

## Takeovers Code (Rangatira Limited) Exemption Notice 2014

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 (Rangatira Limited) Exemption Notice 2014.

#### 2 Application

This notice applies to acts or omissions occurring on or after 1 April 2012.

#### 3 Revocation

This notice is revoked on the close of 11 February 2019.

#### 4 Interpretation

(1) In this notice, unless the context requires,-

**Act** means the Takeovers Act 1993

**Code** means the Takeovers Code under the Act

**J R McKenzie Trust** means the J R McKenzie charitable trust established by the trust deed

**personal trustee** means a person appointed as a personal trustee of the J R McKenzie Trust in accordance with clause 2 of the trust deed

**Rangatira** means Rangatira Limited

**trust deed** means the trust deed of the J R McKenzie Trust dated 12 February 1940.

- (2) In this notice, a reference to a person increasing voting control is a reference to the person becoming the holder or controller of an increased percentage of voting rights in Rangatira.
- (3) 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 Exemptions from rule 6(1) of Code**

- (1) John McKenzie and Robyn Gibson are each exempted from rule 6(1) of the Code in respect of any increase in their voting control as a result of Peter McKenzie ceasing to be a personal trustee on or about 15 April 2012.
- (2) Christopher McKenzie and Sarah McLennan are each exempted from rule 6(1) of the Code in respect of any increase in their voting control as a result of being appointed as personal trustees on or about 1 October 2013.
- (3) Every person who becomes a personal trustee is exempted from rule 6(1) of the Code in relation to any increase in that person's voting control as a result of being appointed as a personal trustee.
- (4) Every person who is a personal trustee is exempted from rule 6(1) of the Code in relation to any increase in that person's voting control as a result of a reduction in the number of personal trustees.

## **6 Conditions of exemptions**

- (1) The exemptions in clause 5 are subject to the conditions that—
  - (a) the J R McKenzie Trust has and maintains charitable purposes; and
  - (b) the personal trustees act unanimously in respect of matters relating to the Rangatira shares held by the personal trustees.
- (2) The exemptions in clause 5(3) and clause 5(4) are subject to the additional conditions that the appointment of a new personal trustee or reduction in the number of personal trustees -
  - (a) reflects a bona fide reorganisation of the J R McKenzie Trust or is the result of an event beyond the control of the personal trustees; and
  - (b) does not have a collateral purpose of enabling a person to increase the person's voting control, or the extent to which that person shares in the

voting control in Rangatira, otherwise than in compliance with the Code; and

- (c) but for rule 6(2) of the Code, the appointment of a new personal trustee or reduction in the number of personal trustees would not result in any increase in the percentage of voting rights in Rangatira held or controlled by the personal trustees or the extent to which the personal trustees share in the voting control in Rangatira.

Dated at Auckland this 11<sup>th</sup> day of February 2014

[Seal]

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

[Signed under Seal]

D O Jones,  
Chairperson.

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### Statement of reasons

This notice applies to acts or omissions occurring on or after 1 April 2012 and is revoked on 11 February 2019.

The J R McKenzie Trust (the **Trust**) is a charitable trust that was established in 1940.

The Trust Board of the Trust consists of up to 13 trustees. In addition, there are two “personal” trustees (being trustees appointed under clause 2 of the Trust Deed (**personal trustees**)). Under the terms of the trust deed of the Trust (the **Trust Deed**), only personal trustees may hold shares in Rangatira Limited (**Rangatira**). The shares in Rangatira (8.15% of its total voting rights) are held jointly by the personal trustees. The personal trustees are appointed by the McKenzie family.

The personal trustees hold shares in Rangatira in accordance with the terms of the Trust Deed and all income arising from those shares is paid to the Trust Board of the Trust, which distributes that income to charitable organisations in accordance with the terms of the Trust Deed.

Christopher McKenzie and John McKenzie are members of the McKenzie family and Sarah McLennan and Robyn Gibson are members of the Gibson family. The Takeovers Panel (the **Panel**) understands that the McKenzie and Gibson families are the descendants of Rangatira’s founder, Sir John McKenzie.

Members of the McKenzie family hold 12.81% of the voting rights in Rangatira, and members of the Gibson family hold 12.12% of the voting rights in Rangatira. The

McKenzie family and the Gibson family have a close relationship and may be associates of one another for the purposes of the Code.

The Panel has granted exemptions from rule 6(1) of the Takeovers Code (the Code) for –

- John McKenzie and Robyn Gibson, in respect of any increase in their voting control in Rangatira as a result of Peter McKenzie ceasing to be a personal trustee on or about 15 April 2012; and
- Christopher McKenzie and Sarah McLennan, in respect of any increase in their voting control in Rangatira as a result of being appointed as personal trustees on or about 1 October 2013.

The Panel considers that it is appropriate and consistent with the objectives of the Code to grant the exemptions because –

- every personal trustee who exercises control over the voting rights in Rangatira does so in his or her capacity as a personal trustee and is subject to the duties and obligations arising under the Trust Deed and at law; and
- the Trust is registered as a charitable entity in accordance with the Charities Act 2005; and
- the Code is not intended to inhibit bona fide changes of trustees; and
- the shareholders of Rangatira were not disadvantaged as the change to the personal trustees would not have had any real effect on those shareholders; and
- any breach of the Code that may have occurred as a result of the changes in personal trustees appears to have been inadvertent.

The Panel has also granted exemptions from rule 6(1) of the Code to every personal trustee in respect of any increase in that person's voting control in Rangatira resulting from –

- the appointment of that person as a personal trustee; or
- a reduction in the number of personal trustees.

The Panel considers that it is appropriate and consistent with the objectives of the Code to grant the exemptions because –

- every personal trustee who exercises control over the voting rights in Rangatira does so in his or her capacity as a personal trustee and is subject to the duties and obligations arising under the Trust Deed and at law; and
- the exemption applies only where the appointment of a new personal trustee or a reduction of the number of personal trustees relates to a reorganisation of the Trust, or an event outside the control of the personal trustees, and the Code is not intended to inhibit bona fide changes of trustees; and

- there would be no disadvantage to the shareholders of Rangatira in not having the opportunity to vote on a person's appointment as a personal trustee, or the reduction in the number of personal trustees, as it would not have any real effect on those shareholders; and
- the exemption avoids unnecessary compliance costs that would be incurred if it were not granted.

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Date of notification in the *Gazette*: 20 February 2014

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