Attachment to 12-53MR: Summary of the infringement notices issued to Leighton Holdings

(1) The Airport Link Project

The Facts

Thiess and John Holland (wholly owned subsidiaries of Leighton) were part of the BrisConnections consortium that was contracted to design and construct various infrastructure projects relating to the Airport link, Northern Busway and Airport Drive Connection Projects in Brisbane, Queensland (the Airport Link Project). The original value of the Airport Link Project contract was $4.14 billion and Thiess and John Holland each had a 50% share ($2.07 billion each). Work started on the Airport Link Project in August 2008.

On 14 February 2011 Leighton released its net profit results for the half year ended 31 December 2010 to ASX, which were down by 25% to $217 million. It also released an announcement to ASX which included statements about the difficulties that were causing delay in completing the Airport Link Project and increasing projected cost at completion.

On 24 February 2011 Leighton released an announcement to ASX which included statements that *"The main risk on Airport Link is around the cost of completion. The cost of completion has gone up from what was originally anticipated because of design issues, overruns, bad weather and additional scope that wasn't anticipated. There remains a risk of further increases in the cost of completion. On any of our projects, including major infrastructure projects, we have to control costs as tightly as we can."*

On 18 March 2011 senior executives of Leighton attended a meeting about the financial position of the Airport Link Project.
The 18 March 2011 meeting considered several possible scenarios relating to the forecast final profit margin for the Airport Link Project. These were based on different forecasts relating to costs, possible claims and recoveries against third parties, the impact of possible delays in completion, changes to the project program and the possible effect of accounting treatment. Each scenario predicted a substantial loss for the project, starting at around $182 million and going up to around $610 million.

By reason of the above matters, by 18 March 2011 Leighton was aware that the previous forecast final profit margin for the Airport Link Project would not be achieved due to significant cost increases, and that reviews had been carried out which forecast a substantial loss relating to the project, of between $182 million and $610 million (**the Information**).

At about 8:52am on Thursday 7 April 2011, Leighton sent a letter to ASX requesting a trading halt until 11 April 2011 which stated that the trading halt was needed "*pending the completion of a review by the Leighton board of, and an announcement in relation to, the earnings guidance set out in Leighton's ASX announcement on 14*

February." Leighton's securities were placed in a trading halt at 9:11am on Thursday 7 April 2011, before the market opened.

At about 8:43 am on Monday 11 April 2011 an announcement titled "Leighton to downgrade profit forecast for 2010/11" was released by ASX which included a statement that the Airport Link Project works had continued to be delayed and there were major increases to the forecast final cost: *"These extra costs mean that the project is forecast to make a pre-tax loss of approximately $430 million."*

The Alleged Contravention

This Infringement Notice has been issued because ASIC has reasonable grounds to believe that Leighton contravened subsection 674(2) of the Act in the period from 18 March 2011 to 6 April 2011 in that:

(a) Leighton is an entity to which subsection 674(2) of the Act applies.

(b) By 18 March 2011, Leighton was aware of the Information.

(c) Listing Rule 3.1 of the ASX Listing Rules requires Leighton to immediately tell ASX of the Information once Leighton is or becomes aware of any information concerning it that a reasonable person would expect to have a material effect on the price or value of its securities. ASIC is of the view that Leighton was required to tell ASX of the Information by 18 March 2011.

(d) The Information was information that a reasonable person would expect, if it were generally available, to have a material effect on the price or value of securities of Leighton, because:

- Leighton had made regular statements about the significance of and revenue of the Airport Link Project since it was first announced in 2008.

- The Airport Link Project was Leighton's largest project and Australia's largest road infrastructure project. Significant changes to the forecast final profit margin for the project were important to Leighton's financial position.

- While the exact amount of the Airport Link Project's forecast loss had yet to be finalised, by 18 March 2011, the previous forecast profit had been wiped out and the project contributed significantly to the change in Leighton expecting a profit of $480 million after tax to a loss of $427 million for the 2010/11 financial year, announced on 11 April 2011.

- It is acknowledged [by ASIC] that the release of the Information contributed to and was not the sole cause of the change in price and volume of Leighton shares but if it were generally available, the Information would, or would be likely to, influence persons who commonly invest in securities in deciding whether to acquire or dispose of Leighton securities.

(e) From 18 March 2011, ASX Listing rule 3.1A (the exception to ASX Listing rule 3.1) no longer applied to the Information because, in view of the matters referred to in paragraph (d) above, a reasonable person would have expected the Information to be disclosed to ASX.

(f) Consequently, from 18 March 2011, ASX Listing Rule 3.1 required Leighton to tell ASX of the Information.

(g) Between 18 March 2011 and 6 April 2011, the Information was not generally available.

