

20 October 2020

Dear Shareholder,

#### **Annual General Meeting - Notice and Proxy Form**

Notice is hereby given that the Annual General Meeting (Meeting) of Shareholders of Kinetiko Energy Ltd (ACN 141 647 529) (the Company) will be held at Level 9, 40 St Georges Terrace, Perth, Western Australia at 2.00pam (WST) on 27 November 2020.

The Board has made the decision that it will hold a physical Meeting with the appropriate social gathering and physical distancing measures in place to comply with the Federal Government's and State Government's current restrictions for physical gatherings.

In accordance with subsection 5(1)(f) of the *Corporations (Coronavirus Economic Response) Determination (No.3)* 2020, the Company will not be dispatching physical copies of the Notice of Meeting (NOM) . Instead, a copy of the NOM is available through the Company's website at <a href="https://www.kinetikoenergy.com.au">www.kinetikoenergy.com.au</a>.

As you have not elected to receive notices by email, a copy of your personalised proxy form is enclosed for your convenience.

Shareholders are encouraged to vote online at <a href="https://investor.automic.com.au/#/loginsah">https://investor.automic.com.au/#/loginsah</a> or by returning the attached proxy form by:

post to: Automic

GPO Box 5193 Sydney NSW 2001

or

email to: meetings@automicgroup.com.au

Your proxy voting instruction must be received by 2.00pm (WST) on 25 November 2020, being not less than 48 hours before the commencement of the Meeting. Any proxy voting instructions received after that time will not be valid for the Meeting.

Circumstances relating to COVID-19 may change. The Company will update shareholders if changing circumstances will impact planning or the arrangements for the Meeting by way of announcement on ASX.

The NOM is important and should be read in its entirety. If you are in doubt as to the course of action you should follow, you should consul t your financial adviser, lawyer, accountant or other professional adviser. If you have any difficulties obtaining a copy of the Notice of Meeting please contact the Company's share registry, Automic on, 1300 288 664 (within Australia) or +61 2 9698 5414 (overseas).

Yours faithfully Stephen Hewitt-Dutton Company Secretary



ACN 141 647 529

# NOTICE OF ANNUAL GENERAL MEETING AND EXPLANATORY STATEMENT

Annual General Meeting to be held at Level 9, 40 St George's Terrace, Perth, Western Australia on 27 November 2020 commencing at 2.00pm (WST).

The Board has made the decision that it will hold a physical Meeting with the appropriate social gathering and physical distancing measures in place to comply with the Federal Government's and State Government's current restrictions for physical gatherings.

This Notice of Annual General Meeting and Explanatory Statement should be read in its entirety. If Shareholders are in doubt as to how to vote, they should seek advice from their accountant, solicitor or other professional adviser without delay.

In accordance with subsection 5(1)(f) of the Corporations (Coronavirus Economic Response) Determination (No. 3) 2020, the Company will not be dispatching physical copies of this Notice of Meeting. For shareholders that the Company has email addresses on records, the Company will send a copy of this Notice and material relating to the Meeting or provide a link to where the Notice and other material can be viewed or downloaded by email. To the other Shareholders, the Company will send a letter or postcard setting out a URL for viewing or downloading the Notice and other material. If you are unable to attend the Meeting, please complete the form of proxy enclosed and return it in accordance with the instructions set out on that form.

# KINETIKO ENERGY LIMITED

ACN: 141 647 529

# NOTICE OF ANNUAL GENERAL MEETING

Notice is given that the Annual General Meeting of Shareholders of Kinetiko Energy Limited (ACN 141 647 529) ("**Company**") will be held at Level 9, 40 St George's Terrace, Perth, Western Australia on 27 November 2020 commencing at 2.00pm (WST).

#### **ORDINARY BUSINESS**

# 1. Financial Statements and Reports

To receive and consider the annual financial report, together with the Director's and auditor's reports for the year ending 30 June 2020.

# 2. Resolution 1 – Approval of Remuneration Report

To consider and, if thought fit, pass the following **advisory only resolution**:

"That, for the purpose of section 250R of the Corporations Act and for all other purposes, Shareholders approve the Remuneration Report for the year ending 30 June 2020."

**Note:** The vote on this resolution is advisory only and does not bind the Directors or the Company.

#### **Voting Exclusion Statement:**

The Company will disregard any votes cast on this resolution by, or on behalf of, a member of the Company's Key Management Personnel (**KMP**), details of whose remuneration are included in the Remuneration Report for the year ended 30 June 2020 or a closely related party of a KMP whether the votes are cast as a shareholder, proxy or in any other capacity. However, the Company need not disregard a vote if:

- (a) it is cast by a person as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- (b) it is cast by the Chair as proxy for a person who is entitled to vote, in accordance with a direction on the proxy form to vote as the proxy decides.

