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**PEAK RESOURCES LIMITED**  
**ACN 112 546 700**  
**NOTICE OF ANNUAL GENERAL MEETING**

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Notice is given that the Meeting will be held at:

**TIME:** 11.00am (WST)

**DATE:** Monday, 29 November 2021

**PLACE:** Level 2, QV1, 250 St Georges Terrace, Perth, Western Australia

*The business of the Meeting affects your shareholding and your vote is important.*

*This Notice of Meeting should be read in its entirety. If Shareholders are in doubt as to how they should vote, they should seek advice from their professional advisers prior to voting.*

*The Directors have determined pursuant to Regulation 7.11.37 of the Corporations Regulations 2001 (Cth) that the persons eligible to vote at the Meeting are those who are registered Shareholders at 4:00 pm (Perth time) on 27 November 2021.*

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## BUSINESS OF THE MEETING

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### AGENDA

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#### FINANCIAL STATEMENTS AND REPORTS

To receive and consider the annual financial report of the Company for the financial year ended 30 June 2021 together with the declaration of the Directors, the Directors' report and the auditor's report.

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#### 1. RESOLUTION 1 – ADOPTION OF REMUNERATION REPORT

To consider and, if thought fit, to pass, with or without amendment, the following resolution as a **non-binding resolution**:

*“That, for the purposes of section 250R(2) of the Corporations Act, and for all other purposes, approval is given for the adoption of the Remuneration Report as contained in the Company's annual financial report for the financial year ended 30 June 2021.”*

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

A voting prohibition statement applies to this Resolution. Please see below.

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#### 2. RESOLUTION 2 – RE-ELECTION OF DIRECTOR – MR TONY PEARSON

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

*“That, for the purposes of clause 14.2 of the Company's Constitution, and for all other purposes, Mr Tony Pearson, a Director, retires by rotation, and being eligible, is re-elected as a Director.”*

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#### 3. RESOLUTION 3 – ELECTION OF DIRECTOR – MS GISELLE COLLINS

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

*“That, for the purposes of Listing Rule 14.4 and clause 14.4 of the Constitution, and for all other purposes, Ms Giselle Collins (who was appointed as a Non-Executive Director on 9 March 2021) is elected as a Director.”*

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#### 4. RESOLUTION 4 – ELECTION OF DIRECTOR – MS REBECCA MORGAN

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

*“That, for the purposes of Listing Rule 14.4 and clause 14.4 of the Constitution, and for all other purposes, Ms Rebecca Morgan (who was appointed as a Non-Executive Director on 9 March 2021) is elected as a Director.”*

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**5. RESOLUTION 5 – ELECTION OF DIRECTOR – MR GILES STAPLETON**

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

*“That, for the purposes of clause 14.3 of the Constitution and for all other purposes, Mr Giles William Stapleton is elected as a Director.”*

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**6. RESOLUTION 6 – ISSUE OF PERFORMANCE RIGHTS TO DIRECTOR – BARDIN DAVIS**

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

*“That, for the purposes of Listing Rule 10.14, and for all other purposes, approval is given for the Company to issue 7,500,000 Performance Rights (on a pre-Consolidation basis) to Mr Bardin Davis (or his nominee) under the Performance Rights Plan, on the terms and conditions set out in the Explanatory Statement.”*

Voting exclusion and voting prohibition statements apply to this Resolution. Please see below.

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**7. RESOLUTION 7 – ISSUE OF PERFORMANCE RIGHTS TO DIRECTOR – TONY PEARSON**

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

*“That, for the purposes of Listing Rule 10.14, and for all other purposes, approval is given for the Company to issue 4,750,000 Performance Rights (on a pre-Consolidation basis) to Mr Tony Pearson (or his nominee) under the Performance Rights Plan, on the terms and conditions set out in the Explanatory Statement.”*

Voting exclusion and voting prohibition statements apply to this Resolution. Please see below.

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**8. RESOLUTION 8 – ISSUE OF PERFORMANCE RIGHTS TO DIRECTOR – THE HON. ABDULLAH MWINYI**

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

*“That, for the purposes of Listing Rule 10.14, and for all other purposes, approval is given for the Company to issue 666,666 Performance Rights (on a pre-Consolidation basis) to the Hon. Abdullah Mwinyi (or his nominee) under the Performance Rights Plan, on the terms and conditions set out in the Explanatory Statement.”*

Voting exclusion and voting prohibition statements apply to this Resolution. Please see below.

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**9. RESOLUTION 9 – ISSUE OF PERFORMANCE RIGHTS TO DIRECTOR – MS GISELLE COLLINS**

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

*“That, for the purposes of Listing Rule 10.14, and for all other purposes, approval is given for the Company to issue 1,000,000 Performance Rights (on a pre-Consolidation basis) to Ms Giselle Collins (or her nominee) under*

*the Performance Rights Plan, on the terms and conditions set out in the Explanatory Statement."*

Voting exclusion and voting prohibition statements apply to this Resolution. Please see below.

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**10. RESOLUTION 10 – ISSUE OF PERFORMANCE RIGHTS TO DIRECTOR – REBECCA MORGAN**

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

*"That, for the purposes of Listing Rule 10.14, and for all other purposes, approval is given for the Company to issue 1,000,000 Performance Rights (on a pre-Consolidation basis) to Ms Rebecca Morgan (or her nominee) under the Performance Rights Plan, on the terms and conditions set out in the Explanatory Statement."*

Voting exclusion and voting prohibition statements apply to this Resolution. Please see below.

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**11. RESOLUTION 11 – APPROVAL OF INCREASE IN NON-EXECUTIVE DIRECTORS' FEES**

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

*"That, for the purposes of Listing Rule 10.17, clause 14.8 of the Constitution, and for all other purposes, Shareholders approve an increase in the maximum total fees payable to Non-Executive Directors by \$400,000 per annum, from \$300,000 per annum to \$700,000 per annum, on the terms and conditions set out in the Explanatory Statement."*

Voting exclusion and prohibition statements apply to this Resolution. Please see below.

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**12. RESOLUTION 12 – APPROVAL OF CAPITAL CONSOLIDATION**

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

*"That, subject to Resolution 13 being approved, for the purposes section 254H(1) of the Corporations Act, and for all other purposes, the Shares of the Company be consolidated through the conversion of every ten (10) Shares held by a Shareholder into one (1) Share, with any resulting fractions of a Share rounded up to the next whole number of Shares and with a corresponding consolidation of all other Company securities on issue, with the consolidation to take effect on 30 November 2021 and otherwise on the terms and conditions set out in the Explanatory Statement that forms part of this Notice of Meeting."*

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**13. RESOLUTION 13 – APPROVAL OF CHANGE TO TERMS OF PERFORMANCE RIGHTS (SHARE PRICE VESTING MILESTONES)**

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

*"That, subject to Resolution 12 being approved, for the purposes of Listing Rule 6.23.4, and for all other purposes, Shareholders approve a change to the share price vesting milestones of certain Performance Rights, on the terms and conditions set out in the Explanatory Statement."*

Voting exclusion and prohibition statements apply to this Resolution. Please see below.

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**14. RESOLUTION 14 – APPROVAL OF CHANGE TO TERMS OF PERFORMANCE RIGHTS (CHANGE IN CONTROL)**

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

*“That, for the purposes of Listing Rule 6.23.4, and for all other purposes, Shareholders approve a change to the terms of the Performance Rights on issue so as to make the types of transactions that constitute a ‘Change in Control’ consistent with the equivalent concept in the terms of the Performance Rights the subject of Resolutions 6 to 10, on the terms and conditions set out in the Explanatory Statement.”*

Voting exclusion and prohibition statements apply to this Resolution. Please see below.

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**15. RESOLUTION 15 – APPROVAL OF CHANGES TO OPTION TERMS**

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

*“That, for the purposes of Listing Rule 6.23.4, and for all other purposes, Shareholders approve changes to the vesting condition attaching to certain Options as well as the impact of a ‘Change in Control’ event on the vesting condition, on the terms and conditions set out in the Explanatory Statement.”*

Voting exclusion and prohibition statements apply to this Resolution. Please see below.

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**16. RESOLUTION 16 – APPROVAL OF CHANGE OF COMPANY NAME**

To consider and, if thought fit, to pass, with or without amendment, the following resolution as a **special resolution**:

*“That, for the purposes of section 157(1) of the Corporations Act, and for all other purposes, approval be given for the name of the Company to be changed from “Peak Resources Limited” to “Peak Rare Earths Limited”.”*

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**17. RESOLUTION 17 – APPROVAL OF AMENDMENTS TO CONSTITUTION**

To consider and, if thought fit, to pass, with or without amendment, the following resolution as a **special resolution**:

*“That, for the purposes of section 136(2) of the Corporations Act, and for all other purposes, the Constitution be amended as set out in the Explanatory Statement.”*

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**18. RESOLUTION 18 – APPROVAL OF 10% PLACEMENT CAPACITY**

To consider and, if thought fit, to pass, with or without amendment, the following Resolution as a **special resolution**:

*“That, for the purposes of Listing Rule 7.1A and for all other purposes, approval is given for the Company to issue Equity Securities totalling 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 and otherwise on the terms and conditions set out in the Explanatory Statement."*

A voting exclusion statement applies to this Resolution. Please see below.

**Dated: 18 October 2021**  
**By order of the Board**

**Tony Pearson**  
**Chair**

## Voting Prohibition Statement

### **Resolution 1 – Adoption of Remuneration Report**

In accordance with the Corporations Act, the Company will disregard any votes cast on this Resolution:

- a) by or on behalf of a member of the Key Management Personnel, details of whose remuneration are included in the Remuneration Report, or their Closely Related Parties, regardless of the capacity in which the votes are cast; or
- b) by a person who is a member of the Key Management Personnel at the date of the Meeting, or their Closely Related Parties, as a proxy.

However, votes will not be disregarded if they are cast as a proxy for a person entitled to vote on this:

- c) in accordance with a direction as to how to vote on the proxy; or
- d) by the Chair pursuant to an express authorisation to exercise the proxy even if this Resolution is connected directly or indirectly with the remuneration of the Key Management Personnel.

The Chair intends to vote undirected proxies in favour of Resolution 1.

### **Resolutions 6, 7, 8, 9, 10, 11, 13, 14 and 15 – Issues of Performance Rights to Directors, Approval of Increase in Non-Executive Directors' Fees, Approval of Changes to Terms of Performance Rights and Approval of Changes to Option Terms**

A vote on Resolution 6, 7, 8, 9, 10, 11, 13, 14 or 15 (as applicable) must not be cast by a person appointed as a proxy if:

1. the proxy is either:
  - a. a member of the Key Management Personnel; or
  - b. a Closely Related Party of a member of the Key Management Personnel; and
2. the appointment does not specify the way the proxy is to vote on the applicable Resolution.

However, the above prohibition does not apply if:

3. the proxy is the Chair; and
4. the appointment expressly authorises the Chair to exercise the proxy even though the applicable Resolution is connected directly or indirectly with the remuneration of a member of the Key Management Personnel.

If you appoint the Chair as your proxy, and you do not direct your proxy how to vote on the Proxy Form, you will be expressly authorising the Chair to exercise your proxy even if the Resolution is connection directly or indirectly with the remuneration of a member of the Key Management Personnel.

The Chair intends to vote undirected proxies in favour of Resolutions 6, 7, 8, 9, 10, 11, 13, 14 and 15.



## Voting Exclusion Statement

In accordance with Listing Rule 14.11, the Company will disregard any votes cast in favour of the Resolution set out below by or on behalf of the following persons:

<b>Resolutions 6, 7, 8, 9 and 10 – Issues of Performance Rights to Directors</b>	<ol style="list-style-type: none"><li>1. A person referred to in Listing Rule 10.14.1, 10.14.2 or 10.14.3 who is eligible to participate in the employee incentive scheme in question (including Bardin Davis, Tony Pearson, Abdullah Mwinyi, Giselle Collins and Rebecca Morgan); or</li><li>2. an associate of that person (or those persons).</li></ol>
<b>Resolution 11 – Approval of Increase in Non-Executive Directors' Fees</b>	<ol style="list-style-type: none"><li>1. A Director; or</li><li>2. an associate of that person (or those persons).</li></ol>
<b>Resolution 13 – Approval of Change to Terms of Performance Rights (Share Price Vesting Milestones)</b>	<ol style="list-style-type: none"><li>1. A person who holds a Performance Right that is the subject of the approval; or</li><li>2. an associate of that person (or those persons).</li></ol>
<b>Resolution 14 – Approval of Change to Terms of Performance Rights (Change in Control)</b>	<ol style="list-style-type: none"><li>1. A person who holds a Performance Right that is the subject of the approval; or</li><li>2. an associate of that person (or those persons).</li></ol>
<b>Resolution 15 – Approval of Changes to Option Terms</b>	<ol style="list-style-type: none"><li>1. A person who holds an Option that is the subject of the approval; or</li><li>2. an associate of that person (or those persons).</li></ol>
<b>Resolution 18 – Approval of 10% Placement Capacity</b>	<ol style="list-style-type: none"><li>1. Any person who is expected to participate in, or who will obtain a material benefit as a result of, the proposed issue (except a benefit solely by reason of being a holder of Shares); or</li><li>2. an associate of that person or those persons.</li></ol>

However, this does not apply to a vote cast in favour of the Resolution by:

- (a) a person as a proxy or attorney for a person who is entitled to vote on the Resolution, in accordance with the directions given to the proxy or attorney to vote on the Resolution in that way; or
- (b) the Chair as proxy or attorney for a person who is entitled to vote on the Resolution, in accordance with a direction given to the Chair to vote on the Resolution as the Chair decides; or
- (c) a holder acting solely in a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary provided the following conditions are met:
  - (i) the beneficiary provides written confirmation to the holder that the beneficiary is not excluded from voting, and is not an associate of a person excluded from voting, on the Resolution; and
  - (ii) the holder votes on the Resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

## **VOTING**

### **Voting Entitlement**

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Shareholders recorded on the Company's register of members at 4.00 pm (Perth time) on 27 November 2021 will be entitled to vote on the items to be considered at the AGM.

### **Becoming a Shareholder**

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Persons who become registered Shareholders after this Notice has been dispatched, and wish to vote at the AGM by proxy, should call 1300 554 474 (within Australia) or +61 1300 554 474 (outside Australia) and request an additional personalised voting form.

