

Australian public M&A outlook

2024 Edition

Rising confidence following a remarkably robust year of M&A



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Introduction

Dealmakers in Australia have reason to be cautiously optimistic at the outset of 2024 following a positive end to 2023.

Consistent with our Australian research, our [recent global survey](#) of 200 leading senior executives on international M&A trends shows that there are promising early signs for a rebound in M&A activity in 2024.

As central banks respond to an easing inflationary environment, there is potential for improvement across lending markets – a change that will be welcomed by dealmakers everywhere.

This optimism is in stark contrast to the challenges that were faced by Australian dealmakers at the start of 2023, as elevated inflation, consecutive cash rate rises and the conflict in Ukraine and later the Middle East caused supply chain turmoil across corporate Australia.

But despite the challenges, surging demand for the raw materials needed for decarbonisation projects fuelled an early flurry of mining & metals deals, with 5 of the first 10 deals announced in 2023 emerging from this sector.

Hype around generative artificial intelligence or “AI” brought on by the launch of ChatGPT also sparked interest in AI-backed software & service companies in Australia and globally in early 2023. Bidders seeking targets in this sector accounted for 3 of the first 10 deals announced, including the Humanforce bid for employment software provider IntelliHR, sparking the year’s first and fiercest bidding war (summarised further on page 19).

The dramatic collapse of several tech-focused US banks in March 2023 did not appear to discourage high value Australian public M&A activity. Deals announced in the first half of the year accounted for 53% of the year’s total deal count and over 81% of the

year’s total deal value, with consistent representation from US bidders when compared to the second half of the year.

Dealmakers responded creatively; abandoning solely debt-funded transactions altogether and deploying innovative funding solutions to launch winning all-cash bids. Most recently, this trend has been exemplified by the \$1.7 billion joint bid launched by Hancock Prospecting and SQM for Australian lithium producer Mineral Resources, the year’s second largest all-cash deal.

A waning Australian dollar drove foreign investment in Australian targets throughout 2023. By the close of the year, foreign bidders had contributed 95% of total deal value despite only accounting for 56% of total deal count. Without a significant improvement in the strength of the Australian dollar, we expect to continue to see foreign bidders play an important role in public M&A in the year ahead.

Shareholder activism, particularly relating to ESG, continued to drive public M&A deal activity in 2023. We saw numerous bidders tip ESG-related drivers amongst the rationale for control proposals, such as Brookfield’s proposal to acquire Origin Energy Limited, which galvanised around a desire to accelerate the target’s decarbonation strategy. While ultimately unsuccessful, the pursuit drew significant media attention and public debate around energy transition.

By year’s end, the Australian public M&A market had made a gentle recovery despite the year’s significant challenges. Looking now to the horizon, we are reservedly hopeful for what 2024 will bring for public M&A.

TOTAL DEAL VALUE
\$59.1bn

MEGA-DEALS
9 (\geq \$1bn)

56% FOREIGN BIDS CONTRIBUTING **95%** OF DEAL VALUE

SUCCESS RATE

81%

26% DEALS OFFERING INCREASED CONSIDERATION

23% PRIVATE EQUITY BIDDERS

Methodology

In this report we review the past year of Australian public M&A activity and analyse various deal trends that have emerged regarding deal structuring, bidder origins, conditionality, the form and sources of consideration and premiums offered. Having tracked many these data points since 2019, we are able to identify developing trends and market responses to domestic and international events, and to use these insights to make predictions for the year ahead.

There were 43 announced deals surveyed in 2023 with a deal value of over \$50 billion.

We hope this report continues to be a useful tool for M&A practitioners and participants in helping them understand Australian public and private M&A market practice, both as to the trends over many years and a snapshot of the current day.



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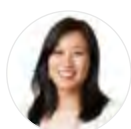
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Outlook for 2024

Based on our research of trends in 2023, we outline some of our predictions for the Australian public M&A market for the year ahead.



Steady but insecure growth in public M&A

Our observations over the past 12 months make us cautiously optimistic that we will continue to see steady growth in Australian public M&A in 2024. Dealmakers seeking Australian targets have shown resilience and an ability to produce solid M&A activity despite challenging economic conditions. As interest rates stabilise and securities markets continue to recover lost ground, we expect to see bidders from the top end of town regain confidence and a greater number of mega deals to be announced.

However, despite the Santa rally in late 2023, markets are continuing to experience volatility and any emerging shock is likely to see Australian M&A activity plunge once again. In particular, the ongoing war in Ukraine, seemingly escalating conflicts across the Middle East and a finely balanced US presidential election all give rise to risks for Australian markets.



Industries supporting emissions reduction and the energy transition will be in focus

Climate scientists have reported that 2023 was the hottest year on record by a large margin, stimulating renewed focus by global governments and the private sector on the transition to clean energy and the reduction of greenhouse gas emissions. We expect industries supporting the energy transition to remain popular M&A targets in 2024. This will include metals and mining companies with assets needed for large-scale decarbonisation projects, such as iron ore, aluminium and copper. The shadow cast over lithium and nickel companies by the recent price collapse will only be fleeting if longer-term predictions about their importance are correct.



Foreign players will continue to dominate value

Foreign bidders eclipsed their Australian counterparts for deal value in 2023 and we expect this trend to continue in 2024 unless tempered by a rise in the Australian dollar.

Despite tightening foreign investment regulation in Australia (summarised at [page 26](#)), Australia remains an attractive investment destination for North American and European dealmakers given its relative political stability and predictable regulatory landscape.

The United States has continued to be a particularly important investor origin for Australian M&A, accounting for roughly one-third of all deals involving a foreign bidder in 2023. We will be interested to see whether US bidding activity changes in the lead-up to the upcoming US presidential election in November.



Increased scrutiny by competition regulators

Competition regulators worldwide have promised increased scrutiny of acquisitions and mergers in 2024. Chair of the Australian Competition and Consumer Commission, Gina Cass-Gottlieb, has described Australia's merger laws as "no longer fit for purpose"¹ and has proposed a widening of the watchdog's powers in respect of proposed acquisitions. The current laws prevent mergers that are likely to result in a substantial lessening of competition but do not require parties to notify the ACCC of planned mergers or wait for clearance before completing. If the proposed reforms are passed, we expect to see a greater number of deals to be subject to competition conditions precedent or dealmakers seeking approval pre-announcement. More on the proposed reforms is set out on **page 29**.

Similar movements by competition and anti-trust regulators in foreign jurisdictions are also expected to have an impact given the number of foreign-led deals that make up the Australian public M&A landscape.



Hard exclusivity arrangements to become more commonplace

The Takeovers Panel updated its guidance on hard exclusivity arrangements in 2023 and we expect this will lead to more bidders seeking hard exclusivity in 2024. In line with the Panel's revised guidance, more targets will disclose exclusivity arrangements that contain an obligation to notify a prospective bidder of the identity of a competing bidder or terms of the competing proposal. While difficult to track pre-announcement, we expect 4 weeks to become the market standard exclusive due diligence period offered by Australian targets.



AI-related deal features will begin to emerge

While the initial generative AI buzz of early 2023 has settled, we expect there to be some lingering AI-related deal features that will carry on in 2024. We expect acquirers paying high premiums for AI-backed software and technology targets to seek stronger representations and warranties regarding the development, ownership and use of AI tools in the target's business. Talent retention will also play an important role, and we expect to see bidders paying particular attention to strategies designed to attract or retain key people in AI-backed technology targets.



Creative funding solutions for cash offers

While interest rates have stabilised, the combination of less aggressive funding by the banking sector and the higher cost of money will dissuade bidders from sole-debt funded acquisitions in 2024. Instead, we expect to see the deployment of cash reserves or unused dry powder as well as a growth in alternative funding arrangements, joint ventures and private credit for all-cash transactions. We are also expecting to see lacklustre borrowing environments trigger growth in scrip and combination/election consideration structures in 2024.

¹ Gina Cass-Gottlieb, 'The role of the ACCC and competition in a transitioning economy' (Speech, National Press Club, 12 April 2023).

2023 – A year in review

How did our predictions fare?

PREDICTION **Continued shareholder activism through public M&A**

Shareholder activism, particularly relating to ESG concerns, continued to drive public M&A activity in 2023. A key example is the scheme of arrangement to acquire Origin Energy Limited proposed by a Brookfield and EIG consortium in which part of the stated rationale for the transaction was to “make a meaningful contribution to accelerating the decarbonisation of Australia’s energy system and helping Australia progress towards its net zero goals”.² While the scheme was ultimately voted down by Origin shareholders, it drew significant media and public attention to questions about the company’s strategic future in a transitioning economy.

PREDICTION **Focus on deal certainty**

A jump in break fees, reverse break fees, and “friendly” transaction structures showed that deal certainty was front of mind for both bidders and targets alike in 2023. And the results speak for themselves, with the success rate of announced deals rising to 81%.

PREDICTION **Gentle recovery in overall public M&A activity**

Australian public M&A activity experienced a modest upswing in 2023, both in deal count and average deal value. Having had time to adapt to and learn from the challenges of rising inflation, higher interest rates and market volatility, there were new opportunities to be uncovered by dealmakers in 2023.

PREDICTION **Fiercer competition for high value targets**

While the number of deals with competing proposals dropped marginally in 2023, bidders that did face off for valuable targets dug their heels in and fought fiercely. Bidders increased consideration more often and in more deals in 2023 when compared to the previous year. The drama was particularly intense in the early battle for intelliHR, summarised at [page 19](#).

