



NZX Regulation Decision

Tilt Renewables Limited (“TLT”)

Application for waivers from NZX Main Board Listing Rules
7.11.1 and 9.2.1

17 July 2018



Background

1. The information on which these decisions are based is set out in Appendix One to this decision. These waivers will not apply if that information is not, or ceases to be, full and accurate in all material respects.
2. The Rules to which these decisions relate are set out in Appendix Two.
3. Capitalised terms that are not defined in these decisions have the meanings given to them in the Rules.

Waiver from Listing Rule 7.11.1

Decision

4. Subject to the conditions set out in paragraph 5 below, and on the basis that the information provided by TLT is complete and accurate in all material respects, NZXR grants TLT a waiver from Rule 7.11.1. This is granted to the extent that the Rule would otherwise require the allotment of New Shares to institutional investors in respect of subscriptions received under the Institutional Entitlement Offer to occur within five Business Days of the latest date applications may be received under the Institutional Entitlement Offer.
5. The waiver in paragraph 4 above is provided on the conditions that:
 - a. allotment of the New Shares to institutional shareholders occurs no later than eight Business Days after the Closing Date for the Institutional Entitlement Offer; and
 - b. the waiver, its conditions and its implications are disclosed in the Offering Document for the Offer.

Reasons

6. In coming to the decision to provide the waiver set out in paragraph 4 above, NZXR has considered that:
 - a. the policy behind Rule 7.11.1 is to ensure that, where application monies have been submitted, subscribers obtain the benefit of their investment without undue delay;
 - b. this waiver will only affect the settlement for institutional investors under the Institutional Entitlement Offer and Institutional Bookbuild. Institutional investors settle on a delivery versus payment basis so would not be required to submit the subscription money for the relevant New Shares until the Institutional Settlement Date. Accordingly, those investors would not be denied the benefit of this capital for any greater period than would have otherwise been the case as a result of this waiver;
 - c. TLT has submitted, and NZXR has no reason not to accept that, due to the composition of its share register, there is a material risk that the share registry would be unable to complete the required reconciliation exercises, to effect allotment of the New Shares within five Business Days of the latest date applications may be received, under the Institutional Entitlement Offer; and
 - d. there is precedent for this decision.



Waiver from Listing Rule 9.2.1

Decision

7. Subject to the conditions set out in paragraph 8 below, on the basis that the information provided by TLT is complete and accurate in all material respects and without prejudice to any of the benefits afforded to TLT under the class waiver issued by NZXR on 13 June 2017 for Issuers undertaking Accelerated Offers, NZXR grants TLT a waiver from Rule 9.2.1. This is granted to the extent that the Rule would otherwise require prior shareholder approval for Infratil (as defined in paragraph 7 of Appendix 1) to act as a sub-underwriter of the Offer and receive Sub-Underwriting Fees under a Sub-Underwriting Agreement.
8. The waiver in paragraph 7 above is provided on the conditions that:
 - a. the members of the independent committee of directors of TLT, at the time of TLT's entry into the Underwriting Agreement, certify to NZXR that:
 - i. the terms of the Underwriting Agreement, including the Underwriting Fees payable, have been entered into, and negotiated, on an arm's length commercial basis; and
 - ii. TLT was not influenced to enter into the Underwriting Agreement by the interests of Infratil;
 - b. the Underwriters certify to NZXR that:
 - i. Infratil did not unduly influence the Underwriters' decision to enter into the Sub-Underwriting Agreement;
 - ii. the terms of the Sub-Underwriting Agreement, including the Sub-Underwriting Fees payable, have been entered into, and negotiated, on an arm's length commercial basis; and
 - iii. there will be no material differences between the terms of the Sub-Underwriting Agreement, including as to the Sub-Underwriting Fees payable, with any other sub-underwriters not related to Infratil;
 - c. the waiver, its conditions and its implications are disclosed in:
 - i. the Offering Document for the Offer;
 - ii. the annual report for the year in which the Offer takes place; and
 - iii. the Notice of Meeting for TLT obtaining shareholder approval of the Dundonnell Project under Rule 9.1.1.