(2) The Victorian Desalination Project

The Facts

Thiess provides engineering, construction and mining services and is a wholly owned subsidiary of Leighton. Thiess was part of the AquaSure consortium that the Victorian state government awarded the contract to finance, design, construct, maintain and operate the Victorian Desalination plant project in Wonthaggi, Victoria (the Victorian Desalination Project). AquaSure contracted Thiess and Degrémont, as a joint venture, to design and construct the Victorian Desalination Project. Work on the project began in September 2009. A significant element of the project was a "guarantee" that the Victorian Desalination Project would be operational and would deliver desalinated water by the end of 2011.

On 14 February 2011 Leighton released its net profit results for the half year ended 31 December 2010 to ASX, which were down by 25% to $217 million. The reduction in the forecast profit for the project was incorporated in Leighton's results for the half year ended 31 December 2010 and announced on 14 February 2011. Leighton also announced that "*…despite poor weather conditions and a brief industrial dispute. This complex project remains on schedule with construction, testing and handover on a tight timetable for completion by the end of 2011.*"

On 24 February 2011 Leighton released an announcement to ASX which included a statement that "*In the case of the Victorian Desalination Plant, the biggest issue is getting first water in the time frame dictated by the Victorian government. While we've had some impact from severe weather around the site, parts of the project, such as the underwater tunnelling, are well ahead of schedule. At this stage we're not anticipating any problems in meeting the project deadline*."

On 16 March 2011 the Thiess and Degrémont joint venture steering committee for the Victorian Desalination Project held one of its regular monthly meetings. The joint venture steering committee reviewed an amended program for the project and updated costs forecasts, which indicated that the project's forecast costs had increased significantly.

By 18 March 2011 Thiess had reviewed the overall financial position of the Victorian Desalination Project and had concluded that the forecast costs had increased by about $200 million, that there was a risk of further cost increases and that there was a risk that the completion of the project would be delayed.

By reason of the above matters, by 18 March 2011 Leighton was aware that the completion date for the Victorian Desalination Project was likely to be delayed and the costs of the project had increased substantially, so that Thiess' forecast profit on completion for the project would be materially reduced (**the Information**).

At about 8:52am on Thursday 7 April 2011, Leighton sent a letter to ASX requesting a trading halt until 11 April 2011 which stated that the trading halt was needed "*pending the completion of a review by the Leighton board of, and an announcement in relation to, the earnings guidance set out in Leighton's ASX announcement on 14 February."* Leighton's securities were placed in a trading halt at 9:11am on Thursday 7 April 2011, before the market opened.

At about 8:43 am on Monday 11 April 2011 an announcement titled "Leighton to downgrade profit forecast for 2010/11" was released by ASX which included a statement that the inclement weather and poor productivity had impacted the construction on one site and that this may *"trigger a one off $15m penalty and extra costs which have been included in our revised forecast."* The announcement also stated that the forecast profit for the Victorian Desalination Project had been written back by $282 million to $6 million, before tax.

The Alleged Contravention

This Infringement Notice has been issued because ASIC has reasonable grounds to believe that Leighton contravened subsection 674(2) of the Act in the period from 18 March 2011 to 6 April 2011 in that:

(a) Leighton is an entity to which subsection 674(2) of the Act applies.

(b) By 18 March 2011, Leighton was aware of the Information.

(c) Listing Rule 3.1 of the ASX Listing Rules requires Leighton to immediately tell ASX of the Information once Leighton is or becomes aware of any information concerning it that a reasonable person would expect to have a material effect on the price or value of its securities. ASIC is of the view that Leighton was required to tell ASX of the Information by 18 March 2011.

(d) The Information was information that a reasonable person would expect, if it were generally available, to have a material effect on the price or value of securities of Leighton, because:

(e) Leighton had made statements about the significance of and revenue of the the Victorian Desalination Project since it was first announced in 2009.

(f) The the Victorian Desalination Project was a major project being undertaken by Thiess. Significant changes to the forecast final profit margin for the project were important to Leighton's financial position.

(g) The Information was not generated solely for the internal management purposes of Leighton in that it updated information about the Victorian Desalination Project announced by Leighton in Leighton's Half Year Report 14 February 2011 and the 24 February 2011 Announcement.

(h) It is acknowledged [by ASIC] that the release of the Information contributed to and was not the sole cause of the change in price and volume of Leighton shares but if it were generally available, the Information would, or would be likely to, influence persons who commonly invest in securities in deciding whether to acquire or dispose of Leighton securities.

(i) From 18 March 2011, ASX Listing rule 3.1A (the exception to ASX Listing rule 3.1) no longer applied to the Information because, in view of the matters referred to in paragraph (d) above, a reasonable person would have expected the Information to be disclosed to ASX.

(j) Consequently, from 18 March 2011, ASX Listing Rule 3.1 required Leighton to tell ASX of the Information.

(k) Between 18 March 2011 and 6 April 2011, the Information was not generally available.

