



BERKELEY *energia*

ACN 052 468 569

NOTICE OF GENERAL MEETING

The General Meeting of Berkeley Energia Limited will be held at the Conference Room, Ground Floor, 28 The Esplanade, Perth, Western Australia on Tuesday, 18 February 2020 commencing at 11:00am (WST).

This Notice and the accompanying Explanatory Memorandum should be read in its entirety. If Shareholders are in doubt as to how they should vote, they should seek advice from their stock broker, investment advisor, 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 6322.

Shareholders are urged to attend or vote by lodging the Proxy Form attached to the Notice.

BERKELEY ENERGIA LIMITED

ACN 052 468 569

NOTICE OF GENERAL MEETING

Notice is hereby given that a general meeting of shareholders of Berkeley Energia Limited (**Company**) will be held at the Conference Room, Ground Floor, 28 The Esplanade, Perth, Western Australia on Tuesday, 18 February 2020 commencing at 11:00am (WST) (**Meeting**).

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 regulations 7.11.37 and 7.11.38 of the *Corporations Regulations 2001* (Cth) that the persons eligible to vote at the Meeting are those who are registered as Shareholders on Sunday, 16 February 2020 at 4:00pm (WST).

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

AGENDA

1. Resolution 1 – Approval of Employee Equity Incentive 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) and for all other purposes, Shareholders approve the Berkeley Energia Limited Employee Equity Incentive Plan ("the Plan"), and the grant of Incentive Securities and the issue of underlying securities under the Plan, 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 a Director (except one who is ineligible to participate in any employee incentive scheme in relation to the Company) or an associate of that person (or those persons).

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

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

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 otherwise excluded from voting, and

- (a) the person is appointed as a proxy and the appointment specifies how the proxy is to vote; or
- (b) the person appointed as proxy is the Chairperson and the appointment does not specify how the Chairperson is to vote but expressly authorises the Chairperson to exercise the proxy even if the Resolution is connected with the remuneration of a member of the Key Management Personnel.

2. Resolution 2 – Approval to Issue Options to a Director – Mr Robert Behets

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 10.11 and for all other purposes, Shareholders approve the issue of up to 2,000,000 Options to Mr Robert Behets (and/or his nominee) on the terms and conditions in the Explanatory Memorandum."

Voting Exclusion:

The Company will disregard any votes cast in favour of the resolution by or on behalf of Mr Robert Behets (and/or his nominee) or an associate of that person.

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

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

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.

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 is the Chairperson and the appointment of the Chairperson as proxy does not specify the way the proxy is to vote on this Resolution, but expressly authorises the Chairperson to exercise the proxy even if this Resolution is connected with the remuneration of a member of the Key Management Personnel.

BY ORDER OF THE BOARD

[lodged electronically without signature]

Dylan Browne
Company Secretary

Dated: 7 January 2020

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 to be held at the Conference Room, Ground Floor, 28 The Esplanade, Perth, Western Australia on Tuesday, 18 February 2020 at 11:00am (WST).

This Explanatory Memorandum forms part of the Notice which should be read in its entirety. This Explanatory Memorandum contains the terms and conditions on which the Resolutions will be voted.

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 Employee Equity Incentive Plan
Section 4:	Resolution 2 – Approval to Issue Options to a Director – Mr Robert Behets
Schedule 1:	Definitions
Schedule 2:	Summary of Employee Equity Incentive Plan
Schedule 3:	Terms and Conditions of Options

A Proxy Form is located at the end of the 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 and encouraged 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 set out in the Proxy Form. Returning the Proxy Form to the Company will not preclude a Shareholder from attending or (subject to the voting exclusions set out in the Notice) voting at the Meeting in person.

Please note that:

- (a) a Shareholder entitled to attend and vote at the Meeting is entitled to appoint a proxy;
- (b) a proxy need not be a Shareholder; and
- (c) a Shareholder 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 11:00am (WST) on Sunday, 16 February 2020, being at least 48 hours before the Meeting.

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

3. Resolution 1 – Approval of Employee Equity Incentive Plan

3.1 General

Resolution 1 seeks Shareholder approval, pursuant to Listing Rule 7.2, Exception 13, to adopt the Berkeley Energia Limited Employee Equity Incentive Plan (the **Plan**) and to enable Performance Rights, Options, and Shares upon exercise or conversion of those Performance Rights and Options to be issued under the Plan to eligible Directors, employees and contractors (**Incentive Securities**) to be exempted from Listing Rule 7.1 for a period of 3 years from the date on which Resolution 1 is passed.

A summary of the Plan, to be adopted pursuant to Resolution 1, is set out in Schedule 2.

