



**Australian Government**

**Takeovers Panel**

**Reasons for Decision  
Coppermoly Limited  
[2013] ATP 8**

**Catchwords:**

*Rights issue – non-renounceable – underwriting – shortfall facility – acquisition after underwriting agreement – deficient disclosure – intentions – identity – need for funds – potential effect on control – declaration – interim orders – final orders*

*Corporations Act 2001 (Cth), sections 602, items 9 and 13 of section 611, 657A, 657D, 657E*

*Guidance Note 17: Rights Issues*

*Altius Mining Limited [2012] ATP 17, Real Estate Capital Partners USA Property Trust [2012] ATP 6, Powerlan Limited [2010] ATP 2, Redflex Holdings Limited [2009] ATP 17, DataDot Technology Limited [2009] ATP 13, Dromana Estate Limited 01 [2006] ATP 4, InvestorInfo Limited [2004] ATP 6*

Interim order	IO undertaking	Conduct	Declaration	Final order	Undertaking
Yes	No	Yes	Yes	Yes	No

**INTRODUCTION**

1. The Panel, Ewen Crouch, Elizabeth Hallett and Robert Johanson (sitting President), made a declaration of unacceptable circumstances in relation to the affairs of Coppermoly Limited. The application concerned a 1 for 4 non-renounceable entitlement offer, fully underwritten by Jelsh Holdings Pty Ltd. The Panel concluded that the acquisition of a substantial interest in Coppermoly by Jelsh’s associates after the announcement of the entitlement offer and entry into the underwriting agreement, and the structure of the entitlement offer, were unacceptable. It also considered that there were material information deficiencies in Coppermoly’s disclosure.

2. In these reasons, the following definitions apply.

<b>Applicant</b>	Yeaman Nominees Pty Limited as trustee for the Yeaman Super Fund
<b>Barrick</b>	Barrick (PNG Exploration) Limited
<b>Coppermoly</b>	Coppermoly Limited
<b>Jelsh</b>	Jelsh Holdings Pty Ltd
<b>Re-Acquisition Agreement</b>	the agreement between Barrick and Coppermoly’s wholly-owned subsidiary (Copper Quest PNG Limited) under which Coppermoly will acquire Barrick’s interest in the West New Britain project (3 exploration licenses in the West New Britain province of Papua New Guinea)
<b>Rights Issue</b>	the non-renounceable entitlement offer announced by Coppermoly on 26 June 2013 (as revised by supplementary

prospectus dated 11 July 2013), offering 1 new share for every 4 shares held by eligible shareholders to raise approximately \$1.62 million at an offer price of \$0.045 per share

## FACTS

3. Coppermoly is an ASX and Port Moresby Stock Exchange-listed company (ASX code: COY). Its key assets are located in Papua New Guinea, including a 28% interest in the West New Britain project. Barrick held the other 72%.
4. The Applicant is a Coppermoly shareholder.
5. On 26 June 2013, Coppermoly announced that it had entered into the Re-Acquisition Agreement. Completion under the Re-Acquisition Agreement was to occur in stages and was conditional on Coppermoly raising a minimum of \$2 million on or before 14 August 2013, which condition Coppermoly could waive.<sup>1</sup>
6. On 26 June 2013, Coppermoly also announced:
  - (a) the Rights Issue, which was fully underwritten by Jelsh and
  - (b) a placement of 3,700,000 shares to Jelsh to raise \$166,500.
7. The Rights Issue was priced at a premium to recent trading in Coppermoly shares.
8. In its prospectus, Coppermoly described the purpose of the Rights Issue as to “raise sufficient capital to fund the first payment due to Barrick to acquire an additional 23% in the West New Britain Project, being \$1,000,000” and also to “fund further exploration activity”.
9. The Rights Issue included a shortfall facility, however the directors of Coppermoly reserved the right to reject any application for shortfall shares.
10. The prospectus stated that Jelsh had voting power of 0.53% in Coppermoly.
11. On 10 July 2013, Coppermoly announced that a related entity of Jelsh, WXH Holdings Pty Ltd, had entered into an agreement to acquire 16,290,333 Coppermoly shares from NEMI Northern Energy & Mining Inc. (the largest shareholder at that time). As a result of this acquisition, and on-market acquisitions, Jelsh’s voting power in Coppermoly increased to 12.06%.
12. On 30 July 2013, the Rights Issue closed. 507,595 shares were applied for under the Rights Issue and 123,220 shares under the shortfall facility (1.75% of the total available). Accordingly, Jelsh was to be issued 35,342,331 shares under the underwriting agreement. But for the interim order (discussed below), this would have increased its voting power in Coppermoly to approximately 26.76%.

