

**MERLIN DIAMONDS LIMITED**  
**ABN 86 009 153 119**

**NOTICE OF ANNUAL GENERAL MEETING**

NOTICE IS HEREBY GIVEN that the Annual General Meeting of Merlin Diamonds Limited (the "Company") will be held at Sebel Albert Park, 65 Queens Road, Melbourne, Victoria 3004, Australia, on Friday 27 November 2015, commencing at 10.45 am for the following purposes:

**AGENDA**

**ORDINARY BUSINESS**

**ORDINARY RESOLUTIONS**

**1. Financial Statements and Reports**

To receive and consider the Financial Statements of the Company and the Reports of the Directors and of the Auditor for the financial year ended 30 June 2015.

**2. Election of Director**

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

"That Mr Henry Herzog who holds office until the close of the meeting in accordance with clause 14.4(a) of the Company's Constitution, and, being eligible, be re-elected as a director of the Company."

**3. Ratify Issue Of Shares**

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

"That, for the purpose of ASX Listing Rule 7.4 and for all other purposes, shareholders ratify and approve the issue and allotment of 7,6992,304 Shares to the each of the persons, on the terms and conditions and in the manner set out in the Explanatory Memorandum."

**4. Approval of 10% Placement Capacity – Shares**

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

"That for the purposes of ASX Listing Rule 7.1A and for all other purposes, approval is given for the issue of Equity Securities totalling up to 10% of the issued capital of the Company (at the time of the issue) calculated in accordance with the formula prescribed in ASX Listing Rule 7.1A2 and on the terms and conditions set out in the Explanatory Memorandum."

**NON-BINDING ORDINARY RESOLUTION**

**5. Remuneration Report**

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

"That the Remuneration Report of the Company (which forms part of the Directors' Report) for the financial year ended 30 June 2015 be adopted."

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

By Order of the Board and dated this 22nd day of October 2015.



PETER LEE  
Company Secretary

## 2015 ANNUAL REPORT

A copy of the 2015 Annual Report is available on our website at [www.merlindiamonds.com.au](http://www.merlindiamonds.com.au)

### VOTING EXCLUSION STATEMENT

#### Resolution 3

The Company will disregard any votes cast on Resolution 4 by (a) any person who participated in the issue; any person who may obtain a benefit; and (b) and associate of that person.

However, the Company need not disregard a vote on the resolution if (a) it is cast by a person as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or (b) it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the proxy form to vote as the proxy decides.

#### Resolution 4

The Company will disregard any votes cast on Resolution 4 by a person who may participate in the issue of equity Securities under the resolution and a person who may obtain a benefit, except a benefit solely in the capacity of a holder of ordinary shares, if the Resolution is passed and any associates of those persons. However, the Company need not disregard a vote if it is cast by a person as a proxy for a person who is entitled to vote, in accordance with the directions on the Proxy Form, or, it is cast by the Chair as proxy for a person who is entitled to vote, in accordance with a direction on the Proxy Form to vote as the proxy decides.

#### Resolution 5

The Company will disregard any votes cast on Resolution 5 by (a) key management personnel of the Company; and (b) closely related parties of the key management personnel.

The key management personnel (**KMP**) of the Company are set out in the Remuneration Report.

However, the Company need not disregard a vote on Resolution 5 if:

- (a) it is cast by a person other than a person who is a key management person as proxy for a person who is entitled to vote in accordance with the directions on the proxy form; or
- (b) it is cast by a person who is a key management person as a proxy for a person who is entitled to vote and the proxy is a directed proxy (that is, the proxy specifies how the proxy is to vote on the proposed resolution); or
- (c) it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, the chair has been given an open proxy and the proxy appointment expressly authorises the chair to exercise the proxy vote even if the resolution is connected directly or indirectly with the remuneration of a member of the KMP. For the purpose of this resolution, if the chair is appointed as set out in this clause and you do not complete any of the boxes on the proxy form opposite resolution 3, you will be directing the chairman to vote in favour of resolution 5.

