

## **SCHEME MEETINGS – FRIDAY, 31 JULY – CHAIRMAN'S ADDRESS**

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### **Key points**

- The Scheme Meetings relating to the proposed acquisition of Zenith by Elemental Infrastructure BidCo Pty Ltd by way of scheme of arrangement ('Scheme') are expected to be held today, Friday, 31 July 2020, via the online platform described in the Notices of Meeting contained in the Scheme Booklet released to the ASX on 25 June 2020 ('Scheme Booklet').
- Zenith's Independent Board Committee continues to unanimously recommend that Zenith shareholders vote in favour of the Scheme, in the absence of a superior proposal and subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Zenith shareholders ('Standard Qualifications').
- This announcement includes copies of Zenith's Chairman address which will be given at both the General Scheme Meeting and the Rollover Shareholders Scheme Meeting relating to the Scheme.

### **Chairman's Address – General Scheme Meeting and Rollover Shareholders Scheme Meeting**

In accordance with ASX Listing Rule 3.13, Zenith Energy Limited (ASX: ZEN) ('Zenith') is pleased to provide Zenith shareholders with a copy of Zenith's Chairman address which will be given at the General Scheme Meeting and the Rollover Shareholders Scheme Meeting expected to be held today, Friday, 31 July 2020.

The Chairman's address for the General Scheme Meeting is included at **Annexure A** and the Chairman's address for the Rollover Shareholders Scheme Meeting is included at **Annexure B**.

### **Recommendation of the Independent Board Committee (IBC)**

The IBC unanimously recommends that Zenith shareholders vote in favour of the Scheme subject to the Standard Qualifications. The IBC reiterates its view that the Scheme provides certainty of outcome and value for all Zenith shareholders, with the increased Scheme consideration of \$1.05 being above the \$0.89 to \$1.02 range determined by the Independent Expert.

### **Zenith Directors Voting Intention and Recommendations**

In addition to the Independent Non-Executive Directors who are members of the IBC, Zenith's Executive Directors, Mr Doug Walker and Mr Hamish Moffat, also recommend that Zenith shareholders vote in favour of the Scheme and, like the Independent Non-Executive Directors, they intend to vote all the Zenith shares they hold or control in favour of the Scheme, in each case, subject to the Standard Qualifications.

When considering the recommendations of Mr Walker and Mr Moffat, and their respective voting intentions, Zenith shareholders should have regard to the actual and potential financial and other


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benefits each of Mr Walker and Mr Moffat will or may receive as described in section 1 of the Supplementary Scheme Booklet released to the ASX on 22 July 2020 which supplements the disclosure contained in sections 1.2 and 1.3 of the Scheme Booklet.

#### **Further Information**

General Shareholders will be able to participate in the General Scheme Meeting through the online platform at: <https://agmlive.link/ZEN20>. Rollover Shareholders will be able to participate in the Rollover Shareholder Scheme Meeting through the online platform at: <https://agmlive.link/ZEN20RS>.

Zenith Shareholders can obtain further information in relation to the Scheme by contacting the Zenith Shareholder Information Line on 1800 237 687 (within Australia) or +61 1800 237 687 (outside Australia), Monday to Friday between 6.30am and 5.30pm (Perth time).

**ENDS**

**Issued by: Zenith Energy Limited ACN 615 682 203** [www.zenithenergyld.com](http://www.zenithenergyld.com)

**Authorised by: Zenith Energy Board of Directors**

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## ANNEXURE A: GENERAL SCHEME MEETING - CHAIRMAN'S ADDRESS

### ZENITH ENERGY LIMITED

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## CHAIRMAN'S ADDRESS

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### 1 General Shareholders Scheme Meeting – Chairman's Address

#### 1.1 Introduction

Good morning ladies and gentlemen and welcome to this Scheme Meeting of Zenith Energy Limited.

My name is Peter Torre. I am a director of Zenith Energy, and the Chairman of the Independent Board Committee established by the Board to consider the proposed acquisition of Zenith by Elemental Infrastructure BidCo Pty Ltd. This meeting has been convened by order of the Supreme Court of Western Australia made on 25 June 2020. By those Orders, I have been appointed as the Chair of this meeting.

