

13 November 2017

To Whom It May Concern

Re: Concerns to be Conveyed to Photon

We have some preliminary concerns.

Before we deal with the proponent's proposal and the merits or otherwise of it, we want to know who we are dealing with, it's financial stability and it's integrity.

The points set out hereunder are aimed at dealing with such matters.

1. At the so called "consultation" meeting on 6 September a Photon representative told us residents that Photon is a "Photon Group" based in the Netherlands and is a large corporation and financially sound. It was a public company listed on the Stock Exchange in Europe and indeed any of us could purchase shares in the company if we wished. It was presented as a successful enterprise.

I will now move to the questions we propose to put to Photon:

We are concerned that the size and success of Photon N.V. has in reality no relevance to any liabilities or debts incurred in New South Wales.

We are concerned that New South Wales creditors will only have access to some small locally based subsidiary with little paid up capital. If a person is owed money, we are concerned he will not be able to look beyond the local subsidiary for payment.

We are concerned that the community was given to understand differently and we want these concerns addressed.

- (a) Will the holding company (based in the Netherlands) agree to be responsible for the actions of it's Australian subsidiaries and submit itself and its assets to the New South Wales jurisdiction and to the jurisdiction of our Courts and ensure NSW creditors have legal access to its assets?
- (b) Will it undertake not to raise in any civil litigation the defence of "no presence in the jurisdiction" or similar defence (and so attempt to avoid being accountable for it's subsidiaries and debts (including avoid satisfying a judgment creditor)?

See it's defence that it raised when it was sued in the Court of Chancery of the State of Delaware on 14 January and 13 May 2014. Fortunately for the aggrieved litigant, Photon's defence failed.

- (c) What was the final decision in the Delaware case?

There was a Court pleading – breach of confidentiality and misappropriation of information and other allegations were made against Photon.

If the case was settled – on what terms?

Is Photons holding company or any subsidiary company still in that jurisdiction?

2. As to Photon's corporate structure, its financial security and its operation:

We are concerned that we will experience difficulty in identifying the company or company's responsible for Photons debts and/or to be accountable to us for any liability to us and/or for occupying the subject site and are concerned that the companies (whichever one it is) financial ability to pay its creditors.

We believe there have been many many financial losses in Europe and that losses have been sustained by Photon and more importantly by many creditors (community mums and dads).

We are concerned that those big financial losses may have been sustained particularly in the installation of and commissioning of plant connected to the grid.

(a) I refer to the Financial Report for year ending December 2016.

(b) Is the holding company based in the Netherlands?

(c) Did it as at December 2016 have some 41 subsidiaries as follows:

4 in the Netherlands;

8 in Australia (now 14);

1 in Switzerland;

12 in Czech Republic;

3 in Denmark;

12 in Slovakia;

1 in Hungary

41 in Total

(d) As to the 14 in Australia:

(i) What are their names?

(ii) What are their assets and liabilities?

(iii) Which one(s) is/are allocated to the Brewongle project?

(iv) What activities will each be responsible for?

- (e) Since its formation, has the holding company disposed of any subsidiaries?
 - (i) If so, how many?
 - (ii) Have any of its disposals resulted in financial loss to the holding company?
 - (iii) If so, please provide details. We are particularly concerned about losses on the sale of plant.
 - (iv) Have any of its disposals been by liquidation?
 - (v) If so, please provide details. We are particularly concerned about losses sustained by creditors (mums and dads).

3. As to corporate operation and integrity:

We suggest that at the community meeting on 6 September you gave the community to understand your Group was developing PV projects and building and commissioning solar power plants. (We believe you failed to tell the community that because of financial losses you were avoiding government controlled feed in tariff schemes.

- (a) Did you intend to give the community that understanding?
- (b) Did you intend to give the community the understanding that such projects had been successful?
- (c) Did you give the community to understand such projects have been unsuccessful?
- (d) Did you intend to talk up solar as a sound business project?
- (e) Is it the fact that you had disposed of whatever plant you had owned except for Czech Republic, Slovakia and Australia ?
- (f) Had disposals been at corporate losses or by way of liquidation?
- (g) Had any disposals been at a profit? If so, which ones?
- (h) Is it also the fact that as to Europe your view was that there had been retroactive measures introduced by several European countries against PV investors including you?
- (i) Is it the fact that you believed Czech Republic had introduced retroactive measures?
- (j) Is it the fact that Slovakia presented as an unattractive environment for PV investors?

- (k) Is it the fact that Italy investments had resulted in devastating losses? (Page 15).
- (l) Is it the fact that you believed in Germany Photon sold its plant and shares and closed its Berlin office?
- (m) Is it the fact that European markets continued to decline with only UK, Germany and France expected to install more than one GW in 2016 and Photon had no relevance to these?
- (n) Is the true situation this? As at December 2016 you were not developing any PV projects or building and commissioning any solar power plants in Europe, China, USA, Japan, India?
- (o) Do you agree it would have been quite wrong of you, to suggest solar plants, their building and commissioning had been financially successful or had been sound business projects?

4. As to corporate operation and integrity:

We are concerned that Photon gave the community to understand that during the construction phase 100 jobs would be available for locals.

We believe this is misleading and if so we want it addressed.

We are further concerned that Photon gave the community to understand that once completed there will be employment for 5-10 people in long term positions.

We believe this is misleading and if so we want it addressed.

At the 6 September meeting, Photon gave the community to understand that during the commissioning phase 100 jobs would be created.

