

Takeovers Code (Dorchester Turners Limited) Exemption Notice 2014

Pursuant to section 45 of the Takeovers Act 1993, the Takeovers Panel, being satisfied of the matters set out in section 45(6) of that Act, gives the following notice.

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Notice

1 Title

This notice is the Takeovers Code (Dorchester Turners Limited) Exemption Notice 2014.

2 Application

This notice applies to acts or omissions occurring on or after 17 September 2014.

3 Revocation

This notice is revoked on the close of 30 April 2015.

4 Interpretation

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

acquisition notice means the acquisition notice that is required by rule 54 of the Code for a compulsory sale

Act means the Takeovers Act 1993

Code means the Takeovers Code under the Act

compulsory sale means a compulsory sale that occurs as a result of the offer

Dorchester means Dorchester Turners Limited

Dorchester Pacific convertible bonds means unlisted convertible bonds issued by Dorchester Pacific Limited pursuant to the offer with an option for the bondholder to convert to Dorchester Pacific shares on maturity

Dorchester Pacific shares means ordinary shares in Dorchester Pacific Limited

offer means the proposed full offer to be made on or about 18 September 2014 by Dorchester for all the equity securities in Turners that Dorchester does not already hold

overseas shareholder means a person who, at the time that the scrip consideration is allotted, under the offer or a compulsory sale, as the case may be, is registered as a shareholder in Turners and whose address on Turners' share register is not in New Zealand

scrip consideration means the Dorchester Pacific shares or Dorchester Pacific convertible bonds offered by Dorchester to shareholders in Turners under the offer, or to be allotted under a compulsory sale, as the case may be

Turners means Turners Group NZ 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.

5 Exemption from rule 20 of Code

Dorchester is exempted from rule 20 of the Code to the extent that the scrip consideration offered under the offer relates to the overseas shareholders.

6 Conditions of exemption in clause 5

The exemption in clause 5 is subject to the conditions that –

- (a) Dorchester appoints a person to act as nominee for the offer who –
- (i) is designated as an NZX Trading and Advising Firm by NZX Limited; and
 - (ii) is not, to the best of Dorchester's knowledge, under investigation by the Financial Markets Authority or NZX Limited; and
- (b) in a manner consistent with the terms of the offer, Dorchester procures the allotment to the nominee of the Dorchester Pacific shares or Dorchester Pacific convertible bonds that would otherwise be allotted to overseas shareholders who accept the Dorchester Pacific shares or Dorchester Pacific convertible bonds under the offer; and
- (c) Dorchester uses its best endeavours to ensure that the nominee, as soon as is reasonably practicable and in a manner consistent with the terms of the offer -

- (i) sells the Dorchester Pacific shares or Dorchester Pacific convertible bonds that are allotted to the nominee under paragraph (b); and
 - (ii) pays each overseas shareholder the relevant share of the proceeds from the sale of the Dorchester Pacific shares or Dorchester Pacific convertible bonds under subparagraph (i), net of any applicable brokerage costs and taxes, to which that shareholder is entitled; and
- (d) Dorchester indemnifies each overseas shareholder against any costs or losses incurred by that shareholder as a result of a failure by the nominee to comply with its obligations.

7 Exemption from rule 56A(2) of Code

Dorchester is exempted from rule 56A(2) of the Code to the extent that the scrip consideration allotted under a compulsory sale relates to the overseas shareholders.