#### NOTES TO THE NOTICE OF ANNUAL GENERAL MEETING

1. A Member entitled to attend and vote at the aforementioned meeting is entitled to appoint not more than two other persons as his/her proxy or proxies to attend and vote, in certain circumstances, instead of the Member at the meeting.
2. If a Member appoints one proxy, that proxy may vote on a show of hands.
3. If a Member appoints two proxies neither may vote on a show of hands. However, if you appoint two proxies to represent you at the Meeting, you must show in the space provided either the percentage of your Shareholding or the number of votes (you are entitled to one vote for each Share you own upon a poll being declared) those proxies are to represent. If you do not complete this section then each proxy may, on a poll, vote half of your Shareholding. A separate proxy form must be submitted for each proxy you appoint.
4. A proxy need not be a Member of the Company.

5. If you appoint a proxy to represent you and vote on your behalf at the Meeting and that person is also a Member or has already been appointed as a proxy for another Member, your vote may not be counted on a show of hands. This is because, on a show of hands, your proxy's vote is only counted once irrespective of the number of Members that that person represents. However, if a poll is taken and your proxy votes, your vote will be counted in full in reaching a decision.
6. The Proxy Form together with the Power of Attorney (if any) or a certified copy of the Power of Attorney (if any) under which it is signed must be lodged at either Level 12, 680 George Street, Sydney, NSW 2000, mailed to Locked Bag A14, Sydney South, NSW 1235 or the Registered Office of the Company or by being sent by fax to (+61) 02 9287 0309, not less than forty-eight (48) hours before the time of the commencement of the meeting.
7. Signing Proxies
  - (i) Joint Holding - All holders must sign.
  - (ii) Shares in Company Names - Companies must execute this form in the way provided by Law.
  - (iii) Individual - Must be signed by the Member or their attorney.
8. For the purpose of the Meeting, Shares will be taken to be held by the persons who are registered holders at 7pm, on 25 November 2014. Accordingly, share transfers registered after that time will be disregarded in determining entitlements to attend and vote at the Meeting.

#### **COMPANY REPRESENTATIVE**

If Shares are held in a company name and it is intended that a representative of the company attend the Meeting rather than lodge a proxy prior to the Meeting, the person attending the Meeting must present authority from the company director/s signed in the way provided by law.

## EXPLANATORY MEMORANDUM TO SHAREHOLDERS

This Explanatory Statement provides shareholders of the Company with information in respect of the resolutions to be considered at the Annual General Meeting of the Company to be held Sebel Albert Park, 65 Queens Road, Melbourne 3004 on 27 November 2015 at 10.45 am. Shareholders should carefully review this Explanatory Statement and the associated Notice of General Meeting (**Notice**) to which this Explanatory Statement is attached.

**If you have difficulty in properly understanding this documentation, you should consult your financial or legal adviser.**

### 1. RECEIVE AND CONSIDER THE REPORTS FOR THE YEAR ENDED 30 JUNE 2015

This item is intended to provide an opportunity for Shareholders to raise questions on the reports themselves and on the performance of the Company generally.

The Company's Annual Report 2015 has been made available to Shareholders. There will be an opportunity for Shareholders at the meeting to comment on and ask questions about the Company's management, operations, financial position, business strategies and prospects.

### 2. RE-ELECTION OF DIRECTORS

Article 14.4(a) of the Company's Constitution requires that one-third of the Directors (excluding the Managing Director) must retire by rotation at the conclusion of the annual general meeting of the Company. Accordingly, Mr Henry Herzog retires and being eligible offers himself for re-election.

A profile about Mr Herzog follows:

#### **Henry Herzog**

Mr Herzog has more than 40 years of corporate and management experience. He has been a Director of the Company since December 2009. Mr. Herzog has served in various positions as President, Vice President or Director of a number of publicly listed companies in Australia and the United States, predominantly in the mining sector and is currently also a Director of Legend International Holdings, Inc. Mr. Herzog was responsible for the restructuring and reorganization of several publicly listed companies including Golden River Resources Corporation, where he served as its President and Chief Executive Officer from 1986-1988 and as a Vice President from 1988-1989. For at least the past five years, Mr. Herzog has also been managing a number of private investment entities. He is also a member of the Board of Trustees of a non-profit college of higher education. Age 72

The Board of Directors supports the nomination of Mr Herzog.

