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Cochlear Limited Notice of Annual General Meeting 2020

Notice of Annual General Meeting

Notice is hereby given that the Annual General Meeting (AGM) of the members of Cochlear Limited (the Company or Cochlear) will be held as a virtual meeting at <https://web.lumiagm.com/398414205> on Tuesday 20 October 2020 at 10:00am (AEDT).

Business of the meeting

Ordinary business

1. Financial and other reports

To receive and consider the Company's Financial report, the Directors' report and the Auditor's report in respect of the financial year ended 30 June 2020 and to consider and, if thought fit, to pass the following resolution:

1.1 "THAT the Company's Financial report, the Directors' report and the Auditor's report in respect of the financial year ended 30 June 2020 be received."

Note: An explanation of the proposed resolution is set out at Item 1 of the Explanatory Notes attached to this Notice of Annual General Meeting.

2. Remuneration report

To consider and, if thought fit, to pass the following non-binding resolution:

2.1 "THAT the Company's Remuneration report in respect of the financial year ended 30 June 2020 be adopted."

Voting exclusion statement: The Company will disregard any votes cast on this resolution: (a) by or on behalf of a member of the key management personnel (KMP) named in the Remuneration report for the financial year ended 30 June 2020, or that KMP's closely related party, regardless of the capacity in which the vote is cast; and (b) as a proxy by a member of the KMP as at the date of the meeting, or that KMP's closely related party, unless the vote is cast as a proxy for a person who is entitled to vote on this resolution: (i) in accordance with their directions on how to vote as set out in the proxy appointment; or (ii) by the Chairman pursuant to an express authorisation on the proxy/voting form.

Note: An explanation of the proposed resolution is set out at Item 2 of the Explanatory Notes attached to this Notice of Annual General Meeting.

3. Re-election of Board endorsed directors

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

3.1 "THAT Mr Andrew Denver, being a director who is retiring in accordance with the Company's Constitution and who, being eligible, offers himself for re-election as a director of the Company, be re-elected as a director of the Company."

3.2 "THAT Prof Bruce Robinson, being a director who is retiring in accordance with the Company's Constitution and who, being eligible, offers himself for re-election as a director of the Company, be re-elected as a director of the Company."

3.3 "THAT Mr Michael Daniell, being a director who is retiring in accordance with the Company's Constitution (this being the first Annual General Meeting of the Company since his appointment by the directors) and who, being eligible, offers himself for re-election as a director of the Company, be re-elected as a director of the Company."

Note: An explanation of the proposed resolutions is set out at Item 3 of the Explanatory Notes attached to this Notice of Annual General Meeting.

4. Election of non-Board endorsed external nominee as a director

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

4.1 "THAT Mr Stephen Mayne, having offered himself for election, be elected as a director of the Company."

Note: An explanation of the proposed resolution is set out at Item 4 of the Explanatory Notes attached to this Notice of Annual General Meeting.

Special business

5. Approval of securities to be granted to the CEO & President under the Cochlear Executive Incentive Plan

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

5.1 "THAT approval be given to:

(a) the grant to Mr Dig Howitt, the Company's CEO & President, of options and performance rights under the

Cochlear Executive Incentive Plan, calculated in accordance with the formula and on the terms summarised in the Explanatory Notes attached to the Notice of Annual General Meeting; and

(b) the transfer to Mr Howitt of existing shares upon the exercise of any options and/or performance rights granted to Mr Howitt pursuant to (a) above.”

Voting exclusion statement: The Company will disregard any votes cast: (a) in favour of this resolution by or on behalf of Mr Howitt or an associate of Mr Howitt, regardless of the capacity in which the vote is cast; and (b) on this resolution as a proxy by a member of the KMP at the date of the meeting, or that KMP’s closely related party, unless the vote is cast by: (i) a person as proxy or attorney for a person who is entitled to vote on this resolution in accordance with their directions of how to vote as set out in the proxy/voting form; (ii) by 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 (iii) a holder acting solely in a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary provided that: (A) 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 this resolution; and (B) the holder votes on the resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

Note: An explanation of the proposed resolution is set out at Item 5 of the Explanatory Notes attached to this Notice of Annual General Meeting.

6. Special resolution to replace the Constitution of the Company

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

6.1. “THAT the proposed constitution, as tabled at the meeting and signed by the Chairman for the purposes of identification, be approved and adopted as the Constitution of the Company in place of the existing Constitution, with effect from the close of the meeting.”

Note: An explanation of the proposed resolution is set out at Item 6 of the Explanatory Notes attached to this Notice of Annual General Meeting.

7. Special resolution to insert proportional takeover provisions in the proposed constitution

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

7.1. “THAT proportional takeover provisions in the form as tabled at the meeting and signed by the Chairman for the

purposes of identification, be inserted into the proposed constitution of the Company for a period of three years from the date of this meeting.”

Note: An explanation of the proposed resolution is set out at Item 7 of the Explanatory Notes attached to this Notice of Annual General Meeting.

