



## Update on Bullseye Legal Proceedings, Judicial Mediation Process and BlueCap JV

15 September 2022

Bullseye Mining Limited ("Bullseye") provides the following update on litigation relating to Bullseye ("Bullseye") and the cessation of the Blue Cap Bullseye Joint Venture (Bullseye 70%):

### **Matter COR 83 of 2020 (Initial Proceedings)**

The trial in the Supreme Court of Western Australia ("Supreme Court") of matter COR 83 of 2020 has continued with a further block of trial dates heard in August 2022 before his Honour Justice Marcus Solomon ("Initial Proceedings"). This action was initiated against Bullseye and certain current and former directors of Bullseye<sup>1</sup>, as part of a long running dispute with Bullseye's second largest shareholder Hongkong Xinhe International Investment Company Limited ("Xinhe"). A further final block of court dates has been scheduled in November 2022 for closing submissions and the trial is proceeding towards conclusion. Justice Solomon will then proceed to make a determination of the oppression claims in the Initial Proceedings on their merits, before dealing with the remedies claimed. Those remedies may be dealt with straight away, or following the outcome of the Second Proceedings referred to below.

### **Recommended Judicial Mediation of Initial Proceedings**

Justice Solomon has recently recommended that the parties to the Initial Proceedings engage in a Supreme Court judicial mediation process to be presided over by his Honour Justice Kenneth Martin ("Judicial Mediation"). All parties have agreed to proceed with the recommended Judicial Mediation process which will be held between the dates of 15 to 22 September 2022, with Bullseye ideally seeking to resolve an acceptable commercial outcome.

### **Matter COR 159 of 2022 (Second Proceedings)**

Bullseye advises that in advance of the scheduled Judicial Mediation of the Initial Proceedings, Xinhe and its related entity Au Xingao Investment Pty Limited ("Xingao") (together the "Plaintiffs") have commenced further proceedings in the Supreme Court via matter COR 159 of 2022, against Bullseye, Emerald Resources NL ("Emerald"), certain current and former directors of Bullseye<sup>2</sup> and the Australian Securities and Investments Commission (the "Second Proceedings"). The Second Proceedings have been filed in the Supreme Court and recently served on Bullseye.

The Second Proceedings are in addition to the ongoing litigation brought by Xinhe against Bullseye via the Initial Proceedings. The Second Court Proceedings involve claims of oppressive conduct and alleged contraventions of the Corporations Act in relation to the affairs of Bullseye by Bullseye, Emerald and certain current and former directors of Bullseye<sup>2</sup> and contravention by Bullseye of its Constitution.

Bullseye notes that a substantial number of the remedies claimed by the Plaintiffs in the Second Proceedings relate to matters which have previously been considered by the Takeovers Panel with various orders having been made and complied with by the relevant parties (Refer to Bullseye Mining Limited 03 [2022] ATP 4, Bullseye Mining Limited 04 [2022] ATP 8 and Bullseye Mining Limited 05 [2022] ATP 14).

#### **Notes:**

<sup>1</sup> Peter G Burns (current), Peter J Burns (former), Dariena Mullan (former)

<sup>2</sup> Peter G Burns (current), Anthony Short (current), Peter J Burns (former), Dariena Mullan (former), and Ian Ladyman (former).

5 Brolo Court, O'Connor  
Tel: +61 (0) 8 9331 6611  
Fax: +61 (0) 8 9331 6622  
P.O. Box 455, Fremantle WA 6959  
ACN: 118 341 736  
[www.bullseyemining.com.au](http://www.bullseyemining.com.au)

The Second Proceedings have been launched in the wake of an unsuccessful rival takeover bid for Bullseye by Xingao, which expired last month whilst it was still subject to various defeating conditions, including Foreign Investment Review Board (FIRB) approval. Based on information publicly disclosed by Xingao, as at the close of Xingao's takeover offer, it had only received acceptances for 0.6% of the issued shares in Bullseye (which acceptances have now been unwound as the offer did not proceed).

