



ACN 009 250 266

## Notice of Annual General Meeting

and

## Agenda

and

## Explanatory Memorandum

### A PROXY FORM IS ENCLOSED

**Date of Meeting:** Friday 27 October 2017  
**Time of Meeting:** 3.00pm (WST)  
**Place of Meeting:** Fremantle Sailing Club  
Marine Terrace  
Fremantle  
Western Australia

*This Notice of Annual General Meeting and accompanying Explanatory Memorandum should be read in its entirety. If Shareholders are in doubt as to how they should vote, they should seek advice from their accountant, solicitor or other professional adviser prior to voting.*

*If you are unable to attend the Annual General Meeting, please complete and return the enclosed Proxy Form in accordance with the specified instructions.*

## Notice of Annual General Meeting

**NOTICE IS HEREBY GIVEN** that an Annual General Meeting of the Shareholders of Austal Limited will be held at the **Fremantle Sailing Club, Marine Terrace, Fremantle, Western Australia** on **Friday, 27 October 2017 at 3.00pm (WST)** for the purpose of transacting the business referred to on the pages following this Notice of Annual General Meeting.

The Explanatory Memorandum to this Notice provides additional information on matters to be considered at the Meeting. The Explanatory Memorandum and the Proxy Form form part of this Notice.

# Agenda

1. **Opening of the Annual General Meeting by the Chairman – Mr John Rothwell**
2. **Operating and financial overview by the Chief Executive Officer – Mr David Singleton**
3. **Directors' Report and financial statements**

Receipt of the consolidated financial statements of Austal Limited (the **Company**) and its subsidiaries for the year ended 30 June 2017 together with the Directors' declaration and Report in relation to that financial year and the Auditors' report on those financial statements.

4. **Resolution 1 – Non-binding resolution to adopt Remuneration Report**

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

*"That the Remuneration Report as set out in the Annual Report for the year ended 30 June 2017 be adopted."*

Note: Although section 250R(3) of the *Corporations Act 2001* (Cth) (**Corporations Act**) provides that the vote on this Resolution is advisory only and does not bind the Directors, there are potentially serious consequences associated with a "No" vote greater than 25%. Please see section 2 of the Explanation Memorandum for details.

#### **Voting Exclusion Statement**

To the extent required by section 250R of the *Corporations Act*, the Company will disregard any votes cast (in any capacity) on this Resolution by or on behalf of a member of the Key Management Personnel ("**KMP**") (which includes each of the directors), named in the Company's 2017 Remuneration Report, or that KMP's Closely Related Party (in any capacity), unless the vote is cast:

- (a) as a proxy for a person entitled to vote on this Resolution in accordance with a direction on the proxy form; or
- (b) by the chair of the Meeting and the appointment of the chair as proxy does not specify the way the proxy is to vote on this Resolution and expressly authorises the chair to exercise the proxy even though this Resolution is connected directly or indirectly with the remuneration of a member of the KMP.

5. **Resolution 2 – Re-election of Ms Sarah Adam-Gedge**

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

*"That Sarah Adam-Gedge, having been appointed as a director of the Company since the last annual general meeting and who retires in accordance with Article 11.10 of the Company's Constitution and Listing Rule 14.4, and being eligible, is elected as a director of the Company."*

6. **Resolution 3 – Re-election of Mr John Rothwell**

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

*"That Mr John Rothwell, being a director of the Company who retires in accordance with Article 11.3 of the Company's Constitution and, being eligible, is re-elected as a director of the Company."*

7. **Resolution 4 – Appointment of auditor**

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

*"That, for the purpose of section 327B of the *Corporations Act* and for all other purposes, the Shareholders of the Company approve the appointment of Deloitte Touche Tohmatsu as auditor of the Company."*

8. **Resolution 5 – Approval of New Constitution**

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

*“That, the new Constitution tabled at the Meeting and signed by the Chairman for identification purposes, be approved and adopted as the Constitution of the Company in substitution for and to the exclusion of the existing Constitution of the Company.”*

Resolution 5 is a Special Resolution, meaning at least 75% of the votes cast must be in favour in order for this resolution to be adopted.

9. **Resolution 6 – Approval of the issue of Performance Rights to Mr David Singleton**

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

*“That pursuant to and in accordance with Listing Rule 10.14 and for all other purposes, Shareholders approve the grant of **596,530** Performance Rights under the Austal Limited Long Term Incentive Plan to Mr David Singleton on the terms and conditions set out in the Explanatory Memorandum, and any issue of Shares pursuant to those Performance Rights.”*

**Voting Exclusion Statement**

*In accordance with section 250BD of the Corporations Act, a person appointed as proxy must not vote, on the basis of that appointment, on this Resolution if the person is either a member of the KMP or a Closely Related Party of such a member and the appointment does not specify the way the proxy is to vote on this Resolution. However, the proxy may vote if the proxy is the chair of the meeting and the appointment expressly authorises the chair to exercise the proxy even if the resolution is connected directly or indirectly with the remuneration of a member of the KMP.*

*In accordance with Listing Rule 14.11, the Company will disregard any votes cast on this Resolution by (i) Mr. Singleton and by any associates of Mr. Singleton; and/or (ii) a director of the Company (except one who is ineligible to participate in any employee incentive scheme in relation to the Company) and by any associates of those directors.*

*However, the Company will not disregard a vote if:*

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

10. **Resolution 7 – Approval of the issue of Share Rights to Ms Sarah Adam-Gedge**

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

*“That, subject to the passing of Resolution 2, pursuant to and in accordance with Listing Rule 10.14 and for all other purposes, Shareholders approve the grant of that number of Share Rights to Ms Sarah Adam-Gedge (or her nominee) calculated using the Issue Formula, and on the terms and conditions set out in the Explanatory Memorandum, and any issue of Shares pursuant to those Share Rights.”*

**Voting Exclusion Statement**

*In accordance with section 250BD of the Corporations Act, a person appointed as proxy must not vote, on the basis of that appointment, on this Resolution if the person is either a member of the KMP or a Closely Related Party of such a member and the appointment does not specify the way the proxy is to vote on this Resolution. However, the proxy may vote if the proxy is the chair of the meeting and the appointment expressly authorises the chair to exercise the proxy even if the resolution is connected directly or indirectly with the remuneration of a member of the KMP.*

