

## Background to Board change requests

**Lotus Resources Limited** (ASX:LOT) (**Lotus** or the **Company**) refers to its announcement on 24 April 2020 regarding the recent lodgement of notices under sections 203D and 249D of the Corporations Act (**Requisition Notices**) by entities associated with Mr Grant Davey (former consultant to the company) and Mr Ben Kay (director of Lotus' former broker BW Equities) (**Requisitioning Shareholders**) to requisition a meeting of Lotus shareholders to remove two of the current directors and replace them with Mr Davey and one of his associates, Mr Stuart McKenzie.

The Board of Lotus would like to brief shareholders of the circumstances behind the lodgement of the Requisition Notices.

As announced on 13 March 2020, Lotus has completed its acquisition of a 65% interest in the Kayelekera Project (**Acquisition**). Post completion tasks have included reducing care and maintenance costs (the Company's quarterly report will update progress on this) and considering a restructure of the Company's Board from a more corporate experienced board to a more development and production skill set.

### Board Restructure

Following completion of the Acquisition, in considering the restructure of the Company's Board, the Board had anticipated that the first stage of the restructure would see Mr Davey invited to join the Board and Mr Tim Kestell (non-executive director) to resign. The Board (through Mr Kestell) had had numerous discussions with Mr Davey on this proposed change.

On 11 April 2020, Mr Davey requested that himself and Mr McKenzie be appointed to the Lotus Board, and Mr Kestell and one of either Mr Mark Milazzo (non-executive director) or Mr Simon Andrew (Managing Director) resign.

Mr McKenzie is listed as a member of management at Matador Capital on that company's website. Mr Davey is the sole director of Matador Capital, such that Mr McKenzie is either an employee or a contractor of a company controlled by Mr Davey. Accordingly, the Board considers that the Board changes proposed by Mr Davey on 11 April, and now by the Requisitioning Shareholders in the Requisition Notices, could potentially give Mr Davey and one of his associates effective control of the Board.

On 22 April 2020, Lotus formally made an offer to Mr Davey (but not Mr McKenzie) to join the Board subject to the clearing up of some matters the Board had requested Mr Davey resolve or explain, including confirmation of Mr Kestell's stake in Kayelekera Resources Pty Ltd (formerly Chichewa Resources Pty Ltd) (an entity controlled and managed by Mr Davey) (**KRPL**) as detailed below.



Mr Davey rejected this offer on 23 April 2020 and the matters remain unresolved and unexplained.

The offer for Mr Davey to join the Board remains open (subject to resolution of the matters referred to above to the Board's satisfaction). At such time, Mr Kestell has confirmed he would be prepared to resign as a director, subject to and conditional on the appointment of an appropriate independent director with experience in the uranium sector.

The Board continues to believe that Mr Davey's expertise in the uranium sector and Africa would be assets to the Board. However, the Board is not willing to hand control of the Board to Mr Davey and his associate as the Board has concerns as to whether this would be in the best interests of the Company from a corporate governance and independence point of view.

The Board remains willing to sit down with Mr Davey to attempt to resolve these matters in the best interests of all shareholders. The Board has offered to appoint an independent mediator to try to resolve the matters in issue, but this offer was refused by Mr Davey.

As announced on 24 April 2020, the Company has terminated Mr Davey's consultancy agreement with the Company. However, the Company continues to have access to consultants and technical experts with relevant expertise in the uranium sector and Africa, such that the Company continues to be able to progress the Kayelekera Project and properly supervise the in country operations in all respects.

The Board also notes that Mr. Milazzo has significant uranium mining experience including 9 years at the Olympic Dam mine where he held various positions including as Underground Manager, during the initial mine and plant construction and commissioning, and General Manager, during a major expansion in the mid 1990s. He also sat on the South Australian Health Commission's statutory committee monitoring radiation safety at Olympic Dam. Other uranium experience includes resource evaluation at Pathfinder Mines Lucky Mc uranium mine in Wyoming, USA.

#### **Kestell Stake in KRPL**

As disclosed in the Company's previous announcements and Notice of Meeting in relation to the Acquisition:

- the Company acquired its interest in the Kayelekera Project through Lily Resources Pty Ltd (formerly Lotus Resources Pty Ltd) (**Lily**);
- the Company owns 76.5% of Lily, with the other 23.5% held by KRPL (formerly Chichewa Resources Pty Ltd), which gives the Company and KRPL an indirect beneficial interest in the Kayelekera Project of 65% and 20% (respectively) with the remaining 15% held by the Government of Malawi;
- the Company has entered into a Shareholders Agreement with KRPL in relation to the ownership and governance of Lily (see below for further details);
- Lotus director Tim Kestell holds an indirect beneficial interest of 22.5% of KRPL and consequently has an indirect beneficial interest of approximately 4.5% of Paladin Africa and the Kayelekera Project;
- the nature of Mr Kestell's indirect beneficial interest in KRPL is that Mr Davey (who controls the companies which are the legal owners of the shares in KRPL) has

agreed that he will grant to Mr Kestell (or a nominee entity controlled by him) a beneficial interest over 22.5% of the shares in KRPL under a bare trust;

