

Share in the potential

**Notice is given that the
Annual General Meeting of the
Shareholders of Downer EDI Limited
(Downer or Company) will be held at:**

The Auditorium

Northside Conference Centre
Oxley Street (Cnr Oxley Street & Pole Lane)
Crows Nest NSW 2065

Live webcast link:

<https://publish.viostream.com/app/s-d9fsbdt>

On Wednesday 22 November 2023

Commencing at 11:00am
Sydney time (meeting)
Registration will commence
at 10:30am

**Notice of Annual General
Meeting 2023**

Downer 



Dear Shareholder,

I am pleased to invite you to Downer's 2023 Annual General Meeting (AGM) to be held at 11:00am (Sydney time) on Wednesday, 22 November 2023. Registration will open from 10:30am (Sydney time).

The AGM will be held at the Northside Conference Centre Oxley Street (Cnr Oxley Street & Pole Lane) Crows Nest NSW 2065. The AGM will also be webcast live at <https://publish.viostream.com/app/s-d9fsbdt>.

Downer's AGM is the occasion where shareholders vote on a number of important resolutions, which are outlined in this Notice of Meeting. It also provides shareholders with the opportunity to meet with the Board, hear from the Managing Director and CEO and ask questions.

Financial Report, Directors' Report, and Independent Auditor's Report

The first item of business will be to consider and receive the Financial Report, the Directors' Report and the Independent Auditor's Report for the year ended 30 June 2023.

Election of Directors

The second item of business seeks approval for the election of Steven MacDonald and Sheridan Broadbent as Independent Non-Executive Directors.

Steven MacDonald joined the Board in September 2023. Steven is an experienced Non-executive Director and senior executive with extensive experience in the water and power sectors delivering engineering maintenance, services and major infrastructure projects ranging from power plants to tunnels to freeways and rail, and has worked in both Australia and New Zealand. The Board believes Steven brings complementary skills and experience to the Board. All of the Directors unanimously recommend Steven's election to the Board.

Sheridan Broadbent joined the Board in October 2023. Sheridan is an experienced non-executive director and senior executive with experience in business strategy, technology, business development, and health and safety in the utilities and telecommunications sectors. Having worked in both Australia and New Zealand and being based in Auckland, Sheridan brings a deep understanding of the New Zealand market. The Board believes Sheridan brings complementary skills and experience to the Board. All of the Directors unanimously recommend Sheridan's election to the Board.

Remuneration Report and Performance Rights

The third item of business seeks approval of the Remuneration Report and the fourth item of business seeks approval of the grant of performance rights to the Managing Director, Peter Tompkins, as part of his remuneration for the 2023 and 2024 financial years.

At last year's AGM the resolution to adopt the 2022 Remuneration Report was not carried and a 'first strike' was received.

The Board has been working hard to respond to the concerns of shareholders and ensure that executive pay and disclosure is appropriate and aligned with the outcomes of the business. The Chairman's letter on page 31 of Downer's Annual Report and the accompanying pages of the Remuneration Report set out Downer's response to the strike and a summary of Downer's remuneration strategy and outcomes for the 2023 financial year. I ask that you consider this letter and accompanying pages in the 2023 Annual Report when forming your views on these items of business.

Peter was previously Chief Operating Officer and was appointed as Managing Director and Chief Executive Officer of Downer in February 2023, and as such, approval of shareholders is being sought for the grant of performance rights to Peter under the Long-Term Incentive (LTI) plan for the 2023 financial year. Approval is also being sought for a grant of performance rights as part of his remuneration for the 2024 financial year.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M J Menhinnitt'. The signature is fluid and cursive, with a prominent 'M' and 'J'.

M J Menhinnitt

Chairman

Ordinary Business

1. Financial Report, Directors' Report and Independent Auditor's Report

To consider and receive the Financial Report, the Directors' Report and the Independent Auditor's Report of Downer for the year ended 30 June 2023.

Note:

- No resolution is required for this item of business.

2. Election of Directors

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

A. "That Steven MacDonald who was appointed as an Independent Non-executive Director of the Company, effective 1 September 2023, in accordance with Rule 3.3 of the Company's Constitution and being eligible, is elected as a Non-executive Director of Downer."

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

B. "That Sheridan Broadbent who was appointed as an Independent Non-executive Director of the Company, effective 2 October 2023, in accordance with Rule 3.3 of the Company's Constitution and being eligible, is elected as a Non-executive Director of Downer."

3. Adoption of Remuneration Report

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

"That the Remuneration Report for the year ended 30 June 2023 be adopted."

Notes:

- This resolution is subject to voting exclusions, which are set out in the Explanatory Memorandum.
- This resolution is advisory only and does not bind Downer or the Directors.
- The Directors will consider the outcome of the vote and comments made by shareholders on the Remuneration Report at the meeting when reviewing Downer's remuneration policies.

If 25% or more of votes that are cast are voted against this resolution, shareholders will be required to vote at this Annual General Meeting on a resolution that another meeting be held within 90 days, at which all of Downer's Directors (other than the Managing Director) would automatically cease to hold office at the end of that meeting unless they are willing to stand for re-election and are re-elected, at that meeting.

A vote on this resolution must not be cast by or on behalf of a member of the key management personnel of Downer (**KMP**), details of whose remuneration are included in the Remuneration Report, or by any of their closely related parties (such as certain of their family members, dependants and companies they control).

However, this does not prevent those KMP or any of their closely related parties from voting as a proxy for a person who is not a member of the KMP or a closely related party of KMP if:

- the person specifies the way the proxy is to vote on this resolution in the proxy form; or
- the person voting as a proxy is the Chairman and the proxy form does not specify the way the proxy is to vote and expressly authorises the Chairman to exercise the proxy even if the resolution is directly or indirectly connected with the remuneration of a member of the KMP for the Downer Group.

Special Business

4. Approval of Managing Director's Long-Term Incentive (LTI)

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

- A. That approval is given to the grant of performance rights pursuant to the Company's LTI Plan and the acquisition of shares on vesting by issue or by transfer as the Managing Director's long-term incentive for 2023 on the basis described in the Explanatory Memorandum to this Notice of Meeting.

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

- B. That approval is given to the grant of performance rights pursuant to the Company's LTI Plan and the acquisition of shares on vesting by issue or by transfer as the Managing Director's long-term incentive for 2024 on the basis described in the Explanatory Memorandum to this Notice of Meeting.

