

23 March 2022

## TO THE CREDITOR AS ADDRESSED

Dear Sir/Madam

**WBHO Infrastructure Pty Ltd ACN 089 434 220 (WBHOI)**  
**Carr Civil Contracting Pty Ltd ACN 100 438 257 (CCC)**  
**(All Administrators Appointed)**  
**(Collectively the Companies)**

We, Salvatore Algeri, Jason Tracy, Matthew Donnelly and David Orr, were appointed on 23 February 2022 as Joint and Several Administrators to the above entities. We were also appointed to other entities within the WBHOA Group of companies as listed in **Appendix B** to the attached report pursuant to provisions of Section 436A of the *Corporations Act 2001* (Cth).

Please find attached a report for your information that details progress of the administration, information about the Companies business, property and financial affairs and our opinion of what would be in the best interests of creditors for the future of the Companies, being that creditors approve the Deed of Company Arrangement proposed by SRG Global Civil Pty Ltd (**SRG**).

The future of the Companies is to be decided by the creditors at a meeting being to be held at **10:00am AWST on 30 March 2022 for creditors of WBHOI and 12:00pm AWST on 30 March 2022 for creditors of CCC**.

In addition, there is a meeting of only eligible employees of WBHOI, to be held immediately prior to the second meeting of creditors at **9:00am AWST on 30 March 2022**.

To assist creditors, we have provided an executive summary and responses to frequently asked questions (**FAQ**) at pages 8-10.

Should you have any queries regarding this report or the administration in general, please email us at: [WBHOI@deloitte.com.au](mailto:WBHOI@deloitte.com.au).

Yours faithfully



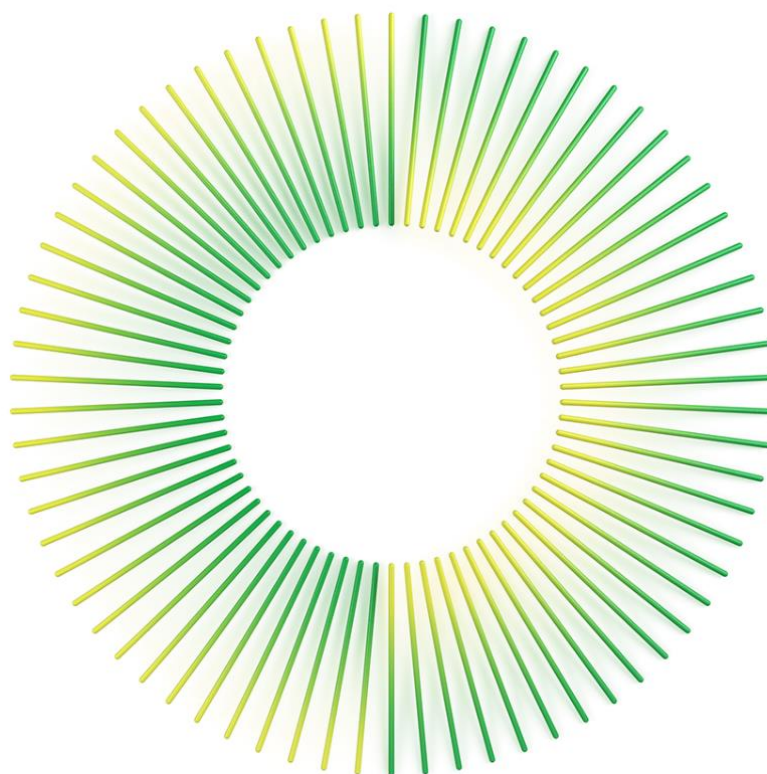
**Matthew Donnelly**  
Joint and Several  
Voluntary Administrator

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## Report to Creditors pursuant to section 75-225 of the Insolvency Practice Rules (Corporations)

WBHO INFRASTRUCTURE PTY LTD ACN 089 434 220 (WBHOI)

CARR CIVIL CONTRACTING PTY LTD ACN 100 438 257 (CCC)

(All Administrators Appointed)

(collectively the Companies)

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## Important notice

In the time available to us, we have undertaken the following to prepare this report and formulate our opinion:

- Communicated with the Companies' Directors, Secretary and Management regarding the status of the Companies and their assets and liabilities.
- Undertaken searches of databases such as the Australian Securities and Investments Commissions (**ASIC**), the Personal Property Securities Register (**PPSR**), Australian Taxation Office (**ATO**) and other statutory agencies.
- Engaged solicitors to assist with the administration as required.
- Reviewed the books and records of the Companies and when received, additional information provided by management.
- Where relevant, communicated with and obtained information from third parties, including creditors, suppliers, lessors, financiers, industry regulators and government bodies.
- Reviewed amounts owed to creditors and used assumptions and commercial judgement to estimate existing, contingent and future debts.
- Reviewed a draft of the Reports on Company Activities and Property provided by management.

Creditors should be aware that we have relied upon the above sources of information in preparing our report. We have done so in good faith in the belief that such statements, records and opinions are not false and misleading. Consequently, the report's accuracy and reliability are dependent on the quality of the information produced by these parties.

While we have endeavoured to verify the accuracy of the books and records, the financial accounts and other documentation pertaining to the Companies' affairs, in the amount of time available under the Act, we give no warranty as to the accuracy, completeness or reliability of same.

We have not conducted an audit of the books and records, financial accounts and other documentation pertaining to the Companies' affairs. We undertake no responsibility arising in any way whatsoever to any person for errors or omissions however caused by way of this report or accompanying documents.

Whilst we have no reason to doubt any information contained in this report, we reserve the right to alter our conclusions should the underlying data prove to be inaccurate or materially change from the date of this report. After issuing our report, if we become aware of any additional information which may be material to the creditors' decision on how they will vote at the second creditors' meeting, we may provide a further written report and/or table the information at the second meeting.

### Investigations undertaken

In the time available our investigations of the Companies' affairs have been detailed but are still only preliminary. Our statements and opinions are based on those preliminary investigations of the Companies' affairs, undertaken in a limited timeframe. A liquidator would undertake further investigations if appointed.

Our assessment of potential claims and offences are made on a preliminary basis on information available to us at the date of this report. We reserve our right to alter our assessment if further relevant information is provided after the date of this report or as a result of further investigations in the event that the Companies are wound up.

### Return to creditors

In providing an estimated return (dividend) to creditors, we have made forecasts of asset realisations, trading income and liabilities, Voluntary Administrators' liabilities and the estimated total value of creditors' claims. These forecasts and estimates are based on the information available to us at the time of preparing our estimate and may change as events occur and claims are received from creditors. Whilst the forecasts and estimates are the result of our best assessment in the circumstances, creditors should note that the outcome for creditors may differ from the information provided in this report.

# 1 Executive summary

We are of the opinion that it is in the best interest of creditors of WBHO Infrastructure Pty Ltd (Administrators Appointed) (**WBHOI**) to resolve to approve the Deed of Company Arrangement (**DOCA**) put forward by SRG Global Civil Pty Ltd (**SRG**) (**SRG DOCA**) in relation to WBHOI for the following key reasons:

- The DOCA provides the majority of employees with continued employment, and in circumstances where WBHOI employees have had their employment terminated, it provides for an expedited settlement of their outstanding entitlements.
- The DOCA provides a swift exit of WBHOI from external administration. Thereby, removing uncertainty surrounding the future of WBHOI for its employees, customers, suppliers, current and future stakeholders.
- SRG are paying above fair market value for WBHOI's plant and equipment, and assuming all continuing WBHOI employee liabilities.
- A fund is established for the benefit of creditors, which includes net income from trading during the administration, cash and debtors as of completion, real property owned by the company, and litigation claims. This fund will facilitate a distribution to unsecured creditors. The rate of that distribution is subject to crystallisation of contingent claims, and the quantification of the total creditor pool.
- The Administrators have entered into a Sale and Implementation Deed (**SID**) which provides that, in circumstances where creditors do not approve the DOCA, the Administrator/chairperson will adjourn the second creditors meeting (utilising IPR 75-140), execute and complete on the Asset Sale Agreement (**ASA**) between the Administrators and SRG (utilising the Administrators power of sale under Section 437A of the Act). In this situation, employees will have their employment terminated, and the return to unsecured creditors will be substantially less than as contemplated under the SRG DOCA.

In relation to Carr Civil Contracting Pty Ltd (Administrators Appointed) (**CCC**), we recommend that the Administration end. There are no realisable assets available to this entity, and no liabilities (save for \$2.5k owed to WBHOI). SRG wish to acquire this entity as part of their WBHOI DOCA, the minor intercompany debt will be extinguished resulting in CCC being solvent and as such, the Administration ending is the appropriate course of action.

## 1.1 Appointment

We, Salvatore Algeri, Jason Tracy, Matthew Donnelly and David Orr, were appointed on 23 February 2022 as Joint and Several Administrators to the Companies. We were also appointed to other entities within the related WBHO Australia Group (**WBHOA Group** or **the Group**) as listed in **Appendix B** to the attached report pursuant to provisions of Section 436A of the Corporations Act 2001 (Cth).

The entities subject to voluntary administration and this report will be referred to as the **WBHOI, CCC or collectively as the Companies**.

## 1.2 The role of voluntary administrators and purpose of this report

The purpose of the appointment of voluntary administrators is to allow for independent insolvency practitioners to take control of and investigate the affairs of a company. Creditors' claims are put on hold as at the date of the administrators' appointment and remain so for the duration of the voluntary administration.

The intention of a voluntary administration is to maximise the prospects of a company, or as much as possible of its business, continuing in existence, or, if that is not possible, then to achieve better returns to creditors than what would

have been achieved by its immediate liquidation. The voluntary administrator must investigate the company's affairs and report to creditors on the alternative options available to the company. A voluntary administrator has all the powers of a director, including the power to sell the business of the company or individual assets in the lead up to the second meeting of creditors.

The outcomes of a voluntary administration are:

- Entering into a Deed of Company Arrangement;
- Liquidation; or
- Ending the voluntary administration and returning the company to its directors.

These options are voted on at a meeting of creditors, known as the second meeting of creditors.

The purpose of this report is to provide creditors with information regarding the Companies' business, property, affairs and financial circumstances (including our opinion as to the option that is in the creditors' best interest) to assist creditors to make an informed decision at the second meeting of creditors.

### 1.3 Conduct of administration

Upon appointment, we took immediate steps to control the Companies operations and assets. This included advising all of the key stakeholders of our appointment and implementing appropriate control procedures.

### 1.4 Sale of business

Immediately following our appointment, we commenced a marketing and sale process seeking urgent offers for the sale and/or recapitalisation of WBHOI.

In respect of that process, we note:

- We received 50+ expressions of interest.
- 22 parties executed confidentiality agreements and undertook due diligence on WBHOI.
- We called for offers from interested parties by 11 March 2022. Only one proposal received was capable of acceptance. This proposal from SRG provided, amongst other things, the highest and best value proposition to creditors.

The SRG proposal was predicated on:

- Entry into a Sale and Implementation Deed.
- Presenting a DOCA to creditors at the second meeting of creditors.
- In circumstances where creditors did not approve the DOCA, the Administrators would adjourn the meeting and utilise their power of sale to enter into and complete the ASA. The Administrators have formed a view that this step is in the interests of creditors in circumstances where creditors do not resolve to enter into the DOCA.

The effect of this transaction is that:

- As of the date of execution (which occurred on 13 March 2022), the Administrators had entered into a binding transaction which sold the business to SRG to settle either by way of a DOCA or an ASA.
- This provides certainty to WBHOI's employees, suppliers and customers that a transaction will consummate.
- It also provides certainty to SRG that they have purchased WBHOI, and that they will not be re-traded on price or terms following execution of the documentation.

As described throughout this report, the DOCA proposal put forward by SRG (amongst other things):

- Provides certainty of completion through execution of an ASA as well as DOCA to be put to creditors.



- Has limited conditionality.
- Provided the highest and best value proposition to creditors based on the offers received.
- Was the only offer capable of acceptance by the Administrators.
- Provides employment for the majority of WBHOI's employees.
- Ascribes above fair value to WBHOI's equipment.
- Is in all the circumstances, in the best interest of creditors.

Further detail is discussed at **section 8 and section 9** of this report.

## 1.5 Estimated return to creditors

We table a summary of returns to creditors below:

WBHOI		SRG DOCA / Creditors' Trust	ASA - liquidation
All Present and After Acquired Property ( <b>ALL PAAP</b> ) security holders	%	100	100
Priority creditors/employees	%	100	100
Unsecured creditors / average return	%	TBD	TBD
Unsecured creditors – funds available for distribution after costs	\$m	11.7	4.4

We comment as follows in respect of the above:

- There are significant contingent and uncrystallised claims against WBHOI. In this regard, we are not in a position to accurately determine the unsecured creditor pool to estimate an appropriate dividend to unsecured creditors, at this stage.
- There is only one creditor of CCC which is WBHOI and it has no assets.

We comment further in **section 11** of this report.

As at our appointment, WBHOI had 288 employees. As part of the SRG proposed DOCA, there would be continued employment for 225 employees. During our appointment, 44 employees have had their employment terminated and 19 resigned.

WBHOI employee outcome	Count
Continuing employees	225
Non-continuing employees – redundancy (QLD projects)	17
Non-continuing employees – transferred to NetFlow	24
Non-continuing employees – redundancy (Other)	3
Non-continuing employees – resigned	19
<b>Total</b>	<b>288</b>

Note: In addition, personnel provided by labour hire companies will be continuing in Western Australia

## 1.6 Investigation, offences, voidable transactions

Our investigations are preliminary having regard to the limitations discussed throughout this report. Accordingly, and in the time available to us to undertake these investigations, we have not yet formed a final opinion as to the likely date upon which WBHOI became insolvent. We note however, on 22 February 2022, the directors were notified by WBHO that financial support to the Group had been withdrawn. Mr Grobler points to this as his reason for appointing Administrators as he concluded at that time WBHOI and CCC were insolvent or likely to become insolvent.

Based on our preliminary investigations to date, we are currently of the opinion that there would be a detriment to creditors should WBHOI proceed to liquidation and based on current information, SRG DOCA results in a more immediate and higher return to participating creditors.

Please note companies in the wider WBHOA Group may or may not have a claim against Wilson Bayly Holmes-Ovcon Ltd (WBHO). In some circumstances, any recoveries against WBHO may result in some financial benefit to WBHOI. However, based on current information, we have not yet formed a view of the prospect of recovery against WBHO and the extent (if any) of a financial benefit to WBHOI.

Should creditors resolve to place the Companies into liquidation, a Liquidator would conduct further investigations to determine the exact date of insolvency and if, having regard to that date, there are potential recoveries from voidable transactions of insolvent trading actions. Creditors ought to note that there are a number of possible defences that may be available to any potential party who may have received the proceeds of a voidable transaction and also the directors and WBHOA in respect of any potential insolvent trading claim. We have not had the opportunity to fully consider any of these possible defences. Accordingly, a liquidator would need to carefully consider the commerciality of such claims, including the costs of pursuing the claim relative to the possible recovery, and whether litigation funding is required (which would further reduce the net available recoveries to creditors).

However, based on our preliminary investigations to date, we have not identified any breaches of directors' duties or other voidable transactions which would give rise to a cause of action available to the Companies or a liquidator. Further investigations would be undertaken by a liquidator, if appointed.

## 1.7 Voluntary Administrators' opinion

### WBHOI

In accordance with Section 75-225(3) of the Insolvency Practice Rules (IPR), we provide the following statement:

- It is our opinion that it is in the creditors' interests to approve the DOCA proposed by SRG.
- It is our opinion that it is not in the creditors' interests for the voluntary administration to end.
- It is our opinion that it is not in the creditors' interests for WBHOI to be wound up.

The reasons for our opinion are contained in **section 8, 9, 11** and **section 12 of this report**. The details of the DOCA proposed and the Creditors' Trust are contained in **section 9** and **section 10** of this report.

### CCC

In accordance with Section 75-225(3) of the IPR we provide the following statement:

- It is our opinion that it is in the creditors' interests for the voluntary administration of the Companies to end.
- It is our opinion that it is not in the creditors' interests for CCC to be wound up.
- No DOCA proposal has been received therefore this option is not available

The reasons for our opinion are contained in **section 8, 9, 11** and **section 12 of this report**. The details of the DOCA proposed and the Creditors' Trust are contained in **section 9** and **section 10** of this report.

## 1.8 Second meeting of creditors

Pursuant to Section 439A of the Act, the second meeting of creditors for WBHOI at **10:00am AWST on Wednesday 30 March 2022**.

The second meeting of creditors CCC will be held at **12:00pm AWST on Wednesday 30 March 2022**. The meeting will be a virtual, online meeting hosted on the Microsoft Teams Live Events platform.

Attached at **Appendix C** is the notice of meeting.

## 1.9 WBHOA Group

WBHOI and its subsidiaries (**WBHOI Group**) are a member of a broader group of companies known as the WBHOA Group (refer **section 3.2**). This report concerns WBHOI and CCC, and creditors are being asked to consider the future of those companies only at the second meeting of creditors to be held on 30 March 2022. **A separate report will be issued in relation to the other companies in the WBHOA Group (including Probuild and its subsidiaries) at the appropriate time.**

We note that we have sought and obtained orders to extend the convening period of the WBHOA Group for a period of three months. We note that the application was filed prior to final offers being received. Notwithstanding the extra time obtained for WBHOI, it is ultimately not required for the SRG DOCA if accepted by creditors.

Further, we note that WBHOI is a guarantor to certain WBHOA Group surety bonding facilities. This is discussed further in **section 11** of this report.

