

**IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY**

**I TE KŌTI MATUA O AOTEAROA
TĀMAKI MAKĀURAU ROHE**

CIV-2020-404-

UNDER

Part 15 of the Companies Act 1993

AND

IN THE MATTER OF

an application for orders approving a scheme of arrangement under Part 15 of the Companies Act 1993

TILT RENEWABLES LIMITED a duly incorporated company with its registered address at Level 30, Vero Centre, 48 Shortland Street, Auckland 1010, New Zealand, and carrying on the business as developer and owner of renewable energy generation in Australia and New Zealand

Applicant

**ORIGINATING APPLICATION FOR ORDERS APPROVING A SCHEME OF
ARRANGEMENT UNDER PART 15 OF THE COMPANIES ACT 1993
28 APRIL 2020**

Judicial Officer: Muir J

**Russell
McLeagh**

M Eastwick-Field / H M Bain
Phone +64 9 367 8000
Fax +64 9 367 8163
PO Box 8
DX CX10085
Auckland

TO: The Registrar of the High Court at Auckland

AND TO: Any person that the High Court directs to be served

THIS DOCUMENT NOTIFIES YOU THAT:

1. The applicant, Tilt Renewables Limited ("**TLT**"), applies to the Court for the following orders:
 - (a) the scheme of arrangement described in the Arrangement Document (a draft of which is located at Schedule 1 of this application and the final version of which will be submitted to the Court prior to the hearing of this application) ("**Scheme**") is approved;
 - (b) the Scheme is binding with immediate effect upon:
 - (i) TLT;
 - (ii) every person who is a Shareholder (as defined in the Arrangement Document) as at 7:00 pm (New Zealand Time) on the Record Date (also defined in the Arrangement Document); and
 - (iii) such other persons as necessary to give effect to the Scheme; and
 - (c) TLT is granted leave to apply to the Court for approval of any amendment, modification, or supplement to the Scheme.
2. The grounds on which each of the above orders are sought are:
 - (a) section 236(1) of the Companies Act 1993 ("**Act**") provides jurisdiction for the Court to make orders that the Scheme is binding on TLT and such other persons as the Court may specify and upon such terms and conditions as the Court thinks fit;
 - (b) by the date on which this application is determined, TLT will have:
 - (i) complied with the initial orders made by this Court under section 236(2) of the Act; and
 - (ii) complied with Part 15 of the Act;

- (c) the Scheme is such that an intelligent and honest person of business acting in respect of his or her own interest would reasonably approve it;
- (d) the terms and conditions of the Scheme are otherwise fair and equitable to the shareholders of TLT;
- (e) the Scheme will not adversely impact TLT's creditors;
- (f) as set out in the affidavits and the memorandum of counsel filed in support of this application and the without notice interlocutory application for initial orders, filed herewith; and
- (g) as set out in any updating affidavits to be filed following implementation of the initial orders and prior to the determination of this application.

3. This application is made in reliance on:

- (a) Part 15 of the Act;
- (b) Parts 7 and 19 of the High Court Rules 2016;
- (c) *Re CM Banks Ltd* [1944] NZLR 248 (SC), *Weatherston v Waltus Property Investments Ltd* [2001] 2 NZLR 103 (CA), *Re Auckland International Airport Ltd* [2014] NZHC 405, *Re Kirkcaldie & Stains Limited* [2016] NZHC 112, *Re Tenon Limited* [2016] NZHC 2497, *Re Tenon Limited* [2017] NZHC 674, *Re New Zealand Oil & Gas Ltd* [2017] NZHC 809; and *Re PGG Wrightson Ltd* [2019] NZHC 1780.
- (d) the memorandum of counsel filed in support of this application and the without notice interlocutory application for initial orders;
- (e) the evidence filed in support of this application as set out in:
 - (i) the affidavit of Dr Bruce James Harker, affirmed 28 April 2020; and
 - (ii) the affidavit of Anne June Urlwin, affirmed 24 April 2020;
- (f) any further affidavit(s) filed by TLT prior to the determination of this application; and

- (g) any further memoranda of counsel filed prior to the determination of this application.

Dated: 28 April 2020



M Eastwick-Field / H M Bain
Counsel for the Applicant

This document is filed by **MARIKA EASTWICK-FIELD**, solicitor for the Applicant, of Russell McVeagh. The address for service of the Applicant is Level 30, Vero Centre, 48 Shortland Street, Auckland 1010.

Documents for service on the Applicant may be served by emailing them to both of the following email addresses: marika.eastwick-field@russellmcveagh.com and joe.windmeyer@russellmcveagh.com

SCHEDULE 1 – ARRANGEMENT DOCUMENT

Arrangement pursuant to Part 15 of the Companies Act 1993

BETWEEN: Tilt Renewables Limited and the holders of shares in Tilt Renewables Limited.

1. INTERPRETATION

1.1 In this document, unless the context otherwise requires:

"**Business Day**" means a day on which the stock exchanges operated by NZX and ASX are open for trading.

"**Record Date**" means 10 July 2020, or the date five Business Days after the date on which the final order from the High Court of New Zealand is made pursuant to section 236(1) of the Companies Act 1993 sanctioning the arrangement, whichever is the latest.

"**Share**" means an ordinary share in Tilt Renewables.

"**Shareholder**" means each person who is registered in the share register of Tilt Renewables as the holder of a Share at 7:00 pm (New Zealand time) on the Record Date.

"**Tilt Renewables**" means Tilt Renewables Limited.

2. ARRANGEMENT

2.1 One (1) Share for every five (5) Shares registered in the name of each Shareholder at 7:00 pm (New Zealand time) on the Record Date shall be cancelled (together with all the rights attaching to those Shares). For this purpose, fractions of a Share shall be rounded up or down to the nearest whole Share (with 0.5 rounded up).

2.2 Within five Business Days after the Record Date, Tilt Renewables shall pay to each Shareholder for each Share registered in the name of that Shareholder which has been cancelled in accordance with clause 2.1:

(a) where that Shareholder has at 7:00 pm (New Zealand time) on the Record Date an address on the share register other than Australia, NZ\$2.91;

(b) where that Shareholder has at 7:00 pm (New Zealand time) on the Record Date an address on the share register in Australia, NZ\$2.91 converted into Australian dollars at the exchange rate offered by Tilt Renewables' bankers to Tilt Renewables at that time, as determined by Tilt Renewables.