*In accordance with Listing Rule 14.11, the Company will disregard any votes cast on this Resolution by (i) Ms Adam-Gedge and by any associates of Ms Adam-Gedge; and/or (ii) a director of the Company (except one who is ineligible to participate in any employee incentive scheme in relation to the Company) and by any associates of those directors.*

*However, the Company will not disregard a vote if:*

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

11. **Resolution 8 – Approval of the issue of Share Rights to Mr Giles Everist**

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

*“That pursuant to and in accordance with ASX Listing Rule 10.14 and for all other purposes, Shareholders approve the grant of that number of Share Rights to Mr Giles Everist (or his nominee) calculated using the Issue Formula, and on the terms and conditions set out in the Explanatory Memorandum, and any issue of Shares pursuant to the Share Rights.”*

**Voting Exclusion Statement**

*In accordance with section 250BD of the Corporations Act, a person appointed as proxy must not vote, on the basis of that appointment, on this Resolution if the person is either a member of the KMP or a Closely Related Party of such a member and the appointment does not specify the way the proxy is to vote on this Resolution. However, the proxy may vote if the proxy is the chair of the meeting and the appointment expressly authorises the chair to exercise the proxy even if the resolution is connected directly or indirectly with the remuneration of a member of the KMP.*

*In accordance with Listing Rule 14.11, the Company will disregard any votes cast on this Resolution by (i) Mr Everist and by any associates of Mr Everist; and/or (ii) a director of the Company (except one who is ineligible to participate in any employee incentive scheme in relation to the Company) and by any associates of those directors.*

*However, the Company will not disregard a vote if:*

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

12. **Resolution 9 – Approval of the issue of Share Rights to Mr Jim McDowell**

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

*“That pursuant to and in accordance with ASX Listing Rule 10.14 and for all other purposes, Shareholders approve the grant of that number of Share Rights to Mr Jim McDowell (or his nominee) calculated using the Issue Formula, and on the terms and conditions set out in the Explanatory Memorandum, and any issue of Shares pursuant to those Share Rights.”*

**Voting Exclusion Statement**

*In accordance with section 250BD of the Corporations Act, a person appointed as proxy must not vote, on the basis of that appointment, on this Resolution if the person is either a member of the KMP or a Closely Related Party of such a member and the appointment does not specify the way the proxy is to vote on this Resolution. However, the proxy may vote if the proxy is the chair of the meeting and the appointment expressly authorises the chair to exercise the proxy even if the resolution is connected directly or indirectly with the remuneration of a member of the KMP.*

*In accordance with Listing Rule 14.11, the Company will disregard any votes cast on this Resolution by (i) Mr McDowell and by any associates of Mr McDowell; and/or (ii) a director of the Company (except one who is ineligible to participate in any employee incentive scheme in relation to the Company) and by any associates of those directors.*

*However, the Company will not disregard a vote if:*

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

## Proxy Instructions

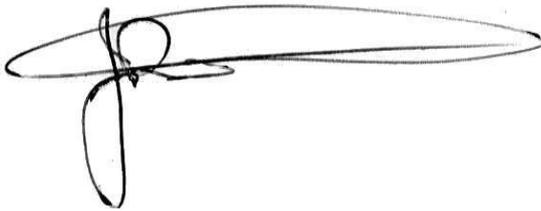
A Shareholder who is entitled to attend and cast a vote at the meeting has a right to appoint a proxy. A proxy need not be a Shareholder. Shareholders who are entitled to cast two or more votes are entitled to appoint up to two individuals to act as proxies to attend and vote on their behalf. Where more than one proxy is appointed each proxy may be appointed to represent a specific proportion or number of the Shareholder's voting rights and a separate proxy form should be used for each proxy. An additional proxy form will be supplied by the Company on request. If the appointment does not specify the proportion or number of votes each proxy may exercise, each proxy may exercise half of the votes. For further information on proxy instructions, please refer to the Proxy Form.

The Proxy Form (and the Power of Attorney or other authority, if any, under which the Proxy Form is signed) or a copy or facsimile which appears on its face to be an authentic copy of the Proxy Form (and the Power of Attorney or other authority) must be deposited at, or sent by facsimile transmission to, the Company's share registry service provider: Advanced Share Registry Limited at 110 Stirling Highway, Nedlands WA 6009 or PO Box 1156, Nedlands WA 6909, facsimile number +61 8 9262 3723 not less than 48 hours before the time for holding the Annual General Meeting, or adjourned meeting as the case may be, at which the individual named in the proxy form proposes to vote.

## Voting Entitlement

It has been determined that under regulation 7.11.37 of the *Corporations Regulations 2001* (Cth), for the purposes of determining voting entitlements at the Annual General Meeting, Shares will be taken to be held by the persons who are registered as holding the Shares at 5.00pm (WST) (being 7.00pm Sydney time) on Wednesday, 25 October 2017. Accordingly, transactions registered after that time may (at the Company's discretion) be disregarded in determining entitlements to attend and vote at the Annual General Meeting.

**BY ORDER OF THE BOARD  
AUSTAL LIMITED**

A handwritten signature in black ink, consisting of a long horizontal stroke with a loop at the end and a vertical stroke crossing it near the beginning.

**John Rothwell**  
Non-executive Chairman  
27 September 2017

# AUSTAL LIMITED

ACN 009 250 266

## Explanatory Memorandum

This Explanatory Memorandum has been prepared for the information of Shareholders of Austal Limited ("Austal" or "Company") in connection with the business to be conducted at the **Annual General Meeting of Shareholders** to be held at the **Fremantle Sailing Club, Marine Terrace, Fremantle, Western Australia on Friday, 27 October 2017 at 3.00pm (WST)**.

This Explanatory Memorandum should be read in conjunction with the accompanying Notice of Annual General Meeting.

Certain terms and abbreviations used in this Explanatory Memorandum have defined meanings which are explained in the Glossary at the end of this Explanatory Memorandum.

### Ordinary Business

#### 1. Annual financial report

The Corporations Act requires:

- the reports of the Directors and Auditors; and
- the annual financial report, including the financial statements of the Company for the year ended 30 June 2017,

to be laid before the Meeting. The Corporations Act does not require a vote of Shareholders on the reports or statements. However, Shareholders will be given ample opportunity to raise questions or comments on the management of the Company.

Also, a reasonable opportunity will be given to Shareholders as a whole at the Meeting to ask the auditor of the Company's 2017 financial statements questions relevant to the conduct of the audit, the preparation and content of the auditor's report, the accounting policies adopted by the Company in relation to the preparation of the financial statements and the independence of the auditor in relation to the conduct of the audit.

