



ASX Announcement

Friday, 4 October 2019

ERM POWER SCHEME BOOKLET REGISTERED WITH ASIC

ERM Power Limited (**ASX: EPW**) ("ERM Power") is pleased to announce that the Australian Securities and Investments Commission ("ASIC") has registered the explanatory statement ("Scheme Booklet") in relation to the proposed acquisition of ERM Power by Shell Energy Australia Pty Ltd by way of a scheme of arrangement, as announced on 22 August 2019 ("Scheme").

This follows the issuance of orders made by the Supreme Court of New South Wales today approving despatch of the Scheme Booklet to ERM Power shareholders and the convening of a meeting of ERM Power shareholders to consider and vote on the Scheme ("Scheme Meeting"), as announced by ERM Power earlier today.

Despatch of Scheme Booklet

A copy of the Scheme Booklet, which includes the independent expert's report and the notice of Scheme Meeting, is attached to this announcement. The Scheme Booklet is expected to be sent to ERM Power shareholders on 8 October 2019. ERM Power shareholders who have previously elected to receive communications electronically will be sent an email allowing them to access the materials electronically and ERM Power will send the materials to all other shareholders by post.

Independent expert's report

The independent expert, Lonergan Edwards and Associates ("Lonergan Edwards"), has concluded that the Scheme is fair and reasonable and, therefore, is in the best interests of ERM Power shareholders in the absence of a superior proposal. Lonergan Edwards has assessed the full underlying value of ERM Power at between \$2.20 and \$2.51 per ERM Power share. The total cash consideration of \$2.42 per ERM Power share payable to ERM Power shareholders pursuant to the Scheme is within this range.

Lonergan Edwards' conclusion should be read in context with the full independent expert's report and the Scheme Booklet.

Directors' recommendation

The directors of ERM Power continue to unanimously recommend that ERM Power 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 ERM Power shareholders.

Subject to those same qualifications, all directors of ERM Power, representing collectively 3.2% of the total ERM Power shares on issue, intend to vote or procure the vote of those shares in favour of the Scheme.

Founder and major shareholder

Mr Trevor St Baker, who currently has a relevant interest in approximately 27.39% of the total ERM Power shares on issue, has confirmed to the ERM Power directors that he intends to vote, or procure the vote of, those shares in favour of the Scheme, in the absence of a superior proposal to acquire all of the ERM Power shares and subject to the independent expert concluding (and continuing to conclude) that the Scheme is in the best interests of ERM Power shareholders.

For further information

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About ERM Power

ERM Power is an Australian energy business for business. ERM Power provides large businesses with end to end energy management, from electricity retailing to integrated solutions that improve energy productivity. Market-leading customer satisfaction has fuelled ERM Power's growth, and today the Company is the second largest electricity provider to commercial businesses and industrials in Australia by load¹. ERM Power also operates 662 megawatts of low emission, gas-fired peaking power stations in Western Australia and Queensland, supporting the industry's transition to renewables.

<https://ermpower.com.au/>

¹ Based on ERM Power analysis of latest published information.

SCHEME BOOKLET

This Scheme Booklet relates to a scheme of arrangement between ERM Power Limited (ACN 122 259 223) and its shareholders which, if implemented, will result in Shell Energy Australia Pty Ltd (ACN 085 757 446) acquiring all of the ERM Power Shares.



VOTE IN FAVOUR

Your ERM Power Directors unanimously recommend that you 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 ERM Power Shareholders.

The Independent Expert has concluded that the Scheme is fair and reasonable and, therefore, is in the best interests of ERM Power Shareholders, in the absence of a superior proposal.

THIS IS AN IMPORTANT DOCUMENT AND REQUIRES YOUR IMMEDIATE ATTENTION. YOU SHOULD READ IT ENTIRELY BEFORE DECIDING WHETHER OR NOT TO VOTE IN FAVOUR OF THE SCHEME OF ARRANGEMENT. IF YOU ARE IN ANY DOUBT ABOUT HOW TO DEAL WITH THIS DOCUMENT, YOU SHOULD CONTACT YOUR BROKER OR FINANCIAL, TAXATION, LEGAL OR OTHER PROFESSIONAL ADVISER IMMEDIATELY.

erm
POWER

FINANCIAL ADVISER

**LUMINIS PARTNERS**
IN AFFILIATION WITH EVERCORE

LEGAL ADVISER

 **HERBERT
SMITH
FREEHILLS**

Important notices

General

This Scheme Booklet is important and requires your immediate attention. You should read this Scheme Booklet in full before making any decision as to how to vote at the Scheme Meeting.

Nature of this Scheme Booklet

This Scheme Booklet includes the explanatory statement for the Scheme required by subsection 412(1) of the Corporations Act.

This Scheme Booklet does not constitute or contain an offer to ERM Power Shareholders, or a solicitation of an offer from ERM Power Shareholders, in any jurisdiction. This Scheme Booklet is not a disclosure document required by Chapter 6D of the Corporations Act. Subsection 708(17) of the Corporations Act provides that Chapter 6D of the Corporations Act does not apply in relation to arrangements under Part 5.1 of the Corporations Act approved at a meeting held as a result of an order under subsection 411(1). Instead, ERM Power Shareholders asked to vote on an arrangement at such a meeting must be provided with an explanatory statement as referred to above.

ASIC and ASX

A copy of this Scheme Booklet has been registered by ASIC for the purposes of subsection 412(6) of the Corporations Act. ASIC has been given the opportunity to comment on this Scheme Booklet in accordance with subsection 411(2) of the Corporations Act. Neither ASIC, nor any of its officers, takes any responsibility for the contents of this Scheme Booklet.

ASIC has been requested to provide a statement, in accordance with paragraph 411(17)(b) of the Corporations Act, that it has no objection to the Scheme. If ASIC provides that statement, it will be produced to the Court at the time of the Court hearings to approve the Scheme.

A copy of this Scheme Booklet has been provided to the ASX. Neither the ASX, nor any of its officers, takes 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 Scheme Meeting does not mean that the Court:

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

Notice of Scheme Meeting

The Notice of Scheme Meeting is set out in Annexure 4.

Notice of Second Court Hearing

At the Second Court Hearing, the Court will consider whether to approve the Scheme following the vote at the Scheme Meeting. Any ERM Power Shareholder may appear at the Second Court Hearing, currently expected to be held at 8.15am (Brisbane time) / 9.15am (Sydney time) on 12 November 2019 at the Law Courts Building, 184 Phillip Street, Sydney New South Wales 2000. Any ERM Power Shareholder who wishes to oppose approval of the Scheme at the Second Court Hearing may do so by filing with the Court and serving on ERM Power a notice of appearance in the prescribed form together with any affidavit that the ERM Power Shareholder proposes to rely on.

Defined terms

Capitalised terms used in this Scheme Booklet are defined in section 10 of this Scheme Booklet. Section 10 of this Scheme Booklet also sets out some rules of interpretation which apply to this Scheme Booklet. Some of the documents reproduced in the annexures to this Scheme Booklet have their own defined terms, which are sometimes different to those set out in section 10 of this Scheme Booklet.

No investment advice

This Scheme Booklet has been prepared without reference to the investment objectives, financial and taxation situation or particular needs of any ERM Power Shareholder or any other person. The information and recommendations contained in this Scheme Booklet do not constitute, and should not be taken as, financial product advice. The ERM Power Directors encourage you to seek independent financial and taxation advice before making any investment decision and any decision as to whether or not to vote in favour of the Scheme. This Scheme Booklet should be read in its entirety before making a decision on whether or not to vote in favour of the Scheme. In particular, it is important that you consider the potential risks if the Scheme does not proceed, as set out in section 7 of this Scheme Booklet, and the views of the Independent Expert set out in the Independent Expert's Report contained in Annexure 1. If you are in doubt as to the course you should follow, you should consult an independent and appropriately licensed and authorised professional adviser immediately.

Forward looking statements

Some of the statements appearing in this Scheme Booklet (including in the Independent Expert's Report) may be in the nature of forward looking statements. Forward looking statements or statements of intent in relation to future events in this Scheme Booklet (including in the Independent Expert's Report) should not be taken to be forecasts or predictions that those events will occur. Forward looking statements generally may be identified by the use of forward looking words such as 'believe', 'aim', 'expect', 'anticipate', 'intending', 'foreseeing', 'likely', 'should', 'planned', 'may', 'estimate', 'potential', or other similar words. Similarly, statements that describe the objectives, plans, goals, intentions or expectations of ERM Power or Shell Energy Australia are or may be forward looking statements. You should be aware that such statements are only opinions and are subject to inherent risks and uncertainties. Those risks and uncertainties include factors and risks specific to ERM Power or Shell Energy Australia and / or the industries in which they operate, as well as general economic conditions, prevailing exchange rates and interest rates and conditions in financial markets.

Actual events or results may differ materially from the events or results expressed or implied in any forward looking statement and deviations are both normal and to be expected. None of ERM Power, Shell Energy Australia, or their respective officers, directors, employees or advisers or any person named in this Scheme Booklet or any person involved in the preparation of this Scheme Booklet makes any representation or warranty (either express or implied) as to the accuracy or likelihood of fulfilment of any forward looking statement, or any events or results expressed or implied in any forward looking statement. Accordingly, you are cautioned not to place undue reliance on those statements.

Any forward looking statements in this Scheme Booklet reflect views held only at the date of this Scheme Booklet. Subject to any continuing obligations under the Listing Rules or the Corporations Act, ERM Power and Shell Energy Australia and their respective officers, directors, employees and advisers, disclaim any obligation or undertaking to distribute after the date of this Scheme Booklet any updates or revisions to any forward looking statements to reflect (a) any change in expectations in relation to such statements; or (b) any change in events, conditions or circumstances on which any such statement is based.

Responsibility statement

ERM Power has prepared, and is responsible for, the ERM Power Information. Neither Shell Energy Australia nor any of its Subsidiaries, directors, officers, employees or advisers assume any responsibility for the accuracy or completeness of such information.

Shell Energy Australia has prepared, and is responsible for, the Shell Energy Australia Information. Neither ERM Power nor any of its Subsidiaries, directors, officers, employees or advisers assume any responsibility for the accuracy or completeness of such information.

Greenwoods & Herbert Smith Freehills has prepared the Tax Adviser's Letter in relation to the Scheme and takes responsibility for that report. None of ERM Power or Shell Energy Australia or any of their respective Subsidiaries, directors, officers, employees or advisers assume any responsibility for the accuracy or completeness of the information contained in the Tax Adviser's Letter. The Tax Adviser's Letter is set out in section 8 of this Scheme Booklet.

Loneragan Edwards & Associates Limited has prepared the Independent Expert's Report (as set out in Annexure 1) and takes responsibility for that report. None of ERM Power or Shell Energy Australia or any of their respective Subsidiaries, directors, officers, employees or advisers assume any responsibility for the accuracy or completeness of the information contained in the Independent Expert's Report, except, in the case of ERM Power, in relation to the information which it has provided to the Independent Expert.

No consenting party has withdrawn their consent to be named before the date of this Scheme Booklet.

Foreign jurisdictions

The release, publication or distribution of this Scheme Booklet in jurisdictions other than Australia may be restricted by law or regulation in such other jurisdictions and persons outside of Australia who come into possession of this Scheme Booklet should seek advice on and observe any such restrictions. Any failure to comply with such restrictions may constitute a violation of applicable laws or regulations.

This Scheme Booklet has been prepared in accordance with the laws of Australia and the information contained in this Scheme Booklet may not be the same as that which would have been disclosed if this Scheme Booklet had been prepared in accordance with the laws and regulations of a jurisdiction outside of Australia.

ERM Power Shareholders who are nominees, trustees or custodians are encouraged to seek independent advice as to how they should proceed.

Important notices (continued)

Tax implications of the Scheme

If the Scheme becomes Effective, there will be tax consequences for Scheme Shareholders. For further detail regarding general Australian tax consequences of the Scheme, refer to the Tax Adviser's Letter contained in section 8 of this Scheme Booklet. The tax treatment may vary depending on the nature and characteristics of each ERM Power Shareholder and their specific circumstances. Accordingly, ERM Power Shareholders should seek independent professional tax advice in relation to their particular circumstances.

Financial amounts and effects of rounding

All financial amounts in this Scheme Booklet are expressed in Australian currency unless otherwise stated. A number of figures, amounts, percentages, estimates, calculations of value and fractions in the Scheme Booklet are subject to the effect of rounding. Accordingly, any discrepancies between totals in tables or financial statements, or in calculations, graphs or charts are due to rounding. All financial and operational information set out in this Scheme Booklet is current as at the date of this Scheme Booklet, unless otherwise stated.

Charts and diagrams

Any diagrams, charts, graphs or tables appearing in this Scheme Booklet are illustrative only and may not be drawn to scale. Unless stated otherwise, all data contained in diagrams, charts, graphs and tables is based on information available as at the Last Practicable Date.

Timetable and dates

All times and dates referred to in this Scheme Booklet are times and dates in Brisbane, Queensland, Australia, unless otherwise indicated. All times and dates relating to the implementation of the Scheme referred to in this Scheme Booklet may change and, among other things, are subject to all necessary approvals from Government Agencies.

External websites

Unless expressly stated otherwise, the content of the websites of ERM Power and Shell Energy Australia do not form part of this Scheme Booklet and ERM Power Shareholders should not rely on any such content.

Privacy

ERM Power may collect personal information in the process of implementing the Scheme. The type of information that it may collect about you includes your name, contact details and information on your shareholding in ERM Power and the names of persons appointed by you to act as a proxy, attorney or corporate representative at the Scheme Meeting as relevant to you. The collection of some of this information is required or authorised by the Corporations Act. The primary purpose of the collection of personal information is to assist ERM Power to conduct the Scheme Meeting and implement the Scheme. Without this information, ERM Power may be hindered in its ability to issue this Scheme Booklet and implement the Scheme. Personal information of the type described above may be disclosed to the ERM Power Share Registry, third party service providers (including print and mail service providers and parties otherwise involved in the conduct of the Scheme Meeting), authorised securities brokers, professional advisers, Related Bodies Corporate of ERM Power, Government Agencies, and also where disclosure is otherwise required or allowed by law. ERM Power Shareholders who are individuals and the other individuals in respect of whom personal information is collected as outlined above have certain rights to access the personal information collected in relation to them. If you would like to obtain details of the information about you held by the ERM Power Share Registry in connection with ERM Power Shares, please contact the ERM Power Share Registry. ERM Power Shareholders who appoint an individual as their proxy, corporate representative or attorney to vote at the Scheme Meeting should ensure that they inform such an individual of the matters outlined above. Further information about how ERM Power collects, uses and discloses personal information is contained in ERM Power's Privacy Policy located at www.ermpower.com.au/privacy-policy/.

Date of Scheme Booklet

This Scheme Booklet is dated 4 October 2019.

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Letter from the Chair of the ERM Power Board

4 October 2019

Dear ERM Power Shareholders,

Proposed acquisition of ERM Power Limited by Shell Energy Australia Pty Ltd

On behalf of the ERM Power Board, I am pleased to provide you with this Scheme Booklet which contains information for your consideration in relation to the proposed acquisition of ERM Power Limited by Shell Energy Australia Pty Ltd.

On 22 August 2019, ERM Power announced that it had entered into a Scheme Implementation Deed with Shell Energy Australia, under which Shell Energy Australia proposes to acquire 100% of the share capital of ERM Power, by way of a scheme of arrangement, for a cash price of \$2.465 per ERM Power Share, less the cash amount of the Ordinary Dividend and any Special Dividend paid by ERM Power before the Implementation Date.

On 22 August 2019, the ERM Power Board also announced that it had declared the Ordinary Dividend, being a fully franked ordinary dividend of \$0.045 per ERM Power Share, in relation to the financial year ended on 30 June 2019. The Ordinary Dividend will be paid on 9 October 2019 and, accordingly, the cash price per ERM Power Share payable by Shell Energy Australia to ERM Power Shareholders will be \$2.42 per ERM Power Share.

In addition, the ERM Power Board currently intends to pay a fully franked Special Dividend of up to \$0.085 per ERM Power Share prior to implementation of the Scheme, if the Scheme is approved by ERM Power Shareholders and the Court. The final decision on whether or not to pay a Special Dividend will be made by the ERM Power Directors and will depend upon a number of factors, including the availability of franking credits, the requirements of the Corporations Act and ERM Power having received a draft Class Ruling, which provides confirmation from the ATO that franking credits attached to the Special Dividend will be available to ERM Power Shareholders. The final decision of the ERM Power Directors will be communicated to ERM Power Shareholders by way of an ASX announcement before the Second Court Hearing.

Total Cash Consideration

If the Scheme is implemented, ERM Power Shareholders who are registered as such on both the Scheme Record Date and the Special Dividend Record Date will receive the Total Cash Consideration of \$2.42 per ERM Power Share comprising:

- **(if a Special Dividend is paid):**
 - an amount of \$2.42 in cash per ERM Power Share held by them on the Scheme Record Date less the cash amount of the Special Dividend (payable by Shell Energy Australia); and
 - the amount of the Special Dividend in cash per ERM Power Share held by them on the Special Dividend Record Date (payable by ERM Power); or
- **(if a Special Dividend is not paid):** an amount of \$2.42 in cash per ERM Power Share held by them on the Scheme Record Date (payable by Shell Energy Australia).

The Total Cash Consideration you receive will, if the Scheme is implemented and you hold ERM Power Shares on both the Scheme Record Date and the Special Dividend Record Date, be an amount of \$2.42 in cash per ERM Power Share regardless of whether a Special Dividend is paid, or the amount of any Special Dividend. This is because the Scheme Consideration payable by Shell Energy Australia per ERM Power Share will, if the Scheme is implemented, be \$2.42 less the cash amount of any Special Dividend paid by ERM Power before the Implementation Date.



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By way of example, if a Special Dividend of \$0.085 per ERM Power Share is paid and the Scheme is implemented, ERM Power Shareholders who are registered as such on both the Scheme Record Date and the Special Dividend Record Date will receive the Total Cash Consideration of \$2.42 per ERM Power Share, comprising:

- an amount of \$2.335 in cash per ERM Power Share held by them on the Scheme Record Date (payable by Shell Energy Australia); and
- a fully franked Special Dividend of \$0.085 in cash per ERM Power Share held by them on the Special Dividend Record Date (payable by ERM Power).

The Total Cash Consideration:

- represents a:
 - 40.7% premium to the closing price of an ERM Power Share on 21 August 2019 of \$1.72;
 - 35.8% premium to the 1-month VWAP of an ERM Power Share to 21 August 2019 of \$1.78;
 - 29.7% premium to the 3-month VWAP of an ERM Power Share to 21 August 2019 of \$1.87; and
- values ERM Power's equity at approximately \$606 million¹.

Franking credits

The franking credits attached to the Ordinary Dividend and any Special Dividend are potentially worth up to approximately \$0.055 per ERM Power Share (of which approximately \$0.019 relates to the Ordinary Dividend and \$0.036 relates to a Special Dividend of \$0.085 per ERM Power Share) for those ERM Power Shareholders who are able to realise the full benefit of franking credits. The Scheme Consideration will not be reduced by the value of any franking credits.

In assessing the value of any Special Dividend, ERM Power Shareholders should seek independent professional taxation advice as to whether or not the receipt of any Special Dividend and any entitlement to franking credits attached thereto is beneficial to them based on their own particular circumstances. In particular, ERM Power Shareholders should note that, depending on the timing of and price at which they acquired their ERM Power Shares, there may be differences in the tax consequences for them. Refer to section 8 of this Scheme Booklet for further details.

ERM Power Directors' recommendation

Your ERM Power Board has carefully considered the proposal from Shell Energy Australia and unanimously recommend that ERM Power 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 ERM Power Shareholders.

Subject to those same qualifications, the ERM Power Directors, representing collectively 3.2% of the total ERM Power Shares on issue, intend to vote or procure the vote of those ERM Power Shares in favour of the Scheme.

If the Scheme is implemented, Mr Jon Stretch, ERM Power's Managing Director and Chief Executive Officer, will become entitled to early vesting of unvested Long Term Incentives that he holds and a cash payment in lieu of receiving Performance Rights for FY20, in addition to receiving the Total Cash Consideration for each ERM Power Share that he holds. As at the date of this Scheme Booklet, Mr Stretch has a Relevant Interest in 2,236,066 ERM Power Shares, and holds 517,309 unvested units in the Employee Share Trust and 1,029,108 unvested Performance Rights.

¹ Based on 250,288,527 ERM Power Shares being on issue as at the Last Practicable Date.



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The ERM Power Board (excluding Mr Stretch) exercised its discretion to approve the early vesting of all unvested Long Term Incentives in accordance with their terms, conditional upon the Scheme becoming Effective. Accordingly, if the Scheme is implemented, Mr Stretch will be entitled to receive:

- \$2,490,441.36 for the 1,029,108 unvested Performance Rights which Mr Stretch holds (being, for each unvested Performance Right, an amount equivalent to the Total Cash Consideration); and
- \$1,251,887.78 for the 517,309 unvested units in the Employee Share Trust which Mr Stretch holds (being, for each unvested unit in the Employee Share Trust, an amount equivalent to the Total Cash Consideration),

as well as a cash payment of \$847,970.42 in lieu of receiving Performance Rights for FY20. Further details in relation to Mr Stretch's Long Term Incentive entitlements (including in relation to the cash payment made in lieu of receiving Performance Rights for FY20) are set out in section 9.2 of this Scheme Booklet.² If the Scheme becomes Effective, ERM Power Shareholders should note that Mr Stretch would receive the cash payment of \$847,970.42 whether or not they approve the award of Mr Stretch's Performance Rights for FY20 at the 2019 Annual General Meeting.

ERM Power Shareholders should have regard to these arrangements when considering Mr Stretch's recommendation on the Scheme, which appears throughout this Scheme Booklet. Mr Stretch considers that, despite these arrangements, it is appropriate for him to make a recommendation on the Scheme. In addition, the ERM Power Board (excluding Mr Stretch) also considers that it is appropriate for him to make a recommendation on the Scheme given the importance of the Scheme, his role in the operation and management of ERM Power and his deep industry knowledge.

Independent board committee

Given the relationship between Mr Trevor St Baker and Mr Philip St Baker (Mr Philip St Baker is Mr Trevor St Baker's son) and Mr Trevor St Baker's significant ownership of ERM Power Shares, it was considered appropriate for the ERM Power Board to form an independent board committee of all of the ERM Power Directors other than Mr Philip St Baker to consider the proposal. The independent board committee recommended to the ERM Power Board that they approve entry by ERM Power into the Scheme Implementation Deed.

Shell Energy Australia's proposal provides an attractive outcome

The ERM Power Directors consider the proposal from Shell Energy Australia to provide an attractive outcome for ERM Power Shareholders and that the Shell Energy Australia proposal recognises the strategic value of ERM Power Group's business and its success in becoming a leading Australian energy company.

The reasons for their recommendation include:

- the Independent Expert has concluded that the Scheme is fair and reasonable and, therefore, is in the best interests of ERM Power Shareholders in the absence of a superior proposal;
- the Total Cash Consideration represents a significant premium to recent historical trading prices of ERM Power Shares;
- there is potential value in the franking credits attached to the Ordinary Dividend and any Special Dividend of up to approximately \$0.055 per ERM Power Share (of which approximately \$0.019 relates to the Ordinary Dividend and \$0.036 relates to a Special Dividend of \$0.085 per ERM Power Share) for those shareholders who are able to realise the full benefit of franking credits;³
- the Total Cash Consideration represents an opportunity for ERM Power Shareholders to realise certain immediate cash value for their ERM Power Shares;
- no other party has approached ERM Power since the Scheme was announced with a Superior Proposal; and

² Mr Stretch also has a Relevant Interest in ERM Power Shares. For further information, see section 9.1 of this Scheme Booklet.

³ In assessing the value of any Special Dividend, ERM Power Shareholders should seek independent professional taxation advice as to whether or not the receipt of any Special Dividend and any entitlement to franking credits attached thereto is beneficial to them based on their own particular circumstances. In particular, ERM Power Shareholders should note that, depending on the timing of and price at which they acquired their ERM Power Shares, there may be differences in the tax consequences for them. Refer to section 8 of this Scheme Booklet for further details.



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- the Scheme has limited conditionality and is only subject to customary conditions (including ERM Power Shareholder approval, Court approval and the Independent Expert continuing to conclude that the Scheme is in the best interests of ERM Power Shareholders) and is not subject to any regulatory or financing conditions or further due diligence.

Further information to assist you in determining whether to vote in favour of or against the Scheme is set out in section 1 of this Scheme Booklet.

Founder and major shareholder

Mr Trevor St Baker is the founder and major shareholder of ERM Power. Mr St Baker, who currently has a Relevant Interest in 68,554,916 ERM Power Shares (representing approximately 27.39% of the total number of ERM Power Shares on issue), has confirmed to the ERM Power Directors that he intends to vote, or procure the vote of, those shares in favour of the Scheme, in the absence of a superior proposal to acquire all of the ERM Power Shares and subject to the Independent Expert concluding (and continuing to conclude) that the Scheme is in the best interests of ERM Power Shareholders.

Independent Expert's opinion

Your ERM Power Directors appointed Lonergan Edwards & Associates Limited as the Independent Expert to assess the merits of the Scheme. The Independent Expert has concluded that the Scheme is fair and reasonable and, therefore, is in the best interests of ERM Power Shareholders, in the absence of a superior proposal.

The Independent Expert has assessed the full underlying value of ERM Power at between \$2.20 and \$2.51 per ERM Power Share. The Total Cash Consideration is within this range. A complete copy of the Independent Expert's Report is included in Annexure 1.

How to vote

Your vote is important and I encourage you to vote by attending the Scheme Meeting or alternatively by completing the proxy form accompanying this Scheme Booklet. The Scheme requires Court approval as well as the approval of ERM Power Shareholders at a Scheme Meeting to be held at 11.00am (Brisbane time) at Brisbane Marriott Hotel, Grand Ballroom, 515 Queen Street, Brisbane Queensland 4000 on Friday 8 November 2019.

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

Further information

This Scheme Booklet sets out important information regarding the Scheme, including the reasons for your ERM Power Directors' recommendation and the Independent Expert's Report. It also sets out some of the reasons why you may not wish to vote in favour of the Scheme.

Please read this Scheme Booklet carefully and in its entirety as it will assist you in making an informed decision as to how to vote. I would also encourage you to seek independent financial, legal, taxation or other professional advice before making any voting or investment decision in relation to your ERM Power Shares.

If you require any further information, please call the ERM Power Shareholder information line on 1300 502 987 or +61 2 8022 7944 between 9.00am and 5.00pm (Sydney time), Monday to Friday, excluding public holidays.

I would also like to take this opportunity to thank you for your support of ERM Power.

Yours sincerely,

Julieanne Alroe

Key dates

EVENT	TIME AND DATE
First Court Date	4 October 2019
Date of this Scheme Booklet	4 October 2019
Latest time and date for receipt of proxy forms (including proxy forms lodged online) or powers of attorney by the ERM Power Share Registry for the Scheme Meeting	11.00am on 6 November 2019
Time and date for determining eligibility to vote at the Scheme Meeting	6.00pm on 6 November 2019
Scheme Meeting	11.00am on 8 November 2019
2019 Annual General Meeting	At the later of (1) 11.30am on 8 November 2019 and (2) the conclusion of the Scheme Meeting (assuming that the Scheme Meeting occurs at 11:00am (Brisbane time) on Friday 8 November 2019)

If the Scheme is approved by ERM Power Shareholders at the Scheme Meeting:

Second Court Date	12 November 2019
Outcome of Second Court Hearing announced to the ASX	12 November 2019
Effective Date	12 November 2019
Last day of trading in ERM Power Shares on market (ERM Power Shares will be suspended from trading on the ASX from close of trading)	12 November 2019
Special Dividend Record Date (if the ERM Power Directors decide to pay a Special Dividend)	6.00pm on 18 November 2019
Special Dividend Payment Date (if the ERM Power Directors decide to pay a Special Dividend)	25 November 2019
Scheme Record Date (for determining entitlements to Scheme Consideration)	6.00pm on 26 November 2019
Implementation Date (Scheme Consideration will be dispatched to Scheme Shareholders on the Implementation Date)	29 November 2019

All times and dates in the above timetable are references to the time and date in Brisbane, Queensland, Australia and all such times and dates are subject to change. ERM Power may vary any or all of these dates and times and will provide reasonable notice of any such variation. Certain times and dates are conditional on the approval of the Scheme by ERM Power Shareholders and by the Court. Any changes will be announced by ERM Power to the ASX.

1. Key considerations relevant to your vote

1.1 Reasons that you might vote for the Scheme

- (a) **Your ERM Power Directors unanimously recommend that you 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 ERM Power Shareholders, and will be voting their ERM Power Shares in favour of the Scheme (subject to the same qualifications)**

Each of your ERM Power Directors unanimously recommend that ERM Power 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 ERM Power Shareholders' best interests.

Subject to those same qualifications, each of your ERM Power Directors will vote ERM Power Shares under their beneficial ownership in favour of the Scheme.

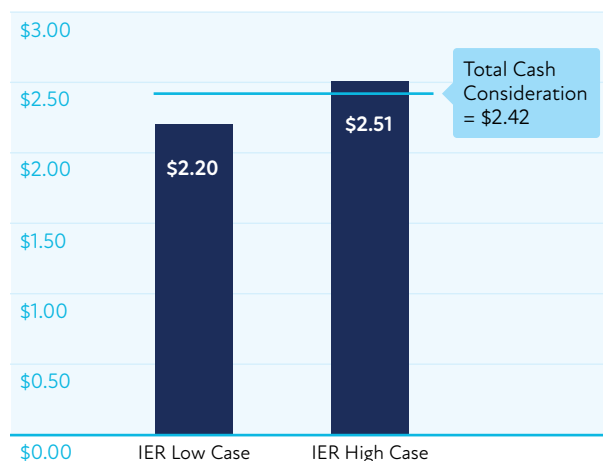
With respect to Mr Stretch's recommendation, ERM Power Shareholders should have regard to the fact that, if the Scheme is implemented, Mr Stretch will become entitled to early vesting of unvested Long Term Incentives that he holds and a cash payment in lieu of receiving Performance Rights for FY20, in addition to receiving the Total Cash Consideration for each ERM Power Share that he holds and, accordingly, Mr Stretch will receive the amounts set out in the letter from the Chair of the ERM Power Board at the front of this Scheme Booklet and section 9.2 of this Scheme Booklet in respect of such Long Term Incentives.

ERM Power Shareholders should have regard to these arrangements when considering Mr Stretch's recommendation on the Scheme, which appears throughout this Scheme Booklet. Mr Stretch considers that, despite these arrangements, it is appropriate for him to make a recommendation on the Scheme. In addition, the ERM Power Board (excluding Mr Stretch) also considers that it is appropriate for him to make a recommendation on the Scheme given the importance of the Scheme, his role in the operation and management of ERM Power and his deep industry knowledge.

- (b) **The Independent Expert has concluded that the Scheme is fair and reasonable and, therefore, in your best interests**

The Independent Expert has analysed ERM Power's business and, in light of this analysis, the Independent Expert has concluded that the Scheme is fair and reasonable and, therefore, is in the best interests of ERM Power Shareholders, in the absence of a superior proposal.

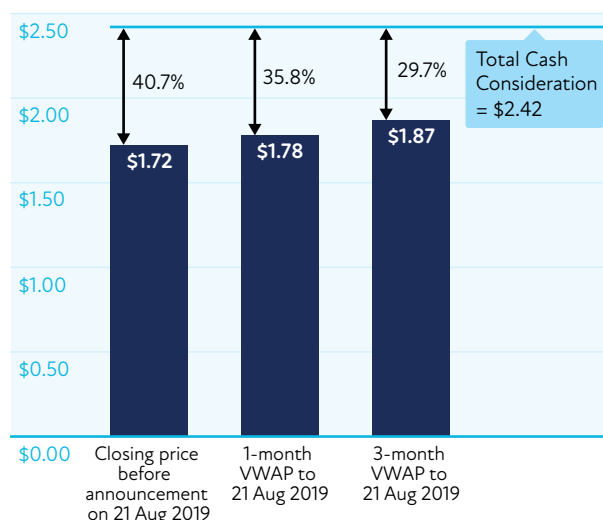
The Independent Expert has assessed the full underlying value of ERM Power at between \$2.20 and \$2.51 per ERM Power Share. As illustrated in the diagram below, the Total Cash Consideration is within this range.



- (c) **The Total Cash Consideration represents a significant premium to ERM Power's Share price**

As illustrated in the diagram below, the Total Cash Consideration represents a:

- 40.7% premium to the closing price of an ERM Power Share on 21 August 2019 of \$1.72;
- 35.8% premium to the 1-month VWAP of an ERM Power Share to 21 August 2019 of \$1.78; and
- 29.7% premium to the 3-month VWAP of an ERM Power Share to 21 August 2019 of \$1.87.



1. Key considerations relevant to your vote (continued)

1.1 Reasons that you might vote for the Scheme (continued)

(d) If a Special Dividend is paid, you may be entitled to the franking credits attached to any Special Dividend

The ERM Power Board currently intends to pay a fully franked Special Dividend of up to \$0.085 per ERM Power Share, subject to the Scheme being approved by ERM Power Shareholders and the Court. The final decision on whether or not to pay a Special Dividend will be made by the ERM Power Directors and depends upon a number of factors, including the availability of franking credits, the requirements of the Corporations Act and ERM Power having received a draft Class Ruling, which provides confirmation from the ATO that franking credits attached to the Special Dividend will be available to ERM Power Shareholders. The final decision of the ERM Power Directors will be communicated to ERM Power Shareholders by way of an ASX announcement before the Second Court Hearing.

If ERM Power pays a Special Dividend of the maximum amount of \$0.085 per ERM Power Share, then, in addition to the Total Cash Consideration payable to ERM Power Shareholders, those ERM Power Shareholders who are entitled to the franking credits attached to both the Ordinary Dividend and the Special Dividend may be entitled to an Australian tax offset of up to approximately \$0.055 of additional value per ERM Power Share (of which approximately \$0.019 of the additional value relates to the Ordinary Dividend and \$0.036 of the additional value relates to the Special Dividend). In assessing the value to them of any Special Dividend, ERM Power Shareholders should seek independent professional taxation advice as to whether or not the receipt of any Special Dividend and any entitlement to franking credits attached thereto is beneficial to them based on their own particular circumstances. In particular, ERM Power Shareholders should note that, depending on the timing of and price at which they acquired their ERM Power Shares, there may be differences in the tax consequences for them. Refer to section 8 of this Scheme Booklet for further details.

(e) Certainty of value for your investment in ERM Power and you will not be exposed to risks associated with ERM Power's business

The 100% cash consideration provides ERM Power Shareholders with certainty of value and the opportunity to realise their investment in full for the Total Cash Consideration. In particular, the Total Cash Consideration, with its substantial premium, provides certainty against the risks associated with the execution of ERM Power's long term strategy.

If the Scheme does not proceed, the amount which ERM Power Shareholders will be able to realise in terms of price and future dividends will necessarily be uncertain and subject to a number of risks, including those outlined in section 7 of this Scheme Booklet.

The Scheme removes these risks and uncertainties for ERM Power Shareholders and allows ERM Power Shareholders to exit their investment in ERM Power at a price that ERM Power Directors consider attractive.

(f) No Superior Proposal has emerged

Since the proposed Scheme was announced up until the date of this Scheme Booklet, no Superior Proposal has emerged.

The ERM Power Board is not aware, as at the date of this Scheme Booklet, of any Superior Proposal that is likely to emerge.

If ERM Power receives a Competing Proposal from a Third Party, there are certain steps that must be taken by ERM Power in respect of that proposal, including providing Shell Energy Australia with the opportunity to submit a Shell Energy Australia Counterproposal within five Business Days.

(g) The Scheme has limited conditionality

The Scheme is not subject to any regulatory or financing conditions or further due diligence. Shell Energy Australia has confirmed to ERM Power that it has already obtained confirmations from the Foreign Investment Review Board and the Australian Competition and Consumer Commission in respect of the Scheme.

The Scheme is subject to customary conditions consistent with schemes of arrangement (including ERM Power Shareholder approval, Court approval and the Independent Expert continuing to conclude that the Scheme is in the best interests of ERM Power Shareholders).

(h) If the Scheme does not proceed and no comparable proposal or Superior Proposal emerges and is received by the ERM Power Board, the ERM Power Share price is expected to fall

If the Scheme does not proceed, and no comparable proposal or Superior Proposal is received by the ERM Power Board, then the ERM Power Share price is expected to fall.

Since market close on 21 August 2019 (being the last day on which ERM Power Shares traded before the Scheme was announced), the ERM Power Share price has increased 40.7% up to a closing price of \$2.42 on the Last Practicable Date.

This view is also supported by the Independent Expert, which states in the Independent Expert's Report:

"If the Scheme is not implemented we expect that, at least in the short term, ERM shares will trade at a significant discount to our valuation and the Scheme Consideration due to the difference between the value of ERM shares on a portfolio basis and their value on a 100% controlling interest basis. In this regard we note that ERM shares last traded at \$1.72 per share on 21 August 2019 (being the last trading day prior to the announcement of the Scheme with Shell).

If the Scheme is not implemented those ERM shareholders who wish to sell their ERM shares are therefore likely, at least in the short term, to realise a significantly lower price for their shares than will be payable under the Scheme."

(i) Brokerage charges will not apply to the transfer of your ERM Power Shares

You will not incur any brokerage charges on the transfer of your ERM Power Shares to Shell Energy Australia under the Scheme.

It is possible that such brokerage charges (and, potentially GST on those charges) would be incurred if you dispose of your ERM Power Shares other than under the Scheme.

1.2 Reasons that you might vote against the Scheme

Although the ERM Power Directors unanimously recommend that you 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 ERM Power Shareholders, and the Independent Expert has concluded that the Scheme is fair and reasonable and, therefore, is in the best interests of ERM Power Shareholders, in the absence of a superior proposal, there may be reasons which lead you to consider voting against the Scheme, including those set out below.

(a) You may disagree with the ERM Power Directors' recommendation and the Independent Expert's conclusion and believe that the Scheme is not in your best interests

In concluding that the Scheme is in the best interests of ERM Power Shareholders, in the absence of a superior proposal, the Independent Expert has made judgements based on future trading conditions and events which cannot be predicted with certainty and which may prove to be inaccurate (either positively or negatively).

You may hold a different view from, and are not obliged to follow the recommendation of the ERM Power Directors, and you may not agree with the Independent Expert's conclusions.

(b) You may prefer to participate in the future financial performance of the ERM Power business

If the Scheme is implemented, you will no longer be an ERM Power Shareholder and will forgo any benefits that may result from being an ERM Power Shareholder.

This will mean that you will not participate in the future performance of ERM Power or retain any exposure to ERM Power's business or assets or have the potential to share in the value that could be generated by ERM Power in the future. However, there is no guarantee as to ERM Power's future performance, as is the case with all investments.

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

You may prefer to keep your ERM Power Shares to preserve your investment in a listed company with the specific characteristics of ERM Power.

In particular, you may consider that, despite the risk factors relevant to ERM Power's potential future operations (including those set out in section 7 of this Scheme Booklet), ERM Power may be able to return greater value from its assets by remaining a standalone entity or by seeking alternative corporate transactions in the future.

You may also consider that it would be difficult to identify or invest in alternative investments that have a similar investment profile to that of ERM Power or may incur transaction costs in undertaking any new investment.

(d) You may consider that there is potential for a Superior Proposal to emerge

It is possible that a more attractive proposal for ERM Power Shareholders could materialise in the future, such as a takeover bid, another scheme of arrangement or some other alternative transaction proposal which would deliver a total consideration for ERM Power Shareholders in excess of the Total Cash Consideration.

However, as at the date of this Scheme Booklet, the ERM Power Directors have not received or become aware of any Superior Proposal.

(e) The tax consequences of transferring your ERM Power shares pursuant to the Scheme may not be attractive to you

The tax consequences of the Scheme will depend on your personal situation. You may consider that the tax consequences of transferring your ERM Power Shares to Shell Energy Australia pursuant to the Scheme are not attractive to you. A general guide to the taxation implications of the Scheme is contained in the Tax Adviser's Letter set out in section 8 of this Scheme Booklet. However, the Tax Adviser's Letter is expressed in general terms only, and ERM Power Shareholders should consult with their own independent taxation advisers regarding the taxation implications of the Scheme.

2. Frequently asked questions

This section 2 answers some frequently asked questions relating to the Scheme. It is not intended to address all relevant issues for ERM Power Shareholders. This section 2 should be read in conjunction with all other parts of this Scheme Booklet.

QUESTION	ANSWER	MORE INFORMATION
AN OVERVIEW OF THE SCHEME		
Why have I received this Scheme Booklet?	This Scheme Booklet has been sent to you because you are an ERM Power Shareholder and you are being asked to vote on the Scheme Resolution. This Scheme Booklet is intended to help you to consider and decide on how to vote on the Scheme Resolution at the Scheme Meeting.	Section 4 of this Scheme Booklet
Who is entitled to participate in the Scheme?	Persons who hold ERM Power Shares on the Scheme Record Date will participate in the Scheme and, if the Scheme is implemented, those persons will receive the Total Cash Consideration in respect of each ERM Power Share held.	Sections 3.1 and 4 of this Scheme Booklet and Annexure 4
What is the Scheme?	<p>The Scheme is a scheme of arrangement between ERM Power and the Scheme Shareholders.</p> <p>A “scheme of arrangement” is a statutory procedure in the Corporations Act that is commonly used in transactions in Australia that may result in a change of ownership or control of a company. In addition to requiring Court approval, schemes of arrangement require a shareholder vote in favour of a resolution to implement the scheme of arrangement by the Requisite Majorities.</p> <p>If the Scheme becomes Effective, Shell Energy Australia will acquire all of the Scheme Shares for the Scheme Consideration. ERM Power will be delisted from the ASX and become a wholly owned Subsidiary of Shell Energy Australia.</p>	Section 4 of this Scheme Booklet and Annexure 2
Who is Shell Energy Australia?	<p>Shell Energy Australia is a member of the Shell Group, an international energy company that aims to meet the world’s growing need for more and cleaner energy solutions in ways that are economically, environmentally and socially responsible. Shell is one of the world’s largest independent energy companies in terms of market capitalisation, operating cash flow, oil and gas production and is actively growing its renewable energy and power business.</p> <p>Shell Energy Australia commenced operations in 2017 to create an integrated value chain that positions it to grow through Australia’s trend towards greater electrification.</p>	Section 6 of this Scheme Booklet

QUESTION	ANSWER	MORE INFORMATION
VOTING RECOMMENDATIONS AND CONSIDERATIONS		
What do the ERM Power Directors recommend?	<p>The ERM Power Directors unanimously recommend that you 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 ERM Power Shareholders.</p> <p>With respect to Mr Stretch's recommendation, ERM Power Shareholders should have regard to the fact that, if the Scheme is implemented, Mr Stretch will become entitled to early vesting of unvested Long Term Incentives that he holds and a cash payment in lieu of receiving Performance Rights for FY20, in addition to receiving the Total Cash Consideration for each ERM Power Share that he holds and, accordingly, Mr Stretch will receive the amounts set out in the letter from the Chair of the ERM Power Board at the front of this Scheme Booklet and section 9.2 of this Scheme Booklet in respect of such Long Term Incentives.</p> <p>ERM Power Shareholders should have regard to these arrangements when considering Mr Stretch's recommendation on the Scheme, which appears throughout this Scheme Booklet. Mr Stretch considers that, despite these arrangements, it is appropriate for him to make a recommendation on the Scheme. In addition, the ERM Power Board (excluding Mr Stretch) also considers that it is appropriate for him to make a recommendation on the Scheme given the importance of the Scheme, his role in the operation and management of ERM Power and his deep industry knowledge.</p> <p>The reasons for this recommendation and other relevant considerations are set out in section 4 of this Scheme Booklet.</p> <p>The ERM Power Directors encourage you to seek independent legal, financial, taxation or other appropriate professional advice.</p>	Letter from the Chair of the ERM Power Board at the front of this Scheme Booklet and section 4.6 of this Scheme Booklet
What are the intentions of the ERM Power Directors?	Each ERM Power Director intends to vote, or procure the voting of, any ERM Power Shares held or controlled by him or her at the time of the Scheme Meeting in favour of the Scheme at the Scheme Meeting 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 ERM Power Shareholders.	Letter from the Chair of the ERM Power Board at the front of this Scheme Booklet and sections 4.6 and 9.9 of this Scheme Booklet
What is the conclusion of the Independent Expert?	The Independent Expert has concluded that the Scheme is fair and reasonable, and therefore, is in the best interests of ERM Power Shareholders, in the absence of a superior proposal. You should also read the Independent Expert's Report which is contained in Annexure 1.	Section 4.9 of this Scheme Booklet and Annexure 1
What if the Independent Expert changes its conclusion?	If the Independent Expert changes its opinion, this will be announced to the ASX and the ERM Power Directors will carefully consider the Independent Expert's revised opinion and advise you of their recommendation. The ERM Power Directors may withdraw or change their recommendation, and may terminate the Scheme Implementation Deed without paying a Reimbursement Fee to Shell Energy Australia, if in any update of, or any revision, amendment or supplement to, the Independent Expert's Report, the Independent Expert concludes that the Scheme is not or is no longer in the best interests of ERM Power Shareholders (except where that conclusion is due to a Competing Proposal).	Section 9.4 of this Scheme Booklet
Why might you vote in favour of the Scheme?	Reasons why you might vote in favour of the Scheme are set out in the "Reasons that you might vote for the Scheme" in section 1 of this Scheme Booklet.	Section 1.1 of this Scheme Booklet
Why might you vote against the Scheme?	Reasons why you might vote against the Scheme are set out in the "Reasons that you might vote against the Scheme" in section 1 of this Scheme Booklet.	Section 1.2 of this Scheme Booklet

2. Frequently asked questions (continued)

QUESTION	ANSWER	MORE INFORMATION
AN OVERVIEW OF THE TOTAL CASH CONSIDERATION		
What is the Total Cash Consideration?	<p>If the Scheme is implemented, you will receive the Total Cash Consideration of \$2.42 in cash per ERM Power Share comprising:</p> <ul style="list-style-type: none"> • (if a Special Dividend is paid): (i) an amount of \$2.42 in cash per ERM Power Share held by you on the Scheme Record Date less the cash amount of the Special Dividend (payable by Shell Energy Australia); and (ii) the amount of the Special Dividend in cash per ERM Power Share held by you on the Special Dividend Record Date (payable by ERM Power); or • (if a Special Dividend is not paid): an amount of \$2.42 in cash per ERM Power Share held by you on the Scheme Record Date (payable by Shell Energy Australia). <p>The Total Cash Consideration you receive will, if the Scheme is implemented and you hold ERM Power Shares on both the Scheme Record Date and the Special Dividend Record Date, be an amount of \$2.42 in cash per ERM Power Share regardless of whether a Special Dividend is paid, or the amount of any Special Dividend. This is because the Scheme Consideration payable by Shell Energy Australia per ERM Power Share will, if the Scheme is implemented, be \$2.42 less the cash amount of any Special Dividend paid by ERM Power before the Implementation Date.</p>	Section 4.2 of this Scheme Booklet
When and how will I receive my Total Cash Consideration?	<p>If the Scheme becomes Effective:</p> <ul style="list-style-type: none"> • Scheme Shareholders will be sent the Scheme Consideration on the Implementation Date (currently expected to be 29 November 2019); and • if the ERM Power Directors decide to pay a Special Dividend, ERM Power Shareholders on the ERM Power Share Register as at the Special Dividend Record Date will be paid the Special Dividend on the Special Dividend Payment Date (currently expected to be 25 November 2019). <p>Scheme Shareholders who have validly registered their bank account details with the ERM Power Share Registry before the Scheme Record Date may have their Scheme Consideration sent directly to their bank account. Otherwise, Scheme Shareholders will have their Scheme Consideration sent by cheque to their address shown on the ERM Power Share Register.</p>	Section 4.5 of this Scheme Booklet
Will I have to pay brokerage?	You will not have to pay brokerage on the transfer of your ERM Power Shares to Shell Energy Australia under the Scheme.	Section 1.1(i) of this Scheme Booklet
What are the taxation implications of the Scheme?	<p>The taxation implications of the Scheme will depend on your particular circumstances.</p> <p>Section 8 of this Scheme Booklet contains the Tax Adviser's Letter which provides a general description of the Australian taxation consequences for Scheme Shareholders.</p> <p>You should seek independent professional taxation advice with respect to your particular circumstances.</p> <p>ERM Power has applied to the ATO requesting a class ruling to confirm the key taxation implications of the Scheme, the Ordinary Dividend and any Special Dividend.</p> <p>The Class Ruling has not been finalised as at the date of this Scheme Booklet. ERM Power expects that the ATO will provide a draft of the Class Ruling prior to the Scheme Meeting. ERM Power will make an announcement to the ASX if it receives a draft of the Class Ruling before the Scheme Meeting.</p> <p>When the final Class Ruling is published by the ATO, it will be available on the ATO's website at www.ato.gov.au.</p>	Section 8 of this Scheme Booklet

