



20 November 2013

Windflow Technology Ltd  
42-44 Mandeville St  
Riccarton, Christchurch  
PO Box 42-125,  
Christchurch, New Zealand  
T +64 3 365 8960  
F +64 3 365 1402  
E [info@windflow.co.nz](mailto:info@windflow.co.nz)  
[www.windflow.co.nz](http://www.windflow.co.nz)

### Notice of Special Meeting of Shareholders

Notice is hereby given that a special meeting of the shareholders of Windflow Technology Limited (the *Company*) will be held at The Nightmarch Room, Riccarton Park, Racecourse Road, Christchurch on Wednesday, 4 December 2013 at 7:30 pm.

#### BUSINESS

- A. **Welcome**
- B. **Apologies and Proxies**
- C. **Notified Motion for Ordinary Resolutions of Shareholders:**
  - (i) **Shortfall Placement**
  - (ii) **Approval for the purposes of the Takeovers Code**
  - (iii) **Approval of Increase of Loan Facility**
- D. **Notified Motion for Special Resolution of Shareholders:**
  - (i) **Approval of Investment in Four New Turbines**
  - (ii) **Approval of Increase of Loan Facility**

Please ensure you read the following resolution together with the Explanatory Notes attached to this Notice of Special Meeting of Shareholders (*Explanatory Notes*). Capitalised terms in this Notice have (unless the context requires otherwise) the meaning given in the Explanatory Notes.

#### **Resolution 1 (to be passed as an ordinary resolution) – Shortfall Placement**

To consider and, if thought fit, pass the following as an ordinary resolution in accordance with NZAX Listing Rules 7.5 and 9.2.1:

*That the Company enter into a Shortfall Placement Agreement with David Walter Iles, such that if the aggregate amount of valid applications received by the Company in respect of the proposed rights issue, described in the Explanatory Notes, by the end of the offer period is less than the intended gross proceeds of \$3,432,877, the Company may request that David Walter Iles subscribe for such number of preference shares as is required to reach the intended gross proceeds of \$3,432,877 (up to a limit of \$2,500,000), and the Company may issue such number of preference shares to David Walter Iles under the rights issue and the Shortfall Placement Agreement. Any preference shares subscribed for by David Walter Iles under the Shortfall Placement Agreement will be subscribed at \$0.50 per preference share and such preference shares shall be issued on the same terms as those preference shares issued under the proposed rights issue and be issued subject to compliance with all applicable laws and the constitution of the Company.*

#### **Resolution 2 (to be passed as an ordinary resolution) – Approval for the purposes of the Takeovers Code**

To consider and, if thought fit, pass the following as an ordinary resolution in accordance with Rule 7(d) of the Takeovers Code:

*That any allotment of ordinary shares in the Company to David Walter Iles (as a result of the conversion of some or all of his preference shares in the Company into ordinary shares in the Company), which has the effect of making David Walter Iles the holder or controller of an increased percentage of the voting rights in the Company is hereby approved in accordance with Rule 7(d) of the Takeovers Code as an exception to Rule 6 of the Takeovers Code.*

**Resolution 3 (to be passed as a special resolution conditional on Resolution 4 also being passed) – Approval of Investment in Four New Turbines**

To consider and, if thought fit, pass the following as a special resolution in accordance with section 129 of the Companies Act 1993, NZAX Listing Rule 9.1.1, NZAX Listing Rule 9.2.1 and the Company's Constitution:

*That the Board be authorised to implement, as described in the Explanatory Notes, the Company and its subsidiaries (Windflow UK Limited (WUK) and Windflow Hammer Limited (WHL)) investing approximately £4 million to install a total of four additional Turbines (in up to four New Projects) in the UK, taking the total Group investment to as many as seven Turbines in the UK.*

**Resolution 4(a) (to be passed as a special resolution conditional on Resolution 3 also being passed) – Approval of Increase of Loan Facility**