PREDICTION **Increase in supply-chain driven M&A**

We predicted that bidders would be drawn to targets with the potential to boost bidders’ own operational resilience. This was particularly true of the boom in metals & mining sector acquisitions that saw gold company bidders seeking assets to replenish dwindling reserves and significant interest in miners and processors of the essential metals that underlie decarbonisation and electrification projects.

PREDICTION **Private equity to remain a key force**

Despite a modest retreat in deal numbers, private equity remained an important force in the Australian public M&A space, contributing 3 of the top 10 deals surveyed in 2023 and 2 of the 9 reported mega-deals.

PREDICTION **Rise in opportunistic bidders targeting undervalued and distressed companies**

Unsolicited public M&A activity rose during periods of relative market downturn in 2023. The year also saw a slump in control premiums and the first recorded discounts to pre-announcement trading prices since we began tracking this data point. The data suggests some bidders saw opportunities in undervalued and distressed targets and those experiencing liquidity crises.

PREDICTION **ESG to remain front of mind**

Targets in the energy sector and those possessing critical assets for the energy transition (such as copper and nickel) grew in popularity in 2023 and we continued to observe ESG considerations cited in bidders’ transaction rationales.

² Origin Energy Scheme Booklet dated 18 October 2023, pg. 66.

A snapshot of the top trends in 2023 with transaction values over \$50 million

Increase in public M&A deal appetite

Overall public M&A activity was up in 2023, both in deal count and value. There was a total of 43 deals above \$50 million announced between 1 January 2023 and 31 December 2023, up 6 deals from the same period in the previous year. There were around 25% more deals announced in the first half of the year compared to the second half, which is a trend we have consistently observed in the years since we began reporting on this data point in 2020.

Average deal value increases

Average deal value also increased in 2023. The average deal value was \$1.4 billion, buoyed in part by the announcement of 9 “mega-deals” (being deals with a value over \$1 billion), including the whopping \$25.1 billion acquisition of Newcrest Mining Limited by Newmont Mining Corporation.

MEGA-DEALS

9

AVERAGE DEAL VALUE

\$1.4bn

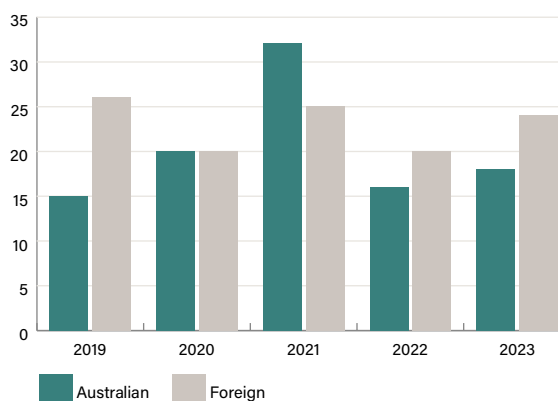
Increase in foreign interest

The proportion of foreign bidders versus Australian bidders increased to 56% in 2023 compared with 54% the previous year. Despite the nominal increase in the number of foreign bidders, the value of foreign bids as a percentage of all bids skyrocketed to 95% (compared to 57% in 2022).

The trend can be linked to the value of the Australian dollar, which slumped through most of 2023 and ended with an average US exchange rate of 3 cents below the 2022 average and nearly 9 cents below the 2021 average.³

For more information on foreign investment and a breakdown of bidder origins, see [page 13](#).

Deals with foreign bidders



Success rates

Of the 2023 deals which have closed or been withdrawn at the date of reporting:

- 81% were successful;
- 10% were withdrawn; and
- 10% were unsuccessful.

Deal status (percentage)



³ Exchange Rates UK.

Top 10 deals by value for 2023

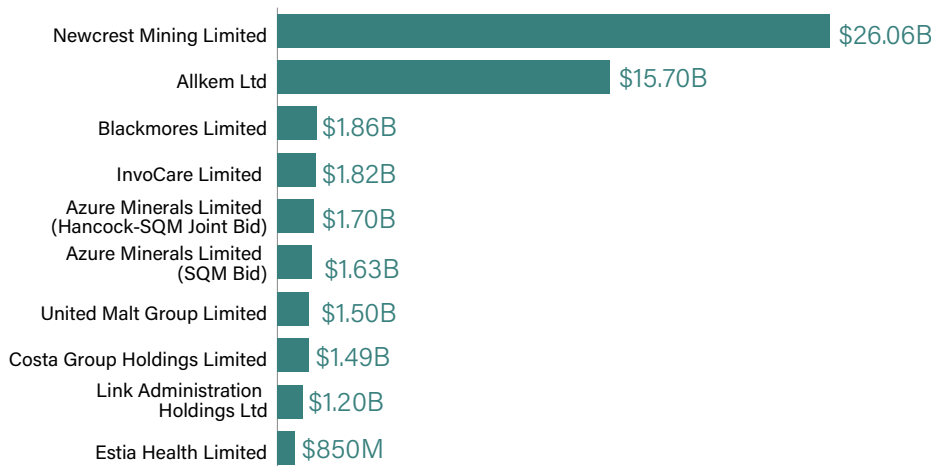
The chart below sets out the top 10 deals of 2023 by value. It was a strong start to the year with the February announcement of a whopping \$26.1 billion acquisition of Newcrest Mining Limited by Newmont Mining Corporation.

Schemes were the favoured deal structure over takeovers by bidders from the big end of town. None of the top 10 deals were structured as a takeover, with the exception of the SQM bids for Azure Minerals

Limited which each provided for a simultaneous conditional off-market takeover should the relevant schemes not be successful.

Two of the top 10 deals (Newcrest and Allkem) offered scrip consideration and 1 deal (InvoCare) offered eligible shareholders the ability to elect to receive scrip consideration in lieu of cash, a consideration structure which has become more common in 2023 when compared to previous years.

Ten largest deals by value

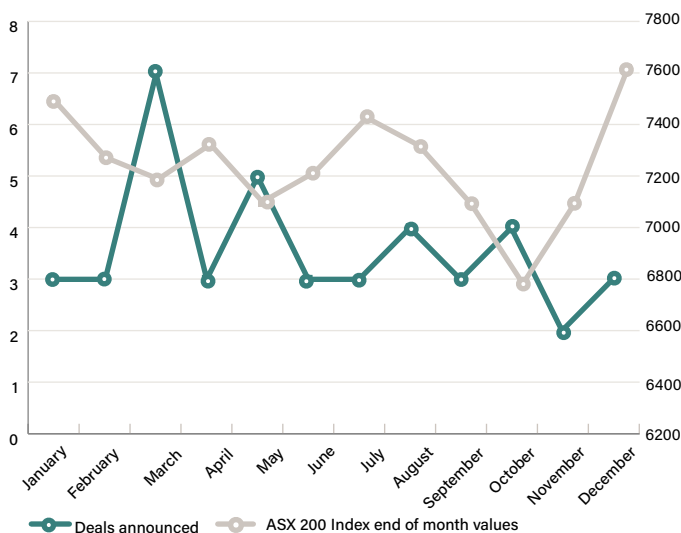


Monthly deal count

24 DEALS ANNOUNCED JAN - JUN 23

19 DEALS ANNOUNCED JUL - DEC 23

Deals announced by month 2023



After hitting a 10-month peak in January 2023, the S&P ASX 200 Price Index began a sharp decline, tempting some bidders to take a punt on targets entering a share price trough. We saw 15 transactions announced in the first quarter of 2023, significantly more than in the same period in 2022 (6 transactions) and 2021 (8 transactions). A higher proportion of transactions announced in this period were unsolicited or were structured as a takeover bid (46%) than over the rest of the year (32%), suggesting they may have been opportunistically deployed to take advantage of the dip in share prices.

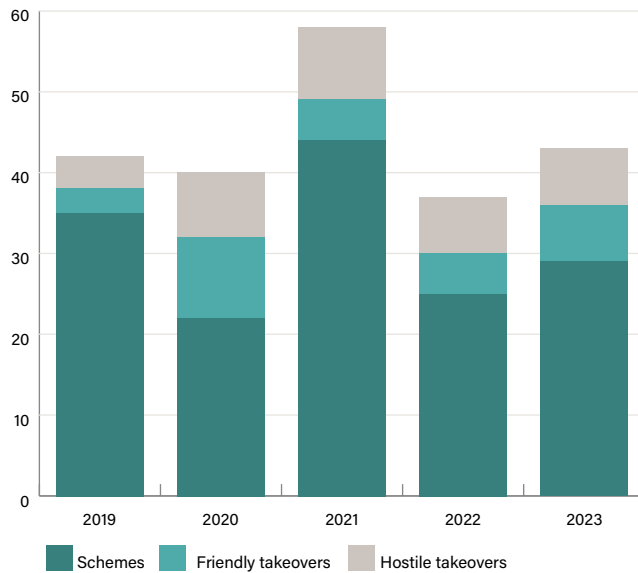
As the year trundled on, we continued to see opportunistic bidders emerge from the woodwork to take advantage of temporary market downturns, as can be seen in the graph by the inverse correlation between the number of deals announced per month and the ASX 200 Index end of month values.

That said, the public M&A market showed remarkable resilience and buoyancy when compared to the sharp downturns in activity observed in the previous year. It seems dealmakers were more willing to weather the storm of changes in macroeconomic and geopolitical conditions to keep planned deals afloat and to seize new opportunities when they arose.