Note:

- The resolutions in Item 4A and 4B are subject to voting exclusions, which are set out in the Explanatory Memorandum.

A member of the KMP for the Downer Group and their closely related parties must not vote as proxy on this resolution unless the proxy appointment specifies the way the proxy is to vote on the resolution. However, the Chairman of the meeting may vote an undirected proxy if the proxy appointment expressly authorises the Chairman to exercise the proxy even if the resolution is connected directly or indirectly with the remuneration of a member of KMP for the Downer Group.

Contingent Business

5. Spill Resolution (Contingent item)

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

"Subject to, and conditional on, at least 25% of the votes validly cast at the Annual General Meeting on Resolution 3 being cast against that resolution, that:

- A. Within 90 days of the date of this resolution another meeting of shareholders (**Spill Meeting**) be held;
- B. All of the Directors who were in office when the resolution to approve the Directors' Report for the year ended 30 June 2023 was passed (other than the Managing Director) and who remain in office at the time of the Spill Meeting, will cease to hold office immediately prior to the end of the Spill Meeting; and
- C. Resolutions to appoint persons to offices that will be vacated immediately before the end of the Spill Meeting be put to the vote at the Spill Meeting."

Note:

- Item 5 – (the Spill resolution) – is to be put to this AGM only if at least 25% of the votes cast at this AGM on Item 3 (Adoption of Remuneration Report) above are against the adoption of the 2023 Remuneration Report.

A vote on this resolution must not be cast by or on behalf of a member of the KMP, details of whose remuneration are included in the Remuneration Report, or by any of their closely related parties (such as certain of their family members, dependants and companies they control). However, this does not prevent those KMP or any of their closely related parties from voting as a proxy for a person who is not a member of the KMP or a closely related party if:

- the person specifies the way the proxy is to vote on this resolution in the proxy form; or
- the person voting as a proxy is the Chairman and the proxy form expressly authorises the Chairman to exercise the proxy even if the resolution is directly or indirectly connected with the remuneration of a member of the KMP for the Downer Group.

Invitation

Shareholders are invited to join the Directors for light refreshments after the meeting.

How to vote

Shareholders can vote on the items of business by:

- attending the meeting; or
- appointing a proxy, representative or attorney to attend the meeting and vote on their behalf.

Eligibility to attend and vote

You will be eligible to attend and vote at the meeting if you are registered as a holder of Downer shares at 7:00pm (Sydney time) on Monday, 20 November 2023.

Questions at the meeting

Please note, only shareholders, their proxies, attorneys or representatives may ask questions or make comments online once they have been verified and they will be given a reasonable opportunity to do so. Shareholders are encouraged to lodge questions and comments prior to the meeting.

Corporate representatives

A shareholder, or proxy, that is a corporation and entitled to participate and vote at the AGM may appoint an individual as its corporate representative. Evidence of the appointment of a corporate representative must be lodged with Downer's share registry prior to the start of the meeting or have previously been provided. The appropriate "Appointment of Corporate Representative" form may be obtained from Computershare or online at www.investorcentre.com/au under the help tab, "Printable Forms".

Attorneys

A shareholder entitled to participate and vote at the AGM is entitled to appoint an attorney to participate and vote at the AGM on the shareholder's behalf. The power of attorney appointing the attorney must be duly signed and specify the name of each of the shareholder, the Company and the attorney, and also specify the meetings at which the appointment may be used. If the appointor is an individual, the power of attorney must be signed in the presence of at least one witness. To be effective, the power of attorney must be received by Downer's share registry not later than 48 hours before the time for holding the meeting.

Appointing a proxy

1. A proxy form is attached.
2. A member entitled to attend, participate and vote at the meeting is entitled to appoint a proxy. If a member is entitled to cast two or more votes at the meeting, that member is entitled to appoint not more than two proxies.
3. Where more than one proxy is appointed, each proxy should be appointed to represent a specified proportion of the member's voting rights. In the absence of such a specification, each proxy will be entitled to exercise half the votes.
4. You may appoint either an individual or a body corporate as your proxy. A proxy need not be a member of Downer.
5. A proxy form must be signed by the member or the member's attorney. Proxies given by corporations must be signed either under section 127 of the Corporations Act or in accordance with the Constitution of the Company. In the case of joint holdings, at least one of the joint holders must sign the proxy form.

6. **If you appoint the Chairman of the meeting as your proxy and do not direct the Chairman of the meeting how to vote on Item 3 (Adoption of Remuneration Report), Item 4A (Approval of Managing Director's long-term incentive for 2023), Item 4B (Approval of Managing Director's long-term incentive for 2024) or Item 5 (Spill Resolution) (which you may do by marking any one of "For", "Against" or "Abstain" on the proxy form for those items of business), you will be expressly authorising the Chairman of the meeting to exercise your proxy even if those items are directly or indirectly connected with the remuneration of a member of the KMP for the Downer Group.**

7. The proxy form and the power of attorney or other authority (if any) under which it is signed (or a certified copy of the power of attorney or authority) must be received not later than 48 hours before the time for holding the meeting, at the office of Downer's share registry:

Computershare Investor Services Pty Limited
GPO Box 242
Melbourne VIC 3001 Australia
Fax: 1800 783 447 (within Australia)
+61 3 9473 2555 (outside Australia)

Shareholders can also cast their votes online at www.investorvote.com.au by following the prompts. To use this facility, you will need your Securityholder Reference Number (SRN) or Holder Identification Number (HIN) and postcode as shown on the proxy form. You will be taken to have signed the proxy form if you lodge it in accordance with the instructions on the website.

Custodian voting – For Intermediary Online subscribers only (custodians) please visit www.intermediaryonline.com to submit your voting intentions.

Annual Report

Downer's 2023 Annual Report is available on the Downer website at www.downergroup.com.

All resolutions will be by poll

The Chairman of the meeting intends to call a poll on each of the resolutions set out in this Notice of Meeting.

Explanatory Memorandum for Shareholders

The purpose of this Explanatory Memorandum (which is included in and forms part of the Notice of Meeting) is to provide shareholders with important information regarding the items of business proposed for the Downer 2023 Annual General Meeting as well as assist shareholders to determine how they wish to vote on each resolution.

