

Notice of Annual General Meeting 2022

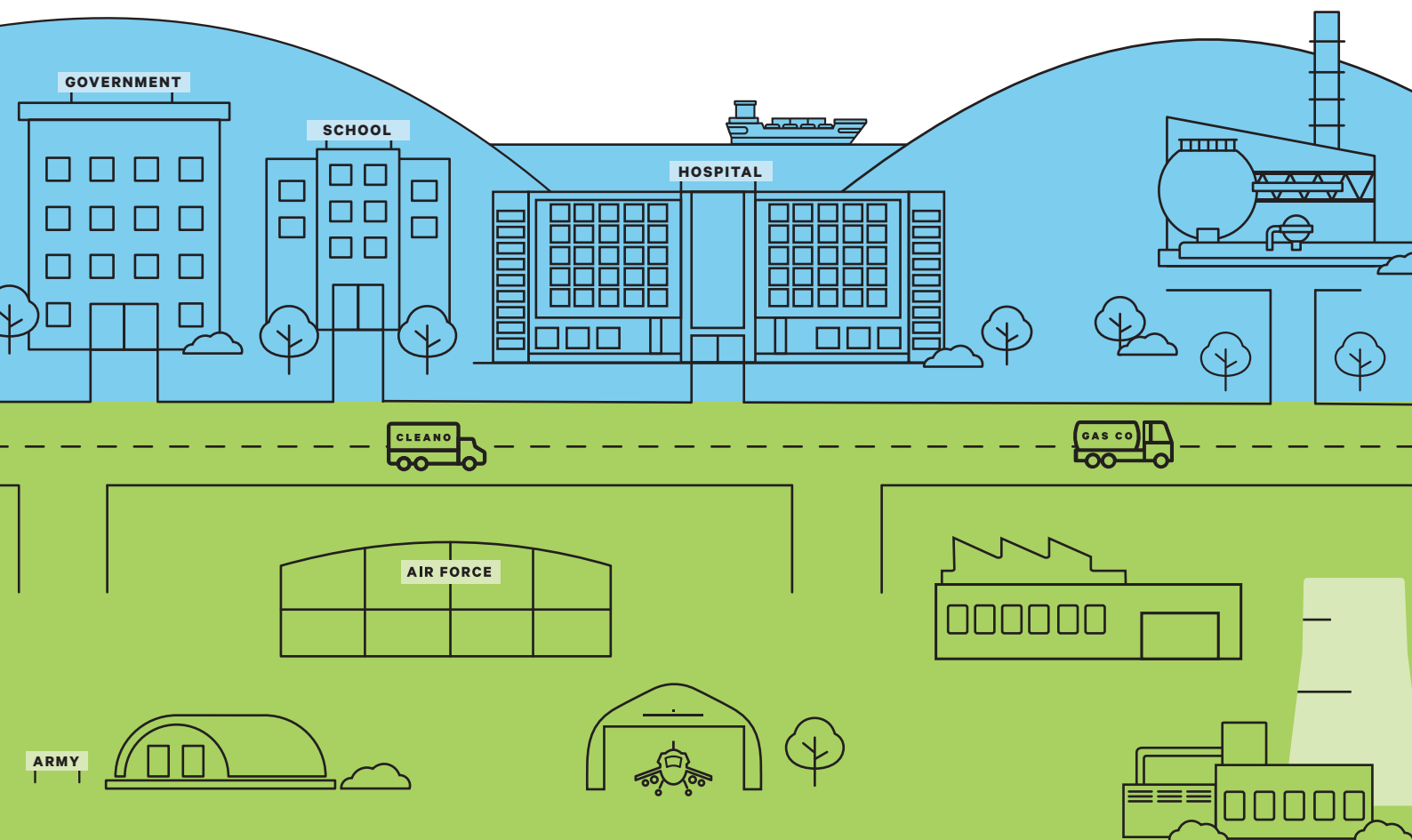
Notice is given that the Annual General Meeting of the Shareholders of Downer EDI Limited (Downer or Company) will be held at:

The Auditorium

Northside Conference Centre
Oxley Street
(Cnr Oxley Street & Pole Lane)
Crows Nest NSW 2065

On Thursday 3 November 2022

Commencing at 11:00am Sydney time
(meeting)
Registration will commence at 10:30am





Dear Shareholder,

I am pleased to invite you to Downer's 2022 Annual General Meeting (**AGM**) to be held at 11:00am (Sydney time) on 3 November 2022. Registration will open from 10:30am (Sydney time).

After two years of restrictions on physical gatherings arising from the COVID-19 pandemic, our AGM will return to being held in person.

Downer's AGM is the occasion where shareholders vote on a number of important resolutions, which are outlined in this Notice of Meeting. It also provides shareholders with the opportunity to meet with the Board, hear from the Managing Director and CEO and ask questions.

Financial Report, Directors' Report and Independent Auditor's Report

The first item of business will be to consider and receive the Financial Report, the Directors' Report and the Independent Auditor's Report for the year ended 30 June 2022.

Election and re-election of Directors

The second item of business seeks approval for the election of Mark Binns, Dr Adelle Howse and Mark Menhinnitt as Independent Non-executive Directors as well as the re-election of Teresa Handicott and Peter Watson as Independent Non-executive Directors.

Mark Binns joined the Board in March 2022. Mark has extensive experience in New Zealand in the energy, construction and building materials sectors.

Adelle Howse joined the Board in April 2022. Adelle has extensive experience in the infrastructure, energy and resources, construction, data centres, telecommunication and property sectors.

Mark Menhinnitt joined the Board in March 2022. Mark has extensive domestic and international experience in large infrastructure development and urban regeneration, investment management, construction, asset services, operations and maintenance.

Teresa Handicott joined the Board in September 2016 and is currently Chairman of the Remuneration and Disclosure Committees and a member of the Audit and Risk, and Nominations and Corporate Governance Committees.

Peter Watson joined the Board in May 2019 and is currently the Chairman of the Tender Risk Evaluation and Zero Harm Committees and a member of the Audit and Risk Committee.

Remuneration Report and performance rights

The third item of business seeks approval of the Remuneration Report and the fourth item of business seeks approval of the grant of performance rights to the Managing Director as part of his 2023 financial year remuneration.

