

# **Guildford Coal Limited**

**ACN 143 533 537**

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## **Notice of the 2012 Annual General Meeting to be held on 30 November 2012**

### **Explanatory Memorandum for the Notice of Annual General Meeting**

**and**

### **Proxy Form**

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#### **NOTICE OF THE 2012 ANNUAL GENERAL MEETING**

**TO BE HELD AT THE OFFICES OF SPARKE HELMORE LAWYERS, SPARKE HELMORE  
BUILDING, 28 HONEYSUCKLE DRIVE, NEWCASTLE**

**AT 10.00 A.M. (AEDT) ON 30 NOVEMBER 2012**

**THIS DOCUMENT IS IMPORTANT AND REQUIRES YOUR IMMEDIATE ATTENTION. IF YOU  
ARE IN ANY DOUBT ABOUT THE ACTION YOU SHOULD TAKE PLEASE CONSULT YOUR  
STOCKBROKER, SOLICITOR, ACCOUNTANT OR OTHER PROFESSIONAL ADVISER.**

**TO BE VALID, FORMS OF PROXY FOR USE AT THE ANNUAL GENERAL MEETING MUST BE  
COMPLETED AND RETURNED TO THE COMPANY NO LATER THAN 10.00 A.M. (AEDT) ON  
28 NOVEMBER 2012**

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## Section A – Chairman’s Letter

25 October 2012

Dear Shareholder,

On behalf of the Board, I have the pleasure in inviting you to the 2012 Annual General Meeting (**AGM**) of the shareholders of Guildford Coal Limited ACN 143 533 537 (**Guildford** or **Company**) which will be held at the offices of Sparke Helmore Lawyers, Sparke Helmore Building, 28 Honeysuckle Drive, Newcastle on 30 November 2012 at 10.00 a.m (AEDT).

The Notice of Meeting and Explanatory Memorandum is enclosed. Please read these documents carefully.

### **Business of the AGM**

The business to be considered at the AGM includes:

- the adoption of the Remuneration Report as contained in the 2012 Annual Report;
- the election of Michael Chester, Louis Chait and Peter Lindsay as Directors of the Company as required under the Company's Constitution and the Corporations Act;
- the approval of additional placement capacity for the Company in accordance with the ASX Listing Rules; and
- the approval and ratification of securities agreed to be issued by the Company since the Extraordinary General Meeting held in January 2012 as set out in the Explanatory Memorandum.

Shareholders are encouraged to read the enclosed Explanatory Memorandum in its entirety, and to attend the AGM and vote on the Resolutions. A proxy form is enclosed to enable any shareholder who is unable to attend the AGM to vote at the meeting.

Should you wish to discuss the Notice of Meeting you can contact the Joint Company Secretary, Mr. Louis Chait, on (02) 4914 5914.

Once again, on behalf of the Board I would like to thank you for your continued support.

Yours faithfully,

**Peter Lindsay**  
**Non Executive Chairman**

## Section B – Glossary

### 1. Definitions

The following definitions are used in the Notice of Meeting and the Explanatory Memorandum:

**2012 Annual Report** means the Company's Annual Report for the financial year ended 30 June 2012 as announced to the ASX on 28 September 2012.

**AEDT** means Australian Eastern Daylight Saving Time.

**Annual General Meeting** means the annual general meeting of the Company to be held on 30 November 2012 pursuant to the Notice of Meeting.

**Associate** has the meaning given to that term in the Corporations Act.

**ASX** means ASX Limited ACN 008 624 691.

**ASX Listing Rules** means the Listing Rules of the ASX as amended from time to time.

**Board** means the board of Directors of the Company.

**Business Day** means a day which is not a Saturday, Sunday or public holiday in New South Wales.

**Chairmen** means TheChairmen1 Pty Limited ACN 137 271 642.

**Company** means Guildford Coal Limited ACN 143 533 537.

**Constitution** means the constitution of the Company, as amended from time to time.

**Convertible Bond** has the meaning given to that term in paragraph 8 of the Explanatory Memorandum.

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

**Director** means a director of the Company.

**Explanatory Memorandum** means the explanatory memorandum set out in Section D of this document.

**Financial Statements and Reports** means the financial statements and reports for the Company set out in the 2012 Annual Report.

**Group** means the Company and its controlled entities.

**JORC** means the Joint Ore Reserves Committee of the Australasian Institute of Mining and Metallurgy, Australian Institute of Geoscientists and Minerals Council of Australia.

