

MinterEllison

To ASX Market Announcements, Melbourne

From Alberto Colla Telephone +61 3 8608 2000
Bart Oude-Vrielink Telephone +61 3 8608 2000
Our Ref AXC 1140705

Date 3 October 2016 Number of pages (including this one):12

Subject **Press release - Hitachi Construction Machinery Co., Ltd. announces recommended takeover offer for Bradken Limited**

Dear Sir/Madam,

We act for Hitachi Construction Machinery Co., Ltd. (**HCM**).

On behalf of HCM, we attach a press release in relation to HCM's recommended takeover offer for Bradken Limited (ASX:BKN).

Yours faithfully



Alberto Colla
Partner



Bart Oude-Vrielink
Partner

Level 23 Rialto Towers 525 Collins Street Melbourne VIC 3000
Australia DX 204 Melbourne

If you do not receive all pages please telephone +61 3 8608 2898

IMPORTANT - The contents of this facsimile may be privileged and confidential. Any unauthorised use of the contents is expressly prohibited. If you have received the document in error, please advise us by telephone (reverse charges) immediately and then shred the document. Thank you.
ME_133346255_1 (W2007)

HITACHI

Reliable solutions

PRESS RELEASE

For immediate release

ASX ANNOUNCEMENT

HITACHI CONSTRUCTION MACHINERY CO., LTD. ANNOUNCES RECOMMENDED TAKEOVER OFFER FOR BRADKEN LIMITED

(Monday, 3 October 2016) – Hitachi Construction Machinery Co., Ltd. (**HCM**) today announced that it has entered into a takeover bid implementation agreement (**Implementation Agreement**) with Bradken Limited (**Bradken**), under which HCM has agreed to make an all cash off-market takeover offer for Bradken (**HCM Offer** or **Offer**). HCM will offer \$3.25 cash per share for all Bradken shares.

The HCM Offer is unanimously recommended by the Bradken Board, in the absence of a superior proposal and subject to an independent expert concluding that the HCM Offer is fair and reasonable to Bradken shareholders. Subject to these same two qualifications, each Bradken director intends to accept the HCM Offer for all Bradken Shares they hold or otherwise control.

The Offer terms and conditions are set out in Annexure A. HCM expects to be in a position shortly to lodge its Bidder's Statement with Bradken, ASIC and ASX and then dispatch it to Bradken shareholders.

Moelis & Company and SMBC Nikko Limited are acting as financial advisers and MinterEllison as legal adviser to HCM in relation to its Offer.

For media enquiries, please contact:

Colin Richardson, Managing Director
Moelis & Company
(Ph: +61 2 8288 5531)

About Hitachi Construction Machinery Co., Ltd.

Established in 1970, HCM is a body incorporated in Japan and is headquartered in Tokyo and listed on the Tokyo Stock Exchange. HCM's majority shareholder (holding approximately 50%) is Hitachi Ltd, also separately listed on the Tokyo Stock Exchange.

HCM is a leading global manufacturer and supplier of construction and mining machinery (such as hydraulic excavators, rigid dump trucks and wheel loaders), as well as machinery consumables and parts. It is a leading player in this sector. For further information on HCM, please visit its website at <https://www.hitachicm.com/global/>

About Bradken

Bradken is a global manufacturer and supplier of differentiated consumable and capital products to the mining, transport, general industrial and contract manufacturing markets. It specialises in manufacturing fully machined cast iron and steel products across 3 operating divisions. Bradken employs almost 3,500 people in 24 manufacturing facilities and more than 28 sales and service centres internationally. Bradken, which became a publicly listed company in August 2004, has been in business for over 90 years.

Annexure A – Offer Terms and Conditions

Offer

1. Offer for Shares

The HCM Offer is being made by HCM and is an offer to acquire all Bradken fully paid ordinary shares on issue (**Bradken Shares**) before the end of the Offer Period.

Subject to section 653(B)(1)(b) of the Corporations Act, each Bradken Shareholder may only elect to accept the Offer for all of their Bradken Shares.

