



2 February 2022

ASX Announcement

Letter to Shareholders Regarding General Meeting

Dear Shareholder

Fenix Resources Limited (ASX:FEX) ("**Fenix**" or "**Company**") will be holding a general meeting of shareholders at 10:00am (WST) on Friday, 4 March 2022 (**Meeting**) at Grant Thornton, Level 43, Central Park, 152 -158 St Georges Terrace, Perth WA 6000.

The Company will not be sending hard copies of the Notice of Meeting to shareholders who have not previously opted in to receiving electronic copies. Instead, the Notice of Meeting can be viewed and downloaded from the website link:

<https://fenixresources.com.au/asx-announcements/>

A copy of your personalised proxy form is enclosed for your convenience. Please complete and return the attached proxy form to the Company's share registry, Automic Group by:

Online:

Use your computer or smartphone to appoint a proxy at:

<https://investor.automic.com.au/#/loginsah>

Mail:

Automic
GPO Box 5193
Sydney NSW 2001

Person:

Automic
Level 5, 191 St Georges Terrace
Perth WA 6000

Email:

meetings@automicgroup.com.au

Facsimile:

+61 2 8583 3040

Your proxy voting instruction must be received by 10:00am (WST) on Wednesday, 2 March 2022, being not less than 48 hours before the commencement of the Meeting. Any proxy voting instructions received after that time will not be valid for the Meeting.

The Notice of Meeting is important and should be read in its entirety. If you are in doubt as to the course of action you should follow, you should consult your financial adviser, lawyer, accountant or other professional adviser. If you have any difficulties obtaining a copy of the Notice of Meeting please contact the Company's share registry, Automic Group on, 1300 288 664 (within Australia) or +61 (2) 9698 5414 (overseas).

To comply with Federal and State government restrictions on social gatherings, the Company may need to admit a limited number of persons to the Meeting. There is a risk that shareholders intending to attend the physical Meeting may not be admitted, depending on the number of Shareholders who wish to physically attend the Meeting. Therefore, the Company strongly encourages all shareholders to submit their directed proxy votes in advance of the Meeting.

The Company will continue to closely monitor guidance from the Federal and State Government for any impact on the proposed arrangements for the Meeting. If any changes are required, the Company will advise Shareholders by way of announcement on ASX and the details will also be made available on our website at <https://fenixresources.com.au/>

The Company will advise Shareholders as soon as practicable, if any of the above circumstances change.

Authorised on behalf of the Board of Fenix Resources Limited by:

John Welborn
Non-Executive Chairman
Fenix Resources Limited

FENIX RESOURCES LIMITED

ACN 125 323 622

NOTICE OF GENERAL MEETING

The general meeting of the Company will be held at Grant Thornton, Central Park, Level 43, 152-158 St Georges Terrace Perth WA 6000 on 4 March 2022 at 10am (AWST).

*Fenix Resources Limited (**Company**) advises Shareholders that the general meeting (**Meeting**) will be held in compliance with any restrictions on public gatherings in Australia.*

Due to the evolving COVID-19 situation, it may not be possible for Shareholders to physically attend the Meeting. As a result, the Company strongly encourages all Shareholders to vote by directed proxy rather than attend the meeting in person. Proxy forms for the meeting should be lodged before 10.00am (AWST) on 2 March 2022.

If the above arrangements with respect to the Meeting change, Shareholders will be updated via the ASX Market Announcements Platform.

This Notice 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.

Should you wish to discuss any matter please do not hesitate to contact the Company Secretary by telephone on +61 8 9322 1587

FENIX RESOURCES LIMITED

ACN 125 323 622

NOTICE OF GENERAL MEETING

Notice is hereby given that the general meeting of shareholders of Fenix Resources Limited (**Company**) will be held at Grant Thornton Central Park, Level 43, 152-158 St Georges Terrace Perth WA 6000 on 4 March 2022 at 10am (AWST) (**Meeting**).

The Board is closely monitoring the rapidly changing coronavirus (COVID-19) pandemic. The health of the Company's Shareholders, employees and other stakeholders is of paramount importance.

The Directors strongly encourage all Shareholders to lodge Proxy Forms prior to the Meeting.

The Board will continue to monitor Australian Government restrictions on public gatherings. If it becomes necessary or appropriate to make alternative arrangements to those set out in this Notice, the Company will notify Shareholders accordingly via the Company's website at www.fenixresources.com.au and the ASX announcements platform.

The Explanatory Memorandum provides additional information on matters to be considered at the Meeting. The Explanatory Memorandum and the Proxy Form form part of this Notice.

The Directors have determined pursuant to regulation 7.11.37 of the *Corporations Regulations 2001* (Cth) that the persons eligible to vote at the Meeting are those who are registered as Shareholders on 2 March 2022 at 10am (AWST).

Terms and abbreviations used in this Notice (including the Explanatory Memorandum) are defined in Schedule 1.

AGENDA

1 Resolution 1 – Approval of Share Loan Plan

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

"That pursuant to and in accordance with Listing Rule 7.2 (Exception 13), section 259B(2) and section 260C(4) of the Corporations Act and for all other purposes, approval is given for the Company's Share Loan Plan, including approval to issue up to 20,000,000 Plan Shares, on the terms and conditions set out in the Explanatory Memorandum."

Voting Exclusion

The Company will disregard any votes cast in favour of this Resolution by or on behalf of any person who is eligible to participate in the Share Loan Plan, or an associate of those persons.

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

- (a) a person as proxy or attorney for a person who is entitled to vote on the Resolution, in accordance with directions given to the proxy or attorney to vote on the Resolution that way; or
- (b) the Chairperson of the Meeting as proxy or attorney for a person who is entitled to vote on the Resolution, in accordance with a direction given to the Chairperson to vote on the Resolution as the Chairperson decides; or

- (c) a holder acting solely in a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary provided the following conditions are met:
 - (i) the beneficiary provides written confirmation to the holder that the beneficiary is not excluded from voting, and is not an associate of a person excluded from voting, on the Resolution; and
 - (ii) the holder votes on the Resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

Voting Prohibition Statement

In accordance with section 250BD of the Corporations Act, a vote on this Resolution must not be cast by a person appointed as a proxy, where that person is either a member of the Key Management Personnel or a Closely Related Party of such member.

However, a vote may be cast by such person if the vote is not cast on behalf of a person who is excluded from voting on this Resolution, and:

- (a) the person is appointed as proxy by writing that specifies the way the proxy is to vote on the Resolution; or
- (b) the person appointed as proxy is the Chairperson and the written appointment of the Chairperson does not specify the way the Chairperson is to vote on this Resolution, but expressly authorises the Chairperson to exercise the proxy even if this Resolution is connected directly or indirectly with the remuneration of a member of the Key Management Personnel.

2 Resolution 2 – Approval to issue Plan Shares to Mr John Welborn

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

"That, subject to Resolution 1 being approved, pursuant to and in accordance with Listing Rule 10.14, section 260B, section 200E and Chapter 2E of the Corporations Act, and for all other purposes, Shareholders approve the issue of up to 10,000,000 Plan Shares to Mr John Welborn, a Director, (and/or his nominee) and the Chairman's Share Loan on the terms and conditions in the Explanatory Memorandum."

Voting Exclusion

The Company will disregard any votes cast in favour of this Resolution by or on behalf of any person referred to in Listing Rule 10.14.1, 10.14.2 or 10.14.3 who is eligible to participate in the Share Loan Plan, and any associates of those persons.

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

- (a) a person as proxy or attorney for a person who is entitled to vote on the Resolution, in accordance with directions given to the proxy or attorney to vote on the Resolution that way; or
- (b) the Chairperson of the Meeting as proxy or attorney for a person who is entitled to vote on the Resolution, in accordance with a direction given to the Chairperson to vote on the Resolution as the Chairperson decides; or
- (c) a holder acting solely in a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary provided the following conditions are met:

- (i) the beneficiary provides written confirmation to the holder that the beneficiary is not excluded from voting, and is not an associate of a person excluded from voting, on the Resolution; and
- (ii) the holder votes on the Resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

Voting Prohibition Statement

In accordance with section 250BD of the Corporations Act, a vote on this Resolution must not be cast by a person appointed as a proxy, where that person is either a member of the Key Management Personnel or a Closely Related Party of such member.