Persons who become beneficial Shareholders after this Notice has been dispatched, and wish to vote at the AGM by proxy, should contact their broker or intermediary for instructions on how to do so.

### **Voting Procedure**

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Please note that all Resolutions will be decided by a poll rather than by a show of hands.

As a result of the potential health risks and current government restrictions in response to the COVID-19 pandemic, the Company will endeavour to ensure the AGM is held in compliance with Australian Government regulations regarding social distancing. Shareholders will be permitted to attend the AGM and vote in person if they wish.

The Company will also webcast its AGM. However, Shareholders will not be able to vote, ask questions or otherwise participate in the AGM through the webcast. Rather, Shareholders who wish to vote on the Resolutions to be considered at the AGM but are not able to physically attend the AGM should appoint a proxy to vote at the AGM on their behalf. Instructions on how to join the webcast are set out in the section below titled "**Joining the Webcast**" and can also be found on the Company's website ([www.peakresources.com.au](http://www.peakresources.com.au)).

### **Voting Restrictions**

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The voting prohibitions under the Corporations Act, and voting exclusions

under the Listing Rules, which apply to certain Resolutions are set out above.

## **PROXY FORMS**

### **Proxy Form**

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Shareholders will be provided with a personalised proxy form (**Proxy Form**). The Proxy Form allows Shareholders to appoint a proxy to vote on their behalf.

If you hold fully paid ordinary shares in the capital of the Company (**Shares**) in more than one capacity, please complete the Proxy Form that is relevant to each holding.

Shareholders who intend to appoint a proxy are encouraged to submit their Proxy Forms as early as possible. Lodgement instructions (which include the ability to lodge proxies electronically) are set out below and in the Proxy Form.

### **Appointing Proxies**

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Shareholders, who are entitled to attend and vote at the AGM, may appoint a proxy to act generally at the AGM and to vote on their behalf.

A proxy need not be a Shareholder of the Company.

A Shareholder entitled to attend and vote at the AGM can appoint up to two proxies, and should specify the proportion or number of votes each proxy is appointed to exercise. If no proportion or number is specified, each proxy may exercise half of the Shareholder's votes. If you wish to appoint two proxies please call 1300 554 474 (within Australia) or +61 1300 554 474 (outside Australia) and request an additional Proxy Form.

### **Undirected Proxies**

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The Chair intends to vote all valid undirected proxies for all Resolutions in favour of each Resolution, other than Resolution 5 (in respect of which the Chair intends to vote all valid undirected proxies against Resolution 5).

### **Power of Attorney and Corporate Representatives**

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If the Proxy Form is signed by an attorney, the power of attorney or a certified copy of it must be sent with the Proxy Form.

A body corporate member may elect to

appoint a representative, rather than appoint a proxy. Where a body corporate appoints a representative, written proof of the representative's appointment must be lodged with, or presented to, the Company prior to the AGM.

A body corporate appointed as a proxy must also lodge a certificate of appointment of a corporate representative.

### **LODGING PROXY FORMS**

#### **Deadline**

Proxy Forms must be received by 11.00 am (WST) on 27 November 2021.

#### **How to lodge Proxy Forms**

You can lodge your Proxy Form with the Company:

**Online:** visit [www.linkmarketservices.com.au](http://www.linkmarketservices.com.au)

**By Mail:** Peak Resources Limited  
C/- Link Market Services Limited  
Locked Bag A14

Sydney South NSW 1235 Australia

**By Fax:** +61 2 9287 0309

**By Hand:** Link Market Services Limited  
Level 12, 680 George Street, Sydney NSW 2000

Further details on how to lodge your Proxy Form can be found on the Proxy Form.

### **JOINING THE WEBCAST**

To watch the AGM via the live webcast, please email the Company at [info@peakresources.com.au](mailto:info@peakresources.com.au) to register your interest. You will then receive an

email containing log in details for the webcast. Shareholders should note that they will not be able to vote, ask questions or otherwise participate in the AGM through the webcast.

### **ATTENDING THE AGM IN PERSON**

To attend the AGM and vote in person, attend the AGM at the time, date and place set out above.

Whilst Shareholders are entitled to physically attend the AGM, given venue capacity limitations and social-distancing requirements, Shareholders should consider appointing a proxy to vote at the AGM on their behalf by following the instructions set out above and in the Proxy Form.

### **SHAREHOLDER QUESTIONS**

Shareholders will be able to ask questions relevant to the business of the AGM. Shareholders are encouraged to ask questions in advance of the AGM by emailing the Company at [info@peakresources.com.au](mailto:info@peakresources.com.au).

Shareholders will also be permitted to ask questions in person at the AGM once the Chair has read out each item of business.

### **ENQUIRIES**

If you have any questions about this Notice or your Proxy Form please contact the Company's share registry, Link Market Services at 1300 554 474 (within Australia) or +61 1300 554 474 (outside Australia).

### **By order of the Board**

**Tony Pearson, Chair**

**18 October 2021**

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## EXPLANATORY STATEMENT

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This Explanatory Statement has been prepared to provide information which the Directors believe to be material to Shareholders in deciding whether or not to pass the Resolutions.

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## FINANCIAL STATEMENTS AND REPORTS

In accordance with the Corporations Act, the business of the Meeting will include receipt and consideration of the annual financial report of the Company for the financial year ended 30 June 2021 together with the declaration of the Directors, the Directors' report and the auditor's report.

The Company will not provide a hard copy of the Company's annual financial report to Shareholders unless specifically requested to do so. The Company's annual financial report is available on its website at [www.peakresources.com.au](http://www.peakresources.com.au).

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### 1. RESOLUTION 1 – ADOPTION OF REMUNERATION REPORT

#### 1.1 General

The Corporations Act requires that, at a listed company's annual general meeting, a resolution that the remuneration report be adopted must be put to the shareholders. However, such a resolution is advisory only and does not bind the company or the directors of the company.

The remuneration report sets out the company's remuneration arrangements for the directors and senior management of the company. The remuneration report is part of the directors' report contained in the annual financial report of the company for a financial year.

The chair of the meeting must allow a reasonable opportunity for its shareholders to ask questions about or make comments on the remuneration report at the annual general meeting.

#### 1.2 Voting consequences

A company is required to put to its shareholders a resolution proposing the calling of another meeting of shareholders to consider the appointment of directors of the company (**Spill Resolution**) if, at consecutive annual general meetings, at least 25% of the votes cast on a remuneration report resolution are voted against adoption of the remuneration report and at the first of those annual general meetings a Spill Resolution was not put to vote.

If required, the Spill Resolution must be put to vote at the second of those annual general meetings. If more than 50% of votes cast are in favour of the Spill Resolution, the company must convene a shareholder meeting (**Spill Meeting**) within 90 days of the second annual general meeting.

All of the directors of the company who were in office when the directors' report (as included in the company's annual financial report for the most recent financial year) was approved, other than the managing director of the company, 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 of the company is approved will be the directors of the company.

#### 1.3 Previous voting results

At the Company's previous annual general meeting, the votes cast against the remuneration report considered at that annual general meeting were less than 25%. Accordingly, the Spill Resolution is not relevant for this Annual General Meeting.

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## **2. RESOLUTION 2 – RE-ELECTION OF DIRECTOR – TONY PEARSON**

### **2.1 General**

The Constitution sets out the requirements for which Directors are to retire by rotation at an annual general meeting.

In accordance with the Constitution, the Directors have determined that Mr Tony Pearson will retire by rotation at the AGM and, being eligible, seek re-election as a Director.

### **2.2 Qualifications and other material directorships**

Tony is an experienced international natural resources executive and company director. He is currently Chair of Cellnet Group Limited (ASX:CLT), a Non-Executive Director of Xanadu Mines Limited (ASX:XAM), The Royal Botanic Gardens & Domain Trust, and Communicare. Prior to this, he was a Commissioner at the Independent Planning Commission, a group executive at TSX/HKEx listed SouthGobi Resources, based in Hong Kong, where he was responsible for the company's corporate and strategic initiatives.

Tony also has over 15 years' commercial and investment banking experience, covering the Asia Pacific natural resources industry, most recently as a Managing Director at HSBC. During his career Tony has raised or invested in excess of \$15 billion across equities, hybrids, bonds, convertibles and project finance.

### **2.3 Independence**

Tony Pearson has informed the Company, and the Board (excluding Mr Pearson) agrees, that he has no interests, positions or relationships that might influence, or reasonably be perceived to influence, in a material respect his ability to bring an independent judgment to bear on issues before the Board and to act in the best interests of the Company as a whole, rather than in the interests of an individual security holder or other party.

While Tony Pearson has been nominated as a Director by a substantial Shareholder of the Company, Appian Pinnacle Holdco Limited, if elected, the Board considers that Tony will be an independent Director.

### **2.4 Board recommendation**

The Board (with Tony Pearson abstaining due to his interest in the Resolution) recommends that Shareholders vote in favour of Resolution 2.

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## **3. RESOLUTIONS 3 AND 4 – ELECTION OF DIRECTORS – MS GISELLE COLLINS AND MS REBECCA MORGAN**

### **3.1 Background**

On 9 March 2021, the Company appointed Ms Giselle Collins and Ms Rebecca Morgan to the Board as Non-Executive Directors.

The Constitution allows the Directors to appoint at any time a person to be a Director either to fill a casual vacancy or as an addition to the existing directors, but only where the total number of Directors does not at any time exceed the number of Directors specified by the Constitution.

Pursuant to the Constitution and Listing Rule 14.4, any Director so appointed holds office until the next annual general meeting and is then eligible for election by Shareholders. If the appointment is not confirmed by Shareholders at that meeting, the person will cease to be a director at the conclusion of the meeting.

### **3.2 Qualifications and other material Directorships**

#### ***Giselle Collins***

Giselle is currently Chair of Larrakia Darwin Hotel, a Non-Executive Director of ASX listed Hotel Property Investments (ASX:HPI), a Non-Executive of Generation Life, a Trustee of the Royal Botanic Gardens & Domain Trust and a Non-Executive Director of Cooper Energy Limited (ASX:COE).

Giselle has a Bachelor of Economics degree from the University of Sydney, a Graduate Diploma in Applied Finance and Investments from the Securities Institute of Australia and is a Graduate Member of the Australian Institute of Company Directors. Giselle is also a Member of Chartered Accountants Australia and New Zealand.

Giselle currently acts as the chair of the Company's Audit & Risk Committee.

#### ***Rebecca Morgan***

Rebecca is a geologist and mining engineer with 19 years of international resources industry experience working with major mining houses, consulting groups, and junior explorers globally, including Africa. She has experience across all sectors of the resource industry, including rare earth market research, project due diligence, independent reporting and mineral asset valuation. Rebecca is currently a Non-Executive Director of Salt Lake Potash Limited (ASX:SO4).

Rebecca has a Bachelor of Science (Hons) Applied Geology; Post Graduate Diploma in Mine Engineering, and a Master of Engineering Science (Majoring in Mineral Economics and Mine Optimisation) from Curtin University. Rebecca is also a Member of the Australian Institute of Geoscientists and the Australian Institute of Mining and Metallurgy.

### **3.3 Independence**

Ms Collins and Ms Morgan have each confirmed to the Company in relation to themselves, and the Board (excluding Ms Collins and Ms Morgan in relation to themselves) agrees, that they do not have any interests, positions or relationships that might influence, or reasonably be perceived to influence, in a material respect their respective ability to bring an independent judgment to bear on issues before the Board and to act in the best interests of the Company as a whole, rather than in the interests of an individual security holder or other party.

If elected, the Board considers that Ms Collins will be an independent Director.

While Ms Morgan has been nominated as a Director by a substantial Shareholder of the Company, Appian Pinnacle Holdco Limited, if elected, the Board considers that Ms Morgan will be an independent Director.

### **3.4 Other material**

The Company conducts appropriate checks on the background and experience of candidates before their appointment to the Board. The Company undertook such checks prior to the appointment of Ms Morgan and Ms Collins and is satisfied that no material adverse information has been revealed following these background checks.

### **3.5 Board recommendation**

The Board has reviewed each of Ms Collins' and Ms Morgan's respective performance since their appointment to the Board and considers that Ms Collins' and Ms Morgan's respective skills and experience will continue to enhance the Board's ability to perform its role.

Accordingly, the Board (with Ms Collins abstaining in relation to Resolution 3 and Ms Morgan abstaining in relation to Resolution 4 due to their respective interests in the relevant Resolution), supports the election of Ms Collins and Ms Morgan Collins and recommends that Shareholders vote in favour of Resolutions 3 and 4.

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#### **4. RESOLUTION 5 – ELECTION OF DIRECTOR – GILES STAPLETON**

On 15 October 2021, the Company received a notice pursuant to clause 14.3 of the Constitution from Hobbleton Investments Pty Ltd, a Shareholder of the Company holding 1,097,160 Shares as at the date of this Notice, nominating Mr Giles William Stapleton (a director of Hobbleton Investments Pty Ltd) for election as a director of the Company at the AGM.

Mr Stapleton has provided a summary of his experience to the Company, which includes the following:

- Barrister in private practice specialising in Corporate, Commercial, Property, Equity & Family Law since 2012.
- Investment Management Executive for Listed Property Companies between 2004 and 2012.
- Independent Non-Executive Director, Responsible Officer of Managed Investment Scheme – TIP Group (ASX:TIP) Subsidiaries.

The Company has also received a consent to act as a director of the Company from Mr Stapleton.

The Board's policy is to ensure that the Board comprises directors who collectively have the relevant experience, knowledge, diversity and skills required for the Company, taking into account factors such as the Company's current size, market position, the jurisdictions in which it operates and the complexity of the Company's operations and strategic focus, as well as the ASX Corporate Governance Principles and Recommendations.

In appointing new members to the Board, the Company's Board Charter requires that consideration must be given to the demonstrated ability and also future potential of the appointee to contribute to the ongoing effectiveness of the Board, to exercise sound business judgement, to commit the necessary time to fulfil the requirements of the role effectively and to contribute to the development of the strategic direction of the Company.

The Board regularly reviews its composition and the existing and desired skills of directors to ensure that it has the correct balance of directors who have the experience, diversity and skills required for the Company.