# 3. Resolution 2 - Re-election of Adam Sierakowski as a Director

To consider and, if thought fit, pass the following resolution as an **ordinary resolution**:

"That, for all purposes, Adam Sierakowski, who retires by rotation in accordance with clause 11.3 of the Constitution and, being eligible, offers himself for re-election, is re-elected as a Director."

#### 4. Resolution 3 – Approval of 10% Placement Facility

To consider and, if thought fit, pass the following resolution as a **special resolution**:

"That, for the purposes of Listing Rule 7.1A and for all other purposes, Shareholders approve the issue of Equity Securities totaling up to 10% of the issued capital of the Company (at the time of issue) calculated in accordance with the formula prescribed in Listing Rule 7.1A.2 over a 12 month period from the date of the Annual General Meeting, at a price not less than that determined pursuant to Listing Rule 7.1A.3 and otherwise on the terms and conditions in the Explanatory Statement."

# **KINETIKO ENERGY LIMITED**

ACN: 141 647 529

# 5. Resolution 4 – Replacement of Constitution

To consider and, if thought fit, pass the following resolution as a **special resolution**:

"That, for the purposes of section 136(2) of the Corporations Act and for all other purposes, approval is given for the Company to repeal its existing Constitution and adopt a new constitution in its place in the form as signed by the Chair of the Meeting for identification purposes."

#### **Explanatory Statement**

The accompanying Explanatory Statement forms part of this Notice of Annual General Meeting and should be read in conjunction with it.

Shareholders are specifically referred to the Glossary in the Explanatory Statement which contains definitions of capitalised terms used in this Notice of Annual General Meeting and the Explanatory Statement.

#### **Proxies and Voting Entitlements**

Please note that:

- (a) a Shareholder entitled to attend and vote at the Annual General Meeting is entitled to appoint a proxy;
- (b) a proxy need not be a member of the Company;
- (c) a Shareholder may appoint a body corporate or an individual as its proxy;
- (d) a body corporate appointed as a Shareholder's proxy may appoint an individual as its representative to exercise any of the powers that the body may exercise as the Shareholder's proxy; and
- (e) Shareholders entitled to cast two or more votes may appoint two proxies and may specify the proportion or number of votes each proxy is appointed to exercise, but where the proportion or number is not specified, each proxy may exercise half of the votes.

The enclosed proxy form provides further details on appointing proxies and lodging proxy forms. If a Shareholder appoints a body corporate as its proxy and the body corporate wishes to appoint an individual as its representative, the body corporate should provide that person with a certificate or letter executed in accordance with the Corporations Act authorising him or her to act as that company's representative. The authority may be sent to the Company or its share registry in advance of the Annual General Meeting or handed in at the Annual General Meeting when registering as a corporate representative.

In accordance with Regulations 7.11.37 and 7.11.38 of the *Corporations Regulations 2001* (Cth), the Board has determined that a person's entitlement to vote at the Annual General Meeting will be the entitlement of that person set out in the register of Shareholders as at 4.00pm (WST) on 25 November 2020. Accordingly, transactions registered after that time will be disregarded in determining Shareholder's entitlement to attend and vote at the Annual General Meeting.

# By Order of the Board of Directors

#### **Stephen Hewitt-Dutton**

Company Secretary Kinetiko Energy Limited

8 October 2020

# **Explanatory Statement**

This Explanatory Statement has been prepared for the information of Shareholders in relation to the business to be conducted at the Company's Annual General Meeting.

The purpose of this Explanatory Statement is to provide Shareholders with all information known to the Company which is material to a decision on how to vote on the resolution in the accompanying Notice of Annual General Meeting.

This Explanatory Statement should be read in conjunction with the Notice of Annual General Meeting. Capitalised terms in this Explanatory Statement are defined in the Glossary.

#### **Financial Statements**

The Corporations Act requires the annual financial report, the directors' report and the auditor's report for the last financial year to be laid before the Annual General Meeting. The financial statements and reports are contained in the Company's Annual Report. Shareholders who have elected to receive the Annual Report will have been provided with a copy. The Annual Report is also available on ASX's website and the Company's website.

While no resolution is required in relation to this item, Shareholders will be given the opportunity to ask questions and make comments on the financial statements and reports.

In accordance with section 250T of the Corporations Act, a representative of the Company's Auditor is anticipated to be in attendance to respond to any questions raised of the Auditor or on the Auditor's Report. Written questions to the Auditor must be submitted by Shareholders to the Company at least 5 business days prior to the Annual General Meeting.

# 1. Resolution 1 – Approval of Remuneration Report

The Remuneration Report of the Company for the financial year ended 30 June 2020 is included in the Directors' report in the Company's annual report for the financial year ended 30 June 2020. The Remuneration Report sets out the Company's remuneration arrangements for the executive and non-executive Directors and executive Employees.

