



Notice of Annual General Meeting

The Annual General Meeting
of E&A Limited will be held at:

the offices of Chartered Accountants Australia and New Zealand

Level 29, Westpac House,

91 King William Street,

Adelaide SA 5000

on 29 January 2016

commencing at 11:00 am (ACST).

E&A Limited ABN 22 088 588 425

Level 27 91 King William Street Adelaide Telephone: (08) 8212 2939

GPO Box 1273 Adelaide 5001

www.ealimited.com.au

NOTICE OF ANNUAL GENERAL MEETING

Notice is hereby given that the Annual General Meeting of E&A Limited ("*the Company*") will be held at the offices of Chartered Accountants Australia and New Zealand, Level 29, Westpac House, 91 King William Street, Adelaide SA 5000, on 29 January 2016 at 11 am ACST to conduct the following business:

A. Financial Report

To receive the Company's audited financial report and the reports of the Directors and independent external auditors for the financial year ended 30 June 2015.

B. Resolutions

1. Remuneration Report

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

"That the remuneration report, forming part of the Company's 2015 Annual Report, for the financial year ended 30 June 2015 is adopted."

The vote on this item is advisory only and does not bind the Directors or the Company.

2. Director Re-Election

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

"That Mr Michael Abbott, being a Director retiring from office in accordance with Clause 40.2 of the Company's Constitution, and, being eligible offering himself for re-election for a period of twelve months, be re-elected as a Director of the Company."

3. Issue of Shares to LIM Advisors

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

That for the purposes of item 7 of section 611 of the Corporations Act and for all other purposes, approval is given for:

- (a) *the Conversion Rights contained in the Loan Agreement to become effective and for the Company to issue Shares to LIM Opportunistic Credit Master Fund (LIM OCMF) upon the exercise of the Conversion Rights by LIM Advisors in accordance with the terms of the Loan Agreement; and*
- (b) *the acquisition of a relevant interest in the issued voting shares of the Company by LIM Advisors which is otherwise prohibited by section 606(1) of the Corporations Act, by virtue of the granting and exercise of the Conversion Rights contained in the Loan Agreement.*

The two executive directors, Messrs Young and Vartuli and their associates have agreed to abstain from voting any shares they own or control in relation to this resolution.

4. Director Election

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

"That Mr John Robert Nicholls, being eligible, offers himself for election as a Director of the Company."

QUESTIONS:

The meeting will give members the opportunity to ask questions of the Directors regarding the Company's operations and to ask questions of the auditor relevant to the conduct of the audit, the audit report and the Company's accounting policies.

Attached to this Notice of Meeting is an Explanatory Memorandum setting out the details of each of the resolutions proposed above.

Unless otherwise defined, all defined terms used in this Notice of General Meeting shall have the same meaning as set out in the Explanatory Memorandum attached to this Notice of General Meeting.

By Order of the Board of Directors of the Company.



Matt Proctor
Company Secretary
21 December 2015

NOTES TO SHAREHOLDERS

Voting:

Shareholders can vote in either of two ways:

- by attending the meeting and voting in person or by attorney or, in the case of corporate Shareholders, by corporate representative; or
- by appointing a proxy to attend and vote on their behalf, using the proxy form accompanying this Notice of Annual General Meeting.

Voting in person:

Shareholders who plan to attend the meeting are asked to arrive at the venue 30 minutes prior to the time designated for the meeting, if possible, so that we may check the shareholding against the Company Share Register and note attendances.

In order to vote in person at the meeting, a corporation which is a Shareholder may appoint an individual to act as its representative. The appointment must comply with the requirements of section 250D of the *Corporations Act*. The representative should bring to the meeting evidence of their appointment, including any authority under which it is signed.

Voting by proxy: A PROXY FORM IS ATTACHED TO THE NOTICE

Shareholders who cannot attend the meeting are encouraged to participate by a proxy appointed in accordance with the following guidelines:

- A Shareholder entitled to attend and vote is entitled to appoint not more than two proxies who need not be Shareholders.
- The appointment of the proxy may specify the proportion or number of votes that the proxy may exercise. Where more than one proxy is appointed, and if the appointment does not specify the proportion or number of the Shareholder's votes each proxy may exercise, each proxy may exercise half of the votes. Where more than one proxy is appointed, neither proxy is entitled to vote on a show of hands.
- If a proxy is not directed how to vote on an item of business, the proxy may vote, or abstain from voting, as that person thinks fit.
- If a proxy is instructed to abstain from voting on an item of business, that person is directed not to vote on the Shareholder's behalf on a show of hands or on a poll, and the shares the subject of the proxy appointment will not be counted in computing the required majority.
- Shareholders who return their proxy forms but do not nominate the identity of their proxy will be taken to have appointed the Chairman of the meeting as their proxy to vote on their behalf. If a proxy form is returned but the nominated proxy does not attend the meeting, the Chairman of the meeting will act in place of the nominated proxy and vote in accordance with any instructions and the terms of this notice of meeting.
- Where the appointment of a proxy is signed by the appointer's attorney, a certified copy of the power of attorney, or the original power of attorney itself, must be received by the Company in the above manner, time and place. If facsimile transmission is used, the power of attorney must be certified.

