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# **CLINUVEL PHARMACEUTICALS LIMITED**

ACN 089 644 119

## **EXPLANATORY MEMORANDUM AND NOTICE OF ANNUAL GENERAL MEETING 2018**

**DATE:**

WEDNESDAY, 21 NOVEMBER 2018

**TIME:**

10.00am (Melbourne time)

**PLACE:**

The Events Centre at Collins Square, Tower 2, Level 6, 727 Collins Street, Melbourne, VIC 3000, Australia

## Explanatory memorandum

CLINUVEL PHARMACEUTICALS LIMITED ACN 089 644 119 (**Company**)

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This Explanatory Memorandum has been prepared for the Shareholders of the CLINUVEL PHARMACEUTICALS LIMITED ACN 089 644 119 in connection with the business to be conducted at the Annual General Meeting of Shareholders of the Company which will be held at:

|                 |   |
|-----------------|---|
| <b>Location</b> | The Events Centre at Collins Square, Tower 2, Level 6, 727 Collins Street, Melbourne, VIC 3000, Australia |
| <b>Date</b>     | Wednesday 21 November 2018  |
| <b>Time</b>     | 10.00am (Melbourne time)  |

This Explanatory Memorandum should be read in conjunction with, and form part of, the accompanying Notice.

The Directors recommend that Shareholders read this Explanatory Memorandum in full before making any decision in relation to the Resolutions.

Terms used in this Explanatory Memorandum will, unless the context requires otherwise, have the same meaning given to them in the glossary as contained in this Explanatory Memorandum.

### ORDINARY BUSINESS

#### RECEIPT OF THE FINANCIAL STATEMENTS AND REPORTS

Pursuant to section 317 of the Corporations Act, the Company is required to lay before the meeting the financial report and the reports of the Directors and the auditor to give Shareholders a reasonable opportunity to ask questions or make comment. There is no requirement for Shareholders to approve these reports (other than the non-binding vote in respect of the Remuneration Report forming part of the Directors' Report – see Resolution 1).

#### Resolution 1 – Adoption of the remuneration report

The Remuneration Report is set out in the Directors' Report of the Company's Annual Report for the year ended 30 June 2018. The Remuneration Report sets out the policy for the remuneration of the Directors and executives.

The Corporations Act requires the Remuneration Report be put to a non-binding vote of the Shareholders. The vote is advisory only and does not bind the Directors or the Company. However if 25% or more of votes that are cast are voted against the adoption of the Remuneration Report at two consecutive AGMs, Shareholders will be required to vote at the second of the AGMs on a "spill resolution" that another meeting be held within 90 days at which all the Company's Directors (other than the Managing Director) must be presented for re-election.

There is no requirement to allow for a possible 'spill' resolution at this Meeting as the 2017 Remuneration Report was accepted by greater than 75% of shares voted in the 2017 Annual General Meeting.

The Directors will consider the outcome of the vote on the Remuneration Report when reviewing the Company's remuneration policies.

#### Recommendation

The Directors recommend Shareholders vote in favour of Resolution 1.

## **Resolution 2 – Re-election of Mr Stan McLiesh**

Under clause 57 of the Constitution, at each Annual General Meeting, one third of the Directors (or, if their number is not a multiple of three, then the number nearest to but not exceeding one third) must retire from office.

The Directors retire by rotation, with the Directors who have been the longest in office since being elected or re-elected being the Directors who must resign in any year. The Constitution ensures that no Director is able to remain in office for longer than three years without facing re-election. Under the Constitution and the ASX Listing Rules, the Managing Director is exempt from the requirement to retire by rotation (ie Dr Wolgen).

To comply with the requirements of clause 57 of the Constitution, Mr Stan McLiesh must retire at the Meeting. Mr McLiesh wishes to continue as a Director and is entitled under the Constitution to seek re-election as a Director at the Meeting which coincides with his retirement, and accordingly offers himself for re-election as a Director.