QUESTION	ANSWER	MORE INFORMATION
ORDINARY DIVIDEND AND SPECIAL DIVIDEND		
What is the Ordinary Dividend?	On 22 August 2019, the ERM Power Board announced that it had declared the Ordinary Dividend, being a fully franked ordinary dividend of \$0.045 per ERM Power Share, in relation to the financial year ended on 30 June 2019.	Letter from the Chair of the ERM Power Board at the front of this Scheme Booklet and section 4.3 of this Scheme Booklet
What is the Special Dividend?	<p>The ERM Power Board currently intends to pay a fully franked Special Dividend of up to \$0.085 per ERM Power Share prior to implementation of the Scheme, if the Scheme is approved by ERM Power Shareholders and the Court.</p> <p>The final decision on whether or not to pay a Special Dividend will be made by the ERM Power Directors and will depend upon a number of factors, including the availability of franking credits, the requirements of the Corporations Act and ERM Power having received a draft Class Ruling, which provides confirmation from the ATO that franking credits attached to the Special Dividend will be available to ERM Power Shareholders.</p> <p>The final decision of the ERM Power Directors will be communicated to ERM Power Shareholders by way of an ASX announcement before the Second Court Hearing.</p>	Letter from the Chair of the ERM Power Board at the front of this Scheme Booklet and section 4.4 of this Scheme Booklet
Will I receive any further dividends from ERM Power?	<p>Following the payment of the Ordinary Dividend and any Special Dividend, it is not currently expected that any further dividends will be paid by ERM Power if the Scheme is implemented.</p> <p>If the Scheme is not implemented, the ERM Power Directors will consider ERM Power's ongoing funding and liquidity requirements, as well as its franking account balance and the requirements of the Corporations Act, when considering the payment of future dividends.</p>	N/A
Will the Ordinary Dividend and any Special Dividend be franked?	<p>As announced on 22 August 2019, the Ordinary Dividend will be fully franked.</p> <p>The ERM Power Directors currently intend that, if any Special Dividend is to be paid, it will be fully franked.</p> <p>The franking credits attached to the Ordinary Dividend and any Special Dividend are potentially worth up to approximately \$0.055 per ERM Power Share (of which approximately \$0.019 relates to the Ordinary Dividend and \$0.036 relates to a Special Dividend of \$0.085 per ERM Power Share) for those ERM Power Shareholders who are able to realise the full benefit of franking credits.</p> <p>In assessing the value to you of any Special Dividend or franking credits, you should seek independent professional taxation advice as to whether or not the receipt of any Special Dividend and any entitlement to franking credits attached thereto is beneficial to you based on your own particular circumstances. In particular, you should note that, depending on the timing of and price at which you acquired your ERM Power Shares, there may be differences in the tax consequences for you.</p>	Sections 4.3, 4.4 and 8 of this Scheme Booklet

2. Frequently asked questions (continued)

QUESTION	ANSWER	MORE INFORMATION
CONDITIONS TO, AND APPROVAL OF, THE SCHEME		
Are there any conditions to the Scheme?	Yes. The conditions to the Scheme are summarised in section 9.4(c) of this Scheme Booklet. As at the date of this Scheme Booklet, the ERM Power Directors are not aware of any reason why any condition to the Scheme will not be satisfied.	Section 9.4(c) of this Scheme Booklet
What is required for the Scheme to become Effective?	The Scheme will become Effective if: <ul style="list-style-type: none"> • the Scheme is approved by the Requisite Majorities of ERM Power Shareholders at the Scheme Meeting to be held on 8 November 2019; • the Court approves the Scheme at the Second Court Hearing; and • all of the other Conditions Precedent are satisfied or waived (if capable of waiver). 	N/A
Are there any regulatory approvals required for the Scheme to become Effective?	Shell Energy Australia has confirmed to ERM Power that: <ul style="list-style-type: none"> • ACCC: it has received informal merger clearance in respect of the Transaction subject to customary conditions, by notice in writing from the ACCC stating, or stating to the effect, that the ACCC does not propose to intervene or seek to prevent the acquisition of ERM Power Shares by Shell Energy Australia; and • FIRB approval: Shell Energy Australia Group has received written notice under the <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cth), by or on behalf of the Treasurer of the Commonwealth of Australia, advising that the Commonwealth Government has no objections to the Transaction unconditionally. The Scheme is not conditional upon any other regulatory approvals.	N/A
When and where will the Scheme Meeting be held?	The Scheme Meeting will be held at 11.00am (Brisbane time) at Brisbane Marriott Hotel, Grand Ballroom, 515 Queen Street, Brisbane Queensland 4000 on Friday 8 November 2019.	Annexure 4
What will ERM Power Shareholders be asked to vote on at the Scheme Meeting?	At the Scheme Meeting, ERM Power Shareholders will be asked to vote on whether to approve the Scheme.	Annexure 4
What is the ERM Power Shareholder approval threshold for the Scheme?	In order to become Effective, the Scheme must be approved by the Requisite Majorities, being: <ul style="list-style-type: none"> • unless the Court orders otherwise, a majority in number (more than 50%) of ERM Power Shareholders present and voting at the Scheme Meeting (either in person or by proxy, attorney or, in the case of corporate ERM Power Shareholders, body corporate representative); and • at least 75% of the total number of votes cast on the Scheme Resolution at the Scheme Meeting by ERM Power Shareholders present and voting (either in person or by proxy, attorney or, in the case of corporate ERM Power Shareholders, body corporate representative). Even if the Scheme is approved by the Requisite Majorities of ERM Power Shareholders at the Scheme Meeting, the Scheme is still subject to the approval of the Court.	Section 4.12 of this Scheme Booklet
Is voting compulsory?	Voting is not compulsory. However, the Scheme will only be successful if it is approved by the ERM Power Shareholders by the Requisite Majorities, so voting is important and the ERM Power Directors encourage you to vote. If the Scheme Resolution is approved, you will be bound by the Scheme Resolution, whether or not you voted and whether or not you voted in favour of it.	Sections 3 and 4.11 of this Scheme Booklet
Am I entitled to vote at the Scheme Meeting?	If you are registered as an ERM Power Shareholder on the ERM Power Share Register as at 6.00pm (Brisbane time) on 6 November 2019, you will be entitled to attend and vote at the Scheme Meeting.	Section 3 of this Scheme Booklet and Annexure 4
How can I vote if I can't attend the Scheme Meeting?	If you would like to vote but cannot attend the Scheme Meeting in person, you can vote by appointing a proxy (including by lodging your proxy form online at www.linkmarketservices.com.au) or attorney to attend and vote on your behalf. You may also vote by corporate representative if that option is applicable to you.	Annexure 4

QUESTION	ANSWER	MORE INFORMATION
CONDITIONS TO, AND APPROVAL OF, THE SCHEME (CONTINUED)		
When will the results of the Scheme Meeting be known?	The results of the Scheme Meeting are expected to be available shortly after the conclusion of the Scheme Meeting and will be announced to the ASX (www.asx.com.au) once available.	N/A
What happens if the Court does not approve the Scheme or the Scheme does not otherwise proceed?	<p>If the Scheme is not approved at the Scheme Meeting, or if it is approved at the Scheme Meeting but is not approved by the Court or a Condition Precedent is not fulfilled or otherwise waived (if capable of waiver), then the Scheme will not become Effective and will not be implemented.</p> <p>If the Scheme does not become Effective or is not implemented, the ERM Power Group will continue to operate as a standalone group listed on the ASX.</p> <p>In that scenario, ERM Power Shareholders will not receive the Total Cash Consideration but will retain their ERM Power Shares.</p> <p>Depending on the reason for the Scheme not proceeding, ERM Power may be liable to pay a Reimbursement Fee to Shell Energy Australia of \$6,055,000 (excluding GST). No Reimbursement Fee would be payable, however, if the Scheme does not proceed for the sole reason that ERM Power Shareholders do not pass the Scheme Resolution at the Scheme Meeting.</p>	Section 4.10 of this Scheme Booklet
What happens to my ERM Power Shares if I do not vote, or if I vote against the Scheme, and the Scheme becomes Effective and is implemented?	If you do not vote, or vote against the Scheme, and the Scheme becomes Effective and is implemented, any Scheme Shares held by you on the Scheme Record Date (currently expected to be 6.00pm (Brisbane time) on 26 November 2019) will be transferred to Shell Energy Australia and you will receive the Total Cash Consideration, despite not having voted or having voted against the Scheme.	Section 4.11 of this Scheme Booklet
When will the Scheme become Effective and when will it be implemented?	Subject to satisfaction or waiver (if capable of waiver) of the Conditions Precedent, the Scheme will become Effective on the Effective Date (currently expected to be 12 November 2019) and will be implemented on the Implementation Date (currently expected to be 29 November 2019).	Section 4.12 of this Scheme Booklet
OTHER QUESTIONS		
What happens if a Competing Proposal is received?	<p>If a Competing Proposal is received, the ERM Power Directors will carefully consider it.</p> <p>ERM Power must notify Shell Energy Australia of that Competing Proposal in accordance with the Scheme Implementation Deed.</p> <p>ERM Power Shareholders should note that ERM Power has agreed to certain exclusivity provisions in favour of Shell Energy Australia under the Scheme Implementation Deed.</p>	Sections 9.4(j) and 9.5 of this Scheme Booklet
Can I sell my ERM Power Shares now?	<p>You can sell your ERM Power Shares on market at any time before the close of trading on the ASX on the Effective Date at the then prevailing market price (which may vary from the Total Cash Consideration).</p> <p>ERM Power intends to apply to the ASX for ERM Power Shares to be suspended from trading on the ASX from close of trading on the Effective Date. You will not be able to sell your ERM Power Shares on market after this date.</p> <p>If you sell your ERM Power Shares on market, you may pay brokerage on the sale, you will not receive the Total Cash Consideration and there may be different tax consequences compared to those that would arise if you retain those shares until the Scheme is implemented.</p>	Section 4.11 of this Scheme Booklet
What if I have further questions about the Scheme?	<p>For further information, shareholders can call the ERM Power Shareholder information line on 1300 502 987 or +61 2 8022 7944 between 9.00am and 5.00pm (Sydney time), Monday to Friday, excluding public holidays.</p> <p>If you are in doubt about anything in this Scheme Booklet, please contact your financial, legal, taxation or other professional adviser immediately.</p>	N/A

3. How to vote

3.1 Who is entitled to vote at the Scheme Meeting?

If you are registered on the ERM Power Share Register as at 6.00pm (Brisbane time) on 6 November 2019, you will be entitled to attend and vote at the Scheme Meeting.

Information on entitlements to vote, including if you are a joint holder of ERM Power Shares, is contained in the Notice of Scheme Meeting which is attached as Annexure 4.

3.2 Your vote is important

In order for the Scheme to be implemented, the Scheme Resolution must be approved by ERM Power Shareholders by the Requisite Majorities at the Scheme Meeting. For this reason, the ERM Power Directors unanimously recommend that you 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 ERM Power Shareholders.

With respect to Mr Stretch's recommendation, ERM Power Shareholders should have regard to the fact that, if the Scheme is implemented, Mr Stretch will become entitled to early vesting of unvested Long Term Incentives that he holds and a cash payment in lieu of receiving Performance Rights for FY20, in addition to receiving the Total Cash Consideration for each ERM Power Share that he holds and, accordingly, Mr Stretch will receive the amounts set out in the letter from the Chair of the ERM Power Board at the front of this Scheme Booklet and section 9.2 of this Scheme Booklet in respect of such Long Term Incentives.

ERM Power Shareholders should have regard to these arrangements when considering Mr Stretch's recommendation on the Scheme, which appears throughout this Scheme Booklet. Mr Stretch considers that, despite these arrangements, it is appropriate for him to make a recommendation on the Scheme. In addition, the ERM Power Board (excluding Mr Stretch) also considers that it is appropriate for him to make a recommendation on the Scheme given the importance of the Scheme, his role in the operation and management of ERM Power and his deep industry knowledge.

If you are unable to attend the Scheme Meeting, the ERM Power 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 www.linkmarketservices.com.au in accordance with the instructions given there.

3.3 Location and details of the Scheme Meeting

The location and details of the Scheme Meeting are as follows:

- **Location:** Brisbane Marriott Hotel, Grand Ballroom, 515 Queen Street, Brisbane Queensland 4000
- **Date:** Friday, 8 November 2019
- **Time:** 11.00am (Brisbane time)

3.4 Notice of Scheme Meeting

The Notice of Scheme Meeting is contained in Annexure 4.

3.5 Procedure at the Scheme Meeting

Voting at the Scheme Meeting will be conducted by poll.

If you are an ERM Power Shareholder entitled to vote at the Scheme Meeting, you may vote by:

- attending and voting in person;
- appointing one or two proxies to attend and vote on your behalf, by completing and returning, in the enclosed reply paid envelope, the personalised proxy form that accompanies this Scheme Booklet or lodging your proxy form online at www.linkmarketservices.com.au in accordance with the instructions given there;
- appointing an attorney to attend and vote on your behalf, using a power of attorney; or
- in the case of a body corporate, appointing a body corporate representative to attend the meeting and vote on your behalf, using a certificate of appointment of body corporate representative.

Further information on how to vote using each of these methods is contained in the Notice of Scheme Meeting attached as Annexure 4.

If you are in favour of the Scheme, you should vote in favour of the Scheme.

The Scheme will not be implemented unless the Scheme is approved by ERM Power Shareholders.

4. Overview of the Scheme

4.1 Overview

On 22 August 2019, ERM Power announced that it had entered into a Scheme Implementation Deed with Shell Energy Australia, under which Shell Energy Australia proposes to acquire 100% of the share capital of ERM Power.

4.2 Total Cash Consideration

If the Scheme becomes Effective, ERM Power Shareholders who are registered as such on both the Scheme Record Date and the Special Dividend Record Date will receive the Total Cash Consideration of \$2.42 per ERM Power Share comprising:

- **(if a Special Dividend is paid):**
 - an amount of \$2.42 in cash per ERM Power Share held by them on the Scheme Record Date less the cash amount of the Special Dividend (payable by Shell Energy Australia); and
 - the amount of the Special Dividend in cash per ERM Power Share held by them on the Special Dividend Record Date (payable by ERM Power); or
- **(if a Special Dividend is not paid):** an amount of \$2.42 in cash per ERM Power Share held by them on the Scheme Record Date (payable by Shell Energy Australia).

4.3 Ordinary Dividend

On 22 August 2019, ERM Power also announced that it had declared an Ordinary Dividend of \$0.045 per ERM Power Share. The Ordinary Dividend will be paid on 9 October 2019 to those ERM Power Shareholders who are on the ERM Power Share Register as at 16 September 2019. The Ordinary Dividend is not conditional on the Scheme and will be paid irrespective of whether the Scheme proceeds.

4.4 Special Dividend

(a) Introduction

The ERM Power Board currently intends to pay a fully franked Special Dividend of up to \$0.085 per ERM Power Share prior to the Implementation Date, if the Scheme is approved by ERM Power Shareholders and the Court. The final decision on whether or not to pay a Special Dividend will be made by the ERM Power Directors and will depend upon a number of factors, including the availability of franking credits, the requirements of the Corporations Act and ERM Power having received a draft Class Ruling, which provides confirmation from the ATO that franking credits attached to the Special Dividend will be available to ERM Power Shareholders.

(b) Corporations Act requirements

Under section 254T of the Corporations Act, dividends may only be paid by a company if:

- the company's assets exceed its liabilities immediately before the dividend is declared and the excess is sufficient for the payment of the dividend;
- the payment of the dividend is fair and reasonable to the company's shareholders as a whole; and
- the payment of the dividend does not materially prejudice the company's ability to pay its creditors.

In addition, section 260A of the Corporations Act enables a company to financially assist a person to acquire shares in the company or a holding company only if certain conditions are satisfied. Financial assistance of this kind would be permitted if the giving of assistance does not materially prejudice:

- the interests of the company;
- the interests of its shareholders; or
- the company's ability to pay its creditors.

The Corporations Act specifically contemplates that financial assistance (of the kind that is regulated under section 260A of the Corporations Act) may take the form of paying a dividend which may be given before the acquisition of shares. ERM Power only intends to pay a Special Dividend if they can do so in compliance with section 260A.

The ERM Power Directors will determine (in their absolute discretion) whether or not to pay any Special Dividends after assessing the financial position of the ERM Power Group and the expected impact on creditors. However, based on the information currently available, the ERM Power Directors expect to be in a position to determine that paying a Special Dividend of up to \$0.085 per ERM Power Share is in the best interests of ERM Power and does not materially prejudice the interests of ERM Power or ERM Power Shareholders and does not materially prejudice ERM Power's ability to pay its creditors.

(c) Announcement regarding any Special Dividend

The final decision of the ERM Power Directors regarding the payment of any Special Dividend will be communicated to ERM Power Shareholders by way of an ASX announcement before the Second Court Hearing.

(d) Impact of any Special Dividend

If the ERM Power Directors decide to pay a Special Dividend and the Scheme is approved by ERM Power Shareholders and the Court, the Scheme Consideration payable by Shell Energy Australia per ERM Power Share will be \$2.42 less the cash amount of the Special Dividend.

4. Overview of the Scheme (continued)

4.4 Special Dividend (continued)

By way of example, if the ERM Power Directors decide to pay a Special Dividend of \$0.085 per ERM Power Share, ERM Power Shareholders who are recorded on the ERM Power Share Register as at both the Scheme Record Date and the Special Dividend Record Date will receive the Total Cash Consideration of \$2.42 per ERM Power Share, comprising:

- an amount of \$2.335 in cash per ERM Power Share held by them on the Scheme Record Date (payable by Shell Energy Australia); and
- a fully franked Special Dividend of \$0.085 in cash per ERM Power Share held by them on the Special Dividend Record Date (payable by ERM Power).

For ERM Power Shareholders who are able to realise the full benefit of franking credits, there is a potential value in the franking credits associated with the Ordinary Dividend and any Special Dividend of up to approximately \$0.055 per ERM Power Share (of which approximately \$0.019 relates to the Ordinary Dividend and \$0.036 relates to a Special Dividend of \$0.085 per ERM Power Share).⁴

The Total Cash Consideration ERM Power Shareholders receive will, if the Scheme is implemented and you hold ERM Power Shares on both the Scheme Record Date and the Special Dividend Record Date, be an amount of \$2.42 in cash per ERM Power Share regardless of whether a Special Dividend is paid, or the amount of any Special Dividend. This is because the Scheme Consideration payable by Shell Energy Australia per ERM Power Share will, if the Scheme is implemented, be \$2.42 less the cash amount of any Special Dividend paid by ERM Power before the Implementation Date.

Accordingly, if the ERM Power Directors decide not to pay any Special Dividend, ERM Power Shareholders who are recorded in the ERM Power Share Register as at the Scheme Record Date will be paid a cash payment of \$2.42 for each ERM Power Share held on the Scheme Record Date (payable by Shell Energy Australia).

4.5 Provision of Total Cash Consideration

The Scheme Consideration will be sent to Scheme Shareholders on the Implementation Date (currently expected to be 29 November 2019). Scheme Shareholders who have validly registered their bank account details with the ERM Power Share Registry before the Scheme Record Date may have their Scheme Consideration sent directly to their bank account. Otherwise, Scheme Shareholders will have their Scheme Consideration sent by cheque to their address shown on the ERM Power Share Register.

It is important to note that you will only receive the Scheme Consideration if you are a Scheme Shareholder. You will be a Scheme Shareholder if you hold ERM Power Shares at the Scheme Record Date (currently expected to be 6.00pm (Brisbane time) on 26 November 2019) or such other time and date as ERM Power and Shell Energy Australia agree in writing).

If the ERM Power Directors decide to pay a Special Dividend, ERM Power Shareholders on the ERM Power Share Register as at the Special Dividend Record Date will be paid the Special Dividend on the Special Dividend Payment Date (currently expected to be 25 November 2019).

4.6 ERM Power Directors' unanimous recommendation

The ERM Power Directors unanimously recommend that ERM Power 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 ERM Power Shareholders.

Subject to those same qualifications, the ERM Power Directors, representing collectively 3.2% of the total ERM Power Shares on issue, intend to vote or procure the vote of those ERM Power Shares in favour of the Scheme.

With respect to Mr Stretch's recommendation, ERM Power Shareholders should have regard to the fact that, if the Scheme is implemented, Mr Stretch will become entitled to early vesting of unvested Long Term Incentives that he holds and a cash payment in lieu of receiving Performance Rights for FY20, in addition to receiving the Total Cash Consideration for each ERM Power Share that he holds and, accordingly, Mr Stretch will receive the amounts set out in the letter from the Chair of the ERM Power Board at the front of this Scheme Booklet and section 9.2 of this Scheme Booklet in respect of such Long Term Incentives.

⁴ See footnote 3.

ERM Power Shareholders should have regard to these arrangements when considering Mr Stretch's recommendation on the Scheme, which appears throughout this Scheme Booklet. Mr Stretch considers that, despite these arrangements, it is appropriate for him to make a recommendation on the Scheme. In addition, the ERM Power Board (excluding Mr Stretch) also considers that it is appropriate for him to make a recommendation on the Scheme given the importance of the Scheme, his role in the operation and management of ERM Power and his deep industry knowledge.

4.7 Independent board committee

Given the relationship between Mr Trevor St Baker and Mr Philip St Baker (Mr Philip St Baker is Mr Trevor St Baker's son) and Mr Trevor St Baker's significant ownership of ERM Power Shares, it was considered appropriate for the ERM Power Board to form an independent board committee of all of the ERM Power Directors other than Mr Philip St Baker to consider the proposal. The independent board committee recommended to the ERM Power Board that they approve entry by ERM Power into the Scheme Implementation Deed.

4.8 Founder and major shareholder

Mr Trevor St Baker is the founder and major shareholder of ERM Power. Mr St Baker, who currently has a Relevant Interest in 68,554,916 ERM Power Shares (representing approximately 27.39% of the total number of ERM Power Shares on issue), has confirmed to the ERM Power Directors that he intends to vote, or procure the vote of, those shares in favour of the Scheme, in the absence of a superior proposal to acquire all of the ERM Power Shares and subject to the Independent Expert concluding (and continuing to conclude) that the Scheme is in the best interests of ERM Power Shareholders.

4.9 Independent Expert's conclusions

The ERM Power Directors appointed Lonergan Edwards & Associates Limited as an Independent Expert to review the Scheme and opine on whether the Scheme is fair and reasonable and, therefore, is in the best interests of ERM Power Shareholders.

Lonergan Edwards & Associates Limited has assessed the full underlying value of ERM Power at between \$2.20 and \$2.51 per ERM Power Share. The Total Cash Consideration is within this range. Accordingly, the Independent Expert has concluded that the Scheme is fair and reasonable and, therefore, is in the best interests of ERM Power Shareholders, in the absence of a superior proposal.

The reasons why the Independent Expert reached this conclusion are set out in the Independent Expert's Report, a copy of which is included in Annexure 1. The ERM Power Directors encourage ERM Power Shareholders to read the Independent Expert's Report in full before deciding whether to vote in favour of the Scheme.

4.10 Implications if the Scheme does not become Effective

If the Scheme is not implemented:

- ERM Power Shareholders will continue to hold ERM Power Shares and will be exposed to general risks as well as risks specific to ERM Power, including those set out in section 7 of this Scheme Booklet;
- ERM Power Shareholders will not receive the Total Cash Consideration;
- a Reimbursement Fee of \$6,055,000 (excluding GST) may be payable by ERM Power to Shell Energy Australia under certain circumstances. Those circumstances do not include the failure by ERM Power Shareholders to approve the Scheme at the Scheme Meeting. Further information on the Reimbursement Fee is set out in section 9.4(k) of this Scheme Booklet;
- ERM Power will continue as an ASX-listed entity with management continuing to implement the business plan and financial and operating strategies it had in place prior to the Announcement Date; and
- the ERM Power Directors are of the opinion that the price of an ERM Power Share on the ASX is likely to fall.

4. Overview of the Scheme (continued)

4.11 Your choices as an ERM Power Shareholder

As an ERM Power Shareholder, you have four choices currently available to you, which are as follows:

Vote in favour of the Scheme	<p>This is the course of action unanimously recommended by the ERM Power Directors, 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 ERM Power Shareholders.</p> <p>With respect to Mr Stretch's recommendation, ERM Power Shareholders should have regard to the fact that, if the Scheme is implemented, Mr Stretch will become entitled to early vesting of unvested Long Term Incentives that he holds and a cash payment in lieu of receiving Performance Rights for FY20, in addition to receiving the Total Cash Consideration for each ERM Power Share that he holds and, accordingly, Mr Stretch will receive the amounts set out in the letter from the Chair of the ERM Power Board at the front of this Scheme Booklet and section 9.2 of this Scheme Booklet in respect of such Long Term Incentives.</p> <p>ERM Power Shareholders should have regard to these arrangements when considering Mr Stretch's recommendation on the Scheme, which appears throughout this Scheme Booklet. Mr Stretch considers that, despite these arrangements, it is appropriate for him to make a recommendation on the Scheme. In addition, the ERM Power Board (excluding Mr Stretch) also considers that it is appropriate for him to make a recommendation on the Scheme given the importance of the Scheme, his role in the operation and management of ERM Power and his deep industry knowledge.</p> <p>To follow the ERM Power Directors' unanimous recommendation, you should vote in favour of the Scheme at the Scheme Meeting on 8 November 2019. For a summary of how to vote on the Scheme, please refer to section 3 of this Scheme Booklet and the Notice of Scheme Meeting contained in Annexure 4.</p>
Vote against the Scheme	<p>If, despite the ERM Power Directors' unanimous recommendation and the Independent Expert's conclusion that the Scheme is fair and reasonable and therefore, is in the best interests of ERM Power Shareholders, you do not support the Scheme, you may vote against the Scheme at the Scheme Meeting on 8 November 2019.</p> <p>However, if all the Conditions Precedent for the Scheme are satisfied or waived (if capable of waiver) and the Scheme becomes Effective and is implemented, the Scheme will bind all ERM Power Shareholders, including those who vote against the Scheme Resolution at the Scheme Meeting and those who do not vote at all.</p>
Sell your ERM Power Shares on the ASX	<p>The Scheme does not preclude you from selling some or all of your ERM Power Shares on market for cash, if you wish, provided you do so before close of trading on the ASX on the Effective Date (currently expected to be 12 November 2019), when trading in ERM Power Shares will end.</p> <p>If you are considering selling some or all of your ERM Power Shares:</p> <ul style="list-style-type: none"> • you should have regard to the prevailing trading prices of ERM Power Shares and compare those to the Total Cash Consideration. You may ascertain the current trading prices of ERM Power Shares through the ASX website (www.asx.com.au); and • you should contact your stockbroker for information on how to effect that sale, and you should also contact your financial, taxation, legal or other professional adviser. <p>ERM Power Shareholders who sell some or all of their ERM Power Shares on market:</p> <ul style="list-style-type: none"> • may receive payment (which may vary from the Total Cash Consideration) for the sale of their ERM Power Shares sooner than they would receive the Total Cash Consideration under the Scheme; • may incur a brokerage charge; • will not be able to participate in the Scheme or, if one emerges, a Superior Proposal, in respect of those ERM Power Shares they have sold; and • may be liable for capital gains tax (CGT) on the disposal of their ERM Power Shares (as they also may be under the Scheme – see the Tax Adviser's Letter set out in section 8 of this Scheme Booklet).
Do nothing	<p>ERM Power Shareholders who elect not to vote at the Scheme Meeting on 8 November 2019 or do not sell their ERM Power Shares on market will:</p> <ul style="list-style-type: none"> • if the Scheme is implemented – have their ERM Power Shares transferred to Shell Energy Australia by operation of the Scheme and receive the Total Cash Consideration; or • if the Scheme is not implemented – retain their ERM Power Shares.

4.12 Key steps in the Scheme

(a) Scheme Meeting and Scheme approval requirements

The Court has ordered ERM Power to convene the Scheme Meeting at which ERM Power Shareholders will be asked to approve the Scheme.

The terms of the Scheme Resolution to be considered at the Scheme Meeting are contained in the Notice of Scheme Meeting in Annexure 4.

The Scheme will only become Effective and be implemented if it is:

- approved by the Requisite Majorities of ERM Power Shareholders at the Scheme Meeting to be held on 8 November 2019;
- approved by the Court at the Second Court Hearing; and
- the Conditions Precedent in relation to the Scheme outlined in section 9.4(c) of this Scheme Booklet are satisfied or waived (if capable of waiver).

The Requisite Majorities of ERM Power Shareholders to approve the Scheme are:

- unless the Court orders otherwise, a majority in number (more than 50%) of ERM Power Shareholders present and voting at the Scheme Meeting (either in person or by proxy, attorney or, in the case of corporate ERM Power Shareholders, body corporate representative); and
- at least 75% of the total number of votes cast on the Scheme Resolution at the Scheme Meeting by ERM Power Shareholders present and voting (either in person or by proxy, attorney or, in the case of corporate ERM Power Shareholders, body corporate representative).

The Court has the power to waive the first requirement.

The entitlement of ERM Power Shareholders to attend and vote at the Scheme Meeting is set out in the Notice of Scheme Meeting in Annexure 4.

The results of the Scheme Meeting will be available as soon as possible after the conclusion of the Scheme Meeting and will be announced to the ASX (www.asx.com.au) once available.

(b) Court approval of the Scheme

In the event that:

- the Scheme is approved by the Requisite Majorities of ERM Power Shareholders at the Scheme Meeting; and
- all Conditions Precedent (except Court approval of the Scheme) have been satisfied or waived (if capable of waiver),

then ERM Power will apply to the Court for orders approving the Scheme.

Each ERM Power Shareholder has the right to appear at the Second Court Hearing.

(c) Effective Date

If the Court approves the Scheme, the Scheme will become Effective on the Effective Date, being the date an office copy of the Court order from the Second Court Hearing approving the Scheme is lodged with ASIC. ERM Power will, on the Scheme becoming Effective, give notice of that event to the ASX.

ERM Power intends to apply to the ASX for ERM Power Shares to be suspended from trading on the ASX from close of trading on the Effective Date.

(d) Special Dividend Record Date, entitlement to any Special Dividend and Special Dividend Payment Date

If the ERM Power Directors decide to pay a Special Dividend, those ERM Power Shareholders who are recorded on the ERM Power Share Register on the Special Dividend Record Date (currently expected to be 6.00pm (Brisbane time) on 18 November 2019) will be entitled to receive the Special Dividend in respect of the ERM Power Shares they hold at that time and will be paid the Special Dividend on the Special Dividend Payment Date (currently expected to be 25 November 2019).

(e) Scheme Record Date and entitlement to Scheme Consideration

Those ERM Power Shareholders who are recorded on the ERM Power Share Register on the Scheme Record Date (currently expected to be 6.00pm (Brisbane time) on 26 November 2019) or such other time and date as the parties agree in writing) will be entitled to receive the Scheme Consideration in respect of the ERM Power Shares they hold at that time.

(f) Dealings in ERM Power Shares on, or prior to, the Scheme Record Date

For the purposes of determining which ERM Power Shareholders are eligible to participate in the Scheme, dealings in ERM Power Shares will be recognised only if:

- in the case of dealings of the type to be effected using CHES, the transferee is registered on the ERM Power Share Register as the holder of the relevant ERM Power Shares before the Scheme Record Date; and
- in all other cases, registrable transfer or transmission applications in respect of those dealings, or valid requests in respect of other alterations, are received by the ERM Power Share Registry before the Scheme Record Date (and the transferee remains registered as at the Scheme Record Date).

For the purposes of determining entitlements under the Scheme, ERM Power will not accept for registration or recognise any transfer or transmission applications in respect of ERM Power Shares received after the Scheme Record Date.

4. Overview of the Scheme (continued)

4.12 Key steps in the Scheme (continued)

(g) Dealings in ERM Power Shares after the Scheme Record Date

For the purpose of determining entitlements to the Scheme Consideration, ERM Power must maintain the ERM Power Share Register in its form as at the Scheme Record Date until the Scheme Consideration has been paid to the Scheme Shareholders. The ERM Power Share Register in this form will solely determine entitlements to the Scheme Consideration.

After the Scheme Record Date:

- all statements of holding for ERM Power Shares (other than statements of holding in favour of Shell Energy Australia) will cease to have effect as documents relating to title in respect of such ERM Power Shares; and
- each entry on the ERM Power Share Register (other than entries on the ERM Power Share Register in respect of Shell Energy Australia) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the ERM Power Shares relating to that entry.

(h) Implementation Date

By no later than the Business Day before the Implementation Date (currently expected to be 29 November 2019), Shell Energy Australia will deposit (or will procure the deposit) into an ERM Power operated Australian dollar denominated trust account with an authorised deposit taking institution in Australia as trustee for the Scheme Shareholders, an amount equal to the aggregate Scheme Consideration to be provided to Scheme Shareholders.

Scheme Shareholders will be sent or issued (as relevant) the Scheme Consideration on the Implementation Date. Immediately after the Scheme Consideration is sent to Scheme Shareholders, the Scheme Shares will be transferred to Shell Energy Australia.

(i) Deed Poll

As at the date of this Scheme Booklet, a Deed Poll has been entered into by Shell Energy Australia in favour of the Scheme Shareholders, to:

- provide the aggregate amount of the Scheme Consideration payable to all Scheme Shareholders under the Scheme, subject to the Scheme becoming Effective; and
- undertake all other actions attributed to Shell Energy Australia under the Scheme.

A copy of the Deed Poll is contained in Annexure 3.

4.13 Warranties by ERM Power Shareholders

The terms of the Scheme provide that each Scheme Shareholder is taken to have warranted to ERM Power and Shell Energy Australia, and appointed and authorised ERM Power as its attorney and agent to warrant to Shell Energy Australia, on the Implementation Date, that:

- all their ERM Power Shares (including any rights and entitlements attaching to those shares) which are transferred under the Scheme will, at the date of transfer, be fully paid and free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind;
- they have full power and capacity to transfer their Scheme Shares to Shell Energy Australia together with any rights attaching to those shares; and
- other than any Performance Rights, they have no existing right to be issued any other ERM Power Shares or any other form of ERM Power securities.

Under the terms of the Scheme, ERM Power undertakes that it will provide such warranties to Shell Energy Australia as agent and attorney of each Scheme Shareholder.

4.14 Delisting of ERM Power

ERM Power will apply for the termination of the official quotation of ERM Power Shares on the ASX and for ERM Power to be removed from the official list of the ASX, each to occur on a date after the Implementation Date.

5. Information about the ERM Power Group

5.1 Introduction and business overview

ERM Power provides large Australian businesses with end to end energy management, from electricity retailing to integrated solutions that improve energy productivity. Market-leading customer satisfaction has fuelled ERM Power's growth, and today ERM Power is the second largest electricity retailer to commercial businesses and industrials in Australia by load. ERM Power also operates 662 megawatts of low emission, gas-fired peaking power stations in Western Australia and Queensland, supporting the industry's transition to renewables.

5.2 History

ERM Power was founded as a boutique energy consultancy in 1980 and has grown to become one of Australia's largest integrated energy companies.

A summary of key milestones is set out in the table below:

ERM Power – History

DATE	KEY DEVELOPMENT
1980	Founded by Mr Trevor St Baker as a boutique energy consultancy advising state, federal and international governments and large corporations
1996	Acquired an interest in its first power project, the 332 MW Oakey power station. This was the first tender involving the private sector and public utilities in Queensland
Mid-1990s	Acquired 1,000 acres of land at Braemar, 40 kilometres (km) south west of Dalby at the intersection of the Roma to Brisbane gas pipeline, with a vision that Braemar would become the future energy hub for South-East Queensland
2000 - 2007	Between 2000 and 2007 the ERM Power Group commenced the development of five gas-fired power station projects: the 504 MW Braemar power station, the 320 MW Kwinana power station, the 664 MW Uranquinty power station, the 330 MW Neerabup power station and the 519 MW Braemar 2 power station. Aside from the Neerabup power station, which is 50% owned by the ERM Power Group, all of these power station investments were subsequently divested
2007	Launched its electricity retailing business. In the first six months of operations more than 100 major customers were added and over \$300 million of contracted sales were signed
2009	Completed construction of the 330 MW Neerabup power station
2010	Successfully listed on the ASX with a market capitalisation of around \$280 million
2011	Acquired a controlling interest in the 332 MW Oakey power station
2012	Launched the ERM Business Energy Australia brand
2013	Commenced retailing to the small and medium enterprise market
2014	Became Australia's second largest retailer to large business customers by volume of electricity sold The Powermetric Metering business was established, offering ERM Power customers a new high-quality option for their metering service provision
2015	Entered the United States of America retail electricity market by acquiring Source Power & Gas headquartered in Texas
2016	Established its Australian Energy Solutions business to support customers' energy productivity and efficiency, and acquired Greensense and LumaLED, strengthening its expertise in energy solutions for businesses managing their energy consumption
2018	Acquired Out Performers, adding strength to its Energy Solutions offering by bringing large-scale industrial project expertise and energy efficiency certificate creation capability to ERM Power's existing suite of energy productivity solutions Completed the sale of its United States of America operations
2019	In July 2019, the ERM Power Group acquired a 50% interest in industrial automation and electrical engineering company Alliance Automation Pty Ltd (Alliance Automation). Alliance Automation is one of the largest independent electrical engineering and automation solution providers in Australia, with a team of more than 190 people and offices in Queensland, New South Wales, Victoria and South Australia

5. Information about the ERM Power Group (continued)

5.3 Overview of ERM Power's divisions

ERM Power is an ASX-listed company with the following divisions:

- 1 Energy Retail;
- 2 Generation; and
- 3 Energy Solutions.

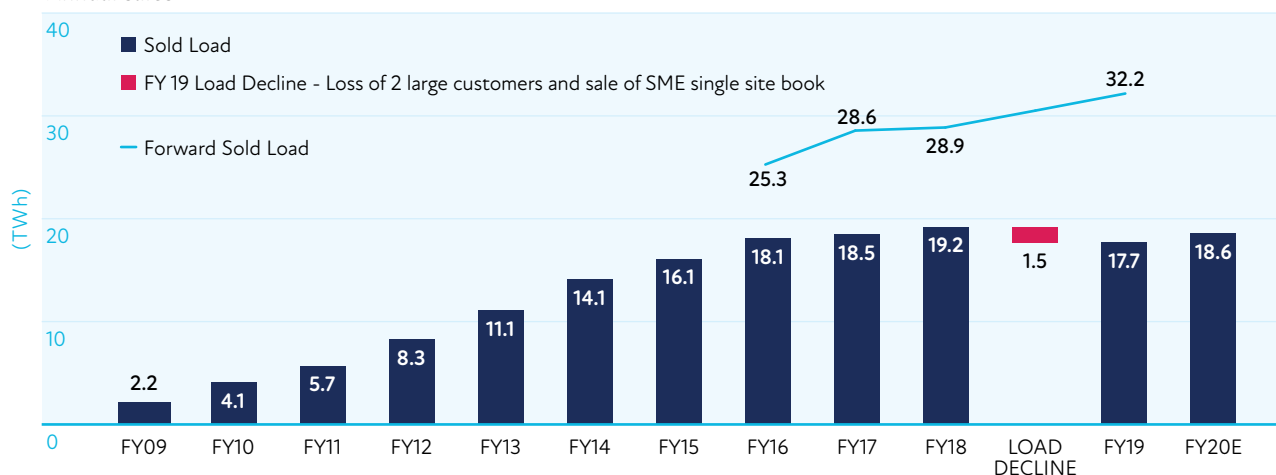
A summary of each of these divisions are set out below:

(a) Energy Retail

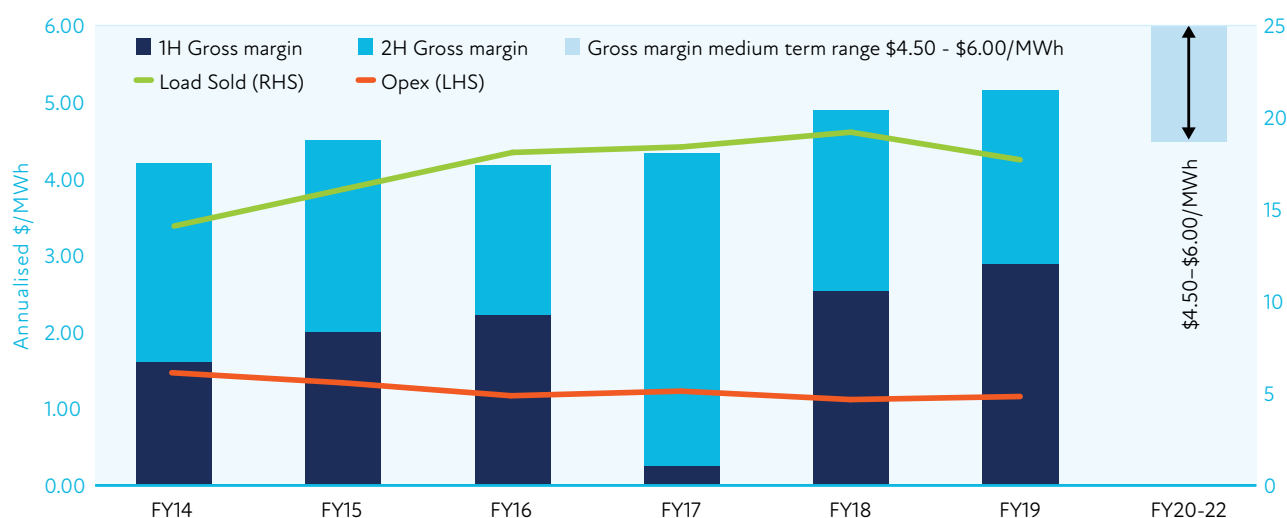
ERM Power is the second largest electricity provider to Commercial and Industrial (C&I) customers in Australia and the fourth largest retailer in the market. ERM Power's Energy Retail division has brought competition to the Australian market based on value and service, with a number 1 customer service ranking for eight years running.⁵

Energy Retail's sold load is shown below, which shows that forward contracted load increased from 30 June 2018 to 30 June 2019 from 28.9TWh to 32.2TWh:

Annual sales



A diagram of Energy Retail's key statistics is shown below:



⁵ Utility Market Intelligence (UMI) survey between 2011 and 2018 of large customers of major electricity retailers in Australia by independent research company NTF Group.

ERM Power has a highly engaged and enabled employee culture and has been awarded a number 1 customer service ranking for eight years running, as illustrated in the diagram below:



(b) Generation

ERM Power has an interest of 497 MW in two high quality power stations – a 100% interest in a power station at Oakey, Queensland and a 50% interest in a power station at Neerabup, Western Australia. ERM Power is the operator of both these power stations.

The below table provides a summary of the financial performance of the Generation division of ERM Power:

\$m	FY2019	FY2018	% CHANGE
Revenue¹	106.2	70.2	51%
Oakey	74.0	35.6	108%
Neerabup	32.2	34.6	(7%)
Underlying EBITDAF¹	42.3	44.6	(5%)
Oakey	15.2	17.0	(11%)
Neerabup	27.1	27.6	(2%)

1 Excludes generation development and operations

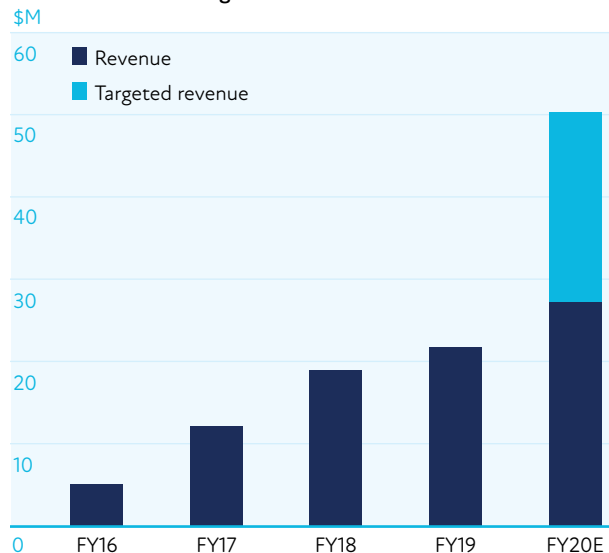
(c) Energy Solutions

ERM Power's Energy Solutions business provides an expanding portfolio of energy solutions to C&I business customers. These solutions deliver reduced energy costs, improvements in security of energy supply and promote sustainability. It achieves this through the use of data analytics to provide optimal integrated solutions of gas and electricity productivity, project management of installation of energy conservation measures, renewable generation solutions and proprietary digital platforms that track and monitor energy use. The Energy Solutions division includes:

- Powermetric, a subsidiary of ERM Power that delivers state-of-the-art metering services to the commercial, industrial and Government sectors; and
- Out Performers (acquired in September 2018), an industrial energy efficiency business made up of a team of specialist energy engineers designing and delivering electricity and gas productivity solutions and creating associated clean energy certificates.