Section 249L(2) of the Corporations Act requires a company to inform shareholders that a resolution on the Remuneration Report will be put at the Annual General Meeting. Section 250R(2) of the Corporations Act provides that a resolution that the Remuneration Report be adopted must be put to the vote. Resolution 1 seeks the adoption of the Remuneration Report.

However, Shareholders should note that in accordance with Section 250R(3) of the Corporations Act, Resolution 1 is an "advisory only" Resolution and does not bind the Directors or the Company.

Following consideration of the Remuneration Report at the Annual General Meeting, the Chairman, in accordance with Section 250SA of the Corporations Act, must give Shareholders a reasonable opportunity to ask questions about, or make comments on, the Remuneration Report.

Section 250V of the Corporations Act provides that if the resolution to approve the Remuneration Report receives "no" votes of 25% or more at two successive annual general meetings of the Company, the Shareholders will be required to vote at the second of those annual general meetings on a resolution ("spill resolution") that an extraordinary meeting be held at which all of the Directors (except the Managing Director) must stand for re-election. If more than 50% of Shareholders vote in favour of the spill resolution, the Company must convene the extraordinary meeting ("spill meeting") within 90 days of the second annual general meeting. All of the Directors who were in office when the resolution to make the 2020 Director's report was passed, other than the Managing Director (who may in accordance with the Listing Rules continue to hold office indefinitely without being re-elected to office), will cease to hold office immediately before the end of the spill meeting but may stand for re-election at the spill meeting. Following the spill meeting, those persons whose election or re-election as Directors is approved will be the Directors.

Section 250R of the Corporations Act restricts the Chairperson, Key Management Personnel and any Closely Related Parties of them from voting on a Remuneration Report.

Section 250R(4) of the Corporations Act prohibits any votes on this Resolution 1 being cast by Key Management Personnel or a Closely Related Party, whose remuneration details are disclosed in the Remuneration Report. This prohibition extends to undirected proxy votes to be cast by the Chairman. In this regard, you should specifically note that if you indicate on the Proxy Form that you do not wish to specify how your proxy should vote on Resolution 1, you will be deemed to have expressly directed the Chairman to cast your votes in favour of Resolution 1.

What this means for Shareholders: If you wish to appoint the Chairman as your proxy but do NOT want your votes to be cast in favour of Resolution 1, you must indicate your voting intention by marking either "against" or "abstain" on Resolution 1 in the Proxy Form. Please see the Proxy Form for further information on such appointments.

#### 2. Resolution 2 – Re-election of Adam Sierakowski as a Director

In accordance with Listing Rule 14.4 and clause 11.3 of the Constitution, at every Annual General Meeting, one third of the Directors for the time being must retire from office by rotation and are eligible for re-election. The Directors to retire are those who have been in office for 3 years since their appointment or last re-appointment or who have been longest in office since their appointment or last re-appointment or, if the Directors have been in office for an equal length of time, by agreement.

In determining the number and identity of the Directors to retire by rotation, the Managing Director and any Director seeking election after appointment by the Board to fill a casual vacancy are not taken into account.

Adam Sierakowski retires by rotation at this meeting and, being eligible, offers himself for re-election.

Details of Adam Sierakowski are as follows:

Mr Sierakowski is a lawyer and founding director of the legal firm Price Sierakowski. He has more than 20 years of experience in legal practice, much of which he has spent as a corporate lawyer, consulting and advising on a range of transactions to a variety of large private and listed public entities. He has advised and guided many companies undertaking fundraising activities in Australia and seeking to list on the ASX. As the co-founder of Trident Capital, Mr Sierakowski has also advised a variety of public and private clients on the structuring of their transactions and has been engaged in co-ordinating fundraising both domestically and overseas. He has vast experience in restructuring and mergers and acquisitions and has played a key role in the recapitalisation of many ASX-listed companies.

Mr Sierakowski is a member of the Australian Institute of Company Directors and the Association of Mining Exploration Companies.

#### 3. Resolution 3 – Approval of 10% Placement Facility

#### **Background**

Resolution 3 is a **special resolution** to approve the Company's ability to utilise the additional 10% placement capacity available under Listing Rule 7.1A for the next 12 months.

This Resolution 3 will be passed by Shareholders as a special resolution if 75% of the votes cast by Shareholders present and eligible to vote (whether in person, by proxy, by attorney or, in the case of a corporate Shareholder, by a corporate representative) are in favour of it.

Listing Rule 7.1A enables eligible entities to issue Equity Securities up to 10% of its issued share capital through placements over a 12 month period after the annual general meeting (10% Placement Capacity). The 10% Placement Capacity is in addition to the Company's 15% placement capacity under Listing Rule 7.1.

