

23 October 2023

Dear Shareholder,

**Re: Notice of Meeting on Friday, 24 November 2023 at 10.00am (AEDT)**

Notice is given that the Annual General Meeting of shareholders of East 33 Limited (the “**Company**”) will be held in person at 10:00am (AEDT) on Friday, 24 November 2023 at Thirty Three Degrees, 11 Palm St, Tuncurry NSW 2428 (“**Annual General Meeting**” or “**Meeting**”).

The Company will not be dispatching physical copies of the Notice of Meeting. Instead, the Notice of Meeting, accompanying explanatory statement and Independent Experts Report (**Meeting Materials**) are being made available to shareholders electronically. This means that:

- You can access the Meeting Materials and Company’s 2023 Annual Report online at the Company’s website <https://east33.sydney/pages/investors> or at the Company’s share registry’s website <https://investorcentre.linkgroup.com>
- A complete copy of the Meeting Materials and Company’s 2023 Annual Report has been posted to the Company’s ASX Market announcements page at [www.asx.com.au](http://www.asx.com.au) under the Company’s ASX code “E33”.
- If you have provided an email address and have elected to receive electronic communications from the Company, you will receive an email to your nominated email address with a link to an electronic copy of the Meeting materials and the voting instruction form.

If you would like to receive electronic communications from the Company in the future, please update your communication elections online at <https://investorcentre.linkgroup.com>. If you have not yet registered, you will need your shareholder information including SRN/HIN details.

If you are unable to access the Meeting Materials online please contact our share registry Link Market Services Limited at [registrars@linkmarketservices.com.au](mailto:registrars@linkmarketservices.com.au) or on 1300 554 474 (within Australia) or +61 1300 554 474 (Outside Australia) between 8:30am and 7:30pm (AEDT) Monday to Friday, to arrange a copy.

Any shareholders who wish to attend the Meeting should monitor the Company’s website and its ASX announcements for any updates about the Meeting. If it becomes necessary or appropriate to make alternative arrangements for the holding or conducting of the Meeting, the Company will make further information available through the ASX website at [www.asx.com.au](http://www.asx.com.au) (ASX: E33) and on it’s website at <https://east33.sydney/pages/investors>. Shareholders are encouraged to lodge their completed proxy forms in accordance with the instructions in this Notice of Meeting.

Yours sincerely,



Mathew Watkins  
Company Secretary  
East 33 Limited

12 Point Road, TUNCURRY, NSW, AUSTRALIA, 2428  
ACN: 636 173 281



## Notice of Annual General Meeting & Explanatory Statement

### East 33 Limited ACN 636 173 281

**To be held at:** Thirty Three Degrees, 11 Palm St, Tuncurry NSW 2428

**To be held on:** 24 November 2023

**Commencing:** 10:00 a.m. AEDT (Sydney, Australia time)

More information regarding online participation at the Annual General Meeting (including how to vote and ask questions online during the Annual General Meeting) is available in Section C of this Notice of Annual General Meeting.

#### **Important Information**

This Notice of Annual General 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.

An Independent Expert's Report in respect of Resolution 6 is included in this Notice of Annual General Meeting. The Independent Expert's Report has been prepared by BDO Corporate Finance Ltd (**Independent Expert**). The Independent Expert has determined that the Security Transaction outlined in Resolution 6 is **fair and reasonable** to the non-associated Shareholders.

A copy of the Independent Expert's Report is contained in **Schedule 2** of this Notice of Annual General Meeting. It is recommended that all Shareholders read the Independent Expert's Report in full.

## Important dates

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Deadline for lodgement of Proxy Forms for the Annual General Meeting	10:00 a.m. AEDT (Sydney, Australia time), 22 November 2023
Annual General Meeting	10:00 a.m. AEDT (Sydney, Australia time), 24 November 2023
Issue of the Convertible Note <i>In the event Resolutions 7 and 8 are approved</i>	12 December 2023

\*Dates are indicative only and are subject to change. The occurrence of milestones after the Annual General Meeting are conditional on the passing of the Resolutions at the Annual General Meeting.

## Letter from the Chair

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Dear Shareholders,

We are pleased to invite you to the Annual General Meeting of East 33 Limited (**Company**).

We are holding the 2023 Annual General Meeting at Thirty Three Degrees, 11 Palm St, Tuncurry NSW 2428 at 10:00 a.m. AEDT (Sydney, Australia time) on 24 November 2023.

In accordance with Part 1.2AA of the *Corporations Act 2001 (Cth)*, the Company will only be dispatching physical copies of the Notice of Annual General Meeting (**Notice of Annual General Meeting**) to Shareholders who have elected to receive the Notice of Annual General Meeting in physical form. The Notice of Annual General Meeting is being made available to Shareholders electronically and can be viewed and downloaded online on the Company's ASX market announcements page (ASX:E33).

It is encouraged that Shareholders lodge questions prior to the Annual General Meeting by submitting questions to the Company Secretary by email at [cosec@east33.sydney](mailto:cosec@east33.sydney).

### Background to the Resolutions

This Annual General Meeting seeks the approval of Shareholders for:

- **Resolution 1** – Adoption of Remuneration Report;
- **Resolution 2** – Election of Hon. Sarah Courtney as a Director of the Company;
- **Resolution 3** – Election of Ms Veronica Papacosta as a Director of the Company;
- **Resolution 4** – Issue of Director Options to a Related Party – Hon. Sarah Courtney;
- **Resolution 5** – Approval of Selective Share Buy-back of all Class A RCPS;
- **Resolution 6** – Grant of security over significant assets to a substantial holder;
- **Resolution 7** – Approval to issue Convertible Note to Yumbah Finance Pty Ltd;
- **Resolution 8** – Financial Assistance;
- **Resolution 9** – Approval of 10% Placement Facility;
- **Resolution 10** – Renewal of proportional takeover approval provisions; and
- **Resolution 11** – Board Spill Meeting (Conditional Item).

All of the Directors entitled to make a recommendation in respect of a particular Resolution recommend that you vote in favour of approving that Resolution (unless otherwise stated within each Resolution recommendation within the explanatory statement).

### Voting

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

All resolutions will be decided on a poll. The poll will be conducted based on votes submitted by proxy and at the Annual General Meeting.

Shareholders are strongly encouraged to complete and submit their vote by proxy by using one of the following methods:

<b>Online</b>	Lodge the Proxy Form online at <a href="http://www.linkmarketservices.com.au">www.linkmarketservices.com.au</a> by following the instructions: Login to the Link Market Services website using the holding details as shown on the Proxy Form and click on 'Voting'. To use the online lodgement facility, Shareholders will need their holder number (Securityholder Reference Number (SRN) or Holder Identification Number (HIN)) as shown on the front of the Proxy Form.
<b>By post</b>	Completing the enclosed Proxy Form and posting it to: Link Market Services, Locked Bag A14, Sydney South NSW 1235
<b>By hand</b>	Completing the enclosed Proxy Form and delivering it by hand to: Link Market Services, Parramatta Square, Level 22, Tower 6, 10 Darcy Street, Parramatta NSW 2150

Your Proxy Form must be received no later than 48 hours before the commencement of the Annual General Meeting. Proxy Forms received later than this time will be invalid.

If you are unsure as to how to vote, we recommend that you speak with your professional adviser.

**The Chair intends to vote all open proxies in favour of all resolutions, where permitted.**

**Contents of this booklet**

With respect to the Annual General Meeting, this booklet contains the following:

- The Notice of Meeting for the Annual General Meeting which contains information about the business to be conducted at the Annual General Meeting, including the Resolutions to be put to the Annual General Meeting (see Section B);
- Information explaining the business to be conducted at the Annual General Meeting (see the Explanatory Statement at Section D); and
- Information on how to vote and how to appoint a proxy to vote on the Resolutions to be passed at the Annual General Meeting (see Section C).

Please read the whole of this booklet carefully as it provides important information on the Annual General Meeting, items of business and the Resolutions that you, as a Shareholder, are being asked to vote on. Should you wish to discuss the matters in this Notice of Annual General Meeting, please do not hesitate to contact the Company Secretary, Mathew Watkins on +61 3 9692 7222 or by email at [cosec@east33.sydney](mailto:cosec@east33.sydney).

By order of the Board

Dated 13 October 2023



Hon. Sarah Courtney – Non-executive Chair  
East 33 Limited

## Section A – Glossary

<b>\$</b>	Australian dollars.
<b>AEDT</b>	Australian Eastern Daylight Savings Time.
<b>Annual General Meeting</b>	The Annual General Meeting of Shareholders.
<b>ASIC</b>	The Australian Securities & Investments Commission.
<b>ASX</b>	The Australian Securities Exchange operated by ASX Limited.
<b>ASX Listing Rules</b>	The listing rules of the ASX.
<b>Auditor's Report</b>	Has the meaning given to that term in paragraph 1.1 of the Explanatory Statement.
<b>BDO</b>	BDO Corporate Finance Ltd ACN 010 185 725.
<b>Board</b>	The board of directors of the Company.
<b>Business Day</b>	A day which is not a Saturday, Sunday or a bank or public holiday in New South Wales.
<b>Chair</b>	The chair of the Annual General Meeting.
<b>Closely Related Party</b>	<p>A “Closely Related Party” of a member of the Key Management Personnel means:</p> <ul style="list-style-type: none"> <li>• a spouse or child of the member;</li> <li>• a child of the member’s spouse;</li> <li>• a dependent of the member or 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 dealing with the entity;</li> <li>• a company the member controls; or</li> <li>• a person prescribed by the Corporations Regulations 2001 (Cth).</li> </ul>
<b>Company or East 33</b>	East 33 Limited ACN 636 173 281.
<b>Company Secretary</b>	The company secretary of the Company.
<b>Constitution</b>	The constitution of the Company.
<b>Convertible Note</b>	The 1 convertible note proposed to be issued under the terms of the Convertible Note Subscription Agreement.
<b>Convertible Note Subscription Agreement</b>	The Convertible Note Subscription Agreement entered into on 16 August 2023 between Yumbah Finance and the Company.
<b>Conversion Amount</b>	Has the meaning given to that term in paragraph 8.4 of the Explanatory Statement.
<b>Conversion Price</b>	Has the meaning given to that term in paragraph 8.4 of the Explanatory Statement.
<b>Corporations Act</b>	The <i>Corporations Act 2001</i> (Cth).
<b>Corporations Regulations</b>	The <i>Corporations Regulations 2001</i> (Cth).
<b>Crown Leases</b>	The crown leases held in the name of East 33 Farming Limited ACN 643 368 521, M S Verdich & Sons Pty Ltd ACN 003 308 852 and Hamilton Supervisory Pty Ltd ACN 637 291 706, each being wholly owned subsidiaries of the Company.
<b>Director Options</b>	The options offered to the directors of the Company under the Incentive Plan.
<b>Directors</b>	The directors of the Company.
<b>Directors' Report</b>	Has the meaning given to that term in paragraph 1.1 of the Explanatory Statement.
<b>East 33 or Company</b>	East 33 Limited ACN 636 173 281.
<b>Equity Securities</b>	Any type of security in the Company, including a Share, option, unit, convertible security, and as otherwise defined in the ASX Listing Rules.
<b>Explanatory Statement</b>	The explanatory statement accompanying the Notice of Annual General Meeting and contained in Section D to this booklet.

<b>Face Value</b>	Has the meaning given to that term in in paragraph 8.4 of the Explanatory Statement.
<b>Facility Agreement</b>	The Facility Agreement entered into on 15 August 2023 between Yumbah Finance and the Company, amongst others.
<b>Facility Documents</b>	Has the meaning given to that term in paragraph 7.2 of the Explanatory Statement.
<b>Financial Assistance</b>	The financial assistance described in Resolution 8.
<b>Financial Report</b>	Has the meaning given to that term in paragraph 1.1 of the Explanatory Statement.
<b>General Security Deed</b>	The General Security Deed entered into on 15 August 2023 between Yumbah Finance and the Company, amongst others.
<b>Glossary</b>	The glossary contained in Section A to this booklet.
<b>Incentive Plan</b>	The Employee Incentive Plan adopted by the Board on 14 October 2020 and amended on 14 September 2023.
<b>Independent Board Committee</b>	The independent board committee established by the Company, comprising of Hon. Sarah Courtney and Mr Mike Ryan, for the purpose of assisting in the assessment of the Loan Facility.
<b>Key Management Personnel</b>	Has the meaning given in the accounting standards as those persons having authority and responsibility for planning, directing and controlling the activities of the Company, directly or indirectly, including any Director (whether executive or otherwise) of the Company.
<b>Loan Facility</b>	The \$15.0 million loan facility the subject of the Facility Agreement.
<b>Non-Associated Shareholders</b>	The Shareholders of the Company that are not Yumbah Finance or its associated entities.
<b>Notice of Annual General Meeting</b>	The notice of the Annual General Meeting accompanying the Explanatory Statement for the Annual General Meeting and contained in Section B to this booklet.
<b>Other Securities</b>	Means the mortgages over the Oyster Permits and Crown Leases of the Company and its Subsidiaries.
<b>Oyster Permits</b>	The oyster permits held in the name of East 33 Farming Pty Ltd ACN 643 368 521.
<b>Proxy Form</b>	The online proxy form. If you require a paper proxy form please contact the Share Registry, Link Market Services on 1300 554 474 (within Australia) or +61 1300 554 474 (outside Australia) or online at <a href="https://investorcentre.linkgroup.com">https://investorcentre.linkgroup.com</a> . Otherwise, please log your proxy vote online using the details outlined in the Notice & Access letter or using the personalised link which was sent to all Shareholders that have elected to receive online communications for notices of meeting.
<b>RCPL</b>	Research Corporation Pty. Ltd. ACN 076 543 756.
<b>RCPS Buy-back</b>	Has the meaning given to that word in paragraph 6.1 of the Explanatory Statement.
<b>Relevant Event Default</b>	Has the meaning given to that term in paragraph 8.4 of the Explanatory Statement.
<b>Remuneration Report</b>	The remuneration report set out in the Directors' Report.
<b>Resolution(s)</b>	The resolution(s) contained in the Notice of Annual General Meeting.
<b>Section</b>	A section of this booklet.
<b>Secured Liabilities</b>	The outstanding balance of the Loan Facility in the event of default (including principal, interest, fees, costs, charges, duties, indemnities, guarantee obligations, damages and enforcement and preservation costs and all and any amounts due, owing or incurred).
<b>Secured Property</b>	The assets over which security for the Loan Facility is granted (the assets of East 33 and its subsidiaries).
<b>Securities</b>	The General Security Deed and the Other Securities provided by the Company and its Subsidiaries to secure the obligations of the Company under the terms of the Facility Agreement.

<b>Security Transaction</b>	In the event the Securities are enforced, the assets of East 33 and its subsidiaries can be disposed of to Yumbah Finance.
<b>Selective Share Buy-Back Agreements</b>	The selective share buy-back agreements for the RCPS Buy-back.
<b>Shareholders</b>	The holders of all Shares issued in the Company and <b>Shareholder</b> means any one of them.
<b>Shares</b>	All of the ordinary shares on issue in the share capital of the Company and <b>Share</b> means any one of them.
<b>Special Resolution</b>	Has the meaning given in section 9 of the Corporations Act.
<b>Subsidiaries</b>	Has the meaning given in section 9 of the Corporations Act.
<b>Trading Day</b>	Has the meaning given in ASX Listing Rule 19.12.
<b>YAL</b>	Yumbah Aquaculture Ltd ACN 082 219 636.
<b>Yumbah Finance</b>	Yumbah Finance Pty Ltd ACN 669 757 582.

## Section B – Notice of Annual General Meeting

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### Time and place

Notice is hereby given that the Annual General Meeting will be held as follows:

- **Held:** Thirty Three Degrees, 11 Palm St, Tuncurry NSW 2428
- **Commencing at:** 10:00 a.m. AEDT (Sydney, Australia time) on 24 November 2023

### Voting

Refer to **Section C** for details on how to vote.

### Explanatory Statement

The Explanatory Statement which accompanies and forms part of this Notice of Annual General Meeting describes the matters to be considered at the Annual General Meeting.

### Defined terms

Terms used in this Notice of Annual General Meeting have the meaning given to them in the Glossary in **Section A** of this Notice of Annual General Meeting.

## ORDINARY BUSINESS

### 1. Financial statements and reports

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To receive and consider the Company's 2023 Annual Report, which comprises the Directors' Report, the Auditor's Report and the Financial Report for the financial year ended 30 June 2023 (**2023 Annual Report**).

### 2. Resolution 1: Adoption of Remuneration Report

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

*"That, for the purposes of section 250R(2) of the Corporations Act, and for all other purposes, Shareholders adopt the Remuneration Report for the financial year ended 30 June 2023 as disclosed in the Directors' Report for the year ended 30 June 2023."*

Please note that the vote on this resolution is advisory only, and does not bind the Directors or the Company.

**Short Explanation:** This Resolution is required as a result of section 250R(2) of the Corporations Act, which requires that a resolution that the Remuneration Report of the Company be adopted must be put to a vote.

It is noted that the Remuneration Report was voted down at the 2022 annual general meeting. What this means is that if at least 25% of the votes cast on Resolution 1 to adopt the Remuneration Report for the financial year ended 30 June 2023 are cast against, then there will be a 'second strike' and Resolution 11 will be put to the Annual General Meeting. If fewer than 25% of the votes cast are against adopting the Remuneration Report, then there will be no second strike and Resolution 11 will not be put to the Annual General Meeting.

**Voting exclusion statement:** In accordance with section 250R of the Corporations Act, a vote on this Resolution must not be cast (in any capacity) by or on behalf of either of the following persons:

- a member of the Key Management Personnel whose remuneration details are included in the Remuneration Report; or
- a Closely Related Party of such a member.

However, the above persons may cast a vote on this Resolution if:

- the person does so as a proxy; and
- the vote is not cast on behalf of a member of the Key Management Personnel whose remuneration details are included in the remuneration report or a Closely Related Party of such a member; and
- either:
  - the voter is appointed as a proxy by writing that specifies the way the proxy is to vote on this Resolution; or
  - the voter is the Chair of the Annual General 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 vote as the proxy even if this Resolution is connected directly or indirectly with the remuneration of a member of the Key Management Personnel of the Company or, if the Company is part of a consolidated entity, for the entity.

### 3. Resolution 2: Election of Hon. Sarah Courtney as a Director of the Company

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

*"That Hon. Sarah Courtney, who retires in accordance with ASX Listing Rule 14.4 and rule 17.7 of the Constitution, and being eligible, be re-elected as a Director of the Company."*

**Short Explanation:** This Resolution is required as rule 17.7 of the Company's Constitution provides that the Board has the power at any time to appoint any person to be a director either to fill a casual vacancy or as an addition to the existing Directors. That director will hold office until the end of the next annual general meeting of the Company when the director may be re-elected. ASX Listing Rule 14.4 provides that a director appointed as an addition to the board must not hold office without re-election past the next annual general meeting.

### 4. Resolution 3: Election of Ms Veronica Papacosta as a Director of the Company

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

*"That Ms Veronica Papacosta, who retires in accordance with ASX Listing Rule 14.4 and rule 17.7 of the Constitution, and being eligible, be re-elected as a Director of the Company."*

**Short Explanation:** This Resolution is required as rule 17.7 of the Company's Constitution provides that the Board has the power at any time to appoint any person to be a director either to fill a casual vacancy or as an addition to the existing Directors. That director will hold office until the end of the next annual general meeting of the Company when the director may be re-elected. ASX Listing Rule 14.4 provides that a director appointed as an addition to the board must not hold office without re-election past the next annual general meeting.

## SPECIAL BUSINESS

### 5. Resolution 4: Issue of Director Options to a Related Party – Hon. Sarah Courtney

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

*"That, for the purposes of ASX Listing Rule 10.14 and for all other purposes, the Directors be authorised to issue 1,000,000 Director Options pursuant to the Company's Incentive Plan for a nil exercise price for services rendered and, upon exercise of those Director Options, the acquisition of the ordinary shares underlying those options, in accordance with the terms of the Company's Incentive Plan and on the terms specified in the accompanying Explanatory Statement."*

**Short explanation**

This Resolution is required under ASX Listing Rule 10.14 to allow the issue of securities, in the form of 1,000,000 Director Options under the Company's Incentive Plan to Hon. Sarah Courtney (or her nominee), being a Director.

#### **Voting Exclusion Statement**

The Company will disregard any votes cast in favour of this Resolution by or on behalf of:

- Hon. Sarah Courtney (and her nominee), any other person who will obtain a material benefit as a result of the issue of the securities (except a benefit solely by reason of being a holder of ordinary securities in the Company) and a person referred to in ASX Listing Rule 10.14.1, 10.14.2 or 10.14.3 who is eligible to participate in the Company's Incentive Plan; or
- an associate of that person or persons.

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

- a person as proxy or attorney for a person who is entitled to vote on the resolution, in accordance with directions given to the proxy or attorney to vote on the resolution in that way; or
- the Chair of the meeting 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
- a holder acting solely in a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary provided the following conditions are met:
  - 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
  - the holder votes on the resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

## **6. Resolution 5: Approval of Selective Share Buy-back of all Class A RCPS**

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

*"That, for the purposes of section 257D of the Corporations Act and for all other purposes, the Shareholders of the Company:*

- (a) *authorise the Company to buy-back and cancel 6,000 Class A Redeemable Convertible Preference Shares for \$6.0 million as detailed in the Explanatory Statement accompanying this Notice of Annual General Meeting, noting that the buy-back will occur on 22 January 2024, being the maturity date of the Class A Redeemable Convertible Preference Shares;*
- (b) *approve the terms of the Selective Share Buy-Back Agreement to be entered into by the Company as described in the Explanatory Statement; and*
- (c) *approve the Directors of the Company undertaking all necessary action to give effect to the Selective Share Buy-Back Agreements and the transaction contemplated, including but not limited to lodging the relevant forms and notices with ASIC.*

**Short Explanation:** Approval is being sought for the purposes of Part 2J.1, Division 2 of the Corporations Act to allow the selective share buy-back of the 6,000 Class A Redeemable Convertible Preference Shares at \$1,000 per Class A Redeemable Convertible Preference Share in accordance with their terms of issue. Once bought back, the Class A Redeemable Convertible Preference Shares will be cancelled.

**Voting exclusion statement:** The Company will disregard any votes cast in favour of this Resolution by any person whose shares are proposed to be bought back (and any associates of such a person) or any other person who will obtain a material benefit as a result of the transaction (except a benefit solely by reason of being a holder of ordinary securities in the Company).

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

- a person as proxy or attorney for a person who is entitled to vote on the resolution, in accordance with directions given to the proxy or attorney to vote on the resolution in that way; or
- the Chair of the meeting 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
- a holder acting solely in a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary, provided the following conditions are met:
  - 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
  - the holder votes on the resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

## 7. Resolution 6: Grant of security over significant assets to a substantial holder

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

*“That, for the purposes of ASX Listing Rule 10.1 and for all other purposes, approval is given for:*

- (a) *the earlier grant by the Company and its Subsidiaries of a security to Yumbah Finance over all present and after acquired assets of the Company (or a subsidiary) (**Securities**); and*
- (b) *any subsequent disposals by the Company and its Subsidiaries to Yumbah Finance of its present and after acquired assets pursuant to any enforcement of the Securities, on the terms and conditions described in the Explanatory Statement.”*

**Short Explanation:** Approval under ASX Listing Rule 10.1 is being sought for the earlier grant of the Securities to Yumbah Finance to allow the assets of the Company to be disposed of to any party including Yumbah Finance in the event the Securities are enforced (**Security Transaction**) for the purposes of ASX Listing Rule 10.1 and for all other purposes.

### Independent Expert Report

In accordance with ASX Listing Rule 10.5.10, the Company has engaged BDO to provide an independent expert's report in respect of Resolution 6. Shareholders should carefully consider the Independent Expert's Report at Schedule 2 of the Explanatory Statement.

The Independent Expert's Report comments on the fairness and reasonableness of the granting of the security to Yumbah Finance over all present and after acquired assets of the Company (or a subsidiary).

**BDO has determined that the Security Transaction proposed by Resolution 6 is fair and reasonable to the Non-Associated Shareholders.**

### Voting exclusion statement:

The Company will disregard any votes cast in favour of this Resolution by or on behalf of Yumbah Finance and any other person who will obtain a material benefit as a result of the transaction (except a benefit solely by reason of being a holder of ordinary securities in the Company).

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

- a person as proxy or attorney for a person who is entitled to vote on the resolution, in accordance with directions given to the proxy or attorney to vote on the resolution in that way; or
- the Chair of the meeting 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
- a holder acting solely in a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary, provided the following conditions are met:
  - 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
  - the holder votes on the resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

## **8. Resolution 7: Approval to issue the Convertible Note to Yumbah Finance**

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

*“That, subject to the approval of Resolution 8, for the purposes of section 208 of the Corporations Act, ASX Listing Rule 10.11 and for all other purposes, the Company issue one (1) convertible note pursuant to the terms of the Convertible Note Subscription Agreement to Yumbah Finance and, subject to any further shareholder approvals required at that time, upon conversion of the Convertible Note, the issue of the ordinary shares underlying that Convertible Note in accordance with the terms of the Convertible Note Subscription Agreement and on the terms specified in the accompanying Explanatory Statement.”*

### **Short explanation**

This Resolution is required under section 208 of the Corporations Act and ASX Listing Rule 10.11 to allow the issue of an equity security, in the form of one (1) convertible note under the terms of the Convertible Note Subscription Agreement to Yumbah Finance, being an entity associated with an entity that has a voting power of more than 30% in the Company.

### **Voting Exclusion Statement**

The Company will disregard any votes cast in favour of this Resolution by or on behalf of:

- Yumbah Finance and any other person who will obtain a material benefit as a result of the issue of the securities (except a benefit solely by reason of being a holder of ordinary securities in the entity); or
- an associate of that entity, person or persons.

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

- a person as proxy or attorney for a person who is entitled to vote on the resolution, in accordance with directions given to the proxy or attorney to vote on the resolution in that way; or
- the Chair of the meeting 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
- a holder acting solely in a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary provided the following conditions are met:
  - 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
  - the holder votes on the resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

## **9. Resolution 8: Financial Assistance**

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

*“That, subject to the approval of Resolution 7, for the purposes of sections 260B(1) and 260B(2) of the Corporations Act 2001 (Cth) and for all other purposes, approval is given to the giving of financial assistance by the Company and its Subsidiaries in the manner set out in the Explanatory Statement circulated with this resolution, in connection with the issue of one (1) Convertible Note to Yumbah Finance.”*

### **Short explanation**

This Resolution seeks the consent of Shareholders under section 260B of the Corporations Act, to allow the Company to financially assist Yumbah Finance to acquire the one (1) Convertible Note. This Resolution is required to enable the Company to comply with its obligations under the Facility Agreement and Convertible Note Subscription Agreement (amongst other things).

**Voting Exclusion Statement**

The Company will disregard any votes cast in favour of this Resolution by or on behalf of:

- Yumbah Finance, who may acquire the Convertible Note and any shares on conversion of the Convertible Note; or
- an associate of that entity, person or persons.

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

- a person as proxy or attorney for a person who is entitled to vote on the resolution, in accordance with directions given to the proxy or attorney to vote on the resolution in that way; or
- the Chair of the meeting 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
- a holder acting solely in a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary provided the following conditions are met:
  - 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
  - the holder votes on the resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

## 10. Resolution 9: Approval of 10% Placement Facility

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

*“That, pursuant to and in accordance with ASX Listing Rule 7.1A and for all other purposes, Shareholders approve the issue of equity securities up to 10% of the issued capital of the Company (at the time of issue) calculated in accordance with the formula prescribed in ASX Listing Rule 7.1A.2 and on the terms and conditions referred to in the Explanatory Statement accompanying this Notice of Annual General Meeting.”*

**Short Explanation:** Approval under ASX Listing Rule 7.1A will enable the Company to issue “equity securities” up to a further 10% of its issued Share capital through placements over a 12 month period after the Annual General Meeting (**10% Placement Facility**). This is in addition to its 15% placement capacity under ASX Listing Rule 7.1.

**Voting exclusion statement:** The Company will disregard any votes cast in favour of this Resolution by a person (and any associates of such a person) who is expected to participate, 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 ordinary securities in the Company).

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

- a person as proxy or attorney for a person who is entitled to vote on the resolution, in accordance with directions given to the proxy or attorney to vote on the resolution in that way; or
- the Chair of the meeting 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
- a holder acting solely in a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary, provided the following conditions are met:
  - 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
  - the holder votes on the resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

## 11. Resolution 10: Renewal of proportional takeover approval provisions

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

*"That the proportional takeover provisions contained in rule 34 of the Constitution be granted effect for a further three years, effective on the day on which this Resolution is passed."*

**Short Explanation:** Under section 648G of the Corporations Act, the proportional takeover provisions expire three years from adoption or renewal and may then be renewed. The Company is seeking Shareholder approval to renew these provisions under the Corporation Act. The proportional takeover bid provisions are identical to those included in the Company's current Constitution.

## CONTINGENT BUSINESS

### 12. Resolution 11: Board Spill Meeting (Conditional Item)

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

*"That, subject to and conditional on at least 25% of the votes cast on the resolution at Resolution 1 being cast against the adoption of the Remuneration Report:*

- (a) an extraordinary general meeting of the Company (**Spill Meeting**) be held within 90 days of the passing of this resolution;*
- (b) all of the Directors in office when the Board resolution to approve the Directors' Report for the financial year ended 30 June 2023 was passed and who remain in office at the time of the Spill Meeting, cease to hold office immediately before the end of the Spill Meeting; and*
- (c) resolutions to appoint persons to offices that will be vacated immediately before the end of the Spill Meeting be put to the vote at the Spill Meeting."*

**Short Explanation:** Resolution 11 is a conditional item and will only be put to the Annual General Meeting if at least 25% of the votes cast on Resolution 1 to adopt the Remuneration Report for the financial year ended 30 June 2023 are cast against. If fewer than 25% of the votes cast are against adopting the Remuneration Report, then there will be no second strike and Resolution 11 will not be put to the Annual General Meeting.

The Chair intends to vote all undirected proxies AGAINST Resolution 11.

**Voting exclusion statement:** In accordance with section 250R of the Corporations Act, a vote on this Resolution must not be cast (in any capacity) by or on behalf of either of the following persons:

- a member of the Key Management Personnel whose remuneration details are included in the Remuneration Report; or
- a Closely Related Party of such a member.

However, the above persons may cast a vote on this Resolution if:

- the person does so as a proxy; and
- the vote is not cast on behalf of a member of the Key Management Personnel whose remuneration details are included in the Remuneration Report or a Closely Related Party of such a member; and
- either:
  - the voter is appointed as a proxy by writing that specifies the way the proxy is to vote on this Resolution; or
  - the voter is the Chair of the Annual General 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 vote as the proxy even if this Resolution is connected directly or indirectly with the remuneration of a member of the Key Management Personnel of the Company or, if the Company is part of a consolidated entity, for the entity.

## Section C – How to vote

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### 1. How to vote

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If you are entitled to vote at the Annual General Meeting, you may vote by attending the Annual General Meeting in person or by attending the meeting by proxy by lodging your online Proxy Form at <https://investorcentre.linkgroup.com> outlined in the Notice & Access letter or use the personalised link which was sent to all Shareholders that have elected to receive online communications for notices of meeting.

### 2. Your vote is important

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

### 3. Corporations

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To vote at the Annual General Meeting, a Shareholder that is a corporation must appoint an individual to act as its representative. The appointment must comply with section 250D of the Corporations Act. Alternatively, a corporation may appoint a proxy.

### 4. Voting in person

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To vote in person, attend the meeting on the date and at the time and place set out above in this Notice of Annual General Meeting.

### 5. Voting by proxy

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All Shareholders who are entitled to participate in and vote at the Annual General Meeting have the right to appoint a proxy to participate in the Annual General Meeting and vote in their place. A proxy need not be a Shareholder and can be an individual or a body corporate.

A Shareholder who is entitled to cast two or more votes may appoint two proxies and may specify the proportion, or number, of votes which each proxy is entitled to exercise. If no proportion or number is specified, each proxy may exercise up to half of the Shareholder's votes.

Shareholders and their proxies should be aware that:

- (a) if a proxy votes, they must cast all directed proxies as directed; and
- (b) any directed proxies which are not voted will automatically default to the Chair, which must vote the proxies as directed.

To vote by proxy, you must complete and lodge the Proxy Form using one of the following methods:

<b>Online</b>	Lodge the Proxy Form online at <a href="https://investorcentre.linkgroup.com">https://investorcentre.linkgroup.com</a>
<b>By post</b>	East 33 Limited C/- Link Market Services Limited Locked Bag A14 Sydney South NSW 1235 Australia
<b>By fax</b>	+61 2 9287 0309
<b>By hand</b>	Link Market Services Limited Parramatta Square, Level 22, Tower 6, 10 Darcy Street, Parramatta NSW 2150

For details on how to complete and lodge the Proxy Form, please refer to the instructions on the Proxy Form.

For your proxy appointment to be effective, it must be received by the Company not less than 48 hours before the Annual General Meeting (i.e. by 10:00 a.m. AEDT (Sydney, Australia time) on 22 November 2023). Proxy Forms received later than this time will be invalid.

