

Schofield, Hayley

From: McComber, Jennifer on behalf of Dunphy, Barry
Sent: Monday, 1 August 2011 11:39 AM
To: 'rbentley@queenslandracing.com.au'
Cc: 'smurray@racingqueensland.com.au'
Subject: Further Advice to the Board: Review of the Norton Rose Advice
Attachments: 304695212_4.pdf

Dear Bob,

We have carefully reviewed the terms of the Norton Rose Advice.

As you will see, we think that most of the suggestions that have been made would not be unreasonable to adopt. There are only three areas where we think some form of variation is needed being:

- In relation to the expanded trigger points for the right of the four senior executives to terminate their contracts (under clause 15.3) we would suggest that these all be limited to matters that significantly affect the role and duties of the relevant executives. We therefore do not think that a change in the State Government alone should be included as one of the triggers in clause 15.3 of the employment contracts;
- There is a potential complication if an early State election were to be called, say, in the next two months. In that circumstance if a trigger event happened after the election the four executives may then be entitled to twenty months pay-out (at the 30% increased level) which would be equivalent to 26 months salary at their current remuneration. All of that would occur in circumstances where their retention would have only been for a short period of, say, three months. We think that that outcome would be in the nature of a windfall and would be hard to justify and we have therefore suggested that the termination payment provided under clause 15.3 should have some form of cap to mitigate that risk. This is a matter for the Board to consider balancing all of the commercial considerations but if one is having regard to the uplifted salary level (which includes the 30% increase) then a cap of 12 - 14 months might be considered by the Board; and
- We have suggested some other minor changes to the drafting of the additional trigger factors that are suggested for inclusion in clause 15.3 of the relevant employment contracts.

As you will see from the above three points, two are drafting issues and the third point is necessary because of the possibility that a very early election might be held. I know that the Premier is on the record as saying that she intends to not have the election until early next year. However, politically things are fairly volatile at the moment and I have heard some suggestions around Government that a snap election might be called because the current Government may not wish to be holding the State election at the same time as the Local Government election. Of course, one can never be sure about the timing of election and really the election date will only be certain once it is called. However, a very early election would I think create a difficulty for the Board as under the Norton Rose formulation (with the impact of the 30% uplift) would see the four executives get a very large windfall.

Please do not hesitate to contact me once you have read the advice.

Kind regards,

Barry Dunphy | Partner | Government Services Group
Clayton Utz

Level 28 Riparian Plaza 71 Eagle Street, Brisbane QLD 4000 Australia | D +61 7 3292 7020 | F +61 7 3221 9669 | M 0407 122 283 | bdunphy@claytonutz.com

www.claytonutz.com

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