuation fund, or another and should seriously consider seeking advice from an authorised representative of an Australian financial services licensee.

#### **Public Offer Superannuation Funds**

These funds are managed by a trustee on your behalf. You may have a choice of broad "categories" for investment, such as conservative, balanced, growth, etc., where you have no control over the actual investments which are undertaken by the fund (and, depending upon their reporting, you may never know what those assets are). Certain other funds allow members (usually only through a financial planner) to select individual investments from a menu of options. An example might be a list of 50 managed funds and shares in the top 200 ASX listed companies. Typically, you will only receive written reports on your share of the fund's performance annually in your member statement, although you may be able to access interim performance results for the fund (e.g. via a website). Fees will usually be charged on entry and exit from these funds. There will also be contribution fees, administration fees, category switching fees (often only after a certain number of free annual switches) and asset management fees. Some of these fees are normally be charged as a percentage of your account balance. Many public offer funds will include a commission payable to the advisor who recommends the fund to you. In most cases, the more investment choices you have, the higher the overall level of fees the fund charges. Typically, you can purchase insurance (life, total and permanent disablement and sometimes total and temporary disablement) Public offer funds may restrict the types of benefits which are payable upon your death or retirement (eg. they may not pay certain types of pensions, or may require you to transfer to another sub-category within their fund before paying pensions).

#### **Industry Superannuation Funds**

These funds are managed by a trustee on your behalf. In the past, these funds have only been open to members of a certain union or industry, however many are now accepting membership from other parties. You may not have a choice of "categories" for investment in these funds, although many now offer similar choices of categories to public offer funds, such as conservative, balanced, growth, etc.. Once again, you have no control over the actual investments which are undertaken by the fund (and, depending upon their reporting, you may never know what those assets are). Typically, you will only receive reports on your

share of the fund's performance annually in your member statement, although you may be able to access interim performance results for the fund (e.g. via a website). Where categories are available, there will normally be restrictions on the frequency with which you can change between categories. Fees will usually be charged on entry and exit from these funds. There will also be contribution fees, administration fees, category switching fees (often only after a certain number of free annual switches) and asset management fees. Some of these fees will normally be charged as a percentage of your account balance. Industry funds do not normally pay commissions to advisors who recommend the fund to you. Typically, a certain level of "group" insurance (life, total and permanent disablement and sometimes total and temporary disablement) will be provided by industry funds without medical requirements. Additional insurance can be acquired with medical examination. Industry funds may restrict the types of benefits which are payable upon your death or retirement (e.g. they may not pay certain types of pensions, or may require you to transfer to another sub-category within their fund before paying pensions).

#### Small APRA Funds

These funds are similar to SMSF's, except that they have an independent trustee. The independent trustee must be an "approved" trustee. Typically, these are large public trustee corporations. They will charge fees for their services and all decisions as to investments, benefit payments, etc. must be approved by them. They will normally control the fund's cheque book and appoint the accountants and auditors of the fund. They are normally only chosen when a member wishes to have investment flexibility close to that of a SMSF, but for one reason or another, they cannot be a trustee of their own fund (eg. because they are an undischarged bankrupt and therefore a "disqualified" person, or because the trustees are leaving Australia for more than two years, which can have adverse tax consequences). Because of the expense of the approved trustee services, these funds are only used in a very limited number of cases.

There are two other types of superannuation fund - employer-sponsored superannuation funds and public sector superannuation schemes - which are not discussed here, as they are not a type of fund which a member can typically "choose" to join (your employer will make the choice to contribute to such a fund, without reference to you as an employee).

#### **Other Information**

The first duty of a trustee is to familiarize themselves with the terms of and their duties under the trust. Pursuant to Section 17A of the *Superannuation Industry (Supervision) Act 1993*, as amended, all members of SMSF's must be trustees (or directors of the Fund's corporate trustee).

This PDS addresses issues which relate to your proposed membership of the Fund, not issues which arise in relation to your duties and liabilities as a trustee of the Fund. As a trustee, it is your responsibility to separately familiarise yourself with those duties and liabilities and to be actively involved in the operation of the Fund. As this is a legal obligation, it is reasonable to presume that you have done so. As such, pursuant to Section 1013F of the *Corporations Act 2001*, as amended, detailed information concerning other matters pertaining to the operation of the Fund are not included in this PDS.