To consider and, if thought fit, pass the following as a special resolution in accordance with section 129 of the Companies Act 1993 and the Company's Constitution:

*That in respect of the existing loan facility for the purpose of building the first three Turbines in the UK, the shareholders approve, and the Board be authorised to implement, as described in the Explanatory Notes, the Company (as guarantor) and its subsidiaries (Windflow UK Limited (WUK) (as borrower) and Windflow Hammer Limited (WHL) (as guarantor)) increasing the loan facility provided by David Walter Iles by a further £4,000,000 (so that the total loan facility is £7,380,000) to fund four more Turbines being installed in the UK.*

**Resolution 4(b) (to be passed as an ordinary resolution conditional on Resolution 3 also being passed) – Approval of Increase of Loan Facility**

To consider and, if thought fit, pass the following as a special resolution in accordance with NZAX Listing Rule 9.1.1 and NZAX Listing Rule 9.2.1:

*That in respect of the existing loan facility for the purpose of building the first three Turbines in the UK, the shareholders approve, and the Board be authorised to implement, as described in the Explanatory Notes, the Company (as guarantor) and its subsidiaries (Windflow UK Limited (WUK) (as borrower) and Windflow Hammer Limited (WHL) (as guarantor)) increasing the loan facility provided by David Walter Iles by a further £4,000,000 (so that the total loan facility is £7,380,000) to fund four more Turbines being installed in the UK.*

**Other Business**

To transact such other business as may properly be brought before the meeting in accordance with the Company's Constitution.

**NOTES:**

All shareholders are entitled to attend and all ordinary shareholders are entitled to vote (subject to voting restrictions set out in this Notice of Meeting) at the special meeting or to appoint a proxy (who need not be a shareholder of the Company) or corporate representative (in the case of a corporate shareholder) to attend the annual meeting and vote on their behalf. If you wish, you may appoint "The Chairman of the Meeting" as your proxy or as an alternative to your named proxy. A proxy form is enclosed with this Notice. To appoint a proxy please complete, sign and return the enclosed proxy form to Link Market Services Limited, PO Box 91976, Auckland 1142 or Fax to 09 375 5990 in either case so that the Company receives the proxy form by 5:00 pm on Monday, 2 December 2013. The Chairman of the Meeting intends to vote any discretionary proxies in favour of the resolutions set out in this Notice of Meeting.

An ordinary resolution is a resolution that is approved by a simple majority of votes of those Shareholders entitled to vote and voting on the resolution.

A special resolution is a resolution that is approved by majority of 75% of the votes of those Shareholders entitled to vote and voting on the resolution.

**Restrictions on voting**

Pursuant to Rule 17(2) of the Takeovers Code, none of David Walter Iles or any of his associates (as defined in Rule 4 of the Takeovers Code) shall be entitled to vote on Resolution 2 set out in this Notice of Meeting. David Walter Iles, and his associates are also precluded from acting as a discretionary proxy of any other shareholder entitled to vote on Resolution 2, but may vote on Resolution 2 as a proxy if voting in accordance with the appointing shareholder's express instructions.

Pursuant to NZAX Listing Rule 9.3.1, none of David Walter Iles or any of his Associated Persons (as that term is defined in NZAX Listing Rule 1.7) shall be entitled to vote on Resolution 1, Resolution 3 or Resolution 4(b) set out in this Notice of Meeting, as David Walter Iles is a related party (as that term is defined in NZAX Listing Rule 9.2.3) of the Company and a party to the proposed transactions and, in respect of Resolution 1, he is also a person whose effective control of the Company would be materially increased. David Walter Iles and his Associated Persons are also precluded from acting as a discretionary proxy of any other shareholder entitled to vote on Resolution 1, Resolution 3 or Resolution 4(b), but may vote on Resolution 1, Resolution 3 or Resolution 4(b) as a proxy if voting in accordance with the appointing shareholder's express instructions. For clarity, these restrictions on David Walter Iles and his Associated Persons (if any) do not apply to Resolution 4(a).