However, a vote may be cast by such person if the vote is not cast on behalf of a person who is excluded from voting on this Resolution, and:

- (a) the person is appointed as proxy by writing that specifies the way the proxy is to vote on the Resolution; or
- (b) the person appointed as proxy is the Chairperson and the written appointment of the Chairperson does not specify the way the Chairperson is to vote on this Resolution, but expressly authorises the Chairperson to exercise the proxy even if this Resolution is connected directly or indirectly with the remuneration of a member of the Key Management Personnel.

In accordance with section 224 of the Corporations Act, the Company will disregard any votes cast on this Resolution by or on behalf of Mr Welborn or any associate.

However, a person described above may cast a vote on this Resolution if:

- (a) it is cast as a proxy appointed by writing that specifies how the proxy is to vote on the Resolution; and
- (b) it is not cast on behalf of the person or an associate of the person described above.

3 Resolution 3 – Increase aggregate fee pool for non-executive Directors

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

"That, for the purposes of Listing Rule 10.17, clause 14.8(f) of the Company's Constitution and all other purposes, the aggregate amount of fees that may be paid to non-executive Directors as a whole for the years from and including the year commencing 1 July 2021 be increased from \$300,000 per annum to \$500,000 per annum (being an increase of \$200,000) on the terms and conditions set out in the Explanatory Memorandum."

Voting Exclusion

The Company will disregard any votes cast in favour of this Resolution by or on behalf of a Director or any of their associates.

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

- (a) a person as proxy or attorney for a person who is entitled to vote on the Resolution, in accordance with directions given to the proxy or attorney to vote on the Resolution that way; or

- (b) the Chairperson of the Meeting as proxy or attorney for a person who is entitled to vote on the Resolution, in accordance with a direction given to the Chairperson to vote on the Resolution as the Chairperson decides; or
- (c) a holder acting solely in a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary provided the following conditions are met:
 - (i) the beneficiary provides written confirmation to the holder that the beneficiary is not excluded from voting, and is not an associate of a person excluded from voting, on the Resolution; and
 - (ii) the holder votes on the Resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

Voting Prohibition Statement

In accordance with section 250BD of the Corporations Act, a vote on this Resolution must not be cast by a person appointed as a proxy, where that person is either a member of the Key Management Personnel or a Closely Related Party of such member.

However, a vote may be cast by such person if the vote is not cast on behalf of a person who is excluded from voting on this Resolution, and:

- (a) the person is appointed as proxy by writing that specifies the way the proxy is to vote on the Resolution; or
- (b) the person appointed as proxy is the Chairperson and the written appointment of the Chairperson does not specify the way the Chairperson is to vote on this Resolution, but expressly authorises the Chairperson to exercise the proxy even if this Resolution is connected directly or indirectly with the remuneration of a member of the Key Management Personnel.

Dated: 2 February 2022

By order of the Board



John Welborn

Non-Executive Chairman

FENIX RESOURCES LIMITED

ACN 125 323 622

EXPLANATORY MEMORANDUM

1 Introduction

This Explanatory Memorandum has been prepared for the information of Shareholders in connection with the business to be conducted at the Meeting.

This Explanatory Memorandum should be read in conjunction with and forms part of the Notice. The purpose of this Explanatory Memorandum is to provide information to Shareholders in deciding whether or not to pass the Resolutions.

This Explanatory Memorandum includes the following information to assist Shareholders in deciding how to vote on the Resolutions:

Section 2	Action to be taken by Shareholders
Section 3	Resolution 1 – Approval of Share Loan Plan
Section 4	Resolution 2 – Approval to issue Plan Shares to Mr John Welborn
Section 5	Resolution 3 – Increase Aggregate Fee Pool for Non-Executive Directors
Schedule 1	Definitions
Schedule 2	Summary of the Share Loan Plan
Schedule 3	Summary of Loan Agreement
Schedule 4	Summary of Chairman's Share Loan agreement

A Proxy Form is located at the end of this Explanatory Memorandum.

2 Action to be taken by Shareholders

Shareholders should read the Notice including this Explanatory Memorandum carefully before deciding how to vote on the Resolutions.

2.1 Proxies

A Proxy Form is attached to the Notice. This is to be used by Shareholders if they wish to appoint a representative (a 'proxy') to vote in their place. All Shareholders are invited to attend the Meeting or, if they are unable to attend in person, sign and return the Proxy Form to the Company in accordance with the instructions thereon. Returning the Proxy Form will not preclude a Shareholder from attending and voting at the Meeting in person.

Please note that:

- (a) a member of the Company entitled to attend and vote at the Meeting is entitled to appoint a proxy;
- (b) a proxy need not be a member of the Company; and
- (c) a member of the Company entitled to cast two or more votes may appoint two proxies and may specify the proportion or number of votes each proxy is appointed to exercise. Where the proportion or number is not specified, each proxy may exercise half of the votes.

Proxy Forms must be received by the Company no later than 10am (AWST) on 2 March 2022.

The Proxy Form provides further details on appointing proxies and lodging Proxy Forms.

2.2 Attendance at Meeting

The Company advises Shareholders that the Meeting will be held in compliance with any government restriction on gatherings in Australia (and/or Western Australia). Due to the evolving COVID-19 situation, the Company strongly encourages all Shareholders to vote by directed proxy rather than attend the meeting in person.

If it becomes necessary or appropriate to make alternative arrangements to those detailed in this Notice, Shareholders will be updated via the ASX announcements platform and on the Company's website at www.fenixresources.com.au.

3 Resolution 1 – Approval of the Share Loan Plan

3.1 Background and General Information

On 9 November 2020, Shareholders approved a performance rights plan (**Performance Rights Plan**), which provides a framework by which the Company may issue Equity Securities to attract, motivate and retain key Directors, employees and consultants and provide them with the opportunity to participate in the future growth of the Company.

Since the Performance Rights Plan was approved by Shareholders, the Company has sought approval to issue performance rights to a Director on two occasions and on both occasions received feedback from Shareholders that the proposed issue did not provide sufficient alignment with the strategic goals and targets of the Company. As a result no performance rights have been issued to Directors under the Performance Rights Plan.

Following the engagement of an independent remuneration specialist to review the Executive and Board remuneration framework, and comprehensive engagement with Shareholders, the Company has decided to propose the approval of the Share Loan Plan to enable the Company to offer additional rewards to Directors for providing their dedicated and ongoing commitment and effort to the Company.

Resolution 1 seeks approval for the Company to implement the Share Loan Plan. The Share Loan Plan is a reward plan designed specifically to incentivise Directors to enable direct participation in the Company as a Shareholder and create a stronger link between increasing Shareholder value and personnel reward.

If Resolution 1 is passed, the Company intends to use the Performance Rights Plan exclusively for employees and consultants, while the Share Loan Plan will be used for the purposes of attracting, motivating and retaining key Directors.

Resolution 1 is an ordinary resolution.

The Chairperson intends to exercise all available proxies in favour of Resolution 1.

3.2 **Summary of the Share Loan Plan**

The Share Loan Plan enables the Company to make an interest-free limited recourse loan to a Director to enable the Director to acquire shares in the Company at approximately market value with no discount.

Loan funded share plans are a common alternative to more traditional incentive schemes for directors (such as option schemes or performance rights plans), and are increasingly seen as having better alignment with shareholder value and providing significant tax advantages. The Share Loan Plan is structured so that any increase in the share price of the Plan Shares issued will be a net gain to the participating Director after repayment of the loan.

