



Australian Government

Takeovers Panel

MEDIA RELEASE

No: TP25/10

Tuesday, 25 February 2025

Keybridge Capital Limited (Administrator Appointed) 16 and Benjamin Hornigold Ltd 14 - Panel Receives Applications

The Panel has received two applications from Benjamin Hornigold Ltd (ASX: BHD) – one in relation to the affairs of Keybridge Capital Limited (Administrator Appointed, ASX: KBC) (**Keybridge**) and the other in relation to its own affairs. Details of the applications, as submitted by BHD, are below.

A sitting Panel has not been appointed at this stage and no decision has been made whether to conduct proceedings. The Panel makes no comment on the merits of the applications.

Details

Keybridge has voting power of 19.59% in BHD (as disclosed in its most recent substantial holder notice dated 17 January 2024) and 78.359% in Yowie Group Limited. Two of the three directors of Yowie (Messrs Nicholas Bolton and John Patton) are directors of Keybridge.¹

On 19 December 2024, Keybridge received a notice from WAM Active Limited under section 249F to requisition a general meeting of Keybridge shareholders (**Requisition EGM**) to move resolutions to replace Messrs Nicholas Bolton, Antony Catalano, John Patton and Richard Dukes (**Incumbent Keybridge Directors**) with Messrs Sulieman Ravell, Geoff Wilson, Jesse Hamilton and Martyn McCathie (**Proposed Keybridge Directors**). The Requisition EGM was scheduled to be held on 10 February 2025.

On 6 January 2025, Keybridge made an announcement stating that it had:

- issued 2,581,816 shares to sophisticated investors at an issue price of 5.5c per share, raising \$142,000 and
- called a general meeting to be held on 3 February 2025 (**Keybridge EGM**), to consider (among other things) the *“ratification of the above \$142,000 share placement and a resolution seeking shareholder approval for the issue of a further \$1.56*

¹ The remaining director of Yowie is an executive director

million to related parties of the company, Wilson Asset Management and Messrs Mr Bolton and Mr Catalano”.

On 10 February 2025, Keybridge made announcements stating that:

- Yowie *“via an independent sub-committee, formally demanded the repayment of the outstanding loan balance, being \$4.6 million (Loan), with repayment to be made by 5.00pm on 7 February 2025”* and
- its board of directors *“unanimously resolved to appoint Mr Gideon Rathner from Lowe Lippmann Chartered Accountants as Voluntary Administrator of the Company pursuant to section 436A”*.²

On 10 February 2025 at the Requisition EGM, Mr John Patton as chair adjourned the meeting to a later date. On 11 February 2025, Keybridge made an announcement that *“[t]o enable the orderly progression of the Administration, notice is given that the [Requisition EGM] will be reconvened on 22 April 2025”*.

On 17 February 2025, Keybridge announced that it had postponed the Keybridge EGM to Thursday, 27 February 2025.

BHD submits (among other things) that:

- The Incumbent Keybridge Directors *“have taken numerous actions to thwart or frustrate the [Proposed] Keybridge Directors from taking office as Directors of Keybridge, which alone or together comprise unacceptable circumstances in relation to Keybridge”*.
- The above actions *“also comprise unacceptable circumstances in relation to BHD, since they impact at least the 19.59% shareholding in BHD held or controlled by Keybridge, and when considered with further undisclosed relevant interests by Bolton in BHD, it means that there is a control-threshold stake (of more than 20% of BHD shares) controlled by the concert parties undertaking those unacceptable actions”*.
- Mr Bolton’s voting power in Keybridge has not been fully disclosed.
- There are *“material undisclosed associations or concert party behaviours in relation to both Keybridge Shares and BHD Shares which are adversely impacting the efficient, competitive and informed market for BHD shares, in frustration of the purposes reflected in section 602”*.

BHD seeks an interim order that *“Keybridge, its Administrator and any officer of Keybridge be restrained forthwith from disposing or entering into or any agreement,*

² Unless otherwise indicated, all statutory references are to the Corporations Act 2001 (Cth) and all terms used in Chapter 6, 6A or 6C have the meaning given in the relevant Chapter (as modified by ASIC)

arrangement or understanding to dispose of any of Keybridge's 19.59% interest in BHD shares".³

BHD seeks a final order that "Keybridge (and its Administrator) divest forthwith the full parcel of 19.59% BHD shares in ASIC for sale or buyback".

Allan Bulman
Chief Executive, Takeovers Panel
Level 16, 530 Collins Street
Melbourne VIC 3000
Ph: +61 3 9655 3500
takeovers@takeovers.gov.au

³ WAM Active has made an interlocutory application in the Supreme Court of New South Wales seeking (among other things) an order (subject to the usual undertaking as to damages) against the Administrator and Keybridge from disposing of assets (including Keybridge's BHD holding) without first giving WAM Active 7 days' notice. On 24 February 2025, the Administrator gave an undertaking to the Supreme Court of New South Wales not to sell or dispose of, secure, charge, encumber or otherwise deal with the property of Keybridge until 5:00pm on 26 February 2025. A hearing to consider WAM Active's request for the order was stood over until not before 11am on 26 February 2025.