

# Energy Developments Limited (ASX: ENE)

Friday, 4 September 2015

For Immediate Release



Building 17  
2404 Logan Road  
PO Box 4046  
Eight Mile Plains Qld 4113  
Australia  
Main Tel 61 7 3275 5555  
Main Fax 61 7 3341 5150

## ASX Release

### Scheme Booklet registered with ASIC

Energy Developments Limited (ASX:ENE) ("**EDL**" or the "**Company**") is pleased to announce that the Australian Securities and Investments Commission has registered the scheme booklet in relation to the proposed scheme of arrangement ("**Scheme Booklet**") under which the DUET Group (ASX:DUE) ("**DUET**") will acquire, through its wholly owned subsidiary DUET EDL Pty Limited, all of the shares in EDL ("**Scheme**"). This follows the issuance of orders by the Supreme Court of New South Wales approving dispatch of the Scheme Booklet.

Further, the independent expert appointed by the EDL board to review the transaction, Deloitte Corporate Finance Pty Limited, has concluded that the Scheme is fair and reasonable and, therefore, in the best interests of EDL shareholders.

A copy of the Scheme Booklet, including the independent expert's report, is attached to this announcement.

Printed copies of the Scheme Booklet, including the independent expert's report, will be sent to EDL shareholders on 7 September 2015 (and those shareholders who have previously nominated an electronic means of notification will be able to access the materials electronically).

Shareholders will receive a cash payment of \$8.00 per EDL share if the Scheme is approved and all conditions precedent under the Scheme Implementation Deed between EDL and companies forming part of DUET, a copy of which was released to the ASX on 20 July 2015, are satisfied or waived.

EDL's directors continue to unanimously recommend that shareholders vote in favour of the resolution required to implement the Scheme, in the absence of a superior proposal and subject to the independent expert continuing to consider the Scheme to be in the best interests of EDL shareholders.

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For additional information please contact:

#### **Greg Pritchard**

Managing Director

Energy Developments

Phone: +61 7 3275 5650

#### **Gerard Dover**

Chief Financial Officer

Energy Developments

Phone: +61 7 3275 5650

#### **John Frey**

GRACosway

Phone: 0411 361 361

## About EDL

Energy Developments Limited ABN 84 053 410 263 is an international provider of safe, clean, low greenhouse gas (GHG) emissions energy and remote energy solutions.

EDL currently owns and operates a diversified international portfolio of power stations in Australia, the United States, the United Kingdom and Greece from a range of fuel sources including landfill gas, waste coal mine gas, natural gas and liquefied natural gas.

In the year ended 30 June 2015:

- EDL's worldwide operations produced approximately 4 million MWh of energy, enough to power over 650,000 homes; and

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- EDL's landfill gas power stations around the world, and waste coal mine power stations in Australia abated and avoided approximately 13 million tonnes of carbon dioxide equivalent of GHG emissions, equivalent to removing 3.8 million cars from the road

Note: in this release, all amounts are Australian dollars unless otherwise specified, and all numbers are approximate unless otherwise specified.

#### **Energy Developments Scheme of Arrangement**

As announced to the ASX on 20 July 2015, EDL has entered into a Scheme Implementation Deed with companies forming part of the DUET Group under which it is proposed that a DUET Group company will acquire all of EDL's shares on issue by way of a Scheme of Arrangement. Full details of the conditions precedent to the Scheme and other agreed terms are set out in the Scheme Implementation Deed, a copy of which is attached to EDL's announcement to the ASX on 20 July 2015. Subject to the conditions precedent to the Scheme being satisfied, the Scheme is expected to be implemented in late October 2015.

#### **Shareholder Information Line**

EDL shareholders with questions about the DUET proposal or their shareholdings are encouraged to call the EDL Shareholder Information Line: 1300 657 159 (within Australia) or +61 1300 657 159 (outside Australia).

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# Scheme Booklet

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For a scheme of arrangement in relation to the proposed acquisition by DUET Bidco of all EDL Shares held by Scheme Shareholders for \$8.00 cash per EDL Share

## **VOTE YES**

**YOUR DIRECTORS UNANIMOUSLY RECOMMEND THAT YOU APPROVE THE SCHEME BY VOTING IN FAVOUR OF THE SCHEME RESOLUTION, IN THE ABSENCE OF A SUPERIOR PROPOSAL AND SUBJECT TO THE INDEPENDENT EXPERT CONTINUING TO CONSIDER THE SCHEME TO BE IN THE BEST INTERESTS OF EDL SHAREHOLDERS**

**This is an important document and requires your immediate attention. You should read this document carefully and in its entirety before deciding whether or not to vote in favour of the resolution to approve the Scheme. If you are in doubt as to what you should do, you should consult your legal, financial or other professional adviser.**

If, after reading this Scheme Booklet, you have any questions about the Scheme or the number of EDL Shares you hold or how to vote, please call the Shareholder Information Line on 1300 657 159 (within Australia) or +61 1300 657 159 (outside Australia) Monday to Friday between 8.30am and 7.30pm (Sydney time).

If you have recently sold all of your EDL Shares, please disregard this document.

ACN 053 410 263



# IMPORTANT NOTICES

## DEFINED TERMS

Capitalised terms used in this Scheme Booklet are defined in the Glossary in section 9 of this Scheme Booklet.

## THIS SCHEME BOOKLET

This Scheme Booklet includes the explanatory statement required to be sent to EDL Shareholders in relation to the Scheme under Part 5.1 of the Corporations Act. A copy of the proposed Scheme is set out in Attachment C to this Scheme Booklet.

You should read this Scheme Booklet carefully and in its entirety before making a decision as to how to vote on the resolution to be considered at the Scheme Meeting. If you are in doubt as to what you should do, you should consult your legal, financial or other professional adviser.

## RESPONSIBILITY FOR INFORMATION

- (a) Except as provided in paragraphs (b) to (d) below, the information in this Scheme Booklet has been provided by EDL and is the responsibility of EDL. DUET Group and their directors, officers and advisers do not assume any responsibility for the accuracy or completeness of any such EDL information.
- (b) DUET Bidco has provided and is responsible for the DUET Information. EDL and its directors, officers and advisers do not assume any responsibility for the accuracy or completeness of the DUET Information.
- (c) PricewaterhouseCoopers has provided and is responsible for the information contained in section 7 of this Scheme Booklet with the exception of section 7.5. Neither EDL nor DUET Group assumes any responsibility for the accuracy or completeness of the information contained in section 7 of this Scheme Booklet. PricewaterhouseCoopers does not assume any responsibility for the accuracy or completeness of the information contained in this Scheme Booklet other than that contained in section 7.

- (d) The Independent Expert, Deloitte Corporate Finance Pty Limited, has provided and is responsible for the information contained in Attachment E to this Scheme Booklet. EDL does not assume any responsibility for the accuracy or completeness of the information contained in Attachment E to this Scheme Booklet except in relation to information given by it to the Independent Expert. DUET Group does not assume any responsibility for the accuracy or completeness of the information contained in Attachment E to this Scheme Booklet. The Independent Expert does not assume any responsibility for the accuracy or completeness of the information contained in this Scheme Booklet other than that contained in Attachment E.

Link has had no involvement in the preparation of any part of this Scheme Booklet other than being named as EDL's Share Registry. Link has not authorised or caused the issue of, and expressly disclaims and takes no responsibility for, any part of this Scheme Booklet.

## INVESTMENT DECISIONS

The information in this Scheme Booklet does not constitute financial product advice. This Scheme Booklet has been prepared without reference to the investment objectives, financial situation or particular needs of any EDL Shareholder or any other person. This Scheme Booklet should not be relied on as the sole basis for any investment decision. Independent legal, financial and taxation advice should be sought before making any investment decision in relation to your EDL Shares.

## ASIC AND ASX INVOLVEMENT

This document is the explanatory statement for the scheme of arrangement between EDL and the holders of EDL Shares as at the Record Date for the purposes of section 412(1) of the Corporations Act. A copy of the proposed Scheme is included in this Scheme Booklet as Attachment C.

A copy of this Scheme Booklet (including the Independent Expert's Report) has been lodged with and registered for the purposes of section 412(6) of the Corporations Act by ASIC. ASIC has been requested to provide a statement in accordance with section 411(17)(b) of the Corporations Act that ASIC has no objection to the Scheme. If ASIC provides that statement, then it will be produced to the Court on the Court Approval Date.

Neither ASIC nor any of its officers take any responsibility for the contents of this Scheme Booklet.

A copy of this Scheme Booklet will be lodged with ASX. Neither ASX nor any of its officers take any responsibility for the contents of this Scheme Booklet.

### **IMPORTANT NOTICE ASSOCIATED WITH COURT ORDER UNDER SUBSECTION 411(1) OF THE CORPORATIONS ACT**

The fact that under subsection 411(1) of the Corporations Act the Court has ordered that a meeting be convened and has approved the explanatory statement required to accompany the notice of the meeting does not mean that the Court:

- (a) has formed any view as to the merits of the proposed Scheme or as to how members should vote (on this matter members must reach their own decision); or
- (b) has prepared, or is responsible for the content of, the explanatory statement.

### **NOTICE REGARDING SECOND COURT HEARING AND IF AN EDL SHAREHOLDER WISHES TO OPPOSE THE SCHEME**

The date of the Second Court Hearing to approve the Scheme is Monday 12 October 2015. The hearing will be at 10.00am (Sydney time) at the Supreme Court of New South Wales at Law Courts Building, 184 Phillip Street, Sydney NSW 2000.

Each EDL Shareholder has the right to appear and be heard at the Second Court Hearing and if so advised, oppose the approval of the Scheme at the Second Court Hearing. If you wish to oppose in this manner, you must file and serve on EDL a notice of appearance, in the prescribed form, together with any affidavit on which you wish to rely at the hearing. The notice of appearance and affidavit must be served on EDL at its address for service at least one business day before Monday 12 October 2015. The address for service for EDL is c/- Gilbert + Tobin, Level 37, 2 Park Street, Sydney NSW 2000 (Attention: Hiroshi Narushima). Email: hnarushima@gtlaw.com.au.

### **DISCLOSURE REGARDING FORWARD-LOOKING STATEMENTS**

This Scheme Booklet contains both historical and forward-looking statements.

The forward-looking statements in this Scheme Booklet are not based on historical facts, but rather reflect the current views of EDL or, in relation to the DUET Information, DUET Bidco, held only as at the date of this Scheme Booklet concerning future results and events and generally may be identified by

the use of forward-looking words or phrases such as “believe”, “aim”, “expect”, “anticipated”, “intending”, “foreseeing”, “likely”, “should”, “planned”, “may”, “estimated”, “potential”, or other similar words and phrases. Similarly, statements that describe EDL’s and DUET Bidco’s objectives, plans, goals or expectations are or may be forward-looking statements.

The statements in this Scheme Booklet about the impact that the Scheme may have on the results of EDL’s operations, and the advantages and disadvantages anticipated to result from the Scheme, are also forward-looking statements.

Any forward-looking statements included in the DUET Information have been made on reasonable grounds. Although DUET Bidco believes that the views reflected in any forward-looking statements included in the DUET Information have been made on a reasonable basis, no assurance can be given that such views will prove to have been correct.

Any other forward-looking statements included in this Scheme Booklet and made by EDL have been made on reasonable grounds. Although EDL believes that the views reflected in any forward-looking statements in this Scheme Booklet (other than the DUET Information, the information in section 7 and the information in Attachment E) have been made on a reasonable basis, no assurance can be given that such views will prove to have been correct.

These forward-looking statements involve known and unknown risks, uncertainties, assumptions and other factors that may cause either EDL’s or DUET Bidco’s actual results, performance or achievements to differ materially from the anticipated results, performance or achievements expressed, projected or implied by these forward-looking statements. Deviations as to future results, performance and achievements are both normal and to be expected. EDL Shareholders should note that the historical financial performance of EDL is no assurance of future financial performance of EDL (whether the Scheme is implemented or not). EDL Shareholders should review carefully all of the information included in this Scheme Booklet. The forward-looking statements included in this Scheme Booklet are made only as of the date of this Scheme Booklet. Neither EDL, nor DUET Bidco nor their directors give any representation, assurance or guarantee to EDL Shareholders that any forward-looking statements will actually occur or be achieved. EDL Shareholders are cautioned not to place undue reliance on such forward-looking statements.

Subject to any continuing obligations under law or the ASX Listing Rules, EDL and DUET Bidco do not give any undertaking to update or revise any forward-looking statements after the date of this Scheme Booklet to reflect any change in expectations in relation to those statements or any change in events, conditions or circumstances on which any such statement is based.

### **PRIVACY AND PERSONAL INFORMATION**

EDL and DUET Bidco may collect personal information to implement the Scheme. The personal information may include the names, contact details and details of holdings of EDL Shareholders, plus contact details of individuals appointed by EDL Shareholders as proxies, corporate representatives or attorneys at the Scheme Meeting. The collection of some of this information is required or authorised by the Corporations Act.

Link Group advises that personal information it holds about you (including your name, address, date of birth and details of the financial assets) is collected by Link Group organisations to administer your investment. Personal information is held on the public register in accordance with Chapter 2C of the Corporations Act. Some or all of your personal information may be disclosed to contracted third parties, or related Link Group companies in Australia and overseas. Your information may also be disclosed to Australian government agencies, law enforcement agencies and regulators, or as required under other Australian law, contract, and court or tribunal order. For further details about our personal information handling practices, including how you may access and correct your personal information and raise privacy concerns, visit our website at [www.linkmarketservices.com.au](http://www.linkmarketservices.com.au) for a copy of the Link Group condensed privacy statement, or contact us by phone on +61 1800 502 355 (free call within Australia) 9.00am to 5.00pm (Sydney time) Monday to Friday (excluding public holidays) to request a copy of our complete privacy policy.

The information may be disclosed to print and mail service providers, and to EDL and DUET Bidco and their respective related bodies corporate and advisers to the extent necessary to effect the Scheme. If the information outlined above is not collected, EDL may be hindered in, or prevented from, conducting the Scheme Meeting or implementing the Scheme effectively or at all. EDL Shareholders who appoint an individual as their proxy, corporate representative or attorney to vote at the Scheme Meeting should inform that individual of the matters outlined above.

### **NOTICE TO PERSONS OUTSIDE AUSTRALIA**

This Scheme Booklet and the Scheme are subject to Australian disclosure requirements, which may be different from the requirements applicable in other jurisdictions. The financial information included in this document is based on financial statements that have been prepared in accordance with Australian equivalents to International Financial Reporting Standards, which may differ from generally accepted accounting principles in other jurisdictions.

This Scheme Booklet and the Scheme do not in any way constitute an offer of securities in any place in which, or to any person to whom, it would not be lawful to make such an offer.

### **EFFECT OF ROUNDING**

A number of figures, amounts, percentages, estimates, calculations of value and fractions in this Scheme Booklet are subject to the effect of rounding. Accordingly, the actual calculation of these figures may differ from the figures set out in this Scheme Booklet.

### **TIMES AND DATES**

Unless otherwise stated, all times referred to in this Scheme Booklet are times in Sydney, Australia. All dates following the date of the Scheme Meeting are indicative only and are subject to the Court approval process and the satisfaction or, where applicable, waiver of the conditions precedent to the implementation of the Scheme (see section 1.2 of this Scheme Booklet).

### **CURRENCY**

The financial amounts in this Scheme Booklet are expressed in Australian currency unless otherwise stated. A reference to \$ and cents is to Australian currency, unless otherwise stated.

### **DATE**

This Scheme Booklet is dated 4 September 2015.

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# CHAIRMAN'S LETTER

Dear EDL Shareholder,

On 20 July 2015, the EDL Board announced, in conjunction with DUET Group, that it had entered into a Scheme Implementation Deed under which it is proposed that DUET Bidco will acquire all of the EDL Shares on issue by way of a scheme of arrangement, subject to regulatory and shareholder approvals, and other conditions precedent.

If the Scheme is approved and implemented, Scheme Shareholders will receive a cash payment of \$8.00 per EDL Share.

Your directors believe that the Scheme provides an opportunity to realise certain cash proceeds at an attractive premium. The Scheme Consideration of \$8.00 per EDL Share represents:

- a 17% premium to the six month volume weighted average price of EDL Shares;<sup>1</sup>
- a 28% premium to the twelve month volume weighted average price of EDL Shares;<sup>2</sup> and
- an implied market capitalisation of \$1.407 billion and enterprise value of \$1.919 billion for EDL, equating to a multiple of 8.8x the audited FY15 EBITDA.<sup>3</sup>

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**Your directors unanimously recommend that EDL Shareholders vote in favour of the Scheme, in the absence of a Superior Proposal and subject to the Independent Expert continuing to consider the Scheme to be in the best interests of EDL Shareholders. Subject to those same qualifications, each of your directors intends to vote all the EDL Shares held or controlled by them in favour of the Scheme.**

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In reaching its unanimous recommendation, the EDL Board also considered a number of alternative options for the business, including competing indicative proposals for the business by a number of interested parties. Following a detailed evaluation of all alternative options, the EDL Board considers that the Scheme represents the most attractive and certain option for EDL Shareholders to realise value for their EDL Shares.

## INDEPENDENT EXPERT

The Independent Expert, appointed by your directors to assess whether the Scheme is in the best interests of EDL Shareholders, has concluded that the Scheme is fair and reasonable and, therefore, in the best interests of EDL Shareholders. The Independent Expert has assessed the full underlying value of EDL at between \$7.84 and \$8.97 per EDL Share. The Scheme Consideration of \$8.00 per EDL Share is within this range.

A complete copy of the Independent Expert's Report is included in Attachment E of this Scheme Booklet.

## HOW TO VOTE

Your vote is important. In order for the Scheme to be implemented, the Scheme Resolution must be approved by EDL Shareholders at the Scheme Meeting. The Scheme Meeting will be held at 10.00am (Sydney time) on Thursday, 8 October 2015 at the Treasury Room, Intercontinental Hotel, 117 Macquarie Street, Sydney NSW 2000.

For this reason, your directors encourage you to vote by attending the Scheme Meeting – if you are unable to attend the Scheme Meeting, the EDL Directors urge you to complete and return, in the enclosed reply paid envelope, the personalised proxy form that accompany this Scheme Booklet or lodge your proxy form online at Link's website ([www.linkmarketservices.com.au](http://www.linkmarketservices.com.au)) in accordance with the instructions given there.

If you wish for the Scheme to proceed, it is important that you vote in favour of the Scheme.

## ADDITIONAL INFORMATION

Your directors encourage you to read this Scheme Booklet carefully and in its entirety, as it contains important information that will need to be considered before you vote on the Scheme Resolution. Your directors also encourage you to seek independent financial, legal and taxation advice before making any investment decision in relation to your EDL Shares.

If you require further information or have questions in relation to the Scheme or this Scheme Booklet, please contact the Shareholder Information Line on 1300 657 159 (within Australia) or +61 1300 657 159 (outside Australia) Monday to Friday between 8.30am and 7.30pm (Sydney time).

I would like to thank you for your ongoing support.

Yours sincerely,

**Rob Koczkar**  
Non-Executive Chairman

1. Volume weighted average prices as at market close 17 July 2015, being the last trading day prior to the announcement of the Scheme Implementation Deed.
2. Ibid.
3. Excluding EDL's transaction costs. Based on EDL's audited FY15 EBITDA of \$218m, acquisition equity value of \$1,407 million including EDL management options and performance rights, and audited net drawn debt of \$512 million as at 30 June 2015, as adjusted for EDL's expected transaction costs.

# KEY DATES

DATE	EVENT
10:00am Tuesday, 6 October 2015	<b>Scheme Meeting proxies</b> – the last date and time by which proxy forms (including proxies lodged online), powers of attorney or certificates of appointment of body corporate representative for the Scheme Meeting must be received by the Registry
7.00pm Tuesday, 6 October 2015	<b>Date and time for determining eligibility to vote at the Scheme Meeting</b>
10.00am Thursday, 8 October 2015	<b>Scheme Meeting</b>
<b>IF EDL SHAREHOLDERS APPROVE THE SCHEME AT THE SCHEME MEETING</b>	
10.00am Monday, 12 October 2015	<b>Second Court Date to approve the Scheme</b>
Monday, 12 October 2015	<b>Effective Date</b> – this is the date on which the Scheme comes into effect and is binding on EDL Shareholders. Court order lodged with ASIC and announced on ASX. <b>EDL Shares will be suspended from trading at the close of trading on ASX on the Effective Date. If the Scheme proceeds, this will be the last day that EDL Shares will trade on ASX.</b>
Thursday, 15 October 2015	<b>Record Date</b> – all EDL Shareholders who hold EDL Shares on the Record Date will be entitled to receive the Scheme Consideration.
Thursday, 22 October 2015	<b>Implementation Date</b> – all Scheme Shareholders will be sent the Scheme Consideration to which they are entitled on this date.

All dates following the date of the Scheme Meeting are indicative only and are subject to the Court approval process and the satisfaction or, where applicable, waiver of the conditions precedent to the implementation of the Scheme (see section 1.2 of this Scheme Booklet). All dates and times, unless otherwise indicated, refer to the date and time in Sydney, Australia. Any changes to the above timetable will be announced to ASX and notified on EDL's website at [www.energydevelopments.com.au](http://www.energydevelopments.com.au).

# PURPOSE OF THIS SCHEME BOOKLET

On 20 July 2015, the EDL Directors unanimously recommended that EDL Shareholders vote in favour of the Scheme under which DUET Bidco would acquire all of the shares in EDL for \$8.00 cash per EDL Share, in the absence of a Superior Proposal and subject to the Independent Expert concluding that the Scheme is in the best interests of EDL Shareholders.

Subject to the same qualifications, each EDL Director continues to recommend that EDL Shareholders vote in favour of the Scheme and intends to vote all EDL Shares that he controls in favour of the Scheme.

The transaction will be effected via a scheme of arrangement, enabling EDL Shareholders to vote on the Scheme.

The purpose of this Scheme Booklet is to explain the terms of the proposed Scheme and provide you with information on the Scheme to assist you in your decision whether or not to vote in favour of the Scheme.

Voting will take place at the Scheme Meeting to be held at 10.00am on Thursday, 8 October 2015 at the Treasury Room, Intercontinental Hotel, 117 Macquarie Street, Sydney NSW 2000.

You should read this Scheme Booklet in full before deciding how to vote. The Scheme has a number of advantages, disadvantages and risks, which may affect EDL Shareholders in different ways depending on their individual circumstances. EDL Shareholders should seek professional advice on their particular circumstances, as appropriate.

## REASONS TO VOTE IN FAVOUR OF THE SCHEME



The EDL Board unanimously recommends that you vote in favour of the Scheme in the absence of a Superior Proposal and subject to the Independent Expert continuing to consider that the Scheme is in the best interests of EDL Shareholders



The Independent Expert concluded that the Scheme is fair and reasonable and, therefore, in the best interests of EDL Shareholders



At the date of this Scheme Booklet, EDL's major shareholders (who are also highly qualified institutional shareholders) holding in aggregate 85.7% of all EDL Shares on issue have each indicated their support for the Scheme and their intention to, in the absence of a superior proposal, vote all the EDL Shares held or controlled by them



The Scheme Consideration represents an attractive premium to the trading levels of EDL Shares on the ASX prior to the announcement of the proposed Scheme on 20 July 2015



All cash consideration delivers certainty and immediate value for your EDL Shares



No Superior Proposal has emerged as at the date of this Scheme Booklet



The Scheme allows you to sell your entire shareholding in EDL Shares which have relatively low trading liquidity



If the Scheme does not proceed, and no comparable proposal or Superior Proposal emerges, then the EDL share price may fall or trade at a price below the Scheme Consideration of \$8.00 per EDL Share, at least in the immediate near-term, noting that EDL Shares have historically had relatively low trading liquidity on the ASX, and have shown volatility due to this low liquidity



No brokerage or stamp duty will be payable by you on the transfer of your EDL Shares under the Scheme

For more information about the reasons to vote in favour of the Scheme, please see section 2.2 of this Scheme Booklet which EDL Shareholders should read carefully and in its entirety.

## REASONS NOT TO VOTE IN FAVOUR OF THE SCHEME

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You may disagree with the EDL Board and the opinion of the Independent Expert and consider that the Scheme is not in your best interests

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You may prefer to have the opportunity to participate in any potential future value creation that may result from being an EDL Shareholder

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You may believe it is in your best interests to maintain your current investment and risk profile

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The tax consequences of the Scheme may not suit your current financial position

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You may believe there is the potential for a Superior Proposal to be made in the foreseeable future

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For more information about the reasons to vote against the Scheme, please see section 2.3 of this Scheme Booklet which EDL Shareholders should read carefully and in its entirety.

# NEXT STEPS

## **(a) CAREFULLY READ THIS SCHEME BOOKLET**

This is an important document and you should read it carefully and in its entirety before making a decision on how to vote at the Scheme Meeting.

## **(b) VOTE ON THE SCHEME**

As an EDL Shareholder, you are entitled to vote on whether the Scheme should proceed at the Scheme Meeting.

Please refer to the following pages of this Scheme Booklet for details on how to vote at the Scheme Meeting, including by proxy.

## **(c) SEEK FURTHER INFORMATION**

If you have any questions in relation to the Scheme or the number of EDL Shares you hold or how to vote, please call the Shareholder Information Line on 1300 657 159 (within Australia) or +61 1300 657 159 (outside Australia) Monday to Friday between 8.30am and 7.30pm (Sydney time).

If you have any doubts as to the actions you should take or you have further questions, please contact your legal, investment or other professional adviser.

## **(d) WHY YOU SHOULD VOTE**

As an EDL Shareholder, you have a say in whether DUET Bidco will acquire all of the issued shares in EDL. This is your opportunity to play a role in deciding the future of EDL.

# HOW TO VOTE

## WHO IS ENTITLED TO VOTE AT THE SCHEME MEETING?

If you are registered on the Register as an EDL Shareholder at 7.00pm (Sydney time) on 6 October 2015, then you will be entitled to attend and vote at the Scheme Meeting.

Voting is not compulsory.

In the case of EDL Shares held by joint holders, only one of the joint holders is entitled to vote. If more than one shareholder votes in respect of jointly held EDL Shares, only the vote of the EDL Shareholder whose name appears first in the Register will be counted.

## YOUR VOTE IS IMPORTANT

In order for the Scheme to be implemented, the Scheme Resolution must be approved by EDL Shareholders at the Scheme Meeting.

For this reason the EDL Directors unanimously recommend that you vote in favour of the Scheme Resolution in the absence of a Superior Proposal and subject to the Independent Expert concluding that the Scheme is in the best interests of EDL Shareholders.

If you are unable to attend the Scheme Meeting, the EDL Directors urge you to complete and return, in the enclosed reply paid envelope, the personalised proxy form that accompanies this Scheme Booklet or lodge your proxy form online at Link's website ([www.linkmarketservices.com.au](http://www.linkmarketservices.com.au)) in accordance with the instructions given there.

## LOCATION AND DETAILS OF SCHEME MEETING

The details of the Scheme Meeting are as follows:

<b>Location</b>	Treasury Room at the Intercontinental Hotel, 117 Macquarie Street Sydney NSW 2000
<b>Date</b>	Thursday, 8 October 2015
<b>Time</b>	10.00am

## SCHEME MEETING

A copy of the Notice of Scheme Meeting is set out in Attachment A to this Scheme Booklet.

Section 3.3(b) of this Scheme Booklet provides details of the Scheme Resolution and the voting majorities that are required for the Scheme Resolution.

## VOTING IN PERSON, BY ATTORNEY OR CORPORATE REPRESENTATIVE

If you wish to vote in person, you must attend the Scheme Meeting.

If you cannot attend the Scheme Meeting, you may vote by proxy by completing the proxy form accompanying this Scheme Booklet.

Attorneys who plan to attend the Scheme Meeting should bring with them the original or a certified copy of the power of attorney under which they have been authorised to attend and vote at the Scheme Meeting.

A body corporate which is an EDL Shareholder may appoint an individual to act as its corporate representative. The appointment must comply with the requirements of section 250D of the Corporations Act. The representative should bring to the Scheme Meeting evidence of his or her appointment, including any authority under which it is signed.

## VOTING BY PROXY

If you wish to appoint a proxy to attend and vote at the Scheme Meeting on your behalf, please complete and sign the personalised proxy form accompanying this Scheme Booklet in accordance with the instructions set out on the proxy form or lodge your proxy vote online at Link's website ([www.linkmarketservices.com.au](http://www.linkmarketservices.com.au)) in accordance with the instructions given there. You may complete the proxy form in favour of the Chairperson of the Scheme Meeting or appoint up to two proxies to attend and vote on your behalf at the Scheme Meeting.

TO BE VALID, PROXY FORMS FOR THE SCHEME MEETING MUST BE RECEIVED BY THE REGISTRY BY NO LATER THAN 10.00AM (SYDNEY TIME) ON TUESDAY, 6 OCTOBER 2015.

Proxy forms, duly completed in accordance with the instructions set out on the proxy form, may be returned to the Registry:

- by posting them in the reply paid envelope provided;
- by delivering them to Link Market Services Limited at 1A Homebush Bay Drive, Rhodes NSW 2138 or Level 12, 680 George Street, Sydney NSW 2000;
- by faxing them to +61 2 9287 0309;
- by posting them to C/- Link Market Services Limited, Locked Bag A14, Sydney South NSW 1235 Australia; or
- online at [www.linkmarketservices.com.au](http://www.linkmarketservices.com.au)

Login to the Link website using the details as shown on the proxy form. Select 'Voting' and follow the prompts to lodge your vote. To use the online voting facility, EDL Shareholders will need their "Holder Identifier" (Securityholder Reference Number (SRN) or Holder Identification Number (HIN) as shown on the front of the proxy form).

# FREQUENTLY ASKED QUESTIONS

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## AN OVERVIEW OF THE SCHEME

### WHY HAVE I RECEIVED THIS SCHEME BOOKLET?

This Scheme Booklet has been sent to you because you are an EDL Shareholder and EDL Shareholders are being asked to vote on a Scheme which if approved will result in DUET Bidco acquiring all EDL Shares for \$8.00 cash per EDL Share.

This Scheme Booklet is intended to help you to decide how to vote on the Scheme Resolution which needs to be passed at the Scheme Meeting to allow the Scheme to proceed.

### WHAT IS THE SCHEME?

The Scheme is a scheme of arrangement between EDL and EDL Shareholders. A scheme of arrangement is a statutory procedure that is commonly used in transactions which may result in a change of ownership or control of a company.

On 20 July 2015, EDL and DUET Group announced the Scheme to ASX. If the Scheme is approved and implemented, Scheme Shareholders will receive \$8.00 cash for each EDL Share they own.

### WHO ARE DUET BIDCO AND DUET GROUP?

DUET Bidco was incorporated on 10 July 2015 for the purpose of entering into the Scheme Implementation Deed and acquiring 100% of EDL via the Scheme. DUET Bidco is a wholly owned subsidiary of the DUET Group.

The ultimate parent company of DUET Bidco is DUET Guarantor.

The DUET Group is an owner of energy and utility assets in Australia, consisting of DFT, DFL, DUET Guarantor and DIHL and their Related Bodies Corporate. The unit and shares in these four named entities are stapled together and trade on the ASX. As at 3 September 2015, the DUET Group had a market capitalisation of approximately \$4,967 million. For more information on DUET Bidco and DUET Group please see section 5 of this Scheme Booklet.

### HOW WILL THE SCHEME BE IMPLEMENTED?

In order for the Scheme to be implemented, all conditions precedent under the Scheme Implementation Deed must be satisfied or waived (where applicable), including that the Scheme Resolution must be approved by EDL Shareholders at the Scheme Meeting and the Scheme must be approved by the Court.

Details of this Scheme Resolution and the majorities required to approve the resolution are set out in section 3.3(b) of this Scheme Booklet.

### WHAT DO THE EDL DIRECTORS RECOMMEND?

The EDL Directors unanimously recommend that you vote in favour of the Scheme Resolution to approve the Scheme, in the absence of a Superior Proposal and subject to the Independent Expert concluding that the Scheme is in the best interests of EDL Shareholders.

### HOW ARE THE EDL DIRECTORS INTENDING TO VOTE?

Each of the EDL Directors intends to vote in favour of the Scheme in respect of all the EDL Shares they control, in the absence of a Superior Proposal and subject to the Independent Expert continuing to consider the Scheme to be in the best interests of EDL Shareholders.

### WHAT IS THE INDEPENDENT EXPERT'S OPINION OF THE SCHEME?

The Independent Expert concluded that the Scheme is fair and reasonable and, therefore, in the best interests of EDL Shareholders.

The Independent Expert has estimated the full underlying value of EDL to be in the range of \$7.84 and \$8.97 per share.

The Independent Expert's Report is included as Attachment E to this Scheme Booklet.

The EDL Directors recommend that you read the Independent Expert's Report carefully and in its entirety.

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### WHY YOU MAY CONSIDER VOTING IN FAVOUR OF THE SCHEME

Reasons why you may consider voting in favour of the Scheme include:

- the EDL Board has unanimously recommended that you vote in favour of the Scheme in the absence of a Superior Proposal and subject to the Independent Expert continuing to consider the Scheme is in the best interests of EDL Shareholders;
- the Independent Expert concluded that the Scheme is fair and reasonable and, therefore, in the best interests of EDL Shareholders;
- at the date of this Scheme Booklet, EDL's major shareholders (who are also highly qualified institutional shareholders) holding in aggregate 85.7% of all EDL Shares on issue have each indicated their support for the Scheme and their intention to, in the absence of a superior proposal, vote all the EDL Shares held or controlled by them;
- the Scheme Consideration represents an attractive premium to the trading levels of EDL Shares on the ASX prior to the announcement of the proposed transaction on 20 July 2015;
- all cash consideration delivers certainty and immediate value for your EDL Shares;
- no Superior Proposal has emerged as at the date of this Scheme Booklet;
- the Scheme allows you to sell your entire shareholding in EDL Shares which have relatively low trading liquidity;
- if the Scheme does not proceed, and no comparable proposal or Superior Proposal emerges, then the EDL share price may fall or trade at a price below the Scheme Consideration of \$8.00 per EDL Share, at least in the immediate near-term, noting that EDL Shares have historically had relatively low trading liquidity on the ASX, and have shown volatility due to this low liquidity; and
- no brokerage or stamp duty will be payable by you on the transfer of your EDL Shares under the Scheme.

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### WHY YOU MAY CONSIDER VOTING AGAINST THE SCHEME

Reasons why you may consider voting against the Scheme include:

- you may disagree with the EDL Board and the opinion of the Independent Expert and consider that the scheme is not in your best interests;
- you may prefer to have the opportunity to participate in any potential future value creation that may result from being an EDL Shareholder;
- you may believe it is in your best interests to maintain your current investment and risk profile;
- the tax consequences of the Scheme may not suit your current financial position; and
- you may believe there is the potential for a Superior Proposal to be made in the foreseeable future.

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### WHAT WILL HAPPEN IF A SUPERIOR PROPOSAL EMERGES?

If EDL receives a Competing Proposal from a third party, the following applies:

- EDL must notify DUET Bidco in writing as soon as practicable and in any event within 2 Business Days of the material details of the approach and the key terms of the Competing Proposal (such as, if specified, the consideration, timing, conditions and structure), unless the EDL Directors determine that providing that notification would be likely to result in a breach by an EDL Director of his fiduciary or statutory duties;
- if the EDL Directors intend to recommend the Competing Proposal, the EDL Directors must provide DUET Bidco with details of the consideration, conditions, structure and other key terms of the Competing Proposal from the third party;
- DUET Bidco will be given 5 Business Days' notice during which it can put forward a counter proposal; and
- if DUET Bidco provides a counter proposal and the EDL Directors decide, acting in good faith, that the counter proposal is more favourable or no less favourable to EDL Shareholders than the proposal from the third party, then the parties must use reasonable endeavours to promptly agree to such matters and take such steps as are reasonably necessary to give effect to DUET Bidco's revised proposal (including entering into an amending deed in respect of amendments to the Scheme Implementation Deed).

Details of these provisions (and other provisions) of the Scheme Implementation Deed are set out in section 3.

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### **IS THERE A BREAK FEE PAYABLE?**

Under the Scheme Implementation Deed, EDL must pay to DUET Bidco a break fee of \$13,688,727 (excluding GST) if certain events occur, including where a third party makes or announces a Competing Proposal before 20 January 2016 and completes a Competing Proposal or gains Control of EDL within 12 months of the announcement, where any EDL Director publicly withdraws or adversely changes his or her recommendation or voting intention in certain situations, or if DUET Bidco terminates the Scheme Implementation Deed because of a material breach by EDL.

Since the announcement of the Scheme on 20 July 2015 and up to the date of this Scheme Booklet, no Superior Proposal has emerged.

Details of these provisions (and other provisions) of the Scheme Implementation Deed are set out in section 3.

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### **WHAT ARE THE RISKS ASSOCIATED WITH AN INVESTMENT IN EDL IF THE SCHEME DOES NOT BECOME EFFECTIVE?**

If the Scheme does not proceed, and no comparable proposal or Superior Proposal emerges, then the EDL share price may fall or trade at a price below the Scheme Consideration of \$8.00 per EDL Share, at least in the immediate near-term, noting that EDL Shares have historically had relatively low trading liquidity on the ASX, and have shown volatility due to this low liquidity.

In addition, if the Scheme does not become Effective and no Superior Proposal emerges, EDL Shareholders will continue to be subject to the specific risks associated with EDL's business and other general risks.

Details of these risks are set out in section 6.3.

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## **AN OVERVIEW OF THE SCHEME CONSIDERATION**

### **WHAT IS THE SCHEME CONSIDERATION?**

Scheme Shareholders will receive cash consideration of \$8.00 for each EDL Share they hold on the Record Date.

### **WHAT IS THE PREMIUM OF THE SCHEME CONSIDERATION TO EDL'S SHARE PRICE?**

The Scheme Consideration of \$8.00 cash per share represents:

- a 17% premium to \$6.86, being the volume weighted average price (**VWAP**) of EDL Shares on ASX for 6 months up to and including 17 July 2015, being the last trading day prior to announcement of the Scheme Implementation Deed (**Last Trading Date**);
- a 28% premium to \$6.27, being the VWAP of EDL Shares for 12 months up to and including the Last Trading Date;
- a 44% premium to \$5.55, being the placement price for the institutional placement conducted in February 2014; and
- a multiple of 8.8x the audited FY15 EBITDA of \$218 million.

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### **HOW IS DUET BIDCO FUNDING THE SCHEME CONSIDERATION?**

To provide funding for the Scheme Consideration, the DUET Group has conducted a fully-underwritten equity raising comprising both an institutional placement to cornerstone investors and an accelerated non-renounceable entitlement offer to raise an aggregate \$1.67 billion from new and existing DUET Group investors.

For more information on DUET Bidco's funding arrangements see section 5.1(b) of this Scheme Booklet.

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### **WHO IS ENTITLED TO PARTICIPATE IN THE SCHEME?**

Persons who hold EDL Shares on the Record Date (excluding DUET Bidco and its associates) will participate in the Scheme and, if the Scheme is approved and implemented, those persons will receive the Scheme Consideration of \$8.00 cash in respect of each EDL Share held on the Record Date.

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### **WHEN WILL I RECEIVE THE SCHEME CONSIDERATION?**

Provided the Scheme is approved and implemented, EDL Shareholders on the Register on the Record Date are expected to be sent the Scheme Consideration on the Implementation Date.

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### **WHAT ARE THE TAX IMPLICATIONS OF THE SCHEME FOR YOU?**

The tax implications for Scheme Shareholders if the Scheme is approved and implemented will depend on the specific taxation circumstances of each Scheme Shareholder.

General information about the likely Australian tax consequences of the Scheme is set out in section 7 of this Scheme Booklet. You should not rely on those descriptions as advice for your own affairs.

For information about your individual financial or taxation circumstances please consult your financial, legal, taxation or other professional adviser.

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### **WILL I HAVE TO PAY BROKERAGE OR STAMP DUTY?**

No, you will not have to pay brokerage or stamp duty if your EDL Shares are acquired under the Scheme.

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### **CAN I SELL MY EDL SHARES NOW?**

You can sell your EDL Shares on-market at any time before the close of trading on ASX on the Effective Date. However, if you do so you will receive the prevailing on-market price set at the time of sale which may not be the same price as the Scheme Consideration, and you may also be required to pay brokerage.

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## **SCHEME, VOTING AND APPROVALS**

### **ARE THERE ANY CONDITIONS THAT MUST BE SATISFIED OR WAIVED IN ORDER FOR THE SCHEME TO BE IMPLEMENTED?**

Yes there are. The conditions which remain outstanding as at the date of this Scheme Booklet are:

- DUET Bidco obtaining US foreign investment approval for the acquisition of EDL Shares under the Scheme;
- Court approval of the Scheme;
- the Scheme Resolution being passed by the Requisite Majorities (see section 3.3(b) of this Scheme Booklet for further details) at the Scheme Meeting;
- no other orders or restraints being issued by any court or any Governmental Agency preventing the implementation of the Scheme are in place;
- no EDL Material Adverse Change or EDL Prescribed Occurrence occurs; and
- no notice of an intention to exercise, or actual exercise of, change of control rights by counterparties to certain material EDL contracts.

The conditions of the Scheme are summarised in further detail in section 1.2 of this Scheme Booklet.

EDL Shareholders should also be aware that the Scheme Implementation Deed may be terminated in certain circumstances (details of which are summarised in section 3.8 of this Scheme Booklet). If the Scheme Implementation Deed is terminated, the Scheme will not proceed.

**As at the date of this Scheme Booklet, the EDL Directors are not aware of any reason why these conditions should not be satisfied or waived.**

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### **WHAT HAPPENS IF THESE CONDITIONS ARE NOT SATISFIED OR THE SCHEME IMPLEMENTATION DEED IS TERMINATED?**

If the Scheme conditions are not satisfied or the Scheme Implementation Deed is terminated then the Scheme will not be implemented and, as set out in section 6.1 of this Scheme Booklet:

- you will retain your EDL Shares and they will not be acquired by DUET Bidco;
- you will not receive the proposed \$8.00 per share Scheme Consideration;
- EDL will continue to operate as a stand-alone company listed on ASX; and
- if the Scheme does not proceed, and no comparable proposal or Superior Proposal emerges, then the EDL share price may fall or trade at a price below the Scheme Consideration of \$8.00 per EDL Share, at least in the immediate near-term, noting that EDL Shares have historically had relatively low trading liquidity on the ASX, and have shown volatility due to this low liquidity.

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### **WHAT HAPPENS IF THE SCHEME IS APPROVED, ALL CONDITIONS ARE SATISFIED AND IT IS IMPLEMENTED?**

If the Scheme becomes Effective and you remain an EDL Shareholder as at the Record Date for the Scheme, all of your EDL Shares will be transferred to DUET Bidco under the Scheme, and you will receive the Scheme Consideration of \$8.00 cash for each EDL Share you hold on the Record Date.

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### **CAN THE SCHEME BE TERMINATED?**

The Scheme Implementation Deed may be terminated in certain circumstances, details of which are summarised in section 3.8. If the Scheme Implementation Deed is terminated, the Scheme will not proceed.

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### **AM I ENTITLED TO VOTE AT THE SCHEME MEETING?**

If you are registered as an EDL Shareholder on the Register at 7.00pm (Sydney time) on Tuesday, 6 October 2015, then you will be entitled to attend and vote at the Scheme Meeting.

Details of the Scheme Meeting and voting are on page 10.

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### **HOW DO I VOTE?**

Voting at the Scheme Meeting may be in person, by attorney, by proxy or, in the case of a corporation, by corporate representative. If you wish to vote in person, you must attend the Scheme Meeting.

If you cannot attend the Scheme Meeting, you may complete the enclosed personalised proxy form in accordance with the instructions or lodge your proxy form online at Link's website ([www.linkmarketservices.com.au](http://www.linkmarketservices.com.au)) in accordance with the instructions given there. The deadline for lodging your proxy form for the Scheme Meeting is 10.00am (Sydney time) on Tuesday, 6 October 2015.

Details of the Scheme Meeting and voting are on page 10.

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### **WHEN AND WHERE WILL THE SCHEME MEETING BE HELD?**

The Scheme Meeting will be held at 10.00am (Sydney time) on Thursday, 8 October 2015 at the Treasury Room, Intercontinental Hotel, 117 Macquarie Street, Sydney NSW 2000.

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### **IS VOTING COMPULSORY?**

Voting is not compulsory. However, the Scheme will only be successful if it is approved by the Requisite Majorities of EDL Shareholders so voting is important and EDL Directors encourage you to vote. If the Scheme is approved, you will be bound by the Scheme whether or not you voted and whether or not you voted in favour of it.

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### WHAT VOTE IS REQUIRED TO APPROVE THE SCHEME?

For the Scheme to proceed, the Scheme Resolution must be passed by the following Requisite Majorities:

- a majority in number (more than 50%) of EDL Shareholders who vote on the Scheme Resolution (noting that the Court may waive this requirement); and
- at least 75% of the votes cast on the Scheme Resolution.

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### WHAT HAPPENS IF I DO NOT VOTE OR IF I VOTE AGAINST THE SCHEME?

If you do not vote, or vote against the Scheme, the Scheme may not be approved at the Scheme Meeting by the Requisite Majorities of EDL Shareholders. If this occurs then the Scheme will not proceed, you will not receive the Scheme Consideration and you will remain an EDL Shareholder.

However, if the Scheme is approved by the Requisite Majorities and the Scheme is implemented, your EDL Shares will be transferred to DUET Bidco under the Scheme and you will receive the Scheme Consideration for each EDL Share you hold on the Record Date whether or not you voted in favour of the Scheme.

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### CAN I KEEP MY SHARES IN EDL?

If the Scheme is implemented, your EDL Shares will be transferred to DUET Bidco. This is so even if you did not vote at all or you voted against the Scheme Resolution at the Scheme Meeting.

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### WHEN WILL THE RESULTS OF THE SCHEME MEETING BE AVAILABLE?

The results of the Scheme Meeting will be available shortly after the conclusion of the Scheme Meeting and will be announced to the ASX once available. Even if the Scheme Resolution is passed at the Scheme Meeting by the Requisite Majorities, the Scheme will only proceed if Court approval of the Scheme is obtained and all of the other conditions precedent are satisfied or waived.

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### WHAT DO I DO IF I OPPOSE THE SCHEME?

If you, as an EDL Shareholder, oppose the Scheme, you should:

- call the Shareholder Information Line on 1300 657 159 (within Australia) or +61 1300 657 159 (outside Australia) Monday to Friday between 8.30am and 7.30pm (Sydney time) and obtain further information;
- attend the Scheme Meeting either in person or by proxy and vote against the Scheme Resolution; and/or
- if shareholders pass the Scheme Resolution at the Scheme Meeting and you wish to appear and be heard at the Second Court Hearing and if so advised, oppose the approval of the Scheme at the Second Court Hearing, lodge a notice of intention to appear at the Second Court Hearing, attend the hearing and indicate opposition to the Scheme.

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### FURTHER INFORMATION

#### WHAT IF I WANT FURTHER INFORMATION?

If you have any questions about the Scheme or you would like additional copies of this Scheme Booklet, please contact the Shareholder Information Line on 1300 657 159 (within Australia) or +61 1300 657 159 (outside Australia) Monday to Friday between 8.30am and 7.30pm (Sydney time).

For information about your individual financial or taxation circumstances please consult your financial, legal, taxation or other professional adviser.

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# 1. SUMMARY OF THE SCHEME



## 1.1 SCHEME

On 20 July 2015, the EDL Board recommended to EDL Shareholders a proposal which, if implemented, will deliver to Scheme Shareholders \$8.00 cash for the acquisition of each EDL Share pursuant to the Scheme.

This Scheme Booklet outlines the proposal being put to EDL Shareholders in relation to the Scheme, pursuant to which DUET Bidco will, subject to approval by EDL Shareholders and the Court, acquire all of the EDL Shares on issue for cash consideration of \$8.00 per EDL Share.

## 1.2 CONDITIONS PRECEDENT

The Scheme is subject to a number of conditions precedent. The following conditions precedent are outstanding as at the date of this Scheme Booklet:

- (a) **(CFIUS Clearance)** Before 5.00pm (Sydney time) on the Business Day before the Second Court Date, EDL and DUET Bidco shall have obtained from CFIUS the CFIUS Clearance.
- (b) **(Court approval)** The Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act.
- (c) **(Shareholder approval)** EDL Shareholders agree to the Scheme at the Scheme Meeting by the Requisite Majorities.
- (d) **(No Restraints)** Before and as at 8.00am (Sydney time) on the Second Court Date:
  - (i) there is not in effect any temporary restraining order, preliminary or permanent injunction, decision, decree or other order issued by any court of competent jurisdiction or by any Government Agency, nor is there in effect any other legal restraint or prohibition; and
  - (ii) no action or investigation is announced or commenced by any Government Agency,

which restrains, prohibits or otherwise materially adversely impedes or impacts upon (or could reasonably be expected to restrain, prohibit or otherwise materially adversely impede or impact upon) the completion of the Scheme.

- (e) **(No EDL Material Adverse Change)** No EDL Material Adverse Change occurs between the date of the Scheme Implementation Deed and 8.00am Sydney time on the Second Court Date.

- (f) **(No EDL Prescribed Occurrence)** No EDL Prescribed Occurrence occurs between the date of the Scheme Implementation Deed and 8.00am Sydney time on the Second Court Date.
- (g) **(Key Contracts)** Before 5.00pm Sydney time on the Business Day before the Second Court Date, EDL or DUET Bidco has not received notification from any person who is entitled to exercise any right under any provision of each of the Key Contracts as a result of the announcement or implementation of the Scheme, of that person's intention to refuse consent or of that person's decision to refuse consent to the change in control of EDL or to otherwise exercise any right to terminate the Key Contract as a result of the change in control of EDL, which occurs as a result of the Scheme.

The conditions of the Scheme are set out in clause 3 of the Scheme Implementation Deed which is Attachment B to this Scheme Booklet.

## 1.3 IMPLEMENTATION OF THE SCHEME

The Scheme is proposed to be undertaken pursuant to a Court approved scheme of arrangement. A scheme of arrangement is a legal arrangement that shareholders vote on and, if the Requisite Majorities of shareholders vote in favour of it and it is approved by the Court, it binds the company and all of its shareholders upon the Court orders approving the scheme of arrangement being lodged with ASIC. Approval of a scheme of arrangement requires a 50% majority of the number of shareholders voting (unless the Court orders otherwise) and a 75% majority of the total votes cast being in favour of the scheme, as well as approval by the Court.

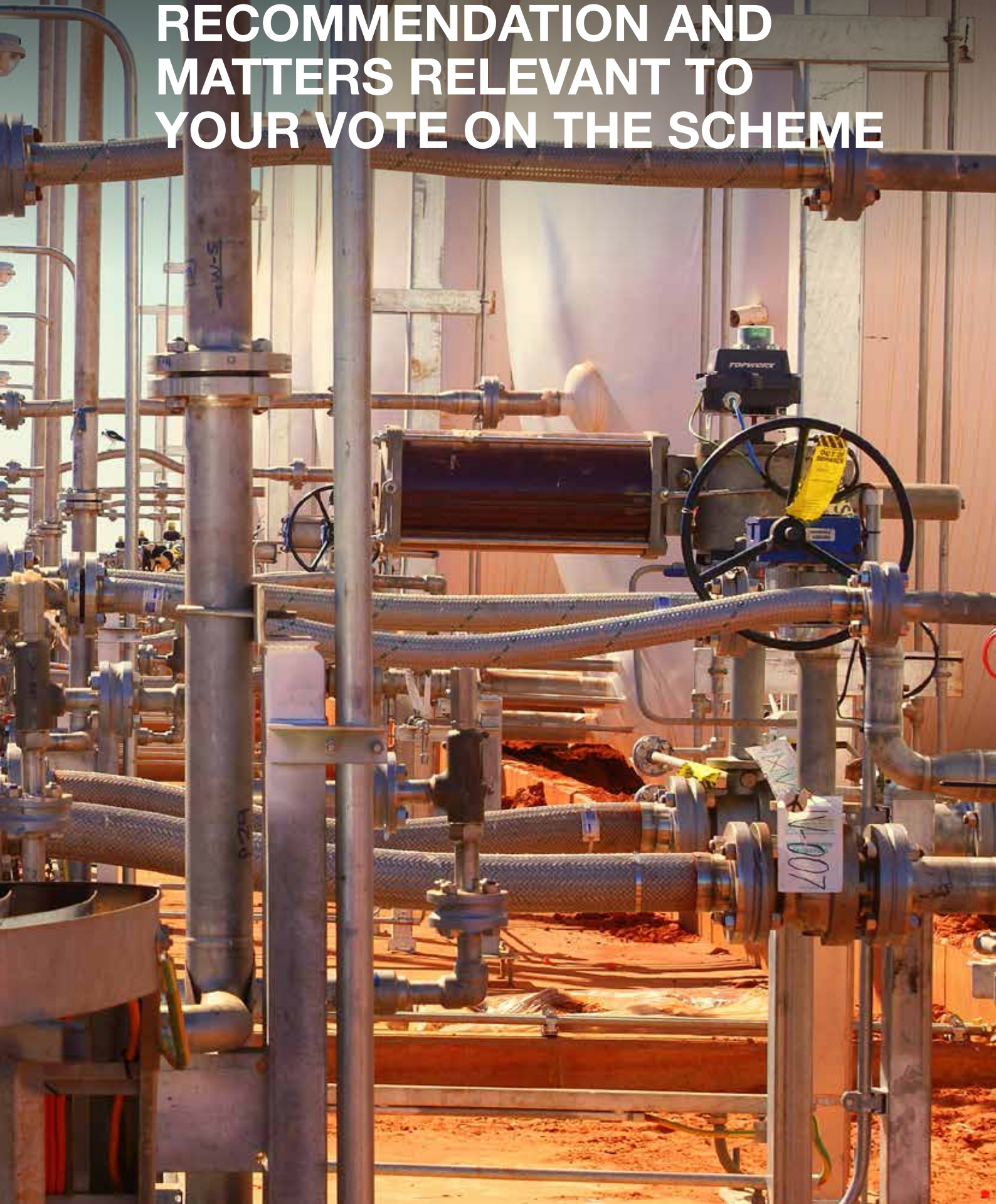
The Scheme will become binding on EDL and EDL Shareholders only if the conditions to the Scheme are satisfied or waived.

## 1.4 IF THE SCHEME IS APPROVED

If the Scheme is approved and implemented and you remain an EDL Shareholder as at the Record Date for the Scheme, each of your EDL Shares will be acquired by DUET Bidco for cash consideration of \$8.00 per EDL Share.

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## 2. EDL DIRECTORS' RECOMMENDATION AND MATTERS RELEVANT TO YOUR VOTE ON THE SCHEME



## 2.1 RECOMMENDATION

The EDL Directors at the date of this Scheme Booklet are Tony Duthie (Non-Executive Director), David Grayce (Non-Executive Director), Philip Kapp (Non-Executive Director), Rob Koczkar (Non-Executive Chairman), Gregory Martin (Non-Executive Director) and Greg Pritchard (Managing Director).<sup>4</sup>

The EDL Directors unanimously recommend that EDL Shareholders vote in favour of the Scheme Resolution in the absence of a Superior Proposal and subject to the Independent Expert continuing to consider the Scheme to be in the best interests of EDL Shareholders. Subject to the same qualifications, each EDL Director who controls EDL Shares intends to vote those shares in favour of the Scheme.

## 2.2 REASONS FOR RECOMMENDATION AND ADVANTAGES OF THE SCHEME

The factors which the EDL Directors have taken into account in recommending the Scheme to EDL Shareholders include:

**(a) The EDL Board has unanimously recommended that you vote in favour of the Scheme in the absence of a Superior Proposal and subject to the Independent Expert continuing to consider the Scheme to be in the best interests of EDL Shareholders**

In reaching its conclusion that the Scheme is in the best interests of EDL Shareholders, the EDL Board has considered key alternative options for the business to deliver value to shareholders including:

- continuing to deliver on growth prospects as an independent company;
- the potential for further beneficial capital management initiatives for shareholders; and
- competing indicative proposals to acquire the EDL business as a whole, and selected assets, by a number of interested parties.

Following consideration of these alternatives, the Board unanimously concluded that the Scheme is the most attractive option for EDL Shareholders.

The EDL Directors unanimously recommend that EDL Shareholders vote in favour of the Scheme Resolution in the absence of a Superior Proposal and subject to the Independent Expert continuing to consider the Scheme to be in the best interests of EDL Shareholders. Subject to the same qualifications, each EDL Director who controls EDL Shares intends to vote those shares in favour of the Scheme.

**(b) The Independent Expert concluded that the Scheme is fair and reasonable and, therefore, in the best interests of EDL Shareholders**

EDL appointed Deloitte Corporate Finance Pty Limited to prepare an Independent Expert's Report providing an opinion as to whether the Scheme is in the best interests of EDL Shareholders.

The Independent Expert has assessed the full underlying value of EDL to be in the range of \$7.84 to \$8.97 per EDL Share. The Scheme Consideration of \$8.00 per EDL Share falls within the value range assessed by the Independent Expert. Accordingly, in its capacity as the Independent Expert, Deloitte Corporate Finance Pty Limited has concluded that the Scheme is fair and reasonable and, therefore, in the best interests of EDL Shareholders.

The Independent Expert's Report is included in Attachment E to this Scheme Booklet. The EDL Directors encourage EDL Shareholders to read the Independent Expert's Report carefully and in its entirety.

**(c) A number of EDL's major shareholders have indicated their support for the Scheme and their intention to, in the absence of a superior proposal, vote all the EDL Shares held or controlled by them in favour of the Scheme**

At the date of this Scheme Booklet, the following major shareholders of EDL (who are also highly qualified institutional shareholders) have each indicated their support for the Scheme and their intention to, in the absence of a superior proposal, vote all the EDL Shares held or controlled by them (together representing 85.7% of all EDL Shares on issue) in favour of the Scheme Resolution:<sup>5</sup>

- Greenspark Power Holdings Limited holding 114.8 million EDL Shares (67.1%);
- Investors Mutual Ltd holding 16.3 million EDL Shares (9.6%);
- Coopers Investors Pty Ltd holding 7.9 million EDL Shares (4.6%); and
- certain other shareholders<sup>6</sup> holding in aggregate 7.5 million EDL Shares (4.4%).

Each of these EDL Shareholders has authorised EDL to disclose their intentions.

4. Tony Duthie and David Grayce are executives of Pacific Equity Partners, which advises or manages funds that own Greenspark Power Holdings Limited, a nominee entity which is EDL's largest shareholder with approximately 67.1% of EDL Shares and which has publicly declared its support for the Scheme as set out in section 2.2(c) of this Scheme Booklet.

5. The shareholdings listed in this section 2.2(c) are as disclosed to EDL by the shareholders in substantial holding notices or otherwise.

6. The other shareholders are Tribeca Investment Partners Pty Ltd and First Samuel Limited.



**(d) The Scheme Consideration represents an attractive premium to the trading levels of EDL Shares on the ASX prior to the announcement of the proposed transaction on 20 July 2015**

The Scheme Consideration being offered to Scheme Shareholders of \$8.00 cash per EDL Share represents an attractive premium to the trading price of EDL Shares prior to the announcement by EDL of the Scheme Implementation Deed on 20 July 2015, being:

- a 17% premium to \$6.86, being the VWAP of EDL Shares on ASX for 6 months up to and including the Last Trading Date;
- a 28% premium to \$6.27, being the VWAP of EDL Shares for 12 months up to and including the Last Trading Date;
- a 44% premium to \$5.55, being the placement price for the institutional placement conducted in February 2014; and
- an implied market capitalisation of \$1.407 billion and enterprise value of \$1.919 billion for EDL, equating to a multiple of 8.8x the audited FY15 EBITDA<sup>7</sup>.

**(e) All cash consideration delivers certainty and immediate value for your EDL Shares**

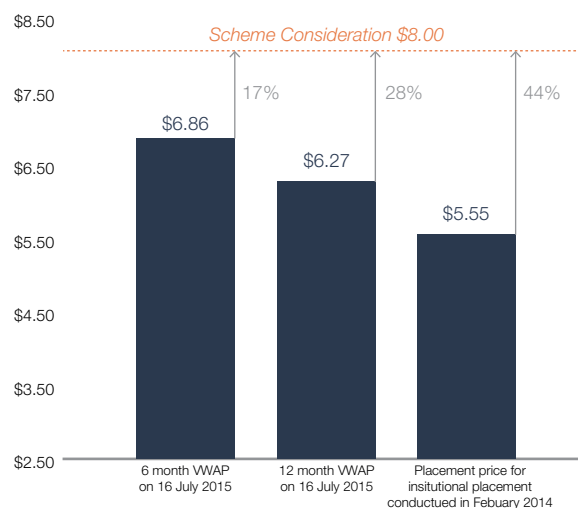
The offer from DUET Bidco is a 100% cash offer. This offers a high degree of certainty of value and timing. More specifically, if the Scheme is implemented, Scheme Shareholders will receive \$8.00 in cash for each EDL Share held by them at the Scheme Record Date (currently expected to be Thursday, 15 October 2015), to be paid on or about the Implementation Date, which is currently expected to be Thursday, 22 October 2015.

In contrast, if the Scheme does not proceed, the amount which EDL Shareholders will be able to realise for their investment in EDL Shares will necessarily be uncertain. The Scheme removes this uncertainty for EDL Shareholders. For details of risks relating to remaining an EDL Shareholder, see section 6.3.

**(f) No Superior Proposal has emerged as at the date of this Scheme Booklet**

Since the announcement of the execution of the Scheme Implementation Deed on 20 July 2015 and up to the date of this Scheme Booklet, no Superior Proposal has emerged.

**FIGURE 1**



Source: IRESS.

**(g) The Scheme allows you to sell your entire shareholding in EDL Shares which have relatively low trading liquidity**

EDL Shares have historically had relatively low trading liquidity on ASX. Shares with low trading liquidity can be more difficult to sell on-market in a single transaction. The Scheme provides you with an opportunity to dispose of all your EDL Shares in a single transaction for certain cash value.

**(h) If the Scheme does not proceed, and no comparable proposal or Superior Proposal emerges, the EDL Share price may fall**

If the Scheme does not proceed, and no comparable proposal or Superior Proposal emerges, then the EDL share price may fall or trade at a price below the Scheme Consideration of \$8.00 per EDL Share, at least in the immediate near-term, noting that EDL Shares have historically had relatively low trading liquidity on the ASX, and have shown volatility due to this low liquidity. Since the Last Trading Date, the EDL Share price has risen 2% up to \$7.89 on 31 August 2015, being the day prior to the provision of this Scheme Booklet to the Court.

7. Excluding EDL's transaction costs. Based on EDL's audited FY15 EBITDA of \$218m, acquisition equity value of \$1,407 million including EDL management options and performance rights, and audited net drawn debt of \$512 million as at 30 June 2015, as adjusted for EDL's expected transaction costs.

Further, in the twelve months prior to the Last Trading Date, EDL Shares have traded between a low of \$4.92 and a high of \$7.85 and have shown volatility due to relatively low liquidity. If the Scheme is not implemented, then in the absence of a Superior Proposal the future trading price of EDL Shares will continue to be subject to any market volatility versus the certain value of the cash payment of \$8.00 per EDL Share available under the Scheme.

*In this regard, the Independent Expert has stated that “It is common for the share price of a target company the subject of a takeover offer to trade at or around the price of the takeover offer during the offer period, particularly if the market has formed the view that the takeover will proceed at that price. It is also not uncommon for the share price to fall back to pre-takeover levels or lower in the event that the takeover offer is unsuccessful.*

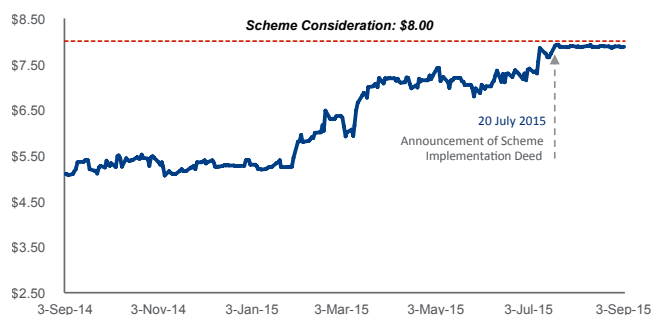
*In the absence of an alternative offer and in the event that the Proposed Scheme is unsuccessful, EDL’s share price may decline to the levels achieved prior to the announcement of the Proposed Scheme in the short term, noting that trading in EDL’s shares has historically been subject to low liquidity.”*

**(i) No brokerage or stamp duty will be payable by you on the transfer of your EDL Shares**

You will not incur any brokerage or stamp duty on the transfer of your EDL Shares to DUET Bidco under the Scheme.

Having regard to all relevant factors, on balance, the EDL Board considers that the certainty and value inherent in the Scheme will deliver greater benefits to EDL Shareholders than any other alternatives currently available for EDL, including continuing as a stand-alone entity.

**FIGURE 2**  
**EDL SHARE PRICE HISTORY SINCE**  
**3 SEPTEMBER 2014**



Source: IRESS.

**2.3 REASONS WHY EDL SHAREHOLDERS MAY CONSIDER VOTING AGAINST THE SCHEME AND DISADVANTAGES OF THE SCHEME**

Although the EDL Directors unanimously recommend that you vote in favour of the Scheme Resolution in the absence of a Superior Proposal and subject to the Independent Expert continuing to consider the Scheme to be in the best interests of EDL Shareholders, factors which may lead EDL Shareholders to vote against the Scheme include:

**(a) You may disagree with the EDL Board and the opinion of the Independent Expert and consider that the Scheme is not in your best interests**

Despite the recommendation of the EDL Board and the opinion of the Independent Expert that the Scheme is in the best interests of EDL Shareholders in the absence of a superior proposal, you may believe that the Scheme is not in your best interests or that of other EDL Shareholders.

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**(b) You may prefer to have the opportunity to participate in any potential future value creation that may result from being an EDL Shareholder**

If the Scheme is implemented you will no longer be an EDL Shareholder. This will mean that you will not participate in any potential upside that may result, including any appreciation in the value of EDL and the right to any potential future dividends in respect of EDL Shares.

You will also cease to have the right to influence the future direction of EDL as you will no longer have voting rights in the company.

**(c) You may believe it is in your best interests to maintain your current investment and risk profile**

You may wish to keep your EDL Shares as you may want to preserve your investment in a publicly listed company with the specific characteristics of EDL. In particular, you may consider that, despite the risk factors relevant to EDL's potential future operations (including those set out in section 6.3 of this Scheme Booklet), EDL may be able to return greater value from its assets by remaining independent, or seeking alternative commercialisation strategies.