Holders of Preference Shares shall be entitled to receive notice of general meetings of the Company but not to vote thereat unless the business of a meeting includes consideration of a resolution which directly or adversely varies any of the special rights attached to the Preference Shares, in which case holders of Preference Shares may only vote in respect of such resolution and each such holder shall have one vote for each ordinary share into which the Preference Share held by such holder may at such time be converted. None of the Resolutions described in this Notice of Meeting allow Preference Shareholders to vote, so only ordinary shareholders may vote on the Resolutions.

Yours faithfully

For and on behalf of the Board of Directors



Geoff Henderson - Director/Chief Executive Officer

## EXPLANATORY NOTES

These explanatory notes relate to the Resolutions set out in the Notice of Special Meeting.

### **Resolution 1: Shortfall Placement for Upcoming Preference Share Issue**

The Company wishes to undertake a pro-rata renounceable rights issue to eligible shareholders (being those with registered addresses in New Zealand or Australia and all other shareholders of the Company who have satisfied themselves as to the full observance of the laws of the jurisdiction in which they reside, including the obtaining of any requisite governmental or other consents) to subscribe for one new redeemable convertible preference share for every three existing ordinary shares held by them in the Company as at 5.00pm on Tuesday 3 December 2013, for the consideration of \$0.50 per preference share. This will be an issue of up to a maximum of \$3,432,877 worth of redeemable convertible preference shares to enable the Company to execute its growth plans.

The Company proposes to enter into a Shortfall Placement Agreement with David Walter Iles, under which David Walter Iles agrees to subscribe for such number of preference shares (up to a limit of \$2,500,000 or 5,000,000 preference shares at \$0.50 each) as is required to reach the intended gross proceeds of \$3,432,877.

NZAX Listing Rule 7.5 requires shareholder approval by ordinary resolution because Mr Iles may obtain a material increase in voting control of the Company if the holding of preference shares which he could have following such shortfall placement were converted to ordinary shares. Information regarding the potential consequences of a material increase in Mr Iles' ability to exercise effective control is set out on pages 15 and 16 of the Independent Adviser's Report, which accompanies this Notice of Meeting. Further information regarding the issue of shares to Mr Iles is included in the explanatory notes to Resolution 2, below. The Preference Shares have priority over Ordinary Shares, but shall rank behind all secured and unsecured creditors, upon winding up, dissolution or liquidation of the Company.

NZAX Listing Rule 9.2.1 requires shareholder approval by ordinary resolution because Mr Iles is a related party (as that term is defined in NZAX Listing Rule 9.2.3) of the Company and also a party to the Shortfall Placement Agreement and the transaction proposed by it (a Material Transaction as that term is defined in NZAX Listing Rule 9.2.2). The Directors of the Company have certified that the terms of the Shortfall Placement Agreement are fair and reasonable to shareholders and are in the best interests of the Company. The Directors consider that given there is no fee payable to Mr Iles under the Shortfall Placement Agreement and given that the Shortfall Placement, if it proceeds, would ensure that the minimum level of subscriptions of \$2,500,000 will be raised, the benefits to the Company of the Shortfall Placement Agreement are significant.

Accordingly shareholder approval is required to enter into the Shortfall Placement Agreement and issue up to 5 million preference shares to Mr Iles in the event of a shortfall.

### **Resolution 2: Approval for the purposes of the Takeovers Code**

David Walter Iles currently holds 3,222,901 (15.6%) of the ordinary shares in the Company and 6,522,683 (72.3%) of the preference shares in the Company. Mr Iles may acquire up to a further 5 million preference shares under the Shortfall Placement Agreement described in Resolution 1.

Preference Shares may be converted into ordinary shares in the Company by either the holder of those preference shares or by the Company at any time from the date of issue until five years following the date of issue, at which point if the preference shares have not been converted, they will be redeemed by the Company. If some or all of Mr Iles' preference shares are converted into ordinary shares in the Company during such period, it is likely that Mr Iles' percentage of the ordinary shares would increase such that Mr Iles' voting rights would increase to or above the 20% limit on voting rights imposed by Rule 6 of the Takeovers Code.