Following the recent approval of the Company's Special Mining Licence application, and the shift in the Company's focus to project development, the Board has identified the need for an additional independent director with construction, commissioning and/or operational experience in the natural resources industry and is in the process of commencing a search for a non-executive director with this skill set. The Board notes that Mr Stapleton does not appear to have any expertise in constructing, commissioning or operating projects similar to the Company's Ngualla Project or the Teesside Project.

Accordingly, each Director believes, for the reasons set out above, that it is not in the best interests of Shareholders that Mr Giles Stapleton be elected as a director of the Company at this time, and recommend that Shareholders vote against Resolution 5.

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#### **5. RESOLUTIONS 6, 7, 8, 9 AND 10 – ISSUES OF PERFORMANCE RIGHTS TO DIRECTORS**

##### **5.1 Background**

The Company's Shareholders have previously approved the Performance Rights Plan. The objective of the Performance Rights Plan is to provide the Company with a remuneration mechanism to motivate and reward the performance of Directors, employees and qualifying contractors in achieving specified performance milestones within a specified performance period, through the issue of securities in the capital of the Company.

The Board seeks to ensure that any performance milestones attaching to securities issued pursuant to the Performance Rights Plan are aligned with the successful growth of the Company's business activities.

The purpose of the issue of Performance Rights to the Company's Directors is to assist in their reward and retention, and to align the interests of Directors with Shareholders.

The grant of the Performance Rights forms part of the Company's remuneration strategy for Directors. In this regard, if the relevant performance condition is satisfied, the Performance Rights that have been issued subject to that performance condition confer the right on the holder to be issued a Share without the requirement to pay any exercise price. Accordingly, the grant of Performance Rights subject to the satisfaction of performance conditions provides Directors with the flexibility and incentive to benefit in circumstances where Shareholders are also likely to benefit, without the Directors needing to provide any additional cash consideration.

The Board acknowledges that the grant of Performance Rights to Non-Executive Directors is contrary to Recommendation 8.2 of the ASX Corporate Governance Principles and Recommendations. However, the Board considers the grant of Performance Rights to the Directors to be reasonable in order to further align Non-Executive Directors' interests with Shareholders and provide cost-effective consideration to Non-Executive Directors for their ongoing commitment and contribution to the Company.

The Company has agreed, subject to obtaining Shareholder approval, to issue:

- 7,500,000 Performance Rights to Bardin Davis (or his nominee) – Resolution 6;
- 4,750,000 Performance Rights to Tony Pearson (or his nominee) – Resolution 7;
- 666,666 Performance Rights to the Hon. Abdullah Mwinyi (or his nominee) – Resolution 8;
- 1,000,000 Performance Rights to Giselle Collins (or her nominee) – Resolution 9; and
- 1,000,000 Performance Rights to Rebecca Morgan (or her nominee) – Resolution 10,

**(Related Parties)** pursuant to the Company's Performance Rights Plan and on the terms and conditions set out below. The number of Performance Rights proposed to be issued to each Related Party has been determined on a pre-Consolidation basis, such that if the Consolidation the subject of Resolution 12 is approved, the number of Performance Rights to be issued to the relevant Related Party will be reduced by a factor of ten (10) to take into account the effect of the Consolidation on the Company's issued share capital.

The milestones and vesting criteria attaching to the different classes of Performance Rights are set out in Schedule 2 and the number of Performance Rights to be issued to each Director in each respective class (as described in Schedule 2) are set out in the table below:

<b>Class</b>	<b>Bardin Davis</b>	<b>Tony Pearson</b>	<b>Abdullah Mwinyi</b>	<b>Giselle Collins</b>	<b>Rebecca Morgan</b>	<b>Total</b>
Class A Performance Rights	500,000	750,000	105,263	157,895	157,895	1,671,053
Class B Performance Rights	500,000	750,000	105,263	157,895	157,895	1,671,053
Class C Performance Rights	500,000	250,000	35,088	52,632	52,632	890,352



<b>Class</b>	<b>Bardin Davis</b>	<b>Tony Pearson</b>	<b>Abdullah Mwinyi</b>	<b>Giselle Collins</b>	<b>Rebecca Morgan</b>	<b>Total</b>
Class D Performance Rights	1,500,000	750,000	105,263	157,895	157,895	2,671,053
Class E Performance Rights	1,500,000	750,000	105,263	157,895	157,895	2,671,053
Class F Performance Rights	1,000,000	500,000	70,175	105,262	105,262	1,780,699
Class G Performance Rights	1,000,000	500,000	70,175	105,262	105,262	1,780,699
Class H Performance Rights	500,000	250,000	35,088	52,632	52,632	890,352
Class I Performance Rights	500,000	250,000	35,088	52,632	52,632	890,352
<b>Total</b>	<b>7,500,000</b>	<b>4,750,000</b>	<b>666,666</b>	<b>1,000,000</b>	<b>1,000,000</b>	<b>14,916,666</b>

As noted above, the number of Performance Rights proposed to be issued to each Related Party will be reduced by a factor of ten (10) to take into account the effect of the proposed Consolidation on the Company's issued share capital (should Resolution 12 be approved).

If Resolutions 6 to 10 are passed, the Company will be able to proceed with the issue of the Performance Rights to the Related Parties under the Performance Rights Plan within three years after the date of the Meeting (or such later date as permitted by any ASX waiver or modification of the Listing Rules). As approval pursuant to Listing Rule 7.1 is not required for the issue of the Performance Rights (because approval is being obtained under Listing Rule 10.14), the issue of the Performance Rights will not use up any of the Company's 15% placement capacity under Listing Rule 7.1.

If Resolutions 6 to 10 are not passed, the Company will not be able to proceed with the issue of the Performance Rights to the Related Parties under the Performance Rights Plan and will be required to consider other forms of remuneration for the Related Parties.

## **5.2 Chapter 2E of the Corporations Act**

Chapter 2E of the Corporations Act requires that, for a public company, or an entity that the public company controls, to give a financial benefit to a related party of the public company, the public company or entity must:

- obtain the approval of the public company's members in the manner set out in sections 217 to 227 of the Corporations Act; and
- give the benefit within 15 months following such approval,

unless the giving of the financial benefit falls within an exception set out in sections 210 to 216 of the Corporations Act.

The issue of the Performance Rights to the Related Parties constitutes giving a financial benefit and each of the Related Parties is a related party of the Company for the purposes of the Corporations Act by virtue of being a Director.

The Board (excluding each Director in respect of the Resolution that relates to the issue of Performance Rights to them) has determined that the proposed issue of the Performance Rights the subject of Resolutions 6 to 10 constitutes reasonable remuneration having regard

to the respective position of the Company and the relevant Related Party, including the duties and responsibilities of the Related Party in relation to the Company.

Accordingly, the Board (excluding each Director in respect of the Resolution that relates to the issue of Performance Rights to them) has determined that the issue of these rights falls within an exception to the need to obtain the approval of the Company's Shareholders for the purposes of Chapter 2E of the Corporations Act.

### **5.3 Listing Rule 10.14**

Listing Rule 10.14 provides that an entity must not permit any of the following persons to acquire equity securities under an employee incentive scheme without the approval of the holders of its ordinary securities:

- a director of the entity (Listing Rule 10.14.1);
- an associate of a director of the entity (Listing Rule 10.14.2); or
- a person whose relationship with the entity or a person referred to in Listing Rules 10.14.1 to 10.14.2 is such that, in ASX's opinion, the acquisition should be approved by security holders (Listing Rule 10.14.3).

The issue of Performance Rights to the Related Parties falls within Listing Rule 10.14.1 because each Related Party is a Director, and therefore requires the approval of Shareholders under Listing Rule 10.14.

Accordingly, Resolutions 6 to 10 (inclusive) seek the required Shareholder approval for the issue of the Performance Rights under and for the purposes of Listing Rule 10.14.

### **5.4 Technical Information required by Listing Rule 10.15**

Pursuant to and in accordance with the requirements of Listing Rule 10.15, the following information is provided in relation to Resolutions 6, 7, 8, 9 and 10:

1. Name of the person

The Performance Rights will be issued to the following persons:

- Bardin Davis (or his nominee) pursuant to Resolution 6;
- Tony Pearson (or his nominee) pursuant to Resolution 7;
- Hon. Abdullah Mwinyi (or his nominee) pursuant to Resolution 8;
- Giselle Collins (or her nominee) pursuant to Resolution 9;
- Rebecca Morgan (or her nominee) pursuant to Resolution 10.

2. Category the person falls within

Each person falls within the category set out in Listing Rule 10.14.1 by virtue of being a Director.

3. Number and class of securities proposed to be issued

The maximum number of Performance Rights to be issued to the Related Parties is 14,916,666 comprising:

- 7,500,000 Performance Rights to Bardin Davis (or his nominee) pursuant to Resolution 6;
- 4,750,000 Performance Rights to Tony Pearson (or his nominee) pursuant to Resolution 7;
- 666,666 Performance Rights to Hon. Abdullah Mwinyi (or his nominee) pursuant to Resolution 8;
- 1,000,000 Performance Rights to Giselle Collins (or her nominee) pursuant to Resolution 9; and

- 1,000,000 Performance Rights to Rebecca Morgan (or her nominee) pursuant to Resolution 10.

As noted above, the number of Performance Rights proposed to be issued to each Related Party will be reduced by a factor of ten (10) to take into account the effect of the proposed Consolidation on the Company's issued share capital (should Resolution 12 be approved).

#### 4. Current total remuneration packages

The total current remuneration package for each proposed recipient of the Performance Rights the subject of Resolutions 6, 7, 8, 9 and 10 is set out below:

Related Party	Directors Fees	Executive Services	Share Based payments*	Total Current Financial Year
Bardin Davis <sup>1</sup>	6,720	216,892	688,923	912,535
Tony Pearson <sup>2</sup>	153,235	-	166,117	319,352
Abdullah Mwinyi <sup>3</sup>	35,284	-	27,557	62,841
Giselle Collins <sup>4</sup>	16,925	-	-	16,925
Rebecca Morgan <sup>5</sup>	16,925	-	-	16,925

#### Notes:

- 1 Mr Bardin Davis was appointed a Non-Executive Director on 21 October 2020, before transitioning to the Managing Director on 9 December 2020. Mr Davis' Non-Executive Director fees totalled \$6,720, with the net amount after PAYG withholding tax settled in Shares. Mr Davis' Executive Services Agreement provides that his executive remuneration is \$350,000 per annum. Of that amount, \$75,000 was to be paid in Shares. During the 2020/2021 financial year, \$42,030 was paid in Shares net of PAYG withholding tax. From 1 July 2021, Mr Davis receives his total base remuneration of \$350,000 in cash. He also receives statutory superannuation and is entitled to bonuses on a performance assessment against key performance indicators.
  - 2 Mr Tony Pearson received \$54,666 for additional executive services during 2020/2021 for services rendered whilst the Board and executive management was in transition. The net amount after PAYG withholding tax was settled in Shares. From 1 November 2020 to 30 June 2021, two thirds of Mr Pearson's \$95,000 per annum Non-Executive Director fees, inclusive of his role as Chair, were agreed to be settled in Shares. The share based remuneration totalled \$51,383 and is included in salary and fees. Statutory superannuation entitlements of \$8,082 for previous periods was paid in the 2020/2021 financial year.
  - 3 The Hon. Abdullah Mwinyi was appointed a Non-Executive Director on 15 November 2020. His annual Non-Executive Director's fee is \$55,000.
  - 4 Ms Giselle Collins was appointed a Non-Executive Director on 9 March 2021. Her annual Non-Executive Director's fee is \$55,000, inclusive of statutory superannuation. In addition, Ms Collins is remunerated at \$20,000 per annum for her role as Chair of the Audit & Risk Committee formed in March 2021.
  - 5 Ms Rebecca Morgan was appointed a Non-Executive Director on 9 March 2021. Her annual Non-Executive Director's fee is \$55,000. In addition, from 1 July 2021, Ms Morgan is remunerated at \$15,000 per annum for her role as Chair of the Nomination & Remuneration Committee formed in July 2021.
- \* Other: The Share based payments included in the above table are the accounting value of performance rights and options issued to the Director under the Company's performance right and option plans. Performance rights and (historically) options are also offered to Directors that have vesting terms and conditions aligned to the Company's milestones to incentivise the Directors and add Shareholder value. The

Company has recently engaged a remuneration consultant to benchmark the current remuneration of the positions held by the current Board.

5. The number of securities previously issued

A total of 31,000,000 securities have been issued to the Related Parties under the Performance Rights Plan, as follows:

- 25,000,000 to Bardin Davis;
- 5,000,000 to Tony Pearson;
- 1,000,000 to Abdullah Mwinyi;
- nil to Giselle Collins; and
- nil to Rebecca Morgan.

All securities were issued for nil cash consideration. To the extent that these Performance Rights have not yet vested or been exercised, they will be reconstructed in accordance with their terms to take into account the effect of the proposed Consolidation on the Company's issued share capital, should Resolution 12 be approved.

6. Material terms of the securities, an explanation of why that type of security is being used and the value attributed to that security

*Summary of material terms*

A summary of the material terms of the Performance Rights Plan (being the plan pursuant to which the Performance Rights will be issued) is set out in Schedule 1.

The specific milestones and vesting criteria attaching to the different classes of Performance Rights are set out in Schedule 2.

*Explanation of why Performance Rights are being used*

The purpose of the issue of the Performance Rights is to provide a performance linked incentive component in the remuneration package for the Related Parties to align the interests of the Related Parties with those of Shareholders, to motivate and reward the performance of the Related Parties in their roles as Directors, and to provide a cost effective way for the Company to remunerate the Related Parties, which will allow the Company to spend a greater proportion of its cash reserves on its operations than it would if alternative cash forms of remuneration were given to the Related Parties.

*Value of the Performance Rights*

The number of Performance Rights to be issued to each of the Related Parties has been determined based upon a consideration of:

- current market standards and/or practices of other ASX listed companies of a similar size and stage of development to the Company;
- the remuneration of the Related Parties; and
- incentives required to attract and ensure continuity of service and retain the service of the Related Parties who have appropriate knowledge and expertise, while maintaining the Company's cash reserves.

The value of each Performance Right (determined in accordance with the methodology set out in Schedule 3) is \$0.081.

7. Date of issue

The Performance Rights will be issued to the Related Parties as soon as practicable following Shareholder approval and in any event no later than 3 years after the date of the Meeting (or such later date as permitted by any ASX waiver or

modification of the Listing Rules) and it is anticipated the Performance Rights will be issued on one date.