**(d) The tax consequences of the Scheme may not suit your current financial position**

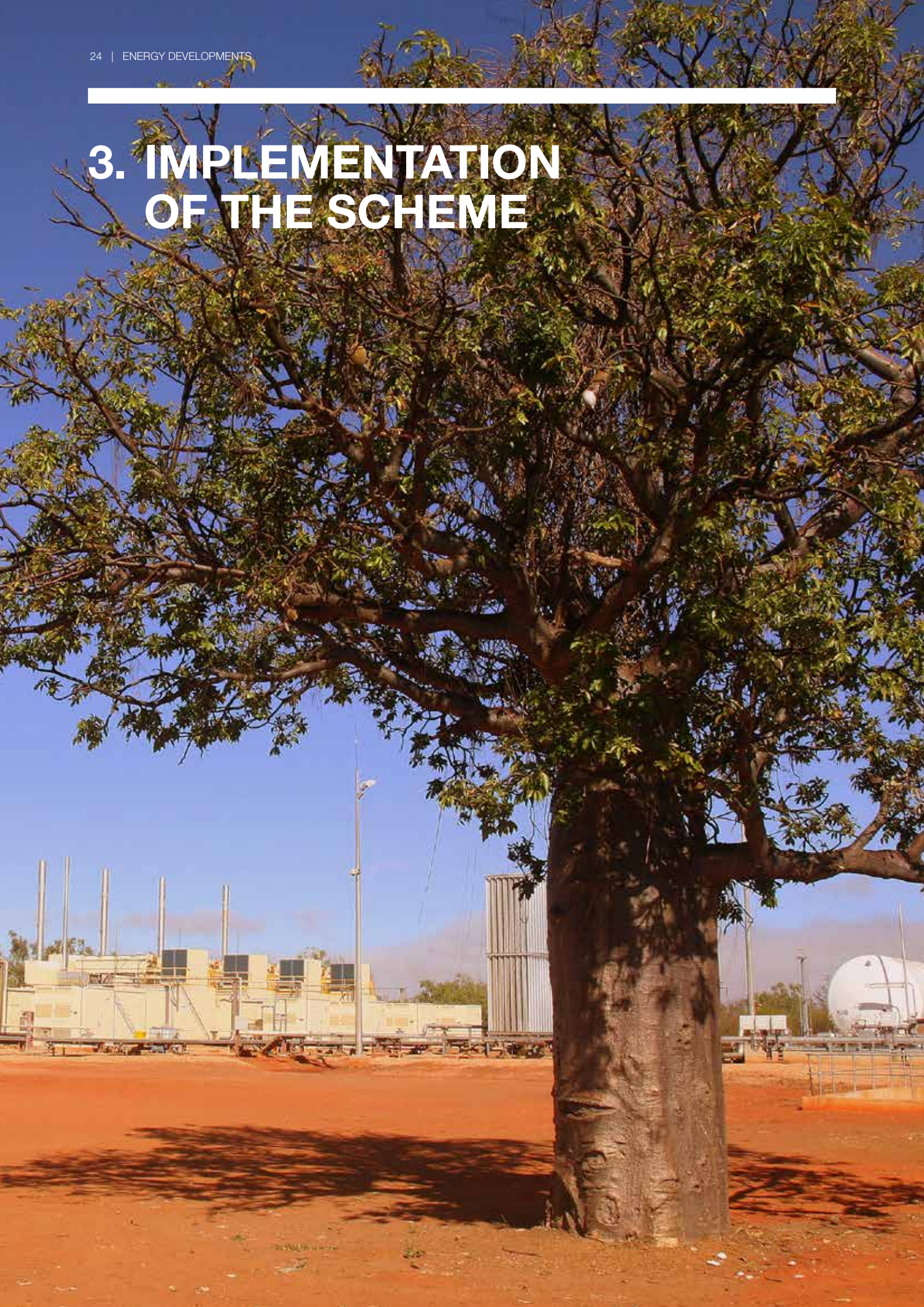
Implementation of the Scheme may result in financial consequences which are not favourable for you. For example, it may trigger a liability for capital gains tax to the extent the Scheme Consideration received by you exceeds the tax cost base of your EDL Shares, or the timing of the disposal may not result in an optimal capital gains tax holding period outcome for you, depending on when you acquired your EDL Shares. EDL Shareholders should read the general taxation considerations outlined in section 7 of this Scheme Booklet and seek professional taxation advice with respect to their individual tax situation.

**(e) You may believe that there is potential for a Superior Proposal to be made in the foreseeable future**

You may believe that there is a potential for a Superior Proposal to be made in the foreseeable future. Since the execution of the Scheme Implementation Deed and as at the date of this Scheme Booklet, no Superior Proposal has been received by the EDL Directors.

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# 3. IMPLEMENTATION OF THE SCHEME



### 3.1 BACKGROUND

On 20 July 2015, EDL announced that it had entered into the Scheme Implementation Deed with DUET Bidco and DUET Guarantor pursuant to which EDL agreed to propose the Scheme to EDL Shareholders.

This Scheme Booklet contains important information that you should consider in deciding whether or not to vote in favour of the Scheme Resolution at the Scheme Meeting. The EDL Directors encourage you to read this Scheme Booklet in its entirety and recommend that you vote in favour of the Scheme Resolution, in the absence of a Superior Proposal and subject to the Independent Expert continuing to consider the Scheme to be in the best interests of EDL Shareholders.

### 3.2 SCHEME CONSIDERATION

If the Scheme becomes Effective, all EDL Shares will be transferred to DUET Bidco and DUET Bidco will provide the Scheme Consideration of \$8.00 cash per EDL Share to the Scheme Shareholders.

### 3.3 STEPS FOR IMPLEMENTING THE SCHEME

#### (a) Preliminary steps

EDL, DUET Bidco and DUET Guarantor entered into the Scheme Implementation Deed on 20 July 2015 pursuant to which, among other things, EDL agreed to propose the Scheme.

DUET Bidco will execute the Deed Poll pursuant to which DUET Bidco will, subject to the Scheme becoming Effective, agree to provide to each Scheme Shareholder the Scheme Consideration to which each Scheme Shareholder is entitled under the terms of the Scheme.

A copy of the proposed Scheme is set out in Attachment B to this Scheme Booklet.

A copy of the proposed Deed Poll is set out in Attachment D to this Scheme Booklet.

#### (b) Scheme Meeting

The Court has ordered that the Scheme Meeting be held at 10.00am on Thursday, 8 October 2015 at Treasury Room, Intercontinental Hotel, 117 Macquarie Street, Sydney NSW 2000 for the purposes of approving the Scheme Resolution. The Notice of Scheme Meeting for EDL Shareholders which sets out the Scheme Resolution is included in Attachment A to this Scheme Booklet.

Each EDL Shareholder who is registered on the Register at 7.00pm (Sydney time) on Tuesday, 6 October 2015 is entitled to attend and vote at the Scheme Meeting, either in person or by proxy or attorney or in the case of a body corporate, by its corporate representative appointed in accordance with section 250D of the Corporations Act. Instructions on how to attend and vote at the Scheme Meeting in person, or to appoint a proxy to attend and vote on your behalf, are set out on page 10 of this Scheme Booklet.

The Scheme Resolution must be approved by:

- (i) a majority in number (more than 50%) of EDL Shareholders present and voting at the Scheme Meeting (whether in person, by proxy, by attorney or, in the case of corporate EDL Shareholders, by a corporate representative) (the **Headcount Test**); and
- (ii) at least 75% of the total number of votes cast on the Scheme Resolution at the Scheme Meeting.

It should be noted that the Court has the power to waive the Headcount Test.

#### (c) Second Court hearing

In the event that:

- (i) the Scheme Resolution is approved by the Requisite Majorities of EDL Shareholders at the Scheme Meeting; and
- (ii) all conditions precedent of the Scheme have been satisfied or remain capable of being satisfied, or waived (if applicable),

EDL will apply to the Court for orders approving the Scheme.

**(d) Effective Date**

If the Court makes orders approving the Scheme, EDL will lodge with ASIC an office copy of the Court orders given under section 411(4)(b) of the Corporations Act approving the Scheme. It is anticipated that this will occur on the Business Day immediately following the Court Approval Date.

Once the Scheme becomes Effective:

- (i) DUET Bidco will become bound to pay Scheme Shareholders the Scheme Consideration on the Implementation Date; and
- (ii) subject to payment of the aggregate Scheme Consideration by DUET Bidco as referred to in section 3.4(a) of this Scheme Booklet below, EDL will become bound to take the steps required for DUET Bidco to become the holder of all EDL Shares.

### **3.4 IMPLEMENTATION OF THE SCHEME - PAYMENT OF SCHEME CONSIDERATION**

On the Implementation Date, currently anticipated to be 22 October 2015, the Scheme will be implemented by EDL and DUET Bidco undertaking the following steps.

#### **(a) Deposit of aggregate Scheme Consideration by DUET Bidco**

Before 5.00pm on the day before the Implementation Date, DUET Bidco will deposit (or will procure the deposit of) the aggregate Scheme Consideration payable to all Scheme Shareholders in cleared funds to an account with an Australian authorised deposit-taking institution nominated by EDL to be held on trust by EDL for Scheme Shareholders.

#### **(b) Transfer of all EDL Shares to DUET Bidco**

Subject to payment of the aggregate Scheme Consideration by DUET Bidco as referred to in paragraph (a), all of the EDL Shares will be transferred to DUET Bidco by EDL and EDL will enter the name of DUET Bidco in the Register in respect of all EDL Shares.

#### **(c) Payment of Scheme Consideration**

The Scheme Consideration will be paid by EDL by either:

- (i) sending a cheque for the Scheme Consideration that you are entitled to receive under the Scheme to your address shown in the Register as at the Record Date; or
- (ii) making a payment to your nominated bank account with the Registry as at the Record Date.

If you have not previously notified the Registry of your nominated bank account or you would like to change your existing nominated bank account, you should contact the Registry on 1300 657 159 (within Australia) or +61 1300 657 159 (outside Australia) Monday to Friday between 8.30am and 7.30pm (Sydney time) before the Record Date.

If a Scheme Shareholder has not nominated a bank account and their whereabouts are unknown as at the Record Date, the Scheme Consideration will be paid into a separate bank account and held by EDL until claimed or applied under laws dealing with unclaimed money. If you wish to confirm your current address details with the Registry, you may do so using the contact details above.

### **3.5 DETERMINATION OF PERSONS ENTITLED TO SCHEME CONSIDERATION**

#### **(a) Dealings on or prior to the Record Date**

For the purpose of establishing the persons who are Scheme Shareholders, dealings in EDL Shares will only be recognised if:

- (i) in the case of dealings of the type to be effected by CHESSE, the transferee is registered in the Register as a holder of the relevant EDL Shares as at the Record Date; and
- (ii) in all other cases, registrable transfers or transmission applications are received at the place where the Register is maintained by 7.00pm (Sydney time) on the Record Date (in which case, EDL must register such transfers or transmission applications before 7.00pm (Sydney time) on the Record Date).

EDL will not accept for registration nor recognise for the purpose of establishing the persons who are Scheme Shareholders any transmission application or transfer in respect of EDL Shares received after such times or received prior to these times and not in registrable form.

#### **(b) Dealings after the Record Date**

For the purposes of determining entitlements to Scheme Consideration, EDL will, until the Scheme Consideration has been paid to Scheme Shareholders and the name and address of DUET Bidco has been entered in the Register as the holder of all the EDL Shares, maintain the Register in accordance with the terms of the Scheme, and the Register in this form will solely determine entitlements to the Scheme Consideration.

As from 7.00pm (Sydney time) on the Record Date, each entry currently on the Register will cease to be of any effect other than as evidence of entitlement to the Scheme Consideration in respect of the EDL Shares relating to that entry.

Any share certificates or statements of holding in respect of EDL Shares shall, from the Record Date, cease to have any effect as documents of evidence of title in respect of such EDL Shares.

### 3.6 EDL OPTIONS, EDL PERFORMANCE RIGHTS AND OTHER MANAGEMENT INCENTIVES

As at the date of this Scheme Booklet, EDL has the following management equity incentives on issue:

- 42,500 performance rights converting to EDL Shares on a one-for-one basis, issued under the historical management incentive plan in place prior to June 2011 (**Historical MIP**), all of which are now vested but not exercised (**EDL Historical Performance Rights**);
- 19,428,000 options to subscribe for EDL Shares on a one-for-one basis, issued under the management incentive plan approved at the extraordinary general meeting of 7 June 2011 (**2011 MIP**), which are subject to time-based vesting conditions only, and some of which are vested and exercisable and some unvested (**EDL Options**);
- 78,629,532 performance rights carrying a fixed dollar value and converting to EDL Shares determined by dividing the aggregate fixed value of all such performance rights held by the holder by the 5-day VWAP of EDL Shares at the time of vesting and issued under the long-term incentive plan approved at the annual general meeting of 14 November 2014 (**2014 LTIP**). These performance rights are subject to time-based vesting conditions and performance hurdles by reference to whether the 5-day VWAP of EDL Shares exceeds the exercise price of the tranche of EDL Options associated with the particular grant of EDL Fixed Value Performance Rights, less the amount of any dividends paid per EDL Share from 20 September 2013 to the date of grant, and which are unvested (**EDL Fixed Value Performance Rights**); and
- 654,656 performance rights converting to EDL Shares on a one-for-one basis issued under the 2014 LTIP, which are subject to both time vesting conditions and performance hurdles based on total shareholder returns and return on equity, and which are unvested (**EDL Current Performance Rights**).

The EDL Board resolved to exercise its discretion pursuant to the plan rules of the 2011 MIP and 2014 LTIP to accelerate the vesting of the unvested EDL Options and EDL Fixed Value Performance Rights for the purpose of allowing those instruments to be cancelled for value as described below, subject to the Scheme becoming Effective.

Pursuant to the Scheme Implementation Deed, EDL has entered into a series of cancellation deeds with each holder of EDL Historical Performance Rights, EDL Options and EDL Fixed Value Performance Rights (each holder a **Participant**). Under such Cancellation Deeds, each Participant has agreed to the cancellation of all EDL Historical Performance Rights, EDL Options and EDL Fixed Value Performance Rights held by that Participant in exchange for cash consideration as described below, subject to the Scheme becoming Effective.

Under the Cancellation Deeds:

- (a) each EDL Historical Performance Right will be cancelled for consideration equal to the Scheme Consideration payable for each EDL Share (being \$8.00 per performance right);
- (b) each EDL Option will be cancelled for consideration equal to the Scheme Consideration payable for each EDL Share less the exercise price of that EDL Option (such exercise price being \$4.12 or \$4.80 per Series A Option depending on the tranche and \$6.87 per Series B Option); and
- (c) each EDL Fixed Value Performance Right will be cancelled for consideration equal to the fixed value of that performance right (being \$0.11, \$0.28 or \$0.20 per performance right depending on the tranche),

less the amount of any outstanding loan amount payable by the relevant Participant to EDL in connection with the 2011 MIP.

Under the Scheme Implementation Deed, payment of the consideration for the cancellation transactions described above may ultimately be funded by DUET Bidco but paid to Participants by EDL.

The cancellation of the EDL Historical Performance Rights, EDL Options and EDL Fixed Value Performance Rights was subject to ASX granting a waiver from ASX Listing Rule 6.23.2 to permit cancellation of outstanding options and performance rights in connection with the Scheme. ASX granted this waiver on 29 July 2015.

The EDL Board has resolved not to exercise its discretion regarding the EDL Current Performance Rights in the context of the Scheme and will allow them to lapse in accordance with their terms, subject to implementation of the Scheme. Participants have agreed to this course of action in a separate series of Confirmation Deeds. All the Confirmation Deeds have been executed by Participants.

See sections 8.2 and 8.7 for further details of the management equity incentives held by each relevant EDL Director or company secretary, which will either be cancelled or lapse in accordance with their terms upon the implementation of the Scheme.

### 3.7 DEED POLL

DUET Bidco and DUET Guarantor have executed the Deed Poll, pursuant to which DUET Bidco has undertaken in favour of each Scheme Shareholder (and DUET Guarantor undertakes in favour of each Scheme Shareholder to unconditionally and irrevocably guarantee the obligation of DUET Bidco) to provide each Scheme Shareholder with the Scheme Consideration to which they are entitled under the Scheme, subject to the Scheme becoming Effective.

A copy of the Deed Poll is contained in Annexure D.

### 3.8 TERMINATION RIGHTS

Termination rights are set out in clause 12 of the Scheme Implementation Deed which is Attachment B to this Scheme Booklet. In summary:

- (a) either party may terminate the deed if a condition precedent has not been satisfied or waived and the parties are unable to agree on a proposed course of action, or if the other party commits a material breach of the deed which is not rectified;
- (b) DUET Bidco may terminate the deed if EDL materially breaches its exclusivity obligations or breaches specified conduct of business restrictions with quantified materiality thresholds, an EDL Prescribed Occurrence occurs which will have a materially adverse effect on the EDL Group, an EDL Material Adverse Change occurs, any EDL Group Member becomes insolvent, any EDL Director publicly withdraw or adversely changes his or her recommendation or voting intention or recommends a Competing Proposal, or EDL enters into any agreement or arrangement in relation to the implementation of any Competing Proposal without breaching its exclusivity obligations and after giving DUET an opportunity to provide a revised proposal;

- (c) EDL may terminate the deed if a majority of EDL Directors publicly withdraw or adversely change their recommendation or voting intention or recommend a Competing Proposal; and
- (d) the parties may terminate the deed by mutual agreement.

### 3.9 EXCLUSIVITY

Under the Scheme Implementation Deed, EDL is subject to exclusivity obligations including no-shop, no-talk, no due diligence, notification obligations and matching rights in respect of Completing Proposals. These provisions are set out in clause 8 of the Scheme Implementation Deed which is Attachment B to this Scheme Booklet. In summary, from the date of the Scheme Implementation Deed until the earlier of the termination of the Scheme Implementation Deed and 20 January 2016

(**Exclusivity Period**):

- (a) (**No shop**) EDL must not, and must ensure that its representatives do not:
  - (i) directly or indirectly solicit, initiate or invite enquires, discussions or proposals in relation to, or which may reasonable be expected to lead to, a Competing Proposal; or
  - (ii) communicate to any person any intention to do any of the things referred to in (i);
- (b) (**No talk**) subject to a fiduciary exception, EDL must not, and must ensure that its representatives do not:
  - (i) directly or indirectly participate in any discussions or negotiations in relation to, or which may reasonably be expected to lead to, a Competing Proposal;
  - (ii) disclose any non-public information about the business or affairs of EDL to a third party with a view to obtaining or which may reasonably be expected to lead to receipt of a Competing Proposal, other than in the ordinary course of business or as required by law; or
  - (iii) communicate to any person any intention to do any of the things referred to in (i) or (ii);



- 
- (c) **(No due diligence)** subject to a fiduciary exception, EDL must not:
- (i) solicit, initiate, facilitate or encourage any party (other than DUET Bidco or its Representatives) to undertake due diligence on EDL or any EDL Group Member; or
  - (ii) make available to any other person (other than DUET Bidco or its Representatives) or permit such person to receive any non-public information relating to EDL or any EDL Group Member, provided that this does not prevent EDL from providing information to ASX or EDL's auditors and advisers in the ordinary course of business or to otherwise effect the negotiation and entry into the Scheme Implementation Deed.
- (d) **(Notification obligation)** during the Exclusivity Period, subject to a fiduciary exception, EDL must notify DUET Bidco in writing as soon as practicable and in any event within 2 Business Days if EDL is approached, or if any of EDL's Representatives is approached, by any person in relation to a Competing Proposal, and such notice must set out the material details of the approach and the key terms of any Competing Proposal (such as, if specified, the consideration, timing, conditions and structure).
- (e) **(Matching rights)** EDL must not enter into any agreement or arrangement in relation to or in connection with the implementation of a Competing Proposal unless:
- (i) the Competing Proposal is a Superior Proposal;
  - (ii) EDL has given DUET Bidco written notice of the consideration, conditions, structure and other key terms of the Competing Proposal; and
  - (iii) within 5 Business Days after receiving such notice, DUET Bidco does not make a written proposal to EDL in respect of an improvement to the Scheme Consideration or an alternative transaction or arrangement that the EDL Board determines, acting in good faith, would result in an outcome more favourable or no less favourable for EDL Shareholders as would result from the Competing Proposal (assuming that both the DUET Bidco Proposal and Competing Proposal would be implemented in accordance with their terms). If DUET Bidco does make such a proposal, each of EDL, DUET Bidco and DUET Guarantor must use reasonable endeavours to promptly agree to such matters and take such steps as are reasonably necessary to give effect to DUET Bidco's written proposal (including entering into an amending deed in respect of amendments to the Scheme Implementation Deed).

### 3.10 BREAK FEE

The break fee provisions are set out in clause 9 of the Scheme Implementation Deed which is Attachment B to this Scheme Booklet.

In summary, EDL is liable to pay DUET Bidco a break fee of \$13,688,727 (excluding GST) if:

- (a) a Competing Proposal is made or announced by a third party before 20 January 2016 and within 12 months of the date of the announcement the third party or any associate of the third party completes, implements or consummates a Competing Proposal or acquires Control of, or merges with, EDL;
- (b) DUET Bidco terminates the Scheme Implementation Deed due to a material breach by EDL of the Scheme Implementation Deed which is not rectified; or
- (c) any EDL Director publicly withdraws or adversely changes his or her recommendation or voting intention, other than:
  - (i) where the Independent Expert concludes in the Independent Expert's Report (or any update or variation to that report) that the Scheme is not in the best interests of EDL Shareholders, other than where the reason for that conclusion is a Competing Proposal; or
  - (ii) in circumstances where EDL is entitled to terminate the Scheme Implementation Deed for failure of a condition precedent or material breach by DUET Bidco.

Where the break fee becomes payable (or would become payable if a demand were made) under the Scheme Implementation Deed, the break fee will be the exclusive remedy for DUET Bidco in relation to any of the events referred to in paragraphs (a) to (c) above or a material breach of the Scheme Implementation Deed.

### 3.11 GUARANTEE BY DUET GUARANTOR

DUET Guarantor unconditionally and irrevocably guarantees to EDL the performance of DUET Bidco's obligations under the Scheme Implementation Deed and also indemnifies EDL against all loss incurred by EDL arising from the default or delay in the performance of DUET Bidco's obligations under the Scheme Implementation Deed. The guarantee extends for so long as DUET Bidco has any liability or obligation to EDL under the Scheme Implementation Deed and until all of those liabilities or obligations have been fully discharged.

### 3.12 DELISTING

If the Scheme becomes Effective, on a date after the Implementation Date to be determined by DUET Bidco, EDL will apply for termination of the official quotation of EDL Shares on the ASX, and to have itself removed from the official list of ASX.

### 3.13 END DATE

If the Scheme has not become Effective on or before 20 January 2016 (or such later date that EDL and DUET Bidco agree in writing), either EDL or DUET Bidco is able to terminate the Scheme Implementation Deed. If the Scheme Implementation Deed is terminated, the Scheme will not proceed.

### 3.14 FURTHER QUESTIONS

If you have any further questions, you should call the Shareholder Information Line on 1300 657 159 (within Australia) or +61 1300 657 159 (outside Australia) Monday to Friday between 8.30am and 7.30pm (Sydney time).

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# 4. INFORMATION ON EDL



## 4.1 OVERVIEW OF EDL

### (a) Business overview

EDL is a Brisbane-based, ASX-listed (since 1993) owner and operator of remote and clean energy power generation projects located in Australia, Europe and the United States.

EDL's operations comprise four regional business units: Australian Remote Energy, Australian Clean Energy, European Clean Energy and US Clean Energy.

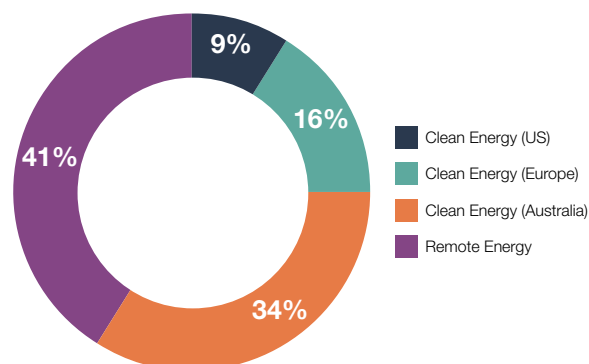
Within the Australian Remote Energy business unit, EDL provides electricity to remote towns, communities and mines that are not connected to power grid infrastructure, via power plants that are predominately fuelled by natural gas with some diesel generation. For its Remote Energy projects, revenues are earned under long-term capacity-charge based contracts with blue chip / investment grade counterparties.

Within its Clean Energy business, EDL generates power from methane gas extracted from underground metallurgical coal mines (referred to as waste coal mine gas or WCMG) and methane gas extracted from landfills (referred to as landfill gas or LFG). For its Clean Energy projects, generation is sold on the grid or to retailers under Power Purchase Agreements (PPAs) or Contracts for Difference (CFD). EDL does not own any coal mines or landfills, and enters into gas supply and tenure agreements on commercial terms with the relevant counterparties.

All of the Remote Energy projects operated by EDL are located in Australia, while Clean Energy comprises projects located in Australia (WCMG and LFG), Europe (LFG) and the US (LFG).

EDL operates predominantly under a build, own and operate model. EDL's Australian Remote Energy business unit also operates and maintains a small number of power generation assets (with combined capacity of 27 MW) on behalf of third party owners.

**FIGURE 3**  
**FY15 REVENUE CONTRIBUTION**



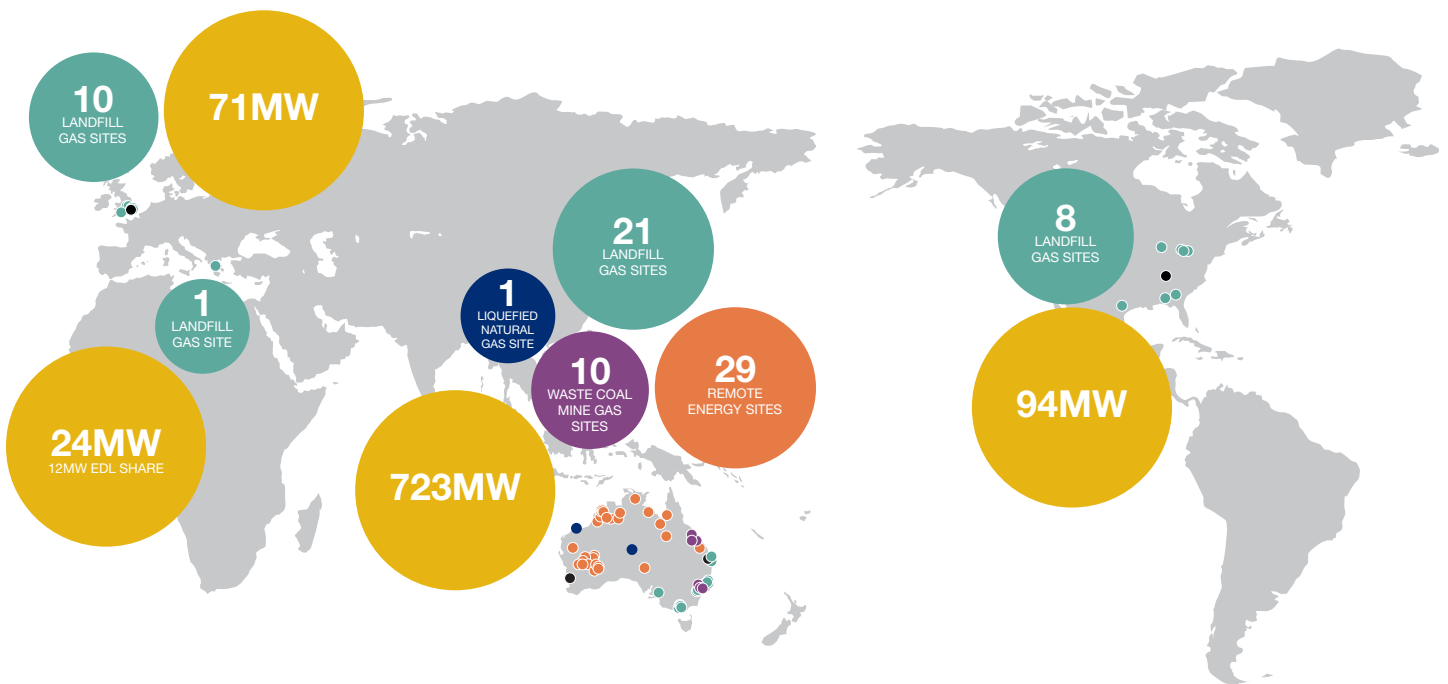
### (b) Revenue Model

Revenue is primarily a function of installed capacity and power generated and comprises:

- the sale of electricity to counterparties (referred to as black revenue) – counterparties typically comprise blue chip multinational mining companies, State-owned bodies, and private utility providers; and
- the sale of environmental credits (referred to as green revenue).

Approximately 81% of EDL's revenue in FY15 comprised black revenue. The Australian Remote Energy business generates black revenue, while the Australian, European and US Clean Energy businesses generate a combination of black and green revenue. An overview of black and green revenue is set out below.

**FIGURE 4**  
**LOCATION OF EDL'S PROJECTS**



**Black revenue**

EDL generates black revenue from the sale of power through a variety of sources including:

- **capacity charge revenue:** capacity charge revenue is earned under power supply agreements where a set amount of generation capacity is made available to a user irrespective of actual generation during a period. These agreements typically provide stable recurring revenue for the period of the agreement and are linked to performance metrics such as availability factors;
- **contracted revenue under a PPA or CFD:** under a PPA or CFD, EDL earns revenue based on an agreed price for the actual amount of power generated in a given period; and
- **market or spot revenue:** market or spot revenue is earned where there is no PPA, and the power generator is connected to the grid (i.e. in Australia the National Electricity Market). All power produced is sold at prevailing market prices.

**Green revenue**

EDL generates green revenue from the sale of environmental credits through various renewable energy schemes in the countries in which it operates. A brief overview of these schemes by geography is summarised as follows:

- **Australia:** green revenue in Australia comprises the sale of Large-scale Generation Certificates (**LGCs**) created under the Large-scale Renewable Energy Target (**LRET**) scheme and the sale of Australian Carbon Credit Units (**ACCUs**) to the Emissions Reduction Fund (**ERF**). Not all of EDL's Australian LFG and WCMG sites are eligible to generate LGCs and/or ACCUs.
- **Europe (United Kingdom):** green revenue in the United Kingdom comprises a combination of revenue generated under the Non-Fossil Fuel Obligation (**NFFO**) scheme which pays a contracted price for power generation and the sale of Renewable Obligation Certificates (**ROCs**) under the Renewable Obligation (RO) scheme.

Four of EDL's LFG sites operate under NFFO contracts which expire between 2015 and 2018 and subsequently transition to the RO scheme. The remaining six LFG sites are eligible for ROCs.

- **US:** the US does not currently have a Federal renewable energy or carbon abatement policy. Instead certain US states operate various renewable energy schemes which are broadly similar to the LRET scheme in Australia. Under these schemes, renewable energy generators are awarded Renewable Energy Certificates (RECs) for each MWh of electricity generated from any eligible renewable energy source. RECs can be sold or traded.

Four of EDL's LFG sites located in Ohio and Illinois are eligible to create RECs.

**4.2 OVERVIEW OF EDL'S FOUR BUSINESS SEGMENTS****(a) Australian Remote Energy**

EDL's Australian Remote Energy business segment had a total installed capacity of 381MW at 30 June 2015 (owned and operated and operated only), up from 368MW at June 2014. EDL's Australian Remote Energy business revenue is based primarily on capacity charges on available installed capacity under long-dated contracts.

EDL reported Australian Remote Energy operating EBITDA of \$86.6 million for the financial year ended 30 June 2015.

**(b) Australian Clean Energy**

EDL's Australian Clean Energy business segment comprises both LFG and waste coal mine gas power projects in Australia.

The division earns revenue from the sale of electricity, the sale of LGCs under the Australian Renewable Energy Target scheme, and the sale of ACCUs.

The combined installed capacity of EDL's Australian Clean Energy business segment as at 30 June 2015 was 342MW across Queensland, New South Wales, Victoria, the Australian Capital Territory and South Australia.

EDL reported Australian Clean Energy operating EBITDA of \$94.2 million for the financial year ended 30 June 2015.

**(c) European Clean Energy**

EDL's European Clean Energy business segment comprises LFG power projects in the UK (wholly owned) and Greece (50% joint venture), with total installed capacity of 83MW.

The division earns revenue from the sale of electricity (UK and Greece), and the sale of ROCs under the UK Renewables Obligation scheme.

EDL reported European Clean Energy operating EBITDA of A\$36.2 million for the financial year ended 30 June 2015.

**(d) US Clean Energy**

EDL's US Clean Energy business segment comprises LFG power projects with total installed capacity of 94MW.

The division earns revenue from the sale of electricity, and the sale of certain state based RECs.

EDL reported US Clean Energy operating EBITDA of A\$19.6 million for the financial year ended 30 June 2015.

**4.3 DIRECTORS**

The current directors of EDL are:

- Tony Duthie (Non-Executive Director);
- David Grayce (Non-Executive Director);
- Philip Kapp (Non-Executive Director);
- Rob Koczkar (Chairman);
- Gregory Martin (Non-Executive Director); and
- Greg Pritchard (Managing Director).

**4.4 FINANCIAL INFORMATION****(a) Basis of Preparation**

The following section summarises certain financial information about EDL for the years ended 30 June 2013, 30 June 2014 and 30 June 2015. The financial information in this section is a summary only and is prepared for the purpose of this Scheme Booklet. The information has been extracted from the audited financial reports of EDL for the years ended 30 June 2013, 30 June 2014 and 30 June 2015.

Further detail on EDL's financial performance can be found within the Appendix 4E and financial statements for the year ended 30 June 2015 as announced to ASX on 17 August 2015 and which can be found in the Investor Relations section of the EDL website at [www.energydevelopments.com.au](http://www.energydevelopments.com.au).

**(b) Consolidated statement of comprehensive income**

Set out below is a summary of EDL's consolidated statement of comprehensive income for the financial years ended 30 June 2013, 30 June 2014 and 30 June 2015.

	<b>CONSOLIDATED</b>		
	<b>YEAR ENDED</b>	<b>YEAR ENDED</b>	<b>YEAR ENDED</b>
	<b>30 JUNE 2015</b>	<b>30 JUNE 2014</b>	<b>30 JUNE 2013</b>
	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>
<b>Sales revenue</b>	440,291	412,656	392,296
Cost of sales excluding depreciation and amortisation of operating assets	(212,081)	(222,940)	(211,000)
<b>Gross profit</b>	<b>228,210</b>	<b>189,716</b>	<b>181,296</b>
Other income	6,199	7,746	8,580
Corporate and general expenses	(9,707)	(10,251)	(9,107)
Share-based-payments expense	(1,736)	(108)	(54)
Business acquisition and strategy costs	(1,629)	(2,530)	–
Development expenses	(5,340)	(4,786)	(6,148)
Share of net results of joint venture accounted for using the equity method	2,231	2,383	2,449
<b>Profit from continuing operations before depreciation, amortisation, borrowing costs and income tax</b>	<b>218,228</b>	<b>182,170</b>	<b>177,016</b>
Depreciation and amortisation	(91,689)	(84,891)	(69,369)
Interest income	782	783	1,288
Borrowing costs	(41,054)	(41,162)	(43,045)
Other finance costs	(3,948)	–	–
<b>Profit from continuing operations before income tax</b>	<b>82,319</b>	<b>56,900</b>	<b>65,890</b>
Income tax expense	(25,268)	(11,475)	(10,873)
<b>Profit attributable to members of EDL</b>	<b>57,051</b>	<b>45,425</b>	<b>55,017</b>
<b>Other comprehensive income</b>			
<b>Items that may be classified subsequently to profit or loss</b>			
Foreign currency translation differences for foreign operations, net of tax	11,356	329	7,781
Net gains/(losses) on cash flow hedges, net of tax	(9,158)	4,190	5,683
Transfer of cash flow hedge reserve to profit or loss, net of tax	2,353	–	–
<b>Total comprehensive income for the year</b>	<b>61,602</b>	<b>49,944</b>	<b>68,481</b>
Basic earnings per share (cents)	33.4	27.6	33.1
Diluted earnings per share (cents)	32.8	27.5	33.1



**(c) Consolidated statement of financial position**

Set out below is a summary of EDL's consolidated statement of financial position for the financial years ended 30 June 2013, 30 June 2014 and 30 June 2015.

	<b>CONSOLIDATED</b>		
	<b>YEAR ENDED</b>	<b>YEAR ENDED</b>	<b>YEAR ENDED</b>
	<b>30 JUNE 2015</b>	<b>30 JUNE 2014</b>	<b>30 JUNE 2013</b>
	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>
<b>Current assets</b>			
Cash assets	39,285	45,739	42,347
Receivables	54,658	60,642	51,123
Inventories	18,819	16,812	13,477
Green credits held for sale	23,751	21,730	20,580
Financial instruments - derivatives	1,592	2,957	718
Other	5,892	8,090	10,952
<b>Total current assets</b>	<b>143,997</b>	<b>155,970</b>	<b>139,197</b>
<b>Non-current assets</b>			
Receivables	3,021	4,283	3,251
Green credits held for sale	–	–	3,786
Investments accounted for using the equity method	19,301	18,776	16,178
Property, plant and equipment	802,916	790,401	697,996
Deferred tax assets	37,696	25,910	22,605
Intangible assets	38,162	46,243	50,263
Financial instruments - derivatives	–	1,258	1,561
Other assets	144	519	653
<b>Total non-current assets</b>	<b>901,240</b>	<b>887,390</b>	<b>796,293</b>
<b>Total assets</b>	<b>1,045,237</b>	<b>1,043,360</b>	<b>935,490</b>
<b>Current liabilities</b>			
Payables	50,281	55,165	58,585
Borrowings	16,568	2,560	6,185
Financial instruments – derivatives	10,618	10,149	10,381
Provisions	8,792	6,511	6,518
Current tax payable	9,999	15,179	4,056
Deferred income	1,275	164	142
Unearned grant income	1,807	1,617	1,546
<b>Total current liabilities</b>	<b>99,340</b>	<b>91,345</b>	<b>87,413</b>

	<b>CONSOLIDATED</b>		
	<b>YEAR ENDED</b>	<b>YEAR ENDED</b>	<b>YEAR ENDED</b>
	<b>30 JUNE 2015</b>	<b>30 JUNE 2014</b>	<b>30 JUNE 2013</b>
	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>
<b>Non-current liabilities</b>			
Payables	15,962	14,027	15,503
Borrowings	502,562	508,513	461,842
Deferred tax liabilities	7,471	8,082	11,984
Provisions	1,871	1,909	1,741
Deferred income	398	–	194
Unearned grant income	24,349	22,928	23,146
Financial instruments – derivatives	22,271	12,730	16,556
<b>Total non-current liabilities</b>	<b>574,884</b>	<b>568,189</b>	<b>530,966</b>
<b>Total liabilities</b>	<b>674,224</b>	<b>659,534</b>	<b>618,379</b>
<b>Net assets</b>	<b>371,013</b>	<b>383,826</b>	<b>317,111</b>
Equity			
Contributed equity	495,422	489,613	455,079
Reserves	(26,402)	(32,689)	(37,316)
Retained profits/(accumulated losses)	(98,007)	(73,098)	(100,652)
<b>Total equity</b>	<b>371,013</b>	<b>383,826</b>	<b>317,111</b>

**(d) Consolidated statement of cash flows**

Set out below is a summary of the consolidated statement of cash flows for the years ended 30 June 2013, 30 June 2014 and 30 June 2015.

	<b>CONSOLIDATED</b>		
	<b>YEAR ENDED</b>	<b>YEAR ENDED</b>	<b>YEAR ENDED</b>
	<b>30 JUNE 2015</b>	<b>30 JUNE 2014</b>	<b>30 JUNE 2013</b>
	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>
<b>Cash flows from operating activities</b>			
Receipts from customers	492,374	447,375	405,783
Payments to suppliers and employees	(274,536)	(267,901)	(244,341)
Grant received	–	2,006	6,973
Interest received	782	807	1,024
Interest and other finance costs paid	(35,146)	(35,642)	(37,398)
Income tax paid	(35,065)	(10,200)	(856)
<b>Net operating cash flows</b>	<b>148,409</b>	<b>136,445</b>	<b>131,185</b>
<b>Cash flows from investing activities</b>			
Payments for property, plant, equipment	(60,283)	(159,274)	(93,114)
Payments for intangible assets	–	–	(1,173)
Proceeds from sale of plant and equipment	–	3,005	5,354
Payment for acquisition of subsidiary	–	(25,000)	–
Loan advanced to external party	(843)	(2,941)	–
Repayment of loan from external party	1,225	613	–
Joint venture distributions	1,810	245	–
<b>Net investing cash flows</b>	<b>(58,091)</b>	<b>(183,352)</b>	<b>(88,933)</b>
<b>Cash flows from financing activities</b>			
Proceeds from issue of shares	1,478	46,818	383
Proceeds from issue of options	–	–	62
Proceeds from borrowings	147,285	139,053	52,093
Repayment of borrowings	(162,409)	(101,009)	(77,156)
Proceeds from repayment of employee loans	2,657	156	601
Payments for establishment of debt facility	(5,923)	(2,623)	(1,575)
Share buyback	–	(14,477)	(17,423)
Dividend paid	(81,960)	(17,871)	–
Settlement of performance rights	(48)	–	(65)
<b>Net financing cash flows</b>	<b>(98,920)</b>	<b>50,047</b>	<b>(43,080)</b>
<b>Net increase/(decrease) in cash held</b>	<b>(8,602)</b>	<b>3,140</b>	<b>(828)</b>
Cash at the beginning of the financial year	45,739	42,347	42,761
Effects of exchange rate changes on cash	2,148	252	414
<b>Cash at the end of the financial year</b>	<b>39,285</b>	<b>45,739</b>	<b>42,347</b>

#### **4.5 MATERIAL CHANGES TO THE FINANCIAL POSITION OF EDL SINCE 30 JUNE 2015**

Within the knowledge of the EDL Directors and other than as disclosed in this Scheme Booklet or announced to ASX, the financial position of EDL has not materially changed since 30 June 2015.

#### **4.6 ISSUED EDL SHARES**

As at the date of this Scheme Booklet, there are 170,359,095 EDL Shares on issue and are quoted on ASX. There are an additional 750,000 EDL Shares that are not quoted on ASX.

EDL does not anticipate that it will be required to issue any EDL Shares before the Implementation Date.

#### **4.7 EDL OPTIONS AND EDL PERFORMANCE RIGHTS**

As at the date of this Scheme Booklet, the EDL Options and EDL Performance Rights on issue are detailed in section 3.6 of this Scheme Booklet.

Details of the EDL Options and EDL Performance Rights and EDL's proposal in relation to the EDL Options and EDL Performance Rights are included in section 3.6 of this Scheme Booklet.

#### **4.8 EDL DIRECTORS' INTENTIONS**

If the Scheme becomes Effective, the existing EDL Board will resign and the EDL Board will be reconstituted in accordance with the instructions of the DUET Group after the Implementation Date (see section 5.5(c)). Accordingly, it is not possible for the EDL Directors to provide a statement of their intentions regarding:

- the continuation of the business of EDL or how EDL's existing business will be conducted;
- any major changes to be made to the business of EDL, including any redeployment of the fixed assets of EDL; or
- the future employment of the present employees of EDL,

in each case, after the Scheme is implemented.

If the Scheme is implemented, DUET Bidco will own all of the EDL Shares and the DUET Guarantor will be the ultimate Controller of EDL. The EDL Directors have been advised that the intentions of the DUET Group (which includes DUET Bidco) are as set out in section 5.5.

#### **4.9 RISKS RELATING TO EDL'S BUSINESS**

There are existing risks relating to EDL's business and an investment in EDL which will continue to be relevant to EDL Shareholders if the Scheme does not become Effective. A summary of the key risks relating to EDL's business and an investment in EDL is set out in section 6.3.

#### **4.10 RECENT EDL SHARE PRICE PERFORMANCE**

The latest recorded sale price of EDL Shares on ASX on 3 September 2015, the Business Day before the date of this Scheme Booklet, was \$7.88.

The last recorded sale price of EDL Shares on ASX on 17 July 2015 was \$7.72, being the Business Day before the execution of the Scheme Implementation Deed was announced on ASX.

The volume weighted average price of EDL Shares on ASX for the 1, 3 and 6 month periods to 3 September 2015 were \$7.88, \$7.82 and \$7.33 respectively.

The current price of EDL Shares on ASX can be obtained from the ASX website ([www.asx.com.au](http://www.asx.com.au)) or EDL's website ([www.energydevelopments.com.au](http://www.energydevelopments.com.au)).

#### **4.11 PUBLICLY AVAILABLE INFORMATION**

EDL is a listed disclosing entity for the purposes of the Corporations Act and as such is subject to regular reporting and disclosure obligations. Specifically, as a company listed on the ASX, EDL is subject to the ASX Listing Rules which require (subject to some exceptions) continuous disclosure of any information EDL has that a reasonable person would expect to have a material effect on the price or value of EDL Shares.

ASX maintains files containing publicly disclosed information about all companies listed on the ASX. Information disclosed to ASX by EDL is available on ASX's website at [www.asx.com.au](http://www.asx.com.au).

In addition, EDL is required to lodge various documents with ASIC. Copies of documents lodged with ASIC by EDL may be obtained from an ASIC office.

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EDL Shareholders may obtain a copy of:

- EDL's Financial Statements for the year ended 30 June 2015 (being the last full financial statements given to ASX and therefore lodged with ASIC under Class Order 98/104 before the registration of this Scheme Booklet with ASIC); and
- EDL's Half Year Financial Report for the half-year ended 31 December 2014 (being the last reviewed financial statements given to ASX and therefore lodged with ASIC under Class Order 98/104 before the registration of this Scheme Booklet with ASIC); and
- any announcements given to ASX by EDL after the lodgement by EDL of EDL's Half Year Financial Report for the half-year ended 31 December 2014 and before the date of this Scheme Booklet, on ASX's website at [www.asx.com.au](http://www.asx.com.au).

All announcements made by EDL to ASX from 25 February 2015 (being the date that EDL's Half Year Financial Report for the half-year ended 31 December 2014 was lodged with ASX) to 31 August 2015 (being the date prior to the provision of this Scheme Booklet to the Court) are listed on the following page:<sup>8</sup>

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8. This excludes announcements relating to substantial holding notices.

<b>ANNOUNCEMENT</b>	<b>DATE</b>
Appendix 4E and Financial Statements for the year ended 25 February 2015	17 August 2015
EDL delivers strong growth in FY15 results	17 August 2015
Energy Developments Limited 2015 Full Year Results presentation	17 August 2015
Oaky Creek WCMG Project Extension Agreed with Glencore	11 August 2015
US Business Update – Tessman Road and Brown County	7 August 2015
New Agreement with Anglo American – Grosvenor	31 July 2015
Scheme Update: Satisfaction of Condition Precedent	30 July 2015
EDL Remote Energy Business Update	29 July 2015
Energy Developments Board Recommends A\$8.00 Cash Per Share Proposal	20 July 2015
DUET Proposal To Acquire Energy Developments – Announces \$1.67 Billion Equity Raising	20 July 2015
Appendix 3B	4 June 2015
Appendix 3B	28 May 2015
ASX Investor Series Presentation	19 May 2015
Successful Emissions Reduction Fund Auction (ERF) – Updated Announcement	23 April 2015
Successful Emissions Reduction Fund Auction (ERF)	23 April 2015
Appendix 3Y – Gregory James Pritchard	13 April 2015
Appendix 3B	13 April 2015
Revised Appendix 3B	13 April 2015
Appendix 3B	13 April 2015
Appendix 3B	25 March 2015
EDL increases FY15 EBITDA guidance	25 March 2015
Revised Appendix 3B (previously lodged on 23 March 2015)	24 March 2015
Appendix 3B	23 March 2015
Coober Pedy Renewable Hybrid Project (Remote Area Power Conference Melbourne – March 2015) presentation	23 March 2015
Appendix 3B	19 March 2015
Appendix 3B	17 March 2015
Appendix 3B	9 March 2015
Appendix 4D and Financial Report for the half-year ended 31 December 2014	25 February 2015
EDL delivers strong half-year growth, interim dividend significantly increased	25 February 2015
EDL Half-Year 2015 Result presentation	25 February 2015

A substantial amount of information about EDL, including financial information and releases to ASX, is available in electronic form on EDL's website at [www.energydevelopments.com.au](http://www.energydevelopments.com.au).

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# 5. INFORMATION ON DUET BIDCO AND DUET GROUP



## 5.1 OVERVIEW OF DUET BIDCO

### (a) Purpose of incorporation

DUET Bidco is a proprietary company incorporated on 10 July 2015 and registered in the state of Victoria, whose main business activity is to acquire 100% of EDL via a scheme of arrangement. DUET Bidco has not undertaken any other business activity since its incorporation.

### (b) Funding arrangements

Based on the number of EDL Shares on issue as at the date immediately before the date of this Scheme Booklet, the maximum amount of cash payable by DUET Bidco for the acquisition of all of the EDL Shares is \$1,368,872,760. In addition, EDL has certain options and performance rights on issue. As disclosed in section 3.6 of this Scheme Booklet, the DUET Group may ultimately fund payments to be made by the EDL Group to various current and former employees of the EDL Group in consideration for the cancellation of their EDL Options, EDL Historical Performance Rights and/or EDL Fixed Value Performance Rights, totalling \$38,568,192. Accordingly, DUET Bidco will make, in aggregate, maximum payments of \$1,407,440,952 on implementation of the Scheme (the **Aggregate Consideration**).

To provide funding for the Aggregate Consideration, the DUET Group has conducted a fully-underwritten equity raising comprising both an institutional placement to cornerstone investors and an accelerated non-renounceable entitlement offer which raised an aggregate \$1.67 billion from new and existing DUET Group investors.

The entitlement offer comprised an accelerated non-renounceable pro-rata offer to raise approximately \$1.122 billion at an offer price of \$2.02 per new stapled security, consisting of:

- an accelerated institutional component; and
- a retail component.

The entitlement offer gave eligible DUET Group securityholders the opportunity to subscribe for 1 new stapled security for every 2.69 existing stapled securities. The placement to cornerstone investors raised a further \$550 million.

The proceeds received from the DUET Group equity raising (totalling \$1.67 billion) exceed the Aggregate Consideration (to fund transaction costs and provide working capital). Internal DUET Group funding arrangements have been entered into to allow DUET Guarantor to provide DUET Bidco with the Aggregate Consideration on the Implementation Date subject to the implementation of the Scheme. The DUET Group will ensure that funds of an amount in excess of the Aggregate Consideration will be available to DUET Bidco (as and when it is required) and are not subject to any security interests or rights of set off and are not required for other arrangements.

### (c) Ownership structure

All of the shares in DUET Bidco are held by DMC1 Limited (ACN 108 013 672) in its capacity as trustee of DUET1 Trust. All of the units in DUET1 Trust, and all of the shares in DMC1 Limited, are held by DUET Guarantor such that DUET Guarantor is the ultimate parent entity of DUET Bidco.

For more detail on the structure of the DUET Group, refer to section 5.2(a) below

## 5.2 OVERVIEW OF THE DUET GROUP

### (a) Corporate information

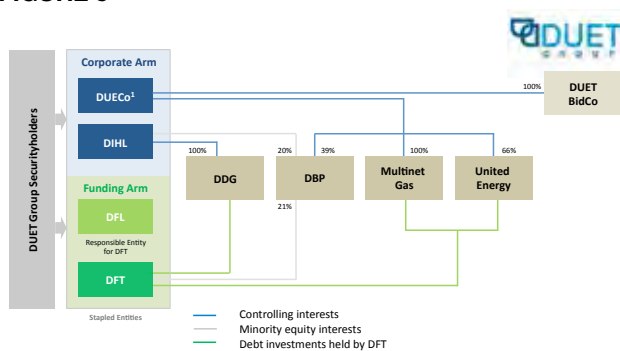
The DUET Group is an owner of energy and utility assets in Australia, consisting of DFT and three Australian public companies: DFL, DUET Guarantor and DIHL, and their Related Bodies Corporate (including DUET Bidco).

The units and shares in these four named entities are stapled together and trade on the Australian Securities Exchange, under the ASX ticker code DUE. As at 3 September 2015, the DUET Group had a market capitalisation of approximately \$4,967 million. DFL is the responsible entity of DFT.

The following diagram represents a summary of the current structure of the DUET Group. Section 5.5 shows where EDL is proposed to sit in the structure.



FIGURE 5



Note: Structure is in summary form with interposed entities not shown.

1. DUECo is the guarantor for DUET BidCo of the Aggregate Consideration.

Note: See section 5.2(b) below for details of DDG and DBP.

### (b) Principal activities / operations

The DUET Group is an ASX-listed owner of investments in the following operating companies which hold energy infrastructure assets in Australia.

Each operating business has its own management team and some outsourcing arrangements with industry-related contractors.

#### Dampier to Bunbury Natural Gas Pipeline (80% interest)

The Dampier to Bunbury Natural Gas Pipeline (DBNGP) is Western Australia's (WA) principal gas transmission pipeline. The group of entities that own and operate the DBNGP (referred to as **DBP**) are 80% owned by DUET Group, with the remaining 20% owned by a subsidiary of Alcoa of Australia Limited (which is ultimately 60% owned by Alcoa Inc. which is listed on the New York Stock Exchange (ticker code: AA) and 40% owned by Alumina Limited which is listed on the ASX (ticker code: AWC)).

The DBNGP is essential infrastructure for WA and is the only pipeline connecting the significant gas reserves of the Carnarvon Basin on WA's North West Shelf with mining, industrial, commercial and residential customers in the south west of WA (which includes Perth and surrounding regions). The pipeline runs a distance of 1,539 kilometres from the Burrup Peninsula, near Dampier in the north of WA, to Bunbury in the south west of WA.

The DBNGP was constructed by the State Energy Commission of WA and privatised in 1998. The DUET-led consortium acquired the DBNGP in 2004. Since its construction, its capacity has increased from an initial capacity of 200 terajoules per day to the current firm full haul capacity of the pipeline of 845 terajoules per day.

DBP's customers are end users or resellers of gas located in the south west of WA and the Pilbara and who buy gas from producers in the Carnarvon Basin and pay DBP to ship it to them via the DBNGP.

#### DBP Development Group (100% interest)

The DUET Group established DBP Development Group (DDG) in late 2011 as a separate business to develop, own, maintain and/or operate gas transmission related infrastructure. The nature of the business activities that DDG is entitled to undertake is limited to the construction, ownership, maintenance and operation of natural gas transmission pipelines and related infrastructure, and any ancillary services or opportunities associated with those activities.

Since September 2013, DDG has deployed the world class development and operating expertise of the DBP management team to complete two projects to date: the Wheatstone Ashburton West Pipeline for Chevron, and the Fortescue River Gas Pipeline, providing natural gas for power generation to remote mines in the Pilbara. DDG owns 100% of the Wheatstone Ashburton West Pipeline gas pipeline and 57% of the Fortescue River Gas Pipeline in joint venture with a member of the TransAlta Corporation corporate group which owns the remaining 43%. Shares in TransAlta Corporation trade publicly on both the Toronto Stock Exchange (ticker code: TA) and the New York Stock Exchange (ticker code: TAC).

In addition, during 2014 DDG has been awarded contracts to:

- refurbish the Ashburton Onslow Gas Pipeline and construct a new section of pipeline to connect Horizon Power's proposed Onslow Power Station to the DBNGP; and
- maintain the onshore section of the Chevron-operated Gorgon Domestic Gas Pipeline.

Together, these two additional projects offer long-term revenue streams and are anticipated to have a flow-on effect of increasing utilisation of capacity on the DBNGP.

DDG is also one of four parties shortlisted by the Northern Territory Government to build, own and operate the proposed North East Gas Interconnector. This pipeline will enable gas from Northern Territory gas fields to be transported to markets in eastern and southern Australia. Final bids are due to be lodged by shortlisted parties in September this year with the Northern Territory Government proposed to select a preferred bidder before the end of the year.

#### **Multinet Gas (100% interest)**

Multinet Gas is the largest distributor of natural gas in Victoria, by number of customers, distributing gas to approximately 689,000 customers. Multinet Gas' distribution network serves Melbourne's densely populated inner and outer east, the Yarra Ranges and South Gippsland. It includes approximately 10,030 kilometres of transmission and distribution pressure pipelines over an area of approximately 1,860 square kilometres. The network transports gas from high-pressure transmission networks operated by APA GasNet and Bass Gas to residential, commercial and industrial customers.

The DUET Group owns 100% of Multinet Gas.

#### **United Energy (66% interest)**

United Energy is a regulated electricity distribution business located in Victoria. United Energy's electricity distribution network covers 1,472 square kilometres and serves approximately 664,000 customers throughout east and south-east Melbourne and the Mornington Peninsula. United Energy owns and operates the distribution network that transports electricity from Victoria's high voltage transmission network to the premises of residential, commercial and industrial electricity users. United Energy's distribution area is largely urban, and although geographically small (about 1% of Victoria's land area), it accounts for around one quarter of Victoria's population.

United Energy is 66% owned by the DUET Group, with the remaining 34% owned by a joint venture between State Grid Corporation of China and Singapore Power Limited.

### **5.3 DIRECTORS OF DUET BIDCO AND DUET GUARANTOR**

#### **(a) Directors of DUET Bidco**

The directors of DUET Bidco are:

- David Bartholomew (Chairman and DUET CEO);
- Jason Conroy; and
- Nicholas Kuys.

#### **(b) Directors of DUET Guarantor**

The directors of DUET Guarantor are:

- Doug Halley (Chairman);
- Ron Finlay;
- Shirley In't Veld;
- Simon Perrott;
- Emma Stein; and
- Jack Hamilton.

### **5.4 RATIONALE FOR THE DUET GROUP'S PROPOSED ACQUISITION OF EDL**

EDL is a strong strategic fit with the DUET Group. EDL's business model, based on generating predictable cash flows from long dated contracts, is consistent with DUET's investment mandate and complements DUET's other businesses.

DUET's energy infrastructure businesses are characterised by highly predictable, stable cash flows. The DUET Group does not have significant exposure to energy costs and has tariff structures such as take-or-pay capacity charges or regulatory tariff mechanisms that mitigate the impact of changes in volume or asset utilisation on cash flow.

EDL's business has all of these characteristics, with predictability of revenues and cash flows through its offtake and gas supply agreements, limited exposure to fuel costs, and a strong track record of customer contract renewals.

The acquisition is expected to enhance the diversity of DUET's cash flows and provide an important source of growth for the DUET Group. DUET's size and access to debt and equity funding is anticipated to reduce EDL's cost of capital and further enhance its profitability and growth prospects.

In addition, EDL's remote power business and DUET's gas pipeline development business, DDG, have a common strategic focus. For more detail on DDG, refer to section 5.2(b). Together, DDG and EDL have the potential to offer an attractive package of gas transportation and generation to remote townships and mine sites in WA and throughout regional Australia. EDL's market leading position in remote power generation in WA, the Northern Territory and Queensland is complementary to DDG's growth strategy.

Consistent with DUET's strategic focus, by owning 100% of EDL, DUET will have full control of EDL's operations, cash flow and capital structure.

## 5.5 INTENTIONS OF DUET BIDCO IF THE SCHEME IS IMPLEMENTED

### (a) Corporate matters

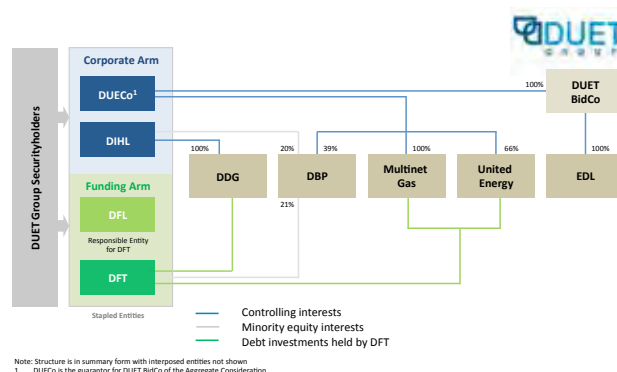
Following implementation of the Scheme, the DUET Group intends to operate EDL Group as a separate subsidiary group and maintain the existing EDL Group structure in Australia, US, UK and Greece. The following diagram represents a summary of the structure of the DUET Group if the Scheme is implemented.

On the Implementation Date, the directors of EDL Group Members will resign and will be replaced by directors nominated by DUET Bidco. The identities of the new directors will be determined before the currently anticipated Implementation Date.

The intention is for all members of the current senior management team to remain with EDL for at least 12 months and continue to conduct the daily operational activities and management of EDL's broader workforce.

Westpac Banking Corporation and National Australia Bank have signed debt underwriting agreements to provide financing and hedging to refinance the majority of the existing debt of EDL under existing facility agreements and pay fees, taxes and costs related to the refinancing and an associated \$150 million degearing of EDL.

FIGURE 6



Upon implementation, the DUET Group intends to pursue an active hedging strategy to further reduce EDL's exposure to particular price risks in line with the DUET Group's investment criteria, using a combination of privately negotiated agreements and on market derivatives. The DUET Group has completed significant market research on the availability of hedging instruments in these markets and has already commenced discussions with relevant market participants. The DUET Group proposes to implement these hedges as soon as possible following implementation of the Scheme.

The DUET Group also proposes that EDL be removed from the official list of the ASX.

### (b) Business continuity

DUET intends to acquire EDL Group as a going concern and operate it as a stand-alone group within the DUET Group. To that end, DUET Group does not contemplate any change of direction of EDL's existing business strategies in any material respect. Nor does it have any plans to materially alter EDL's business fundamentals.

It is proposed that the existing senior management team will be retained, led by EDL's current Chief Executive Officer, Mr Greg Pritchard. EDL's management team will have flexibility to manage the business within the parameters of its approved business plan, annual company budget and relevant internal policies and procedures. Prior to the Implementation Date, any material deviation from the business plan or budget will require approval from the EDL board and DUET. Less significant deviations from the plan may be approved by management if they fall within the limits of authority set out in the Scheme Implementation Deed. DUET will have full control of operations, cash flow and capital structure post the Implementation Date.

**(c) Employees**

As mentioned above, it is expected that all members of the current senior management team will remain with EDL and continue to conduct the daily operational activities and management of EDL's broader workforce. To that end, DUET Group does not currently intend to make any material changes to the back office functions, information technology systems or reporting capabilities of EDL, or to undertake any material downsizing or outsourcing with industry-related contractors if the Scheme is implemented.

**(d) Other**

Other than as set out in this section 5.5, DUET Bidco and DUET Group have no current intention to make major changes to, or dispose of any parts of, EDL's business.

## 5.6 US FOREIGN INVESTMENT APPROVALS

The implementation of the Scheme is subject to several conditions precedent, one of which is obtaining CFIUS approval in relation to EDL's operations in the United States. EDL and the DUET Group lodged an application seeking CFIUS consent on 14 August 2015 (US time).

On 14 August 2015, DUET Bidco's United States counsel submitted a joint voluntary notice to CFIUS relating to the proposed transaction. On 25 August 2015, CFIUS sent a letter to DUET Bidco's United States counsel acknowledging receipt of the joint voluntary notice and advising, among other things, that:

- (a) the notice has been accepted for review; and
- (b) the review will conclude no later than 23 September 2015.

For more detail on the conditions precedent for the implementation of the Scheme, refer to section 1.2. The DUET Group is not aware of anything that might prevent the fulfilment of any conditions precedent.

## 5.7 FUNDING ARRANGEMENTS FOR SCHEME CONSIDERATION

If the Scheme becomes Effective and is implemented, it is anticipated that Scheme Shareholders will receive a payment of \$8.00 per share as cash consideration. The DUET Group has funded the Scheme Consideration via a fully-underwritten institutional placement and accelerated non-renounceable entitlement offer, described above in section 5.1(b). The Scheme is not conditional on the DUET Group obtaining debt or equity finance to fund the payment of the Scheme Consideration. Accordingly, the description of the DUET Group's funding arrangements above in section 5.1(b) is provided for information purposes only, to help demonstrate the arrangements that the DUET Group has in place to finance the payment of the Scheme Consideration if the Scheme becomes effective.

## 5.8 INTERESTS AND BENEFITS

**(a) Relevant interests and voting power**

As at the date of this Scheme Booklet, no DUET Group entity or any of its Associates has:

- (i) any Relevant Interest in any EDL Shares; or
- (ii) any 'voting power' (as defined in the Corporations Act) in EDL.

**(b) Dealings in EDL Shares in previous four months**

During the period of four months before the date of this Scheme Booklet, no DUET Group entity or any of its Associates has provided or agreed to provide consideration for any EDL Shares under a purchase or agreement.

**(c) Benefits to EDL Shareholders in previous four months**

During the period of four months before the date of this Scheme Booklet, none of the DUET Group or any of its Associates has given or offered to give or agreed to give a benefit to another person where the benefit was likely to induce the other person or an Associate to:

- (i) vote in favour of the Scheme; or
- (ii) dispose of EDL Shares,

and the benefit was not offered to all EDL Shareholders.

Whilst the DUET Group does not consider the following to represent benefits of a type described above, the DUET Group discloses the following. Before the date of this Scheme Booklet, the DUET Group undertook a fully-underwritten placement and pro-rata entitlement offer of DUET Group stapled securities to fund the proposed acquisition of EDL. Various DUET Group securityholders who participated in those securities offerings were, at the relevant time, also holders of EDL Shares. One of the common securityholders is Investors Mutual Ltd (which, according to information known to the DUET Group, holds approximately 1.8% of the issued DUET Group securities as at 5 August 2015 and approximately 9.6% of the issued EDL shares as at 19 July 2015). Investors Mutual Ltd took up its full pro-rata entitlement and was one of several sub-underwriters to the retail entitlement offer. Along with all other sub-underwriters, Investors Mutual Ltd received a portion of its application as a sub-underwriter at the same offer price as was offered to all other DUET stapled securityholders. Investor Mutual Limited did not receive any sub-underwriting fee from DUET.

**(d) Benefits in connection with retirement from office**

The DUET Group will not be making any payment or giving any benefit to any current officers of EDL or a Related Body Corporate as compensation or consideration for, or otherwise in connection with, the retirement from their respective offices.

To the best of the DUET Group's knowledge:

- apart from:
  - the Cancellation Deeds in respect of EDL Options, EDL Historical Performance Rights and EDL Fixed Value Performance Rights (see section 3.6 of this Scheme Booklet);
  - the Confirmation Deeds in respect of EDL Current Performance Rights (see section 3.6 of this Scheme Booklet); and
  - the arrangements in respect of cash-based long term incentives and retention payments for key EDL employees (see section 8.6 of this Scheme Booklet),

there is no agreement or arrangement made between an EDL Director and another person in connection with or conditional on the outcome of the Scheme; and

- no EDL Director has any interest in any contract entered into by any DUET Group entity.

## 6. WHAT IF THE SCHEME IS NOT IMPLEMENTED?



## 6.1 WHAT IF THE SCHEME IS NOT IMPLEMENTED?

If the Scheme is not implemented, there will be no change to EDL and it will continue to operate on a stand-alone basis. As such, EDL will remain listed on the ASX and you will retain your EDL Shares and they will not be acquired by DUET Bidco. While it is not possible to predict the future performance of EDL, in deciding whether or not to vote in favour of the Scheme you should have regard to the prospects of EDL on a stand-alone basis (i.e. if the Scheme is not approved and implemented).

The following are some possible implications of the Scheme not being implemented:

- EDL Shareholders will retain their EDL Shares and they will not be acquired by DUET Bidco;
- EDL Shareholders will not receive the proposed \$8.00 per share Scheme Consideration;
- EDL will, in the absence of another proposal, continue to operate as a stand-alone company listed on ASX and, as such, EDL Shareholders will be exposed to the risks relating to EDL's business – refer to section 6.3 for more risk related commentary; and
- if no comparable proposal or Superior Proposal emerges, then the EDL share price may fall or trade at a price below the Scheme Consideration of \$8.00 per EDL Share, at least in the immediate near-term, noting that EDL Shares have historically had relatively low trading liquidity on the ASX, and have shown volatility due to this low liquidity.
  - This view is also supported by the Independent Expert which states in its report: *“It is common for the share price of a target company the subject of a takeover offer to trade at or around the price of the takeover offer during the offer period, particularly if the market has formed the view that the takeover will proceed at that price. It is also not uncommon for the share price to fall back to pre-takeover levels or lower in the event that the takeover offer is unsuccessful.*  
*In the absence of an alternative offer and in the event that the Proposed Scheme is unsuccessful, EDL's share price may decline to the levels achieved prior to the announcement of the Proposed Scheme in the short term, noting that trading in EDL's shares has historically been subject to low liquidity.”*

## 6.2 STRATEGY AND INTENTIONS FOR EDL IF THE SCHEME DOES NOT PROCEED

Should the Scheme not proceed or if a Superior Proposal does not emerge, EDL will continue to operate on a stand-alone basis in accordance with its publicly stated strategy:

- operating its existing portfolio of assets;
- enhancing the business by pursuing profitable growth via acquisitions, new projects and incremental expansions of existing projects; and
- continuing to focus on safe and reliable operations across the business.

The points above should be considered in conjunction with the comments on certain EDL risks outlined in section 6.3 of this Scheme Booklet.

## 6.3 RISKS ASSOCIATED WITH EDL IF THE SCHEME IS NOT IMPLEMENTED

If the Scheme is not implemented EDL will remain as a listed company and as such EDL will continue to be subject to various risk factors. Some notable risk factors that could have an impact on EDL and therefore a continued investment in EDL Shares are listed below.