## 1.10 Frequently asked questions

Question	Response
1. Why am I receiving this report?	You are receiving this report because you have been identified as being owed money by the Companies. The Companies are under a voluntary administration regime, and we have been appointed Voluntary Administrators of the Companies. More information on the voluntary administration process can be found on the Australian Securities and Investments website here: <a href="https://asic.gov.au/regulatory-resources/insolvency/insolvency-for-creditors/voluntary-administration-a-guide-for-creditors/">https://asic.gov.au/regulatory-resources/insolvency/insolvency-for-creditors/voluntary-administration-a-guide-for-creditors/</a>
2. Who is in control of the Companies?	The Voluntary Administrators are in control of the Companies. They are working with management to manage the operations of the Companies.  If creditors resolve to approve the SRG DOCA, the transaction will complete and SRG will be in control of WBHOI with a target effective date of 1 April 2022.
3. When will I get paid the money I am owed?	Under the voluntary administration process described on the website referred to in question 1, repayment of any money owed to creditors are put on hold until the future of a company can be resolved at the second meeting of creditors.  The estimated outcomes for different types of creditors are summarised at <b>section 1.5</b> and explained in more detail at <b>section 11</b> .
4. What is the second meeting of creditors for?	Under the law that governs how voluntary administrations are conducted, after investigating the affairs of the company and forming an opinion on each of the three options available to creditors (below), including an opinion as to which option is in the best interests of creditors, the administrator must call a second creditors' meeting. At this meeting, creditors are given the opportunity to decide the future of the companies in the Group. Creditors can decide at this meeting to: <ol style="list-style-type: none"> <li>1. Return the company to the control of the directors; or</li> <li>2. Accept a deed of company arrangement; or</li> <li>3. Put the company into liquidation.</li> </ol>
5. What is the Voluntary Administrators' opinion on the three options?	We have provided our opinion and reasons for our opinion at <b>section 1.7</b> and <b>section 12</b> . We recommend creditors read these sections carefully.  Our opinion is that the proposal put forward by SRG is in the best interest of creditors and it provides for the continued trading of WBHOI and the ongoing employment for the majority of employees.
6. When is the second meeting of creditors?	The second meeting of creditors will be a virtual, online meeting and will be scheduled for <b>10:00am AWST on Wednesday 30 March 2022 for creditors of</b>

Question	Response
	<p><b>WBHOI and 12:00pm AWST for creditors of CCC.</b> Further information is contained in <b>Appendix C.</b></p>
<p>7. Do I need to attend the meeting?</p>	<p>Attendance at the meeting is not compulsory. You may submit a vote prior to the meeting or arrange for a person to represent you at the meeting by way of a proxy. A proxy is a document containing instructions to the Voluntary Administrators on who you want to represent you at the meeting and how you wish to vote. Instructions on how to submit a proxy are detailed in <b>section 14</b> and <b>Appendix D.</b></p>
<p>8. What is a DOCA?</p>	<p>A DOCA is a binding arrangement between a company and its creditors governing how the company's affairs will be dealt with, which may be agreed to as a result of the company entering voluntary administration. It must be approved by creditors of the company and it provides the agreement and process by which a company will pay all or part of its debts and then be free of those debts. It aims to maximise the chances of the company, or as much as possible of its business, continuing, or to provide a better return for creditors than an immediate winding up of the company, or both. More information on DOCAs can be found on the Australian Securities and Investments website below. The terms of the DOCAs are described in <b>section 9</b> and <b>Appendix F.</b></p> <p><a href="https://asic.gov.au/regulatory-resources/insolvency/insolvency-for-creditors/creditors-deed-of-company-arrangement/">https://asic.gov.au/regulatory-resources/insolvency/insolvency-for-creditors/creditors-deed-of-company-arrangement/</a></p>
<p>9. The report refers to secured and unsecured creditors. Which one am I?</p>	<p>The website referred to in question 1 explains the difference between a secured and unsecured creditor.</p> <p>Employees are a special class of unsecured creditor. Under the Corporations Act, employee claims are paid in priority to the claims of other unsecured creditors.</p>
<p>10. What happens to the entitlements owed to employees?</p>	<p>Employees will continue their employment with SRG. For the small number of terminated employees, those entitlements will likely be paid in April or May 2022.</p>
<p>11. How can I vote at the second meeting?</p>	<p>The voting process is described in <b>section 14</b> and <b>Appendix D.</b></p>
<p>12. Can I vote at the second meeting even though I can't attend?</p>	<p>Yes. You can lodge a vote by submitting a proxy through the Deloitte Halo platform at <a href="https://aurestructuring.deloitte-halo.com/probuild/">https://aurestructuring.deloitte-halo.com/probuild/</a>. You must be registered and have lodged a claim on the Deloitte Halo platform that has been admitted for voting purposes by the Voluntary Administrators in order to be able to submit a proxy through the Deloitte Halo platform. A proxy is a document containing instructions to the Voluntary Administrators on who you want to represent you at the meeting and how you wish to vote. Instructions on how to submit a proxy are detailed in <b>section 14</b> and <b>Appendix D.</b></p>
<p>13. How does the voting work?</p>	<p>The voting process is described in <b>Appendix D.</b> The ASIC website referred to at question 1 describes how the voting works in normal circumstances. However, laws were introduced to allow votes taken at a virtual meeting to be taken by on a poll or a show of hands. We elect in our second meeting of creditors for votes to be taken on a poll. This means that, to calculate the outcome of each resolution, the administrator must calculate the number and dollar value of each vote in favour together with the number and dollar value of each vote against. A resolution is taken to have passed if a majority in both number and dollar value have voted in favour.</p>
<p>14. Will I still be bound by the DOCA even if I don't vote in favour of it?</p>	<p>A DOCA if approved by creditors binds all priority and unsecured creditors, even if they voted against it.</p>

Question	Response
15. Why did the company fail?	Our reasons for failure of the Companies and the explanation by the Directors are detailed in <b>section 5.6</b> .
16. Have the Voluntary Administrators identified any offences and funds that could be recovered?	The results of our investigations are summarised at <b>section 1.6</b> and explained in detail at <b>section 6</b> .
17. What happens next if the DOCA is approved at the meeting?	<p>The Administrators will execute the DOCA immediately following the meeting, ensure that the conditions proceeded to effectuation are complete, and effectuate the DOCA.</p> <p>In these circumstances:</p> <ul style="list-style-type: none"> <li>• WBHOI will likely exit external administration on 1 April 2022 and be controlled by SRG from that date.</li> <li>• All claims against WBHOI (save for continuing employees) will be transferred to the Creditors' Trust.</li> </ul> <p>More detail is discussed in <b>sections 9</b> and <b>10</b> of this report.</p>

## 2 Introduction

### 2.1 Appointment

We, Salvatore Algeri, Jason Tracy, Matthew Donnelly and David Orr, were appointed on 23 February 2022 as Joint and Several Administrators of the Companies. We were also appointed to other entities within the related WBHOA Group of companies as listed in **Appendix B** to the report pursuant to provisions of Section 436A of the *Corporations Act 2001* (Cth).

### 2.2 Purpose of the appointment and report

The purpose of the appointment of voluntary administrators is to allow for independent insolvency practitioners to take control of and investigate the affairs of a company. Creditors' claims are put on hold as at the date of the administrators' appointment and remain so for the duration of the voluntary administration.

Voluntary Administrators are empowered by the Act to assume control of the company, superseding the powers of the directors and officers, and deal with the company's assets in the interests of creditors.

The intention of a voluntary administration is to maximise the prospects of a company, or as much as possible of its business, continuing in existence (including via a DOCA or sale of the company's business), or, if that is not possible, then to achieve better returns to creditors than what would have been achieved by its immediate liquidation.

Voluntary Administrators are required to provide creditors with enough information and their opinion to assist them in making an informed decision on a company's future.

The purpose of this report is to provide creditors with information regarding the Companies' business, property, affairs and financial circumstances (including our opinion on which of the three alternatives open to creditors as to the future of companies is in their best interests) to assist creditors to make an informed decision on the Companies' future. This report provides information on the following:

- Background information on the Companies.
- The results of our investigations into the affairs of the Companies.

- The estimated returns to creditors.
- Details of the SRG DOCA.
- The options available to creditors and our opinion on each of these options.

Although each of the Companies under voluntary administration were part of the group of companies that are consolidated for financial reporting purposes, we are required to provide information and consider the position of each entity individually in forming our opinion as to what would be in the best interest of creditors. This report specifically addresses WBHOI and CCC only.

The provision of this report is a requirement under section 75-225 of the IPR.

To assist creditors to understand the voluntary administration process and impact it may have on them, ASIC provides a number of information sheets which can be found on their website here: <https://asic.gov.au/regulatory-resources/insolvency/insolvency-for-creditors/>

## 2.3 First meeting of creditors

On 4 March 2022 a concurrent meeting of all companies within the WBHOA Group was held in accordance with section 436E of the Act.

Minutes of the first meetings of creditors have been lodged with the ASIC and are available on the Deloitte website here: <http://www.deloitte.com/au/probuild>

## 2.4 Committee of Inspection

At the meeting held on 4 March 2022 it was resolved that a committee of inspection (COI) be formed for WBHOI. No COI was formed for CCC.

Pursuant to section 80-35 of the Insolvency Practice Schedule (Corporations) 2016 (IPS), the function of the COI is:

- To advise and assist the voluntary administrators.
- To give directions to the voluntary administrators.
- To monitor the conduct of the voluntary administrators.
- Such other functions as are conferred on the committee by the Act.
- To do anything incidental or conducive to the performance of any of the above functions.

A full list of the final creditors and their representative that were elected as members of the COI for WBHOI is provided below:

	Company / Creditor being represented	Representative
1.	Johnson Plant Services	Ben Broom
2.	Techforce Personnel	Justin McNicol
3.	Proto DPS	Paul Tutka
4.	Andrew O'May	Andrew O'May
5.	RPQ Mackay Pty Ltd	Jacob Gunzburg
6.	Fair Entitlements Guarantee Scheme (Observer Only)	Henry Carr / Tara Mazzulla

We have held two meetings of the COI to date which were held on the following dates to discuss the sale process and to update the COI on the administration generally.

- 9 March 2022.
- 17 March 2022.

We anticipate holding at least one more meeting prior to the second creditor meeting to, amongst other things, approve the remuneration of the Administrators.

**At the second meeting of the COI, we sought and obtained a unanimous resolution from the members in attendance that the SRG DOCA was in the best interest of creditors.**

We would like to take this opportunity to thank the COI members for their attendance at these meetings and their input.

Minutes of the COI meetings have been lodged with the ASIC and are available on the Deloitte website here:

<http://www.deloitte.com/au/probuild>

## 2.5 Court orders

Given the size and complexity of managing the voluntary administration of 18 entities within the WBHOA Group and the added difficulties created by COVID-19 pandemic, we applied to Court on two occasions for directions and guidance on various aspects of the voluntary administrations. A summary of these orders is set out in the table below:

Date of order	Matter	Order
2 March 2022	Limitation of liabilities – leases and section 443B of the Act	<ul style="list-style-type: none"> <li>The personal liability of the Administrators under sections 443A(1)(c) and 443B(2) of the Act begins on 24 March 2022, such that the Administrators are not personally liable for any liability with respect to any property leased, used or occupied by any of the companies (including amounts payable pursuant to any leases entered into by any of the companies) in the period 23 February 2022 to 23 March 2022 inclusive.</li> </ul>
2 March 2022	Electronic proxy forms	<ul style="list-style-type: none"> <li>Permitting the use of electronic proxy forms via the Halo Platform.</li> </ul>
2 March 2022	Notice requirements	<ul style="list-style-type: none"> <li>Section 436E(3) to operate such that notice of the first meeting to be provided by 5.00pm on 2 March 2022.</li> </ul>
2 March 2022	Virtual meetings	<ul style="list-style-type: none"> <li>Pursuant to section 90-15 of the IPS the Halo Platform satisfies the requirements of section 75-75(1) of the IPR.</li> </ul>
16 March 2022	Extension of convening period and leave to members of the committee of inspection to derive profit	<ul style="list-style-type: none"> <li>Orders under sections 80-55(5) and 90-15 of the IPS to grant leave regarding derived profit to the members of the committees of inspection.</li> <li>Orders extending the convening period for the second meeting of creditors to be held pursuant to section 439A of the Corporations Act 2001 by a period of up to three (3) months.</li> </ul>

## 2.6 Electronic communication

Section 600G of the Act allows administrators to make communications and notifications available for creditors to access electronically, such as via a creditors' portal. The administrators must notify creditors when information is made available electronically and provide instructions on how it can be accessed.

We have established the following mechanisms for communicating with creditors:

- Provision of information including circulars, copies of court orders and reports, via the Deloitte website: <http://www.deloitte.com/au/probuild>
- Lodgement of claims and proxy forms, via the Deloitte Halo website: <https://aurestructuring.deloitte-halo.com/probuild/>

## 2.7 Second meeting of creditors

Pursuant to Section 439A(3) of the Act and Section 75-225 of the IPR, attached is a notice convening the second meeting of creditors for WBHOI which will be held on **Wednesday 30 March 2022 at 10:00am AWST**. The notice of meeting is enclosed at **Appendix C**.

For creditors of CCC, attached is a notice convening the second meeting of creditors which will be held on **Wednesday 30 March 2022 at 12:00pm AWST**. The notice of meeting is also enclosed at **Appendix C**.

Government health guidelines in some jurisdictions around social distancing means it would be inappropriate to convene a physical meeting. Recent amendments to the legislation that governs insolvent administrations provides that meetings of creditors may be held virtually, using technology that will give all persons entitled to attend a reasonable opportunity to participate without being physically present in the same place. Furthermore, the Companies creditors are geographically dispersed around Australia and elsewhere. To this end, the meeting will be held using the Microsoft Teams Live Events platform.

Further information for creditors who wish to attend the meeting and vote is contained at **Section 14** and **Appendix D** of this report.

## 2.8 Voluntary Administrators' independence, relationships and indemnities

In accordance with Section 436DA of the Act, a Declaration of Independence, Relevant Relationships and Indemnities (DIRRI) was provided with the first report to creditors dated 24 February 2022 and was also tabled at the first meeting of creditors. The DIRRI disclosed information regarding our independence, prior personal or professional relationships with the Group and any indemnities received in relation to these appointments (in this case there were none).

We conduct ongoing assessments as to whether any potential conflict of interest issues develop during the voluntary administration. Our initial DIRRI was dated 23 February 2022. Since this date the following updates have been made

- At the first meeting of creditors, we advised creditors that we had identified Insurance Australia Group Limited (IAG) as a significant actual or contingent creditor of certain entities of the WBHOA Group.

For the reasons outlined in our updated DIRRI attached as **Appendix G**, we do not consider that these changes cause a real or potential risk to our independence.

We also tabled our DIRRI at the first COI Meeting and asked the committee members whether they had any objections to our DIRRI or wanted to discuss any matters contained therein. No objections or questions were raised, or comments made.

*[This space has been left blank intentionally]*



## 3 Background information

### 3.1 History of the Companies

Below is a brief summary of the background of the Companies. More information can be found on the WBHOI website: <https://www.wbho.com.au/>.

#### 3.1.1 Background

The Companies' ultimate Australian parent entity is WBHO Australia Pty Ltd (**WBHOA**). WBHOA is 100% owned by WBHO Construction (Pty) Ltd a subsidiary of the listed WBHO (Johannesburg Stock Exchange). WBHO is a construction and civil engineering company with operations in Africa, Australia and the United Kingdom (**UK**). WBHOA is also the parent for the Probuild Group.

The Companies head office is in West Perth, Western Australia and there are satellite offices and other operational sites in Naval Base Western Australia, Hamilton Queensland and Melbourne Victoria. The Queensland and Victorian sites have either been closed or handed over to the project principal.

The Companies operate as a civil construction and engineering business. This includes:

- Road and bridge construction.
- Infrastructure earthworks services to the resources sector.
- Civil maintenance.
- Aviation infrastructure.

At the date of appointment WBHOI had 288 employees with the majority of those located in Perth, Western Australia. It also deployed other personnel through labour hire companies.

#### 3.1.2 History of the Companies

A brief history and timeline of key milestones of the Companies is summarised below.

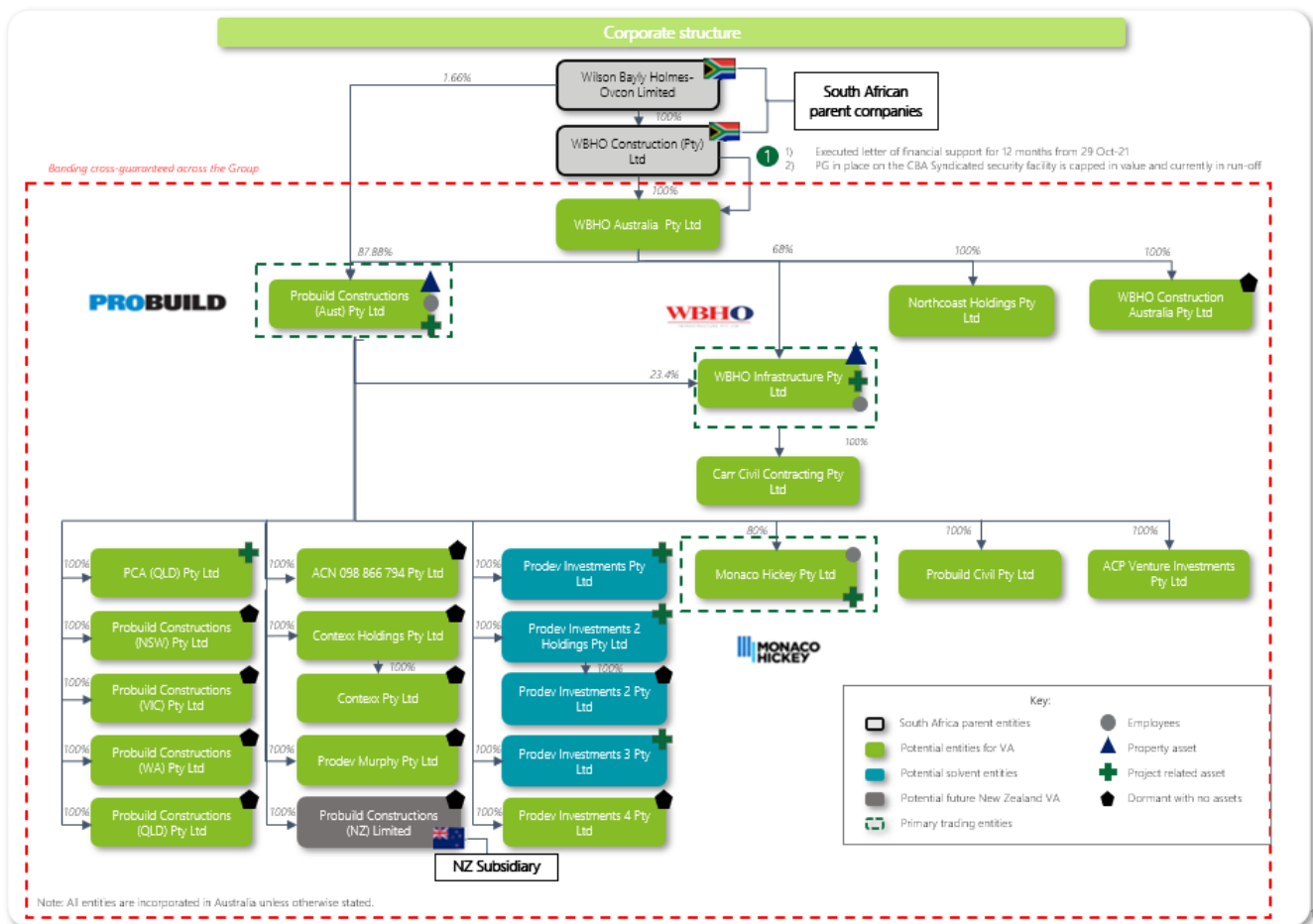
Year	Key Milestones
1987	Establishment of original business Civil & Earthworks Contractors of Kwinana ( <b>CECK</b> ). CECK specialises in civil maintenance services in the Kwinana industrial area.
2002	CECK acquires Colin Carr Earthmoving and Plant Hire and changes its name to "Carr Civil".
2006	CECK acquired by WBHO.
2010	Carr Civil rebranded to "WBHO-Carr".
2011	CECK rebranded to "WBHO-Civil".
2012	WBHO-Civil merged with WBHO-Carr and Northcoast Contractors to consolidate three entities into "WBHO-Civil", as a single contracting business.
2015	"WBHO Infrastructure" formed as a merger between Probuild Civil and WBHO Civil.
2017	WBHOI awarded Western Roads Upgrade ( <b>WRU</b> ) contract.
2018	Estimated \$50m loss forecast on the WRU contract.
2019	Loss on WRU contract expected to be \$70m.
2020	Loss on WRU contract expected to be \$131m.
	Unsolicited non-binding bid to acquire the Probuild and WBHOI Groups.

