



**PROSPECTUS**  
**OSPREY MEDICAL INC.**  
**ARBN 152 854 923**

**Entitlement Offer for Eligible Holders:** For a partially underwritten, renounceable pro rata offer to Eligible Holders of approximately 1,295,392,110 New CDIs at an issue price of \$0.012 per New CDI on the basis of 3 New CDIs for every 1 CDI held, together with 1 free attaching New Option for every 1 New CDI issued, to raise up to approximately \$15.5M before costs. The Entitlement Offer closes at 5.00pm (Melbourne time) on 24 April 2020 (unless extended).

**Shortfall Offer to Investors:** For the offer to Investors to acquire Shortfall CDIs forming part of the Shortfall from the Entitlement Offer at an issue price of \$0.012 per Shortfall CDI, together with 1 free attaching New Option for every 1 Shortfall CDI issued. The Shortfall Offer is expected to close on 24 July 2020.

This Prospectus is also being issued in order to remove any trading restrictions on the sale of any CDIs issued upon the exercise of the New Options.

**This is a transaction-specific prospectus issued in accordance with section 713 of the Corporations Act.**

THIS IS AN IMPORTANT DOCUMENT AND REQUIRES YOUR IMMEDIATE ATTENTION.

IF YOU ARE AN ELIGIBLE HOLDER YOU SHOULD READ THIS PROSPECTUS IN ITS ENTIRETY BEFORE DECIDING WHETHER TO APPLY FOR NEW CDIS.

IF YOU DO NOT UNDERSTAND ANY PART OF THIS PROSPECTUS, OR ARE IN ANY DOUBT AS TO HOW TO DEAL WITH IT OR YOUR ENTITLEMENT, YOU SHOULD CONSULT YOUR FINANCIAL OR OTHER PROFESSIONAL ADVISER.

SECURITIES OFFERED UNDER THIS PROSPECTUS SHOULD BE CONSIDERED SPECULATIVE.

**THIS DOCUMENT IS IMPORTANT AND SHOULD BE READ IN ITS ENTIRETY**

**Not for release to US wire services or distribution in the United States**

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## Important Information

### About this document

This Prospectus contains information relating to a proposed entitlement offer to be undertaken by Osprey Medical Inc. ARBN 152 854 923 (**Osprey**). This Prospectus is important and requires your immediate attention. This Prospectus is dated 3 April 2020 and was lodged with the Australian Securities and Investments Commission (**ASIC**) on that date. The expiry date of the Prospectus is 5.00pm (Melbourne time) on the date that is 13 months after the date of this Prospectus (**Expiry Date**). No securities will be issued on the basis of this Prospectus after the Expiry Date.

This Prospectus is a 'transaction-specific' prospectus to which the special content rules under section 713 of the *Corporations Act 2001* (Cth) (**Corporations Act**) apply. This allows the issue of a concise prospectus in relation to an offer of securities, or options to acquire securities, in a class which has been continuously quoted by the Australian Securities Exchange (**ASX**) in the three months prior to the date of the prospectus. This Prospectus does not include all of the information that would be included for an initial public offering of securities. ASX maintains a database of publicly available information issued by Osprey as a disclosing entity. None of ASIC, ASX or their respective officers, take any responsibility for the contents of this Prospectus or the merits of the securities to which this Prospectus relates.

This Prospectus is also being issued to remove any secondary trading restrictions on the sale of CDIs issued on exercise of the New Options under the Shortfall Offer.

### Offers

The Offers contained in this Prospectus are: (i) an invitation to Eligible Holders to acquire 3 New CDIs for every 1 CDI held on the Record Date, together with 1 free attaching New Option for every 1 New CDI issued to Eligible Holders under this Prospectus, at an issue price of \$0.012 (1.2 cents) per New CDI (**Issue Price**), to raise up to \$15,544,705 (before costs) (**Entitlement Offer**); and (ii) an offer to Investors to acquire Shortfall CDIs forming part of the Shortfall under the Entitlement Offer at an issue price of \$0.012 per Shortfall CDI, together with 1 free attaching New Option for every 1 Shortfall CDI issued (**Shortfall Offer**).

Each New Option issued pursuant to this Prospectus under the Entitlement Offer will have an exercise price of \$0.014 (1.4 cents) and an expiry date of 15 February 2021. The Entitlement Offer will be partially underwritten by entities associated with a Director of Osprey: see section 4.9 of the Prospectus for further details.

### No exposure period

No exposure period applies to this Prospectus by operation of ASIC Corporations (Exposure Period) Instrument 2016/74.

### Obtaining a Prospectus and Entitlement and Acceptance Form

Applications for New CDIs and New Options (collectively, **New Securities**) offered pursuant to this Prospectus can be submitted on an original Entitlement and Acceptance Form. Paper copies of this Prospectus and an Entitlement and Acceptance Form can be obtained free of charge during the Offer period by calling Osprey's CDI Registry, Link Market Services Limited (**CDI Registry**), from 8.30am to 5.30pm, Monday to Friday (Melbourne time) on 1300 554 474.

### Electronic prospectus

This Prospectus is also available electronically at [www.asx.com.au](http://www.asx.com.au) or [www.ospreymed.com/investors/releases/](http://www.ospreymed.com/investors/releases/). The Entitlement and Acceptance Form accompanying the electronic version of this Prospectus must only be used within Australia, New Zealand, Hong Kong and Singapore. An Entitlement and Acceptance Form cannot be downloaded without also downloading this Prospectus. Electronic versions of this Prospectus should be downloaded and read in their entirety.

Applications for New Securities may only be made on the Entitlement and Acceptance Form accompanying this Prospectus or in its paper copy form downloaded in its entirety from [www.ospreymed.com](http://www.ospreymed.com).

### Investor warning

The Entitlement Offer contained in this Prospectus does not take into account the investment objectives, financial position and particular needs of individual investors. It is important that you read this Prospectus carefully and in full before deciding to apply for New Securities. In particular, you should consider the risk factors that could affect the financial performance of Osprey in light of your personal circumstances and seek professional advice from your accountant, tax adviser, stockbroker, lawyer or other professional adviser before deciding to invest.

**No representation other than in this Prospectus**

No person is authorised to give information or to make any representation in connection with this Prospectus, which is not contained in the Prospectus. Any information or representation not so contained may not be relied on as having been authorised by Osprey in connection with this Prospectus.

Except as required by law, and only to the extent so required, neither Osprey nor any other person warrants or guarantees the future performance of Osprey or any return on any investment made pursuant to this Prospectus, or on the exercise of the New Options issued under this Prospectus.

**Risk Factors**

Potential investors should be aware that subscribing for the New Securities and exercising any New Options involves a number of risks. The key risk factors which investors should be aware are set out in Section 10 of this Prospectus. These risks, together with other general risks applicable to all investments in listed and unlisted securities, which are not specifically referred to, may affect the value of the New Securities in the future.

**Forward-looking statements**

This Prospectus contains or may contain forward-looking statements that are based on management's beliefs, assumptions and expectations and on information currently available to management. All statements that address operating performance, events or developments that we expect or anticipate will occur in the future are forward-looking statements, including without limitation our expectations with respect to our ability to commercialise our products including our estimates of potential revenues, costs, profitability and financial performance; our ability to develop and commercialise new products including our ability to obtain reimbursement for our products; our expectations with respect to our clinical trials, including enrolment in or completion of our clinical trials and our associated regulatory submissions and approvals; our expectations with respect to the integrity or capabilities of our intellectual property position. Management believes that these forward-looking statements are reasonable as and when made. Eligible Holders should not place undue reliance on forward-looking statements because they speak only as of the date when made. Osprey does not assume any obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events or otherwise. Osprey may not actually achieve the plans, projections or expectations disclosed in forward-looking statements, and actual results, developments or events could differ materially from those disclosed in the forward-looking statements.

**Foreign jurisdictions**

The Entitlement Offer is not being extended to CDI holders in jurisdictions outside Australia, New Zealand, Hong Kong and Singapore and no action has been taken to register, or otherwise permit, the offer of New Securities to be made under the laws of any jurisdiction outside of Australia, New Zealand, Hong Kong and Singapore. In particular, the New Securities offered under the Entitlement Offer have not been, and will not be registered under the US Securities Act or the securities laws of any state or other jurisdiction in the United States. It is your responsibility to ensure that you comply with any laws of your jurisdiction which are applicable to you and which are relevant to your applying for New Securities under the Entitlement Offer.

The distribution by you of this Prospectus (including an electronic copy) outside Australia, New Zealand, Hong Kong and Singapore may be restricted by law. You should observe such restrictions and should seek your own advice on such restrictions. Any non-compliance with these restrictions may contravene applicable securities law.

This Prospectus has been prepared for publication in Australia, New Zealand, Hong Kong and Singapore and may not be released or distributed in the United States. This Prospectus does not constitute an offer to sell, or a solicitation of an offer to buy, securities in the United States or any other jurisdiction. Any securities described in this Prospectus have not been, and will not be, registered under the US Securities Act, or any state securities laws, and until so registered, may not be offered or sold in the United States except pursuant to an exemption from the registration requirements of the US Securities Act and applicable state securities laws. Hedging transactions involving any securities described in this Prospectus may not be conducted unless in compliance with the US Securities Act.

In order to enforce the above transfer restrictions whilst ensuring that Eligible Holders can still trade their CDIs on ASX, the CDIs will bear a "FOR US" designation on ASX. As a result of the imposition of the "FOR US" designation, all holders of CDIs in Osprey will be restricted from selling their CDIs on ASX to United States persons.

**No recommendation**

The Offers are not a recommendation to acquire CDIs. This Prospectus does not constitute financial product advice and does not take into account the individual investment objectives, financial situation or particular needs of each Eligible Holder or Investor. Eligible Holders wanting to participate in the Entitlement Offer should obtain independent advice in relation to the taxation and other consequences of an investment under the Entitlement Offer before making a decision as to whether to participate in the Entitlement Offer. A cooling-off regime does not apply in relation to the acquisition of CDIs under the Entitlement Offer.

### **Definitions and references to time**

Capitalised words and expressions in this Prospectus have the meanings given in Section 14.

A reference to time in this Prospectus is to Melbourne time, unless otherwise stated.

All financial amounts in this Prospectus are references to Australian currency, unless otherwise stated.

### **Photographs and diagrams**

Any photographs used in this Prospectus without descriptions are only for illustration. Any diagrams used in this Prospectus may not be drawn to scale. Any assets depicted in photographs in this Prospectus are not assets of Osprey unless otherwise stated.

### **Privacy**

If you apply for New Securities, you will provide personal information to Osprey and the CDI Registry. Osprey and the CDI Registry collect, hold and use your personal information in order to assess your application, service your needs as a holder of the CDIs and Options (**Securityholder**), provide facilities and services that you request and carry out appropriate administration. Company and tax laws require some of the information to be collected. If you do not provide the information requested, your application may not be able to be processed efficiently, or at all.

Each of Osprey and the CDI Registry may disclose your personal information for purposes related to your CDI and Option holding to each other and to their respective agents and services providers including those listed below or as otherwise authorised under the *Privacy Act 1988* (Cth) (**Privacy Act**):

- in the case of Osprey, to the CDI Registry for ongoing administration of the CDI and Option registers; and
- in the case of Osprey and the CDI Registry, to printers and mailing houses for the purposes of preparation and distribution of Securityholder information and for handling of mail.

Under the Privacy Act, you may request access to your personal information held by (or on behalf of) Osprey or the CDI Registry. You can request access to your personal information by emailing or writing to Osprey through the CDI Registry as follows:

Osprey Medical, Inc.  
c/- Link Market Services Limited  
GPO Box 3560  
Sydney NSW 2001  
Email: [registrars@linkmarketservices.com.au](mailto:registrars@linkmarketservices.com.au)

### **Date of this document**

This Prospectus is dated 3 April 2020.

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## Chairman's Letter

3 April 2020

Dear holders of CHESS Depositary Interests

On behalf of the Board, I am pleased to invite you to participate in a pro rata, renounceable entitlement offer of CHESS Depositary Interests (**CDIs**), representing new fully paid shares of Common Stock in Osprey (**New CDIs**), at a price of \$0.012 per CDI, to raise a maximum of approximately \$15.5 million before costs and expenses (**Entitlement Offer**), as announced on 3 April 2020 (**Announcement Date**).

The funds raised from the Entitlement Offer will be used primarily to accelerate commercial expansion in the United States, ongoing clinical evidence support, on-going product portfolio development and for general working capital purposes.

In addition, Osprey has entered into a non-binding term sheet with GE Healthcare Limited (**GE Healthcare**) pursuant to which GE Healthcare and Osprey have agreed to negotiate in good faith the grant of exclusive distribution and promotion rights to GE Healthcare for Europe, Russia, Middle East, Africa, Central Asia and Turkey. Funds from the Entitlement Offer are expected to be used to support GE Healthcare's commercial efforts under this arrangement. More details on the GE Healthcare term sheet can be found in section 2.2.

### Overview of Entitlement Offer

The Entitlement Offer is being made to all securityholders who are registered as holders of Osprey's CDIs as at 7.00pm (Melbourne time) on Wednesday, 8 April 2020 (**Record Date**) with a registered address in Australia, New Zealand, Hong Kong or Singapore (**Eligible Holders**). CDI holders with a registered address outside Australia, New Zealand, Hong Kong or Singapore are considered ineligible securityholders and cannot participate in the Entitlement Offer.

Under the Entitlement Offer, Eligible Holders have the opportunity to subscribe for 3 New CDIs for every 1 CDI of which they are the registered holder at 7.00pm (Melbourne time) on the Record Date at an issue price of \$0.012 per New CDI (**Issue Price**). Each Eligible Holder will also be issued 1 free attaching new unlisted Option (**New Options**) for every 1 New CDI they are issued under the Entitlement Offer. Each New Option issued pursuant to this Prospectus will have an exercise price of \$0.014 and an expiry date of 15 February 2021.

The Issue Price represents a 20% discount to the closing price on 31 March 2020 and a 0.9% discount to the 15 trading day VWAP of Osprey's CDIs ending on 31 March 2020.

The Entitlement Offer is renounceable. This means that Eligible Holders may sell some, or all of their Entitlement under this Entitlement Offer. Please refer to Section 5 for further details in this regard.

### Top Up Facility

The Entitlement Offer incorporates a top up facility under which Eligible Holders can apply to take up New CDIs (and free attaching New Options) in excess of their pro rata entitlement (**Top Up Facility**). Applications under the Top Up Facility will only be considered to the extent there is a shortfall under the Entitlement Offer and will be subject to the terms set out in Section 4.3 of this Prospectus.

Further details regarding the Top Up Facility are set out in Section 4.3 of this Prospectus.

## Shortfall Offer

This Prospectus also includes an offer to Investors to acquire Shortfall CDIs forming part of the Shortfall from the Entitlement Offer at an issue price of \$0.012 per Shortfall CDI, together with 1 free attaching New Option for every 1 Shortfall CDI issued. Further details are set out in Section 6.2(n).

## Underwriting Arrangements

The Entitlement Offer will be partially underwritten by the Underwriter to the amount of \$4,453,692 (**Underwritten Amount**).

## Action you should take

**The Entitlement Offer is currently scheduled to close at 5.00pm (Melbourne time) on Friday, 24 April 2020.** If you wish to subscribe for New CDIs (and free attaching New Options) under the Entitlement Offer, you must ensure that your application and payment is received by this time in accordance with the instructions set out in Section 5.2.

For further information regarding the Entitlement Offer, please call the Entitlement Offer Information Line on 1300 554 474 (within Australia) or +61 1300 554 474 (outside Australia) between 8.30am and 5.00pm (Melbourne time) on Business Days during the offer period for the Entitlement Offer.

## Prospectus

This Prospectus contains important information regarding the Entitlement Offer, and I encourage you to read it carefully before making any investment decision, having particular regard to the "Risk Factors" outlined in Section 10 of this Prospectus.

This Prospectus is a "transaction-specific" prospectus to which the special content rules under section 713 of the Corporations Act apply. This allows the issue of a concise prospectus in relation to an offer of securities, or options to acquire securities, that are in a class which has been continuously quoted by ASX in the three months prior to the date of the prospectus. This Prospectus does not include all of the information that would be included for an initial public offering of securities. Accordingly, you should have regard to Osprey's recent announcements on ASX (available at [www.asx.com.au](http://www.asx.com.au)).

If you have any questions, you should consult your financial or other professional adviser.

We look forward to your support for this Entitlement Offer.

