Information contained in this report is exempt because it falls within Category 3 of Schedule 12A Local Government Act 1972 (as amended). The Proper Officer has considered all the circumstances of the report and is of the view that on balance the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Exempt Information Category 3 – Information relating to the financial or business affairs of any particular person, including the authority holding that information, and not required to be registered under various statutes: the reasons why the public interest favours withholding the information are that the release of such information would prejudice the Authority's conduct of a commercial operation OR because the disclosure of the information is likely to prejudice the commercial interests of the Authority and organisations engaged in commercial activities as the information related to commercial activities that are conducted in a competitive environment.

NORTH LONDON WASTE AUTHORITY
REPORT TITLE: PARENT PROTECTION FOR LONDONENERGY LTD
REPORT OF: MANAGING DIRECTOR
FOR SUBMISSION TO: AUTHORITY MEETING
DATE: 13 FEBRUARY 2020
SUMMARY OF REPORT: This report outlines mechanisms which could be used to provide financial protection for LondonEnergy Ltd (LEL) if any future events affected the company's going concern status.
RECOMMENDATIONS: The Authority is recommended to: A. Note the actions being taken to assist LondonEnergy Ltd in strengthening their financial position; B. Note the risk exposure of LondonEnergy Ltd, and North London Waste Authority as shareholder, to events which could have a major impact on the company's viability; C. Note possible mechanisms for Authority support if needed D. Agree that a report be prepared for the Authority meeting on 2 April 2020, providing more specific proposals for managing the risks to LondonEnergy Ltd's finance.

SIGNED: Katie Capstick

Managing Director

DATE: 3 February 2020

1. INTRODUCTION

1.1. The Authority noted at its meeting on 5 December 2019 the financial position of LondonEnergy Ltd (LEL) if income from North London Waste Authority (NLWA) remained on the basis of the same gate fees - in 2020 and beyond - as were currently in place. In the light of this analysis the Authority agreed to increase the gate fee which is paid to LondonEnergy Ltd (LEL) for the category of residual waste which is bulked at the Hendon transfer station and taken to the EcoPark for disposal in the energy from waste plant there. This increases LEL's income [redacted]. The rationale for making the change was to strengthen LEL's financial position. This includes increasing its resilience and ability to absorb unplanned financial pressures. It was also agreed that consideration would need to be given to additional gate fee changes in the near future to get LEL into a position of greater profitability. Reference to this is made in the separate report on LEL Governance.

1.2. As shareholder and client, the Authority has a strong interest in understanding the risks which LEL faces and mitigating actions to minimise both the probability and impact of any unplanned pressures the company faces. This is a key reason why quarterly reports are provided to Authority meetings.

2. RECENT DEVELOPMENTS

2.1. As noted in the LEL quarterly report for this Authority meeting, when the company renewed its insurance for 2020 in December last year, it was able to secure only [redacted] protection against business interruption and property damage, and this cover was subject to cost and time excesses. Full detail is provided in the LEL Governance report. This is indicative that the Authority – as shareholder – has to monitor carefully LEL's financial position so as to be able to assess how changing factors affect the financial security of LEL. It is also intended to conclude shortly the taking of a long lease of land at the EcoPark, which would give rise to protection to ensure LEL remains a going concern, as agreed by the Authority in February 2019.

3. MITIGATING ACTIONS TO DEAL WITH MAJOR DISRUPTION AFFECTING LEL

3.1. Managing risk is an extremely high priority of the company and of Authority officers. For LEL, risk management relates initially to taking action to guard against incidents happening which adversely affect the company's financial position. For example budget forecasts and maintenance plans are prepared taking into account external technical advice including on investment requirements and costs of managing the energy centre. Costs are forecast by the expert advisers, Ramboll, to rise by above inflation in coming years, and that is factored into the company's business plan. In addition to spending plans, the Authority has supported LEL in its significant initiatives to enhance safety and achieve high levels of safety performance.

