

# TOP 10 AUSTRALIAN M&A PREDICTIONS FOR 2021

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Legal Briefings - By **Tony Damian and Andrew Rich**

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Our annual top 10 Australian M&A predictions for the coming year are set out below. We also look back at how accurate last year's predictions turned out to be.

## 2021: CONSOLIDATING THE STRONG SECOND HALF

The second half of 2020 saw strong M&A activity with a number of important deal milestones, from the announcement of significant deals like the CCEP / Coca-Cola Amatil scheme and the various approaches to Link Group, through to the shareholder approval of the recut BGH-Village Roadshow deal. These deal tailwinds will continue into next year, making for a strong start to 2021. We also expect activity to remain strong throughout the year as global economic conditions improve relative to this year. However, geo-political concerns do provide a risk to that result.

## PRIVATE EQUITY A KEY PLAYER

The PE prediction has been a staple of our recent "Top 10's", and it has rarely failed to deliver. The combination of dry powder and deal appetite will see PE remain a highly engaged player in the Australian M&A market, with local houses and the global players all being a part of the mix (and sometimes in tandem, as in the PEP / Carlyle approach to Link Group). It's interesting to think that it doesn't feel like that many years ago that take-privates involving PE had some degree of novelty in our market.

## .... JOINED BY SUPER FUNDS

We expect the relative novelty of super funds moving along the spectrum from deal participants to deal doers will be short lived. This development was only a matter of time (refer to our 2019 Top 10 M&A predictions). The First State Super entry into the Opticomm fray, as well as the AustralianSuper approach to Infratil, show that along with PE, super funds will also be active regulars on the deal scene.

## **FIRB GIVES PAUSE FOR BREATH**

It has been an interesting few years for FIRB. It is fair to say that this regulator has become far more important to M&A deals. The combination of increased powers under new legislation, a greater policy scrutiny on specific issues such as tax and data, as well as the general national security overlay, means that much thoughtfulness is required, even on applications that deal participants previously wouldn't have thought twice about. There is also the potential for delay in getting approval. FIRB issues will be a feature of the deal landscape in 2021.

## **CROSS BORDER DRIVERS**

While trade tensions remain between Australia and China, we think that cross border M&A will still remain a significant feature of Australian M&A in 2021. 2020 saw its share in significant cross border activity, even as the COVID-19 pandemic was in full swing. As the global situation improves over the course of next year, we expect global interest to increase, first from Asia and North America, with a greater European component in the second half of the year.

## **W&I INSURANCE HAS ITS DAY**

Warranty & Indemnity insurance has steadily increased its presence and relevance in the Australian M&A market over the past few years. It continues to play a role on deals, and increasingly on a greater portion of deals. Traditionally the preserve of PE sell-sides, we now see it in non-PE deals, as well as public M&A deals. We expect this trend to continue in 2021.

## **BIDDER TACTICS AND TARGET BOARDS**

The eternal struggle between the willing bidder and the target board, often viewed by some of the aforementioned willing bidders as reluctant, continues. Trends in the balance between the two often change. At the moment, a number of bidders will be considering ways to put further pressure on target boards, beyond the traditional leaks, bear hugs and shareholder pressure. In public M&A deals, we expect to see a slight rise in tactics such as the acquisition of outright stakes and hostile bids.

## **M&A DEAL DILIGENCE: THE NEW FRONTIERS**

Two areas of increasing relevance to due diligence on M&A deals are Environment, Social and Governance (or “ESG”) issues and data issues. The scope, relevance and consequences of ESG diligence is a work in progress. We expect to see thinking in this area continue to develop in 2021 and beyond. Data issues have always been important, but have become more important. They touch on potentially significant issues such as overall reputation and privacy as well as potentially national security issues.

## **THE SECTORS TO WATCH**

While we think there will be strong activity across the board, three sectors to watch are property, financial services and resources. Property is of course a broad description that has a number of components. While views are still emerging as to the effects of COVID-19 on property, we think that there will be consolidation in the space. Financial services feels like a safe bet given the continuing divestment programs of a number of our major financial institutions. We also think that there will be green shoots on acquisitions as well, unrelated to those divestment programs. Resources, like property, is also a broad sector. There are many different drivers for different parts of the sector at the moment. Some of those drivers will point to consolidation while others will see potentially significant global deals based on an improving global outlook.

## **STRESSED M&A OPPORTUNITIES: CONSOLIDATIONS AND RECAPITALISATIONS**

A number of sectors were adversely affected by the COVID-19 pandemic in 2020 – the travel, leisure and hospitality sectors being particularly badly affected. Despite the hope that the worst will soon be behind us in terms of the effects of the virus, many key players in these sectors remain stressed and even quite distressed. We expect this to result in a number of major consolidation and recapitalisation opportunities in 2021, particularly as sector participants seek to shore up their balance sheets in order to protect themselves against similar shocks occurring in the future.

## **REVIEW OF THE 2020 PREDICTIONS**

2020 proved to be a difficult year for forecasting. We missed predicting the global pandemic this time last year. Despite that, we think we hit the mark with a number of our predictions, while falling short of the summit in thinking the fourth edition of *Schemes, Takeovers and Himalayan Peaks* would have been finished in such a busy year!

1. 2020: A breakout year for Australian M&A
2. Political tailwinds emerge
3. Igniting the dry powder

4. Many sectors active: infrastructure, energy and mining key ones to watch
5. Regulators centre stage
6. Shareholders: don't you forget about me
7. Demergers give way to break-up deals
8. Captain (North) America
9. Return of the restructuring deal
10. Returning to Everest?

The Herbert Smith Freehills M&A team thanks all our clients for their valued support in 2020 and wishes everyone the best for 2021.

## KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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