- **the reason the interest arose is that Mr Kestell initiated the original contact with Paladin (the vendor of the Kayelekera Project) in September 2018** through the then Business Development/investor relations officer Andrew Mirco and then subsequently met with Scott Sullivan the then Paladin CEO. As a result of these meetings, Mr Kestell signed a Confidentiality Agreement to access Paladin's Data Room on the Kayelekera Project. After further meetings with Paladin, Mr Kestell submitted an expression of interest for the Kayelekera Project and at that point brought Mr Davey into the discussions as a partner. As discussions between Mr Davey, Mr Kestell and Paladin evolved, the Company was approached to participate as a co-investor. Mr Davey set up KRPL as the vehicle through which he and Mr Kestell would co-invest in the Kayelekera Project with the Company; and
- Mr Kestell's beneficial holding in KRPL is referred to as an indirect holding as it is currently held through Mr Davey and his related entities (as the legal owners of the shares in KRPL) and will likely ultimately be held by another entity controlled by Mr Kestell.

Mr Kestell's interest in KRPL and the Acquisition were approved by Lotus shareholders at the Company's general meeting on 29 August 2019.

The Company notes that Mr Davey reviewed and approved the disclosures referred to above in relation to Mr Kestell's interest in KRPL in the Company's announcements and Notice of Meeting in relation to the Acquisition.

A dispute has arisen in relation to the documentation of Mr Kestell's bare trust with Mr Davey making the trust highly conditional. Mr Kestell has retained lawyers to deal with the matter. The bare trust dispute is primarily a private matter between Mr Kestell and Mr Davey. However, as Mr Kestell is a director of the Company, the disclosure to Lotus shareholders as to whether Mr Kestell holds this stake is a matter for the Company. Accordingly, the Company has requested that Mr Davey confirms that the Company's previously understood position of Mr Kestell's interest in KRPL (as disclosed in the Company's previous announcements and Notice of Meeting in relation to the Acquisition) remains correct.

### **Lily Shareholders Agreement**

As noted above, the Company has entered into a Shareholders Agreement with KRPL in relation to the ownership and governance of Lily (**Agreement**).

Under the Agreement:

- KRPL's 20% beneficial interest in the Kayelekera Project at the KRPL level will be free carried to the later of:
  - 3 years from completion of the Acquisition; or
  - \$10,000,000 in project expenditure by the Company;
- the Company has a call option to acquire KRPL's interest in Lily at any time. The terms of that acquisition will be mutually agreed or otherwise determined by an

independent valuer based on the fair market value of the project and any unspent part of the free carry amount at the relevant point in time; and

- KRPL has a put option to require the Company to acquire its interest in Lily (**Roll-up Right**), exercisable on the earlier of:
  - the end of KRPL's free carry period; or
  - a change of control of the Company.

As for the Company's call option, the terms of the acquisition will be mutually agreed or otherwise determined by an independent valuer based on the fair market value of the project.

As noted above, the Requisitioning Shareholders are seeking to replace two out of three of the existing members of the Board with Mr Davey and his associate Mr McKenzie. **Under the terms of the Agreement, this could potentially amount to a change of control of the Company and give KRPL the right to exercise its Roll-Up Right under the Agreement.**

The Roll-up Right operates so that, if the Company is unable to pay the consideration determined under the Agreement to acquire KRPL's interest in Lily (for example because shareholders do not approve the necessary issue of shares or because the Company does not have sufficient funds to pay the consideration in cash), **the Company is required to transfer its stake in Lily to KRPL for nil consideration.** As noted above, Lily is the company through which Lotus holds its indirect interest in the Kayelekera Project.

Mr Davey has not provided to the Company an irrevocable waiver from KRPL confirming that KRPL will not exercise the Roll-up Right under the Agreement should the Board changes proposed by the Requisitioning Shareholders be approved by Lotus shareholders.

**This announcement has been authorised for release by the Company's Board of Directors.**

For more information visit us at [www.lotusresources.com.au](http://www.lotusresources.com.au) or contact

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#### **About Lotus Resources**

Lotus Resources Limited (LOT:ASX) is a minerals exploration and development company. The Company recently acquired a 65% interest in the Kayelekera Uranium Project in Malawi. The project is held via a 76.5% holding in Lily Resources Pty Ltd. Kayelekera hosts a high-grade resource with an existing open pit mine and demonstrated excellent metallurgical recoveries (87.5%) having historically produced over 10.9Mlb of uranium between 2009 and 2014. Lotus also owns the Hylea Cobalt Project in the Fifield District of NSW.