



**Byron Energy Limited**  
**ACN 113 436 141**  
**(Company)**

## **Notice of annual general meeting**

**Notice** is given that the annual general meeting of the Company will be held at Piper Alderman, Level 23, Macquarie Governor Tower, 1 Farrer Place, Sydney NSW 2000 on 29 November 2022 at 11:30am (Sydney time).

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### **Annual financial and other reports**

To receive the Company's financial report, directors' report and auditor's report for the financial year ended 30 June 2022.

### **Resolution 1 — Adoption of remuneration report**

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

*"That the remuneration report for the year ended 30 June 2022 be adopted."*

**Note:** The remuneration report is set out on pages 40-44 of the Company's 2022 Annual Report, which is available on the Company's website at [www.byronenergy.com.au](http://www.byronenergy.com.au). The vote on this resolution is advisory only and does not bind the directors or the Company.

### **Resolution 2 — Re-election of William Sack**

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

*"That William Sack, who retires by rotation in accordance with clause 16.1 of the Company's constitution and, being eligible, stands for re-election, be re-elected as a director of the Company."*

### **Resolution 3 — Re-election of Charles Sands**

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

*"That Charles Sands, who retires by rotation in accordance with clause 16.1 of the Company's constitution and, being eligible, stands for re-election, be re-elected as a director of the Company."*

### **Resolution 4 — Additional capacity to issue ordinary shares**

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

*“That additional capacity to issue ordinary shares in the Company under rule 7.1A of the ASX Listing Rules for cash consideration at any time during the next 12 months (or until a transaction under rule 11.1.2 or 11.2 is approved by the shareholders of the Company), be approved for the purpose of rule 7.1A, and for all other purposes.”*

#### **Resolution 5 — Extension of loan to Maynard Smith**

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

*“That for the purposes of 260B and Chapter 2E of the Corporations Act and for all other purposes, approval is given for the Company to provide financial assistance and financial benefit to Geogeny Pty Ltd, an entity controlled by Maynard Smith, by extending the term of the loan provided to Geogeny Pty Ltd for the sole purpose of exercising 2,500,000 options over ordinary shares in the Company, by two years and on the terms and conditions set out in the explanatory statement”.*

#### **Resolution 6 — Extension of loan to Prent Kallenberger**

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

*“That for the purposes of 260B and Chapter 2E of the Corporations Act and for all other purposes, approval is given for the Company to provide financial assistance and financial benefit to Prent Kallenberger, by extending the term of the loan provided to Prent Kallenberger for the sole purpose of exercising 2,500,000 options over ordinary shares in the Company, by two years and on the terms and conditions set out in the explanatory statement”.*

#### **Resolution 7 — Extension of loan to William Sack**

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

*“That for the purposes of 260B and Chapter 2E of the Corporations Act and for all other purposes, approval is given for the Company to provide financial assistance and financial benefit to William Sack, by extending the term of the loan provided to William Sack for the sole purpose of exercising 2,500,000 options over ordinary shares in the Company, by two years and on the terms and conditions set out in the explanatory statement”.*

#### **Resolution 8 —Extension of loan to senior managers and consultants**

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

*“That for the purposes of 260B and Chapter 2E of the Corporations Act and for all other purposes, approval is given for the Company to provide financial assistance and financial benefit to senior managers and consultants identified in the explanatory statement, by extending the term of the loan provided to those senior managers and consultants for the sole purpose of exercising 2,000,000 options over ordinary shares in the Company, by two years and on the terms and conditions set out in the explanatory statement”.*

20 October 2022

**By order of the board**



Nick Filipovic  
**Company Secretary**

**Proxy voting and entitlement to vote:**

1. A member entitled to attend and vote at this meeting is entitled to appoint one proxy or, if the member is entitled to cast two or more votes at the meeting, two proxies to attend and vote on behalf and instead of the member.
2. Where two proxies are appointed and the appointment does not specify the proportion or number of the member's votes each proxy may exercise, each proxy may exercise half of the votes.
3. A proxy need not be a member.
4. A proxy form accompanies this notice. To be valid it must be received together with the power of attorney or other authority (if any) under which the form is signed, or a certified copy of that power or authority, not less than 48 hours before the time for holding the meeting, namely by 11:30 am (Sydney time) on 27 November 2022.

