



1 September 2017

ASX ANNOUNCEMENT (ASX: MPO)

## Aurora's Intended Takeover Bid

### TAKE NO ACTION

IN RELATION TO  
**UNSOLICITED**  
PROPOSED TAKEOVER BID

### Background

Following the ASX Announcement on 25 July 2017 by Molopo Energy Limited (**Molopo**) of the request that its shares be placed in a trading halt session state pending the release of an announcement of a transaction, Aurora Funds Management Limited (**Aurora**) made an ASX announcement on 27 July 2017 that Aurora as responsible entity of Aurora Fortitude Absolute Return Fund (**AFARF**) intends to make a takeover bid for 100% of the shares in Molopo at a price of \$0.18 (18 cents) per share through a combination of cash and units in AFARF (**Aurora's Intended Takeover Bid** or **Intended Takeover Bid**).

Under Aurora's Intended Takeover Bid:

- Molopo shareholders will be able to elect to receive the bid consideration in cash (**capped at \$5 million in total**) or the equivalent value in AFARF units, **being units in an unlisted managed investment scheme**.
- Accepting Molopo shareholders who elect to receive AFARF units will be able to request redemption of the units off-market at the prevailing net asset value based redemption price in accordance with AFARF's constitution and fund updates.
- Acceptances for cash consideration that in aggregate exceed \$5 million **would be scaled back**, with the balance of the bid consideration satisfied by the issue of AFARF units.

Aurora's announcement **incorrectly** stated that AFARF was a "listed" scheme, even though AFARF is an **unlisted** scheme. Aurora rectified its error via its ASX Announcement on 31 July 2017 by stating that:

*"The statement that identified: "Those who elect to receive AFARF units will become part of an enlarged listed management investment scheme" should read: "those who elect to receive AFARF units will become part of an enlarged unlisted managed investment scheme"."*

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## **No value, or range of values, of the AFARF units are disclosed in Aurora's announcement.**

Based on its ASX Announcement of 3 August 2017, Aurora announced that its present redemption guidelines to manage the liquidity requirements of the AFARF, being an unlisted scheme, **limit or restrict the redemption of units to 5% of total funds** on management in any given quarter.

Consequently, **the ability of holders of AFARF units to have their units redeemed is significantly limited or restricted** and therefore, **presents a clear and significant liquidity risk for Molopo's shareholders.**

The Board of Molopo wishes to draw shareholders' attention to certain **fundamental and threshold legal problems with Aurora's Intended Takeover Bid** in this Announcement.

## **Legality of Aurora's Intention to Bid**

### *Takeovers Panel*

The Board of Molopo wish to draw shareholders' attention to certain material findings and orders of the review Takeovers Panel (**Review Panel**) of 30 June 2017 in its "**Reasons for Decision - Molopo Energy Limited 03R, 04R & 05R [2017] ATP 12**", published on the Takeovers Panel website on 22 August 2017 (a copy is also on Molopo's website), in relation to Aurora and Keybridge Capital Limited (**Keybridge**) and their conduct in relation to Molopo:

1. *"Taking into account the cumulative effect of all the material before us and having drawn inferences that, in our experience, seem appropriate, we are satisfied that Keybridge and Aurora are associates in relation to Molopo."*
2. *"As a result of our finding of association between Keybridge and Aurora, each acquisition of Molopo shares by Keybridge and Aurora occurring on or after 26 October 2016 has resulted in a contravention of section 606 with the voting power of each of Keybridge and Aurora increasing with each acquisition from a starting point that is above 20% and below 90%."*
3. *"As a result of our finding of association between Keybridge and Aurora, since 26 October 2016, Keybridge and Aurora have failed to lodge notices of change in substantial holding disclosing their association in contravention of section 671B."*
4. *"In our view, it is appropriate to limit acquisitions by Keybridge and Aurora (and their respective associates) of Molopo shares...by limiting any acquisitions for 6 months after the date of the orders..."*
5. *"Further or in the alternative to association, the Panel considers the actions of Mr Bolton and Mr Patton, combined with the material financial interests each had in Keybridge and Aurora, and the influence that each exerted over Aurora and to an extent over Keybridge, gives rise to a control effect in Molopo that is otherwise unacceptable from no later than 10 August 2016."*