The Company's existing employee equity incentive plan was last approved by Shareholders on 31 July 2015, and comprised an Employee Performance Rights Plan which offered the opportunity for eligible Directors, employees and contractors to subscribe for Performance Rights. Resolution 1 seeks Shareholder approval to adopt a new and revised Employee Equity Incentive Plan to offer the opportunity for eligible Directors, employees and contractors to subscribe for Options in addition to Performance Rights, in order to increase the range of potential incentives available for eligible Directors, employees and contractors.

The Plan is intended to assist the Company to attract and retain key staff, whether employees or contractors. The Board believes that grants made to eligible participants under the Plan will provide a powerful tool to underpin the Company's employment and engagement strategy, and that the Plan will:

- (a) enable the Company to incentivise and retain existing key management personnel and other eligible employees and contractors needed to achieve the Company's business objectives;
- (b) enable the Company to recruit, incentivise and retain additional key management personnel, and other eligible employees and contractors, needed to achieve the Company's business objectives;
- (c) link the reward of key staff with the achievement of strategic goals and the long-term performance of the Company;
- (d) align the financial interest of participants of the Plan with those of Shareholders; and
- (e) provide incentives to participants under the Plan to focus on superior performance that creates Shareholder value.

Resolution 1 is an ordinary resolution.

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

3.2 ASX Listing Rules

Listing Rule 7.1 provides that a company must not (subject to specified exceptions), without the approval of shareholders, issue or agree to issue during any 12 month period any equity securities, or other securities with rights to convert to equity (such as an option or performance right), if the number of those securities exceeds 15% of the number of ordinary securities on issue at the commencement of that 12 month period.

Listing Rule 7.2, Exception 13, operates as one of the exceptions to Listing Rule 7.1. The effect of Shareholder approval under Listing Rule 7.2, Exception 13 is that any issues of securities under the 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 lasts for a period of three years.

3.3 Specific Information Required by Listing Rule 7.2

In accordance with the requirements of Listing Rule 7.2, Exception 13(b), the following information is provided:

- (a) a summary of the material terms of the Plan is set out in Schedule 2 and form part of the Notice;

- (b) a total of 10,145,000 Performance Rights have been issued to eligible Directors, employees and contractors since the Company's existing employee equity incentive plan was last approved by Shareholders on 31 July 2015, of which 2,739,000 Performance Rights have vested and converted into 2,739,000 Shares, 5,016,000 Performance Rights have lapsed and expired, 2,090,000 Performance Rights have been cancelled and 300,000 Performance Rights remain on issue;
- (c) the maximum number of Incentive Securities proposed to be issued under the Plan following Shareholder approval is 25,860,542 securities (although the Company does not intend to use the full capacity); and
- (d) a voting exclusion statement in respect of Resolution 1 has been included in the Notice.

3.4 Directors' recommendations

The Directors recommend that Shareholders vote in favour of Resolution 1.

4. Resolution 2 – Approval to Issue Options to a Director – Mr Robert Behets

4.1 General

Resolution 2 seeks Shareholder approval, pursuant to Listing Rule 10.11, for the grant of up to 2,000,000 Options to Mr Behets (and/or his nominee), as part of the long-term incentive component of his remuneration as the Acting Managing Director of the Company.

Mr Behets assumed the role of Acting Managing Director in July 2019 and was appointed a Non-Executive Director of the Company on 27 April 2012.

Mr Behets is a geologist with over 30 years' experience in the mineral exploration and mining industry in Australia and internationally. He has had extensive corporate and management experience and has been Director of a number of ASX-listed companies in the resources sector including Mantra Resources Limited (**Mantra**) and Papillon Resources Limited. Mr Behets was instrumental in the founding, growth and development of Mantra, an African-focused uranium company, through to its acquisition by ARMZ for approximately A\$1 billion in 2011. Prior to Mantra, he held various senior management positions during a long career with WMC Resources Limited.

Mr Behets has a strong combination of technical, commercial and managerial skills and extensive experience in exploration, mineral resource and ore reserve estimation, feasibility studies and operations across a range of commodities, including uranium, gold and base metals. He is a Fellow of The Australasian Institute of Mining and Metallurgy, a Member of the Australian Institute of Geoscientists and was also previously a member of the Australasian Joint Ore Reserve Committee (**JORC**).

In the Company's present circumstances, the Board considers that the grant of Options to Mr Behets is a cost effective and efficient reward for the Company to make to appropriately incentivise the continued performance of Mr Behets as the Acting Managing Director and is consistent with the strategic goals and targets of the Company.

There are no specific performance criteria on the Options as, given the speculative nature of the Company's activities and the small management team responsible for its running, it is considered the performance of Mr Behets and the performance and value of the Company are closely related. As such, the Options granted will generally only be of benefit if Mr Behets performs to the level whereby the value of the Company increases sufficiently to warrant exercising the Options.

The Options will be granted to Mr Behets (and/or his nominee) on the terms and conditions in Schedule 3.