The risks described below are not to be taken as exhaustive or listed in any order of importance. The risks described below as well as other risks not described below could, in the future, materially and adversely affect the financial performance of EDL and the value of EDL Shares.

### (a) Gas supply

EDL's production in Clean Energy relies on gas supply from underground coking coal mines and landfills. Gas supply constraints could reduce generation and revenue in the Clean Energy business. In the absence of EDL expanding or developing new LFG projects, revenue from the LFG operations is likely to decline over time as electricity production is negatively impacted by declining gas production from closed landfill sites.

### (b) Green credit revenue

Creation and prices of green credits can vary depending on legislation and the potential supply and demand of certificates.

**(c) Electricity prices**

Clean Energy sites in Australia are connected to the National Electricity Market and EDL either sells for a contracted price or the spot market price. Currently 7% of total EDL revenue is exposed to spot prices in the Australian National Electricity Market, and the spot market price can vary depending on prevailing market supply and demand.

**(d) Foreign exchange**

Movements in foreign exchange rates (particularly the British pound and US dollar) could adversely affect EDL's financial performance. EDL does not generally hedge its foreign exchange movements in the ordinary course of its business operations other than through the natural hedge of its foreign currency borrowings.

**(e) Future growth**

Future growth plans and contract renewals with existing and new customers could be restricted or delayed with market fluctuations in the mining and waste sectors

**(f) Occupational Health, Safety and the Environment (OHSE)**

Failure to implement effective OHSE and public safety procedures could give rise to OHSE and/or public safety risks which in turn may create reputational, regulatory risk and/or future earnings risk. Failure could lead to a loss of EDL's social licence to operate power projects.

**(g) Asset management / operational risks**

Asset management risk could impact operating costs and increase downtime, reducing revenue.

Increases in operations and maintenance costs may occur for various reasons. In addition, unforeseen operating risks or incidents may result in additional costs to EDL including maintenance costs and contract penalty costs, especially for sites where EDL is required to provide electricity on a firm supply basis. Additional unplanned maintenance costs may have an adverse impact on the financial performance of EDL.

**(h) Legislation**

EDL may be affected by changes in legislation, taxes, and governmental or regulatory policies.

Changes to or repeal of policy, legislation and regulations pertaining, but not limited to, policies governing emissions trading and renewable energy incentives, may have a substantial impact on EDL's outlook and may also create uncertainty concerning EDL, which in turn may adversely affect EDL's share price in the event the Scheme is not implemented. A number of such policies currently exist in various jurisdictions in which EDL operates.

Further, transitional challenges may arise when EDL, and the markets in which it operates, need to transition from one existing legal framework to a new framework.

**(i) Share market conditions**

The market for EDL Shares has reduced liquidity due to the combined shareholding of its substantial shareholders. Given the relatively small size of the free float, it may be more difficult for investors to sell their EDL Shares. In addition, the market price for EDL Shares may fall or be made more volatile because of the relatively low volume of trading in EDL Shares.

The value of EDL Shares can be expected to fluctuate depending on various factors beyond the control of EDL and its directors, including, but not limited to, general worldwide economic conditions, changes in government policies, investor perceptions, movements in interest rates and the rate of inflation, general movements in worldwide stock markets, prices of the energy generated by EDL, variations in the operating expenses, as well as in the cost of capital replacement which EDL may in the future require, announcement of new technologies or geo-political instability.

**(j) Contracting/recontracting risk**

As a producer of electricity, EDL is exposed to production risks, as well as various risks associated with sourcing the 'raw materials' required for production, in particular gas supply rights. Interruption to EDL's supply chain or other operational incidents may result in unplanned operational shutdowns. Such shutdowns may adversely affect EDL's financial performance.



EDL is party to a number of long-term gas supply agreements at its sites. EDL's ability to secure long-term gas rights is a fundamental aspect of EDL's business. Failure to secure these rights following the contract end dates may adversely affect EDL's performance.

The majority of EDL's revenues are under long-term contracts. As these contracts approach expiry, EDL will be required to renegotiate the contracts with its counterparties. In the event that EDL is unable to secure the renewal of these contracts, or can only secure renewal on terms which are less attractive than the previous terms, EDL's financial performance may be adversely affected.

Further, a number of EDL's customers operate projects that are liable to be shut down temporarily or permanently in the event of falls in commodity prices or economic downturns. This can result in early termination of long term agreements or payments that are lower than expected.

**(k) Capital expenditure**

As EDL undertakes significant capital investments, for example through the expansion of existing site capacity, there is a risk that the actual cost of capital expenditure may be greater than the projected cost, and this could adversely affect the financial performance of EDL.

There is also the risk that EDL may not be able to effect an expansion of an existing project as quickly as projected or for the same expenditure as projected, which may adversely affect the financial performance of EDL.

**(l) Disputes and litigation**

EDL may be exposed to potential legal claims, disputes and litigation in the future, with respect to its operations, suppliers or customers in the ordinary course of business. Proceedings may result in high legal costs, adverse monetary judgments and/or damage to EDL's reputation, which could have an adverse effect on EDL and its financial performance.

**(m) Refinancing and interest rate risk**

EDL's existing debt tranches will need to be refinanced on their respective maturity dates. EDL may incur increased borrowing costs, or may even be unable to refinance with new debt if its credit profile has deteriorated materially, or if there are reductions in debt market liquidity at or around the time that EDL needs to refinance its various debt tranches.

**(n) Insurance risk**

EDL uses insurance as a means of transferring and mitigating certain business risks. Insurance market changes may result in certain types of insurance coverage historically used by EDL becoming unavailable, limited, or only being available at increased prices or with an increased deductible, and which may result in EDL incurring higher insurance costs or having a higher risk profile in future periods. Further, there are some business risks applicable to EDL which are uninsured, including where there is no available insurance coverage or no insurance coverage available on terms considered reasonable by EDL.

**(o) Authorisations and permits**

If EDL does not obtain or renew all necessary permits and/or licences for its businesses including power development projects (such as native title, land access, licences and environmental matters) on acceptable terms, there is a risk that the assets will not be built or will be materially delayed, and/or existing assets will be impaired which will subsequently impact the financial performance of EDL. In addition, if any permits, licences or approvals or authorities are revoked, or if EDL breaches its permitted operating conditions, this may adversely impact EDL's operations and profitability.

**(p) Key personnel risk**

The successful operation of EDL depends in part upon the contribution and expertise of its management and employees, and if certain key people become unavailable and EDL cannot replace them or their specialist skills, this may adversely affect EDL's business and it may lose corporate memory.

**(q) Counterparty risk**

EDL is exposed to credit-related losses if counterparties to contracts (including counterparties to derivative instruments which EDL uses to manage financial risks) fail to meet their obligations. This could occur if a purchaser of electricity or key supplier or other key counterparty were to become insolvent or not meet its financial obligations to EDL.

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# 7. TAXATION IMPLICATIONS FOR SCHEME SHAREHOLDERS



## 7.1 INTRODUCTION

The following is an outline of the principal Australian income tax consequences applicable to a Scheme Shareholder who disposes of EDL Shares under the Scheme. This outline reflects the current provisions of the *Income Tax Assessment Act 1936* (Cth) and the *Income Tax Assessment Act 1997* (Cth) and the regulations made under those Acts, taking into account the current administrative practices of the Australian Taxation Office. The outline does not otherwise take into account or anticipate changes in the law, whether by way of judicial decision or legislative action, nor does it take into account tax legislation of countries apart from Australia.

The following outline is not exhaustive of all possible Australian income tax considerations that could apply to Scheme Shareholders. In particular, the summary is only relevant to those Scheme Shareholders who hold their shares on capital account and it does not address all tax considerations applicable to Scheme Shareholders who may be subject to special tax rules, such as banks, insurance companies, tax exempt organisations, superannuation funds, dealers in securities, Scheme Shareholders who hold the EDL Shares on behalf of another person, Scheme Shareholders who acquired their EDL Shares as part of an employee share scheme or Scheme Shareholders who hold their EDL Shares on revenue account or as trading stock. For Scheme Shareholders who are non-residents of Australia for tax purposes, it is assumed that the EDL Shares are not held and have never been held, as an asset of a permanent establishment of that Scheme Shareholder in Australia.

This outline does not constitute tax advice. Each Scheme Shareholder should consult with their own tax adviser regarding the consequences of acquiring, holding or disposing of their EDL Shares. The information in this document does not constitute "financial product advice" within the meaning of the Corporations Act. PricewaterhouseCoopers is not licensed to provide financial product advice under the Corporations Act. To the extent that this document contains any information about a "financial product" within the meaning of the Corporations Act, taxation is only one of the matters that must be considered when making a decision about the relevant financial product. This material has been prepared for general circulation and does not take into account the objectives, financial situation or needs of any recipient. Accordingly, any recipient should, before acting on this material, consider taking advice from a person who is licensed to provide financial product advice under the Corporations Act.

Any recipient should, before acting on this material, also consider the appropriateness of this material having regard to their objectives, financial situation and needs, and consider obtaining independent financial advice.

## 7.2 TAXATION ON THE DISPOSAL OF EDL SHARES

Should the Scheme be approved as outlined in this Scheme Booklet, you will be treated as having disposed of your EDL Shares for Australian income tax purposes.

## 7.3 AUSTRALIAN RESIDENT SCHEME SHAREHOLDERS

You will realise a capital gain in connection with the disposal of an EDL Share to the extent that the amount you receive, or will receive, for the disposal of that EDL Share is more than the cost base of that EDL Share.

You will realise a capital loss to the extent that the amount you receive, or will receive, is less than the reduced cost base of the EDL Share. Capital losses can usually only be offset against capital gains you realise in the same income year or in later income years.

As a general proposition, the cost base of an EDL Share should be the total amount you paid for the EDL Share, your acquisition costs and other costs relating to the holding and disposal of the EDL Share, to the extent to which you have not claimed an income tax deduction for such costs. The reduced cost base of an EDL Share is usually determined in a similar, but not identical, manner. There are a number of circumstances which may result in your cost base or reduced cost base being calculated in a different manner to that outlined in this section. We recommend that you consult your tax adviser to confirm the cost base or reduced cost base of your EDL Shares.

Any net capital gain should be included in your assessable income for that income year. Broadly, your net capital gain in respect of an income year will be calculated by aggregating all of your capital gains realised in that income year and reducing that amount by your capital losses realised in that income year and any available net capital losses from prior years.

Scheme Shareholders, who are individuals, trusts or complying superannuation funds may be eligible for discount capital gains treatment in respect of an EDL Share if they have held that EDL Share for at least 12 months. The Capital Gains Tax discount factor is 50% for individuals and trustees and 33½% for complying superannuation funds. When calculating a discount capital gain, the capital gain should initially be reduced by any other capital losses of the Scheme Shareholder. If a capital gain remains after utilising any available capital losses, it may be reduced by the discount factor. Companies are not eligible for discount capital gains treatment.

These comments will not apply to you if you buy and sell shares in the ordinary course of business, or if you acquired the shares for resale at a profit. In those cases, any gain is generally taxed as ordinary income.

#### **7.4 NON-RESIDENT SCHEME SHAREHOLDERS**

If you are not a resident of Australia for income tax purposes, you will generally not have to pay Australian income tax on any capital gain when you dispose of your EDL Shares, unless both of the following requirements are satisfied:

- (a) you hold a “non-portfolio interest” in EDL; and
- (b) the EDL Shares pass the “principal asset test”.

If either element is absent, any capital gain made on the disposal of your EDL Shares should not be subject to income tax in Australia.

You will hold a “non-portfolio interest” in EDL if you, together with your associates, own, or owned, throughout a 12 month period during the two years preceding the sale of your EDL Shares, 10% or more of, broadly, all of the shares in EDL.

Broadly, the EDL Shares would pass the “principal asset test” if the market value of EDL’s direct and indirect interests in Australian land, including leases and mining rights, is more than the market value of its other assets at the time the Scheme is implemented. Detailed calculations are necessary to determine the results of the “principal asset test”.

If you hold a “non-portfolio interest” in EDL, you should contact EDL to determine if the EDL Shares would pass the “principal asset test”.

If you buy and sell shares in the ordinary course of business, or acquired the shares for resale at a profit, any gain could be taxed in Australia as ordinary income and not as a capital gain (subject to any relief available under a double tax treaty that Australia has concluded with your country of residence). Again, you should seek your own tax advice.

You should seek advice from your tax adviser as to the taxation implications of the Scheme being implemented in your country of residence.

#### **7.5 STAMP DUTY**

Any stamp duty payable on the transfer of EDL Shares pursuant to the Scheme will be paid by DUJET Bidco.

# 8. ADDITIONAL INFORMATION



## 8.1 SCHEME IMPLEMENTATION DEED AND DUE DILIGENCE PROCESS

The Scheme Implementation Deed was entered into by EDL, DUET Bidco and DUET Guarantor on 20 July 2015 following DUET Group having conducted due diligence on EDL Group.

The due diligence conducted by DUET Group involved both a review of confidential information and documents as well as interviews with management. The due diligence was conducted pursuant to a confidentiality deed.

The Independent Expert has had access to EDL's confidential information that was provided to DUET Group for the purpose of its due diligence. The Independent Expert has also conducted interviews with certain members of EDL's management team.

EDL is not aware of any material information about EDL that is material to a decision by an EDL Shareholder on how to vote in relation to the Scheme and which:

- (a) has not been made available to the Independent Expert in the manner referred to above for the purpose of preparing the Independent Expert's Report;
- (b) is not set out or referred to in this Scheme Booklet; or
- (c) has not otherwise been made available publicly by EDL.

## 8.2 EDL SHARES, EDL OPTIONS AND EDL PERFORMANCE RIGHTS HELD BY EDL DIRECTORS

As discussed in section 3.6, EDL has entered into a series of Cancellation Deeds with holders of EDL Historical Performance Rights, EDL Options and EDL Fixed Value Performance Rights pursuant to which each such holder will receive cash consideration for the cancellation of those equity instruments in accordance with an agreed valuation subject to the Scheme becoming Effective.

The EDL Directors and the number of EDL Shares, EDL Options and EDL Performance Rights in which they have a Relevant Interest as at the date of this Scheme Booklet are set out in the following table:

DIRECTOR	NUMBER OF EDL SHARES	NUMBER OF EDL OPTIONS	NUMBER OF EDL FIXED VALUE PERFORMANCE RIGHTS
Tony Duthie	0	0	0
David Grayce	0	0	0
Philip Kapp	0	0	0
Rob Koczkar <sup>9</sup>	50,000	0	0
Gregory Martin	10,667	0	0
Greg Pritchard	2,159,606	6,270,000	28,956,471

EDL Fixed Value Performance Rights are the only type of EDL Performance Rights held by EDL Directors. While the following occurred more than 4 months before the date of this Scheme Booklet, for completeness EDL discloses that Mr Pritchard was issued 9,282,059 EDL Fixed Value Performance Rights on 13 April 2015 in accordance with EDL's Long Term Incentive Plan and as approved at EDL's 2014 Annual General Meeting.<sup>10</sup> Other than this, no EDL Director acquired or disposed of a Relevant Interest in any EDL Shares in the 4 month period ending on the date immediately before the date of this Scheme Booklet.

## 8.3 INTERESTS IN THE DUET GROUP HELD BY EDL DIRECTORS

No EDL Director holds any interest in a DUET Group Member.

No EDL Director acquired or disposed of a Relevant Interest in any shares in a DUET Group Member in the 4 month period ending on the date immediately before the date of this Scheme Booklet.

## 8.4 INTERESTS HELD BY EDL DIRECTORS IN CONTRACTS OF A DUET GROUP MEMBER

No EDL Director has an interest in any contract entered into by a DUET Group Member.

9. The disclosure of the 50,000 EDL Shares for Rob Koczkar is on the basis that he has an indirect interest in those shares, which are ultimately held for the benefit of a family trust of which he is a beneficiary.

10. As described in section 3.6, these EDL Fixed Value Performance Rights are performance rights carrying a fixed dollar value of \$0.20 per performance right and converting to EDL Shares determined by dividing the aggregate fixed value of all such performance rights held by the holder (in this case being Greg Pritchard) by the 5-day volume weighted average price of EDL Shares at the time of vesting.

## 8.5 OTHER INTERESTS OF EDL DIRECTORS

As noted in section 2.1 and previously disclosed to EDL Shareholders, Mr Tony Duthie and Mr David Grayce are executives of Pacific Equity Partners, which advises or manages funds that own Greenspark Power Holdings Limited (a nominee entity which holds approximately 67.1% of all EDL Shares). Mr Rob Koczkar ceased to be an executive of Pacific Equity Partners in July 2014. Messrs Koczkar, Duthie and Grayce have an indirect interest in a Pacific Equity Partners co-investment trust, which in aggregate has a Relevant Interest in 1,085,019 EDL Shares as at the date of this Scheme Booklet. Separately, as part of their overall funds management arrangements, affiliates of Pacific Equity Partners may also be entitled to receive performance fees based on overall fund performance. If those fees are payable, each of Messrs Koczkar, Duthie and Grayce may indirectly share in those fees.

Save as noted above and as set out in section 8.6 below, no EDL Director has any other interest, whether as a director, member or creditor of EDL or otherwise, which is material to the Scheme, other than in their capacity as a holder of EDL Shares, EDL Options or EDL Performance Rights.

## 8.6 AGREEMENTS OR ARRANGEMENTS WITH EDL DIRECTORS

Following the anticipated implementation of the Scheme, EDL's existing equity-based long term incentive plan for key EDL employees, including Mr Greg Pritchard, will be replaced with a cash-based long term incentive arrangement, to which the DUET Group consented. As is customary with long term incentive arrangements, each individual employee's eligibility to receive a cash-based incentive is primarily dependent on the EDL Group's financial performance. Any payments made under the arrangements will be made after the Scheme has been implemented.

In recognition of the significant roles of a number of key EDL employees, including Greg Pritchard, in respect of the process relating to this Scheme, these employees will be entitled to a one-off cash retention payment, to which the DUET Group consented. Each payment is subject to agreed terms intended to create an incentive for each employee to remain with EDL to be entitled to receive the future personal retention payment, including that the employee remain employed with the relevant EDL Group Member for 12 months following the implementation of the Scheme (except in limited circumstances). The aggregate amount of the total entitlements is anticipated to be no more than \$6,000,000. To the extent that total entitlements to employees is greater than \$3,000,000, Greenspark Power Holdings Limited, the 67.1% shareholder of EDL, has agreed to provide funding for the residual retention payments to be no more than \$3,000,000.

Save as noted above, there is no agreement or arrangement made between any EDL Director and any other person, including a DUET Group Member, in connection with or conditional upon the outcome of the Scheme.

## 8.7 PAYMENTS AND OTHER BENEFITS TO DIRECTORS, SECRETARIES OR EXECUTIVE OFFICERS OF EDL

Save as noted above in section 8.6, no payment or other benefit is proposed to be made or given to a director, secretary or executive officer of EDL or any member of EDL Group as compensation for loss of, or as consideration for or in connection with their retirement from, office in EDL or any member of EDL Group as a result of the Scheme.

## 8.8 TOP 20 EDL SHAREHOLDERS

As at 2 September 2015, the top 20 EDL Shareholders in the Register held approximately 95.46% of all issued EDL Shares.

<b>NAME</b>	<b>NUMBER OF EDL SHARES</b>	<b>PERCENTAGE OF ISSUED EDL SHARES</b>
Greenspark Power Holdings Ltd	114,836,566	67.11
RBC Investor Services Australia Nominees Pty Limited	11,619,685	6.79
J P Morgan Nominees Australia Limited	9,803,356	5.73
National Nominees Limited	6,522,420	3.81
HSBC Custody Nominees (Australia) Limited	5,985,719	3.50
Citicorp Nominees Pty Limited	3,718,088	2.17
RBC Investor Services Australia Nominees P/L	2,690,099	1.57
Citicorp Nominees Pty Limited	1,708,736	1.00
Mr Gregory James Pritchard	1,409,606	0.82
Sandhurst Trustees Ltd	1,017,695	0.59
JJBT Pty Ltd	750,000	0.44
HSBC Custody Nominees (Australia) Limited - A/C 2	508,589	0.30
BNP Paribas Noms Pty Ltd	442,961	0.26
Mirrabooka Investments Limited	426,202	0.25
AMCIL Limited	400,000	0.23
UBS Nominees Pty Ltd	380,798	0.22
HSBC Custody Nominees (Australia) Limited - A/C 3	365,606	0.21
RBC Investor Services Australia Nominees Pty Limited	304,758	0.18
Stephen Cake	236,363	0.14
Mr Gerard Vernon Dover	216,000	0.13



## 8.9 EDL'S SUBSTANTIAL HOLDERS

The substantial holders of EDL Shares as at the date immediately before the date of this Scheme Booklet are as follows:

NAME	NUMBER OF EDL SHARES	PERCENTAGE OF ISSUED EDL SHARES
Greenspark Power Holdings Ltd (as nominee for the entities comprising Pacific Equity Partners Fund IV)	114,836,566	67.11%
Investors Mutual Limited	16,300,000	9.6%

The shareholdings listed in this section 8.9 are as disclosed to EDL by the shareholders in substantial holding notices or otherwise. Information in regard to substantial holdings arising, changing or ceasing after this time or in respect of which the relevant announcement is not available on the ASX website is not included above.

## 8.10 SUSPENSION OF TRADING OF EDL SHARES

If the Court approves the Scheme, EDL will immediately notify ASX. It is expected that suspension of trading on ASX in EDL Shares will occur at the close of business on the Effective Date.

## 8.11 WARRANTY BY SCHEME SHAREHOLDERS ABOUT THEIR EDL SHARES

The effect of clause 8.2 of the Scheme is that all Scheme Shareholders, including those who vote against the Scheme and those who do not vote, will be deemed to have warranted to DUET Bidco and EDL that their EDL Shares are fully paid and not subject to any of the encumbrances specified in that clause and that they have full power and capacity to transfer their EDL Shares to DUET Bidco together with any rights attaching to those EDL Shares. Clause 8.2 of the Scheme is set out in Attachment C to this Scheme Booklet.

## 8.12 STATUS OF DISCUSSIONS WITH KEY CONTRACT COUNTERPARTIES

In respect of clause 3.1(g) of the Scheme Implementation Deed, as at the date of this Scheme Booklet:

- (a) all request for change of control consent letters in respect of the Key Contracts have been sent to the relevant contractual counterparties;
- (b) consents have been received from eight Key Contract counterparties; and

- (c) no person has given notification of its intention to refuse consent to the change in control of EDL or otherwise exercise any right to terminate a Key Contract as a result of the change in control of EDL, which occurs as a result of the Scheme.

See section 1.2(g) above for further details.

## 8.13 ASX WAIVERS

EDL has applied to ASX for, and received, a standard waiver of ASX Listing Rule 6.23.2 to permit EDL to cancel the EDL Historical Performance Rights, EDL Options and EDL Fixed Value Performance Rights in the manner described above in section 3.6.

## 8.14 ASIC RELIEF

Under the Corporations Act, EDL is required to send to its shareholders a copy of its annual report by 31 October 2015 and is required to hold its annual general meeting by 30 November 2015.

If the Scheme is implemented on the currently anticipated Implementation Date of Thursday, 22 October 2015, you should be aware that EDL does not propose to:

- (a) send to you a copy of its annual report as you will no longer be an EDL Shareholder upon implementation of the Scheme; and
- (b) hold an annual general meeting as you will no longer be an EDL Shareholder and EDL will no longer be required under the Corporations Act to hold an annual general meeting.

EDL has applied to ASIC for, and received, relief from the relevant Corporations Act provisions to extend the period of time for EDL to send you a copy of its annual report and hold its annual general meeting. EDL must send its annual report by no later than the earlier of 8 January 2016 or 3 weeks before the annual general meeting for the financial year ended 30 June 2015 is held, and hold its annual general meeting by no later than 31 January 2016.

### 8.15 CONSENTS

- (a) The following parties have given, and have not withdrawn before the date of this Scheme Booklet, their consent to be named in this Scheme Booklet in the form and context in which they are named:
- (i) Citi as financial adviser to EDL;
  - (ii) Link as the manager of the Registry;
  - (iii) PricewaterhouseCoopers as taxation adviser to EDL and to the inclusion of the tax report set out in section 7 of this Scheme Booklet; and
  - (iv) Gilbert + Tobin as legal adviser to EDL in relation to the Scheme.
- (b) The Independent Expert has given and has not withdrawn its consent to be named in this Scheme Booklet and to the inclusion of the Independent Expert's Report in Attachment E to this Scheme Booklet and to the references to the Independent Expert's Report in this Scheme Booklet being made in the form and context in which each such reference is included.
- (c) DUET Bidco, DUET Guarantor, DFL in its personal capacity and as the responsible entity of DFT, and DIHL have each given and have not withdrawn their consent to be named in this Scheme Booklet and in relation to the inclusion of the DUET Information in this Scheme Booklet in the form and context in which that information is included.
- (d) Each person named in this section 8.15:
- (i) has not authorised or caused the issue of this Scheme Booklet;
  - (ii) does not make, or purport to make, any statement in this Scheme Booklet or any statement on which a statement in this Scheme Booklet is based, other than as specified in this section 8.15; and
  - (iii) to the maximum extent permitted by law, expressly disclaims all liability in respect of, makes no representation regarding, and takes

no responsibility for, any part of this Scheme Booklet, other than a reference to its name and the statement (if any) included in this Scheme Booklet with the consent of that party as specified in this section 8.15.

### 8.16 DOCUMENTS AVAILABLE

An electronic version of this Scheme Booklet including the Independent Expert's Report and the Scheme Implementation Deed are available for viewing and downloading online at EDL's website at [www.energydevelopments.com.au](http://www.energydevelopments.com.au).

### 8.17 CONTINUOUS DISCLOSURE

EDL is subject to regular reporting and disclosure obligations under the Corporations Act and ASX Listing Rules. EDL has an obligation (subject to limited exceptions) to notify ASX immediately upon becoming aware of any information which a reasonable person would expect to have a material effect on the price or value of EDL Shares. Copies of documents filed with ASX may be obtained from ASX's website [www.asx.com.au](http://www.asx.com.au).

In addition, EDL is also required to lodge various documents with ASIC. Copies of documents lodged with ASIC in relation to EDL may be obtained from, or inspected at, an ASIC office.

EDL's 2014 Annual Report (being EDL's annual financial report for the year ended 30 June 2014) is available on EDL's website at [www.energydevelopments.com.au](http://www.energydevelopments.com.au).

EDL will also make copies of the 2014 Annual Report available, free of charge, to EDL Shareholders. Requests can be made by contacting the Shareholder Information Line on 1300 657 159 (within Australia) or +61 1300 657 159 (outside Australia) between 8.30am and 7.30pm (Sydney time) Monday to Friday, prior to the Effective Date.

## 8.18 SUPPLEMENTARY INFORMATION

If EDL becomes aware of any of the following between the date of lodgement of this Scheme Booklet for registration with ASIC and the Court Approval Date:

- a material statement in this Scheme Booklet is false or misleading;
- a material omission from this Scheme Booklet;
- a significant change affecting a matter in this Scheme Booklet; or
- a significant new matter has arisen and it would have been required to be included in this Scheme Booklet if known about at the date of lodgement with ASIC,

depending on the nature and timing of the changed circumstances, and subject to obtaining any relevant approvals, EDL may circulate and publish any supplementary document by:

- making an announcement to ASX;
- placing an advertisement in a prominently published newspaper which is circulated generally throughout Australia;
- posting the supplementary document to EDL Shareholders at their registered address as shown in the Register; or
- posting a statement on EDL's website at [www.energydevelopments.com.au](http://www.energydevelopments.com.au),

as EDL in its absolute discretion considers appropriate.

## 8.19 OTHER

### (a) Lodgement of Scheme Booklet with ASIC

This Scheme Booklet was lodged with ASIC on 17 August 2015 in accordance with section 411(2)(b) of the Corporations Act.

### (b) Other material information

Otherwise than as contained or referred to in this Scheme Booklet, including the Independent Expert's Report and the information that is contained in the Attachments to this Scheme Booklet, there is no other information that is material to the making of a decision by an EDL Shareholder whether or not to vote in favour of the Scheme Resolution to approve the Scheme, being information that is known to any EDL Director and which has not previously been disclosed to EDL Shareholders.

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# 9. GLOSSARY



In this Scheme Booklet unless the context otherwise requires:

**\$** means Australian dollars unless otherwise stated.

**Aggregate Consideration** has the meaning given to that term in section 5.1(b).

**ASIC** means the Australian Securities and Investments Commission.

**Associate** has the meaning given in section 12 of the Corporations Act where, for the purposes of sections 12(2)(b) and 12(2)(c) of the Corporations Act, the 'designated body' is EDL.

**ASX** means ASX Limited ACN 008 624 691 or, as the context requires, the financial market operated by it.

**ASX Listing Rules** means the official listing rules, from time to time, of ASX.

**Business Day** means any day that is each of the following:

- (a) a business day as defined in the ASX Listing Rules; and
- (b) a day that banks are open for business in Sydney, New South Wales.

**Cancellation Deeds** has the meaning given to it in the Scheme Implementation Deed.

**CFIUS** means the Committee on Foreign Investment in the United States.

**CFIUS Clearance** has the meaning given to it in the Scheme Implementation Deed.

**CHESS** means the Clearing House Electronic Subregister System, which provides for electronic share transfers in Australia.

**Citi** means Citigroup Global Markets Australia Pty Limited ACN 003 114 832.

**Competing Proposal** means any proposed or potential transaction or arrangement (including any takeover bid, scheme of arrangement, share or asset sale, capital reduction or buy back, joint venture or dual listed company structure, recapitalisation, establishment of a new holding company for the EDL Group or other synthetic merger, or any other means) under which a third party would, if completed:

- (a) directly or indirectly acquire an interest (including an economic interest by way of an equity swap, contract for difference or similar transaction or arrangement) or a Relevant Interest in 20% or more of EDL Shares;

- (b) directly or indirectly acquire, become the holder of or have a right to acquire or an economic interest in all or a substantial part of the business, or any of the material assets, of the EDL Group (where a substantial part of the business or a material asset of the EDL Group will include rights in respect of assets representing 50% or more of the value of the EDL Group's total assets); or
- (c) otherwise acquiring Control of or merging or amalgamating with EDL whether by way of takeover bid, scheme of arrangement, share or asset sale, capital reduction or buy back, joint venture or dual listed company structure, recapitalisation, establishment of a new holding company for the EDL Group or other synthetic merger, or any other means.

**Confirmation Deeds** has the meaning given to it in the Scheme Implementation Deed.

**Control** has the meaning given in section 50AA of the Corporations Act.

**Corporations Act** means the *Corporations Act 2001* (Cth), as amended from time to time.

**Court** means the Supreme Court of New South Wales or such other court of competent jurisdiction as agreed by EDL and DUET Bidco.

**Court Approval Date** means the date when the Court grants its approval to the Scheme under section 411(4) of the Corporations Act.

**Deed Poll** means the deed poll in the form of Attachment D to this Scheme Booklet, executed by DUET Bidco and DUET Guarantor in favour of Scheme Shareholders.

**DFL** means DUET Finance Limited ACN 108 014 062.

**DFT** means DUET Finance Trust ARSN 109 363 135.

**DIHL** means DUET Investment Holdings Limited ACN 120 456 573.

**DUET Bidco** means DUET EDL Pty Limited ACN 607 005 685.

**DUET Group** means, collectively or individually (as the context requires) DUET Guarantor, DIHL, DFL, DFT, DUET Bidco and their Related Bodies Corporate, and **DUET Group Member** means any of those entities.

**DUET Guarantor** means DUET Company Limited ACN 163 100 061.

**DUET Information** means the information contained in section 5, and under the headings “Who are DUET Bidco and DUET Group” on page 11 and “How is DUET Bidco funding the Scheme Consideration?” on page 13, of this Scheme Booklet.

**EBITDA** means earnings before interest, tax, depreciation and amortisation.

**EDL** means Energy Developments Limited ACN 053 410 263.

**EDL Board** means the board of directors of EDL.

**EDL Current Performance Rights** has the meaning given to that term in section 3.6.

**EDL Director** or **your director** means a director of EDL as at the date of this Scheme Booklet.

**EDL Fixed Value Performance Rights** has the meaning given to that term in section 3.6.

**EDL Group** means EDL and each of its Subsidiaries, and **EDL Group Member** means any of those entities.

**EDL Historical Performance Rights** has the meaning given to that term in section 3.6.

**EDL Material Adverse Change** means:

- (a) a change, event, circumstance, occurrence or matter which (whether individually or when aggregated with all such changes, events, circumstances, occurrences or matters of a like kind) has had or is reasonably likely to have:
- (i) the effect of a diminution in the value of the consolidated net assets (but not including any diminution in intangible assets) of the EDL Group, taken as a whole, by at least \$25 million against what it would reasonably be expected to have been but for that change, event, circumstance, occurrence or matter; or
  - (ii) the effect of a diminution in the consolidated earnings before interest, tax, depreciation and amortisation of the EDL Group, taken as a whole, by at least \$25 million in recurring financial years for the EDL Group against what it would reasonably be expected to have been but for that change, event, circumstance, occurrence or matter,

provided that any events which have a positive effect on the consolidated net assets or earnings before interest, tax, depreciation and amortisation of the EDL Group are taken into account in calculating whether a threshold in paragraphs (a)(i) and (a)(ii) has been reached, and in each case other than changes, events, occurrences or matters:

- (b) expressly required or permitted by the Scheme Implementation Deed or the Scheme;
- (c) fairly disclosed to DUET Bidco in the EDL disclosure materials;
- (d) fairly disclosed by EDL in any announcement to or filing with ASX that is publicly available prior to the date of this deed, or in a document lodged by EDL with ASIC that is publicly available prior to the date of this deed;
- (e) consented to in writing by DUET Bidco; or
- (f) which arise from:
  - (i) changes in commodity prices, exchange rates or interest rates;
  - (ii) general economic, political or business conditions, including material adverse changes or major disruptions to, or fluctuations in, domestic or international financial markets, and acts of terrorism, war (whether or not declared), natural disaster or the like; or
  - (iii) changes to accounting standards, laws or policies of a Government Agency in Australia,
 but excluding any change, event, circumstance, occurrence or matter which has a disproportionate effect on the EDL Group, taken as a whole, as compared to other participants in the industries in which the EDL Group operates.

**EDL Options** has the meaning given to that term in section 3.6.

**EDL Performance Rights** means any performance rights to acquire EDL Shares and includes the EDL Historical Performance Rights, EDL Fixed Value Performance Rights and EDL Current Performance Rights.

**EDL Prescribed Occurrence** has the meaning given to it in the Scheme Implementation Deed.

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

**EDL Shareholders** means each person who is registered in the Register of EDL as the holder of EDL Shares.

**Effective** means the coming into effect, under section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) in relation to the Scheme.

**Effective Date** means the date on which the Scheme becomes Effective.

**Governmental Agency** means any foreign or Australian government or governmental, semi-governmental, administrative, fiscal, statutory or judicial body, department, commission, authority, tribunal, agency or entity, or any minister of the Crown in right of the Commonwealth of Australia or any state, or any other federal, state, provincial, local or other government, whether foreign or Australian. It also includes any self-regulatory organisation established under statute or otherwise discharging substantially public or regulatory functions (including ASIC and the Takeovers Panel) and any stock exchange (including ASX).

**GST** means a goods and services tax or similar value added tax levied or imposed under the GST Law.

**GST Law** has the meaning given to it in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Headcount Test** has the meaning given to it in section 3.3 of this Scheme Booklet.

**Implementation Date** means the fifth Business Day after the Record Date or such other date as EDL, DUET Bidco and DUET Guarantor may agree in writing.

**Independent Expert** means Deloitte Corporate Finance Pty Limited ACN 003 833 127.

**Independent Expert's Report** means the report prepared by the Independent Expert, a copy of which is set out in Attachment E to this Scheme Booklet.

**Key Contract** has the meaning given to it in the Scheme Implementation Deed.

**Last Trading Date** means 17 July 2015, being the last trading day prior to announcement of the Scheme Implementation Deed.

**Link** means Link Market Services Limited ACN 083 214 537.

**Participant** has the meaning given to that term in section 3.6.

**PPA** means Power Purchase Agreement.

**PricewaterhouseCoopers** means the partnership formed in Australia, being the Australian firm of the network of member firms of PricewaterhouseCoopers International Limited, each of which is a separate and independent legal entity.

**Record Date** means 7.00pm (Sydney time) on the third Business Day following the date on which the Scheme becomes Effective.

**Register** means the register of EDL Shareholders kept by EDL and Registry means the manager from time to time of the Register (currently Link).

**Related Body Corporate** has the meaning it has in the Corporations Act.

**Relevant Interest** has the same meaning as given by sections 608 and 609 of the Corporations Act.

**Requisite Majorities** means the threshold for approval of the Scheme Resolution set out in section 3.3(b) of this Scheme Booklet, being votes in favour of the resolution received from:

- (a) a majority in number (more than 50%) of EDL Shareholders present and voting at the Scheme Meeting (whether in person, by proxy, by attorney or, in the case of corporate EDL Shareholders, by a corporate representative); and
- (b) at least 75% of the total number of votes cast on the Scheme Resolution at the Scheme Meeting.

**Scheme** means the scheme of arrangement pursuant to Part 5.1 of the Corporations Act proposed between EDL and Scheme Shareholders, on the terms described in Attachment C to this Scheme Booklet, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed to by DUET Bidco and EDL.

**Scheme Booklet** means this scheme booklet in relation to the Scheme.

**Scheme Consideration** means \$8.00 cash for each EDL Share held by a Scheme Shareholder on the Record Date.

**Scheme Implementation Deed** means the Scheme Implementation Deed dated 20 July 2015 between EDL, DUET Bidco and DUET Guarantor in the form set out in Attachment B of this Scheme Booklet.

**Scheme Meeting** means the meeting of EDL Shareholders ordered by the Court to be convened pursuant to section 411(1) of the Corporations Act in relation to the Scheme, and includes any adjournment of that meeting.

**Scheme Resolution** means a resolution of EDL Shareholders to approve the Scheme, the form of which is set out in the Notice of Scheme Meeting in Attachment A to this Scheme Booklet.

**Scheme Shareholder** means a holder of EDL Shares on the Record Date.

**Second Court Date** means the first day on which an application made to the Court for an order under section 411(4) (b) of the Corporations Act approving the Scheme is heard (or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard), with such hearing being the **Second Court Hearing**.

**Superior Proposal** means a bona fide Competing Proposal that the EDL Board determines, acting in good faith and after taking written advice from EDL's legal and financial advisers:

- (a) is reasonably capable of being implemented within six months, taking into account all aspects of the Competing Proposal, including its proponent(s), conditionality, structure and financing; and
- (b) would, if completed substantially in accordance with its terms, produce an outcome for EDL Shareholders that is superior to the outcome that would be produced by the Scheme.

**Takeovers Panel** means the Takeovers Panel constituted under the Australian Securities and Investments Commission Act 2001 (Cth).

**VWAP** means volume weighted average price.



# ATTACHMENT A

## NOTICE OF SCHEME MEETING

### ENERGY DEVELOPMENTS LIMITED ACN 053 410 263

Notice is hereby given that by an order of the Court made on 3 September 2015 pursuant to section 411(1) of the Corporations Act 2001 (Cth) (**Corporations Act**) a meeting of the holders of ordinary shares in Energy Developments Limited ACN 053 410 263 (**EDL**) will be held at 10.00am on Thursday, 8 October 2015 at the Treasury Room, Intercontinental Hotel, 117 Macquarie Street, Sydney NSW 2000.

The Supreme Court of New South Wales (**Court**) has also directed that Mr Rob Koczkar act as Chairperson of the meeting or failing him Mr Gregory Martin, and has directed the Chairperson to report the result of the meeting to the Court if the resolution is approved.

### BUSINESS OF THE MEETING – SCHEME RESOLUTION

To consider, and if thought fit, to pass the following resolution in accordance with section 411(4)(a)(ii) of the Corporations Act:

*“That, pursuant to and in accordance with section 411 of the Corporations Act, the Scheme, the terms of which are contained in and more particularly described in the Scheme Booklet (of which this Notice of Scheme Meeting forms part) is approved (with or without modification as approved by the Court).”*

### BY ORDER OF THE COURT

Glen Elliott Marshall  
Company Secretary  
3 September 2015

### EXPLANATORY NOTES

To enable you to make an informed decision on the Scheme Resolution, further information on the Scheme is set out in the Scheme Booklet, of which this Notice of Scheme Meeting forms part. Terms used in this Notice of Scheme Meeting have the same meaning as set out in the Glossary in section 9 of the Scheme Booklet.

These notes should be read in conjunction with the Notice of Scheme Meeting.

### REQUISITE MAJORITIES

In accordance with section 411(4)(a)(ii) of the Corporations Act, the Scheme Resolution must be approved by:

- a majority in number of the holders of EDL Shares present and voting (either in person, by proxy or attorney or in the case of a corporate holder, by duly appointed corporate representative) at the Scheme Meeting; and
- at least 75% of the votes cast on the Scheme Resolution.

### ENTITLEMENT TO VOTE

The Court has ordered that, for the purposes of the Scheme Meeting, EDL Shares will be taken to be held by the persons who are registered as members of EDL as of 7.00pm (Sydney time) on Tuesday, 6 October 2015. Accordingly, transfers registered after this time will be disregarded in determining entitlements to vote at the Scheme Meeting.

### VOTING AT THE MEETING

You may vote in person at the meeting or appoint a proxy or attorney to attend and vote for you.

#### 1.1 Jointly held securities

If EDL Shares are jointly held, either one of the joint shareholders is entitled to vote. If more than one joint shareholder votes in respect of jointly held shares, only the vote of the shareholder whose name appears first in the register will be counted.

#### 1.2 Corporate shareholders

To vote at the Scheme Meeting (other than by proxy or attorney), a corporation that is an EDL Shareholder must appoint a person to act as its representative. The appointment must comply with section 250D of the Corporations Act. The representative must bring to the Scheme Meeting evidence of his or her appointment including any authority under which it is signed.

**(a) Voting by proxy**

An EDL Shareholder entitled to attend and vote at the Scheme Meeting is also entitled to vote by proxy. The proxy form is enclosed with the Scheme Booklet. You may appoint not more than two proxies to attend and act for you at the Scheme Meeting. A proxy need not be a holder of EDL Shares. If 2 proxies are appointed, each proxy may be appointed to represent a specified number or proportion of your votes. If no such number or proportion is specified, each proxy may exercise half your votes.

If you do not instruct your proxy on how to vote, your proxy may vote as he or she sees fit at the Scheme Meeting.

Please refer to the enclosed proxy form for instructions on completion and lodgement. Please note that proxy forms must be received at the registered office of EDL or the Registry whose details are listed below no less than 48 hours prior to the commencement of the Scheme Meeting.

**(b) Voting by attorney**

Powers of attorney must be received by the Registry, or at the registered office, by no later than 10.00am on Tuesday, 6 October 2015 (or if the Scheme Meeting is adjourned, at least 48 hours before the resumption of the Scheme Meeting in relation to the resumed part of the Scheme Meeting).

An attorney will be admitted to the Scheme Meeting and given a voting card upon providing at the point of entry to the Scheme Meeting written evidence of their appointment, of their name and address and the identity of their appointer.

The sending of a power of attorney will not preclude an EDL Shareholder from attending in person and voting at the Scheme Meeting if the EDL Shareholder is entitled to attend and vote.

**LODGEMENT OF PROXIES AND QUERIES**

Proxy forms, powers of attorney and authorities should be sent to EDL at the address specified on the enclosed reply paid envelope or to the address specified below:

Address: Energy Developments Limited, C/- Link Market Services Limited, Locked Bag A14, Sydney South NSW 1235

Facsimile: +61 3 9287 0309

Online: [www.linkmarketservices.com.au](http://www.linkmarketservices.com.au)

Login to the [www.linkmarketservices.com.au](http://www.linkmarketservices.com.au) website using the details as shown on the proxy form. Select 'Voting' and follow the prompts to lodge your vote. To use the online voting facility, EDL Shareholders will need their "Holder Identifier" (Securityholder Reference Number (SRN) or Holder Identification Number (HIN) as shown on the front of the proxy form).

Holders of EDL Shares should contact the Registry on 1300 657 159 (within Australia) or +61 1300 657 159 (outside Australia) Monday to Friday between 8.30am and 7.30pm (Sydney time) with any queries regarding the number of EDL Shares held, how to vote and lodgement of proxy forms.

**COURT APPROVAL**

If the Scheme Resolution is approved at the Scheme Meeting by the Requisite Majorities, the implementation of the Scheme (with or without modification) will be subject, among other things, to the subsequent approval of the Court.

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# **ATTACHMENT B**

## **SCHEME IMPLEMENTATION DEED**

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## **Scheme implementation deed**

A.C.N. 607 005 685 Pty Limited (to be renamed DUET EDL Pty Limited)

DUET Company Limited

Energy Developments Limited

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## Parties

- 1 **A.C.N. 607 005 685 Pty Limited (to be renamed DUET EDL Pty Limited) (ACN 607 005 685)** of Level 15, 55 Hunter Street, Sydney, New South Wales 2000 (**Bidder**)
  - 2 **DUET Company Limited (ACN 163 100 061)** of Level 15, 55 Hunter Street, Sydney, New South Wales 2000 (**Bidder's Guarantor**)
  - 3 **Energy Developments Limited ACN 053 410 263** of Building 17, 2404 Logan Road, Eight Mile Plains, Queensland 4113 (**EDL**)
- 

## Background

- A EDL has agreed to propose a members' scheme of arrangement under Part 5.1 of the Corporations Act pursuant to which Bidder will acquire all of the Scheme Shares.
- B The parties have agreed to implement the Scheme on and subject to the terms of this deed.
- C Bidder's Guarantor has agreed to guarantee the Bidder's obligations under this deed.

### **The parties agree**

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## 1 Defined terms and interpretation

### 1.1 Defined terms

A term or expression starting with a capital letter which is defined in the dictionary in Schedule 1 has the meaning given to it in the dictionary.

### 1.2 Interpretation

The interpretation clause in Schedule 1 sets out rules of interpretation for this deed.

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## 2 Agreement to proceed with Transaction

- (a) EDL agrees to propose the Scheme on and subject to the terms of this deed.
  - (b) Bidder agrees to assist EDL in proposing the Scheme on and subject to the terms of this deed.
- 

## 3 Conditions precedent

### 3.1 Conditions precedent

Subject to this clause 3, the Scheme will not become Effective until and unless each of the following conditions precedent is satisfied or waived in accordance with clause 3.3.

- (a) **(US CFIUS)** Before 5:00pm Sydney time on the Business Day before the Second Court Date, the parties shall have obtained from CFIUS the CFIUS Clearance.
- (b) **(Court approval)** The Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act.
- (c) **(Shareholder approval)** EDL Shareholders agree to the Scheme at the Scheme Meeting by the requisite majorities under section 411(4)(a) of the Corporations Act.
- (d) **(Restraints)** Before and as at 8:00am Sydney time on the Second Court Date:
  - (i) there is not in effect any temporary restraining order, preliminary or permanent injunction, decision, decree or other order issued by any court of competent jurisdiction or by any Government Agency, nor is there in effect any other legal restraint or prohibition; and
  - (ii) no action or investigation is announced or commenced by any Government Agency,

which restrains, prohibits or otherwise materially adversely impedes or impacts upon (or could reasonably be expected to restrain, prohibit or otherwise materially adversely impede or impact upon) the completion of the Transaction.
- (e) **(EDL Material Adverse Change)** No EDL Material Adverse Change occurs between the date of this deed and 8:00am Sydney time on the Second Court Date.
- (f) **(EDL Prescribed Occurrence)** No EDL Prescribed Occurrence occurs between the date of this deed and 8:00am Sydney time on the Second Court Date.
- (g) **(Key Contracts)** Before 5:00pm Sydney time on the Business Day before the Second Court Date, EDL or Bidder has not received notification from any person who is entitled to exercise any right under any provision of each of the Key Contracts as a result of the announcement or implementation of the Scheme, of that person's intention to refuse consent or of that person's decision to refuse consent to the change in control of EDL or to otherwise exercise any right to terminate the Key Contract as a result of the change in control of EDL, which occurs as a result of the Scheme.
- (h) **(Treatment of Options and Performance Rights)** Before 8:00am Sydney time on the Second Court Date, all Cancellation Deeds and Confirmation Deeds have been entered into in accordance with clause 4.3.

### 3.2 Reasonable endeavours

- (a) EDL must use reasonable endeavours to procure that the conditions precedent in clauses 3.1(e) and 3.1(f) are satisfied.
- (b) The parties must each use reasonable endeavours to procure that:
  - (i) the conditions precedent in clauses 3.1(a), 3.1(b), 3.1(c), 3.1(d), 3.1(g) and 3.1(h) are satisfied; and
  - (ii) there is no occurrence or non-occurrence within the control of such party that prevents, or would be reasonably likely to prevent, the satisfaction of any condition precedent.

- (c) Without limiting clause 3.2(b), each party must keep the other party informed of the progress towards satisfaction of the conditions precedent.
- (d) As soon as practicable and in any event no later than three Business Days after the date of this deed, EDL and Bidder shall cooperate with respect to the preparation and submission of a voluntary notice and any requested supplemental information (collectively, the **Voluntary Notice**) to the Committee on Foreign Investment in the United States (**CFIUS**) under Section 721 of Title VII of the Defense Production Act of 1950, as amended (50 U.S.C. App. § 2170 et seq.), with regard to the transactions contemplated by this deed. The parties shall promptly provide each other with all information necessary to complete preparation and submission of the Voluntary Notice and respond to any inquiries from CFIUS that there are no issues of national security sufficient to warrant further review or investigation of the transactions contemplated hereby (the **CFIUS Clearance**). Without limiting the foregoing, the requirement of Bidder to use its reasonable endeavours to obtain the CFIUS Clearance on or before the Second Court Date shall include negotiating and entering into one or more mitigation agreements with a federal Government Agency.
- (e) Without limiting clause 3.2(b), in respect of the condition precedent in clause 3.1(g):
  - (i) as soon as practicable after the date of this deed, EDL and Bidder must use reasonable endeavours to agree a course of action (including the form of any written correspondence) on seeking to satisfy the condition precedent;
  - (ii) EDL must take all reasonable action necessary to obtain the relevant waivers and consents as expeditiously as possible, including by promptly providing any information reasonably required by any counterparty to a Key Contract; and
  - (iii) the Bidder must cooperate with, and provide all reasonable assistance to, EDL to obtain the relevant waivers and consents as expeditiously as possible, including by promptly providing any information reasonably required by any counterparty to a Key Contract.

### 3.3 Waiver of conditions precedent

- (a) The conditions precedent in clauses 3.1(b) and 3.1(c) cannot be waived.
- (b) The condition precedent in clause 3.1(d) is for the benefit of EDL and Bidder and any breach or non-fulfilment of that condition precedent may only be waived with the written consent of both EDL and Bidder (not to be unreasonably withheld).
- (c) The conditions precedent in clauses 3.1(a), 3.1(e), 3.1(f), 3.1(g) and 3.1(h) are for the sole benefit of Bidder and any breach or non-fulfilment of any of these conditions precedent may only be waived with the written consent of Bidder, which Bidder may give or withhold in its absolute discretion.
- (d) If a party waives the breach or non-fulfilment of a condition precedent, such waiver will not prevent that party from suing the other party for any breach of this deed that resulted in the breach or non-fulfilment of the condition precedent.
- (e) Waiver of breach or non-fulfilment of a condition precedent does not constitute:
  - (i) a waiver of breach or non-fulfilment of any other condition precedent resulting from the same event; or



- (ii) a waiver of breach or non-fulfilment of that condition precedent resulting from any other event.

### 3.4 Termination on failure of condition precedent

- (a) If:
  - (i) there is a breach or non-fulfilment of a condition precedent and:
    - (A) the breach or non-fulfilment is not waived in accordance with clause 3.3 or cannot be waived because of clause 3.3(a); or
    - (B) each party having the benefit of that condition precedent confirms in writing to the other party that it will not waive the breach or non-fulfilment in accordance with clause 3.3; or
  - (ii) a condition precedent becomes incapable of satisfaction and:
    - (A) the breach or non-fulfilment of that condition precedent that has occurred or would otherwise occur is not (or cannot be) waived in accordance with clause 3.3; or
    - (B) each party having the benefit of that condition precedent confirmed in writing to the other party that it will not waive the breach or non-fulfilment of that condition precedent that has occurred or would otherwise occur in accordance with clause 3.3; or
  - (iii) the Scheme has not become Effective by the End Date,

then either party may give the other party written notice (**Consultation Notice**) within 10 Business Days after the relevant event (**Termination Event**). The parties must then consult in good faith with a view to determining whether they can reach agreement with respect to:

- (iv) an extension of the time for satisfaction of the relevant condition precedent or an extension of the End Date (as the case may be); or
- (v) the Transaction proceeding by way of alternative means or methods.

If the parties are not able to reach such agreement within 10 Business Days after a Consultation Notice is given, or if a Consultation Notice is not given within 10 Business Days after a Termination Event, either party (in this clause 3.4, the **Terminating Party**) may terminate this deed by giving written notice (**Termination Notice**) to the other party provided that:

- (vi) if the basis upon which the Terminating Party is seeking to terminate this deed is the occurrence of an event described in clause 3.4(a)(i) or 3.4(a)(ii), the Terminating Party has the benefit of the relevant condition precedent or the condition precedent is one referred to in clause 3.3(a); and
- (vii) there has been no failure by the Terminating Party to comply with its obligations under this deed, where that failure directly and materially contributed to the circumstances forming the basis upon which the Consultation Notice was given.

Where a notice is validly given under clause 3.4(a), this deed will terminate with immediate effect and clause 12.5 shall apply.

### 3.5 Certain notices

Each party must promptly notify the other party in writing if:

- (a) a condition precedent has been satisfied, in which case that party must comply with any reasonable request for evidence of such satisfaction made by the other party;
- (b) there is a breach or non-fulfilment of a condition precedent; or
- (c) it becomes aware of any fact, matter or circumstance that has resulted, will result or is reasonably likely to result in:
  - (i) a condition precedent becoming incapable of satisfaction or otherwise not being satisfied in accordance with its terms; or
  - (ii) a material breach of this deed by that party.

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## 4 Transaction steps

### 4.1 Scheme

- (a) EDL agrees to propose the Scheme on and subject to the terms of this deed.
- (b) EDL must not consent to any modification of, or amendment to, the Scheme by the Court, or to the making or imposition by the Court of any condition in respect of the Scheme, without the prior written consent of Bidder (not to be unreasonably withheld).

### 4.2 Scheme Consideration

- (a) Under the Scheme, each Scheme Shareholder will be entitled to receive the Scheme Consideration in respect of each Scheme Share held by that Scheme Shareholder.
- (b) Bidder covenants in favour of EDL (in its own right and separately as trustee for each Scheme Shareholder) that, in consideration of the transfer to Bidder of all the Scheme Shares, it will:
  - (i) accept that transfer; and
  - (ii) provide, or procure the provision of, the Scheme Consideration to each such Scheme Shareholder by depositing, or procuring the deposit of, the Aggregate Scheme Consideration,in each case in accordance with the terms of the Scheme.
- (c) Where the calculation of the Scheme Consideration to be provided to a particular Scheme Shareholder would result in the Scheme Shareholder becoming entitled to a fraction of a cent, the fractional entitlement will be rounded up to the nearest whole cent.

### 4.3 Treatment of Options and Performance Rights

- (a) EDL must use its reasonable endeavours to, before 8:00am Sydney time on the Second Court Date:
- (i) procure that binding deeds are entered into:
    - (A) between EDL and each holder of Options; and
    - (B) between EDL and each holder of Performance Rights (other than the Performance Rights which are TSR PRs and ROE PRs),

to cancel all Options and Performance Rights (other than the Performance Rights which are TSR PRs and ROE PRs) upon, or prior to, implementation of the Scheme for consideration, and to waive any right they have or may have to participate in any incentive plan which provides for the issue of options or performance rights or to receive any incentive in the form of equity, and otherwise on such terms agreed between EDL and Bidder prior to the entry into this deed (or as may otherwise be agreed between EDL and the Bidder) (together, the **Cancellation Deeds**), such cancellations to be subject only to:

    - (C) the Scheme becoming Effective; and
    - (D) either:
      - (1) the ASX granting a waiver from ASX Listing Rule 6.23, and any conditions to such waiver being satisfied or waived by ASX; or
      - (2) EDL Shareholders giving any necessary approvals under ASX Listing Rule 6.23; and
  - (ii) use all reasonable endeavours to ensure that clause 4.3(a)(i)(D) is satisfied before 8:00am on the Second Court Date.
- (b) No Cancellation Deed can be amended or terminated without Bidder's prior written consent (acting reasonably).
- (c) If required by EDL, Bidder must provide EDL with sufficient funds to pay, or at the direction of EDL pay, to any holder of Options or Performance Rights any consideration that, under the terms of their Cancellation Deed, is to be paid upon implementation of the Scheme.
- (d) EDL must use its reasonable endeavours to, before 8:00am on the Second Court Date, procure that binding deeds are entered into between:
- (i) EDL and each holder of a TSR PR Performance Right; and
  - (ii) EDL and each holder of an ROE PR Performance Right,
- which contains a mutual acknowledgement and confirmation that the TSR PR Performance Rights and ROE PR Performance Rights will lapse and be extinguished for nil consideration upon implementation of the Scheme (the **Confirmation Deeds**).

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## 5 Implementation

### 5.1 EDL obligations

EDL must, acting at all times in good faith, take all steps reasonably necessary to implement the Scheme in accordance with the Timetable and otherwise as soon as practicable and on and subject to the terms of this deed. Without limiting the foregoing, EDL must (to the fullest extent applicable):

- (a) **(Independent Expert)** appoint the Independent Expert and provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report (and any update or variation to that report);
- (b) **(promotion of Transaction)** provide all reasonable co-operation in the promotion of the Transaction to EDL Shareholders, including procuring that senior EDL Group employees meet with key EDL Shareholders and communicate with employees, customers and suppliers in a manner which is supportive of the Scheme;
- (c) **(preparation of Scheme Booklet)**
  - (i) prepare the Scheme Booklet (other than the Bidder Information and the Independent Expert's Report) in accordance with all applicable laws (including the Corporations Act and Corporations Regulations), RG 60 and the Listing Rules; and
  - (ii) provide Bidder with drafts of the Scheme Booklet and a near-final draft of the factual sections of the Independent Expert's Report and, acting reasonably and in good faith, take into account all reasonable comments from Bidder and its Representatives on those drafts, where such comments are provided in a timely manner;
- (d) **(lodgement of Regulator's Draft)**
  - (i) no later than 14 days before the First Court Date, provide an advanced draft of the Scheme Booklet (**Regulator's Draft**) to ASIC for its review for the purposes of section 411(2) of the Corporations Act and provide a copy of the Regulator's Draft to Bidder immediately thereafter; and
  - (ii) keep Bidder informed of any material issues raised by ASIC in relation to the Regulator's Draft and consult with Bidder in good faith as to how any such issues should be addressed (provided that, where such issues relate to Bidder Information, EDL must not take any steps to address them without Bidder's prior written consent not to be unreasonably withheld);
- (e) **(no objection statement)** apply to ASIC for a statement under section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (f) **(First Court Hearing)** apply to the Court for orders under section 411(1) of the Corporations Act directing EDL to convene the Scheme Meeting;
- (g) **(due diligence and verification)** undertake appropriate due diligence and verification processes in relation to the EDL Information;

- (h) **(approval and registration of Scheme Booklet)**
- (i) procure that a meeting of the EDL Board is convened to approve the Scheme Booklet for registration with ASIC and despatch to EDL Shareholders; and
  - (ii) after receipt from Bidder of the written confirmation referred to in clause 5.2(f), request that, in accordance with section 412(6) of the Corporations Act, ASIC register the Scheme Booklet;
- (i) **(Scheme Meeting)** as soon as reasonably practicable following registration of the Scheme Booklet by ASIC, despatch the Scheme Booklet to EDL Shareholders, and convene and hold the Scheme Meeting in accordance with the orders made by the Court at the First Court Hearing;
- (j) **(supplementary disclosure)** if, after despatch of the Scheme Booklet, it becomes aware:
- (i) that information included in the Scheme Booklet is or has become misleading or deceptive in any material respect (whether by omission or otherwise); or
  - (ii) of information that is required to be disclosed to EDL Shareholders under any applicable law and RG 60 but was not included in the Scheme Booklet,
- promptly consult with Bidder in good faith as to the need for, and form of, any supplementary disclosure to EDL Shareholders, and make any such disclosure that it considers reasonably necessary in the circumstances, having regard to applicable laws and RG 60;
- (k) **(conditions precedent certificate)** at the Second Court Hearing, provide to the Court (through its counsel):
- (i) a certificate confirming (in respect of matters within its knowledge) whether or not the conditions precedent (other than the condition precedent in clause 3.1(b)) have been satisfied or waived in accordance with clause 3, a draft of which certificate must be provided to Bidder by 5:00pm Sydney time on the Business Day prior to the Second Court Date; and
  - (ii) any certificate provided to it by Bidder pursuant to clause 5.2(h);
- (l) **(Second Court Hearing)** subject to the conditions precedent (other than the condition precedent in clause 3.1(b)) being satisfied or waived in accordance with clause 3, apply to the Court for orders under section 411(4)(b) of the Corporations Act approving the Scheme;
- (m) **(Court Documents)** prepare the Court Documents, provide drafts of those documents to Bidder and, acting reasonably and in good faith, take into account all reasonable comments from Bidder and its Representatives on those drafts, where such comments are provided in a timely manner;
- (n) **(Bidder representation at Court Hearings)** allow, and not oppose, any application by Bidder for leave of the Court to be represented by counsel at a Court Hearing;
- (o) **(lodgement of Court order)** for the purposes of section 411(10) of the Corporations Act, lodge with ASIC an office copy of orders made by the Court

under section 411(4)(b) of the Corporations Act approving the Scheme before 5:00pm Sydney time on the Business Day following the day on which it receives such office copy;

- (p) **(quotation of EDL Shares and ASX listing)** apply to ASX to have:
- (i) trading in EDL Shares suspended from the close of trading on the Effective Date; and
  - (ii) EDL removed from the official list of ASX, and quotation of EDL Shares on the ASX terminated, with effect on and from the close of trading on the Trading Day immediately following, or shortly after, the Implementation Date,
- and not do anything to cause any of these things to happen before the date specified in this clause 5.1(p);
- (q) **(information)** provide Bidder with such information, including a copy of the EDL Share Register, as Bidder requests in each case in a form requested by Bidder for the purpose of soliciting votes in favour of the Scheme;
- (r) **(compliance with laws)** do everything reasonably within its power to ensure that the Transaction is effected in accordance with all applicable laws, regulations and policy; and
- (s) **(implementation)** if the Scheme becomes Effective, do all things contemplated of it under the Scheme and all other things (if any) necessary to lawfully give effect to the Scheme.

## 5.2 Bidder obligations

Bidder must, acting at all times in good faith, take all steps reasonably necessary to implement the Scheme in accordance with the Timetable and otherwise as soon as practicable and on and subject to the terms of this deed. Without limiting the foregoing, Bidder must (to the fullest extent applicable):

- (a) **(prepare Bidder Information)**
- (i) as soon as reasonably practicable after the date of this deed, prepare the Bidder Information for inclusion in the Scheme Booklet in accordance with all applicable laws (including the Corporations Act and Corporations Regulations), RG 60 and the Listing Rules; and
  - (ii) provide EDL with drafts of the Bidder Information in a timely manner and, acting reasonably and in good faith, take into account all reasonable comments from EDL and its Representatives on those drafts, where such comments are provided in a timely manner;
- (b) **(review of Scheme Booklet)** review the drafts of the Scheme Booklet prepared by EDL and provide comments in a timely manner on those drafts in good faith;
- (c) **(assistance)** provide any assistance or information reasonably requested by EDL or its Representatives in connection with the preparation of the Scheme Booklet (including any supplementary disclosure to EDL Shareholders) or any Court Documents or otherwise in connection with implementation of the Transaction;
- (d) **(Independent Expert's Report)** provide any assistance or information reasonably requested by EDL or its Representatives, or by the Independent Expert directly, in

connection with the preparation of the Independent Expert's Report (and any update or variation to that report);

- (e) **(due diligence and verification)** undertake appropriate due diligence and verification processes in relation to the Bidder Information, and, once such processes have been completed, provide written confirmation to EDL of the completion of such processes;
- (f) **(confirmation of Bidder Information)** promptly after EDL requests that it do so, confirm in writing to EDL that:
  - (i) it consents to the inclusion of the Bidder Information in the Scheme Booklet, in the form and context in which it appears; and
  - (ii) the Bidder Information, in that form and context, is not misleading or deceptive in any material respect (whether by omission or otherwise);
- (g) **(update Bidder Information)** promptly advise EDL in writing if it becomes aware:
  - (i) of information which should have been included in any Bidder Information previously provided to EDL (including if known at the time); or
  - (ii) that any Bidder Information previously provided to EDL is misleading or deceptive in any material respect (whether by omission or otherwise), and promptly provide EDL with any information required to correct the misleading or deceptive statements;
- (h) **(conditions precedent certificate)** before 8:00am Sydney time on the Second Court Date, provide to EDL for provision to the Court at the Second Court Hearing a certificate confirming (in respect of matters within its knowledge) whether or not the conditions precedent (other than the condition precedent in clause 3.1(b)) have been satisfied or waived in accordance with clause 3, a draft of which certificate must be provided to EDL by 5:00pm Sydney time on the Business Day prior to the Second Court Date;
- (i) **(representation at Court)** ensure that it is represented by counsel at the First and Second Court Hearing and give such undertakings (if any) to the Court (through its counsel) as are reasonably necessary and within its power to ensure the Court makes an order under section 411(4)(b) of the Corporations Act approving the Scheme;
- (j) **(Scheme Consideration)** if the Scheme becomes Effective, provide or procure the provision of the Scheme Consideration in the manner and in the amount contemplated by clause 4 of this deed, the terms of the Scheme and the Deed Poll (and EDL holds this promise on trust for EDL Shareholders);
- (k) **(share transfer)** if the Scheme becomes Effective, accept a transfer of the Scheme Shares as contemplated by clause 4.2(b) and execute instruments of transfer in respect of the Scheme Shares;
- (l) **(Deed Poll)** before 5:00pm Sydney time on the Business Day prior to the First Court Date, enter into the Deed Poll and deliver it to EDL and, if the Scheme becomes Effective, fully comply with its obligations under the Deed Poll; and
- (m) **(compliance with laws)** do everything reasonably within its power to ensure that the Transaction is effected in accordance with all applicable laws, regulations and policy.

### 5.3 Bidder's Guarantor obligations

Before 5:00pm Sydney time on the Business Day prior to the First Court Date, Bidder's Guarantor will enter into the Deed Poll and deliver it to EDL and, if the Scheme becomes Effective, comply with its obligations under the Deed Poll.

### 5.4 Scheme Booklet

- (a) If the parties are unable to agree on the form or content of a particular part of the Scheme Booklet, then:
  - (i) if the relevant part of the Scheme Booklet is Bidder Information, EDL will make such amendments to that part of the Scheme Booklet as required by Bidder (acting reasonably and in good faith); and
  - (ii) if the relevant part of the Scheme Booklet is EDL Information, EDL (acting reasonably and in good faith) will decide the form and content of that part of the Scheme Booklet.
- (b) The parties agree that the Scheme Booklet will contain a responsibility statement to the effect that:
  - (i) EDL is responsible for the EDL Information contained in the Scheme Booklet;
  - (ii) Bidder is responsible for the Bidder Information contained in the Scheme Booklet; and
  - (iii) the Independent Expert has provided, and is responsible for, the Independent Expert's Report,and none of EDL, Bidder or their respective directors and officers assume any responsibility for the accuracy or completeness of the Independent Expert's Report.
- (c) Each party must undertake appropriate verification processes for the information supplied by that party for the Scheme Booklet.