8 Conditions of exemption in clause 7

The exemption in clause 7 is subject to the conditions that –

- (a) Dorchester appoints a person to act as nominee for a compulsory sale who –
 - (i) is designated as an NZX Trading and Advising Firm by NZX Limited; and
 - (ii) is not, to the best of Dorchester's knowledge, under investigation by the Financial Markets Authority or NZX Limited; and
- (b) in a manner consistent with the terms of the acquisition notice, Dorchester procures the allotment to the nominee of the Dorchester Pacific shares or Dorchester Pacific convertible bonds that would otherwise be allotted to overseas shareholders who nominate the Dorchester Pacific shares or Dorchester Pacific convertible bonds consideration under the compulsory sale; and
- (c) Dorchester uses its best endeavours to ensure that the nominee, as soon as is reasonably practicable and in a manner consistent with the terms of the acquisition notice -
 - (i) sells the Dorchester Pacific shares or Dorchester Pacific convertible bonds that are allotted to the nominee under paragraph (b); and
 - (ii) pays each overseas shareholder the relevant share of the proceeds from the sale of the Dorchester Pacific shares or Dorchester Pacific convertible bonds under subparagraph (i), net of any applicable brokerage costs and taxes, to which that shareholder is entitled; and

- (d) Dorchester indemnifies each overseas shareholder against any costs or losses incurred by that shareholder as a result of a failure by the nominee to comply with its obligations.

Dated at Auckland this 11th day of September 2014.

[Signed]
D.O. Jones,
Chairperson

Statement of Reasons

This notice applies to acts or omissions occurring on or after 17 September 2014 and expires on 30 April 2015.

Dorchester Turners Limited (**Dorchester**) is proposing to make an offer for all the equity securities in Turners Group NZ Limited (**Turners**) (the **offer**). Dorchester proposes to offer Turners' shareholders as consideration for the offer:

- cash consideration; or
- Dorchester Pacific Limited ordinary shares (**Dorchester Pacific shares**); or
- unlisted convertible bonds issued by Dorchester Pacific Limited with a bondholder option to convert to Dorchester Pacific shares on maturity (**Dorchester Pacific convertible bonds**); or
- any combination of the above consideration.

The Takeovers Panel (the **Panel**) has exempted Dorchester, subject to conditions, from –

- rule 20 of the Takeovers Code (**Code**), to the extent that Dorchester must offer Dorchester Pacific shares and Dorchester Pacific convertible bonds to the those persons who, at the time that that consideration is allotted, are registered as shareholders in Turners and whose addresses on the Turners share register are not in New Zealand in respect of the offer (**overseas shareholders**); and
- rule 56A(2) of the Code, to the extent that Dorchester must provide Dorchester Pacific shares and Dorchester Pacific convertible bonds to the overseas shareholders under a compulsory sale (**compulsory sale**).

The conditions of the exemption provide that –

- Dorchester Pacific shares and Dorchester Pacific convertible bonds that would otherwise be allotted to overseas shareholders under the offer, or under a compulsory sale, will be allotted to a person appointed by Dorchester to act as nominee for the offer or compulsory sale; and

- Dorchester must ensure that the nominee, as soon as is reasonably practicable and in a manner consistent with the terms of the offer or the acquisition notice, sells the Dorchester Pacific shares and Dorchester Pacific convertible bonds and pays the net proceeds arising from the sales to the relevant shareholders.

The Panel considers that it is appropriate and consistent with the objectives of the Code to grant the exemptions because –

- it is impractical and unreasonably expensive in the context of the offer for Dorchester to make an offer to all shareholders on the Turners share register on the same terms, as required by rule 20 of the Code, because of the costs of complying with the securities laws that apply in the various jurisdictions applying to shareholders; and
- the conditions of the exemptions require that the overseas shareholders that accept the Dorchester Pacific shares or Dorchester Pacific convertible bonds under the offer will, in effect, receive equivalent cash consideration and accordingly are not disadvantaged by not being able to hold Dorchester Pacific shares or Dorchester Pacific convertible bonds allotted under the offer; and
- the exemption is consistent with the principle of providing equal consideration to all shareholders of the same class; and
- it is important for competition for the control of Code companies that offerors are not precluded from offering securities as consideration in takeover transactions; and
- the exemption from rule 56A(2) of the Code is consequential to the exemption from rule 20 of the Code.

Date of Notification in the *Gazette*: 25 September 2014
