



Australian Government

Takeovers Panel

MEDIA RELEASE

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Gloucester Coal Limited - Panel Receives Application

The Takeovers Panel has received an application dated 27 February 2009 from Noble Group Limited in relation to the affairs of Gloucester Coal Limited. On 20 February 2009, Gloucester and Whitehaven Coal Limited announced a merger through an off-market scrip takeover offer of 1 Gloucester share for every 2.45 Whitehaven shares. On 27 February 2009, Noble announced its intention to make an off-market cash takeover offer for Gloucester of \$4.85 per Gloucester share. A condition of the Noble bid is that the Whitehaven merger does not proceed.

Noble submits that the following constitutes unacceptable circumstances:

- the Whitehaven merger is a reverse takeover, which will effect a change in control of Gloucester without Gloucester shareholders having any say in whether the change of control should occur and without the Gloucester directors having the ability to recommend to shareholders a superior proposal and
- the Whitehaven merger has been structured in a manner which locks out rival proposals for control of Gloucester and ensures that a change of control occurs in an anti-competitive environment.

Noble seeks an interim order that Gloucester be restrained from dispatching its bidder's statement for the Whitehaven merger. Noble seeks final orders, including to the effect that:

- the Whitehaven merger be conditional on no superior proposal for Gloucester being made and
- where a competing proposal for Gloucester is made that the directors believe is not a superior proposal, the Whitehaven merger be conditional on approval by Gloucester shareholders.

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

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