### 5.5 Conduct of business

- (a) Subject to clauses 5.5(c) and 5.5(d), from the date of this deed up to and including the Implementation Date, EDL must:
  - (i) ensure that the business of the EDL Group is conducted:
    - (A) in the usual and ordinary course; and
    - (B) in a manner generally consistent with the manner in which such business has been conducted, and at the same locations in which such business has been conducted, in the 12 months prior to the date of this deed; and
    - (C) in accordance with all applicable laws in all material respects;
  - (ii) keep the Bidder informed and reasonably consider the Bidder's views about:
    - (A) material developments in the business of the EDL Group;



- (B) any significant discussions and correspondence between the EDL Group and Government Agencies;
  - (iii) promptly notify the Bidder if anything material occurs in respect of the conduct of the EDL Group's business and operations that is not in the usual and ordinary course;
  - (iv) make reasonable efforts to:
    - (A) preserve intact current business organisations;
    - (B) retain the services of the key management personnel of the EDL Group; and
    - (C) maintain and preserve the EDL Group's relationships with customers, suppliers, investors, Government Agencies, and others with whom it has business dealings;
    - (D) maintain its business, and assets, including maintaining at least its current level of insurance;
  - (v) ensure that no EDL Prescribed Occurrence occurs.
- (b) Without limiting clause 5.5(a), but except as specified in clause 5.5(c) and subject always to clause 5.5(d), from the date of this deed up to and including the Implementation Date, EDL must not, and must ensure that each of its Related Bodies Corporate do not:
- (i) **(acquisitions)** acquire, agree to acquire or offer to acquire one or more companies, entities, securities, businesses or assets including capital expenditure of a growth nature (or any interest in any of the foregoing), or any interest in any joint venture or partnership (other than such acquisitions, agreements or offers between EDL and one or more wholly-owned Subsidiaries of EDL, or between wholly-owned Subsidiaries of EDL), in any such case having a value or consideration of at least \$5 million individually or \$10 million when aggregated with all other such acquisitions, agreements or offers;
  - (ii) **(disposals)** dispose of, agree to dispose of or offer to dispose of (whether by way of sale, transfer, joint venture or otherwise) one or more companies, entities, securities, businesses or assets (or any interest in any of the foregoing), or any interest in any joint venture or partnership (other than such disposals, agreements or offers between EDL and one or more wholly-owned Subsidiaries of EDL, or between wholly-owned Subsidiaries of EDL), in any such case having a value or consideration of at least \$5 million, either individually or when aggregated with all other such disposals, agreements or offers;
  - (iii) **(capital expenditure, financial indebtedness and other liabilities)** incur or commit to, or bring forward the time for incurring or committing to, or grant to another person a right the exercise of which could be reasonably expected to involve or result in any member of the EDL Group incurring or committing to:
    - (A) any maintenance or 'stay in business' capital expenditure;
    - (B) any operating expenditure;

- (C) financial indebtedness (including borrowings, loans and advances);
- (D) liability (whether actual or contingent), excluding any liability incurred involuntarily; or
- (E) foregoing any revenue or income, excluding any revenue or income foregone involuntarily,

for one or more related items or amounts of in aggregate more than \$5 million;

(iv) **(new financing)** without limiting clause 5.5(b)(iii):

- (A) enter into any new financing arrangement or agreement or otherwise provide financial accommodation, or amend the pricing terms, leverage ratio or principal amount of any existing financing arrangement, agreement or instrument; or
- (B) announce, raise or attempt to raise or, to the extent it could reasonably be expected to jeopardise the prospects of a potential lender from entering into the Facilities referred to in clause 5.8(b), enter into discussions to raise, any other finance in the international or any relevant domestic syndicated loan market (including, but not limited to, any bilateral or syndicated facility, bond or note issuance or private placement);

(v) **(contracts)** vary or terminate any contract or commitment which:

- (A) is for a duration of over 1 year involving total expenditure, revenue or income greater than \$5 million individually or \$10 million when aggregated with all such contracts and commitments; or
- (B) would give rise to the EDL Group incurring or committing to any additional expenditure, additional liability or foregoing of revenue or income of, greater than:
  - (1) \$1,000,000 for any one-off, non-recurring expenditure, liability or foregoing of revenue or income; and
  - (2) \$500,000 on an annualised basis for any recurring expenditure, liability or foregoing of revenue or income,

but excluding any contract or commitment in respect of an action permitted under clauses 5.5(b)(i), 5.5(b)(ii), 5.5(b)(iii) or 5.5(b)(iv);

(vi) **(derivatives)** enter into any agreement, arrangement or transaction with respect to derivative instruments (including swaps, futures contracts, forward commitments, commodity derivatives or options) or similar instruments, except foreign currency hedges or interest rate hedges (including basis swaps on interest rates, such that the net period for the floating interest on the swaps is the same period as the net floating interest period on the relevant loan) made in the usual and ordinary course generally consistent with the practice in the 18 month period prior to the date of this deed;

(vii) **(new business lines)** enter into any lines of business or other activities in which the EDL Group is not engaged as at the date of this deed;

- (viii) **(compromises)** accept as a compromise of a matter less than the full compensation due to it or any other member(s) of the EDL Group where the compromise (when aggregated with all other such compromises) is more than \$1,000,000 or waives any material Third Party default where the financial impact upon the EDL Group (when aggregated with all other such waivers) would be in excess of \$1,000,000;
- (ix) **(settlement of litigation)** settle or offer to settle any legal proceedings, claim, investigation, arbitration or other like proceeding where the settlement amount payable by or to any entity within the EDL Group (when aggregated with all other such offers and settlements) exceeds \$500,000;
- (x) **(employees and directors)**
  - (A) enter into a new employment contract with a potential employee of an EDL Group entity (other than to replace an employee who has ceased to be an employee of an EDL Group entity);
  - (B) enter into a new employment contract or amend an employment contract with an existing employee of an EDL Group entity; or
  - (C) increase the remuneration or benefits of, or pay any bonus to, an existing director or employee of an EDL Group entity; or
  - (D) pay or agree to pay a director or employee of an EDL Group entity a termination or retention payment or benefit (including a 'golden parachute'),

other than:

- (E) in circumstances where the entry into a new employment contract, the amendment of an existing employment contract or the increase in remuneration or benefits relates to:
  - (1) filling a position marked as 'vacant' on the organisational chart in the EDL Disclosure Materials, which has been initialled by the parties' legal advisers for the purposes of identification;
  - (2) filling an existing position vacated due to a resignation;
  - (3) filling any temporary vacancy such as an employee on parental leave or leave of absence; or
  - (4) filling a new position, provided that the total employment costs for all individuals fillings new positions do not exceed \$1 million in aggregate;

(in respect of any employee who is not an 'executive') as part of any annual salary review conducted in the ordinary course so long as all increases from those salary reviews do not in aggregate exceed the Consumer Price Index. A reference to an 'executive' in this clause 5.5(b)(x) is a reference to the Managing Director and Chief Executive Officer of EDL and each employee who is a direct report to the Managing Director and Chief Executive Officer.

- (xi) **(incentives)** issue any securities, options or performance rights to any director or employee of an EDL Group entity;

- (xii) (actions impacting Scheme) do or cause to be done, or fail to do or cause not to be done, anything that would or may result in the Scheme not being implemented or being implemented otherwise than in accordance with the terms of this deed provided that this clause 5.5(b)(xiii) does not require a standard of conduct higher than that set out in clause 3.2 in respect of the satisfaction of the conditions precedent in clause 3.1; or
  - (xiii) authorise, commit or agree to do any of the matters set out above.
- (c) Subject always to clause 5.5(d), nothing in clause 5.5(a) or 5.5(b) restricts the ability of EDL to take any action which:
- (i) is expressly required or permitted by this deed or the Scheme;
  - (ii) has been consented to in writing by Bidder (not to be unreasonably withheld or delayed);
  - (iii) is in respect of a proposal that has been or is required pursuant to any existing contract, agreement or arrangement to which EDL or a member of the EDL Group is a party that has been:
    - (A) fairly disclosed to Bidder in the EDL Disclosure Materials; or
    - (B) in any announcement to or filing with ASX that is publicly available prior to the date of this deed, or in a document lodged by EDL with ASIC that is publicly available prior to the date of this deed,
 and which is not an action of a type described in clause 5.5(b)(iv);
  - (iv) satisfies the following requirements:
    - (A) the action is of a type described in clause 5.5(b)(i), 5.5(b)(ii), 5.5(b)(iii) or 5.5(b)(v);
    - (B) the action is taken in respect of a proposal that has been disclosed to Bidder in the Business Plan, other than that the relevant dollar amount, value or consideration for or relating to the action is not:
      - (1) in the case of an action taken in respect of a type described in clause 5.5(b)(i), 5.5(b)(iii) or 5.5(b)(v), more than \$2,500,000 higher than the dollar amount, value or consideration disclosed in the Business Plan; and
      - (2) in the case of an action taken in respect of a type described in clause 5.5(b)(ii), more than \$2,500,000 less than the dollar amount, value of consideration disclosed in the Business Plan;
  - (v) ensures that directors' and officers' run-off insurance cover for the directors and officers of EDL and each member of the EDL Group is maintained on terms and at such costs which are reasonable and standard for a company similar to EDL or a member of the EDL Group (as the case may be) for a period of 7 years from the resignation or retirement date of each such director and officer; or
  - (vi) any action as required by law or by any applicable governmental or other regulatory authority.

- (d) Notwithstanding anything in clauses 5.5(a), 5.5(b) and 5.5(c), EDL must not, and must ensure that each of its Related Bodies Corporate do not:
- (i) cause the EDL Group to incur (other than involuntarily) expenditure, indebtedness and liabilities or forego any revenue or income which in aggregate on a net basis results or would result in an adverse impact of more than \$10,000,000 (or such other amount agreed between the parties) on the aggregate of:
    - (A) consolidated earnings before interest, tax, depreciation and amortisation of the EDL Group in any financial year; and
    - (B) maintenance or 'stay in business' capital expenditure in any financial year,
 when compared to the Business Plan; or
  - (ii) take any action of a type described in clause 5.5(b)(i) (acquisitions) or 5.5(b)(ii) (disposals) which, when aggregated with all actions of all types described in those clauses and all actions referred to in clause 5.5(d)(i), results or would result in the EDL Group incurring expenditure, indebtedness and liabilities or foregoing any revenue or income which on a net basis results in an adverse difference of more than \$20,000,000 (or such other amount agreed between the parties) to the aggregate amount disclosed in the Business Plan for actions of the types described in clause 5.5(b)(i) (acquisitions), 5.5(b)(ii) (disposals) and clause 5.5(d)(i) on a net basis.
- (e) In the event of any inconsistency between clauses 5.5(a) and 5.5(b), clause 5.5(b) prevails.
- (f) In the event of any inconsistency between (on the one hand) clause 5.5(a), 5.5(b) or 5.5(c) and (on the other) clause 5.5(d), clause 5.5(d) prevails.
- (g) In this deed, unless the context requires otherwise, references to the business or assets of the EDL Group are to that business or those assets taken as a whole.

## 5.6 Access

Between the date of this deed and the Implementation Date (both dates inclusive), EDL must use reasonable endeavours to procure that Bidder is provided with reasonable access to information, premises and senior executives of any member of the EDL Group, where Bidder requests such access for the purposes of:

- (a) implementation of the Scheme;
- (b) obtaining an understanding, or furthering its understanding, of the EDL Group or its business, financial position, prospects, affairs or assets in order to allow Bidder to develop, finalise and implement its plans for the EDL Group following implementation of the Transaction; or
- (c) clause 5.8,

provided that compliance with any such request would not, in the reasonable opinion of EDL (acting in good faith), result in undue disruption to the EDL Group's business, and provided that nothing in this clause 5.6 shall require EDL to provide Bidder with any information:

- (d) in breach of an obligation of confidentiality to any person; or
- (e) concerning the consideration of the Transaction or any actual or potential Competing Proposal by the EDL Board (or a sub-committee of the board) or EDL management.

#### 5.7 Resignation of directors

Subject to the provision of the Scheme Consideration in accordance with clause 4.2, EDL must procure that, with effect on and from the Implementation Date:

- (a) those persons nominated by Bidder are appointed to the EDL Board and the boards of other members of the EDL Group, provided that:
  - (i) such persons sign consents to act as a director of the relevant member(s) of the EDL Group; and
  - (ii) such consents to act are provided to EDL before the Implementation Date; and
- (b) all EDL Directors and directors of other members of the EDL Group, resign as a director of the relevant member(s) of the EDL Group by notice in writing which acknowledges that each such individual has no outstanding claims against any EDL Group entity as at the date of the resignation.

#### 5.8 Assistance with proposed refinancing

- (a) EDL acknowledges that, if the Transaction is implemented, Bidder proposes to refinance the EDL Group's debt facilities and to the extent necessary, hedging arrangements and, to this end:
  - (i) Bidder has on or prior to the date of this deed entered into a commitment letter with National Australia Bank Limited and Westpac Banking Corporation (the **Mandated Lead Arrangers and Underwriters**) (the **Commitment Letter**);
  - (ii) Bidder has on or prior to the date of this deed agreed with the Mandated Lead Arrangers and Underwriters on a form of syndicated facility agreement (the **Facility Agreement**);
  - (iii) Bidder has on or prior to the date of this deed entered into with one or more of the Mandated Lead Arrangers and Underwriters a fee letter (the **Fee Letter**); and
  - (iv) Bidder has on or prior to the date of this deed provided EDL with a copy of the Commitment Letter, Facility Agreement and Fee Letter (together the **Commitment Documents**).
- (b) Subject to the proviso that applies to clause 5.6, between the date of this deed and the Implementation Date (both dates inclusive), EDL must give, and must procure that each other member of the EDL Group gives, any assistance which the Bidder or the Mandated Lead Arrangers and Underwriters reasonably request in relation to the refinancing of the EDL Group's debt facilities and hedging arrangements and the syndication of the Facilities (as defined in the Commitment Letter), including:
  - (i) the preparation by the Mandated Lead Arrangers and Underwriters, of a presentation containing all relevant information (including projections),

including information about the EDL Group and how the proceeds of the Facilities will be applied (the **Presentation**);

- (ii) providing any information reasonably requested by the Mandated Lead Arrangers and Underwriters or potential lenders in connection with syndication that is available to the EDL Group;
  - (iii) making available the senior management of the EDL Group to support the senior management of the Bidder for the purposes of giving presentations to, and participating in meetings with, potential lenders at such times and places as the Mandated Lead Arrangers and Underwriters may reasonably request;
  - (iv) using reasonable efforts to ensure that syndication of the Facilities benefits from the EDL Group's existing lending relationships; and
  - (v) procuring that the members of the EDL Group who are borrowers under the Facility Agreement, as soon as possible and in any event no later than 5 Business Days after the execution of this deed, sign and return to the Mandated Lead Arrangers, Underwriters and Bookrunners a letter in the form of Attachment D inviting each Mandated Lead Arranger, Underwriter and Bookrunner to be 'Syndicated Facility Lenders' under the Facility Agreement and authorising each Mandated Lead Arranger, Underwriter and Bookrunner to make invitations on their behalf to financial institutions to become 'Syndicated Facility Lenders' under the Facility Agreement.
- (c) All assistance given by the EDL Group pursuant to clause 5.8(b) shall be at the cost of Bidder and subject to the proviso that the EDL Group is not required to do anything which is against its reasonable commercial interests.
- (d) EDL must not, and must procure that each other member of EDL Group does not, without the prior written consent of Bidder, disclose the Commitment Documents or their contents to any person except:
- (i) as required by law or by any applicable governmental or other regulatory authority or by any applicable stock exchange;
  - (ii) to its employees or professional advisers for the purposes of the Transaction who have been made aware of and, in the case of professional advisers, who agree to be bound by the obligations under this paragraph or are in any event subject to confidentiality obligations as a matter of law or professional practice; or
  - (iii) to the extent required by this deed.

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## 6 Announcements

- (a) Immediately after execution of this deed, EDL must issue the EDL Announcement.
- (b) Subject to clauses 6(c) and 6(d), before making any public announcement in respect of the Transaction (whether through the ASX or otherwise), a party must provide the other party with a draft copy of such public announcement as soon as reasonably practicable before it is proposed that such public announcement is made, and, where the proposed public announcement relates or refers to the Transaction (or may have a material effect on the Transaction or any aspect of it), must give the other party a reasonable opportunity to comment on the form and

content of the draft announcement and must take into account all reasonable comments from that party and its Representatives on the draft.

- (c) A party will be required to comply with clause 6(b) only if and to the extent that compliance would not, in the reasonable opinion of that party, be likely to result in that party breaching its continuous disclosure or similar obligations.
- (d) Neither Bidder nor Bidder Guarantor is required to comply with clause 6(b) in respect of public announcements relating solely or principally to the equity raising announced by the Bidder Group on or about the date of this deed (including ASX Appendix 3B's, 'cleansing' statements, the retail entitlement offer booklet and announcements regarding the outcome of the equity raising or any part of it).

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## 7 Board support of Transaction

### 7.1 Confirmation of Recommendations and Voting Intentions

EDL represents and warrants to Bidder that each EDL Director has confirmed (by way of a unanimous resolution of the EDL Board) that:

- (a) his recommendation in respect of the Scheme is that EDL Shareholders vote in favour of the Scheme at the Scheme Meeting (**Recommendation**); and
- (b) he intends to vote, or cause to be voted all EDL Shares in which he has a Relevant Interest in favour of the Scheme at the Scheme Meeting (**Voting Intention**),

in each case in the absence of a Superior Proposal and subject to the Independent Expert concluding in the Independent Expert's Report (or any update or variation to that report) that the Scheme is in the best interests of EDL Shareholders.

### 7.2 Maintenance of Recommendation and Voting Intentions

- (a) EDL must use reasonable endeavours to procure that no EDL Director withdraws, changes or modifies his Recommendation, or his Voting Intention, unless:
  - (i) a Superior Proposal is made and the EDL Board does not make the determination set out in clause 8.7(a)(iii) (**Matching Right Determination**) after EDL has given a Matching Right Notice to Bidder; or
  - (ii) the Independent Expert concludes in the Independent Expert's Report (or any update or variation to that report) that the Scheme is not in the best interests of EDL Shareholders.
- (b) Subject to an EDL Director withdrawing, changing or modifying his Recommendation or Voting Intention following the occurrence of one of the events referred to in clause 7.2(a), EDL must ensure that:
  - (i) the Scheme Booklet includes statements to the effect that each EDL Director gives the Recommendation and has the Voting Intention; and
  - (ii) no public announcement by EDL includes a statement that is inconsistent with any EDL Director giving the Recommendation and having the Voting Intention.

For the purposes of this clause, customary qualifications and explanations contained in the Scheme Booklet in relation to a Recommendation to the effect that



the Recommendation is made in the absence of a Superior Proposal will not be regarded as a failure to make or the withdrawal of a Recommendation.

### 7.3 Bidder acknowledgement

Bidder acknowledges that without derogating from a party's rights or obligations under clause 9 or 12, if any of the events referred to in clause 7.2(a) occur, any EDL Director may withdraw, change or modify his Recommendation or Voting Intention.

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## 8 Exclusivity

### 8.1 Termination of existing discussions and return of information

- (a) On the date of this deed:
  - (i) EDL must, and must ensure that its Representatives, cease any discussions with any Third Party in relation to a potential Competing Proposal;
  - (ii) EDL must, and must ensure that its Representatives, cease the provision of any due diligence access and the making available of any non-public information in relation to the EDL Group to any Third Party, where the due diligence access and provision of non-public information was for the purposes of a potential Competing Proposal (a **Relevant Third Party**); and
  - (iii) EDL must require any Third Party to whom non-public information has been provided or made available to immediately return or destroy that non-public information in accordance with any agreed terms of confidentiality, where the non-public information was provided or made available for the purposes of a potential Competing Proposal.
- (b) EDL must fully enforce, and not waive any breach of, the terms of any confidentiality agreement with and any standstill obligations imposed on a Third Party (including a **Relevant Third Party**) as contemplated in clause 6(c) of the Confidentiality Deed.
- (c) In circumstances where, during the Exclusivity Period, EDL has provided due diligence access and made available non-public information to a Third Party in accordance with clause 8.6 and discussions between EDL (or its Representatives) with that Third Party have ceased or the EDL Board makes the Matching Right Determination, EDL must immediately require the Third Party to immediately return or destroy that non-public information.

### 8.2 No-shop

During the Exclusivity Period, EDL must not, and must ensure that its Representatives do not:

- (a) directly or indirectly solicit, initiate or invite enquiries, discussions or proposals in relation to, or which may reasonably be expected to lead to, a Competing Proposal; or
- (b) communicate to any person any intention to do any of the things referred to in clause 8.2(a).

Nothing in this clause 8.2 prevents EDL from continuing to make normal presentations to, and to respond to enquiries from, brokers, portfolio investors and analysts in the ordinary course in relation to the Scheme.

### **8.3 No-talk**

Subject always to clause 8.6 (but without limiting clause 8.1), during the Exclusivity Period, EDL must not, and must ensure that its Representatives do not:

- (a) directly or indirectly participate in any discussions or negotiations in relation to, or which may reasonably be expected to lead to, a Competing Proposal; or
- (b) disclose any non-public information about the business or affairs of EDL to a Third Party with a view to obtaining or which may reasonably be expected to lead to receipt of a Competing Proposal, other than in the ordinary course of business or as required by law; or
- (c) communicate to any person any intention to do any of the things referred to in clauses 8.3(a) or 8.3(b).

### **8.4 No due diligence**

Without limiting clause 8.3 but subject to clause 8.6, during the Exclusivity Period, EDL must not:

- (a) solicit, initiate, facilitate or encourage any party (other than Bidder or its Representatives) to undertake due diligence on EDL or any member of the EDL Group; or
- (b) make available to any other person (other than Bidder or its Representatives) or permit such person to receive any non-public information relating to EDL or any member of the EDL Group.

This clause 8.4 does not prevent EDL from providing information to ASX or EDL's auditors and advisers in the ordinary course of business or to otherwise effect the negotiation and entry into this deed.

### **8.5 Notification obligation**

Subject to clause 8.6, during the Exclusivity Period, EDL must notify Bidder in writing as soon as practicable and any event within 2 Business Days if EDL is approached, or if any of EDL's Representatives is approached, by any person in relation to a Competing Proposal, and such notice must set out the material details of the approach and the key terms of any Competing Proposal (such as, if specified, the consideration, timing, conditions and structure).

### **8.6 Fiduciary exception**

In respect of a bona fide Competing Proposal that is or may be received by, or become known to, EDL without any breach by EDL of its obligations under this clause 8, EDL may undertake any action (**prohibited action**) that would otherwise be prohibited by clause 8.3 or 8.4 or refrain from giving notice under clause 8.5, if (and only to the extent that) the EDL Board determines, acting in good faith and after obtaining legal advice, that not undertaking the prohibited action, or undertaking the required action, would be likely to result in a breach by an EDL Director of his fiduciary or statutory duties.

## 8.7 Matching right

- (a) Without limiting any other part of this clause 8.7, EDL must not enter into any agreement or arrangement in relation to or in connection with the implementation of a Competing Proposal (in this clause 8.7, a **Rival Proposal**) unless:
  - (i) the Rival Proposal is a Superior Proposal;
  - (ii) EDL has given Bidder written notice (**Matching Right Notice**) of the consideration, conditions, structure and other key terms of the Rival Proposal; and
  - (iii) Bidder does not, within 5 Business Days after receiving the Matching Right Notice, make a written proposal (**Bidder Proposal**) to EDL in respect of an improvement to the Scheme Consideration or an alternative transaction or arrangement that the EDL Board determines, acting in good faith, would result in an outcome more favourable or no less favourable for EDL Shareholders as would result from the Rival Proposal (assuming that both the Bidder Proposal and Rival Proposal would be implemented in accordance with their terms).
- (b) EDL must ensure that, as soon as practicable after:
  - (i) receipt of a Bidder Proposal, the EDL Board considers whether the Matching Right Determination can be made; and
  - (ii) the EDL Board has considered this matter, Bidder is notified of the EDL Board's decision in writing.
- (c) If the EDL Board makes the Matching Right Determination, Bidder and EDL must use reasonable endeavours to promptly agree such matters, and take such other steps, as are reasonably necessary to give effect to the Bidder Proposal (including entering into an amending deed in respect of amendments to this deed).

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## 9 Break Fee

### 9.1 Background

This clause 9 has been agreed to in circumstances where:

- (a) each party believes it and its shareholders will derive significant benefits from the implementation of the Scheme;
- (b) Bidder has incurred and will further incur, significant costs in connection with the Scheme, which will include significant opportunity costs if the Scheme is not implemented;
- (c) Bidder has requested that provision be made for the payment of the Break Fee by EDL, and would not have entered into this deed had such provision not been made;
- (d) EDL believes that it is appropriate to agree to pay a Break Fee to secure Bidder's entry into this deed; and
- (e) each party has received separate legal advice in relation to this deed and the operation of this clause 9.

The parties acknowledge and agree that the costs referred to in clause 9.1(b) are of such a nature that they cannot be precisely quantified, but that the Break Fee is a genuine and reasonable pre-estimate of those costs.

## **9.2 Payment of Break Fee by EDL**

Subject to clauses 9.3, 9.5, 9.6 and 9.7, EDL must pay Bidder the Break Fee, without set-off or withholding and within 5 Business Days after receipt of a written demand from Bidder, if the Scheme does not proceed because:

- (a) at any time before the end of the Exclusivity Period, a Competing Proposal is made or announced by a Third Party, and, within 12 months thereafter:
  - (i) a Competing Proposal by the Third Party or any associate of the Third Party of the kind referred to in either of paragraphs (b) or (c) of the definition of Competing Proposal is completed, implemented or consummated; or
  - (ii) the Third Party or an associate of the Third Party acquires Control of, or merges with, EDL;
- (b) Bidder becomes entitled to terminate this deed under clause 12.1(b); or
- (c) any EDL Director publicly withdraws or adversely changes his or her Recommendation or Voting Intention, other than:
  - (i) where the Independent Expert concludes in the Independent Expert's Report (or any update or variation to that report) that the Scheme is not in the best interests of EDL Shareholders, other than where the reason for that conclusion is a Competing Proposal; or
  - (ii) in circumstances where EDL is entitled to terminate this deed under clause 12.1(a) or 12.1(b).

## **9.3 Payment conditions**

- (a) Notwithstanding the occurrence of any event referred to in clause 9.2, the Break Fee will not be payable under the relevant clause if the Scheme becomes Effective.
- (b) EDL can only ever be liable to pay a Break Fee once.

## **9.4 Nature of payment**

The Break Fee is an amount to compensate Bidder for the following costs and expenses:

- (a) external advisory costs (excluding success fees);
- (b) internal costs such as costs of management and directors' time, risk management costs and capital costs;
- (c) out-of-pocket expenses; and
- (d) opportunity costs incurred in pursuing the Transaction or in not pursuing other alternative acquisitions or strategic initiatives which otherwise could have been developed or pursued.

## 9.5 Compliance with law

This clause 9 imposes obligations on EDL only to the extent that the performance of all or part of those obligations:

- (a) does not constitute unacceptable circumstances as declared by the Takeovers Panel;
- (b) does not breach the fiduciary or statutory duties of any EDL Director; and
- (c) is not otherwise unlawful or held to be unenforceable by a court.

If the Break Fee is paid to Bidder and clause 9.5(a), 9.5(b) or 9.5(c) applies, Bidder must refund the relevant part of the Break Fee (if any) to EDL within 10 Business Days after receipt of a written demand from EDL.

## 9.6 Other claims

The maximum aggregate amount which EDL is required to pay in relation to a breach of this deed (including in respect of a breach or representation and warranty, but excluding wilful or intentional breaches of this deed by EDL) is an amount equal to the Break Fee and in no event, except with respect to wilful or intentional breaches of this deed by EDL, will the aggregate liability of EDL under or in connection with a breach of this deed exceed an amount equal to the Break Fee.

## 9.7 Exclusive remedy

Notwithstanding any other provision under this deed, where the Break Fee becomes payable to Bidder under this deed (or would be payable if a demand were made), Bidder cannot make any claim against EDL in relation to any event or occurrence referred to in clause 9.2(a) or for any material breach referred to in clause 12.1 (but excluding wilful or intentional breach).

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# 10 Representations and Warranties

## 10.1 Bidder and Bidder's Guarantor Representations and Warranties

Bidder represents and warrants, and Bidder's Guarantor jointly and severally represents and warrants where applicable in respect of Bidder's Guarantor as well as Bidder, to EDL that:

- (a) **(validly existing)** it is a validly existing corporation registered under the laws of its place of incorporation;
- (b) **(power)** it has full corporate power and lawful authority to execute, deliver and perform this deed and the Deed Poll;
- (c) **(corporate action)** it has taken all necessary corporate action to authorise the entry into this deed and has taken or will take all necessary corporate action to authorise the performance of this deed and the Deed Poll;
- (d) **(binding)** this deed constitutes legal, valid and binding obligations on it, enforceable in accordance with its terms;

- (e) **(performance)** the execution and performance by it of this deed and each transaction contemplated by this deed did not and will not violate or breach any provision of:
  - (i) an agreement, law or treaty or a judgment, ruling, order or decree binding on it; or
  - (ii) its constitution;
- (f) **(Bidder Information)** the Bidder Information included in the Scheme Booklet with its consent pursuant to clause 5.2(f)(i), and any other information pursuant to clause 5.2(g), will be provided and will not be misleading or deceptive in any material respect (whether by omission or otherwise) and will comply in all material respects with applicable laws (including the Corporations Act and Corporations Regulations), RG 60 and the Listing Rules and all information provided by or on behalf of the Bidder to the Independent Expert will be provided in good faith and on the understanding that the Independent Expert will rely on that information;
- (g) **(financing)** Bidder has:
  - (i) as at the date of this deed, legally binding financing arrangements; and
  - (ii) as at 8:00am Sydney time on the Second Court Date, sufficient funds available,  
  
to fund the Scheme Consideration in accordance with Bidder's obligations under this deed and the Deed Poll; and
- (h) **(insolvency)** neither the Bidder or Bidder Guarantor is the subject of an Insolvency Event.

## 10.2 Bidder's indemnity

Bidder agrees, and Bidder's Guarantor jointly and severally agrees, with EDL (in its own right and separately as trustee or nominee for each of the other EDL Indemnified Parties) to indemnify EDL and each of the EDL Indemnified Parties against any claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising that EDL or any of the other EDL Indemnified Parties suffers, incurs or is liable for arising out of:

- (a) any breach of any of the Bidder Representations and Warranties; and
- (b) any assistance given by the EDL Group pursuant to clause 5.8(b).

## 10.3 EDL Representations and Warranties

EDL represents and warrants to Bidder that:

- (a) **(validly existing)** it is a validly existing corporation registered under the laws of its place of incorporation;
- (b) **(power)** it has full corporate power and lawful authority to execute, deliver and perform this deed and the Scheme;
- (c) **(corporate action)** it has taken all necessary corporate action to authorise the entry into this deed and has taken or will take all necessary corporate action to authorise the performance of this deed and the Scheme;

- (d) **(binding)** this deed is its valid and binding obligation enforceable in accordance with its terms;
- (e) **(solvency)** it is solvent and no resolutions have been passed nor has any other step been taken or legal proceedings commenced or threatened against it for its winding up, dissolution or termination or for the appointment of a liquidator, receiver, administrator or similar officer over any or all of its assets;
- (f) **(performance)** the execution and performance by it of this deed and each transaction contemplated by this deed did not and will not violate or breach any provision of:
  - (i) an agreement, law or treaty or a judgment, ruling, order or decree binding on it; or
  - (ii) its constitution;
- (g) **(capital structure)** its capital structure is as set out in Schedule 2 and, subject to clause 4.3, no member of the EDL Group has issued or agreed to issue any other securities, options, performance rights or instruments which are still outstanding (or become outstanding) and may convert into EDL Shares;
- (h) **(EDL Information)** the EDL Information included in the Scheme Booklet despatched to EDL Shareholders, and any supplementary disclosure made to EDL Shareholders pursuant to clause 5.1(j) (excluding any information provided by Bidder), will not be misleading or deceptive in any material respect (whether by omission or otherwise) and will comply in all material respects with applicable laws (including the Corporations Act and Corporations Regulations), RG 60 and the Listing Rules and all information provided by or on behalf of the Bidder to the Independent Expert will be provided in good faith and on the understanding that the Independent Expert will rely on that information;
- (i) **(compliance)** so far as EDL is aware, each member of the EDL Group has complied in all material respects with all laws and regulations applicable to them and orders of any Government Agencies having jurisdiction over them and have all material licences, authorisations and permits necessary for them to conduct the business of the EDL Group as presently being conducted;
- (j) **(EDL Disclosure Materials)** the EDL Disclosure Materials were compiled and made available to Bidder and its Representatives in good faith and, so far as EDL is aware, the EDL Disclosure Materials are materially true and accurate and not materially misleading or deceptive, including by omission;
- (k) **(publicly available information)** EDL is not aware of any information in any document or announcement which EDL or any of its Related Bodies Corporate has lodged or filed with, or otherwise given to, any Government Agency (or which has been so lodged, filed or given on its behalf or on behalf of any of its Related Bodies Corporate), and which is publicly available or otherwise in the public domain, where such information is misleading or deceptive in any material respect (whether by omission or otherwise);
- (l) **(continuous disclosure)** it has complied in all material respects with its continuous disclosure obligations under Listing Rule 3.1 and, following release of the EDL Announcement, there will be no information which it is withholding from disclosure in reliance on Listing Rule 3.1A; and
- (m) **(insolvency)** no member of the EDL Group is the subject of an Insolvency Event.

#### **10.4 EDL's indemnity**

Subject to 9.6, EDL agrees with Bidder (in its own right and separately as trustee or nominee for each Bidder Indemnified Party) to indemnify Bidder and each of the Bidder Indemnified Parties against any claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising that Bidder or any of the other Bidder Indemnified Parties suffers, incurs or is liable for arising out of any breach of any of the EDL Representations and Warranties.

#### **10.5 Qualifications to Representations and Warranties**

- (a) The EDL Representations and Warranties are subject to matters which have been fairly disclosed in:
  - (i) the EDL Disclosure Materials;
  - (ii) any announcement to or filing with ASX that is publicly available prior to the date of this deed; or
  - (iii) a document lodged by EDL with ASIC that is publicly available prior to the date of this deed.
- (b) In respect of the matters in clause 10.5(a), Bidder agrees that there will be no breach of an EDL Representation and Warranty, and it will not have any claim against EDL or any EDL Indemnified Party, if and to the extent that such a matter would make an EDL Representation and Warranty untrue or incorrect or misleading or deceptive in any respect.

#### **10.6 Survival of Representations and Warranties**

Each Representation and Warranty:

- (a) is severable;
- (b) survives termination of this deed; and
- (c) is given with the intent that liability thereunder will not be confined to breaches which are discovered prior to the date of termination of this deed.

#### **10.7 Timing of Representations and Warranties**

- (a) Each Representation and Warranty is given at the date of this deed and again at 8:00am Sydney time on the Second Court Date, except that the EDL Representation and Warranty in clause 10.3(l) is only given at the date of this deed.
- (b) For the purposes of clause 10.7(a), a Representation and Warranty shall be read with any necessary adjustments to the tense used in the Representation and Warranty.



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## 11 Releases

### 11.1 Release of EDL Indemnified Parties

- (a) Subject to clause 11.1(b), Bidder releases any and all rights that it may have, and agrees with EDL that it will not make any claim, against any EDL Indemnified Party as at the date of this deed and from time to time in connection with:
- (i) any breach of any covenant, representation or warranty given by EDL or any EDL Indemnified Party under this deed;
  - (ii) any disclosures containing any statement which is false or misleading (whether by omission or otherwise);
  - (iii) any failure to provide information;
  - (iv) any assistance given by the EDL Group pursuant to clause 5.8(b); or
  - (v) any other conduct in connection with this deed or the Scheme or the transactions contemplated by it,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where the EDL Indemnified Party has not acted in good faith or has engaged in wilful misconduct or fraud. To avoid doubt, nothing in this clause 11.1(a) limits the rights of Bidder to terminate this deed under clause 12.

- (b) The release in clause 11.1(a) is subject to any restriction imposed by law and will be read down to the extent that any such restriction applies.
- (c) EDL receives and holds the benefit of clause 11.1(a) as trustee for each EDL Indemnified Party.

### 11.2 Release of Bidder Indemnified Parties

- (a) Subject to clause 11.2(b), EDL releases any and all rights that it may have, and agrees with Bidder that it will not make any claim, against any Bidder Indemnified Party as at the date of this deed and from time to time in connection with:
- (i) any breach of any covenant, representation or warranty given by Bidder or any Bidder Indemnified Party under this deed;
  - (ii) any disclosures containing any statement which is false or misleading (whether by omission or otherwise);
  - (iii) any failure to provide information; or
  - (iv) any other conduct in connection with this deed or in the Scheme or the transactions contemplated by it,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where the Bidder Indemnified Party has not acted in good faith or has engaged in wilful misconduct or fraud. To avoid doubt, nothing in this clause 11.2 limits the rights of EDL to terminate this deed under clause 12.

- (b) The release in clause 11.2(a) is subject to any restriction imposed by law and will be read down to the extent that any such restriction applies.
- (c) Bidder receives and holds the benefit of clause 11.2(a) as trustee for each Bidder Indemnified Party.

### 11.3 Deeds of indemnity and insurance

- (a) Subject to implementation of the Scheme and to clause 11.3(b), Bidder undertakes that it will:
  - (i) for a period of 7 years from the Implementation Date, ensure that the constitutions of EDL and the other members of the EDL Group continue to contain such rules as are contained in those constitutions at the date of this deed in respect of the indemnification of directors and officers; and
  - (ii) procure that EDL and each member of the EDL Group complies with and preserves the rights under any deeds of indemnity, access and insurance made by them in favour of their respective directors and officers from time to time; and
  - (iii) without limiting clause 11.3(a)(ii) and to the extent it is not already in existence, ensure that directors' and officers' run-off insurance cover for the directors and officers referred to in that clause is maintained for a period of 7 years from the resignation or retirement date of each such director and officer.
- (b) The undertaking in clause 11.3(a) is subject to any restriction imposed by law and will be read down to the extent that any such restriction applies.
- (c) To the extent that this clause 11.3 relates to an EDL Indemnified Party, EDL receives and holds the benefit of the clause as trustee for that EDL Indemnified Party.
- (d) The undertakings in clause 11.3(a) are given until the end of the relevant period specified in clause 11.3(a) or the relevant EDL Group Member ceasing to be part of the EDL Group.

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## 12 Termination

### 12.1 Termination by either party

- (a) Either party may terminate this deed in accordance with clause 3.4.
- (b) At any time before 8:00am Sydney time on the Second Court Date, either party may terminate this deed if the other party (**Defaulting Party**) commits a material breach of or is in material breach of this deed, provided that:
  - (i) it has given written notice to the other party setting out the relevant circumstances and stating an intention to terminate this deed; and
  - (ii) the relevant circumstances have continued to exist for 10 Business Days from the time such notice is given (or any shorter period ending at 5:00pm Sydney time on the Business Day before the Second Court Date).

- (c) Termination under clause 12.1(b) will be deemed to take effect at the expiry of the period referred to in clause 12.1(b)(ii).

## 12.2 Termination by Bidder

Bidder may terminate this deed, with immediate effect, at any time before 8:00am Sydney time on the Second Court Date by notice in writing to EDL if:

- (a) EDL materially breaches clause 8;
- (b) EDL commits a breach, or is in breach, of clause 5.5(d);
- (c) an EDL Prescribed Occurrence occurs which will have a materially adverse effect on the EDL Group;
- (d) there is an EDL Material Adverse Change;
- (e) any member of the EDL Group is the subject of an Insolvency Event;
- (f) any EDL Director publicly:
  - (i) withdraw or adversely changes his or her Recommendation or Voting Intention; or
  - (ii) recommends a Competing Proposal,in each case in any circumstances (including following the occurrence of one of the events referred to in clause 7.2(a)); or
- (g) in any circumstances (including where permitted by clause 8.7(a)), EDL enters into any agreement or arrangement in relation to the implementation of any Competing Proposal.

## 12.3 Termination by EDL

EDL may terminate this deed, with immediate effect, by notice in writing to Bidder if:

at any time before 8:00am Sydney time on the Second Court Date, a majority of the EDL Directors publicly:

- (a) withdraw or adversely change their Recommendation or Voting Intention; or
- (b) recommend a Competing Proposal,

in each case provided that this happens following the occurrence of one of the events referred to in clause 7.2(a) and provided also that EDL has not materially breached clause 8.

## 12.4 Termination by written agreement

This deed may be terminated by the written agreement of the parties, on such terms as the parties agree.

## 12.5 Effect of termination

If this deed is terminated in accordance with this clause 12, this deed will cease to have force and effect without any liability or obligation on the part of any party, except that:

- (a) this clause 12.5 and clauses 9, 10, 11, 13, 14, 15, 16 and 17, and Schedule 1, will survive termination; and
- (b) each party will retain any rights and remedies that accrued prior to termination, including any rights and remedies in respect of any past breach of this deed or (if applicable) in respect of the breach giving rise to termination.

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## 13 Confidentiality

Each party acknowledges and agrees that nothing in this deed derogates from the rights and obligations of EDL or Bidder under the Confidentiality Deed, provided that this deed prevails to the extent of any inconsistency with the Confidentiality Deed.

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## 14 Duty, costs and expenses

### 14.1 Stamp duty

Bidder:

- (a) must pay all stamp duties and any related fines and penalties in respect of this deed or any transaction effected under it; and
- (b) indemnifies EDL against any liability arising from or in connection with any failure by it to comply with clause 14.1(a).

### 14.2 Costs and expenses

Except as otherwise provided in this deed, each party must pay its own costs and expenses in connection with the negotiation, preparation, execution and performance of this deed and the proposed, attempted or actual implementation of the Transaction.

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## 15 GST

- (a) In this clause 15, a word or expression defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) has the meaning given to it in that legislation.
- (b) If a party makes a supply under or in connection with this deed in respect of which GST is payable, the consideration for the supply but for the application of this clause 15(b) (**GST exclusive consideration**) is increased by an amount (**additional GST amount**) equal to the GST exclusive consideration multiplied by the rate of GST prevailing at the time the supply is made.
- (c) If a party must reimburse or indemnify another party for a loss, cost or expense, the amount to be reimbursed or indemnified is first reduced by the amount equal to any input tax credit the other party, or the representative member of the GST group of which the other party is a member, is entitled to with respect to the loss, cost or expense, and then increased in accordance with clause 15(b) if such amount is consideration for a taxable supply made under or in connection with this deed.
- (d) A party need not make a payment of the additional GST amount until it receives a tax invoice or adjustment note (as appropriate) for the supply to which the payment relates.

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## **16 Guarantee by Bidder's Guarantor**

### **16.1 Guarantee and indemnity**

Bidder's Guarantor:

- (a) unconditionally and irrevocably guarantees to EDL on demand, the due and punctual performance of Bidder's obligations under this deed; and
- (b) as a separate and additional liability, indemnifies EDL against all loss, actions, proceedings and judgements of any nature, incurred by, brought, made or recovered against EDL arising from any default or delay in the due and punctual performance of Bidder's obligations under this deed.

### **16.2 Extent of guarantee and indemnity**

The liability of Bidder's Guarantor under this clause 16 is not affected by anything that, but for this clause 16, might operate to release or exonerate Bidder's Guarantor in whole or in part from its obligations including any of the following, whether with or without the consent of Bidder's Guarantor:

- (a) the grant to Bidder, Bidder's Guarantor or any other person of any time, waiver or other indulgence, or the discharge or release of Bidder, Bidder's Guarantor or any other person from any liability or obligation;
- (b) any transaction or arrangement that may take place between EDL, Bidder or Bidder's Guarantor or any other person;
- (c) EDL exercising or refraining from exercising its rights under any security or any other rights, powers or remedies against Bidder, Bidder's Guarantor or any other person;
- (d) the amendment, replacement, extinguishment, unenforceability, failure, loss, release, discharge, abandonment or transfer either in whole or in part and either with or without consideration, of any security now or in the future held by EDL from Bidder, Bidder's Guarantor or any other person or by the taking of or failure to take any security;
- (e) the failure or omission or any delay by EDL or Bidder to give notice to Bidder's Guarantor of any default by Bidder or any other person under this agreement; and
- (f) any legal limitation, disability, incapacity or other circumstances related to Bidder, Bidder's Guarantor or any other person.

### **16.3 Principal and independent obligation**

This clause 16 is a principal obligation and is not to be treated as ancillary or collateral to any other right or obligation and extends to cover this agreement as amended, varied, supplemented, renewed or replaced.

### **16.4 Continuing guarantee and indemnity**

This clause 16 is a continuing obligation of Bidder's Guarantor, despite Implementation, and remains in full force and effect for so long as Bidder has any liability or obligation to EDL or a Scheme Shareholder under:

- (a) this deed; and
  - (b) any other agreement entered into by Bidder in connection with the Transaction,
- and until all of those liabilities or obligations have been fully discharged.

#### **16.5 No withholdings**

- (a) Bidder's Guarantor must make all payments that become due under this clause 16, free and clear and without deduction of all present and future withholdings (including taxes, duties, levies, imposts, deductions and charges of Australia or any other jurisdiction).
- (b) If Bidder's Guarantor is compelled by law to deduct any withholding, then in addition to any payment due under this clause 16, it must pay to EDL such amount as is necessary to ensure that the net amount received by EDL after withholding equals the amount EDL would otherwise have been entitled to if not for the withholding.

#### **16.6 No set off**

Bidder's Guarantor has no right to set off, deduct or withhold any moneys that it may be or become liable to pay under this clause 16, against any moneys that EDL or any other member of the EDL Group may be or become liable to pay to a member of the Bidder Group whether under this deed or otherwise.

#### **16.7 Bidder's Guarantor's liability**

Bidder's Guarantor's liability in respect of any claim will not exceed Bidder's liability in respect of that claim.

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## **17 General**

### **17.1 Notices**

- (a) A notice, consent, approval, waiver or other communication sent by a party under this deed (**Notice**) must be:
  - (i) in writing;
  - (ii) sent by an authorised representative of the sender; and
  - (iii) marked for the attention of the person named below,and must be:
  - (iv) left at, or sent by prepaid ordinary post (or by airmail if posted to or from a place outside Australia) to, the address set out below;
  - (v) sent by fax to the number set out below; or
  - (vi) sent by email to the address set out below.

**EDL**

Attention: Glen Marshall, General Counsel  
Address: Building 17, 2404 Logan Road  
Eight Mile Plains QLD 4113  
Fax: +61 7 3341 5150  
Email: glen.marshall@edl.com.au

with a copy (for information purposes only) to:

HNarushima@gtlaw.com.au (by email)

**Bidder and Bidder's Guarantor**

Attention: Leanne Pickering, General Counsel  
Address: Level 15, 55 Hunter Street, Sydney NSW 2000  
Fax: +61 2 8224 2779  
Email: l.pickering@duet.net.au

with a copy (for information purposes only) to:

Marc.Kemp@allens.com.au (by email)

- (b) Subject to clause 17.1(c), a Notice is taken to be received:
- (i) if sent by delivery, when it is delivered;
  - (ii) if sent by post, three days after posting (or seven days after posting if sent from one country to another);
  - (iii) if sent by fax, at the time shown in the transmission report produced by the machine from which the fax was sent as the time the fax was sent in its entirety; or
  - (iv) if sent by email:
    - (A) when the sender receives an email from the recipient confirming receipt of the email; or
    - (B) when the sender receives an automated message from the intended recipient's information system confirming delivery of the email,whichever happens first.
- (c) If a Notice is taken to be received under clause 17.1(b):
- (i) before 9:00am Sydney time on a Business Day, it will be taken to be received at 9:00am Sydney time on that Business Day; or
  - (ii) after 5:00pm Sydney time on a Business Day or on a day other than a Business Day, it will be taken to be received at 9:00am Sydney time on the next Business Day.

## **17.2 Governing law and jurisdiction**

- (a) This deed is governed by the laws of New South Wales.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales and courts competent to hear appeals from those courts.

## **17.3 No representation or reliance**

- (a) Each party acknowledges that no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this deed, except for representations or inducements expressly set out in this deed and (to the maximum extent permitted by law) all other representations, warranties and conditions implied by statute or otherwise in relation to any matter relating to this deed, the circumstances surrounding the parties' entry into it and the transactions contemplated by it are expressly excluded.
- (b) Each party acknowledges and confirms that it does not enter into this deed in reliance on any representation or other inducement by or on behalf of any other person, except for any representation or inducement expressly set out in this deed.

## **17.4 No merger**

The rights and obligations of the parties do not merge on completion of the Transaction. They survive the execution and delivery of any assignment or other document entered into for the purpose of implementing the Transaction.

## **17.5 Waivers and consents**

- (a) Failure to exercise or enforce, a delay in exercising or enforcing, or the partial exercise or enforcement of any right, power or remedy provided by law or under this deed by any party does not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this deed.
- (b) Any waiver or consent given by a party under this deed is only effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of any term of this deed operates as a waiver of another breach of that term or of a breach of any other term of this deed.
- (d) Except where this deed expressly provides otherwise, where the consent of a party is required under this deed, such consent may be given or withheld in that party's absolute discretion.

## **17.6 Variation**

This deed may only be varied by a document signed by or on behalf of each of the parties.

## **17.7 Assignment**

A party may not assign, novate or otherwise transfer any of its rights or obligations under this deed without the prior written consent of the other party.



#### **17.8 Further action**

Each party will do all things and execute all further documents necessary to give full effect to this deed, at their own expense.

#### **17.9 Entire agreement**

This deed supersedes all previous agreements, understandings, negotiations or deeds (other than the Confidentiality Deed) in respect of its subject matter and embodies the entire agreement between the parties.

#### **17.10 Severability**

If the whole or any part of a provision of this deed is void, unenforceable or illegal in a jurisdiction, it is severed for that jurisdiction but only to the extent that it is void, unenforceable or illegal and provided that it will have full force and effect in any other jurisdiction. Where a provision (or any part thereof) is severed in a jurisdiction, the remainder of this deed will have full force and effect in that (and any other) jurisdiction.

This clause 17.10 does not apply to any severance that alters the basic nature of this deed or is contrary to public policy.

#### **17.11 Counterparts**

This deed may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

#### **17.12 Remedies and indemnities**

The rights and remedies in this deed are in addition to other rights and remedies given by law independently of this deed. The indemnities in this deed are continuing obligations, independent from the other obligations of the parties under this deed and continue after this deed ends. It is not necessary for a party to incur an expense or make payment before enforcing a right to an indemnity under this deed.

For the purpose of this deed EDL is taken to be acting as agent and trustee on behalf of and for the benefit of all EDL Indemnified Parties, and all those persons are to this extent taken to be parties to this deed.

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## Schedule 1 — Dictionary

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### 1 Dictionary

**additional GST amount** has the meaning given in clause 15(b).

**Aggregate Scheme Consideration** means the amount calculated by multiplying the number of Scheme Shares by the Scheme Consideration.

**ASIC** means the Australian Securities and Investments Commission.

**associate** has the meaning given in section 12 of the Corporations Act where, for the purposes of sections 12(2)(b) and 12(2)(c) of the Corporations Act, the 'designated body' is EDL.

**ASX** means ASX Limited (ABN 98 008 624 691) or, where the context requires, the financial market operated by it known as the "Australian Securities Exchange".

**Bidder Group** means, collectively, Bidder and each of its Related Bodies Corporate, and **member of the Bidder Group** means any of those entities.

**Bidder Indemnified Party** means a Related Body Corporate of Bidder or a director, officer, employee or adviser of a member of the Bidder Group.

**Bidder Information** means information regarding the Bidder Group provided by or on behalf of Bidder to EDL in writing for inclusion in the Scheme Booklet, which must include information in relation to Bidder, the funding of the Scheme Consideration and Bidder's intentions in relation to the EDL Group and its business (including the EDL Group's employees and assets), and includes any information contained in the Scheme Booklet that is solely based on any information so provided by Bidder.

**Bidder Proposal** has the meaning given in clause 8.7(a)(iii).

**Bidder and Bidder's Guarantor Representations and Warranties** means the representations and warranties set out in clause 10.1.

**Break Fee** means \$13,688,727.

**Business Day** means a week day on which trading banks in Sydney are open for trading and the ASX is open for trading.

**Business Plan** means the document titled 'Business plan for scheme implementation deed' in the EDL Disclosure Materials. Where the Business Plan contains two or more documents within it that refer to substantially the same proposal, the information in the document that is chronologically last in time prevails to the extent of any inconsistency.

**Cancellation Deeds** has the meaning given in clause 4.3(a), and **Cancellation Deed** has a corresponding meaning.

**CFIUS** means the Committee on Foreign Investment in the United States.

**CFIUS Clearance** has the meaning given in clause 3.2(d).

**Competing Proposal** means any proposed or potential transaction or arrangement (including any takeover bid, scheme of arrangement, share or asset sale, capital reduction or buy back, joint venture or dual listed company structure, recapitalisation, establishment of a new holding company for the EDL Group or other synthetic merger, or any other means) under which a Third Party would, if completed:

- (a) directly or indirectly acquire an interest (including an economic interest by way of an equity swap, contract for difference or similar transaction or arrangement) or a Relevant Interest in 20% or more of EDL Shares;
- (b) directly or indirectly acquire, become the holder of or have a right to acquire or an economic interest in all or a substantial part of the business, or any of the material assets, of the EDL Group (where a substantial part of the business or a material asset of the EDL Group will include rights in respect of assets representing 50% or more of the value of the EDL Group's total assets); or
- (c) otherwise acquiring Control of or merging or amalgamating with EDL whether by way of takeover bid, scheme of arrangement, share or asset sale, capital reduction or buy back, joint venture or dual listed company structure, recapitalisation, establishment of a new holding company for the EDL Group or other synthetic merger, or any other means.

**condition precedent** means a condition set out in clause 3.1.

**Confidentiality Deed** means the confidentiality deed between Bidder and EDL dated 15 April 2015.

**Confirmation Deeds** has the meaning given in clause 4.3(d), and **Confirmation Deed** has a corresponding meaning.

**Consultation Notice** has the meaning set out in clause 3.4.

**Control** has the meaning given in section 50AA of the Corporations Act.

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

**Corporations Regulations** means the *Corporations Regulations 2001* (Cth).

**Court** means the Federal Court of Australia or such other court of competent jurisdiction under the Corporations Act agreed to in writing by EDL and Bidder.

**Court Documents** means the documents which EDL determines (acting reasonably) are required for the purposes of a Court Hearing, which may include originating process, affidavits, submissions and draft minutes of Court orders.

**Court Hearing** means the First Court Hearing or Second Court Hearing (as applicable), and **Court Hearings** means both of them.

**Deed Poll** means the deed poll to be entered into by Bidder pursuant to clause 5.2(l), and Bidder's Guarantor pursuant to clause 5.3, under which Bidder covenants, and Bidder's Guarantor jointly and severally covenants, in favour of Scheme Shareholders to provide the Scheme Consideration in accordance with the terms of the Scheme, in the form of Attachment C.

**Defaulting Party** has the meaning set out in clause 12.1(b).

**EDL Announcement** means an announcement in relation to the Transaction to be made by EDL following execution of this deed in accordance with clause 6, the form of which has been agreed with the Bidder prior to execution of this deed.

**EDL Board** means the board of directors of EDL.

**EDL Director** means a director of EDL.

**EDL Disclosure Materials** means the documents, information and responses to questions contained in the online data room set up by EDL and made available to Bidder and its Representatives prior to the date of this deed (a USB of which has been initialised by the parties' legal advisers for the purposes of identification).

**EDL Group** means EDL and each of its Subsidiaries, and **member of the EDL Group** means any of those entities.

**EDL Indemnified Party** means a Subsidiary of EDL or a director, officer, employee or adviser of EDL or a Subsidiary of EDL.

**EDL Information** means all the information in the Scheme Booklet other than the Bidder Information and Independent Expert's Report (or any update or variation to that report).

**EDL Material Adverse Change** means:

- (a) a change, event, circumstance, occurrence or matter which (whether individually or when aggregated with all such changes, events, circumstances, occurrences or matters of a like kind) has had or is reasonably likely to have:
  - (i) the effect of a diminution in the value of the consolidated net assets (but not including any diminution in intangible assets) of the EDL Group, taken as a whole, by at least \$25 million against what it would reasonably be expected to have been but for that change, event, circumstance, occurrence or matter; or
  - (ii) the effect of a diminution in the consolidated earnings before interest, tax, depreciation and amortisation of the EDL Group, taken as a whole, by at least \$25 million in recurring financial years for the EDL Group against what it would reasonably be expected to have been but for that change, event, circumstance, occurrence or matter,

provided that any events which have a positive effect on the consolidated net assets or earnings before interest, tax, depreciation and amortisation of the EDL Group are taken into account in calculating whether a threshold in paragraphs (a)(i) and (a)(ii) has been reached, and in each case other than changes, events, occurrences or matters:

- (b) expressly required or permitted by this deed or the Scheme;
- (c) fairly disclosed to Bidder in the EDL Disclosure Materials;
- (d) fairly disclosed by EDL in any announcement to or filing with ASX that is publicly available prior to the date of this deed, or in a document lodged by EDL with ASIC that is publicly available prior to the date of this deed;
- (e) consented to in writing by Bidder; or
- (f) which arise from:

- (i) changes in commodity prices, exchange rates or interest rates;
- (ii) general economic, political or business conditions, including material adverse changes or major disruptions to, or fluctuations in, domestic or international financial markets, and acts of terrorism, war (whether or not declared), natural disaster or the like; or
- (iii) changes to accounting standards, laws or policies of a Government Agency in Australia,

but excluding any change, event, circumstance, occurrence or matter which has a disproportionate effect on the EDL Group, taken as a whole, as compared to other participants in the industries in which the EDL Group operates.

**EDL Prescribed Occurrence** means the occurrence of any of the following:

- (a) EDL converting all or any of its shares into a larger or smaller number of shares;
- (b) EDL resolving to reduce its share capital in any way or reclassifying, combining, splitting or redeeming or repurchasing directly or indirectly any of its shares;
- (c) EDL:
  - (i) entering into a buy-back agreement; or
  - (ii) resolving to approve the terms of a buy-back agreement under the Corporations Act;
- (d) a member of the EDL Group issuing shares or securities convertible into shares, or granting rights which are convertible into shares, or granting an option over its shares, or agreeing to make such an issue or grant such a right or option other than to a member of the EDL Group, or EDL or the EDL Board accelerating the vesting of any securities, options or performance rights (including of any Options or Performance Rights);
- (e) EDL declaring, paying or distributing any dividend, bonus shares or other share of its profits or assets;
- (f) one or more members of the EDL Group disposing, or agreeing to dispose, of the whole, or a material part, of the business or property of the EDL Group;
- (g) one or more members of the EDL Group creating, or agreeing to create, any Encumbrance over the whole, or a material part, of the business or property of the EDL Group other than a lien which arises by operation of law or legislation;
- (h) a member of the EDL Group resolving that it be wound up or the making of an application or order for the insolvent winding up or dissolution of a member of the EDL Group other than where the application or order (as the case may be) is set aside within 14 days;
  - (i) a liquidator or provisional liquidator of a member of the EDL Group being appointed;
  - (j) a court making an order for the winding up of a member of the EDL Group;
  - (k) an administrator of a member of the EDL Group being appointed under the Corporations Act;

- (l) a member of the EDL Group is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act or is otherwise presumed to be insolvent under the Corporations Act unless that company has, or has access to, committed financial support from its parent entity such that it is able to pay its debts;
- (m) a member of the EDL Group making any change to its constitution;
- (n) a member of the EDL Group executing a deed of company arrangement;
- (o) a receiver, or a receiver and manager, being appointed in relation to the whole, or a substantial part, of the property of a member of the EDL Group;
- (p) a Default as defined in the Common Terms Deed dated 8 July 2011 between, among others, the Initial Borrowers, the Initial Guarantors, the Initial Term Facility Lenders, the Initial Revolving Facility Lenders, the Initial Working Capital Facility Lenders, the Initial Agent and the Security Trustee (each as defined in that document) as amended or amended and restated from time to time other than any Default arising as a result of the Bidder acquiring the Scheme Shares or the Bidder becoming entitled to the Scheme Shares as a result of the Scheme becoming Effective; or
- (q) any member of the EDL Group authorises, procures or commits or agrees to do any of the matters set out above,

but does not include any matter:

- (r) relating to cancellation of Options or Performance Rights to the extent contemplated in clause 4.3;
- (s) expressly required or permitted by this deed or the Scheme;
- (t) agreed to in writing by Bidder;
- (u) fairly disclosed to Bidder in the EDL Disclosure Materials; or
- (v) fairly disclosed by EDL in an announcement to or filing with ASX that is publicly available prior to the date of this deed, or in a document lodged by EDL with ASIC that is publicly available prior to the date of this deed.

**EDL Representations and Warranties** means the representations and warranties set out in clause 10.3.

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

**EDL Share Register** means the register of EDL Shareholders maintained by (or on behalf of) EDL in accordance with the Corporations Act.

**EDL Unquoted Share** means an unquoted ordinary share in the capital of EDL.

**EDL Shareholder** means a holder of one or more EDL Shares, as shown in the EDL Share Register.

**Effective** means the coming into effect, under section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) in relation to the Scheme.

**Effective Date** means the date on which the Scheme becomes Effective.

**Encumbrance** means a mortgage, charge, pledge, lien, encumbrance, security interest, title retention, preferential right, trust arrangement, contractual right of set-off or any other security agreement or arrangement in favour of any person, whether registered or unregistered, including any Security Interest.

**End Date** means the date six months from the date of execution of this deed or such later date as agreed by EDL and Bidder.

**Exclusivity Period** means the period from 9:00am Sydney time on the date of execution of this deed to the earlier of:

- (a) the valid termination of this deed under clause 12; and
- (b) the End Date.

**First Court Date** means the first day on which an application made to the Court for an order under section 411(1) of the Corporations Act directing EDL to convene the Scheme Meeting is heard (or if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard), with such hearing being the **First Court Hearing**.

**Government Agency** means any foreign or Australian government or governmental, semi-governmental, administrative, fiscal, statutory or judicial body, department, commission, authority, tribunal, agency or entity, or any minister of the Crown in right of the Commonwealth of Australia or any state, or any other federal, state, provincial, local or other government, whether foreign or Australian. It also includes any self-regulatory organisation established under statute or otherwise discharging substantially public or regulatory functions (including ASIC and the Takeovers Panel) and any stock exchange (including ASX).

**GST exclusive consideration** has the meaning given in clause 15(b).

**Implementation Date** means the fifth Business Day after the Scheme Record Date or such other day as the parties agree in writing.

**Independent Expert** means the independent expert to be appointed by EDL to prepare the Independent Expert's Report (and any update or variation to that report) in accordance with clause 5.1(a).

**Independent Expert's Report** means the report to be prepared and issued by the Independent Expert in respect of the Scheme for inclusion in the Scheme Booklet.

**Insolvency Event**, in respect of an entity, means:

- (a) the entity resolving that it be wound up or the making of an application or order for the winding up or dissolution of the entity other than where the application or order (as the case may be) is set aside within 14 days;
- (b) a liquidator or provisional liquidator the entity being appointed;
- (c) a court making an order for the winding up of the entity;
- (d) an administrator of the entity being appointed under the Corporations Act;
- (e) the entity is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act or is otherwise presumed to be insolvent under

the Corporations Act unless that entity has, or has access to, committed financial support from its parent entity such that it is able to pay its debts;

- (f) the entity executing a deed of company arrangement;
- (g) a receiver, or a receiver and manager, being appointed in relation to the whole, or a substantial part, of the property of the entity;
- (h) the entity being deregistered as a company or otherwise dissolved except in the case of a company with less than \$10,000 in net assets as at the date of this deed; or
- (i) anything having a substantially similar effect to any event or circumstance referred to in subparagraphs (a) to (h) above happens in respect of the entity under the law of any jurisdiction.

**Key Contract** means each contract that is identified by Bidder to EDL on or about the date of this deed.

**Listing Rules** means the official listing rules of ASX.

**Matching Right Notice** has the meaning given in clause 8.7(a)(ii).

**Matching Right Determination** has the meaning given in clause 7.2(a)(i).

**Notice** has the meaning given in clause 17.1(a).

**Option** means an option to acquire an EDL Share, as set out in Schedule 2.

**Performance Right** means a performance right to acquire an EDL Share, as set out in Schedule 2.

**prohibited action** has the meaning given in clause 8.4.

**Recommendation** has the meaning given in clause 7.1(a).

**Regulator's Draft** has the meaning given in clause 5.1(d)(i).

**Related Body Corporate** has the meaning given in section 50 of the Corporations Act and **Related Bodies Corporate** has a corresponding meaning and, in respect of Bidder, also includes:

- (a) each entity that is a partly or wholly subsidiary of:
  - (i) Bidder's Guarantor, DUET Finance Limited ACN 108 014 062 or DUET Investment Holding Limited ACN 120 456 573;
- (b) each entity that is an associated entity of Bidder; and
- (c) each entity for which Bidder is the responsible entity or trustee.

**Relevant Interest** has the meaning given in sections 608 and 609 of the Corporations Act.

**Representation and Warranty** means a Bidder and Bidder's Guarantor Representation and Warranty or an EDL Representation and Warranty (as applicable).



**Representative** means, in respect of a party, a Related Body Corporate, an employee, agent, officer, director, of that party (or of a Related Body Corporate of that party), or an adviser or financier of that party (or of a Related Body Corporate of that party) in relation to the Transaction, and, in the case of advisers and financiers, includes employees, officers and agents of the adviser or financier (as applicable).

**Rival Proposal** has the meaning given in clause 8.7.

**RG 60** means Regulatory Guide 60 issued by ASIC and dated September 2011.

**Scheme** means a members' scheme of arrangement under Part 5.1 of the Corporations Act between EDL and the Scheme Shareholders, in the form of Attachment B, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed to by Bidder and EDL.

**Scheme Booklet** means the explanatory statement in respect of the Scheme to be prepared by EDL pursuant to section 412 of the Corporations Act and in accordance with clause 5.1(c), and to be despatched to EDL Shareholders in accordance with clause 5.1(i), which will contain (among other things) the Independent Expert's Report (or a concise version of that report), a notice of meeting in respect of the Scheme Meeting and a proxy form.

**Scheme Consideration** means, in respect of each Scheme Share, A\$8.00.

**Scheme Meeting** means the meeting of EDL Shareholders ordered by the Court to be convened at the First Court Hearing.

**Scheme Record Date** means 7:00pm Sydney time on the third Business Day after the Effective Date.

**Scheme Share** means an EDL Share held by a Scheme Shareholder as at the Scheme Record Date.

**Scheme Shareholder** means an EDL Shareholder as at the Scheme Record Date.

**Second Court Date** means the first day on which an application made to the Court for an order under section 411(4)(b) of the Corporations Act approving the Scheme is heard (or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard), with such hearing being the **Second Court Hearing**.

**Security Interest** has the meaning given in section 12 of the *Personal Property Securities Act 2009* (Cth).

**Subsidiary** has the meaning given in the Corporations Act.

**Superior Proposal** means a bona fide Competing Proposal that the EDL Board determines, acting in good faith and after taking written advice from EDL's legal and financial advisers:

- (a) is reasonably capable of being implemented within six months, taking into account all aspects of the Competing Proposal, including its proponent(s), conditionality, structure and financing; and
- (b) would, if completed substantially in accordance with its terms, produce an outcome for EDL Shareholders that is superior to the outcome that would be produced by the Scheme.

**Takeovers Panel** means the Takeovers Panel constituted under the *Australian Securities and Investments Commission Act 2001* (Cth).

**Terminating Party** has the meaning given in clause 3.4.

**Termination Event** has the meaning given in clause 3.4.

**Termination Notice** has the meaning given in clause 3.4.

**Third Party** means a person other than Bidder and its associates.

**Timetable** means the indicative timetable for the implementation of the Transaction set out in Attachment A.

**Trading Day** has the meaning given in the Listing Rules.

**Transaction** means the acquisition of EDL by Bidder by means of the Scheme.

**Voluntary Notice** has the meaning given in clause 3.2(d).

**Voting Intention** has the meaning given in clause 7.1(b).

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## 2 Interpretation

In this deed, the following rules of interpretation apply unless the contrary intention appears.