8. Issue price

The issue price of the Performance Rights will be nil. As such, no funds will be raised from the issue of the Performance Rights.

9. Material terms of the scheme

A summary of the material terms and conditions of the Performance Rights Plan is set out in Schedule 1.

10. Loans

No loans are being made to the Related Parties in connection with the acquisition of the Performance Rights.

11. Required statements

Details of any securities issued under the Performance Rights Plan will be published in the annual report of the Company relating to the period in which they were issued, along with a statement that approval for the issue was obtained under Listing Rule 10.14.

Any additional persons covered by Listing Rule 10.14 who become entitled to participate in an issue of securities under the Performance Rights Plan after Resolutions 6, 7, 8, 9 and 10 are approved and who were not named in this Explanatory Statement will not participate until approval is obtained under Listing Rule 10.14.

12. Voting exclusion statement

A voting exclusion statement for Resolutions 6 to 10 is included in the Notice of Meeting preceding this Explanatory Statement.

**5.5 Additional information**

Although the Board has determined that the Company will not seek approval for the proposed issue of the Performance Rights to the Related Parties pursuant to Chapter 2E of the Corporations Act, the Board provides the following additional information in relation to Resolutions 6, 7, 8, 9 and 10 as a matter of good corporate governance:

- (a) The relevant interests of the Related Parties in securities of the Company as at the Last Practicable Date are set out below:

Related Party	Shares	Options <sup>1</sup>	Performance Rights
Bardin Davis	9,055,097	Nil	16,250,000
Tony Pearson	4,706,647	8,000,000	3,250,000
Abdullah Mwinyi	350,000	Nil	650,000
Giselle Collins	300,000	Nil	Nil
Rebecca Morgan	Nil	Nil	Nil

**Notes:**

- Options (3,000,000 and 5,000,000 exercisable at \$0.10 and \$0.15, respectively) each with various vesting conditions.
- All of the securities presented in the above table are provided on a pre-Consolidation basis. If the proposed Consolidation the subject of Resolution 12 is approved, the above securities will be reconstructed in accordance with their terms to take into account the effect of the Consolidation.

- (b) If the milestones attaching to the Performance Rights issued to the Related Parties are met and the Performance Rights are converted, a total of 20,150,000 Shares would be issued (or 2,015,000 Shares should the Consolidation the subject of Resolution 12 be approved). This will increase the number of Shares on issue from 1,987,867,461 (being the total number of Shares on issue as at the Last Practicable Date) (or 198,786,747 Shares should the Consolidation the subject of Resolution 12 be approved) to 2,008,017,461 (on a pre-Consolidation basis and assuming that no Shares are issued and no other convertible securities vest or are exercised after the Last Practicable Date) with the effect that the shareholding of existing Shareholders would be diluted by an aggregate of approximately 1%.
- (c) The trading history of the Shares on ASX in the 12 months before the Last Practicable Date is set out below:

	Price	Date
Highest	15.5 cents	26 July 2021
Lowest	3.1 cents	27 Oct 2020, 29 Oct 2020 and 3 Nov 2020
Last	8.1 cents	15 October 2021

- (d) Each Director has a material personal interest in the outcome of Resolutions 6 to 10 on the basis that all of the Directors (or their nominees) are to be issued Performance Rights should Resolutions 6 to 10 be passed. For this reason, the Directors do not believe that it is appropriate to make a recommendation on Resolutions 6 to 10 of this Explanatory Statement.
- (e) The Company does not consider that there are any significant opportunity costs to the Company or benefits foregone by the Company in issuing the Performance Rights upon the terms proposed.
- (f) The Board is not aware of any other information that is reasonably required by Shareholders to allow them to decide whether it is in the best interests of the Company to pass Resolutions 6 to 10.

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## **6. RESOLUTION 11 – APPROVAL OF INCREASE IN NON-EXECUTIVE DIRECTORS' FEES**

### **6.1 Background**

In accordance with Listing Rule 10.17 and clause 14.8 of the Constitution, the Company must not increase the total amount of fees payable to Non-Executive Directors without Shareholder approval.

Resolution 11 seeks Shareholder approval to increase the aggregate amount of fees available to be paid to Non-Executive Directors by \$400,000 per annum, from the current aggregate amount of \$300,000 per annum to an aggregate amount of \$700,000 per annum.

The Board considers it is reasonable and appropriate at this time to seek an increase in the remuneration pool for Non-Executive Directors for the following reasons:

- (a) to allow for an increase in the number of Non-Executive Directors;
- (b) growth of the Company and increased responsibilities for Non-Executive Directors;
- (c) Non-Executive Director fees may need to be increased in the future to retain Directors;
- (d) to attract new Directors of a calibre required to effectively guide and monitor the business of the Company; and

- (e) to remunerate Directors appropriately for the expectations placed upon them by both the Company and the regulatory environment in which it operates.

If Resolution 11 is approved, it does not mean that the Company must utilise the entire maximum sum of \$700,000 approved for Non-Executive Directors' fees in each year. However, the Board considers that it is reasonable and appropriate to establish this amount as this will provide the Company with the flexibility to attract appropriately qualified Non-Executive Directors and to act quickly if the circumstances require it.

In the past three years, the Company has issued the following securities to Non-Executive Directors (or their nominees) under Listing Rules 10.11 or 10.14:

<b>Non-Executive Director</b>	<b>Type of Securities Issued</b>	<b>Number*</b>
Tony Pearson	Options	10,000,000
	Performance Rights	5,000,000
Abdullah Mwinyi	Performance Rights	1,000,000
Jonathan Murray	Performance Rights	1,000,000

**Note:** The securities in the table above are before taking into account the effect of the Consolidation the subject of Resolution 12.

The Company is also proposing to issue Performance Rights to Non-Executive Directors pursuant to Resolutions 7 to 10.

The remuneration for each Director for the year ended 30 June 2021 is detailed in the Company's latest annual financial report.

A voting exclusion statement is included in the Notice for Resolution 11.

## **6.2 Board recommendation**

As a majority of the Directors have an interest in Resolution 11 (by virtue of them being Non-Executive Directors), the Directors decline to give a recommendation to Shareholders as to how to vote on Resolution 11.

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## **7. RESOLUTION 12 – APPROVAL OF CAPITAL CONSOLIDATION**

### **7.1 Background**

The Company is seeking Shareholder approval for the Company to consolidate its issued Share capital through the conversion of every ten (10) Shares into one (1) Share (**Consolidation**).

If the Consolidation proceeds, the Options and Performance Rights will also be reorganised.

Resolution 12 is conditional on Resolution 13 also being approved. If Resolution 13 is not approved, then the Consolidation will not proceed.

### **7.2 Purpose of proposed resolution**

As at the Last Practicable Date, the Company has 1,987,867,461 Shares on issue, which, for a Company of its size, is a considerable number. The Consolidation will result in a more appropriate and effective capital structure for the Company and a Share price more appealing to a wider range of investors.

The large number of Shares currently on issue subjects Shareholders to several disadvantages, including:

- (a) poor market perception as investors equate the low share price with the perception of a troubled or poorly performing company;

- (b) vulnerability to speculative day-to-day trading and short selling, which generates Share price volatility; and
- (c) discouraging quality, long term institutional investors, equity funds and lending institutions seeking stability and long term growth.

The Board believes these factors can be minimised by the Consolidation.

### **7.3 Regulatory requirements**

Section 254H(1) of the Corporations Act provides that the Company may convert all or any of its Shares into a larger or smaller number of Shares by ordinary resolution passed at a general meeting. The result of the Consolidation is that each Shareholder's security holding will be reduced to 10% of its current level.

#### ***Effect of the Consolidation***

If Resolution 12 is approved, every ten (10) Shares on issue will be consolidated into one (1) Share (subject to rounding). Overall, this will result in the number of Shares on issue reducing from 1,987,867,461 to approximately 198,786,747 (subject to rounding and assuming no other Shares are issued after the Last Practicable Date).

The Consolidation applies equally to all Shareholders. Accordingly, individual shareholdings will be reduced in the same ratio as the total number of Shares (subject to rounding). Assuming no other Share issues or market movements or impacts occur, the Consolidation will therefore have no effect on the percentage interest in the Company of each Shareholder (other than minor variations resulting from rounding).

The Consolidation will not result in any change to the substantive rights and obligations of existing Shareholders. However, Shareholders should refer to Section 8 for details on how the Company is proposing to amend certain terms attaching to certain Performance Rights in the event the Consolidation is approved and proceeds.

#### ***Fractional entitlements***

Where the Consolidation (and associated consolidation of the Options and Performance Rights) results in an entitlement to a fraction of a Share, an Option or a Performance Right (as applicable), that fraction will be rounded up to the next whole number of Shares, Options or Performance Rights (as applicable).

However, if the Company is of the opinion that a security holder has, before the record date for the Consolidation, been party to share splitting or division in an attempt to obtain an unfair advantage by reference to such rounding, the Company may aggregate the holdings of that security holder before applying any rounding of entitlements.

Each security holder's proportional interest in the Company's issued capital will remain unchanged as a result of the Consolidation (other than minor variations resulting from rounding).

#### ***Proposed treatment of convertible securities***

As at the Last Practicable Date, the Company has 100,031,253 Options and 20,150,000 Performance Rights on issue. These securities are convertible into Shares.

If the Consolidation proceeds, the Options and Performance Rights will also be reorganised in accordance with the terms and conditions of the Options and Performance Rights, respectively, and Listing Rules 7.21 and 7.22.1, on the basis that all Options and Performance Rights issued by the Company will be consolidated in the same ratio as Shares and, in the case of Options, the exercise price will be amended in inverse proportion to that ratio.

For example, a holding of one hundred thousand (100,000) Options with an exercise price of \$0.03 (3 cents) each prior to the Consolidation would result in a holding of ten



thousand (10,000) Options with an exercise price of \$0.30 (30 cents) each after the Consolidation.

As at the Last Practicable Date, the Company has on issue:

- (a) 81,541,253 listed Options exercisable at \$0.03 each on or before 14 April 2022.
- (b) 8,490,000 unlisted Options exercisable at \$0.03 each on or before 5 March 2023.
- (c) 2,000,000 unlisted Options exercisable at \$0.035 each on or before 17 January 2022.
- (d) 3,000,000 unlisted Options exercisable at \$0.10 each on or before 21 June 2022.
- (e) 5,000,000 unlisted Options exercisable at \$0.15 each on or before 21 June 2023.
- (f) 20,150,000 unlisted Performance Rights. The Company is also proposing to issue, subject to Shareholders approving Resolutions 6 to 10, an additional 14,916,666 Performance Rights. The Company is also proposing to issue 4,266,000 Performance Rights to eligible employees of, and contractors engaged by, the Company, which would bring the total number of unlisted Performance Rights on issue to 39,332,666 (assuming no Performance Rights are exercised or cancelled after the Last Practicable Date).

Therefore, if Resolution 12 is passed (and assuming Resolutions 6 to 10 are also passed and the Performance Rights the subject of those Resolutions issued before completion of the Consolidation), on completion of the Consolidation, the Company will have on issue:

- (a) 8,154,125 listed Options exercisable at \$0.30 each on or before 14 April 2022.
- (b) 849,000 unlisted Options exercisable at \$0.30 each on or before 5 March 2023.
- (c) 200,000 unlisted Options exercisable at \$0.35 each on or before 17 January 2022.
- (d) 300,000 unlisted Options exercisable at \$1.00 each on or before 21 June 2022.
- (e) 500,000 unlisted Options exercisable at \$1.50 each on or before 21 June 2023.
- (f) 2,015,000 unlisted Performance Rights (subject to rounding).

#### 7.4 Effect on capital structure

The effect which the Consolidation will have on the Company's capital structure is set out as follows (subject to rounding):

Capital Structure	Shares	Listed Options	Unlisted Options	Unlisted Performance Rights <sup>1</sup>
Current (pre-Consolidation)	1,987,867,461	81,541,250	18,490,000	39,332,666
Current (post-Consolidation)	198,786,746	8,154,125	1,849,000	3,933,266

<sup>1</sup> This assumes that Resolutions 6 to 10 are passed and the Performance Rights the subject of those Resolutions are issued (together with the Performance Rights proposed to be issued to eligible employees and contractors) before completion of the Consolidation.

#### 7.5 Holding statements

With effect from the date of the Consolidation, all existing holding statements will cease to have any effect, except as evidence of entitlement to a certain number of securities on a post-Consolidation basis.

After the Consolidation becomes effective, new holding statements will be issued to security holders, who are encouraged to check their post-Consolidation holdings before seeking to sell or otherwise dispose of any Company securities.

## 7.6 Taxation

The Consolidation should not result in a capital gains tax event for Australian tax residents. The cost base of the Shares held after the Consolidation will be the sum of the cost bases of the original Shares pre-Consolidation. The acquisition date of Shares held after the Consolidation will be the same as the date on which the original Shares were acquired.

This Explanatory Statement does not, however, consider the tax implications in respect of Shares or other securities held on revenue account, as trading stock or by non-resident Shareholders. The tax information in this Explanatory Statement does not apply to Shareholders that have acquired their Shares in respect of employment or through the provision of services. Nor does it apply to security holders that are subject to the "Taxation of Financial Arrangement" rules.

Security holders should consider their own circumstances and seek their own professional advice in relation to their tax position. Neither the Company nor any of its officers, employees or professional advisers assumes any liability or responsibility for advising Shareholders or other security holders about the tax consequences of the proposed Consolidation.

## 7.7 Indicative timetable

If approved by Shareholders, the proposed Consolidation will take effect on 29 November 2021. The following is an indicative timetable (subject to change) of the key events:

Event	Date
Announcement of Consolidation / Lodgement of Appendix 3A.3	Monday, 25 October 2021
Annual General Meeting	Monday, 29 November 2021
Notification to ASX that Consolidation is approved	Monday, 29 November 2021
Effective date of Consolidation	Tuesday, 30 November 2021
Last day for trading in pre-consolidated securities	Wednesday, 1 December 2021
Trading in the consolidated securities on a deferred settlement basis commences	Thursday, 2 December 2021
Record date (last day to register transfers on a pre-Consolidation basis)	Friday, 3 December 2021
Registration of securities reflecting Consolidation	Monday, 6 December 2021
Despatch of new holding statements	Monday, 6 December 2021
Last day for the Company to despatch new holding statements and to notify ASX that this has occurred	Friday, 10 December 2021

## 7.8 Board recommendation

The Board supports the proposed Consolidation and unanimously recommends that Shareholders vote in favour of Resolution 12.