Proxy forms may be lodged using the enclosed reply paid envelope or:

- (a) by hand delivery to Byron Energy Limited, C/- Boardroom Pty Limited, Level 12, 225 George Street, Sydney NSW 2000;
  - (b) by post to Byron Energy Limited, C/- Boardroom Pty Limited, GPO Box 3993, Sydney NSW 2001;
  - (c) by facsimile to +61 2 9290 9655; or
  - (d) online at [.https://www.votingonline.com.au/byronenergyagm2022](https://www.votingonline.com.au/byronenergyagm2022)
5. A determination has been made by the board of directors of the Company under regulation 7.11.37 of the *Corporations Regulations 2001 (Cth)* that those persons who are registered as the holders of shares in the Company as at 7pm (Sydney time) on 27 November 2022 will be taken to be the holders of shares for the purposes of determining voting entitlements at the meeting.

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**Voting exclusion statement:**

For the purposes of sections 250BD and 250R of the Corporations Act, the Company will disregard any votes cast on Resolution 1 by or on behalf of a member of the key management personnel of the Company, details of whose remuneration are included in the Remuneration Report or a closely related party of such a member (**Excluded Person**).

An Excluded Person may cast a vote as a proxy if the vote is not cast on behalf of an Excluded Person and either:

- the Excluded Person is appointed as a proxy by writing that specifies how the Excluded Person is to vote on Resolution 1; or
- the Excluded Person is the chair of the meeting and the appointment of the chair as proxy does not specify the way the chair is to vote on Resolution 1 and expressly authorises the chair to exercise the proxy even if Resolution 1 is connected directly or indirectly with the remuneration of a member of the key management personnel of the Company.

For the purposes of sections 224, 250BD and 260B of the Corporations Act, the Company will disregard any votes cast on:

- Resolution 5 by an Excluded Person and any of Maynard Smith's associates;
- Resolution 6 by an Excluded Person and any of Prent Kallenberger's associates; and
- Resolution 7 by an Excluded Person and any of William Sack's associates.

However, the Company need not disregard a vote if:

- it is cast by a person as a proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- it is cast by the chair of the meeting as proxy for a person who is entitled to vote, and the appointment of the chair as proxy does not specify the way the chair is to vote on the resolutions and expressly authorises the chair of the meeting to exercise the proxy even if resolutions 5, 6 and 7 are connected directly or indirectly with the remuneration of a member of the key management personnel of the Company.

For the purposes of sections 250BD and 260B of the Corporations Act, the Company will disregard any votes cast on Resolution 8 by an Excluded Person and any of the associates of senior managers or consultants, the term of whose loan is to be extended.

However, the Company need not disregard a vote if:

- it is cast by a person as a proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- it is cast by the chair of the meeting as proxy for a person who is entitled to vote, and the appointment of the chair as proxy does not specify the way the chair is to vote on the resolutions and expressly authorises the chair of the meeting to exercise the proxy even if resolutions 5, 6 and 7 are connected directly or indirectly with the remuneration of a member of the key management personnel of the Company.

## Explanatory statement

### 1. General information

This explanatory statement is an important document and should be read carefully. It comprises part of, and should be read in conjunction with, the notice of annual general meeting of Byron Energy Limited (**Company**) to be held on 29 November 2022.

If you do not understand its contents or are not sure what to do, you should consult your stockbroker or other professional adviser.

If you have any questions regarding the matters set out in this explanatory statement (or elsewhere in the notice of annual general meeting), you may contact the Company's share registrar, Boardroom Pty Limited, as follows:

Telephone: 1300 737 760 (within Australia)  
+61 2 9290 9600 (outside Australia)

between 8:30 am and 5:00 pm (Sydney time) Monday to Friday (except public holidays).

### 1. Resolution 1 — Adoption of remuneration report

There will be an opportunity for shareholders at the annual general meeting (**Meeting**) to comment on and ask questions about the remuneration report, which appears on pages 40-44 of the Company's 2022 Annual Report.

The vote on the proposed resolution adopting the remuneration report is advisory only and will not bind the Company or its directors. However, the board will take the outcome of the vote into consideration when reviewing the Company's remuneration policy and practices.

The *Corporations Act 2001* (Cth) (**Corporations Act**) contains a 'two strikes' rule in relation to remuneration reports. Briefly, if at two consecutive AGMs of the Company 25% or more votes are cast against the resolution that the Company's remuneration report be adopted, a 'spill resolution' must be put to the vote at the second meeting. The spill resolution is that another meeting of the Company's members be held within 90 days to consider the appointment of new directors in place of those directors (other than the managing director) who were directors at the time the resolution was passed to make the directors' report (including the remuneration report).

At the Company's 2021 AGM, less than 25% of votes were cast against the resolution that the remuneration report be adopted. Accordingly, there is no requirement to allow for a possible spill resolution at this year's AGM.

#### *Directors' recommendation*

The directors recommend that shareholders entitled to vote, vote in favour of resolution 1.

### 2. Resolution 2 — Re-election of William Sack

Clause 16.1 of the Company's constitution states that at each AGM of the Company one third of the directors or, if their number is not a multiple of 3, then the number nearest to but not less than one third must retire from office. A retiring director is eligible to stand for re-election.

