



Australian Government

Takeovers Panel

MEDIA RELEASE

No: TP14/59

Friday, 18 July 2014

Gondwana Resources Limited 02 – Panel Receives Application

The Panel has received an application from Ochre Group Holdings Limited in relation to the affairs of Gondwana Resources Limited. Gondwana is currently the subject of a conditional off-market bid by Ochre Group for all the shares in Gondwana.

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 12 May 2014, Ochre Group, which currently has voting power of 17% in Gondwana, announced its intention to make a conditional off-market bid for all the shares in Gondwana at 8.2c per share.

Prior to the announcement of Ochre Group's bid, Gondwana had announced a 1 for 1 non-renounceable, partially underwritten, entitlement issue at 3.2c per share. Following a declaration of unacceptable circumstances by the Panel (see [TP14/37](#)), Gondwana announced, on 10 June 2014, that it would not proceed with that entitlement issue.

On 11 July 2014, Gondwana issued a notice of annual general meeting containing a resolution (among others) for the issue of 15,000,000 shares and 15,000,000 free options to undisclosed placees.¹

On 17 July 2014, Gondwana announced a 1 for 1 non-renounceable, fully underwritten, entitlement issue at 3.2c per share. The entitlement issue was not referred to in the notice of annual general meeting and is not subject to shareholder approval.

Ochre Group submits (among other things) that:

¹ Gondwana currently has 24,433,440 shares and 5,250,000 options on issue

- certain shareholders in Gondwana are associates and previous placements of shares to them and previous exercises of options by them contravened s606 and that has had an effect on control or potential control of Gondwana other than in accordance with s602
- Gondwana's notice of annual general meeting contains information deficiencies and, as a result, has an effect on control or potential control of Gondwana other than in accordance with s602 and
- the entitlement issue announced on 17 July 2014 would trigger a condition of Ochre Group's bid, constituting frustrating action.

Ochre Group seeks interim orders to the effect that:

- Gondwana defer the record date and ex-entitlements date for the entitlement issue and
- associated shareholders be prevented from exercising any voting rights attached to their shares and disposing of their shares (and/or a holding lock be applied to prevent those shares being transferred) until further order of the Panel.

Ochre Group seeks final orders (among others) to the effect that:

- the entitlement issue be subject to shareholder approval
- any prospectus issued in respect of the entitlement issue contain certain disclosures
- associated shareholders be prevented from exercising any voting rights attached to their shares and shares held in excess of 20% be vested in ASIC for sale and
- resolutions in the notice of annual general meeting relating to ratifying and approving the issue of shares and options not be put to shareholders.

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