Yours sincerely



John Erb  
Chairman

## Key Dates

Event	Date
Prospectus lodged with ASIC and ASX	Friday, 3 April 2020
Appendix 3B lodged with ASX	Friday, 3 April 2020
Announcement of Entitlement Offer	Friday, 3 April 2020
Ex-date	Tuesday, 7 April 2020
Rights trading commences	Tuesday, 7 April 2020
Record Date to determine entitlement to participate in the Entitlement Offer	7.00pm on Wednesday 8 April 2020
Dispatch Prospectus and Entitlement and Acceptance Form to Eligible Holders	Wednesday, 15 April 2020
Entitlement Offer opens	9.00am on Wednesday, 15 April 2020
Rights trading ends	Friday, 17 April 2020
Entitlement Offer closes	5.00pm on Friday, 24 April 2020
Shortfall announced to ASX	Wednesday, 29 April 2020
Issue of New CDIs and New Options under Entitlement Offer	Friday, 1 May 2020
New CDIs under Entitlement Offer commence trading on ASX on a normal basis	Monday, 4 May 2020
Dispatch of holding statements	Tuesday, 5 May 2020
Shortfall Offer expected to close (and last day by which Shortfall CDIs (if any) may be issued under the Shortfall Offer)	Friday, 24 July 2020

Dates and times in this Prospectus are indicative only and subject to change. All dates and times are references to Melbourne time.

Osprey reserves the right to amend any or all of these dates and times, subject to the Corporations Act, the ASX Listing Rules and other applicable laws and regulations. In particular, Osprey reserves the right to extend the Closing Dates, to accept late applications under the Entitlement Offer (either generally or in particular cases) and to withdraw the Entitlement Offer without prior notice. Any extension of the Closing Dates may have a consequential impact on the date that New CDIs are issued and commence trading on the ASX. Applicants are encouraged to submit their personalised Entitlement and Acceptance Forms as soon as possible after the Entitlement Offer opens.

Osprey also reserves the right not to proceed with the whole or part of the Entitlement Offer at any time prior to the issue of the New CDIs. In that event, application monies (without interest) would be returned to applicants.



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## **1 Important Notes**

This Prospectus is dated 3 April 2020 and was lodged with ASIC on that date. The ASIC, ASX and their respective officers take no responsibility for the contents of this Prospectus or the merits of the investment to which this Prospectus relates.

No securities may be issued on the basis of this Prospectus later than 13 months after the date of this Prospectus.

No person is authorised to give information or to make any representation in connection with this Prospectus, which is not contained in this Prospectus. Any information or representation not so contained may not be relied on as having been authorised by Osprey in connection with this Prospectus.

It is important that investors read this Prospectus in its entirety and seek professional advice where necessary. The securities the subject of this Prospectus should be considered speculative.

Applications for New CDIs (and free attaching New Options) offered pursuant to this Prospectus can only be submitted on an original Entitlement and Acceptance Form.

This Prospectus is a transaction specific prospectus for an offer of continuously quoted securities (as defined in the Corporations Act) and has been prepared in accordance with section 713 of the Corporations Act. It does not contain the same level of disclosure as an initial public offering prospectus. In making representations in this Prospectus regard has been had to the fact that Osprey is a disclosing entity for the purposes of the Corporations Act and certain matters may reasonably be expected to be known to investors and professional advisers whom potential investors may consult.

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## 2 Company Update

### 2.1 Background

Osprey's vision is to make heart imaging procedures safer for patients with poor kidney function.

The amount of dye (contrast) used during angiographic imaging procedures increases the patient's risk for dye-related kidney damage known as Contrast-Induced Acute Kidney Injury (**CI-AKI**). Osprey's core technologies originated from research conducted by Dr David Kaye at Melbourne's Baker Institute. Its proprietary dye reduction and monitoring technologies are designed to help physicians minimize dye usage and monitor the dose of dye real time throughout the procedure.

Osprey's DyeVert™ System reduces contrast while maintaining image quality in a self-adjusting easy-to-use design that monitors dye usage. Osprey's Board and management are comprised of experienced and successful personnel with established track records covering medical device development, regulatory approvals, sales and marketing, and mergers-acquisitions. In addition, Osprey's advisory board comprises world-recognised experts in heart and kidney diseases.

### 2.2 Arrangements with GE Healthcare

On 20 December 2019, Osprey entered into a non-binding term sheet with GE HealthCare. The term sheet requires the parties to negotiate in good faith toward the execution of a four (4) year exclusive distribution agreement to enable GE Healthcare to commercialise Osprey's product portfolio in Europe, Russia, Middle East, Africa, Central Asia and Turkey (**Region**).

The term sheet provides that the key provisions of an exclusive distribution agreement between the parties, will include:

- (a) GE Healthcare's large and dedicated commercialisation team (in excess of 120) will be tasked with selling products in the Osprey portfolio in the Region;
- (b) GE Healthcare will be granted a right of first refusal to distribute and promote any new products introduced by Osprey in the Region;
- (c) in order for GE Healthcare to maintain its exclusive distribution rights it must meet the minimum purchase levels (which increase on an annual basis during the term);
- (d) transfer prices are fixed over the 4-year term and provide appropriate gross margin returns for Osprey; and
- (e) during the term, GE Healthcare will liaise with Osprey in regard to marketing, business plans and provide sales reports.

A formal and definitive distribution agreement is currently anticipated to be entered into during the second quarter of 2020. In the first quarter of 2020, Osprey plans to terminate its two distribution agreements in Europe in preparation for the transition to the arrangements with GE Healthcare in the second quarter of 2020. The current distributors will not purchase products in the first quarter of 2020 and could return product which will negatively affect sales in the first quarter of 2020.

Osprey has not entered into any material contracts other than those which have been the subject of ASX announcements or referred to in this Prospectus.

## **2.3 Impact of Coronavirus**

The COVID-19 pandemic has resulted in new regulations, government policy, legislation and significantly, changes to traditional customer engagement norms in the healthcare sector. Hospitals have started to restrict access to non-essential personnel, and they have restricted elective procedures. While it is difficult to predict the level and duration of impact at this stage, and notwithstanding that there are a number of key aspects relating to Osprey's products and COVID-19 that support continued use of DyeVert, we expect COVID-19 to materially impact sales performance in the near-term. Osprey is actively implementing mitigation strategies to minimise the impact on business continuity.

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### 3 Investment Summary

This Prospectus contains the following Offers:

(a) **Entitlement Offer to Eligible Holders**

The Entitlement Offer is a pro rata offer of approximately 1,295,392,110 New CDIs, representing new fully paid shares of Common Stock in Osprey, at \$0.012 (1.2 cents) per New CDI to raise a maximum of approximately \$15.5 million before costs and expenses.

Eligible Holders are entitled to subscribe for 3 New CDIs for every 1 CDI held by them at 7.00pm (Melbourne time) on the Record Date. For every 1 New CDI issued to them, Eligible Holders will also be issued 1 attaching New Option at no further cost. The New Options issued will have an exercise price of \$0.014 (1.4 cents) and will expire on 15 February 2021.

Fractional entitlements will be rounded up to the nearest whole number.

The Entitlement Offer also incorporates a Top Up Facility under which Eligible Holders can apply for New CDIs in excess of their pro rata entitlement. Eligible Holders should refer to Section 4.3 for a description of the terms and conditions of the Top Up Facility.

The choices available to Eligible Holders in respect of the Entitlement Offer are described in Section 5.

The Entitlement Offer opens at 9.00am (Melbourne time) on Wednesday, 15 April 2020 and is currently scheduled to close at 5.00pm (Melbourne time) on Friday, 24 April 2020.

(b) **Shortfall Offer**

An offer to Investors to acquire Shortfall CDIs forming part of the Shortfall from the Entitlement Offer at an issue price of \$0.012 per Shortfall CDI, together with 1 free attaching New Option for every 1 Shortfall CDI issued.

See Section 7 for further details.

This Prospectus contains important information regarding the Entitlement Offer, and investors should read it carefully before making any investment decision, having particular regard to the "Risk Factors" outlined in Section 10 of this Prospectus

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## 4 Overview of Entitlement Offer

### 4.1 Eligible Holders

The Entitlement Offer will be made to all securityholders who are registered as holders of Osprey's CDIs as at 7.00pm (Melbourne time) on Wednesday, 8 2020 (**Record Date**) with a registered address in Australia, New Zealand, Hong Kong or Singapore (**Eligible Holders**). CDI holders with a registered address outside Australia, New Zealand, Hong Kong or Singapore are considered ineligible CDI holders (**Ineligible Holders**) and cannot participate in the Entitlement Offer.

### 4.2 What is the entitlement of an Eligible Holder?

The number of New CDIs to which you are entitled under the Entitlement Offer is shown in the personalised Entitlement and Acceptance Form which accompanies this Prospectus. In calculating each Eligible Holder's entitlement, fractional entitlements to New CDIs have been rounded up to the nearest whole number of New CDIs. Eligible Holders can subscribe for all, or part, of their pro rata entitlement under the Entitlement Offer. Detailed instructions on how to accept all, or part of, your pro rata entitlement are set out in Section 5.

Please note that if you choose not to take up your pro rata entitlement, your percentage holding in Osprey will be diluted to the extent that the Entitlement Offer is taken up by other Eligible Holders.

Osprey reserves the right to reduce the number of New CDIs allocated to Eligible Holders, or persons claiming to be Eligible Holders, if their claims as to the extent of their entitlements prove to be overstated or they fail to provide information to substantiate their claims.

### 4.3 Top Up Facility

The Entitlement Offer incorporates a Top Up Facility under which Eligible Holders can apply for New CDIs (and free attaching New Option) in excess of their pro rata entitlement (**Additional New CDIs**). The issue of Additional New CDIs under the Top Up Facility will be dependent on there being a shortfall in the take up of pro rata entitlements under the Entitlement Offer.

Eligible Holders who wish to apply for Additional New CDIs under the Top Up Facility can do so by specifying the number of Additional New CDIs they wish to apply for in the space provided on their Entitlement and Acceptance Form.

#### 4.3.1 Allocation of shortfall amongst applicants under the Top Up Facility

If Eligible Holders submit applications under the Top Up Facility, any allocation of a shortfall under the Entitlement Offer amongst those applicants will be considered and determined by Osprey's Board, at its discretion, including whether to:

- (a) issue Additional New CDIs by applying a policy of allocating Additional New CDIs in a manner that is in Osprey's best interests; or
- (b) to reject any application for Additional New CDIs or to issue a lesser number of Additional New CDIs than applied for.

Notwithstanding the above, it is proposed that Additional CDIs subscribed for pursuant to the Top Up Facility will be allocated to those Eligible Holders who have applied for Additional New CDIs through the Top Up Facility unless there is an oversubscription for Additional New CDIs, in which case Eligible Holders will be scaled back. The

Directors reserve their right to alter the allocation policy and to allocate and issue Additional New CDIs (and free attaching New Options) under the Top Up Facility at their discretion.

If any shortfall remains after the allocation to the Eligible Holders who participate in the Top Up Facility as provided above, the resulting shortfall may be allotted pursuant to the Shortfall Offer at the discretion of the Directors within 3 months of the Entitlement Offer Closing Date pursuant to ASX Listing Rule 7.2 (exception 3) (see Section 7) .

The Directors reserve their right to alter the allocation policy and to allocate and issue Additional New CDIs (and free attaching New Options) under the Top Up Facility at their discretion

Related parties of Osprey will not be entitled to participate in the Top Up Facility. For this purpose, 'related parties' has the meaning given in the ASX Listing Rules and includes Directors and certain persons connected with them.

To avoid doubt, Brandon will also not be entitled to participate in the Top Up Facility.

#### **4.3.2 No certainty regarding allocations**

As a consequence of the arrangements described above, there can be no guarantee of the number of Additional New CDIs available to Eligible Holders under the Top Up Facility. Eligible Holders who apply for Additional New CDIs under the Top Up Facility will be bound to accept any lesser number of Additional New CDIs allocated to them in accordance with the allocation procedure described above. If you do not receive all of the Additional New CDIs you applied for, any excess application monies will be returned to you without interest.

#### **4.4 Issue of New CDIs**

Osprey currently expects that New CDIs will be issued by 1 May 2020 and that holding statements will also be posted by 4 May 2020.

#### **4.5 Ranking of New CDIs**

When issued, the New CDIs will be fully paid and will rank equally with all other outstanding CDIs.

#### **4.6 Overseas Securityholders**

This Prospectus is only intended to be distributed and made available to existing securityholders of Osprey and personal to each securityholder to whom it has been delivered. These Offers do not, and are not intended to, constitute an offer in any place or jurisdiction in which, or to any person to whom, it would not be lawful to make such an offer or to issue this Prospectus.

It is not practicable for Osprey to comply with the securities laws of overseas jurisdictions having regard to the number of overseas securityholders, the number and value of securities these securityholders would be offered and the cost of complying with regulatory requirements in each relevant jurisdiction. Accordingly, the Entitlement Offer is not being extended and securities will not be issued to securityholders outside Australia, New Zealand, Hong Kong and Singapore.

The distribution of this Prospectus in jurisdictions outside Australia, New Zealand, Hong Kong and Singapore may be restricted by law and persons who come into possession of this Prospectus should seek advice on and observe such restrictions. Any failure to comply with such restrictions may constitute a violation of applicable

securities laws. No action has been taken to register or qualify the securities the subject of this Prospectus or otherwise permit a public offering of the securities the subject of this Prospectus in any jurisdiction outside Australia, New Zealand, Hong Kong and Singapore.

If you are outside Australia, New Zealand, Hong Kong and Singapore it is your responsibility to obtain all necessary approvals for the issue of securities pursuant to this Prospectus. The return of a completed Application and Entitlement Form will be taken by Osprey to constitute a representation and warranty by you that all relevant approvals have been obtained.

#### **4.7 Notice to nominees and custodians**

Nominees and custodians may not distribute this Prospectus, and may not permit any beneficial securityholder to participate in the Entitlement Offer, in any country outside Australia and Singapore except, with the consent of the Company, to beneficial securityholders resident in certain other countries where the Company may determine it is lawful and practical to make the Offer.

#### **4.8 Appointment of Nominee**

Pursuant to ASX Listing Rule 7.7, Osprey has appointed E&P Corporate Advisory Pty Ltd as nominee to sell the Entitlements to which Ineligible Holders are entitled. E&P Corporate Advisory Pty Ltd will have absolute and sole discretion to determine the timing and price at which Entitlements will be sold and the manner of any such sale.

Any interest earned on the proceeds of sale of these Entitlements will firstly be applied against expenses of such sale, including brokerage, and any balance will accrue to the relevant Ineligible Holders as described below.

The net proceeds of the sale of these Entitlements will then be forwarded by Osprey as soon as practicable to the Ineligible Holders, in proportion to their share of such Entitlements (after deducting brokerage commission). If any such net proceeds of sale are less than the reasonable costs that would be incurred by Osprey for distributing these proceeds, such proceeds may be retained by Osprey.

Ineligible Holders may receive no net proceeds if the costs of the sale are greater than the sale proceeds. In this regard, E&P Corporate Advisory Pty Ltd will not be required to sell Ineligible Holder's Entitlement at a particular price.

Neither Osprey nor E&P Corporate Advisory Pty Ltd will be subject to any liability for failure to sell the Entitlements or to sell them at a particular price. If, in the reasonable opinion of E&P Corporate Advisory Pty Ltd, there is no viable market for the Entitlements of Ineligible Holders, or a surplus over the expenses of the sale cannot be obtained the Entitlements that would have been offered to Ineligible Holders, then those Entitlements will be allowed to lapse.

Securityholders resident in Australia, New Zealand, Hong Kong and Singapore holding securities on behalf of persons who are resident overseas are responsible for ensuring that taking up an Entitlement under the Entitlement Offer does not breach regulations in the relevant overseas jurisdiction. Return of a duly completed Entitlement and Acceptance Form will be taken by Osprey to constitute a representation that there has been no breach of those regulations.

E&P Corporate Advisory Pty Ltd will not be paid a fee for providing these services but will be reimbursed all reasonable expenses.

## 4.9 Underwriting Arrangements

Osprey and certain funds managed by Brandon have entered into an underwriting agreement (**Underwriting Agreement**). Subject to satisfaction of conditions under the Underwriting Agreement, Brandon has committed to take up part of its pro rata entitlement under the Entitlement Offer and the Underwriter has agreed to partially underwrite the Entitlement Offer, so that any New CDIs not taken up under the Entitlement Offer and Top Up Facility will be taken up by the Underwriter to the extent of the Underwritten Amount.

Prior to the appointment of the Underwriter, Osprey had explored a number of other financing opportunities and options within the last 12 months, these have included:

- (a) engaging with US based bankers (and retaining one US investment bank) to assist with sourcing investment out of the US, leading to detailed discussions with a few US based institutional investors;
- (b) taking advice from Australian based banks and advisers as to how best structure a capital raising in the current economic market whilst minimising the dilution of existing CDI holders; and
- (c) considering offers of debt from third party lenders.

Taking all the above into consideration, and so as to ensure a successful Entitlement Offer, the Board appointed funds managed by Brandon to act as underwriter and in conjunction with this endeavoured to make the offer as attractive as possible to existing CDI holders (including the decision to offer free attaching Options).