Shareholders who are entitled to vote:

The Directors have determined that the shares of the Company which are listed for quotation on the ASX at 27 January 2016 are to be taken, for the purposes of determining voting entitlements at the meeting, to be held by the persons who held them at that time.

How the Chairman of the Meeting will vote undirected proxies:

Proxy appointments in favour of the Chairman of the meeting which do not contain a direction will be used to support the each of the resolutions as described in this Notice of Annual General Meeting.

Any proxies held by the Chairman of the meeting on Resolution 1, 2, 3 and 4 for which the voting directions have not been completed in the proxy appointment will be treated as directed proxies as detailed below.

Proxies for which voting directions are not provided on Resolution 1 (Remuneration Report)

If you appoint the Chairman of the Meeting as your proxy in relation to Resolution 1, but do not complete any of the boxes 'For', 'Against' or 'Abstain' opposite Resolution 1 on the proxy appointment, you will be directing the Chairman of the meeting to vote in favour of Resolution 1, and the Chairman of the meeting will vote in this way. If you wish to appoint the Chairman of the meeting as your proxy with a direction to vote against, or to abstain from voting on Resolution 1, you should specify this by completing the 'Against' or 'Abstain' box on the proxy appointment.

If you appoint any other Director of E&A Limited, any other of its key management personnel or any of their closely related parties and do not direct them how to vote, he or she will not vote on Resolution 1. Key management personnel of E&A Limited are the Directors of E&A Limited and those other persons having authority and responsibility for planning, directing and controlling the activities of E&A Limited, directly or indirectly. The Remuneration Report identifies E&A Limited's key management personnel for the financial year to 30 June 2015. Their closely related parties are defined in the Corporations Act 2001, and include certain of their family members, dependants and companies they control.

Voting Exclusions

The Company will disregard any votes cast on **Resolution 1** (in any capacity) by, or on behalf of, the following persons:

- a member of the key management personnel (**KMP**) (which includes each of the Directors of the Company) whose remuneration is disclosed in the 2015 remuneration report; or
- a closely related party (as that term is defined in the Corporations Act) (such as close family members and any controlled companies) (**Closely Related Party**) of such a member of the KMP.

However, the Company will not disregard the vote if it is cast as a proxy for a person who is entitled to vote and:

- the proxy appointment is in writing and specifies how the proxy is to vote (for, against, abstain); or
- the vote is cast by the person chairing of the Annual General Meeting and;
 - the appointment does not specify how the proxy is to vote; and,
 - the appointment expressly authorises the chair of the meeting to exercise the proxy even if the resolution is connected directly or indirectly with the remuneration of a member of the KMP.

The Company will disregard any votes cast on **Resolution 3** by:

- LIM OCMF;
- any associate of LIM OCMF; and
- Messrs Young and Vartuli (and any of their associates) who have agreed with ASIC not to vote any shares they own or control in respect of Resolution 3. Details of the reasons for their decision are set out in the attached Explanatory Memorandum.

However, the Company need not disregard a vote if it is cast by:

- LIM OCMF or any associate of LIM OCMF as proxy for a person who is entitled to vote, in accordance with directions on the Proxy Form;
 - Young or any associate of Young as proxy for a person who is entitled to vote, in accordance with directions on the Proxy Form;
 - Vartuli or any associate of Vartuli as proxy for a person who is entitled to vote, in accordance with directions on the Proxy Form; or
 - the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the Proxy Form to vote as the proxy decides.
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Lodging your proxy:

- To be effective, proxy forms may be lodged by either:
 - ❖ lodging it online at Link's website www.investorcentre.linkmarketservices.com.au. Choose E&A Limited from the drop down menu, enter the holding details as shown on the proxy form, and otherwise follow the instructions provided to appoint a proxy (you will be taken to have signed your Proxy Form if you lodge it in accordance with the instructions given on the website).
 - ❖ posting or facsimile to E&A Limited's Share Registry as follows:

E&A Limited
C/- Link Market Services Limited
Locked Bag A14
Sydney South NSW 1235
Facsimile: (02) 9287 0309
 - ❖ delivering it to Level 12, 680 George Street, Sydney NSW 2000, by 11:00 am(AEDT) on 27 January 2016. Proxy forms received after this time will be invalid.

If you choose to appoint a proxy, you are encouraged to direct your proxy how to vote on each Resolutions by marking either "**For**", "**Against**" or "**Abstain**" for each of those items of business.