**Notice of Meeting** or **Notice** means the notice of annual general meeting set out in Section C of this document.

**Remuneration Report** means the remuneration report for the Company set out in the Company's 2012 Annual Report.

**Resolution** means a resolution referred to in the Notice of Meeting.

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

**Shareholder** means a holder of a Share.

**Warrants** has the meaning given to that term in paragraph 8 of the Explanatory Memorandum.

## 2. Interpretation

For the purposes of interpreting the Explanatory Memorandum and the Notice of Meeting:

- (a) the singular includes the plural and vice versa;
- (b) words importing any gender include the other genders;
- (c) reference to any statute, ordinance, regulation, rule or other law includes all regulations and other instruments and all considerations, amendments, re-enactments or replacements for the time being in force;
- (d) all headings, bold typing and italics (if any) have been inserted for convenience of reference only and do not define, limit or affect the meaning or interpretation of the Explanatory Memorandum and the Notice of Meeting;
- (e) reference to persons includes bodies corporate and government authorities and in each and every case, includes a reference to the person's executors, administrators, successors and substitutes (including without limitation persons taking by novation and assignment); and
- (f) reference to **\$, A\$, Australian Dollars** or **dollars** is a reference to the lawful tender for the time being and from time to time of the Commonwealth of Australia.

## Section C – Notice of 2012 Annual General Meeting

NOTICE IS HEREBY GIVEN that the Annual General Meeting of Shareholders of Guildford Coal Limited ACN 143 533 537 will be held at the offices of Sparke Helmore Lawyers, Sparke Helmore Building, 28 Honeysuckle Drive, Newcastle on 30 November 2012 at 10.00 a.m. (AEDT).

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### BUSINESS

#### 1. Consideration of Reports

To receive and consider the Financial Report, the Directors' Report and the Independent Audit Report of the Company for the period 1 July 2011 to 30 June 2012.

#### 2. Resolution 1: Remuneration Report

Shareholders are asked to consider, and if thought fit, to pass the following ordinary resolution:

*"That for the purposes of sections 250R(2) and 250SA of the Corporations Act and for all other purposes, the Remuneration Report for the Company and its controlled entities for the period 1 July 2011 to 30 June 2012 be adopted."*

#### 3. Resolution 2: Election of Directors

Being the first Annual General Meeting of the Company since the appointment of Messrs Chait and Lindsay to the Board, these Directors are subject to re-election by Company's Shareholders. In addition, Mr. Chester is retiring by rotation and standing for re-election in accordance with rule 15.3 of the Company's constitution which accords with ASX Listing Rule 14.4. Each of the following resolutions will be considered as a separate ordinary resolution at the general meeting.

- (a) **Louis Chait** - To consider and if thought fit, to pass the following as an ordinary resolution:

*"That pursuant to rule 15.1 of the Company's constitution and for all other purposes the Company elects Louis Chait as a director of the Company."*

- (b) **Peter Lindsay** - To consider and if thought fit, to pass the following as an ordinary resolution:

*"That pursuant to rule 15.1 of the Company's constitution and for all other purposes the Company elects Peter Lindsay as a director of the Company."*

- (c) **Michael Chester** - To consider and if thought fit, to pass the following as an ordinary resolution:

*"That pursuant to rule 15.3 of the Company's constitution, ASX Listing Rule 14.4 and for all other purposes the Company re-elects Michael Chester as a director of the Company."*

#### 4. Resolution 3: Ratification of the issue of 35,714,285 Shares

Shareholders are asked to consider, and if thought fit, to pass the following ordinary resolution:

*"That for the purposes of ASX Listing Rule 7.4 and for all other purposes, the Shareholders approve and ratify the issue and allotment of 35,714,285 Shares in the Company on the*

*terms and conditions set out in the Explanatory Memorandum accompanying this Notice of Meeting.”*

**5. Resolution 4: Ratification of the issue of 1,503,759 Shares**

Shareholders are asked to consider, and if thought fit, to pass the following ordinary resolution:

*“That for the purposes of ASX Listing Rule 7.4 and for all other purposes, the Shareholders approve and ratify the issue and allotment of 1,503,759 Shares in the Company on the terms and conditions set out in the Explanatory Memorandum accompanying this Notice of Meeting.”*

**6. Resolution 5: Approval of additional placement capacity**

Shareholders are asked to consider, and if thought fit, to pass the following special resolution:

*“That for the purposes of ASX Listing Rule 7.1A and all other purposes, the Shareholders approve the issue of Shares up to 10% of the Company's issued share capital (at the time of issue) in accordance with the formula prescribed in Listing Rule 7.1A.2 and on the terms and conditions set out in the Explanatory Memorandum accompanying this Notice of Meeting.”*

**7. Resolution 6: Approval of the issue of convertible bond and warrants**

Shareholders are asked to consider, and if thought fit, to pass the following ordinary resolution:

*“That for the purposes of ASX Listing Rules 7.1 and 7.4 and for all other purposes, the Shareholders approve and ratify the issue and allotment of a Convertible Bond with a face value of \$10,000,000 convertible into Shares at an initial conversion price of \$0.50 per Share, and 12,000,000 Warrants convertible into up to 12,000,000 Shares at an initial conversion price of \$0.55 per Share, on the terms and conditions set out in the Explanatory Memorandum accompanying this Notice of Meeting.”*

**8. Update to Shareholders regarding the Company's business**

**By order of the Board**

**Louis Chait**  
Joint Company Secretary

**Dated: 25 October 2012**

## NOTES

### 1. Determination of membership and voting entitlement

For the purpose of determining a person's entitlement to vote at the Annual General Meeting, a person will be recognised as a member of the Company and the holder of Shares if that person is registered as a holder of those Shares at 7.00pm (AEDT) on 28 November 2012, being the second Business Day prior to the date of the Annual General Meeting.

### 2. Votes of members

On a show of hands, each member present in person or by proxy or, in the case of a body corporate, by a corporate representative at the Annual General Meeting shall have one vote.

On a poll, every member present in person or by attorney or by proxy or, in the case of a body corporate, by a representative shall have one vote for each Share held by him, her or it provided that all Shares are fully paid.

### 3. Proxies

Please note that:

- (a) a member entitled to attend and vote at the Annual General Meeting is entitled to appoint no more than two proxies;
- (b) an instrument appointing a proxy must be in the form of the proxy form attached to this Notice of Meeting;
- (c) where more than one proxy is appointed, each proxy must be appointed to represent a specified proportion of the member's voting rights. If a member appoints two proxies, and the appointment does not specify the proportion of the member's voting rights, each proxy may exercise one-half of the voting rights;
- (d) a proxy need not be a member of the Company;
- (e) a proxy form may specify the manner in which the proxy is to vote in respect of a particular Resolution and, where the proxy form so provides, the proxy is not entitled to vote on the Resolution except as specified in the proxy form;
- (f) a proxy has the authority to vote on the member's behalf as he or she thinks fit, on any motion to adjourn the Annual General Meeting, or any other procedural motion, unless the member gives a direction to the contrary;
- (g) a valid proxy form will be deemed to confer authority to demand or join in demanding a poll;
- (h) to be valid, a proxy form must be signed by the member or the member's attorney or, if the member is a corporation, executed in accordance with the corporation's constitution and the Corporations Act (and may be signed on behalf of the corporation by its attorney); and
- (i) to be valid, a proxy form and the power of attorney or other authority (if any) under which it is signed (or an attested copy of it) must be received by no later than **10:00 am (AEDT) on 28 November 2012**:



by the Company:

- in person: Guildford Coal Limited  
C/- Link Market Services Limited  
Level 12  
680 George Street  
SYDNEY NSW 2000  
Australia

- by mail: Guildford Coal Limited  
C/- Link Market Services Limited  
Locked Bag A14  
Sydney South NSW 1235  
Australia

- by facsimile: + 61 2 9287 0309

A form of proxy accompanies this Notice of Meeting.

## Section D - Explanatory Memorandum

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### Introduction

This Explanatory Memorandum has been prepared to assist Shareholders of the Company in understanding the business to be put to Shareholders for their consideration at the forthcoming Annual General Meeting on 30 November 2012.

The following section of this Explanatory Memorandum sets out the background to the Resolutions.

### Background to the Resolutions

#### 1. Receipt and Consideration of Financial Statements and Reports

This agenda Item is self-explanatory. It is intended to provide Shareholders with the opportunity to raise questions on the Financial Statements and Reports, and on the performance of the Company generally.

Shareholders should note that the Financial Statements and Reports will be received in the form presented. It is not the purpose and there is no requirement either in the *Corporations Act* or in the Constitution of the Company for Shareholders to approve the financial report, the directors' report or the auditor's report of the meeting or that the Financial Statements and Reports be accepted, rejected or modified in any way.

#### 2. Resolution 1 - Remuneration Report (Advisory Resolution)

Resolution 1 provides Shareholders with the opportunity to vote on the Company's Remuneration Report. Under Section 250R(2) of the Corporations Act, the Company must put the adoption of its Remuneration Report to the vote at the Annual General Meeting and, under section 250SA of the Corporations Act, the Chairman must allow the Shareholders a reasonable opportunity to ask questions about, or make comments on, the Remuneration Report.

The Remuneration Report:

- (a) explains the Board's policies in respect of the nature and level of remuneration paid to Directors and senior management of the Company;
- (b) discusses the link between the Board's policies and the Company's performance;
- (c) explains why the performance conditions were chosen and how performance is measured against them;
- (d) sets out the remuneration details for each Director and each member of the Company's senior management team; and
- (e) makes clear that the basis for remunerating non-executive Directors is distinct from the basis for remunerating executives and executive Directors.