The Company may apply a Holding Lock to the Plan Shares and may impose vesting conditions on any Plan Shares granted. A Plan Share may be forfeited in certain circumstances, including where the Director fails to repay the Loan Balance.

From a participating Director's perspective, the Share Loan Plan enables the Director to acquire Shares at approximate market price funded by an interest-free limited recourse loan.

From the Company's perspective the Share Loan Plan enables the Company to provide an aligned incentive to participating Directors to own Shares in circumstances where the Shares will only provide a benefit to the Director if the Share price increases from the value at acquisition and when the loan is fully repaid. The provision by the Company of the Loan Amount is a cash neutral transaction in that it does not require any cash outflow from the Company as the Loan Amount is equal to the acquisition value of the Plan Shares issued to the Director at approximate market price.

A summary of the material terms of the Share Loan Plan is set out at Schedule 2.

3.3 **Listing Rules 7.1 and 7.2 (Exception 13)**

Listing Rule 7.1 provides that a company must not, subject to express exceptions, without the approval of shareholders, issue or agree to issue during any 12 month period any Equity Securities, if the number of those securities exceeds 15% of the number of ordinary securities on issue at the commencement of that 12 month period (**Placement Capacity**).

Listing Rule 7.2, Exception 13 provides an exemption from Listing Rule 7.1. The effect of Shareholder approval under Listing Rule 7.2, Exception 13 is that any issues of Plan Shares under the Share Loan Plan are treated as having been made with the approval of Shareholders for the purposes of Listing Rule 7.1. Approval under Listing Rule 7.2, Exception 13 is valid for a period of three years.

3.4 **Section 259B(2) of the Corporations Act**

Section 259B of the Corporations Act provides that a company is prohibited from taking security over shares in itself or a company it controls, subject to certain exemptions.

One exemption is where the company takes security over shares in itself under an employee share scheme that has been approved by a resolution passed at a general meeting of the company.

The terms of the Share Loan Plan provide that the Company may take security over the Plan Shares issued to executive Directors in respect of which a Loan Amount is outstanding and the Company shall be entitled to sell those Plan Shares to recover any amounts owed under a loan in accordance with the terms of the Share Loan Plan. Accordingly, the Board seeks Shareholder approval for the purposes of section 259B(2) of the Corporations Act to approve the Share Loan Plan, which includes the ability of the Company to take security over the Plan Shares.

3.5 **Part 2J.3 of the Corporations Act**

Section 260A of the Corporations Act states that the Company may financially assist a person to acquire Plan Shares only if:

- (a) giving the assistance does not materially prejudice the interests of the Company or its Shareholders or the Company's ability to pay its creditors;
- (b) the assistance is approved the Shareholders under section 260B of the Corporations Act; or
- (c) the assistance is exempt under section 260C of the Corporations Act.

Section 260C(4) of the Corporations Act provides that financial assistance is exempt from section 260A of the Corporations Act if it is given under an 'employee share scheme' that has been approved by a resolution passed at a general meeting of the company.

The Share Loan Plan falls within the definition of an 'employee share scheme' for the purposes of the Corporations Act. The terms of the Share Loan Plan provide that the Company may provide a loan to the Eligible Person to assist with their acquisition of Plan Shares, which will constitute 'financial assistance' for the purposes of Part 2J.3 of the Corporations Act. Accordingly, the Board seek Shareholder approval under section 260C(4) of the Corporations Act to exempt the Share Loan Plan from section 260A of the Corporations Act.

3.6 **Effect of the Resolution**

Resolution 1 seeks Shareholder approval to enable the Company to:

- (a) issue securities under the Share Loan Plan in reliance of Listing Rule 7.2 Exception 13;
- (b) to permit the Company to take security over Plan Shares pursuant to section 259B(2) of the Corporations Act; and
- (c) to permit the Company to give financial assistance to Eligible Persons in the form of an interest free, limited recourse loan to acquire Plan Shares in accordance with the Share Loan Plan pursuant to section 260C(4) of the Corporations Act.

If Resolution 1 is passed, the issue of Plan Shares under the Share Loan Plan over the 3 years after the date of the Meeting will be excluded from the calculation of the Company's Placement Capacity. The Company will also be permitted to take security over the Plan Shares and give financial assistance to certain Eligible Persons in accordance with the Share Loan Plan.

It should be noted that if Resolution 1 is passed, the Company will still require Shareholder approval prior to the issue of Plan Shares to any Director or a related party (or any of their associates) pursuant to Listing Rule 10.14.

If Resolution 1 is not passed, the issue of Plan Shares under the Share Loan Plan will be included in the calculation of the Company's Placement Capacity and the Company will not be permitted to take security over any Plan Shares issued. The Company would also not be able to give financial assistance, in the form of loans, to Eligible Persons and Eligible Persons would be required to source their own funding to acquire the Plan Shares.

3.7 **Specific information required by Listing Rule 7.2 Exception 13**

Pursuant to, and in accordance with, Listing Rule 7.2 Exception 13 the following information is provided:

- (a) a summary of the Share Loan Plan is set out in Schedule 2;

- (b) the Share Loan Plan has not previously been approved by Shareholders. The Company has an existing employee securities incentive plan, the Performance Rights Plan, which was approved by Shareholders on 9 November 2020.

The Company has not issued any Equity Securities under the Performance Rights Plan.

- (c) the maximum number of Plan Shares proposed to be issued under the Share Loan Plan (other than issues approved by Shareholders under Listing Rule 10.14) following Shareholder approval under this Resolution 1 is equal to 20,000,000 Plan Shares; and
- (d) a voting exclusion statement has been included in the Notice for Resolution 1.

3.8 Board recommendation

The Board recommends that Shareholder vote in favour of Resolution 1 to enable the Company to implement an incentive framework for Directors whereby Directors can purchase Shares in the Company at the approximate market price funded by a cash-neutral interest-free limited recourse loan provided by the Company.

4 Resolution 2 – Approval to issue Plan Shares to Mr John Welborn

4.1 Background and General Information

Resolution 2 seeks Shareholder approval for the issue of 10,000,000 Plan Shares at an issue price of \$0.23 per Plan Share (being the approximate market price of the Company's Shares as at the date of Mr Welborn's appointment as a Director of the Company on 16 November 2021) to Mr John Welborn (**Chairman's Placement Shares**), and grant of an unsecured loan provided to Mr Welborn to fund the acquisition of the Chairman's Placement Shares.

On 16 November 2021, the Company announced the appointment of Mr Welborn as a non-executive Director and Chairman of the Board. The appointment of Mr Welborn followed an extensive search for a highly regarded mining company director with relevant experience in iron ore and delivering strong strategic growth for Shareholders.

As part of his appointment in November 2021, and subject to Shareholder approval, Mr Welborn agreed to subscribe for the Chairman's Placement Shares. To facilitate Mr Welborn's acquisition of the Chairman's Placement Shares, the Company agreed to provide Mr Welborn with a limited recourse, interest free, unsecured loan of \$2,300,000 (**Chairman's Share Loan**).

The Chairman's Share Loan is unsecured due to the prohibition in section 259B(1) of the Corporations Act (refer to Section 3.4 for further details), which prohibits the Company from taking security over the Chairman's Placement Shares pursuant to the Share Loan Plan as Mr Welborn is a non-executive Director.

The Chairman's Share Loan agreement, which is summarised in Schedule 4, includes the circumstances upon which Mr Welborn must repay the loan, the limited recourse nature of the loan, the circumstances upon which Mr Welborn will forfeit the Chairman's Placement Shares (i.e. upon failure to repay the Chairman's Share Loan), restrictions on the sale of the Chairman's Placement Shares, and details of a Holding Lock to be applied to the Chairman's Placement Shares.

Resolution 2 is an ordinary resolution.

The Chairperson intends to exercise all available proxies in favour of Resolution 2.

