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Monday, 16 June 2025

Frank John Jones
First Avenue
Five Dock NSW 2046
Australia

Trust Distribution Minutes for the Smith Weston Family Trust for the year ending 30 June 2025

Thank you for building the Trust Distribution Minutes for the Smith Weston Family Trust for the financial year 1 July 2024 - 30 June 2025. Please read, complete and sign them before midnight **30 June 2025**.

If the Minutes are signed after **30 June 2025**, they are not valid.

Do not sign these Minutes until your accountant has read and approved of the Minutes.

How to print your Distribution Minutes

When you are satisfied that the Minutes is according to your instructions please:

1. Download the PDF (Do not print directly from the browser.)
2. Print the PDF Printer settings: A4 paper
100% scale (turn off 'fit to page')
3. Print single sided (NOT duplex).

Sign by 30 June – do the tax return later

If you forget to sign your Trust Distributions Minutes by **30 June 2025** then:

1. if the Smith Weston Family Trust Deed sets out 'default beneficiaries' then they usually get the income. If your default beneficiaries are under 18 years old then the tax rate can be up to 66%.
2. if there are no default beneficiaries then the Trustee, is taxed at the top marginal tax rate: section 99A *Income Tax Assessment Act 1936*.

The ATO is asking trustees to submit minutes for review. Previously you only needed to show Minutes when the ATO was auditing you.

I do not know anyone's income by 30 June 2025

By 30 June, the Family Trust usually does not know:

- its own family trust income.

- the beneficiaries' personal incomes and marginal tax rates.

Therefore, including dollar amounts in the Trust Minutes is not usually possible. Yet, the Australian Taxation Office requires signed minutes to establish present entitlement and avoid adverse tax outcomes.

Can I do the family trust and beneficiaries' tax returns after 30 June 2025?

While you need to sign the Smith Weston Family Trust Minutes before **30 June 2025**, the family trust accounts and beneficiaries' tax returns can be done after **30 June 2025**.

Your Minutes do not state a specific dollar amount. Instead, the beneficiaries are given the net income up to each of their respective marginal tax rates. The beneficiary is therefore presently entitled to that net income. Legal Consolidated's Trust Minutes comply with the ATO because of the clear methodology for calculating the entitlement.

Your accountant, once the **30 June 2025** accounts and income tax return are finalised records the actual dollar amounts of the distribution as per the methodology in the Minutes.

Sign Trust Distribution Minutes before 30 June 2025 without knowing income?

Yes. Legal Consolidated's Family Trust Distribution Minutes, enable trustees to refer to distributions using a tax bracket methodology instead of fixed dollar amounts. Trustees allocate income to beneficiaries based on their tax brackets, such as "up to the next applicable tax rate (including Medicare levy)," considering their personal income from all sources. For example:

- Beneficiary A receives income up to the relevant tax bracket.
- Beneficiary B, a company, receives franked dividends up to the net tax bracket.
- Beneficiary C, a non-resident, receives foreign-sourced income.

This methodology ensures beneficiaries are presently entitled to the trust's income by **30 June 2025**, meeting Australian Taxation Office requirements. The Australian Taxation Office confirms this approach is valid as per the ATO Trustee Resolution Statement:

"Your resolution does not need to specify an actual dollar amount for the resolution to be effective in making a beneficiary presently entitled, unless the trust deed specifically requires it. A resolution is effective if it prescribes a clear methodology for calculating the entitlement."

After **30 June 2025**, your accountant calculates the exact dollar amounts based on the methodology in the minutes, which are reported in the trust's tax return and beneficiaries' individual tax returns.

Legal Consolidated's use of the ATO Methodology approach

This method is effective because:

- **Australian Taxation Office Compliance:** It aligns with Australian Taxation Office rulings, such as Tax Determination TD 2012/22 (see also the now withdrawn PS LA 2010/4), which also allow a clear methodology for distributions.
- **Flexibility:** It addresses the uncertainty of income figures while meeting the **30 June 2025** deadline.

- **Tax Optimisation:** Allocating income to beneficiaries' lower tax brackets minimises the overall tax burden.
- **Legal Precedent:** The approach incorporates refinements from cases including:
 - *Bamford v Commissioner of Taxation* [2010], which clarified that trust income can be distributed using a clear methodology, and
 - *Owies v JJE Nominees Pty Ltd* [2022], which mandates genuine consideration of beneficiaries' circumstances.

Need to update your family trust deed as well?

As well as making sure that you have Trust Distribution Minutes signed and emailed to your accountant before **30 June 2025** it is equally important that your Family Trust deed is updated for the latest tax and trust changes.

There are four common problems to old Family Trust Deeds which may required the Deed to be updated prior to **30 June 2025**:

1. Streaming different types of income and capital

You need to check that the Smith Weston Family Trust Deed is up-to-date for the 'streaming' of income. This includes capital gains and franked dividends. If your trust deed is not up-to-date you can update it on our website. Check the Smith Weston Family Trust Deed to confirm that it enables the trustee to classify amounts of income by its source and make distributions of that classified income. It is important for the beneficiary to be 'specifically entitled' to a capital gain or franked dividend. Update your Family Trust Deed here: <https://legalconsolidated.com.au/family-trust-update-appointor-trustee-deed/>

2. Forcing Minutes to be signed after 30 June

Some trust deeds require the trustee to sign the Minutes to distribute the trust income before 30 June or, even, more strangely, after 30 June. This is never the case if you have a Legal Consolidated Trust Deed. The problem is that the law states that the Minutes have to be signed any time before 30 June 2025. The trust deed stating another date cannot override the **30 June 2025** deadline.

3. The trust deed may not or may not correctly define 'income'.

4. Most trust deeds correctly require the Appointor's consent to the Minutes. While that can be verbal, it cannot be done if all the Appointors are dead.

Best practice for Family Trust Distribution Statements – 16-point checklist

Legal Consolidated is not giving taxation advice. The information in the attached Distribution Statement and in this letter is general advice only. We also do not know your individual circumstance.

Before completing the attached distribution statement, the Trustee works with the accountant to consider:

1. Family Trust deed requires the distribution statement earlier than 30 June

Does the family trust deed require the distribution decision for an income year to be made before **30 June 2025**?

Or, even more strangely, does the Family Trust deed require the distribution statement to be made only after **30 June 2025**?

To be effective in creating a 'present entitlement', the distribution minute is made and signed by **30 June 2025**.

You may comply with the ATO's rules. But still, fall foul of the Family Trust's rules. Upgrade the Family Trust Deed if it requires a distribution minute either before or after 30 June.

2. Section 100A, Reimbursement Agreements and Debt Forgiveness

Legal Consolidated has never recommended Reimbursements Agreements. And this has been the case since 1988. Both Legal Consolidated and the ATO have never liked Reimbursement Agreements. See section 100A *Income Tax Assessment Act 1936*.

We have, instead, recommended that your accountant consider Deeds of Debt Forgiveness. But since 2019 even Deeds of Debt Forgiveness have been attacked by the ATO.

Legal Consolidated's Annual Distribution Statement complies with section 100A. The minutes do not stop your Family Trust from retaining the wealth as Unpaid Present Entitlements (UPEs). Or paying out the distribution.

(An 'Unpaid Present Entitlement' is similar to a loan from the beneficiary to the Family Trust. The Family Trust 'distributes' wealth to the beneficiary. But does not actually pay the money. The money stays as a liability from the Family Trust to the Beneficiary. This is called an UPE.)

While we do not recommend the practice, our minutes do not stop you from getting rid of the UPEs by reimbursement agreements. Our minutes also do not stop you using Deeds of Debt Forgiveness or Deeds of Gift. But relying on section 100A, the ATO wants the family trust to actually transfer wealth to your children and beneficiaries. Or, at least, keep the Unpaid Present Entitlement in the Family Trust's books. This is rather than getting rid of the UPEs with a reimbursement agreement, Deed of Debt Forgiveness or Deed of Gift.

