

# Infratil



**NOTICE OF ANNUAL MEETING**  
**11 August 2010**



## The Shareholders Infratil Limited

Shareholders have already received the Company's 2010 Annual Report in which I, and Marko Bogoevski on behalf of the manager, Morrison & Co, comment on the activities of the Company over the past year and on the future prospects for the Company.

The Annual Meeting is in Wellington this year. A number of matters are to come before shareholders for voting at the Annual Meeting. These include:

- The re-election of Lloyd Morrison and Mark Tume as directors.
- The continuation of the Company's Infrastructure Bond Programme.
- An increase in the directors' fees payable for the Company.
- Two related resolutions that permit the Company to buy back shares and certain shareholders to exercise their IFTWC series of warrants, and for these shareholders to retain any increased shareholding percentage as a consequence.

I'm particularly pleased that Lloyd is available for re-election this year. He is back in the office and contributing again to the success of the Company. His advice and views around the board table are of immense value. Mark is also a highly valued director and we are pleased to support his re-election.

The Company has been issuing Infrastructure Bonds since 1999. The last major issuance occurred in 2006 and over the years Infrastructure Bonds have helped finance the purchase of New Zealand Bus (previously Stagecoach) and the increased investment in TrustPower. As at 28 June 2010, Infratil had on issue \$508.8 million of fixed date Infrastructure Bonds with maturities ranging from November 2010 through to February 2020 and \$239.8 million of the Perpetual Infratil Infrastructure Bonds. As in past years, the Company is seeking shareholder support to continue to issue Infrastructure Bonds.

No Infrastructure Bonds have been issued in the last 12 months, but some mature in the next 12 months. I expect that the Company will issue a prospectus and investment statement for further issues of Infrastructure Bonds later in the year. Further Infrastructure Bonds may be issued to redeem existing Infrastructure Bonds on issue, reduce bank debt and, should any major purchases occur, help fund those purchases. No such purchases are planned at this time.

The Company last increased the fees paid to its parent company directors in 2007. The Company considers that an increase per director is appropriate given the growth in size and scope of the Company and increasing time commitments required of directors during the three year period since that review. A review in 2009 led only to an increase in the aggregate total fees to cover the appointment of an additional director to the Board, not an increase in the per director fees. The fees paid to the Company's directors who are also directors of Wellington International Airport Limited

were last reviewed in 2007 and, again, an increase is now considered appropriate. The businesses of Victoria Electricity Pty Limited and Infratil Energy Australia Pty Limited have increased such that it was considered appropriate to add Mark Tume to these boards in addition to Marko Bogoevski requiring an increase in fees. The fees paid to the Company's directors who are also directors of Infratil Airports Europe Limited (previously Glasgow Prestwick Holdings Limited) were reviewed in 2006 and no change is considered appropriate at this time.

The increasing level of governance and responsibilities of the directors generally, and at the Company, have increased over the last few years. Shareholders are also aware that there have been a number of significant new investments that require increased director oversight and governance. The Notice of Meeting provides full details of the directors' fees for which shareholder approval is sought.

The IFTWB series warrants have now been exercised, raising \$84 million of new equity for the Company. The Company also has on issue the IFTWC series of warrants ("IFTWCs") that have a final exercise date of 29 June 2012 (or a later date as determined by the Infratil board). Hugh Richmond Lloyd Morrison and John Bentley Morrison as trustees of the HRL Morrison Family Trust, HRL Morrison & Co Group Limited, Utilico Limited, JML Trustee Company Limited as trustee of the JML Trust and Duncan Paul Saville (the "Associates") have requested that the Company seek shareholder approval at the 2010 Annual Meeting to permit the Associates to exercise all their IFTWCs on or prior to the final exercise date of 29 June 2012 (or a later date as determined by the Infratil board). Without shareholder approval they may be limited to how many IFTWCs they may collectively exercise. In aggregate they will not be able to exercise more than would result in their aggregate shareholding increasing above the current aggregate level (29.70%). This limit is imposed by rule 6 of the Takeovers Code. Absent shareholder approval the Associates may need to sell down their IFTWCs prior to 29 June 2012 (or a later date as determined by the Infratil Board) so as to remain within an aggregate shareholding level of 29.70%. If approved by the non-associated shareholders, the allotment of voting securities to the Associates upon the exercise of their IFTWCs will be permitted under rule 7(d) of the Takeovers Code as an exception to rule 6 of the Takeovers Code. Your independent directors consider that it is in the best interests of the Company for the Associates to be allowed to exercise all of their IFTWCs and recommend that non-associated shareholders approve Resolution 4. The Notice of Meeting provides a full description of this matter and the attached independent adviser's report of Simmons Corporate Finance Limited also evaluates the merits of Resolution 4.

The Notice of Meeting that follows also includes a Disclosure Document describing the share buyback programme with which the Company has decided to continue. As has been the case for many years, your directors consider that, from time to time, buying back shares may be the best use of the Company's funds. Accordingly, the Company wishes to keep open that investment opportunity for the next 12 months, as it has done for the last several years. As noted in the 2005 and 2009 Notices of Meeting (and as approved by shareholders) the proposed share buyback will have the effect of concentrating, to a modest degree, the shareholding percentages of all shareholders who do not participate at least pro rata in the buyback. That is of no particular consequence for most shareholders. But, for the Associates, there are consequences under the Takeovers Code. The Code requires that their shareholding concentration either be approved by non-associated shareholders or that the Associates sell their incremental shareholding percentage increase resulting from the buyback within six months. As discussed in more detail in the Notice of Meeting, shareholder approvals were obtained for share buyback programmes in 2005 and 2009 under the Takeovers Code. Your directors consider that it is in the best interests of the Company for the non-associated shareholders to approve such incremental shareholding increases and recommend voting in favour of Resolution 5. The Notice of Meeting provides a full description of this matter and the Simmons Corporate Finance Limited report also evaluates the merits of Resolution 5.

I look forward to seeing you at the Annual Meeting, presenting our results and answering any questions you may have.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'David Newman', written in a cursive style.

David Newman  
Chairman

# Notice of Annual Meeting

Notice is hereby given pursuant to section 120 of the Companies Act 1993 that the Annual Meeting of shareholders of Infratil Limited will be held at Hotel InterContinental, Grey Street, Wellington on Wednesday 11 August 2010 commencing at 10.30 am.

## BUSINESS

### A. Chairman's Introduction

### B. Chief Executive's Review

### C. Presentation of the Annual Report for the year ended 31 March 2010 and the report of the auditor.

### D. Resolutions

To consider and, if thought fit, pass the following ordinary resolutions:

1. **Re-election of Lloyd Morrison:** That Lloyd Morrison who retires by rotation in accordance with the Company's constitution and Listing Rule 3.3.11, and is eligible for re-election, be re-elected as a director of the Company.
2. **Re-election of Mark Tume:** That Mark Tume who retires by rotation in accordance with the Company's constitution and Listing Rule 3.3.11, and, is eligible for re-election, be re-elected as a director of the Company.
3. **Continuance of Infrastructure Bond Programme:** That the Company continue to raise finance through the continuation of its Infrastructure Bond Programme by the issue of Dated Infrastructure Bonds (Bonds that have a maturity date) or Perpetual Infrastructure Bonds (Bonds that have no maturity date) (together referred to as "New Infrastructure Bonds"). The New Infrastructure Bonds may be convertible into ordinary shares in the Company in limited circumstances or at the option of the Company. The maximum face amount of New Infrastructure Bonds which may be issued in the period commencing 11 August 2010 and ending on 30 August 2011 shall not exceed \$350,000,000. The key terms and conditions of the New Infrastructure Bonds that are convertible into ordinary shares shall be as set out in the Explanatory Notes relevant to this Resolution 3.
4. **Exercise of IFTWC Warrants by Certain Warrant Holders:** That in accordance with Rule 7(d) of the Takeovers Code and the Takeovers Code (Infratil Limited) Exemption Notice 2010, allotments by the Company be approved of up to 14,085,242 ordinary shares in aggregate to Utilico Limited, HRL Morrison & Co Group Limited, Hugh Richmond Lloyd Morrison and John Bentley Morrison as trustees of the HRL Morrison Family Trust, JML Trustee Company Limited as trustee of the JML Trust and Duncan Paul Saville (each an "Associate" and together the "Associates") and individually to each Associate, allotments of up to 14,085,242 ordinary shares (as individually specified in Table 1 of the Explanatory Notes to this Notice of Meeting), through the exercise by the Associates of up to 14,085,242 warrants that are presently held by them and are quoted on NZX under the code "IFTWC". The implications of such allotments are more fully explained in the Explanatory Notes below and in the Simmons Corporate Finance Independent Adviser's Report attached to this Notice of Meeting.
5. **Continuation of Buyback Programme:** That acquisitions by the Company of up to 50 million of the Company's ordinary shares on issue be permitted on the terms and conditions discussed more fully in the Explanatory Notes to this Resolution and in the Simmons Corporate Finance Independent Advisers Report attached to this Notice of Meeting, in circumstances where such acquisitions may result in the percentage of voting securities held or controlled by the Associates in the Company increasing on the basis set out in the Explanatory Notes to this Resolution.
6. **Directors' remuneration:** That remuneration payable to directors of the Company and its subsidiaries, in accordance with Listing Rule 3.5.1, of a monetary sum of not more, in aggregate, of:
  - a. \$660,000 (plus GST) per annum to the directors of the Company (being an increase from \$600,000 (plus GST) approved in 2009);
  - b. A\$110,000 (plus GST) per annum payable to those directors of Victoria Electricity Pty Limited who are also directors of the Company (being an increase from A\$40,000 approved in 2009);
  - c. A\$20,000 (plus GST) per annum payable to those directors of Infratil Energy Australia Pty Limited who are also directors of the Company (being an increase from A\$5,000 approved in 2009);
  - d. £75,000 (plus VAT) per annum payable to those directors of Infratil Airports Europe Limited who are also directors of the Company (being no change from £75,000 approved in 2009); and
  - e. \$75,000 (plus GST) per annum payable to those directors of Wellington International Airport Limited who are also directors of the Company (being an increase from \$68,750 (plus GST) approved in 2009),making in aggregate a limit of \$1,064,167 (plus GST or VAT) (assuming an exchange rate of \$1.00 = £0.0.45 and \$1.00 = A\$0.80), such sum to be divided amongst the directors as they deem appropriate.
7. **Auditors:** To authorise the Directors to fix the auditor's remuneration.

## ORDINARY RESOLUTIONS

Each resolution set out above is to be considered as a separate ordinary resolution. To be passed, each resolution requires a simple majority of votes of holders of ordinary shares of the Company, entitled to vote and voting.

## VOTING RESTRICTIONS

In respect of Resolution 4 and Resolution 5, the Takeovers Code prohibits the Associates and their associates from voting on these Resolutions. Under the Takeovers Code, "associates" are, in summary, where the persons are acting jointly or in concert, where one person acts or is accustomed to act in accordance with the wishes of the other person, where the persons are related companies or where the persons have a business relationship, personal relationship, or an ownership relationship such that they should, under the circumstances, be regarded as associates.

Pursuant to the NZX Listing Rules, directors and their associated persons are prohibited from voting. In respect of Resolution 6, including where a director or their associated persons have been appointed as a discretionary proxy.

## PROXIES

Any shareholder of the Company who is entitled to attend and vote at the Annual Meeting may appoint a proxy to attend and vote instead of him or her. A proxy does not need to be a shareholder of the Company. The Chairman of the Company is prepared to act as proxy.

