
FERTOZ LTD ACN 145 951 622

NOTICE OF ANNUAL GENERAL MEETING AND EXPLANATORY MEMORANDUM

Notice is hereby given that the Annual General Meeting of the Shareholders of FertoZ Ltd ACN 145 951 622 to which this Notice of Meeting relates will be held at:

TIME: 11:00 am (AEST)

DATE: Tuesday 9 June 2020

PLACE: Level 12, 139 Macquarie Street Sydney NSW 2000

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

Should you wish to discuss the matters in this Notice of Meeting please do not hesitate to contact the Company Secretary on +61 (0)3 8395 5446

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IMPORTANT INFORMATION

YOUR VOTE IS IMPORTANT

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

VOTING ELIGIBILITY

The persons eligible to vote at the General Meeting are those who are registered Shareholders at 7:00 pm (AEST), Sunday 7 June 2020.

VOTING IN PERSON

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

VOTING BY PROXY

To vote by proxy, please complete and sign the enclosed Proxy Form and return by the time and in accordance with the instructions set out on the Proxy Form.

BUSINESS OF THE MEETING

ORDINARY BUSINESS

AUDITED FINANCIAL REPORT

To receive and consider the Financial Report and the reports of the Directors and Auditors of the Company for the financial year ended 31 December 2019.

RESOLUTION 1 – NON-BINDING RESOLUTION TO ADOPT REMUNERATION REPORT

To consider and, if thought fit, pass the following non-binding resolution as an ordinary resolution:

“That, pursuant to and in accordance with section 250R(2) of the Corporations Act and for all other purposes, the Remuneration Report for the financial year ended 31 December 2019 be adopted.”

The Remuneration Report is set out on pages 5-10 of the Company's Audited Financial Statement for the year ended 31 December 2019 and is available on the Company's website www.fertoz.com within the 'Investors' section of the website and on the ASX website www.asx.com.au (ASX code: FTZ).

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

RESOLUTION 2 - ELECTION OF MR RON WILKINSON AS A DIRECTOR OF THE COMPANY

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

“That Mr Ron Wilkinson, a director of the Company who retires in accordance with the Company's Constitution, and being eligible for election, be elected as a director of the Company with effect from the close of this Meeting.”

RESOLUTION 3 - RE-ELECTION OF MR STUART RICHARDSON AS A DIRECTOR OF THE COMPANY

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

“That Mr Stuart Richardson, who retires in accordance with the Company's Constitution, and being eligible offers himself for re-election as a director of the Company, be re-elected as a director of the Company with effect from the close of this Meeting.”

RESOLUTION 4 – APPROVAL OF EMPLOYEE SHARE PLAN

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

“That, for the purposes of ASX Listing Rule 7.2 (Exception 13(b)) as an exception to ASX Listing Rule 7.1, section 259B(2) and 260C(4) of the Corporations Act and for all other purposes, approval is given for the Company to establish and maintain an incentive scheme titled 'Fertoz Limited Employee Share Plan' and for the issue of securities under that Employee Share Plan as an exception to Listing Rule 7.1, on the terms and conditions set out in the Explanatory Statement.”

RESOLUTION 5 - RATIFICATION OF ISSUE OF 15,550,000 SHARES

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

"That, for the purposes of ASX Listing Rule 7.4 and all other purposes, the shareholders hereby ratify the allotment and issue of 15,550,000 Shares at an issue price of 8 cents per Share, on the terms and conditions set out in the Explanatory Memorandum."

SPECIAL BUSINESS

RESOLUTION 6 - ADDITIONAL CAPACITY TO ISSUE EQUITY SECURITIES

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

"That, for the purposes of ASX Listing Rule 7.1A and for all other purposes, approval be given for the issue of Equity Securities of up to an additional 10% of the issued capital of the Company (at the time of the issue or the agreement to issue) calculated in accordance with the formula prescribed in ASX Listing Rule 7.1A.2 and on the terms set out in the Explanatory Memorandum."

GENERAL BUSINESS

To consider any other business as may be lawfully put forward in accordance with the Constitution of the Company and the Corporations Act.

BY ORDER OF THE BOARD

PATRICK AVERY
CHAIRMAN

DATE: 6 MAY 2020

VOTING EXCLUSION STATEMENT:

Important instructions for Resolution 1

In accordance with Section 250R(4) of the Corporations Act a vote on Resolution 1 must not be cast (in any capacity) by or on behalf of either of the following persons:

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

unless:

- c) the person casts a vote on the resolution as a proxy appointed by writing that specifies how the proxy is to vote on the proposed resolution and the vote is not cast on behalf of a person described in (a) or (b) above; or
- d) the voter is the chair of the meeting and the appointment of the chair as proxy:
 - (i) does not specify the way the proxy is to vote on the resolution; and
 - (ii) expressly authorises the chair to exercise the proxy even if the resolution is connected directly or indirectly with the remuneration of a member of the Key Management Personnel for the Company,

and the vote is not cast on behalf of a person described in (a) or (b) above.

Any vote cast in contravention of this exclusion will be taken not to have been cast. Shareholders should be aware that any undirected proxies given to the Chair will be cast by the Chair and counted in favour of the resolutions the subject of this Meeting (even if the resolution is connected directly or indirectly with the

remuneration of a member of the Key Management Personnel of the Company), subject to compliance with the Corporations Act.

Important instructions for Resolution 4

The Company will disregard any votes cast in favour of Resolution 4 by a Director (except one who is ineligible to participate in any employee incentive scheme of the Company) and an associate of a Director.