The below table provides a summary of the financial performance of the Energy Solutions division of ERM Power:

FY2016-2020 revenue growth



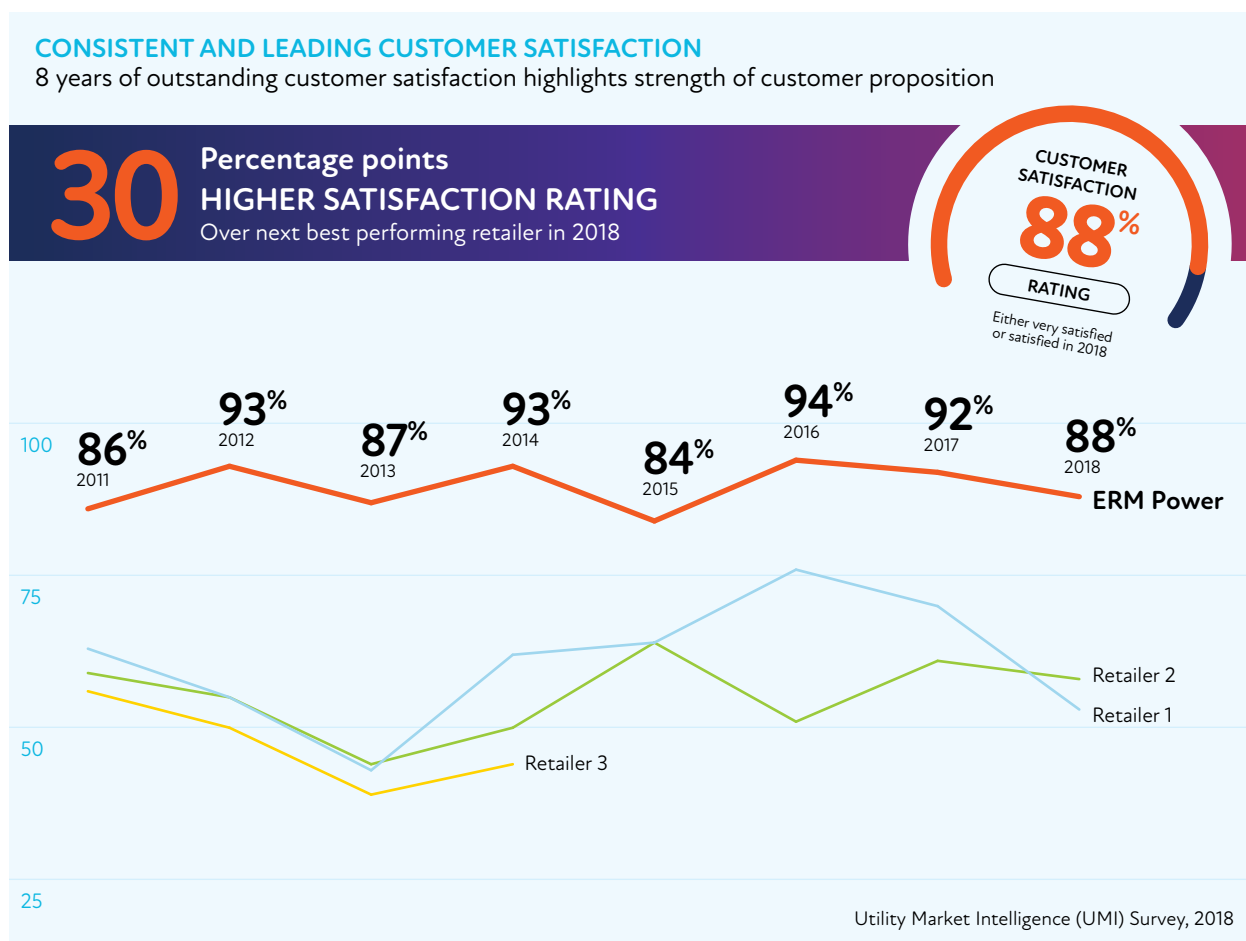
\$m	FY2019	FY2018	CHANGE
Revenue	21.8	18.9	15%
Gross margin	15.3	10.6	44%
Opex	(19.2)	(14.2)	(35%)
EBITDAF	(3.9)	(3.6)	(8%)

5. Information about the ERM Power Group (continued)

5.4 ERM Power – Our credentials

ERM Power capitalises on its strong, enduring customer relationships and industry-leading customer value, satisfaction and retention, underpinned by a progressive and innovative culture. The generation assets are an important part of the diversified offering. Gas has a critical role to play in the transition to a lower-emission electricity sector, highlighting the value of ERM Power's two gas-fired peaking power stations – Oakey power station and Neerabup power station. ERM Power is the second largest C&I retailer in Australia and has built on this strong base to extend its customer relationships into energy management solutions that enable businesses to extract greater value from their energy investments. This Energy Solutions business is growing rapidly in support of cost, consumption and sustainability imperatives in the C&I market.

The diagram below illustrates ERM Power's 8 year track record of outstanding customer satisfaction:



5.5 ERM Power Board and senior management

(a) ERM Power Board

The ERM Power Board comprises the following directors:

NAME	POSITION
Julieanne Alroe	Independent Non-Executive Chair
Albert Goller	Independent Non-Executive Director
Antonino (Tony) Mario Iannello	Independent Non-Executive Director
Georganne Hodges	Independent Non-Executive Director
Philip Matthew St Baker	Non-Executive Director
Jonathan (Jon) Stretch	Managing Director & Chief Executive Officer

(b) Executive Team

ERM Power's executive team comprises the following members:

NAME	POSITION
Jonathan (Jon) Stretch	Managing Director & Chief Executive Officer
Alastair (James) Spence	Chief Financial Officer
Michelle Barry	Executive General Manager Corporate Affairs
Gregg Buskey	Executive General Manager Corporate Finance & Strategy
Philip (Phil) Davis	Group General Counsel and Company Secretary
David Guiver	Executive General Manager Wholesale Energy Markets
Megan Houghton	Executive General Manager Energy Solutions
Derek McKay	Chief Information Officer and Executive General Manager Generation
Stephen (Steve) Rogers	Executive General Manager Energy Retail

5.6 Historical financial information

(a) Basis of preparation

The historical financial information in this section 5.6 has been derived from ERM Power's financial statements for the financial years ended 30 June 2017, 30 June 2018, which were audited by PricewaterhouseCoopers, and 30 June 2019, which was audited by Deloitte Touche Tohmatsu Australia.

The financial information in this section 5.6 is a summary only and is prepared for the purpose of this Scheme Booklet. The historical financial information of ERM Power is presented in an abbreviated form and does not contain all the disclosures, presentation, statements or comparatives that are usually provided in an annual report prepared in accordance with the Corporations Act. ERM Power considers that for the purposes of this Scheme Booklet the historical financial information presented in an abbreviated form is more meaningful to ERM Power Shareholders.

Further detail on ERM Power's financial performance can be found in:

- the financial statements for the year ended 30 June 2019 (included in the Annual Financial Report released to the ASX on 22 August 2019 and the Annual Report released to the ASX on 25 September 2019);
- the financial statements for the year ended 30 June 2018 (included in the Annual Financial Report released to the ASX on 23 August 2018 and the Annual Report released to the ASX on 21 September 2018); and
- the financial statements for the year ended 30 June 2017 (included in the Annual Financial Report released to the ASX on 24 August 2017 and the Annual Report released to the ASX on 22 September 2017),

each of which can be found in the Investors & Media section of the ERM Power website (www.ermpower.com.au) or the ASX website (www.asx.com.au).

5. Information about the ERM Power Group (continued)

5.6 Historical financial information (continued)

(b) Historical consolidated income statement

The historical consolidated income statement of ERM Power for the financial years ended 30 June 2017, 30 June 2018 and 30 June 2019:

INCOME STATEMENT A\$m	FY19	FY18	FY17
Business Energy Australia	70.7	71.9	53.4
Generation	41.4	43.8	41.7
Energy Solutions	(3.9)	(3.6)	(4.3)
Corporate and other	(17.7)	(14.6)	(12.6)
Underlying EBITDAF continuing operations	90.5	97.5	78.2
Significant items	(1.1)	-	-
LGC shortfall charge refund	5.3	-	-
Statutory EBITDAF continuing operations	94.7	97.5	78.2
Depreciation and amortisation	(28.1)	(30.2)	(27.2)
Net fair value gain/(loss) on financial instruments	132.3	(108.8)	52.2
Share of associate profit/(loss) (net of tax)	0.1	0.2	(0.3)
Impairment expense	-	(1.0)	-
Finance income	3.8	3.1	3.6
Finance expense	(28.6)	(27.3)	(24.5)
Profit/(loss) before tax	174.2	(66.5)	82.0
Tax benefit excluding short surrender transaction/(expense)	(52.7)	20.1	(61.9)
Tax benefit of LGC shortfall charge refund	12.4	-	-
Profit/(loss) from discontinued operations	(10.8)	(34.0)	(20.3)
Statutory net profit/(loss) after tax (NPAT)	123.1	(80.4)	(0.2)
Add back:			
Net fair value (gain)/loss on financial instruments (net of tax)	(92.6)	76.1	(36.5)
Share of associate (profit)/loss (net of tax)	(0.1)	(0.2)	0.3
Loss from discontinued operations	10.8	34.0	20.3
Significant items (net of tax)	0.9	0.7	-
LGC shortfall charge refund NPAT	(16.1)	-	-
Underlying NPAT continuing operations	26.0	30.2	(16.1)
Underlying earnings per share	10.5	12.3	(6.6)

(c) Historical consolidated statement of financial position

The historical consolidated statements of financial position of ERM Power for the financial years ended 30 June 2017, 30 June 2018 and 30 June 2019:

BALANCE SHEET A\$m	FY19	FY18	FY17
Net assets (including assets held for sale)	429.0	249.5	565.9
Net working capital	49.6	(7.0)	(73.0)
Net derivative balances	98.8	(14.3)	305.3
Net cash/(debt)	(9.1)	(108.7)	55.7

(d) Historical consolidated statement of cash flows

The historical consolidated statements of cash flows of ERM Power for financial years ended 30 June 2017, 30 June 2018 and 30 June 2019:

CASH FLOW STATEMENT A\$m	FY19	FY18	FY17
Cash flow			
Operating cash flow before working capital changes	97.6	76.7	66.2
Net working capital changes	73.2	(119.5)	85.5
Operating cash flow	170.8	(42.8)	151.7
Total investing cash flow	(7.2)	(43.5)	(19.8)
Net drawdown/(repayment) of borrowings	(156.9)	145.4	(23.7)
Net repayment of leases	(4.4)	(4.4)	(4.1)
Finance costs	(31.9)	(34.0)	(28.7)
Dividends paid	(29.2)	(17.3)	(22.5)
Payments for shares bought back	(10.0)	(2.9)	-
Termination of US Sleeper agreement	-	(5.1)	-
Effect of exchange rate changes on cash and cash equivalents	0.5	0.4	(0.8)
Net change in cash	(68.4)	(4.2)	52.1

5.7 Material changes in financial position (since 2019 annual financial report)

To the knowledge of the ERM Power Directors, there have been no material changes to the financial position of ERM Power and the ERM Power Group since 30 June 2019.

5.8 Financial year outlook for 2020

In an announcement to the ASX on 22 August 2019 and ERM Power's full year results for the financial year ended 30 June 2019, ERM Power provided the following outlook for the financial year ending 30 June 2020:

- For the electricity retailing business:
 - sales volume to increase to around 18.5TWh from 17.7TWh;
 - average gross margin of around \$5.00/MWh;
 - medium-term gross margin range of \$4.50-\$6.00/MWh for FY2020-2022; and
 - opex maintained at ~\$22 million.
- FY2020 EBITDAF for the generation assets in Australia:
 - Oakey Power Station underlying EBITDAF in the range of \$14 million to \$16 million; and
 - Neerabup is expected to deliver around \$26 million EBITDAF.
- Energy Solutions to be NPAT breakeven in FY2020.
- Corporate costs are expected to remain materially on track at ~\$18 million.
- The LGC strategy is expected to deliver ~\$21 million NPAT.

5. Information about the ERM Power Group (continued)

5.8 Financial year outlook for 2020 (continued)

		ACTUAL FY2019	OUTLOOK FY2020	
Retail	Sales volume	17.7TWh	~18.5TWh	Medium-term gross margin outlook increased by \$0.50 to \$4.50-\$6.00/MWh (FY2020-2022)
	Gross margin ¹	\$5.16/MWh	~\$5.00/MWh	
	Opex	\$20.5m	~\$22m	
	LGC strategy (NPAT)	\$16.1m	~\$21m	
Generation	Oakey EBITDAF ²	\$15.2m	\$14-\$16m	
	Neerabup EBITDAF ²	\$27.1m	~\$26m	
Energy Solutions	NPAT	(\$5.5)m	Breakeven	
Corporate & Capital expenditure	Corporate EBITDAF	(\$17.7)m	~(\$18)m	
	Capital Expenditure	\$19.5m	~\$24m	

1 Gross margin excludes the impact from LGC strategy

2 FY2020 outlook includes \$1.7m generation overhead expenditure

The ERM Power Directors have considered this outlook and confirm that nothing has come to their attention as at the Last Practicable Date which has caused them to change their views as to the outlook of ERM Power, as described in the announcement to the ASX on 22 August 2019 and in ERM Power's full year results for the financial year ended 30 June 2019.

5.9 Risks relating to ERM Power's business

There are existing risks relating to the ERM Power business, which will continue to be relevant to ERM Power Shareholders if the Scheme does not become Effective. A summary of the key risks relating to ERM Power's business and an investment in ERM Power is set out in section 7 of this Scheme Booklet.

5.10 ERM Power Long Term Incentives

ERM Power has previously awarded selected key personnel Long Term Incentives to expose these individuals to long-term movements in the price of ERM Power Shares, by aligning the interests of these key personnel with shareholders through the use of a performance hurdle.

Further details of arrangements relating to the Long Term Incentives are set out at section 9.2 of this Scheme Booklet.

5.11 Recent share price performance

ERM Power Shares are listed on the ASX under the trading symbol "EPW".

The closing price of ERM Power Shares on the ASX on 21 August 2019 (i.e. the last trading day prior to the Announcement Date) was \$1.72. The closing price for ERM Power Shares on the ASX on 1 October 2019, being the Last Practicable Date, was \$2.42.

During the three months ending on the Last Practicable Date:

- the highest recorded daily closing price for ERM Power Shares on the ASX was \$2.49 on 5 September 2019; and
- the lowest recorded daily closing price for ERM Power Shares on the ASX was \$1.70 on 19 August 2019.

The chart below shows ERM Power's share price performance over the 12 months to the Last Practicable Date.



The current price of ERM Power Shares on the ASX (ASX: EPW) can be obtained from the ERM Power website (www.ermpower.com.au) or the ASX website (www.asx.com.au).

5.12 Publicly available information about ERM Power

As an ASX listed company and a “disclosing entity” under the Corporations Act, ERM Power is subject to regular reporting and disclosure obligations. Among other things, these obligations require ERM Power to announce price sensitive information to the ASX as soon as ERM Power becomes aware of that information, subject to some exceptions.

Pursuant to the Corporations Act, ERM Power is required to prepare and lodge with ASIC and the ASX both yearly and half-yearly financial statements accompanied by a statement and report from the ERM Power Directors and an audit or review report respectively.

A list of announcements made by ERM Power to the ASX from 22 August 2019 (being the date on which ERM Power lodged its 30 June 2019 Annual Financial Report with the ASX) to the Last Practicable Date is contained in section 5.13 below.

Copies of each of these documents can be found in the Investors & Media section of the ERM Power website (www.ermpower.com.au) or the ASX website (www.asx.com.au). Copies of the documents lodged with ASIC in relation to ERM Power may be obtained from ASIC.

5.13 Announcements

The below table contains ASX Announcements by ERM Power from 22 August 2019 (the date on which ERM Power lodged half-yearly accounts with the ASX) until the Last Practicable Date. This table does not contain announcements on the ASX relating to substantial holder notices.

ANNOUNCEMENT	DATE OF ANNOUNCEMENT
FY2019 Corporate Governance Statement and Appendix 4G	25 September 2019
FY2019 Annual Report	25 September 2019
Cancellation of Performance Rights	24 September 2019
Notice of Date of AGM & Closing Date for Director Nominations	12 September 2019
Change of Director's Interest Notice for J. Stretch	9 September 2019
Cancellation of Performance Rights	9 September 2019
FY2019 Full year results and presentation	22 August 2019
Dividend/Distribution - EPW	22 August 2019
Shell Energy Australia proposal to acquire ERM Power	22 August 2019
FY2019 Appendix 4E and Financial Report	22 August 2019

6. Information about the Shell Energy Australia Group

The information contained in this section 6 has been prepared by Shell Energy Australia. The information concerning Shell and Shell Energy Australia and the intentions, views and opinions contained in this section 6 are the responsibility of Shell Energy Australia. ERM Power and its officers and advisers do not assume any responsibility for the accuracy or completeness of this information.

6.1 Overview of Shell Group

Shell is an international energy company that aims to meet the world's growing need for more and cleaner energy solutions in ways that are economically, environmentally and socially responsible. Shell is one of the world's largest independent energy companies in terms of market capitalisation, operating cash flow, oil and gas production and is actively growing its renewable energy and power business.

From 1907 to 2005, Royal Dutch Petroleum Company and The "Shell" Transport and Trading Company, p.l.c. were the two public parent companies of a group of companies known collectively as the "Royal Dutch/Shell Group". In 2005, Royal Dutch Shell plc became the single parent company of the Shell Group. Royal Dutch Shell plc is incorporated in England and Wales. Shell's global headquarters are located in The Hague, the Netherlands.

Shell believes that rising standards of living for a growing global population are likely to continue to drive demand for energy, including oil and gas, for years to come. At the same time, technology changes and the need to tackle climate change means there is a transition underway to a lower-carbon, multisource energy system. Against this backdrop, Shell has the following strategic ambitions:

- to provide a world-class investment case. This involves growing free cash flow and increasing Shell shareholder returns, all built upon a strong financial framework and resilient portfolio;
- to thrive in the energy transition by responding to society's desire for more and cleaner, convenient and competitive energy; and
- to sustain a strong societal licence to operate and make a positive contribution to society through Shell's activities.

In 2018:

- Shell operated in more than 70 countries, had approximately 82,000 employees and produced 3.7 million barrels of oil equivalent per day; and
- Shell had revenues of US\$388 billion, income of US\$24 billion, capital investment of US\$25 billion and over US\$980 million in research and development spend.

More information about Shell's global operations can be found at www.shell.com.

The Royal Dutch Shell plc board of directors as at the date of this Scheme Booklet comprises the following members:

- Charles O. Holliday (Chair)
- Gerard Kleisterlee (Deputy Chair and Senior Independent Director)
- Neil Carson (Non-Executive Director)
- Ann Godbehere (Non-Executive Director)
- Euleen Goh (Non-Executive Director)
- Catherine J. Hughes (Non-Executive Director)
- Roberto Setubal (Non-Executive Director)
- Sir Nigel Sheinwald GCMG (Non-Executive Director)
- Linda G. Stuntz (Non-Executive Director)
- Gerrit Zalm (Non-Executive Director)
- Ben van Beurden (CEO)
- Jessica Uhl (CFO)
- Linda M. Szymanski (Company Secretary)

Profiles of each of the directors can be found at www.shell.com/about-us/leadership/board-of-directors.

6.2 Overview of Shell Energy Australia

Shell has been a major investor in Australia for 118 years. Shell is Australia's leading LNG exporter and its ventures supply around 15% of the east coast domestic gas market.

Shell Energy Australia is a wholly-owned subsidiary of Shell Energy Holdings, Shell's holding company in Australia. Shell Energy Australia commenced operations in 2017 to create an integrated value chain that positions it to grow through Australia's trend towards greater electrification. This follows substantive success in building integrated power/energy businesses in North America and Europe.

Shell Energy Australia markets and sells gas directly to end users, and recently expanded its market reach by obtaining registrations to commence trading on Sydney and Brisbane short term trading markets. In addition, Shell has proposed a 120 MW solar development in Queensland and acquired the sonnen group, one of the global leaders in home energy and battery storage.

If the Scheme is implemented, ERM Power will become 100% owned by Shell Energy Australia, and part of Shell's Trading and Supply unit, which operates globally.

Shell Energy Australia's board of directors as at the date of this Scheme Booklet comprises the following members:

Greg Joiner

Mr Joiner has served as a director of Shell Energy Australia since December 2018 and is currently Vice President of Shell Energy Australia.

Dean Holder

Mr Holder has served as a director of Shell Energy Australia since March 2017 and is currently Finance Manager of Shell Energy Australia.

Cecile Wake

Ms Wake has served as a director of Shell Energy Australia since March 2017 and is currently Vice President Commercial/NBD for Shell in Australia.

Ben Lacey

Mr Lacey has served as a director of Shell Energy Australia since October 2017 and is currently General Manager Business Development and Power for Shell Energy Australia.

6.3 Rationale for proposed acquisition of ERM Power

Shell is pursuing a global strategy to become an integrated power provider, expanding its presence in the energy value chain to include energy products and services sold directly to customers in both gas and electricity markets. Australia has been named as one of the core markets, together with north western Europe and the USA, in which Shell sees strong growth in renewables as a complement to traditional fuels, and where customers are seeking a reliable, flexible and cost-effective pathway to a lower-emissions energy system.

Electricity is the fastest-growing part of the global energy system, driven by falling technology costs, a growing population with rising living standards, and the need to reduce greenhouse-gas emissions which represents a commercial opportunity for Shell.

ERM Power's culture of customer centricity and innovation, affinity with brokers, highly capable team and IT platforms provides Shell with a strong base from which to grow Shell's integrated power business in Australia.

If the Scheme is implemented, ERM Power will become Shell's core power and energy solutions platform in Australia.

6.4 Funding arrangements for the Scheme Consideration

The Scheme Consideration is 100% cash.

Under the terms of the Deed Poll and conditional upon the Scheme becoming Effective, Shell Energy Australia has undertaken in favour of each Scheme Shareholder to pay the Scheme Consideration into a trust account for the benefit of the Scheme Shareholders no later than the Business Day before the Implementation Date.

Scheme Shareholders will be entitled to receive the Scheme Consideration of \$2.42 per Scheme Share to be reduced by the cash amount of any Special Dividend paid by ERM Power prior to the Implementation Date, as further described in section 4.4 of this Scheme Booklet.

Shell Energy Australia estimates that it will need approximately \$585 million to satisfy its payment obligations to Scheme Shareholders under the Scheme.

Shell, via Shell Energy Holdings, will provide Shell Energy Australia with sufficient funds to purchase all Scheme Shares upon the terms and subject to the conditions in the Scheme Implementation Deed. Shell expects to obtain the necessary funds from cash on hand. As at 30 June 2019, the Shell Group had on a consolidated basis total cash and cash equivalents (unaudited) of approximately US\$18.5 billion or approximately A\$27.6 billion (based on an exchange rate of 0.6708 Australian dollars to one US dollar as at the Last Practicable Date).

6. Information about the Shell Energy Australia Group (continued)

6.5 Intentions if the Scheme is implemented

This section 6.5 sets out the current intentions of Shell and Shell Energy Australia in relation to:

- the continuation of the operations and business of ERM Power, including any redeployment of significant assets of ERM Power;
- changes to the ERM Power Board and the ERM Power management team;
- the future employment of the present employees of ERM Power; and
- the delisting of ERM Power from the ASX,

assuming Shell Energy Australia acquires the Scheme Shares as a result of implementation of the Scheme.

The statements in this section 6 regarding Shell's and Shell Energy Australia's intentions are based on information concerning the ERM Power Group and the general business environment which are known to Shell Energy Australia at the time of the preparation of this Scheme Booklet. Final decisions regarding these matters will be made in light of all material information, facts and circumstances at the relevant time if the Scheme is implemented. Accordingly, it is important to recognise that the statements set out in this section 6 are statements of current intention only and may change as new information becomes available or circumstances change.

(a) Business continuity and operations

If the Scheme is implemented, Shell Energy Australia intends to continue to operate the ERM Power business as a going concern largely within Shell's Trading and Supply global business unit, with some central functions anticipated to be combined and centralised within Shell's existing business.

If the Scheme is implemented, Shell Energy Australia intends to conduct a review of the ERM Power business to verify Shell Energy Australia's understanding of the information, facts and circumstances concerning the business, assets, strategies and operations of ERM Power as at the date of this Scheme Booklet. Shell Energy Australia will then work with the ERM Power management team to determine how to further develop the business of ERM Power (as part of Shell's Trading and Supply global business unit) in order to maximise its operating performance.

If the Scheme is implemented, Shell Energy Australia presently intends to retain ERM Power's existing principal office locations.

(b) Board of directors

If the Scheme is implemented, Shell Energy Australia will replace the members of the ERM Power Board and the boards of each of its subsidiaries with nominees of Shell Energy Australia (who are yet to be identified).

(c) Management team

Shell Energy Australia expects there to be significant value and knowledge in the existing staff of ERM Power. Shell Energy Australia plans to draw on the expertise of the existing management team of ERM Power to ensure that the businesses and cultures are integrated and operated effectively, if the Scheme is implemented.

Following the general operational review described above, Shell Energy Australia may combine and centralise certain roles within the ERM Power management team with those in the broader Trading and Supply global business unit or its corporate group.

Mr Greg Joiner, Vice President of Shell Energy Australia, will assume the responsibilities of ERM Power's current chief executive officer, whose services will no longer be required with effect from the Implementation Date.

(d) Employees

ERM Power employees are an integral part of, and key to the success of, the business. Shell Energy Australia believes that the acquisition of ERM Power will offer exciting opportunities for ERM Power's employees and management as part of a much larger enterprise and a global supplier of energy products and services. Shell Energy Australia intends to make limited changes to roles as a result of ERM Power no longer being a listed entity and becoming part of the Shell Group.

Other than such changes, definitive plans in relation to the broader employee base of ERM Power have not yet been fully determined, however Shell Energy Australia's intent is to retain the majority of ERM Power's existing employees in line with current operations.

(e) Delisting

If the Scheme is implemented, Shell Energy Australia will procure that ERM Power applies to the ASX to be removed from the official list of the ASX after implementation of the Scheme.

6.6 Shell Energy Australia interest and dealings in ERM Power Shares

(a) Shell Group's interests in ERM Power Shares

As at the Last Practicable Date, no member of the Shell Group had any Relevant Interest or voting power in any ERM Power Shares other than as follows:

ENTITY	NUMBER OF ERM POWER SHARES IN WHICH ENTITY HOLDS RELEVANT INTEREST
Shell Asset Management Company B.V.	23,938
Stichting Shell Pensioenfond	186,743
Shell Overseas Contributory Pension Fund	77,400
Shell Contributory Pension Fund	55,436
Shell Trust Bermuda Ltd	4,895
Shell International Pension Fund	871
TOTAL:	349,283

This represents a Relevant Interest in approximately 0.14% of the ERM Power Shares as at the Last Practicable Date. Each entity holds its interest in ERM Power Shares in its capacity as a manager or trustee of a Shell Group pension fund.

(b) No dealings in ERM Power Shares in previous four months

Except as indicated in paragraph (a) above, neither Shell Energy Australia nor any of its Associates has provided, or agreed to provide, consideration for ERM Power Shares under any purchase or agreement during the four months before the date of this Scheme Booklet.

(c) Pre-Scheme benefits

During the period of four months before the date of this Scheme Booklet, neither Shell Energy Australia nor any of its Associates gave, or offered to give, or agreed to give a benefit to another person which was likely to induce the other person, or an Associate of the other person, to:

- (1) vote in favour of the Scheme; or
- (2) dispose of ERM Power Shares,

where the benefit was not offered to all ERM Power Shareholders.

(d) Benefits to current ERM Power officers

Other than as disclosed in this Scheme Booklet, neither Shell Energy Australia nor any of its Associates will be making any payment or giving any benefit to any current director, secretary or executive officer of ERM Power or any of its Related Bodies Corporate as compensation or consideration for, or otherwise in connection with, their resignation from their respective offices if the Scheme is implemented.

6.7 Regulatory approvals

Shell Energy Australia has obtained confirmations from the Foreign Investment Review Board and the Australian Competition and Consumer Commission in respect of the Scheme.

6.8 No other material information

Other than as disclosed in this section 6, there is no information regarding Shell Energy Australia, or its intentions regarding ERM Power, that is material to the making of a decision by an ERM Power Shareholder on whether or not to vote in favour of the Scheme that is within the knowledge of any director of Shell Energy Australia as at the date of this Scheme Booklet that has not been previously disclosed to ERM Power Shareholders.

7. Risk factors

7.1 Introduction

In considering the Scheme, ERM Power Shareholders should be aware that there are a number of risk factors, both general and specifically relating to ERM Power, which may affect the future operating and financial performance of ERM Power and the price and/or value of ERM Power Shares. While some of these risks can be mitigated, some are out of the control of ERM Power and the ERM Power Directors and cannot be mitigated.

If the Scheme proceeds, ERM Power Shareholders will receive the Total Cash Consideration, will cease to hold ERM Power Shares and will also no longer be exposed to the risks set out in this section 7 (and other risks to which ERM Power may be exposed). If the Scheme does not proceed, ERM Power Shareholders will continue to hold ERM Power Shares and continue to be exposed to risks associated with investment in ERM Power.

In deciding whether to vote in favour of the Scheme, ERM Power Shareholders should read this Scheme Booklet carefully and consider the following risk factors. These risk factors do not take into account the individual investment objectives, financial situation, position or particular needs of ERM Power Shareholders. In addition, this section 7 is a summary only and does not purport to list every risk that may be associated with an investment in ERM Power now or in the future. There also may be additional risks and uncertainties not currently known to ERM Power which may have a material adverse effect on ERM Power's operating and financial performance and the value of ERM Power Shares.

Whilst the ERM Power Directors unanimously recommend that ERM Power 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 ERM Power Shareholders, ERM Power Shareholders are encouraged to make their own independent assessment as to whether to vote in favour of the Scheme.

7.2 General risk factors

ERM Power is exposed to a number of general risks that could materially adversely affect its assets and liabilities, financial position, profits, prospects and potential to make further distributions to ERM Power Shareholders, and the price and/or value of ERM Power Shares. General risks that may impact on ERM Power or the market for ERM Power Shares include:

- changes in general business, industry cycles and economic conditions including inflation, interest rates, exchange rates, commodity prices and consumer demand;
- changes to government policy, legislation or regulation;
- the nature of competition in which ERM Power operates;
- inclusion or removal from major market indices;
- natural disasters or catastrophes and other general operational and business risks;
- variations in ERM Power's operating results;
- recommendations by securities analysts;
- changes in investor sentiment and overall performance of the Australian and international stock markets;
- the operating and trading price performance of other comparable listed entities; and
- changes to accounting standards and reporting standards.

Some of these factors could affect ERM Power's share price regardless of ERM Power's underlying operating performance.

7.3 Specific risks relating to the business and operations of ERM Power

Key business risks and associated mitigants are summarised in no order of significance as follows:

RISK	POTENTIAL IMPACTS	MITIGATION
STRATEGIC RISKS		
Industry risk	An evolving industry structure, highly competitive retail environment and technological changes in the generation and delivery of energy pose risks and opportunities for the business model.	<ul style="list-style-type: none"> • The business model includes diversification of service and product offerings and geography of operations. • The business generates revenue on both the supply and demand side. • A focus on superior quality of service offering includes deep retailer, broker and customer relationships, data services and bespoke product offerings. • The business model allows for incorporating commercial opportunities arising from an evolving industry.
Regulatory changes	Government policy and regulatory changes create investment and price uncertainty and can result in restrictions or changes to product and service offerings and price structures.	<ul style="list-style-type: none"> • ERM Power actively monitors regulatory and political developments on a continuous basis and seeks to constructively engage in discussions where appropriate. • ERM Power also has a strong voice in the industry and responds to the regulatory environment via written submissions, participation on industry groups and by representation to regulators, policy makers and politicians, thus influencing outcomes. • Strategy supports new and strategic commercial opportunities which leverage regulatory and policy change.
FINANCIAL RISKS		
Commodity price	ERM Power is exposed to fluctuations in wholesale market electricity and renewable energy certificate prices. This can increase cost of procuring energy to meet customer contract requirements.	<ul style="list-style-type: none"> • ERM Power Group policies prescribe active management of exposures arising from forecast electricity sales within prescribed limits. In doing so, various hedging contracts have been entered into with individual market participants. • The hedging program includes severe weather event mitigation.
Liquidity in energy derivative markets	Lack of liquidity in the energy derivative market can impact accurate pricing of retail contracts and hedging of retail contracted load.	<ul style="list-style-type: none"> • The ERM Power Group undertakes a continual review of market conditions and employs a diverse and dynamic trading strategy which is highly responsive to market dynamics. • ERM Power forms strategic trading relationships with energy generators. • ERM Power can access its own peaking power generation capability.
Power station failure	Prolonged outage of Oakey or Neerabup power stations would lead to a loss of revenue, coinciding with a potentially high cost of servicing derivative hedges.	<p>The ERM Power Group:</p> <ul style="list-style-type: none"> • undertakes a preventive maintenance program; • has established contingency plans; • employs fire protection systems and flood plans; • has security systems to prevent security breaches; and • has an excellent availability record based on maintenance and training.

7. Risk factors (continued)

7.3 Specific risks relating to the business and operations of ERM Power (continued)

RISK	POTENTIAL IMPACTS	MITIGATION
FINANCIAL RISKS (CONTINUED)		
Credit risk	ERM Power could suffer financial losses if a debtor or wholesale counterparty fails to meet contractual obligations.	<p>The ERM Power Group seeks to limit its exposure to credit risks by:</p> <ul style="list-style-type: none"> • conducting appropriate due diligence on counterparties before entering into arrangements with them; • where appropriate and possible obtaining collateral in line with the counterparties' obligations to the ERM Power Group; • preferential contracting with high credit quality derivative counterparties; • diversification by reducing reliance on particular counterparties; • reporting and monitoring credit exposures on a regular basis; and • setting credit limits aligned to assessed credit strength.
Funding risk	A failure to secure or maintain funding would negatively impact on financial performance, business strategies and growth plans.	<ul style="list-style-type: none"> • Actively consider the level of funding required under the ERM Power Group's capital management framework, taking into account funding needs based on stress case scenarios. • Maintain existing and identify potential new diversified funding sources and relationships.
BUSINESS RISKS		
Talent management and succession planning	An inability to attract and retain talent could impact ERM Power's future financial performance, as well as hinder the ability to innovate.	<ul style="list-style-type: none"> • ERM Power has a robust human resources framework in place which includes leadership development and succession planning, career pathway support, a learning and development program, a focus on engagement and enablement and a competitive remuneration program. • A Long Term Incentive scheme is in place for key staff, which encourages retention as well as high performance.
System failures and cyber risk	A failure of system infrastructure or a cyber-security event may lead to a disruption of operations, a privacy breach, data corruption, theft of commercially sensitive information and damage to reputation.	<ul style="list-style-type: none"> • The ERM Power Group undertakes a continual on-going improvement program that includes staff training, system improvements, and reliability measures which include maintenance and systems support. • The ERM Power Group's approach to cyber security leverages industry best practice set out in Information Security Management standards.
Climate risk	Climate change presents both risks and opportunities to the ERM Power business, through short-term and long-term climate-related physical and transition risks impacting on electricity supply and demand.	<ul style="list-style-type: none"> • Energy management is an integral part of the ERM Power Group's business model. In particular, ERM Power seeks to maximise customers' energy productivity by addressing the supply side and demand side of the energy equation. • Its agile business model increases the resilience of the ERM Power Group to climate risks and takes advantage of the opportunities driven by a need to tackle climate change. • It has diversification of service and product offerings to support sustainability objectives. • Supports the ERM Power Group's customers and people to transition to a renewable energy future. • ERM Power manages volatile weather events through a range of derivative agreements and through its peaking power stations.

7.4 Risks relating to the Scheme

There is the risk that the Court may not approve the Scheme, or may only be willing to approve the Scheme subject to conditions that ERM Power and/or Shell Energy Australia (as applicable) are not prepared to accept. There is also a risk that some or all of the aspects of the ERM Power Shareholder and Court approvals required for the Scheme to proceed may be delayed.

8. Tax Adviser's Letter



The Directors
ERM Power Limited
Level 52
111 Eagle Street
Brisbane City QLD 4000

4 October 2019
Matter 133545

Dear Directors

Private and Confidential

ERM Power Limited - Australian tax consequences of scheme of arrangement

We have been instructed by ERM Power to prepare this letter for inclusion in the Scheme Booklet.

Unless defined in this letter or the context indicates otherwise, all capitalised terms in this letter have the same meaning as those contained in the Scheme Booklet.

1 General

1.1 Introduction

The following is a general description of the Australian tax consequences of the Scheme (assuming it becomes Effective), the Ordinary Dividend and the Special Dividend (if paid) for ERM Power Shareholders. It does not constitute tax advice and should not be relied upon as such. The comments set out below are relevant only to those ERM Power Shareholders who hold their ERM Power Shares on capital account.

The description is based upon the Australian law and administrative practice in effect at the date of this Scheme Booklet, but is general in nature and is not intended to be an authoritative or complete statement of the laws applicable to the particular circumstances of an ERM Power Shareholder. ERM Power Shareholders should seek independent professional advice in relation to their own particular circumstances.

The description does not address the Australian tax consequences for ERM Power Shareholders who:

- hold their ERM Power Shares for the purposes of speculation or a business of dealing in securities (e.g. as trading stock);
- acquired their ERM Power Shares pursuant to an employee share, option or rights plan;
- are subject to the taxation of financial arrangements rules in Division 230 of *Income Tax Assessment Act 1997* (Cth) in relation to gains and losses on their ERM Power Shares;
- may be subject to special tax rules, such as insurance companies, partnerships, tax exempt organisations and entities subject to the Investment Manager Regime under Subdivision 842-I of the *Income Tax Assessment Act 1997* (Cth) in respect of their ERM Power Shares; or

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8. Tax Adviser's Letter (continued)

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- are taken to have acquired their ERM Power Shares before 20 September 1985.

ERM Power Shareholders who are tax residents of a country other than Australia (whether or not they are also residents, or are temporary residents, of Australia for tax purposes) should take into account the tax consequences of the Scheme under the laws of their country of residence, as well as under Australian law.

1.2 ATO class ruling

ERM Power has applied to the ATO requesting a class ruling to confirm the key taxation implications of the Scheme, the Ordinary Dividend and the Special Dividend for ERM Power Shareholders as noted below (**Class Ruling**).

The Class Ruling has not been finalised as at the date of the Scheme Booklet. ERM Power expects that the ATO will provide a draft of the Class Ruling prior to the Scheme Meeting. ERM Power will make an announcement to the ASX if it receives a draft of the Class Ruling before the Scheme Meeting.

When the final Class Ruling is published by the ATO, it will be available on the ATO website at www.ato.gov.au. It is anticipated that the ATO's views in the Class Ruling will be generally consistent with this taxation report. However, it is possible that the ATO may reach a different conclusion. Accordingly, it is important that this taxation report be read in conjunction with the Class Ruling issued by the ATO.

2 Australian resident shareholders

2.1 Capital gains tax (CGT)

Under the Scheme, ERM Power Shareholders will dispose of their ERM Power Shares to Shell Energy Australia in exchange for the Scheme Consideration. This disposal will constitute a CGT event A1 for Australian CGT purposes for ERM Power Shareholders.

The time of the CGT event will be the Implementation Date.

2.2 Calculation of capital gain or capital loss

ERM Power Shareholders will make a capital gain on the disposal of ERM Power Shares to the extent that the capital proceeds from the disposal of the ERM Power Shares are more than the cost base of those ERM Power Shares. Conversely, ERM Power Shareholders will make a capital loss to the extent that the capital proceeds are less than their reduced cost base of those ERM Power Shares.

(a) Cost base

The cost base of the ERM Power Shares generally includes the cost of acquisition and certain non-deductible incidental costs of their acquisition and disposal. The reduced cost base of the ERM Power Shares is usually determined in a similar, but not identical, manner.

If the ERM Power Shares were taken to be acquired at or before 11.45am on 21 September 1999, an ERM Power Shareholder who is an individual, a complying superannuation entity or the trustee of a trust may choose to adjust the cost base of their ERM Power Shares to include indexation by reference to changes in the consumer price index from the calendar quarter in which their ERM Power Shares were acquired until the quarter ended 30 September 1999. ERM Power Shareholders that are companies will include that indexation adjustment in the cost base if their ERM Power Shares were acquired at or before 11.45am on 21 September 1999. Indexation adjustments are taken into account only for the purposes of calculating capital gains; they are ignored when calculating capital losses.

(b) Capital proceeds

The capital proceeds received in respect of the disposal of each ERM Power Share should be \$2.465 per ERM Power Share, as reduced by the cash amounts of the Ordinary Dividend of \$0.045 per ERM Power Share and the Special Dividend of up to

\$0.085 per ERM Power Share (if paid), being the amount of the scheme consideration as originally announced by ERM Power on 22 August 2019.

If no Special Dividend is paid, the capital proceeds should be \$2.42 per ERM Power Share. If the maximum Special Dividend is paid, the capital proceeds should be \$2.335 per ERM Power Share.

The capital proceeds for the disposal of ERM Power Shares should not include the Ordinary Dividend or the Special Dividend. However, the ATO may reach a different conclusion and include the Ordinary Dividend and the Special Dividend in the capital proceeds. The ATO has not made its position clear as at the date of this Scheme Booklet.

If the ATO concludes that the Ordinary Dividend and the Special Dividend should be included in the capital proceeds, ERM Power Shareholders should take this into account in calculating any capital gain or capital loss. An 'anti-overlap' rule applies to reduce any capital gain made by an ERM Power Shareholder to the extent the Ordinary Dividend and the Special Dividend are otherwise included in assessable income. However, if an ERM Power Shareholder makes a capital loss, the 'anti-overlap' rule does not restore the capital loss that would otherwise have been made if the Ordinary Dividend and the Special Dividend did not form part of the capital proceeds.

(c) Other issues

Individuals, complying superannuation entities or trustees that have held ERM Power Shares for at least 12 months but do not index the cost base of the ERM Power Shares (refer above) may be entitled to discount the amount of the capital gain (after application of capital losses) from the disposal of ERM Power Shares by 50% in the case of individuals and trustees or by 33⅓% for complying superannuation entities. For trustees, the ultimate availability of the discount for beneficiaries of the trust will depend on the particular circumstances of the beneficiaries.

Capital gains (prior to any CGT discount) and capital losses of a taxpayer in an income year are aggregated to determine whether there is a net capital gain. Any net capital gain is included in assessable income and is subject to income tax. Capital losses may not be deducted against other income for income tax purposes, but may be carried forward to offset against future capital gains (subject to satisfaction of loss recoupment tests for certain taxpayers).

2.3 Taxation consequences of the Ordinary Dividend and the Special Dividend

ERM Power Shareholders who are Australian tax residents and who receive the Ordinary Dividend and the Special Dividend should include the amount of the Ordinary Dividend and the Special Dividend in their assessable income. The Ordinary Dividend will be fully franked. It is expected that the Special Dividend will also be fully franked.

If certain requirements are met, the ERM Power Shareholders who receive the Ordinary Dividend and the Special Dividend will be:

- (a) required to include the amount of the attached franking credits in their assessable income; and
- (b) be entitled to a tax offset equal to the amount of the franking credits attached to the Ordinary Dividend and the Special Dividend respectively.

These requirements include:

- the ERM Power Shareholder being a 'qualified person' in relation to the each of the Ordinary Dividend and the Special Dividend; and
- whether certain dividend franking integrity measures apply.

In order for an ERM Power Shareholder to be a 'qualified person' they must hold their ERM Power Shares 'at-risk' for a continuous period of not less than 45 days (not including the day of the share's acquisition or disposal) during a prescribed period in relation to each of the Ordinary Dividend and the Special Dividend.

8. Tax Adviser's Letter (continued)

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ERM Power Shareholders should not be treated as holding their ERM Power Shares 'at-risk' on and from the Scheme Record Date and on any days on which ERM Power Shareholders held positions that reduced their exposure to gains and losses below 30%, but those days do not break the continuity of the 'at-risk' period.

Because the Ordinary Dividend and the Special Dividend reduce the amount of the scheme consideration (as originally announced by ERM Power on 22 August 2019) payable by Shell Energy Australia, the Ordinary Dividend and the Special Dividend will be considered to be 'related payments' for tax purposes. Accordingly, the prescribed periods are expected to be:

- from 30 July 2019 to 28 October 2019 (inclusive) in respect of the Ordinary Dividend; and
- from 5 October 2019 to 25 November 2019 (inclusive) in respect of the Special Dividend.

However, this rule does not apply to an ERM Power Shareholder in some special cases, including where the ERM Power Shareholder is an individual whose tax offset entitlement (on all shares and interests in shares held) does not exceed \$5,000 for the income year ending 30 June 2020. The Class Ruling will outline in further detail the ATO's views as to when an ERM Power Shareholder will satisfy the relevant holding period test with respect to the Ordinary Dividend and the Special Dividend.

If you are an individual or complying superannuation fund and your tax liability for the income year is less than the amount of the franking credits attached to the Ordinary Dividend and the Special Dividend, you may be entitled to a refund for the excess franking credits. This does not extend to companies.

3 Non-resident shareholders

For an ERM Power Shareholder who:

- is not a resident of Australia for Australian tax purposes; and
- does not hold their ERM Power Shares in carrying on a business through a permanent establishment in Australia,

the disposal of ERM Power Shares will generally only result in Australian CGT implications if:

- (a) that ERM Power Shareholder together with its associates held 10 percent or more of the ERM Power Shares at the time of the CGT event or for any continuous 12 month period within 2 years preceding the CGT event (referred to as a 'non-portfolio interest'); and
- (b) more than 50% of ERM Power's value is due to direct or indirect interests in Australian real property (as defined in the income tax legislation).

If you are a non-resident who holds a 'non-portfolio interest' in ERM Power, you should obtain independent advice as to the tax implications of sale, and whether any protection will be available under a relevant double tax treaty.

A non-resident ERM Power Shareholder who has previously been a resident of Australia and chose to disregard a capital gain or loss on ceasing to be a resident will be subject to Australian CGT consequences on disposal of the ERM Power Shares as set out in section 2 of this Tax Adviser's Letter.

ERM Power Shareholders who are not residents of Australia should not be subject to income tax in Australia in respect of the Ordinary Dividend and the Special Dividend, provided they do not hold the ERM Power Shares through an Australian permanent establishment. As the Ordinary Dividend and the Special Dividend (if paid) will be fully franked, such shareholders should receive the full amount of the Ordinary Dividend and the Special Dividend free of any Australian dividend withholding tax.

4 Goods and services tax (GST)

ERM Power Shareholders should not be liable to GST in respect of a disposal of those ERM Power Shares.

ERM Power Shareholders may be charged GST on costs (such as advisor fees relating to their participation in the Scheme) that relate to the Scheme. ERM Power Shareholders may be entitled to input tax credits or reduced input tax credits for such costs, but should seek independent advice in relation to their particular circumstances.

Yours sincerely

Greenwoods & Herbert Smith Freehills Pty Limited



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9. Additional information

9.1 Interests of ERM Power Directors in ERM Power Shares, Performance Rights and units in the Employee Share Trust

As at the Last Practicable Date, the ERM Power Directors have the following Relevant Interests in ERM Power Shares, Performance Rights and units in the Employee Share Trust:

ERM POWER DIRECTOR	NUMBER OF ERM POWER SHARES	NUMBER OF PERFORMANCE RIGHTS	UNITS IN THE EMPLOYEE SHARE TRUST
Julianne Margaret Alroe	9,275	Nil	Nil
Jon Stretch	702,179 ⁶	1,029,108	1,533,887 (vested) 517,309 (unvested)
Antonino (Tony) Mario Iannello	202,839	Nil	Nil
Albert Goller	290,000	Nil	Nil
Georganne Hodges	Nil	Nil	Nil
Philip St Baker	4,762,695	Nil	Nil

ERM Power Directors who hold ERM Power Shares will be entitled to vote at the Scheme Meeting and, if the Scheme is implemented, receive the Total Cash Consideration for their ERM Power Shares, along with the other Scheme Shareholders.

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 ERM Power Shareholders, all ERM Power Directors who hold ERM Power Shares intend to vote or procure the vote of those ERM Power Shares in favour of the Scheme.

Conditional upon the Scheme becoming Effective, it is proposed that the vesting of unvested Performance Rights and unvested units in the Employee Share Trust held by ERM Power Directors will be accelerated in accordance with their terms and the holders of such unvested Performance Rights and unvested units in the Employee Share Trust will receive cash payments in accordance with section 9.2(b) below.

9.2 ERM Power Long Term Incentives

(a) Details of the Long Term Incentives

ERM Power has awarded selected key personnel Long Term Incentives to expose these individuals to long-term movements in the price of ERM Power Shares, by aligning the interests of these key personnel with ERM Power Shareholders through the use of a performance hurdle.

As at the Last Practicable Date, ERM Power had the following unvested Long Term Incentives on issue and allocated to participants:

- 4,772,102 unvested Performance Rights;
- 2,433,169 unvested units in the Employee Share Trust; and
- 100,845 unvested Phantom Shares.

In addition, as at the Last Practicable Date, ERM Power had an additional 65,184 unvested units in the Employee Share Trust which have not been allocated to participants and are held by the trustee of the Employee Share Trust.

⁶ In aggregate, Mr Stretch has a Relevant Interest in 2,236,066 ERM Power Shares, comprising 702,179 ERM Power Shares and 1,533,887 vested units in the Employee Share Trust. Of the 2,236,066 ERM Power Shares which Mr Stretch has a Relevant Interest in, 382,179 of these ERM Power Shares are held by a charitable trust (Mr Stretch is a director of the trustee of the charitable trust) and the charitable trust (rather than Mr Stretch) will, if the Scheme is implemented, be entitled to receive the Total Cash Consideration in respect of such ERM Power Shares held.

