

# MARKET ANNOUNCEMENT

## Update on Keybridge EGM to Remove Andrew Moffat and Appoint Bentley Nominees to Board

Bentley Capital Limited (ASX:[BEL](#)) refers to:

- The upcoming [Extraordinary General Meeting](#) (EGM) of shareholders of [Keybridge Capital Limited](#) (ASX:[KBC](#)) to be held in Melbourne at 12:00 noon on Friday, 29 July 2016 at which resolutions will be proposed for the removal of Andrew Moffat as a Keybridge Director and the election of Simon Cato and William Johnson as Keybridge Directors; and
- Keybridge's market announcement of [14 July 2016](#)<sup>1</sup> in response to Bentley's update on the EGM provided to shareholders on [11 July 2016](#)<sup>2</sup>.

### Summary

- Bentley has recently emerged as second largest shareholder in Keybridge replacing Viburnum Funds.
- Bentley seeks to have two nominees appointed to the Keybridge Board to replace the previous two Viburnum representatives.
- Significant lapses in corporate governance, management and operations of Keybridge have occurred recently in the last 6 months.
- Andrew Moffat, as Chairman of Keybridge, must take responsibility for these matters and it is not appropriate for him to remain Chairman or a Director of Keybridge.
- Bentley is a profitable investment company undertaking investments similar in style to Keybridge with a Board delivering long term distributions to shareholders.
- Bentley's two nominees will assist Keybridge in getting back on track and realising value from its investments.

### Background

Bentley recently acquired 31.7 million shares in Keybridge, being 19.96% of Keybridge's total voting shares, becoming the second largest shareholder in the Company.<sup>3</sup>

Keybridge's previous second largest shareholder, [Viburnum Funds](#) Pty Ltd (**Viburnum**), sold its shareholding in Keybridge to Bentley with Bentley also acquiring additional shares on market after the purchase of the Viburnum shares.<sup>4</sup>

Bentley notes that prior to the sale by Viburnum, 2 representatives out of a total Keybridge Board of 4 members were Andrew Moffat (who was also appointed Chairman in April 2014<sup>5</sup>) and Craig Coleman (who was a Non-Executive Director until his resignation on 18 May 2016<sup>6</sup>).



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Craig Coleman is Executive Chairman of Viburnum and Andrew Moffat is a member of the Advisory Board of Viburnum.<sup>7</sup> Viburnum also has 'strategic equity investments' in [Pacific Star Network Limited](#) (ASX:PNW) and [Rubik Financial Limited](#) (ASX:RFL), in which Andrew Moffat is Chairman and Director, respectively.<sup>8</sup>

Bentley notes that Andrew Moffat regards himself as an 'independent' Non-Executive Chairman of Keybridge - Bentley is unable to reconcile the above relationships between Mr Moffat, Viburnum and Viburnum's strategic investments in companies in which Mr Moffat is a Director, with Andrew Moffat being an independent Director of Keybridge.

In light of Viburnum's exit from and Bentley's entry on to the Keybridge share register, Bentley believes that it is appropriate for the Viburnum representatives on the Keybridge Board to be replaced by 2 nominees of Bentley.

Furthermore, for the reasons outlined below, Bentley believes that the corporate governance, management and operations of Keybridge require urgent attention and that the proposed new Board members will provide valuable assistance to the Company in this regard.

### **Bentley Capital Limited**

Bentley is an investment company similar in nature to Keybridge having been listed on the ASX in 1986 and has paid a distribution to shareholders every year (save on 4 occasions) in its 31 year history with its most recent [31 December 2015 Half Year Report](#) indicating a net profit of \$2.5 million.

Bentley's investment mandate appears to be similar to Keybridge's and on occasion both companies have made similar investments. This is illustrated by Bentley's recent involvement with [Molopo Energy Limited](#) (ASX:MPO) in which Keybridge is a ~20% shareholder<sup>9</sup>. Bentley was also a ~20% shareholder of Molopo at the same time as Keybridge but sold its Molopo shares in August 2015 (at a price of 26.5 cents per share) realising a net profit of \$3.67 million.