## 8. RESOLUTION 13 – APPROVAL OF CHANGE TO TERMS OF PERFORMANCE RIGHTS (SHARE PRICE VESTING MILESTONES)

### 8.1 Background

The Company has Performance Rights on issue, some of which will only vest if certain vesting milestones that are referable, wholly or in part, to the Company's Share price (**Share Price Vesting Milestone**) are met.

The Performance Rights that are subject to Share Price Vesting Milestones are summarised as follows:

Holder	Class	Number Held (pre-Consolidation)	Class	Number Held (pre-Consolidation)
Bardin Davis	Class E.2	1,875,000	Class G	3,125,000
Ciao! Punto Pty Ltd ATF Ciao Punto Family Trust (Ciao)*	Class E.2	375,000	Class G	625,000
Abdullah Mwinyi	Class E.2	75,000	Class G	125,000

\* Director Mr Tony Pearson has an indirect interest in the Performance Rights held by Ciao by virtue of his association with that entity.

These Performance Rights provide the holder with a right to receive a Share at a future date, subject to any applicable vesting milestones being satisfied. If the relevant vesting milestones are satisfied, the holder can exercise the Performance Right and in return receive one Share for no further consideration.

The Performance Rights were issued pursuant to the Performance Rights Plan, a summary of the material terms and conditions of which is set out in Schedule 1. The complete vesting milestones applicable to the Performance Rights set out in the table above are contained in schedule D of the Company's notice of 2020 annual general meeting, a copy of which was released to ASX on 20 November 2020.

If the Consolidation the subject of Resolution 12 is implemented, the Consolidation will result in every ten (10) Shares on issue being consolidated into one (1) Share (subject to rounding). As such, it is considered likely that the price at which Shares trade on ASX will increase as a result of there being a substantially smaller number of Shares on issue following implementation of the Consolidation. This could result in the Share Price Vesting Milestones being satisfied inadvertently by virtue of the Share Consolidation taking place, thereby (if any other applicable vesting milestones have been satisfied) entitling the holder to one Share for each Performance Right that is exercised.

Accordingly, to avoid the potential inadvertent satisfaction of the Share Price Vesting Milestones, it is proposed that the Share Price Vesting Milestones be amended in the inverse proportion to the ratio of the Consolidation as follows:

Class	Current Vesting Milestone	Proposed Vesting Milestone
Class E.2	Share price achieving a VWAP of greater than <u>15 cents</u> over 20 consecutive trading days.	Share price achieving a VWAP of greater than <u>\$1.50</u> over 20 consecutive trading days.
Class G	Share price achieving a VWAP of greater than <u>15 cents</u> over 20 consecutive trading days.	Share price achieving a VWAP of greater than <u>\$1.50</u> over 20 consecutive trading days.

This is consistent with how the exercise price of the Options will change if the Consolidation is approved (see Section 7 for further details). Apart from these proposed amendments to the Share Price Vesting Conditions, the terms of the Performance Rights will remain unchanged.

Resolution 13 is conditional on Resolution 12 also being approved. If Resolution 12 is not approved, then the changes contemplated by Resolution 13 will not proceed.

## 8.2 Listing Rule 6.23

The Company understands that ASX treats the Performance Rights as options for the purposes of the Listing Rules.

Listing Rule 6.23.4 provides that a Company must obtain Shareholder approval to make a change to the terms of options on issue which is not prohibited under Listing Rule 6.23.3.

Listing Rule 6.23.3 prohibits a change to the terms of options which has the effect of reducing the exercise price, increasing the period for exercise or increasing the number of securities on exercise.

The proposed amendment is not prohibited under Listing Rule 6.23.3, as it does not have the effect of reducing the exercise price, increasing the period for exercise or increasing the number of securities to be received on exercise of the Performance Rights.

Accordingly, the Company is seeking Shareholder approval to amend the Share Price Vesting Milestones attaching to the Performance Rights on issue in the manner set out in Section 8.1 above.

## 8.3 Board recommendation

As the Directors have an interest in Resolution 13 (by virtue of them holding, or being entitled to receive (subject to Resolutions 6 to 10 being passed), Performance Rights), the Directors decline to give a recommendation to Shareholders as to how to vote on Resolution 13.

## 9. RESOLUTION 14 – APPROVAL OF CHANGE TO TERMS OF PERFORMANCE RIGHTS (CHANGE IN CONTROL)

### 9.1 Background

The Company has Performance Rights on issue, held as follows:

Holder	Number of Performance Rights
Bardin Davis	16,250,000
Ciao! Punto Pty Ltd ATF Ciao! Punto Family Trust*	3,250,000
Abdullah Mwinyi	650,000

\* Director Mr Tony Pearson has an indirect interest in the Performance Rights held by Ciao by virtue of his association with that entity.

The terms of the Performance Rights provide that, upon a 'Change in Control' event occurring, then to the extent that the relevant Performance Rights have not converted into Shares due to satisfaction of any applicable vesting milestones, the Performance Rights will accelerate vesting conditions and will automatically convert into Shares on a one-for-one basis.

The Board is proposing to, subject to Shareholder approval, amend the terms of these Performance Rights to change what constitutes a 'Change in Control' event as follows:

Existing 'Change in Control' events	Proposed 'Change in Control' events
<ul style="list-style-type: none"> <li>A takeover bid under Chapter 6 of the Corporations Act having been made in respect of the Company and:</li> </ul>	<ul style="list-style-type: none"> <li>In the case of a Takeover Bid (being a takeover bid (as defined in the Corporations Act) to acquire the Company's Shares), an offeror who previously had Voting Power (as that</li> </ul>

<ul style="list-style-type: none"> <li>- having received acceptances for not less than 50.1% of the Company's Shares on issue; and</li> <li>- having been declared unconditional by the bidder; or</li> <li>• a Court granting orders approving a compromise or arrangement for the purposes of or in connection with a scheme of arrangement for the reconstruction of the Company or its amalgamation with any other company or companies.</li> </ul>	<p>term is defined in section 9 of the Corporations Act) of less than 50% in the Company obtaining Voting Power of more than 50%;</p> <ul style="list-style-type: none"> <li>• shareholders of the Company approving a proposed compromise or arrangement for the reconstruction of the Company or its amalgamation with any other company or companies at a meeting convened by the Court pursuant to section 411(4)(a) of the Corporations Act;</li> <li>• any person becoming bound or entitled to acquire shares in the Company under: <ul style="list-style-type: none"> <li>- section 414 of the Corporations Act (compulsory acquisition following a scheme or contract); or</li> <li>- Chapter 6A of the Corporations Act (compulsory acquisition of securities);</li> </ul> </li> <li>• a selective capital reduction being announced in respect of the Company pursuant to section 256C(2) of the Corporations Act which results in a person who previously had Voting Power of less than 50% in the Company obtaining Voting Power of more than 50%; or</li> <li>• in any other case, a person obtaining Voting Power in the Company which the Board (which for the avoidance of doubt will comprise those directors immediately prior to the person acquiring that Voting Power) determines, acting in good faith and in accordance with their fiduciary duties, is sufficient to control the composition of the Board.</li> </ul>
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As set out in the table above, the existing 'Change in Control' events only contemplate unconditional takeover bids and Court approved compromises or arrangements and do not cater for all of the circumstances in which there may legitimately be a change in control of the Company.

The Board considers that the proposed concept of 'Change in Control' more accurately reflects the types of events that would trigger a change in control of the Company which should result in the acceleration of any applicable vesting milestones of any Performance Rights that have not converted into Shares as a result of those vesting milestones not yet having been satisfied. This is on the basis that, following a 'Change in Control' event, the holders of the Performance Rights may be unable to achieve the satisfaction of the applicable vesting milestones (for example, if the person who acquires control seeks to

reduce the holder's role with the Company and this impacts on the holder's ability to satisfy a particular vesting milestone).

The proposed concept of 'Change in Control' is also consistent with the equivalent concept that applies to the terms of the Performance Rights that are subject to Resolutions 6 to 10.

## **9.2 Listing Rule 6.23**

The Company understands that ASX treats the Performance Rights as options for the purposes of the Listing Rules.

Listing Rule 6.23.4 provides that a Company must obtain Shareholder approval to make a change to the terms of options on issue which is not prohibited under Listing Rule 6.23.3.

Listing Rule 6.23.3 prohibits a change to the terms of options which has the effect of reducing the exercise price, increasing the period for exercise or increasing the number of securities on exercise.

The proposed amendment is not prohibited under Listing Rule 6.23.3, as it does not have the effect of reducing the exercise price, increasing the period for exercise or increasing the number of securities to be received on exercise of the Performance Rights.

Accordingly, the Company is seeking Shareholder approval to amend the 'Change in Control' events attaching to the Performance Rights on issue in the manner set out in Section 9.1 above.

## **9.3 Chapter 2E of the Corporations Act**

Chapter 2E of the Corporations Act requires that, for a public company, or an entity that the public company controls, to give a financial benefit to a related party of the public company, the public company or entity must:

- obtain the approval of the public company's members in the manner set out in sections 217 to 227 of the Corporations Act; and
- give the benefit within 15 months following such approval,

unless the giving of the financial benefit falls within an exception set out in sections 210 to 216 of the Corporations Act.

The proposal to change the terms of the Performance Rights as contemplated by Resolution 14 may constitute the giving a financial benefit to Bardin Davis, Tony Pearson and Abdullah Mwinyi (each being a related party of the Company for the purposes of the Corporations Act by virtue of being a Director).

The Board (excluding Bardin Davis, Tony Pearson and Abdullah Mwinyi) has determined that, because the Performance Rights were issued to the relevant Directors (or their respective nominee) as part of the remuneration package provided by the Company, the proposal to now change the terms of the Performance Rights as contemplated by Resolution 14 constitutes the Company giving remuneration to each of Bardin Davis, Tony Pearson and Abdullah Mwinyi. The Board (excluding Bardin Davis, Tony Pearson and Abdullah Mwinyi) has determined that it is reasonable to do so having regard to the respective position of the Company and Bardin Davis, Tony Pearson and Abdullah Mwinyi (as applicable), including the duties and responsibilities of Bardin Davis, Tony Pearson and Abdullah Mwinyi (as applicable) in relation to the Company.

Accordingly, the Board (excluding Bardin Davis, Tony Pearson and Abdullah Mwinyi) has determined that the proposal to change the terms of the Performance Rights as contemplated by Resolution 14 falls within an exception to the need to obtain the approval of the Company's Shareholders for the purposes of Chapter 2E of the Corporations Act.

## **9.4 Board recommendation**

As a majority of the Directors have an interest in Resolution 14 (by virtue of them

holding Performance Rights), the Directors decline to give a recommendation to Shareholders as to how to vote on Resolution 14.

**10. RESOLUTION 15 – APPROVAL OF CHANGES TO OPTION TERMS**

**10.1 Background**

The Company currently has:

- 3,000,000 unlisted Options on issue (pre-Consolidation), exercisable at \$0.10 (10 cents) each and expiring on 21 June 2022 (**Class B Options**); and
- 5,000,000 unlisted Options on issue (pre-Consolidation), exercisable at \$0.15 (15 cents) each and expiring 21 June 2023 (**Class C Options**).

These Options are held by Mr Tony Pearson (indirectly via Ciao! Punto Pty Ltd ATF Ciao! Punto Family Trust), a director of the Company (**Pearson Options**). Shareholders approved the issue of the Pearson Options at a general meeting of the Company held on 4 November 2019. Each Pearson Option entitles Mr Pearson to subscribe for one Share upon exercise of the Option.

**10.2 Proposed amendment to vesting condition**

At present, the Class B Options will only vest if:

- the Company enters into an agreement with a strategic partner for the development of the Company's Ngualla Project; or
- the Company attracts \$20 million worth of funding for FEED (Front End Engineering and Design) for the development of the Ngualla Project,

(**Current Vesting Condition**), subject to the continued service by Mr Pearson in the capacity as a Director from the date of issue of the Class B Options to the date of satisfaction of the Current Vesting Condition.

The Board considers that the Company is not likely to require \$20 million worth of funding for FEED. Accordingly, the Board (excluding Mr Pearson) proposes that the Current Vesting Condition be amended as follows:

Existing Vesting Condition	Proposed Vesting Condition
<ul style="list-style-type: none"> <li>• The Company enters into an agreement with a strategic partner for the development of the Company's Ngualla Project; or</li> <li>• the Company attracts \$20 million worth of funding for FEED (Front End Engineering and Design) for the development of the Ngualla Project.</li> </ul>	<ul style="list-style-type: none"> <li>• The Company enters into an agreement with a strategic partner for the development of the Ngualla Project; or</li> <li>• the Company raises or secures a minimum of \$20m worth of funding which will be applied specifically to one or a combination of any of:               <ul style="list-style-type: none"> <li>- FEED (Front End Engineering and Design) for the development of the Ngualla Project and/or the Teesside Project;</li> <li>- construction of an access road for the Ngualla Project;</li> <li>- site investigation works in respect of the Ngualla Project and/or the Teesside Project;</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>- site remedial works in respect of the Ngualla Project and/or Teesside Project;</li> <li>- updating the Bankable Feasibility Study in respect of the Ngualla Project and/or the Teesside Project;</li> <li>- other project related costs and expenses associated with achieving a final investment decision in respect of the Ngualla Project and the Teesside Project; and/or</li> <li>- early works in respect of the Ngualla Project and/or the Teesside Project.</li> </ul>
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### 10.3 Proposed treatment on change in control

The Board (excluding Mr Pearson) is also proposing that the terms of the Pearson Options be amended such that, to the extent the applicable vesting conditions attaching to the Pearson Options have not been satisfied upon a 'Change in Control' event occurring, those vesting conditions will be automatically be waived on such an event occurring (**Change in Control Term**).