Reasons

9. In coming to the decision to provide the waiver set out in paragraph 7 above, NZXR has considered that:
 - a. The policy behind Rule 9.2.1 is to regulate transactions where a Related Party to a Material Transaction may gain favourable consideration due to its relationship with the Issuer. NZXR may waive the requirement to obtain approval of a Material Transaction if it is satisfied that the involvement of any Related Party is plainly unlikely to have

influenced the promotion of, or the decision to enter into, the transaction. The granting of this waiver will not offend the policy behind Rule 9.2.1;

- b. TLT submits, and NZXR has no reason not to accept, that the Sub-Underwriting Agreement, including the Sub-Underwriting Fees, to be agreed between Infratil and the Underwriters will be on materially the same terms in respect of Infratil as for other sub-underwriters and be consistent with market standard fees. Further, the certifications to be provided by the Underwriters as a condition of the waiver provide comfort that Infratil will not gain favourable consideration due to its relationship with TLT; and
- c. there is precedent for this decision.

Confidentiality

- 10. TLT has requested this application and any decision be kept confidential until the Notice of Meeting for TLT obtaining shareholder approval of the Dundonnell Project under Rule 9.1.1 is sent to shareholders.
- 11. In accordance with Footnote 1 to Rule 1.11.2, NZXR grants TLT's request.



Appendix One

1. Tilt Renewables Limited (**TLT**) is a Listed Issuer with ordinary shares Quoted on the NZX Main Board and the ASX.
2. TLT proposes to undertake a capital raising (**Offer**) by way of a pro rata offer of new shares in TLT (**New Shares**). The Offer will be made in the form of an accelerated renounceable entitlement offer (commonly referred to as an **AREO**). The Offer is to be conducted in the following stages:
 - a. **Institutional Entitlement Offer**: An accelerated pro-rata entitlement offer at a fixed price (**Entitlement Price**) to existing institutional shareholders resident in New Zealand and various overseas jurisdictions (**Eligible Institutional Shareholders**) (**Institutional Entitlement Offer**);
 - b. **Institutional Bookbuild**: New Shares not taken up by Eligible Institutional Shareholders, along with New Shares in respect of entitlements that would have been offered to any ineligible overseas institutional shareholders, are offered under a bookbuild (**Institutional Bookbuild**). If the price achieved in the Institutional Bookbuild is higher than the Entitlement Price, the excess will be shared (on a pro-rata basis) between the institutional shareholders who did not, or who were not able to, take up their entitlement;
 - c. **Retail Entitlement Offer**: Following completion of the Institutional Bookbuild, a pro-rata offer of New Shares (**Retail Entitlement Offer**) is made at the same price and ratio as the Institutional Entitlement Offer to existing retail shareholders in New Zealand and certain eligible overseas jurisdictions (if relevant), who did not receive an offer under the Institutional Entitlement Offer (**Eligible Retail Shareholders**); and
 - d. **Retail Bookbuild**: New Shares not taken up by Eligible Retail Shareholders, along with New Shares in respect of entitlements that would have been offered to any ineligible overseas retail shareholders, are offered under a bookbuild (**Retail Bookbuild**). If the price achieved in the Retail Bookbuild is higher than the Entitlement Price, the excess will be shared (on a pro-rata basis) between the retail shareholders who did not, or who were not able to, take up their entitlement.
3. TLT will not make the Offer available to TLT shareholders resident in certain overseas jurisdictions (**Ineligible Shareholders**), on the grounds that it would be unduly onerous for TLT to make the Offer available to those Ineligible Shareholders.
4. Eligible Institutional Shareholders and Eligible Retail Shareholders will be offered New Shares on a basis that would (if accepted by all shareholders) maintain the existing proportionate rights of each shareholder (relative to all other shareholders) to votes and distributions. New Shares in respect of entitlements that are not taken up by shareholders, or not able to be taken up by Ineligible Shareholders, will be offered through the Institutional Bookbuild and the Retail Bookbuild, providing an opportunity for shareholders that do not, or are not eligible to, take up their entitlements to receive value for them. Entitlements will not be able to be traded or sold privately by shareholders.
5. The New Shares will be of the same class and have the same rights as TLT shares that are currently on issue and will be Quoted on the NZX Main Board and the ASX on their allotment.



