

From: [REDACTED]
To: [North Lincolnshire Green Energy Project](#)
Subject: For the attention of the Secretary of State
Date: 05 June 2023 14:57:55
Attachments: [Bradley brothers made millions in 'negligently managed' schemes at Solar 21, claim investors.pdf](#)

[REDACTED]

Dear Secretary of State.

In light of the invitation to provide evidence on this topic from the Examining Authority, I am now submitting to the Examination evidence that raises questions about the extent to which funds will be available to properly fund the compulsory acquisition or interests in land.

This evidence is from a number of sources, but all relate either directly or indirectly to the Applicant and the project and its potential funding.

In short, the evidence raises questions regarding the extent to which funds said to be "on account" will actually be available, especially as there are indications that the Applicant is intending to sell the DCO post consent (which might be prior to the acquisition of land).

The Applicant's Funding Statement pre-dates the evidence that I have provided and some of the changes in circumstances that are set out within that evidence, and does not appear to have either anticipated or allayed the concerns that I am raising.

The Applicant submitted the most recent version of their Funding Statement [REP7-004 and REP7-005] at Deadline 7.

At Paragraph 1.2. of their Funding Statement, the Applicant stated that "This Statement is required because the development consent order sought for the Project would authorise the compulsory acquisition of land or interests in land. This gives rise to the requirement under Regulation 5(2)(h) of the APFP Regulations for the applicant to provide a statement indicating how the Order containing these powers is proposed to be funded".

At Paragraphs 2.1.1 and 2.12 of their Funding Statement, the Applicant states that the company applying for the incinerator is North Lincolnshire Green Energy Park Limited which is jointly owned by Solar 21 Renewable Energy Limited (S21) and Greenzone Consulting Limited (GZC) who own 51% and 49% respectively, and that: "...The risk capital required to fund the design, consent, site acquisition and compensatory payments for the Project has already been set aside in two dedicated fundraising companies which are both subsidiaries of Solar 21 Renewable Energy Limited."

At Paragraph 2.3.2 of the Funding Statement, the Applicant states that: "...The 'likely' land acquisition, relocation and compensatory amounts are estimated to be £32m. The Applicant is actively pursuing a strategy to secure commercial agreements with all of the land and business owners before the decision date of the

DCO."

The next sentence in Paragraph 2.3.2 was updated, as in the previous version it stated that "It is expected that most if not all of the land/business owners will have entered into contracts for voluntary acquisition before the decision date" to stating that "Over 96% of land/business owners will have entered into contracts or **signed heads of terms** for voluntary acquisition before the decision date".

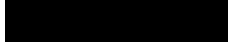
Heads of terms is less certain than contracts, and so the Applicant is already in a diminished position when they get into their final sentence of the Paragraph which states that: "Nevertheless, the Applicant has sufficient funds on account to exercise all of the compulsory acquisitions and compensation if required."

Based on the evidence that has now become available, the situation regarding the availability of the funds stated to be on account appears to be more complicated and less clear-cut than the Applicant's funding statement has indicated.

As this funding is being relied upon by the Applicant to add certainty to their funding statement in light of their failure to date to convince all land/business owners to enter into contracts for voluntary acquisition, these concerns can be considered to be directly material to the Regulation 5(2)(h) assessment.

There may potentially be more vital information that could come to light over time also and I request that any further information be considered for total clarity of the financial position of the Solar 21 group of companies that are using this project as a cash cow.

Sincerest regards



From RAIN (Residents Against INCineration)

Below is a snapshot of the Web page as it appeared on **21/05/2023** (the last time our crawler visited it). This is the version of the page that was used for ranking your search results. The page may have changed since we last cached it. To see what might have changed (without the highlights), [REDACTED]

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[REDACTED] made millions in ‘negligently managed’ schemes at Solar 21, claim investors

Investors who are owed large sums by troubled Rathcoole investment firm Solar 21 have raised concerns in the High Court about “staggering” amounts of commissions and fees paid to the [REDACTED] who founded the company.

The pair had “made millions in fees while negligently managing this investment” and “the full extent of their failures remain unknown”, the investors alleged.

Solar 21, founded by [REDACTED]

Investors told the court they were concerned about £26m that Solar 21 paid in commissions and fees – including more than €9m [REDACTED]

“The sheer quantity of commission and fee payments by the companies to companies owned and/or controlled by [REDACTED] and [REDACTED] are staggering and quite unbelievable,” claimed investors.

They claimed that “[REDACTED] essentially want to force us to take a huge cut on our investment, and at the same time completely release them and their companies from any liability for any wrongdoing short of fraud.”

Solar 21 and Green Zone Consulting, an Isle of Man firm controlled by [REDACTED] have agreed to contribute approximately £36m as part of the scheme of arrangement, if it is approved. Under the proposed scheme they would face no further liability.

[REDACTED] a partner at [REDACTED] which is representing a group of seven investors, said in an affidavit they were “surprised and concerned to learn” from Bradley’s affidavit that the scheme companies had “unilaterally elected to make net loans totalling £90.7m to other companies within the Solar 21 group”.

The loans were made “without authority” from investors and “were not revealed [to investors] until now”.

“The loan notes and Information Memorandum conferred no right on the scheme companies to make loans to any group companies other than the project company.”

The company had issued a project report in early 2020 stating the civil works on the site at Melton in North Yorkshire were scheduled to start in April 2020, he said.

Various updates to investors followed in which, it was alleged, “the company gave vague explanations as to why it was not in a position to repay loan notes and interest thereon, which fell due for payment in November 2021 and January 2022”.

“At no point did the company advise our clients it had used the funds they had advanced to the company for any purpose other than the energy-from-waste project at Melton,” [REDACTED] the court.

The court was told investors sought the appointment of inspectors, and [REDACTED] KPMG were willing to act in that capacity. But Solar 21 CEO Michael Bradley said it would oppose any application to the court

“concerning any financial appraisal by any other financial accountant” than chartered accountant [REDACTED] is being paid by Solar 21 to produce “an independent expert report” on the “reasonableness and fairness” of the scheme ahead of a proposed meeting on June 27.

Another investor – an engineer from the west of Ireland who had invested a portion of his pension in the renewable energy project via Naas firm Wealth Options – told the court that there had been “extremely concerning” inter-company lending within the Solar 21 group.

The investor, who said he was supported by a group of other investors, highlighted more than £35m that was lent to companies related to two earlier Solar 21 biomass projects.

“The companies have therefore admitted to using funds raised from one group of investors to pay off a maturing investment of an earlier group of investors. That is the definition of a Ponzi scheme,” said the affidavit.

He also highlighted a £13m loan of investor cash “to cover investor-coupon repayments to investors in Italian projects, which is again a Ponzi-type of payment”.

[REDACTED] said in an affidavit that he took “particular issue” with this description of the use of funds.

“While not accepting these criticisms... I acknowledge that these views are strongly and genuinely held by a number of scheme investors,” he said.

“All monies were applied bona fide in what were considered by the directors to be the best interests of the business,” he said.

“Where monies were lent to other group companies, they were lent at a fair rate of interest, with security being taken over shares in and/or assets of the borrower companies.

“It is a matter of profound regret for the companies that they find themselves in a position where they are not able to repay the scheme investors in full,” said Bradley.

Get ahead of the day with the morning headlines at 7.30am and [REDACTED] exclusive take on the day's news every afternoon, with our free daily newsletter.

TRENDING

ESSEX'S NEW WASTE TENDER

EFW FACES OPPOSITION FROM POLITICAL CHANGE

RIVENHALL EFW PROGRESS

650,000T/YR EFW PROJECT FOR SALE

Developer looking to offload vast 650,000t/yr Lincolnshire EfW project

UK: Development planned to be sold, subject to it gaining a DCO this autumn, with the funds put towards a Teesside-based EfW project

by [REDACTED]



The North Lincolnshire Green Energy Park (NLGEP)

Energy-from-waste plant developer Solar 21 has said it is looking to sell its North Lincolnshire Green Energy Park (NLGEP) as its second Teesside-based project has a “quicker consenting and construction procurement programme”.

In a letter to shareholders sent earlier this month, and seen by EWB, Solar 21 reveals two of its subsidiaries, EFW 21 Renewable Energy Ltd and EFW 21 Renewable Energy Ireland Ltd, are in the process of entering Ireland’s schemes of arrangement process.

The system is generally used in times of corporate restructuring and in the case of Solar 21’s companies, the process is currently going through the court system in Ireland and after a hearing last week is due back on 23 July.

According to the letter to shareholders and investors in both companies, which it refers to as its “P2 Companies”. P2 covers the development of the Teesside Green Energy Park (TGEP) and NLGEP.

Both projects are no longer in the running to be part of the UK government-backed carbon capture cluster project, it was confirmed in March. But unlike NLGEP, which is currently hoping to secure a development consent order (DCO) from the UK government, TGEP has planning that was granted ten years ago, and only needs two pre-commencement planning conditions dealt with, the letter explains.

According to the letter, dated earlier this month: “It is likely that the Teesside Project will be formally selected as the P2 Project in due course, subject to the satisfaction of two outstanding pre-commencement planning conditions. The Teesside Project is likely to be chosen ahead of the North Lincolnshire Project due to its quicker consenting and construction procurement programme.

“This selection will then allow the Solar 21 Group to pursue, once a DCO is received in November 2023, the sale of the project rights for the North Lincolnshire Project to an independent industry or financial third party, rather than for the group to control the construction of the project itself.

“This sale is expected to fully repay all amounts that have been invested by the P2 Companies to fund its progress to date, plus a positive return in the form of accrued interest.

However some shareholders in the company, who spoke to EWB anonymously, questioned the sale, whether either EfW plant would ever be developed and if they would see a return on their investments.

If it gets the DCO, the NLGEP will be capable of processing up to 760,000 tonnes a year of waste and have a capacity to produce up to 95MWe. In terms of the Teesside project, EWB understands it is planned to process up to 240,000t/yr.

A spokesperson for Solar 21 told EWB: “Solar 21 is in the process of valuable assets sales, and it is the view of the company, its professional, financial, and legal advisors as well as our independent valuers that this will have a positive outcome for the proposed Schemes of Arrangement.

“The scheme is a binding agreement to allow this to happen protecting the interests of all parties whilst the process is completed. This seems to have been overlooked in most of the recent articles.

“While we appreciate that the world has moved on, the significant human cost as well as the financial shock of a global pandemic and a war in Europe continues to be a challenge for many companies.

“Again, we would like to sincerely apologise to our valued investors and financial brokers for the stress this has caused.”



09 May 2023

Note to investors in EFW21 Renewable Energy (Project 2) Ltd and EFW21 Renewable Energy (Project 2) Ireland Ltd (together, the “P2 Companies”) (the “P2 Investors”)

The Solar 21 Group is in the process of proposing two Irish schemes of arrangement (the “**Schemes**”) pursuant to Part 9 of the Companies Act 2014, in relation to EFW 21 Renewable Energy Ltd and EFW 21 Renewable Energy Ireland Ltd (the “**Scheme Companies**”).

The communications to investors and brokers in relation to the Schemes have prompted a series of, understandable, questions from the P2 Investors and their brokers in relation to their investments in the P2 Companies.

In this note, the Solar 21 Group seeks to address those questions and provide comfort to the P2 Investors.

Impact of the Schemes on the P2 Companies

1. The circumstances of the P2 Companies are very different to those of the Scheme Companies. The P2 Companies (and the underlying project activities) are progressing, please see the summary below of key milestones achieved to date. Accordingly, the P2 Companies are not subject to a proposed scheme of arrangement and the P2 Investors will not be compromised by the Schemes.
2. The intention and effect of the Schemes (if approved) are to provide a stable platform for the Solar 21 Group. This will benefit the P2 Companies as they continue to progress the development, construction, and ultimate exit of the P2 Project.

Improvements to Governance

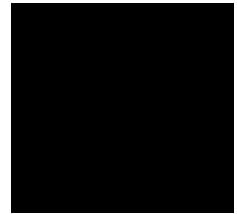
3. In recognition of requests from investors and the broker community for increased transparency from the Solar 21 Group, several improvements to the Group’s governance and reporting are proposed and will be implemented following the approval of the Schemes.
4. These include the appointment of an independent non-executive chairman to the board of Solar 21 Renewable Energy Ltd (the top company in the Group). This person will be responsible for monitoring the activities of the Group and will have oversight of all group subsidiaries (including the P2 Companies and the underlying project companies). It is expected that the P2 Investors will welcome this position.
5. Further, in relation to the P2 Companies, the Group also proposes:
 - i. **A programme of enhanced communications:** which will include bi-monthly project updates, to be delivered by the independent chairman once appointed.
 - ii. **Audited Accounts:** for the P2 fundraise companies for the period between 2018 – 2022 to be disclosed and periodic summary financial information to be released to the P2 Investors upon request.

Financial position of the P2 Companies and use of funds

6. The Group has been asked to provide further detail on the funds raised and how this has been used to date. The P2 Companies can confirm that c.£75.8m of cash has been received from investors, of which, at 28 February 2023, £12m has been spent on fundraising costs and management fees in relation to the fundraising companies, £18.3m has been spent on the underlying project activities, c.£0.1m has been spent on bank charges and foreign exchange losses, and c.£45.4m was held as cash.
7. In addition, approximately £34m is due as a receivable from the Scheme Companies in relation to matured and reinvested funds from the Scheme Companies into P2.
8. For the avoidance of doubt, all the monies raised as part of the P2 fundraising have been spent in accordance with the P2 investment documentation and the balance of the funds are held in the relevant P2 fundraising company accounts.
9. To provide the P2 Investors with reassurance and further transparency on this matter, the Group intends to appoint A&M to prepare a report setting out the sources and uses of the monies received into the P2 Companies from their inception to the most recent available management accounts.

P2 Project status and selection

10. In accordance with the terms of P2 investment documentation and security requirements, the Group confirms that the P2 Companies have been pursuing two possible projects as the P2 Project:
 - A. Teesside Green Energy Park (the “**Teesside Project**”); and
 - B. North Lincolnshire Green Energy Park (the “**North Lincolnshire Project**”).
11. It is likely that the Teesside Project will be formally selected as the P2 Project in due course, subject to the satisfaction of two outstanding pre-commencement planning conditions. The Teesside Project is likely to be chosen ahead of the North Lincolnshire Project due to its quicker consenting and construction procurement programme.
12. This selection will then allow the Solar 21 Group to pursue (once a Development Consent Order (planning consent) is received in November 2023) the sale of the project rights for the North Lincolnshire Project to an independent industry or financial third party (rather than for the Group to control the construction of the project itself). This sale is expected to fully repay all amounts that have been invested by the P2 Companies to fund its progress to date (plus a positive return in the form of accrued interest). Normally expenditure on alternative schemes up to the point of selection is at risk and therefore the Group considers that the expected recovery of these amounts in relation to the North Lincolnshire Project is a positive for the P2 Companies.
13. Any equity that the Solar 21 Group has in the North Lincolnshire Project, once the loans to the P2 Companies have been fully repaid including interest, will be used as a voluntary contribution to support the Schemes. For the avoidance of doubt, this equity does not currently belong to the P2 Companies and the P2 Companies are not being disadvantaged by its contribution to the Schemes.