An eligible entity for the purposes of Listing Rule 7.1A is an entity that is not included in the S&P/ASX 300 Index and has a market capitalisation of \$300 million or less. The Company is an eligible entity.

Shareholder approval was previously obtained pursuant to Listing Rule 7.1A on 27 November 2019 (at the 2019 Annual General Meeting). The Company is now seeking Shareholder approval by way of a special resolution to enable the Company's to issue Equity Securities under the 10% Placement Capacity over the next 12 months.

If Resolution 3 is passed, the Company will be able to issue equity securities up to the combined 25% limit in Listing Rules 7.1 and 7.1A without any further shareholder approval.

If Resolution 3 is not passed, the Company will not be able to access the additional 10% capacity to issue equity securities without shareholder approval provided for in Listing Rule 7.1A and will remain subject to the 15% limit on issuing equity securities without shareholder approval set out in Listing Rule 7.1.

The exact number of Equity Securities to be issued under the 10% placement capacity will be determined in accordance with the formula prescribed in Listing Rule 7.1A.2.

# **Description of Listing Rule 7.1A**

#### (a) Shareholder approval

The ability to issue Equity Securities under the 10% placement capacity is subject to shareholder approval by way of a special resolution at an annual general meeting.

#### (b) Equity Securities

Any Equity Securities issued under the 10% placement capacity must be in the same class as an existing quoted class of Equity Securities of the Company.

As at the date of the Notice, the Company has the following quoted Equity Securities on issue:

- 543,664,256 ordinary shares.
- 51,085,280 unlisted options, exercisable at \$0.03 each and expiring on 31 December 2021.

#### (c) Formula for calculating 10% placement capacity

Listing Rule 7.1A.2 provides that eligible entities which have obtained shareholder approval at an annual general meeting may issue or agree to issue, during the 12 month period after the date of the annual general meeting, a number of Equity Securities calculated in accordance with the following formula:

$$(A \times D) - E$$

A is the number of shares on issue 12 months before the date of issue or agreement:

- plus the number of fully paid ordinary securities issued in the relevant period under an exception in rule 7.2 other than exception 9, 16 or 17,
- plus the number of fully paid ordinary securities issued in the relevant period on the conversion of convertible securities within rule 7.2 exception 9 where:
  - the convertible securities were issued or agreed to be issued before the commencement of the relevant period; or
  - the issue of, or agreement to issue, the convertible securities was approved, or taken under these rules to have been approved, under rule 7.1 or rule 7.4,
- plus the number of fully paid ordinary securities issued in the relevant period under an agreement to issue securities within rule 7.2 exception 16 where:
  - the agreement was entered into before the commencement of the relevant period; or
  - the agreement or issue was approved, or taken under these rules to have been approved, under rule 7.1 or rule 7.4,
- plus the number of any other fully paid +ordinary securities issued in the relevant period with approval under rule 7.1 or rule 7.4,

Note: This may include fully paid ordinary securities issued in the relevant period under an agreement to issue securities within rule 7.2 exception 17 where the issue is subsequently approved under rule 7.1.

- plus the number of partly paid ordinary securities that became fully paid in the relevant period.
- less the number of fully paid ordinary securities cancelled in the relevant period.

Note: A has the same meaning as in Listing Rule 7.1 when calculating an entity's 15% placement capacity.

- **D** is 10%.
- is the number of Equity Securities issued or agreed to be issued under Listing Rule 7.1A.2 in the 12 months before the date of the issue or agreement to issue that are not issued with the approval of shareholders under Listing Rule 7.1 or 7.4.

#### (d) ASX Listing Rules 7.1 and 7.1A

The ability of an entity to issue Equity Securities under Listing Rule 7.1A is in addition to the entity's 15% placement capacity under Listing Rule 7.1.

The actual number of Equity Securities that the Company will have capacity to issue under Listing Rule 7.1A will be calculated at the date of issue of the Equity Securities in accordance with the formula prescribed in Listing Rule 7.1A.2 (please refer to section c above).

#### (e) Minimum issue price

The issue price of Equity Securities issued under Listing Rule 7.1A must be not less than 75% of the volume weighted average market price of Equity Securities in the same class calculated over the 15 trading days on which trades in that class were recorded immediately before:

- i. the date on which the price at which the Equity Securities are to be issued is agreed; or
- ii. if the Equity Securities are not issued within 10 trading days of the date in section i, the date on which the Equity Securities are issued.

#### (f) 10% Placement Period

Shareholder approval of the 10% placement capacity under Listing Rule 7.1A is valid from the date of the annual general meeting at which the approval is obtained and expires on the earlier to occur of:

- i. the date that is 12 months after the date of the annual general meeting at which the approval is obtained; or
- ii. The time and date of the Company's next annual general meeting; or
- the date of the approval by shareholders of a transaction under Listing Rules 11.1.2 (a significant change to the nature or scale of activities) or 11.2 (disposal of main undertaking) (10% Placement Period).

