

Partners John Williamson-Noble | Tim Gordon
T + 61 2 9263 4030 | T +61 2 9263 4251
JWilliamson-Noble@gtlaw.com.au | TGordon@gtlaw.com.au
Our ref JWN:TXG:1039403



L 35, Tower Two, International Towers Sydney
200 Barangaroo Avenue,
Barangaroo NSW 2000 AUS
T +61 2 9263 4000 F +61 2 9263 4111
www.gtlaw.com.au

27 July 2020

By electronic lodgement

Company Announcements
ASX Limited
Exchange Centre
20 Bridge Street
Sydney NSW 2000

Dear Sir/Madam

Takeover bid by Iberdrola Renewables Australia Pty Limited for Infigen Energy Limited and Infigen Energy Trust (ASX: IFN): Third Supplementary Target's Statement

We act for Infigen Energy Limited ACN 105 051 616 (**IEL**) and Infigen Energy RE Limited ACN 113 813 997 (**IERL**) as responsible entity of the Infigen Energy Trust ARSN 116 244 118 (**IET**) (ASX:IFN) (together, **Infigen**) in relation to the off-market takeover bid by Iberdrola Renewables Australia Pty Limited ACN 628 620 815 (**Iberdrola**) under Chapter 6 of the *Corporations Act 2001* (Cth) (**Corporations Act**) for all the stapled securities in IEL and IET.

We attach for release by the Australian Securities Exchange, in accordance with subsection 647(3)(b) of the Corporations Act, a copy of Infigen's third supplementary target's statement dated 27 July 2020 (**Third Supplementary Target's Statement**).

A copy of the Third Supplementary Target's Statement has been served on Iberdrola and lodged with the Australian Securities and Investments Commission. Infigen will send the Third Supplementary Target's Statement to each holder of IEL and IET stapled securities on the register at 7.00pm (Sydney time) on 24 June 2020, being the date set by Iberdrola under subsection 633(2) of the Corporations Act pursuant to the notice sent by Iberdrola to Infigen on 24 June 2020.

This release has been authorised by the board of directors of IEL and the board of directors of IERL as responsible entity for IET.

Yours faithfully
Gilbert + Tobin

A handwritten signature in blue ink, appearing to read 'John Williamson-Noble'.

John Williamson-Noble
Partner
Gilbert + Tobin

+61 2 9263 4030
+61 411 368 959
JWilliamson-Noble@gtlaw.com.au

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

Tim Gordon
Partner
Gilbert +Tobin

+ 61 2 9263 4251
+61 401 476 167
TGordon@gtlaw.com.au

Infigen

Third Supplementary Target's Statement relating to the Iberdrola Offer

Infigen Energy Limited (ABN 39 105 051 616) (**IEL**) and Infigen Energy RE Limited (ABN 61 113 813 997) (**IERL**) in its capacity as responsible entity for the Infigen Energy Trust (ARSN 116 244 118) (**IET**).

THIS IS AN IMPORTANT DOCUMENT AND REQUIRES YOUR IMMEDIATE ATTENTION.

If you are in any doubt about what to do, you should contact your broker or your legal, financial or other professional adviser as soon as possible.

This Third Supplementary Target's Statement has been issued in response to the off-market takeover bid made by Iberdrola Renewables Australia Pty Limited (ACN 628 620 815) (**Iberdrola Australia**) to purchase all of the Infigen Stapled Securities.

THE INFIGEN DIRECTORS **UNANIMOUSLY RECOMMEND** THAT YOU

ACCEPT

THE OFFER FROM Iberdrola Australia, in the absence of a Superior Proposal

Infigen Security Holders can call the **Infigen Security Holder Information Line** on **1300 540 303** (for calls made from within Australia) or **+61 2 8022 7955** (for calls made from outside Australia) on Monday to Friday between 9:00 am and 5:00 pm (Sydney, Australia time) if they require assistance.

Financial Advisers

**Goldman
Sachs**

LAZARD

Legal Adviser



**GILBERT
+ TOBIN**

Third Supplementary Target's Statement relating to the Iberdrola Offer

The Infigen Directors unanimously recommend that Infigen Security Holders **ACCEPT** the Iberdrola Offer, in the absence of a Superior Proposal.

