



Australian Government

Takeovers Panel

MEDIA RELEASE

No: TP26/028

Tuesday, 12 May 2026

Atlas Arteria 02 – Panel Receives Application

The Panel has received an application from Diamond Infracore 1 Pty Ltd, a wholly owned subsidiary of IFM Global Infrastructure Fund (the **Applicant**) in relation to the affairs of Atlas Arteria Limited and Atlas Arteria International Limited (together, **Atlas Arteria**). Atlas Arteria is currently the subject of an off-market takeover bid by the Applicant to acquire 100% of the stapled securities in Atlas Arteria which it does not already own (the **Offer**).

Details of the application, as submitted by the Applicant, are below.

A sitting Panel has not been appointed at this stage and no decision has been made whether to conduct proceedings. The Panel makes no comment on the merits of the application.

Details

Atlas Arteria is a global owner of toll roads listed on the ASX (ASX: ALX).¹

The Applicant holds a 34.48% relevant interest in Atlas Arteria securities (excluding the interests held by IFM on behalf of certain listed equities clients) and currently has two nominee directors on the Atlas Arteria Limited board.

Atlas Arteria currently holds a 66.67% majority interest in Skyway Concession Company LLC, the concessionaire of the Chicago Skyway (**Chicago Skyway**), with the remaining 33.33% interest being held by Ontario Teachers' Pension Plan Board (**Ontario Teachers**).

On 14 September 2022, when Atlas Arteria first announced the acquisition of its interest in Chicago Skyway (the **Acquisition Announcement**), Atlas Arteria included

¹ Atlas Arteria is a stapled group comprising Atlas Arteria Limited (an Australian registered company) and Atlas Arteria International Limited (a Bermuda registered company).

a summary of 'Key Governance Terms' under the Chicago Skyway Shareholders Agreement. The terms included:

- a right of first offer (the **ROFO**) which requires a shareholder intending to transfer any of its shares to a third party to first provide written notice (a **ROFO notice**) to the other shareholder setting out the desired purchase price, which constitutes an offer to sell the interest to that other shareholder at that price. If the other shareholder does not accept the ROFO notice, then the offering shareholder may sell the interest to a third party within 180 days at a value which is not less than the price specified in the ROFO notice, and
- a put option (the **Put Option**) in favour of Ontario Teachers under which, upon a change of control at Atlas Arteria, Ontario Teachers has the option, at its discretion, to either retain its 33.33% interest, or to sell that interest in Chicago Skyway to Atlas Arteria at a price equal to the fair market value of the interest plus 7.5%. If Ontario Teachers elects to retain its interest on a change of control, it will receive certain (unspecified) additional governance rights in relation to refinancing.

The Applicant noted that in its view, the summary of Key Governance Terms in the Acquisition Announcement failed to provide certain material information about how the ROFO and the Put Option are proposed to operate, particularly in the context of a change of control of Atlas Arteria.

On 27 April 2026, the Applicant announced the Offer by lodging its Bidder's Statement with the ASX and ASIC.

On 6 May 2026, Atlas Arteria made an announcement to the ASX titled "Reject IFM's Hostile Takeover Offer" (the **6 May Announcement**) in which the Atlas Arteria Independent Directors² had decided to recommend that securityholders reject the Offer. The 6 May Announcement also stated that:

- Atlas Arteria had, on 22 April 2026, issued a ROFO notice to Ontario Teachers in respect of Atlas Arteria's 66.67% interest in Chicago Skyway at a price "*in line with Atlas Arteria's acquisition price for the asset in 2022*"
- if Ontario Teachers accepts that ROFO notice, Atlas Arteria must sell its interest in Chicago Skyway to Ontario Teachers at the price specified in the ROFO notice
- if Ontario Teachers does not accept the ROFO notice, Atlas Arteria "*intends to explore strategic alternatives for its interest in Chicago Skyway including a possible sale to third parties*"

² The Atlas Arteria Independent Directors comprise (i) all of the directors on the Atlas Arteria Limited board, except for the Applicant's two nominees on that board and (ii) all of the directors on the Atlas Arteria International Limited board.

- “[t]he existence of the ROFO notice constitutes a breach of a condition of IFM’s Offer as it gives [Ontario Teachers] the right to acquire Atlas Arteria’s interest in Chicago Skyway – even though the ROFO notice was issued before the Offer was made”
- “[t]he put option is only triggered if a third party acquires beneficial ownership in more than 50% of Atlas Arteria and would only complete after a process set out in the Chicago Skyway Shareholders Agreement has occurred” and
- “[a]s IFM has increased its shareholding through its creeping on-market acquisitions over time, the Independent Directors and management have considered, and continue to actively explore, a range of potential initiatives to deal with the put option, including in the context of the current engagement with [Ontario Teachers] in relation to the ROFO. The Boards have been focusing on initiatives that would not require an equity raising.”

The Applicant submits that it had no knowledge prior to the 6 May Announcement that Atlas Arteria had given the ROFO notice in respect of its interest in Chicago Skyway.³

The Applicant submits (among other things) that:

- During the 9-day period between the announcement of the Offer on 27 April 2026 and the 6 May Announcement, the Atlas Arteria Independent Directors failed to announce that Atlas Arteria had already given the ROFO notice to Ontario Teachers in relation to its interest in Chicago Skyway, despite the fact that, as the 6 May Announcement admits, the giving of the ROFO notice constituted a breach of a defeating condition of the Offer.
- Despite the 6 May Announcement, Atlas Arteria’s disclosure remains materially deficient in relation to:
 - the ROFO notice and the potential sale of Chicago Skyway including in relation to price, the period within which the ROFO notice must be accepted and the interrelationship between the Put Option and the ROFO, among other things, and
 - the Put Option including in relation to its operation and details of the “potential initiatives to deal with the put option”, among other things.

The Applicant submits that the disclosure deficiencies mean that the acquisition of Atlas Arteria securities is not taking place in an efficient, competitive and informed market, contrary to section 602(a) of the Corporations Act.

³ The Applicant submits that the two nominees on the Atlas Arteria Limited board are prohibited from disclosing any information they acquire in their capacities as Atlas Arteria directors to the Applicant by virtue of certain contractual restrictions and the two nominees had no knowledge of the Offer until after it was made.

The Applicant further submits that if Ontario Teachers does not accept the ROFO notice and Atlas Arteria explores selling its interest in Chicago Skyway to a third party, that any such sale would be a breach of a condition of the Offer prohibiting material disposals of entities, businesses or assets during the bid period,⁴ and would also be a frustrating action under the Panel's Frustrating Action policy.

The Applicant does not seek any interim orders.

The Applicant seeks final orders to the effect that:

- Atlas Arteria immediately discloses to the ASX all of the information identified in the application in relation to the ROFO, the potential sale of its interest in Chicago Skyway and the Put Option, and
- Atlas Arteria not dispose of (other than to Ontario Teachers pursuant to Atlas Arteria's pre-existing contractual obligations to Ontario Teachers under the Chicago Skyway Shareholders Agreement, if Ontario Teachers accepts the ROFO notice) any part of its 66.67% interest in Chicago Skyway during the Offer Period, without having first provided the Applicant with at least 14 days' written notice of that proposed disposal, so that the Applicant is able to apply to the Panel for orders prohibiting such a disposal.

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⁴ Condition 11(b) of the Bidder's Statement