### 3. RATIFY THE ISSUE OF SHARES

The Company completed a private placement of shares on 24 September 2015 by the issue of 7,692,304 shares at \$0.065 each to raise \$500,000 (before costs). The ratification of the issue and allotment of the shares issued pursuant to those placements is sought under Resolution 3 in accordance with the requirements of ASX Listing Rule 7.4.

#### **ASX Listing Rule 7.4**

ASX Listing Rule 7.1 prohibits a listed company from issuing, or agreeing to issue, equity securities (which includes shares) that exceed 15% of the total number of fully paid ordinary securities on issue in any 12 month period, unless approval is obtained from the holders of the company's ordinary securities. ASX Listing Rule 7.4 provides that the approval of holders of the company's ordinary securities may be obtained after the issue of equity securities. The effect of such ratification is to restore the company's discretionary power to issue further securities up to 15% of the number of fully paid ordinary securities on issue at the beginning of the relevant 12 month period without obtaining shareholder approval.

#### **ASX Listing Rule Disclosure Requirements**

The following information is provided in accordance with ASX Listing Rule 7.5:

(a) *Number of securities allotted*

7,692,304 fully paid ordinary shares.

(b) *Price at which the securities were issued*

\$0.065 per share.

(c) *Terms of the securities*

The Shares issued are fully paid ordinary shares ranking equally in all respects with all other Shares on issue and are or will be listed on ASX.

(d) *The names of the allottees or the basis upon which the allottees were determined*

The allottees were Irwin Biotech Nominees Pty Ltd, Scayca Pty Ltd, David Ruseman, Anthony Pamamull, MJGD Nominees Pty Ltd and Merino Court Pty Ltd and were not related parties of the Company or their associates.

(e) *Use (or intended use) of the funds raised*

The net funds raised were used for:

- exploration and development of the Merlin diamond mine; and
- working capital requirements of the Company.

#### **Directors' Recommendation**

The Board unanimously recommends that Shareholders vote in favour of Resolution 3, as it allows the Company to retain the flexibility to issue further securities representing up to 15% of the total number of Shares on issue in any 12 month period during the next 12 months without Shareholder approval.

#### **4. APPROVAL OF 10% PLACEMENT CAPACITY – SHARES**

The purpose of this special resolution is to authorise the Directors to seek Shareholder approval to allow it to issue a further 10% of the Company's issued share capital under Listing Rule 7.1A during the 10% Placement Period in addition to and without using the Company's 15% placement capacity under Listing Rule 7.1.

This effectively gives the Directors a 25% placement capacity less that part of its placement capacity not available under Listing Rule 7.1

Listing Rule 7.1A came into effect on 1 August 2012 and enables "eligible entities" to issue Equity Securities up to 10% of its issued share capital through placements over a 12 month period after the annual general meeting if the Equity Securities are in an existing quoted class of the Company's securities ("10% Placement Facility"). The 10% Placement Facility is in addition to the Company's 15% placement annual capacity under Listing Rule 7.1. An "eligible entity" for the purposes of Listing Rule 7.1A is an entity that is not included in the S&P/ASX 300 Index and has a market capitalisation of \$300 million or less. The Company is an eligible entity. The Company is seeking Shareholder approval by way of a special resolution to have the ability to issue Equity Securities under the 10% Placement Facility during the period up to 12 months after the Meeting. As Resolution 4 is a special resolution 75% of votes cast by Shareholders present and eligible to vote at the Meeting must be in favour of Resolution 4 for it to be passed.

If Shareholders approve Resolution 4 the exact number of Equity Securities that may be issued under the 10% Placement Facility will be determined in accordance with the formula prescribed in Listing Rule 7.1A.2 (refer below). The Company will comply with the disclosure obligations under Listing Rules 7.1A.4 and 3.10.5A upon the issue of any Equity Securities under the 10% Placement Facility.

#### **Description of Listing Rule 7.1A**

##### ***Shareholder approval***

The ability to issue Equity Securities under the 10% Placement Facility is subject to shareholder approval by way of a special resolution at an annual general meeting, which is in addition to its 15% annual placement capacity.

##### ***Equity Securities***

Any Equity Securities issued under the 10% Placement Facility must be in the same class as an existing quoted class of Equity Securities of the Company. The Company, as at the date of the Notice, has on issue one class of Equity Securities, namely Shares.