1. Important information

This document is a supplementary target's statement under section 644 of the *Corporations Act 2001* (Cth). It is the third supplementary target's statement (**Third Supplementary Target's Statement**) issued by Infigen Energy Limited (ABN 39 105 051 616) and Infigen Energy RE Limited (ABN 61 113 813 997) in its capacity as responsible entity for the Infigen Energy Trust (ARSN 116 244 118) in relation to the off-market takeover bid by Iberdrola Renewables Australia Pty Limited (ACN 628 620 815) for all the Infigen Stapled Securities on the terms set out in its bidder's statement dated 24 June 2020 (**Iberdrola Bidder's Statement**), as supplemented by Iberdrola Australia's first supplementary bidder's statement dated 30 June 2020, Iberdrola Australia's second supplementary bidder's statement dated 7 July 2020, Iberdrola Australia's third supplementary bidder's statement dated 16 July 2020, Iberdrola Australia's fourth supplementary bidder's statement dated 20 July 2020, Iberdrola Australia's fifth supplementary bidder's statement dated 22 July 2020 and Iberdrola Australia's sixth supplementary bidder's statement dated 24 July 2020 (**Iberdrola Sixth Supplementary Bidder's Statement**).

This Third Supplementary Target's Statement supplements, and should be read together with, Infigen's target's statement relating to the Iberdrola Offer dated and lodged with ASIC on 3 July 2020 (**Original Target's Statement**), Infigen's first supplementary target's statement relating to the Iberdrola Offer dated and lodged with ASIC on 7 July 2020 (**Iberdrola First Supplementary Target's Statement**) and Infigen's second supplementary target's statement relating to the Iberdrola Offer dated and lodged with ASIC on 17 July 2020 (**Iberdrola Second Supplementary Target's Statement**). Unless the context otherwise requires, terms defined in the Original Target's Statement, the Iberdrola First Supplementary Target's Statement or the Iberdrola Second Supplementary Target's Statement have the same meaning when used in this Third Supplementary Target's Statement. If there is any inconsistency between this Third Supplementary Target's Statement and the Original Target's Statement, the Iberdrola First Supplementary Target's Statement or the Iberdrola Second Supplementary Target's Statement, this Third Supplementary Target's Statement will prevail to the extent of the inconsistency.

This Third Supplementary Target's Statement is dated 27 July 2020 and was lodged with ASIC and released to the ASX on that date. None of ASIC, the ASX or any of their respective officers take any responsibility for the content of this Third Supplementary Target's Statement.

This Third Supplementary Target's Statement is an important document and requires your immediate attention. Please consult your legal, financial or other professional adviser as soon as possible if you do not fully understand the content of this Third Supplementary Target's Statement.

Infigen Security Holders can **ACCEPT** the Iberdrola Offer by following the instructions in the Iberdrola Bidder's Statement, the Original Target's Statement and the Iberdrola Sixth Supplementary Bidder's Statement.

Infigen Security Holders can call the **Infigen Security Holder Information Line** on **1300 540 303** (for calls made from within Australia) or **+61 2 8022 7955** (for calls made from outside Australia) on Monday to Friday between 9:00 am and 5:00 pm (Sydney, Australia time) if they require assistance.

2. Increased Iberdrola Offer Price and Extended Iberdrola Offer Period

On Friday, 24 July 2020, Iberdrola Australia provided to Infigen and released to the ASX:

- (a) a notice given under section 650D of the Corporations Act¹ increasing the Iberdrola Offer Price to \$0.92 per Infigen Stapled Security (**Increased Iberdrola Offer Price**); and
- (b) a notice given under section 624(2) of the Corporations Act² that, as a result of the occurrence of the event referred to in paragraph (a) above, the period of the Iberdrola Offer had been automatically extended to 7:00 pm (Sydney, Australia time) on 7 August 2020 (unless extended or withdrawn in accordance with the Corporations Act) (**Extended Iberdrola Offer Period**).

The effect of the notice in paragraph (a) above is that the Iberdrola Offer has been varied such that the price under the Iberdrola Offer has been increased from \$0.89 to \$0.92 per Infigen Stapled Security.

This follows Iberdrola Australia's announcement on 22 July 2020 that it would increase the price offered under the Iberdrola Offer to \$0.92 per Infigen Stapled Security, if Iberdrola Australia received acceptances of the Iberdrola Offer in respect of at least a further 13.0% of Infigen Stapled Securities on or before 3:00 pm (Sydney, Australia time) on Thursday, 30 July 2020, from the aggregate acceptances of the Iberdrola Offer received as at 21 July 2020.³

On 23 July 2020, Iberdrola Australia received acceptances under the Iberdrola Offer of more than a further 13.0% of Infigen Stapled Securities, thereby satisfying the conditions for the conditional Increased Iberdrola Offer Price to take effect. Iberdrola Australia indicated in the Iberdrola Sixth Supplementary Bidder's Statement that it understood that the acceptances included a 13.1% parcel of Infigen Stapled Securities from one or both of the TCI Funds. Infigen received a notice of change of interests of substantial holder from the TCI Funds on 24 July 2020, noting that the TCI Funds' voting power in Infigen had decreased by 13.09% as a result of acceptances by the TCI Funds into the Iberdrola Offer.⁴

3. The UAC Offer has closed

The Infigen Directors note that the UAC Offer closed at 7.00 pm (Sydney, Australia time) on 24 July 2020 (as it was not extended or withdrawn in accordance with the Corporations Act).