To appoint a proxy you can complete and sign the enclosed Proxy Form and return it by delivery, mail, facsimile or scan and email to the share registrar of the Company or lodge online:

### Delivery:

Infratil Limited  
C/- Link Market Services Limited  
Level 16, Brookfields House  
19 Victoria Street West  
Auckland, New Zealand

### Mail:

Infratil Limited  
C/- Link Market Services Limited  
PO Box 91976  
Victoria Street West  
Auckland 1142, New Zealand

**Facsimile:** +64 3 308 1311 or +64 9 375 5990

**Scan and email:** [Lmsenquiries@linkmarketservices.com](mailto:Lmsenquiries@linkmarketservices.com)  
(please put the words "Infratil Proxy Form" in the subject line for ease of identification)

**Online:** You may lodge your proxy online. Go to the Link Market Services website at [www.linkmarketservices.com](http://www.linkmarketservices.com) and click on the Infratil voting banner on the screen. Initial information including your CSN, holder name and FIN will be required to successfully validate your holding online before shareholding information and voting pages are displayed. A shareholder will be taken to have signed the Proxy Form by lodging it in accordance with the instructions on the website.

The completed Proxy Form must be received by the share registrar or online appointment must be completed by no later than 48 hours before the Annual Meeting, being 10.30 am on 9 August 2010. Voting entitlements of the Annual Meeting will also be determined as at this time. Registered shareholders at that time will be the only persons entitled to vote at the Annual Meeting and only the shares registered in those holders' names at that time may be voted at the Annual Meeting.

## NZX APPROVAL

This Notice of Meeting has been approved by NZX Limited.

# Explanatory Notes

## RESOLUTIONS 1 AND 2:

The Board of the Company considers that Mr Tume will be an Independent Director (in terms of Listing Rule 3.3.1A) if re-elected to the Board. The Board of the Company considers that Mr Morrison, by reason of his interests in HRL Morrison & Co Group Limited, will not be an Independent Director (in terms of Listing Rule 3.3.1A) if re-elected to the Board.

Profiles of Messrs Morrison and Tume are contained in the 2010 Annual Report of the Company that has been sent to shareholders and are also available on [www.infratil.com](http://www.infratil.com).

## RESOLUTION 3: CONTINUATION OF INFRASTRUCTURE BOND PROGRAMME

The reasons for continuing with the Infrastructure Bond Programme are provided in the Chairman's Letter enclosed with this Notice of Meeting. The Company is proposing a limit of \$350 million on the value of New Infrastructure Bonds that may be issued where they are convertible into ordinary shares of the Company. The Company has not identified any particular party or parties to whom it might issue New Infrastructure Bonds. Any issue will likely be made for cash. However, in certain circumstances, it may be advantageous to the Company to offer New Infrastructure Bonds in exchange for assets or securities. It may be advantageous to do this in order to avoid timing delays and/or underwriting costs that may result from a public issue of New Infrastructure Bonds. New Infrastructure Bonds may be issued to directors of the Company or their associated persons.

The approval obtained at last year's Annual Meeting allowed the Company to issue up to \$350 million of Infrastructure Bonds during the period of 17 August 2009 to 30 August 2010. The terms of the New Infrastructure Bonds are immaterially different from those approved by shareholders in 2009.

The key terms and conditions of the New Infrastructure Bonds are as follows:

### Dated Infrastructure Bonds:

- (a) **Description:** redeemable New Convertible Infrastructure Bonds, redeemable for cash or convertible into ordinary shares at the option of the Company.
- (b) **Term:** between one and twenty years, as determined by the Directors at time of issue of the New Convertible Infrastructure Bonds, with ability for the Company to offer holders the right to invest in replacement New Convertible Infrastructure Bonds at maturity.
- (c) **Tranches:** new Convertible Infrastructure Bonds may be issued in one or more separate tranches.
- (d) **Issue Date:** any date or dates determined by the Directors at time of issue but not to be later than 30 August 2011.
- (e) **Voting Entitlement:** none (except at meetings of New Convertible Infrastructure Bondholders).
- (f) **Face Value:** \$1.00.
- (g) **Interest Coupon & Yield:** to be determined by the Directors at time of issue, subject to either of the following conditions being satisfied:
  - a. **Interest Coupon:** Being not more than 4.0% greater than the yield on New Zealand Government Stock with a maturity date that most closely matches the maturity date of the proposed issue of the New Convertible Infrastructure Bonds; or
  - b. **Overall Yield:** Being not more than the sum determined as follows:
    - i. Current market yield of the Company's 8.5% Infrastructure Bonds due February 2020 less the current market yield on New Zealand Government Stock due closest to February 2020; plus
    - ii. The market yield on New Zealand Government Stock due closest to the maturity date of the proposed issue of the Convertible Infrastructure Bonds; plus
    - iii. 3.0%.
- (h) **Coupon Payment Dates:** quarterly or semi-annual, as determined by the Directors at the time of issue of the New Convertible Infrastructure Bonds.
- (i) **Interest Accrued:** interest to accrue on any New Convertible Infrastructure Bonds from the Issue Date of those Bonds.
- (j) **Redemption/Conversion:** at end of term with the redemption amount being, at the Company's option, the Face Value payable in cash or the number of shares in the Company obtained by dividing the Face Value by a specified percentage of the market price of ordinary shares in the Company at the date of redemption. The specified percentage is to be determined by the Directors at the time of issue of any New Convertible Infrastructure Bonds and shall be not less than 95% nor greater than 125%. The market price is the weighted average (by reference to volume) price of all trades of ordinary shares in the Company through the NZSX market over the 10 business days up to the fifth business day before the date of redemption.
- (k) **Early Redemption:** the Company has the right to redeem before the stated maturity date for cash all or some of the New Convertible Infrastructure Bonds. The redemption price will be, in respect of any particular series of New Convertible Infrastructure Bonds, the greater of:
  - a. The face value plus accrued interest (less any withholding taxes and other deductions); and
  - b. The average price, weighted by volume, of all trades of New Convertible Infrastructure Bonds of that series through the NZDX over the 10 business days up to the fifth business day before the relevant early redemption date. Where the New Convertible Infrastructure Bonds of that series have not traded on the NZDX market on at least half of the relevant 10 business days, the average price of the NZDX listed Infrastructure Bonds of that series for that period will be determined by an independent advisor, selected by the trustee in accordance with the trust deed dated 11 November 1999 (as amended) ("Trust Deed") pursuant to which the New Convertible Infrastructure Bonds of that series were issued.

Holders of New Convertible Infrastructure Bonds that are to be redeemed will be given not less than five business days' notice. Such notice must be given at a date not less than 25 business days before the relevant Maturity Date.

- (l) **Listing:** the Company may seek the listing of the New Convertible Infrastructure Bonds on the NZDX market.
- (m) **Ranking:** prior to conversion, the New Convertible Infrastructure Bonds shall rank equally with unsecured creditors of the Company.
- (n) **Other:** Covenants and Events of Default to be determined by the Directors at the time of issue of the New Convertible Infrastructure Bonds.

### Perpetual Infrastructure Bonds:

- (a) **Description:** Perpetual Convertible Infrastructure Bonds ("PIIBs").
- (b) **Term:** PIIBs have no maturity date. Accordingly the Company is not obliged to repay the PIIBs, and holders of PIIBs cannot require the Company to repay their PIIBs, unless an event of default or a compulsory acquisition occurs as set out in the Trust Deed which results in an early redemption or conversion of their PIIBs.
- (c) **Tranches:** PIIBs may be issued in one or more separate tranches.
- (d) **Issue Date:** any date or dates determined by the Directors at the time of issue but not to be later than 30 August 2011.
- (e) **Voting Entitlement:** none (except at meetings of PIIBs Bondholders).
- (f) **Face Value:** \$1.00.
- (g) **Coupon Rate:** to be determined by the Directors at time of issue, subject to the limits provided below:
  - a. For the period from the Issue Date to (but excluding) the first Rate Set Date, not more than the relevant Maximum Margin (as determined from the table below) above the Swap Rate for a term as selected by the Directors on the date the Coupon Rate is set by the Company.
  - b. On each Rate Set Date, the Coupon Rate will be reset by the Company at the rate per annum determined by the Company to be the aggregate of the Swap Rate for a one year term on the relevant Rate Set Date plus the Margin.
- (h) The Company will notify holders of PIIBs of the reset Coupon Rate by general announcement to NZX.
- (i) **Margin:** to be determined by the Directors at time of issue, subject to the limits provided in the table below:

Gearing Ratio Applicable at the Relevant Rate Set Date	Maximum Margin (% p.a.)
Up to (but excluding) 60%	3.50
From (and including) 60% up to (and excluding) 70%	3.75
From (and including) 70% up to (and excluding) 80%	4.25
80% and above	5.00

- (j) **Definitions:**
  - a. **"Gearing Ratio"** means, on a particular date, the ratio of Borrowed Money Indebtedness of the Issuer Group to Tangible Assets on that date (these terms have the meanings given to them in the Trust Deed). The Gearing Ratio is determined by reference to the most recent certificate delivered to the trustee by the Company under the Trust Deed.
  - b. **"Swap Rate"** on any day means the rate per annum expressed on a percentage yield basis and rounded up to the nearest two decimal places which is:
    - i. the average of the bid and offered swap rates displayed at or about 11am on that day on page FISSWAP (or any successor page) of the Reuters monitor screen for an interest rate swap with the relevant term; or
    - ii. if:
      - (a) a rate is unable to be determined in accordance with paragraph (i);
      - (b) the Company forms a view that the rate so determined is not an accurate reflection of market rates; or
      - (c) such rate is calculated on a interest payment frequency other than as applies to the relevant PIIBs, then the average of the mean bid and offered swap rates quoted by three registered banks in New Zealand at or about 11am on that day for an interest rate swap with the relevant term and interest payment frequency.
- (k) **Rate Set Date:** The first Rate Set Date shall be at the end of the initial term selected by the Directors and the subsequent Rate Set Dates shall be each 12 months thereafter.
- (l) **Coupon Payment Dates:** quarterly or semi-annual, as determined by the Directors at time of issue of the PIIBs.
- (m) **Interest Accrued:** interest to accrue on any PIIBs from the Issue Date of those PIIBs.
- (n) **Early Redemption:** the Company has the right to redeem at any time for cash all or some of the PIIBs. The redemption price will be the greater of:
  - a. The face value plus accrued interest (less any withholding taxes and other deductions); and
  - b. The average price, weighted by volume, of all trades of PIIBs through the NZDX over the 10 business days up to the fifth business day before the relevant redemption date. Where the PIIBs have not traded on the NZDX market on at least half of the relevant 10 business days, the average price of the PIIBs for that period will be determined by an independent advisor, selected by the trustee in accordance with the Trust Deed.

Holders of PIIBs that are to be redeemed will be given not less than five business days' notice.
- (o) **Listing:** the Company may seek the listing of the PIIBs on the NZDX market.
- (p) **Conversion Percentage:** 98% but applicable only in limited circumstances such as upon an event of default or compulsory acquisition occurring in accordance with the Trust Deed.

- (q) **Ranking:** prior to conversion, the PIIBs shall rank equally with unsecured creditors of the Company.
- (r) **Other:** Covenants and Events of Default to be determined by the Directors at the time of issue of the PIIBs.

### Background to Resolution 4 and Resolution 5

The Takeovers Code imposes a general rule, among others, on shareholders who already hold or control voting rights (usually represented by shares) in a code company (which the Company is) in excess of 20%, but less than 50%, from increasing their holding or control of voting rights. However, shareholders of a code company may approve such increases as an exception to the general rule. Resolutions 4 and 5 are intended to approve limited exception to this general rule.

Utilico Limited, HRL Morrison & Co Group Limited, Hugh Richmond Lloyd Morrison and John Bentley Morrison as trustees of the HRL Morrison Family Trust, JML Trustee Company Limited as trustee of the JML Trust and Duncan Paul Saville (the "Associates") have requested that the Company seek shareholder approval at the 2010 Annual Meeting to permit the Associates to exercise all their IFTWC series warrants ("IFTWCs") on or prior to the final exercise date of 29 June 2012 (or a later date as determined by the directors), which under the terms of issue of the IFTWCs, may be extended by the board ("Final Expiry Date").