By order of the Board



Ray Jarman

Company Secretary

Dated: 18 September 2020

Explanatory Notes

Item 1. Financial and other reports

As required by section 317 of the Corporations Act 2001 (Cth) (Act), the Company's Financial report, the Directors' report and the Auditor's report for the financial year ended 30 June 2020 (FY20) will be laid before the Company in the AGM. There is no requirement for a formal resolution on this Item; however, it is the Company's practice to do so.

Resolution 1.1 – directors' recommendation

The Directors recommend that shareholders vote in favour of the resolution.

The Chairman intends to vote all available proxies in favour of the resolution.

Item 2. Remuneration report

As required by section 250R(2) of the Act, the Remuneration report of the Company for FY20 will be laid before the Company in the AGM and a resolution that it be adopted will be put to a vote. The Remuneration report is contained in the Directors' report in the Company's 2020 Annual Report. The Annual Report is available on the Company's website (www.cochlear.com).

The Remuneration report explains the structure of and policy behind the Company's remuneration practices and the link between the remuneration of executives and the Company's performance. The Remuneration report also sets out remuneration details for each director and for KMP. A reasonable opportunity will be provided for discussion of the Remuneration report at the AGM. Although there is a requirement for a formal resolution on this Item, by operation of section 250R(3) of the Act, the resolution is advisory only and does not bind the directors or the Company.

The Board believes Cochlear's approach to Board and executive KMP remuneration is a balanced, fair and equitable approach. The Company's executive remuneration practices are designed to reward and motivate a successful and experienced executive team to deliver ongoing business growth which meets the expectations of all shareholders. The Board welcomes feedback from shareholders on Cochlear's remuneration practices.

Resolution 2.1 – directors' recommendation

The Non-executive Directors recommend that shareholders vote in favour of the resolution.

Voting exclusions apply to this resolution as specified in the Notice of Annual General Meeting.

The Chairman intends to vote all available proxies in favour of the resolution.

Item 3. Re-election of Board endorsed directors

Pursuant to Article 16.2 of the Company's Constitution, each director (excluding the CEO & President) must retire from office not later than at the third AGM following his or her last election or appointment by a general meeting, but may submit himself or herself for and will be eligible for re-election. Mr Andrew Denver and Prof Bruce Robinson are retiring at this AGM in accordance with Article 16.2.

Pursuant to Article 15.5(a) of the Company's Constitution, the directors have the power to appoint any person as a director, either to fill a casual vacancy or as an addition to the directors. Article 15.5(b) requires that any person appointed as a director pursuant to Article 15.5(a) (excluding the CEO & President) will retire at the next following AGM of the Company and will then be eligible for re-election as a director. Mr Michael Daniell was appointed by the Board as a director of the Company with effect from 1 January 2020. Accordingly, Mr Michael Daniell is retiring at this AGM and is standing for re-election.

The retirements of Mr Andrew Denver, Prof Bruce Robinson and Mr Michael Daniell mean that the requirement of Article 16.1 of the Company's Constitution, that one-third of the directors for the time being (excluding the CEO & President and rounded down to the nearest multiple of 3) retire from office at each AGM, is also satisfied.

The Board considers that each of Mr Andrew Denver, Prof Bruce Robinson and Mr Michael Daniell is an independent non-executive director.

Mr Andrew Denver

**Non-executive
Director**

Age 72

BSc (Hons), MBA, FAICD



Appointed to the Board 1 February 2007: Member of the Audit & Risk, Medical Science, Technology & Innovation and Nomination Committees.

Background: Extensive experience in the life sciences industry. Former Managing Director of Memtec Limited and President Asia for Pall Corporation.

Other boards: Chairman, SpeedX and Director, Vaxxas and QBiotics.

Former directorships: Executive Chairman, Universal Biosensors.

Resolution 3.1 – directors’ recommendation

Having reviewed Mr Denver’s performance, the Board considers that he continues to make a valuable contribution to the Board. Mr Denver brings to the Board extensive experience in the medical device and healthcare industries and international and operational expertise. Mr Denver’s skills and experience are particularly valuable in his role as a member of the Audit & Risk, Medical Science, Technology & Innovation and Nomination Committees.

The Board (other than Mr Andrew Denver) recommends that shareholders vote in favour of the resolution.

The Chairman intends to vote all available proxies in favour of the resolution.

**Prof Bruce Robinson,
AC**

**Non-executive
Director**

Age 64

MD, MSc, FRACP, FAAHMS,
FAICD



Appointed to the Board 13 December 2016: Chairman of the Medical Science Committee. Member of the Nomination, People & Culture and Technology & Innovation Committees.

Background: Over 20 years’ leadership experience as an academic physician/scientist across research, healthcare and medicine, and tertiary education. Former Dean, The University of Sydney’s Sydney Medical School, Head of Medicine at Sydney’s Royal North Shore Hospital and Head of the Cancer Genetics Laboratory at the Kolling Institute for Medical Research.

Other boards: Chairman, National Health and Medical Research Council. Director, MaynePharma, QBiotics and Woolcock Institute of Medical Research.

Former directorships: Director of Firefly and Digital Health Agency CRC.