Bentley notes that Keybridge is still a shareholder in Molopo and currently has a significant unrealised loss on that major investment. The appointment of Bentley's representatives to the Board of Keybridge will bring valuable skill sets to Keybridge which should assist the Company in maximising the value of all its investments including Molopo.

### **Reasons for the EGM**

Bentley notes that the Keybridge Board convened the EGM to pre-empt Bentley's notice of intent to itself call a meeting of Keybridge shareholders.<sup>10</sup>

Bentley determined to call a meeting of Keybridge shareholders to approve the proposed Board changes for the following reasons:

- (1) The Keybridge Board has rejected Bentley's request for Board representation in circumstances where it is entirely reasonable and appropriate for the second largest shareholder to seek such representation and to replace the remaining representative of Viburnum who have exited the Keybridge share register.
- (2) Responsibility for the governance and oversight of the operations of Keybridge ultimately lie with the Chairman of the Company, Mr Andrew Moffat. It is noted that in addition to his role as Chairman of the Company, Mr Moffat sits on both the Audit, Finance and Risk Committee and the Remuneration and Nomination Committee of Keybridge<sup>11</sup>.

Bentley's view is that there have been significant lapses in governance and operational oversight of Keybridge during the tenure of Andrew Moffat as Chairman and member of the two Board committees.

Those lapses have resulted in the suspension of Keybridge from trading on the ASX for failure to lodge accounts, the identification by Keybridge's new Auditors of accounting errors resulting in the restatement of accounts and a reduction in stated profits, the write-down in asset values, the failure to properly recognise simple matters such as the issued capital of the Company, the significant outflow of funds under management, the freezing of redemptions from satellite funds managed by a Keybridge subsidiary, the eventual sale of the funds management business for a significant ~\$2 million dollar loss (only 15 months after its acquisition) and the proposal put at the Keybridge AGM in November 2014 (subsequently withdrawn after shareholder opposition) for Andrew Moffat as a Non-Executive Director to be issued 2 million shares.

Further details of the governance and operational matters pertaining to Keybridge for which Andrew Moffat as Chairman should be held accountable are set out in Annexure A.

These matters are not one off matters but indicate in Bentley's view a systemic failure in both corporate governance and management of the Keybridge business which requires urgent attention.

Bentley believes that as Chairman, Andrew Moffat must accept responsibility for these significant matters and that accordingly it is not appropriate for Mr Moffat to remain as the Chairman or a Director of Keybridge.

Bentley accordingly seeks the removal of Andrew Moffat as a Director of Keybridge and recommends that all Keybridge shareholders vote in favour of the removal of Mr Moffat.

- (3) In order to refresh the Keybridge Board and provide the skills and experience necessary to instil revised corporate governance as well as prudential management systems and operations, Bentley has proposed the appointment of two additional Directors, namely Mr Simon Cato and Mr William Johnson, both of whom are highly experienced public company directors.

It is Bentley's view that their appointment will reinvigorate the Board of Keybridge and put it on a firm footing so that the many and repeated mistakes in the management and operations of the Company will not re-occur.

Bentley notes that it is not seeking the removal of current Keybridge Directors, Mr Bill Brown and Mr Antony Sormann.

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**FOR FURTHER INFORMATION:**

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**Annexure A****Keybridge Governance and Operational Issues Under the Chairmanship of Andrew Moffat**

- (1) In October 2014, shortly after being appointed Chairman of the Company, Keybridge sought shareholder approval at the 2014 AGM to issue to Andrew Moffat a total of 2 million shares under the Keybridge Executive Share Plan.<sup>12</sup> Upon this proposal being made public, shareholder opposition ultimately resulted in that resolution being withdrawn for consideration at the AGM.<sup>13</sup>

Bentley notes that Non-Executive Directors should not receive options or performance rights according to guidelines published by the [ASX Corporate Governance Council](#)<sup>14</sup> and the [Australian Shareholders Association](#).<sup>15</sup> Bentley considers that it was and is wholly inappropriate for Andrew Moffat as Non-Executive Chairman to participate under the Keybridge Executive Share Plan and indicates a departure from what Bentley considers to be proper corporate governance.