Without shareholder approval from non-associated shareholders the Associates may be limited as to how many IFTWCs they may collectively exercise. In aggregate they will not be able to exercise more than would result in their aggregate shareholding increasing above the current aggregate level (29.70%). This limit is imposed by rule 6 of the Takeovers Code. Absent shareholder approval from non-associated shareholders the Associates may need to sell down their IFTWCs prior to the Final Expiry Date so as to remain within an aggregate shareholding level of 29.70%. If approved, the allotment of voting securities to the Associates upon the exercise of their IFTWCs will be permitted under rule 7(d) of the Takeovers Code as an exception to rule 6 of the Takeovers Code.

In addition and as background to Resolution 5, the Company wishes to continue with its Buyback Programme, the proposed terms of which are discussed in the following Explanatory Note. The Company has undertaken a buyback programme for many years now. The Company wishes to retain the flexibility to buyback shares when it is in the Company's interests to do so and not require the Associates to sell down as a consequence.

Shareholders have twice before (in 2005 and 2008) approved resolutions equivalent to Resolutions 4 and 5 that permit the exercise of warrants (previously the IFTWB series) and share buybacks without requiring the Associates to sell down as a consequence. In 2005, shareholders approved a theoretical increase in the aggregate shareholdings of the Associates to 31.89% and in 2008 to 34.12%. As matters have transpired the aggregate shareholdings remain at 29.70% and the maximum theoretical level for which approval is sought this year is 34.07% (i.e marginally lower from the level previously approved).

The approvals being sought from shareholders do not permit the Associates to increase their respective holdings of voting securities through share purchases.

The Takeovers Panel has granted exemptions to the Associates from rules 6(1) and 7(d) of the Takeovers Code and the Company from rule 16(b) of the Takeovers Code in relation to Resolutions 4 and 5. These exemptions are discussed in more detail below. By exempting the Associates from rules 6(1) and 7(d) of the Takeovers Code and the Company from rule 16(b) of the Takeovers Code, the Takeovers Panel is:

- (a) Neither endorsing nor supporting the accuracy or reliability of the contents of this Notice of Meeting; and
- (b) Not implying it has a view on the merits of the proposed issue of voting securities in the Company to the Associates on the exercise of the warrants or the proposed acquisitions of voting securities by the Company under the buyback programme.

### Theoretical Effects of Resolutions 4 and 5 on the Associates Holdings

If the Associates exercise all their IFTWCs then, depending on the level of exercise by the other IFTWC holders and the number of shares bought back by the Company on or before the Final Expiry Date, the Associates aggregate shareholding will increase up to 34.07%. These variables are demonstrated in the Tables below.

Shareholders should note that the figures presented in these Tables are stated as at 24 June 2010.

#### Table 1

Table 1 does not consider the implications of buybacks. Rather, it illustrates the current holdings of the Company's securities by the Associates and the impact on their individual and aggregate voting percentages under the two extreme scenarios of IFTWC exercise that could theoretically occur:

- (a) Scenario A - Only the Associates and no other IFTWC holders exercise their IFTWCs. Therefore the Scenario A Voting Percentage represents the maximum aggregate percentage of voting control that the Associates could hold if Resolution 4 is passed.
- (b) Scenario B - All IFTWCs on issue are exercised. Therefore the Scenario B Voting Percentage represents the minimum aggregate percentage of voting control that the Associates could hold if Resolution 4 is passed (and assuming no shares are sold by the Associates prior to the Final Expiry Date).



Shareholder	Ordinary Shares	Current Voting %	IFTWCs Held	Number of Voting Securities if all IFTWCs Exercised	Scenario A Voting %	Scenario B Voting %
Hugh Richmond Lloyd Morrison and John Bentley Morrison as trustees of the HRL Morrison Family Trust	24,523,038	4.08%	2,104,832	26,627,870	4.32%	4.07%
HRL Morrison & Co Group Limited	26,348,730	4.38%	2,164,177	28,512,907	4.63%	4.36%
Utilico Limited	121,038,296	20.12%	9,225,513	130,263,809	21.16%	19.90%
JML Trustee Company Limited as trustee of the JML Trust	6,765,503	1.12%	589,843	7,355,346	1.19%	1.12%
Duncan Saville	8,772	0.0015%	877	9,649	0.0016%	0.0015%
Total	178,684,339	29.70%	14,085,242	192,769,581	31.31%	29.45%

**Table 2**

The following table extends the analysis on the Scenario A voting percentages above by illustrating how the percentages may be affected by the Company undertaking buybacks:

Shareholders	Number of Shares Acquired under the Share Buyback Programme			
	None	10,000,000	30,000,000	(Maximum) 50,000,000
Hugh Richmond Lloyd Morrison and John Bentley Morrison as trustees of the HRL Morrison Family Trust	4.32%	4.40%	4.55%	4.71%
HRL Morrison & Co Group Limited	4.63%	4.71%	4.87%	5.04%
Utilico Limited	21.16%	21.50%	22.24%	23.03%
JML Trustee Company Limited as trustee of the JML Trust	1.19%	1.21%	1.26%	1.30%
Duncan Saville	0.0016%	0.0016%	0.0016%	0.0017%
Total	31.31%	31.82%	32.91%	34.07%

Accordingly if only the Associates exercise their IFTWCs and the Company buys back the maximum amount of shares permitted if Resolution 5 is passed, the maximum aggregate control percentage of the Associates will be 34.07%. Since 1 April 2008 only 17,694,371 shares have been acquired. Therefore this voting control percentage of 34.07% is considered by the Company unlikely to eventuate.

**Table 3**

To give full context to the percentages in Table 2 above, the following table illustrates how the Scenario B voting percentages (where all IFTWCs on issue are exercised by their holders) may be affected by the Company undertaking buybacks. This is considered a more likely scenario as the independent directors consider that the IFTWCs will be exercised generally by all IFTWC holders or not at all. Exercise is primarily a function of the IFTWC exercise price of \$4.12 versus the Company's share price at shortly prior to the final exercise date of 29 June 2012 (or at a later date as determined by the directors):

Shareholders	Number of Shares Acquired under the Share Buyback Programme			
	None	10,000,000	30,000,000	(Maximum) 50,000,000
Hugh Richmond Lloyd Morrison and John Bentley Morrison as trustees of the HRL Morrison Family Trust	4.07%	4.13%	4.26%	4.41%
HRL Morrison & Co Group Limited	4.36%	4.42%	4.57%	4.72%
Utilico Limited	19.90%	20.21%	20.86%	21.55%
JML Trustee Company Limited as trustee of the JML Trust	1.12%	1.14%	1.18%	1.22%
Duncan Saville	0.0015%	0.0015%	0.0015%	0.0016%
Total	29.45%	29.91%	30.87%	31.89%

## **RESOLUTION 4: EXERCISE OF IFTWC WARRANTS BY CERTAIN WARRANT HOLDERS**

The independent directors cannot predict how many of the IFTWCs will be exercised on or prior to the Final Expiry Date. Both prior series of warrants (IFTWA and IFTWB series) were all substantially exercised. However the IFTWCs have an exercise price of \$4.12 and in 2010 the ordinary shares of Infratil have traded on market in a range of up to \$1.80. Accordingly it is likely that there would need to be a material increase in the market price of the ordinary shares for the IFTWCs to be exercised to a reasonable extent. As with the IFTWB series of warrants, the directors may extend the expiry date of the IFTWCs or otherwise seek the approval of IFTWC holders to alter their terms. The exercise price of IFTWCs may not be decreased without also obtaining shareholder approval.

If as a consequence of the Associates exercising their IFTWCs their respective shareholdings increase they will, in the absence of shareholder approval, be obliged to sell shares obtained on exercise sufficient to keep their shareholding percentage constant. The independent directors are recommending shareholder approval at this time (nearly two years out from the final exercise date) to give the Company, the Associates and all other shareholders certainty as to what level of exercise is permissible.

The independent directors consider that the most likely scenario is that all (or substantially all) IFTWCs will be exercised (because they are in the money) or none (because they are not). None-the-less, the independent directors have reviewed this matter on the conservative assumption that only the Associates (and no other IFTWC holders) exercise their IFTWCs. This assumption highlights a situation which would result in the greatest possible increase in aggregate voting control by the Associates. As a consequence of these events, if the Associates exercise all their IFTWCs then, as shown in Table 1 above, they will increase their aggregate holding of voting securities (shareholding) by up to 1.61%. As noted, the independent directors consider the scenario in Table 2 (where all IFTWCs are exercised) more likely, if by prior to 29 June 2012 (or a later date determined by the directors) the share price exceeds the IFTWC exercise price of \$4.12.

### **Independent Directors Recommendation**

For the purposes of Rule 19 of the Takeovers Code, the independent directors of the Company recommend that shareholders vote in favour of Resolution 4 and approve the allotment of shares in the Company to the Associates upon the exercise of their IFTWCs. The reasons for this recommendation are:

- (a) The increase is not material to the control of the Company. The opportunity will still exist for another person(s) to acquire 20% of the Company and to make a takeover offer with a view to obtaining over 50% of the Company's voting securities.
- (b) The Associates have been long term supportive shareholders of the Company. They have been especially supportive when new equity has been required or desired by the Company. It is in the best interests of the Company that those shareholders who have a long term view and are willing to provide capital when required are encouraged, rather than discouraged.
- (c) HRL Morrison & Co Group Limited, HRL Morrison Family Trust and the JML Trust holdings are associated with the Company's manager. The independent directors consider that it is positive that the interests associated with the manager are willing to increase their level of investment in the Company because it strengthens the alignment of interests.

- (d) Utilico Limited (and its predecessors) has been a significant shareholder for an extended period and supportive of major asset acquisitions and equity fund raisings. The independent directors see a continued alignment with Utilico Limited as beneficial for all shareholders.
- (e) The maximum shareholding level that might result from the Associates' exercising all their IFTWCs (and no others being exercised) and all 50 million shares being bought back is 4.38%. The independent directors consider this an unlikely scenario because they expect that the IFTWCs will be substantially exercised by all holders or not exercised at all. While the theoretical maximum percentages must be advised to shareholders and given due consideration, the independent directors consider that the exercise of the IFTWCs alone is unlikely to have any material influence on the Associates' shareholdings.
- (f) The independent directors note that both in 2005 and 2008 shareholders were supportive of the exercise of IFTWB series of warrants and/or share buybacks that would have allowed the Associates aggregate shareholdings to increase to a maximum of 34.12% - which is marginally higher than the level for which support is now being sought.

The independent directors have considered the question of which of the Associates are "associates" in terms of the Takeovers Code.

The independent directors are of the view that HRL Morrison & Co Group Limited is an associate of each of the HRL Morrison Family Trust and the JML Trust. They also consider that Duncan Saville is an associate of Utilico Limited and HRL Morrison & Co Group Limited. No view has been formed as to whether the HRL Morrison Family Trust and the JML Trust are associates of each other or of Utilico Limited or Duncan Saville or whether Utilico Limited is an associate of HRL Morrison & Co Group Limited. However, given that all relevant parties have agreed that for the purpose of seeking shareholder approval they may be treated as associates and none will vote on Resolutions 4 or 5, the Company considers that it is not necessary or appropriate to take a definitive decision on this point.

### **Independent Adviser's Report**

Pursuant to Rule 18 of the Takeovers Code a report from Simmons Corporate Finance Limited, the independent adviser approved by the Takeovers Panel, on the merits of the proposed allotment of voting securities accompanies this Notice of Meeting.

### **Takeovers Code Information**

Rule 6 of the Takeovers Code 2000 ("Code") prohibits an increase in the percentage of voting rights of persons held or controlled, together with their associates, in a Code company above 20%. Rule 7(d) permits movement above the 20% threshold if the allotment to the relevant person(s) has first been approved by an ordinary resolution of shareholders entitled to vote in accordance with the requirements of the Code.

The Code provides strict requirements as to the type of information shareholders must receive before voting on any such resolution and in particular, as set out in rule 16 of the Code. The Company and the Associates are able to comply with almost all of the technical requirements of rule 16 of the Code.