The Offer will extend to all Bradken Shares on issue before the end of the Offer Period including all new Bradken Shares that are issued on or before the end of the Offer Period under or as a result of the exercise or vesting of Employee Share Performance Rights in existence as at the Register Date (subject to ASIC granting any necessary relief from the Corporations Act) and the conversion of any Bradken Redeemable Preference Shares in existence as at the Register Date.

2. Price

Under the HCM Offer, Bradken Shareholders will receive \$3.25 in cash for each Bradken Share.

The Offer Price will be reduced by the per Share amount of all Rights attaching to or arising from Bradken Shares (including all dividends, and all rights to receive them) which are declared or paid by Bradken after the Announcement Date.

3. Offer Period

The Offer will remain open for an initial period of not greater than seven weeks and will be subject to HCM's right to extend the period in its absolute discretion in a way permitted by the Corporations Act provided that the Offer Period does not exceed six months in total from the initial commencement of the Offer Period (unless Bradken and HCM otherwise agree).

4. Offer Conditions

4.1 FIRB Approval

Before the end of the Offer Period, either:

- (a) the Treasurer (or his delegate) has provided a notice in writing (without any terms or conditions or with standard tax compliance conditions imposed by FIRB consistent with those set out in a publication issued by FIRB dated 3 May 2016 entitled 'Taxation Conditions of Certain No Objection Decisions' (Version 3)) stating or to the effect that the Australian Government does not object to HCM acquiring Bradken Shares under the Offer; or
- (b) by reason of the elapse of time, the Treasurer (and each of his delegates) is no longer empowered under the FATA to make an order prohibiting the acquisition of Bradken Shares by HCM under the Offer.

4.2 Competition Approvals

Before the end of the Offer Period:

- (a) ACCC Informal Clearance has been obtained;

- (b) CCB Clearance has been obtained;
- (c) HSR Antitrust Approval has been obtained; and
- (d) South African Competition Approval has been obtained,

in each case unconditionally.

4.3 CFIUS Approval

Before the end of the Offer Period, either:

- (a) Bradken and HCM receive a written notification issued by CFIUS that it has determined that:
 - (i) the Takeover Bid is not a “covered transaction”; or
 - (ii) CFIUS has concluded its review and has determined not to conduct a full investigation; or
- (b) if a full investigation is deemed to be required, Bradken and HCM receive notification issued by CFIUS that the United States government will not take action to prevent the consummation of the Takeover Bid or to impose any requirements or conditions to mitigate any national security concerns related to the Takeover Bid.

4.4 DDTC Notification

Before the end of the Offer Period, DDTC Approval occurs.

4.5 Minimum acceptance

During or before the end of the Offer Period, HCM has a relevant interest in more than 50% of all Bradken Shares on a Fully Diluted Basis.

4.6 No Prescribed Occurrences

Between the Announcement Date and the end of the Offer Period (each inclusive), no Prescribed Occurrence occurs.

4.7 No Material Adverse Change

Between the Announcement Date and the end of the Offer Period (each inclusive), no Material Adverse Change occurs.

4.8 No material acquisitions, disposals, new commitments or other events

Between the Announcement Date and the end of the Offer Period (each inclusive), (other than as disclosed to HCM (including the implementation of any future matters included in budgets, business plans or other future planning or strategy documents) before the Announcement Date or as disclosed in a public filing with ASX before the Announcement Date) no member of the Bradken Group:

- (a) **(no material acquisitions)** acquires, offers to acquire, agrees to acquire or announces an intention to acquire, one or more shares, companies, businesses, properties or assets (or an interest in one or more shares, companies, businesses, properties or assets), other than in the ordinary course of business, the total consideration for which, or the value of which, either individually exceeds \$1.0 million or in aggregate exceeds \$1.0 million;

