

# Notice of 2009 Annual General Meeting

Notice is given that the 2009 Annual General Meeting of shareholders of Australian Pharmaceutical Industries Limited will be held at Rydges Parramatta Hotel, 116-118 James Ruse Drive, Rosehill, NSW on Tuesday, 19 January 2010 at 2:00pm.

## Business:

Items 2 to 4 will be proposed as ordinary resolutions.

### Ordinary Business

#### Reports

1. To receive and consider the Financial Report of the Company and its controlled entities and the reports of the Directors and the Auditor for the year ended 31 August 2009.

2. Adoption of the Remuneration Report.

To adopt the Remuneration Report for the year ended 31 August 2009.

*The vote on this resolution is advisory only.*

#### Election of Directors

3. To re-elect a Director. Dr Michael Wooldridge retires by rotation in accordance with the Company's Constitution and being eligible, offers himself for election.
4. To re-elect a Director. Mr Robert Millner retires by rotation in accordance with the Company's Constitution, and being eligible, offers himself for election.

### Special Business

#### Adoption of New Constitution

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

*"That the Company adopt the constitution tabled at the meeting, and signed by the Chairman for the purpose of identification, as its constitution in substitution for, and to the exclusion of, the Company's existing constitution (described as the Articles of Association)."*

### Voting Entitlements

For the purpose of the Corporations Act, the Company has determined that all securities of the Company that are quoted securities at 7.00pm (AEDT) on Sunday, 17 January 2009 will be taken, for the purpose of the Meeting, to be held by the persons who held the securities at the time.

### Proxies

A shareholder has the right to appoint a proxy, who need not be a shareholder of the Company. If a shareholder is entitled to two or more votes they may appoint two proxies and may specify the percentage of votes each proxy is appointed to exercise.

Australian Pharmaceutical Industries Limited  
ABN 57 000 004 320

The Proxy Form must be deposited at the share registry of the Company, Registries Limited located at Level 7, 207 Kent Street, Sydney NSW 2000 (hand delivery) or by post to Registries Limited GPO Box 3993, Sydney NSW 2001 or by facsimile to Registries on +61 2 9290 9655, so that it is received no later than 2.00pm (AEDT) on Sunday, 17 January 2010 (48 hours before the commencement of the meeting). Alternatively, shareholders may complete and lodge the Proxy Form online by following the instructions on the Proxy Form.

### By order of the Board



Peter Sanguinetti  
Company Secretary  
18 December 2009

# Explanatory Notes on Items of Business

## Item 1 – Annual Reports

A copy of the Company's 2009 Annual Report (including the Financial Report of the Company and its controlled entities and the reports of the Directors and the Auditor for the year ended 31 August 2009) can be accessed by contacting the Company's Share Registry or by visiting the Company's website [www.api.net.au](http://www.api.net.au) and clicking on the following links: [www.api.net.au](http://www.api.net.au) – choose News and Investors, Annual Reports, and select 2009 version.

Shareholders may elect to receive by mail, free of charge, the Company's Annual Report. Shareholders who wish to receive a hard copy of the Annual Report should contact the Company's Share Registry to obtain the necessary election form.

## Item 2 – Remuneration Report – non-binding advisory note

As required by the Corporations Act, the Board is presenting the Remuneration Report for the year ended 31 August 2009 to shareholders for consideration and adoption by a non-binding vote. The Remuneration Report contains:

- information about Board policy for determining the nature and amount of remuneration of the Company's directors and senior executives;
- a description of the relationship between the remuneration policy and the Company's performance;
- a summary of the approach to remunerating senior executives, including performance related remuneration; and
- remuneration details for each Director and for each of the Company's nominated senior executives.

The Remuneration Report, which is part of the Company's Annual Report, has been sent to those shareholders who have elected to receive an Annual Report. Copies of the Remuneration Report are available by contacting the Company's Share Registry or by visiting the Company's website [www.api.net.au](http://www.api.net.au) and clicking on the following links: [www.api.net.au](http://www.api.net.au) – choose News and Investors, Annual Reports, and select 2009 version.

## Board Recommendation

The Board considers that the remuneration policies adopted by the Company are appropriately structured to provide rewards that are commensurate with the performance of the Company.

On this basis, the Board recommends that shareholders vote in favour of item 2.

