

UPDATE ON METALICITY AND NEX METALS REGULATORY ITEMS

- Three Takeovers Panel applications have now been lodged in respect of Metalicity’s off-market takeover bid for NME, with two finding unacceptable circumstances due to the actions of Nex Metals Explorations Limited (NME), and the third (lodged by NME) not proceeding:
 - Firstly, the Takeovers Panel found¹ that NME could not proceed with a proposed rights issue, without shareholder approval.
 - Secondly, the Takeovers Panel found² that there were material deficiencies in the target’s statement produced by NME, including a lack of soundly-based and sufficiently defensible reasons for the Directors’ recommendation and no disclosure of financial information. NME will now need to prepare a replacement target’s statement in a form that ASIC does not object to and which is to be accompanied by an independent expert’s report providing an opinion for NME shareholders on whether Metalicity’s bid is fair and reasonable.
 - Thirdly, the Takeovers Panel declined³ to conduct proceedings in respect of a claim by NME, citing that insufficient material had been provided by NME. This was the same matter that NME announced to the ASX on 18 November that it had made a report to ASIC about. NME has since applied for a review of this decision.
 - The Takeovers Panel has made orders that NME must advise the market that (amongst other things) its target’s statement is misleading – see NME announcement dated 30 November 2021.
- Metalicity encourages all NME shareholders to carefully consider the Offer and make an early decision ahead of any closing date given that postal backlogs are not yet fully cleared. NME shareholders can also email their acceptances to capitalmarkets@linkmarketservices.com.au with the subject line “NME Takeover by MCT”. The closing date of the Offer is 5:00pm (Perth time) on 15 December 2021 (unless withdrawn or extended).

Metalicity Limited (ASX: MCT) (Company or Metalicity) is pleased to provide an update on the various regulatory and legal matters concerning the Company and Joint Venture (JV) partner, Nex Metals Explorations Limited (ASX: NME) (NME).

Capitalised terms in this announcement have the same meaning as given in the bidder’s statement lodged by Metalicity on 24 September 2021 in relation to its off-market takeover bid for all of the fully paid ordinary shares in NME, unless otherwise specified.

Andrew Daley, Chairman of Metalicity commented:

¹ https://www.takeovers.gov.au/content/DisplayDoc.aspx?doc=media_releases/2021/034.htm&pageID=&Year=

² https://www.takeovers.gov.au/content/DisplayDoc.aspx?doc=media_releases/2021/042.htm&pageID=&Year=

³ https://www.takeovers.gov.au/content/DisplayDoc.aspx?doc=media_releases/2021/039.htm&pageID=&Year=

“Over the last few weeks, it has become increasingly obvious that, as we originally thought when we launched our bid, Nex Metals does not have either the management capability or the technical and financial capacity to actively support the development of their current 49% interest in the Kookynie and Yundamindra Gold Projects.

In response to our offer, all we’ve seen is a few haphazard and spurious legal claims. They have not even been able to produce a proper target’s statement, as they were required to do by 29 October 2021. They will now be forced to appoint an independent expert to provide Nex Metals shareholders with a proper view on the value of our offer.

In addition, they have also now challenged our 51% controlling interest in the Kookynie and Yundamindra Gold Projects. That is after previously acknowledging publicly our completed earn-in and being represented at the first meeting of the Joint Venture Management Committee.

So, in summary, rather than issuing a valid, well-reasoned target’s statement with all the information necessary to allow their shareholders to make a considered decision as to whether to accept our offer, all Nex Metals has done is attempt to frustrate the offer process by making their haphazard legal claims and delaying publication of their up-to-date financial accounts.

In that time, Metalicity has continued to progress a drilling campaign that is adding significant value, as we head towards completing an updated Mineral Resource Estimate.

Surely it must be clear by now that the only logical way forward that will allow the Kookynie and Yundamindra Gold Projects to realise their potential is under one focused and qualified management team that can actually progress the project.”

Metalicity encourages all NME shareholders to carefully consider the Offer and make an early decision ahead of any closing date given that postal backlogs are not yet fully cleared. NME shareholders can also email their acceptances to capitalmarkets@linkmarketservices.com.au with the subject line “NME Takeover by MCT”. **The closing date of the Offer is 5:00pm (Perth time) on 15 December 2021 (unless withdrawn or extended).**

NME shareholders should read Metalicity’s Bidder’s Statement carefully and consult their professional advisers before deciding whether to accept the Offer.