However, the Company and the Associates cannot comply with the exact requirements of rule 16(b) of the Code because the Company cannot predict with complete certainty the number of IFTWCs that will be exercised by IFTWC holders other than the Associates and, thus, is unable to calculate exact shareholding percentages that will result for the Associates. In addition the Associates may elect to not exercise all or any of their IFTWCs.

Accordingly, the Company cannot, in advance of the Final Expiry Date for the IFTWCs, specify in this Notice of Meeting:

- (a) the number of voting securities to be allotted to each Associate and the Associates in aggregate (rule 16(b)(i));
- (b) the percentage of the aggregate of all existing voting securities and all voting securities being allotted (to the Associates upon the exercise of the IFTWCs) that the number being allotted represents (rule 16(b)(ii)); or
- (c) the percentage of all voting securities that will be held or controlled by each Associate and the Associates in aggregate after the exercise of their IFTWCs and subsequent allotment to them of ordinary shares (rules 16(b)(iii) and (iv)).

### **Exemptions from Code Requirements**

As noted above, the Company and the Associates sought exemptions from those requirements of the Code that could not be complied with. The Takeovers Panel approved the granting of exemptions from the Code under section 45 of the Takeovers Act 1993. The Panel granted the exemptions subject to the conditions that:

- (a) this Notice of Meeting contain particulars of the securities that may be allotted to the Associates as a result of the exercise of their IFTWCs. This information together with the other information required by Rule 16(b) is set out in Annexure B;
- (b) until 31 August 2013, there is no increase to an Associate's voting control other than as a result of an allotment resulting from the exercise of IFTWCs held by that Associate or through a buyback;
- (c) every annual report issued by the Company prior to the Final Expiry Date contains a summary of the terms of the IFTWCs, a summary of the terms and conditions of the exemptions that the Takeovers Panel has granted, updated information on the number and percentages of voting securities held or controlled by the Associates following any IFTWC exercises by the Associates and the maximum percentage of total voting rights that could be held or controlled by the Associates should all remaining IFTWCs held by them be exercised and the Company acquiring the maximum number of shares under the Share Buyback Programme (see below);
- (d) none of the Associates are subject to a change in control (as applicable); and
- (e) the maximum individual percentages that are disclosed for the Associates in Annexure B to this Notice of Meeting are not exceeded.

## **RESOLUTION 5: CONTINUATION OF SHARE BUYBACK PROGRAMME**

### **Particulars of the Share Buyback Programme**

For many years the Company has maintained a share buyback programme. This programme has been successful in creating

shareholder value and it is proposed that it continue ("Share Buyback Programme"). The Share Buyback Programme also needs to comply with the NZX Listing Rules. In accordance with those Listing Rules the Share Buyback Programme will be undertaken as permitted by Listing Rule 7.6. The primary intent is that shares be bought back as permitted by Listing Rules 7.6.1(a) and (f). These rules allow the Company to make any offer pursuant to the procedures detailed in Sections 60(1)(b)(ii) or 63 of the Companies Act 1993.

Under the Share Buyback Programme the Company may acquire up to 50 million ordinary shares (approximately 8.3% of the outstanding ordinary shares). These shares may be bought on-market or off-market, but the combined total of further on-market and off-market purchases will not exceed 50 million ordinary shares. Off-market purchases will not be made from employees or directors of the Company or associated persons of directors.

The maximum price at which shares will be bought off-market is \$4.00 per share. The Company is required to state this maximum price per share for off-market purchases, but it is not committing to buy shares at this or any other price and a decision as to any purchases will be made from time to time having regard to market conditions. No maximum price is specified for shares bought on-market, but the Company will always disclose the number of shares, and the price at which it bought them, whether on-market or off-market, before 9:30am on the business day following the purchase being made.

Whether the purchases are on-market or off-market, the directors will regularly reassess the situation and seek to purchase shares at prices that in their view represents the best value for shareholders. Shares may be acquired on-market or off-market.

The directors believe that, depending on market conditions and the Company's then current share price, having the Share Buyback Programme in place is a positive way of improving shareholder value and is fair to the Company and all shareholders.

The disclosure document required under the Companies Act 1993 is attached as Annexure A.

Shareholder approval is not required for the Shareholder Buyback Programme, but is required to allow the Associates' shareholdings to increase as a result of it. If Resolution 5 is not passed, the Company may continue to undertake buybacks. Shareholder approval is being sought because of the Code implications detailed below.

### **Code Implications**

Any share buyback in which any Associate does not participate on at least a pro rata basis will cause an increase in that Associate's percentage shareholding and may result in an increase in the aggregate percentage shareholding of all the Associates as a result of fewer shares in the Company being on issue.

If shareholders approve Resolution 5 and the Company carries out acquisitions of up to 50 million of the Company's own shares, the Associates will be permitted to retain any increase in voting control (shareholding) that might result. Specifically, as a result, the Associates will be permitted, as an exception to rule 6(1) of the Code, to hold a maximum aggregate of up to 34.07% of the total voting securities on issue (calculated at the date of this Notice of Meeting) should all of the proposed 50 million ordinary shares of the Company be bought back and only the Associates exercise their IFTWCs.

Table 4 below considers the implications of the buybacks, assuming that no IFTWCs are exercised.

Shareholders	Number of Shares Acquired under the Share Buyback Programme			
	None	10,000,000	30,000,000	(Maximum) 50,000,000
Hugh Richmond Lloyd Morrison and John Bentley Morrison as trustees of the HRL Morrison Family Trust	4.08%	4.14%	4.29%	4.45%
HRL Morrison & Co Group Limited	4.38%	4.45%	4.61%	4.78%
Utilico Limited	20.12%	20.46%	21.17%	21.94%
JML Trustee Company Limited as trustee of the JML Trust	1.12%	1.14%	1.18%	1.23%
Duncan Saville	0.0015%	0.0015%	0.0015%	0.0016%
Total	29.70%	30.20%	31.26%	32.39%

The approval given by Resolution 5 will not permit any of the Associates to acquire any additional voting securities.

### Exemption from Code Requirements

The Takeovers Code (Class Exemptions) Notice (No 2) 2001 provides a procedure that permits an increase in the voting control of persons above 20% (or to a greater extent once above 20%) in circumstances where the Company carries out acquisitions of its own shares and if non-associated shareholders vote in favour of the acquisition. As with Resolution 4, the Company and the Associates were able to comply with almost all of the technical requirements of this exemption notice, except for being able to state the exact shareholding percentages that would result from the buyback because the Company cannot predict with complete accuracy the number of IFTWCs that will be exercised, as detailed in the Explanatory Note to Resolution 4 above.

The Company applied for, and the Takeovers Panel approved, the granting of an exemption to the Company and the Associates from Rule 6(1) of the Takeovers Code in respect of any increase in voting control arising from the acquisition by the Company of up to 50 million of its own shares during the period up to and including 31 August 2013 and on the terms and conditions contained in this Notice of Meeting.

The exemption was granted subject to the conditions outlined in the Explanatory Note to Resolution 4 above and that certain information be provided in this Notice of Meeting which is detailed in Annexure B to this Notice of Meeting.

### Independent Adviser's Report

Pursuant to Rule 18 of the Takeovers Code a report from Simmons Corporate Finance Limited, the independent adviser approved by the Takeovers Panel, on the merits of the proposed buyback programme accompanies this Notice of Meeting.

### Independent Directors Recommendation

The independent directors of the Company recommend that shareholders vote in favour of Resolution 5 and approve the possible acquisition by the Company of up to 50 million of its own shares where such acquisitions might result in an increase in voting control of the Associates as set out in these Explanatory Notes. The reasons for this recommendation are:

- The Company considers that an increase in the aggregated holding or controlling of voting securities by an amount of up to 4.38% by the Associates is unlikely to occur.
- Any increase through Resolution 5 being approved is considered to be unlikely to be material to the control of the Company. Even if the theoretical maximum control percentage (34.07%) were reached, the opportunity will still exist for any potential future bidders to acquire an initial 20% shareholding and to make a successful takeover offer (full or partial) by acquiring 50% of the voting securities.
- The Company's willingness to buy back shares when it considers that they are undervalued by the market or provide a higher value investment than other alternatives is viewed positively by shareholders and sharemarket analysts.
- Before undertaking any buyback, the Company must, as required by the Companies Act 1993, determine that the buyback is "in the best interests of the company and the remaining shareholders" and "the acquisition in question is in the best interests of the company and the remaining shareholders". If Resolution 5 is not passed and buybacks occurred the Associates could be forced to sell down their holdings. The independent directors consider that a forced sale may not be in the best interests of any shareholders that are forced to sell.
- The independent directors have also concluded that it may not be in the best interests of the Company to undertake a buyback knowing that it will force shareholders closely associated with the Manager and some directors to sell. Share sales by "insiders" may be viewed negatively by the market and also the independent directors consider that a fair outcome from an on-market buyback would be that all non-participating shareholders share proportionately in any potential financial benefit to the Company which may accrue from such buyback.

The reasons noted in (e) above will be relevant, but not determinative, of the Company's decision to undertake a non pro rata buyback.

## RESOLUTION 6: DIRECTORS' FEES

### Infratil Limited Directors' Fees

The Board's policy is to regularly review the level of directors' remuneration. As more fully explained in the Chairman's Letter enclosed with this Notice of Meeting the Company last increased fees paid to individual directors of the Company in 2007. The quantum approved by shareholders in 2007 of \$530,000 was allocated by directors as follows (all amounts plus GST):

Chairman (inclusive of committee fees)	\$140,000
Other directors' base fee	\$70,000
Chairman of audit and risk committee	\$15,000
Member of audit and risk committee	\$8,000

In 2009, shareholders approved an increase in the aggregate amount of directors' fees to \$600,000 (plus GST) per annum because of an increase in the number of directors. There was no increase in the per director fees at that time. The Board having considered the experience and responsibility of the directors, the increased size and scope of the Company, the increasing level of governance, and the consequent increased time commitment, recommends to shareholders an increase in the quantum of fees paid to directors of the Company of \$60,000, from \$600,000 to \$660,000, such sum to be divided among directors as they deem appropriate, but initially as set out below:

Chairman (inclusive of committee fees)	\$150,000
Other directors' base fee	\$75,000
Chairman of Audit and Risk Committee	\$16,500
Member of Audit and Risk Committee	\$9,000

### Subsidiary Directors' Fees

The Board also recommends that:

the fees payable to the directors of Wellington International Airport Limited, who are also directors of the Company, be increased in quantum by \$6,250 from \$68,750 to \$75,000;

the fees payable to the directors of Victoria Electricity Pty Limited, who are also directors of the Company, be increased in quantum by A\$70,000 from A\$40,000 to A\$110,000, as a consequence of the appointment of Mark Tume in addition to Marko Bogoevski to that Board; and

the fees payable to the directors of Infratil Energy Australia Pty Limited, who are also directors of the Company, be increased in quantum by A\$15,000 from A\$5,000 to A\$20,000, as a consequence of the appointment of Mark Tume in addition to Marko Bogoevski to that Board.

No increase in the total fees of £75,000 payable to directors of the Company, who are directors of Infratil Airports Europe Limited, is sought. Directors and their associated persons are prohibited from voting on this Resolution 6 including where a director or their associated persons have been appointed as a discretionary proxy.

## RESOLUTION 7: AUDITORS

KPMG is automatically reappointed as auditor under section 200 of the Companies Act 1993. This resolution authorises the directors to fix the remuneration of the auditor.

# Annexure A: Companies Act Disclosure Document

## Terms of the Offer

On-market Buyback – Section 63 of the Companies Act 1993

- The Company proposes to make one or more offers on the NZX market to all shareholders to acquire up to 50 million ordinary shares in the Company, pursuant to section 63 of the Companies Act 1993.
- Offers may be made between 30 July 2010 and 16 July 2011.
- The Company will pay the prevailing market price for the shares at the time of purchase. The Company is not obliged to make offers, and reserves the right to cease doing so at any time.