- (a) Headings are for convenience only and do not affect the interpretation of this deed.
- (b) The singular includes the plural and vice versa.
- (c) Words that are gender neutral or gender specific include each gender.
- (d) Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.
- (e) The words "include", "including", "such as", "to avoid doubt" and similar expressions are not words of limitation and do not limit what else might be included.
- (f) A reference to:
  - (i) a person includes a natural person, partnership, joint venture, government agency, association, corporation or other body corporate or entity (as that term is defined in section 64A of the Corporations Act);
  - (ii) a thing (including a chose in action or other right) includes a part of that thing;
  - (iii) a party includes its successors and permitted assigns;
  - (iv) a document includes all amendments or supplements to that document;
  - (v) a clause, term, party, schedule or attachment is a reference to a clause or term of, or a party, schedule or attachment to, this deed (as applicable);
  - (vi) this deed includes all schedules and attachments to it;

- (vii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity or a Listing Rule and is a reference to that law as amended, consolidated or replaced;
  - (viii) an agreement (other than this deed) includes an undertaking or legally enforceable arrangement or understanding (whether or not in writing);
  - (ix) a time period includes the date referred to as that on which the period begins and the date referred to as that on which the period ends; and
  - (x) a monetary amount is in Australian dollars;
- (g) An agreement on the part of two or more persons binds them jointly and severally.
- (h) When the day on which something must be done is not a Business Day, that thing must be done on the following Business Day.
- (i) In determining the time of day, where relevant to this deed, the time of day is:
- (i) for the purposes of giving or receiving Notice, the time of day where the party receiving Notice is located; or
  - (ii) for any other purpose under this deed, the time of day in the place where the party required to perform an obligation is located.
- (j) No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this deed or any part of it.

**Schedule 2 —  
EDL capital structure**

<b>Security</b>	<b>Total number on issue</b>	<b>Exercise price</b>	<b>Expiry date</b>
<b>Shares</b>			
EDL Shares (quoted)	170,359,095		
EDL Shares (unquoted)	750,000		
<b>Options</b>			
Series A Options	2,292,000	\$4.12	13 Oct 19
Series B Options	11,736,000	\$6.87	13 Oct 19
Series A (August 2012) Options	324,000	\$4.12	30 Aug 20
Series B (August 2012) Options	1,800,000	\$6.87	30 Aug 20
Series A (March 2013) Options	756,000	\$4.80	25 Mar 21
Series B (March 2013) Options	2,520,000	\$6.87	25 Mar 21
<b>Performance Rights</b>			
Performance Rights to employee participants	42,500 (maximum number of Shares to be issued)		
Tranche 1 Series A FVPRs	6,295,766		
Tranche 1 Series B FVPRs	20,985,882		
Tranche 2 Series A FVPRs	4,688,060		
Tranche 2 Series B FVPRs	20,985,882		
Tranche 3 Series A FVPRs	4,688,060		
Tranche 3 Series B FVPRs	20,985,882		
TSR PRs	327,328		
ROE PRs	327,328		

---

## Execution page

Executed and delivered as a deed.

Each attorney executing this Deed states that he or she has no notice of revocation or suspension of his or her power of attorney.

---

Signed, sealed and delivered for **A.C.N. 607  
005 685 Pty Limited (to be renamed  
DUET EDL Pty Limited)** by its attorney under  
power of attorney in the presence of:



Signature of attorney

Leanne Pickering

Name of attorney (print)



Signature of witness

MARC KEMP

Name of witness (print)

---

Signed, sealed and delivered for **DUET  
Company Limited** by its attorney under power  
of attorney in the presence of:



Signature of attorney

Leanne Pickering

Name of attorney (print)



Signature of witness

MARC KEMP

Name of witness (print)

---

Signed and delivered by **Energy  
Developments Limited** in accordance with  
section 127 of the *Corporations Act 2001* (Cth)  
and by:

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Name of director (print)

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name of director/secretary (print)

---

## Execution page

Executed and delivered as a deed.

Each attorney executing this Deed states that he or she has no notice of revocation or suspension of his or her power of attorney.

---

Signed, sealed and delivered for **A.C.N. 607 005 685 Pty Limited (to be renamed DUET EDL Pty Limited)** by its attorney under power of attorney in the presence of:

---

Signature of attorney

---

Signature of witness

---

Name of attorney (print)

---

Name of witness (print)

---

Signed, sealed and delivered for **DUET Company Limited** by its attorney under power of attorney in the presence of:

---

Signature of attorney

---

Signature of witness

---

Name of attorney (print)

---

Name of witness (print)

---

Signed and delivered by **Energy Developments Limited** in accordance with section 127 of the *Corporations Act 2001 (Cth)* and by:

---

Signature of director

Gregory James Pritchard

---

Name of director (print)

---

Signature of director/secretary

Glen Elliott Marshall

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Name of director/secretary (print)

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**Attachment A —  
Timetable**

<b>Event</b>	<b>EDL date</b>
Release of EDL Announcement	20 July 2015
Regulator's Draft provided to ASIC	Mid-August 2015
First Court Hearing	Early to mid September 2015
Scheme Meeting	Early to mid October 2015
Second Court Hearing	Early to mid October 2015
Effective Date	Mid October 2015
Scheme Record Date	Mid to late October 2015
Implementation Date	Late October 2015

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**Attachment B —  
Scheme**



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## **Scheme of arrangement**

**Energy Developments Limited**

**Each person registered as a holder of fully paid ordinary shares in EDL as at the Scheme Record Date**

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Date:

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## Parties

- 1 **Energy Developments Limited ACN 053 410 263** of Building 17, 2404 Logan Road, PO Box 4046, Eight Mile Plains, NSW, Australia, 2113 (**EDL**)
- 2 Each person registered as a holder of fully paid ordinary shares in EDL as at the Scheme Record Date (**Scheme Shareholders**)

### The parties agree

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## 1 Defined terms and interpretation

### 1.1 Defined terms

A term or expression starting with a capital letter which is defined in the dictionary in Schedule 1 has the meaning given to it in the dictionary.

### 1.2 Interpretation

The interpretation clause in Schedule 1 sets out rules of interpretation for this Scheme.

---

## 2 Preliminary matters

- (a) EDL is an Australian public company limited by shares, and has been admitted to the official list of ASX. EDL Shares are quoted for trading on the ASX.
- (b) As at [●], there were [●] EDL Shares.
- (c) Bidder's Guarantor is DUET Company Limited (ACN 163 100 061) an Australian public company, which is part of a stapled group listed on the ASX.
- (d) Bidder is an unlisted Australian proprietary limited company.
- (e) If this Scheme becomes Effective:
  - (i) Bidder must (and Bidder's Guarantor unconditionally and irrevocably guarantees the obligation of Bidder to) provide or procure the provision of the Scheme Consideration to Scheme Shareholders in accordance with this Scheme and the Deed Poll; and
  - (ii) all the Scheme Shares, and all the rights and entitlements attaching to them as at the Implementation Date, will be transferred to Bidder and EDL will enter the name of Bidder in the Share Register in respect of all the Scheme Shares.
- (f) Bidder, Bidder's Guarantor and EDL have entered into the Implementation Deed in respect of (among other things) the implementation of this Scheme.
- (g) This Scheme attributes actions to Bidder's Guarantor and Bidder but does not itself impose any obligations on either of them to perform those actions. By executing the Deed Poll, Bidder and Bidder's Guarantor have agreed to perform the actions attributed to them under this Scheme. By executing the Deed Poll, Bidder agrees to (and Bidder's Guarantor guarantees that Bidder will) perform its obligations

under the Deed Poll, including payment of the Scheme Consideration in accordance with the terms of this Scheme.

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### **3 Conditions**

#### **3.1 Conditions precedent**

This Scheme is conditional on and will not become Effective until and unless the following conditions precedent are satisfied:

- (a) all the conditions in clause 3.1 of the Implementation Deed (other than the condition in clause 3.1(b) of the Implementation Deed relating to Court approval of this Scheme) are satisfied or waived in accordance with the terms of the Implementation Deed by 8:00am on the Second Court Date;
- (b) neither the Implementation Deed nor the Deed Poll is terminated in accordance with its terms before 8.00am on the Second Court Date;
- (c) this Scheme is approved by the Court under section 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under section 411(6) of the Corporations Act as are acceptable to EDL and Bidder;
- (d) such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to this Scheme as are acceptable to EDL and Bidder are satisfied or waived; and
- (e) the order of the Court made under section 411(4)(b) of the Corporations Act approving this Scheme comes into effect pursuant to section 411(10) of the Corporations Act.

#### **3.2 Certificates**

- (a) Each of EDL and Bidder will provide a certificate to the Court at the Second Court Hearing confirming (in respect of matters within their knowledge) whether or not the conditions precedent in clauses 3.1(a) and 3.1(b) above have been satisfied or waived.
- (b) The certificates given by the EDL and Bidder constitute conclusive evidence that the conditions precedent in clauses 3.1(a) and 3.1(b) above have been satisfied or waived.

#### **3.3 End Date**

This Scheme will lapse and be of no further force or effect if:

- (a) the Effective Date does not occur on or before the End Date; or
- (b) the Implementation Deed or the Deed Poll is terminated in accordance with its terms, unless the Bidder and EDL otherwise agree in writing.

---

## 4 Implementation of this Scheme

### 4.1 Lodgement of Court orders with ASIC

For the purposes of section 411(10) of the Corporations Act, EDL must lodge with ASIC an office copy of the order made by the Court under section 411(4)(b) of the Corporations Act approving this Scheme before 5:00pm Sydney time on the Business Day following the day on which such office copy is received by EDL or such later date as EDL and Bidder agree in writing.

### 4.2 Transfer of Scheme Shares

On the Implementation Date:

- (a) subject to the provision of the Scheme Consideration in the manner contemplated by clause 5.2(a), the Scheme Shares, together with all rights and entitlements attaching to them as at the Implementation Date, must be transferred to Bidder, without the need for any further act by any Scheme Shareholder (other than acts performed by EDL as attorney and agent for Scheme Shareholders under clause 8.5), by:
  - (i) EDL duly completing and executing the Scheme Transfer, duly executed on behalf of the Scheme Shareholders (as transferors), and delivering it to Bidder; and
  - (ii) Bidder duly executing the Scheme Transfer (as transferee), attending to the stamping of the Scheme Transfer (if required) and delivering it to EDL for registration; and
- (b) immediately following receipt of the Scheme Transfer in accordance with clause 4.2(a), EDL must enter, or procure the entry of, the name of Bidder in the Share Register in respect of all the Scheme Shares transferred to Bidder in accordance with this Scheme.

---

## 5 Scheme Consideration

### 5.1 Entitlement to Scheme Consideration

Subject to the terms of this Scheme, each Scheme Shareholder will be entitled to \$8.00 for each Scheme Share.

### 5.2 Provision of Scheme Consideration

- (a) Bidder will (and Bidder's Guarantor unconditionally and irrevocably guarantees the obligation of Bidder to) provide the Scheme Consideration by depositing (or procuring the deposit) in cleared funds an amount equal to the Aggregate Scheme Consideration into the Trust Account before 5:00pm on the day before the Implementation Date (provided that any interest on the amount so deposited (less bank fees and other charges) (**Accrued Interest**) will accrue for the benefit of Bidder).
- (b) Subject to Bidder (and Bidder's Guarantor, if applicable) having complied with clause 5.2(a), EDL must, on the Implementation Date and from the Trust Account, pay to each Scheme Shareholder the proportion of the Aggregate Scheme Consideration attributable to that Scheme Shareholder based on the number of

Scheme Shares held by that Scheme Shareholder as at the Scheme Record Date, which obligation will be satisfied by EDL:

- (i) where a Scheme Shareholder has, before the Scheme Record Date, made an election in accordance with the requirements of the Share Registry to receive dividend payments from EDL by electronic funds transfer to a bank account nominated by the Scheme Shareholder, paying, or procuring the payment of, the relevant amount in Australian currency by electronic means in accordance with that election; or
  - (ii) whether or not a Scheme Shareholder has made an election referred to in clause 5.2(b)(i), dispatching, or procuring the dispatch of, a cheque in Australian currency for the relevant amount to the Scheme Shareholder by prepaid post to their Registered Address, such cheque being drawn in the name of the Scheme Shareholder (or in the case of joint holders, in accordance with clause 5.3).
- (c) In the event that:
- (i) either:
    - (A) a Scheme Shareholder does not have a Registered Address; or
    - (B) EDL as the trustee for the Scheme Shareholders believes that a Scheme Shareholder is not known at the Scheme Shareholder's Registered Address,and no account has been notified in accordance with clause 5.2(b)(i) or a deposit into such an account is rejected or refunded; or
  - (ii) a cheque issued under this clause 5 has been cancelled in accordance with clause 5.4(a),

EDL as the trustee for the Scheme Shareholders may credit the amount payable to the relevant Scheme Shareholder to a separate bank account of EDL (**Separate Account**) to be held until the Scheme Shareholder claims the amount or the amount is dealt with in accordance with the *Unclaimed Money Act 1995 (NSW)*. To avoid doubt, if the amount is not credited to a Separate Account, the amount will continue to be held in the Trust Account until the Scheme Shareholder claims the amount or the amount is dealt with in accordance with the *Unclaimed Money Act 1995 (NSW)*.

Until such time as the amount is dealt with in accordance with the *Unclaimed Money Act 1995 (NSW)*, EDL must hold the amount on trust for the relevant Scheme Shareholder, but any interest or other benefit accruing from the amount will be to the benefit of Bidder. An amount credited to the Separate Account or Trust Account (as applicable) is to be treated as having been paid to the Scheme Shareholder when credited to the Separate Account or Trust Account (as applicable). EDL must maintain records of the amounts paid, the people who are entitled to the amounts and any transfers of the amounts.

- (d) To the extent that there is a surplus in the amount held by EDL as the trustee for the Scheme Shareholders in the Trust Account, that surplus may be paid by EDL as the trustee for the Scheme Shareholders to Bidder following the satisfaction of EDL's obligations as the trustee for the Scheme Shareholders under this clause 5.2.

- (e) EDL must pay any Accrued Interest to any account nominated by Bidder following satisfaction of EDL's obligations under clause 5.2(b) (and, in any event, on the Implementation Date).

### 5.3 Joint holders

In the case of Scheme Shares held in joint names:

- (a) any cheque required to be sent under this Scheme will be made payable to the joint holders and sent to the holder whose name appears first in the Share Register as at the Scheme Record Date; and
- (b) any other document required to be sent under this Scheme will be forwarded to the holder whose name appears first in the Share Register as at the Scheme Record Date.

### 5.4 Cancellation and re-issue of cheques

- (a) EDL may cancel a cheque issued under this clause 5 if the cheque:
  - (i) is returned to EDL; or
  - (ii) has not been presented for payment within six months after the date on which the cheque was sent.
- (b) During the period of one year commencing on the Implementation Date, on request in writing from a Scheme Shareholder to EDL (or the Share Registry) (which request may not be made until the date which is 5 Business Days after the Implementation Date), a cheque that was previously cancelled under clause 5.4(a) must be reissued.

### 5.5 Unclaimed monies

- (a) The *Unclaimed Money Act 1995* (NSW) will apply in relation to any Scheme Consideration which becomes 'unclaimed money' (as defined in section 7 of the *Unclaimed Money Act 1995* (NSW)).
- (b) Any interest or other benefit accruing from unclaimed Scheme Consideration will be to the benefit of Bidder.

### 5.6 Orders of a court

If written notice is given to EDL (or the Share Registry) of an order or direction made by a court of competent jurisdiction or by another Government Agency that:

- (a) requires payment to a third party of a sum in respect of Scheme Shares held by a particular Scheme Shareholder, which sum would otherwise be payable to that Scheme Shareholder by EDL in accordance with this clause 5, then EDL will be entitled to make that payment (or procure that it is made) in accordance with that order or direction; or
- (b) prevents EDL from making a payment to a particular Scheme Shareholder in accordance with clause 5.2(b), or such payment is otherwise prohibited by applicable law, EDL will be entitled to retain an amount, in Australian dollars, equal to the amount of the relevant payment until such time as payment in accordance with this clause 5 is permitted by that order or otherwise by law.



---

## 6 Dealings in EDL Shares

### 6.1 Determination of Scheme Shareholders

To establish the identity of the Scheme Shareholders, dealings in EDL Shares or other alterations to the Share Register will only be recognised if:

- (a) in the case of dealings of the type to be effected using CHESSE, the transferee is registered in the Share Register as the holder of the relevant EDL Shares at or before the Scheme Record Date; and
- (b) in all other cases, registrable transfer or transmission applications in respect of those dealings, or valid requests in respect of other alterations, are received at or before the Scheme Record Date at the place where the Share Register is kept,

and EDL must not accept for registration, nor recognise for any purpose (except a transfer to Bidder pursuant to this Scheme and any subsequent transfer by Bidder or its successors in title), any transfer or transmission application or other request received on or after the Scheme Record Date, or received prior to the Scheme Record Date but not in registrable or actionable form.

### 6.2 Share Register

- (a) EDL must register registrable transmission applications or transfers of EDL Shares in accordance with clause 6.1(b) at or before the Scheme Record Date, provided that nothing in this clause 6.2(a) requires EDL to register a transfer that would result in an EDL Shareholder holding a parcel of EDL Shares that is less than a 'marketable parcel' (as defined in the operating rules of ASX).
- (b) If this Scheme becomes Effective, a Scheme Shareholder (and any person claiming through that holder) must not dispose of, or purport or agree to dispose of, any Scheme Shares or any interest in them after the Scheme Record Date otherwise than pursuant to this Scheme, and any attempt to do so will have no effect and EDL will be entitled to disregard any such disposal, purported disposal or agreement.
- (c) For the purpose of determining entitlements to the Scheme Consideration, EDL must maintain the Share Register in accordance with the provisions of this clause 6.2 until the Scheme Consideration has been paid to the Scheme Shareholders. The Share Register in this form will solely determine entitlements to the Scheme Consideration.
- (d) All statements of holding for EDL Shares (other than statements of holding in favour of Bidder) will cease to have effect after the Scheme Record Date as documents of title in respect of those shares and, as from that date, each entry current at that date on the Share Register (other than entries in respect of Bidder) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the EDL Shares relating to that entry.
- (e) As soon as possible after the Scheme Record Date, and in any event within one Business Day after the Scheme Record Date, EDL will ensure that details of the names, Registered Addresses and holdings of EDL Shares for each Scheme Shareholder as shown in the Share Register as at the Scheme Record Date are available to Bidder in the form Bidder reasonably requires.

---

## 7 Quotation of EDL Shares

- (a) EDL will apply to ASX to suspend trading in EDL Shares with effect from the close of trading on the Effective Date.
- (b) EDL will apply:
  - (i) for termination of the official quotation of EDL Shares on the ASX; and
  - (ii) to have itself removed from the official list of ASX,

in each case with effect on and from the close of trading on the trading day immediately following, or shortly after, the Implementation Date.

---

## 8 General Scheme provisions

### 8.1 Consent to amendments to this Scheme

If the Court proposes to approve this Scheme subject to any alterations or conditions:

- (a) EDL may by its counsel consent on behalf of all persons concerned to those alterations or conditions to which Bidder has consented; and
- (b) each Scheme Shareholder agrees to any such alterations or conditions which counsel for EDL has consented to.

### 8.2 Scheme Shareholders' agreements and warranties

- (a) Each Scheme Shareholder:
  - (i) agrees to the transfer of their EDL Shares together with all rights and entitlements attaching to those shares in accordance with this Scheme;
  - (ii) agrees to the variation, cancellation or modification of the rights attached to their EDL Shares constituted by or resulting from this Scheme; and
  - (iii) acknowledges that this Scheme binds EDL and all Scheme Shareholders (including those who did not attend the Scheme Meeting and those who did not vote, or voted against this Scheme, at the Scheme Meeting).
- (b) Each Scheme Shareholder is taken to have warranted to Bidder, and appointed and authorised EDL as its attorney and agent to warrant to Bidder, that:
  - (i) all their Scheme Shares (including any rights and entitlements attaching to their Scheme Shares) which are transferred under this Scheme will, at the time of transfer of them to Bidder, be fully paid and free from all:
    - (A) mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Properties Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise; and
    - (B) restrictions on transfer of any kind; and

- (ii) they have full power and capacity to transfer their Scheme Shares to Bidder together with any rights attaching to those shares.

### **8.3 Title to and rights in Scheme Shares**

- (a) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme will, at the time of transfer of them to Bidder, vest in Bidder free from all:
  - (i) mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Properties Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise; and
  - (ii) restrictions on transfer of any kind.
- (b) Upon the Scheme becoming Effective, Bidder will be beneficially entitled to the Scheme Shares to be transferred to it under this Scheme pending registration by EDL of Bidder in the Share Register as the holder of the Scheme Shares. Bidder's entitlement to be registered in the Share Register as the holder of the Scheme Shares arises on the Implementation Date in accordance with clause 4.2.

### **8.4 Appointment of sole proxy**

Upon the Scheme becoming Effective and until EDL registers Bidder as the holder of all Scheme Shares in the Share Register:

- (a) each Scheme Shareholder is deemed to have appointed Bidder as attorney and agent (and directed Bidder in each such capacity) to appoint any director, officer, secretary or agent nominated by Bidder as its sole proxy and, where applicable or appropriate, corporate representative to attend shareholders' meetings, exercise the votes attaching to the Scheme Shares registered in their name and sign any shareholders' resolution whether in person, by proxy or by corporate representative;
- (b) no Scheme Shareholder may itself attend or vote at any shareholders' meetings or sign any shareholders' resolutions, whether in person, by proxy or by corporate representative (other than pursuant to clause 8.4(a));
- (c) each Scheme Shareholder must take all other actions in the capacity of a registered holder of Scheme Shares as Bidder reasonably directs; and
- (d) each Scheme Shareholder acknowledges and agrees that in exercising the powers conferred by clause 8.4(a), Bidder and any director, officer, secretary or agent nominated by Bidder under that clause may act in the best interests of Bidder as the intended registered holder of the Scheme Shares.

### **8.5 Authority given to EDL**

On the Effective Date, each Scheme Shareholder, without the need for any further act, irrevocably appoints EDL and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of:

- (a) enforcing the Deed Poll against Bidder's Guarantor and Bidder; and

- (b) executing any document, or doing or taking any other act, necessary, desirable or expedient to give effect to this Scheme and the transactions contemplated by it, including executing the Scheme Transfer,

and EDL accepts such appointment. EDL, as attorney and agent of each Scheme Shareholder, may sub-delegate its functions, authorities or powers under this clause 8.5 to all or any of its directors, officers or employees (jointly, severally or jointly and severally).

#### **8.6 Binding effect of this Scheme**

This Scheme binds EDL and all of the Scheme Shareholders (including those who did not attend the Scheme Meeting and those who did not vote, or voted against this Scheme, at the Scheme Meeting) and, to the extent of any inconsistency, overrides the constitution of EDL.

---

## **9 General**

### **9.1 Stamp duty**

Bidder will:

- (a) pay all stamp duty (if any) and any related fines and penalties payable on or in respect of the transfer by the Scheme Shareholders of the Scheme Shares to Bidder pursuant to this Scheme or the Deed Poll; and
- (b) indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 9.1(a).

### **9.2 Consent**

Each Scheme Shareholder consents to EDL doing all things necessary or incidental to give full effect to the implementation of this Scheme and the transactions contemplated by it.

### **9.3 Notices**

- (a) If a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to EDL, it will not be taken to be received in the ordinary course of post or on a date and time other than the date and time (if any) on which it is actually received at EDL's registered office or at the office of the Share Registry.
- (b) The accidental omission to give notice of the Scheme Meeting or the non-receipt of such notice by an EDL Shareholder will not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

### **9.4 Governing law and jurisdiction**

- (a) This Scheme is governed by the laws in force in New South Wales.
- (b) The parties irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts competent to determine appeals from those courts in respect of any proceedings arising out of or in connection with this Scheme. The parties irrevocably waive any objection to the venue of any legal

process in these courts on the basis that the process has been brought in an inconvenient forum.

**9.5 Further action**

EDL must do all things and execute all documents necessary to give full effect to this Scheme and the transactions contemplated by it.

**9.6 No liability when acting in good faith**

None of EDL, Bidder, Bidder's Guarantor or any of their respective directors, officers, secretaries or employees, will be liable for anything done or omitted to be done in the performance of this Scheme or the Deed Poll in good faith.

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## Schedule 1 — Dictionary

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### 1 Dictionary

**Accrued Interest** has the meaning given in clause 5.2(a).

**Aggregate Scheme Consideration** means the amount calculated by multiplying the number of Scheme Shares by the Scheme Consideration.

**ASIC** means the Australian Securities and Investments Commission.

**ASX** means ASX Limited ABN 98 008 624 691 or, as the context requires, the financial market operated by it known as the "Australian Securities Exchange".

**Bidder** means A.C.N. 607 005 685 Pty Limited (to be renamed DUET EDL Pty Limited) (ACN 607 005 685) of Level 15, 55 Hunter Street, Sydney, New South Wales 2000.

**Bidder's Guarantor** means DUET Company Limited (ACN 163 100 061) of Level 15, 55 Hunter Street, Sydney, New South Wales 2000.

**Business Day** means a week day on which trading banks in Sydney are open for trading and the ASX is open for trading.

**CHESS** means the Clearing House Electronic Subregister System operated by ASX Settlement Pty Limited and ASX Clear Pty Limited.

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

**Court** means the Federal Court of Australia or such other court of competent jurisdiction under the Corporations Act agreed to in writing by EDL and Bidder.

**Deed Poll** means the deed poll dated [●] under which Bidder covenants, and Bidder's Guarantor jointly and severally covenants, in favour of Scheme Shareholders to provide the Scheme Consideration in accordance with the terms of this Scheme.

**Effective** means the coming into effect, pursuant to section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to this Scheme.

**Effective Date** means the date on which this Scheme becomes Effective.

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

**EDL Shareholder** means a holder of one or more EDL Shares, as shown in the Share Register.

**End Date** means the date six months from the date of execution of the Implementation Deed or such later date as agreed by EDL and Bidder.

**Government Agency** means any foreign or Australian government or governmental, semi-governmental, administrative, fiscal, statutory or judicial body, department, commission, authority, tribunal, agency or entity, or any minister of the Crown in right of the Commonwealth of Australia or any state, or any other federal, state, provincial, local or other government, whether foreign or Australian. It also includes any self-regulatory

organisation established under statute or otherwise discharging substantially public or regulatory functions (including ASIC and the Takeovers Panel) and any stock exchange (including ASX).

**Implementation Deed** means the scheme implementation deed dated 20 July 2015 between Bidder, Bidder's Guarantor and EDL relating to (among other things) the implementation of this Scheme.

**Implementation Date** means the fifth Business Day after the Scheme Record Date or such other date as the parties to the Implementation Deed agree in writing.

**Listing Rules** means the official listing rules of ASX.

**Registered Address** means, in relation to an EDL Shareholder, the address shown in the Share Register as at the Scheme Record Date.

**Scheme** means this scheme of arrangement subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed to by Bidder and EDL.

**Scheme Consideration** means, in respect of each Scheme Share, A\$8.00.

**Scheme Meeting** means the meeting of EDL Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act.

**Scheme Record Date** means 7:00pm Sydney time on the third Business Day after the Effective Date.

**Scheme Share** means an EDL Share held by a Scheme Shareholder as at the Scheme Record Date.

**Scheme Shareholder** means an EDL Shareholder as at the Scheme Record Date.

**Scheme Transfer** means one or more proper instruments of transfer in respect of the Scheme Shares for the purposes of section 1071B of the Corporations Act, which may be or include a master transfer of all or part of the Scheme Shares.

**Second Court Date** means the first day on which an application made to the Court for an order under section 411(4)(b) of the Corporations Act approving this Scheme is heard (or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard), with such hearing being the **Second Court Hearing**.

**Share Register** means the register of EDL Shareholders maintained in accordance with the Corporations Act.

**Share Registry** means Link Market Services Limited ABN 54 083 214 537, of Level 12, 680 George Street, Sydney NSW 2000.

**Trust Account** means an Australian dollar denominated trust account which attracts interest at a commercial rate and is operated by EDL as trustee for the Scheme Shareholders, details of which EDL must notify to Bidder no later than 5 Business Days before the Implementation Date. To avoid doubt, any Accrued Interest on funds in the Trust Account will not be held by EDL on trust for the Scheme Shareholders but rather will be held by EDL on trust for Bidder.

---

## 2 Interpretation

In this Scheme, the following rules of interpretation apply unless the contrary intention appears.

- (a) Headings are for convenience only and do not affect the interpretation of this Scheme.
- (b) The singular includes the plural and vice versa.
- (c) Words that are gender neutral or gender specific include each gender.
- (d) Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.
- (e) The words "include", "including" and similar expressions are not words of limitation and do not limit what else might be included.
- (f) A reference to:
  - (i) a person includes a natural person, estate of a natural person, partnership, joint venture, government agency, association, corporation or other body corporate or entity (as that term is defined in section 64A of the Corporations Act);
  - (ii) a thing (including a chose in action or other right) includes a part of that thing;
  - (iii) a party includes its successors and permitted assigns;
  - (iv) a document includes all amendments or supplements to that document;
  - (v) a clause, term, party, schedule or attachment is a reference to a clause or term of, or a party, schedule or attachment to, this Scheme (as applicable);
  - (vi) this Scheme includes all schedules to it;
  - (vii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity or a Listing Rule and is a reference to that law as amended, consolidated or replaced;
  - (viii) an agreement (other than this Scheme) includes an undertaking or legally enforceable arrangement or understanding (whether or not in writing);
  - (ix) a time period includes the date referred to as that on which the period begins and the date referred to as that on which the period ends; and
  - (x) a monetary amount is in Australian dollars.



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**Attachment C —  
Deed Poll**

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## Deed poll

A.C.N. 607 005 685 Pty Limited (to be renamed DUET EDL Pty Limited)

DUET Company Limited

In favour of each person registered as a holder of fully paid ordinary shares in Emperor as at the Scheme Record Date

---

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Date:

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## Parties

- 1 **A.C.N. 607 005 685 Pty Limited (to be renamed DUET EDL Pty Limited) (ACN 607 005 685)** of Level 15, 55 Hunter Street, Sydney, New South Wales 2000 (**Bidder**)
  - 2 **DUET Company Limited (ACN 163 100 061)** of Level 15, 55 Hunter Street, Sydney, New South Wales 2000 (**Bidder's Guarantor**)
  - 3 In favour of each person registered as a holder of fully paid ordinary shares in Emperor as at the Scheme Record Date (**Scheme Shareholders**)
- 

## Background

- A Bidder, Bidder's Guarantor and Emperor have entered into the Implementation Deed, under which Bidder is to pay the Scheme Consideration and acquire all Scheme Shares held by Scheme Shareholders under the Scheme, and also under which Bidder and Bidder's Guarantor have agreed to enter into this deed poll.
- B Bidder and Bidder's Guarantor are entering into this deed poll for the purpose of covenanting in favour of the Scheme Shareholders to procure and undertake the actions attributed to Bidder and Bidder's Guarantor under the Scheme.

### The parties agree

---

## 1 Defined terms and interpretation

### 1.1 Defined terms

Unless the context otherwise requires, terms defined in the Scheme have the same meaning when used in this deed poll.

### 1.2 Interpretation

Clause 2 of Schedule 1 of the Scheme applies to the interpretation of this deed poll, except that references to 'Scheme' are to be read as references to 'deed poll'.

### 1.3 Nature of deed poll

Bidder and Bidder's Guarantor acknowledge and agree that:

- (a) this deed poll may be relied on and enforced by any Scheme Shareholder in accordance with its terms even though the Scheme Shareholders are not party to it; and
- (b) under the Scheme, each Scheme Shareholder irrevocably appoints Emperor and each of its directors, officers and secretaries (jointly and each of them severally) as its agent and attorney to enforce this deed poll against Bidder and Bidder's Guarantor.

---

## 2 Conditions

### 2.1 Conditions

The obligations of Bidder and Bidder's Guarantor under this deed poll are subject to the Scheme becoming Effective.

### 2.2 Termination

The obligations of Bidder and Bidder's Guarantor under this deed poll will automatically terminate and the terms of this deed poll will be of no further force or effect if:

- (a) the Implementation Deed is terminated in accordance with its terms; or
- (b) the Scheme does not become Effective by the End Date.

### 2.3 Consequences of termination

If this deed poll is terminated under clause 2.2, in addition and without prejudice to any other available rights, powers or remedies:

- (a) Bidder and Bidder's Guarantor are released from their obligations to further perform this deed poll; and
- (b) each Scheme Shareholder retains the rights they have against Bidder and Bidder's Guarantor in respect of any breach of this deed poll which occurs before it was terminated.

---

## 3 Scheme obligations

Subject to clause 2, Bidder undertakes in favour of each Scheme Shareholder to, and Bidder's Guarantor undertakes in favour of each Shareholder to unconditionally and irrevocably guarantee the obligation of Bidder to:

- (a) deposit (or procure the deposit of) the Aggregate Scheme Consideration payable to all of the Scheme Shareholders in cleared funds into the Trust Account; and
- (b) undertake all other actions attributed to it under the Scheme,

in each case subject to and in accordance with the terms of the Scheme.

---

## 4 Warranties

Each of the Bidder and Bidder's Guarantor represents and warrants that:

- (a) it is a corporation validly existing under the laws of its place of incorporation;
- (b) it has the corporate power to enter into and perform its obligations under this deed poll and to carry out the transactions contemplated by this deed poll;
- (c) it has taken all necessary corporate action to authorise its entry into this deed poll and has taken or will take all necessary corporate action to authorise the performance by it of this deed poll;

- (d) this deed poll is valid and binding on it and is enforceable against it in accordance with its terms; and
- (e) this deed poll does not conflict with, or result in the breach of or default under, any provision of its constitution, or any writ, order or injunction, judgment, law, rule or regulation to which it is a party or subject or by which it is bound.

---

## 5 Continuing obligations

This deed poll is irrevocable and, subject to clause 2, remains in full force and effect until:

- (a) Bidder and Bidder's Guarantor have each fully performed their obligations under this deed poll; or
- (b) the earlier termination of this deed poll under clause 2.2.

---

## 6 Further assurances

Bidder and Bidder's Guarantor will do all things and execute all documents necessary to give full effect to this deed poll and the transactions contemplated by it.

---

## 7 General

### 7.1 Stamp duty

Bidder must (and Bidder's Guarantor unconditionally and irrevocably guarantees the obligation of Bidder to):

- (a) pay all stamp duty (if any) and any related fines and penalties payable on or in respect of the transfer by the Scheme Shareholders of the Scheme Shares to Bidder pursuant to the Scheme or this deed poll; and
- (b) indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 7.1(a).

### 7.2 Notices

- (a) Any notice or other communication to Bidder or Bidder's Guarantor in connection with this deed poll must be:
  - (i) in legible writing in English;
  - (ii) signed by the person making the communication or that person's duly authorised agent; and
  - (iii) given by hand delivery, pre-paid post or email in accordance with the details set out below:

### **Bidder / Bidder's Guarantor**

Attention: Leanne Pickering, General Counsel  
Address: Level 15, 55 Hunter Street, Sydney NSW 2000  
Fax: +61 2 8224 2779  
Email: l.pickering@duet.net.au  
with a copy (for information purposes only) to:  
Marc.Kemp@allens.com.au (by email)

- (b) Subject to clause 7.2(c), any notice or other communication given in accordance with clause 7.2(a) will be deemed to have been duly given as follows:
- (i) if delivered by hand, on delivery;
  - (ii) if sent by pre-paid post, on receipt; and
  - (iii) if sent by email:
    - (A) when the sender receives an email from the recipient confirming receipt of the email; or
    - (B) when the sender receives an automated message from the intended recipient's information system confirming delivery of the email,
- whichever happens first.
- (c) Any notice or other communication that, pursuant to clause 7.2(b), would be deemed to be given:
- (i) other than on a Business Day or after 5:00pm on a Business Day is regarded as given at 9:00am on the following Business Day; and
  - (ii) before 9:00am on a Business Day is regarded as given at 9:00am on that Business Day,

where references to time are to time in the place the recipient is located.

### **7.3 Cumulative rights**

The rights, powers and remedies of Bidder's Guarantor, Bidder and the Scheme Shareholders under this deed poll are cumulative with and do not exclude the rights, powers or remedies provided by law independently of this deed poll.

### **7.4 Waiver and variation**

- (a) A party waives a right under this deed poll only by written notice that it waives that right. A waiver is limited to the specific instance to which it relates and to the specific purpose for which it is given.
- (b) Failure to exercise or enforce, a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by law or under this deed poll by any party will not in any way preclude, or operate as a waiver of,

any exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this deed poll.

- (c) A provision of this deed poll may not be varied unless:
- (i) if before the First Court Date (as defined in the Implementation Deed), the variation is agreed to by Emperor in writing; or
  - (ii) if on or after the First Court Date (as defined in the Implementation Deed), the variation is agreed to by Emperor in writing and the Court indicates that the variation would not of itself preclude approval of the Scheme,

in which event Bidder's Guarantor and Bidder must enter into a further deed poll in favour of the Scheme Shareholders giving effect to the variation.

#### **7.5 Governing law and jurisdiction**

- (a) This deed poll is governed by the laws in force in New South Wales.
- (b) The parties irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts competent to determine appeals from those courts in respect of any proceedings arising out of or in connection with this deed poll. The parties irrevocably waive any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

#### **7.6 Assignment**

- (a) The rights created by this deed poll are personal to Bidder's Guarantor, Bidder and each Scheme Shareholder and must not be dealt with at law or in equity without the prior written consent of Bidder's Guarantor and Bidder.
- (b) Any purported dealing in contravention of clause 7.6(a) is invalid.

#### **7.7 Joint and several obligations**

Bidder's Guarantor and Bidder are jointly and severally liable for each obligation imposed on both of them by the terms of this deed poll.

#### **7.8 Further action**

Bidder's Guarantor and Bidder must, at their own expense, do all things and execute all documents necessary to give full effect to this deed poll and the transactions contemplated by it.



---

## Execution page

### Executed as a deed

Each attorney executing this Deed states that he or she has no notice of revocation or suspension of his or her power of attorney.

---

Signed sealed and delivered for **A.C.N. 607 005 685 Pty Limited (to be renamed DUET EDL Pty Limited)** under power of attorney in the presence of:

---

Signature of witness

---

Signature of attorney

---

Name of witness (print)

---

Name of attorney (print)

---

Signed sealed and delivered for **DUET Company Limited** under power of attorney in the presence of:

---

Signature of witness

---

Signature of attorney

---

Name of witness (print)

---

Name of attorney (print)

---

**Attachment D — Letter referred to in clause 5.8(b)(v)**

National Australia Bank Limited (NAB)  
[insert address]

[insert date] 2015

Westpac Banking Corporation  
[insert address]

Dear Sirs

Confidential

**Project Emperor – Borrowers' authority to make invitations to become Syndicated Facility Lenders under the MOSFA**

**1 Definitions**

In this letter:

"**Borrowers**" means each of:

- EDL Holdings (Australia) Pty Ltd (ABN 67 058 224 481);
- Bio Energy (UK) Limited (Company Number 03340045); and
- Bio Energy (US), LLC (a limited liability company formed in Delaware, US).

"**Common Terms Deed**" means the document entitled 'Common Terms Deed' originally dated 8 July 2011 between, amongst others, the Borrowers, each Initial Guarantor (as defined therein), each Initial Term Facility Lender (as defined therein), each Initial Revolving Facility Lender (as defined therein), each Initial Working Capital Facility Lender (as defined therein) and NAB as Initial Agent and Security Trustee in the form as amended by the Deed of Amendment – Common Terms Deed.

"**Deed of Amendment – Common Terms Deed**" means the document so entitled amending and restating the Common Terms Deed, to be entered on or about the date of the MOSFA, between, amongst others, the Borrowers and the Mandated Lead Arrangers, Underwriters and Bookrunners.

"**Mandated Lead Arrangers, Underwriters and Bookrunners**" means National Australia Bank Limited and Westpac Banking Corporation.

"**MOSFA**" means the document entitled 'Multi-Option Syndicated Facility Agreement' to be entered into, between, amongst others, the Borrowers, each Initial Guarantor (as defined therein) and the Mandated Lead Arrangers, Underwriters and Bookrunners.

"**Syndicated Facility Lender**" has the meaning given to that term under the Common Terms Deed.

**2 Borrowers' authority to make invitations to become Syndicated Facility  
Lenders under the MOSFA**

The Borrowers:

- (a) invite each Mandated Lead Arranger, Underwriter and Bookrunner, acting in the capacity as a dealer, manager or underwriter, to become a Syndicated Facility Lender under the MOSFA; and
- (b) authorise each Mandated Lead Arranger, Underwriter and Bookrunner to make invitations on its behalf to financial institutions to become Syndicated Facility Lenders under the MOSFA.

Each Mandated Lead Arranger, Underwriter and Bookrunner agrees to make on behalf of the Borrowers, jointly with each other Mandated Lead Arranger, Underwriter and Bookrunner, invitations to become a Syndicated Facility Lender under the MOSFA to at least 10 invitees before the date 30 days after the date of the MOSFA.

Yours faithfully

.....  
For and on behalf of  
EDL Holdings (Australia) Pty Ltd

.....  
For and on behalf of  
Bio Energy (UK) Limited

.....  
For and on behalf of  
Bio Energy (US), LLC

**We acknowledge and agree to the above:**

.....  
National Australia Bank Limited  
Mandated Lead Arranger, Underwriter and Bookrunner

- 2 Borrowers' authority to make invitations to become Syndicated Facility Lenders under the MOSFA

Westpac Banking Corporation

Mandated Lead Arranger, Underwriter and Bookrunner

# **ATTACHMENT C**

## **SCHEME OF ARRANGEMENT MADE UNDER SECTION 411 OF THE CORPORATIONS ACT**

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# Scheme of arrangement

**Energy Developments Limited**

**Each person registered as a holder of fully paid ordinary shares in EDL as at the Scheme Record Date**

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Date:

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## Parties

- 1 **Energy Developments Limited ACN 053 410 263** of Building 17, 2404 Logan Road, PO Box 4046, Eight Mile Plains, NSW, Australia, 2113 (**EDL**)
- 2 Each person registered as a holder of fully paid ordinary shares in EDL as at the Scheme Record Date (**Scheme Shareholders**)

**The parties agree**

---

## 1 Defined terms and interpretation

### 1.1 Defined terms

A term or expression starting with a capital letter which is defined in the dictionary in Schedule 1 has the meaning given to it in the dictionary.

### 1.2 Interpretation

The interpretation clause in Schedule 1 sets out rules of interpretation for this Scheme.

---

## 2 Preliminary matters

- (a) EDL is an Australian public company limited by shares, and has been admitted to the official list of ASX. EDL Shares are quoted for trading on the ASX.
- (b) As at 4 September 2015, there were 170,359,095 EDL Shares that are quoted for trading on the ASX and 750,000 EDL Shares that are not quoted for trading on the ASX.
- (c) Bidder's Guarantor is DUET Company Limited (ACN 163 100 061), an Australian public company, which is part of a stapled group listed on the ASX.
- (d) Bidder is an unlisted Australian proprietary limited company.
- (e) If this Scheme becomes Effective:
  - (i) Bidder must (and Bidder's Guarantor unconditionally and irrevocably guarantees the obligation of Bidder to) provide or procure the provision of the Scheme Consideration to Scheme Shareholders in accordance with this Scheme and the Deed Poll; and
  - (ii) all the Scheme Shares, and all the rights and entitlements attaching to them as at the Implementation Date, will be transferred to Bidder and EDL will enter the name of Bidder in the Share Register in respect of all the Scheme Shares.
- (f) Bidder, Bidder's Guarantor and EDL have entered into the Implementation Deed in respect of (among other things) the implementation of this Scheme.
- (g) This Scheme attributes actions to Bidder's Guarantor and Bidder but does not itself impose any obligations on either of them to perform those actions. By executing the Deed Poll, Bidder and Bidder's Guarantor have agreed to perform the actions

attributed to them under this Scheme. By executing the Deed Poll, Bidder agrees to (and Bidder's Guarantor guarantees that Bidder will) perform its obligations under the Deed Poll, including payment of the Scheme Consideration in accordance with the terms of this Scheme.

---

### **3 Conditions**

#### **3.1 Conditions precedent**

This Scheme is conditional on and will not become Effective until and unless the following conditions precedent are satisfied:

- (a) all the conditions in clause 3.1 of the Implementation Deed (other than the condition in clause 3.1(b) of the Implementation Deed relating to Court approval of this Scheme) are satisfied or waived in accordance with the terms of the Implementation Deed by 8:00am on the Second Court Date;
- (b) neither the Implementation Deed nor the Deed Poll is terminated in accordance with its terms before 8.00am on the Second Court Date;
- (c) this Scheme is approved by the Court under section 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under section 411(6) of the Corporations Act as are acceptable to EDL and Bidder;
- (d) such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to this Scheme as are acceptable to EDL and Bidder are satisfied or waived; and
- (e) the order of the Court made under section 411(4)(b) of the Corporations Act approving this Scheme comes into effect pursuant to section 411(10) of the Corporations Act.

#### **3.2 Certificates**

- (a) Each of EDL and Bidder will provide a certificate to the Court at the Second Court Hearing confirming (in respect of matters within their knowledge) whether or not the conditions precedent in clauses 3.1(a) and 3.1(b) above have been satisfied or waived.
- (b) The certificates given by EDL and Bidder constitute conclusive evidence that the conditions precedent in clauses 3.1(a) and 3.1(b) above have been satisfied or waived.

#### **3.3 End Date**

This Scheme will lapse and be of no further force or effect if:

- (a) the Effective Date does not occur on or before the End Date; or
- (b) the Implementation Deed or the Deed Poll is terminated in accordance with its terms, unless the Bidder and EDL otherwise agree in writing.

---

## 4 Implementation of this Scheme

### 4.1 Lodgement of Court orders with ASIC

For the purposes of section 411(10) of the Corporations Act, EDL must lodge with ASIC an office copy of the order made by the Court under section 411(4)(b) of the Corporations Act approving this Scheme before 5:00pm Sydney time on the Business Day following the day on which such office copy is received by EDL or such later date as EDL and Bidder agree in writing.

### 4.2 Transfer of Scheme Shares

On the Implementation Date:

- (a) subject to the provision of the Scheme Consideration in the manner contemplated by clause 5.2(a), the Scheme Shares, together with all rights and entitlements attaching to them as at the Implementation Date, must be transferred to Bidder, without the need for any further act by any Scheme Shareholder (other than acts performed by EDL as attorney and agent for Scheme Shareholders under clause 8.5), by:
  - (i) EDL duly completing and executing the Scheme Transfer, duly executed on behalf of the Scheme Shareholders (as transferors), and delivering it to Bidder; and
  - (ii) Bidder duly executing the Scheme Transfer (as transferee), attending to the stamping of the Scheme Transfer (if required) and delivering it to EDL for registration; and
- (b) immediately following receipt of the Scheme Transfer in accordance with clause 4.2(a), EDL must enter, or procure the entry of, the name of Bidder in the Share Register in respect of all the Scheme Shares transferred to Bidder in accordance with this Scheme.

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## 5 Scheme Consideration

### 5.1 Entitlement to Scheme Consideration

Subject to the terms of this Scheme, each Scheme Shareholder will be entitled to \$8.00 for each Scheme Share.

### 5.2 Provision of Scheme Consideration

- (a) Bidder will (and Bidder's Guarantor unconditionally and irrevocably guarantees the obligation of Bidder to) provide the Scheme Consideration by depositing (or procuring the deposit) in cleared funds an amount equal to the Aggregate Scheme Consideration into the Trust Account before 5:00pm on the day before the Implementation Date (provided that any interest on the amount so deposited (less bank fees and other charges) (**Accrued Interest**) will accrue for the benefit of Bidder).
- (b) Subject to Bidder (and Bidder's Guarantor, if applicable) having complied with clause 5.2(a), EDL must, on the Implementation Date and from the Trust Account, pay to each Scheme Shareholder the proportion of the Aggregate Scheme Consideration attributable to that Scheme Shareholder based on the number of

Scheme Shares held by that Scheme Shareholder as at the Scheme Record Date, which obligation will be satisfied by EDL:

- (i) where a Scheme Shareholder has, before the Scheme Record Date, made an election in accordance with the requirements of the Share Registry to receive dividend payments from EDL by electronic funds transfer to a bank account nominated by the Scheme Shareholder, paying, or procuring the payment of, the relevant amount in Australian currency by electronic means in accordance with that election; or
  - (ii) whether or not a Scheme Shareholder has made an election referred to in clause 5.2(b)(i), dispatching, or procuring the dispatch of, a cheque in Australian currency for the relevant amount to the Scheme Shareholder by prepaid post to their Registered Address, such cheque being drawn in the name of the Scheme Shareholder (or in the case of joint holders, in accordance with clause 5.3).
- (c) In the event that:
- (i) either:
    - (A) a Scheme Shareholder does not have a Registered Address; or
    - (B) EDL as the trustee for the Scheme Shareholders believes that a Scheme Shareholder is not known at the Scheme Shareholder's Registered Address,and no account has been notified in accordance with clause 5.2(b)(i) or a deposit into such an account is rejected or refunded; or
  - (ii) a cheque issued under this clause 5 has been cancelled in accordance with clause 5.4(a),

EDL as the trustee for the Scheme Shareholders may credit the amount payable to the relevant Scheme Shareholder to a separate bank account of EDL (**Separate Account**) to be held until the Scheme Shareholder claims the amount or the amount is dealt with in accordance with the *Unclaimed Money Act 1995* (NSW). To avoid doubt, if the amount is not credited to a Separate Account, the amount will continue to be held in the Trust Account until the Scheme Shareholder claims the amount or the amount is dealt with in accordance with the *Unclaimed Money Act 1995* (NSW).

Until such time as the amount is dealt with in accordance with the *Unclaimed Money Act 1995* (NSW), EDL must hold the amount on trust for the relevant Scheme Shareholder, but any interest or other benefit accruing from the amount will be to the benefit of Bidder. An amount credited to the Separate Account or Trust Account (as applicable) is to be treated as having been paid to the Scheme Shareholder when credited to the Separate Account or Trust Account (as applicable). EDL must maintain records of the amounts paid, the people who are entitled to the amounts and any transfers of the amounts.

- (d) To the extent that there is a surplus in the amount held by EDL as the trustee for the Scheme Shareholders in the Trust Account, that surplus may be paid by EDL as the trustee for the Scheme Shareholders to Bidder following the satisfaction of EDL's obligations as the trustee for the Scheme Shareholders under this clause 5.2.

- (e) EDL must pay any Accrued Interest to any account nominated by Bidder following satisfaction of EDL's obligations under clause 5.2(b) (and, in any event, on the Implementation Date).

### **5.3 Joint holders**

In the case of Scheme Shares held in joint names:

- (a) any cheque required to be sent under this Scheme will be made payable to the joint holders and sent to the holder whose name appears first in the Share Register as at the Scheme Record Date; and
- (b) any other document required to be sent under this Scheme will be forwarded to the holder whose name appears first in the Share Register as at the Scheme Record Date.

### **5.4 Cancellation and re-issue of cheques**

- (a) EDL may cancel a cheque issued under this clause 5 if the cheque:
  - (i) is returned to EDL; or
  - (ii) has not been presented for payment within six months after the date on which the cheque was sent.
- (b) During the period of one year commencing on the Implementation Date, on request in writing from a Scheme Shareholder to EDL (or the Share Registry) (which request may not be made until the date which is 5 Business Days after the Implementation Date), a cheque that was previously cancelled under clause 5.4(a) must be reissued.

### **5.5 Unclaimed monies**

- (a) The *Unclaimed Money Act 1995* (NSW) will apply in relation to any Scheme Consideration which becomes 'unclaimed money' (as defined in section 7 of the *Unclaimed Money Act 1995* (NSW)).
- (b) Any interest or other benefit accruing from unclaimed Scheme Consideration will be to the benefit of Bidder.

### **5.6 Orders of a court**

If written notice is given to EDL (or the Share Registry) of an order or direction made by a court of competent jurisdiction or by another Government Agency that:

- (a) requires payment to a third party of a sum in respect of Scheme Shares held by a particular Scheme Shareholder, which sum would otherwise be payable to that Scheme Shareholder by EDL in accordance with this clause 5, then EDL will be entitled to make that payment (or procure that it is made) in accordance with that order or direction; or
- (b) prevents EDL from making a payment to a particular Scheme Shareholder in accordance with clause 5.2(b), or such payment is otherwise prohibited by applicable law, EDL will be entitled to retain an amount, in Australian dollars, equal to the amount of the relevant payment until such time as payment in accordance with this clause 5 is permitted by that order or otherwise by law.

---

## 6 Dealings in EDL Shares

### 6.1 Determination of Scheme Shareholders

To establish the identity of the Scheme Shareholders, dealings in EDL Shares or other alterations to the Share Register will only be recognised if:

- (a) in the case of dealings of the type to be effected using CHES, the transferee is registered in the Share Register as the holder of the relevant EDL Shares at or before the Scheme Record Date; and
- (b) in all other cases, registrable transfer or transmission applications in respect of those dealings, or valid requests in respect of other alterations, are received at or before the Scheme Record Date at the place where the Share Register is kept,

and EDL must not accept for registration, nor recognise for any purpose (except a transfer to Bidder pursuant to this Scheme and any subsequent transfer by Bidder or its successors in title), any transfer or transmission application or other request received on or after the Scheme Record Date, or received prior to the Scheme Record Date but not in registrable or actionable form.

### 6.2 Share Register

- (a) EDL must register registrable transmission applications or transfers of EDL Shares in accordance with clause 6.1(b) at or before the Scheme Record Date, provided that nothing in this clause 6.2(a) requires EDL to register a transfer that would result in an EDL Shareholder holding a parcel of EDL Shares that is less than a 'marketable parcel' (as defined in the operating rules of ASX).
- (b) If this Scheme becomes Effective, a Scheme Shareholder (and any person claiming through that holder) must not dispose of, or purport or agree to dispose of, any Scheme Shares or any interest in them after the Scheme Record Date otherwise than pursuant to this Scheme, and any attempt to do so will have no effect and EDL will be entitled to disregard any such disposal, purported disposal or agreement.
- (c) For the purpose of determining entitlements to the Scheme Consideration, EDL must maintain the Share Register in accordance with the provisions of this clause 6.2 until the Scheme Consideration has been paid to the Scheme Shareholders. The Share Register in this form will solely determine entitlements to the Scheme Consideration.
- (d) All statements of holding for EDL Shares (other than statements of holding in favour of Bidder) will cease to have effect after the Scheme Record Date as documents of title in respect of those shares and, as from that date, each entry current at that date on the Share Register (other than entries in respect of Bidder) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the EDL Shares relating to that entry.
- (e) As soon as possible after the Scheme Record Date, and in any event within one Business Day after the Scheme Record Date, EDL will ensure that details of the names, Registered Addresses and holdings of EDL Shares for each Scheme Shareholder as shown in the Share Register as at the Scheme Record Date are available to Bidder in the form Bidder reasonably requires.

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## 7 Quotation of EDL Shares

- (a) EDL will apply to ASX to suspend trading in EDL Shares with effect from the close of trading on the Effective Date.
- (b) EDL will apply:
  - (i) for termination of the official quotation of EDL Shares on the ASX; and
  - (ii) to have itself removed from the official list of ASX,in each case with effect on and from the close of trading on the trading day immediately following, or shortly after, the Implementation Date.

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## 8 General Scheme provisions

### 8.1 Consent to amendments to this Scheme

If the Court proposes to approve this Scheme subject to any alterations or conditions:

- (a) EDL may by its counsel consent on behalf of all persons concerned to those alterations or conditions to which Bidder has consented; and
- (b) each Scheme Shareholder agrees to any such alterations or conditions which counsel for EDL has consented to.

### 8.2 Scheme Shareholders' agreements and warranties

- (a) Each Scheme Shareholder:
  - (i) agrees to the transfer of their EDL Shares together with all rights and entitlements attaching to those shares in accordance with this Scheme;
  - (ii) agrees to the variation, cancellation or modification of the rights attached to their EDL Shares constituted by or resulting from this Scheme; and
  - (iii) acknowledges that this Scheme binds EDL and all Scheme Shareholders (including those who did not attend the Scheme Meeting and those who did not vote, or voted against this Scheme, at the Scheme Meeting).
- (b) Each Scheme Shareholder is taken to have warranted to Bidder, and appointed and authorised EDL as its attorney and agent to warrant to Bidder, that:
  - (i) all their Scheme Shares (including any rights and entitlements attaching to their Scheme Shares) which are transferred under this Scheme will, at the time of transfer of them to Bidder, be fully paid and free from all:
    - (A) mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Properties Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise; and
    - (B) restrictions on transfer of any kind; and



- (ii) they have full power and capacity to transfer their Scheme Shares to Bidder together with any rights attaching to those shares.

### **8.3 Title to and rights in Scheme Shares**

- (a) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme will, at the time of transfer of them to Bidder, vest in Bidder free from all:
  - (i) mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Properties Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise; and
  - (ii) restrictions on transfer of any kind.
- (b) Upon the Scheme becoming Effective, Bidder will be beneficially entitled to the Scheme Shares to be transferred to it under this Scheme pending registration by EDL of Bidder in the Share Register as the holder of the Scheme Shares. Bidder's entitlement to be registered in the Share Register as the holder of the Scheme Shares arises on the Implementation Date in accordance with clause 4.2.

### **8.4 Appointment of sole proxy**

Upon the Scheme becoming Effective and until EDL registers Bidder as the holder of all Scheme Shares in the Share Register:

- (a) each Scheme Shareholder is deemed to have appointed Bidder as attorney and agent (and directed Bidder in each such capacity) to appoint any director, officer, secretary or agent nominated by Bidder as its sole proxy and, where applicable or appropriate, corporate representative to attend shareholders' meetings, exercise the votes attaching to the Scheme Shares registered in their name and sign any shareholders' resolution whether in person, by proxy or by corporate representative;
- (b) no Scheme Shareholder may itself attend or vote at any shareholders' meetings or sign any shareholders' resolutions, whether in person, by proxy or by corporate representative (other than pursuant to clause 8.4(a));
- (c) each Scheme Shareholder must take all other actions in the capacity of a registered holder of Scheme Shares as Bidder reasonably directs; and
- (d) each Scheme Shareholder acknowledges and agrees that in exercising the powers conferred by clause 8.4(a), Bidder and any director, officer, secretary or agent nominated by Bidder under that clause may act in the best interests of Bidder as the intended registered holder of the Scheme Shares.

### **8.5 Authority given to EDL**

On the Effective Date, each Scheme Shareholder, without the need for any further act, irrevocably appoints EDL and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of:

- (a) enforcing the Deed Poll against Bidder's Guarantor and Bidder; and

- (b) executing any document, or doing or taking any other act, necessary, desirable or expedient to give effect to this Scheme and the transactions contemplated by it, including executing the Scheme Transfer,

and EDL accepts such appointment. EDL, as attorney and agent of each Scheme Shareholder, may sub-delegate its functions, authorities or powers under this clause 8.5 to all or any of its directors, officers or employees (jointly, severally or jointly and severally).

## **8.6 Binding effect of this Scheme**

This Scheme binds EDL and all of the Scheme Shareholders (including those who did not attend the Scheme Meeting and those who did not vote, or voted against this Scheme, at the Scheme Meeting) and, to the extent of any inconsistency, overrides the constitution of EDL.

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# **9 General**

## **9.1 Stamp duty**

Bidder will:

- (a) pay all stamp duty (if any) and any related fines and penalties payable on or in respect of the transfer by the Scheme Shareholders of the Scheme Shares to Bidder pursuant to this Scheme or the Deed Poll; and
- (b) indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 9.1(a).

## **9.2 Consent**

Each Scheme Shareholder consents to EDL doing all things necessary or incidental to give full effect to the implementation of this Scheme and the transactions contemplated by it.

## **9.3 Notices**

- (a) If a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to EDL, it will not be taken to be received in the ordinary course of post or on a date and time other than the date and time (if any) on which it is actually received at EDL's registered office or at the office of the Share Registry.
- (b) The accidental omission to give notice of the Scheme Meeting or the non-receipt of such notice by an EDL Shareholder will not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

## **9.4 Governing law and jurisdiction**

- (a) This Scheme is governed by the laws in force in New South Wales.
- (b) The parties irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts competent to determine appeals from those courts in respect of any proceedings arising out of or in connection with this Scheme. The parties irrevocably waive any objection to the venue of any legal

process in these courts on the basis that the process has been brought in an inconvenient forum.

**9.5 Further action**

EDL must do all things and execute all documents necessary to give full effect to this Scheme and the transactions contemplated by it.

**9.6 No liability when acting in good faith**

None of EDL, Bidder, Bidder's Guarantor or any of their respective directors, officers, secretaries or employees, will be liable for anything done or omitted to be done in the performance of this Scheme or the Deed Poll in good faith.

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## Schedule 1 — Dictionary

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### 1 Dictionary

**Accrued Interest** has the meaning given in clause 5.2(a).

**Aggregate Scheme Consideration** means the amount calculated by multiplying the number of Scheme Shares by the Scheme Consideration.

**ASIC** means the Australian Securities and Investments Commission.

**ASX** means ASX Limited ABN 98 008 624 691 or, as the context requires, the financial market operated by it known as the “Australian Securities Exchange”.

**Bidder** means DUET EDL Pty Limited (ACN 607 005 685) of Level 15, 55 Hunter Street, Sydney, New South Wales 2000.

**Bidder’s Guarantor** means DUET Company Limited (ACN 163 100 061) of Level 15, 55 Hunter Street, Sydney, New South Wales 2000.

**Business Day** means a week day on which trading banks in Sydney are open for trading and the ASX is open for trading.

**CHESS** means the Clearing House Electronic Subregister System operated by ASX Settlement Pty Limited and ASX Clear Pty Limited.

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

**Court** means the Federal Court of Australia or such other court of competent jurisdiction under the Corporations Act agreed to in writing by EDL and Bidder.

**Deed Poll** means the deed poll dated 2 September 2015 under which Bidder covenants, and Bidder’s Guarantor jointly and severally covenants, in favour of Scheme Shareholders to provide the Scheme Consideration in accordance with the terms of this Scheme.

**Effective** means the coming into effect, pursuant to section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to this Scheme.

**Effective Date** means the date on which this Scheme becomes Effective.

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

**EDL Shareholder** means a holder of one or more EDL Shares, as shown in the Share Register.

**End Date** means the date six months from the date of execution of the Implementation Deed or such later date as agreed by EDL and Bidder.

**Government Agency** means any foreign or Australian government or governmental, semi-governmental, administrative, fiscal, statutory or judicial body, department, commission, authority, tribunal, agency or entity, or any minister of the Crown in right of the Commonwealth of Australia or any state, or any other federal, state, provincial, local

or other government, whether foreign or Australian. It also includes any self-regulatory organisation established under statute or otherwise discharging substantially public or regulatory functions (including ASIC and the Takeovers Panel) and any stock exchange (including ASX).

**Implementation Deed** means the scheme implementation deed dated 20 July 2015 between Bidder, Bidder's Guarantor and EDL relating to (among other things) the implementation of this Scheme.

**Implementation Date** means the fifth Business Day after the Scheme Record Date or such other date as the parties to the Implementation Deed agree in writing.

**Listing Rules** means the official listing rules of ASX.

**Registered Address** means, in relation to an EDL Shareholder, the address shown in the Share Register as at the Scheme Record Date.

**Scheme** means this scheme of arrangement subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed to by Bidder and EDL.

**Scheme Consideration** means, in respect of each Scheme Share, A\$8.00.

**Scheme Meeting** means the meeting of EDL Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act.

**Scheme Record Date** means 7:00pm Sydney time on the third Business Day after the Effective Date.

**Scheme Share** means an EDL Share held by a Scheme Shareholder as at the Scheme Record Date.

**Scheme Shareholder** means an EDL Shareholder as at the Scheme Record Date.

**Scheme Transfer** means one or more proper instruments of transfer in respect of the Scheme Shares for the purposes of section 1071B of the Corporations Act, which may be or include a master transfer of all or part of the Scheme Shares.

**Second Court Date** means the first day on which an application made to the Court for an order under section 411(4)(b) of the Corporations Act approving this Scheme is heard (or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard), with such hearing being the **Second Court Hearing**.

**Share Register** means the register of EDL Shareholders maintained in accordance with the Corporations Act.

**Share Registry** means Link Market Services Limited ABN 54 083 214 537 of Level 12, 680 George Street, Sydney NSW 2000.

**Trust Account** means an Australian dollar denominated trust account which attracts interest at a commercial rate and is operated by EDL as trustee for the Scheme Shareholders, details of which EDL must notify to Bidder no later than 5 Business Days before the Implementation Date. To avoid doubt, any Accrued Interest on funds in the Trust Account will not be held by EDL on trust for the Scheme Shareholders but rather will be held by EDL on trust for Bidder.

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## 2 Interpretation

In this Scheme, the following rules of interpretation apply unless the contrary intention appears.

- (a) Headings are for convenience only and do not affect the interpretation of this Scheme.
- (b) The singular includes the plural and vice versa.
- (c) Words that are gender neutral or gender specific include each gender.
- (d) Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.
- (e) The words “include”, “including” and similar expressions are not words of limitation and do not limit what else might be included.
- (f) A reference to:
  - (i) a person includes a natural person, estate of a natural person, partnership, joint venture, government agency, association, corporation or other body corporate or entity (as that term is defined in section 64A of the Corporations Act);
  - (ii) a thing (including a chose in action or other right) includes a part of that thing;
  - (iii) a party includes its successors and permitted assigns;
  - (iv) a document includes all amendments or supplements to that document;
  - (v) a clause, term, party, schedule or attachment is a reference to a clause or term of, or a party, schedule or attachment to, this Scheme (as applicable);
  - (vi) this Scheme includes all schedules to it;
  - (vii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity or a Listing Rule and is a reference to that law as amended, consolidated or replaced;
  - (viii) an agreement (other than this Scheme) includes an undertaking or legally enforceable arrangement or understanding (whether or not in writing);
  - (ix) a time period includes the date referred to as that on which the period begins and the date referred to as that on which the period ends; and
  - (x) a monetary amount is in Australian dollars.



# **ATTACHMENT D**

## **DEED POLL**

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## Deed poll

DUET EDL Pty Limited

DUET Company Limited

In favour of each person registered as a holder of fully paid ordinary shares in Energy Developments Limited as at the Scheme Record Date



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## Parties

- 1 **DUET EDL Pty Limited (ACN 607 005 685)** of Level 15, 55 Hunter Street, Sydney, New South Wales 2000 (**Bidder**)
  - 2 **DUET Company Limited (ACN 163 100 061)** of Level 15, 55 Hunter Street, Sydney, New South Wales 2000 (**Bidder's Guarantor**)
  - 3 In favour of each person registered as a holder of fully paid ordinary shares in Energy Developments Limited as at the Scheme Record Date (**Scheme Shareholders**)
- 

## Background

- A Bidder, Bidder's Guarantor and Energy Developments Limited have entered into the Implementation Deed, under which Bidder is to pay the Scheme Consideration and acquire all Scheme Shares held by Scheme Shareholders under the Scheme, and also under which Bidder and Bidder's Guarantor have agreed to enter into this deed poll.
- B Bidder and Bidder's Guarantor are entering into this deed poll for the purpose of covenanting in favour of the Scheme Shareholders to procure and undertake the actions attributed to Bidder and Bidder's Guarantor under the Scheme.

### The parties agree

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## 1 Defined terms and interpretation

### 1.1 Defined terms

Unless the context otherwise requires, terms defined in the Scheme have the same meaning when used in this deed poll.

### 1.2 Interpretation

Clause 2 of Schedule 1 of the Scheme applies to the interpretation of this deed poll, except that references to 'Scheme' are to be read as references to 'deed poll'.

### 1.3 Nature of deed poll

Bidder and Bidder's Guarantor acknowledge and agree that:

- (a) this deed poll may be relied on and enforced by any Scheme Shareholder in accordance with its terms even though the Scheme Shareholders are not party to it; and
- (b) under the Scheme, each Scheme Shareholder irrevocably appoints Energy Developments Limited and each of its directors, officers and secretaries (jointly and each of them severally) as its agent and attorney to enforce this deed poll against Bidder and Bidder's Guarantor.