- (b) **(no material disposals)** disposes of, offers to dispose of, agrees to dispose of or announces an intention to dispose of, one or more shares, companies, businesses, properties or assets (or an interest in one or more shares, companies, businesses, properties or assets), other than in the ordinary course of business, for an amount, or for which the book value (as recorded in Bradken's statement of financial position as at 30 June 2016) is, either individually greater than \$10 million or in aggregate, greater than \$10 million;
- (c) **(no material commitments)** enters into, offers to enter into, or announces an intention to enter into, any agreement, lease, joint venture, partnership, management agreement, arrangement or commitment which would require expenditure other than in the ordinary course of business, or the foregoing of revenue, by any member(s) of the Bradken Group of an amount or value which, in aggregate, exceeds either \$10 million (for each separate agreement, lease, joint venture, partnership, management agreement, arrangement or commitment) or \$10 million in aggregate;
- (d) **(no constitutional changes)** makes any change to its constitution or convenes a meeting to consider a resolution to change a constitution of any member of the Bradken Group or passes any special resolution;
- (e) **(no entry into new contract of service)** enters, or agrees to enter, into any contract of service for the appointment of a director or senior manager on a base salary of more than \$200,000 per annum (or the approximate local currency equivalent);
- (f) **(no change in existing contract of service)** varies, or agrees to vary in any material way any existing contract of service with any director or senior manager on a base salary of more than \$200,000 per annum (or the approximate local currency equivalent), including making or agreeing to make any substantial change in the basis or amount of remuneration of any director or senior manager except:
 - (i) as required by law;
 - (ii) in accordance with any contractual entitlement existing as at the date of the Implementation Agreement;
 - (iii) for salary increases in the normal course provided that such increase is no more than \$20,000 per annum in respect of any employee;
 - (iv) vesting of Employee Share Performance Rights in accordance with clause 2.9 of the Implementation Agreement; and
 - (v) payments not exceeding \$500,000 in aggregate under the Bradken Group's short term incentive plans;
- (g) **(no scheme of arrangement)** implements or agrees to implement any scheme of arrangement or compromise (including one for a reconstruction or amalgamation of any members of the Bradken Group), or any analogous procedure, scheme or arrangement in any jurisdiction;
- (h) **(no new Encumbrances)** other than in the ordinary course of ordinary business. grants or agrees to grant, any Encumbrances over a material part of its assets as security for new indebtedness; or
- (i) **(no new indebtedness)** incurs other than in the ordinary course of ordinary business any new indebtedness such that the Bradken Group's Net Financial Indebtedness exceeds \$450 million.

4.9 No distributions

Between the Announcement Date and the end of the Offer Period (each inclusive), Bradken does not declare, determine as payable or pay a distribution (whether by way of dividend, capital reduction or otherwise and whether in cash or in specie).

4.10 Employee Share Performance Rights

Between the Announcement Date and the end of the Offer Period (each inclusive), no Employee Share Performance Rights are granted or issued.

5. Defined Terms

Capitalised terms used in this document have the meaning given to them in the table below. Other terms used in this document have the meaning (if any) given to them in Chapter 6 of the Corporations Act unless that meaning is inconsistent with the context in which the term is used.

Definitions	Meaning
ACCC	the Australian Competition and Consumer Commission
ACCC Informal Clearance	a statement in writing from the ACCC that it does not object to, or does not intend to intervene with respect to, the transaction contemplated under the Implementation Agreement for the purposes of section 50 of the CCA
Announcement Date	the date of this announcement, being 3 October 2016
Antitrust Laws	(a) the HSR Act, the Sherman Act of 1890, the Clayton Act of 1914, the Federal Trade Commission Act, and any other United States federal or state statutes, rules, regulations, orders, decrees, administrative or judicial doctrines or other laws that are designed to prohibit, restrict or regulate actions having the purpose or effect of monopolisation or restraint of trade; (b) the Canadian Competition Act; (c) the CCA; and (d) the South African Competition Act.
ASIC	the Australian Securities and Investments Commission
ASX	ASX Limited ABN 98 008 624 691 or, where the context requires or permits, the financial market known as the Australian Securities Exchange operated by it
Bidder's Statement	the bidder's statement to be issued by HCM to Bradken Shareholders in relation to the HCM Offer and acceptance form(s) under section 636 and 637 of the Corporations Act, and which includes the HCM Offer
Bradken	Bradken Limited
Bradken Board	the board of directors of Bradken
Bradken Group	Bradken and its Related Entities
Bradken Redeemable Preference Shares	redeemable convertible preference securities issued by Bradken RPS Pty Limited in July 2015 to Sigdo Koppers and CHAMP Private Equity (which are convertible into Bradken Shares in certain circumstances)
Bradken Share or Share	a fully paid ordinary share issued in the capital of Bradken