Bullseye is disappointed by the actions of the Plaintiffs especially in light of the Judicial Mediation being conducted in good faith in respect of the Initial Proceedings. Bullseye views the commencement of the Second Court Proceedings as an opportunistic tactic by the Plaintiffs to attempt to advance their position in the upcoming Judicial Mediation and represents yet another example of a concerted series of actions by the Plaintiffs seeking to gain influence and control over the affairs of Bullseye.

Bullseye is continuing to consider its rights and will seek to have the Second Proceedings dealt with efficiently and otherwise in a manner reflective and respecting of its best interests and those of its stakeholders. Bullseye has appointed Murcia Pestell Hillard Lawyers to file an appearance and represent Bullseye on this matter.

### **Matter CIV 1987 of 2020**

As announced on 8 December 2021, Mr Sam Cheng has brought an action in the District Court of Western Australia, CIV 1987 of 2020, against Bullseye, alleging that Bullseye has breached a contract between Bullseye and Mr Cheng entered into around 9 October 2013, by failing or refusing to pay monthly consulting fees to Mr Cheng in the amount of \$580,000 during the period from June 2018 until May 2020. Bullseye denies that claim.

Bullseye has brought a counterclaim in CIV 1987 of 2020 against the following parties:

- (a) Sam Cheng;
- (b) Wu Qiyuan;
- (c) Xinhe;
- (d) Yiyang Qiu (Luke Huang);
- (e) Brett Clark;
- (f) Doonbeg Capital Pty Ltd
- (g) Kevin Dundo; and
- (h) Red 5 Limited

Bullseye seeks unliquidated damages against the above parties for conspiring to cause harm and injury to Bullseye. The action is in the interlocutory stages of the Court process and is awaiting judgment to be delivered by the District Court concerning applications for security for costs issued against Bullseye by six of the defendants to the counterclaim.

Once the security for costs applications have been determined, Bullseye will advance its damages claim. As the matter progresses, it is expected to be elevated to the Supreme Court commensurate with the damages to be sought in the proceeding.

### **Matter CIV 1989 of 2020**

As announced on 8 December 2021, Mr Sam Cheng and Mr Eddy Cheng, as trustees of the NEZA Trust (the Plaintiffs) have brought an action in the District Court of Western Australia, CIV 1989 of 2020, against Bullseye, seeking payment of capital raising fees from Bullseye in the amount of \$366,000.

Bullseye has filed a defence and counterclaim in the proceedings, denying any amount is owing to the Plaintiffs, and claiming:

- (a) reimbursement of fees paid by Bullseye to the Plaintiffs in the sum of \$120,000; and
- (b) the transfer to Bullseye of 900,000 shares in Bullseye, or alternatively reimbursement of fees in the sum of \$117,000.

The trial of this matter commenced on 31 January 2022 and proceeded for four sitting days. On 4 February 2022, the trial was adjourned part-heard until 17 October 2022 for an anticipated further four trial days. This matter is not deemed material to Bullseye.

#### **Dispute with Inca Minerals Limited**

Bullseye and Inca Minerals Limited (“Inca”) are in dispute in relation to nickel rights on two of Bullseye’s non-core tenements within Bullseye’s North Laverton Gold Project. The parties have agreed to enter into a mediation process and look forward to resolving the matter in due course. This matter is not deemed material to Bullseye.

#### **Cessation of the Blue Cap Bullseye Joint Venture (Bullseye: 70%)**

Consistent with Bullseye’s strategy to manage the development of the North Laverton Gold Project located on Bullseye’s Dingo Range greenstone belt, Bullseye has reached an in principle agreement with Blue Cap Equities Pty Ltd ATF Blue Capital Trust No.2 (“BCE”) for the cessation of the Blue Cap Bullseye Joint Venture (“BCBJV”) and all associated entities. The parties are proceeding to formal documentation.

For further information please contact:

Morgan Hart  
**Chairman**  
**Bullseye Mining Limited**