



Australian Government

Takeovers Panel

MEDIA RELEASE

No: TP17/53

Monday, 16 October 2017

Asia Pacific Data Centre Group – Panel Declines to Conduct Proceedings

The Panel has declined to conduct proceedings on an application dated 9 October 2017 from NEXTDC Limited in relation to the affairs of Asia Pacific Data Centre Group.

Asia Pacific Data Centre Group is currently the subject of an off-market takeover bid by 360 Capital FM Limited (in its capacity as trustee for the 360 Capital Diversified Property Fund) for all stapled securities in Asia Pacific Data Centre Group that it does not own. The application concerned, amongst other things, whether disclosure in the bidder’s statement and the target’s statement was adequate in respect of a proposed capital distribution which may be implemented after the end of the offer period (see [TP17/52](#)).

The Panel noted that the bidder’s statement discloses that the implementation of the proposed capital distribution is subject to the decision and legal obligations of Asia Pacific Data Centre, and that 360 Capital will only make a decision to proceed following legal and financial advice on those requirements.

The Panel considered that further disclosure would require speculation on various matters, including the circumstances at the time the proposed capital distribution is implemented, and the Panel considered it unlikely that such speculation would contribute to an informed market. The Panel noted that NEXTDC has already highlighted its concerns in its announcement to the market on 26 September 2017, and 360 Capital responded to the announcement on 27 September 2017.

The Panel concluded there was no reasonable prospect that it would make a declaration of unacceptable circumstances. Accordingly, the Panel declined to conduct proceedings.

The sitting Panel was Ron Malek (sitting President), Robert McKenzie and Diana Nicholson.

The Panel will publish its reasons for the decision in due course on its website
www.takeovers.gov.au.

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