Year	Key Milestones
2021	<p>Cumulative WRU contract losses approach \$161m (this amount was publicly disclosed in WBHO announcement, however the loss has further increased based on our preliminary investigations. The increase is discussed throughout this report).</p> <p>FIRB rejects application for the sale of Probuild and WBHOI.</p> <p>Rationalisation of Probuild businesses with announced closure of operations in Queensland and Western Australia and contraction of bidding in NSW</p>
2022	<p>WBHO withdraws further financial support for WBHOA (22 February 2022).</p>

Source: <https://www.wbho.co.za/investors/>

### 3.2 Group structure

The corporate structure for the Consolidated Group is as follows:



We note that the Consolidated Group is not bound by a Deed of Cross Guarantee.

#### 3.2.1 Operations

WBHOI Group operated a quite separate and different business to that of the Probuild Group. WBHOI operated principally within civil infrastructure construction and engineering whilst the Probuild Group performed the construction of medium to large scale buildings. WBHOI operated its own bank accounts, had its own management and employees, and finance function.

Only WBHOI actively traded. CCC is a dormant entity.

We tabled below a summary of the active contracts as of the date of our appointment:

Project	Percentage of Completion
Wanneroo Road Ocean Reef Road Intersection Upgrade	100%
Mardie Salt & Potash	26%
South 32 Worsley Alumina	87%
Alcoa (ongoing maintenance works)	N/A
Great Northern Highway (GNH) & Apple Street Roundabout Upgrade	44%
Lower Hotham Road Crossing Bridge	38%
North Bannister Resource Recovery Park	23%
FMG Bigge Tunnel	100%
Great Northern Highway (GNH) Upgrade - Ord North SP2	98%
H2H	50%
Dam Construction Work Telfer Mine	100%
Maggie Creek	100%
Muchea North	100%
Western Turner Syncline	100%

Additionally, WBHOI held the following contracts in Victoria and Queensland:

- Bruce Hwy - Proserpine to Bowen
- Bruce Hwy - Bowen to Ayr
- OSAR – Western Road Upgrade Western and Eastern Regions
- Old Cooma Road Duplication Stage 2
- Stockyard Windfarm

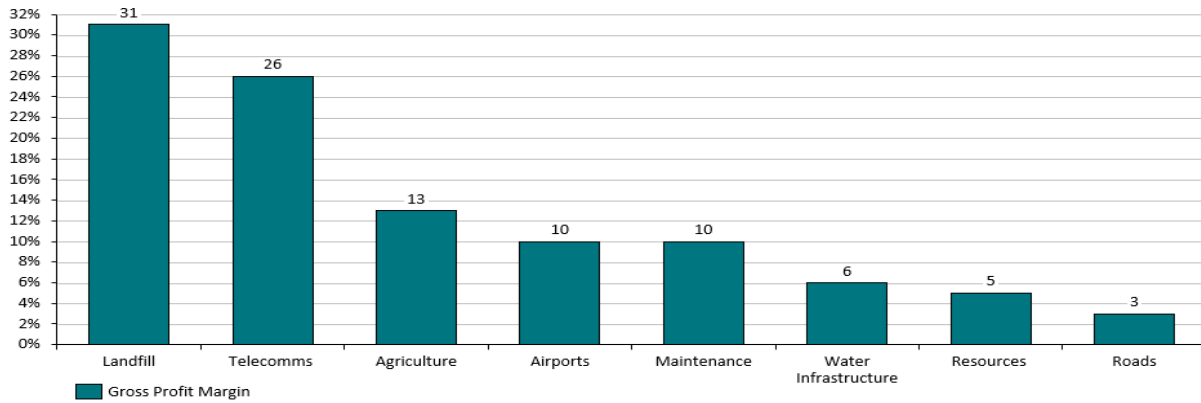
WBHOI operated in three separate regions with a majority of operations in Western Australia and minority operations in Queensland and Victoria (referred to below collectively as the Eastern Region) when excluding WRU which was the dominant project for WBHOI for the period 2017 through 2022.

The following charts presented exclude WRU.

We table below the following charts:

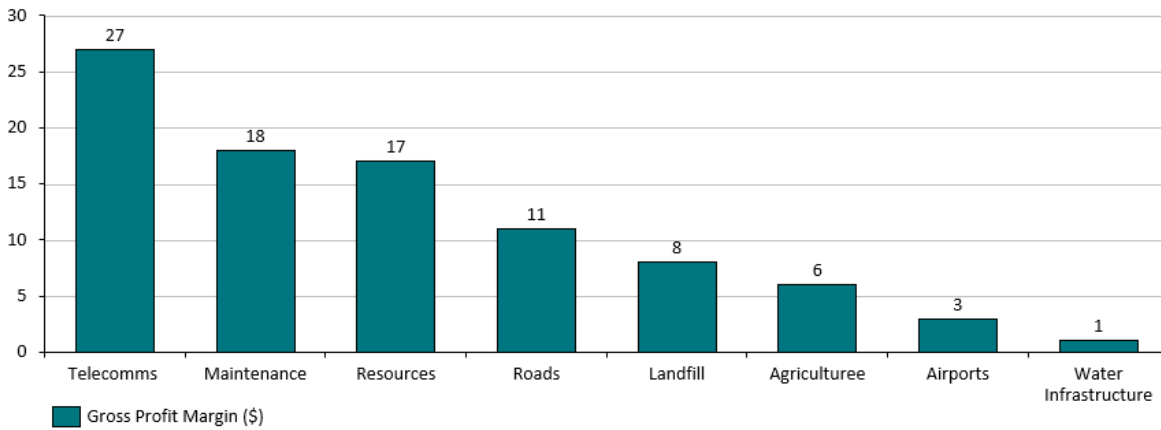
- Western Region gross margin past 6 years.
- Western Region gross profit past 6 years.
- Western Region revenue by sector.
- Western Region revenue by year.
- Western Region net profit / loss.
- Eastern region revenue.
- Easter region net profit / loss.

Sector analysis – Western Region – Gross Profit Margin %



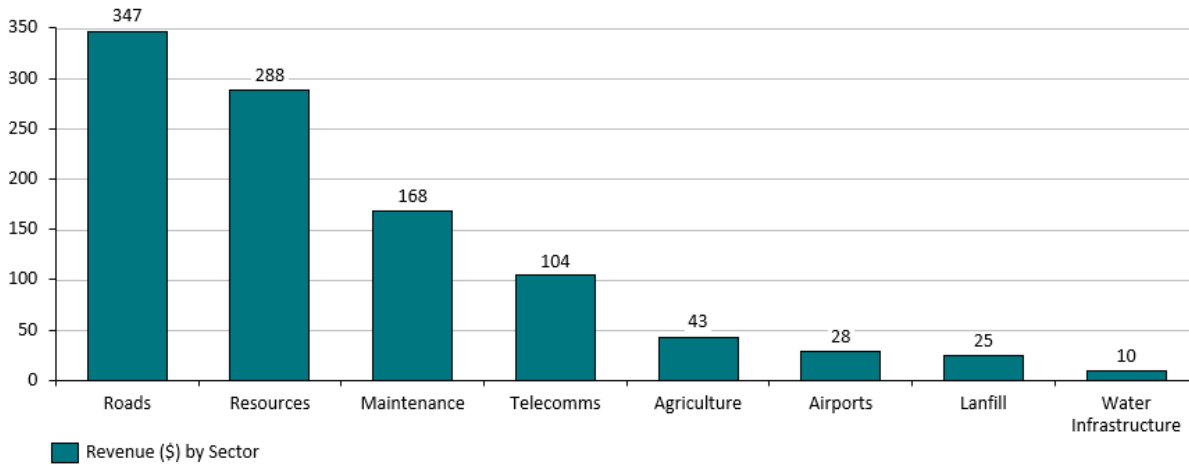
Source: WBHO Infrastructure Pty Ltd 6 Year Review

Sector analysis – Western Region - Gross Profit \$ Million



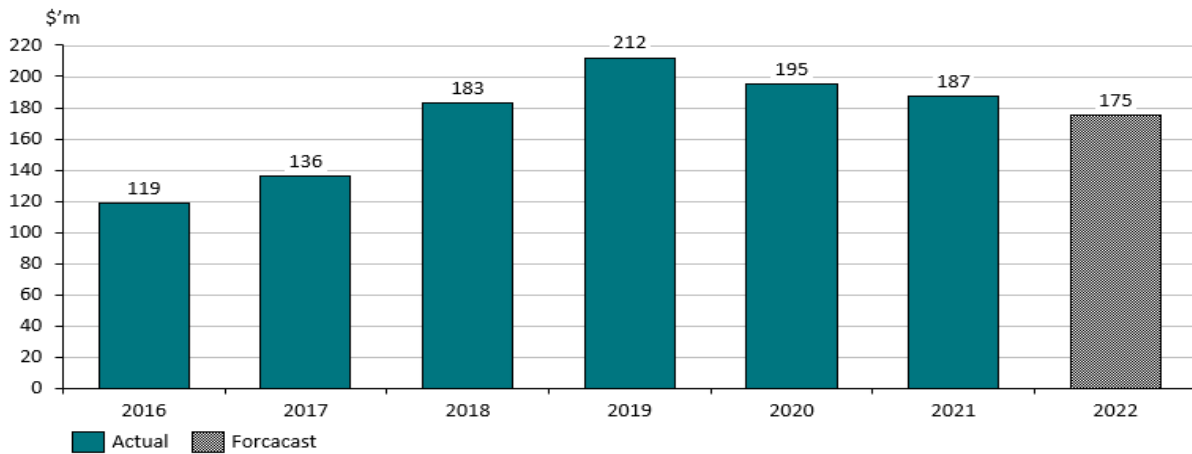
Source: WBHO Infrastructure Pty Ltd 6 Year Review.

Sector analysis – Western Region - Revenue



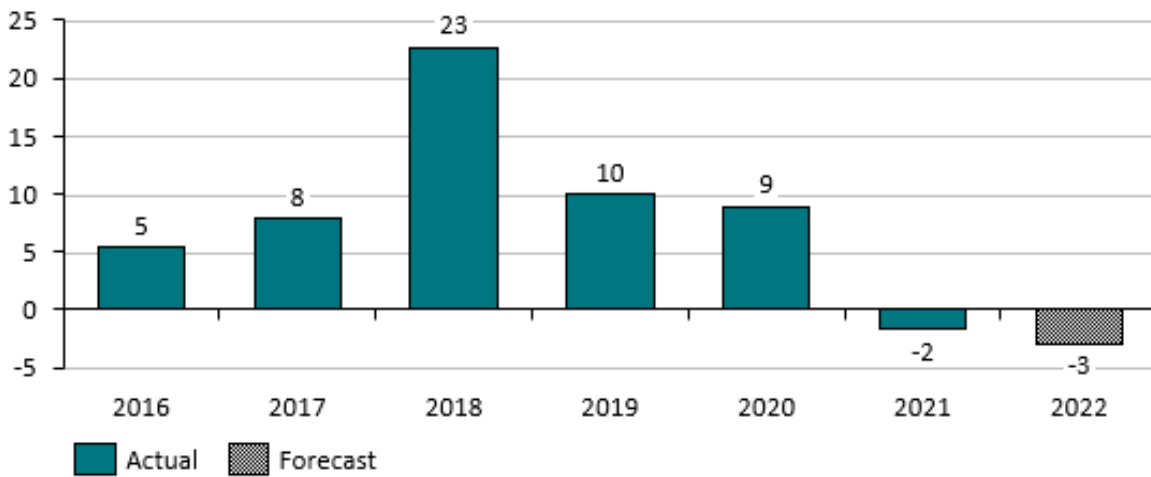
Source: WBHO Infrastructure Pty Ltd 6 Year Review

Western Region - Total Revenue



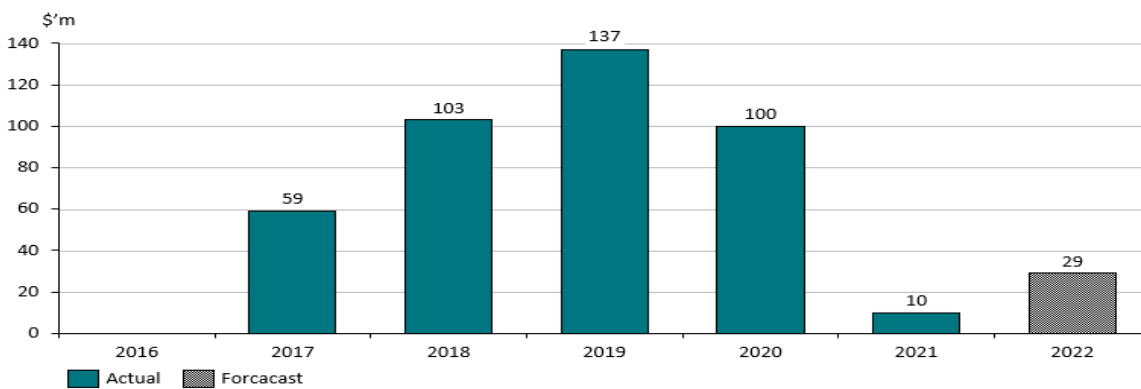
Source: WBHO Infrastructure Pty Ltd 6 Year Review

Western Region – Net Profit / Loss (before any applicable Corporate Overheads)



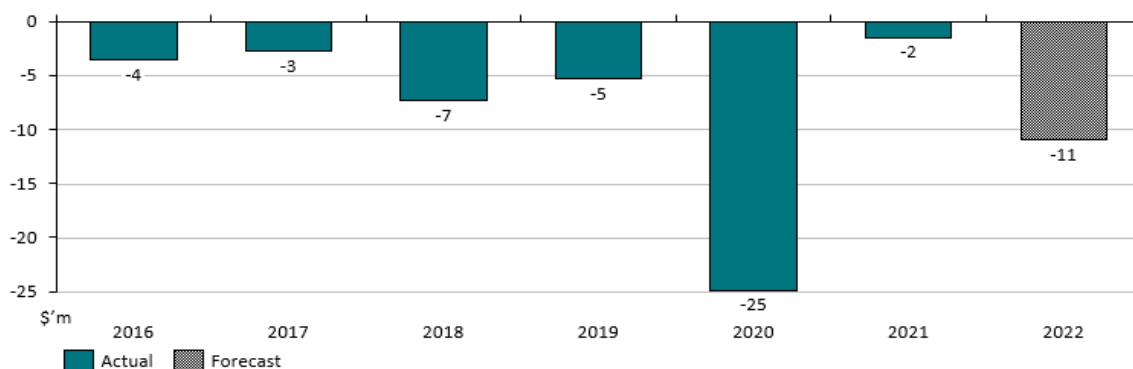
Source: WBHO Infrastructure Pty Ltd 6 Year Review

Eastern Region – Revenue (excluding WRU)



Source: WBHO Infrastructure Pty Ltd 6 Year Review

### Eastern Region Net Profit/Loss (excluding WRU and before any applicable overheads)



Source: WBHO Infrastructure Pty Ltd 6 Year Review

## 3.3 Statutory information

### 3.3.1 WBHOI

As search of the ASIC databases reveals the following details for WBHOI

#### 3.3.1.1 Registration and location

Company Details	
Date of incorporation	07 September 1999
Registered office	Level 10, 580 St Kilda Road, Melbourne VIC 3004
Principal place of business	Level 10, 580 St Kilda Road, Melbourne VIC 3004

#### 3.3.1.2 Officers

A search of the ASIC database reveals the following past and present officers of WBHOI:

Company officers	Position	Date appointed	Date ceased
Wilhelm Friedrich Grobler	Current director	17 February 2021	-
Bradley Raymond Duggan	Current director	18 July 2019	-
Charles Victor Henwood	Current director	16 May 2016	-
Paul Foley	Current director	16 May 2016	-
Andrew Colin Torrington	Former director	16 May 2016	11 August 2016
Peter Ryan	Former director	21 July 2015	18 December 2018
Simon James Gray	Former director	10 November 2014	17 February 2021
Vincenzo Princi	Former director	01 July 2013	29 May 2014
Wilhelm Friedrich Grobler	Former director	05 December 2011	16 May 2016
Mark Blayney	Former director	05 December 2011	01 June 2012
Michael Librizzi	Former director	05 December 2011	06 August 2015
Jacobus Petrus Botha	Former director	05 December 2011	10 November 2014
Eric Meyerowitz	Former director	05 December 2011	10 July 2015

Michael Neil Sheehy	Former director	16 September 2010	06 June 2013
<b>Company officers</b>	<b>Position</b>	<b>Date appointed</b>	<b>Date ceased</b>
Philip Murray Mehrten	Former director	11 July 2006	16 September 2010
Michael John Sprott	Former director	11 July 2006	28 July 2015
Anne Haslam	Former director	01 March 2000	28 February 2001
Michael Juffermans	Former director	01 March 2000	03 July 2008
Kevin William Dorn	Former director	07 September 1999	03 July 2008
Mate Tolich	Former director	07 September 1999	03 July 2006
Vincenzo Princi	Former director	07 September 1999	10 December 2012

### 3.3.1.3 PPSR

We table below a summary of the registrations on the PPSR at the date of our appointment.