Off-market Buyback – Section 60(1)(b)(ii) of the Companies Act 1993

- The Company proposes to make offers to one or more shareholders to acquire up to 50 million ordinary shares in the Company, pursuant to Section 60(1)(b)(ii) of the Companies Act 1993.
- Offers may be made between 30 July 2010 and 16 July 2011.
- The Company will pay the prevailing market price for the shares at the time of purchase. The price per share will not exceed \$4.00. The Company is not obliged to make offers, and reserves the right to cease doing so at any time.
- Buybacks made in compliance with Section 60(1)(b)(ii) of the Companies Act 1993 will not be made from any person who is a Director, Associated Person of a Director or an Employee (as those terms are defined in the Listing Rules) of the Company and will not exceed 15% of the shares on issue at 11 August 2010.

Other Information Applicable to Both On-market and Off-market Buybacks

- The Company will not purchase any shares while it possesses any information that is materially price sensitive but not publicly available. If the Company acquires price sensitive information, it will cease acquiring shares until the information is publicly disclosed.
- The Company intends to hold up to 5% of its shares as Treasury Stock, from those shares first acquired. Treasury Stock comprises shares acquired and held by the Company in itself and which would otherwise be cancelled on acquisition. Subject to certain restrictions, Treasury Stock can be transferred, re-issued or cancelled by the Company.
- The offer has been designed so that the proceeds of sales will not be taxable as dividends to many shareholders. Shareholders who have special tax status, as a result, for example, of trading securities professionally, should consult their tax advisers. Imputation credits will not be paid in such cases.

## Resolutions

To initiate the proposed offer the Board unanimously resolved on 16 July 2010:

- To reserve the right to make one or more offers on the NZX market to all shareholders to acquire up to 50 million ordinary shares in the Company pursuant to Sections 60(1)(b)(ii) and 63 of the Companies Act 1993.
- Offers may be made pursuant to Section 63 between 30 July 2010 and 16 July 2011 and offers may be made pursuant to Section 60(1)(b)(ii) between 30 July 2010 and 16 July 2011.
- To pay the prevailing market price for the shares at the time of purchase, but for the purchases made pursuant to Section 60(1)(b)(ii) not more than \$4.00 per share.
- In respect of offer made pursuant to Section 60(1)(b)(ii):
  - That the acquisition is in the best interests of the Company;
  - That the acquisition is of benefit to the remaining shareholders;
  - That the terms of the offer and the consideration offered for the shares are fair and reasonable to the Company; and

- That the terms of the offer and the consideration offered for the shares are fair and reasonable to the remaining shareholders.

- In respect of offer made pursuant to Section 63:
  - That the acquisition is in the best interests of the Company and its shareholders; and
  - That the terms of the offer and the consideration offered for the shares are fair and reasonable to the Company and its shareholders.
- That it is not aware of any information that will not be disclosed to the shareholders:
  - which is material to an assessment of the value of the shares; and
  - as a result of which the terms of an offer and consideration offered for the shares are unfair to the shareholders accepting an offer.
- That the reasons for the Directors' conclusions in the Resolutions above are:
  - to maximise shareholder value. Acquiring shares where the share price is below \$4.00 may be considered by the Board (taking into account prevailing circumstances) to be an efficient use of capital;
  - shareholders have total discretion to choose whether to participate in this buyback. There is no pressure to sell to the Company; and
  - the purchase price paid by the Company will not be assessable for income tax as dividends in the hands of many shareholders.
- That the Company have in place reviews and procedures to ensure that it does not acquire shares during the period when material price sensitive information known to the Company is not available to shareholders.
- That the Board is satisfied that the Company will, immediately after acquiring the shares, satisfy the solvency test applied under Section 52 of the Companies Act 1993.
- That Messrs Marko Bogoievski, Kevin Baker and Paul Ridley-Smith of Morrison & Co Infrastructure Management Limited are authorised to sign such documents and do such other things as may be necessary or appropriate to complete the buyback.
- That until the Company holds shares in itself equating to 5% of the total number of shares on issue, such shares need not be cancelled but may be held as Treasury Stock by the Company itself.

## Directors' Interests

### Ordinary Shares (as at 24 June 2010)

	ORDINARY SHARES	
	Beneficially Held	Non-Beneficially Held
H R L Morrison	37,335,221	13,536,547
A Muh	76,843	Nil
D A R Newman	87,231	Nil
H J D Rolleston	25,909	Nil
D P Saville	8,772	124,677,030
M Tume	21,311	Nil
M Bogoievski	Nil	Nil

This Disclosure Document is provided pursuant to Sections 61(5) and 63(6) of the Companies Act 1993 and complies with Sections 62 and 64 of the Companies Act 1993.

# Annexure B: Takeovers Code Disclosures

The following is information relevant to Resolutions 4 and 5 and is referred to at the end of the Explanatory Note to Resolutions 4 and 5.

## Disclosures under the Takeovers Code (Infratil Limited) Exemption Notice 2010 ("Exemption Notice")

The information presented in the table below is calculated as at 24 June 2010 and assumes that only the Associates exercise their IFTWCs and that all shares able to be acquired by the Company

under the Buyback Approval are acquired as this presents the maximum shareholding percentages that might apply to the Associates. The Company, however, expects that:

- a proportion of outstanding IFTWCs held by persons other than the Associates may be exercised.
- not all of the 50 million shares still able to be bought back by the Company under Resolution 5 will be bought back in the short to medium term.

Exemption Requirements	Compliance Information	
<b>Buybacks</b>		
The percentages disclosed in the following section are calculated on the basis that there is no change to the total number of voting securities on issue between 24 June 2010 and the Final Expiry Date of the Exemption Notice other than as a result of buybacks.		
The maximum number of voting securities that may be acquired by the Company.	50 million	
The percentage of all voting securities of the Company that the maximum number of voting securities represents.	8.31%	
The potential maximum percentage of all voting securities that each Associate would hold or control if the maximum number of voting securities were acquired by the Company.	Utilico Limited:	21.94%
	HRL Morrison & Co Group Limited:	4.78%
	Hugh Richmond Lloyd Morrison and John Bentley Morrison as trustees of the HRL Morrison Family Trust:	4.45%
	JML Trustee Company Limited as trustee of the JML Trust:	1.23%
	Duncan Paul Saville:	0.0016%
The potential maximum percentage of all voting securities that each Associate and that associated shareholder's associates would hold or control if the maximum number of voting securities were acquired by the Company.	There are no other known associates of the Associates and accordingly the individual percentages in the row above are repeated for this requirement. For the purpose of seeking this shareholder approval the Associates have all agreed to be treated as associates under the Code.	
The potential maximum percentage of all voting securities that the Associates, in aggregate, would hold or control if the maximum number of voting securities were acquired by the Company.	32.39%	
The potential maximum percentage of all voting securities that the Associates and their associates, in aggregate, would hold or control if the maximum number of voting securities were acquired by the Company.	There are no other known associates of the Associates and accordingly the percentage in the row above is repeated for this requirement. For the purpose of seeking this shareholder approval the Associates have all agreed to be treated as associates under the Code.	
The consideration payable by the Company in respect of a buyback or the manner in which the consideration payable would be determined and when the consideration would be payable.	The manner in which the consideration payable is determined is set out in Annexure A to this Notice of Meeting. The consideration will be payable on the settlement date for each buyback that is undertaken.	
The reasons for buybacks.	Please refer to the Explanatory Note to Resolution 5 on page 10 of this Notice of Meeting.	
A statement to the effect that the increase in the associated shareholders voting control resulting from buybacks, if approved, would be permitted as an exception to rule 6 of the Code.	See page 10 of this Notice of Meeting under the heading 'Code Implications'.	
A report (or summary thereof) from an independent adviser in relation to the buyback that complies with rule 18 of the Code (as if references in that rule to acquisition under rule 7(c) of the Code and Notice of Meeting referred to in rule 15 of the Code were references to buybacks and the notice, respectively).	An independent advisers report discussing the merits of the buyback and prepared by Simmons Corporate Finance Limited accompanies this Notice of Meeting.	
A statement by the directors of the Company in relation to the buyback that complies with rule 19 of the Code (as if the reference in that rule to acquisition under rule 7(c) of the Code was a reference to the buyback).	The directors' statement in respect of buybacks is set out on page 11 of this Notice of Meeting.	

Exemption Requirements	Compliance Information	
<b>IFTWC Exercise</b> The percentages disclosed in the section below are calculated on the basis that there is no change to the total number of voting securities on issue between 24 July 2010 and the Final Expiry Date of the Exemption Notice other than as a result of the Associates exercising their IFTWCs.		
<b>Maximum Individual Allotments</b> The maximum number of voting securities that could be allotted to each Associate as a result of the exercise of the IFTWCs held by that person.	Utilico Limited:	9,225,513
	HRL Morrison & Co Group Limited:	2,164,177
	Hugh Richmond Lloyd Morrison and John Bentley Morrison as trustees of the HRL Morrison Family Trust:	2,104,832
	JML Trustee Company Limited as trustee of the JML Trust:	589,843
	Duncan Paul Saville:	877
The maximum number of voting securities that could be allotted to each Associate as a result of the exercise of the IFTWCs held by that person, expressed as a percentage of the total voting securities on issue after that allotment.	Utilico Limited:	1.04%
	HRL Morrison & Co Group Limited:	0.25%
	Hugh Richmond Lloyd Morrison and John Bentley Morrison as trustees of the HRL Morrison Family Trust:	0.25%
	JML Trustee Company Limited as trustee of the JML Trust:	0.07%
	Duncan Paul Saville:	0.0001%
The maximum percentage of the total voting securities on issue that could be held or controlled by each Associate after the allotment of the voting securities resulting from the exercise of the IFTWCs held by that person.	Utilico Limited:	21.16%
	HRL Morrison & Co Group Limited:	4.63%
	Hugh Richmond Lloyd Morrison and John Bentley Morrison as trustees of the HRL Morrison Family Trust:	4.32%
	JML Trustee Company Limited as trustee of the JML Trust:	1.19%
	Duncan Paul Saville:	0.0016%
The maximum percentage of the total voting securities on issue that could be held or controlled by each Associate and their associates after the allotments of the voting securities resulting from the exercise of the IFTWCs held by that person.	There are no other known associates of the Associates and accordingly the individual percentages in the row above are repeated for this requirement. For the purpose of seeking this shareholder approval the Associates have all agreed to be treated as associates under the Code.	
The maximum number of voting securities that could be allotted to the Associates, in aggregate, as a result of the exercise of the IFTWCs held by them.	14,085,242	
The maximum number of voting securities that could be allotted to the Associates in aggregate, as a result of the exercise of the IFTWCs held by them, expressed as a percentage of the total voting securities on issue after that allotment.	1.61%	
The maximum percentage of the total voting securities on issue that could be held or controlled by the Associates, in aggregate, after the allotment of the voting securities resulting from the exercise of the IFTWCs held by them.	31.31%	
The maximum percentage of the total voting securities on issue that could be held or controlled by the Associates, and their associates, in aggregate, after the allotment of the voting securities resulting from the exercise of the IFTWCs held by them.	There are no other known associates of the Associates and accordingly the percentage in the row above is repeated for this requirement. For the purpose of seeking this shareholder approval the Associates have all agreed to be treated as associates under the Code.	