The Company's Remuneration Report is set out on pages 14 to 19 of the Company's 2012 Annual Report.

The vote to adopt the Remuneration Report is advisory only and does not bind the Directors or the Company, but it will still be put to members at the Annual General Meeting.

As a result of changes to the Corporations Act 2001 which became effective on 1 July 2011:

- (a) members of the key management personnel whose remuneration details are included in the remuneration report (and any closely related party of those members) are not permitted to vote on a resolution to approve the Remuneration Report, and
- (b) if the vote to approve the Remuneration Report receives a "no" vote by at least 25% of the votes cast, this will constitute a "first strike".

Where a "first strike" occurs at this 2012 Annual General Meeting:

- (a) the Company's subsequent remuneration report (in other words, the Company's remuneration report to be included in the 2013 Annual Report) must include an explanation of the Board's proposed action in response to the "no vote" or an explanation of why no action has been taken, and
- (b) if the Company's subsequent remuneration report also receives a "no vote" at the 2013 Annual General Meeting of at least 25% of the votes cast, then Shareholders at the 2013 Annual General Meeting will be asked (at that 2013 Annual General Meeting) to vote on whether or not the Company is to hold another general shareholder's meeting (within the following 90 days) to vote upon a "spill resolution" under section 250V of the Corporations Act.

Due to the changes to the Corporations Act described above, the Board abstains from making a recommendation in relation to Resolution 1.

### **Voting Prohibition Statement**

A vote on Resolution 1 must not be cast (in any capacity) by or on behalf of any of the following persons:

- (a) a member of the key management personnel, details of whose remuneration are included in the Remuneration Report; or
- (b) a closely related party of such a member.

However, a person described above may cast a vote on Resolution 1 if:

- (a) either:
  - (i) the person does so as a proxy appointed by writing that specifies how the proxy is to vote on the proposed resolution; or
  - (ii) the vote is cast by the Chairman of the meeting as proxy for a person entitled to vote in accordance with an express authority to vote undirected proxies as the Chairman of the meeting sees fit; and
- (b) the vote is not cast on behalf of a person described in subparagraphs (a) or (b) above.

### **What this means for Shareholders**

If you intend to appoint a member of the key management personnel (such as one of the Directors) as your proxy, please ensure that you direct them how to vote on Resolution 1. If you intend to appoint the Chairman of the meeting as your proxy, you can direct him how to vote by marking the boxes for Resolution 1 (for example, if you wish to vote for, against or abstain from voting), or you can not mark any of the boxes for Resolution 1, and give the

Chairman your express authority to vote your undirected proxy (in which case the Chairman will vote in favour of this item of business).

### 3. **Resolution 2: Election of directors of the Company**

Rule 15.1(c) of the Constitution provides that any director appointed to the Board may only hold office until the next annual general meeting and is then eligible for election at that meeting. As each of Mr. Louis Chait and Mr. Peter Lindsay have been appointed pursuant to Rule 15.1 of the Constitution, each is due to retire at this Annual General Meeting and has submitted for election.

Rule 15.3 of the Constitution provides that no Director, other than any Managing Director appointed by the Company, may hold office for a period in excess of 3 years or beyond the third Annual General Meeting following their election, whichever is the longer, without submitting themselves for re-election.

In addition, rule 15.3 provides that one-third of the previously elected Directors, and if there number is not a multiple of 3, then the number nearest to but not exceeding one-third, must retire from office and are eligible for re-election. The Directors to retire every year are the Directors longest in office since last elected.

Mr. Michael Chester and Mr. Craig Ransley and Mr. Michael Avery are the longest serving Directors, having been elected on incorporation of the Company. Mr. Avery is the Company's Managing Director and is not required to submit himself for re-election pursuant to rule 18.1 of the Constitution. As result, Mr. Chester and Mr. Ransley are the Directors eligible for re-election at this Annual General Meeting.

Rule 15.3(b) of the Constitution provides that where some of the Directors were elected on the same day, the Director to retire is decided by lot to be conducted by the Chairman of the Board (currently Mr. Lindsay).

It has been determined pursuant to rule 15.3(b) of the Constitution that Mr. Chester is retiring by rotation and offers himself for re-election as a Director of the Company.

A profile of each of the Directors may be found in the 2012 Annual Report.

The Chairman in his capacity as proxy holder intends to vote undirected proxies in favour of approving each of Resolutions 2(a), 2(b), and 2(c).