In accordance with these requirements, William Sack retires by rotation at this year's AGM and, being eligible, stands for re-election.

William Sack has been a director of the Company since 3 October 2014.

William Sack has over twenty five years of experience in the oil and gas industry in the Gulf of Mexico region in both technical and commercial roles. He has drilled more than 55 wells with a success rate in excess of 80% resulting in the discovery of more than 185 bcf of gas and 4 million barrels of oil.

Mr Sack holds a Bachelor of Earth Science and Physics degree from Saint Cloud State University, a Master of Science degree from Michigan State University, and a MBA from Tulane University.

*Directors' recommendation*

The directors (other than William Sack) recommend that shareholders vote in favour of Resolution 2.

**3. Resolution 3 — Re-election of Charles Sands**

Clause 16.1 of the Company's constitution states that at each AGM of the Company one third of the directors or, if their number is not a multiple of 3, then the number nearest to but not less than one third must retire from office. A retiring director is eligible to stand for re-election.

In accordance with these requirements, Charles Sands retires by rotation at this year's AGM and, being eligible, stands for re-election.

Charles Sands has been a director of the Company since 18 March 2013.

Mr Sands has over thirty years of broad based business and management experience in the USA and is President of A. Santini Storage Company of New Jersey Inc, enabling him to advise on the general business operating environment and practices in the USA. He holds a Bachelor of Science degree from Monmouth University.

Mr Sands is currently a member of the Audit and Risk Management Committee.

*Directors' recommendation*

The directors (other than Charles Sands) recommend that shareholders vote in favour of resolution 3.

**4. Resolution 4 — Additional capacity to issue ordinary shares**

**Background**

Rule 7.1A enables eligible entities to issue equity securities up to 10% of its issued share capital through placements over a 12 month period after the Meeting without further Shareholder approval (**10% Placement Capacity**).

The 10% Placement Capacity is in addition to the Company's 15% placement capacity under Rule 7.1.

Resolution 4 seeks Shareholder approval by way of Special Resolution for the Company to have the additional 10% capacity provided for in ASX Listing Rule (**Rule**) 7.1A to issue equity securities without Shareholder approval.

If Resolution 4 is passed, the Company will be able to issue equity securities up to the combined 25% limit in Rules 7.1 and 7.1A without any further Shareholder approval. If Resolution 4 is not passed, the Company will not be able to access the additional 10% capacity to issue equity securities without Shareholder approval provided for in Rule 7.1A and will remain subject to the 15% limit on issuing equity securities without Shareholder approval set out in Rule 7.1.

### **15% capacity under Rule 7.1**

Rule 7.1 of the ASX Listing Rules limits the number of equity securities that a company may issue without shareholder approval during any 12 month period to 15% of variable **A** in Rule 7.1, being:

- (a) the number of the company's fully paid ordinary securities on issue at the start of the relevant period; plus
- (b) the number of fully paid ordinary securities issued during the relevant period under an exception in Rule 7.2 (other than exceptions 9, 16 or 17); plus
- (c) the number of fully paid ordinary securities issued in the relevant period on the conversion of convertible securities within Rule 7.2 exception 9, where:
  - (1) the convertible securities were issued or agreed to be issued before the commencement of the relevant period; or
  - (2) the issue of, or agreement to issue, the convertible securities was approved, or taken under the Rules to have been approved, under Rules 7.1 or 7.4; plus
- (d) the number of fully paid ordinary securities issued in the relevant period under an agreement to issue securities within Rule 7.2 exception 16 where:
  - (1) the agreement was entered into before the commencement of the relevant period; or
  - (2) the agreement or issue was approved, or taken under the listing rules to have been approved, under Rule 7.1 or 7.4; plus
- (e) the number of any other fully paid ordinary securities issued in the relevant period with approval under Rules 7.1 or 7.4; plus
- (f) the number of partly paid ordinary securities that become fully paid during the relevant period; less
- (g) the number of fully paid ordinary securities cancelled during the relevant period.

The number of equity securities that the Company issues or agrees to issue without shareholder approval under Rule 7.1 (and which are not issued under an exception in Rule 7.2) during the period uses up the 15% capacity for that period and is subtracted from the above calculation.

### **Background to Rule 7.1A and eligibility**

Rule 7.1A allows an 'eligible entity' to issue an additional 10% of its share capital above the 15% limit allowed under Rule 7.1, provided shareholders have approved in advance the additional capacity by special resolution passed at the annual general meeting of shareholders.