# Specific Information Required by ASX Listing Rule 7.3A

In accordance with Listing Rule 7.3A. the following information is provided to Shareholders in relation to the 10% placement capacity.

- 1. The Equity Securities will be issued at an issue price of not less than 75% of the volume weighted average market price for the Company's Equity Securities in the same class calculated over the 15 trading days immediately before:
  - a. the date on which the price at which the Equity Securities are to be issued is agreed; or
  - b. if the Equity Securities are not issued within 10 trading days of the date in Section 0 (1) (a), the date on which the Equity Securities are issued.

- 2. If Resolution 3 is approved by Shareholders and the Company issues Equity Securities under the 10% placement capacity, the existing Shareholders' voting power in the Company will be diluted as shown in the table below. There is a risk that:
  - the market price for the Company's Equity Securities may be significantly lower on the date of the issue of the Equity Securities than on the date of the Annual General Meeting; and
  - b. the Equity Securities may be issued at a price that is at a discount to the market price for the Company's Equity Securities on the issue date.

The below table shows the dilution of existing Shareholders on the basis of the current market price of Shares and the current number of ordinary securities for variable "A" calculated in accordance with the formula in Listing Rule 7.1A.2 as at the date of the Notice.

#### The table also shows:

- i. two examples where variable "A" has increased, by 50% and 100%. Variable "A" is based on the number of ordinary securities the Company has on issue. The number of ordinary securities on issue may increase as a result of issues of ordinary securities that do not require Shareholder approval (for example, a pro rata entitlements issue or scrip issued under a takeover offer) or future specific placements under Listing Rule 7.1 that are approved at future meetings of Shareholders; and
- ii. two examples of where the issue price of ordinary securities has decreased by 50% and increased by 50% as against the current market price.

Variable A in		Dilution									
Listing Rule 7.1A.2		\$0.0375 50% decrease in market price	\$0.075 current market price	\$0.1125 50% increase in market price							
Current variable "A"	10% voting dilution	54,366,426 Shares	54,366,426 Shares	54,366,426 Shares							
543,664,256	Funds raised	\$2,038,741	\$4,077,482	\$6,116,223							
50% increase in current	10% voting dilution	81,549,638 Shares	81,549,638 Shares	81,549,638 Shares							
variable "A" 81,549,638	Funds raised	\$3,058,111	\$6,116,233	\$9,174,334							
100% increase in current	10% voting dilution	108,732,851 Shares	108,732,851 Shares	108,732,851 Shares							
variable "A" 1,087,329	Funds raised	\$4,077,482	\$8,154,964	\$12,232,446							

# Notes and assumptions

- 1. The Company issues the maximum number of Equity Securities available under the 10% placement capacity.
- 2. The 10% voting dilution reflects the aggregate percentage dilution against the issued share capital at the time of issue. This is why the voting dilution is shown in each example as 10%.
- The table does not show an example of dilution that may be caused to a particular Shareholder by reason of placements under the 10% placement capacity, based on that Shareholder's holding at the date of the Annual General Meeting.
- 4. The table shows only the effect of issues of Equity Securities under Listing Rule 7.1A, not under the 15% placement capacity under Listing Rule 7.1.

- 5. The issue of Equity Securities under the 10% placement capacity consists only of Shares. If the issue of Equity Securities includes Options, it is assumed that those Options are exercised into Shares for the purpose of calculating the voting dilution effect on existing Shareholders.
- 6. The issue price is \$0.075, being the closing price of the Shares on the ASX on 5 October 2020.
- 3. The Company will only issue the Equity Securities during the 10% Placement Period. The approval under Resolution 3 for the issue of the Equity Securities will cease to be valid in the event that Shareholders approve a further transaction under Listing Rule 11.1.2 (a significant change to the nature or scale of activities or Listing Rule 11.2 (disposal of main undertaking).
- 4. The Company may seek to issue the Equity Securities under the 10% placement capacity to raise funds for working capital and the exploration and development of its existing Amersfoort project.

The Company will comply with the disclosure obligations under Listing Rules 7.1A.4 upon any issue of Equity Securities.

- 5. The Company's allocation policy is dependent on the prevailing market conditions at the time of any proposed issue pursuant to the 10% placement capacity. The identity of the persons to whom the Equity Securities will be issued will be determined on a case-by-case basis having regard to factors which include the following:
  - a. the purpose of the issue;
  - b. the methods of raising funds that are available to the Company including, but not limited to, rights issue or other issues in which existing Shareholders can participate;
  - c. the effect of the issue of the Equity Securities on the control of the Company;
  - d. the financial situation and solvency of the Company;
  - e. prevailing market conditions; and
  - f. advice from corporate, financial and broking advisers (if applicable).