3.2. The most challenging individual situation would be if a catastrophic event happened at the EcoPark which prevented LEL processing waste in the energy from waste plant (meaning that waste would have to be sent to a third party, with higher disposal costs and additional transport costs). LEL assesses that costs would exceed gate fee income to the sum of over £1m a week during any complete interruption to the energy centre operation. LEL has available to it a range of options for dealing with any financial pressures. Mitigations include building up an insurance reserve, being able to use cash balances which exist in the business, deferring expenditure, and maximising its borrowing facility. All of these could be deployed as part of an action plan to ensure that LEL remained a going concern if LEL faced a significant disruption affecting costs and/or income.

3.3. If there was a risk that LEL could not absorb the effects of an unplanned event, the Authority, as shareholder, would need to be involved. The Authority is not under any obligation to offer LEL open-ended support. However, officers advise that it is important to ensure that the company is not subject to involuntary wind up. Such a wind up would introduce uncertainties over the ability to dispose of NLWA waste, with a risk that an insolvency practitioner could sell the EcoPark. It would leave staff and creditors in an uncertain position, and would be detrimental to the Authority's reputation. Therefore if LEL's ability to manage unexpected costs is exhausted and the Authority is left as funder of last resort, either to secure the company's long-term viability or to manage its winding up, it is necessary to contemplate the options for action by the Authority. Authority consideration would depend on the LEL Board notifying the Authority that in its opinion the company was likely to become unable to pay its debts as they fall due; and/or the value of LEL's assets is likely to become less than the amount of its liabilities, taking into account its contingent and prospective liabilities;

3.4. Potential forms of Authority support could take the form of advance payment for services or use of the Authority's revenue contingency within its budget. Both of these could be accommodated without the Authority needing to seek any funds additional to its existing in-year budget. Further options would be for the Authority to lend to LEL or to inject funding through the purchase of shares. The latter two options would involve NLWA using capital borrowing to pay to LEL. This would avoid the need for the Authority to increase in-year costs. However, there would be a longer term cost in the form of financing the borrowing.

3.5. In the event of any event having a major impact on LEL, NLWA officers would expect to arrange a meeting to enable Members to consider the position of the group (taking NLWA and LEL together) including any potential costs which might fall to the Authority and how they should be provided for. Arranging an Authority or Urgency Committee meeting would be a key priority so that Members would have the maximum opportunity to consider the situation and options available to the Authority.

3.6. Officers have to consider the eventuality that it would be impossible to secure a timely quorate meeting, and it should be noted that Standing Order A 27.3 (c) provides that "There shall be delegated to the Clerk the authority to act in respect of any functions of the NLWA on any matter which, in his/her opinion, does not admit of delay. This delegated authority shall only be exercised in consultation with the Chair or, where unable to act, as far as possible the Vice-Chair(s) or one of them should the other not be available and (if not the same individuals) wherever possible the leaders of the Opposition Parties." Any exercise of delegated authority under this Standing Order shall be reported for information to the next meeting of the Authority

4. PROPOSED NEXT STEPS

4.1. This paper draws attention to the fact that financial risks to LEL have increased, particularly as a result of the reduction in business interruption insurance. No actions are required by Members in response to this paper. Officers will work with LEL to prepare a note for the April Authority meeting setting out more specifically how risks could materialise and contingency plans for dealing with them. This will give a greater understanding of the sort of circumstances in which NLWA may need to offer financial support to the company.

5. COMMENTS OF THE LEGAL ADVISER

[Redacted]

6. COMMENTS OF THE FINANCIAL ADVISER

6.1. Should the Authority need to exercise the requirement to support LEL by an injection of funds, the Financial Adviser shall agree with the Managing Directors of the Authority and LEL the appropriate level of capital injection and the optimal method, either loan or share purchase. The Authority will then enter into a Public Works Loan Board (PWLB) loan for the required amount. This process takes two business days.

6.2. The impact of a loan from PWLB on the levy, will depend on the interest rate and the Authority's MRP policy. The timing of the impact on the levy will depend on the structure chosen but is likely to be medium term. It would be possible to charge LEL interest on the loan to cover the cost to the Authority in the short-term but this will affect the company's profits and the impact on the gate fee would have to be considered, based on the value of the loan. The only impact in year would be the interest incurred and the MRP charge would be deferred until the year following the capital injection.

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