You can direct your proxy on how to vote (i.e. to vote 'for' or 'against', or to 'abstain' from voting on, each Resolution) by following the instructions either online or on the voting form. A proxy may decide whether to vote on an item of business, except where the proxy is required by law or the Constitution to vote, or abstain from voting in his or her capacity as proxy. If a proxy is directed how to vote on an item of business, the proxy may only vote on the item as directed. If a proxy is not directed how to vote on an item of business, the proxy may vote as he or she thinks fit.

If you appoint the Chair as your proxy but do not direct the Chair on how to vote, then by completing and submitting your voting instructions you are expressly authorising the Chair to vote in favour of each item of business, even where an item of business is directly or indirectly connected to the remuneration of a member of the Key Management Personnel of the Company. The Chair intends to vote all available (including undirected) proxies in favour of all Resolutions, subject to the applicable voting exclusions and prohibitions.

You cannot lodge a direct vote and appoint a proxy for the same voting rights. The appointment of one or more duly appointed proxies will not preclude a Shareholder from attending the Annual General Meeting and voting personally. If the Shareholder votes on a Resolution, the proxy must not vote as the Shareholder's proxy on that Resolution.

## **6. Eligibility to vote**

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The Directors have determined pursuant to Regulation 7.11.37 of the Corporations Regulations that the persons eligible to vote at the Annual General Meeting are those that are registered Shareholders at 7:00 p.m. AEDT (Sydney, Australia time) on 22 November 2023. If you are not the registered holder of a relevant Share at that time you will not be entitled to vote in respect of that Share.

## **7. Voting procedure – on a poll**

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Every question arising at this Annual General Meeting will be decided on a poll. Upon a poll, every person entitled to vote who is present in person or by proxy will have one vote for each voting share held by that person.

## **8. Enquiries**

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For all enquiries, please contact the Company Secretary, Mathew Watkins , by email at cosec@east33.sydney.

## Section D – Explanatory Statement

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This Explanatory Statement forms part of the Notice of Annual General Meeting convening the Annual General Meeting of Shareholders of the Company to be held commencing at 10:00 a.m. AEDT (Sydney, Australia time) on 24 November 2023 in person at Thirty Three Degrees, 11 Palm St, Tuncurry NSW 2428.

Refer to **Section C** for details on how to attend and vote at the Annual General Meeting.

This Explanatory Statement is to be read in conjunction with the Notice of Annual General Meeting in **Section B**.

### Purpose

The purpose of this Explanatory Statement is to provide information which the Directors believe is material to Shareholders in deciding whether or not to pass the Resolutions to be put forward in the Annual General Meeting.

The Directors recommend Shareholders read the Notice of Annual General Meeting and this Explanatory Statement in full before making any decisions relating to the Resolutions contained in the Notice of Annual General Meeting.

### Defined terms

Terms used in this Explanatory Statement have the meaning given to them in the Glossary in **Section A** of this Notice of Annual General Meeting in which this Explanatory Statement is contained.

## GENERAL INFORMATION

### 1. Agenda Item 1 – Financial statements and reports

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#### 1.1 Purpose of Resolution

The Corporations Act requires that the report of the directors (**Directors' Report**), the auditor's report (**Auditor's Report**) and the financial report (**Financial Report**) be laid before the annual general meeting.

The Company's 2023 Annual Report for the year ended 30 June 2023 includes the Directors' Reports, the Auditor's Report and the Financial Report (which includes the financial statements and directors' declaration).

Apart from the matters involving remuneration which are required to be voted upon, neither the Corporations Act nor the Company's Constitution require a vote of Shareholders at the Annual General Meeting on the Company's 2023 Annual Report.

#### 1.2 Questions to the Chair

Shareholders will be given reasonable opportunity at the meeting to raise questions and make comments on the Company's 2023 Annual Report.

In addition to asking questions at the meeting, Shareholders may address written questions to the Chair about the management of the Company or to the Company's auditor, HLB Mann Judd, if the question is relevant to:

- the content of the Auditor's Report; or
- the conduct of its audit of the Financial Report to be considered at the Annual General Meeting.

*Note: Under section 250PA(1) of the Corporations Act a shareholder must submit the question to the Company no later than the fifth Business Day before the day on which the Annual General Meeting is held.*

Written questions for the Company's auditor must be delivered by 5:00 p.m. AEDT (Sydney, Australia time) on 17 November 2023 to the Company Secretary via email to: [cosec@east33.sydney](mailto:cosec@east33.sydney).

## **2. Resolution 1: Adoption of Remuneration Report**

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### **2.1 Purpose of Resolution**

The Remuneration Report of the Company for the financial year ended 30 June 2023 is set out in the Directors' Report contained in the Company's 2023 Annual Report.

The Remuneration Report sets out the Company's remuneration arrangements for the executive and non-executive Directors and executive employees of the Company.

The Corporations Act at section 250R(2) requires that a resolution that the Remuneration Report of the Company be adopted must be put to a vote.

A reasonable opportunity will be given for the discussion of the Remuneration Report at the meeting.

This Resolution is an ordinary resolution.

### **2.2 Voting consequences**

At last year's Annual General Meeting, 99.87% of the votes cast on the resolution to adopt the 2022 Remuneration Report were against the resolution. Accordingly, the Company received a "first strike". The Directors take Shareholders' concerns about executive remuneration seriously and made several changes in Board composition and remuneration during 2023 with a view to addressing the concerns that led to the "first strike" at last year's Annual General Meeting.

The Board will consider the outcome of the vote and comments made by Shareholders on the Remuneration Report at this Annual General Meeting when reviewing the Company's remuneration policies. This vote is advisory only and does not bind the Directors or the Company. However, if 25% or more of the votes that are cast are voted against the adoption of the Remuneration Report at this Annual General Meeting, Resolution 11 will be put to the Annual General Meeting and Shareholders will be required to vote on a resolution (a "**spill resolution**") that another meeting be held within 90 days at which all of the Directors must be offered up for election.

**The operation and consequences of a "spill resolution" are set out under Resolution 11 below.**

### **2.3 Voting exclusion and Directors' recommendations**

As set out in the notes to Resolution 1, a voting exclusion statement applies with respect to the voting on this Resolution by certain persons connected to the Company.

As the resolution relates to matters including the remuneration of the Directors, the Board, as a matter of corporate governance and in accordance with section 250R(2) of the Corporations Act, makes no recommendations regarding this Resolution.

The Chair of the Annual General Meeting intends to vote undirected proxies in favour of Resolution 1, subject to compliance with the Corporations Act.

### **3. Resolution 2: Election of Hon. Sarah Courtney as a Director of the Company**

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#### **3.1 Purpose of Resolution**

Hon. Sarah Courtney was elected as a Director of the Company on 12 December 2022.

Hon. Sarah Courtney retires from office under ASX Listing Rule 14.4 and 17.7 of the Constitution and offers herself for re-election as a Director.

This Resolution is an ordinary resolution.

#### **3.2 The law**

Rule 17.7 of the Constitution provides that the Directors may appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors, but so that the total number of Directors does not exceed the maximum fixed under the Constitution. A director appointed under rule 17.7 of the Constitution holds office until the end of the next annual general meeting of the Company following his or her appointment and may be re-elected.

ASX Listing Rule 14.4 provides that a director who was appointed to fill a casual vacancy or as an addition to the board must not hold office (without re-election) past the next annual general meeting of the entity.

#### **3.3 Director resume**

Hon. Sarah Courtney is an experienced leader with a passion for achieving meaningful outcomes. Sarah brings a diverse set of skills to East 33. After a decade of working across a range of roles in institutional funds management and stockbroking, Sarah established and continues to run a successful boutique vineyard in Tasmania. Sarah served as a Member for the state seat of Bass (Tasmania) from March 2014 to February 2022 and was a State Government Minister from March 2018 to February 2022 across a wide range of portfolios, including Minister for Primary Industries and Water. Sarah holds formal qualifications in governance, commerce, engineering and viticulture.

#### **3.4 Voting exclusion and Directors' recommendations**

The Board (with Hon. Sarah Courtney abstaining) recommends that Shareholders vote in favour of Resolution 2.

Resolution 2 of the Annual General Meeting is an ordinary resolution and so requires the approval of more than 50% of the votes cast by Shareholders.

The Chair of the Annual General Meeting intends to vote undirected proxies in favour of Resolution 2.

### **4. Resolution 3: Election of Ms Veronica Papacosta as a Director of the Company**

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#### **4.1 Purpose of Resolution**

Ms Veronica Papacosta was elected as a Director of the Company on 26 July 2023.

Ms Veronica Papacosta retires from office under ASX Listing Rule 14.4 and 17.7 of the Constitution and offers herself for re-election as a Director.

This Resolution is an ordinary resolution.

#### **4.2 The law**

Rule 17.7 of the Constitution provides that the Directors may appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors, but so that the

total number of Directors does not exceed the maximum fixed under the Constitution. A director appointed under rule 17.7 of the Constitution holds office until the end of the next annual general meeting of the Company following his or her appointment and may be re-elected.

ASX Listing Rule 14.4 provides that a director who was appointed to fill a casual vacancy or as an addition to the board must not hold office (without re-election) past the next annual general meeting of the entity.

#### 4.3 **Director resume**

Ms Veronica Papacosta is an experienced director with over 20 years' experience in complex, fast-growing companies in seafood retail, commercial and residential property holdings, accounting, marketing and SME administration sectors.

Ms Veronica Papacosta is currently the Chief Executive Officer of Seafood Industry Australia, the national peak body representing the interests of Australian seafood, and a Managing Director of Sydney Fresh Seafood (Aust) Pty Ltd, a seafood retail business with 20 retail and food service sites across NSW and QLD. Prior to this, Ms Papacosta worked as a director of VBK Marketing and served as a Chair of Seafood Industry Australia and a Council Member of various bodies such as Ministerial Advisory Council, Agricultural Industry Advisory Council and National Fisheries Advisory Council.

#### 4.4 **Voting exclusion and Directors' recommendations**

The Board (with Ms Veronica Papacosta abstaining) recommends that Shareholders vote in favour of Resolution 3.

Resolution 3 of the Annual General Meeting is an ordinary resolution and so requires the approval of more than 50% of the votes cast by Shareholders.

The Chair of the Annual General Meeting intends to vote undirected proxies in favour of Resolution 3.

## 5. **Resolution 4: Issue of Director Options to a Related Party – Hon. Sarah Courtney**

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### 5.1 **Purpose of Resolution**

The Company has agreed, subject to obtaining Shareholder approval, that Hon. Sarah Courtney (or her nominee), a Director of the Company, be issued 1,000,000 Director Options pursuant to the Company's Incentive Plan.

Resolution 4 seeks Shareholder approval for the issue of these Director Options for the purposes of ASX Listing Rule 10.14.

The rationale for the grant of the Director Options to Hon. Sarah Courtney is detailed in paragraph 5.3 below.

Resolution 4 is an ordinary resolution.

### 5.2 **Regulatory requirements**

#### Chapter 2E of the Corporations Act

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:

- (a) obtain the approval of the public company's members in the manner set out in sections 217 to 227 of the Corporations Act; and
- (b) 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 Director Options constitutes giving a financial benefit and Hon. Sarah Courtney is a related party of the Company by virtue of being a Director.

The Directors (other than Hon. Sarah Courtney who abstains from considering this matter due to her material personal interest in the matter) consider that the issue of the Director Options to Hon. Sarah Courtney (or her nominee) is reasonable remuneration which falls within the exception in section 211 of the Corporations Act, and accordingly, Shareholder approval is not required for the purpose of section 208 of the Corporations Act.

#### ASX Listing Rule 10.14

ASX Listing Rule 10.14 also requires shareholder approval to be obtained where an entity issues, or agrees to issue, securities under an employee incentive scheme to a director of the entity, an associate of the director, or a person whose relationship with the entity, director or associate of the director is, in ASX's opinion, such that approval should be obtained.

If Resolution 4 is passed, the Company will be able to proceed with the issue of the Director Options. In addition, the issue of any Shares on exercise of the Director Options will be excluded from the calculation of the number of Equity Securities that the Company can issue without Shareholder approval under ASX Listing Rule 7.1.

If Resolution 4 is not passed, the Company will not be able to issue the Director Options to Hon. Sarah Courtney.

### 5.3 Information required pursuant to ASX Listing Rule 10.15

The following information is provided to satisfy the requirements of ASX Listing Rule 10.15 (being the information required to be disclosed for the purposes of ASX Listing Rule 10.14).

<b>Name of the Person</b>	Hon. Sarah Courtney is a non-executive Director and Chair of the Company and consequently a related party of the Company.													
<b>Which category in ASX Listing Rule 10.14.1-10.14.3 the person falls within and why</b>	Hon. Sarah Courtney is a Director of the Company and so falls within ASX Listing Rule 10.14.1.													
<b>Number and class of securities proposed to be issued to the person for which approval is being sought</b>	The number of Director Options to be issued is 1,000,000. This was calculated by dividing \$30,000 by the volume weighted average price calculated over the period of service of Ms Courtney (commencing 12 December 2022 up to 31 August 2023) being \$0.03. This results in 1,000,000 Director Options.													
<b>Details of the Director's current total remuneration package</b>	<p>The remuneration and emoluments from the Company to Hon. Sarah Courtney for the previous financial year and the proposed remuneration and emoluments for the current financial year are set out below:</p> <p><b><u>Financial year ended 30 June 2023</u></b></p> <table border="1"> <thead> <tr> <th>Name</th> <th>Salary and fees</th> <th>Super</th> <th>Options</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Hon. Sarah Courtney</td> <td>\$69,220</td> <td>\$7,268</td> <td>Nil</td> <td>\$76,488</td> </tr> </tbody> </table>				Name	Salary and fees	Super	Options	Total	Hon. Sarah Courtney	\$69,220	\$7,268	Nil	\$76,488
Name	Salary and fees	Super	Options	Total										
Hon. Sarah Courtney	\$69,220	\$7,268	Nil	\$76,488										

	<b>Financial year ending 30 June 2024 (expected pending no changes to current arrangements)</b>				
	<b>Name</b>	<b>Salary and fees</b>	<b>Super</b>	<b>Options</b>	<b>Total</b>
	Hon. Sarah Courtney	\$125,000	\$13,750	\$30,000*	\$168,750
<b>The number of securities that have previously been issued to the person under the Company's Incentive Plan and the average acquisition price (if any) paid by the person for those securities</b>	No securities under the Incentive Plan have previously been issued to Hon. Sarah Courtney.				
<b>A summary of the material terms of the securities and the Incentive Plan</b>	The Director Options will be issued for nil consideration. The Director Options are exercisable as follows:				
	<b>Number of Director Options</b>	<b>Vesting Date</b>	<b>Exercise Period</b>	<b>Exercise Price</b>	
	1,000,000	30 June 2024, so long as Hon. Sarah Courtney is a Director of the Company at that time.	Three years from the issue date	\$Nil	
	Refer to <b>Schedule 1</b> for a summary of the terms of issue of both the Director Options and the Incentive Plan.				
<b>Explanation of why the type of security is being used</b>	All Directors other than Hon. Sarah Courtney note that: <ul style="list-style-type: none"> <li>the grant of the Director Options to Hon. Sarah Courtney are being issued in consideration for additional services provided outside the normal course of Hon. Sarah Courtney's Non-Executive Chair duties;</li> <li>the grant of the Director Options to Hon. Sarah Courtney are a means of retaining on the Board, persons of the calibre and with the skills and experience that Hon. Sarah Courtney has and align the interests of Hon. Sarah Courtney with those of Shareholders;</li> <li>the grant of the Director Options is a reasonable and appropriate method to provide cost effective remuneration as the non-cash form of this benefit 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 Director;</li> <li>it is not considered that there are any significant opportunity costs to the Company or benefits foregone by the Company in granting the Director Options upon the terms proposed; and</li> <li>the Director Options will reward her for achieving increases in the Company's value as determined by the market price of Shares.</li> </ul>				
<b>Value the entity attributes to the security and its basis</b>	The valuation of such options (initially estimated at \$30,000) will ultimately be derived at grant date in accordance with appropriate option pricing methodologies as prescribed by AASB2 Share-based Payment.				
<b>The date by which the Company will issue the securities to the person under the Incentive Plan</b>	The Director Options will be issued on or around 30 November 2023 following approval of this Resolution but in any event, no later than three years after the date of the Annual General Meeting.				

<b>The price at which the Company will issue the securities to the person under the Incentive Plan</b>	The Director Options will be issued for \$nil consideration.
<b>A summary of the material terms of any loan that will be made to the person in relation to the issue of the securities</b>	The Company will not provide loans to participants to acquire securities under the Company's Incentive Plan.
<b>Other</b>	<p>Details of any securities issued under the Company's Incentive 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 ASX Listing Rule 10.14.</p> <p>Any additional persons covered by ASX Listing Rule 10.14 who become entitled to participate in an issue of securities under the Company's Incentive Plan after the Resolution is approved and who were not named in the Notice of Annual General Meeting will not participate until approval is obtained under that rule.</p>
<b>Voting exclusion statement</b>	Voting exclusion statements are contained in the Notice of Annual General Meeting.

Approval pursuant to ASX Listing Rule 7.1 is not required in order to issue the Director Options to Hon. Sarah Courtney (or her nominee) as approval is being obtained under ASX Listing Rule 10.14. Accordingly, under ASX Listing Rule 7.2 Exception 14, the issue of Director Options to Hon. Sarah Courtney (or her nominee) will not be included in the 15% calculation of the Company's annual placement capacity pursuant to ASX Listing Rule 7.1.

#### 5.4 **Voting exclusion and Directors' recommendations**

The Board (with Hon. Sarah Courtney abstaining) recommends that Shareholders vote in favour of Resolution 4.

Resolution 4 of the Annual General Meeting is an ordinary resolution and so requires the approval of more than 50% of the votes cast by Shareholders.

A voting exclusion statement is contained after the Resolution. Votes cast by Shareholders contrary to the voting exclusion statement will be disregarded.

The Chair of the Annual General Meeting intends to vote all available undirected proxies in favour of Resolution 4.

## **6. Resolution 5: Approval of Selective Share Buy-back of all Class A RCPS**

### 6.1 **Purpose of Resolution**

This Resolution is being put to Shareholders for the approval of the selective share buy-back of the total 6,000 Class A Redeemable Convertible Preference Shares (**RCPS**).

The Class A RCPS were issued as part consideration for the acquisition of the following at the time of IPO of the Company on the ASX:

- (a) 100% of the issued share capital in MS Verdich and Sons Pty Ltd; and
- (b) 100% of the issued share capital of CMB Seafoods Pty Ltd.

The Class A RCPS have a maturity date of 22 January 2024, at which time they must be redeemed for \$1,000 per RCPS, being a total of \$6.0 million.

Under the terms of the Class A RCPS, a 'redemption' or 'redeem' includes (at the election of East 33) a redemption or a share buy-back under the Corporations Act.

The Company is precluded from redeeming the Class A RCPS under the Corporations Act as a company can only redeem redeemable convertible preference shares if the shares are fully paid up and out of profits or the proceeds of a new issue of shares made for the purpose of redemption.

As such, the Company is seeking the authorisation of Shareholders to have the RCPS bought back pursuant to the selective share buy-back provisions of Part 2J of the Corporations Act (**RCPS Buy-Back**).

## 6.2 The law

A company may buy back its own shares if:

- (a) the buy-back does not materially prejudice the company's ability to pay its creditors; and
- (b) the company follows the procedures laid down in Part 2J.1, Division 2 of the Corporations Act.

Pursuant to section 257D(1) of the Corporations Act, the terms of a selective share buy-back agreement must be approved by either:

- (a) a special resolution passed at a general meeting of the company, with no votes being cast in favour of the resolution by any person whose shares are to be bought back or by their associates; or
- (b) a resolution agreed to, at a general meeting, by all ordinary shareholders;
- (c) or the agreement must be conditional on such an approval.

Pursuant to Section 257D(2) of the Corporations Act, the company must include with the notice of meeting a statement setting out all information known to the company that is material to the decision on how to vote on the resolution. However, the company does not have to disclose information if it would be unreasonable to require the company to do so because the company had previously disclosed the information to shareholders.

Section 257H(3) of the Corporations Act provides that immediately after the registration of the transfer to a company of shares bought back, the shares are cancelled.

## 6.3 Information requirements

ASIC Regulatory Guide 110 sets out what ASIC expects a company to provide when disclosing such information to shareholders with a notice of meeting. This information, as it relates to the buy-back proposed in Resolution 5 is set out below:

Disclosure obligation	Detail
The number of shares on issue:	The Company has: <ul style="list-style-type: none"> <li>• 519,088,699 ordinary shares on issue;</li> <li>• 75,000,000 performance rights on issue;</li> <li>• 6,000 Class A RCPS on issue; and</li> <li>• 3,600 Class B RCPS on issue.</li> </ul>
The number and percentage of shares to be bought back:	It is proposed that 6,000 Class A RCPS, being 100% of the Class A RCPS on issue, are to be bought back.
The particulars of the terms of the buy-back:	Under the terms of the selective share buy-back: <ul style="list-style-type: none"> <li>• the Company will seek authorisation to buy-back the Class A RCPS at the 2023 Annual General Meeting;</li> </ul>

	<ul style="list-style-type: none"> <li>the Class A RCPS will be bought back for \$1,000 per Class A RCPS, as detailed in the terms of issue; and</li> <li>the buy-back will complete on the maturity date of 22 January 2024.</li> </ul>
The offer price or a simple formula to calculate the price:	The buy-back price for each Class A RCPS is \$1,000. As such, the aggregate price to buy back the Class A RCPS is \$6.0 million.
The reasons for the buy-back (as a matter of best practice, this should include a short description of why other ways of returning excess capital have not been chosen):	<p>The Class A RCPS mature on 22 January 2024 and must be redeemed on or before that date.</p> <p>Under the terms of issue 'redeem' includes a 'buy-back'.</p> <p>The Company is precluded from redeeming the Class A RCPS, as such, it is seeking authorisation to complete a selective share buy-back of the Class A RCPS.</p>
The interests of any director who may participate in the buy-back agreement:	No Directors have an interest in the Class A RCPS.
The financial effect of the buy-back on the company (including on the level of franking credits to be expended):	The RCPS Buy-Back will reduce the cash position by \$6.0 million.
The source of the funds for the buy-back:	The funds for the RCPS Buy-Back will be paid from cash at bank from the funds provided under the terms of the Facility Agreement.
The advantages and disadvantages of the buy-back	<p><b>Advantages</b></p> <p>Approval of the RCPS Buy-Back will allow the Company to satisfy its contractual obligations under the terms of the Class A RCPS.</p> <p><b>Disadvantages</b></p> <p>There are no disadvantages to the RCPS Buy-Back. The RCPS Buy-Back approval will allow the Company to comply with its payment obligations under the terms of issue of the Class A RCPS. Further, the Company has sufficient funds to make this payment.</p>
The effect the buy-back will have on the control of the company	The RCPS Buy-Back will have no effect on the control of the Company.
The identity of the selling shareholders	<p>The selling shareholders under the RCPS Buy-Back are:</p> <ul style="list-style-type: none"> <li>Anthony Rupnik – 1,750 Class A RCPS;</li> <li>Tom Rupnik – 1,750 Class A RCPS;</li> <li>Stephen Verdich – 625 Class A RCPS; and</li> <li>SJ Verdich Pty Ltd atf the S J Verdich Family Trust – 1,875 Class A RCPS.</li> </ul>
Its latest set of audited financial statements (unless they have been recently given to the shareholders)	The audited accounts were lodged on the ASX in September 2023. They may be located at <a href="https://east33.sydney/pages/investors">https://east33.sydney/pages/investors</a> .
Information about the current share price.	The Class A RCPS are not quoted on the ASX. The Company only has ordinary shares trading on the ASX. To view the price of ordinary shares trading on the ASX, refer to <a href="https://east33.sydney/pages/investors">https://east33.sydney/pages/investors</a> .

#### 6.4 Voting exclusion and Directors' recommendations

The Board recommends that Shareholders vote in favour of Resolution 5.

Resolution 5 of the Annual General Meeting is a Special Resolution and so it requires the approval of 75% or more of the votes cast by Shareholders.

The Chair of the Annual General Meeting intends to vote undirected proxies in favour of Resolution 5.

A voting exclusion is contained in the Notice of Annual General Meeting.

## 7. Resolution 6: Grant of security over a significant asset to a substantial holder

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### 7.1 Purpose of Resolution

This Resolution seeks Shareholder approval for the purposes of ASX Listing Rule 10.1 to allow the assets of the Company to be disposed of to Yumbah Finance in the event the Securities (detailed below) are enforced for the purposes of ASX Listing Rule 10.1 and for all other purposes. This is referred to as the "**Security Transaction**".

Resolution 6 is an ordinary resolution to be passed by the Shareholders of the Company.

### 7.2 Background on the Transaction and the ASX Waiver

On 15 August 2023 and as announced to the ASX on 16 August 2023, the Company and its Subsidiaries entered into a funding transaction with Yumbah Finance (**Loan Facility**) and signed the following documents:

- (a) Facility Agreement; and
- (b) the following Securities in favour of Yumbah Finance in connection with the Facility Agreement:
  - (i) General Security Deed; and
  - (ii) Other Securities, consisting of mortgages over the Oyster Permits and, subject to receipt of ministerial consent, the Crown Leases,

(collectively, the **Facility Documents**).

The Facility Agreement documents a loan in the amount of \$15.0 million repayable over a 5-year period and secured over all present and after acquired assets of East 33 and its Subsidiaries.

The Loan Facility constitutes a whole of business facility and was used for the full repayment of the balance outstanding of the \$10.0 million loan facility in place with the National Australia Bank (**NAB Loan Facility**), the payment of \$6.0 million payable under the Class A Redeemable Convertible Preference Shares (**RCPS**) due in January 2024 and other working capital requirements.

In light of the pressing need for funding, on 14 August 2023, the ASX granted the Company a waiver (**ASX Waiver**) with respect to ASX Listing Rule 10.1 to enable East 33, without obtaining Shareholder approval, to grant Yumbah Finance an all-assets security over East 33 and its Subsidiaries to secure East 33's obligations under the Loan Facility.

The ASX waiver was provided on the following terms:

- "1. *Based solely on the information provided, ASX Limited ('ASX') grants East 33 Limited (the 'Company') a waiver from Listing Rule 10.1 to the extent necessary to permit the Company and/or its subsidiaries to grant security over present and acquired assets of the Company and/or its subsidiaries in favour of Yumbah Finance Pty Ltd ('Yumbah') without obtaining shareholder approval, on the following conditions:*
  - 1.1 *the Company releases an announcement to the market that provides:*
    - 1.1.1 *the material terms of the loan agreement and the waiver from Listing Rule 10.1; and*

- 1.1.2 a description of the reasons why the entity has chosen to obtain funding from the 10.1 party, rather than a lender that is not a 10.1 party and the steps the board of the entity has taken to satisfy itself that the transaction is being entered into on arm's length terms, and is fair and reasonable from the perspective of the holders of the entity's ordinary securities;
- 1.2. the security interest documents expressly provide that:
- 1.2.1. the security interest is limited to the funds due under the financial accommodation;
- 1.2.2. the security interest will be discharged when the funds due under the financial accommodation have been repaid in full;
- 1.2.3. in the event the security interest is enforced, the assets can only be disposed of to the 10.1 party or an associate of the 10.1 party if the disposal is first approved by the entity's security holders under Listing Rule 10.1; and
- 1.2.4. otherwise, if the holder of the security interest exercises, or appoints a receiver, receiver and manager or analogous person to exercise, any power of sale under the security interest, the assets must be sold to an unrelated third party on arm's length commercial terms and the net proceeds of sale distributed to the 10.1 party in accordance with their legal entitlements;
- 1.3. any variation to the terms of the financial accommodation or the security interest, which:
- 1.3.1. advantages the 10.1 party in a material respect;
- 1.3.2. disadvantages the entity in a material respect; or
- 1.3.3. is inconsistent with the terms of the waiver,
- must be subject to security holder approval under Listing Rule 10.1; and
- 1.4. for each year while they remain on foot, a summary of the material terms of the financial accommodation and the security interest is included in the related party disclosures in the entity's audited annual accounts.
2. ASX has considered Listing Rule 10.1 only and makes no statement as to the Company's compliance with other listing rules."

As required by paragraph 1.2.3 of the ASX Waiver, Resolution 6 seeks Shareholder approval for the purposes of ASX Listing Rule 10.1 to allow the assets of the Company to be disposed of to Yumbah Finance in the event the Securities (detailed below) are enforced for the purposes of ASX Listing Rule 10.1 and for all other purposes. This is referred to as the "**Security Transaction**".

### 7.3 The Loan Facility, the Securities and the Convertible Note

The key terms of the Facility Agreement and the Securities are as follows:

Loan Facility	Key terms
Financier:	Yumbah Finance.
Borrower:	East 33.
Guarantors:	All wholly owned subsidiaries of East 33.
Facility Limit:	\$15,000,000. To be drawn as follows: <ul style="list-style-type: none"> <li>• August 2023 - \$8,000,000;</li> <li>• December 2023 - \$1,000,000;</li> <li>• January 2024 - \$4,000,000; and</li> </ul>

	<ul style="list-style-type: none"> <li>June 2024 - \$2,000,000.</li> </ul>
<b>Maturity Date:</b>	Five years after the date of financial close.
<b>Repayment:</b>	<ul style="list-style-type: none"> <li>\$0 in the first year;</li> <li>\$250,000 per quarter in the second year;</li> <li>\$350,000 per quarter in in the third year, fourth and fifth year; and</li> <li>the outstanding balance at the end of the term.</li> </ul>
<b>Security Documents: (the Securities)</b>	<p>The same securities as were in place under the NAB arrangements, namely:</p> <ul style="list-style-type: none"> <li>General security agreements over the Borrower and the Guarantors;</li> <li>Guarantee from each of the Guarantors;</li> <li>Mortgages over all Crown leases of East 33 and its Subsidiaries; and</li> <li>Mortgages of real property, including all oyster leases under which East 33 or a Guarantor is the sole lessee.</li> </ul>
<b>Prepayment:</b>	Loans may be prepaid in whole or in part on 5 Business Days' prior notice (but, if in part, by a minimum of \$100,000). Any prepayment shall be made without premium or penalty.
<b>Fees:</b>	An establishment fee of \$120,000 is payable on the first draw down. The \$120,000 is inclusive of all legal costs and expenses of Yumbah Finance.
<b>Interest:</b>	<p>The aggregate of:</p> <ul style="list-style-type: none"> <li>5% per annum; and</li> <li>Interest rate benchmark, BBSY (Bid).</li> </ul>
<b>Payment of Interest:</b>	Interest will be capitalised for the first 12 months following the initial drawdown and then paid monthly.
<b>Financial covenants – Interest coverage:</b>	<p>Interest Coverage based on earnings before interest, tax, depreciation and amortization (excluding non-cash impairments) will be:</p> <ul style="list-style-type: none"> <li>31 December 2023 - N/A;</li> <li>30 June 2024 - one (1) times;</li> <li>31 December 2024 - one (1) times; and</li> <li>30 June 2025 (and subsequent) - two (2) times.</li> </ul> <p>This is measured half yearly. If this is not satisfied, this will constitute a review event under the Loan Facility.</p>
<b>Financial covenants – Impairment charges:</b>	<p>From June 2024, the total non-cash impairment charge may not be greater than \$0.5m for any 12-month period.</p> <p>If this is not satisfied, this will constitute a review event under the Loan Facility.</p>
<b>Financial covenants – CAPEX V Depreciation</b>	<p>From June 2024, maintenance CAPEX must not exceed depreciation for any 12-month period.</p> <p>If this is not satisfied, this will constitute a review event under the Loan Facility.</p>
<b>Foreclosure</b>	Acknowledgement by the mortgagee that it cannot foreclose, i.e. take possession, over any assets of East 33 unless ASX Listing Rule 10.1 Shareholder Approval has been received, which approval is to be sought at the East 33 2023 Annual General Meeting. This approval is being sought by way of this Resolution.
<b>Events of default</b>	<p>Events of default which will allow Yumbah Finance to enforce the Facility Agreement include, but are not limited to, the following events:</p> <ul style="list-style-type: none"> <li>Non-payment;</li> <li>Insolvency;</li> <li>Cross default;</li> <li>Non-satisfaction of a wavier condition;</li> <li>Incorrect statements or representations;</li> <li>Judgement exceeding \$500,000;</li> <li>Material change or stoppage of business;</li> <li>Change in control;</li> <li>Material adverse event;</li> </ul>

	<ul style="list-style-type: none"> <li>• A material part of the Company business is destroyed or materially damaged;</li> <li>• Loss of, or failure to obtain, a material authorisation;</li> <li>• Investigation; and</li> <li>• A guarantee or security interest is enforced.</li> </ul>
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The first \$8.0 million under the Loan Facility was drawn down on 28 August 2023.