#### 2. Resolution 1 – Non-binding resolution to adopt Remuneration Report

The Corporations Act requires listed companies to make expanded disclosure in respect of director and executive information. As a result, the Directors' Report must include a section called the "Remuneration Report". The Annual Report for the year ended 30 June 2017 contains a Remuneration Report which sets out the remuneration policy for the Company and reports the remuneration arrangements in place for the executive Directors, specified executives and Non-Executive Directors. A copy of the Remuneration Report is set out on pages 20 – 43 of the Annual Report and can also be found on the Company website at [www.austal.com](http://www.austal.com).

Section 250R(2) of the Corporations Act requires listed companies to put the Remuneration Report for each financial year to a vote of members at the Company's annual general meeting.

Under section 250R(3) of the Corporations Act, the Shareholder vote on this Resolution is advisory only and will not bind the Directors or the Company. It will not require the Company to alter any arrangements detailed in the Remuneration Report, should the resolution not be passed. Notwithstanding the legislative effect of this requirement, the Board has determined that it will take the outcome of the vote into consideration when considering the Company's remuneration policy.

In addition, under section 250W of the Corporations Act, if 25% or more of the votes cast on the resolution are voted against adoption of the Remuneration Report at the Annual General Meeting and then again at the 2018 Annual General Meeting, the Company will be required to put to Shareholders a resolution at the 2018 Annual General Meeting proposing the calling of a further general meeting to consider the election of directors of the Company (a "Spill Resolution").

If more than 50% of Shareholders vote in favour of a Spill Resolution, the Company would be required to convene a further general meeting (the “**Spill Meeting**”) within 90 days of the 2018 Annual General Meeting. All of the directors who were in office when the 2018 directors’ report was approved by the directors, other than the Managing Director, would cease to hold office immediately before the end of the Spill Meeting but may stand for re-election at the Spill Meeting. Following the Spill Meeting those persons whose election or re-election as directors is approved would be the directors of the Company.

In accordance with section 250R of the Corporations Act, a vote on Resolution 1 must not be cast (in any capacity) by or on behalf of a member of the Key Management Personnel, details of whose remuneration are included in the Remuneration Report, or a Closely Related Party of such a member. However, a person described above (the “**voter**”) may cast a vote on Resolution 1 as a proxy if the vote is not cast on behalf of a person described above and the voter is either:

- (a) appointed as a proxy by writing that specifies the way the proxy is to vote on Resolution 1; or
- (b) the chair of the meeting and the appointment of the chair as proxy does not specify the way the proxy is to vote on Resolution 1 and expressly authorises the chair to exercise the proxy even though Resolution 1 is connected directly or indirectly with the remuneration of a member of the Key Management Personnel.

During the course of the year, the Company’s Nomination & Remuneration Subcommittee (the “**Committee**”) again reviewed remuneration governance, policies and practices to ensure alignment with positive Shareholder outcomes using clear and challenging objectives. In order to carry out this activity, the Committee has taken inputs from several parties, including remuneration consultants, proxy advisers and major institutional investors following the publication of last year’s remuneration report.

#### **Recommendation**

*The Directors unanimously recommend that Shareholders vote in favour of Resolution 1.*

*The Chairman of the Meeting intends to vote undirected proxies in favour of Resolution 1.*

### **3. Resolution 2 – Re-election of Mrs Sarah Adam-Gedge**

Ms Sarah Adam-Gedge was appointed a director since the last annual general meeting. In accordance with Article 11.10 of the Company’s constitution, Listing Rule 14.4 and for all other purposes, Ms Adam-Gedge holds office until this Meeting, and being eligible, offers herself for election.

The relevant experience, qualifications and other information about Sarah Adam-Gedge appears below:

Ms Adam-Gedge was appointed as a Non-Executive Director of the Company on 28 August 2017. As Managing Director of Avanade Australia, a business owned by Microsoft and Accenture, Ms Adam-Gedge brings a strong enterprise technology management background to Austal. Ms Adam-Gedge has significant experience in executive roles in the information technology and consulting sectors, including serving as Managing Partner and Vice President, Global Business Services at IBM in 2014. Ms Adam-Gedge has also previously held senior executive roles at PwC and Arthur Andersen, leading the development and implementation of numerous digital enterprise transformation engagements for customers including NBN, Qantas, Chevron and Rio Tinto.

Ms Adam-Gedge is a Chartered Accountant and member of the Institute of Chartered Accountants Australia/New Zealand. Ms Adam-Gedge holds a Bachelor of Business (Accounting) from the Queensland University of Technology and is a Graduate of the Australian Institute of Company Directors.

#### **Recommendation**

*The Directors (with Ms Adam-Gedge abstaining) unanimously recommend that Shareholders vote in favour of Resolution 2.*

*The Chairman of the Meeting intends to vote undirected proxies in favour of Resolution 2.*

#### **4. Resolution 3 – Re-election of Mr John Rothwell**

Mr John Rothwell is required to retire under the Director rotation provisions of Article 11.3 of the Company's Constitution. Mr Rothwell being eligible, has offered himself for re-election as a Director.

The relevant experience, qualifications and other information about John Rothwell appears below:

Mr Rothwell has played a major role in the development of the Australian aluminium shipbuilding industry with over 40 years of experience in boat and shipbuilding. He is the architect responsible for the establishment of Austal and was the founding Managing Director. Mr Rothwell identified markets for high speed ferries throughout Asia which resulted in Austal's rapid growth. He saw the potential for US Defence contracts for high speed aluminium naval ships and he led the formation of a new shipyard in Mobile, Alabama in 1998.

Mr Rothwell was appointed as an Officer of the Order of Australia (AO) in January 2004 for services to the Australian shipbuilding industry, and for significant contributions to vocational education and training. He was named "Australian Entrepreneur of the Year" by Ernst and Young in 2002 and he was awarded the Western Australia Citizen of the Year in the category of Industry and Commerce in 1999.

Mr Rothwell stepped down as Executive Chairman and Chief Executive Officer in 2008 to continue as Non-Executive Chairman after managing the Company for 20 years.