If you sign the enclosed Voting Form and do not mark the Box in Step 1, you will have appointed the Chairman of the meeting as your proxy.

E&A LIMITED

EXPLANATORY MEMORANDUM

This Explanatory Memorandum has been prepared for and provides information on the resolutions to be considered by the Shareholders at the Annual General Meeting to be held at 11:00am (ACST) on Friday 29 January 2016 at the offices of Chartered Accountants Australia and New Zealand, Level 29, Westpac House, 91 King William Street, Adelaide 5000. Please read this Explanatory Memorandum carefully as it forms part of and should be read in conjunction with the accompanying Notice of Annual General Meeting.

A. FINANCIAL REPORT

To receive the financial report:

The Corporations Act requires that the financial report (including the Directors' report, financial statements and the independent auditor's report) be laid before the Annual General Meeting. Although not requiring a vote of Shareholders, a reasonable opportunity will be provided at the meeting for Shareholders to ask questions about or make comments on the management of the Company and to ask the auditor questions about the conduct of the audit, the preparation and content of the auditor's report, the accounting policies adopted by the Company in relation to the preparation of the financial statements and the independence of the auditor.

In addition to taking questions at the meeting, written questions to the Company's auditor about the content of the auditor's report and the conduct of the audit of the financial statements may be submitted up to five business days before the meeting to:

Mr David Sanders
Ernst & Young
121 King William Street
ADELAIDE SA 5000

B. RESOLUTIONS

1. REMUNERATION REPORT

To adopt the Remuneration Report:

Shareholders are asked to consider and adopt the Remuneration Report which has been prepared in accordance with the *Corporations Act* and forms part of the Directors Report for the financial year ended 30 June 2015.

A reasonable opportunity will be provided at the meeting for Shareholders to ask questions about, or make comments upon the Remuneration Report. Under the Corporations Act, the vote on Resolution 1 is advisory only and does not bind the Directors of the Company.

The Directors will consider the outcome of the vote and comments made by Shareholders on the Remuneration Report at the meeting when reviewing the Company's remuneration policies.

If 25% or more of votes that are cast are voted against the adoption of the Remuneration Report at two consecutive AGM's, Shareholders will be required to vote at the second of those AGMs on a resolution (a "spill" resolution) that another meeting be held within 90 days at which the Company's Directors (other than the Executive Chairman) must go up for re-election.

The Company has not had a vote of 25% against the adoption of the remuneration report since the introduction of this requirement in the Corporations Act and as such the 2015 Notice of Meeting does not contain a Spill Resolution.

The Remuneration Report is available on the Company's website at www.ealimited.com.au.

Due to each Director having an interest in the outcome of Resolution 1, and for good governance, the Board refrains from making a recommendation to Members. The Chairman intends to vote any undirected proxies in favour of this Resolution.

Please refer to the Notes to Shareholders section for an explanation of voting exclusions applicable to this Resolution 1.

2. DIRECTOR RE-ELECTION

2.1 Background:

Under clause 40.2 of the Company's Constitution Mr Michael Abbott will retire by rotation at the Annual General Meeting. Mr Michael Abbott, being eligible, offers himself for re-election for a period of twelve months as a Director.

2.2 Recommendation:

The Board has considered Mr Michael Abbott's candidacy, both in respect of his individual merits and overall Board composition, and the Board, with Mr Abbott abstaining, now recommends the re-election of Mr Michael Abbott as a Director of the Company.

Mr Michael Abbott is a Non-executive Director and is considered by the Board to be independent in character and judgement.

The Chairman intends to vote any undirected proxies in favour of this Resolution.

2.3 Candidate Profile – Mr Michael Abbott

Mr Michael Abbott was appointed to the E&A Limited Board of Directors on 16 October 2007.

Michael Abbott is a Barrister resident in South Australia. He graduated with a law degree from The University of Adelaide in 1965 and commenced in private practice in 1966. He is a past President of the South Australian Bar Association and has appeared as Counsel in a number of significant cases and Royal Commissions in Australia. In 2006 he represented six of the officers of AWB at the Cole Commission into Iraqi wheat payments in Sydney. Michael also acted for the Non-Executive Directors of the State Bank of South Australia and Beneficial Finance Pty Ltd during the Royal Commission into the State Bank of South Australia and in the subsequent litigation against the bank's Directors. He has lectured on corporate responsibility, the fiduciary duties of Directors and other topics relating to the role of Directors.

Mr Abbott is a member of the nomination and remuneration committee and the Chairman of the audit and risk management committee.