Resolution 2 is an ordinary resolution.

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

4.2 Listing Rule 10.11

In accordance with Listing Rule 10.11, the Company must not issue securities to a related party of the Company unless it obtains Shareholder approval.

The effect of passing Resolution 2 will be to allow the Company to issue 2,000,000 Options to Mr Robert Behets (and/or his nominee) without using up the Company's 15% placement capacity under Listing Rule 7.1.

As Shareholder approval is sought under Listing Rule 10.11, approval under Listing Rule 7.1 is not required, in accordance with Listing Rule 7.2 Exception 14.

4.3 Specific information required by Listing Rule 10.13

Listing Rule 10.13 requires that the following information be provided to Shareholders:

- (a) the Options will be issued to Mr Robert Behets (and/or his nominee);
- (b) Mr Behets is a Director and therefore a related party of the Company under Listing Rule 10.11.1;
- (c) the maximum number of Options that will be issued to Mr Behets pursuant to Resolution 2 is 2,000,000 Options;
- (d) 1,000,000 Options will have an exercise price of \$0.35 and will be exercisable on or before 31 December 2022 (vesting immediately), and 1,000,000 Options will have an exercise price of \$0.40 and will be exercisable on or before 31 December 2023 (vesting immediately) and are otherwise subject to the terms and conditions in Schedule 3;
- (e) the Options will be issued no later than 1 month (or such longer period of time as ASX may in its discretion allow) after the date of the Meeting;
- (f) each Option will be granted for nil consideration;
- (g) as the Options are being issued for nil consideration, no funds are being raised from the issue;
- (h) Mr Behet's has a letter of appointment dated 29 June 2015 confirming the terms and conditions of his appointment as a non-executive director and receives director fees of \$45,000 per annum inclusive of superannuation. Mr Behets also has a services agreement with the Company dated 18 June 2012, which provides for a consultancy fee at the rate of \$1,200 per day for management and technical services provided by Mr Behets; and
- (i) a voting exclusion statement is included in the Notice.

4.4 Directors' Recommendation

The Directors (excluding Mr Robert Behets) recommend that Shareholders vote in favour of Resolution 2.

Schedule 1 – Definitions

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

\$ or \$A means Australian Dollars.

ASX means the ASX Limited ABN 98 008 624 691 and where the context permits the Australian Securities Exchange operated by ASX Limited.

Board means the board of Directors of the Company.

Chairperson means the person appointed to chair the Meeting convened by the Notice.

Closely Related Party means in relation to a member of a Key Management Personnel:

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

Company means Berkeley Energia Limited ACN 052 468 569.

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

Director means a director of the Company.

Employee Incentive means a Share, Option or Performance Right granted under the Plan.

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

Incentive Securities has the meaning given in Section 3.1.

Key Management Personnel or KMP 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.

Meeting has the meaning given to that term in the introductory paragraph of the Notice.

Notice means the notice of the Meeting and includes the agenda, Explanatory Memorandum and the Proxy Form.

Option means an option which entitles the holder to acquire a Share, subject to its own terms and conditions.

Performance Right means a performance right which upon satisfaction of criteria and/or vesting conditions is confers an entitlement to be provided with one Share.

Plan has the meaning given in Section 3.1.

Proxy Form means the proxy form attached to the Notice.

Resolution means a resolution proposed pursuant to 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 registered holder of a Share.

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

Schedule 2 – Summary of Employee Equity Incentive Plan

The terms of the Employee Equity Incentive Plan (**Plan**) are summarised below. A copy of the Plan can be obtained by contacting the Company. Terms not defined in the Notice have the meaning given in the Plan.

Eligible Employees: The eligible participants under the Plan are Directors (excluding non-executive Directors) and Employees who are declared by the Board in its sole and absolute discretion to be eligible to receive grants of Options or Performance Rights under the Plan; or any other person who is declared by the Board in its sole and absolute discretion to be eligible to receive grants of Options or Performance Rights under the Plan. For the purposes of the Plan, "Employee" means an employee or other consultant or contractor of the Company, or any member of the Group.

In accordance with the Listing Rules, prior Shareholder approval will be required before any Director or related party of the Company can participate in the Plan and be granted Shares, Options or Performance Rights.

Limits on Entitlement: An Offer of Options or Performance Rights may only be made under the Plan if the number of Shares that may be acquired on exercise of the Options or Performance Rights when aggregated with the number of Shares issuable if each outstanding Option and Performance Rights were exercised and the number of Shares issued pursuant to the Plan or any other Group employee incentive scheme during the previous 3 years does not exceed 10% of the total number of Shares on issue at the time of the proposed issue.

The maximum allocation and allocated pool may be increased by Board resolution, provided such an increase complies with the Listing Rules.