Company	All PAAP secured creditor	All PAAP with exception	Chattel paper	General intangible	Motor vehicle	Other goods	Total
WBHOI	18	12	7	2	351	190	580

Following our appointment, we wrote to all parties which have registrations on the PPSR. To date, we have received over 150 discharges.

### 3.3.2 CCC

As search of the ASIC databases reveals the following details for CCC:

#### 3.3.2.1 Registration and location

Company Details	
Date of incorporation	03 May 2002
Registered office	Level 10, 15-17 William Street, Perth, WA 6000
Principal place of business	Level 10, 15-17 William Street, Perth, WA 6000

#### 3.3.2.2 Officers

A search of the ASIC database reveals the following past and present officers of CCC:

Company officers	Position	Date appointed	Date ceased
Wilhelm Friedrich Grobler	Current director	02 July 2012	-
Jacobus Petrus Botha	Former director	31 January 2012	10 November 2014
Michael John Sprott	Former director	31 January 2012	28 July 2015
Michael Wayne Librizzi	Former director	09 November 2010	06 August 2015
Eric Meyerowitz	Former director	09 November 2010	24 April 2017
Robert Kineavy	Former director	09 November 2010	30 October 2011

Michael Stanley Wylie	Former director	09 November 2010	31 January 2012
<b>Company officers</b>	<b>Position</b>	<b>Date appointed</b>	<b>Date ceased</b>
Paul Hugh Netscher	Former director	09 November 2010	31 October 2011
Graeme Kenneth Matcham	Former director	03 May 2002	03 May 2002
Mark William Blayney	Former director	03 May 2002	01 June 2012

### 3.3.2.3 PPSR

We table below a summary of the registrations on the PPSR at the date of our appointment.

Company	All PAAP secured creditor	All PAAP with exception	Chattel paper	General intangible	Motor vehicle	Other goods	Total
CCC					1	13	<b>14</b>

## 3.4 Outstanding winding up applications

We are not aware of any winding up applications outstanding as at the date of our appointment.

*[This space has been left blank intentionally]*



## 4 Historical financial performance

### 4.1 Overview

WBHOI and the entities it controls prepare consolidated financial statements at financial year end, with the last annual results being prepared to 30 June 2021. These consolidated financial statements include the below listed entities

- Carr Civil Contracting Pty Ltd (Administrators Appointed).
- Northcoast Holdings Pty Ltd (Administrators Appointed).

For the purpose of our analysis, we have included management accounts relating to the period ended 31 January 2022. The financial statements were audited by BDO, however the management accounts have not been audited and we are unable to attest to its accuracy.

### 4.2 Profit and Loss Statements

The audited profit and loss statements for the financial years FY18 to FY21 and 7 months FY22 unaudited management accounts to 31 January 2022 (FY22 YTD) are summarised as follows:

	Annual Report				Management Accounts
	FY18	FY19	FY20	FY21	YTD Jan 2022
	12 months				7 months
Revenue and income					
Revenue from operations	364,923,096	486,130,883	668,901,111	271,470,974	109,062,969
Other Income	-	-	-	-	695,396
<b>Total Operating Revenue</b>	<b>364,923,096</b>	<b>486,130,883</b>	<b>668,901,111</b>	<b>271,470,974</b>	<b>109,758,365</b>
Operating expenditure					
Cost of goods sold	(100,277,528)	(520,494,826)	(751,209,355)	(292,195,855)	
Employee benefits expense	(214,532,982)	(12,734,744)	(9,357,863)	(7,877,421)	
Depreciation and amortisation	(3,502,577)	(145,691)	(195,986)	(195,399)	
Travel and Accommodation	(939,381)	-	-	-	
Administration costs	-	(7,372,254)	(8,707,354)	(5,779,615)	
Finance costs	(39,046)	(99,962)	(183,606)	(318,406)	
Other expenses	(35,648,033)	-	-	-	
<b>Profit/Loss before income tax</b>	<b>9,983,549</b>	<b>(54,716,597)</b>	<b>(100,753,053)</b>	<b>(34,895,722)</b>	<b>(33,624,560)</b>
Net Income tax expense	(2,826,423)	15,442,108	(793,192)	-	(162,431)
<b>Total comprehensive income for the year</b>	<b>7,157,126</b>	<b>(39,274,487)</b>	<b>(101,546,245)</b>	<b>(34,895,722)</b>	<b>(33,786,991)</b>

Source: Audited annual financial accounts and management accounts

In respect of the above, we make the following comments:

- WBHOI's revenue is derived from entering into fixed or cost-plus price contracts to undergo civil works, construction and maintenance projects.
- WBHOI generated losses in FY19 due to a combination of the adverse financial performance of the WRU and Stockyard Hill windfarm projects. Following this performance, FY21 suffered significant losses from the two western region projects of Telfer 8 and Mondium Syncline.
- The revenue change between FY20 and FY21 relates to WRU reaching commercial acceptance which was achieved on 14 October 2021.

- WBHOI's projects operate under tendered contracts and have suffered declining profit margins. Since commencement of these contractual arrangements, changing market conditions have impacted cost margins.
- Employee benefits expense decreased from \$214m in FY18 to \$12.7m due to change in accounting methodology. FY18 employee benefits expense was inclusive of subcontractor expenses whilst the following years subcontractor expenses were accounted for within cost of goods sold.

### 4.3 Balance Sheet

The audited balance sheet for the financial years FY18 to FY21 and the 7 months FY22 unaudited management accounts to 31 January 2022 (FY22 YTD) are summarised as follows:

	Annual Report				Management Accounts
	FY18	FY19	FY20	FY21	31 Jan 2022
\$	12 months				7 months
<b>Current assets</b>					
Cash and cash equivalents	28,038,094	51,728,836	50,783,104	2,182,748	6,928,778
Trade Receivables	34,831,488	33,144,851	59,601,948	26,288,369	27,497,251
Contracts Assets	60,577,250	54,733,265	8,695,261	47,134,789	35,961,428
Other Current Assets	120,583	57,553	68,426	34,514	55,256
Loans to Related Parties	-	-	54,000,000	-	-
Other Receivable	-	921,995	424,044	2,212,906	6,906,770
Assets Classified as Held for Sale	-	-	-	2,893,976	-
<b>Total current assets</b>	<b>123,567,415</b>	<b>140,586,500</b>	<b>173,572,783</b>	<b>80,747,302</b>	<b>77,349,483</b>
<b>Non-current assets</b>					
Property, Plant and Equipment	24,146,825	23,172,637	25,764,765	18,690,223	17,439,911
Deferred Tax Assets	4,046,385	19,488,493	18,695,300	18,695,300	18,695,301
Net Related Party Receivables	1,112,996	2,579,106	3,191,509	3,464,061	3,445,617
<b>Total non-current assets</b>	<b>29,306,206</b>	<b>45,240,236</b>	<b>47,651,574</b>	<b>40,849,584</b>	<b>39,580,829</b>
<b>Total assets</b>	<b>152,873,621</b>	<b>185,826,736</b>	<b>221,224,357</b>	<b>121,596,886</b>	<b>116,930,312</b>
<b>Current liabilities</b>					
Trade and Other Payables	102,029,390	92,631,726	115,948,043	45,198,612	32,228,504
Interest bearing liabilities	855,517	-	-	-	-
Provisions	5,781,507	28,763,768	37,078,134	7,897,434	4,399,910
Contract Liabilities	-	3,734,541	10,887,180	1,328,510	1,771,442
Lease Liabilities	-	1,637,172	2,877,131	2,640,974	2,742,645
<b>Total current liabilities</b>	<b>108,666,414</b>	<b>128,283,521</b>	<b>166,790,488</b>	<b>57,065,530</b>	<b>41,395,269</b>
<b>Non-current liabilities</b>					
Interest Bearing Liabilities	2,271,201	-	-	-	-
Borrowings	-	5,051,344	-	-	-
Provisions	1,163,836	31,215,684	1,459,825	516,957	517,700
Loan from Related Party	-	-	17,100,000	48,669,206	37,651,712

	Annual Report				Management Accounts
	FY18	FY19	FY20	FY21	31 Jan 2022
\$	12 months				7 months
Lease liabilities	-	-	6,342,807	3,709,678	2,015,482
Total non-current liabilities	3,435,037	36,267,028	24,902,632	52,895,841	40,184,894
<b>Total liabilities</b>	<b>112,101,451</b>	<b>164,550,549</b>	<b>191,693,120</b>	<b>109,961,371</b>	<b>81,580,163</b>
<b>Net assets</b>	<b>40,772,171</b>	<b>23,077,482</b>	<b>29,531,237</b>	<b>11,635,515</b>	<b>35,350,152</b>
Equity					
Share capital	7,632,503	30,632,503	138,912,503	155,912,503	224,912,503
Reserves	16,387,208	16,752,462	16,752,462	16,752,462	16,752,950
Retained Earnings / (Accumulated Losses)	16,752,462	(161,029,450)	(126,133,728)	(161,029,450)	(194,815,301)
<b>Equity attributable to the owners of the Company</b>	<b>40,772,173</b>	<b>23,077,482</b>	<b>29,531,237</b>	<b>11,635,515</b>	<b>(7,149,848)</b>
Non-controlling interests	40,772,173	23,077,482	29,531,237	11,635,515	(7,149,848)
<b>Total equity</b>	<b>40,772,173</b>	<b>23,077,482</b>	<b>29,531,237</b>	<b>11,635,515</b>	<b>35,350,152</b>

Source: Audited annual financial accounts & management accounts.

In respect of the above, we make the following comments:

- The Company's net asset position has deteriorated substantially from FY18 to FY21.
- The significant loss in revenue for FY21 attributed to the substantial drain in cash and equivalents for the period.
- The losses of the WRU on the financial position of the Company were managed through continued financial support from WBHOA and WBHO. This is discussed further in **section 6**.
- Total recapitalisation of the Company since 30 June 2021 via issuance of redeemable preference shares to majority shareholder, WBHO Australia Pty Ltd totalled \$54,000,000.

#### 4.4 Cashflow Statement

The audited cashflow statements for the financial years FY18 to FY21 are summarised as follows:

	Annual Report			
	FY18	FY19	FY20	FY21
\$	12 months			
<b>Cash flows from operating activities</b>				
Receipts from Customers (Incl. of GST)	287,746,964	522,189,770	671,392,408	291,701,570
Payments to Suppliers and Employees (Incl. of GST)	(281,689,257)	(515,867,548)	(740,028,920)	(439,801,024)
Interest Received	53,673	287,906	29,284	32,366
Interest Paid	(92,719)	(99,962)	(183,606)	(318,406)
Income taxes Paid	361,669			
<b>Net cash from operating activities</b>	<b>5,656,992</b>	<b>6,510,166</b>	<b>(68,790,834)</b>	<b>(148,385,494)</b>
<b>Cash flows from investing activities</b>				
Payments from Property, Plant and Equipment	(2,005,528)	(4,858,324)	(6,170,238)	(233,202)
Proceeds on disposal of property, plant and equipment	709,571	-	378,935	590,972
<b>Net cash used in investing activities</b>	<b>(1,295,957)</b>	<b>(4,858,324)</b>	<b>(5,791,303)</b>	<b>357,770</b>

	Annual Report			
	FY18	FY19	FY20	FY21
\$	<i>12 months</i>			
Proceed from borrowings	2,106,052	459,100	-	-
Proceeds from share issue	200,000	-	-	-
Principal Elements of Finance Lease Payments	-	-	2,816,405	(2,869,286)
Repayment of borrowings	(2,293,788)	-	-	-
Proceeds from Issue of Redeemable Preference Shares	-	23,000,000	54,000,000	17,000,000
Minority Interest Transactions	-	-	(280,000)	-
Proceeds from Loan from Related Parties	-	-	17,100,000	85,296,654
Dividends Paid to Company Shareholder	-	(1,420,200)		
<b>Net cash from/(used in) financing activities</b>	<b>12,264</b>	<b>22,038,900</b>	<b>73,636,405</b>	<b>99,427,368</b>
<b>Net increase/(decrease) in cash and cash equivalents</b>				
Cash and cash equivalents at 1 July	4,373,299	23,690,742	(945,732)	(48,600,356)
Effect of exchange rate fluctuations on cash and cash equivalents	23,664,795	28,038,094	51,728,836	50,783,104
<b>Cash and cash equivalents at the end of the financial year</b>	<b>28,038,094</b>	<b>51,728,836</b>	<b>50,783,104</b>	<b>2,182,748</b>

Source: Audited annual financial accounts and management accounts

In respect of the above, we make the following comments:

- The Companies appear to have experienced a cash shortfall from operating activities from FY20 onwards.
- The Companies, as discussed throughout this report, were reliant on funding from WBHO.

As previously noted, this report does not include Northcoast Holdings Pty Ltd (Administrators Appointed) (**Northcoast**), however the consolidated financial statements and management accounts that have been provided report from a consolidated view of the WBHOI Group. Management disclosed that the main assets and liabilities of the entity relate to a large intercompany loan of c. \$4.0m and an ATO debt of c. \$460k.

*[This space has been left blank intentionally]*

## 5 Directors' report on company activities and property

### 5.1 Summary

Under section 438B of the Act, directors are required to provide a Report on Company Activities and Property (**ROCAP**) to voluntary administrators within five business days of receipt of the request from the administrators or such longer period as the administrators allow.

On 17 March 2022, Wilhelm Friedrich Grobler submitted the WBHOI ROCAP along with the CCC and Northcoast ROCAPs (prepared on a standalone basis). After redacting sensitive information disclosed in the ROCAPs on the basis of personally identifiable information, all ROCAPs were lodged with ASIC on 23 March 2022.

As of the date of this report, this is the only ROCAP we have received.

Creditors may inspect the redacted version of the Part A of the ROCAPs for each of the Companies by emailing [WBHOI@deloitte.com.au](mailto:WBHOI@deloitte.com.au).

The ROCAPs represent the Director's views of the Companies' asset and liability positions as at the date of our appointment as Voluntary Administrators. We provide a comparison of these values to the estimated realisable amounts for the benefit of creditors.

Below is a summary of the information provided in Part A of the ROCAPs:

ROCAP question	Note	CCC	WBHOI
A4 Do the companies owe money to their employees?	5.2	-	3,593,799
A5 Do the companies owe money, goods, or services to others (other than employees)?	5.3		
Trade and other creditors	5.3.1	-	29,774,613
Hire Purchase Liabilities	5.3.3		4,627,702
Intercompany loans	5.3.4		3,995,501
<b>Total question A5</b>		-	<b>38,397,816</b>
A6 Are the companies owed money?	5.4		
Trade debtors	5.4.1	-	9,681,598
Intercompany receivables	5.4.2	-	-
<b>Total question A6</b>		-	<b>9,681,598</b>
A7 Do the companies own any assets?	5.5		
Bank accounts	5.5.1	-	2,957,359
Plant and equipment	5.5.3	-	13,818,964
Inventory	5.5.4	-	136,067
Property	5.5.5	-	6,000,000
Deferred Tax Assets	5.5.6	1,497,083	
Investments in subsidiaries	5.5.7	4,500,000	

ROCAP question \$	Note	CCC	WBHOI
Total question A7		5,997,083	22,912,390

Our comments on the information provided in the ROCAPs are set out below.

## 5.2 Does the company owe money to its employees?

The WBHOI ROCAP discloses combined employee claims of \$3.6m

The claims of the employees represent a priority claim which are subject to the normal adjudication process which may result in changes to the above amounts.

Should the Companies be placed into liquidation at the Second Creditors Meeting, employees may be eligible for certain limited financial assistance under the Fair Entitlements Guarantee Act 2012 (**FEG**). Further information on FEG, including eligibility assistance, can be found at [www.employment.gov.au/feg](http://www.employment.gov.au/feg).

At the date of our appointment WBHOI employed 288 employees. 62 employees have been subsequently terminated, transferred or resigned during our appointment. As a consequence, termination related employee liabilities have crystallised. The following table set out the entitlement of continuing and non-continuing employees.

Employee entitlements (\$)	Continuing employees	Non-continuing employees
Annual Leave	1,915,475	580,535
Rostered day off	139,149	4,651
Long service leave	901,250	141,111
Payment in lieu of notice	-	451,275
Redundancy/Termination	-	490,662
<b>Total</b>	<b>2,955,873</b>	<b>1,668,235</b>

## 5.3 Does the company owe money, goods or services to others (other than employees)?

We table below a summary of WBHOI's creditors and discuss each item below.

Creditors (\$)	Amounts owing
Trade Creditors	37,486,906
Secured ALL PAAP	1,354,920
Hire Purchase Agreements	1,490,413
Unsecured Intercompany loans	37,651,712
Leases / Landlords	TBD
<b>Total</b>	<b>TBD</b>

### 5.3.1 Trade and other creditors

The WBHOI ROCAP identifies \$29.8m of outstanding trade creditors, including amounts owed to subcontractors, relating to pre-appointment services. This includes trade creditors with a PPSR security registration, unsecured creditors and an intercompany loan with Probuild Group of \$9.6m. The listing in the ROCAP does not separate types of creditors.

As of the timing of writing this report, we estimated that trade creditor claims are c.\$37.4m based upon books and records and PODs lodged. Not all creditors have submitted a Proof of Debt form at this time and this amount is likely to change.

### 5.3.2 Creditors with security interest

As noted in **section 3.3** as of 24 February 2022, 594 PPSR registrations were registered against WBHOI and CCC. As of the time of writing this report approximately 400 PPSR registrations remain. PPSR secured creditor claims are estimated to be approximately \$4.2m, based upon books and records and PODs lodged. We note that a large portion of security claims appear to be in relation to dry or wet hire of equipment, with the security held over equipment in possession of WBHOI. These creditors are included, although potentially at reduced amounts, within the trade creditors portion in the ROCAP.

As per the PPSR search undertaken on 24 February 2022, the following entities held ALL PAAP security interest over WBHOI assets and undertakings:

- Concrete Pumping Queensland Pty Ltd.
- Mine Civil Resource Group Pty Ltd.
- T B & J S Daly Family Trust.
- WA Fuel Supplies Pty Ltd.
- Westpac Banking Corporation (Westpac)

Since our appointment, all ALL PAAP holders, other than WA Fuel Supplies and Westpac have either discharged their ALL PAAP registration or have advised that there are no amounts owing. WA Fuels have a lodged a POD in the amount of \$1.5m in relation to its ALL PAAP and PMSI registrations against WBHOI. Since receiving POD, the Administrators have made payment of \$1.5m in relation to that claim, in order to meet condition precedents in the Sale and Implementation Deed with SRG, which is further discussed in **section 9.2**.