### **Biographical Details**

Mr McLiesh has an extensive background in the commercialisation of pharmaceutical products. He was closely involved in the transition of CSL Limited (ASX: CSL) from government ownership through corporatisation to a highly successful listed company as General Manager, Pharmaceuticals. During this time he helped CSL expand its international reach, brokering numerous in-licensing agreements, M&A transactions and partnerships with multinational firms, becoming the most successful Australian life-sciences company.

Mr McLiesh has served in public roles and is currently Vice President of the Board of Ivanhoe Girls Grammar School in Melbourne and has previously served non-executive roles in the medical device field. The Chair of CLINUVEL since 2010, Mr McLiesh has been involved in formulating the successful European commercial strategy for SCENESSE® (afamelanotide 16mg) and overseeing the continuity and stability of the CLINUVEL Group.

Mr McLiesh joined CLINUVEL in 2002.

### **Recommendation**

The Directors, other than Mr McLiesh, recommend Shareholders vote in favour of Resolution 2.

## **Resolution 3 – Re-election of Dr Karen Agersborg**

Under clause 55 of the Constitution, a Director appointed to fill casual vacancy holds office until the end of the next Annual General Meeting of the Company, at which the Director may be re-elected. Dr Agersborg was appointed, after appropriate background checking, to fill a casual position earlier this year and therefore must retire at the Annual General Meeting. Dr Agersborg wishes to continue as a Director, and as she is entitled under the Constitution to seek re-election as a Director at the Annual General Meeting which coincides with her retirement, offers herself for re-election as a Director.

### **Biographical Details**

Dr Agersborg is a Board-Certified Endocrinologist in Pennsylvania, USA, currently serving as Clinical Endocrinologist at Reading Hospital, specialising in Endocrinology, Diabetes & Metabolism. Dr Agersborg had previously worked at Suburban Hospital, Norristown and served as Chief, Endocrinology, Diabetes, Metabolism at Chestnut Hill Hospital. Prior to obtaining a Doctorate of Osteopathic Medicine at the Philadelphia College of Osteopathic Medicine where she volunteers as Clinical Instructor and prior to completing her Fellowship at Temple University Hospital, Dr Agersborg had an extensive career in managing commercial sales & distribution at Wyeth Pharmaceuticals (formerly Ayerst Laboratories).

Dr Agersborg is a member of the American Osteopathic Association, Fellow of the American Association of Clinical Endocrinologists, and Fellow of the American College of Osteopathic Internists.

### **Recommendation**

The Directors, other than Dr Agersborg, recommends Shareholders vote in favour of Resolution 3.

## Glossary

### 1. Definitions

“**Annual Report**” means the annual report of the Company for the year ended 30 June 2018.

“**ASX**” means ASX Limited.

“**ASX Listing Rules**” means the official listing rules and requirements from time to time of the ASX.

“**Board**” means the board of Directors of the Company as constituted from time to time.

“**Chairman**” means the person appointed to chair the Meeting convened by the Notice.

“**Closely Related Party**” has the meaning given in section 9 of the Corporations Act.

“**Company**” or “**CLINUVEL**” means CLINUVEL PHARMACEUTICALS LIMITED ACN 089 644 119.

“**Constitution**” means the constitution of the Company.

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

“**Directors**” means the directors of the Company from time to time.

“**Explanatory Memorandum**” means the explanatory memorandum which forms part of the Notice.

“**Key Management Personnel**” means a person having authority and responsibility for planning, directing and controlling the activities of the Company, directly or indirectly, including any Director (whether executive or otherwise) of the Company.

“**Meeting**” means the Annual General Meeting of Shareholders of the Company convened by the Notice, to be held at The Events Centre at Collins Square, Tower 2, Level 6, 727 Collins Street, Melbourne, VIC 3000, Australia on 21 November 2018 at 10am Australian Eastern Daylight (AEDT) time.

“**Notice**” means this notice of meeting which comprises of the notice, Explanatory Memorandum and Proxy Form.

“**Proxy Form**” means the proxy form attached to the Notice.

“**Resolution**” means a resolution contained in this Notice.

“**Schedule**” means a schedule to this Notice.

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

“**Shareholder**” or “**Member**” means a registered holder of a Share.

