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Friday, 31 October 2008

**Babcock & Brown Communities Group - Panel Decision**

The Panel advises that it has decided not to make a declaration of unacceptable circumstances in response to an application dated 10 October 2008 from Australian Property Custodian Holdings Limited as responsible entity of The Prime Retirement and Aged Care Property Trust. The application concerned the proportional takeover offer for Babcock & Brown Communities Group by Prime and an Implementation Agreement between BBC and Lend Lease Corporation Limited dated 1 October 2008. (See [TP08/98](#)).

The Panel today accepted the undertaking in the annexure to this media release. Given the undertaking, the Panel declined to make a declaration of unacceptable circumstances.

The sitting Panel for the proceedings was Hamish Douglass, Andrew Lumsden (sitting President) and Robert Sultan. The Panel will publish its reasons for the decision in due course on its website [www.takeovers.gov.au](http://www.takeovers.gov.au).

Allan Bulman  
Director, Takeovers Panel  
Level 47, 80 Collins Street  
Melbourne, VIC 3000  
Ph: +61 3 9655 3597  
[allan.bulman@takeovers.gov.au](mailto:allan.bulman@takeovers.gov.au)



## Annexure

### SECTION 201A OF THE AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION ACT (CTH)

#### UNDERTAKINGS

##### **In the matter of Babcock & Brown Communities Group**

Pursuant to section 201A of the *Australian Securities & Investments Commission Act 2001* (Cth):

1. Each of BBC, BNB and Lend Lease undertakes to the Panel that, before 5:00pm on Monday 17 November 2008, they will not:
  - (a) issue to Lend Lease the First Notes or the BBC Notes
  - (b) consent to the novation of the Management Agreements
  - (c) agree to terminate the Internalisation Agreement
  - (d) issue securities under any application referred to in clause 4.1(f) of the Implementation Agreement; or
  - (e) acquire the Initial BNB Parcel.
2. Each of BBC, BNB and Lend Lease undertakes to the Panel that if, before 5.00pm on Monday 17 November 2008, a superior proposal has been made or announced, they will amend the terms of the Implementation Agreement, the Stapled Security Acquisition Agreement and the Transfer and RE Replacement Agreement to require security holder approval before BBC, BNB or Lend Lease takes any of the steps referred to in (1).
3. Each of BBC, BNB and Lend Lease undertakes to the Panel to confirm in writing to the Panel when it has satisfied its obligations under this undertaking.

In this undertaking:

Terms have the same meaning as in the Implementation Agreement dated 1 October 2008

BBC comprises Babcock & Brown Communities Limited and Babcock & Brown Communities Trust (the responsible entity for which is Babcock & Brown Communities Investor Services Limited)

Lend Lease means Lend Lease Corporation Limited

A proposal is a superior proposal if the independent directors form the opinion, reasonably formed in good faith and for a proper purpose based on their fiduciary duties, that it is a superior proposal to the Lend Lease proposal announced on 1 October 2008.

[Signed on behalf of Babcock & Brown Communities Group, Lend Lease Corporation Limited, Babcock & Brown International Pty Limited]

Dated 31 October 2008