But leaving the UPE on the books or paying them out to the child presents problems.

- the child loses the UPEs and wealth to the bankruptcy and family courts
- at the child's death, the UPE is an asset in their Will
- the ungrateful child may not give it back when you need financial help in your retirement
- and the age-old traditional problem: the Family Trust has no cash or assets to give to satisfy the distribution statement

The accountant knows your circumstances and needs to craft a solution for a personal outcome for you based on your unique set of facts. And every client is unique.

3. Exercise of discretion

Do the discretionary trust minutes clearly show the trustee of the Family Trust “exercised its discretion” to distribute?

4. Has mum and dad already pulled out money from the family trust, this year?

Has any distribution of income for the current income year already been made earlier in the income year? If so, the distribution should be considered when drafting the final distribution minute.

5. Family Trust destroyed by a “Family Trust Election”?

Has a ‘family trust election’ been made? In which case your class of beneficiaries to who you can distribute is extremely limited.

6. Family Trust benefits from the CGT Small Business concessions

Are there any special income tax or CGT considerations that would mean that a distribution should or should not be made? Consider:

- the CGT small business concession provisions
- the trust loss provisions and, in particular, the pattern of distributions test
- vulnerable children, children with unstable marriages and de facto relationships

7. Family Trust retains income

Does the trust deed permit the accumulation of income? (In a company, the company pays its own tax. This is at a fixed constant tax rate. Which is often 30%.) But with a Family Trust, instead, the beneficiary pays the tax. This is at the beneficiary’s own tax rate.

8. Does the Family Trust deed allow full discretion to separate revenue and capital?

Does the trust deed permit the characterisation of the otherwise revenue or capital nature of an amount? If not update the Family Trust Deed to allow for the new rulings on Bamford’s case. Update your Family Trust Deed here:

<https://legalconsolidated.com.au/family-trust-update-appointor-trustee-deed/>

9. Family Trust distributing to its bucket company?

A Family Trust may wish to distribute to a company controlled by the family members. Such a company is colloquially called a ‘bucket company’. Is there a distribution to a bucket company, but no cash or assets are actually transferred?

Because of Division 7A you cannot just declare a distribution of income and not pay the bucket company. This is unless you have a Division 7A Loan Deed. Build a Div 7A Loan Deed at www.legalconsolidated.com.au.

10. Ordinary vs statutory income in a Family Trust

What are the sources of the ordinary income and statutory income derived by the trust during the income year? Is it better for different kinds of income or amounts (e.g. franked dividends or a capital gain) to be 'streamed'?

11. Family trust distributing to a charity

If a distribution is made to an exempt entity that is a beneficiary (charity), the anti-avoidance rule must be taken into account. Also, an exempt entity beneficiary is taken not to be presently entitled to the extent that, within two months after the end of the income year, it has neither been notified of its present entitlement nor has been paid its present entitlement. In other words, pay the money to the charity ASAP.

12. Satisfying the Family Trust distribution with a CGT asset

If an asset is to be distributed *in specie*, does the distribution result in a CGT event? Determine what the CGT consequences are. Consider trading stock or a depreciating asset. Is the beneficiary registered for GST?

13. Farm assets in the family trust

Does the trust carry on a business of primary production? Is it necessary to distribute income to ensure that a beneficiary is taken to carry on the business of primary production?

14. Withholding rules vs Family Trust deed

What are the Tax File Number (TFN) withholding rules for each beneficiary?

15. Appointor or Guardians consent

Does the family trust deed require the consent or approval of some person? This is distribute income and capital? It is often the Guardian who consents.

16. Consider your 'usual' and 'default beneficiaries': Owies Case

Consider your 'usual' and 'default' beneficiaries in your Trust Minutes. Up until 2022, the Appointor would tell the Trustee to whom to distribute. *Owies v JJE Nominees Pty Ltd* changed that.

Since then, the Trust Minutes must record genuine thought to the beneficiaries. Watch out for your 'usual' or 'default' beneficiaries. While you do not have to 'talk' with these people you have to consider their financial position and circumstances.

Legal Consolidated Family Trust Minutes confirm that you made enquiries in the accounting period on the needs and circumstances of each 'usual' and default beneficiary (also called primary/named/specified beneficiary).

Specifically mention 'classes' of beneficiaries?

Minutes and resolutions must identify the recipients of trust distributions. Specifically name each beneficiary in the Minute. Avoid Minutes that state a class of beneficiaries (e.g. children of the Appointor).

‘Subject to’ ATO resolutions

Do not make resolutions which change ‘if the ATO issues an amended assessment’. They do not work and fall foul of the requirement to have resolutions that ‘prescribe a clear methodology for calculating the entitlement’.

Do you have a complete copy of the trust deed?

Make sure you have a complete copy of the family trust deed, including any amendments. You need to be sure that any resolution you make to distribute the trust's income or capital is consistent with the terms of the deed.

Who can you appoint income or capital to?

Check the trust deed to ensure that the intended beneficiaries are within the class of persons who can benefit from an appointment of trust income (or of trust capital, if you intend to stream a capital gain that is not income of your trust) and not listed as excluded beneficiaries. For example, some trust deeds specifically exclude the trustee of the trust from being a beneficiary.

If you make an appointment in error to someone who is not a beneficiary, the default beneficiaries (if any) or you as trustee may be assessed on a corresponding part of the trust's net (taxable) income.

Has the trust vested?

Check the trust deed to ensure that the trust has not yet vested. If it has, then entitlements to income will already have vested in those beneficiaries entitled to the trust fund on the vesting date and attempted appointments of income or capital that are inconsistent with those entitlements will be ineffective.

Is there a “family trust election” in force for the trust?

Family trusts can make a “family trust election”. This is to access certain tax concessions. This, sadly, reduces the number of beneficiaries down from thousands, to just a handful of people.

If the election has been made, check whether the beneficiaries to whom you intend to distribute trust income or capital are within the family group of the individual specified in the election. Appointing trust income or capital to a person outside the family group will result in a family trust distribution tax liability to you (as trustee). This is because the beneficiaries who would otherwise be assessable because of the resolution will not be assessable.

Can the entitlement be taken away?

For a beneficiary to be presently entitled to trust income, their right to the income must be indefeasible. That is, the entitlement must not be capable of being taken away. If an entitlement to trust income can be taken away from a beneficiary then the trustee may be assessed on the corresponding part of the trust's net (taxable) income.

Are you ‘streaming’ capital gains or franked distributions?

If you are ‘streaming’ capital gains or franked distributions (seeking for their character to be retained as capital gains or franked distributions in the hands of beneficiaries), check that:

- you are not prevented from doing so under the terms of the deed
- you have complied with the relevant legislative requirements relating to the creation and recording of these entitlements.

For example, if a trustee wants to stream a capital gain to a particular beneficiary so that the gain is assessed only to that beneficiary, the beneficiary must be entitled to all of the financial benefits referable to the capital gain. In a trust where income is equated with the trust's net (taxable) income, a resolution distributing that part of the income attributable to a discount gain will only create an entitlement to 50% of the financial benefits that arise from the capital gain – that is, the discount component of the capital gain being non-assessable will not form part of the income of the trust.

To create an entitlement to all of the financial benefits referable to the capital gain, the trustee would also need to distribute that part of the trust capital attributable to the discount component of the gain.

Are you seeking to 'stream' other types of income?

The tax attributes of other types of income cannot be separately streamed to different beneficiaries in the way that capital gains and franked distributions may be streamed. Under the general trust-assessing provisions in tax law, each beneficiary is taxed on a proportionate share of each component of the trust's net (taxable) income and cannot be treated as having a share of net income that consists of one category of income (for example, foreign income).

Do you have to prepare the trust accounts by 30 June to make beneficiaries presently entitled to trust income?

No. Your resolution does not need to specify an actual dollar amount for the resolution to be effective in making a beneficiary presently entitled, unless the trust deed specifically requires it.