Rule 7(d) of the Takeovers Code provides an exception to Rule 6, whereby a person may become the holder or controller of an increased percentage of voting rights (i.e. in this case via holding ordinary shares) in a code company by an allotment to a person of voting securities (i.e. in this case via holding ordinary shares) in the code company if the allotment has been approved by an ordinary resolution of the code company in accordance with the provisions of the Takeovers Code.

The identity of the allottee is David Walter Iles.

The ordinary shares will be allotted upon conversion of preference shares, which shall be at the conversion ratio of one ordinary share for each preference share if converted by the shareholder and if converted by the Company at the conversion ratio of:

- two ordinary shares for each preference share issued in March 2013; and
- three ordinary shares for each preference share issued in December 2013.

Unless previously converted by the shareholder or the Company, the preference shares may be redeemed by the Company at any time from and including the date:

- 18 months after the allotment date for each preference share issued in March 2013; and
- 30 months after the allotment date for each preference share issued in December 2013,

and as many as can lawfully and properly be redeemed will be redeemed at the final maturity date, being the date five years after the allotment date, in each case at an amount equal to their issue price, with any balance being converted into ordinary shares at that time.

Depending on the take up of preference shares under the upcoming rights issue and subject to the assumptions below:

- The maximum number of ordinary shares that could be allotted to Mr Iles upon conversion of all of his preference shares in the Company is 28,045,366.
- This represents 52.3% of the combined total of all of the existing ordinary shares and all of the ordinary shares that could be allotted through conversion of all of the preference shares currently on issue and that could be issued under the offer.
- Together with Mr Iles' existing holding, this would represent up to 31,268,267 ordinary shares, representing 58.3% of the total number of voting securities (53,645,954 ordinary shares) in the Company following conversion of all preference shares.

The date used to determine the information regarding the maximum number and percentages of voting securities to be allotted following a conversion of preference shares is 18 November 2013 (the **calculation date**).

The assumptions upon which the above theoretical maximum is calculated are as follows:

- the number of existing ordinary shares is the number of ordinary shares on issue on the calculation date; and
- that in relation to the figures and percentages expressed above, Mr Iles is allotted the maximum number of ordinary shares on conversion by the Company of Mr Iles' existing preference shares and all preference shares that could be issued to Mr Iles under the offer, which are assumed to be the only preference shares issued under the offer.

While this scenario gives the maximum ordinary shareholding by Mr Iles (both in numbers of shares and percentage terms), there are other scenarios for converting the preference shares. Two of these are presented in detail in the enclosed Independent Adviser's Report:

- a minimum whereby Mr Iles' shareholding could increase to 29.7% (of 36,487,364 ordinary shares)
- a mid-range whereby Mr Iles' shareholding could increase to 47.6% (of 59,243,218 ordinary shares).

In addition it is possible that no preference shares are converted if they are all redeemed, in which case Mr Iles' ordinary shareholding would remain at 15.6%.

The reason for the allotment will be that either Mr Iles or the Company will have elected to convert some or all of Mr Iles' preference shares into ordinary shares in the Company, in accordance with the terms of issue of those preference shares.

The allotment, if approved, will be permitted under Rule 7(d) of the Takeovers Code as an exception to Rule 6 of the Takeovers Code.

Shareholders should read this Notice of Meeting in conjunction with the Independent Adviser's Report by Simmons Corporate Finance on the merits of the proposed allotment of ordinary shares under a conversion of preference shares that could result from the offer.

Pursuant to Rule 16(g) of the Takeovers Code Mr Iles states that no arrangement that has been entered into between Mr Iles and any person other than the code company regarding the allotment, holding or control of the voting securities to be allotted.

The Independent Adviser's Report (Rule 18 of the Takeovers Code) is included with this Notice of Meeting.

