



NZX Regulation Decision

Tilt Renewables Limited ("TLT")

Application for waiver from NZX Main Board Listing Rule
9.2.1

29 October 2018



Waiver from Listing Rule 9.2.1

Decision

1. Subject to the condition set out in paragraph 2 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 9.2.1 to the extent that the Rule would otherwise require TLT to seek shareholder approval to enter into the Infratil Arrangements.
2. The waiver in paragraph 1 above is provided on the condition that the Independent Directors of TLT certify to NZXR that:
 - a. they are not interested, in terms of Rule 3.4.3, in the Infratil Arrangements;
 - b. TLT was not influenced in its decision to enter into the Infratil Arrangements by Infratil;
 - c. the terms and conditions of the Infratil Arrangements, including the costs payable to Infratil in obtaining the Guarantee, have been negotiated, and arranged, on an arms' length and commercial basis;
 - d. the terms and conditions of the Infratil Arrangements, including the costs payable to Infratil in obtaining the Guarantee, are fair and reasonable to TLT and its shareholders; and
 - e. entering into the Infratil Arrangements is in the best interests of TLT and its shareholders who are not related to, or Associated Persons of, Infratil.
3. The information on which this decision is based is set out in Appendix One. This waiver will not apply if that information is not, or ceases to be, full and accurate in all material respects.
4. The Rules to which this decision relates are set out in Appendix Two.
5. Capitalised terms that are not defined in this decision have the meaning 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 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 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 has submitted, and NZXR has no reason not to accept, that it is not practical to seek shareholder approval for the Infratil Arrangements as;
 - i. the Infratil Arrangements are a 'stop gap' measure, brought about by the existence of the Takeover Offer, which may prevent TLT from undertaking the Offer;
 - ii. without the Infratil Arrangements, TLT will not be able to make the Advance Payment if the Offer does not proceed, meaning TLT will not, in relation to the



Dundonnell Project, be able to proceed to financial close in accordance with the timing prescribed in the Support Agreement;

- iii. TLT will be required to expend more time and cost seeking alternative funding on an urgent basis; and
 - iv. in any case, the time and cost involved in calling a special meeting is unduly burdensome, particularly given the immediacy with which TLT requires certainty of funding;
- c. TLT has submitted, and NZXR has no reason not to accept, that Infratil passing on the costs of obtaining the Guarantee to TLT represents standard practice, and that the final margin will be the result of commercial negotiations, rather than the result of any market benchmarking, and, based on advice provided to TLT management, is considered to be within an appropriate range;
- d. the condition imposed above provide comfort that the Infratil Arrangements have been, and will continue to be, negotiated on an arms' length commercial basis, and are fair, reasonable and in the best interests of TLT and its shareholders; and
- e. there is precedent for this decision.

Confidentiality

7. TLT has requested this application and any decision be kept confidential until such time as TLT confirms to NZXR that the Guarantee has been obtained and that the Offer will not proceed.
8. 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. On 2 September 2018, TLT's two largest shareholders, Infratil Limited (**Infratil**), through its subsidiary Infratil 2018 Limited, and Mercury NZ Limited (together, the **TLT JV**) made a full takeover offer for all of TLT's Equity Securities (**Takeover Offer**). The Takeover Offer is currently scheduled to close on 29 October 2018.
3. On 11 September 2018, TLT announced it was awarded a contract under the Victorian Renewable Energy Auction Scheme (**Support Agreement**) to construct the Dundonnell Wind Farm in Victoria, Australia for approximately AU\$600 million (**Dundonnell Project**). Entry into the Dundonnell Project was approved by TLT shareholders at its Annual Meeting on 29 August 2018.
4. TLT must make a payment of approximately AU\$70 million to one of its suppliers in relation to the Dundonnell Project on 15 November 2018 (**Advance Payment**). TLT is considering undertaking a capital raising of approximately AU\$280 million (**Offer**) by way of an accelerated entitlement offer to finance the Advance Payment and partially fund the Dundonnell Project.
5. Should the TLT JV extend the Takeover Offer beyond 29 October 2018, TLT may not be able to proceed with the Offer and raise funds in time to make the Advance Payment. In this event, TLT has contemplated an alternative scenario to finance the Advance Payment:
 - a. Obtaining a bank guarantee of approximately NZ\$90 million (**Guarantee**) from Infratil's bank in favour of the lenders under TLT's existing facility agreement relating to the Dundonnell Project; and
 - b. Entering into an agreement with Infratil (through its subsidiary Infratil Energy New Zealand Limited) in respect the Guarantee (**Side Letter**), which provides (amongst other matters) that Infratil will pass on the cost of obtaining the Guarantee, plus a margin, to TLT.(together, the **Infratil Arrangements**).
6. TLT's Average Market Capitalisation (**AMC**), as at 24 October 2018, is approximately NZ\$713.5 million.
7. Based on the NZD/AUD exchange rate as at 25 October 2018, the Advance Payment will result in TLT disposing of assets (being approximately NZ\$75 million in cash) in excess of 10% of its AMC and therefore, is a Material Transaction in accordance with Rule 9.2.2(a). The Infratil Arrangements will form part of a related series of transactions with the Advance Payment.
8. The Infratil Arrangements could result in TLT borrowing or incurring obligations in excess of 10% of its AMC and are therefore a Material Transaction in accordance with Rule 9.2.2(c).
9. The Infratil Arrangements could result in TLT entering into a guarantee or similar obligation which could expose it to liability in excess of 10% of its AMC and are therefore a Material Transaction in accordance with Rule 9.2.2(d).

10. As at 26 October 2018, Infratil is the beneficial holder of approximately 62.7% of the ordinary shares in TLT. Infratil is therefore a Related Party of TLT in accordance with Rule 9.2.3(b).



Appendix Two

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:

- (a) purchases or otherwise acquires, gains, leases (as lessor or lessee) or sells or otherwise disposes of, assets having an Aggregate Net Value in excess of 10% of the Average Market Capitalisation of the Issuer; or

...

- (c) borrows, lends, pays, or receives, money, or incurs an obligation, of an amount in excess of 10% of the Average Market Capitalisation of the Issuer; or

- (d) enters into any guarantee, indemnity, underwriting, or similar obligation, or gives any security, for or of obligations which could expose the Issuer to liability in excess of 10% 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

...