---

## 2 Conditions

### 2.1 Conditions

The obligations of Bidder and Bidder's Guarantor under this deed poll are subject to the Scheme becoming Effective.

### 2.2 Termination

The obligations of Bidder and Bidder's Guarantor under this deed poll will automatically terminate and the terms of this deed poll will be of no further force or effect if:

- (a) the Implementation Deed is terminated in accordance with its terms; or
- (b) the Scheme does not become Effective by the End Date.

### 2.3 Consequences of termination

If this deed poll is terminated under clause 2.2, in addition and without prejudice to any other available rights, powers or remedies:

- (a) Bidder and Bidder's Guarantor are released from their obligations to further perform this deed poll; and
- (b) each Scheme Shareholder retains the rights they have against Bidder and Bidder's Guarantor in respect of any breach of this deed poll which occurs before it was terminated.

---

## 3 Scheme obligations

Subject to clause 2, Bidder undertakes in favour of each Scheme Shareholder to, and Bidder's Guarantor undertakes in favour of each Shareholder to unconditionally and irrevocably guarantee the obligation of Bidder to:

- (a) deposit (or procure the deposit of) the Aggregate Scheme Consideration payable to all of the Scheme Shareholders in cleared funds into the Trust Account; and
- (b) undertake all other actions attributed to it under the Scheme,

in each case subject to and in accordance with the terms of the Scheme.

---

## 4 Warranties

Each of the Bidder and Bidder's Guarantor represents and warrants that:

- (a) it is a corporation validly existing under the laws of its place of incorporation;
- (b) it has the corporate power to enter into and perform its obligations under this deed poll and to carry out the transactions contemplated by this deed poll;
- (c) it has taken all necessary corporate action to authorise its entry into this deed poll and has taken or will take all necessary corporate action to authorise the performance by it of this deed poll;

- (d) this deed poll is valid and binding on it and is enforceable against it in accordance with its terms; and
- (e) this deed poll does not conflict with, or result in the breach of or default under, any provision of its constitution, or any writ, order or injunction, judgment, law, rule or regulation to which it is a party or subject or by which it is bound.

---

## 5 Continuing obligations

This deed poll is irrevocable and, subject to clause 2, remains in full force and effect until:

- (a) Bidder and Bidder's Guarantor have each fully performed their obligations under this deed poll; or
- (b) the earlier termination of this deed poll under clause 2.2.

---

## 6 Further assurances

Bidder and Bidder's Guarantor will do all things and execute all documents necessary to give full effect to this deed poll and the transactions contemplated by it.

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## 7 General

### 7.1 Stamp duty

Bidder must (and Bidder's Guarantor unconditionally and irrevocably guarantees the obligation of Bidder to):

- (a) pay all stamp duty (if any) and any related fines and penalties payable on or in respect of the transfer by the Scheme Shareholders of the Scheme Shares to Bidder pursuant to the Scheme or this deed poll; and
- (b) indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 7.1(a).

### 7.2 Notices

- (a) Any notice or other communication to Bidder or Bidder's Guarantor in connection with this deed poll must be:
  - (i) in legible writing in English;
  - (ii) signed by the person making the communication or that person's duly authorised agent; and
  - (iii) given by hand delivery, pre-paid post or email in accordance with the details set out below:

### **Bidder / Bidder's Guarantor**

Attention: Leanne Pickering, General Counsel  
Address: Level 15, 55 Hunter Street, Sydney NSW 2000  
Fax: +61 2 8224 2779  
Email: l.pickering@duet.net.au

with a copy (for information purposes only) to:

Marc.Kemp@allens.com.au (by email)

- (b) Subject to clause 7.2(c), any notice or other communication given in accordance with clause 7.2(a) will be deemed to have been duly given as follows:
- (i) if delivered by hand, on delivery;
  - (ii) if sent by pre-paid post, on receipt; and
  - (iii) if sent by email:
    - (A) when the sender receives an email from the recipient confirming receipt of the email; or
    - (B) when the sender receives an automated message from the intended recipient's information system confirming delivery of the email,
- whichever happens first.
- (c) Any notice or other communication that, pursuant to clause 7.2(b), would be deemed to be given:
- (i) other than on a Business Day or after 5:00pm on a Business Day is regarded as given at 9:00am on the following Business Day; and
  - (ii) before 9:00am on a Business Day is regarded as given at 9:00am on that Business Day,

where references to time are to time in the place the recipient is located.

### **7.3 Cumulative rights**

The rights, powers and remedies of Bidder's Guarantor, Bidder and the Scheme Shareholders under this deed poll are cumulative with and do not exclude the rights, powers or remedies provided by law independently of this deed poll.

### **7.4 Waiver and variation**

- (a) A party waives a right under this deed poll only by written notice that it waives that right. A waiver is limited to the specific instance to which it relates and to the specific purpose for which it is given.
- (b) Failure to exercise or enforce, a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by law or under this deed poll by any party will not in any way preclude, or operate as a waiver of,

any exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this deed poll.

- (c) A provision of this deed poll may not be varied unless:
- (i) if before the First Court Date (as defined in the Implementation Deed), the variation is agreed to by Energy Developments Limited in writing; or
  - (ii) if on or after the First Court Date (as defined in the Implementation Deed), the variation is agreed to by Energy Developments Limited in writing and the Court indicates that the variation would not of itself preclude approval of the Scheme,

in which event Bidder's Guarantor and Bidder must enter into a further deed poll in favour of the Scheme Shareholders giving effect to the variation.

#### **7.5 Governing law and jurisdiction**

- (a) This deed poll is governed by the laws in force in New South Wales.
- (b) The parties irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts competent to determine appeals from those courts in respect of any proceedings arising out of or in connection with this deed poll. The parties irrevocably waive any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

#### **7.6 Assignment**

- (a) The rights created by this deed poll are personal to Bidder's Guarantor, Bidder and each Scheme Shareholder and must not be dealt with at law or in equity without the prior written consent of Bidder's Guarantor and Bidder.
- (b) Any purported dealing in contravention of clause 7.6(a) is invalid.

#### **7.7 Joint and several obligations**

Bidder's Guarantor and Bidder are jointly and severally liable for each obligation imposed on both of them by the terms of this deed poll.

#### **7.8 Further action**

Bidder's Guarantor and Bidder must, at their own expense, do all things and execute all documents necessary to give full effect to this deed poll and the transactions contemplated by it.

---

## Execution page

### Executed as a deed


Each attorney executing this Deed states that he or she has no notice of revocation or suspension of his or her power of attorney.

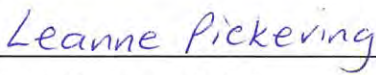
---

Signed sealed and delivered for **DUET EDL Pty Limited** under power of attorney in the presence of:

  
\_\_\_\_\_  
Signature of witness

  
\_\_\_\_\_  
Name of witness (print)

  
\_\_\_\_\_  
Signature of attorney


  
\_\_\_\_\_  
Name of attorney (print)

---

Signed sealed and delivered for **DUET Company Limited** under power of attorney in the presence of:

  
\_\_\_\_\_  
Signature of witness

  
\_\_\_\_\_  
Name of witness (print)

  
\_\_\_\_\_  
Signature of attorney

  
\_\_\_\_\_  
Name of attorney (print)



# **ATTACHMENT E**

## **INDEPENDENT EXPERT'S REPORT**





## **Energy Developments Limited**

Independent expert's report and Financial Services Guide

3 September 2015



## Financial Services Guide

### What is a Financial Services Guide?

**This Financial Services Guide (FSG) provides important information to assist you in deciding whether to use our services. This FSG includes details of how we are remunerated and deal with complaints.**

Where you have engaged us, we act on your behalf when providing financial services. Where you have not engaged us, we act on behalf of our client when providing these financial services, and are required to give you an FSG because you have received a report or other financial services from us. The person who provides the advice is an Authorised Representative (AR) of Deloitte Corporate Finance Pty Limited (Deloitte Corporate Finance), which authorises the AR to distribute this FSG. Their AR number is included in the report which accompanies this FSG.

### What financial services are we licensed to provide?

We are authorised to provide financial product advice and to arrange for another person to deal in financial products in relation to securities, interests in managed investment schemes, government debentures, stocks or bonds to retail and wholesale clients. We are also authorised to provide personal and general financial product advice and deal by arranging in derivatives and regulated emissions units to wholesale clients, and general financial product advice relating to derivatives to retail clients.

### Our general financial product advice

Where we have issued a report, our report contains only general advice. This advice does not take into account your personal objectives, financial situation or needs. You should consider whether our advice is appropriate for you, having regard to your own personal objectives, financial situation or needs.

If our advice is provided to you in connection with the acquisition of a financial product you should read the relevant offer document carefully before making any decision about whether to acquire that product.

### How are we and all employees remunerated?

We will receive a fee of approximately \$425,000 exclusive of GST in relation to the preparation of this report. This fee is not contingent upon the success or otherwise of the proposed transaction between Energy Developments Limited (EDL) and DUET Group (DUET) (the Proposed Scheme).

Other than our fees, we, our directors and officers, any related bodies corporate, affiliates or associates and their directors and officers, do not receive any commissions or other benefits.

All employees receive a salary and while eligible for annual salary increases and bonuses based on overall performance they do not receive any commissions or other benefits as a result of the services provided to you. The remuneration paid to our directors reflects their individual contribution to the organisation and covers all aspects of performance.

We do not pay commissions or provide other benefits to anyone who refers prospective clients to us.

### Associations and relationships

We are ultimately controlled by the Deloitte member firm in Australia (Deloitte Touche Tohmatsu). Please see [www.deloitte.com/au/about](http://www.deloitte.com/au/about) for a detailed description of the legal structure of Deloitte Touche Tohmatsu.

During the past twelve months, Deloitte Touche Tohmatsu provided non-assurance services to EDL that comprised agreed upon procedures on financial models prepared by EDL. This does not present a conflict of interest as the agreed upon procedures services are unrelated to the proposed transaction between EDL and DUET and the experts in this report were not involved in the provision of these services.

### What should you do if you have a complaint?

If you have any concerns regarding our report or service, please contact us. Our complaint handling process is designed to respond to your concerns promptly and equitably. All complaints must be in writing to the address below.

If you are not satisfied with how we respond to your complaint, you may contact the Financial Ombudsman Service (FOS). FOS provides free advice and assistance to consumers to help them resolve complaints relating to the financial services industry. FOS' contact details are also set out below.

The Complaints Officer  
PO Box N250  
Grosvenor Place  
Sydney NSW 1220  
[complaints@deloitte.com.au](mailto:complaints@deloitte.com.au)  
Fax: +61 2 9255 8434

Financial Ombudsman Services  
GPO Box 3  
Melbourne VIC 3001  
[info@fos.org.au](mailto:info@fos.org.au)  
[www.fos.org.au](http://www.fos.org.au)  
Tel: 1300 780 808  
Fax: +61 3 9613 6399

### What compensation arrangements do we have?

Deloitte Australia holds professional indemnity insurance that covers the financial services provided by us. This insurance satisfies the compensation requirements of the Corporations Act 2001 (Cth).

3 September 2015

Deloitte Corporate Finance Pty Limited, ABN 19 003 833 127, AFSL 241457 of Level 1 Grosvenor Place, 225 George Street, Sydney NSW 2000

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see [www.deloitte.com/au/about](http://www.deloitte.com/au/about) for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.

Member of Deloitte Touche Tohmatsu Limited

The Directors  
Energy Developments Limited  
Building 17  
2404 Logan Road  
Eight Mile Plains QLD 4113

Deloitte Corporate Finance Pty Limited  
A.B.N. 19 003 833 127  
AFSL 241457

Grosvenor Place  
225 George Street  
Sydney NSW 2000  
PO Box N250 Grosvenor Place  
Sydney NSW 1220 Australia

DX 10307SSE  
Tel: +61 (0) 2 9322 7000  
Fax: +61 (0) 2 9322 7001  
www.deloitte.com.au

3 September 2015

Dear Directors

## Independent expert's report

### Introduction

On 20 July 2015, Energy Developments Limited (EDL or the Company), together with the Board of DUET Group (DUET), announced a proposal under which DUET would acquire 100% of the issued shares in EDL via a scheme of arrangement (the Proposed Scheme). If the Proposed Scheme is approved, holders of EDL ordinary shares (Shareholders) will receive cash consideration of Australian dollars (AUD or \$) 8.00 per EDL share (Consideration), upon completion, which is expected to occur in October 2015.

Upon completion of the Proposed Scheme, EDL will become a wholly owned subsidiary of DUET and will subsequently be delisted from the Australian Securities Exchange (ASX). The Board of EDL has prepared a scheme booklet containing the detailed terms of the Proposed Scheme (the Scheme Booklet). An overview of the Proposed Scheme is provided in Section 1 of our detailed report.

### Purpose of the report

Section 411 of the Corporations Act 2001 (Section 411) regulates schemes of arrangement between companies and their shareholders. Part 3 prescribes the information to be provided to shareholders in relation to schemes of arrangement.

The directors of EDL (the Directors) have requested that Deloitte Corporate Finance Pty Limited (Deloitte Corporate Finance) provide an independent expert's report advising whether, in our opinion, the Proposed Scheme is in the best interests of Shareholders.

This independent expert's report has been prepared in a manner consistent with Part 3 of Schedule 8 of the Corporations Regulations 2001 (Cth) (Part 3) to assist Shareholders in their consideration of the Proposed Scheme. We have prepared this report having regard to Part 3 and Australian Securities and Investments Commission (ASIC) Regulatory Guide 111 and ASIC Regulatory Guide 112.

This report is to be included in the Scheme Booklet to be sent to Shareholders and has been prepared for the exclusive purpose of assisting Shareholders in their consideration of the Proposed Scheme. Neither Deloitte Corporate Finance, Deloitte Touche Tohmatsu, nor any member or employee thereof, undertakes responsibility to any person, other than the Shareholders and EDL, in respect of this report, including any errors or omissions, however caused.

## Basis of evaluation

### Guidance

In undertaking the work associated with this report, we have had regard to ASIC Regulatory Guide 111 in relation to the content of expert's reports and ASIC Regulatory Guide 112 in respect of the independence of experts.

Schemes of arrangement can include many different types of transactions, including being used as an alternative to a Chapter 6 takeover bid. The basis of evaluation selected by the expert must be appropriate for the nature of each specific transaction.

Section 640 of the Corporations Act 2001 (Cth) (Section 640) requires an independent expert's report in connection with a takeover offer to state whether, in the expert's opinion, the takeover offer is fair and reasonable. Where the scheme of arrangement has the same effect as a takeover, the form of analysis used by the expert should be substantially the same as for a takeover bid, however, the opinion reached should be whether the proposed scheme is 'in the best interests of the members of the company'. Accordingly, if an expert were to conclude that a proposal was 'fair and reasonable' if it was in the form of a takeover bid, it will also be able to conclude that the proposed scheme is in the best interests of the members of the company.

### ASIC Regulatory Guide 111

This regulatory guide provides guidance in relation to the content of independent expert's reports prepared for a range of transactions.

ASIC Regulatory Guide 111 refers to a 'control transaction' as being the acquisition (or increase) of a controlling stake in a company that could be achieved, for example, by way of a takeover offer, scheme of arrangement, approval of an issue of shares using item 7 of s611, a selective capital reduction or selective buy back under Chapter 2J.

In respect of control transactions, under ASIC Regulatory Guide 111 an offer is:

- fair, when the value of the consideration is equal to or greater than the value of the securities subject to the proposed scheme. The comparison must be made assuming 100% ownership of the target company (i.e. including a control premium)
- reasonable, if it is fair, or, despite not being fair, after considering other significant factors, securityholders should accept the offer under the proposed scheme, in the absence of any higher bids before the close of the offer.

To assess whether the Proposed Scheme is in the best interests of Shareholders, we have adopted the tests of whether the Proposed Scheme is either fair and reasonable, not fair but reasonable, or neither fair nor reasonable, as set out in ASIC Regulatory Guide 111.

### Fairness

ASIC Regulatory Guide 111 defines an offer as being fair if the value of the offer price is equal to or greater than the value of the securities the subject of the offer. The comparison must be made assuming 100% ownership of the target company.

Accordingly we have assessed whether the Proposed Scheme is fair by comparing the value of a share in EDL with the value of the Consideration.

We have assessed the value of each EDL share by estimating the current equity value of EDL on a control basis and dividing this value by the number of shares on issue.

The shares in EDL have been valued at fair market value, which we have defined as the amount at which the shares would be expected to change hands between a knowledgeable and willing but not anxious buyer and a knowledgeable and willing but not anxious seller, neither of whom is under any compulsion to buy or sell. Special purchasers may be willing to pay higher prices to reduce or eliminate competition, to ensure a source of material supply or sales, or to achieve cost savings or other synergies arising on business combinations, which could only be enjoyed by the special purchaser. Our valuation of a share in EDL has not been premised on the existence of a special purchaser.

## Reasonableness

ASIC Regulatory Guide 111 considers an offer in respect of a control transaction, to be reasonable if either:

- the offer is fair
- despite not being fair, but considering other significant factors, Shareholders should accept the offer in the absence of any higher bid before the close of the offer.

To assess the reasonableness of the Proposed Scheme we considered the following significant factors in addition to determining whether the Proposed Scheme is fair:

- the existing shareholdings in EDL of Pacific Equity Partners, Investors Mutual and Cooper Investments in EDL
- the likely market price and liquidity of EDL shares in the absence of the Proposed Scheme
- the likelihood of an alternative offer being made
- other implications associated with Shareholders rejecting the Proposed Scheme.

## Summary and conclusion

In our opinion the Proposed Scheme is fair and reasonable. In arriving at this opinion, we have had regard to the following factors.

### The Proposed Scheme is fair

According to ASIC Regulatory Guide 111, in order to assess whether the Proposed Scheme is fair, we have compared the fair market value of a share in EDL on a control basis with the fair market value of the Consideration under the Proposed Scheme. The Proposed Scheme is fair if the value of the Consideration is equal to or greater than the value of the securities subject to the offer.

Set out in the table below is a comparison of our assessment of the fair market value of a share in EDL with the Consideration offered by DUET.

**Table 1: Assessment of fairness**

	Low (AUD)	High (AUD)
Estimated fair market value of a share in EDL (Section 5.1)	7.84	8.97
Consideration offered by DUET	8.00	8.00

Source: Deloitte Corporate Finance analysis

Note:

1. All amounts stated in this report are in AUD unless otherwise stated and may be subject to rounding.

The Consideration offered by DUET is within the range of our estimate of the fair market value of a share in EDL. Accordingly it is our opinion that the Proposed Scheme is fair.

EDL's power generation business comprises a portfolio of 80 projects operating across its Remote Energy and Clean Energy segments. We adopted the discounted cash flow method to value EDL's power generation business, which requires assumptions in relation to items including future uncontracted electricity and green certificate prices, future electricity generation volume and discount rates. Our valuation of EDL is particularly sensitive to the market prices assumed (referring to the electricity prices applicable post the contracted period for each of EDL's assets) and the discount rates.

Furthermore, our valuation assumes EDL installs new capacity at a sustained rate each year. Whilst the projected rate of growth is supported by EDL's recent experience in Australia, the US and the UK, it is uncertain in which region EDL will achieve this growth in the future, and to what extent it will be capable of maintaining this trajectory. We have therefore risked the value attributable to this growth via the application of a premium in the range of 1.00% to 1.25% to the discount rate adopted to value the balance of EDL's projected cash flows, which is in the range of 8.75% to 9.25%.

Similarly, we have risked the cash flows associated with EDL's US business to take into account the significantly higher growth projected for this business, which is assumed to be driven by, amongst other factors, higher gas flow rates from landfill gas (LFG) sites at which EDL has operations.

Set out below is a summary of the sensitivity of our valuation range of a share in EDL to our key valuation assumptions.

**Table 2: Discount rate sensitivity analysis – 100% (control basis)**

(AUD per share) Base discount rate	Premium to discount rate on growth business			
	0.75%	1.00%	1.25%	1.50%
8.50%	9.55	9.36	9.18	9.02
8.75%	9.06	8.89	8.73	8.58
9.00%	8.61	8.45	8.30	8.16
9.25%	8.19	8.04	7.90	7.78
9.75%	7.42	7.30	7.18	7.07

Source: Deloitte Corporate Finance analysis

Notes:

1. The values in the table above reflect the midpoint of our terminal value growth rate assumptions. Therefore, they do not correspond with the valuation range reflected in Table 1
2. All scenarios include a premium of 0.5% on the discount rate for LFG US. For example at a base discount rate of 9.0%, a 9.5% discount rate has been applied to LFG US
3. Shaded area represents our preferred range of assumptions

**Table 3: Electricity price sensitivity analysis – 100% (control basis)**

(AUD per share) Base discount rate	Change to forecast wholesale electricity prices				
	-10.00%	-5.00%	0.00%	5.00%	10.00%
8.50%	8.16	8.72	9.27	9.83	10.38
8.75%	7.74	8.28	8.81	9.34	9.88
9.00%	7.35	7.86	8.38	8.89	9.41
9.25%	6.98	7.48	7.97	8.47	8.97
9.75%	6.31	6.78	7.24	7.70	8.17

Source: Deloitte Corporate Finance analysis

Notes:

1. The values in the table above reflect the midpoint of our terminal value growth rate assumptions. Therefore, they do not correspond with the valuation range reflected in Table 1
2. All scenarios include a premium of 0.5% on the discount rate for LFG US. For example at a base discount rate of 9.0%, a 9.5% discount rate has been applied to LFG US
3. Shaded area represents our preferred range of assumptions

The detailed assumptions adopted to value a share in EDL are set out in Section 4 and Section 5 of this report.

### The Proposed Scheme is reasonable

In accordance with ASIC Regulatory Guide 111 an offer is reasonable if it is fair. On this basis, in our opinion the Proposed Scheme is reasonable. We also noted the following factors.

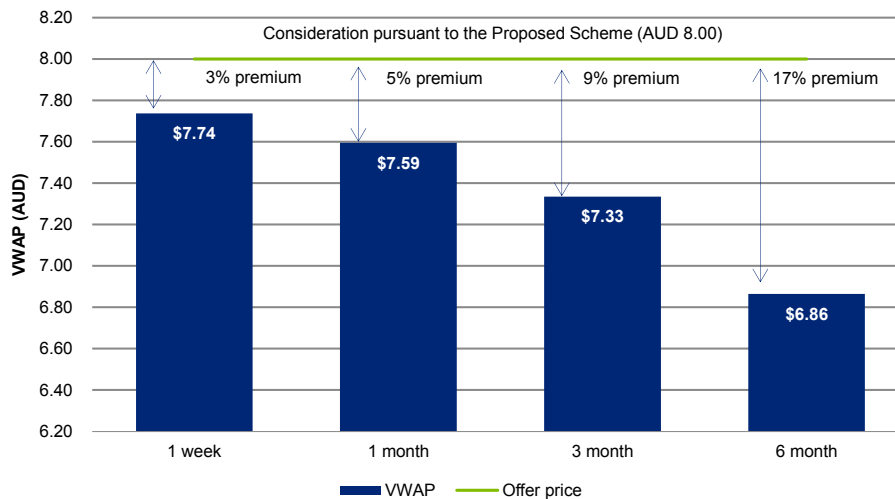
#### *Shareholders will receive a certain AUD 8.00 per share*

The Proposed Scheme represents an opportunity for Shareholders to realise their investment in EDL with the certainty of the cash Consideration offered under the Proposed Scheme. If the Proposed Scheme is implemented, Shareholders will be able to realise their investment in EDL without incurring any transaction costs.

#### *Shareholders will receive a premium*

The cash Consideration of AUD 8.00 per share offered to Shareholders under the Proposed Scheme represents a premium to recent traded prices of EDL shares prior to the announcement of the Proposed Scheme on 20 July 2015, as set out below:

**Figure 1: Consideration compared to recent share trading in EDL shares**



Source: Deloitte Corporate Finance analysis

The volume weighted average price (VWAP) of a share in EDL for one week, one month, three months and six months prior to the announcement of the Proposed Scheme was AUD 7.74, AUD 7.59, AUD 7.33 and AUD 6.86 per EDL share, respectively. The Consideration represents a premium to share trading in EDL shares prior to the announcement of the Proposed Scheme of between 3% and 17%. Trading in EDL’s shares has been subject to very low liquidity for some time and therefore the share price of EDL is not a strong indicator of the value of EDL.

### *Inability to participate in the possible future growth potential of EDL*

Our valuation of EDL recognises the value attributable to the potential future growth of EDL’s business based on our expectation of associated future earnings. However, if EDL is able to generate earnings beyond those factored into our valuation, for example, by achieving better growth or better average pricing than contemplated by our valuation or through increased diversification, the value of a share in EDL may be enhanced, perhaps significantly, to a value that may exceed the Consideration offered under the Proposed Scheme.

Accordingly, if the Proposed Scheme proceeds, to the extent that EDL’s future growth exceeds the levels assumed in our valuation, Shareholders will forego the opportunity to participate in this potential upside.

There are limited other listed investment vehicles with operations closely comparable to those of EDL. There would therefore appear to be no directly comparable alternative investments in which Shareholders could invest, to the extent Shareholders wish to retain exposure to EDL’s particular mix of distributed generation.

### *The price of EDL shares may fall in the absence of the Proposed Scheme*

EDL’s share price has been volatile in the twelve months prior to the announcement of the Scheme, having traded with a daily VWAP as low as AUD 4.93 per share on 6 August 2014 and as high as AUD 7.86 per share on 10 July 2015. The closing share price on the day prior to the announcement of the Proposed Scheme was AUD 7.72 per share. Since the announcement of the Proposed Scheme, EDL’s share price has traded in the range of AUD 7.85 to AUD 7.98 per share.

It is common for the share price of a target company the subject of a takeover offer to trade at or around the price of the takeover offer during the offer period, particularly if the market has formed the view that the takeover will proceed at that price. It is also not uncommon for the share price to fall back to pre-takeover levels or lower in the event that the takeover offer is unsuccessful.

In the absence of an alternative offer and in the event that the Proposed Scheme is unsuccessful, EDL’s share price may decline to the levels achieved prior to the announcement of the Proposed Scheme in the short term, noting that trading in EDL’s shares has historically been subject to low liquidity.

### *Alternatives to the Proposed Scheme*

As at the date of this report, no superior offers for EDL have emerged. The Board has undertaken an active and comprehensive global sales process to sell EDL (or parts of the business). A financial advisor was appointed to

assist the Board in seeking a potential acquirer for EDL, and bidders involved international and local parties engaged in infrastructure investment and potential trade buyers.

A number of indicative proposals under a range of different structures were subsequently received from a number of local and global parties. The Proposed Scheme is considered by the Board to be the highest and best offer, and therefore the most attractive for Shareholders.

In the absence of the Proposed Scheme proceeding, Shareholders will continue to own shares in the listed EDL vehicle, however will remain subject to the risks of owning shares in a closely-held, illiquid company. Furthermore, there is a risk that no superior offer emerges over the course of the remainder of Pacific Equity Partners' investment horizon in EDL. A future sales process or alternative exit mechanism by the major shareholder may result in EDL being in a less favourable bargaining position than is currently the case, or a less attractive outcome for Shareholders.

### *Tax implications*

The tax implications of accepting the Proposed Scheme will vary depending on the individual circumstances of each of the Shareholders. Further details of the tax implications to Shareholders are set out in the Scheme Booklet.

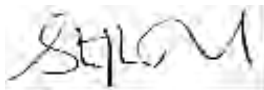
Shareholders should seek advice and evaluate the taxation consequences of the Proposed Scheme based on their individual circumstances.

### **Opinion**

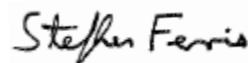
In our opinion, the Proposed Scheme is fair and reasonable to Shareholders. It is therefore in the best interests of Shareholders. An individual Shareholder's decision in relation to the Proposed Scheme may be influenced by his or her particular circumstances. If in doubt the Shareholder should consult an independent adviser, who should have regard to their individual circumstances.

This opinion should be read in conjunction with our detailed report which sets out our scope and findings.

Yours faithfully



**Stephen Reid**  
Authorised Representative 461011



**Stephen Ferris**  
Authorised Representative 460999



# Glossary

Reference	Definition
$\alpha$	Specific company risk premium
ACCU	Australian Carbon Credit Units
AEMC	Australian Energy Market Commission
AEMO	Australian Electricity Market Operator
AER	Australian Energy Regulator
AFSL	Australian Financial Services Licence
AngloGold	AngloGold Ashanti Australia Limited
APESB	Accounting Professional and Ethical Standards Board Limited
ARENA	Australian Renewable Energy Agency
ASIC	Australian Securities and Investments Commission
ASX	Australian Securities Exchange
AUD or \$	Australian dollars
AUASB	Auditing and Assurance Standards Board
$\beta$	beta
Consideration	Cash consideration of AUD 8.00 per share under the terms of the Proposed Scheme
CAPM	Capital Asset Pricing model
CCL	Climate Change Levy
CEFC	Clean Energy Finance Corporation
CER	Clean Energy Regulator
CFD	Contract for difference
CO <sub>2</sub>	Carbon Dioxide
DECC	Department of Energy and Climate Change
Deloitte Corporate Finance	Deloitte Corporate Finance Pty Limited
Directors	Directors of EDL
DUET	DUET Group
EBIT	Earnings before interest and tax
EBITDA	Earnings before interest, tax, depreciation and amortisation
EDL/the Company	Energy Developments Limited
EMRP	Equity Market Risk Premium
enGen	Energy Generation Pty Limited
ERCOT	Electricity Reliability Council of Texas market
ERF	Emissions Reduction Fund
FERC	Federal Energy Regulatory Commission
Financial Models	Financial models prepared by EDL management to estimate the future cash flows of its power generation business
FSG	Financial Services Guide
FVPR	Fixed value performance rights
FY	Financial year
GBP	Great Britain pound
GWh	Gigawatt hours
HY	Half year
$K_d$	Cost of debt capital
$K_e$	Cost of equity capital
LEC	Levy Exemption Certificate
LFG	Landfill gas
LFGA	Landfill Gas Agreement
LGC	Large-scale Generation Certificates
LNG	Liquefied natural gas
LRET	Large-scale Renewable Energy Target
MW	Megawatt
MWh	Megawatt hours
MOSF	Multi-Option Syndicated Facility
NEM	National Electricity Market

Reference	Definition
NFFO	Non-Fossil Fuel Obligation
NFPA	Non-Fossil Purchasing Agency Limited
NGET	National Grid Electricity Transmission
NER	National Electricity Rules
OFGEM	Office of Gas and Electricity Markets
PJM	PJM Interconnection LLC
PPA	Power purchase agreement
PR	Performance rights
Projection Period	Forecast period upto and including the year ending 30 June 2030
Proposed Scheme	Proposal under which DUET would acquire 100% of the issued shares in EDL via a scheme of arrangement
PV	Photovoltaic
$R_f$	Risk free rate of return
$R_m$	Expected return on the market portfolio
REC	Renewable Energy Certificate
RET	Renewable Energy Target
RO	Renewable Obligation
ROC	Renewable Obligation Certificate
ROE PR	Return on equity performance rights
RPS	Renewable Portfolio Standard
Scheme Booklet	Scheme booklet containing the detailed terms of the Proposed Scheme prepared by the Board of EDL
Section 411	Section 411 of the Corporations Act 2001
Section 640	Section 640 of the Corporations Act 2001
Shareholders	Existing holders of ordinary shares of EDL
TSR PR	Total shareholder return performance rights
TWh	Terawatt hours
USD	United States dollar
VWAP	Volume weighted average price
WACC	Weighted average cost of capital
WCMG	Waste coal mine gas
WKPP	Western Kimberley Power Project

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# 1 Overview of the Proposed Scheme

## 1.1 Summary

On 20 July 2015, EDL announced that it had entered into a Scheme Implementation Deed under which it is proposed that DUET will acquire all of the shares in EDL from existing shareholders by way of a scheme of arrangement for a cash price of AUD 8.00 per share. To fund the Proposed Scheme, DUET announced that it will undertake a fully underwritten equity raising of AUD 1.67 billion.

## 1.2 Background to DUET

DUET is an Australian-based ASX-listed company that owns and operates energy utility assets in Australia. DUET had a market capitalisation of approximately AUD 4.7 billion as at 4 August 2015.

DUET's asset portfolio consists of interests in energy utility assets as follows:

- an 80% interest in the Dampier Bunbury Pipeline, a natural gas transmission pipeline located in Western Australia
- a 100% interest in the DBP Development Group, a division focused on identifying opportunities to construct, own and/or operate new pipeline infrastructure assets
- a 66% interest in United Energy, a provider of electricity to approximately 660,000 customers across east and southeast Melbourne and the Mornington Peninsula
- a 100% interest in Multinet Gas, a distributor of gas via a network covering 1,860km<sup>2</sup> across Melbourne's inner and outer east, the Yarra Ranges and South Gippsland.

EDL is seen to provide a source of growth for DUET, diversity in operations, potential synergy benefits (with EDL's Remote Energy business seen as complementary to DUET's DBP Development Group), and access to the expertise of EDL's management team.

## 1.3 Key conditions of the Proposed Scheme

The Proposed Scheme is subject to a number of conditions precedent including:

- regulatory approval from the Committee on Foreign Investment in the United States
- Deloitte Corporate Finance concluding that the Proposed Scheme is in the best interests of EDL's shareholders
- EDL shareholders approving the Proposed Scheme at the Scheme Meeting
- no refusals to consent to a change of control under the terms of 'key contracts' (contracts identified as such by DUET to EDL) or termination of any of those contracts, as a result of the Proposed Scheme
- no 'material adverse changes' occurring in respect of EDL, being:
  - an event or circumstance that has the effect of reducing EDL's consolidated net assets (excluding any diminution in intangible assets) by AUD 25 million or more
  - an event or circumstance that has the effect of reducing EDL's EBITDA by AUD 25 million or more in recurring financial years

subject to a number of conditions set out in the Scheme Implementation Deed

- no 'prescribed occurrences' in relation to EDL as described in the Scheme Booklet
- Court approval of the Proposed Scheme in accordance with paragraph 411(4)(b) of the Corporations Act 2001 (Cth).

Further details are disclosed at Section 1.2 of the Scheme Booklet.

At the date of this report, the scheme meeting in relation to the Proposed Scheme is proposed to be held in early October 2015.

## 1.4 Intentions if the Proposed Scheme proceeds

If the Proposed Scheme is successful, upon completion EDL will become a wholly owned subsidiary of DUET and will subsequently be delisted from the ASX. If the Proposed Scheme proceeds, DUET intends to continue to operate the EDL business in a similar manner in which it is currently conducted, subject to the implementation of revised risk management policies along with a refinancing of EDL's existing debt facilities and an associated AUD 150 million degearing.

Further details are disclosed at Section 5.5 of the Scheme Booklet.

## 2 Profile of EDL

### 2.1 Introduction

#### 2.1.1 Overview

EDL is a Brisbane-based, ASX-listed owner and operator of remote and clean energy power generation assets located in Australia, Europe and the United States (US) and had a market capitalisation of \$1.35 billion as at 20 July 2015.

EDL was established in 1988 and listed on the ASX in 1993 and currently owns and operates a portfolio of approximately 80 projects with a total installed capacity of approximately 900 MW across its two key businesses, Remote Energy and Clean Energy.

Within the Remote Energy business (representing 41% of EDL’s FY15 revenues), the Company provides electricity to remote towns, communities and mines that are not connected to power grid infrastructure, via power plants that are predominately fuelled by natural gas with some diesel generation. Within its Clean Energy business (59% of FY15 revenues), EDL generates power from methane gas extracted from underground metallurgical coal mines (referred to as waste coal mine gas or WCMG) and methane gas extracted from landfills (referred to as landfill gas or LFG). For its Remote Energy projects, revenues are earned under long-term capacity-charge based contracts with blue chip / investment grade counterparties. For its Clean Energy projects, generation is sold on the grid to retailers under power purchase agreements (PPAs) or contracts for difference (CFDs).

All of the Remote Energy projects operated by EDL are located in Australia, whilst Clean Energy comprises projects located in Australia (WCMG and LFG), Europe (LFG) and the US (LFG).

Figure 2: Location of EDL’s projects



Source: Management information

EDL operates under a build, own and operate model, however it also operates and maintains a small number of projects (with combined capacity of 27 MW) on behalf of third parties. EDL’s primary focus is on distributed power solutions where energy is generated on site to reduce costs such as transmission and distribution. Power stations are generally constructed on a modular basis using multiple interchangeable generation modules, which facilitates the redeployment of modules to other projects upon contract expiry or as capacity requirements change. This reduces EDL’s risk of stranded assets. The Company is however predominantly focused on leveraging its incumbent supplier position in renewing and extending long term contracts with counterparties to

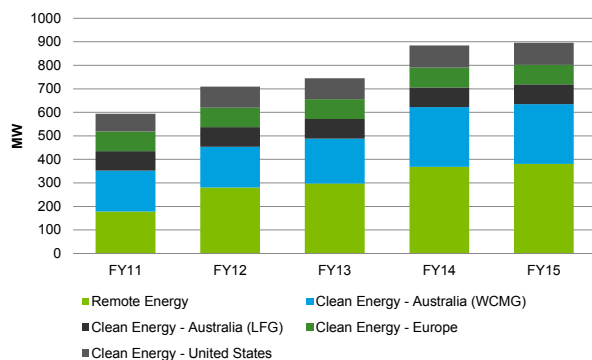
limit the requirement to redeploy assets from time to time. By way of example, the Company successfully extended 147 MW of existing capacity in calendar year 2014 for a weighted average period of 11 years.

## 2.1.2 Recent growth

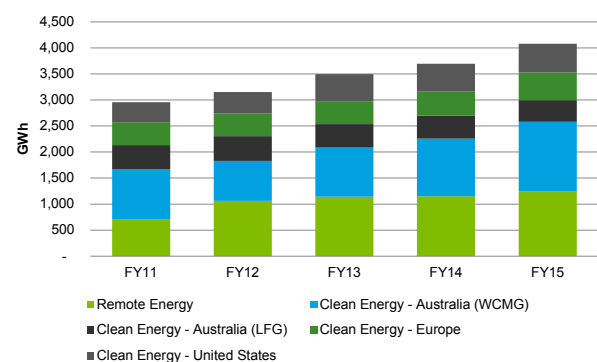
EDL has expanded its installed capacity through a combination of organic growth and acquisitions, having originally commenced operations to focus on the increasing power generation demands of remote Australia. In 1996, EDL diversified to enter the WCMG market with the construction of a 97 MW power station at the South32 Limited (previously BHP Billiton Group) operated Appin coal mines, before entering international LFG markets in the US and UK the following year. Over the last 25 years, the Company has grown the total MW under management by a compound annual growth rate of 17.4%.

The recent progression of EDL's installed capacity from FY11 to FY15 (Figure 3) and total gigawatt hours (GWh) generated in FY11 to FY15 (Figure 4), is set out below. On average, EDL has increased annual capacity by 76 MW per annum over this period.

**Figure 3: Installed capacity – FY11 to FY15**



**Figure 4: Power generated – FY11 to FY15**



Source: EDL annual reports, management presentations, ASX announcements

Key recent growth includes the following:

- in 2011, EDL entered into a sale and purchase agreement with Wesfarmers to acquire Energy Generation Pty Limited (enGen) for \$101 million, which owned and operated 98 MW of remote power generation projects
- in 2013:
  - EDL and Anglo agreed to extend the WCMG supply contract for the Moranbah North metallurgical coal mine to FY38 and to expand the existing power station by an additional 18 MW (increasing the plant's total installed capacity to 64 MW)
  - EDL completed a 13 MW expansion of the German Creek power station, increasing capacity to 45 MW
- in FY14, the company acquired and installed an additional 154 MW of power generation capacity via a combination of expansions and acquisitions:
  - in January 2014, EDL completed the 53 MW McArthur River Mine expansion for Glencore to almost double the plant's existing capacity to support the expansion of the mine. With this expansion, McArthur River Mine project became EDL's largest Remote Energy asset at 78 MW
  - in April 2014, EDL acquired 43 MW of the Envirogen WCMG business. EDL acquired new customers, Glencore and Vale, through the transaction, along with opportunities for future expansions.

Total FY14 additions were slightly offset by the sale of the Wodgina (13 MW) Remote Energy contract after the customer decided to exercise its right to acquire the plant, as agreed in contract terms specified by the original owner, EnGen

- in July 2014, the company acquired an additional 51 MW of power generation capacity via the sale and leaseback of two upstream liquefied natural gas (LNG) power projects from Clarke Energy Australia for an initial lease term of 12 months, with potential extensions. At the end of the lease period, these assets are expected to be redeployed for use in future WCMG projects.

In addition to the above successful projects, EDL's committed near term growth projects include 18 MW of expansions across its Remote Energy (13 MW) and WCMG (5 MW) businesses.

## 2.1.3 Revenue model

Revenue is primarily a function of installed capacity and power generated and comprises:

- the sale of electricity to counterparties (referred to as black revenue). Counterparties typically comprise blue chip multinational mining companies, State-owned, and private utility providers. EDL had an average remaining contract life of 11.6 years as at 31 December 2014
- the sale of environmental credits (referred to as green revenue)
- the provision of ancillary support services.

Approximately 84% of EDL's revenue in FY14 comprised black revenue. In addition, 80% of EDL's revenue in FY14 was contracted, of which 50% was capacity based revenue.

The Remote Energy business generates black revenue, whilst the Clean Energy business generates a combination of black and green revenue. An overview of black and green revenue is set out below.

### Black revenue

EDL generates black revenue from the sale of power through a variety of sources including:

- **capacity charge revenue:** capacity charge revenue is earned under power supply agreements where a set amount of generation capacity is made available to a user irrespective of actual generation during a period. These agreements typically provide stable recurring revenue for the period of the agreement and are linked to performance metrics such as availability factors
- **contracted revenue under a PPA or contract for difference (CFD):** under a PPA or CFD, EDL earns revenue based on fixed price for the actual amount of power generated and sold in a given period
- **market or spot revenue:** market or spot revenue is earned where there is no PPA, and the power generator is connected to the grid (i.e. in Australia the national electricity market or NEM). All power produced is sold at prevailing market prices. EDL's spot revenue is generated from its Moranbah North power station located in Queensland.

### Green revenue

EDL generates green revenue from the sale of environmental credits through various renewable energy schemes in the countries in which it operates. A brief overview of these schemes by geography is summarised as follows:

- **Australia:** green revenue in Australia comprises the sale of Large-scale Generation Certificates (LGCs) created under the Large-scale Renewable Energy Target (LRET) scheme and the sale of Australian Carbon Credit Units (ACCUs) to the Emissions Reduction Fund (ERF). All LFG and WCMG sites (except Appin Tower) have been accredited to receive LGCs, whilst only the LFG sites are eligible for ACCUs. However, WCMG expansions and future greenfield projects may be eligible for ACCUs.

EDL's eligible LFG and WCMG sites in Australia generated green revenue of approximately \$51.6 million in FY15

- **United Kingdom:** green revenue in the United Kingdom comprises a combination of revenue generated under the Non-Fossil Fuel Obligation (NFFO) scheme which pays a contracted price for power generation and the sale of Renewable Obligation Certificates (ROCs) under the Renewable Obligation (RO) scheme.

Four of EDL's LFG sites operate with some capacity under NFFO contracts which expire between 2015 and 2018 and subsequently transition to the RO scheme. The remaining capacity on these four sites along with the other six LFG sites are eligible for ROCs.

EDL's 10 eligible LFG sites in the United Kingdom generated green revenue of approximately \$25.7 million in FY15

- **US:** the US does not currently have a Federal renewable energy or carbon abatement policy. Instead certain US states operate various renewable energy schemes which are broadly similar to the LRET scheme in Australia. Under these schemes, renewable energy generators are awarded Renewable Energy Certificates (RECs) for each MWh of electricity generated from any eligible renewable energy source. RECs can be sold or traded.

Four of EDL's LFG sites located in Ohio and Illinois are eligible to generate green revenue. EDL generated green revenue of approximately \$7.0 million in FY15 from its US operations.

A brief overview of each of the Remote Energy and Clean Energy businesses is set out below.



## 2.2 Remote Energy

The Remote Energy business was established in 1988, with the first plant constructed to supply power to the Pine Creek region in the Northern Territory, and accounted for approximately 41% of EDL's operations by revenue in FY15. EDL owns and operates 29 remote energy projects with a total installed capacity of 381 MW.

A summary of EDL's Remote Energy projects is set out below.

**Table 4: Summary of Remote Energy projects**

Site	Location <sup>1</sup>	Installed capacity (MW)	Counterparty	Fuel type	Contract end <sup>2</sup>
McArthur River	NT	78	Glencore	Gas/Diesel	2033
Western Kimberley Power Project (WKPP)	WA	61	Horizon Power	Gas/Diesel	2028
Cannington	QLD	40	South32 Base Metals	Gas/Diesel	2018
Pine Creek	NT	34	Territory Generation	Gas/Diesel	2016
Reedy Creek	QLD	30	Clarke Energy	Gas	2015
Sunrise Dam	WA	28	AngloGold Ashanti	LNG/Diesel	2025
Eurombah	QLD	21	Clarke Energy	Gas	2015
Jundee	WA	20	Northern Star Resources	Gas/Diesel	n/a
Hill 50/60	WA	18	Ramelius Resources	Gas/Diesel	n/a
Darlot	WA	12	Gold Fields	LNG/Diesel	n/a
Karratha	WA	10	Supagas	Gas	n/a
Century	QLD	7	MMG Limited	Diesel	n/a
Karumba	QLD	6	MMG Limited	Diesel	n/a
Remote Towns	WA	6	Horizon Power	Diesel	n/a
Remote Communities	WA	5	Horizon Power	Diesel	n/a
Coober Pedy	SA	4	District Council Coober Pedy	Gas/Diesel	n/a
<b>Total installed capacity</b>		<b>381</b>			

Source: EDL management, various ASX announcements

Notes:

1. Northern Territory (NT), Queensland (QLD), South Australia (SA) and Western Australia (WA).
2. n/a refers to not publicly available.

Refer to Appendix D for a brief overview of EDL's key remote energy projects.

Revenue is typically generated under long-term tolling or capacity based contracts, predominantly at fixed prices, where the counterparty assumes fuel price and volume risk. Remote Energy generated revenue of \$185.4 million in FY15, an increase of 3% over FY14. Installed capacity increased from 368 MW in FY14 to 381 MW in FY15.

The future performance of the Remote Energy business is expected to be driven by brownfield expansions at existing sites including Sunrise Dam and Coober Pedy, new greenfield sites and uncommitted future acquisitions and expansions.

## 2.3 Clean Energy

The Clean Energy business accounted for approximately 59% of EDL's operations by revenue in FY15. An overview of the WCMG and LFG operations and the recent performance of the Clean Energy business is set out below.

### 2.3.1 WCMG

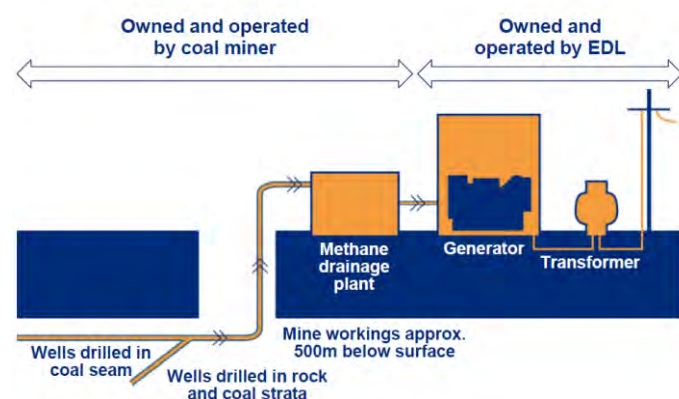
The WCMG business was established in 1996, with the first plant constructed at the Appin and Tower colliery, and EDL currently operates eight WCMG projects in Australia.

Coal mining releases fugitive emissions (or WCMG) generally comprised of carbon dioxide and methane trapped in coal seams. WCMG is typically considered a waste product at underground coal mines and is removed before, during and after mining coal underground as it poses a safety threat. WCMG is extracted through mine ventilation and coal seam drainage. The extracted gas is flared, released directly into the

atmosphere or used as a fuel source for power generation (if sufficient volume and energy content is available). EDL is currently the only active developer of WCMG projects in Australia.

A summary of the WCMG extraction and generation process is set out in the figure below.

**Figure 5: Illustrative example of the WCMG generation process**



Source: EDL

Although EDL enters into contracts with mines for the supply of gas, there is a risk that insufficient gas becomes available to operate each power station at optimal capacity. This is partly mitigated by the modular construction of each power station which allows unutilised equipment to be redeployed to other sites.

EDL has eight WCMG plants located in New South Wales and Queensland with a total installed capacity of 258 MW. A summary of EDL’s WCMG projects is set out below.

**Table 5: Summary of WCMG projects**

Site	State	Installed capacity (MW)	Counterparty	Contract end <sup>1</sup>
Appin Tower (2 sites)	NSW	97	South32	2016
Moranbah North	QLD	64	Anglo American	2038
German Creek	QLD	45	Anglo American	2036
Oaky Creek	QLD	21	Glencore	n/a
Glennies Creek	NSW	12	Vale	n/a
Tahmoor	NSW	7	Glencore	n/a
Other	NSW / QLD	12	Various	n/a
<b>Total installed capacity</b>		<b>258</b>		

Source: EDL management, ASX announcements

Notes:

1. New South Wales (NSW) and Queensland (QLD).
2. n/a refers to not publicly available.

Refer to Appendix D for a brief overview of EDL’s key WCMG projects.

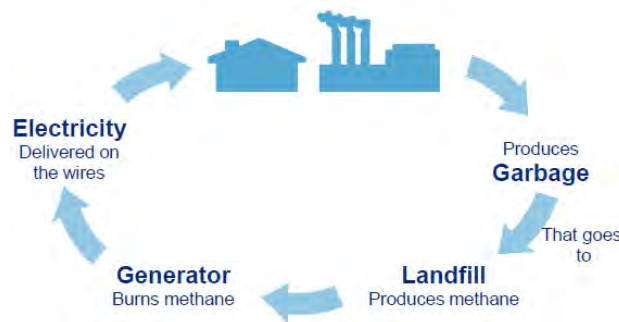
### 2.3.2 Landfill Gas

EDL operates 40 LFG projects in Australia, Europe and the US with a total installed capacity of 262 MW, and holds a 50% interest in a joint venture with Helector SA, a Greek renewable energy generation company, at the Ano Liossia site located near Athens, with total installed capacity of 24 MW (which equates to 12 MW net capacity to EDL).

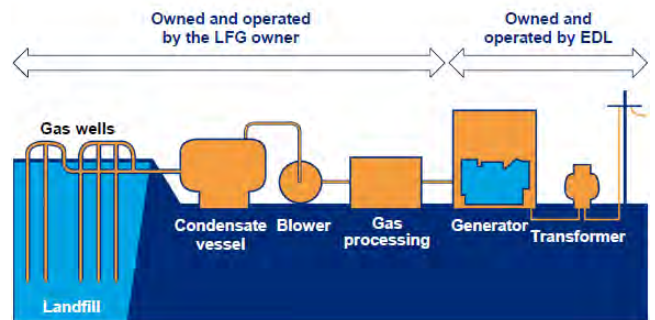
Landfill gas is produced by anaerobic decomposition of organic waste at landfill sites. Landfill gas consists of a mixture of gas, principally comprising of methane and carbon dioxide together with water vapour and organic compounds. To maintain a consistent flow of gas, a network of wells is placed into the landfill and operates under vacuum to extract the gas from the landfill site. Landfill sites have an indefinite life while operating and typically have a 30-plus year life post-closure based on discussion with management. However, sites are subject to a decay in gas post-closure (albeit after a short term increase immediately after closure).

The process of electricity generation from landfill gas is illustrated in the figures below.

**Figure 6: Illustrative example of LFG from an open landfill**



**Figure 7: Illustrative example of the LFG extraction process**



Source: EDL

EDL does not own or operate any landfill sites, however long term contracts are in place with landfill operators for the exclusive right to gas produced in exchange for a royalty payment. EDL’s landfill sites generally operate under three main agreements:

- a Landfill Gas Agreement (LFGA) with the landfill operator for the right to access the LFG (typically for the life of the landfill site). A royalty is paid to the operator typically based on a fixed percentage of electricity generated or sold
- a PPA or other revenue contract with an electricity retailer
- a grid interconnect agreement.

Revenue is also generated from various carbon abatement and renewable energy target schemes in the geographies in which the assets are located.

In the absence of EDL expanding or developing new landfill sites, revenue from the LFG operations is likely to decline over time as electricity production is negatively impacted by declining gas production from closed landfill sites.

An overview of EDL’s LFG projects by geographic location is set out below.

**Table 6: Summary of the LFG projects**

Site	State	Installed capacity (MW)	Landfill status
<b>Australia</b>			
Lucas Heights 2A	NSW	13	Open
Clayton	VIC	12	Open
Wingfield 1&2	SA	8	Closed
Broadmeadows	VIC	6	Closed
Lucas Heights 1	NSW	5	Closed
Lucas Heights 2B	NSW	5	Open
Eastern Creek	NSW	5	Closed
Berwick/Lyndhurst	VIC	5	Open
Mugga Lane	ACT	4	Open
Springvale	VIC	4	Closed
Brooklyn	VIC	3	Closed
Pedler Creek	SA	3	Open
Browns Plains	QLD	2	Open
Jacks Gully	NSW	2	Open
Highbury	SA	1	Closed
Tea Tree Gully	SA	1	Closed
Roghan Road	QLD	1	Closed
Grange Ave	NSW	1	Closed
Belconnen	ACT	1	Closed
Corio	VIC	1	Closed
Belrose	NSW	1	Open
<b>Total installed capacity – Australia</b>		<b>84</b>	
<b>Europe</b>			
Mucking	UK	22	Closed
Rainham	UK	18	Open
Pitsea	UK	16	Open
Greece (50% owned)	Greece	12	Open
Bellhouse	UK	6	Open
Sidegate Lane	UK	3	Closed
Barling	UK	3	Open
Waverley Wood	UK	2	Open
Brazier	UK	1	Closed
Ryton	UK	<1	Closed
Poole	UK	<1	Closed
<b>Total installed capacity – Europe</b>		<b>84</b>	
<b>US</b>			
Lorain County	Ohio	27	Open
Carbon Limestone	Ohio	25	Open
Covel Gardens	Texas	10	Open
Tessman Road	Texas	9	Open
Taylor County	Georgia	8	Open
Zion	Illinois	7	Open
Sand Valley	Alabama	5	Open
Ottawa County	Ohio	3	Open
<b>Total installed capacity – US</b>		<b>94</b>	
<b>Total LFG installed capacity</b>		<b>262</b>	

Source: EDL management, ASX announcements, company website

Note:

1. Australian Capital Territory (ACT), New South Wales (NSW), Queensland (QLD), South Australia (SA) and Victoria (VIC).

### 2.3.3 Recent performance

EDL reports the financial performance of the Clean Energy business in three segments, Australia (WCMG and LFG), Europe and the US.

A brief overview of financial performance and business outlook for each segment is set out below.

#### Clean Energy – Australia

The Clean Energy operations in Australia generated revenue of \$150.2 million in FY15, an increase of 8% over FY14, primarily due to a 13% increase in electricity generation as a result of the full year contribution from the 43 MW Envirogen business and 18 MW Moranbah North expansion. EBITDA margins increased from 54% in FY14 to 63% in FY15. We note that EBITDA margins vary for Australia, Europe and the US. This principally reflects different energy pricing, different green schemes, capacity utilisation of each plant and cost bases.

The WCMG division's future performance is expected to be driven by investment in brownfield expansions at existing sites to fully utilise available gas supplies and new greenfield developments. EDL is planning to relocate 51 MW of power generation projects once the leases with Clarke Energy end.

The future performance of the LFG division is expected to be driven by potential acquisitions of businesses with similar assets and the development of greenfield sites.

#### Clean Energy – Europe

The Clean Energy operations in the United Kingdom generated revenue of \$70.5 million in FY15, an increase of 4% over FY14 primarily due to the depreciation in the Australian dollar. EBITDA margins declined from 52% in FY14 to 48% in FY15 due to lower green revenue. EDL's share of profits from its Greek joint venture was \$2.2 million in FY15.

The future performance of the LFG operations in the United Kingdom is expected to be driven by the roll-off of NFFO contracts to ROC based revenues and potential acquisitions of businesses with similar assets.

#### Clean Energy – US

The Clean Energy operations in the US generated revenue of \$40.3 million in FY15, an increase of 25% over FY14 primarily due to improved gas flows, a full year contribution from the 5 MW Sand Valley project and the depreciation in the Australian dollar. Increased pricing under contracted PPAs have resulted in EBITDA margins increasing from 42% in FY14 to 49% in FY15.

The future performance of the LFG US operations is expected to be driven by increasing prices under contracted PPAs, expansions to existing sites to utilise gas supplies as open landfills expand, potential greenfield development opportunities and acquisitions of existing LFG projects.

## 2.4 Capital structure and shareholders

As at 4 August 2015, EDL has the following securities on issue:

- approximately 171 million ordinary shares
- approximately 19 million options over unissued ordinary shares
- approximately 79 million performance rights.

The ten largest shareholders represent a combined interest of approximately 93% of EDL's ordinary shares on issue, with the largest shareholder, Greenspark Power Holdings, holding approximately 67% of EDL's shares, as presented in the table below.

**Table 7: Summary of top ten shareholders<sup>1</sup>**

Shareholder	Number of shares held (millions)	Percentage of shares issued (%)
Greenspark Power Holdings <sup>2</sup>	114.8	67%
Investors Mutual	16.9	10%
Cooper Investments	7.9	5%
Tribeca Investment Partners	4.9	3%
First Samuel	2.6	2%
Directors, employees and related parties	2.5	1%
Wilson Asset Management	2.5	1%
Greencape Capital	2.0	1%
Karara Capital	1.6	1%
Private Stakeholders (Australia)	1.4	1%
<b>Total shareholdings – top ten shareholders</b>	<b>157.1</b>	<b>92%</b>
Other	14.0	8%
<b>Total shareholdings</b>	<b>171.1</b>	<b>100%</b>

Source: Management information

Notes:

- As at 30 June 2015.
- Greenspark Power Holdings is jointly owned by entities advised by Pacific Equity Partners, an Australian based private equity fund.

Directors, employees and related parties' shareholdings are the result of the Company having invited selected employees to subscribe for ordinary shares in the Company at \$2.75 per share (or the average trading price, if higher) up to limits approved by the Board. Participants are restricted from trading their shares until the earlier of exit by Greenspark Power Holdings, cessation of employment, or 10 years from the date of share subscription.

Under EDL's long term incentive plan approved in 2011, eligible executives were also invited to acquire options in the Company in two series, referred to as the Series A and the Series B options.

Under the terms of the Series A options, the majority were issued at an exercise price of \$4.12, representing 1.5 times the original benchmark price of \$2.75 per share at the date of issuance, with the options vesting over a four or five year period. The exercise price of the Series B options, at \$6.87 per share, represents 2.5 times the original benchmark price of \$2.75 per share at the date of issuance.

The options currently on issue are summarised in the following table.

**Table 8: Summary of options<sup>1</sup>**

Tranches	Exercise price (\$)	Expiry date	No. of options vested, but not exercised	Unvested options	Total options
<b>Series A</b>					
Tranche 1	4.12	13-Oct-19	1,557,600	734,400	<b>2,292,000</b>
Tranche 2	4.12	30-Aug-20	-	324,000	<b>324,000</b>
Tranche 3	4.80	22-Mar-21	302,400	453,600	<b>756,000</b>
<b>Series B</b>					
Tranche 1	6.87	13-Oct-19	9,288,000	2,448,000	<b>11,736,000</b>
Tranche 2	6.87	30-Aug-20	720,000	1,080,000	<b>1,800,000</b>
Tranche 3	6.87	22-Mar-21	1,008,000	1,512,000	<b>2,520,000</b>
<b>Total</b>			<b>12,883,500</b>	<b>6,552,000</b>	<b>19,428,000</b>

Source: Management information

Note:

- As at 4 August 2015, based on management calculations.

The Board of EDL has discretion to accelerate vesting in the event of, amongst other circumstances, a change of control transaction.

A number of performance rights (PRs) have also been issued to the Managing Director and officers of EDL as part of their equity based compensation, which are subject to various performance and vesting conditions. The PRs on issue at the date of this report include fixed value PRs (FVPRs), total shareholder return PRs (TSR PRs), return on equity PRs (ROE PRs) and a small number of legacy PRs held by current and former employees:

- FVPRs are instruments with a designated dollar value. They convert into ordinary shares of an equivalent value subject to EDL achieving a range of pre-determined share prices at the end of the vesting period (with the number of shares determined based on the share price at that time)
- TSR PRs vest based on an assessment of EDL's total shareholder returns in comparison to the total shareholder returns of a comparator group of ASX-listed companies over the performance period
- ROE PRs vest based on assessment of EDL's return on equity over the performance period against target levels.

The PRs currently on issue are summarised in the following table.

**Table 9: Summary of PRs**

Tranches	Value per FVPR (\$)	No. of PRs	Total value (\$)
<b>Tranche 1 FVPRs</b>			
Series A	0.11	6,295,766	692,534
Series B	0.11	20,985,882	2,308,447
<b>Tranche 2 FVPRs</b>			
Series A	0.28	4,688,060	1,312,657
Series B	0.28	20,985,882	5,876,047
<b>Tranche 3 FVPRs</b>			
Series A	0.20	4,688,060	937,612
Series B	0.20	20,985,882	4,197,176
<b>Total FVPRs</b>		<b>78,629,532</b>	<b>15,324,473</b>
<b>Legacy PRs</b>	<b>n/a</b>	<b>42,500</b>	
<b>TSR PRs</b>	<b>n/a</b>	<b>327,328</b>	
<b>ROE PRs</b>	<b>n/a</b>	<b>327,328</b>	
<b>Total PRs</b>		<b>79,326,688</b>	

Source: Management information

Note:

1. As at 4 August 2015, based on management calculations.

## 2.5 Share price performance

A summary of EDL’s share price performance and volumes traded each quarter from 1 April 2013 to 30 June 2015 is provided below.

**Table 10**

Quarter end date	High (\$)	Low (\$)	Last trade (\$)	Quarterly VWAP <sup>1</sup> (\$)	Volume (million)	Shares outstanding <sup>2</sup> (million)
30 June 2013	4.57	3.24	4.57	4.14	3.4	163.5
30 September 2013	5.25	4.75	5.20	4.95	2.2	162.0
31 December 2013	6.45	5.15	6.24	5.42	1.6	160.9
31 March 2014	6.25	5.00	5.16	5.52	1.3	169.7
30 June 2014	5.38	4.97	5.19	5.15	2.0	169.7
30 September 2014	5.40	4.92	5.39	5.16	3.4	170.8
31 December 2014	5.52	5.06	5.40	5.34	2.4	170.8
31 March 2015	7.20	5.19	7.19	6.29	5.9	171.0
30 June 2015	7.42	6.79	7.30	7.11	4.1	171.0

Source: CapitalIQ

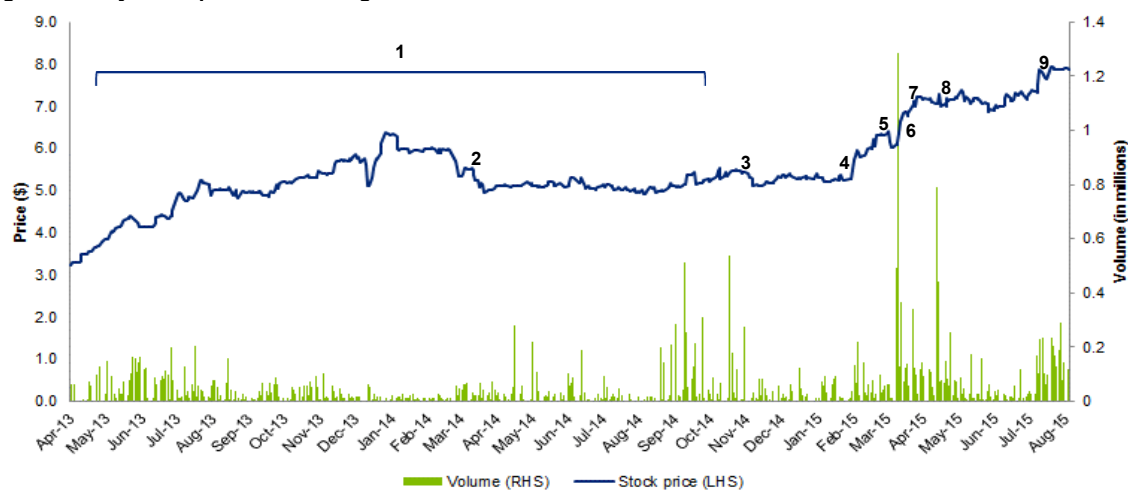
Notes:

1. Volume weighted average price (VWAP)
2. Shares outstanding as at the quarter end date.

In the twelve months prior to 30 June 2015, approximately 0.3 million EDL shares were traded on average each week. This equates to an average weekly trading volume of approximately 0.2% of the total shares on issue during this period.

EDL’s share price and daily trading volumes are presented graphically in the figure below.

**Figure 8: Daily share price and trading volumes**



Source: CapitalIQ

Note:

1. RHS = Right hand side, LHS = Left hand side



The major factors that have influenced EDL's share price shown in the figure above are set out as follows:

**Table 11:**

Notes	Date	Comments
1	Various	EDL commenced a share buy-back program on 22 August 2012 and extended it on 20 August 2013 to 5 September 2014. EDL acquired approximately 7.8 million shares under the buy-back program. The share-buy-back is likely to have further reduced liquidity in EDL's share trading volumes.
2	24 Feb-14	EDL announced the acquisition of 21 MW of generation assets from Clarke Energy and an institutional equity raising of \$50.0 million at \$5.55 per share, a 6% discount to the previous closing price of \$5.91 per share. In conjunction with the placement, Greenspark Power Holdings disposed of 18.25 million shares, reducing its interest in EDL to 69% from 84%.
3	10 Oct-14	EDL announced that it had executed a refinancing of its existing corporate debt
4	30 Jan-15	EDL announced its full year earnings and interim dividend guidance. EDL's EBITDA guidance range for FY15 was increased from a range of \$192 million to \$202 million to a range of \$205 million to \$210 million, whilst interim dividend guidance was increased from 15 cents to 20 cents per share.
5	25 Feb-15	EDL released its half year financial report for the period ending 31 December 2014.
6	9 Mar-15	The Australian Financial Review reported that brokers were pitching a partial sell-down of Pacific Equity Partners' interest in EDL (held through Greenspark Holdings Limited). On 17 March 2015, Mergermarket reported (citing unnamed sources) that a sale of Pacific Equity Partners' interest in EDL was imminent, subject to the finalisation of pricing negotiations.
7	25 Mar-15	EDL announced revised EBITDA guidance for FY15 increasing from a range of \$205 million to \$210 million, to a range of \$211 million to \$216 million.
8	23 Apr-15	EDL announced the successful sale of 3 million ACCUs to the ERF.
9	20-July-15	EDL announced the Proposed Scheme

Source: ASX announcements

## 2.6 Financial performance

The audited income statement of EDL for the years ended 30 June 2013, 2014 and 2015 are summarised in the table below.