## Items 3-4 – Election of Directors

### The Hon Dr Michael R. Wooldridge,

BSc, MBBS, MBA, LL.D  
Independent non-executive director.

Director since 1 February 2006.

Member of the Remuneration Committee.

Appointed Lead Independent Director 2 December 2008.

Dr Wooldridge was Australia's Federal Minister for Health from 1996 to 2001. Dr Wooldridge is an Honorary Fellow of the Australasian Faculty of Public Health Medicine.

Dr Wooldridge is Chairman of Prime Trust Ltd, Dia-B Tech Limited, and a director of Cogstate Ltd.

### Mr Robert D. Millner, FAICD

Non-executive director.

Director since 5 May 2000.

Member of the Remuneration Committee.

Mr Millner is the Chairman of Washington H Soul Pattinson and Company Limited and has been a non-executive director of Washington H Soul Pattinson and Company Limited since 1984.

Mr Millner is also Chairman of Brickworks Limited, BKI Investment Company Limited (formerly known as BKI Investment Company Limited), Choiseul Investments Limited, Souls Private Equity Limited, New Hope Corporation Limited and Milton Corporation Limited.

Mr Millner is also a director of TPG Telecom Limited (formerly known as SP Telemedia Limited).

## Item 5 – Adoption of new Constitution

The Company's current constitution was last modified in 2000. Since then, there have been a number of changes to the Corporations Act and the ASX Listing Rules, as well as developments in corporate governance practices with the introduction of the ASX Corporate Governance Council's Corporate Governance Principles and Recommendations.

Accordingly, the Board considers that it is appropriate for the Company to take this opportunity to adopt a new constitution that:

- reflects changes to the Corporations Act and ASX Listing Rules;
- generally improves, simplifies and modernises concepts in the constitution.

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The ASX has no objection to the proposed new constitution, which is consistent with modern constitutions for ASX listed companies.

A copy of the proposed new constitution can be obtained before the meeting by contacting the Company's share registrar, Registries Limited on 1300 737 760 or registries@registries.com.au. A copy will also be available for inspection at the meeting.

The more substantive changes to the Company's current constitution are described below.

## (a) Removal of WHSP provisions

The Company's current constitution provides Washington H Soul Pattinson and Company Limited (WHSP) with certain rights, including (in summary):

- (i) the ability for WHSP to nominate directors to the Board and maintain Board representation commensurate with a 25% shareholding (current article 15.1(d); and
- (ii) a first right of refusal on any share placement of the Company (current article 2.8).

These provisions were included in the constitution in 2000 at the time the Company acquired the Soul Pattinson pharmacy wholesale distribution business and the Soul Pattinson retail brand from WHSP. They formed part of the overall consideration for that acquisition.

Given the Company's strategic development since 2000 and its position in the industry, the Board considers that it is no longer relevant or appropriate that these entrenched rights continue to apply to a single shareholder. Accordingly, the proposed new Constitution does not include these rights.

This will have no impact on the Soul Pattinson banner and the Company's strategy around this important brand.

WHSP has indicated to the Company that it supports the removal of these provisions and intends to vote its shares in favour of adopting the new constitution.

## (b) Directors and directors' meetings

The new Constitution sets out certain rules in respect of directors and their functions.

Rule 3.5 provides that a person wishing to nominate for election as a director must submit a written nomination at least 45 business days before the date of the meeting, unless the Board recommends the appointment or the director is retiring in accordance with the Constitution (existing article 16.5 provides for a 30 business day nomination period). The 45 business day rule is proposed to allow the Company sufficient time to prepare notices of meeting.

Rule 3.6 sets out the process for retirement by rotation of incumbent directors. Rather than requiring one

third of the existing Board to retire at each annual general meeting, rule 3.6 provides that a director must retire at the third annual general meeting after the director was elected or last re-elected.

The Managing Director is not subject to the requirement to seek election by the Company (rule 3.6(d)).

## (c) Customer rebate plans

Current article 2.3 (dealing with customer rebate plans) has been omitted from the new Constitution. This provision is a legacy from the Company's time as a co-operative and is not relevant to the Company's position as an ASX listed company. The Company has the authority to initiate customer rebate plans under the discretions available to the Board for the general management of the Company's business.

## (d) Interactions with shareholders

Consistent with the current constitution, the new Constitution provides for the Board with the discretion as to the method of payment of dividends (which include payment by direct crediting a shareholder's nominated bank account) (see rule 27.9).