Individual Limits: The Plan does not set out a maximum number of Shares that may be made issuable to any one person or company.

Offer and Conditions: An Offer must be set out in an Offer Letter delivered to an Eligible Employee. The Offer Letter may specify (as determined by the Board):

- (a) the number of Options or Performance Rights;
- (b) the conditions on the Offer (**Offer Conditions**);
- (c) the Grant Date;
- (d) the Fee (if any);
- (e) the Performance Criteria (if any);
- (f) the Vesting Conditions (if any);
- (g) the Exercise Price (if any);
- (h) the Exercise Period (if applicable);
- (i) the Performance Period (if applicable); and
- (j) the Expiry Date and Term (if applicable).

Consideration Payable: Options and Performance Rights will be issued for nil consideration.

Cashless Exercise: Under the Plan, a Participant may elect to pay the exercise price for each Option by setting off the total exercise price against the number of Shares which they are entitled to receive upon exercise (**Cashless Exercise Facility**). By using the Cashless Exercise Facility, the holder will receive Shares to the value of the surplus after the exercise price has been set off.

Lapse of Options and Performance Rights: Subject to the Board's discretion, Options and Performance Rights shall automatically be cancelled for no consideration where:

- (a) the Participant ceases to hold employment or office with the Company or Group member (except where the Participant is a Good Leaver);
- (b) the Participant is determined to have engaged in Fraudulent or Dishonest Conduct (described below);
- (c) the applicable Performance Criteria and/or Vesting Conditions are not achieved by the relevant time;
- (d) the Board determines, in its reasonable opinion, that the applicable Performance Criteria and/or Vesting Conditions have not been met or cannot be met within the relevant time;
- (e) the Expiry Date has passed;
- (f) the Board determines that the Participant has brought the Group into disrepute or acted contrary to the interest of the Company or Group;

- (g) the Participant has elected to surrender the Performance Rights or Options; and
- (h) the Offer Letter provides for the cancellation of the Performance Rights or Options in any other circumstances.

Good Leaver: A Good Leaver is a Participant who ceases employment or office with the Company or a Group Member and is determined by the Board to be a Good Leaver. Where a Participant who holds Employee Incentives becomes a Good Leaver:

- (a) all vested Options which have not been exercised will continue in force and remain exercisable for 90 days after the date the Participant becomes a Good Leaver, unless the Board determines otherwise in its sole and absolute discretion, after which the Employee Incentives will lapse; and
- (b) the Board may in its discretion permit unvested Employee Incentives held by the Good Leaver to vest, amend the vesting criteria applicable to the Employee Incentives, including Performance Criteria and/or Vesting Conditions or determine that the unvested Employee Incentives lapse.

Bad Leaver: Where a Participant who holds Employee Incentives becomes a Bad Leaver all vested and unvested Employee Incentives will lapse. Where a Participant who holds Employee Incentives becomes a Bad Leaver the Board may determine to exercise the right to buy back any Shares issued upon exercise of an Option or conversion of a Performance Rights.

A Bad Leaver is a Participant who, unless the Board determines otherwise, ceases employment or office with the Company or a Group member (which includes for any of the circumstances amount to Fraudulent or Dishonest Conduct (described below)).

Fraudulent or Dishonest Conduct: Where, in the opinion of the Board, a Participant or former Participant (which may include a Good Leaver) has engaged in Fraudulent or Dishonest Conduct the Board may deem all Employee Incentives held by the Participant or former Participant to be automatically be forfeited. Fraudulent or Dishonest Conduct means a Participant or former Participant:

- (a) acts fraudulently or dishonestly;
- (b) wilfully breaches his or her duties to the Company or any member of the Group; or
- (c) has, by any act or omission, in the opinion of the Board (determined in its absolute discretion):
 - (i) brought the Company, the Group, its business or reputation into disrepute; or
 - (ii) is contrary to the interest of the Company or the Group.
- (d) commits any material breach of the provisions of any employment contract entered into by the Participant with any member of the Group;
- (e) commits any material breach of any of the policies of the Group or procedures or any laws, rules or regulations applicable to the Company or Group;
- (f) is subject to allegations, has been accused of, charged with or convicted of fraudulent or dishonest conduct in the performance of the Participant's (or former Participant's) duties, which in the reasonable opinion of the relevant directors of the Group effects the Participant's suitability for employment with that member of the Group, or brings the Participant or the relevant member of the Group into disrepute or is contrary to the interests of the Company or the Group;
- (g) is subject to allegations, has been accused of, charged with or convicted of any criminal offence which involves fraud or dishonesty or any other criminal offence which Board determines (in its absolute discretion) is of a serious nature;
- (h) has committed any wrongful or negligent act or omission which has caused any member of the Group substantial liability;
- (i) has become disqualified from managing corporations in accordance with Part 2D.6 of the Corporations Act or has committed any act that, pursuant to the Corporations Act, may result in the Participant being banned from managing a corporation; or
- (j) has committed serious or gross misconduct, wilful disobedience or any other conduct justifying termination of employment without notice.
- (k) has wilfully or negligently failed to perform their duties under any employment contract entered into by the Participant with any member of the Group;
- (l) has engaged in a transaction which involves a conflict of interest to their employment with the Company resulting in the Participant or former Participant obtaining a personal benefit;
- (m) accepts a position to work with a competitor of the Company or Group;
- (n) acting in such a manner that could be seen as being inconsistent with the culture and values of the Company or the Group; or