However, the Company will not disregard a vote if:

- a) it is cast by a person as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- b) it is cast by the Chair 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.

Important instructions for Resolution 5

The Company will disregard any votes cast in favour of **Resolution 5** by a person or an associate of such person who participated in the Placement.

However, the Company need not disregard a vote if:

- a) it is cast by a person as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- b) it is cast by the Chair 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.

IMPORTANT NOTE: Shareholders should be aware that any undirected proxies given to the Chair will be cast by the Chair and counted in favour of the resolutions the subject of this Meeting (even if the resolution is connected directly or indirectly with the remuneration of a member of the Key Management Personnel for the Company), subject to compliance with the Corporations Act.

Notes

1. The Company has determined that for the purpose of determining voting entitlements at the Annual General Meeting all shares in the Company that are quoted on the ASX will be taken to be held by the persons who held them as registered shareholders at 7:00 pm (AEST) on 7 June 2020. Accordingly, share transfers registered after this time will be disregarded in determining entitlements to attend and vote at the Meeting.
2. On a poll, a member will have one vote for every fully paid ordinary Share held.
3. On a show of hands every member present has one vote (Subject to note 6 below).
4. A member entitled to attend and vote may attend and vote in person or by proxy, or attorney or (where the member is a body corporate) by representative.
5. A member who is entitled to cast two or more votes may appoint two proxies and may specify the proportion or number of the member's votes each proxy is entitled to exercise. If the appointment does not specify the proportion or number of the member's votes, each proxy may exercise one half of those votes.
6. Where a member appoints two proxies, in one instrument and both are present, on a show of hands only the first named proxy may vote
7. The proxy of a member does not need to be a member of the Company.
8. Proxy forms must be signed by a member or the members attorney or, if a corporation, executed under seal or in accordance with section 127 of the Corporations Act 2001 (Cth) (if an Australian Company) or signed by an authorised officer of attorney for any overseas companies.
9. If proxy holders vote, they must cast all directed proxies as directed and any directed proxies which are not voted will automatically default to the Chair, who must vote the proxies as directed.

10. A proxy form accompanies this Notice of Meeting and to be effective must be received by the Company's corporate registry by 11:00 am (AEST) 7 June 2020 at:

By Mail:

Computershare Investor Services Pty Limited
GPO Box 242 Melbourne
Victoria 3001 Australia

Online:

www.investorvote.com.au

Alternatively, you can fax your form to

(within Australia) 1800 783 447
(outside Australia) +61 3 9473 2555

For Intermediary Online subscribers only

(custodians) www.intermediaryonline.com

For all enquiries in relation to completing your proxy call Computershare on:

(within Australia) 1300 850 505 or (outside Australia) +61 3 9415 4000

EXPLANATORY MEMORANDUM

THIS EXPLANATORY MEMORANDUM SHOULD BE READ IN ITS ENTIRETY. IF SHAREHOLDERS ARE IN DOUBT AS TO HOW THEY SHOULD VOTE, THEY SHOULD SEEK ADVICE FROM THEIR ACCOUNTANT, SOLICITOR OR OTHER PROFESSIONAL ADVISER PRIOR TO VOTING.

This Explanatory Memorandum should be read in conjunction with the Notice of Annual General Meeting to which this Explanatory Memorandum is attached and forms part of.

Terms used in this Explanatory Memorandum are defined in Schedule 1 of this Explanatory Memorandum.

Audited Financial Report

Whilst the Corporations Act requires the Audited Financial Report and the reports of the Directors' and auditors' to be laid before the Annual General Meeting, neither the Corporations Act nor the Constitution of the Company requires Shareholders to vote on, approve or adopt those reports.

Shareholders will, however, have ample opportunity at the Annual General Meeting to raise questions on these reports.

Each shareholder will have had access to a copy of the Audited Financial Statements, which contains the Financial Report, Directors' Report and Auditors' Report for the financial year ended 31 December 2019.

1. RESOLUTION 1 – NON-BINDING RESOLUTION TO ADOPT REMUNERATION REPORT

Section 300A of the Corporations Act requires the Directors' Report to include a separately identified Remuneration Report. Listed entities are further required to submit the Remuneration Report for adoption by way of a non-binding advisory resolution at the Company's Annual General Meeting (**AGM**), in accordance with Section 250R(2) of the Corporations Act.

The Remuneration Report is set out in the Directors' Report section of the Audited Financial Statements for the financial year ended 31 December 2019. The Remuneration Report (among other things) explains the Board's policies in relation to the nature and level of remuneration paid to Directors and specified executives of the Company and sets out remuneration details for each Director and specified key executives of the Company.

Under section 250R(3) of the Corporations Act, the vote on the resolution to adopt the Remuneration Report is advisory only and does not bind the Directors of the Company.

Under the Corporations Act and pursuant to provisions known generally as the "two strikes rule", the result of the vote on this resolution may affect the Company's 2021 Annual General Meeting. If 25% or more of votes cast on this resolution are voted against the resolution (constituting the "first strike"), a resolution on whether to hold a further meeting to spill the Board (**Spill Resolution**), as required by the Corporations Act, would be put to shareholders if a "second strike" were to occur at the 2021 Annual General meeting. Such a spill resolution would be included in the 2021 notice of meeting. For any Spill Resolution to be passed, more than 50% of the votes cast on the resolution must be in favour of it. If a Spill Resolution is passed, the Company must hold a general meeting (**Spill Meeting**) within 90 days of the AGM. At the Spill Meeting all the Directors who were in office, other than the Managing Director, will (if they wish) need to stand for re-election at the Spill Meeting.