Resolution 3.2 – directors’ recommendation

Having reviewed Prof Robinson’s performance, the Board considers that he continues to make a valuable contribution to the Board. Prof Robinson brings to the Board extensive experience in the healthcare industry and expertise in academia, government, public and private health providers, research institutes and philanthropic organisations. Prof Robinson’s skills and experience are particularly valuable in his role as Chair of the Medical Science Committee.

The Board (other than Prof Bruce Robinson) recommends that shareholders vote in favour of the resolution.

The Chairman intends to vote all available proxies in favour of the resolution.

Mr Michael Daniell

Non-executive
Director

Age 63

BE (Hons), Electrical,
CMIInstD (NZ)



Appointed to the Board 1 January 2020: Member of the Nomination, Medical Science and Technology & Innovation Committees.

Background: Over 40 years' experience in the medical device industry with extensive executive leadership experience. Former Managing Director and CEO of Fisher & Paykel Healthcare Corporation Limited responsible for the global business and operations including the design, manufacture and marketing of innovative products and systems for use in respiratory care, acute care and the treatment of obstructive sleep apnea.

Other boards: Director, Fisher & Paykel Healthcare Corporation Limited, Council member, The University of Auckland, Director, Tait International Limited, Chair, New Zealand Medical Technology Centre of Research Excellence, and Director, Medical Research Commercialisation Fund.

Resolution 3.3 – directors' recommendation

The Board has reviewed Mr Daniell's performance since his appointment to the Board and considers that his skills and experience will continue to enhance the Board's ability to perform its role. Appropriate background checks were completed before Mr Daniell was appointed to the Board.

The Board (other than Mr Michael Daniell) recommends that shareholders vote in favour of the resolution.

The Chairman intends to vote all available proxies in favour of the resolution.

Item 4. Election of non-Board endorsed external nominee as a director

In accordance with Article 16.5(b) of the Company's Constitution, an external non-Board endorsed candidate, Mr Stephen Mayne, offers himself for election.

As Mr Mayne's nomination was received shortly before this Notice of Meeting was finalised and Mr Mayne is not a candidate endorsed by the Board, the Company has not had the opportunity to undertake its usual background checks in relation to Mr Mayne or to independently verify the following information provided by Mr Mayne.

Mr Stephen Mayne

Age 51

BCom (Melb), GAICD



Stephen Mayne, 51. BCom (Melb). GAICD. Stephen is a Walkley Award-winning business journalist who has worked for a range of newspapers, including The AFR and The Age along with 5 years experience in the 1990s as business editor of the Herald Sun and The Daily Telegraph. He is also Australia's leading retail shareholder advocate and spent three years with the Australian Shareholders' Association from 2011 until 2014, serving as a director and then later as official spokesperson and Policy and Engagement Co-ordinator, plus another 3 year term as a volunteer ASA director from 2016-2019.

Stephen founded the digital business www.crikey.com.au, Australia's best known independent ezine, in 2000 before successfully selling it in 2005 and remains a regular contributor to this day. He publishes the corporate governance ezine www.maynereport.com and also writes a weekly column on ESG issues and capital raisings for Alan Kohler's Eureka Report investor newsletter.

His governance experience includes an 18 month period in politics working as a press secretary for Victoria's Kennett Government in the 1990s, 2 year as a director of an aged care business with \$10 million in revenues, 4 years as a City of Manningham councillor in Melbourne's eastern suburbs and a 4 year term (2012-2016) as a City of Melbourne councillor where he chaired the Finance and Governance Committee and was deputy chair of the Planning Committee. He currently has the time and experience to serve constructively as a non-executive director of Cochlear and, if elected, would bring independence to the board, along with a retail shareholder perspective garnered from running the world's biggest small share portfolio (more

than 500 holdings worth less than \$40,000), asking questions at more than 400 AGMs and participating in more than 300 capital raisings.

Mr Mayne believes the structuring of this year's \$1.1 billion Cochlear capital raising was unfair for retail shareholders with an over-sized \$880 million discounted institutional placement and then an under-sized Share Purchase Plan (SPP) which was initially capped at \$50 million and then expanded to \$220 million after receiving \$419 million in applications. 55% of retail shareholders didn't participate and the board showed a lack of respect for retail shareholders by allocating \$300 million worth of placement shares to a single London-based fund, Veritas, which was more than the \$220 million worth of shares allocated to the 16,651 retail shareholders who participated in the SPP.

Why the Board does not support the election of Mr Mayne as a director

Cochlear has a well-defined Board succession and renewal planning process to identify and nominate potential new directors to the Board in a professional manner. The development of a list of potential Board candidates is managed by the Nominations Committee with the assistance of external consultants from time to time. Candidates considered suitable for appointment are then assessed against a range of criteria including skills, experience, knowledge and expertise (by reference to the Company's Board Skills Matrix), personal qualities, ability to exercise independent judgement and diversity required to discharge the Board's duties. The Board ultimately makes the selection of the preferred candidate. For example, the Board's appointment of Mr Michael Daniell as a director earlier this year ensures the Board has global medical device expertise. Further, the Board's recent appointment of Ms Christine McLoughlin ensures the Board has domestic and international financial and health services experience.