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<sup>1</sup> Coppermoly extended the date to 30 September 2013 in accordance with the terms of the Re-Acquisition Agreement

## APPLICATION

### Declaration sought

13. By application dated 26 July 2013, the Applicant sought a declaration of unacceptable circumstances. The Applicant submitted (among other things) that:
  - (a) the Rights Issue (particularly the price) had been structured so as to discourage participation by other shareholders
  - (b) Coppermoly appeared to have taken no steps (including by having an “ineffective” shortfall dispersal mechanism) to mitigate the control effects of the Rights Issue and underwriting
  - (c) the potential control impact of the Rights Issue was exacerbated by Jelsh increasing its voting power after announcement of the Rights Issue and
  - (d) Coppermoly's disclosure of the Rights Issue was deficient, including in relation to Jelsh and how the issue price was determined.
14. The Applicant submitted that “*if the Rights Issue proceeds on the current basis, Jelsh will move from being an insignificant shareholder to Coppermoly's largest (and controlling) shareholder holding voting power in Coppermoly as high as 26.63%*”<sup>2</sup> in circumstances contrary to the s602<sup>3</sup> principles.

### Interim order sought

15. The Applicant sought an interim order to the effect that Coppermoly extend the offer period for the Rights Issue and not allot any shares, until no earlier than 7 days after the date the application is determined by the Panel.
16. On 29 July 2013, the President made interim orders (Annexure A). The interim orders required that until the sitting Panel made its determination, Coppermoly postpone commencement of deferred settlement trading of Rights Issue shares, not issue or allot Rights Issue shares without Panel approval and hold subscription money separately from other funds and on trust for subscribers. The President did not consider it necessary to extend the offer period for the Rights Issue, as it could be re-opened if appropriate.

### Final orders sought

17. The Applicant sought final orders to the effect that:
  - (a) the Rights Issue be cancelled and subscription money refunded
  - (b) the underwriting agreement be terminated without liability or penalty to Coppermoly

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<sup>2</sup> 26.63% was based on the disclosure in the supplementary prospectus

<sup>3</sup> References are to the *Corporations Act 2001* (Cth) unless otherwise specified

- (c) Coppermoly be restrained for 12 months from entering into any transaction or issuing shares if it might result in a person obtaining voting power of more than 20% without prior shareholder approval and
- (d) Coppermoly bear the Applicant's costs in respect of the proceedings.

## DISCUSSION

### Purpose of Rights Issue

- 18. The Applicant submitted that by entering into the Re-Acquisition Agreement Coppermoly created a need for funds that was *"not linked with the solvency of Coppermoly"*.
- 19. Coppermoly submitted that while *"the primary purpose of the [Rights Issue] was to raise funds to satisfy the first payment due to Barrick under the Re-Acquisition Agreement, it was also to meet the company's general working capital expenses"*. It further submitted that, if the Rights Issue did not proceed, it would have significant cash flow issues for Coppermoly.
- 20. We accept that Coppermoly has a legitimate reason for undertaking the Rights Issue.