4.2 **Listing Rule 10.14**

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

Approval pursuant to Listing Rule 7.1 is not required in order to issue the Chairman's Placement Shares as approval is being sought under Listing Rule 10.14. Accordingly, the issue of the Chairman's Placement Shares will not be included in the calculation of the Company's Placement Capacity.

4.3 **Part 2J.3 of the Corporations Act**

Refer to Section 3.5 for an explanation of section 260A of the Corporations Act.

The Board (excluding Mr Welborn) has resolved to provide Mr Welborn with the Chairman's Share Loan to enable Mr Welborn to acquire the Chairman's Placement Shares pursuant to the Share Loan Plan (subject to Shareholder approval). The Board has resolved that the giving of this assistance does not materially prejudice the interests of the Company or its Shareholder, or the Company's ability to pay its creditors.

The Board (excluding Mr Welborn) considers that:

- (a) giving the assistance is in the best interests of the Company and its Shareholders, because it increases the alignment of the interests of Mr Welborn and Shareholders, rewards Mr Welborn for the creation of Shareholder wealth, and therefore creates incentives for Mr Welborn to strive to ensure the Company performs for the benefit of all its Shareholders; and
- (b) the terms and conditions do not materially prejudice the interests of the Company and its Shareholders or the Company's ability to pay its creditors because the costs of providing the Chairman's Share Loan are relatively small and are outweighed by the benefit of alignment of interests that is achieved under the Share Loan Plan.

4.4 **Section 200B of the Corporations Act**

The Corporations Act restricts the benefits which can be given to individuals who hold a managerial or executive office (as defined in the Corporations Act) in connection with the retirement from their position of employment in the company or its related bodies corporate. A person who holds a managerial or executive office includes a member of Key Management Personnel. Mr Welborn, by virtue of his position as a Director, is part of the Company's Key Management Personnel.

In accordance with section 200B of the Corporations Act, to give a benefit in connection with a person's retirement from an office, the Company must obtain the approval of Shareholders in the manner set out in section 200E of the Corporations Act.

A benefit includes the exercise of a discretion to allow a person to maintain a benefit they would not otherwise be entitled to retain, on, or as a result of, retirement from their position of employment in the company.

The Board has formed the view that the exercise of the Board's discretion to extend the Repayment Date of the Chairman's Share Loan and the Board's discretion to forgive the whole, or part of, the Chairman's Share Loan if Mr Welborn ceases to be engaged by the Group may constitute a benefit for the purposes of section 200B of the Corporations Act.

Resolution 2 seeks Shareholder approval for the issue of the Chairman's Placement Shares, and grant of the Chairman's Share Loan to Mr Welborn.

Accordingly, Resolution 2 seeks Shareholder approval for the purposes of section 200E for any potential retirement benefits which may arise in relation to the Chairman's Placement Shares and Chairman's Share Loan granted to Mr Welborn.

4.5 Chapter 2E of the Corporations Act

Chapter 2E of the Corporations Act requires that for a public company, or an entity that the public company controls, to give a financial benefit to a related party of the public company, the public company or entity must:

- (a) obtain the approval of the public company's members in the manner set out in sections 217 to 227 of the Corporations Act; and
- (b) give the benefit within 15 months following such approval, unless the giving of the financial benefit falls within an exception set out in section 210 to 216 of the Corporations Act.

A "related party" includes a Director of the Company, and "giving a financial benefit" is interpreted broadly. The entitlement to be granted the Chairman's Placement Shares and the Chairman's Share Loan constitute the giving of a financial benefit as Mr Welborn is a related party of the Company by reason of being a Director.

The Company has determined to seek Shareholder approval for the purposes of Chapter 2E for the issue of the Chairman's Placement Shares and Chairman's Share Loan to Mr Welborn (and/or his nominee).

4.6 Effect of the Resolution

Resolution 2 is being put to Shareholders to seek approval for the issue of Chairman's Placement Shares and to grant the Chairman's Share Loan to Mr Welborn pursuant to Listing Rule 10.14, section 260B, section 200B and Chapter 2E of the Corporations Act.

If Resolution 2 is passed, the Company will be permitted to issue the Chairman's Placement Shares and provide financial assistance, in the form of the Chairman's Share Loan, to Mr Welborn.

If Resolution 2 is not passed, the Company will not be permitted to issue the Chairman's Placement Shares and will not be able to provide financial assistance, in the form of the Chairman's Share Loan, to Mr Welborn.

4.7 Specific information required by Listing Rule 10.15

Pursuant to, and in accordance with, Listing Rule 10.15 the following information is provided:

- (a) the Company proposes to issue the Chairman's Placement Shares to Mr John Welborn (and/or his nominee);
- (b) Mr Welborn is a related party by virtue of his position as Director and falls within the category of Listing Rule 10.14.1;
- (c) the maximum number of securities to be issued to Mr Welborn (and/or his nominee) is 10,000,000 Plan Shares;
- (d) Mr Welborn's current total remuneration is \$80,000 per annum;
- (e) Mr Welborn has not previously been issued any Plan Shares under the Share Loan Plan;
- (f) the Chairman's Placement Shares shall be issued to Mr Welborn no later than 3 years after the date of this Meeting;
- (g) the Chairman's Placement Shares shall be issued at an issue price of \$0.23 per Plan Share;

- (h) a summary of the Share Loan Plan is set out in Schedule 2;
- (i) a summary of the Chairman's Share Loan agreement is set out in Schedule 4;
- (j) details of any Plan Shares issued under the Share Loan Plan will be published in the annual report of the Company relating to the period in which they were issued, along with a statement that approval for the issue was obtained under Listing Rule 10.14;
- (k) any additional persons covered by Listing Rule 10.14 who become entitled to participate in an issue of Plan Shares under the Share Loan Plan after Resolution 2 is approved and who were not named in this Notice will not participate until approval is obtained under Listing Rule 10.14; and
- (l) a voting exclusion statement has been included in the Notice for Resolution 2.

4.8 **Specific information required by Section 200E of the Corporations Act**

Pursuant to, and in accordance with, the requirements of section 200E of the Corporations Act, the following information is provided:

- (a) the value of the benefit relating to the Chairman's Placement Shares held by Mr Welborn and the Chairman's Share Loan that may arise in connection his retirement from a managerial or executive office cannot be presently ascertained. However, matters, events and circumstances that will, or are likely to, affect the calculation of that value include:
 - (i) the Board exercising its discretion to extend the Repayment Date of the Chairman's Share Loan; and
 - (ii) the Board exercising a discretion to forgive the whole, or part of, the Chairman's Share Loan,
 where Mr Welborn ceases to be engaged by the Group; and
- (b) the value of the benefit at the relevant time based on the above factors will be the value of the outstanding Loan Balance at the time Mr Welborn cease to be engaged by the Group, however the maximum value of the benefit will be \$2,300,000 (being the total value of the Chairman's Share Loan).

