

PERPETUAL SUPERANNUATION LIMITED
ABN 84 008 416 831

PERPETUAL WEALTHFOCUS SUPERANNUATION FUND
DEED OF AMENDMENT

Perpetual 

Perpetual Legal Services
Level 12, Angel Place
123 Pitt Street
Sydney NSW 2000

DEED OF AMENDMENT

THIS DEED is made 29 September 2016

BY

PERPETUAL SUPERANNUATION LIMITED ABN 84 008 416 831 of Level 18, Angel Place, 123 Pitt Street, Sydney NSW 2000 (**Trustee**).

RECITALS:

- A. The Trustee is the trustee of a superannuation fund known as Perpetual WealthFocus Superannuation Fund ABN 41 772 007 500 (the **Fund**), which was established under a trust deed dated 26 May 1995 as modified from time to time (the **Trust Deed**).
- B. Clause 19 of the Trust Deed permits the Trustee to make amendments in writing to the Trust Deed with effect from a date before or after the time the amendment is made.
- C. The Trustee wishes to amend the Trust Deed to allow Members to give the Trustee a Non-lapsing Binding Nomination in respect of any Death Benefit of a Member payable from the Fund.

OPERATIVE PROVISIONS

1. Interpretation

- 1.1 Except where expressly indicated otherwise, defined terms in this Deed of Amendment have the meaning given to them in the Trust Deed.
- 1.2 Clause 1.2 of the Trust Deed applies to this deed.

2. Amendment

The Trust Deed is amended as follows:

- (a) Clause 1.1 is amended by inserting the following new definitions in the correct alphabetical position:

“Non-lapsing Binding Nomination means a written notice, received by the Trustee from a Member under clause 7.16 which:

 - (a) is in a form approved by the Trustee and meets any requirements determined from time to time by the Trustee for such nominations;
 - (b) is clear on its face that it is not intended to lapse at the end of any fixed period of time;
 - (c) confirms a previous Non-lapsing Binding Nomination or makes a new nomination in respect of the Death Benefit of a Member, the nominee or each nominee (if more than one) to be a Dependant or the legal personal representative of the Member;
 - (d) is intended by the Member to be binding on the Trustee if the Trustee gives its consent in accordance with clause 7.17;

(e) can be revoked or amended by the Member at any time, in a form approved by the Trustee;

(f) for which the Trustee has given its consent in accordance with clause 7.17.

To avoid doubt, if the Trustee so determines, a Non-lapsing Binding Nomination may:

(g) specify the proportions payable to each nominee (if more than one) and the form of the payments;

(h) provide that a nominee who does not satisfy a specified contingency will not have an entitlement and another nominee will take that entitlement instead;

(i) provide that in the event of the death of a nominee who receives his or her entitlement as an Account Based Pension, Term Allocated Pension, Allocated Pension or a pension, the residue (if any) is to be paid to a person or persons (who, if required by Superannuation Law, must be Dependants of a particular deceased Member), whether such a person is named, is otherwise identifiable or is to be determined by the Trustee in its discretion in accordance with the Non-lapsing Binding Nomination;

(j) specify that a Death Benefit payable as an Account Based Pension, Term Allocated Pension, Allocated Pension or pension is not commutable;

(k) specify or provide for anything else;

and in these cases, subject to Superannuation Law the Death Benefit of a Member must be paid in accordance with any of the matters so provided or specified in the Non-lapsing Binding Nomination.”

(b) The following new clauses are inserted after clause 7.15 as follows:

“Non-lapsing Binding Nominations – all Categories

7.16 A Member of any Category may give the Trustee a notice which is intended by the Member to be a Non-lapsing Binding Nomination for each of the Member’s Categories.

7.17 If a Member gives a notice to the Trustee under clause 7.16 and the Trustee is satisfied that the notice is an exercise of discretion by the Member, the Trustee may consent to the exercise of that discretion (which includes the giving of the notice) on any grounds that the Trustee considers appropriate. The Trustee may consent or refuse to consent as it considers appropriate.

7.18 The Trustee must distribute the Member’s Death Benefit in accordance with the Non-lapsing Binding Nomination.

7.19 A Non-lapsing Binding Nomination remains current until, at any time by notice in writing to the Trustee, the Member:

(a) revokes or amends the Non-lapsing Binding Nomination; or

(b) gives the Trustee another Non-lapsing Binding Nomination.

A Member’s Non-lapsing Binding Nomination wholly revokes the Member’s previous Non-lapsing Binding Nomination.

7.20 If a Member gives a notice to the Trustee under clause 7.19 and the Trustee is satisfied that the notice is an exercise of discretion by the Member, the Trustee may consent to the exercise of that discretion (which includes the giving of the notice) on any grounds that the Trustee considers appropriate. The Trustee may consent or refuse to consent as it considers appropriate.

7.21 The Trustee must:

- (a) accept a notice to the Trustee as a Non-lapsing Binding Nomination if the Trustee is satisfied the notice is a Non-lapsing Binding Nomination and consents to the notice under clause 7.16;
- (b) accept a notice to the Trustee to revoke or amend a current Non-lapsing Binding Nomination if the Trustee consents to the notice under clause 7.20.

7.22 If at any time the Trustee considers that a proposed Non-lapsing Binding Nomination is not sufficiently clear to allow the Trustee to pay a Death Benefit of a Member according to the nomination, the Trustee may refuse to accept it or give effect to it.

7.23 Without limiting the effect of clauses 15.17 to 15.22, the Trustee is discharged from any liability to, or claim by, any person whatsoever in respect of a Death Benefit of a Member if:

- (a) the Trustee pays the Death Benefit of a Member in accordance with the Member's Non-lapsing Binding Nomination and any confirmation or amendment of it; or
- (b) the Trustee does not pay the Death Benefit of a Member in accordance with the Member's Non-lapsing Binding Nomination and the Trustee reasonably believes that the nomination was revoked by the Member."

(c) The existing clauses 7.16, 7.17, 7.18 and 7.19 are renumbered as clauses 7.24, 7.25, 7.26 and 7.27 respectively.

3. **Effective Date**

The amendments to the Trust Deed made by this deed are effective on and from 1 February 2017.

4. **Trust not confirmed**

Nothing expressly or impliedly contained in this Deed of Amendment is effective to confirm, declare, or otherwise acknowledge any of the trusts declared under the Trust Deed or any of the trusts to which property is subject at the date of this Deed of Amendment, or to impress any new or additional trusts upon property held on trust as at the date of this Deed of Amendment.

5. **Trustee and Members bound**

The Trustee and Members are bound by the terms of the Trust Deed as amended by this Deed of Amendment.

6. **Governing Law**

This deed is governed by, and is to be construed in accordance with, the laws of the state of New South Wales.

EXECUTED as a deed

Signed, sealed and delivered by **Perpetual Superannuation Limited** ABN 84 008 416 831:

Michèle Collops
.....
Director

Mark Smith
.....
Director/Secretary

MICHELENE COLLOPS
.....
Name

Mark Smith
.....
Name