An eligible entity includes a listed company which, as at the date of the special resolution, is not included in the S&P/ASX300 Index and has a market capitalisation no greater than the prescribed amount (currently \$300 million). At the date of this notice of meeting, the Company is an eligible entity and is expected to remain so by the time of the Meeting. However, if it does not, Resolution 4 will be withdrawn.

### **Calculation under rule 7.1A**

Rule 7.1A.2 provides that eligible entities which have obtained shareholder approval at an annual general meeting may issue or agree to issue, during the 12 month period after the date of the

annual general meeting, a number of equity securities calculated in accordance with the following formula:

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

- A** has the same meaning as in Rule 7.1 (which is set out above)
- D** is 10%
- E** is the number of Equity Securities issued or agreed to be issued under Rule 7.1A.2 in the Relevant Period where the issue or agreement has not been subsequently approved by the holders of its ordinary securities under Rule 7.4.

The only equity securities in the Company that are currently quoted on ASX are fully paid ordinary shares. As at the date of this notice of Meeting, the Company has 1,040,295,102 Shares on issue.

### **Specific information required by Rule 7.3A**

The following information is provided for the purposes of Rule 7.3A:-

#### Minimum Price

- (a) The equity securities to be issued under the 10% Placement Capacity will be issued at an issue price of not less than 75% of the VWAP for the Company's equity securities over the 15 trading days on which trades in the relevant class of equity securities were recorded immediately before:
- (1) the date on which the price at which the equity securities are to be issued is agreed; or
  - (2) if the equity securities are not issued within ten trading days of the date in paragraph (a)(1) above, the date on which the equity securities are issued.

#### Date of Issue

- (b) Shareholder approval of the 10% Placement Capacity under Rule 7.1A is valid from the date of the annual general meeting at which the approval is obtained and expires on the earlier to occur of:
- (1) the date that is 12 months after the date of the annual general meeting at which the approval is obtained;
  - (2) the time and date of the Company's next annual general meeting; or
  - (3) the time and date of the approval by shareholders of a transaction under Rule 11.1.2 (a significant change to the nature or scale of activities) or Rule 11.2 (disposal of main undertaking),

#### **(10% Placement Period).**

#### Risk of voting dilution

There is a risk of economic and voting dilution to the shareholders of the Company were additional ordinary shares to be issued under Rule 7.1A.2, including the risk that:



- (a) the market price for the Company's equity securities may be significantly lower on the issue date than on the date of the approval under Rule 7.1A; and
- (b) the equity securities may be issued at a price that is at a discount to the market price for the Company's quoted equity securities on the issue date.

As required by Rule 7.3A.4, set out below is a table showing the potential dilution of shareholders if the Company issues fully paid ordinary shares up to the maximum additional capacity under rule 7.1A in the 12 months following the Meeting.

Variable A in Rule 7.1A.2		Issue price for each share		
		\$0.07 (50% decrease in current market price)	\$0.14 (current market price)	\$0.28 (100% increase in current market price)
1,081,395,102 shares (current)	Shares issued	108,139,510 shares	108,139,510 shares	108,139,510 shares
	Funds raised	\$7,569,766	\$15,139,531	\$30,279,063
1,622,092,653 shares (50% increase)	Shares issued	162,209,265 shares	162,209,265 shares	162,209,265 shares
	Funds raised	\$11,354,649	\$22,709,297	\$45,418,594
2,162,790,204 shares (100% increase)	Shares issued	216,279,020 shares	216,279,020 shares	216,279,020 shares
	Funds raised	\$15,139,531	\$30,279,063	\$60,558,126

**Note:** The above table is based on the current issued share capital of the Company of 1,081,395,102 fully paid ordinary shares (at 19 October 2022), variable A currently being 1,081,395,102 and the price for the Company's shares being \$0.14 each (based on the closing sale price of the Company's shares on ASX on 19 October 2022), and assumes there is no change to the total issued share capital of, or shareholdings, in the Company from the date of the notice of meeting until 29 November 2023 (being the date which is 12 months after the date of the Meeting), other than as noted in the above table.

Purpose of Issue under 10% Placement Capacity

The Company may issue ordinary shares under Rule 7.1A for the purpose of:

- (a) providing the Company with funds to assist it develop its business and/or meet its strategic goals;
- (b) providing the Company with funds for general working capital purposes; and

- (c) raising funds for an acquisition or to assist the Company make an acquisition, or as consideration for an acquisition, or partly to raise funds and partly as consideration, for an acquisition.