##### **Recommendation**

*The Directors (with Mr Rothwell abstaining) unanimously recommend that Shareholders vote in favour of Resolution 3.*

*The Chairman of the Meeting intends to vote undirected proxies in favour of Resolution 3.*

#### **5. Resolution 4 – Appointment of auditor**

The Board recently conducted a tender process for the provision of audit services to the Company. The Board determined that Deloitte Touche Tohmatsu was the successful candidate and accordingly it is intended that, subject to shareholder approval, Deloitte Touche Tohmatsu will replace the Company's current auditor, Ernst and Young, which has conducted the audit of the financial statements for the financial year ended 30 June 2017.

Following receipt of ASIC's consent to the resignation of Ernst and Young in accordance with section 329(5) of the Corporations Act, Ernst and Young will retire effective from the date of the Annual General Meeting. Resolution 4 seeks shareholder approval under section 327B of the Corporations Act for the appointment of Deloitte Touche Tohmatsu as the auditor of the Company effective from date of the Annual General Meeting.

The Directors recommend that Shareholders vote in favour of the appointment of Deloitte Touche Tohmatsu as auditor of the Company.

In accordance with section 328B of the Corporations Act which requires a member of the Company to nominate the auditor, Austro Pty Ltd has nominated Deloitte Touche Tohmatsu. A copy of the nomination of Deloitte Touche Tohmatsu is included in this Notice of Meeting as required by the Corporations Act at Attachment 1. Deloitte Touche Tohmatsu has given its consent to act as the Company's auditor.

##### **Recommendation**

*The Directors unanimously recommend that Shareholders vote in favour of Resolution 4.*

*The Chairman of the Meeting intends to vote undirected proxies in favour of Resolution 4.*

## 6. Resolution 5 – Approval of New Constitution

The Company's existing Constitution was adopted when the Company was listed on the ASX in 1998 and has not been amended since. There have been a number of developments in corporate governance principles and general corporate and commercial practice for ASX companies since that time.

Resolution 5 seeks Shareholder approval for the adoption of a new Constitution. After conducting a review of the current Constitution it was evident that while the current Constitution meets relevant legal requirements, multiple amendments would ensure the Constitution aligns with current governance, legislation and best market practice. It is therefore proposed that a whole new Constitution be adopted to reflect compliance with current law and to contain sufficient flexibility as relevant practices change.

Resolution 5 seeks Shareholder approval for the adopting of a new Constitution in accordance with section 136 of the Corporations Act. Resolution 5 is a special resolution, meaning it needs at least 75% of shareholders to vote in favour of it in order to be passed.

A copy of the proposed new Constitution will be sent to any Shareholder upon request and will also be available for inspection at 100 Clarence Beach Road, Henderson WA 6166 during normal business hours prior to the Meeting, and available for inspection at the Meeting. A copy of the proposed Constitution will be available on the Company's website during the notice period.

The new Constitution will become effective from the passing of this Resolution.

A summary of the material differences between the Company's existing Constitution and the proposed Constitution is included in Attachment 2. It is intended that the new Constitution include proportional takeover provisions and the information the Corporations Act requires the Company to provide for adoption of the proportional takeover provisions is also included in Attachment 2.

This summary is not intended to be an exhaustive explanation of the all the changes effected by the adoption of the proposed Constitution.

### Recommendation

*The Directors unanimously recommend that Shareholders vote in favour of Resolution 5.*

*The Chairman of the Meeting intends to vote undirected proxies in favour of Resolution 5.*

## Resolution 6 – Approval of the issue of Performance Rights to Mr. David Singleton

Resolution 6 seeks Shareholder approval for the grant of 596,530 Performance Rights to Mr. David Singleton (and any subsequent issue of Shares pursuant to those Performance Rights). The Performance Rights will be granted under the Austal Limited Long Term Incentive Plan (**LTI Plan**).

Under the LTI Plan LTI entitlements are measured over a standard measurement period of three years, however the Board has discretion to modify the duration of the measurement period if it deems an extension to be appropriate. If approved by Shareholders and subject to meeting performance criteria, it is expected that the Performance Rights issued in accordance with this Resolution would vest in July 2020.

The Company uses two long term performance measures in calculating LTI entitlements. The Board considers these measures best reflect the Company's performance from a balance of external and internal perspectives. They are as follows:

### 1. Relative Total Shareholder Return (rTSR)

Following consultation with external remuneration consultants during the 2017 financial year, the Board has revised the TSR measure used from indexed TSR (iTSR) to relative TSR (rTSR).

This decision was made following an assessment of a peer group of companies that include TSR within their LTI schemes. It was apparent from that review that greater than 90% of companies in the peer group utilise Relative TSR (rTSR) which sets performance hurdles in reference to percentiles of TSR for stocks included in the All Ordinaries Total Return Index ('XAOA').

The Board has resolved to adopt rTSR for all LTI grants from FY2018 because rTSR is considered to represent a more transparent and understandable basis for measuring performance which is therefore easier to articulate and explain to beneficiaries and Shareholders. Achieving company TSR that is below the 50th percentile of the market is considered to be substandard whilst delivering a TSR that is in the top quartile indicates strong performance.

rTSR accounts for 40% of the LTI measurement.

iTSR continues to apply to all grants of LTI from FY2017 based on a comparison of Austal's TSR against XAOA index. iTSR accounts for 40% of these LTI measurements.

## 2. Return on Invested Capital (ROIC)

The Board believes this to be the best measure of long term performance from an internal perspective by recognising the long term nature of investment in fixed assets necessary in a shipbuilding business.

ROIC is calculated by dividing the Net Operating Profit after tax by Net Assets (excluding Cash, Debt, Derivatives and Tax accounts). ROIC accounts for 60% of the LTI measurement.

Performance Rights issued would vest subject to the terms of the plan in accordance with the following performance criteria:

<u>Measure</u>	<u>Weight</u>	<u>Threshold</u>	<u>Vesting %</u>	<u>Performance</u>
Relative TSR <sup>1</sup>	40%	< 50th percentile	0%	Below Threshold
		= 50th percentile	50%	Threshold
		>= 75th percentile	100%	Stretch or Above
ROIC	60%	< 6.6%	0%	At or below Threshold
		6.6%	25%	Threshold
		7.4%	50%	Target
		> 8.3%	100%	Stretch or Above
<b>Total</b>	<b>100%</b>			

1. Percentile for TSR of stocks listed included in the All Ordinaries Total Return Index (XAOA).

The grant of Performance Rights to Mr. Singleton is intended to act as a strong incentive for Mr. Singleton to align with the Company's strategic plan focussing on seeking improved performance, the growth of the Company and better returns for Shareholders.

