



Australian Government

Takeovers Panel

MEDIA RELEASE

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Molopo Energy Limited 03R, 04R & 05R Variation – Variation of Orders

On the application of ASIC, the Panel has varied the Panel's orders in *Molopo Energy Limited 03R, 04R & 05R (Existing Orders)*.¹ Among other things, the Existing Orders vested certain shares in Molopo Energy Limited (**Molopo**) held by Aurora Funds Management Ltd as responsible entity for the Aurora Fortitude Absolute Return Fund and Aurora Global Income Trust (**Aurora**) and Keybridge Capital Limited (**Keybridge**) in the Commonwealth for ASIC to sell (**Sale Shares**).

Molopo's shares were suspended on 27 July 2017 and Molopo was subsequently delisted from the ASX on 1 April 2021.

In July 2022, the Existing Orders were varied to stay the sale of the Sale Shares until certain court proceedings in Canada were resolved (**Canadian Court Proceedings**).

ASIC submitted (among other things) that:

- on 9 June 2026, it became aware that the Canadian Court Proceedings were resolved after requesting and receiving confirmation of the settlement from Molopo's legal representative²
- ASIC subsequently contacted its appointed broker to seek advice about sale of the Sale Shares in accordance with the Existing Orders and
- ASIC received confirmation from the appointed broker that it could not sell the Sale Shares as it cannot execute a sale of the Sale Shares through a financial market or identify interested purchasers or facilitate an off-market sale.

Molopo is currently pursuing court proceedings against Tetra4 (Proprietary) Limited to recover an outstanding loan (**Loan Proceedings**). Molopo's address to shareholders at its 2026 annual general meeting indicated that the Molopo Board

¹ [2017] ATP 12 as varied in [2020] ATP 18 and [2022] ATP 20

² ASIC submitted that it understands the Canadian Court Proceedings were resolved on 29 December 2024 but does not consider that it received notice from Molopo as required by Order 15 of the Existing Orders

intends to distribute Molopo's assets to shareholders upon recovery of the loan and sale of a gold stream.

ASIC sought a variation to the Existing Orders to stay the sale of the Sale Shares until the earlier of:

- six months after the Loan Proceedings are resolved (whether by settlement, judgement or otherwise) and any appeal rights having lapsed or
- Molopo provides notice to shareholders to convene a meeting to pass a resolution to voluntarily wind up the company pursuant to section 491 of the Corporations Act or undertakes any other transaction that will result in the winding up of Molopo, and both Keybridge and Aurora request in writing that ASIC transfer the Sale Shares to them.

ASIC also submitted (among other things) that:

- on 25 May 2026, Aurora had advised that Molopo had declared a dividend of \$2 million, and requested payment of the amount attributable to the Sale Shares held on trust for it once the dividend had been paid to ASIC and
- having regard to the unacceptable circumstances declared in 2017, the remedial nature of the Existing Orders, the passage of time and Molopo's present circumstances, the dividend should be accounted for directly to Aurora and Keybridge.

ASIC sought a further variation to the Existing Orders to permit Molopo to pay any dividend or other distribution attributable to the Sale Shares directly to Aurora and Keybridge in the proportions referable to the Sale Shares held on trust by the Commonwealth for each of them, or alternatively to permit ASIC or the Commonwealth to account for and pay the relevant amounts to Aurora and Keybridge, net of any costs, fees or expenses incurred to do so.

The Panel, after seeking submissions from interested parties, was supportive of the variation request and varied the Existing Orders to the effect sought by ASIC, together with other minor variations including in relation to notification methods.

The variation to the Existing Orders is set out at Annexure A.

The sitting Panel was Marissa Freund, Marina Kelman and Neil Pathak (sitting President).

The Panel will publish its reasons for the decision in due course on its website www.takeovers.gov.au.

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Australian Government

Takeovers Panel

**ANNEXURE A
CORPORATIONS ACT
SECTION 657D
VARIATION OF ORDERS**

MOLOPO ENERGY LIMITED 03R, 04R & 05R VARIATION

The Panel in *Molopo Energy Limited 03R, 04R & 05R* made a declaration of unacceptable circumstances on 30 June 2017 and final orders on 7 July 2017.

The Panel's orders were varied on 18 September 2020 and 14 July 2022.