Before formally opening the meeting, there are a few housekeeping matters to address. This meeting is being conducted by way of a virtual meeting – there is no physical meeting of shareholders. If any shareholder experiences any technical issues during the course of the meeting, they should contact Zenith's share registry, Link Market Services, by telephone on 1800 237 687 within Australia or +61 1800 237 687 outside Australia. The virtual platform for the conduct of this meeting enables shareholders to ask questions. To do so, you will need to click on the 'Ask a Question' box either at the top or bottom of the webpage. The 'Ask a Question' box will then pop up with two sections for completion. For further information, you can refer to the Virtual Scheme Meeting Online Guide available from Zenith's website. I will be reviewing, and responding to, the questions received via the online platform later in these proceedings. Shareholders and their appointed proxies and representatives have already been given the opportunity to submit questions during the hour before the meeting. Shareholders can continue to submit their questions now and at any time during these proceedings until I advise the meeting that discussion has been closed. However, questions relating to meeting procedure and how to vote may be submitted up until the close of voting. I will not be responding to the questions submitted until we get to that part of the agenda.

It is now just after 10:00am and I confirm that a quorum is present, so I declare the meeting properly constituted and open.

On behalf of the Zenith Board and management, I extend a very warm welcome to all Zenith Shareholders, their proxies, attorneys or representatives, joining us this morning and who are present for the purposes of this meeting. We are joined in this meeting by Board colleagues, Doug Walker, David Rieke and Hamish Moffat, together with Peter Tazewell who is the Company's Chief Financial Officer and Company Secretary. Also in attendance are Zenith's corporate and legal advisors whom may be called upon by me to assist in answering any specific questions relevant to matters pertaining to their area of expertise.

#### 1.2 Purpose of the Meeting

The purpose of this meeting is for Zenith Shareholders (other than the Rollover Shareholders) to consider and, if thought fit, approve the proposed acquisition by Elemental Infrastructure BidCo Pty Ltd (which I will now refer to as **BidCo**) of all of the issued share capital of Zenith by way of Scheme of Arrangement. Shareholders will be aware that the terms of the proposed Scheme were amended on 21 July 2020 to effect an increase in the cash consideration from \$1.01 per Zenith share to \$1.05 per Zenith share. I will be proposing a resolution to formally effect these amendments.

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If the Scheme is approved by the requisite majorities at both this General Scheme Meeting and the Rollover Shareholders Scheme Meeting (which will follow this meeting), is approved by the Court, and is implemented, the Bidder consortium comprising of Pacific Equity Partners, Apex Trust and OPTrust will acquire all of the shares in Zenith, through BidCo, a special purpose company.

In consideration for the shares in Zenith, Zenith Shareholders (other than the Rollover Shareholders) will receive a cash amount of \$1.05 for each Zenith share they hold on the Scheme Record Date, less the amount of the proposed Special Dividend to be paid to all Shareholders who hold Zenith shares on the Special Dividend Record Date.

The Rollover Shareholders will receive a mixed consideration of cash and shares in the ultimate holding company of BidCo, being an entity called Elemental Infrastructure HoldCo Pty Ltd (**HoldCo**).

Immediately following this meeting, Zenith will hold a further meeting, for the Rollover Shareholders only (being the Apex Trust, and members of Zenith management at which the Rollover Shareholders will have an opportunity to vote on the Scheme.

Two Scheme Meetings are being held because the rights of the Rollover Shareholders under the Scheme are sufficiently different from the other Shareholders, such that the Rollover Shareholders constitute a separate class of members for the purpose of voting on the Scheme. The orders made by the Supreme Court of Western Australia provide for the holding of these two Scheme Meetings.

The Scheme will need to be approved by the requisite majorities in both meetings in order for the Scheme to be implemented.

This General Scheme Meeting provides an opportunity for all Zenith Shareholders who are not Rollover Shareholders to consider the proposed acquisition and to ultimately determine whether or not it should proceed.

### **1.3 Overview of the Scheme**

On 6 March 2020, the Zenith Board announced that it had entered into a Scheme Implementation Deed, under which BidCo, a subsidiary of Pacific Equity Partners, proposed to acquire 100% of the issued share capital of Zenith for a total cash consideration of \$1.01 per share.

On 29 May 2020, the Zenith Board announced that, by agreement with PEP, the Apex Opportunities Trust and entities established by OPTrust would take an equity position in the BidCo group holding structure in connection with implementation of the Scheme.

On 21 July 2020, the Zenith Board announced that the consideration under the Scheme had been increased from \$1.01 per Zenith share to \$1.05 per Zenith share.

Under the terms of the Scheme, BidCo will acquire all of the shares in Zenith. For each Zenith Share held by a Zenith Shareholder as at the Scheme Record Date, the Cash Consideration will be:

- if the Zenith Board declares the Special Dividend to be payable, \$1.05 less the Special Dividend; or
- if the Zenith Board does not declare the Special Dividend to be payable, \$1.05.