Update on the Teesside Project

14. The Group is confident that the Teesside Project is a strong selection and to provide comfort to the P2 Investors we provide the following development updates:

- i. The optioned site for the Teesside Project already benefits from an existing planning consent from 2013 which is extant (subject to compliance with a couple of pre-commencement conditions that are progressing, and this has been verified in writing by the planners). The technology that has been identified is compatible with the existing consent.
- ii. However, as the consent is related to a particular type of technology, management believed it to be prudent to submit a new planning application that would not restrict the type of technology that could be deployed.
- iii. An MOU has been signed with the proposed technology provider and we are currently negotiating a project development agreement (PDA) with this party which will govern the responsibilities of each party to take the project forward to financial close, it is anticipated that this agreement will be signed in the next two weeks.
- iv. Separately, we are negotiating a FEED study with the EPC contractor for the design of the plant with a view to progressing the EPC construction contract in tandem with the deliverables under the FEED study. It is expected that the FEED Study appointment will be signed within the next 2 weeks.
- v. A 40MW grid connection has been secured with Northern PowerGrid.
- vi. The land and the waste supply have been optioned with the landowner and waste supplier respectively with a view to exercising the option once the planning pre-commencement conditions have been satisfied (likely to be next month). Heat & Private Wire connection enquiries continue to be received from local businesses.
- vii. Pinsent Masons Solicitors are leading the legal advice aspects of the construction and waste supply documents which are required to take the project forward.
- viii. Black and Veatch have been appointed as technical advisors for the design and construction aspects of the project.
- ix. MJCA has been appointed as our planning consultant for the project.
- x. As part of their remit a revised planning application (updated technology) was submitted (July 2022) & validated (Aug 2022) to increase the electrical output.
- xi. 41 consultees have been contacted, see Appendix 1 for detail of responses. One remains incomplete, Surface Water Run Off methodology. Ground investigations have been completed & Buro Happold have been appointed to undertake concept designs for planning compliance.
- xii. A table of pre-commencement conditions relating to planning permission 12/2766/ES is located below at Appendix 2.



15. The Group is therefore progressing the Teesside Project on this basis.

Conclusion

16. We hope that this update, and the measures set out above, are a positive step in providing greater clarity to investors. We will continue to provide relevant material updates to investors on an ongoing basis.



Appendix 1

Teesside Green Energy Park Ltd

Table of consultee responses relating to planning permission 22/1525/EIS

	Comment	Date	Detail	Update
Highways Transport & Design Manager	Flood Risk Management clarifications requested	7 th Sept 2022		On site Ground Investigations completed. Buro Happold appointed to undertake flood risk management designs
Parish Council	No Return			Closed
SBC Flood Risk	No Return			Closed
Environmental Health Unit	Clarification requested	29 th Sept 2022	I would request that that an assessment of the combined impact of traffic generated emissions and of the operational phase upon air quality is undertaken to compare against the national air quality objectives using the method below.	Additional details supplied
Principal Environment Officer	No Return			Closed
Northumbrian Water Limited	No Objections	9 th Sept 2022		Closed
Northern Gas Networks	No Return			Closed
Northern PowerGrid(u/g Cables, O/h Lines, Small Substations)	No Return			Closed
National Grid	No Return			Closed
Natural England	Clarifications requested	6 th Oct 2022	Further details requested on Air Quality impacts. A full habitats Regulations Assessment requested	Further details submitted, query closed



Tees Archaeology	Planning condition requested	7 th Oct 2022	1) Examination of geotechnical information to establish stratigraphy and presence or absence of organic layers or other sediments of archaeological interest. 2) No further action or paleoenvironmental work/archaeological monitoring during development	Pre-commencement condition. Item closed until consent given
National Highways	No Objections	26 th Sept 2022		Closed
The Environment Agency	No Objections	29 th Sept 2022		Closed
Cleveland Police	No Objections	20 th Sept 2022		Closed
National Planning Casework Unit	No Objections	7 th Sept 2022		Closed
Arqiva	No Return			Closed
Cleveland Emergency Planning Unit	Minor queries	7 th Sept 2022	Additional information to be provided following consent	
Marine Management Organisation	Minor queries	7 th Sept 2022	Additional information to be provided following consent	
Chief Fire Officer (Cleveland Fire Brigade)	No Objections	9 th Sept 2022		Closed
The RSPB	No Return			Closed
Teesmouth Bird Club	No Return			Closed
Tees Valley Wildlife Trust	No Return			Closed
Durham County Badger Group	No Objections	16 th Sept 2022		Closed
Durham Bird Club	No Return			Closed
Durham Bat Group	No Return			Closed
Campaign To Protect Rural England	No Return			Closed
Office Of Nuclear Regulation	No Objections	20 th Sept 2022		Closed
Marine Management Organisation	Marine Licence assessment required for	7 th Sept 2022		Additional information



	construction phase			required consent post
Argiva	No Return			Closed
Network Rail	No Return			Closed
Councillor Mrs J O'Donnell	No Return			Closed
Councillor Mike Smith	No Return			Closed
Pipeline CATS	No Objections	24 th Oct 2022		Closed
CATS Terminal	No return			Closed
Sabic UK Petrochemicals Ltd	No Objections	13 th Sept 2022		Closed
Ineos Manufacturing Scotland	No Return			Closed
PX Group	No Return			Closed
Sembcorp Utilities UK Ltd	No Return			Closed
Health & Safety Executive	Minor observations raised	26 th Aug 2022	Proximity to major hazard site. Proximity to privately operated pipelines	

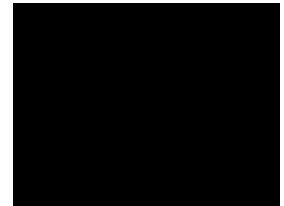


Appendix 2

Teesside Green Energy Park Ltd

Table of pre commencement conditions relating to planning permission 12/2766/EIS

Condition No.	Document to submit	Document to be submitted by	Notes
6	Precise details of the materials and the colour scheme to be used in the construction of the external walls and roofs of the building(s).	Prior to construction.	
7	Full details of all external illumination of buildings facades and external areas of the site, including parking courts	Before installation or erection	
8	Full details of proposed hard landscaping including all external finishing materials, finished levels and all construction details confirming materials, colours finish and fixings.	Within a period of 12 months from the date on which the development commenced or prior to the occupation of any part of the development.	
10	Dust Management Plan to control fugitive dust emissions from the dust storage silos (which may	Prior to construction commencing (excluding demolition and site clearance).	Amended by NMA reference 12/2766/NMA.



	include the enclosure of the silos).		
12	A scheme for dust monitoring and a management plan to control dust during the demolition and construction phase of the development.	Prior to development commencing.	
13	Buildings, structure and plant shall be insulated against the emission of noise so that noise does not exceed the existing background level at the nearest sensitive residential properties.	Before the plant is brought into use.	
14	A scheme for surface water management.	Prior to construction commencing (excluding demolition and site clearance).	Amended by NMA reference 12/2766/NMA. Reason for condition – to prevent flooding by the satisfactory storage of/disposal of surface water from the site.
16	A scheme to dispose of foul drainage.	Prior to construction commencing (excluding demolition and site clearance).	Amended by NMA reference 12/2766/NMA. Reason for the condition – to protect the local water environment.
17	Full details of the low vibration/quiet piling techniques to be employed during the construction phase.	Prior to construction commencing (excluding demolition and site clearance).	Amended by NMA reference 12/2766/NMA. NOTE – This is not a restriction that was included in the 2022



			Environmental Statement nor has it been stipulated so far by Natural England
18	Emergency plan including a scheme for emergency evacuation	Prior to operation.	
21	Construction Traffic Management Plan.	Prior to the commencement of construction.	
22	Construction Environmental Management Plan	Prior to the commencement of construction.	
23	A scheme for the provision of five secure covered cycle storage spaces.	Prior to occupation of the development	Amended by NMA reference 12/2766/NMA.
24	Full details of soft landscaping	Prior to the commencement of soft landscaping works.	
25	A soft landscaping management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas/retained vegetation.	Prior to the occupation of the development or approved phases	
27	A written scheme detailing how the predicted CO2	Prior to construction commencing	Amended by NMA reference 12/2766/NMA.



	emissions of the development will be reduced by at least 10% through the use of on-site renewable energy equipment.	(excluding demolition and site clearance).	
28	A programme of archaeological work including a Written Scheme of Investigation.	Prior to construction with the exception of above ground demolition.	Amended by NMA reference 12/2766/NMA.
29	A site waste management plan with construction waste.	Prior to commencement of development.	Amended by NMA reference 12/2766/NMA.

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Investors potentially face substantial losses from unregulated investment in Solar 21 Loan Notes

Ireland | May 4 2023

Irish investors are owed €250 million by Solar 21, a Dublin based renewable energy firm in delayed repayments arising from unregulated loan notes.

Solar 21 raised €250 million from Irish investors to develop an energy from waste plant in Melton, East Yorkshire in the UK, which has been cancelled as it is no longer viable. The firm now recommends two schemes of arrangement which it claims could recover up to 80 per cent of the investors monies, if it is given a year.

For the schemes to be accepted, they have to be approved by 75 per cent of the creditors who vote on the proposals. If the schemes are not approved, the most likely outcome is liquidation, which could result in a return of only 12% for investors.

Investors face potentially substantial losses and have no recourse to the Central Bank-run Investor Compensation Scheme as these loan notes are not regulated products. Investors could have potential recourse against their brokers if there was any negligence or mis-selling involved.

Lavelle Partners LLP - 

Powered by

LEXOLOGY.

Your reference

Our reference DS/PWC/E32058.1

9 May 2023

FAO: All Brokers / All Trustees

BY EMAIL

Dear Broker / Trustee

Matter: IN THE MATTER OF EFW 21 RENEWABLE ENERGY (IRELAND) LIMITED AND IN THE MATTER OF A PROPOSED SCHEME OF ARRANGEMENT PURSUANT TO PART 9 CHAPTER 1 OF THE COMPANIES ACT 2014, AS AMENDED, BETWEEN EFW 21 RENEWABLE ENERGY (IRELAND) LIMITED AND THE EFW 21 IRL SCHEME INVESTORS AS THEREIN DEFINED
Record Number: HIGH COURT COMMERCIAL - 2023 74 COS

Our Client: EFW 21 Renewable Energy (Ireland) Limited

The above matter came before the High Court yesterday the 8th day of May 2023 when it was admitted to the Commercial List and certain other orders were made by the Court. We enclose a draft of the High Court order dated the 8th of May 2023 setting out all of the orders that were made.

By way of summary, we give you notice of the following:-

NOTICE is hereby given that an Originating Notice of Motion dated the 3rd day of May 2023 applying for orders pursuant to section 450(3), 450(5) and 451 of the Companies Act 2014 (the **Act**) in respect of a scheme of arrangement (the **Scheme**) between EFW 21 Renewable Energy (Ireland) Limited (the **Company**) and the EFW 21 IRL Scheme Investors (as therein defined, being, in summary, all holders of loan notes issued by the Company (together the **EFW 21 IRL Preference Shareholders**) is directed to be heard by the High Court (Mr Justice Michael Quinn) on the 18th day of May 2023 at 11.00 a.m. or on such other day to which the application might be adjourned (**the Hearing**).

AND NOTICE is also hereby given that by an Order made by the High Court on Monday the 8th day of May 2023 pursuant to section 451 of the Act, all proceedings are stayed and any further proceedings are restrained against the Company up to and including the 18th day of May 2023, subject to any party affected having liberty to apply on twenty-four hours' notice to the Company to have the said Order varied or discharged in whole or in part.

7104575

Addleshaw Goddard (Ireland) LLP, Temple Chambers, 3 Burlington Road, Dublin 4, D04 RD68
Tel +353 (1)202 6400 Fax +353 (1)667 5200 DX 25 Dublin

Addleshaw Goddard (Ireland) LLP is regulated by the Law Society of Ireland and authorised by the Legal Services Regulatory Authority to operate as a limited liability partnership in Ireland.

Partners: Margaret Austin Gavin Blake Neil Bourke Ray Byrne David Cantrell Frances Colclough Maura Connolly Paul Dempsey Gavin Doherty Eileen Grace David Hackett David Heneghan Deborah Kelly Leonora Malone Nicola McGrath Stephen McLoughlin Garrett Miller Caoilfhionn Ní Chuanacháin John Olden Eoghan Ó hArgáin Ronan O'Neill Kathi Ó Riain Lorna Osborne Rachel Shanley Doug Smith Justine Territt Sean Twomey Eric Walsh Mark Walsh

The reliefs sought by the Company in the said Originating Notice of Motion include, in summary:

1. An order pursuant to section 450(3) convening a meeting (the **Scheme Meeting**) of the EFW 21 IRL Scheme Investors, together with all necessary directions concerning the convening, notification and conduct of the Scheme Meeting;
2. An order pursuant to section 450(5) that the EFW 21 IRL Scheme Investors (being the EFW 21 IRL Preference Shareholders) comprise one class for the purposes of the Scheme Meeting; and,
3. An order, on the application of the Company pursuant to section 451 of the Act, that all proceedings be stayed and any further proceedings be restrained against the Company for such period as the court sees fit, and on such terms as seem just.

Any person who desires to obtain a copy of the Originating Notice of Motion and related Affidavits and Exhibits should contact the Company's Irish Solicitors by email at [REDACTED]. The High Court has directed that any person intending to appear at the above Hearing should inform the Company's Solicitors, Addleshaw Goddard (Ireland) LLP by email at [REDACTED] by 1.00 p.m. (Dublin time) on the 16th day May 2023 and that if any such person wishes to rely on any Affidavit evidence such Affidavit must be filed and served upon the Company's Solicitors by email at [REDACTED].