### **ASX Listing Rule Requirements**

ASX Listing Rule 10.14 provides, in essence, that the approval of Shareholders by ordinary resolution is required before a Director can acquire securities (including performance rights) under an employee incentive scheme.

Accordingly, in order for Mr. Singleton to participate in the LTI Plan and receive Performance Rights (and hence shares), the Company must obtain Shareholder approval pursuant to ASX Listing Rule 10.14.

## ASX Listing Rule Disclosure Requirements

ASX Listing Rule 10.15 sets out a number of matters which must be included in a notice of meeting requesting Shareholder approval under ASX Listing Rule 10.14.

The following information is provided in relation to Resolution 6 for the purposes of ASX Listing Rule 10.15:

- (a) The name of the person referred to in ASX Listing Rule 10.14 who is entitled (pursuant to Resolution 6) to participate in the LTI Plan and receive Performance Rights is Mr David Singleton. Mr. Singleton is an Executive Director of the Company.
- (b) If approved, the maximum number of Performance Rights (and hence shares) that may be issued to Mr Singleton under this Resolution will be 596,530.
- (d) No consideration is payable for the grant of Performance Rights under the LTI Plan, or (unless the Board otherwise determines at the time it makes an offer of Performance Rights) for the issue or transfer of Shares upon vesting of Performance Rights granted under the LTI Plan. The LTI Plan (and Performance Rights issued under it) form part of the Company's remuneration and incentive package for executives.
- (e) To date, excluding the Performance Rights described in this Resolution 6, the number of Performance Rights issued to Mr Singleton is 1,194,121. Mr Singleton, Mr Andrew Bellamy (the Company's former Chief Executive Officer and Managing Director) and Mr Michael Atkinson (a former Executive Director) were the only people referred to in rule 10.14 who received securities under the LTI Plan since it was last approved in 2012. Mr Bellamy received a total of 1,261,216 Performance Rights between 2012 and 2015 and Mr Atkinson received 102,728 securities under the LTI Plan in 2012.
- (f) No other persons referred to in ASX Listing Rule 10.14 apart from Mr Singleton are presently entitled to participate in the LTI Plan (and any who become entitled to participate will not do so until after any Shareholder approval required under ASX Listing Rule 10.14 (or otherwise under chapter 10 of the ASX Listing Rules) is obtained).
- (g) The voting exclusion statement in relation to Resolution 6 accompanies Resolution 6 in the Notice of Meeting.
- (h) No loans have or will be made by the Company in connection with the acquisition of Performance Rights.
- (i) The Company will issue the Performance Rights to Mr. Singleton as soon as practicable following the meeting and no later than 12 months after the meeting.
- (h) Subject to the passage of Resolution 6, any Performance Rights issued under the LTI Plan (or Shares issued on the vesting of such Performance Rights) will not count towards calculating the Company's 15% capacity to issue shares under ASX Listing Rule 7.1.

### Recommendation

*The Directors (with Mr Singleton abstaining) recommend that Shareholders vote in favour Resolution 6.*

*The Chairman of the Meeting intends to vote undirected proxies in favour of Resolution 6.*

## Resolutions 7 to 9 – Approval of the issue of Share Rights to Non-Executive Directors

The Board proposes to implement an incentive scheme which will enable non-executive directors of the Company to progressively acquire, over the coming years, a shareholding with a value equal to his/her total annual base board fees (excluding committee fees) (**Target Shareholding**). The scheme will be an 'employee incentive scheme' for the purposes of the ASX Listing Rules.

Resolutions 7, 8 and 9 seek Shareholder approval for Sarah Adam-Gedge, Giles Everist and Jim McDowell (or their nominees) (together the **Non-Executive Directors**) respectively to receive Share Rights under this incentive scheme on the terms and conditions set out in these explanatory notes and Attachment 3. Resolution 7 is subject to the passing of Resolution 2.

The objective of the proposal is to strengthen the alignment between the interests of the non-executive directors and Shareholders. Importantly, until a Non-Executive Director holds a number of Shares equal to their Target Shareholding, they may not sell any Shares resulting from the exercise of the Share Rights received (except in circumstances of a change of control).

This proposal would be implemented by remunerating each non-executive director that elects to participate through a combination of cash and Share Rights. It is anticipated that this remuneration model would continue until that non-executive director holds a number of Shares (or Share Rights that would, if exercised, result in a number of Shares) equal to their Target Shareholding. The initial period will be 27 October 2017 to the date of the 2018 annual general meeting (anticipated to be held in late October 2018) (**Initial Period**). The Company is only seeking Shareholder approval for the grant of Share Rights in respect of the Initial Period. For any future grants of Share Rights, the Company will seek further Shareholder approval at the relevant time.

For the Initial Period, offers to participate in the incentive scheme will be made to the non-executive directors and will be calculated by reference to 25% of their base board fees (excluding committee fees) for the Initial Period. If a Non-Executive Director chooses to participate, he/she will continue to receive 75% of their total annual base board fees (excluding committee fees) and all of their committee fees in cash. The Non-Executive Chairman is not currently expected to participate in the scheme due to his already significant shareholding in the Company.

Subject to Shareholder approval, the number of Share Rights that may be granted to each Non-Executive Director will be calculated as follows:

$$SR = \frac{TBBF \times 25\%}{VWAP} \quad \text{(Issue Formula)}$$

Where:

‘SR’ is the aggregate number of Shares Rights which the Non-Executive Director is entitled to be granted for the Initial Period;

‘TBBF’ is the Non-Executive Director’s total annual base board fees (excluding committee fees) for the Initial Period; and

‘VWAP’ is the volume weighted average price of Shares traded on the ASX calculated over the 5 trading days immediately prior to the commencement of the Initial Period.

Any fractional entitlements will be rounded up to the nearest whole number.

The Share Rights granted to the Non-Executive Directors for the Initial Period will be divided into 12 equal (or as near to equal as possible) tranches with one tranche to vest each month, subject to the relevant Non-Executive Director being continuously engaged as a non-executive director on the applicable vesting date.

Upon a tranche of the Share Rights vesting and being exercised, a Non-Executive Director will be issued, allocated or transferred one Share for each Share Right exercised.

For example purposes only, the information below shows the number of Share Rights that would be issued pursuant to Resolutions 7 to 9. In preparing this information, the Issue Formula has been used and the 5 day VWAP for Shares has been assumed to be \$1.65.