A resolution is effective if it prescribes a clear methodology for calculating the entitlement – for example, the entitlement can be expressed as a amount of income up to a beneficiaries marginal tax rate. This is how your Trust Distribution Minutes have been drafted.

What happens if you sign the resolution after 30 June?

If no beneficiary (including a default beneficiary) was presently entitled to trust income as at 30 June, and no beneficiary was made specifically entitled to trust capital gains (if any), then you (the trustee) are assessed on the trust's net (taxable) income. This is at the highest marginal tax rate. This is not a good outcome.

Have all entitled beneficiaries quoted their tax file number (TFN) to you?

If not, TFN withholding rules apply to closely held trusts, including family trusts.

What if a beneficiary disclaims their entitlement to trust income or capital?

A beneficiary may disclaim an entitlement to trust income or capital arising from a resolution within a reasonable time of becoming aware of their entitlement.

If a beneficiary has made a valid disclaimer, you (the trustee) may be assessed on a share of the trust's net (taxable) income. Again at the highest marginal tax rate.

Distributing to non-residents

A modern Australian family discretionary trust has thousands of beneficiaries. They have no rights so you make the class of beneficiaries as wide as you can. It is not just family members.

A beneficiary in your family trust falls into two groups:

1. resident of Australia for tax purposes (residents); or
2. non-resident of Australia for tax purposes (non-residents).

Australia taxes residents on all income. This includes income and capital gains from other countries. Residents are taxed on their world-wide income.

In contrast, non-residents are only taxed by Australia on Australian income and capital gain.

It sounds like a good idea, if you are earning money from overseas, to be a non-resident.

Taxation of non-residents

Speak to your accountant regarding:

1. Division 855 and the limits on the taxation of non-resident capital gains
2. Division 6
3. Attribution of capital gains to non-resident beneficiaries
4. Administration: withholding and payments

Legal Consolidated only acts for the first named trustee

Legal Consolidated only acts for the first name trustee and only in its capacity as trustee, and in no other capacity and has provided no legal or tax advice. Legal Consolidated does not act for any other party. All others must seek their own independent legal advice.

Each Member covenants that it has read and has made itself fully aware of the content and legal effect of the Family Trust deed, any variations and the attached minutes. Each person acknowledges and agrees that:

- The solicitor who prepared these minutes (**Solicitor**) acted as legal counsel to the first name trustee and not to any of the parties;
- The parties have each been advised by the Solicitor that the interests of the parties are opposed to each other and are opposed to the interests of the Trustee, accordingly, the Solicitor's representation of the Trustee may not be in the best interests of the parties; and

- Notwithstanding the above, the parties:
 - desire the Solicitor to represent the first named Trustee for the purposes of preparing these minutes; and
 - jointly and severally forever waive any claim that the Solicitor's representation of the first name trustee for the purposes of preparing these minutes constitutes a conflict of interest.

Yours sincerely,



Legal Consolidated Barristers & Solicitors

Discretionary Trust Income
Minutes for the
Smith Weston Family Trust
for the year ending 30 June 2025

Trust Distribution Minutes for the Smith Weston Family Trust for the year ending 30 June 2025

Frank John Jones
of First Avenue, Five Dock NSW 2046, Australia

(Trustee)
as Trustee of the Smith Weston Family Trust (Trust)

For the financial year to end 30 June 2025 (Trust Year)

Held on (Date)

(These Minutes are completed and signed **BEFORE** the end of each financial year.
They must be printed and signed before midnight 30 June 2025.)

Present:

Frank John Jones
of First Avenue, Five Dock NSW 2046, Australia

(Trustee)

Quorum: It was confirmed that a quorum was present, and the meeting was validly constituted in accordance with the trust deed.

Person chairing the meeting: It was resolved that the person signing these minutes be the person chairing the meeting (Person chairing the meeting).

Notice of Meeting: It was noted that all Trustees received notice of this meeting and that all consent to the meeting being held and waive any requirement for any specified period of the notice of the meeting. It was resolved unanimously that the meeting is validly constituted regardless of any failure to give notice as required under any rules, Constitutions or the *Corporations Act*. Further, all trustees received notice, consented to the meeting, and waived any specific notice period requirements. The meeting was unanimously resolved to be validly constituted, regardless of any notice requirements under the trust deed, constitutions, or Corporations Act.

Previous Minutes: The minutes of the previous meeting of the Trustee were read and confirmed.

Exercise of powers: The person chairing the meeting noted that the resolutions to be passed at this meeting are pursuant to the powers and discretions conferred on the Trustee as trustee at law and by the deed of settlement establishing this trust together with any amendments of the Smith Weston Family Trust. Further, the resolutions passed at this meeting are made under the trustee's powers as granted by law and the Smith Weston Family Trust trust deed, including any amendments. Trustees are advised to verify these powers with their accountant to ensure compliance.

Allocating and Distributing trust income

Under the Smith Weston Family Trust, the Trustee is empowered to select trust beneficiaries to receive the income, net accounting and the net taxable income of the Trust Fund. This is for amounts for which no beneficiary is, yet, presently entitled as permitted under the Smith Weston Family Trust Trust Deed.

To ensure compliance with Australian Taxation Office (ATO) requirements, distributions are made using a tax bracket methodology, allocating income based on beneficiaries' marginal tax rates rather than fixed dollar amounts. This approach establishes present entitlement by 30 June, as required by the ATO, and must be tailored to the trust's specific circumstances with the guidance of a qualified accountant. This document provides general guidance only and is not a substitute for professional taxation or legal advice.

Trustees should verify that all distributions comply with the trust deed and consult their accountant before finalising resolutions to avoid adverse tax consequences.

Non-Applicable Allocations (leave blank)

If a distribution category below is not applicable (e.g., no beneficiaries under 18 or no franked dividends), the relevant spaces should be left blank, and those sections will not apply.

Lawyer only acting for trustee and gives no taxation advice

The trustee and controllers of the Family Trust (including Appointors, Guardians, Controllers, Principals) (**parties**) covenant that they have read and has made themselves fully aware of the cover letter to these minutes, content and legal effect of the Family Trust Deed, any amendments, the accounts and these minutes relating to the Smith Weston Family Trust.

In respect of the Smith Weston Family Trust, each such person acknowledges and agrees that:

- The solicitor who prepared these minutes (**Solicitor**) acted as legal counsel to the Trustee (in the Trustee's personal capacity only) and not to any of the other parties, and at times where there is more than one trustee the Solicitor only acts for the first name trustee, and only in their personal capacity;
- The parties have each been advised by the Solicitor that the interests of the parties are opposed to each other and are opposed to the interests of the Trustee and, accordingly, the Solicitor's representation of the Trustee may not be in the best interests of the parties;
- The Solicitor has provided no taxation, similar advice or specific advice; and

Notwithstanding the above, the parties:

- desire the Solicitor to represent the Trustee for the purposes of preparing these minutes; and
- jointly and severally forever waive any claim that the Solicitor's representation of the Trustee for the purposes of preparing these minutes constitutes a conflict of interest.

Get accounting advice before signing these Minutes

The Solicitor has advised that these Minutes NOT be signed until they are checked and discussed with the accountant. To put the matter beyond doubt, Trustees must not sign these minutes until they have been reviewed and approved by a qualified accountant. This ensures that all resolutions comply with the Smith Weston Family Trust trust deed, Australian Taxation Office (ATO) requirements, and applicable taxation laws, including the need to establish present entitlement by 30 June.

Record-Keeping Obligations

Under s 262A of the *Income Tax Assessment Act 1936* (Cth), trustees must retain the signed Trust Distribution Minutes and all related documents (e.g., trust deed, financial records) for the life of the Family Trust. Ensure these records are stored securely and readily accessible for ATO review, as the ATO may request minutes outside of audits. Consult your accountant to confirm that your record-keeping practices meet ATO requirements and support accurate tax return preparation.