We understand the Westpac ALL PAAP is historical, and the Administrators have taken steps to confirm this with Westpac and to have the ALL PAAP discharged.

### 5.3.3 Hire purchase agreements

As disclosed in the ROCAP, WBHOI has hire purchase agreements with Toyota Finance, Volvo Finance and Caterpillar Finance, with 116 vehicles held under a finance lease. We have requested payout amounts on 31 March 2022 from each financier and have summarised the responses below.

Financier (\$)	Number of assets under financing	Payout amounts as of 31 March 2022
Toyota Finance	108	2,637,712
Volvo Finance	6	1,998,720
Caterpillar Finance	2	364,465
<b>Total</b>	<b>116</b>	<b>5,000,897</b>

### 5.3.4 Intercompany loans

The WBHOI ROCAP identifies a \$4.0m loan held between Northcoast and WBHOI.

Additionally, based upon management accounts as of 31 January 2022, there are \$37.7m of unsecured intercompany loans liabilities with WBHOI. As of the date of this report, we have not undertaken a detailed forensic exercise of unpicking the intercompany loan account balances and on this basis our investigations are continuing. We note that these intercompany loans will be further reviewed and investigated, in the event of a dividend distribution to creditors/beneficiaries.

### 5.3.5 Lease liabilities

As of the date of our appointment, WBHOI had 22 properties leased, consisting of 6 offices in Western Australia, Queensland and Victoria, and 16 properties used for employee accommodation in Western Australia and Queensland. Since our appointment, we have disclaimed 18 of these leases, primarily related to the closure of the Queensland projects. As a result, there may be contingent claims from landlords as a result of the termination of leases.

## 5.4 Are the Companies owed money?

The WBHOI ROCAP identifies \$9.6m of outstanding trade debtors. At or around the time of writing this report, \$5.7m of pre-appointment debtors have been recovered.

WBHOI clients additionally hold \$34.7m of performance bonds and guarantees regarding performance obligations on WBHOI projects. Of this amount, \$3.5m are cash backed, and held with National Australia Bank Ltd. The balance and the parties which finance the performance bonds and bank guarantees are listed below.

We tabled below a summary of WBHOI's facilities:

#### Performance bonds and bank guarantees

Project Listing (\$)	CBA	EHR	NAB	VERO	Grand Total
Bruce Highway	1,824,805		520,911		2,345,716
Old Cooma Road Duplication Stage 2	291,461				291,461
OSAR	15,693,377				15,693,377
Stockyard Windfarm JV				3,750,000	3,750,000
Western Roads Upgrade	7,850				7,850
Western Roads Upgrade - Package 3	111,429				111,429
Western Roads Upgrade - Project 2	75,000				75,000
Western Roads Upgrade - Project 8 - Duncan's Road	148,033				148,033
Brisbane Office Rental	54,931				54,931
Dam Construction Work Telfer Mine				500,000	500,000
FMG Bigge			226,449		226,449
GNH Ord River North	1,000,000				1,000,000
Great Eastern Highway Project				1,000,000	1,000,000
H2H			1,500,000		1,500,000
Maggie Creek		1,250,000			1,250,000
Mardie Minerals			231,696		231,696
Muchea North	795,000				795,000
Ord			1,000,000		1,000,000
Wanneroo Road Ocean Reef	1,550,000				1,550,000



Western Turner Syncline	3,126,013				3,126,013
<b>Total</b>	<b>24,677,899</b>	<b>1,250,000</b>	<b>3,479,056</b>	<b>5,250,000</b>	<b>34,656,955</b>

We note that the CBA performance bonds and bank guarantees (\$24.6m) are guaranteed by WBHO, and WBHOA.

#### 5.4.1 Litigation

WBHOI was a subcontractor to Mondium, a joint venture held between Monadelphous and Lycopodium, for works on the Rio Tinto Western Turner Syncline project. Prior to our appointment WBHOI had submitted contract variations of c. \$10m, which was disputed by Mondium. At our appointment, this claim was subject to mediation. The Administrators have continued to pursue this claim during our administration, and WBHOI management has advised that they are confident that WBHOI has valid claims.

As part of the WRU project scope, works were undertaken on the Melbourne Water asset, either new builds or upgrades. Melbourne Water requested additional works to be undertake (on or around November 2018) outside of the WRU required scope, but otherwise committed as recoverable works, because it was logical at the time to undertake the works whilst other works were being undertaken. This work was valued at \$6.1m. As of the date of this report, these funds have not been paid to WBHOI and remain outstanding. The Administrators are pursuing these funds.

Further, we understand that WBHOI has brought a cause of action against the design consultant in relation to WRU. Our investigations are continuing in relation to this amount; however we note that this claim is approximately \$58m based on WBHOI's books and records.

Each of the above claims will be transferred to the creditors trust in the event that creditors approve the SRG DOCA at the second meeting of creditors. In these circumstances, any recoveries will be available to the general body of creditors, which is the same position as if WBHOI was wound up.

## 5.5 Do the Companies own any assets?

#### 5.5.1 Bank accounts

As of 24 February 2022, the WBHOI main trading bank account held \$1.9m. The closing balance at the date of our appointment was \$1,955,180, with the difference from the ROCAP being an out of cycle payroll payment to employees of c.\$5k made, that was approved by the Administrators, and paid out of the pre-appointment bank accounts due to operational complexities with the post-appointment bank accounts.

The WBHOI ROCAP also identified \$1.0m held in a trust account in relation to the Apple Street project. We note that as the accounts are held in trust for external parties, these funds will not be available for the distribution to creditors.

Additionally, as at appointment, the business held bank accounts in relation to Joint Venture projects and retention accounts, and cash-backed bonding. As they relate to Joint Ventures, these funds will also not be available for the distribution to creditors.

#### Bank accounts at appointment

Bank account (\$)	Purpose	Balance at Appointment
<b>Available cash:</b>		
WBHOI Trading Account	Main trading account	1,960,653
<i>Subtotal</i>		<i>1,960,653</i>
<b>Cash held in trust / not available:</b>		

H2H Retention Account	Retention account	-
H2H Joint Venture Account	Joint Venture account	2,490,008
H2H Project Bank Account	Project bank account	2,698,903
Apple Street Project Account	Project bank account	1,002,179
Apple Street Retention Account	Retention account for subcontractor on Apple Street	5,924
SRG Joint Venture Account	Joint Venture account	1,228,683*
NAB Term Deposits	Cash backed performance bonds	3,480,410*
Stockyard Hill Windfarm JV	Joint Venture account	700,000
<i>Subtotal</i>		<i>11,606,107</i>
<b>Total</b>		<b>13,566,760</b>

\*Balances are as of 25 February 2022

### 5.5.2 Retentions

Based on Management accounts, we understand WBHOI has the following project retentions held by the respective principals.

Projects (\$)	Amounts
North Bannister	353,256
Apple Street	228,855
Ponton Bridge	169,089
Bowne to Ary	679,111
<b>Total</b>	<b>1,430,311</b>

Source: Management accounts

### 5.5.3 Plant and Equipment

The WBHOI ROCAP discloses plant and equipment owned by WBHOI, with an ERV of \$13.8m, which we understand is the written down value of the assets as of 28 February 2022. Items of plant and equipment owned by the WBHOI, which are individually listed in the ROCAP, are summarised below:

#### Summary of Plant and Equipment

Plant and Equipment	Quantity	Written Down Value (\$)
Ute	191	3,070,372
Dump Truck	12	2,592,970
Excavator Plus 20	11	1,463,000
Grader	6	1,020,322
Land and Buildings	1	848,822
Roller	6	789,455
Loader	15	772,011
Land and Leasehold improvements	32	537,243
Water Cart	11	445,666
Service Truck	7	410,769

Plant and Equipment	Quantity	Written Down Value (\$)
TipTruck	13	315,958
Other Truck	8	234,661
Dozer	2	230,876
Vac Truck	3	151,005
Office and Computer Equipment	77	128,489
Survey Equipment	21	131,467
Excavator Less 20	8	93,070
Prime Mover	2	82,799
Skid Steer	6	55,318
Bus	4	64,619
Tractor	2	23,162
Van	1	20,777
Car	1	14,489
Trailer	7	12,688
Generators	3	9,458
Poly Welding Machines	2	4,388
Other	28	295,108
<b>Total</b>	<b>480</b>	<b>13,818,964</b>

Source: ROCAP, Management fixed asset register

The listing provided in the ROCAP excludes assets with a nil book value. These assets are largely office and IT equipment, or small tools and we understand may still have a net realisable value to creditors.

Of this listing of plant and equipment, 116 assets are encumbered finance leases / hire purchase agreements with Toyota Finance, Volvo Finance and Caterpillar Finance. These assets have a payout figure of \$5.0m, which would be required to be paid, before any of the encumbered assets are sold.

Please refer to **section 11.2.4.3** of this report for further information regarding the estimated realisable value of the assets based on an independent desktop valuation undertaken.

#### 5.5.4 Inventory

The WBHOI ROCAP indicates \$136k of inventory stored in the Naval Base stockyard, which we understand is based on a stocktake undertaken in January, the most recent stocktake available to management at the time of the ROCAP completion. Per discussion with staff, we understand the inventory represents parts and consumables, and during the Administration, WBHOI held minimal stock, as parts were ordered on an as needed basis. We recognise this inventory may be subject to retention of title claims, which is further discussed in **section 11.2.2.3**.

#### 5.5.5 Property

WBHOI's ROCAP identifies freehold land located at 45 Hope Valley Rd, Naval Base WA 6165, with an estimated ERV of \$6.0m. A search of the WA Land Titles Office reveals the property is owned by C.E.C.K Pty Ltd, a former name of WBHOI. The certificate of title notes a mortgage registered to Westpac. From our investigations, we understand this mortgage to

be historical in nature with no balance outstanding, and the Administrators have taken steps to confirm this with Westpac.

Please refer to **section 11.2.4** of this report for further information regarding the estimated realisable value of the property based on an independent valuation undertaken.

#### 5.5.6 Deferred Tax Assets

The CCC ROCAP identifies \$1.5m of deferred tax assets. Under a liquidation scenario, this would have a nil realisable return to creditors.

#### 5.5.7 Investments in subsidiaries

The CCC ROCAP identifies a \$4.5m assets related to investments in subsidiaries, which we understand is in relation to Northcoast Holdings Pty Ltd. This is likely to have a nil return to creditors, as Northcoast Holdings is part of the broader WBHOA Group, does not hold any assets and as of the time of writing, is still in administration.

## 5.6 Reasons for failure

### 5.6.1 Directors' explanation

We have discussed the causes of failure with Will Grobler, WBHOI Executive General Manager and Director, and reviewed his comments in the director's questionnaire (noting that Mr Grobler is the only director to have returned such documents to us at the time of writing).

We comment as follows in relation to the director's opinion as to the causes of failure:

- During 2015, the Group sought to expand their infrastructure presence throughout Australia, particularly on the east coast.
- As part of that geographical expansion, the Group sought to tender for large scale projects under WBHOI.
- WBHOI won the tender for WRU, which provided them with immediate profile to large scale infrastructure on a national scale.
- Ultimately, the WRU project incurred significant and substantial losses of between \$200m and \$250m.
- COVID-19 has impacted management's ability to appropriately supervise projects.
- In February 2022, WBHOI withdrew financial support for the Group, including WBHOI.

As of the date of this report, we have not received ROCAPs or directors' questionnaires from the other directors and therefore we cannot comment as to what their view is on the causes of failure of WBHOI and CCC. Given the complexity of the remaining WBHOA Group and given that the other directors were not involved in the day-to-day management of WBHOI, it is not unusual for directors of multiple entities to take additional time to collate and submit their ROCAP.

### 5.6.2 Voluntary Administrators' opinion

Our investigations with respect to the causes of failure of WBHOI are ongoing. However, based on the limited investigations conducted to date, we are of the view that the following factors contributed:

- Cost overruns on several large projects, including the well-publicised WRU, and the Stockyard Hill Windfarm.

- Changing market conditions, including the increasing cost of labour and skills shortages. These macro conditions significantly impact project margins on fixed cost contracts.
- Challenges associated with managing projects in Victoria from Western Australia, particularly in a COVID-19 environment where border restrictions have been in place.
- Undercapitalisation and reliance on funding from WBHOI's ultimate parent.

In addition, we note that based on our preliminary investigations, WBHOI reviewed their projects on a regular basis but largely from a P&L perspective. In our experience, construction and contracting businesses rarely prepare project by project cashflow forecasts, and costs are reviewed after they are incurred. This system and process, while commonplace, do not provide organisations with full visibility of their cost to complete profile and assistance to anticipate the timing of those costs. It is also appearing that there may have been insufficient front-end design resulting in poor contract value estimation and tendering in relation to WRU.

## 6 Investigations

### 6.1 Introduction

Section 438A(a) of the Act provides that as soon as practicable after an administration begins the administrators must investigate a company's business, property, affairs and financial circumstances.

Our investigations are preliminary largely only relate to the entities subject to this report. A further report on the WBHOA Group will be issued separately and subsequently.

These investigations have also been limited to date as a result of the following factors:

- The available time to us since our appointment on 23 February 2022, to complete our statutory investigations given the complexity of the administration.
- Key management personnel's availability has been stretched as a consequence of the appointment, and the myriad of operational issues that required appropriate consideration and attention in order to ensure as few disruptions to day-to-day trading as reasonably practicable in the circumstances.
- The limited availability of the accounting and finance team, as a result of ongoing business requirements.
- Given the above matters, we have not been in a position to undertake in-depth interviews of all key individuals to seek comprehensive explanations on various matters and transactions of interest.

Pursuant to s75-225 of the IPR, the administrators are also required to investigate and report on any possible recovery actions that may be available to a liquidator should creditors resolve that the company be wound up.

An administrator is not obligated to carry out investigations to the same extent as a liquidator. A liquidator may require many months of investigation and conduct public examinations before forming a concluded view on recovery action(s). We have investigated matters to the extent possible in the time available and have noted with specific reference below where we believe further investigation might be undertaken, as appropriate.

### 6.2 Overview of Investigation

The Administrators' knowledge of the Companies' affairs come principally from the following sources (to the extent they have been available):

- Communications with unsecured creditors regarding the nature and the amount of debts owed, and the circumstances in which those debts were incurred.
- Discussions with some of the directors, management and WBHOI employees.
- A search of the ASIC and PPSR records relating to the Companies, as well as other publicly available information.
- Management and audited accounts, and other information contained within the books and records of the Companies.

In the time available to us, we have undertaken the following investigations to prepare this report and formulate our opinions:

- Identified and secured the books and records.
- Reviewed the books and records.
- Discussed the history of the Companies with the Directors and Management.
- Forensically imaged the Companies' servers.
- Reviewed bank accounts, accounting and financial records and statements.
- Conducted a comparative analysis of historical financial statements.
- Conducted a review of potential voidable transaction and offences.
- Conducted ASIC and real property searches.
- Conducted Personal PPSR searches.

#### 6.2.1 Overview

We are required to complete and lodge a report pursuant to Section 438D of the Act with ASIC where it appears that a past or present officer of the company may have been guilty of an offence in relation to the company and in other limited circumstances. Any report lodged pursuant to Section 438D (or an investigative report lodged by a liquidator pursuant to Section 533 of the Act) is not available to the public. As of the date of writing this report, we have not determined there is presently a basis to lodge any such report with ASIC.

Further, sections 180 to 184 of the Act set out the duties, obligations and responsibilities imposed on the directors which are designed to promote good governance and ensure that directors act in the interest of the company. These duties include:

- Duty of care and diligence (Section 180).
- Duty of good faith (Section 181).
- Duty not to make improper use of position (Section 182).
- Duty not to make improper use of information (Section 183).

Based on investigations conducted to date and referred to in this report we have not identified any potential breaches of the above provisions, nor dishonest and/or fraudulent acts of the Directors in the exercise of their powers and discharge of their duties.

## 6.3 Offences by the Directors

#### 6.3.1 Books and records

Pursuant to Section 286 of the Act, a company must keep written financial records that correctly record and explain its transactions, financial position and performance and would enable true and fair financial statements to be prepared and presented in accordance with the accounting standards.

Failure by the company to maintain books and records in accordance with Section 286 of the Act provides a rebuttable presumption of insolvency of the company, however, this only applies in respect of a liquidator's application for compensation for insolvent trading and other actions for recoveries pursuant to Part 5.7B of the Act from related parties.

In our opinion, and based on our investigations undertaken to date, it appears as though the books and records have been maintained in accordance with Section 286 of the Act.

## 6.4 Solvency

A precursor to the recovery of funds by a liquidator through the voiding of certain transactions or through other legal action, such as seeking compensation from directors for insolvent trading, is establishing the company's solvency at the relevant time.

Establishing solvency is a complex matter due in part to the complexity of corporate financial transactions and the lack of clear prescriptive legal authority on proof of insolvency. Notwithstanding, there are two primary tests used in determining a company's solvency, at a particular date. Those are:

- Cash flow test.
- Balance Sheet test.

The Courts have widely accepted the use of the cash flow test in determining company solvency at a particular date.

Section 95A of the Act also contains a definition of solvency. That definition reflects the cash flow test. That is, a person is solvent if "the person is able to pay all of the person's debts as and when they become due and payable".

Determining solvency derives from proper consideration of a company's financial position in its entirety and in the context of commercial reality. Relevant issues include:

- The degree of liquidity, or the lack thereof (considering available cash, working capital and monies available through short term asset realisations, borrowings, or equity).
- All of the company's assets might not be relevant when considering solvency. For example, if the assets are required in the ordinary course, or if the assets are highly illiquid.
- The voluntary or temporary forbearance of creditors not to enforce payment terms.
- 
- The ability of future support from sponsors / shareholders to provide short term liquidity.

### 6.4.1 Directors' Liability

Insolvent trading is governed by Division 3 of Part 5.7B of the Act and imposes on directors a statutory duty to prevent insolvent trading.

Section 588G(2) of the Act provides that a director who fails to prevent a company from incurring debt at the time when the director was aware that there were reasonable grounds for suspecting the company is insolvent, or likely to become insolvent by incurring that debt, contravenes Section 588G of the Act. This may result in a civil penalty under the Act (for example a compensation order in favour of the company under 588J of the Act).

Section 588G(3) of the Act provides that if the director's failure to prevent the debt being incurred when the director suspected that the company was insolvent or would become insolvent by incurring that debt, and the director's failure to prevent the company incurring that debt was dishonest, then the director commits a criminal offence.