### 2. Interpretation

- (a) The singular includes the plural and vice versa and words denoting any gender include all genders;
- (b) A reference to “\$”, “A\$” or “dollar” is a reference to Australian currency; and
- (c) A reference to a time is a reference to Australian Eastern Standard Time or Australian Eastern Daylight Time, whichever is appropriate.

# Notice of Annual General Meeting

CLINUVEL PHARMACEUTICALS LIMITED ACN 089 644 119

Notice is given that the Annual General Meeting of CLINUVEL PHARMACEUTICALS LIMITED ACN 089 644 119 (**Company**) will be held at:

|                 |   |
|-----------------|---|
| <b>Location</b> | The Events Centre at Collins Square, Tower 2, Level 6, 727 Collins Street, Melbourne, VIC 3000, Australia |
| <b>Date</b>     | Wednesday 21 November 2018  |
| <b>Time</b>     | 10.00am (Melbourne time)  |

The Explanatory Memorandum provides additional information on matters to be considered at the Meeting. The Explanatory Memorandum and Proxy Form are part of this Notice.

Terms used in this Notice will, unless the context requires otherwise, have the same meaning given to them in the glossary contained in the Explanatory Memorandum.

## ORDINARY BUSINESS

### Receipt of the Financial Statements and Reports

To receive and consider the Financial Statements of the Company for the year ended 30 June 2018, together with the Directors' Report and the Independent Auditor's Report as set out in the Annual Report.

### Resolution 1 – Adoption of Remuneration Report

To consider, and if in favour, to pass the following resolution as an **ordinary resolution**:

'That, in accordance with Section 250R of the *Corporations Act*, the Remuneration Report as set out in the Directors' Report for the year ended 30 June 2018 be adopted.'

### Resolution 2 – Re-election of Mr Stan McLiesh

To consider, and if in favour, to pass the following resolution as an **ordinary resolution**:

'That Mr Stan McLiesh, a Director retiring by rotation in accordance with clause 57 of the Constitution of the Company and the ASX Listing Rules, being eligible and having offered himself for re-election, be re-elected as a Director.'

### Resolution 3 – Re-election of Dr Karen Agersborg

To consider, and if in favour, to pass the following resolution as an **ordinary resolution**:

'That Dr Karen Agersborg, a Director retiring by rotation in accordance with clause 55 of the Constitution of the Company and the ASX Listing Rules, being eligible and having offered herself for re-election, be re-elected as a Director.'

## Voting Exclusion Statement

In accordance with ASX Listing Rule 14.11, the Company will disregard any votes cast on the respective resolutions by the following persons:

| Resolution                            | Exclusion   |
|---------------------------------------|---|
| 1 – Adoption of Remuneration Report   | <p>The Company will disregard any votes cast on Resolution 1 by or on behalf of any member of the Key Management Personnel whose remuneration is included in the Remuneration Report or any Closely Related Party of such person.</p> <p>In accordance with section 250BD of the Corporations Act, a vote on Resolution 1 must not be cast by or on behalf of a person appointed (including as a proxy), where that person is either a member of the Key Management Personnel or a Closely Related Party of such person whose remuneration is included in the Remuneration Report.</p> <p>A vote may be cast by such person if:</p> <ul style="list-style-type: none"><li>(a) the vote is not cast on behalf of a person who is otherwise excluded from voting and the appointment specifies how the proxy is to vote; or</li><li>(b) the person appointed as proxy is the Chairman and the appointment does not specify how the Chairman is to vote but expressly authorises the Chairman to exercise the proxy even if the Resolution is connected with the remuneration of a member of the Key Management Personnel.</li></ul> |
| 2 – Re-election of Mr Stan McLiesh    | No voting restrictions are applicable to this Resolution 2 (however Mr Stan McLiesh will abstain from voting).  |
| 3 – Re-election of Dr Karen Agersborg | No voting restrictions are applicable to this Resolution 3 (however Dr Karen Agersborg will abstain from voting).   |

Dated 19 October 2018

By order of the Board



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Darren Keamy  
Company Secretary