In addition to the Loan Facility, East 33 entered into binding documentation for the issue of a convertible note to Yumbah Finance under the terms of a convertible note subscription agreement (**Convertible Note Subscription Agreement**) whereby, subject to receipt of the approval of holders of ordinary shares (**Shares**) in East 33 (**Shareholder Approval**):

- (a) East 33 will issue a convertible note (**Convertible Note**) to Yumbah Finance detailing that if, at the end of the term of the Loan Facility, Yumbah Finance has not been fully repaid, or in the event the Loan Facility is repayable early as a result of a payment event of default under the Loan Facility or an insolvency event of East 33 or any of its subsidiaries (**Relevant Event of Default**), the Convertible Note will be convertible into Shares in East 33 at the election of Yumbah Finance;
- (b) The floating face value of the Convertible Note will be the amount remaining to be repaid to Yumbah Finance (principal, interest and any other secured money) at the end of the term of the Loan Facility (or earlier in the event of an earlier Relevant Event of Default); and
- (c) The conversion price of the Convertible Note will be the higher of \$0.021 or a 10% discount to the 20-day volume weighted average price calculated to the last Trading Day prior to the conversion date, which means there will be a floor price of \$0.021 per Share.

The Convertible Note will not be issued under the Convertible Note Subscription Agreement until such time as the approvals under Resolutions 7 and 8 have been obtained by East 33. It should be noted, however, that other Shareholder approvals may be required prior to any conversion of the Convertible Note at the end of the terms of the Loan Facility under the Corporations Act.

For further details on the Convertible Note, refer to Resolution 7.

#### 7.4 **ASX Listing Rule 10.1**

Shareholder approval is required under ASX Listing Rule 10.1 where an entity proposes to *dispose* of a *substantial asset* to:

- (a) a related party of the entity;
- (b) a child entity of the entity;
- (c) *a person who is, or was at any time in the 6 months before the transaction or agreement, a substantial (10%) holder in the entity;*
- (d) an associate of a person referred to in rules 10.1.1 to 10.1.3; or
- (e) a person whose relationship to the entity or a person referred to in rules 10.1.1 to 10.1.4 is such that, in ASX's opinion, the transaction should be approved by security holders.

The Security falls within ASX Listing Rule 10.1.3 (i.e. paragraph (c) above) and involves the disposal of a substantial asset on the basis that:

- (a) Yumbah Finance is controlled by RCPL and YAL who have a combined voting power of ~37%;

- (b) "dispose" includes using an asset as collateral (as is the case for the grant of the East 33 Securities); and
- (c) pursuant to ASX Listing Rule 10.2, an asset is a "substantial asset" if its value is equal to 5% or more of the entity's equity interests. The Securities are secured over all of the present and after acquired assets of East 33.

Resolution 6 seeks the required shareholder approval for the purposes of ASX Listing Rule 10.1 of the Company's grant of Securities to Yumbah Finance to allow the assets of the Company to be disposed of to Yumbah Finance in the event the Securities are enforced for the purposes of ASX Listing Rule 10.1 and for all other purposes, namely the Security Transaction.

Resolution 6 is an ordinary resolution to be passed by the Shareholders of the Company.

## 7.5 Information required by ASX Listing Rule 10.5

The following information is provided for the purposes of ASX Listing Rule 10.5:

Disclosure obligation	Detail
The name of the person from whom the entity is acquiring the substantial asset or to whom the entity is disposing of the substantial asset	Yumbah Finance.
Which category in rules 10.1.1 – 10.1.5 the person falls within and why.	ASX Listing Rule 10.1.3. Yumbah Finance's controlling entities, RCPL and YAL, are major shareholders of the Company, holding an aggregate of ~37.5% of the issued share capital of the Company, and is therefore a substantial (10%+) holder in the Company.
Details of the asset being acquired or disposed of.	Details of the assets that may be acquired upon enforcement of the Securities is set out at paragraph 7.3.
The consideration for the acquisition or disposal.	There is no direct consideration provided for the disposal. A summary of the terms of the Securities, and the circumstances for enforcement of the Security, is set out at paragraph 7.3.
In the case of a disposal, the intended use of funds (if any) received for the disposal.	The Securities were provided by the Company and its Subsidiaries to support the terms of the Facility Agreement. Under the Facility Agreement, Yumbah Finance has loaned East 33 \$15.0 million. The \$15.0 million will be used to: <ul style="list-style-type: none"> <li>• repay the \$10.0 million facility with the National Australia Bank (as at the date of this Notice of Annual General Meeting, this is complete);</li> <li>• pay the amount outstanding under the Class A RCPS; and</li> <li>• contribute to the working capital.</li> </ul>
The timetable for completing the acquisition or disposal.	The Company and its Subsidiaries entered into the Facility Agreement and the Securities with Yumbah Finance on 15 August 2023. It is unclear when the disposal pursuant to the Securities will occur (if at all), as the Securities only become enforceable against East 33 and the relevant East 33 Subsidiary if it is in default under the Facility Agreement. Refer to paragraph 7.3 for a snapshot of the events of default that may allow Yumbah Finance to enforce the Security. Please note that in the event Resolutions 7 and 8 are passed, then at the earlier of: <ul style="list-style-type: none"> <li>• the maturity date (as defined in the Facility Documents); and</li> <li>• the date the Loan Facility may be earlier terminated due to a payment event of default or an insolvency event by East 33,</li> </ul>

	Yumbah Finance would (subject to any other necessary Shareholder approvals) have the ability to convert the balance outstanding under the Facility Agreement at that time into Shares in East 33. Refer to Resolution 7 for further detail.
If the acquisition or disposal is occurring under an agreement, a summary of any other material terms of the agreement.	A summary of the terms of the Facility Agreement and the Securities is set out in paragraph 7.3.
A voting exclusion statement.	A voting exclusion statement is set out in the Notice of Annual General Meeting
A report on the transaction from an independent expert.	The Company has engaged BDO to provide a report on the transaction as an independent expert. This Independent Expert's Report is set out at <b>Schedule 2</b> to this Explanatory Statement. The Independent Expert's Report comments on the fairness and reasonableness of the Security Transaction. <b>BDO has determined that Security Transaction is fair and reasonable to the Non-Associated Shareholders.</b>

## 7.6 Independent Board Committee and Chapter 2E of the Corporations Act

As the Company has two nominees of YAL on its Board, being Mr Ben Cameron and Mr Gary Higgins, the Company established an Independent Board Committee to assist in its assessment of the financial accommodation from Yumbah Finance, including the grant of the Securities in favour of Yumbah Finance.

The members of the Independent Board Committee were:

- (a) Hon. Sarah Courtney, non-executive Director and Chair of the Company (being an independent director); and
- (b) Mr Mike Ryan, non-executive Director of the Company.

Ms Veronica Papacosta (being an independent director) also considered the financial accommodation from Yumbah Finance following her appointment to the Board.

The non-conflicted Directors of East 33 ultimately chose to pursue and obtain the financial accommodation from Yumbah Finance for the following reasons:

- (a) East 33 required material finance in the short term that is structured in such a way as not to require the sale of any material assets;
- (b) Yumbah Finance did not require a due diligence process to be completed in order to provide the finance; and
- (c) Yumbah Finance agreed to negotiate the Facility Documents on the same commercial terms as the prior loan facility with the National Australia Bank (**NAB Loan Facility**) but with a number of amendments that made the loan arrangements materially more favourable to East 33.

Yumbah Finance is arguably a related party of the Company by virtue of section 228(1) of the Corporations Act.

A "financial benefit" is defined in the Corporations Act in broad terms and can include the granting of security.

The giving of a financial benefit to a related party of a public company is ordinarily prohibited by Chapter 2E of the Corporations Act.

The exceptions to the general prohibition are where the benefit is given with the approval of shareholders or the benefit is given in one or more of the limited circumstances in which the giving of a financial benefit to a related party of a public company is permitted.

One exception to the general rule is where the provision of the financial benefit is on terms that would be reasonable in the circumstances if the company and the related party were dealing at arm's length terms (or on terms less favourable than arm's length).

As detailed in the ASX Announcement of 16 August 2023, the non-conflicted Directors determined that the grant of the Securities to Yumbah Finance was reasonable in the circumstances if the Company and Yumbah Finance were dealing at arm's length terms. In making this determination, the non-conflicted Directors considered the following:

<p><b>The Loan Facility is "fair and reasonable" from the perspective of the ordinary shareholders:</b></p>	<p>The Loan Facility constitutes a "whole of business refinance" and is on arm's length terms (as detailed below).</p> <p>The whole of business refinance allows East 33 to completely refinance the NAB Loan Facility (with the exception of a \$1,200,000 equipment facility with NAB) and fund its upcoming liabilities in the next 12 months, in a short timeframe and with the low degree of completion risk.</p> <p>Given East 33 did not satisfy its interest cover ratio covenant on 30 June 2023, the implications to East 33 of failing to complete a material capital raising by 31 August 2023 are high and include:</p> <ul style="list-style-type: none"> <li>• potential auditor qualification of audit report as to going concern; and</li> <li>• possible suspension from trading which would be a further event of default as defined in the NAB Loan Facility.</li> </ul> <p>Further, assuming that Shareholders approve the issue of the Convertible Note, subject to the shareholding of YAL and RCPL, any conversion of debt at the end of term of the Loan Facility (or earlier, in the event of a Relevant Event Default) would be subject to a further Shareholder Approval for the purposes of section 611 item 7 of the Corporations Act.</p> <p>Such an approval would require that an independent expert's report to accompany the notice of general meeting provided to Shareholders and to opine as to whether the transaction is fair and reasonable to the non-associated Shareholders.</p> <p>East 33 is of the view that this adds a further layer of protection and would mean that any conversion of the Convertible Note, in excess of the takeover thresholds in the Corporations Act, would be subject to further Shareholder approval with the Non-Associated Shareholders having the benefit of the view of an independent expert.</p>
<p><b>That the Loan Facility is "on arm's length terms" or less favourable to Yumbah Finance than "arm's Length terms:</b></p>	<p>It was determined that the Loan Facility is "on arm's length terms" on the basis that:</p> <ul style="list-style-type: none"> <li>• an Independent Board Committee was established by the East 33 board to negotiate and consider the terms of the Yumbah Loan Facility;</li> <li>• both East 33 and Yumbah Finance had separate legal counsel engaged;</li> <li>• the Loan Facility was then negotiated utilising the commercial terms of the NAB Loan Facility, being a facility with a third-party bank which could only be considered as an arm's length transaction, as a starting point and then with key revisions that were considered to be more favourable to East 33 and consequently less favourable to Yumbah Finance; and</li> <li>• the Directors constituting the Independent Board Committee and non-executive Director, Ms Veronica Papacosta, resolved that the terms of the Facility Agreement were such that they would be reasonable in the circumstances if East 33 and Yumbah Finance were dealing at arm's length, or on terms that are less favourable to Yumbah Finance than those terms.</li> </ul>

On this basis, the non-conflicted Directors formed the view that the provision of such benefits was expressly permitted by the arm's length exception under the Corporations Act, and the Company did not consider that it was required to seek Shareholder approval in order to grant the Security to Yumbah Finance for the purposes of Chapter 2E of the Corporations Act.

## 7.7 What are the implications if the Resolution is approved and if the Resolution is not approved

### (a) Position if the Security Transaction is approved

If Resolution 6 is approved, this will allow the assets of the Company to be disposed of to Yumbah Finance in the event the Securities are enforced.

As detailed in section 2.2.1 of the Independent Expert Report, for completeness, in Australia, in the event of a default under the terms of the Loan Facility, Yumbah Finance may exercise its powers of enforcement and appoint a controller to recover the Secured Liabilities, which may involve a sale of the relevant Secured Property (either to an unrelated third party or to Yumbah Finance).

If appointed, a controller has an obligation under section 420A of the Corporations Act to take all reasonable care to sell the Secured Property at:

- (i) not less than that market value (if it has a market value at the time of sale); or
- (ii) otherwise, the best price that is reasonably obtainable having regard to the circumstances existing when the Secured Property is sold.

Given the above, a controller will usually take a number of steps to ensure they have complied with the relevant legislation. These steps can include the following:

- (i) Advertising the property for sale to the market so that the eventual price is determined in accordance with market demand and has regard to the existing circumstances of the property and the market when sold.
- (ii) Obtaining a market valuation from a valuer with the relevant expertise and credentials.
- (iii) Choosing a method of sale which is suited to the type of property.

Having regard to the above, in the event of a default in relation to the Loan Facility, any sales process pursued to divest the Secured Property is legally required to be conducted in a manner to realise market value (or otherwise, the best price that is reasonably obtainable) as at the time of sale, having regard to the existing state of the assets and the market.

Accordingly, if Yumbah Finance opts to participate in the sale process in order to purchase the Secured Property (rather than receive the proceeds from a sale of the Secured Property to a third party), the consideration paid by Yumbah Finance would be determined by the competitiveness of the sale process with the Secured Property usually sold to the party with the best offer in terms of price and conditions of sale and taking into account the obligations on a controller pursuant to the Act. Yumbah Finance's ability to purchase the Secured Property will depend on whether it is the party with the best offer (e.g. the highest bidder at a sale by public auction).

For completeness, in the event where a controller is unable to sell the Secured Property (either to a third party or to Yumbah Finance), Yumbah Finance may be able to acquire the Secured Property via foreclosure by an application to the relevant Court or Registrar General in the applicable jurisdiction. However, where a financier, a receiver or an attorney in exercising its powers under a security seeks to exercise any right in the nature of foreclosure (whether pursuant to section 61 of the *Real Property Act 1900* (NSW), section 129 of the PPSA or otherwise) there are several requirements that must be met in order for foreclosure to occur. The requirements for foreclosure are summarised below:

- (i) default in payment must have subsisted for 6 months;
- (ii) notice of the intention to make the application must be served on all interested parties (mortgagor; other registered mortgagees; caveators; holders of prior unregistered interests etc);

- (iii) the land, estate or interest mortgaged or charged must have been offered for sale at a public auction by a licensed auctioneer in respect of which the mortgagor was given notice in accordance with section 57 of the *Real Property Act 1900* (NSW);
- (iv) the highest bid at the auction must have not been sufficient to satisfy the money secured together with expenses; and
- (v) the above must be certified by statutory declaration (and by the auctioneer in relation to the auction matters) and accompanied by such other proof of matters that the Registrar General may require.

Given the above requirements, it is possible that in a default situation, Yumbah Finance may seek to obtain the assets through the sale process conducted by the controller (e.g. purchase the Secured Property at public auction) as an alternative to seeking foreclosure over the Secured Property.

(b) **Position of the Shareholders if the Security Transaction is not approved**

In the event Resolution 6 is not approved and consequently the Security Transaction is not approved, the Loan Facility will still be secured by the assets of the Company as the security has already been granted. However, in the event of default, Yumbah Finance will not be able to participate in the sale process of the assets (potentially reducing the pool of potential buyers) and Yumbah Finance will not be entitled to exercise any right in the nature of foreclosure.

If East 33 were to default on the Loan Facility, whilst Yumbah Finance will not be entitled to purchase the assets of East 33 and its subsidiaries, Yumbah Finance is entitled to take action to enforce its security including the appointment of a receiver to sell the Secured Property to a person that is not a related party to Yumbah Finance and remit the proceeds to Yumbah Finance.

## 7.8 Advantages and disadvantages of the Security Transaction

As detailed in section 2.3.2 of the Independent Expert Report, the table below outlines the potential advantages to the Non-Associated Shareholders of approving the Security Transaction.

<p><b>The Security Transaction is Fair</b></p>	<p>The Independent Expert formed the view that the Security Transaction is fair to the Non-Associated Shareholders as at the date of the Independent Expert Report. In accordance with RG111, a transaction is considered reasonable if it is fair.</p> <p>Refer to Section 2.2 of the Independent Expert Report for the Independent Expert's assessment of fairness of the Security Transaction.</p>
<p><b>Creates a more competitive sale process for the Secured Property</b></p>	<p>East 33 has granted security over all its present and after acquired assets to Yumbah Finance and this will not change irrespective of the outcome of the Security Transaction (discussed further in paragraph 7.7 above). Rather, the primary change from approving the Security Transaction will relate to Yumbah Finance's ability to participate in the sales process in the event of default.</p> <p>As discussed above, in the event of default, it is the obligation of the controller/ receiver under section 420A of the Corporations Act to sell the Secured Property at:</p> <ul style="list-style-type: none"> <li>• not less than that market value (if it has a market value at the time of sale); or</li> <li>• otherwise, the best price that is reasonably obtainable having regard to the circumstances existing when the Secured Property is sold.</li> </ul> <p>It may not be in the interests of the Company to limit the number of parties that can participate in the bidding and ultimate purchase process for the Secured Property. A less competitive sales process that excludes Yumbah Finance may reduce the value that can be realised from the sale of the Secured Property.</p>

	If the Security Transaction is approved, the Company will be permitted to dispose of their assets to Yumbah Finance and by extension, create a more competitive sale process. We note, as the sales price increases, so too does the likelihood that the proceeds from the sale of the Secured Property exceed the balance of the Secured Liabilities. In this event, the surplus of funds would flow to East 33 or one of its subsidiaries (depending on which entity's security was sold).
<b>Right to exercise foreclosure</b>	In the event the Secured Property cannot be sold at public auction by the controller at a price sufficient to satisfy the Secured Liabilities there is an avenue for Yumbah Finance or controller to apply for foreclosure subject to certain conditions (summarised above in paragraph 7.7(a)). This may be beneficial in that the requirement for the controller to sell the Secured Property would come to an end which would avoid ongoing costs of the controllership increasing the quantum of the Secured Liabilities.

As detailed in section 2.3.3 of the Independent Expert Report, the table below outlines the potential disadvantages to the Non-Associated Shareholders of approving the Security Transaction.

<b>Yumbah Finance participation may deter third parties</b>	Yumbah Finance's ability to participate in the sale campaign may deter third parties from participating in the sale process if the third parties form a view that Yumbah Finance has an advantage or is the preferred buyer.  However, the obligations on a controller conducting a sale pursuant to section 420A of the Corporations Act may assist with a sale process being transparent and competitive to all parties, which would in turn attract all parties to participate.
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## 7.9 Voting exclusion and Directors' recommendations

The independent Directors, being Hon. Sarah Courtney, Mr Mike Ryan and Ms Veronica Papacosta, recommend to the Shareholders that they vote in favour of Resolution 6.

The other Directors, being Mr Ben Cameron and Mr Gary Higgins, do not provide a recommendation as they are representatives of RCPL and YAL.

Resolution 6 of the Annual General Meeting is an ordinary resolution and so it requires the approval of more than 50% of the votes cast by Shareholders.

The Chair of the Annual General Meeting intends to vote undirected proxies in favour of Resolution 6.

A voting exclusion is contained in the Notice of Annual General Meeting.

## 8. Resolution 7: Approval to issue Convertible Note to Yumbah Finance

### 8.1 Purpose of Resolution

This Resolution seeks Shareholder approval for the purposes of ASX Listing Rule 10.11 and section 208 of the Corporations Act for:

- (a) the issue of one (1) convertible note pursuant to the Convertible Note Subscription Agreement to Yumbah Finance; and
- (b) subject to any further shareholder approvals required at that time, upon conversion of the Convertible Note the issue of the ordinary shares underlying that Convertible Note in accordance with the terms of the Convertible Note Subscription Agreement.

Resolution 7 is an ordinary resolution to be passed by the Shareholders of the Company.

### 8.2 Regulatory requirements

Chapter 2E of the Corporations Act

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:

- (a) obtain the approval of the public company's members in the manner set out in sections 217 to 227 of the Corporations Act; and
- (b) 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 Convertible Note constitutes giving a financial benefit and Yumbah Finance is arguably a related party of the Company by virtue of section 228(1) of the Corporations Act, i.e. an entity that controls a public company.

#### ASX Listing Rule 10.11

ASX Listing Rule 10.11 requires shareholder approval to be obtained where an entity issues, or agrees to issue, securities to:

- (a) a related party;
- (b) a person who is, or was at the time in the 6 months before the issue or agreement, a substantial (30%+) holder in the entity;
- (c) a person who is, or was at any time in the 6 months before the issue or agreement, a substantial (10%+) holder in the entity and who has nominated a director to the board of the entity pursuant to a relevant agreement which gives them a right or expectation to do so;
- (d) an associate of a person referred to in rules 10.11.1 to 10.11.3; or
- (e) a person whose relationship with the entity is, in ASX's opinion, such that approval should be obtained,

unless an exception in ASX Listing Rule 10.12 applies.

Yumbah Finance is controlled by RCPL and YAL which have a combined voting power of ~37% of the Company. RCPL and YAL are consequently entities which fall under ASX Listing Rule 10.11.2. Consequently, Yumbah Finance is caught by ASX Listing Rule 10.11.4 given it is an associate of RCPL and YAL which are themselves caught by ASX Listing Rule 10.11.2

As such, Shareholder approval pursuant to ASX Listing Rule 10.11 is required unless an exception applies. It is the view of the Directors that none of the exceptions set out in ASX Listing Rule 10.12 apply to the current circumstances.

If Resolution 7 and Resolution 8 are passed, the Company will be able to proceed with the issue of the Convertible Note to Yumbah Finance. In addition, the issue of any Shares on conversion of the Convertible Note will be excluded from the calculation of the number of Equity Securities that the Company can issue without Shareholder approval under ASX Listing Rule 7.1, noting that the issue of the Shares on conversion of the Convertible Note may nonetheless require other Shareholder approvals.

If any of Resolutions 7 or 8 are not passed, the Company will not be able to proceed with the issue of the Convertible Note to Yumbah Finance.

### 8.3 **Reasons for the issue of the Convertible Note**

The Convertible Note is proposed to be issued as a mechanism to allow any of the outstanding amount under the Facility Agreement (**Secured Money**) to be repaid by way of the issue of Shares if, at the end of the term of the Facility Agreement, Yumbah Finance has not been fully repaid, or in the event the Facility Agreement is terminated or repayable early as a result of a payment event of default under the Loan Facility or an insolvency event of East 33 or any of its Subsidiaries.

#### 8.4 Terms of issue of the Convertible Note

The high-level terms of the Convertible Note to be issued under the Convertible Note Subscription Agreement are provided below:

<b>Issuer:</b>	East 33.
<b>Subscriber:</b>	Yumbah Finance Pty Ltd.
<b>Convertible Note</b>	1 Convertible Note
<b>Face Value</b>	<p>The Convertible Note has a Face Value being the amount of the Secured Money under the Facility Agreement at the earlier of:</p> <ul style="list-style-type: none"> <li>the maturity date (as defined in the Facility Documents); and</li> <li>the date the Loan Facility may be earlier terminated or repayable due to a payment event of default or an insolvency event by East 33 or any of its Subsidiaries (<b>Relevant Event Default</b>),</li> </ul> <p><b>(Termination Date)</b>.</p>
<b>Conditions precedent to issue:</b>	<ul style="list-style-type: none"> <li>East 33 receiving Shareholder approval for the issue of the Convertible Note for the purposes of Chapter 2E of the Corporations Act and ASX Listing Rule 10.11 (this Resolution 7);</li> <li>East 33 receiving Shareholder approval under section 260B of the Corporations Act for the provision of the financial assistance being provided by East 33 and its subsidiaries, in the form of the Loan Facility and the securities that secure the Loan Facility (Resolution 8); and</li> <li>East 33: <ul style="list-style-type: none"> <li>receiving Shareholder approval for the grant of the security to the Subscriber pursuant to the General Security Deed and Other Securities for the purposes of ASX Listing Rule 10.1 (Resolution 6); or</li> <li>obtaining an ASX waiver for the grant of the security to the Subscriber pursuant to the General Security Deed and Other Securities for the purposes of ASX Listing Rule 10.1, noting that this was received on 15 August 2023.</li> </ul> </li> </ul>
<b>Conversion:</b>	<p>Subject to satisfaction of the Conversion Condition, Yumbah Finance may elect to convert all or part of the Face Value (<b>Conversion Amount</b>) into Shares in East 33 during the period commencing on the Business Day that is 10 Business Days prior to the Termination Date and concluding on the date that is 10 Business Days after Termination Date.</p>
<b>Conversion Price:</b>	<p>The number of Shares in East 33 that Yumbah Finance may acquire will be determined by dividing the Conversion Amount by the Conversion Price.</p> <p>The Conversion Price means the higher of:</p> <ul style="list-style-type: none"> <li>\$0.021; or</li> <li>a 10% discount to the 20-day volume weighted average price calculated to the last Trading Day prior to the Conversion Date.</li> </ul> <p>What this means is that the minimum price for which the ordinary shares in East 33 may be issued, will be \$0.021 per ordinary share.</p>
<b>Conversion Condition</b>	<p>In the event the issue of the ordinary shares may result in a contravention of the takeover thresholds by YAL and RCPL, then such conversion will be subject to the approval of Non-Associated Shareholders of East 33 for the purposes of section 611 item 7 of the Corporations Act.</p> <p>Any such notice of meeting containing a section 611 item 7 resolution will be accompanied by an independent expert report opining on whether the issue of the shares to Yumbah Finance is fair and reasonable to the Non-Associated Shareholders of East 33.</p>

<b>Cancellation of Convertible Note – on conversion or repayment of the balance under the Facility Agreement</b>	<p>On repayment of the Face Value of the Convertible Note, either:</p> <ul style="list-style-type: none"> <li>• by way of conversion in whole or part; and</li> <li>• the repayment of the Secured Money payable under the under the terms of the Facility Agreement,</li> </ul> <p>the Convertible Note will be cancelled.</p>
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#### 8.5 Information required pursuant to Chapter 2E of the Corporations Act and ASX Listing Rule 10.13

The following information is provided to satisfy ASX Listing Rule 10.13 (being the information required to be disclosed for the purposes of ASX Listing Rule 10.11).

Item	Detail
<b>The name of the Party</b>	Yumbah Finance.
<b>Which category in ASX Listing Rules 10.11.1 – 10.11.5 does the person fall within and why</b>	<p>Yumbah Finance is controlled by RCPL and YAL which have a voting power of ~37% of the Company. RCPL and YAL are consequently entities which fall under ASX Listing Rule 10.11.2.</p> <p>Consequently, Yumbah Finance is caught by ASX Listing Rule 10.11.4 given it is an associate of RCPL and YAL which are themselves caught by ASX Listing Rule 10.11.2.</p>
<b>Number and class of securities to be issued</b>	<p>It is proposed that one (1) Convertible Note be issued.</p> <p>As detailed in paragraph 8.4, the number of Shares in East 33 that Yumbah Finance may acquire will be determined by dividing the Conversion Amount by the Conversion Price.</p> <p>The Conversion Price means the higher of:</p> <ul style="list-style-type: none"> <li>• \$0.021; or</li> <li>• a 10% discount to the 20-day volume weighted average price calculated to the last Trading Day prior to the Conversion Date.</li> </ul> <p>The Conversion Amount is all or part of the Face Value (as determined by Yumbah). The Face Value is the amount of the Secured Moneys under the Facility Agreement at the earlier of:</p> <ul style="list-style-type: none"> <li>• the maturity date (as defined in the Facility Documents); and</li> <li>• the date the Loan Facility may be earlier terminated or repayable due to a payment event of default or an insolvency event by East 33 (<b>Relevant Event Default</b>).</li> </ul> <p>What this means is that assuming East 33 immediately defaulted under the Loan Agreement, the maximum number of Shares that could be issued is 714,285,714.</p> <p><b>Please note: Further, assuming that the Shareholders approve the issue of the Convertible Note, subject to the shareholding of YAL, any conversion of debt at the end of term of the Loan Facility (or earlier, in the event of a Relevant Event Default) would be subject to a further shareholder approval for the purposes of section 611 item 7 of the Corporations Act.</b></p> <p><b>Such an approval would require that an independent expert's report to accompany the notice of general meeting provided to Shareholders such that they opine as to whether the transaction is fair and reasonable to the Non-Associated Shareholders.</b></p>
<b>A summary of the material terms of the material terms of the security</b>	Please refer to paragraph 8.4 for a summary of the terms of issue of the Convertible Note.
<b>The date by which the entity will issue the securities</b>	It is proposed that the Convertible Note will be issued within 12 Business Days following receipt of Shareholder approval.

<p><b>The price or other consideration the entity will receive for the issue</b></p>	<p>The Convertible Note was issued for \$10.00.</p> <p>In the event the Convertible Note is converted, at the election of Yumbah Finance (and subject to a Relevant Event Default or there being any amount outstanding at the Maturity Date), this will result in the Facility Agreement either being fully or partly repaid as:</p> <ul style="list-style-type: none"> <li>the floating face value of the Convertible Note will be the amount remaining to be repaid to Yumbah Finance at the end of the term of the Loan Facility (or earlier in the event of an earlier Relevant Event of Default); and</li> <li>the Conversion Price of the Convertible Note will be the higher of \$0.021 or a 10% discount to the 20 day volume weighted average price calculated to the last Trading Day prior to the conversion date, which means there will be a floor price of \$0.021.</li> </ul>
<p><b>The purpose of the issue, including the intended use of any funds raised by the issue</b></p>	<p>The Convertible Note is being issued as a mechanism to allow for the repayment of the Facility Agreement on the earlier of the maturity date and a Relevant Event of Default by way of the issue of Shares.</p> <p>As such, no funds will be raised by the issue of the Convertible Note or the Shares on conversion of the Convertible Note (other than a reduction in debt).</p>
<p><b>If the securities are issued under an agreement, a summary of the other material terms of the agreement</b></p>	<p>Please refer to paragraph 8.4.</p>
<p><b>A voting exclusion statement</b></p>	<p>A voting exclusion statement is set out in the Notice of Annual General Meeting</p>

Approval pursuant to ASX Listing Rule 7.1 is not required in order to issue the Convertible Note to Yumbah Finance as approval is being obtained under ASX Listing Rule 10.11. Accordingly, under ASX Listing Rule 7.2 Exception 14, the issue of the Convertible Note and Shares on conversion of the Convertible Note to Yumbah Finance will not be included in the 15% calculation of the Company's annual placement capacity pursuant to ASX Listing Rule 7.1.