2. RESOLUTION 2 - ELECTION OF MR RON WILKINSON AS A DIRECTOR OF THE COMPANY

2.1 Background

Rule 20.1(c) of the Constitution of the Company and Listing Rule 14.4 provide that a Director who has been appointed by the other Directors to fill a casual vacancy or as an addition to the Board only holds office to the end of the next annual general meeting and is then eligible to stand for election at that annual general meeting.

Under clause 20.1(c) of the Company's Constitution, the Board appointed Mr Ron Wilkinson as a director of the Company as at 7 June 2019 as an addition to the Board. Accordingly, Mr Ron Wilkinson retires as a Director at the end of the forthcoming Meeting, however, being eligible, offers himself for election as a Director of the Company.

Ron is a qualified Chemical Engineer and has completed the Director Education Program with the Institute of Corporate Directors. From his graduation in 1976 through to 1996, Ron worked with Exxon Chemicals and then Sherrit, first as a junior engineer and then progressing through the engineering ranks to a senior executive. In 1996 he joined Agrium Inc, initially in logistics roles and then as VP Marketing and Operations for Agrium's South American joint venture with YPF SA. He moved back to Canada in 2001 to take on roles related to market development and operations and spent from 2004 to 2015 as President of the Wholesale Business Unit for Agrium Inc, and then in 2016, as advisor to the CEO.

2.2 Recommendation

The Directors (other than Mr Wilkinson because of his interest in this Resolution) recommend that Shareholders vote in favour of Resolution 2. The Chairman of the Meeting intends to vote available proxies in favour of this resolution.

3. RESOLUTION 3 – RE-ELECTION OF MR STUART RICHARDSON

3.1 Background

Mr. Richardson retires pursuant to clause 20.3 of the Constitution and ASX Listing Rule 14.4 and offers himself for re-election as Director of the Company in accordance with the Company's Constitution. Information about Mr. Richardson is set out in the Company's 2019 Financial Report.

3.2 Recommendation

The Directors (other than Mr Richardson because of his interest in this Resolution) recommend that Shareholders vote in favour of Resolution 3. The Chairman of the Meeting intends to vote available proxies in favour of this resolution.

4. RESOLUTION 4 – APPROVAL OF EMPLOYEE SHARE PLAN

4.1 Background

The Board has (subject to approval of the Shareholders as required by the Listing Rules) adopted an Employee Share Plan for employees (including Directors) of the Company and is to be known as the "Fertoz Limited Employee Share Plan". The Plan is designed to increase the motivation of staff and create a stronger link between increasing Shareholder value and employee reward.

The Company wishes to exempt issues of securities under the Plan from contributing towards the rolling annual limit of 15% of issued ordinary shares prescribed by Listing Rule 7.1 (i.e. the 15% placement capacity). This limit otherwise applies to all new issues of equity securities made without Shareholder approval.

The purpose of the Plan is to:

- Assist in the reward, retention and motivation of eligible employees;
- Link the reward of eligible employees to shareholder value creation; and
- Align the interests of eligible employees with Shareholders by providing an opportunity to eligible employees to receive an equity interest in the form of Shares.

2,430,000 Shares have been issued under the Plan since it last received shareholder approval.

Resolution 4 seeks Shareholders approval for the adoption of the Plan for the purposes of:

- (a) ASX Listing Rule 7.2 (Exception 13(b)) as an exception to ASX Listing Rule 7.1 (whereby Shareholders may approve in advance the issue of securities made under the Plan as an exception to the limit under Listing Rule 7.1);
- (b) section 259B(2) of the Corporations Act (which relates to the Company taking security over its own shares); and
- (c) section 260C(4) of the Corporations Act (which relates to the Company or a subsidiary giving financial assistance to employees to acquire shares under the Share Plan).

The significance of these approvals is discussed in sections 4.2, 4.3 and 4.4 below.

4.2 ASX Listing Rule 7.1

ASX Listing Rule 7.1 provides that a company must not, subject to specified exceptions, issue or agree to issue more equity securities during any 12 month period than that amount which represents 15% of the number of fully paid ordinary securities on issue at the commencement of that 12 month period.

ASX Listing Rule 7.2 (Exception 13(b)) sets out an exception to ASX Listing Rule 7.1 which provides that issues under an employee incentive scheme are exempt for a period of 3 years from the date on which shareholders approve the issue of securities under the scheme as an exception to ASX Listing Rule 7.1.

If Resolution 4 is passed, the Company will be able to issue equity securities under the Plan (**Plan Shares**) to eligible participants over a period of 3 years without impacting the Company's ability to issue up to 15% of its total ordinary securities without Shareholder approval in any 12 month period.

4.3 The Company taking security over its own shares under the Share Plan

The Company is generally prohibited by the Corporations Act from taking security (for example, a mortgage or charge) over its own shares. However, under section 259B(2) of the Corporations Act, the Company is permitted to take security over its own shares under an employee share scheme (such as the Share Plan) which has been approved by Shareholders.

Taking security over Plan Shares issued under the Plan is designed to protect the Company if a participant is, or becomes, insolvent. For this reason, approval is being sought under section 259B(2) of the Corporations Act.

4.4 Financial assistance

Under the Corporations Act, the Company and its subsidiaries (**Lender**) are, in general, only permitted to financially assist a person to acquire shares in the Company if giving the assistance does not materially prejudice:

- (a) the interests of the Lender or its shareholders; or
- (b) the Lender's ability to pay its creditors.

