



Tuesday, 18 November 2008

Babcock & Brown Communities Group 02 – Panel Receives Application

The Takeovers Panel has received an application from Australian Property Custodian Holdings Limited as responsible entity of The Prime Retirement and Aged Care Property Trust in relation to the affairs of Babcock & Brown Communities Group,¹ which is the subject of a 40% proportional takeover bid by Prime Retirement.

In *Babcock & Brown Communities Group 01*, the Panel accepted an undertaking from BBC, Lend Lease Corporation and Babcock and Brown Limited. The undertaking included that the Lend Lease Proposal be amended to require BBC security holder approval before implementing stage 1 of the proposal if a superior proposal is announced before 5pm on 17 November 2008 (see [TP08/100](#)).

Prime Retirement asked the independent directors of BBC to form the opinion that the Prime Retirement bid is a superior proposal to the Lend Lease Proposal. BBC wrote to Prime Retirement informing them that the independent directors remain of the opinion that the Prime Retirement bid does not represent a superior proposal. Prime Retirement seeks a declaration that this decision constitutes unacceptable circumstances.

Prime Retirement seeks:

- An interim order that pending the Panel's determination of the application stage 1 of the Lend Lease Proposal not proceed and
- a final order that BBC not proceed with the transactions in stage 1 of the Lend Lease Proposal within its control without BBC security holder approval.

BBC has made a preliminary submission that the Panel should not conduct proceedings in respect of this application.

¹ Babcock & Brown Communities Group is a stapled structure comprising shares in Babcock & Brown Communities Limited and units in Babcock & Brown Communities Trust (the responsible entity for which is Babcock & Brown Communities Investor Services Limited).

The sitting Panel from *Babcock & Brown Communities Group 01*, Hamish Douglass, Andrew Lumsden and Robert Sultan have been appointed. No decision has been made as to whether to conduct proceedings and the Panel makes no comment on the merits of the application.

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