The following information is provided to satisfy the requirements of Chapter 2E of the Corporations Act, in accordance with ASIC Regulatory Guide 76:

Item	Detail
<p><b>Identity of the related party: s219(1)(a)</b></p>	<p>Yumbah Finance. Yumbah Finance is arguably a related party of East 33 on the basis that Yumbah Finance is controlled by RCPL and YAL which have a voting power of ~37% of the Company.</p>
<p><b>Nature of the financial benefit: s219(1)(b)</b></p>	<p>The financial benefit is the proposed Convertible Note. Refer to paragraph 8.4 and paragraph 8.3 for a summary of the terms of issue of the Convertible Note and the reasons for issue.</p>
<p><b>Directors' recommendations: s219(1)(c)</b></p>	<p>The non-conflicted Directors, being Hon Sarah Courtney, Mr Mike Ryan and Ms Veronica, recommend to Shareholders that they vote in favour of Resolution 7 as it provides a mechanism to allow any of the outstanding amount under the Facility Agreement (<b>Secured Money</b>) to be repaid by way of the issue of Shares if, at the end of the term of the Facility Agreement, Yumbah Finance has not been fully repaid, or in the event the Facility Agreement is terminated or repayable early as a result of a payment event of default under the Loan Facility or an insolvency event of East 33 or any of its Subsidiaries.</p> <p>Further, assuming that Shareholders approve the issue of the Convertible Note, subject to the shareholding of YAL and RCPL, any conversion of debt at the end of term of the Loan Facility (or earlier, in the event of a Relevant Event Default) would be subject to a further Shareholder approval for the purposes of section 611 item 7 of the Corporations Act.</p>

	<p>Such an approval would require that an independent expert's report to accompany the notice of general meeting provided to Shareholders and to opine as to whether the transaction is fair and reasonable to the Non-Associated Shareholders.</p> <p>The non-conflicted Directors are of the view that this adds a further layer of protection and would mean that any conversion of the Convertible Note, in excess of the takeover thresholds in the Corporations Act, would be subject to further Shareholder approval with the Non-Associated Shareholders having the benefit of the view of an independent expert.</p>												
<p><b>Directors' interest in the outcome: s219(1)(d)</b></p>	<p>The non-conflicted Directors, being Hon. Sarah Courtney, Mr Mike Ryan and Ms Veronica have no interest in the issue of the Convertible Note.</p> <p>Mr Ben Cameron and Mr Gary Higgins are both nominees of YAL and have the following interests in East 33, YAL and RCPL:</p> <table border="1"> <thead> <tr> <th>Nominee Directors</th> <th>Holding in East 33</th> <th>Holding in YAL</th> <th>RCPL</th> </tr> </thead> <tbody> <tr> <td>Mr Higgins</td> <td>Nil</td> <td>0.45%</td> <td>Nil</td> </tr> <tr> <td>Mr Cameron</td> <td>Nil</td> <td>1.54%</td> <td>Nil</td> </tr> </tbody> </table> <p>Neither Mr Ben Cameron or Mr Gary Higgins control YAL.</p> <p>Neither Mr Ben Cameron and Mr Gary Higgins voted on any resolutions relating to the Facility Agreement or the Convertible Note.</p>	Nominee Directors	Holding in East 33	Holding in YAL	RCPL	Mr Higgins	Nil	0.45%	Nil	Mr Cameron	Nil	1.54%	Nil
Nominee Directors	Holding in East 33	Holding in YAL	RCPL										
Mr Higgins	Nil	0.45%	Nil										
Mr Cameron	Nil	1.54%	Nil										
<p><b>Other: s219(1)(e)</b></p>	<p>Nil.</p>												
<p><b>Valuation of the financial benefit</b></p>	<p>The Independent Board Committee of East 33 sought external advice on the value of the Convertible Note and have adopted the following as the valuation of the Convertible Note. This information is not intended to imply a recommendation or opinion about whether or not the Convertible Note is fair and reasonable to Shareholders.</p> <p>The valuation assumes the Company will elect to account for the Convertible Notes as a financial liability at Fair Value through Profit and Loss ('Fair Value').</p> <p>Therefore, to arrive at a Fair Value for the Convertible Note, the option component of the Convertible Note has been valued.</p> <p><b>Monte Carlo Model</b></p> <p>To value the option component of the Convertible Note at maturity, a number of option valuation methodologies were undertaken. The primary valuation model used was a Monte Carlo simulation model.</p> <p>The reason the Monte Carlo model was used is that this is the only methodology that models many thousands of possible future outcomes which can be used to more accurately model the large number of potential end values. All other models tend to use stochastic equations or binomial models to provide a valuation, which tend to be less accurate as they make assumptions which may not apply. These additional models were therefore used to validate and assess the 'Fair Value' of the conversion option (refer below).</p> <p>A number of Monte Carlo models were used that produced up to 500,000 simulations per day from 16 August 2023 until Maturity (29 August 2028), at which time the Notes must be converted or paid out. The Monte Carlo Model's iterations of expected share price path scenarios were used to determine what range of share prices might reasonably be trading upon Maturity. The last twenty days prior to the Maturity date were then averaged to calculate the expected Volume Weighted Average Price ('VWAP'). The interpolated VWAPs were used to calculate the value of the Option Component based on the maximum number of Conversion Shares that would be issued to the Note holders at that price. These were then averaged to give a reasonable Fair Value.</p>												

	<p><b>Other models used</b></p> <p>In addition to the Monte Carlo Model, valuations were also derived from using a range of standard option valuation models. We used a Black &amp; Scholes European Call model. The Black-Scholes model for option pricing assumes that asset prices are described by geometric Brownian motion, with constant volatility. We also used Merton's classic model for pricing European options under the influence of jump diffusion but whose price is normally dictated by Brownian drift. This is a more suitable model as it takes into account spikes in the share price of listed companies that are not highly traded. However, as indicated above, these models were calculated as check against the main modelling undertaken by the Monte Carlo approach.</p> <p><b>Reporting disclosures</b></p> <p>In addition to a summary of the conversion conditions (refer to paragraph 8.4), AASB 2 also requires the disclosure of the valuation methodology and inputs used in the valuation model:</p> <ul style="list-style-type: none"> <li>• <b>Valuation models used</b> – As above</li> <li>• <b>Volatility</b> – The Monte Carlo models were run using an implied volatility of 80%. This is somewhat lower than the calculated historical volatility of 102%. However, as the conversion can only take place at the Maturity Date (if there is an Amount Outstanding, 5 years) or upon a Relevant Event Default, the implied volatility should be adjusted to reflect that fact. Furthermore, when using the other standard models, the volatility was again reduced due to the inherent assumptions built into the stochastic equations used in those pricing models.</li> <li>• <b>A risk-free rate</b> assumption of 3.79% was used. This is equivalent to the prevailing five-year Australian Government Bond Rate as at the implied grant date (16th August 2023);</li> <li>• <b>E33 20-day VWAP Share price at</b> 16th August 2023 was \$0.029;</li> <li>• <b>No dividends</b> are expected to be paid.</li> </ul> <p><b>Fair Value</b></p> <p>It should be noted that the Fair Value of the Convertible Note will vary depending on the repayment schedule, the share price of the Company and any Relevant Default Event. Whilst it was assumed that the repayment schedule as set out in the Convertible Note will be fulfilled, the Fair Value assigned incorporates a twenty percent possibility that either a Relevant Default Event could occur or that the payment schedule was in arrears at maturity. In addition, a range of terminal pricing was explored.</p> <p>The Board has adopted the following Fair Value in line with valuation derived from a number of the option methodologies described above. The Option component should be added to the value of the Straight Debt Component. Based on the above inclusions we calculate a Fair Value as follows:</p> <ul style="list-style-type: none"> <li>• Valuation Range Fair Value of Option Component <b>\$207,775 to 450,000</b></li> <li>• Assigned Fair Value of Option Component at inception <b>\$325,000</b></li> </ul>
<p><b>Related party's existing interest</b></p>	<p>Yumbah Finance is controlled by RCPL and YAL which have an aggregate voting power of ~37% of the Company.</p> <p>Consequently, Yumbah Finance has an indirect voting power of ~37% of the Company.</p>
<p><b>Dilution effect of the transaction on existing members' interests</b></p>	<p>The issue of the Convertible Note will not have the effect of diluting the interests of existing members. However, the issue of Shares on any conversion of the Convertible Note will have a dilutive effect on existing members' interests.</p> <p>The number of Shares in East 33 that Yumbah Finance may acquire on any conversion of the Convertible Note will be determined by dividing the Conversion Amount by the Conversion Price.</p>

	<p>The Conversion Price means the higher of:</p> <ul style="list-style-type: none"> <li>• \$0.021; or</li> <li>• a 10% discount to the 20-day volume weighted average price calculated to the last Trading Day prior to the Conversion Date.</li> </ul> <p>What this means is that the minimum price for which the ordinary shares in East 33 may be issued, will be \$0.021 per ordinary share.</p> <p>What this means is that assuming East 33 immediately defaulted under the Loan Agreement, the maximum number of Shares that could be issued is 714,285,714, which constitutes 137.6% of the Shares on issue in East 33 as at the date of this Notice of Annual General Meeting.</p> <p><b><i>Please note that in the event the issue of the ordinary shares may result in a contravention of the takeover thresholds by YAL and RCPL, then such conversion will be subject to the approval of Non-Associated Shareholders of East 33 for the purposes of section 611 item 7 of the Corporations Act.</i></b></p> <p><b><i>Any such notice of meeting containing a section 611 item 7 resolution will be accompanied by an independent expert report opining on whether the issue of the shares to Yumbah Finance is fair and reasonable to the Non-Associated Shareholders of East 33.</i></b></p>
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## 8.6 Voting exclusion and Directors' recommendations

The non-conflicted Directors, being Hon Sarah Courtney, Mr Mike Ryan and Ms Veronica, recommend to Shareholders that they vote in favour of Resolution 7.

The other Directors, being Mr Ben Cameron and Mr Gary Higgins, do not provide a recommendation as they are representatives of YAL.

Resolution 7 of the Annual General Meeting is an ordinary resolution and so it requires the approval of more than 50% of the votes cast by Shareholders.

The Chair of the Annual General Meeting intends to vote undirected proxies in favour of Resolution 7.

A voting exclusion is contained in the Notice of Annual General Meeting.

## 9. Resolution 8: Financial Assistance

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### 9.1 Background and details of proposed financial assistance

As set out in detail above:

- (a) the Company and its Subsidiaries have entered into the Loan Facility with Yumbah Finance;
- (b) the Company and its Subsidiaries have granted Securities in favour of Yumbah Finance in connection with the Loan Facility; and
- (a) East 33 is proposing to issue a Convertible Note to Yumbah Finance detailing that if, at the end of the term of the Loan Facility, Yumbah Finance has not been fully repaid, or in the event the Loan Facility is terminated or repayable early as a result of a payment event of default under the Loan Facility or an insolvency event of East 33 or any of its subsidiaries, the Convertible Note will be convertible into Shares in East 33 at the election of Yumbah Finance.

Given that:

- (a) the Loan Facility and the Securities are documented separately to the Convertible Note;

- (b) the Securities do not secure any obligations arising under the terms of issue of the Convertible Note;
- (c) the entry into (and continued availability of) the Loan Facility and the granting of the Securities are not contingent on whether the Convertible Note is ever issued or converted;
- (d) the potential conversion of the Convertible Note (at a discount) in certain circumstances in order to discharge the Loan Facility may constitute a discharge of a liability on ordinary commercial terms and therefore may fall within the exception in section 260C(5)(d) of the Corporations Act; and
- (e) the discharge of the Loan Facility by conversion of the Convertible Note may not materially prejudice the Company's ability to pay its creditors, because East 33 will not have to make repayments to Yumbah Finance in cash (or in as much cash as it would otherwise need to),

it is arguable that the granting of the Securities by the Company and its Subsidiaries do not constitute the kind of "financial assistance" which is prohibited by Part 2J.3 of the Corporations Act.

However, to achieve certainty and to comply with the requirements of the Facility Documents, the Company is putting Resolution 8 forward to seek Shareholder approval for the following potential "financial assistance":

- (a) the granting of Securities by the Company and its Subsidiaries in proximity to the issue of the Convertible Note and associated issue of Shares subject to and upon conversion of the Convertible Note; and
- (b) the potential conversion of the Convertible Note at a discount to the then Share price, (together, **Financial Assistance**).

Resolution 8 is a special resolution to be passed by the Shareholders of the Company.

## 9.2 **The requirements for obtaining member approval under section 260B of the Corporations Act**

Under section 260A of the Corporations Act, a company may financially assist a person to acquire shares in the company or its holding company only in certain circumstances, one of which is if the assistance is approved by shareholder(s) under section 260B of the Corporations Act.

While the Corporations Act does not define what is meant by "financially assist", the effect of an entity granting security interests which are connected with the issue of convertible notes and the issue of shares on conversion of convertible notes at a discount to market value may both fall within the broad scope of the term.

The requirements for approval under section 260B(1) of the Corporations Act are that the assistance must be approved by shareholders each of the Company and its Subsidiaries by:

- (a) a special resolution passed at a general meeting of that company with no votes being cast in favour of the resolution by the person acquiring the shares or by their associates; or
- (b) a resolution agreed to, at a general meeting of that company, by all ordinary shareholders.

In addition, section 260B(2) of the Act requires that if immediately after the acquisition the company will be a subsidiary of a listed domestic corporation, the financial assistance must also be approved by a special resolution passed at a general meeting of the body corporate that will be the holding company.

The Corporations Act requires that the Company must include with the notice of meeting (or documents issued for a written resolution under the Company's constitution) a statement setting out all the information known to the Company that is material to the decision on how to vote on the resolution, unless it would be unreasonable to require the Company to do so because the Company has previously disclosed the information to its shareholders. This explanatory statement for Resolution 8 is issued by the Company to satisfy this requirement.

### 9.3 **Reasons for proposed financial assistance**

The reason for the giving of the Financial Assistance is to facilitate the Company and its Subsidiaries to pursue and obtain financial accommodation from Yumbah Finance in circumstances where:

- (a) East 33 and its Subsidiaries require material finance in the short term that is structured in such a way as not to require the sale of any material assets;
- (b) Yumbah Finance did not require a due diligence process to be completed in order to provide the finance; and
- (c) Yumbah Finance agreed to negotiate the Facility Documents on the same commercial terms as the prior loan facility with the National Australia Bank (**NAB Loan Facility**) but with a number of amendments that made the loan arrangements materially more favourable to East 33 and its Subsidiaries.

### 9.4 **Effects of the financial assistance**

The Directors believe that the giving of the Financial Assistance described in this Explanatory Statement by the Company is unlikely to have any material adverse effect on the Company.

#### (a) **Advantages**

The advantages to the Company and its Subsidiaries providing the Financial Assistance are that it facilitates:

- (i) the Company and its Subsidiaries to pursue and obtain financial accommodation from Yumbah Finance in the circumstances described in paragraph 9.3 above; and
- (ii) flexibility to enable the Loan Facility to be discharged in certain circumstances by way of conversion of the Convertible Note (ie, without the Company or its Subsidiaries otherwise providing cash repayment).

#### (b) **Disadvantages**

The disadvantages to the Company and its Subsidiaries providing the Financial Assistance are that:

- (i) the granting of Securities by the Company and its Subsidiaries mean:
  - (A) they will become liable for the amounts due under the Facility Documents;
  - (B) their assets will be subject to the Security and their operations will be restricted by the representations and undertakings given by them under the Facility Documents; and
  - (C) (although the Directors consider this unlikely) if the Company or its Subsidiary defaults under the Facility Documents, Yumbah Finance may then make a demand under the Securities requiring immediate repayment of the amounts due under the Facility Documents and seek to enforce the Securities, which may result in the appointment of a controller over, or the winding up of the Company and/or its Subsidiaries; and

- (ii) subject to and upon conversion of the Convertible Note (in accordance with its terms), the issue of Shares at a Conversion Price which represents a discount to the then trading price of Shares will result in a greater dilutionary effect (as compared to if those Shares were issued at the then trading price).

#### 9.5 **Special resolution**

Under the provisions of sections 260B(1) and 260B(2) of the Corporations Act, the proposed Financial Assistance requires Shareholder approval by way of a special resolution (ie, at least 75% of the votes cast by Shareholders entitled to vote on the proposed resolution must be in favour of that resolution for it to be passed).

#### 9.6 **Notice to ASIC**

Copies of the Notice of Annual General Meeting including this explanatory statement were lodged with ASIC before being sent to members, in accordance with section 260B(5) of the Corporations Act.

#### 9.7 **Disclosure of information**

The Directors consider that this Explanatory Statement contains all material information known to the Company that could reasonably be required by the members in deciding whether to approve the proposed Resolution, other than information that it would be unreasonable to require the Company to disclose because the Company has previously disclosed the information to its members.

#### 9.8 **Voting exclusion and Directors' recommendations**

The non-conflicted Directors, being Hon. Sarah Courtney, Mr Mike Ryan and Ms Veronica Papacosta, recommend to Shareholders that they vote in favour of Resolution 8.

The other Directors, being Mr Ben Cameron and Mr Gary Higgins, do not provide a recommendation as they are representatives of YAL.

The reason the non-conflicted Directors make this recommendation is that they consider that the giving of Financial Assistance described above is appropriate to enable the Company and its Subsidiaries to pursue and obtain financial accommodation from Yumbah Finance in the circumstances described in paragraph 9.3 above and comply with their obligations under the relevant Facility Documents.

Resolution 8 is a special resolution and so it requires the approval of 75% or more of the votes cast by Shareholders.

The Chair of the Annual General Meeting intends to vote undirected proxies in favour of Resolution 8.

A voting exclusion is contained in the Notice of Annual General Meeting.

## **10. Resolution 9: Approval of 10% Placement Facility**

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### 10.1 **Purpose of Resolution**

Broadly speaking, and subject to a number of exceptions, ASX Listing Rule 7.1 limits the amount of Equity Securities that a listed company can issue without the approval of its shareholders over any 12-month period to 15% of the fully paid ordinary securities it had on issue at the start of that period.

Under ASX Listing Rule 7.1A, however, an eligible entity can seek approval from its members, by way of special resolution passed at its annual general meeting, to increase this 15% limit by an extra 10% to 25% (**10% Placement Facility**).

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

is an eligible entity as it is not included in the S&P/ASX 300 Index and has a current market capitalisation of approximately \$12 million.

This Resolution seeks Shareholder approval by way of special resolution for the Company to have the additional 10% Placement Facility provided for in ASX Listing Rule 7.1A to issue Equity Securities without Shareholder approval.

If this Resolution is passed, the Company will be able to issue Equity Securities up to the combined 25% limit in the ASX Listing Rules 7.1 and 7.1A without further Shareholder approval.

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

## 10.2 The law — Description of ASX Listing Rule 7.1A

### (c) Shareholder Approval

The ability to issue Equity Securities under the 10% Placement Facility is subject to Shareholder approval by way of a special resolution at an Annual General Meeting.

### (d) Equity Securities

Any Equity Securities issued under the 10% Placement Facility must be in the same class as an existing quoted class of Equity Securities of the Company. The Company, as at the date of the Notice of Annual General Meeting, has on issue 519,088,699 Shares.

### (e) Formula for Calculating the 10% Placement Facility

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

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

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

- (i) plus the number of fully paid ordinary securities issued in the 12 months under an exception to ASX Listing Rule 7.2 other than exception 9, 16 or 17;
- (ii) plus the number of fully paid ordinary securities issued in the relevant period on the conversion of convertible securities within ASX Listing Rule 7.2 exception 9 where:
  - (A) the convertible securities were issued or agreed to be issued before the commencement of the relevant period; or
  - (B) the issue of, or agreement to issue the convertible securities was approved or taken under these rules to have been approved under ASX Listing Rule 7.1 or 7.4;
- (iii) plus the number of fully paid ordinary securities issued in the relevant period under an agreement to issue securities within ASX Listing Rule 7.2 Exception 16 where:
  - (A) the agreement was entered into before the commencement of the relevant period; or
  - (B) the agreement or issue was approved, or taken under these rules to have been approved under ASX Listing Rule 7.1 or 7.4;

- (iv) plus the number of any other fully paid ordinary securities issued in the relevant period with approval under ASX Listing Rule 7.1 or 7.4;
- (v) plus the number of any other fully paid ordinary securities that became fully paid in the relevant period;
- (vi) less the number of fully paid ordinary securities cancelled in the last 12 months.

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

**D** is 10%

**E** the number of Equity Securities issued or agreed to be issued under ASX Listing Rule 7.1A.2 in the last 12 months immediately preceding the date of issue of the shares where the issue or agreement has not been subsequently approved by the holders of its ordinary securities under ASX Listing Rule 7.4.

(f) **ASX Listing Rule 7.1 and ASX Listing Rule 7.1A**

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

In accordance with ASX Listing Rule 7.1, as at the date of this Notice of Annual General Meeting, the Company currently has on issue 519,088,699 Shares and the capacity to issue 77,863,303 Equity Securities.

Under ASX Listing Rule 7.1A the Company requests an additional 10% capacity which will increase the total number of Equity Securities that can be placed without Shareholder approval to a further 129,772,174 for the next 12 months.

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

(g) **Minimum Issue Price**

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

- (i) the date on which the price at which the Equity Securities are to be issued is agreed; or
- (ii) if the Equity Securities are not issued within 10 Trading Days of the date in paragraph (i) above, the date on which the Equity Securities are issued.

(h) **10% Placement Period**

Shareholder approval of the 10% Placement Facility under ASX Listing Rule 7.1A is valid from the date of the Annual General Meeting at which the approval is obtained and expires on the earlier to occur of:

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

**(10% Placement Period).****10.3 Effect of ASX Listing Rule 7.1A**

The effect of Resolution 9 will be to allow the Directors to issue the Equity Securities under ASX Listing Rule 7.1A during the 10% Placement Period without using the Company's 15% placement capacity under ASX Listing Rule 7.1.

**10.4 Specific information required by ASX Listing Rule 7.3A**

In accordance with ASX Listing Rule 7.3A, information is provided as follows:

- (a) **Minimum price** – The Company may seek to issue the Equity Securities in consideration for cash only. The Equity Securities will be issued at an issue price of not less than 75% of the volume weighted average price for the Company's Equity Securities over the 15 Trading Days on which trades in that class were recorded immediately before:
- (i) the date on which the price at which the Equity Securities are to be issued is agreed; or
  - (ii) if the Equity Securities are not issued within 10 Trading Days of the date in paragraph (i) above, the date on which the Equity Securities are issued.
- (b) **Risk** - If Resolution 9 is approved by Shareholders and the Company issues Equity Securities under the 10% Placement Facility, the existing Shareholders' voting power in the Company will be diluted as shown in the below table. There is a risk that:
- (i) the market price for the Company's Equity Securities may be significantly lower on the date of the issue of the Equity Securities than on the date of the Annual General Meeting; and
  - (ii) the Equity Securities may be issued at a price that is at a discount to the market price for the Company's Equity Securities on the issue date,

which may have an effect on the amount of funds raised by the issue of the Equity Securities.

- (c) **Dilution** - The table below shows the possible dilution of existing Shareholders on the basis of the current market price of Shares and the current number of ordinary securities for variable "A" calculated in accordance with the formula in ASX Listing Rule 7.1A.2 as at the date of the Notice of Annual General Meeting.

The table also shows:

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

Number of Shares on issue (Variable "A" in Listing ASX Rule 7.1A.2)	Dilution			
	No. of Shares issued under 10% placement capacity (10% voting dilution)	Issue price		
		\$0.0125	\$0.025	\$0.0375
		Issue price at 50% decrease to current price	Issue price at current price	Issue price at 50% increase in current price
Funds raised				
Current Shares 519,088,699	51,908,869	\$647,861	\$1,297,722	\$1,946,583
50% increase to the current Shares 778,633,048	77,863,304	\$973,291	\$1,946,582	\$2,919,874
100% increase to the current Shares 1,038,177,398	103,817,739	\$1,297,723	\$2,595,443	\$3,893,165

\* 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 ASX Listing Rule 7.1.

The table has been prepared on the following assumptions:

- (i) the Company issues the maximum number of Equity Securities available under the 10% Placement Facility;
  - (ii) no convertible securities (including any convertible securities issued under the 10% Placement Facility) are converted into Shares before the date of the issue of the Equity Securities;
  - (iii) 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%;
  - (iv) 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 Facility, based on that Shareholder's holding at the date of the Annual General Meeting;
  - (v) the table shows only the effect of issues of Equity Securities under ASX Listing Rule 7.1A, not under the 15% placement capacity under ASX Listing Rule 7.1;
  - (vi) the issue of Equity Securities under the 10% Placement Facility consists only of Shares; and
  - (vii) the issue price is \$0.025 being the closing price of Shares on the ASX on 12 September 2023.
- (d) **Period of approval** - The Company will only issue the Equity Securities during the 10% Placement Period. The approval of Resolution 9 for the issue of the Equity Securities will cease to be valid in the event that Shareholders approve a transaction under ASX Listing Rule 11.1.2 (a significant change of the nature or scale of activities) or ASX Listing Rule 11.2 (disposal of main undertaking).
- (e) **Purpose of issue** - The Company may seek to issue the Equity Securities in consideration for cash only. In such circumstances, the Company intends to use the funds raised towards funding working capital purposes and to capitalise on growth opportunities, as and when they may arise.

- (f) **Disclosure obligations** - The Company will comply with the disclosure obligations under ASX Listing Rules 7.1A.4. Namely, upon issue of any Equity Securities:
- (i) it will state in its announcement of the proposed issue under ASX Listing Rule 3.10.3 or in its application for quotation of the securities under ASX Listing Rule 2.7 that the securities are being issued under ASX Listing Rule 7.1A; and
  - (ii) give to the ASX immediately after the issue a list of names of the persons to whom the entity issued the Equity Securities and the number of the Equity Securities issued to each.
- (g) **Allocation policy** - The Company's allocation policy is dependent on the prevailing market conditions at the time of any proposed issue pursuant to the 10% Placement Facility. The identity of the allottees of Equity Securities will be determined on a case-by-case basis having regard to the factors including but not limited to the following:
- (i) the methods of raising funds that are available to the Company, including but not limited to, rights issue or other issue in which existing security holders can participate;
  - (ii) the effect of the issue of the Equity Securities on the control of the Company;
  - (iii) the financial situation and solvency of the Company; and
  - (iv) advice from corporate, financial and broking advisers (if applicable).
- The allottees under the 10% Placement Facility have not been determined as at the date of the Notice of Annual General Meeting but may include existing substantial Shareholders and/or new Shareholders who are not a related party or an associate of a related party of the Company.
- (h) **Issues in prior 12 months** - The Company did obtain Shareholder approval under ASX Listing Rule 7.1A at the 2022 Annual General Meeting however no shares were issued under ASX Listing Rule 7.1A.
- (i) **Voting Exclusion statement** - A voting exclusion statement is included in the Notice of Annual General Meeting. At the date of the Notice of Annual General Meeting, the Company has not approached any particular existing Shareholder or security holder or an identifiable class of existing security holder to participate in the issue of the Equity Securities. No existing Shareholder's votes will therefore be excluded under the voting exclusion in the Notice of Annual General Meeting.

#### 10.5 **Voting exclusion and Directors' recommendations**

The Board other than Ben Cameron and Gary Higgins (being representatives of the Company's shareholder Yumbah Aquaculture Limited), recommend that shareholders vote in favour of Resolution 9.

Resolution 9 is a Special Resolution and so it requires the approval of 75% or more of the votes cast by Shareholders.

The Chair of the Annual General Meeting intends to vote undirected proxies in favour of Resolution 9.

## **11. Resolution 10: Renewal of proportional takeover approval provisions**

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### 11.1 **General**

Rule 34 of the Company's Constitution includes proportional takeover provisions which enable the Company to refuse to register shares acquired under a proportional takeover bid unless Shareholders approve the bid. Under the Corporations Act, proportional takeover provisions expire three years from adoption or renewal and may then be renewed.

The Company is seeking Shareholder approval to renew these provisions under the Corporations Act. The proportional takeover bid provisions in the Corporations Act are identical to those included in the Company's current Constitution.

A proportional takeover offer is a takeover offer where the offer made to each shareholder is only for a proportion of that shareholder's shares, and not for the shareholders entire shareholding.

## 11.2 Information requirements

The Corporations Act requires that the following information be provided to shareholders when they are considering the inclusion or renewal of a proportional takeover provision in the Constitution. The following information comprises the statement required under section 648G(5) of the Corporations Act.

### (a) Effect of the provision

If a takeover offer is made under a proportional takeover bid for a class of the Company's securities, the Directors must ensure that a resolution to approve the takeover bid (**Approval Resolution**) is voted by the shareholders of the class of shares being bid, not less than 14 days before the last day of the bid period (**Deadline**).

The only persons entitled to vote on the Approval Resolution are those persons who, as at the end of the day on which the first offer under the takeover bid was made, held shares included in the bid class in respect of which the offer was made. The bidder under the takeover bid and its associates are not entitled to vote on the Approval Resolution.

Each person entitled to vote has one vote for each share in the relevant class held by the person at that time. The vote on the Approval Resolution is decided on a simple majority. The Approval Resolution will be taken to have been passed if more than 50% of votes are cast in favour of the Approval Resolution, otherwise it is taken to have been rejected.

The Directors will breach the Corporations Act if they fail to ensure the Approval Resolution is voted on. However, if the Approval Resolution is not voted on as at the end of the day before the Deadline, the Approval Resolution is taken to have been passed.

If the Approval Resolution is passed (or taken to have been passed) by the Shareholders, the transfer resulting from the bid must be registered if they comply with other provisions of the Corporations Act and the Constitution.

If the Approval Resolution is rejected, binding acceptances must be rescinded as soon as practicable after the Deadline, and all unaccepted offers and offers failing to result in binding contracts are taken to have been withdrawn at the end of the Deadline. The proportional takeover provisions do not apply to full takeover bids.

Rule 34 will expire three years after its reinsertion into the Constitution, unless renewed by a further special resolution of shareholders.

### (b) Reasons for proposing this special resolution

A proportional takeover bid involves an offer for only a proportion of each shareholder's securities, this may allow control of the company to pass without shareholders having the chance to sell all their securities to the bidder and assist a bidder to take control of the company without payment of an adequate control premium.

Shareholders, other than the bidder and its associates, may be exposed to the risk of being left as a minority in the company as well as the loss of potential to receive an

adequate control premium for their remaining shares. The proportional takeover provisions lessen this risk because they allow shareholders to decide whether a proportional takeover bid is acceptable in principle, is appropriately priced and should be permitted to proceed.

(c) Knowledge of acquisition proposals

At the date this Notice of Annual General Meeting was prepared, no Director is aware of any proposal by any person to acquire, or to increase the extent of, a substantial interest in the Company.

(d) Potential advantages and disadvantages

While the proportional takeover provisions have previously been in force under the Constitution, there have been no full or proportional takeover bids for the Company at any time since it listed. Therefore, there is no example against which to review the advantages or disadvantages of the provisions for the Directors and shareholders respectively.

The Directors consider that the proposed renewal of the proportional takeover provisions has no potential advantages or potential disadvantages for Directors because they remain free to make a recommendation on whether a proportional takeover bid should be approved.

The potential advantages of the proposed renewal of the proportional takeover provisions for Shareholders are:

- (i) Shareholders have the right to decide by majority vote whether an offer under a proportional takeover bid should proceed;
- (ii) the provisions may assist Shareholders to avoid being locked in as a minority;
- (iii) the bargaining power of Shareholders is increased, and may assist in ensuring that any proportional takeover bid is adequately priced; and
- (iv) 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 approve or reject that offer.

The potential disadvantages of the proposed renewal of the proportional takeover provisions for Shareholders are:

- (i) it may discourage offers of proportional takeover bids for shares in the Company and may depress the share price;
- (ii) Shareholders may lose an opportunity of selling some of their shares at a premium; and
- (iii) the likelihood of a proportional takeover bid being successful may be reduced.

The Directors consider that the potential advantages of the proportional takeover provisions for shareholders outweigh the potential disadvantages. In particular, Shareholders as a whole are able to decide whether or not a proportional takeover bid should be permitted to proceed.

(e) Shareholders may act

If the special resolution to renew the proportional takeover provisions in Rule 34 of the Constitution is passed, Shareholders who together hold not less than 10% (by number) of the issued securities in a class of securities in the Company to which the provisions apply may, within 21 days after the day on which the special resolution is passed, apply to the Court to have the proportional takeover provisions set aside to the extent to which it relates to that class of shareholders.

On an application, the Court may make an order setting aside the proportional takeover provisions if it is satisfied that it is appropriate in all the circumstances to do so. Otherwise, the Court must discuss the application. Unless and until an application is final determined by the making of an order setting aside the proportional takeover provision, the Company is taken for all purposes to have validly included the proportional takeover provision applying to that class of Shareholders.

### 11.3 **Voting exclusion and Directors' recommendations**

The Directors recommend that Shareholders approve Resolution 10.

Resolution 10 is a Special Resolution and so it requires the approval of 75% or more of the votes cast by Shareholders.

The Chair of the Annual General Meeting intends to vote all available undirected proxies in favour of Resolution 10.

## **12. Resolution 11: Board Spill Meeting (conditional item)**

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### 12.1 **Purpose of this Resolution**

At the 2022 Annual General Meeting, more than 25% of the votes cast on the resolution to adopt the Remuneration Report were against adopting the report and the Company received a "first strike".

Resolution 11 is a conditional item and will only be put to the Annual General Meeting if at least 25% of the votes cast on Resolution 1 to adopt the Remuneration Report for the financial year ended 30 June 2023 are cast against. If fewer than 25% of the votes cast are against adopting the Remuneration Report, then there will be no second strike and Resolution 11 will not be put to the Annual General Meeting.

If put, the spill resolution will be considered as an ordinary resolution.

If this resolution is passed and becomes effective, an extraordinary general meeting of the Company (the **Spill Meeting**) must be held within 90 days of the date of the Annual General Meeting in order to consider the composition of the Board. At the Spill Meeting, all the Directors who were in office when the Board resolution to approve the Company's 2023 Directors' Report was passed will automatically vacate office at the conclusion of the Spill Meeting unless they stand for re-election and are re-elected at the Spill Meeting. The Directors who were in office when the Board resolution to approve the 2023 Directors' Report was passed are:

- (a) Gary Raymond Higgins;
- (b) Ben Alexander Cameron;
- (c) Michael Joseph Ryan;
- (d) Sarah Jane Courtney; and
- (e) Veronica Papacosta.

Even if Hon Sarah Courtney and Ms Veronica Papacosta are re-elected at this Annual General Meeting, they need to be re-elected at the Spill Meeting in order to remain in office. If any additional directors were to be appointed before the Spill Meeting, they would not need to stand for election at the Spill Meeting.

If there are fewer than three directors appointed immediately after the Spill Meeting, the statutory vacancies will be filled by those directors who received the highest number of votes even if they didn't receive enough votes to be formally elected.

The Directors listed above are those who held office when the Directors' Report (including the Remuneration Report) for the year ended 30 June 2023 was approved.

When considering this item of business, the Directors suggest that Shareholders consider:

- (a) the additional costs that will be incurred if the Company is required to hold and call a Spill Meeting;
- (b) the potential disruption to the Board of a Spill Meeting and the impact this may have on the Company;
- (c) the current Board has the skills and experience required to provide effective oversight of the Company; and
- (d) there is no assurance that any or all of the Directors would stand for re-election at the Spill Meeting.

## 12.2 **Voting exclusion and Directors' recommendations**

Any member of the Company's Key Management Personnel and their Closely Related Parties are not entitled to vote on this Resolution in any capacity.

However, any such person may vote as a proxy for another person who is entitled to vote on this Resolution if the proxy appointment directs them how to vote on the Resolution. In addition, this prohibition does not apply to the Chair of the meeting acting as proxy for a person entitled to vote where the proxy appointment expressly authorises the Chair to exercise an undirected proxy even though the resolution is connected with the remuneration of Key Management Personnel.

Having regard to the matters set out above, the Board does not consider the proposed resolution to be in the best interests of the Company or its Shareholders. The Board recommends that Shareholders vote AGAINST any spill resolution put to the vote at the AGM.

The Chair of the Annual General Meeting intends to vote undirected proxies against this Resolution.