The Board is comprised of highly experienced senior business leaders from different backgrounds who collectively possess the skills, experience, tenure and diversity considered necessary to appropriately govern an ASX-listed, global medical device organisation.

Having regard to the selection criteria adopted by the Nomination Committee for director appointments, the Board does not consider Mr Mayne's stated skills, experience and intentions fit the Cochlear Board requirements.

Cochlear also considers that Mr Mayne's concerns about the treatment of retail shareholder's in Cochlear's \$1.1 billion capital raising this year are not justified.

Resolution 4.1 – directors' recommendation

It follows for the reasons outlined above that the Board unanimously believes that it is not in the best interests of shareholders that Mr Mayne be elected and recommends that shareholders vote against the resolution.

The Chairman intends to vote all available proxies against the resolution.

Item 5. Approval of securities to be granted to the CEO & President under the Cochlear Executive Incentive Plan

Why is shareholder approval being sought?

The Cochlear Executive Incentive Plan (CEIP) requires that any shares to be delivered to a director upon the exercise of options or performance rights that are issued under the CEIP after 21 July 2015 must be existing shares acquired on the market. Accordingly, an exception to Australian Securities Exchange (ASX) Listing Rule 10.14 applies. Notwithstanding this, the Company intends to seek approval for the grant of CEIP long-term incentive (LTI) awards to the CEO & President as it is the Company's practice to do so and for good corporate governance.

If shareholder approval is not obtained, then, subject to the achievement of the performance conditions described in these explanatory notes, Mr Howitt will receive a cash payment at the end of the four (4) year performance period in August 2024 equivalent in value to the LTI he would have received had shareholder approval been obtained.

Terms of the CEIP LTI

Purpose: The CEIP LTI is designed to reward participants for the long-term growth of the Company.

Structure: For the financial year ending 30 June 2021 (FY21), Mr Dig Howitt receives a combination of 50% options and 50% performance rights (being rights to subscribe for or be allocated or receive the transfer of ordinary shares in the Company).

The CEIP rules permit the Company to satisfy its obligation to deliver shares under options or performance rights through an employee share trust.

Each option or performance right entitles Mr Howitt to receive the transfer of one ordinary share in the capital of the Company, subject to certain vesting restrictions.

Approval is being sought from shareholders for the FY21 grant of options and performance rights to Mr Howitt under the CEIP LTI. If shareholders approve the grant of options and performance rights to Mr Howitt in accordance with the proposed resolution, the Company will issue the options and performance rights within five (5)

business days of the Company's 2020 AGM. These options and performance rights will be taken to be granted as at 21 October 2020, being the date on which CEIP LTI options and/or performance rights will be granted to other Company executives under the CEIP (based on values determined as at 25 August 2020).

The Company uses options and performance rights because they create long-term alignment between the interests of the Company's executives and ordinary shareholders but do not provide the executives with the full benefits of share ownership (such as dividend and voting rights) unless and until the options and performance rights vest. Options and performance rights are also used to incentivise the Company's executive team towards long-term sustainable growth of the business.

The options will be granted for nil consideration with an exercise price of A\$206.06, being the weighted average price of ordinary shares in the Company traded on the ASX during the five (5) business day period commencing the business day after the release of the Company's FY20 full year results on 18 August 2020, payable on exercise of the options.

Performance rights are granted for nil consideration with a nil exercise price.

Mr Howitt's total remuneration package for FY21

Mr Howitt's total target remuneration package for FY21 includes:

Fixed remuneration	A\$1,855,479
Short-term incentive	A\$1,806,000
Long-term incentive	A\$1,806,000

Shareholders are referred to the Remuneration report for full details of Mr Howitt's remuneration.

Other information

Mr Howitt is the only director entitled to participate in the CEIP.

Mr Howitt has previously received 106,790 LTI options (for nil consideration) and 9,489 LTI performance rights (at no cost) under the CEIP from and including FY18 when he was appointed as a Director.

There is no loan in relation to the options or performance rights.

Details of any securities issued under the CEIP will be published in the Company's 2021 Annual Report relating to the period in which they were issued, along with a statement that approval for the issue was obtained under ASX Listing Rule 10.14. Any additional persons covered by ASX Listing Rule 10.14 who become entitled to participate

in an issue of shares under the CEIP after this resolution is approved and who are not named in this Notice of Annual General Meeting will not participate until approval is obtained under that rule.

Vesting restrictions: The options and performance rights are subject to vesting restrictions, which will ultimately determine the final number of options and performance rights which will be exercisable. The relevant vesting restrictions for the FY21 offers are:

- the options and performance rights will not vest before the full year results are announced in 2024. Mr Howitt will be unable to exercise the options and performance rights before they vest unless the Board decides to allow early exercise pursuant to the CEIP rules. Should Mr Howitt cease to be an employee of Cochlear or a related body corporate, all unvested options and performance rights will lapse unless the Board determines otherwise; and
- the performance of the Company from 1 July 2020 to 30 June 2024 in terms of compound annual growth in earnings per share (EPS) and in terms of relative total shareholder return (TSR) as measured against the ASX 100 comparator group, each according to the table set out below. Half of the offer will be assessed against EPS growth and the other half using relative TSR, as follows:

Compound annual growth rate of EPS over the four (4) year vesting period		Ranking of TSR against ASX 100 comparator group over the four (4) year vesting period	
Performance	% vesting	Performance	% vesting
< 7.5%	0%	< 50 th percentile	0%
7.5% to 12.5%	50% to 100% (pro-rata)	50 th to 75 th percentile	40% to 100% (pro-rata)
> 12.5%	100%	> 75 th percentile	100%

Calculation of the number of securities to be granted to Mr Howitt under the CEIP LTI for FY21

Assumptions:

The value of the offer is A\$1,806,000, which is 100% of Mr Howitt's base salary in FY21.