Structure and execution of deals

The chart below illustrates the breakdown of deal structures used since we began analysing this data in 2019. In 2023, there were 29 schemes and 14 takeovers announced. Among the takeovers that were announced, there was an even split between “hostile” takeovers (being takeovers that are not recommended by the target board) and “friendly” takeovers (being takeovers that have been solicited by the target or which are recommended by the target board).

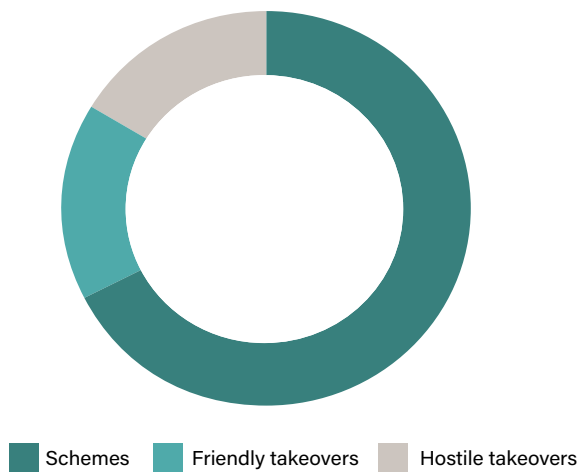
Deal structure (number)



Schemes continue to be preferred

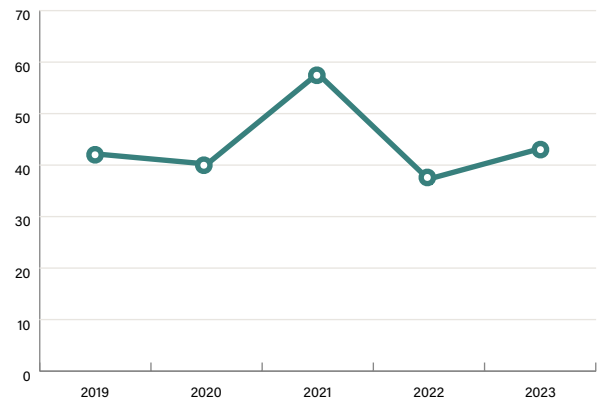
In 2023, 67% of deals announced in 2023 were structured as schemes, consistent with the percentage in the previous year (68%). Despite their continued popularity amongst dealmakers, use of schemes has been in a steady decline since we began tracking the data in 2019 (when schemes made up 83% of all deals).

Deal structure (percentage)



Bid wars

Deals with competing proposal



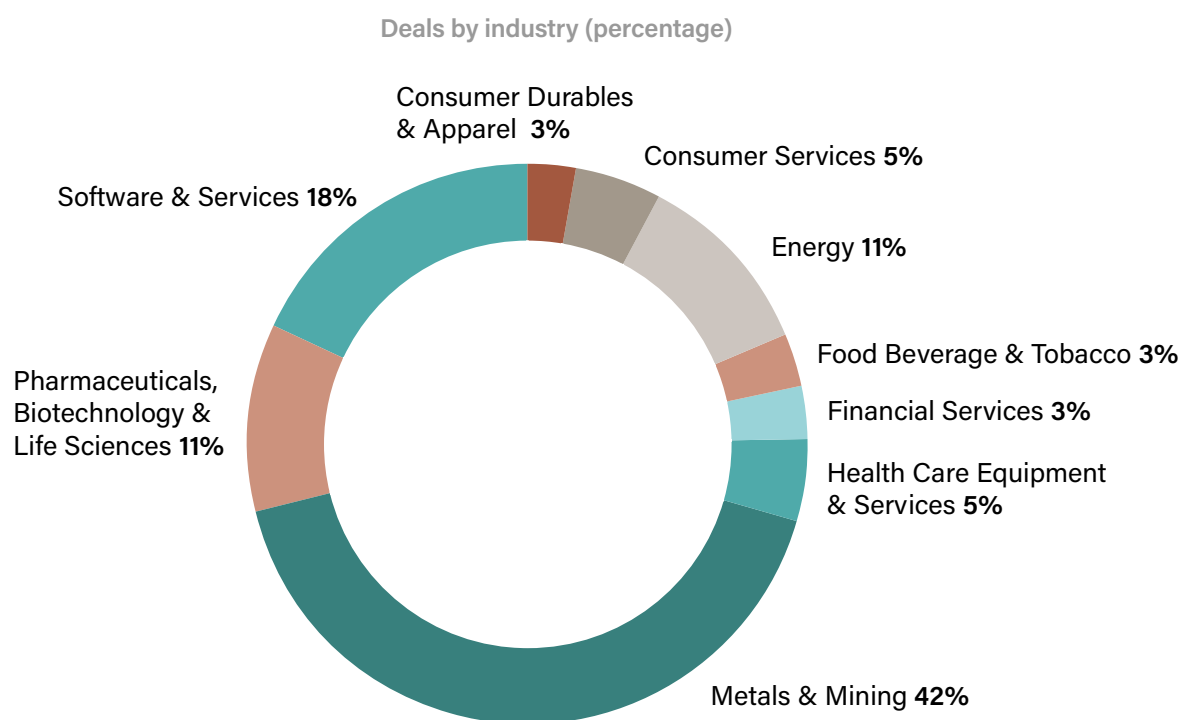
While a number of notable bidding wars did break out in 2023 (see our summary of the battle for intelliHR on [page 19](#)), there were fewer competing bidders in the arena in 2023, with competing proposals emerging for only 16% of deals. This was below the rate of competing proposals in 2022 (27%) and 2021 (22%). However, while the number of deals with competing proposals dropped, the bidders that did face off for valuable targets did so fiercely and increased consideration more often and in more deals when compared to the previous year (see our comments on [page 16](#)).

“While a number of notable bidding wars did break out in 2023, there were fewer competing bidders in the arena in 2023, with competing proposals emerging for only 16% of deals.”

What are they buying? Target industry break down

Mining and metals acquisitions dominated the public M&A market in the first quarter of 2023, accounting for 50% of all deals announced in this period. Targets with battery minerals assets like lithium (Liontown, Essential Metals) and nickel (Mincor Resources) or precious metals assets (Newcrest Mining, Breaker Resources) were most valued.

The graph below shows a breakdown of the years' deals by target industry.





Metals & Mining – Metals & mining accounted for 42% of the deals announced in 2023. This sector attracted the year's largest deal, the \$26.1 billion acquisition of Newcrest Mining Limited by Newmont Mining Corporation. Australian gold projects remained popular as larger gold companies sought small and mid-tier targets to replenish dwindling ore reserves. While Australian bidders accounted for the largest single portion of mining bids (44%), the sector drew interest also from bidders from Canada (19%), China (13%), Chile (13%), South Africa (6%) and the US (6%).

As predicted in last year's report, scrip or combination consideration was more prevalent in transactions involving gold and other precious metal companies given the inherent asset value.



Software & Services – Software & services was the second most popular industry for public M&A activity in Australia in 2023 and accounted for 18% of the deals announced. Hype around AI-backed software and technology companies led to an early surge in deals involving targets in these sectors, accounting for 33% of the first 10 deals announced. This included Humanforce's bid for employment software provider IntelliHR, which ultimately led to the year's first and fiercest bidding war that is summarised further on [page 19](#). It has become easier for bidders to sort the wheat from the chaff amongst software and service companies that support lifestyle and working habits that were originally brought on by the pandemic as these arrangements



regularise and become more entrenched.

Energy – Energy targets were involved in 11% of deals announced in 2023, making energy the equal third most popular industry for the year. Mounting pressure to accelerate the transition away from fossil fuels has driven M&A activity in the energy sector and in 2023 we saw several bidders citing decarbonisation-related aims amongst rationales for undertaking a transaction. Last year, we reported on the shareholder activism campaign launched by Mike Cannon-Brookes against AGL Energy that was driven, in part, by a plan to accelerate the company's shift away from coal fired power generation. With 2023 being recorded as the hottest year post-industrialisation, we expect to see more energy companies to become the target of shareholder activism-related M&A in the months and years ahead.

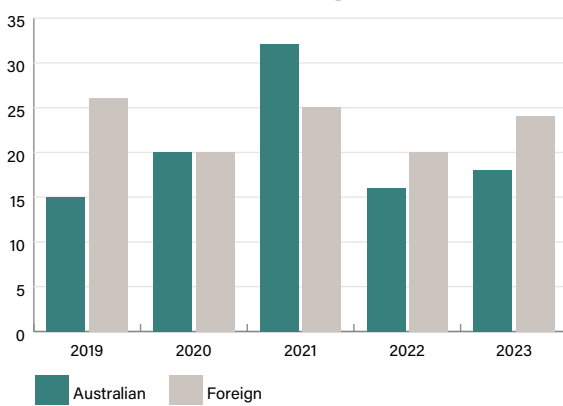


Pharmaceuticals, Biotechnology & Life Sciences – Pharmaceuticals, biotechnology & life sciences with a consumer services focus accounted for 11% of deals announced in 2023. This is the first time we have seen this sector in the top 4 target industries since we began recording this data in 2019 and is somewhat buoyed by the competing proposals for SILK Laser Australia that emerged in the middle of the year. The consumer focus of targets in this industry is an interesting feature given challenging macroeconomic conditions and inflation creating uncertainty on the outlook for consumer sentiment and spending in the short to medium term.

Foreign players

There was an early surge in bids by foreign players in 2023, with 7 of the first 10 deals announced coming from bidders outside Australia. The trend continued for the balance of the year with a total of 56% of deals involving a foreign bidder.