Checklist for Trust Distributions

Before finalising distributions, trustees must collaborate with a qualified accountant to review the following considerations to ensure compliance with the Smith Weston Family Trust trust deed, Australian Taxation Office (ATO) requirements, and applicable taxation laws. This checklist provides general guidance only and is not a substitute for professional taxation or legal advice tailored to the trust's specific circumstances. Failure to address these points may result in adverse tax or legal consequences.

Trust Deed Compliance

1. **Distribution Timing:** Does the Smith Weston Family Trust trust deed require the distribution decision to be made by a specific date, such as before or on 30 June? To establish present entitlement, resolutions must be signed by 30 June or any earlier date specified in the deed. If the deed requires a post-30 June decision, consult your accountant about updating the deed to align with ATO requirements.
2. **Consent Requirements:** Does the trust deed require the consent or approval of a specific person (e.g., guardian or appointor) for distributions, either generally or in specific cases? Ensure all necessary consents are obtained and documented.
3. **Income Definition and Streaming:** Does the trust deed permit the re-characterisation of income as revenue or capital, and does it allow streaming of specific income types (e.g., franked dividends, capital gains)? If not, consider updating the deed to comply with *Bamford v Commissioner of Taxation* [2010] HCA 10, which clarifies streaming requirements.
4. **Accumulation of Income:** Does the trust deed allow the accumulation of income? Retaining certain income may offer tax or asset protection benefits, but this must be confirmed with your accountant.

Tax and ATO Considerations

5. **Section 100A and Reimbursement Agreements:** Have any reimbursement agreements been considered? Under Section 100A *Income Tax Assessment Act 1936*, such agreements may trigger anti-avoidance rules, potentially leading to

trustee taxation at penalty rates. Instead, explore alternatives like unpaid present entitlements (UPEs) or deeds of debt forgiveness, but note the ATO's increased scrutiny since 2019. Your accountant should assess the trust's structure to ensure compliance.

6. **Family Trust Election:** Has a family trust election been made? If so, the class of beneficiaries eligible for distributions is significantly restricted, impacting who can receive income or capital. Verify eligible beneficiaries with your accountant.
7. **Tax File Number (TFN) Withholding:** What are the TFN withholding rules for each beneficiary? For closely held trusts, trustees must withhold tax from distributions if beneficiaries have not provided their TFN, reporting to the ATO one month after the financial year (*Tax Laws Amendment (2010 Measures No. 2) Act 2010*). Exemptions may apply for minors, non-residents, or charities.
8. **Division 7A for Company Distributions:** Are distributions being made to a company? If no cash or assets are transferred, a Division 7A Loan Deed is required to avoid deemed dividend issues under Division 7A *Income Tax Assessment Act 1936*. Consult your accountant to prepare this deed.
9. **Capital Gains Tax (CGT) and Special Considerations:** Are there special income tax or CGT considerations affecting distributions? Review: (a) CGT small business concession provisions, which may influence distribution decisions. (b) Trust loss provisions, particularly the pattern of distributions test. (c) Beneficiaries with unstable personal circumstances (e.g., marriage or de facto relationships), which may require protective distribution strategies.
10. **Charitable Distributions:** Are distributions being made to a tax-exempt charity? Ensure compliance with anti-avoidance rules, including notifying or paying the charity within two months after the financial year to establish present entitlement, as required by tax law.
11. **In-Specie Distributions:** Are assets being distributed in specie (i.e., in their actual form, not as cash)? Assess CGT consequences, including for trading stock or depreciating assets, and confirm if the beneficiary is registered for GST. In-specie distributions require careful tax planning with your accountant.

Beneficiary and Trust Operations

12. **Prior Distributions:** Has any income been distributed earlier in the current financial year? If so, these distributions must be considered when drafting the final minutes to avoid duplication or errors.
13. **Primary Production Business:** Does the Smith Weston Family Trust operate a primary production business? If yes, consider distributing income to ensure a beneficiary is recognised as carrying on the business for tax purposes.
14. **Beneficiary Consideration (Owies Case):** Have the trustee's enquiries into default and usual beneficiaries' circumstances (e.g., financial, medical, mental state, age, government benefits) been documented? Per *Owies v JJE Nominees Pty Ltd* [2022] VSCA 142, trustees must demonstrate genuine consideration of beneficiaries' needs, even if reasons are not disclosed.
15. **ATO Best Practice:** Have you reviewed and attached the ATO's current

commentary and checklist for trust distributions? Ensure all resolutions comply with ATO guidelines, as the ATO may request minutes for review outside of audits.

Trust Deed Verification

16. **Complete Trust Deed Review:** Confirm that the trustee and other parties have read a complete copy of the Smith Weston Family Trust trust deed, including any amendments. All resolutions must be consistent with the deed's terms to be valid.

Verification of Trust Deed

The trustee, along with other relevant parties (e.g., appointors, guardians), confirms that they have obtained and thoroughly reviewed a complete copy of the Smith Weston Family Trust trust deed, including all amendments. All resolutions and distributions in these minutes are consistent with the terms of the trust deed.

To ensure compliance with Australian Taxation Office (ATO) requirements and avoid adverse tax consequences (e.g., taxation at the top marginal rate under s 99A *Income Tax Assessment Act 1936*), trustees must consult a qualified accountant to verify that the trust deed's terms are correctly applied. This document provides general guidance only and is not a substitute for professional taxation or legal advice tailored to the trust's specific circumstances.

Consideration of Beneficiaries

In accordance with *Owies v JJE Nominees Pty Ltd* [2022] VSCA 142, the Trustee confirms that it has undertaken a real and genuine consideration of the needs and circumstances of the default beneficiaries and other beneficiaries who have previously received distributions from the Trust. This process involved reviewing relevant information, including but not limited to financial records, correspondence, and, where appropriate, consultations with professional advisors. The Trustee has ensured that its exercise of discretion is informed, responsible, and compliant with the Trust Deed and applicable legal obligations, while maintaining the confidentiality of these deliberations as permitted by law.

To put the matter beyond doubt, the trustee made enquiry of the default beneficiaries (also known as takers in default, primary beneficiary) and of other beneficiaries who have previously received income from the Family Trust including in respect of the distribution of income. The Trustee has considered their circumstances, medical, financial, mental state, ability to handle money, age, government and other benefits, previous distributions and non-previous distributions and otherwise, as the case required and as appropriate.

Such consideration is confidential and there is no reason or requirement to provide reasons for any decisions to any person or persons. No reasons are required to be given to any person. This includes for any capital, income or other distributions.

The trustee is not required to give reasons or notification to any person as to how any exercise of its discretion was carried out and the real and genuine considerations that have been given.

The due consideration, appropriateness and sufficiency of the Trustee's enquiries and information are also confidential and not required to be provided to any person or persons.

All such real and genuine considerations and exercise of discretions are not required to be in writing. And may be decided verbally and from time to time before the final production and passing of these trust minutes.

The Trustee confirms that it has acted in good faith, responsibly and reasonably.

The Trustee has informed itself, before making a decision, of matters which are relevant to the decision. These matters may not be limited to simple matters of fact but will, on occasion include taking advice from appropriate experts, whether the experts are lawyers, accountants, actuaries, surveyors, scientists or whomsoever.

The following potential beneficiaries were also considered:

- Frank John Jones
- Muriel May Jones
- Kevin James Jackson
- Mary See Terria
- Franklin Nominees Pty Ltd ACN 388938378
- April June Jones

Resolutions to Allocate Trust Income and capital

The Trustee resolves as follows:

Resolution to Determination of Net Income

The net income of the trust for the current financial year is to be determined in accordance with the *Income Tax Assessment Act 1936 (Cth)* and the *Income Tax Assessment Act 1997 (Cth)*.

For the purposes of this calculation, the Trustee shall:

- (a) Gross up income to include tax offsets, foreign tax credits, and franking credits where required by law;
- (b) Include all assessable income as defined under relevant taxation legislation;
- (c) Exclude any deemed deductions unless expressly required by the trust deed or applicable tax legislation.