The Board has been working hard over many years to ensure that executive pay is appropriate and aligned with the outcomes of the business. The Chairman's letter on page 25 of Downer's Annual Report sets out a summary of Downer's remuneration strategy and outcomes for the 2022 financial year. I ask that you consider this letter and accompanying pages in the 2022 Annual Report when forming your views on these items of business.

Renewal of proportional takeover approval provisions

Downer's constitution was amended in 2010 to include a proportional takeover approval provision. The purpose of this provision is to give shareholders the opportunity to decide whether any proportional takeover bid for the Company should succeed. As outlined in the Notice of Meeting, this item was last voted on by shareholders and approved in 2019.

Directors fee limit

The final item of business seeks approval for an increase in the limit on aggregate annual fees for Non-executive Directors from \$2,000,000 per annum to \$2,400,000 per annum. The increased amount takes account of the current market remuneration for Non-executive Directors and provides for an aggregate amount which will allow for the potential appointment of additional Directors in the future. The Board has not sought an increase in the aggregate Directors' fees since 2008.

Yours sincerely,

Mark Chellew
Chairman

Ordinary Business

1. Financial Report, Directors' Report and Independent Auditor's Report

To consider and receive the Financial Report, the Directors' Report and the Independent Auditor's Report of Downer for the year ended 30 June 2022.

Note:

- No resolution is required for this item of business.

2. Election and re-election of Directors

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

- A. "That Mark Binns who was appointed as an Independent Non-executive Director of the Company, effective 1 March 2022, in accordance with Rule 3.3 of the Company's Constitution and being eligible, is elected as a Non-executive Director of Downer."
- B. "That Dr Adelle Howse who was appointed as an Independent Non-executive Director of the Company, effective 1 April 2022, in accordance with Rule 3.3 of the Company's Constitution and being eligible, is elected as a Non-executive Director of Downer."
- C. "That Mark Menhinnitt who was appointed as an Independent Non-executive Director of the Company, effective 1 March 2022, in accordance with Rule 3.3 of the Company's Constitution and being eligible, is elected as a Non-executive Director of Downer."
- D. "That Teresa Handicott, who was appointed as an Independent Non-executive Director of the Company on 21 September 2016 and in accordance with Rule 3.6 of the Company's Constitution and being eligible, offers herself for re-election, is re-elected as a Non-executive Director of Downer."
- E. "That Peter Watson, who was appointed as an Independent Non-executive Director of the Company on 22 May 2019 and in accordance with Rule 3.6 of the Company's Constitution and being eligible, offers himself for re-election, is re-elected as a Non-executive Director of Downer."

3. Adoption of Remuneration Report

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

"That the Remuneration Report for the year ended 30 June 2022 be adopted."

Notes:

- This resolution is subject to voting exclusions, which are set out in the Explanatory Memorandum.
- This resolution is advisory only and does not bind Downer or the Directors.
- The Directors will consider the outcome of the vote and comments made by shareholders on the Remuneration Report at the meeting when reviewing Downer's remuneration policies.

If 25% or more of votes that are cast are voted against this resolution and again at the 2023 Annual General Meeting in relation to the 2023 Remuneration Report, shareholders will be required to vote at the 2023 Annual General Meeting on a resolution that another meeting be held within 90 days, at which all of Downer's Directors (other than the Managing Director) must stand for re-election.

A vote on this resolution must not be cast by or on behalf of a member of the key management personnel (**KMP**), details of whose remuneration are included in the Remuneration Report, or by any of their closely related parties (such as certain of their family members, dependants and companies they control).

However, this does not prevent those KMP or any of their closely related parties from voting as a proxy for a person who is not a member of the KMP or a closely related party if:

- the person specifies the way the proxy is to vote on this resolution in the proxy form; or
- the person voting as a proxy is the Chairman and the proxy form does not specify the way the proxy is to vote and expressly authorises the Chairman to exercise the proxy even if the resolution is directly or indirectly connected with the remuneration of a member of the KMP for the Downer Group.

Special Business

4. Approval of Managing Director's Long-Term Incentive (LTI)

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

"That approval is given to the grant of performance rights pursuant to the Company's LTI Plan and the acquisition of shares on vesting by issue or by transfer as the Managing Director's long-term incentive for 2023 on the basis described in the Explanatory Memorandum to this Notice of Meeting."

Note:

- This resolution is subject to voting exclusions, which are set out in the Explanatory Memorandum.

A member of the KMP for the Downer Group and their closely related parties must not vote as proxy on this resolution unless the proxy appointment specifies the way the proxy is to vote on the resolution. However, the Chairman of the meeting may vote an undirected proxy if the proxy appointment expressly authorises the Chairman to exercise the proxy even if the resolution is connected directly or indirectly with the remuneration of a member of KMP for the Downer Group.

5. Renewal of proportional takeover approval provisions

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

"That the Company modify its constitution by renewing clause 37 which contains proportional takeover approval provisions for the purposes of section 648D of the *Corporations Act 2001* (Cth) (**Corporations Act**), with effect from the close of the meeting."

6. Increase of Non-executive Director fee limit

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

"That the maximum total amount of Directors' fees that may be payable by the Company to the Non-executive Directors be increased from \$2,000,000 per year to \$2,400,000 per year, with effect from the financial year commenced 1 July 2022."

Note:

- This resolution is subject to voting exclusions, which are set out in the Explanatory Memorandum.

A member of the KMP for the Downer Group and their closely related parties must not vote as proxy on this resolution unless the proxy appointment specifies the way the proxy is to vote on the resolution. However, the Chairman of the meeting may vote an undirected proxy if the proxy appointment expressly authorises the Chairman or a Director of Downer to exercise the proxy even if the resolution is connected directly or indirectly with the remuneration of a member of KMP for the Downer Group.

Invitation

Shareholders are invited to join the Directors for light refreshments after the meeting.

How to vote

Shareholders can vote on the items of business by:

- attending the meeting; or
- appointing a proxy, representative or attorney to attend the meeting and vote on their behalf.

Eligibility to attend and vote

You will be eligible to attend and vote at the meeting if you are registered as a holder of Downer shares at 7:00pm (Sydney time) on Tuesday, 1 November 2022.

Questions at the meeting

Please note, only shareholders, their proxies, attorneys or representatives may ask questions or make comments online once they have been verified and they will be given a reasonable opportunity to do so. Shareholders are encouraged to lodge questions and comments prior to the meeting.