Shareholders should read the Notice of Meeting, including this Explanatory Memorandum carefully before deciding how to vote on the resolutions.

Item 1 Financial Report, Directors' Report and Independent Auditor's Report

The 2023 Annual Report (which includes the Financial Report, the Directors' Report and the Independent Auditor's Report) will be presented to the meeting. Shareholders can access a copy of the report at the Downer website, www.downergroup.com.

The Chairman will give shareholders an opportunity to ask questions about, and make comments on, the management of Downer and the financial statements and reports and Downer's performance.

Shareholders will also be given an opportunity to ask a representative of Downer's auditor, KPMG, questions relevant to the conduct of the audit, the preparation and conduct of the Independent Auditor's Report, the accounting policies adopted by the Company in relation to the preparation of the financial statements, and the independence of the auditor in relation to the conduct of the audit.

The Chairman will also allow a reasonable opportunity for a representative of the auditor to answer written questions to the auditor submitted by shareholders to Downer no later than 5:00pm on Wednesday, 15 November 2023.

Item 2 Election and re-election of Directors

Item 2A Election of Steven MacDonald

Steven MacDonald was appointed to the position of Non-executive Director, effective 1 September 2023. Mr MacDonald joins Downer as an Independent Director.

Mr MacDonald's profile is set out below.



Steven MacDonald (62)

Independent Non-Executive Director since September 2023

Steven MacDonald is an experienced non-executive director and senior executive with extensive experience in the water and power sectors delivering engineering maintenance, services

and major infrastructure projects ranging from power plants to tunnels to freeways and rail, and has worked in both Australia and New Zealand.

Mr MacDonald is currently a Non-executive Director of Ausgrid, Chair of Intera Renewables and a member of Palisade Investment Partners Investment committee and the Water NSW Asset Advisory Group.

Mr MacDonald was formerly the Managing Director of Zinfra and prior to that held several senior executive roles in Transfield Services Limited, including Chief Executive Officer for Marketing and Investments where he led mergers and acquisitions including their integration and transformation, Chief Executive Officer of Transfield Services Infrastructure Fund and Chief Strategy Officer.

Mr MacDonald holds a Bachelor of Civil Engineering (Hons), Melbourne University and is a member of the Australian Institute of Company Directors.

Board recommendation

The Directors, in the absence of Mr MacDonald, unanimously recommend that shareholders vote in favour of this resolution, as Mr MacDonald's skills and experience (as set out above) are valuable to the Board's existing skills and experience. Mr MacDonald also adds considerable strength and leadership to the Committees on which he serves, being the Zero Harm and Project Governance Committees.

The Chairman of the meeting intends to vote undirected proxies in favour of this resolution.

Item 2B election of Sheridan Broadbent



Sheridan Broadbent (55)

Independent Non-Executive Director since October 2023

Sheridan Broadbent is an experienced Non-executive Director and senior executive with experience in business strategy, technology, business development, and health and safety

in the utilities and telecommunications sectors. Having worked in both Australia and New Zealand and being based in Auckland, Ms Broadbent brings a deep understanding of the New Zealand market.

Ms Broadbent is currently a Non-executive Director of Spark New Zealand, Manawa Energy, and is the Deputy Chair of the Business Leaders' Health & Safety Forum in New Zealand. Ms Broadbent has previously served as the Chair of Kordia Group, a Non-executive Director of Transpower, Kaingaroa Timberlands and Waka Kotahi New Zealand Transport Agency, and as a member of the New Zealand Government's Cyber Security Advisory Committee.

Ms Broadbent was formerly the Chief Executive of Counties Power and prior to that held several senior executive roles in the energy, telecommunications and engineering sectors, including with Downer in Australia and New Zealand from 2007 to 2011.

Ms Broadbent holds a Bachelor of Commerce from the University of Auckland and is a graduate of Harvard Business School's Advanced Management Program and the Australian Institute of Company Directors, and is a Chartered Member of the Institute of Directors in New Zealand.

Board recommendation

The Directors, in the absence of Ms Broadbent, unanimously recommend that shareholders vote in favour of this resolution, as Ms Broadbent's skills and experience (as set out above) are valuable to the Board's existing skills and experience.

Ms Broadbent also adds considerable strength and leadership to the Committees on which she serves, being the Zero Harm and People and Culture Committees.

The Chairman of the meeting intends to vote undirected proxies in favour of this resolution.

Item 3 Adoption of Remuneration Report

The Remuneration Report is contained in the Directors' Report in the 2023 Annual Report. Shareholders can access a copy of the report at the Downer website, www.downergroup.com.

The Remuneration Report provides information about the remuneration arrangements for KMP, which includes Non-executive Directors and the most senior executives, for the year to 30 June 2023.

The Remuneration Report covers the following matters:

- An introductory letter from the Chairman and Chairman of the People and Culture Committee to shareholders
- Year in review
- Details of Key Management Personnel
- Remuneration policy, principles and practices
- Relationship between remuneration policy and company performance
- The Board's role in remuneration
- Description of executive remuneration
- Details of executive remuneration
- Executive equity ownership
- Key terms of employment contracts
- Related party information
- Description of Non-executive Director remuneration.

Shareholders will be given a reasonable opportunity to ask questions about, or make comments on, the Remuneration Report. Shareholders will be asked to vote on the Remuneration Report.

The resolution is advisory only and does not bind Downer or its Directors. The Board will consider the outcome of the vote and comments made by shareholders on the Remuneration Report at the meeting when reviewing Downer's remuneration policies.

Under the Corporations Act, if at least 25% of the votes cast on the resolution are against the adoption of the relevant Remuneration Report at two consecutive Annual General Meetings (each an "AGM", and any such potential 25% or more vote "against" commonly referred to as a "first strike" or "second strike"), shareholders will be required to vote at the second of those AGMs on Item 5 (the "Spill Resolution").

At last year's AGM the resolution to adopt the 2022 Remuneration Report was not carried with 55.76% of votes cast "against" the Remuneration Report. As more than 25% of the votes cast on that resolution were against, the vote constituted a "first strike".

The 2023 Remuneration Report addresses the concerns of shareholders raised via the “first strike” at last year’s AGM.

If 25% or more of the votes cast on the resolution in Item 3 (that the 2023 Remuneration Report be adopted) are against the adoption of the 2023 Remuneration Report, then this would constitute a “second strike” and, as then required by the Corporations Act, a Spill resolution, as set out in Item 5 will be put and voted on at this AGM.