Importantly, under Section 588M of the Act, a liquidator may seek, from a director who has breached the insolvent trading provisions, compensation for losses suffered by creditors. This is not a right available to an administrator or deed administrator.

The directors of the company may be able to claim any of the following defences to an insolvent trading claim of a Liquidator (Section 588H of the Act):

- That they had reasonable grounds to expect, and did expect, that the company was solvent at the time and would remain solvent even if they incurred the debt and other debts at that time.
- That because of illness or another good reason, they did not take part in the management of the company.
- That they took reasonable steps to prevent the company from incurring the debt. This may include but is not limited to appointing an administrator.

Notably, Section 588GA of the Act, provides a statutory carve out to insolvent trading in circumstances where, at a particular time after the person starts to suspect the company may become or be insolvent, the person starts developing one or more courses of action that are reasonably likely to lead to a better outcome for the company. That is, the directors seek to enter safe harbour.

#### 6.4.2 Holding Company Liability

Section 588V and 588W of the Act set out grounds where a holding company may be held liable for insolvent trading of a subsidiary. WBHOA is the holding company of WBHOI. Appropriate and further consideration would be applied by a liquidator, if ultimately appointed, to further investigate and assess whether Sections 588V and 588W would apply.

#### 6.4.3 Key Event Leading up to Appointment

We set out below a summary of the key events leading up to our appointment:

- On the 22 February 2022, the directors were notified by WBHO that financial support had been withdrawn.
- As a consequence of the above, the directors resolved to appoint Administrators on 23 February 2022.

#### 6.4.4 Balance Sheet Test

We table below a summary of the balance sheet position of the Companies:

\$	FY17	FY18	FY19	FY20	FY21
Net Assets	30,976,974	40,772,170	23,077,482	29,531,237	11,635,515

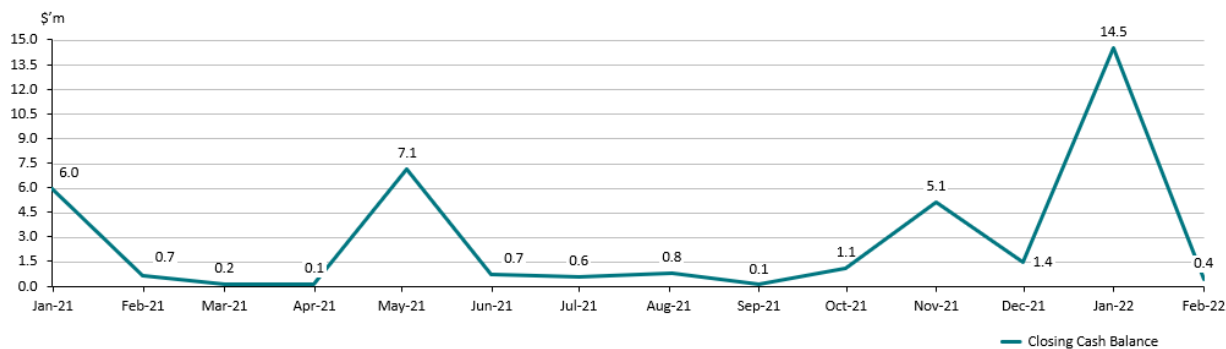
As noted earlier, the balance sheet test is not considered as relevant as the cash flow test which is discussed below.

*[This space has been left blank intentionally]*



### 6.4.5 Cashflow Test

We table below a summary of the historical cashflow forecast provided to us shortly following our appointment:



In respect of the above, we make the following comments:

- Management prepared and managed cash flow on a daily basis.
- The time available has inherently limited our ability to fully assess the reasonableness of management’s cash flow assumptions. From our preliminary review, it appears that management had an increased focus on cash and cashflow management leading up to our appointment and was reliant on funding via its ultimate parent. Further investigations would be undertaken by a liquidator, if appointed.
- Notwithstanding, we note that management generally did not prepare specific cash flow forecast on a project-by-project basis.
- We have had limited time to review each of the cash flow forecasts presented by management to the board of WBHOA, including considering and assessing the underpinning assumptions contained within the forecasts to form a view as to their appropriateness. A liquidator, if appointed, would undertake this exercise.

### 6.4.6 Availability of Funding

WBHOI was reliant on funding from WBHO which was transferred through WBHOA.

In this regard, we summarise below the quantum of funding received by WBHOA from WBHO to fund WBHOI over the past three years:

Year	Tranche	WBHO to WBHOA (\$'m)	WBHOA to WBHOI (\$'m)
2019	1	12.0	23.0
2020	2	8.0	8.0
2020	3	20.0	20.0
2020	4	80.0	80.0
2021	5	17.0	17.0
2021	6	34.0	34.0
2022	7	20.0	20.0
<b>Total</b>		<b>191.0</b>	<b>202.0</b>

Source: WBHOA Books and records

Based on our preliminary investigations, whilst the above funding was required for working capital by WBHOI, the funding was almost exclusively utilised to fund the cash shortfalls incurred by WBHOI in relation to WRU. This funding was

provided, based on the limited materials we have reviewed to date, by way of intercompany loan(s) as well as additional preference shares being issued.

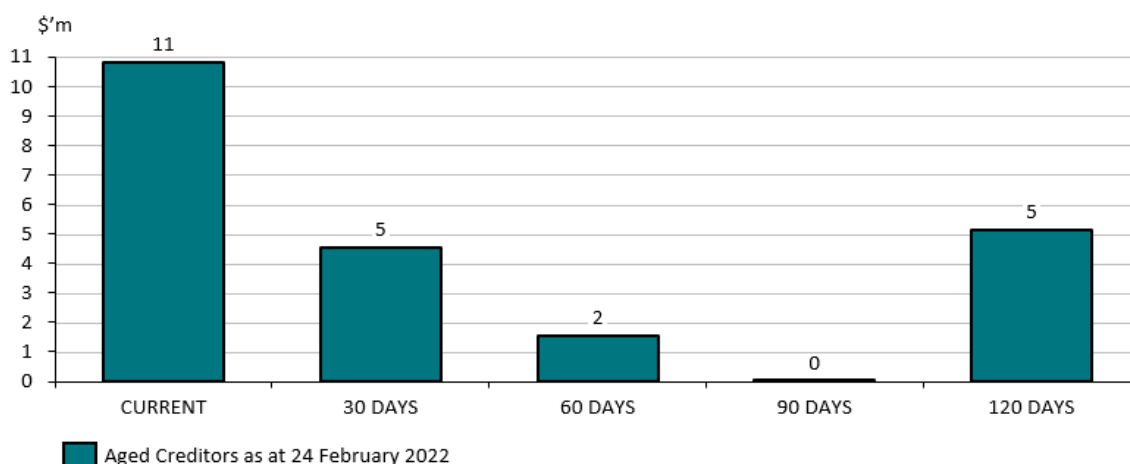
### 6.4.7 Aged Creditors

We table below a summary of the creditor position for WBHOI as of 24 February 2022 along with monthly aged creditor graphs. We have not included CCC below as it only has one creditor which is WBHOI.

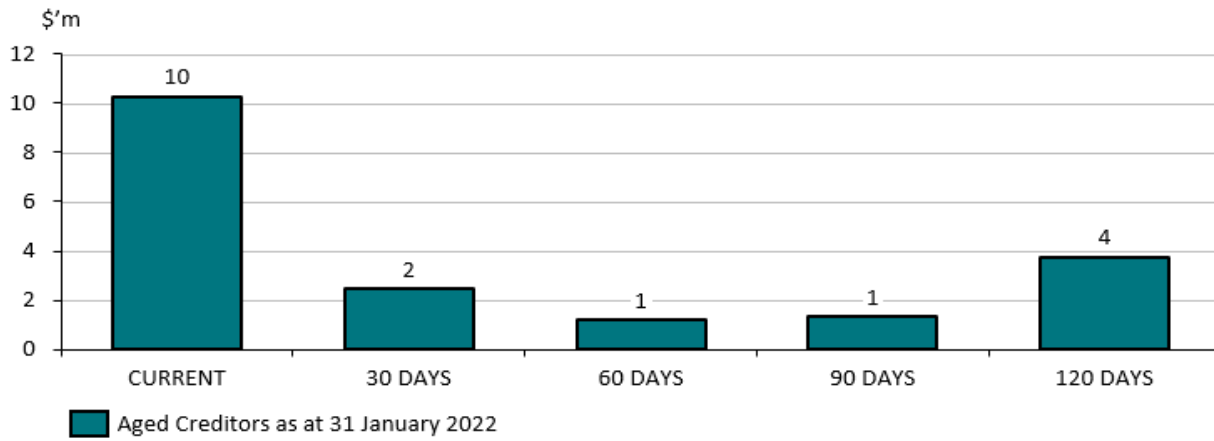
#### 6.4.7.1 Aged creditors as of 24 February 2022

Creditor	Current (\$)	30 Days (\$)	60 Days (\$)	90 Days (\$)	120 Days (\$)	Total (\$)
Probuild Constructions (Aust)	1,077,060	296,585	1,123,029	-	5,001,828	7,498,502
WA Fuel Supplies Pty Ltd	1,162,742	-	-	-	837	1,163,579
Global Synthetics	577,058	1,924	-	-	-	578,982
Johnson Plant Services	485,242	-	-	-	-	485,242
Protech Personnel (WA) Pty Ltd	167,093	160,845	76,825	-	14,022	418,785
All other	7,350,923	4,095,126	370,546	60,466	136,804	12,013,865
<b>Total</b>	<b>10,820,118</b>	<b>4,554,480</b>	<b>1,570,400</b>	<b>60,466</b>	<b>5,153,491</b>	<b>22,158,955</b>

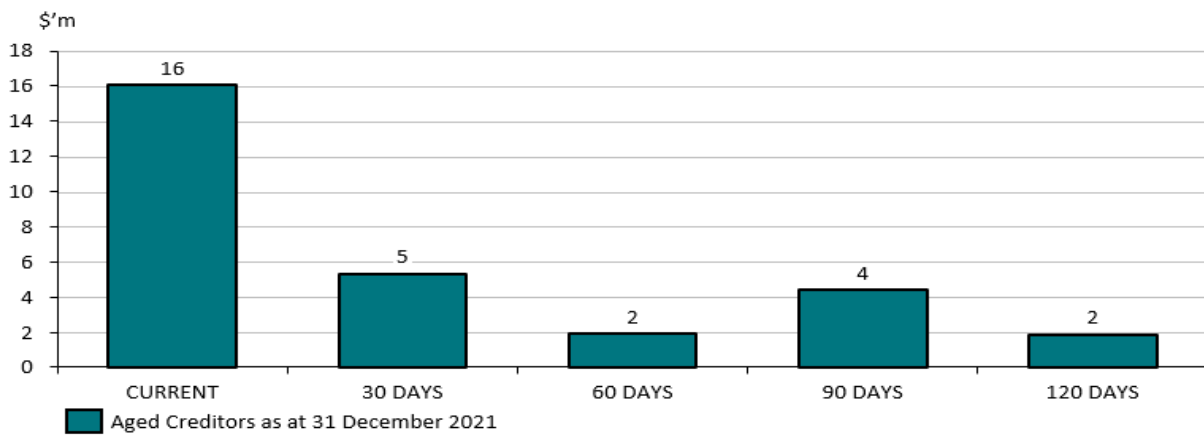
The aged creditor amount above is less than creditors estimated on the ESOP on the basis that additional invoices were received and processed by the WBHOI finance team after the 24 February 2022. That is, a large portion of, for example, February 2022 invoices were not entered into the system at the time of receiving the above ageing report. In addition, we have received Proof of Debts from creditors with claims higher than those recorded in the books and records. We note that these Proof of Debts have not yet been adjudicated on, and their validity cannot be ascertained at this point of time.



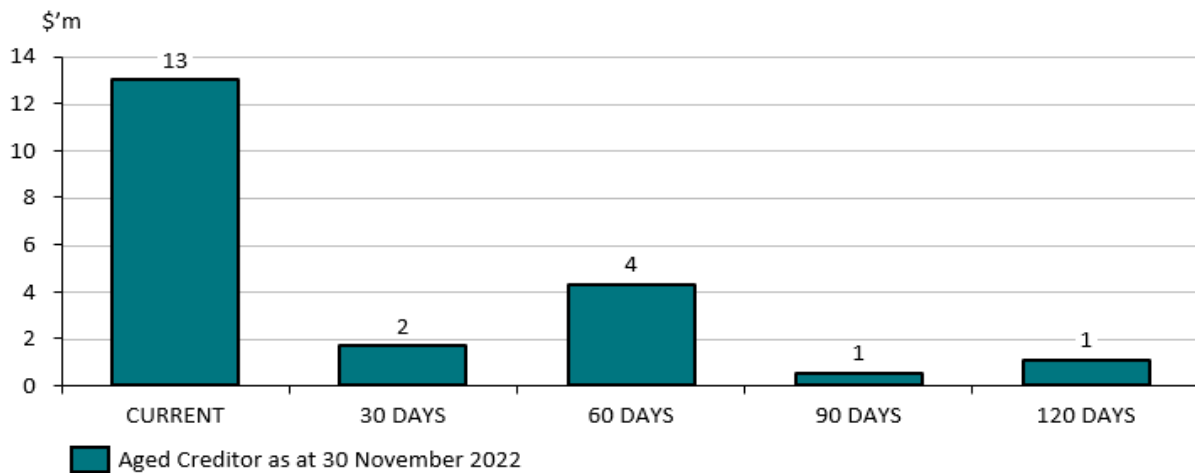
6.4.7.2 Aged creditors as of 31 January 2022



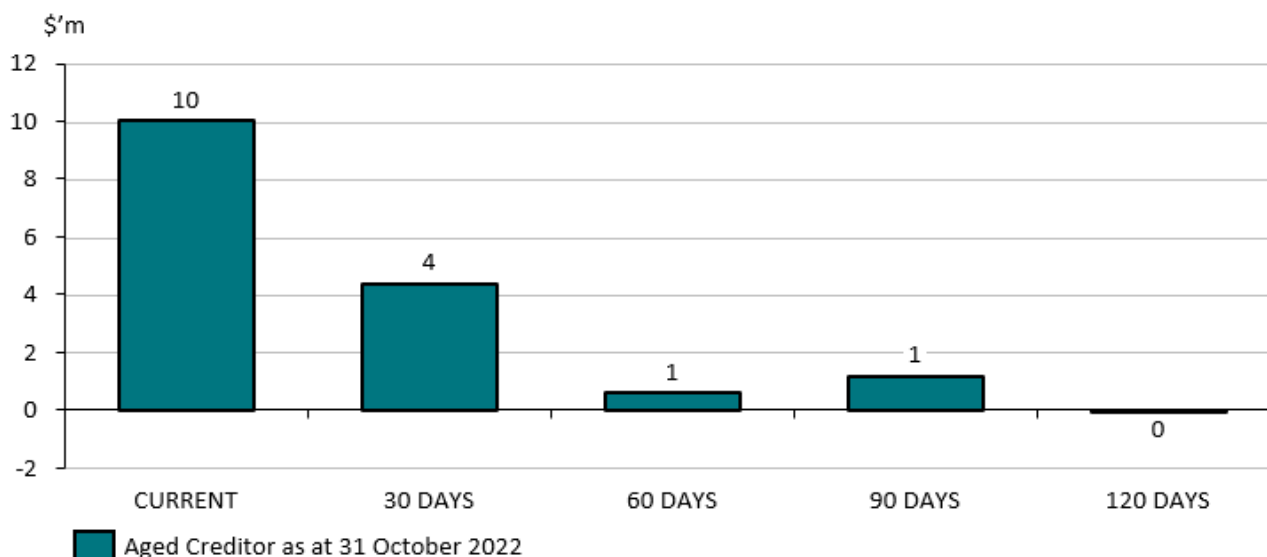
6.4.7.3 Aged creditors as of 31 December 2021



6.4.7.4 Aged creditors as of 30 November 2021



#### 6.4.7.5 Aged creditors as of 31 October 2021



In respect of the above, we make the following comments:

- We note an increasing trend in overdue creditors from November 2021 to February 2022. The position deteriorated considerably in January 2022 and February 2022, as cash balances declined.
- It appears that WBHOI was not paying all its trade creditors as they fell due from on or around November 2021, thus indicating that WBHOI was suffering reduced liquidity.
- From discussions with management, we understand that the majority of WBHOI creditors have agreed 30-day payment terms.
- Creditors that have opted into the project bank accounts for the H2H and Apple Street projects are paid directly and automatically from these accounts and do not constitute part of the above creditor values.

#### 6.4.8 Insolvency Indicators

In the case of *ASIC v Plymin*, the Court identified a range of matters given rise the Court’s conclusion on insolvency together with a range of matters that were held to be grounds for the director to suspect insolvency.

We comment below in relation to these further indicators, based on our preliminary investigations to date, and the limited time available to us:

Indicators of insolvency	Present	Administrators’ Comments
<b>Financial</b>		
Payment of rounded sums	No	Our preliminary investigations have not identified any regular and/or frequent round sum of payments that necessitate further investigations at this stage. Further investigations would be undertaken by a liquidator, if appointed.
Working capital deficiency	No	A working capital surplus suggests the Companies had enough liquid assets to meet its short-term liabilities.

