



Takeovers Code (Te Kairanga Wines Limited) Exemption Notice 2004

Pursuant to section 45 of the Takeovers Act 1993, the Takeovers Panel gives the following notice (to which is appended a statement of reasons of the Takeovers Panel).

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Notice

1 Title

This notice is the Takeovers Code (Te Kairanga Wines Limited) Exemption Notice 2004.

2 Application

This notice applies to acts or omissions occurring on or after 27 September 2004.

3 Expiry

This notice expires on the close of 31 March 2005.

4 Interpretation

(1) In this notice, unless the context otherwise requires,—

Act means the Takeovers Act 1993

agreement means the underwriting agreement between TKW and Rangatira dated 23 August 2004

Code means the Takeovers Code approved by the Takeovers Code Approval Order 2000 (SR 2000/210)

issue means the proposed issue by TKW of up to 1 209 730 voting securities to be offered to its ordinary shareholders under pro rata renounceable rights to subscribe for 2 voting securities for every 3 existing voting securities

meeting means the meeting of the shareholders of TKW to be held on 31 October 2004 to consider whether to approve, for the purposes of rule 7(d) of the Code, the allotment of voting securities to Rangatira under the issue and the agreement

notice of meeting means the notice of the meeting that is sent to the shareholders of TKW

Rangatira means Rangatira Limited

TKW means Te Kairanga Wines Limited

voting security means an ordinary share in TKW.

- (2) Any term or expression that is defined in the Act or the Code and used, but not defined, in this notice has the same meaning as in the Act or the Code.

5 Exemption from rule 7(d) of Code

Rangatira is exempted from rule 7(d) of the Code in respect of any increase in its voting rights in TKW resulting from the allotment of voting securities to Rangatira under the issue and the agreement to the extent that the notice of meeting does not comply with rule 16(b) of the Code.

6 Exemption from rule 16(b) of Code

TKW is exempted from rule 16(b) of the Code in respect of the notice of meeting.

7 Conditions of exemptions

- (1) The exemptions in clauses 5 and 6 are subject to the condition that the notice of meeting contains particulars of the voting securities that may be acquired by Rangatira under the issue and agreement, including—
- (a) the number of voting securities that would be allotted under the issue to Rangatira as a shareholder of TKW; and
 - (b) the maximum number of voting securities that would be allotted to Rangatira under the agreement if Rangatira had to meet its full underwriting commitment; and

- (c) the total number of voting securities that could be allotted to Rangatira under paragraphs (a) and (b) (which in this clause is called the **maximum Rangatira allotment**); and
 - (d) the estimated total number of voting securities on issue after completion of allotments under the issue and the agreement, using the assumptions made for rounding of rights entitlements under the issue (the **total voting securities on issue**); and
 - (e) a statement of the maximum Rangatira allotment expressed as a percentage of the total voting securities on issue; and
 - (f) the maximum percentage of the total voting securities on issue that Rangatira could hold or control after completion of allotments under the issue and the agreement; and
 - (g) the maximum aggregate percentage of the total voting securities on issue that Rangatira and its associates could hold or control after completion of allotments under the issue and the agreement; and
 - (h) full particulars of the issue.
- (2) The exemptions in clauses 5 and 6 are subject to the further conditions that—
- (a) there is no change in the effective control of Rangatira between the date of the meeting and the date on which any allotment of voting securities is made under the issue; and
 - (b) Rangatira does not acquire any rights under the issue except rights acquired as a shareholder of TKW under its pro rata entitlement in the issue or under the agreement; and
 - (c) the notice of meeting contains a summary of the terms and conditions of the exemption granted in this notice.

Dated at Wellington this 5th day of October 2004.

The Common Seal of the Takeovers Panel was affixed in the presence of:

[L.S.]

D. M. D. Rawstone,
Member.

Statement of reasons

This notice applies to acts or omissions occurring on or after 27 September 2004 and expires on 31 March 2005.

The Takeovers Panel has granted exemptions to—

- Rangatira Limited (**Rangatira**) from rule 7(d) of the Takeovers Code (the **Code**) in respect of the requirements for the notice of meeting under rule 16(b); and
- Te Kairanga Wines Limited (**TKW**) from rule 16(b) of the Code.

TKW proposes to make a renounceable pro rata 2 for 3 rights issue of approximately 1.2 million ordinary shares to its existing shareholders for an issue price of \$4.50 per share, payable in 3 instalments: \$2.00 on application, \$1.25 on 2 December 2005, and \$1.25 on 1 December 2006. It is proposed that the issue of shares will be underwritten by Rangatira, which currently holds approximately 27.6% of the voting rights in TKW. It is likely that Rangatira's percentage of voting rights in TKW will increase through underwriting the issue. If Rangatira was required to take up the maximum number of shares that it could be required to subscribe for under the underwriting agreement, its percentage of voting rights would increase to 56.6%.

TKW intends to obtain shareholder approval, in accordance with the Code, for the potential allotment of shares to Rangatira under the underwriting agreement. However, TKW cannot comply with rule 16(b) of the Code before completion of the issue, because it cannot state in the notice of meeting—

- the exact number of shares that would be allotted to Rangatira; and
- the exact percentage of voting rights in TKW that Rangatira would control after allotment.

These details would be known only after the issue had been completed and all allotments made.

The Takeovers Panel considers that it is appropriate to grant the exemptions because—

- pro rata rights issues and shareholder underwriting agreements are accepted means of raising equity capital in New Zealand and the Takeovers Panel should facilitate these arrangements by exemption where necessary; and
- by approving the allotment of shares to Rangatira under the underwriting agreement, which potentially requires Rangatira to subscribe for all the shares to be issued, the shareholders approve the maximum possible increase in Rangatira's percentage of voting control, and by implication approve also any lesser percentage of control acquired by Rangatira following the allotment of the shares.

The Takeovers Panel considers that the exemptions are consistent with the objectives of the Code because the non-associated shareholders of TKW will have an opportunity to vote on the allotment of voting securities to Rangatira.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 7 October 2004.

This notice is administered by the Takeovers Panel.