The following applies in respect of each Non-Executive Director:

- Total annual base board fees (excluding committee fees) for the Initial Period: \$95,000
- Fees to be paid in cash for the Initial Period: \$71,250.
- Fees to be paid in Share Rights for the Initial Period: \$23,750.
- Number of Share Rights to be granted for the Initial Period: 14,394, being \$23,750 divided by the assumed VWAP.

- 1/12<sup>th</sup> of Share Rights to vest each month during the Initial Period (assuming continued service as a non-executive director).
- Dilutionary Effect: 0.00004%<sup>1</sup>.

The numbers and amounts set out above are examples only and actual numbers and amounts may vary depending on the VWAP of Shares over the 5 trading days immediately prior to 27 October 2017.

At the end of the Initial Period, the Board will consider whether the Share Rights granted have delivered value equal to 25% of the relevant Non-Executive Director's total annual base board fees (excluding committee fees). Where the value delivered is considered to be less than that amount of cash fees forgone, the Board may determine that the number of Share Rights issued to the Non-Executive Directors in future years is adjusted to align it with the objective of delivering value of 25% of total annual base Board fees each year.

### **Corporations Act Requirements**

The Directors (other than Ms Adam-Gedge, Mr Everist and Mr McDowell who have a material personal interest in Resolutions 7 to 9) have considered the application of Chapter 2E of the Corporations Act to the grant of Share Rights to the Non-Executive Directors. As the Non-Executive Directors are foregoing the cash payment of fees and those fees are within the Shareholder approved pool of directors' fees, it has been determined that the financial benefit given by granting these Share Rights constitutes reasonable remuneration to the Non-Executive Directors given:

- the circumstances of the Company, and
- the Non-Executive Directors' roles and responsibilities at the Company.

Given the above, the Company will rely on the exception contained in section 211(1) of the Corporations Act and is not seeking Shareholder approval pursuant to section 208 of the Corporations Act in addition to the approval being sought under the ASX Listing Rules.

### **ASX Listing Rule Requirements**

A summary of ASX Listing Rule 10.14 is set out in Resolution 6 above.

In order for each Non-Executive Director receive Shares Rights (and hence Shares), the Company must obtain Shareholder approval pursuant to ASX Listing Rule 10.14.

### **ASX Listing Rule Disclosure Requirements**

ASX Listing Rule 10.15 sets out a number of matters which must be included in a notice of meeting requesting Shareholder approval under ASX Listing Rule 10.14.

The following information is provided in relation to Resolutions 7 to 9 for the purposes of ASX Listing Rule 10.15:

- (a) The Share Rights will be granted to Sarah Adam-Gedge, Giles Everist and Jim McDowell (or their respective nominees), who are related parties of the Company by virtue of being non-executive directors.
- (b) The number of Share Rights to be granted to each participant for the Initial Period will be determined in accordance with the Issue Formula set out above. As such, as at the date of this Notice, the Company cannot determine the exact number of Share Rights to be issued to the Non-Executive Directors. ASX has provided a waiver to the Company in this respect.

In any case, the Board has resolved to limit the value of the maximum number of Share Rights that can be granted to the Non-Executive Directors, to be not greater than \$71,250 (being \$23,750 for each Non-Executive Director).

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<sup>1</sup> Based on the number of Shares on issue as at the date of this Notice, being 349,472,643 Shares.

One (1) Share will be issued, allocated or transferred to the Non-Executive Directors on exercise of a vested Share Right.

- (c) No consideration is payable for the grant of Share Rights, or (unless the Board otherwise determines at the time it makes an offer of Share Rights) for the issue, allocation or transfer of Shares upon exercise of a vested Share Right. The Share Rights granted form part of the Company's remuneration and incentive package for non-executive directors. Accordingly, no funds will be raised from the issue or vesting of Share Rights.
- (d) To date no Share Rights have previously been issued on the terms set out in Attachment 3. For completeness, Share Rights under this employee incentive scheme have been granted to David Singleton, details of which are set out in resolution 3 of the Company's 2016 notice of annual general meeting (released to ASX on 28 September 2016, as amended by an addendum to the notice of annual general meeting released to the ASX on 7 October 2016).
- (e) As at the date of this Notice of Meeting, no other persons referred to in ASX Listing Rule 10.14, apart from the Non-Executive Directors, are presently entitled to receive Share Rights on the terms set out in Attachment 3 (and anyone who becomes entitled to participate will not do so until after any Shareholder approval required under ASX Listing Rule 10.14 (or otherwise under chapter 10 of the ASX Listing Rules) is obtained).
- (f) The voting exclusion statement in relation to Resolutions 7 to 9 accompanies Resolutions 7 to 9 in the Notice of Meeting.
- (g) No loans have or will be made by the Company in connection with the grant of Share Rights to the Non-Executive Directors.
- (h) The Company intends to invite the Non-Executive Directors to apply for the number of Share Rights determined by the Issue Formula within 1 month from the date of the Meeting (and, in any case, no later than 12 months after the date of the Meeting) and the Share Rights will be issued no later than 12 months after the date of the Meeting.
- (i) Subject to the passage of Resolutions 7 to 9, any Share Rights granted on the terms set out in Attachment 3 (or Shares issued or transferred on the vesting and exercise of such Share Rights) will not count towards calculating the Company's 15% capacity to issue shares under ASX Listing Rule 7.1.

### **Recommendation**

*The Directors (with Ms Adam-Gedge, Mr Everist and Mr McDowell abstaining) recommend that Shareholders vote in favour Resolutions 7, 8 & 9.*

*The Chairman of the Meeting intends to vote undirected proxies in favour of Resolutions 7, 8 & 9.*

## Glossary

In the Notice of Meeting and this Explanatory Memorandum (including the Attachments), the following terms have the meaning set out below:

<b>Term</b>	<b>Meaning</b>
<b>\$</b>	Australian dollars.
<b>ASX Listing Rules</b>	the Listing Rules of the ASX.
<b>WST</b>	Western Standard Time, being the time in Perth, Western Australia.
<b>ASIC</b>	Australian Securities & Investments Commission
<b>ASX</b>	ASX Limited (ACN 008 624 691) or the Australian Securities Exchange operated by it, as the context requires.
<b>Board</b>	the board of directors of the Company.
<b>Closely Related Party</b>	<p>has the meaning as defined in section 9 of the Corporations Act and includes in respect of a member of the Key Management Personnel:</p> <ul style="list-style-type: none"><li>• a spouse or child of the member or a child of the member's spouse;</li><li>• a dependant of the member or of the member's spouse;</li><li>• 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</li><li>• a company the member controls.</li></ul>
<b>Company</b>	Austal Limited (ACN 009 250 266).
<b>Constitution</b>	the constitution of the Company.
<b>Corporations Act</b>	the Corporations Act 2001 (Cth).
<b>Director</b>	a director of the Company.
<b>Explanatory Memorandum</b>	this Explanatory Memorandum accompanying the Notice of Meeting.
<b>Key Management Personnel or KMP</b>	the key management personnel of the Company as defined in AASB Standard 124 (and includes each of the Directors).
<b>LTI Plan</b>	the Company's Long Term Incentive Plan.
<b>Meeting</b>	the annual general meeting of the Company convened by the Notice of Meeting.
<b>Non-Executive Director or NED</b>	a Director of the Company who is not a member of the executive management team.
<b>Notice of Meeting or Notice</b>	the notice convening the Meeting that accompanies this Explanatory Memorandum.
<b>Proxy Form</b>	the proxy form included with the Notice of Meeting.
<b>Shares or Ordinary Shares</b>	fully paid ordinary shares in the Company.
<b>Shareholder</b>	the holder of Shares.
<b>Share Right</b>	a conditional right which, upon the satisfaction or waiver of the relevant vesting conditions and, if required by the Company, the exercise of that share right, entitles its holder to receive a Share.

## Attachment 1 – Auditor nomination

### Nomination of Auditor

13 September 2017

The Board of Directors

Austal Ltd (**Company**)

100 Clarence Beach Rd

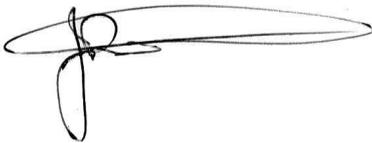
HENDERSON WA 6166

Dear Sirs,

#### **Nomination of Deloitte Touche Tohmatsu as Company Auditor**

For the purposes of section 328B(1) of the *Corporations Act 2001* (Cth), we, Austro Pty Ltd, being a member of the Company, nominate Deloitte Touche Tohmatsu of Tower 2, Brookfield Place, 123 St Georges Terrace, Perth WA 6000, for appointment as auditor of the Company at the Company's upcoming annual general meeting.

Yours sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a long horizontal stroke and a small loop at the end.

John Rothwell

Director

Austro Pty Ltd

## Attachment 2 – Summary of provisions of the new Constitution

The main differences between the current Constitution and the proposed new Constitution are outlined below:

- (a) **Definitions and general updates:** the proposed new Constitution updates the definitions used to reflect current terminology and, where possible relies on terms defined in the Corporations Act, the ASX Listing Rules and the ASX Settlement and Operating Rules.
- (b) **Dividends:** Rule 4 modernises the dividend provisions and expressly enables Directors to rescind a resolution to pay a dividend if the financial position of the Company changes between the date the dividend is fixed and the date of payment, and provides for the direct crediting of dividends to a Shareholder's nominated bank account (while retaining the flexibility to use other methods of payment such as a cheque).
- (c) **Director nomination procedures:** Rule 8.1(j) and (k) outline eligibility for election as a Director. The proposed new Constitution extends the cut-off by which members must provide notice to the Company that they, or the person they are nominating, desire to be a candidate for election at a general meeting. This reflects current corporate practice.
- (d) **Director retirement provisions:** Rule 8.1(c) removes the requirement that 1/3<sup>rd</sup> of Directors must retire at each annual general meeting. This reflects current market practice and aligns the requirement for Directors to retire under the Constitution with the requirements under ASX Listing Rule 14.4.
- (e) **Directors' assent to written resolutions:** Rule 8.14 updates the provisions governing how Directors may assent to written resolutions so that Directors may pass written resolutions by majority vote (rather than needing all directors to sign), provided that all of the Directors entitled to receive notice and vote on the resolution are provided with a document setting out that resolution.
- (f) **Chairperson to have casting vote:** Rule 8.13 reflects amendments to the ASX Listing Rules that permit the Chairperson to have a casting vote where the votes on a proposed resolution are equal.
- (g) **Shareholder meetings:** Rules 7.3 and 7.6 reflect current corporate practice that now provides chairpersons with broader powers in relation to the admission of people to Shareholder meetings, and conduct for regulating the debate.
- (h) **Executive Directors – automatic retirement from office:** Rule 9.3 provides that Directors who cease to be employed by the Company are automatically terminated from their office as Director.
- (i) **Compulsory sale of non-marketable parcels:** Rule 5.4 allows the Company to sell non-marketable parcels of the Company's Shares. Non-marketable parcels of shares are holdings with a value of less than \$500. This right is permitted under ASX Listing Rules 15.13, 15.13A and 15.13B, however is not enlivened without this Rule.
- (j) **Clarifying proxy instructions:** Where the Company receives an instrument appointing a proxy or power of attorney, Rule 7.10 expressly allows the Company to clarify with the appointing member any instruction in relation to that instrument by written or verbal communication and make any amendments to the instrument required to reflect any clarification and return the appointing instrument to the member requesting it be duly executed.
- (k) **Inclusion of direct voting:** Rule 7.8 permits the Company to allow direct voting for general meetings. This is now common corporate practice. The Board may decide that members entitled to attend and vote on a resolution at a meeting are entitled to a direct vote in respect of that resolution. A 'direct vote' includes a vote delivered to the Company by post, fax or other electronic means approved by the Directors.
- (l) **Proportional Takeover Bids:** As part of the proposal to adopt the new Constitution it is intended to insert Rule 6, which contains proportional takeover provisions. The Corporations Act sets out the terms of the relevant provisions to be included in the new Constitution. The Corporations Act also requires that the Company provide you with sufficient information to make an informed decision on whether to support or oppose the resolution.

Proportional takeover provisions were included in the existing Constitution, however they must be renewed every 3 years in order to remain operational. Rule 6 updates and renews the operation of these proportional takeover bid protections.

### Why do we need the proportional takeover provisions?

In a proportional takeover bid, the bidder offers to buy a proportion only of each shareholder's shares in the target company.

This means that control of the Company may pass without Shareholders having the chance to sell all their shares to the bidder. The bidder may take control of the company without paying an adequate amount for gaining control.