- (2) The securities of Keybridge being suspended from trading by the ASX on 1 March 2016 as a result of the failure of the Company to lodge its 31 December 2015 Half Year Report on time in accordance with the Corporations Act and the ASX Listing Rules.<sup>16</sup>
- (3) Suspension from ASX extending to a number of associated listed funds in the then Keybridge group - Aurora Absolute Return Fund (ASX:ABW)<sup>17</sup>, Aurora Property Buy-Write Income Trust (ASX:AUP)<sup>18</sup>, Aurora Global Income Trust (ASX:AIB)<sup>19</sup> and the Hastings High Yield Fund (ASX:HHY)<sup>20</sup>.
- (4) The eventual lodgement of Keybridge's 31 December 2015 Half Year Report indicating that Keybridge was required to impair the carrying value of Aurora Funds Management Limited by \$2.221 million from \$3.797 million (at cost in March 2015) to \$1.576 million (as at 31 December 2015).<sup>21</sup>
- (5) Keybridge's 31 December 2015 Half Year Report further indicating a "persistent outflow of funds under management", indicative in Bentley's view of the lack of faith in, by extension, Keybridge (as the parent company).<sup>22</sup>
- (6) On 29 February 2016, the suspension of applications, redemptions and trading on the ASX in relation to several of Keybridge's funds as a result of uncertainty surrounding the liquidity of an investment (i.e. Antares Energy Limited Convertible Notes (ASX:AZZG)) held in those funds:
- Aurora Absolute Return Fund (ASX:ABW)<sup>23</sup>;
  - Aurora Fortitude Absolute Return Fund (unlisted)<sup>24</sup>; and
  - Aurora Global Income Trust (ASX:AIB)<sup>25</sup>.
- (7) Keybridge's 31 December 2015 Half Year Report further indicating that Keybridge was required by its new Auditors to correct significant past errors in relation to various aspects of its previous accounts resulting in an overstatement of profit for the year ending 30 June 2015. Those litany of errors included<sup>26</sup>:
- (a) accounting errors (dating back to October 2014) in relation to interest income accrued against loans made under the Company's Executive Share Plan;
  - (b) errors in the valuation of share-based payments (ie. employee/executive shares);
  - (c) the incorrect issue of Convertible Redeemable Promissory Notes (CPRN) to various employee/executive participants requiring their cancellation; and
  - (d) the incorrect issue of shares to employee/executive participants under a Dividend Reinvestment Plan requiring the same to be cancelled.

- (8) On 17 June 2016, Keybridge announcing that it had mistakenly quoted on ASX a significant number of shares that should have remained unquoted and that previous market announcements relating to the capital structure of the Company on 7 October 2015 and 18 March 2016 were incorrect resulting in a reversal of some 5 million shares.<sup>27</sup>
- (9) The sale by Keybridge of its Aurora Funds Management business in June 2016 for a notional consideration of \$1.8 million resulting in a loss of nearly \$2 million from its acquisition price in March 2015.<sup>28</sup> It is further noted by Bentley that the actual consideration received for the sale of the business at settlement was \$0.75 million with the balance of ~\$1.1 million tied to performance milestones over the next 18 months which may or may not be achieved.<sup>29</sup> Based on actual cash received by Keybridge at settlement the position is significantly worse with a \$3 million difference between cash received and the acquisition price of Aurora within a period of only 15 months.

Bentley also notes that Andrew Moffat stated in his Chairman's Letter in the Keybridge [2015 Annual Report](#) that "*Aurora forms the base of a new strategic direction for Keybridge which intends to become a significant Alternative-Asset Funds Management business.*"<sup>30</sup>

Bentley is unable to reconcile the sale of Aurora in June 2016 at a loss of several million dollars within a relatively short period after its purchase with Mr Moffat's statement made in August 2015.

