



Australian Government

Takeovers Panel

MEDIA RELEASE

No: TP24/056

Wednesday, 25 September 2024

Energy Resources of Australia Limited 04 - Panel Declines to Conduct Proceedings

The Panel has declined to conduct proceedings on an application dated 4 September 2024 from Zentree Investments Limited and Packer & Co Ltd (**Applicants**) in relation to the affairs of Energy Resources of Australia Limited (**ERA**).

The application concerns ERA's \$880 million 19.87 for 1 renounceable entitlement offer announced on 29 August 2024 (see [TP24/49](#)).

ERA has received a binding pre-commitment from Rio Tinto Limited (**Rio**), which has voting power of 86.3% of ERA, to subscribe for approximately \$760 million of the offer. If no other shareholders participate in the offer and any shortfall is not taken up, Rio's voting power in ERA could increase to up to 99.2468% of ERA following completion of the offer. Rio has provided an intention statement to ERA that if its holding in ERA increases to 90% or more of the shares in ERA, then Rio intends to proceed with compulsory acquisition of all remaining ERA shares at an offer price of \$0.002 per ERA share.

The Applicants submitted (among other things) that the offer is only designed to increase Rio's voting power and to allow Rio to compulsorily acquire the remaining shares in ERA in circumstances that contravene the purposes set out in section 602 of the *Corporations Act 2001* (Cth).

The Panel considered, among other things, that ERA's Independent Board Committee took appropriate steps to endeavour to mitigate the potential control effect of the equity raise having regard to the Panel's guidance and in the context of the circumstances facing ERA. The Panel was not minded to second guess the Independent Board Committee's decisions regarding the proposed equity raise, including in relation to ERA's need for funds, the timing or quantum of this need, the assessment of alternate funding sources and strategies, and the structure of the rights issue.

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

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The sitting Panel was Teresa Dyson (sitting President), Timothy Longstaff and James Stewart.

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

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