The Board has determined to pay a Special Dividend of \$0.14 per Zenith Share. The payment of this Special Dividend is subject to the Board declaring the Special Dividend to be payable, which the

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Board will consider on or about the date of the Second Court Hearing, which is currently scheduled for Thursday, 6 August 2020. Once the Board declares the Special Dividend to be payable, the Special Dividend will be paid to shareholders who hold Zenith Shares on the Special Dividend Record Date, which is currently expected to be 7pm (Perth time) on Wednesday, 12 August 2020. The Special Dividend will be paid on the same date as the Cash Consideration for the Scheme (namely, on the Implementation Date, which is currently expected to be Friday, 21 August 2020).

Zenith Shareholders will have received either an email or hardcopy letter containing a link to the online Scheme Booklet together with a link to submit a proxy if you elected to receive communications electronically or, if you did not, you will have been sent a hardcopy personalised proxy form.

The Scheme Booklet includes:

- the key considerations relevant to each Shareholder's vote including reasons to vote in favour of, or against, the Scheme;
- an overview of the Scheme;
- frequently asked questions and answers;
- information about BidCo and the consortium;
- risks;
- taxation implications; and
- a notice convening today's meeting.

Shareholders will also have received either an online or hardcopy letter containing a link to the online Supplementary Scheme Booklet which contains information relevant to the amendment to the Scheme terms, namely the increase in Scheme Consideration from \$1.01 per Zenith share to \$1.05 per Zenith share.

Together, the booklets outline in detail the proposed acquisition of Zenith by BidCo and information material to shareholders' decision as to how to vote on the proposal.

I will present the Scheme Resolution to be considered and there will be time for questions and discussion. Following this, I will display the proxy votes for the Scheme Resolution and will take a vote by way of a poll on the Scheme Resolution. The results of today's Scheme Meeting will be announced to the ASX and posted on Zenith's website later today.

### **1.4 Amending Resolution**

*[present slide containing text of General Scheme Meeting resolutions]*

Before turning to the substantive discussion of the General Scheme Resolution that is before the Meeting, I propose to move an Amending Resolution to amend the terms of the Scheme as set out in the Supplementary Scheme Booklet. As mentioned in the Supplementary Scheme Booklet, the purpose of the amendment is to give effect to the increase in the cash consideration payable under the Scheme from \$1.01 per Zenith share to \$1.05 per share. The Amending Resolution must be passed by the same majorities as the General Scheme Resolution. Any directed proxy to vote in favour of the General Scheme Resolution will be considered to authorise the proxy to vote in favour of

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the Amending Resolution. As Chair, and as disclosed in the Supplementary Scheme Booklet, I will vote any undirected proxies I hold in favour of the Amending Resolution.

The proposed Amending Resolution is as follows:

*That the Scheme (the terms of which are contained in and more particularly described in the Scheme Booklet) be amended as set out in Annexure B to the Supplementary Scheme Booklet.*

The vote on the Amending Resolution will be conducted by way of a poll. I will conduct this poll on the Amending Resolution immediately prior to the conduct of the poll on the General Scheme Resolution, and the General Scheme Resolution will be put to the meeting subject to the approval of the Amending Resolution.

### **1.5 General Scheme Resolution**

The General Scheme Resolution, as set out in the Notice of General Scheme Meeting, with reference added to the Amending Resolution (as shown in underlined text), is as follows:

*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 and as amended by the Amending Resolution) is agreed to (with or without alterations or conditions as approved by the Court to which Zenith and BidCo agree) and the Zenith Board is authorised, subject to the terms of the Scheme Implementation Deed, to (a) agree to any such alterations or conditions, and (b) subject to approval of the Scheme by the Court, implement the Scheme with any such alterations or conditions.*

## **2 Discussion of the General Scheme Resolution**

I now turn to the substantive business before the meeting, namely the consideration of the General Scheme Resolution.

### **2.1 Directors' recommendation**

Your Independent Board Committee, comprising Zenith's Non-Executive Directors (being myself and Mr David Riekie), have carefully assessed the merits of the proposed Scheme and have unanimously recommended that, in the absence of a Superior Proposal the Scheme is in the best interest of Shareholders, and that Shareholders vote in favour of the Scheme Resolution at today's meeting.

The Independent Board Committee confirms that no Superior Proposal has been received by Zenith.