- (o) any other act that the Board determines in its absolute discretion to constitute fraudulent or dishonest by the Participant or former Participant.

Change of Control: All granted Performance Rights which have not yet vested or lapsed shall automatically and immediately vest (regardless of whether any Performance Criteria or Vesting Conditions have been satisfied) and a Participant may exercise any or all of their Options (regardless of whether the Vesting Conditions have been satisfied) provided that no Option will be capable of exercise later than the Expiry Date, if any of the following change of control events occur:

- (a) the Company announces that its Shareholders have at a Court convened meeting of Shareholders voted in favour, by the necessary majority, of a proposed scheme of arrangement (excluding a merger by way of scheme of arrangement for the purposes of a corporate restructure (including change of domicile, or any reconstruction, consolidation, sub-division, reduction or return) of the issued capital of the Company) and the Court, by order, approves the scheme of arrangement;
- (b) a Takeover Bid:
 - (i) is announced;
 - (ii) has become unconditional; and
 - (iii) the person making the Takeover Bid has a Relevant Interest in 50% or more of the issued Shares;
- (c) any person acquires a Relevant Interest in 50.1% or more of the issued Shares by any other means; or
- (d) the Company announces that a sale or transfer (in one transaction or a series of transaction) of the whole (or substantially the whole) of the undertaking and business of the Company has been completed.

Holding Lock: The Board may at any time request that the Company's share registry to impose a holding lock on any Employee Incentives issued pursuant to the Plan where the Board determines or reasonably believes (in its absolute discretion) that a Participant (or a Former Participant) has or may breach these Rules.

Contravention of Rules: The Board may at any time, in its sole and absolute discretion, take any action it deems reasonably necessary in relation to any Employee Incentives if it determines or reasonably believes a Participant has breached the Plan or the terms of issue of any Employee Incentives, including but not limited to, signing transfer forms in relation to Employee Incentives, placing a holding lock on Employee Incentives, signing any and all documents and doing all acts necessary to effect a Buy-Back, accounting for the proceeds of the sale of forfeited Employee Incentives, refusing to transfer any Employee Incentives and/or refusing to issue any Shares.

Schedule 3 – Terms and Conditions of Options

Entitlement

- 1.1 Subject to the Board determining otherwise prior to an Offer, each vested Option entitles the Participant holding the Option to subscribe for, or to be transferred, one Share on payment of the Exercise Price (if any).

Exercise Price and Expiry Date

NUMBER OF OPTIONS OFFERED	EXERCISE PRICE OF OPTIONS (\$)	EXPIRY DATE OF OPTIONS
1,000,000	0.35	31 December 2022
1,000,000	0.40	31 December 2023

Exercise Period

- 1.2 If the Participant is prohibited from exercising vested Options under Applicable Law on or in the ten (10) business days before the Expiry Date, the Expiry Date for the Options is automatically extended to the date that is five (5) business days after the Participant is no longer prohibited under Applicable Law from exercising the Option.

Method of Exercise

- 1.3 The Options are exercisable by the Participant within the Exercise Period specified by the Board in the Offer, subject to the Participant delivering to the registered office of the Company or such other address as determined by the Board of:
- 1.3.1 a signed Notice of Exercise; and
- 1.3.2 subject to the cashless exercise option, a cheque or cash or such other form of payment determined by the Board in its sole and absolute discretion as satisfactory for the amount of the Exercise Price (if any).

No Issue Unless Cleared Funds

- 1.4 Where a cheque is presented as payment of the Exercise Price on the exercise of Options, the Company will not, unless otherwise determined by the Board, allot and issue or transfer Shares until after any cheque delivered in payment of the Exercise Price has been cleared by the banking system.