4.9 **Specific information required by Chapter 2E of the Corporations Act**

Pursuant to, and in accordance with, the requirements of section 219 of the Corporations Act, the following information is provided in relation to proposed grant of financial benefits:

- (a) Mr Welborn is a related party of the Company by virtue of his position as Director;
- (b) the financial benefits proposed to be given to Mr Welborn are:
 - (i) the issue of up to 10,000,000 Plan Shares at an issue price of \$0.23 per Plan Share; and
 - (ii) an unsecured, interest free, limited recourse loan up to \$2,300,000;
- (c) in the last 12 months the Company's Share price at its highest was \$0.38, at its lowest was \$0.21 and currently is \$0.215 (as at 27 January 2022, being the last practical date prior to the finalisation of this Notice);
- (d) based on the value of the Company's Shares in the last 12 months and compared to the value of a loan granted at the Reserve Bank of Australia interest rate of 0.10% p.a on a non-compounding basis (assuming a 10 year loan term), the value of the Chairman's Placement Shares and Chairman's Share Loan Plan (and therefore the potential value of the full benefit to Mr Welborn (or his nominee)) is as follows:

Share Price	Value of Chairman's Placement Shares	Value of Chairman's Share Loan	Potential Net Value to Mr Welborn of Placement Shares	Interest benefit to Mr Welborn of Share Loan	Value of potential full benefit to Mr Welborn
Lowest \$0.21	\$2,100,000	-\$2,300,000	\$0	\$23,000	\$23,000
Highest \$0.38	\$3,800,000	-\$2,300,000	\$1,500,000	\$23,000	\$1,523,000
Last (as at 27 January 2022) \$0.215	\$2,150,000	-\$2,300,000	\$0	\$23,000	\$23,000

- (e) the current remuneration package of Mr Welborn is \$80,000 per annum;
- (f) the current security holdings of Mr Welborn (and/or his nominee) in the Company are 1,500,000 Shares;
- (g) Mr Welborn declines to make a recommendation to Shareholders in relation to Resolution 2 as he has a material personal interest in the outcome of Resolution 2;
- (h) the Company's other Directors, Mr Rob Brierly and Mr Garry Plowright, recommend that Shareholders vote in favour of Resolution 2, for the following reasons:
 - (i) the giving of the Chairman's Placement Shares and Chairman's Share Loan presents an opportunity for the Company to increase the alignment of the interests of Mr Welborn and Shareholders;
 - (ii) the Share Placement and Share Loan to Mr Welborn result in a cash neutral transaction for the Company and are designed to benefit Mr Welborn only in circumstances where there has been an improvement in the Company's Share price; and
 - (iii) the terms and conditions of the Chairman's Placement Shares and Chairman's Share Loan do not materially prejudice the interests of the Company and its Shareholders or the Company's ability to pay its creditors;
- (i) Messers Rob Brierley and Garry Plowright do not have an interest in the outcome of Resolution 2;
- (j) if the Chairman's Placement Shares are issued, this will increase the number of Shares on issue from 502,213,920 Shares (being the total number of Shares on issue as at the date of this Notice) to 512,213,920 Shares (assuming no further issues of Shares and no convertible Equity Securities vest or are exercised) with the effect that the shareholding of existing Shareholders would be diluted by an aggregate of 1.99%;
- (k) a voting exclusion statement has been included in the Notice for Resolution 2; and
- (l) the Board is not aware of any other information that is reasonably required by Shareholders to allow them to make a decision on whether it is in the best interests of the Company to pass Resolution 2.

4.10 Board Recommendation

The Board (excluding Mr Welborn) recommend that Shareholders approve Resolution 2 .

5 Resolution 3 – Increase Aggregate Fee Pool for Non-Executive Directors

5.1 Background and General Information

Resolution 3 seeks Shareholder approval to increase the maximum total amount available for payment by way of remuneration to non-executive Directors from \$300,000 to \$500,000 per annum, being an increase of \$200,000.

The fee pool for non-executive Directors was last approved by Shareholders on 30 November 2010 when it was set at \$300,000.

In accordance with Listing Rule 10.17 and article 14.8(f) of the Constitution, the Company must not increase the total amount of non-executive Directors' fees payable by it and any of its child entities without Shareholder approval.

At the Company's annual general meeting held on 18 November 2021, the Company proposed to seek Shareholder approval to increase the maximum amount available for payment by way of remuneration to non-executive Directors from \$300,000 to \$500,000 per annum, being an increase of \$200,000. The resolution was narrowly defeated in the poll at the meeting by a margin of less than 2% of the more than 100 million votes received (49% in favour and 51% against).

Following this meeting, the Board consulted with Shareholders to gain an understanding of any concerns and views on non-executive Director remuneration. The feedback received indicated insufficient disclosure was provided to support the resolution and Shareholders wanted greater information on the need for an increase in the fee pool. Taking this feedback into account, the Board determined that additional disclosure should be provided, and that approval should again be sought to increase the available fee pool for non-executive directors.

Currently, the Company's Board consists of a total of three directors: one executive director and two non-executive directors. Mr Welborn, as non-executive Chairman, receives a fee of \$80,000 per annum including superannuation. Mr Plowright, as a non-executive Director, receives a fee of \$50,000 per annum including superannuation. Consequently, the aggregate amount of non-executive Director fees payable to the Company's non-executive Directors is currently \$130,000 per annum (inclusive of superannuation).

This amount includes superannuation contributions made by the Company for the benefit of non-executive Directors and any fees which a non-executive Director agrees to sacrifice for other benefits. It does not include reimbursement of genuine out of pocket expenses, genuine "special exertion" fees paid in accordance with the Constitution, or Equity Securities issued to a non-executive Director with Shareholder approval.

Notwithstanding that the current total amount is within the current fee pool limit, the Board believes, given the scale and complexity of current activity, and based on the progression of the Company to a producing iron ore miner during 2021, the appointment of additional non-executive directors is warranted, which is likely to require a larger fee pool.

While the current size of the Board is considered manageable, the appointment of one, or perhaps two, appropriately skilled non-executive Directors, is considered appropriate as it would provide greater support to management and add skills and capacity to the Board.

In order to allow for additional appointments, an increase in the current fee pool, set by Shareholders more than ten years ago, is required.

There is no current intention to increase the actual total fees paid to any individual non-executive director. The main purpose of the proposed resolution is to provide flexibility and capacity for additional appointments to the Board. As disclosed in the Company's Annual Report for the year ended 30 June 2021, payments to non-executive directors are reviewed

on an annual basis with assistance from the Company's remuneration consultants and within the Company's overall remuneration framework.

During 2021, the Board engaged a remuneration consultant to provide relevant market data and an analysis of the Company's aggregate non-executive director fee pool. The analysis of a relevant comparator group of 19 similar companies indicated a median fee pool of \$500,000, an average fee pool of \$562,667, and a 75% percentile fee pool of \$700,000. The median number of non-executive directors among the comparator group was four. On this basis an increase in the Company's fee pool to \$500,000 to enable additional appointments is considered appropriate and warranted.

The Board believes that the remuneration of the Directors must be maintained at a level consistent with similarly sized ASX listed companies, taking into account the time commitment of the role and Company performance. The increase in the aggregate remuneration pool sought by Resolution 3 is designed to:

- (a) accommodate an increase in the number of non-executive Directors, if such an increase is considered appropriate; and
- (b) allow for future increases in remuneration to current or future non-executive Directors should this be considered appropriate.

If Resolution 3 is passed, it will ensure the Company has adequate flexibility to increase the size of the Board or the remuneration of non-executive Directors, as and when the business of the Company requires.

If Resolution 3 is not passed, the Company will not increase the maximum total amount available for payment by way of remuneration to non-executive Directors, and the fee pool for non-executive Directors will remain set at \$300,000.

Resolution 3 is an ordinary resolution.

The Chairperson intends to exercise all available proxies in favour of Resolution 3.

5.2 **Article 14.8(f) of the Constitution and Listing Rule 10.17**

Article 14.7(f) of the Constitution provides that the remuneration of the Directors shall not be increased except pursuant to a resolution passed at a general meeting of the Company.

Listing Rule 10.17 provides that Shareholder approval is required to increase the total amount of Directors' fees payable by the Company. Listing Rule 10.17 does not apply to the salary of an executive Director. Listing Rule 10.17 requires that the following information be provided to Shareholders:

- (a) Shareholder approval is being sought to increase the fee pool by approximately \$200,000, which would increase the annual remuneration pool from \$300,000 to \$500,000;
- (b) subject to Shareholders approving Resolution 3, the maximum aggregate amount of Directors fees that may be paid to all of the Company's non-executive Directors will be \$500,000 per annum;
- (c) in the last 3 years, the following Equity Securities have been issued to non-executive Directors under Listing Rule 10.11 or 10.14 (with Shareholder approval):
 - (i) 10,000,000 unlisted Options (5,000,000 Options exercisable at \$0.06 and 5,000,000 Options exercisable at \$0.07) expiring 31 December 2021 issued to former non-executive Chairman, Mr Garrett Dixon (and/or his nominee); and

- (ii) subject to the passing of Resolutions 1 and 2, 10,000,000 Plan Shares at \$0.23 per Plan Share issued to non-executive Director, Mr John Welborn;
and;
- (d) a voting exclusion statement has been included in the Notice for Resolution 3.