(b) Treatment of unvested Long Term Incentives

The ERM Power Board (excluding Mr Stretch) exercised its discretion to approve the early vesting of all Long Term Incentives in accordance with their terms, conditional upon the Scheme becoming Effective. Accordingly, if the Scheme is implemented, it is proposed that unvested Long Term Incentives will be treated as follows:

- **(Performance Rights):** the vesting of the unvested Performance Rights will be accelerated and holders of any unvested Performance Rights will receive, for each unvested Performance Right, a cash payment of an amount equivalent to the Total Cash Consideration.
- **(Units in the Employee Share Trust):** the vesting of the unvested units in the Employee Share Trust will be accelerated and unitholders will receive, for each unvested unit in the Employee Share Trust, a cash payment of an amount equivalent to the Total Cash Consideration. This is on the basis that all of the shares in ERM Power held by the trustee of the Employee Share Trust for the benefit of unitholders will be acquired by Shell Energy Australia pursuant to the Scheme (along with all other ERM Power Shares) and, accordingly, the trustee of the Employee Share Trust will receive the Total Cash Consideration for each ERM Power Share held for remittance to the unitholders.
- **(Phantom Shares):** the vesting of the unvested Phantom Shares will be accelerated and holders of any unvested Phantom Shares will receive, for each unvested Phantom Share, a cash payment of an amount equivalent to the Total Cash Consideration.

(c) Long Term Incentives held by Mr Jonathan Stretch

As at the Last Practicable Date, Mr Stretch holds Long Term Incentives as set out in section 9.1 above. Mr Stretch does not hold any Phantom Shares.

If the Scheme is implemented, Mr Stretch will be entitled to receive:

- \$2,490,441.36 for the 1,029,108 unvested Performance Rights which Mr Stretch holds (being, for each unvested Performance Right, an amount equivalent to the Total Cash Consideration); and
- \$1,251,887.78 for the 517,309 unvested units in the Employee Share Trust which Mr Stretch holds (being, for each unvested unit in the Employee Share Trust, an amount equivalent to the Total Cash Consideration).⁷

(d) Performance Rights for FY20

On 17 June 2019, the ERM Power Board approved the issue of Performance Rights to selected employees for FY20, as recommended by the ERM Power Remuneration and Nomination Committee, and those Performance Rights were subsequently issued to such employees (other than to Mr Stretch). Accordingly, the Performance Rights that have been issued for FY20 to employees (other than to Mr Stretch) are included in the number of unvested Performance Rights set out in section 9.2(a) above and will be treated in the manner described in section 9.2(b) above.

In accordance with the process followed in previous years, the issue of Mr Stretch's Performance Rights for FY20 was deferred subject to shareholder approval to satisfy the requirements of ASX Listing Rule 10.14, which states that a director of a listed company may not acquire securities in the company under an employee incentive scheme without shareholder approval.

To ensure Mr Stretch is treated equally with the other employees who were granted their FY20 Performance Rights, the ERM Power Remuneration and Nomination Committee recommended, and the ERM Power Board (excluding Mr Stretch) subsequently approved, that if the Scheme is implemented, Mr Stretch will be entitled to receive a cash payment of \$847,970.42 in lieu of receiving the Performance Rights for FY20 that Mr Stretch would have received if approved by ERM Power Shareholders at the 2019 Annual General Meeting, if the Scheme was not implemented. If the Scheme becomes Effective, ERM Power Shareholders should note that Mr Stretch would receive the cash payment of \$847,970.42 whether or not they approve the award of Mr Stretch's Performance Rights for FY20 at the 2019 Annual General Meeting. This cash payment is consistent with the principles of the FY20 three year Long Term Incentive entitlements recommended by the ERM Power Remuneration and Nomination Committee on 17 June 2019 and subsequently approved by the ERM Power Board (excluding Mr Stretch).

(e) Long Term Incentives held by ERM Power Directors and other ERM Power employees

Other than Mr Stretch (whose holding of Long Term Incentives is set out in section 9.1 above), no other ERM Power Director holds any unvested Long Term Incentives and no similar incentive arrangements exist in relation to any other ERM Power Director.

Approximately 40 ERM Power employees or ex-employees hold the balance of the unvested and allocated Long Term Incentive entitlements, being:

- 3,742,994 unvested Performance Rights;
- 1,915,860 unvested units in the Employee Share Trust; and
- 100,845 unvested Phantom Shares,

and each such ERM Power employee will receive cash payments in accordance with section 9.2(b) above for their unvested Long Term Incentives.

⁷ Mr Stretch also has a Relevant Interest in ERM Power Shares. For further information, see section 9.1 of this Scheme Booklet.

9. Additional information (continued)

9.3 Other benefits and agreements

(a) Interests of ERM Power Directors in Shell Energy Australia securities

No ERM Power Director had a Relevant Interest in any securities in Shell Energy Australia.

(b) Interests of ERM Power Directors in contracts with the Shell Energy Australia Group

None of the ERM Power Directors had any interest in any contract entered into by a Shell Energy Australia Group Member, or any Related Body Corporate of any Shell Energy Australia Group Member.

(c) Benefits in connection with retirement from office

No payment or other benefit is proposed to:

- (1) be made or given to any director, company secretary or executive officer of ERM Power as compensation for the loss of, or as consideration for or in connection with his or her retirement from, office in ERM Power or in a Related Body Corporate of ERM Power; or
- (2) be made or given to any director, company secretary or executive officer of any Related Body Corporate of ERM Power as compensation for the loss of, or as consideration for or in connection with his or her retirement from, office in that Related Body Corporate of ERM Power or in ERM Power,

in each case, in connection with the Scheme.

(d) Benefits from the Shell Energy Australia Group

None of the ERM Power Directors has agreed to receive, or is entitled to receive, any benefit from any Shell Energy Australia Group Member, or any Related Body Corporate of any Shell Energy Australia Group Member, which is conditional on, or is related to, the Scheme, other than in their capacity as an ERM Power Shareholder.

(e) Remuneration in connection with remaining in office

If any of the non-executive ERM Power Directors remain on the ERM Power Board post implementation of the Scheme, it is anticipated by the non-executive ERM Power Directors that they would receive remuneration and expense reimbursement arrangement for their services commensurate with a position as a non-executive ERM Power Director.

(f) Agreements connected with or conditional on the Scheme

Other than as disclosed in sections 9.1 and 9.2 above and section 6.5(c) of this Scheme Booklet, there are no agreements or arrangements made between any ERM Power Director and any other person in connection with, or conditional on, the outcome of the Scheme, other than in their capacity as an ERM Power Shareholder.

9.4 Scheme Implementation Deed

(a) Introduction

On 21 August 2019, ERM Power and Shell Energy Australia entered into the Scheme Implementation Deed. A full copy of the Scheme Implementation Deed was attached to ERM Power's announcement to the ASX relating to the Scheme dated 22 August 2019. A copy of the Scheme Implementation Deed can be obtained from the ASX website www.asx.com.au. A summary of the Scheme Implementation Deed appears below in this section 9.4.

(b) Scheme Consideration

The consideration for each ERM Power Share, as set out in the Scheme Implementation Deed, is an amount of \$2.465 per ERM Power Share less the cash amount of the Ordinary Dividend and any Special Dividend paid by ERM Power before the Implementation Date. As announced on 22 August 2019, the Ordinary Dividend will be paid on 9 October 2019 and, accordingly, the Scheme Consideration is an amount of \$2.42 per ERM Power Share less the cash amount of any Special Dividend paid by ERM Power before the Implementation Date.

(c) Conditions Precedent (Clause 3)

The Scheme Implementation Deed includes the following conditions precedent which must be satisfied or waived (if capable of waiver) before the Scheme can be implemented:

- ERM Power Shareholder approval and Court approval;
- the Independent Expert issuing a report concluding that the Scheme is in the best interests of ERM Power Shareholders;
- no Court or Government Agency restraint;
- no Material Adverse Change event occurring (described at section 9.4(d) below);
- no Prescribed Occurrences (which includes actions that relate to ERM Power's solvency and share capital, e.g. issuing shares, reducing share capital etc);
- no Regulated Events (in broad terms, these are various corporate actions that must not occur); and
- no material breach of ERM Power or Shell Energy Australia representations and warranties (described at section 9.4(i) below).

(d) Material Adverse Change (Clause 3 and Definitions)

The Material Adverse Change condition will be triggered if a Material Adverse Change occurs, is announced or becomes known to Shell Energy Australia between the date of the Scheme Implementation Deed and 8.00am (Sydney time) on the Second Court Date.

A Material Adverse Change is an event that is reasonably likely to have the effect of:

- a diminution in the EBITDAF of the ERM Power Group, taken as a whole, by at least \$20,000,000 in each of the financial years ending 30 June 2020 and 30 June 2021;
- a diminution in the amount of the Current Mark To Market Position compared to the 28 June 2019 Mark To Market Position by at least \$30,000,000;
- a diminution in the value of the Net Tangible Assets by at least \$75,000,000;
- either a termination event or an event of default which has not been remedied relating to certain specified contracts; or
- a ROLR Event occurring to a member of the ERM Power Group,

other than those events:

- arising out of the announcement of the Scheme;
- required to be done or procured by ERM Power Group, or permitted by the Scheme Implementation Deed or Scheme;
- that were Fairly Disclosed in the Disclosure Materials;
- agreed to in writing, or requested, by Shell Energy Australia;
- arising as a result of any generally applicable change in law, regulation, accounting standards or principles or governmental policy, or the interpretation of any of them;
- arising from changes in economic, business, industry or political conditions that impact on ERM Power and its competitors in a similar manner;
- arising from any act of terrorism, outbreak or escalation of war (whether or not declared) or major hostilities; or
- that ERM Power Fairly Disclosed in a public announcement prior to the date of the Scheme Implementation Deed.

(e) Termination (Clause 13)

ERM Power and Shell Energy Australia can terminate the Scheme Implementation Deed:

- for material breach of the Scheme Implementation Deed (other than a material breach of representation or warranty) prior to 8.00am (Sydney time) on the Second Court Date which has not been remedied within 5 Business Days of notification of breach;
- for failure of a Condition Precedent (as described at section 9.4(c) above);
- if the scheme is not Effective by 31 March 2020;
- if ERM Power Shareholders have not approved the Scheme by the Requisite Majorities and neither ERM Power nor Shell Energy Australia wish to proceed with the Second Court Hearing; and
- for material breach of a representation and warranty prior to 8.00am (Sydney time) on the Second Court Date which has not been remedied within 10 Business Days of notification of breach.

Shell Energy Australia can terminate the Scheme Implementation Deed if the ERM Power Board changes its recommendation.

Shell Energy Australia can also terminate the Scheme Implementation Deed if a Competing Proposal is announced any time before 8.00am (Sydney time) on the Second Court Date and:

- the ERM Power Board has not:
 - publicly re-confirmed its recommendation in favour of the Scheme; or
 - recommended that ERM Power Shareholders accept or vote in favour of, or otherwise supported, promoted or endorsed, a Competing Proposal; and
- it is no longer reasonably possible for the Court approval condition to be satisfied on or before 20 December 2019.

(f) Dividends (Clause 5)

ERM Power is permitted to pay to ERM Power Shareholders:

- **(Ordinary Dividend):** an ordinary dividend of an amount up to \$0.045 per ERM Power Share; and
- **(Special Dividend):** a special dividend of an amount up to \$0.085 per ERM Power Share, which will be fully franked.

On 22 August 2019, the ERM Power Board announced that it had declared the Ordinary Dividend, being a fully franked ordinary dividend of \$0.045 per ERM Power Share, in relation to the financial year ended on 30 June 2019. The Ordinary Dividend will be paid on 9 October 2019.

9. Additional information (continued)

9.4 Scheme Implementation Deed (continued)

(g) ERM Power Board recommendation (Clauses 6.2 and 6.7)

ERM Power must use its reasonable endeavours to:

- procure a unanimous Board recommendation 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 ERM Power Shareholders);
- include the Board recommendation in this Scheme Booklet; and
- include a statement that each ERM Power Director will (subject to the same qualifications) vote, or procure the voting of, any ERM Power Shares held by him or her at the time of the Scheme Meeting in favour of the Scheme at the Scheme Meeting.

The Board can change its recommendation if its fiduciary duties require it. This includes if the Independent Expert concludes that the Scheme is not in the best interests of ERM Power Shareholders or if ERM Power receives a Superior Proposal. A Reimbursement Fee may be payable in certain circumstances where there is a change of recommendation (described at section 9.4(k) below).

(h) Conduct of business (Clause 6.4)

In general terms, during the period between signing the Scheme Implementation Deed and the implementation of the Scheme, ERM Power Group must conduct its business and operations in the ordinary course.

In addition, ERM Power must also:

- not enter into new lines of business;
- ensure no 'Regulated Event' occurs or 'Prescribed Occurrence' occurs; and
- make reasonable efforts to maintain and preserve its relationships with Government Agencies.

However, ERM Power will be able to take any actions:

- Fairly Disclosed in the Disclosure Materials or disclosed in public documents prior to the date of the Scheme Implementation Deed;
- agreed to in writing by Shell Energy Australia; or
- required or permitted by law, the Scheme Implementation Deed or the Scheme.

(i) Representations and Warranties (Clause 7 and Schedules 3 and 4)

ERM Power gives a number of representations and warranties to Shell Energy Australia, including that:

- it has Fairly Disclosed key terms of its financing arrangements;
- it is in compliance with licences, authorisations and certain policies;
- it has complied with its continuous disclosure obligations;
- there is no litigation on foot, which if adversely decided, could reasonably be expected to constitute a Material Adverse Change;
- it is not in material breach of any relevant material contract;
- it is not aware of any contraventions of certain anti-bribery and corruption laws or made any unlawful political donations; and
- no Material Adverse Change has occurred immediately prior to entry into the Scheme Implementation Deed.

Shell Energy Australia gives a number of representations and warranties to ERM Power including that:

- it will, by the implementation date, have sufficient cash to pay the Scheme Consideration and that there has been no adverse change in its financial position that is material; and
- it has obtained ACCC and FIRB approval.

(j) Exclusivity (Clause 11)

The Scheme Implementation Deed contains the following customary exclusivity provisions:

- no shop;
- no talk (subject to a fiduciary out);
- no due diligence (subject to a fiduciary out);
- notification right for Shell Energy Australia if ERM Power approached with a Competing Proposal; and
- matching rights.

ERM Power also represents and warrants to Shell Energy Australia that it is not currently in discussions or negotiations with any Third Party regarding any Competing Proposal.

(k) Reimbursement fee (Clause 12)

The Scheme Implementation Deed contains a customary Reimbursement Fee of \$6,055,000 (which is approximately 1% of the equity value of ERM Power) which will be triggered if:

- any member of the ERM Power Board fails to recommend the Scheme, changes his or her recommendation in relation to the Scheme, or recommends a Competing Proposal, in each case, unless the Independent Expert concludes that the Scheme is not in the best interests of ERM Power Shareholders, a Court or Government Agency requires a change to the recommendation, or ERM Power is entitled to terminate the Scheme Implementation Deed for material breach or breach of a Shell Energy Australia representation or warranty;
- a Competing Proposal is announced prior to 8.00am (Sydney time) on the Second Court Date and completes within 9 months; or
- Shell Energy Australia terminates the Scheme Implementation Deed following a material breach by ERM Power, including of ERM Power's representations and warranties.

(l) Treatment of Performance Rights and units in the Employee Share Trust (Clause 4.5)

- **(Performance Rights):** ERM Power confirms that subject to the Scheme becoming Effective, it will take action to ensure that, prior to the Scheme Record Date, all outstanding Performance Rights vest in accordance with their terms.
- **(Units in the Employee Share Trust):** ERM Power confirms that subject to the Scheme becoming Effective, ERM Power will take action to ensure that, with effect from the Effective Date, all units in the Employee Share Trust vest in full and cash proceeds are distributed to the relevant unitholders.

(m) ERM Power Directors and officers, deeds of indemnity and insurance (Clauses 8.1 and 8.3)

Under the Scheme Implementation Deed, Shell Energy Australia agrees that ERM Power will release and not make any claim against ERM Power Directors and officers in connection with breaches of representations, covenants and warranties, false or misleading disclosures or failure to provide information (except in the case of wilful misconduct or fraud).

Shell Energy Australia must:

- ensure that constitutions of ERM Power Group Members continue to contain rules for the indemnification of directors and officers against liability; and
- procure that deeds of indemnity, access and insurance are complied with and that run-off directors' and officers' insurance cover (on similar terms to the existing policies) is maintained for 7 years from the retirement date of each director and officer (and ERM Power is allowed to pay amounts to ensure such maintenance up-front).

9.5 Standstill arrangements

Under the confidentiality deed dated 29 July 2019 between Shell Energy Holdings (the sole shareholder of Shell Energy Australia) and ERM Power, Shell Energy Holdings and its Related Bodies Corporate and Associates (which include Shell Energy Australia) (**Shell Parties**) are subject to a standstill regime under which the Shell Parties must not, among other things and subject to certain exceptions, announce an intention to or acquire an interest in any ERM Power Shares (other than under the Scheme) until the earlier of 29 July 2020 and the time when:

- ERM Power signs a scheme implementation deed with a person other than one of the Shell Parties (**Third Party**) in connection with a members' scheme of arrangement that would, if implemented, result in a change of Control of ERM Power;
- a Third Party publicly announces a takeover bid which is not subject to any pre-conditions and either:
 - is recommended by the ERM Power Directors;
 - triggers the operation of section 631 of the Corporations Act; or
 - has a bidder's statement lodged in connection with it in accordance with section 633 or 635 of the Corporations Act; or
- a person other than the Shell Parties or a person who (at the date of the Confidentiality Deed) had a substantial holding in ERM Power, acquires an interest in more than 10% of the ERM Power Shares.

9. Additional information (continued)

9.6 ERM Power Shares and Performance Rights

As at the Last Practicable Date, ERM Power had on issue:

Number of ERM Power Shares	250,288,527
Number of Performance Rights	4,772,102

9.7 Substantial holders

As extracted from filings released on the ASX, or as advised to ERM Power in the case of Mr Trevor St Baker, in each case on or before the Last Practicable Date, the following persons were substantial holders of ERM Power Shares:

Substantial holder	Number of ERM Power Shares	Voting power
Trevor Charles St Baker	68,554,916	27.39%
Mitsubishi UFJ Financial Group, Inc	21,553,911	8.61%
Perpetual Limited and its Related Bodies Corporate	19,202,245	7.67%
L1 Capital Pty Ltd	14,839,599	5.93%

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

9.8 Consents to be named

Shell Energy Australia has given, and not withdrawn before the registration of this Scheme Booklet with ASIC, its written consent to be named in this Scheme Booklet in the form and context in which it is so named and to the inclusion of the information attributed to it in this Scheme Booklet in the form and context in which such information is included in this Scheme Booklet. Shell Energy Australia has not caused or authorised the issue of this Scheme Booklet, and, other than any reference to its name and the aforementioned information, takes no responsibility for any other part of this Scheme Booklet other than the Shell Energy Australia Information.

Loneragan Edwards & Associates Limited has given, and not withdrawn before the registration of this Scheme Booklet with ASIC, its written consent to be named in this Scheme Booklet in the form and context in which it is so named and to the inclusion of its Independent Expert's Report contained in Annexure 1. Loneragan Edwards & Associates Limited has not caused or authorised the issue of this Scheme Booklet, and, other than any reference to its name and the Independent Expert's Report contained in Annexure 1, takes no responsibility for any other part of this Scheme Booklet.

Greenwoods & Herbert Smith Freehills (**Greenwoods**) has given, and not withdrawn before the registration of this Scheme Booklet with ASIC, its written consent to be named in this Scheme Booklet in the form and context in which it is so named as the preparer of the Tax Adviser's Letter in this Scheme Booklet and to the inclusion of the Tax Adviser's Letter, being a letter to the ERM Power Directors, titled "Australian tax consequences of scheme of arrangement" in section 8 of this Scheme Booklet. Greenwoods has not caused or authorised the issue of this Scheme Booklet, and other than as set out above, takes no responsibility for any other part of this Scheme Booklet.

Herbert Smith Freehills (**HSF**) has given, and not withdrawn before the registration of this Scheme Booklet with ASIC, its written consent to be named in this Scheme Booklet in the form and context in which it is so named. HSF has not made any statement that is included in the Scheme Booklet or any statement on which a statement in this Scheme Booklet is based. HSF has not caused or authorised the issue of this Scheme Booklet, and, other than any reference to its name, takes no responsibility for any other part of this Scheme Booklet.

Luminis Partners has given, and not withdrawn before the registration of this Scheme Booklet with ASIC, its written consent to be named in this Scheme Booklet in the form and context in which it is so named. Luminis Partners has not made any statement that is included in this Scheme Booklet or any statement on which a statement in this Scheme Booklet is based. Luminis Partners has not caused or authorised the issue of this Scheme Booklet, and, other than any reference to its name, takes no responsibility for any other part of this Scheme Booklet.

Link Market Services has given, and not withdrawn before the registration of this Scheme Booklet with ASIC, its written consent to be named in this Scheme Booklet in the form and context in which it is so named. Link Market Services has not made any statement that is included in this Scheme Booklet or any statement on which a statement in this Scheme Booklet is based. Link Market Services has not caused or authorised the issue of this Scheme Booklet, and, other than any reference to its name, takes no responsibility for any other part of this Scheme Booklet.

Korn Ferry Hay Group has given, and not withdrawn before the registration of this Scheme Booklet with ASIC, its written consent to be named in this Scheme Booklet in the form and context in which it is so named. Korn Ferry Hay Group has not made any statement that is included in this Scheme Booklet or any statement on which a statement in this Scheme Booklet is based. Korn Ferry Hay Group has not caused or authorised the issue of this Scheme Booklet, and, other than any reference to its name, takes no responsibility for any other part of this Scheme Booklet.

The NTF Group has given, and not withdrawn before the registration of this Scheme Booklet with ASIC, its written consent to be named in this Scheme Booklet in the form and context in which it is so named. The NTF Group has not made any statement that is included in this Scheme Booklet or any statement on which a statement in this Scheme Booklet is based. The NTF Group has not caused or authorised the issue of this Scheme Booklet, and, other than any reference to its name, takes no responsibility for any other part of this Scheme Booklet.

Mr Trevor St Baker has given written consent to be named in this Scheme Booklet in relation to his voting intentions. Mr Trevor St Baker has not made any other statement that is included in this Scheme Booklet or any statement on which a statement in this Scheme Booklet is based. Mr Trevor St Baker has not caused or authorised the issue of this Scheme Booklet, and, other than any reference to his name and his voting intentions, takes no responsibility for any other part of this Scheme Booklet.

9.9 Intentions of ERM Power Directors

If the Scheme becomes Effective, the existing ERM Power Board will be reconstituted on the Implementation Date, in accordance with the instructions of Shell Energy Australia.

Accordingly, it is not possible for the ERM Power Directors to provide a statement of their intentions regarding:

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

in each case, after the Scheme is implemented.

If the Scheme is implemented, Shell Energy Australia will own 100% of ERM Power Shares and will Control ERM Power. The ERM Power Directors have been advised that the intentions of Shell Energy Australia are as set out in section 6 of this Scheme Booklet.

9.10 Regulatory relief

(a) ASX Waiver

ERM Power has applied for, and the ASX has granted ERM Power a waiver of ASX Listing Rule 6.23.2 to the extent necessary to permit the treatment of the Long Term Incentives as set out in section 9.2 of this Scheme Booklet.

(b) ASIC Relief

Paragraph 8302(d) of Part 3 of Schedule 8 of the Corporations Regulations requires this Scheme Booklet to set out particulars of any payment or benefit proposed to be made or given to any director, secretary or executive officer of ERM Power or a Related Body Corporate (each a **Relevant Person**) as compensation for loss of office in ERM Power or a Related Body Corporate, or as consideration for or in connection with his or her retirement from office in ERM Power or a Related Body Corporate.

9. Additional information (continued)

9.10 Regulatory relief (continued)

ASIC has granted ERM Power relief from this requirement on the basis that ERM Power is not required to set out in this Scheme Booklet the particulars of any payments or benefits which may be made or given to a Relevant Person in relation to their loss of office, or retirement from office, unless:

- the Relevant Person will lose office or retire from office as a consequence of, or in connection with, the Scheme; or
- the amount of any payment or benefit which may be made to the Relevant Person upon their loss of office, or retirement from office, may be materially affected by the Scheme.

9.11 No unacceptable circumstances

The ERM Power Directors believe that the Scheme does not involve any circumstances in relation to the affairs of ERM Power that could reasonably be characterised as constituting ‘unacceptable circumstances’ for the purposes of section 657A of the Corporations Act.

9.12 Copy of ERM Power Share Register

Under sections 169 and 173 of the Corporations Act, any ERM Power Shareholder has a right to inspect, and to ask for a copy of, the ERM Power Share Register which contains details of the name and address of each ERM Power Shareholder. ERM Power may require an ERM Power Shareholder to provide reasons for their request prior to providing a copy of the ERM Power Share Register, and an ERM Power Shareholder must not use any information obtained for an improper purpose. A copy of the ERM Power Share Register will be given to any ERM Power Shareholder upon request and payment of the prescribed fee under the Corporations Act where ERM Power is satisfied that the details provided are not likely to be used for an improper purpose.

9.13 Transaction costs

ERM Power estimates that it will incur approximately \$4.4 million – \$4.9 million (excluding GST and disbursements) in external transaction costs which relate to the Scheme. This includes advisory fees (including for ERM Power’s financial and legal advisers), the Independent Expert’s fees, registry, printing and mailing costs and expenses associated with convening and holding the Scheme Meeting. Of this, approximately \$1.8 million – \$2.4 million (excluding GST and disbursements) will be incurred regardless of whether or not the Scheme is implemented, excluding any Reimbursement Fee that may be payable to Shell Energy Australia.

9.14 No other material information

Except as disclosed elsewhere in this Scheme Booklet, so far as the ERM Power Directors are aware, there is no other information that is:

- material to the making of a decision by an ERM Power Shareholder whether or not to vote in favour of the Scheme; and
- known to any ERM Power Director at the date of lodging this Scheme Booklet with ASIC for registration, which has not previously been disclosed to ERM Power Shareholders.

9.15 Supplementary disclosure statement

ERM Power will issue a supplementary document to this Scheme Booklet if it becomes aware of any of the following between the date of this Scheme Booklet and the Second Court Date:

- a material statement in this Scheme Booklet is false or misleading in a material respect;
- a material omission from this Scheme Booklet;
- a significant change affecting a matter included 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 it had arisen before the date of this Scheme Booklet.

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

- making an announcement to the ASX;
- placing an advertisement in a prominently published newspaper which is circulated generally throughout Australia;
- posting the supplementary document to ERM Power Shareholders at their address shown on the ERM Power Share Register; and/or
- posting a statement on ERM Power’s website at www.ermpower.com.au,

as ERM Power, in its absolute discretion, considers appropriate.

10. Definitions and interpretation

10.1 Definitions

In this Scheme Booklet, unless the context otherwise appears, the following terms have the meanings shown below:

TERM	MEANING
2019 Annual General Meeting	the annual general meeting of ERM Power in relation to the financial year ended 30 June 2019.
28 June 2019 Mark to Market Position	<ol style="list-style-type: none"> the amount specified as “Daily MtM Unrealised” as set out in the Black Trade row of the Trade Book Summary of ERM Power’s Daily Risk Report dated 28 June 2019, <p>less:</p> <ol style="list-style-type: none"> the amounts included in the MtM column of the table “Black Trade Book Daily Movements Breakdown” (from ERM Power’s Daily Risk Report dated 28 June 2019) relating to FY22, FY23 and Beyond.
ACCC	the Australian Competition and Consumer Commission.
Announcement Date	22 August 2019, being the date of announcement of the Scheme to the ASX.
ASIC	the Australian Securities and Investments Commission.
ATO	the Australian Taxation Office.
Associate	has the meaning set out in section 12 of the Corporations Act, as if subsection 12(1) of the Corporations Act included a reference to this Scheme Booklet and ERM Power was the designated body.
ASX	ASX Limited ABN 98 008 624 691 and, where the context requires, the financial market that it operates.
Business Day	a day that is not a Saturday, Sunday, public holiday or bank holiday in Sydney, Australia.
Class Ruling	has the meaning given in section 8 of this Scheme Booklet.
Competing Bidder	<p>a person other than:</p> <ol style="list-style-type: none"> Shell Energy Australia and its Related Bodies Corporate; or an Associate of Shell Energy Australia or its Related Bodies Corporate.
Competing Proposal	<p>any proposal, agreement, arrangement or transaction, which, if entered into or completed in accordance with its terms, would result in a Competing Bidder (either alone or together with any Associate):</p> <ol style="list-style-type: none"> directly or indirectly acquiring or becoming the holder of a Relevant Interest in, or acquiring or having a right to acquire, a legal, beneficial or economic interest in, or control of, 20% or more of the ERM Power Shares; acquiring Control of ERM Power; directly or indirectly having or acquiring or becoming the holder of, or otherwise acquiring or having a right to acquire, a legal, beneficial or economic interest in, or control of, all or a substantial part of ERM Power’s business or assets or the business or assets of the ERM Power Group; or otherwise directly or indirectly acquiring or merging with ERM Power or a material Subsidiary of ERM Power, <p>whether by way of takeover bid, members’ or creditors’ scheme of arrangement, shareholder approved acquisition, capital reduction, buy back, sale or purchase of shares, other securities or assets, assignment of assets and liabilities, incorporated or unincorporated joint venture, dual-listed company (or other synthetic merger), deed of company arrangement, any debt for equity arrangement or other transaction or arrangement.</p> <p>For the avoidance of doubt, each successive material modification or variation of any proposal, agreement, arrangement or transaction in relation to a Competing Proposal will constitute a new Competing Proposal.</p>
Condition Precedent	each of the conditions precedent set out in clause 3.1 of the Scheme Implementation Deed.
Control	has the meaning given in section 50AA of the Corporations Act.
Corporations Act	the <i>Corporations Act 2001</i> (Cth), as modified or varied by ASIC.

10. Definitions and interpretation (continued)

10.1 Definitions (continued)

TERM	MEANING
Corporations Regulations	the <i>Corporations Regulations 2001</i> (Cth).
Court	the Supreme Court of New South Wales or such other court of competent jurisdiction under the Corporations Act agreed to in writing by Shell Energy Australia and ERM Power.
Current Mark to Market Position	<ol style="list-style-type: none"> the amount specified as “Unrealised MtM + Total Realised since 30/6/19” as set out in the Black Trade row of the Trade Book Summary of ERM Power’s Daily Risk Report on any day after the date of the Scheme Implementation Deed (Relevant Mark to Market Date), <p>less:</p> <ol style="list-style-type: none"> the amounts included in the MtM column of the table “Black Trade Book Daily Movements Breakdown” (from ERM Power’s Daily Risk Report on the Relevant Mark to Market Date) relating to FY22, FY23 and Beyond.
Data Room	the electronic data room, and ERM Power’s Diligent Board Portal, made available to Shell Energy Australia in connection with the Transaction.
Deed Poll	a deed poll in the form of Annexure 3 under which Shell Energy Australia covenants in favour of the Scheme Shareholders to perform the obligations attributed to Shell Energy Australia under the Scheme.
Disclosure Materials	<ol style="list-style-type: none"> the documents and information contained in the Data Room on or prior to execution of the Scheme Implementation Deed, the index of which has been initialled by the parties’ lawyers for the purposes of identification before the execution of the Scheme Implementation Deed; and written responses from ERM Power and its Related Persons to requests for further information made by Shell Energy Australia and its Related Persons, a copy of which is contained in the Data Room.
EBITDAF	earnings before interest, tax, depreciation, amortisation, impairment and net fair value gains or losses on financial instruments designated at fair value through profit, excluding any profit or loss from any Associate or joint venture of ERM Power.
Effective	when used in relation to the Scheme, the coming into effect, under subsection 411(10) of the Corporations Act, of the order of the Court made under paragraph 411(4)(b) of the Corporations Act in relation to the Scheme.
Effective Date	the date on which the Scheme becomes Effective, currently expected to be 12 November 2019.
Employee Share Trust	ERM Power Share entitlements made available to employees of a member of the ERM Power Group under an employee share trust which may vest subject to satisfaction of performance and service conditions.
ERM Power	ERM Power Limited ACN 122 259 223.
ERM Power Board	the board of directors of ERM Power.
ERM Power Director	a member of the ERM Power Board.
ERM Power Group	ERM Power and each of its Subsidiaries, and a reference to an ERM Power Group Member or a member of the ERM Power Group is to ERM Power or any of its Subsidiaries.
ERM Power Information	<p>the information contained in this Scheme Booklet, other than:</p> <ol style="list-style-type: none"> the Shell Energy Australia Information; the Independent Expert’s Report; and Tax Adviser’s Letter.

TERM	MEANING
ERM Power Remuneration and Nomination Committee	the independent committee of the ERM Power Board that oversees governance procedures and policy on remuneration for ERM Power, comprising: <ol style="list-style-type: none"> 1 Julieanne Alroe (Chair); 2 Albert Goller; 3 Antonino (Tony) Mario Iannello; and 4 Philip St Baker.
ERM Power Share	a fully paid ordinary share in the capital of ERM Power.
ERM Power Shareholder	each person who is registered as the holder of an ERM Power Share in the ERM Power Share Register.
ERM Power Share Register	the register of members of ERM Power maintained in accordance with the Corporations Act.
ERM Power Share Registry	means Link Market Services Limited.
Fairly Disclosed	a reference to 'Fairly Disclosed' means disclosed to Shell Energy Australia or any of its Related Persons, to a sufficient extent, and in sufficient detail, so as to enable a reasonable bidder (or one of its Related Persons) experienced in transactions similar to the Transaction and experienced in a business similar to any business conducted by the ERM Power Group, to identify the nature and scope of the relevant matter, event or circumstance (including, in each case, that the potential financial effect of the relevant matter, event or circumstance was reasonably ascertainable from the information disclosed).
Financial Adviser	any financial adviser retained by a party in relation to the Transaction from time to time.
Financial Indebtedness	any debt or other monetary liability (whether actual or contingent) in respect of monies borrowed or raised or any financial accommodation including under or in respect of any: <ol style="list-style-type: none"> 1 bill, bond, debenture, note or similar instrument; 2 acceptance, endorsement or discounting arrangement; 3 guarantee; 4 finance or capital lease; 5 agreement for the deferral of a purchase price or other payment in relation to the acquisition of any asset or service; or 6 obligation to deliver goods or provide services paid for in advance by any financier.
FIRB	the Australian Foreign Investment Review Board.
First Court Date	the first day on which an application made to the Court for an order under subsection 411(1) of the Corporations Act convening 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.
GST	goods and services tax or similar value added tax levied or imposed in Australia under the GST Law or otherwise on a supply.
GST Act	the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
GST Law	has the same meaning as in the GST Act.
Government Agency	any foreign or Australian government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity (including any stock or other securities exchange), or any minister of the Crown in right of the Commonwealth of Australia or any State, and any other federal, state, provincial, or local government, whether foreign or Australian.

10. Definitions and interpretation (continued)

10.1 Definitions (continued)

TERM	MEANING
Implementation Date	the third Business Day after the Scheme Record Date, or such other date after the Scheme Record Date as ERM Power and Shell Energy Australia agree in writing, currently expected to be 29 November 2019.
Independent Expert	Loneragan Edwards & Associates Limited, the independent expert in respect of the Scheme appointed by ERM Power.
Independent Expert's Report	the report issued by the Independent Expert in connection with the Scheme, as set out in Annexure 1.
Insolvency Event	<p>in relation to an entity:</p> <ol style="list-style-type: none"> 1 the entity resolving that it be wound up or a court making an order for the winding up or dissolution of the entity (other than where the order is set aside within 14 days); 2 a liquidator, provisional liquidator, administrator, receiver, receiver and manager or other insolvency official being appointed to the entity or in relation to the whole, or a substantial part, of its assets; 3 the entity executing a deed of company arrangement; 4 the entity ceases, or threatens to cease to, carry on substantially all the business conducted by it as at the date of the Scheme Implementation Deed; 5 the entity is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act (or, if appropriate, legislation of its place of incorporation); or 6 the entity being deregistered as a company or otherwise dissolved.
Last Practicable Date	1 October 2019.
Listing Rules	the official listing rules of the ASX.
Long Term Incentives	<p>long term incentives awarded by ERM Power to selected key personnel, which are made up of the:</p> <ol style="list-style-type: none"> 1 units in the Employee Share Trust; 2 Performance Rights; and 3 Phantom Shares.

TERM	MEANING
Material Adverse Change	<p>an event, change, condition, matter, circumstance or thing occurring after the date of the Scheme Implementation Deed (each a Specified Event) which, whether individually or when aggregated with all such events, changes, conditions, matters, circumstances or things of a like kind that have occurred or are reasonably likely to occur, has had or would be considered reasonably likely to have the effect of:</p> <ol style="list-style-type: none"> 1 a diminution in the EBITDAF of the ERM Power Group, taken as a whole, by at least \$20,000,000 in each of the financial years ending 30 June 2020 and 30 June 2021; 2 a diminution in the amount of the Current Mark To Market Position compared to the 28 June 2019 Mark To Market Position by at least \$30,000,000; 3 a diminution in the value of the Net Tangible Assets by at least \$75,000,000; 4 either: <ol style="list-style-type: none"> a. a termination event; or b. an event of default which has not been remedied by the earlier of: <ol style="list-style-type: none"> i. 90 days after the date on which such event of default occurred; or ii. 8.00am (Sydney time) on the Second Court Date, has occurred under a Specified Contract; or 5 a ROLR Event occurs to a member of the ERM Power Group, <p>other than those events, changes, conditions, matters, circumstances or things:</p> <ol style="list-style-type: none"> 6 arising out of the announcement or pendency of the Transaction or the Scheme (including any loss of or adverse change in the relationship of ERM Power and its Subsidiaries with their respective employees, customers, partners (including joint venture partners), creditors or suppliers as at the date of the Scheme Implementation Deed, including the loss of any contract); 7 required to be done or procured by the ERM Power Group under, or permitted by, the Scheme Implementation Deed, the Scheme or the transactions contemplated by either, and including any consequences reasonably foreseeable as a result of such matters; 8 that were Fairly Disclosed in the Disclosure Materials; 9 agreed to in writing, or requested, by Shell Energy Australia, including any consequences reasonably foreseeable as a result of such matters; 10 arising as a result of any generally applicable change in law, regulation, accounting standards or principles or governmental policy, or the interpretation of any of them; 11 arising from changes in economic, business, industry or political conditions that impact on ERM Power and its competitors in a similar manner (including interest rates, general economic, political or business conditions, including material adverse changes or major disruptions to, or fluctuations in, domestic or international financial markets); 12 arising from any act of terrorism, outbreak or escalation of war (whether or not declared) or major hostilities; or 13 that ERM Power Fairly Disclosed in an announcement made by ERM Power to ASX, or a publicly available document lodged by ERM Power or a Subsidiary of ERM Power with ASIC, in each case prior to the date of the Scheme Implementation Deed, or which would be disclosed in a search of ASIC records or ASX announcements in relation to ERM Power or a Subsidiary of ERM Power (as relevant), prior to the date of the Scheme Implementation Deed.

10. Definitions and interpretation (continued)

10.1 Definitions (continued)

TERM	MEANING
Net Tangible Assets	<ol style="list-style-type: none"> at any time, the consolidated total at that time of all assets of the ERM Power Group, taken as a whole, which in accordance with applicable accounting principles would be included in the consolidated statement of financial position of the ERM Power Group at that time (including, for the avoidance of doubt, any cash deposits provided by an ERM Power Group Member to a third party as security, including cash held in broker accounts) but excluding: <ol style="list-style-type: none"> any financial instrument assets; and any deferred tax assets associated with financial instruments, less: at any time, the consolidated total of all liabilities of the ERM Power Group, taken as a whole, in respect of which in accordance with applicable accounting principles would be included in the consolidated statement of financial position of the ERM Power Group at that time but excluding: <ol style="list-style-type: none"> any financial instrument liabilities; and any deferred tax liabilities associated with financial instruments.
Ordinary Dividend	a fully franked ordinary dividend of \$0.045 per ERM Power Share in relation to the financial year ended on 30 June 2019, as announced on 22 August 2019.
Performance Rights	performance rights issued to selected key personnel of an ERM Power Group Member where, subject to satisfaction of performance and service conditions, at the end of a specified performance period, each performance right will be satisfied by a cash payment, the issue of ordinary ERM Power Shares or an offer to participate in the Employee Share Trust, at the discretion of the ERM Power Board.
Phantom Shares	incentives issued to US employees of an ERM Power Group Member based on the relevant market value of ERM Power Shares as at the grant date which convert to a cash salary payment after the expiry of the performance period at which time the value to be paid is to be determined based on the market value of ERM Power Shares at the end of the performance period.
Prescribed Occurrence	<p>other than as:</p> <ol style="list-style-type: none"> required or permitted by the Scheme Implementation Deed (including clause 6.4(b) of the Scheme Implementation Deed), the Scheme or the transactions contemplated by either; Fairly Disclosed in the Disclosure Materials; agreed to in writing, or requested, by Shell Energy Australia; or Fairly Disclosed by ERM Power in an announcement made by ERM Power to ASX, or a publicly available document lodged by ERM Power or any Subsidiary of ERM Power with ASIC, in each case prior to the date of the Scheme Implementation Deed, or which would be disclosed in a search of ASIC records or ASX announcement in relation to ERM Power or a Subsidiary of ERM Power (as relevant), prior to the date of the Scheme Implementation Deed, <p>the occurrence of any of the following:</p> <ol style="list-style-type: none"> ERM Power converting all or any of its shares into a larger or smaller number of shares; ERM Power resolving to reduce its share capital; a member of the ERM Power Group: <ol style="list-style-type: none"> entering into a buy-back agreement; or resolving to approve the terms of a buy-back agreement under the Corporations Act; a member of the ERM Power Group issuing shares, or granting a performance right or an option over its shares, or agreeing to make such an issue or grant such a right or an option, other than: <ol style="list-style-type: none"> to a directly or indirectly wholly-owned Subsidiary of ERM Power; or on vesting or exercise of, or in respect of, a Performance Right or a unit in the Employee Share Trust existing as at the date of the Scheme Implementation Deed; a member of the ERM Power Group issuing or agreeing to issue securities convertible into shares; a member of the ERM Power Group disposing, or agreeing to dispose, of the whole, or a substantial part, of its business or property; a member of the ERM Power Group granting a Security Interest, or agreeing to grant a Security Interest, in the whole, or a substantial part, of its business or property; or an Insolvency Event occurs in relation to a member of the ERM Power Group.

TERM	MEANING
Regulated Event	<p>other than as:</p> <ol style="list-style-type: none"> 1 required or permitted by the Scheme Implementation Deed (including clause 6.4(b) of the Scheme Implementation Deed), the Scheme or the transactions contemplated by either; 2 Fairly Disclosed in the Disclosure Materials; 3 agreed to in writing, or requested, by Shell Energy Australia; or 4 Fairly Disclosed by ERM Power in an announcement made by ERM Power to ASX, or a publicly available document lodged by ERM Power or any Subsidiary of ERM Power with ASIC, in each case prior to the date of the Scheme Implementation Deed, or which would be disclosed in a search of ASIC records or ASX announcement in relation to ERM Power or a Subsidiary of ERM Power (as relevant), prior to the date of the Scheme Implementation Deed, <p>the occurrence of any of the following:</p> <ol style="list-style-type: none"> 1 an ERM Power Group Member reclassifying, combining, splitting or redeeming or repurchasing directly or indirectly any of its shares; 2 other than the Ordinary Dividend and the Special Dividend, ERM Power announcing, making, declaring, paying or distributing any dividend, bonus or other share of its profits or assets or returning or agreeing to return any capital to its members (whether in cash or in specie); 3 a member of the ERM Power Group: <ul style="list-style-type: none"> – entering into, varying, renewing, assigning or terminating any contract or commitment (including in respect of Financial Indebtedness) requiring payments to or by the ERM Power Group in excess of \$5,000,000 (individually or in aggregate) other than any payment required by law; or – without limiting the foregoing agreeing to incur or incurring capital expenditure of more than \$5,000,000 (individually or in aggregate); 4 a member of the ERM Power Group providing financial accommodation other than to members of the ERM Power Group (irrespective of what form of Financial Indebtedness that accommodation takes) in excess of \$5,000,000 (individually or in aggregate); 5 a member of the ERM Power Group: <ul style="list-style-type: none"> – acquiring, leasing or disposing of; – agreeing to acquire, lease or dispose of; or – offering, proposing announcing a bid or tendering for, any business, assets, entity or undertaking, the value of which exceeds \$5,000,000 (individually or in aggregate), but excluding the assignment of the lease of Suite 8.03, 15 Castlereagh Street, Sydney NSW 2000; 6 a member of the ERM Power Group issuing or agreeing to issue securities or other instruments convertible into debt securities; 7 entering into a contract or commitment materially restraining a member of the ERM Power Group from competing with any person or conducting activities in any market; 8 entering into or resolving to enter into a material transaction with any related party of ERM Power (other than a related party which is a wholly owned member of the ERM Power Group) pursuant to section 228 of the Corporations Act, other than transactions occurring under contracts entered into prior to the date of the Scheme Implementation Deed in the form disclosed in the Disclosure Materials; 9 ERM Power making any change to its constitution; 10 ERM Power changing any accounting policy applied by it to report its financial position other than any change in policy required by a change in applicable accounting standards or law; 11 a member of the ERM Power Group doing anything that would result in a change in the membership of the ERM Power consolidated tax group, that would be detrimental to Shell Energy Australia; 12 varying or agreeing to vary the employment arrangements or remuneration of any director or employee of any member of the ERM Power Group whose total base annual salary (excluding bonuses) is at least \$300,000 other than in the ordinary course of business;

10. Definitions and interpretation (continued)

10.1 Definitions (continued)

TERM	MEANING
Regulated Event (continued)	<p>13 amending the terms of an employee share scheme or any other plan or scheme operated for the benefit of directors or employees of any one or more members of the ERM Power Group except as contemplated by clause 4.5 of the Scheme Implementation Deed;</p> <p>14 paying or agreeing to pay any bonus, termination or retention payment to any director or employee of any member of the ERM Power Group except as disclosed to Shell Energy Australia prior to the date of the Scheme Implementation Deed or in accordance with the terms of the contract in place with such person as at the date of the Scheme Implementation Deed or in the ordinary course of business;</p> <p>15 employing or agreeing to employ any person the value of whose total base annual salary (excluding bonuses) will be at least \$300,000; or</p> <p>16 acquiring or disposing of an interest by a member of the ERM Power Group in any joint venture.</p>
Reimbursement Fee	\$6,055,000.
Related Bodies Corporate	has the meaning set out in section 50 of the Corporations Act.
Related Person	<p>1 in respect of a party or its Related Bodies Corporate, each director, officer, employee, adviser, agent or representative of that party or Related Body Corporate; and</p> <p>2 in respect of a Financial Adviser, each director, officer or employee of that Financial Adviser.</p>
Relevant Interest	has the meaning given in sections 608 and 609 of the Corporations Act.
Requisite Majorities	<p>in relation to the Scheme Resolution, a resolution passed by:</p> <p>1 unless the Court orders otherwise, a majority in number (more than 50%) of ERM Power Shareholders present and voting at the Scheme Meeting (either in person or by proxy, attorney or, in the case of corporate ERM Power Shareholders, body corporate representative); and</p> <p>2 at least 75% of the total number of votes cast on the Scheme Resolution at the Scheme Meeting by ERM Power Shareholders present and voting (either in person or by proxy, attorney or, in the case of corporate ERM Power Shareholders, body corporate representative).</p>
RG 60	Regulatory Guide 60 issued by ASIC in September 2011.
ROLR Event	a Retailer of Last Resort event as that term is defined under section 122 of the National Energy Retail Law (Queensland).
Scheme	the scheme of arrangement under Part 5.1 of the Corporations Act between ERM Power and the Scheme Shareholders, the form of which is attached as Annexure 2, subject to any alterations or conditions made or required by the Court under subsection 411(6) of the Corporations Act and agreed to in writing by Shell Energy Australia and ERM Power.
Scheme Booklet	this document being the explanatory statement in respect of the Scheme, which has been prepared by ERM Power in accordance with section 412 of the Corporations Act.
Scheme Consideration	the consideration to be provided by Shell Energy Australia to each Scheme Shareholder for the transfer to Shell Energy Australia of each Scheme Share, being for each ERM Power Share held by a Scheme Shareholder as at the Scheme Record Date, an amount of \$2.42, less the cash amount of any Special Dividend paid by ERM Power before the Implementation Date.
Scheme Implementation Deed	the Scheme Implementation Deed dated 21 August 2019 between ERM Power and Shell Energy Australia, a copy of which was released to the ASX on 22 August 2019.
Scheme Meeting	the meeting of ERM Power Shareholders ordered by the Court to be convened under subsection 411(1) of the Corporations Act to consider and vote on the Scheme and includes any meeting convened following any adjournment or postponement of that meeting.
Scheme Record Date	7.00pm (Sydney time) on the tenth Business Day after the Effective Date, currently expected to be 6.00pm (Brisbane time) / 7.00pm (Sydney time) on 26 November 2019 or such other time and date as ERM Power and Shell Energy Australia agree in writing.