Bradken Shareholder	a person who is registered as a holder of one or more Bradken Shares during the Offer Period
Business Day	a day that is not a Saturday, Sunday, bank holiday or public holiday in Sydney, Australia or Tokyo, Japan
Canadian Competition Act	the Canadian Competition Act, R.S.C. 1985, c. C-34, as amended
CCA	the Australian <i>Competition and Consumer Act 2010</i> (Cth)
CCB	the Canadian Competition Bureau
CCB Clearance	any of: (a) the issuance of an advance ruling certificate pursuant to section 102 of the Canadian Competition Act; (b) HCM and Bradken have each given the notice required under section 114 of the Canadian Competition Act with respect to the transaction contemplated under the Implementation Agreement and the applicable waiting period under section 123 of the Canadian Competition Act has expired or been waived in accordance with that Act, and HCM has been advised in writing by the Commissioner of Competition (or a Person authorised by the Commissioner of Competition) that the Commissioner of Competition does not, at that time, intend to make an application under section 92 of that Act in respect of the transaction contemplated under the Implementation Agreement; or (c) the obligation to give the requisite notices has been waived pursuant to subsection 113(c) of the Canadian Competition Act and HCM has been advised in writing by the Commissioner of Competition (or a Person authorised by the Commissioner of Competition) that the Commissioner of Competition does not, at that time, intend to make an application under section 92 of that Act in respect of the transaction contemplated under the Implementation Agreement
CFIUS	the Committee on Foreign Investment in the United States
Competition Approvals	means: (a) ACCC Informal Clearance; (b) CCB Clearance; (c) HSR Antitrust Approval; and (d) South African Competition Authorities Approval
Competition Authority	the ACCC, the CCB, the DOJ, the FTC, the South African Competition Authorities or any other government agency under any Antitrust Laws
Control	has the meaning given in section 50AA of the Corporations Act
Corporations Act	the <i>Corporations Act 2001</i> (Cth)
DDTC	the United States Department of State, Directorate of Defense Trade Controls
DDTC Approval	the filing by the seller with the DDTC of a 60-day Pre-Notification pursuant to section 122.4(b) of ITAR (the 60-day Notification) and the expiry (or waiver by the DDTC) of the corresponding notification period without the DDTC revoking the ITAR registration held by the Bradken Group or imposing any new conditions on

	that registration
Disclosed	fairly disclosed
DOJ	the US Department of Justice
EBIT	earnings from normal underlying activities of the Bradken Group before interest and tax calculated in accordance with the accounting policies and practices applied by Bradken as at the Announcement Date
Employee Share Performance Rights	a share right granted pursuant to the Share Plan Rules
Encumbrance	any mortgage, fixed or floating charge, pledge, lien, option, right to acquire, right of pre-emption, assignment by way of security, trust arrangement for the purpose of providing security, retention arrangement, hypothec or other security interest of any kind, and any agreement to create any of the foregoing and includes a PPS Security Interest other than a Permitted Encumbrance
FATA	the <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cth)
FIRB	the Foreign Investment Review Board
FTC	the US Federal Trade Commission
Fully Diluted Basis	all Bradken Shares to which the Offer relates including: <ul style="list-style-type: none"> (a) any new Bradken Shares issued during the Offer Period on exercise or vesting of Employee Share Performance Rights or on conversion of Bradken Redeemable Preference Shares (or both) that are on issue as at the Register Date; or (b) any new Bradken Share that are able to be issued (whether subject to vesting or satisfaction of a condition or otherwise) during the Offer Period on exercise or vesting of Employee Share Performance Rights or on conversion of Bradken Redeemable Preference Share (or both), that are on issue as at the Register Date
HCM	Hitachi Construction Machinery Co., Ltd., a body incorporated in Japan
HCM Offer or Offer	the takeover offer by HCM to acquire Bradken Shares (including any Bradken Shares which may be issued on exercise of the Bradken Redeemable Preference Shares and the Employee Share Performance Rights) under an off market takeover bid under Chapter 6 of the Corporations Act and Offers means each offer made to holders of Bradken Shares under the takeover bid, including, in each case, as varied in accordance with the Corporations Act
HSR Act	the United States Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended
HSR Antitrust Approval	any approval, clearance or expiration or termination of a waiting period required in relation to the transaction contemplated under the Implementation Agreement under the HSR Act
Implementation Agreement	the Bid Implementation Agreement entered into between HCM and Bradken dated 3 October 2016 in relation to HCM Offer (an executed copy of this document accompanies Bradken's ASX announcement of 3 October 2016)
ITAR	the International Traffic in Arms Regulations of the United States
Material Adverse Change	one or more events, matters, changes or circumstances, including any litigation or dispute, which (individually or when aggregated) have or could reasonably be expected to have, a material adverse effect on the business, financial or trading position, assets or liabilities, profitability or prospects of the Bradken Group (taken as a whole), including any one or more events, matters, changes or circumstances