3. APPROVAL OF CONVERSION RIGHTS AND ISSUE OF SHARES UPON EXERCISE OF CONVERSOIN RIGHTS AS PART OF SECURED CONVERTIBLE LOAN FACILITY

3.1 Loan Agreement:

As announced to ASX Limited (**ASX**) on 1 September 2015, the Company has entered into a Loan Agreement dated 31 August 2015 (**Loan Agreement**) with LIM Opportunistic Credit Master Fund (**LIM OCMF**), a fund managed by LIM Advisors Limited (**LIM Advisors**) to provide the Company with a secured convertible loan facility of up to US\$10,000,000 with rights to convert loan advances (plus capitalised and unpaid interest) to ordinary voting shares (**Conversion Shares**) in the Company (**Loan Facility**). The interest rate of the facility is 10% per annum payable 12 months in advance on the initial drawdown and 10% per annum capitalised onto the principal loan on a quarterly in arrears basis payable on the earlier of prepayment or expiry of the Loan Facility.

Under the terms of the Loan Agreement, the Company may draw the US\$10,000,000 Loan Facility by way of two separate advances (**Advances**), with the first Advance being for a principal amount of US\$6,000,000 and the second Advance being for a principal amount of US\$4,000,000. As at the date of this Explanatory Memorandum, the Company has only drawn the first Advance of US\$6,000,000 under the Loan Facility. The Company anticipates to draw the second Advance of US\$4,000,000 before the end of the 2015 calendar year.

The Loan Facility is intended to provide the Company with the funding necessary to legally pursue its outstanding contract claims against third parties (and to maximise the Company's recovery in respect of such claims) and to support the working capital requirements of the Company's businesses. The first Advance which has been drawn under the Loan Facility is currently being used by the Company for these purposes.

The term of the Loan Facility (**Facility Term**) is 24 months from the date of the Loan Agreement and all outstanding Advances and capitalised and unpaid interest becomes payable/repayable to LIM Advisors at the end of the Facility Term. The Company is also permitted to make early repayments under the Loan Agreement as and when it resolves contract claims against third parties.

The loan from LIM OCMF is secured by a registered second charge over E&A Limited and all of its subsidiaries.

3.2 Conversion Rights:

The Loan Agreement contains terms, which once approved by the Shareholders of the Company, will provide LIM OCMF with rights (**Conversion Rights**) to convert Advances made available under the Loan Facility (plus capitalised and unpaid interest) (**Conversion Amounts**) into Conversion Shares. When exercised, the Conversion Rights will enable LIM OCMF to obtain Conversion Shares in the Company in lieu of being paid/repaid the relevant Conversion Amount(s).

The Conversion Rights are exercisable by LIM OCMF:

- 3.2.1 at any time before 30 September 2016 in respect of principal amounts which have been prepaid by the Company at any time before that date;
- 3.2.2 upon a prepayment of the whole or any part of any Advance being made by the Company at any time before the end of the Facility Term; and
- 3.2.3 otherwise, upon expiry of the Facility Term, when all outstanding Advances and capitalised interest become payable/repayable.

As at the date of this Explanatory Memorandum, the maximum number of Shares (and the maximum percentage of voting rights) LIM OCMF could obtain by exercising the Conversion Rights is not possible to calculate with absolute certainty. Among other reasons, this is because the second Advance has not yet been drawn, albeit it is anticipated to be drawn before the end of the 2015 calendar year and the relevant exchange rate applicable to the drawn amount is not certain.

The Conversion Rights contained in the Loan Agreement are summarised in the tables below. The details relating to the second Advance in the table below have been calculated as if the Second Advance was to be fully drawn on 1 December 2015, however the provision of the Second Advance is at the discretion of LIM OCMF.

The maximum number of Conversion Shares which may be issued has been calculated on the basis that both Advances are fully drawn and neither has been partly or fully repaid as at the expiry of the Facility Term. A range of different US\$/A\$ exchange rates has also been considered.

	First Advance (\$US6,000,000)			
Advance amount	US\$6,000,000	US\$6,000,000	US\$6,000,000	US\$6,000,000
Capitalising interest	US\$1,273,405	US\$1,273,405	US\$1,273,405	US\$1,273,405
Conversion amount	US\$7,273,405	US\$7,273,405	US\$7,273,405	US\$7,273,405
A\$ / US\$ Exchange Rate	A\$0.60	A\$0.65	A\$0.70	A\$0.75
Conversion amount	A\$12,122,341	A\$11,189,853	A\$10,390,578	A\$9,697,873
Conversion price	A\$0.18	A\$0.18	A\$0.18	A\$0.18
Maximum number of Shares which may be issued	67,346,340	62,165,853	57,725,435	53,877,072

