



Australian Government

Takeovers Panel

MEDIA RELEASE

No: TP17/47

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Yancoal Australia Limited 04R & 05R – Review Panel Declines to Conduct Proceedings

The review Panel has declined to conduct proceedings on the applications by (i) Senrigan Capital Management Ltd and Mr Nicholas R. Taylor (see [TP17/45](#)) and (ii) Mt Vincent Holdings Pty Ltd and Osendo Pty Ltd, indirect wholly-owned subsidiaries of Noble Group Limited (see [TP17/46](#)), each seeking a review of the Panel's decision in *Yancoal Australia Limited 02 & 03* (see [TP16/44](#)).¹

The applications concerned the pro rata renounceable entitlement offer of 23.6 new shares for every 1 existing share in Yancoal to raise up to US\$2.35 billion and a placement to strategic investors of US\$150 million announced by Yancoal on 1 August 2017. Funds raised by the entitlement offer and strategic placement are to be used to provide funding for Yancoal's acquisition of 100% of the shares of Coal & Allied Industries Limited from wholly-owned subsidiaries of Rio Tinto Limited.

Yanzhou Coal Mining Company Limited holds approximately 78% of Yancoal, Noble Group holds approximately 13.2% of Yancoal and other minority shareholders (including Senrigan and Mr Taylor) hold approximately 8.8% of Yancoal.

The applicants submitted (among other things) that:

- the initial Panel did not give sufficient weight to materials relating to potential associations of one or more underwriters of the entitlement offer or placees, including that some underwriters are state owned (or partly state owned) enterprises
- the minority shareholders do not have a realistic opportunity to maintain their existing percentage interest in Yancoal under the entitlement offer and the dispersion strategies do not assist minority shareholders
- the entitlement offer has an effect on control that is unacceptable and
- the entitlement offer facilitates the conversion into Yancoal shares of subordinated capital notes of Yancoal held by Yanzhou in a manner that is inconsistent with orders made by the Panel in *Yancoal Australia Limited 01* (see [TP14/95](#)).

¹ The review Panel decided to hear the applications together

The review Panel considered there was insufficient material presented to justify making enquiries as to whether any underwriters or placees are currently associated with Yanzhou.² It considered that the mere fact that some underwriters are state owned enterprises (or part owned by state owned enterprises) did not provide, in this particular case, a sufficient basis to make further enquiries. Should future developments provide a stronger basis for enquiry, that could be the subject of another application.

While the entitlement offer is highly dilutive, the review Panel considered it was unlikely to find it unacceptable in all the circumstances, including that the acquisition of Coal & Allied necessitated the raising of significant capital and the dispersion measures provided permit participation by Yancoal shareholders, even if not on terms attractive to the applicants.

The review Panel concluded there was no reasonable prospect that it would make a declaration of unacceptable circumstances. Accordingly, the review Panel declined to conduct proceedings.

The sitting Panel was Robin Bishop, Peter Day (sitting President) and David Williamson.

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

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² Leaving aside the position of Shandong Lucion Investment Holdings Group, Ltd