Corporate representatives

A shareholder, or proxy, that is a corporation and entitled to participate and vote at the AGM may appoint an individual as its corporate representative. Evidence of the appointment of a corporate representative must be lodged with Downer's share registry prior to the meeting or have previously been provided. The appropriate "Appointment of Corporate Representative" form may be obtained from Computershare or online at www.investorcentre.com under the help tab, "Printable Forms".

Attorneys

A shareholder entitled to participate and vote at the AGM is entitled to appoint an attorney to participate and vote at the AGM on the shareholder's behalf. The power of attorney appointing the attorney must be duly signed and specify the name of each of the shareholder, the Company and the attorney, and also specify the meetings at which the appointment may be used. To be effective, the power of attorney must be received by Downer's share registry not later than 48 hours before the time for holding the meeting.

Appointing a proxy

1. A proxy form is attached.
2. A member entitled to participate online and vote at the meeting is entitled to appoint not more than two proxies.
3. Where more than one proxy is appointed, each proxy should be appointed to represent a specified proportion of the member's voting rights. In the absence of such a specification, each proxy will be entitled to exercise half the votes.
4. You may appoint either an individual or a body corporate as your proxy. A proxy need not be a member of Downer.
5. A proxy form must be signed by the member or the member's attorney. Proxies given by corporations must be signed either under section 127 of the Corporations Act or in accordance with the Constitution of the Company. In the case of joint holdings, at least one of the joint holders must sign the proxy form.
6. **If you appoint the Chairman of the meeting as your proxy and do not direct the Chairman of the meeting how to vote on Item 3 (Adoption of Remuneration Report), Item 4 (Approval of Managing Director's long-term incentive (LTI)) or Item 6 (Increase of Non-executive Director fee limit) (which you may do by marking any one of "For", "Against" or "Abstain" on the proxy form for those items of business), you will be expressly authorising the Chairman of the meeting to exercise your proxy even if those Items are directly or indirectly connected with the remuneration of a member of the KMP for the Downer Group.**
7. The proxy form and the power of attorney or other authority (if any) under which it is signed (or a certified copy of the power of attorney or authority) must be received not later than 48 hours before the time for holding the meeting, at the office of Downer's share registry:

Computershare Investor Services Pty Limited
 GPO Box 242
 Melbourne VIC 3001 Australia
 Fax: 1800 783 447 (within Australia)
 +61 3 9473 2555 (outside Australia)

Shareholders can also cast their votes online at www.investorvote.com.au by following the prompts. To use this facility, you will need your Securityholder Reference Number (SRN) or Holder Identification Number (HIN) and postcode as shown on the proxy form. You will be taken to have signed the proxy form if you lodge it in accordance with the instructions on the website.

Custodian voting – For Intermediary Online subscribers only (custodians) please visit www.intermediaryonline.com to submit your voting intentions.

Annual Report

Downer's 2022 Annual Report is available on the Downer website at www.downergroup.com.

All resolutions will be by poll

The Chairman of the meeting intends to call a poll on each of the resolutions set out in this Notice of Meeting.

Explanatory Memorandum for Shareholders

The purpose of this Explanatory Memorandum (which is included in and forms part of the Notice of Meeting) is to provide shareholders with important information regarding the items of business proposed for the Downer 2022 Annual General Meeting as well as assist shareholders to determine how they wish to vote on each resolution.

Shareholders should read the Notice of Meeting, including this Explanatory Memorandum carefully before deciding how to vote on the resolutions.

Item 1 Financial Report, Directors' Report and Independent Auditor's Report

The 2022 Annual Report (which includes the Financial Report, the Directors' Report and the Independent Auditor's Report) will be presented to the meeting. Shareholders can access a copy of the report at the Downer website, www.downergroup.com.

The Chairman will give shareholders an opportunity to ask questions about, and make comments on, the financial statements and reports and Downer's performance.

Shareholders will also be given an opportunity to ask a representative of Downer's auditor, KPMG, questions relevant to audit matters, including the Independent Auditor's Report.

The Chairman will also allow a reasonable opportunity for a representative of the auditor to answer written questions to the auditor submitted by shareholders to Downer no later than Thursday, 27 October 2022.

Item 2 Election and re-election of Directors

Item 2(A) Election of Mark Binns

Mark Binns was appointed to the position of Non-executive Director, effective 1 March 2022. Mr Binns joins Downer as an Independent Director.

Mr Binns' profile is set out below.



Mark Binns (66)

Independent Non-executive Director since March 2022

Mark Binns is an experienced senior executive and Non-executive Director with extensive experience in New Zealand in the energy, construction

and building materials sectors where he has been closely involved in many of New Zealand's largest infrastructure projects, including the Wiri Prison public-private partnership, Waterview Connection, SKYCITY, Museum of New Zealand Te Papa Tongarewa and the second Manapōuri tunnel.

Mr Binns was Chief Executive Officer of Meridian Energy from 2012 to 2017 and prior to that held several senior roles with Fletcher Building, including as Chief Executive Officer of the Infrastructure Division where he was responsible for the construction and heavy building materials operations in Australia, South East Asia, India, South America, the United States and the South Pacific, as well as in New Zealand.

Mr Binns is currently Chairman of Crown Infrastructure Partners and Hynds Limited and a Non-executive Director of Auckland International Airport and several private companies.

Mr Binns holds a Bachelor of Laws from the University of Auckland.

Board recommendation

The Directors, in the absence of Mr Binns, unanimously recommend that shareholders vote in favour of this resolution, as Mr Binns' skills and experience (as set out above) are valuable to the Board's existing skills and experience. Mr Binns also adds considerable strength and leadership to the Committees on which he serves, being the Zero Harm and Tender Risk Evaluation Committees.

The Chairman of the meeting intends to vote undirected proxies in favour of this resolution.

Item 2(B) Election of Dr Adelle Howse

Dr Adelle Howse was appointed to the position of Non-executive Director, effective 1 April 2022. Dr Howse joins Downer as an Independent Director.

Dr Howse's profile is set out below.



Dr Adelle Howse (51)

Independent Non-executive Director since April 2022

Dr Adelle Howse has extensive senior executive and non-executive experience in the infrastructure, energy and resources, construction, data centres, telecommunication and property sectors.