Deals with foreign bidders



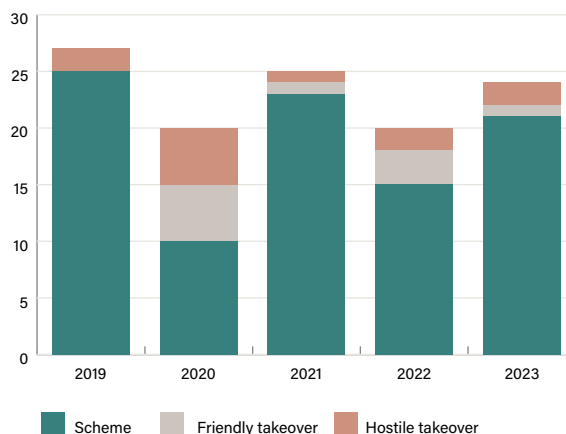
Despite the humble lead by foreign bidders in deal numbers, foreign bidders accounted for most of the total deal value. Foreign bidders tipped in \$56.1 billion or 95% of total deal value, compared to the \$3.1 billion or 5% contributed by Australian bidders. This share was elevated by the two bites of Azure Minerals Limited taken by Chilean chemical giant SQM, first as a solo bidder and later as a joint bidder with Hancock Prospecting. The trend can also be linked to the steady decline of the Australian dollar over the course of 2023, making Australian targets cheaper for foreign players.

Foreign bidder and deal value



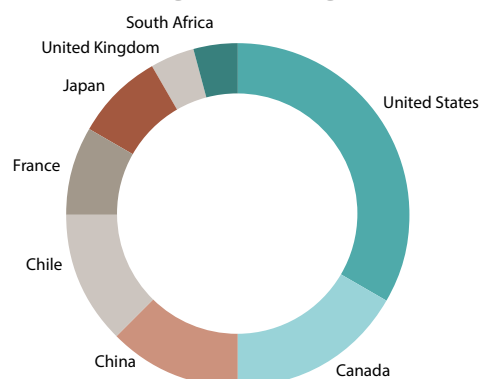
As for local bidders, foreign bidders favoured schemes for takeovers in 2023, with only 12.5% of foreign bidders structuring their deal as either a hostile or friendly takeover. This is half the rate of foreign bidder-led takeovers in 2022 (25%), but consistent with our multi-year data that demonstrates schemes are consistently used in between 50% to 90% of foreign deals.

Deals with foreign bidder (type)



The origins of foreign bidders mirrored that of 2022, with some notable exceptions. The United States continued to account for the highest share of foreign bidder deals, with 8 deals or 33% of all foreign bidder deals, followed by Canada with 4 deals or 17%. China and Chile, which each had no deals in our 2021 or 2022 surveys, were the equal third and fourth most common foreign bidder country of origin in 2023, with each accounting for 12.5% of foreign deals.

Foreign bidder origins

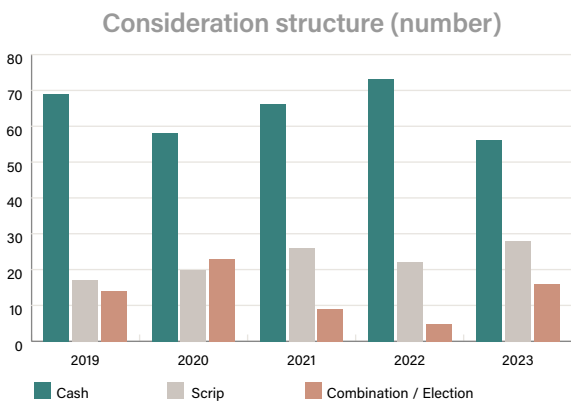
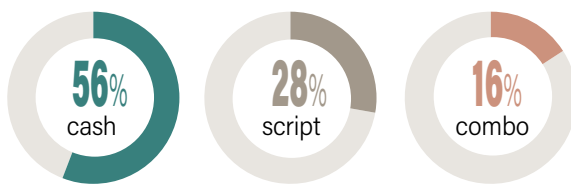


Consideration

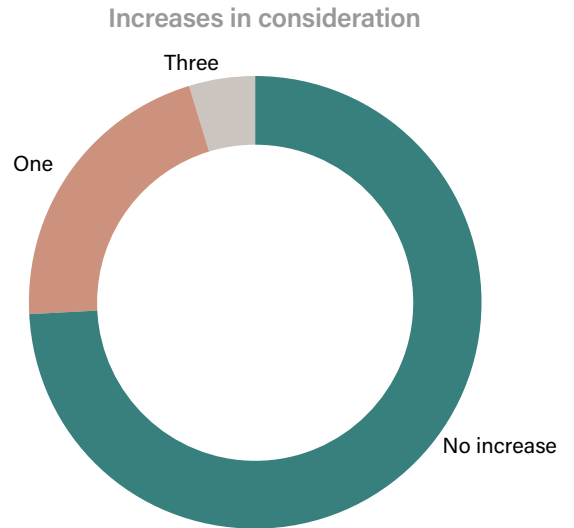
Bidders get creative

Tricky economic environments forced bidders to get creative in 2023, demonstrated by an unusually even split in deal consideration preferences. Pure cash deals dwindled from 73% of all deals in 2022 to 56% of all deals in 2023, continuing the downward trend that has been occurring since a peak in 2021. Meanwhile, scrip deals rose in popularity from 22% of all deals in 2022 to 28% of all deals in 2023 and deals involving a combination of scrip and cash, or an “election” mechanism (whereby target shareholders can elect to receive some or all of their consideration portion in cash or scrip) rose by 11% from the previous year to account for 16% of all deals.

The downward trend in all-cash deals may be reflective of bidders finally reacting to the increased cost of capital as global interest rates remain high. Last year we reported that bidders continued to offer cash for value certainty to enhance deal prospects despite (or even in response to) economic turmoil. It seems now, however, that bidders have been forced to come up with novel ways to appeal to target shareholders.



Increases in consideration

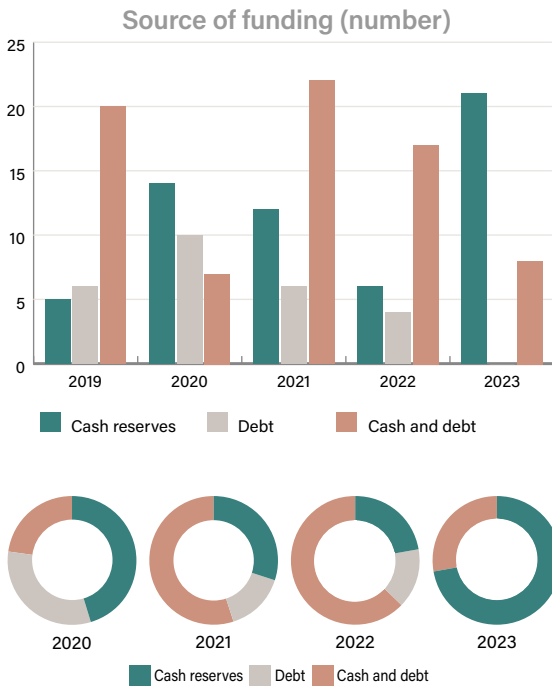


In 2023, 26% of bidders increased the cash consideration offered to target shareholders one or more times, continuing the upward trend since 2021.

The usual reason consideration is increased by a bidder is to fend off rival bidders or to improve acceptance rates, but increases may also be offered where an independent expert reaches an unfavourable conclusion. A summary of the fierce bidding war that broke out for intelliHR is set out on [page 19](#).

“The downward trend in all-cash deals may be reflective of bidders finally reacting to the increased cost of capital as global interest rates remain high.”

Source of funding

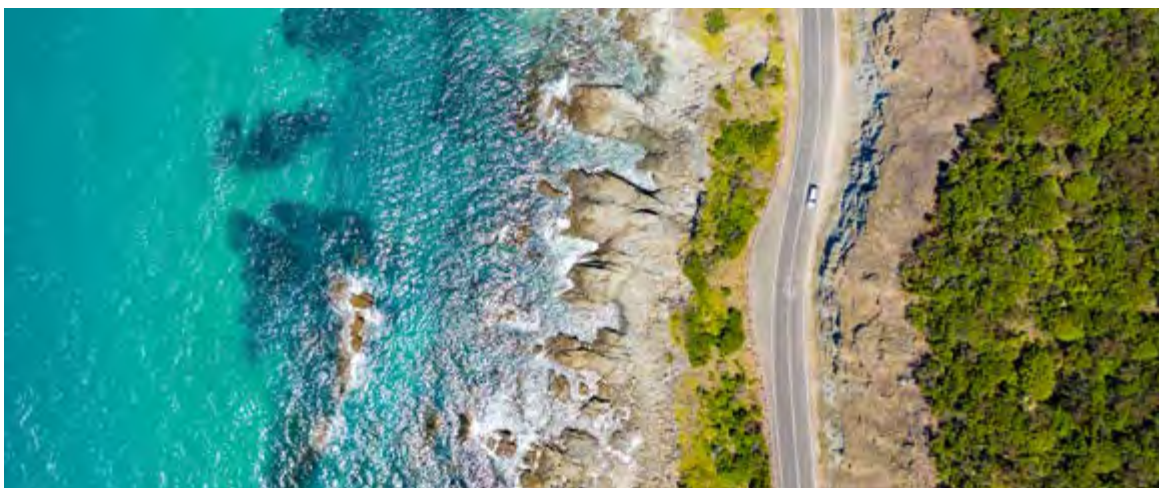


Over 72% of deals involving cash consideration were funded via existing cash reserves in 2023, up over 50% from the same period in the previous year. A combination of cash and debt, which was the most common stated source of funding for bidders in 2022, was down in 2023 to 28%.