For these purposes, a 'Change in Control' event means:

- in the case of a Takeover Bid (being a takeover bid (as defined in the Corporations Act) to acquire the Company's Shares), an offeror who previously had Voting Power (as that term is defined in section 9 of the Corporations Act) of less than 50% in the Company obtaining Voting Power of more than 50%;
- shareholders of the Company approving a proposed compromise or arrangement for the reconstruction of the Company or its amalgamation with any other company or companies at a meeting convened by the Court pursuant to section 411(4)(a) of the Corporations Act;
- any person becoming bound or entitled to acquire shares in the Company under:
  - section 414 of the Corporations Act (compulsory acquisition following a scheme or contract); or
  - Chapter 6A of the Corporations Act (compulsory acquisition of securities);
- a selective capital reduction being announced in respect of the Company pursuant to section 256C(2) of the Corporations Act which results in a person who previously had Voting Power of less than 50% in the Company obtaining Voting Power of more than 50%; or
- in any other case, a person obtaining Voting Power in the Company which the Board (which for the avoidance of doubt will comprise those directors immediately prior to the person acquiring that Voting Power) determines, acting in good faith and in accordance with their fiduciary duties, is sufficient to control the composition of the Board.

In the event of an inconsistency between the Change in Control Term and the terms of the option plan pursuant to which the Pearson Options were issued, or the other terms of the Pearson Options, the Change in Control Term will prevail to the extent of the inconsistency.



## **10.4 Listing Rule 6.23**

Listing Rule 6.23.4 provides that a Company must obtain Shareholder approval to make a change to the terms of options on issue which is not prohibited under Listing Rule 6.23.3.

Listing Rule 6.23.3 prohibits a change to the terms of options which has the effect of reducing the exercise price, increasing the period for exercise or increasing the number of securities on exercise.

The proposed amendment is not prohibited under Listing Rule 6.23.3, as it does not have the effect of reducing the exercise price, increasing the period for exercise or increasing the number of securities to be received on exercise of the Options.

Accordingly, the Company is seeking Shareholder approval to:

- replace the Current Vesting Condition with the Proposed Vesting Condition in relation to the Class B Options; and
- make the Pearson Options (being both the Class B Options and the Class C Options) subject to the Change in Control Term.

## **10.5 Chapter 2E of the Corporations Act**

Chapter 2E of the Corporations Act requires that, for a public company, or an entity that the public company controls, to give a financial benefit to a related party of the public company, the public company or entity must:

- obtain the approval of the public company's members in the manner set out in sections 217 to 227 of the Corporations Act; and
- give the benefit within 15 months following such approval,

unless the giving of the financial benefit falls within an exception set out in sections 210 to 216 of the Corporations Act.

The proposal to change the terms of the Pearson Options as contemplated by Resolution 15 may constitute the giving a financial benefit to Tony Pearson (being a related party of the Company for the purposes of the Corporations Act by virtue of being a Director).

The Board (excluding Tony Pearson) has determined that, because the Pearson Options were issued to Mr Pearson as part of the remuneration package provided by the Company, the proposal to now change the terms of the Pearson Options as contemplated by Resolution 15 constitutes the Company giving remuneration to Mr Pearson. The Board (excluding Tony Pearson) has determined that it is reasonable to do so having regard to the respective position of the Company and Mr Pearson, including Mr Pearson's duties and responsibilities in relation to the Company.

Accordingly, the Board (excluding Mr Pearson) has determined that the proposal to change the terms of the Pearson Options as contemplated by Resolution 15 falls within an exception to the need to obtain the approval of the Company's Shareholders for the purposes of Chapter 2E of the Corporations Act.

## **10.6 Board recommendation**

The Board (with Mr Tony Pearson abstaining due to his interest in Resolution 15) recommends Shareholders vote in favour of Resolution 15.

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## **11. RESOLUTION 16 – APPROVAL OF CHANGE OF COMPANY NAME**

### **11.1 General**

In accordance with section 157(1) of the Corporations Act, a company may change its name by special resolution. Resolution 16 seeks approval for the Company to change its name to "Peak Rare Earths Limited".

The Board believes that the proposed new name better differentiates and aligns the Company with its industry and resource.

If Resolution 16 is approved by Shareholders, the proposed name change of the Company will be lodged with ASIC for approval. The change of name will take effect when ASIC alters the details of the Company's registration.

The proposed name has been reserved by the Company and the Company will lodge a copy of the special resolution with ASIC following the AGM in order to effect the change.

There is no change required to the Company's ASX listing code.

For Resolution 16 to be passed, it must be approved by a special resolution, requiring approval of 75% of the votes cast by Shareholders present and eligible to vote (in person, by proxy, by attorney or, in the case of a corporate Shareholder, by a corporate representative).

## **11.2 Board recommendation**

The Board unanimously recommends that Shareholders vote in favour of Resolution 16.

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## **12. RESOLUTION 17 – APPROVAL OF AMENDMENTS TO CONSTITUTION**

### **12.1 General**

Earlier this year, the Parliament of Australia passed the *Treasury Laws Amendment (2021 Measures No. 1) Act 2021 (Cth) (TLA)*. Amongst other matters, the TLA temporarily amends the Corporations Act to facilitate companies holding 'virtual' meetings (conducted wholly online). The Constitution currently only contemplates a general meeting of Shareholders being held at a physical location, or at two or more venues using technology to facilitate this. Entirely 'virtual' meetings (where all participants are in different places) are not currently contemplated.

If Resolution 17 is approved, the amended Constitution will provide greater flexibility and clarity around how the Company may conduct 'hybrid' and 'virtual' meetings in the future, particularly if the Corporations Act is permanently amended to be more facilitative of such meetings.

More specifically, the amended Constitution will confirm the ability of the Company to hold meetings using or with the assistance of any technology approved by the directors or in any manner permitted by law.

Consequential provisions are also included to provide clarity around procedural matters, including to ensure that 'online' attendees are treated as being present at the meeting and are counted for a quorum, and to confirm that the Directors may prescribe the detailed procedures by which meetings held with technological assistance may be conducted.

The amended Constitution will also:

- confirm that Shareholders can return instruments appointing a proxy, attorney or corporate representative to the Company in any manner specified by the Directors for that purpose in the notice of meeting;
- confirm that Board meetings may be held in any manner permitted by law, and will no longer require Board meetings to be convened on at least 24 hours' notice; and
- allow the Company to provide documents to Shareholders by providing Shareholders with a URL link.

The Board considers the proposed amendments are in the best interests of Shareholders because they provide flexibility, clarity and efficiency in relation to the manner in which meetings can be convened and held.

A copy of the Constitution with the proposed amendments will be made available to Shareholders on request and will be available on the Corporate Governance section of Peak Resources' website at: <http://www.peakresources.com.au/corporate-governance/>

For Resolution 17 to be passed, it must be approved by a special resolution, requiring approval of 75% of the votes cast by Shareholders present and eligible to vote (in person, by proxy, by attorney or, in the case of a corporate Shareholder, by a corporate representative).

## 12.2 Board recommendation

The Board unanimously recommends that Shareholders vote in favour of Resolution 17.

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## 13. RESOLUTION 18 – APPROVAL OF 10% PLACEMENT CAPACITY

### 13.1 General

Listing Rule 7.1A provides that an eligible entity (as defined below) may seek shareholder approval, by way of a special resolution passed at an annual general meeting, to have the capacity to issue up to that number of equity securities (as defined below) equal to 10% of its issued capital (**10% Placement Capacity**) without using that company's existing 15% annual placement capacity granted under Listing Rule 7.1.

An **Eligible Entity** is one that, as at the date of the relevant annual general meeting:

- (a) is not included in the S&P/ASX 300 Index; and
- (b) has a maximum market capitalisation equal to or less than \$300,000,000.

As at the date of this Explanatory Statement, the Company is an Eligible Entity as it is not included in the S&P/ASX 300 Index and has a current market capitalisation of approximately \$161 million (based on the number of shares on issue and the closing price of shares on the ASX on the Last Practicable Date).

For the purposes of Listing Rule 7.1A, an **Equity Security** includes a share, a unit in a trust, a right to a share or unit in a trust or option, an option over an issued or unissued security, a convertible security, or any security that ASX decides to classify as an Equity Security. Any Equity Securities issued under the 10% Placement Capacity must be in the same class as an existing class of quoted Equity Securities. As at the date of the Notice, the Company currently has two classes of quoted Equity Securities on issue, being Shares (ASX Code: PEK) and Options expiring on 14 April 2022 (ASX Code: PEKOD).

If Shareholders approve Resolution 18, the number of Equity Securities the Company may issue under the 10% Placement Capacity will be determined in accordance with the formula prescribed in Listing Rule 7.1A.2 and the Company's total placement capacity will increase to 25% of its issued capital pursuant to Listing Rule 7.1 and 7.1A.

Resolution 18 is a special resolution. Accordingly, at least 75% of votes cast by Shareholders present and eligible to vote at the meeting must be in favour of Resolution 18 for it to be passed. If Resolution 18 is not passed, the Company will not have approval to issue Equity Securities under the additional 10% Placement Capacity.

### 13.2 Technical information required by Listing Rule 7.1A

Pursuant to and in accordance with Listing Rule 7.3A, the information below is provided in relation to this Resolution 18.

#### (a) Minimum Price

The minimum price at which the Equity Securities may be issued under the 10% Placement Capacity is 75% of the volume weighted average price of Equity Securities in that class, calculated over the 15 ASX 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 ASX trading days of the date specified in paragraph (i) above, the date on which the Equity Securities are issued.

(b) Date of Issue

The Equity Securities may be issued under the 10% Placement Capacity commencing on the date of the Meeting and expiring on the first to occur of the following:

- (i) 12 months after the date of the Meeting;
- (ii) the date of the Company's next annual general meeting; and
- (iii) the date of approval by Shareholders of any transaction under Listing Rules 11.1.2 (a significant change to the nature or scale of the Company's activities) or 11.2 (disposal of the Company's main undertaking),

**(10% Placement Capacity Period).**

(c) Risk of voting dilution

Any issue of Equity Securities under the 10% Placement Capacity will dilute the interests of Shareholders who do not receive any Shares under the issue.

If Resolution 18 is approved by Shareholders and the Company issues the maximum number of Equity Securities available under the 10% Placement Capacity, the economic and voting dilution of existing Shares would be as shown in the table below. The table below shows the dilution of existing Shareholders calculated in accordance with the formula outlined in Listing Rule 7.1A.2, on the basis of the market price of Shares and the number of Equity Securities on issue as at the Last Practicable Date. The table also shows the voting dilution impact where the number of Shares on issue (Variable A in the formula) changes and the economic dilution where there are changes in the issue price of Shares issued under the 10% Placement Capacity.

Number of Shares on Issue (Variable 'A' in Listing Rule 7.1A.2)*	Dilution			
	Issue price (per Share)	\$0.04 50% decrease in issue price	\$0.081 Issue price	\$0.12 50% increase in issue price
1,987,867,461 Shares (Current Variable A)	Shares issued - 10% voting dilution	198,786,746	198,786,746	198,786,746
	Funds raised	\$8,050,863	\$16,101,726	\$24,152,590
2,981,801,192 Shares (50% increase in Variable A)	Shares issued - 10% voting dilution	298,180,119	298,180,119	298,180,119
	Funds raised	\$12,076,295	\$24,152,590	\$36,228,884
3,975,734,922 Shares (100% increase in Variable A)	Shares issued - 10% voting dilution	397,573,492	397,573,492	397,573,492
	Funds raised	\$16,101,726	\$32,203,453	\$48,305,179

\*The number of Shares on issue (Variable A in the formula) could increase as a result of the issue of Shares that do not require Shareholder approval (such as under a pro-rata rights issue or scrip issued under a takeover offer) or that are issued with Shareholder approval under Listing Rule 7.1.

The table above uses the following assumptions:

1. There are currently 1,987,867,461 existing Shares on issue as at the Last Practicable Date.
2. The effects of the Consolidation are ignored.
3. The issue price set out above is the closing price of the Shares on the ASX on 15 October 2021.
4. The Company issues the maximum possible number of Equity Securities under the 10% Placement Capacity.
5. The Company has not issued any Equity Securities in the 12 months prior to the Meeting that were not issued under an exception in Listing Rule 7.2 or without approval under Listing Rule 7.1.
6. The issue of Equity Securities under the 10% Placement Capacity consists only of Shares. It is assumed that no convertible securities convert into Shares before the date of issue of the Equity Securities.
7. The calculations above do not show the dilution that any one particular Shareholder will be subject to. All Shareholders should consider the dilution caused to their own shareholding depending on their specific circumstances.
8. This table does not set out any dilution pursuant to approvals obtained under Listing Rule 7.1.
9. 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%.
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 Meeting.

Shareholders should note that there is a risk that:

- (i) the market price for the Company's Shares may be significantly lower on the issue date than on the date of the Meeting; and
- (ii) the Shares may be issued at a price that is at a discount to the market price for those Shares on the date of issue.

(d) Purpose of Issue under 10% Placement Capacity

The Company may only issue Equity Securities under the 10% Placement Capacity for cash consideration. The Company intends to use any funds raised by utilising the 10% Placement Capacity for funding activities in respect of the Ngualla Rare Earths and Teesside Refinery Projects (including offtake and financing arrangements), and to provide general working capital and meet corporate costs.

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

(e) Allocation policy under the 10% Placement Capacity

The recipients of the Equity Securities to be issued under the 10% Placement Capacity have not yet been determined. However, the recipients of Equity Securities could consist of current Shareholders or new investors (or both), none of whom will be related parties of the Company.

The Company will determine the recipients at the time of the issue under the 10% Placement Capacity, having regard to the following factors:

- (i) the purpose of the issue;
- (ii) alternative methods for raising funds available to the Company at that time, including, but not limited to, an entitlement issue or other offer where existing Shareholders may participate;

- (iii) the effect of the issue of the Equity Securities on the control of the Company;
- (iv) the circumstances of the Company, including, but not limited to, the financial position and solvency of the Company;
- (v) prevailing market conditions; and
- (vi) advice from corporate, financial and broking advisers (if applicable).

(f) Previous issues under Listing Rule 7.1A

The Company has not issued or agreed to issue any Equity Securities under Listing Rule 7.1A.2 in the 12 months preceding the date of the Meeting.

(g) Voting exclusion

A voting exclusion statement is included in the Notice. As at the date of this Explanatory Statement, the Company has not invited any existing Shareholder to participate in an issue of Equity Securities under Listing Rule 7.1A. Therefore, no existing Shareholders will be excluded from voting on Resolution 18.

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## GLOSSARY

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**\$** means Australian dollars.