The Directors recommend that shareholders approve Resolution 2 because the positive benefits of Mr Iles supporting the upcoming preference share issue by means of the Shortfall Placement Agreement outweigh the negative aspects of those preference shares potentially being converted to ordinary shares which would lead to Mr Iles having significant, and possibly majority voting control.

#### **Resolutions 3 and 4: Approval of Investment in Four Further Turbines and Increase of Loan Facility**

These Resolutions both relate to undertaking further wind turbine projects and to the Company taking on further guarantee obligations in relation to the loan facility. Based on previous shareholder approvals, the Company has committed to three single turbine projects in the Orkney Islands, being Westray (already commissioned), New Holland and Ludenhill. As explained below, the latter two (currently in manufacturing for installation by mid-2014) are not the ones originally planned at the time of shareholder approval but have been substituted.

The Company now intends to proceed with four further Turbines for the UK, three of which are planned for Monan Hill on North Harris (which was the site for one of the three originally planned single turbine projects). The site for the other new Turbine, which may be the first 50 Hz Class 2A Windflow 45-500 turbine, is expected to be finalised in the coming months from a number of candidate sites. It is most likely to be on the mainland of Great Britain, and not likely to be North Fish, Shetland (one of the first three planned, which is now unlikely to proceed).

The Resolutions have been separated as the voting rights of the Company's shareholders differ between the two resolutions. This is explained in more detail below.

#### **PART 1: Background to the Resolutions 3 and 4**

- 1 In July 2012, the shareholders of the Company gave approval by special resolution for the Company, together with its wholly-owned subsidiaries Windflow UK Limited (*WUK*) and Windflow Hammer Limited (*WHL*), to:
  - (a) undertake up to three wind turbine Projects in Scotland using the Windflow 500 turbine (*Turbine*) manufactured by the Company, being the Westray Project, the North Fish Project and the North Harris Project (together the *First Three Projects*);
  - (b) enter into loan arrangements for the First Three Projects with David Walter Iles (the *Lender*) (under which WUK is the borrower and the Company and WHL are covenantors and guarantors of WUK's obligations). The Lender is a shareholder of the Company and, as at the date of this Notice, holds approximately 15.6% of the total number of ordinary shares and 72.3% of preference shares on issue in the Company. The Lender does not have any representation on the Company's Board of Directors, nor is he an Associated Person (as that term is defined in NZAX Listing Rule 1.7) of any of the Directors. These loan arrangements are more fully set out in paragraph 2 below; and
  - (c) substitute any or all of the First Three Projects with an alternative Project or Projects, in the event that any of the First Three Projects were delayed for any reason, or there is a more viable Project available to the Company.

