



Australian Government

Takeovers Panel

MEDIA RELEASE

No: TP17/44

Tuesday, 15 August 2017

Yancoal Australia Limited 02 & 03 – Panel Declines to Conduct Proceedings

The Panel has declined to conduct proceedings on the applications by (i) Senrigan Capital Management Ltd and Mr Nicholas R. Taylor dated 8 August 2017 (see [TP17/40](#)) and (ii) Mt Vincent Holdings Pty Ltd and Osendo Pty Ltd (indirect wholly-owned subsidiaries of Noble Group Limited) dated 9 August 2017 (see [TP17/41](#)) in relation to the affairs of Yancoal Australia Limited.

The applications concerned the 23.6 for 1 renounceable entitlement offer and placement announced by Yancoal on 1 August 2017. The Panel decided to hear the applications together. Among other things, the applicants submitted:

- the entitlement offer has been priced and structured in a manner that is unnecessarily highly dilutive, disproportionately affects the interest of existing minority shareholders and is highly unattractive to new investors
- dispersion strategies put in place by Yancoal are of no practical value to existing minority shareholders
- the entitlement offer and placement have the effect of transferring value and control of Yancoal to Yancoal's majority shareholder (Yanzhou Coal Mining Company Limited), the underwriters and the placement investors in a way "*that is inconsistent with the Corporations Act*" and is deliberately designed to circumvent the Panel's orders in *Yancoal Australia Limited* [2014] ATP 24 and
- certain pre-existing relationships exist between Yancoal, Yanzhou, the underwriters and the placement investors that give rise to a relationship of association, and therefore the voting power of Yanzhou and its associates will increase as a result of the entitlement offer and placement.

The Panel considered that it was not likely to find that the entitlement offer would give rise to unacceptable circumstances, in view of:

- the dispersion strategies put in place by Yancoal, which provide shareholders (including the applicants) with a guaranteed opportunity to maintain their

existing percentage interest in Yancoal (Guaranteed Allocation) and the possibility to obtain additional shares¹

- the lack of material to indicate that the entitlement offer would lead to a change of control in Yancoal or increase Yanzhou's voting power and
- the lack of material to suggest that any of Yancoal, Yanzhou, the underwriters or the placement investors are associated.²

The Panel therefore concluded there was no reasonable prospect that it would make a declaration of unacceptable circumstances. Accordingly, the Panel declined to conduct proceedings.

As the proceeding is now at an end, the undertakings given to the Panel on 10 August 2017 by Yancoal are at an end (see [IP 17/42](#)).

The sitting Panel was James Dickson, Paula Dwyer (sitting President) and Karen Phin.

The Panel will publish its reasons for the decision in due course on its website www.takeovers.gov.au.

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¹ The ability to obtain additional shares above a shareholder's Guaranteed Allocation applies where the Entitlement Offer Bookbuild does not clear the offer price

² Other than potentially Shandong Lucion Investments Holdings Group Co., Ltd. Yancoal has acknowledged that Lucion may be an associate of Yanzhou