

# ASX RELEASE

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**Update on Legal Proceedings Over Rights Under Leases with NEXTDC  
NEXTDC (NXT) Continues to Refuse Valuer & Limit Purchasers Access  
NEXTDC Recent Proposal to Purchase Asia Pacific Data Centre Group (AJD) for \$2.00  
AJD Makes Proposal to NEXTDC to Exit for \$2.00**

## **Update on Legal Proceedings Over Rights Under Leases with NEXTDC**

Following numerous attempts seeking access to the APDC Portfolio for both the independent valuers and prospective purchasers to inspect the facilities, APDC Trust made an application to the NSW Supreme Court to seek specific performance under each of the leases to allow the inspections to take place.

APDC has also sought a declaration that NEXTDC's conduct is in breach of its leases across their Sydney, Melbourne and Perth data centres within APDC Trust for failing to comply with the Landlord's requests for access.

Last Friday, his Honour Justice Robb in the NSW Supreme Court stood the matter over until this Friday, 27 April 2018 at 10am.

On 24 April 2018, NEXTDC conceded in allowing a purchaser to inspect the APDC Portfolio after the prospective purchaser acknowledged that they had to pay in excess of \$265 million to acquire the APDC Portfolio. APDC welcomes this compromise, however, NEXTDC continues to refuse to allow independent valuers access. As such APDC is continuing with its legal proceedings.

## **External Independent Valuations**

Since the appointment of the new Boards in November last year, NEXTDC has refused to permit independent valuers access to the APDC Portfolio for the purpose of undertaking independent valuations. The rationale for such refusal is unclear. Since APDC has been listed on the ASX, NEXTDC has allowed at least 6 independent valuation inspections to occur, the latest being July 2017. NEXTDC has already allowed several prospective purchasers (including their competitors) to inspect the properties as part of the sales campaign.

APDC is a special purpose real estate investment trust (A-REIT) which listed on the Australian Securities Exchange on 9 January 2013 to own data centre properties. APDC has the objective of providing investors with a stable income and the potential for capital growth.

### **Indicative Takeover Offer by NEXTDC Limited**

On 15 March 2018, APDC Holdings and APDC Limited received a non-binding, conditional, indicative proposal from NEXTDC to purchase all of the AJD securities it does not already own for \$2.00 per security (less any distributions declared) (the **NEXTDC Indicative Proposal**), equivalent to a portfolio price of approximately \$258 million.

The NEXTDC Indicative Proposal included provisions that APDC securityholders (excluding NEXTDC) be liable for certain costs over a \$1.0 million cap associated with litigation and the sales process.

Included within the NEXTDC Indicative Proposal was a stipulation that 360 Capital Group makes a statement that “360 Capital intends to accept the Offer for its entire holding in the absence of a superior proposal”.

Furthermore, NEXTDC would be prepared to withdraw its notice to call a meeting of members for the APDC Trust to consider the wind-up proposal, on the basis that the associated proceedings commenced by 360 Capital Group are discontinued.

Given the NEXTDC Indicative Proposal was subject to 360 Capital Group making statements that it intends to accept the Offer for its entire holding in the absence of a superior proposal and to 360 Capital FM Limited discontinuing court proceedings, the chairman of the APDC Holdings IBC forwarded the Indicative Proposal to the 360 Capital Group’s IBC and strongly recommended to NEXTDC that it engage directly with the 360 Capital Group’s IBC in respect of those proposed terms as they relate to 360 Capital Group.

Discussions between the parties have now ceased and we understand NEXTDC has withdrawn its offer.

### **Proposed Buyback**

Following a recent article in the Australian Financial Review where NEXTDC CEO, Mr Craig Scroggie said “he wanted the circus to end..... and that NEXTDC would be happy to sell its stake in the business...”, APDC approached Mr Scroggie to try and resolve the current major securityholder disputes.

On 18 April 2018, a buyback proposal was verbally made to Mr Scroggie who then immediately requested a written proposal from APDC, which could be used to commence negotiations.

In response APDC issued an indicative non-binding proposal on 18 April 2018 for NEXTDC’s consideration whereby APDC would undertake a buyback at an offer price of \$2.00 per security and would be offered to all APDC securityholders including NEXTDC. The proposal was conditional on a number of matters including that, 360 Capital Group not participate in the buyback.

Another condition included an amendment to the access provisions of the lease agreements between NEXTDC Limited and the landlord and APDC’s financiers access across the APDC Portfolio to allow independent valuations to be undertaken.

This proposal was issued to NEXTDC on a confidential basis as a basis to commence negotiations with NEXTDC. As yet NEXTDC has not responded to this proposal, however in light of NEXTDC lodging the proposal with Court and it thereby no longer being confidential, APDC is now making public both the Proposed Buyback and NEXTDC’s Indicative Takeover Offer to ensure that all APDC securityholders are fully informed.

**Conclusion**

The APDC Boards remain open to resolving the current matters on foot in an amicable basis. We encourage NEXTDC to engage on the Proposed Buyback and we remain open to resolving the current access dispute on a sensible basis.

APDC Holdings and APDC Limited will continue to act in the best interests of **ALL** securityholders and will continue to keep the market updated on the various items disclosed today.

For further information, please contact:

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