- 2 The Company, WUK and WHL entered into loan arrangements with the Lender as approved by the shareholders. The Lender offered to advance up to £2,830,000 to WUK to fund the First Three Projects (or other substitute Projects), provided certain conditions set out in the loan documents were satisfied. The construction of two of the Projects (Westray and North Harris) was budgeted to be fully funded by this loan facility. In the case of the other Project (North Fish), it was agreed by the parties that, if the Project proceeded, a local partner would contribute £475,000 of a total cost of £1,120,000. Thus, the approved loan funding did not cover the full cost of the First Three Projects.
- 3 Since then the Company, WUK and WHL have proceeded with the Westray Project, but the North Fish and North Harris Projects have been delayed because of grid constraint issues on the Shetland Islands and the Outer Hebrides. The North Fish project now looks unlikely to proceed but the North Harris project (on Monan Hill) is now proceeding again as set out below. Instead, the Company, WUK and WHL have progressed and obtained funding approval from the Lender (on the basis of the authority provided by the shareholders of the Company in July 2012, as described at paragraph 1(c) above) for two alternative Projects on the main island of the Orkneys, being New Holland and Ludenhill, which have taken the place of North Fish and North Harris among the First Three Projects. Both Projects need to be budgeted as being fully funded by the Lender's loan facility. For this and other reasons the shareholders of the Company gave approval in March 2013 for the loan facility to be extended by £550,000 in relation to the First Three Projects (as substituted and mainly for the New Holland Project), so that the total facility is now £3,380,000.
- 4 In recent months the North Harris Project, which consisted of a site on Monan Hill near the town of Tarbet with planning permission for three Windflow 500 Turbines, has progressed. WUK has applied for and received on behalf of the North Harris Trust a revised grid connection offer for the Monan Hill Project with a connection date brought forward from 2015 to October 2014. Accordingly the Company, WUK and WHL are now planning to proceed with the Monan Hill Project (by developing all three Turbines together, rather than one initially with the other two a year later) as soon as funding can be confirmed.
- 5 The Company, WUK and WHL, also anticipate several other Turbine Projects in Great Britain will receive grid offers and planning permission in the coming months, at least one of which will be suitable as investment Projects. Most likely these Projects will be in Scotland, but WUK staff are also progressing some promising leads in England and Wales through their dealer and developer networks.
- 6 Based on these developments and after consultation with the Lender, the Company now wishes to undertake Projects developing up to four further Turbines in Great Britain (the *New Projects*) on a similar basis to the First Three Projects. The New Projects are likely to be two in number, being the Monan Hill Project (three Turbines) and one other single Turbine Project. However, it is possible that other Projects could come forward in the coming months and it may improve overall viability to develop four single Turbine Projects, i.e. to develop just one Turbine at Monan Hill initially, depending on the relative wind speed, grid connection timing and site development costs of the other Projects. The Directors of the Company feel that it is important to retain the flexibility to undertake the number of New Projects that is most appropriate in the circumstances at the particular time, in particular if developing four Turbines in three or four (rather than two) Projects will improve viability. However, the Directors note that whether two, three or four New Projects are undertaken, the New Projects will be based in the UK and will be on a similar basis as the First Three Projects.
- 7 Furthermore, the time scale is likely to be suitable for deploying the first 50 Hz Class 2A Windflow 45-500 turbine in Great Britain on a single Turbine Project. This is because the 60 Hz Class 2A GD 45-500 turbine prototype is expected to be commissioned in Texas in early 2014. This will prototype the major mechanical and structural design changes associated with the much larger 45 metre rotor (relative to the proven 33 metre rotor). There will only be minor, low risk modifications to the drive-train and electrical systems required to manufacture the 50 Hz version later in 2014.

- 8 Accordingly, the Directors are seeking approval from the shareholders to undertake the New Projects on the basis set out above, with Directors' discretion to be exercised as to whether the four Turbines are installed as two, three or four Projects and whether one of the Turbines is the first 50 Hz Class 2A Windflow 45-500 turbine.
- 9 The Lender is offering to advance an additional amount of up to £4,000,000 to WUK to fund the New Projects. At the approximate exchange rate applying at the date of this Notice of £0.51/NZ\$1.00 this is equivalent to approximately \$NZ7,843,137).
- 10 The Lender is also offering to halve the interest rate to be 10% per annum compounding daily, equivalent to an annual percentage rate of 10.516% per annum. The new rate is to apply effective 16 September 2013 to the overall facility (First Three Projects (as substituted) and the New Projects). In all other respects the same terms and conditions will apply as the existing loan facility.
- 11 The Company, WUK and WHL intend to enter into a Variation of the existing Term Loan Agreement recording the further facility and the halving of the interest rate, which the Lender has already approved in principle in correspondence. The only variations will be that:
- (a) the total loan facility will be increased from £3,380,000 to £7,380,000 (with the increase being allocated across the various New Projects and drawn down only as required);
  - (b) effective 16 September 2013, interest accrues on the amounts advanced to WUK from the date of draw down at a rate of 10% per annum (half of the existing interest rate) compounding daily, equivalent to an annual percentage rate of 10.516% per annum.
- 12 The terms and conditions of the loan, guarantee and security arrangements were explained in detail in the Notice of Special Meeting on 4/7/12, which may be read online at <https://www.nzx.com/companies/WTL/announcements/224065>. The main terms are that:
- (a) The loan is to WUK and will be on-advanced as an intra-group loan to WHL, which in turn will advance the funds to a special purpose vehicle (SPV) for each Turbine Project either as a loan or as equity. The SPV will use the funds to purchase the Turbines from WUK (who is the Company's UK distributor of the Turbines), and the funds received by WUK from the SPV for the Turbines will be used by WUK to pay the Company (being the manufacturer) for the Turbines;
  - (b) Repayments of principal and interest are scheduled to commence on the date that is three years from the date of the Term Loan Agreement, and to be fully paid over the next seven years;
  - (c) The Lender has various securities over the Company, WUK and WHL, including general securities and a specific charge over the parts and assemblies owned by the Company which comprise the work-in-progress of each of the Turbines;
  - (d) The loan to WUK is guaranteed by the Company and WHL. The Lender's recourse to the Company reduces as the Turbines are installed and commissioned, ultimately becoming limited to Project equipment owned by the Company and the assets of WUK, including its shares in WHL (unless certain breaches of the Term Loan Agreement occur).