Yours faithfully

** Sent by email and therefore bears no signature*

Addleshaw Goddard (Ireland) LLP

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THE HIGH COURT

COMMERCIAL

2023 No 74 COS

MONDAY THE 8TH DAY OF MAY 2023

BEFORE MR JUSTICE MCDONALD

IN THE MATTER OF EFW 21 RENEWABLE ENERGY (IRELAND)
LIMITED

AND

IN THE MATTER OF A PROPOSED SCHEME OF ARRANGEMENT
PURSUANT TO PART 9 CHAPTER 1 OF THE COMPANIES ACT 2014, AS
AMENDED, BETWEEN EFW 21 RENEWABLE ENERGY (IRELAND)
LIMITED AND THE EFW 21 IRL SCHEME INVESTORS AS THEREIN
DEFINED

Upon Motion of Counsel for the EFW 21 Renewable Energy
(Ireland) Limited (the "**Company**"), pursuant to the Notice of Motion filed on the
3rd day of May 2023 seeking, *inter alia*, an Order pursuant to Order 63A Rule 4 of
the Rules of the Superior Courts 1986 (as amended) directing that the within
proceedings be entered into the Commercial List of the High Court on the grounds
that these proceedings constitute commercial proceedings within the meaning of
Order 63A Rule 1.

And on reading the Originating Notice of Motion herein which
issued on the 3rd day of May 2023 (the "**Originating Notice of Motion**") and the
Notice of Motion filed on the 3rd day of May 2023 the Certificate of Doug Smith
filed on the 3rd day of May 2023 the Affidavit of Michael Bradley filed on the 3rd
day of May 2023 and the two affidavits of Doug Smith sworn today and to be filed
and the exhibits referred to in the said Affidavits. And noting the undertaking of the

Company's Solicitor to stamp and file those Affidavits in the Central Office of the High Court.

And on hearing Counsel for the Company

And on hearing Counsel for James McFadden

And on hearing Solicitor for Rockwell Financial Management, Covemore Financial Limited, DLS Capital Management Limited, Killeen Financial Services / Cleere Life & Pensions, Financial Mate Limited, Coughlan Wealth, Wealthwise Financial Planning, WP O'Reilly & Associates, Flynn & Lynch Life & Pensions, Foresthill Financial Planning, Ken Roche Financial Services, Tara Financial & Investment Excellence, South East Financial Services, Clarity Management t/a U Consulting, Moresure Life & Pensions, Ken Regan Financial Services / Bluesky Mortgages, Employee Financial Wellness, Oaktree Wealth Planning & Consulting, Barry Walsh Financial Services, PSF Financial, A.G.S. Financial Services Ltd, Employee Financial Wellness / Nick Lawlor Financial Planning Ltd, Gogan Insurances Ltd, Cathedral Financial Consultants Ltd, Vincent Casey Life & Pensions Co. Ltd, Kiely Gaule Financial Services Limited, MDG Investment Solutions t/a Investment Intelligence.

And on hearing Solicitor for Mark McLoughlin and Len Roche.

And the Court being satisfied that these proceedings are commercial proceedings within the meaning of Order 63A Rule 1(b) of the Rules of the Superior Courts.

IT IS ORDERED that these proceedings be entered into the Commercial List for hearing and that all further applications and Motions be heard in said list

AND IT IS FURTHER ORDERED pursuant to Order 28 rule 11 of the Rules of the Superior Courts that the title of the proceedings be amended by

the substitution of the words “Chapter 1” for the words “Chapter 2”, such that the title of the proceedings shall read as follows:

***“IN THE MATTER OF EFW 21 RENEWABLE ENERGY
(IRELAND) LIMITED***

AND

***IN THE MATTER OF A PROPOSED SCHEME OF
ARRANGEMENT PURSUANT TO PART 9 CHAPTER 1 OF THE
COMPANIES ACT 2014, AS AMENDED, BETWEEN EFW 21 RENEWABLE
ENERGY (IRELAND) LIMITED AND THE EFW 21 IRL SCHEME
INVESTORS AS THEREIN DEFINED”***

And the Court treating the hearing of this Motion as the initial directions hearing

AND THE COURT DOTH LIST the Originating Notice of Motion for hearing at 11.00 a.m. on the 18th day of May 2023 (“the Hearing”).

AND IT IS ORDERED that the Hearing be advertised in the Irish Independent, the Irish Examiner and The Star in the form appended to this Order on or before Wednesday the 10th day of May 2023.

AND IT IS ORDERED that the Company do give notice of the fact of the making of this Order by email to the brokers of EFW 21 IRL Scheme Investors on or before Wednesday the 10th day of May 2023.

AND IT IS ORDERED that any supplemental Affidavits that the Company wishes to file, be filed by Thursday the 11th of May 2023 at 1.00 p.m.

AND IT IS ORDERED that any party who wishes to be appear at the Hearing must give notice of their intention to do so by email to the Company's Solicitors on or before 1.00pm on the 16th day of May 2023 and that any party wishing to rely on any Affidavit evidence at the Hearing shall file any such Affidavit and serve same by email on the Company's Solicitors on or before 1.00 p.m. on Tuesday the 16th day of May 2023.

AND IT IS ORDERED on the application of the Company pursuant to section 451 of the Act, that all proceedings be stayed and any further proceedings be restrained against the Company up to and including the 18th day of May 2023 subject to any party affected having liberty to apply on twenty-four hours' notice to the Company.

LIBERTY TO APPLY.

[...]
REGISTRAR

Addleshaw Goddard (Ireland) LLP
Solicitors for the Company

APPENDIX

**THE HIGH COURT
COMMERCIAL**

**2023 No 74 COS
2023 No ... COM**

IN THE MATTER OF EFW 21 RENEWABLE ENERGY (IRELAND) LIMITED

AND

**IN THE MATTER OF A PROPOSED SCHEME OF ARRANGEMENT PURSUANT TO PART 9
CHAPTER 1 OF THE COMPANIES ACT 2014, AS AMENDED, BETWEEN EFW 21
RENEWABLE ENERGY (IRELAND) LIMITED AND THE EFW 21 IRL SCHEME INVESTORS
AS THEREIN DEFINED**

NOTICE

NOTICE is hereby given that an Originating Notice of Motion dated the 3rd day of May 2023 applying for orders pursuant to section 450(3), 450(5) and 451 of the Companies Act 2014 (the **Act**) in respect of a scheme of arrangement (the **Scheme**) between EFW 21 Renewable Energy (Ireland) Limited (the **Company**) and the EFW 21 IRL Scheme Investors (as therein defined, being, in summary, all holders of loan notes issued by the Company (together the **EFW 21 IRL Preference Shareholders**) is directed to be heard by the High Court (Mr Justice Michael Quinn) on the 18th day of May 2023 at 11.00 a.m. or on such other day to which the application might be adjourned (**the Hearing**).

AND NOTICE is also hereby given that by an Order made by the High Court on Monday the 8th day of May 2023 pursuant to section 451 of the Act, all proceedings are stayed and any further proceedings are restrained against the Company up to and including the 18th day of May 2023, subject to any party affected having liberty to apply on twenty-four hours' notice to the Company to have the said Order varied or discharged in whole or in part.

The reliefs sought by the Company in the said Originating Notice of Motion include, in summary:

1. An order pursuant to section 450(3) convening a meeting (the **Scheme Meeting**) of the EFW 21 IRL Scheme Investors, together with all necessary directions concerning the convening, notification and conduct of the Scheme Meeting;
2. An order pursuant to section 450(5) that the EFW 21 IRL Scheme Investors (being the EFW 21 IRL Preference Shareholders) comprise one class for the purposes of the Scheme Meeting; and,
3. An order, on the application of the Company pursuant to section 451 of the Act, that all proceedings be stayed and any further proceedings be restrained against the Company for such period as the court sees fit, and on such terms as seem just.

Any person who desires to obtain a copy of the Originating Notice of Motion and related Affidavits and Exhibits should contact the Company's Irish Solicitors by email at [REDACTED]. The High Court has directed that any person intending to appear at the above Hearing should inform the Company's Solicitors, Addleshaw Goddard (Ireland) LLP by email at [REDACTED] by 1.00 p.m. (Dublin time) on the 16th day May 2023 and that if any such person wishes to rely on any Affidavit evidence such Affidavit must be filed and served upon the Company's Solicitors by email at [REDACTED].

Dated: [] May 2023

Signed: Addleshaw Goddard (Ireland) LLP
Solicitors for the EFW 21 Renewable Energy
(Ireland) Limited
Temple Chambers, 3 Burlington Road, Dublin 4

EFW 21 Renewable Energy Ltd (“EFW 21”)

and

EFW 21 Renewable Energy Ireland Ltd (“EFW 21 IRL”)

Proposed Schemes of Arrangement

Report of

John McStay

CONTENTS

1.	My Instructions	1
2.	Summary of Findings	2
3.	Report Structure / Sources	5
4.	What is a Scheme of Arrangement?	1
5.	Brief Background	2
6.	Brokers	3
7.	Fundraising / Use of Funds / Deficit	5
8.	Project Costs and Connected Parties	7
9.	Fundraising Costs	2
10.	If P1 Had Been Stopped?	3
11.	EFW 21 Project 1 Termination	3
12.	Transfer of Funds to Group Companies	4
13.	Solar 21 IRL	6
14.	The Proposed Schemes	7
15.	Alternative Scenario - Liquidation	11

Solar 21 / EFW 21 and EFW 21 IRL

16.	Other Alternative Scenarios	13
17.	Action Against Directors	14
18.	Conflict Issues	15
19.	My Duty to the Court	15
20.	Final Commentary	16

APPENDICES

1. My Instructions

- 1.1. For the purposes of this report, I have to, to the extent possible, utilised the definitions and abbreviations set out in the Scheme Circular. For consistency I have repeated material from the recent report issued by Solar 21, with my agreement, to brokers.
- 1.2. I am writing this report in my capacity as an experienced insolvency practitioner with in excess of 40 years' experience in that field.
- 1.3. At the time of the engagement of McStay Luby by Solar 21 our understanding was that Solar 21 and two of its subsidiaries, being the Scheme Companies, EFW 21 and EFW 21 Ireland, had engaged Alvarez & Marsal Europe LLP (A&M) together with Addleshaw Godddard LLP to advise on the proposed restructuring of the financial affairs of the Scheme Companies).
- 1.4. It was indicated that the current financial circumstances and prospects for the Scheme Companies had given rise to a range of potential financial outcomes for the respective EFW 21 Loan Noteholders and the EFW 21 IRL Preference Shareholders which were at variance with the anticipated returns to those parties at the time of the original fundraising (the "Fundraising"). Solar 21 wished to take action to strengthen the financial position of the Scheme Companies and to potentially adjust their relationships and obligations to the parties who had participated in the Fundraising.
- 1.5. I was given to understand that the restructuring may potentially include the use of schemes of arrangement broadly in the terms of the Schemes now proposed
- 1.6. In summary, I was requested to undertake a review of the background to the current financial position and to provide an independent report for the benefit of the Scheme Investors, on the reasonableness and fairness of the proposed restructuring taking into account all of the circumstances of the Scheme Companies and the history of the matter. For the purposes of the now proposed schemes my role is described as Independent Observer.
- 1.7. It was also identified that I may, if requested, chair meetings of brokers who facilitated the distribution of the product associated with the Fundraising, with a view to providing information on the overall financial position of the Scheme Companies, the proposed schemes and addressing questions identified in those meetings.
- 1.8. In addition, it was agreed with Solar 21 that, subject to the consent of the High Court, I would act as chairperson of the statutory meetings convened pursuant to section 450 of the Companies Act 2014.

- 1.9. The intention was that McStay Luby would, in the main, review primary documentation prepared by Solar 21 and the Scheme Companies or A&M and that our reasonable information requests, properly articulated, would be met by A&M and Addleshaw Goddard rather than directly by the Scheme Companies. That approach has been adhered to and where interaction with Group or its senior management has been required it has been in the presence of the advisors, save for administrative matters.
- 1.10. In the discussions with Solar 21, the potential for McStay Luby to have a form of supervisory role in the event of the Schemes being sanctioned by the High Court was also addressed but, at my request it was agreed that, if it was deemed appropriate, it would be the subject of a separate engagement which is not, at this time, envisaged.
- 1.11. This report addresses those matters arising from my examination and interactions with the Solar 21, the Scheme Companies and the brokers.
- 1.12. My CV is set out at Appendix 1 and a copy of my engagement letter is included as Appendix 2.

2. Summary of Findings

- 2.1. As set out in this report I have reviewed the materials which I consider necessary to form an opinion on the underlying issues.
- 2.2. The brokers with whom I have had contact have expressed their strong dissatisfaction with the manner in which the Scheme Companies operated and in particular the intercompany lending which is detailed in the scheme documentation at paragraphs 2.22 to 2.25 of the Scheme Letter.
- 2.3. Their added concern was that the manner of communicating financial and other information was poor. It has caused distress to the brokers and their clients and it has led to a loss of confidence in the current management. These issues are acknowledged by Mr Bradley are reflected in the planned governance changes.
- 2.4. Subject to the constraints in the scope of my work, I am satisfied that the A&M Report includes a comprehensive analysis of the expenditure of the funds raised including the expenditure by the other group companies to whom funds were advanced.
- 2.5. Funds were advanced to connected entities but the Schemes of Arrangement, as proposed, envisage that the majority of those funds will, be recovered. To the extent that funds are not recovered, the matter is identified below.
- 2.6. The fundraising costs at £26 million were substantial as was the expenditure on the unsuccessful project of £17.2 million. Within the latter figure were significant payments to GZC and related entities. These latter payments will be returned if the planned Support Payments are received.
- 2.7. The fundraising documentation identified that, in the event of an unsuccessful project, that the return to the parties could be subject to the loss of the elements of the expenditure on the unsuccessful project and the fundraising costs. This is an estimated total of £43.2 million.
- 2.8. The financial circumstances of the Scheme Companies are such that there is a real prospect of the companies having to be placed in insolvent liquidation or a UK alternative process, Administration. In those circumstances the financial outcome for the EFW 21 Loan Noteholders or the EFW 21 IRL Redeemable Preference Shareholders is estimated to produce, in each case, a return of an approximate low double digit % of the sum of money originally invested. The time line to such a return could in my estimation be up to five years from now allowing for probable litigation which will follow.

