



Australian Government

Takeovers Panel

MEDIA RELEASE

No: TP24/30

Friday, 31 May 2024

Energy Resources of Australia Limited 03 – Panel Receives Application

The Panel has received an application from Zentree Investments Limited in relation to the affairs of Energy Resources of Australia Limited (**ERA**). The application concerns a proposed entitlement offer by ERA.

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

ERA is an ASX-listed company which operated the former Ranger uranium mine and holds the title to the adjacent Jabiluka mineral lease in the Northern Territory.

Rio Tinto Limited (**Rio**) has voting power of 86.3% of ERA.

The current business operation of ERA is the rehabilitation of the Ranger mining area (the **Rehab**).

In September 2023, three months after ERA conducted a \$369 million equity raise, ERA announced that the total Rehab costs are expected to “*materially exceed the previous estimated range of \$1.6 billion to \$2.2 billion*”.

In December 2023, ERA announced that the Rehab provision was forecast to be \$2.3 billion up from \$1,446 million¹.

On 12 March 2024, ERA announced that it is preparing a material equity raise in 2024 (**2024 Offer**) to fund the next tranche of the estimated Rehab expenditure.

On 3 April 2024, ERA announced that it has appointed Rio to manage ERA’s Rehab under a new management services agreement (**MSA**).

¹ As at 30 June 2023

Based on the increased Rehab provision, the applicant is concerned that the 2024 Offer will result in Rio's voting power increasing above the compulsory acquisition threshold of 90%.

The applicant submits that the costs and forecast costs of the Rehab have constantly increased, to the long-term benefit of Rio, and have never been adequately disclosed to the market.

The applicant submits (among other things) that:

- Rio has been executing a strategy for almost 10 years to achieve 100% ownership of ERA without having paid a premium for control to the minority shareholders.
- Minority shareholders will not have enough information to assess the merits of the 2024 Offer as they have no visibility or explanation for the Rehab cost blowout or why security deposits are not being utilised to fund the Rehab costs.
- Minority shareholders do not have a reasonable and equal opportunity to participate in the substantial benefits that will accrue to Rio.
- No appropriate procedure is being followed preliminary to compulsory acquisition by Rio.

The applicant seeks interim orders that ERA delay the 2024 Offer and be prevented from issuing any new shares to any person until no earlier than 7 days after the date on which the application is determined.

The applicant seeks a number of final orders to protect the rights and interests of minority shareholders by preventing Rio and its associates from passing the compulsory acquisition threshold in respect of ordinary shares in ERA in certain circumstances. These orders include requiring:

- approval under item 7 of section 611 in certain scenarios including any transaction or issue of shares that results in a person with voting power above 20% increasing its voting power, or for 12 months, Rio underwriting any ERA equity offering or ERA undertaking any equity offering to raise more than \$200 million in aggregate
- that ERA release certain information to the market in relation to the Rehab (including feasibility reports and a copy of the MSA) and the right of veto given over mining Jabiluka
- ERA and Rio to take certain actions in relation to each transaction or agreement between Rio and ERA since ERA commenced to have negative "equity interest" (as defined in the ASX Listing Rules), including to disclose details to the market of such transactions and agreements

- that Rio and ERA not enter into any agreements or arrangements whereby Rio can fetter any decisions of the ERA board
- ERA to commence a sale process for Jabiluka and accept any offers to buy Jabiluka above a specified price received before the end of 2025 and
- Rio not to cast any votes at general meetings for the appointment or reappointment of any “independent” directors of ERA whilst Rio controls ERA.

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