### 4. **Resolution 3: Ratification of issue of 35,714,285 Shares**

Under ASX Listing Rule 7.1, the Company may issue up to 15% of its ordinary share capital in any 12-month rolling period without shareholder approval. ASX Listing Rule 7.4 permits a company to obtain ratification from its Shareholders in relation to a prior share issue (and thereby refresh the company's ability in the future to issue up to 15% of its share capital without obtaining prior shareholder approval).

This Resolution seeks to ratify, in accordance with ASX Listing Rule 7.4, the issue of Shares in the Company by way of a placement to sophisticated and professional investors on 23 March 2012 as announced to the ASX on 20 March 2012 (**Placement**).

The placement shares:

- raised gross proceeds of \$25,000,000 primarily for:
  - » ongoing definition and expansion of JORC coal resources in both Australia and Mongolia;

- » scoping studies and application for a second mining licence for the South Gobi project in readiness for first coal production;
  - » preparation of pre-feasibility studies and applications for mining licences on the White Mountain and Hughenden coal projections (including finalising infrastructure agreements);
  - » evaluation of non-coal mineral occurrences identified on tenements in Mongolia;
  - » evaluation of potential synergistic and accretive acquisitions in both Australia and Mongolia; and
  - » general working capital purposes;
- consisted of 35,714,285 Shares in the Company;
  - were issued to sophisticated and professional investors (as defined under sections 708(8) and 708(11) of the Corporations Act respectively);
  - were issued at price of \$0.70 per Share, which represented a discount of 1.4% to the last closing share price for the Company's Shares on the ASX prior to 20 March 2012; and
  - have the same terms as the Company's existing Shares, and are quoted on the ASX.

### **Effect of passing of resolution 3**

Resolution 3, if passed, will enable Guildford Coal Limited to retain the flexibility to issue equity securities within the next 12 months up to the 15% threshold without the requirement to obtain prior Shareholder approval.

The Board recommends that Shareholders vote in favour of Resolution 3.

### **Voting Exclusion**

Pursuant to ASX Listing Rule 7.5.6 the Company will disregard any votes cast on resolution 4 by:

- (a) any person who participated in the Placement ; and
- (b) any Associate of the parties specified in (a) above.

However, the Company need not disregard a vote if:

- (a) 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
- (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.

## **5. Resolution 4: Ratification of issue of 1,503,759 Shares**

Resolution 4 seeks to ratify, in accordance with ASX Listing Rule 7.4, the issue of 1,503,759 Shares in the Company to Spinifex Rural Management Pty Ltd (**Spinifex**) on 30 April 2012 (**Consideration Shares**) as announced to the ASX on that date.

As announced, the Consideration Shares were issued as part of the consideration for the acquisition of a further 20% of the issued capital of Orion Mining Pty Ltd ACN 136 602 054 (**Orion**) under the share sale agreement between the Company and Spinifex dated 26 April 2012 (**Orion Agreement**).

Under the terms of the Orion Agreement, the Company has acquired the remaining 20% of the issued capital of Orion from Spinifex for a total consideration of \$2,000,000. The consideration was paid as follows:

- \$1,000,000 in cash; and
- the issue of the Consideration Shares to Spinifex which in aggregate equal \$1,000,000 in value with an issue price of \$0.665 per Share (being the closing price of the Company's Shares traded on the ASX on 26 April 2012).

As a result of this acquisition, the Company now holds (in total) 100% of Orion's issued shares.

The Consideration Shares have the same terms as the Company's existing Shares, and are quoted on the ASX.

As detailed in Resolution 3 of the Explanatory Memorandum, ratification of the issue will go towards renewing the Company's 15% new issue capacity in accordance with ASX Listing Rule 7.4.

The Board recommends that Shareholders vote in favour of Resolution 4.

### **Voting Exclusion**

Pursuant to ASX Listing Rule 7.5.6 the Company will disregard any votes cast on Resolution 4 by:

- (a) Spinifex; and
- (b) an Associate of Spinifex.

However, the Company need not disregard a vote if:

- (a) 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
- (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.

## **6. Resolution 5: Approval of additional placement capacity**

New ASX Listing Rules have recently been introduced to make it simpler and more efficient for eligible small to medium sized companies to raise capital. Eligible companies are those with a market capitalisation of \$300,000,000 or less and that are not included in the S&P/ASX 300 Index.

ASX Listing Rule 7.1A allows eligible companies to seek Shareholder approval (by special resolution) to issue up to 10% of its issued share capital through placements over a 12 month period from the date of the approval. This 'standing approval' is in addition to the currently existing 15% placement regime.