4. Infigen Directors' recommendation

The Infigen Directors unanimously recommend that Infigen Security Holders **ACCEPT** the Iberdrola Offer and will accept, or procure the acceptance of, the Iberdrola Offer in respect of

¹ As modified by ASIC Class Order [CO 13/521].

² As modified by ASIC Class Order [CO 13/521].

³ Iberdrola Australia had received acceptances under the Iberdrola Offer in respect of 4.28% of Infigen Stapled Securities as at 21 July 2020 (which did not include the 20% of Infigen Stapled Securities which were the subject of the Pre-Bid Agreement with the TCI Funds).

⁴ Form 604 Notice of change of interests of substantial holder of the TCI Funds released on the ASX Market Announcements Platform at 9.18 am (Sydney, Australia time) on 24 July 2020.

any Infigen Stapled Securities they own or control or otherwise have a Relevant Interest in, in each case, in the absence of a Superior Proposal.

The Infigen Directors had previously recommended that Infigen Security Holders accept the Iberdrola Offer at the lower Iberdrola Offer Price because the Infigen Directors believed that, on balance, the value and certainty of the Iberdrola Offer provided more benefit to Infigen Security Holders than retaining your Infigen Stapled Securities. The Infigen Directors are now confident that the Iberdrola Offer is a compelling opportunity to realise certain value for your investment at a significant premium to the historical undisturbed trading prices of Infigen Stapled Securities and removes your exposure to the risks and uncertainties associated with a continued investment in Infigen.

The Infigen Directors also confirm that the Iberdrola Offer is the only takeover offer available to Infigen Security Holders at this time. Therefore, the Infigen Directors urge Infigen Security Holders to **ACCEPT** the Iberdrola Offer without delay, to ensure that your acceptance under the Iberdrola Offer is received and processed before 7.00 pm (Sydney, Australia time) on Friday, 7 August 2020 and your entitlement to the Increased Iberdrola Offer Price for each Infigen Stapled Security you hold crystallises.

The Infigen Directors' initial reasons for recommending that Infigen Security Holders **ACCEPT** the Iberdrola Offer are set out in section 1 of the Original Target's Statement. In addition to these initial reasons, since the date of the Original Target's Statement:

- (a) the Iberdrola Offer now offers \$0.92 per Infigen Stapled Security, which is a significant premium to the historical trading price of Infigen Stapled Securities of:
 - (i) 55.9% to the closing price of \$0.59 per Infigen Stapled Security on the Last Undisturbed Trading Date;
 - (ii) 64.9% to the one-month VWAP to the Last Undisturbed Trading Date of \$0.56 per Infigen Stapled Security;
 - (iii) 81.6% to the three-month VWAP to the Last Undisturbed Trading Date of \$0.51 per Infigen Stapled Security;
 - (iv) 55.8% to the six-month VWAP to the Last Undisturbed Trading Date of \$0.59 per Infigen Stapled Security; and
 - (v) 36.9% to the average (mean) broker analyst price target on the Last Undisturbed Trading Date of \$0.67 per Infigen Stapled Security;
- (b) the Iberdrola Offer has been declared **UNCONDITIONAL**, which provides Infigen Security Holders certainty that they will realise the Increased Iberdrola Offer Price for each Infigen Stapled Security they hold if they accept the Iberdrola Offer;
- (c) the payment terms of the Iberdrola Offer have been accelerated and Infigen Security Holders who accept the Iberdrola Offer will be sent the Increased Iberdrola Offer Price per Infigen Stapled Security to which the acceptance relates (**Increased Offer Consideration**) within 5 Business Days after the date of receipt of the Infigen Security Holder's valid acceptance (see also paragraph (b) below for payment terms in respect of acceptances under the Iberdrola Offer received before 24 July 2020);
- (d) the completion mechanics under the Pre-Bid Agreement have been varied such that Iberdrola Australia can give its notice requiring the TCI Funds to sell the 20.0% of Infigen Stapled Securities the subject of the Pre-Bid Agreement within (but no earlier

than 5 days before the expiration of) two months of the commencement of the Extended Iberdrola Offer Period irrespective of the level of acceptances under the Iberdrola Offer;

- (e) Iberdrola Australia's voting power in Infigen was 38.06% prior to 8.39 am (Sydney, Australia time) on 24 July 2020.⁵ This was a result of acceptances under the Iberdrola Offer and the 20.0% relevant interest arising under the Pre-Bid Agreement with the TCI Funds;
- (f) the UAC Offer has closed and is no longer capable of acceptance, therefore, the Iberdrola Offer is the only takeover offer currently open for acceptance for Infigen Security Holders; and
- (g) no superior proposal has emerged and the Infigen Directors consider that it is unlikely that a superior proposal will emerge during the Extended Iberdrola Offer Period.