The persons to be issued Equity Securities under the 10% Placement Facility have not been determined as at the date of this Notice but are likely to be sophisticated or professional investors for the purposes of section 708 of the Corporations Act who are not related parties or associates of a related party of the Company.

- 6. The Company did not issue any shares under Listing Rule 7.1A.2 during the 12 months preceding the meeting (LR7.3A.6).
- 7. A voting exclusion statement (if required) is included in the Notice.

# 4. Resolution 4 – Replacement of Constitution

Resolution 6 is a special resolution which seeks to approve the repealing of the existing Constitution and adopt a new constitution ("**Proposed Constitution**") which is of the type required for a listed public company limited by shares updated to ensure it reflects the current provisions of the Corporations Act and ASX Listing Rules. A company may modify or repeal its constitution or a provision of its constitution by special resolution of Shareholders.

The replacement of the Constitution requires approval for all purposes by way of a special resolution, meaning that at least seventy-five percent (75%) of votes must be cast in favour of the Resolution in order for it to be passed.

The Proposed Constitution will incorporate amendments to the Corporations Act and ASX Listing Rules since the current Constitution was adopted in 2010. The Directors believe that it is preferable in the circumstances to replace the existing Constitution with the Proposed Constitution rather than to amend a multitude of specific provisions.

The Proposed Constitution is broadly consistent with the provisions of the existing Constitution. Many of the proposed changes are administrative or minor in nature.

The Directors believe these amendments are not material nor will they have any significant impact on Shareholders. It is not practicable to list all of the changes to the Constitution in detail in this Explanatory Statement, however, a summary of the proposed material changes is set out below.

A brief summary of the material proposed differences between the existing and Proposed Constitution is set out below. This summary is not exhaustive and does not identify all of the differences between the existing Constitution and Proposed Constitutions. A copy of the Proposed Constitution is available for review by Shareholders at the office of the Company. A copy of the Proposed Constitution can also be sent to Shareholders upon request to the Company Secretary by email at info@kinetikoenergy.com.au. Shareholders are invited to contact the Company if they have any queries or concerns.

# **Summary of Material Proposed Changes**

#### (a) General Update

The Proposed Constitution generally updates the various provisions in a variety of respects to reflect industry best practice, the Corporations Act and the Listing Rules in a form approved by the ASX.

#### (b) Restricted Securities

The Company notes the changes to the escrow of securities contained in ASX Listing Rules 9 and 15.12 and ASX Guidance Note 11 dated 1 December 2019.

To facilitate the Company complying with this change to the Listing Rules, the Company proposes to reflect these changes at clause 3.9 of the Proposed Constitution.

#### (c) Partial (Proportional) Takeover Provisions (Clause 14)

A proportional takeover bid is a takeover bid where the offer made to each shareholder is only for a proportion of that shareholder's shares.

Pursuant to section 648G of the Corporations Act, the Company has included in the Proposed Constitution a provision whereby a proportional takeover bid for Shares may only proceed after the bid has been approved by a meeting of Shareholders held in accordance with the terms set out in the Corporations Act.

This clause of the Proposed Constitution will cease to have effect on the third anniversary of the date of the adoption of last renewal of the clause.

#### (d) Registration Procedure for Transfer of Shares

In 2011, ASX amended ASX Listing Rule 8.14 with the effect that the Company may now charge a "reasonable fee" for registering paper-based transfers, sometimes referred to as "off-market transfers". Proposed new Clause 6.2(a)(v) of the Constitution enables the Company to charge a reasonable fee when it is required to register off-market transfers from Shareholders. The fee is intended to represent the cost incurred by the Company in upgrading its fraud detection practices specific to off-market transfers.

Before charging any fee, the Company is required to notify ASX of the fee to be charged and provide sufficient information to enable ASX to assess the reasonableness of the proposed amount.

# Information required by section 648G of the Corporations Act

#### (a) Effect of Proposed Proportional Takeover Provisions

Where offers have been made under a proportional off-market bid in respect of a class of securities in a company, the registration of a transfer giving effect to a contract resulting from the acceptance of an

offer made under such a proportional off-market bid is prohibited unless and until a resolution to approve the proportional off-market bid is passed.

### (b) Reasons for Proportional Takeover Provisions

A proportional takeover bid may result in control of the Company changing without Shareholders having the opportunity to dispose of all their Shares. By making a partial bid, a bidder can obtain practical control of the Company by acquiring less than a majority interest. Shareholders are exposed to the risk of being left as a minority in the Company and the risk of the bidder being able to acquire control of the Company without payment of an adequate control premium. These amended provisions allow Shareholders to decide whether a proportional takeover bid is acceptable in principle, and assist in ensuring that any partial bid is appropriately priced.