Pursuant to section 657D(3) of the *Corporations Act 2001* (Cth) the final orders made on 7 July 2017 (as varied on 18 September 2020 and 14 July 2022) are varied by:

- (a) renumbering Order 12 to become Order 28 and inserting definitions for "Accrued Costs", "April Dividend", "Cash Distribution", "date of these orders", "Loan Proceedings", "Nominated Addresses", "Reinstatement Date", "Relevant Party", "Relevant Proceedings" and "Withholding Amount"
- (b) renumbering Order 13 to become Order 12, Order 14 to become Order 27 and Order 15 to become Order 13
- (c) inserting new Orders 14 to 15 and 19 to 26 (inclusive)
- (d) amending Orders 16 and 17 and
- (e) making other consequential amendments,

so that the orders read as follows.

THE PANEL ORDERS

Divestment orders

1. The Sale Shares are vested in the Commonwealth on trust for Keybridge and Aurora respectively.
2. ASIC must:
 - (a) sell the Sale Shares in accordance with these orders and

- (b) account to Keybridge and Aurora respectively for the proceeds of sale, net of the costs, fees and expenses of the sale and any costs, fees and expenses incurred by ASIC and the Commonwealth (if any).
- 3. ASIC must:
 - (a) retain an Appointed Seller to conduct the sale and
 - (b) instruct the Appointed Seller:
 - (i) to use the most appropriate sale method to secure the best available sale price for the Sale Shares that is reasonably available at that time in the context of complying with these orders, including the stipulated timeframe for the sale and the requirement that none of the Associated Parties or their respective associates may acquire, directly or indirectly, any of the Sale Shares
 - (ii) to provide to ASIC a statutory declaration that, having made proper inquiries, the Appointed Seller is not aware of any interest, past, present, or prospective which could conflict with the proper performance of the Appointed Seller's functions in relation to the disposal of the Sale Shares
 - (iii) unless the Appointed Seller sells Sale Shares on market, that it obtain from any prospective purchaser of Sale Shares a statutory declaration that the prospective purchaser is not associated with any of the Associated Parties and
 - (iv) to dispose of all of the Sale Shares within six months from the date of its engagement.
- 4. The Company and the Associated Parties must do all things necessary to give effect to these orders, including:
 - (a) doing whatever is necessary to ensure that the Commonwealth is registered with title to the Sale Shares in the form approved by ASIC and
 - (b) until the Commonwealth is registered, complying with any request by ASIC in relation to the Sale Shares.
- 5. None of the Associated Parties or their respective associates may, directly or indirectly, acquire any of the Sale Shares.
- 6. None of the Associated Parties or their respective associates may dispose of, transfer or charge any Sale Shares otherwise than in accordance with these orders.
- 7. None of the Associated Parties or their respective associates may vote any Sale Shares.

8. Nothing in these orders obliges ASIC to invest, or ensure interest accrues on, any money held in trust under these orders.

Acquisition restriction orders

9. None of the Associated Parties or their respective associates may, directly or indirectly, acquire any shares in the Company before the date that is six months after the date of these orders.
10. From the end of the period referred to in Order 9, none of the Associated Parties or their respective associates may take into account any relevant interest or voting power that any of the Associated Parties or their respective associates had, or have had, in the Sale Shares when calculating the voting power referred to in item 9(b) of s611 of the *Corporations Act 2001* (Cth), of a person six months before an acquisition exempted under item 9 of s611.

Disclosure order

11. Within 2 business days after the date of these orders, the Associated Parties must disclose, in the form of a substantial holder notice, as approved by the Panel:
 - (a) that the Associated Parties became associated in relation to the Company by no later than 26 October 2016 and their current holdings in the Company
 - (b) the name of each associate who has a relevant interest in voting shares in the Company
 - (c) the nature of their association
 - (d) details of any relevant agreement through which they have a relevant interest in shares in the Company and
 - (e) all transactions undertaken during the period covered by the disclosure.

Notice Requirements

12. The Company shall notify the parties, ASIC and the Panel executive, as soon as practicable and within no later than 3 business days, when the Court Proceedings have resolved.
13. The Company shall notify the parties, ASIC and the Panel executive, as soon as practicable and within no later than 3 business days, when the Canadian Court Proceedings have resolved.
14. The Company shall notify ASIC as soon as practicable, and within 3 business days, after any of the following occur:

- (a) the Loan Proceedings have resolved
- (b) the Company proposes or decides to make any form of Cash Distribution that is or may be payable in respect of any of the Sale Shares
- (c) the Company issues a notice of meeting which includes a resolution seeking approval for a Cash Distribution or
- (d) the Company makes payment of a Cash Distribution in accordance with a direction that has been given under Order 20.