**Table 12: Financial performance**

(\$'million)	Audited Actual FY13	Audited Actual FY14	Audited Actual FY15
Installed capacity	742	883	900
GWh	3,537	3,727	4,080
Sales revenue <sup>1</sup>	384.7	412.7	440.3
<b>EBITDA<sup>1</sup></b>	<b>169.4</b>	<b>184.7</b>	<b>219.9</b>
<i>EBITDA margin (%)</i>	<i>44.0%</i>	<i>44.8%</i>	<i>49.9%</i>
Depreciation and amortisation	(69.4)	(84.9)	(91.7)
<b>EBIT<sup>2</sup></b>	<b>100.0</b>	<b>99.8</b>	<b>128.1</b>
<i>EBIT margin (%)</i>	<i>26.0%</i>	<i>24.2%</i>	<i>29.1%</i>
Net financing costs	(41.7)	(40.4)	(44.2)
<b>Profit before tax before significant items</b>	<b>58.3</b>	<b>59.4</b>	<b>83.9</b>
<b>Significant items</b>			
Business acquisition and strategy costs	-	(2.5)	(1.6)
Prior period green credit (ACCU) revenue	7.6	-	-
<b>Profit before tax after significant items</b>	<b>65.9</b>	<b>56.9</b>	<b>82.3</b>
Tax expense	(10.9)	(11.5)	(25.3)
<b>Net profit</b>	<b>55.0</b>	<b>45.4</b>	<b>57.0</b>

Source: Annual Reports, Appendix 4E

Notes:

1. Sales revenue and EBITDA in FY13 presented exclude prior period green credit (ACCU) revenue of \$7.6 million recognised during the year. EBITDA presented in FY14 and FY15 excludes business acquisition and strategy costs.
2. EBIT presented in FY14 and FY15 excludes business acquisition and strategy costs.

We note the following in respect of EDL's financial performance:

- in FY15, revenue was generated from Remote Energy (41%) and Clean Energy (59%), of which black and green revenue comprised 81% and 19%, respectively
- EBITDA margins increased from 44.8% in FY14 to 49.9% in FY15 primarily due to increased revenue from new projects and higher LGC and Queensland wholesale electricity pricing. The increase in revenue has also resulted in EBIT margins increasing from 24.2% in FY14 to 29.1% in FY15
- business acquisition costs of \$2.5 million incurred in FY14 relate to the acquisition of Envirogen
- green credit revenue recognised during FY13 included \$7.6 million of green credit revenue (ACCUs) relating to FY11 and FY12 (i.e. prior periods).

EDL has publicly communicated a progressive dividend policy and referred its payout as a proportion of net operating cash flow less maintenance capital expenditure. In October 2014, EDL paid a fully franked dividend of 28 cents per share, equivalent to a dividend payout ratio of 46%. In April 2015, EDL paid an interim dividend for FY15 of 20 cents per share (franked to 75%). EDL is precluded under the Proposed Scheme from declaring or paying any further dividends, including in respect of FY15.

## 2.7 Financial position

The audited balance sheets of EDL as at 30 June 2013, 2014 and 2015 are summarised in the table below.

**Table 13: Financial position**

(\$'million)	Audited June 2013	Audited June 2014	Audited June 2015
Cash	42.3	45.7	39.3
Receivables	51.1	60.6	54.7
Inventories	13.5	16.8	18.8
Green credits held for sale	20.6	21.7	23.8
Financial instruments-derivatives	0.7	3.0	1.6
Other	11.0	8.1	5.9
<b>Total current assets</b>	<b>139.2</b>	<b>156.0</b>	<b>144.0</b>
Receivables	3.3	4.3	3.0
Green credits held for sale	3.8	-	-
Investments accounted for using the equity method	16.2	18.8	19.3
Property plant and equipment	698.0	790.4	802.9
Deferred tax assets	22.6	25.9	37.7
Intangible assets	50.3	46.2	38.2
Other assets	2.1	1.8	0.1
<b>Total non-current assets</b>	<b>796.3</b>	<b>887.4</b>	<b>901.2</b>
<b>Total assets</b>	<b>935.4</b>	<b>1,043.4</b>	<b>1,045.2</b>
Payables	58.6	55.2	50.3
Borrowings	6.2	2.6	16.6
Financial instruments-derivatives	10.4	10.1	10.6
Provisions	6.5	6.5	8.8
Current tax payable	4.1	15.2	10.0
Deferred income	0.1	0.2	1.3
Unearned grant income	1.5	1.6	1.8
<b>Total current liabilities</b>	<b>87.4</b>	<b>91.3</b>	<b>99.3</b>
Payables	15.5	14.0	16.4
Borrowings	461.8	508.5	502.6
Unearned grant income	23.1	22.9	24.3
Financial instruments-derivatives	16.6	12.7	22.3
Deferred tax liabilities	12.0	8.1	7.5
Provisions	1.7	1.9	1.9
Deferred income	0.2	-	-
<b>Total non-current liabilities</b>	<b>531.0</b>	<b>568.2</b>	<b>574.9</b>
<b>Total Liabilities</b>	<b>618.4</b>	<b>659.5</b>	<b>674.2</b>
<b>Net Assets</b>	<b>317.1</b>	<b>383.8</b>	<b>371.0</b>

Source: Interim and Annual Reports, Appendix 4E

We note the following in respect of EDL's balance sheet:

- working capital balances (debtors, inventories, work in progress and payables) are incurred in the ordinary course of business with movements in these balances reflective of changes in trading activity
- green credits held for sale are comprised of renewable energy and carbon abatement certificates earned in various geographies

- property, plant and equipment as at 30 June 2015 is comprised of plant and equipment (\$775.3 million), plant and equipment under construction (\$27.2 million) and freehold land (\$0.4 million). The increase in property, plant and equipment in FY15 primarily reflects investment in plant and equipment and foreign currency translation differences
- investments accounted for using the equity method comprise of EDL's 50% interest in the LFG joint venture located in Greece
- the majority of deferred tax assets comprise carried forward foreign income tax losses, which the Company forecasts will be utilised based on future earnings in relevant jurisdictions
- intangible assets are comprised of goodwill and customer relationships recognised on acquisition of subsidiaries, land tenure, energy usage rights and software
- derivative financial instruments comprise electricity derivatives in the various geographies in which the assets are located and interest rate swaps on EDL's borrowings. EDL's average interest rate was 6.69% in FY14 and 5.66% in FY15
- short and long term provisions comprise of employee benefits
- financial liabilities include short and long term interest bearing borrowings consisting of secured and unsecured bank loans. Secured bank loans are secured by fixed and floating charges over the majority of assets owned by EDL.

In October 2014, EDL completed the refinancing of \$493 million of existing debt with a new \$536 million syndicated loan facility. In addition, EDL extended its AUD interest rate swaps to eight years. As at 30 June 2015, EDL had \$783 million of debt facilities, of which \$226 million is undrawn, comprising:

- \$552 million in debt under the multi-currency Multi-Option Syndicated Facility (MOSF, including revolver facilities), of which \$371 million was drawn. The majority of the facilities (approximately \$380 million) mature in 2019, with the balance maturing in 2022
- \$123 million in project financing directly associated with the WKPP Remote Energy asset, of which \$107 million was drawn. These facilities mature in 2018
- \$100 million in additional facilities, which mature in 2019 (\$75 million) and 2020 (\$25 million), of which \$71 million was drawn
- \$8 million of unsecured loans which are fully drawn.

As at 30 June 2015, the Company's gearing ratio (i.e. net debt divided by net debt plus equity) was 56%, based on the carrying value of its equity. This ratio is in line with its stated target gearing ratio of 50% to 70%.

### 3 Valuation approach

For the purpose of our opinion fair market value is defined as the amount at which the shares would be expected to change hands between a knowledgeable willing buyer and a knowledgeable willing seller, neither being under a compulsion to buy or sell. Special purchasers may be willing to pay higher prices to reduce or eliminate competition, to ensure a source of material supply or sales, or to achieve cost savings or other synergies arising on business combinations, which could only be enjoyed by the special purchaser. Our valuation has not been premised on the existence of a special purchaser.

Deloitte Corporate Finance has assessed the equity value of EDL using the discounted cash flow approach to determine the fair market value of EDL's power generation business and corporate assets, before deducting net debt and adding or subtracting any surplus assets and liabilities. The discounted cash flow method generates a value that is inclusive of a premium for control.

EDL management prepared financial models to estimate the future cash flows for the underlying operating assets of the business. It is common market practice to use the discounted cash flow method to value energy generation assets due to their finite lives, the contracted nature of revenues (and costs, to some extent) and the significant capital expenditure required to construct and install capacity. Whilst the capitalisation of earnings method is also commonly used to value industrial businesses, it relies in part on the existence of a number of comparable companies at which to benchmark valuation assumptions. In our opinion, there are limited publicly listed companies with directly comparable operations to EDL in order for this methodology to be used on a primary basis. In addition, EDL is projected to progressively invest in new capacity each year, which is difficult to capture within a capitalisation of maintainable earnings methodology.

We have selected the AUD as the functional currency of EDL. This is consistent with our assessment of the EDL business as a portfolio of generation assets across three jurisdictions, primarily managed in Australia. Future cash flows that are denominated in a foreign currency have been converted to AUD using the foreign exchange rate assumptions set out in section 4.5.

We have cross-checked the values derived under our primary method using a number of approaches, including:

- the multiple of earnings implied by our primary valuation approach compared with those of broadly comparable listed companies and implied by the terms of transactions in broadly comparable assets
- an industry rule of thumb, the AUD per MW of installed capacity implied by our valuation of EDL compared with those of broadly comparable listed companies and implied by the terms of transactions in broadly comparable assets
- recent trading in EDL's shares prior to the announcement of the Proposed Scheme on 20 July 2015.

Surplus assets and liabilities have been valued at fair market value, using either the discounted cash flow method (to estimate the likely cash flow arising from the asset or liability) or book value.

Refer to Appendix B for a detailed discussion on the various valuation methodologies which can be adopted in valuing corporate entities and businesses, but can be adapted to valuing assets, as appropriate.

## 4 Future cash flows of EDL

### 4.1 Introduction

EDL's power generation business has been valued using the discounted cash flow method, which estimates fair market value by discounting estimated future cash flows to their net present value. This section sets out the assumptions adopted to estimate the future cash flows of EDL's portfolio of power generation assets.

### 4.2 The Financial Models

EDL management prepared financial models to estimate the future cash flows of its power generation business (referred to as the Financial Models).

The Financial Models contain projections of nominal, post-tax (but ungeared) cash flows in AUD up to and including the year ending 30 June 2030 (the Projection Period). The Financial Models were prepared based on:

- contractual arrangements in place
- recontracting expectations on expiry of existing contracts
- development plans for generation assets which EDL has recently committed to install
- organic growth expectations in the key markets of Australia, the UK and the US
- a separate growth business unit (the Growth BU) containing new, unspecified future growth initiatives.

We have made adjustments to the cash flow projections in the Financial Models where we considered it appropriate. These adjustments included, but were not limited to, black electricity and green certificate pricing, recontracting expectations, carbon pricing, exchange rates, growth rates and discount rate assumptions.

The analysis we have undertaken in respect of the Models included:

- working with electricity markets specialists from Deloitte Access Economics to review the technical assumptions underlying the Models, including future black and green prices, carbon prices, recontracting expectations and growth forecasts
- a high level examination of the integrity of the Financial Models, both from the perspective of the accuracy of information modelled and any omissions, and limited analytical procedures regarding the mathematical accuracy of the Financial Models
- holding discussions with EDL management and its advisors concerning the preparation of the projections in the Financial Models and their views regarding the assumptions on which the projections are based.

In addition to holding discussions with EDL management and its advisors, we have reviewed data, reports and other information that is either publicly available or has been made available to Deloitte Corporate Finance by EDL management.

Our work did not constitute an audit or review of the projections in accordance with standards issued by the Auditing and Assurance Standards Board (AUASB) and accordingly we do not express any opinion as to the reliability of the projections. However, the analysis outlined above included a critical analysis of the relevant assumptions on which the projections are based to ensure that those assumptions and therefore the projections are made on reasonable grounds.

Since projections relate to the future, they may be affected by unforeseen events and they depend, in part, on the effectiveness of management's actions in implementing the plans on which the projections are based.

Accordingly, actual results are likely to be different from those projected because events and circumstances frequently do not occur as expected, and those differences may be material.

The key assumptions supporting our valuation are described in the following sections.

### 4.3 Revenue

Revenue is a function of fixed charges, annual electricity generation, contracted and uncontracted black electricity prices and green certificate volumes and prices. Annual electricity production for each power station

is calculated based on its nominal output adjusted for planned maintenance and other routine outages. Annual generation and electricity prices are discussed in the following sections.

### 4.3.1 Generation assumptions

We note the following in respect of projected electricity generation:

- broadly, projections of electricity generated reflect changes in installed capacity, with most assets assumed to exhibit steady capacity factors<sup>1</sup>
- **Existing business:** this includes Remote Energy, WCMG, LFG Australia, LFG UK/Europe and LFG US. There is a projected increase in FY17 reflecting new capacity from expansions at existing sites and commissioning of new projects to which EDL is already committed. Subsequently, a gradual decline is projected reflecting a slight net decrease in gas produced across the WCMG and LFG businesses, with decreases at certain sites (in line with the age of the resource) partially offset by increased gas flows as a result of improved access to gas, improvements in gas capture and certain LFG sites remaining open over the Projection Period.
- **Growth BU:** a ramp up in electricity generation is projected, reflecting incremental capacity added each year. The Growth BU represents 56% of aggregate installed capacity and 51% of electricity generated in FY30. As set out in Section 2.1.2, in recent years EDL has demonstrated the ability to add significant annual increases in capacity (76MW per annum from FY11 to HY15). Growth opportunities for EDL include uncommitted projects that management have identified as part of their growth ‘pipeline’ as well as other unspecified projects, particularly in the growing US LFG market. EDL has also demonstrated a capability to deliver acquisitive growth, as seen with the recent acquisitions of EnGen (98 MW) and Envirogen (43 MW). In addition to brownfield growth in the core business and adjacencies, there are other greenfield opportunities such as providing generation for the oil and gas sector, and displacement of diesel with gas/renewables/hybrid renewables for Remote Energy.

### 4.3.2 Pricing assumptions

#### *Black revenue*

##### **Contracted black revenue**

Where EDL has existing contracts in relation to its power generation assets, revenues have been modelled according to the contract terms. Due to the commercial sensitivity of pricing agreements, pricing information is generally not publicly available and, therefore, we have not disclosed EDL pricing terms for each contracted asset.

EDL management has made certain assumptions regarding the renewal or extension of existing contracts, as follows:

- **Remote Energy:** projects are typically recontracted based on projected fixed charges per period for each site and variable charges to cover operating costs, fuel tariffs and energy charges. Projected fixed charges reflect management’s best estimate of the recontracting outcome, which depends on the cost of alternative sources of electricity and the competitive position of the specific asset. Contract renewal lengths are typically based on the shorter of the estimated remaining life of the counterparty asset (e.g. mine life) or the remaining useful life of the generation asset
- **WCMG and LFG:** at recontracting, the projected price is determined by reference to the projected spot electricity price at the renewal date. Contract renewal lengths vary by country, however, EDL management has assumed that the renewal of supply agreements occurs indefinitely until the generation assets reach the end of their useful lives or the cost of input gas supply becomes uneconomic. An overview of forecast spot prices is set out below.

EDL management has assumed that retired assets will be sold and a salvage value will be realised.

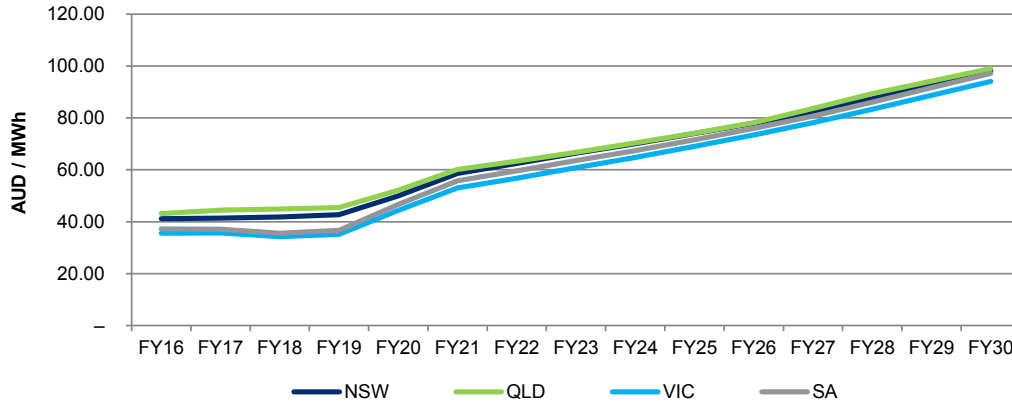
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<sup>1</sup> The capacity factor is a measure of utilisation and is calculated as the actual output of electricity as a proportion of theoretical maximum output reflecting 100% utilisation of installed capacity over the entire period

**Uncontracted black revenue**

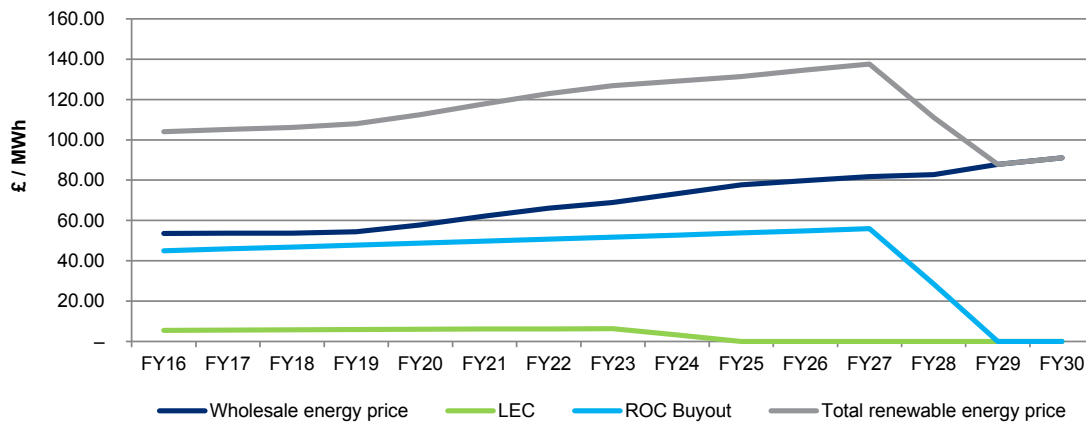
In considering an appropriate price to apply to EDL’s uncontracted electricity generation and projected recontracting price assumptions, we have adopted future electricity pricing in Australia, the UK and the US, as set out below.

**Figure 9: Australia**



Source: Deloitte Corporate Finance analysis

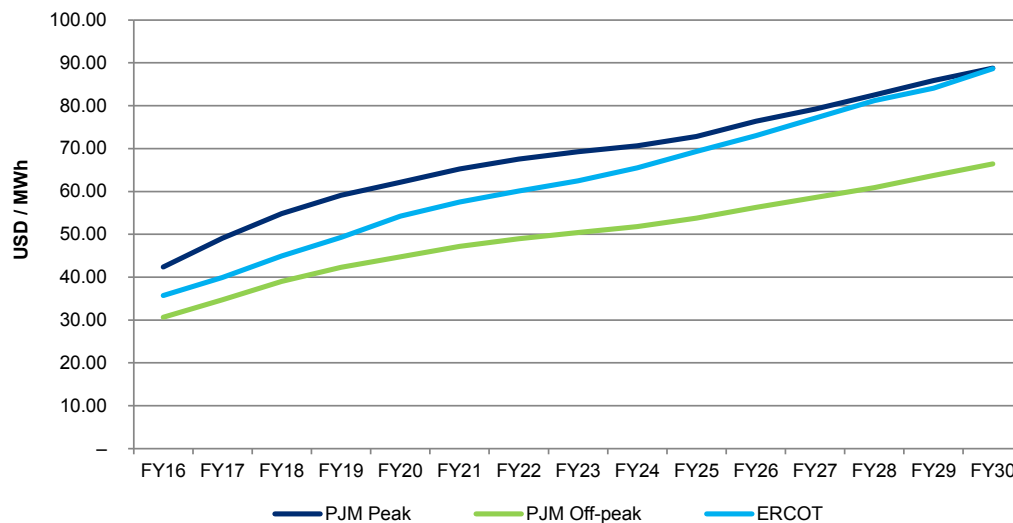
**Figure 10: UK**





Source: Deloitte Corporate Finance analysis

**Figure 11: US**



Source: Deloitte Corporate Finance analysis

We note the following in respect of the projected pricing set out above:

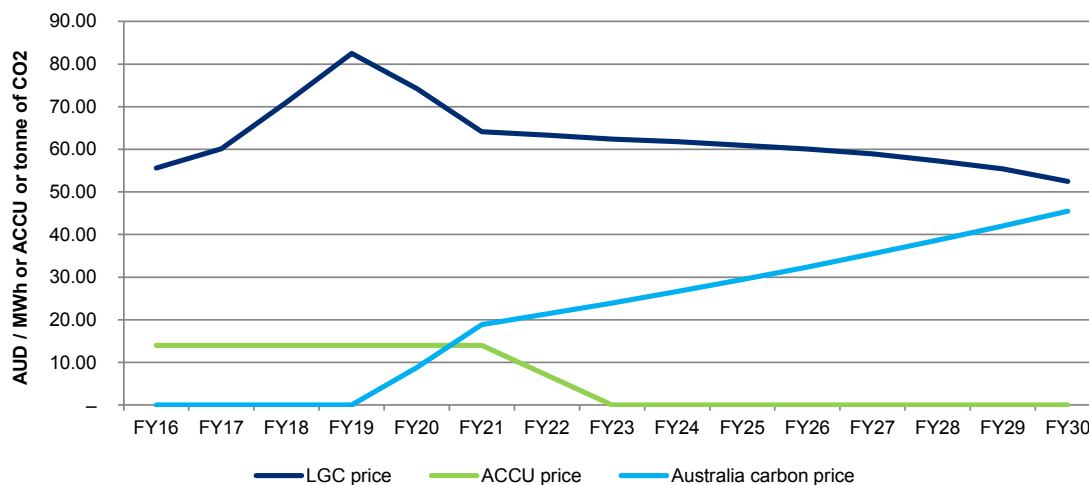
- we have adopted price forecasts developed by Deloitte Access Economics for Australia. These price estimates incorporate an expectation that a cost on carbon emissions will be reintroduced in 2020
- in selecting our projected price assumptions for the US (specifically the PJM interconnection in the northeast and Electricity Reliability Council of Texas market (ERCOT)), we have had regard to price forecasts prepared by Deloitte Market Point LLC, a provider of energy resource economics based in the US and affiliated with the Deloitte Touche Tohmatsu member firm network, as well as prices forecast by an independent consultant
- in selecting our projected electricity assumptions for the UK LFG assets, we have adopted a blended price for wholesale electricity, Levy Exemption Certificates (LECs) and ROCs during each contracted period having regard to price forecasts published by the Department of Energy and Climate Change (DECC) as well as prices forecast by an independent consultant and reviewed by Deloitte Access Economics
- we have assumed a long term inflation rate of 2.5% per annum applies to the projected Australian prices and 2% per annum applies to the projected UK and US prices (refer to Section 4.5 for further detail on our selected rates of inflation).

**Green revenue**

Where EDL has existing contracts or has forward sold its green energy certificates, revenues have been modelled according to the contract terms. Where EDL does not have contracted green revenue, EDL management has estimated green revenue based on the projected number of green energy certificates each project will produce and the price of green energy certificates in each jurisdiction.

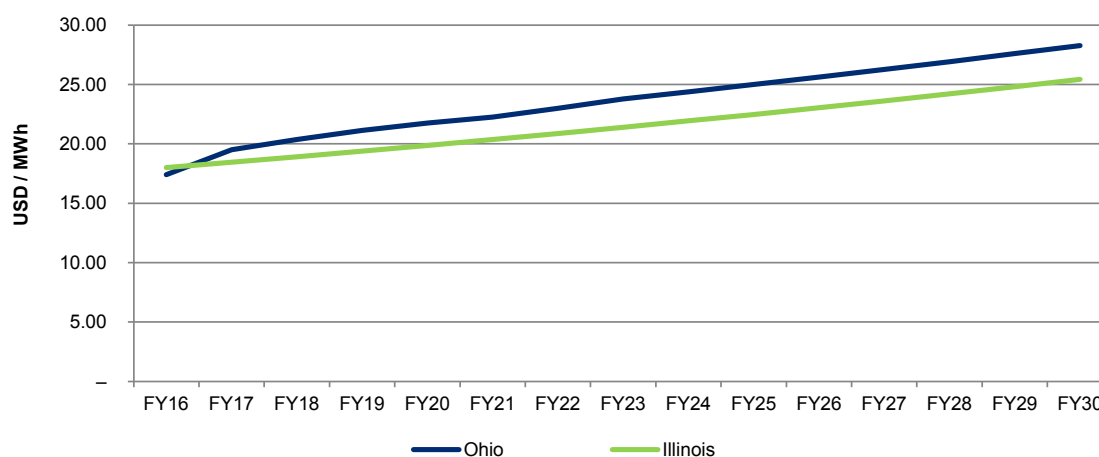
Our selected green energy certificate pricing for Australia and the US is set out below.

**Figure 12: Australia**



Source: Deloitte Corporate Finance analysis

**Figure 13: US**



Source: Deloitte Corporate Finance analysis

We note the following in respect of the projected pricing set out above:

- we have adopted pricing for EDL’s projected green energy certificates based on estimates developed by Deloitte Access Economics. In addition, we have assumed that EDL will not be issued ACCUs after 2022. This reflects the end of the current Direct Action ERF contract period and our assumption that a carbon emissions scheme will be reintroduced in 2020. Our underlying assumption is that the Direct Action ERF is phased out with the introduction of a carbon emissions scheme, and they would not operate in parallel beyond 2022
- we have adopted pricing assumptions for ROCs and LECs in the UK consistent with the 2015-16 buyout price and legislated prices, respectively (reflected in the blended black revenue price), in consultation with Deloitte Access Economics
- we have assumed pricing for RECs in the US market having regard to recent historical movements in price and expected increases in the short to medium term, in consultation with Deloitte Access Economics
- we have assumed a long term inflation rate of 2.5% per annum applies to the projected Australian prices and 2% per annum applies to the projected UK and US prices (refer to Section 4.5 for further detail on our selected rates of inflation).

### 4.3.3 Operating costs

The Financial Models include projections of operating costs for each business unit, which are summarised as follows:

- variable costs comprise utilisation-based maintenance costs, which are determined on a cost per operating hour basis
- fixed costs include labour, routine maintenance, insurance and servicing
- fuel costs for Remote Energy and Clean Energy are as follows:
  - **Remote Energy:** fuel costs are passed on to the customer
  - **Clean Energy:** WCMG fuel costs are typically based on long term contracts with mine operators and are typically priced on an AUD per gigajoule basis, whilst LFG fuel costs are based on long term contracts with landfill operators and are often based on a royalty payment linked to revenue.

In addition, we have included a cost of carbon, associated with emissions of carbon dioxide (CO<sub>2</sub>) from 2020 onward for the WCMG business. We have assumed the LFG projects will not be liable for a cost of carbon as they provide an abatement mechanism for methane from organic material, consistent with the historical treatment of these projects during the period in which the recently repealed carbon tax was in operation. We have also assumed that Remote Energy projects would be able to pass on any incremental costs associated with carbon emissions to their customers (as in fact they were able to during the carbon price period).

### 4.3.4 Capital costs

The Financial Models include maintenance and expansionary capital expenditure as well as salvage value (net of site rehabilitation costs) for each business unit over the Projection Period.

Maintenance capital expenditure of approximately \$780 million over the Projection Period is comprised principally of component overhauls and upgrades.

Expansion capital expenditure of \$2.2 billion principally represents increases in installed capacity at brownfield sites, development of greenfield sites and acquisitions of existing projects. These expansions are based on assumed growth in future energy demand or higher assumed projected gas flows, and include significant unspecified growth projects to which EDL is not currently committed.

The salvage value of \$57 million over the Projection Period comprises the sale of engines and other generation equipment once power stations are decommissioned and the existing plants become surplus to EDL's operational requirements.

## 4.4 Other assumptions

The key corporate assumptions in the Financial Models are summarised as follows:

- corporate tax is based on the rates applicable for each jurisdiction in which the operations are located. We have adopted the overall effective tax rate for the Growth BU, as the regions in which the growth projects could be located are not certain. EDL has unused US tax losses not brought to account of approximately USD 107 million. We have captured the utilisation of these losses in our assessment of the tax outflows of the LFG US business. EDL does not have any carried forward tax losses in Australia or Europe
- tax deductible depreciation is in accordance with local taxation regimes and based on the assumed life of each asset
- in determining an appropriate level of corporate overheads, we have adjusted management's budgeted corporate overheads for non-recurring costs and cost savings that would be available to a pool of potential purchasers. These costs include those associated with maintaining a listed corporate vehicle and staff reductions due to duplication of functions by any potential purchaser. We have assumed corporate overheads of AUD 22 million per annum in FY16 real terms over the Projection Period. These costs have been escalated at 2.5% per annum over the Projection Period to reflect inflation
- working capital comprises receivables, inventories and payables and is assumed to increase in line with revenue growth.

## 4.5 Economic assumptions

### Foreign exchange rate

Cash flows in the Financial Models for the US and UK operations are denominated in USD and GBP, respectively. In selecting our exchange rate assumptions to convert these USD and GBP-denominated cash flows into AUD-denominated cash flows, we have had regard to the following:

- historical and current AUD to USD and AUD to GBP exchange rates
- the AUD to USD and AUD to GBP exchange rate forward curves
- forecasts prepared by economic analysts and other publicly available information.

We have adopted the following foreign exchange rate assumptions (on a financial year basis):

**Table 14: Selected foreign exchange rate assumptions**

	FY16	FY17	FY18	FY19	FY20	Long term
Deloitte selected assumption (AUD to USD)	0.77	0.77	0.77	0.76	0.76	0.78
Deloitte selected assumption (AUD to GBP)	0.49	0.49	0.49	0.49	0.49	0.49

Source: Deloitte Corporate Finance analysis

### Inflation

The future cash flows in the Financial Models are prepared on a nominal cash flow basis. In selecting our inflation rate assumptions, we have considered the following:

- the monetary policy adopted by the Reserve Bank of Australia, which is to maintain inflation within a target range of 2.0% to 3.0%
- the Federal Open Market Committees monetary policy to assist in maintaining an inflation rate of 2.0% in the US over the medium term
- the monetary policy adopted by the Bank of England, which is to maintain an inflation target of 2.0%
- forecasts prepared by economic analysts and other publicly available information, including International Monetary Fund forecasts.

Based on our analysis, we have selected the following inflation rate assumptions (on a financial year basis).

**Table 15: Selected inflation rate assumptions**

Region	Inflation p.a.
Australia	2.5%
UK	2.0%
US	2.0%

Source: RBA, BOE, Federal Open Market Committees and Deloitte Corporate Finance analysis

## 5 Valuation of EDL

### 5.1 Summary

For the purpose of our opinion, fair market value is defined as the amount at which the shares would be expected to change hands between a knowledgeable willing buyer and a knowledgeable willing seller, neither being under a compulsion to buy or sell. We have not considered special value in this assessment.

The fair market value of the equity in EDL reflects the value attributed to its operations adjusted for surplus assets and liabilities and net debt, and is inclusive of a premium for control.

The table below summarises our valuation of a share in EDL.

**Table 16**

	Section	Unit	Low	High
<b>Enterprise value (on a control basis)</b>	<b>5.2</b>	<b>AUD'million</b>	<b>1,916</b>	<b>2,132</b>
Net surplus assets / (liabilities)	5.3	AUD'million	(31)	(31)
Net debt	5.4	AUD'million	(385)	(385)
<b>Equity value of EDL (on a control basis)</b>		<b>AUD'million</b>	<b>1,500</b>	<b>1,715</b>
Number of shares on issue	5.5	'million	191.2	191.2
<b>Value per EDL share (on a control basis)</b>		<b>AUD</b>	<b>7.84</b>	<b>8.97</b>

Source: Deloitte Corporate Finance analysis

Our valuation and analysis are set out below.

### 5.2 Valuation of EDL

We have applied the discounted cash flow method to value EDL. The discounted cash flow method estimates market value by discounting a company's future cash flows to their net present value. To value EDL using the discounted cash flow method requires the determination of the following:

- future cash flows
- an appropriate discount rate to be applied to the cash flows
- an estimate of the terminal value.

Our considerations on each of these factors are presented below.

#### 5.2.1 Future cash flows

The future cash flows relied on for the purpose of the valuation have been described in Section 4. The future cash flows in the Financial Models have been prepared on a nominal, ungeared, post-tax basis in AUD.

For the purpose of our valuation of EDL, we have selected the AUD as the functional currency of EDL. We note that the alternative approach, valuing EDL on a sum of the parts basis using the native currency of each region, results in a similar value outcome after adjusting required rates of return for each regional business on a standalone basis.

#### 5.2.2 Discount rates

The discount rate used to equate the future cash flows to a present value reflects the risk adjusted rate of return demanded by a hypothetical investor. We have selected nominal after tax discount rate ranges to discount the future cash flows of EDL to their present value as follows:

- 8.75% to 9.25% for the Remote Energy, LFG Australia and LFG UK parts of the businesses (Base Discount Rate)
- 9.25% to 9.75% for the LFG US business

- 9.75% to 10.50% for the Growth BU.

In selecting these ranges we considered the following:

- the required rates of return on listed companies in a similar business
- the specific business and financing risks of EDL
- the debt to equity ratios of comparable listed companies
- EDL’s estimated cost of debt
- the varying risk and growth profiles of different parts of EDL’s business.

A detailed consideration of these matters is provided in Appendix E.

### 5.2.3 Terminal value

The terminal value estimates the value of the ongoing cash flows after the forecast period. We have estimated the terminal value based on the forecast cash flows in FY30, the discount rate and an estimate of the long-term cash flow growth rate.

We have assumed a nominal long-term growth rate of 1.0% in Australia and the UK, and 2.0% in the US, respectively, having regard to the declining earnings beyond FY30 in Remote Energy, WCMG, LFG Australia, the growth in LFG US and long-term inflationary growth projections. We have assumed a long term growth rate in the range of 2.0% to 2.5% for the Growth BU, reflecting the currently unspecified location of the growth projects.

## 5.3 Surplus assets/liabilities

EDL uses derivative financial instruments to manage its exposure to interest rate and electricity price risk. The mark to market value of its interest rate and electricity price derivative financial instruments represents a net derivative liability of AUD 31 million. Our discounted cash flow analysis based on the Financial Models does not capture contracted cash flows associated with these financial instruments. For this reason they have been treated as surplus assets/liabilities and have been valued separately.

## 5.4 Net debt

We have adopted EDL’s net debt position as at 30 June 2015. We have adjusted the reported net debt position for capitalised facility fees (AUD 14.9 million), to reflect the amount to which debt facilities are drawn, and have also adjusted for notional cash proceeds and notional cash costs of existing options and FVPRs, to allow for the dilutive impact of those instruments on the value per share. Specifically, we have assumed notional proceeds of approximately AUD 125 million on the exercise of existing options and a notional cash payout of AUD 15 million to cancel existing FVPRs. We note we have not adjusted the net debt position for any contingent costs associated with the Proposed Scheme, consistent with our valuation of a share in EDL on a standalone basis.

Our assumed net debt position is set out below.

**Table 17**

	(AUD'million)
Cash	148.7
Less: short and long term debt (adjusted for capitalised facility fees)	534.0
<b>Net debt</b>	<b>(385.3)</b>

Source: Deloitte Corporate Finance analysis and EDL

## 5.5 Number of shares outstanding

EDL's capital structure is discussed in Section 2.4. We have adjusted the number of ordinary shares on issue to reflect the dilutive impact of existing share options and PRs<sup>2</sup>. We have reflected the notional cash to be received from the exercise of these options and the notional cash cost of cancelling existing FVPRs rights in determining the net cash position of EDL.

EDL's assumed number of shares is summarised in the table below.

**Table 18**

	Unit	
Number of shares in EDL	'millions	171.1
Employee options vested but not exercised	'millions	12.9
Employee options unvested	'millions	6.5
Performance rights	'millions	0.7
<b>Number of shares in EDL (on a diluted basis)</b>	<b>'millions</b>	<b>191.2</b>

Source: Deloitte Corporate Finance analysis

We note that the actual mechanism under the Proposed Scheme is for the options and performance rights (other than TSR PRs and ROE PRs) to be cancelled for consideration (determined by reference to the Consideration), rather than to be exercised and result in the issue of ordinary shares. Calculating the dilutive impact on this basis results in a different net debt position and a different number of shares in EDL but a fully diluted value per share consistent with our assessed value per share.

## 5.6 Sensitivity analysis

The enterprise value range set out at Table 16 is sensitive to the Base Discount Rate, the premium to this discount rate adopted for the Growth BU in the discounted cash flow valuation of EDL and forecast electricity prices. The enterprise value derived applying higher and lower discount rates and a premium to the discount rate applied on the Growth BU (discussed below) is summarised in the table below.

**Table 19: Discount rate sensitivity analysis – 100% (control basis)**

(AUD million)	Premium to discount rate on growth business			
	0.75%	1.00%	1.25%	1.50%
Base discount rate				
8.50%	2,242	2,206	2,172	2,141
8.75%	2,150	2,116	2,085	2,057
9.00%	2,063	2,032	2,004	1,978
9.25%	1,983	1,954	1,928	1,904
9.75%	1,836	1,812	1,790	1,769

Source: Deloitte Corporate Finance analysis

Notes:

- The values in the table above reflect the midpoint of our terminal value growth rate assumptions. Therefore, they do not correspond with the valuation range reflected in Table 16
- All scenarios include a premium of 0.5% on the discount rate for LFG US, as discussed at Appendix E. For example at a base discount rate of 9.0%, a 9.5% discount rate has been applied to LFG US
- Shaded area represents our preferred range of assumptions

The enterprise value derived by applying higher and lower discount rates and varying the forecast electricity price in each market is set out below.

<sup>2</sup> 42,500 PRs relating to former employee participants, along with TSR and ROE PRs. FVPRs are assumed to be cancelled and paid out, as the number of shares that would be issued on these instruments vesting is determined by reference to a fixed AUD value.

**Table 20: Electricity price sensitivity analysis – 100% (control basis)**

(AUD'million)	Change to forecast wholesale electricity prices					
	Base discount rate	-10.00%	-5.00%	0.00%	5.00%	10.00%
8.50%		1,978	2,084	2,190	2,296	2,402
8.75%		1,897	1,999	2,101	2,203	2,305
9.00%		1,822	1,920	2,019	2,117	2,215
9.25%		1,752	1,847	1,942	2,036	2,131
9.75%		1,624	1,713	1,801	1,890	1,979

Source: Deloitte Corporate Finance analysis

Notes:

1. The values in the table above reflect the midpoint of our terminal value growth rate assumptions. Therefore, they do not correspond with the valuation range reflected in Table 16
2. The change to forecast electricity prices has been applied to the blended price for wholesale electricity, LECs and ROCs in the UK
3. All scenarios include a premium of 0.5% on the discount rate for LFG US, as discussed at Appendix E. For example at a base discount rate of 9.0%, a 9.5% discount rate has been applied to LFG US
4. Shaded area represents our preferred range of assumptions

## 5.7 Valuation cross-checks

To provide additional evidence of the fair market value of a share in EDL, we have considered the following cross checks:

- the multiple of earnings implied by our discounted cash flow valuation of EDL compared with the earnings multiples observed for comparable transactions and comparable listed companies
- an industry rule of thumb, the AUD per MW of installed capacity implied by our valuation of EDL compared with those of broadly comparable listed companies and implied by the terms of transactions in broadly comparable assets
- recent market trading in EDL shares.

Our analysis is set out below.

### 5.7.1 Implied earnings multiples

As a cross-check to the fair market value of EDL derived using the discounted cash flow method, we have compared the earnings multiples implied by our valuation of EDL with earnings multiples observed in transactions and trading in shares of listed companies with operations in the electricity generation industry.

In determining the earnings multiple implied by our discounted cash flow valuation of EDL, we have applied our assessed enterprise value to EDL's historical (FY15) current (FY16) and forecast (FY17) EBITDA as per the Financial Models.

The table below sets out the earnings multiple implied by our valuation of EDL.

**Table 21: Implied EBITDA multiples on a control basis for EDL**

	Value	Low	High
<b>Assessed enterprise value – 100% (on a control basis)</b>	<b>AUD million</b>	<b>1,916</b>	<b>2,132</b>
Implied EBITDA multiple – FY15	times	8.7	9.7
Implied EBITDA multiple – FY16	times	8.2	9.1
Implied EBITDA multiple – FY17	times	6.5	7.2

Source: Deloitte Corporate Finance analysis

We have compiled share market trading multiples for companies comparable to EDL. We set out a summary of the average trading multiples observed across different geographies in the table below:



**Table 22: Summary of market trading multiples (minority basis)**

EBITDA multiples (times)	Australian and New Zealand generation and integrated utilities	International energy generation companies	International 'clean' energy generation
Historical <sup>1</sup>	9.8	10.6	12.6
Current <sup>2</sup>	8.5	8.7	11.3
Forecast <sup>2</sup>	7.6	8.3	10.4

Source: Deloitte Corporate Finance analysis

Notes:

1. Historical earnings multiples calculated by reference to last reported annual EBITDA (refer to Appendix F for historical reporting dates)
2. Current and Forecast earnings multiples are based on forecasts of EBITDA in one year intervals subsequent to the historical reporting date.

Enterprise values for the comparable companies were calculated by aggregating the total of the net borrowings at each company's most recent reporting date and the market capitalisation at 27 August 2015. Historical earnings were based on the latest annual report, whereas forecast and projected earnings are based on analyst consensus. Refer to Appendix F for further details on the comparable listed companies.

Earnings multiples derived from share market trading do not reflect the market value for control of a company as they are for portfolio holdings. Australian studies indicate the premiums required to obtain control of companies range between 20% and 40% of the portfolio holding values, however, the extent to which premiums are paid by purchasers will often depend on the degree to which the purchaser can extract synergies from a transaction. We have not adjusted the multiples observed for the comparable companies for a notional premium for control due to the subjective nature of the assessment.

In respect of the listed companies, we note the following:

- the comparable listed companies in Australia and New Zealand have current EBITDA multiples in the range of 5.1 times to 10.6 times with an average of 8.5 times EBITDA, and forecast EBITDA multiples in the range of 4.8 times to 9.9 times with an average of 7.6 times EBITDA. The wide range in observed earnings multiples for the Australian and New Zealand companies may be reflective of the size, customer base, generation capacity and mix of business operations of each company.

We did not identify any Australian or New Zealand listed companies that are directly comparable to EDL, however, we note the following:

- Origin Energy, AGL Energy, Contact Energy and Trust Power are large integrated retail energy and generation businesses that operate on a significant national scale and in a highly regulated market. Further, Origin Energy has significant exposure to the LNG sector. In general, regulated businesses typically have less volatile earnings which may support higher earnings multiples than unregulated businesses, such as EDL. The average current and forecast EBITDA multiple for these companies is 9.9 times and 8.6 times EBITDA, respectively
- Pacific Energy Limited, whilst similarly an owner-operator of electricity generation facilities for Australian mine sites and infrastructure counterparties, operates at a much smaller scale, lacks the geographic diversification of EDL, has shorter dated contracts and does not generate power from WCMG or LFG. Pacific Energy Limited's current and forecast multiple is 5.1 times and 4.8 times EBITDA, respectively, which is lower than that implied by our valuation of EDL. Given the differences in scale and diversification between EDL and Pacific Energy Limited, we do not consider this outcome to be unreasonable
- the comparable listed international energy generation companies have average current and forecast EBITDA multiples of 8.7 times and 8.3 times respectively, whilst the international clean energy generation companies have average current and forecast multiples of 11.3 times and 10.4 times EBITDA, respectively
- the majority of the international companies are significantly larger and more diversified than EDL and are exposed to different risks and market dynamics (e.g. market size, regulation and competition). In particular, many of the international energy companies own and operate a suite of power generation assets located across multiple geographies from which they generate, transmit and distribute electricity into both the wholesale and retail electricity market, on both a regulated and unregulated basis. In general, we would expect larger, more diversified companies to have higher earnings multiples than smaller companies

- in addition, the higher observed multiples for the international clean energy generation companies may be reflective of favourable clean energy policies, government incentives and a move towards low carbon emission generation in the jurisdictions in which these companies operate. In comparison, companies operating in Australia remain subject to regulatory uncertainty on climate change policies.

Although we identified a number of transactions in the energy sector (refer to Appendix G), these transactions principally comprised a single or small portfolio of power stations. By comparison, EDL comprises a portfolio of approximately 80 generation projects located in four countries. With the exception of the transactions identified below, there was limited publicly available information to derive meaningful benchmarks in respect of the comparable transactions. We note the following in respect of the selected transactions:

- AGL Energy acquired the Macquarie Generation assets from the NSW Government in February 2014. The acquired assets principally comprised the Bayswater and Liddel power stations with a combined capacity of 4,640 MW. We note that these are large standalone coal-fired base load power stations in comparison to EDL's portfolio of assets. The transaction implied an EBITDA multiple of 7.3 times on a control basis
- Greenspark Power Holdings disposed of 18.25 million shares in February 2014, reducing its interest in EDL to 69% from 84%. We note that the disposal was undertaken in conjunction with an AUD 50 million equity raising by EDL. The transaction implied an EBITDA multiple of 7.0 times on a minority basis
- Origin Energy acquired the Eraring Energy assets from the NSW Government in July 2013. The acquired assets principally comprised the standalone coal-fired base load Eraring power station with a total capacity of 2,880 MW. The transaction implied an EBITDA multiple of 5.1 times on a control basis.

Based on the above, we consider that the multiples observed for the broadly comparable companies and selected transactions provide broad support for the earnings multiples implied by our fundamental valuation of EDL.

### 5.7.2 Industry rule of thumb

In addition to our valuation based on the discounted cash flow methodology, we have also considered an industry rule of thumb, by comparing the value of EDL on an AUD per MW basis with the ratio implied by trading and transactions in comparable listed companies, where available.

This rule of thumb has emerged from market transactions as it can be calculated by analysts based on limited publicly available information. We consider the AUD per MW rule of thumb provides weak evidence of the value of a diversified energy generation company for the reasons set out below:

- the relative value of the transactions or the relative size of the comparable companies
- different cost and capital structures of the broadly comparable companies
- the range of services offered by each of the companies. For example, vertically integrated energy companies (i.e. generation, transmission and distribution) relative to pure play electricity generation
- different risk profiles of energy companies reflecting the location of their assets, regulatory environment, generation mix (i.e. fossil fuel or renewable) and type (i.e. base load or peaking). In addition, energy companies operate finite life assets which have different useful lives and differences in plant type, contractual arrangements, capacity factors, operating margins and carbon intensity
- the specific characteristics of the portfolio of power generation assets owned by energy companies. For example, a company operating a small number of large scale generation assets subject to fixed term concessional arrangements is likely to face different risks and operating conditions to a company operating a large number of small scale generation assets.

We have presented the value of EDL on an AUD per MW basis as follows.

**Table 23: Implied AUD per MW multiples on a control basis for EDL**

	Units	Low value	High value
Enterprise value of EDL (on a control basis)	AUD'million	1,916	2,132
Installed capacity	MW	900	900
<b>Implied MW multiple (on a control basis)</b>	<b>AUD'million per MW</b>	<b>2.1</b>	<b>2.4</b>

Source: Deloitte Corporate Finance analysis

Our selected enterprise value of EDL implied an AUD per MW in the range of AUD 2.1 million to AUD 2.4 million per MW, based on EDL's installed capacity of 900 MW, on a control basis.

A summary of MW multiples implied by comparable companies and transactions is set out below (refer to Appendix F and G for further details on the comparable listed companies and transactions).

**Table 24: Summary of implied AUD per MW multiples – comparable companies and transactions**

	Implied AUD'million per MW
<b>Implied per MW trading multiples</b>	
Australian and New Zealand generation and integrated utilities	1.9
International energy generation companies	1.8
International 'clean' energy generation	3.1
Implied transaction multiples (Australia and New Zealand energy)	1.0

Source: Deloitte Corporate Finance analysis

Similar to our findings on an earnings multiple basis (refer to Section 5.7.1), the MW multiples observed for the Australian and New Zealand companies are, on average, lower than those observed for the international trading companies.

EDL's implied multiple is broadly in line with the MW multiples observed for the various listed power generation companies which, whilst acknowledging the limitations associated with this relatively simplistic cross-check, we consider supports our discounted cash flow valuation of EDL.

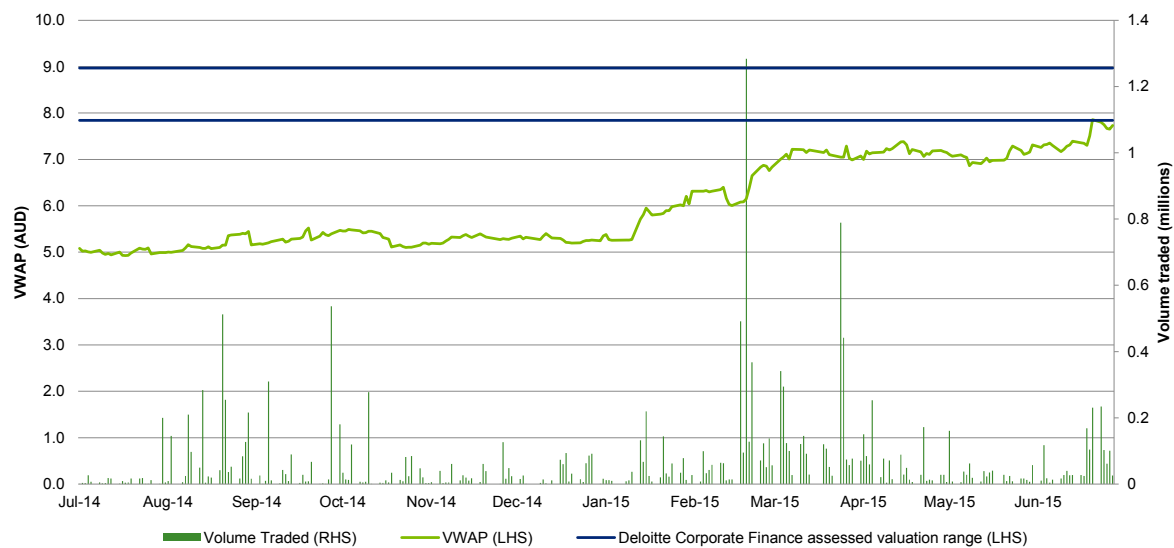
### 5.7.3 Analysis of recent share trading

We have compared the value estimated for a share in EDL to that implied by trading in its shares prior to the announcement of the Proposed Scheme on 20 July 2015.

The market can be expected to provide an objective assessment of the fair market value of a listed entity, where the market is well informed and liquid. Market prices incorporate the influence of all publicly known information relevant to the value of an entity's shares.

The following figure shows EDL share price over the twelve months prior to the announcement of the Proposed Scheme on 20 July 2015 compared to our assessed value of a share in EDL on a control basis.

**Figure 14: Daily VWAP and volume prior to the announcement date**



Source: Capital IQ; Deloitte Corporate Finance analysis

Our valuation per share implies a premium of 15%, 11% and 9% to EDL’s VWAP on a three month, one month and five-day basis, respectively, based on the mid-point of our valuation range, which reflects control. Whilst this outcome is not necessarily unreasonable, with the delta between our valuation and the market trading of EDL potentially a reflection of a premium for control, in the case of EDL, the use of market trading in its shares as a cross-check is subject to clear deficiencies:

- there is a low level of liquidity of EDL shares. Over the last six months, on average 0.4 million EDL shares were traded on a weekly basis representing an average trading volume of approximately 0.2% of EDL’s issued shares per week, or 6.3% for the entire six month period
- the three large shareholders in EDL collectively hold more than 85% of the issued shares in EDL, meaning there is a small free float available for trading.

Furthermore, recent speculation in the market around a potential sale by Pacific Equity Partners of its 67% interest in EDL may have influenced recent trading in EDL’s shares. Significant volumes of shares were traded between 9 March 2015 and 13 March 2015, likely the consequence of press speculation on 9 March 2015 that Pacific Equity Partners was seeking to sell its interest in EDL. From 9 March 2015 to 13 March 2015, approximately 2.4 million shares were traded, more than 14 times the volume traded over the previous five days. By 13 March 2015, EDL’s share price had increased by 11%, to \$6.65, since 6 March 2015 (the day prior to the publication of the Australian Financial Review’s article, as discussed in Section 2.5). EDL’s share price increased a further 6%, to \$7.06, by 24 March 2015, the day prior to announcing an earnings upgrade, with a moderate increase in the share price observed following the announcement (approximately 2% over the subsequent five days). Our valuation of EDL implies a premium of 30% to 49% to EDL’s share price on 6 March 2015. However, it is difficult to isolate the extent to which the sustained increase in the share price was attributable to continued expectations of a potential sale as opposed to improved performance and fundamentals of the business. We note that our valuation also incorporates the impact of the recent depreciation in the AUD relative to the USD and the GBP which, all things being equal, would likely have a positive impact on EDL’s foreign currency earnings and, inter alia, its share price.

Having regard to the above factors and considerations, and given the low levels of liquidity in EDL shares, we have placed limited reliance on the market trading in EDL’s share price in assessing whether our discounted cash flow valuation of EDL is reasonable.

## Appendix A: Context to the Report

### Individual circumstances

We have evaluated the Proposed Scheme for Shareholders as a whole and have not considered the effect of the Proposed Scheme on the particular circumstances of individual investors. Due to their particular circumstances, individual investors may place a different emphasis on various aspects of the Proposed Scheme from that adopted in this report. Accordingly, individuals may reach different conclusions to ours on whether the Proposed Scheme is fair and reasonable and therefore in the best interests of Shareholders. If in doubt investors should consult an independent adviser, who should have regard to their individual circumstances.

### Limitations, qualifications, declarations and consents

The report has been prepared at the request of the Directors of EDL and is to be included in the Scheme Booklet to be given to Shareholders for approval of the Proposed Scheme. Accordingly, it has been prepared only for the benefit of the Directors and those persons entitled to receive the Scheme Booklet in their assessment of the Proposed Scheme outlined in the report and should not be used for any other purpose. Neither Deloitte Corporate Finance, Deloitte Touche Tohmatsu, nor any member or employee thereof, undertakes responsibility to any person, other than the Shareholders and EDL, in respect of this report, including any errors or omissions however caused. Further, recipients of this report should be aware that it has been prepared without taking account of their individual objectives, financial situation or needs. Accordingly, each recipient should consider these factors before acting on the Proposed Scheme. This engagement has been conducted in accordance with professional standard APES 225 Valuation Services issued by the Accounting Professional and Ethical Standards Board Limited.

The report represents solely the expression by Deloitte Corporate Finance of its opinion as to whether the Proposed Scheme is in the best interests of the Shareholders as a whole. Deloitte Corporate Finance consents to this report being included in the Scheme Booklet in the form and context in which it is to be included in the Scheme Booklet.

Statements and opinions contained in this report are given in good faith but, in the preparation of this report, Deloitte Corporate Finance has relied upon the completeness of the information provided by EDL and its officers, employees, agents or advisors which Deloitte Corporate Finance believes, on reasonable grounds, to be reliable, complete and not misleading. Deloitte Corporate Finance does not imply, nor should it be construed, that it has carried out any form of audit or verification on the information and records supplied to us. Drafts of our report were issued to EDL management for confirmation of factual accuracy.

In recognition that Deloitte Corporate Finance may rely on information provided by EDL and its officers, employees, agents or advisors, EDL has agreed that it will not make any claim against Deloitte Corporate Finance to recover any loss or damage which EDL may suffer as a result of that reliance and that it will indemnify Deloitte Corporate Finance against any liability that arises out of either Deloitte Corporate Finance's reliance on the information provided by EDL and its officers, employees, agents or advisors or the failure by EDL and its officers, employees, agents or advisors to provide Deloitte Corporate Finance with any material information relating to the Proposed Scheme.

To the extent that this report refers to prospective financial information we have considered the prospective financial information and the basis of the underlying assumptions. The procedures involved in Deloitte Corporate Finance's consideration of this information consisted of enquiries of EDL personnel and analytical procedures applied to the financial data. These procedures and enquiries did not include verification work nor constitute an audit or a review engagement in accordance with standards issued by the AUASB or equivalent body and therefore the information used in undertaking our work may not be entirely reliable.

Based on these procedures and enquiries, Deloitte Corporate Finance considers that there are reasonable grounds to believe that the prospective financial information for EDL included in this report has been prepared on a reasonable basis in accordance with ASIC Regulatory Guide 111. In relation to the prospective financial information, actual results may be different from the prospective financial information of EDL referred to in this report since anticipated events frequently do not occur as expected and the variation may be material. The achievement of the prospective financial information is dependent on the outcome of the assumptions. Accordingly, we express no opinion as to whether the prospective financial information will be achieved.

Deloitte Corporate Finance holds the appropriate Australian Financial Services licence to issue this report and is owned by the Australian Partnership Deloitte Touche Tohmatsu. The Authorised Representatives of Deloitte Corporate Finance principally involved in the preparation of this report were Stephen Reid, M App. Fin. Inv., B.Ec, F Fin, CA, and Stephen Ferris, B.Ec, F.Fin, CA. Each has many years of experience in the provision of corporate financial advice, including specific advice on valuations, mergers and acquisitions, as well as the preparation of expert reports.

## Consent to being named in disclosure document

Deloitte Corporate Finance Pty Limited (ACN 003 833 127) of 225 George Street, Sydney, NSW, 2000 acknowledges that:

- EDL proposes to issue a disclosure document in respect of the Proposed Scheme between EDL and the holders of EDL shares (the Scheme Booklet)
- the Scheme Booklet will be issued in hard copy and be available in electronic format
- it has previously received a copy of the draft Scheme Booklet (draft Scheme Booklet) for review
- it is named in the Scheme Booklet as the 'independent expert' and the Scheme Booklet includes its independent expert's report in the Scheme Booklet.

On the basis that the Scheme Booklet is consistent in all material respects with the draft Scheme Booklet received, Deloitte Corporate Finance Pty Limited consents to it being named in the Scheme Booklet in the form and context in which it is so named, to the inclusion of its independent expert's report in the Scheme Booklet and to all references to its independent expert's report in the form and context in which they are included, whether the Scheme Booklet is issued in hard copy or electronic format or both.

Deloitte Corporate Finance Pty Limited has not authorised or caused the issue of the Scheme Booklet and takes no responsibility for any part of the Scheme Booklet, other than any references to its name and the independent expert's report.

## Sources of information

In preparing this report we have had access to the following principal sources of information:

- draft Scheme Booklet
- annual reports for EDL for the financial years ending 30 June 2012, 2013, 2014 and Appendix 4E for financial year ending 30 June 2015
- various financial models prepared by EDL management
- internal management information, including supply contracts with third parties
- company websites for EDL, DUET and comparable companies
- publicly available information on comparable companies and market transactions published by ASIC, CapitalIQ and Mergermarket
- other publicly available information, media releases and brokers' reports on EDL, comparable companies and the Australian and global power generation and electricity industries.

In addition, we have had discussions and correspondence with certain directors and executives, including Mr Rob Koczkar, Chairman; Mr Greg Martin, Non Executive Director; Mr Greg Pritchard, Chief Executive Officer; and Mr Gerard Dover, Chief Financial Officer, in relation to the above information and to current operations and prospects.

## Appendix B: Valuation methodologies

To estimate the fair market value of the shares in EDL we have considered common market practice and the valuation methodologies recommended by ASIC Regulatory Guide 111, which provides guidance in respect of the content of independent expert's reports. These are discussed below.

### Market based methods

Market based methods estimate a company's fair market value by considering the market price of transactions in its securities or the market value of comparable companies. Market based methods include:

- capitalisation of maintainable earnings
- analysis of a company's recent share trading history
- industry specific methods.

The capitalisation of maintainable earnings method estimates fair market value based on the company's future maintainable earnings and an appropriate earnings multiple. An appropriate earnings multiple is derived from market transactions involving comparable companies. The capitalisation of maintainable earnings method is appropriate where the company's earnings are relatively stable.

The most recent share trading history provides evidence of the fair market value of the shares in a company where they are publicly traded in an informed and liquid market.

Industry specific methods estimate market value using rules of thumb for a particular industry. Generally rules of thumb provide less persuasive evidence of the market value of a company than other valuation methods because they may not account for company specific factors.

### Discounted cash flow methods

Discounted cash flow methods estimate market value by discounting a company's future cash flows to a net present value. These methods are appropriate where a projection of future cash flows can be made with a reasonable degree of confidence. Discounted cash flow methods are commonly used to value early stage companies or projects with a finite life.

### Asset based methods

Asset based methods estimate the market value of a company's shares based on the realisable value of its identifiable net assets. Asset based methods include:

- orderly realisation of assets method
- liquidation of assets method
- net assets on a going concern basis.

The orderly realisation of assets method estimates fair market value by determining the amount that would be distributed to shareholders, after payment of all liabilities including realisation costs and taxation charges that arise, assuming the company is wound up in an orderly manner.

The liquidation method is similar to the orderly realisation of assets method except the liquidation method assumes the assets are sold in a shorter time frame. Since wind up or liquidation of the company may not be contemplated, these methods in their strictest form may not necessarily be appropriate. The net assets on a going concern basis method estimates the market values of the net assets of a company but does not take account of realisation costs.

These asset based methods ignore the possibility that the company's value could exceed the realisable value of its assets as they ignore the value of intangible assets such as customer lists, management, supply arrangements and goodwill. Asset based methods are appropriate when companies are not profitable, a significant proportion of a company's assets are liquid, or for asset holding companies.

## Appendix C: Electricity industry

This appendix provides an overview of the electricity industry in the markets in which EDL operates.

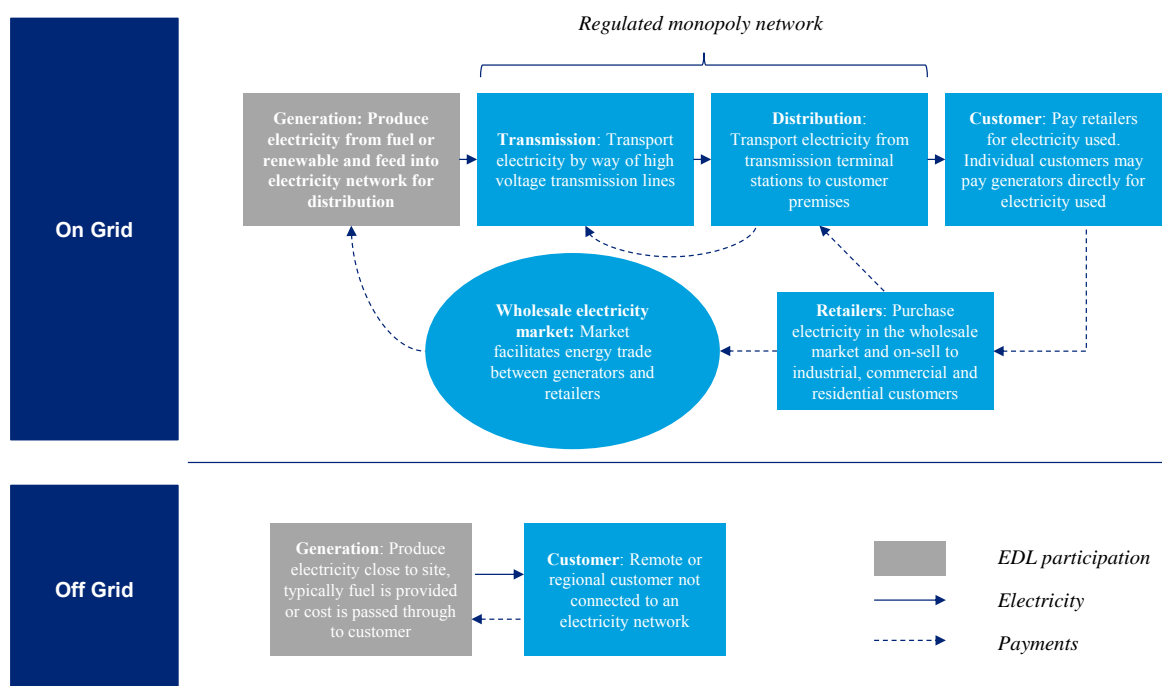
### Overview

Electricity is supplied to the majority of consumers through an electricity network or ‘grid’. In general, there are several generators (both large and small) that are connected to the grid. These generators generate electricity that is transported on high voltage transmission lines (the transmission network) over long distances and then through a lower voltage distribution network to end consumers (the distribution network). The majority of industrial, commercial and residential consumers are connected to the distribution network and buy electricity through a retail company (retailer). Some large industrial customers are connected directly to the transmission network. To ensure the integrity of the grid a wholesale electricity market is established, where a market operator facilitates the orderly dispatch (or generation) of connected generators to meet total grid demand, based on set rules and regulations. The transmission and distribution network is typically a monopoly and is regulated, where prices and performance standards are set by a regulatory agency.

Where it is not possible to access the electricity network or grid, for instance if a location is very remote, consumers generate their own electricity to meet their needs. Such arrangements are referred to as off grid supply, as these consumers are not connected to the main grid supplying the vast majority of consumers. These consumers tend to be large remote mining operations or remote towns.

EDL owns and operates generation assets – some are connected to the grid, while some supply consumers based on an off grid arrangement. Typical ‘on grid’ and ‘off grid’ arrangements are shown below.

Figure 15: Energy value chain



Source: Deloitte Corporate Finance analysis

Note:

1. Graphic contains the primary connections between main operators in the industry.

In the grid connected markets, generators earn revenue by participating in the wholesale electricity markets. These markets can take various forms, such as:

- energy only markets – where generators receive revenue based on actual dispatch
- a mixture of both capacity and energy market – where generators receive revenue based on a combination of making capacity available and dispatch



- balancing markets – where generators receive revenue from the wholesale market to the extent that they have dispatched generation above their contracted quantities.

EDL has projects which operate in three wholesale electricity markets, the Australian National Electricity Market (NEM), the UK Wholesale Market, and two US markets, the PJM interconnection in the northeast and ERCOT. Each of these wholesale markets along with remote energy generation in Australia are described in further detail in the following sections.

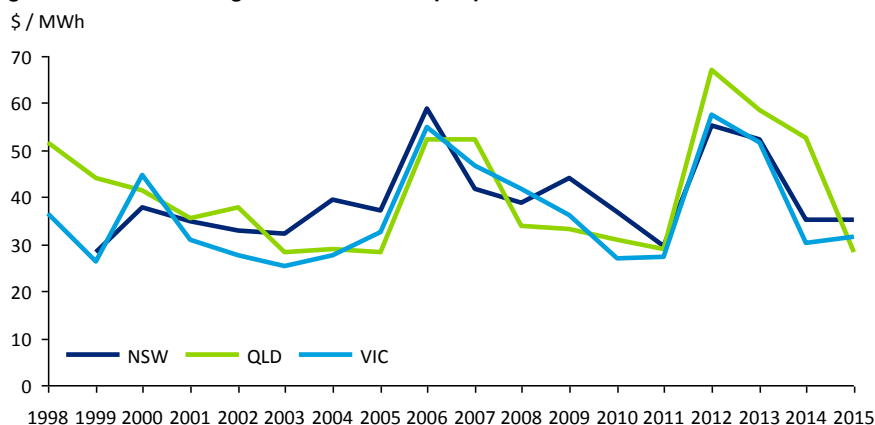
## Australian electricity market

Australia’s NEM connects the eastern states of Queensland, NSW, Victoria, South Australia and Tasmania. The National Electricity Rules (NER) that govern the NEM are set by the Australian Energy Market Commission (AEMC) and are enforced by the Australian Energy Regulator (AER). The wholesale electricity market is operated by the Australian Electricity Market Operator (AEMO).

The NEM is an energy only wholesale electricity market. Every five minutes, generators bid generation quantities into the market at prices they are willing to be dispatched. AEMO dispatches generators based on bids, with the cheapest generator being dispatched first, until demand is met. The highest or the marginal bid that is dispatched sets the five minute price for each NEM region (each of the five states is a NEM region). AEMO then calculates the half hour spot price (spot price) at each NEM region by averaging the relevant five minute prices. Generators that are dispatched during a half hour receive the spot price for all their generation quantities that are dispatched during that half hour.

Spot prices in the NEM can vary significantly across half hours, with the maximum spot price being capped at \$13,800 per MWh and the minimum price being set at -\$1,000 per MWh. To protect against price volatility, generators (and retailers) enter into financial contracts (such as futures and swaps) that lock in a firm price, irrespective of spot prices. Historical annual spot prices for the NEM regions are presented in Figure 16.