## Approval Sought

The Company is eligible to take advantage of this new provision as it currently has a market capitalisation of less than \$300,000,000 and is not included in the S&P/ASX 300 Index –. Accordingly, the Company is seeking Shareholder approval under ASX Listing Rule 7.1A to issue an additional number of Shares representing up to 10% of the Company's issued share capital (**New Shares**). The exact number of New Shares that may be issued under this resolution will be calculated as at the date of issue in accordance with a detailed formula set out in Listing Rule 7.1A.2. Under this formula, the number of ordinary securities on issue may increase as a result of issues of ordinary securities that do not require Shareholder approval (for example, a pro rata entitlements issue or scrip issued under a takeover offer) or future specific placements under ASX Listing Rule 7.1 that are approved at a future Shareholders' meeting.

If approval is granted, this will provide the Company with additional fundraising flexibility to issue New Shares over the next 12 month period as required.

If the eligibility criteria are not met by the Company on the date of the Annual General Meeting, then the resolution will be withdrawn.

## Regulatory Information

Listing Rule 7.3A requires the following information to be provided in relation to the approval for the issue of the New Shares.

### (a) Minimum issue price

The issue price of each New Share must not be less than 75% of the volume weighted average price (**VWAP**) of the Shares calculated over the 15 trading days immediately before:

- (i) the date on which the price at which the New Shares are to be issued is agreed; or
- (ii) if the New Shares are not issued within 5 trading days of the date in paragraph (i) above, the date on which the New Shares are issued.

### (b) Risk of dilution

If this resolution is approved and the Company issues New Shares, the existing Shareholders' voting power in the Company will be diluted as shown in the table below.

The table below shows:

- (i) two examples where the number of Shares has on issue are increased by 50% and 100%; and
- (ii) two examples of where the issue price of Shares has decreased by 50% and increased by 100% as against the current market price.

Number of Shares on issue (calculated in accordance with Listing Rule 7.1A.2)		Dilution		
		\$0.475	\$0.2375	\$0.95
		Issue Price	50% decrease in Issue Price	100% increase in Issue Price
521,046,899 (being the number of Shares as at the date of the Notice of Meeting)	Maximum number of New Shares - 10% Voting Dilution	52,104,690	52,104,690	52,104,690
	Total Shares post issue	573,151,589	573,151,589	573,151,589
	Funds raised	\$ 24,749,728	\$ 12,374,864	\$ 49,499,455
781,570,349 Shares (being a 50% increase in the number of Shares as at the date of the Notice of Meeting)	Maximum number of New Shares - 10% Voting Dilution	78,157,035	78,157,035	78,157,035
	Total Shares post issue	859,727,383	859,727,383	859,727,383
	Funds raised	\$ 37,124,592	\$ 18,562,296	\$ 74,249,183
1,042,093,798 (being a 100% increase in the number of Shares on issue at the date of the Notice of Meeting)	Maximum number of New Shares - 10% Voting Dilution	104,209,380	104,209,380	104,209,380
	Total Shares post issue	1,146,303,178	1,146,303,178	1,146,303,178
	Funds raised	\$ 49,499,455	\$ 24,749,728	\$ 98,998,911

The table has been prepared on the following assumptions:

- Resolutions 3 and 4 set out in the Notice of Meeting are passed by the Shareholders at the Annual General Meeting;
- the Company issues the maximum number of New Shares available under the approval;
- no options are exercised into Shares before the date of the issue of the New Shares;
- the 10% voting dilution reflects the aggregate percentage dilution against the Company's issued share capital at the time of issue. This is why the voting dilution is shown in each example as 10%;
- the table does not show an example of dilution that may be caused to a particular Shareholder by reason of placements under the issue of New Shares, based on that Shareholder's holding at the date of the Annual General Meeting;
- the table shows only the effect of issues of New Shares under ASX Listing Rule 7.1A, not under the 15% placement capacity under ASX Listing Rule 7.1; and



- the issue price is \$0.475, being the closing price of the Shares on ASX on 16 October 2012.

There is also a risk that:

- (i) the market price for Shares may be significantly lower on the date of this issue of the New Shares than on the date of the approval of this resolution at the Annual General Meeting; and
- (ii) the New Shares may be issued at a price that is at a discount (of up to a maximum of 25%) to the market price for Shares on the date that they are issued,

which may have an effect on the amount of funds raised by the issue of the New Shares.

**(c) Timing of issue**

The New Shares must be issued by 30 November 2013, being 12 months after the date that Shareholders approved this resolution at the Annual General Meeting.

The approval obtained from Shareholders under this Resolution will cease to be valid in the event that Shareholders approve a transaction under ASX Listing Rule 11.1.2 (being a significant change to the nature or scale of the Company's activities) or ASX Listing Rule 11.2 (being the disposal of the Company's main undertaking).