	Second Advance (\$US4,000,000)			
Advance amount	US\$4,000,000	US\$4,000,000	US\$4,000,000	US\$4,000,000
Capitalising interest	US\$730,986	US\$730,986	US\$730,986	US\$730,986
Conversion amount	US\$4,730,986	US\$4,730,986	US\$4,730,986	US\$4,730,986
AUD / USD Exchange Rate	A\$0.60	A\$0.65	A\$0.70	A\$0.75
Conversion amount	A\$7,884,976	A\$7,278,440	A\$6,758,551	A\$6,307,981
Conversion price	A\$0.25	A\$0.25	A\$0.25	A\$0.25
Maximum number of Shares which may be issued	31,539,906	29,113,759	27,034,205	25,231,925
	Total Conversion Rights			
Estimated maximum Shares obtainable by LIM OCMF	98,886,246	91,279,612	84,759,640	79,108,997
Estimated maximum voting power obtainable by LIM OCMF	41.93%	40.00%	38.24%	36.62%
Estimated voting power by Messrs Young & Vartuli & related entities	33.01%	34.11%	35.11%	36.03%
Estimated voting power by Non-Associated Shareholders	25.06%	25.89%	26.65%	27.35%

It is noted that the figures in the above table are subject to fluctuation (either upwards or downwards) as a result of fluctuations in the US\$/A\$ exchange rate from the date of the relevant Advance up until the relevant conversion date.

3.3 Specific information required by item 7 section 611 of the Corporations Act and ASIC Regulatory Guide 74

The following information is required to be provided to Shareholders under the Corporations Act and ASIC Regulatory Guide 74 in respect of obtaining approval from Shareholders for the purposes of item 7 of section 611 of the Corporations Act.

3.3.1 Identity of the acquirer and its associates

The acquirer of the interest is LIM OCMF. There are no Associates of LIM OCMF or LIM Advisors for the purposes of determining its voting power under the Corporations Act.

3.3.2 Changes in voting power

The maximum extent of the increase in voting power in the Company, resulting from the issue of the Conversion Shares to LIM OCMF, is dependent on the amount and timing of the drawn down Advances, any partial or full repayment as at the Facility Term expiry and the US\$/A\$ exchange rate at the time of conversion. Therefore, it is not possible to say with certainty what maximum percentage of voting power LIM OCMF would have resulting from the issue of Conversion Shares. A range of possible outcomes has been presented in a table at 3.2. The assumptions in this example suggest LIM Advisors would have voting power between 36.62% to 41.93% in the Company, resulting from the issue of the Conversion Shares. If Resolution 3 is passed, LIM OCMF will not be a substantial shareholder if and until their debt is converted to equity.

3.3.3 Reasons for the proposed acquisition

The reason for the issue of the Conversion Shares is to provide the Company with the funding necessary to legally pursue its outstanding contract claims against third parties (and to maximise the Company's recovery in respect of such claims) and to support the working capital requirements of the Company's businesses.

3.3.4 Date of proposed acquisition

The Conversion Shares will be required to be issued at any date(s) that LIM OCMF specify on or before 30 September 2016 in respect of any Advances which have been prepaid on or before that date.

Conversion Shares will otherwise be required to be issued to LIM OCMF:

3.3.4.1 upon prepayments (or whole or part) of any Advance being made by the Company at any time before the Conversion Date; and

3.3.4.2 otherwise, upon the expiry of the Facility Term.

3.3.5 Material terms of proposed acquisition

The material terms and conditions of the Conversion Shares that are to be issued to LIM OCMF and which are the subject of the Loan Facility, are disclosed in the tables in paragraph 3.2 above.

3.3.6 Summary of Amendments to Material Terms following discussions with ASIC

The Company has held discussions with ASIC in relation to the conditions surrounding the Conversion of shares.

Following these discussions ASIC advised of their concern that LIM OCMF may be in contravention of the takeover and substantial shareholder provisions under the Corporations Act 2001 (Act), through a condition subsequent clause of the Loan Agreement, 12.6(a)(v) which states:

“Subject to their legal duties requiring otherwise, the notice of meeting for the Shareholder Resolutions will contain a unanimous recommendation from the directors of the Borrower to vote in favour of the Shareholder Resolutions, together with a statement that they will vote in favour of the Shareholder Resolutions in respect of shares they own or control, in the absence of a superior proposal”.

Furthermore, the Loan Agreement requires a condition precedent relating to “Shareholder Approval” which states:

“Deed polls of undertaking executed by Stephen Young and Mark Vartuli, in which they undertake to vote in favour of any shareholder solutions which are proposed at a general meeting of the Borrower (or otherwise) as required by clause 12.6 of the loan document in respect of any shares they hold personally and that they will procure any entities which they control who hold any shares to do the same”.

Notwithstanding that Deed polls were only entered into for up to 10% each of the shares which Stephen Young and Mark Vartuli hold, rather than all the shares they hold, ASIC is of the view that the Approval clause evidences an agreement, arrangement or understanding between LIM OCMF and Mr Young and Mr Vartuli in relation to the voting of shares in the Company. As a consequence, it is ASIC’s view that LIM OCMF appears to have acquired a relevant interest in the Company as a result of which its voting power in the Company has increased from 0% to 56.85%.