6. The Offer will be underwritten by Citigroup Global Markets Limited and Forsyth Barr Group Limited (the **Underwriters**), with whom TLT has entered into an underwriting agreement, dated 30 May 2018 (**Underwriting Agreement**).
7. Under the Underwriting Agreement, Infratil Limited (**IFT**) and its related bodies corporate, Renew Nominees Limited, Infratil Energy New Zealand Limited and Infratil Investments Limited (all together with IFT, **Infratil**) are permitted and will be invited to:
 - a. participate in the Institutional Bookbuild and the Retail Bookbuild (**Bookbuild Participation**); and
 - b. act as sub-underwriter of the Offer by entering into a sub-underwriting agreement with the Underwriters (**Sub-Underwriting Agreement**).
8. At the time of this waiver, TLT had not determined when it would undertake the Offer; however, it is anticipated that the AREO will be conducted in accordance with the following timetable:

Date	Event
T	- Announcement of Offer - Offering Document released to NZX - Opening Date for Institutional Entitlement Offer
T+1	Closing Date for Institutional Entitlement Offer
T+2	- Institutional Bookbuild - Record date
T+3	Retail Entitlement Offer Opens
T+9	Settlement and allotment date for Institutional Entitlement Offer and Institutional Bookbuild
T+15	Closing Date for Retail Entitlement Offer
T+17	Retail Bookbuild
T+20	Settlement and allotment date for Retail Entitlement Offer and Retail Bookbuild

9. The Offer is to be conducted pursuant to clause 19 of schedule 1 of the Financial Markets Conduct Act 2013 (**FMCA**) and the associated regulations. An Offering Document will be prepared and, prior to an offer being made, a notice will be released by TLT to the NZX Main Board, in accordance with the FMCA.
10. The main benefits to TLT of adopting the AREO structure for its Offer are as follows:
 - a. the accelerated institutional component of the Offer means that the Underwriters have a much shorter period of exposure on that part of the Offer, as both the risk and the cost associated with the Underwriters are substantially reduced;
 - b. the underwriting provides certainty to TLT as to the minimum amount to be raised from the Offer;



- c. Evidence from similar entitlement offers undertaken by other companies both in New Zealand and in Australia suggests that the shorter timetable for the institutional component of the Offer potentially reduces the issue price discount when compared to traditional rights issues as less market risk arises for institutions; and
- d. As the Institutional Entitlement Offer and the Institutional Bookbuild will be conducted at the beginning of the Offer, TLT will receive the proceeds of the Institutional Entitlement Offer and the Institutional Bookbuild before the Retail Entitlement Offer is completed.

Waiver from Rule 7.11.1 – Further Background

- 11. TLT has applied to NZX Regulation (**NZXR**) for a waiver from NZX Main Board Listing Rule (**Rule**) 7.11.1 as, due to the composition of its share register, there would be a material risk that the share registry would be unable to complete the required reconciliation exercises to ensure allotment of the New Shares to institutional shareholders within the timeframe dictated by the Rule.

