



Takeovers Code (Trans Tasman Properties Limited) Exemption Notice 2004

Pursuant to section 45 of the Takeovers Act 1993, the Takeovers Panel gives the following notice (to which is appended a statement of reasons of the Takeovers Panel).

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Notice

1 Title

This notice is the Takeovers Code (Trans Tasman Properties Limited) Exemption Notice 2004.

2 Application

This notice applies to acts or omissions occurring on or after 30 April 2004.

3 Interpretation

(1) In this notice, unless the context otherwise requires,—

Act means the Takeovers Act 1993

Code means the Takeovers Code approved by the Takeovers Code Approval Order 2000 (SR 2000/210)

target company statement means the statement referred to in rule 46 of the Code that Trans Tasman Properties is required to send in relation to the takeover offer dated 20 April 2004 that was received from SEA Holdings New Zealand Limited

Trans Tasman Properties means Trans Tasman Properties Limited.

- (2) Any term or expression that is defined in the Act or the Code and used, but not defined, in this notice has the same meaning as in the Act or the Code.

4 Exemption from clause 26(1) of Schedule 2 of Code

Trans Tasman Properties is exempted from clause 26(1) of Schedule 2 of the Code to the extent that the clause requires the chief executive officer of Trans Tasman Properties, or his agent authorised in writing, to sign the certificate included in the target company statement.

5 Conditions

- (1) The exemption in clause 4 is subject to the condition that the target company statement must include a certificate in the following form signed by the chief executive officer of Trans Tasman Properties:

“To the best of my knowledge and belief, after making proper enquiry, I certify—

- (a) that I have provided to the board of Trans Tasman Properties all information that is—
- (i) required to be disclosed by Trans Tasman Properties under the Takeovers Code in respect of the offer; and
 - (ii) necessary for the directors of Trans Tasman Properties to be able to sign the certificate referred to in clause 26(1) of Schedule 2 of the Takeovers Code; and
- (b) that the information I have provided under paragraph (a) is, in all material respects, true and correct and not misleading, whether by omission of any information or otherwise.”
- (2) The exemption in clause 4 is also subject to the condition that the target company statement must include notice of this exemption, and the reasons for the granting of the exemption, in a form approved by the Panel.

Dated at Auckland this 4th day of May 2004.

The Common Seal of the Takeovers Panel was affixed in the presence of:

[L.S.]

J. C. King,
Chairperson.

Statement of reasons

This notice applies to acts or omissions occurring on or after 30 April 2004.

The notice exempts Trans Tasman Properties Limited from the requirement that its chief executive officer must sign the certificate that is required, under clause 26(1) of Schedule 2 of the Takeovers Code, to be included in the target company statement that Trans Tasman Properties is obliged to issue in response to the takeover offer dated 20 April 2004 received from SEA Holdings New Zealand Limited (SEANZ).

The chief executive officer of Trans Tasman Properties, Mr Donald Fletcher, is also the chief executive officer of the offeror company, SEANZ. In view of the conflict of interest inherent in Mr Fletcher's dual roles, the Panel considered that it was inappropriate for Trans Tasman Properties' chief executive officer to have to certify the target company statement.

Instead, Mr Fletcher is required, as a condition of the exemption, to certify that, to the best of his knowledge and belief, he has provided to the board of Trans Tasman Properties all information that is required to be disclosed by Trans Tasman Properties under the Code, and that is necessary to enable the directors of Trans Tasman Properties to sign the certificate referred to in clause 26(1) of Schedule 2 of the Code. He must also certify that the information he has disclosed is true and correct and not misleading.

The Panel considered that it was appropriate to grant the exemption because it was necessary to take into account the conflict of interest inherent in Mr Fletcher's roles as the chief executive officer of the offeror and also of the target company.

The Panel considered that the exemption was consistent with the objectives of the Code because the chief executive officer of Trans

Tasman Properties is still required to make available to the board of Trans Tasman Properties all relevant information possessed by him.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 6 May 2004.

This notice is administered by the Takeovers Panel.