A summary of the Underwriting Agreement, including the material events whereby Underwriter may terminate its obligations under the Underwriting Agreement, is set out below:

### 4.9.1 Termination events

The Underwriter may terminate the Underwriting Agreement and be released from its obligations under it on the occurrence of certain events (in some cases, subject to the materiality of the relevant event<sup>1</sup>,) including (but not limited to) where:

- (a) a statement in any of the offer documents (including this Prospectus and all market announcements made in connection with the Offers) does not comply with the Corporations Act, ASX Listing Rules or any other applicable law, is , or becomes, misleading or deceptive, or likely to mislead or deceive;
- (b) there is a 20% or more fall in the S&P/ASX 200 Index on two consecutive Business Days or on the Business Day immediately prior to the settlement date;
- (c) there is either:
  - (i) a general moratorium on commercial banking activities in Australia, Singapore, Hong Kong, the United Kingdom, the United States, China, South Korea, Japan or any member state of the European Union is declared by the relevant central banking authority in those countries;

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<sup>1</sup> Items denoted with an (\*) are qualified termination events subject to a materiality threshold.



- (ii) there is a disruption in commercial banking or security settlement or clearance services in any of those countries for 2 consecutive Business Days; or
- (iii) trading in all securities quoted or listed on ASX, New York Stock Exchange or the London Stock Exchange is suspended or limited in a material respect for consecutive 2 Business Days on which that exchange would otherwise be open for trading;
- (d) Osprey commits a material breach of the Corporations Act, ASX Listing Rules, its constituent documents, or other applicable laws, or has failed to comply with its continuous disclosure obligations;
- (e) there are material disruptions in certain financial markets or political conditions in key markets, or hostilities commence or escalate in certain key countries.
- (f) \*there is a material adverse change in the assets, liabilities, financial position or performance, profits, losses or prospects of Osprey;
- (g) \*a Director or officer of Osprey is charged with an indictable offence;
- (h) \*any information supplied by or on behalf of Osprey to the Underwriter in relation to Osprey, the Offers or this Prospectus is or becomes misleading or deceptive, including by way of omission;
- (i) Osprey withdraws the Offers;
- (j) \*Osprey fails to perform or observe any of its obligations or breaches any term or condition under the Underwriting Agreement;
- (k) \*a representation, warranty or undertaking made or given by Osprey under the Underwriting Agreement proves to or becomes, untrue or incorrect;
- (l) \*legal proceedings against Osprey, or any other group company or against any director of Osprey or any other group company in that capacity is commenced or any regulatory body commences any enquiry or public action against any group company;
- (m) \*any intellectual property right, licence, permit, authorisation or consent held by any group company that is necessary to conduct Osprey's business is revoked, withdrawn, rescinded, breached, terminated, altered or amended (other than with the consent of the Underwriter);
- (n) \*a change in the senior management of Osprey or in the Board is announced or occurs; or
- (o) \*Osprey issues a public statement concerning the Offers which has not been approved by the Underwriter in breach of the Underwriting Agreement;
- (p) Osprey is removed from the official list of the ASX, or its CDIs are delisted or suspended from quotation by ASX.

#### **4.9.2 Fees**

In consideration for the Underwriter's services in connection with the Entitlement Offer, Osprey will pay a fee equal to 1% of the Underwritten Amount.

#### **4.9.3 Other provisions**

As is customary with underwriting arrangements, Osprey has also (subject to certain limitations) agreed to indemnify the Underwriter, its affiliates and related bodies corporate, their respective directors, officers, employees, advisers and representatives against losses they may suffer in connection with the Entitlement Offer.

#### **4.10 Withdrawal of the Entitlement Offer**

Osprey reserves the right to withdraw all or part of the Entitlement Offer, and this Prospectus, at any time, subject to applicable laws. In that case, Osprey will refund application monies in relation to New CDIs not already issued in accordance with the Corporations Act and without payment of interest.

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## **5 Choices available to Eligible Holders**

### **5.1 Your choices**

Before taking any action, you should read this Prospectus in its entirety and, if you have any questions, consult your financial or other professional adviser.

If you are an Eligible Holder, the following choices are available to you:

<b>Option</b>	<b>See Section</b>
Participate in the Entitlement Offer	5.2
Sell Entitlement on ASX	5.3
Taking up part of Entitlement and selling balance on ASX	5.4
Taking up part of Entitlement and allowing balance to lapse	5.5
Selling all or part of your Entitlement other than on ASX	5.6
Take no action	5.7

### **5.2 How to participate in the Entitlement Offer**

#### **5.2.1 *Taking up some or all of your pro rata allocation***

To subscribe for New CDIs offered to you under your pro rata allocation, please complete the accompanying Entitlement and Acceptance Form according to the instructions on the form for all, or that part, of your pro rata entitlement you wish to subscribe for.

#### **5.2.2 *Applying for Additional New CDIs under the Top Up Facility***

Please refer to Section 4.3 for details regarding the Top Up Facility.

If you wish to apply for Additional New CDIs under the Top Up Facility, please insert the number of Additional New CDIs you wish to apply for in the relevant box on the Entitlement and Acceptance Form.

#### **5.2.3 *Payment***

The Issue Price of \$0.012 per New CDI is payable in full on application.

Payments must be received by 5.00pm (Melbourne time) on the Entitlement Offer Closing Date and must be in Australian currency and made by:

- (a) cheque drawn on and payable at any Australian bank;
- (b) bank draft or money order drawn on and payable at any Australian bank; or
- (c) BPAY®.

If you wish to pay by BPAY®, you do not need to return the Entitlement and Acceptance Form. You simply need to follow the instructions on the Entitlement and Acceptance Form. Different financial institutions may implement earlier cut-off times with regards to electronic payment, so please take this into consideration when making payment by BPAY®. It is your responsibility to ensure that funds submitted through BPAY® are received by no later than 5.00pm (Melbourne time) on the Entitlement Offer Closing Date.

Osprey will treat you as applying for as many New CDIs as your payment will pay for in full, subject to any scale-back Osprey may implement in respect of Additional New CDIs under the Top Up Facility. Amounts received by Osprey in excess of your pro rata entitlement (**Excess Amount**) may be treated as an application under the Top Up Facility to apply for as many Additional New CDIs as your Excess Amount will pay for in full.

Cheques, bank drafts and money orders must be made payable to "Osprey Medical Inc." and crossed 'Not Negotiable'. Cash payments will not be accepted. Receipts for payment will not be provided.

Osprey will not be responsible for any postal or delivery delays or delay in the receipt of your BPAY® payment.

Application monies will be held in trust in a subscription account until New CDIs are issued. Any interest earned on application monies will be for the benefit of Osprey and will be retained by Osprey irrespective of whether any issue of New CDIs takes place.

#### **5.2.4 Return completed Entitlement and Acceptance Form and payment**

Unless you are paying by BPAY®, completed Entitlement and Acceptance Forms and payment of application money should be forwarded to the CDI Registry by mail in the enclosed prepaid envelope or, if you are outside of Australia or do not use the prepaid envelope, by mail addressed to:

Osprey Medical Inc.  
C/ - Link Market Services Limited  
GPO Box 3560  
Sydney NSW 2001  
Australia

Completed Entitlement and Acceptance Forms and payments must be received by 5.00pm (Melbourne time) on the Entitlement Offer Closing Date.

Please note that all acceptances, once received, are irrevocable.

If you wish to pay by BPAY®, you do not need to return the Entitlement and Acceptance Form. Please see Section 5.2.3 above for details.

### **5.3 Selling your Entitlement on ASX**

The Entitlements under the Entitlement Offer are renounceable which means that all or part of an Eligible Holder's rights to subscribe for CDIs under the Entitlement Offer may be traded on ASX. If you wish to sell all of your Entitlement on ASX, provide instructions to your stockbroker regarding the Entitlement you wish to sell on ASX. Trading of Entitlements will commence on ASX on Tuesday, 7 April 2020 and cease on Friday, 17 April 2020.

There is no guarantee that an Eligible Holder will be able to sell all or any part of their Entitlement on ASX or that any particular price will be paid for the Entitlements sold on ASX.

### **5.4 Taking up part of your Entitlement and selling the balance on ASX**

If you wish to take up only part of your Entitlement, complete the accompanying personalised Entitlement and Acceptance Form for the number of CDIs you wish to take up or make a payment by BPAY® and follow the steps in Section 5.2.

Subsequently, provide instructions to your stockbroker regarding the proportion of your Entitlement you wish to sell on ASX.

### **5.5 Taking up part of your Entitlement and allowing the balance to lapse**

If you wish to take up only part of your Entitlement and allow your balance to lapse, complete the accompanying personalised Entitlement and Acceptance Form for the number of CDIs you wish to take up or make a payment by BPAY® and follow the steps in Section 5.2.

If you take no further action, the balance of your Entitlement will lapse and you will have forfeited any potential benefit to be gained from taking up or selling that part of your Entitlement.

### **5.6 Selling all or part of your Entitlement other than on ASX**

You may elect to transfer all or a proportion of your Entitlement to another person other than on ASX. If the proposed purchaser of your Entitlement is an Ineligible Holder or a person that would be an Ineligible Holder if they were a registered holder of CDIs, that purchaser will not be able to take up the Entitlement.

If you are a securityholder on the issuer sponsored subregister and you wish to transfer all or a proportion of your Entitlement other than on ASX, forward a completed standard renunciation and transfer form (obtainable from the CDI Registry) and applicable transferee's cheque for the CDIs they wish to subscribe for payable to "Osprey Medical, Inc." and crossed "Not Negotiable" to the CDI Registry (by delivery or post at any time after the issue of this Prospectus and on or before the Entitlement Offer Closing Date) at the following address:

By delivery: Osprey Medical Inc.  
c/ - Link Market Services Limited  
1A Homebush Bay Drive  
Rhodes, NSW 2138

By Post<sup>2</sup>: Osprey Medical Inc.  
c/ - Link Market Services Limited  
GPO Box 3560

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<sup>2</sup> Preferred method due the current restrictions resulting from COVID-19.

If you wish to transfer all or a proportion of your Entitlement to or from another person on the CHESS subregister, you must engage your CHESS controlling participant (usually your stockbroker). If the transferee wants to exercise some or all of the Entitlement, you should follow your stockbroker's instructions as to the most appropriate way to take up the Entitlement on their behalf. The application money for CDIs the transferee of the Entitlement wants to acquire must be received by the CDI Registry in accordance with Section 5.2.3.

## **5.7 If you do nothing**

If you do not apply for CDIs pursuant to the Entitlement Offer, your Entitlement will lapse.

If you do not apply for CDIs pursuant to the Entitlement Offer, your percentage ownership in Osprey will be diluted because the issue of New CDIs under the Entitlement Offer will increase the total number of CDIs on issue.

## **5.8 Representations you will be taken to make by acceptance**

By completing and returning your Entitlement and Acceptance Form or making a payment by BPAY®, you will be deemed to have:

- (a) represented and warranted that there has been no breach by you of the laws of the country which apply to you and are relevant to you applying for New CDIs (and free attaching New Options) under the Entitlement Offer;
- (b) acknowledged that you have fully read and understood this Prospectus and the Entitlement and Acceptance Form in their entirety and you acknowledge the matters and make the warranties and representations and agreements contained in this Prospectus and the Entitlement and Acceptance Form;
- (c) agreed to be bound by the terms of the Entitlement Offer, the provisions of this Prospectus and Osprey's bylaws and certificate of incorporation;
- (d) authorised Osprey to register you as the holder of the New CDIs allotted to you;
- (e) declared that you are over 18 years of age and have full legal capacity and power to perform all your rights and obligations under the Entitlement Offer;
- (f) acknowledged that once Osprey receives your Entitlement and Acceptance Form or any payment of application monies via BPAY®, you may not withdraw your application or funds provided except as allowed by law;
- (g) agreed to apply for and be issued up to the number of New CDIs specified in the Entitlement and Acceptance Form, or for which you have submitted payment of any application monies via BPAY®, at the Issue Price per New CDI;
- (h) if you have applied for or are deemed to have applied for Additional New CDIs under the Top Up Facility, agreed to accept any lesser number of Additional New CDIs allocated to you in accordance with the allocation procedure described in Section 4.3.1;

- (i) authorised Osprey, the CDI Registry and their respective officers, employees or agents to do anything on your behalf necessary for New CDIs to be issued to you;
- (j) declared that you were the registered holder at the Record Date of the CDIs indicated in the Entitlement and Acceptance Form as being held by you on the Record Date;
- (k) acknowledged that the information contained in this Prospectus and your Entitlement and Acceptance Form is not investment advice nor a recommendation that the New CDIs (and free attaching New Options) are suitable for you given your investment objectives, financial situation or particular needs;
- (l) acknowledged that this Prospectus, does not contain all of the information that you may require in order to assess an investment in Osprey and is given in the context of Osprey's past and ongoing continuous disclosure announcements to the ASX;
- (m) acknowledged the statement of risks in the 'Risk Factors' Section of this Prospectus and that investments in Osprey are subject to risk;
- (n) acknowledged that none of Osprey or its related bodies corporate, affiliates and none of its or their respective directors, officers, partners, employees, representatives, agents, consultants or advisers, guarantees the performance of Osprey, nor do they guarantee the repayment of capital;
- (o) agreed to provide any requested substantiation of your eligibility to participate in the Entitlement Offer and your holding of CDIs on the Record Date; and
- (p) authorised Osprey to correct any errors in your Entitlement and Acceptance Form.

## **5.9 No minimum subscription**

There is no minimum subscription for the Entitlement Offer.

## **5.10 No cooling off rights**

Cooling off rights do not apply to an investment in New CDIs. You cannot withdraw your application once it has been made.

## **5.11 Refunds of excess application monies**

Any application monies received for more than the number of New CDIs issued to you (but only where the Excess Amount is A\$2.00 or greater) will be refunded as soon as reasonably practicable following the close of the Entitlement Offer. No interest will be paid on any application monies.

Payment of any refund will be made either by:

- (a) cheque mailed to your address as last recorded in Osprey's register of members; or
- (b) direct credit, but only where you have previously nominated to receive payment of dividends by direct credit and have not withdrawn that nomination.

In all cases, the payment method will be at Osprey's election.

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## **6 Information for Eligible Assignees**

### **6.1 How to participate in the Entitlement Offer**

Eligible Assignees who wish to participate in the Entitlement Offer should contact their broker or the CDI Registry.

### **6.2 Representations you will be taken to make by acceptance**

By participating in the Entitlement Offer, you will be deemed to have:

- (a) represented and warranted that there has been no breach by you of the laws of the country which apply to you and are relevant to you applying for New CDIs (and free attaching New Options) under the Entitlement Offer;
- (b) acknowledged that you have fully read and understood this Prospectus in its entirety and you acknowledge the matters and make the warranties and representations and agreements contained in this Prospectus;
- (c) agreed to be bound by the terms of the Entitlement Offer, the provisions of this Prospectus and Osprey's bylaws and certificate of incorporation;
- (d) authorised Osprey to register you as the holder of the New CDIs allotted to you;
- (e) declared that you are over 18 years of age and have full legal capacity and power to perform all your rights and obligations under the Entitlement Offer;
- (f) acknowledged that once Osprey receives your application, you may not withdraw your application or funds provided except as allowed by law;
- (g) agreed to apply for and be issued up to the number of New CDIs specified in your application, at the Issue Price per New CDI;
- (h) authorised Osprey, the CDI Registry and their respective officers, employees or agents to do anything on your behalf necessary for New CDIs to be issued to you;
- (i) acknowledged that the information contained in this Prospectus and your application is not investment advice nor a recommendation that the New CDIs (and free attaching New Options) are suitable for you given your investment objectives, financial situation or particular needs;
- (j) acknowledged that this Prospectus, does not contain all of the information that you may require in order to assess an investment in Osprey and is given in the context of Osprey's past and ongoing continuous disclosure announcements to the ASX;
- (k) acknowledged the statement of risks in the 'Risk Factors' Section of this Prospectus and that investments in Osprey are subject to risk;
- (l) acknowledged that none of Osprey or its related bodies corporate, affiliates and none of its or their respective directors, officers, partners, employees, representatives, agents, consultants or advisers, guarantees the performance of Osprey, nor do they guarantee the repayment of capital;
- (m) agreed to provide any requested substantiation of your eligibility to participate in the Entitlement Offer; and
- (n) authorised Osprey to correct any errors in your application.

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## **7 Shortfall Offer**

Any New CDIs (and free attaching New Options) that are not purchased under the Entitlement Offer, Top-Up Facility or by the Underwriter, will form the Shortfall CDIs (along with the applicable New Options). The issue price for each Shortfall CDI to be issued under the Shortfall Offer will be no less than \$0.012 (the same issue price as under the Entitlement Offer).

The Shortfall Offer is a separate offer made pursuant to this Prospectus, on the same terms and conditions as the Entitlement Offer (except as set out in the Prospectus) and will remain open for up to 3 months after the Entitlement Offer Closing Date.

The Board reserves the right to issue the Shortfall CDIs (and attaching New Options) at their discretion to third parties (which may include Eligible Holders) within 3 months after the Entitlement Offer Closing Date. In exercising their discretion to issue the Shortfall CDIs (and attaching New Options), the Board will take into consideration a number of factors including the possible dilution to existing securityholders, the financial needs of the Company, the issue price (which will be no less than the Issue Price) and the proposed use of funds.

Application forms in respect of the Shortfall Offer will only be provided to Investors who are invited by Osprey to participate in the Shortfall Offer. Such Investors will need to follow the procedure advised to them by Osprey for applications under the Shortfall Offer.