Indicators of insolvency	Present	Administrators' Comments
		<p>When considering the cash flow of a company, the working capital ratio provides a useful insight into a company's ability to meet short term commitments. This ratio is calculated as follows:</p> $\text{Working Capital Ratio} = \frac{\text{Current Assets}}{\text{Current Liabilities}}$ <p>Working capital ratio below 1 is considered to be an indicator of insolvency as it signifies that a company does not have sufficient current assets to meet its current liabilities when due and payable.</p> <p>A company's working capital ratio on its own is not a definitive indicator of insolvency and should be measured alongside the company's access to alternative finance.</p> <p>We have analysed the working capital ratio of the Companies for FY18 to FY21. We note that the working capital ratio did not fall below 1 during this period. Further, the working capital position between FY18 and FY22 was in a surplus.</p> <p>Based on financial statements, WBHOI's net current asset position was:</p> <ul style="list-style-type: none"> <li>• Positive \$14.9m at 30 June 2018</li> <li>• Positive \$14.1m at 30 June 2019</li> <li>• Positive \$6.8m at 30 June 2020</li> <li>• Positive \$23.7m at 30 June 2021</li> </ul>
Net asset deficiency	No	<p>The net asset position between FY18 and FY22 was in a surplus. However, the position has declined since FY18.</p> <p>Based on financial statements, the Companies asset position was:</p> <ul style="list-style-type: none"> <li>• Positive \$40.8m at 30 June 2018</li> <li>• Positive \$23.1m at 30 June 2019</li> <li>• Positive \$29.5m at 30 June 2020</li> <li>• Positive \$11.6m at 30 June 2021</li> </ul>
Ageing of trade creditors	Yes	<p>We refer to our earlier comments. Our preliminary investigations have identified an increasing trend in WBHOI aged creditors in recent months. CCC had no aged creditors on our appointment. Further investigations would be undertaken by a liquidator, if appointed.</p>
Inability to secure funding	No	<p>We refer to our earlier comments.</p> <p>WBHOI was historically reliant on funding from its South African parent. This funding commitment was withdrawn on 22 February 2022.</p>
Inability to raise funds	No	<p>Based on the information available to us, we are unaware of the Companies exploring any further funding raising due to the support from the WBHO up until the appointment of the administrators. Funding was regularly provided by the parent company as required prior to the Administrator's appointment.</p>
<b>Operations and cash flow</b>		

Indicators of insolvency	Present	Administrators' Comments
Absence of cash flow forecast	No	Based on our preliminary investigations, WBHOI maintained cash flow forecasts. We tabled earlier in this report a copy of the forecast received shortly following our appointment.  Further investigations will be undertaken by a liquidator as to the reasonableness of the underpinning assumptions, if appointed.
Profitability/ trading losses	Yes	Based on the audited financial statements, the Companies incurred losses from 2019 to 2021. Based on financial statements, the Companies trading profit/ losses were: <ul style="list-style-type: none"> <li>• Profit \$10m for 2018</li> <li>• Loss \$54.7m for 2019</li> <li>• Loss \$100.7m for 2020</li> <li>• Loss \$34.9m for 2021</li> </ul> The date on which these losses were first known will be considered further if we are appointed as liquidators to the Companies.
Overdue Commonwealth and State taxes	No	WBHOI owed the ATO circa \$1.3million for outstanding PAYG and \$0.35million for outstanding BAS on our appointment. We wrote to the ATO on 24 February 2022 requesting all documents held by the ATO in relation to the Companies to allow us to complete our investigations. We did not receive documents from the ATO prior to the finalisation of this report.
Legal Demands from creditors	No	No statutory demands or writs were received by the Companies.
Payment arrangements	No	Based on our preliminary investigations, and our discussions with management, WBHOI did not enter into any forbearance arrangements prior to the appointment of the Administrator.
Outstanding statutory creditors	Unknown	We wrote to Office of State/ Territory Revenue on 24 February 2022 requesting if any payroll or land tax is outstanding in relation to the Companies however, we did not receive a response prior to the finalisation of this report.

#### 6.4.9 Preliminary Conclusion as to Solvency

Our investigations are preliminary having regard to the limitations discussed throughout this report. Accordingly, and in the time available to us to undertake these investigations, we have not yet formed a final opinion as to the likely date upon which WBHOI became insolvent. We note however, on 22 February 2022, the directors were notified by WBHO that financial support to the Group had been withdrawn. Mr Grobler points to this as his reason for appointing Administrators as he concluded at that time WBHOI and CCC were insolvent or likely to become insolvent.

Based on our preliminary investigations to date, we are currently of the opinion that there would be a detriment to creditors should WBHOI proceed to liquidation and based on current information, SRG DOCA results in a more immediate and higher return to participating creditors.

Please note companies in the wider WBHOA Group may or may not have claim against WBHO. In some circumstances, any recoveries against WBHO may result in some financial benefit to WBHOI. However, based on current information, we have not yet formed a view of the prospect of recovery against WBHO and the extent (if any) of financial benefit to WBHOI.

Should creditors resolve to place the Companies into liquidation, a Liquidator would conduct further investigations to determine the exact date of insolvency and if, having regard to that date, there are potential recoveries from voidable

transactions of insolvent trading actions. Creditors ought to note that there are a number of possible defences that may be available to any potential party who may have received the proceeds of a voidable transaction and also the directors and WBHOA in respect of any potential insolvent trading claim. We have not had the opportunity to fully consider any of these possible defences. Accordingly, a liquidator would need to carefully consider the commerciality of such claims, including the costs of pursuing the claim relative to the possible recovery, and whether litigation funding is required (which would further reduce the net available recoveries to creditors).

However, based on our preliminary investigations to date, we have not identified any breaches of directors' duties or other voidable transactions which would give rise to a cause of action available to the Companies or a liquidator. Further investigations would be undertaken by a liquidator, if appointed.

## 6.5 Western Roads Upgrade

We have undertaken a preliminary review of the books and records of the companies, together with publicly available information, and documents available from WBHOA Group in relation to the Western Roads Upgrade project.

We discuss our observations as follows:

### 6.5.1 Background

The WRU is a public-private partnership contract with the State Government of Victoria.

We understand based on our investigations to date that, a "material bidding error" on WRU Project, arose from a misinterpretation of the design specifications, which when combined with other unforeseen delays resulted in a cumulative cash loss of approximately \$202 million being recognised on the project.

Funding was ultimately provided by WBHO to WBHOA, and in turn to WBHOI to fund these cash losses on the WRU project. We discuss this further in section 6.4.6 above.

### 6.5.2 WBHO – Exit from the Australian Market

In March 2022, post our appointment as Administrators, WBHO released their 31 December 2021 results. In a presentation on 2 March 2022, WBHO made the following comments as to the basis for their exit from Australia:

- *At the same time, the outlook for the Australian construction industry was concerning given:*
  - *The Australian hard-line approach to managing Covid-19.*
  - *Lower number of projects that WBHOA would have traditionally bid upon.*
  - *Geopolitical tensions between Australian and China and associated trade embargos.*
  - *Rising inflation and material and labour costs in a fixed price environment.*
- *For the last two years, the South African management team has been refused entry to Australia.*
- *Risk versus reward is untenable.*
- *The Board was faced with the following two scenarios in determining whether to continue financial support of the Australian operations.*
- **Scenario 1: Prolong and increase the Group's exposure:**
  - *Immediate and substantial upfront cash injection to recapitalise the businesses.*
  - *Immediate and substantial increase in parent company support to Australian guarantee providers.*
  - *Additional medium-term working capital funding.*

- Additional medium-term increases in parent company support to Australian guarantee providers.
- Downside risk to any meaningful recovery in the market.
- Material contingent risk remains within WBHOA.
- Additional strain on cash resources that restrict pursuing profitable opportunities in Africa and the UK.

- **Scenario 2: Limit Group exposure:**

- Withdraw any further financial assistance to Australia.
- Cap exposure of the Group to existing parent company guarantees.
- Australian operations to be placed into administration as they will be technically insolvent.
- Secure the support of the South African financial institutions.
- Honour existing parent company obligations.
- Protect the profitable operations of the wider Group and the interests of its stakeholders.

- Given the prevailing business climate, prospects for the Australian operations and risk to the wider operations of the Group, the Board elected to withdraw any further financial assistance.

### 6.5.3 Market Announcements

Our review of the financial and integrated reports published by WBHO disclosed the following references in relation to the WRU project:

Public Document	Quotes
<b>2019 Integrated Report</b>	<p><i>The size of the loss recognised is unprecedented, not only for the Australian business but for the entire WBHO Group and contributed to a significant decline in the Group’s operating profit. Occasional loss-making projects form part of any construction company, and the ability to minimise and withstand the impact of these when they happen, sets strong construction companies apart. Although unpleasant, the well diversified business and strength of the balance sheet enabled us to absorb the event without impacting the long-term sustainability of the group.</i></p> <p><i>The main reason behind the loss was due to the misinterpretation of certain technical specifications within the contract bid design, resulting in an underestimation of the physical construction works required. After lengthy delays in obtaining the necessary design approvals, delivery of the project is now underway. The group has identified various claims against both the design consultant and the ultimate client, and these are being pursued in terms of the group’s contractual rights.</i></p> <p><i>The WRU project is a single design and construct contract comprising eight separate work packages of which four were subcontracted and four are being self-executed. Following lengthy delays in obtaining approval of the designs for the self-executed packages and a subsequent extensive due diligence process, management identified an incorrect interpretation by the design consultants of the technical specifications.</i></p> <p><i>This misinterpretation resulted in the underestimation of the physical works necessary to meet the output specifications of the contract and the recognition of a provision for the anticipated future costs to execute those additional works.</i></p> <p><i>The design approval for the self-executed packages has now been substantially resolved and physical works on those packages have started.</i></p>



Public Document	Quotes
2020 Integrated Report	<p><i>In the previous reporting period, the Group advised stakeholders of a material bidding error on the WRU project within the Group’s infrastructure business in Australia. The error arose from a misinterpretation of the design specifications and resulted in a forecast loss of approximately AU\$50 million being recognised in FY2019. In the current period under review, project delivery was considerably delayed by the scheduling of state-prescribed utility owners (water, electricity, telecommunications, etc), the impact of COVID-19 and high levels of staff turnover with the result that the final package of the project will be completed approximately six months after the original completion date. From a cost perspective, in addition to the extra costs associated with the increased design scope recognised in the previous reporting period, cost overruns in respect of the utility providers, site running costs for an additional six months and costs associated with further scope creep due to ongoing design changes were accounted for in FY2020, bringing the forecast loss to AU\$133 million. The size of the loss has required significant funding from South Africa into Australia to ensure the infrastructure business is able to fulfil its contractual obligations.</i></p>
2021 Integrated Report	<p><i>A material bidding error on the WRU Project within the Group’s infrastructure business, arose from a misinterpretation of the design specifications, which when combined with other unforeseen delays resulted in a cumulative loss of approximately AU\$161 million being recognised on the project.</i></p> <p><i>The Group first reported on the loss-making WRU Project within the infrastructure business in Australia at 31 December 2018 at which time a AU\$50 million loss was forecast. The total forecast loss had escalated to AU\$161 million by 30 June 2021. The Group has guaranteed the performance of the Australian infrastructure business in respect of the WRU Project and to date, has provided AU\$141 million in funding to ensure completion of the project. On 31 December 2019, the Group also reported on an AU\$12 million dollar loss on the 443 Queen Street project within the building operations of Probuild. The loss had increased to AU\$48 million by the end of the current reporting period due to further delays.</i></p>

#### 6.5.4 Board Materials

We have also reviewed a select number of materials presented to the board of WBHOA. We comment as follows in this regard:

- The WBHOA board became aware in December 2018 that a significant WBHOI project would be loss making.
- The WBHOA board, as a consequence of identifying the potential loss, enhanced the level of reporting and oversight in relation to the project. Specifically:
  - Held monthly project meetings (for WRU only).
  - Held weekly board meetings between Melbourne, Johannesburg and London.
  - Had regular visits from WBHO, before COVID-19 restrictions.
- For the purposes of the monthly project meetings, a detailed report was prepared and circulated to attendees, which described, amongst other things:
  - Safety record.
  - Design status.
  - Costs to complete and status.

- Claims.
- Variations.
- Cashflow.
- Procurement.
- Time and progress.
- We understand that weekly board meetings canvassed, on an alternating basis, Probuild and WBHOI so that each business was discussed every two weeks. The majority of the discussion in relation to WBHOI was focused on WRU given the broader implications to WBHOA and WBHO.
- The agenda of video conferences focusing upon WBHO Infrastructure Pty Ltd normally was as follows:
  - WRU project programmed update.
  - WRU cost forecast update (every second fortnight meeting following the Project Oversight Meeting mentioned above).
  - WRU Quality update.
  - WRU Claims update in relation to pursuit of claim recovery with the State Government of Victoria and key consultant, Amey Consulting Australia Pty Ltd.
  - WBHO Infrastructure other project updates, in particular Stockyard Hill which was another significant WBHO Infrastructure loss making project.

#### 6.5.5 Summary of Costs Overruns

Based on our preliminary investigations, we have identified a reconciliation of the original tender price versus the actual cost incurred by WBHOI to deliver the works, resulting in the net cash loss of \$202m.

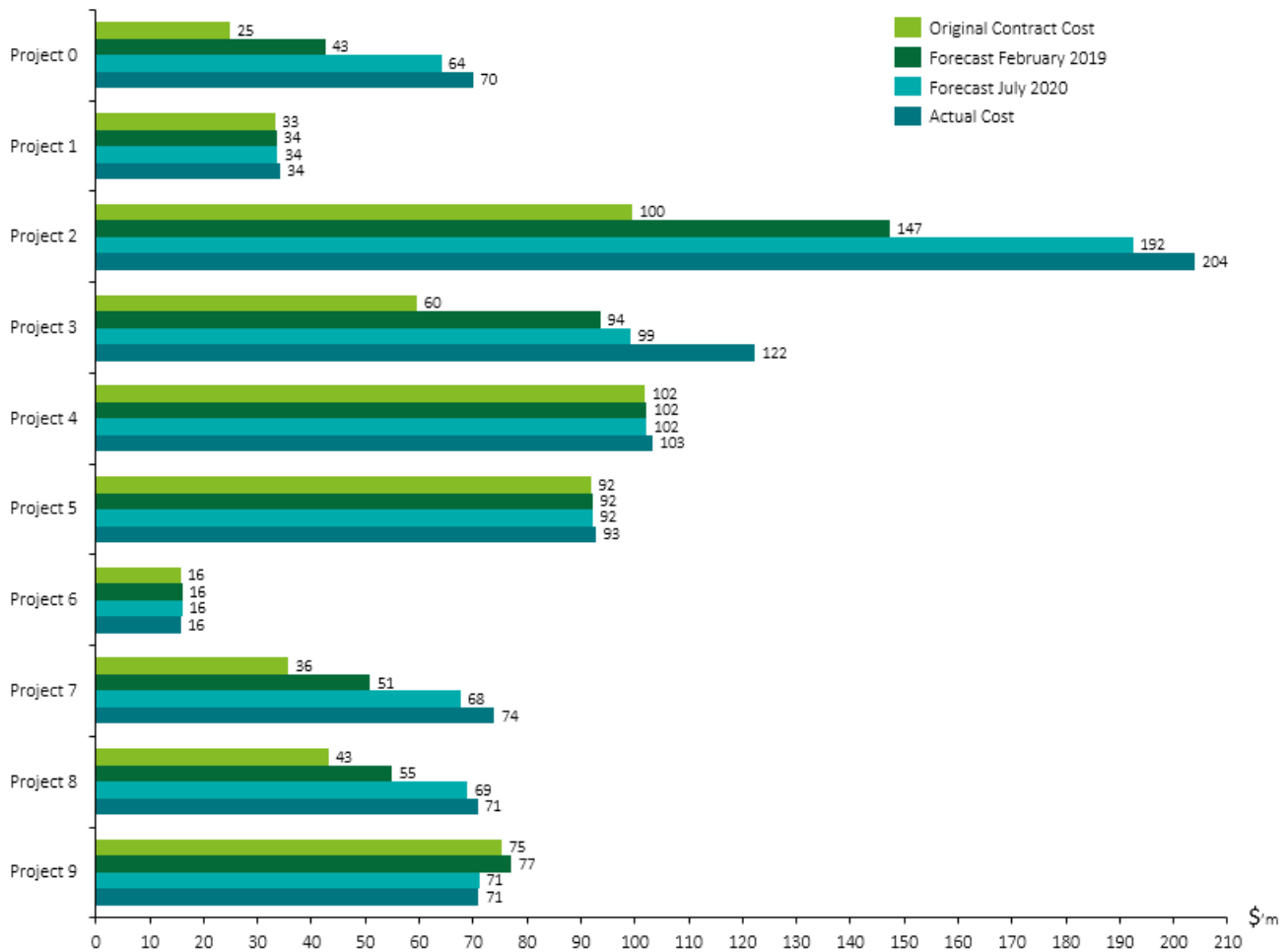
We note that there were ten (10) distinct programs of work in relation to the WRU project. These projects, the original contract price / estimation, and their resultant cost is tabled below:

	Original Contract Price (\$)	Actual Contract Price (\$)	Variance (\$)
<b>Contract Revenue</b>	<b>627,735,060</b>	<b>624,307,072</b>	<b>3,427,988</b>
Project 0	(24,886,467)	(70,029,170)	45,142,703
Project 1	(33,279,397)	(34,212,397)	933,000
Project 2	(99,604,948)	(203,987,900)	104,382,952
Project 3	(59,618,879)	(122,322,643)	62,703,764
Project 4	(101,950,842)	(103,328,231)	1,377,389
Project 5	(91,958,532)	(92,865,520)	906,988
Project 6	(15,718,729)	(15,791,729)	73,000
Project 7	(35,759,335)	(73,958,442)	38,199,107
Project 8	(43,177,078)	(70,820,508)	27,643,430
Project 9	(75,340,571)	(71,060,912)	(4,279,659)
58501	-	(13,583,123)	13,583,123
Head Office	-	(10,545,957)	10,545,957
<b>Total Costs</b>	<b>(581,294,778)</b>	<b>(882,506,532)</b>	<b>301,211,754</b>
<b>Project Profit/ Loss</b>	<b>46,440,282</b>	<b>(258,199,460)</b>	<b>304,639,742</b>
<b>Revenue Reliance/ Adj.</b>	-	56,198,993	(56,198,993)
<b>Loss Provision</b>	-	<b>(202,000,467)</b>	<b>248,440,749</b>

In addition to the above, we have identified and reviewed management's total cost to complete analysis at various points in time.

Below is a summary chart of those costs to complete by sub-project at four points in time:

- Original contract cost estimate
- Revised forecast as of February 2019
- Revised forecast as of July 2020
- Actual cost following commercial acceptance



Whilst we have not undertaken a substantive review as to the basis of the cost overruns and escalations, we understand that the following were contributing factors:

- A deficiency in front end design work, which required substantial rework and re-costing.
- Substantial increases in workforce numbers.
- Increased contractor costs due to substantial staff turnover.
- Additional cost of employing consultants and the extension of certain roles.
- Additional resources required to close out defects raised post completion.
- Legal costs incurred (advice, arbitration, and litigation).
- Substantial liquidated damages as a result of exceeding the agreed completion timeframes.

Further investigation and analysis would be undertaken by a liquidator if appointed. However, we note that WBHOI has commenced proceedings against the design consultant, and that claim will be transferred to the creditors trust, if

creditors approve the SRG DOCA. Also, WBHOI have reached a commercial and confidential settlement with the Victorian Government in relation to the WRU, and as such, a cause of action against that party (which may be better pursued by a liquidator, given the public examination powers) is not available.