Cashless Exercise of Options

- 1.5 Subject to clause 1.6, a Participant may elect to pay the Exercise Price for each Option by setting off the total Exercise Price against the number of Shares which they are entitled to receive upon exercise (**Cashless Exercise Facility**). By using the Cashless Exercise Facility, the holder will receive Shares to the value of the surplus after the Exercise Price has been set off.
- 1.6 If the Participant elects to use the Cashless Exercise Facility, the Participant will only be issued that number of Shares (rounded down to the nearest whole number) as is equal in value to the difference between the total Exercise Price otherwise payable for the Options on the Options being exercised and the then market value of the Shares at the time of exercise calculated in accordance with the following formula:

$$S = \frac{O \times (MSP - EP)}{MSP}$$

Where:

S = Number of Shares to be issued on exercise of the Options

O = Number the Options being exercised

MSP = Market value of the Shares calculated using the volume weighted average of the Shares on ASX for the 5 trading days immediately prior to (and excluding) the date of the Notice of Exercise

EP = Exercise Price

- 1.7 If the difference between the total Exercise Price otherwise payable for the Options on the Options being exercised and the then market value of the Shares at the time of exercise (calculated in accordance with clause 1.6) is zero or negative, then a Participant will not be entitled to use the Cashless Exercise Facility.

Minimum Exercise

- 1.8 Options must be exercised in multiples of one hundred (100) unless fewer than one hundred (100) Options are held by a Participant or the Board otherwise agrees.

Actions on Exercise

- 1.9 Following the exercise of Options:
- 1.9.1 the Options will automatically lapse; and
 - 1.9.2 the Company will allot and issue, or transfer, the number of Shares for which the Participant is entitled to subscribe for or acquire through the exercise of the Options.

Timing of the Issue of Shares on Exercise and Quotation

- 1.10 The Company must within twenty (20) business days after the later of the following:
- 1.10.1 receipt of a Notice of Exercise given in accordance with these terms and conditions and payment of the Exercise Price for each Option being exercised; and
 - 1.10.2 when excluded information in respect of the Company (as defined in section 708A(7) of the Corporations Act) (if any) ceases to be excluded information. If there is no such information, the relevant date will be the date of receipt of a Notice of Exercise as detailed in clause 1.10.1 above,

the Company will:

- 1.10.3 allot and issue the Shares pursuant to the exercise of the Options;
 - 1.10.4 as soon as reasonably practicable and if required, give ASX a notice that complies with section 708A(5)(e) of the Corporations Act, or, if the Company is unable to issue such a notice, lodge with ASIC a prospectus prepared in accordance with the Corporations Act and do all such things necessary to satisfy section 708A(11) of the Corporations Act to ensure that an offer for sale of the Shares does not require disclosure to investors; and
 - 1.10.5 apply for official quotation on ASX of Shares issued pursuant to the exercise of the Options.
- 1.11 Notwithstanding clause 1.10 above, the Company's obligation to issue such Shares shall be postponed if such Participant at any time after the delivery of a Notice of Exercise and payment of the Exercise Price for each Option being exercised (if applicable) elects for the Shares to be issued to be subject to a holding lock for a period of twelve (12) months. Following any such election:

- 1.11.1 the Shares to be issued or transferred will be held by such Participant on the Company's issuer sponsored sub-register (and not in a CHESS sponsored holding); and
 - 1.11.2 the Company will apply a holding lock on the Shares to be issued or transferred and such Participant is taken to have agreed to that application of that holding lock.
- 1.12 The Company shall release the holding lock on the Shares on the earlier to occur of:
- 1.12.1 the date that is twelve (12) months from the date of issue of the Share; or
 - 1.12.2 the date the Company issues a disclosure document that qualifies the Shares for trading in accordance with section 708A(11) of the Corporations Act; or
 - 1.12.3 the date a transfer of the Shares occurs pursuant to clause 1.13 of these terms and conditions.
- 1.13 Shares shall be transferable by such Participant and the holding lock will be lifted provided that the transfer of the Share complies with section 707(3) of the Corporations Act and, if requested by the Company, the transferee of the Shares agrees by way of a deed poll in favour of the Company to the holding lock applying to the Shares following its transfer for the balance of the period in clause 1.12.1.

Shares Issued on Exercise

- 1.14 Shares issued on the exercise of the Options rank equally with all existing Shares, including those Shares issued, directly, under the Plan.

Quotation of the Shares Issued on Exercise

- 1.15 If admitted to the official list of ASX at the time, application will be made by the Company to ASX for quotation of the Shares issued upon the exercise of the Options.

Adjustment for Reorganisation

- 1.16 Subject to any Applicable Laws, the number of Options held by a Participant under the Plan may, in the sole and absolute discretion of the Board, be determined to be such number as is appropriate and so that the Participant does not suffer any material detriment following any variation in the share capital of the Company arising from:
- 1.16.1 a reduction, subdivision or consolidation of share capital;
 - 1.16.2 a reorganisation of share capital;
 - 1.16.3 a distribution of assets in specie;
 - 1.16.4 the payment of a dividend, otherwise than in the ordinary course, of an amount substantially in excess of the Company's normal distribution policy; or
 - 1.16.5 any issue of ordinary shares or other equity securities or instruments which convert into ordinary shares by way of capitalisation of profits or reserves.
- 1.17 Upon any adjustment being made, the Board will notify each Participant (or his or her legal personal representative where applicable) in writing, informing them of the number of Options held by the relevant Participant.
- 1.18 If there is any reorganisation of the issued share capital of the Company, the terms of Options and the rights of the Participant who holds such Options will be varied, including an adjustment to the number of Options and/or the Exercise Price (if any) applicable to Options, in accordance with the Listing Rules that apply to the reorganisation at the time of the reorganisation.