# (c) Knowledge of any Acquisition Proposals

As at the date of this Notice, no Director is aware of any proposal by any person to acquire, or to increase the extent of, a substantial interest in the Company.

#### (d) Potential Advantages and Disadvantages of Proportional Takeover Provisions

The Directors consider that the proportional takeover provisions have no potential advantages or disadvantages for them and that they remain free to make a recommendation on whether an offer under a proportional takeover bid should be accepted.

The potential advantages of the proportional takeover provisions for Shareholders include:

- the right to decide by majority vote whether an offer under a proportional takeover bid should proceed;
- assisting in preventing Shareholders from being locked in as a minority;
- increasing the bargaining power of Shareholders which may assist in ensuring that any proportional takeover bid is adequately priced; and
- each individual Shareholder may better assess the likely outcome of the proportional takeover bid by knowing the view of the majority of Shareholders which may assist in deciding whether to accept or reject an offer under the takeover bid.

The potential disadvantages of the proportional takeover provisions for Shareholders include:

- proportional takeover bids may be discouraged;
- lost opportunity to sell a portion of their Shares at a premium; and
- the likelihood of a proportional takeover bid succeeding may be reduced.

#### **Directors' Recommendation**

The Directors unanimously recommend that Shareholders approve Resolution 4.

# **Glossary**

In this Explanatory Statement, the following terms have the following meaning unless the context otherwise requires:

10% Placement Facilityhas the meaning given in section 6.1 of the Explanatory Statement.10% Placement Periodhas the meaning given in section 6.2(f) of the Explanatory Statement.Annual General Meetingthe annual general meeting convened by this Notice of Annual General

Meeting.

Annual Report the annual report of the Company for the financial year ended 30 June

2020.

ASX Limited (ACN 008 624 691) trading as the Australian Securities

Exchange.

**Board** the board of Directors.

Business Day a day on which banks in Perth, Western Australia are generally open

for business, except a Saturday, Sunday and gazetted public holiday.

**Chairman** Mr Adam Sierakowski.

Closely Related Party a closely related party of a member of Key Management Personnel as

defined in Section 9 of the Corporations Act, being:

(a) a spouse or child of the member;

(b) a child of that member's spouse;

(c) a dependant of that member or of that member's spouse;

(d) anyone else who is one of that member's family and may be expected to influence that member, or be influenced by that member, in that member's dealings with the Company;

(e) a company that is controlled by that member; or

(f) any other person prescribed by the regulations.

**Constitution** the constitution of the Company.

**Company** Kinetiko Energy Limited ACN 141 647 529.

Corporations Act Corporations Act 2001 (Cth).

Director a director of the Company.

**Equity Securities** has the meaning given in the Listing Rules.

**Exempt Investors** exempt investors under section 708A(5) of the Corporations Act

**Explanatory Statement** the explanatory statement accompanying the Notice of Annual General

Meeting.

**Key Management Personnel** the key management personnel of the Company as defined in Section

9 of the Corporations Act and Australian Accounting Standards Board accounting standard 124, being those persons having authority and responsibility for planning, directing and controlling the activities of the Company, directly or indirectly, including any Director (whether

executive or otherwise).

**Listing Rules** the listing rules of ASX.

Notice of Annual General Meeting the notice of annual general meeting accompanying the Explanatory

Statement.

**Related Party** a party so defined by section 228 of the Corporations Act.

**Remuneration Report** the section of the Annual Report entitled "Remuneration Report".

**Share** a fully paid ordinary share in the capital of the Company.

**Shareholder** a holder of Shares.



# **Proxy Voting Form**

If you are attending the meeting in person, please bring this with you for Securityholder registration.

**Holder Number:** 

Your proxy voting instruction must be received by **2.00pm (WST) on Wednesday, 25 November 2020,** being **not later than 48 hours** before the commencement of the Meeting. Any Proxy Voting instructions received after that time will not be valid for the scheduled Meeting.

# **SUBMIT YOUR PROXY**

# Complete the form overleaf in accordance with the instructions set out below. YOUR NAME AND ADDRESS

The name and address shown above is as it appears on the Company's share register. If this information is incorrect, and you have an Issuer Sponsored holding, you can update your address through the investor portal: https://investor.automic.com.au/#/home Shareholders sponsored by a broker should advise their broker of any changes.

#### STEP 1 - APPOINT A PROXY

If you wish to appoint someone other than the Chair of the Meeting as your proxy, please write the name of that Individual or body corporate. A proxy need not be a Shareholder of the Company. Otherwise if you leave this box blank, the Chair of the Meeting will be appointed as your proxy by default.