- The Company has received an independent valuation of options and performance rights using the Black-Scholes-Merton model to estimate the 'gross contract value' of each security as at 25 August 2020 with a closing share price of A\$201.75. The 'gross contract value' discounts for dividends not paid, share price volatility and the risk free rate of return. There is no

discount for the likelihood of service or performance conditions. The value of an option is defined below and is A\$42.56. The value of a performance right is defined below and is A\$188.83.

- (b) The number of options and performance rights to be granted is calculated as:

Total value of offer (TVO)	A\$1,806,000
Components	Options and performance rights
Option value (OV)	A\$42.56
Performance right value (PV)	A\$188.83
Number of options and performance rights	$= \frac{\text{TVO} \times 50\%}{\text{OV}} + \frac{\text{TVO} \times 50\%}{\text{PV}}$ $= \frac{\text{A\$903,000}}{\text{A\$42.56}} + \frac{\text{A\$903,000}}{\text{A\$188.83}}$
	= 21,217 options and 4,782 performance rights

where:

TVO = the total value of the offer made to the participant under the CEIP LTI (expressed in Australian dollars), which is a percentage of fixed remuneration of the participant;

OV = the value of an option, based on the Black-Scholes-Merton value before service or EPS and TSR performance discounts; and

PV = the value of a performance right, based on the Black-Scholes-Merton value before service or EPS and TSR performance discounts.

Exercise price (options)	A\$206.06
Exercise price (performance rights)	Nil
Expected volatility (options)	30.77%
Expected volatility (performance rights)	31.19%
Expected contract life (options)	4.42 years
Expected contract life (performance rights)	3.84 years
Expected dividend yield	1.66%
Risk free interest rate	0.30%

Other terms of the CEIP

Eligibility: Persons who are permanent full-time or part-time employees of the Company or a related body corporate of the Company are Eligible Employees.

Allocation: The CEIP is administered by the Board. Each year, the Board may decide to offer designated Eligible Employees the opportunity to participate in the CEIP. The number of options and/or performance rights to be offered to a participant depends upon the participant's salary and the Company's target remuneration package for the participant's position.

The Board has determined that any options or performance rights that do not vest will lapse or be forfeited automatically.

Exercise: Upon vesting of options, a participant may exercise options by providing to the Company's Share Registry a Notice of Exercise Form – CEIP Options and effect payment of the exercise price by:

- paying to the Company, in immediately available funds, an amount equal to the exercise price multiplied by the number of options being exercised; or
- cashless exercise, in which the participant elects to receive a reduced number of shares reflecting the 'net' value of the options at the time of exercise in lieu of paying the exercise price of options to Cochlear. The number of shares issued to a participant that elects to exercise options granted to them under the CEIP using the cashless exercise mechanism will be determined according to the following formula:

$$A = \frac{B \times (C - D)}{C}$$

where:

A = the total number of fully paid Cochlear shares to be issued upon cashless exercise of vested options;

B = the number of fully paid Cochlear shares otherwise issuable upon the vested options being exercised;

C = volume weighted average price of Cochlear shares sold on the ASX in the five (5) business days up to and including the day before Cochlear's Share Plan Administrator receives the Notice of Exercise Form – CEIP Options; and

D = the exercise price otherwise payable per option.

Rights: Option and performance right holders will not be entitled to any dividend payments until the options or performance rights are vested and exercised.

Discretion to pay cash: The Board may elect to satisfy its obligations on exercise of options or performance rights by making a cash payment to the participant of an amount equivalent in value to the number of securities the participant would otherwise be entitled to on exercise of the options or performance rights.

Additional conditions: All participants will be bound by the applicable plan rules. A participant must exercise their options within seven months after the date of vesting; otherwise, the options will lapse. Performance rights will be exercised automatically on vesting. The shares delivered

on exercise of options or performance rights will be held by an employee share trust until withdrawn by participants. While participants are employees of the Company, they must abide by the Company's Trading Policy (available in the 'Investor' section of www.cochlear.com under Corporate Governance).

It is a specific condition of grant that no schemes are entered into by an individual or their associates that specifically protect the unvested value of options or performance rights allocated.

Plan limit: An overall limit applies on the number of options and performance rights that are offered under the CEIP, being that the aggregate of the number of options and performance rights offered together with outstanding offers under the CEIP and the total number of shares issued to employees under employee incentive schemes in the last five years cannot exceed 5% of the total number of issued shares of the Company at the time of the offer.