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- 1 Refer KBC's ASX announcement dated [14 July 2016: Response to Bentley ASX Announcement](#)
  - 2 Refer Bentley's ASX announcement dated [11 July 2016: Update on Keybridge Meeting to Remove Andrew Moffat and Appoint Bentley Nominees to Board](#)
  - 3 Refer Bentley's [Initial Substantial Shareholder Notice in KBC dated 20 May 2016](#)
  - 4 Refer Viburnum's [Ceasing to be a Substantial Shareholder Notice in KBC dated 19 May 2016](#); refer Bentley's [Change of Substantial Shareholder Notice in KBC dated 8 July 2016](#)
  - 5 Refer KBC's ASX announcement dated [28 April 2014: Appointment of Chairman](#)
  - 6 Refer KBC's ASX announcement dated [19 May 2016: Resignation of Director](#)
  - 7 Refer Viburnum's website: <http://www.viburnumfunds.com.au/people>
  - 8 Refer Viburnum's website: <http://www.viburnumfunds.com.au/strategic-equity>
  - 9 Refer KBC's [Change of Substantial Shareholder Notice in MPO dated 4 July 2016](#)
  - 10 Refer KBC's ASX announcement dated [30 May 2016: Letters from Scarborough Equities Pty Ltd](#)
  - 11 Refer [KBC 2015 Annual Report](#)
  - 12 Refer KBC's ASX announcement released on [30 October 2014: Notice of AGM/Proxy Form](#)
  - 13 Refer KBC's ASX announcement dated [1 December 2014: Results of Annual General Meeting](#)
  - 14 Refer page 33 of the [Corporate Governance Principles and Recommendations](#) (3rd Edition, 2014)
  - 15 Refer Section 26 (on page 9) of the [Australian Shareholders Association Voting Guidelines for ASX 200 Companies \(March 2016\)](#)
  - 16 Refer KBC's ASX announcement dated [1 March 2016: Suspension from Official Quotation](#)
  - 17 Refer ASX announcement for ABW dated [29 February 2016: Suspension from Official Quotation](#)
  - 18 Refer ASX announcement for AUP dated [1 March 2016: Suspension from Official Quotation](#)
  - 19 Refer ASX announcement for AIB dated [29 February 2016: Suspension from Official Quotation](#)
  - 20 Refer ASX announcement for HHY dated [1 March 2016: Suspension from Official Quotation](#)
  - 21 Refer pages 1, 2, 5 and 18 to 21 of KBC's [31 December 2015 Half Year Report](#)
  - 22 Refer page 1 of KBC's [31 December 2015 Half Year Report](#)
  - 23 Refer ASX announcement for ABW dated [29 February 2016: Suspension from Official Quotation](#) and ABW's ASX announcement dated [29 February 2016: Letter to Unitholders](#)
  - 24 Refer pages 5, 21 and 29 of KBC's [31 December 2015 Half Year Report](#)
  - 25 Refer ASX announcement for AIB dated [29 February 2016: Suspension from Official Quotation](#) and AIB's ASX announcement dated [29 February 2016: Letter to Unitholders](#)
  - 26 Refer Note 5 (Correction of prior errors) on pages 12 to 15 of KBC's [31 December 2015 Half Year Report](#) and KBC's ASX Announcement dated [18 March 2016: Letter Regarding Executive Share Plan](#)
  - 27 Refer KBC's ASX announcement dated [17 June 2016: Correction to Capital Structure](#)
  - 28 Refer KBC's ASX announcement dated [27 June 2016: Sale of Aurora Funds Management](#)
  - 29 Refer KBC's ASX announcement dated [1 July 2016: Sale of Aurora Funds Management](#)
  - 30 Refer page 2 of KBC's [2015 Annual Report](#)