

## ICSID ad hoc Committee Decision on the Stay of Enforcement

### Highlights

- The ICSID ad hoc Committee has rendered its decision on the Stay of Enforcement of the Award following the 11 October 2023 hearing
- Tanzania must provide a written undertaking from authorised government officials within 45 days binding Tanzania to the following undertakings to continue the stay of enforcement:
  - That Tanzania will abide by the final annulment decision when delivered by the ad hoc Committee
  - That Tanzania will recognise the Award and pay the full amount of the Award plus interest to the Claimants within 45 days of the final decision on annulment
  - That Tanzania will not subject the payment of the Award to any enforcement proceedings in domestic courts in any jurisdiction or to the scrutiny of Tanzanian courts
- If Tanzania fails to provide the written undertaking as outlined above within 45 days, the stay on enforcement will be lifted
- Indiana as the majority shareholder of the Claimants will now provide a guarantee that in the event the annulment request is granted in favour of Tanzania, it will enable the Claimants to reimburse Tanzania monies secured through enforcement corresponding to the annulled portion of the Award
- The total amount payable by Tanzania under the Award now stands at US\$112.9 million to date plus costs of US\$4.28 million
- Interest continues to accrue at the rate of approximately US\$1 million per month

Indiana Resources Limited (**ASX: IDA**) ("**Indiana**" or the "**Company**") provides the following update on the dispute with the United Republic of Tanzania ("**Tanzania**") which was the subject of arbitration at the International Centre for Settlement of Investment Disputes ("**ICSID**").

As the majority shareholder in Ntaka Nickel Holdings Ltd ("**NNHL**"), Nachingwea UK Ltd ("**NUKL**") (both incorporated in the United Kingdom), and Nachingwea Nickel Ltd ("**NNL**", incorporated in Tanzania); together known as the "**Claimants**", Indiana is the manager of the joint venture and responsible for activities relating to the arbitration against Tanzania.

Following the first session of the ICSID ad hoc Committee ("**Committee**") held on 11 October 2023, the Committee has now rendered its decision on Tanzania's request to continue the stay of enforcement of the Award, and a summary of the decision is below.

#### CAPITAL STRUCTURE

612,437,061  
Shares on Issue  
  
A\$0.05  
Share Price  
  
31M  
Market Cap

#### BOARD & MANAGEMENT

Bronwyn Barnes  
Executive Chair  
  
Robert (Bob) Adam  
Non-Executive Director  
  
David Ward  
Non-Executive Director

Maja McGuire  
Non-Executive Director  
  
Kate Stoney  
CFO & Joint Company Secretary  
  
Josh Merriman  
Joint Company Secretary

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1. The Committee agreed to the continuation of the stay of enforcement of the Award on a provisional basis subject to the condition that Tanzania provides an undertaking to the effect that if or to the extent that Tanzania's request for annulment is not granted, Tanzania agrees and undertakes that:
  - a. it will recognize the Award as final and binding and will abide by and comply with the terms of the Award;
  - b. it will not subject payments to any enforcement proceedings or to the scrutiny of Tanzanian courts; and
  - c. it will unconditionally and irrevocably pay the full amount of the Award (including interest) to the Claimants within forty-five (45) days following the notification by the ICSID Secretariat of the Committee's Decision on annulment such that the Claimants will be fully compensated, including interest, and will not need to engage in any action to recognize, enforce, or execute the Award under Article 54 of the ICSID Convention in any ICSID Contracting State.
2. The Committee also ordered that Tanzania's undertaking to the Committee and the Claimants should be executed by a government official or officials of Tanzania with full power to bind the State, together with information sufficient to establish for the Committee and the Claimants the legal basis as a matter of Tanzanian law for the power to bind the State of the relevant official or officials to the undertaking.
3. If Tanzania fails to provide the undertaking outlined above within the stated time, the Committee has ordered that the stay of enforcement of the Award will be terminated and the Claimants will be able to commence enforcement:
  - a. if Indiana, as the majority shareholder of the Claimants, provides an undertaking that it will enable the Claimants to reimburse Tanzania if the Award is annulled; and
  - b. unless Tanzania provides the Claimants financial security in the form of either an unconditional and irrevocable bank guarantee or a funded escrow account with a reputable international bank with no principal establishment in Tanzania to the value of the full amount of the Award that is acceptable to the Claimants.
4. The Committee did not make a decision on costs at this stage of the proceeding.