Zenith's Executive Directors, Mr Walker and Mr Moffat, also unanimously recommend that Zenith Shareholders vote in favour of the Scheme. In respect of the recommendations of Mr Walker and Mr Moffat, Zenith Shareholders should have regard to the fact that each of Mr Walker and Mr Moffat will receive additional benefits under, or following the implementation of, the Scheme. These additional benefits are described in detail in Section 1 of the Scheme Booklet (as updated by the Supplementary Scheme Booklet), and include the following:

- Mr Walker will receive the following additional benefits:
  - a retention bonus of \$500,839;

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- he will be appointed to the board of HoldCo; and
- as a Rollover Shareholder, Mr Walker has elected to receive shares in HoldCo instead of Cash Consideration for 78% of the 25,267,586 Zenith Shares held or controlled by him.

The total financial benefits Mr Walker would receive amounts to \$27,106,804.30 of value.

- Mr Moffat will receive the following additional benefits:
  - a retention bonus of \$545,786;
  - he will be appointed as a director of HoldCo for as long as he is Managing Director/CEO of Zenith;
  - BidCo will forgive Shareholder loans (with accumulated interest as at the date of the Supplementary Scheme Booklet) payable by Mr Moffat amounting to \$1,011,585.50; and
  - as a Rollover Shareholder, Mr Moffat has elected to receive shares in HoldCo instead of Cash Consideration for 100% the 4,695,568 Zenith Shares held or controlled by him.

The total financial benefits Mr Moffat would receive will amount to \$6,562,717.90 of value.

Each of your Directors intends to vote any Zenith shares held or controlled by them, or on their behalf, in favour of the Scheme Resolution.

The Independent Board Committee made its recommendation for the reasons set out in detail in the Scheme Booklet, and including that:

- the Independent Expert has concluded that the Scheme is fair and reasonable and hence in the best interests of Zenith Shareholders in the absence of a superior proposal;
- the aggregate price of the Scheme Consideration and the Special Dividend of \$1.05 represents an attractive premium to the last closing price, 1-week VWAP and 3-month VWAP of Zenith Shares on 6 March 2020;
- the offer from BidCo to General Shareholders (being all Zenith Shareholders, other than the Rollover Shareholders) is a 100% cash offer, providing you with certain and immediate value for your Zenith Shares;
- if a Special Dividend is paid, eligible Zenith Shareholders may be entitled to the additional benefit of franking credits attached to any Special Dividend; and
- since the announcement of the Scheme, no Superior Proposal has emerged.

### **2.2 Independent Expert**

Your Directors appointed Grant Thornton as the independent expert to assess the merits of the Scheme. A copy of the Independent Expert's Report is included in the Scheme Booklet as Annexure A. The Independent Expert issued a Supplementary IER Letter following the announcement of the increase in the cash consideration on 21 July 2020, which was included in the Supplementary Scheme Booklet.

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The Independent Expert, Grant Thornton, has concluded that the Scheme is fair and reasonable and hence is in the best interests of Zenith Shareholders, in the absence of a Superior Proposal. The Total Scheme Consideration of \$1.05 per share is above the Independent Expert's assessed valuation range of \$0.89 to \$1.02 on a 100% controlling basis.

The Independent Expert is of the view that the Rollover Shareholders are not receiving a superior offer to the other Zenith Shareholders under the Scheme and that the market value of the HoldCo Securities to be issued to the Rollover Shareholders as Scrip Consideration is no greater than the Independent Expert's assessed fair market value of Zenith Shares prior to the announcement of the Scheme.

The Independent Expert has not made any assessment, based on the Scrip Consideration, of whether the Scheme is fair and reasonable and hence in the best interests of the Rollover Shareholders.

## **2.3 Scheme conditions**

Implementation of the Scheme is subject to a number of conditions. These are set out in section 4.9(a) of the Scheme Booklet.

The relevant conditions which remain outstanding at this time are:

- the approval of the Scheme by Zenith Shareholders, which is why we are holding the Scheme Meetings today;
- certain other customary conditions as outlined in the Scheme Implementation Agreement; and
- the approval of the Scheme by the Supreme Court of Western Australia, which will be sought following this meeting in the event Zenith Shareholders approve the Scheme.

Your Directors are not aware of any circumstance to date which would prevent any of the outstanding conditions from being satisfied.