##### ***Formula for Calculating Additional 10% Placement Facility.***

Listing rule 7.1A.2 provides that eligible entities which have obtained shareholder approval at an annual general meeting may issue or agree to issue, during the 12 month period after the date of the annual general meeting, a number of Equity Securities calculated in accordance with the following formula:

(a x d) –e

**a** is the number of shares on issue 12 months before the date of issue or agreement:

- (i) plus the number of fully paid shares issued in the 12 months under an exception in Listing Rule 7.2;
- (ii) plus the number of partly paid shares that became fully paid in the 12 months;
- (iii) plus the number of fully paid shares issued in the 12 months with approval of holders of shares under Listing Rule 7.1 and 7.4. This does not include an issue of fully paid shares under the entity's 15% annual placement capacity without shareholder approval;
- (iv) less the number of fully paid shares cancelled in the 12 months.

Note that "a" has the same meaning in Listing Rule 7.1 when calculating an entity's 15% annual placement capacity.

**d** is 10%

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

#### **Listing Rule 7.1 and Listing Rule 7.1A.**

The ability of an entity to issue Equity Securities under Listing Rule 7.1A is in addition to the entity's 15% placement capacity under Listing Rule 7.1.

At the date of this Notice, the Company has on issue 440,565,515 Shares and therefore has a capacity to issue:

- (i) 15% or 66,084,827 Equity Securities under Listing Rule 7.1; and
- (ii) 10% or 44,056,511 Equity Securities subject to Shareholder approval being sought under this Resolution 3 under Listing Rule 7.1A.

The actual number of Equity Securities that the Company will have capacity to issue under Listing Rule 7.1A will be calculated at the date of issue of the Equity Securities, or the agreement date, in accordance with the formula prescribed in Listing Rule 7.1A.2 (refer above).

#### **Information required by Listing Rule 7.3A**

Pursuant to and in accordance with Listing Rule 7.3A, the below information is provided in relation to the approval of the 10% Placement Facility:

##### ***Minimum Price.***

The issue price of the new Equity Securities will be no lower than 75% of the VWAP for the relevant class of securities calculated over the 15 Trading Days immediately before:

- the date on which the price at which the Equity Securities are to be issued is agreed; or
- if the Equity Securities are not issued within 5 Trading Days of the date above, the date on which the Equity Securities are issued.

##### ***Date of Issue***

The Equity Securities may be issued under the 10% Placement Facility commencing on the date of the Meeting and expires on the earlier to occur of:

- the date that is 12 months after the date of this Meeting; or
- the date of the approval by Shareholders of a transaction under Listing Rules 11.1.2 (a significant change to the nature or scale of activities) or 11.2 (disposal of main undertaking).

##### ***Risk of economic and voting dilution***

If Resolution 4 is approved by Shareholders and the Company issues Equity Securities under the 10% Placement Facility, the existing Shareholders' voting power in the Company will be diluted as shown in the table below.

Shareholders should note that there is a risk that:

- the market price for the Equity Securities to be issued may be significantly lower on the date of the issue of the Equity Securities than on the date of the Meeting; and

- the Equity Securities may be issued at a price that is at a discount to the market price for those Equity Securities on the issue date.
  - Any issue of Equity Securities under the 10% Placement Facility will dilute the interests of Shareholders who do not receive any Shares under the issue. If Resolution 4 is approved by Shareholders and the Company issues the maximum number of Equity Securities available under the 10% Placement Facility, the economic and voting dilution of existing Shares would be as shown in the table below.
  - The table below shows the dilution of existing Shareholders on the basis of the current market price of Shares and the current number of ordinary securities for variable "A" calculated in accordance with the formula in Listing Rule 7.1A.2 as at the date of this Notice, assuming the full 10% dilution.
  - The table also shows the voting dilution impact where the number of Shares on issue (Variable A in the formula) changes and the economic dilution where there are changes in the issue price of Shares issued under the 10% Placement Facility.

