



Australian Government

Takeovers Panel

MEDIA RELEASE

No: TP14/08

Thursday, 23 January 2014

Tigers Realm Coal Limited – Panel Accepts Undertakings

The Panel has declined to make a declaration of unacceptable circumstances in response to an application dated 16 December 2013 from Dr Bruce Gray in relation to the affairs of Tigers Realm (see [TP13/70](#)). The Panel did so following the execution of revised agreements between Tigers Realm Coal Limited, Tigers Realm Minerals Pty Limited (TRM), BV Mining Holding Limited and Russian Direct Investment Fund and acceptance of undertakings from Tigers Realm and various of its shareholders (see annexures).

The application concerned the terms of proposed placements by Tigers Realm to BV Mining and RDIF and whether there was an association between each of BV Mining and RDIF and TRM, a 22.86% shareholder in Tigers Realm, and certain other shareholders.¹

Tigers Realm, BV Mining and RDIF have amended the terms of the proposed placements so that, among other things:

- the entire placement to BV Mining is now subject to shareholder approval
- the execution of escrow agreements by TRM and other shareholders is no longer a condition precedent to the BV Mining and RDIF placements and
- the break fee payable to BV Mining has been removed.

The Panel considered that each of BV Mining and RDIF are associated with TRM and Mr Antony Manini, Mr Craig Parry, Mr Owen Hegarty and Mr David Forsyth, including because of the terms of the share subscription agreements between Tigers Realm, TRM and each of BV Mining and RDIF. Accordingly, those shareholders are not entitled to vote on the resolutions to approve the issue of shares to BV Mining and RDIF. Further, the other shareholders who stated their intentions to vote in favour of the relevant resolutions have modified their voting intentions statements

¹ Directors of Tigers Realm - Mr Antony Manini (Chairman), Mr Craig Parry (Managing Director), Mr Owen Hegarty, Mr Brian Jamieson and Mr Craig Wiggill. Management of Tigers Realm - Mr Peter Balka (Chief Operating Officer), Mr David Forsyth (Company Secretary), Mr David George (Manager of Investor Relations), Mr Chris McFadden (Head of Commercial Strategy and Commercial Development), Mr Leonid Skopstov, Mr Peter Tongs and Mr Tim Berry

such that they are subject to there being no superior proposal and the shareholders will consider any rival proposal in good faith and on its merits. The relevant shareholders have provided undertakings to the Panel to this effect.

The Panel considers that the revisions to the agreements, revisions to the voting intentions statements and the undertakings sufficiently address the circumstances and that it is not against the public interest to accept the undertakings and decline to make a declaration of unacceptable circumstances. In doing so, the Panel notes that Tigers Realm and Dr Gray have settled claims in conjunction with the restructured placements. The terms of the settlement have not been before the Panel and it makes no comment on the settlement.

The sitting Panel was Elizabeth Bryan, Tony Osmond and Jane Sheridan (sitting President). The Panel will publish its reasons for the decision in due course on its website www.takeovers.gov.au.

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ANNEXURE A

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION ACT 2001 (CTH) SECTION 201A UNDERTAKING

Tigers Realm Coal Limited

Tigers Realm Coal Limited (TIG) undertakes to the Panel that it will:

In relation to the proposed acquisition of shares in TIG by Baring Vostok Private Equity Fund V through BV Mining Holdings Limited (or its permitted nominees) (BVMHL) pursuant to the subscription agreement between TIG, BVMHL and Tigers Realm Minerals Pty Ltd (TRM) dated 11 December 2013 (as amended from time to time) and Russian Direct Investment Fund (or its permitted nominees) (RDIF) pursuant to the subscription agreement between TIG, RDIF and TRM dated 11 December 2013 (as amended from time to time):

1. not issue shares to BVMHL or RDIF without obtaining all necessary shareholder approvals, including under item 7 of s611 of the Corporations Act 2001 (Cth)
2. include voting exclusion statements in the notice of meeting to be sent to shareholders of TIG specifying (in addition to any others that might be excluded) that TRM, Antony Manini, Craig Parry, Owen Hegarty and David Forsyth are excluded from voting on:
 - (a) all resolution(s) in connection with the share issues to BVMHL and RDIF and
 - (b) all resolution(s) to approve escrow arrangements between TIG and each of TRM, Antony Manini, Owen Hegarty, Brian Jamieson, Craig Wiggill, Craig Parry, David Forsyth, Peter Balka, Leonid Skoptsov, Chris McFadden, Paul Tongs and David George
3. ensure that shareholder approval of the share issues is not conditional on shareholder approval of the escrow arrangements
4. in respect of the statements of voting intention given by Brian Jamieson, Craig Wiggill, Peter Balka, Chris McFadden, David George and Tim Berry and announced by TIG on 12 December 2013, issue a public announcement in a form approved by the Panel stating that each person has undertaken to the

Panel to amend their statement of voting intention in the form set out in the annexure

5. in respect of the statements of voting intention given by TRM, Antony Manini, Owen Hegarty, Craig Parry and David Forsyth and announced by TIG on 12 December 2013, issue a public announcement in a form approved by the Panel stating that each statement has been withdrawn.

TIG agrees to confirm in writing to the Panel when it has satisfied its obligations under this undertaking.

Signed by David Forsyth, Company Secretary of Tigers Realm Coal Limited with the authority, and on behalf of, Tigers Realm Coal Limited

Dated 20 January 2014



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ANNEXURE B

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION ACT 2001 (CTH) SECTION 201A UNDERTAKINGS

Tigers Realm Coal Limited

I undertake to the Panel that I will:

In relation to the proposed acquisition of shares in Tigers Realm Coal Limited (*TIG*) by Baring Vostok Private Equity Fund V through BV Mining Holdings Limited (or its permitted nominees) (*BVMHL*) and Russian Direct Investment Fund (or its permitted nominees) (*RDIF*) (together, the *Placements*), consider any rival proposal to the Placements in good faith and on its merits, and after considering all aspects of that proposal, only support the Placements if I considered that the rival proposal was not a superior proposal to the Placements.

Signed by Brian Jamieson, 10 January 2014

Christopher Walter McFadden, 10 January 2014

Peter Balka, 13 January 2014

Timothy George Berry, 13 January 2014

David George, 13 January 2014

Craig Wiggill, January 2014