Allocations under the 10% Placement Capacity

The Company's allocation policy for issues under the approval (if resolution 4 is passed) is as follows where the purpose of the issue is to raise funds:

- (a) Allocations will depend on the prevailing market conditions at the time of any proposed issue.
- (b) The identity of the persons to be offered shares will be determined on a case by case basis having regard to a number of factors including the methods of raising funds that are available to the Company at the time, the potential effect of the issue on the control of the Company, the financial position of the Company and advice from stockbrokers and other corporate or financial advisers. However, it is likely that the Company would only offer shares to sophisticated investors, experienced investors and/or professional investors for the purposes of sections 708(8) to 708(11) of the Corporations Act.
- (c) Directors and other related parties of the Company will not be issued equity securities without Shareholder approval unless an exception under Rule 10.12 applies.

If the Company makes an acquisition in exchange for shares to be issued under the approval, it is likely that the persons to be issued the shares will be those who are interested in the acquisition e.g. sellers of assets, officers and employees of acquired businesses, and providers of resources.

Previous Approval under Rule 7.1A

At the date of the notice of Meeting, the Company does not have any specific intention to offer or issue any shares under the approval, nor has it any specific intention in relation to the parties that it may approach to participate in an offer of shares under the approval. Further, the Company has not formed an intention to offer shares to any particular class or group of existing Shareholders, or to offer shares just to new investors who have not previously been Shareholders of the Company.

The Company previously obtained approval under Rule 7.1A at the annual general meeting held on Monday, 29 November 2021. Since that meeting, the Company has issued the following securities none of which were issued under Listing Rule 7.1A.2:

- (a) On 7 January 2022, the Company issued 41,100,000 fully paid ordinary shares upon the exercise of:
  - (1) 28,350,000 at \$0.12 per option;
  - (2) 2,000,000 at \$0.16 per option; and
  - (3) 10,750,000 at \$0.40 per option.
- (b) On 11 January 2022, the Company issued 2,000,000 fully paid ordinary shares upon the exercise of the same number of options at \$0.16 per option to two new US based employees.

In the 12 months preceding the date of the meeting, the Company issued a total of 43,100,000 equity securities, representing 24.1% of the number of equity securities on issue at the commencement of that period.

*Directors' recommendation*

The directors recommend that shareholders entitled to vote, vote in favour of resolution 4.

**5. Resolutions 5 to 8 – Extension of loans to directors, senior managers and consultants**

*Background*

On 24 November 2016, shareholders approved the grant of 9,500,000 unlisted options (**Options**) to Geogeny Pty Ltd (an entity controlled by Maynard Smith), Prent Kallenberger, William Sack and certain senior managers and consultants of the Company or their respective nominees (**Option Holders**).

The exercise price of the Options was \$0.25, with an expiry date of 31 December 2019.

Following obtaining the approval of shareholders at the annual general meeting of the Company held on 29 November 2019, the Company extended loans (**Loans**) to the Option Holders (now **Borrowers**) to fund the exercise of those Options.

The Company now intends to extend the term of the Loans by a period of two years, and otherwise on the same terms and conditions.

*Terms of the loans*

The terms and conditions of the Loans, including the proposed extension of the term by two years, is as follows:

Principal sum:	Total exercise price of the Options each Borrower holds (as set out in the table below).
Use of funds:	Exercising the Options and acquiring the shares issued as a consequence of the exercise of Options ( <b>Loan Funded Shares</b> ).
Interest Rate:	Nil.
Term:	5 years. (from the original date of grant of the Loans)
Security:	Nil (Section 259B(1) of the Corporations Act prohibits the Company from taking security over its own shares except as permitted by section 259B(2) or section 259(3) - neither of those exceptions apply here)
Repayment:	At the end of the term, each Borrower is required to repay the amounts outstanding under the loans. If a Borrower does not repay a loan, the Company may demand that a Borrower dispose of sufficient Loan Funded Shares to satisfy up to the total amount owing under the loan. The Company's recourse against each Borrower for repayment of the Loans is limited to the proceeds of the Loan Funded Shares. The Company may further request that each Borrower enter into voluntary escrow arrangements with respect to its Loan Funded Shares.

The Loans will also be repayable in the following circumstances:

- where the Loan Funded Shares are disposed by a Borrower, the proceeds of that disposal (net of tax and brokerage) must be applied to the repayment of the loan;

- where any dividends, or other distributions, are payable to a Borrower, the Company may set off any such amounts against the loan;
- where a Borrower suffers and insolvency event, or is otherwise in default of the loan agreement, the Company can demand that the Borrower dispose of such number of Loan Funded Shares necessary to repay the loan, together with any accrued interest; and
- where a Borrower is in default of the loan agreement, any remuneration or bonuses payable to the Borrower may be set off by the Company against the outstanding loan.

However, in each instance, where the Borrower has disposed of the Loan Funded Shares, the recourse of the Company against the Borrower will be limited to the proceeds of the sale of those Loan Funded Shares (net of any tax or brokerage payable on the disposal of those Loan Funded Shares).