Participant in New Issues and Other Rights

- 1.19 A Participant who holds Options is not entitled to:
- 1.19.1 notice of, or to vote or attend at, a meeting of the Shareholders;
 - 1.19.2 receive any dividends declared by the Company; or
 - 1.19.3 participate in any new issues of securities offered to Shareholders during the term of the Options,

unless and until the Options are exercised and the Participant holds Shares.

Adjustment for Rights Issue

- 1.20 If the Company makes an issue of Shares pro rata to existing Shareholders (other than an issue in lieu of in satisfaction of dividends or by way of dividend reinvestment) the Exercise Price of an Option will be reduced according to the following formula:

$$\text{New exercise price} = O - \frac{E[P-(S+D)]}{N+1}$$

O = the old Exercise Price of the Option.

E = the number of underlying Shares into which one Option is exercisable.

P = average market price per Share weighted by reference to volume of the underlying Shares during the five (5) trading days ending on the day before the ex rights date or ex entitlements date.

S = the subscription price of a Share under the pro rata issue.

D = the dividend due but not yet paid on the existing underlying Shares (except those to be issued under the pro rata issue).

N = the number of Shares with rights or entitlements that must be held to receive a right to one new share.

Adjustment for Bonus Issue of Shares

- 1.21 If the Company makes a bonus issue of Shares or other securities to existing Shareholders (other than an issue in lieu or in satisfaction, of dividends or by way of dividend reinvestment):
- 1.21.1 the number of Shares which must be issued on the exercise of an Option will be increased by the number of Shares which the Participant would have received if the Participant had exercised the Option before the record date for the bonus issue; and
 - 1.21.2 no change will be made to the Exercise Price.

Change of Control

- 1.22 For the purposes of these terms and conditions, a "**Change of Control Event**" occurs if:

- 1.22.1 the Company announces that its Shareholders have at a Court convened meeting of Shareholders voted in favour, by the necessary majority, of a proposed scheme of arrangement (excluding a merger by way of scheme of arrangement for the purposes of a corporate restructure (including change of domicile, or any reconstruction, consolidation, sub-division, reduction or return) of the issued capital of the Company) and the Court, by order, approves the scheme of arrangement;
 - 1.22.2 a Takeover Bid:
 - 1.22.2.1 is announced;
 - 1.22.2.2 has become unconditional; and
 - 1.22.2.3 the person making the Takeover Bid has a Relevant Interest in fifty percent (50%) or more of the issued Shares;
 - 1.22.3 any person acquires a Relevant Interest in fifty and one-tenth percent (50.1%) or more of the issued Shares by any other means; or
 - 1.22.4 the announcement by the Company that a sale or transfer (in one transaction or a series of related transactions) of the whole or substantially the whole of the undertaking and business of the Company has been completed.
- 1.23 Where a Change of Control Event has (i) occurred or (ii) been announced by the Company and, in the opinion of the Board, will or is likely to occur:
- 1.23.1 a Participant may exercise any or all of their Options, regardless of whether the Vesting Conditions have been satisfied, provided that no Option will be capable of exercise later than the Expiry Date; and
 - 1.23.2 if the Board has procured an offer for all holders of Options on like terms (having regard to the nature and value of the Options) to the terms proposed under the Change in Control Event and the Board has specified (in its absolute discretion) a period during which the holders of Options may elect to accept the offer and, if the holder has not so elected at the end of that offer period, the Options, if not exercised within 10 days of the end of that offer period, shall expire.

Quotation

- 1.24 The Company will not seek official quotation of any Options.

No Transfer of Options

- 1.25 Options granted under this Plan may not be assigned, transferred, encumbered with a Security Interest in or over them, or otherwise disposed of by a Participant, unless:
 - 1.25.1 the prior consent of the Board is obtained, which consent may impose such terms and conditions on such assignment, transfer, encumbrance with a Security Interest or disposal as the Board sees fit; or
 - 1.25.2 such assignment or transfer occurs by force of law upon the death or total and permanent disablement of a Participant to the Participant's legal personal representative.

Options to be Recorded

- 1.26 Options will be recorded in the appropriate register of the Company.

