



Australian Government

Takeovers Panel

MEDIA RELEASE

No: TP18/27

Wednesday, 11 April 2018

Strategic Minerals Corporation NL 02R, 03R, 04R and 05R – Further Variations of Orders (including Costs Order)

The initial Panel made a declaration of unacceptable circumstances on 1 February 2018 (see [TP18/06](#)) which the review Panel varied on 2 March 2018 (see [TP18/18](#)). The review Panel affirmed (see [TP18/18](#)) the initial Panel's final orders (see [TP18/12](#)) but later varied those orders to give an extension requested by Strategic Minerals, so that the independent technical expert had time to complete a site visit (see [TP18/25](#)).

The review Panel has now made two further variations of the final orders (Annexures A and B) to:

- allow the valuation report to be prepared by a new independent technical expert
- extend the time within which Strategic Minerals must dispatch its supplementary target's statement to "as soon as practicable, and at the latest by 30 April 2018"
- insert a new Order 7A requiring Strategic Minerals to provide to the review Panel by 5pm (Melbourne time) on 11 April 2018:
 - (a) a detailed step plan and timeline for all remaining action required by Strategic Minerals, the independent expert and the independent technical expert to comply with Orders 3 to 7 and
 - (b) written confirmation that each of the independent expert and the independent technical expert considers that the entries in the step plan and timeline referring to action by them to be appropriate and that the action is likely to be completed within the specified timeframe and
- insert a new Order 16A requiring Strategic Minerals to pay the costs of Ms Veronica Oma in the review proceedings.

Because the review Panel was concerned by the need for the first extension, given Strategic Minerals' previous submissions, the review Panel made the first variation conditional on Strategic Minerals providing a detailed step plan, timeline and

confirmations from the experts by 5pm (Melbourne time) on 5 April 2018 (see [TP18/25](#)). Parties were advised that the review Panel was considering whether to further vary the initial Panel's orders to make an additional order of costs in Ms Oma's favour as:

- One of the reasons why the initial Panel did not make an order requiring a new expert's report and (if the new independent expert could not undertake a technical valuation of the Strategic Minerals' tenements) a new technical expert's report from new experts was because of the costs "and the potential timing implications of requiring new experts' reports to be prepared" – see *Strategic Minerals Corporation NL* [2018] ATP 2 at [74]-[75]. This took account of submissions from Strategic Minerals regarding the delay and potential detriment likely to result from requiring new experts.
- Ms Oma's review application dated 19 February 2018 (see [TP18/15](#)) sought a variation of the initial Panel's final orders to require reports from new experts and also sought a costs order.
- The review Panel also considered timing an important consideration in not varying the initial Panel's order to require reports from new experts – see *Strategic Minerals Corporation NL 02R, 03R, 04R, and 05R* [2018] ATP 5 at [41].

Shortly before 5pm (Melbourne time) on 5 April 2018, Strategic Minerals indicated that the technical expert was unable to satisfy the conditions of the variation, and would not be able to complete their valuation report within the extended period, and accordingly Strategic Minerals was liaising with its independent expert to urgently have a new technical expert engaged.

The review Panel considers that Strategic Minerals:

- has not taken appropriate steps to comply with the orders, or sought necessary variations, in a timely manner and
- has delayed the resolution of these proceedings.

Accordingly, the review Panel considers that Strategic Minerals should be required to pay the costs of Ms Veronica Oma in the review proceedings.

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ANNEXURE A

CORPORATIONS ACT SECTIONS 657D AND 657EA VARIATION OF ORDERS

STRATEGIC MINERALS CORPORATION NL 01, 02R, 03R, 04R AND 05R

Pursuant to sections 657EA(4) and 657D(3) of the *Corporations Act 2001* (Cth)

THE REVIEW PANEL ORDERS

1. The order made on 4 April 2018 to vary the final orders made on 15 February 2018 is revoked.
2. The final orders made on 15 February 2018 are varied by replacing “14 days” in Order 7 with “18 days”.

Bruce Dyer
Director
with authority of James Dickson
Deputy President of the sitting Panel
Dated 5 April 2018



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ANNEXURE B

CORPORATIONS ACT SECTIONS 657D AND 657EA VARIATION OF ORDERS

STRATEGIC MINERALS CORPORATION NL 01, 02R, 03R, 04R AND 05R

Pursuant to sections 657EA(4) and 657D(3) of the *Corporations Act 2001* (Cth)

THE REVIEW PANEL ORDERS

The final orders made on 15 February 2018 and varied on 4 April 2018 and 5 April 2018 are further varied by:

1. Replacing “, and valuation of, Strategic Minerals” in Order 3 with “Strategic Minerals (which includes a valuation report prepared by a new independent technical expert)”.
2. Replacing “Within 18 days after the date of the supplementary bidder's statement” in Order 7 with “As soon as practicable, and at the latest by 30 April 2018”.
3. Inserting the following order after Order 7:
 - 7A. Strategic Minerals must provide to the review Panel by 5pm (Melbourne time) on 11 April 2018:
 - (a) a detailed step plan and timeline for all remaining action required by Strategic Minerals, the independent expert and the independent technical expert to comply with Orders 3 to 7 and
 - (b) written confirmation that each of the independent expert and the independent technical expert considers that the entries in the step plan and timeline referring to action by them to be appropriate and that the action is likely to be completed within the specified timeframe.

4. Inserting the following order after Order 16:

16A. On or before 12 April 2018, Strategic Minerals must pay in aggregate \$2,445.75 to Ms Veronica Oma, representing the costs and expenses actually, necessarily, properly and reasonably incurred by her in connection with the review Panel's proceedings.

Bruce Dyer
Counsel
with authority of Peter Day
President of the sitting Panel
Dated 9 April 2018