*Borrowers and their outstanding Loans*

Details of the Borrowers, and the outstanding sum for each Borrower as at the date of this explanatory statement, is set out in the table below:

<b>Borrower</b>	<b>Outstanding sum</b>
Geogeny Pty Ltd (an entity controlled by Maynard Smith)	\$625,000
William Sack	\$625,000
Prent Kallenberger	\$575,000
Nick Filipovic	\$250,000
Francisco Munoz	\$87,500
Anita Munoz	\$87,500
David London	\$75,000
Maxwell Kallenberger	\$25,000
Montgomery and Caitlin Gossen	\$25,000

*Rationale and advantages for the Loans, and extending the term of the Loans*

The directors (other than Messrs Smith, Kallenberger and Sack) made the Loans for the following reasons:-

- (a) The Loans were used to exercise the Options, and accordingly, the were immediately returned to the Company in the form of subscription money (ie there was no cash outflow, other than in respect of any costs associated with the granting of the Loans which).
- (b) The exercise of the Options will further promotes the alignment of interests of the Borrowers and the Company via increased shareholdings.
- (c) The directors believe the commercial terms of the Loans are reasonable in the circumstances.
- (d) Whilst the Loans are not secured, the Company will have limited recourse to the proceeds of the sale of the Loan Funded Shares, and may request that the Borrowers enter into voluntary escrow arrangements.
- (e) It is common for companies to grant loans to directors, senior managers and consultants for the acquisition of securities at the same time as the grant of the securities, on terms broadly similar than the proposed terms of the Loans.
- (f) If the term of the Loans is not extended, the Borrowers may seek to repay the Loans via the sale of some or all of the Loan Funded Shares. The directors (other than Messrs Smith, Kallenberger and Sack) believe that having the Loan Funded Shares held by supportive and aligned directors, senior managers and consultants is in the interests of all shareholders. Further, given the current trading price of the Company's shares, if the Borrowers are required to repay the Loans, the Company will need to write off a portion of the Loans.

*Disadvantages of extending the term of the Loans*

The directors (other than Messrs Smith, Kallenberger and Sack) believe that the key disadvantages of extending the term of the Loans is that:

- (a) the Company continues to be deprived of the \$A2.375 million of cash proceeds that it would have received had the Options been exercised for cash without the Loans, until such time as the Loans are repaid; and
- (b) given the Company has limited recourse to the proceeds of the sale of the Loan Funded Shares, if trading price of the Company's shares were to further decrease, the Company would need to write off a greater portion of the Loans.

*Sections 260A and 260B of the Corporations Act*

The extension of the term of the Loans will constitute 'financial assistance' for the purposes of Part 2J.3 of the Corporations Act.

Section 260A of the Corporations Act states that a company may financially assist a person to acquire shares in the company only if:

- (a) giving the assistance does not materially prejudice the interest of the company or its shareholders or the company's ability to pay its creditors;
- (b) the assistance is approved by the shareholders under section 260B; or
- (c) the assistance is exempt under section 260C.

Section 260B of the Corporations Act states that, for a company to financially assist a person to acquire shares in itself, the financial assistance must be approved by special resolution of the company's shareholders, with no votes being cast in favour of the resolution by the person acquiring the shares or their associates.

Accordingly, the Company seeks approval under section 260B of the Corporations Act for the financial assistance constituted by the loans.

*Chapter 2E of the Corporations Act (Resolutions 5, 6 and 7 only)*

For a public company, or an entity that the public company controls, to give a financial benefit to a related party of the public company, Chapter 2E (in particular section 208) of the Corporations Act requires that the public company or entity must:

- (a) obtain the approval of the public company's members in the manner set out in sections 217 to 227 of the Corporations Act; and
- (b) give the benefit within 15 months following such approval,

unless the giving of the financial benefit falls within an exception set out in sections 210 to 216 of the Corporations Act.

The provision of the Loans to enable the exercise of the Options, and the extension of the term of those Loans, constitutes giving a financial benefit to Messrs Smith, Kallenberger and Sack, who are related parties of the Company by virtue of being directors.

As Messrs Smith, Kallenberger and Sack (or their nominees) are related parties who would receive a financial benefit, Shareholder approval is sought pursuant to Chapter 2E of the Corporations Act.

*Specific information required under section 219 of the Corporations Act*

For the purpose of section 219 of the Corporations Act, information regarding the grant of the loans is provided as follows:

- (a) *The related party to whom the proposed resolution will permit a financial benefit to be given to:*

The proposed financial benefits given under Resolutions 5, 6 and 7 will be given to Messrs Kallenberger and Sack, and Geogeny Pty Ltd (an entity controlled by Maynard Smith).