Board recommendation

The Directors unanimously recommend that shareholders vote in favour of Item 3 (Adoption of Remuneration Report).

Voting exclusions

A vote on Item 3 (Adoption of Remuneration Report) must not be cast by or on behalf of a member of the KMP or by any of their closely related parties (such as certain of their family members, dependants and companies they control).

However, this does not prevent a member of the KMP, details of whose remuneration are included in the Remuneration Report, or any of their closely related parties, from voting as a proxy for a person who is not a member of those KMP or any of their closely related parties if:

- the person specifies the way the proxy is to vote on Item 3 (Remuneration Report) in the proxy form; or
- the person voting as a proxy is the Chairman and the proxy form does not specify the way the proxy is to vote and expressly authorises the Chairman to exercise the proxy even if the resolution is directly or indirectly connected with the remuneration of a member of the KMP for the Downer Group.

If you choose to appoint a proxy, you are strongly encouraged to direct your proxy how to vote on Item 3 (Adoption of Remuneration Report) by marking any one of “For”, “Against” or “Abstain” on the proxy form for that item of business. As set out in the section on Appointing a Proxy, if you have appointed the Chairman of the meeting as your proxy and you do not mark any of “For”, “Against” or “Abstain” on the proxy form, you will be expressly authorising the Chairman to vote any proxies held by him in favour of Item 3 (Adoption of Remuneration Report), even if that item is connected directly or indirectly with the remuneration of a member of the KMP for the Downer Group.

The Chairman of the meeting intends to vote any undirected proxies held by him in favour of Item 3 (Adoption of Remuneration Report).

Item 4 Approval of Managing Director’s Long-Term Incentive (LTI)

Item 4A – Approval of Managing Director’s Long-Term Incentive for 2023

Mr Tompkins was appointed as Managing Director in February 2023.

It is proposed to grant the Managing Director performance rights in Downer as the Managing Director’s 2023 long-term incentive plan (**2023 LTIP**) on the terms set out below (**2023 Grant**) and to seek approval for that grant under ASX Listing Rule 10.14.

This approval is being sought because Listing Rule 10.14.1 provides that a listed company must not permit a director of Downer to acquire equity securities under an employee incentive scheme unless it has been approved by shareholders. The 2023 Grant falls within Listing Rule 10.14.1 above and therefore requires the approval of Downer’s shareholders under Listing Rule 10.14.

Resolution **4A** seeks the required shareholder approval to the 2023 Grant under and for the purposes of Listing Rule 10.14.

If approval is granted under ASX Listing Rule 10.14, the Company will be permitted to issue ordinary shares in the Company to Mr Tompkins in satisfaction of its obligations under those performance rights if and when they vest. Further, Downer will be able to proceed with the 2023 Grant without impact on its ability to issue up to 15% of its total ordinary securities without Shareholder approval in any 12-month period.

Proposed Long-Term Incentive for the Managing Director for 2023

In his previous role as Chief Operating Officer of Downer, Mr Tompkins was eligible to participate in the Company’s long-term incentive plan (**LTIP**). This entitled Mr Tompkins to be granted performance rights with a maximum value equal to 50% of his annual fixed remuneration. Under his employment agreement with Downer as Managing Director, Mr Tompkins is entitled to be granted performance rights each year with a maximum value equal to 130% of his annual fixed remuneration. Mr Tompkins current annual fixed remuneration is \$1,550,000.

Performance rights are being used to appropriately align Mr Tompkins’s remuneration as Managing Director with shareholder returns. The performance rights are subject to long-term performance requirements and therefore only vest to Mr Tompkins if those performance requirements are met. In the event that the resolution is not passed by shareholders, the Board intends to provide a 2023 LTIP equivalent through an alternative mechanism in order to meet Mr Tompkins’s contractual entitlements.

In accordance with Downer’s contractual commitments, it is proposed to grant Mr Tompkins performance rights to the value of \$1,005,000, which is the value determined by weighting his annual fixed remuneration at the relevant maximum participation percentage for time served in his roles of Chief Operating Officer and Managing Director respectively in the 2023 financial year. The grant will be in the form of performance

rights which are a right to receive fully paid Downer ordinary shares which may be purchased on-market or issued by the Company.

Mr Tompkins is also eligible to receive an annual short-term incentive (STI) up to a maximum opportunity of 100% of his annual fixed remuneration. Any entitlement to an STI is in accordance with the plan rules. There is no STI entitlement where Mr Tompkins's employment terminates prior to the end of the financial year, other than in the event of a change in control or by mutual agreement.

Dividends will be paid or accumulated only from the time the performance rights vest.

Entitlement under the 2023 grant

Mr Tompkins will receive a grant on the same terms as for grants made to other eligible employees.

Subject to shareholder approval being obtained, the maximum number of performance rights granted to Mr Tompkins will be 234,479. This quantity was calculated as the annual fixed remuneration at the relevant maximum participation percentage for time served in his roles of Chief Operating Officer and Managing Director respectively in the 2023 financial year, being \$1,005,000, divided by \$4.2861 being the daily average of the volume weighted average price of Downer shares for the 10 trading days following the release of Downer's results for the year ended 30 June 2022, adjusted for the estimated value of dividends during the vesting period that do not attach to the rights.

If shareholders approve the proposed resolution in Item 4A (Approval of Managing Director's long-term incentive), the 2023 Grant will be made within 12 months from the date of this meeting.

Details of any securities issued under the Company's LTI Plan will be published in each annual report of the Company relating to a period in which securities have been issued, and that approval for the issue of securities was obtained under ASX Listing Rule 10.14.

Any additional persons referred to in ASX Listing Rule 10.14 who become entitled to participate in the Company's LTI Plan after the resolution is approved and who are not named in this Notice of Meeting and Explanatory Memorandum will not participate until approval is obtained under ASX Listing Rule 10.14.

Price on grant or vesting

No amount is payable by the Managing Director on grant or vesting of the performance rights.

Vesting conditions

Vesting of performance rights granted under the 2023 LTIP will be subject to:

- meeting certain performance hurdles over a specified period; and
- continued employment with Downer over a period determined by the Board (service period).