### Structure of the Rights Issue

#### Price

- 21. The Rights Issue was priced at \$0.045 per share, a 61% premium to the lowest price, and a 25% premium to the highest price, of Coppermoly shares in the 3 months prior to the announcement of the Rights Issue.
- 22. The Applicant submitted that *"by pricing the [Rights Issue] at a significant premium, Coppermoly worsened the diluting effect of the offer and underwriting as it discouraged take up by the shareholders which has resulted in a larger proportion of the shares being offered being taken up by the underwriter"*.
- 23. Coppermoly submitted that the offer price reflected the *"significant opportunity"* that the acquisitions under the Re-Acquisition Agreement presented. It also submitted that the low uptake under the Rights Issue was *"attributable to the current negative sentiment in the equity markets generally, particularly for junior exploration companies, and not as a result of the pricing of the [Rights Issue]"*.
- 24. We accept Coppermoly's submission that if the Rights Issue had been priced at a discount and there was a similar level of take up by shareholders, *"the control impact would have been more than is likely if the [Rights Issue] proceeds"*.
- 25. Regardless of whether Coppermoly had a legitimate reason for the pricing of its Rights Issue, the pricing made it *"more likely to be considered unattractive by*

*shareholders...leading to a larger shortfall and a greater increase in the underwriter's voting power".<sup>4</sup>*

#### *Shortfall facility*

26. The Entitlement Offer included a shortfall facility, however the prospectus provided that the directors of Coppermoly reserved the right to reject any application for shortfall shares.
27. The Panel has been critical of shortfall facilities that incorporate such discretion in relation to allocation.<sup>5</sup>

#### **Underwriting**

28. Both the Applicant and ASIC submitted that the acquisition of shares by Jelsh's associates after the announcement of the Rights Issue and the entry into the underwriting agreement "*exacerbated*" the potential control effects of the underwriting.
29. We agree. The acquisitions after taking on the underwriting put Jelsh in a position where it would be likely to increase its voting power in Coppermoly to more than 20%.
30. Coppermoly submitted that it had "*sought out and considered various funding proposals put to it*". It chose Jelsh "*on the basis that it was willing to underwrite a smaller pro-rata offer at a premium to the current market price*".
31. Jelsh submitted that it "*took comfort that any regulatory review of the actions of the board of Coppermoly would identify that the board had thoroughly tested the market for funding prior to entering into the current arrangement with Jelsh*".
32. The nature of underwriting is to ensure the success for the company of the issue and usually, at the same time, to lay off the risk of equity holding to other parties.<sup>6</sup>
33. Jelsh indicated that it did not intend to have the Rights Issue sub-underwritten. Moreover, Jelsh submitted that underwriting the Rights Issue represented "*an excellent opportunity to invest in Coppermoly*".
34. Ensuring the underwriting exception in item 13 of s611 is not being used in a way that infringes the policies, or avoids the protections, of Chapter 6 is an important element of the policy behind the exception.<sup>7</sup> In our view, Jelsh's acquisition of Coppermoly shares after taking on the role of underwriter gives rise to

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<sup>4</sup> *InvestorInfo Limited* [2004] ATP 6 at [49]. See also Guidance Note 17: Rights Issues at [12]

<sup>5</sup> *Dromana Estate Limited 01* [2006] ATP 4 at [30]-[32], *Redflex Holdings Limited* [2009] ATP 17 at [28], *Powerlan Limited* [2010] ATP 2 at [42]-[43]. See also *Altius Mining Limited* [2012] ATP 17 at [30] in relation to underwriter discretion

<sup>6</sup> *DataDot Technology Limited* [2009] ATP 13 at [35]. See also *Real Estate Capital Partners USA Property Trust* [2012] ATP 6 at [44]-[47]

<sup>7</sup> *InvestorInfo Limited* [2004] ATP 6 at [36]

unacceptable circumstances. This position is not different because Coppermoly had considered alternative funding proposals prior to choosing Jelsh.