**(d) Purpose of issue**

The purpose in seeking Shareholder approval under this Resolution is to maintain maximum flexibility around the management of its capital requirements. The Company may seek to issue New Shares for working capital purposes, to accelerate exploration and development activities over and above that currently planned, or to fund strategic acquisitions (either through cash consideration or non-cash consideration). Once an issue of New Shares has occurred, the Company will make the appropriate disclosure to the market (see below).

**(e) Allocation policy**

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

- » the methods of raising funds that are available to the Company, including but not limited to, rights issue or other issue in which existing security holders can participate;
- » the effect of the issue of the New Shares on the control of the Company;
- » the financial situation of the Company; and
- » advice from corporate, financial and broking advisers (if applicable).

The allottees of New Shares have not been determined as at the date of this Notice of Meeting but may include existing substantial Shareholders and/or new Shareholders who are not related parties or Associates of a related party of the Company. Further, if the Company makes any acquisitions, it is likely that the allottees of the New Shares will be the vendors of those acquisitions.

**(f) Previous issues**

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

**Post Issue Disclosure**

In accordance with Listing Rule 3.10, if New Shares are issued under this approval, the Company will make an announcement to the ASX with the following additional information:

- (i) details of the dilution to existing Shareholders as a result of the issue;
- (ii) where the New Shares were issued for cash consideration, an explanation of why it issued New Shares in this manner as opposed to (or in addition to) a pro-rata offering;
- (iii) details of any underwriting arrangements including the fees payable to the underwriter; and
- (iv) details of any other fees incurred in connection with the issue.

**Recommendation of Directors**

The Directors recommend that Shareholders vote in favour of Resolution 5.

**Voting Exclusion**

Pursuant to ASX Listing Rule 7.3A.7 the Company will disregard any votes cast on Resolution 5 by any person who may participate in the proposed issue and a person who might obtain a benefit, except a benefit solely in their capacity as a Shareholder, and any of their Associates, unless:

- (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.

**7. Resolution 6: Approval of the issue of convertible bond and warrants**

As discussed at Resolution 4 above, under ASX Listing Rule 7.1 the Company may issue up to 15% of its ordinary share capital in any 12-month rolling period without shareholder approval. ASX Listing Rule 7.4 permits a company to obtain ratification from its Shareholders in relation to a prior issue of securities (and thereby refresh the company's ability in the future to issue up to 15% of its share capital without obtaining prior shareholder approval). Approval may only be obtained under ASX Listing Rule 7.4 if the issue of the securities by the company did not breach the requirements of ASX Listing Rule 7.1.

This Resolution seeks approval and ratification of the issue of a convertible bond with a face value of \$10,000,000 convertible into Shares at an initial conversion price of \$0.50 per Share (**Convertible Bond**), and 12,000,000 warrants exercisable for up to 12,000,000 Shares at an initial conversion price of \$0.55 per Share (**Warrants**), as announced to the ASX on 22 October 2012.

Approval is being sought under ASX Listing Rule 7.1 to the extent that the Convertible Bond and any Warrants have not been issued prior to the date of the Annual General Meeting.

Approval is also being sought ASX Listing Rule 7.4 where the Convertible Bond and any Warrants which have been issued prior to the date of the Annual General Meeting.

As at the date of the Notice of Meeting, neither the Convertible Bond nor any Warrants have been issued. However, it is expected that the Convertible Bond with a face value of \$10,000,000 and 12,000,000 Warrants exercisable for up to 12,000,000 Shares will have been issued by the date of the Annual General Meeting itself.

The following information is required to be given to Shareholders under ASX Listing Rule 7.3 (for the purposes of approval under ASX Listing Rule 7.1) and ASX Listing Rule 7.5 (for the purposes of approval under ASX Listing Rule 7.4) in relation to the Convertible Bond and the Warrants:

**Holder of the Convertible Bond and the Warrants:** Gleneagle Asset Management Limited ACN 103 162 278 as trustee for the Gleneagle Special Opportunity Fund #8 or its nominee (**Gleneagle**).

**Maximum number of securities issued and to be issued:** 1 Convertible Bond with a face value of \$10,000,000. The issue price is equal to 100% of the principal amount of the Convertible Bond.

The Convertible Bond is convertible into Shares at an initial conversion price of \$0.50 per Share, subject to customary adjustments discussed below.

Assuming full conversion, the Convertible Bond represents 20,000,000 Shares in the Company.

12,000,000 Warrants exercisable for up to 12,000,000 Shares at an initial exercise price of \$0.55 per Share, subject to certain customary adjustments discussed below.