Resolution to for the Allocation of Net Income and Capital

The net income and capital of the trust for the year shall be paid, applied, or allocated to or for the benefit of the following persons, in accordance with the terms of the trust deed and this resolution.

Resolution for the Confirmation of Beneficiary Eligibility

It is confirmed that all intended recipients are eligible beneficiaries of the Smith Weston Family Trust and are entitled to receive income and capital under the trust deed.

Resolution for the Residency Status of Beneficiaries

Unless otherwise noted, all beneficiaries listed herein are residents of Australia for taxation purposes.

Resolution to Authorise Streaming of Income and Capital

The Trustee confirms that, pursuant to the powers granted under the Smith Weston Family Trust Trust Deed and in accordance with *Bamford v Commissioner of Taxation* [2010] HCA 10 and Taxation Ruling TR 2010/3, it is authorised to classify and stream different types of income and capital, including but not limited to franked dividends, capital gains (discounted and non-discounted), and foreign-sourced income, to specific beneficiaries.

The Trustee resolves to:

- (a) Classify the Trust's income and capital by source and character, as permitted by the Trust Deed, to ensure that beneficiaries are specifically entitled to such amounts where required;
- (b) Allocate such income and capital in a manner that maximises tax efficiency, having regard to each beneficiary's marginal tax rate and taxation status, as advised by the Trust's accountant;
- (c) Comply with Australian Taxation Office requirements, including ensuring that streaming resolutions are recorded by 30 June for income and, where applicable, by 31 August for capital gains, to establish present entitlement and specific entitlement as required.

This resolution is made after verifying that the Trust Deed permits such streaming and that all distributions align with the terms of the Trust Deed and applicable taxation laws. The Trustee has consulted with its accountant to ensure compliance with these requirements.

Resolution to Confirm Compliance with Section 100A

The Trustee confirms that all distributions of income and capital resolved at this meeting are made in good faith, in accordance with the Smith Weston Family Trust Trust Deed, and for the genuine benefit of the specified beneficiaries. The Trustee further resolves that:

- (a) The distributions do not form part of any reimbursement agreement as defined under Section 100A of the *Income Tax Assessment Act 1936* (Cth);
- (b) The allocations are intended to confer present entitlement on the beneficiaries, consistent with their circumstances and the Trust's objectives, as considered by the Trustee;
- (c) The Trustee has consulted with its accountant to ensure that the distributions comply with Section 100A and other applicable anti-avoidance provisions, and that any unpaid present entitlements (UPEs) are managed in accordance with ATO guidelines.

This resolution is made to ensure compliance with Australian Taxation Office requirements and to mitigate any risk of adverse tax consequences under anti-avoidance rules.

Resolution to Confirm Compliance with TFN Withholding Requirements

The Trustee confirms that, in accordance with the *Tax Laws Amendment (2010 Measures*

No. 2) *Act 2010* and Australian Taxation Office (ATO) requirements for closely held trusts, it has:

- (a) Verified whether each beneficiary entitled to a distribution under these minutes has provided their Tax File Number (TFN) to the Trustee;
- (b) Ensured that, for any beneficiary who has not provided a TFN, the Trustee will withhold tax from their distribution at the rate prescribed by law and report and remit such amounts to the ATO within one month after the end of the financial year, unless an exemption applies (e.g., for minors, non-residents, or charities);
- (c) Confirmed that TFNs previously reported to the ATO on beneficiaries' latest tax returns are not reported again, in line with ATO guidelines;
- (d) Consulted with the Trust's accountant to ensure compliance with TFN withholding rules and to verify any applicable exemptions.

This resolution is made to ensure compliance with ATO requirements and to maintain accurate records for the Smith Weston Family Trust Trust's tax obligations.

Resolution to Confirm Consideration of Beneficiary TFN Quotation Status and Exemptions

The Trustee confirms that, for the distributions of income or capital resolved at this meeting for the «trustName_txt» Trust, it has:

- (a) Reviewed the Tax File Number (TFN) quotation status of each beneficiary entitled to a distribution, verifying whether a TFN has been provided or if the beneficiary qualifies for an exemption (e.g., minors, non-residents, or tax-exempt charities) under the *Tax Laws Amendment (2010 Measures No. 2) Act 2010*;
- (b) Ensured that, for beneficiaries exempt from TFN quotation requirements, appropriate documentation is maintained to support their exemption status in accordance with Australian Taxation Office (ATO) guidelines;
- (c) Consulted with the Trust's accountant to confirm that the TFN quotation status and exemptions are accurately recorded and that any required withholding or reporting obligations are met, ensuring compliance with ATO requirements.

This resolution is made to ensure accurate management of TFN obligations and compliance with taxation law.

Resolution to Confirm Trust Vesting and Family Trust Election Status

The Trustee confirms that, prior to making the distributions resolved at this meeting, it has:

- (a) Reviewed the Smith Weston Family Trust Trust Deed, including all amendments, and verified that the Trust has not reached its vesting date, ensuring that the Trust remains active and capable of making distributions to beneficiaries;
- (b) Confirmed whether a family trust election (FTE) is in force for the Smith Weston Family Trust Trust and, if applicable, ensured that all distributions are made only to beneficiaries within the family group specified in the FTE, in accordance with Division 272 of Schedule 2F to the *Income Tax Assessment Act*

1936 (Cth), to avoid family trust distribution tax liabilities;

(c) Consulted with the Trust's accountant to verify the vesting date and FTE status, ensuring that all resolutions comply with the Trust Deed and Australian Taxation Office (ATO) requirements.

This resolution is made to ensure the validity of the Trust's distributions and compliance with legal and taxation obligations.

Resolution to Confirm Consideration of Beneficiary Loan Arrangements

The Trustee confirms that, for the distributions of income or capital resolved at this meeting for the Smith Weston Family Trust Trust, it has:

- (a) Reviewed any existing or proposed loan arrangements between the Trust and its beneficiaries, including unpaid present entitlements (UPEs) or other advances, to ensure compliance with the Trust Deed and Australian taxation laws;
- (b) Ensured that such loan arrangements are documented and structured to avoid adverse tax consequences, including under Division 7A or s 100A of the *Income Tax Assessment Act 1936* (Cth), and do not constitute reimbursement agreements or other anti-avoidance triggers;
- (c) Consulted with the Trust's accountant to confirm that all beneficiary loan arrangements comply with Australian Taxation Office (ATO) requirements, including appropriate interest rates, repayment terms, and reporting obligations where applicable.

This resolution is made to ensure compliance with taxation and trust law obligations and to safeguard the Trust against regulatory and tax risks associated with beneficiary loans.

Resolution to Confirm Compliance with Division 7A for Corporate Beneficiaries

The Trustee confirms that, for any distributions of income or capital resolved at this meeting to a corporate beneficiary of the Smith Weston Family Trust Trust, it has:

- (a) Ensured that such distributions comply with Division 7A of the *Income Tax Assessment Act 1936* (Cth), including, where no cash or assets are transferred, the execution of a compliant Division 7A Loan Deed to prevent the distribution being treated as a deemed dividend;
- (b) Verified that the terms of any Division 7A Loan Deed, including interest rates and repayment periods, align with ATO requirements as outlined in Taxation Ruling TR 2010/3 and related guidelines;
- (c) Consulted with the Trust's accountant to confirm that all distributions to corporate beneficiaries are structured to avoid adverse tax consequences under Division 7A and that appropriate documentation is in place.

This resolution is made to ensure compliance with Australian Taxation Office requirements and to mitigate any risk of tax liabilities arising from distributions to corporate beneficiaries.