Pursuant to exception 3 of ASX Listing Rule 7.2, any allocation of the Shortfall CDIs will not count towards Osprey's 15% threshold under Listing Rule 7.1 or 10% threshold under ASX Listing Rule 7.1A.

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## **8 On-sale of CDIs**

In addition to making the offer to Eligible Holders to participate in the Entitlement Offer and Investors to participate in the Shortfall Offer, this Prospectus will also be relied on to ensure that the on-sale of the underlying CDIs to be issued upon the exercise of the New Options is in accordance with ASIC Corporations Instrument 2016/80.



## 9 Effect of the Offers on Osprey

### 9.1 Purpose and use of funds

Osprey is raising capital for the following purposes:

- (a) continued commercial expansion in the United States;
- (b) support of GE Healthcare's commercial efforts in Europe, Russia, Middle East, Africa, Central Asia and Turkey;
- (c) support for generating ongoing clinical evidence and the multi-hospital DyeMinish registry; and
- (d) ongoing product portfolio development.

Funds raised from the Entitlement Offer will be approximately \$15.5M and, together with any funds raised through the exercise of New Options issued under this Prospectus, will be directed to Osprey's long-term goal of reaching cash flow positive as outlined in the diagram below.



The Covid-19 pandemic has resulted in new regulations, government policy, legislation and significantly, changes to traditional customer engagement norms in the healthcare sector. Hospitals have started to restrict access to non-essential personnel, and they have restricted elective procedures. While it is difficult to predict the level and duration of impact at this stage, and notwithstanding that there are a number of key aspects relating to Osprey's procedure and COVID-19 that support continued use of DyeVert, Osprey expects COVID-19 to materially impact sales performance in the near-term. Osprey is actively implementing mitigation strategies to minimise the impact on business continuity.

### 9.2 Effect of the Offer

The principal effect of the Offers will be to:

- (a) increase the total number of CDIs on issue by 1,295,392,110 CDIs, from 431,797,370 CDIs, to 1,727,189,480 CDIs, assuming that none of the New Options are exercised;
- (b) increase the number of options on issue by 1,295,392,110, from 17,197,514 options; and
- (c) increase cash reserves by approximately US\$9.5 million immediately after completion of the Offers and payment of currently anticipated costs and expenses.

Section 9.4 provides further details on the effect of the Entitlement Offer on the capital structure of Osprey.

### **9.3 Financial Impact**

The audited consolidated balance sheet as at 31 December, 2019 shown below have been prepared on the basis of the accounting policies normally adopted by Osprey and reflect the changes to its financial position.

The pro-forma consolidated balance sheet has been prepared, assuming:

- (a) the issue of a maximum 1,295,392,110 New CDIs under Entitlement Offer at \$0.012 per New CDI to raise gross proceeds of approximately US\$9,637,717;
- (b) that the costs and expenses of the Offers will amount to approximately US\$171,000. The amount of costs will depend upon a number of factors including the level of participation by and mix of investors in the Entitlement Offer;
- (c) the confirmed commitments from Brandon and the Underwritten Amount will equal a take up of 49% of the New CDIs under the Entitlement Offer which result in the issue of approximately 637,536,318 million New CDIs at \$0.012 per New CDI to raise gross proceeds of approximately US\$4.7 million (approximately A\$7,650,436);
- (d) a foreign exchange rate of A\$1.00 to US\$0.62 (being the exchange rate published by the Reserve Bank of Australia on 30 March 2020);
- (e) no options or warrants are exercised prior to the Record Date;
- (f) no New Options are exercised following completion of the Entitlement Offer.

The pro-forma consolidated balance sheet has been prepared to provide investors with information on the assets and liabilities of Osprey and pro-forma assets and liabilities of Osprey as noted below. The historical and pro-forma financial information is presented in an abbreviated form, insofar as it does not include all of the disclosures required by US GAAP applicable to annual financial statements. It should be read in conjunction with the risk disclosures in Section 10.

## Pro-Forma Balance Sheet

(US\$000)	Actual 31 Dec 2019	Costs of the Offers	Unaudited Pro forma 31 Dec 2019		
			Partially underwritten Entitlement Offer plus confirmed commitments	Partially underwritten Entitlement Offer, confirmed commitments plus take-up of 25% of the remainder	Fully subscribed Entitlement Offer
<b>Current Assets</b>					
Cash and cash equivalents	\$8,277	\$(171)	\$12,849	\$14,072	\$17,743
Other Current Assets	\$1,503	\$-	\$1,503	\$1,503	\$1,503
<b>Total Current Assets</b>	\$9,780	\$(171)	\$14,352	\$15,575	\$19,246
<b>Total Non-Current Assets</b>	\$1,039	\$-	\$1,039	\$1,039	\$1,039
<b>Total Assets</b>	\$10,819	\$(171)	\$15,391	\$16,614	\$20,285
<b>Total Current Liabilities</b>	\$2,356	\$-	\$2,356	\$2,356	\$2,356
<b>Total Non-Current Liabilities</b>	\$384	\$-	\$384	\$384	\$384
<b>Total Liabilities</b>	\$2,740	\$-	\$2,740	\$2,740	\$2,740
<b>Net Assets</b>	\$7,505	\$(171)	\$12,077	\$13,300	\$16,971
<b>Total Equity</b>	\$8,079	\$(171)	\$12,651	\$13,874	\$17,545

Notes:

1. The pro forma balance sheet is illustrative as of 31 December 2019 and reflects the actual balance of cash and cash equivalents of \$8.3 million as of that date. On a pro forma basis as of 31 December 2019, the Company's cash balance subsequent to the transactions contemplated under this Prospectus would be \$12.9 million. Management anticipates this funding will be sufficient to fund the Company's growth for at least the next 15 months.

## 9.4 Effect on Capital Structure

The following table sets out the number of issued CDIs on the Announcement Date and, subject to the rounding of fractional entitlements under the Entitlement Offer, the total number of CDIs that may be issued at the completion of the Entitlement Offer (assuming that no options are exercised).

CDIs	Number
CDIs on issue at the Announcement Date	431,797,370
New CDIs subject to Underwritten Amount	371,141,000
New CDIs subject to commitments	266,395,318
Remaining CDIs that may be issued under the Entitlement Offer	0 - 657,855,792
Total CDIs on issue on completion of the Offer	1,069,333,688 - 1,727,189,480

The following table sets out the number of issued Options on the Announcement Date and, subject to the rounding of fractional entitlements under the Entitlement Offer, the total number of Options that may be on issue at the completion of the Entitlement Offer (assuming that no options are exercised).

Options	Number
Options on issue at the Announcement Date	17,197,514
New Options subject to Underwritten Amount	371,141,000
New Options subject to commitments	266,395,318
Remaining New Options that may be issued under the Entitlement Offer	0 – 658,855,792
Total Options on issue on completion of the Offers	654,733,832 - 1,313,589,624

## 9.5 Effect on CDI holdings

As at the Announcement Date, Osprey has 431,797,370 CDIs and 17,197,514 unquoted options on issue. The extent to which the Entitlement Offer has any further effect on the percentage holdings of CDI holders will be dependent on the extent to which Eligible Holders participate in the Entitlement Offer (including under the Top Up Facility). In particular:

- (a) Eligible Holders who do not take up their full pro rata Entitlement under the Entitlement Offer and Ineligible Holders will have their percentage holding in Osprey further diluted relative to those Eligible Holders who subscribe for some or all of their pro rata entitlement. Such holders' interests may be further diluted through the exercise of New Options.
- (b) If all Eligible Holders take up their full pro rata Entitlement under the Entitlement Offer then the percentage holding of Eligible Holders will be largely unchanged (subject to changes resulting from Ineligible Holders being unable to participate in the Entitlement Offer). If some Eligible Holders do not exercise their New Options and others do however, then those Eligible Holders will be diluted.
- (c) Eligible Holders who take up their full pro rata Entitlement under the Entitlement Offer and receive Additional New CDIs under the Top Up Facility, may increase their percentage holding in Osprey to the extent they receive Additional New CDIs under the Top Up Facility (or exercise the New Options received as a result of their participation in the Top Facility).

The issue of Shortfall CDIs to Investors, or exercise of the New Options received as a result of their participation in the Shortfall Offer, will also have the effect of diluting the percentage holdings of CDI holders in Osprey

## 9.6 Effect of the Offer on the Control of Osprey

If all Eligible Holders participate in the Entitlement Offer, the Board does not consider that the Entitlement Offer will have any material effect on the control of Osprey. However, given that Brandon has committed to take up part of its pro rata Entitlement up to a value of \$3,196,744 under the Entitlement Offer and funds managed by Brandon have agreed to underwrite the Entitlement Offer for the Underwritten Amount, the percentage holding of Brandon is expected to increase.

The implications of this for Osprey are considered in further detail below.

## 9.7 Potential increase in the holding of Brandon

Brandon has for several years been a significant holder of CDIs in Osprey. Brandon currently holds 116,263,524 CDIs (approximately 26.93% of all CDIs on issue), not including any CDIs to be issued under the Entitlement Offer.

Brandon intends to take up part of its pro rata Entitlement up to a value of \$3,196,744 under the Entitlement Offer and certain Brandon funds have agreed to underwrite the Entitlement Offer for the Underwritten Amount. Brandon is not permitted to participate in the Top-Up Facility.

To limit any potential control effects under the Entitlement Offer, Osprey will only call on the Underwriter to meet its commitment to underwrite once all applications for New CDIs under the Top-Up Facility have been satisfied.

On completion of the Entitlement Offer, and assuming \$15.5M raised after Brandon has met a shortfall of up to 371,141,000 CDIs, it is expected that Brandon will own no less than 15.42% and no more than 36.91% of the issued CDIs. The exact number of CDIs that will be issued to Brandon will depend upon the extent to which other Eligible Holders take up their Entitlements under the Entitlement Offer. The table below shows the effect of Brandon percentage holding depending on the level of take-up by other Eligible Holders.

	Impact on Brandon's CDI holding
CDIs held by Brandon prior to Entitlement Offer	116,263,524
% holding prior to Entitlement Offer	26.93%
% holding following the Entitlement Offer assuming 10% shortfall of 102,899,678 CDIs	Approximately 21.38%*
% holding following the Entitlement Offer assuming 20% shortfall of 189,320,308 CDIs	Approximately 26.38 %*
% holding following the Entitlement Offer assuming 36% shortfall of 371,141,000 CDIs (being the maximum amount to be taken up by the Underwriter)	Approximately 36.91 %*

\* Assumes Brandon takes up \$3,196,744 of its Entitlement.

When determining the Issue Price under the Entitlement Offer, the Board gave consideration as to making the Entitlement Offer as attractive as possible to current securityholders to minimise the likely shortfall (including the decision to offer free attaching options).

The Board believes that the above steps will have the effect of limiting the number of New CDIs that Brandon acquires through the exercise of its rights under the Entitlement Offer, while at the same time providing the benefit to Osprey of a material underwriting commitment.

## 9.8 Information regarding Brandon

Brandon is a specialist funds manager, providing seed and venture capital investment to support the development and international growth of life sciences companies, and Dr Chris Nave, a non-executive Director is an associate of Brandon.

The support of Brandon has facilitated Osprey's ability to progress this capital raising initiative, and Brandon is supportive of Osprey's current strategy. Osprey understands that Brandon does not have any current intention to seek any material changes to Osprey's operations or its financial or dividend policies, alter the composition of its Board, or to increase its holdings in Osprey other than set out in this Prospectus. It is noted however that this is Osprey's current understanding and the intentions of Brandon may differ or change in response to changing circumstances or passage of time.

## **9.9 Certain provisions of Corporations Act do not apply**

Osprey is not subject to Chapters 6, 6A, 6B and 6C of the Corporations Act dealing with the acquisition of shares, including provisions that relate to substantial holdings and takeovers. Rather, the acquisition of securities in Osprey is subject to Delaware law and applicable US securities laws.

## **9.10 Transfer restrictions**

The Entitlement Offer is being made available to Eligible Holders in reliance on the exemption from registration contained in Regulation S of the US Securities Act for offers which are made outside the United States. This means that the CDIs issued in the Entitlement Offer are subject to restrictions under Regulation S of the US Securities Act.

In order to comply with the requirements of Regulation S of the US Securities Act, investors may not re-sell any CDIs (or underlying securities) into the United States to a United States person or for the account or benefit of a United States person for a period of one year after the date of issue of the securities unless the re-sale of the securities is registered under the US Securities Act or an exemption from registration is available.

Accordingly, in order to enforce the above transfer restrictions whilst ensuring that Eligible Holders can still trade their CDIs on ASX, the CDIs will bear a “FOR US” designation on ASX. As a result of the imposition of the “FOR US” designation, all holders of CDIs in Osprey will be restricted from selling their CDIs on ASX to United States persons.

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## **10 Risk Factors**

This section identifies what the Directors regard as major risks, which may materially and adversely affect the future operating and financial position of Osprey and the value of CDIs. You should carefully consider the following risk factors, as well as the other information contained in this Prospectus before making an investment decision.

The Directors assessment of risks was based on the knowledge as at the date of this Prospectus and there is no assurance that the relative importance of the various risks will not change.

### **10.1 Company Specific Risks**

In addition to the general risks noted in Section 10.2 of this Prospectus, investors should be aware of the specific risks of an investment in Osprey. These specific risks include, but are not limited to, those risks referred to below.

#### **10.1.1 Business Risks**

In assessing Osprey's business products, Eligible Holders should consider the various risks and difficulties frequently encountered by companies early in their commercialisation in competitive markets, particularly companies that develop and sell medical devices. These risks include Osprey's ability to:

- (a) implement and execute its business strategy;
- (b) expand and improve the productivity of its sales team and marketing programs;
- (c) increase awareness of its brand and products, and build loyalty among medical professionals;
- (d) influence Clinicians to change their existing clinical practices;
- (e) withstand pandemics, like COVID-19, which has resulted in new regulations, government policy, legislation and significantly changes traditional customer engagement norms in the healthcare sector. Hospitals have started to restrict access to non-essential personnel, and they have restricted elective procedures. While it is difficult to predict the level and duration of impact at this stage, and notwithstanding that there are a number of key aspects relating to Osprey's procedure and COVID-19 that support continued use of DyeVert, we expect COVID-19 to materially impact sales performance in the near-term, accordingly, Osprey is actively implementing mitigation strategies to minimise the impact on business continuity;
- (f) manage expanding operations; and
- (g) respond effectively to competitive pressures and developments.

#### **10.1.2 Regulatory Risk**

Although Osprey has obtained FDA clearance and CE Mark for DyeVert, DyeVert PLUS, DyeVert PLUS EZ and DyeTect, it does face ongoing regulatory compliance duties and obligations. Regulatory agencies subject a marketed device, its manufacturer and the manufacturer's facilities to continual review and periodic inspections.

If Osprey fails to comply with applicable regulatory requirements, a regulatory agency may:

- (a) issue warning letters;
- (b) impose civil or criminal penalties;
- (c) suspend Osprey's regulatory authorisation or restrict or change the approved indications for use or impose additional safety reporting requirements;
- (d) suspend any of Osprey's ongoing clinical trials;
- (e) refuse to approve pending applications or supplements to approved applications filed;
- (f) impose restrictions on Osprey's operations; or
- (g) seize or detain devices or require a product recall.

In addition, the law or regulatory policies governing medical devices may change. New regulatory requirements or additional regulations may be enacted that could prevent or delay regulatory approval of Osprey's products or that may otherwise impact Osprey's ability to market, distribute and sell devices and or consumables. Osprey cannot predict the likelihood, nature or extent of adverse government regulation that may arise.

There is no guarantee that Osprey will obtain necessary approvals for future products in the markets in which Osprey plans to commercialise.

If third parties are successful in their claims, Osprey might have to pay substantial damages or take other actions that are adverse to Osprey's business.

#### **10.1.3 Change in Laws and Healthcare Policy**

Osprey's business and the business of the third parties with which it operates are subject to the laws and regulations in a number of jurisdictions. Unforeseen changes in laws and government policy in the United States, the European Union, Australia and elsewhere, including in relation to material and unforeseen changes to:

- (a) licensing and approval requirements;
- (b) product approval; and
- (c) pricing and reimbursement by third-party payers,

could materially impact Osprey's operations, assets, contracts and profitability.