	<p>which have had, or could reasonably be expected to have, the effect of:</p> <p>(a) diminishing the value of the consolidated net assets of the Bradken Group as set out in the balance sheet for the financial year ended 30 June 2016 by \$25 million or more; or</p> <p>(b) diminishing the EBIT of the Bradken Group by at least \$7.5 million per year against the EBIT for the financial year ended 30 June 2016</p> <p>other than:</p> <p>(c) any event, matter, change or circumstance Disclosed to HCM before the date of the Implementation Agreement (including the implementation of any future matters included in budgets, business plans or other future planning or strategy documents);</p> <p>(d) any event, matter, change or circumstance Disclosed in public filings by a member of the Bradken Group to ASX or ASIC before the date of the Implementation Agreement;</p> <p>(e) any event, matter, change or circumstance resulting from the change of control of Bradken contemplated by the Takeover Bid;</p> <p>(f) any thing required or permitted to be done or not done under the Implementation Agreement, the Takeover Bid or the transactions contemplated by them;</p> <p>(g) any event, matter, change or circumstance in or resulting from:</p> <p>(i) economic, business, regulatory or political conditions in general;</p> <p>(ii) credit, financial, securities or currency markets in general (including any reduction in market indices);</p> <p>(iii) any change effecting the mining services industry generally (including fluctuations in commodity prices),</p> <p>(iv) any change in law, taxation, accounting standards, interest rates or exchange rates,</p> <p>occurring after the date of the Implementation Agreement; or</p> <p>(h) any event, matter, change or circumstance arising from actions taken by the Bradken Group with the prior written consent of HCM, that consent not to be unreasonably withheld or delayed</p>
Net Financial Indebtedness	all external borrowings and financial indebtedness (including leases and bank guarantees but excluding the Bradken Redeemable Preference Shares) less cash or cash equivalents (both calculated consistently with the methods applied in Bradken's financial statements and notes thereto for the year ended 30 June 2016) with all underlying amounts being translated into Australian dollars using the same exchange rates applied in those financial statements
Offer Period	the period during which the HCM Offer is open for acceptance
Offer Price	\$3.25 cash per Bradken Share less the amount or value of any Rights attaching to or arising from Bradken Shares which are declared or paid by Bradken after the Announcement Date