**Annual General Meeting, AGM or Meeting** means the meeting convened by the Notice.

**ASIC** means the Australian Securities & Investments Commission.

**Associated Body Corporate** means:

- (a) a related body corporate (as defined in the Corporations Act) of the Company;
- (b) a body corporate which has an entitlement to not less than 20% of the voting Shares of the Company; and
- (c) a body corporate in which the Company has an entitlement to not less than 20% than of the voting Shares.

**ASX** means ASX Limited (ACN 008 624 691) or the financial market operated by ASX Limited, as the context requires.

**Board** means the board of directors of the Company.

**Business day** means Monday to Friday inclusive, except New Year's Day, Good Friday, Easter Monday, Christmas Day, Boxing Day, and any other day that ASX declares is not a business day.

**Chair** means the chair of the Meeting.

**Closely Related Party** of a member of the Key Management Personnel means:

- (a) a spouse or child of the member; or
- (b) a child of the member's spouse; or
- (c) a dependent of the member or the member's spouse; or
- (d) anyone else who is one of the member's family and may be expected to influence the member or be influenced by the member in the member's dealings with the Company; or
- (e) a company the member controls; or
- (f) a person prescribed by the *Corporations Regulations 2001* (Cth).

**Company or Peak** means Peak Resources Limited (ACN 112 546 700).

**Consolidation** means the proposed consolidation of the Company's Share capital through the conversion of every ten (10) Shares into one (1) Share

**Constitution** means the Company's constitution.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Directors** means the current directors of the Company.

**Explanatory Statement** means this explanatory statement, which accompanies the Notice.

**Key Management Personnel** has the same meaning as in the accounting standards issued by the Australian Accounting Standards Board and means those persons having authority and responsibility for planning, directing and controlling the activities of the Company, or if the Company is part of a consolidated entity, of the consolidated entity, directly or indirectly, including any director (whether executive or otherwise) of the Company, or if the Company is part of a consolidated entity, of an entity within the consolidated group.

**Last Practicable Date** means the last practicable date prior to finalising the Notice, being 15 October 2021.

**Listing Rules** means the Listing Rules of ASX.

**Notice or Notice of Meeting** means the notice convening the Annual General Meeting.

**Option** means an option to acquire a Share.

**Performance Rights** a performance right issued or proposed to be issued by the Company (as the context requires).

**Performance Rights Plan** means the Company's performance rights plan, a summary of the material terms and conditions of which is set out in Schedule 1.

**Proxy Form** means the proxy form accompanying the Notice.

**Remuneration Report** means the Remuneration Report contained in the Directors' report section of the Company's annual financial report for the year ended 30 June 2021.

**Resolutions** means the resolutions set out in the Notice, or any one of them, as the context requires.

**Section** means a section of this Explanatory Statement.

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

**Shareholder** means a registered holder of a Share.

**WST** means Western Standard Time as observed in Perth, Western Australia.



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## SCHEDULE 1 – SUMMARY OF PERFORMANCE RIGHTS PLAN

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The material terms and conditions of the Performance Rights Plan approved by Shareholders at the Company's Annual General Meeting held on 21 December 2020 are summarised below. Capitalised terms not otherwise defined in this Schedule or in the Explanatory Statement have the meaning given to those terms in the Performance Rights Plan.

- (a) **Eligibility:** Participants in the Performance Rights Plan may be:
- (i) a Director (whether executive or non-executive) of the Company or any Associated Body Corporate of the Company (each, a **Group Company**);
  - (ii) a full or part time employee of any Group Company;
  - (iii) a casual employee or contractor of a Group Company to the extent permitted by ASIC Class Order 14/1000 as amended or replaced (Class Order); or
  - (iv) a prospective participant, being a person to whom the offer is made but who can only accept the offer if an arrangement has been entered into that will result in the person becoming a participant under subparagraphs (i), (ii), or (iii) above,
- who is declared by the Board to be eligible to receive grants of Performance Rights under the Performance Rights Plan (**Eligible Participant**).
- (b) **Offer:** The Board may, from time to time, at its absolute discretion, make a written offer to any Eligible Participant to apply for Performance Rights, upon the terms set out in the Performance Rights Plan and upon such additional terms and conditions as the Board determines.
- (c) **Plan limit:** The Company must have reasonable grounds to believe, when making an offer, that the number of Shares to be received on exercise of Performance Rights offered under an offer, when aggregated with the number of Shares issued or that may be issued as a result of offers made in reliance on the Class Order at any time during the previous 3 year period under an employee incentive scheme covered by the Class Order or an ASIC exempt arrangement of a similar kind to an employee incentive scheme, will not exceed 5% of the total number of Shares on issue at the date of the offer.
- (d) **Consideration:** Performance Rights granted under the Performance Rights Plan will be issued for nil cash consideration.
- (e) **Vesting conditions:** A Performance Right may be made subject to vesting conditions as determined by the Board in its discretion and as specified in the offer for the Performance Right (**Vesting Conditions**).
- (f) **Vesting:** The Board may in its absolute discretion (except in respect of a change of control occurring where Vesting Conditions are deemed to be automatically waived) by written notice to a Participant (being an Eligible Participant to whom Performance Rights have been granted under the Performance Rights Plan or their nominee where the Performance Rights have been granted to the nominee of the Eligible Participant (**Relevant Person**)), resolve to waive any of the Vesting Conditions applying to Performance Rights due to:
- (i) special circumstances arising in relation to a Relevant Person in respect of those Performance Rights, being:
    - (A) a Relevant Person ceasing to be an Eligible Participant due to:
      - (I) death or total or permanent disability of a Relevant Person; or

- (II) retirement or redundancy of a Relevant Person;
  - (B) a Relevant Person suffering severe financial hardship;
  - (C) a Relevant Person or an immediate family member of a Relevant Person suffering a terminal illness;
  - (D) any other circumstance stated to constitute "special circumstances" in the terms of the relevant offer made to and accepted by the Participant; or
  - (E) any other circumstances determined by the Board at any time (whether before or after the offer) and notified to the relevant Participant which circumstances may relate to the Participant, a class of Participant, including the Participant or particular circumstances or class of circumstances applying to the Participant,
- (Special Circumstances);**
- (ii) a change of control occurring; or
  - (iii) the Company passing a resolution for voluntary winding up, or an order is made for the compulsory winding up of the Company.
- (g) **Issue of Shares:** Subject to the Corporations Act, the Listing Rules and the Performance Rights Plan, the Company must issue to a Participant the number of Shares the person is entitled to be issued in respect of vested Performance Rights that are exercised, within 10 business days following exercise of the Performance Rights.
- (h) **Lapse of a Performance Right:** A Performance Right will lapse upon the earlier to occur of:
- (i) an unauthorised dealing in, or hedging of, the Performance Right occurring;
  - (ii) a Vesting Condition in relation to the Performance Right is not satisfied by its due date, or becomes incapable of satisfaction, as determined by the Board in its absolute discretion, unless the Board exercises its discretion to waive the Vesting Condition and vest the Performance Right in the circumstances set out in paragraph (f) or the Board resolves, in its absolute discretion, to allow the unvested Performance Rights to remain unvested after the Relevant Person ceases to be an Eligible Participant;
  - (iii) in respect of unvested Performance Right only, a Relevant Person ceases to be an Eligible Participant, unless the Board exercises its discretion to vest the Performance Right in the circumstances set out in paragraph (f) or the Board resolves, in its absolute discretion, to allow the unvested Performance Rights to remain unvested after the Relevant Person ceases to be an Eligible Participant;
  - (iv) in respect of vested Performance Rights only, a Relevant Person ceases to be an Eligible Participant and the Performance Rights granted in respect of that Relevant Person are not exercised within one (1) month (or such later date as the Board determines) of the date that Relevant Person ceases to be an Eligible Participant;
  - (v) the Board deems that a Performance Right lapses due to fraud, dishonesty or other improper behaviour of the Eligible Participant;
  - (vi) the Company undergoes a change of control or a winding up resolution or order is made, and the Board does not exercise its discretion to vest the Performance Right;

- (vii) the expiry date of the Performance Rights; and
  - (viii) the seven (7) year anniversary of the date of grant of the Performance Rights.
- (i) **Not transferrable:** Subject to the Listing Rules, and except as otherwise provided for by an offer, Performance Rights are only transferrable in Special Circumstances with the prior written consent of the Board (which may be withheld in its absolute discretion) or by force of law upon death, to the Participant's legal personal representative or upon bankruptcy to the participant's trustee in bankruptcy.
- (j) **Shares:** Shares resulting from the vesting of the Performance Rights shall, subject to any sale restrictions (refer to paragraph (k)) from the date of issue, rank on equal terms with all other Shares on issue.
- (k) **Sale restrictions:** Subject to certain exceptions, the Board may, in its discretion, determine that a restriction period will apply to some or all of the Shares issued to a Participant on exercise of those Performance Rights (**Restriction Period**) and, where restricted, must not be disposed of, or dealt with in any way, by that Participant until the earlier of:
- (i) the Relevant Person ceasing to be an Eligible Participant;
  - (ii) the Board approving the release of the restriction in relation to those Shares due to the Participant suffering severe financial hardship;
  - (iii) there is a change in control of the Company, or the Company passes a resolution for voluntary winding up, or an order is made for the compulsory winding up of the Company; or
  - (iv) the seven year anniversary of the date of grant of the Performance Right.
- (l) **Quotation of Shares:** If Shares of the same class as those issued under the Performance Rights Plan are quoted on the ASX, the Company will, subject to the Listing Rules, apply to the ASX for those Shares to be quoted on ASX within 10 business days of the later of the date the Shares are issued and the date any Restriction Period applying to the Shares ends. The Company will not apply for quotation of any Performance Rights on the ASX.
- (m) **No participation rights:** There are no participation rights or entitlements inherent in the Performance Rights and Participants will not be entitled to participate in new issues of capital offered to Shareholders during the currency of the Performance Rights without exercising the Performance Right.
- (n) **No change:** A Performance Right does not confer the right to a change in the number of underlying Shares over which the Performance Right can be exercised.
- (o) **Reorganisation:** If, at any time, the issued capital of the Company is reorganised (including consolidation, subdivision, reduction or return), all rights of a Participant are to be changed in a manner consistent with the Corporations Act and the Listing Rules at the time of the reorganisation.
- (p) **Amendments:** Subject to express restrictions set out in the Performance Rights Plan and complying with the Corporations Act, Listing Rules and any other applicable law, the Board may, at any time, by resolution amend or add to all or any of the provisions of the Performance Rights Plan, or the terms or conditions of any Performance Rights granted under the Performance Rights Plan including giving any amendment retrospective effect.

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## SCHEDULE 2 – MILESTONES AND VESTING CRITERIA OF PERFORMANCE RIGHTS

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Unless expressly defined in this Schedule, capitalised terms have the same meaning as given to them in the Performance Rights Plan.

- (a) **(Milestones):** The Performance Rights shall have the following vesting criteria (each, a **Milestone**) attached to them:

**Class A Performance Rights:** Class A Performance Rights shall vest subject to the Eligible Participant remaining an Eligible Participant as at the date that is 12 months from the later of the date of acceptance of the Offer or if applicable, the date that shareholder approval to the grant of the Class A Performance Rights to the Eligible Participant is received.

**Class B Performance Rights:** Class B Performance Rights shall vest subject to the Eligible Participant remaining an Eligible Participant as at the date that is 24 months from the later of the date of acceptance of the Offer or if applicable, the date that shareholder approval to the grant of the Class B Performance Rights to the Eligible Participant is received.

**Class C Performance Rights:** Class C Performance Rights shall vest when the Company receives a completed study in relation to Front End Engineering and Design (**FEED**) for the construction of the Teesside rare earth processing and separation plant in the Tees Valley, United Kingdom (**Teesside**).

**Class D Performance Rights:** Class D Performance Rights shall vest on the Company, or a subsidiary of the Company, executing a binding agreement with the Government or an authority, or delegate, of the Government of the United Republic of Tanzania that sets out the economic parameters (**Framework Agreement**) for the development of the Ngualla Rare Earth Project mine and infrastructure in Ngualla, Tanzania (**Ngualla Project**).

**Class E Performance Rights:** Class E Performance Rights shall vest on the Company entering into a binding construction contract for the construction of a rare earth refinery at Teesside.

**Class F Performance Rights:** Class F Performance Rights shall vest on the Company completing an updated Feasibility Study (as defined in the 2012 edition of the Australasian Code for Reporting of Exploration Results, Mineral Resources and Ore Reserves (the JORC Code)) in respect of the Ngualla Project and the refinery at Teesside.

**Class G Performance Rights:** Class G Performance Rights shall vest on the execution of a binding and unconditional agreement between the Company and a third party whereby the third party undertakes:

- (i) to provide equity funding of not less than US\$25 million for the development of the refinery at Teesside and/or the Ngualla Project; or
- (ii) to purchase a minimum of 10% of the annual production of the refinery at Teesside over the first five years of operations as disclosed in the Bankable Feasibility Study (as updated).

**Class H Performance Rights:** Class H Performance Rights shall vest on:

- (i) the execution by the Company of a binding agreement(s) with a third party(s) whereby the third party(s) undertakes to provide funding that is sufficient to enable the Company to develop both

the refinery at Teesside and the Ngualla Project in accordance with the Bankable Feasibility Study (as updated); and

- (ii) the provision of the funding referred to in paragraph (i) above becoming unconditional and available to the Company for drawdown.

**Class I Performance Rights:** Class I Performance Rights shall vest on:

- (i) the vesting conditions that relate to the Class H Performance Rights having been satisfied; and
- (ii) the Company announcing to ASX that construction activities in accordance with the Bankable Feasibility Study (as updated) have commenced at the Ngualla Project.

**All Classes of Performance Rights:** The Eligible Participant must be an Eligible Participant at the dates the Performance Rights are granted, issued, vest, exercised and the Shares issued on exercises.