Exemption Requirements	Compliance Information	
<p><b>Buybacks and IFTWC Exercises Together</b>            The percentages disclosed in the section below are calculated on the basis that there is no change to the total number of voting securities on issue between 24 June 2010 and the Final Expiry Date of the Exemption Notice other than as a result of the Associates exercising their IFTWCs and buybacks being undertaken.</p>		
<p>The potential maximum percentage of all voting securities that each Associate would hold or control if: all the IFTWCs held by that associated shareholder were exercised; and the Company acquired the maximum number of voting securities under the buyback.</p>	Utilico Limited:	23.03%
	HRL Morrison & Co Group Limited:	5.04%
	Hugh Richmond Lloyd Morrison and John Bentley Morrison as trustees of the HRL Morrison Family Trust:	4.71%
	JML Trustee Company Limited as trustee of the JML Trust:	1.30%
	Duncan Paul Saville:	0.0017%
<p>The potential maximum percentage of all voting securities that each Associate and their associates would hold or control if: all the IFTWCs held by that associated shareholder were exercised; and the Company acquired the maximum number of voting securities under the buyback.</p>	<p>There are no other known associates of the Associates and accordingly the percentages in the row above are repeated for this requirement. For the purpose of seeking this shareholder approval the Associates have all agreed to be treated as associates under the Code.</p>	
<p>The potential maximum percentage of all voting securities that the Associates, in aggregate, would hold or control if both: all the IFTWCs held by the Associates were exercised; and the Company acquired the maximum number of voting securities under the buyback.</p>	<p style="text-align: right;">34.07%</p>	
<p>The potential maximum percentage of all voting securities that the Associates and their associates, in aggregate, would hold or control if both: all the IFTWCs held by the Associates were exercised; and the Company acquired the maximum number of voting securities under the buyback.</p>	<p>There are no other known associates of the Associates and accordingly the percentage in the row above is repeated for this requirement. For the purpose of seeking this shareholder approval the Associates have all agreed to be treated as associates under the Code.</p>	

## Disclosures under Rule 16 of the Takeovers Code

The table below sets out the specific disclosures required by rule 16 of the Code in respect of the allotment of securities, which will occur on the exercise of the IFTWCs by the Associates except in respect of rule 16(b) for which an exemption has been granted. The table on page 16 sets out the additional disclosure requirements under the exemption granted by the Takeovers Panel.

Rule 16 Takeovers Code	Compliance Information
(a) The identity of the allottee(s).	Utilico Limited HRL Morrison & Co Group Limited Hugh Richmond Lloyd Morrison and John Bentley Morrison as trustees of the HRL Morrison Family Trust JML Trustee Company Limited as trustee of the JML Trust Duncan Paul Saville
(b) N/A	N/A
(c) if the voting securities being allotted are voting securities of a body corporate other than the Code company: <ul style="list-style-type: none"> <li>– the number of voting securities in the Code company that are held or controlled by that body corporate; and</li> <li>– the percentage of the total voting securities of the Code company that that number represents.</li> </ul>	The securities being allotted are voting securities of Infratil Limited, a Code company.
(d) The issue price for the voting securities to be allotted and when it is payable.	\$4.12 per share, subject to any adjustment made in accordance with the terms of issue of the IFTWCs. The issue price must be paid on or before 29 June 2012 unless the Board extends this date in accordance with the terms of issue of the IFTWCs.
(e) The reasons for the allotment.	Holders of IFTWCs are entitled, upon payment of \$4.12 per IFTWC to be issued with one ordinary share in accordance with the terms of issue of the IFTWCs.
(f) A statement to the effect that the allotment, if approved, will be permitted under rule 7(d) of the Takeovers Code as an exception to rule 6 of the Takeovers Code.	If approved, the allotment of voting securities to the Associates upon the exercise of their IFTWCs will be permitted under rule 7(d) of the Code as an exception to rule 6 of the Code.
(g) A statement by the allottee setting out particulars of any agreement or arrangement (whether legally enforceable or not) that has been, or is intended to be, entered into between the allottee and any other person (other than between the allottee and the Code company in respect of the matters referred to in paragraphs (a) to (e)) relating to the allotment, holding, or control of the voting securities to be allotted, or to the exercise of voting rights in the Code company.	The allottees, being the Associates, have not, nor intend to, enter into any arrangement or agreement with any other person, apart from the Company relating to the allotment, holding or control of the voting securities to be allotted, or the exercise of the voting rights in the Company.
(h) The report from an independent adviser that complies with rule 18.	An independent report prepared by Simmons Corporate Finance Limited accompanies this Notice of Meeting.
(i) The statement by the directors of the Code company referred to in rule 19.	See page 9 of this Notice of Meeting.

## Share Buybacks since 31 March 2009

Date	Number of Shares	Consideration Paid
31 March 2010	900,000	\$1,551,096
1 April 2010	200,000	\$344,688
7 April 2010	1,500,000	\$2,595,000
21 May 2010	750,000	\$1,252,500
25 May 2010	350,000	\$577,500
26 May 2010	750,000	\$1,207,500
3 June 2010	250,000	\$407,500
11 June 2010	250,000	\$402,500

# Independent Adviser's Report

**In Respect of:**

**the Proposed Allotment of  
Shares to Utilico Limited, HRL  
Morrison & Co Group Limited,  
the HRL Morrison Family Trust,  
the JML Trust and Duncan Paul  
Saville**

**and**

**the Continuation of the Share  
Buyback Programme**

**Infratil Limited**

*June 2010*

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## 1. Introduction

### 1.1 Background

Infratil Limited (**Infratil** or the **Company**) is listed on the main equities security market (**NZSX**) operated by NZX Limited with a market capitalisation of approximately \$1.0 billion as at 24 June 2010 and audited total equity attributable to shareholders of the Company of approximately \$0.9 billion as at 31 March 2010.

The Company is an owner and operator of businesses in the energy, airport and public transport sectors. Its energy operations are predominantly in New Zealand (including 50% of Shell's New Zealand downstream operations) and Australia. Infratil owns 66% of Wellington Airport and airports in Glasgow and Kent. Its public transport services are in Auckland and Wellington.

### 1.2 Proposed Allotment of Shares to the Associated Shareholders

Utilico Limited (**Utilico**), HRL Morrison & Co Group Limited (**Morrison & Co**), Hugh Richmond Lloyd Morrison and John Bentley Morrison as trustees of the HRL Morrison Family Trust (the **HRLM Trust**), JML Trustee Company Limited as trustee of the JML Trust and Duncan Paul Saville (together the **Associated Shareholders**) currently collectively hold approximately 29.7% of the voting rights in Infratil.

On 11 June 2007, the Company completed a one for ten warrant issue (the **IFTWC Warrants**), which resulted in the issue of 52,925,599 warrants. The exercise price of each IFTWC Warrant is \$4.12 and the warrants can be exercised on or before 29 June 2012 (which under the terms of issue of the IFTWC Warrants may be extended by the Company's board of directors) (the **Final Expiry Date**).

There are currently 52,825,458 IFTWC Warrants on issue. The Associated Shareholders collectively hold 14,085,242 IFTWC Warrants, representing approximately 26.7% of the warrants on issue.

If the Associated Shareholders' IFTWC Warrants are exercised in full, the Associated Shareholders' voting rights will change to between approximately 29.5% and 34.1%, depending on how many of the other IFTWC Warrants are exercised and how many shares Infratil may buy back under the continuation of its share buyback programme (the **Buyback Programme**).

### 1.3 Continuation of the Buyback Programme

In 2005, the Company obtained shareholder approval for the Buyback Programme, which allowed the Company to undertake buybacks of up to 21,500,000 shares and for the Associated Shareholders to passively increase their control percentage as a result of the buybacks up to a maximum aggregate of 31.89% of the voting rights in Infratil (the **2005 Buyback Approval**). The Company's shares were subsequently split on a two for one basis.

In 2008, the Company obtained shareholder approval for the continuation of the Buyback Programme, which allowed the Company to undertake buybacks of up to 34,103,294 shares and for the Associated Shareholders to increase their control percentage as a combined result of the exercise of IFTWB Warrants and buybacks up to a maximum aggregate of 34.12% of the voting rights in Infratil (the **2008 Buyback Approval**).

The Company may still acquire a further 20,661,807 shares under the 2008 Buyback Approval. This represents approximately 3.4% of the ordinary shares currently on issue.

Infratil wishes to retain the flexibility to buyback shares when it is in the Company's interests to do so and not require the Associated Shareholders to sell down as a consequence. However, this flexibility could theoretically be lost or cause an inadvertent breach of the Takeovers Code (the **Code**) because the general level of exercise of the IFTWC Warrants and the timing of exercise are unknown.

Accordingly, Infratil is seeking a new approval from shareholders that retains the flexibility given by the 2008 Buyback Approval but effectively reduces the 34.12% limit specified in the 2008 Buyback Approval to a lower level of 34.07%.

#### 1.4 Regulatory Requirements

Rule 6(1)(b) of the Code prohibits a person who holds or controls 20% or more of the voting rights in a code company from increasing their control of voting rights in the code company unless the person and that person's associates comply with exceptions to this fundamental rule.

One of the exceptions, set out in Rule 7(d) of the Code, enables a shareholder and its associates to increase their control of the voting rights by an allotment of shares if the allotment is approved by an ordinary resolution of the code company.

As Utilico currently holds approximately 20.1% of the voting rights in Infratil, under Rule 6(1)(b) of the Code it cannot become the holder or controller of an increased percentage of voting rights in the Company unless it does so in a manner permitted by the Code. Although none of the other Associated Shareholders hold or control a substantial percentage of Infratil voting rights, they have accepted, for the purposes of seeking shareholder approval, that they be considered associates of each other, including Utilico. Accordingly, under Rule 6(1)(b) of the Code, each of the Associated Shareholders may not become the holder or controller of an increased percentage of the voting rights in the Company unless it does so in accordance with Rule 7 of the Code.

The allotment of shares on the exercise of the IFTWC Warrants will result in the Associated Shareholders' collective control of voting rights in the Company changing from approximately 29.7% to between 29.5% and 34.1%, depending on how many of the other IFTWC Warrants are exercised and how many shares are bought back under the Buyback Programme on or before the Final Expiry Date.

Accordingly, Infratil's shareholders will be asked to vote at the Company's annual meeting of shareholders on 16 August 2010 on a resolution in respect of the allotment of up to 14,085,242 shares to the Associated Shareholders upon the exercise of their IFTWC Warrants (resolution 4).

Shareholders will also be asked to vote on the continuation of the Buyback Programme, permitting Infratil to buy back up to 50,000,000 shares (resolution 5).

The Associated Shareholders are not permitted to vote on resolutions 4 and 5.

Shareholders will also be asked to vote on resolutions in respect of:

- the re-election of Lloyd Morrison as a director (resolution 1)
- the re-election of Mark Tume as a director (resolution 2)
- continuance of the infrastructure bond programme (resolution 3)
- the remuneration of the Company's directors (resolution 6)
- the directors fixing the remuneration of the Company's auditors (resolution 7).

Rule 16(h) of the Code requires that the notice of meeting in respect of an allotment of shares under Rule 7(d) must include or be accompanied by an Independent Adviser's Report.

Furthermore, one of the conditions of the exemption granted by the Takeovers Panel to the Company in respect of the Buyback Programme is that the notice of meeting must include or be accompanied by an Independent Adviser's Report on the merits of the Buyback Programme.

## 1.5 Purpose of the Report

The independent directors of Infratil, being those directors not associated with the Associated Shareholders (the **Independent Directors**) have engaged Simmons Corporate Finance Limited (**Simmons Corporate Finance**) to prepare an Independent Adviser's Report on the merits of the allotment of the shares to the Associated Shareholders and the continuation of the Buyback Programme in accordance with Rule 18 of the Code.

Simmons Corporate Finance was approved by the Takeovers Panel on 21 May 2010 to prepare the Independent Adviser's Report.

Simmons Corporate Finance issues this Independent Adviser's Report to the Independent Directors to assist the Company's shareholders not associated with the Associated Shareholders (the **Non-associated Shareholders**) in forming their own opinion on whether to vote for or against resolution 4 in respect of the allotment of shares to the Associated Shareholders and resolution 5 in respect of the continuation of the Buyback Programme.

We note that each shareholder's circumstances and objectives are unique. Accordingly, it is not possible to report on the merits of the allotment of shares to the Associated Shareholders or the continuation of the Buyback Programme in relation to each shareholder. This report on the merits of the allotment of shares to the Associated Shareholders and the continuation of the Buyback Programme is therefore necessarily general in nature.

This Independent Adviser's Report is not to be used for any other purpose without our prior written consent.