#### **Other Documents Forming Part of This PDS, For Funds Other Than New Funds**

Where the Fund is a pre-existing fund and you are joining as a member, or where you are an existing member and are commencing to take your benefit in the form of a pension, you will find the following documents annexed to this PDS:-

- The Fund's investment strategy; and
- The last financial statements prepared in respect of the Fund.

These documents form part of this PDS for funds other than newly established funds. If you have not yet received a copy of these documents, you should not sign this PDS until you have received them.

I have read and understood this Product Disclosure Statement, prior to signing my Application for Membership:-

.....  
GERARD PAUL DUFFY

...../...../.....

# PRODUCT DISCLOSURE STATEMENT

Name of Superannuation Fund: P & L DUFFY SUPER FUND

Date of Notice: 11/12/2019

Name of Member: LYNETTE DUFFY

Address of Member: 295/39 WEARING ROAD  
BARGARA QLD 4670

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This PDS applies in respect of the Fund, so long as it remains a self-managed superannuation fund (SMSF), pursuant to the *Superannuation Industry (Supervision) Act 1993*, as amended.

Much of the information required to be provided in a PDS for a SMSF will fall into one of the following categories:-

- Information of which you are already aware (e.g. your address and contact details for the above SMSF).
- Information which your duties and responsibilities as a trustee of the above SMSF require that you be aware of, prior becoming a trustee (e.g. the terms of the trust deed and governing rules of the above SMSF).
- Where the Fund is a newly established superannuation fund, information which has not come into existence at the date of this PDS being issued (e.g. fees and charges, investment strategy and returns, etc.)

It is important to note that this information relates to your membership of the Fund, not to your obligations as a trustee of the Fund. It is up to you to decide whether or not you wish to take on the responsibility of trusteeship of a SMSF, however you cannot be a member of a SMSF without also being a trustee or director of a corporate trustee of the Fund. You should separately familiarise yourself with your trustee duties.

Pursuant to Section 1013D of the *Corporations Act 2001*, as amended, the following information is provided to you:-

## **Name and Contact Details of the Product Issuer**

The above SMSF is the issuer of this PDS. The Fund’s contact details are determined by you and (where applicable) your co-trustee(s) (or director(s) of a corporate trustee). They will either be your own address, or an address to which you have previously agreed and been made aware of.

## **Benefits**

The benefits available to you are set out in the above SMSF’s trust deed. As a member of a SMSF, with the agreement of your co-trustee(s), you can choose any form or combination of retirement benefits legally available – you have as much flexibility as is possible.

Your primary form of retirement benefit is a “pension”, as that term is defined in the *Superannuation Industry (Supervision) Regulations 1994*, however you may choose a lump sum benefit, by request made in writing at the time you wish to take your benefits. Other benefits potentially available to you include: death benefits, total and permanent disablement benefits and total and temporary disablement benefits.

Once you have “retired” after age 55 years, you will be entitled to commence to take your superannuation benefits. Any decision (except for the option to take a lump sum) may be verbal, but should preferably be in writing. It should be noted that the timing and types of superannuation benefits you may be entitled to take is the subject of regular legislative change. As such, you should check what options are available to you, at the time you are ready to start taking your benefits.

There may be significant taxation and other implications, should you choose to take your retirement benefits in one form or another. The area of benefits design is a complex, but critical area to ensuring the value of your superannuation savings are maximised. As such, we strongly recommend that you seek professional advice, prior to taking any benefits.

### **Nominating Beneficiaries**

You may make two different types of nominations in relation to the payment of your benefits upon your death. The first is contained in your Application for Membership of the Fund. This nomination is not binding on the trustee and may be open to challenge by any potential beneficiaries. Nevertheless, the trustee must give this nomination serious consideration and would require good reasons not to distribute in accordance with these wishes.

The second type of nomination is called a Binding Beneficiary Nomination. This nomination must meet certain forms, including being signed by two independent witnesses and at least once every three years being confirmed, modified or repealed by notice in writing from you to the trustee. The requirements to be followed in relation to Binding Beneficiary Nominations are to be found in the trust deed. You should be aware that the trustee cannot deviate from the terms of a valid, binding nomination, even if the consequences of complying with it would result in higher tax than might be possible via other avenues, or where you have changed your mind about the beneficiaries or the amounts they should receive. As such, it is important that you seek professional advice, prior to submitting a Binding Beneficiary Nomination.