On 7 July 2017, the Review Panel ordered, among other things, that:

- A. 3,666,285 shares in Molopo (1.5% of Molopo's shares) held by Keybridge and 39,540,910 shares in Molopo (15.9% of Molopo's shares) held by Aurora **are vested in the Commonwealth and that these shares be sold by ASIC** in accordance with the Review Panel's orders (**Review Panel's Divestment Order**);
- B. **None of Aurora and Keybridge or their respective associates may, directly or indirectly, acquire any shares in Molopo before the date that is six months after the date of the Review Panel's Orders made on 7 July 2017 (Review Panel's Acquisition Restriction Order).**

Accordingly, the Board of Molopo is seriously concerned that the ASX Announcements made by Aurora in relation to its Intended Takeover Bid **materially omit to disclose** (among other things):

- (a) the material existence of the Review Panel's Acquisition Restriction Order and its material legal effect of prohibiting Aurora from making its Intended Takeover Bid; and
- (b) that Aurora will be **contravening the Review Panel's Acquisition Restriction Order** by making its Intended Takeover Bid.

Molopo has brought these matters to the attention of the Takeovers Panel and ASIC.

### ***Obligations and Prohibitions when Announcing a Bid under Corporations Act 2001***

Despite the Review Panel's Acquisition Restriction Order of 7 July 2017, Aurora announced its Intended Takeover Bid on 27 July 2017.

Section 631(1) of the Corporations Act effectively requires a person who publicly proposes to make a takeover bid for shares in a company to make offers under a takeover bid **within 2 months** after its proposal.

Further, section 631(2) of the Corporations Act effectively prohibits a person from publicly proposing a takeover bid when a person:

- **knows** the proposed bid will not be made;
- is **reckless** as to whether the proposed bid is made; or
- is **reckless** as to whether they will be able to perform their obligations relating to the takeover bid if a substantial proportion of the offers under the bid are accepted.

Similarly, Molopo has brought these matters to the attention of the Takeovers Panel and ASIC.

### ***Defeating Condition Already Triggered Before Aurora's Announcement***

Despite Molopo's ASX Announcement on 25 July 2017 of its request that its shares be placed in a trading halt session state pending the release of an announcement of a transaction, Aurora's Intended Takeover Bid was made on 27 July 2017 and before Molopo announced details of its foreshadowed transaction.

Whilst unnecessary to comment on the unreasonableness of certain defeating conditions for present purposes, Aurora's Intended Takeover Bid contains numerous defeating conditions, including one defeating condition specified in paragraph (f)(1) of the Schedule of its announcement, which provides that:

*“Molopo, or any subsidiary of Molopo, acquires, offers to acquire or agrees to acquire one or more companies or assets (or an interest in one or more companies or assets) for an amount in any single transaction of more than \$2 million or an amount in aggregate in any series of transactions of more than \$2 million, or makes an announcement about such an acquisition or acquisitions”*

As previously announced by Molopo, the acquisition by Molopo of 50% of the shares in Orient FRC Ltd was for US\$7 million (AUD\$ 8.75 million based on \$0.80 AUD/US exchange rate) (**Transaction**). As this Transaction was entered into on 25 July 2017 and completed on 26 July 2017, the Transaction had already triggered Aurora's above-mentioned defeating condition before Aurora's Intended Takeover Bid was announced by Aurora.

## Important Notice

The **Board of Molopo strongly recommends that Molopo's shareholders take no action in relation to Aurora's Intended Takeover Bid**. The Board of Molopo will continue to update shareholders as it further investigates the seriousness of the matters contained in this Announcement.

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