BERKELEY ENERGIA LIMITED

ACN 052 468 569

PROXY FORM

The Company Secretary
Berkeley Energia Limited

By delivery:

Level 9, 28 The Esplanade
PERTH WA 6000

By post:

PO Box Z5083
PERTH WA 6831

By email:

voting@berkeleyenergia.com

By facsimile:

+61 8 9322 6558

Name of Shareholder:

Address of Shareholder:

Number of Shares entitled to vote:

Please mark to indicate your directions. Proxy appointments will only be valid and accepted by the Company if they are made and received no later than 48 hours before the meeting. Further instructions are provided overleaf.

Step 1 – Appoint a Proxy to Vote on Your Behalf

I/we being Shareholder/s of the Company hereby appoint:

The Chairperson
(mark box)

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

or failing the individual or body corporate named, or if no individual or body corporate is named, the Chairperson, as my/our proxy to act generally on my/our behalf and to vote in accordance with the following directions (or if no directions have been given, and to the extent permitted by law, as the proxy sees fit) at the General Meeting of Berkeley Energia Limited to be held at the Conference Room, Ground Floor, 28 The Esplanade, Perth, Western Australia on Tuesday, 18 February 2020 commencing at 11:00am (WST) and at any adjournment or postponement of such meeting. If 2 proxies are appointed, the proportion or number of votes that this proxy is authorised to exercise is []% of the Shareholder's votes / [] of the Shareholder's votes. (An additional Proxy Form will be supplied by the Company, on request).

Important – Chairperson authorised to exercise undirected proxies on remuneration related resolutions: The Chairperson intends to vote all available and undirected proxies in favour of all Resolutions. If the Chairperson is your proxy or is appointed your proxy by default, unless you indicate otherwise by ticking either the 'for', 'against' or 'abstain' box in relation to a Resolution, you will be expressly authorising the Chairperson to vote in accordance with the Chairperson's voting intentions on that Resolution even if that Resolution is connected directly or indirectly with the remuneration of a member of Key Management Personnel.

Step 2 – Instructions as to Voting on Resolutions

The proxy is to vote for or against the Resolutions referred to in the Notice as follows:

		For	Against	Abstain*
Resolution 1	Approval of Employee Equity Incentive Plan			
Resolution 2	Approval to Issue Options to a Director – Mr Robert Behets			

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

The Chairperson of the Meeting intends to vote all available and undirected proxies in favour of each Resolution.

Step 3 – Authorised signature/s

This section **must** be signed in accordance with the instructions below to enable your voting instructions to be implemented.

Individual or Shareholder 1

Sole Director and Sole Company Secretary

Shareholder 2

Director

Shareholder 3

Director/Company Secretary

Contact Name

Contact Daytime Telephone

Date

Proxy Notes:

A Shareholder entitled to attend and vote at the Meeting may appoint a natural person as the Shareholder's proxy to attend and vote for the Shareholder at that Meeting. If the Shareholder is entitled to cast 2 or more votes at the Meeting the Shareholder may appoint not more than 2 proxies. Where the Shareholder appoints more than one proxy the Shareholder may specify the proportion or number of votes each proxy is appointed to exercise. If such proportion or number of votes is not specified each proxy may exercise half of the Shareholder's votes. A proxy may, but need not be, a Shareholder of the Company.

If a Shareholder appoints a body corporate as the Shareholder's proxy to attend and vote for the Shareholder at that Meeting, the representative of the body corporate to attend the Meeting must produce the Certificate of Appointment of Representative prior to admission. A form of the certificate may be obtained from the Company's share registry.

You must sign this form as follows in the spaces provided:

Joint Holding: where the holding is in more than one name all of the holders must sign.

Power of Attorney: if signed under a Power of Attorney, you must have already lodged it with the registry, or alternatively, attach a certified photocopy of the Power of Attorney to this Proxy Form when you return it.

Companies: a Director can sign jointly with another Director or a Company Secretary. A sole Director who is also a sole Company Secretary can also sign. Please indicate the office held by signing in the appropriate space.

If a representative of the corporation is to attend the Meeting the appropriate "Certificate of Appointment of Representative" should be produced prior to admission. A form of the certificate may be obtained from the Company's Share Registry.

Proxy Forms (and the power of attorney or other authority, if any, under which the Proxy Form is signed) or a copy or facsimile which appears on its face to be an authentic copy of the Proxy Form (and the power of attorney or other authority) must be deposited at or received by electronic email or by facsimile transmission at the Perth office of the Company (Level 9, 28 The Esplanade, Perth, WA, 6000, or by post to PO Box Z5083, Perth, WA, 6831 or by email at voting@berkeleyenergia.com or by facsimile (08) 9322 6558 if faxed from within Australia or +618 9322 6558 if faxed from outside Australia) not less than 48 hours prior to the time of commencement of the Meeting (WST).