

CHANGES TO NEWCASTLE PERMANENT'S CONSTITUTION TO PERMIT ISSUANCE OF MUTUAL CAPITAL INSTRUMENTS

What are the proposed changes to Newcastle Permanent's Constitution?

The proposed changes will allow Newcastle Permanent to issue Mutual Capital Instruments (**MCI**s) in future, if the Board of Directors (**Board**) decides it is necessary or desirable to do so. MCIs will give Newcastle Permanent access to capital that will better equip us to invest, grow, innovate and compete, while remaining committed to our future as a mutual. The proposed changes do not affect Newcastle Permanent's status as a mutual and are not a move towards a demutualisation or public listing.

A copy of the Constitution showing the proposed changes is available at www.newcastlepermanent.com.au/agm

The Board of Directors unanimously recommends that Members vote in favour of the proposed changes to the Constitution.

What are MCIs?

MCIs are a new type of instrument that allow mutual entities to raise capital while retaining their status as mutuals.

Enabled by the Mutual Reforms legislation in 2019, MCIs are fully paid shares with non-cumulative dividends, meaning Newcastle Permanent is not required to pay any unpaid dividends. We will have full discretion over whether to pay dividends and the conditions around any financial returns.

Newcastle Permanent's Board will have discretion to decide if MCIs should be issued, together with the entitlements, requirements and obligations which attach to MCIs if the Board decides to issue them. This gives Newcastle Permanent the greatest possible flexibility to issue MCIs which meet APRA's requirements for regulatory capital, reducing the likelihood of further Constitutional updates being required in future.

Do the proposed changes mean Newcastle Permanent is demutualising?

No, we are committed to our future as a mutual and the proposed changes will clearly retain Newcastle Permanent's status as a mutual now, and into the future. Nothing in the proposed amendments or issuing of MCIs will mean that we cease to be a "mutual entity". The Mutual Reforms legislation specifically provides for mutuals to issue MCIs as a new type of capital without losing their mutual status.

Why is Newcastle Permanent proposing these changes to the Constitution?

The Mutual Reforms provide mutuals with better access to capital. This will enable us to continue to invest, innovate, grow and compete, while maintaining our mutuality. Our Board and management have given careful consideration to the proposed changes and believe this is an important step which will give us more flexibility in the future to raise capital as a modern mutual and authorised deposit-taking institution regulated by APRA. We will continue to put the interests of our Members first.

What is a mutual entity?

A mutual entity is an organisation based on the principle of people organising together to meet their shared needs. The mutual sector is very diverse with mutual entities operating in almost every sector of the Australian economy.

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Until recently, there was no legal definition of “mutual entity”. As of 2019, the *Corporations Act 2001* (Cth) (**Corporations Act**) now includes a definition of “mutual entity” for the first time in Australia’s history. Essentially, a “mutual entity” is a company where no person has more than one vote at a general meeting for each capacity in which the person is a Member.

It’s great to have official recognition at last, and this definition of “mutual entity” is also important because only mutual entities like Newcastle Permanent can issue MCIs.

Is Newcastle Permanent planning to issue MCIs?

We have no current plans to issue MCIs but the Board and management consider it is important to take advantage of the Mutual Reforms now to update Newcastle Permanent’s Constitution. This will give us the flexibility to issue MCIs in the future – whether for regulatory capital or to seize business opportunities where it would benefit Newcastle Permanent and its Members and advance the mutual objectives of the organisation. Any decision to issue MCIs would need to be approved by the Board, who would need to determine that this was in the best interests of Newcastle Permanent and our Members.

Will holders of MCIs be Members of Newcastle Permanent?

Under the Constitution, a person may be a Member of Newcastle Permanent by way of guarantee (**Guarantee Member**) or by way of shares and guarantee (**Shareholder Member**, and together with a Guarantee Member, the “**Members**”). The MCI amendments would introduce “MCI Holders” as a new category of shareholder, in addition to the existing Shareholder Members. These MCI Holders are not necessarily “Members” under Newcastle Permanent’s Constitution, but they will nonetheless be considered “members” of the company for the technical purposes of the Corporations Act. This means that they will not be entitled to the benefits that Members are entitled to (unless they happen to also be either a Shareholder Member or Guarantee Member).

Will holders of MCIs have voting rights?

The terms of issue for any MCIs will be decided by the Board and these terms will spell out any voting rights. The Board may choose to issue MCIs which do, or do not, carry up to one vote in a general meeting. No MCI Holder will have more than one vote in respect of their MCIs, no matter how many MCIs they hold. If an MCI Holder is also a Member of Newcastle Permanent, they will only be eligible to hold one vote at general meetings (in respect of their shareholding as a Member of Newcastle Permanent).

What rights would MCI Holders have in the unlikely event of a winding-up of Newcastle Permanent?

The terms of MCIs will need to provide for the rights of MCI Holders in the unlikely event of a winding up of Newcastle Permanent. To ensure alignment with current APRA requirements, the Board will have the power to provide in the terms of issue of any MCIs that MCI Holders will, on a winding-up of Newcastle Permanent, have the right to payment of the subscription price out of any surplus assets. This is the amount Newcastle Permanent was originally paid by the MCI Holders in return for issuing the MCIs, and it cannot be paid to MCI Holders until all senior creditors (including depositors and Members) have been paid. MCI Holders can only be paid out of surplus assets and cannot receive any further amount. The terms of issue cannot grant any other right to participate in the surplus assets or profits of Newcastle Permanent.

In addition, the Constitution will continue to provide that each Member’s or former Member’s liability on a winding-up of the company will be capped at \$1.

If you have any questions about these changes, please contact us on **13 19 87**.