## Schedule 1 – Summary of the Director Options and the terms of issue of the Incentive Plan

### Summary of Director Options

Terms	Description
<b>Type of Incentive</b>	Director Options, each of which is an option to subscribe for one Share subject to the terms and conditions in the Employee Incentive Plan ( <b>Plan</b> ).
<b>Number of Options offered</b>	The number of Director Options to be granted is to the value of \$30,000 calculated based on the VWAP over the Hon. Sarah Courtney's period of service commencing 12 December 2022 up to 31 August 2023, being \$0.03 and equating to 1,000,000 Director Options.
<b>Exercise Price</b>	The exercise price is \$Nil.
<b>Vesting Conditions</b>	The Director Options will vest on 30 June 2024 if Hon. Sarah Courtney remains retained in her capacity as a director of the Company.
<b>Exercise Period and Expiry Date</b>	The Director Options are exercisable at any time before the Expiry Date. The Expiry Date is 3 years from the date that the Director Options are issued to Hon. Sarah Courtney.
<b>Conversion rate</b>	Each Director Option will convert into one fully paid ordinary share.
<b>Quotation</b>	The Director Options will not be quoted on ASX.
<b>Transfer of Options</b>	Director Options granted under the Plan cannot be assigned, transferred, encumbered with a security interest in or over them, or otherwise disposed of unless the prior consent of the Board is obtained, or such assignment or transfer is required by law.
<b>Adjustments</b>	<p>In the event of any variation in the share capital (such a consolidation, subdivision, reduction or capital return), the number of Director Options held will be adjusted in accordance with the ASX Listing Rules so that Hon. Sarah Courtney does not suffer any material detriment following any variation in the share capital as allowed under the ASX Listing Rules.</p> <p>If the Company makes a bonus issue of Shares or other securities to existing Shareholders, the number of Shares which must be issued on the exercise of the Director Options will be increased to the number of Shares which Ms Courtney would have received if she had exercised those Director Options before the record date for the bonus issue. No change is to be made to the Exercise Price.</p> <p>If there is a pro-rata issue of new Shares to Shareholders, the Exercise Price or number of underlying Shares into which one Director Option is exercisable will, in the case of a pro-rata issue, be adjusted in accordance with the ASX Listing Rules.</p>

### Summary of Employee Incentive Plan

Terms	Description
<b>Purpose</b>	The purpose of the Employee Incentive Plan ( <b>Plan</b> ) is to reward, motivate and retain 'Eligible Employees' for creating Shareholder value by providing Eligible Employees with an opportunity to gain an equity interest in East 33 Limited ( <b>Company</b> ).
<b>Eligibility</b>	An offer under the Plan may be made to any eligible employee, being a director, employee, consultant or contractor of the Company or related body corporate of the Company who is declared by the Board to be eligible or any other person who is declared to be eligible by the Board ( <b>Eligible Employee</b> ).
<b>Form of equity</b>	<p>The following incentives may be issued under the Plan:</p> <ul style="list-style-type: none"> <li>an Option or a Performance Right;</li> <li>Share(s) issued in the Company (<b>Shares</b>) pursuant to the exercise of an Option or conversion of a Performance Rights; or</li> <li>Incentive Shares,</li> </ul> <p>(each an <b>Incentive</b>).</p>
<b>Maximum allocation</b>	An Offer of Options, Performance Rights or Incentive Shares may only be made under the Plan if the aggregation of the following:

	<ul style="list-style-type: none"> <li>number of Shares that may be issued if each outstanding Option and Performance Right were exercised; plus</li> <li>the number of Incentive Shares issued,</li> </ul> <p>pursuant to the Plan or any other group employee incentive scheme during the previous 3 years does not exceed 5% of the total number of Shares on issue at the time of the proposed issue.</p> <p>The maximum allocation of 5% does not include:</p> <ul style="list-style-type: none"> <li>any Incentive issued under section 708 of the Corporations Act or to Participants lawfully made outside of Australia;</li> <li>any Performance Rights where payment is not required from a Participant; and</li> <li>any Incentive that lapses without being exercised.</li> </ul>
<b>Offer</b>	<p>The Board may make an offer to the determined Eligible Employee (<b>Offer</b>). The Board must give each Eligible Employee who is invited to apply for the Incentives under the Plan an offer letter setting out the following information in relation to the Offer:</p> <ul style="list-style-type: none"> <li>the number of Options, Performance Rights or Incentive Shares;</li> <li>the conditions on the Offer;</li> <li>the date on which the Incentives are granted to a Participant (<b>Grant Date</b>);</li> <li>the fee payable by a Participant on the grant of the Incentives (<b>Fee</b>) (if any);</li> <li>the performance requirements (as specified in the offer letter) which must be met prior to the vesting of an Incentive (<b>Performance Criteria</b>) (if any);</li> <li>the time-based requirements or conditions (as specified in the Offer) which must be met prior to Incentives (as applicable) vesting in a Participant (<b>Vesting Conditions</b>) (if any);</li> <li>the exercise price payable (if any) by a Participant to acquire a Share upon the exercise of an Option as specified in the Offer (<b>Exercise Price</b>);</li> <li>the date when an Offer lapses (<b>Expiry Date</b>) and the period commencing on the Grant Date and ending on the Expiry Date (<b>Term</b>) (if applicable);</li> <li>the period up to the Expiry Date during which a vested Option may be exercised (<b>Exercise Period</b>) (if applicable); and</li> </ul> <p>the period in which the Performance Criteria must be satisfied in respect of an Incentive (<b>Performance Period</b>) (if applicable).</p> <p>An Offer must be accompanied by an application by an Eligible Employee to participate in the Plan (<b>Application</b>), the terms and conditions of the relevant Incentive and a copy of the Plan. Once the Application has been returned to the Company, the Eligible Employee becomes a participant in the plan (<b>Participant</b>).</p> <p>A person to whom an Offer is made may accept the Offer by completing the Application and giving it to the Board by 5:00pm on the last day of the acceptance period specified in the offer letter.</p>
<b>Quotation</b>	<p>The Company will not seek official quotation of any Options, Performance Rights or Incentive Shares.</p> <p>The Company must use all reasonable endeavours to obtain the grant of quotation of Incentive Shares or Shares issued on exercise of Options or conversion of Performance Rights under this Plan on the ASX and, subject to the ASX Listing Rules, on any other exchange on which Shares are quoted.</p>
<b>Rights attaching to Shares</b>	<p>Any Shares allotted, issued or transferred by the Company to a Participant under the Plan will rank equally with all existing Shares on and from the date of allotment, issue or transfer in respect of all rights, bonus issues and dividends which have a record date for determining entitlements on or after the date of allotment, issue or transfer of those Shares.</p>
<b>Lapse and forfeiture</b>	<p>An Employee's Options or Performance Rights will automatically lapse and be cancelled for no consideration at the earliest of the following to occur:</p> <ul style="list-style-type: none"> <li>subject to the good and bad leaver provisions, 10 business days after the cessation of employment, contractual engagement or office of a Participant with the Company or any member of the group such that the Participant is no longer an employee, contractor or officer of any member of the group or the Company;</li> <li>where fraudulent or dishonest actions have occurred or where the Board has determined that the Participant has, by any act or omission, brought the group into disrepute or acted contrary to the interests of the Company or the group;</li> </ul>

	<ul style="list-style-type: none"> <li>• if applicable Performance Criteria and/or Vesting Conditions are not achieved by the relevant time;</li> <li>• the expiry date specified in the offer letter;</li> <li>• the receipt by the Company of notice from the Participant, after a death or total and permanent disablement of the Participant, that the Participant has elected to surrender the Incentives; or</li> <li>• any other circumstances specified in any offer letter pursuant to which the Incentives were issued.</li> </ul> <p>An Offer of Options, Performance Rights and/or Incentive Shares can lapse before any of the securities detailed in such Offers are issued in the absolute discretion of the Board.</p> <p>The Board retains the discretion to determine the treatment of Options in the event that the Vesting Conditions or Performance Criteria have not been satisfied and the treatment of Performance Rights in the event that the Performance Period has expired or the Participant has failed to satisfy the Performance Criteria or Vesting Conditions.</p> <p><u>With respect to Incentive Shares, once Incentive Shares are issued, they cannot lapse however they can be treated in accordance with the buy-back provisions.</u></p>
<b>Good Leaver and Bad Leaver</b>	<p><b>Good Leaver</b></p> <p>Where a Participant who holds Incentives becomes a 'Good Leaver' (determined at the discretion of the Board):</p> <ul style="list-style-type: none"> <li>• all vested Options which have not been exercised in accordance with the Rules will continue in force and remain exercisable for 90 days after the date the Participant becomes a Good Leaver, unless the Board determines otherwise in its sole and absolute discretion, after which the Options will lapse; and</li> <li>• the Board may at any time, in its sole and absolute discretion (subject to the Corporations Act and ASX Listing Rules), do one or more of the following: <ul style="list-style-type: none"> <li>• permit unvested Incentives held by the Good Leaver to vest;</li> <li>• permit such unvested Incentives held by the Good Leaver or his or her nominee(s) to continue to be held by the applicable holder, with the Board having the discretion to amend the vesting criteria (including any offer conditions, Performance Criteria or Vesting Conditions) or reduce the exercise period of such unvested Incentives; or</li> <li>• determine that the unvested Incentives will lapse.</li> </ul> </li> </ul> <p><b>Bad Leaver</b></p> <p>Where a Participant who holds Incentives becomes a Bad Leaver (determined at the discretion of the Board and includes fraudulent or dishonest actions) unless the Board determines otherwise, in its sole and absolute discretion, all vested and unvested Incentives will lapse.</p>
<b>Assignment</b>	Options and Performance Rights held under the Plan may not be transferred or assigned, except in the case of Options where the Board determines otherwise or it is required by law.
<b>Amendment, Termination and suspension</b>	<p>The Board may at any time amend the Rules or the terms and conditions upon which any Incentives have been issued under the Plan. Other than to comply with any law or the ASX Listing Rules, no amendment to the Rules may be made if the amendment, in the opinion of the Board, materially reduces the rights of any Participant in respect of Incentives granted to them prior to the date of the amendment.</p> <p>The Board may at any time terminate or suspend the operation of the Plan for such period or periods as it thinks fit.</p>
<b>Terms and conditions of Options</b>	<p><b>(Entitlement)</b> Each vested Option entitles the Participant holding the Option to subscribe for, or to be transferred, one Share on payment of the Exercise Price (if any).</p> <p><b>(Exercise Period)</b> The Exercise Period and Expiry Date for Options will be determined by the Board.</p> <p><b>(Conditions for Vesting and Exercise)</b> The Board will determine prior to an Offer being made and specify in the Offer any Performance Criteria and/or Vesting Conditions attaching to the Options. Options will only vest and be exercisable if the applicable Performance Criteria and/or Vesting Conditions (if any) have been satisfied, waived by the Board, or are deemed to have been satisfied under the Rules. Upon receiving a vesting notification from the Company that the Participant's Incentives have vested and are exercisable, the Participant may exercise the Options within the Exercise Period by</p>

	<p>delivering a signed notice of exercise and the applicable payment to the Company, subject to the cashless exercise of the Options.</p> <p><b>(Cashless Settlement)</b> The Participant may elect (but at the discretion of the Board) to set off the exercise price for the Options against the number of Shares they are entitled to receive upon exercise, in which case the holder would receive Shares to the value of the surplus after the Exercise Price has been set off (<b>Cashless Exercise Facility</b>). For the avoidance of doubt, if the Cashless Exercise Facility is elected, the Participant will only be issued the number of Shares equal in value to the difference between the total Exercise Price otherwise payable on the Options being exercised and the then market value of the Shares. If the difference is zero or negative, then a Participant will not be entitled to use the Cashless Exercise Facility.</p> <p><b>(Adjustments) –</b></p> <ul style="list-style-type: none"> <li>• <b>Reorganisation</b> – In the event of any variation in the share capital (such as a consolidation, subdivision, reduction or capital return), the number of Incentives held will be adjusted in accordance with the applicable ASX Listing Rules so that the Participant does not suffer any material detriment following any variation in the share capital as allowed under the ASX Listing Rules.</li> <li>• <b>Rights Issue</b> – If there is a pro-rata issue of new Shares to Shareholders, the Exercise Price or number of underlying Shares into which one Option is exercisable will, in the case of a pro-rate issue, be adjusted in accordance with the ASX Listing Rules.</li> <li>• <b>Bonus Issue</b> – If the Company makes a bonus issue of Shares or other securities to existing Shareholders, the number of Shares which must be issued on the exercise of a Participant’s Options will be increased to the number of Shares which the Participant would have received if the Participant had exercised those Options before the record date for the bonus issue.</li> </ul> <p><b>(New issue and other rights)</b> A participant who holds Options is not entitled to:</p> <ul style="list-style-type: none"> <li>• notice of, or to vote or attend at, a meeting of the Shareholders;</li> <li>• receive any dividends declared by the Company;</li> <li>• participate in any new issues of securities offered to Shareholders during the term of the Options; or</li> <li>• cash for the Options or any right to participate in surplus assets or profits of the Company on winding up,</li> </ul> <p>unless and until the Options are exercised and the Participant holds Shares.</p> <p><b>(Change of Control)</b> Where the Company announces a change of control event (i.e. approval of a scheme of arrangement, a takeover bid, a person acquiring more than 50.1% of the issued Shares or the sale of the business (<b>Change of Control Event</b>)) has occurred or is likely to occur:</p> <ul style="list-style-type: none"> <li>• a Participant may exercise their Options regardless of the Vesting Conditions having been satisfied; and</li> <li>• where an offer has been made to the Participants on like terms to the terms proposed in relation to issued Shares under the Change in Control Event and this offer has not been accepted by the end of the offer period, the Options will lapse within 10 days of the end of that offer period.</li> </ul>
<p><b>Terms and conditions of Performance Rights</b></p>	<p><b>(Entitlement)</b> The Board may offer Performance Rights to any Participant in its sole discretion. Each Performance Right confers an entitlement to be provided with one Share, credited as fully paid, at no cost, upon the full satisfaction of the Performance Criteria and/or Vesting Conditions specified by the Board.</p> <p><b>(Performance Criteria/Vesting Conditions and satisfaction and variation to Performance Criteria/Vesting Conditions)</b> The Board will determine prior to an Offer being made and specify in the Offer any Performance Criteria, Vesting Conditions, Performance Period or Expiry Date attaching to the Performance Rights. Performance Rights will only vest and entitle the Participant to be issued Shares if the applicable Performance Criteria and/or Vesting Conditions (if any) have been satisfied prior to the end of the Performance Period, waived by the Board, or are deemed to be satisfied under the Rules. The Board will determine in its sole discretion whether the Performance Criteria and/or Vesting Conditions have been satisfied.</p> <p><b>(Lapse of Performance Rights)</b> Where Performance Rights have not satisfied the Performance Criteria by the end of the Performance Period or the Expiry Date (whichever occurs earlier) those Performance Rights will automatically lapse.</p> <p><b>(Adjustment for reorganisation)</b> If there is any reorganisation of the issued share capital of the Company, the terms of Performance Rights and the rights of the Participant who holds such Performance Rights will be varied, including an adjustment</p>

to the number of Performance Rights, in accordance with the ASX Listing Rules that apply to the reorganisation as allowed under the ASX Listing Rules.

**(Pro rata issue of securities)** If, during the term of any Performance Right, the Company makes a pro rata issue of securities to the Shareholders by way of a rights issue, a Participant will not be entitled to participate in the rights issue in respect of any Performance Rights. A Participant will not be entitled to any adjustment to the number of Shares they are entitled to or adjustment to any Performance Criteria and/or Vesting Conditions which is based upon the Company's share price, as a result of the Company undertaking a rights issue.

**(Bonus Issue)** If, during the term of any Performance Rights, Shares are issued pro rata to Shareholders generally by way of bonus issue, the number of Performance Rights to which the Participant is then entitled, shall be increased to a number equal to the number of Shares which the Participant would have been entitled to receive if the Performance Rights then held by the Participant had vested immediately prior to the record date for the bonus issue.

**(New issue and other rights)** A Participant who holds Performance Rights is not entitled by virtue of holding those Performance Rights to:

- notice of, or to vote or attend at, a meeting of the Shareholders; or
- receive any dividends declared by the Company; or
- participate in any new issues of securities offered to Shareholders during the term of the Performance Rights; or
- cash for the Performance Rights or any right to participate in surplus assets of profits of the Company on winding up,

unless and until the Performance/ Vesting Conditions are satisfied and the Participant holds Shares.

**(Change of Control)** Where the Company announces a Change of Control Event has occurred or is likely to occur, all granted Performance Rights which have not yet vested or lapsed shall automatically and immediately vest, regardless of whether any Performance Criteria or Vesting Conditions have been satisfied.

**Schedule 2 – Independent Expert's Report**



## East 33 Limited

Independent Expert's Report and Financial Services Guide  
Opinion: The Security Transaction is Fair and Reasonable

18 SEPTEMBER 2023

## FINANCIAL SERVICES GUIDE

Dated: 18 September 2023

The Financial Services Guide ('FSG') is provided to comply with the legal requirements imposed by the Corporations Act 2001 and includes important information regarding the general financial product advice contained in this report ('this Report'). The FSG also includes general information about BDO Corporate Finance Ltd ABN 54 010 185 725, Australian Financial Services Licence No. 245513 ('BDOCF' or 'we', 'us' or 'our'), including the financial services we are authorised to provide, our remuneration and our dispute resolution.

BDOCF holds an Australian Financial Services Licence to provide the following services:

- a) Financial product advice in relation to deposit and payment products (limited to basic deposit products and deposit products other than basic deposit products), securities, and interests in managed investment schemes excluding investor directed portfolio services;
- b) Arranging to deal in financial products in relation to securities; and
- c) Applying for, acquiring, varying or disposing of a financial product in relation to interests in managed investment schemes excluding investor directed portfolio services, and securities.

### *General Financial Product Advice*

This Report sets out what is described as general financial product advice. This Report does not consider personal objectives, individual financial position or needs and therefore does not represent personal financial product advice. Consequently, any person using this Report must consider their own objectives, financial situation and needs. They may wish to obtain professional advice to assist in this assessment.

### *The Assignment*

BDOCF has been engaged to provide general financial product advice in the form of a report in relation to a financial product. Specifically, BDOCF has been engaged to provide an independent expert's report to the shareholders of East 33 Limited ('East 33' or 'the Company') in relation to the prior granting of security over the Company's assets, such that in the event the security is enforced, the assets of East 33 and its subsidiaries can be disposed of to Yumbah Finance Pty Ltd ('Yumbah Finance') ('the Security Transaction').

Further details of the Security Transaction are set out in Section 4. The scope of this Report is set out in detail in Section 3.3. This Report provides an opinion on whether or not the Security Transaction is 'fair and reasonable' to the non-associated East 33 shareholders ('the Non-Associated Shareholders') and has been prepared to provide information to the Non-Associated Shareholders to assist them to make an informed decision on whether to vote in favour of or against the Security Transaction. Other important information relating to this Report is set out in more detail in Section 3.

This Report cannot be relied upon for any purpose other than the purpose mentioned above and cannot be relied upon by any person or entity other than those mentioned above, unless we have provided our express consent in writing to do so. A shareholder's decision vote in favour of or against the Security Transaction is likely to be influenced by their particular circumstances, for example, their taxation considerations and risk profile. Each shareholder should obtain their own professional advice in relation to their own circumstances.

### *Fees, Commissions and Other Benefits we may Receive*

We charge a fee for providing reports. The fees are negotiated with the party who engages us to provide a report. We estimate the fee for the preparation of this Report will be approximately \$40,000 plus GST. Fees are usually charged as a fixed amount or on an hourly basis depending on the terms of the agreement with the engaging party. Our fees for this Report are not contingent on the outcome of the Security Transaction.

Except for the fees referred to above, neither BDOCF, nor any of its directors, employees or related entities, receive any pecuniary benefit or other benefit, directly or indirectly, for or in connection with the provision of this Report.

Directors of BDOCF may receive a share in the profits of BDO Group Holdings Limited, a parent entity of BDOCF. All directors and employees of BDO Group Holdings Limited and its subsidiaries (including BDOCF) are entitled to receive a salary. Where a director of BDOCF is a shareholder of BDO Group Holdings Limited, the person is entitled to share in the profits of BDO Group Holdings Limited.

### *Associations and relationships*

From time to time BDOCF or its related entities may provide professional services to issuers of financial products in the ordinary course of its business. These services may include audit, tax and business advisory services. BDOCF and its related entities have not provided any professional services to East 33 in the last two years.

The signatories to this Report do not hold any shares in East 33 and no such shares have ever been held by the signatories.

To prepare our reports, including this Report, we may use researched information provided by research facilities to which we subscribe or which are publicly available. Reference has been made to the sources of information in this Report, where applicable. Research fees are not included in the fee details provided in this Report.

#### *Complaints Resolution*

##### *Internal Complaints Resolution Process*

We are committed to meeting your needs and maintaining a high level of client satisfaction. If you are unsatisfied with a service we have provided you, we have avenues available to you for the investigation and resolution of any complaint you may have.

To make a formal complaint, please use the Complaints Form. For more on this, including the Complaints Form and contact details, see the [BDO Complaints Policy](#) available on our website.

##### *Referral to External Dispute Resolution Scheme*

BDO Corporate Finance is a member of AFCA (Member Number 10236).

Where you are unsatisfied with the resolution reached through our Internal Dispute Resolution process, you may escalate this complaint to the Australian Financial Complaints Authority (AFCA) using the contact details set out below.

Australian Financial Complaints Authority Limited  
Mail: GPO Box 3, Melbourne VIC 3001  
Online Address: <http://www.afca.org.au>  
Email: [info@afca.org](mailto:info@afca.org)  
Phone: 1800 931 678  
Fax: (03) 9613 6399  
Interpreter Service: 131 450

##### *Compensation Arrangements*

BDOCF and its related entities hold Professional Indemnity insurance for the purpose of compensating retail clients for loss or damage suffered because of breaches of relevant obligations by BDOCF or its representatives under Chapter 7 of the Corporations Act 2001. These arrangements and the level of cover held by BDOCF satisfy the requirements of section 912B of the Corporations Act 2001.

##### *Contact Details*

BDO Corporate Finance Ltd

Location Address:	Postal Address:
Level 10 12 Creek Street BRISBANE QLD 4000	GPO Box 457 BRISBANE QLD 4001
Phone: (07) 3237 5999	Email: <a href="mailto:cf.brisbane@bdo.com.au">cf.brisbane@bdo.com.au</a>
Fax: (07) 3221 9227	

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## GLOSSARY

Reference	Definition
A\$ or \$	Australian dollars
AGM	Annual general meeting
APES 225	Accounting Professional and Ethical Standards Board professional standard APES 225 <i>Valuation Services</i>
ASIC	Australian Securities and Investment Commission
ASX	Australian Securities Exchange
BDO Persons	The partners, directors, agents or associates of BDO
BDOCF	BDO Corporate Finance Ltd
Board, the	The board of directors of the Company
CGU	Cash generating unit
CMB	CMB Seafoods Pty Ltd
Company, the	East 33 Limited
Corporations Act, the	The Corporations Act 2001 (Cth)
Directors, the	The Directors of the Company
East 33	East 33 Limited
EBIT	Earnings Before Interest and Tax
EBITDA	Earnings Before Interest, Tax, Depreciation and Amortisation
Founders, the	Mr James Garton, Mr Guy Burnett, Mr Mark Nagy and Mr John Wilson
FSG	Financial Services Guide
FY	The financial year or 12-month period ended on 30 June
Hall, Mr	Mr Anthony Hall
Loan Facility, the	East 33's binding loan documentation for the amount of \$15 million with Yumbah Finance
LR 10.1	ASX Listing Rule 10.1
Meeting, the	General meeting to be held on or around 24 November 2023
Mr Hall and his Associated Entities	Mr Hall, Yumbah Aquaculture and Research Corporation
NAB Facility, the	East 33's \$10 million loan facility with the National Australia Bank
Non-Associated Shareholders, the	The shareholders of East 33 who are not associated with Yumbah Finance
Non-Associated Directors, the	The directors of East 33 who are not associated with Yumbah Finance
Note, the	East 33 has entered into binding documentation for the issue of a convertible note to Yumbah Finance
Notice of Meeting, the	The Notice of Meeting and Explanatory memorandum dated on or about 23 October 2023 prepared by East 33
NPAT	Net profit after tax
POMS	Pacific Oyster Mortality Syndrome
QX	Marteiliosis or Aber disease
RCPS	Redeemable convertible preference shares
Regulations, the	The Corporation Regulations 2001 (Cth)

Reference	Definition
Report, this	This independent expert's report prepared by BDOCF and dated 18 September 2023
Research Corporation	Research Corporation Pty Ltd
RG 111	Regulatory Guide 111: <i>Content of Expert Report</i> , issued by ASIC
RGs	Regulatory guides published by ASIC
Secured Liabilities, the	The outstanding balance of the Loan Facility in the event of default (including principal, interest, fees, costs, charges, duties, indemnities, guarantee obligations, damages and enforcement and preservation costs and all and any amounts due, owing or incurred)
Secured Property, the	The assets over which security for the Loan Facility is granted (the assets of East 33 and their subsidiaries)
Security Transaction, the	In the event the security is enforced, the assets of East 33 and its subsidiaries can be disposed of to Yumbah Finance
Shareholders, the	The holders of fully paid ordinary shares in the Company
Verdich	MS Verdich and Sons Pty Ltd
VWAP	Volume weighted average price
Waiver, the	The ASX granting East 33 a waiver from ASX Listing Rule 10.1
We, us, our	BDO Corporate Finance Ltd
Yumbah Aquaculture	Yumbah Aquaculture Limited
Yumbah Finance	Yumbah Finance Pty Ltd

## PART I: ASSESSMENT OF THE SECURITY TRANSACTION

The Non-Associated Shareholders  
C/- Independent Board Committee  
East 33 Limited  
12 Point Road, Tuncurry  
NSW, Australia, 2428

18 September 2023

Dear Non-Associated Shareholders,

### 1.0 Introduction

BDO Corporate Finance Ltd ('BDOCF', 'we', 'us' or 'our') has been engaged to provide an independent expert's report ('this Report') to the non-associated shareholders of East 33 Limited ('East 33' or 'the Company') in relation to the prior granting of security over all the present and after acquired assets of East 33 and its subsidiaries, such that in the event the security provided is enforced, the Company and its subsidiaries assets can be disposed of to Yumbah Finance Pty Ltd ('Yumbah Finance'). Specifically, we note the following:

- ▶ On 16 August 2023, East 33 announced that it had entered into a binding loan documentation with Yumbah Finance for a loan in the amount of \$15.0 million ('the Loan Facility');
- ▶ Yumbah Finance is owned by Yumbah Aquaculture Limited ('Yumbah Aquaculture') and Research Corporation Pty Ltd ('Research Corporation') which are entities controlled by Mr Anthony Hall ('Mr Hall') (together referred to as 'Mr Hall and his Associated Entities'). We note that together, Mr Hall and his Associated Entities have an interest in the Company of approximately 37.5%;
- ▶ The Australian Securities Exchange ('ASX') has granted East 33 with a waiver of ASX Listing Rule 10.1 ('LR 10.1') ('the Waiver'). The Waiver enabled the Company to grant Yumbah Finance an all-assets security over East 33 and its subsidiaries, in order to secure the Company and its subsidiaries obligations under the Loan Facility; and
- ▶ At the 2023 annual general meeting ('AGM'), East 33 is seeking shareholder approval for Resolution 6 as follows:  
*"That for the purposes of ASX Listing Rule 10.1 and for all other purposes, approval is given for:*
  - (a) *the earlier grant by the Companies and its Subsidiaries of a security to Yumbah Finance over all present and after acquired assets of the Company (or a subsidiary) (security); and*
  - (b) *any subsequent disposals by the Company and its Subsidiaries to Yumbah Finance of its present and after acquired assets pursuant to any enforcement of the Securities, on the terms and conditions described in the Explanatory Statement."*

The approval required under Resolution 6 is termed 'the Security Transaction' in this Report. For completeness we note that security over all the assets has already been provided and will not change irrespective of the outcome of the Security Transaction. Rather, approval of the Security Transaction will allow the assets of the Company to be disposed of to Yumbah Finance in the event the security provided is enforced.

A more detailed description of the Security Transaction is set out in Section 4.

The shareholders of East 33 who are not associated with Yumbah ('the Non-Associated Shareholders') are requested by the directors of East 33 who are not associated with Yumbah ('the Non-Associated Directors') to vote in favour of or against the Security Transaction at the 2023 AGM of East 33's shareholders to be held on or around 24 November 2023 ('the Meeting').

In this Report, BDOCF has expressed an opinion as to whether or not the Security Transaction is 'fair and reasonable' to the Non-Associated Shareholders. This Report has been prepared solely for use by the Non-Associated Shareholders to provide them with information relating to the Security Transaction. The scope and purpose of this Report are detailed in Sections 3.3 and 3.4 respectively.

This Report, including Part I and Part II, should be read in full along with all other documentation provided to the Shareholders including the notice of meeting and explanatory memorandum prepared by East 33 and dated on or about 23 October 2023 ('the Notice of Meeting').

## 2.0 Assessment of the Security Transaction

This section is set out as follows:

- ▶ Section 2.1 sets out the methodology for our assessment of the Security Transaction;
- ▶ Section 2.2 sets out our assessment of the fairness of the Security Transaction;
- ▶ Section 2.3 sets out our assessment of the reasonableness of the Security Transaction; and
- ▶ Section 2.4 provides our assessment of whether the Security Transaction is fair and reasonable to the Non-Associated Shareholders.

### 2.1 Basis of Evaluation

This Report has been prepared for the purpose of meeting certain requirements of the ASX Listing Rules (refer Section 3.4 below).

The ASX Listing Rules do not provide guidance in relation to the definition of ‘fair and reasonable’. In determining whether the Security Transaction is considered fair and reasonable we have had regard to the guidance provided by Regulatory Guide 111: *Content of Expert Reports* (‘RG 111’). RG 111 provides guidance as to what matters an independent expert should consider to assist security holders to make an informed decision about transactions.

RG 111 suggests that where an expert is to assess whether a related party transaction is ‘fair and reasonable’ for the purpose of complying with ASX LR 10.1, the assessment should not be applied as a composite test. That is, the expert should assess separately whether the transaction is ‘fair’ and ‘reasonable’. The expert’s report should explain how the particulars of the transaction were evaluated as well as the results of the examination and evaluation.

We have assessed the fairness and reasonableness of the Security Transaction in Sections 2.2 and 2.3 below and concluded on our opinion of the Security Transaction in Section 2.4 below.

### 2.2 Assessment of Fairness

#### 2.2.1 Basis of Assessment

RG 111 states that a related party offer is fair if the value of the financial benefit to be provided by the entity to the related party is equal to or less than the value of the consideration being provided to the entity. This comparison should be made:

- ▶ Assuming a knowledgeable and willing, but not anxious, buyer and a knowledgeable and willing, but not anxious, seller acting at arm’s length; and
- ▶ If the transaction is considered to be a control transaction, assuming 100% ownership of the target irrespective of whether the consideration is scrip or cash.

The purpose of this Report is summarised in Section 3.4.2 and notes that using an asset as collateral in a related party transaction is considered a disposal under the ASX Listing Rules. Our fairness assessment considers the circumstance where there is a default and the security for the Loan Facility is called by Yumbah Finance, through enforcement actions such as the appointment of a receiver to the assets over which security is granted (‘the Secured Property’).

Under RG 111, in the case of the Security Transaction, the proceeds flowing from the sale of the Secured Property by a receiver in the event of default pursuant to the terms of the Loan Facility constitutes the financial benefit to be provided to Yumbah Finance. The consideration provided by Yumbah Finance to East 33 is the outstanding amount on the Loan Facility that will be reduced/satisfied from the sale of the Secured Property in the event of a default in relation to the Loan Facility.

Having regard to the above, the Security Transaction is ‘fair’ if the value of the security provided to Yumbah Finance (i.e. the value of the proceeds flowing to Yumbah Finance from the sale of the Secured Property) is equal to or less than the value of the amounts due pursuant to the security in the event of a default on the Loan Facility.

Under the terms of the Loan Facility, as set out in the relevant documents, Yumbah Finance’s entitlement in the event of default is limited to the outstanding amount under the terms of the Loan Facility, including principal, interest, fees, costs, charges, duties, indemnities, guarantee obligations, damages and enforcement and preservation costs and all and any amounts due, owing or incurred (‘the Secured Liabilities’).

If the proceeds received from the sale of the Secured Property through the enforcement process are greater than the Secured Liabilities and any amounts that have priority at law, then Yumbah Finance will only receive the amount necessary to satisfy the Secured Liabilities at the time the Secured Property is sold. Any surplus is remitted to the entity that owned the Secured Property at the time it was sold and to which the surplus relates (i.e. the relevant mortgagor/guarantor/pledger or any insolvency officer if one is appointed to the relevant entity). Once any amounts owing to other parties (such as a liquidator if one is appointed) and other creditors have been repaid, any surplus funds that remain in that entity may be returned to that relevant entity’s shareholders.

For completeness, we note that in Australia, in the event of a default under the terms of the Loan Facility, Yumbah Finance may exercise its powers of enforcement and appoint a controller<sup>1</sup> to recover the Secured Liabilities, which may involve a sale of the relevant Secured Property (either to an unrelated third party or to Yumbah Finance). We note that if appointed, a controller has an obligation under section 420A of the Corporations Act 2001 ('the Act') to take all reasonable care to sell the Secured Property at:

- ▶ Not less than that market value (if it has a market value at the time of sale); or
- ▶ Otherwise, the best price that is reasonably obtainable having regard to the circumstances existing when the Secured Property is sold.

Given the above, a controller will usually take a number of steps to ensure they have complied with the relevant legislation. These steps can include the following:

- ▶ Advertising the property for sale to the market so that the eventual price is determined in accordance with market demand and has regard to the existing circumstances of the property and the market when sold;
- ▶ Obtaining a market valuation from a valuer with the relevant expertise and credentials; and
- ▶ Choosing a method of sale which is suited to the type of property.