Variable "A" in Listing Rule 7.1 A2		Dilution		
		\$ .026 50% decrease in Issue Price	\$ .052 Issue Price	\$ .078 50% increase in Issue Price
Current Variable A 44,056,511 Shares	Shares issued	44,056,511	44,056,511	44,056,511
	Funds raised	\$1,145,469	\$2,290,938	\$3,436,407
50% increase* in current Variable A 66,084,766 Shares	Shares issued	66,084,766	66,084,766	66,084,766
	Funds raised	\$1,717,267	\$3,436,407	\$5,154,611
100% increase* in current Variable A 88,113,022 Shares	Shares issue	88,113,022	88,113,022	88,113,022
	Funds raised	\$2,290,938	\$4,581,877	\$6,872,815

\* The number of shares on issue (Variable A in the formula) could increase as a result of the issue of Shares that do not require Shareholder approval (such as under a pro-rata rights issue or scrip issued under a takeover offer) or that are issued under Listing Rule 7.1.

The table has been prepared on the following assumptions:

- The current Shares on issue are the Shares on issue at 13 October 2015.
- The issue price set out above is the closing price of the Shares on the ASX on 13 October 2015.
- The Company issues the maximum number of Equity Securities available under the 10% Placement Facility hence the voting dilution is shown in each example as 10%.
- The calculations above do not show the dilution that any one particular Shareholder will be subject to. All Shareholders should consider the dilution caused to their own shareholding depending on their specific circumstances, and if necessary seek advice from their professional advisers.
- No unlisted options of the Company are exercised into Shares before the date of issue of the Equity Securities.
- The table shows only the effect of issues of Equity Securities under ASX Listing Rule 7.1A, and not dilution under the 15% placement capacity under ASX Listing Rule 7.1, under ASX Listing Rule 7.2, or Shareholder approvals under ASX Listing Rule 7.1.
- The issue of Equity Securities under the 10% Placement Facility consists only of Shares

**Purpose of issue under 10% Placement Facility**

The Company may seek to issue the Equity Securities for the following purposes:

- as cash consideration, in which case the Company intends to use the funds raised towards continued exploration and development of the Company's Zinc Project and its other projects, the evaluation and acquisition of new opportunities and general working capital; or

- as non-cash consideration for the acquisition of new resources assets and other investments. In such circumstances the Company will provide a valuation of the non-cash consideration as required by Listing Rule 7.1A

**Allocation under the 10% Placement Facility**

The Company's allocation policy is dependent on the prevailing market conditions at the time of any proposed issue pursuant to the 10% Placement Facility. The identity of the allottees of Equity Securities will be determined on a case-by-case basis having regard to the factors including but not limited to the following:

- the purpose of the issue;
- the alternative methods of raising funds that are available to the Company, including but not limited to, an entitlement issue or other issue in which existing security holders can participate;
- the effect of the issue of the Equity Securities on the control of the Company;
- the circumstances of the Company, including but not limited to the financial situation and solvency of the Company;
- prevailing market conditions; and
- advice from corporate, financial and broking advisers (if applicable).

The allottees under the 10% Placement Facility have not been determined as at the date of this Notice but may include existing Shareholders and/or new Shareholders, who are not related parties of the Company or their associates.

**Previous Approval under Listing Rule 7.1A**

The Company has not previously obtained approval from shareholders under Listing Rule 7.1A.

**Voting Exclusion**

A voting exclusion statement is included in the Notice. At the date of the Notice, the Company has not invited any particular existing Shareholder or security holder or an identifiable class of existing security holder to participate in an issue of Equity Securities under ASX Listing Rule 7.1A. No existing Shareholder's votes will therefore be excluded under the voting exclusion in the Notice.

**5. ADOPT THE REMUNERATION REPORT FOR THE YEAR ENDED 30 JUNE 2015**

There will be an opportunity for Shareholders at the meeting to comment on and ask questions about the Remuneration Report which is contained in the Company's Annual Report 2015.

The vote on the proposed resolution in agenda Item 4 is advisory only and will not bind the Directors or the Company, however, the Board will take the outcome of the vote into consideration when reviewing remuneration practices and policies.

The Remuneration Report is set out in the Director's Report of the Company's Annual Report 2015. The Report:

- explains the Board's policies in relation to the nature and level of remuneration paid to Directors and key management personnel within the Company;
- discusses the link between the Board's policies and the Company's performance;
- sets out remuneration details for each Director and for each member of the Company's senior executive management team.

By Order of the Board and dated this 22<sup>nd</sup> day of October 2015



PETER LEE  
Company Secretary