#### **10.1.4 Market Adoption Risk**

To achieve Osprey's sales revenue objectives, patients, physicians, hospitals and Payers must accept Osprey's products, specifically the DyeVert, DyeVert PLUS, DyeVert PLUS EZ and DyeTect, for routine use. Regulatory approvals of Osprey's products, including FDA approval and CE Mark, does not guarantee market adoption. Acceptance of Osprey's products in Europe and the US will be dependent on numerous factors, including but not necessarily limited to, risk-benefit and cost-benefit analysis of the use of Osprey's products and reimbursement. Market adoption risk could be related to the following factors:



- (a) salesforce hiring, training, deployment, and/or attrition do not allow for Osprey's sales plans to be executed in a timely manner;
- (b) a significant number of hospitals in the United States may require a FDA claim of "CI-AKI reduction" prior to broadly adopting and placing significant orders for Osprey's products;
- (c) implementation and execution of its Group Purchasing Organization and Integrated Delivery Network strategy is slower or less effective than expected;
- (d) after Osprey terminates its arrangements with its current distributors in Europe (see section 2.2), GE Healthcare is:
  - (i) unable to meet its minimum sales goals and successfully commercialize DyeVERT in Europe and other international markets adversely effecting Osprey's projected revenues; and
  - (ii) not successful in commercialising Osprey's products at acceptable GE Healthcare gross margin levels and seeks a lower transfer price which would reduce Osprey's future revenues;
- (e) Osprey is unable to achieve its sales goals at its current established pricing strategy which would reduce Osprey's future revenue stream;
- (f) unforeseen competition comes into the market (e.g. lower toxicity contrast agent or better imaging equipment) that reduces the market need for Osprey's products;
- (g) a world wide pandemic or similar event, like the COVID-19 outbreak, has the possibility to change traditional customer engagement models making it difficult for Osprey to successfully commercialise its products;
- (h) unforeseen changes to established published clinical guidelines making contrast dye minimisation less important for the prevention of contrast induced AKI; and
- (i) unforeseen changes to the hospitals' current economic landscape or business model that reduces the importance of contrast induced AKI as being a hospital cost driver; and lowering the market need for Osprey's products.

#### **10.1.5 Intellectual Property Risk**

##### *Patents*

Osprey relies on its ability to obtain and maintain patent protection of its products. Osprey's patent portfolio comprises 20 issued US patents, 40 issued international patents; 13 pending US patent applications, and PCT filings resulting in 15 national stage applications in the European Union (Germany, France and Great Britain), Japan and Australia. There is no current litigation or litigation being threatened by or against Osprey in respect of its patents. However, in the future, litigation may be necessary to enforce Osprey's issued patents, to protect its trade secrets and know-how, or to determine the enforceability, scope, and validity of the proprietary rights of others. If Osprey finds it necessary to enforce its issued patents, the cost of such litigation is expensive and the outcome of this type of legal action is uncertain.

##### *Infringement of Third Party Intellectual Property Rights*

Osprey does not believe that it is currently using any material third party intellectual property rights and so does not believe that its activities infringe any third party's intellectual property rights. To date, no third party has asserted this to be the case. However, in the future Osprey may be subjected to infringement claims or litigation

arising out of patents and pending applications of its competitors, or additional proceedings initiated by third parties or the United States Patent and Trademark Office (USPTO) to re-examine the patentability of licenses or owned patents. The defence and prosecution of intellectual property suits, USPTO proceedings, and related legal and administrative proceedings are costly and time-consuming to pursue, and their outcome is uncertain. If Osprey infringes the rights of third parties, Osprey could be prevented from selling its products and be forced to defend against litigation and to pay damages.

#### *Trade secrets*

In addition to its patent and licensing activities, Osprey also relies on its trade secrets. The protective measures that Osprey employs may not always be sufficient to protect its trade secrets. This could erode Osprey's competitive advantage. Osprey cannot be certain that others will not independently develop the same or similar technologies on their own or gain access to trade secrets or disclose such technology, or that Osprey will otherwise be able to meaningfully protect its trade secrets and unpatented know-how and keep them secret. This could allow competitors to commercialise products competitive to DyeVert, DyeVert PLUS, DyeVert PLUS EZ and DyeTect.

### **10.1.6 Competitive Risk**

The medical device industry is highly competitive and subject to rapid technology change. The industry includes companies with significantly greater financial, technical, human, research and development, and marketing resources than Osprey. Competitors may commercialise products that compete directly or indirectly with Osprey's products. If competitors develop products or technologies that are more effective, Osprey's current or future products may become obsolete or uncompetitive.

### **10.1.7 Manufacturing and Product Quality Risk**

Osprey's products have not yet been produced on a large scale. If Osprey or its suppliers are unable to manufacture products in sufficient quantities or at an appropriate cost level, it may not be able to meet demand for its products which may adversely impact its clinical study patient enrolment timeline and/or its sales revenue objectives.

Osprey's products must also meet the regulatory requirements which are subject to continual review including inspections by regulatory authorities. Failure by Osprey or its suppliers to continuously comply with applicable regulatory requirements or failure to take satisfactory corrective action in response to adverse inspection, could result in enforcement actions, including a public warning letter, a shutdown of, or restrictions on, its manufacturing operations, delays in approving or clearing products, refusal to permit the import or export of its products or other enforcement action.

### **10.1.8 Supplier Risk**

Osprey's contracts with key suppliers are generally standard in nature, in the form of purchase order arrangements that are common to medical device firms in the early stages of commercialisation, with no minimum purchase orders required. As Osprey has moved into its commercialisation phase, it is increasingly relying on its key suppliers for components. A disruption at one of its key suppliers, including any disruption resulting from a pandemic like COVID-19 could cause a substantial delay in availability of Osprey's products, leading to a potential loss of sales. Development of key manufacturing processes along with process validation testing, device verification testing, and regulatory approvals required for a manufacturing change could take up to 6 months to complete, however as no proprietary technologies are employed by suppliers and a number of potential alternative suppliers operate in the US, Osprey

believes that alternative suppliers could ultimately be located, qualified and approved for all of its critical system components within the above 6 month timeframe.

#### **10.1.9 Sufficiency of Funding**

Osprey is currently not profitable and does not expect to become profitable until after achieving successful commercialisation of its products to allow sufficient sales revenue to fund on-going company operations. Slower than anticipated market adoption could require Osprey to seek additional funding.

Osprey may need to finance its future cash needs through equity offerings, debt financing or corporate collaboration. Any additional funds that it obtains may not be on terms favourable to its Shareholders and may require it to relinquish valuable rights. There is no assurance that additional funding would be available in the future or would be secured on acceptable terms.

#### **10.1.10 Product Liability Risk**

As with all medical device products, despite regulatory approvals, there is no assurance that unforeseen adverse events or manufacturing defects will not arise. Osprey may be exposed to the risk of product liability claims, which are inherent in the design, manufacturing, marketing, and use of medical devices. While Osprey holds a level of product liability insurance that it believes is appropriate for its operations, that insurance may not sufficiently cover the claims of a product liability suit. Product liability claims may damage Osprey's reputation and may destroy or substantially diminish Osprey's business. Defending a suit, regardless of its merits, could be costly and could divert management attention from Osprey's core business activities.

#### **10.1.11 Key personnel**

Osprey currently employs, or engages as consultants, a number of key management and scientific personnel. Osprey's future depends on retaining and attracting suitable and qualified personnel. Osprey has structured incentive programs for its key personnel. Despite these measures, there is no guarantee that Osprey will be able to attract and retain suitable qualified personnel, which could negatively affect Osprey's ability to reach its goals.

In addition, individuals in Osprey's workforce are highly qualified. Osprey is dependent on the availability of suitably skilled labour to provide its services and is therefore susceptible to any labour shortages.

#### **10.1.12 Delaware Company**

The rights attaching to Common Stock are subject to the provisions of the Delaware General Corporation Law and, in some respects, differ from the rights attaching to shares in an Australian company.

Provisions of Osprey's Certificate of Incorporation, its Bylaws and the Delaware General Corporation law could make an acquisition of Osprey, which may be beneficial to Shareholders, more difficult and may prevent attempts by Shareholders to replace or remove the current members of the Board and management.

Certain provisions of Osprey's Certificate of Incorporation and Bylaws could discourage, delay or prevent a merger, acquisition or other change of control that Shareholders may consider favourable, including transactions in which Shareholders might otherwise receive a premium for their CDIs. Furthermore, these provisions could prevent or frustrate attempts by Shareholders to replace or remove members of the Board. These provisions could also limit the price that investors might be willing to pay in the future for the CDIs, thereby depressing the market price of the CDIs.

Shareholders who wish to participate in these transactions may not have the opportunity to do so.

In addition, Osprey is governed by the provisions of section 203 of the Delaware General Corporation Law, which may, unless certain criteria are met, prohibit large Shareholders, in particular those owning 15% or more of the voting rights, from merger or combining with Osprey for a prescribed period of time.

Osprey will also incur costs and demands upon management as a result of complying with laws and regulations affecting public companies in the US as well as listing requirements on ASX, which may adversely affect its operations results, and failure to achieve and maintain effective internal control over financial reporting in accordance with Section 404 of the Sarbanes-Oxley Act could cause investors to lose confidence in its operating results, potentially, having a material adverse effect on the price of Osprey's Common Stock and the CDIs.

#### **10.1.13 Reporting Requirements**

Osprey may become subject to the periodic reporting requirements of the US Exchange Act at some stage in the future which would require it to register the Common Stock with the US Securities and Exchange Commission (**SEC**) under the US Exchange Act. Osprey is technically required to become a reporting company if, among other things, it has

- (a) assets of more than US\$10 million; and
- (b) either 2,000 or more holders of any class of equity securities or 500 or more holders of any class of equity securities who are not 'accredited' investors' as defined in Rule 501 of Regulation D of the US Securities Act at the end of any calendar year. In the last few years, Osprey has relied on verbal assurance it previously received from the SEC that, notwithstanding that it may have technically crossed the thresholds described above, the risk of enforcement action is remote, given that Osprey only has a few US shareholders, almost all of whom are insiders.

Should Osprey become a reporting company, this would involve Osprey filing annual, quarterly and current reports on Forms 10-K, 10-Q and 8-K. In the absence of a waiver from the ASX Listing Rules, these SEC periodic reports will be in addition to Osprey's periodic filings required by the ASX Listing Rules. The legal and accounting costs and management time that is required to comply with these reporting requirements would likely be significant.

#### **10.1.14 Speculative Nature of Investment**

Any potential investor should be aware that subscribing for CDIs involves various risks. The CDIs to be issued pursuant to the Entitlement Offer carry no guarantee with respect to the payment of dividends, return of capital or market value. The success of Osprey is largely dependent on US and European market adoption. An investment in Osprey should therefore be considered speculative in nature.

#### **10.1.15 No Independent Valuation**

No independent valuation has been carried out on Osprey or its products. Valuations of medical device products in early commercial use are imprecise. The Directors do not believe that an independent valuation would be meaningful given the likely qualifications and limitations of such valuations and the difficulties in determining the full commercial potential of Osprey and its products.

#### **10.1.16 Exchange Rates**

Osprey may be subject to exchange rate risks with the majority of the proceeds of the Entitlement Offer to be received in Australian Dollars, while Osprey's functional currency is in US Dollars.

Osprey does not intend to enter into hedging transactions. The CDIs will be listed on ASX and priced in Australian dollars. However, Osprey's reporting currency is US dollars. As a result, movements in foreign exchange rates may cause the price of Osprey's securities to fluctuate for reasons unrelated to Osprey's financial condition or performance and may result in a discrepancy between Osprey's actual results of operations and the investor's expectations of the returns of Osprey's securities expressed in Australian dollars.

#### **10.1.17 Control of Osprey**

Brandon has indicated that it intends to exercise part of its Entitlement up to a value of \$3,196,744 under the Entitlement Offer which means its interest in Osprey will be at least 15.42% following completion of the Entitlement Offer. Certain funds managed by Brandon have also made a commitment to underwrite the shortfall under the Entitlement Offer up to the Underwritten Amount. If there is a substantial shortfall under the Entitlement Offer and a limited take-up of New CDIs under the Top-Up Facility, the Underwriter may be called on to meet all or some of its underwriting commitment pursuant to the Underwriting Agreement. It is therefore possible that Brandon may increase its holding in Osprey after the Entitlement Offer to have a maximum relevant interest in 36.91% of the voting securities in Osprey (where no Eligible Holder participates in the Entitlement Offer other than Brandon and its associated entities).

### **10.2 General Risks**

There are risks associated with any stock market investment. Some of these risks are listed below.

#### **10.2.1 Securities investments and share market conditions**

There are risks associated with any securities investment. The prices at which the securities trade may fluctuate in response to a number of factors, including recommendations by brokers and analysts, the general economic climate and other factors described in paragraphs 10.2.2 and 10.2.3 below, and investor perceptions. Furthermore, the share market may experience extreme price and volume fluctuations that may be unrelated or disproportionate to the operating performance of the companies listed on the market. These factors may materially adversely affect the market price of securities regardless of Osprey's operational performance.

In addition, there is a risk that inadequate trading liquidity of Osprey's securities may adversely affect your ability to realise your investment in Osprey.

Neither Osprey nor the Directors warrant the future performance of Osprey, or any return of an investment in Osprey.

#### **10.2.2 General economic factors**

Material adverse changes in the general domestic and international economic climate may have an adverse effect on Osprey's performance. These factors may include fluctuations in inflation, interest rates, rate of economic growth, taxation laws (and the application of existing laws by the courts or taxation authorities), consumer spending, unemployment rates, government fiscal, monetary and regulatory policies and consumer and business sentiment. Other factors include acts of terrorism, cyber hostilities, pandemics (including COVID-19 - see further paragraph 10.2.3), outbreaks of international hostilities, fire, floods, earthquakes, labour strikes, natural disasters, outbreaks of other disease or other natural or manmade events or occurrences that

may have an adverse demand for Osprey's products or Osprey's ability to conduct business. Any of these factors have the potential to cause costs to increase or revenues to decline.

#### **10.2.3 Outbreak of health pandemic**

Osprey's business could be adversely impacted by the effects of COVID-19 (more commonly referred to as coronavirus) or other pandemics or outbreaks of disease. Osprey's customers and independent distributors are beginning to implement heightened security policies which may inhibit Osprey's ability to access hospitals or clinics for the purposes of selling products and may cause delays of orders for products and negatively affect revenues.

At this point in time, there is uncertainty relating to the potential effect of COVID-19 on Osprey's business. Infections may become more widespread and should that limit Osprey's ability to sell products or cause supply disruptions it would have a negative impact on Osprey's business, financial condition and operating results. In addition, a significant health pandemic could adversely affect the economies and financial markets of many countries, resulting in an economic downturn that could affect demand for Osprey's products which would then have an adverse effect on Osprey's business, operating results and financial condition.

#### **10.2.4 Liquidity and realisation risks**

There can be no guarantee that an active market for CDIs will develop or that the price of CDIs will increase. There may be relatively few buyers or a relatively high number of sellers of CDIs on the ASX at any given time. This may increase the volatility of the market price of CDIs. It may also affect the prevailing market price at which a Shareholder is able to sell their CDIs. This may result in Shareholders receiving a market price for their CDIs that is less than the price paid for their CDIs.

#### **10.2.5 General Economic Conditions**

Australian and world economic conditions may negatively impact Osprey's financial performance. A prolonged deterioration in economic conditions could be expected to have a material adverse impact on Osprey.

#### **10.2.6 Taxation**

Changes in tax legislation and regulation or their interpretation may adversely affect the value of an investment in CDIs and may affect Shareholders differently.

#### **10.2.7 Accounting standards**

Changes in accounting standards or the interpretation of those accounting standards that occur after the date of this Prospectus may adversely impact Osprey's reported financial statements.

#### **10.2.8 Absence of Dividends**

The ability of Osprey to pay any dividend is dependent on many factors including the outcome of Osprey's clinical trials and commercialisation activities. Many of the factors that will affect Osprey's ability to pay dividends and the timing of those dividends will be outside the control of Osprey's and its Directors. No dividends have been paid in the past and no dividend payments are currently likely for the foreseeable future. The Directors cannot give any assurance regarding the payment of dividends at any time in the future.

### **10.3 Other**

Other risks include those normally found in conducting business, including litigation resulting from breach of agreements or in relation to employees or any other cause.

The above list of risk factors should not be taken as exhaustive of the risks faced by Osprey or by investors in Osprey. The above factors, and others not specifically referred to above, may in the future materially affect the financial performance of Osprey and the value of the CDIs.

Therefore, the CDIs to be issued pursuant to the Prospectus carry no guarantee with respect to the payment of dividends, returns of capital or the market value of those CDIs.

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## **11 Information about CDIs**

### **11.1 What type of security is being offered**

The securities being offered under the Entitlement Offer, Top Up Facility and Shortfall Offer are CDIs. Each CDI represents half a share of Common Stock. Further details as to the rights and liabilities attaching to CDIs is set out below.

### **11.2 What are CDIs**

The ASX uses an electronic system, called CHESS, for the clearance and settlement of trades on the ASX. Osprey is incorporated in the state of Delaware in the U.S., which does not recognise the CHESS system of holding securities or electronic transfer of legal title to Shares. To enable companies such as Osprey to have their securities cleared and settled electronically through CHESS, depositary instruments called CDIs are issued. CDIs are units of beneficial ownership in shares of Common Stock and are traded in a manner similar to shares of Australian companies listed on the ASX.

### **11.3 What is the principal difference between holding CDIs and holding Shares**

The principal difference between holding CDIs and holding the underlying shares of Common Stock is that the CDI holder will hold a beneficial interest in the Common Stock, but not the legal title. The legal title to the Common Stock will be instead held by a depository, CDN and will be held on behalf of and for the benefit of the CDI holder. CDIs will be CHESS-approved from the date of the official quotation in accordance with the ASX Listing Rules and the ASX Settlement Operating Rules.