- (a) Did you intend to give the community that understanding?
- (b) Did you mean Photon would enter into contracts of employment?
- (c) Did you mean Photon would enter into contracts?
- (d) Did you mean 100 contractors or contractors such that up to 100 workman might be on site?
- (e) How many local contracts of employment will you enter into?
- (f) How many local contractors will you retain?

Your Mr Ibrahim is reported as having informed the Western Advocate *"Once completed there will be employment opportunity for 5-10 people in long term positions."*

- (a) Did you intend to suggest contracts of employment with Photon?

- (b) Did you mean contractual retainer by Photon?
- (c) What practical experience by example or research or otherwise do you rely upon to quantify employment as you did?
- (d) How do you reconcile your statement with the Gulgong project (refer to size) with stated requirement of one worker only?
- (e) Is it correct that the whole Photon Group employs 62 employees only as follows:

4 in Slovakia (pages 91 and 23)

6 in Australia

2 in Romania

2 in the Netherlands

- the rest in Czech Republic

And such employees are office holders.

If the numbers are incorrect please advise the correct numbers.

- (f) Is it correct that any O&M is done by contractors not your employees?

5. As to corporate financial security:

We are concerned about the true financial position of Photon for the reasons outlined above and we want to address that concern.

We refer you to your 2016 Annual Report.

Page 65 is the consolidated statement of the Group's financial position and concludes the corporation's equity is Eur24,180m.

Page 94 reports the net book value at cost of Photo Voltaic Power Plant to be Eur35,123m and seems to report a revaluation of that plant by more than 100% with the consequence that the plant is said to have a net book value of Eur73,602m.

Corporate debt appears to be in the order of Eur55m, thus resulting in a corporate equity of Eur24m.

Given the past plant sales at well below book value we are concerned about the true net worth of the Group.

Do you have documentation confirming the stated revaluation value of the power plant?

Please provide a copy of the documentation or advise when and where it may be inspected.

6. We are concerned about Australia's reputation on the world stage as a place to invest as presented by you.

We suggest its reputation is being tarnished because of your very high debt to equity ratio and so your apparent repeated public failure to raise funds on the stock exchange for investment in Australia. This is so even though you are offering a very high return to investors. A return of 6% or more.

At page 37 the company's Report observes "*The Group is burdened by its high level of leverage as its business model assumes financing of individual projects in the model of 80/20 debt to equity ratio. A significant amount of debt outstanding results in growing financial costs which exposes the Group to a risk of insufficient cash flow to service the debt payments and hence the liquidity risk ...*".

The risks may not be acceptable to the more usual lending institutions thus causing your company to raise funds by committing to high interest rates.

Page 39 of its report tells us the company offered in November/December 2016 to the public through the Prague Stock Exchange to pay 6% per annum payable monthly to any lender prepared to lend funds repayable by it on 12 December 2023. The purpose was expressed to be "*proceeds of the issue will be invested with focus on Australia. Remaining proceeds may be used for repayment of outstanding bond ...*".

- (a) Have you made further attempts to raise funds?
 - (b) If yes, please provide particulars.
 - (c) How much have you raised?
 - (d) How much have you earmarked for Australia?
 - (e) Have you a large loan repayment due soon?
 - (f) When and how much?
 - (g) Where are the funds to repay that large loan?
 - (h) You are mixing funds for Australia with your need to borrow money to repay a debt. Do you think this public offer that appears to be poorly subscribed reflects poorly upon Australia's reputation as a place to invest?
7. At this early stage we are concerned that Photon's approach to addressing our concerns is affected by it's poor financial position.

We refer to Photon's Minutes of the first consultation meeting. Photon purported to minute community input and suggested some concerns were addressed by it.

- (1) As to the impact on surrounding property values there were several assertions of devaluation (even 40% was mentioned).

There was no mention of this in the Minutes nor was there any mention of addressing any such concern. We want the contents of our letter/email addressed.

Why not?

- (2) Photon advised the community that it would look at compensation after the development.

There was no mention of this and no mention of addressing this concern. See our recent letter to Photon.

- (3) Photon suggests it in fact addressed community's concern on visual impact by referring to vision vegetation buffers.

Such a suggestion is incorrect. The community made reference to height differentials and the impossibility of visual screening through vegetation. The community made reference to "the treeless plains" and the apparent impossibility to grow trees to a height. No reference is made to any of this in the Minutes. How can this issue then be addressed?

- (4) One person posed the alternative of building a contour mound as a solution. Photon responded that it could not afford earthworks. There is no mention of contour banks or otherwise in the Minutes. This concern is not recorded let alone addressed.

How will this be addressed?

- (5) One person raised the possibility of an alternative site a short distance away.

The response was to the effect that Photon could not afford the cabling. There is no reference to the community's concern in the Minutes nor of course is there any reference to addressing it.

- (6) The Minutes make reference to a sheep grazing concern raised by residents and Photon minutes, suggest that it fully addressed that concern at the meeting. This is totally incorrect.

Do you confirm you have addressed the concern?

- (7) Etc etc.

8. We are concerned that Photon's approach to the contents of the Preliminary Environment Assessment dated 31 August 2017 and submitted to the State Government Department was the result of poor research which in turn was due to

Photon's poor financial position. We suggest there are misleading statements in the preliminary assessment and this impacted upon the community.

A couple of these issues were raised with Photon in a recent letter. Its response is outstanding.

This remains a concern we want addressed.

9. In recent weeks we have come to learn you have entered into some agreement with another and sold/assigned 49% interest perhaps in this project.

We have sought details and receive your intellectually insulting reply.

Here is a copy of the emails. We want this addressed.