**Company Comment, Executive Chairman Bronwyn Barnes:**

*"We look forward to having Tanzania either comply with the requirements of the ICSID ad hoc committee within 45 days - or not. In either circumstance, the Claimants have comfort that ICSID is requiring Tanzania to comply with the Award through providing sufficient comfort through a legally binding commitment that if the Award is not annulled, the Claimants will promptly receive the full amount of the Award to which they are entitled. Indiana shareholders should take comfort in the disciplined legal process that is being followed by the ad hoc Committee, and that Tanzania is clearly engaging in this process to the best of their ability. Put simply, we consider this a victory.*

*"Indiana, as the majority shareholder of the Claimants, is comfortable providing a guarantee that if enforcement commences and assets are seized to the value of the Award, and Tanzania's request for annulment is granted, then the Claimants will return the funds corresponding to the annulled portion of the Award to Tanzania.*

Indiana is also encouraged by Tanzania's submission that it has assets both inside and outside Tanzania sufficient to satisfy the Award, and that Tanzania is ready, willing and able to honour the Award if it is not annulled, and that it has sufficient means to pay the amounts due to the Claimants under the Award. Indiana has led the ICSID proceedings on behalf of all of the Claimants' shareholders and is comfortable to provide this guarantee."

### **Timeline for Annulment**

The Committee's timeline for the annulment proceedings is set out below:

#### Claimants' Preliminary Objection under ICSID Arbitration Rule 41(5)

1. Claimants' Objection – 16 October 2023
2. Tanzania's Response to Claimants' Objection – 13 November 2023
3. Reply on Claimants' Objection – 27 November 2023
4. Tanzania's Rejoinder on Claimants' Objection – 11 December 2023
5. Hearing on Claimants' Objection – 20 December 2023

#### Annulment Proceeding

1. Tanzania's Memorial on Annulment – 6 weeks from the Committee's Decision on Claimants' Objection
2. Claimants' Counter-Memorial on Annulment - 6 weeks from the Memorial on Annulment
3. Tanzania's Reply on Annulment – 4 weeks from the Counter-Memorial on Annulment
4. Claimants' Rejoinder on Annulment – 4 weeks from the Reply on Annulment
5. Hearing on Annulment – To be decided in consultation with the Claimants and Tanzania

### **Background to Annulment Request**

A review of documents lodged by Tanzania, in the view of the Claimants' legal representatives, do not demonstrate that Tanzania will be able to meet the requirements to justify annulment of the Award. The specific and narrow grounds that may, in exceptional circumstances, justify annulment are articulated in ICSID Convention Article 52(1), specifically:

- a. that the Tribunal was not properly constituted;
- b. that the Tribunal has manifestly exceeded its powers;
- c. that there was corruption on the part of a member of the Tribunal;
- d. that there has been a serious departure from a fundamental rule of procedure; or
- e. that the award has failed to state the reasons on which it is based.

In deciding to continue the stay of enforcement of the Award on a conditional basis, the Committee decided not to take into consideration Tanzania's assertion that it is "aggrieved and dissatisfied" with the Award, and noted that an alleged grievance and dissatisfaction with the Award would not qualify as criterion for any of the grounds for annulment as specified under Article 52(1) of the ICSID Convention.