NME Rights Issue

NME announced on 29 September 2021 an intention to carry out a 1 for 3 non-renounceable rights issue at an issue price of \$0.035 per share to raise up to \$3.115 million. In respect of this proposal, Metalicity notes:

- NME is now required to obtain shareholder approval to proceed with the rights issue, following a declaration of unacceptable circumstances by the Takeovers Panel;
- The amount proposed to be raised of \$3.115 million is still less than recently disclosed current liabilities (largely payables and borrowings) of \$3.245 million, the vast majority of which is owed to directors of NME.

NME Target’s Statement

The Takeovers Panel found that there are material deficiencies in NME’s target’s statement lodged with ASIC on 29 October 2021, in contravention of the standard of disclosure required by section 638 of the *Corporations Act 2001* (Cth) (Act), including because it does not disclose:

- soundly-based and sufficiently defensible reasons upon which NME’s directors recommend that shareholders reject the bid, which included “due to the lack of information”;
- information in respect of NME’s proposed rights issue;

- financial information in respect of NME;
- the risks to NME shareholders of, on the one hand, accepting the bid and, on the other, not accepting the bid; and
- that NME would be suspended from quotation on ASX on 1 November 2021.

The Takeovers Panel also found that:

- The target's statement also contravenes section 670A, including because it does not contain all material required under section 638.
- NME did not produce material to establish that NME's directors had passed a resolution approving its target's statement for lodgement with ASIC, in contravention of section 639(1).
- NME did not dispatch its target's statement to NME shareholders by 29 October 2021, in contravention of item 12 of section 633.

NME is now required to produce a compliant replacement target's statement, in a form that ASIC does not object to. Crucially, NME **must also appoint an independent expert** (from a panel of three chosen by ASIC) to prepare a report to accompany the replacement target's statement providing an opinion for NME shareholders on whether the Metalicity bid is fair and reasonable.

Supreme Court Action

The Kookynie and Yundamindra Gold Projects are now majority (51%) held by Metalicity. Despite this, NME has recently filed a Supreme Court action against Metalicity claiming otherwise. NME announced this same action twice, on the 15th and 16th of November 2021. The claims made in this proceeding will be vigorously defended.

Takeovers Panel application in respect of an alleged contravention of section 623 of the Corporations Act (Collateral benefits not allowed) and associated ASIC complaint

The Takeovers Panel has declined to conduct proceedings on an application dated 17 November 2021 from NME in relation to its affairs. NME had submitted (in effect) that following the making of Metalicity's bid, an agent of Metalicity has engaged in conduct that constituted a breach of sections 619(1) (offers to be the same) and 623 (collateral benefits) of the Act.

The Takeovers Panel considered that insufficient material had been provided by NME to support the Takeovers Panel conducting proceedings. Accordingly, the Takeovers Panel concluded there was no reasonable prospect that it would make a declaration of unacceptable circumstances.

This same matter was the subject of an ASIC complaint announced by NME on 18 November 2021.

NME has sought leave to apply for review.

This announcement is approved by the Board of Metalicity Limited.

ENQUIRIES

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Forward Looking Statements

This announcement may contain certain "forward-looking statements" which may not have been based solely on historical facts, but rather may be based on the Company's current expectations about future events and results. Where the Company expresses or implies an expectation or belief as to

future events or results, such expectation or belief is expressed in good faith and believed to have reasonable basis. However, forward-looking statements:

(a) are necessarily based upon a number of estimates and assumptions that, while considered reasonable by the Company, are inherently subject to significant technical, business, economic, competitive, political and social uncertainties and contingencies;

(b) involve known and unknown risks and uncertainties that could cause actual events or results to differ materially from estimated or anticipated events or results reflected in such forward-looking statements. Such risks include, without limitation, resource risk, metals price volatility, currency fluctuations, increased production costs and variances in ore grade or recovery rates from those assumed in mining plans, as well as political and operational risks in the countries and states in which the Company operates or supplies or sells product to, and governmental regulation and judicial outcomes; and

(c) may include, among other things, statements regarding estimates and assumptions in respect of prices, costs, results and capital expenditure, and are or may be based on assumptions and estimates related to future technical, economic, market, political, social and other conditions.

The words "believe", "expect", "anticipate", "indicate", "contemplate", "target", "plan", "intends", "continue", "budget", "estimate", "may", "will", "schedule" and similar expressions identify forward-looking statements.

All forward-looking statements contained in this presentation are qualified by the foregoing cautionary statements. Recipients are cautioned that forward-looking statements are not guarantees of future performance and accordingly recipients are cautioned not to put undue reliance on forward-looking statements due to the inherent uncertainty therein.

The Company disclaims any intent or obligation to publicly update any forward-looking statements, whether as a result of new information, future events or results or otherwise.