The new Constitution contains provisions to facilitate the use of electronic communications by the Company. For example, rule 35.1 provides that, in addition to communication by post, the Company may send notices by electronic means to the electronic address (if any) nominated by a shareholder.

## (e) Directors retirement benefits

The Board has decided to discontinue Director's retirement benefits and freeze existing benefits at 31 August 2009. Accordingly this provision is no longer required.

## (f) Proportional takeovers

Under the Corporations Act, a company may include provisions in its constitution to enable it to refuse to register shares acquired under a proportional takeover bid unless a resolution approving the bid is passed by shareholders.

Proportional takeover provisions are included in the Company's existing constitution. However, they are no longer operative as it has been more than three years since they were last approved by shareholders. The new Constitution includes provisions requiring shareholder approval of a proportional takeover bid (see rule [37] of the Constitution. If the new Constitution is approved, these provisions will have effect for 3 years. The Directors consider it in the interests of shareholders to include these provisions in the new Constitution. The provisions can be renewed after the 3 year period.

Where the approval of shareholders is sought to include proportional takeover provisions in a

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constitution, the Corporations Act requires certain information to be included in the notice of meeting. That information is set out below.

**(g) Proportional takeover bid**

A proportional takeover bid is a takeover bid where the offer made to each shareholder is only for a proportion of that shareholder's shares.

**(h) Effect of proportional takeover provisions**

If a proportional takeover bid is made, the directors must ensure that a resolution of shareholders to approve the takeover bid is voted on, in general, more than 14 days before the last day of the bid period. The vote is decided on a simple majority and each person (other than the bidder and their associates) who, as at the end of the day on which the first offer under the bid was made, held bid class securities, is entitled to vote. If the resolution is not passed, transfers giving effect to takeover contracts for the bid will not be registered and the offer will be taken to have been withdrawn. If the resolution is not voted on, the bid will be taken to have been approved.

If the bid is approved (or taken to have been approved), the transfers must be registered (provided they comply with other provisions of the Corporations Act and the Constitution).

The proportional takeover approval provisions do not apply to full takeover bids and will only apply until 3 years after the date of adoption of the new Constitution. The provisions may be renewed for a further term, but only by a special resolution of shareholders.

**(i) Reasons for proportional takeover provisions**

A proportional takeover bid may result in control of the Company changing without shareholders having the opportunity to dispose of all their shares. Shareholders are exposed to the risk of being left as a minority in the Company and the risk of the bidder being able to acquire control of the Company without payment of an adequate control premium.

These provisions allow shareholders to decide whether a proportional takeover bid is acceptable in principle, and assist in ensuring that any partial bid is appropriately priced.

**(j) Knowledge of any acquisition proposals**

As at the date this notice of meeting was prepared, no director of the Company is aware of any proposal by any person to acquire or to increase a substantial interest in the Company.

**(k) Potential advantages and disadvantages**

The Board considers that the proportional takeover provisions have no potential advantages or

disadvantages for them and that they remain free to make a recommendation on whether an offer under a proportional takeover bid should be accepted.

The potential advantages for shareholders of the proportional takeover provisions include:

- shareholders have the right to decide by majority vote whether an offer under a proportional takeover bid should proceed;
- they may help shareholders to avoid being locked in as a minority;
- they increase shareholders' bargaining power and may assist in ensuring that any proportional takeover bid is adequately priced; and
- knowing the view of the majority of shareholders may help each individual shareholder assess the likely outcome of the proportional takeover bid and decide whether to accept or reject an offer under the bid.

The potential disadvantages for shareholders include:

- proportional takeover bids for shares in the Company may be discouraged;
- shareholders may lose an opportunity to sell some of their shares at a premium; and
- the likelihood of a proportional takeover succeeding may be reduced.

Since the Articles of Association were last adopted, there have been no full or proportional takeover bids for the Company. Therefore there has been no example against which to review the advantages or disadvantages of the provisions for the Board and shareholders respectively, however, the Board is not aware of any potential takeover bid that was discouraged by these provisions.

The Board does not believe the potential disadvantages outweigh the potential advantages of renewing the proportional takeover provisions for a further 3 years.

**(l) Directors' recommendation**

The Directors unanimously recommend that shareholders vote in favour of the special resolution set out in item 5.