- 2.9. The actions of the Scheme Companies in making loans to companies across the wider group of companies controlled by Solar 21 has contributed to the potential loss for the Scheme Investors. The Scheme Letter at paragraph 2.16 acknowledges the purpose of the fundraising and follows by explaining the rationale of the Scheme Companies' utilisation of the funds.
- 2.10. The proposed liquidating inter- dependent Schemes of Arrangement, if approved and sanctioned, involve the rehabilitation and disposal of two processing facilities and the successful disposal of project rights to a third project under the control of a new management team with a commitment to regular reporting to the Scheme Investors.
- 2.11. The projected sale values of the two former assets are supported by independent third party valuations while the value of the latter is not so supported.
- 2.12. Commercially the Schemes involve risk but the logical is that, even should they result in a lower than anticipated return the outcome should result in a higher return than the identified alternative approaches.
- 2.13. On a more positive approach the Indicative Return is set at a level of approximately 80% of the original invested quantum. That is not a fixed or guarantee amount. It is driven entirely by the value of the underlying assets.
- 2.14. The Scheme is supported by a contribution of approximately £36 million from Solar 21 and another connected entity GZC, those funds, will not be available in a winding up. That support arises from the sale of the third asset referred to above. Its availability is dependent on the successful sale of that asset.
- 2.15. I have considered the advisability, on purely commercial terms of the alternative of litigation against "the promoters" (as I define the term within the report). Such litigation can, from experience be slow and problematic. In my opinion, commercially, such an approach is of questionable value when compared to the currently tendered support.
- 2.16. The Proposed Schemes are limited to a specific single class of "Scheme Investors" in the case of the EFW 21 Loan Noteholders and the EFW 21 IRL Preference Shareholders. In that regard, it is unlike an Examinership scheme of arrangement which can impact all of the liabilities of a company but with, potentially, a lower threshold for approval. While not necessarily advocating the appropriateness of an Examinership scheme the approach of proposing a Scheme under Part 9 is a more equitable approach where the requirement for the promoting company, if achieved, will truly reflect the legitimate views of a clear majority of the parties impacted.

- 2.17. My opinion on the appropriateness of a Scheme of Arrangement as the preferred approach would still be applicable in circumstances where no Support Payment is available.
- 2.18. In conclusion, in my opinion the approval and sanctioning of the proposed Schemes of Arrangement represent an opportunity to enhance the return to the Scheme Creditors and it is a fair and equitable approach.

Key Findings

In summary, subject to the comments below, my preliminary finding is that the acceptance and confirmation of the Proposed Schemes is more beneficial for the Scheme Investors than the potential alternative approaches and outcomes.

Acknowledging the obvious legal benefits arising from a stay pursuant to section 451 (2), in my opinion, such a stay also creates a very helpful “commercial safe-space” to conduct discussions with the Scheme Investors etc. I recommend that the Court accede to any request seeking such a stay.

3. Report Structure / Sources

- 3.1. My letter of engagement requires me to provide a report for the benefit of the Court and the Scheme Investors. I am conscious that in the normal way a report, such as this, would include background information in relation to the matter at hand and typically various qualifications etcetera.
- 3.2. For the purposes of my report, I have conducted my review work on the documentation and financial analysis, which is now, in its final form, incorporated within the scheme documentation lodged for the purposes of the upcoming Court hearing. In particular I refer to the:
- The Scheme Summaries; and
- The A&M Report.
- 3.3. I closely examined the A&M report and discussed its contents with the relevant A&M executives and with Addleshaw Goddard. I have had limited direct contact with the Solar 21 or Scheme Company executives except primarily on joint meetings with the advisors to the Scheme Companies
- 3.4. I attach at Appendix 3 a schedule of the primary documents and papers examined together with a comprehensive summary of the work undertaken to date. It also includes a note on the Limitations on my work.
- 3.5. This report is based on my examination and on a review of the documents as filed in Court. I will try to avoid excessive repetition of materials already lodged in Court but I will refer almost entirely to documents already filed in Court, rather than seek to append those documents or to create new tables or material, other than where necessary for the purpose of this report.
- 3.6. I will endeavour to broadly follow an initial sequence which answers the key questions which I would ask if I were seeking to recover my own funds:
- How much was raised?
 - What then happened the funds?
 - Where are the funds now?
 - What needs to be done to recover the funds?
 - How much will be recovered and when?
 - If I have suffered a loss why did that happen? and
 - Can I seek to recover the funds from any other party?

4. What is a Scheme of Arrangement?

- 4.1. The legal process which is entailed in the progression of the Proposed Schemes through the Court and Scheme Investor involvement is clearly set out in the Scheme Circular together with explanations of the key phrases applicable in these schemes.
- 4.2. To assist I attach at Appendix 4, a brief overview of the purposes of a Scheme of Arrangement for the benefit of those who have no familiarity with the concept.
- 4.3. The most important point to make at this stage is that when the documentation arrives to the Scheme Investors appropriate advice should be taken from a trusted legal or financial advisor.
- 4.4. For the sake of completeness, and for assistance with this report, I include at Appendix 5 the Summary of the Proposed Scheme and the Restructuring. This is a reproduction of the material from page 32 etc of the Scheme Circular for EWF 21. It also includes a copy of the advisory Summary of actions to be taken by Scheme Investors.

5. Brief Background

- 5.1. The background to the Scheme Companies is again presented in detail within the Scheme Circular. In summary, Solar 21 and its subsidiaries (the "Group") specialise in renewable energy infrastructure and are developing several biomass, biogas and Energy from Waste ("EFW") plants in England.
- 5.2. Between 27 April 2018 and 16 June 2020, EFW 21 and EFW 21 IRL (together, the "Scheme Companies") raised c.£209.5 million by way of high yield retail loan notes and preference shares to fund the development of an EFW plant ("EFW 21 Project 1") by its subsidiary The East Riding Green Energy Park Ltd ("East Riding Green Energy"). This funding had an initial term of c.3.5 years.
- 5.3. Of this, £143.4 million was cash invested and £65.4 million is due (but not yet received) from other companies in the Group after a number of the investors in those companies chose to reinvest their investments upon maturity in the Scheme Companies.
- 5.4. Investments have been maturing since 1 November 2021. In January 2022, Management first became concerned about the Scheme Companies' ability to raise new funding and repay all investors in full, and so all payments to investors were ceased. In total, cash redemptions of £4.9m were made prior to the cessation of payments.
- 5.5. Fundraise costs including broker commission totalling £26.0 million were paid in relation to the fundraising, principally under agreements between brokers and their client investors
- 5.6. Significant issues and delays have been encountered with EFW 21 Project 1 and these are detailed more fully below. Eventually the management of the Group concluded in December 2022 that EFW 21 Project 1 was no longer viable. The project has since been cancelled.
- 5.7. Prior to cancellation, the Scheme Companies had directly or indirectly invested c.£17.2m in East Riding Green Energy for EFW 21 Project 1. It is highly unlikely that these amounts will be recovered from this project but the envisaged new management will be charged with seeking to recover as much as possible for the benefit of Scheme Investors.
- 5.8. In addition, the Scheme Companies made net loans totalling £90.7m to several other companies in the Group from the funds raised. Of this, £76.9m was provided directly or indirectly to the companies responsible for financing the completion of the Tansterne Biomass and Plaxton Biogas Projects in anticipation of the sale of those plants. The Scheme Companies have set out the rationale behind this action and this is addressed below.
- 5.9. Following the cancellation of EFW 21 Project 1, it will not be possible to repay Scheme Investors in full, as the £17.2m invested in EFW 21 Project 1 prior to cancellation and the £26.0m of fundraising costs incurred by the Scheme Companies are irrecoverable. In addition, the delays to the

disposal of the Tansterne Biomass and Plaxton Biogas Projects, and cash flow issues in other group companies, have meant that the intercompany loans made by the Scheme Companies or arising from the reinvestment of investments in previous projects have not yet been repaid.

- 5.10. The Group engaged A&M as its financial adviser and Addleshaw Goddard as its legal adviser to assist it in developing and considering its options.
- 5.11. After exploring a range of options, the Group has concluded that to maximise the returns to Scheme Investors it is necessary to restructure the liabilities of the Scheme Companies. Accordingly, it is proposing two Irish schemes of arrangement (the “Schemes”) to allow Scheme Investors to consider and vote on the proposals.
- 5.12. Full details of the sources and uses of the funds raised is provided in a detailed report prepared by Alvarez & Marsal Europe LLP (“Alvarez & Marsal”) that is being provided to all investors. Further aspects of these matters are addressed below.

6. Brokers

- 6.1. In addition, my assignment involved communications with the Scheme Investors and the independent brokers who acted for them to facilitated the investments by the Scheme Investors in the Scheme Companies. To date engagement has primarily been with the brokers although I have had direct communications with a number of individual Scheme Investors or their representatives.
- 6.2. I held initial virtual briefing to which all brokers were invited to explain my planned role and I sought their feedback.
- 6.3. Subsequently, during engagement with groups of representative brokers I shared details of the financial transactions undertaken by the Scheme Companies and an outline of the commercial aspects of the envisaged proposals.
- 6.4. My clear understanding and that of my partner, who attended the meetings with me, was that, absent any judgement on the actions of the Scheme Companies or a full assessment of the detailed terms of the schemes – which was, at the time only in draft form - there was an overwhelming view that the return from an acceptable scheme was financially more beneficial than the alternatives.
- 6.5. It would not be a fair presentation of those meetings, if I did not also record my other feedback from those meetings:

The dissatisfaction with the manner in which the funds had been used to support other Solar 21 companies.

The unacceptably low level of financial support from the “promoters”.

The distress to the Scheme Investors and to the broker community dealing with the Scheme Investors, the Scheme Companies and Solar 21 as the ultimate promoter.

The absence of clear communications with the Brokers and the Scheme Investors.

6.6. Following those lengthy meetings, I outlined the issues raised with the senior management of Solar 21 and their financial and legal advisors. The response is reflected in aspects of the now proposed scheme, including:

the envisaged substantial management changes;

an enhanced communication process with the Scheme Investors and the broker community; and

an increased combined financial support contribution from Solar 21 and GXZ (the “Support Payments”).

7. Fundraising / Use of Funds / Deficit

- 7.1. The fundraising and the utilisation of the funds is very comprehensively set out in the A&M report, as of the date of the analysis. As summarised above, a total of £209.5 million was raised. £143.4 million was cash invested and £65.4 million is due (but not yet received) from other companies in the group after a number of the investors in those companies chose to reinvest their investments, upon maturity, in the Scheme Companies.
- 7.2. My initial review focussed on the cash sum received and the use of that money. This is analysed in great detail within the A&M report and I am satisfied from my review as to the specific uses of the funds, subject to the caveat that neither A&M, nor I have conducted an audit.
- 7.3. To facilitate an overall comprehension of the position as outlined in the A&M report and to utilise it to isolate the main sources of the loss for the Scheme Investors (excluding the benefit of the Support Payment) I have compiled the table below incorporating broad headings of expenditure.

	Total
Major Expenditure	£'000
Project Costs	14,231
Fundraising Costs	26,454
Advances to group companies	90,766
	131,451
Cash on hand at date of analysis	3,906

- 7.4. Within the additional analysis below of the advances to group companies I have also identified the transactions whereby individual investors have been recognised as being entitled to participate as Scheme Investors in the Proposed Schemes where, to date, the requisite funds have not been received from the former company in which they were invested.

Combined Advances	Total £'000	Solar 21 IRL £'000
Solar 21	36,182	
Biomass 21	26,454	
Solar 21 IRL	13,899	13,899
Biogas 21	14,231	
	90,766	
Loan Notes / Shares - Payment Outstanding		
Biomass 21	53,728	
Loan Notes / Shares - Payment Outstanding	11,558	11,558
	65,286	
Total	156,052	25,457

- 7.5. I have identified the advances to Solar 21 IRL and the other amount currently owing by that company. Taken together, the non-recovery of those funds, together with the fundraising and direct project costs are the core source of the major components of the loss occasioned by the Scheme Investors. Further details in relation to Solar 21 are set out below.

Major Loss Components	£'000
Project Costs	17,190
Fundraising Costs	25,961
Non Recovery - Solar 21 IRL	25,457
	68,608

- 7.6. In computing the Indicative Return, the Support Payment of £36 million is projected to significantly reduce the overall shortfall for the Scheme Investors based on the assumptions within the EPM and the Proposed Schemes.

8. Project Costs and Connected Parties

- 8.1. The A&M Report at page 19, supported by the additional analysis on pages 20 and 21, indicates that the total expenditure applicable to the, now discontinued project amounted to approximately £17.2 million. Further commentary on each element of the cost is beyond the scope of this report.
- 8.2. What is apparent is that three elements of the cost involved companies controlled by Mr Andrew Bradley. A full description is included within the A&M Report I have included a brief summary in the table below.

Andrew Bradley Related Payments	£'000
GZC - Project Sourcing and Evaluation	6,529
GZC - Ongoing Project management / consulting	1,044
ABP - Soil and Land Services	1,425
	8,998

- 8.3. Following the broker meetings referred to below, it was agreed that, as set out in the Scheme Circular and detailed below Mr Bradley has agreed to return the monies from his equity share in the proceeds of the North Lincs Project as part of the Support Payments.

9. Fundraising Costs

- 9.1. Underlying my remit is a requirement to review the relevant matters which have contributed to the financial position of the Scheme Companies. As indicated above and in the Proposed Schemes the Scheme Companies discharged fundraising costs collectively estimated at approximately £26 million. That, in my opinion, represents a significant use of the resources subscribed by the Investors. The fundraising is very comprehensively summarised on pages 16 to 20 of the A&M Report.
- 9.2. For the purposes of my report, I have, however, taken the view that the commission paid is a historic factual event and is primarily, although not exclusively, a matter for the brokerage company and its respective individual clients. There is no material aspect of the Proposed Scheme that makes specific reference to the matter other than the absolute level of the cost.
- 9.3. Of the identified total of £26.0 million, a sum of approximately £5.1 was paid in respect of the commission on the investments transferring from earlier Solar 21 fundraising companies when investors in those companies chose to reinvest their investments upon maturity into the Scheme Companies.
- 9.4. The scheme documents analyse the charges as attributable to a small number of entities. As identified, in the case of certain of those entities that total figure incorporates fees /commissions paid by those entities to third party brokers who, in turn, dealt directly with the individual investor.
- 9.5. The fees and commissions paid to Airpark of £1.4 million (A&M Report page 18) and FMP of £3.4 million (A&M Report page 20) were, in my opinion, more properly in the nature of a cost for the Scheme Companies, rather than the underlying clients because they represented support for parties assisting in the fundraising rather than costs directly associated with dealing directly with the underlying prospective investors/ Scheme Investors.
- 9.6. Certain connected entities, as identified in the A&M Report including Airpark, as mentioned above, and MB Planning Limited (Clear Financial), a company controlled by Mr Michael Bradley received £2.7 million.
- 9.7. Notwithstanding the level of the fees, which were not specifically identified in the individual investment memorandum, the Scheme Investor's investment for the purposes of capital return and interest calculation was based on the gross amount invested.

