



Australian Government

Takeovers Panel

# MEDIA RELEASE

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No: TP22/09

Monday, 24 January 2022

## Wollongong Coal Limited 02 – Panel Accepts Undertakings and Declines to Conduct Proceedings

The Panel has declined to conduct proceedings on an application from Mr Gordon Elkington in relation to the affairs of Wollongong Coal Limited (**Wollongong**) (see [TP22/01](#)) after accepting undertakings from BDO Corporate Finance (WA) Pty Limited (**BDO**) and Jindal Steel & Power (Mauritius) Limited (**Jindal**).

The application submitted in effect that an independent expert's report (**IER**) provided by BDO in the context of a compulsory acquisition under Chapter 6A<sup>1</sup> commenced by Jindal did not comply with section 667C(2).

The Panel asked a number of questions of the parties and ASIC to assist it in determining whether to conduct proceedings. In its submissions in response, ASIC stated that it had raised various queries with BDO in relation to the IER and that its primary concern was that BDO did not engage an independent technical specialist to assess the mineral assets of Wollongong.

BDO has undertaken to (in summary) prepare a supplementary or replacement independent expert's report which includes an explanation as to how it took the matters referred to in section 667C(2) into account in determining the value of Wollongong's securities, an independent technical specialist report, and any additional disclosure as a result of ASIC's enquiries.

Jindal has undertaken to (in summary and among other things) apply to ASIC for relief to withdraw its notice of compulsory acquisition dated 17 December 2021 and issue a new notice of compulsory acquisition (with the further disclosure from BDO).

Copies of the undertakings are attached.

The Panel was satisfied its concerns were sufficiently addressed by the undertakings and that there was no reasonable prospect that it would make a declaration of

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<sup>1</sup> All references are to the *Corporations Act 2001* (Cth) unless otherwise indicated

unacceptable circumstances. Accordingly, the Panel declined to conduct proceedings.

The sitting Panel was Teresa Dyson, Michelle Jablko (sitting President) and Michael Lishman.

The Panel will publish its reasons for the decision in due course on its [website](#).

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## **ANNEXURE A**

### **AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION ACT 2001 (CTH) SECTION 201A UNDERTAKING**

#### **WOLLONGONG COAL LIMITED 02**

Jindal undertakes to the Panel that it will:

1. apply to ASIC for relief from section 664C(6) of the *Corporations Act 2001* (Cth) to allow Jindal to withdraw the Compulsory Acquisition Notice;
2. subject to ASIC granting the relief to Jindal under paragraph 1, withdraw the Compulsory Acquisition Notice;
3. following the withdrawal of the Compulsory Acquisition Notice:
  - (a) issue a new compulsory acquisition notice in relation to the shares of WCL that Jindal does not already own; and
  - (b) enclose a revised independent expert's report which addresses the matters which were raised by certain shareholders of WCL and ASIC in relation to the First Independent Expert's Report; and
4. not proceed to compulsory acquisition under the Compulsory Acquisition Notice.

In this undertaking, the following terms have their corresponding meaning:

<b>Term</b>	<b>Meaning</b>
<b>ASIC</b>	Australian Securities and Investments Commission
<b>Compulsory Acquisition Notice</b>	The compulsory acquisition notice lodged by Jindal with ASIC on 17 December 2021 in relation to the shares of WCL that it does not already own

**First Independent  
Expert's Report**

The independent expert's report dated 13 December 2021 prepared by BDO Corporate Finance (WA) Pty Limited which was distributed to shareholders along with the Compulsory Acquisition Notice

**Jindal**

Jindal Steel & Power (Mauritius) Limited

**WCL**

Wollongong Coal Limited

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**Signed by Mr Avinash Patodia, Director, Jindal Steel & Power (Mauritius) Limited**  
**With the authority, and on behalf, of**  
**Jindal Steel & Power (Mauritius) Limited**  
**Dated 20 January 2022**

**AUSTRALIAN SECURITIES AND  
INVESTMENTS COMMISSION ACT 2001 (CTH) SECTION 201A  
UNDERTAKING**

**WOLLONGONG COAL LIMITED 02**

Pursuant to section 201A of the *Australian Securities and Investments Commission Act 2001* (Cth), BDO Corporate Finance (WA) Pty Ltd (**BDO**) undertakes to the Panel that, in respect of its independent expert's report dated 13 December 2021 attached to Jindal Steel & Power (Mauritius) Limited's (**Jindal**) notice of compulsory acquisition to acquire ordinary shares in Wollongong Coal Limited (**WCL**) under Chapter 6A of the *Corporations Act 2001* (Cth), it will:

1. prepare a supplementary or replacement independent expert's report, which includes:
  - (a) an explanation as to how BDO took the matters referred to in section 667C(2) of the *Corporations Act 2001* (Cth) into account when determining the valuation of WCL's securities
  - (b) a report from an independent technical specialist on the mineral assets of WCL prepared in accordance with the JORC Code 2012 and
  - (c) any additional disclosure required as a result of ASIC's enquiries into the contents of the independent expert's report,for Jindal to lodge with ASIC and despatch to shareholders as soon as practicable and
2. confirm in writing to the Panel when it has satisfied its obligations under this undertaking.

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**Signed by Sherif Andrawes, Director  
with the authority, and on behalf, of  
BDO Corporate Finance (WA) Pty Ltd  
Dated 20 January 2022**