



Monday, 26 May 2008

Gosford Quarry Holdings Limited - Panel Decision

The Panel advises that it has decided not to make a declaration of unacceptable circumstances in response to an application dated 14 May 2008 from Jamber Investments Pty Limited in relation to the affairs of Gosford Quarry Holdings Limited (See TP08/42).

Jamber submitted the offer period ended at 4 pm on 1 April 2008. It further submitted that the Gosford shares that GPG (No. 6) had acquired at 4:10:56 pm on 1 April 2008, which took its interest in Gosford to over 90%, were acquired after the close of the bid.

For an on-market bid, the offer is contained in the announcement made by a broker on behalf of the bidder. The bidder's statement does not, in the Panel's view, constitute the offer.

The announcement by Bell Potter on 1 February 2008 provided that:

"[Bell Potter] ... announces that during the period commencing on 18 February 2008 and ending 18 March 2008 ('Offer Period') [GPG] will... offer to acquire ... Gosford Quarry Shares.

...

Bell Potter has been instructed to purchase at the Offer Price every Gosford Quarry Share offered for sale during Trading Days in the period from the date of this announcement until the end of the Offer Period"

The offer was extended by s 624(2) which provides for a mandatory 14 day extension of the offer period where the bidder's voting power in the target increases to more than 50% in the last seven days of the offer period.

The Panel considers that the offer was extended until 4:12 pm on 1 April 2008, being the close of trading on the ASX and that necessity (that is, the practicalities of commercial operations) overrides what might otherwise require a bid to be extended until midnight on the last day of the extension.

Section 624(2) also requires an announcement to be made, however the extension is not dependent on the making of the announcement. The Panel does not consider that the reference to the offer closing at 4 pm in the extension notice changes the term of the offer period.

The Panel does not consider that anyone was misled or deceived by the reference to 4 pm in any way that would lead to an effect giving rise to unacceptable circumstances.

Accordingly the Panel decided not to make a declaration of unacceptable circumstances.

The sitting Panel for the proceedings was Martin Alciaturi, Marian Micalizzi (sitting President) and Mark Paganin.

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

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