

## Private and Confidential

16 June 2016

NZX Limited  
PO Box 2959  
Wellington

To: Waivers and Rulings

## **Millennium & Copthorne Hotels New Zealand Limited (MCK) – Independent Opinion in relation to a waiver of Listing Rule 9.2.1**

### **Background**

We are advised that MCK has been shortlisted to enter into a lease of the hotel at 71 Mayoral Drive, Auckland from the owner, CDL Hospitality Real Estate Investment Trust (“CDL”) (managed by M&C REIT Management Limited (“M&C RML”), an indirect wholly owned subsidiary of Millennium & Copthorne Hotels plc). CDL and M&C RML are each a Related Party of MCK and entry into the lease is a Material Transaction (as defined in the Listing Rules).

As a condition of a waiver from Listing Rule 9.2.1 MCK has obtained from NZX in relation to the proposed transaction, MCK was required to obtain an independent review of the commercial terms of the proposed lease transaction from the perspective of MCK.

### **Scope of Work**

We have been requested to provide an independent opinion to NZX about whether the terms of the proposed lease transaction are:

- on “arm’s length” terms
- within normal market parameters for a transaction of this nature, and
- fair to MCK’s shareholders who are not Associated Persons of CDL and M&C RML, in terms of the overall package of key commercial terms of the proposed lease.

In forming our view we have referred to the following documents:

- Request for Proposals issued by CDL
- the proposal submitted by MCK dated 29 February 2016
- the final version of the proposed lease, including the commercial terms contained in Third Schedule of that lease

- information regarding the financial performance of MCK's hotel operations in New Zealand.

We have taken into consideration our knowledge of the key commercial terms involved in hotel management agreements and leases in New Zealand, and have consulted with Horwath HTL colleagues in Sydney and Singapore regarding these terms internationally.

## **Our Conclusions**

### ***“Arm’s length” Terms***

Based on the documents we have reviewed, and the information and explanations provided to us by MCK and M&C RML, the transaction appears to have been negotiated on an “arm’s length” basis.

We are satisfied with the content of the RFP and we have seen evidence of the outcome of negotiations which have occurred as would normally be expected between MCK and CDL.

### ***Within Normal Market Parameters***

Even though a lease such as proposed is not common in New Zealand, the commercial terms as drafted are consistent with hotel management agreements that would be negotiated in a transaction of this type, for this hotel, in the market at this time.

The key commercial terms of the lease are:

- base management fee (■% of Total Revenue)
- incentive management fee (■% of Total Revenue, providing the profit threshold is achieved), and
- franchise fee (■% of rooms revenue).

We believe that the total quantum of management fees at ■% of Total Revenue are reasonable for a transaction of this type, for this hotel, in the market at this time. This is given the significance of the subject hotel at 71 Mayoral Drive as the largest hotel in New Zealand, and in the context of its strategic location in Auckland, New Zealand’s key gateway city.

The short lease term and potential termination without cause can also be accepted as having been negotiated on an “arm’s length” basis.

Accordingly, we believe that the terms of proposed lease are within normal market parameters for a transaction of this nature.

### ***Fairness of the terms to Minority Shareholders***

Taking into account all of the aspects of the proposed commercial arrangements, we believe that the proposed transaction represents good value for MCK's shareholders who are not Associated Persons of CDL and M&C RML. This is based on the quantum of fees projected to be earned by MCK, the allocation of risk and return between the owner and MCK, and the minimal entry cost into the lease agreement for MCK.

We believe that MCK's ability to recover any costs incurred in the case of a termination (perhaps in lieu of compensation payable) is reasonable.

The value for MCK's shareholders is further enhanced by the significant synergies and other benefits which will be achieved by MCK if this transaction occurs.

Accordingly, we believe that the terms of the proposed lease are fair to MCK shareholders who are not Associated Persons of CDL and M&C RML.

### **Disclaimers**

It is not intended that this opinion should be used or relied upon for any purpose other than as an expression of Horwath HTL Limited's ('Horwath') opinion as to the merits of the lease agreement. Horwath expressly disclaims any to any person who relies or purports to rely on this opinion for any other purpose.

This opinion has been prepared by Horwath with care and diligence and the statements and opinions given by Horwath in this opinion are given in good faith and in the belief on reasonable grounds that such statements and opinions are correct and not misleading.

However, no responsibility is accepted by Horwath or any of its officers or employers for errors or omissions however arising in the preparation of this opinion, provided that this shall not absolve Horwath from liability arising from an opinion expressed recklessly or in bad faith.

### **Independence**

Horwath and its related entities do not have any shareholding in or other relationship or conflict of interest with MCK or CDL or M&C RML that could affect its ability to provide an unbiased opinion in relation to the commercial terms of the proposed lease. Horwath had no part in the formation of the lease terms. Its only role has been the preparation of this opinion. Horwath will receive a fixed fee for the preparation of this opinion. This fee is not contingent on the outcome of the lease agreement.

An advance draft of this opinion was provided to the Directors of MCK for their comments as to factual accuracy of the contents of the opinion. Changes made as a result of the circulation of the draft have not changed our conclusions.

## Information

Horwath has obtained all the information that it believes is desirable for the purposes of preparing this opinion, including requesting all relevant information which is or should have been known to any Director of MCK and made available to the Directors.

Horwath confirms that in its opinion the information provided by MCK and contained within this opinion is sufficient to enable Horwath to provide this opinion.

The following non-public information was used and relied upon in preparing this report:

- the Request for Proposals issued by CDL
- the proposal submitted by MCK dated 29 February 2016
- the most recent proposed lease terms, including the commercial terms set out in Third Schedule of that lease
- financial performance information from MCK's management reports regarding MCK's hotel operations in New Zealand and in particular its Millennium branded hotels.

Yours sincerely  
**HORWATH HTL LIMITED**



Stephen Hamilton  
Director