## Disclosure

### *Jelsh's identity and intentions*

35. The prospectus contained very limited information about Jelsh, other than that it was the underwriter. The supplementary prospectus disclosed that Jelsh was “*an investor in the resources industry, with an interest in investing in prospective assets, including base and precious metals, in Australia and elsewhere*”.
36. Coppermoly submitted that the maximum potential control effect “*was at the lower end of the spectrum of ‘control’ and therefore less disclosure regarding the potential control effect could be expected to be included in the Prospectus*”. Jelsh made similar submissions that, even if it acquired voting power of approximately 26%, it did “*not consider disclosure about its intentions...necessary or appropriate in the circumstances*”.
37. We do not agree. In our view, the very limited disclosure in relation to Jelsh would not enable Coppermoly shareholders to consider the “*desirability of making a further investment in the company, the control implications of the rights issue and whether to take steps to protect against the dilution of their existing holding*”.<sup>8</sup> This is important where the underwriter is likely to become a significant shareholder and even more so where it is clear it intends to remain an investor in the company.

### *Changed intentions of directors*

38. The prospectus stated that the Coppermoly board recommended that all shareholders take up their entitlement and advised that two of its directors, Maurice Gannon and Ben Faulkner, intended to take up their respective entitlements under the Rights Issue. The calculation of Jelsh’s maximum potential voting power was on the assumption that these directors took up their full entitlement.
39. Following the close of the Rights Issue, it was clear that one of the directors had not taken up his entitlements. Coppermoly submitted that it only became aware of this after the closing date of the Rights Issue. In our view, the director should have informed Coppermoly as soon as his intention changed and this should have then been disclosed promptly by the company.

## DECISION

### Declaration

40. It appears to us that the circumstances are unacceptable having regard to:

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<sup>8</sup> Guidance Note 17: Rights Issues at [25]

- (a) the effect that the Panel is satisfied the circumstances have had, will have or are likely to have on:
  - (i) the control, or potential control, of Coppermoly or
  - (ii) the acquisition, or proposed acquisition, by a person of a substantial interest in Coppermoly or
  - (iii) the purposes of Chapter 6 set out in section 602.

41. Accordingly, we made a declaration (Annexure B) and consider that it is not against the public interest to do so. We had regard to the matters in s657A(3).

### Orders

42. Following the declaration, we made final orders (Annexure C). Under s657D the Panel's power to make orders is very wide. The Panel is empowered to make 'any order'<sup>9</sup> if 4 tests are met:

- (a) It has made a declaration under s657A. This was done on 20 August 2013.
- (b) It must not make an order if it is satisfied that the order would unfairly prejudice any person. As discussed below, we are satisfied that our orders do not unfairly prejudice any person.
- (c) It gives any person to whom the proposed order would be directed, the parties and ASIC an opportunity to make submissions. This was done on 12 August 2013. Each party made submissions and rebuttals.
- (d) It considers the orders appropriate to either protect the rights and interests of persons affected by the unacceptable circumstances, or any other rights or interests of those persons. The orders do this by providing shareholders with an additional opportunity to acquire shortfall shares, requiring further disclosure and restricting Jelsh's voting rights and ability to participate in any future rights issue (if it holds voting power in excess of 20% in Coppermoly after completion of the offer process).

43. Our orders (among other things) require that:

- (a) Jelsh is not able to rely on any rights it may have to terminate the underwriting agreement by reason of the Panel proceedings.
- (b) Jelsh complete its obligations under the underwriting agreement to acquire the shortfall shares. Coppermoly is not prejudiced because this allows it to obtain the funding for the Re-Acquisition Agreement. Jelsh is not prejudiced because it had agreed to do this.
- (c) Jelsh offer the shortfall shares to Coppermoly shareholders so that shareholders who were originally entitled to participate in the Rights Issue

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<sup>9</sup> Including a remedial order but other than an order requiring a person to comply with a provision of Chapters 6, 6A, 6B or 6C

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are offered their full original entitlement and shares in excess of their entitlement. We consider this will address the unacceptable circumstances if it results in Jelsh decreasing its voting power in Coppermoly to less than 20%. If not, we also made the order in paragraph 45.

