



Australian Government

Takeovers Panel

# MEDIA RELEASE

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No: TP23/08

Tuesday, 7 February 2023

## The Market Herald Limited – Panel Receives Application

The Panel has received an application from UIL Limited in relation to the affairs of The Market Herald Limited (ASX: TMH).

Details of the application, as submitted by the applicant, are below.

A sitting Panel has not been appointed at this stage and no decision has been made whether to conduct proceedings. The Panel makes no comment on the merits of the application.

### Details

On 24 January 2023, TMH announced a fully underwritten renounceable entitlement offer on the basis of 1 new share for every 6 shares held at an offer price of \$0.34 per share to raise approximately \$15.52 million (**2023 Entitlement Offer**).

On 2 February 2023, TMH lodged an entitlement offer booklet in relation to the 2023 Entitlement Offer (**Entitlement Offer Booklet**).

The applicant submits (among other things) that the Entitlement Offer Booklet is “*materially misleading and/or deceptive*” because:

- it contains misleading statements on the effect of the sub-underwriting, the allocation of the shortfall and voting power of related party sub-underwriters
- it “*fails to disclose the association*” between two of TMH’s substantial shareholders, Mr Gavin Argyle (a director of TMH) and Mr David Argyle and
- it fails to disclose the effect of the 2023 Entitlement Offer on control of TMH.

The applicant also submits that the alleged association has remained undisclosed for a long period of time resulting in an uninformed market and breaches of the substantial holder disclosure requirements. In addition, the applicant submits that

acquisitions by the alleged associates between 2017 and 2018 may have occurred in breach of section 606.<sup>1</sup>

The applicant seeks interim orders to the effect that the 2023 Entitlement Offer be suspended until corrective disclosure is made in relation to the Entitlement Offer Booklet, and that the alleged associates be restrained from exercising any voting or other rights attached to their TMH shares or acquiring any further TMH shares, including through the 2023 Entitlement Offer, pending determination of the application.

The applicant seeks final orders including that:

- the alleged associates provide substantial shareholder disclosure and be restrained from exercising any voting or other rights attached to their TMH shares until one month after such disclosure has been made
- any TMH shares acquired by the alleged associates as a result of “*the unlawful acquisition of voting shares in TMH*” (including in rights issues) be vested in ASIC for sale
- the alleged associates be restrained from acquiring any further TMH shares for a period of six months and
- in an ASX announcement, TMH describe the circumstances around and the existence and nature of the alleged association, its effect on voting power and the effect of any Panel orders.

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<sup>1</sup> all references are to the *Corporations Act 2001* (Cth) unless otherwise indicated