**ENDS**

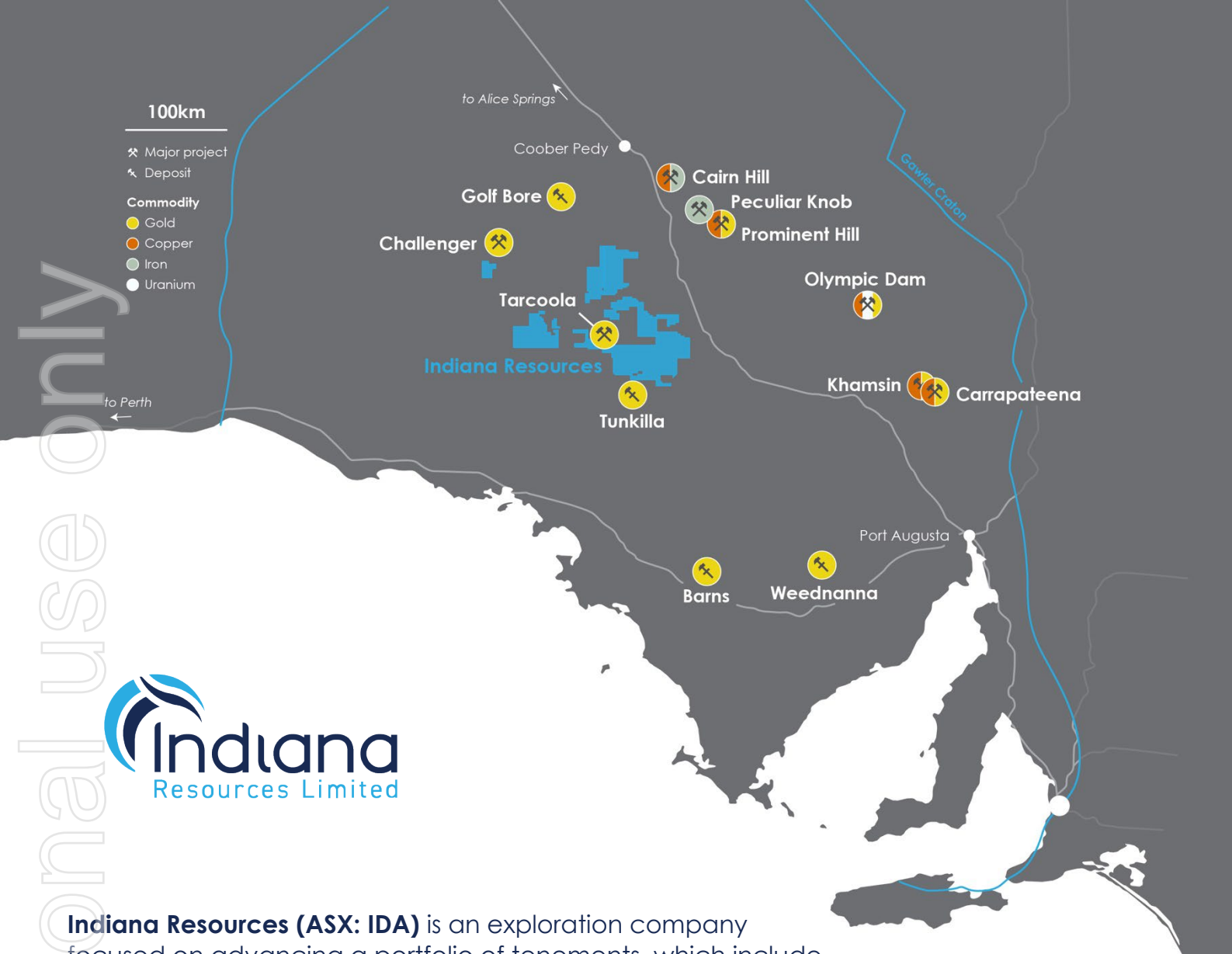
*This announcement is authorised for release by the Chair of Indiana Resources Limited with the authority from the Board of Directors.*

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For more information, please visit [www.indianaresources.com.au](http://www.indianaresources.com.au)



**Indiana Resources (ASX: IDA)** is an exploration company focused on advancing a portfolio of tenements, which include rare earths, gold and base metals, in the highly prospective Central Gawler Craton Province in South Australia.

Indiana's ground position in the Gawler Craton covers 5,713km<sup>2</sup>, with the Company's tenements strategically located between the historic gold mining centres of Tunkillia (965,000 ounce gold resource) and Tarcoola (15,800 ounce gold resource).

With a historical focus on gold, Indiana is progressing plans for a targeted Rare Earth Elements (REE) drilling programme. The Company benefits by its strategic positioning in a tightly held region, known for gold but with exciting REE opportunities.

The Company has a highly experienced management team, led by Executive Chair Bronwyn Barnes. Indiana has a tightly held register with benefits from strong support from major shareholders who are aligned with the Company's growth story.