Having regard to the above, in our view, it is appropriate to assume for the purposes of our analysis in this Report that, in the event of a default in relation to the Loan Facility, any sales process pursued to divest the Secured Property is legally required to be conducted in a manner to realise market value (or otherwise, the best price that is reasonably obtainable) as at the time of sale, having regard to the existing state of the assets and the market.

Accordingly, if Yumbah Finance opts to participate in the sale process in order to purchase the Secured Property (rather than receive the proceeds from a sale of the Secured Property to a third party), the consideration paid by Yumbah Finance would be determined by the competitiveness of the sale process with the Secured Property usually sold to the party with the best offer in terms of price and conditions of sale and taking into account the obligations on a controller pursuant to the Act. Yumbah Finance's ability to purchase the Secured Property will depend on whether it is the party with the best offer (e.g. the highest bidder at a sale by public auction).

For completeness, we note that in the event where a controller is unable to sell the Secured Property (either to a third party or to Yumbah Finance), Yumbah Finance may be able to acquire the Secured Property via foreclosure by an application to the relevant Court or Registrar General in the applicable jurisdiction. However, where a financier, a receiver or an attorney in exercising its powers under a security seeks to exercise any right in the nature of foreclosure (whether pursuant to section 61 of the Real Property Act (NSW), section 129 of the PPSA or otherwise) there are several requirements that must be met in order for foreclosure to occur. We have summarised these requirements below:

- ▶ Default in payment must have subsisted for 6 months;
- ▶ Notice of the intention to make the application must be served on all interested parties (mortgagor; other registered mortgagees; caveators; holders of prior unregistered interests etc);
- ▶ The land, estate or interest mortgaged or charged must have been offered for sale at a public auction by a licensed auctioneer in respect of which the mortgagor was given notice in accordance with section 57 of the Real Property Act (NSW);
- ▶ The highest bid at the auction must have not been sufficient to satisfy the money secured together with expenses; and
- ▶ The above must be certified by statutory declaration (and by the auctioneer in relation to the auction matters) and accompanied by such other proof of matters that the Registrar General may require.

Given the difficulty and extent of the above requirements, we do not envisage that Yumbah Finance would seek to foreclose over the Secured Property but would rather seek to obtain the assets through the sale process conducted by the controller (e.g. purchase the Secured Property at public auction). Notwithstanding this, we have considered this outcome in our opinion of fairness below.

### 2.2.2 *Opinion of Fairness*

To assess whether the Security Transaction is fair, we have compared the value of the proceeds flowing to Yumbah Finance from the sale of the Secured Property to the value of the Secured Liabilities owing to Yumbah Finance in the event of a default of the Loan Facility under several scenarios. In considering the various possible scenarios, we note the following:

- ▶ In the scenario where the value of the proceeds from the sale of the Secured Property (after payment of amounts that have priority at law) is greater than the value of the Secured Liabilities, Yumbah Finance are only entitled to receive the proceeds equal to the balance of the Secured Liabilities. As mentioned previously, in the event that Yumbah Finance purchase the Secured Property, the proceeds received following the sale (the effective reimbursement) will not exceed the outstanding balance of the Secured Liabilities;

<sup>1</sup> 'Controller' in relation to property of a corporation means a receiver or receiver and manager of the property or anyone else who (whether or not as agent for the corporation) is in possession or has control of that property for the purpose of enforcing a security interest.

- ▶ In the scenario where the value of the proceeds from the sale of the Secured Property (after payment of amounts that have priority at law) is equal to the Secured Liabilities, Yumbah Finance are entitled to receive all of the sale proceeds;
- ▶ In the scenario where the value of the proceeds from the sale of the Secured Property (after payment of amounts that have priority at law) is less than the Secured Liabilities, Yumbah Finance are entitled to receive all of the sale proceeds. To the extent the Secured Liabilities exceed the value of the proceeds received from the sale of the Secured Property, and all Secured Property of the mortgagor and guarantors has been enforced and realised, Yumbah Finance are an unsecured creditor of the mortgagor and guarantors, under the terms of the Loan Facility, for the shortfall. If the mortgagor and guarantors have no other assets or capacity to pay, Yumbah Finance may suffer a loss equal to the shortfall; and
- ▶ In the scenario where Yumbah Finance seeks to foreclose over the Secured Property, a prerequisite for an application for foreclosure is that the value that could be realised (at the time a public auction was conducted by a controller) was not sufficient to satisfy the obligations under the Secured Liabilities. As a result, we would expect that the value of the Secured Property at the time of foreclosure would be less than the Secured Liabilities.

Table 2.1 below summarises the potential outcomes from the settlement of the Loan Facility under a default scenario where the Secured Property is sold/disposed by an enforcement action.

**Table 2.1: Potential Settlement Scenarios for the Secured Liabilities in the Event of a Sale by Enforcement Action**

Scenario	Consequence	Fairness
Value of Secured Property > Secured Liabilities <sup>1</sup>	Security provided = liabilities settled	Fair
Value of Secured Property = Secured Liabilities <sup>1</sup>	Security provided = liabilities settled	Fair
Value of Secured Property < Secured Liabilities <sup>1</sup>	Security provided < liabilities owing	Fair

Source: *BDOCF Analysis*

<sup>1</sup> After payment of amounts that have priority at law.

Having regard to the potential settlement scenarios summarised above, in all circumstances Yumbah Finance are entitled to receive a maximum amount equal to the Secured Liabilities, in circumstances where the Secured Property is sold in an enforcement action.

After considering the information above, it is our view that in the absence of any further information, the Security Transaction is **Fair** to the Non-Associated Shareholders as at the date of this Report.

## 2.3 Assessment of Reasonableness

### 2.3.1 Basis of Assessment

Under RG 111, a transaction is considered reasonable if it is fair. It may also be reasonable, despite not being fair, if after considering other significant factors the interests of the shareholders are reasonably balanced.

In addition to our fairness assessment set out in Section 2.2 above, to assess whether the Security Transaction is 'reasonable' we consider it appropriate to examine other significant factors to which the Non-Associated Shareholders may give consideration prior to forming a view on whether to vote in favour of or against the Security Transaction. This includes comparing the likely advantages and disadvantages of approving the Security Transaction with the position of a Non-Associated Shareholder if the Security Transaction is not approved, as well as a consideration of other significant factors.

Our assessment of the reasonableness of the Security Transaction is set out as follows:

- ▶ Section 2.3.2 sets out the advantages of the Security Transaction to the Non-Associated Shareholders;
- ▶ Section 2.3.3 sets out the disadvantages of the Security Transaction to the Non-Associated Shareholders;
- ▶ Section 2.3.4 sets out the position of the Non-Associated Shareholders if the Security Transaction is not approved; and
- ▶ Section 2.3.5 provides our opinion on the reasonableness of Security Transaction to the Non-Associated Shareholders.

### 2.3.2 Advantages of the Security Transaction

Table 2.2 below outlines the potential advantages to the Non-Associated Shareholders of approving the Security Transaction.

**Table 2.2: Potential Advantages of the Security Transaction**

Advantage	Explanation
The Security Transaction is Fair	In our view, the Security Transaction is fair to the Non-Associated Shareholders as at the date of this Report. In accordance with RG111, a transaction is considered reasonable if it is fair. Refer to Section 2.2 of this Report for our assessment of fairness of the Security Transaction.
Creates a more competitive sale process for the Secured Property	<p>East 33 has granted security over all its present and after acquired assets to Yumbah Finance and this will not change irrespective of the outcome of the Security Transaction (discussed further in Section 2.3.4 below). Rather, the primary change from approving the Security Transaction will relate to Yumbah Finance's ability to participate in the sales process in the event of default.</p> <p>As discussed in Section 2.2.1, in the event of default, it is the obligation of the controller/ receiver under section 420A of the Act to sell the Secured Property at:</p> <ul style="list-style-type: none"> <li>▶ Not less than that market value (if it has a market value at the time of sale); or</li> <li>▶ Otherwise, the best price that is reasonably obtainable having regard to the circumstances existing when the Secured Property is sold.</li> </ul> <p>In our view, it would not be in the interests of the Company to limit the number of parties that can participate in the bidding and ultimate purchase process for the Secured Property. A less competitive sales process that excludes Yumbah Finance may reduce the value that can be realised from the sale of the Secured Property.</p> <p>If the Security Transaction is approved, the Company will be permitted to dispose of their assets to Yumbah Finance and by extension, create a more competitive sale process. We note, as the sales price increases, so too does the likelihood that the proceeds from the sale of the Secured Property exceed the balance of the Secured Liabilities. In this event, the surplus of funds would flow to East 33 or one of its subsidiaries (depending on which entity's security was sold).</p>
Right to exercise foreclosure	In the event the Secured Property cannot be sold at public auction by the controller at a price sufficient to satisfy the Secured Liabilities there is an avenue for Yumbah Finance or controller to apply for foreclosure subject to certain conditions (summarised above in Section 2.2.1). This may be beneficial in that the requirement for the controller to sell the Secured Property would come to an end which would avoid ongoing costs of the controllership increasing the quantum of the Secured Liabilities.

Source: BDOCF analysis

### 2.3.3 Disadvantages of the Security Transaction

Table 2.3 below outlines the potential disadvantages to the Non-Associated Shareholders of approving the Security Transaction.

**Table 2.3: Potential Disadvantages of the Security Transaction**

Disadvantage	Explanation
Yumbah Finance participation may deter third parties	<p>Yumbah Finance's ability to participate in the sale campaign may deter third parties from participating in the sale process if the third parties form a view that Yumbah Finance has an advantage or is the preferred buyer.</p> <p>However, the obligations on a controller conducting a sale pursuant to section 420A of the Act may assist with a sale process being transparent and competitive to all parties, which would in turn attract all parties to participate.</p>

Source: BDOCF analysis

### 2.3.4 Position of the Shareholders if the Security Transaction is Not Approved

In the event that the Security Transaction is not approved, the Loan Facility will still be secured by the assets of the Company as the security has already been granted. However, in the event of default, Yumbah will not be able to participate in the sale process of the assets (potentially reducing the pool of potential buyers) and Yumbah Finance will not be entitled to exercise any right in the nature of foreclosure.

We note, if East 33 were to default on the Loan Facility, whilst Yumbah Finance will not be entitled to purchase the assets of East 33 and its subsidiaries, Yumbah Finance is entitled to take action to enforce its security including the appointment of a receiver to sell the Secured Property to a person that is not a related party to Yumbah Finance.

East 33 has incurred costs in relation to the Security Transaction. East 33 will not be able to recover the costs that it has incurred in relation to the Security Transaction irrespective of whether or not the Security Transaction is approved.

### 2.3.5 Assessment of the Reasonableness of the Security Transaction

In our opinion, after considering all of the issues set out in this Report, it is our view that the Security Transaction is **Reasonable** to the Non-Associated Shareholders as at the date of this Report.

## 2.4 Opinion

After considering the above assessments, it is our view that, in the absence of any other information, the Security Transaction is **Fair and Reasonable** as at the date of this Report.

Before forming a view on whether to vote in favour of or against the Security Transaction, Shareholders must:

- ▶ Have regard to the information set out in the balance of this Report, including the Important Information set out in Section 3;
- ▶ Consult their own professional advisers; and
- ▶ Consider their specific circumstances.

## 3.0 Important Information

### 3.1 Read this Report, and Other Documentation, in Full

This Report, including Part I and Part II, should be read in full to obtain a comprehensive understanding of the purpose, scope, basis of evaluation, limitations, information relied upon, analysis, and assumptions underpinning our work and our findings.

Other information provided to the Non-Associated Shareholders in conjunction with this Report should also be read in full, including the Notice of Meeting prepared by East 33 and dated on or about 23 October 2023.

### 3.2 Shareholders' Individual Circumstances

Our analysis has been completed and our conclusions expressed at an aggregate level having regard to the Non-Associated Shareholders as a whole. BDOCF has not considered the impact of the Security Transaction on the particular circumstances of individual Non-Associated Shareholders. Individual Non-Associated Shareholders may place a different emphasis on certain elements of the Security Transaction relative to the emphasis placed in this Report. Accordingly, individual Non-Associated Shareholders may reach different conclusions as to whether or not the Security Transaction is fair and reasonable in their individual circumstances.

The decision of an individual Non-Associated Shareholder to vote in favour of or against the Security Transaction is likely to be influenced by their particular circumstances and accordingly, the Non-Associated Shareholders are advised to consider their own circumstances and seek their own independent advice.

Voting in favour of or against the Security Transaction is a matter for individual Non-Associated Shareholders based on their expectations as to the expected value, future prospects and market conditions together with their particular circumstances, including risk profile, liquidity preference, portfolio strategy and tax position. The Shareholders should carefully consider the Notice of Meeting. Non-Associated Shareholders who are in doubt as to the action they should take in relation to the Security Transaction should consult their professional adviser.

With respect to the taxation implications of the Security Transaction, it is strongly recommended that the Non-Associated Shareholders obtain their own taxation advice, tailored to their own particular circumstances.

### 3.3 Scope

In this Report we provide our opinion on whether the Security Transaction is fair and reasonable to the Non-Associated Shareholders.

This Report has been prepared at the request of the Non-Associated Directors for the sole benefit of the Non-Associated Shareholders entitled to vote, to assist them in their decision to vote in favour of or against the Security Transaction. This Report is to accompany the Notice of Meeting to be sent to the Non-Associated Shareholders to consider the Security Transaction and was not prepared for any other purpose. Accordingly, this Report and the information contained herein may not be relied upon by anyone other than the Non-Associated Directors and the Non-Associated Shareholders without our written consent. We accept no responsibility to any person other than the Non-Associated Directors and the Non-Associated Shareholders in relation to this Report.

This Report should not be used for any other purpose and we do not accept any responsibility for its use outside this purpose. Except in accordance with the stated purpose, no extract, quote or copy of this Report, in whole or in part, should be reproduced without our written consent, as to the form and context in which it may appear.

We have consented to the inclusion of this Report with the Notice of Meeting. Apart from this Report, we are not responsible for the contents of the Notice of Meeting or any other document associated with the Security Transaction. We acknowledge that this Report may be lodged with regulatory authorities to obtain the relevant approvals prior to it being made available to the Non-Associated Shareholders.

The scope of procedures we have undertaken has been limited to those procedures required in order to form our opinion. Our procedures did not include verification work nor constitute an audit or assurance engagement in accordance with Australian Auditing and Assurance Standards. In preparing this Report we considered a range of matters, including the necessary legal requirements and guidance of the Corporations Act 2001 (Cth) ('the Corporations Act'), the Corporation Regulations 2001 ('the Regulations'), the regulatory guides ('RGs') published by the Australian Securities and Investments Commission ('ASIC'), the listing requirements of the relevant exchanges (where relevant) and commercial practice.

In forming our opinion, we have made certain assumptions and outline these in this Report including:

- ▶ We have performed our analysis on the basis that the conditions precedent to the Security Transaction are satisfied;
- ▶ That matters such as title to all relevant assets, compliance with laws and regulations and contracts in place are in good standing, and will remain so, and that there are no material legal proceedings, other than as publicly disclosed;
- ▶ All information which is material to the Non-Associated Shareholders' decision on the Security Transaction has been provided and is complete, accurate and fairly presented in all material respects;

- ▶ ASX announcements and other publicly available information relied on by us are accurate, complete and not misleading;
- ▶ If the Security Transaction is approved, that it will be implemented in accordance with the stated terms;
- ▶ The legal mechanism to implement the Security Transaction is correct and effective;
- ▶ There are no undue changes to the terms and conditions of the Security Transaction or complex issues unknown to us; and
- ▶ Other assumptions, as outlined in this Report.

In this Report we have not provided any taxation, legal or other advice of a similar nature in relation to the Security Transaction. East 33 has engaged other advisors in relation to those matters.

East 33 has acknowledged that the Company's engagement of BDOCF is as an independent contractor and not in any other capacity, including a fiduciary capacity.

The statements and opinions contained in this Report are given in good faith and are based upon our consideration and assessment of the information provided by the Board, executives and management of all the entities.

### **3.4 Purpose of this Report**

An independent expert, in certain circumstances, must be appointed to meet the requirements set out in the Corporations Act, the Regulations, RGs and in some cases the listing requirements of the relevant exchanges. These requirements have been set out in Sections 3.4.1 and 3.4.2 below.

#### *3.4.1 Requirements of the Corporations Act*

This Report has not been prepared for the purpose of complying with any requirements of the Corporations Act.

#### *3.4.2 Listing Requirements*

ASX Listing Rule 10.1 states that an entity must ensure that neither it, nor any of its subsidiaries, acquires a substantial asset from, or disposes of a substantial asset to, a substantial holder or a related party without the approval of non-associated shareholders.

ASX Listing Rule 10.2 defines an asset as substantial if its value or the consideration for it is, or in ASX's opinion is, 5% or more of the value of the equity interests of the entity, as set out in the latest accounts given to the ASX in accordance with the ASX listing rules ('Substantial Asset'). Based on ASX Listing Rule 10.1.3, a substantial holder is a person who has relevant interest, or had a relevant interest at any time in the six months before the transaction, in at least 10% of the voting power of the company ('Substantial Holder').

According to ASX Listing Rule 19, the definition of 'acquire' includes increasing an economic interest.

The Company has been granted a waiver by the ASX under LR 10.1 to grant Yumbah Finance with an all-assets security over East 33 and its subsidiaries, in order to secure the Company's obligations under the Loan Facility. We note that approval of the Security Transaction will allow East 33 and its subsidiaries to dispose their assets to Yumbah Finance in the event the security is enforced. As the Security Transaction involves using a Substantial Asset as collateral with the Loan Facility issued by a Substantial Holder, being Yumbah Finance (specifically, the entities that own/control Yumbah Finance being Mr Hall and his Associated Entities), pursuant to ASX LR 10.1, the Security Transaction requires approval by the Non-Associated Shareholders.

Under ASX Listing Rule 10.5, where shareholder approval is sought for the purpose of complying with ASX Listing Rule 10.1, the notice of meeting distributed to shareholders in relation to the transaction must include a report prepared by an independent expert, which states the expert's opinion as to whether the transaction is fair and reasonable to the non-associated shareholders.

East 33 are seeking shareholder approval under ASX Listing Rule 10.1 and this Report has been prepared to comply with the requirements of ASX Listing Rules 10.1, 10.2 and 10.5, having regard to the Security Transaction.

### **3.5 Current Market Conditions**

Our opinion and the analysis set out in this Report is based on economic, commodity, market and other conditions prevailing at the date of this Report. Such conditions can change significantly over relatively short periods of time and may have a material impact on the results presented in this Report and result in any valuation or other opinion becoming quickly outdated and in need of revision.

In circumstances where we become aware of and believe that a change in these conditions, prior to the Meeting, results in a material statement in this Report becoming misleading, deceptive or resulting in a material change in valuation, we will provide supplementary disclosure to East 33. BDOCF is not responsible for updating this Report following the Meeting or in the event that a change in prevailing circumstance does not meet the above conditions.

### 3.6 Reliance on Information

East 33 recognises and confirms that, in preparing this Report, except to the extent to which it is unreasonable to do so, BDOCF, BDO Services Pty Ltd or any of the partners, directors, agents or associates (together 'BDO Persons'), will be using and relying on publicly available information and on data, material and other information furnished to BDO Persons by East 33, its management, and other parties, and may assume and rely upon the accuracy and completeness of, and is not assuming any responsibility for independent verification of, such publicly available information and the other information so furnished.

Unless the information we are provided suggests the contrary, we have assumed that the information provided was reliable, complete and not misleading, and material facts were not withheld. The information provided was evaluated through analysis and inquiry for the purpose of forming an opinion as to whether or not the Security Transaction is fair and reasonable.

We do not warrant that our inquiries have identified or verified all of the matters which an audit, extensive examination or due diligence investigation might disclose. In any event, an opinion as to whether a corporate transaction is fair and reasonable is in the nature of an overall opinion rather than an audit or detailed investigation.

It is understood that the accounting information provided to us was prepared in accordance with generally accepted accounting principles.

Where we relied on the views and judgement of management, the information was evaluated through analysis and inquiry to the extent practical. Where we have relied on publicly available information, we have considered the source of the information and completed our own analysis to assist us to determine the accuracy of the information we have relied on. However, in many cases the information we have relied on is often not capable of external verification or validation and on that basis we provide no opinion or assurance on the information.

The Non-Associated Directors represent and warrant to us for the purpose of this Report, that all information and documents furnished by East 33 (either by management directly or through its advisors) in connection or for use in the preparation of this Report do not contain any untrue statements of a material fact or omit to state a material fact necessary in order to make the statements therein. We have received representations from the Non-Associated Directors in relation to the completeness and accuracy of the information provided to us for the purpose of this Report.

Under the terms of our engagement, East 33 has agreed to indemnify BDO Persons against any claim, liability, loss or expense, costs or damage, arising out of reliance on any information or documentation provided, which is false or misleading or omits any material particulars, or arising from failure to supply relevant documentation or information.

### 3.7 Glossary

Capitalised terms used in this Report have the meanings set out in the glossary. A glossary of terms used throughout this Report is set out immediately following the Table of Contents at the start of this Report.

All dollar ('\$') references in this Report are in Australian dollars unless otherwise stated.

### 3.8 Sources of Information

This Report has been prepared using information obtained from sources including the following:

- ▶ East 33 annual report for the year ended 30 June 2022 and 30 June 2021;
- ▶ East 33 preliminary final report for the year ended 30 June 2023;
- ▶ East 33 ASX announcements;
- ▶ The Loan Facility Agreement between East 33 and Yumbah Finance dated 15 August 2023;
- ▶ The General Security Deed between East 33 and Yumbah Finance dated 15 August 2023;
- ▶ The Notice of Meeting;
- ▶ Capital IQ;
- ▶ IBISWorld;
- ▶ Other research publications and publicly available data as sourced throughout this Report;
- ▶ Various transaction documents provided by the Management of East 33 and their advisors;
- ▶ Discussions and other correspondence with East 33, management and their advisors.

### 3.9 APES 225 Valuation Services

This assignment is a Valuation Engagement as defined by Accounting Professional & Ethical Standards Board professional standard APES 225 *Valuation Services* ('APES 225'). A Valuation Engagement is defined by APES 225 as 'an Engagement or Assignment to perform a Valuation and provide a Valuation Report where the Valuer is free to employ the Valuation Approaches, Valuation Methods, and Valuation Procedures that a reasonable and informed third party would perform taking into consideration all the specific facts and circumstances of the Engagement or Assignment available to the Valuer at that time.'

This Valuation Engagement has been undertaken in accordance with the requirements set out in APES 225.

### 3.10 Forecast Information

Any forecast financial information referred to in this Report has originated from the Company's management and is adopted by the Directors in order to provide us with a guide to the potential financial performance of East 33. There is a considerable degree of subjective judgement involved in preparing forecasts since they relate to event(s) and transaction(s) that have not yet occurred and may not occur. Actual results are likely to be different from the forecast financial information since anticipated event(s) or transaction(s) frequently do not occur as expected and the variation between actual results and those forecast may be material.

The directors' best-estimate assumptions on which the forecast is based relate to future event(s) and/or transaction(s) that management expect to occur and actions that management expect to take and are also subject to uncertainties and contingencies, which are often outside the control of East 33. Evidence may be available to support the directors' best-estimate assumptions on which the forecast is based however, such evidence is generally future-oriented and therefore speculative in nature. In certain circumstances, we may adjust the forecast assumptions provided by management to complete our valuation work. In this instance, the forecasts we have adopted for our valuation work will not be the same as the forecasts provided by management.

BDOCF cannot and does not provide any assurance that any forecast is representative of results or outcomes that will actually be achieved. While we have considered the forecast information to the extent we considered necessary to complete the analysis set out in this Report, we have not been engaged to provide any form of assurance conclusion on any forecast information set out in this Report. We disclaim any assumption of responsibility for any reliance on this Report, or on any forecast to which it relates, for any purpose other than that for which it was prepared. We have assumed, and relied on representations from certain members of management, that all material information concerning the prospects and proposed operations of East 33 has been disclosed to us and that the information provided to us for the purpose of our work is true, complete and accurate in all respects. We have no reason to believe that those representations are false.

### 3.11 Qualifications

BDOCF has extensive experience in the provision of corporate finance advice, including takeovers, valuations and acquisitions. BDOCF holds an Australian Financial Services Licence issued by ASIC for preparing expert reports pursuant to the Listing Rules of the ASX and the Corporations Act.

BDOCF and its related parties in Australia have a wide range of experience in transactions involving the advising, auditing or expert reporting on companies that have operations domestically and in foreign jurisdictions. BDO in Queensland and in Australia is a national association of separate partnerships and entities and is a member of the international BDO network of individual firms.

Mark Whittaker and Scott Birkett have prepared this Report with the assistance of staff members. Mr Whittaker, BCom (Hons), CA, CFA, and Mr Birkett, BbusMan/Bcom, CFA, are directors of BDOCF. Both Mr Whittaker and Mr Birkett have extensive experience in corporate advice and the provision of valuation and professional services to a diverse range of clients, including large private, public and listed companies, financial institutions and professional organisations. Mr Whittaker and Mr Birkett are considered to have the appropriate experience and professional qualifications to provide the advice offered within this Report.

**BDO Corporate Finance Ltd**



**Mark Whittaker**  
Director



**Scott Birkett**  
Director

## PART II: INFORMATION SUPPORTING OUR OPINION ON THE SECURITY TRANSACTION

### 4.0 Overview of the Security Transaction

This section sets out an overview of the Security Transaction and is structured as follows:

- ▶ Section 4.1 provides a brief description of the Security Transaction;
- ▶ Section 4.2 provides a summary of the key terms of the Loan Facility; and
- ▶ Section 4.3 describes the key parties involved in the Security Transaction.

This section is a summary only and should not be treated as a complete description of the Security Transaction. The Non-Associated Shareholders should refer to the Notice of Meeting and any subsequent disclosures for additional information relating to the Security Transaction and the key parties involved.

#### 4.1 Summary of the Security Transaction

On 16 August 2023, East 33 announced that it had entered into binding loan documentation with Yumbah Finance for a loan in the amount of \$15.0 million ('the Loan Facility'). The Loan facility constitutes a whole of business facility and will be used for the following:

- ▶ The repayment of the outstanding balance of the \$10.0 million loan facility in place with the National Australia Bank ('the NAB Facility'). We note that as at 30 June 2023, the balance of the NAB Facility was approximately \$4.3 million (see Section 5.5.2);
- ▶ The payment of \$6.0 million payable under the class A redeemable convertible preference shares ('RCPS') due in January 2024; and
- ▶ Other working capital requirements.

The Loan Facility is repayable over a 5-year period and secured over all present and after acquired assets of East 33 and its subsidiaries. East 33 was able to provide an all-assets security over the Company (without obtaining shareholder approval) to a related party as the Company was granted a waiver by the ASX from LR 10.1 ('the Waiver'). With regards to the Waiver, we note that it expressly outlines the following:

- ▶ The security interest is limited to the funds due under the financial accommodation;
- ▶ The security interest will be discharged when the funds due under the financial accommodation have been repaid in full;
- ▶ In the event the security interest is enforced, the assets can only be disposed of to Yumbah Finance or an associate if the disposal is first approved by the entity's security holders under ASX LR 10.1; and
- ▶ Otherwise, if the holder of the security interest exercises, or appoints a receiver, receiver and manager or analogous person to exercise, any power of sale under the security interest, the assets must be sold to an unrelated third party on arm's length commercial terms and the net proceeds of sale distributed to Yumbah Finance in accordance with their legal entitlements.

With regards to the above, we note that East 33 will seek shareholder approval at their 2023 AGM for the purposes of ASX LR 10.1 (and in particular the third dot point above), such that in the event the security is enforced, the assets of East 33 and its subsidiaries can be disposed to Yumbah Finance ('the Security Transaction').

In addition to the Loan Facility announced on 16 August 2023, East 33 has announced that it has entered into binding documentation for the issue of a convertible note to Yumbah Finance ('the Note'). Whilst issuance of the Note remains subject to shareholder approval, East 33 plan to issue the Note to Yumbah Finance detailing that if, at the end of the term of the Loan Facility, Yumbah Finance has not been fully repaid, or in the event the Loan Facility is repayable early as a result of a payment event of default under the Loan Facility or an insolvency event of East 33 or any of its subsidiaries, the Note will be convertible into shares in East 33 at the election of Yumbah Finance (subject to any further shareholder approval required at the time of conversion).

On 28 August 2023, East 33 announced it had drawn down \$8.0 million under the Loan Facility and repaid the NAB Facility.

For completeness we note that no aspect of the Note is incorporated into the Security Transaction and is not considered as part of the assessment set out in this Report.

## 4.2 Summary of the Key Terms of the Loan Facility

Table 4.1 below sets out a summary of the key terms of the Loan Facility. We note that Non-Associated Shareholders should refer to the Company's ASX announcement with the headline 'E33 enters into \$15m refinancing with Yumbah Finance' released on 16 August 2023 for more information.

**Table 4.1: Key Terms of the Loan Facility**

Loan Facility	Key Terms
Financier	Yumbah Finance
Borrower	East 33
Guarantors	All wholly owned subsidiaries of East 33 (see Section 5.2).
Facility limit	\$15.0 million. Four draws are allowed under the Loan Facility in accordance with the below schedule (or in such terms agreed between Yumbah Finance and East 33 in writing): <ul style="list-style-type: none"> <li>▶ August 2023 - \$8.0 million (East 33 announced on 28 August 2023 that this drawdown completed)</li> <li>▶ December 2023 - \$1.0 million</li> <li>▶ January 2024 - \$4.0 million</li> <li>▶ June 2024 - \$2.0 million</li> </ul>
Maturity date	Five years after the date of financial close (being the date of the first financial draw which occurred on 28 August 2023).
Repayment	<ul style="list-style-type: none"> <li>▶ \$nil in the first year</li> <li>▶ \$250k per quarter in the second year</li> <li>▶ \$350k per quarter in the third, fourth and fifth year</li> <li>▶ The outstanding balance at the end of the term</li> </ul>
Security documents	<ul style="list-style-type: none"> <li>▶ General security agreements over East 33 and all guarantors</li> <li>▶ Interlocking guarantee between East 33 and guarantors</li> <li>▶ Form of security over freehold land, crown leases and oyster leases</li> </ul>
Prepayment	Loans may be prepaid in whole or in part on 5 Business Days' prior notice (but, if in part, by a minimum of \$100,000). Any prepayment shall be made without premium or penalty.
Fees	An establishment fee of \$120,000 payable on the first draw down. The \$120,000 is inclusive of all legal cost and expenses of Yumbah Finance.
Interest	The aggregate of: <ul style="list-style-type: none"> <li>▶ 5% per annum; and</li> <li>▶ Interest rate benchmark, BBSY (Bid).</li> </ul>
Payment of interest	Interest will be capitalised for the first 12 months following the initial drawdown and then paid monthly.
Financial covenants (interest coverage)	Interest Coverage based on earnings before interest, tax, depreciation and amortization (excluding non-cash impairments) will be: <ul style="list-style-type: none"> <li>▶ 31 December 2023 - N/A;</li> <li>▶ 30 June 2024 - one (1) times;</li> <li>▶ 31 December 2024 - one (1) times;</li> <li>▶ 30 June 2025 (and subsequent) - two (2) times.</li> </ul> This is measured half yearly. If this is not satisfied, this will constitute a review event under the Loan Facility.
Financial covenants (impairment coverage)	From June 2024, the total non-cash impairment charge may not be greater than \$0.5m for any 12-month period. If this is not satisfied, this will constitute a review event under the Loan Facility.
Financial covenants (capital expenditure v depreciation)	From June 2024, maintenance capital expenditure must not exceed depreciation for any 12-month period. If this is not satisfied, this will constitute a review event under the Loan Facility
Foreclosure	Acknowledgement by the mortgagee that it cannot foreclose, i.e. take possession, over any assets of East 33 unless the Security Transaction is approved.

Source: ASX Announcements

With regards to Table 4.1 above, we note that the Loan Facility was negotiated on the same commercial terms as the NAB Facility but with a number of key changes which the independent board committee considers made the Loan Facility more favourable. These changes include:

- ▶ Facility limit: The Loan Facility has a limit of \$15.0 million instead of \$10.0 million under the NAB Facility;
- ▶ Term: The Loan Facility is for a term of 5 years, instead of 3 years under the NAB Facility, which matures on 21 July 2024;
- ▶ Interest cover covenant: Under the NAB Facility, the interest coverage covenant was based on EBIT and required to be more than three times. Under the Loan Facility, the interest coverage covenant is based on EBITDA and only required to be one or two times (see above table for conditions); and
- ▶ Non satisfaction of interest cover covenant: Non satisfaction of the interest coverage covenant under the NAB Facility is an event of default. Under the Loan Facility, non satisfaction of the interest coverage covenant triggers a review event.

### 4.3 Description of Mr Hall and his Associated Entities

This section provides an overview of Mr Hall and his Associated Entities. However, due to limitations of information from publicly available sources, we are only able to provide a description of Mr Hall and Yumbah Aquaculture.

#### 4.3.1 Mr Hall

As mentioned previously, Yumbah Finance is owned by Yumbah Aquaculture and Research Corporation, both of which are entities controlled by Mr Hall.

Mr Hall first invested in the Company on 26 April 2022 and, as of 3 May 2023, Mr Hall and his Associated Entities hold an interest in the Company of approximately 37.5%.