## Notes



- (a) A Shareholder who is entitled to attend and cast a vote at the Meeting is entitled to appoint a proxy.
- (b) The proxy need not be a Shareholder. A Shareholder who is entitled to cast two or more votes may appoint two proxies and may specify the proportion or number of votes each proxy is appointed to exercise.
- (c) If you wish to appoint a proxy and are entitled to do so, then complete and return the attached Proxy Form to Computershare Investor Services Pty Limited, GPO Box 242 Melbourne, Victoria 3001 Australia or alternatively by fax to 1800 783 447 (within Australia) or +61 3 9473 2555 (outside Australia) by 10am (Melbourne time) Monday, 19 November 2018, being at least 48 hours before the holding of the Annual General Meeting.
- (d) A corporation may elect to appoint a representative, rather than appoint a proxy, under the Corporations Act in which case the Company will require written proof of the representative's appointment which must be lodged with or presented to the Company before the Meeting.
- (e) The Company has determined under regulation 7.11.37 *Corporations Regulations 2001* (Cth) that for the purpose of voting at the Meeting or adjourned meeting, Shares are taken to be held by those persons recorded in the Company's register of Shareholders as at 7.00pm (Melbourne time) on Monday, 19 November 2018.
- (f) Online voting will be available at [www.investorvote.com.au](http://www.investorvote.com.au). You will require your SRN/HIN and the control number (printed on your proxy form). For Intermediary Online subscribers only (custodians) please visit [www.intermediaryonline.com](http://www.intermediaryonline.com) to submit your voting intentions.
- (g) The Annual General Meeting is a private meeting for shareholders. Only members of the Company and/or their proxies, and Company invited guests are entitled to attend.
- (h) If you have any queries on how to cast your votes call Darren Kearny on (03) 9660 4900 during business hours.



**CLINUVEL**  
CLINUVEL PHARMACEUTICALS LTD  
ABN 88 089 644 119

CUV  
MR SAM SAMPLE  
FLAT 123  
123 SAMPLE STREET  
THE SAMPLE HILL  
SAMPLE ESTATE  
SAMPLEVILLE VIC 3030

## Lodge your vote:

  **Online:**  
www.investorvote.com.au

 **By Mail:**  
Computershare Investor Services Pty Limited  
GPO Box 242 Melbourne  
Victoria 3001 Australia

Alternatively you can fax your form to  
(within Australia) 1800 783 447  
(outside Australia) +61 3 9473 2555

For Intermediary Online subscribers only  
(custodians) www.intermediaryonline.com

**For all enquiries call:**  
(within Australia) 1300 850 505  
(outside Australia) +61 3 9415 4000

## Proxy Form

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### Vote and view the annual report online

- Go to [www.investorvote.com.au](http://www.investorvote.com.au) or scan the QR Code with your mobile device.
- Follow the instructions on the secure website to vote.




### Your access information that you will need to vote:

**Control Number: 999999**

**SRN/HIN: I9999999999 PIN: 99999**

PLEASE NOTE: For security reasons it is important that you keep your SRN/HIN confidential.

 **For your vote to be effective it must be received by 10.00am (Melbourne time) on Monday, 19 November 2018**

### How to Vote on Items of Business

All your securities will be voted in accordance with your directions.

#### Appointment of Proxy

**Voting 100% of your holding:** Direct your proxy how to vote by marking one of the boxes opposite each item of business. If you do not mark a box your proxy may vote or abstain as they choose (to the extent permitted by law). If you mark more than one box on an item your vote will be invalid on that item.

**Voting a portion of your holding:** Indicate a portion of your voting rights by inserting the percentage or number of securities you wish to vote in the For, Against or Abstain box or boxes. The sum of the votes cast must not exceed your voting entitlement or 100%.

**Appointing a second proxy:** You are entitled to appoint up to two proxies to attend the meeting and vote on a poll. If you appoint two proxies you must specify the percentage of votes or number of securities for each proxy, otherwise each proxy may exercise half of the votes. When appointing a second proxy write both names and the percentage of votes or number of securities for each in Step 1 overleaf.