44. We also considered alternative orders where Jelsh's voting power in Coppermoly exceeds 20% following the process of offering the shortfall shares.
- (a) Divestment of shares acquired in excess of 20%. This was the Applicant and ASIC's preferred approach. Jelsh submitted that it would be unfairly prejudicial to Jelsh if it were effectively forced to take shares (by completing the underwriting at \$0.045 per share) and dispose of some of them at a significantly lower price, as was expected given the market price of Coppermoly shares at the time. Coppermoly also considered this order as going "*beyond that which is necessary to remedy*" the unacceptable circumstances. On balance, we do not consider divestment to be the most appropriate order.
  - (b) Shares acquired in excess of 20% be subject to a voting freeze with such voting rights being restored at a rate of 3% every 6 months (being the rate permitted under item 9 of s611). Coppermoly preferred this order to divestment, submitting that "*a voting freeze removes Jelsh's increase in voting power beyond the 20% Chapter 6 prohibition, thereby removing the impact of the unacceptable circumstances*". Jelsh considered that although a voting freeze was "*clearly fairer*" than a divestment, it was still unfairly prejudicial.
  - (c) Jelsh also proposed alternative orders, being shareholder approval of the Rights Issue or capping Jelsh's voting power at 20%. In both alternatives, the underwriting agreement would terminate if approval was not obtained or Jelsh's voting power exceeded 20% (and no sub-underwriters were found). Both the Applicant and ASIC submitted that these orders were not appropriate, particularly given the potential risk to Coppermoly's funding if the underwriting agreement were terminated.
45. Of the alternatives, we consider the voting freeze to be the most appropriate order in respect of Jelsh's voting power in Coppermoly in excess of 20%. We recognise that the acquisition of shares from Coppermoly's then largest shareholder, who was a likely short-term seller, might have been beneficial for Coppermoly. We consider this was the fairest order for all parties.

#### Costs

46. We do not make any costs orders.

**Robert Johanson**  
**President of the sitting Panel**  
**Decision dated 20 August 2013**  
**Reasons published 29 August 2013**

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### Advisers

Party	Advisers
Coppermoly Limited	Piper Alderman
Jelsh Holdings Pty Ltd	McCullough Robertson
Yeaman Nominees Pty Limited as trustee for the Yeaman Super Fund	DibbsBarker



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**Annexure A**

**CORPORATIONS ACT  
SECTION 657E  
INTERIM ORDERS**

**COPPERMOLY LIMITED**

Yeaman Nominees Pty Limited as trustee for the Yeaman Super Fund made an application to the Panel dated 26 July 2013 in relation to the affairs of Coppermoly Limited.

The President **ORDERS**:

1. Coppermoly must immediately take all action necessary to postpone the commencement of deferred settlement trading of new shares to be issued under the rights issue announced by Coppermoly on 26 June 2013.
2. Coppermoly must not issue or allot any new shares under the rights issue without the prior approval of the Panel.
3. Any money received by Coppermoly as subscriptions for new shares under the rights issue must be held:
  - (a) separately from all other Coppermoly funds and
  - (b) on trust for the subscribers.
4. These interim orders have effect until the earliest of:
  - (a) further order of the Panel
  - (b) the determination of the proceedings and
  - (c) 2 months from the date of these interim orders.