Dr Howse held several senior roles with CIMIC, including Chief Strategy Officer.

Dr Howse is currently a Non-executive Director of Macquarie Telecom Group and Sydney Desalination Plant. She was formerly the Chairman of the Australian Mathematical Sciences Institute, and previously served on the boards of Devine Group, Design Studio Group, Ventia, Nextgen Holdings and Manila North Tollroads Corporation.

Dr Howse holds a Bachelor of Science and Doctor of Philosophy (Mathematics) from the University of Queensland, an executive MBA from IMD, Switzerland and a Graduate Diploma of Applied Finance and Investment. She is a member of the Australian Institute of Company Directors.

Board recommendation

The Directors, in the absence of Dr Howse, unanimously recommend that shareholders vote in favour of this resolution, as Dr Howse's skills and experience (as set out above) are valuable to the Board's existing skills and experience. Dr Howse also adds considerable strength and leadership to the Committees on which she serves, being the Audit and Risk and Remuneration Committees.

The Chairman of the meeting intends to vote undirected proxies in favour of this resolution.

Item 2(C) Election of Mark Menhinnitt

Mark Menhinnitt was appointed to the position of Non-executive Director, effective 1 March 2022. Mr Menhinnitt joins Downer as an Independent Director.

Mr Menhinnitt's profile is set out below.



Mark Menhinnitt (57)

Independent Non-executive Director since March 2022

Mark Menhinnitt is an experienced senior executive with extensive domestic and international experience in large infrastructure development and urban regeneration, investment management, construction, asset services, operations and maintenance.

Mr Menhinnitt held several senior roles over a 30-year career with Lendlease, including as Chief Executive Officer of Lendlease Australia.

Mr Menhinnitt is currently a Non-executive Director of The GPT Group, a Non-executive Director of Sunshine Coast Airport Pty Ltd, a member of the Australian War Memorial Development Committee and Chairman of Fluent Property Pty Ltd.

Mr Menhinnitt holds a Bachelor of Engineering (Mechanical) and Master of Business (Applied Finance), both from the Queensland University of Technology. He is a member of the Australian Institute of Company Directors and a Fellow of the Governance Institute of Australia.

Board recommendation

The Directors, in the absence of Mr Menhinnitt, unanimously recommend that shareholders vote in favour of this resolution, as Mr Menhinnitt's skills and experience (as set out above) are valuable to the Board's existing skills and experience. Mr Menhinnitt also adds considerable strength and leadership to the Committees on which he serves, being the Remuneration and Tender Risk Evaluation Committees.

The Chairman of the meeting intends to vote undirected proxies in favour of this resolution.

Item 2(D) Re-Election of Teresa Handicott

Teresa Handicott is a Non-executive Director who is retiring by rotation in accordance with Downer's Constitution. She is eligible to be re-elected as a Director of Downer and intends to offer herself for re-election with the unanimous support of the other Directors.

Ms Handicott's profile is set out below.



Teresa Handicott (59)

Independent Non-executive Director since September 2016

Teresa Handicott is a former corporate lawyer with over 30 years' experience in mergers and acquisitions, capital markets and corporate governance.

She was a partner of national law firm Corrs Chambers Westgarth for 22 years, serving as a member of its National Board for seven years including four years as National Chairman. She also has extensive experience in governance of local and State government organisations.

Ms Handicott is currently the Chairman of listed company PWR Holdings Limited and of Peak Services Holdings Pty Ltd, which is the subsidiary of the Local Government Association of Queensland that is responsible for its commercial operations. Ms Handicott is also State President of the Queensland Division of the Australian Institute of Company Directors.

Ms Handicott is a former Director of CS Energy Limited, a former member of the Queensland University of Technology Council, the Takeovers Panel and Corporations and Markets Advisory Committee and a former Associate Member of the Australian Competition and Consumer Commission.

A Senior Fellow of FINSIA, Fellow of the Australian Institute of Company Directors and Member of Chief Executive Women, Ms Handicott holds a Bachelor of Laws (Hons) degree from the Queensland University of Technology.

Board recommendation

The Directors, in the absence of Ms Handicott, unanimously recommend that shareholders vote in favour of this resolution, as Ms Handicott's skills and experience (as set out above) are valuable to the Board's existing skills and experience. Ms Handicott also adds considerable strength and leadership to the Committees on which she serves, being Chairman of the Remuneration and Disclosure Committees and a member of the Audit and Risk and Nominations and Corporate Governance Committees.

The Chairman of the meeting intends to vote undirected proxies in favour of this resolution.

Item 2(E) Re-Election of Peter Watson

Peter Watson is a Non-executive Director who is retiring by rotation in accordance with Downer's Constitution. He is eligible to be re-elected as a Director of Downer and intends to offer himself for re-election with the unanimous support of the other Directors.

Mr Watson's profile is set out below.



Peter Watson (66)

Independent Non-executive Director since May 2019

Peter Watson has extensive experience in the construction and engineering sectors in senior executive and governance roles,

including in the industrial, transport, defence, health, justice and utilities sectors.

He was Chief Executive Officer and Managing Director of Transfield Services Limited (now known as Broadspectrum which is owned by Ventia) for ten years. During this period, he led the business through a successful transition, cultivating a sustainable and successful public company. He also has considerable experience in various Non-executive Director roles.

Mr Watson is currently the Non-executive Chairman of BG&E Group Limited and a Consultant of Stephenson Mansell Group where he provides coaching and mentoring to senior executives.

Mr Watson is a former Chairman of LogiCamms Limited (now known as Verbrec), Watpac Limited, Regional Rail Link Authority in Victoria and AssetCo Management which managed PPP assets, a former Director of the Major Transport Infrastructure Board in Victoria, Yarra Trams and Save the Children Australia and was a Board member of Infrastructure Australia and independent Chair of Ross River Solar Farm.

A Fellow of the Australian Academy of Technological Sciences and Engineering and member of the Institute of Engineers Australia and Australian Institute of Company Directors, Mr Watson holds a Diploma of Civil Engineering from the Caulfield Institute of Technology and is a Graduate of the Wharton Advanced Management Program of the University of Pennsylvania.