TERM	MEANING
Scheme Resolution	the resolution to the terms of the Scheme, as set out in the Notice of Scheme Meeting in Annexure 4.
Scheme Shares	all ERM Power Shares held by the Scheme Shareholders as at the Scheme Record Date.
Scheme Shareholder	a holder of ERM Power Shares recorded in the ERM Power Share Register as at the Scheme Record Date.
Second Court Date	the first day on which an application made to the Court for an order under paragraph 411(4)(b) of the Corporations Act approving the Scheme is heard, currently expected to be 12 November 2019, or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application or appeal is heard.
Second Court Hearing	the hearing of the application made to the Court for an order pursuant to section 411(4)(b) of the Corporations Act approving the Scheme.
Security Interest	has the meaning given in section 51A of the Corporations Act.
Shell or Shell Group	Royal Dutch Shell plc and the group of companies in which it directly and indirectly owns investments.
Shell Energy Australia	Shell Energy Australia Pty Ltd ACN 085 757 446.
Shell Energy Australia Counterproposal	has the meaning given in the Scheme Implementation Deed.
Shell Energy Australia Group	Shell Energy Australia and each of its Related Bodies Corporate, and a reference to a Shell Energy Australia Group Member or a member of the Shell Energy Australia Group is to Shell Energy Australia or any of its Related Bodies Corporate.
Shell Energy Australia Information	<p>information regarding the Shell Energy Australia Group provided by Shell Energy Australia to ERM Power in writing for inclusion in this Scheme Booklet including:</p> <ol style="list-style-type: none"> 1 the answer to the question ‘Who is Shell Energy Australia?’ in section 2 of this Scheme Booklet; 2 the entire content of section 6 of this Scheme Booklet; and 3 any other information required under the Corporations Act, Corporations Regulations or RG 60 to enable this Scheme Booklet to be prepared that the parties agree is ‘Shell Energy Australia Information’ and that is identified in this Scheme Booklet as such. <p>For the avoidance of doubt, the Shell Energy Australia Information excludes the ERM Power Information, the Independent Expert’s Report and the Tax Adviser’s Letter.</p>
Shell Energy Holdings	Shell Energy Holdings Australia Limited ACN 054 260 776.
Special Dividend	a special dividend of an amount up to \$0.085 per ERM Power Share, which will be fully franked subject to the availability of franking credits and which, to the extent franked, will be no greater than the maximum amount for the dividend to be fully franked by reference to the franking account balance of ERM Power as at 30 June 2019 <i>plus or minus</i> any franking credits or franking debits after 30 June 2019 attributable to tax payments or tax refunds relating to financial years ending on or before 30 June 2019 and will not result in the franking account of ERM Power being in deficit after the special dividend is paid.
Special Dividend Payment Date	the date of payment of the Special Dividend (if any), as determined by the ERM Power Directors in their sole discretion, currently expected to be 25 November 2019.
Special Dividend Record Date	the record date for the Special Dividend (if any), as determined by the ERM Power Directors in their sole discretion, currently expected to be 6.00pm (Brisbane time) on 18 November 2019.
Specified Contract	the Fixed Forward Commodity Contract between Sunset Power International Pty Ltd and ERM Power Retail Limited dated 19 November 2015 as amended pursuant to an amendment agreement dated 29 April 2016.
Subsidiary	has the meaning given in Division 6 of Part 1.2 of the Corporations Act.

10. Definitions and interpretation (continued)

10.1 Definitions (continued)

TERM	MEANING
Superior Proposal	<p>a bona fide Competing Proposal:</p> <ol style="list-style-type: none"> submitted by a Competing Bidder in writing; of the kind referred to in any of paragraphs 2, 3 or 4 of the definition of Competing Proposal; and not resulting from a breach by ERM Power of any of its obligations under clause 11 of the Scheme Implementation Deed (it being understood that any actions by the Related Persons of ERM Power not permitted by clause 11 of the Scheme Implementation Deed will be deemed to be a breach by ERM Power for the purposes hereof), <p>that the ERM Power Board, acting in good faith, and after receiving written legal advice from its external legal advisers and written financial advice from its external financial advisers, determines:</p> <ol style="list-style-type: none"> is reasonably capable of being valued and completed; and would, if completed substantially in accordance with its terms, be reasonably likely to be more favourable to ERM Power Shareholders as a whole than the Transaction, <p>in each case taking into account all terms and conditions and other aspects of the Competing Proposal and the Transaction, including:</p> <ol style="list-style-type: none"> any timing considerations; any conditions precedent or other conditionality; the identity of the proponent; the value and type of the consideration payable to ERM Power Shareholders under the Competing Proposal; that the value of the consideration payable to ERM Power Shareholders under the Transaction (when compared to the value of the consideration payable to ERM Power Shareholders under the Competing Proposal) is, as at the date of the Scheme Implementation Deed, an amount of \$2.42 for each ERM Power Share; the capacity of the Competing Bidder advancing the Competing Proposal to fund the Competing Proposal; and other matters affecting the probability of the Competing Proposal being completed.
Tax Adviser's Letter	the letter issued by Greenwoods & Herbert Smith Freehills as set out in section 8 of this Scheme Booklet.
Third Party	a person other than Shell Energy Australia, its Related Bodies Corporate and its other Associates.
Total Cash Consideration	<p>the total cash consideration of \$2.42 in cash per ERM Power Share comprising:</p> <ol style="list-style-type: none"> (if a Special Dividend is paid): (i) an amount of \$2.42 in cash per ERM Power Share held on the Scheme Record Date less the cash amount of the Special Dividend (payable by Shell Energy Australia); and (ii) the amount of the Special Dividend in cash per ERM Power Share held on the Special Dividend Record Date (payable by ERM Power); or (if a Special Dividend is not paid): an amount of \$2.42 in cash per ERM Power Share held on the Scheme Record Date (payable by Shell Energy Australia).
Transaction	the acquisition of the Scheme Shares by Shell Energy Australia through implementation of the Scheme in accordance with the terms of the Scheme Implementation Deed.
Underlying EBITDAF	EBITDAF excluding significant items.
Underlying NPAT	statutory net profit after tax attributable to equity holders of ERM Power after excluding the after-tax effect of unrealised marked to market changes in the fair value of financial instruments, impairment and gains / losses on onerous contracts and other significant items, excluding any profit or loss from Associates of ERM Power.
VWAP	Volume weighted average price.

10.2 Interpretation

In this Scheme Booklet, unless expressly stated or the context otherwise appears:

- (a) words and phrases have the same meaning (if any) given to them in the Corporations Act;
- (b) words importing a gender include any gender;
- (c) words importing the singular include the plural and vice versa;
- (d) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and vice versa;
- (e) a reference to a section or annexure is a reference to a section of and an annexure to this Scheme Booklet as relevant;
- (f) a reference to any statute, regulation, proclamation, ordinance or by law includes all statutes, regulations, proclamations, ordinances, or by laws amending, varying, consolidating or replacing it and a reference to a statute includes all regulations, proclamations, ordinances and by laws issued under that statute;
- (g) headings and bold type are for convenience only and do not affect the interpretation of this Scheme Booklet;
- (h) a reference to time is a reference to time in Brisbane, Australia;
- (i) a reference to writing includes facsimile transmissions; and
- (j) a reference to dollars, \$, cents, ¢ and currency is a reference to the lawful currency of the Commonwealth of Australia.

Annexure 1: Independent Expert's Report

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The Directors
ERM Power Limited
Level 52
111 Eagle Street
Brisbane QLD 4000

27 September 2019

Subject: Proposed acquisition by way of Scheme

Dear Directors

Introduction

- 1 On 22 August 2019, ERM Power Limited (ERM) announced that it and Shell Energy Australia Pty Ltd (Shell) had signed a Scheme Implementation Deed (the Agreement) under which Shell would acquire 100% of the issued shares in ERM for an offer consideration of \$2.42 cash per share¹ (Scheme Consideration).
- 2 The proposed acquisition of the shares is to be implemented via a scheme of arrangement between ERM and its shareholders (the Scheme) and is subject to a number of conditions precedent (as summarised in Section I of our report).
- 3 ERM is permitted to pay a fully franked special dividend (Special Dividend) prior to implementation of the Scheme, subject to the necessary approvals for the Scheme being obtained and ERM obtaining a favourable draft class ruling from the Australian Taxation Office (ATO). The ERM Board currently intends to declare and pay a fully franked Special Dividend of up to \$0.085 per ERM Share.
- 4 If the Scheme is approved and implemented, ERM shareholders will receive \$2.42 cash for each ERM share they hold on the Scheme Record Date², less the cash amount of any Special Dividend per share which ERM announces before the Scheme Record Date. Should the maximum Special Dividend be paid the cash consideration payable under the Scheme will be reduced to \$2.335 per share³.
- 5 Under s411(1) of the *Corporations Act 2001* (Cth) (Corporations Act), the Court has ordered that a meeting of ERM shareholders be convened. Under the Corporations Act, the Scheme is approved by ERM shareholders if a resolution in favour of the Scheme is passed by a majority in number of the ERM shareholders present and voting at the Scheme meeting (in person or by proxy), and by 75% of the votes cast on the resolution. If this occurs a second Court

¹ The Scheme Consideration of \$2.42 per share excludes the final fully franked ordinary dividend for FY19 of \$0.045 per share.

² As defined in the Agreement.

³ Being \$2.42 per share less the Special Dividend of \$0.085 per share.

hearing will be held to approve the Scheme. If the Scheme is approved by the Court and the Scheme becomes effective, the Scheme will become binding on all ERM shareholders who hold ERM shares as at the Scheme Record Date, whether or not they voted for the Scheme (and even if they voted against the Scheme).

Purpose of report

- 6 The Scheme is subject to a number of conditions precedent, including an independent expert concluding (and continuing to conclude) that the Scheme is in the best interests of ERM shareholders. In addition, the Directors' recommendation of the Scheme is subject to an independent expert concluding (and continuing to conclude) that the Scheme is fair and reasonable and in the best interests of ERM shareholders.
- 7 Accordingly, the Directors of ERM have requested Lonergan Edwards & Associates Limited (LEA) to prepare an Independent Expert's Report (IER) stating whether, in our opinion, the Scheme is fair and reasonable and in the best interests of ERM shareholders and the reasons for that opinion.
- 8 LEA is independent of ERM and Shell and has no other involvement or interest in the proposed Scheme.

Summary of opinion

- 9 In our opinion, the Scheme is fair and reasonable and in the best interests of ERM shareholders in the absence of a superior proposal. We have formed this opinion for the reasons set out below.

Value of ERM

- 10 We have assessed the value of all the shares in ERM (on an ex-final dividend basis) at \$2.20 to \$2.51 per share, as shown below:

Valuation of ERM shares		
	Low \$m	High \$m
Energy Retail	370.0	400.0
Generation business	170.0	210.0
Energy Solutions	35.0	40.0
Capitalised value of unallocated corporate costs	(130.0)	(140.0)
Value of core business	445.0	510.0
Investments	15.8	15.8
Surplus assets:		
Business Energy US	5.0	5.0
Surplus cash	75.0	80.0
LGC strategy	20.7	30.0
Total equity value	561.5	640.8
Shares on issue	255.5	255.5
Value per share (\$)	\$2.20	\$2.51

- 11 As set out in Section V, we have valued the Energy Retail, Generation and Energy Solutions business segments (and unallocated corporate costs) separately using the discounted cash flow (DCF) method as our primary valuation methodology. Further:

Annexure 1: Independent Expert's Report (continued)

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- (a) our DCF valuation of the Energy Retail business implies a price earnings (PE) multiple of 9.8 to 10.6 times the net profit after tax generated by the business in FY19, which we consider reasonable given, inter-alia:
 - (i) the relatively short term nature of contracts with customers, which average around 2.2 years
 - (ii) the ERM business model, which is to operate at the margin irrespective of the prevailing energy price
 - (iii) the highly competitive nature of the business energy market (which has seen a number of new entrants in recent years)
 - (iv) the volatility of gross margins per megawatt hour (MWh), which are dependent on (inter-alia) competitor pricing and the ability to hedge price movements in energy markets
 - (v) the high market share of the business energy market achieved by ERM (notwithstanding the commodity nature of product sold) due to ERM's focus on customer service
- (b) our DCF valuation range for the Generation business implies an EBITDA⁴ multiple of 8.6 to 9.5 times the level of EBITDA adopted for valuation purposes. Whilst we are not aware of any directly comparable transaction evidence (or companies listed on the Australian Securities Exchange (ASX)) which can be used to assess the reasonableness of these EBITDA multiples, in our opinion the implied EBITDA multiples appear reasonable given the nature of the assets (long life energy generation assets offering low risk and low EBITDA growth); and
- (c) our valuation of the Energy Solutions business is broadly consistent with the net operating assets employed in the business (incorporating the cost of both business investment to date and recent acquisitions), which we consider is appropriate given the early stage nature of the business and the current unprofitable nature of business operations and associated negative cash flows.

Fair and reasonable opinion

- 12 Pursuant to the Australian Securities & Investments Commission (ASIC) Regulatory Guide 111 – *Content of expert reports* (RG 111) a scheme is “fair” if the value of the Scheme Consideration is equal to or greater than the value of the securities the subject of the Scheme. This comparison for ERM shares is shown below:

Position of ERM shareholders			
	Low \$ per share	High \$ per share	Mid-point \$ per share
Value of Scheme Consideration	2.42	2.42	2.42
Value of 100% of ERM	2.20	2.51	2.36
Extent to which the Scheme Consideration exceeds (or is less than) the value of ERM	0.22	(0.09)	0.06

⁴ Earnings before interest, tax, depreciation and amortisation (EBITDA).

- 13 As the Scheme Consideration lies within our assessed valuation range for ERM shares on a 100% controlling interest basis, in our opinion, the Scheme Consideration is fair to ERM shareholders when assessed based on the guidelines set out in RG 111.
- 14 Pursuant to RG 111, a transaction is reasonable if it is fair. Further, in our opinion, if the Scheme is “fair and reasonable” it must also be “in the best interests” of shareholders.
- 15 Consequently, in our opinion, the Scheme is also “reasonable” and “in the best interests” of ERM shareholders in the absence of a superior proposal.

Assessment of the Scheme

- 16 We summarise below the likely advantages and disadvantages of the Scheme for ERM shareholders.

Advantages

- 17 In our opinion, the Scheme has the following benefits for ERM shareholders:
- (a) the Scheme Consideration of \$2.42 cash per share is consistent with our assessed value range for ERM shares on a 100% controlling interest basis. Thus, in our view, ERM shareholders are being paid an appropriate price to compensate them for the fact that control of ERM will pass to Shell if the Scheme is approved
 - (b) the Scheme Consideration represents a significant premium to the recent market prices of ERM shares prior to the announcement of the Scheme on 22 August 2019
 - (c) furthermore, the premium above the recent market prices of ERM shares prior to the announcement of the Scheme is consistent with and/or above the observed premiums generally paid to target company shareholders in comparable circumstances
 - (d) the Special Dividend is expected to be fully franked and is therefore expected to include a franking credit of up to approximately \$0.036 per share. This franking credit may give rise to additional value to those Australian resident shareholders on marginal tax rates less than 30%; and
 - (e) if the Scheme does not proceed, and in the absence of an alternative offer or proposal, the price of ERM shares is likely to trade at a significant discount to our valuation and the Scheme Consideration due to the portfolio nature of individual shareholdings.

Disadvantages

- 18 ERM shareholders should note that if the Scheme is implemented they will no longer hold an interest in ERM. ERM shareholders will therefore not participate in any future value created by the company over and above that reflected in the Scheme Consideration. However, as our assessed value of ERM shares is consistent with the Scheme Consideration, in our opinion, the present value of ERM’s future potential is reflected in the Scheme Consideration.

Other matters

- 19 In considering the Scheme and related resolutions, ERM shareholders should also note that Mr Trevor St Baker, who holds a relevant interest of approximately 27.4% in the issued ordinary shares in ERM, has indicated an intention to vote in favour of the Scheme resolutions, subject to no superior proposal emerging and the independent expert concluding (and continuing to conclude) that the Scheme is in the best interests of ERM shareholders.

Annexure 1: Independent Expert's Report (continued)

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Conclusion

- 20 Given the above analysis, we consider the acquisition of ERM shares under the Scheme is fair and reasonable and in the best interests of ERM shareholders in the absence of a superior proposal.

General

- 21 In preparing this report we have considered the interests of ERM shareholders as a whole. Accordingly, this report only contains general financial advice and does not consider the personal objectives, financial situations or requirements of individual shareholders.
- 22 The impact of approving the Scheme on the tax position of ERM shareholders depends on the individual circumstances of each investor. ERM shareholders should read the Scheme Booklet and consult their own professional advisers if in doubt as to the taxation consequences of the Scheme.
- 23 The ultimate decision whether to approve the Scheme should be based on each ERM shareholder's assessment of their own circumstances. If ERM shareholders are in doubt about the action they should take in relation to the Scheme or matters dealt with in this report, shareholders should seek independent professional advice. For our full opinion on the Scheme and the reasoning behind our opinion, we recommend that ERM shareholders read the remainder of our report.

Yours faithfully



Craig Edwards
Authorised Representative



Martin Holt
Authorised Representative

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I Key terms of the Scheme

Terms

- 24 On 22 August 2019, ERM announced that it and Shell had signed a Scheme Implementation Deed (the Agreement) under which Shell would acquire 100% of the issued shares in ERM for an offer consideration of \$2.42 cash per share⁵ (Scheme Consideration).
- 25 The proposed acquisition of the shares is to be implemented via a scheme of arrangement between ERM and its shareholders (the Scheme) and is subject to a number of conditions precedent, as summarised below.
- 26 ERM is permitted to pay a fully franked special dividend (Special Dividend) prior to implementation of the Scheme, subject to the necessary approvals for the Scheme being obtained and ERM obtaining a favourable draft class ruling from the Australian Taxation Office (ATO). The ERM Board currently intends to declare and pay a fully franked Special Dividend of up to \$0.085 per ERM Share.
- 27 If the Scheme is approved and implemented, ERM shareholders will receive \$2.42 cash for each ERM share they hold on the Scheme Record Date⁶, less the cash amount of any Special Dividend per share which ERM announces before the Scheme Record Date. Should the maximum Special Dividend be paid the cash consideration payable under the Scheme will be reduced to \$2.335 per share⁷.

Conditions

- 28 The Scheme is subject to the satisfaction or waiver of a number of conditions precedent, including the following which are outlined in the Agreement between ERM and Shell dated 21 August 2019:
 - (a) ERM shareholder approval by the requisite majorities at the Scheme meeting under the Corporations Act
 - (b) an independent expert issues a report which concludes (and does not change or withdraw its conclusion) that the Scheme is in the best interests of ERM shareholders
 - (c) approval of the Scheme by the Court in accordance with s411(4)(b) of the Corporations Act
 - (d) no temporary, preliminary or final restraining order, injunction, decision or decree that would prevent, prohibit or otherwise materially adversely affect the Scheme issued by any court of competent jurisdiction or Australian Government Agency on the application of an Australian Government Agency is in effect at 8.00am on the Second Court Date
 - (e) no “ERM Material Adverse Change” (as defined in Schedule 2 of the Agreement) occurs in respect of ERM on or before 8.00am on the Second Court Date

⁵ The Scheme Consideration of \$2.42 per share excludes the final fully franked ordinary dividend for FY19 of \$0.045 per share.

⁶ As defined in the Agreement.

⁷ Being \$2.42 per share less the fully franked Special Dividend of \$0.085 per share.

Annexure 1: Independent Expert's Report (continued)

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- (f) no “ERM Prescribed Occurrence” (as defined in Schedule 2 of the Agreement) occurs in respect of ERM on or before 8.00am on the Second Court Date
 - (g) no “ERM Regulated Event” (as defined in Schedule 2 of the Agreement) occurs in respect of ERM on or before 8.00am on the Second Court Date
 - (h) each of the representations and warranties given by ERM (as set out in Schedule 4 of the Agreement) is true and correct in all material respects as at 8.00am on the Second Court Date, except to the extent that any such representation or warranty expressly relates to an earlier date
 - (i) each of the representations and warranties given by Shell (as set out in Schedule 3 of the Agreement) is true and correct in all material respects as at 8.00am on the Second Court Date, except to the extent that any such representation or warranty expressly relates to an earlier date.
- 29 In addition ERM has agreed that during the Exclusivity Period (as defined in Schedule 2 of the Agreement) it will not:
- (a) solicit, invite, encourage or initiate any inquiry, expression of interest, offer, proposal or discussion in relation to, or which would reasonably be expected to encourage or lead to the making of an actual, proposed or potential competing transaction
 - (b) participate in or continue, or accept, enter into, offer, or agree to any discussions or negotiations with respect to any inquiry, expression of interest, offer, proposal or discussion which would make or reasonably be expected to encourage or lead to the making of an actual, proposed or potential competing proposal
 - (c) disclose, provide or otherwise make available any material non-public information to a third party for the purposes of encouraging or leading that party to table a competing transaction
 - (d) communicate to any person an intention to do anything referred to paragraphs (a) to (c) above.
- 30 The exclusivity obligations do not apply if ERM has complied with the various obligations set out in the Agreement and the ERM Board determines:
- (a) the proposed competing transaction is a superior proposal or the steps which the ERM Board proposes to take may reasonably be expected to lead to a competing transaction which is a superior proposal⁸; and
 - (b) based on written advice from its legal advisers, that the failure to take or not to take action would or would be reasonably likely to constitute a breach of fiduciary duties or statutory duties of the directors of ERM.
- 31 A reimbursement fee of \$6.055 million is payable by ERM to Shell in certain circumstances as specified in the Agreement.

⁸ Subject to any potential breach of fiduciary duties, ERM must notify Shell within one business day if it receives a superior competing proposal and give Shell five business days to match that competing proposal.

Resolution

- 32 ERM shareholders will be asked to vote on the Scheme in accordance with the resolution contained in the Notice of Meeting accompanying the Scheme Booklet.
- 33 If the resolution is passed by the requisite majorities, ERM must apply to the Court for orders approving the Scheme, and if that approval is given, lodge the orders with ASIC and do all things necessary to give effect to the Scheme. Once the Court approves the Scheme it will become binding on all ERM shareholders who hold ERM shares as at the Scheme Record Date, whether or not they voted for the Scheme (and even if they voted against the Scheme).

Annexure 1: Independent Expert's Report (continued)



II Scope of our report

Purpose

- 34 The Scheme is to be effected pursuant to Part 5.1 of the Corporations Act, which governs schemes of arrangement. Part 3 of Schedule 8 of the Corporations Regulations prescribes information to be sent to shareholders in relation to a members' scheme of arrangement pursuant to s411 of the Corporations Act.
- 35 Paragraph 8303 of Schedule 8 of the Corporations Regulations provides that, where the other party to the transaction holds not less than 30% of the voting shares in the company the subject of the scheme, or where a director of the other party to the transaction is also a director of the company the subject of the scheme, the explanatory statement must be accompanied by an IER assessing whether the proposed scheme is in the best interests of shareholders and state reasons for that opinion.
- 36 As at 26 September 2019, Shell only had a relevant interest in 349,283 shares (approximately 0.14%) in ERM⁹, and has no representation on the ERM Board. However, it is a condition precedent to both the Scheme and the ERM Directors' recommendation of the Scheme that an independent expert concludes (and continues to conclude) that the Scheme is in the best interests of ERM shareholders. In addition, as the Scheme (if approved and implemented) will result in 100% of the securities in ERM being held by Shell, RG 111 requires that we provide an opinion on whether the consideration payable under the Scheme is "fair" and "reasonable" to the shareholders of ERM.
- 37 The Directors of ERM have therefore requested LEA to prepare an IER stating whether the proposed acquisition of the shares in ERM by Shell under the Scheme is fair and reasonable and in the best interests of ERM shareholders and the reasons for that opinion.
- 38 This report has been prepared by LEA for the benefit of ERM shareholders to assist them in considering the resolution to approve the Scheme. Our report will accompany the Notice of Meeting and Scheme Booklet to be sent to ERM shareholders. The sole purpose of our report is to determine whether, in our opinion, the Scheme is fair and reasonable and in the best interests of ERM shareholders.
- 39 The ultimate decision whether to approve the Scheme should be based on each ERM shareholder's assessment of their own circumstances. If in doubt about the action they should take in relation to the Scheme or matters dealt with in this report, shareholders should seek independent professional advice.

⁹ This relevant interest is held by various Shell entities in its capacity as a manager or trustee of a Shell Group pension fund.

Basis of assessment

- 40 In preparing our report we have given due consideration to the Regulatory Guides issued by ASIC including, in particular, RG 111.
- 41 RG 111 distinguishes “fair” from “reasonable” and considers:
- (a) the Scheme to be “fair” if the value of the Scheme Consideration is equal to or greater than the value of the securities that are the subject of the Scheme. A comparison must be made assuming 100% ownership of the target company
 - (b) the Scheme to be “reasonable” if it is fair. The Scheme may also be “reasonable” if, despite not being “fair” but after considering other significant factors, there are sufficient reasons for shareholders to approve the Scheme in the absence of a superior proposal.
- 42 There is no legal definition of the expression “in the best interests”. However, RG 111 states that a Scheme may be “*in the best interests of the members of the company*” if there are sufficient reasons for shareholders to vote in favour of the Scheme in the absence of a higher offer.
- 43 In our opinion, if the Scheme is “fair” and “reasonable” under RG 111 it must also be “in the best interests” of ERM shareholders.
- 44 Our report has therefore considered:
- (a) the market value of 100% of the shares in ERM
 - (b) the value of the consideration offered by Shell of \$2.42 per ERM share¹⁰
 - (c) the extent to which (a) and (b) differ (in order to assess whether the Scheme is fair under RG 111)
 - (d) the extent to which a control premium is being paid to ERM shareholders
 - (e) the extent to which ERM shareholders are being paid a share of any synergies likely to be generated pursuant to the potential transaction
 - (f) the listed market price of ERM shares, both prior to and subsequent to the announcement of the proposed Scheme
 - (g) the likely market price of ERM securities if the proposed Scheme is not approved
 - (h) the value of ERM to an alternative offeror and the likelihood of a higher alternative offer being made for ERM prior to the date of the Scheme meeting
 - (i) the advantages and disadvantages of the Scheme from the perspective of ERM shareholders
 - (j) other qualitative and strategic issues associated with the Scheme.

¹⁰ For the purpose of our report we have adopted Scheme Consideration of \$2.42 per share, which excludes the declared ordinary dividend of \$0.045 per share. Accordingly, we have also assessed the market value of 100% of the shares in ERM on a comparable ex-dividend basis.

Annexure 1: Independent Expert's Report (continued)



Limitations and reliance on information

- 45 Our opinions are based on the economic, share market, financial and other conditions and expectations prevailing at the date of this report. Such conditions can change significantly over relatively short periods of time.
- 46 Our report is also based upon financial and other information provided by ERM and its advisers. We understand the accounting and other financial information that was provided to us has been prepared in accordance with the Australian equivalents to International Financial Reporting Standards. We have considered and relied upon this information and believe that the information provided is reliable, complete and not misleading and we have no reason to believe that material facts have been withheld.
- 47 The information provided was evaluated through analysis, enquiry and review to the extent considered appropriate for the purpose of forming an opinion on the Scheme from the perspective of ERM shareholders. However, we do not warrant that our enquiries have identified or verified all of the matters which an audit, extensive examination or “due diligence” investigation might disclose. Whilst LEA has made what it considers to be appropriate enquiries for the purpose of forming its opinion, “due diligence” of the type undertaken by companies and their advisers in relation to (for example) prospectuses or profit forecasts is beyond the scope of an IER.
- 48 Accordingly, this report and the opinions expressed therein should be considered more in the nature of an overall review of the anticipated commercial and financial implications of the proposed transaction, rather than a comprehensive audit or investigation of detailed matters. Further, this report and the opinions therein, must be considered as a whole. Selecting specific sections or opinions without context or considering all factors together, could create a misleading or incorrect view or opinion. This report is a result of a complex valuation process that does not lend itself to a partial analysis or summary.
- 49 An important part of the information base used in forming an opinion of the kind expressed in this report is comprised of the opinions and judgement of management of the relevant companies. This type of information has also been evaluated through analysis, enquiry and review to the extent practical. However, it must be recognised that such information is not always capable of external verification or validation.
- 50 We in no way guarantee the achievability of budgets or forecasts of future profits. Budgets and forecasts are inherently uncertain. They are predictions by management of future events which cannot be assured and are necessarily based on assumptions of future events, many of which are beyond the control of management. Actual results may vary significantly from forecasts and budgets with consequential valuation impacts.
- 51 In forming our opinion, we have also assumed that:
- (a) the information set out in the Scheme Booklet is complete, accurate and fairly presented in all material respects
 - (b) if the Scheme becomes legally effective, it will be implemented in accordance with the terms set out in the Agreement and the terms of the Scheme itself.

III Profile of ERM

Overview

- 52 ERM is an Australian energy company engaged in the sale of electricity to businesses, generation of electricity and provision of energy solutions. The Group has grown to become the second largest electricity provider to commercial and industrial (C&I) customers in Australia. It also operates two gas-fired power stations located in Western Australia (WA) and Queensland providing 662 megawatts (MW) of low emission energy¹¹.

History

- 53 ERM was founded as a specialist Australian energy advisory firm in 1980. It transitioned to a generation developer in the mid-1990s and has since evolved to become one of Australia's largest integrated energy companies. A summary of the key historical developments of the Group is set out below:

ERM – history	
Date	Key development
1980	<ul style="list-style-type: none"> Founded by Mr Trevor St Baker as a boutique energy consultancy advising state, federal and international governments and large corporations
1996	<ul style="list-style-type: none"> Acquired an interest in its first power project, the 332 MW Oakey Power Station. This was the first tender involving the private sector and public utilities in Queensland
Mid 1990s	<ul style="list-style-type: none"> Acquired 1,000 acres of land at Braemar, 40 kilometres (km) south west of Dalby at the intersection of the Roma to Brisbane gas pipeline, with a vision that Braemar would become the future energy hub for South-East Queensland
2000 - 2007	<ul style="list-style-type: none"> Between 2000 and 2007 the Group commenced the development of five gas-fired power station projects, being the 504 MW Braemar Power Station, the 320 MW Kwinana Power Station, the 664 MW Uranquinty Power Station, the 330 MW Neerabup Power Station and the 519 MW Braemar 2 Power Station. Aside from the Neerabup Power Station, which is 50% owned by the Group, all of these power station investments were subsequently divested
2007	<ul style="list-style-type: none"> Launched its electricity retailing business. In the first six months of operations more than 100 major customers were added and over \$300 million of contracted sales were signed
2009	<ul style="list-style-type: none"> Completed construction of the 330 MW Neerabup Power Station
2010	<ul style="list-style-type: none"> Successfully listed on the ASX with a market capitalisation of around \$280 million
2011	<ul style="list-style-type: none"> Acquired a controlling interest in the 332 MW gas-fired Oakey Power Station
2013	<ul style="list-style-type: none"> Commenced retailing to the small and medium enterprise market
2014	<ul style="list-style-type: none"> Became Australia's second largest retailer to commercial and industrial (C&I) customers by volume of electricity sold The Powermetric Metering business was established, offering ERM customers a new high-quality option for their metering service provision
2015	<ul style="list-style-type: none"> Entered the United States of America (US) retail electricity market by acquiring Source Power & Gas headquartered in Texas
2016	<ul style="list-style-type: none"> Acquired Greensense and LumaLED, strengthening its expertise in energy solutions for businesses managing their energy consumption
2018	<ul style="list-style-type: none"> Acquired Out Performers, adding strength to its Energy Solutions offering by bringing large-scale industrial project expertise and energy efficiency certificate creation capability to ERM's existing suite of energy productivity solutions Completed the sale of its US operations (Source Power & Gas)

¹¹ The Neerabup power station in WA is 50% owned by ERM. ERM's attributable share of generation capacity at both plants is 497 MW.

Annexure 1: Independent Expert's Report (continued)

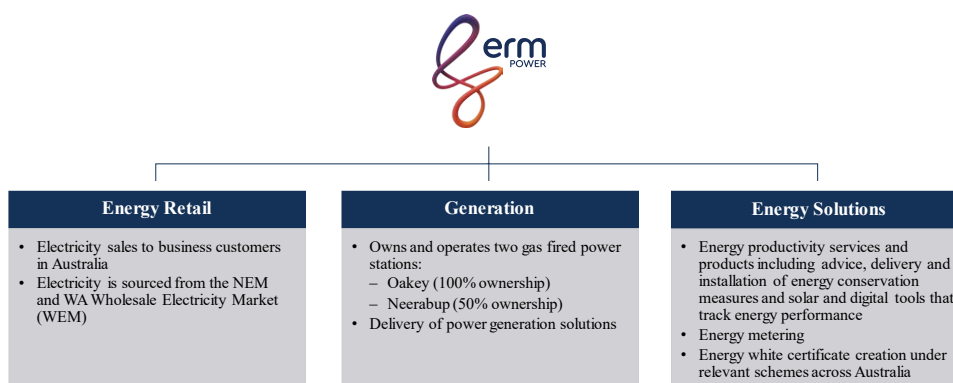
ERM – history

Date	Key development
2019	<ul style="list-style-type: none"> In July 2019 the Group acquired a 50% interest in industrial automation and electrical engineering company Alliance Automation. The company is one of the largest independent electrical engineering and automation solution providers in Australia, with a team of more than 190 people and offices in Queensland, New South Wales (NSW), Victoria and South Australia (SA)

Current operations

- 54 ERM operates through three business segments, being Energy Retail, Generation and Energy Solutions. A summary of the respective offerings of each of these divisions is as follows:

ERM – segments

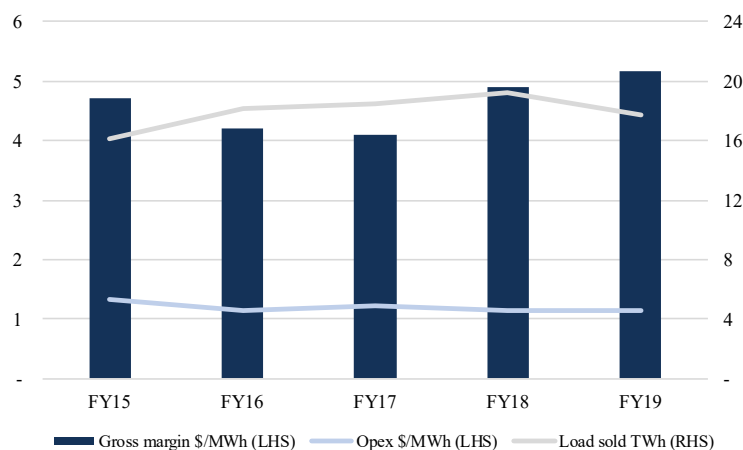


Energy Retail

- 55 Energy Retail provides electricity sales to business customers in Australia and is the second largest electricity provider to commercial and industrial customers. The Group sources its electricity requirements on the east coast of Australia from the NEM and on the west coast of Australia from the WEM. The average duration of current sales contracts between ERM and its customers is typically around 2.2 years and the Group has achieved a number one customer service ranking for eight years running¹².
- 56 A summary of key statistics for Energy Retail over the five years to 30 June 2019 (FY19) is shown below:

¹² Utility Market Intelligence surveys between 2011 and 2019 of large customers of major electricity retailers in Australia by independent research company NTF Group.

Energy Retail – key statistics



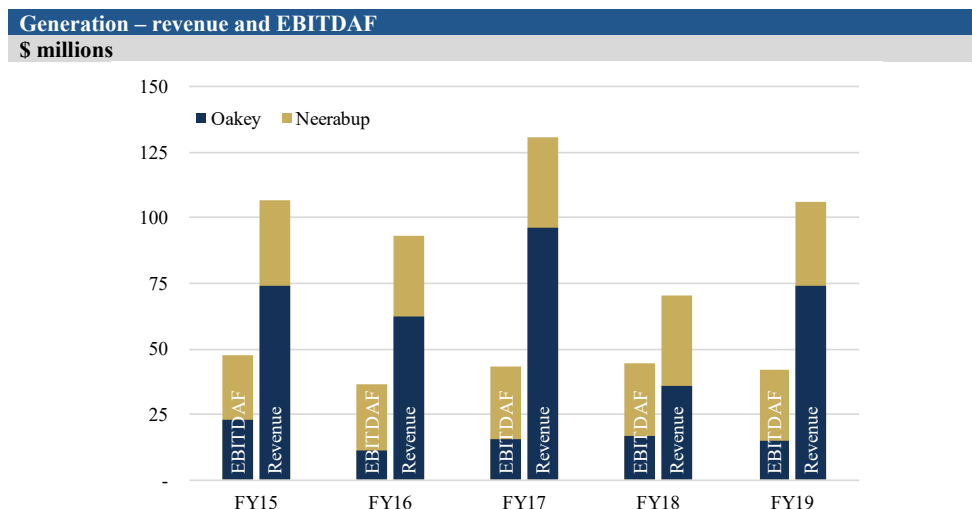
- 57 During FY19, the load sold (as measured in terawatt hours (TWh)) decreased by 8% from the prior year. This decrease in volume was primarily attributable to the sale of the small to medium enterprise (SME) single site portfolio and the loss of two large low margin customers. However, this was largely offset by an increase in the gross margin to \$5.16 per MWh. Due to strong performance in the value of its forward book, in its FY19 Financial Report Results announced on 22 August 2019, ERM lifted its medium term gross margin outlook for the three years for FY20 to FY22 from \$4.00 to \$5.50 per MWh to \$4.50 to \$6.00 per MWh.

Generation

- 58 ERM owns two high quality gas-fired “peaking” power stations located in Oakey, Queensland (100% owned) and Neerabup, WA (50% owned). The division also provides power generation solutions, from the initial concept through to development and operations.
- 59 The power stations provide fast-ramping support for intermittent generation. To minimise environmental impact, “peaking” power stations such as Oakey and Neerabup only run during times of peak energy demand. For example, these power stations both operated at less than 10% of capacity in FY18 and FY19 respectively. Details of each of the gas-fired power stations are as follows:
- (a) Oakey – a 332 MW dual liquid / gas-fired open-cycle power station located on the Darling Downs, 150 km west of Brisbane, adjacent to the Roma to Brisbane gas pipeline and in proximity to Queensland’s coal seam gas corridor. The power station typically runs during times of peak electricity demand when Queensland’s power needs are greatest
 - (b) Neerabup – a 330 MW open-cycle gas-fired power station located 30 km north of Perth, WA. The power station was built in 2009 at a cost of \$435 million. Generation output is contracted through a long-term off-take contract that extends to 2029 with Synergy (owned by the WA State Government), with payments based on capacity and availability of the power station. The Neerabup Power Station also typically runs during times of peak electricity demand.

Annexure 1: Independent Expert's Report (continued)

- 60 The revenue and EBITDAF¹³ contribution from the respective power stations over the five years to FY19 is as follows:



Note:

- 1 Generation development and operations are not included in the above.
- 2 Neerabup's revenue and EBITDAF represents ERM's 50% interest in this asset.

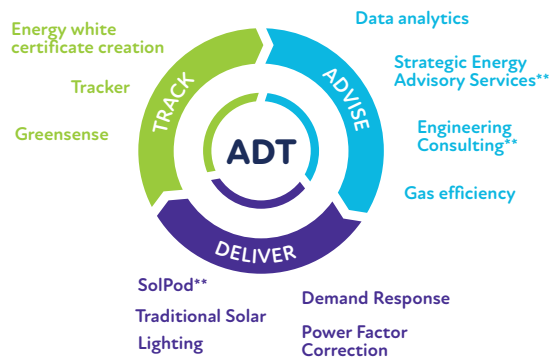
- 61 Up to 31 December 2014, Oakey received consistent cash flows under a power purchase agreement with AGL Energy Limited (AGL). Upon expiry of this agreement, Oakey has operated as a merchant facility with revenue and EBITDAF lower, less consistent and more variable. In contrast, the revenue and EBITDAF from the 50% owned Neerabup Power Station has been relatively consistent, which is due to the existence of the long-term off-take contract with Synergy.

Energy Solutions

- 62 Energy Solutions focuses on improving energy productivity for its customers to reduce energy costs, improve security of supply and promote sustainability. It uses data analytics to advise on best integrated solutions driving gas and electricity productivity, project manages installation of energy conservation measures and solar, and leverages its proprietary digital platforms to track energy performance. Energy Solutions also includes the metering business Powermetric.
- 63 Energy Solutions assists commercial and industrial customers to take control on the demand side, or behind the meter at customers' sites. The business leverages a business model providing customers with an end to end partnership across "Advise, Deliver and Track" services as shown below:

¹³ Earnings before interest, tax, depreciation, amortisation, impairment and net fair value gains / losses on financial instruments designated at fair value through profit and loss (EBITDAF).

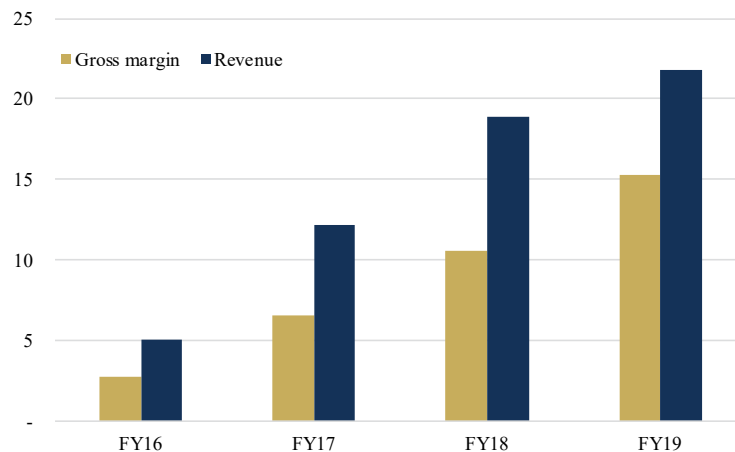
Energy Solutions – initiatives



- 64 On 28 September 2018, ERM finalised the purchase of Out Performers, an engineering group with more than 30 staff based in Queensland, NSW and Victoria. This business is focused on driving energy productivity in large energy consumers with complex industrial processes.
- 65 Revenue and gross margin for the Energy Solutions division over the four years to FY19 is set out below:

Energy Solutions – revenue and gross margins

\$ million



- 66 Whilst revenue and gross margins have increased significantly year on year, the division has not derived a positive EBITDAF contribution. However, due to continuing growth this business is expected to report a positive EBITDAF for FY20 and will break even at the net profit after tax (NPAT) level.

Annexure 1: Independent Expert's Report (continued)

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Financial performance

67 The financial performance of ERM for the three years to FY19 is set out below:

ERM – statement of financial performance			
	FY17⁽¹⁾	FY18⁽¹⁾	FY19⁽¹⁾
	\$m	\$m	\$m
Contestable revenue ⁽²⁾	1,477.8	2,046.4	2,033.6
Energy Retail EBITDAF	53.4	71.9	70.7
Generation EBITDAF	41.7	43.8	41.4
Energy Solutions EBITDAF	(4.3)	(3.6)	(3.9)
Corporate and other EBITDAF	(12.6)	(14.6)	(17.7)
Underlying EBITDAF continuing operations	78.2	97.5	90.5
Significant items ⁽⁶⁾	-	(1.0)	(1.1)
LGCs ⁽³⁾ shortfall charge refund	-	-	5.3
Depreciation and amortisation	(27.2)	(30.2)	(28.1)
Net fair value gain / (loss) on financial instruments	52.2	(108.8)	132.3
Share of associate profit / (loss) (net of tax)	(0.3)	0.2	0.1
Finance income	3.6	3.1	3.8
Finance expense	(24.5)	(27.3)	(28.6)
Profit / (loss) before tax	82.0	(66.5)	174.2
Tax (expense) / benefit	(61.9)	20.1	(52.7)
Tax benefit of LGCs shortfall refund	-	-	12.4
Loss from discontinued operations ⁽⁴⁾	(20.3)	(34.0)	(10.8)
Statutory net profit / (loss) after tax (NPAT) / (NLAT)⁽⁵⁾	(0.2)	(80.4)	123.1
Net fair value (gain) / loss on financial instruments (net of tax)	(36.5)	76.1	(92.6)
Share of associate (profit) / loss (net of tax)	0.3	(0.2)	(0.1)
Add back loss from discontinued operations (net of tax)	20.3	34.0	10.8
Significant items (net of tax)	-	0.7	0.9
LGCs shortfall charge refund	-	-	(16.1)
Underlying NPAT / (NLAT) continuing operations	(16.1)	30.2	26.0

Note:

1 Figures restated to exclude US operations that are included within discontinued operations.

2 Includes both electricity and green certificates sales. Excludes pass through costs.

3 Large-scale Renewable Generation Certificates (LGCs).

4 Discontinued operations relate to the recently sold US business Source Power & Gas.

5 Net loss after tax (NLAT).

6 Including impairment charges.

Net fair value gains / (losses) on financial instruments

68 Due to the large number and complexity of derivative and other financial instrument transactions undertaken by ERM, most exchange based transactions are not designated as hedges for accounting purposes even though they are generally taken out for the purpose of managing ERM's electricity demand and supply exposures. Accordingly, the unrealised gains and losses on a significant number of these financial instruments are required to be reflected in ERM's consolidated income statement.

69 Whilst these unrealised gains and losses can be very large and vary significantly from year to year (as shown above), it should also be noted that (as these financial instruments are used to hedge its electricity exposures) the theoretical market value of ERM's contracts with customers and/or electricity generators (being the contracts which ERM has sought to hedge)

will change by a similar and offsetting amount. However, as the market value of these contracts are not recorded in ERM's financial statements, these offsetting gains and losses are not shown in the consolidated income statement.

- 70 Accordingly, for valuation purposes it is generally appropriate to ignore the (non-cash) fair value gains and losses on these financial instruments on the basis that they only reflect the effect of one side of the energy transactions entered into by ERM.