5.3 **Board recommendation**

Given the interest of the Directors in this Resolution, the Board makes no recommendation to Shareholders regarding this Resolution 3.

Schedule 1

Definitions

In the Notice and this Explanatory Memorandum, words importing the singular include the plural and vice versa.

\$ means Australian Dollars;

ASX means ASX Limited (ACN 008 624 691) and, where the context permits, the Australian Securities Exchange operated by ASX.

AWST means Australian Western Standard Time, being the time in Perth, Western Australia.

Board means the board of Directors.

Borrower means an Eligible Person to whom the Company lends money to for the purposes of funding the purchase of Plan Shares.

Chairman's Placement Shares has the meaning given in Section 4.1.

Chairman's Share Loan has the meaning given in Section 4.1.

Chairperson means the person appointed to chair the Meeting, or any part of the Meeting, convened by the Notice.

Closely Related Party means:

- (a) a spouse or child of the member; or
- (b) has the meaning given in section 9 of the Corporations Act.

Company means Fenix Resources Limited ACN 125 323 622.

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

Director means a director of the Company.

Eligible Person means a Director who is entitled to participate in the Share Loan Plan.

Equity Security has the same meaning as in the Listing Rules.

Explanatory Memorandum means the explanatory memorandum which forms part of the Notice.

Forfeited Shares has the meaning given in Schedule 3.

Group means the Company and its Subsidiaries and **Group Company** means any of them.

Holding Lock has the same meaning as in section 2 of the ASX Settlement Rules issued by ASX Settlement Pty Limited or such other similar mechanism to prevent dealings with Plan Shares held by a Borrower.

Invitation means an invitation from the Board to an Eligible Person to participate in the Share Loan Plan.

Issue Price means the issue price for the Plan Shares specified in the Invitation.

Key Management Personnel means persons having authority and responsibility for planning, directing and controlling the activities of the Company, directly or indirectly, including any Director (whether executive or otherwise) of the Company.

Listing Rules means the listing rules of ASX.

Loan Agreement means the agreement entered into between the Company and the Borrower for the Loan Amount.

Loan Amount means a loan from the Company to a Borrower equal to the Issue Price for the Plan Shares.

Loan Balance means, in respect of the Borrower at any given time, the amount of their outstanding Loan Amount.

Meeting has the meaning in the introductory paragraph of the Notice.

Notice means the notice of meeting which comprises of the notice, agenda, Explanatory Memorandum and Proxy Form.

Option means an option which entitles the holder to subscribe for Shares.

Performance Rights Plan has the meaning given in Section 3.1.

Placement Capacity has the meaning given in Section 3.3.

Plan Shares means Shares issued to Eligible Persons under the Share Loan Plan.

Proxy Form means the proxy form attached to the Notice.

Relevant Interest has the meaning given to that term in the Corporations Act.

Repayment Date has the meaning given in Schedule 3.

Resolution means a resolution contained in the Notice.

Schedule means a schedule to this Explanatory Memorandum.

Section means a section of this Explanatory Memorandum.

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

Shareholder means a holder of Shares.

Share Loan Plan means the Fenix Resources Limited Share Loan Plan.

Subsidiary has the meaning given to that term in the Corporations Act.

Takeover Bid has the meaning given to that term in the Corporations Act.

Vesting Condition means, in relation to a Plan Share, any conditions described in the Invitation that must be satisfied before a Plan Share vests.

Schedule 2– Summary of the Share Loan Plan

A summary of the key terms of the Share Loan Plan is set out below:

- (a) **(Eligibility)** A person is eligible to participate in the Share Loan Plan if they are a Director of a Group Company.
- (b) **(Plan administration)** The Board is responsible for the operation of the Share Loan Plan and has a broad discretion to determine which Eligible Persons will be offered Plan Shares.
- (c) **(Plan size)** Unless the Board determines otherwise, the Company will not provide Plan Shares on acceptance of an Invitation if the total number of Plan Shares that would be held under the acceptance of the Invitation, when aggregated with the number of Plan Shares which were issued to all Eligible Persons in the previous three years under the Share Loan Plan would exceed 5% of the total number of issued Shares at that time.
- (d) **(Invitation)** The Board may from time to time determine that an Eligible Person may participate in the Share Loan Plan and make an Invitation to that Eligible Person to apply for Plan Shares on such terms and conditions as the Board decides. An Invitation must include:
 - (i) the name and address of the Eligible Person;
 - (ii) the total number of Plan Shares offered, or the manner in which the total number of Plan Shares are to be determined;
 - (iii) the date of the Invitation;
 - (iv) any Vesting Conditions applying to the Plan Shares (if any);
 - (v) the Issue Price for the Plan Shares, or the manner in which the Issue Price is to be determined;
 - (vi) the closing date for applications and the last date for acceptances by the Company;
 - (vii) the Loan and Loan Amount that is being offered in connection with the Plan Shares; and
 - (viii) any other terms and conditions of issue of the Plan Shares.
- (e) **(Plan Shares)** Each Plan Share shall be issued on the same terms and conditions as the Company's issued Shares (other than the transfer restrictions imposed by the Share Loan Plan or Loan Agreement) 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.
- (f) **(Registration of Plan Shares)** Plan Shares will be registered in the name of the Eligible Person or their nominee if approved by the Board.
- (g) **(Quotation)** As soon as practicable after the date of allotment of Plan Shares, the Company will apply for official quotation of the Plan Shares on the ASX.
- (h) **(Holding Lock)** The Company may apply a Holding Lock to the Plan Shares on the terms and conditions set out in the Loan Agreement.
- (i) **(Loans)** An Eligible Person 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 Plan Shares accepted by the Eligible Person, on the terms and conditions of the Loan Agreement summarised in Schedule 3.

- (j) **(Vesting conditions and change of control)** The Board may impose vesting conditions on any Plan Shares granted to Eligible Persons. The Board then has a discretion to determine that a Plan Share will become vested on such terms and conditions determined by the Board, if in the Board's opinion, one of the following events has occurred or is likely to occur:
- (i) a change in control of the Company;
 - (ii) where members of the Company approve any compromise or arrangement for the purpose of, or in connection with, a scheme for the reconstruction of the Company or its amalgamation with any other body corporate or bodies corporate (other than a scheme that does not involve a change in the ultimate beneficial ownership of the Company), which will, upon becoming effective, result in any person (either alone or together with its associates) owning more than fifty per cent (50%) of the issued share capital of the Company;
 - (iii) where a person becomes the legal or the beneficial owner of, or has a Relevant Interest in, more than fifty per cent (50%) of the issued share capital of the Company;
 - (iv) where a person becomes entitled to acquire, hold or has an equitable interest in more than fifty per cent (50%) of the issued share capital of the Company; and
 - (v) where a Takeover Bid is made to acquire more than fifty per cent (50%) of the issued share capital of the Company (or such lesser number of Shares that when combined with the Shares that the bidder (together with its associates) already owns will amount to more than 50% of the issued share capital of the Company) and the Takeover Bid becomes unconditional and the bidder (together with its associates) has a Relevant Interest in more than 50% of the issued share capital of the Company,
- but, for the avoidance of doubt, does not include any internal reorganisation of the structure, business and/or assets of the Group.
- (k) **(Restriction on sale)** Except as other provided in the Share Loan Plan or Loan Agreement, Eligible Persons must not sell or otherwise deal with, or grant a security interest over, the Plan Shares until the Plan Shares become vested.
- (l) **(Power of Attorney)** The Eligible Person irrevocably appoints each of the Company and its officers severally as their attorney to do all things necessary to complete and execute any documents or agreements to give effect to the terms and conditions of the Share Loan Plan, and do all acts, matters or things in the name of the Eligible Person which may be convenient or necessary for the purpose of giving effect to the provisions of the terms and conditions of the Share Loan Plan.