Mr Hall is an Australian businessman with a background in science (holding a bachelor's and a master's degree in science from La Trobe University).

In 1983, Mr Hall co-founded Pro Medicus Limited (ASX:PME), a developer and supplier of healthcare imaging software and services to hospitals, diagnostic imaging groups, and other related health entities in Australia, North America, and Europe. Mr Hall has been the principal architect and developer of the core software systems, with his current focus on the transition to, and development of, Pro Medicus Limited's next generation radiology information systems .

Mr Hall is also passionate about aquaculture which led to him becoming a foundation investor in Coastal Seafarms which built an abalone farm at Narrawong (near Portland, Victoria) in 1999.

#### 4.3.2 Yumbah Aquaculture

Coastal Seafarms merged with Southseas Abalone Limited, which owned an abalone farm at Port Lincoln, in 2008. Following the merger, additional abalone farms were acquired at Kangaroo Island and Bicheno in Tasmania. In 2016, Mr. Hall lead a restructure of the group and joined the Board. At this time, the group changed its name to Yumbah Aquaculture Limited ('Yumbah Aquaculture').

In 2017, Yumbah Aquaculture entered into a Hatchery Joint Venture to produce oyster spat with Cameron's of Tasmania and subsequently, acquired Cameron's of Tasmania in 2021. Yumbah Aquaculture continued its strategy of multi-species multi-sites with the acquisition of mussel producers Bay Sea Farms in 2021 and Eyre Peninsula Seafoods in 2023.

Yumbah Aquaculture has its head office, an abalone feed manufacturing plant, and a processing/batching facility in Adelaide.

Yumbah Aquaculture's group portfolio now includes the following:

- ▶ Mussel operations in Victoria and South Australia, growing more than 2,600 tonnes a year;
- ▶ Abalone production at four farms in Tasmania, Victoria, and South Australia producing more than 750 tonnes a year;
- ▶ Production of more than 150 million oyster spat per year from South Australia and Tasmania hatcheries for farms in South Australia, New South Wales, and Tasmania; and
- ▶ Farmed mature oyster production of about 450,000 dozen per year from two sites in Tasmania, with investment committed to grow to 650,000 dozen.

## 5.0 Background of East 33

This section is set out as follows:

- ▶ Section 5.1 provides an overview and background information on East 33;
- ▶ Section 5.2 summarises the corporate structure of East 33;
- ▶ Section 5.3 summarises the equity structure of East 33;
- ▶ Section 5.4 summarises the share market trading in East 33 shares; and
- ▶ Section 5.5 summarises the historical financial information of East 33.

### 5.1 Background

East 33 is an ASX listed company (ASX: E33) headquartered in Tuncurry, NSW, Australia. The Company is a vertically integrated oyster producer, processor and supplier that specialises in Sydney Rock Oysters. East 33 was incorporated in September 2019 and listed on the ASX in July 2021.

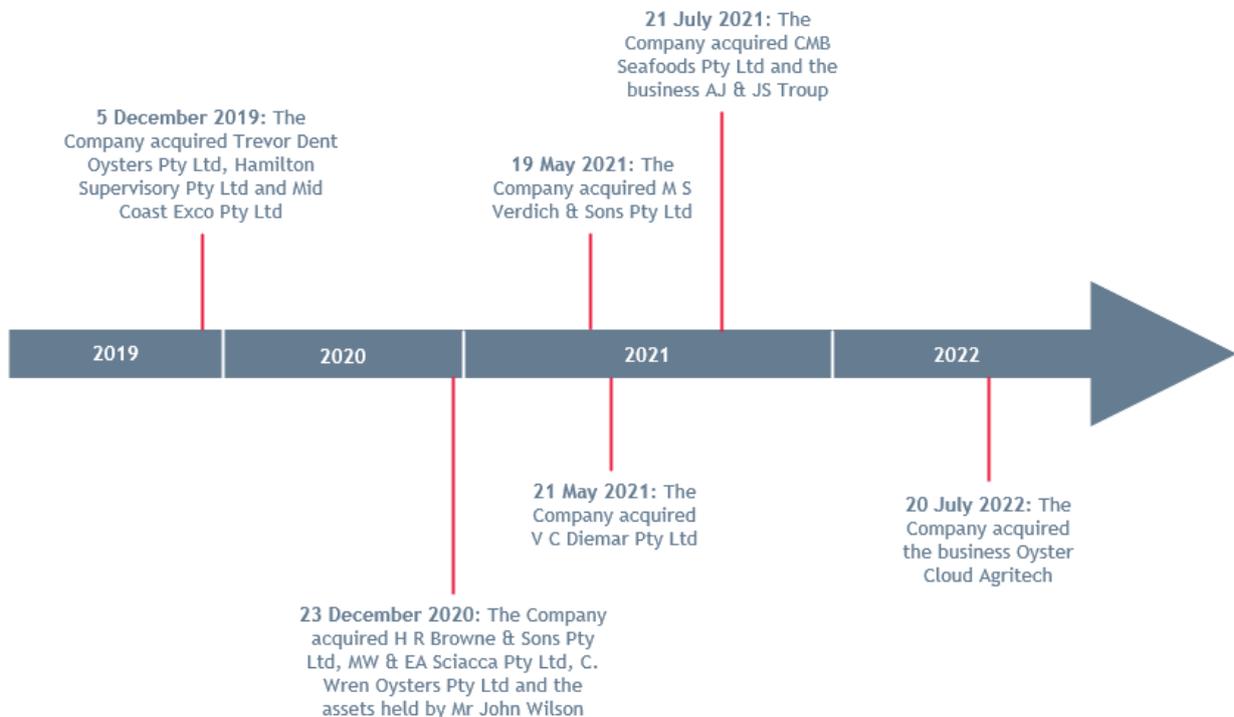
East 33 was founded by Mr James Garton, Mr Guy Burnett, Mr Mark Nagy (business executives with no prior experience in the oyster industry) and Mr John Wilson (an experienced oyster farmer) ('the Founders'). Prior to incorporating the Company, the founders formed relationships with key industry players including farmers, hatcheries and distributors.

Following this, the founders developed a strategic plan to consolidate some of these key industry players under one entity and structurally change the Sydney Rock Oyster industry.

#### 5.1.1 Acquisition and Consolidation History

East 33 are selective of the businesses and assets they acquire, ensuring the investment decisions made align with a specific investment criterion. Due to the scale of the Company's acquisition and consolidation strategy, East 33 implemented a staged acquisition approach, acquiring assets both prior to and following their initial public offering. Figure 5.1 below summarises the history of East 33's acquisitions.

**Figure 5.1: Historical Acquisitions**



Source: East 33's Prospectus dated 16 June 2021 ('the Prospectus') and ASX Announcements

With regards to Figure 5.1 above, we note the following:

- ▶ On 5 December 2019, East 33 completed the acquisition of Trevor Dent Oysters Pty Ltd, Hamilton Supervisory Pty Ltd and Mid Coast Exco Pty Ltd. The acquisition of these companies provided East 33 with approximately 37.7 hectares of oyster leases (located at Wallis Lake and Port Stephens), an export approved warehouse (located at Tuncurry, NSW), a restaurant, oyster bar and marina (located at Wallis Lake) and certificates for the export of fish products to China and Japan;

- ▶ On 23 December 2020, East 33 completed the acquisition of H R Browne & Sons Pty Ltd, MW & EA Sciacca Pty Ltd, Wren Oysters Pty Ltd and the assets held by Mr John Wilson. These acquisitions provided the Company with plant and equipment, interest in certain leases and licences, approximately 34.9 hectares of oyster leases (located in Port Stephens and Wallis Lake) and oyster stock;
- ▶ On 19 May 2021, East 33 completed the acquisition of M S Verdich & Sons Pty Ltd ('Verdich'). This acquisition provided the Company with plant and equipment, interest in certain leases and licences, freehold land, approximately 63.5 hectares of oyster leases (located in Wallis Lake, the Manning River and Port Stephens) and oyster stock;
- ▶ On 21 May 2021, East 33 completed the acquisition of V C Diemar Pty Ltd. This acquisition provided the Company with plant and equipment, oyster stock and approximately 33.9 hectares of oyster leases (located in Port Stephens);
- ▶ On 21 July 2021, East 33 completed the acquisition of CMB Seafoods Pty Ltd ('CMB') (a large oyster processing and distribution facility located in Bankstown, NSW) and the business AJ & JS Troup (an oyster hatchery located in Camden Haven); and
- ▶ On 20 July 2022, East 33 completed the acquisition of the business Oyster Cloud Agritech. Oyster Cloud Agritech is an Agri-tech cloud-based oyster farm management software which enables farm management, inventory tracking, workflow optimisation and network planning.

### 5.1.2 Supply and Distribution

East 33 primarily supply their Sydney Rock Oysters to customers in New South Wales. The Company's supply lines are a combination of:

- ▶ Direct supply from its own farming operations; and
- ▶ The purchase from a wide range of third-party farmers. The Company purchases oysters on an ad hoc basis from a selected group of farmers who meet specific quality criteria.

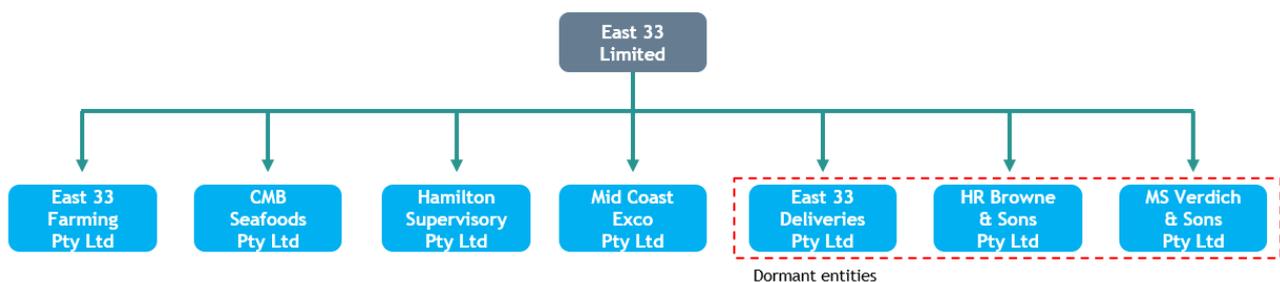
East 33 has a diversified sales base covering a number of key markets and sales channels. Specifically, East 33 sell their Sydney Rock Oysters through the following domestic channels:

- ▶ Direct to restaurants;
- ▶ Direct to retailers;
- ▶ Direct to food service customers; and
- ▶ To wholesalers or other intermediaries who sell to the above channels.

## 5.2 Corporate Structure of East 33

Figure 5.2 below provides an overview of the corporate structure of East 33.

Figure 5.2: Corporate Structure of East 33



Source: ASX Announcements

With regards to the non-dormant entities in Figure 5.2 above, we note:

- ▶ All of the subsidiaries depicted above are 100% owned by East 33;
- ▶ East 33 Farming Pty Ltd: This entity holds all of the Company's farming operations and is one of the largest Sydney Rock Oyster farming operations in Australia;
- ▶ CMB: This entity is an established seafood trading company servicing restaurants, wholesalers, distributors and retailers across New South Wales. CMB's oyster processing facility processes over 15 million oysters a year, representing approximately 25% of total industry production;
- ▶ Hamiltons Supervisory Pty Ltd: This entity trades as East Thirty-Three Degrees and is the entity that holds the Company's restaurant, oyster bar and marina; and
- ▶ Mid Coast Exco Pty Ltd: This entity holds the Company's export license.

## 5.3 Equity Structure of East 33

### 5.3.1 Ordinary Shares

As at 31 August 2023, East 33 had 519,088,699 ordinary shares on issue. The substantial shareholders are set out in Table 5.1.

**Table 5.1: Substantial Shareholders**

Shareholders	Number of Shares	Percentage Holding
Mr Anthony Hall and his Associated Entities <sup>1</sup>	194,651,193	37.50%
Other shareholders	324,437,506	62.50%
<b>Total shares on issue</b>	<b>519,088,699</b>	<b>100.00%</b>

Source: East 33's ASX Announcements

<sup>1</sup> Mr Hall and his Associated Entities include the shares held by Mr Hall (626,398 shares), Research Corporation (142,024,795 shares) and Yumbah Aquaculture (52,000,000 shares).

### 5.3.2 Performance Rights on Issue

As at 31 July 2023, the Company has 75 million outstanding performance rights that were issued to the then executive directors of the Company. The performance rights are subject to the following vesting conditions:

- ▶ Tranche 1: 11.11% will vest upon the Company achieving an EBIT of \$7.3 million by 30 June 2022 and 11.11% will vest upon the Company generating cash from operations of \$6.8 million or more by 30 June 2022;
- ▶ Tranche 2: 11.11% will vest upon the Company achieving an EBIT of \$16.0 million by 30 June 2023 and 11.11% will vest upon the Company generating cash from operations of \$15.0 million or more by 30 June 2023;
- ▶ Tranche 3: 11.11% will vest upon the Company achieving an EBIT of \$20.0 million by 30 June 2024 and 11.11% will vest upon the Company generating cash from operations of \$18.0 million or more by 30 June 2024; and
- ▶ Tranche 4: 33.34% will vest upon the Company achieving a share price of \$1 or more as measured by a 20-trading day VWAP by 30 June 2024.

### 5.3.3 Redeemable Convertible Preference Shares on Issue

As at 31 July 2023, the Company has 9,600 outstanding Class A and Class B redeemable convertible preference shares ('RCPS'). These were issued as part of the consideration for the acquisition of Verdich and CMB. Table 5.2 below provides further information in relation to the RCPS.

**Table 5.2: Summary of the RCPS**

Holder	No. RCPS	Face Value	Maturity Date	Conversion	Redemption
<b>Class A RCPS</b>					
Mr Anthony Rupnik	3,500	\$1,000 per RCPS	2.5 years following date of issue <sup>1</sup>	Convertible (all not part unless otherwise agreed) at the election of the holder before the maturity date. The conversion price is the higher of \$0.20 or a 25% discount to the 30-day VWAP prior to the date of request to convert.	The Company must redeem all RCPS on issue on the maturity date. The Company may redeem earlier in its discretion. The redemption price is the cash equal to the RCPS face value.
Mr Steven Verdich	2,500	\$1,000 per RCPS	2.5 years following date of issue <sup>1</sup>	Convertible (all not part unless otherwise agreed) at the election of East 33 before the maturity date. The conversion price is the higher of \$0.20 or a 25% discount to the 30-day VWAP prior to the date of request to convert.	<b>Redemption at maturity or early redemption:</b> If not earlier converted, the Company must redeem all RCPS on issue on the maturity date. The Company may redeem earlier in its discretion. The redemption price is the cash equal to the RCPS face value plus 15%. <b>Redemption Termination:</b> In the event of employment termination before 30 June 2023, all class B RCPS held by the respective vendor will be redeemable for a total of \$1.00.
<b>Class B RCPS</b>					
Mr Anthony Rupnik	2,100	\$1,000 per RCPS	2.5 years following date of issue <sup>1</sup>	Convertible (all not part unless otherwise agreed) at the election of East 33 before the maturity date. The conversion price is the higher of \$0.20 or a 25% discount to the 30-day VWAP prior to the date of request to convert.	<b>Redemption at maturity or early redemption:</b> If not earlier converted, the Company must redeem all RCPS on issue on the maturity date. The Company may redeem earlier in its discretion. The redemption price is the cash equal to the RCPS face value plus 15%. <b>Redemption Termination:</b> In the event of employment termination before 30 June 2023, all class B RCPS held by the respective vendor will be redeemable for a total of \$1.00.
Mr Steven Verdich	1,500	\$1,000 per RCPS	2.5 years following date of issue <sup>1</sup>	Convertible (all not part unless otherwise agreed) at the election of East 33 before the maturity date. The conversion price is the higher of \$0.20 or a 25% discount to the 30-day VWAP prior to the date of request to convert.	<b>Redemption at maturity or early redemption:</b> If not earlier converted, the Company must redeem all RCPS on issue on the maturity date. The Company may redeem earlier in its discretion. The redemption price is the cash equal to the RCPS face value plus 15%. <b>Redemption Termination:</b> In the event of employment termination before 30 June 2023, all class B RCPS held by the respective vendor will be redeemable for a total of \$1.00.

Source: The Prospectus

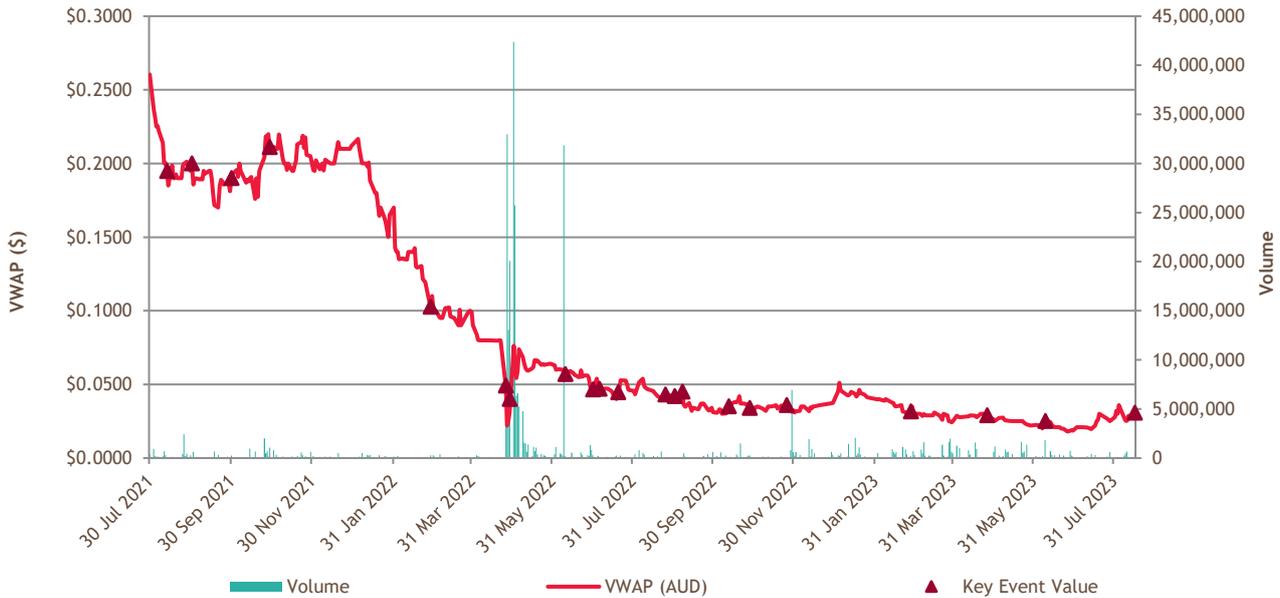
<sup>1</sup> Issued following the successful completion of the IPO in July 2021

## 5.4 Share Trading Data of East 33

### 5.4.1 Share Trading Data

Figure 5.3 displays the daily volume weighted average price ('VWAP') and daily volume of East 33 shares traded on the ASX over the period 30 July 2021 to 28 August 2023.

**Figure 5.3: Daily VWAP and Volume of East 33 Shares Traded from 30 July 2021 to 28 August 2023**



Source: Capital IQ as at 29 August 2023

Over the period graphed in Figure 5.3 above, East 33’s daily VWAP displays a period low of \$0.0180 on 26 June 2023 and a period high of \$0.2604 on 30 July 2021.

In addition to the share price and volume data of East 33 shown above, we have also provided additional information in Table 5.3 below to assist readers to understand the possible reasons for the movement in East 33’s share price over the period analysed. The selected ASX announcement references in Table 5.4 below correspond to those displayed in Figure 5.3 above.

**Table 5.3: Selected East 33 ASX Announcements from 30 July 2021 to 28 August 2023**

Date	Announcement
12/08/2021	East 33 announced that despite changes to operating conditions due to COVID, there was no change to its FY22 Earnings Before Interest and Tax (‘EBIT’) guidance of \$7.59 million.
31/08/2021	East 33 released its FY21 Results Presentation which included a total revenue of \$32.66 million (6.2% above prospectus) and a Net Profit After Tax (‘NPAT’) loss of \$3.5 million (42.9% below prospectus). This was primarily due to an increase in other revenue attributed to gain on business combination (representing acquisition value less than market value) and depreciation above expectations because the fair value of assets taken on were greater than expected.
30/09/2021	East 33 released full year statutory accounts with an Earnings Before Interest Tax Depreciation and Amortisation (‘EBITDA’) loss of \$2.8 million and a total comprehensive loss for the year of \$5.5 million. This was due to a significant increase in employee benefits expenses, legal costs, finance costs, and total cost of sales.
29/10/2021	East 33 released its annual report to shareholders and quarterly activities/appendix 4C cash flow report. This included a \$11 million increase in the biological assets owned by East 33 and a decrease in cash and cash equivalents from \$2.96 million to \$0.8 million which was primarily driven by the acquisitions made by East 33.
28/02/2022	East 33 announced results for the first half of FY22 and revised guidance for FY22 including a 9.5 million decrease in the anticipated distribution of oysters compared to prospectus and a \$8.09 million decrease in expected EBIT compared to prospectus. This was due to the abnormal rain conditions that impacted supply in February and COVID impacting labour which restricted harvest volume.
22/04/2022	East 33 provided a trading update and withdrew its FY22 guidance. The update mentioned the impact of prolonged and heavy rain, as well as the impact of QX in Port Stephens. These two factors were estimated to account for the loss of between 11-17 million harvestable oysters.
26/04/2022	East 33 announced that, as a result of the heavy rain and impact of Marteilirosis or Aber disease (colloquially known as ‘QX’), the estimate of harvestable oysters had decreased from 20 million to 12 million.
10/06/2022	East 33 announced it had entered into an agreement to acquire the industry leading agri-tech assets, Oyster Cloud for \$475,000. Oyster Cloud is an aquaculture management technology system which enables farm management, inventory tracking and workflow optimisation. East 33 confirmed that the acquisition was to be funded with cash at bank, would not change the structure or composition of the Board of East 33, and would not require shareholder approval.

Date	Announcement
01/07/2022	East 33 announced its trading results for June 2022 which include a decrease in harvest volume of 19% compared to June 2021 but an increase in group operating revenue of 37% compared to June 2021. East 33 referenced that market demand continued to significantly outweigh market supply and that the June/July period was the lowest sales period each year due to the seasonal cycle of Sydney Rock Oysters.
06/07/2022	East 33 announced the material completion of the fiscal management plan in response to the severe external environmental shocks in Q1 of calendar year 2022. East 33 also announced a senior debt-restructure with their NAB lending facility including NAB agreeing to waive the capital amortisation payments for 12 months, resulting in providing a cashflow relief of \$2.5 million over the balance of CY22 and CY23.
20/07/2022	East 33 announced the completion of the acquisition of Oyster Cloud.
30/08/2022	East 33 announced their FY22 results including a 4.2% increase in production compared to FY21 and an 8% increase in adjusted EBITDA. The decreased production came as a result of a detailed review conducted by East 33 that found that at least 30% of all Sydney Rock Oysters had been lost a result of the prolonged rains, floods, and QX outbreak in Port Stephens. The increased adjusted EBITDA came as a result of increased sales volume outweighing an increase in expenses as well as an increase in other income which included gains on acquisitions of business of \$4.1 million.
07/09/2022	East 33 announced a fully underwritten 1 for 1.15 pro-rata non-renounceable Entitlement Offer launched to raise approximately \$7.97 million to acquire shares. Funds were raised to strengthen East 33's balance sheet, provide working capital, and funds for capital expenditure to increase farming productivity. The Entitlement Offer at the \$0.033 Offer Price per share was stated to result in the issue of 241,436,470 new fully paid ordinary shares. The offer was fully underwritten by Shaw and Partners Limited.
12/10/2022	East 33 announced the entitlement offer closed on 6 October 2022, with eligible shareholders subscribed for approximately 69,549,581 new shares, raising approximately \$2.29 million. Under the sub-writing agreement, demand was received for a total of \$9.125 million, giving a shortfall of approximately \$5.68 million that was allocated to the sub-underwriters. This resulted in Mr Stephen Picton, as a sub underwriter, becoming a substantial shareholder and Mr Anthony Hall becoming the largest shareholder, holding approximately 35% as a result of the sub-underwriting.
28/10/2022	East 33 released its annual report for FY22 to shareholders. Revenue was reported to be \$22.6 million (up from \$8.4 million in FY21), with the growth driven by the acquisition of a distribution business during the financial year. Conversely, EBITDA fell from a loss of \$2.8 million in FY21 to a loss of \$6.1 million in FY22, with this decline driven by a significant increase in employee benefits expense and decline in the fair value of biological assets as a result of poor weather conditions and the outbreak of disease.
27/02/2023	East 33 released its Half Yearly Report and Accounts which included a business update, farming update, and price, production & revenue results. Reported EBITDA for the six months to December 2022 was a loss of \$0.4 million compared to \$0.1 million for the six months to December 2021. This was driven by higher labour costs and increased administration expenses. East 33 also emphasised its focus on growing hatchery production and further improving farming practises and management.
16/08/2023	East 33 announced the Company has entered into a \$15 million Loan Facility with Yumbah Finance Pty Ltd for the refinance of its National Bank of Australia bank loan facility. East 33 also announced that it had been granted a waiver by the ASX from Listing Rule 10.1 to enable East 33, without obtaining Shareholder Approval, to grant Yumbah Finance an all assets security over East 33 and its subsidiaries to secure East 33's and its subsidiaries obligations under the Loan Facility.
28/08/2023	East 33 announced that it had completed its first draw down of \$8.0 million under the Loan Facility with Yumbah Finance and had fully repaid the balance of \$6,711,128.89 outstanding under the \$10.0 million NAB Facility loan.

Source: ASX Announcements and Capital IQ

#### 5.4.2 Liquidity of East 33 Shares on the ASX

The rate at which equity instruments are traded is generally referred to as the 'liquidity' of the equity instruments. Changes in liquidity may impact the trading price of equity instruments. This is particularly dependent on the number of equity instruments required to be bought and/or sold and the time period over which the equity instrument holder needs to buy and/or sell those equity instruments. Depending on the circumstances, a movement in market price may or may not represent a shift in value of either the equity instruments or a shift in value of the company to which the equity instruments relate as a whole.

Table 5.4 summarises the monthly liquidity of East 33 shares from 1 August 2022 to 31 August 2023. Liquidity has been summarised by considering the following:

- ▶ Volume of East 33 share trades per month;
- ▶ Value of total trades in East 33 shares per month;
- ▶ Number of East 33 shares traded per month as a percentage of total East 33 shares outstanding at the end of the month;
- ▶ Volume weighted average price per month; and
- ▶ The monthly low and high share price of East 33.

**Table 5.4: Liquidity of East 33 Shares on the ASX**

Month	Volume	Shares Outstanding	Volume / Shares Outstanding	Monthly Low Share Price	Monthly VWAP	Monthly High Share Price
August 2023 (from 16 <sup>th</sup> to 31 <sup>st</sup> )	1,164,860	519,088,700	0.22%	\$0.0290	\$0.0304	\$0.0360
<b>Total Post-Transaction Announcement</b>	<b>1,164,860</b>	<b>519,088,700</b>	<b>0.22%</b>	<b>\$0.0290</b>	<b>\$0.0304</b>	<b>\$0.0360</b>
August 2023 (to 15 <sup>th</sup> )	1,628,880	519,088,700	0.31%	\$0.0250	\$0.0262	\$0.0360
July 2023	1,881,900	519,088,700	0.36%	\$0.0190	\$0.0231	\$0.0300
June 2023	5,597,830	519,088,700	1.08%	\$0.0180	\$0.0224	\$0.0270
May 2023	9,081,470	519,088,700	1.75%	\$0.0220	\$0.0250	\$0.0300
April 2023	6,159,410	519,088,700	1.19%	\$0.0260	\$0.0285	\$0.0300
March 2023	11,317,500	519,088,700	2.18%	\$0.0240	\$0.0273	\$0.0350
February 2023	5,991,960	519,088,700	1.15%	\$0.0290	\$0.0347	\$0.0410
January 2023	7,393,560	519,088,700	1.42%	\$0.0400	\$0.0441	\$0.0520
December 2022	5,949,670	519,088,700	1.15%	\$0.0300	\$0.0334	\$0.0400
November 2022	9,224,540	519,088,700	1.78%	\$0.0310	\$0.0317	\$0.0360
October 2022	4,150,350	442,845,510	0.94%	\$0.0290	\$0.0353	\$0.0420
September 2022	2,473,270	277,651,940	0.89%	\$0.0290	\$0.0345	\$0.0446
August 2022	3,535,980	277,651,940	1.27%	\$0.0400	\$0.0463	\$0.0560
<b>Total Pre-Transaction Announcement</b>	<b>74,386,320</b>	<b>473,342,790</b>	<b>15.72%</b>	<b>\$0.0180</b>	<b>\$0.0315</b>	<b>\$0.0560</b>

Source: Capital IQ as at 1 September 2023

## 5.5 Historical Financial Information of East 33

This section sets out the historical financial information of East 33. As this Report contains only summarised historical financial information, we recommend that any user of this Report read and understand the additional notes and financial information contained in East 33's annual reports, including the full Statements of Profit or Loss, Statements of Financial Position and Statements of Cash Flows.

East 33's financial statements have been audited by HLB Mann Judd. BDOCF has not performed any audit or review of any type on the historical financial information of East 33 and we make no statement as to the accuracy of the information provided. However, we have no reason to believe that any of the information provided is false or misleading.

### 5.5.1 Statements of Profit or Loss

Table 5.5 summarises the Consolidated Statement of Profit or Loss of East 33 for the 12 month periods ended 30 June 2020, 2021, 2022 and 2023.

**Table 5.5: East 33 Consolidated Statement of Profit or Loss**

	12 Months Ended 30-Jun-2020 Audited (\$'000)	12 Months Ended 30-Jun-2021 Audited (\$'000)	12 Months Ended 30-Jun-2022 Audited (\$'000)	12 Months Ended 30-Jun-2023 Unaudited (\$'000)
<b>Revenue</b>				
Oyster farming	321	4,322	2,599	2,303
Oyster distribution	-	-	17,906	20,664
Corporate and sundry	1,709	4,073	2,131	1,654
<b>Total revenue</b>	<b>2,030</b>	<b>8,395</b>	<b>22,636</b>	<b>24,621</b>
Cost of sales	(727)	(6,637)	(16,515)	(17,344)
<b>Gross profit</b>	<b>1,303</b>	<b>1,758</b>	<b>6,121</b>	<b>7,277</b>
Biological assets change in fair value	72	158	(4,247)	3,403
Other income	391	4,575	783	173
<b>Expenses</b>				
Employee benefits expense	(1,706)	(4,866)	(10,102)	(11,588)
Marketing expenses	(424)	(920)	(549)	(169)
Occupancy expenses	(20)	(191)	(386)	(511)
Legals costs	-	(1,631)	(56)	(125)
Acquisition related costs	-	(601)	-	-
Share based payments	-	-	(31)	-
Administration expenses	(942)	(1,063)	(1,591)	(1,578)
<b>Total operating expenses</b>	<b>(3,092)</b>	<b>(9,272)</b>	<b>(12,715)</b>	<b>(13,971)</b>
Fair value gain (loss) on financial assets and liabilities	-	-	3,940	(270)

	12 Months Ended 30-Jun-2020 Audited (\$'000)	12 Months Ended 30-Jun-2021 Audited (\$'000)	12 Months Ended 30-Jun-2022 Audited (\$'000)	12 Months Ended 30-Jun-2023 Unaudited (\$'000)
<b>EBITDA</b>	<b>(1,326)</b>	<b>(2,781)</b>	<b>(6,118)</b>	<b>(3,388)</b>
Depreciation and amortisation expense	(272)	(702)	(2,009)	(1,981)
Goodwill impairment	-	-	-	(2,943)
Finance costs	(263)	(2,061)	(835)	(885)
<b>Loss before income tax expense</b>	<b>(1,861)</b>	<b>(5,544)</b>	<b>(8,962)</b>	<b>(9,197)</b>
Income tax expense	-	68	-	(1)
<b>Loss after income tax expense for the year</b>	<b>(1,861)</b>	<b>(5,476)</b>	<b>(8,962)</b>	<b>(9,198)</b>
Loss on Common Control Combinations	(111)	-	-	-
<b>Total comprehensive loss for the year</b>	<b>(1,972)</b>	<b>(5,476)</b>	<b>(8,962)</b>	<b>(9,198)</b>

Source: East 33's FY21 annual report, FY22 annual report and FY23 preliminary final report

With reference to Table 5.5 above, we note the following:

- ▶ Revenue has increased in each of the financial periods displayed. The yearly growth from FY20 to FY22 is in line with the acquisitions made by the Company. Specifically, we note the following:
  - In FY20, the revenue generated by the Company was sourced from the two oyster farms and a restaurant that East 33 acquired in December 2019;
  - The increase in revenue from FY20 to FY21 is in line with the acquisition of another six oyster farms (four in December 2020 and two in May 2021);
  - The increase in revenue from FY21 to FY22 is in line with the acquisition of CMB, which provided the Company with its distribution service line. East 33's distribution service line is their primary source of revenue, comprising 79.1% and 83.9% of total revenue in FY22 and FY23 respectively; and
  - The revenue growth from FY22 to FY23 is due to the growth of their oyster distribution service line rather than additional acquisitions;
- ▶ Cost of sales has increased in from FY20 to FY23 which appears to be in line with revenue growth;
- ▶ The Company's biological assets refer to their oysters. In accordance with *AASB 141 Agriculture*, East 33 are required to estimate the fair value of these assets in each period. The biological assets change in fair value represents the movement in the fair value of these assets;
- ▶ East 33's total operating expenses have increased in each period from FY20 to FY23. The primary driver of this growth and the Company's largest operating cost is employee benefits expense. The increase in employee benefits expense appears to be in line with the Company's acquisitions and revenue growth. With regards to East 33's other operating expenses, we note the following:
  - The legal costs incurred in FY21 primarily relate to a threat of litigation received by the Company immediately prior to the conclusion of the IPO process. The East 33 board sought to resolve the matter commercially, resulting in a settlement agreement with the claimants, pursuant to which East 33 agreed to pay the claimants \$1.62 million in four tranches; and
  - Administration costs are comprised of insurance, professional fees, licences, consultants, bank fees, IT related expenses, provisions and other costs;
- ▶ The fair value gain (loss) on financial assets and liabilities represents the movement in the fair value of the RCPS the Company issued in relation to the acquisition of Verdich and CMB; and
- ▶ The Company's goodwill relates to previous business combinations. East 33 have allocated goodwill between two cash generating units ('CGU') being oyster farming and oyster distribution. The impairment expense incurred in FY23 refers to an impairment of both their oyster farming CGU (impairment of \$1.4 million) and their distribution CGU (impairment of \$1.5 million).