- 9.8. From the perspective of the Investors the pre investment documentation envisaged that in the event the envisaged scheme did not proceed that the investors could be at the loss of the fundraising costs.

10. If P1 Had Been Stopped?

- 10.1. If, as envisaged in circumstances where the project did not proceed (and ignoring the issues relating to the transfer of the additional Scheme Investors), a notional computation would suggest that the originally invested cash of £143.4 million would have suffered a loss of approximately £44 million, being the investment in the project and the fundraising costs. The return would have approximately represented 70% of the original capital subscribed, albeit in a speedier manner than that envisaged in the Proposed Schemes.
- 10.2. No doubt there would have been a dispute as to the extent to which the “Connected Party” project costs were properly applicable to the Project.

11. EFW 21 Project 1 Termination

- 11.1. The project selected for EFW 21 Project 1 at Melton is described in some detail in paragraphs 2.5 to 2.7 of the Letter from directors of the Scheme Companies (the Scheme Letter”). The issues surrounding the project are described and in particular it identifies the collapse into Administration of the technology supplier and the consequential efforts to establish an alternative cost effective approach to progressing the project. At 2.8 having provided details on some of the alternatives, the Scheme Letter concludes on this aspect as follows:

“Following a detailed review of the status and advice from its technical and financial advisers, it is the view of Solar 21 and the Scheme Companies that the conditions necessary to reach a final investment decision had not been satisfied and therefore the most prudent approach is not to proceed with the development of EFW 21 Project 1. As a result, EFW 21 Project 1 has therefore been cancelled”.

- 11.2. While I accept the conclusions, as detailed, I note that the Scheme Letter does not acknowledge the overall financial position of the Scheme Companies and the project company. Even if the project had been deemed to be viable, the project company would, at least in the short term, have

been forced to seek alternative sources of funding because of the short/medium term inability of the companies within the wider group to repay the inter-company loans had fundamentally changed the ability of the project company to fund the development.

12. Transfer of Funds to Group Companies

- 12.1. As detailed in paragraph 7.4 of the funds raised approximately £90.1 million was advanced to companies within the wider Solar 21 group. To gain an understanding of the background to the fundraising I examined samples of the Application Form, the Information Memorandum (IM) and the Loan Note. The sample application form, as reviewed indicated that each investor was required to sign the form and confirm that they had read the relevant IM which indicated unequivocally that this was a risky investment. I have not tested the record to confirm whether or not this provision was strictly applied. Investors also confirmed that they were waiving all entitlements to claim against the directors of the Scheme Companies.
- 12.2. In my opinion a reasonable interpretation of the IM, which would have been read or available to read, is that the anticipated funds were being raised for the purposes of a new future EFW project. The Melton project was identified as the more likely project.
- 12.3. There is no apparent prohibition in the Loan Note terms examined by me on the Scheme Companies “lending”.
- 12.4. The utilisation of the funds in the manner outlined, did not accord with the expectations of the brokers and Scheme Investors with whom I have discussed this specific issue.
- 12.5. The utilisation of the funds in this manner was one of the major issues address by the brokers in my meeting referred to in 6. I undertook to raise the matter with the directors. The position of the Directors is set out within the Scheme Circular in the Scheme Letter. I have, for the record, included that response verbatim below.

Intra-group lending by the Scheme Companies

To support (i) the development of the Group's project portfolio and (ii) the Group's ongoing finance needs, at various points between June 2018 and April 2022, the directors of the Scheme Companies resolved that it was appropriate and in the best interests of the Scheme

Companies to loan funds to certain other members of this Group. When making these decisions, the relevant directors considered (in consultation with external solicitors) the merits of the options available to them and gave particularly careful consideration to the project status reports and financials of each relevant member of the Group at that time. Additionally, the relevant directors ensured that the relevant loans were properly and legally documented by the Irish solicitor who advised the Group in relation to the relevant information memoranda issued to the relevant Scheme Investors (via the relevant brokers) in respect of the Scheme Companies.

When considering the rationale for making the relevant intra-group loans, the relevant directors of the Scheme Companies took into account that (among other things):

the relevant loans would allow the Scheme Companies to earn an interest rate within a short period of time in respect of cash deposits while the EFW 21 Project 1 was at pre-construction phase;

the terms and maturities of the relevant loans would facilitate repayment in time to allow the EFW 21 Project 1 construction budget to still be met on time;

the transfer of the relevant funds from the relevant deposit accounts would avoid negative interest rates;

the relevant loans were properly and legally documented by the Irish solicitor who advised the Group in relation to the relevant information memoranda issued to the relevant Scheme Investors (via the relevant brokers) in respect of the Scheme Companies;

certain security (details of which can be found in paragraph 2.6 (Security granted in connection with the EFW 21 Loan Notes and the EFW 21 IRL Preference Shares) of Part A (Background to and reasons for the Schemes) of this Scheme Circular) would be put in place to protect the relevant intra-group lending; and

the Group had received offers suggesting that the relevant assets being funded by part of the relevant lending would be able to be realised for amounts sufficient to repay the relevant lending.

When making any decisions in connection with the relevant on-lending, the directors of the Scheme Companies also gave due consideration to any relevant information memoranda and other investment documentation (including, in the case of EFW 21, the terms of the EFW 21 Loan Note Instruments).

On each occasion that it was resolved by the directors of a Scheme Company to approve the relevant intra-group lending, certain of the proceeds arising from the issuance of the EFW 21 Loan Notes or the EFW 21 IRL Preferences Shares (as applicable) that were being held on deposit pending future deployment were then on-loaned to the other applicable member of the Group.

- 12.6. As accepted by the directors, these advances were a consistent feature of the affairs of the Scheme Companies. By way of commentary the first funds were received in late April 2018 but by the end of 2019, a total of £108.3 million had been received in EFW 21, of which £88.7 million had already been utilised for a variety of purposes including these advances and a significant portion of the fundraising cost.

13. Solar 21 IRL

- 13.1. Solar 21 IRL is another company within the wider group, controlled by Solar 21. It is not the subject of any proposed reorganisation process. It is the former holding company for the Solar 21 Italian projects.
- 13.2. As identified in paragraph 12, the Scheme Companies advanced a net total of approximately £13.9 million to Solar 21 IRL. In addition, a sum of £11.6 million is due and payable to EFW 21 in respect of Solar 21 IRL investors rolling over into EFW 21. In total the sum owed to EFW 21 is therefore approximately £24.8 million, and the sum owed to EFW 21 IRL is £0.7 million.
- 13.3. Based on the waterfall of payments set out in the EPM, and reflected in the Scheme for EFW 21, this is the only prospectively recoverable inter-company balance which it is envisaged will not be directly recovered and the non-recovery of this sum of money is an apparent significant contributor to the loss occasioned by the Scheme Investors.
- 13.4. The Scheme Circular sets out in detail the key role which Solar 21 IRL has played in the continued funding of the Tansterne plant, to the ultimate benefit of the Scheme Companies.
- 13.5. In the Proposed Scheme, developed from the Waterfall Assumptions (Page 72 A&M Report), all Solar Group companies, other than the Scheme Companies, are scheduled to discharge all third party creditors including any Loan Noteholders. All unsecured intercompany balances are not to be discharged, including the amount due to EFW 21. No recovery is therefore assumed for the sum of £24.8 million.

- 13.6. In the Alternative Scenario Realisation, the debt due from Solar 21 IRL to EFW 21 has an anticipated value of approximately £3.1 million (A&M Page 86) and the debt due from Solar 21 IRL to EFW 21 IRL has an anticipated value of £0.1 million. The ultimate ability of Solar 21 IRL to discharge its obligations, in full, will be dependent upon additional support from its parent, Solar 21.

14. The Proposed Schemes

Commercial Aspects

- 14.1. The Schemes are intended to provide a stable platform for the Group to:

Complete the final technical work to make the Tansterne Biomass and Gasport Plaxton Plants fully operational, operate them profitably and dispose of them for best value;

Obtain a Development Consent Order for the North Lincolnshire EFW Project (a project which has not been funded by the Scheme Companies), sell the shares in the project company (The North Lincolnshire Green Energy Park Ltd) and use the proceeds to repay amounts owed from Solar 21 to the Scheme Companies and make an additional voluntary contribution to improve the position of the Scheme Investors;

Realise all other assets in the Group, except for the EFW project in Teesside which is subject to separate and independent financing arrangements; and

Repay investors to the extent possible, dependent on the funds raised from the realisation of the Group assets referred to above.

- 14.2. As part of approving the Schemes, amongst other things, the loan note/preference share investors in the Scheme Companies (the “Scheme Investors”) are asked to:

Defer the repayment of their investments in accordance with the terms of the Schemes;

Agree the individual companies in the Group may pay their other legitimate third-party creditors of the Group and release certain intercompany liabilities. These payments are considered necessary to avoid Group companies entering insolvency, which would jeopardise the Group’s ability to deliver the Schemes; and

Having received their dividend, release all outstanding amounts owed after all assets have been realised and the proceeds distributed.

- 14.3. The Schemes are interconnected and therefore approval is required from the Scheme Investors of both EFW 21 and EFW 21 IRL for either of the Schemes to pass.
- 14.4. The Proposed Schemes, if sanctioned, include provisions releasing directors etc from any further claims. Without such a clause I assume they would not be agreeing to make a contribution designed to increase the returns.

Governance Changes

- 14.5. As part of the Schemes, Alvarez & Marsal will be appointed by the Scheme Companies as Restructuring Supervisor. The Restructuring Supervisor's role is to supervise and monitor the implementation of the Schemes, including the completion and realisation of the relevant projects and the distribution of the proceeds from those projects to investors. The Restructuring Supervisor will formally report to Scheme Investors every two months.
- 14.6. In addition, an independent and experienced non-executive chairperson (the "Chairperson") will be appointed to the board of Solar 21 to monitor the activities of the group. The Chairperson will report directly to the Restructuring Supervisor and the Restructuring Supervisor will be involved in selecting the candidate for this role.
- 14.7. In parallel with the appointment of the Chairperson, Mike Bradley will resign as CEO of Solar 21 and Dave Jones, a Senior Engineer in the Group who already acts as a director for several of the Group's companies will be appointed to the board of Solar 21.

Support from Greenzone Consulting Limited ("GZC")

- 14.8. GZC is a connected party to the Group that is 100% owned by Andrew Bradley and has committed to provide the following support to the Schemes if approved:

Contributions to the Schemes totalling £9.0m funded from the first £9.0m of the proceeds from the sale of GZC's 44% interest in The North Lincolnshire Green Energy Park Ltd. This is equal to the amount GZC and AB Plant Hire Limited (being companies controlled by Andrew Bradley) has received from the Group for certain commissions, other fees and monies paid for other services in relation to the Scheme Companies, East Riding Green Energy or EFW 21 Project 1.

An interest free loan of £2.9m to fund the completion of the Tansterne Biomass Plant.

An interest free working capital facility of £2.0m to fund operations at the Tansterne Biomass Plant as it begins trading following completion.

Both of these loans will be repaid in priority from the proceeds on a sale of the plant.

A release of contractual claims GZC has against the Scheme Companies totalling £5.5m.

Support from Solar 21

- 14.9. As stated above, the Schemes envisage a sale of the shares in The North Lincolnshire Green Energy Park Ltd, once the DCO has been obtained. Solar 21 owns 51% of the issued share capital in this company and is forecast to receive £42.2m in respect of the sale of those shares, after considering liabilities in that entity and costs of sale.
- 14.10. As part of the Schemes, Solar 21, which is owned 100% by Mike Bradley, is offering to contribute the proceeds from the sale of the shares in North Lincolnshire Green Energy Park Ltd along with realisations from its equity in other Group companies to support the Schemes. If successful, at the envisaged level, this will allow for a full repayment of the secured debt owed to EFW21 totalling £27.1m, and an equity contribution to the Scheme Companies of £27.0m. This is in addition to the £9.0m contribution from GZC.

Alternative Scenario

- 14.11. If the Schemes are not approved, the most likely alternative outcome is that all Group companies would be forced to enter insolvency. The assets of each company would then most likely be realised in their current condition by an appointed insolvency practitioner for the benefit of the creditors of each Scheme Company.
- 14.12. According to the financial analysis undertaken, presented below, this is expected to result in significantly lower realisations and higher costs.

Illustrative Outcomes for the Scheme Investors

14.13. Alvarez & Marsal has prepared an Entity Priority Model (“EPM”) to support the Group’s restructuring proposals and aid Scheme Investors in their assessment of the Schemes. A summary of this modelling is provided below.

Summary distributions (£m)	Claim	Schemes Scenario		Alternative Scenario	
		Recovery	% paid	Recovery	% paid
<i>Including original investment, accrued interest, accrued dividend and default interest</i>					
EFW 21 loan notes	243.0	148.8	61.2%	22.2	9.1%
EFW 21 IRL preference shares	16.7	10.2	61.2%	2.0	11.7%
Total	259.6	159.0	61.2%	24.2	9.3%
<i>Considering original investment only</i>					
EFW 21 loan notes	185.8	148.8	80.1%	22.2	12.0%
EFW 21 IRL preference shares	12.8	10.2	80.0%	2.0	15.3%
Total	198.5	159.0	80.1%	24.2	12.2%

Source: A&M EPM report and unaudited management accounts as at 31 December 2022

14.14. The illustrative recovery for Scheme Investors is significantly higher in the Schemes Scenario (80.1% of original investment) vs. the Alternative Scenario (12.2% of original investment). This is driven by:

Improved exit values because the projects are completed before sale;

Contributions from the Group that would not apply in the Alternative Scenario (most significantly Solar 21’s interest in the North Lincolnshire EFW Project which will be secured in favour of the Scheme Companies);

Connected parties releasing certain claims against members of the Group;

Lower costs; and

A £9.0m contribution from GZC following the sale of Solar 21's and GZC's shares in the North Lincolnshire EFW Project secured against those shares.