In order to deal with this possibility, a company may provide in its constitution that if a proportional takeover bid is made for shares in the company, shareholders must vote on whether to accept or reject the offer and that decision will be binding on all the shareholders.

The benefit of the provision is that Shareholders are able to decide collectively whether the proportional offer is acceptable in principle and it may ensure that any partial offer is appropriately priced.

#### **What is the effect of the proportional takeover provisions?**

If a proportional takeover bid is made, the Directors must ensure that Shareholders vote on a resolution to approve the bid more than 14 days before the bid period closes.

The vote is decided on a simple majority.

Each person who, as at the end of the day on which the first offer under the bid was made, held bid class securities is entitled to vote, but the bidder and its associates are not allowed to vote.

If the resolution is not passed, transfers which would have resulted from the acceptance of a bid will not be registered and the bid will be taken to have been withdrawn.

If the bid is approved (or taken to have been approved), the transfers must be registered if they comply with the Corporations Act and the Company's Constitution.

The Directors will breach the Corporations Act if they fail to ensure the approving resolution is voted on. However, if the resolution is not voted on, the bid will be taken to have been approved.

The proportional takeover approval provisions do not apply to full takeover bids and will only apply for 3 years after the date of adoption of the new Constitution. The provisions may be renewed, but only by a special resolution.

#### **No person to acquire or increase its substantial interest**

At the date this statement was prepared, no Director is aware of a proposal by a person to acquire, or to increase, a substantial interest in the Company.

#### **Potential advantages and disadvantages**

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

The potential advantages of the proportional takeover approval provisions for Shareholders of the Company are:

- you will have the right to decide by majority vote whether an offer under a proportional takeover bid should proceed;
- the provisions may help Shareholders avoid being locked in as a minority;
- the provisions may result in an increase in the bargaining power of Shareholders (which may ensure that any partial offer is adequately priced); and
- knowing the view of the majority of Shareholders may help each individual Shareholder assess the likely outcome of the proportional takeover bid and to decide whether to accept or reject that offer.

The potential disadvantages for shareholders of the Company include:

- proportional takeover bids for Shares in the company may be discouraged;
- Shareholders may lose an opportunity of selling some of their shares at a premium; and
- the chance of a proportional takeover bid being successful may be reduced.

The Board considers that the potential advantages for Shareholders of the proportional takeover approval provisions outweigh the potential disadvantages. In particular, Shareholders as a whole are able to decide whether or not a proportional takeover bid is successful.

### Attachment 3 – Summary of the key terms of grants of Share Rights to the Non-Executive Directors

The following is a summary of the key terms and conditions of the proposed grants of Share Rights to the Non-Executive Directors:

- (a) **(Eligibility)** The Board may from time to time invite eligible non-executive directors of the Company (or its subsidiaries) to receive Share Rights (**Eligible Participants**).
- (b) **(Share Rights)** The Company may issue Share Rights to one or more Eligible Participants. A Share Right is a conditional right which, upon the satisfaction or waiver of the relevant vesting conditions and, if required by the Company, the exercise of that share right, entitles its holder to receive an ordinary share in the Company.
- (c) **(Offers)** Unless otherwise set out in the explanatory information provided to Shareholders, the terms of the offers to the Eligible Participants, including the number of Share Rights, the number of Shares the Eligible Participants may receive on vesting and exercise of the Share Rights, the relevant vesting conditions, and any exercise conditions or any other terms applicable to a particular grant of Share Rights (for example the exercise period) will be set out in an invitation to an Eligible Participant.
- (d) **(Fulfilment of vested Share Rights)** The Company will fulfil vested Share Rights by issuing, allocating or causing to be transferred to the Eligible Participant the number of ordinary shares in the Company to which they are entitled.
- (e) **(Forfeiture of Share Rights):** Unless otherwise determined by the Board in its absolute discretion, Share Rights will be forfeited where:
  - i. the relevant vesting conditions are not satisfied or cannot be satisfied by the relevant date; or
  - ii. a participant has acted fraudulently, dishonestly or wilfully breached their duties to the Company (or its subsidiaries).
- (f) **(Disposal restrictions):** A Share Right cannot be transferred, disposed of or dealt with by a holder, without the prior approval of the Board or the relevant dealing is effected by force of law on death or legal incapacity of the holder.

In addition, holders must not transfer, dispose of or deal with Shares resulting from the exercise of a vested Share Right until such time as they have acquired and maintained that number of Shares equal to that holder's total base board fees (excluding committee fees) on the date of grant of the relevant Share Rights. This disposal restriction is subject to the change of control provisions below.

For the avoidance of doubt, the holder must comply with the Company's securities trading policy at all times.

- (g) **(Dividend and voting rights):** Dividends paid while a participant holds Share Rights will accrue in favour of the participant. A Share Right does not confer upon the holder an entitlement to vote.[]
- (h) **(Change of control):** If a change of control event occurs, which includes a takeover of the Company, the Board may in its absolute discretion determine (having regard to, amongst other factors, the period of time that has elapsed between the date of grant of the relevant Share Rights and the date of the change of control event, and the circumstances of the change of control event) the manner in which all or a specified number of outstanding Share Rights will be dealt with (including without limitation in a manner that allows the holder to benefit from the change of control event on any terms the Board deems fit including determining that some or all of a holder's unvested Share Rights are deemed to have vested).
- (i) **(Trust):** The Board may elect to use, on such terms and conditions as determined by the Board, an employee share trust for the purpose of holding shares before or after the vesting of Share Rights or delivering any Shares to the holder upon the vesting of a Share Right.

For the avoidance of doubt, the Board may do all things necessary for the establishment, administration, operation and funding of an employee share trust.

- (j) **(Amendment)** The Board has the ability to amend the terms and conditions of the Share Rights at any time, including with retrospective effect, except if the amendment materially adversely affects the rights of a participant as they existed before the date of the amendment, other than:
  - i. an amendment which is primarily necessitated to ensure compliance with the Company's constitution or laws;
  - ii. to correct manifest errors;

- iii. to take into consideration possible adverse taxation implications in respect of the Share Rights grants;  
or
- iv. to allow the implementation of an employee share trust.

To implement an amendment that materially adversely affects the rights of a participant as they existed before the date of the amendment, at least 75% of the participants affected by that amendment must first agree to that amendment in writing.

If the ASX or the ASX Listing Rules require that shareholder approval be obtained to amend the terms and conditions of Share Rights, shareholder approval will be sought at the relevant time.