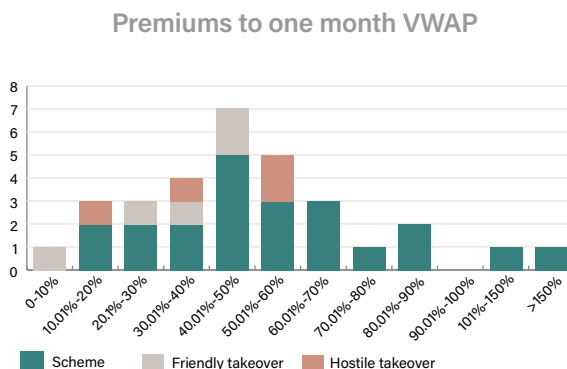
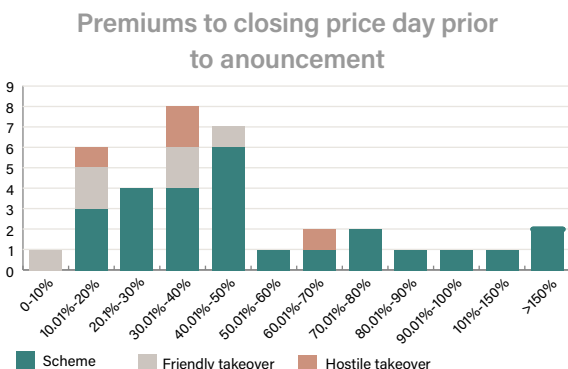
Like the shift in consideration types, the change in funding sources appears reflective of an economic environment that has dissuaded bidders from leveraging high-cost debt to make deals in Australia. As cash reserves are diminished, however, it will be interesting to see the impact this has on overall deal volume in the year ahead.

“Like the shift in consideration types, the change in funding sources appears reflective of an economic environment that has dissuaded bidders from leveraging high cost debt to make deals in Australia.”

When cash was paid by bidders, it was predominantly done using cash reserves, rather than debt or a combination of cash and debt. In fact, none of the deals we surveyed in 2023 relied wholly on debt funding.



Premiums



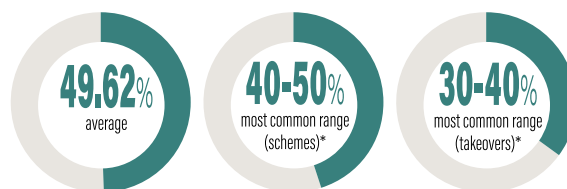
Despite a weaker dollar, the uncertainty resulting from the great volatility of the ASX in 2023 made for more modest premiums in public M&A deals. Although the ASX 200 rallied strongly in November and December to finish 2023 with a 7.8% gain, very similar to the 7.2% gain in 2022, this masks the choppiness of the market through the first half of the year and the bear market in Q3 ending in the index's 12-month low in late October 2023.

The average premium offered by bidders to the target's closing price the day prior to announcement was approximately 44%, over 20% below the same average in the previous year. Average premiums to one-month volume-weighted average price (VWAP) were also down to approximately 50% in 2023 from 62% in 2022.

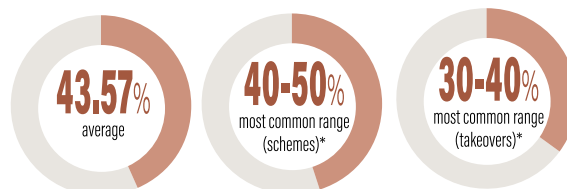
The graphs illustrate 2 premiums commonly quoted by bidders. The first being the premium to the "undisturbed" share price, which we take as being the one-month VWAP up to the date of an announcement of a bid, and the second being the premium to a target's share price the trading day prior to an announcement.

In 2023 we observed a similar trend to previous years of lower premiums for takeovers than schemes. This appears consistent with the fact that takeovers, which do not require the cooperation of the target, can be more opportunistic. Schemes on the other hand are target-led transactions and require negotiation with the target, where more value can be extracted for shareholders.

One-month VWAP premium to the announcement



Premium to share price the trading day prior to an announcement



* Where more than one mode range appeared in the data we have selected the range closest to the data point average.

One surveyed deal provided for a discount to average trading prices of the target company. BBRC and Ray Itaoui made an off-market takeover bid for Best & Less Group Holdings Limited at \$1.89 per share in May 2023, which represented a 4.8% discount to the closing trading price the day prior to announcement and a 7.9% discount to the one-month VWAP. Given the target's uncertain liquidity position and the expectation of a future share price drop, the independent expert appointed to assess the deal opined that the offer was not fair but reasonable, notwithstanding the absence of a control premium for the target's shares.

Deal in focus: The “leave it all on the field” battle for IntelliHR

A small human resources software platform became the unexpected target of a fierce bidding war in early 2023. When the dust had settled, there had been **9** bids lobbed for the little known IntelliHR by rival bidders The Access Group (“TAG”) and Humanforce, leaving IntelliHR shareholders with an offer from Humanforce at a **280% premium** to its undisturbed share price.

The competition broke out after TAG launched a 14c counter-bid for IntelliHR in early March, following IntelliHR’s announcement of a signed scheme implementation deed with Accel-KRR-owned Humanforce at 11c per share.

TAG’s offer sparked a flurry of exercised matching rights and counterproposals between the rival bidders, ending with a 24c per share offer from Humanforce when TAG formally withdrew its takeover proposal on 5 April 2023.

The saga demonstrates some of the difficulties and opportunities faced by target boards in assessing the merits of competing bids in real time.

By the time Humanforce had acquired the 90% required for it to compulsorily acquire IntelliHR, IntelliHR had terminated 2 separate scheme implementation deeds and was facing payment of break fees in aggregate of \$1.14m to each bidder.

On the flip side, effective communication with shareholders proved critical in the context of near daily changes in the offers made by the bidders. Clear and accurate messaging from the IntelliHR independent board committee that complied with ASX’s disclosure policy helped to quickly disseminate important information to shareholders and inform their responses to the bids. As a result, competitive tension between the bidders was well maintained, with a strong result for IntelliHR shareholders who realized a near 300% premium on their investment.



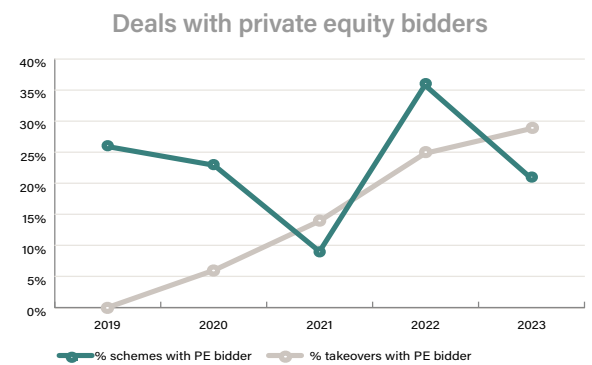
Private equity involvement

Private equity players treaded lightly in 2023, with their involvement in Australian public M&A deals dipping from a 35% peak in 2022 to 23% in 2023.

Despite the modest retreat in numbers, private equity remained an important force in the Australian public M&A space, contributing 3 of the top 10 deals surveyed in 2023 and 2 of the 9 mega-deals. Deals involving private equity bidders also enjoyed a higher success rate to the general market, with over 87% of private equity deals successfully completing (compared to a success rate of 81% amongst all deals).

We did not, however, see the enthusiastic spends of dry powder by private equity bidders in 2023 like we did in 2022. Premiums offered by private equity bidders were comparatively modest and, while more likely to see increases in offer prices than non-private equity deals, 90% of the private equity deals of 2023 were announced during periods of relative market downturn when bargains emerged for the taking.

Unlike 2022, there were no particular industries that caught private equity bidders' eyes in 2023, with an unusual breadth in target industries that ranged from healthcare and pharmaceuticals to software, packaging and financial services.



“Despite the modest retreat in numbers, private equity remained an important force in the Australian public M&A space, contributing 3 of the top 10 deals surveyed in 2023 and 2 of the 9 mega-deals.”



Deal in focus: Entering the labyrinth of private equity funding disclosures

Are private equity bidders disadvantaged by existing disclosure policy from ASIC and the Takeovers Panel in relation to bid funding?

It is an interesting question which the Takeovers Panel had the opportunity to grapple with in *Nitro Software Limited 02* [2023] ATP 3. The application related to private equity firm Potentia's takeover bid for Nitro Software, which had been challenged by a rival bid and scheme by Alludo. The application, which was brought by Alludo, sought supplementary disclosures to correct alleged deficiencies in Potentia's bidder's statements regarding its funding arrangements with various upstream funds, a co-investor and other passive investors outside these structures.

The funding arrangements, while complex, were not unusual for private equity and the Panel sought submissions from the parties and ASIC on: (1) whether it is appropriate to accept a lower level of funding detail under ASIC RG 9 if funds are sourced from passive rather than active investors (as is reasonably common in private equity bids); and (2) whether existing disclosure policy regarding bid funding disadvantages private equity bidders.

In considering the submissions the Panel conceded that *'there is a point at which going into labyrinthine detail of complex funding arrangements is unlikely to be understood by retail shareholders and is therefore not effective disclosure'* (at [80]) and set out some helpful principles, signaling limited, but welcome, concessions to private equity players:

- Funding disclosure requirements must be assessed against the totality of the arrangements with respect to the bid vehicle. In many cases, bids by funds with passive investors will not necessarily

require disclosure of the investors' identities and relevant arrangements.