ASIC believes that there may have been a contravention by LIM OCMF of the takeover provisions of the Act.

It is the Company’s view that this concern is not supported by the terms of the Loan Agreement itself, namely:

3.3.6.1 it does not have regard to:

- (i) the qualification in clause 12.6(a)(v) that the voting intention statements to be given by all directors of the Company is "subject to their legal duties requiring otherwise"; and

- (ii) the specific terms of each Deed Poll which expressly limit the number of shares in the Company subject to the voting undertaking to 10% of the share capital of the Company; and

3.3.6.2 it places undue reliance on the words "*any Shares...[held]*" in the Shareholder Approval Clause when that is not a legally operative part of the Deed Poll and indeed was superseded by the terms of the Deed Poll.

ASIC was also concerned that Mr Young and Mr Vartuli, while not party to the Loan Agreement, were aware of the conditions requiring them to vote in favour of the Item 7 Resolution, asserting this basis for supporting its inference that there must have been an agreement, arrangement or understanding between Mr Young, Mr Vartuli and LIM OCMF.

The Company considers this inference is not supported by the following facts:

3.3.6.3 in negotiating the Loan Agreement with Mr Young and Mr Vartuli, the Company was at all times of the view that Mr Young and Mr Vartuli were dealing with LIM OCMF in their capacities as directors of the Company and not as shareholders hence they were not parties to the Loan Agreement; and

3.3.6.4 the very fact that LIM OCMF required the conditions (and in particular, the Approval Clause) demonstrates that there was no agreement, arrangement or understanding between My Young, Mr Vartuli and LIM OCMF other than through the Deed Poll.

However, without prejudice to their respective positions, the Company and LIM OCMF have agreed to the following:

3.3.6.5 LIM OCMF has released Mr Young and Mr Vartuli from their respective obligations under the Deed Poll by terminating the Deed Poll;

3.3.6.6 LIM OCMF has deleted the condition precedent in the Loan Agreement requiring Mr Young and Mr Vartuli to sign the Deed Poll;

3.3.6.7 LIM OCMF has amended clause 12.6(a)(v) of the Loan Agreement to remove the obligation on the directors of the Company to vote in favour of the resolutions relating to LIM OCMF in the absence of a superior proposal;

3.3.6.8 LIM OCMF lodge a notice of initial substantial holder and notice of ceasing to be a substantial holder notice with ASX in respect of a relevant interest in 20% of the Company under the Deed Poll; and

Furthermore, Mr Young and Mr Vartuli have advised the Company that they will abstain from voting on the resolutions relating to LIM OCMF.

3.3.7 **Acquirer's intentions**

Other than as disclosed elsewhere in this Explanatory Memorandum, as at the date of this Explanatory Memorandum the Company understands that LIM OCMF or LIM Advisors:

- 3.3.7.1 have no current intention of making any changes to the business of the Company;
- 3.3.7.2 do not currently intend to inject further capital into the Company above and beyond the Advances;
- 3.3.7.3 have no current intention of making changes regarding the future employment of the present employees of the Company;
- 3.3.7.4 do not intend to transfer any assets between the Company or its Associates and LIM Advisors;
- 3.3.7.5 do not intend to redeploy any fixed assets of the Company;
- 3.3.7.6 have no intention to change the Company's existing policies in relation to financial or dividend distribution policies;
- 3.3.7.7 have a right to consent (or withhold consent) for the appointment of any person who reports directly to the chairman or chief executive officer of EAL; and
- 3.3.7.8 have a right to consent (or withhold consent) for the appointment of a chief operating officer acceptable to LIM OCMF or LIM Advisors.

These intentions are based on information concerning the Company, its business and the business environment which is known to LIM OCMF and LIM Advisors as at the date of this Explanatory Memorandum.

These present intentions may change as new information becomes available, as circumstances change or in the light of all material information, facts and circumstances necessary to assess the operational, commercial, taxation and financial implications of those decisions at the relevant time.

3.3.8 **Other information**

The Directors are not aware of any information other than as set out in this Explanatory Memorandum and the attached Independent Expert Report regarding the Conversion Rights that is material to the decision on how to vote on Resolution 3.

3.3.9 **Advantages of the issue of the Conversion Shares**

The Directors are of the view that the following non-exhaustive list of advantages may be relevant to a Shareholder's decision on how to vote on Resolution 3:

- 3.3.9.1 the Loan Facility provides the Company with additional funds of up to US\$10,000,000, of which US\$6,000,000 has been drawn down as at the date of this Explanatory Memorandum and which it intends to draw down the balance of this Loan Facility to provide additional working capital of approximately US\$4,000,000 to the Company before the end of calendar year 2015;

- 3.3.9.2 in the absence of Shareholder approval the amounts owing under the Loan Facility will become immediately repayable;
- 3.3.9.3 the Advances under the Loan Facility are required by the Company for ongoing working capital purposes and in order to pursue and maximise recovery in respect of the Company's current contract claims.