#### DEFAULT TO THE CHAIR OF THE MEETING

Any directed proxies that are not voted on a poll at the Meeting will default to the Chair of the Meeting, who is required to vote these proxies as directed. Any undirected proxies that default to the Chair of the Meeting will be voted according to the instructions set out in this Proxy Voting Form, including where the Resolutions are connected directly or indirectly with the remuneration of KMP.

#### STEP 2 - VOTES ON ITEMS OF BUSINESS

You may direct your proxy how to vote by marking one of the boxes opposite each item of business. All your shares will be voted in accordance with such a direction unless you indicate only a portion of voting rights are to be voted on any item by inserting the percentage or number of shares you wish to vote in the appropriate box or boxes. If you do not mark any of the boxes on the items of business, your proxy may vote as he or she chooses. If you mark more than one box on an item your vote on that item will be invalid

#### APPOINTMENT OF SECOND PROXY

You may appoint up to two proxies. If you appoint two proxies, you should complete two separate Proxy Voting Forms and specify the percentage or number each proxy may exercise. If you do not specify a percentage or number, each proxy may exercise half the votes. You must return both Proxy Voting Forms together. If you require an additional Proxy Voting Form, contact Automic Registry Services.

#### SIGNING INSTRUCTIONS

**Individual**: Where the holding is in one name, the Shareholder must sign.

Joint holding: Where the holding is in more than one name, all Shareholders should sign.

**Power of attorney**: If you have not already lodged the power of attorney with the registry, please attach a certified photocopy of the power of attorney to this Proxy Voting Form when you return it.

**Companies**: To be signed in accordance with your Constitution. Please sign in the appropriate box which indicates the office held by you.

Email Address: Please provide your email address in the space provided.

By providing your email address, you elect to receive all communications despatched by the Company electronically (where legally permissible) such as a Notice of Meeting, Proxy Voting Form and Annual Report via email.

#### CORPORATE REPRESENTATIVES

If a representative of the corporation is to attend the Meeting the appropriate 'Appointment of Corporate Representative' should be produced prior to admission. A form may be obtained from the Company's share registry online at https://automic.com.au.

#### **Lodging your Proxy Voting Form:**

#### Online:

Use your computer or smartphone to appoint a proxy at

https://investor.automic.com.au/#/loginsah

or scan the QR code below using your smartphone

Login & Click on 'Meetings'. Use the Holder Number as shown at the top of this Proxy Voting Form.



#### BY MAIL:

Automic GPO Box 5193 Sydney NSW 2001

# IN PERSON:

Automic

Level 5, 126 Phillip Street Sydney NSW 2000

# BY EMAIL:

 $\underline{meetings@automicgroup.com.au}$ 

#### BY FACSIMILE:

+61 2 8583 3040

#### All enquiries to Automic:

**WEBCHAT:** https://automicgroup.com.au/

**PHONE:** 1300 288 664 (Within Australia) +61 2 9698 5414 (Overseas)

APPOINT A PR I/We being a S (WST) on Frida	hareho																			nited,	, to I	be he	ld at	2.0	Орт
Appoint the CI provided below person is name and subject to t	v the red, the	ame Chair	of th or th	e pe ie Ch	rson nair's	or boo	dy cor ee, to	porat vote i	e you n acc	u are	e app	ooint with	ing c the f	as y ollo	our p	roxy	or f	ailing	g the	pers	son	so na	med	or,	f no
The Chair inter Unless indicate Chair's voting in	ed othe	rwise			•																in a	ccord	ance	with	the
AUTHORITY FO Where I/we hav Chair to exerc Resolution 1 is o Chair.	/e appo	ointed /our	the proxi	Chai y on	r as r Res	my/our olution	proxy 1 (ex	(or w cept	here wher	the ( e I/w	Chair re h	bec ave	ome: indic	s mų ated	y/our dac	prox liffere	y by ent v	defo oting	iult), g int	entio	n b	elow)	ever	n tho	ugh
STEP 2 – Yo	our vo	ting	dire	ctio	n																				
Resolutions																				For		Again	st	Abs	tain
Approval of Remuneration Report																									
2. Re-election of Adam Sierakowski as a Director																									
3. Approval of 10% Placement Facility																									
4. Replacement of Constitution																									
STEP 3 – Sig	anatu	res	and	con	tact	deta	ils																		
								ecurit	yholde	er 2						Sed	curity	holde	2						
Individu	ual or Se	cunt	motac															Totac	er 3						
Sole Director a					tary	Dire	ector								Direc	ctor / (				etary					
					tary	Dire	ector								Direc	etor / (				etary					
Sole Director a					tary	Dire	ector								Direc	etor / (				etary					

By providing your email address, you elect to receive all of your communications despatched by the Company electronically (where legally permissible).

Date (DD/MM/YY)

STEP 1- How to vote

Contact Daytime Telephone

8