Resolution to Confirm Consideration of In-Specie Distributions and CGT Implications

The Trustee confirms that, in making distributions of income or capital for the Smith

Weston Family Trust Trust, it has:

- (a) Considered whether any distributions will be made in specie (e.g., by transferring assets such as property, shares, or other property directly to beneficiaries) and verified that such distributions are permitted under the Trust Deed;
- (b) Assessed the Capital Gains Tax (CGT) consequences of any in-specie distributions, including potential CGT events under Division 128 of the *Income Tax Assessment Act 1997* (Cth), and the treatment of trading stock or depreciating assets;
- (c) Confirmed whether any beneficiary receiving an in-specie distribution is registered for GST, and ensured that GST implications, if applicable, are addressed;
- (d) Consulted with the Trust's accountant to ensure that all in-specie distributions are structured to comply with Australian Taxation Office (ATO) requirements and minimise adverse tax consequences.

This resolution is made to ensure compliance with taxation laws and to maintain accurate records for the Trust's distribution decisions.

Resolution to Confirm Compliance with Appointor or Guardian Consent Requirements

The Trustee confirms that, in accordance with the Smith Weston Family Trust Trust Deed, it has:

- (a) Reviewed the Trust Deed to determine whether the consent or approval of an appointor, guardian, or other specified person is required for the distributions of income or capital resolved at this meeting;
- (b) Obtained and documented all necessary consents or approvals, whether written or verbal, as required by the Trust Deed, prior to finalising the distributions;
- (c) Consulted with the Trust's accountant and, where necessary, legal advisors to ensure that all consent requirements are met and that the distributions are valid under the terms of the Trust Deed and applicable laws.

This resolution is made to ensure the validity of the Trust's distributions and compliance with the Trust Deed and Australian Taxation Office requirements.

Resolution to Confirm Consideration of Prior Distributions

The Trustee confirms that, prior to making the distributions resolved at this meeting for the Smith Weston Family Trust Trust, it has:

- (a) Reviewed all distributions of income or capital made earlier in the financial year ending 30 June 2025 to ensure that the resolutions in these minutes do not duplicate or conflict with prior distributions;
- (b) Verified that any prior distributions are consistent with the terms of the Trust Deed and have been appropriately recorded in the Trust's financial records;
- (c) Consulted with the Trust's accountant to confirm that the final distribution resolutions account for prior distributions, ensuring compliance with Australian

Taxation Office requirements and the accurate reporting of beneficiaries' entitlements in the Trust's tax return.

This resolution is made to ensure the accuracy and validity of the Trust's distribution decisions and to maintain compliance with taxation and trust law obligations.

Resolution to Confirm Compliance with Charitable Distribution Requirements

The Trustee confirms that, for any distributions of income or capital resolved at this meeting to a tax-exempt charitable beneficiary of the Smith Weston Family Trust Trust, it has:

- (a) Verified that the charitable beneficiary is eligible under the Trust Deed and qualifies as a tax-exempt entity under Australian taxation law;
- (b) Ensured compliance with anti-avoidance rules, including notifying the charitable beneficiary of its present entitlement or paying the distribution within two months after the end of the financial year, as required to establish present entitlement under taxation law;
- (c) Consulted with the Trust's accountant to confirm that the distributions to charitable beneficiaries are structured to comply with Australian Taxation Office (ATO) requirements, including Section 100A of the *Income Tax Assessment Act 1936* (Cth), and are accurately reported in the Trust's tax return.

This resolution is made to ensure the validity of charitable distributions and compliance with ATO requirements and trust law obligations.

Resolution to Confirm Consideration of Non-Resident Beneficiary Tax Implications

The Trustee confirms that, for any distributions of income or capital resolved at this meeting to a non-resident beneficiary of the Smith Weston Family Trust Trust, it has:

- (a) Verified that the non-resident beneficiary is eligible under the Trust Deed to receive distributions and identified the source of the income or capital (e.g., Australian-sourced or foreign-sourced);
- (b) Ensured compliance with Australian taxation laws, including Division 855 of the *Income Tax Assessment Act 1997* (Cth) for capital gains and Subdivision 12-H for withholding tax obligations on Australian-sourced income, and considered potential refunds under s 99D of the *Income Tax Assessment Act 1936* (Cth);
- (c) Consulted with the Trust's accountant to confirm that distributions to non-resident beneficiaries are structured to comply with Australian Taxation Office (ATO) requirements, including accurate reporting and withholding where applicable.

This resolution is made to ensure compliance with taxation laws and to maintain accurate records for the Trust's distribution decisions involving non-resident beneficiaries.

Resolution to Confirm Review of Trust Deed's Income Definition and Streaming Powers

The Trustee confirms that, prior to making the distributions resolved at this meeting for the Smith Weston Family Trust Trust, it has:

- (a) Reviewed the Trust Deed to verify that the definition of 'income' is consistent

with the requirements of *Bamford v Commissioner of Taxation* [2010] HCA 10 and allows the Trustee to classify income as revenue or capital as necessary;

(b) Confirmed that the Trust Deed permits the streaming of specific types of income and capital, such as franked dividends and capital gains (discounted and non-discounted), to ensure beneficiaries are specifically entitled to such amounts where required;

(c) Consulted with the Trust's accountant to ensure that the income definition and streaming powers align with Australian Taxation Office (ATO) requirements and that all distributions comply with the Trust Deed and applicable taxation laws.

This resolution is made to ensure the validity of the Trust's distributions and compliance with the Trust Deed and ATO guidelines.

Resolution to Confirm Consideration of Trust Loss Provisions and CGT Small Business Concessions

The Trustee confirms that, prior to making the distributions resolved at this meeting for the Smith Weston Family Trust Trust, it has:

(a) Reviewed the applicability of trust loss provisions under Schedule 2F of the *Income Tax Assessment Act 1936* (Cth), including the pattern of distributions test, to ensure that prior tax losses can be recouped and that distributions do not jeopardise the Trust's ability to utilise such losses;

(b) Considered eligibility for CGT small business concessions under Division 152 of the *Income Tax Assessment Act 1997* (Cth), ensuring that distributions are structured to maximise access to these concessions where applicable;

(c) Consulted with the Trust's accountant to confirm that the distributions align with ATO requirements for trust loss recoupment and CGT concessions, and that all relevant conditions, such as the significant individual or CGT concession stakeholder tests, are satisfied.

This resolution is made to ensure compliance with taxation laws and to optimise the Trust's tax position.

Resolution to Confirm Consideration of Primary Production Business Requirements

The Trustee confirms that, for the Smith Weston Family Trust Trust, it has:

(a) Reviewed whether the Trust carries on a primary production business, as defined under Division 392 of the *Income Tax Assessment Act 1997* (Cth), and identified any tax concessions or obligations applicable to such activities;

(b) Ensured that, where the Trust conducts a primary production business, distributions of income are structured to enable relevant beneficiaries to be recognised as carrying on the business for tax purposes, where necessary to access primary production tax concessions;

(c) Consulted with the Trust's accountant to confirm that distributions align with Australian Taxation Office (ATO) requirements for primary production businesses and that all relevant conditions for tax concessions are satisfied.

This resolution is made to ensure compliance with taxation laws and to optimise the Trust's eligibility for primary production tax benefits.

Resolution to Confirm Consideration of Beneficiary Disclaimers and Tax Implications

The Trustee confirms that, for the distributions of income or capital resolved at this meeting for the Smith Weston Family Trust Trust, it has:

- (a) Considered the possibility that a beneficiary may disclaim their entitlement to income or capital within a reasonable time, as permitted under trust law;
- (b) Assessed the tax implications of any such disclaimers, including the potential for the Trustee to be assessed on the disclaimed income at the top marginal tax rate under s 99A of the *Income Tax Assessment Act 1936* (Cth);
- (c) Consulted with the Trust's accountant to ensure that distributions are structured to minimise adverse tax consequences in the event of a disclaimer and that appropriate records are maintained to address any ATO enquiries.

This resolution is made to ensure compliance with taxation and trust law obligations and to mitigate risks associated with beneficiary disclaimers.