- 14.15. Full details of this analysis are being provided to investors as part of the Schemes including an explanation of the asset valuations assumed and the key risks associated with those valuations (which include market value fluctuations).
- 14.16. In my opinion the financial advantages of proceeding with the relevant schemes are very apparent from the analysis above. Before however expressing a final conclusion, I have examined the Alternative Scenario of liquidation in more detail. I have also considered the availability / suitability of other restructuring options and finally, the prospective benefit of the Scheme Investors seeking some alternative form of redress against the Directors or promoters.**

15. Alternative Scenario - Liquidation

- 15.1. As is evident from my CV, I have many years of experience in acting as the appointed IP in the liquidation of insolvent companies.
- 15.2. The A& M Report and the Schemes include consideration of a second scenario ("the Alternative Scenario") which the Scheme Companies identify as the most likely alternative if the Schemes are not approved. The alternative is presented within the schemes on the basis that it is likely that that all Group companies would be forced into liquidation. I concur with the opinion that liquidation is the most likely alternative.
- 15.3. The Alternative Scenario has been modelled on the basis that the Scheme Companies are balance sheet insolvency and cannot repay their creditors in full. As a consequence, the Scheme Companies would enter into liquidation and the appointed IP/IPs are assumed to seek recovery of intercompany balances which would cause further insolvencies and IP appointment across the entire Group. The English companies would enter into liquidation or the UK process of Administration.
- 15.4. While of little consequential impact, I would envisage, that recognising that inevitability of such a process developing, the directors of the relevant companies might take a more proactive roll and seek IP appointments in a more orderly fashion.

- 15.5. Before addressing the financial impact, it is worth identifying the practical impact. As a result of these groupwide insolvencies the central management/finance functions and engineering expertise would be lost as the IPs would have no funds to pay staff and so would have to terminate their employment. It is reasonable to assume that these developments would adversely impact the Group's prospects of obtaining the DCO/planning approval in respect of the NL EFW Project and Teesside EFW Project.
- 15.6. The Alternative Scenario envisages the assets of each company being physically secured and realised, in their current condition, by the appointed IP for the benefit of creditors. Specifically, the Alternative Scenario assumes that the Group would not have sufficient funding nor seek to complete the works required to the Tansterne and Plaxton Plants and/or trade them for a period to demonstrate their technical ability.
- 15.7. It is reasonable to assume that these events would reduce the proceeds realisable for a sale of these plants. The sale of the assets in that current condition, as identified in the Hilco valuations, is predicted to give rise to a much lower level of realisation.
- 15.8. The A&M Report also sets out that it is not considered likely that the following options could be pursued:
- Securing external funding to complete and sell the various plants prior to insolvency;
 - An accelerated sale of Tansterne, Plaxton and NL EFW Project prior to insolvency;
 - Completion, trading and sale of completed projects by the appointed IPs.
- 15.9. I agree with the assumptions and conclusions reached in the A&M Report in relation to the Alternative Scenario. In particular, given my experience as a liquidator, I believe there would be insurmountable finance, operational, environmental and funding risks for an IP to attempt to complete, trade and sale the projects following their appointment.
- 15.10. The A&M Report sequentially takes account of the assets and liabilities of each company in the Group, the securities in place throughout the Group, the value of the project assets and the costs which would arise in order to secure and realise those assets. Allowing for the inevitable loss of values, the costs of the various processes, the increased level of creditor claims and the non-availability of the Solar 21 / GZC support proposed within the Schemes, the evaluation of the Alternative Scenario suggests estimated returns of 11.9% for the loan note investors in EFW 21 and 15.2% for the preference shareholders in EFW 21 IRL.
- 15.11. I broadly concur with the methodology used for the evaluation of the Alternative Scenario and, with the benefit of the availability of the Hilco valuations, the illustrated outcome is, in my opinion, a realistic evaluation of the likely outcome. It is also to be recognised that the return, at whatever level, will have to await the sequential liquidations of the various companies such that the ultimate payment date could be greatly extended if there were to be litigation within any of the liquidations.

16. Other Alternative Scenarios

- 16.1. In order to evaluate the position further, I considered the other available. In my opinion, none are appropriate for the Scheme Companies.
- 16.2. **Refinancing** – in theory an option of refinancing exists but with little or no prospect of Project 1 being revitalised and the liabilities exceeding the assets, such an option is not tenable.
- 16.3. **Examinership** – with no continuing trade, in my opinion, the Scheme Companies are not suitable candidates for Court Protection.
- 16.4. The Scheme Companies have proposed interlinked schemes of arrangement and the comparator utilised is the alternative of a liquidation of the Scheme Companies and somewhat inevitable of the wider group of companies control directly or indirectly by the ultimate parent, Solar 21.
- 16.5. Without presuming the decision of the Court which would have been at issue if an application had, in the alternative, been for Court Protection and the appointment of an examiner, it is in my opinion appropriate to consider two contrasting issues in the application and the approach in Examinership.
- 16.6. A significant level of financial information has been provided in the A&M Report provided for the purposes of the Scheme Investors considering the proposed Schemes is significantly more comprehensive than the level of information made available in a typical scheme prepared by an Examiner. In that process parties must make their decision based on less information and in a shorter time period than is anticipated in the Proposed Schemes.
- 16.7. The Proposed Schemes are limited to a specific single class of creditors in the case of EFW 21 and of the EFW 21 IRL Preference Shareholder class in relation to EFW 21 IRL. In that regard, it is unlike an Examinership scheme of arrangement which can impact all of the liabilities of a company but with, potentially, a lower threshold for approval.
- 16.8. To that extent the approach of proposing Schemes under Part 9 is a more equitable approach where the proposals of the Scheme Companies, if achieved, will truly reflect the legitimate views of a clear majority of the parties impacted.
- 16.9. **SCARP** – strangely, despite the level of the balance sheet values the Scheme Companies meet the basic admission criteria for this process but with no ongoing trade and little prospect of new activity this is not, in my opinion, an option.

17. Action Against Directors

Caveat

- 17.1. I stress in writing this aspect of the report as an experienced insolvency practitioner and not as a solicitor. I suggest that if Scheme Investors or their broker advisors wish to address this issue, they should seek independent legal advice.

Background

- 17.2. There have been complaints and commentary provided to me about the conduct of the directors.
- 17.3. From my experience as an insolvency practitioner, I am well versed in relation to the many causes of action which can be pursued against directors in situations like this, although, as I mention above, I emphasise that I am not a lawyer.
- 17.4. In the time available to me I am not in a position to fully assess or take the necessary comprehensive legal advice in relation to what actions if any might arise in this case.
- 17.5. It appears to me that pursuing litigation would jeopardise the outcome under the Proposed Schemes.
- 17.6. Before considering pursuing litigation the following would have to be considered:
Any litigation to be pursued would need to be funded;

Even if litigation is successful that does not necessarily lead to a financial recovery;

Given the very substantial difference between the liquidation outcome and outcome pursuant to the Proposed Schemes, that litigation would have to produce a very significant incremental return which is difficult to quantify because of the potential knock-on impact on the ongoing projects.

A decision to initiate any such action in a liquidation lies with the appointed liquidator or liquidators.
- 17.7. The importance which Scheme Investors place on the litigation option must be weighed against the obvious financial benefit from a successful outcome of the Proposed Schemes including the planned Support Payments from Solar 21 and GZC.

18. Conflict Issues

- 18.1. I confirm that I have had no previous involvement in this matter nor am I currently acting / have acted, in the past, for the Scheme Companies or Solar 21 or its beneficial Owner, Mr Michael Bradley.
- 18.2. Prior to this assignment I had not previously, to my knowledge, met Mr Bradley.
- 18.3. I acknowledge to the brokers and to Scheme Investors from the outset of my assignment that the discharge of my remuneration in this matter is the responsibility of Solar 21 but I confirm that no element of my remuneration is contingent on the outcome of the proposed Schemes.
- 18.4. I have been assisted in this assignment by my partner, Enda Lowry, and he has confirmed to me that has no conflicts in this matter.
- 18.5. To the extent that I provide my Opinion as an Expert Witness, I am experienced insolvency practitioner, having acted as Examiner, Receiver, Official Liquidator and Liquidator.

19. My Duty to the Court

- 19.1. At Appendix 6, I set out my duty of care to the Court.

20. Final Commentary

In expressing my opinion and based on the information available to me, I emphasise to the Court and the Scheme Investors:



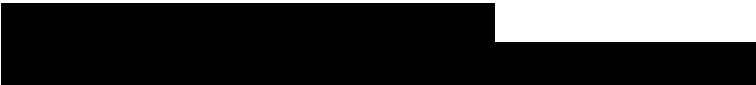
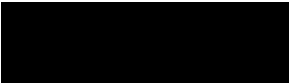

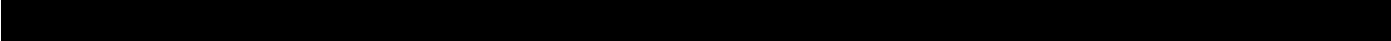
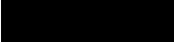
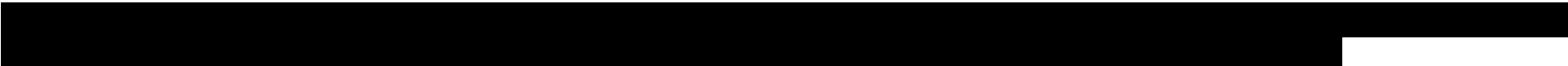
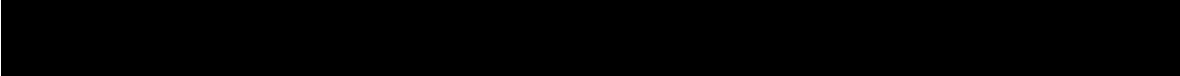
- I acknowledge that my remuneration is being paid by Solar 21. I have clearly identified that matter since my first engagement with the brokers. No element of my remuneration is success based.
- My focus is to identify the approach which will optimise the return for the benefit of the Scheme Investors;
- The Proposed Schemes are, in effect, liquidating schemes where the underlying assets are to be realised. There is no proposal for the continuation of the business of the Scheme Companies;
- The returns are based almost entirely on the ultimate realisable value of three separate core assets held within the wider group of companies controlled by Solar 21;
- The Indicative Return from the Proposed Schemes offers a potential return which, based on the assumptions, provides a higher quantum of return in a speedier manner than the return from a liquidation;
- Within the documentation there is an independent professional valuation supporting the values attributed to two assets while the remaining asset value in respect of the North Lincs project is a Solar 21/Scheme Companies evaluation. The latter estimated disposal value directly impacts the availability of the Support Payment and the ability of Solar 21 to meet its direct obligations under the Schemes;
- Based on my experience as an insolvency practitioner, I broadly concur with the evaluation, which is illustrated as being the likely liquidation return,—probably over a more elongated time period, if at all. That return estimate is also supported by professional valuations of the critical assets;
- The headline Indicative Return is based on the underlying assumed asset values and costs together with a proposed waterfall of agreed payments as illustrated in the EPM. It is extremely unlikely that the actual outcome will accord with the assumptions. The headline return is helpful but it is only an estimate.
- The ultimate return will reduce or increase, through no other reason other than the underlying economic value of the assets achieved in an independently managed open sale process;

- Inherent in the Indicative Return is a proposed Support Payment from Solar 21 and a connected entity, GZC. It is not envisaged that such a sum of money will be available in a liquidation.
- It is also worth noting that, in my opinion, even absent such a Support Payment the outcome of a scheme constructed on comparable basis would still be a more advantageous than the alternative.
- The implementation of the Proposals is not without commercial risk. These risks are well set out in the A&M report.
- Commercially, in my opinion, the most fundamental driver of value (market assessment aside) will be the success of the proposed new management in Solar 21 and the Scheme Companies in delivering the full commercial and technical capability of the two manufacturing plants, both of which are the subject of ongoing works;
- There is a clearly expressed lack of confidence in the existing management of the Scheme Companies and the wider Solar 21 companies which, absent the proposed management changes, would have been responsible for delivering the results for the Scheme Investors. In my opinion, that antipathy, alone, should not dissuade the Scheme Investors from charging the enlarged and strengthened management team with the responsibility of maximising the potential return.
- In conclusion I support the Proposed Schemes as offering an opportunity to deliver an enhanced return to the Scheme Investors. In my opinion it is a fair and equitable proposal.
- As an aid to its implementation, especially given the large number of individual creditors, who may otherwise have a right to seek a winding-up, I consider that granting a stay is an inevitable necessity if the Court grants the requested motions in relation to the convening of the requisite meetings of the Scheme Investors.

John McStay
11 May 2023

CURRICULUM VITAE

JOHN MCSTAY

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

APPENDIX 2

Letter of Engagement – see Scheme Documents

APPENDIX 3

Overall Work Process:

I have sought to gain an understanding of the process by which the companies raised funds from the Scheme Investors

I examined the originating materials and the loan and reference share documentation

I reviewed the utilisation of the funds primarily by reference to the material in the A&M Report and other material directly provided by the companies. I have reviewed the financial position of the Group and in that context the consequences of the application of the A&M Entity Priority Model and the consequential impact on the Group and in particular the Scheme Companies.

I have participated in frequent discussions with A&M and Addleshaw Goddard into aspects of the proposed schemes as they impact the Scheme Investors.

I am currently finalising my review of the documentation as lodged in Court to ensure that it coincides with my understanding of the commercial intentions of the schemes.

As set out in this report I have engaged with the brokers in a number of different ways and in that context, I have participated with A&M and the Scheme Companies in the issue of a summary of the company activities and the proposed course of action to the brokers for onward circulation

To gain a greater understanding of the issues raised by Brokers I reviewed a selection of the documentation issued by way of update to the Scheme Investors and brokers.

I have engaged directly with a number of individual brokers and Loan Note Holders and further meetings are planned.

As set out in my engagement letter, my engagement involved analysing the material which underlies the financial proposal and engagement with the financial and legal advisors to the promoters. I confirm that I have done so and that I continue to do so.

A primary source of material has been the A&M Report and , for the sake of completeness, I draw the attention of the Court and the Scheme Investors to the necessary disclaimer contained in that document.

