



Australian Government

Takeovers Panel

# MEDIA RELEASE

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No: TP12/64

Friday, 31 August 2012

## **Altius Mining Limited - Panel Declines to Make Declaration**

The Panel, upon further disclosure and changes to the rights issue being made, has declined to make a declaration of unacceptable circumstances in response to an application dated 14 August 2012 from Alexander King. The application concerned a 1-for-1 fully underwritten pro-rata non-renounceable rights issue to raise approximately \$5.19 million, announced by Altius on 2 August 2012 (see [TP12/56](#)).

The underwriter, Foxfire Capital Pty Ltd, is controlled by Mr John Zee (a director of Altius). Neither Foxfire nor Mr Zee currently hold any shares in Altius.

The applicant submitted (among other things) that:

- disclosure regarding the rights issue was deficient
- Altius and Foxfire had adopted no meaningful steps to mitigate the effect of the rights issue on control of Altius and
- the control effect of the rights issue was unfairly dependent on the way in which Foxfire exercised its discretion to allocate (or not allocate) the shortfall.

The Panel considered that the initial structure did not minimise the potential control effects of the rights issue. Altius, in accordance with the request of the Panel, has since announced the following changes which satisfied the Panel's concerns:

- the rights issue is fully sub-underwritten
- the underwriter and sub-underwriters will not be allocated any shares until all applications by existing shareholders under the shortfall facility are filled
- each shareholder applying for shares under the shortfall facility will be allocated their pro rata share of the shortfall having regard to their shareholdings at the record date and the allocation process will be repeated in rounds until either all of the shortfall has been allocated or all shortfall applications have been satisfied in full

- no shareholder will be allocated shares under the shortfall facility that would result in the relevant interest of that shareholder and its associates exceeding 20% of the issued share capital of Altius
- any unallocated shares remaining after all shortfall facility applications are filled will be allocated by the underwriter to the sub-underwriters and
- the closing date of the rights issue has been extended to 5pm (Melbourne time) on Friday, 7 September 2012.

Altius has also made further disclosure to shareholders regarding the need for and proposed use of funds to be raised under the rights issue offer and the current financial position of Altius.

The Panel considered that it is not against the public interest to decline to make a declaration of unacceptable circumstances.

On the basis of the above, the Panel decided not to make a declaration of unacceptable circumstances.

The sitting Panel was Guy Alexander (sitting President), Elizabeth Bryan and Andrew Sisson. The Panel will publish its reasons for the decision in due course on its website [www.takeovers.gov.au](http://www.takeovers.gov.au).

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