The Company is involved in a number of contractual disputes which are commercially sensitive with regards to disclosure. E&A Limited, under its ASX continuous disclosure requirements, advises the market of material developments in relation to its standing contract claims against third parties.

The Company's operational cashflow has been impacted by both the funding requirements of the disputed claims and the costs incurred in recovering those claims.

- 3.3.9.4 in support and as a condition of the Loan Facility provided by LIM Advisors, the National Australia Bank has converted A\$31,000,000 of the Company's existing finance facilities from current to long-term borrowings thereby improving the Company's balance sheet by improving liquidity and financial performance by more cost effective finance facilities;
- 3.3.9.5 the Loan Facility has allowed the Company to build a relationship with LIM OCMF and LIM Advisors providing an opportunity for future working capital support if needed (no further Loan Facility increases are anticipated as at the date of this Explanatory Memorandum) and allows to the Company to collaborate on potential future value adding opportunities with LIM OCMF and LIM Advisors who are looking to increase their exposure to Australian mining services businesses;
- 3.3.9.5 the Loan Facility presented the most cost effective and time efficient option to provide working capital for the Company as alternative funding options including debt and equity capital raising were not feasible. To be successful an equity capital raising would have had to be undertaken at a significant discount to the Company's share price at the time of the Loan Facility announcement of \$0.13. Such a funding option would have been diminishing the share price value and more dilutive than the arrangement proposed under the issue of the Conversion Shares to LIM OCMF.
- 3.3.9.6 there is a possibility that LIM OCMF may not choose to exercise the conversion rights. In this scenario, there will be no dilution of the non-associated Shareholders voting rights and LIM OCMF would receive their drawn Loan Advances and capitalised interest returned for the period the loan amounts are drawn by the Company.

3.3.10 Disadvantages of the issue of the Conversion Shares

The Directors are of the view that the following non-exhaustive list of disadvantages may be relevant to a Shareholder's decision on how to vote on Resolution 3:

3.3.10.1 the voting power of non-associated Shareholders has the potential to be diluted. The maximum extent of the dilution in voting power in the Company, resulting from the issue of the Conversion Shares for the non-associated Shareholders, is dependent on the amount and timing of the drawn down Advances, any partial or full repayment as at the Facility Term expiry and the US\$/A\$ exchange rate at the time of conversion. Therefore, it is not possible to say with certainty what maximum dilution in voting power the non-associated Shareholders would be exposed to resulting from the issue of Conversion Shares. A range of possible outcomes has been presented at Table 4. The assumptions in this example suggest the non-associated Shareholders' voting power in the Company would be diluted from the current 43.15% to a range between 25.06% to 27.35% resulting from the issue of the Conversion Shares; and

3.3.10.2 LIM Advisors will hold a substantial stake (possible outcomes as per Table 4 suggests voting power between 36.62% to 41.93%) in the Company's shareholding and thereby would be in a position to influence the outcome of any proposed change of control transaction. As financial investors, it should be noted that LIM OCMF and LIM Advisors are likely to be focussed on maximising value and ultimately crystallising that value and their incentives should be broadly aligned with those of other shareholders.

3.3.11 Recommendations of Directors

The Directors do not have any material personal interests in the outcome of Resolution 3 and unanimously recommend that Shareholders vote in favour of Resolution 3 as they consider the proposed issue of the Conversion Shares to be in the best interests of Shareholders for the following reasons:

3.3.11.1 after assessment of the advantages and disadvantages referred to in paragraph 3.5 of this Explanatory Memorandum, the Directors are of the view that the advantages outweigh the disadvantages; and

3.3.11.2 the Directors have determined the issue of the Conversion Shares to be not fair but reasonable to the non-associated Shareholders.

If and to the extent permitted by law, the Directors other than Stephen Young and Mark Vartuli (who will abstain from voting) of the Company will vote in favour of Resolution 3 in respect of Shares they own or control, in the absence of a superior proposal.

3.4 Independent Expert's Report

The Directors have commissioned an Independent Expert's Report (a copy of which is attached to this Explanatory Memorandum) which sets out a detailed examination of the issue of the Conversion Shares to LIM Advisors to enable non-associated Shareholders to assess the merits and decide whether to approve Resolution 3.

The Independent Expert's Report concludes that the transactions contemplated by Resolution 3 are not fair but reasonable to the non-associated Shareholders.

Shareholders are urged to carefully read the Independent Expert's Report to understand the scope of the report, the methodology of the valuation and the sources of information and assumptions made.