Resolution to Confirm Record-Keeping and ATO Submission Preparedness

The Trustee confirms that, for the Smith Weston Family Trust Trust, it has:

- (a) Implemented robust record-keeping practices in accordance with s 262A of the *Income Tax Assessment Act 1936* (Cth), ensuring that all minutes, resolutions, and supporting documentation related to the distributions for the financial year ending 30 June 2025 are accurately maintained and stored;
- (b) Ensured that these records are readily accessible and prepared for submission to the Australian Taxation Office (ATO) upon request, whether for routine reviews or audits;
- (c) Consulted with the Trust's accountant to verify that the record-keeping practices comply with ATO requirements and support the accurate preparation of the Trust's tax return and beneficiaries' tax returns.

This resolution is made to ensure compliance with taxation and trust law obligations and to facilitate timely responses to ATO enquiries.

Resolution to Confirm Consideration of Trust Income Accumulation Powers

The Trustee confirms that, for the Smith Weston Family Trust Trust, it has:

- (a) Reviewed the Trust Deed to verify whether it permits the accumulation of income, as distinct from mandatory distribution, and confirmed the scope of such powers;
- (b) Considered whether accumulating any portion of the Trust's income for the financial year ending 30 June 2025, rather than distributing it, would provide tax advantages or asset protection benefits, consistent with the Trustee's fiduciary duties and the Trust's objectives;
- (c) Consulted with the Trust's accountant to ensure that any decision to

accumulate income complies with Australian Taxation Office (ATO) requirements, including the tax treatment of accumulated income under s 99A of the *Income Tax Assessment Act 1936* (Cth), and aligns with the Trust Deed.

This resolution is made to ensure compliance with trust law and taxation obligations and to support the prudent administration of the Trust.

Resolution to Confirm Consideration of Trust Deed Amendments

The Trustee confirms that, for the Smith Weston Family Trust Trust, it has:

- (a) Reviewed all amendments to the Trust Deed, if any, to ensure that the terms governing beneficiary classes, distribution powers, and other relevant provisions are current and applicable for the financial year ending «distStmntYear_list»;
- (b) Verified that the distributions resolved at this meeting comply with the Trust Deed's amended terms, including any changes to income streaming, beneficiary eligibility, or trustee powers;
- (c) Consulted with the Trust's accountant and, where necessary, legal advisors to confirm that the distributions align with the Trust Deed's current terms and Australian Taxation Office (ATO) requirements, ensuring no adverse tax or legal consequences arise from non-compliance with amendments.

This resolution is made to ensure the validity of the Trust's distributions and compliance with trust law and taxation obligations.

Resolution to Confirm Consideration of Trust's Financial Position and Solvency

The Trustee confirms that, for the distributions of income or capital resolved at this meeting for the Smith Weston Family Trust Trust, it has:

- (a) Reviewed the Trust's financial position, including its assets, liabilities, and cash flow, to ensure that the proposed distributions are prudent and do not compromise the Trust's ability to meet its obligations;
- (b) Verified that the Trust remains solvent and capable of fulfilling its financial commitments, including any unpaid present entitlements or other liabilities, following the distributions;
- (c) Consulted with the Trust's accountant to confirm that the distributions are financially sustainable and comply with the Trust Deed, Australian Taxation Office (ATO) requirements, and applicable trust law obligations, including the Trustee's fiduciary duty to act in the best interests of the Trust and its beneficiaries.

This resolution is made to ensure prudent administration of the Trust and compliance with fiduciary and taxation obligations.

Resolution to Confirm Consideration of Trust's Financial Position and Solvency

The Trustee confirms that, for the distributions of income or capital resolved at this meeting for the Smith Weston Family Trust Trust, it has:

- (a) Reviewed the Trust's financial position, including its assets, liabilities, and cash flow, to ensure that the proposed distributions are prudent and do not compromise the Trust's ability to meet its obligations;

(b) Verified that the Trust remains solvent and capable of fulfilling its financial commitments, including any unpaid present entitlements or other liabilities, following the distributions;

(c) Consulted with the Trust's accountant to confirm that the distributions are financially sustainable and comply with the Trust Deed, Australian Taxation Office (ATO) requirements, and applicable trust law obligations, including the Trustee's fiduciary duty to act in the best interests of the Trust and its beneficiaries.

This resolution is made to ensure prudent administration of the Trust and compliance with fiduciary and taxation obligations.

Resolution to Confirm Consideration of Beneficiary Notification and Communication

The Trustee confirms that, for the distributions of income or capital resolved at this meeting for the Smith Weston Family Trust Trust, it has:

(a) Considered the need to notify or communicate with beneficiaries entitled to distributions, including any specific requirements under the Trust Deed or taxation law, such as notifying tax-exempt charities within two months after the end of the financial year to establish present entitlement;

(b) Planned appropriate methods and timelines for informing beneficiaries of their entitlements, ensuring compliance with Australian Taxation Office (ATO) requirements and trust law obligations;

(c) Consulted with the Trust's accountant to confirm that notification processes align with ATO guidelines and support accurate reporting in the Trust's tax return and beneficiaries' tax returns.

This resolution is made to ensure the validity of the Trust's distributions and compliance with trust law and taxation obligations.

Resolution to Confirm Consideration of AML/CTF Obligations

The Trustee confirms that, for the distributions of income or capital resolved at this meeting for the Smith Weston Family Trust Trust, it has:

(a) Reviewed the Trust's obligations under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) (AML/CTF Act), including any requirements to verify the identity of beneficiaries or report suspicious transactions to the Australian Transaction Reports and Analysis Centre (AUSTRAC);

(b) Ensured that distributions are made in a manner consistent with AML/CTF obligations, including conducting due diligence on beneficiaries where required, to prevent the Trust from being used for money laundering or terrorism financing;

(c) Consulted with the Trust's accountant and, where necessary, legal advisors to confirm that the Trust's distribution processes comply with the AML/CTF Act requirements and AUSTRAC guidelines.

This resolution is made to ensure compliance with the AML/CTF Act obligations and to safeguard the Trust against legal and regulatory risks.

Resolution to Confirm Consideration of Division 6E Compliance

The Trustee confirms that, for the distributions of income or capital resolved at this meeting for the Smith Weston Family Trust Trust, it has:

- (a) Reviewed the applicability of Division 6E of the *Income Tax Assessment Act 1936* (Cth) to ensure that distributions, particularly those involving non-assessable amounts or capital, do not result in unintended tax consequences or trigger anti-avoidance provisions;
- (b) Ensured that distributions are structured to comply with Division 6E, maintaining the integrity of the Trust's taxable income allocations and avoiding improper reduction of beneficiaries' assessable income;
- (c) Consulted with the Trust's accountant to confirm that the distributions align with Australian Taxation Office (ATO) requirements under Division 6E and related guidelines, ensuring accurate reporting in the Trust's tax return.

This resolution is made to ensure compliance with taxation law and to mitigate risks associated with ATO scrutiny of trust distributions.

Resolution to Confirm Consideration of Foreign Beneficiary Reporting Obligations

The Trustee confirms that, for the distributions of income or capital resolved at this meeting for the Smith Weston Family Trust Trust to non-resident or foreign beneficiaries, it has:

- (a) Reviewed the Trust's obligations to report transactions involving foreign beneficiaries, including under the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and the Australian Taxation Office's (ATO) international dealings schedules or other relevant reporting requirements;
- (b) Ensured that distributions to foreign beneficiaries are documented and reported as required by Australian law, including any necessary disclosures in the Trust's tax return or related schedules;
- (c) Consulted with the Trust's accountant to confirm that all reporting obligations related to foreign beneficiaries are met, ensuring compliance with ATO requirements and mitigating risks of penalties for non-disclosure.

This resolution is made to ensure compliance with international tax and reporting obligations and to safeguard the Trust against regulatory risks.