However, under section 260C(4) of the Corporations Act, a Lender is permitted to financially assist a person to acquire shares in the Company under the Plan if approved by the Company's Shareholders (and the shareholders of the Lender, if a subsidiary).

The issue of Plan Shares under the Share Plan may involve a Lender financially assisting the Company's eligible employees to acquire Plan Shares (by virtue of the loans to be used to acquire the Plan Shares). Shareholder approval is being sought so that the Share Plan satisfies the requirements of the exemption under section 260C(4), allowing the Lender to make loans under the Share Plan.

4.5 Employee Share Plan

The objective of the Share Plan is to attract, motivate and retain key employees and consultants and it is considered by the Company that the adoption of the Plan and the future issue of Plan Shares will provide selected employees with the opportunity to participate in the future growth of the Company.

Any future issues of Plan Shares to a related party or a person whose relationship with the Company or the related party is, in ASX's opinion, such that approval should be obtained, will require additional Shareholder approval under ASX Listing Rule 10.14 at the relevant time.

A summary of the key terms and conditions of the Plan is set out below. In addition, a copy of the Plan is available for review by Shareholders upon request to the Company Secretary (Mr Justyn Stedwell). Shareholders are invited to contact the Company if they have any queries or concerns on +61 (0)3 8395 5446.

4.6 Material terms and conditions of the Plan

The key terms of the Plan are as follows:

- (a) **Eligibility:** Participants in the Scheme may be Directors, full-time and part-time employees, consultants or independent contractors of the Company or any of its subsidiaries whom the Directors decide are eligible (Participants).
- (b) **Administration of Plan:** The Board is responsible for the operation of the Share Plan and has a broad discretion to determine which Participants will be offered Shares under the Share Plan.
- (c) **Offer:** The Board may issue an offer to a Participant to participate in the Share Plan. The offer (among other things):
- (i) will invite application for the number of Shares specified in the offer;
 - (ii) may invite applications for a loan up to the amount payable in respect of the Shares accepted by the Participant in accordance with the offer;
 - (iii) will specify any performance hurdles applying to the Shares;
 - (iv) will specify an acceptance period; and
 - (v) specify any other terms and conditions attaching to the Shares.
- (d) **Issue price:** the issue price of each Plan Share will be determined by the Board (in its sole and absolute discretion), which may be a nominal or nil issue price if so determined by the Board (subject to Shareholder approval, if required).
- (e) **Performance hurdles and restriction on transfer:** Plan Shares may be subject to performance hurdles (such as performance criteria as determined by the Board) which must be satisfied before the Plan Shares can be sold, transferred, or encumbered by the Participant. Shares cannot be sold, transferred or encumbered by the Participant until, subject to any performance hurdles being satisfied (or waived by the Board in its sole and absolute discretion), the later of: (i) the date any loan in relation to the Shares has been repaid or otherwise discharged under the Share Plan; or (ii) the third anniversary of the date the Plan Shares were issued. The Company is authorised to impose a holding lock on the Plan Shares to implement this restriction.
- (f) **Loan:** A Participant who is invited to subscribe for Plan Shares may also be invited to apply for a loan up to the amount payable in respect of the Shares accepted by the Participant (Loan), on the following terms:
- (i) the Loan will be interest free;
 - (ii) the Loan made available to a Participant shall be applied by the Company directly toward payment of the issue price of the Plan Shares;
 - (iii) the Loan repayment date and the manner for making such payments shall be determined by the Board and set out in a loan agreement which accompanies the offer;
 - (iv) the Company shall have a lien over the Plan Shares in respect of which a Loan is outstanding and the Company shall be entitled to sell those Plan Shares in accordance with the terms of the Share Plan;
 - (v) a Loan will be non-recourse except against the Shares held by the Participant to which the Loan relates; and
 - (vi) the Board may, in its absolute discretion, agree to forgive a Loan made to a Participant.
- (g) **Unfulfilled Performance Hurdle:** Where a performance hurdle in relation to Plan Shares is not satisfied by the due date, or becomes incapable of satisfaction in

the opinion of the Board, the Company must, unless the restriction condition is waived by the Board (in its sole and absolute discretion), then:

(i) the Participant will forfeit all of the Plan Shares

(ii) the Company will sell the Plan Shares held by the Participant, and any sale proceeds will constitute full settlement of any Loan (and any other outstanding amounts) related to the Plan Shares (including the Company's reasonable costs of selling the Plan Shares)

(iii) the Participant will have no entitlement to any sale proceeds, and

(iv) the Participant will have no further entitlement under the Share Plan.

(h) **Power of Attorney:** The Participant irrevocably appoints each director of the Company severally as his or her attorney to do all things necessary to give effect to the sale of the Participant's Shares in accordance with the Share Plan.

(i) **Plan limit:** The Company must take reasonable steps to ensure that the number of Plan Shares offered by the Company under the Share Plan when aggregated with:

(i) the number of Shares issued during the previous 5 years under the Share Plan (or any other employee share plan extended only to eligible employees); and

(ii) the number of Shares that would be issued if each outstanding offer for Shares (including options to acquire unissued Shares) under any employee incentive scheme of the Company were to be exercised or accepted, does not exceed 5% of the total number of Shares on issue at the time of an offer (but disregarding any offer of Shares or option to acquire Shares that can be disregarded in accordance with relevant ASIC Class Orders).