**A proxy need not be a securityholder of the Company.**

### Signing Instructions for Postal Forms

**Individual:** Where the holding is in one name, the securityholder must sign.

**Joint Holding:** Where the holding is in more than one name, all of the securityholders should sign.

**Power of Attorney:** If you have not already lodged the Power of Attorney with the registry, please attach a certified photocopy of the Power of Attorney to this form when you return it.

**Companies:** Where the company has a Sole Director who is also the Sole Company Secretary, this form must be signed by that person. If the company (pursuant to section 204A of the Corporations Act 2001) does not have a Company Secretary, a Sole Director can also sign alone. Otherwise this form must be signed by a Director jointly with either another Director or a Company Secretary. Please sign in the appropriate place to indicate the office held. Delete titles as applicable.

### Attending the Meeting

Bring this form to assist registration. If a representative of a corporate securityholder or proxy is to attend the meeting you will need to provide the appropriate "Certificate of Appointment of Corporate Representative" prior to admission. A form of the certificate may be obtained from Computershare or online at [www.investorcentre.com](http://www.investorcentre.com) under the help tab, "Printable Forms".

**Comments & Questions:** If you have any comments or questions for the company, please write them on a separate sheet of paper and return with this form.

**GO ONLINE TO VOTE,  
or turn over to complete the form** →





MR SAM SAMPLE  
 FLAT 123  
 123 SAMPLE STREET  
 THE SAMPLE HILL  
 SAMPLE ESTATE  
 SAMPLEVILLE VIC 3030

**Change of address.** If incorrect, mark this box and make the correction in the space to the left. Securityholders sponsored by a broker (reference number commences with 'X') should advise your broker of any changes.



I 9999999999

I ND

# Proxy Form

Please mark  to indicate your directions

## STEP 1 Appoint a Proxy to Vote on Your Behalf

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I/We being a member/s of CLINUVEL PHARMACEUTICALS LIMITED hereby appoint

the Chairman of the Meeting **OR**

**PLEASE NOTE:** Leave this box blank if you have selected the Chairman of the Meeting. Do not insert your own name(s).

or failing the individual or body corporate named, or if no individual or body corporate is named, the Chairman of the Meeting, as my/our proxy to act generally at the Meeting on my/our behalf and to vote in accordance with the following directions (or if no directions have been given, and to the extent permitted by law, as the proxy sees fit) at the Annual General Meeting of CLINUVEL PHARMACEUTICALS LIMITED to be held at the Events Centre at Collins Square, Tower 2, Level 6, 727 Collins Street, Melbourne, VIC 3000 on Wednesday, 21 November 2018 at 10.00am (Melbourne time) and at any adjournment or postponement of that Meeting.

**Chairman authorised to exercise undirected proxies on remuneration related resolutions:** Where I/we have appointed the Chairman of the Meeting as my/our proxy (or the Chairman becomes my/our proxy by default), I/we expressly authorise the Chairman to exercise my/our proxy on Resolution 1 (except where I/we have indicated a different voting intention below) even though Resolution 1 is connected directly or indirectly with the remuneration of a member of key management personnel, which includes the Chairman.

**Important Note:** If the Chairman of the Meeting is (or becomes) your proxy you can direct the Chairman to vote for or against or abstain from voting on Resolution 1 by marking the appropriate box in step 2 below.

## STEP 2 Items of Business

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

|              |                                     | For                      | Against                  | Abstain                  |
|--------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Resolution 1 | Adoption of the Remuneration Report | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Resolution 2 | Re-election of Mr Stan McLiesh      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Resolution 3 | Re-election of Dr Karen Agersborg   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

The Chairman of the Meeting intends to vote undirected proxies in favour of each item of business. In exceptional circumstances, the Chairman of the Meeting may change his/her voting intention on any resolution, in which case an ASX announcement will be made.

## SIGN Signature of Securityholder(s) *This section must be completed.*

Individual or Securityholder 1

Sole Director and Sole Company Secretary

Securityholder 2

Director

Securityholder 3

Director/Company Secretary

Contact Name

Contact Daytime Telephone

Date / /