Any notification under paragraph (a) of this order must also be made to the parties and the Panel executive at the same time it is made to ASIC.

Stay and revocation of orders

15. Orders 2 and 3 are stayed:

- (a) on and from 19 October 2026 until the earlier of:
 - (i) the Reinstatement Date and
 - (ii) the date when Order 16 takes effect or
- (b) if a winding up of the Company begins or commences – for so long as the Company is being wound up.

16. Orders 1, 2 and 3 are revoked, if:

- (a) (i) the Company provides notice to the shareholders to convene a meeting to pass a resolution to voluntarily wind up the Company pursuant to section 491 of the *Corporations Act 2001* (Cth) or to undertake any other transaction that will result in the winding up of the Company and (ii) both Aurora and Keybridge request in writing that ASIC transfer the Sale Shares to them or
- (b) the Company is wound up, or deregistered.

17. The Company and ASIC must do all things necessary to give effect to any request received under Order 16(a)(ii), including:

- (a) doing whatever is necessary to ensure that Keybridge and Aurora are registered with title to the Sale Shares in the form approved by ASIC and
- (b) until Keybridge and Aurora are registered, complying with any request by Keybridge and Aurora in relation to the Sale Shares.

For the avoidance of doubt, Order 5 does not apply to any transaction necessary to give effect to a request under Order 16(a)(ii).

18. If any resolution contemplated by Order 16 is not passed or is withdrawn, Orders 1, 2 and 3 are reinstated with effect from the date that is 2 months after the shareholder meeting, and for the avoidance of doubt Order 4 applies, with effect from the same date.

Cash distributions

19. Where:

- (a) a Cash Distribution has become payable in respect of any Sale Shares at any time when the Commonwealth is registered with title to the Sale Shares
- (b) the Commonwealth has received payment of the Cash Distribution in respect of those Sale Shares and
- (c) no direction under Order 20 has been given that applies to the Cash Distribution in respect of those Sale Shares,

ASIC must account to Keybridge and Aurora respectively for the payment received net of:

- (d) the costs, fees and expenses incurred by ASIC and the Commonwealth (if any) in connection with receiving or making the payment and
- (e) any Withholding Amount.

In accounting to Keybridge or Aurora under this order, ASIC must provide a copy of any statement or similar document received from the Company recording the payment of the Cash Distribution.

20. ASIC may, at any time when the Commonwealth is registered with title to the Sale Shares, give a direction to the Company under this order by providing notice to the Company and each other Relevant Party of the following:

- (a) that ASIC requires the Company to:
 - (i) make payment of Cash Distributions referable to a particular number of Sale Shares directly to Keybridge and/or
 - (ii) make payment of Cash Distributions referable to a particular number of Sale Shares directly to Aurora
- (b) whether the direction applies to all Cash Distributions, a specified Cash Distribution, or a specified class of Cash Distributions and

- (c) if ASIC has given a notification under Order 22 – the most recently notified Withholding Amount.

ASIC may amend or revoke the direction at any time by providing notice to the Company and each other Relevant Party of the amendment or revocation.

- 21. If ASIC has given a direction under Order 20 that applies to a Cash Distribution that is payable in respect of Sale Shares, the Company must:
 - (a) take all steps necessary to pay the Cash Distribution (less any Withholding Amount) to Keybridge and/or Aurora in accordance with the direction and
 - (b) pay any Withholding Amount to ASIC.

Any payment by the Company made in accordance with this order in relation to Sale Shares shall be taken to satisfy any obligation the Company would otherwise have to pay the Cash Distribution to the Commonwealth in respect of those Sale Shares. This order does not require a Cash Distribution to be paid on terms or conditions, or within a timeframe, that differs from those applicable if it were to be paid to the Commonwealth as registered holder of the Sale Shares (other than to the extent necessary for the payment to be made in the manner set out in the direction).

- 22. If ASIC is of the opinion that it will no longer be able to deduct in full the Accrued Costs from the proceeds of sale under Order 2 in the event:
 - (a) Order 16 takes effect or
 - (b) a Cash Distribution that has been proposed by the Company is paid,

ASIC must notify the Company and each other Relevant Party of a reasonable estimate of the Accrued Costs (such estimate, the **Withholding Amount**).