### **11.4 Conversion**

A CDI holder may either leave their holdings in the form of CDIs (so that legal title remains in the name of CDN) or convert the CDIs to Common Stock and hold legal title in their own right.

CDI Holders can convert their ASX listed CDIs to Common Stock by instructing the CDI Registry, either:

- (a) directly in the case of CDIs on the issuer sponsored sub-register operated by Osprey. CDI holders will be provided with a 'CDI Cancellation AU-U.S. Register form' for completion and return to the CDI Registry; or
- (b) through their 'sponsoring participant' (usually your broker) in the case of CDIs which are sponsored on the CHESS subregister. In this case, the sponsoring broker will arrange for completion of the relevant form and its return to the CDI Registry.

The number of CDIs to be converted must be divisible by two.

The CDI Registry will then arrange for the transfer of the Common Stock from CDN to the former CDI holder and a new Statement of Account Holding will be issued. The Common Stock will be registered in the name of the holder on Osprey's share register and trading on the ASX will no longer be possible. The Common Stock is not and will not in the near future be quoted on any securities exchange. The Common Stock may bear restrictive legends on the register in accordance with U.S. law.

This process will normally be completed within three to five days once the CDI Registry receives a duly completed and valid instruction. However, the timeframe for conversion cannot be guaranteed.



The CDI Registry will not charge an individual holder a fee for transferring their CDIs into Common Stock (although a fee may be payable by market participants).

Holders of Common Stock can convert their holdings to CDIs by contacting the CDI Registry and completing a 'CDI Issuance (United States Register to Australian CDI Register) form'. Again, the CDI Registry will not charge a fee for the conversion (although a fee may be payable by market participants).

The underlying shares of Common Stock will then be transferred to CDN and a holding statement for the CDIs will be issued to the stockholder. No trading in the CDIs on the ASX can take place until this transfer process is complete.

### **11.5 Meetings and Voting**

CDI holders may attend and vote at Osprey general meetings. Osprey must allow CDI holders to attend any meeting of stockholders unless relevant U.S. law at the time of the meeting prevents CDI holders from attending those meetings.

In order to vote at such meetings, CDI holders may:

- (a) instruct CDN, as the legal owner, to vote the shares of Common Stock underlying their CDIs in a particular manner. A voting instruction form will be sent to CDI Holders with the notice of meeting or proxy statement for the meeting and this must be completed and returned to the Registry before the meeting;
- (b) inform Osprey that they wish to nominate themselves or another person to be appointed as CDN's proxy for the purposes of attending and voting at the general meeting; or
- (c) convert their CDIs into a holding of shares of Common Stock and vote these at the meeting. Afterwards, if the former CDI Holder wishes to sell their investment on the ASX it would need to convert the shares of Common Stock back to CDIs. In order to vote in person, the conversion from CDIs to Shares must be completed before the record date for the meeting.

One of the above steps must be undertaken before CDI Holders can vote at stockholder meetings.

Proxy forms, CDI voting instruction forms and details of these alternatives will be included in each notice of meeting or proxy statement sent to CDI Holders by Osprey.

### **11.6 Communications**

CDI holders will receive all notices and company announcements (such as annual reports) that stockholders are entitled to receive from Osprey.

### **11.7 Dividends**

Any dividend declared in respect of the Common Stock underlying the CDIs will be distributed to CDI holders. The Directors do not however, envisage that Osprey will pay dividends for the foreseeable future.

Any dividends declared in the future will be in US\$. Holders of CDIs trading on the ASX will receive an equivalent amount in Australian currency based on the exchange rate on the record date and reflecting the 2:1 ratio between CDIs and Common Stock.

## **11.8 Corporate Actions**

Osprey must administer all corporate actions (including bonus issues, rights issues, reconstructions and mergers) that result in the issue of additional or replacement Common Stock so that the benefits are generally distributed to CDI holders on the same terms as stockholders as though the CDI holders are the holders of the relevant corresponding number of Common Stock.

It is possible that marginal differences may exist between the resulting entitlement of a CDI holder and the entitlements that would have accrued if a CDI holder held their holding directly as Common Stock. As the ratio of CDIs to Common Stock is not one-to-one and any entitlement will be determined on the basis of Common Stock rather than CDIs, a CDI holder may not always benefit to the same extent, for example from the rounding up of fractional entitlements. Osprey is required by the ASX Settlement Operating Rules to minimise any such differences where legally permissible.

## **11.9 Takeovers**

If a takeover bid or similar transaction is made in relation to the Common Stock under which CDN is the registered holder, under the ASX Settlement Operating Rules CDN must not accept the takeover offer unless that acceptance is authorised by the relevant CDI holder. If a CDI holder instructs it to do so, CDN must ensure that the offeror processes the takeover acceptance.

## **11.10 Winding Up**

If Osprey is in liquidation, dissolution or winding up, CDI holders will be entitled to the same economic benefits on their CDIs as stockholders receive on the Common Stock they hold.

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## 12 Rights and liabilities attaching to securities

### 12.1 Rights and entitlements of CDI holders

The following is a broad summary of the rights and entitlements of CDI holders. Further information about CDIs is available from ASX, any stockbroker and the CDI Registry.

- (a) **(CDI:Share Ratio)** Each CDI will represent an interest in one half a Common Stock.
- (b) **(Voting)** If holders of CDIs wish to attend and vote at Osprey's general meetings, they will be able to do so. Under the ASX Listing Rules, Osprey as an issuer of CDIs must allow CDI holders to attend any meeting of the holders of Common Stock unless relevant US law at the time of the meeting prevents CDI holders from attending those meetings.

In order to vote at such meetings, CDI holders have the following options:

- (i) instruct CDN, as the legal owner, to vote the Common Stock underlying their CDIs in a particular manner. A voting instruction form will be sent to CDI holders with the notice of meeting or proxy statement for the meeting and this must be completed and returned to the CDI Registry prior to the meeting;
- (ii) inform Osprey that they wish to nominate themselves or another person to be appointed as CDN's proxy with respect to the Common Stock underlying their CDIs for the purposes of attending and voting at the general meeting; or
- (iii) convert their CDIs into a holding of Common Stock and voting these at the meeting (however, if thereafter the former CDI holder wishes to sell their investment on ASX it would be necessary to convert the Common Stock back to CDIs). In order to vote in person, the conversion must be completed prior to the record date for the meeting. See below for further information regarding the conversion process

As holders of CDIs will not appear on Osprey's share register as the legal holders of the Common Stock, they will not be entitled to vote at Shareholder meetings unless one of the above steps is undertaken. Proxy forms, CDI voting instruction forms and details of these alternatives will be included in each notice of meeting sent to CDI holders by Osprey.

- (c) **(Converting from a CDI holding to a direct holding)** CDI holders who wish to convert their ASX listed CDIs to Common Stock can do so by instructing the CDI Registry either:
  - (i) directly, in the case of CDIs on the issuer sponsored sub-register operated by Osprey. CDI holders will be provided with a 'Notice of Transmutation' to be completed and returned to the CDI Registry; or
  - (ii) through their sponsoring participant (usually their stockbroker), in the case of CDIs which are sponsored on the CHESSE sub-register. In this case, the sponsoring broker will arrange for completion of the relevant form and its return to the CDI Registry.

The CDI Registry will then arrange for the Common Stock to be transferred from CDN into the name of that holder and a new share certificate will be issued. This will cause the Common Stock to be registered in the name of the

holder on Osprey's share register and trading on ASX will no longer be possible. The Common Stock are not and will not in the near future be quoted on any market in the US or elsewhere. Any Common Stock so issued will bear restrictive legends in accordance with US law.

The CDI Registry will not charge an individual security holder a fee for transferring CDI holdings into Common Stock (although a fee will be payable by market participants). It is expected that this process will be completed within 2 days, provided that the CDI Registry is in receipt of a duly completed and valid Notice of Transmutation. However, no guarantee can be given about the time for this conversion to take place. If the Common Stock are listed on a US securities exchange in the future, a fee may be payable for entering the Common Stock into the DTC or DRS system.

If holders of the Common Stock wish to convert their holdings to CDIs, they can do so by contacting the CDI Registry. The CDI Registry will not charge a fee to a holder of Common Stock seeking to convert the Common Stock to CDIs (although a fee will be payable by market participants).

- (d) **(Communication with CDI Holders)** CDI holders will receive all notices and Osprey correspondence (such as annual reports) that holders of Common Stock are entitled to receive from Osprey.
- (e) **(Dividends and other shareholder entitlements)** The ASX Settlement Operating Rules have the force of law by virtue of the Corporations Act. These rules grant CDI holders the right to receive any dividends and other entitlements which attach to the underlying Common Stock. Despite legal title to the Common Stock being vested in CDN, the ASX Settlement Operating Rules provide that CDI holders are to receive all direct economic benefits and other entitlements in relation to the underlying Common Stock (such as the right to receive the same dividends and entitlement to participate in rights issues and bonus issues).
- (f) **(Local and international trading in CDIs)** CDI holders who wish to trade their CDIs will be transferring the beneficial interest in the Common Stock rather than the legal title. The transfer will be settled electronically by delivery of the relevant CDI holdings through CHESS. In other respects, trading in CDIs is essentially the same as trading in other CHESS approved securities, such as shares in an Australian company.
- (g) **(Takeovers)** If a takeover bid or similar transaction is made in relation to the Common Stock of which CDN is the registered holder, under the ASX Settlement Operating Rules CDN must not accept the offer made under the takeover bid except to the extent that acceptance is authorised by the relevant CDI holder.
- (h) **(Rights on Liquidation or Winding Up)** In the event of Osprey's liquidation, dissolution or winding up, a CDI holder will be entitled to the same economic benefit on their CDIs as they would if they held the underlying Common Stock.

#### **12.1.2 Certificate of Incorporation, Bylaws and rights attaching to shares**

A summary of Osprey's securities and provisions of its Certificate of Incorporation and Bylaws, is set out below. This summary is not intended to be exhaustive.

- (a) General Description of Share Capital

- (i) Shares – Osprey is authorised to issue 3,000,000,000 shares of Common Stock and 20,000,000 preferred stock. The Board may establish the rights and preferences of the preferred stock from time to time, subject to compliance with the ASX Listing Rules and the Delaware General Corporation Law.
  - (ii) Preferred Stock – The Board has the authority, subject to the ASX Listing Rules and the Delaware General Corporation Law, to issue from time to time shares of preferred stock in one or more series and to fix the terms, limitations, voting rights, relative rights and preferences and variations of each series without approval from stockholders. Although Osprey has no present plans to issue any shares of preferred stock, the issue of shares of preferred stock, or the issue of rights to subscribe for such shares, could, subject to the ASX Listing Rules, decrease the amount of earnings and assets available for distribution to stockholders, adversely affect the rights and powers, including voting rights, of the shares and delay, deter or prevent a change of control of Osprey or an unsolicited acquisition proposal.
  - (iii) Options – Osprey has reserved an aggregate of 17,628,541 shares for issue under its 2016 Stock Incentive Plan and 1,806,231 remain issued under the expired 2006 Stock Incentive Plan. 17,197,514 Options under the Plan are on issue at the date of this Prospectus. The remaining unissued reserved shares under the Plan following completion of the Offer will be 2,274,258.
  - (iv) Voting – At a meeting of Osprey, every stockholder present in person or by proxy, is entitled to one vote for each share held on the record date for the meeting on all matters submitted to a vote of stockholder. Stockholders do not have cumulative voting rights.
  - (v) Dividends – Subject to preferences that may be applicable to any shares of preferred stock on issue in Osprey, holders of shares are entitled to receive ratably such dividends, if any, as may be declared from time to time by the Board out of funds legally available for dividend payments.
- (b) Rights attaching to shares
- (i) Stockholders have no preferences or rights of conversion, exchange, pre-emption or other subscription rights. There are no redemption or sinking fund provisions applicable to the shares.
  - (ii) In the event of any liquidation, dissolution or winding-up of Osprey's affairs, holders of shares will be entitled to share rateably in Osprey's assets that are remaining after payment, or provision for payment, of all of Osprey's debts and obligations and after liquidation payments to holders of shares of preferred stock on issue, if any.
- (c) Anti-Takeover provisions of Delaware Law, Certificate of Incorporation and Bylaws
- (i) As a foreign company registered in Australia, Osprey will not be subject to Chapters 6, 6A, 6B and 6C of the Corporations Act dealing with the acquisition of shares (i.e., substantial holdings, compulsory acquisitions and takeovers).

- (ii) Provisions of the Delaware General Corporation Law, Osprey's Certificate of Incorporation and Osprey's Bylaws could make it more difficult to acquire Osprey by means of a tender offer (takeover), a proxy contest or otherwise, or to remove incumbent officers and Directors of Osprey. These provisions (summarised below) are expected to discourage certain types of coercive takeover practices and takeover bids that the Board may consider inadequate and to encourage persons seeking to acquire control of Osprey to first negotiate with the Board. Osprey believes that the benefits of increased protection of its ability to negotiate with the proponent of an unfriendly or unsolicited proposal to acquire or restructure Osprey outweigh the disadvantages of discouraging takeover or acquisition proposals because, among other things, negotiation of these proposals could result in an improvement of their terms.
- (iii) Delaware Anti-Takeover Statute – The Delaware General Corporation Law prohibits a publicly held Delaware corporation from engaging in a “business combination” with an “interested shareholder” for a period of three years following the time the person became an interested shareholder, unless the business combination or the acquisition of shares that resulted in a shareholder becoming an interested shareholder is approved in a prescribed manner. A “business combination” can include a merger, asset or share sale or other transaction resulting in a financial benefit to an interested shareholder. Generally, an interested shareholder is a person who, together with its affiliates and associates, owns (or within three years prior to the determination of interested shareholder status did own) 15% or more of a corporation's voting shares. The existence of this provision would be expected to have an anti-takeover effect with respect to transactions not approved in advance by the Board, including discouraging attempts that might result in a premium over the market price for the shares held by holders of shares.
- (iv) Removal of Directors – Osprey's Bylaws provide that holders of shares may only remove Directors with cause.
- (v) Amendment – The Delaware General Corporation Law provides that the affirmative vote of the holders of at least a majority of Osprey's voting shares is required to amend the Certificate of Incorporation. The Certificate of Incorporation provides that, to amend certain provisions of the Certificate of Incorporation, the affirmative vote of the holders of at least two thirds of the voting power of Osprey's voting shares is required. The Certificate of Incorporation also provides that any amendment of the Bylaws of Osprey will require the approval of a majority of the Board.
- (vi) Size of the Board and Board Vacancies – Osprey's Certificate of Incorporation and Bylaws provide that the number of Directors on the Board is to be fixed exclusively by the Board. Newly created directorships resulting from any increase in Osprey's authorised number of Directors or any vacancies will be filled by a majority of the remaining Directors in office, unless otherwise required by law or by resolution of the Board. The Board is divided into three classes with staggered three-year terms. At each annual general meeting of the stockholders, the successors to the Directors whose terms expire will be elected to serve for three years until the third annual meeting following their election.

- (vii) Special Meetings of stockholders – Osprey’s Bylaws provide that special meetings of stockholders may be called by the Chairperson of the Board, the chief executive officer, the president, a majority of the Board or by the holders of 25% or more of Osprey’s voting shares.
- (viii) Requirements for Advance Notification of Nominations and Proposals of Holders of Shares – Osprey’s Bylaws establish advance notice procedures with respect to proposals by stockholders and nomination of candidates for election as Directors, other than nominations made by or at the direction of the Board or a committee of the Board.
- (ix) No Cumulative Voting – The Delaware General Corporation Law provides that stockholders are denied the right to cumulate votes in the election of directors unless Osprey’s Certificate of Incorporation provides otherwise. Osprey’s Certificate of Incorporation does not provide for cumulative voting.
- (x) Undesignated Preferred Stock – The authority possessed by the Board (subject to the ASX Listing Rules and the Delaware General Corporation Law) to issue preferred stock could potentially be used to discourage attempts by third parties to obtain control of Osprey through a merger, tender offer, proxy contest or otherwise by making such attempts more difficult or more costly. The Board may (subject to the ASX Listing Rules and the Delaware General Corporation Law) issue preferred stock with conversion rights that, if exercised, could adversely affect the voting power of the stockholders.
- (xi) Authorised but Unissued Shares – Subject to the limitations on the issue of securities under the ASX Listing Rules and the Delaware General Corporation Law, Osprey’s authorised but unissued Shares and preferred stock will be available for future issue without approval by stockholders. Osprey may use additional shares for a variety of purposes, including future public offerings to raise additional capital, to fund acquisitions and as employee compensation. The existence of authorised but unissued shares and preferred stock could render more difficult, or discourage, an attempt to obtain control of Osprey by means of a proxy contest, tender offer, merger or otherwise.

## 12.2 Terms and conditions of New Options

The New Options to be issued under the Prospectus pursuant to the Offers, entitle the holder to subscribe for CDIs on the following terms and conditions.