(j) **Quotation on ASX:** The Company will apply for each Plan Share to be admitted to trading on ASX upon issue of the Plan Share. Quotation will be subject to the ASX Listing Rules and any holding lock applying to the Plan Shares.

(k) **Rights attaching to Shares:** Each Plan Share shall be issued on the same terms and conditions as the Company's issued Shares (other than in respect of transfer restrictions imposed by the Share Plan) and it will rank equally with all other issued Shares from the issue date except for entitlements which have a record date before the issue date.

4.7 Directors' Recommendation

Consistent with ASIC guidance in Regulatory Guide 76 the Directors abstain from making a recommendation in relation to this resolution in accordance with good corporate governance practice and a potential conflict of interest (given their eligibility to participate in the Plan). The Chairman of the Meeting intends to vote available proxies in favour of this resolution.

5. RESOLUTION 5 – RATIFICATION OF ISSUE OF 15,550,000 SHARES

5.1 Introduction

On 7 February 2020, the Company completed a Share Purchase Plan (SPP) to raise up to \$2.5 million as announced to ASX on 17 December 2019. The Company received applications for 9,450,000 Shares at \$0.08 per Share raising \$756,000 under the SPP.

The SPP was underwritten by 10 individual underwriters to a maximum of \$2 million. On 24 February 2020 15,550,000 Shares were issued at \$0.08 per Share pursuant to the SPP underwriting.

The Company now seeks Shareholder approval to ratify the issue of Shares so as to refresh the Company's 15% Capacity under Listing Rule 7.1.

5.2 ASX Listing Rules

Listing Rule 7.1 provides that an entity must not, without Shareholder approval (subject to specific exemptions), issue or agree to issue more equity securities during any 12 month period than the amount which represents 15% of the number of fully paid ordinary securities on issue at the commencement of that 12 month period (15% Capacity).

Listing Rule 7.4 allows Shareholders to subsequently approve an allotment of securities that were issued without Shareholder approval under Listing Rule 7.1, resulting in those securities then being retrospectively treated as having been issued with Shareholder approval under Listing Rule 7.1. The effect of this rule is to "refresh" the 15% Capacity under Listing Rule 7.1.

The Company completed the issue of 15,550,000 Shares utilising its 15% Capacity to issue securities under Listing Rule 7.1. While the approval of Resolution 5 will have no effect on the issue of the Shares, if Shareholders approve Resolution 5, it will give the Company greater flexibility to issue further equity securities without Shareholder approval under Listing Rule 7.1.

5.3 Information required by ASX Listing Rule 7.5

For the purposes of Listing Rule 7.5, the Company provides the following information to Shareholders:

- (a) The number of securities issued was 15,550,000 Shares.
- (b) The Shares were issued at a price of A\$0.08 each.
- (c) The Shares were issued to underwriters of the SPP as detailed in the Share Purchase Plan Booklet dated 19 December 2019, none of whom were Directors or related parties of the Company.
- (d) The funds raised were used for, additional inventory tonnage, field mapping / mine plan design & engineering, additional FTE salesforce and for working capital.
- (e) A voting exclusion statement for Resolution 5 is included in the Notice of Meeting accompanying this Explanatory Memorandum.

5.4 Directors' recommendation

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

6. RESOLUTION 6 - ADDITIONAL CAPACITY TO ISSUE EQUITY SECURITIES

6.1 Introduction

Under Resolution 6 the Company is seeking shareholder approval to create an ability to issue up to an additional 10% of the issued share capital of the Company under ASX Listing Rule 7.1A (**10% Placement**) over a 12 month period from the date of the Annual General Meeting (**AGM**). Resolution 6 is a Special Resolution and requires approval of

75% of the votes cast by Shareholders present and eligible to vote. The 10% Placement is in addition to the Company's 15% placement capacity under ASX Listing Rule 7.1.

Any Equity Securities issued under the 10% Placement must be in the same class as an existing quoted class of Equity Securities of the Company.

6.2 Eligibility criteria

Under Listing Rule 7.1A an "eligible entity" may, subject to shareholder approval by way of Special Resolution, issue Shares comprising up to 10% of its issued share capital in addition to the normal 15% new issue capacity under Listing Rule 7.1. An "eligible entity" for the purposes of Listing Rule 7.1A is an entity that is not included in the S&P/ASX 300 Index and has a market capitalisation of \$300 million or less. The Company is an "eligible entity".

6.3 Placement capacity under Listing Rule 7.1 and 7.1A.

The 10% Placement is for a period of 12 months from the date of the AGM and is in addition to a listed entity's usual 15% placement capacity under Listing Rule 7.1.

As at the date of finalisation of this Notice of Meeting, the Company has 154,399,128 Shares on issue and, in addition to any other Equity Securities which it can issue under the permitted exceptions to Listing Rules 7.1 and 7.1A, it currently has the capacity to issue:

- 7,606,869 Equity Securities (under the Company's remaining placement capacity under Listing Rule 7.1); and
- subject to shareholder approval being obtained under Resolution 6, 15,439,912.8 Equity Securities under Listing Rule 7.1A.

The actual number of Shares that the Company will have capacity to issue under Listing Rule 7.1A will be calculated at the date of issue of the Shares in accordance with the formula in Listing Rule 7.1A.2 (refer to section 6.4 below).