## **PART 2: Requirement for shareholder approval of resolutions 3 and 4**

- 13 Given the value of the New Projects, the additional loan and the existing security arrangements under the loan facility, the transactions proposed under Resolutions 3 and 4(a) constitute or may constitute a "Major Transaction" for the purposes of section 129 of the Companies Act 1993. Accordingly, a special resolution of the shareholders of the Company (at least 75 per cent of the votes cast) is required. Resolutions 3 and 4(b) each constitute a transaction to which NZAX Listing Rule 9.1.1(b) applies (because the gross value of each transaction exceeds 50% of the Company's Average Market Capitalisation) and therefore require shareholder approval by ordinary resolution.

- 14 The amendment to the loan arrangements also constitutes a Material Transaction with a Related Party (as those terms are defined in the NZAX Listing Rules) for the purposes of NZAX Listing Rule 9.2.1 and, as such, requires shareholder approval by ordinary resolution. The additional investment in the New Projects also constitutes a Material Transaction with a Related Party for the purpose of NZAX Listing Rule 9.2.1 and, as such, requires shareholder approval by ordinary resolution, by virtue of it being part of a related series of transactions with the amendment to the loan arrangements for the purposes of that rule. This means the transactions must also be approved on the basis that none of David Walter Iles or any of his Associated Persons (as that term is defined in NZAX Listing Rule 1.7) is entitled to vote on Resolution 3 or Resolution 4(b) (as described in more detail on page 2 above), as David Walter Iles is a related party (as that term is defined in NZAX Listing Rule 9.2.3) of the Company and a party to the relevant transactions.
- 15 For the purposes of the NZAX Listing Rule 1.6.6 a reference to the Company includes its subsidiaries and as such the extension of the loan facility by WUK and WHL requires the approval of the shareholders of the Company, as set out in paragraph 12 above.
- 16 If Resolutions 3 and 4(a) are passed, any shareholder who has cast all votes attached to their shares (and having the same beneficial owner) against Resolutions 3 and 4(a) is entitled to require the Company to purchase their shares by giving notice under section 111 of the Companies Act 1993. The Company must purchase those shares unless it obtains relief under section 114 of the Companies Act 1993. The Company would seek relief if as a consequence of the exercise of such rights, the Board formed the view that any of the grounds set out in section 114 of the Companies Act 1993 existed.

