ASX Announcement

9 July 2019

Grant of ASX Listing Rule Waivers

Carnegie Clean Energy Limited (subject to Deed of Company Arrangement) (ASX:CCE) (Carnegie or the Company) advises that ASX has granted the Company waivers from Listing Rules 7.11.3 and 10.1.

Waiver of Listing Rule 7.11.3

As announced on 8 July 2019, as part of the proposed restructure and recapitalisation of the Company to be effected by way of a deed of company arrangement (Recapitalisation Proposal), the Company is proposing to undertake an entitlement offer to existing eligible shareholders to raise a minimum of $5,500,000 (before costs) and a maximum of approximately $11,525,810 (before costs) (Entitlement Offer). It is proposed that the Entitlement Offer will be undertaken on the basis that each eligible shareholder will be entitled to subscribe for 4 fully paid ordinary shares in the Company (Shares) at $0.001 per Share for every 1 Share held.

Listing Rule 7.11.3 provides that the ratio of securities offered by a listed entity under a non-renounceable pro rata issue must not be greater than one security for each security held. As it is proposed that the Entitlement Offer will involve a ratio of four for one (4:1) Shares, the Company has sought and received a conditional waiver from the ASX in respect to Listing Rule 7.11.3 to undertake the Entitlement Offer on those terms.

The waiver of Listing Rule 7.11.3 is conditional upon (amongst other matters):

(a) shareholders of the Company approving the Entitlement Offer (Entitlement Offer Approval); and

(b) a notice of meeting seeking the Entitlement Offer Approval containing a voting exclusion statement that excludes the votes of any substantial shareholders, any proposed underwriter or sub-underwriter of the Entitlement Offer, any brokers or managers of the Entitlement Offer, and any of their respective associates.

The notice of meeting which will contain resolutions in respect to the Recapitalisation Proposal, including the Entitlement Offer Approval, is expected to be dispatched to shareholders on the week commencing 22 July 2019.

Waiver of Listing Rule 10.1

As part of the Recapitalisation Proposal, it is proposed that the Company will:

(a) issue new convertible notes (2021 Notes) to the existing convertible noteholders and HFM Investments Pty Ltd (an entity associated with non-executive director Mr Mike Fitzpatrick) (HFM) in satisfaction of the existing debt owing by the Company to the convertible noteholders and HFM; and

(b) enter into a general security agreement to grant security over certain of the assets of the Company (the Security) in favour of the holders of the 2021 Notes, including HFM (2021 Noteholders).

Listing Rule 10.1 provides that a company must obtain shareholder approval to acquire a substantial asset from, or dispose of a substantial asset to, a related party of the company (amongst others). Broadly, an asset will be a substantial asset if its value, or the value of the consideration for it is, 5% or more of the equity interests of the company as detailed in the latest accounts given to ASX under the Listing Rules. Under the Listing Rules, the grant of a security over an asset constitutes disposing of the asset and, given that HFM will be a 2021 Noteholder pursuant to which the Security will be granted, the Company has sought and received a conditional waiver in respect to Listing Rule 10.1.

The waiver of Listing Rule 10.1 is conditional upon:

(a) the Security including a term that if an event of default occurs and HFM exercises its rights under the Security, neither HFM or any of its associates can acquire any legal or beneficial interest in an asset of the Company or its subsidiaries in full or part satisfaction of the Company's obligations under the Security, or otherwise deal with the assets of the Company or its subsidiaries, without the Company first having complied with any applicable listing rules, including Listing Rule 10.1, other than as required by law or through a receiver, or receiver or manager (or analogous person) appointed by HFM exercising their power of sale under the Security and selling the assets to an unrelated third party on arm's length commercial terms and conditions and distributing the cash proceeds to HFM or its associates in accordance with their legal entitlements;

(b) the Company including a summary of the material terms of the Security in each annual report of the Company during the term of the Security;

(c) any variations to the terms of the Security which is:
    (i) not a minor change; or
    (ii) inconsistent with the terms of the waiver,

    being subject to shareholder approval;

(d) the requirement that the Company and HFM must seek to discharge the Security when the funds advanced to the Company are repaid, or if it is not discharged, seek shareholder approval for the continuation of the Security for any further period;

(e) the Company immediately releasing to the market an announcement which sets out the terms of this waiver, including:

(i) the Company's plans with respect to the repayment of the funds advanced under the new notes, and discharge of the Security, including the timeframe within which it expects the repayment and discharge to occur; and

(ii) a statement of the reasons why the Company has chosen to obtain a financial accommodation from a Listing Rule 10.1 party rather than a lender that is not a related party or substantial holder, and the steps the Company's board has taken to satisfy itself that the transaction is being entered into on arms' length terms and is fair and reasonable from the perspective of the Company's securityholders.

In respect to paragraph (e)(i) above, the Company intends to repay the funds advanced under the 2021 Notes and discharge the Security before the maturity date of the 2021 Notes, being 31 March 2021. If the Company raises over the minimum subscription amount under the Entitlement Offer (presently proposed to be $5,500,000), the Company will repay some of the 2021 Notes using these funds. In respect to the 2021 Notes that are not repaid (or converted) and remain outstanding at maturity, the Company intends to repay these 2021 Notes:

(a) by undertaking a refinancing with a third party lender;

(b) from cash reserves from the operation of the Garden Island Microgrid; or

(c) via proceeds from the sale of certain of the Company's assets (including the Garden Island Microgrid).

The 8% coupon payments accruing under the 2021 Notes are payable via the issue of Shares. If the Company is unable to obtain alternative financing on favourable terms, operate Garden Island Microgrid on a cash flow positive basis or divest its assets, the Company may be required to raise further funding, whether debt or equity.

In respect to paragraph (e)(ii) above, Company has chosen to obtain a financial accommodation from HFM, being an existing lender to the Company, as part of the Recapitalisation Proposal to restructure the current debt owing to HFM under the bridging loan facility agreement and the amounts owing under the existing convertible notes issued by the Company. The Board considers the terms of the 2021 Notes, which were negotiated as part of the Recapitalisation Proposal and are also being offered to existing convertible noteholders, to be fair and reasonable and on arm's length terms.

For more information:
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