Renewable Energy Target and LGCs

- 71 The Renewable Energy Target (RET)¹⁴ requires electricity retailers like ERM to acquire regulatory certificates from renewable energy generators. Retailers may achieve compliance under the large-scale renewable energy target scheme by either surrendering the required number of certificates to the Clean Energy Regulator (CER) on an annual basis, or by paying a charge for the shortfall in surrendered certificates.
- 72 For the 2016 compliance year, the Group chose to achieve compliance with the RET scheme by paying the CER a shortfall charge of \$123 million in lieu of surrendering 1.9 million LGCs. This enabled the sale of existing LGC inventory into the market while prices were high, with the Group reaching agreements to procure lower cost LGCs in the future.
- 73 For the 2017 and 2018 compliance years, ERM achieved compliance by surrendering 2.7 million and 2.9 million LGCs respectively. ERM chose to surrender these certificates to cover the respective year's compliance liability and there was no shortfall charge paid.
- 74 ERM's LGCs strategy (which as stated above included paying a shortfall charge of \$123 million in 2016 for not surrendering 1.9 million certificates and the sale of existing LGC inventory into the market while prices were high and procuring lower cost LGCs), has resulted in a profit after tax of \$16.1 million in FY19 and is expected to deliver an additional \$20.7 million profit after tax in FY20.

Results for FY17

- 75 ERM reported underlying EBITDAF of \$78.2 million in FY17, a 5% increase on the prior year. A summary of the FY17 results by segment are as follows:
- (a) Energy Retail EBITDAF decreased by \$2 million in comparison to FY16. Gross margin per MWh sold was broadly in line with the prior year whilst operating costs increased slightly due to the higher load sold and the accrual of staff bonuses
 - (b) EBITDAF for the Generation business increased by \$6.3 million to \$41.7 million, reflecting a \$4.3 million increase at the Oakey Power Station, a \$2.1 million increase at the Neerabup Power Station, offset marginally by a small increase in operating expenses
 - (c) the Energy Solutions business more than doubled its revenue in FY17. This performance was underpinned by lighting sales more than doubling, a 30% growth in Powermetric meter numbers and 40% growth in capacity available for demand response initiatives, growth in Power Factor Correction solutions together with completing the integration of the two companies acquired in the second half of the prior year, LumaLED and Greensense. Operating costs increased with a full year of ownership of these

¹⁴ An Australian Government scheme designed to reduce emissions of greenhouse gases in the electricity sector and encourage the additional generation of electricity from sustainable and renewable sources. Refer Section IV for further details.

Annexure 1: Independent Expert's Report (continued)



businesses, as well as an acceleration of investments in people and processes to assist with further scaling revenue and gross margin going forward.

Results for FY18

- 76 ERM reported underlying EBITDAF of \$97.5 million in FY18, a 25% increase on the prior year. A summary of the FY18 results by segment are as follows:
- (a) Energy Retail reported record sales of 19.2 TWh and underlying EBITDAF increasing by 35% to \$71.9 million (\$18.5 million higher than FY17). This was attributable to an improvement in operating conditions across the business with continued benefit from its STEP Online product¹⁵, portfolio optimisation and the Vales Point offtake agreement, as prices in NSW remained high. The gross profit margin of \$4.90 per MWh was above expectations with lower than expected load and price variance over the second half. Operating costs also decreased due to efficiencies across the business
 - (b) ERM's Generation business performed ahead of expectations, with EBITDA increasing by \$2.1 million on the prior year to \$43.8 million due to:
 - (i) higher earnings from the Neerabup Power Station which benefitted from a tight wholesale market following a number of plant outages from other generators and weather events creating merchant generation opportunities in the WA market
 - (ii) the Oakey Power Station benefitting from favourable electricity hedging and the monetisation of gas positions
 - (c) Energy Solutions reported revenue for the period of \$18.9 million, an increase of around 55% compared to the prior year. Revenue growth was driven by high electricity prices that increased demand for advice and energy efficiency solutions. The business made an EBITDAF loss of \$3.6 million, which was a slight improvement on FY17.

Results for FY19

- 77 In comparison to FY18, underlying EBITDAF from continuing operations decreased \$7 million to \$90.5 million. This was primarily attributable to lower earnings from the Oakey Power Station and the Energy Retail business as well as higher corporate costs.
- 78 A summary of the FY19 results by segment is set out below:
- (a) Energy Retail EBITDAF decreased by \$1.2 million in comparison to the previous year due primarily to an 8% reduction in C&I load sold. This was partially offset by gross margins increasing by 5% to \$5.16 per MWh due to a combination of strong retail operational performance and the loss of two large low margin customer contracts. Operating costs remained relatively steady at \$1.16 per MWh
 - (b) Generation EBITDAF decreased by \$2.4 million in comparison to FY18 which was primarily due to EBITDAF from Oakey reducing \$1.8 million as a result of suppressed prices and low volatility in the Queensland energy market. EBITDAF from Neerabup decreased by \$0.5 million due to milder weather in WA and fewer merchant revenue opportunities during the year

¹⁵ Which helps larger businesses manage timing risk when contracting and limits their exposure to volatile energy prices.

- (c) In FY19, Energy Solutions was impacted by longer sales cycles that resulted in key projects not being realised as revenue in FY19. However, this has created a particularly strong order book leading into FY20 (with 60% of the target margin required to reach breakeven NPAT already contracted). As a result, sales and EBITDAF (excluding the Out Performers business acquired in September 2018) reduced year on year
- (d) net corporate and other costs increased by \$3.1 million year on year, primarily as a result of increased investment in information technology (IT) spend to drive process improvements and utilise more subscription based cloud computing architecture.

Outlook for FY20

- 79 Concurrent with the release of its FY19 results the Group provided the following outlook with respect to its FY20 results:

“Sales volumes in Australia Retail are expected to be ahead of FY2019, which was impacted by the loss of two large low margin customers and the sale of our SME single site book. The mid-case margin of \$5.00/MWh is in line with the range previously provided of \$4.50-\$6.00/MWh. Opex is forecast to be in line with FY2019 after factoring in the forecast load growth of ~0.8TWh.

We anticipate that the large-scale generation certificates (LGC) strategy will deliver further NPAT of \$20.7m in FY2020. After recognising NPAT of \$16.1m during FY2019 this would see total profit from the strategy of \$36.8m, in line with previous guidance. This is not included in the outlook for gross margin.

Our expectation is that generation earnings will be in line with FY2019 for both Oakey and Neerabup.

Energy Solutions is expected to breakeven at the NPAT level in FY2020. This improvement is forecast to be driven by both revenue from the Queensland Government Advancing Clean Energy Schools (ACES) program and from continued growth in the business model, which provides customers the opportunity to realise savings on their energy costs by making investments in energy efficiency.

Corporate costs are expected to remain steady at around \$18m, having increased in FY2019 largely driven by higher expensing of IT costs; capex was correspondingly lower than expected at \$19.5m.”

Annexure 1: Independent Expert's Report (continued)



Financial position

80 The financial position of ERM as 30 June 2018 and 2019 is set out below:

ERM – statement of financial position ⁽¹⁾		
	30 Jun 18	30 Jun 19
	\$m	\$m
Debtors, prepayments and other current assets	334.9	386.2
Inventories	81.8	50.4
Creditors, accruals and provisions	(430.2)	(397.2)
Net derivative instruments	(14.3)	98.8
Net working capital	(27.9)	138.1
Plant and equipment	390.7	378.9
Intangible assets / goodwill	38.5	60.3
Other financial assets	6.9	7.3
Net assets held for sale	15.1	-
Net leases	(6.7)	(7.5)
Net current tax assets and deferred tax liabilities	(54.1)	(132.8)
Non-current provisions	(4.2)	(6.3)
Total funds employed	358.2	438.1
Cash and cash equivalents	227.6	172.1
Interest bearing liabilities	(336.3)	(181.2)
Net cash / (borrowings) including deferred consideration	(108.7)	(9.1)
Net assets attributable to ERM's shareholders	249.5	429.0

Note:

1 Rounding differences exist.

Inventories

81 The composition of ERM's inventories is shown below:

ERM – inventories		
	30 Jun 18	30 Jun 19
	\$m	\$m
Work in progress	0.2	0.2
Stock on hand	0.9	0.0
Renewable energy certificates – at cost	67.2	45.9
Renewable energy certificates – at fair value less cost to sell	12.0	2.8
Gas in storage	0.1	0.1
Diesel fuel	1.4	1.3
Total	81.8	50.4

82 The majority of ERM's inventories relate to renewable energy certificates held by the Group. The Group participates in the purchase and sale of a range of renewable energy certificates, including both mandatory and voluntary schemes. Purchased renewable energy certificates are initially recognised at cost within inventories on settlement date. Subsequent measurement is at the lower of cost or net realisable value, with losses arising from changes in realisable value being recognised in the income statement in the period of the change. Renewable energy certificates held for trading are held at fair value less costs to sell with movements in fair value taken up as profit or loss until settlement, at which time the gain or

loss is recognised in cost of goods sold. As stated above, ERM has a statutory obligation to acquire and then surrender a number of renewable energy certificates to the CER each year.

Net derivative instruments

83 The composition of ERM's net derivative instruments is shown below:

ERM – net derivative instruments		
	30 Jun 18 \$m	30 Jun 19 \$m
Current electricity and commodity derivatives	73.1	188.1
Non-current electricity and commodity derivatives	26.0	56.6
Total assets	99.1	244.8
Current electricity and commodity derivatives	(28.2)	(61.3)
Current interest rate swaps	-	(7.3)
Non-current electricity and commodity derivatives	(55.7)	(53.0)
Non-current interest rate swaps	(29.5)	(24.4)
Total liabilities	(113.4)	(145.9)
Net asset / (liability) position	(14.3)	98.8

- 84 Derivative financial instruments are initially recognised at fair value on the date derivative contracts are entered into and are subsequently remeasured to their fair value at the end of each reporting period. The accounting for subsequent changes in fair value depends on whether the derivative is designated as a hedging instrument and, if so, the nature of the item being hedged and the type of hedge relationship designated.
- 85 The gain or loss from remeasurement of hedging instruments at fair value is recognised in other comprehensive income and deferred in equity in the hedging reserve, to the extent that the hedge is effective. It is reclassified into profit or loss when the hedged item is settled.
- 86 Certain derivative instruments do not qualify for hedge accounting. The change in the fair value of any derivative instrument that does not qualify for hedge accounting is recognised immediately as profit or loss. Any realised gains or losses on settlement of derivatives that do not qualify for hedge accounting are recognised immediately as profit and loss and are included within cost of sales regardless of the original settlement date of the instrument.

Property, plant and equipment

87 The composition of ERM's property, plant and equipment is shown below:

ERM – property, plant and equipment		
	30 Jun 18 \$m	30 Jun 19 \$m
Land	22.5	22.5
Capital work in progress	0.7	0.3
Plant and equipment	361.7	351.0
Furniture, fittings and improvements	5.8	5.1
Total	390.7	378.9

Annexure 1: Independent Expert's Report (continued)



- 88 The large majority of ERM's property, plant and equipment relates to the Group's investments in the Neerabup Power Station¹⁶ and Oakey Power Station, which are both reported under plant and equipment.
- 89 The Neerabup Power Station is project financed by limited recourse debt, meaning the security of project lenders does not extend beyond the particular generation asset. The Group also raised funds for its equity investment in the Neerabup Power Station by issuing notes in 2008. Those notes are also limited-recourse to the Group's interest in the Neerabup Power Station.

Intangible assets

- 90 The composition of ERM's intangible assets is shown below:

ERM – intangible assets		
	30 Jun 18	30 Jun 19
	\$m	\$m
Goodwill	6.5	22.3
Capital work in progress	1.5	2.5
Software internally generated	15.7	18.0
Software and other	1.8	1.4
Customer acquisition costs	13.0	16.1
Total	38.5	60.3

- 91 Goodwill relates to acquisitions undertaken by the Energy Solutions business and is tested annually for impairment using the value in use method. As at 30 June 2019, a pre-tax discount rate of 15.4% was adopted for impairment testing purposes.
- 92 ERM's other intangible assets comprise:
- (a) computer software which is either purchased or developed within the organisation to support business operations. Software assets are recorded at cost less accumulated amortisation and impairment losses
 - (b) the direct costs of establishing customer contracts are recognised as an asset when the customer contract is expected to provide a future economic benefit to the Group. Direct costs are amortised over an average contract term. In the event that a customer contract is not fulfilled, and direct costs are not recoverable from the channel partner, a provision for impairment is recognised. In addition:
 - (i) customer contracts acquired in a business combination are recognised at fair value at the acquisition date. They have a finite useful life and are subsequently carried at cost less accumulated amortisation and impairment losses
 - (ii) customer contracts that are acquired through a trailing commission agreement have a corresponding provision liability recognised. The provision liability is measured against forecast payments required and is discounted at a risk-free rate.

¹⁶ ERM's financial statements reflect its 50% share of the assets and liabilities of the Neerabup power station.

Cash and cash equivalents

93 The composition of ERM's cash and cash equivalents is shown below:

ERM – cash and cash equivalents		
	30 Jun 18	30 Jun 19
	\$m	\$m
Cash at bank and cash on hand	67.6	99.3
Restricted cash – term deposits	34.1	35.9
Restricted cash – other restricted cash deposits	125.9	36.9
Total cash and cash equivalents	227.6	172.1

Note:

1 Cash at 30 June 2018 excludes US cash, which was included in net assets held for sale.

- 94 The restricted cash deposits, held on term deposit, are bearing interest at rates between 1.75% and 2.75%. Restricted cash can be one or more of the following:
- (a) cash that is reserved and its use specifically restricted for maintenance and/or debt servicing under the Group's borrowing agreements
 - (b) cash that is on deposit with counterparties as security deposits
 - (c) cash that is on deposit with financial institutions as security for bank guarantees issued to various counterparties as credit support
 - (d) cash collateral held in margin accounts to facilitate wholesale price hedging on the ASX Energy Exchange, unless it is eligible for offset against the corresponding derivative liability.

Borrowings

95 The Group's borrowings predominantly relate to the Neerabup Power Station, the composition of which is shown below:

ERM – borrowings		
	30 Jun 18	30 Jun 19
	\$m	\$m
Bank loan – Receivables financing facility (secured)	150.8	-
Bank loan – Neerabup working capital facility (secured - limited recourse)	3.0	3.0
Bank loan – Neerabup term facility (secured - limited recourse)	5.9	124.9
Total current	159.7	127.9
Bank loan - Neerabup term facility (secured - limited recourse)	124.6	-
Convertible notes (secured - limited recourse)	52.0	53.4
Total non-current	176.6	53.4
Total borrowings	336.3	181.2

- 96 As at 30 June 2019, the Group's financing facilities predominantly relate to bank loans secured against the Neerabup Power Station. These facilities were classified as current as at 30 June 2019 as they expire on 31 December 2019. This debt was refinanced in July 2019 for a further term of 10.25 years expiring 28 September 2029. The amounts drawn under the

Annexure 1: Independent Expert's Report (continued)



limited recourse arrangements only have recourse to the assets of the NewGen Neerabup Partnership.

- 97 The convertible notes are secured with limited recourse and are redeemable by the issuer from 30 September 2010 until maturity in February 2023. In addition, the convertible notes:
- (a) have a coupon rate that is variable based on BBSY¹⁷ plus 4%
 - (b) are accounted for using the effective interest method at an interest rate of 7.3%
 - (c) can only be converted to shares in the issuing subsidiary upon failure to redeem them at maturity or other named event of default; and
 - (d) have recourse to the Group's 50% interest in the NewGen Neerabup Partnership only.
- 98 Funding under the Receivables financing facility (secured) and the Neerabup working capital facility (secured – limited recourse) are drawn and repaid periodically to meet funding requirements. Funding under the Neerabup term facility (secured – limited recourse) is repaid progressively in line with a pre agreed debt repayment schedule (as is typical of project finance facilities). At balance date, the following financing facilities had been negotiated and were available:

ERM – loan facilities available		
	30 Jun 18 \$m	30 Jun 19 \$m
Facility available – bank loans	413.1	447.6
Facility used	(324.4)	(215.5)
Facilities unused	88.7	232.1

- 99 It should also be noted that the Energy Retail business utilises significant debt finance to fund working capital balances and to provide required collateral in relation to power purchase agreements and derivative contracts (which are used to hedge ERM's electricity exposures).

Share capital and performance

- 100 As at 6 September 2019, ERM had 250.3 million fully paid ordinary shares on issue. In addition the Group had 5.3 million unlisted performance rights on issue¹⁸. ERM also held 65,184 treasury shares over and above those required to meet share plan obligations.

Significant shareholders

- 101 As at 6 September 2019, there were four substantial shareholders in ERM that held a total of 49.6% of the ordinary shares on issue as detailed below:

¹⁷ Bank Bill Swap Bid Rate (BBSY).

¹⁸ 281,612 of the performance rights will vest in the ordinary course and in accordance with their terms on or about 7 September 2019, 280,114 of the performance rights will vest in the ordinary course and in accordance with their terms on or about 30 September 2019 and ERM will cause the remaining 4,772,102 performance rights to vest in accordance with their terms prior to the Scheme Record Date.

ERM – substantial shareholders

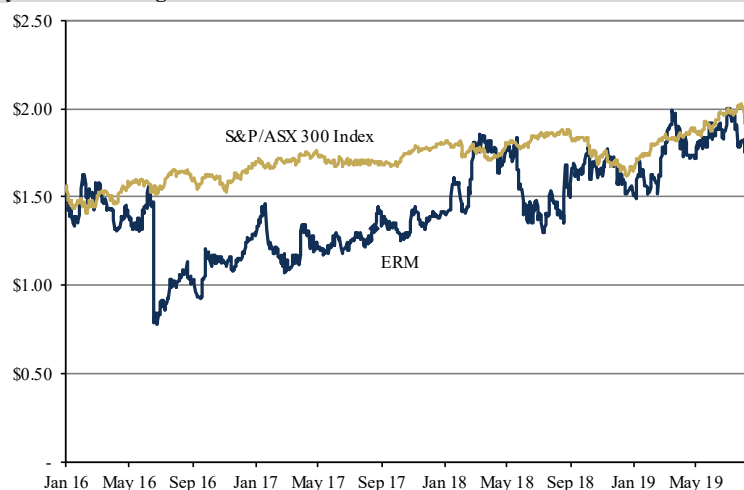
Shareholder	Shares held	
	million	% interest
Trevor Charles St Baker and St Baker Energy Holdings Pty Ltd	68.6	27.39
Mitsubishi UFJ Financial Group, Inc.	21.6	8.61
Perpetual Limited and its related bodies corporate	19.2	7.67
L1 Capital Pty Ltd	14.8	5.93
	124.2	49.60

Share price performance

- 102 The following chart illustrates the movement in the share price of ERM from 1 January 2016 to 21 August 2019 (i.e. the last trading day prior to the announcement of the Scheme) compared to the S&P/ASX 300 Index:

ERM – share price history

1 January 2016 to 21 August 2019



Note:

1 The S&P/ASX 300 Index has been rebased to the closing price of ERM on 1 January 2016.

Source: Bloomberg.

- 103 Since 1 January 2016, the ERM share price has broadly tracked the S&P/ASX 300 Index (of which it is a constituent).

Liquidity in ERM shares

- 104 The liquidity in ERM shares based on trading on the ASX over the 12 month period to 21 August 2019 (i.e. the last trading day prior to the announcement of the Scheme) is set out below:

Annexure 1: Independent Expert's Report (continued)



ERM – liquidity in shares						
Period	Start date	End date	No of shares traded 000	WANOS ⁽¹⁾ outstanding 000	Implied level of liquidity Period ⁽²⁾ %	Annual ⁽³⁾ %
1 month	22 Jul 19	21 Aug 19	6,299	250,289	2.5	30.2
3 months	22 May 19	21 Aug 19	19,960	250,673	8.0	31.8
6 months	22 Feb 19	21 Aug 19	42,520	251,815	16.9	33.8
1 year	22 Aug 18	21 Aug 19	90,075	253,405	35.5	35.5

Note:

- 1 Weighted average number of shares outstanding (WANOS) during relevant period.
- 2 Number of shares traded during the period divided by WANOS.
- 3 Implied annualised figure based upon implied level of liquidity for the period.

105 As noted above, Mr Trevor St Baker and his related entities hold approximately 27.4% of ERM shares on issue, which reduces the number of shares able to be traded. Nonetheless, we note that in the three months prior to the announcement of the Scheme approximately \$29 million worth of ERM shares traded. Given the circumstances, we therefore consider:

- (a) the implied level of liquidity to be reasonable
- (b) it is appropriate to rely on the market trading in ERM shares for the purposes of considering the value of ERM and evaluating the Scheme.

IV Industry overview

Overview

- 106 ERM operates within the Australian wholesale electricity market, providing electricity supply to businesses across Australia and operating generation assets in Queensland and WA. The Australian wholesale electricity industry comprises two main markets, being the NEM and the WEM, as shown in the figure below:

Australian electricity retailing industry



National Electricity Market

- 107 The Australian Energy Market Operator (AEMO) operates Australia's NEM. The NEM interconnects five regional market jurisdictions (Queensland, NSW¹⁹, Victoria, SA and Tasmania). WA and the Northern Territory are not connected to the NEM.

NEM at a glance

Participating jurisdictions	Queensland, NSW, Victoria, SA, Tasmania, ACT
NEM regions	Queensland, NSW, Victoria, SA, Tasmania
Installed capacity	55,590 MW
Number of registered generators	240
Number of customers	9.7 million
NEM turnover FY18 ⁽¹⁾	\$17 billion
Total electricity demand FY18	203 TWh ⁽²⁾
National maximum winter demand FY18	32,469 MW ⁽³⁾

¹⁹ Including the Australian Capital Territory (ACT).

Annexure 1: Independent Expert's Report (continued)

Note:

- 1 Relates solely to turnover in the NEM spot market and is calculated as the product of demand and price in each trading interval in the NEM.
- 2 Includes total energy met by grid connected generation, including rooftop solar photovoltaic (PV).
- 3 The maximum historical winter demand of 34,422 MW occurred in 2008. The maximum historical summer demand of 35,551 MW occurred in 2009.

Source: Australian Energy Regulator (AER): *State of the Energy Market 2018* report.

- 108 The NEM is one of the world's longest interconnected power systems, ranging from Port Douglas in far north Queensland to Port Lincoln in SA. Electricity generated in the NEM regions is traded through a wholesale spot market in which prices are determined in real time by changes in supply and demand.
- 109 Around 150 large power stations²⁰ (comprising around 240 plant units in total²⁰) produce electricity for sale in the NEM spot market²¹. Dealing in five minute dispatch intervals, producers make offers to supply quantities at various price bands. Wholesale retailers complete the supply chain by purchasing power and packaging it with transmission and distribution services for resale to their customers. A transmission grid carries electricity through the network's high voltage power lines and cables where it reaches industrial energy users and local distribution networks for dispatch to end customers.
- 110 Wholesale market participants include major industrial energy users, who purchase electricity directly from the grid, and wholesale energy retailers such as ERM. Wholesale energy retailers sell energy directly to large and small businesses, and can be broadly classified as either tier one or tier two retailers²². A summary of the tier one and major tier two retailers currently operating in the NEM is shown in the table below:

Wholesale energy retailers		
Retailer	Market share of customers %	Operating regions
Tier one		
Origin	35.1	NSW, Queensland, SA
AGL	21.3	NSW, Victoria, Queensland, SA
EnergyAustralia	15.0	NSW, Queensland
Major tier two		
ERM	6.1	NSW, Victoria, Queensland, SA, Tasmania, WA
Momentum Energy	5.5	NSW, Victoria, Queensland, SA
Aurora	4.1	Tasmania
Stanwell	3.5	NSW, Victoria, Queensland, ACT
ActewAGL	3.1	NSW, ACT
Alinta	1.6	NSW, Victoria, Queensland, SA

²⁰ Source: Australian Energy Regulator (AER): *State of the Energy Market 2018* report.

²¹ Rooftop solar photovoltaic (PV) electricity may also export electricity to the grid.

²² Tier one retailers, also referred to as host retailers, are those who have certain regulatory obligations that relate to specific geographical areas, with the remaining retailers considered tier two.

Note:

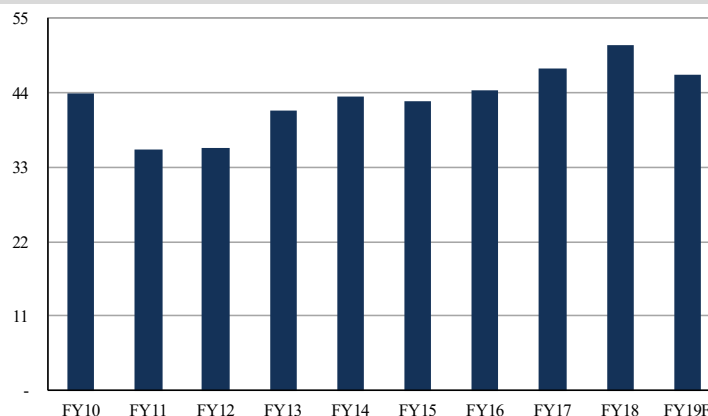
1 There are approximately 36 wholesale energy retailers currently operating in the NEM, however the above only includes tier two operators with over 1% market share in the large business electricity market.

Source: AER (2018): *Annual Report on compliance and performance of the retail energy market 2017-18* for market share data, Company websites for operating regions.

- 111 The AEMO moderates generation to ensure electricity is produced to meet demand in the most cost-efficient way, by monitoring bids offered and deploying generators with the lowest cost to produce. Risks associated with price volatility in the wholesale spot market are managed by retailers:
- (a) through the use of hedge contracts (derivatives) that lock in a firm price for electricity supplies in the future
 - (b) by controlling generation plant; or
 - (c) through demand response contracts with their retail customers.
- 112 Electricity retailing industry turnover is driven by both demand and supply factors. Demand emanates from the consumption of electricity, from both businesses and residential customers. The level of electricity supply is impacted by a number of factors, including the ability for retailers to pass on input and supply chain costs to consumers.
- 113 Political uncertainty surrounding climate change and energy policy in recent years²³ has led to insufficient investment in new generation technologies to offset the closure of aging coal-fired power stations. This has created supply tensions and increased the cost of wholesale electricity, which retailers have passed on to consumers through higher retail prices. As a result, industry revenue grew by a compound annual growth rate of 4.3% for the five years to 30 June 2018, as shown in the figure below:

Electricity retailing industry revenue

\$bn



Source: IBISWorld (2019): *Electricity retailing in Australia* report.

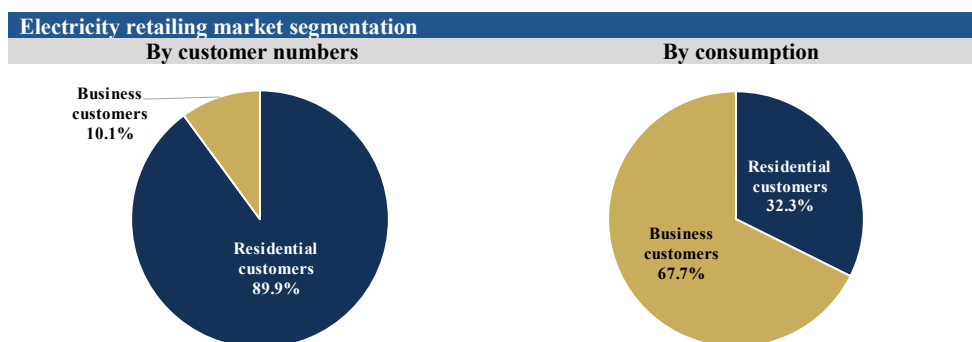
²³ Including the Turnbull Government's failure to implement the National Energy Guarantee energy policy, and abandonment of the proposed Clean Energy Target to supersede the nation's RET beyond 2020.

Annexure 1: Independent Expert's Report (continued)

- 114 Industry revenue is forecast to fall in FY19, primarily due to an expected downward pressure on wholesale prices, which peaked in FY18 due to supply tensions from coal and gas-powered electricity in previous years.

Business customers

- 115 The business sector includes medium to large commercial enterprises, who purchase electricity directly from wholesale retailers on a contractual basis. Whilst only representing approximately 10% of the market by customer numbers, businesses consume 67.7% of the electricity produced in the NEM.



Source: AER (2018): *Annual report on compliance and performance of the energy market 2018* for customer numbers and IBISWorld (2019): *Electricity Retailing in Australia* report for consumption.

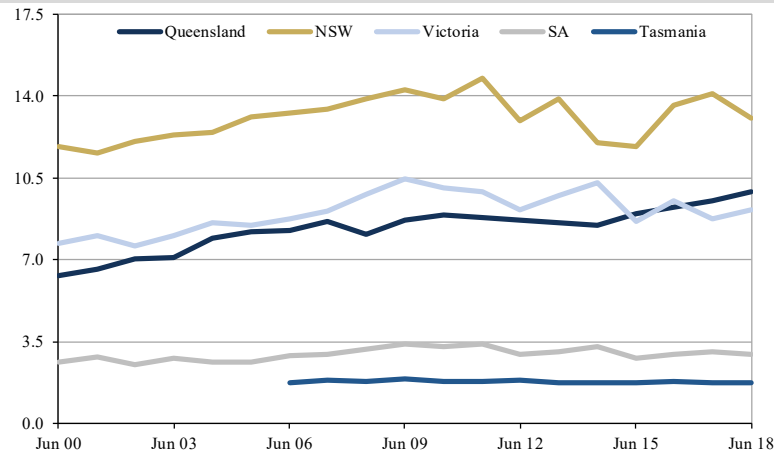
- 116 The business segment is highly concentrated, with the five largest retailers accounting for approximately 80% of all business customers (as at 30 June 2018 and by load sold). ERM is the second largest retailer to businesses, representing around 22% of all business customers by load, however, ERM only represents around 10% of the total load sold in the NEM (as at 30 June 2018)²⁴.
- 117 Business electricity demand and consumption varies on a regional basis, and is driven by a number of factors such as business activity, population, climate, and availability of alternative energy sources. Electricity consumption has historically been high in Queensland due to the state's energy intensive coal seam gas and liquefied natural gas industries, whereas grid demand in SA has been softening due to the state's substantial investment in rooftop solar PV generation²⁵. The chart below shows the annual maximum grid demand²⁶ for each NEM region for the 18 years to FY18:

²⁴ Based on total load sold reported in the ERM FY18 Annual Report compared to total annual energy consumption for FY18 reported on the AER website.

²⁵ AER (2018): *State of the Energy Market Report 2018*.

²⁶ Maximum demand, also referred to as peak demand, is the highest electricity demand recorded in any annual period, and is the dominant measure used in the planning of energy supply system investment.

Maximum grid demand by region⁽¹⁾
GWh



Note:

1 Excludes consumption from rooftop solar systems. Data for Tasmania is only available from 1 July 2006.

Source: AER (2018): *State of the Energy Market Report 2018*.

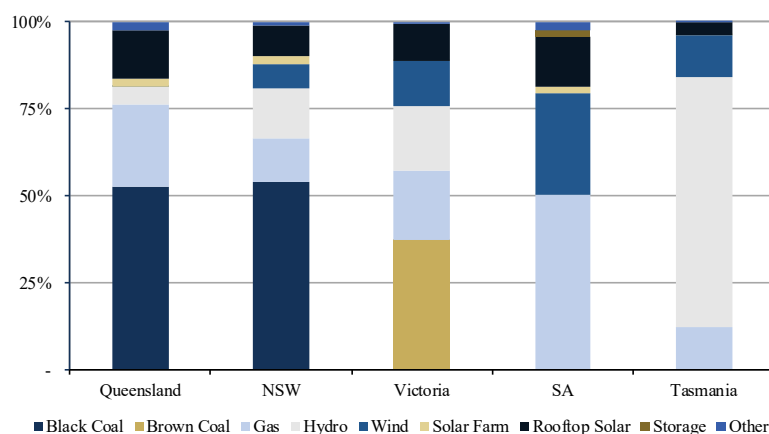
Gas powered generation

- 118 The NEM sources electricity from a mix of technologies, with different sources of generation utilised for baseload, intermediate, and peak supply to the grid. Fossil fuel generators produce over 80% of the electricity in the NEM, which includes black and brown coal, with gas-fired power being the main source of electricity outside of coal power. Coal power stations supply the baseload electricity to the grid and tend to operate continuously due to both their low operating cost and technical issues associated with closing down and starting up operations.
- 119 Despite being less polluting than coal, gas generators are typically utilised as flexible “peaking” plants, as gas is still a relatively expensive fuel source for electricity generation. The main advantage of gas-powered electricity is the flexibility of generation compared to other sources²⁷, with the ability to supply fast-dispatch peaking power to the wholesale market in periods of increased demand. The chart below shows the generation capacity for each fuel source for each state within the NEM:

²⁷ Newer gas plants need as little as five minutes to ramp up to full operating capacity, whereas coal plants can take a day or more to start up.

Annexure 1: Independent Expert's Report (continued)

Generation capacity in the NEM by region and fuel source



Source: AER (2018): *State of the Energy Market Report 2018*.

- 120 Coal generation is more concentrated in NSW and Queensland, where black coal resources are more abundant. However, due to the economics of maintaining ageing generation assets and uncertainties surrounding energy policy, a number of operators have signalled their intention to permanently close their coal plants in the near to medium term²⁸. Whilst renewable energy technologies such as wind and solar are expected to fill some of the resulting supply gap left by coal plant closures, gas generation will remain critical in meeting electricity demand in the foreseeable future²⁹.

Regulation

- 121 There are three energy market bodies that regulate both the physical electricity system and the electricity market in Australia. These are the:
- (a) Australian Energy Market Commission (AEMC) – responsible for rule making for the energy system and market. Specifically, the AEMC makes and amends the National Electricity Rules that underpin the NEM
 - (b) AEMO – responsible for the efficient operation of the energy system and markets
 - (c) AER – responsible for monitoring and regulation of the electricity market.
- 122 The National Electricity Rules are a set of rules that are applied under the National Electricity Law and apply to all states and territories operating within the NEM. Designed to align with the National Electricity Objective to promote efficient investment and operation of electricity services in Australia, the rules govern:

²⁸ The most imminent being the planned closure of AGL's Liddell power station in NSW 2023, which is expected to remove 1,680 MW of baseload capacity from the NEM.

²⁹ In addition to price, security of supply is a major issue for NEM customers.

- (a) the operation of the wholesale electricity market, including the market arrangements for the commercial exchange of electricity from producers through to electricity retailers
- (b) the economic regulation of the services provided by monopoly transmission and distribution networks; and
- (c) the way in which the AEMO manages power system security.

- 123 The AEMC conducts independent reviews and provides advice to governments, and when required, requests changes to the rules on behalf of participant and consumer sponsors. In July 2019, the AEMC introduced the Retailer Reliability Obligation, a new rule that allows the AER to enforce minimum contracting requirements for wholesale retailers to cover any identified supply gaps³⁰. This is expected to drive further investment into power generation, energy storage assets, and demand response, as retailers commit to supply contracts to fulfil their obligations.
- 124 Further rule changes expected from the AEMC include the proposed wholesale demand response mechanism (from December 2019)³¹, and the reduced settlement period for spot prices from 30 minutes to five minutes, starting in 2021. Whilst these new rules are expected to benefit industrial energy users and end consumers, they are also expected to place downward pressure on profits for electricity retailers and producers.

Renewable Energy Target

- 125 The RET is an Australian Government scheme designed to reduce emissions of greenhouse gases in the electricity sector and encourage the additional generation of electricity from sustainable and renewable sources.
- 126 The RET works by allowing both large-scale power stations and the owners of small-scale systems to create certificates for the renewable power they generate. Certificates are then purchased by electricity retailers who sell the electricity to households and businesses. These electricity retailers also have legal obligations under the RET to either surrender certificates to the CER in percentages set by regulation each year, or pay a shortfall charge. This creates a market which provides financial incentives to both large-scale renewable energy power stations and the owners of small-scale renewable energy systems.
- 127 Generators that are accredited under the RET must produce electricity from an eligible source, which is specified under the relevant Act. This includes wind, hydro, solar, geothermal and biomass, as well as specified wastes such as wood waste, landfill gas, biogas and municipal waste.

³⁰ The Retailer Reliability Obligation requires energy retailers to enter into sufficient contracts to meet their share of expected system peak demand. Contracts can be for any form of electricity generation, including solar, hydro, gas, coal and batteries.

³¹ By allowing industrial energy users to bid directly into the wholesale market with offers to reduce their demand for power (as a substitute for generation).

Annexure 1: Independent Expert's Report (continued)

LONERGAN EDWARDS
& ASSOCIATES LIMITED

128 The enhanced RET (passed in June 2010) established two separate markets from 1 January 2011:

- (a) Large-scale RET (LRET) delivering LGCs; and
- (b) Small-scale Renewable Energy Scheme (SRES) delivering Small-scale Technology Certificates (STC).

129 The LRET operates with a 33,000 gigawatt hour (GWh) target by 2020, whilst the SRES is uncapped in volume. The SRES includes a clearinghouse where unlimited volumes of certificates can be sourced for an initial fixed price of \$40 per STC. The Federal Government is able to reduce the \$40 per STC clearing price by regulation. In order to meet the RET and projected demand growth, investment in an additional 6,400 MW of large-scale generation capacity was expected to be committed in the period leading up to 2020. As at July 2019, a total of 12,816 MW of renewable energy projects had been completed, under construction, or committed to be built, more than double the amount needed to meet the 2020 target³².

LRET scheme³³

130 Like other generators, large-scale renewable electricity generators feed electricity into the grid and receive the market price for that electricity. That electricity is then “grid-supplied electricity” and is delivered to customers through transmission and distribution networks, along with electricity produced from non-renewable sources. Under the LRET scheme, accredited generators of large-scale renewable electricity are awarded LGCs by the CER for an amount of renewable electricity produced. The revenue that large-scale generators earn from selling LGCs supplements the revenue that they earn by selling the electricity they generate through normal electricity market mechanisms.

131 RET-liable entities purchase a certain percentage, called the renewable power percentage (RPP), of their electricity from renewable sources each year, and prove this by surrendering the requisite number of LGCs to the CER. The RPP is set each year by the CER, taking into account yearly interim targets set in legislation. The 2019 target for the LRET was 31.2 TWh or 18.6% of electricity consumption³⁴. Alternatively, RET-liable entities can elect to pay a shortfall charge.

132 The annual LRET in TWh and the RPP as at August 2019 is shown below:

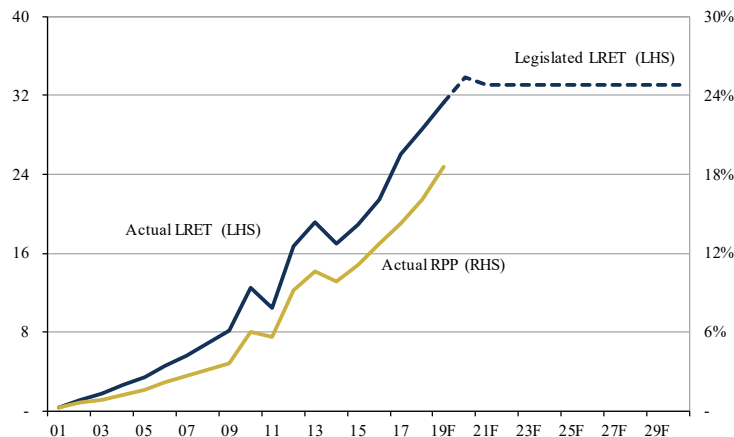
³² Source: CER (2019) *Large-scale Renewable Energy Target market data*.

³³ Source: Parliament of Australia (May 2014) *The Renewable Energy Target: a quick guide*.

³⁴ Source: CER website www.cleanenergyregulator.gov.au, accessed 7 August 2019.

Annual LRET and the RPP as at August 2019

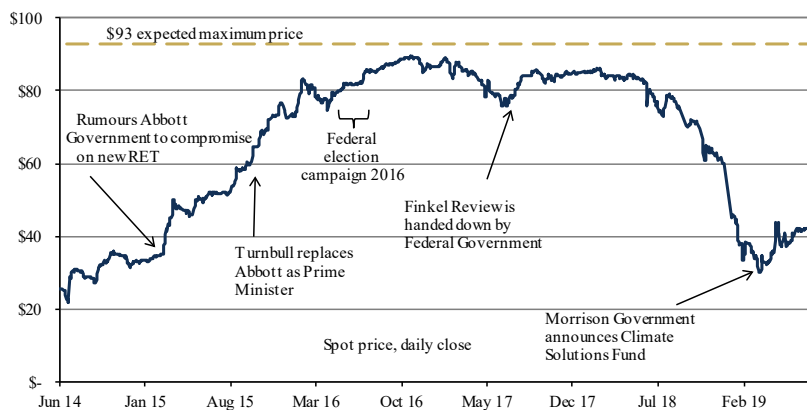
TWh



Source: CER website www.cleanenergyregulator.gov.au accessed 7 August 2019.

- 133 Should a liable entity fail to surrender enough certificates to cover its electricity purchases, it must pay a shortfall charge of \$65 per MWh for each certificate not surrendered. As the shortfall charge is not a deductible business expense, the effective pre-tax penalty is \$92.86 per MWh, assuming a 30% tax rate. This effectively caps the price of LGCs. Liable entities may claim a refund of a prior shortfall charge if they are able to surrender additional LGCs to cover their initial certificate shortfall, provided the claim is made during the allowable refund period.
- 134 Large buyers and sellers of LGCs trade through the wholesale market with standard minimum parcel sizes of 5,000 certificates. The price for a parcel of certificates is called the “spot price”. Like any other commodity, the price for certificates is determined largely by supply and demand. Wholesale prices can fluctuate considerably.
- 135 The spot price for LGCs since June 2014 is shown below:

LGCs spot price



Source: Bloomberg accessed 8 August 2019.

Annexure 1: Independent Expert's Report (continued)



136 In respect of the above, we note that:

- (a) the spot price for LGCs has been volatile, ranging from under \$22 in June 2014 to more than \$89 in October 2016 (almost reaching the expected effective maximum price of \$93)
- (b) prices for LGCs were heavily impacted by the political and policy uncertainty associated with the RET. For example, the price rallied after the Finkel Review was handed down in June 2017, which proposed a Clean Energy Target to supersede the RET in 2020. However, the Turnbull Government later announced it would abandon plans to implement the Clean Energy Target, and prices of LGCs have steadily declined as the end date for the RET approaches
- (c) following the Morrison Government's announcement of the Climate Solutions Fund in February 2019, the LGC price has made a slight recovery to above \$40.

Market outlook

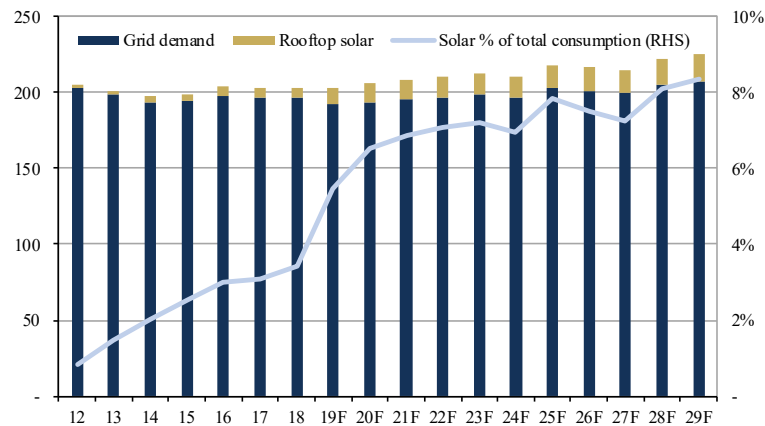
137 The AEMO releases an annual electricity statement of opportunities report which forecasts electricity consumption based on the latest economic and population drivers, as well as trends in consumer behaviour. The AEMO's most recent forecasts indicate that consumption of grid-supplied electricity is expected to remain flat over the next 10 years, primarily due to:

- (a) improvement in the energy efficiency of appliances, which is expected to reduce annual household consumption
- (b) increasing consumer uptake of small-scale embedded technologies including rooftop PV, battery storage, and electric vehicles
- (c) increased use of mobile and web-connected devices (which use batteries and relatively less electricity) rather than personal computers and stationary home entertainment; and
- (d) a structural change in the Australian business sector away from energy-intensive manufacturing towards a focus on service industries.

138 Whilst growth in grid-supplied electricity consumption is forecast to be low, Australia's overall demand for electricity is increasing steadily, with off-grid supply from rooftop PV increasing its share of market consumption, as shown in the figure below:

Historical and forecast electricity consumption

TWh



Source: AER (2018): *State of the Energy Market 2018* for historical data and AEMO website accessed 5 August 2019 for forecast data.

- 139 Early Government incentives such as the SRES and premium feed-in tariffs have resulted in Australia having one of the highest penetration rates of rooftop solar PV in the world. Approximately 2 million Australian energy customers have installed rooftop PV systems and become energy producers, with installations in FY18 growing by 20% and 60% for residential and business customers respectively³⁵. However, until battery storage technology progresses to become economical for households, there remains a large reliance on the grid for evening “peak” electricity supply. With coal power operators facing pressure from energy policy and the need for flexibility in supply, it is likely that gas generated electricity will continue to be utilised to meet peak demand.

³⁵ Source: AER (2018): *State of the Energy Market 2018* report.

Annexure 1: Independent Expert's Report (continued)

V Valuation methodology

Valuation approaches

- 140 RG 111 outlines the appropriate methodologies that a valuer should consider when valuing assets or securities for the purposes of, amongst other things, share buy-backs, selective capital reductions, schemes of arrangement, takeovers and prospectuses. These include:
- (a) the DCF methodology
 - (b) the application of earnings multiples appropriate to the businesses or industries in which the company or its profit centres are engaged, to the estimated future maintainable earnings or cash flows of the company, added to the estimated realisable value of any surplus assets
 - (c) the amount that would be available for distribution to shareholders in an orderly realisation of assets
 - (d) the quoted price of listed securities, when there is a liquid and active market and allowing for the fact that the quoted market price may not reflect their value on a 100% controlling interest basis
 - (e) any recent genuine offers received by the target for any business units or assets as a basis for valuation of those business units or assets.
- 141 Under the DCF methodology the value of the business is equal to the net present value (NPV) of the estimated future cash flows including a terminal value. In order to arrive at the NPV the future cash flows are discounted using a discount rate which reflects the risks associated with the cash flow stream.
- 142 Methodologies using capitalisation multiples of earnings or cash flows are commonly applied when valuing businesses where a future “maintainable” earnings stream can be established with a degree of confidence. Generally, this applies in circumstances where the business is relatively mature, has a proven track record and expectations of future profitability and has relatively steady growth prospects. Such a methodology is generally not applicable where a business is in start-up phase, has a finite life, or is likely to experience a significant change in growth prospects and risks in the future.
- 143 Capitalisation multiples can be applied to either estimates of future maintainable operating cash flow, EBITDA, earnings before interest, tax and amortisation (EBITA), earnings before interest and tax (EBIT) or net profit after tax. The appropriate multiple to be applied to such earnings is usually derived from stock market trading in shares in comparable companies which provide some guidance as to value and from precedent transactions within the industry. The multiples derived from these sources need to be reviewed in the context of the differing profiles and growth prospects between the company being valued and those considered comparable. When valuing controlling interests in a business an adjustment is also required to incorporate a premium for control. The earnings from any non-trading or surplus assets are excluded from the estimate of the maintainable earnings and the value of such assets is separately added to the value of the business in order to derive the total value of the company.
- 144 An asset based methodology is applicable in circumstances where neither a capitalisation of earnings nor a DCF methodology is appropriate. It can also be applied where a business is no longer a going concern or where an orderly realisation of assets and distribution of the

proceeds is proposed. Using this methodology, the value of the net assets of the company are adjusted for the time, cost and taxation consequences of realising the company's assets.

Methodologies selected

145 The market value of ERM has been assessed by aggregating the market value of the business operations (net of debt), together with the realisable value of any surplus assets.