Schedule 3 – Summary of Loan Agreement

A summary of the key terms of the Loan Agreement is set out below:

- (a) **(Loan and permitted use)** The Company may advance a loan, being an amount equal to the Issue Price for the Plan Shares (**Loan Amount**), to the Eligible Person (hereby referred to as the **Borrower**) to be used to fund the purchase of the Plan Shares or any other purpose approved by the Board.
- (b) **(Interest free)** No interest is payable on the Loan Amount, unless specified in the Invitation.
- (c) **(Repayment)** Unless otherwise determined by the Board, the Borrower must repay the Loan Balance to the Company within 10 Business Days of the earlier of:
 - (i) the maturity date of the loan;
 - (ii) the date on which the Borrower:
 - (A) ceases to be employed or engaged by the Group; or
 - (B) where the Board has determined (in its absolute discretion) that the Borrower has engaged in serious misconduct;
 - (iii) the date of which the Borrower receives the proceeds from the disposal of the Plan Shares pursuant to rule 11.2 of the Share Loan Plan (Vesting on Change of Control) (refer to item 5.3(j) of Schedule 2) and the Borrower irrevocably appoints the Company as its attorney and agent to receive the proceeds on its behalf with authority to apply them towards the Borrower's obligations under Loan Agreement and Share Loan Plan;
 - (iv) the date on which the Borrower sells or attempts to sell a Plan Share other than in accordance with the Share Loan Plan; and
 - (v) the date on which the last Plan Share held by the Borrower is sold,(each a **Repayment Date**).

The Borrower may voluntarily repay all or part of the Loan Amount at any time prior to a Repayment Date.

- (d) **(Limited recourse)** If the Loan Balance becomes due and payable, the Borrower must repay as follows:
 - (i) if the Plan Shares have vested – the lessor of:
 - (A) the outstanding Loan Balance; and
 - (B) the market value of the Plan Shares acquired with the Loan Amount; or
 - (ii) if the applicable Plan Shares have not vested – the market value of the Plan Shares acquired with the Loan Amount (unless the Loan Amount has previously been repaid in full),

and the Company will accept such amounts in full and final satisfaction of all indebtedness and obligations due to it under this agreement.

- (e) **(Cash distributions)** For as long as there is a Loan Balance, the Borrower must apply 50% of all cash dividends and cash distributions in respect of Shares towards reduction of the Loan Balance.

- (f) **(Loan forgiveness)** In exceptional circumstances, including but not limited to the death of the Borrower or a change of control event, the Board may in its sole discretion waive the Company's right to repayment of all or part of the Loan Balance, in which case the Loan Balance is deemed to have been repaid in full for the purposes of this agreement.
- (g) **(No security interest)** During the term of the loan, until the Loan Balance is fully repaid to the Company, the Borrower must not grant, purport to grant, any security interest over any Plan Shares until the Loan Balance has been repaid to the Company in full.
- (h) **(Forfeiture)** A Plan Share will be forfeited on the Borrower's failure to repay the Loan outstanding Balance (**Forfeited Shares**). As soon as reasonably practicable after any Plan Shares become Forfeited Shares, and subject to the applicable laws, the Company must:
 - (i) sell or transfer those Forfeited Shares; or
 - (ii) deal with the Forfeited Shares in any other manner determined by the Company.

No consideration or compensation will be payable to a Borrower for or in relation to the forfeiture by the Borrower of ownership of the Plan Shares acquired with the Loan Amount. The Borrower (or its nominee) must do all things required by the Company to sell, transfer or otherwise deal with the Forfeited Shares.

Where Plan Shares become Forfeited Shares:

- (iii) the Borrower will be taken to have repaid the Loan Amount in full and is discharged from any further liability or obligation in respect of the Loan Amount;
 - (iv) no further amount will be repayable by the Borrower to the Company for the Loan Amount in respect of the Plan Shares; and
 - (v) no further amount will at any time be recoverable by the Company from the Borrower in respect of the Loan Amount.
- (i) **(Security)** To secure payment or delivery of the Loan Amount and for performance of the Borrower's obligations under the Loan Agreement, the Borrower grants a security interest in the Plan Shares to the Company. The security interest is a continuing security until the Company releases the Plan Shares from the security interest, despite any intermediate payment, discharge, settlement, release or other matter.
- The Borrower may require the Company to release some or all of the Plan Shares from the security interest if the Company is reasonably satisfied that:
- (i) the Loan Amount in respect of the relevant Plan Shares has been or will be irrevocably paid in full; and
 - (ii) the Borrower has complied with all of its obligations under the Loan Agreement.
- (j) **(Restrictions on sale)** The Borrower agrees not to sell or grant a security interest over a Plan Share, or purport to grant a security interest over a Plan Share, until that Plan Share becomes vested (or ownership of the Plan Shares has been forfeited).
 - (k) **(Holding Lock)** The Borrower requests, authorises and directs the Company's share registry to apply a Holding Lock to the Plan Shares, and agrees to do all things necessary to perfect the Holding Lock. The Company will release the Plan Shares from Holding Lock:

- (i) on the earlier of the maturity date and the repayment of the Loan Balance, or
 - (ii) upon written application by the Borrower to the Board requesting the release of the Holding Lock for all or some of the Plan Shares where the Board (acting reasonably) is satisfied with the arrangements that the Borrower has made for the repayment of the Loan Balance arising from any sale of the Plan Shares which are released from the Holding Lock.
- (l) **(Power of attorney)** The Borrower irrevocably appoints the Company, and any person nominated by the Company severally, as the Borrower's attorney to do all things necessary to give effect to any right, power or remedy conferred on the Group under the Loan Agreement, including to sell, transfer or dispose of the Plan Shares acquired with the Loan Amount.
- (m) **(Assignment)** The Company may assign its rights under the Loan Agreement. The Borrower may assign its rights, title, interest and obligations under the Loan Agreement with the prior written consent of the Company.

Schedule 4 – Summary of the Chairman's Share Loan agreement

A summary of the key terms of the Chairman's Share Loan is set out below:

- (a) **(Loan and permitted use)** The Company will advance a loan of \$2,300,000 to Mr Welborn to be used to fund the acquisition of the Chairman's Placement Shares.
- (b) **(Interest free)** No interest is payable on the Chairman's Share Loan.
- (c) **(Repayment)** Unless otherwise determined by the Board, Mr Welborn must immediately repay the Loan Balance to the Company on the earlier of:
 - (i) the maturity date of the loan, being 10 years from the date on which the Chairman's Placement Shares are issued to Mr Welborn (and/or his nominee);
 - (ii) the date on which Mr Welborn:
 - (A) ceases to be employed or engaged by the Group; or
 - (B) where the Board has determined (in its absolute discretion) that Mr Welborn has engaged in serious misconduct;
 - (iii) the date of which Mr Welborn receives the proceeds from the disposal of the Chairman's Placement Shares pursuant to rule 11.2 of the Share Loan Plan (Vesting on Change of Control) (refer to item 5.3(j) of Schedule 2) and Mr Welborn irrevocably appoints the Company as his attorney and agent to receive the proceeds on his behalf with authority to apply them towards Mr Welborn's obligations under Loan Agreement and Share Loan Plan;
 - (iv) the date on which Mr Welborn sells or attempts to sell a Welborn Share other than in accordance with the Share Loan Plan; and
 - (v) the date on which the last Welborn Share held by Mr Welborn is sold,(each a **Repayment Date**).

Mr Welborn may repay all or part of the Chairman's Share Loan at any time prior to a Repayment Date.