- (b) **(Notification to holder):** The Company shall notify the holder of Performance Rights in writing when a Milestone applicable to those Performance Rights has been satisfied. Vested Performance Rights may be exercised at any time during the period ending one year after the Board notifies the holder that the Performance Right has vested. Any vested Performance Rights that are not exercised within this one year period will automatically lapse;
- (c) **(Conversion):** Subject to paragraph (m), upon vesting, each Performance Right will, at the election of the holder, convert into one (1) Share.
- (d) **(Lapse of a Performance Right):** A Performance Right will automatically lapse if the applicable Milestone to that Performance Right has not been satisfied within 48 months of the date of issue of the relevant Performance Right.
- (e) **(Share ranking):** Subject to any restrictions on disposal of Shares acquired on the exercise of Performance Rights, all Shares issued upon the vesting Performance Rights will upon issue rank pari passu in all respects with other Shares.
- (f) **(Application to ASX)** The Performance Rights will not be quoted on ASX. The Company must apply for the official quotation of a Share issued on conversion of a Performance Right on ASX within the time period required by the Listing Rules.
- (g) **(Transfer of Performance Rights):** The Performance Rights are not transferable except where permitted in accordance with the rules of the Performance Rights Plan.
- (h) **(Participation in new issues)** A Performance Right does not entitle a holder (in their capacity as a holder of a Performance Right) to participate in new issues of capital offered to holders of Shares such as bonus issues and entitlement issues.
- (i) **(Reorganisation of capital)** If at any time the issued capital of the Company is reconstructed, all rights of a holder will be changed in a manner consistent with the applicable Listing Rules and the Corporations Act at the time of reorganisation.
- (j) **(Adjustment for bonus issue)** If the Company makes a bonus issue of Shares or other securities to existing Shareholders (other than an issue in lieu or in satisfaction of dividends or by way of dividend reinvestment) the number of Shares or other securities which must be issued on the conversion of a Performance Right will be increased by the number of Shares or other securities which the holder would have received if the holder had converted the Performance Right before the record date for the bonus issue.
- (k) **(Dividend and Voting Rights):** The Performance Rights do not confer on the holder an entitlement to vote (except as otherwise required by law) or receive dividends.

- (l) **(Change in Control):** Subject to paragraph (m), upon:
- (iii) in the case of a Takeover Bid, an offeror who previously had Voting Power of less than 50% in the Company obtaining Voting Power of more than 50%;
  - (iv) shareholders of the Company approving a proposed compromise or arrangement for the reconstruction of the Company or its amalgamation with any other company or companies at a meeting convened by the Court pursuant to section 411(4)(a) of the Corporations Act;
  - (v) any person becoming bound or entitled to acquire shares in the Company under:
    - (A) section 414 of the Corporations Act (compulsory acquisition following a scheme or contract); or
    - (B) Chapter 6A of the Corporations Act (compulsory acquisition of securities);
  - (vi) a selective capital reduction being announced in respect of the Company pursuant to section 256C(2) of the Corporations Act which results in a person who previously had Voting Power of less than 50% in the Company obtaining Voting Power of more than 50%; or
  - (vii) in any other case, a person obtaining Voting Power in the Company which the Board (which for the avoidance of doubt will comprise those directors immediately prior to the person acquiring that Voting Power) determines, acting in good faith and in accordance with their fiduciary duties, is sufficient to control the composition of the Board,

then, to the extent Performance Rights have not converted into Shares due to satisfaction of the applicable Milestone, Performance Rights will accelerate vesting conditions and will automatically convert into Shares on a one-for-one basis.

- (m) **(Deferral of conversion if resulting in a prohibited acquisition of Shares):** If the issue of Shares on exercise of a Performance Right would otherwise fall within a Blackout Period or breach the insider trading or takeover provisions of the Corporations Act, the Company may delay the issue of the Shares until 10 business days following the expiration, as applicable, of the Blackout Period or the day on which the insider trading or takeover provisions no longer prevent the issue of the Shares.
- (n) **(No rights to return of capital)** A Performance Right does not entitle the holder to a return of capital, whether in a winding up, upon a reduction of capital or otherwise.
- (o) **(Rights on winding up)** A Performance Right does not entitle the holder to participate in the surplus profits or assets of the Company upon winding up.
- (p) **(No other rights)** A Performance Right gives the holder no rights other than those expressly provided by these terms and those provided at law where such rights at law cannot be excluded by these terms.
- (q) **(Plan):** The terms of the Performance Rights are supplemented by the terms of the Performance Rights Plan, the material terms of which are summarised in Schedule 1.

- (r) **(Discretion):** Consistent with the terms of the Performance Rights Plan, the Board may, in its absolute discretion, determine by resolution of the Board that a particular Milestone has been satisfied or satisfied to such an extent that the Performance Right to which the applicable Milestone relates will be deemed to have vested.
- (s) **(No Restriction Period):** Clause 9 of the Performance Rights Plan (which permits the Board to restrict the disposal of Shares acquired on the exercise of a Performance Right) shall not apply to the Shares acquired by the holder on exercise of Class C, D, E, F, G, H and I Performance Rights. The disposal by the holder of the Shares acquired upon exercising Class A and B Performance Rights are to be restricted for a period of 12 months following the date of issue of those Shares, unless such restriction is removed in accordance with the Performance Rights Plan. Holders of Shares acquired upon the exercise of Class A and B Performance Rights must provide the Company with all reasonable assistance requested in connection with putting a Holding Lock over the relevant Shares.

## SCHEDULE 3 – VALUATION OF PERFORMANCE RIGHTS

Using the Black & Scholes model and based on the assumptions set out below, the Performance Rights are ascribed the following value:

Assumption	Class A	Class B	Class C	Class D	Class E	Class F	Class G	Class H	Class I
Valuation Date	15-Oct-21	15-Oct-21	15-Oct-21	15-Oct-21	15-Oct-21	15-Oct-21	15-Oct-21	15-Oct-21	15-Oct-21
Spot Price	\$0.081	\$0.081	\$0.081	\$0.081	\$0.081	\$0.081	\$0.081	\$0.081	\$0.081
Exercise Price	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
Expiry Date	15-Oct-25	15-Oct-25	15-Oct-25	15-Oct-25	15-Oct-25	15-Oct-25	15-Oct-25	15-Oct-25	15-Oct-25
Expected Future Volatility	100%	100%	100%	100%	100%	100%	100%	100%	100%
Risk-free interest rate	0.25%	0.25%	0.25%	0.25%	0.25%	0.25%	0.25%	0.25%	0.25%
Dividend Yield	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
<b>Indicative Fair Value</b>									
Number	1,671,053	1,671,053	890,352	2,671,053	2,671,053	1,780,699	1,780,699	890,352	890,352
Value per Right	\$0.081	\$0.081	\$0.081	\$0.081	\$0.081	\$0.081	\$0.081	\$0.081	\$0.081
<b>Value</b>	<b>\$135,355</b>	<b>\$135,355</b>	<b>\$72,119</b>	<b>\$216,355</b>	<b>\$216,355</b>	<b>\$144,237</b>	<b>\$144,237</b>	<b>\$72,119</b>	<b>\$72,119</b>

**Note:** The valuation noted above is not necessarily the market price that the Performance Rights could be traded at and is not automatically the market price for taxation purposes.



## LODGE YOUR VOTE



### ONLINE

[www.linkmarketservices.com.au](http://www.linkmarketservices.com.au)



### BY MAIL

Peak Resources Limited  
C/- Link Market Services Limited  
Locked Bag A14  
Sydney South NSW 1235 Australia



### BY FAX

+61 2 9287 0309



### BY HAND

Link Market Services Limited  
Level 12, 680 George Street, Sydney NSW 2000



### ALL ENQUIRIES TO

Telephone: 1300 554 474

Overseas: +61 1300 554 474

## LODGE A PROXY FORM

This Proxy Form (and any Power of Attorney under which it is signed) must be received at an address given above by **11:00am (WST) on Saturday, 27 November 2021**, being not later than 48 hours before the commencement of the Meeting. Any Proxy Form received after that time will not be valid for the scheduled Meeting.

Proxy Forms may be lodged using any of the methods set out in the top right hand corner of this form.



### ONLINE

[www.linkmarketservices.com.au](http://www.linkmarketservices.com.au)

If lodging your Proxy Form online, login to the Link website using the holding details as shown on the Proxy Form. Select 'Voting' and follow the prompts to lodge your vote. To use the online lodgement facility, shareholders will need their "Holder Identifier" - Securityholder Reference Number (SRN) or Holder Identification Number (HIN).

## HOW TO COMPLETE THIS SHAREHOLDER PROXY FORM

### YOUR NAME AND ADDRESS

This is your name and address as it appears on the Company's share register. If this information is incorrect, please make the correction on the form. Shareholders sponsored by a broker should advise their broker of any changes. **Please note: you cannot change ownership of your shares using this form.**

### APPOINTMENT OF PROXY

If you wish to appoint the Chairman of the Meeting as your proxy, mark the box in Step 1. If you wish to appoint someone other than the Chairman of the Meeting as your proxy, please write the name of that individual or body corporate in Step 1. A proxy need not be a shareholder of the Company.

### DEFAULT TO CHAIRMAN OF THE MEETING

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

### VOTES ON ITEMS OF BUSINESS – PROXY APPOINTMENT

You may direct your proxy how to vote by placing a mark in 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 A SECOND PROXY

You are entitled to appoint up to two persons as proxies to attend the Meeting and vote on a poll. If you wish to appoint a second proxy, an additional Proxy Form may be obtained by telephoning the Company's share registry or you may copy this form and return them both together.

To appoint a second proxy you must:

- on each of the first Proxy Form and the second Proxy Form state the percentage of your voting rights or number of shares applicable to that form. If the appointments do not specify the percentage or number of votes that each proxy may exercise, each proxy may exercise half your votes. Fractions of votes will be disregarded; and
- return both forms together.

### SIGNING INSTRUCTIONS

You must sign this form as follows in the spaces provided:

**Individual:** where the holding is in one name, the holder must sign.

**Joint Holding:** where the holding is in more than one name, either shareholder may sign.

**Power of Attorney:** to sign under Power of Attorney, you must lodge the Power of Attorney with the registry. If you have not previously lodged this document for notation, please attach a certified photocopy of the Power of Attorney to this form when you return it.

**Companies:** where the company has a Sole Director who is also the Sole Company Secretary, this form must be signed by that person. If the company (pursuant to section 204A of the *Corporations Act 2001*) does not have a Company Secretary, a Sole Director can also sign alone. Otherwise this form must be signed by a Director jointly with either another Director or a Company Secretary. Please indicate the office held by signing in the appropriate place.

### CORPORATE REPRESENTATIVES

If a representative of the corporation is to attend the Meeting the appropriate "Certificate of Appointment of Corporate Representative" must be produced prior to admission in accordance with the Notice of Meeting. A form of the certificate may be obtained from the Company's share registry or online at [www.linkmarketservices.com.au](http://www.linkmarketservices.com.au).

**IF YOU WOULD LIKE TO ATTEND AND VOTE AT THE ANNUAL GENERAL MEETING, PLEASE BRING THIS FORM WITH YOU.  
THIS WILL ASSIST IN REGISTERING YOUR ATTENDANCE.**

NAME SURNAME  
 ADDRESS LINE 1  
 ADDRESS LINE 2  
 ADDRESS LINE 3  
 ADDRESS LINE 4  
 ADDRESS LINE 5  
 ADDRESS LINE 6



X99999999999

## PROXY FORM

I/We being a member(s) of Peak Resources Limited and entitled to attend and vote hereby appoint:

### APPOINT A PROXY

the Chairman of the Meeting (mark box)

OR if you are NOT appointing the Chairman of the Meeting as your proxy, please write the name of the person or body corporate you are appointing as your proxy

or failing the person or body corporate named, or if no person or body corporate is named, the Chairman of the Meeting, as my/our proxy to act on my/our behalf (including to vote in accordance with the following directions or, if no directions have been given and to the extent permitted by the law, as the proxy sees fit) at the Annual General Meeting of the Company to be held at **11:00am (WST) on Monday, 29 November 2021 at Level 2, QV1, 250 St George Terrace, Perth WA 6000** (the Meeting) and at any postponement or adjournment of the Meeting.

**Important for Resolutions 1, 6, 7, 8, 9, 10, 11, 13, 14 & 15:** If the Chairman of the Meeting is your proxy, either by appointment or by default, and you have not indicated your voting intention below, you expressly authorise the Chairman of the Meeting to exercise the proxy in respect of Resolutions 1, 6, 7, 8, 9, 10, 11, 14 & 15, even though the Resolutions are connected directly or indirectly with the remuneration of a member of the Company's Key Management Personnel (KMP).

**The Chair intends to vote all valid undirected proxies for all Resolutions in favour of each Resolution, other than Resolution 5 (in respect of which the Chair intends to vote all valid undirected proxies against Resolutions 5).**

### VOTING DIRECTIONS

Proxies will only be valid and accepted by the Company if they are signed and received no later than 48 hours before the Meeting. Please read the voting instructions overleaf before marking any boxes with an .

#### Resolutions

	For	Against	Abstain*		For	Against	Abstain*
1 Adoption of Remuneration Report	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	10 Issue of Performance Rights to Director – Rebecca Morgan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2 Re-Election of Director – Mr Tony Pearson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	11 Approval of Increase in Non-Executive Directors' Fees	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3 Election of Director – Ms Giselle Collins	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	12 Approval of Capital Consolidation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4 Election of Director – Ms Rebecca Morgan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	13 Approval of Change to Terms of Performance Rights (Share Price Vesting Milestones)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5 Election of Director – Mr Giles Stapleton	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	14 Approval of Change to Terms of Performance Rights (Change in Control)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6 Issue of Performance Rights to Director – Bardin Davis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	15 Approval of Changes to Option Terms	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7 Issue of Performance Rights to Director – Tony Pearson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16 Approval of Change of Company Name	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8 Issue of Performance Rights to Director – The Hon. Abdullah Mwinyi	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17 Approval of Amendments to Constitution	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9 Issue of Performance Rights to Director – Ms Giselle Collins	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	18 Approval of 10% Placement Capacity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

\* If you mark the Abstain box for a particular Item, you are directing your proxy not to vote on your behalf on a show of hands or on a poll and your votes will not be counted in computing the required majority on a poll.

### SIGNATURE OF SHAREHOLDERS – THIS MUST BE COMPLETED

Shareholder 1 (Individual)

Joint Shareholder 2 (Individual)

Joint Shareholder 3 (Individual)

Sole Director and Sole Company Secretary

Director/Company Secretary (Delete one)

Director

This form should be signed by the shareholder. If a joint holding, either shareholder may sign. If signed by the shareholder's attorney, the power of attorney must have been previously noted by the registry or a certified copy attached to this form. If executed by a company, the form must be executed in accordance with the company's constitution and the *Corporations Act 2001* (Cth).

PEK PRX2102N