146 The valuations of the core businesses have been made on the basis of market value as a going concern. The valuation methodologies adopted for each business segment (and as an overall cross-check) are discussed below:

Primary valuation methodologies		
Business segment	Valuation methods adopted	Key reasons
Energy Retail	Primary method: DCF Cross-check: Implied PE multiple	<ul style="list-style-type: none"> • Mature business • Key value drivers such as energy volumes, gross margin and operating costs per MWh have been relatively consistent over recent years, providing a reasonable basis for key assumptions in DCF model • Lack of directly comparable ASX listed companies and transaction evidence means capitalisation of earnings methods are impractical as the primary valuation methodology • However, we have considered the reasonableness of the implied PE multiple having regard to the nature of the business, its growth prospects and operational risks
Generation	DCF	<ul style="list-style-type: none"> • Unique generation assets³⁶ with lack of directly comparable listed companies and transaction evidence • Cash flows can be reliably estimated – reported EBITDA has not varied significantly over last few years and timing of major capital expenditure works is known
Energy Solutions	Net assets employed	<ul style="list-style-type: none"> • Business still in establishment / growth phase, was loss making in FY19, but is expected by management to breakeven at NPAT line in FY20 • Timing and quantum of future profitability beyond FY20 is uncertain Given the above, we have valued the business by reference to the net operating assets employed in business, which incorporates the cost of both business investment to date and recent acquisitions
Corporate costs	DCF	<ul style="list-style-type: none"> • Consistent with methodologies used to assess value of core operating businesses
Overall cross-check	Listed market prices prior to announcement of Scheme, adjusted for a premium for control	<ul style="list-style-type: none"> • Historical and recent level of trading in ERM shares is sufficient to adopt listed market price as an appropriate valuation reference point

³⁶ ERM's power stations provide fast-ramping support for intermittent generation only. To minimise environmental impact, "peaking" power stations such as Oakey and Neerabup only run during times of peak energy demand. For example, these power stations both operated at less than 10% of capacity in FY18 and FY19 respectively.

Annexure 1: Independent Expert's Report (continued)



VI Valuation of ERM

Methodology

- 147 As set out in Section V, we have valued the Energy Retail, Generation and Energy Solutions business segments (and unallocated corporate costs) separately using the DCF method as our primary valuation methodology.
- 148 Under the DCF methodology the value of the business is equal to the NPV of the estimated future cash flows including a terminal value. In order to arrive at the NPV the future cash flows are discounted using a discount rate which reflects the risks associated with the cash flow stream.

Cash flow projections

- 149 Our DCF valuations are based on the free cash flow projections developed by us for each business segment. These cash flow projections were formulated having regard to, inter-alia, the recent historical results of the businesses, ERM management's FY20 budget and discussions with management regarding the expected future financial performance and outlook for each business.
- 150 It should be noted that in respect of these projections:
- (a) the major assumptions underlying the projections were formulated in the context of current economic, financial and other conditions
 - (b) the projections and the underlying assumptions have not been reviewed by an investigating accountant for reasonableness or accuracy of compilation and application of assumptions
 - (c) future profits and cash flows are inherently uncertain. As a result, the achievability of these projections is not warranted or guaranteed by LEA, as they are predictions of future events that cannot be assured and are necessarily based on assumptions, many of which are beyond the control of ERM management; and
 - (d) actual results may be significantly more or less favourable.
- 151 Free cash flow represents the operating cash flows of each of the businesses on a geared basis (i.e. after finance costs) less taxation payments, capital expenditure, debt repayments and working capital requirements. The free cash flow has been assessed on a geared basis because:
- (a) the Energy Retail business utilises significant debt finance and bank guarantee facilities to fund working capital balances and to provide required collateral in relation to market operator requirements (specifically the AEMO) and financial contracts used to hedge ERM's electricity exposures
 - (b) the Neerabup project debt is non-recourse, and repayments under the senior debt facility are required to be made over the term of the current off-take agreement.

Energy Retail

152 As the detailed cash flow projections are commercially sensitive they have not been set out in our report. However, the key assumptions adopted in our Base Case DCF valuation of the Energy Retail business are set out below.

FY20 sales volume

153 On 22 August 2019 (in ERM's FY19 Annual Financial Report Results), ERM management provided an outlook for FY20 sales volumes of 18.5 TWh (which we have adopted for valuation purposes). Management's outlook is broadly consistent with the average annual sales volume achieved since FY16 of 18.4 TWh, as shown below:

Energy Retail – energy volumes sold				
Year Ending 30 June	2016	2017	2018	2019
Load sold (TWh)	18.1	18.5	19.2	17.7

154 We also note that as at 1 July 2019 the contracted load for FY20 was already equal to approximately 87% of management's FY20 outlook.

Growth in sales volume

155 Our Base Case forecasts assume no growth in sales volumes over the 10 year forecast period³⁷. This is consistent with the AEMO's latest forecast³⁸ which stated that:

*"In the short to medium term (0-10 years), business consumption is expected to be relatively flat, as increased economic activity and population growth and forecast EV [electric vehicle] demand of 0.7 TWh in this period are projected to be offset by increased PV [rooftop photovoltaic cells] investment and growth in EE [energy efficiency] savings of 11.4 TWh incentivised through existing schemes in Victoria, New South Wales, and South Australia."*³⁹

156 No growth in ERM's market share has been assumed⁴⁰. As noted above, ERM's energy volumes sold have been relatively stable over recent years.

Gross margin and operating costs per MWh

157 Historical gross margins and operating costs⁴¹ per MWh are shown below:

³⁷ As noted in paragraph 176, our valuation range is not overly sensitive to changes in the sales growth rate around this Base Case assumption.

³⁸ Source: AEMO, 2019 *Electricity Statement of Opportunities* (dated 22 August 2019).

³⁹ AEMO also stated that *"In the long term (10-20 years), business consumption is expected to grow slightly"*, which has been taken into account when considering our terminal value growth rate.

⁴⁰ ERM has grown to become the second largest electricity provider to commercial and industrial businesses in Australia by load and has achieved a market share of around 21% in the sector in which it operates.

⁴¹ Principally employee related costs.

Annexure 1: Independent Expert's Report (continued)

Energy Retail – gross margins and operating costs per MWh		
Year ending 30 June	Gross margin \$/MWh	Operating costs \$/MWh
2011	4.79	1.24
2012	4.45	1.06
2013	4.67	1.13
2014	4.20	1.27
2015	4.72	1.34
2016	4.20	1.14
2017	4.11	1.23
2018	4.90	1.15
2019	5.16	1.16
5 year average	4.62	1.20
9 year average	4.58	1.19

Gross margin

- 158 Our Base Case forecasts assume that the gross margin per MWh (in real terms) is \$5.00 per MWh until 31 December 2022, and \$4.50 per MWh (in real terms) thereafter.
- 159 The forecast gross margin per MWh to 31 December 2022 is at the upper end of recent gross margins achieved historically, and reflects (inter-alia) the benefit of a favourable offtake agreement with the Vales Point Power Station (which runs until late 2022).
- 160 The gross margin (in real terms) adopted for valuation purposes after 31 December 2022 of \$4.50 per MWh is broadly consistent with the historical averages shown above.

Operating costs

- 161 Our Base Case forecasts assume operating costs are \$1.19 per MWh (in real terms). This is consistent with management's outlook for FY20 (\$22 million in operating costs divided by 18.5 TWh), and the historical averages shown above.

Net finance costs

- 162 As stated above, financing costs vary with the volume of energy sold (and the level of wholesale electricity prices) due to the funding requirements of the business and the need to provide collateral in relation to market operator requirements (specifically the AEMO) and financial contracts used to hedge ERM's electricity exposures.
- 163 Accordingly, we have modelled net finance costs on a dollar per MWh basis, consistent with recent history:

Energy Retail only – net finance costs per MWh			
Year ending 30 June		2018	2019
Finance income	\$m	(2.2)	(2.9)
Finance expense	\$m	10.9	12.5
Net finance expense	\$m	8.7	9.5
Load sold	TWh	19.2	17.7
Net finance expense per MWh	\$/MWh	\$0.45	\$0.54

- 164 The increase in net finance costs per MWh in FY19 was primarily due to:
- (a) increases in the size of the Liberty and ANZ facilities (resulting in higher commitment fees); and
 - (b) lower cash balances generally resulting in the greater use of debt facilities (relative to the position in FY18).
- 165 Based on the above, our Base Case forecasts assume that net finance costs related to the Energy Retail business are equal to \$0.54 per MWh (consistent with the net cost per MWh in FY19).

Capital expenditure

- 166 Our Base Case forecasts assume that capital expenditure is \$10.2 million in FY20 (equivalent to \$0.55 per MWh), and \$0.50 per MWh thereafter (in real terms).
- 167 FY20 capital expenditure includes higher spend on software development due to a one off project. In contrast, capital expenditure was \$0.45 per MWh in FY19. The large majority of capital expenditure relates to customer acquisition costs (e.g. broker commissions) which are capitalised and amortised over the expected life of the customer contract⁴².

Terminal value growth rate

- 168 Our Base Case forecasts assume a terminal value growth rate of 1.5% per annum, which is slightly greater than general inflation expectations of around 1.3% per annum⁴³. We consider our assumption appropriate as energy costs have exceeded general inflation in recent years, a trend which is expected to continue. Some real growth is also considered reasonable given the low inflation outlook currently prevailing (which can change relatively quickly) and the focus of government policy to increase inflation and achieve economic growth.

Discount rate

- 169 We have applied a Base Case discount rate of 10.5% per annum (nominal, after tax) to the forecast free cash flows available to equity holders (as the cash flows are after finance costs as noted above), which we consider reasonably reflects the required equity return for an investor acquiring the business. The discount rate has been derived using the capital asset pricing model, based on a risk free rate of 3.0% per annum, a market risk premium (MRP) of 6.5% and a beta of 1.1 to 1.2. We note that when considering the required return on equity there is an inherent inter-relationship between the risk free rate and MRP (which is discussed further below).

Risk free rate

- 170 Whilst the risk free rate adopted of 3.0% significantly exceeds the current yield on long term Commonwealth government bonds (CGB) (28 year CGBs yielded 1.5% on 3 September 2019), this is consistent with market practice which is to apply a normalised risk free rate having regard to a mix of historical averages and current spot rates. We also note

⁴² These costs are payable both at the time of initial customer acquisition, on milestone dates throughout the contract period and also at the time of subsequent customer contract renewal.

⁴³ Derived from the yield on 20 year CGBs and inflation indexed bonds as at 3 September 2019.

Annexure 1: Independent Expert's Report (continued)

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that investors have generally required a higher rate of return on CGBs relative to US Government bonds (even though this is not currently the case^{44 45}).

Market risk premium

- 171 Empirical studies on the long term (historical) MRP in Australia generally support a MRP within the range of 5.0% and 7.0%. However, the risk free rate of return (which was used to derive the MRP in those studies) was, on average, significantly above both current levels and the 3.0% risk free rate adopted above. For example, the average 10 year CGB rate over the last 50 years⁴⁶ was approximately 7.9% per annum, which when added to the long term MRP based on empirical studies of 6.0% implies a (long term) total required equity rate of return of around 13.9% per annum.
- 172 Whilst, prima-facie, recent lower interest rates globally have lowered the total equity return required by investors, based on our experience, such investors have not reduced their required rates of return by the full extent of the fall in risk free rates. Accordingly, in our opinion, it is appropriate to adopt a MRP of 6.5% (toward the upper end of the empirical studies) when used in conjunction with our risk free rate of 3.0% per annum. This is consistent with the current prevailing total expected equity return (being the sum of the risk free rate and market risk premium) adopted by most investment analysts of around 9.0% to 10% per annum⁴⁷.

Beta

- 173 The beta adopted reflects the following factors:
- (a) the relatively short term nature of contracts with customers, which average around 2.2 years
 - (b) the ERM business model, which is to operate at the margin irrespective of the prevailing energy price
 - (c) the highly competitive nature of the business energy market (which has seen a number of new entrants in recent years)
 - (d) the volatility of gross margins per MWh, which are dependent on (inter-alia) competitor pricing and the ability to hedge price movements in energy markets
 - (e) the high market share of the business energy market achieved by ERM (notwithstanding the commodity nature of product sold) due to ERM's focus on customer service.

⁴⁴ As at 2 September 2019 the US 30 year Government bond rate was around 2.0% per annum.

⁴⁵ Since 17 February 2003, Australia has had an S&P credit rating of AAA, whereas the US' S&P credit rating was downgraded to AA+ on 5 August 2011 (one notch lower than AAA). Despite this, over the period from 5 August 2011 to 30 August 2019 the average yield on 10 year CGBs has been 0.7% per annum higher than the 10 year US Government bond rate. We note that Moody's and Fitch have retained their Aaa (Moody's) and AAA (Fitch) credit ratings for the US, and Fitch upgraded Australia's credit rating to AAA on 28 November 2011.

⁴⁶ Calculated from 1 August 1969 to 31 July 2019.

⁴⁷ As noted, prevailing total expected equity rates of return adopted by investment analysts are around 4.4% per annum lower than the rates of return implied by empirical studies on the MRP (when higher risk free rates prevailed).

Sensitivity analysis and DCF value

- 174 The base case assumptions set out above reflect the base case assumptions adopted in the financial model. As stated above, there are inherent qualifications that apply to cash flow projections on which DCF valuations are based. In addition, the cost of capital can vary between industry participants based on factors such as differing perceptions / acceptance of risk and willingness to assume debt funding obligations.
- 175 It is important therefore not to credit the output of DCF models with a precision it does not warrant. It follows that any DCF valuation process should consider a range of scenarios, having regard to the respective key valuation drivers of the business being valued.
- 176 In assessing our valuation range we have therefore considered the sensitivity of value to changes in the key assumptions, as shown below:

Energy Retail – valuation sensitivity analysis (\$m)						
Discount rate	Growth in sales volume (per annum)					
		-0.4%	-0.2%	0.0%	0.2%	0.40%
	9.5%	410.9	416.2	421.6	427.1	432.7
	10.0%	388.4	393.3	398.3	403.4	408.6
	10.5%	368.5	373.0	377.7	382.4	387.1
	11.0%	350.6	354.8	359.1	363.5	367.9
	11.5%	334.5	338.5	342.5	346.5	350.7

Energy Retail – valuation sensitivity analysis (\$m)						
Terminal value growth	Growth in sales volume (per annum)					
		-0.4%	-0.2%	0.0%	0.2%	0.40%
	2.00%	393.5	398.5	403.7	408.9	414.2
	1.75%	380.5	385.3	390.2	395.1	400.2
	1.50%	368.5	373.0	377.7	382.4	387.1
	1.25%	357.3	361.6	366.0	370.5	375.0
	1.00%	346.8	350.9	355.1	359.4	363.7

- 177 Having regard to the above, we have assessed the value of the equity in the Energy Retail business at between \$370 million and \$400 million.

Cross check

- 178 This valuation reflects a FY19 PE multiple range of 9.8 to 10.6 (as shown below):

Energy Retail – implied PE multiple		
	Low \$m	High \$m
Equity value	370.0	400.0
Underlying EBITDAF in FY19	70.7	70.7
Less FY19 depreciation and amortisation	(7.2)	(7.2)
Less FY19 finance costs (net)	(9.5)	(9.5)
Underlying net profit before tax ⁽¹⁾	54.0	54.0
Allowance for tax at 30%	(16.2)	(16.2)
Underlying NPAT	37.8	37.8
Implied FY19 PE multiple	9.8	10.6

Annexure 1: Independent Expert's Report (continued)



Note:

1 Prior to fair value gains and losses on financial instruments.

- 179 We are not aware of any directly comparable listed companies to ERM's Energy Retail business or transaction evidence which can be used to assess the reasonableness of the PE multiples implied by our DCF valuation⁴⁸. However, in our view, the above PE multiples imply a rate of return which we consider to be consistent with the return likely to be required by an investor in the business having regard to the nature and risks associated with the business (as outlined above).

Generation

- 180 The Generation business represents ERM's:

- (a) 100% ownership of the Oakey Power Station (which is a 332 MW dual liquid / gas-fired open-cycle power station located on the Darling Downs, 150 km west of Brisbane, Queensland); and
- (b) 50% interest in the Neerabup Power Station (a 330 MW open-cycle gas-fired power station located 30 km north of Perth in WA).

- 181 The key assumptions adopted in our Base Case DCF valuation of the Generation business are set out below.

FY20 EBITDA

- 182 We have adopted FY20 EBITDA for the Generation business of \$41 million, which is broadly consistent with the average performance over the FY17 to FY20 (forecast) period:

Generation – EBITDA				
	Oakey \$m	Neerabup ⁽¹⁾ \$m	Overhead \$m	Total \$m
FY20 (management outlook)	15.0	26.0	(1.7)	39.3
FY19	15.2	27.1	(0.9)	41.4
FY18	17.0	27.6	(0.8)	43.8
FY17	15.8	27.2	(1.3)	41.7

Note:

1 Figures for Neerabup reflect ERM's 50% pro-rata share.

⁴⁸ In this regard we note that the tier 2 retailers set out in the table in paragraph 110 are private entities (for which no valuation reference points are readily observable).

Growth in EBITDA

- 183 Growth in EBITDA at both Oakey and Neerabup (other than in FY30) is assumed to increase by 1.5% per annum, consistent with the assumed rate of inflation⁴⁹. In this regard we understand that most of the contracted payments under the offtake agreement relating to Neerabup increase by inflation only.
- 184 Neerabup currently supplies electricity to Synergy under a long term off-take agreement which runs until 2029. As this contract was negotiated at a time when long term rates of return were higher than those currently prevailing, there is a risk that the profitability of Neerabup will fall following the expiry of the off-take agreement. In this regard, we note that EBITDA at Oakey fell significantly following the expiry of its initial off-take agreement on 31 December 2014.
- 185 Based on discussions with management, we have assumed that Neerabup will be able to generate a profit from FY30 which is commensurate with the notional profit likely to be required by an investor in a new comparable facility assuming an operating period of 25 years (on the basis that such profit is the minimum return required to underwrite new investment in a similar electricity generation asset). Consistent with the comments above, this results in a reduction in the profitability of Neerabup post the expiry of the prevailing off-take agreement (largely due to the subsequent fall in required rates of return since entering into this agreement). Our assumption also reflects a continuing energy market requirement for gas peaking facilities such as Neerabup.

Forecast period

- 186 Oakey and Neerabup plants were built in 2000 and 2009 respectively, and are estimated to have a 40 to 50 year life (noting that both assets generally only operate less than 10% of the time). Accordingly, we have adopted a cash flow forecast period of 30 years until FY49 for the purposes of our DCF valuation. No terminal value has been assumed.

Capital expenditure and depreciation

- 187 Annual sustaining capital expenditure is expected to be around \$1 million per annum on average in real terms⁵⁰. This is broadly consistent with the spend in FY19.
- 188 Major capital expenditures are forecast to be incurred every 15 years for both assets:
- (a) Oakey is scheduled for its next major capital works in FY34. Major capital costs at Oakey are estimated at \$24.5 million in real (2019 dollar) terms
 - (b) Neerabup is scheduled for its next major capital works in FY31 (following expiry of the current offtake agreement). ERM's 50% pro-rata share of these major capital costs is estimated at \$12.5 million in real (2019 dollar) terms.

⁴⁹ Our inflation assumption has been assessed having regard to the differential on long term Government bonds and inflation indexed bonds (around 1.3% per annum) and the lower end of the Reserve Bank of Australia's target inflation rate of 2.0% per annum.

⁵⁰ This figure reflects ERM's 50% pro-rata share of capital expenditure for Neerabup.

Annexure 1: Independent Expert's Report (continued)

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189 It should also be noted that the written down value of both the Oakey and Neerabup plants for tax purposes is significantly lower than their respective written down values for accounting purposes. This has arisen because ERM has historically been able to claim depreciation for tax purposes which has exceeded accounting depreciation (which is based on ERM management's view of the economic life of each of the facilities). This has created a deferred tax liability (DTL) of around \$37 million in ERM's financial statements as at 30 June 2019, which will reverse for accounting purposes over the remaining depreciable life of the assets. This DTL has implicitly been reflected in our DCF calculations as we have (appropriately) allowed for the expected annual tax depreciation deductions (rather than accounting depreciation) in our tax calculations.

Finance facilities (Neerabup only)

190 The finance facilities in respect of Neerabup comprise:

- (a) working capital and term debt facilities (Loans), under which \$127.8 million was outstanding as at 30 June 2019; and
- (b) convertible notes (Notes) with a face value of \$40 million, which require a redemption premium of \$20 million over and above their face value to be paid on maturity in February 2023. The liability recognised in ERM's financial statements as at 30 June 2019 in respect of these Notes was \$53.4 million (which includes an accrual of the redemption premium over their term of issue).

191 Net finance costs (for reporting purposes) in FY19 were \$14.6 million. This included non-cash costs of \$1.4 million related to the redemption premium of \$20 million payable upon maturity of the Notes in February 2023.

192 Our DCF reflects the required contractual repayments under both the Loans and the Notes. The Neerabup term debt facility is assumed to be fully repaid by FY30 (mirroring the term of the off-take agreement), and the Notes are assumed to be fully repaid in February 2023 (together with the redemption premium of \$20 million).

193 Interest is calculated on the term debt facility at the current rate of 7.6% per annum (locked in until expiry), whereas the cash interest payable on the Notes is assumed to be 5.0% per annum (consistent with the current market rate).

Discount rate – Oakey

194 Our adopted discount rate for Oakey of 8.0% per annum (rounded) assumes 100% equity funding (consistent with the actual position), based on a risk free rate of 3.0% per annum, a market risk premium of 6.5% and a beta of around 0.75 (mid-point).

195 Whilst there are no comparable listed companies to Oakey for which a beta can be derived, we note that the beta of the utility sector and AGL were 0.59 and 0.54 (respectively) as at 30 June 2019⁵¹.

⁵¹ Source: SIRCA.

- 196 We consider the adopted higher beta estimate for Oakey (compared to the utility sector and AGL) is appropriate because (inter-alia):
- (a) Oakey does not operate under an off-take / power purchase agreement (which limits the ability to raise debt finance against the asset)
 - (b) typically Oakey only runs during times of high electricity prices / peak energy demand (which is more variable than base load generation)
 - (c) a large portion of Oakey's revenue is generated from entering into derivative contracts over future electricity prices (caps), the premium income from which depends on, inter-alia, the expected volatility of electricity prices
 - (d) AGL and the other companies which are the key constituents of the ASX utility sector are much larger and more diversified businesses than a single, merchant gas-fired peaking power station such as Oakey.

Discount rate – Neerabup

- 197 Due to the existence of the long term off-take agreement with Synergy until 2029, in our opinion, the cash flows for Neerabup during this period are lower risk than the cash flows for Oakey. Accordingly, we have applied a lower (equity) discount rate of 6.9% per annum for the period up to and including FY29. This reflects the same risk free rate and market risk premium as adopted for Oakey, but a lower beta (mid-point 0.6).
- 198 Due to the greater uncertainty associated with the cash flows post 2029 (reflecting the expiry of the current off-take agreement), a higher discount rate of 8.0% per annum has been applied for Neerabup from 2030 onwards (consistent with the discount rate applied for Oakey).

Sensitivity analysis and DCF value

- 199 The base case assumptions set out above reflect the base case assumptions adopted in the financial model. In assessing our valuation range we have therefore considered the sensitivity of value to changes in the key assumptions, as shown below:

Generation – value of equity sensitivity analysis (\$m)		Discount rate ⁽¹⁾				
		7.0%	7.5%	8.0%	8.5%	9.0%
Growth in EBITDA	1.0%	185.9	173.7	162.7	152.6	143.3
	1.5%	199.7	186.5	174.5	163.6	153.5
	2.0%	214.5	200.2	187.2	175.3	164.4
	2.5%	230.4	214.9	200.7	187.8	176.0
	3.0%	247.5	230.6	215.3	201.2	188.4

Note:

- 1 As stated above, the following Base Case discount rates were adopted for valuation purposes:
- (a) Oakey – 8.0% per annum
 - (b) Neerabup – 6.9% per annum until 2029 (due to off-take agreement), then 8.0% per annum.

- 200 Based on the above we have assessed the value of the equity in the Generation business within the range of \$170 million to \$210 million.

Annexure 1: Independent Expert's Report (continued)



Energy Solutions

- 201 As set out in Section III, the Energy Solutions business is still at an early stage of development, was loss making in FY19 and is expected by ERM management to breakeven at the NPAT line in FY20. Management have also provided us with (confidential) five year profit and cash flow projections for the business, which show increased revenues and profitability.
- 202 However, as the timing and quantum of future profitability is inherently uncertain we have valued the Energy Solutions business by reference to the net operating assets employed in business⁵², which incorporates the cost of both business investment to date and recent acquisitions.
- 203 We have therefore adopted a value for the Energy Solutions business of between \$35 million and \$40 million.

Capitalised value of unallocated corporate costs

- 204 Unallocated corporate costs (net of miscellaneous revenue) in FY19 were \$17.7 million at the EBITDA line, and ERM management have given guidance that these net costs will be around \$18 million in FY20. In our DCF calculation we have assumed that these costs increase by around 1.5% per annum. However, as our valuation has been undertaken on a 100% controlling interest basis, we have reduced these costs by \$2.5 million per annum (being our estimate of the public company costs likely to be saved by a purchaser of 100% of the business).
- 205 Allowance has also been made for capital expenditures (which are forecast to reduce to around \$1 million in the medium to long term). These primarily relate to IT and software costs.
- 206 We have applied a discount rate of 10.5% per annum when determining the capitalised value of unallocated corporate costs, as the large majority of these costs support the Energy Retail business.
- 207 On this basis the capitalised value of unallocated corporate costs ranges between \$130 million and \$140 million.

Investments

- 208 ERM has a number of small investments in the following companies / joint ventures:

⁵² \$36.6 million as at 30 June 2019.

Investments				
Investee	Interest held %	Principal activity	Acquisition cost \$m	Date acquired
Energy Locals	32.63	Platform for communities to supply and charge each other for energy	2.5	Jun 16 / May 18
1st Energy	30.0	Electricity sales to business and residential customers in NSW	4.5	FY17
Solpod	24.0	Mobile method of installing large-scale rooftop commercial solar	0.35	Sep 18 / Apr 19
Alliance Automation	50.0	Electrical engineering and automation solution provider	8.5	July 2019
Total			15.85	

- 209 Excluding Alliance Automation (which was acquired subsequent to the FY19 financial year), ERM's pro-rata share of earnings from the above investments was \$195,000 in FY18 and \$95,000 in FY19⁵³. Given the early stage nature of the businesses other than Alliance Automation, we have valued these investments at their carrying value as at 30 June 2019⁵⁴ of \$15.8 million. This is consistent with the recent acquisition cost of the investments (as shown above).

Surplus assets

Business Energy US

- 210 The sale of ERM's US energy retailing business, Source Power & Gas (Business Energy US), was completed on 31 December 2018. Whilst the large majority of cash received from the sale was repatriated prior to 30 June 2019, ERM management expect to repatriate a further A\$5 million during FY20. This comprises approximately A\$10 million in cash, less residual net liabilities of around A\$5 million.

Surplus cash

- 211 As at 30 June 2019 ERM had cash balances of \$172.1 million. However, \$72.8 million of this cash was restricted as it was (inter-alia) required to be held by ERM either as:
- (a) cash on deposit with financial institutions as security for bank guarantees; or
 - (b) cash collateral held in margin accounts in relation to the derivative / hedging contracts.
- 212 This restricted cash principally relates to the Energy Retail business and is not a surplus asset. Interest income on this restricted cash (at rates between 1.75% and 2.75% as at 30 June 2019) is reflected in our DCF value of the Energy Retail business (refer paragraph 163).

⁵³ Both figures are quoted after tax.

⁵⁴ Adjusted to reflect the cost of the investment in Alliance Automation post year end.

Annexure 1: Independent Expert's Report (continued)

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& ASSOCIATES LIMITED

213 Non-restricted cash as at 30 June 2019 was therefore \$99.3 million. However, in relation to this balance, we note that:

- (a) \$8.5 million was used to acquire a 50% interest in Alliance Automation on 5 July 2019
- (b) \$10 million of this cash forms part of the residual net assets of Business Energy US (which has been allowed for in paragraph 210 above)
- (c) approximately \$11.3 million will be paid on 9 October 2019 as a final dividend (of \$0.045 per share) to ERM shareholders⁵⁵
- (d) ERM will generate cash from operations over the period up to the final dividend payment date and the Scheme implementation date (which should partially offset the cost of the final dividend)
- (e) from a business management perspective, not all the non-restricted cash will be distributable to shareholders as a prudent cash buffer is required.

214 Having regard to the above we have adopted surplus cash of between \$75 million and \$80 million.

LGC strategy

- 215 As stated in Section III, the RET places a regulatory obligation on electricity retailers such as ERM to acquire regulatory certificates from renewable energy generators. Retailers may achieve compliance under the LRET scheme by either surrendering the required number of certificates to the CER on an annual basis, or by paying a charge for the shortfall in surrendered certificates.
- 216 For the 2016 compliance year, the Group chose to achieve compliance with the large-scale component of the RET scheme by paying the CER \$123 million in lieu of surrendering 1.9 million LGCs. This enabled the subsequent sale of existing LGC inventory into the market while prices were high, with the Group procuring lower cost LGCs in the future and surrendering these to the CER for a refund.
- 217 For the 2017 and 2018 compliance years, ERM achieved compliance by surrendering 2.7 million and 2.9 million LGCs respectively. ERM chose to surrender these certificates to cover the respective years' compliance liability and there was no shortfall charge paid.
- 218 ERM's LGC strategy, which included paying a shortfall charge of \$123 million in 2016 for not surrendering 1.9 million certificates and the subsequent sale of existing LGC inventory into the market while prices were high, resulted a profit after tax of \$16.1 million in FY19 and is expected to deliver an additional \$20.7 million profit after tax in FY20.
- 219 Whilst there remains the potential for similar LGC trading profits in future, it should be noted that:
- (a) the \$36.8 million profit arising from the decision to pay a shortfall charge in the 2016 compliance year reflected unique market circumstances, as the market price of LGCs at the time was at or around the maximum capped price (which meant that the risk of

⁵⁵ We have assessed the value of ERM shares assuming the final dividend for FY19 has been paid (consistent with the terms of the Scheme).

ERM incurring losses as a result of its decision to pay the shortfall charge at that time was low)

- (b) circumstances and market prices did not allow ERM to undertake a similar strategy in either the 2017 or 2018 compliance year⁵⁶
- (c) the ability to undertake similar LGC strategies in future is subject to market conditions and significant regulatory risk.

220 Given the above, in our opinion, the value likely to be ascribed to the potential for future LGC profits (over and above those to be realised in FY20) is low. Consequently, we have attributed a value of between \$20.7 million and \$30 million to LGC strategy profits. The high end of this range reflects a \$9.3 million premium above the \$20.7 million profit “locked in” for FY20.

Fully diluted shares on issue

- 221 As at 6 September 2019 ERM had 250.3 million fully paid ordinary shares (which includes 65,184 treasury shares over and above those required to meet share plan obligations) and 5.3 million performance rights on issue.
- 222 Consistent with the terms of the Scheme, upon the occurrence of a change of control event we have assumed that the Board would waive the vesting conditions on unvested performance rights. As a result we have adopted fully diluted shares on issue of 255.5 million.

Valuation of ERM shares

- 223 Based on the above, our assessed value of all the shares in ERM (on an ex-final dividend basis) is as follows:

Valuation of ERM shares		
	Low \$m	High \$m
Energy Retail	370.0	400.0
Generation business	170.0	210.0
Energy Solutions	35.0	40.0
Capitalised value of unallocated corporate costs	(130.0)	(140.0)
Value of core business	445.0	510.0
Investments	15.8	15.8
Surplus assets:		
Business Energy US	5.0	5.0
Surplus cash	75.0	80.0
LGC strategy	20.7	30.0
Total equity value	561.5	640.8
Shares on issue	255.5	255.5
Value per share (\$)	\$2.20	\$2.51

⁵⁶ The compliance year runs to 31 December.

Annexure 1: Independent Expert's Report (continued)



Comparison with listed market price

224 We have cross-checked our assessed value of the equity in ERM against the listed market prices of ERM shares in the one and three months periods up to and including 21 August 2019 (being the last trading day prior to the announcement of the Scheme), adjusted for a premium for control. The relevant trading in ERM shares is summarised below:

ERM – share price trading range					
	High	Low	VWAP ⁽¹⁾	Value \$000	Volume 000
1 month to 21 August 2019	\$1.96	\$1.57	\$1.78	11,218	6,299
3 months to 21 August 2019	\$2.02	\$1.57	\$1.865	37,228	19,960

Note:

1 Volume weighted average price (VWAP).

- 225 Empirical evidence undertaken by LEA indicates that the average premium paid above the listed market price in successful takeovers in Australia ranges between 30% and 35% (assuming the pre-bid market price does not reflect any speculation of the takeover).
- 226 Adding a 30% to 35% premium for control to the VWAPs above would therefore result in a theoretical “control” value of \$2.32 to \$2.52 per share. We note that this is broadly consistent with the mid to upper end of our assessed valuation range.

VII Evaluation of the Scheme

- 227 In our opinion, the Scheme is fair and reasonable and in the best interests of ERM shareholders in the absence of a superior proposal. We have formed this opinion for the following reasons.

Value of ERM

- 228 As set out in Section VI we have assessed the value of ERM at between \$2.20 and \$2.51 per share.

Value of Scheme Consideration

- 229 If the Scheme becomes legally effective, ERM shareholders will receive \$2.42 cash for each ERM share they hold on the Scheme Record Date (Scheme Consideration).

Fair and reasonable opinion

Assessment of fairness

- 230 Pursuant to RG 111 the Scheme is “fair” if the value of the Scheme Consideration is equal to, or greater than, the value of the securities the subject of the Scheme. This comparison is shown below:

Comparison of Scheme Consideration to value of ERM			
	Low cents per share	High cents per share	Mid-point cents per share
Scheme Consideration	2.42	2.42	2.42
Value of 100% of ERM	2.20	2.51	2.36
Extent to which the Scheme Consideration exceeds / (is less than) the value of ERM	0.22	(0.09)	0.06

- 231 As the Scheme Consideration is consistent with our assessed valuation range for ERM shares on a 100% controlling interest basis, in our opinion, the Scheme Consideration is fair to ERM shareholders when assessed based on the guidelines set out in RG 111.

Assessment of reasonableness

- 232 Pursuant to RG 111, a transaction is reasonable if it is fair. Further, in our opinion, if the Scheme is “fair and reasonable” it must also be “in the best interests” of shareholders.
- 233 Consequently, in our opinion, the Scheme is also “reasonable” and “in the best interests” of ERM shareholders in the absence of a superior proposal.
- 234 In assessing whether the Scheme is reasonable and in the best interests of ERM shareholders LEA has also considered, in particular:
- (a) the extent to which a control premium is being paid to ERM shareholders
 - (b) the extent to which ERM shareholders are being paid a share of any synergies likely to be generated pursuant to the potential transaction

Annexure 1: Independent Expert's Report (continued)



- (c) the listed market price of the shares in ERM, both prior to and subsequent to the announcement of the proposed Scheme
- (d) the likely market price of ERM securities if the proposed Scheme is not approved
- (e) the value of ERM to an alternative offeror and the likelihood of a higher alternative offer being made for ERM prior to the date of the Scheme meeting
- (f) the advantages and disadvantages of the Scheme from the perspective of ERM shareholders
- (g) other qualitative and strategic issues associated with the Scheme.

235 These issues are discussed in detail below.

Extent to which a control premium is being paid

236 Research undertaken by LEA indicates that average premiums paid in successful takeovers in Australia generally range between 30% and 35% above the listed market price of the target company's shares⁵⁷ three months prior to the announcement of the bid (assuming no speculation of the takeover is reflected in the pre-bid price). This premium range reflects the fact that:

- (a) the owner of 100% of the shares in a company obtains access to all the free cash flows of the company being acquired, which it would otherwise be unable to do as a minority shareholder
- (b) the controlling shareholder can direct the disposal of surplus assets and the redeployment of the proceeds
- (c) a controlling shareholder can control the appointment of directors, management policy and the strategic direction of the company
- (d) a controlling shareholder is often able to increase the value of the entity being acquired through synergies and/or rationalisation savings.

237 We have calculated the premium implied by the Scheme Consideration by reference to the market prices of ERM shares (as traded on the ASX) for periods up to and including 21 August 2019 (being the last trading day prior to the announcement of the Scheme). We note that during this period ERM shares traded with an entitlement to the final FY19 dividend of \$0.045 per share. For implied control premium purposes we have therefore adopted total consideration of \$2.465 per share⁵⁸.

238 The implied offer premium relative to ERM share prices up to 21 August 2019 is shown below:

⁵⁷ After adjusting the pre-bid market prices for the movement in share market indices between the date of the pre-bid market price and the announcement of the takeover.

⁵⁸ Being the Scheme Consideration of \$2.42 per share and the final ordinary dividend of \$0.045 per share.

Implied offer premium relative to recent share prices ⁽¹⁾		
	ERM share price \$	Implied control premium %
Closing share price on 21 August 2019 ⁽²⁾	1.72	43.3
1 month VWAP to 21 August 2019	1.78	38.4
3 months VWAP to 21 August 2019	1.865	32.1

Note:

- 1 Rounding differences may exist.
- 2 Being the closing price on the last day of trading prior to the announcement of the Scheme.

- 239 The implied offer premiums above are consistent with and/or above the average takeover premium of 30% to 35% implied from empirical evidence.
- 240 Accordingly, in our opinion, ERM shareholders are being appropriately compensated for the fact that 100% control of ERM will pass to Shell if the Scheme is approved.

Extent to which ERM shareholders are being paid a share of synergies

- 241 If the Scheme is approved by ERM shareholders, Shell will acquire a 100% interest in the Company and as a result ERM will be privatised. We understand that Shell intends to continue to operate the ERM business as a going concern largely within Shell's Trading and Supply global business unit, with some central functions anticipated to be combined and centralised within Shell's existing business.
- 242 In the circumstances, we would expect Shell to be able to generate some operational synergies from the acquisition of ERM. However, Shell has not provided any specific guidance on the size of synergies expected to arise.
- 243 We note that the existence of synergies from business combinations is one of the key reasons why bidders pay a control premium to acquire a company. Given the control premium implied by the Scheme Consideration (noted above), and the nature of the potential synergies indicated by Shell, prima-facie, there is nothing to suggest that the Scheme Consideration reflects other than an appropriate share of the synergy benefits expected to be derived by Shell.

Recent share prices subsequent to the announcement of the Scheme

- 244 The share trading in ERM shares subsequent to the announcement of the Scheme is summarised below:

ERM – share trading subsequent to the announcement of Scheme				
Start date	End date	High \$	Low \$	VWAP \$
22 Aug 19	12 Sep 19 ⁽¹⁾	2.50	2.44	2.45
13 Sep 19 ⁽²⁾	25 Sep 19	2.45	2.41	2.43

Note:

- 1 This trading reflected an entitlement to the final FY19 fully franked dividend of \$0.045 per share.
- 2 ERM shares traded ex the final FY19 fully franked dividend of \$0.045 on 13 September 2019.

Annexure 1: Independent Expert's Report (continued)



245 The above share trading indicates that (on occasion) ERM shares have traded marginally above the Scheme Consideration. In our view, this trading suggests that some investors have been prepared to pay a price above the Scheme Consideration to access the franking credits that will attach to the proposed Special Dividend.

246 ERM shareholders considering selling their ERM shares on the ASX (prior to the Scheme meeting) to take advantage of potential prices above the Scheme Consideration will need to consider brokerage costs and should note that:

- (a) the ERM share price on the ASX is subject to daily fluctuation
- (b) ERM shareholders who sell their ERM shares on the ASX will not obtain the benefit of any superior proposal should this eventuate.

Likely price of ERM shares if the Scheme is not implemented

247 If the Scheme is not implemented we expect that, at least in the short term, ERM shares will trade at a significant discount to our valuation and the Scheme Consideration due to the difference between the value of ERM shares on a portfolio basis and their value on a 100% controlling interest basis. In this regard we note that ERM shares last traded at \$1.72 per share on 21 August 2019 (being the last trading day prior to the announcement of the Scheme with Shell).

248 If the Scheme is not implemented those ERM shareholders who wish to sell their ERM shares are therefore likely, at least in the short term, to realise a significantly lower price for their shares than will be payable under the Scheme.

Likelihood of an alternative offer

249 We have been advised by the Directors of ERM that no formal alternative offer or proposal has been received subsequent to the announcement of the Scheme on 22 August 2019.

250 In considering the Scheme and related resolutions, ERM shareholders should also note that Mr Trevor St Baker, who holds a relevant interest of approximately 27.4% in the issued ordinary shares in ERM, has indicated an intention to vote in favour of the Scheme resolutions, subject to no superior proposal emerging and the independent expert concluding (and continuing to conclude) that the Scheme is in the best interests of ERM shareholders.

Summary of opinion on the Scheme

251 We summarise below the likely advantages and disadvantages for ERM shareholders if the Scheme proceeds.

Advantages

252 In our opinion, the Scheme has the following benefits for ERM shareholders:

- (a) the Scheme Consideration of \$2.42 cash per share is consistent with our assessed value range for ERM shares on a 100% controlling interest basis. Thus, in our view, ERM shareholders are being paid an appropriate price to compensate them for the fact that control of ERM will pass to Shell if the Scheme is approved

- (b) the Scheme Consideration represents a significant premium to the recent market prices of ERM shares prior to the announcement of the Scheme on 22 August 2019
- (c) furthermore, the premium above the recent market prices of ERM shares prior to the announcement of the Scheme is consistent with and/or above the observed premiums generally paid to target company shareholders in comparable circumstances
- (d) the Special Dividend is expected to be fully franked and is therefore expected to include a franking credit of up to approximately \$0.036 cents per share. This franking credit may give rise to additional value to those Australian resident shareholders on marginal tax rates less than 30%
- (e) if the Scheme does not proceed, and in the absence of an alternative offer or proposal, the price of ERM shares is likely to trade at a significant discount to our valuation and the Scheme Consideration due to the portfolio nature of individual shareholdings.

Disadvantages

- 253 ERM shareholders should note that if the Scheme is implemented they will no longer hold an interest in ERM. ERM shareholders will therefore not participate in any future value created by the company over and above that reflected in the Scheme Consideration. However, as our assessed value of ERM shares is consistent with the Scheme Consideration, in our opinion, the present value of ERM's future potential is reflected in the Scheme Consideration.

Conclusion

- 254 Given the above analysis, we consider that the advantages of the Scheme outweigh the disadvantages. Consequently, in our view, the acquisition of ERM shares by Shell under the Scheme is fair and reasonable and in the best interests of ERM shareholders in the absence of a superior proposal.

Annexure 1: Independent Expert's Report (continued)



Appendix A

Financial Services Guide

Lonergan Edwards & Associates Limited

- 1 Lonergan Edwards & Associates Limited (ABN 53 095 445 560) (LEA) is a specialist valuation firm which provides valuation advice, valuation reports and independent expert's reports (IER) in relation to takeovers and mergers, commercial litigation, tax and stamp duty matters, assessments of economic loss, commercial and regulatory disputes.
- 2 LEA holds Australian Financial Services Licence No. 246532.

Financial Services Guide

- 3 The *Corporations Act 2001 (Cth)* (Corporations Act) authorises LEA to provide this Financial Services Guide (FSG) in connection with its preparation of an IER to accompany the Scheme Booklet to be sent to ERM shareholders in connection with the Scheme.
- 4 This FSG is designed to assist retail clients in their use of any general financial product advice contained in the IER. This FSG contains information about LEA generally, the financial services we are licensed to provide, the remuneration we may receive in connection with the preparation of the IER, and if complaints against us ever arise how they will be dealt with.

Financial services we are licensed to provide

- 5 Our Australian Financial Services Licence allows us to provide a broad range of services to retail and wholesale clients, including providing financial product advice in relation to various financial products such as securities, derivatives, interests in managed investment schemes, superannuation products, debentures, stocks and bonds.

General financial product advice

- 6 The IER contains only general financial product advice. It was prepared without taking into account your personal objectives, financial situation or needs.
- 7 You should consider your own objectives, financial situation and needs when assessing the suitability of the IER to your situation. You may wish to obtain personal financial product advice from the holder of an Australian Financial Services Licence to assist you in this assessment.

Fees, commissions and other benefits we may receive

- 8 LEA charges fees to produce reports, including this IER. These fees are negotiated and agreed with the entity who engages LEA to provide a report. Fees are charged on an hourly basis or as a fixed amount depending on the terms of the agreement with the entity who engages us. In the preparation of this IER, LEA is entitled to receive a fee estimated at \$180,000 plus GST.
- 9 Neither LEA nor its directors and officers receives any commissions or other benefits, except for the fees for services referred to above.

Appendix A

- 10 All of our employees receive a salary. Our employees are eligible for bonuses based on overall performance and the firm's profitability, and do not receive any commissions or other benefits arising directly from services provided to our clients. The remuneration paid to our directors reflects their individual contribution to the company and covers all aspects of performance. Our directors do not receive any commissions or other benefits arising directly from services provided to our clients.
- 11 We do not pay commissions or provide other benefits to other parties for referring prospective clients to us.

Complaints

- 12 If you have a complaint, please raise it with us first, using the contact details listed below. We will endeavour to satisfactorily resolve your complaint in a timely manner.
- 13 If we are not able to resolve your complaint to your satisfaction within 45 days of your written notification, you are entitled to have your matter referred to the Australian Financial Complaints Authority (AFCA), an external complaints resolution service. You will not be charged for using the AFCA service.

Contact details

- 14 LEA can be contacted by sending a letter to the following address:

Level 7
64 Castlereagh Street
Sydney NSW 2000
(or GPO Box 1640, Sydney NSW 2001)

Annexure 1: Independent Expert's Report (continued)



Appendix B

Qualifications, declarations and consents

Qualifications

- 1 LEA is a licensed investment adviser under the Corporations Act. LEA's authorised representatives have extensive experience in the field of corporate finance, particularly in relation to the valuation of shares and businesses and have prepared hundreds of IERs.
- 2 This report was prepared by Mr Craig Edwards and Mr Martin Holt, who are each authorised representatives of LEA. Mr Edwards and Mr Holt have over 25 years and 33 years experience respectively in the provision of valuation advice (and related advisory services).

Declarations

- 3 This report has been prepared at the request of the Directors of ERM to accompany the Scheme Booklet to be sent to ERM shareholders. It is not intended that this report should serve any purpose other than as an expression of our opinion as to whether or not the Scheme is fair and reasonable and in the best interests of ERM shareholders.

Interests

- 4 At the date of this report, neither LEA, Mr Edwards nor Mr Holt have any interest in the outcome of the Scheme. With the exception of the fee shown in Appendix A, LEA will not receive any other benefits, either directly or indirectly, for or in connection with the preparation of this report.
- 5 We have considered the matters described in ASIC RG 112 – *Independence of experts*, and consider that there are no circumstances that, in our view, would constitute a conflict of interest or would impair our ability to provide objective independent assistance in this engagement.

Indemnification

- 6 As a condition of LEA's agreement to prepare this report, ERM agrees to indemnify LEA in relation to any claim arising from or in connection with its reliance on information or documentation provided by or on behalf of ERM which is false or misleading or omits material particulars or arising from any failure to supply relevant documents or information.

Consents

- 7 LEA consents to the inclusion of this report in the form and context in which it is included in the Scheme Booklet.