Overriding restrictions: No options or performance rights may be offered under the CEIP if to do so would contravene the Act, the ASX Listing Rules, or instruments of relief issued by the Australian Securities and Investments Commission from time to time relating to the CEIP or employee incentive schemes generally.

Administration: The Board may amend, terminate or suspend the operation of the CEIP and/or any relevant CEIP rules at any time.

Resolution 5.1 – directors' recommendation

The Non-executive Directors recommend that shareholders vote in favour of the resolution.

Voting exclusions apply to this resolution as specified in the Notice of Annual General Meeting.

The Chairman intends to vote all available proxies in favour of the resolution.

Item 6. Special resolution to replace the Constitution of the Company

The Constitution of Cochlear was adopted in 1995 and was last updated in 2007 to introduce direct voting provisions. There have been a number of developments in law, corporate governance principles and general corporate and commercial practice for ASX listed companies since 2007.

The Board proposes to adopt a new constitution which reflects current market practice and terminology. Many of the proposed changes are administrative or relatively minor in nature. The principal differences between the existing Constitution and the proposed constitution are outlined below.

Copies of the Company's existing Constitution and proposed constitution are available on Cochlear's website. You can also request a printed copy of the Company's existing Constitution and proposed constitution by emailing the Company Secretary at: rjarman@cochlear.com.

Share capital and variation of class rights

The preference share provisions in rule 2.2 of the proposed constitution have been simplified in relation to preference shares that may be issued in the future. The Company has no intention of issuing preference shares at this stage.

The variation of class rights provisions in rule 2.5 of the proposed constitution have been amended so that the chair of the meeting may demand a poll.

The restricted securities provisions of the proposed constitution have been updated to reflect changes to ASX Listing Rule 15.12 in December 2019.

Dividends

Rule 4.1 of the proposed constitution reflects section 254V(1) of the Act and market practice. There are a number of other updates to the dividend provisions in the proposed constitution including:

- permitting the Company to remit payment to any of the joint holders (if the circumstances warrant it), rather than requiring the cheque to be sent to the first named of any joint holders as required under the existing Constitution); and
- providing the ability to require bank account details before a dividend needs to be paid.

General meetings

The proposed constitution incorporates a number of changes to assist with the orderly conduct of general meetings of the Company. Rule 7.6 of the proposed constitution expressly confirms the chair's power to 'not

put' certain resolutions to the meeting, notwithstanding they may have been listed in the notice of meeting.

Rule 7.7 of the proposed constitution allows for matters to be decided on a show of hands, but recognises that all resolutions set out in the notice of meeting would be determined by a poll. This reflects market practice as well as the Company's practice to provide for all resolutions to be determined by a poll.

The proposed constitution also clarifies that the directors may determine to hold a general meeting of members using or with the assistance of any technology that gives the members as a whole a reasonable opportunity to participate, which may include but is not limited to electronic participation facilities or linking separate meeting places together by technology.

The proposed constitution contains direct voting provisions and new rule 1.1(f) clarifies the treatment of a direct vote for quorum purposes.

The proposed constitution also provides greater flexibility in respect of incomplete proxy appointments, including the ability to clarify instructions with a shareholder and to amend the contents of the proxy form to reflect those instructions.

Directors

The Company's existing Constitution requires one-third of the Board to stand for election at each AGM. The proposed constitution will omit this rule to bring the Company's Constitution in line with the ASX Listing Rules, which require an election of directors each year and that a director must not hold office (without re-election) past the third annual general meeting following the director's appointment or three years, whichever is longer.

The existing Constitution has a maximum Board size of 10 directors. The proposed constitution increases the maximum Board size to 12 directors to allow flexibility for succession planning.

The proposed constitution also provides flexibility for circulating resolutions to be approved by all directors, other than any director on leave of absence approved by the Board.

Indemnity

The officer indemnity provisions have been updated to confirm that an advance of defence costs can be provided in appropriate circumstances and to reflect the practice of the Company entering into deeds with Company officers in relation to indemnification and insurance.

General updates

The provisions of the Constitution have been amended to reflect changes in terminology now contained in the Act, the ASX Listing Rules and ASX Settlement Operating Rules.

This includes updates to the terminology used in the Constitution to reflect the ASX's current nomenclature, including the change from "Australian Stock Exchange Limited" to "ASX Limited", and the references to "ASX Settlement Operating Rules", "ASX Settlement Pty Limited" and "ASX Clear Pty Limited."

Resolution 6.1 – directors' recommendation

The Directors recommend that shareholders vote in favour of the resolution.

The Chairman intends to vote all available proxies in favour of the resolution.

Item 7. Special resolution to insert proportional takeover provisions in the proposed constitution

Under the Act, companies may include proportional takeover rules in their constitutions that enable shareholders to vote on a proportional bid “in principle” before a proportional bid is permitted to proceed. These rules expire if they are not refreshed by a special resolution of shareholders every three years.

The Company’s shareholders approved the renewal of proportional takeover provisions in the existing Constitution in 2018. As the Constitution is being proposed to be updated this year, the Company is seeking approval to include proportional takeover provisions in rule 6 of the proposed constitution, as set out in Item 6 of this Notice of Annual General Meeting.