<p>Permitted Encumbrance</p>	<p>any Encumbrance in relation to any property of a Bradken Group member that is:</p> <ul style="list-style-type: none"> (a) registered against a Bradken Group member and recorded in the public records maintained by the Registrar (as defined in section 10 of the PPSA), 3 Business Days before the date of the Implementation Agreement; (b) a lien arising by operation of law and in the ordinary course of trading; (c) a retention of title arrangement provided that such arrangement was entered into in the ordinary course of business; (d) a purchase money security interest (as defined in section 14 of the PPSA) which relates to the deferred purchase price of any asset or service provided in the ordinary course of trading; (e) a netting, set-off or similar arrangement or any combination of them entered into in the ordinary course for the purpose of netting debit and credit balances; or (f) an interest in personal property that would not be an Encumbrance but for section 12(3) of the PPSA
<p>Prescribed Occurrence</p>	<p>the occurrence of any of the following events:</p> <ul style="list-style-type: none"> (a) Bradken converting all or any of the Bradken Shares into a larger or smaller number of shares under section 254H of the Corporations Act; (b) Bradken or a subsidiary of Bradken resolving to reduce its share capital in any way; (c) Bradken or a subsidiary of Bradken: <ul style="list-style-type: none"> (i) entering into a buy-back agreement; or (ii) resolving to approve the terms of a buy-back agreement under subsection 257C(1) or 257D(1) of the Corporations Act; (d) Bradken or a subsidiary of Bradken making an issue of Bradken Shares (other than Bradken Shares issued as a result of the conversion of any Bradken Redeemable Preference Shares that are in existence as at the Register Date or as a result of the exercise or vesting of Employee Share Performance Rights that are in existence as at the Register Date) or granting an option over Bradken Shares or agreeing to make such an issue or grant such an option; (e) Bradken or a subsidiary of Bradken issuing, or agreeing to issue, convertible notes; (f) Bradken or a subsidiary of Bradken disposing or agreeing to dispose, of the whole, or a substantial part, of its business or property; (g) Bradken or a subsidiary of Bradken charging, or agreeing to charge, the whole, or a substantial part, of its business or property as security for any new indebtedness; (h) Bradken or a subsidiary of Bradken resolving that it be wound up; (i) the appointment of a liquidator or provisional liquidator of Bradken or of a

	<p>subsidiary of Bradken;</p> <p>(j) the making of an order by a court for the winding up of Bradken or of a subsidiary of Bradken;</p> <p>(k) an administrator of Bradken or of a subsidiary of Bradken being appointed under section 436A, 436B or 436C of the Corporations Act;</p> <p>(l) Bradken or a subsidiary of Bradken executing a deed of company arrangement; or</p> <p>(m) the appointment of a receiver or a receiver and manager in relation to the whole, or a substantial part, of the property of Bradken or of a subsidiary of Bradken</p>
PPSA	the <i>Personal Property Securities Act 2009</i> (Cth)
PPS Security Interest	a security interest that is subject to the PPSA
Register Date	the date to be set by HCM under subsections 633(2) to (4) inclusive of the Corporations Act in relation to the Takeover Bid
Related Entities	an entity that is under the Control of Bradken
relevant interest	has the meaning given in the Corporations Act as if sections 609(6) and 609(7) were omitted
Rights	all accretions, rights or benefits of whatever kind attaching to or directly or indirectly attaching to or arising from the Bradken Shares arising on or after the date of the Implementation Agreement including all rights to receive dividends, to receive or subscribe for shares, notes or other securities and all other distributions or entitlements declared, paid, made or issued by Bradken after that date, but excluding any franking credits attached to a distribution
Share Plan Rules	<p>each of:</p> <p>(a) the 2014 Bradken Share Rights Plan (EPS);</p> <p>(b) the 2014 Bradken Restricted Share Rights Plan (TSR);</p> <p>(c) the 2015 Bradken Share Rights Plan (EPS);</p> <p>(d) the 2015 Bradken Restricted Share Rights Plan (TSR);</p> <p>(e) the 2016 Bradken Restricted Cash Rights Plan (EPS); and</p> <p>(f) the 2016 Bradken Restricted Cash Rights Plan (TSR)</p>
South African Competition Act	the Competition Act, Act 89 of 1998 (as amended) (Republic of South Africa)
South African Competition Approval	<p>either:</p> <p>(a) the South African Competition Authorities have provided a notice in writing stating or to the effect that the South African Competition Authorities approve HCM acquiring Bradken Shares under the Offer; or</p> <p>(b) by reason of the elapse of time, the South African Competition Authorities are no longer empowered under the South African Competition Act to make an order prohibiting the acquisition of Bradken Shares by HCM</p>

	under the Offer
South African Competition Authorities	the competition authorities established under the South African Competition Act
Takeover Bid	the off-market takeover bid constituted by the despatch of the Offers in accordance with the Corporations Act
Tokyo Stock Exchange	the financial market operated by Tokyo Stock Exchange, Inc.
Treasurer	the Treasurer of the Commonwealth of Australia or his delegate