**Allan Bulman**  
**Director**  
**with authority of Vickki McFadden**  
**President**  
**Dated 29 July 2013**



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**Annexure B**

**CORPORATIONS ACT  
SECTION 657A**

**DECLARATION OF UNACCEPTABLE CIRCUMSTANCES**

**COPPERMOLY LIMITED**

**CIRCUMSTANCES**

1. Coppermoly Limited (**Coppermoly**) is a company listed on ASX and Port Moresby Stock Exchange.
2. On 26 June 2013, Coppermoly announced:
  - (a) a 1 for 4 non-renounceable entitlement offer at \$0.045 per share to raise up to approximately \$1,950,000<sup>10</sup>, fully underwritten by Jelsh Holdings Pty Ltd (**Jelsh**) and
  - (b) a placement of 3,700,000 shares to Jelsh.
3. The entitlement offer included a shortfall facility. The prospectus included a statement that the directors of Coppermoly reserved the right to reject any application for shortfall shares.
4. The prospectus stated that Jelsh had voting power of 0.53% in Coppermoly.
5. On 10 July 2013, Coppermoly announced that a related entity of Jelsh had entered into an agreement to acquire 16,290,333 Coppermoly shares. As a result of this acquisition, and additional on-market acquisitions, Jelsh's voting power in Coppermoly increased to 12.06%.
6. The entitlement offer closed on 30 July 2013. On the basis of the total number of shares applied for under the entitlement offer and shortfall facility, Jelsh is entitled to be issued 35,341,331<sup>11</sup> shares under the underwriting agreement. The effect is that Jelsh will increase its voting power to approximately 26.76% in circumstances when it could not otherwise have done so.
7. All reasonable steps to minimise the potential control impact of the entitlement offer on Coppermoly were not taken.
8. There are material information deficiencies in Coppermoly's disclosure, including in relation to the identity of Jelsh and its intentions for Coppermoly and the changed intentions of directors in respect of taking up their entitlements.

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<sup>10</sup> Subsequently reduced to approximately \$1,620,000 by supplementary prospectus dated 11 July 2013

<sup>11</sup> After it made its declaration, the Panel became aware that the number was in fact 35,342,331



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9. As a result of the foregoing, the acquisition of control over voting shares in Coppermoly has not taken place in an efficient, competitive and informed market, and the holders of shares were not given enough information.
10. It appears to the Panel that the circumstances are unacceptable having regard to:
  - (a) the effect that the Panel is satisfied the circumstances have had, will have or are likely to have on:
    - (i) the control, or potential control, of Coppermoly or
    - (ii) the acquisition, or proposed acquisition, by a person of a substantial interest in Coppermoly or
  - (b) the purposes of Chapter 6 set out in section 602 of the Corporations Act 2001 (Cth) (Act).
11. The Panel considers that it is not against the public interest to make a declaration of unacceptable circumstances. It has had regard to the matters in section 657A(3).

**DECLARATION**

The Panel declares that the circumstances constitute unacceptable circumstances in relation to the affairs of Coppermoly.

**Alan Shaw**  
**Counsel**  
**with authority of Robert Johanson**  
**President of the sitting Panel**  
**Dated 20 August 2013**



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**Annexure C**

**CORPORATIONS ACT  
SECTION 657D  
ORDERS**

**COPPERMOLY LIMITED**

The Panel made a declaration of unacceptable circumstances on 20 August 2013.

**THE PANEL ORDERS**

**Completion of underwriting obligations and divestment of shortfall shares**

1. Coppermoly and Jelsh must comply with their obligations under the underwriting arrangement, amended to delete 'Closing Date' in clause 10.1 and replace it with the date of these orders.
2. Jelsh must not rely on any right it may have to terminate the underwriting arrangement as a consequence of the application to the Panel in this matter, the declaration of unacceptable circumstances or these orders
3. Jelsh must:
  - (a) divest the shortfall shares as set out in these orders and
  - (b) until completion of orders 1 to 9, not otherwise deal with or vote any of the shortfall shares.
4. Within 10 business days of the date of these orders Coppermoly must, on behalf of Jelsh, offer eligible shareholders the shortfall shares obtained by Jelsh under the rights issue on terms to the following effect:
  - (a) the price is the rights issue price
  - (b) the offer is open for 2 weeks from the date the last of the offers is dispatched
  - (c) eligible shareholders who did not take up their full entitlement in the rights issue are offered as many shares as is necessary for them to take up what were their full original entitlements
  - (d) eligible shareholders who accept shares under order 4(c) are treated as if they had subscribed for those shares pursuant to the rights issue
  - (e) eligible shareholders (excluding the Jelsh Group) are invited to apply for any shares remaining after the acceptances in order 4(c) have been satisfied in full. Applications must be filled as follows:
    - (i) each shareholder who has applied for additional shares will be allocated their pro rata share of the shortfall having regard to their holding at the



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closing date (if a shareholder has made a shortfall application for an amount less than the amount of shares that the shareholder would otherwise be allocated under this process, the shareholder will be allocated the amount applied for) and

- (ii) if, following allocation of the shortfall in the first round, there remains any shortfall, the above allocation process will be repeated in rounds until either all the shortfall has been allocated or all shortfall applications have been satisfied in full.