Board recommendation

The Directors, in the absence of Mr Watson, unanimously recommend that shareholders vote in favour of this resolution, as Mr Watson's skills and experience (as set out above) are valuable to the Board's existing skills and experience. Mr Watson also adds considerable strength and leadership to the Committees on which he serves, being Chairman of the Tender Risk Evaluation and Zero Harm Committees and a member of the Audit and Risk Committee.

The Chairman of the meeting intends to vote undirected proxies in favour of this resolution.

Item 3 Adoption of Remuneration Report

The Remuneration Report is contained in the Directors' Report in the 2022 Annual Report. Shareholders can access a copy of the report at the Downer website, www.downergroup.com.

The Remuneration Report provides information about the remuneration arrangements for KMP, which includes Non-executive Directors and the most senior executives, for the year to 30 June 2022.

The Remuneration Report covers the following matters:

- An introductory letter from the Chairman and Chairman of the Remuneration Committee to shareholders
- Year in review
- Details of Key Management Personnel
- Remuneration policy, principles and practices
- Relationship between remuneration policy and Company performance
- The Board's role in remuneration
- Description of executive remuneration
- Details of executive remuneration
- Executive equity ownership
- Key terms of employment contracts
- Related party information
- Description of Non-executive Director remuneration.

Shareholders will be given a reasonable opportunity to ask questions about, or make comments on, the Remuneration Report. Shareholders will be asked to vote on the Remuneration Report.

The resolution is advisory only and does not bind Downer or its Directors. The Board will consider the outcome of the vote and comments made by shareholders on the Remuneration Report at the meeting when reviewing Downer's remuneration policies.

Under the Corporations Act, if at least 25% of the votes cast on the resolution are against the adoption of the relevant Remuneration Report at two consecutive Annual General Meetings (each an "AGM", and any such potential 25% or more vote "against" commonly referred to as a "first strike" or "second strike"), shareholders will be required to vote at the second of those AGMs on a resolution that another general meeting be held within 90 days, at which all of the Company's Directors in office at the time of the Directors' resolution to make the Directors' Report containing that second Remuneration Report (other than the Managing Director) must stand for re-election.

At last year's AGM the resolution to adopt the 2021 Remuneration Report was carried with over 97% of votes cast "for" the Remuneration Report.

Board recommendation

The Directors unanimously recommend that shareholders vote in favour of Item 3 (Adoption of Remuneration Report).

Voting exclusions

A vote on Item 3 (Adoption of Remuneration Report) must not be cast by or on behalf of a member of the KMP or by any of their closely related parties (such as certain of their family members, dependants and companies they control).

However, this does not prevent a member of the KMP, details of whose remuneration are included in the Remuneration Report, or any of their closely related parties, from voting as a proxy for a person who is not a member of those KMP or any of their closely related parties if:

- the person specifies the way the proxy is to vote on Item 3 (Adoption of Remuneration Report) in the proxy form; or
- the person voting as a proxy is the Chairman and the proxy form does not specify the way the proxy is to vote and expressly authorises the Chairman to exercise the proxy even if the resolution is directly or indirectly connected with the remuneration of a member of the KMP for the Downer Group.

If you choose to appoint a proxy, you are strongly encouraged to direct your proxy how to vote on Item 3 (Adoption of Remuneration Report) by marking any one of "For", "Against" or "Abstain" on the proxy form for that item of business.

As set out in the section on Appointing a Proxy, if you have appointed the Chairman of the meeting as your proxy and you do not mark any of "For", "Against" or "Abstain" on the proxy form, you will be expressly authorising the Chairman to vote any proxies held by him in favour of Item 3 (Adoption of Remuneration Report), even if that item is connected directly or indirectly with the remuneration of a member of the KMP for the Downer Group.

The Chairman of the meeting intends to vote any undirected proxies held by him in favour of Item 3 (Adoption of Remuneration Report).

Item 4 Approval of Managing Director's Long-Term Incentive (LTI)

It is proposed to grant the Managing Director performance rights in Downer as the Managing Director's 2023 long-term incentive plan (**2023 LTIP**) on the terms set out below (**2023 Grant**) and to seek approval for that grant under ASX Listing Rule 10.14.

This approval is being sought because Listing Rule 10.14.1 provides that a listed company must not permit a director of Downer to acquire equity securities under an employee incentive scheme unless it has been approved by shareholders. The 2023 Grant falls within Listing Rule 10.14.1 above and therefore requires the approval of Downer's shareholders under Listing Rule 10.14.

Resolution 4 seeks the required shareholder approval to the 2023 Grant under and for the purposes of Listing Rule 10.14.

If approval is granted under ASX Listing Rule 10.14, the Company will be permitted to issue ordinary shares in the Company to Mr Fenn in satisfaction of its obligations under those performance rights if and when they vest. Further, Downer will be able to proceed with the 2023 Grant without impact on its ability to issue up to 15% of its total ordinary securities without shareholder approval in any 12-month period.

Proposed long-term incentive for the Managing Director for 2023

As a senior executive, Mr Grant Fenn has participated in Downer's long-term incentive plans (**LTIPs**) since 2009 and in his capacity as Managing Director since July 2010.

Under his employment agreement with Downer as Managing Director, Mr Fenn is entitled to be granted performance rights each year with a maximum value equal to 100% of his annual fixed remuneration. Performance rights are being used to appropriately align Mr Fenn's remuneration as Managing Director with shareholder returns. The performance rights are subject to long-term performance requirements and therefore only vest to Mr Fenn if those performance requirements are met. In the event that the resolution is not passed by shareholders, the Board intends to provide an LTIP equivalent through an alternative mechanism in order to meet Mr Fenn's contractual entitlements.

In accordance with Downer's contractual commitments, it is proposed to grant Mr Fenn performance rights with a maximum value of 100% of his annual fixed remuneration at the time the quantity of performance rights is determined (as described below). Mr Fenn's current fixed remuneration is \$2,000,000. The grant will be in the form of performance rights which are a right to receive fully paid Downer ordinary shares which may be purchased on-market or issued by the Company.

Mr Fenn is also eligible to receive an annual short-term incentive (**STI**) up to a maximum opportunity of 100% of his fixed remuneration. Any entitlement to an STI is at the discretion of the Board, having regard to performance measures and targets. There is no STI entitlement where Mr Fenn's employment

terminates prior to the end of the financial year, other than in the event of a change in control or by mutual agreement.

Dividends will be paid or accumulated only from the time the performance rights vest.