- The identity of passive investors may be required in certain circumstances e.g. where they are in a position to influence the conduct of the bid or the bid vehicle, or where scrip consideration in the bid vehicle is offered.
- Where funding is being sourced by multiple upstream funds, a precise funding split may not be information that is material to a target shareholders' decision whether to accept a bid (and may, in any event, be commercially sensitive), provided the bidder has clearly disclosed it has sufficient funds committed or designated as available (and which will remain available) for use as consideration under the bid.
- At a minimum, a summary of the material steps, the terms and conditions and the key risks of any bid funding arrangements must be adequately disclosed.

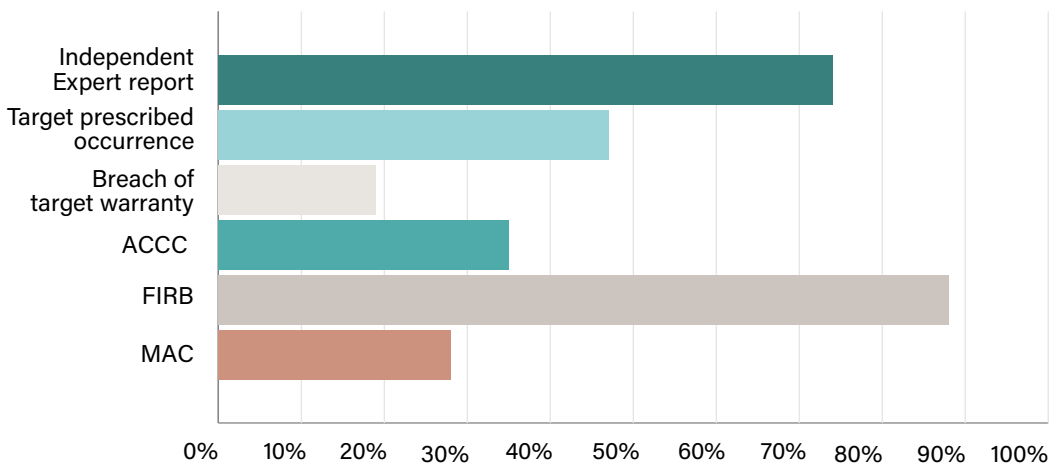


Conditionality

In 2023 we began surveying a broader range of conditions precedent to schemes and off-market takeover bids to try to understand any patterns that have emerged and trends regarding reliance on conditions to terminate deals. The chart below illustrates the key conditions precedent we surveyed and the percentage of deals that contained them.

Unsurprisingly, “no prescribed occurrence” conditions were the most common and appeared in 88% of all deals. A “prescribed occurrence” is typically an event that has an impact on the target’s fully diluted share capital (such as an issue of shares or convertible securities) or the target’s solvency. Given the protection offered to the bidder by such a condition, the only circumstances it is not used is in hostile or competitive takeover scenarios where a bid is made unconditional to improve its prospects of success, or where a public M&A transaction involves a related bidder and is undertaken for a specific purpose (such as the scheme to redomicle Tamboran Resources Limited to the U.S.).

Conditions precedent

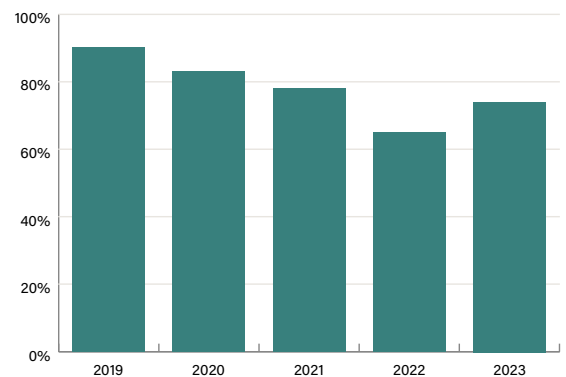


MAC clause

A “material adverse change” condition or “MAC” clause is a condition that allows a party to abandon a transaction or obtain a lower purchase price where unforeseen circumstances occurring after signing have a detrimental impact on the target or, in deals involving scrip consideration, the bidder.

MAC clauses are commonly used in Australian public M&A and in 2023 appeared in 74% of all deals. When used, MAC clauses typically conform to ASIC policy requirements that they be objective, quantifiable and not circular.

MAC Condition



Reliance on MACs

None of the deals we surveyed in 2023 failed or were terminated as a result of a MAC clause being triggered. The relatively standard inclusion of exhaustive “carve-outs” (exceptions to the operation of the trigger) makes it difficult for bidders to confidently rely on MAC clauses as a means of walking away from a deal.

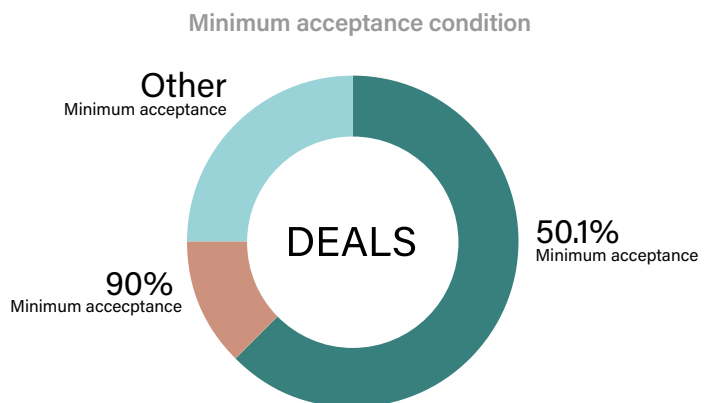
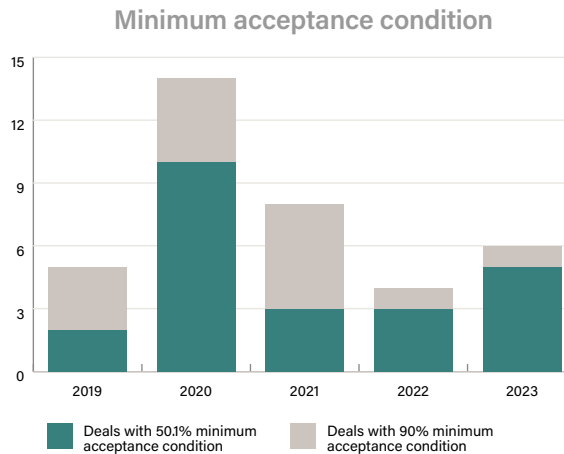
Minimum acceptance conditions in takeovers

57% OF TAKEOVERS HAD A MINIMUM ACCEPTANCE CONDITION

In an off-market takeover, a minimum acceptance condition makes a bid subject to the bidder receiving acceptances in respect of a minimum number of securities (usually 50.1% or 90%), unless the condition is waived by the bidder.

In 2023, 57% of takeovers had a minimum acceptance condition and, of these, 62.5% required a controlling threshold (i.e. 50.1%), 12.5% required the minimum threshold needed to enliven the compulsory acquisition powers under the Corporations Act (i.e. 90%) and 25% were for other thresholds determined by the bidder.

Minimum acceptance conditions are not viewed favourably by target shareholders seeking deal certainty and efficient deal execution and so are less common in higher competition environments.



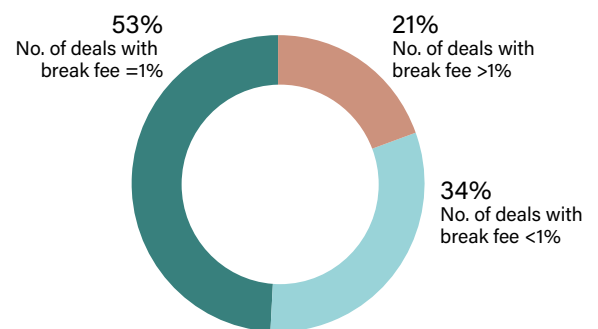
Deal protection: break fees

Deal protection remained a key concern for deal makers in 2023. Break fees, being fees payable by a target to a bidder if the target does not proceed with the proposed deal under certain specified conditions, appeared in 88% of the deals surveyed in 2023. This saw the use of break fees return to pre-pandemic levels after a steady return to favour since a drop in 2020.

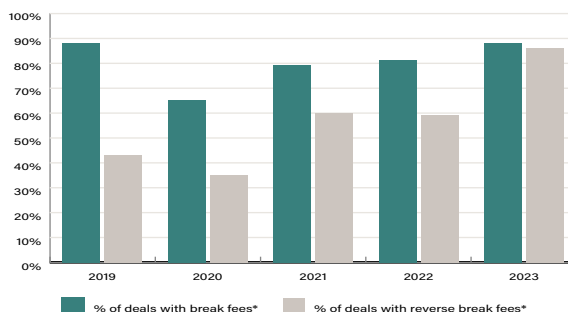
What is more surprising (when compared with the pre-pandemic position) is the relative parity of reverse break fees. Reverse break fees are fees paid by a bidder to the target if the bidder abandons the deal or fails to perform obligations in certain circumstances (such as a failure to seek a required approval or to pay consideration after a scheme has become effective). In 2019, when use of break fees was on par with 2023 levels, reverse break fees were only present in around 43% of deals. In 2023, reverse break fees were present in 86% of deals, which is nearly the same as the rate of regular break fees. The results are consistent with the takeaways of last year's report, in which we suggested that targets would be empowered to seek reverse break fees in negotiated deals in 2023.