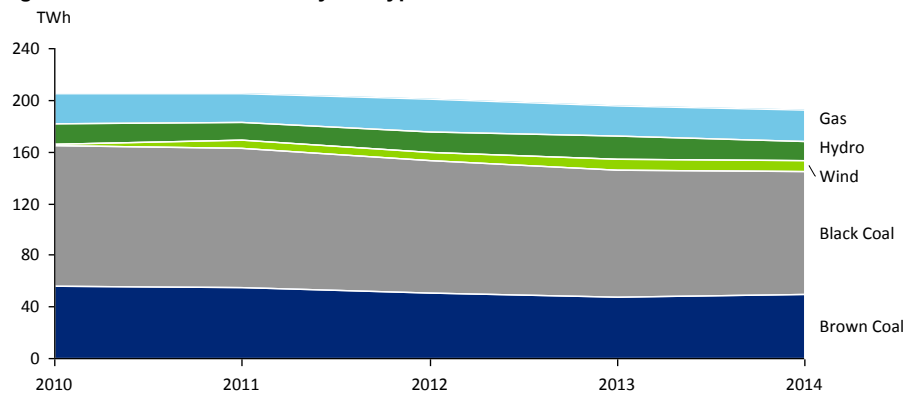
**Figure 16: Annual average NEM wholesale spot prices**



Source: Deloitte Corporate Finance Analysis of Australia Energy Market Operator Data

Generation in the NEM is dominated by black and brown coal, reflecting the low marginal cost of generation. Wind generation has increased over the last few years based on additional wind generation required to meet the LRET. Historical generation in the NEM is presented below.

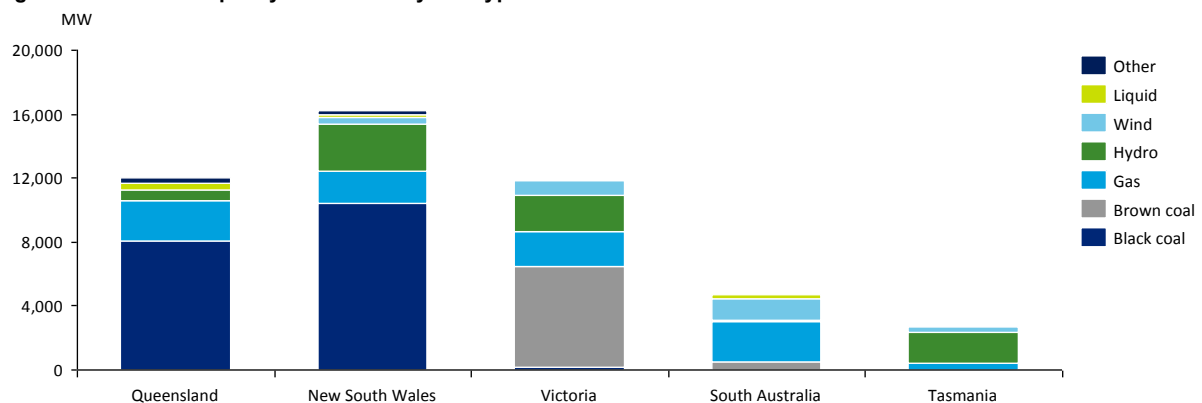
**Figure 17: Generation in NEM by fuel type**



Source: Deloitte analysis of AEMO market data

Based on AEMO’s latest forecasts, no additional generation capacity is required for at least the next 10 years. This is primarily due to a reduction in demand and consumption driven by the closure of large loads such as smelters, energy efficiency, uptake of solar photovoltaic (PV) and demand reductions in response to large increases in electricity retail prices. The primary additional generation on the NEM is large scale renewable generation which is driven by the requirement to meet the renewable energy target. Current installed capacity (MW) in the NEM reflects the dominant generation fuel types, coal and gas. Tasmania is the exception due to its abundant hydro resource. Installed capacity by each NEM region is set out below.

**Figure 18: Installed capacity in the NEM by fuel type**



Source: Deloitte Corporate Finance analysis of Australian Energy Regulator Data, 2014

EDL operates WCMG and LFG plants that are connected to the NEM in Australia. WCMG is methane removed from underground coal mining operations that can be used as a fuel source for a gas turbine generator. LFG projects generate electricity using methane gas produced by landfill sites. Methane production occurs indefinitely during a landfill’s operational life, but also continues for typically 30 or more years after closure of a site.

Both LFG and WCMG are considered a form of clean energy due to their methane reduction benefits. They are eligible to benefit from a number of incentives that exist in Australia for what is considered green generation. These schemes include the LRET, Carbon Farming Initiative (now Emissions Reduction Fund or ERF) and funding assistance from Australian Renewable Energy Agency (ARENA) and the Clean Energy Finance Corporation (CEFC). Details of these schemes are provided below.

**Renewable Energy Target (RET)**

The Federal Government first introduced the Renewable Energy Target (RET) in 2001. This regulation is enabled by the Renewable Energy (Electricity) Act 2000 and Renewable Energy (Electricity) Regulations 2001 legislation, and operates to incentivise renewable generation from sources such as solar, wind, geothermal, wood and agricultural waste, biogas and landfill gas. The current target is split into large-scale electricity generation (LRET) and small-scale electricity generation scheme (SRES) programs, both of which are administered by the Clean Energy Regulator (CER). The original LRET target was designed to ensure that 41 TWh of renewable energy was generated by 2020. This target was set in 2007 and was designed to ensure that renewable energy generation accounted for 20% of total national energy consumption. However, since then the forecast of electricity consumption has reduced and only about 26 TWh of large scale renewable energy generation is

required to meet the original 20% target. The Federal Government has reviewed the LRET target and revised it downward to 33 TWh by 2020.

Under the LRET, eligible renewable energy generators are able to create LGCs based on the amount of renewable electricity generated above a baseline level, with one LGC being equivalent to one MWh of renewable energy generated. LFG generators are eligible to create LGCs and WCMG generators are also eligible to create LGCs up to a cap. Liable entities (such as electricity retailers) are required to buy LGCs to fulfil their obligations.

Renewable electricity generators can trade LGCs separately from the underlying electricity sold on market. The price paid for LGCs can fluctuate daily as it is market driven (while the LGC spot market has increased from \$30 - \$50 per LGC recently, historically the market has been volatile as a result of oversupply and policy uncertainty). An effective after-tax shortfall penalty of \$93 per LGC applies if insufficient LGCs are surrendered. The LRET based on its current design is not expected to be extended beyond 2030.

#### *Carbon farming initiative (now Emissions Reduction fund)*

ACCUs are earned by net abatement of carbon dioxide equivalent (through either emissions reductions or carbon sequestration). One ACCU represents one tonne of carbon dioxide equivalent. ACCUs are issued by the CER under the Carbon Farming Initiative Act 2011 and the Carbon Credits (Carbon Farming Initiative) Regulations 2011 legislation. The Carbon Farming Initiative was a voluntary carbon abatement scheme that ran between September 2011 and December 2014. After this period it was integrated with the ERF, which has enabled operators of eligible generation sites to bid their ACCUs into the \$2.5 billion Direct Action ERF.

In April 2015, the CER conducted the first carbon abatement reverse auction under the ERF. 107 contracts were awarded for approximately 47 million ACCUs at a price of \$13.95 per ACCU, and contract lengths ranged between 3 and 10 years. \$660 million out of the total \$2.5 billion fund has been spent to date.

#### *Funding through ARENA and Clean Energy Finance Corporation*

The Federal Government provides financial assistance towards the research and development, commercialisation and deployment of renewable generation technology, through ARENA and the CEFC. This funding is aimed at improving the affordability of new renewable technology and increasing the supply of renewable energy in the Australian market.

ARENA was established in July 2012 under a mandate to finance investment at all stages of renewable energy growth projects and promote knowledge sharing within the industry. The agency received \$2.5 billion of funding from the Federal Government, which extends through until 2022.

Technology developers, researchers and other organisations submit applications for ARENA grant funding online. ARENA assesses funding applications according to its General Funding Strategy and Investment Plan, which includes a set of key performance indicators designed to measure organisational effectiveness as well as a project's ability to improve the competitiveness of renewable energy technology and increase the supply of renewable energy in Australia. ARENA is interested in funding a diverse range of renewable energy initiatives and has flexibility in how it chooses to provide financial support. However, the Federal Government has implemented safeguards to ensure accountability and transparency for expenditure, and legislation underpinning ARENA requires the Minister for Industry and Science to approve significant programme guidelines and projects, where either:

- programme guidelines permit grants for projects totalling more than \$15 million; or
- grants are to be awarded to projects totalling more than \$50 million.

CEFC has been set up for similar reasons to ARENA. The corporation received \$10 billion of funding from the Federal Government to invest in the commercialisation and deployment of renewable technology and targets commercial returns on invested capital.

CEFC typically invests (directly and indirectly) in renewable energy projects at the later stages of development, which have a positive expected rate of return and have the capacity to service and repay capital. The corporation's commercial approach to investing results in funds being provided on the least favourable terms possible for a project to proceed (i.e. close to arm's length market conditions). CEFC does not make grants for renewable energy development.

## **Remote energy – Australia**

In Australia, the electricity networks are concentrated along the coastlines and capital cities, which have higher density populations and can support the infrastructure costs of maintaining a network. Many remote and regional

areas are not connected to this infrastructure and must seek alternative sources of electricity. Remote energy projects provide essential infrastructure and electricity supply services to remote communities or commercial operations (such as mining projects).

There are a number of providers that install, maintain and operate generation projects in remote locations for electricity supply. Customers include remote townships and large mining operations in Western Australia, Northern Territory and Queensland, mainly using natural gas or diesel as the fuel source. Electricity is generated and supplied directly to counterparties under long-term (10 to 15 year) tolling contracts and fuel price risk is passed through to the customers.

Typically, revenues are received in the form of fixed capacity charges for the provision of installed capacity and variable energy payments for the electricity generated and supplied. The primary driver of financial performance of such assets is operational excellence achieved through effective asset management and maximising the use of technology to minimise operational and capital expenditure.

## UK Electricity market

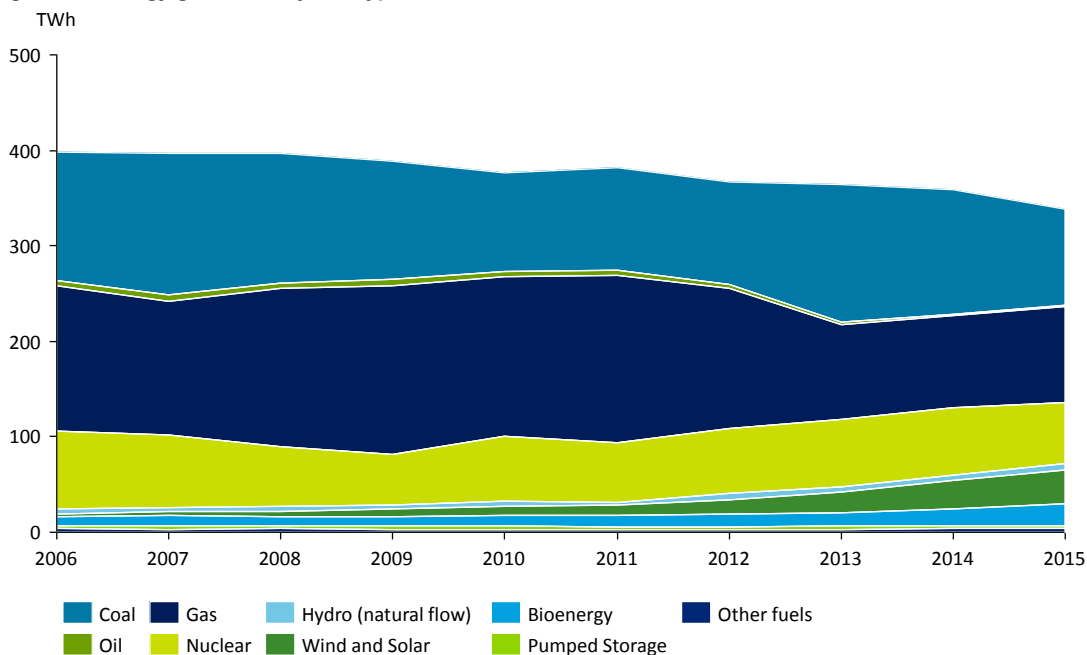
In the United Kingdom, suppliers, generators, traders and customers trade electricity in a competitive wholesale electricity market. Trading takes place in the form of bilateral supply contracts between direct counterparties or on exchanges, and timescales for electricity contracts range from on-the-day trades to supply agreements with multiple year terms. Electricity is also imported or exported between Great Britain and France, the Netherlands and Ireland through interconnectors.

National Grid Electricity Transmission (NGET) has overall responsibility for balancing the electricity system. NGET uses the Balancing Mechanism, amongst other tools, to ensure supply and demand for electricity is matched, or balanced, at all times. The Balancing Mechanism allows NGET to accept electricity offers and bids at short notice. Market participants that generate or consume more or less electricity than they have contracted are exposed to the imbalance price, or ‘cash-out’, for the difference. The cash-out price is based on NGET’s costs of balancing the system and it creates an incentive for market participants to balance demand and supply. NGET’s role as the ‘residual balancer of electricity’ is minimised as a result of this mechanism.

The role of the Office of Gas and Electricity Markets (OFGEM) is to ensure Great Britain’s electricity market operates effectively. OFGEM has rights to monitor and address anti-competitive behaviour or practices that compromise the fairness and efficiency of the market.

Like other markets, energy demand in the UK has fallen in recent years as a result of energy efficiency measures and low economic growth. This has corresponded with a fall in generation from the traditional fuel types, coal, gas and nuclear while renewable forms of generation have increased in penetration since 2011.

**Figure 19: Energy generated by fuel type in the UK Wholesale market**



Source: Deloitte Corporate Finance analysis of UK Department of Energy and Climate Change data

In the UK, EDL owns and operates a number of LFG projects which both sell into the wholesale market as well as generate revenue from green energy credits. These credits are earned under the Non-Fossil Fuel Obligation (NFFO) scheme and the Renewable Obligation (RO) scheme. Each scheme is outlined in more detail below.

### *NFFO scheme*

The NFFO scheme was implemented under the Electricity Act in 1989 and, before the introduction of the RO scheme in 2002, was the UK Government's principal renewable energy policy instrument. The NFFO scheme is no longer open to new electricity generators, but existing contracts will continue until the last expires in 2019.

Under this scheme, electricity suppliers are required to purchase energy generated from renewable sources for a set price, which is adjusted annually for RPI inflation. The power purchaser under each NFFO contract is the Non-Fossil Purchasing Agency Limited (NFPA), an authority established by electricity suppliers in England and Wales to carry out renewable energy obligations on their behalf under collective contract with renewable generators.

All remaining NFFO contracts will be grandfathered into the RO scheme upon their expiry. ROCs, which are earned through renewable generation under the RO scheme, are received by the NFPA prior to the expiry of a NFFO contract. On expiry, these ROCs transfer to operators of the renewable energy generation sites that earned them.

### *RO scheme*

The RO scheme superseded the NFFO scheme in April 2002, and is the main support mechanism for the UK's current renewable energy target (15% electricity consumption from renewable sources by 2020).

The RO scheme obligates suppliers to source an increasing proportion of their electricity from renewable resources. Operators of accredited LFG generation sites earn ROCs for any renewable electricity they produce and sell, at a rate of one ROC per megawatt hour of electricity generated. ROCs are provided to Ofgem for inclusion in a national buy-out pool. Suppliers ultimately purchase ROCs from the buy-out pool at a set price per MWh to meet their obligations under the scheme, and proceeds are distributed to renewable energy generators each October on a proportional basis.

Accredited generators also receive one Levy Exemption Certificate (LEC) per megawatt hour of renewable electricity produced. LECs can be sold to electricity suppliers with the accompanying power, and used as an exemption from paying the Climate Change Levy (CCL). The CCL is a tax on business activity aimed at reducing energy consumption and encouraging renewable energy use. The 2015 budget introduced measures to remove the CCL exemption for generators of renewable source electricity, effective 31 July 2015. These measures will be kept under review by the government authorities.

## **US electricity market**

The US has a number of electricity markets that service different parts of the country. EDL has energy projects in the eastern interconnection area that services a number of states in the north east, which is operated by PJM Interconnection LLC (PJM). PJM operates both a real-time (five-minute) energy market and a day-ahead (one day forward) wholesale market. EDL also has projects in the south which operate on the wholesale market operated by the Electric Reliability Council of Texas.

EDL owns and operates LFG generation projects that participate in these wholesale markets, as well as benefit from clean energy incentives. Different incentives schemes have been created in a number of states in which EDL operates, which are termed Renewable Portfolio Standard (RPS). RPS laws and regulations are designed to incentivise investment in new renewable and alternative energy sources by obligating suppliers of electricity to include, in their resource portfolios, a certain amount of electricity from sources such as wind, solar, hydro, geothermal, biomass, biogas or landfill gas fuels. An electricity supplier can satisfy its obligations under RPS laws and regulations by either owning renewable energy facilities and producing its own electricity, or by purchasing power from another renewable facility. RPS laws also allow suppliers to trade their obligations through the purchase and sale of RECs. EDL's two major sites in Ohio are accredited to sell RECs in the PJM markets of Ohio, Pennsylvania and Maryland.

### *Ohio RPS*

In May 2008, Ohio enacted legislation containing new supply requirements for the state's electricity retail businesses. Under this legislation, retailers were obligated to provide 25% of their electricity supply from alternative energy sources by 2025. In addition, half (or 12.5%) of the supply had to be generated from renewable energy resources, with at least 0.5% derived from solar sources.

Obligations under Ohio's RPS were calculated based on average retail sales during the preceding three years. At least 50% of the renewable energy requirement had to be met by in-state facilities, and the remaining half with resources that could be delivered into the state. Retailers were required to file a compliance report each year.

A retailer could meet its RPS obligations through the purchase of qualified RECs, which are defined as the environmental attributes associated with one megawatt hour of electricity generated by a renewable energy resource (similar to LGCs generated by clean energy operators in Australia). Generators were issued RECs by PJM Environmental Information Services and these could be sold for income through bulletin boards, aggregators and brokers or established exchange platforms.

Ohio's RPS was "frozen" on 13 June 2014, when Governor John Kasich signed a bill into law that effectively put a halt to the state's mandates for efficiency and renewable energy until 2017. The policy decision has introduced uncertainty to the renewable industry in Ohio and has impacted REC prices in the state and in surrounding states that sell RECs into Ohio, such as Kentucky, Pennsylvania, West Virginia, Indiana and Michigan. A legislative committee is currently reviewing the RPS requirements, which were passed in a near-unanimous vote in 2008, and renewable energy mandates stand at 2.5% of total supply in the interim. Proposed regulations released by the Environmental Protection Agency, limiting carbon dioxide emissions from coal power plants, may force the state to reconsider the importance of renewable energy sooner than the bill intends.

### *Illinois RPS*

The state of Illinois introduced its RPS legislation in August 2007 and the standards are still in effect today. Under this legislation, at least 25% of total retail electricity sales must be procured from renewable energy sources by 2025. There is also a requirement for the majority of renewable energy supply in the state to come from wind power (75% for electricity retailers supplying more than 100,000 Illinois customers and 60% for alternative retail suppliers), which makes this RPS less relevant to EDL.

RECs are earned by generators through the same process as for Ohio and are sold for income through the same channels described above. EDL generally trades the certificates created by its Zion site in Illinois via the Pennsylvania and Maryland markets.

## Appendix D: EDL key project descriptions

### Key Remote Energy projects

#### *McArthur River*

The McArthur River power station comprises two diesel and gas-fired generation facilities with an installed capacity of 24.2 MW and 53.3 MW, respectively. The power stations are located at the McArthur River mine in the NT.

EDL constructed the first power station at McArthur River mine in 1995 with an installed capacity of 20.9 MW, which was subsequently expanded by an additional 3.3 MW in 2012. EDL constructed the second power station in 2014 with an installed capacity of 53.3 MW. EDL currently supplies 68 MW of power to the mine operator, Glencore, under a PPA scheduled to end in 2033. Surplus capacity is available to support future mine expansions.

#### *WKPP*

EDL owns and operates the WKPP located in WA which comprises:

- a 200 tonne per day (nameplate) liquefied natural gas (LNG) plant and a 10.3 MW natural gas-fired power station located at Karratha
- five power stations with an installed capacity of 61 MW, of which four are LNG-fired and one is diesel-fired, located at Broome, Derby, Halls Creek, Fitzroy Crossing and Looma.

Natural gas is supplied under a long term take or pay agreement with a subsidiary of Brookfield / Macquarie Capital and Santos Limited. Natural gas is processed into LNG and transported to the four LNG-fired power stations. Electricity is sold to Horizon Power under a long term PPA scheduled to end in 2028, however Horizon Power has a five year renewal option post-2028.

#### *Cannington*

EDL operates and maintains a 40 MW natural gas and diesel-fired power station located at the Cannington mine in western QLD. EDL operates the Cannington power station under a tolling arrangement by which the mine operator, South32 Limited, pays a capacity and maintenance charge and all fuel costs. The current agreement ends in 2018.

#### *Pine Creek*

EDL operates two gas-fired power stations of 26.6 MW and 7.4 MW located at Pine Creek, NT. The Pine Creek power station supplies power to the NT electricity network under a take or pay agreement with Territory Generation which ends in April 2016. All fuel costs are borne by Territory Generation. Management advises that renewal negotiations are currently ongoing.

#### *Sunrise Dam*

The Sunrise Dam power station comprises a diesel and gas-fired power station with an installed capacity of 28.4 MW located at the Sunrise Dam gold mine in Western Australia. The mine is owned and operated by AngloGold Ashanti Australia Limited (AngloGold).

In September 2014, EDL announced a 6 MW expansion at Sunrise Dam and an extension to the PPA with AngloGold to December 2025. Fuel is supplied under an LNG supply agreement with Wesfarmers LNG Pty Limited ending in December 2015. As part of the expansion, a new gas pipeline will be constructed to supply natural gas to the power station. All fuel costs are borne by AngloGold.

### Key WCMG projects

#### *Appin Tower*

The Appin Tower power station comprises two WCMG-fired power stations with a total installed capacity of 97 MW located south of Sydney, NSW. The power stations were constructed in 1996 to generate power from coal seam gas produced at South32 Limited's (then BHP Billiton) Appin and Tower metallurgical coal mines. The power stations consist of 94 power generator modules of approximately 1 MW, which are capable of producing up to 654 GWh of electricity per annum. Appin Tower has a carbon abatement of approximately 2.0 million tonnes of CO<sub>2</sub> per annum.

Operations at the Tower mine ceased in December 2002 and gas is now currently sourced from the Appin and West Cliff mines. As at 30 June 2014, the Appin and West Cliff mines had a reserve life<sup>3</sup> of approximately 25 years and 2 years, respectively. A supplemental gas supply from the Moomba gas field provides top-up gas to the power stations including when the coal seam gas supply fluctuates due to mine activity.

EDL operates the Appin Tower power stations under a gas tolling contract with South32 which on-sells the power to Endeavour Energy. The tolling service agreement with EDL and the PPA with Endeavour Energy are due to expire in 2016. Renewal negotiations are currently underway.

### *Moranbah North*

The Moranbah North power station is a 64 MW WCMG-fired power station located at the Moranbah North mine in QLD. The Moranbah North power station commenced operations in 2008 and subsequently underwent an 18 MW expansion in 2014, increasing capacity to 64 MW. WCMG captured at the power station abates approximately 1.3 million tonnes of CO<sub>2</sub> per annum.

Gas is supplied under a long term gas sales agreement with Anglo American ending in 2038, and includes future gas from the newly developed Grosvenor mine. Moranbah North and Grosvenor had a reserve life of approximately 18 years and 34 years, respectively as at 31 December 2014<sup>4</sup>. Power generated from Moranbah North is sold in the NEM at spot prices.

### *German Creek*

The German Creek power station is a 45 MW WCMG-fired power station located at the German Creek mine in QLD. The German Creek power station commenced operations in 2006 and consists of 16 power generator modules of approximately 2 MW and 4 power generator modules of 3.3 MW. WCMG captured at the power station abates approximately 1.2 million tonnes of CO<sub>2</sub> per annum.

Gas is supplied under a long term gas sales agreement ending in 2036. German Creek had a reserve life of approximately 33 years as at 31 December 2014<sup>5</sup>. Power generated from German Creek is sold under an offtake agreement with a national utility ending in 2018.

## **Key LFG projects**

### *Lucas Heights*

Lucas Heights comprises two separate LFG-fired power stations of 6 MW and 17 MW located at the Lucas Heights 1 and Lucas Heights 2 landfill sites, respectively. The Lucas Heights 1 and 2 are owned by the Waste Asset Management Corporation and SITA respectively. The Lucas Heights 1 landfill site opened in 1976 and closed to refuse collection in 1987, whilst Lucas Heights 2 opened in 1987 and remains open to refuse collection.

The Lucas Heights 1 landfill site supplies gas to EDL under a long term gas sales agreement ending in 2035, whilst the power generated is sold under a PPA to a national utility. The Lucas Heights 2 landfill site supplies gas to EDL under a long term gas sales agreement ending in 2025, whilst power generated is sold under an offtake agreement with a national utility ending in 2018.

### *Mucking*

The Mucking power station is a 21 MW LFG-fired power station located at the Mucking landfill site in Essex, United Kingdom. The Mucking landfill closed in 2011. LFG is supplied to the power station under a long term contract with the landfill operator, Cory Environmental, ending in 2035. Power generated is sold partly under a PPA with the Non-Fossil Purchasing Agency which ends in July 2015 and partly under ROC contracts. The current PPA is expected to be replaced with ROCs under the RO clean energy scheme.

### *Lorain County*

The Lorain County power station is 27 MW LFG-fired power station located at the Lorain County landfill site in Ohio, US. The Lorain County landfill site is open for refuse collection. LFG is supplied to the power station under a long term contract with landfill operator, Republic Services, ending in 2039, whilst power generated at the Lorain County power station is sold under an offtake agreement with AMP Ohio ending in 2021.

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<sup>3</sup> South32, ASX Information Memorandum, 16 March 2015

<sup>4</sup> Anglo American Plc, Annual Report 2014

<sup>5</sup> Anglo American Plc, Annual Report 2014



*Carbon Limestone*

The Carbon Limestone power station is 25 MW LFG-fired power station located at the Carbon Limestone landfill site in Ohio, US. The Carbon Limestone landfill site is open for refuse collection. LFG is supplied to the power station under a long term contract with landfill operator, Republic Services, ending in 2039, whilst power generated at the Carbon Limestone power station is sold under an offtake agreement with AMP Ohio ending in 2021.

## Appendix E: Discount rate

This Appendix sets out our consideration of the Base Discount Rate, denominated in AUD and applied to the Remote Energy, LFG Australia and LFG UK parts of the businesses, as well as the risk premia adopted for the LFG US part of the business and the Growth BU.

The discount rate used to equate the future cash flows to their present value reflects the risk adjusted rate of return demanded by a hypothetical investor for the asset or business being valued.

Selecting an appropriate discount rate is a matter of judgement having regard to relevant available market pricing data and the risks and circumstances specific to the asset or business being valued.

Whilst the discount rate is in practice normally estimated based on a fundamental ground up analysis using one of the available models for estimating the cost of capital (such as the Capital Asset Pricing Model (CAPM)), market participants often use less precise methods for determining the cost of capital such as hurdle rates or target internal rates of return and often do not distinguish between investment type or region or vary over economic cycles.

Since our definition of fair market value is premised on the estimated value that a knowledgeable willing buyer would attribute to the asset or business, our selection of an appropriate discount rate needs to consider that buyers incorporate other alternatives to the typical CAPM approach in estimating the cost of capital.

For ungeared cash flows, discount rates are determined based on the cost of an entity's debt and equity weighted by the proportion of debt and equity used. This is commonly referred to as the weighted average cost of capital (WACC).

The WACC can be derived using the following formula:

$$WACC = \left( \frac{E}{V} * K_e \right) + \left( \frac{D}{V} * K_d (1 - t_c) \right)$$

The components of the formula are:

$K_e$  = cost of equity capital

$K_d$  = cost of debt

$t_c$  = corporate tax rate

$E/V$  = proportion of enterprise funded by equity

$D/V$  = proportion of enterprise funded by debt

The adjustment of  $K_d$  by  $(1 - t_c)$  reflects the tax deductibility of interest payments on debt funding. The corporate tax rate has been assumed to be 30%, in line with the effective tax rate of EDL.

### Cost of equity capital ( $K_e$ )

The cost of equity,  $K_e$ , is the rate of return that investors require to make an equity investment in a firm.

We have used the CAPM to estimate the  $K_e$ . CAPM calculates the minimum rate of return that the company must earn on the equity-financed portion of its capital to leave the market price of its shares unchanged. The CAPM is the most widely accepted and used methodology for determining the cost of equity capital.

The cost of equity capital under CAPM is determined using the following formula:

$$K_e = R_f + \beta(R_m - R_f) + a$$

The components of the formula are:

$K_e$  = required return on equity

$R_f$  = the risk free rate of return

$R_m$  = the expected return on the market portfolio

$\beta$  = beta, the systematic risk of a stock

$\alpha$  = specific company risk premium

Each of the components in the above equation is discussed below.

## Risk free rate ( $R_f$ )

The risk free rate compensates the investor for the time value of money and the expected inflation rate over the investment period. The frequently adopted proxy for the risk free rate is the long-term Government bond rate.

In order to estimate the yield on a 10-year zero coupon bond as at 6 August 2015, we have obtained the yield on a 10-year zero coupon bond as at 31 July 2015 and then adjusted it by the movement in the 10-year coupon bond between the end of July 2015 and 6 August 2015.

## Equity market risk premium (EMRP)

The EMRP ( $R_m - R_f$ ) represents the risk associated with holding a market portfolio of investments, that is, the excess return a shareholder can expect to receive for the uncertainty of investing in equities as opposed to investing in a risk free alternative. The size of the EMRP is dictated by the risk aversion of investors – the lower (higher) an investor's risk aversion, the smaller (larger) the equity risk premium.

The EMRP is not readily observable in the market and therefore represents an estimate based on available data. There are generally two main approaches used to estimate the EMRP, the historical approach and the prospective approach, neither of which is theoretically more correct or without limitations. The former approach relies on historical share market returns relative to the returns on a risk free security; the latter is a forward looking approach which derives an estimated EMRP based on current share market values and assumptions regarding future dividends and growth.

In evaluating the EMRP, we have considered both the historically observed and prospective estimates of EMRP.

### Historical approach

The historical approach is applied by comparing the historical returns on equities against the returns on risk free assets such as Government bonds, or in some cases, Treasury bills. The historical EMRP has the benefit of being capable of estimation from reliable data; however, it is possible that historical returns achieved on stocks were different from those that were expected by investors when making investment decisions in the past and thus the use of historical market returns to estimate the EMRP would be inappropriate.

It is also likely that the EMRP is not constant over time as investors' perceptions of the relative riskiness of investing in equities change. Investor perceptions will be influenced by several factors such as current economic conditions, inflation, interest rates and market trends. The historical risk premium assumes the EMRP is unaffected by any variation in these factors in the short to medium term.

Historical estimates are sensitive to the following:

- the time period chosen for measuring the average
- the use of arithmetic or geometric averaging for historical data
- selection of an appropriate benchmark risk free rate
- the impact of franking tax credits
- exclusion or inclusion of extreme observations.

The EMRP is highly sensitive to the different choices associated with the measurement period, risk free rate and averaging approach used and as a result estimates of the EMRP can vary substantially.

We have considered the most recent studies undertaken by the Securities Industry Research Centre of Asia-Pacific Limited, Morningstar, Inc. (Morningstar), ABN AMRO/London Business School and Aswath Damodaran (Damodaran). These studies generally calculate the EMRP to be in the range of 5% to 8%.

## Prospective approach

The prospective approach is a forward looking approach that is current, market driven and does not rely on historical information. It attempts to estimate a forward looking premium based on either surveys or an implied premium approach.

The survey approach is based on investors, managers and academics providing their long term expectations of equity returns. Survey evidence suggests that the EMRP is generally expected to be in the range of 6% to 8%.

The implied approach is based on either expected future cash flows or observed bond default spreads and therefore changes over time as share prices, earnings, inflation and interest rates change. The implied premium may be calculated from the market's total capitalisation and the level of expected future earnings and growth.

## Selected EMRP

We have considered both the historically observed EMRP and the prospective approaches as a guideline in determining the appropriate EMRP to use in this report. Australian studies on the historical risk premium approach generally indicate that the EMRP would be in the range of 5% to 8%.

In recent years it has been common market practice in Australia in expert's reports and regulatory decisions to adopt an EMRP of 6% to 7.5%.

The recent severe decline in equity values worldwide and the difficulty companies are experiencing in raising equity capital may be indicative of investors demanding a greater risk premium. In addition, with particular regard to expected future cash flows and observed bond default spreads, current prospective measures appear to indicate an increase in the EMRP.

Having considered the various approaches and their limitations, we consider an EMRP of 7.5% to be appropriate.

## Beta estimate ( $\beta$ )

### Description

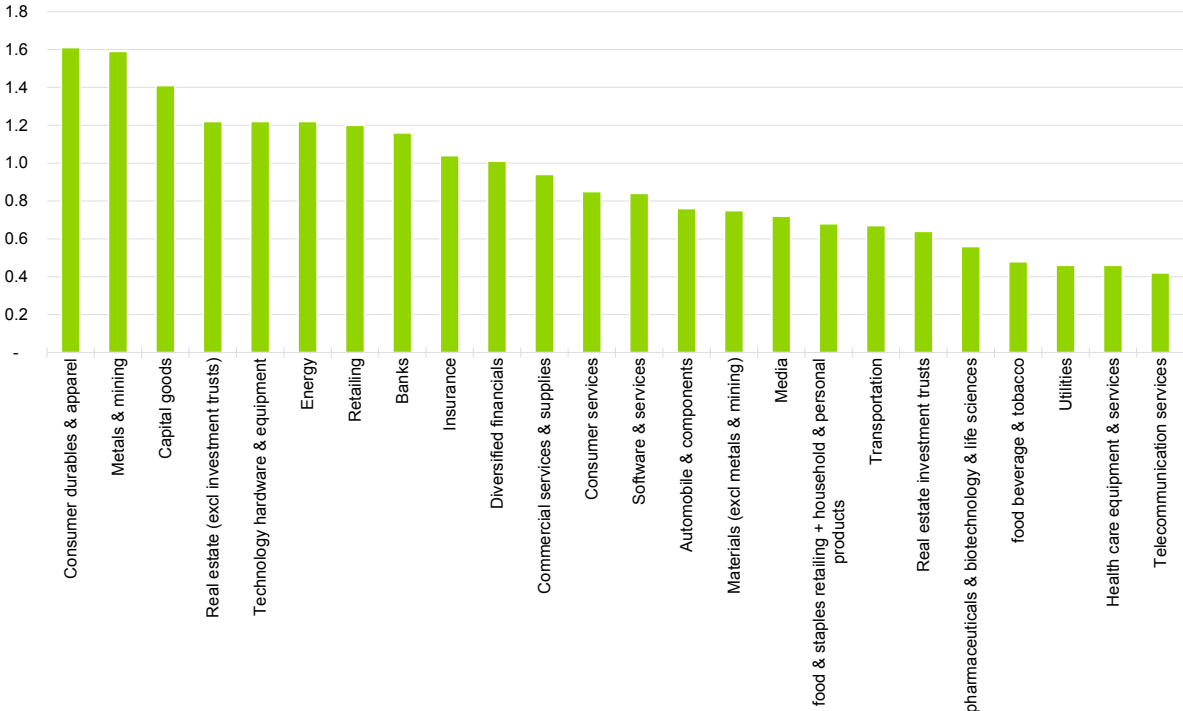
The beta coefficient measures the systematic risk or non-diversifiable risk of a company in comparison to the market as a whole. Systematic risk, as separate from specific risk as discussed below, measures the extent to which the return on the business or investment is correlated to market returns. A beta of 1.0 indicates that an equity investor can expect to earn the market return (i.e. the risk free rate plus the EMRP) from this investment (assuming no specific risks). A beta of greater than one indicates greater market related risk than average (and therefore higher required returns), while a beta of less than one indicates less risk than average (and therefore lower required returns).

Betas will primarily be affected by three factors which include:

- the degree of operating leverage employed by the firm in that companies with a relatively high fixed cost base will be more exposed to economic cycles and therefore have higher systematic risk compared to those with a more variable cost base
- the degree of financial leverage employed by a firm in that as additional debt is employed by a firm, equity investors will demand a higher return to compensate for the increased systematic risk associated with higher levels of debt
- correlation of revenues and cash flows to economic cycles, in that companies that are more exposed to economic cycles (such as retailers), will generally have higher levels of systematic risk (i.e. higher betas) relative to companies that are less exposed to economic cycles (such as regulated utilities).

The betas of various Australian industries listed on the ASX are reproduced below and provide an example of the relative industry betas for a developed market.

**Figure 20: Betas for various industries (as at 31 March 2015)**



Source: Securities Industry Research Centre of Asia-Pacific Limited

The differences are related to the business risks associated with the industry. For example, the above diagram indicates diversified financials companies are more correlated to overall market returns with a beta close to 1.0 whereas telecommunications and other infrastructure companies (in particularly those that are regulated) typically have betas lower than 1.0.

The geared or equity beta can be estimated by regressing the returns of the business or investment against the returns of an index representing the market portfolio, over a reasonable time period. However, there are a number of issues that arise in measuring historical betas that can result in differences, sometimes significant, in the betas observed depending on the time period utilised, the benchmark index and the source of the beta estimate. For unlisted companies it is often preferable to have regard to sector averages or a pool of comparable companies rather than any single company’s beta estimate due to the above measurement difficulties.

**Market evidence**

In estimating an appropriate beta for EDL we have considered the betas of listed companies that are broadly comparable to EDL. This includes companies in the integrated utilities, international energy generation and international clean energy generation industries. These betas, which are presented below, have been calculated based on weekly and monthly returns, over a two and four year period, compared to a relevant domestic index, respectively.

**Table 25: Analysis of betas for listed companies with comparable operations to EDL**

Name	Enterprise value <sup>1</sup> (\$million)	Debt to enterprise value value (%)	2-year weekly beta		4-year monthly beta	
			Levered	Unlevered	Levered	Unlevered
<b>EDL</b>	<b>1,895</b>	<b>29%</b>	<b>n/m<sup>2</sup></b>	<b>n/m</b>	<b>n/m</b>	<b>n/m</b>
<b>Australian and NZ generation and integrated utilities</b>						
Origin Energy Limited	25,445	45%	1.07	0.75	0.47	0.35
AGL Energy Limited	14,627	23%	0.84	0.68	0.54	0.45
Contact Energy Limited	4,540	28%	0.78	0.63	0.79	0.64
TrustPower Limited	3,359	36%	0.41	0.30	n/m	n/m
Infigen Energy	1,371	86%	n/m	n/m	n/m	n/m
ERM Power Limited	451	0%	n/m	n/m	0.70	0.60
Pacific Energy Limited	181	15%	n/m	n/m	0.64	0.58
<b>Average</b>		<b>33%</b>	<b>0.77</b>	<b>0.59</b>	<b>0.63</b>	<b>0.52</b>
<b>Median</b>		<b>28%</b>	<b>0.81</b>	<b>0.66</b>	<b>0.64</b>	<b>0.58</b>
<b>International energy generation</b>						
The AES Corporation	39,737	61%	1.01	0.54	1.07	0.57
NRG Energy, Inc	36,284	65%	0.91	0.46	0.79	0.39
TransAlta Corporation	8,413	51%	1.12	0.56	n/m	n/m
Portland General Electric Company	7,042	39%	0.43	0.30	0.47	0.32
Cleco Corporation <sup>3</sup>	6,088	27%	0.55	0.44	0.57	0.44
Algonquin Power & Utilities Corporation	4,520	36%	0.93	0.62	n/m	n/m
Capital Power Corporation	4,486	37%	0.67	0.44	n/m	n/m
FuelCell Energy, Inc	334	0%	1.50	1.45	1.75	1.67
<b>Average</b>		<b>40%</b>	<b>0.89</b>	<b>0.60</b>	<b>0.93</b>	<b>0.68</b>
<b>Median</b>		<b>38%</b>	<b>0.92</b>	<b>0.50</b>	<b>0.79</b>	<b>0.44</b>
<b>International 'clean' energy generation</b>						
Enel Green Power SpA	26,596	40%	n/m	n/m	n/m	n/m
EDP Renováveis SA	15,458	36%	0.94	0.62	0.66	0.41
TerraForm Power, Inc	6,357	42%	1.43	0.99	n/m	n/m
Northland Power, Inc	6,584	49%	0.99	0.63	n/m	n/m
Mighty River Power Limited	4,465	24%	0.73	0.58	1.19	0.95
Innergex Renewable Energy, Inc	3,172	60%	0.53	0.24	n/m	n/m
Infinis Energy plc	1,926	55%	n/m	n/m	n/m	n/m
THEOLIA SA	647	78%	0.75	0.15	1.74	0.45
<b>Average</b>		<b>48%</b>	<b>0.89</b>	<b>0.54</b>	<b>1.20</b>	<b>0.61</b>
<b>Median</b>		<b>46%</b>	<b>0.84</b>	<b>0.60</b>	<b>1.19</b>	<b>0.45</b>
<b>Major diversified mining companies</b>						
BHP Billiton Limited	176,031	17%	1.24	1.11	1.28	1.17
Rio Tinto Limited	120,216	13%	0.97	0.88	1.41	1.29
Glencore plc	119,210	51%	0.64	0.39	1.29	0.82
Anglo American plc	46,121	34%	1.22	0.97	1.22	1.04
<b>Average</b>		<b>29%</b>	<b>1.02</b>	<b>0.84</b>	<b>1.30</b>	<b>1.08</b>
<b>Median</b>		<b>25%</b>	<b>1.10</b>	<b>0.93</b>	<b>1.29</b>	<b>1.10</b>

Source: CapitalIQ and Deloitte Corporate Finance analysis

Notes:

1. Enterprise value as at 4 August 2015
2. n/m = not meaningful. A number of data points are considered to be not meaningful as they are statistically insignificant and therefore subject to error
3. Cleco Corporation is currently subject to a takeover which may impact beta data displayed above.

The observed beta is a function of the underlying risk of the cash flows of the company, together with the capital structure and tax position of that company. This is described as the levered beta.

The capital structure and tax position of the entities in the table above may not be the same as that of EDL. The levered beta is often adjusted for the effect of the capital structure and tax position. This adjusted beta is referred to as the unlevered beta. The unlevered beta is a reflection of the underlying risk of the pre-financing cash flows of the entity.

## Selected beta ( $\beta$ )

EDL operates unregulated power generation businesses in Australia, Europe and the US. In FY15 and FY16, approximately 86% and 81%, respectively, of projected black electricity offtake is contracted with blue chip or investment grade counterparties, the majority of which are large, multinational mining companies. As part of its overall business strategy, EDL progressively contracts future electricity output on an annual basis in order to limit price and volume risk. However, in respect of its Australian operations, EDL remains exposed to the progressive decline in mine reserves (particularly in the current high cost, low price, mining environment) and the consequent effect on future investment in coal and metals mining in Australia.

EDL does not have any directly comparable companies in Australia or internationally. Pacific Energy Limited, whilst similarly an owner-operator of electricity generation facilities powered by diesel and gas for Australian mine sites and infrastructure counterparts, operates at a much smaller scale, lacks the geographic diversification of EDL and does not generate power from WCMG or LFG.

Therefore, in selecting an appropriate beta for EDL, we have considered a broader suite of companies operating in Australia and on a global basis, many of which conduct their operations in a regulated environment or across the electricity generation lifecycle (both of which imply a lower risk profile compared with EDL).

We note the following:

- a majority of the Australian and New Zealand comparable companies are significantly larger and have more diversified operations in comparison to EDL. Origin, AGL, Contact Energy and TrustPower, in particular, are integrated retail energy and generation businesses that operate on a significant national scale and in a highly regulated market. The integrated and regulated nature of the businesses provides a natural hedge against volatility in electricity prices. We would ordinarily expect regulated businesses to have lower betas than unregulated businesses. The Australian and New Zealand integrated utilities have an average two-year weekly and four-year monthly unlevered beta of 0.59 and 0.48, respectively
- the international energy generation comparable companies also operate on a significantly larger and more diversified scale than EDL in terms of both operational and geographical diversification. Many of the companies own and operate a suite of power generation assets from which they generate, transmit and distribute electricity into both the wholesale and retail electricity market. The vast majority of these comparable companies also operate in a regulated market. Therefore, we would ordinarily expect such businesses to have lower betas than that of EDL. The international energy generation companies have an average two-year weekly and four-year monthly unlevered beta of 0.60 and 0.68, respectively. We note that the operations of TransAlta Corporation are unregulated, however, it also has a low two-year weekly beta of 0.56, likely due to the significant scale and diversification of its operations
- the international energy generation company, Capital Power Corporation, is considered most comparable to EDL from an operational perspective. Capital Power Corporation is an independent power producer which acquires, develops and operates power generation facilities in North America, generating electricity from coal, gas, wind, solar and landfill gas. However, unlike EDL, Capital Power Corporation operates in a regulated market. Capital Power Corporation has a two-year weekly beta of 0.44
- the broadly comparable clean energy companies are significantly larger by installed capacity and revenue than EDL's LFG and WCMG businesses, and operate a diverse portfolio of renewable energy assets (such as wind, solar and hydro) located in multiple geographies. Further, these businesses have different cost structures and capacity to develop large scale renewable energy projects relative to the smaller, less diversified LFG and WCMG assets. These companies are therefore well placed to benefit from significant opportunities globally to develop large scale wind and solar projects as countries move towards renewable energy to meet future demands. These opportunities are further enhanced by the significant decrease in the cost per installed megawatt for photovoltaics and wind turbines. In addition, unlike the LFG and WCMG assets, the location of solar and wind generation assets is not ring-fenced to in-situ coal mines and landfill sites

- a significant proportion of EDL's operations relates to the generation of power from the mining and resources sector. EDL's cash flow projections are largely premised on the assumption that the lives of the mines with which EDL contracts are extended, or that EDL can replace customers with mines coming to the end of their life with new mines or customers. However, components of the mining and resources industry currently face significant uncertainty, amongst ongoing volatility in commodity prices and depressed demand.

EDL's mining counterparties include BHP, Glencore and Anglo American, which have an average two-year weekly and four-year monthly unlevered beta of 0.83 and 1.01, respectively. Further, global coal producing companies generally have even higher unlevered betas, in the region of 1.0 to 1.2, when calculated on the same basis

- there remains considerable uncertainty on global climate change policies, notwithstanding recent developments in Australia and increasing global acceptance of clean energy alternatives. In Australia, for example, the agreement of the RET target in May 2015 preceded the incumbent Government's vocal disapproval of wind farms, in July 2015, and the potential exclusion of wind farms from the CEFC's investment mandate. The effect of this on EDL's green revenues is uncertain, but points to ongoing debate on a highly politicised topic and a potentially evolving policy, on both a local and global basis, over the years to come. Approximately 22% of EDL's projected revenues over the next five years are derived from green policies.

Based on the above, we are of the opinion that an appropriate beta for EDL, as a whole, should reflect its comparatively higher risk profile compared with those of its regulated peers, and its exposure to the global mining industry, embodied in the generally higher betas of its key counterparties, and politicised global climate change policies.

We have selected an unlevered beta in the range of 0.80 to 0.90 for EDL, which implies a relevered beta (blume-adjusted) in the range of 1.03 to 1.11, based on our selected gearing ratio and corporate tax rate (both 30%) for the Company.

## Risk premiums ( $\alpha$ )

Specific risk premiums adjust the cost of equity for company or asset specific factors, including unsystematic risk factors such as:

- company size (which we discuss in detail below)
- depth and quality of management
- reliance on one key individual or a few key members of management
- reliance on key customers
- reliance on key suppliers
- product diversity (limits on potential customers)
- geographic diversity
- labour relations, quality of personnel (union/non-union)
- capital structure, amount of leverage
- existence of contingent liabilities.

The CAPM assumes, amongst other things, that rational investors seek to hold efficient portfolios, that is, portfolios that are fully diversified. One of the major conclusions of the CAPM is that investors do not have regard to specific company risks (often referred to as unsystematic risk). There are several empirical studies that demonstrate that the investment market does not ignore specific company risks. In particular, studies show that on average, smaller companies have higher rates of return than larger companies (often referred to as the size premium).

In our opinion, the cash flow assumptions adopted to value EDL's US LFG business, which is at an early stage of its projected growth profile, do not appropriately take into account the associated risks of a business that is yet to demonstrate performance at targeted growth levels. Therefore, in valuing the US LFG business, we have applied a specific risk premium of 0.5% to the discount rate selected for EDL as a whole, which we consider reflects the required rate of return on a comparatively mature business.



For the same reason, we have applied a 1.00% to 1.25% premium to the base discount rate in valuing the broader Growth BU of EDL. The Growth BU cash flows are based on revenue, operating and capital costs derived with reference to EDL's historical experience in various markets. However, it is uncertain from which market and to what extent EDL will generate growth opportunities in the future.

This is discussed in more detail in Section 4.3.

## Dividend imputation

Dividends paid by Australian corporations may be franked, unfranked, or partly franked. A franked dividend is one that is paid out of company profits which have borne tax at the company rate, currently 30%. Where the shareholder is an Australian resident individual or complying superannuation fund, it will generally be entitled to a tax credit (called an imputation credit) in respect of the tax paid by the company on the profits out of which the dividend was paid. If the recipient of the dividend is another company, the dividend will give rise to a credit in that company's franking account thereby increasing the potential of the company to pay a franked dividend at a later stage.

We have not adjusted the cost of capital or the projected cash flows for the impact of dividend imputation due to the diverse views as to the value of imputation credits and the appropriate method that should be employed to calculate this value. Determining the value of franking credits requires an understanding of shareholders' personal tax profiles to determine the ability of shareholders to use franking credits to offset personal income. Furthermore, the observed EMRP already includes the value that shareholders ascribe to franking credits in the market as a whole. In our view, the evidence relating to the value that the market ascribes to imputation credits is inconclusive.

## Conclusion on cost of equity

Based on the above factors we arrive at a cost of equity,  $K_e$ , as follows:

**Table 26:  $K_e$  applied to valuation of EDL**

Input	Low	High
Risk free rate (%)	2.83%	2.83%
EMRP (%)	7.50%	7.50%
Beta	1.03	1.11
Specific company risk premium (%)	-	-
<b><math>K_e</math> – calculated (%)</b>	<b>10.53%</b>	<b>11.18%</b>

Source: Deloitte Corporate Finance analysis

## Cost of debt capital ( $K_d$ )

We have estimated EDL's cost of debt to be 6.0% to 6.5%.

EDL's average interest rate was 6.7% in FY14 and 5.7% in FY15.

EDL recently renegotiated \$500 million of debt, the Australian component of which was hedged to an effective interest rate of 6.4% (comprising AUD-denominated debt). Together, the weighted average hedged cost of debt for the Australian component of the MOSF and WKPP debt facilities (referring to the AUD-denominated debt facilities) is 6.6%.

Further, we note that the US and UK denominated facilities have an effective cost of debt of 3.6% and 4.0%, respectively, however the majority (80%) of EDL's gross debt is denominated in AUD.

The selected cost of debt implies a margin of approximately 320 to 370 basis points over the assumed risk free rate, which is not dissimilar to current credit spreads for BBB-rated borrowers in Australia.

## Debt and equity mix

We have selected a debt to equity mix for EDL of 30% debt and 70% equity based on the average gearing of comparable listed comparable companies (as set out in set out in Table 25) and EDL's current level of gearing based on its market capitalisation.

## Calculation of WACC

Based on the above, we have assessed the nominal post-tax WACC for EDL to be:

**Table 27: WACC applied to valuation of EDL**

	Low	High
Cost of equity capital (%)	10.53%	11.18%
Cost of debt capital (pre-tax) (%)	6.00%	6.50%
Debt to enterprise value ratio (%)	30.00%	30.00%
Tax rate (%)	30.00%	30.00%
<b>WACC (%)</b>	<b>8.63%</b>	<b>9.19%</b>
<b>Selected WACC (%)</b>	<b>8.75%</b>	<b>9.25%</b>

Source: Deloitte Corporate Finance analysis

## Appendix F: Comparable entities trading multiples

Table 28: Selected comparable entities

Name	Historical Reporting Date	Historical <sup>4</sup>	Current <sup>4</sup>	EBITDA multiple Forecast <sup>4</sup>	Forecast +1 <sup>4</sup>	EV / MW <sup>2</sup>
<b>Australian and New Zealand generation and integrated utilities</b>						
Origin Energy Limited	30-Jun-15	15.0x	10.6x	6.8x	6.0x	3.7x
AGL Energy Limited	30-Jun-15	12.3x	8.9x	8.4x	8.3x	1.4x
Contact Energy Limited	30-Jun-15	11.4x	9.9x	9.5x	9.6x	2.1x
TrustPower Limited	31-Mar-15	10.6x	10.2x	9.9x	9.6x	3.0x
Infigen Energy	30-Jun-14	6.4x	n/a	n/a	n/a	0.8x
ERM Power Limited	30-Jun-15	7.0x	6.5x	6.0x	5.7x	1.3x
Pacific Energy Limited	30-Jun-15	5.6x	5.1x	4.8x	n/a	0.7x
<b>Average</b>		<b>9.8x</b>	<b>8.5x</b>	<b>7.6x</b>	<b>7.8x</b>	<b>1.9x</b>
<b>Median</b>		<b>10.6x</b>	<b>9.4x</b>	<b>7.6x</b>	<b>8.3x</b>	<b>1.4x</b>
<b>International energy generation</b>						
The AES Corporation	31-Dec-14	8.0x	6.2x	6.2x	5.9x	1.5x
NRG Energy, Inc	31-Dec-14	9.7x	7.9x	8.4x	9.0x	0.7x
TransAlta Corporation	31-Dec-14	7.4x	7.7x	7.4x	7.2x	0.9x
Portland General Electric Company	31-Dec-14	10.8x	8.0x	7.5x	7.2x	2.1x
Cleco Corporation	31-Dec-14	11.2x	9.9x	9.8x	n/a	1.9x
Algonquin Power & Utilities Corporation	31-Dec-14	17.0x	12.4x	9.9x	8.9x	4.3x
Capital Power Corporation	31-Dec-14	9.7x	8.9x	8.6x	8.1x	1.2x
FuelCell Energy, Inc	31-Oct-14	n/m	n/m	n/m	13.7x	n/a
<b>Average</b>		<b>10.6x</b>	<b>8.7x</b>	<b>8.3x</b>	<b>8.6x</b>	<b>1.8x</b>
<b>Median</b>		<b>9.7x</b>	<b>8.0x</b>	<b>8.4x</b>	<b>8.1x</b>	<b>1.5x</b>
<b>International clean energy generation</b>						
Enel Green Power S.p.A.	31-Dec-14	10.7x	8.9x	8.2x	7.4x	2.7x
EDP Renováveis S.A.	31-Dec-14	13.5x	8.9x	7.8x	7.2x	1.7x
TerraForm Power, Inc	31-Dec-14	n/m	11.7x	6.7x	4.6x	3.9x
Northland Power, Inc	31-Dec-14	21.1x	19.2x	18.1x	13.0x	5.7x
Mighty River Power Limited	30-Jun-14	9.7x	10.7x	9.7x	9.5x	2.9x

Name	Historical Reporting Date	Historical <sup>4</sup>	EBITDA multiple		EV / MW <sup>2</sup>
			Current <sup>4</sup>	Forecast <sup>4</sup>	
Innergex Renewable Energy, Inc	31-Dec-14	18.0x	18.0x	15.8x	3.8x
Infinis Energy plc	31-Mar-15	6.8x	6.5x	6.3x	3.2x
THEOLIA S.A.	31-Dec-14	8.3x	6.1x	n/a	0.5x
<b>Average</b>		<b>12.6x</b>	<b>11.3x</b>	<b>10.4x</b>	<b>3.1x</b>
<b>Median</b>		<b>10.7x</b>	<b>9.8x</b>	<b>8.2x</b>	<b>3.0x</b>
<b>Overall average</b>		<b>11.0x</b>	<b>9.6x</b>	<b>8.8x</b>	<b>2.3x</b>
<b>Overall median</b>		<b>10.6x</b>	<b>8.9x</b>	<b>8.3x</b>	<b>2.0x</b>
<b>Overall low</b>		<b>5.6x</b>	<b>5.1x</b>	<b>4.8x</b>	<b>0.5x</b>
<b>Overall high</b>		<b>21.1x</b>	<b>19.2x</b>	<b>18.1x</b>	<b>5.7x</b>

Source: Capital IQ; publicly available company announcements; Deloitte Corporate Finance analysis

Notes:

1. Enterprise values (as at 27 August 2015) and multiples presented on a minority interest basis
2. n/m = not meaningful; n/a = not available; EV = enterprise value; MW = megawatt
3. Where net MW is not available, EV / MW is calculated based on gross megawatt capacity
4. Historical EBITDA multiple based on last reported annual EBITDA. Current, Forecast and Forecast +1 multiples are based on forecasts of EBITDA in one year intervals subsequent to the historical reporting date.

# Appendix G: Comparable transactions multiples

Table 29: Selected comparable transactions

Announcement date	Target	Acquirer	Country of target	Percent acquired	EV (100% basis) (AUD m)	EBITDA multiple	Installed capacity (MW)	EV / MW <sup>1</sup>
<b>Australia and New Zealand Energy</b>								
Dec-14	Colongra Power Station	Snowy Hydro Limited	Australia	100%	234	n/a	667	0.4x
Jun-14	Clarke Energy, 30MW power plant	Energy Developments Limited	Australia	100%	23	n/a	30	0.8x
Apr-14	Envirogen Pty Limited	Energy Developments Limited	Australia	100%	25	n/a	43	0.6x
Feb-14	Clarke Energy, 21MW CSG Asset	Energy Developments Limited	Australia	100%	021	n/a	21	1.0x
Feb-14	Energy Developments Limited	Various	Australia	14%	1,248	7.0x	789	1.6x
Feb-14	Macquarie Generation	AGL Energy Limited	Australia	100%	1,824	7.3x	4,690	0.4x
Sep-13	Hazelwood Power Station	ENGIE SA	Australia	8%	-	n/a	1,553	n/a
Jul-13	Eraring Energy	Origin Energy Limited	Australia	100%	659	5.1x	3,120	0.2x
Feb-13	Coolimba Power Pty Limited	Westgen Pty Limited	Australia	100%	1	n/a	n/a	n/a
Sep-12	Solomon Power Station	TransAlta Corporation	Australia	100%	306	n/a	125	2.5x
Feb-12	Great Energy Alliance Corporation Pty Limited	AGL Energy Limited	Australia	67%	809	n/a	2,210	0.4x
Jul-11	Energy Generation Pty Limited	Energy Developments Limited	Australia	100%	101	4.6x	98	1.0x
Jun-11	NewGen Braemar 2 Pty Limited	Arrow (Southern Generation) Pty Limited	Australia	25%	264	n/a	519	0.5x
Apr-11	Griffin Energy Group Pty Limited, Bluewaters 1 and 2 Coal-Fired Power Stations	The Kansai Electric Power Company, Incorporated (TSE:9503); Summit Southern Cross Power Pty Limited	Australia	100%	1,165	n/a	416	2.9x
Mar-11	Alinta Energy Limited (Redbank Energy Group)	TPG	Australia	100%	2,898	n/m	2,536	1.1x
Nov-09	Energy Developments Limited	Pacific Equity Partners	Australia	80%	883	8.9x	600	1.5x
Nov-08	Kalgoorlie Power Systems Co	Pacific Energy Limited	Australia	100%	98	n/a	100	1.0x
Aug-08	AGL Energy Limited, 71 MW Hallett 2 Wind Farm	ANZ Specialist Asset Management, Energy Infrastructure Trust	Australia	100%	56	n/a	71	0.7x
Jul-08	Ecogen Energy Pty Limited	IFM Investors Pty Limited	Australia	73%	119	n/a	1,029	0.1x
<b>Low</b>							<b>4.6x</b>	<b>0.1x</b>
<b>High</b>							<b>8.9x</b>	<b>2.9x</b>
<b>Average</b>							<b>6.6x</b>	<b>1.0x</b>
<b>Median</b>							<b>7.0x</b>	<b>0.8x</b>

Announce- ment date	Target	Acquirer	Country of target	Percent acquired	EV (100% basis) (AUD m)	EBITDA multiple	Installed capacity (MW)	EV / MW <sup>1</sup>
<b>International LFG</b>								
Jul-11	UK Landfill gas portfolio	Capital Dynamics	UK	100%	45	n/a	64	0.7x
Oct-09	Novera Energy PLC	Infinis Energy PLC	UK	57%	531	28.5x	28	19.0x
Jan-07	Summerlease Re-generation Limited	Infinis Limited	UK	100%	175	n/a	45	3.9x
<b>Low</b>						<b>28.5x</b>		<b>0.7x</b>
<b>High</b>						<b>28.5x</b>		<b>19.0x</b>
<b>Average</b>						<b>28.5x</b>		<b>7.9x</b>
<b>Median</b>						<b>28.5x</b>		<b>3.9x</b>

Source: Capital IQ; publicly available company announcements; Deloitte Corporate Finance analysis

Note:

1. Where net MW is not available, EV / MW is calculated based on gross megawatt capacity.

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# ATTACHMENT F

## SAMPLE PROXY FORM



**Energy Developments Limited**  
 ABN 84 053 410 263

**LODGE YOUR VOTE**

**ONLINE**  
 www.linkmarketservices.com.au

**BY MAIL**  
 Energy Developments Limited  
 C/- Link Market Services Limited  
 Locked Bag A14  
 Sydney South NSW 1235 Australia

**BY FAX**  
 02 9287 0309

**BY HAND**  
 Link Market Services Limited  
 1A Homebush Bay Drive, Rhodes NSW 2138; or  
 Level 12, 680 George Street, Sydney NSW 2000

**ALL ENQUIRIES TO**  
 Telephone: 1300 657 159



**X99999999999**

**PROXY FORM**

I/We being a member(s) of Energy Developments Limited and entitled to attend and vote hereby appoint:

**APPOINT A PROXY**

**the Chairman of the Meeting (mark box)** **OR** if you are **NOT** appointing the Chairman of the Meeting as your proxy, please write the name of the person or body corporate you are appointing as your proxy

**STEP 1**

or failing the person or body corporate named, or if no person or body corporate is named, the Chairman of the Meeting, as my/our proxy to act on my/our behalf (including to vote in accordance with the following directions or, if no directions have been given and to the extent permitted by the law, as the proxy sees fit) at the Scheme Meeting of the Company to be held at **10:00am (Sydney time) on Thursday, 8 October 2015 at the Treasury Room, Intercontinental Hotel, 117 Macquarie Street, Sydney NSW 2000** (the Meeting) and at any postponement or adjournment of the Meeting.

**The Chairman of the Meeting intends to vote undirected proxies in favour of each item of business.**

**VOTING DIRECTIONS**

**Proxies will only be valid and accepted by the Company if they are signed and received no later than 48 hours before the Meeting. Please read the voting instructions overleaf before marking any boxes with an**

**Resolution**

**1** That, pursuant to and in accordance with section 411 of the Corporations Act, the Scheme, the terms of which are contained in and more particularly described in the Scheme Booklet (of which this Notice of Scheme Meeting forms part) is approved (with or without modification as approved by the Court).

**For Against Abstain\***

**STEP 2**

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

**SIGNATURE OF SHAREHOLDERS – THIS MUST BE COMPLETED**

Shareholder 1 (Individual)	Joint Shareholder 2 (Individual)	Joint Shareholder 3 (Individual)
<input type="text"/>	<input type="text"/>	<input type="text"/>
Sole Director and Sole Company Secretary	Director/Company Secretary (Delete one)	Director

This form should be signed by the shareholder. If a joint holding, either shareholder may sign. If signed by the shareholder's attorney, the power of attorney must have been previously noted by the registry or a certified copy attached to this form. If executed by a company, the form must be executed in accordance with the company's constitution and the *Corporations Act 2001* (Cth).

**STEP 3**

**ENE PRX501A**





## HOW TO COMPLETE THIS SHAREHOLDER PROXY FORM

### YOUR NAME AND ADDRESS

This is your name and address as it appears on the Company's share register. If this information is incorrect, please make the correction on the form. Shareholders sponsored by a broker should advise their broker of any changes. **Please note: you cannot change ownership of your shares using this form.**

### APPOINTMENT OF PROXY

If you wish to appoint the Chairman of the Meeting as your proxy, mark the box in Step 1. If you wish to appoint someone other than the Chairman of the Meeting as your proxy, please write the name of that individual or body corporate in Step 1. A proxy need not be a shareholder of the Company.

### DEFAULT TO CHAIRMAN OF THE MEETING

Any directed proxies that are not voted on a poll at the Meeting will default to the Chairman of the Meeting, who is required to vote those proxies as directed. Any undirected proxies that default to the Chairman of the Meeting will be voted according to the instructions set out in this Proxy Form.

### VOTES ON ITEMS OF BUSINESS – PROXY APPOINTMENT

You may direct your proxy how to vote by placing a mark in one of the boxes opposite each item of business. All your shares will be voted in accordance with such a direction unless you indicate only a portion of voting rights are to be voted on any item by inserting the percentage or number of shares you wish to vote in the appropriate box or boxes. If you do not mark any of the boxes on the items of business, your proxy may vote as he or she chooses. If you mark more than one box on an item your vote on that item will be invalid.

### APPOINTMENT OF A SECOND PROXY

You are entitled to appoint up to two persons as proxies to attend the Meeting and vote on a poll. If you wish to appoint a second proxy, an additional Proxy Form may be obtained by telephoning the Company's share registry or you may copy this form and return them both together.

To appoint a second proxy you must:

- on each of the first Proxy Form and the second Proxy Form state the percentage of your voting rights or number of shares applicable to that form. If the appointments do not specify the percentage or number of votes that each proxy may exercise, each proxy may exercise half your votes. Fractions of votes will be disregarded; and
- return both forms together.

### SIGNING INSTRUCTIONS

You must sign this form as follows in the spaces provided:

**Individual:** where the holding is in one name, the holder must sign.

**Joint Holding:** where the holding is in more than one name, either shareholder may sign.

**Power of Attorney:** to sign under Power of Attorney, you must lodge the Power of Attorney with the registry. If you have not previously lodged this document for notation, 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 indicate the office held by signing in the appropriate place.

### CORPORATE REPRESENTATIVES

If a representative of the corporation is to attend the Meeting the appropriate "Certificate of Appointment of Corporate Representative" should be produced prior to admission in accordance with the Notice of Meeting. A form of the certificate may be obtained from the Company's share registry or online at [www.linkmarketservices.com.au](http://www.linkmarketservices.com.au).

### LODGEMENT OF A PROXY FORM

This Proxy Form (and any Power of Attorney under which it is signed) must be received at an address given below by **10:00am (Sydney time) on Tuesday, 6 October 2015**, being not later than 48 hours before the commencement of the Meeting. Any Proxy Form received after that time will not be valid for the scheduled Meeting.

Proxy Forms may be lodged using the reply paid envelope or:



#### ONLINE

[www.linkmarketservices.com.au](http://www.linkmarketservices.com.au)

Login to the Link website using the holding details as shown on the Proxy Form. Select 'Voting' and follow the prompts to lodge your vote. To use the online lodgement facility, shareholders will need their "Holder Identifier" (Securityholder Reference Number (SRN) or Holder Identification Number (HIN) as shown on the front of the Proxy Form).



#### BY MAIL

Energy Developments Limited  
C/- Link Market Services Limited  
Locked Bag A14  
Sydney South NSW 1235  
Australia



#### BY FAX

+61 2 9287 0309



#### BY HAND

delivering it to Link Market Services Limited\*  
1A Homebush Bay Drive  
Rhodes NSW 2138  
or  
Level 12  
680 George Street  
Sydney NSW 2000

\* During business hours (Monday to Friday, 9:00am–5:00pm)

**IF YOU WOULD LIKE TO ATTEND AND VOTE AT THE SCHEME MEETING, PLEASE BRING THIS FORM WITH YOU.  
THIS WILL ASSIST IN REGISTERING YOUR ATTENDANCE.**