6.4 Formula for calculating 10% Placement

Listing Rule 7.1A.2 provides that eligible entities that have obtained Shareholder approval at an annual general meeting may issue or agree to issue, during the 'placement period' (see section 6.6 below), a number of Equity Securities calculated in accordance with the following formula:

(A x D) – E

Where:

A is the number of ordinary securities on issue 12 months before the date of issue or agreement to issue:

- plus the number of fully paid ordinary securities issued in the 12 months under an exception in Listing Rule 7.2;
- plus the number of partly paid ordinary securities that became fully paid in the 12 months;
- plus the number of fully paid ordinary securities issued in the 12 months with approval of holders of ordinary securities under Listing Rules 7.1 or 7.4 (but note that this does not include an issue of fully paid ordinary securities under the entity's 15% placement capacity without Shareholder approval); and
- less the number of fully paid ordinary securities cancelled in the 12 months.

D is 10%.

E is the number of Equity Securities issued or agreed to be issued under Listing Rule 7.1A.2 in the 12 months before the date of the issue or agreement to issue that are *not* issued with the approval of shareholders under Listing Rules 7.1 or 7.4.

6.5 Minimum issue price

In accordance with Listing Rule 7.1A, Shares issued by the Company under a 10% Placement can only be issued at a price that is not less than 75% of the VWAP (volume weighted average price) of the Shares calculated over the 15 trading days on which trades in its Shares were recorded immediately before:

- the date on which the issue price of the Shares is agreed; or
- the issue date (if the Shares are not issued within five trading days of the date on which the issue price is agreed).

6.6 Placement period

Shareholder approval under Listing Rule 7.1A is valid from the date of this AGM until the earlier to occur of:

- 12 months after the date of the AGM; and
- the date of approval by Shareholders of a transaction under Listing Rule 11.1.2 (a significant change to the nature or scale of activities) or Listing Rule 11.2 (disposal of main undertaking),

or such longer period if allowed by ASX.

6.7 Dilution to existing shareholdings

If Resolution 6 is approved by Shareholders and the Company issues Shares under the 10% Placement, there is a risk of economic and voting dilution to existing Shareholders as a result. Further, as the market price of the Company's Shares may be significantly lower on the issue date than on the date of approval of this Resolution 6, and because the Shares may be issued at a price that is at a discount to the market price on the issue date, there is a risk that the 10% Placement may raise less funding than it would based on current market prices.

As required by Listing Rule 7.3A.2, the table below shows a number of hypothetical scenarios for a 10% Placement where variable "A" in the formula in Listing Rule 7.1A.2 (representing the Company's share capital) has increased by either 50% or 100%, and the share price has decreased by 50% or increased by 100% from the approximate share price as at the date of finalisation of this Notice of Meeting. The Dilution Table below is based on the number of Shares on issue at the date of this Notice of Meeting.

Dilution Table: Based on Shares on issue at the date of this Notice of Meeting

Share Capital Variable 'A' in Listing Rule 7.1A.2		50% decrease in Issue Price \$0.0305 per share	Issue Price \$0.061 per share	100% increase in Issue Price \$0.122 per share
Current Issued Shares (Variable 'A') 154,399,128 Shares	10% voting dilution	15,439,913	15,439,913	15,439,913
	Funds raised	\$ 470,917	\$ 941,835	\$ 1,883,669
50% increase in current Variable 'A' 231,598,692 Shares	10% voting dilution	23,159,869	23,159,869	23,159,869
	Funds raised	\$ 706,376	\$ 1,412,752	\$ 2,825,504
100% increase in current Variable 'A' 308,798,256 Shares	10% voting dilution	30,879,826	30,879,826	30,879,826
	Funds raised	\$ 941,835	\$ 1,883,669	\$ 3,767,339

The dilution table above has been prepared on the following hypothetical assumptions. The Company does not represent that they will necessarily occur:

- (a) the Company issues the maximum number of Shares available under the 10% Placement;
- (b) any increase in Variable A (being the issued share capital at the time of issue) is due to an issue of Shares which is an exception in Listing Rule 7.2, for example a pro-rata rights issue). However, an issue of shares under the Company's 15% placement capacity under Listing Rule 7.1 does not increase variable "A" for the purposes of calculating the placement capacity under Listing Rule 7.1A;
- (c) the table shows only the effect of issues of Shares under Listing Rule 7.1A, not under the 15% placement capacity under Listing Rule 7.1;
- (d) no options are exercised into Shares before the date of the issue of the Shares under the 10% Placement;
- (e) the issue of Equity Securities under the 10% Placement consists only of Shares;
- (f) the table does not show the dilution that may be caused to any particular Shareholder by reason of placements under Listing Rule 7.1A, based on that Shareholder's holding at the date of the AGM. For instance, Shareholders will have different outcomes depending on whether or not they participate in a pro-rata issue which has the effect of increasing variable "A";
- (g) the Issue Price is assumed to be \$0.061, being the approximate closing Share price on 15 April 2020; and
- (h) 'A' is the current number of fully paid ordinary shares on issue and assumes full 15% placement capacity under Listing Rule 7.1 is available.

6.8 Purpose of the 10% Placement

The Company may seek to issue Shares under the 10% Placement for either:

- a cash issue price. In this case, the Company may use the funds for working capital or for other corporate purposes; or

- non-cash consideration, such as for the acquisition of new assets or investments, subject to any applicable ASX requirements.

In either case, the cash issue price or the value of the non-cash consideration must comply with the minimum issue price noted above.

6.9 Allocation Policy

The Company's allocation policy is dependent on the prevailing market conditions at the time of any proposed issue under the 10% Placement. The identity of the allottees under the 10% Placement will be determined on a case by case basis having regard to the factors including the following:

- the methods of raising funds that are available to the Company, including a rights issue or other issue in which existing Shareholders can participate;
- the effect of the issue of the Shares on the control of the Company;
- the financial situation and solvency of the Company; and
- advice from corporate, financial and broking advisors (if applicable).