(3) The Al Habtoor Leighton Group

The Facts

The Al Habtoor Leighton Group (AHLG) is registered and based in Dubai in the United Arab Emirates. AHLG is a contractor specialising in construction, infrastructure, oil, rail and gas.

In 2007 AHLG was created as the result of a merger between Leighton's Leighton International operations in the Arabian Gulf and Al Habtoor Engineering and Leighton acquired 45% of the shares in AHLG.

On 14 February 2011 Leighton released its net profit results for the half year ended 31 December 2010 to ASX, which were down by 25% to $217 million. It also released an announcement to ASX which included statements about *"The lack of new work and losses on pre-acquisition projects resulted in Leighton Holdings recognising a $100 million impairment on its 45% stake in (AHLG)… The carrying value of this investment has been written down to a book value of $845 million. This compares to a business valuation of around $1.4bn at 30 June 2010. The book value, which is compared to a discounted cashflow (DCF) valuation, has been reduced by the impact of the impairment, operating losses incurred in the 6 months and the strong Australian dollar".*

On 24 February 2011 Leighton released an announcement to ASX which included statements that *"The risk of a further impairment on (AHLG) depends on whether new work comes through at the anticipated rate and on our ability to recover any additional money through the settlement of outstanding claims. We continue to work on these two issues."*

On 16 and 17 March 2011 quarterly reviews for each project and business unit of AHLG were completed. The results of the reviews showed that AHLG's financial position had deteriorated, mainly due to delays in receipt of expected payments from third parties, and that AHLG urgently required additional funding.

On 18 March 2011 Leighton received AHLG's revised cash flow forecast and requests from AHLG for the payment of the previously agreed shareholder loan to be accelerated and also for additional shareholder funding of $230 million (AED850 million).

By reason of the above matters, on 18 March 2011 Leighton was aware that the financial position of AHLG, a company in which it held a 45% interest had deteriorated, as it had received:

(i) a revised cash flow forecast for AHLG; and

(ii) a request from AHLG for the drawdown of the previously agreed shareholder loan to be accelerated; and

(ii) a request from AHLG for further shareholder funding of $230 million (AED850 million)

and that therefore the Company needed to revise the valuation of its investment in AHLG. (the Information).

At about 8:52am on Thursday 7 April 2011, Leighton sent a letter to ASX requesting a trading halt until 11 April 2011 which stated that the trading halt was needed "*pending the completion of a review by the Leighton board of, and an announcement in relation to, the earnings guidance set out in Leighton's ASX announcement on 14 February."* Leighton's securities were placed in a trading halt at 9:11am on Thursday 7 April 2011, before the market opened.

At about 8:43am on Monday 11 April 2011 an announcement titled "Leighton to downgrade profit forecast for 2010/11" was released by ASX which included a statement that "*Normally we would not review the carrying value of AHLG until June but due to deteriorating cash flow from legacy projects and the requirement for the injection of AED 1 billion in additional shareholder loans, we believe it prudent to review the carrying value of HLG.*"

At about 9:05am on Monday 11 April 2011 an announcement titled "Leighton Holdings - Investor Presentation" was released by ASX which contained a section titled "Habtoor Leighton Group – Investment overview" which stated that the current value of Leighton's investment in AHLG had reduced by a further $320 million (comprising an impairment of $200 million and $120 million, the latter being Leighton's share of AHLG's result), that AHLG had requested a "further AED1bn" in funding and that Leighton had "provided $289m of shareholder loans to HLG and pledged cash as security against a AED500m loan facility".

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(d) The Information was information that a reasonable person would expect, if it were generally available, to have a material effect on the price or value of securities of Leighton, because:

(e) AHGL's request for a large sum of further shareholder funding of $230 million, as well as requesting a previously agreed shareholder loan be accelerated were significant and indicated that Leighton's investment in AHGL was likely to be subject to further impairment, which would increase the loss relating to AHGL in its profit and loss statement.

(f) The deterioration in AHLG's financial position from February 2011 contributed to the change in Leighton expecting a profit of $480 million after tax to a loss of $427 million for the 2010/11 financial year, announced on 11 April 2011.

(g) It is acknowledged [by ASIC] that the release of the Information contributed to and was not the sole cause of the change in price and volume of Leighton shares but if it were generally available, the Information would, or would be likely to, influence persons who commonly invest in securities in deciding whether to acquire or dispose of Leighton securities.

(h) From 18 March 2011, ASX Listing rule 3.1A (the exception to ASX Listing rule 3.1) no longer applied to the Information because, in view of the matters referred to in paragraph (d) above, a reasonable person would have expected the Information to be disclosed to ASX.

(i) Consequently, from 18 March 2011, ASX Listing Rule 3.1 required Leighton to tell ASX of the Information.

(j) Between 18 March 2011 and 6 April 2011, the Information was not generally available.