## 2. Evaluation of the Merits of the Allotment of Shares to the Associated Shareholders and the Continuation of the Buyback Programme

### 2.1 Basis of Evaluation

Rule 18 of the Code requires an evaluation of the merits of the allotment of shares to the Associated Shareholders and the continuation of the Buyback Programme, having regard to the interests of the Non-associated Shareholders.

There is no legal definition of the term *merits* in New Zealand in either the Code or in any statute dealing with securities or commercial law.

In the absence of an explicit definition of *merits*, guidance can be taken from:

- the Takeovers Panel guidance note on the role of independent advisers dated August 2007
- definitions designed to address similar issues within New Zealand regulations which are relevant to the proposed transaction
- overseas precedents
- the ordinary meaning of the term *merits*.

We are of the view that an assessment of the merits of the allotment of shares to the Associated Shareholders and the continuation of the Buyback Programme should focus on:

- the likely impact on the control of Infratil if the shares are allotted to the Associated Shareholders and the Buyback Programme continues
- the rationale for the Buyback Programme
- the likely impact on Infratil's share price of the allotment of shares and the continuation of the Buyback Programme
- the implications if the resolution in respect of the allotment of shares is not approved
- the implications if the resolution in respect of the continuation of the Buyback Programme is not approved.

Our opinion should be considered as a whole. Selecting portions of the evaluation without considering all the factors and analyses together could create a misleading view of the process underlying the opinion.

We note that the rationale for the IFTWC Warrants and the fairness of the terms and conditions of the IFTWC Warrants are not matters for consideration in evaluating the merits of the allotment of shares to the Associated Shareholders or the continuation of the Buyback Programme.



## 2.2 Impact on Control

### Capital Structure

Infratil's capital structure as at 24 June 2010 consisted of ordinary shares and IFTWC Warrants.

Infratil Capital Structure as at 24 June 2010	
	<b>No. on Issue</b>
Ordinary shares on issue	606,603,503
Ordinary shares held as treasury stock	<u>4,950,000</u>
Ordinary shares (excluding treasury stock)	601,653,503
IFTWC Warrants	52,825,458
<i>Source: Infratil</i>	

### Shareholders and Warranholders

The Associated Shareholders currently collectively hold approximately 29.7% of the ordinary shares on issue (excluding treasury stock) and approximately 26.7% of the IFTWC Warrants.

Infratil Securities Held by the Associated Shareholders		
	Ordinary Shares	IFTWC Warrants
Utilico	121,038,296	9,225,513
Morrison & Co	26,348,730	2,164,177
HRLM Trust	24,523,038	2,104,832
JML Trust	6,765,503	589,843
Duncan Saville	8,772	877
Associated Shareholders	<u>178,684,339</u>	<u>14,085,242</u>
<i>% of total security class</i>	29.70%	26.66%
<i>Source: Infratil</i>		

The IFTWC Warrants can be exercised at the warrant holders' discretion on or before the Final Expiry Date at an exercise price of \$4.12 per share. The extent to which the IFTWC Warrants will be exercised cannot be predicted at this point in time. However, the decision as to whether to exercise the IFTWC Warrants will most likely to be the same for both the Associated Shareholders and the Non-associated Shareholders.

The Company's shares have traded on the NZSX at between \$1.50 and \$1.85 in the past 12 months and the IFTWC Warrants have traded at between \$0.023 and \$0.085. Thus the IFTWC Warrants are currently well out of the money.

Assuming the IFTWC Warrants are significantly out of the money throughout the period up to the Final Expiry Date, then it is probable that no shareholders will exercise their warrants. Conversely, if the Infratil share price was to increase substantially such that the IFTWC Warrants were in the money at the Final Expiry Date, then it is likely that a significant portion of the IFTWC Warrants will be exercised.

We are of the view that it is reasonable to assume at this point in time that most (if not all) warrant holders will not exercise their IFTWC Warrants. Nevertheless, our analysis is undertaken on the assumption that the IFTWC Warrants will be exercised.

For the purposes of our analysis, we have calculated a range of levels of voting rights held by the Associated Shareholders assuming:

- all of the IFTWC Warrants held by the Non-associated Shareholders are exercised and
- none of the IFTWC Warrants held by the Non-associated Shareholders are exercised.

This represents the range of voting rights that the Associated Shareholders can hold if only resolution 4 is approved.

We have also undertaken this analysis assuming the maximum 50,000,000 shares are bought back from Non-associated Shareholders under the Buyback Programme up to the Final Expiry Date.

This represents the range of voting rights that the Associated Shareholders can hold if both resolutions 4 and 5 are approved.

Assuming there are no further shares bought back, the allotment of 14,085,242 ordinary shares to the Associated Shareholders upon the exercise of their IFTWC Warrants will change their collective voting rights in the Company from approximately 29.7% at present to:

- approximately 29.5% if all the IFTWC Warrants are exercised
- approximately 31.3% if only the Associated Shareholders' IFTWC Warrants are exercised (ie the Non-associated Shareholders do not exercise any of their IFTWC Warrants).

<b>Impact of Allotment of Shares on Voting Rights – Assuming no Buyback of Shares</b>				
	<b>Associated Shareholders</b>		<b>Non-associated Shareholders</b>	
	<b>No. of Securities</b>	<b>% of Voting Rights</b>	<b>No. of Securities</b>	<b>% of Voting Rights</b>
<b>Current</b>				
Ordinary shares	178,684,339	29.70%	422,969,164	70.30%
IFTWC Warrants	14,085,242		38,740,216	
<b>Exercise of all IFTWC Warrants</b>				
Ordinary shares	192,769,581	29.45%	461,709,380	70.55%
<b>Exercise of Associated Shareholders' IFTWC Warrants only</b>				
Ordinary shares	192,769,581	31.31%	422,969,164	68.69%

Assuming 50,000,000 shares are bought back from Non-associated Shareholders under the Buyback Programme up to the Final Expiry Date, the allotment of 14,085,242 ordinary shares to the Associated Shareholders upon the exercise of their IFTWC Warrants will increase their collective voting rights in the Company from approximately 29.7% at present to:

- approximately 31.9% if all the IFTWC Warrants are exercised
- approximately 34.1% if only the Associated Shareholders' IFTWC Warrants are exercised (ie the Non-associated Shareholders do not exercise any of their IFTWC Warrants).

<b>Impact of Allotment of Shares on Voting Rights – Assuming Buyback of 50,000,000 Shares</b>				
	<b>Associated Shareholders</b>		<b>Non-associated Shareholders</b>	
	<b>No. of Securities</b>	<b>% of Voting Rights</b>	<b>No. of Securities</b>	<b>% of Voting Rights</b>
<b>Current</b>				
Ordinary shares	178,684,339	29.70%	422,969,164	70.30%
IFTWC Warrants	14,085,242		38,740,216	
<b>Buyback of shares</b>				
Ordinary shares	178,684,339	32.39%	372,969,164	67.61%
IFTWC Warrants	14,085,242		38,740,216	
<b>Exercise of all IFTWC Warrants</b>				
Ordinary shares	192,769,581	31.89%	411,709,380	68.11%
<b>Exercise of Associated Shareholders' IFTWC Warrants only</b>				
Ordinary shares	192,769,581	34.07 %	372,969,164	65.93%

The range of voting rights that the Associated Shareholders can control if both resolutions 4 and 5 are approved is between approximately 29.5% and 34.1%. The lower limit is approximately 0.2% lower than their current level of approximately 29.7% while the upper limit is an increase of approximately 4.4%.

We are of the view that it is highly unlikely that the maximum theoretical level of approximately 34.1% will be reached as this requires that the Associated Shareholders exercise all of their IFTWC Warrants while the Non-associated Shareholders do not exercise any of their IFTWC Warrants and that the Company buys back the maximum 50,000,000 shares under the Buyback Programme. As previously stated, we consider it reasonable to assume that at this point in time, it is unlikely that any warrant holders will exercise their IFTWC Warrants given the Company's share price. However, the Final Expiry Date is 29 June 2012 and depending on how Infratil's share price may change over the course of time, some or all warrant holders may decide to exercise their IFTWC Warrants by the Final Expiry Date. Furthermore, we note that the Company's directors may, at their discretion, resolve to extend the Final Expiry Date. We also note that since the 2008 Buyback Approval was obtained, the Company has only bought back 13,441,487 shares.

Assuming no IFTWC Warrants are exercised and 50,000,000 shares are bought back from Non-associated Shareholders under the Buyback Programme up to the Final Expiry Date, the Associated Shareholders' collective voting rights in the Company will increase to approximately 32.4%.

### **Shareholder Voting**

The possible increase in the Associated Shareholders' voting rights from approximately 29.7% to up to 34.1% will have negligible impact on their ability to influence the outcome of ordinary resolutions and special resolutions.

The Associated Shareholders collectively already have the ability to block special resolutions (which require the approval of 75% of the votes cast by shareholders).

Under the Companies Act 1993, a special resolution is required to:

- adopt, alter or revoke a company's constitution
- approve a major transaction
- approve an amalgamation of a company
- place a company in liquidation.

The allotment of shares to the Associated Shareholders upon the exercise of the IFTWC Warrants will not alter the Associated Shareholders' ability to block special resolutions.

At present no single shareholder (including the collective interests of the Associated Shareholders) can control the outcome of an ordinary resolution (greater than 50% of votes cast) or a special resolution. This position will not change if the shares are allotted to the Associated Shareholders following the exercise of the IFTWC Warrants.

Given the above, we are of the view that the allotment of shares to the Associated Shareholders upon the exercise of their IFTWC Warrants will not materially increase the Associated Shareholders' ability to exert shareholder control over Infratil. Our conclusion holds irrespective of whether the continuation of the Buyback Programme is approved or not.

### **Board of Directors**

The directors of Infratil are:

- David Newman – chair, Independent Director
- Marko Bogoevski – associated with the Associated Shareholders
- Lloyd Morrison - associated with the Associated Shareholders
- Duncan Saville - associated with the Associated Shareholders
- Humphrey Rolleston – Independent Director
- Mark Tume – Independent Director.

We are advised by the Independent Directors that neither the allotment of shares to the Associated Shareholders upon the exercise of their IFTWC Warrants nor the continuation of the Buyback Programme will have any impact on the composition of the Company's board of directors or the Associated Shareholders' level of influence at board level.

## Operations

We are advised by the Independent Directors that neither the allotment of shares to the Associated Shareholders upon the exercise of their IFTWC Warrants nor the continuation of the Buyback Programme will have any discernible impact on the operations of the Company.

### 2.3 Rationale for the Buyback Programme

The Company has operated a share buyback programme since 1997.

The 2005 Buyback Approval granted by shareholders on 8 August 2005 allowed the Company to undertake buybacks of up to 21,500,000 shares and for the Associated Shareholders to increase their control percentage up to a maximum of 31.89%. The Company's shares were subsequently split on a two for one basis and hence the permitted buybacks increased to 43,000,000 shares.

The 2008 Buyback Approval granted by shareholders on 18 August 2008 allowed the Company to undertake buybacks of up to 34,103,294 shares and for the Associated Shareholders to increase their control percentage up to a maximum of 34.12%.

The Company has bought back 13,441,487 shares and may still acquire a further 20,661,807 shares under the 2008 Buyback Approval.

Infratil wishes to retain the flexibility to buyback shares when it is in the Company's interests to do so and not require the Associated Shareholders to sell down as a consequence. Resolution 5 seeks to supplement the 2008 Buyback Approval, which expires on 31 August 2010, by retaining the flexibility given by the 2008 Buyback Approval and effectively changing the 34.12% limit to 34.07%. Shareholder approval is not required for the Company to implement the Buyback Programme itself.

Under the continuation of the Buyback Programme, Infratil may buy back up to 50,000,000 shares on-market or off-market, representing approximately 8.3% of the Company's voting securities. Off-market purchases cannot be made from the Company's directors or their associates or from employees. The Company will pay the prevailing market price for the shares at the time of the purchase. The maximum price at which shares can be bought off-market is \$4.00 per share (but the Company is not committing to buy shares at that or any other price). No maximum price is specified for on-market purchases.