- (d) **(Limited recourse)** If the Loan Balance becomes due and payable, Mr Welborn must repay the lessor of:
 - (A) the outstanding Loan Balance; and
 - (B) the market value of the Chairman's Placement Shares acquired with the Chairman's Share Loan;

and the Company will accept such amounts in full and final satisfaction of all indebtedness and obligations due to it under the Loan Agreement.

- (e) **(Cash distributions)** For as long as there is a Loan Balance, Mr Welborn must apply 50% of all cash dividends and cash distributions in respect of Shares (less any income tax payable at the highest marginal rate of tax) towards reduction of the Loan Balance.
- (f) **(Loan forgiveness)** In exceptional circumstances, including but not limited to the death of the Borrower or a change of control event, the Board may in its sole discretion waive the Company's right to repayment of all or part of Chairman's Share Loan, in which case the Chairman's Share Loan is deemed to have been repaid in full for the purposes of the Loan Agreement.

- (g) **(No security interest)** During the term of the Chairman's Share Loan, until Chairman's Share Loan is fully repaid to the Company, Mr Welborn must not grant, purport to grant, any security interest over any Chairman's Placement Shares until the Chairman's Share Loan has been repaid to the Company in full.
- (h) **(Forfeiture)** A Welborn Share will be forfeited on Mr Welborn's failure to repay the outstanding balance of the Chairman's Share Loan (**Forfeited Shares**). As soon as reasonably practicable after any Chairman's Placement Shares become Forfeited Shares, and subject to the applicable laws, the Company must:

- (i) sell or transfer those Forfeited Shares; or
- (ii) deal with the Forfeited Shares in any other manner determined by the Company.

No consideration or compensation will be payable to Mr Welborn for or in relation to the forfeiture by Mr Welborn of ownership of the Chairman's Placement Shares acquired with the Chairman's Share Loan. Mr Welborn (and/or his nominee) must do all things required by the Company to sell, transfer or otherwise deal with the Forfeited Shares.

Where Chairman's Placement Shares become Forfeited Shares:

- (iii) Mr Welborn will be taken to have repaid the Chairman's Share Loan in full and is discharged from any further liability or obligation in respect of the Chairman's Share Loan;
- (iv) no further amount will be repayable by Mr Welborn to the Company for the Chairman's Share Loan in respect of the Chairman's Placement Shares; and
- (v) no further amount will at any time be recoverable by the Company from Mr Welborn in respect of the Chairman's Share Loan.
- (i) **(Restrictions on sale)** Mr Welborn agrees not to sell or grant a security interest over a Welborn Share, or purport to grant a security interest over a Welborn Share, until that Welborn Share becomes vested (or ownership of the Chairman's Placement Shares has been forfeited).
- (j) **(Holding Lock)** Mr Welborn requests, authorises and directs the Company's share registry to apply a Holding Lock to the Chairman's Placement Shares, and agrees to do all things necessary to perfect the Holding Lock. The Company will release the Chairman's Placement Shares from Holding Lock:
 - (i) on the earlier of the maturity date and the repayment of the Chairman's Share Loan, or
 - (ii) upon written application by Mr Welborn to the Board requesting the release of the Holding Lock for all or some of the Chairman's Placement Shares where the Board (acting reasonably) is satisfied with the arrangements that Mr Welborn has made for the repayment of the Chairman's Share Loan arising from any sale of the Chairman's Placement Shares which are released from the Holding Lock.
- (k) **(Power of attorney)** Mr Welborn irrevocably appoints the Company, and any person nominated by the Company severally, as Mr Welborn's attorney to do all things necessary to give effect to any right, power or remedy conferred on the Group under the Loan Agreement, including to sell, transfer or dispose of the Chairman's Placement Shares acquired with the Chairman's Share Loan.
- (l) **(Assignment)** The Company may assign its rights under the Loan Agreement. Mr Welborn may assign his rights, title, interest and obligations under the Loan Agreement with the prior written consent of the Company.



FENIX RESOURCES LIMITED | ACN 125 323 622

Proxy Voting Form

If you are attending the meeting
in person, please bring this with you
for Securityholder registration.

Holder Number:

Your proxy voting instruction must be received by **10.00am (AWST) on Wednesday, 2 March 2022**, being **not later than 48 hours** before the commencement of the Meeting. Any Proxy Voting instructions received after that time will not be valid for the scheduled Meeting.

SUBMIT YOUR PROXY VOTE ONLINE

Vote online at <https://investor.automic.com.au/#/loginsah>

Login & Click on 'Meetings'. Use the Holder Number as shown at the top of this Proxy Voting form.

- ✓ **Save Money:** help minimise unnecessary print and mail costs for the Company.
- ✓ **It's Quick and Secure:** provides you with greater privacy, eliminates any postal delays and the risk of potentially getting lost in transit.
- ✓ **Receive Vote Confirmation:** instant confirmation that your vote has been processed. It also allows you to amend your vote if required.



SUBMIT YOUR PROXY VOTE BY PAPER

Complete the form overleaf in accordance with the instructions set out below.

YOUR NAME AND ADDRESS

The name and address shown above is as it appears on the Company's share register. If this information is incorrect, and you have an Issuer Sponsored holding, you can update your address through the investor portal: <https://investor.automic.com.au/#/home> Shareholders sponsored by a broker should advise their broker of any changes.

STEP 1 – APPOINT A PROXY

If you wish to appoint someone other than the Chair of the Meeting as your proxy, please write the name of that Individual or body corporate. A proxy need not be a Shareholder of the Company. Otherwise if you leave this box blank, the Chair of the Meeting will be appointed as your proxy by default.

DEFAULT TO THE CHAIR OF THE MEETING

Any directed proxies that are not voted on a poll at the Meeting will default to the Chair of the Meeting, who is required to vote these proxies as directed. Any undirected proxies that default to the Chair of the Meeting will be voted according to the instructions set out in this Proxy Voting Form, including where the Resolutions are connected directly or indirectly with the remuneration of KMP.

STEP 2 - VOTES ON ITEMS OF BUSINESS

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

APPOINTMENT OF SECOND PROXY

You may appoint up to two proxies. If you appoint two proxies, you should complete two separate Proxy Voting Forms and specify the percentage or number each proxy may exercise. If you do not specify a percentage or number, each proxy may exercise half the votes. You must return both Proxy Voting Forms together. If you require an additional Proxy Voting Form, contact Automic Registry Services.

SIGNING INSTRUCTIONS

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

Joint holding: Where the holding is in more than one name, all Shareholders 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 Proxy Voting Form when you return it.

Companies: To be signed in accordance with your Constitution. Please sign in the appropriate box which indicates the office held by you.

Email Address: Please provide your email address in the space provided.

By providing your email address, you elect to receive all communications despatched by the Company electronically (where legally permissible) such as a Notice of Meeting, Proxy Voting Form and Annual Report via email.

CORPORATE REPRESENTATIVES

If a representative of the corporation is to attend the Meeting the appropriate 'Appointment of Corporate Representative' should be produced prior to admission. A form may be obtained from the Company's share registry online at <https://automic.com.au>.

SIGNATURE OF SECURITYHOLDERS – THIS MUST BE COMPLETED		
Individual or Securityholder 1	Securityholder 2	Securityholder 3
Sole Director and Sole Company Secretary	Director	Director / Company Secretary
Contact Name:		
Email Address:		
Contact Daytime Telephone		
		Date (DD/MM/YY)
		<div style="display: inline-block; width: 30px; height: 30px; border: 1px solid black;"></div> <div style="display: inline-block; width: 30px; height: 30px; border: 1px solid black;"></div> / <div style="display: inline-block; width: 30px; height: 30px; border: 1px solid black;"></div> <div style="display: inline-block; width: 30px; height: 30px; border: 1px solid black;"></div> / <div style="display: inline-block; width: 30px; height: 30px; border: 1px solid black;"></div> <div style="display: inline-block; width: 30px; height: 30px; border: 1px solid black;"></div>
By providing your email address, you elect to receive all of your communications despatched by the Company electronically (where legally permissible).		