Primary Materials Examined

The evolving Draft A&M Report ultimately in final form as a document within the Scheme Papers.
EFW 21 Renewable Energy Limited Directors' report and financial statements for the year ended 31 April 2021;
EFW 21 Renewable Energy Limited abridged financial statements for the year ended 31 April 2021;
EFW 21 Renewable Energy (Ireland) Limited Directors' report and financial statements for the year ended 31 December 2020;
EFW Renewable Energy (Ireland) Limited unaudited balance sheet as of 31 December 2022;
EFW 21 Renewable Energy Limited unaudited balance sheet as of 31 December 2022;
EFW 21 Renewable Energy (Ireland) Limited abridged financial statements for the year ended 31 December 2020;
EFW 21 Renewable Energy (Ireland) Limited Constitution;
Information Memorandum EFW 21 Renewable Energy Ltd Pension Loan Note 14 July 2019;
EFW 21 Pension Loan Note Application Form;
EFW 21 Renewable Energy (Ireland) Limited Share Subscription Agreement;
EFW 21 Renewable Energy (Ireland) Limited Solar 21 Renewable Energy Limited Put and Call Option Deed;
EFW 21 Renewable Energy (Ireland) Limited Solar 21 Renewable Energy Limited Share Subscription Agreement;
Solar Clear Limited Abridged Financial Statements year ended 31 December 2023;
Solar 21 Renewable Energy Limited Abridged Financial Statements for the year ended 31 December 2020;
Various company, credit and directorship reports;
Various Spreadsheets produced by Solar Clear, and A&M in response to specific requests for detailed information:
Agreement dated 1 May 2018 between EFW 21 Renewable Energy Limited and Andrew Bradley as director of Green Zone Consulting Limited;
Various Communications for Investors issued by Solar 21
The valuation report dated 13 March 2023 by Hilco Appraisal Limited (trading as Hilco Valuation Services).
Draft orders seeking entry of the proceedings into the Commercial List;
The Scheme Circular;
Originating Notice of Motion dated EFW 21 Renewable Energy (Ireland) Limited dated 3 May 2023;
Originating Notice of Motion dated EFW 21 Renewable Energy Limited dated 3 May 2023;
Affidavit of Michael Bradley in relation to EFW 21 Renewable Energy Limited dated 29 April 2023;
Affidavit of Michael Bradley in relation to EFW 21 Renewable Energy (Ireland) Limited dated 29 April 2023;

In addition, I examined material and emails etc presented by various brokers and Scheme Investors together with publicly available newspaper reports and materials on the Solar 21 website.

Limitations of Scope

The scope of my work has been limited to the matters and information made available to me and assumptions made thereon.

My report is limited to only those matters arising that would appear to me to be of significance in arriving at my opinion.

My procedures and enquiries do not include verification work or constitute an audit in accordance with accepted auditing standards. I do not, therefore, express any opinion on financial data or other information referred to in this Report.

In particular I draw attention to my utilisation of material contained in the A&M Report and to the disclaimer in that document but also the consent of A&M to the Scheme Companies to use their material for the purposes of the Court application and the Proposed Schemes.

I reserve the right to review all calculations included or referred to in my report and, if I consider it necessary, to amend my opinion in the light of any information which becomes known to me after the date of this report.

I shall not be responsible for any error caused by misrepresentation, or an omission of information or material supplied to me.

APPENDIX 4

What is a Scheme of Arrangement?

Statutory Provision

A scheme of arrangement is a procedure under Chapter 1 of Part 9 of the Companies Act 2014 whereby a company may make a compromise or arrangement with its members or creditors (or any class of them).

Why Seek to Promote a Scheme?

As we will see as we work through this report, the Scheme Companies raised funds and they made commitments to pay interest and repay those monies at certain agreed dates. They are not now in a position to make those payments.

If the Scheme Companies had a small number of parties to whom they owed money the matter could potentially be resolved privately. In this case however there are in excess of 3,000 parties owed money and trying to resolve matters without an overall guiding structure would be very difficult.

A scheme of arrangement provides a structure whereby the company develops proposals and it seeks in a formal way to get the agreement of the majority of the parties (see further details below) and to then request the Court to confirm the arrangement and make it binding on the company and all of the other parties, even those who voted against the plan.

The existing arrangement for interest, repayment and the documentation of the loans (as in the case of EFW 21) are changed and they are replaced by new Court approved arrangements.

It is important to realise that the Court oversees the entire process, step by step, to ensure that the applicable laws governing this area are adhered to but additionally the Court will not approve the new arrangement unless it is satisfied that the proposals are fair, reasonable and represent a genuine attempt to reach agreement between a company and its creditors and/or members.

What is the Basic Procedure?

The company applies to Court for permission to commence the process. This happened last Monday (8 May 2023) in the Commercial Court division of the High Court. That initial hearing, was, as it normally is, substantially procedural. Having said that, the volume of information required for the Court was very extensive, and, it must be said complex.

The Court directed that a comprehensive hearing will be held on 18 May and that the planned hearing be publicly advertised in three newspapers and that interested parties such as the Bondholders be entitled to receive copies of the papers and be free to attend the upcoming hearing.

At that hearing the company seeking to promote the process will explain the circumstances of the business to the Court, outline the proposals to the Court and seek a number of orders in relation to summoning

meeting(s) of the relevant parties impacted by the proposals to give them an opportunity to consider and vote on the proposals.

If the Court agrees it will specify the time and place of the meetings and direct the company to issue the legally required documentation to convene such meeting but primarily to provide a clear and comprehensive explanation of the proposals.

AS in this case the company will also ask the Court to halt all legal actions against the company to create a “legal safe space” to undertake the process.

Normally, only the company seeking the orders address the Court.

Notice of the Meeting

Once the Court calls meetings to consider the proposed scheme of arrangement, the company has to prepare the necessary paperwork and send a notice to the relevant parties. Apart from the meeting notice etc. the key document is a scheme circular on the effect of the proposed scheme.

The Meeting.

Normally four/six weeks’ notice of the meeting is given and at the meeting the members and/or creditors vote to approve or reject the scheme of arrangement.

In practice, the attendees will have considered the scheme documentation in advance, so the meeting will largely consist of the voting process and often the chairperson is given advance proxies to vote on the

members'/creditors' behalf, as directed by them, either for or against the proposals, without the need for their personal attendance.

The required special majority is a majority in number representing 75% majority in value of those voting at the meeting. If that % is not achieved the proposal is lost.

Your vote is important if you wish to influence the decision.

Court Hearing / Sanction

If the meeting approves the Scheme there is another Court hearing at which the Court has the ultimate discretion to sanction the scheme of arrangement. Challenges are frequently encountered at this point.

If sanctioned by the Court, the scheme of arrangement becomes effective upon delivery of the Court's sanction order to the CRO.

Release of Creditors' Rights Against Third Parties

It is settled law that a scheme may, include the release of creditors' rights against a different party whether another group company/guarantor or directors, etc

Timing

A scheme that proceeds in a straightforward manner, could be completed in just over two months from the date of the company's first application to Court.

Scheme Circular

The scheme circular accompanies the notice of the Court meetings and sets out the effect of the scheme. At the subsequent scheme sanction hearing, the Court will consider whether the scheme circular was fair and whether it provided all information reasonably necessary to enable a reader to decide how to vote, so far as possible.

If, after the scheme circular is despatched, the information underlying it changes in a way that might affect the attitude of the members or creditors to the scheme, the new information must be communicated to members and/or creditors.

The most important point to make at this stage is that when the documentation arrives, please seek appropriate advice.

APPENDIX 5

Summary of the Schemes and the Restructuring¹

Capitalised terms used in this Summary of the Schemes and the Restructuring have the meanings given to them herein and not in Appendix 1 (*Definitions and Interpretation*) of this Scheme Circular

Background and fundraising

- Solar 21 Renewable Energy Limited (“Solar 21”) and its subsidiaries (the “Group”) specialise in renewable energy infrastructure and are developing several biomass, biogas and Energy from Waste (“EFW”) plants in England.
- Between 27 April 2018 and 16 June 2020, EFW 21 Renewable Energy Ltd (“EFW 21”) and EFW 21 Renewable Energy Ireland Ltd (“EFW 21 IRL”) (together, the “Scheme Companies”) raised c.£209.5m by way of high yield retail loan notes and preference shares to fund the development of an EFW plant (“EFW 21 Project 1”) by its subsidiary The East Riding Green Energy Park Ltd (“East Riding Green Energy”). This funding had an initial term of c.3.5 years.
- Of this, £143.4m was cash invested and £65.4m is due (but not yet received) from other companies in the Group after a number of the investors in those companies chose to reinvest their investments upon maturity in the Scheme Companies.

- Fundraise costs including broker commission totalling £26.0m were paid in relation to the fundraising, principally under agreements between brokers and their client investors.
- Full details of the sources and uses of the funds raised is provided in a detailed report prepared by Alvarez & Marsal Europe LLP (“Alvarez & Marsal”) that is being provided to all investors.

EFW 21 Project 1

- Significant issues and delays have been encountered with EFW 21 Project 1 after the planned technology provider went into administration in January 2020. Following this, East Riding Green Energy sought an alternative technology provider and updated planning permissions.
- Given these challenges, and significant construction cost inflation during the intervening period, due initially to the

¹ Based on the material extracted from pages 32 etc of the Scheme Circular

withdrawal of several building contractors from the EPC market during the Covid-19 pandemic, and subsequently as a result of the Russian war in Ukraine, the management of the Group concluded in December 2022 that EFW 21 Project 1 was no longer viable. The project has since been cancelled.

- Prior to cancellation, the Scheme Companies had directly or indirectly invested c.£17.2m in East Riding Green Energy for EFW 21 Project 1. It is highly unlikely that these amounts will be recovered from this project.

Intercompany investments and loans

- In addition to seeking to resolve the EFW 21 Project 1 issues, the Scheme Companies made net loans totalling £90.7m to several other companies in the Group from the funds raised.
- Of this, £76.9m was provided directly or indirectly to the companies responsible for financing the completion of the Tansterne Biomass and Plaxton Biogas Projects. These loans were (i) expected to be repaid before the funds were required by the Scheme Companies, (ii) considered and approved by the directors in consultation with external lawyers on the basis that three significant offers had been received from certain well known infrastructure funds to acquire the Tansterne plant for a value in excess of £125.0m, and (iii) intended to facilitate the completion and exit of those projects, which would achieve significant payments to the Scheme Companies of the outstanding reinvested amounts of £65.4m noted above.

Tansterne Biomass and Plaxton Biogas Projects

- Following technical issues (and delays to an essential OFGEM accreditation encountered at Tansterne), the Tansterne Biomass and Plaxton Biogas Projects have also been delayed. The Renewables Obligation scheme accreditation at Tansterne has now been received from OFGEM and both projects are expected to be successfully returned to service by late summer 2023.
- To maximise value, it will be important to sell these projects as trading businesses rather than dispose of them in their current state. Ernst & Young LLP has been appointed to prepare the assets for sale and conduct a market soundings exercise to engage with interested parties, however, a six-month period of operation is typically required before a sale of these projects may be completed and it is expected that the sales process will be completed during 2024.
- Independent third-party valuations have been obtained from Hilco Appraisal Limited (trading as Hilco Valuation Services) that indicate the proceeds from these projects, once complete, will be sufficient to repay the obligations from the Scheme Companies in full.

Requirement for restructuring proposals

- Following the cancellation of EFW 21 Project 1, it will not be possible to repay investors in the Scheme Companies in full, as the £17.2m invested in EFW 21 Project 1 prior to cancellation and the £26.0m of fundraising fees incurred by the Scheme Companies are irrecoverable.

- Further, the delays to the disposal of the Tansterne Biomass and Plaxton Biogas Projects, and cash flow issues in other group companies, have meant that the intercompany loans made by the Scheme Companies or arising from the reinvestment of investments in previous projects have not yet been repaid.
- As a result, the Scheme Companies will have insufficient liquidity to meet their own obligations, including repaying investments, which have been maturing since 1 November 2021 but are subject to a two-year payment moratorium in the case of the loan notes issued by EFW21. In January 2022, the management of the Group first became concerned about the Scheme Companies' ability to raise new funding and repay all investors in full, and so all payments to investors were ceased. In total, cash redemptions of £4.9m were made prior to the cessation of payments.
- The Group engaged Alvarez & Marsal Europe LLP ("Alvarez & Marsal") as its financial adviser in February 2022 and Addleshaw Goddard LLP and Addleshaw Goddard (Ireland) LLP (together "Addleshaw Goddard") as its legal adviser in March 2022 to assist it in developing and considering its options.
- After exploring a range of options, the Group has concluded that to maximise the returns to Scheme Investors it is necessary to restructure the liabilities of the Scheme Companies. Accordingly, it is proposing two Irish schemes of arrangement

(the "Schemes") to allow Scheme Investors to consider and vote on the proposals.

- John McStay of McStay Luby has been engaged by Solar 21 to act as an independent restructuring expert to review the Schemes, provide investors with information about the Schemes and provide an independent report on whether the Schemes are fair and reasonable to the investors.

The Schemes

- The Schemes are intended to provide a stable platform for the Group to:
 1. Complete the final technical work to make the Tansterne Biomass and Gascorp Plaxton Plants fully operational, operate them profitably and dispose of them for best value;
 2. Obtain a Development Consent Order for the North Lincolnshire EFW Project (a project which has not been funded by the Scheme Companies), sell the shares in the project company (The North Lincolnshire Green Energy Park Ltd) and use the proceeds to repay amounts owed from Solar 21 to the Scheme Companies and make an additional voluntary contribution to improve the position of the Scheme Investors;

3. Realise all other assets in the Group, except for the EFW project in Teesside which is subject to separate and independent financing arrangements; and
 4. Repay investors to the extent possible, dependent on the funds raised from the realisation of the Group assets referred to above.
- As part of approving the Schemes, amongst other things, the loan note/preference share investors in the Scheme Companies (the “Scheme Investors”) are asked to:
 1. Defer the repayment of their investments in accordance with the terms of the Schemes;
 2. Agree the individual companies in the Group may pay their other legitimate third-party creditors of the Group and release certain intercompany liabilities. These payments are considered necessary to avoid Group companies entering insolvency, which would jeopardise the Group’s ability to deliver the Schemes; and
 3. Having received their dividend, release all outstanding amounts owed after all assets have been realised and the proceeds distributed.
 - The Schemes are interconnected and therefore approval is required from the Scheme Investors of both EFW 21 and EFW 21 IRL for either of the Schemes to pass.
- As part of the Schemes, Alvarez & Marsal will be appointed by the Scheme Companies as Restructuring Supervisor. The Restructuring Supervisor’s role is to supervise and monitor the implementation of the Schemes, including the completion and realisation of the relevant projects and the distribution of the proceeds from those projects to investors. The Restructuring Supervisor will formally report to Scheme Investors every two months.
 - In addition, an independent and experienced non-executive chairperson (the “Chairperson”) will be appointed to the board of Solar 21 to monitor the activities of the group. The Chairperson will report directly to the Restructuring Supervisor and the Restructuring Supervisor will be involved in selecting the candidate for this role.
 - In parallel with the appointment of the Chairperson, Mike Bradley will resign as CEO of Solar 21 and Dave Jones, a Senior Engineer in the Group who already acts as a director for several of the Group’s companies will be appointed to the board of Solar 21.

