

Partner
Contact

Our ref

Nirangjan Nagarajah
Nirangjan Nagarajah
T +61 3 8656 3389
nnagarajah@gtlaw.com.au
NVN:NVN:1058096



L 25, 101 Collins Street
Melbourne VIC 3000 AUS
GPO Box 90 Melbourne VIC 3001
T +61 3 8656 3300 F +61 3 8656 3400
www.gtlaw.com.au

18 July 2024

The Manager
Market Announcements Office
ASX Limited
20 Bridge Street
Sydney NSW 2000

Dear Sir/Madam

Takeover bid by River Capital Pty Ltd as trustee for River Capital Embedded Network Trust for shares in Locality Planning Energy Holdings Limited – Second Supplementary Bidder's Statement

We act for River Capital Pty Ltd (ACN 073 531 469) as trustee for River Capital Embedded Network Trust (**River Capital**) in relation to its off-market takeover bid under Chapter 6 of the *Corporations Act 2001* (Cth) (**Corporations Act**) for all of the ordinary shares in Locality Planning Energy Holdings Limited (ACN 147 867 301) (**LPE**) which River Capital and its related entities do not already own (the **Offer**).

We attach, by way of service, a copy of River Capital's second supplementary bidder's statement and notice dated 18 July 2024 in relation to the Offer, pursuant to section 647(3)(a)(ii) of the Corporations Act (as inserted by *ASIC Corporations (Replacement Bidder's and Target's Statements) Instrument 2023/688*) and section 650D of the Corporations Act (**Second Supplementary Bidder's Statement and Notice**).

The Second Supplementary Bidder's Statement and Notice has today been lodged with the Australian Securities and Investments Commission and served on LPE.

Yours faithfully
Gilbert + Tobin

A handwritten signature in blue ink, appearing to read 'Nirangjan'.

Nirangjan Nagarajah
Partner
+61 3 8656 3389
nnagarajah@gtlaw.com.au

River Capital

Second Supplementary Bidder's Statement

in relation to an off-market takeover bid under Chapter 6 of the *Corporations Act 2001* (Cth) (**Corporations Act**) by River Capital Pty Ltd (ACN 073 531 469) as trustee for River Capital Embedded Network Trust (**River Capital**) for all of the ordinary shares in LPE which River Capital and its related entities (**River Capital Group**) do not already own (**Offer**).

Important notice: This document is a notice under section 650D of the Corporations Act and is a supplementary bidder's statement under section 643 of the Corporations Act. It is the second supplementary bidder's statement (**Second Supplementary Bidder's Statement**) issued by River Capital in relation to the Offer. This Second Supplementary Bidder's Statement is dated 18 July 2024 and supplements, and should read together with, the bidder's statement dated 16 April 2024 (as supplemented by the supplementary bidder's statement dated 19 June 2024) (**Bidder's Statement**) in relation to the Offer. Neither ASIC nor ASX, nor any of its respective officers, takes any responsibility for the contents of this Second Supplementary Bidder's Statement. Unless the context otherwise requires, terms defined in the Bidder's Statement have the same meaning as in this Second Supplementary Bidder's Statement.

18 July 2024

River Capital's takeover bid for LPE will close soon and will not be extended



The Offer Price of \$0.105 per LPE Share representing a 209% premium to the undisturbed trading price of LPE shares.



The Offer is UNCONDITIONAL. If you **ACCEPT** the Offer, you will be paid within 4 days of your acceptance being received.



The Offer will close at 7.00pm (AEST) on Friday, 26 July 2024 and will not be extended.



The Takeovers Panel has said it has concerns about the trading activities of two of the three directors of LPE, resulting in those directors providing enforceable undertakings to the Takeovers Panel.



If you do not **ACCEPT** the Offer, you will be exposed to a number of risks, including a potential fall in the share price below the Offer Price, limited ability to sell your shares at or above the Offer Price, and ongoing poor corporate governance.

Dear fellow LPE Shareholder

1 The Offer will due close at 7.00pm (AEST) on Friday, 26 July 2024 and will not be extended

The Offer will close soon. It will not be extended beyond 7.00pm (AEST) on Friday, 26 July 2024. If you do not **ACCEPT** the Offer before it closes, you will not be able to benefit from the cash exit available to you under the Offer, which is **UNCONDITIONAL**. As River Capital announced on 19 June 2024, the Offer Price is **\$0.105 cash per LPE Share**. This Offer Price represents a premium of:

- 31.25% to the original Offer Price of \$0.08;

- 208.82% to the closing price of LPE's Shares of \$0.034 as at 27 March 2024 (being the last trading day before River Capital Group first acquired LPE Shares);¹
- 169.23% to LPE's 60-day Volume-Weighted Average Price (**VWAP**) of \$0.039 as at 27 March 2024 (being the last trading day before River Capital Group first acquired LPE Shares);² and
- 15.38% to the closing price of LPE's Shares of \$0.091 as at 18 June 2024 (being the last trading day before River Capital Group increased the Offer Price).

