



Australian Government

Takeovers Panel

MEDIA RELEASE

No: TP15/55

Tuesday, 13 October 2015

Resource Generation Limited – Panel Receives Application

The Panel has received an application from Resource Generation Limited in relation to its affairs.

Details of the application, as submitted by the applicant, are below.

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

Details

Resource Generation (ASX code: RES) owns a 74% equity interest in a South African company which owns the Boikarabelo coal project in the Waterberg region of South Africa. Resource Generation has the following substantial holders:

- Public Investment Corporation SOC Limited (PIC) – 19.49%
- Noble Group Limited – 13.69% and
- Shinto Torii Inc., a subsidiary of Altius Investment Holdings (Pty) Limited – 10.58%.

In March 2014, a debt club was established with the aim of funding the Boikarabelo coal project, managed by Noble and Altius. The debt club included Noble, PIC and two banks. Resource Generation and the debt club have been unable to agree on the terms for financing the project.

On 14 September 2015, Resource Generation received an email from Altius' CEO requesting that Altius and Noble obtain board representation, indicating PIC's support. On 17 September 2015, Noble wrote to Resource Generation requesting the appointment of two additional directors. Resource Generation declined to make these appointments.

On 28 September 2015, Resource Generation received a letter from Altius containing a notice from Shinto requisitioning a general meeting pursuant to s249D¹, to remove and replace the current four directors with six new directors.

Resource Generation submits (among other things) that:

- Altius/Shinto, Noble and PIC are associates in relation to Resource Generation because (a) they have entered into a relevant agreement for the purpose of controlling or influencing the composition of Resource Generation's board and (b) they are acting in concert in relation to Resource Generation's affairs
- Altius/Shinto, Noble and PIC have acquired a relevant interest of each other's Resource Generation shares by virtue of them entering into an agreement to each vote their shares in favour of the resolutions at the requisitioned general meeting and
- the entry into a relevant agreement for the purpose of controlling or influencing the composition of Resource Generation's board and voting those shares in favour of the resolutions at the requisitioned general meeting constitutes the entry into a transaction relating to Resource Generation's shares, as set out in s64. Therefore the acquisition of a relevant interest is in breach of the takeovers prohibition.

Resource Generation seeks interim and final orders that:

- each of Shinto, Altius, Noble and PIC disclose to ASX details of their association with each other in relation to Resource Generation and their relevant interest in each other's shares and
- none of Shinto, Noble or PIC, or their associates, may exercise votes attaching to their Resource Generation shares at the requisitioned general meeting, or any adjournment of that meeting.

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¹ References are to the *Corporations Act 2001* (Cth) unless otherwise indicated