Despite the Takeovers Panel's settled guidance that break fees should not exceed 1% of a target's equity value, we saw a surprisingly high proportion (21%) of deals containing break fees in excess of this threshold. Deals where this occurred typically involved scrip or combination / election consideration, where the target's equity value may have been more difficult to accurately determine at the time of implementation agreement negotiation, based on the consideration offered.

Quantum of break fees



Deals with break fees



Regulatory developments

General reforms

Evidence requirements for members' schemes of arrangement

Significant reforms on the evidence requirements for members' schemes of arrangement were ushered in by Jackman J at a case management hearing for the Vita Group Limited scheme in late March 2023.

Having sought the support of the Federal Court, Jackman J laid out a proposed list of evidence required to be submitted at the first and second court hearings in respect of a members' scheme. The list shortened and simplified the amount of evidence that is customarily produced at scheme hearings, significantly reducing the time and cost involved to prepare for them.

A summary of the evidence that Jackman J considered necessary to be produced to the Court is set out in the table below.

Hearing	Affidavit by	Content	Annexures
First Court hearing	Target	Short formal affidavit in support of the originating process	<ul style="list-style-type: none"> Company search of target
	Target	Primary affidavit setting out an overview of the scheme, verification process, proposed chairperson and associated transactions (incl. statement of quantum of any break fee expressed as a percentage of implied equity value)	<ul style="list-style-type: none"> ASIC's standard letter stating whether it intends to appear at the first court hearing (if available)
	Bidder	Primary affidavit proving process of verifying the information provided by the bidder for inclusion in the scheme booklet	
Second Court hearing	Target	<p>Short affidavit outlining approval of the scheme by members and satisfaction or waiver of conditions.</p> <p>Any significant issues of legal principle that were raised at the scheme meeting should be detailed.</p> <p>If ASIC does not give a no objection letter, a single paragraph should be included stating that the scheme was not propounded for the purpose of avoiding any of the takeover provisions in Chapter 6.</p>	<ul style="list-style-type: none"> Poll report from scheme meeting ASX announcement advising details of final Court hearing Certificate evidencing satisfaction or waiver of conditions precedent ASIC's standard letter stating no objection to the scheme

Jackman J also proposed that submissions to the Court be no more than 10 pages except in exceptional cases and avoid long citations of settled law.

Beach J of the Victorian division of the Federal Court confirmed this approach in his decision on the OZ Minerals scheme in April 2023, indicating a broader acceptance of Jackman J's proposed approach.

Despite the proposed simplification, both Beach J and Jackman J reiterated the obligation on scheme proponents to bring to the Court's attention all matters that could be considered relevant to the exercise of the Court's discretion to approve the scheme.

The reforms remove a large portion of evidence that had become expected at scheme hearings, but which added little of substance that would affect the Court's discretion to approve a scheme.

They are expected to have significant contributions to the efficiency, speed and cost-effectiveness of scheme implementation.

Remake of sunset legislative instruments on takeovers, compulsory acquisitions and relevant interests

In September 2023, ASIC remade seven legislative instruments relating to takeovers, compulsory acquisitions and relevant interests that were otherwise due to sunset and cease operation on 1 October 2023.

After a period of consultation, ASIC considered that the sunset instruments were operating effectively and efficiently and continued to form a necessary and useful part of the legislative framework. The relief in the remade instruments is on substantially the same terms, except for amendments to address ambiguity and functional issues identified during the consultation process. Some helpful departures from the existing instruments are to:

1. provide that a bidder may nominate a shorter period for payment of bid consideration than

is otherwise required by subsection 620(2) of the Corporations Act (ASIC Instrument 2023/683);

2. remove the requirement to lodge a supplementary bidder's statement in order to lodge and dispatch a replacement bidder's statement (ASIC Instrument 2023/688); and
3. allow the lodgement and dispatch of a replacement target's statement (ASIC Instrument 2023/688).

Foreign Investment Review Board (FIRB)

On 1 July 2023, the Australian Taxation Office (**ATO** or **Registrar**) introduced a new Register of Foreign Ownership of Australian Assets (**Register**) under the *Foreign Acquisitions and Takeovers Act 1975 (Cth)*. The new Register is an updated and online version of the former register and is administered by the ATO on behalf of the Foreign Investment Review Board. The Register creates a variety of new reporting obligations for foreign investors, as well as Australian entities that become "foreign persons". Foreign persons must give notice of certain actions relating to Australian land, water, entities, businesses and other assets to the Registrar.

The foreign investor must give a Register Notice electronically through the ATO's new online services for foreign investors. Register notices must generally be given within 30 days after:

1. a foreign person acquires a relevant interest or otherwise takes a relevant action; or
2. a person becomes a foreign person while holding a relevant interest; or
3. there is a change to a registered circumstance (for example, because a foreign person ceases to hold a relevant interest or a person ceases to be a foreign person); or
4. there is a change in the nature of an interest in land or an exploration tenement; or
5. there is a change in certain characteristics of a registrable water interest; or
6. there is a change in size of an interest in an entity or business.

The notice will need to contain information relating to the identity of the foreign person who acquired the interest, as well as information about the interest acquired (ie. the date of acquisition, the consideration paid and the percentage of interest held).

While the reforms increase the regulatory burden on foreign bidders, we do not expect them to materially alter the level of foreign investment via public M&A in 2024 and beyond. Foreign bidders have shown a willingness to cooperate with Australia's increasingly complex foreign investment regime, with the primary impact on M&A being the refinement of FIRB conditions precedent and consequences for failure to obtain approval.

ACCC

In April 2023, the Chair of the ACCC, Gina Cass-Gottlieb, expressed support for reforms to Australia's merger clearance regime. The proposed reforms stem from the Chair's concern that the current voluntary and enforcement-based model has shifted the balance "too much toward avoiding the risk of opposing a benign merger, at the risk of enabling anti-competitive mergers." Currently, there is no law requiring merger parties to notify the ACCC of a proposed transaction or to wait for ACCC clearance before proceeding with the transaction.

If an anti-competitive merger is completed without review and the parties do not withdraw or modify the transaction, the ACCC must approach the Federal Court to block or unwind the merger.

Following Cass-Gottlieb's comments, the Australian Treasurer announced a review into the merger clearance regime and on 2 November 2023 the Treasurer published a Merger Reform consultation paper. The consultation paper proposes 3 options for reform to the merger clearance process. The most notable feature of the proposed reforms is the mandatory and suspensory merger filing regime, which requires transactions exceeding certain thresholds to be notified to the ACCC before completion and precludes parties from completing a transaction unless ACCC clearance is granted. The proposed reforms also include a 'call in' power, which allows the ACCC to require the mandatory reporting of transactions which may pose competition concerns but do not meet the notification threshold. The consultation and review process are currently ongoing but it is expected that the Australian merger regime will be amended with more restrictive notification requirements in the not too distant future.

“The most notable feature of the proposed reforms is the mandatory and suspensory merger filing regime, which requires transactions exceeding certain thresholds to be notified to the ACCC before completion and precludes parties from completing a transaction unless ACCC clearance is granted.”

Takeovers Panel

The Takeovers Panel handed down 12 decisions with reasons in 2023 (excluding instances where the Panel varied orders or made a preliminary decision to not conduct proceedings).

Panel decision in focus: Nitro Software Limited [2023] ATP 2

In its second decision for the year, the Panel considered whether the complexity of the concurrent scheme / bid structure being run by Alludo for control of Nitro was anti-competitive and confusing for Nitro shareholders so as to negatively impact market efficiency. While ultimately deciding that nothing in the nature of the structure amounted to unacceptable circumstances, the Panel did recognise issues that may arise from concurrent or inter-conditional scheme / bid structures (including practical difficulties of making supplementary disclosures where a combined target's statement and scheme booklet has been prepared and a lack of clarity about whether complaints regarding the transaction should be made to the Court or to the Panel). We may see further guidance on this issue in the future.

Deal makers should also be wary of the Panel's comments on whether the existence of an institutional acceptance facility under the Alludo bid gave rise to unacceptable circumstances in the context of the Nitro board having encouraged retail shareholders to vote for the Alludo scheme and accept the Alludo bid (and so lose their ability to accept a superior proposal, if one emerged). While ASIC's Regulatory Guide 9 makes clear that the presence of an institutional acceptance facility would not normally offend the principle of equal opportunity, the Panel had concerns about unacceptable asymmetry in the context of Nitro shareholders being asked to accept the Alludo bid early, though ultimately did not make a declaration. Deal makers seeking to adopt a similar structure should be mindful of the need for fulsome disclosure on the risks of early acceptance of a concurrent bid and target boards should consider all circumstances before making such a recommendation.



In 2023, the Panel published an updated **Guidance Note 7** on Deal Protection (previously named Lock-up Devices). The updated guidance is in response to 2 Panel decisions (AusNet Services Limited 01 and Virtus Health Limited) and attempts to clarify the Panel's guidance in respect of non-binding proposals. A summary of the key changes is set out in the table below.