### **PART 3: Directors' recommendation for resolutions 3 and 4**

- 17 The Directors believe that undertaking the New Projects, the increase of the loan facility and the reduction of the interest rate are fair and reasonable to shareholders and in the best interests of the Company for the following reasons:
- (a) As set out previously by the Company, investing in Turbine Projects up to 500 kW in the UK provides an excellent return on investment for the Turbine owner of around 20% to 30% per annum. This flows from the high revenue totalling about 22 pence/kWh, which is about NZ\$0.43/kWh. This is about four or more times the rate that wind Turbines earn in New Zealand for generating electricity, and it is a dependable "Feed-in-Tariff" (FIT) rate contracted for 20 years with a UK government agency, with annual CPI inflation adjustment upwards. While the cost of installing single Turbines is significantly higher than installing multiple Turbines on a wind farm, the investment cost is justified by the FIT. The loan facility is enabling the Company to access that investment opportunity as well as enabling the Company to build and sell the Turbines for a manufacturer's margin.
  - (b) The high interest rate of the original loan facility would consume most of that return on investment if not re-financed. Reducing the interest rate will improve returns to the Company and give the Company more time to re-finance the Turbines (including by selling the Projects in some cases) once the Turbines are commissioned. It will thus enable the Company to retain more Turbines for generating long-term revenue than it would otherwise be able to.
  - (c) Note that the Company has signalled that it intends to raise additional capital from its shareholders. That will not be changed by Resolution 4 being passed or not. Any such capital raising will proceed independently of the loan facility and the increase proposed herein. If additional capital cannot be raised, the Company is unlikely to be in a position to take advantage of the loan facility and progress the Projects, because the success of the capital raising in reaching its minimum subscription is an important factor in the Company remaining a going concern. Assuming Resolution 4 is approved and the additional capital is raised by issuing further preference shares bearing a dividend of about 10% per annum, it will give the Company two sources of capital costing around 10% p.a. This will give the Directors more flexibility to decide from time to time (depending on the funding available and the opportunities before it) whether it is in the best interests of the Company to:
    - (i) minimise the size of the loan outstanding, i.e. not use the full facility, or

- (ii) if a Turbine Project (such as Westray) has been commissioned and then sold or re-financed, seek the Lender's approval to apply the facility to funding or part-funding construction of a further Project, provided that the loan facility is applied to no more than seven Turbines at a time, or
  - (iii) some other action or combination of actions (the Company notes that if such other action is outside the scope of the resolution detailed above, further shareholder approval will be required and if such other action is outside the scope of the terms of the Loan Facility, further approval may also be required from the Lender. The preceding options (a) and (b) would not require shareholder approval provided they are within the terms of the Loan Facility and the prior shareholder approval).
- (d) Developing Turbine Projects in the UK is fundamental to the Company's business strategy. Until and unless Resolutions 3 and 4 are passed, the Company cannot accept the Lender's offer to provide construction finance for the New Projects. In turn, this could jeopardise the ongoing development of the Company's UK business. If Resolutions 3 and 4 are not passed it would at least delay completion of the New Projects, as progress would be contingent on other developments occurring, such as selling the Westray Project or the New Holland Project land-owners deciding to make further investments. The Directors believe that it is in the best interests of the Company to be able to confirm the New Projects independently of such developments.

18 As set out in the earlier Notices for the 4 July 2012 and 7 March 2013 Special Meetings, the Directors considered a number of alternatives to the loan facility, including:

- (a) raising further capital; and
- (b) obtaining conventional bank lending for the Projects at a lower interest rate.

Raising further capital was not considered an attractive option in July 2012, but it is now thought to be so and the Directors are progressing this with the release of the Company's rights offer.

With regard to obtaining lending from a conventional bank lender, the Company continues to progress this with a number of lenders but has not yet been successful in securing such funding, though it is expected that this will change in time once the Company establishes a track record of successfully installing, commissioning and maintaining Turbines in the UK FIT market. While it may in time be possible to replace the loan facility with either or both of these alternatives, for the moment the Company believes the flexible loan facility being provided by the Lender maximises the Company's ability to take advantage of its opportunities and will continue to do so at least for the short term. For example, even if the Company's rights offer is fully subscribed, it will be in the Company's interests to maximise the funding sources available including extended loan facility for it to invest in Turbine Projects.

19 Accordingly, the Directors recommend that shareholders approve Resolutions 3 and 4.