**Subscription/Issue date:** The Convertible Bond and the Warrants (to the extent they are not issued prior to the date of the Notice of Meeting) are to be issued no later than 31 October 2012, or such other date as agreed between the Company and Gleneagle (being no later than 3 months after the date of the Annual General Meeting) (**Subscription Date**).

**Terms of the Convertible Bond:** The main terms of the Convertible Bond are as follows:

- (a) **(Status):** unlisted and convertible into Shares.
- (b) **(Face value):** \$10,000,000.
- (c) **(Transfer):** the Convertible Bond is fully transferable (either in whole or in part) to another sophisticated or professional investor (as those terms are defined in the Corporations Act).
- (d) **(Maturity):** 12 months from the Subscription Date.
- (e) **(Coupon):** 12% per annum capitalised payable at maturity.

- (f) **(Redemption Price):** 100% of the principal amount plus all accrued and capitalised interest.
- (g) **(Security):** fixed and floating charge from the Company **(Charge)**, limited to the amount of the Convertible Bond. The Charge is to be released once the Convertible Bond is redeemed or converted.

Under the terms of the Charge, the Company will be permitted to refinance or carry out asset sales, subject to the Convertible Bond being repaid out of the proceeds of any such asset sales or refinancing.

- (h) **(Events of Default):** customary events of default (including, but not limited to, insolvency of the Company, the ASX suspending trading in the Company's Shares for 10 consecutive trading days, delisting of the Company from the ASX, and material breaches of the law, the ASX Listing Rules, or the terms and conditions of the Convertible Bond).

Gleneagle can require the Company to redeem the Convertible Bond at any time after an event of default at a price representing an internal rate of return of 15% per annum from the Subscription Date, net of withholding taxes.

- (i) **(Conversion):** convertible into Shares at Gleneagle's option at any time prior to the maturity date at an initial conversion price of \$0.50 per Share, subject to customary adjustments (including, but not limited to, subdivisions or consolidations of the Company's Shares or bonus issues for a nil issue price).

Assuming full conversion at the initial conversion price, the Convertible Bond represents 20,000,000 Shares in the Company.

- (j) **(Shares):** any Shares issued on conversion of the Convertible Bond will rank equally with the existing Shares issued by the Company, and will be listed on the ASX.
- (k) **(Fees):** 4% of the total principal amount payable to Gleneagle Securities (Aust) Pty Ltd.

- Terms of the Warrants:** The main terms of the Warrants are as follows:
- (a) **(Status):** unlisted and exercisable for up to 12,000,000 Shares.
  - (b) **(Transfer):** the Warrants are fully transferable (either in whole or in part) to another sophisticated or professional investor (as those terms are defined in the Corporations Act).
  - (c) **(Expiry):** 18 months from the Subscription Date.
  - (d) **(Exercise):** exercisable at Gleneagle's option at any time prior to the expiry date into up to 12,000,000 Shares.
  - (e) **(Exercise price):** \$0.55 per Share, subject to customary adjustments (including, but not limited to, subdivisions or consolidations of the Company's Shares or bonus issues for a nil issue price).
  - (f) **(Shares):** any Shares issued on exercise of the Warrants will rank equally with the existing Shares issued by the Company, and will be listed on the ASX.
  - (g) **(Reorganisations):** in the event of any reorganisation of the issued capital of the Company prior to the expiry of the Warrants, the rights of the Warrant holder (including, but not limited to, the number of Warrants, the exercise price of the Warrants or both) will be changed to the extent necessary to comply with the ASX Listing Rules applying to a reorganisation of capital at the time of the reorganisation.
  - (h) **(Issues of Shares):** the holder of the Warrants will not be able to participate in new issues of Shares by the Company without exercising the Warrants.

**The use of the funds raised:** The funds raised by the issue of the Convertible Bond are to be used for the development of the Group's Mongolian Assets and for general working capital purposes.

No funds are raised by the issue of the Warrants. However if the Warrants are exercised, the Company will receive \$0.55 per Warrant, which funds will be used for general corporate purposes.

### **Effect of passing of Resolution 6**

Resolution 6, if passed, will enable Guildford Coal Limited to retain the flexibility to issue equity securities within the next 12 months up to the 15% threshold without the requirement to obtain prior Shareholder approval.

The Board recommends that Shareholders vote in favour of Resolution 6.

**Voting Exclusion**

Pursuant to ASX Listing Rules 7.3.8, 7.5.6 and 14.11.1 the Company will disregard any votes cast on Resolution 6 by:

- (a) Gleneagle;
- (b) any Associate of Gleneagle; and
- (c) a person who might obtain a benefit, except a benefit solely in the capacity of a holder of ordinary securities, or an Associate of such a person.

However, the Company need not disregard a vote if:

- (a) 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
- (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.