### 5.5.2 Statements of Financial Position

Table 5.6 summarises East 33's statements of financial position as at 30 June 2020, 2021, 2022 and 2023.

**Table 5.6: East 33's Summarised Consolidated Statements of Financial Position**

	As at 30-Jun-20 Audited (\$'000)	As at 30-Jun-21 Audited (\$'000)	As at 30-Jun-22 Audited (\$'000)	As at 30-Jun-23 Unaudited (\$'000)
<b>Current assets</b>				
Cash and cash equivalents	2,959	849	3,408	893
Trade and other receivables	458	2,346	1,670	1,557

	As at 30-Jun-20 Audited (\$'000)	As at 30-Jun-21 Audited (\$'000)	As at 30-Jun-22 Audited (\$'000)	As at 30-Jun-23 Unaudited (\$'000)
Biological assets	1,168	7,293	2,017	3,099
Inventories	67	209	235	265
Assets held for sale	-	-	650	-
<b>Total current assets</b>	<b>4,652</b>	<b>10,697</b>	<b>7,980</b>	<b>5,814</b>
<b>Non-current assets</b>				
Biological assets	519	5,399	3,192	2,198
Property, plant and equipment	2,654	9,337	11,464	10,288
Right-of-use assets	336	1,725	1,811	1,591
Intangible assets	2,684	12,370	30,152	27,003
Deferred tax assets	-	622	609	1,671
Other non-current assets	-	274	-	-
<b>Total non-current assets</b>	<b>6,193</b>	<b>29,727</b>	<b>47,228</b>	<b>42,751</b>
<b>Total assets</b>	<b>10,845</b>	<b>40,424</b>	<b>55,208</b>	<b>48,565</b>
<b>Current liabilities</b>				
Trade and other payables	676	2,494	2,024	2,160
Deferred acquisition consideration	324	15,182	680	1,179
Borrowings	11,436	13,693	502	4,309
Lease liabilities	47	188	314	186
Financial liabilities at fair value	-	-	-	5,930
<b>Total current liabilities</b>	<b>12,483</b>	<b>31,557</b>	<b>3,520</b>	<b>13,764</b>
<b>Non-current liabilities</b>				
Lease liabilities	334	1,833	1,726	1,532
Deferred tax liability	-	554	541	1,603
Deferred acquisition consideration	-	-	1,129	100
Borrowings	-	-	8,802	100
Financial liabilities at fair value	-	-	5,660	-
Other liabilities	-	1,200	800	400
Provisions	-	-	126	-
<b>Total non-current liabilities</b>	<b>334</b>	<b>3,587</b>	<b>18,784</b>	<b>3,735</b>
<b>Total liabilities</b>	<b>12,817</b>	<b>35,144</b>	<b>22,304</b>	<b>17,499</b>
<b>Net assets</b>	<b>(1,972)</b>	<b>5,280</b>	<b>32,904</b>	<b>31,066</b>
<b>Equity</b>				
Issued capital	-	12,728	49,283	56,643
Reserves	-	-	31	-
Accumulated losses	(1,972)	(7,448)	(16,410)	(25,577)
<b>Total equity</b>	<b>(1,972)</b>	<b>5,280</b>	<b>32,904</b>	<b>31,066</b>

Source: East 33's FY21 annual report, FY22 annual report and FY23 preliminary final report

With reference to Table 5.6 above, we note the following:

- ▶ Biological assets (current and non-current) relate to the fair value of the Company's oyster stock. The increase from FY20 to FY21 was primarily driven by the biological assets acquired through business combinations. The decrease from FY21 to FY22 was primarily driven by mortality and low yield associated with a disease that infiltrated Port Stephens and losses due to floods. The movement from FY22 to FY23 is primarily driven by an increase in the fair value of the assets;
- ▶ Property, plant and equipment is comprised of plant and equipment, buildings and improvements, motor vehicles, office equipment and computer equipment. The increase in property plant and equipment from FY20 to FY22 is primarily driven by acquisitions through business combinations. The decrease from FY22 to FY23 is primarily driven by depreciation and disposals;
- ▶ Right of use assets is comprised of oyster and crown leases and property leases;
- ▶ Intangible assets are comprised of goodwill (which as mentioned previously is split between a farming CGU and a distribution CGU), oyster and crown leases and software. The movements in this account from FY20 to FY22 is in line with additions due to business combinations, provisional accounting adjustments and amortisation. The decrease in intangible assets from FY22 to FY23 is primarily driven by an impairment to goodwill of approximately \$2.9 million;
- ▶ The Company's deferred acquisition consideration relates to both outstanding cash and equity payments for business combinations. We note, the majority of payments for the Company's pre-IPO acquisitions were deferred

consideration (such that the Company could make the payments with the proceeds following their IPO). As a result, the deferred consideration balance is largest as at 30 June 2021 (we note, East 33's IPO completed in July 2021). As at 30 June 2023, the deferred acquisition consideration (current and non-current) relates to the acquisitions of AJ & JS Troup and Oyster Cloud;

- ▶ With regards to the Company's borrowings (current and non-current), we note the following:
  - In FY20, borrowings were comprised of a convertible note which the Company issued to fund operations and acquisitions prior to the IPO of the Company;
  - In FY21, borrowings were comprised of convertible notes (approximately \$5.0 million) and short-term loans (approximately \$8.7 million). We note that in this period, the Company issued a second convertible note (however, the balance of the convertible notes decreased due to a significant portion converting to equity). We note, the short-term loans comprised the following:
    - The Amal loan of \$7.6 million which was secured as a bridging facility to settle vendor liabilities. We note, the loan carried a monthly interest of 3% and is secured by all assets in the Company; and
    - The Rupnik loan of \$0.5 million secured to pay vendor liabilities. The loan carried a usage fee of \$150k.
  - In FY22, current borrowings comprised short term loans of \$502k as the convertible notes were converted to equity and the Amal loan balance of \$8.2 million and the Rupnik loan balance of \$650k were repaid in full;
  - In FY22, non-current borrowings were primarily comprised of a \$10.0 million loan the Company secured from NAB on 21 July 2021 ('the NAB Facility'); and
  - In FY23, current and non-current borrowings are comprised of the NAB facility (a current liability of approximately \$4.3 million) and equipment finance loans (a current and non-current liability of approximately \$42k and \$100k respectively). For completeness, we note the decrease in non-current liabilities (and subsequent increase in current liabilities) from FY22 to FY23 is in line with the reclassification of the NAB Facility from a non-current to a current liability;
- ▶ Lease liabilities (current and non-current) are comprised of right of use liabilities and finance lease liabilities; and
- ▶ Financial liabilities held at fair value relate to the RCPS issued pursuant to share purchase agreements entered into with the owners of CMB and Verdich.

### 5.5.3 Statements of Cash Flows

Table 5.7 summarises East 33's Statement of Cash Flows for the 12 month periods ended 30 June 2020, 2021, 2022 and 2023.

**Table 5.7: East 33's Summarised Consolidated Statements of Cash Flows**

	12 Months Ended 30-Jun-20 Audited (\$'000)	12 Months Ended 30-Jun-21 Audited (\$'000)	12 Months Ended 30-Jun-22 Audited (\$'000)	12 Months Ended 30-Jun-23 Unaudited (\$'000)
<b>Cash flows from operating activities</b>				
Receipts from customers	2,414	8,386	22,954	24,759
Government grants received	-	350	639	-
Payment of legal settlement	-	-	(420)	(400)
Payments to suppliers and employees	(3,885)	(11,431)	(25,672)	(27,882)
Income taxes paid	-	-	(268)	(32)
Interest paid on borrowings	-	-	(382)	(673)
<b>Net cash used in operating activities</b>	<b>(1,471)</b>	<b>(2,695)</b>	<b>(3,149)</b>	<b>(4,228)</b>
<b>Cash flows from investing activities</b>				
Payment for purchase of businesses, net of cash acquired	(6,261)	(9,867)	(11,499)	-
Payment for vendor finance	-	-	(9,725)	(666)
Payments for investors	-	(501)	-	-
Payments for property, plant and equipment	(316)	(288)	(2,522)	(243)
Payments for intangible assets	(180)	(6)	-	(225)
Receipts from sale of assets/ businesses	-	-	-	955
<b>Net cash used in investing activities</b>	<b>(6,757)</b>	<b>(10,662)</b>	<b>(23,746)</b>	<b>(179)</b>
<b>Cash flows from financing activities</b>				
Proceeds from share capital and convertible notes	11,187	4,944	32,000	7,967
Net proceeds from borrowings	-	8,100	10,061	224
Repayment of borrowings	-	-	(9,657)	(5,305)
Capital raising transaction costs	-	(1,693)	(2,534)	(607)

	12 Months Ended 30-Jun-20 Audited (\$'000)	12 Months Ended 30-Jun-21 Audited (\$'000)	12 Months Ended 30-Jun-22 Audited (\$'000)	12 Months Ended 30-Jun-23 Unaudited (\$'000)
Repayment of lease liabilities	-	(104)	(416)	(387)
<b>Net cash provided by financing activities</b>	<b>11,187</b>	<b>11,247</b>	<b>29,454</b>	<b>1,892</b>
Net increase/ decrease in cash and cash equivalents	2,959	(2,110)	2,559	(2,515)
Cash and cash equivalents at the beginning of the financial period	-	2,959	849	3,408
<b>Cash and cash equivalents at the end of the financial period</b>	<b>2,959</b>	<b>849</b>	<b>3,408</b>	<b>893</b>

Source: East 33's FY21 annual report, FY22 annual report and FY23 preliminary final report

With reference to Table 5.7 above, we note the following:

- ▶ The movements in East 33's cash over each of the financial periods displayed is in line with the following:
  - The consistent loss making of the Company and by extension the need for East 33 to utilise their cash reserves to fund the operations of the Company;
  - The cash used to fund the acquisitions made by the Company; and
  - The proceeds received by the Company from borrowings and the issuance of capital;
- ▶ With regards to East 33's cash flows from investing, we note:
  - The Company have made acquisitions in each financial year from FY20 to FY23. See Section 5.1.1 for more information on these acquisitions; and
  - Payment for vendor financing relates to payments made to settle acquisitions; and
- ▶ With regards to cash flows from financing activities, we note:
  - In FY20 and FY21, the Company received proceeds from the issuance of convertible notes and in FY22 and FY23, the Company received proceeds from the issuance of share capital. Specifically, in FY22 East 33 raised proceeds following the completion of their IPO and in FY23 from the completion of an entitlement issue. We note, the capital raising costs are related to both the IPO and entitlement issue; and
  - The net proceeds from borrowings relate to the Amal loan, the Rupnik loan and the NAB Facility (discussed in Section 5.5.2). We note, the borrowing costs relate to the repayment of these accounts.

## 6.0 Industry Overview

East 33 operates in the aquaculture and seafood industry, specifically as a producer and supplier of Sydney Rock Oysters.

The information presented in this section has been compiled from a range of publicly available sources, together with information taken from various databases to which we subscribe. BDOCF has not independently verified any of the information and we recommend that users of this Report refer to the original source of any information listed in this section. This section should be referred to as a guide only.

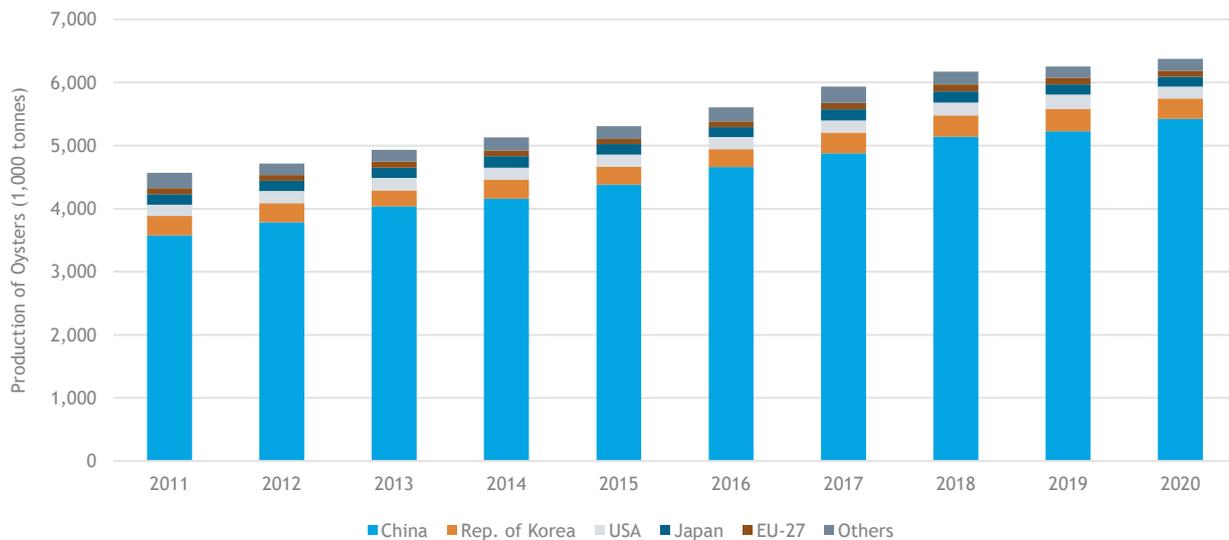
### 6.1 Global Oyster Industry

#### 6.1.1 Industry Overview

Oyster farming is one of the oldest forms of aquaculture, with oysters farmed in many countries. Oyster farming has seen significant growth over the past decades, with population growth, shifting dietary preferences, income growth, access to supply, and consumers pursuing a healthier lifestyle all supporting the industry’s rapid growth. Around the world there are 12 farmed species of oysters and over 200 different varieties. As stated by a report by the European Market Observatory for Fisheries and Aquaculture Products, in 2020, 98% of oyster production came from aquaculture production<sup>2</sup>. Between 2011 and 2020, global oyster production increased by 39%, mainly due to the significant increase in aquaculture production, which saw a 43% increase. According to a report by IMARC Group, the global oyster market is expected to grow at a CAGR of 3.24% between 2023-2028<sup>3</sup>.

China is the main producer in the market, accounting for more than 85% of the ~6 million tonnes of oysters produced each year, as seen in Figure 6.1 below. Beyond China, production is stagnant, with production limited by factors such as disease, parasites, and regulatory issues.

Figure 6.1: Production of Oysters in 2021 for the Top 5 Producers of Oysters Globally



Source: FAO Fish Stat accessed via EUMOFA report (2022)

#### 6.1.2 Threats to Global Oyster Industry

There are several factors that have the potential to significantly harm the global oyster industry. The most prominent threat is climate change, specifically the rising acidity of oceans and marine heatwaves. As the ocean becomes more acidic, there is less carbonate in the water which the oysters rely on to build their shells, therefore leading to the shells becoming thinner, slowing growth, and ultimately increasing death rates. Further, research from the University of Sydney found that ocean acidification led to oysters becoming more vulnerable to predation and disease<sup>4</sup>. An increase in the number of marine heatwaves - a period of warm water that lasts five days or longer, where temperatures are in the top 10% of events typically experienced in that region - has also had a significant effect on the oyster industry. Marine heatwaves lead to outbreaks of diseases that can be fatal to oysters and reduce the reproduction rate of the species<sup>5</sup>.

Additional factors such as overfishing, disease, marine pollution, and habitat loss also threaten the global oyster industry.

<sup>2</sup> Accessed via European Market Observatory for Fisheries and Aquaculture products report “Oysters in the EU” dated October 2022

<sup>3</sup> Accessed via IMARC Group report “Oyster Market: Global Industry Trends, Share, Size, Growth, Opportunity and Forecast 2023-2028” dated 2022

<sup>4</sup> Accessed via NSW Government article “Acidic oceans challenge oyster survival” dated March 2017

<sup>5</sup> Accessed via ABC article “Marine heatwaves threatening oyster industry and affecting Great Barrier Reef, scientists warn” dated 25 November 2019

## 6.2 Australian Oyster Industry

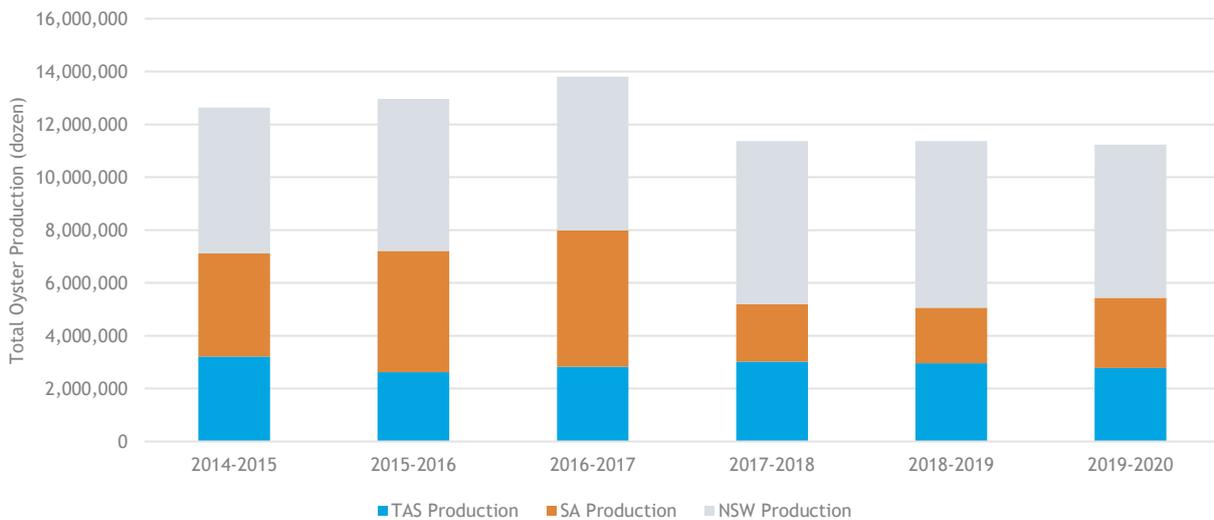
### 6.2.1 Australian Oyster Industry Overview

The Australian oyster industry has expanded significantly in recent decades, with Australia having a reputation globally of being a supplier of safe, high-quality oysters and using sustainable aquaculture practises. Australia produces an estimated 11 million dozen oysters annually with an estimated farm gate production value of \$90-100 million<sup>6</sup>.

Australia produces two types of oysters: the Sydney Rock Oyster and the Pacific Oyster. The most recent data released from the NSW Department of Primary Industries states that in 2019, 54% of Australian oysters produced were Sydney Rock Oysters and the remaining 46% were Pacific Oysters.

99% of oyster production in Australia occurs across New South Wales, Tasmania, and South Australia, with a vast majority of this production occurring in aquaculture facilities<sup>7</sup>.

**Figure 6.2: Production of Oysters across New South Wales, South Australia, and Tasmania**



Source: *Oysters Australia (2020)*

Exports of Australian oysters are relatively small, with Oysters Australia stating that only 1% of all Australian oysters are exported. This is primarily due to the strong demand from the domestic market giving little incentive for the industry to export significant volumes. Of the 1% of oysters that are exported, Hong Kong makes up a majority of the market, with over 75% exported oysters going to the Asian nation each year.

In August 2021, Marteiliosis or Aber disease (colloquially known as ‘QX’) was detected for the first time in Port Stephens, NSW’s second-largest oyster producing estuary which produces 16% of the nation’s oysters. QX is a seasonal disease caused by the parasite *Martelia sydneyi* and usually occurs in late summer. Infected oysters show non-specific signs including lack of growth, loss of condition, and pale digestive glands on gross inspection. In areas that QX occurs, stock losses of up to 90% can be observed as a result of a single outbreak. As a result of the August 2021 outbreak, it was estimated that between 11 and 17 million saleable oysters were lost from East 33’s Port Stephen’s aquacultural facility which accounted for ~30% of East 33’s total oysters. Further pressure from the implications from COVID-19 and flooding during this time meant that East 33 and similar oyster producers faced significant hardship.

Additionally, Pacific Oyster Mortality Syndrome (‘POMS’) poses as a significant threat in the Australia oyster industry, with POMS causing rapid death and high mortality rates in farmed Pacific Oysters - up to 100% within days of being detected<sup>8</sup>. The highest mortalities occur in juvenile oysters (between three and six months in age), however oysters across all stages of the life cycle have been recorded as susceptible. In order to combat this threat of disease, a number of governments across Australia have begun offering testing services where oysters can be tested in a laboratory for QX and POMS.

<sup>6</sup> Accessed via CSIRO report “Bio sensors discovering the secret life of oysters” not dated

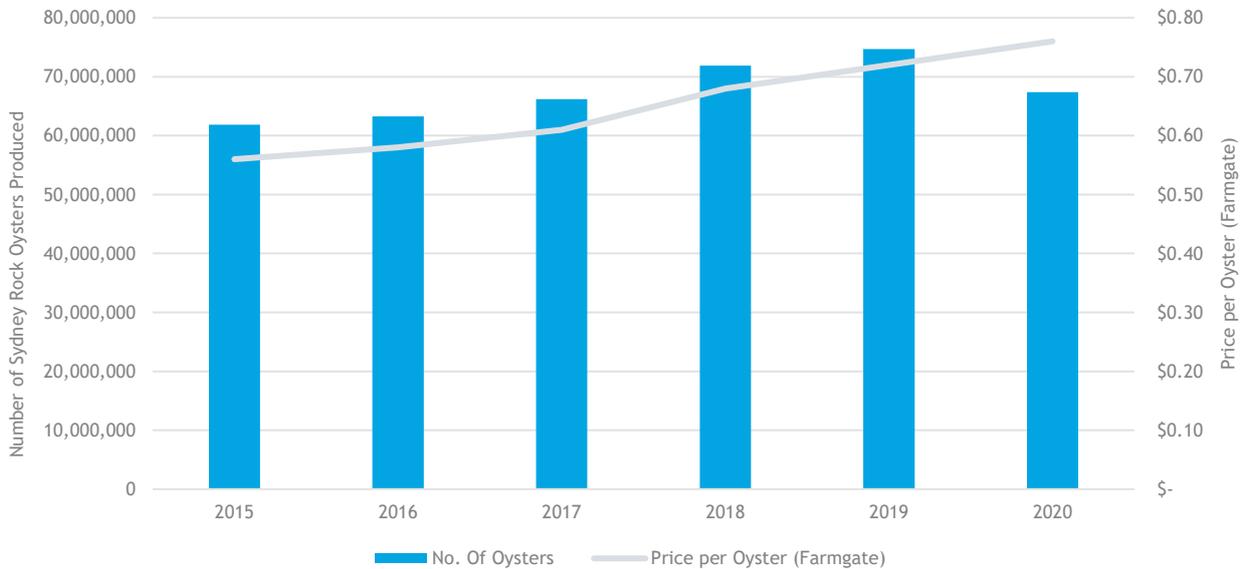
<sup>7</sup> Accessed via Oysters Australia report “2020-2025: Oysters Australia Strategic Plan” dated 2020

<sup>8</sup> Accessed via Government of South Australia Department of Primary Industries and Regions website “Pacific Oyster Mortality Syndrome (POMS)” not dated

### 6.2.2 Sydney Rock Oysters

All the oysters produced by East 33 are Sydney Rock Oysters. Sydney Rock Oysters are Australia’s most produced oysters, with a current annual production of over 106 million oysters worth more than \$35 million, making it New South Wales’s most valuable aquacultural industry<sup>9</sup>. Native to Australia, Sydney Rock Oysters make up just 1% of oysters globally and are characterised by their rich, sweet, and intense flavour. The production of Sydney Rock Oysters accounts for over 90% of oyster production in NSW and has seen significant growth over the past decade as seen in Figure 6.3 below.

**Figure 6.3: Production and Price of Sydney Rock Oysters between 2015-2020**



Source: NSW Department of Primary Industries (2021)

Exports of Sydney Rock Oysters are still relatively small, accounting for less than 1% of the total value of Sydney Rock Oysters produced. However, the industry is exploring the potential to expand markets through exportation, with the thought that this would have the added advantage of improving the price of oysters in the local market<sup>10</sup>.

### 6.2.3 Australian Oyster Industry Outlook

The Australian oyster industry has several key opportunities over the coming years that are of great significance. The most significant opportunity is the rapid development of technology which is transforming the way food is produced around the globe. The application of this technology is attracting significant new capital into the food industry. Examples of technology that has the potential to be utilised by the Australian oyster industry includes gene editing, artificial intelligence through data management, the introduction of nanomaterials, synthetic biology, and environmental sensors<sup>11</sup>. Further, the engagement of oyster producers with complimentary industries such as the Food & Tourism industry provides an additional opportunity for oyster producers to expand their businesses. Companies such as East 33 have begun to expand into this space, with producers offering restaurants and tours of their facilities adjacent to their production business.

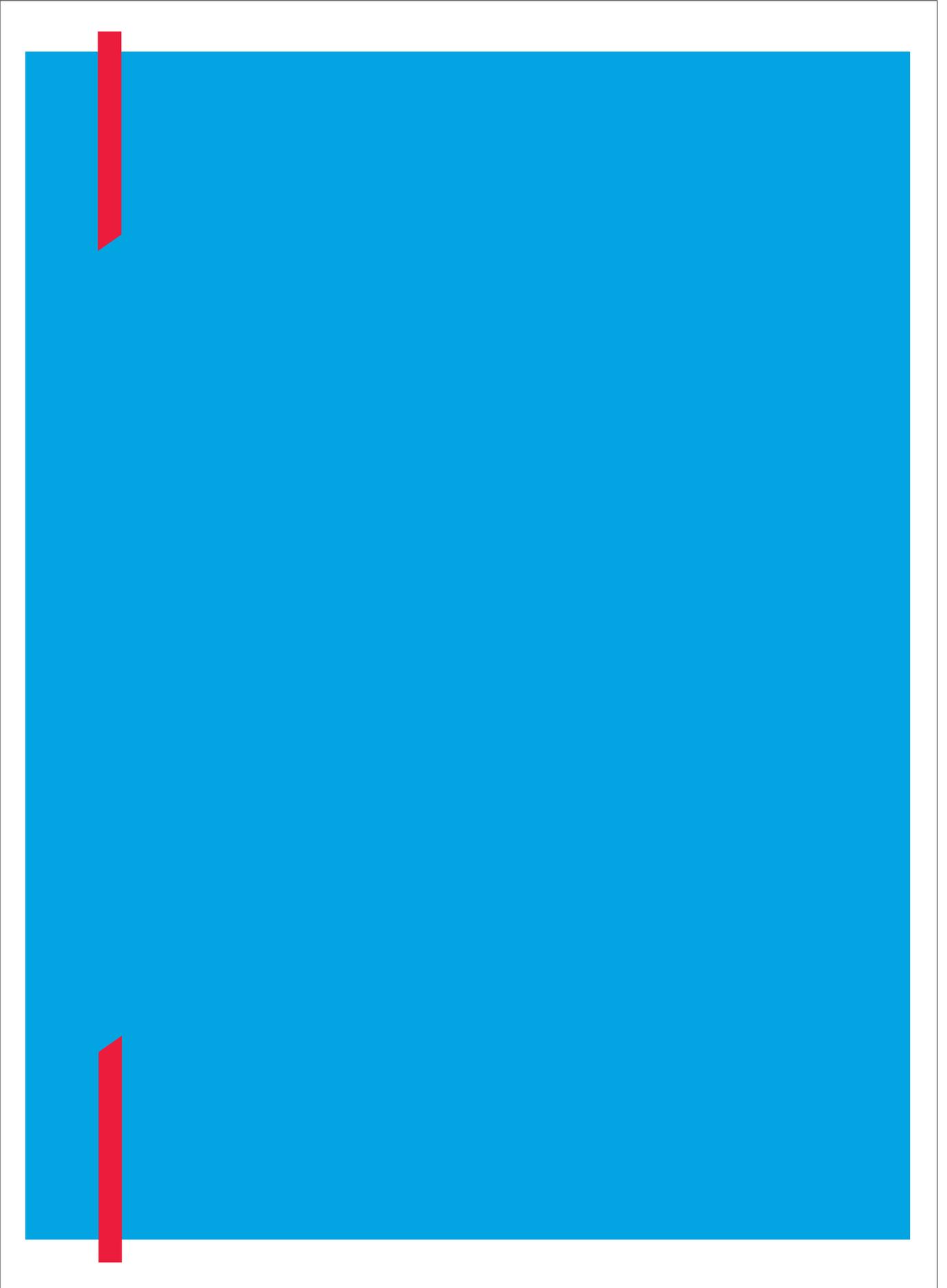
As a part of the Oysters Australia Strategic Plan for 2020-2025, five key programs were established based on industry feedback following an industry consultative process. These five programs and their desired outcomes were as follows:

- ▶ **Product & Innovation:** increase the sustainable, efficient production of oysters and their management on farm;
- ▶ **Risk Management:** minimise the impact of disease, waterway contamination, climate change and other risks;
- ▶ **People & Knowledge:** knowledge, skills & networks are developed, increasing the industry’s human & data resources;
- ▶ **Post Harvest and Market Development:** build consumer demand for oysters and increase profitability through the supply chain; and
- ▶ **Industry Profile & Regulation:** the oyster industry is recognised as a legitimate and responsible user of public resources and operates under a constructive regulation.

<sup>9</sup> Accessed via NSW Government article “Oyster industry in NSW” not dated

<sup>10</sup> Accessed via New South Wales Department of Primary Industries report “Farming the Sydney rock oyster” dated August 2005

<sup>11</sup> Accessed via Oysters Australia report “2020-2025: Oysters Australia Strategic Plan” dated 2020





ACN 636 173 281

## LODGE YOUR VOTE



### ONLINE

<https://investorcentre.linkgroup.com>



### BY MAIL

East 33 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  
Parramatta Square, Level 22, Tower 6,  
10 Darcy Street, Parramatta NSW 2150; or  
Level 12, 680 George Street, Sydney NSW 2000

\*During business hours Monday to Friday



### ALL ENQUIRIES TO

Telephone: 1300 554 474      Overseas: +61 1300 554 474

## LODGE MENT OF 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 **10:00am (AEDT) on Wednesday, 22 November 2023**, 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 the reply paid envelope or:



### ONLINE

<https://investorcentre.linkgroup.com>

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).



### BY MOBILE DEVICE

Our voting website is designed specifically for voting online. You can now lodge your proxy by scanning the QR code adjacent or enter the voting link <https://investorcentre.linkgroup.com> into your mobile device. Log in using the Holder Identifier and postcode for your shareholding.

To scan the code you will need a QR code reader application which can be downloaded for free on your mobile device.

### QR Code



## 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 virtually 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 East 33 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 **10:00am (AEDT) on Friday, 24 November 2023 at Thirty Three Degrees, 11 Palm St, Tuncurry NSW 2428 (the Meeting)** and at any postponement or adjournment of the Meeting.

**Important for Resolutions 1, 4 & 11:** 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, 4 & 11, even though the Resolutions are connected directly or indirectly with the remuneration of a member of the Company's Key Management Personnel (KMP).

**The Chairman of the Meeting intends to vote undirected proxies in favour of each item of business.**

### 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"/>	9 Approval of 10% Placement Facility	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2 Election of Hon. Sarah Courtney as a Director of the Company	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	10 Renewal of Proportional Takeover Approval Provisions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3 Election of Ms Veronica Papacosta as a Director of the Company	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	11 Board Spill Meeting (Conditional Item)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4 Issue of Director Options to a Related Party – Hon. Sarah Courtney	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
5 Approval of Selective Share Buy-back of all Class A RCPS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
6 Grant of Security Over Significant Assets to a Substantial Holder	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
7 Approval to Issue the Convertible Note to Yumbah Finance Pty Ltd	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
8 Financial Assistance	<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)

Sole Director and Sole Company Secretary

Joint Shareholder 2 (Individual)

Director/Company Secretary (Delete one)

Joint Shareholder 3 (Individual)

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).

E33 PRX2301D