- (a) The New Options are exercisable on 15 June 2020, 14 October 2020 and 15 February 2021 (the date of their expiry) (**New Option Exercise Dates**) at a price of \$0.014 (1.4 cents) each, but not thereafter.
- (b) Each New Option entitles the holder to subscribe for one CDI. Any CDIs issued as a result of exercising a New Option will be issued on the same terms and rank in all respects on equal terms, with existing CDIs. An application for official quotation of CDIs allotted and issued as a result of the exercise of the New Options will be made within three Business Days from the date of issue of the CDIs.
- (c) No amount is payable on issue of the New Options as they are issued together with any application by an Eligible Holder for New CDIs.
- (d) No application for official quotation of the New Options will be made. The New Options will be unlisted options.

- (e) New Options will be registered in the name of a securityholder in an option register maintained by the CDI Registry. Instead of Option certificates, investors will be provided with a holding statement that sets out the number of New Options allotted to them under this Prospectus. The notice will also advise holders of their Holder Identification Number or Security Holder Reference Number as well as:
  - (i) the exercise price of the Options; and
  - (ii) the date of issue of the New Options and the New Option Exercise Dates.
- (f) The New Options will be fully transferrable in accordance with the Certificate of Incorporation and Bylaws of the Osprey and, for such time as Osprey is listed on ASX, the ASX Listing Rules will apply.
- (g) Subject to the Certificate of Incorporation and Bylaws, CDIs issued on exercise of New Options will rank equally with other issued CDIs from the date they are issued by Osprey.
- (h) A New Option holder is not entitled to participate in any new issue of securities to existing securityholders unless the New Option holder has exercised its New Options before the record date for determining entitlements to the new issue of securities and participates as a result of holding CDIs.
- (i) If Osprey makes a bonus issue of CDIs or other securities to securityholders (except an issue in lieu of dividends or by way of dividend reinvestment) and no CDI has been issued in respect of an New Option before the record date for determining entitlements to the issue, then the number of underlying CDIs over which the New Option is exercisable is increased by the number of CDIs which the New Option holder would have received if the option holder had exercised the New Option before the record date for determining entitlements to the issue, in accordance with the ASX Listing Rules.
- (j) If Osprey makes a pro rata issue of securities (except a bonus issue) to existing securityholders (except an issue in lieu or in satisfaction of dividends or by way of dividend reinvestment) and no CDI has been issued in respect of the New Option before the record date for determining entitlements to the issue, the exercise price of each New Option is reduced in accordance with the ASX Listing Rules.
- (k) If there is a reorganisation (including consolidation, sub-division, reduction or return) of the share capital of Osprey, then the rights of the New Option holder (including the number of New Options to which each New Option holder is entitled and the exercise price) is changed to the extent necessary to comply with the ASX Listing Rules applying to a reorganisation of capital at the time of the reorganisation.
- (l) Any calculations or adjustments which are required to be made under these New Option Terms of Issue will be made by Osprey and will, in the absence of manifest error, be final and conclusive and binding on Osprey and the New Option holder.
- (m) While they remain unexercised, the New Options will not give a holder an entitlement to receive any dividends declared and paid by Osprey for CDIs.
- (n) Osprey must within a reasonable period give to each New Option holder notice of any change under paragraphs (i) to (l) (inclusive) to the exercise price of any New Options held by an New Option holder or the number of CDIs for



which the New Option holder is entitled to subscribe on exercise of an New Option.

- (o) When exercising New Options, a New Option holder must give Osprey a Notice of Exercise of Options form (substantially similar to the one below), together with payment of the exercise monies payable to Osprey in connection with the Options being exercised (being \$0.014 (1.4 cents) per New Option) on or prior to the relevant New Option Exercise Date.

**Notice of Exercise of Options**

To the Directors of Osprey Medical, Inc. (**Company**)

I/we \_\_\_\_\_

of \_\_\_\_\_

being the registered holder of options in the capital of the Company exercise [insert] options to subscribe for CDIs enclose application monies payable of A\$[x] per option exercised.

I authorise you to register me/us as the holder of CDIs to be allotted to me and agree to accept such CDIs subject to the Certificate of Incorporation and Bylaws of the Company.

Dated \_\_\_\_\_

Signed by the holder of options \_\_\_\_\_

- (p) The New Options may not be exercised by or on behalf of a person in the United States unless the New Options and the underlying CDIs have been registered under the United State Securities Act of 1933, as amended, and applicable state securities laws or exemptions from such registration requirements are available. It is not currently anticipated that such registration will occur or that such exemptions will be available.
- (q) If a New Option holder exercises less than the total number of its New Options, Osprey must cancel the holding statement and issue the New Option holder a new holding statement for the remaining number of New Options held by the New Option holder.
- (r) Osprey shall within 10 days after the relevant New Option Exercise Date, subject to receipt of a Notice Exercise of Option Form and cleared funds, issue CDIs in respect of the New Options exercised and dispatch a securityholder statement to the holder.
- (s) Osprey will advise holders at least 20 Business Days before the impending expiry of their New Options and will advise the due date for payment, the amount of money payable on exercise, the consequences of non-payment and such other details as the ASX Listing Rules then prescribe, so as to enable holders to determine whether or not to exercise their New Options.
- (t) These New Option terms of issue and the rights and obligations of New Option holders are governed by the laws of Victoria. Each New Option holder

irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria.

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## **13 Additional Information**

### **13.1 Taxation**

Taxation implications of participating in the Entitlement Offer will vary depending on the particular circumstances of individual Eligible Holders. Eligible Holders are advised to obtain their own professional taxation advice before making a decision in relation to the Entitlement Offer.

### **13.2 Information about Osprey**

The information included in this Prospectus provides information about Osprey's activities current as at 3 April 2020. It is information in a summary form and does not purport to be complete. It should be read in conjunction with Osprey's other periodic and continuous disclosure announcements.

### **13.3 Future performance**

The words "anticipate", "believe", "expect", "project", "estimate", "likely", "intend", "should", "could", "may", "plan" and other similar expressions are intended to identify forward-looking statements. Forward-looking statements, opinions and estimates provided in this Prospectus are based on assumptions and contingencies which are subject to change without notice as are statements about market and industry trends, which are based on interpretations of current market conditions. Forward-looking statements including projections, guidance on future earnings and estimates are provided as a general guide only and should not be relied upon as an indication or guarantee of future performance.

An investment in Osprey is subject to investment and other known and unknown risks, some of which are beyond the control of Osprey. Osprey does not guarantee any particular rate of return or the performance of Osprey nor does it guarantee the repayment of capital from Osprey or any particular tax treatment.

### **13.4 Past performance**

Past performance information given in this Prospectus is provided for illustrative purposes only and should not be relied upon as (and is not) an indication of future performance.

### **13.5 Foreign holders of CDIs**

This Prospectus does not constitute an offer of CDIs or options in any jurisdiction in which it would be unlawful. In particular, this Prospectus may not be distributed to any person, and the CDIs and options may not be offered or sold, in any country outside Australia except to the extent permitted below.

#### **13.5.1 New Zealand**

This Prospectus has not been registered, filed with or approved by any New Zealand regulatory authority under the Financial Markets Conduct Act 2013 (**FMC Act**).

The New Securities are not being offered to the public within New Zealand other than to existing securityholders of Osprey with registered addresses in New Zealand to whom the offer of these securities is being made in reliance on the FMC Act and the Financial Markets Conduct (Incidental Offers) Exemption Notice 2016.

Other than under the Entitlement Offer, the New CDIs and New Options may only be offered or sold in New Zealand (or allotted with a view to being offered for sale in New Zealand) to a person who:

- (a) is an investment business within the meaning of clause 37 of Schedule 1 of the FMC Act;
- (b) meets the investment activity criteria specified in clause 38 of Schedule 1 of the FMC Act;
- (c) is large within the meaning of clause 39 of Schedule 1 of the FMC Act;
- (d) is a government agency within the meaning of clause 40 of Schedule 1 of the FMC Act; or
- (e) is an eligible investor within the meaning of clause 41 of Schedule 1 of the FMC Act.

### **13.5.2 Hong Kong**

**WARNING:** This Prospectus has not been, and will not be, registered as a prospectus under the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) of Hong Kong, nor has it been authorised by the Securities and Futures Commission in Hong Kong pursuant to the Securities and Futures Ordinance (Cap. 571) of the Laws of Hong Kong (**SFO**). No action has been taken in Hong Kong to authorise or register this Prospectus or to permit the distribution of this document or any documents issued in connection with it. Accordingly, the New CDIs and New Options have not been and will not be offered or sold in Hong Kong other than to "professional investors" (as defined in the SFO and any rules made under that ordinance).

No advertisement, invitation or document relating to the New CDIs and New Options been or will be issued, or has been or will be in the possession of any person for the purpose of issue, in Hong Kong or elsewhere that is directed at, or the contents of which are likely to be accessed or read by, the public of Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to the New CDIs and New Options that are or are intended to be disposed of only to persons outside Hong Kong or only to professional investors. No person allotted the New CDIs and New Options may sell, or offer to sell, such securities in circumstances that amount to an offer to the public in Hong Kong within six months following the date of issue of such securities.

The contents of this Prospectus have not been reviewed by any Hong Kong regulatory authority. You are advised to exercise caution in relation to the offer. If you are in doubt about any contents of this document, you should obtain independent professional advice.

### **13.5.3 Singapore**

This Prospectus and any other materials relating to the New CDIs or New Options have not been, and will not be, lodged or registered as a prospectus in Singapore with the Monetary Authority of Singapore.

Accordingly, this Prospectus and any other document or materials in connection with the offer or sale, or invitation for subscription or purchase, of New CDIs or New Options may not be issued, circulated or distributed, nor may these securities be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore except pursuant to and in accordance with exemptions in Subdivision (4) Division 1, Part XIII of the Securities and Futures

Act, Chapter 289 of Singapore (**SFA**), or as otherwise pursuant to, and in accordance with the conditions of any other applicable provisions of the SFA.

This Prospectus has been given to you on the basis that you are an existing holder of Osprey's CDIs. In the event that you are not such a CDI holder, please return this Prospectus immediately. You may not forward or circulate this Prospectus to any other person in Singapore.

Any offer is not made to you with a view to the CDIs being subsequently offered for sale to any other party. There are on-sale restrictions in Singapore that may be applicable to investors who acquire CDIs. As such, investors are advised to acquaint themselves with the SFA provisions relating to resale restrictions in Singapore and comply accordingly.

#### **13.5.4 United States**

This Prospectus does not constitute an offer to sell, or a solicitation of an offer to buy, securities in the United States. Securities may not be offered or sold in the United States absent registration or an exemption from registration. Securities described in this Prospectus have not been, and will not be, registered under the US Securities Act, or under the securities laws of any state or other jurisdiction of the United States, and may not be, offered or sold in the United States, except in a transaction exempt from, or not subject to, the registration requirements of the US Securities Act and the applicable securities laws of any state or other jurisdiction in the United States. Accordingly, the New CDIs to be offered and sold to Eligible Holders will be sold only in "offshore transactions" (as defined in Rule 902(h) under the US Securities Act) in compliance with Regulation S under the US Securities Act.

#### **13.6 Continuous Disclosure Obligations**

Osprey is a "disclosing entity" (as defined in section 111AC of the Corporations Act) for the purposes of section 713 of the Corporations Act and, as such, is subject to regular reporting and disclosure obligations. Specifically, like all companies listed on the ASX, Osprey is required to continuously disclose any information it has to the market which a reasonable person would expect to have a material effect on the price or the value of Osprey securities.

This Prospectus is a "transaction specific prospectus". In general terms a "transaction specific prospectus" is only required to contain information in relation to the effect of the issue of securities on Osprey and the rights attaching to the securities. It is not necessary to include general information in relation to all of the assets and liabilities, financial position, profits and losses or prospects of the issuing company.

This Prospectus is intended to be read in conjunction with the publicly available information in relation to Osprey which has been notified to ASX and does not include all of the information that would be included in a prospectus for an initial public offering of securities in an entity that is not already listed on a stock exchange. You should therefore have regard to the other publicly available information in relation to Osprey before making a decision whether or not to invest.

Information that is already in the public domain has not been reported in this Prospectus other than that which is considered necessary to make this Prospectus complete.

Osprey, as a disclosing entity under the Corporations Act states that:

- (a) it is subject to regular reporting and disclosure obligations;

- (b) copies of documents lodged with ASIC in relation to Osprey (not being documents referred to in section 1274(2)(a) of the Corporations Act) may be obtained from, or inspected at, the offices of ASIC; and
- (c) it will provide a copy of each of the following documents, free of charge to any person on request between the date of issue of this Prospectus and the Entitlement Offer Closing Date:
  - (i) the annual financial report most recently lodged by Osprey with ASIC; and
  - (ii) any continuous disclosure documents given by Osprey to ASX in accordance with the ASX Listing Rules after lodgement of the financial statements referred to in paragraph (i) and before lodgement of this Prospectus with ASIC.

All requests for copies of the above documents should be addressed to the CDI Registry.

ASX maintains files containing publicly available information for all listed companies. Osprey' file is available for inspection at ASX during normal office hours.

Announcements are also available through Osprey' website: [www.ospreymed.com/investors/releases/](http://www.ospreymed.com/investors/releases/).

Details of the documents lodged by Osprey with ASX since the date of lodgement of Osprey's latest annual financial report (being 26 March 2020) and before lodgement of this Prospectus with ASIC are set out in the table below.

Date	Description of Announcement
01/04/2020	Trading Halt

### 13.7 Information excluded from continuous disclosure notices

As at the date of this Prospectus, there is no information that has not been disclosed under this Prospectus and the continuous disclosure requirements of the ASX Listing Rules and which the Board considers an investor would reasonably require in order to assess Osprey assets and liabilities, financial position and prospects and the rights and liabilities attaching the securities of Osprey.

### 13.8 Market price of CDIs

Osprey is a disclosing entity for the purposes of the Corporations Act and its CDIs are enhanced disclosure securities quoted on ASX.

The highest, lowest and last market sale prices of the CDIs on ASX during the three months immediately preceding the date of lodgement of this Prospectus with ASIC and the respective dates of those sales were:

	<b>A\$</b>	<b>Date</b>
<b>Highest</b>	0.030	16 January 2020
<b>Lowest</b>	0.010	20 March 2020
<b>Last</b>	0.015	31 March 2020

### 13.9 Director's Interests

Other than as set out below or elsewhere in this Prospectus, no Director nor any firm in which such a Director is a partner or director, has or had within the 2 years before the date of this Prospectus, any interest in:

- (a) the formation or promotion of Osprey;
- (b) property acquired or proposed to be acquired by Osprey in connection with its formation or promotion of the Offers; or
- (c) the Offers,

and no amounts have been paid or agreed to be paid (in cash, CDIs, Shares or otherwise) and no other benefit has been given or agreed to be given to any Director or to any entity in which a Director is a partner or a director, either to induce him or her to become, or to qualify him or her as, a Director for services rendered by him, her or the entity in connection with the formation or promotion of Osprey or the Offers.

Directors' relevant interests in securities of Osprey as at the date of this Prospectus, are as follows:

<b>Director</b>	<b>CDIs</b>	<b>Options</b>
Mr John Erb	0	796,839
Mr Mike McCormick	16,000	7,615,392
Mr Andy Jane	0	0
Mr Neville Mitchell	1,000,003*	326,250
Dr Chris Nave	0	0
Ms Sandra Lesenfants	0	251,833

\*N J Mitchell Superannuation Fund (Mr Mitchell has a beneficial interest in this fund)

Our non-employee Directors and executive officers who are resident in Australia, will have the opportunity to participate in the Entitlement Offer if they are holders of record of Common Stock or CDIs. However, the Directors (and their associates) are not entitled to participate in the Top-Up Facility (including Brandon who is an associate of Dr Chris Nave). Directors and company executives based in the United States are not allowed to participate in the offering.

### 13.10 Remuneration of Directors

Details of the remuneration of the Directors paid during the fiscal years ended 31 December 2018 and 31 December 2019 are set out in the following table:

	Year ended 31 December 2019		Year ended 31 December 2018	
Director	Fees earned or paid in cash (US\$)	Option Awards	Fees earned or paid in cash (US\$)	Option Awards (US\$)
Mr John Erb	\$85,000	<ul style="list-style-type: none"> <li>80,000 Options issued at an exercise price of \$0.26 per Share</li> <li>460,000 Options were cancelled</li> <li>460,000 Options were issued under a Stock Option Exchange Program with an exercise price of A\$0.23 per Share</li> </ul>	\$85,000	178,000 Options issued at an exercise price of \$0.38 per Share
Mr Mike McCormick	\$612,267	<ul style="list-style-type: none"> <li>2,370,000 Options issued at an exercise price of \$0.26 per Share</li> <li>3,540,000 Options were cancelled</li> <li>3,540,000 Options were issued under a Stock Option Exchange Program with an exercise price of A\$0.23 per Share</li> </ul>	\$624,796	725,000 Options issued at an exercise price of \$0.38 per Share
Mr Andy Jane	\$0	\$0	\$0	\$0
Mr Neville Mitchell	\$65,000	<ul style="list-style-type: none"> <li>50,000 Options issued at an exercise price of \$0.26 per Share</li> <li>215,000 Options were cancelled</li> <li>215,000 Options were issued under a Stock Option Exchange Program with an exercise price of A\$0.23 per Share</li> </ul>	\$65,000	61,250 Options issued at an exercise price of \$0.38 per Share
Dr Chris Nave	\$0	\$0	\$0	\$0
Ms Sandra Lesenfants	\$45,500	40,000 Options issued at an exercise price of \$0.26 per Share	\$45,500	211,833 Options issued at an exercise price of \$0.38 per Share

Please refer to the Corporate Governance Statement for full details of the remuneration of Osprey' non-executive Directors. The Corporate Governance Statement was lodged with ASX on 26 March 2020 and is available on Osprey' company announcement page on the ASX website: [www.asx.com.au](http://www.asx.com.au).