Statement under the Act

The Act requires that the following information be provided to shareholders when they are considering insertion of proportional takeover provisions in a constitution.

What is a proportional takeover bid?

A proportional takeover bid is a takeover bid where an offer is made to each shareholder of a company to acquire a specified proportion only of that shareholder’s shares (that is, less than 100%). The specified proportion must be the same in the case of all shareholders.

The Act allows a company to provide in its constitution that if a proportional takeover bid is made, shareholders must vote on whether to accept or reject the proportional takeover bid and that decision will be binding on all shareholders. This provision allows shareholders to decide collectively whether a proportional takeover bid is acceptable in principle.

The effect of the proportional takeover provisions

The effect of the proportional takeover provisions in rule 6 of the proposed constitution (as set out in Item 6 of this Notice of Annual General Meeting) is that if a proportional takeover bid is made for Cochlear, Cochlear must refuse to register a transfer of Cochlear shares giving effect to any acceptance of the bid unless the takeover bid is approved by shareholders in general meeting.

In the event that a proportional takeover bid is made, the directors must convene a meeting of shareholders to vote on a resolution to approve the proportional takeover bid. For the resolution to be approved, it must be passed by a simple majority of votes at the meeting, excluding votes of the bidder and its associates.

If no such resolution is voted on at least 14 days before the last day of the takeover bid period, the resolution will be

deemed to have been approved. This effectively means that shareholders may only prohibit a proportional takeover bid by passing a resolution rejecting the proportional takeover bid.

If the resolution is approved or deemed to have been approved, a transfer of Cochlear shares under the proportional takeover bid may be registered provided it complies with the other provisions of the Act and the Constitution.

If the resolution is rejected, the registration of any transfer of shares resulting from the proportional takeover bid is prohibited and the proportional takeover bid is deemed by the Act to have been withdrawn.

The directors will breach the Act if they fail to ensure the resolution is voted on.

The proportional takeover provisions do not apply to full takeover bids and, if renewed, will only apply until 20 October 2023, unless again renewed by shareholders by passing a special resolution.

Reasons for proposing the resolution

Without the proportional takeover approval provisions, a proportional takeover bid may result in control of Cochlear passing without shareholders having the opportunity to dispose of all of their Cochlear shares to the bidder. This could result in control of Cochlear passing to the bidder without the payment of an adequate control premium and with shareholders left as a minority interest in Cochlear.

The proportional takeover provisions lessen this risk because they allow shareholders to decide whether a proportional takeover bid is acceptable and should be permitted to proceed. The Directors consider that it is appropriate for shareholders to have this right.

No knowledge of any acquisition proposals

At the date of this Notice of Annual General Meeting, no director is aware of any proposal by any person to acquire, or to increase the extent of, a substantial interest in Cochlear.

Potential advantages and disadvantages

The Act requires that shareholders be given a statement of the potential future advantages and disadvantages of the provisions being inserted into the constitution.

The insertion of the proportional takeover provisions will allow directors to ascertain shareholders’ views on a proportional takeover bid. Otherwise, the Directors consider that the proposed insertion of the proportional takeover provisions has no potential advantages or potential disadvantages for directors because they remain

free to make a recommendation on whether a proportional takeover bid should be approved or rejected.

The potential advantages of the insertion of the proportional takeover provisions for shareholders are:

- (a) they give shareholders a say in determining whether a proportional takeover bid should proceed;
- (b) they may discourage the making of a proportional takeover bid which may be considered to be opportunistic and may prevent control of Cochlear passing without the payment of an appropriate control premium;
- (c) they may assist shareholders in not being locked in as a minority interest;
- (d) they increase shareholders' bargaining power and may assist in ensuring that any proportional takeover bid is adequately priced; and
- (e) knowing the view of the majority of shareholders may assist each individual shareholder in assessing the likely outcome of the proportional takeover bid and whether to approve or reject that bid.

Some potential disadvantages of the insertion for shareholders are that the proportional takeover provisions may:

- (a) discourage the making of proportional takeover bids in respect of Cochlear and may reduce any speculative element in the market price of Cochlear's shares arising from the possibility of a takeover bid being made;
- (b) depress the share price or deny shareholders an opportunity of selling some of their Cochlear shares at a premium;
- (c) reduce the likelihood of a proportional takeover bid being successful; and
- (d) be considered to constitute an unwarranted restriction on the ability of shareholders to deal freely with their Cochlear shares.

However, the directors do not perceive those or any other possible disadvantages as a justification for not inserting the proportional takeover provisions for a period of three years and consider that the potential advantages of the proportional takeover provisions for shareholders outweigh these possible disadvantages.

Resolution 7.1 – directors' recommendation

The Directors recommend that shareholders vote in favour of this resolution.

The Chairman intends to vote all available proxies in favour of the resolution.

Quorum, who may vote and proxies

Quorum

The Company's Constitution provides that two registered Company shareholders present or by representative, attorney or proxy shall be a quorum for a general meeting of the Company.