Change	Description
Fiduciary-Out	The Panel has clarified that any 'fiduciary out' clause should allow the target directors to fully exercise their fiduciary duties without unreasonable fetters or constraints. Specifying factors that make a competing proposal superior will likely raise concerns for the Panel, including specifying that a competing proposal is only superior if it is fully financed or involves a particular type of offer (e.g. the acquisition must be for more than 50% of shares in the target). The Panel also expects that any 'fiduciary out' should give the target broad scope to consider the likelihood that any matching proposal made by the original bidder is likely to lead to a binding proposal at that price.
Hard Exclusivity	The Panel expects due diligence access at the non-binding stage to be granted on a non-exclusive basis, however, where a period of 'hard exclusivity' is granted (i.e. exclusivity without an effective 'fiduciary out'), it is generally expected that this period will be limited to no more than 4 weeks.
Break Fees	The Panel has clarified that it does not expect 'break fees' to be agreed at the non-binding stage, however, to the extent one is agreed, it should be substantially lower than 'break fees' for binding proposals (which are typically capped at 1% of the target's equity value).
Disclosure	At the non-binding stage, the Panel expects the target to disclose exclusivity arrangements that include an obligation on the target to notify a prospective bidder of the identity of a competing bidder or the terms of the competing proposal, or where the target board has agreed to recommend the offer if the bidder puts forward a binding proposal on the terms of the indicative offer (or incur a material fee if it does recommend a binding proposal on same or better terms).

The Takeovers Panel has also published an updated **Guidance Note 19** on Insider Participation in Control Transactions. The Guidance Note deals with situations where an officer or former officer of the target who has influence over the target's consideration of a bid or material non-public information about the target (an "insider") enters, or proposes to enter into an agreement or understanding with a potential bidder where the insider will gain or benefit from the bidder making a successful bid (a "participating insider"). A summary of the key changes is set out in the table below.

Change	Description
Participating Insider	A 'participating insider' should not have any influence over the consideration by the target board of a bid. The Panel has expanded the definition of 'participating insider' to include an 'insider' (e.g. a director or secretary of the target) who is or has a relationship with a bidder or potential bidder. A relationship with a bidder includes, among others, an insider with a significant interest in the bidder, a nominee of the bidder on the target's board or as an employee of the bidder.
Disclosure	The Panel has clarified that 'insiders' should inform the target board or relevant sub-committee of any approach that might lead to a control proposal (taking into account the likelihood of the control proposal being made) and to take reasonable steps to ensure conflicts of interest are avoided until disclosure is made. In any event, the Panel expects disclosure to be made before any agreement has been reached with the bidder and that 'insiders' obtain the consent of the board or relevant sub-committee before providing any non-public information to the prospective bidder.
Stub-Equity	The Panel has clarified that if a bid includes an offer for unlisted scrip consideration, an insider who may receive a material stake or special advantages or rights from holding the equity may be regarded as lacking independence unless and until they rule out taking up the equity or committing only to take up a small portion.

Takeaways

Three takeaways for targets

- 1 Don't be bullied on reverse break fees.**
Reverse break fees now appear in public M&A transactions at nearly identical rates to regular break fees. Targets seeking deal certainty should feel empowered to seek reverse break fees where appropriate in negotiated deals.
- 2 Expect less disparity on valuation.**
As macroeconomic conditions stabilise and improve, targets can expect to see eye to eye with bidders on valuation more often. Targets may find greater success in courting friendly transactions in 2024 than in the last few years.
- 3 Consider new efficiencies in schemes.**
Jackman J's reforms to simplify the evidentiary requirements for members' schemes of arrangement (summarised on **page 25**) should help to reduce legal fees and the administrative burden imposed on targets pursuing M&A via a scheme. Dealmakers who have previously viewed the time and cost of preparing court evidence as inefficient and a "con" of implementing a negotiated transaction via a scheme may have grounds to reconsider.

Three takeaways for bidders

- 1 Don't be afraid to seek hard exclusivity.**
With new and clear guidance from the Takeovers Panel on hard exclusivity (summarised on **page 29**), bidders can have confidence when seeking hard exclusivity at the non-binding stage.
- 2 Be careful about proper disclosure of complex structuring.**
With the rise in concurrent scheme/bid structures and novel consideration models, bidders need to be mindful of their disclosure obligations and ensure risks are thoroughly disclosed.
- 3 Prepare for regulatory scrutiny.**
Bidders can expect greater scrutiny from regulators and should prepare accordingly. Regulatory conditions precedent will require frank negotiation and careful drafting to ensure parties' expectations are met and interests protected.

Report methodology

Reported deals

Norton Rose Fulbright reported on takeover bids and schemes of arrangements announced during the calendar year ended 31 December 2023, which were valued at \$50 million or more. As at the date of publishing this report, 12 surveyed deals remain current and are yet to complete. Where an offer document was not been released to the market, we have not included certain trends in our results.

AUD

All dollar figures reported are in Australian dollars unless otherwise stated. Any break fees or deal values not originally in Australian dollars have been converted using the Australian dollar currency rate quoted at the time of reporting.

Sources

Unless otherwise indicated, the data and information in this report has been generated from our own research, market analysis and primary sources that are publicly available including ASX announcements, bidder and target statements, implementation agreements and scheme booklets.

Deal terms differ depending on the circumstances surrounding each deal and we have exercised our judgment in interpreting and categorising these terms for the purpose of this report where they were not directly comparable.

Announcement date

The announcement date reported in respect of a takeover bid is the earlier of the date that a public announcement is made that a bidder intends to make a takeover bid or the date that the takeover bid is actually made. The announcement date in respect of a scheme is the date a public announcement is made that an agreement has been entered into to propose a scheme (for instance, a scheme implementation deed).

Consideration

The value of the consideration, for the purposes of calculating deal values in this report, was calculated as follows:

- where the consideration included non-cash consideration, such as scrip, it was valued as at the announcement date using the same methodology as used in the initial announcement. If no value was cited in the initial announcement the value was calculated using the closing market price of the bidder scrip prior to the initial announcement (or such other appropriate date to reflect the undisturbed share price) where listed and/or the foreign exchange rate on the announcement date (as applicable); and
- where the final consideration depended upon the movements in the value of bidder scrip or the foreign exchange rate, the value of the final consideration was recalculated using the value of the bidder scrip or foreign exchange rate as at the time such adjustments were made.

Deal value

Where a deal was successful, the value of the deal is the final consideration paid or payable per issued security in the target multiplied by the aggregate number of those securities at the end of the offer period for a takeover bid or record date for a scheme. Where a deal remained ongoing as at 31 December 2023, the value of the deal is the consideration offered per issued security in the target as at that date multiplied by the aggregate number of securities in the target subject to the offer as at that date.

Premiums

To extract trends from offer premiums we analysed data from offer documents which quoted a premium to the closing price on the last trading day prior to the announcement of a bid and to the one-month VWAP to announcement of the bid. If either of these premiums was not cited in the takeover announcement it was not included in our results. For instance zero premiums, negative premiums and any other forms of premiums which were not calculated against the trading price the day prior to the bid announcement or as a one-month VWAP were not included in our reporting. Premiums quoted exclude deals where the bidder did not offer a premium for control (or offered zero premium).

Deal categorisation

Takeovers initially recommended by the target board on the date of the announcement are regarded as "friendly". Conversely, takeovers not initially recommended by the target board on the date of the announcement are regarded as "hostile".

Rounding

Some percentages reported will not add to 100% as numbers have been rounded up.

Success

- A takeover bid is referred to in this report as successful if any securities were acquired under the takeover offer if it was unconditional or after the satisfaction or waiver of all conditions in the case of a conditional takeover bid. A scheme is referred to in this report as being successful if court approval was obtained and the scheme became effective.
- A bid is unsuccessful if the acceptances received from shareholders are less than 50%, even if the deal is declared unconditional. Lapsed deals are recorded as unsuccessful deals.
- A bid is recorded as withdrawn when the ASX has received notification from the companies involved that the deal is withdrawn or where the bidder returns all acceptances back to shareholders.

Currency of information

Unless otherwise indicated, information in relation to the deals in this report is current to 31 December 2023.

About the authors



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Jeremy Wickens is a commercial-minded and responsive Corporate, M&A and Equity Capital Markets lawyer based in Melbourne. He is fortunate to have had a rich career over the past 20 years, and has been involved in some of Australia's most significant projects and transactions, including the recent highlight of leading negotiations on the scheme implementation agreement for Vodafone Hutchinson's \$16.8 billion merger of equals with TPG Telecom. Jeremy's strengths are preparing and negotiating high quality documentation for large deals. He has an eye for detail, but focusses on the commercially important points. Once engaged, Jeremy dedicates himself to achieving his client's objectives and closing the deal. He combines firm negotiation and advocacy with caring for his clients, in the sense of understanding their businesses and being cost-conscious, reliable and easy to do business with. Having worked in-house with BHP Billiton, AGL Energy, ConocoPhillips and Santos, Jeremy understands his clients need a lawyer who shares their business objectives, gets to the point and stands behind his recommendations. He is recognised in Best Lawyers in Australia in the practice areas Corporate, Equity Capital Markets, Mergers and Acquisitions, Natural Resources and Oil & Gas.



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Ellen is a talented emerging lawyer specialising in Corporate, M&A, Equity Capital Markets and Projects. Ellen leads transaction delivery and provides advisory support for both domestic and international clients across a range of industries but with a particular focus on technology, professional services and energy markets. In her 5 years with NRF's Melbourne corporate team, Ellen has been a highly valued and efficient team member on a number of first-of-their-kind transactions. Highlights in the public M&A space include Ellen's involvement in the team advising on Vodafone Hutchinson's \$16.8 billion merger with TPG Telecom in 2020 and her role as transaction delivery lead and advisor to 5G Networks on its merger with Webcentral Limited by way of 'top-hat' scheme in 2021 and, later, on the disposal of Webcentral Limited's domains hosting business to Oakley Capital and its investment partners for a total transaction value of \$165 million. Ellen is known for delivering high-quality and commercial advice that reflects a true appreciation for the motivations driving her client's activities.

Contributors

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