### **Risks**

This SMSF is an accumulation fund. This means that amounts (including contributions, transfers and rollovers and accumulated earnings) are invested as you and your co-trustees (or director(s) of a corporate trustee) see fit.

Depending upon the investment decisions which you as trustee and any of your co-trustees/co-directors make over time, you will either accumulate investment gains (including capital and income gains) or accumulate investment losses. In some years, gains may arise and in other years, losses may arise. This will affect the balance of your member's accumulation account. As a trustee, you have both the responsibility for and control over the manner in which the Fund's investments are made and, as such, you control the risks associated with the Fund's investments.

### **Amounts Payable and Fund Expenses**

As a trustee of the SMSF, you and your co-trustee(s)/co-director(s) control any amounts which might be payable for the issue of your membership in the Fund. Costs and expenses of the Fund may either be shared equitably among members by way of deduction from their accounts or, where the expense relates to identifiable members only, from those members' accounts.

### **Commissions**

As a trustee of the SMSF, you and your co-trustee(s)/co-director(s) control any appointments of financial professionals and investments into products which might include commissions.

### **Dispute Resolution**

The dispute resolutions mechanisms available to members are found in the Fund's trust deed. As a trustee, it is reasonable to presume that you have familiarized yourself with the contents of the trust deed. As such, pursuant to Section 1013F of the *Corporations Act 2001*, as amended, detailed information concerning the dispute resolution mechanisms available under the deed are not included in this PDS.

### **Taxation Implications**

All superannuation funds in the accumulation phase pay 15% tax on their net taxable incomes. Net taxable income includes assessable contributions, plus investment earnings, less deductible expenses. Other rebates and credits, such as franking rebates and imputations credits may reduce the amount of tax which a superannuation fund must pay. Net taxable capital gains of a superannuation fund are taxed at 10%.

Each year, the trustee will make a determination as to how these taxes are to be deducted from an individual member's account. The trustee is required to determine this in an equitable manner, as between the members.

Depending on your personal taxable income in a given year, there may also be a liability for the superannuation contribution surcharge tax in respect of any tax-deductible contributions made by your employer or yourself. Where surcharge is payable, this amount will be directly deducted from your member's account.

The income and capital gains of a superannuation fund which is paying one or more pensions will be exempt from tax, to the extent that the assets of the Fund are considered to be supporting those pensions (and taxable to the extent that those assets are considered to be supporting continuing accumulations and reserves). The amount of tax which you as trustee and your co-trustee(s)/co-director(s) consider to be a reasonable and equitable allocation for each member each year will be deducted from the balance of your member's accumulation account.

The rules regarding personal taxation of superannuation benefits are far too complex to address in this document. It is strongly advised that you seek professional advice regarding the taxation of your personal superannuation benefits and the options available to you.

### **Cooling-off Period**

There is a fourteen (14) day cooling-off period from the date you are issued with membership of the above SMSF, during which time you may cancel your membership of the Fund. Note that the trustee must receive notification of your membership cancellation prior to the expiry of this period, in order for it to be considered effective. Note also that the cooling off period relates to your membership only and does not give you a right to resile from your duties as a trustee of the Fund (including payment for the establishment of the Fund itself).

### **Insurance**

There is no obligation for the trustee of the Fund to take out life or other insurances on your behalf. Obviously, however, as a trustee of the Fund, you are in a position to make such application. As noted above, benefits can be paid out in similar circumstances to normal insurable events (death, total and permanent disablement, total and temporary disablement), however where the Fund has not undertaken insurance on your behalf, any payments will be limited to the value of your member's accumulation account.

### **Alternative Types of Superannuation Funds**

You should be aware that there are a number of alternative forms of superannuation available to you, each of which have different characteristics. You should consider your own situation carefully, prior to becoming a member of one form of superannuation fund, or another and should seriously consider seeking advice from an authorised representative of an Australian financial services licensee.