Waiver from Rule 9.2.1 – Further Background

- 12. On 13 June 2017, NZXR issued a class waiver for Issuers undertaking Accelerated Offers, including from Rule 9.2.1 to the extent that the Rule would otherwise require prior shareholder approval for Related Parties to participate in an Accelerated Offer (**AREO Class Waiver**).
- 13. Infratil is the beneficial holder of 51.04% of the ordinary shares in TLT and is therefore a Related Party of TLT in accordance with Rule 9.2.3(b).
- 14. Infratil has given TLT an irrevocable commitment that it will take up its full entitlement under the Offer (**Infratil Commitment**). It is likely that through any Bookbuild Participation and Sub-Underwriting Agreement that Infratil will increase its beneficial holding of the ordinary shares in TLT.
- 15. The AREO Class Waiver permits:
 - a. the Infratil Commitment, as that participation is on a pro-rata basis; and
 - b. the potential Bookbuild Participation of Infratil, as that participation will be on identical terms to any other participant.
- 16. The AREO Class Waiver does not apply in relation to Related Parties acting as an underwriter or sub-underwriter for the Offer.
- 17. In the absence of a further waiver from Rule 9.2.1, TLT would be required to seek shareholder approval for Infratil to act as sub-underwriters of the Offer under a Sub-Underwriting Agreement.
- 18. TLT's Average Market Capitalisation (**AMC**) as at 5 July 2018 is approximately NZ\$663 million.
- 19. Under the Offer, TLT intends to issue the New Zealand dollar equivalent of AU\$300 million (based on the New Zealand Dollar / Australian Dollar exchange rate at the time) of New Shares to partially finance an AU\$600 million project to construct the Dundonnell Wind Farm in Victoria, Australia if TLT is awarded the contract under the Victorian Renewable Energy Auction Scheme (**Dundonnell Project**).



20. The potential Sub-Underwriting Agreement will constitute a Material Transaction within the meaning of Rule 9.2.2(b) because as a related series of transactions, the Offer, the Underwriting Agreement and the potential Sub-Underwriting Agreement will have a market value in excess of 10% of TLT's AMC.
21. The potential Sub-Underwriting Agreement may constitute a Material Transaction within the meaning of Rule 9.2.2(e) because the Underwriting Agreement and the potential Sub-Underwriting Agreement are a related series of transactions whereby TLT may obtain services in respect of which the actual gross cost of which in this financial year is likely to exceed 1% of TLT's AMC.
22. The fees payable to Infratil under any Sub-Underwriting Agreement (**Sub-Underwriting Fees**) will be a portion of the total fees payable to the Underwriters under the Underwriting Agreement (**Underwriting Fees**).
23. TLT anticipates that the Underwriting Fees are likely to be, as at 5 July 2018, less than 1% of TLT's AMC. However, it is possible that at the time TLT undertakes the Offer, changes in a range of market factors could result in the Underwriting Fees exceeding 1% of TLT's AMC.



Appendix Two

Rule 7.11 Allotment

7.11.1 An Issuer making an issue of Securities Quoted or to be Quoted (other than Equity Securities issued under Rule 7.3.10) shall proceed to allotment within five Business Days after the latest date on which applications for Securities close.

Rule 9.2 Transactions with Related Parties

9.2.1 An Issuer shall not enter into a Material Transaction if a Related Party is, or is likely to become:

- (a) a direct or indirect party to the Material Transaction, or to at least one of a related series of transactions of which the Material Transaction forms part; or
- (b) in the case of a guarantee or other transaction of the nature referred to in paragraph (d) of the definition of Material Transaction, a direct or indirect beneficiary of such guarantee or other transaction,

unless that Material Transaction is approved by an Ordinary Resolution of the Issuer.

9.2.2 For the purposes of Rule 9.2.1, "Material Transaction" means a transaction or a related series of transactions whereby an Issuer:

...

- (b) issues its own Securities or acquires its own Equity Securities having a market value in excess of 10% of the Average Market Capitalisation of that Issuer, save in the case of an issue pursuant to Rule 7.3.5 where only the market value of those Securities being issued to the Related Party or to any Employees of the Issuer are to be taken into account; or

...

- (e) provides or obtains any services (including without limitation obtaining underwriting of Securities or services as an Employee) in respect of which the actual gross cost to the Issuer in any financial year (ignoring any returns or benefits in connection with such services) is likely to exceed an amount equal to 1% of the Average Market Capitalisation of the Issuer; or

...

9.2.3 For the purposes of Rule 9.2.1, "Related Party" means a person who is at the time of a Material Transaction, or was at any time within six months before a Material Transaction:

...



(b) the holder of a Relevant Interest in 10% or more of a Class of Equity Securities of the Issuer carrying Votes

...