Entitlement under the 2023 Grant

Mr Fenn will receive a grant on the same terms and at the same time as other eligible employees.

Subject to shareholder approval being obtained, the maximum number of performance rights granted to Mr Fenn will be 466,625. This quantity was calculated as his annual fixed remuneration of \$2,000,000 divided by 4.2861 being the daily average of the volume weighted average price of Downer shares for the 10 trading days following the release of Downer's results for the year ended 30 June 2022, adjusted for the estimated value of dividends during the vesting period that do not attach to the rights. Each performance right will convert to one ordinary share once all vesting conditions are met.

If shareholders approve the proposed resolution in Item 4 (Approval of Managing Director's Long-Term Incentive (LTI)), the 2023 Grant will be made within 12 months from the date of this meeting.

Details of any securities issued under the Company's LTI Plan will be published in each annual report of the Company relating to a period in which securities have been issued, and that approval for the issue of securities was obtained under ASX Listing Rule 10.14.

Any additional persons referred to in ASX Listing Rule 10.14 who become entitled to participate in the Company's LTI Plan after the resolution is approved and who are not named in this Notice of Meeting and Explanatory Memorandum will not participate until approval is obtained under ASX Listing Rule 10.14.

Price on grant or vesting

No amount is payable by the Managing Director on grant or vesting of the performance rights.

Vesting conditions

Vesting of performance rights granted under the 2023 LTIP will be subject to:

- meeting certain performance hurdles over a specified period; and
- continued employment with Downer over a period determined by the Board (service period).

Mr Fenn's proposed 2023 Grant will be divided into three equal tranches subject to the following performance hurdles:

- relative total shareholder return (**TSR**);
- compound annual earnings per share growth (**EPS**); and
- net profit after tax and before amortisation of acquired intangibles (**NPATA**) and free cash flow (**FFO**) (**Scorecard**).

TSR is measured over the three-year performance period to 30 June 2025. TSR is calculated as the difference in share price over the performance period, plus the value of shares earned from reinvesting dividends received over this period, expressed as a percentage of the share price at the beginning of the performance period. If the TSR for each company in the comparator group (see below) is ranked from highest to lowest, the median TSR is the percentage return to shareholders that exceeds the TSR for half of the comparison companies. The 75th percentile TSR is the percentage return required to exceed the TSR for 75% of the comparison companies.

Performance rights in the tranche to which the relative TSR performance requirement applies vest in accordance with the following table:

| Downer's TSR ranking against the comparator group | % of performance rights subject to the relative TSR |
|----------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <50th percentile | Nil |
| 50th percentile | 30% |
| Above 50th and below 75th percentile | Straight line so that a further 2.8% of the performance rights in the tranche will vest for every 1% increase between the 50th percentile and 75th percentile |
| 75th percentile and above | 100% |

The comparator group for the 2023 Grant is the companies, excluding financial services companies, in the ASX 100 index as at the start of the performance period on 1 July 2022.

EPS growth is measured over the three-year performance period to 30 June 2025. The EPS measure is based on AASB 133 *Earnings per Share* and is externally audited.

The tranche of shares dependent on the EPS performance condition vests pro rata between 5% compound annual EPS growth and 10% compound annual EPS growth.

Performance rights in the tranche to which the EPS performance requirement applies vest in accordance with the following table:

| Downer's EPS compound annual growth | % of performance rights subject to EPS condition that qualify to vest |
|--------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| <5% | Nil |
| 5% | 30% |
| Above 5% and below 10% | Straight line so that a further 14% of the performance rights in the tranche will vest for every 1% increase in EPS growth between 5% and 10% |
| 10% or more | 100% |

The Scorecard condition will be comprised of two independent absolute components of equal weighting. These components

will be based on Group NPATA and Group FFO. FFO is defined as net cash flow from operating activities less investing cash flow.

The performance of each component will be measured over the three-year period to 30 June 2025.

NPATA and FFO targets will be set at the beginning of each of the three financial years. The performance of each component will be assessed each year relative to the targets. Performance of each component will be determined as the average of the annual performance assessments for the three years.

Performance rights in the tranche to which the Scorecard performance requirement applies vest in accordance with the following table:

| Scorecard result | % of performance rights subject to Scorecard condition that qualify to vest |
|--------------------------|------------------------------------------------------------------------------------------------------------------------------------|
| <90% | Nil |
| 90% | 30% |
| Above 90% and below 110% | Straight line so that a further 3.5% of the performance rights in the tranche will vest for every 1% increase between 90% and 110% |
| 110% or more | 100% |

Once some or all of the performance rights have met the vesting conditions, the performance rights will not vest unless the Board is satisfied there has been no conduct on the part of Mr Fenn that the Board considers inappropriate and that the financial results against which the performance vesting condition were tested were not incorrect in a material respect and were not reversed or restated.

Performance period

The performance period for the 2023 Grant will be the three years from 1 July 2022 to 30 June 2025 and the service period will end on 30 June 2026.

Change of control

Under the 2023 LTIP, if there is a change in control of Downer during the performance period, provided at least 12 months of the 2023 Grant's performance period have elapsed, unvested performance rights pro-rated with the elapsed performance period are tested for vesting with performance against the relevant performance hurdles for that period.

Performance rights that have already been tested and have met performance requirements but remain subject to the completion of the service period condition will fully vest.

Neither unvested pro-rated performance rights nor performance rights that have already been tested and met performance requirements will vest unless the Board is satisfied that there has been no conduct on the part of Mr Fenn that the Board considers inappropriate and that the financial results against which the performance hurdles were tested were not incorrect in a material respect and were not reversed or restated.

Cessation of employment

Upon cessation of employment of the Managing Director for any reason, all performance rights that have not vested by the cessation of employment will be forfeited unless, subject to the termination benefit provisions of the Corporations Act, the Board exercises its discretion to permit the Managing Director to retain performance rights by deeming him to be an “Eligible Leaver”. If Mr Fenn is deemed to be an Eligible Leaver, he may be entitled to retain some or all of his performance rights and these will be tested for vesting against the Vesting Conditions other than the Continued Employment Condition in their normal course. An Eligible Leaver’s performance rights will be settled with fully paid Downer ordinary shares or in cash in the Board’s sole and absolute discretion. No performance rights will vest unless the Board is satisfied that there has been no conduct on the part of Mr Fenn that the Board considers inappropriate and that the financial results against which the performance hurdles were tested were not incorrect in a material respect and were not reversed or restated.

