



# NZX Regulation Decision

Millennium & Copthorne Hotels New Zealand Limited  
(MCK)

Application for waiver from NZX Main Board Listing Rule  
5.2.3

23 March 2017



## Decision

1. Subject to the conditions set out in paragraph 2 below, and on the basis that the information provided by Millennium & Copthorne Hotels New Zealand Limited (**MCK**) is complete and accurate in all material respects, NZX Regulation (**NZXR**) grants MCK a waiver from Rule 5.2.3 in respect of its Preference Shares for a period of twelve months from 23 March 2017 to allow MCK to have fewer than 25% of the Preference Shares held by less than 500 Members of the Public holding at least a Minimum Holding.
2. The waiver in paragraph 1 above is provided on the conditions that:
  - a. the Directors of MCK certify to NZXR, in a form acceptable to NZXR, that allowing the Preference Shares to remain quoted is in the best interests of holders of the Preference Shares;
  - b. MCK clearly and prominently discloses the waiver, its conditions, and the implications in its half-year and annual reports;
  - c. MCK consistently monitors the total number of Members of the Public holding Preference Shares and the percentage of Preference Shares held by Members of the Public holding at least a Minimum Holding and provides NZXR with quarterly updates from the date the waiver is granted during the period of the waiver, such updates to be provided to NZXR within ten business days of the end of each quarter; and
  - d. MCK notifies NZXR as soon as practicable if there are any material changes to the total number of Members of the Public holding Preference Shares, and/or the percentage of Preference Shares held by Members of the Public.
3. The information on which this decision is based is set out in Appendix One to this decision. This waiver will not apply if that information is not or ceases to be full and accurate in all material respects.
4. The Rule to which this decision relates is set out in Appendix Two to this decision.
5. Capitalised terms that are not defined in this decision have the meanings given to them in the Rules.

## Reasons

6. In coming to the decision to provide the waiver set out in paragraph 1 above, NZXR has considered that:
  - a. the Capital Reduction Scheme undertaken in July 2014 contributed to the decline in spread since the 2014 Waiver was granted. MCK has advised that since the Capital Reduction Scheme was implemented, there has not been a significant decrease in the number of Preference Shareholders;
  - b. in the absence of a waiver from Rule 5.2.3, MCK would be unable to comply with Rule 5.2.3 and could not continue to quote the Preference Shares. MCK submits that compliance with Rule 5.2.3 is outside of the control of MCK and its Directors;
  - c. holders of the Preference Shares will not be disadvantaged by the granting of the waiver. Further, the condition in paragraph 2(a) provides NZXR with additional comfort that it is in the best interests of holders of the Preference Shares to allow the Preference Shares to remain quoted on the basis that holders will remain

entitled to the protections afforded by the Rules, and a constitution that reflects those protections;

- d. the condition contained in paragraph 2(b) above will provide access to information for both existing holders of the Preference Shares, as well as those wishing to trade in the Preference Shares, of this waiver and its implications for the Preference Shares;
- e. the condition contained in paragraph 2(c) above will ensure that NZXR is able to monitor any material changes in MCK's spread over the period of the waiver; and
- f. the waiver is granted for a period of 12 months. This gives NZXR the opportunity to reconsider the spread of the Preference Shares in 12 months' time if MCK considers a waiver is still required.



## Appendix One

1. Millennium & Copthorne Hotels New Zealand Limited (**MCK**) is a Listed Issuer with ordinary Shares and Preference Shares Quoted on the NZX Main Board.
2. In 2014 MCK undertook a pro rata renounceable offer (**Offer**) of redeemable Preference Shares (**Preference Shares**) to all holders of MCK's ordinary Shares. At the time of the Offer closing, MCK became aware that it would not meet the spread requirements of NZX Main Board Listing Rule (**Rule**) 5.2.3 in respect of the Preference shares.
3. On 25 March 2014, being the date of Quotation of the Preference Shares, a total of 206 Members of the Public held 14.8% of the Preference Shares on issue.
4. On 4 April 2014, NZXR granted MCK a waiver from Rule 5.2.3 for the Preference Shares (**2014 Waiver**) for a period of 12 months from 25 March 2014.
5. In July 2014, MCK undertook a capital reduction by way of scheme of arrangement (**Capital Reduction Scheme**). Between the initial announcement of the Capital Reduction Scheme on 4 June 2014, and its implementation on 17 July 2014, the number of holders of Preference Shares decreased from 207 to 184.
6. In 2015 and 2016, two further waivers from Rule 5.2.3 were granted by NZXR to MCK in relation to the Preference Shares.
7. As at 28 February 2017, 189 Members of the Public hold 8.4% of the Preference Shares on issue, with 11 custodians and nominees holding Preference Shares.
8. While Aberdeen Asset Management Limited (**Aberdeen**) holds 6.4% of the Preference Shares, Aberdeen is not considered to be a Member of the Public for the purposes of the Rules on the basis that Aberdeen holds more than 10% of the ordinary Shares in MCK.
9. MCK has applied for a Waiver from Rule 5.2.3 in respect of the Preference Shares for a further 12 months from 23 March 2017.



## Appendix Two

### Rule 5.2 Quotation of Securities

- 5.2.3 A Class of Securities will generally not be considered for Quotation on the NZSX or NZDX unless those Securities are held by at least 500 Members of the Public holding at least 25% of the number of Securities of that Class issued, with each Member of the Public holding at least a Minimum Holding, and those requirements are maintained, or NZX is otherwise satisfied that the Issuer will maintain a spread of Security holders which is sufficient to ensure that there is a sufficiently liquid market in the Class of Securities.