Who may vote

Persons whose names are set out in the register of shareholders as at 10:00am (AEDT) on Sunday 18 October 2020 are entitled to attend and vote at the AGM (and at any adjournment of the meeting which takes place within 28 days).

Voting on all proposed resolutions at the AGM will be conducted by poll. On a poll, each shareholder has one vote for every fully paid ordinary share in the Company held.

Proxies

If you wish to appoint a proxy, you should complete the enclosed proxy/voting form and comply with the details set out in that form for lodgement. A proxy need not be a shareholder of the Company. The proxy/voting form must be received not less than 48 hours before the time for holding the AGM.

Number of proxies

A shareholder of the Company who is entitled to attend and cast a vote at a meeting has a right to appoint a single proxy. A shareholder of the Company who is entitled to attend and cast two or more votes at a meeting has a right to appoint up to two proxies.

Proportion of votes per proxy

Where the appointment is for two proxies, a shareholder may specify the proportion of votes that each proxy may exercise. If the appointment does not specify the proportion of votes that each proxy may exercise, then each proxy may exercise half of the votes of the relevant member.

Voting

Unless the member specifically directs the proxy how to vote, the proxy may vote as he or she thinks fit (except as specified in the Voting exclusion statements in the Notice of Annual General Meeting) or abstain from voting.

The Chairman intends to vote all available proxies in favour of resolutions 1 to 3 (inclusive) and resolutions 5 to 7 (inclusive), and against resolution 4. If you wish to appoint the Chairman as your proxy with a direction to vote for, against, or to abstain from voting on a resolution, you must provide a direction on the proxy/voting form.

Signing of proxy/voting form

The proxy/voting form must be signed as follows:

Individual: Where the holding is in one name, the shareholder must sign;

Joint holding: Where the holding is in more than one name, all of the shareholders must sign;

Power of attorney: To sign under power of attorney, you must have already lodged this document with the Company's Share Registry. If you have not previously lodged this document for notation, please attach a certified photocopy of the power of attorney to the proxy/voting form when you return the form; or

Companies: Where a company has a sole director who is also the sole company secretary, the proxy/voting form must be signed by that person. If a company (pursuant to section 204A of the Act) does not have a company secretary, a sole director can also sign alone. Otherwise, the proxy/voting form must be signed by a director jointly with either another director or a company secretary. Please indicate the office by signing in the appropriate place.

Lodging your vote

Before the AGM

You can lodge your vote or appoint a proxy online at www.investorvote.com.au, or by posting it to Computershare using the reply paid envelope or to Computershare Investor Services Pty Limited, GPO Box 242, Melbourne VIC 3001, Australia, or by faxing it to 1800 783 447 (within Australia) or +61 3 9473 2555 (outside Australia).

During the AGM

You can listen to the AGM, cast direct votes and ask questions online using the Lumi online platform. Visitors will be able to listen to the AGM via the Lumi online platform but will not have access to vote or ask questions.

You can participate in the AGM online using one of the following methods:

1. from your computer by entering the following URL in your internet browser:
<https://web.lumiagm.com/398414205>; or
2. from your mobile by either:
 - entering the following URL in your internet browser: <https://web.lumiagm.com/398414205>; or
 - using the Lumi AGM App, which is available for download from the Apple App Store or the Google Play Store.

To participate in the AGM online, you will need your Shareholder Reference Number (SRN) or Holder Identification Number (HIN), and your postcode as registered with Cochlear's Share Registry.

Online voting will be open shortly after the commencement of the AGM at 10:00am (AEDT) on Tuesday 20 October 2020 and close at a time as announced by the Chairman.

More information about online participation in the AGM is available at <https://www.cochlear.com/intl/about/investor/annual-general-meeting>.

Shareholder questions

If you would like a question to be put to the Chairman or the auditor and you are not able to participate in the AGM virtually, please complete the Questions from Shareholders form enclosed and send it to:

Company Secretary
Cochlear Limited
1 University Avenue
Macquarie University NSW 2109
Australia.

Alternatively, email it to the Company Secretary at: rjarman@cochlear.com

Questions must be received by the Company Secretary by 5:00pm (AEDT) on Wednesday 14 October 2020.

Hear now. And always

As the global leader in implantable hearing solutions, Cochlear is dedicated to helping people with moderate to profound hearing loss experience a life full of hearing. We have provided more than 600,000 implantable devices, helping people of all ages to hear and connect with life's opportunities.

We aim to give people the best lifelong hearing experience and access to innovative future technologies. We have the industry's best clinical, research and support networks.

That's why more people choose Cochlear than any other hearing implant company.

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www.cochlear.com

Please seek advice from your health professional about treatments for hearing loss. Outcomes may vary, and your health professional will advise you about the factors which could affect your outcome. Always read the instructions for use. Not all products are available in all countries. Please contact your local Cochlear representative for product information.

Views expressed are those of the individual. Consult your health professional to determine if you are a candidate for Cochlear technology.

The Cochlear Nucleus Smart App is available on App Store and Google Play. The Cochlear Nucleus 7 Sound Processor is compatible with Apple and Android devices, for compatibility information visit www.cochlear.com/compatibility.

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