



Australian Government

Takeovers Panel

MEDIA RELEASE

No: TP22/55

Tuesday, 18 October 2022

Mineral Commodities Limited 02 – Panel Receives Application

The Panel has received an application from Simto Resources Pty Ltd in relation to the affairs of Mineral Commodities Limited. The application concerns a private placement and rights issue proposed by Mineral Commodities.

Details of the application, as submitted by the applicant, are below.

A sitting Panel has not been appointed at this stage and no decision has been made whether to conduct proceedings. The Panel makes no comment on the merits of the application.

Details

On 3 October 2022, Mineral Commodities announced a proposal “to raise up to \$15.7 million in additional funding” pursuant to:

- a private placement of 23.3 million shares at \$0.075 per share to its largest shareholder, Au Mining Limited, to raise \$1.75 million (which was completed on 29 September 2022) and
- a 1 for 3 non-renounceable rights issue of up to 186.3 million shares to raise up to \$14 million at an issue price of \$0.075 per share (the offer is scheduled to close at 5pm (WST) on Wednesday, 26 October 2022).

The rights issue is partially underwritten by Au Mining for up to \$6.6 million, and Mineral Commodities’ directors, Jacob Deysel and Guy Walker, for up to \$100,000 each. Guy Walker is also the company secretary of Au Mining.

Under the placement, Au Mining increased its voting power in Mineral Commodities from 28.2% to 31.1% and has the potential under the rights issue to increase its voting power from 31.1% to 45.23%.

The applicant submits (among other things) that:

- Au Mining failed to lodge a Form 604 Notice of Change of Interests of Substantial Holder in respect of its increase in voting power to 31.1% within the

time required, and with the documents required to be attached, under section 671B

- the dispersion policy under the rights issue is illusory in its effect and provides little or no protection for shareholders against the acquisition of control by Au Mining
- the offer document is not a prospectus or other disclosure document and therefore, Au Mining cannot rely on the exception in item 13 of section 611 (for underwriters or sub-underwriters) to increase its voting power above its remaining “creep” capacity as a result of the rights issue
- the offer document contains material deficiencies in disclosure in respect of the potential impact of the rights issue on the control of Mineral Commodities, including no information about Au Mining or its intentions in relation to Mineral Commodities and its business (if Au Mining obtains a level of shareholding that gives it effective control of Mineral Commodities) and
- the placement and the rights issue have been structured in such a way as to further increase the control of Mineral Commodities by Au Mining contrary to the principles stated in section 602.

The applicant seeks interim orders to extend the closing date of the rights issue and restrain the issue of any shares under the rights issue while the Panel considers the application.

The applicant seeks final orders including to cancel the shares issued under the placement, to prevent the rights issue proceeding or, in the alternative, allowing the rights issue to proceed either subject to certain conditions or shareholder approval pursuant to item 7 of section 611.

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