For avoidance of doubt, the Corporations Act limits apply to the acquisition of shortfall shares.

- (f) the money (in cheque or other form acceptable to Coppermoly) for the shares accepted under order 4(c) is to be sent to Coppermoly with the acceptance. The money is to be banked in a special purpose trust account no later than the end of the day of receipt
  - (g) the money (in cheque or other form acceptable to the Coppermoly) for the shares applied for under order 4(e) is to be sent to Coppermoly with the application for remaining shares and
  - (h) Coppermoly must return any surplus application money to applicants, without interest, where the number of shares applied for is greater than the amount of shares allocated to an applicant pursuant to order 4(e).
5. The offer must be made in a letter of offer dispatched to eligible shareholders. The letter of offer must be in a form approved by the Panel and include:
- (a) disclosure of the allocation policy under the shortfall facility as described in order 4(e)
  - (b) disclosure in relation to the identity, financial position of Jelsh and Jelsh's intentions in relation to Coppermoly
  - (c) the outcome of the rights issue and
  - (d) the Coppermoly directors' participation under the rights issue and their intentions in relation to their participation in the offer and the possible control effect of the rights issue and the offer.
6. Within 5 business days of the close of the offer, Coppermoly must:
- (a) scale back the applications if necessary
  - (b) disclose in a market announcement the scale back, its detailed calculation methodology, the outcome of the offer and the number of shares issued to Jelsh
  - (c) register the transfers of the shares and
  - (d) pay over the money, and account, to Jelsh for the shares sold.
7. Jelsh must provide proper transfers for the sale of the shares.



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8. Coppermoly must issue any refund due to an applicant within 5 business days of transfers being completed.

#### Restrictions on voting and participation in future rights issues

9. None of the Jelsh Group or their respective associates may exercise, and Coppermoly must disregard, any voting rights in respect of shares held by them upon completion of the process set out in orders 1 to 8 in excess of 20% voting power in Coppermoly, subject to such voting rights in respect of those shares being restored at a rate of 3% every 6 months from the date of these orders.
10. The Jelsh Group and their respective associates must not make any acquisition of Coppermoly shares that, but for Item 9 of section 611 of the *Corporations Act 2001* (Cth), would contravene section 606 until order 9 ceases to apply in relation to any Coppermoly shares held by them.
11. The Jelsh Group and their respective associates may participate in any future rights issues other than in respect of any shares held by them that are subject to the voting restriction in order 9.

#### Interpretation

12. In these orders the following terms apply.

<b>closing date</b>	the closing date for the rights issue, being 30 July 2013
<b>Coppermoly</b>	Coppermoly Limited
<b>eligible shareholders</b>	shareholders of Coppermoly who were eligible to participate in the rights issue
<b>Jelsh</b>	Jelsh Holdings Pty Ltd
<b>Jelsh Group</b>	Jelsh, WXH Holdings Pty Ltd, WXH Holdings Limited, Wanfu Huang and Xiaoyi Shen
<b>rights issue</b>	the 1 for 4 non-renounceable entitlement offer announced by Coppermoly on 26 June 2013 (as revised by supplementary prospectus dated 11 July 2013) to raise up to approximately \$1,620,000
<b>shortfall shares</b>	shares not subscribed for under the rights issue by eligible shareholders
<b>underwriting arrangement</b>	the Placement and Underwriting Agreement between Jelsh and Coppermoly dated 25 June 2013



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**Alan Shaw**  
**Counsel**  
**with authority of Robert Johanson**  
**President of the sitting Panel**  
**Dated 20 August 2013**