#### **Public Offer Superannuation Funds**

These funds are managed by a trustee on your behalf. You may have a choice of broad "categories" for investment, such as conservative, balanced, growth, etc., where you have no control over the actual investments which are undertaken by the fund (and, depending upon their reporting, you may never know what those assets are). Certain other funds allow members (usually only through a financial planner) to select individual investments from a menu of options. An example might be a list of 50 managed funds and shares in the top 200 ASX listed companies. Typically, you will only receive written reports on your share of the fund's performance annually in your member statement, although you may be able to access interim performance results for the fund (e.g. via a website). Fees will usually be charged on entry and exit from these funds. There will also be contribution fees, administration fees, category switching fees (often only after a certain number of free annual switches) and asset management fees. Some of these fees are normally be charged as a percentage of your account balance. Many public offer funds will include a commission payable to the advisor who recommends the fund to you. In most cases, the more investment choices you have, the higher the overall level of fees the fund charges. Typically, you can purchase insurance (life, total and permanent disablement and sometimes total and temporary disablement) Public offer funds may restrict the types of benefits which are payable upon your death or retirement (eg. they may not pay certain types of pensions, or may require you to transfer to another sub-category within their fund before paying pensions).

#### **Industry Superannuation Funds**

These funds are managed by a trustee on your behalf. In the past, these funds have only been open to members of a certain union or industry, however many are now accepting membership from other parties. You may not have a choice of "categories" for investment in these funds, although many now offer similar choices of categories to public offer funds, such as conservative, balanced, growth, etc.. Once again, you have no control over the actual investments which are undertaken by the fund (and, depending upon their reporting, you may never know what those assets are). Typically, you will only receive reports on your

share of the fund's performance annually in your member statement, although you may be able to access interim performance results for the fund (e.g. via a website). Where categories are available, there will normally be restrictions on the frequency with which you can change between categories. Fees will usually be charged on entry and exit from these funds. There will also be contribution fees, administration fees, category switching fees (often only after a certain number of free annual switches) and asset management fees. Some of these fees will normally be charged as a percentage of your account balance. Industry funds do not normally pay commissions to advisors who recommend the fund to you. Typically, a certain level of "group" insurance (life, total and permanent disablement and sometimes total and temporary disablement) will be provided by industry funds without medical requirements. Additional insurance can be acquired with medical examination. Industry funds may restrict the types of benefits which are payable upon your death or retirement (e.g. they may not pay certain types of pensions, or may require you to transfer to another sub-category within their fund before paying pensions).

#### Small APRA Funds

These funds are similar to SMSF's, except that they have an independent trustee. The independent trustee must be an "approved" trustee. Typically, these are large public trustee corporations. They will charge fees for their services and all decisions as to investments, benefit payments, etc. must be approved by them. They will normally control the fund's cheque book and appoint the accountants and auditors of the fund. They are normally only chosen when a member wishes to have investment flexibility close to that of a SMSF, but for one reason or another, they cannot be a trustee of their own fund (eg. because they are an undischarged bankrupt and therefore a "disqualified" person, or because the trustees are leaving Australia for more than two years, which can have adverse tax consequences). Because of the expense of the approved trustee services, these funds are only used in a very limited number of cases.

There are two other types of superannuation fund - employer-sponsored superannuation funds and public sector superannuation schemes - which are not discussed here, as they are not a type of fund which a member can typically "choose" to join (your employer will make the choice to contribute to such a fund, without reference to you as an employee).

#### **Other Information**

The first duty of a trustee is to familiarize themselves with the terms of and their duties under the trust. Pursuant to Section 17A of the *Superannuation Industry (Supervision) Act 1993*, as amended, all members of SMSF's must be trustees (or directors of the Fund's corporate trustee).

This PDS addresses issues which relate to your proposed membership of the Fund, not issues which arise in relation to your duties and liabilities as a trustee of the Fund. As a trustee, it is your responsibility to separately familiarise yourself with those duties and liabilities and to be actively involved in the operation of the Fund. As this is a legal obligation, it is reasonable to presume that you have done so. As such, pursuant to Section 1013F of the *Corporations Act 2001*, as amended, detailed information concerning other matters pertaining to the operation of the Fund are not included in this PDS.

#### **Other Documents Forming Part of This PDS, For Funds Other Than New Funds**

Where the Fund is a pre-existing fund and you are joining as a member, or where you are an existing member and are commencing to take your benefit in the form of a pension, you will find the following documents annexed to this PDS:-

- The Fund's investment strategy; and
- The last financial statements prepared in respect of the Fund.

These documents form part of this PDS for funds other than newly established funds. If you have not yet received a copy of these documents, you should not sign this PDS until you have received them.

I have read and understood this Product Disclosure Statement, prior to signing my Application for Membership:-

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LYNETTE DUFFY

...../...../.....