2 Risks of remaining a LPE Shareholder

You should be aware that if you do not accept the Offer, you will be exposed to a number of risks. These include:

Potential reduction in share price

- The Offer Price represents a significant premium to the trading price of LPE Shares before River Capital Group commenced acquiring shares.
- There is a risk that, in the absence of the Offer, the trading price of LPE Shares will reduce significantly.
- Aside from the Offer, River Capital notes that the loan owed by Bundaberg BioHub Pty Ltd (**BioHub**) to LPE (**BioHub Loan**) remains outstanding despite LPE's prior statements to the effect that it would be repaid by 28 June 2024 and that the Offer Price does not reflect its value. The multiple extensions to the BioHub Loan appears to reflect that BioHub may be unable to repay the loan in accordance with its terms. In this case there appears to be a material risk that the loan is written off or impaired. This can be expected to have a material negative impact on the trading price of LPE Shares. While LPE has stated that BioHub has kept up with its interest payments, this says nothing about the likelihood that BioHub will repay the principal outstanding.
- Whilst LPE has provided profit guidance for the 2024 financial year, caution is needed not to extrapolate that performance into future years, given a material number of one-off items. These include interest received from the BioHub Loan, interest received on Government subsidies held on behalf of customers, and temporary wage savings from the termination of the previous CEO and Executive Director of LPE.
- Both River Capital individually, and LPE's directors collectively own greater than 20% of LPE Shares on issue. Such large 'blocking stakes' reduce the chances of an alternative control transaction proposal emerging.
- LPE remains a sub-scale player in the energy market and is likely to require significant additional capital to achieve consistent growth. To the extent LPE raises such capital, this could result in significant dilution to existing LPE Shareholders, or alternatively, significant outlay by LPE Shareholders to avoid dilution.

Limited liquidity in LPE Shares

- The Offer represents a real and tangible opportunity for you to realise a cash exit for your LPE Shares.

¹ Premium percentage was calculated by River Capital using rounded VWAP.

² Premium percentage was calculated by River Capital using rounded VWAP.

- Currently, LPE Shares are very thinly traded. This means that, regardless of whether the trading price on the ASX exceeds the Offer Price, you may not be able to actually sell your LPE Shares on market.
- Once the Offer Period ends, your opportunities to realise a cash exit will be significantly reduced.
- LPE's proposed on-market buy-back does not deliver LPE Shareholders a credible alternative to the Offer. LPE cannot buy-back more than 10% of LPE Shares in a given year, in the absence of LPE Shareholder approval. LPE has also not yet explained how it intends to fund any such buy-back.

Poor Corporate Governance: Problematic trading and behaviour by LPE directors

- River Capital made an application to the Takeovers Panel in relation to, among other things, its concerns that two of the three LPE directors had acquired LPE Shares improperly and in breach of the Corporations Act.
- On 11 July 2024, the Takeovers Panel announced that it had concerns with the trading activities of the directors and had accepted undertakings from them to address those concerns.
- If and when the relevant LPE directors take action under their respective undertakings, those relevant directors will profit from the LPE Shareholders who sold LPE Shares to them at a lower price while they were potentially in possession of material price sensitive information.
- LPE's directors have consistently stated to LPE Shareholders that the Offer Price materially undervalues LPE. However, LPE Shareholders should note that the LPE Board previously proposed that directors be issued unlisted options in LPE (representing approximately 14% of the LPE's issued share capital) exercisable at \$0.08, a discount to the Offer Price. Had this been approved, the directors could have exercised their options and generated profits of approximately \$650,000, at the expense of LPE shareholders.
- If you do not **ACCEPT** the offer, you will remain a shareholder in a company with a history of poor corporate governance. There can be no assurance that directors will behave appropriately going forward.

3 River Capital's Offer is UNCONDITIONAL

As announced on 19 June 2024, River Capital has waived all of the defeating conditions contained in section 13.7 of the Bidder's Statement.

River Capital's Offer is **UNCONDITIONAL**.

4 Accelerated payment terms

River Capital has accepted the time for payment of the Offer Consideration to LPE Shareholders who accept the Offer before the end of the Offer Period. River Capital will now pay the Offer Consideration due to LPE Shareholders within 4 days of the LPE Shareholder's valid acceptance of the Offer being received by River Capital (via its share registry) in accordance with the Bidder's Statement.

River Capital encourages LPE Shareholders to accept the Offer as soon as possible and before the Offer closes at 7.00pm (AEST) on Friday, 26 July 2024. The Offer Period will not be extended.

River Capital gives notice under section 650D(1) of the Corporations Act that it varies the Offer by accelerating the time for payment of the Offer Consideration to LPE Shareholders as outlined above.

5 Consent

As permitted by *ASIC Corporations (Takeover Bids) Instrument 2023/683*, this document contains statements that are made, or based on statements made, in other documents lodged with ASIC or ASX (in compliance with the ASX Listing Rules). Consent is not required for the inclusion of those statements in this document. Any LPE Shareholder who would like to receive a copy of any of those other documents may obtain a copy (free of charge) during the Offer Period by contacting the Offer Information Line. The copy will be provided within two Business Days of the request.

6 Approval

This Second Supplementary Bidder's Statement and notice has been approved by River Capital.

Dated: 18 July 2024

Signed for and on behalf of **River Capital Pty Ltd as trustee for River Capital Embedded Network Trust** by:



James Craig
Director