The allottees under the 10% Placement have not been determined as at the date of finalisation of this Notice of Meeting and may include existing substantial Shareholders and/or new Shareholders, but the allottees cannot include any Directors, related parties or associates of a related party of the Company without a further specific Shareholder approval.

The Company will comply with the disclosure obligations under ASX Listing Rules 7.1A(4) and 3.10.5A upon issue of any Shares under the 10% Placement.

6.10 Previous approval

The Company obtained Shareholder approval under Listing Rule 7.1A on 27 May 2019. For the purpose of Listing Rule 7.3A.6(a), the Company advises as follows:

Number of equity securities on issue at commencement of 12 month period preceding the date of the Meeting	128,069,128
Equity securities issued in prior 12 month period preceding the date of the Meeting	26,330,000
<i>Percentage those share issues represent of the total number of equity securities on issue at the commencement of that 12 month period</i>	20.56%

For the purposes of Listing Rule 7.3A.6(b), all of the issues of equity securities made by the Company during the 12 months preceding the date of the Meeting are detailed in Schedule 2.

The Company has raised \$2 million from the issue of equity securities in the 12 months prior to the Meeting of which none has been spent to date. Funds raised will be spent on working capital to help meet the increase in demand for Fertoz products in North America, approximately \$300,000 of the funds raised have been spent to date for these purposes.

6.11 Voting exclusion statement

Any participants are not as yet known or identified. In these circumstances (and in accordance with the note set out in ASX Listing Rule 14.11.1 relating to ASX Listing Rules 7.1 and 7.1A), for a person's vote to be excluded, it must be known that that person will participate in the proposed issue. Where it is not known who will participate in the proposed issue (as is the case in respect of the Shares the subject of Resolution 6), Shareholders must consider the proposal on the basis that they may or may not get a benefit and that it is possible that their holding will be diluted and there is no reason to exclude their votes.

6.12 Recommendation

The Directors believe that Resolution 6 will provide the Company with flexibility to raise capital quickly if required and if advantageous terms are available and is in the best interests of the Company. The Directors unanimously recommend that Shareholders vote in favour of this Resolution.

Schedule 1 - Glossary

\$ means Australian dollars.

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

ASX means ASX Limited ACN 008 624 691 or the securities exchange operated by it (as the case requires).

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

Board means the current board of Directors of the Company.

Chair means the chairperson of the General Meeting.

Closely Related Party has the meaning given to that term in the Corporations Act and, in relation to a member of the Key Management Personnel, includes:

- a spouse or child of that member;
- a child of that member's spouse;
- a dependant of that member or of that member's spouse;
- anyone else who is one of that member's family and may be expected to influence that member, or be influenced by that member, in that member's dealings with the Company (or its controlled entities);
- a company that member controls; and
- any person prescribed by the *Corporations Regulations 2001* (Cth).

Company means Fertoz Ltd ACN 145 951 622.

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

Directors means the current directors of the Company.

Directors' Report means the annual directors' report prepared under chapter 2M of the Corporations Act for the Company and its controlled entities.

Explanatory Memorandum means the Explanatory Memorandum accompanying the Notice.

Financial Report means the Company's Audited Financial Report for the financial year ended 31 December 2019.

Key Management Personnel has the same meaning as in the accounting standards and broadly includes those persons having authority and responsibility for planning, directing and controlling the activities of the Company, whether directly or indirectly, including any director (whether executive or otherwise) of the Company.

Notice, Notice of Meeting or **Notice of General Meeting** means this notice of general meeting including the Explanatory Memorandum and the Proxy Form.

Proxy Form means the proxy form accompanying the Notice.

Remuneration Report means the remuneration report of the Company contained in the Directors' Report of the Financial Report.

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

Schedule means a schedule to this Notice.

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

Shareholder means a holder of a Share.

Special Resolution means is passed by at least 75% of the votes cast by Members entitled to vote on the resolution and present at the meeting (in person, by proxy, attorney or representative).

VWAP means volume weighted average price.

Words importing the singular include the plural and vice versa.

Schedule 2 – Equity allotments during the 12 months before the date of the Meeting

CASH ISSUES

Date	Number of securities	Security Type	Terms	Party or Basis	Price	Discount	Cash consideration	Use of funds
24.02.2020	15,550,000	FPO	fully paid ordinary shares issued pursuant to Share Purchase Plan	Share Purchase Plan underwriters.	\$0.08	\$0.01	\$1,244,000	Additional inventory tonnage – future sales during 2020, Field mapping / mine plan design & engineering; Fernie Group – consultants / software, Additional FTE salesforce –Western and Southern USA and Working Capital including working capital funding of receivables.
10.02.2020	9,450,000	FPO	fully paid ordinary shares issued pursuant to Share Purchase Plan	Share Purchase Plan Applicants.	\$0.08	\$0.00	\$756,000	

NON-CASH ISSUES

Date	Number of securities	Security Type	Terms	Party or Basis	Price	Discount	Non-cash consideration	Current value of non-cash consideration
29.11.19	780,000	FPO	fully paid ordinary shares	Issued to eligible employees under the Company's Employee Share Plan (ESP).	Nil	N/A	N/A	No consideration. Value of Shares issued: \$78,000
01.07.19	150,000	FPO	fully paid ordinary shares	Issued to eligible employees under the Company's ESP.	Nil	N/A	N/A	No Consideration Value of Shares issued: \$20,250
26.06.19	400,000	FPO	fully paid ordinary shares	Issued to eligible employees under the Company's ESP	Nil	N/A	N/A	No Consideration Value of Shares issued: \$54,000

Fertoz Limited

ACN 145 951 622

Need assistance?