The Company's directors consider the Buyback Programme is an effective means to create shareholder value as:

- they only buy back shares when they consider the shares are significantly undervalued by the market
- any buybacks are viewed positively by shareholders and sharemarket analysts.

## 2.4 Impact on Share Price and Liquidity

### *Share Price*

The IFTWC Warrants were issued on 11 June 2007 and have traded on the NZSX since then. The terms of the warrants have been disclosed in Infratil's annual reports each year since they were issued. The IFTWC Warrants trade on the NZSX. Accordingly, the market is fully informed of the terms of the IFTWC Warrants and therefore it can be reasonably assumed that the market has fully priced these securities into Infratil's share price.

We are of the view that the allotment of shares to the Associated Shareholders upon the exercise of their IFTWC Warrants will have negligible impact on the Company's share price.

On the basis that any buybacks are at market value, we are of the view that the continuation of the Buyback Programme will have negligible impact on the Company's share price.

### *Liquidity*

The size of the pool of shares held by the Non-associated Shareholders will not change as a result of the allotment of shares to the Associated Shareholders.

In our view, the allotment of shares to the Associated Shareholders upon the exercise of their IFTWC Warrants will not have any effect on the liquidity of Infratil's shares.

The continuation of the Buyback Programme may potentially have some impact on the liquidity of the Non-associated Shareholders' shares. However, we consider the impact will likely be negligible as the Buyback Programme has been in place since the 2005 Buyback Approval was granted in August 2005, yet the Company has only bought back a total of 35,719,080 shares.

## 2.5 Impact on Likelihood of Takeover

The Associated Shareholders currently hold approximately 29.7% of the voting rights in Infratil. Any bidder looking to fully take over the Company would need to ensure that the Associated Shareholders would accept its offer, irrespective of whether they held approximately 29.7% or up to 34.1% of the voting rights in the Company.

In the event that a bidder made a partial takeover offer for (say) 50.1% of the Company, the increase in the Associated Shareholders' voting rights to up to approximately 34.1% would still be insufficient to prevent a successful partial takeover at that level of control.

In our view, the increase in the Associated Shareholders' voting rights to up to approximately 34.1% will not have a material impact on the attraction of Infratil as a takeover target.

## 2.6 Implications of Resolution 4 not Being Approved

In the event that resolution 4 in respect of the allotment of shares to the Associated Shareholders is not approved, then the Associated Shareholders will not be permitted to increase their level of voting rights in the Company. They will only be able to exercise such number of their IFTWC Warrants so as to maintain their current level of voting rights of approximately 29.7%.

Viewed in isolation, this would not cause an issue as the Associated Shareholders collectively hold approximately 26.7% of the IFTWC Warrants and hence if all IFTWC Warrants were exercised by both the Non-associated Shareholders and the Associated Shareholders – and there were no shares bought back – then the Associated Shareholders' level of voting rights would reduce to approximately 29.5%.

However, there is no certainty that 100% of the IFTWC Warrants will be exercised or that no shares will be bought back under the Buyback Programme. Therefore, if resolution 4 is not approved, then we consider it possible that the Associated Shareholders would look to sell a portion of their IFTWC Warrants. Such a sale would need to be completed prior to the Final Expiry Date. Depending on how many IFTWC Warrants are sold, their sale is likely to place downward pressure on the price of the IFTWC Warrants which in turn could lead to downward pressure on the Company's share price.

The number of IFTWC Warrants that the Associated Shareholders choose to exercise, and correspondingly, the number of warrants they may seek to sell, will depend firstly upon whether upon the IFTWC Warrants are in the money and secondly upon the number of IFTWC Warrants exercised by the Non-associated Shareholders. The second matter will be somewhat circular as it will be influenced by the number of IFTWC Warrants that the Non-associated Shareholders purchase from the Associated Shareholders.

If the Non-associated Shareholders do not exercise any of their IFTWC Warrants, then the Associated Shareholders will not be able to exercise any of their warrants. In such circumstances, the Company would potentially miss out on the opportunity to raise approximately \$58 million of additional capital. However, we consider this scenario to be highly unlikely as the decision to exercise the IFTWC Warrants will be driven largely by whether the warrants are in the money and hence the decision will be the same for both the Non-associated Shareholders and the Associated Shareholders. We expect that either the vast majority of IFTWC Warrants will be exercised or none at all, depending upon Infratil's share price leading up to the Final Expiry Date.

## 2.7 Implications of Resolution 5 not Being Approved

In the event that resolution 5 is not approved and buybacks occur, then the Associated Shareholders may be required to sell down their shareholdings so as not to increase their level of voting rights in the Company.

Such a scenario is potentially disadvantageous to Non-associated Shareholders as:

- it may lead the Company to reconsider the degree to which it undertakes buybacks and hence reduce the ability for Non-associated Shareholders to sell their shares
- the forced sale of shares by the Associated Shareholders may place downward pressure on the Company's share price.

## 2.8 Summary of Evaluation of Merits

The proposed allotment of shares to the Associated Shareholders arises from the future exercise of IFTWC Warrants held by the Associated Shareholders. The IFTWC Warrants were issued to all the Company's shareholders on 11 June 2007.

The resolution in respect of the continuation of the Buyback Programme seeks to continue the Buyback Programme approved by shareholders in 2005 and 2008, but change the Associate Shareholders' maximum level of voting rights from 34.12% to a slightly lower level of 34.07%. The change is negligible.

The allotment of shares to the Associated Shareholders upon the exercise of their IFTWC Warrants will have no significant benefit to the Non-associated Shareholders. Having said that, neither will it have any material negative implications for the Non-associated Shareholders.

Any allotment of shares to the Associated Shareholders following the exercise of their IFTWC Warrants will have negligible impact on the Associated Shareholders' level of shareholding voting control and will have no impact on their control over the board of directors or the Company's operations. Furthermore, we do not envisage that the issue of shares will have any noticeable impact on the Company's share price or the liquidity of the shares, nor will it materially deteriorate the attraction of Infratil as a takeover target.

In the event that the resolution in respect of the allotment of shares to the Associated Shareholders is not approved, then the Associated Shareholders will only be able to exercise such number of IFTWC Warrants so as to maintain their current level of voting rights in the Company. This is likely to lead to the Associated Shareholders selling a portion of their IFTWC Warrants and such a sale is likely to place downward pressure on the price of the IFTWC Warrants which in turn could lead to downward pressure on the Company's share price.

Similarly, if the resolution in respect of the continuation of the Buyback Programme is not approved, this may reduce the Company's inclination to undertake buybacks and any forced sale by the Associated Shareholders of their shares may place downward pressure on the Company's share price.



## 2.9 Voting For or Against the Resolutions

Voting for or against resolution 4 in respect of the allotment of shares to the Associated Shareholders and resolution 5 in respect of the continuation of the Buyback Programme is a matter for individual shareholders based on their own views as to value and future market conditions, risk profile and other factors. Shareholders will need to consider these consequences and consult their own professional adviser if appropriate.

### **3. Sources of Information, Reliance on Information, Disclaimer and Indemnity**

#### **3.1 Sources of Information**

The statements and opinions expressed in this report are based on the following main sources of information:

- the draft Infratil notice of 2010 annual meeting
- the Infratil annual report for the years ended 31 March 2009 and 2010
- the investment statement in respect of the IFTWC Warrants dated 8 June 2007
- Infratil shareholder and warrant holder data from the Company and NZX Data
- Infratil security price data from NZX Data.

During the course of preparing this report, we have had discussions with and / or received information from the Independent Directors and executive management of Infratil and Infratil's legal advisers.

The Independent Directors have confirmed that we have been provided for the purpose of this Independent Adviser's Report with all information relevant to the allotment of shares to the Associated Shareholders that is known to them and that all the information is true and accurate in all material aspects and is not misleading by reason of omission or otherwise.

Including this confirmation, we have obtained all the information that we believe is necessary for the purpose of preparing this Independent Adviser's Report.

In our opinion, the information set out in this Independent Adviser's Report is sufficient to enable the Independent Directors and the Non-associated Shareholders to understand all the relevant factors and to make an informed decision in respect of the allotment of shares to the Associated Shareholders.

#### **3.2 Reliance on Information**

In preparing this report we have relied upon and assumed, without independent verification, the accuracy and completeness of all information that was available from public sources and all information that was furnished to us by Infratil and its advisers.

We have evaluated that information through analysis, enquiry and examination for the purposes of preparing this report but we have not verified the accuracy or completeness of any such information or conducted an appraisal of any assets. We have not carried out any form of due diligence or audit on the accounting or other records of Infratil. We do not warrant that our enquiries would reveal any matter which an audit, due diligence review or extensive examination might disclose.

### **3.3 Disclaimer**

We have prepared this report with care and diligence and the statements in the report are given in good faith and in the belief, on reasonable grounds, that such statements are not false or misleading. We assume no responsibility arising in any way whatsoever for errors or omissions (including responsibility to any person for negligence) for the preparation of the report to the extent that such errors or omissions result from our reasonable reliance on information provided by others or assumptions disclosed in the report or assumptions reasonably taken as implicit.

We have had no involvement in the preparation of the notice of meeting issued by Infratil and have not verified or approved the contents of the notice of meeting. We do not accept any responsibility for the contents of the notice of meeting except for this report.

### **3.4 Indemnity**

Infratil has agreed that, to the extent permitted by law, it will indemnify Simmons Corporate Finance and its directors and employees in respect of any liability suffered or incurred as a result of or in connection with the preparation of the report. This indemnity does not apply in respect of any negligence, wilful misconduct or breach of law. Infratil has also agreed to indemnify Simmons Corporate Finance and its directors and employees for time incurred and any costs in relation to any inquiry or proceeding initiated by any person. Where Simmons Corporate Finance or its directors and employees are found liable for or guilty of negligence, wilful misconduct or breach of law or term of reference, Simmons Corporate Finance shall reimburse such costs.

## **4. Qualifications and Expertise, Independence, Declarations and Consents**

### **4.1 Qualifications and Expertise**

Simmons Corporate Finance is a New Zealand owned specialist corporate finance advisory practice. It advises on mergers and acquisitions, prepares independent expert's reports and provides valuation advice.

The person in the company responsible for issuing this report is Peter Simmons, B.Com, DipBus (Finance), CFIP.

Simmons Corporate Finance and Mr Simmons have significant experience in the independent investigation of transactions and issuing opinions on the merits and fairness of the terms and financial conditions of the transactions.

### **4.2 Independence**

Simmons Corporate Finance does not have at the date of this report, and has not had, any shareholding in or other relationship with Infratil or any conflict of interest that could affect our ability to provide an unbiased opinion in relation to this transaction.

Simmons Corporate Finance has not had any part in the formulation of the allotment of shares to the Associated Shareholders or any aspects thereof. Our sole involvement has been the preparation of this report.

Simmons Corporate Finance will receive a fixed fee for the preparation of this report. This fee is not contingent on the conclusions of this report or the outcome of the voting in respect of the allotment of shares to the Associated Shareholders. We will receive no other benefit from the preparation of this report.

### **4.3 Declarations**

An advance draft of this report was provided to the Independent Directors for their comments as to factual accuracy, as opposed to opinions which are the responsibility of Simmons Corporate Finance alone. Changes made to the report as a result of the circulation of the draft have not changed the methodology or our conclusions.

Our terms of reference for this engagement did not contain any term which materially restricted the scope of the report.

### **4.4 Consents**

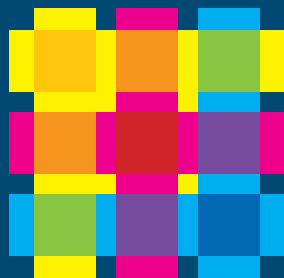
We consent to the issuing of this report in the form and context in which it is to be included in the notice of meeting to be sent to Infratil's shareholders. Neither the whole nor any part of this report, nor any reference thereto may be included in any other document without our prior written consent as to the form and context in which it appears.



Peter Simmons  
Director

**Simmons Corporate Finance Limited**

25 June 2010



**Infratil**