Support from Greenzone Consulting Limited (“GZC”)

- GZC is a connected party to the Group that is 100% owned by Andrew Bradley and has committed to provide the following support to the Schemes if approved:
 1. Contributions to the Schemes totalling £9.0m funded from the first £9.0m of the proceeds from the sale of GZC’s 44% interest in The North Lincolnshire Green Energy Park Ltd.

Governance changes

This is equal to the amount GZC and AB Plant Hire Limited (being companies controlled by Andrew Bradley) has received from the Group for certain commissions, other fees and monies paid for other services in relation to the Scheme Companies, East Riding Green Energy or EFW 21 Project 1.

2. An interest free loan of £2.9m to fund the completion of the Tansterne Biomass Plant.
3. An interest free working capital facility of £2.0m to fund operations at the Tansterne Biomass Plant as it begins trading following completion. Both of these loans will be repaid in priority from the proceeds on a sale of the plant.
4. A release of contractual claims GZC has against the Scheme Companies totalling £5.5m.

Support from Solar 21

- As stated above, the Schemes envisage a sale of the shares in The North Lincolnshire Green Energy Park Ltd, once the DCO has been obtained. Solar 21 owns 51% of the issued share capital in this company and is forecast to receive £42.2m in respect of the sale of those shares, after considering liabilities in that entity and costs of sale.
- As part of the Schemes, Solar 21, which is owned 100% by Mike Bradley, is offering to contribute the proceeds from the sale of the shares in North Lincolnshire Green Energy Park Ltd along with realisations from its equity in other Group

companies to support the Schemes. This will allow for a full repayment of the secured debt owed to EFW21 totalling £27.1m, and an equity contribution to the Scheme Companies of £27.0m. This is in addition to the £9.0m contribution from GZC.

Alternative Scenario

- If the Schemes are not approved, the most likely alternative outcome is that all Group companies would be forced to enter insolvency. The assets of each company would then most likely be realised in their current condition by an appointed insolvency practitioner for the benefit of the creditors of each Scheme Company.
- According to the financial analysis undertaken, presented below, this is expected to result in significantly lower realisations and higher costs.

Illustrative outcomes for the Scheme Investors

- Alvarez & Marsal has prepared an Entity Priority Model (“EPM”) to support the Group’s restructuring proposals and aid Scheme Investors in their assessment of the Schemes. A summary of this modelling is provided below.

Summary distributions (£m)	Claim	Schemes Scenario		Alternative Scenario	
		Recovery	% paid	Recovery	% paid
<i>Including original investment, accrued interest, accrued dividend and default interest</i>					
EFW 21 loan notes	243.0	148.8	61.2%	22.2	9.1%
EFW 21 IRL preference shares	16.7	10.2	61.2%	2.0	11.7%
Total	259.6	159.0	61.2%	24.2	9.3%
<i>Considering original investment only</i>					
EFW 21 loan notes	185.8	148.8	80.1%	22.2	12.0%
EFW 21 IRL preference shares	12.8	10.2	80.0%	2.0	15.3%
Total	198.5	159.0	80.1%	24.2	12.2%

Source: A&M EPM report and unaudited management accounts as at 31 December 2022

- The illustrative recovery for Scheme Investors is significantly higher in the Schemes Scenario (80.1% of original investment) vs. the Alternative Scenario (12.2% of original investment). This is driven by:
 - Improved exit values because the projects are completed before sale;
 - Contributions from the Group that would not apply in the Alternative Scenario (most significantly Solar 21's interest in the North Lincolnshire EFW Project which will be secured in favour of the Scheme Companies);

- **Connected parties releasing certain claims against members of the Group;**
- **Lower costs; and**
- **A £9.0m contribution from GZC following the sale of Solar 21's and GZC's shares in the North Lincolnshire EFW Project secured against those shares.**
- **Full details of this analysis are being provided to investors as part of the Schemes including an explanation of the asset valuations assumed and the key risks associated with those valuations (which include market value fluctuations).**
- **Mr John McStay of McStay Luby has considered the Schemes and recommends that they be approved by the Scheme Investors given the likely alternative outcome.**

Summary of actions to be taken by Scheme Investors

Please read carefully the section of this Scheme Circular entitled "*Are you a Scheme Investor?*" at page 41 below and Appendix 2 (Instructions and guidance for Scheme Investors) of this Scheme Circular for detailed instructions on the actions to be taken by Scheme Investors. A summary of such actions is set out below:

- 1 Read this Scheme Circular as a whole, in conjunction with the documents that accompany it (including the Voting Form).
- 2 Whether or not you wish to attend the relevant Scheme Meeting, it is strongly recommended that to complete and submit a Voting Form to the Information Agent. For the avoidance of doubt, you do not need to submit a Voting Form if you wish to vote on a Scheme by attending the relevant Scheme Meeting in person. However, to the extent you intend on voting in person, to assist with the logistics of hosting the relevant Scheme Meeting, you are still encouraged to indicate this to the Information Agent by completing and submitting a Voting Form prior to the Voting Instruction Deadline.
- 3 Before the Schemes can become effective and binding on the Scheme Companies and the Scheme Investors, each Scheme must be approved by the Scheme Investors under that Scheme and sanctioned by the Court as set out in [♦] of the section entitled "*Letter from the directors of the Scheme Companies*" on page [♦] above.
- 4 Each Scheme Investor (either by attending in person or through a validly appointed proxy) shall (subject to the provision of any relevant Identification Documentation at the relevant Scheme Meeting) be entitled to submit its vote to the Information Agent during the relevant Scheme Meeting. The completion and submission of a Voting Form will not prevent you from attending and voting at the relevant Scheme Meeting or any adjournment thereof, if you so wish and are so entitled.
- 5 With respect to the Schemes, it is important that as many votes as possible are cast at each Scheme Meeting so that the Court may be satisfied that there is a fair and reasonable representation of the opinion of the Scheme Investors in each class. You are therefore strongly urged to vote, either (preferably) by appointing a proxy in advance of the Scheme Meeting by signing and submitting a Voting Form prior to the Voting Instruction Deadline (i.e. [6.00] p.m. (Dublin time) on [♦] 2023) or attending the Scheme Meeting in person. In any case, only one individual person may attend the relevant Scheme Meeting on behalf of a Scheme Investor.
- 6 If you are in any doubt as to what action you should take in connection with this Scheme Circular, the proposals contained in it or the documents that accompany it, you are recommended to seek your own independent financial, legal and tax advice

immediately from your financial, legal and/or tax adviser who is authorised by an appropriate regulatory body.

- 7 Where any EFW 21 Loan Notes are held by a Relevant Trustee, that Relevant Trustee is the EFW 21 Loan Noteholder and the EFW 21 Scheme Investor in respect of those EFW 21 Loan Notes. For the avoidance of doubt, where a single legal entity holds multiple EFW 21 Loan Notes on trust for multiple individuals (with each such holding by that single legal entity being constituted under a separate trust), that single legal entity will, in its capacity as a Relevant Trustee, be regarded as a separate EFW 21 Scheme Investor in respect of each of its trustee roles in respect of the EFW 21 Scheme and shall vote on the EFW 21 Scheme on an individual and several basis in respect of any EFW 21 Loan Notes that it holds as a Relevant Trustee, the beneficiaries (including persons holding their pension investments) under such trusts have been sent copies of this Scheme Circular for their consideration of the issues arising under and in connection with the Schemes and the Restructuring in order to give appropriate instructions to the Relevant Trustee for it to complete a Voting Form or vote in person at the relevant Scheme Meeting.

APPENDIX 6

Expert Witness Duty of Care Declaration to Court

To the extent that in preparing this report I am regarded as an Expert I understand that my overriding duty is to the Court (the “Court”) which will review my report, and in preparing this report I have complied with that duty;

- I have set out in my report what I understand from those instructing me to be the questions in respect of which my opinion as an expert is required;
- I have done my best, in preparing this report, to be accurate and complete. I have mentioned all matters which I regard as relevant to the opinions that I have expressed. All the matters on which I have expressed an opinion lie within my field of expertise;
- I have drawn to the attention of the Court all matters of which I am aware which might adversely affect my opinion;
- Wherever I have no personal knowledge, I have indicated the source of the material factual information;
- I have not included anything in this report which has been suggested to me by anyone, including those instructing me, without forming my own independent view of the matter;
- Where, in my view, there is a range of reasonable opinion, I have indicated the extent of that range in my report;
- At the time of signing this report, I consider it to be complete and accurate (subject to the qualifications mentioned herein). I will notify those instructing me if, for any reason, I subsequently consider that the report requires any material correction or qualification;
- I understand that this report will be the evidence I will give, subject to any correction or qualification I may make;
- I will comply with the directions of the Court.
- I have summarised my instructions above; and
- I believe the facts I have stated in this report are true (where these are within my knowledge) and that the opinions I have expressed are correct.

Restructuring application for Solar 21 firms enters commercial list

IRELAND



The case involves the raising of some £209 million (€240.2 million) from Irish investors to build a waste-to-energy plant in East Riding in England, known as EFW 21 Project 1. Photo: Unsplash

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08/05/2023 | 18:29 PM
HIGH COURT REPORTERS

Proceedings to approve a restructuring scheme for two companies in the Solar 21 renewable energy investment firm have been entered into the fast track Commercial Court.

Mr Justice Denis McDonald was satisfied to enter the proceedings involving EFW 21 Renewable Energy Ltd (EFW 21) and related firm EFW 21 Renewable Energy (Ireland) Ltd (EFW 21 Irl) into the commercial list on Monday.

The application for entry was made on behalf of the firms by Lyndon MacCann SC, with no objection from a number of representatives of creditors.

The application is to seek a direction as to what appropriate scheme meetings must be held and a ruling that a single class of certain loan notes holders is warranted.

The judge gave directions for advertising notice of the hearing of the proceedings - which will take place next week - to investors. Any challenges to the proceedings can only be brought on 48-hours notice, the judge ruled.

The case involves the raising of some £209 million (€240.2 million) from Irish investors to build a waste-to-energy plant in East Riding in England, known as EFW 21 Project 1.

██████████ 21 sole director and shareholder, said in an affidavit seeking entry of the case to the Commercial Court, that £143.4 million of the overall investment was cash from other companies in the group after a number of their investors chose to reinvest their returns upon maturity in the EFW companies.

Significant delays were encountered in Project 1 after the planned technology provider went into administration in January 2020, he said.

An alternative technology provider was sought along with updated planning permissions but these challenges, along with significant construction cost inflation in the intervening period meant the project was no longer viable and was cancelled, he said.

While seeking to resolve the EFW 21 Project 21 issues, the EFW 21 and EFW 21 Irl firms made loans to several other companies in the group including £76.9 million in the Tansterne Biomass and Plaxton Biogas projects. These loans were expected to be repaid before the funds were required by the two EFW firms but the biomass and biogas projects were also delayed.

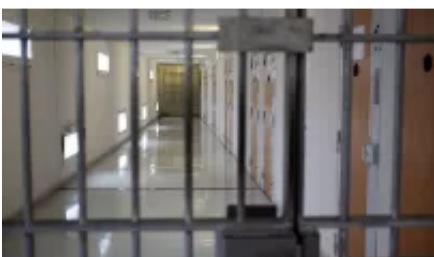
As a result, ██████████ said, the biomass and biogas projects are to be sold though this is expected to take six months in order to maximise their value. The delay in disposing of these projects, together with case flow issues in other group companies, has meant the intercompany loans have not yet been repaid, and they now have "insufficient liquidity to meet their own obligations" including repaying investments, he added.

After exploring a range of options, the group has concluded that, to maximise returns to investors, it is necessary to restructure the liabilities of EFW 21 and EFW 21 Irl through schemes of arrangement, he said.

To provide the best possible outcome for investors, it will include contributions with an estimated value of £36 million from Solar 21 and Isle of Man-registered Green Zone Consulting Ltd(GZC) arising out of their interest in an energy-to-waste project in North Lincolnshire, England. These contributions would not be available if the EFW companies were placed into liquidation, he said.

The ability of the companies to repay amounts owing to investors, who invested through loan notes and preference shares, is dependent on the repayment of the relevant intra-group loans owing to them by the other members of the group, he said. That is, in turn, contingent on the realisation of the assets by group members.

Advice was sought on how to improve the group's financial position and meet its obligations. The only realistic prospect of avoiding a liquidation of the companies is to compromise the liabilities owing under the EFW 21 loan notes and EFW 21 Irl preference shares, he said.



If one of the companies went into liquidation, it would be likely to have a "highly disruptive impact" on the group and could potentially lead to other members of the group commencing insolvency proceedings, he added.

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The directors of EFW 21, who include [REDACTED] himself as sole director of EFW 21 Irl, believe if the restructuring is successfully implemented the investors are likely to receive 61.2 per cent of what they are owed, or 80 per cent of what they invested, he said.

Mr Bradley said it is appropriate to recognise that many of the investors are frustrated and angry in respect of the performance of their investments, which he said he deeply regrets.

Chartered accountant [REDACTED] has recommended the schemes be approved by investors given the likely alternative outcome, he added.

TOPICS

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Courts

Solar 21 proceedings adjourned to enable provision of further information to concerned investors

Lawyers for various cohorts of investors and brokers wanted the court to adjourn the High Court hearing on account of an alleged deficiency in information provided to creditors

✕ Expand



The Four Courts. The hearing of proceedings seeking to convene a creditors' meeting for two companies in the Solar 21 renewable energy investment firm has been adjourned to enable the provision of further information to concerned investors. Photograph: Bryan O'Brien

Fri May 19 2023 - 20:25

The hearing of proceedings seeking to convene a creditors' meeting for two companies in the Solar 21 renewable energy investment firm has been adjourned to enable the provision of further information to concerned investors.

The High Court heard Dublin-based EFW 21 Renewable Energy Ltd and EFW 21 Renewable Energy (Ireland) Ltd had provisionally booked the RDS in Donnybrook for a proposed meeting, which more than 2,000 creditors were expected to attend.

Lawyers for various cohorts of investors and brokers wanted the court to adjourn hearing on account of an alleged deficiency in information provided to creditors regarding a proposed restructuring scheme for the EFW firms.

Loan note and preference share holders are likely to receive 61.2 per cent of what they are owed or 80 per cent of what they invested if the scheme is successfully implemented, the companies have said.

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