## **2.4 Timetable for implementation**

If the Scheme is approved by the requisite majorities of Zenith Shareholders, the expected next key dates in the Scheme timetable are:

- on Thursday, 6 August 2020, Zenith will seek the approval of the Supreme Court of Western Australia to implement the Scheme. This hearing is open to all Zenith Shareholders;
- if the Court approves the Scheme and issues the orders sought, then on Friday, 7 August 2020, Zenith will lodge with the Australian Securities and Investments Commission a copy of the Court's orders and the Scheme will become legally effective. Zenith will apply to ASX for Zenith shares to be suspended from official quotation from close of trade on that day;
- the Special Dividend Record Date will be Wednesday, 12 August 2020. All Zenith Shareholders who hold Zenith shares on the Special Dividend Record Date will be entitled to receive the Special Dividend;
- the Scheme Record Date will be Friday, 14 August 2020. All Zenith Shareholders who hold Zenith shares on the Scheme Record Date will be entitled to receive the Scheme Consideration; and

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- the Scheme Implementation Date will be on Friday, 21 August 2020. The Scheme Consideration (including the Special Dividend) will be paid to those Zenith Shareholders entitled to the Scheme Consideration on this date.

These dates are indicative only and, among other things, are subject to satisfaction of applicable conditions, including approval from the Court. Any changes will be announced on ASX.

With this background, we will now move to the formal business of the Scheme Meeting.

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## ANNEXURE B: ROLLOVER SHAREHOLDERS SCHEME MEETING - CHAIRMAN'S ADDRESS

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## CHAIRMAN'S ADDRESS

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### 1 Rollover Shareholders Scheme Meeting – Chairman's Address

#### 1.1 Introduction

Good morning ladies and gentlemen and welcome to this Scheme Meeting of Zenith Energy Limited.

As you know, my name is Peter Torre I am a director of Zenith Energy, and the Chairman of the Independent Board Committee established by the Board to consider the proposed acquisition of Zenith by Elemental Infrastructure BidCo Pty Ltd. This meeting has been convened by order of the Supreme Court of Western Australia made on 25 June 2020. By those Orders, I have been appointed as the Chair of this meeting.

We are joined in this meeting by Board colleagues, Doug Walker, David Rieke and Hamish Moffat, together with Peter Tazewell who is the Company's Chief Financial Officer and Company Secretary. Also in attendance are Zenith's corporate and legal advisors whom may be called upon by me to assist in answering any specific questions relevant to matters pertaining to their area of expertise.

#### 1.2 Amending Resolutions

*[present slide containing text of Rollover Shareholders Scheme Meeting resolutions]*

At the Meeting I propose to move an Amending Resolution to amend the terms of the Scheme as set out in the Supplementary Scheme Booklet.

The Amending Resolution must be passed by the same majorities as the Rollover Shareholders Scheme Resolution. Any directed proxy to vote in favour of the Rollover Shareholders Scheme Resolution will be considered to authorise the proxy to vote in favour of the Amending Resolution. As Chair, and as disclosed in the Supplementary Scheme Booklet, I will vote any undirected proxies I hold in favour of the Amending Resolution.

The proposed Amending Resolution is as follows:

*That the Scheme (the terms of which are contained in and more particularly described in the Scheme Booklet) be amended as set out in Annexure B to the Supplementary Scheme Booklet.*

The vote on the Amending Resolution will be conducted by way of a poll. I will conduct this poll on the Amending Resolution immediately prior to the conduct of the poll on the Rollover Shareholders Scheme Resolution, and the Rollover Shareholders Scheme Resolution will be put to the meeting subject to the approval of the Amending Resolution.

#### 1.3 Rollover Shareholders Scheme Resolution

The Rollover Shareholders Scheme Resolution, as set out in the Notice of General Scheme Meeting, with reference added to the Amending Resolution (as shown in underlined text), is as follows:

*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 and as amended by the Amending Resolution) is agreed to (with or without alterations or conditions as approved by the Court to which Zenith and BidCo agree) and the Zenith Board is authorised, subject to the terms of the Scheme Implementation Deed, to (a) agree to any*

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*such alterations or conditions, and (b) subject to approval of the Scheme by the Court, implement the Scheme with any such alterations or conditions*

### **1.4 Further remarks**

I note that all of the Rollover Shareholders are either members of (or are entities controlled by) the senior management team or (in the case of Apex) are participants in the bidder consortium and are intimately familiar with the context of the Rollover Scheme Meeting, the business before the Meeting and the matters to be considered. This being the case, I do not propose to provide any further commentary about the Rollover Scheme Meeting and will proceed directly to the formal business of the Meeting.