Other information

- Mr Fenn is the only Director of the Company who is entitled to participate in the Company’s LTI Plan
- No loan is being made to Mr Fenn in relation to the acquisition of performance rights
- The following table shows the number of performance rights and restricted shares that have been previously granted by Downer to Mr Fenn under the Company’s LTI Plan
- Each of the performance rights described below are a right to receive fully paid Downer ordinary shares on vesting. Each of the restricted shares described below were held in trust until vesting
- Each of the performance rights and restricted shares were granted for nil acquisition price
- The performance rights are not transferable, and do not confer any right to vote or to a dividend; nor do they confer any right to a return of capital, to participate in surplus profits or assets of Downer, or to participate in new issues of securities.

| Year | Number of performance rights | Number of restricted shares |
|------|---------------------------------|--------------------------------|
| 2009 | – | 444,825 |
| 2010 | – | 95,410 |
| 2011 | – | 480,205 |
| 2012 | – | 464,996 |
| 2013 | 445,682 | – |
| 2014 | 243,576 | – |
| 2015 | 541,920 | – |
| 2016 | 711,717 | – |
| 2017 | 509,077 | – |
| 2018 | 338,524 | – |
| 2019 | 307,573 | – |
| 2020 | 318,175 | – |
| 2021 | 584,317 | – |
| 2022 | 374,714 | – |

Board recommendation

In the view of the Non-executive Directors, it is in the best interests of shareholders to approve the performance right-based 2023 long-term incentive grant to the Managing Director because it appropriately aligns the Managing Director’s remuneration with shareholder returns. Your Directors (in the absence of the Managing Director) therefore recommend shareholders approve the 2023 Grant and the Managing Director’s participation in the 2023 LTIP.

Voting exclusions

The Company will disregard any votes cast in favour of Item 4 by or on behalf of:

- Mr Fenn; or
- associates of Mr Fenn.

However, the Company need not disregard a vote cast in favour of the resolution by:

- 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 in that way; or
- the Chairman 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 Chairman to vote on the resolution as the Chairman decides; or
- a holder acting solely in a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary provided the following conditions are met:
 - 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
 - the holder votes on the resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

Shareholders should note that apart from Mr Fenn no Director is eligible to participate in any employee incentive scheme in relation to the Company.

If you choose to appoint a proxy, you are strongly encouraged to direct your proxy how to vote on Item 4 (Approval of Managing Director's Long-Term Incentive (LTI)) by marking any one of "For", "Against" or "Abstain" on the proxy form for that item of business. As set out in the section on Appointing a Proxy, if you have appointed the Chairman of the meeting as your proxy and you do not mark any of "For", "Against" or "Abstain" on the proxy form, you will be expressly authorising the Chairman to vote any proxies held by him in favour of Item 4 (Approval of Managing Director's Long-Term Incentive (LTI)) even if that item is connected directly or indirectly with the remuneration of a member of KMP for the Downer Group.

The Chairman of the meeting intends to vote any undirected proxies held by him in favour of Item 4 (Approval of Managing Director's Long-Term Incentive (LTI)).

Item 5 Renewal of proportional takeover approval provisions

Under the Corporations Act, a company may include provisions in its constitution to enable it to refuse to register shares acquired under a proportional takeover bid unless a resolution approving the bid is passed by the shareholders.

Proportional takeover approval provisions are contained in rule 37 of the Company's existing Constitution which was approved by shareholders at the Annual General Meeting on 3 November 2010. However, rule 37 will be automatically omitted from the Company's Constitution on 7 November 2022, the third anniversary of that provision's most recent approval by the shareholders on 7 November 2019.

Rule 37 of the existing Constitution includes provisions requiring shareholder approval of a proportional takeover bid. If the renewal of the proportional takeover approval provisions is approved, these provisions will have effect for a further 3 years. The Board considers it in the interests of shareholders to renew these provisions in the Constitution.

Where the approval of shareholders is sought to insert or renew proportional takeover provisions in a constitution, the Corporations Act requires certain information to be included in the notice of meeting. That information is set out below.

Proportional takeover bid

A proportional takeover bid is a takeover bid where the offer made to each shareholder is only for a proportion of that shareholder's shares.

Effect of the provisions proposed to be re-inserted

If a proportional takeover bid is made, the Directors must ensure that a resolution of shareholders to approve the takeover bid is voted on, in general, more than 14 days before the last day of the bid period. The vote is decided on a simple majority and each person (other than the bidder and their associates) who, as at the end of the day on which the first offer under the bid was made, held bid class securities, is entitled to vote. If the resolution is not passed, transfers giving effect to takeover contracts for the bid will not be registered and the offer will be taken to have been withdrawn. If the resolution is not voted on, the bid will be taken to have been approved.

If the bid is approved (or taken to have been approved), the transfers must be registered (provided they comply with other provisions of the Corporations Act and the Constitution).

The proportional takeover approval provisions do not apply to full takeover bids and will only apply until 3 years after the date of re-adoption. The provisions may be renewed for a further term, but only by a special resolution of shareholders.

Reasons for the proposal

The Board considers that shareholders should have the opportunity to re-adopt the proportional takeover approval provisions. Without these provisions, a bidder might be able to obtain control of the Company using a proportional takeover bid without shareholders having the opportunity to sell all their shares, potentially leaving existing shareholders locked into a minority position in the Company.

The proportional takeover approval provisions give shareholders the opportunity to decide whether a proportional takeover bid should proceed. If it does proceed, individual shareholders can make a separate decision as to whether they wish to accept the proportional offer for their shares.

Knowledge of any acquisition proposals

As at the date of this notice of meeting, none of the Directors is aware of any proposal by a person to acquire, or to increase the extent of, a substantial interest in the Company.

Potential advantages and disadvantages

Potential advantages

The potential advantages for shareholders of the proportional takeover provisions include:

- shareholders have the right to decide by majority vote whether an offer under a proportional takeover bid should proceed;
- they may help shareholders to avoid being locked in as a minority;
- they increase shareholders' bargaining power and may assist in ensuring that any proportional takeover bid is adequately priced; and
- knowing the view of the majority of shareholders may help each individual shareholder assess the likely outcome of the proportional takeover bid and decide whether to accept or reject an offer under the bid.

