



Australian Government

Takeovers Panel

MEDIA RELEASE

No: TP20 / 60

Thursday, 22 October 2020

Thorn Group Limited 02 – Panel Receives Application

The Panel has received an application from Vaspip 2 Pty Ltd in relation to the affairs of Thorn Group Limited (ASX: TGA).

Details of the application, as submitted by the Applicant, are below. Further background details are set out in the Panel’s media release relating to the receipt of Forager Funds Management Pty Ltd’s application in *Thorn Group Limited* (see [TP20/59](#)).

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 31 August 2020, the Applicant and its associates at that time (holding approximately 5.005% of Thorn’s shares) delivered to Thorn a request to convene a general meeting of shareholders under s249D¹ (**s249D Request**) and an associated request to distribute a members’ statement under s249P (**s249P Request**).

On 16 September 2020, Thorn declared that the s249D Request and s249P Request were invalid.

On 24 September 2020, the Applicant commenced proceedings in the Supreme Court of Victoria seeking orders that the s249D Request and s249P Request were valid and that Thorn call the meeting the subject of the s249D Request.

On 14 October 2020, Riordan J in the Supreme Court of Victoria declared that the s249D Request and s249P Request were not invalid thereby requiring Thorn to convene the general meeting.

¹ 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).

On 15 October 2020, Thorn announced that *“Thorn will convene the requested general meeting of members. Details will be announced separately”*.

As at the date of the application, Thorn has not announced the details of the general meeting.

The Applicant submits (among other things) that:

- Thorn has failed to convene the meeting requisitioned under the s249D Request and will not be able to do so in the time limit required under s249D (i.e. by 31 October 2020)
- *“TGA’s failure to convene the meeting when the law obliged it do so will facilitate an increase in control of TGA by its 30%+ shareholder Somers prior to the occurrence of that meeting. That will occur through two separate mechanisms: 1. First, Somers will have more time before the meeting to ‘creep’ (under s611 item 9). 2. Secondly, Somers will before the meeting be able to participate in TGA’s dividend reinvestment plan (as permitted by s611 Item 11), under which shares are scheduled to be issued on 3 November 2020”* and
- Thorn’s conduct will, if not remedied, permit Somers Limited to acquire (further) control over voting shares in Thorn other than in an efficient, competitive and informed market.

The Applicant seeks interim and final orders that the following votes not be counted in relation to whether or not the resolutions set out in the s249D Request are passed:

- votes attaching to any shares in Thorn acquired by Somers Limited under the dividend reinvestment plan and
- votes attaching to any shares in Thorn acquired (and settled) by Somers Limited after 7pm on 30 October 2020.

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