The Infigen Directors further note that:

- (a) all Infigen Security Holders who accept, or have already accepted, the Iberdrola Offer will receive the Increased Iberdrola Offer Price, regardless of when during the Extended Iberdrola Offer Period they accepted the Iberdrola Offer. This also applies in respect of any other increases Iberdrola Australia might make to the Increased Iberdrola Offer Price;
- (b) Infigen Security Holders who validly accepted the Iberdrola Offer before 24 July 2020 will have the amount of the increase (between the Iberdrola Offer Price and the Increased Iberdrola Offer Price) dispatched to them within 5 Business Days from 24 July 2020;
- (c) Infigen Security Holders who have or do accept the Iberdrola Offer on or after 24 July 2020 will be dispatched their Increased Offer Consideration within 5 Business Days after a valid acceptance is or has been received by Iberdrola Australia; and
- (d) as the Iberdrola Offer is unconditional, if you accept the Iberdrola Offer, you will be unable to withdraw your acceptance, the contract resulting from your acceptance will be binding on you and you will be unable to withdraw any Infigen Stapled Securities the subject of your acceptance from the Iberdrola Offer, dispose of those Infigen Stapled Securities on market, or otherwise deal with those Infigen Stapled Securities. The effects of acceptance of the Iberdrola Offer are set out in section 9.5 and section 9.6 of the Iberdrola Bidder's Statement. Infigen Security Holders should read these provisions in full to understand the effect that acceptance of the Iberdrola Offer will have on their ability to exercise the Rights attaching to their Infigen Stapled Securities and the representations and warranties that they give to Iberdrola Australia by accepting the Iberdrola Offer.

5. Consents

The following parties have given, and have not withdrawn before the lodgement of this Third Supplementary Target's Statement with ASIC, their written consent to be named in this Third Supplementary Target's Statement in the form and context in which they are so named:

- (a) Gilbert + Tobin, to being named in this Third Supplementary Target's Statement as legal adviser to Infigen;

⁵ Form 604 Notice of change of interests of substantial holder of Iberdrola Australia released on the ASX Market Announcements Platform at 8.39 am (Sydney, Australia time) on 24 July 2020.

- (b) Goldman Sachs, to being named in this Third Supplementary Target's Statement as financial adviser to Infigen; and
- (c) Lazard, to being named in this Third Supplementary Target's Statement as financial adviser to Infigen.

None of these persons have caused or authorised the issue of this Third Supplementary Target's Statement, nor makes or purports to make any statement in this Third Supplementary Target's Statement or any statement on which a statement in this Third Supplementary Target's Statement is based or takes any responsibility for any part of this Third Supplementary Target's Statement, other than any reference to its name.

Each of the Infigen Directors has given and not withdrawn before the lodgement of this Third Supplementary Target's Statement with ASIC their consent to:

- (a) be named in this Third Supplementary Target's Statement in the form and context in which they are named; and
- (b) statements attributable to them being included in this Third Supplementary Target's Statement in the form and context in which they appear.

As permitted by ASIC Class Order 13/521, this Third Supplementary Target's Statement may include or be accompanied by statements which are made in documents lodged with ASIC or ASX. Pursuant to ASIC Class Order 13/521, provided this Third Supplementary Target's Statement fairly represents such statements, the consent of the parties making those statements is not required for, and those parties have not consented to, the inclusion of such statements in this Third Supplementary Target's Statement. Infigen Security Holders may, during the Extended Iberdrola Offer Period, obtain a copy of the documents (free of charge) in which the aforementioned statements appear (or in which statements based on those statements appear, as the case may be), or the relevant part(s) of any of those documents, by contacting the Infigen Security Holder Information Line 1300 540 303 (for calls made from within Australia) or +61 2 8022 7955 (for calls made from outside Australia), on Monday to Friday between 9.00 am and 5.00 pm (Sydney, Australia time).

6. Approval of this Third Supplementary Target's Statement

This Third Supplementary Target's Statement has been approved by a resolution passed by the Infigen Directors. Signed for and on behalf of IEL and IERL in its capacity as the responsible entity for the IET:

Date 27 July 2020

Signed for and on behalf of Infigen Energy Limited
By:



Director

Print name L. F. Gill

Date 27 July 2020

Signed for and on behalf of Infigen Energy RE Limited in its capacity as
responsible entity for the Infigen Energy Trust
By:



Director

Print name L. F. Gill