Mr Tompkins's proposed 2023 Grant will be divided into three equal tranches subject to the following performance hurdles:

- relative total shareholder return (TSR);
- compound annual earnings per share growth (EPS); and
- net profit after tax and before amortisation of acquired intangibles (NPATA) and free cash flow (FFO) (Scorecard).

TSR is measured over the three-year performance period to 30 June 2025. TSR is calculated as the difference in share price over the performance period, plus the value of shares earned from reinvesting dividends received over this period, expressed as a percentage of the share price at the beginning of the performance period. If the TSR for each company in the comparator group (see below) is ranked from highest to lowest, the median TSR is the percentage return to shareholders that exceeds the TSR for half of the comparison companies. The 75th percentile TSR is the percentage return required to exceed the TSR for 75% of the comparison companies.

Performance rights in the tranche to which the relative TSR performance requirement applies vest in accordance with the following table:

Downer's TSR ranking against the comparator group	% of performance rights subject to the relative TSR
<50th percentile	Nil
50th percentile	30%
Above 50th and below 75th percentile	Straight line so that a further 2.8% of the performance rights in the tranche will vest for every 1% increase between the 50th percentile and 75th percentile
75th percentile and above	100%

The comparator group for the 2023 Grant is the companies, excluding financial services companies, in the ASX100 index as at the start of the performance period on 1 July 2022.

EPS growth is measured over the three-year performance period to 30 June 2025. The EPS measure is based on AASB 133 *Earnings per Share* and is externally audited.

The tranche of shares dependent on the EPS performance condition vests pro rata between 5% compound annual EPS growth and 10% compound annual EPS growth.

Performance rights in the tranche to which the EPS performance requirement applies vest in accordance with the following table:

Downer's EPS compound annual growth	% of performance rights subject to EPS condition that qualify to vest
<5%	Nil
5%	30%
Above 5% and below 10%	Straight line so that a further 14% of the performance rights in the tranche will vest for every 1% increase in EPS growth between 5% and 10%
10% or more	100%

The Scorecard condition will be comprised of two independent absolute components of equal weighting. These components will be based on Group NPATA and Group FFO. FFO is defined as net cash flow from operating activities less investing cash flow.

The performance of each component will be measured over the three-year period to 30 June 2025.

NPATA and FFO targets will be set at the beginning of each of the three financial years. The performance of each component will be assessed each year relative to the targets. Performance of each component will be determined as the average of the annual performance assessments for the three years.

Performance rights in the tranche to which the Scorecard performance requirement applies vest in accordance with the following table:

Scorecard result	% of performance rights subject to Scorecard condition that qualify to vest
<90%	Nil
90%	30%
Above 90% and below 110%	Straight line so that a further 3.5% of the performance rights in the tranche will vest for every 1% increase between 90% and 110%
110% or more	100%

Once some or all of the performance rights have met the vesting conditions, the performance rights will not vest unless the Board is satisfied there has been no conduct on the part of Mr Tompkins that the Board considers inappropriate and that the financial results against which the performance vesting condition were tested were not incorrect in a material respect and were not reversed or restated.

Performance period

The performance period for the 2023 Grant will be the three years from 1 July 2022 to 30 June 2025 and the service period will end on 30 June 2026.

Change of control

Under the 2023 LTIP, if there is a change in control of Downer during the performance period, provided at least 12 months of the 2023 Grant's performance period have elapsed, unvested performance rights pro-rated with the elapsed performance period are tested for vesting with performance against the relevant performance hurdles for that period.

Performance rights that have already been tested and have met performance requirements but remain subject to the completion of the service period condition will fully vest.

Neither unvested pro-rated performance rights nor performance rights that have already been tested and met performance requirements will vest unless the Board is satisfied that there has been no conduct on the part of Mr Tompkins that the Board considers inappropriate and that the financial results against which the performance hurdles were tested were not incorrect in a material respect and were not reversed or restated.

Cessation of employment

Upon cessation of employment of the Managing Director for any reason, all performance rights that have not vested by the cessation of employment will be forfeited unless, subject to the termination benefit provisions of the Corporations Act, the Board exercises its discretion to permit the Managing Director to retain performance rights by deeming him to be an "Eligible Leaver". If Mr Tompkins is deemed to be an Eligible Leaver, he may be entitled to retain some or all of his performance rights and these will be tested for vesting against the Vesting Conditions other than the Continued Employment Condition in their normal course. An Eligible Leaver's performance rights will be settled with fully paid Downer ordinary shares or in cash in the Board's sole and absolute discretion. No performance rights will vest unless the Board is satisfied that there has been no conduct on the part of Mr Tompkins that the Board considers inappropriate and that the financial results against which the performance hurdles were tested were not incorrect in a material respect and were not reversed or restated.

Other information

- Mr Tompkins is the only Director of the Company who is entitled to participate in the Company's LTI Plan for 2023
- No loan is being made to Mr Tompkins in relation to the acquisition of performance rights
- The following table shows the number of performance rights and restricted shares that have been previously granted by Downer to Mr Tompkins under the Company's LTI Plan
- Each of the performance rights described below are a right to receive fully paid Downer ordinary shares on vesting. Each of the restricted shares described below were held in trust until vesting
- Each of the performance rights and restricted shares were granted for nil acquisition price
- The performance rights are not transferable, and do not confer any right to vote or to a dividend, nor do they confer any right to a return of capital, to participate in surplus profits or assets of Downer, or to participate in new issues of securities.

Year	Number of performance rights	Number of restricted shares
2012	–	82,343
2013	55,710	–
2014	30,447	–
2015	68,740	–
2016	124,551	–
2017	89,087	–
2018	67,705	–
2019	76,894	–
2020	79,543	–
2021	146,079	–
2022	93,679	–

Board recommendation

In the view of the Non-executive Directors, it is in the best interests of shareholders to approve the performance right based 2023 long-term incentive grant to the Managing Director because it appropriately aligns the Managing Director's remuneration with shareholder returns. Your directors (in the absence of the Managing Director) therefore recommend shareholders approve the 2023 Grant and the Managing Director's participation in the 2023 LTIP.

Voting exclusions

The Company will disregard any votes cast in favour of **Item 4A** by or on behalf of:

- Mr Tompkins; or
- associates of Mr Tompkins.