Phone:

1300 850 505 (within Australia)
+61 3 9415 4000 (outside Australia)



Online:

www.investorcentre.com/contact



YOUR VOTE IS IMPORTANT

For your proxy appointment to be effective it must be received by **11:00am (AEST) Sunday 7 June 2020**.

Proxy Form

How to Vote on Items of Business

All your securities will be voted in accordance with your directions.

APPOINTMENT OF PROXY

Voting 100% of your holding: Direct your proxy how to vote by marking one of the boxes opposite each item of business. If you do not mark a box your proxy may vote or abstain as they choose (to the extent permitted by law). If you mark more than one box on an item your vote will be invalid on that item.

Voting a portion of your holding: Indicate a portion of your voting rights by inserting the percentage or number of securities you wish to vote in the For, Against or Abstain box or boxes. The sum of the votes cast must not exceed your voting entitlement or 100%.

Appointing a second proxy: You are entitled to appoint up to two proxies to attend the meeting and vote on a poll. If you appoint two proxies you must specify the percentage of votes or number of securities for each proxy, otherwise each proxy may exercise half of the votes. When appointing a second proxy write both names and the percentage of votes or number of securities for each in Step 1 overleaf.

A proxy need not be a securityholder of the Company.

SIGNING INSTRUCTIONS FOR POSTAL FORMS

Individual: Where the holding is in one name, the securityholder must sign.

Joint Holding: Where the holding is in more than one name, all of the securityholders should sign.

Power of Attorney: If you have not already lodged the Power of Attorney with the registry, please attach a certified photocopy of the Power of Attorney to this form when you return it.

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

ATTENDING THE MEETING

If you are attending in person, please bring this form with you to assist registration.

Corporate Representative

If a representative of a corporate securityholder or proxy is to attend the meeting you will need to provide the appropriate "Appointment of Corporate Representative" prior to admission. A form may be obtained from Computershare or online at www.investorcentre.com under the help tab, "Printable Forms".

Lodge your Proxy Form:

Online:

Lodge your vote online at www.investorvote.com.au using your secure access information or use your mobile device to scan the personalised QR code.

Your secure access information is



Control Number:

SRN/HIN:

PIN:

For Intermediary Online subscribers (custodians) go to www.intermediaryonline.com

By Mail:

Computershare Investor Services Pty Limited
GPO Box 242
Melbourne VIC 3001
Australia

By Fax:

1800 783 447 within Australia or
+61 3 9473 2555 outside Australia



PLEASE NOTE: For security reasons it is important that you keep your SRN/HIN confidential.

Change of address. If incorrect, mark this box and make the correction in the space to the left. Securityholders sponsored by a broker (reference number commences with 'X') should advise your broker of any changes.

Proxy Form

Please mark to indicate your directions

Step 1 Appoint a Proxy to Vote on Your Behalf

I/We being a member/s of Fertoz Limited hereby appoint

the Chairman of the Meeting **OR**

PLEASE NOTE: Leave this box blank if you have selected the Chairman of the Meeting. Do not insert your own name(s).

or failing the individual or body corporate named, or if no individual or body corporate is named, the Chairman of the Meeting, as my/our proxy to act generally at the meeting on my/our behalf and to vote in accordance with the following directions (or if no directions have been given, and to the extent permitted by law, as the proxy sees fit) at the Annual General Meeting of Fertoz Limited to be held at Level 12, 139 Macquarie Street Sydney NSW 2000 on Tuesday, 9 June 2020 at 11:00am (AEST) and at any adjournment or postponement of that meeting.

Chairman authorised to exercise undirected proxies on remuneration related resolutions: Where I/we have appointed the Chairman of the Meeting as my/our proxy (or the Chairman becomes my/our proxy by default), I/we expressly authorise the Chairman to exercise my/our proxy on Resolutions 1 and 4 (except where I/we have indicated a different voting intention in step 2) even though Resolutions 1 and 4 are connected directly or indirectly with the remuneration of a member of key management personnel, which includes the Chairman.

Important Note: If the Chairman of the Meeting is (or becomes) your proxy you can direct the Chairman to vote for or against or abstain from voting on Resolutions 1 and 4 by marking the appropriate box in step 2.

Step 2 Items of Business

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

Ordinary Business		For	Against	Abstain
Resolution 1	Non-Binding resolution to adopt Remuneration Report	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 2	Election of Mr Ron Wilkinson as a director of the Company	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 3	Re-election of Mr Stuart Richardson as a director of the Company	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 4	Approval of Employee Share Plan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 5	Ratification of issue of 15,550,000 Shares	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Special Business				
Resolution 6	Additional capacity to issue Equity Securities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The Chairman of the Meeting intends to vote undirected proxies in favour of each item of business. In exceptional circumstances, the Chairman of the Meeting may change his/her voting intention on any resolution, in which case an ASX announcement will be made.

Step 3 Signature of Securityholder(s) *This section must be completed.*

Individual or Securityholder 1 Securityholder 2 Securityholder 3 / /
 Sole Director & Sole Company Secretary Director Director/Company Secretary Date

Update your communication details (Optional) By providing your email address, you consent to receive future Notice of Meeting & Proxy communications electronically

Mobile Number Email Address