- (b) *The nature of the financial benefit:*

The nature of the financial benefit to be given is the extension, by two years, of the term of Loans given by the Company to each of Messrs Kallenberger and Sack, and Geogeny Pty Ltd (an entity controlled by Maynard Smith).

- (c) *The directors' interests in the outcome of the resolution:*

Messrs Smith, Kallenberger and Sack have a material personal interest in the outcome of Resolutions 5, 6 and 7 respectively on the basis that they (or their respective nominees) will have the term of the Loans extended.

The remaining directors (i.e. other than Messrs Smith, Kallenberger and Sack) have no personal interest in the outcome of Resolutions 5, 6 and 7.

(d) *Director recommendations*

The directors, other than Messrs Smith, Kallenberger and Sack, recommend that Shareholders vote in favour of Resolutions 5, 6 and 7.

Messrs Smith, Kallenberger and Sack do not make a recommendation with regards to resolutions 5, 6 and 7 as they have a material personal interest in the outcome of those Resolutions.

(e) *Other information:*

Save for the fact that making the loans will effectively deprive the Company of receipt of A\$2.375 million of cash proceeds on exercise of the Options until such time as the Loans are repaid, the directors do not consider that there are any significant opportunity costs to the Company foregone by the Company granting the Loans.

Neither the directors nor the Company are aware of any other information that would be reasonably required by Shareholders to make a decision in relation to the financial benefits contemplated by Resolutions 5, 6, 7 and 8.

The associated advantages, disadvantages and financial effect of extending the term of the Loans by two years are set out above in this Explanatory Statement.

*Directors' recommendation*

As noted in paragraph (d) above, the directors, other than Messrs Smith, Kallenberger and Sack, recommend that shareholders vote in favour of Resolutions 5, 6 and 7.

Messrs Smith, Kallenberger and Sack do not make a recommendation with regards to resolutions 5, 6 and 7 as they have a material personal interest in the outcome of those Resolutions.

All directors recommend that shareholders vote in favour of Resolution 8.

**All Correspondence to:**

 **By Mail** Boardroom Pty Limited  
 GPO Box 3993  
 Sydney NSW 2001 Australia  
  
 **By Fax:** +61 2 9290 9655  
  
 **Online:** [www.boardroomlimited.com.au](http://www.boardroomlimited.com.au)  
  
 **By Phone:** (within Australia) 1300 737 760  
 (outside Australia) +61 2 9290 9600

## YOUR VOTE IS IMPORTANT

For your vote to be effective it must be recorded **before 11:30am (Sydney time) on Sunday 27 November 2022.**

### TO VOTE ONLINE

- STEP 1:** VISIT <https://www.votingonline.com.au/byronenergyagm2022>  
**STEP 2:** Enter your Postcode OR Country of Residence (if outside Australia)  
**STEP 3:** Enter your Voting Access Code (VAC):

### BY SMARTPHONE



Scan QR Code using smartphone  
QR Reader App

### TO VOTE BY COMPLETING THE PROXY FORM

#### STEP 1 APPOINTMENT OF PROXY

Indicate who you want to appoint as your Proxy.

If you wish to appoint the Chair of the Meeting as your proxy, mark the box. If you wish to appoint someone other than the Chair of the Meeting as your proxy, please write the full name of that individual or body corporate. If you leave this section blank, or your named proxy does not attend the meeting, the Chair of the Meeting will be your proxy. A proxy need not be a securityholder of the company. Do not write the name of the issuer company or the registered securityholder in the space.

#### Appointment of a Second Proxy

You are entitled to appoint up to two proxies to attend the meeting and vote. If you wish to appoint a second proxy, an additional Proxy Form may be obtained by contacting the company's securities registry or you may copy this form.

To appoint a second proxy you must:

- complete two Proxy Forms. On each Proxy Form state the percentage of your voting rights or the number of securities applicable to that form. If the appointments do not specify the percentage or number of votes that each proxy may exercise, each proxy may exercise half your votes. Fractions of votes will be disregarded.
- return both forms together in the same envelope.

#### STEP 2 VOTING DIRECTIONS TO YOUR PROXY

To direct your proxy how to vote, mark one of the boxes opposite each item of business. All your securities will be voted in accordance with such a direction unless you indicate only a portion of securities are to be voted on any item by inserting the percentage or number that you wish to vote in the appropriate box or boxes. If you do not mark any of the boxes on a given item, your proxy may vote as he or she chooses. If you mark more than one box on an item for all your securities your vote on that item will be invalid.

#### Proxy which is a Body Corporate

Where a body corporate is appointed as your proxy, the representative of that body corporate attending the meeting must have provided an "Appointment of Corporate Representative" prior to admission. An Appointment of Corporate Representative form can be obtained from the company's securities registry.

