



Australian Government

Takeovers Panel

# MEDIA RELEASE

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No: TP20/43

Tuesday, 14 July 2020

## Alto Metals Limited – Panel Receives Application

The Panel has received an application from Habrok (Alto) Pty Ltd in relation to the affairs of Alto Metals Limited. Alto is an ASX listed Australian gold exploration company (ASX: AME).

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

On 10 July 2020, Habrok lodged its bidder's statement in respect of an unconditional all-cash off-market takeover bid for 100% of the ordinary shares and options in Alto which it doesn't currently own for \$0.066 per share.

On 13 July 2020, Alto announced that it would conduct a 1 for 4 accelerated pro-rata non-renounceable entitlement offer to raise approximately \$5.1 million at \$0.07 per share (**Entitlement Offer**) and that Mr Matthew Bowles had been appointed by the Alto Board to the position of Managing Director and CEO from his previous role as a non-executive director. The announcement disclosed that Windsong Valley Pty Ltd intended to subscribe for its full entitlement under the Entitlement Offer. Windsong could potentially increase its shareholding in Alto from 19.4% to over 22% as a result of the Entitlement Offer.

Habrok submits, among other things, that:

- Alto has sought to stymie Habrok's bid by increasing the controlling position of Windsong and "*issuing up to 25% of issued capital under an equity raising in circumstances where there is no clear need for funds*".
- The pricing and timing of the Entitlement Offer effectively frustrates Habrok's bid, notwithstanding that the bid is unconditional.

- The Entitlement Offer has the potential effect of consolidating control of Alto in the hands of Windsong, without any control premium being paid to Alto shareholders or any shareholder approval.
- Habrok would need to increase the offer price under its bid if it wished to participate in the Entitlement Offer and accordingly, the Entitlement Offer operates as an unacceptable lock-up device.
- There are disclosure deficiencies in Alto's announcement regarding the Alto Board's recommended rejection of the Habrok bid.
- The terms of Mr Bowles's appointment to the Alto Board impact Habrok's costs of realising its intentions and objectives in respect of its bid.
- The above circumstances operate to coerce or rush Alto shareholders into either selling their shares on-market, participating in the Entitlement Offer and/or rejecting the Habrok bid on an uninformed basis, which is inconsistent with the principles in sections 602(a) and 602(b).<sup>1</sup>

Habrok seeks interim orders including an order restraining Alto from offering or accepting subscriptions under the Entitlement Offer. Habrok seeks final orders including termination of the Entitlement Offer, variation of the contract Alto has with Mr Bowles and costs.

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<sup>1</sup> Unless otherwise indicated, all statutory references are to the *Corporations Act 2001* (Cth), and all terms used in Chapter 6 or 6C have the meaning given in the relevant Chapter (as modified by ASIC)