### 13.11 Related Party Transactions

From time to time Osprey may be party to transactions with related parties including:

- (a) employment and service arrangements; and
- (b) payment of Directors fees.

Osprey believes that it has made appropriate disclosures of past related party transactions, and other than specifically set out in this Prospectus, does not intend to make any further disclosure of such transactions which transactions have either proceeded on an arm's length basis, reasonable remuneration basis or have been approved by stockholders.

### 13.12 Interests of Experts and Advisers

Except as set out in this Prospectus, no person named as performing a function in a professional, advisory or other capacity in connection with the preparation or distribution of this Prospectus:

- (a) has any interest, or has had any interest during the last 2 years, in the formation or promotion of Osprey, or in property acquired or proposed to be acquired by Osprey in connection with its formation or promotion, or the Offers; and
- (b) no amount has been paid, or agreed to be paid, and no benefit has been given, or agreed to be given, to any such person in connection with the services provided in connection with the formation or promotion of Osprey or the Offers.

Johnson Winter & Slattery has acted as the Australian legal advisers for Osprey in relation to the Offers. Osprey has paid, or agreed to pay, approximately A\$120,000. Further charges may be payable to Johnson Winter & Slattery in accordance with its normal time-based charges.

Lathrop GPM LLP has acted as the United States legal adviser to Osprey in relation to the Offers. Osprey has paid, or agreed to pay, approximately US\$20,000. Further charges may be payable to Lathrop GPM LLP in accordance with its normal time-based charges.

E&P Corporate Advisory Pty Limited has acted as nominee to sell the Entitlements to which Ineligible Holders are entitled and will be reimbursed for their reasonable expenses. In addition, if E&P Corporate Advisory Pty Ltd introduces Investors to Osprey who participate in the Shortfall Offer (**Investor Services**), Osprey has agreed to pay a fee of 3% of the value of the Investor Services.

The Underwriter has acted as underwriter of the Entitlement Offer. Osprey has paid or agreed to pay the fees detailed in Section 4.9.2.

Vesparum Capital Pty Ltd have acted as Australian Financial Advisor to Osprey in relation to the Offers. Osprey has agreed to pay Vesparum Capital Pty Ltd a fee of 1% of the value of the proceeds raised under the Offers (excluding any amount taken up by Brandon, the Underwritten Amount, and the value of any Investor Services provided by E&P Corporate Advisory Pty Ltd).

### 13.13 Consents

Each of the parties named below:

- (a) has not made any statement in this Prospectus or any statement on which a statement in this Prospectus has been based, other than set out at the end of this section;
- (b) to the maximum extent permitted by law, expressly disclaims and takes no responsibility for any statements in or omissions from this Prospectus, other than a reference to its name and/or any statement or report included in this report with its consent, as specified at the end of this section.

Each of the parties has given, and not withdrawn before the lodgement of this Prospectus with ASIC, its consent to be named in this Prospectus in the capacity described below:

- Johnson Winter & Slattery, which has acted as Australia legal adviser to Osprey in relation to the Offers. In doing so, Johnson Winter & Slattery have placed reasonable reliance upon the information provided to them by Osprey. Johnson Winter & Slattery does not make any statement in this Prospectus.
- Lathrop GPM LLP, which has acted as the United States legal adviser to Osprey in relation to the Offers. In doing so, Lathrop GPM LLP have placed reasonable reliance upon the information provided to them by Osprey. Lathrop GPM LLP does not make any statement in this Prospectus.
- The Underwriter which acts as underwriter to the Entitlement Offer. In doing so, the Underwriter has placed reasonable reliance upon the information provided to them by Osprey. The Underwriter does not make any statement in this Prospectus.
- Brandon, in doing so, Brandon has placed reasonable reliance upon the information provided to it by Osprey. Brandon does not make any statement in this Prospectus.
- Vesparum Capital Pty Ltd, which has acted as Osprey's Australian financial advisor. In doing so, Vesparum Capital Pty Ltd have placed reasonable reliance upon the information provided to them by Osprey. Vesparum Capital Pty Ltd does not make any statement in this Prospectus.
- E&P Corporate Advisory Pty Ltd, which has acted as nominee to sell the Entitlements to which Ineligible Holders are entitled and may provide Investors Services to Osprey. E&P Corporate Advisory Pty Ltd have placed reasonable reliance upon the information provided to them by Osprey. E&P Corporate Advisory Pty Ltd does not make any statement in this Prospectus.
- Link Market Services Pty Limited which acts as the CDI registry. It has no involvement in the preparation of any part of this Prospectus other than being named as CDI registry to Osprey.

#### **13.14 Litigation**

As at the date of this Prospectus, Osprey is not involved in any legal proceedings and the Directors are not aware of any legal proceedings pending or threatened against Osprey. Osprey has recently received a demand letter from an employee terminated in 2019. While the demand is for damages of \$667,000 related to the wrongful termination of the employee, Osprey believes that it has strong defences to the claims

made in the demand letter. Osprey also has \$5,000,000 worth of insurance coverage related to such claims, with a \$200,000 deductible. Lathrop GPM LLP has been retained with the consent of the insurance company to represent Osprey in connection with this matter.

### **13.15 Expenses of Entitlement Offer**

The total expenses of the Entitlement Offer are estimated to be approximately \$276,600 (US\$171,000) (excluding GST), and are expected to be applied towards the items set out in the table below:

<b>Expenses</b>	<b>\$</b>
Underwriting	44,536
Legal fees	152,258
ASIC lodgement fees	3,206
Financial advice/Investor Services	41,600
Registry and printing costs	\$35,000
<b>Total</b>	<b>276,600</b>

### **13.16 ASIC waivers and ASX relief**

Osprey has not obtained any ASIC relief or waivers from ASX from the application of the ASX Listing Rules in connection with the Entitlement Offer.

### **13.17 Privacy**

By submitting an Entitlement and Acceptance Form, you will be providing personal information to Osprey (directly or through the CDI Registry). Osprey collects, holds and will use that information to assess and process your application, administer your holding in Osprey and to provide related services to you. Osprey may disclose your personal information for purposes related to your holding in Osprey, including to the CDI Registry, Osprey' related bodies corporate, agents, contractors and third party service providers, including mailing houses and professional advisers, and to ASX and regulatory bodies.

You can obtain access to personal information that Osprey holds about you. To make a request for access to your personal information held by (or on behalf of) Osprey, please contact Osprey through the CDI Registry.

### **13.18 Governing law**

This Prospectus, the Offers and the contracts formed on acceptance of the Offers are governed by the laws applicable in Victoria, Australia.

### **13.19 Authority of Directors**

The Directors have made all reasonable enquiries in the preparation of this Prospectus and on that basis have reasonable grounds to believe that any statements made by Directors in this Prospectus are not misleading or deceptive and that in respect to any other statements made in this Prospectus by persons other than the Directors, the Directors have made reasonable enquiries and on that basis have reasonable grounds to believe that persons making the statement or statements were competent to make such statements, those persons have given their consent to the statements being

included in this Prospectus in the form and context in which they are included and have not withdrawn that consent before lodgement of this Prospectus with ASIC.

This Prospectus is prepared on the basis that certain matters may reasonably be expected to be known to likely investors and their professional advisers.

Each of the Directors has consented to the lodgement of the Prospectus in accordance with section 720 of the Corporations Act and has not withdrawn that consent.

Dated 3 April 2020

By: **Mike McCormick**  
**Director**



For and on behalf of the Board of Osprey Medical, Inc.

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## 14 Glossary and Interpretation

### 14.1 Definitions

In this Prospectus, the following words have the following meanings unless the context requires otherwise:

Term	Meaning
<b>\$ or A\$</b>	Australian dollars.
<b>Additional New CDIs</b>	New CDIs (and 1 attaching New Option) in excess of the pro rata entitlement of an Eligible Holder.
<b>AKI</b>	acute kidney injury.
<b>Announcement Date</b>	Friday, 3 April 2020.
<b>ASIC</b>	the Australian Securities and Investments Commission.
<b>ASX</b>	ASX Limited ACN 008 624 691 or, as the context requires, the financial market known as the Australian Securities Exchange operated by it.
<b>ASX Listing Rules</b>	the official listing rules of the ASX as amended or replaced from time to time.
<b>ASX Settlement Operating Rules</b>	the official settlement operating rules of the ASX as amended or replaced from time to time.
<b>Board</b>	the board of directors of Osprey.
<b>BPAY®</b>	the electronic payment facility by that name.
<b>Brandon</b>	Brandon Capital Partners Pty Ltd and BCP3 Pty Ltd, including the Underwriter and other funds managed by them.
<b>Business Day</b>	a day which is not a Saturday, Sunday or a public holiday in Victoria.
<b>CDI</b>	a CHESS Depositary Interest, being a unit of beneficial ownership of shares of Common Stock (with each CDI being equivalent to one-half of a share of Common Stock).
<b>CDI Registry</b>	Link Market Services Limited ABN 54 083 214 537.
<b>CDN</b>	Chess Depositary Nominees Pty Ltd ACN 071 346 506
<b>CI-AKI</b>	contrast-induced acute kidney injury
<b>CHESS</b>	Clearing House Electronic Subregister System.

<b>Closing Date</b>	the Entitlement Offer Closing Date or the Shortfall Offer Closing Date (as the case may be).
<b>Common Stock</b>	fully paid shares of common stock in Osprey.
<b>Corporations Act</b>	<i>Corporations Act 2001</i> (Cth).
<b>Directors</b>	the directors of Osprey.
<b>Eligible Assignee</b>	means a person who holds Entitlements that were assigned or transferred to them and who is a resident of Australia, New Zealand, Hong Kong or Singapore, provided that no person will be an Eligible Assignee if that person is a US person, is in the United States or is acting for the account or benefit of a person in the United States.
<b>Eligible Holder</b>	has the meaning given in Section 4.1.
<b>Entitlement</b>	a Shareholder's entitlement to subscribe for New CDIs (and 1 free attaching New Options) offered by this Prospectus
<b>Entitlement and Acceptance Form</b>	the personalised form accompanying this Prospectus which may be used to make an application for New CDIs (and 1 attaching New Option) under the Entitlement Offer.
<b>Entitlement Offer</b>	the pro rata renounceable entitlement offer to Eligible Holders outlined in this Prospectus.
<b>Entitlement Offer Closing Date</b>	the deadline for accepting the Entitlement Offer, being 5.00pm on Friday, 24 April 2020 (subject to change).
<b>Excess Amount</b>	has the meaning given in Section 5.2.3.
<b>Expiry Date</b>	the date that is 13 months after the date of this Prospectus.
<b>FDA</b>	US Food and Drug Administration.
<b>FMC Act</b>	<i>Financial Markets Conduct Act 2013</i> .
<b>GE Healthcare</b>	GE Healthcare Limited
<b>Ineligible Holder</b>	a holder of CDIs who is not an Eligible Holder.

<b>Investor</b>	means: <ul style="list-style-type: none"> <li>(a) a person to whom an offer of New CDIs may lawfully be made in Australia without a disclosure document (as defined in the Corporations Act) on the basis that such a person is exempt from the disclosure requirements of Part 6D.2 in accordance with sections 708(8) or 708(11); or</li> <li>(b) a person to whom an offer of New CDIs may be made outside Australia without registration, lodgement of a formal disclosure document or other formal filing in accordance with the laws of that particular foreign jurisdiction (except to the extent which the issuer is willing to comply with such requirements).</li> </ul>
<b>Issue Price</b>	the price payable for each New CDI under the Entitlement Offer, being \$0.012.
<b>New CDIs</b>	the CDIs offered pursuant to this Prospectus.
<b>New Option</b>	means an Option on the terms set out in Section 12.2, and offered under this Prospectus.
<b>New Option Exercise Dates</b>	has the meaning given in Section 12.2(a).
<b>New Securities</b>	means the New CDIs and the New Options.
<b>Offers</b>	means the Entitlement Offer and the Shortfall Offer.
<b>Option</b>	an option to subscribe for CDIs.
<b>Osprey or Company</b>	Osprey Medical Inc. ARBN 152 854 923.
<b>Privacy Act</b>	<i>Privacy Act 1988</i> (Cth).
<b>Prospectus</b>	this Prospectus dated 3 April 2020, and includes the electronic prospectus.
<b>Record Date</b>	7.00pm (Melbourne time) on Wednesday, 8 April 2020.
<b>Region</b>	Europe, Russia, Middle East, Africa, Central Asia and Turkey
<b>SEC</b>	US Securities and Exchange Commission.
<b>SFA</b>	Securities and Futures Act, Chapter 289 of Singapore.
<b>SFO</b>	Securities and Futures Ordinance (Cap. 571) of the laws of Hong Kong.
<b>Shareholder</b>	a holder of Common Stock or CDIs in Osprey.

<b>Shortfall or Shortfall CDIs</b>	those New CDIs under the Entitlement Offer not applied for by Eligible Holders under the Entitlement Offer or Top Up Facility by the Entitlement Offer Closing Date or taken up by the Underwriter.
<b>Shortfall Offer</b>	the offer of Shortfall CDIs.
<b>Shortfall Offer Closing Date</b>	24 July, being 3 months after the Entitlement Offer Closing Date (subject to change).
<b>Top Up Facility</b>	the facility described in Section 4.3.
<b>Underwriter</b>	MRCF3 Services (H) Pty Ltd ACN 604 871 516 as trustee of the MRCF3 (H) Trust, MRCF3 Services (SW) Pty Ltd ACN 604 871 552 as trustee of the MRCF3 (SW) Trust and MRCF3 Services (HP) Pty Ltd ACN 604 871 543 as trustee of the MRCF3 (HP) Trust
<b>Underwritten Amount</b>	\$4,453,692.
<b>US</b>	United States
<b>USPTO</b>	United States Patent and Trademark Office.
<b>US Securities Act</b>	US Securities Act of 1933, as amended.

## 14.2 Interpretation

In this Prospectus, unless the context otherwise requires:

- (a) where fractions arise in the calculations, they will be rounded up to the nearest whole number of New CDIs.
- (b) the singular includes the plural, and vice versa;
- (c) words importing one gender include other genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this Prospectus have corresponding meanings;
- (e) terms used in this Prospectus and defined in the Corporations Act have the meanings ascribed to them in the Corporations Act;
- (f) other grammatical forms of a word or phrase defined in this Prospectus have a corresponding meaning; and
- (g) a reference to a Section is a reference to a Section of this Prospectus.



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## Corporate Directory

### DIRECTORS

John Erb - Chairman (Non-Executive)  
Mike McCormick - President and Chief Executive Officer  
Andy Jane - Non-Executive Director  
Sandra Lesenfans - Non-Executive Director  
Neville Mitchell - Non-Executive Director  
Chris Nave - Non-Executive Director

### COMPANY SECRETARY

Brendan Case

### HEADQUARTERS

5600 Rowland Road  
Suite 250  
Minnetonka MN 55343  
United States of America

### FINANCIAL ADVISER

Vesparum Capital  
Level 7, 41 Exhibition Street  
Melbourne VIC 3000  
Australia

### NOMINEE

E & P Corporate Advisory Pty Ltd  
Level 27, 1 O'Connell Street  
Sydney NSW 2000

### UNDERWRITER

MRCF3 Services (H) Pty Ltd ACN 604 871 516 as trustee of the MRCF3 (H) Trust, MRCF3 Services (SW) Pty Ltd ACN 604 871 552 as trustee of the MRCF3 (SW) Trust and MRCF3 Services (HP) Pty Ltd ACN 604 871 543 as trustee of the MRCF3 (HP) Trust  
c/- Brandon Capital Partners  
Level 9, 31 Queen Street,  
Melbourne, VIC 3000

### AU LEGAL ADVISER

Johnson Winter & Slattery  
Level 25, 20 Bond Street  
Sydney NSW 2000  
Australia

### US LEGAL ADVISER

Lathrop GPM LLP  
500 IDS Center, 80 South 8<sup>th</sup> Street  
Minneapolis, MN, 55402 United States

### CDI REGISTRY

Link Market Services Limited  
1A Homebush Bay Drive  
Rhodes NSW 2138  
Australia

Entitlement Offer Information Line:

Phone (within Australia): 1300 554 474  
Phone (outside Australia): +61 1300 554 474  
Open 8.30am to 5.00pm on Business Days