However, the Company need not disregard a vote cast in favour of the resolution by:

- a person as proxy or attorney for a person who is entitled to vote on the resolution, in accordance with directions given to the proxy or attorney to vote on the resolution in that way; or
- the Chairman of the meeting as proxy or attorney for a person who is entitled to vote on the resolution, in accordance with a direction given to the Chairman to vote on the resolution as the Chairman decides; or
- a holder acting solely in a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary provided the following conditions are met:
 - the beneficiary provides written confirmation to the holder that the beneficiary is not excluded from voting, and is not an associate of a person excluded from voting, on the resolution; and
 - the holder votes on the resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

Shareholders should note that apart from Mr Tompkins no Director is eligible to participate in any employee incentive scheme in relation to the Company.

If you choose to appoint a proxy, you are strongly encouraged to direct your proxy how to vote on Item 4A (Approval of Managing Director's long-term incentive 2023) by marking any one of "For", "Against" or "Abstain" on the proxy form for that item of business. As set out in the section on Appointing a Proxy, if you have appointed the Chairman of the meeting as your proxy and you do not mark any of "For", "Against" or "Abstain" on the proxy form, you will be expressly authorising the Chairman to vote any proxies held by him in favour of Item 4A (Approval of Managing Director's long-term incentive) even if that item is connected directly or indirectly with the remuneration of a member of KMP for the Downer Group.

The Chairman of the meeting intends to vote any undirected proxies held by him in favour of Item 4A (Approval of Managing Director's long-term incentive 2023).

Item 4B – Approval of Managing Director's Long-Term Incentive for 2024

It is proposed to grant the Managing Director performance rights in Downer as the Managing Director's 2024 long-term incentive plan (**2024 LTIP**) on the terms set out below (**2024 Grant**) and to seek approval for that grant under ASX Listing Rule 10.14.

This approval is being sought because Listing Rule 10.14.1 provides that a listed company must not permit a director of Downer to acquire equity securities under an employee incentive scheme unless it has been approved by shareholders. The 2024 Grant falls within Listing Rule 10.14.1 above and therefore requires the approval of Downer's shareholders under Listing Rule 10.14.

Resolution **4B** seeks the required shareholder approval to the 2024 Grant under and for the purposes of Listing Rule 10.14.

If approval is granted under ASX Listing Rule 10.14, the Company will be permitted to issue ordinary shares in the Company to Mr Tompkins in satisfaction of its obligations under those performance rights when they vest. Further, Downer will be able to proceed with the 2024 Grant without impact on its ability to issue up to 15% of its total ordinary securities without Shareholder approval in any 12-month period.

Proposed Long-Term Incentive for the Managing Director for 2024

Under his employment agreement with Downer as Managing Director, Mr Tompkins is entitled to be granted performance rights each year with a maximum value equal to 130% of his annual fixed remuneration. Performance rights are being used to appropriately align Mr Tompkins's remuneration as Managing Director with shareholder returns. The performance rights are subject to long-term performance requirements and therefore only vest to Mr Tompkins if those performance requirements are met. If the resolution is not passed by shareholders, the Board intends to provide a 2024 LTIP equivalent through an alternative mechanism in order to meet Mr Tompkins's contractual entitlements.

In accordance with Downer's contractual commitments, it is proposed to grant Mr Tompkins performance rights with a maximum value of 130% of his annual fixed remuneration at the time the quantity of performance rights is determined (as described below). Mr Tompkins's current annual fixed remuneration is \$1,550,000. The grant will be in the form of performance rights which are a right to receive fully paid Downer ordinary shares which may be purchased on-market or issued by the Company.

Mr Tompkins is also eligible to receive an annual short-term incentive (STI) up to a maximum opportunity of 130% of his annual fixed remuneration. Any entitlement to an STI is in accordance with the plan rules. There is no STI entitlement where Mr Tompkins's employment terminates prior to the end of the financial year, other than in the event of a change in control or by mutual agreement.

Dividends will be paid or accumulated only from the time the performance rights vest.

Entitlement under the 2024 grant

Mr Tompkins will receive a grant on the same terms and at the same time as other eligible employees.

Subject to shareholder approval being obtained, the maximum number of performance rights granted to Mr Tompkins will be 480,448. This quantity was calculated as his annual fixed remuneration of \$1,550,000 multiplied by the participation rate of 130% divided by \$4.1940 being the daily average of the volume weighted average price of Downer shares for the 10 trading days following the release of Downer's results for the year ended 30 June 2023. Each performance right will convert to one ordinary share once all vesting conditions are met.

If shareholders approve the proposed resolution in Item 4B (Approval of Managing Director's long-term incentive), the 2024 Grant will be made within 12 months from the date of this meeting.

Details of any securities issued under the Company's LTI Plan will be published in each annual report of the Company relating to a period in which securities have been issued, and that approval for the issue of securities was obtained under ASX Listing Rule 10.14.

Any additional persons referred to in ASX Listing Rule 10.14 who become entitled to participate in the Company's LTI Plan after the resolution is approved and who are not named in this Notice of Meeting and Explanatory Memorandum will not participate until approval is obtained under ASX Listing Rule 10.14.

Price on grant or vesting

No amount is payable by the Managing Director on grant or vesting of the performance rights.

Vesting conditions

Vesting of performance rights granted under the 2024 LTIP will be subject to:

- meeting certain performance hurdles over a specified period; and
- continued employment with Downer over a period determined by the Board (service period).

Mr Tompkins's proposed 2024 Grant will be divided into three equal tranches subject to the following performance hurdles:

- relative total shareholder return (TSR);
- compound annual earnings per share growth (EPS); and
- net profit after tax and before amortisation of acquired intangibles (NPATA) and free cash flow (FFO) (Scorecard).

TSR is measured over the three-year performance period to 30 June 2026. TSR is calculated as the difference in share price over the performance period, plus the value of shares earned from reinvesting dividends received over this period, expressed as a percentage of the share price at the beginning of the performance period. If the TSR for each company in the comparator group (see below) is ranked from highest to lowest, the median TSR is the percentage return to shareholders that exceeds the TSR for half of the comparison companies. The 75th percentile TSR is the percentage return required to exceed the TSR for 75% of the comparison companies.

For rights in the TSR tranche to vest, absolute TSR must be positive ('positive TSR gateway').