3.5 Chapter 6 of the Corporations Act - statutory prohibition

Pursuant to section 606(1) of the Corporations Act, a person must not acquire a relevant interest in issued voting shares in a listed company if the person acquiring the interest does so through a transaction in relation to securities entered into by or on behalf of the person and because of the transaction, that person's or someone else's voting power in the company increases:

3.5.1 from 20% or below to more than 20%; or

3.5.2 from a starting point that is above 20% and below 90%,

(Prohibition).

There are a number of exceptions contained in the Corporations Act relating to the Prohibition, including where Shareholder approval is obtained under item 7, section 611 of the Corporations Act. As such, it is proposed that the Shareholders pass Resolution 3 in order to ensure that the Prohibition is not contravened by the Company as a result of the Conversion Rights being granted to LIM OCMF or as a result of such Conversion Rights being exercised.

In order to ensure the Company remains compliant with the Corporations Act at all times, the Conversion Rights contained in the Loan Agreement are expressly conditional upon Shareholder approval being obtained in respect of such rights. It is a condition of the Loan Agreement that Shareholder approval in respect of the Conversion Rights is obtained by no later than 90 days after the date of the Loan Agreement. An extension of time has been granted by LIM OCMF until 14 days after the date proposed for the AGM of the Company.

If Shareholder approval is not obtained by the deadline mentioned in the above paragraph, LIM OCMF may exercise its rights under the Loan Agreement to cease providing all or any part of the Advances and will obtain the ability to exercise enforcement and debt recovery powers contained in the Loan Agreement and the related transaction and security documents.

3.6 Further information regarding Chapter 6

3.6.1 Voting Power

The voting power of a person in a company is determined in accordance with section 610 of the Corporations Act. The calculation of a person's voting power in a company involves determining the voting shares in the company in which the person and the person's associates have a relevant interest.

3.6.2 Associates

For the purposes of determining voting power under the Corporations Act, subject to specified exclusions, a person (**second person**) is an "associate" of the other person (**first person**) if:

3.6.2.1 the first person is a body corporate and the second person is:

- (A) a body corporate the first person controls;
- (B) a body corporate that controls the first person; or
- (C) a body corporate that is controlled by an entity that controls the first person;

3.6.2.2 the second person has entered or proposes to enter into a relevant agreement with the first person for the purpose of controlling or influencing the composition of the company's board or the conduct of the company's affairs; or

3.6.2.3 the second person and first person propose to act, in concert in relation to the Company's affairs.

An entity controls another entity if it has the capacity to determine the outcome of decisions about that other entity's financial and operating policies.

A relevant agreement includes an agreement, arrangement or understanding, whether written or oral, formal or informal and whether or not having legal or equitable force.

The Company does not consider that by reason of the Loan Agreement Messrs Young and Vartuli were associates of LIM OCMF or LIM Advisors, however ASIC formed a different view and following discussions with ASIC, LIM OCMF has agreed to amend clause 12.6.(a)(v) of the Loan Agreement and terminate the Deed Polls which obliged Messrs Young and Vartuli to vote 10% each of the shares they owned or controlled in favour of Resolution 3.

3.6.3 Relevant Interests

Section 608(1) of the Corporations Act provides that a person has a relevant interest in securities if they:

3.6.3.1 are the holder of the securities;

3.6.3.2 have the power to exercise, or control the exercise of, a right to vote attached to the securities; or

3.6.3.3 have power to dispose of, or control the exercise of a power to dispose of, the securities.

It does not matter how remote the relevant interest or how it arises. If two or more people can jointly exercise one of these powers, each of them is taken to have that power.

In addition, Section 608(3) of the Corporations Act provides that a person is deemed to have a “relevant interest” in any securities that a body corporate has if their voting power in that body corporate is above 20% or they control that body corporate.

ASIC consider that LIM OCMF by reason of the Deed Polls had a relevant interest in the 20% shares that Young and Vartuli were obliged to vote in favour of the Resolution. LIM OCMF have undertaken to lodge a substantial shareholder notice for the period from the date of the Deed Polls to the date of the termination of those Deed Polls.

4. DIRECTOR ELECTION

4.1 Background:

Mr John Robert Nicholls, being eligible, offers himself for election as a Director of the Company.

4.2 Recommendation:

The Board has considered Mr John Robert Nicholls’ candidacy, both in respect of his individual merits and overall Board composition, and the Board, with Mr Nicholls abstaining, now recommends the election of Mr John Nicholls as a Director of the Company.

The Chairman intends to vote any undirected proxies in favour of this Resolution.

4.3 Candidate Profile – Mr John Robert Nicholls

Mr Nicholls has over 30 years’ experience as a Chairman, Director and Chief Executive of listed and private companies across the Asia Pacific with direct industry experience encompassing manufacturing, non-ferrous and ferrous fabrication, mining services and waste management including being chairman of ASX listed Brandrill Limited (a ASX mining services company).

Mr Nicholls holds a B.Comm and a M.B.A. from the University of New South Wales.