Potential disadvantages

It may be argued that the proportional takeover approval provisions make a proportional takeover bid more difficult to achieve which may have the effect of discouraging proportional takeover bids. This in turn may potentially reduce opportunities for shareholders to sell some of their shares at an attractive price to persons seeking to secure control of the Company and may reduce an element of takeover speculation from the Company's share price, although this effect may be negligible as proportional takeover bids are less common today than they have been in the past. It may also be argued that the provisions constitute a potential restriction on the ability of shareholders to deal freely with their shares.

Since the existing Constitution was adopted, there have been no full or proportional takeover bids for the Company. Therefore, there has been no example against which to assess the advantages or disadvantages of the provisions for the Board and shareholders respectively, however, the Board is not aware of any potential takeover bid that was discouraged by these provisions.

The Board does not believe the potential disadvantages outweigh the potential advantages of re-adopting the proportional takeover approval provisions in the Constitution.

Re-adopting the proportional takeover approval provisions in the Constitution will not confer any particular advantages or disadvantages on the Directors in their capacity as Directors of the Company. The Directors therefore consider that they remain free to make a recommendation on whether an offer under a proportional takeover bid should be accepted.

Board recommendation

The Directors unanimously recommend that shareholders vote in favour of this resolution. The Chairman intends to vote any undirected proxies held by him in favour of Item 5 (Renewal of proportional takeover approval provisions).

Item 6 Increase of Non-executive Director fee limit

In accordance with the Company's constitution and ASX Listing Rule 10.17, shareholders are being asked to approve an increase in the maximum aggregate fees payable to Non-executive Directors by \$400,000 from \$2,000,000 per annum to \$2,400,000 per annum with effect from and including the financial year commenced on 1 July 2022. The Board has not sought an increase in the aggregate Directors' fees since 2008. The Company has since grown significantly in size and the scope of its services.

The increased amount takes account of analysis from independent advisers on the current market remuneration for Non-executive Directors, provides for an aggregate amount which will allow for the potential appointment of additional Directors and will assist the Company to retain and attract Non-executive Directors.

The proposed increased limit of \$2,400,000 is the total that may be paid to all Non-executive Directors of the Company, and is not the amount that could be paid to individual Directors. The amount that is payable to individual Directors is determined by reference to market rates and after consideration of a number of factors including the time commitment of Directors, the size and scale of the Company's operations, the skill sets of Board members, the quantum of fees paid to Non-executive Directors of comparable companies, participation in committee work and other factors.

Fees for Non-executive Directors are fixed and are not linked to the financial performance of the Company in any way. The Board believes this is necessary so that Board members maintain their independence. In addition, Non-executive Directors do not receive any bonus payment nor participate in any share or incentive plan operated for executives of the Company.

For details of the amount of Directors' fees paid for the year ended 30 June 2022, please refer to the 2022 Annual Report.

Board recommendation

The Directors do not make any recommendation in respect of this resolution given the personal interest of the Non-executive Directors in the resolution. As noted in the proxy form, the Chairman intends to vote undirected proxies in favour of this resolution.

Voting exclusions

The Company will disregard any votes cast in favour of Item 6 by or on behalf of:

- any Director of Downer; or
- associates of any Director of Downer.

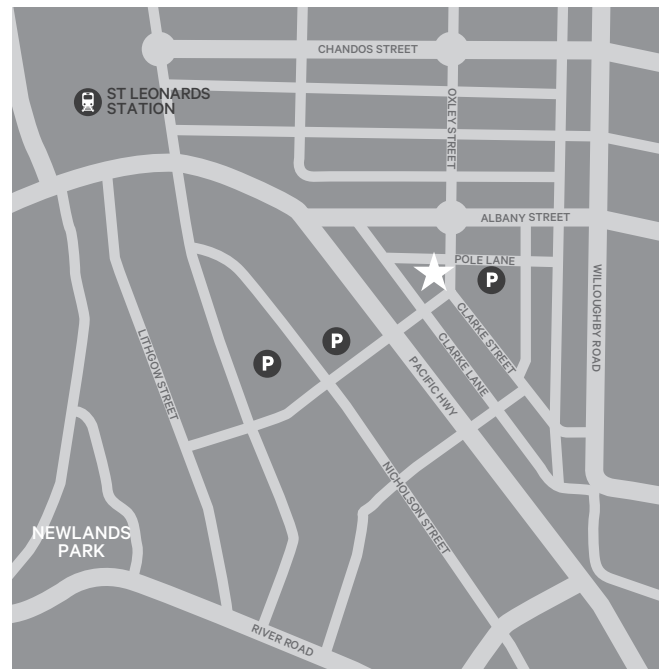
However, the Company need not disregard a vote cast in favour of the resolution by:

- 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 in that way; or
- the Chairman 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 Chairman to vote on the resolution as the Chairman decides; or
- a holder acting solely in a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary provided the following conditions are met:
 - 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
 - the holder votes on the resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

By order of the Board

Robert Regan, Company Secretary
Sydney, 29 September 2022

Getting there



Public transport

The closest train station is St Leonards. There are several bus routes from the city and further north or west that stop in Crows Nest and/or St Leonards. For information about train and bus times, please call 131 500 or visit www.transportnsw.info.

Parking

On-street parking near the Centre is generally metered parking (2P or less) with strictly enforced regulations. The Hume Street Car Park is located directly across from the Northside Conference Centre. There are three additional parking stations in close proximity to the venue which are: Holtermann Street, Nicholson Street and Alexander Street.

Go paperless

We encourage you to change your report preferences to electronic delivery. To change your preferences or update your details please contact Computershare on the details provided below or online at: www.computershare.com.au/easyupdate/dow.

Further information

If you would like any further information regarding Downer's AGM, please contact the Company's share registry, Computershare, on 1300 556 161 if calling within Australia or +61 3 9415 4000 if calling from outside Australia.

Information about Downer

Information about Downer's FY22 performance can be read in the Annual Report and Sustainability Report available at www.downergroup.com.

Downer EDI Limited

ABN 97 003 872 848

Trinity Business Campus
39 Delhi Road
North Ryde NSW 2113

PO Box 1823
North Ryde NSW 2113

T +61 2 9468 9700

F +61 2 9813 8915