Performance rights in the tranche to which the relative TSR performance requirement applies vest in accordance with the following table:

Downer's TSR ranking against the comparator group	% of performance rights subject to the relative TSR
<50th percentile	Nil
50th percentile	30%
Above 50th and below 75th percentile	Straight line so that a further 2.8% of the performance rights in the tranche will vest for every 1% increase between the 50th percentile and 75th percentile
75th percentile and above	100%

The comparator group for the 2024 Grant is the companies, excluding financial services companies, in the ASX100 index as at the start of the performance period on 1 July 2023.

EPS growth is measured over the three-year performance period to 30 June 2026. The EPS measure is based on AASB 133 Earnings per Share and is externally audited. The EPS baseline will be adjusted to take account of elements of underperformance in FY23.

The tranche of shares dependent on the EPS performance condition vests pro rata between 5% compound annual EPS growth and 10% compound annual EPS growth.

Performance rights in the tranche to which the EPS performance requirement applies vest in accordance with the following table:

Downer's EPS compound annual growth	% of performance rights subject to EPS condition that qualify to vest
<5%	Nil
5%	30%
Above 5% and below 10%	Straight line so that a further 14% of the performance rights in the tranche will vest for every 1% increase in EPS growth between 5% and 10%
10% or more	100%

The Scorecard condition will be comprised of two independent absolute components of equal weighting. These components will be based on Group NPATA and Group FFO. FFO is defined as net cash flow from operating activities less investing cash flow.

The performance of each component will be measured over the three-year period to 30 June 2026.

NPATA and FFO targets will be set at the beginning of each of the three financial years. The performance of each component will be assessed each year relative to the targets. Performance of each component will be determined as the average of the annual performance assessments for the three years.

For rights in the Scorecard tranche to vest, a minimum earnings margin target must be achieved. The minimum earnings margin target has been introduced to ensure that the Managing Director is rewarded for earnings of appropriate quality. This is a measurement of Earnings Before Interest, Tax and Amortisation of acquired intangibles (**EBITA**) in relation to the 2025 and 2026 financial years.

Performance rights in the tranche to which the Scorecard performance requirement applies vest in accordance with the following table:

Scorecard result	% of performance rights subject to Scorecard condition that qualify to vest
<90%	Nil
90%	30%
Above 90% and below 110%	Straight line so that a further 3.5% of the performance rights in the tranche will vest for every 1% increase between 90% and 110%
110% or more	100%

Once some or all of the performance rights have met the vesting conditions, the performance rights will not vest unless the Board is satisfied there has been no conduct on the part of Mr Tompkins that the Board considers inappropriate and that the financial results against which the performance vesting condition were tested were not incorrect in a material respect and were not reversed or restated.

Performance period

The performance period for the 2024 Grant will be the three years from 1 July 2023 to 30 June 2026 and the service period will end on 30 June 2027.

Change of control

Under the 2024 LTIP, if there is a change in control of Downer during the performance period, provided at least 12 months of the 2024 Grant's performance period have elapsed, unvested performance rights pro-rated with the elapsed performance period are tested for vesting with performance against the relevant performance hurdles for that period.

Performance rights that have already been tested and have met performance requirements but remain subject to the completion of the service period condition will fully vest.

Neither unvested pro-rated performance rights nor performance rights that have already been tested and met performance requirements will vest unless the Board is satisfied that there has been no conduct on the part of Mr Tompkins that the Board considers inappropriate and that the financial results against which the performance hurdles were tested were not incorrect in a material respect and were not reversed or restated.

Cessation of employment

Upon cessation of employment of the Managing Director for any reason, all performance rights that have not vested by the cessation of employment will be forfeited unless, subject to the termination benefit provisions of the Corporations Act, the Board exercises its discretion to permit the Managing Director to retain performance rights by deeming him to be an "Eligible Leaver". If Mr Tompkins is deemed to be an Eligible Leaver, he may be entitled to retain some or all of his performance rights and these will be tested for vesting against the Vesting Conditions other than the Continued Employment Condition in their normal course. An Eligible Leaver's performance rights will be settled with fully paid Downer ordinary shares or in cash in the Board's sole and absolute discretion. No performance rights will vest unless the Board is satisfied that there has been no conduct on the part of Mr Tompkins that the Board considers inappropriate and that the financial results against which the performance hurdles were tested were not incorrect in a material respect and were not reversed or restated.

Other information

- Mr Tompkins is the only Director of the Company who is entitled to participate in the 2024 LTIP
- No loan is being made to Mr Tompkins in relation to the acquisition of performance rights
- The following table shows the number of performance rights and restricted shares that have been previously granted by Downer to Mr Tompkins under the Company's LTI Plan
- Each of the performance rights described below are a right to receive fully paid Downer ordinary shares on vesting. Each of the restricted shares described below were held in trust until vesting
- Each of the performance rights and restricted shares were granted for nil acquisition price
- The performance rights are not transferable, and do not confer any right to vote or to a dividend, nor do they confer any right to a return of capital, to participate in surplus profits or assets of Downer, or to participate in new issues of securities.

Year	Number of performance rights	Number of restricted shares
2012	–	82,343
2013	55,710	–
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2019	76,894	–
2020	79,543	–
2021	146,079	–
2022	93,679	–

Board recommendation

In the view of the Non-executive Directors, it is in the best interests of shareholders to approve the performance right based 2024 long-term incentive grant to the Managing Director because it appropriately aligns the Managing Director's remuneration with shareholder returns. Your directors (in the absence of the Managing Director) therefore recommend shareholders approve the 2024 Grant and the Managing Director's participation in the 2024 LTIP.

Voting exclusions

The Company will disregard any votes cast in favour of **Item 4B** by or on behalf of:

- Mr Tompkins; or
- associates of Mr Tompkins.

However, the Company need not disregard a vote cast in favour of the resolution by:

- a person as proxy or attorney for a person who is entitled to vote on the resolution, in accordance with directions given to the proxy or attorney to vote on the resolution in that way; or
- the Chairman of the meeting as proxy or attorney for a person who is entitled to vote on the resolution, in accordance with a direction given to the Chairman to vote on the resolution as the Chairman decides; or
- a holder acting solely in a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary provided the following conditions are met:
 - the beneficiary provides written confirmation to the holder that the beneficiary is not excluded from voting, and is not an associate of a person excluded from voting, on the resolution; and
 - the holder votes on the resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

Shareholders should note that apart from Mr Tompkins no Director is eligible to participate in any employee incentive scheme in relation to the Company.

