



Australian Government

Takeovers Panel

MEDIA RELEASE

No: TP22/16

Tuesday, 1 March 2022

Bullseye Mining Limited 04 – Panel Receives Application

The Panel has received an application from Hongkong Xinhe International Investment Company Limited in relation to the affairs of Bullseye Mining Limited. Bullseye is currently the subject of takeover bids by Emerald Resources NL (ASX: EMR) and Au Xingao Investment Pty Ltd.

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

Bullseye is an unlisted public company with more than 50 shareholders.

On 6 January 2022, the applicant made an application in relation to the affairs of Bullseye (*Bullseye Mining Limited 03*), at which time Bullseye was the subject of a recommended scrip off-market takeover bid by Emerald (see [TP 22/02](#)).

On 3 February 2022, Xingao announced through media outlets its intention to make a cash off-market takeover bid for Bullseye. The Xingao proposal involves a base price of \$0.31 per Bullseye share, which price will increase to \$0.35 per Bullseye share if the due diligence condition, and the 40% minimum acceptance condition, are satisfied. The Xingao proposal is also subject to a number of other defeating conditions.

On 7 February 2022, the Panel made a declaration of unacceptable circumstances and final orders in *Bullseye Mining Limited 03* (see [TP22/12](#)). Among other things, the Panel made orders (**Orders**) that (in effect) required:

- Bullseye to make supplementary disclosure
- Emerald to extend its bid and offer Bullseye shareholders withdrawal rights (**Withdrawal Rights**)

- Emerald to issue a supplementary bidder's statement regarding the Withdrawal Rights and
- the cancellation of the Bullseye directors' acceptances of the Emerald offer if, prior to the end of the Withdrawal Rights period, a competing proposal for Bullseye is made which the Bullseye directors determine is a superior proposal to the Emerald bid.

On 14 February 2022, Xingao lodged a bidder's statement with ASIC. The bidder's statement was delivered to Bullseye on 15 February 2022.

On 21 February 2022, Emerald announced to ASX the issue of a supplementary bidder's statement in response to the Orders (**Emerald Supplementary Bidder's Statement**).

On or about 21 February 2022, Bullseye issued a supplementary target's statement in response to the Orders (**Bullseye Supplementary Target's Statement**).

On 23 February 2022, Xingao lodged a supplementary bidder's statement and a replacement bidder's statement. On 24 February 2022, Xingao delivered its replacement bidder's statement to Bullseye.

The applicant submits that the Emerald Supplementary Bidder's Statement has material deficiencies, including (in summary) that:

- it does not disclose to Bullseye shareholders the date on which the Withdrawal Rights expire, or the information they would need to determine this for themselves and
- it does not disclose the risk of the Emerald bid closing with Emerald having a relevant interest in less than 50% of the Bullseye shares (as a result of the Withdrawal Rights and/or cancellation of the Bullseye directors' acceptances) or Emerald's intentions should that occur including, in particular, whether Emerald would consider accepting the Xingao offer in those circumstances.

The applicant submits that the Bullseye Supplementary Target's Statement contains statements that are untrue or misleading in material respects or make certain omissions, including (in summary) in relation to:

- the status and nature of the Xingao bid
- certain financial information including the implications of material events that occurred after the date of Bullseye's target's statement
- the risks for Bullseye shareholders who accept the Emerald offer if the Emerald bid closes with Emerald having a relevant interest in less than 50% of Bullseye
- whether the Xingao bid is a superior proposal for purposes of the Orders and

- whether Bullseye intends to satisfy the due diligence condition contained in Xingao's bidder's statement.

The applicant submits that the disclosure deficiencies, as well as Bullseye's failure to disclose Xingao's bidder's statement or Xingao's replacement bidder's statement to Bullseye shareholders, among other things, are preventing Bullseye shareholders making a properly informed decision in relation to Xingao's bid and whether to exercise Withdrawal Rights under, or accept, the Emerald bid.

The applicant also submits that Bullseye's failure to provide Xingao the same due diligence access as it provided Emerald is depriving Bullseye shareholders of the opportunity to receive a materially higher cash offer for their shares.

The applicant submits that, as a result, the contest for control of Bullseye is not occurring in a market that is efficient, competitive and informed.

The applicant seeks interim orders extending the date for expiry of the Withdrawal Rights and requiring Emerald not to process any acceptances prior to the application being determined.

The applicant seeks final orders, including requiring Bullseye and Emerald to provide corrective disclosure and extending the date for expiry of the Withdrawal Rights for a period following the date of such disclosure.

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