

# VAs' Preferred Extension Period Cut Short By Creditor



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Cathro & Partners'  
Andrew Blundell.

Several companies operating goldmines have entered external administration recently, just when the yellow element's spot price would seem to be supportive of solvency, if not profit.

iNO's coverage in the past few months has included reports on the travails of **Jin Resources (Australia) Pty Ltd** and its Gilded Rose gold mine near Cloncurry in Queensland and **Ballmaine Pty Ltd**, operator of the Ballarat gold mine under its historic namesake township in Victoria.



Simon Cathro of  
Cathro & Partners.

In each of these cases a secured creditor installed voluntary administrators rather than receivers.

In the case of Jin Resources those VAs were found by a Queensland court to have been invalidly appointed and were ordered out with costs going Jin's way. The owners got their mine back and hefty costs orders against their former litigation funder and the ousted VAs. But that's a tale in waiting.

In the case of Ballmaine an attempt to replace the VAs – coincidentally RegLiq partners from **Hall Chadwick**, the same firm as those ejected from Jin – was defeated at a meeting of creditors and the fate of the Ballarat operation remains uncertain.

And now we come to **MG Gold** and its seemingly moribund Maxwells Mine near Bendigo.

In recent years MG has been forced to repel several applications to have it wound up. Last month and just days before a fresh hearing brought by plaintiff creditor **Maradox Pty Ltd** was to commence MG's sole director **Mendel Gluck** took his sole option, appointing **Cathro & Partners Simon Cathro and Andrew Blundell** to the company as voluntary administrators.

iNO's mail is that the VAs' appointment took some time to be formalised because the director's status as London born and based meant obtaining adequate insurance took longer than if he'd been an Australian national.

While no DoCA has been proposed as yet the secured creditor **NR Holdings Limited (NRH)** has, according to the VAs' second DIRRI, offered them \$60,000 in indemnity funding on top of the \$82,000 already deposited by Gluck into the Cathro Partners trust account.

That latter amount however is "subject to documentation, acknowledgment of NRH's debt and adequate security".

The Minutes of the first meeting of creditors indicate that there is no love lost between Maradox and NRH.

Holding a special proxy for Maradox, **Roberts Gray Lawyers** partner **Rhys Roberts** apparently described as "outrageous" the fact that documentation proving NRH's security had not been provided to his client.

When Roberts then indicated that Maradox wanted a Committee of Inspection (COI) formed **Corrs Chambers Wessgarth** senior associate **Tom Schinckel**, acting for the director and the secured creditor opposed it and the resolution failed on a poll.

Having been foiled in its bid to have MG Gold wound up and a COI established, Maradox finally got lucky when Cathro and Blundell went to the Federal Court earlier this month seeking a six month extension to the convening period for the second meeting.

Maradox intervened, arguing that three months was sufficient for the VAs to conduct a sale process and that the longer the Maxwells Mine stays on care and maintenance, the more damage will occur to plant and equipment though flooding.

In **Blundell (Administrator), in the matter of MG Gold Pty Ltd (administrators appointed)** [2023] FCA 282 Federal Court judge **Ian “Hugh’s brother” Jackman** agreed.

“The affidavit of Mr Roberts, the solicitor representing Maradox, refers to information he has received from the director of Maradox, Mr **Sailah**, who has experience in the gold mining industry, to the effect that the longer the mine is left without a full team of people or an injection of capital, the more it deteriorates,” the judge said.

“Specifically, Mr Sailah has informed Mr Roberts that machinery and equipment is at risk of water damage, and that the condition of seals and pumps at the mine will worsen over time.

“Counsel for the plaintiff questions Mr Sailah’s qualifications in providing those opinions to Mr Roberts, however they strike me as matters of common sense, which one would not require very much, if any, experience in the gold mining industry to appreciate,” the judge said.

Those judicial conclusions led to orders suiting Maradox more than the VAs, with the convening period extension limited to three months, albeit with an acknowledgement that Cathro and Blundell can, if needs be, apply to extend again before the current deadline expires. Anybody wanna’ buy a goldmine?