If you choose to appoint a proxy, you are strongly encouraged to direct your proxy how to vote on Item 4B (Approval of Managing Director's long-term incentive 2024) by marking any one of "For", "Against" or "Abstain" on the proxy form for that item of business. As set out in the section on Appointing a Proxy, if you have appointed the Chairman of the meeting as your proxy and you do not mark any of "For", "Against" or "Abstain" on the proxy form, you will be expressly authorising the Chairman to vote any proxies held by him in favour of Item 4B (Approval of Managing Director's long-term incentive) even if that item is connected directly or indirectly with the remuneration of a member of KMP for the Downer Group.

The Chairman of the meeting intends to vote any undirected proxies held by him in favour of Item 4B (Approval of Managing Director's long-term incentive 2024).

Item 5 Spill resolution (contingent item)

Item 5 is a conditional item of business subject to the result of Item 3. This Item will only be put to the 2023 AGM if at least 25% of the votes validly cast on Item 3 (to adopt the Remuneration Report) are cast against the resolution. If less than 25% of the votes validly cast on Item 3 are cast against the resolution, then there will be no "second strike" and this Item will not be put to the 2023 AGM.

If this Item is put to the 2023 AGM, shareholders will be asked to vote on whether an extraordinary general meeting known as a 'Spill Meeting' should be convened. For this Item to be passed, an ordinary majority (more than 50%) of the votes validly cast on the resolution must be in favour of it.

If this Item is passed at the 2023 AGM, a Spill Meeting must be held within 90 days of the 2023 AGM. If a Spill Meeting is required, the date of the meeting will be notified to shareholders in due course.

If the Spill Meeting is held, the Directors (other than the Managing Director) will cease to hold office immediately before the end of the Spill Meeting unless they are willing to stand for re-election and are re-elected at that meeting. Eligibility to stand for election or re-election at the Spill Meeting would be determined in accordance with Downer's Constitution. There is no assurance that the above Directors will seek re-election at the Spill Meeting.

In accordance with the Corporations Act, ASX Listing Rules and Downer's Constitution, the Managing Director, Peter Tompkins, would not be required to stand for re-election as a Director, and would continue to hold office, at and after the Spill Meeting regardless of the outcome of the Spill Meeting.

Board recommendation

The Directors consider the following factors to be relevant to a shareholder's decision on how to vote on this Item:

- The Board has taken the "first strike" against the Remuneration Report very seriously. The 2023 Remuneration Report addresses the concerns of shareholders raised via the "first strike" at last year's AGM;
- Proceeding to a Spill Meeting with consequent possible changes in the Board will create disruption, uncertainty and instability in the Company and for our staff and customers. If the Spill Meeting resulted in some Directors not standing for re-election or not being returned, it would take time to rebuild a board with appropriate skills and experience; and
- Significant costs would be incurred if Downer is required to call and hold a spill meeting.

For the reasons outlined, the Directors do not believe that proceeding to a Spill Meeting would be in the best interests of Downer's shareholders.

In the event that this Item is put to the vote at the 2023 AGM, the Directors unanimously recommend shareholders vote against Item 5 (Spill Resolution).

Voting exclusions

A vote on this resolution must not be cast by or on behalf of a member of the KMP, details of whose remuneration are included in the Remuneration Report, or by any of their closely related parties (such as certain of their family members, dependants and companies they control). However, this does not prevent those KMP or any of their closely related parties from voting as a proxy for a person who is not a member of the KMP or a closely related party if:

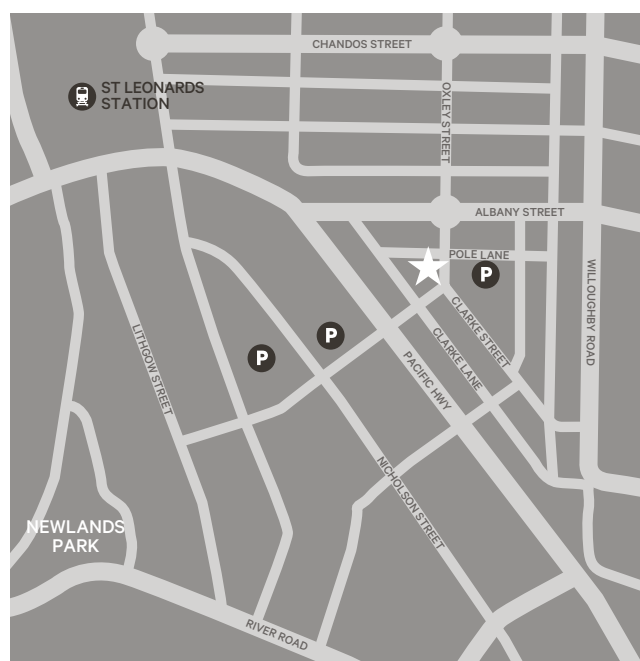
- the person specifies the way the proxy is to vote on this resolution in the proxy form; or
- the person voting as a proxy is the Chairman and the proxy form expressly authorises the Chairman to exercise the proxy even if the resolution is directly or indirectly connected with the remuneration of a member of the KMP.

The Chairman of the meeting intends to vote any undirected proxies held by him against Item 5 (Spill Resolution).

By order of the Board

Robert Regan, Company Secretary
Sydney, 18 October 2023

Getting there



Public transport

The closest train station is St Leonards. There are several bus routes from the city and further north or west that stop in Crows Nest and/or St Leonards. For information about train and bus times, please call 131 500 or visit www.transportnsw.info.

Parking

On-street parking near the Centre is generally metered parking (2P or less) with strictly enforced regulations. The Hume Street Car Park is located directly across from the Northside Conference Centre. There are three additional parking stations in close proximity to the venue which are: Holtermann Street, Nicholson Street and Alexander Street.

Go paperless


We encourage you to change your report preferences to electronic delivery. To change your preferences or update your details please contact Computershare on the details provided below or online at: <http://www.computershare.com.au/easyupdate/dow>.

Further information

If you would like any further information regarding Downer's AGM, please contact the Company's share registry, Computershare, on 1300 556 161 if calling within Australia or +61 3 9415 4000 if calling from outside Australia.

Information about Downer

Information about Downer's FY23 performance can be read in the Annual Report and Sustainability Report available at www.downergroup.com.



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