Resolution to Confirm Consideration of Privacy and Data Protection Obligations

The Trustee confirms that, for the distributions of income or capital resolved at this meeting for the Smith Weston Family Trust Trust, it has:

- (a) Reviewed its obligations under the *Privacy Act 1988* (Cth) and other applicable data protection laws concerning the collection, storage, use, and disclosure of personal information about beneficiaries, including financial, medical, and other sensitive data;
- (b) Ensured that all personal information handled in the course of making distribution decisions is protected in accordance with Australian Privacy Principles, including secure storage and limited disclosure only as necessary for

trust administration;

(c) Consulted with the Trust's accountant and, where necessary, legal advisors to confirm that the Trust's processes for handling beneficiary information comply with privacy and data protection requirements, mitigating risks of breaches or regulatory action by the Office of the Australian Information Commissioner (OAIC).

This resolution is made to ensure compliance with privacy and data protection obligations and to safeguard the Trust against legal and regulatory risks.

Resolution to Confirm Consideration of State and Territory Trust Laws

The Trustee confirms that, for the distributions of income or capital resolved at this meeting for the Smith Weston Family Trust Trust, it has:

- (a) Reviewed its obligations under the applicable state or territory trust laws, including but not limited to each state and territories' Trustee Acts, as applicable, or equivalent legislation, to ensure that the distributions comply with the Trustee's fiduciary duties, powers, and responsibilities;
- (b) Ensured that the distributions are made prudently, in good faith, and in the best interests of the beneficiaries, consistent with the requirements of state or territory trust laws and the Trust Deed;
- (c) Consulted with the Trust's accountant and, where necessary, legal advisors to confirm that the distributions align with state or territory trust law obligations, mitigating risks of legal challenges or breaches of fiduciary duty.

This resolution is made to ensure compliance with state and territory trust law obligations and to safeguard the Trust against legal and regulatory risks.

Resolution to Confirm Consideration of Beneficiary Age and Capacity Restrictions

The Trustee confirms that, for the distributions of income or capital resolved at this meeting for the Smith Weston Family Trust Trust, it has:

- (a) Reviewed the Trust Deed and applicable trust law to identify any restrictions on distributions to beneficiaries based on age or legal capacity, such as minors or incapacitated persons;
- (b) Ensured that distributions to such beneficiaries are structured to comply with legal requirements, including any necessary involvement of guardians or administrators;
- (c) Consulted with the Trust's accountant and legal advisors to confirm compliance with these restrictions, ensuring the validity of distributions.

This resolution is made to ensure compliance with trust law and to protect the Trust from legal risks.

Resolution to Confirm Consideration of ESG Factors

The Trustee confirms that, for the distributions of income or capital resolved at this meeting for the Smith Weston Family Trust Trust, it has:

- (a) Considered environmental, social, and governance (ESG) factors relevant to the Trust's assets or investments, as part of its fiduciary duty to act in the best

interests of beneficiaries;

(b) Ensured that distribution decisions align with any ESG objectives outlined in the Trust Deed or agreed by beneficiaries, where applicable;

(c) Consulted with the Trust's accountant and advisors to confirm that ESG considerations are integrated into the Trust's administration, consistent with Australian Securities and Investments Commission (ASIC) guidance and trust law.

This resolution is made to ensure responsible trust administration and compliance with fiduciary obligations.

Resolution to Confirm Consideration of Trust's Long-Term Sustainability and Beneficiary Needs

The Trustee confirms that, for the distributions of income or capital resolved at this meeting for the Smith Weston Family Trust Trust, it has:

(a) Considered the long-term sustainability of the Trust, including its ability to meet the future needs of beneficiaries, in accordance with its fiduciary duties;

(b) Balanced current distributions with the preservation of Trust assets to support future generations or beneficiaries, as permitted by the Trust Deed;

(c) Consulted with the Trust's accountant and advisors to ensure that distribution decisions align with the Trust's long-term objectives and comply with trust law obligations.

This resolution is made to ensure prudent administration and compliance with fiduciary responsibilities.

Resolution to Confirm Review of Trust's Risk Management and Contingency Planning

The Trustee confirms that, for the distributions of income or capital resolved at this meeting for the Smith Weston Family Trust Trust, it has:

(a) Reviewed potential risks to the Trust, including economic, legal, or beneficiary-related challenges, and considered appropriate risk management strategies;

(b) Ensured that distribution decisions incorporate contingency planning to safeguard the Trust's assets and operations, consistent with the Trustee's fiduciary duties;

(c) Consulted with the Trust's accountant and advisors to confirm that risk management measures align with trust law and Australian Taxation Office (ATO) requirements.

This resolution is made to ensure prudent administration and compliance with fiduciary obligations.

Order of Allocation – General Tax Distribution

Sufficient distribution of the income of Smith Weston Family Trust is made to the following taxpayers are handwritten:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

Distributions are structured so that each beneficiary's taxable income (including income from other sources) is increased progressively to their next marginal tax rate, including Medicare levy, and continuing up to the highest tax bracket.

Franked Dividends Distribution

Where the trust has received franked dividends (including franking credits), distributions are made as follows are handwritten:

1. _____
2. _____
3. _____
4. _____

Distributions are applied similarly to maximise tax efficiency across each beneficiary's marginal tax thresholds.

Capital Gains Distribution

Where the trust has derived capital gains, distributions are made as follows:

(a) Non-Discounted Capital Gains are handwritten

1. _____
2. _____
3. _____
4. _____

(b) Discounted Capital Gains are handwritten

1. _____
2. _____
3. _____
4. _____

Distributions are structured to utilise beneficiaries' marginal tax rates effectively.

Under-18 Beneficiaries (Non-Testamentary)

For beneficiaries under 18 years of age who are neither disabled nor receiving income from a Will or testamentary trust as handwritten in pen:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

Income is capped at \$416 per beneficiary to remain within tax-free thresholds for non-excepted income. Preferably, such income is free of refundable tax credits (e.g., net interest).

Non-Resident Beneficiaries

Where a beneficiary is not a resident of Australia for tax purposes, and where the net income is wholly or partially derived from foreign sources are handwritten in pen:

Non-resident: _____

Allocated as are handwritten in pen:

- () Percentage of income: _____%
- () Income up to: \$_____
- () Fixed amount: \$_____
- () Foreign-source income: _____

Note: Non-resident beneficiaries may be entitled to refunds of tax paid by the trustee under s 99 or 99A *ITAA 1936* if such income is subsequently distributed (per s 99D *ITAA 1936*).

Distributions to Tax-Exempt Charities

Tax-exempt charity are handwritten in pen:

Allocated as are hand written in pen:

- () Percentage of income: _____ %
- () Fixed amount: \$ _____

Residual Income Allocation

Any remaining surplus income, after all distributions are made and tax brackets are maximised, shall be allocated equally to are handwritten in pen:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

Meeting Closure and Record-Keeping

Resolution on Minutes Accuracy

IT WAS RESOLVED that these minutes accurately reflect the resolutions passed at the meeting of the Smith Weston Family Trust for the financial year ending 30 June 2025, and that all actions comply with the trust deed and Australian Taxation Office (ATO) requirements.

Closure of Meeting

There being no further business, the meeting was declared closed.

Record-Keeping and Next Steps

Trustees must retain these signed minutes with the Smith Weston Family Trust trust records and provide a copy to their qualified accountant for preparation of the trust's tax return and beneficiaries' tax returns. This document provides general guidance only and is not a substitute for professional taxation or legal advice tailored to the trust's circumstances.

Unanimous Acceptance

These Minutes are prepared on the basis that they are unanimously supported by the parties below. (If there is a dispute do not proceed to use these minutes.) The Chairperson, Trustee and all controllers unanimously accepted and agreed to these minutes.

Signatures

Signed as a true and correct record of the meeting immediately following the meeting of the Smith Weston Family Trust for the year ending 30 June 2025:

Chairperson

..... Person chairing the meeting

Further, all Trustee(s) agreed and signed:

.....

Further, all controllers (including Appointors, Guardians, Controllers, Principals) agreed and signed for the **Smith Weston Family Trust** for the year ending 30 June 2025:

.....

.....