#### STEP 3 SIGN THE FORM

The form **must** be signed as follows:

**Individual:** This form is to be signed by the securityholder.

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

**Power of Attorney:** to sign under a Power of Attorney, you must have already lodged it with the registry. Alternatively, attach a certified photocopy of the Power of Attorney to this form when you return it.

**Companies:** this form must be signed by a Director jointly with either another Director or a Company Secretary. Where the company has a Sole Director who is also the Sole Company Secretary, this form should be signed by that person. **Please indicate the office held by signing in the appropriate place.**

#### STEP 4 LODGEMENT

Proxy forms (and any Power of Attorney under which it is signed) must be received no later than 48 hours before the commencement of the meeting, therefore by **11:30am (Sydney time) on Sunday, 27 November 2022**. Any Proxy Form received after that time will not be valid for the scheduled meeting.

Proxy forms may be lodged using the enclosed Reply Paid Envelope or:

 <b>Online</b>	<a href="https://www.votingonline.com.au/byronenergyagm2022">https://www.votingonline.com.au/byronenergyagm2022</a>
 <b>By Fax</b>	+ 61 2 9290 9655
 <b>By Mail</b>	Boardroom Pty Limited GPO Box 3993, Sydney NSW 2001 Australia
 <b>In Person</b>	<div> <b>Until 28 October 2022</b>            Boardroom Pty Limited            Level 12, 225 George Street            Sydney NSW 2000 Australia         </div> <div> <b>From 31 October 2022</b>            Boardroom Pty Limited            Level 8, 210 George Street            Sydney NSW 2000 Australia         </div>

#### Attending the Meeting

If you wish to attend the meeting please bring this form with you to assist registration.



# Byron Energy Limited

ABN 88 113 436 141

☐

## Your Address

This is your address as it appears on the company's share register. If this is incorrect, please mark the box with an "X" and make the correction in the space to the left. Securityholders sponsored by a broker should advise their broker of any changes.

**Please note, you cannot change ownership of your securities using this form.**

## PROXY FORM

### STEP 1 APPOINT A PROXY

I/We being a member/s of **Byron Energy Limited** and entitled to attend and vote hereby appoint:

☐

the **Chair of the Meeting** (mark box)

**OR** if you are **NOT** appointing the Chair of the Meeting as your proxy, please write the name of the person or body corporate (excluding the registered securityholder) you are appointing as your proxy below

or failing the individual or body corporate named, or if no individual or body corporate is named, the Chair of the Meeting as my/our proxy at the Annual General Meeting of the Company to be held at **Piper Alderman, Level 23, Macquarie Governor Tower, 1 Farrer Place, Sydney NSW 2000 on Tuesday, 29 November 2022 at 11:30am (Sydney time)** and at any adjournment of that meeting, to act on my/our behalf and to vote in accordance with the following directions or if no directions have been given, as the proxy sees fit.

The Chairman is authorised to exercise undirected proxies on remuneration related matters: If I/we have appointed the Chairman of the Meeting as my/our proxy or the Chairman of the Meeting becomes my/our proxy by default and I/we have not directed my/our proxy how to vote in respect of Resolutions 1 and 5-8, I/we expressly authorise the Chairman of the Meeting to exercise my/our proxy in respect of these Resolutions even though Resolutions 1 and 5-8 are connected with the remuneration of a member of key management personnel for Byron Energy Limited.

The Chairman of the Meeting will vote all undirected proxies in favour of all items of business (including Resolutions 1 and 5-8). In exceptional circumstances, the Chairman of the Meeting's intentions with respect to voting undirected proxies may change. 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 an item, you must provide a direction by marking the 'Against' or 'Abstain' box opposite that resolution.

### STEP 2 VOTING DIRECTIONS

\* If you mark the Abstain box for a particular item, you are directing your proxy not to vote on your behalf on a show of hands or on a poll and your vote will not be counted in calculating the required majority if a poll is called.

		For	Against	Abstain*
Resolution 1	To Adopt the Remuneration Report	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 2	Re-election of William Sack	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 3	Re-election of Charles San	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 4	Additional capacity to issue ordinary shares	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 5	Extension of loan to Maynard Smith	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 6	Extension of loan to Prent Kallenberger	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 7	Extension of loan to William Sack	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 8	Extension of loan to senior managers and consultants	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### STEP 3 SIGNATURE OF SECURITYHOLDERS

This form must be signed to enable your directions to be implemented.

Individual or Securityholder 1

Sole Director and Sole Company Secretary

Securityholder 2

Director

Securityholder 3

Director / Company Secretary

Contact Name.....

Contact Daytime Telephone.....

Date / / 2022