Glossary

Term	Meaning
ACT	Australian Capital Territory
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
AFCA	Australian Financial Complaints Authority
AGL	AGL Energy Limited
Agreement	Scheme Implementation Deed
ASIC	Australian Securities & Investments Commission
ASX	Australian Securities Exchange
ATO	Australian Taxation Office
BBSY	Bank Bill Swap Bid Rate
Business Energy US	ERM's US energy retailing business, Source Power & Gas
C&I	Commercial and industrial
CER	Clean Energy Regulator
CGB	Commonwealth government bonds
Corporations Act	<i>Corporations Act 2001 (Cth)</i>
Corporations Regulations	<i>Corporations Regulations 2001</i>
DCF	Discounted cash flow
DTL	Deferred tax liability
EBIT	Earnings before interest and tax
EBITA	Earnings before interest, tax and amortisation of acquired intangibles
EBITDA	Earnings before interest, tax depreciation and amortisation
EBITDAF	Earnings before interest, tax, depreciation, amortisation, impairment and net fair value gains / losses on financial instruments designated at fair value through profit and loss
ERM	ERM Power Limited
FSG	Financial Services Guide
FY	Financial year
GWh	Gigawatt hour
IER	Independent expert's report
IT	Information technology
km	Kilometre
LEA	LonerGAN Edwards & Associates Limited
LGC	Large-scale generation certificate
Loans	The working capital and term debt facilities of Neerabup
LRET	Large-scale Renewable Energy Target
MRP	Market risk premium
MW	Megawatt
MWh	Megawatt hour
NEM	National Energy Market
NLAT	Net loss after tax
Notes	Convertible notes totalling \$53.4 million (book value) as at 30 June 2019
NPAT	Net profit after tax
NPV	Net present value
NSW	New South Wales
PE	Price earnings
PV	Photovoltaic
RET	Renewable Energy Target

Annexure 1: Independent Expert's Report (continued)

LONERGAN EDWARDS
& ASSOCIATES LIMITED

Appendix C

Term	Meaning
RG 111	Regulatory Guide 111 – <i>Content of expert reports</i>
RPP	Renewable power percentage
SA	South Australia
Scheme	The proposed acquisition of ERM shares by Shell to be implemented via a scheme of arrangement between ERM and its shareholders
Scheme Consideration	\$2.42 cash for each ERM share, less the cash amount of any special dividend which ERM announces before the Scheme Record Date
Shell	Shell Energy Australia Pty Ltd
SME	Small-to-medium enterprise
Special Dividend	A fully franked special dividend of up to \$0.085 per ERM share
SRES	Small-scale Renewable Energy Scheme
STC	Small-scale Technology Certificates
TWh	Terawatt hours
US	United States of America
VWAP	Volume weighted average price
WA	Western Australia
WANOS	Weighted average number of shares outstanding
WEM	WA Wholesale Energy Market

Annexure 2: Scheme of arrangement



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Scheme of arrangement – share scheme

ERM Power Limited

Scheme Shareholders

ANZ Tower 161 Castlereagh Street Sydney NSW 2000 Australia
GPO Box 4227 Sydney NSW 2001 Australia

T +61 2 9225 5000 F +61 2 9322 4000
herbertsmithfreehills.com DX 361 Sydney

Annexure 2: Scheme of arrangement (continued)



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Scheme of arrangement – share scheme

This scheme of arrangement is made under section 411 of the *Corporations Act 2001* (Cth)

Between the parties

ERM Power Limited (**ERM**) ACN 122 259 223 of Level 52, 111 Eagle Street, Brisbane QLD 4000

The Scheme Shareholders

1 Definitions, interpretation and scheme components

1.1 Definitions

Schedule 1 contains definitions used in this Scheme.

1.2 Interpretation

Schedule 1 contains interpretation rules for this Scheme.

1.3 Scheme components

This Scheme includes any schedule to it.

2 Preliminary matters

- (a) ERM is a public company limited by shares, registered in Victoria, Australia, and has been admitted to the official list of the ASX. ERM Shares are quoted for trading on the ASX.
- (b) As at the date of the Implementation Deed:
 - (1) 250,288,527 ERM Shares; and
 - (2) 5,333,828 performance rights,were on issue.
- (c) Shell Australia is a proprietary company limited by shares registered in Victoria, Australia.
- (d) If this Scheme becomes Effective:



- (1) Shell Australia must provide or procure the provision of the Scheme Consideration to the Scheme Shareholders in accordance with the terms of this Scheme and the Deed Poll; and
- (2) all the Scheme Shares, and all the rights and entitlements attaching to them as at the Implementation Date, must be transferred to Shell Australia and ERM will enter the name of Shell Australia in the ERM Share Register in respect of the Scheme Shares.
- (e) ERM and Shell Australia have agreed, by executing the Implementation Deed, to implement this Scheme.
- (f) This Scheme attributes actions to Shell Australia but does not itself impose an obligation on them to perform those actions. Shell Australia have agreed, by executing the Deed Poll, to perform the actions attributed to them under this Scheme, including the provision or procuring the provision of the Scheme Consideration to the Scheme Shareholders.

3 Conditions

3.1 Conditions precedent

This Scheme is conditional on and will have no force or effect until, the satisfaction of each of the following conditions precedent:

- (a) all the conditions in clause 3 of the Implementation Deed (other than the condition in the Implementation Deed relating to Court approval of this Scheme) having been 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 having been terminated in accordance with their terms before 8.00am on the Second Court Date;
- (c) approval of this Scheme by the Court under paragraph 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under subsection 411(6) of the Corporations Act and agreed to by Shell Australia and ERM;
- (d) such other conditions made or required by the Court under subsection 411(6) of the Corporations Act in relation to this Scheme and agreed to by Shell Australia and ERM having been satisfied or waived; and
- (e) the orders of the Court made under paragraph 411(4)(b) (and, if applicable, subsection 411(6)) of the Corporations Act approving this Scheme coming into effect, pursuant to subsection 411(10) of the Corporations Act on or before the End Date (or any later date ERM and Shell Australia agree in writing).

3.2 Certificate

- (a) ERM and Shell Australia will provide to the Court on the Second Court Date a certificate, or such other evidence as the Court requests, confirming (in respect of matters within their knowledge) whether or not all of the conditions precedent in clauses 3.1(a) and 3.1(b) have been satisfied or waived.
- (b) The certificate referred to in clause 3.2(a) constitutes conclusive evidence that such conditions precedent were satisfied, waived or taken to be waived.

Annexure 2: Scheme of arrangement (continued)



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4 Implementation of this Scheme

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 ERM and Shell Australia otherwise agree in writing.

4 Implementation of this Scheme

4.1 Lodgement of Court orders with ASIC

ERM must lodge with ASIC, in accordance with subsection 411(10) of the Corporations Act, an office copy of the Court order approving this Scheme as soon as possible after the Court approves this Scheme and in any event by 5.00pm on the first Business Day after the day on which the Court approves this Scheme.

4.2 Transfer of Scheme Shares

On the Implementation Date:

- (a) subject to the provision of the Scheme Consideration in the manner contemplated by clauses 5.1(b) and 5.1(c), the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, must be transferred to Shell Australia, without the need for any further act by any Scheme Shareholder (other than acts performed by ERM as attorney and agent for Scheme Shareholders under clause 8.5), by:
 - (1) ERM delivering to Shell Australia a duly completed Scheme Transfer, executed on behalf of the Scheme Shareholders by ERM, for registration; and
 - (2) Shell Australia duly executing the Scheme Transfer, attending to the stamping of the Scheme Transfer (if required) and delivering it to ERM for registration; and
- (b) immediately following receipt of the Scheme Transfer in accordance with clause 4.2(a)(2), but subject to the stamping of the Scheme Transfer (if required), ERM must enter, or procure the entry of, the name of Shell Australia in the ERM Share Register as the holder of all the Scheme Shares transferred to Shell Australia in accordance with this Scheme.

5 Scheme Consideration

5.1 Provision of Scheme Consideration

- (a) Shell Australia must, and ERM must use its best endeavours to procure that Shell Australia does, by no later than the Business Day before the Implementation Date, deposit, or procure the deposit, in cleared funds an amount equal to the aggregate amount of the Scheme Consideration payable to all Scheme Shareholders, into an Australian dollar denominated trust account



operated by ERM as trustee for the Scheme Shareholders, (provided that any interest on the amounts deposited (less bank fees and other charges) will be credited to Shell Australia's account).

- (b) On the Implementation Date, subject to funds having been deposited in accordance with clause 5.1(a), ERM must pay or procure the payment of the Scheme Consideration to each Scheme Shareholder from the trust account referred to in clause 5.1(a).
- (c) The obligations of ERM under clause 5.1(b) will be satisfied by ERM (in its absolute discretion, and despite any election referred to in clause 5.1(c)(1) or authority referred to in clause 5.1(c)(2) made or given by the Scheme Shareholder):
 - (1) if a Scheme Shareholder has, before the Scheme Record Date, made a valid election in accordance with the requirements of the ERM Registry to receive dividend payments from ERM 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;
 - (2) paying, or procuring the payment of, the relevant amount in Australian currency by electronic means to a bank account nominated by the Scheme Shareholder by an appropriate authority from the Scheme Shareholder to ERM; or
 - (3) dispatching, or procuring the dispatch of, a cheque for the relevant amount in Australian currency to the Scheme Shareholder by prepaid post to their Registered Address (as at the Scheme Record Date), such cheque being drawn in the name of the Scheme Shareholder (or in the case of joint holders, in accordance with the procedures set out in clause 5.2).
- (d) To the extent that, following satisfaction of ERM's obligations under clause 5.1(b), there is a surplus in the amount held by ERM as trustee for the Scheme Shareholders in the trust account referred to in that clause, that surplus may be paid by ERM to Shell Australia.

5.2 Joint holders

In the case of Scheme Shares held in joint names:

- (a) subject to clause 5.1(c), the Scheme Consideration is payable to the joint holders and any cheque required to be sent under this Scheme will be made payable to the joint holders and sent to either, at the sole discretion of ERM, the holder whose name appears first in the ERM Share Register as at the Scheme Record Date or to the joint holders; and
- (b) any other document required to be sent under this Scheme, will be forwarded to either, at the sole discretion of ERM, the holder whose name appears first in the ERM Share Register as at the Scheme Record Date or to the joint holders.

5.3 Fractional entitlements and splitting

Where the calculation of the Scheme Consideration to be issued 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 down to the nearest whole cent.

Annexure 2: Scheme of arrangement (continued)



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6 Dealings in ERM Shares

5.4 Unclaimed monies

- (a) ERM may cancel a cheque issued under this clause 5 if the cheque:
 - (1) is returned to ERM; or
 - (2) has not been presented for payment within six months after the date on which the cheque was sent.
- (b) During the period of 12 months commencing on the Implementation Date, on request in writing from a Scheme Shareholder to ERM (or the ERM Registry) (which request may not be made until the date which is 30 Business Days after the Implementation Date), ERM must reissue a cheque that was previously cancelled under this clause 5.4.
- (c) The *Public Trustee Act 1978* (QLD) will apply in relation to any Scheme Consideration which becomes 'unclaimed money' (as defined in section s98, s100 and s102 of the *Public Trustee Act 1978* (QLD)).

5.5 Orders of a court or Government Agency

If written notice is given to ERM (or the ERM Registry) or Shell Australia of an order or direction made by a court of competent jurisdiction or by another Government Agency that:

- (a) requires consideration to be provided to a third party (either through payment of a sum or the issuance of a security) in respect of Scheme Shares held by a particular Scheme Shareholder, which would otherwise be payable or required to be issued to that Scheme Shareholder by ERM in accordance with clause 5.1 then ERM shall be entitled to procure that provision of that consideration is made in accordance with that order or direction; or
- (b) prevents ERM from providing consideration to any particular Scheme Shareholder in accordance with clause 5.1, or the payment or issuance of such consideration is otherwise prohibited by applicable law, ERM shall be entitled to retain an amount, in Australian dollars, equal to the number of Scheme Shares held by that Scheme Shareholder multiplied by the Scheme Consideration until such time as provision of the Scheme Consideration in accordance with clause 5.1 is permitted by that (or another) order or direction or otherwise by law.

6 Dealings in ERM Shares

6.1 Determination of Scheme Shareholders

To establish the identity of the Scheme Shareholders, dealings in ERM Shares or other alterations to the ERM Share Register will only be recognised if:

- (a) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the ERM Share Register as the holder of the relevant ERM Shares 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 before the Scheme Record Date at the place where the ERM Share Register is kept,



and ERM must not accept for registration, nor recognise for any purpose (except a transfer to Shell Australia pursuant to this Scheme and any subsequent transfer by Shell Australia or its successors in title), any transfer or transmission application or other request received after such times, or received prior to such times but not in registrable or actionable form, as appropriate.

6.2 Register

- (a) ERM must register registrable transmission applications or transfers of the Scheme Shares that are received in accordance with clause 6.1(b) before the Scheme Record Date provided that, for the avoidance of doubt, nothing in this clause 6.2(a) requires ERM to register a transfer that would result in a ERM Shareholder holding a parcel of ERM Shares that is less than a 'marketable parcel' (for the purposes of this clause 6.2(a) 'marketable parcel' has the meaning given in the Operating Rules).
- (b) If this Scheme becomes Effective, a holder of Scheme Shares (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 on or after the Scheme Record Date otherwise than pursuant to this Scheme, and any attempt to do so will have no effect and ERM shall be entitled to disregard any such disposal.
- (c) For the purpose of determining entitlements to the Scheme Consideration, ERM must maintain the ERM Share Register in accordance with the provisions of this clause 6.2 until the Scheme Consideration has been paid to the Scheme Shareholders. The ERM Share Register in this form will solely determine entitlements to the Scheme Consideration.
- (d) All statements of holding for ERM Shares (other than statements of holding in favour of Shell Australia) 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 ERM Share Register (other than entries on the ERM Share Register in respect of Shell Australia) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the ERM Shares relating to that entry.
- (e) As soon as possible on or after the Scheme Record Date, and in any event by 5.00pm on the first Business Day after the Scheme Record Date, ERM will ensure that details of the names, Registered Addresses and holdings of ERM Shares for each Scheme Shareholder as shown in the ERM Share Register are available to Shell Australia in the form Shell Australia reasonably requires.

7 Quotation of ERM Shares

- (a) ERM must apply to ASX to suspend trading on the ASX in ERM Shares with effect from the close of trading on the Effective Date.
- (b) On a date after the Implementation Date to be determined by Shell Australia, ERM must apply:
 - (1) for termination of the official quotation of ERM Shares on the ASX; and
 - (2) to have itself removed from the official list of the ASX.

Annexure 2: Scheme of arrangement (continued)



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8 General Scheme provisions

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) ERM may by its counsel consent on behalf of all persons concerned to those alterations or conditions to which Shell Australia has consented; and
- (b) each Scheme Shareholder agrees to any such alterations or conditions which ERM has consented to.

8.2 Scheme Shareholders' agreements and warranties

- (a) Each Scheme Shareholder:
 - (1) agrees to the transfer of their ERM Shares together with all rights and entitlements attaching to those ERM Shares in accordance with this Scheme;
 - (2) agrees to the variation, cancellation or modification of the rights attached to their ERM Shares constituted by or resulting from this Scheme;
 - (3) agrees to, on the direction of Shell Australia, destroy any holding statements or share certificates relating to their ERM Shares;
 - (4) who holds their ERM Shares in a CHESS Holding agrees to the conversion of those ERM Shares to an Issuer Sponsored Holding and irrevocably authorises ERM to do anything necessary or expedient (whether required by the Settlement Rules or otherwise) to effect or facilitate such conversion; and
 - (5) acknowledges and agrees that this Scheme binds ERM and all Scheme Shareholders (including those who do not attend the Scheme Meeting and those who do not vote, or vote against this Scheme, at the Scheme Meeting).
- (b) Each Scheme Shareholder is taken to have warranted to ERM and Shell Australia on the Implementation Date, and appointed and authorised ERM as its attorney and agent to warrant to Shell Australia on the Implementation Date, that:
 - (1) all their ERM Shares (including any rights and entitlements attaching to those shares) which are transferred under this Scheme will, at the date of transfer, be fully paid and free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind, and that they have full power and capacity to transfer their ERM Shares to Shell Australia together with any rights and entitlements attaching to those shares. ERM undertakes that it will provide such warranty to Shell Australia as agent and attorney of each Scheme Shareholder; and
 - (2) other than any Performance Rights, it has no existing right to be issued any other ERM Shares or any other form of ERM securities. ERM undertakes that it will provide each warranty to Shell Australia as agent and attorney of each Scheme Shareholder.



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 to Shell Australia will, at the time of transfer of them to Shell Australia vest in Shell Australia free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise and free from any restrictions on transfer of any kind.
- (b) Immediately upon the provision of the Scheme Consideration to each Scheme Shareholder in the manner contemplated by clauses 5.1(b) and 5.1(c), Shell Australia will be beneficially entitled to the Scheme Shares to be transferred to it under this Scheme pending registration by ERM of Shell Australia in the ERM Share Register as the holder of the Scheme Shares.

8.4 Appointment of sole proxy

Immediately upon the provision of the Scheme Consideration to each Scheme Shareholder in the manner contemplated by clauses 5.1(b) and 5.1(c) and until ERM registers Shell Australia as the holder of all Scheme Shares in the ERM Share Register, each Scheme Shareholder:

- (a) is deemed to have appointed Shell Australia as attorney and agent (and directed Shell Australia in each such capacity) to appoint any director, officer, secretary or agent nominated by Shell Australia 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 or document;
- (b) must not attend or vote at any of those meetings or sign any resolutions, whether in person, by proxy or by corporate representative (other than pursuant to clause 8.4(a));
- (c) must take all other actions in the capacity of a registered holder of Scheme Shares as Shell Australia reasonably directs; and
- (d) acknowledges and agrees that in exercising the powers referred to in clause 8.4(a), Shell Australia and any director, officer, secretary or agent nominated by Shell Australia under clause 8.4(a) may act in the best interests of Shell Australia as the intended registered holder of the Scheme Shares.

8.5 Authority given to ERM

Each Scheme Shareholder, without the need for any further act:

- (a) on the Effective Date, irrevocably appoints ERM and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of enforcing the Deed Poll against Shell Australia, and ERM undertakes in favour of each Scheme Shareholder that it will enforce the Deed Poll against Shell Australia on behalf of and as agent and attorney for each Scheme Shareholder; and
- (b) on the Implementation Date, irrevocably appoints ERM and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of executing any document or doing or taking any other act necessary, desirable or expedient to give effect to this Scheme and the

Annexure 2: Scheme of arrangement (continued)



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9 General

transactions contemplated by it, including (without limitation) executing the Scheme Transfer,

and ERM accepts each such appointment. ERM 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, secretaries or employees (jointly, severally or jointly and severally).

8.6 Binding effect of Scheme

This Scheme binds ERM and all of the Scheme Shareholders (including those who did not attend the Scheme Meeting to vote on this Scheme, did not vote at the Scheme Meeting, or voted against this Scheme at the Scheme Meeting) and, to the extent of any inconsistency, overrides the constitution of ERM.

9 General

9.1 Stamp duty

Shell Australia will:

- (a) pay all stamp duty and any related fines and penalties in respect of this Scheme and the Deed Poll, the performance of the Deed Poll and each transaction effected by or made under or in connection with this Scheme and 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 of the Scheme Shareholders consents to ERM doing all things necessary or incidental to, or to give effect to, the implementation of this Scheme, whether on behalf of the Scheme Shareholders, ERM or otherwise.

9.3 Notices

- (a) If a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to ERM, 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 ERM's registered office or at the office of the ERM Registry.
- (b) The accidental omission to give notice of the Scheme Meeting or the non-receipt of such notice by a ERM Shareholder will not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

9.4 Governing law

- (a) This Scheme is governed by the laws in force in New South Wales, Australia.
- (b) The parties irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales, Australia and courts of appeal from them 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

ERM 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

Each Scheme Shareholder agrees that neither ERM, Shell Australia nor any director, officer, secretary or employee of ERM, Shell Australia shall be liable for anything done or omitted to be done in the performance of this Scheme or the Deed Poll in good faith.

Annexure 2: Scheme of arrangement (continued)



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Schedule 1

Definitions and interpretation

1 Definitions

The meanings of the terms used in this Scheme are set out below.

Term	Meaning
ASIC	the Australian Securities and Investments Commission.
ASX	ASX Limited ABN 98 008 624 691 and, where the context requires, the financial market that it operates.
Business Day	a day that is not a Saturday, Sunday, public holiday or bank holiday in Sydney, Australia.
CHESS	the Clearing House Electronic Subregister System operated by ASX Settlement Pty Ltd and ASX Clear Pty Limited.
CHESS Holding	has the meaning given in the Settlement Rules.
Corporations Act	the <i>Corporations Act 2001</i> (Cth), as modified or varied by ASIC.
Court	any court of competent jurisdiction under the Corporations Act agreed to in writing by Shell Australia and ERM.
Deed Poll	a deed poll in the form of Attachment 1 under which Shell Australia covenants in favour of the Scheme Shareholders to perform the obligations attributed to Shell Australia under this Scheme.
Effective	when used in relation to this Scheme, the coming into effect, under subsection 411(10) of the Corporations Act, of the order of the Court made under paragraph 411(4)(b) of the Corporations Act in relation to this Scheme.



Term	Meaning
Effective Date	the date on which this Scheme becomes Effective.
End Date	1 31 March 2020; or 2 such other date as agreed in writing by the parties.
ERM	ERM Power Limited ACN 122 259 223.
ERM Registry	Link Market Services Limited ACN 083 214 537.
ERM Share	a fully paid ordinary share in the capital of ERM.
ERM Shareholder	each person who is registered as the holder of a ERM Share in the ERM Share Register.
ERM Share Register	the register of members of ERM maintained in accordance with the Corporations Act.
Government Agency	any foreign or Australian government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity (including any stock or other securities exchange), or any minister of the Crown in right of the Commonwealth of Australia or any State, and any other federal, state, provincial, or local government, whether foreign or Australian.
Implementation Date	the third Business Day after the Scheme Record Date, or such other date after the Scheme Record Date as the parties agree in writing.
Implementation Deed	the scheme implementation deed dated on or about 21 August 2019 between ERM and Shell Australia relating to the implementation of this Scheme.
Issuer Sponsored Holding	has the meaning given in the Settlement Rules.
Performance Rights	the performance rights referred to in clause 2(b)(2).
Registered Address	in relation to a ERM Shareholder, the address shown in the ERM

Annexure 2: Scheme of arrangement (continued)



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Schedule 1 Definitions and interpretation

Term	Meaning
	Share Register as at the Scheme Record Date.
Related Bodies Corporate	has the meaning set out in section 50 of the Corporations Act.
Scheme	this scheme of arrangement under Part 5.1 of the Corporations Act between ERM and the Scheme Shareholders subject to any alterations or conditions made or required by the Court under subsection 411(6) of the Corporations Act and agreed to in writing by Shell Australia and ERM.
Scheme Consideration	the consideration to be provided by Shell Australia to each Scheme Shareholder for the transfer to Shell Australia of each Scheme Share, being for each ERM Share held by a Scheme Shareholder as at the Scheme Record Date, an amount of \$2.42, less the cash amount of any Special Dividend paid by ERM before the Implementation Date.
Scheme Meeting	the meeting of ERM Shareholders ordered by the Court to be convened under subsection 411(1) of the Corporations Act to consider and vote on this Scheme and includes any meeting convened following any adjournment or postponement of that meeting.
Scheme Record Date	7.00pm on the tenth Business Day after the Effective Date or such other time and date as the parties agree in writing.
Scheme Shares	all ERM Shares held by the Scheme Shareholders as at the Scheme Record Date.
Scheme Shareholder	a holder of ERM Shares recorded in the ERM Share Register as at the Scheme Record Date.
Scheme Transfer	a duly completed and executed proper instrument of transfer in respect of the Scheme Shares for the purposes of section 1071B of the Corporations Act, in favour of Shell Australia as transferee, which may be a master transfer of all or part of the Scheme Shares.
Second Court Date	the first day on which an application made to the Court for an order under paragraph 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 or appeal is heard.



Term	Meaning
Settlement Rules	the ASX Settlement Operating Rules, being the official operating rules of the settlement facility provided by ASX Settlement Pty Ltd.
Shell Australia	Shell Energy Australia Pty Ltd ACN 085 757 446.

2 Interpretation

In this Scheme:

- (a) headings and bold type are for convenience only and do not affect the interpretation of this Scheme;
- (b) the singular includes the plural and the plural includes the singular;
- (c) words of any gender include all genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this Scheme have a corresponding meaning;
- (e) a reference to a person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Agency as well as an individual;
- (f) a reference to a clause, party, schedule, attachment or exhibit is a reference to a clause of, and a party, schedule, attachment or exhibit to, this Scheme;
- (g) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them (whether passed by the same or another Government Agency with legal power to do so);
- (h) a reference to a document (including this Scheme) includes all amendments or supplements to, or replacements or novations of, that document;
- (i) a reference to '\$', 'A\$' or 'dollar' is to the lawful currency of Australia;
- (j) a reference to any time is, unless otherwise indicated, a reference to that time in Sydney, Australia.
- (k) a term defined in or for the purposes of the Corporations Act, and which is not defined in clause 1 of this Schedule 1, has the same meaning when used in this Scheme;
- (l) a reference to a party to a document includes that party's successors and permitted assignees;
- (m) no provision of this Scheme will be construed adversely to a party because that party was responsible for the preparation of this Scheme or that provision;
- (n) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;

Annexure 2: Scheme of arrangement (continued)



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Schedule 1 Definitions and interpretation

- (o) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- (p) a reference to a body (including an institute, association or authority), other than a party to this Scheme, whether statutory or not:
 - (1) which ceases to exist; or
 - (2) whose powers or functions are transferred to another body,is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (q) a reference to an agreement other than this deed includes a deed and any legally enforceable undertaking, agreement, arrangement or understanding, whether or not in writing;
- (r) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (s) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later; and
- (t) if an act prescribed under this Scheme to be done by a party on or by a given day is done after 5.00pm on that day, it is taken to be done on the next day.

3 Interpretation of inclusive expressions

Specifying anything in this Scheme after the words 'include' or 'for example' or similar expressions does not limit what else is included.

4 Business Day

Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next Business Day.



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Attachment 1 Deed Poll

Attachment 1

Deed Poll

Annexure 3: Deed Poll



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Deed

Share scheme deed poll

Shell Energy Australia Pty Ltd

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herbertsmithfreehills.com DX 361 Sydney



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Share scheme deed poll

Date ► 25 SEPTEMBER 2019

This deed poll is made

By **Shell Energy Australia Pty Ltd**
ACN 085 757 446 of Level 30 275 George Street Brisbane Qld 4000
(Shell Australia)

in favour of each person registered as a holder of fully paid ordinary shares in ERM in the Share Register as at the Scheme Record Date.

Recitals

- 1 ERM and Shell Australia entered into the Implementation Deed.
- 2 In the Implementation Deed, Shell Australia agreed to make this deed poll.
- 3 Shell Australia is making this deed poll for the purpose of covenanting in favour of the Scheme Shareholders to perform their obligations under the Implementation Deed and the Scheme.

This deed poll provides as follows:

1 Definitions and interpretation

1.1 Definitions

(a) The meanings of the terms used in this deed poll are set out below.

Term	Meaning
------	---------

ERM	ERM Power Limited ACN 122 259 223.
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First Court Date	the first day on which an application made to the Court for an order under subsection 411(1) of the Corporations Act convening 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.
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Annexure 3: Deed Poll (continued)



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2 Conditions to obligations

Term	Meaning
Implementation Deed	the scheme implementation deed entered into between ERM and Shell Australia dated on or about 21 August 2019.
Scheme	the scheme of arrangement under Part 5.1 of the Corporations Act between ERM and the Scheme Shareholders, the form of which is attached as Attachment 1, subject to any alterations or conditions made or required by the Court under subsection 411(6) of the Corporations Act and agreed to in writing by Shell Australia and ERM.
(b)	Unless the context otherwise requires, terms defined in the Scheme have the same meaning when used in this deed poll.

1.2 Interpretation

Sections 2, 3 and 4 of Schedule 1 of the Scheme apply to the interpretation of this deed poll, except that references to 'this Scheme' are to be read as references to 'this deed poll'.

1.3 Nature of deed poll

Shell Australia acknowledges 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 ERM 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 Shell Australia.

2 Conditions to obligations

2.1 Conditions

This deed poll and the obligations of Shell Australia under this deed poll (in each case, save for the obligations under clause 3.2) are subject to the Scheme becoming Effective.

2.2 Termination

The obligations of Shell Australia under this deed poll to the Scheme Shareholders will automatically terminate and the terms of this deed poll will be of no force or effect if:

- (a) the Implementation Deed is terminated in accordance with its terms; or
 - (b) the Scheme is not Effective on or before the End Date,
- unless Shell Australia and ERM otherwise agree in writing.



2.3 Consequences of termination

If this deed poll terminates under clause 2.2, in addition and without prejudice to any other rights, powers or remedies available to it:

- (a) Shell Australia is released from its obligations to further perform this deed poll except those obligations under clause 7.1; and
- (b) each Scheme Shareholder retains the rights they have against Shell Australia in respect of any breach of this deed poll which occurred before it was terminated.

3 Scheme obligations

3.1 Undertaking to be bound by the Scheme

Subject to clause 2, Shell Australia covenants in favour of each Scheme Shareholder that it will be bound by the terms of the Scheme as if it were a party to the Scheme and undertakes to perform all obligations and actions attributed to it under the Scheme, subject to and in accordance with the Scheme.

3.2 Undertaking to be bound by the Implementation Deed

Shell Australia covenants in favour of each Scheme Shareholder to observe and perform all obligations and actions attributed to it under the Implementation Deed subject to and in accordance with the terms of the Implementation Deed.

3.3 Undertaking to pay Scheme Consideration

Subject to clause 2, Shell Australia undertakes in favour of each Scheme Shareholder to:

- (a) deposit, or procure the deposit of, in cleared funds, by no later than the Business Day before the Implementation Date, an amount equal to the aggregate amount of the Scheme Consideration payable to all Scheme Shareholders under the Scheme into an Australian dollar denominated trust account operated by ERM as trustee for the Scheme Shareholders, except that any interest on the amounts deposited (less bank fees and other charges) will be credited to Shell Australia's account; and
- (b) undertake all other actions, and give each acknowledgement, representation and warranty (if any), attributed to it under the Scheme,

subject to and in accordance with the terms of the Scheme.

4 Warranties

Shell Australia represents and warrants in favour of each Scheme Shareholder, in respect of itself, that:

- (a) it is a corporation validly existing under the laws of its place of registration;
- (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;

Annexure 3: Deed Poll (continued)



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5 Continuing obligations

- (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 of this deed poll and to carry out the transactions contemplated by this deed poll;
- (d) this deed poll is valid and binding on it and 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) Shell Australia has fully performed its obligations under this deed poll; or
- (b) the earlier termination of this deed poll under clause 2.

6 Notices

6.1 Form of Notice

A notice or other communication in respect of this deed poll (**Notice**) must be:

- (a) in writing and in English and signed by or on behalf of the sending party; and
- (b) addressed to Shell Australia in accordance with the details set out below (or any alternative details nominated by Shell Australia by Notice).

Attention	Peter Lorbeer, Associate Counsel
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Address	Shell House, 562 Wellington Street, Perth WA 6000
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Email address	Peter.Lorbeer@shell.com
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6.2 How Notice must be given and when Notice is received

- (a) A Notice must be given by one of the methods set out in the table below.
- (b) A Notice is regarded as given and received at the time set out in the table below.

However, if this means the Notice would be regarded as given and received outside the period between 9.00am and 5.00pm (addressee's time) on a Business Day (**business hours period**), then the Notice will instead be regarded as given and received at the start of the following business hours period.



Method of giving Notice	When Notice is regarded as given and received
By hand to the nominated address	When delivered to the nominated address
By pre-paid post to the nominated address	At 9.00am (addressee's time) on the second Business Day after the date of posting
By email to the nominated email address	<p>The earlier of:</p> <ol style="list-style-type: none">1 when the recipient's email server generates a message to the sender confirming that the email has been delivered to that server ("delivery receipt"), or at the time that the recipient "read" the email as stated in an automated message received by the sender ("read receipt"); and2 four hours after the time the email is sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered.

6.3 Notice must not be given by electronic communication

A Notice must not be given by electronic means of communication (other than email as permitted in clause 6.2).

7 General

7.1 Stamp duty

Shell Australia:

- (a) will pay all stamp duty and any related fines and penalties in respect of the Scheme and this deed poll, the performance of this deed poll and each transaction effected by or made under or in connection with the Scheme and this deed poll; and
- (b) indemnifies each Scheme Shareholder against any liability arising from failure to comply with clause 7.1(a).

7.2 Governing law and jurisdiction

- (a) This deed poll is governed by the law in force in New South Wales, Australia.
- (b) Shell Australia irrevocably submits to the non exclusive jurisdiction of courts exercising jurisdiction in New South Wales, Australia and courts of appeal from them in respect of any proceedings arising out of or in connection with this deed poll. Shell Australia irrevocably waive any objection to the venue of any legal

Annexure 3: Deed Poll (continued)



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7 General

process in these courts on the basis that the process has been brought in an inconvenient forum.

7.3 Waiver

- (a) Shell Australia may not rely on the words or conduct of any Scheme Shareholder as a waiver of any right unless the waiver is in writing and signed by the Scheme Shareholder granting the waiver.
- (b) No Scheme Shareholder may rely on words or conduct of Shell Australia as a waiver of any right unless the waiver is in writing and signed by the Shell Australia, as appropriate.
- (c) The meanings of the terms used in this clause 7.3 are set out below.

Term	Meaning
conduct	includes delay in the exercise of a right.
right	any right arising under or in connection with this deed poll and includes the right to rely on this clause.
waiver	includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel.

7.4 Variation

A provision of this deed poll may not be varied unless:

- (a) if before the First Court Date, the variation is agreed to by ERM; or
- (b) if on or after the First Court Date, the variation is agreed to by ERM and the Court indicates that the variation would not of itself preclude approval of the Scheme,

in which event Shell Australia will enter into a further deed poll in favour of the Scheme Shareholders giving effect to the variation.

7.5 Cumulative rights

The rights, powers and remedies of Shell Australia and the Scheme Shareholders under this deed poll are cumulative and do not exclude any other rights, powers or remedies provided by law independently of this deed poll.

7.6 Assignment

- (a) The rights created by this deed poll are personal to the Shell Australia and each Scheme Shareholder and must not be dealt with at law or in equity without the prior written consent of Shell Australia.
- (b) Any purported dealing in contravention of clause 7.6(a) is invalid.



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7 General

7.7 Further action

Shell Australia must, at its own expense, do all things and execute all documents necessary to give full effect to this deed poll and the transactions contemplated by it.

Annexure 3: Deed Poll (continued)



Attachment 1

Scheme



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Signing page

Executed as a deed poll

Signed sealed and delivered by
Shell Energy Australia Pty Ltd

by

sign here ►

Company Secretary/Director

sign here ►

Director

print name

KIRSTEN KENNY

print name

GREG JOWER

Annexure 4: Notice of Scheme Meeting



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Notice of Scheme Meeting

ERM Power Limited ACN 122 259 223

Notice is hereby given that, by an order of the Supreme Court of New South Wales made on 4 October 2019, pursuant to subsection 411(1) of the Corporations Act, a meeting of ERM Power Shareholders will be held at 11.00am (Brisbane time) at Brisbane Marriott Hotel, Grand Ballroom, 515 Queen Street, Brisbane Queensland 4000 on Friday 8 November 2019.

Purpose of the meeting

The purpose of the meeting is to consider and, if thought fit, to agree to a scheme of arrangement (with or without amendment or any alterations or conditions required by the Court to which ERM Power and Shell Energy Australia agree) proposed to be made between ERM Power and ERM Power Shareholders (**Scheme**).

A copy of the Scheme and a copy of the explanatory statement required by section 412 of the Corporations Act in relation to the Scheme are contained in the Scheme Booklet, of which this notice forms part.

Scheme Resolution

The meeting will be asked to consider and, if thought fit, pass (with or without amendment) the following resolution:

‘That, pursuant to and in accordance with the provisions of section 411 of the *Corporations Act 2001* (Cth), the scheme of arrangement proposed between ERM Power Limited and the holders of its ordinary shares, as contained in and more particularly described in the Scheme Booklet of which the notice convening this meeting forms part, is agreed to, with or without alterations or conditions as approved by the Supreme Court of New South Wales to which ERM Power Limited and Shell Energy Australia Pty Ltd agree.’

Chair

The Court has directed that Julieanne Alroe is to act as chair of the meeting (and that, if Julieanne Alroe is unable or unwilling to attend Antonino Mario (Tony) Iannello is to act as chair of the meeting).

Dated: 4 October 2019

sign here

Company Secretary

print name Phil Davis

Explanatory notes

1 General

This notice of scheme meeting relates to the Scheme and should be read in conjunction with ERM Power's scheme booklet dated on or about the date of this notice of scheme meeting (**Scheme Booklet**) of which this notice forms part. The Scheme Booklet contains important information to assist you in determining how to vote on the Scheme Resolution.

A copy of the Scheme is set out in Annexure 2 of the Scheme Booklet.

Capitalised terms used but not defined in this notice have the defined meanings set out in section 10 of the Scheme Booklet, unless the context otherwise requires.

2 Shareholder approval

For the proposed Scheme to be binding in accordance with section 411 of the Corporations Act, the Scheme Resolution must be agreed to by:

- unless the Court orders otherwise, a majority in number of ERM Power Shareholders present and voting (either in person or by proxy, attorney or, in the case of corporate ERM Power Shareholders, body corporate representative) at the Scheme Meeting; and
- at least 75% of the total number of votes cast on the Scheme Resolution at the Scheme Meeting by ERM Power Shareholders present and voting (either in person or by proxy, attorney or, in the case of corporate ERM Power Shareholders, body corporate representative).

3 Court approval

Under paragraph 411(4)(b) of the Corporations Act, the Scheme (with or without amendment or any alteration or condition required by the Court) is subject to the approval of the Court. If the Scheme Resolution is passed by the Requisite Majorities and the other Conditions Precedent to the Scheme (other than approval by the Court) are satisfied or waived by the time required under the Scheme, ERM Power intends to apply to the Court for the necessary orders to give effect to the Scheme.

In order for the Scheme to become Effective, it must be approved by the Court and an office copy of the orders of the Court approving the Scheme must be lodged with ASIC.

4 Entitlement to vote

It has been determined that the time for determining eligibility to vote at the Scheme Meeting is 6.00pm (Brisbane time) on 6 November 2019. Only those ERM Power Shareholders entered on the ERM Power Share Register at that time will be entitled to attend and vote at the meeting, either in person, by proxy or attorney, or in the case of a corporate ERM Power Shareholder, by a body corporate representative. The remaining comments in these explanatory notes are addressed to ERM Power Shareholders entitled to attend and vote at the meeting.

5 How to vote

Voting will be conducted by poll.

If you are an ERM Power Shareholder entitled to vote at the meeting, you may vote by:

- attending and voting in person;
- appointing one or two proxies to attend and vote on your behalf, by returning the proxy form that accompanied the Scheme Booklet (or by lodging your proxy form online);
- appointing an attorney to attend and vote on your behalf, using a power of attorney; or
- in the case of a body corporate, appointing a body corporate representative to attend the meeting and vote on your behalf, using a certificate of appointment of body corporate representative.

Annexure 4: Notice of Scheme Meeting (continued)



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6 Attendance

If you or your proxies, attorneys or representative(s) plan to attend the meeting, please arrive at the venue at least 30 minutes before the scheduled time for commencement of the meeting, so that your shareholding can be checked against the ERM Power Share Register, any power of attorney or certificate of appointment of body corporate representative verified, and your attendance noted.

7 Jointly held securities

If you hold ERM Power Shares jointly with one or more persons, only one of you may vote. If more than one of you attempts to vote in person at the meeting, only the vote of the holder whose name appears first on the ERM Power Share Register will be counted.

See also the comments in paragraph 8.2 below regarding the appointment of a proxy by persons who jointly hold ERM Power Shares.

8 Voting

8.1 Voting in person

To vote in person, you must attend the meeting.

Eligible ERM Power Shareholders who wish to attend and vote at the meeting in person will be admitted and given a voting card at the point of entry to the meeting, once they have disclosed their name and address.

8.2 Voting by proxy

You may appoint one or two proxies. Your proxy need not be another ERM Power Shareholder. Each proxy will have the right to vote on the poll and also to speak at the meeting.

To appoint a proxy, you should complete and return the proxy form that accompanied the Scheme Booklet in accordance with the instructions on that form. You must deliver the signed and completed proxy form to the ERM Power Share Registry by 11.00am (Brisbane time) on 6 November 2019 (or, if the meeting is adjourned or postponed, no later than 48 hours before the resumption of the meeting in relation to the resumed part of the meeting) in any of the following ways:

(a) **Online:**

www.linkmarketservices.com.au (in accordance with the instructions given there)

(b) **by post in the provided reply paid envelope to the ERM Power Share Registry:**

Link Market Services Limited
PO Box 1519
Sydney South NSW 1234

(c) **by hand delivery (during normal business hours) to the ERM Power Share Registry:**

Link Market Services Limited
1A Homebush Bay Drive
Rhodes NSW 2138

or

Level 12, 680 George Street
Sydney NSW 2000

(d) **by fax to the ERM Power Share Registry on:**

+61 2 9287 0309 (within and outside of Australia)

Proxy forms received after this time will be invalid.



If a proxy form is completed under power of attorney or other authority, the power of attorney or other authority, or a certified copy of the power of attorney or other authority, must accompany the completed proxy form unless the power of attorney or other authority has previously been noted by the ERM Power Share Registry.

A vote given in accordance with the terms of a proxy appointment is valid despite the revocation of that appointment, unless:

- notice in writing of the revocation has been received by the ERM Power Share Registry before the start of the meeting (or, if the meeting is adjourned or postponed, before the resumption of the meeting in relation to the resumed part of the meeting) in any of the ways described in paragraphs 8.2(b), 8.2(c) or 8.2(d) above; or
- notice of revocation is given by the ERM Power Shareholder on registering their attendance at the Scheme Meeting at the Link Market Services registration desk located at the Scheme Meeting on 8 November 2019.

If you wish to appoint a second proxy, a second proxy form should be used and you should clearly indicate on the second proxy form that it is a second proxy and not a revocation of your first proxy. Both proxy forms should be returned together in the same envelope. You can obtain a second proxy form from the ERM Power Share Registry.

If you appoint two proxies, each proxy should be appointed to represent a specified proportion of your voting rights. If you do not specify the proportions in the proxy forms, each proxy may exercise half of your votes with any fractions of votes disregarded.

If you hold ERM Power Shares jointly with one or more other persons, in order for your proxy appointment to be valid, either ERM Power Shareholder may sign the proxy form.

You should consider how you wish your proxy to vote. That is, whether you want your proxy to vote 'for' or 'against', or abstain from voting on, the Scheme Resolution, or whether to leave the decision to the proxy after he or she has considered the matters discussed at the meeting.

If you do not direct your proxy how to vote on an item of business, the proxy may vote, or abstain from voting, as he or she thinks fit. If you instruct your proxy to abstain from voting on an item of business, he or she is directed not to vote on your behalf, and the shares the subject of the proxy appointment will not be counted in computing the required majority.

If you return your proxy form:

- without identifying a proxy on it, you will be taken to have appointed the chair of the meeting as your proxy to vote on your behalf; or
- with a proxy identified on it but your proxy does not attend the meeting, the chair of the meeting will act in place of your nominated proxy and vote in accordance with any directions on your proxy form.

The chair of the meeting intends to vote all valid undirected proxies which nominate the chair in favour of the Scheme Resolution, in the absence of a Superior Proposal.

Proxies of eligible ERM Power Shareholders will be admitted to the meeting and given a voting card on providing at the point of entry to the meeting written evidence of their name and address.

Your appointment of a proxy does not preclude you from attending in person, revoking the proxy and voting at the meeting.

Replacement proxy forms can be obtained from the ERM Power Share Registry.

Annexure 4: Notice of Scheme Meeting (continued)



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8 Voting (continued)

8.3 Voting by attorney

You may appoint an attorney to attend and vote at the meeting on your behalf. Your attorney need not be another ERM Power Shareholder. Each attorney will have the right to vote on the poll and also to speak at the meeting.

The power of attorney appointing your attorney to attend and vote at the meeting must be duly executed by you and specify your name, the company (that is, ERM Power), and the attorney, and also specify the meetings at which the appointment may be used. The appointment may be a standing one.

The power of attorney, or a certified copy of the power of attorney, should be lodged at the registration desk on the day of the meeting or be received by the ERM Power Share Registry by 11.00am (Brisbane time) on 6 November 2019 (or, if the meeting is adjourned or postponed, no later than 48 hours before the resumption of the meeting in relation to the resumed part of the meeting) in any of the following ways:

(a) by post in the provided reply paid envelope to the ERM Power Share Registry:

Link Market Services Limited
PO Box 1519
Sydney South NSW 1234

(b) by hand delivery (during normal business hours) to the ERM Power Share Registry:

Link Market Services Limited
1A Homebush Bay Drive
Rhodes NSW 2138

or

Level 12, 680 George Street
Sydney NSW 2000

(c) by fax to the ERM Power Share Registry on:

+61 2 9287 0309 (within and outside of Australia)

Please note that the power of attorney or a certified copy of the power of attorney cannot be lodged online.

Attorneys of eligible ERM Power Shareholders will be admitted to the meeting and given a voting card on providing at the point of entry to the meeting, written evidence of their appointment, their name and address, and the name of their appointors.

Your appointment of an attorney does not preclude you from attending in person and voting at the meeting.

8.4 Voting by corporate representative

If you are a body corporate, you may appoint an individual to act as your body corporate representative. The appointment must comply with the requirements of section 250D of the Corporations Act, meaning that ERM Power will require a certificate of appointment of body corporate representative to be executed by you in accordance with the Corporations Act. A form of certificate may be obtained from the ERM Power Share Registry by calling +61 1300 554 474 (within and outside Australia) Monday to Friday between 8.30am to 7.30 pm (Sydney time). The certificate of appointment may set out restrictions on the representative's powers.

The certificate should be lodged at the registration desk on the day of the meeting or received by the ERM Power Share Registry before 11.00am (Brisbane time) on 6 November 2019 (or, if the meeting is adjourned or postponed, no later than 48 hours before the resumption of the meeting in relation to the resumed part of the meeting) in any of the following ways:

(a) by post in the provided reply paid envelope to the ERM Power Share Registry:

Link Market Services Limited
PO Box 1519
Sydney South NSW 1234

(b) by hand delivery (during normal business hours) to the ERM Power Share Registry:

Link Market Services Limited
1A Homebush Bay Drive
Rhodes NSW 2138

or

Level 12, 680 George Street
Sydney NSW 2000

(c) by fax to the ERM Power Share Registry on:

+61 2 9287 0309 (within and outside of Australia)

Please note that a certificate of appointment of body corporate representative cannot be lodged online.

If a certificate is completed by an individual or corporation under power of attorney or other authority, the power of attorney or other authority, or a certified copy of the power of attorney or other authority, must accompany the completed certificate unless the power of attorney or other authority has previously been noted by the ERM Power Share Registry.

Body corporate representatives of eligible ERM Power Shareholders will be admitted to the meeting and given a voting card on providing at the point of entry to the meeting, written evidence of their appointment, their name and address and the name of their appointors.

9 Advertisement

Where this notice of scheme meeting is advertised unaccompanied by the Scheme Booklet, a copy of the Scheme Booklet can be obtained by anyone entitled to attend the meeting from the ASX website (www.asx.com.au) or by contacting the Company Secretary of ERM Power or the ERM Power Share Registry.

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Corporate directory

ERM Power Limited

(ABN 28 122 259 223)

Level 52

111 Eagle Street

Brisbane Queensland 4000

Australia

Financial adviser

Luminis Partners

Level 32, Aurora Place

88 Phillip Street

Sydney New South Wales 2000

Australia

ERM Power Share Registry

Link Market Services

Level 21

10 Eagle Street

Brisbane Queensland 4000

Australia

+61 1300 554 474

Legal adviser

Herbert Smith Freehills

Level 34, ANZ Tower

161 Castlereagh Street

Sydney New South Wales 2000

Australia

Stock exchange listing

ERM Power ordinary shares are quoted by the Australian Securities Exchange (ASX:EPW).



ermpower.com.au