- 23. If Order 16 takes effect and ASIC is satisfied that it is no longer possible for Order 18 to take effect, ASIC must account to Keybridge and Aurora respectively for any Withholding Amount it has received that exceeds the actual Accrued Costs.
- 24. If ASIC completes the sale of the Sale Shares under Orders 2 and 3, ASIC must:
 - (a) reduce the costs, fees and expenses it deducts from the proceeds of sale under Order 2(b) by an amount equivalent to the lower of:
 - (i) the total of all Withholding Amounts it has withheld or received and
 - (ii) the actual Accrued Costs and

- (b) account to Keybridge and Aurora respectively for the amount (if any) that the total of all Withholding Amounts it has withheld or received exceeds the actual Accrued Costs.

Notification methods and other orders

- 25. No later than 22 October 2026 each Relevant Party must notify each other Relevant Party of up to four electronic addresses at which they are able to receive electronic communications that they nominate for the purposes of this order. The electronic address or addresses may be updated by notifying each other Relevant Party of one or more new or replacement addresses at any time (provided that there are no more than four applicable addresses at any time).
- 26. Where these orders:
 - (a) require a Relevant Party to advise or notify another Relevant Party about a matter (other than the initial notification required under Order 25) or
 - (b) permit a Relevant Party to make a request of another Relevant Party,the notification or request must be given by way of an electronic communication sent to the relevant Nominated Addresses of the Relevant Party, unless the Relevant Party has agreed in writing that the advice, notification or request can be given in another manner.
- 27. Any party (including the Company on the action of any two directors) and ASIC each have the liberty to apply to the Variation Panel for further orders in relation to these orders (as varied).

Interpretation

- 28. In these orders the following terms apply.

Accrued Costs	the amount of costs, fees and expenses (if any) incurred by ASIC and the Commonwealth that they are both entitled to, and intend to, deduct from the proceeds of sale under Order 2(b)
Appointed Seller	an investment bank or stock broker
April Dividend	the dividend of \$2,000,000 declared by the Company on 10 April 2026
ASIC	Australian Securities and Investments Commission, as agent of the Commonwealth
Associated Parties	Keybridge and Aurora

Aurora	Aurora Funds Management Ltd, including as responsible entity for the Aurora Fortitude Absolute Return Fund and Aurora Global Income Trust
Canadian Court Proceedings	the proceedings in the Court of Queen's Bench of Alberta in respect to the joint venture activities of Molopo Energy Canada Limited
Cash Distribution	a cash dividend, share capital reduction involving payment of a cash sum, a cash sum to be paid to a member in connection with winding up the Company or similar cash distribution from the Company (or external administrator) to persons who hold shares in the Company, including the April Dividend
Company	Molopo Energy Limited
Court Proceedings	the Supreme Court of Victoria proceedings brought by the Company against its former directors (Case numbers S ECI 2018 00120, S ECI 2019 01336 and S ECI 2020 01566)
date of these orders	7 July 2017
Keybridge	Keybridge Capital Limited
Loan Proceedings	the proceedings initiated in the High Court of South Africa Gauteng Division, Johannesburg by the Company against Tetra4 (Proprietary) Limited in respect of a loan agreement (Case Number: 2024 - 130474)
Nominated Addresses	of a Relevant Party means the electronic addresses for receiving electronic communications that have most recently been nominated by the Relevant Party in accordance with Order 25
on market	in the ordinary course of trading on Australian Securities Exchange and not by crossing or special crossing
Reinstatement Date	the date that is the later of: (a) 6 months after all Relevant Proceedings are resolved (whether by

settlement, judgement or otherwise)
and any appeal rights have lapsed and

- (b) such other date, being a date that is not more than 18 months after all Relevant Proceedings are resolved (whether by settlement, judgement or otherwise) and any appeal rights have lapsed, that each Relevant Party has agreed to in writing and notified to the Panel executive

Relevant Party	each of ASIC, Aurora, Keybridge and the Company
Relevant Proceedings	the Court Proceedings, Canadian Court Proceedings and Loan Proceedings
Sale Shares	3,666,285 ordinary shares in the issued capital of Company held by Keybridge 39,540,910 ordinary shares in the issued capital of Company held by Aurora
Variation Panel	the Panel as constituted for the purposes of considering the order variation request made by Aurora dated 14 July 2020 or, if one or more of that Panel's members are unavailable, a Panel constituted under section 184 of the <i>Australian Securities and Investments Commission Act 2001</i> (Cth)
Withholding Amount	has the meaning given in Order 22

Tania Mattei
General Counsel
with authority of Neil Pathak
President of the sitting Panel
Dated 19 October 2026