### 6.5.6 Conclusion

Having regard to the above, and our general understanding of the matter, we make the following comments:

- Our investigations are preliminary and based on the work conducted to date, it is not apparent when management first identified the potential cost overruns on the project. Notwithstanding, we note that in December 2018 the board documented their awareness of the potential for loss and implemented further governance procedures to monitor and understand the potential exposures.
- WBHOI was reliant on funding from WBHOA to meet the losses suffered on WRU. Without funding / financial support from WBHOA, WBHOI would have had insufficient cash to meet its debts as and when they fall due and to complete WRU. As discussed above, WBHOI agreed a confidential settlement with Vic Roads, and there is a cause of action on foot against the design consultant which may result in a recovery to beneficiaries of the Creditors' Trust.
- WBHOA and WBHO provided WBHOI with approximately \$202m to reach practical completion. As of our appointment, the project was largely complete save for ongoing defect works being undertaken.
- WBHOI assert that insufficient design work occurred by their third-party design contractor through a misinterpretation of the design specifications.
- Fixed price contracts in an environment where costs are progressively increasing ultimately erodes margins of sub-contractors. While it appears, there was a "material bidding error" in relation to WRU by WBHOI, inflationary pressure and the lack of skilled labour as a result of COVID-19 did not improve the position.
- Further and detailed investigations would be undertaken by a liquidator if appointed. In this regard, a liquidator would assess whether there are causes of action available for the benefit of creditors that are commercially appropriate to pursue.

## 6.6 Voidable Transactions

The Act requires an administrator to specify whether there are any transactions that appear to the administrator to be voidable transactions in respect of which money, property or other benefits may be recoverable by a liquidator under Part 5.7B of the Act.

This issue is relevant to creditors if they are being asked to choose between a DOCA and liquidation, because voidable transactions are only able to be challenged if liquidation occurs.

Voidable transaction include:

- Unfair preferences (Section 588FA).
- Uncommercial transactions (Section 588FB).
- Unfair loans to a company (Section 588FD).
- Discharging a Debt of a Related Entity (section 588FH).
- Arrangements to avoid employee entitlements (Section 596AB).
- Unreasonable director-related transactions (Section 588FDA).
- Transactions with the purpose of defeating creditors (Section 588FE(5)).
- Voidable security interests (Section 588FJ).

It is important to note that some transactions are only voidable if they are considered insolvent transactions of the Companies. For a liquidator to recover any amount it would first be necessary to establish that the Companies were in fact insolvent at the time of the transaction (or as a consequence of the transaction)

Generally, such actions are expensive to be litigated. As such, should there be inadequate funds available, or the liquidator consider it uncommercial or not in the creditors' best interests, recovery actions may not be commenced by a liquidator (if appointed). Further, s545 of the Act provides that, subject to limited exceptions, a liquidator is not required to incur any expense in relation to the winding up of a company unless there is sufficient property to cover those expenses.

In these circumstances, creditors wishing to fund any actions may do so. Should funds be recovered from these actions, the creditors providing the funding may be entitled to receive their contribution in priority to other creditors.

Alternatively, a liquidator may assign a right to sue to any interested third party pursuant to s100-5 of the IPS. This enables the liquidator to quickly realise something for the benefit of the creditors without the time, cost and risks associated with pursuing legal action. Any person to whom the right to sue is assigned is free to pursue the legal action at their own expense and will receive the full benefit of any court order that may result.

Litigation funding may also be available to fund actions. However, such funding is generally only available where legal advice indicated that there is a strong potential for success.

Whilst these actions are available to a liquidator, our preliminary conclusion, based on the limited investigations conducted to date, is that the Companies became insolvent on 22 February 2022. As such, and subject to further investigations by a liquidator, it is unlikely that there would be material recoveries of voidable transactions, were a liquidator to be appointed.

Types of voidable transactions	Commentary
Unfair Preferences Payments (section 588FA)	Our preliminary conclusion as to solvency is that the Companies were insolvent at the point in time in which support from the South African parent was withdrawn (22 February 2022). Accordingly, we have <u>not identified</u> any payments which we consider would constitute unfair preferences (within the meaning of Section 588FA of the Act).
	Consistent with our comments throughout this report, a liquidator, if appointed, would undertake further investigations to confirm the date of insolvency. And if determined earlier that our preliminary conclusion, further analysis, and review would also be conducted to assess whether there are any unfair preference recoveries available or the benefit of creditors.
Unfair Loans (section 588FD)	Our preliminary investigations have <u>not identified</u> any loans which would constitute unfair loans (within the meaning of Section 588FD of the Act)
Uncommercial Transactions (section 588FB)	Our preliminary investigations have <u>not identified</u> any transactions that we consider would constitute an uncommercial transaction.
Discharging a Debt of a Related Entity (section 588FH)	Our preliminary investigations have <u>not identified</u> any transactions or arrangements of this nature.
Unreasonable Director-Related Transactions (section 588FDA)	Our preliminary investigations have <u>not identified</u> any transactions or arrangements of this nature.
Arrangements to Avoid Employee Entitlements (section 596AB)	Our preliminary investigations have <u>not identified</u> any transactions or arrangements of this nature.
Transactions with the Purpose of Defeating Creditors (section 588FE(5))	Our preliminary investigations have <u>not identified</u> any transactions that appear to have been undertaken for purpose of defeating creditors.

Types of voidable transactions	Commentary
Circulating security interests created within six months (section 588FJ)	A search of the Personal Property Securities Register reveals that no circulating security interests have been perfected over WBHOI's assets in the six months prior to the relation back day.

## 7 Voluntary Administrators' actions to date

### 7.1 Actions to date

Following the appointment, we took control of the operations and affairs of the Companies. Our work included all statutory and practical requirements of the voluntary administration, as well as operational control of WBHOI business.

#### 7.1.1 Administrators Key Actions

The following is a non-exhaustive list of the key actions and tasks that were undertaken by us upon our appointment as Administrators to the date of writing this report.

Operational actions:

- Attended the WBHOI head office and took immediate operational control.
- Prepared and maintained operation cash flow forecast.
- Ensured continuation of supply from key suppliers and subcontractors.
- Liaised with key suppliers of consumables, travel, accommodation, plant and equipment and labour hire.
- Oversaw and monitored operational performance and attended operational meetings.
- Met with each of the key principals on each contract and developed an ongoing communication cadence.
- Engaged Pickles to undertake a plant and equipment valuation.
- Froze bank accounts and opened new back account.
- Issued purchase orders and maintained a purchase order register.
- Engaged with the market to present WBHOI for sale and/or recapitalisation.
- Received supplier invoices and made payments.
- Prepared for and attended to wages and salary payments.
- Engaged with suppliers / subcontractors.

Statutory and other actions:

- Issued notification to creditors and answered creditor queries.
- Issued notification to lessors of property, plant and equipment.
- Attended to adjudication of PPSR and retention of title claims and disclaimer of assets.
- Statutory lodgements.
- Convened, prepared, and conducted the first meeting of creditors, and prepared and lodged meeting minutes.
- Convened meetings of the Committee of Inspection, and prepared and lodged meeting minutes.
- Backed-up and safeguarded electronic data.
- Issued notifications to employee groups and answered employee queries.
- Investigated the Company's affairs.
- Prepared this report.
- Negotiated fully formed documentation for a sale and DOCA proposal.

## 7.2 Voluntary Administrators' trading performance and receipts and payment

### 7.2.1 Business Trading

We attended the WBHOI head office and took immediate control of WBHOI's business and operations. This involved ongoing discussions with Management regarding the day-to-day operations and implementing trading processes for the voluntary administration period. We developed a trade-on strategy including cash flow forecasts to allow the WBHOI to continue operations.

Upon appointment we undertook a review of the internal management controls and approval process across the head office and implemented additional Administrators' controls. We have continued to work with Management and employees throughout the voluntary administration period to ensure minimal disruption to the business performance.

As of the date of writing this report, there have been no suspension of operations on any Western Australian site.

After the appointment of the Administrators, work was suspended on WBHOI's Queensland projects. The principal provided us with a termination notice on the 11 March 2022. We notified all employees of the termination on this date.

On the 18 March 2022, it was agreed to terminate WBHOI's Victorian employees to facilitate their transfer to, the principal contractor on the WRU project. WBHOI entered into an agreement with the principal contractor to facilitate the orderly transition of the project including the ongoing performance of the development's activities.

### 7.2.2 Administrators Receipts and Payments

Below is a copy of the Administrators' receipts and payments relating to the period from 24 February to 18 March 2022.

Receipts and payments	\$
<b>Receipts</b>	
Cash at Bank at 24 February 2022	2,452,851
Deposit - SRG Global	2,000,000
Pre appointment debtor	5,677,199
Netflow Receipt	460,000
Interest	73
Workers Compensation	12,185
Other Receipts	3,660
<b>Total receipts</b>	<b>10,605,967</b>
<b>Payments</b>	
Rent	30,415
Vehicle Freight Cost	6,550
Fuel	1,516,241
Subcontractor	348,733
Child Support	1,154
Union Fees	162
Wages	1,681,398
Valuation Report	17,050
Plant and Equipment	21,104
Bank Fees	45
Materials	16,352
Lease Cost	1,505

Licencing	11,000
Credit Card Payment	36,395
<b>Total payments</b>	<b>3,688,105</b>
<b>Balance in Hand</b>	<b>6,917,862</b>

### 7.2.3 Administrators Approved Purchase Orders

Below is a copy of the purchase orders approved by the Administrators up to the 31 March 2022. Purchase orders issued in relation to H2H, and Apple St are governed by a Project Bank Account relationship, which provides for the direct and automatic payment to suppliers from those accounts pursuant to a trust deed and relationship with the principals. The Administration has not impacted the operation of the Project Bank Accounts.

Project	PO's Issued	PO Value
Alcoa	104	759,615
Bruce Highway	3	24,480
Great Northern Highway (GNH) Upgrade - Ord North SP2	67	2,185,815
H2H	19	111,019
Mardie Salt & Potash	79	1,777,199
North Bannister Resource Recovery Park	97	1,942,524
Other	98	387,949
South 32 Worsley Alumina	170	2,374,517
Western Roads Upgrade	5	48,791
<b>Total</b>	<b>642</b>	<b>9,611,908</b>

### 7.2.4 Net Trading Position

As of the 31 March 2022, the Administrators will have an estimated a net trading surplus of \$1.8m, being combination of cash held at bank and work in progress completed in the month of March, that is still to be billed.

The ultimate net trading position will be determined towards the end of April 2022 as WIP to 31 March 2022 is billed, purchase order liabilities are discharged, and the revenues/debtors are received.

## 8 Sale of business process / recapitalisation

### 8.1 Background

On our appointment we immediately commenced a campaign for the sale and/or recapitalisation of WBHOI.

The timeline to commence the sale/recapitalisation process was as follows:

- On 24 February 2022, we commenced a marketing process for potential bidders with the sale / recapitalisation opportunity.
- On 3 March 2022, we compiled all signed confidentiality agreements, providing the relevant bidders with a period of due diligence via an online data room.
- On 11 March 2022 offers were due.



The process was necessarily short. A voluntary administration causes considerable uncertainty and instability, particularly in a contracting business. The Administrators recognised we needed to deliver certainty and stability in short order. It was therefore apparent we needed to attract an entrepreneurial, agile, well-funded, sophisticated, and highly informed purchaser. A healthy proportion of the interested parties fit this description. All such parties were more than capable of making an offer in this timeframe. We discuss further in our conclusion as to why it was appropriate for the Administrators to enter in a transaction quickly.

## 8.2 Marketing

The marketing campaign commenced with advertisements appearing in the Australian Financial Review and The Australian on 26 February 2022 and 28 February 2022, calling for expressions of interest in WBHOI.

We conducted a broad market outreach process by leveraging internal and existing networks including industry contacts and market participants.

## 8.3 Interested Parties Database

All parties contacted were provided an information flyer giving an overview of WBHOI, a confidentiality agreement and were placed on a 'bidders list'. All parties were given updates in relation to the process and an online data room was made available to those parties that had signed a confidentiality agreement.

We received high interest and have issued over 60 confidentiality agreements and received over 22 signed confidentiality agreements.

## 8.4 Online Data Room

An online data room was made available on 3 March 2022. The data room provided a secure central hub to store and display all pertinent information relating to the sale/recapitalisation of WBHOI. In addition to providing due diligence information to interested parties, the data room also allowed us to track the number of interested parties utilising the data room to obtain due diligence information.

We received and responded to questions from interested parties via a question-and-answer function in the online data room.

Detailed in the table below is a timeline of the key stages in the sale process:

EVENT	DATE
Commencement of national advertisement seeking expressions of interest.	24 February 2022
Confidentiality agreements issued alongside information flyer.	26 February 2022
Closing of Expression of Interest stage	3 March 2022
Information pack available via opening of data room.	3 March 2022
Commencement of due diligence.	3 March 2022
Offers.	11 March 2022

## 8.5 Proposals Received

Participating parties were requested to submit offers on Friday, 11 March 2022, with the preferred offer structure being a DOCA. Several parties also provided proposals and offers before and after this date, and in total 6 parties submitted proposals for the acquisition of WBHOI and/or its assets.

Following receipt of offers, we proceeded to negotiate with the preferred bidder with a view to entering into formal and binding documentation as soon as practicable.

## 8.6 Summary of Offers

The offer received by SRG was the only offer capable of acceptance by the Administrators. The other offers were conditional on further diligence, non-binding, for lesser value, and as such, were not capable of acceptance in the short term.

## 8.7 Considerations in assessing proposals

The proposals received by the Administrators referred to above all varied not only based on headline value but also other factors critical in assessing their relative attractiveness. In assessing the proposals, the Administrators considered a broad range of factors, including but not limited to:

- The overall value.
- The conditionality.
- The need to conduct further due diligence or lack thereof.
- Ability to complete a transaction quickly.
- The structure of the consideration.
- The components of WBHOI to be included.
- The counterparty's experience and reputation.
- The financing sources for the proposal.
- The impact on employees.
- The requirement for any approvals, including shareholder approvals or FIRB.

## 8.8 Conclusion

As described throughout this report, the DOCA proposal put forward by SRG (amongst other things):

- Provides certainty of completion through execution of an ASA as well as DOCA to be put to creditors.
- Has limited conditionality.
- Provided the highest and best value proposition to creditors based on the offers received.
- Was the only offer capable of acceptance by the Administrators.
- Provides on-going employment for Western Australian staff.
- Provided a counter party well known and acceptable to WBHOI's clients.

Accordingly, and in the interest of preserving the business and ensuring continued employment of WBHOI's employees, the Administrators determined that it was in the best interest of creditors to enter into the SID with SRG.

Further, it was important in our view to act quickly, document a transaction and bind a purchaser. We are of this opinion for the following reasons:

- We conducted a comprehensive marketing and sale process, which included highly sophisticated counterparties. These parties conducted their preliminary diligence and either submitted a non-binding indicative offer or did not participate further.
- The SRG offer was the best received from the process conducted by the Administrators. There is no certainty that any further value would be extracted from SRG or any other party if the process was extended.
- The support of customers, suppliers and employees is not forever or taken for granted. The withdrawal of support from one of these core stakeholder groups, such as a customer, would likely have had significant operational implications.
- There was insufficient working capital in the business during the administration to trade for any long period of time. We traded the business whilst we canvassed the market for possible recapitalisation / sale offers, on the basis that presenting the business as a whole maximises value.
- Our swift actions prevented customers terminating valuable contracts.
- The trading of a business by an external administrator is cost prohibitive and expensive. Removal of the Administrators as soon as practicable limits the costs to the estate and improves returns to creditors.

Accordingly, and in our view, a longer and more competitive process would not have achieved a better outcome than the transaction presented by SRG and in fact may have resulted in a failure to achieve a going concern sale at all. We are of the opinion, that in the absence of a transaction when we executed the SID with SRG, it is highly likely that WBHOI would have experienced operational issues, including the withdrawal of customer contracts, or termination of sub-contractor arrangements, which would likely have resulted in the Administrators determining that the level of risk of trading WBHOI (having regard to the lack of available working capital) was too high. In these circumstances, the Administrators would have ceased trading, terminated all employees and commenced an orderly asset realisation process. This would have been highly undesirable and detrimental for creditors.

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## 9 Deed of Company Arrangement

### 9.1 Introduction

On the 13 March 2022, we exercised our power of sale as Voluntary Administrators under section 437A(1)(c) of the Act and signed binding transaction documents (Sale Implementation Deed or SID) for the sale of the business to SRG. The SID provides for completion of the sale of the Company by either a DOCA or an ASA. Completion of the sale by DOCA is subject to resolutions being passed by creditors at the second meeting of creditors of WBHOI. In accordance with Section 444D creditors of WBHOI would be bound by the DOCA.

The proposed DOCA, as presented in this report, creates certainty about the future of the business and provides a better return to creditors than if the sale is completed through the ASA (and WBHOI is placed into liquidation).

In the event that the DOCA is not passed by creditors at the second meeting, the meeting of creditors will be adjourned, the WBHOI will subsequently be placed into liquidation, and the sale will be effected through the ASA.

A copy of the DOCA and creditors trust term sheet are included in **Appendix F** and **Appendix J**.

### 9.2 Key features of the DOCA

The key features of the DOCA are as follows:

- Upon signing the SID, SRG will pay a \$2.0m (largely) non-refundable deposit to the Administrators. We confirm that we received the \$2.0m deposit into the WBHOI Administration bank account on 14 March 2022.
- In very limited circumstances (including if the Administrators attempt to enter into an alternative transaction) the deposit must be refunded and a \$1m break fee is payable. The Administrators consider themselves bound by the SID and consequently are unable to consider alternative transactions. As previously stated, the Administrators considered that entry into the SID at the time was in the best interest of creditors.
- In order for the DOCA to be executed, a resolution must be passed by the creditors of WBHOI in favour of the DOCA.
- SRG will be obliged to assist WBHOI between execution of the SID and completion, including providing operating oversight and facilitate discussions between principals in relation to any default or change of control on the WBHOI projects being acquired by SRG.
- Pursuant to Section 444GA, written consents will be required to transfer of all WBHOI's shares to the DOCA proponent. These consents will be provided as, on the date of this report, all of the WBHOI's shares are owned by WBHOA and Probuild Constructions (Aust) Pty Ltd (administrators appointed), and we have entered into a settlement deed with respect to the minority shareholder in exchange for their undertaking to provide the requested consent.
- A net contribution of c\$11.0m (amount equal to a higher than market value for plant and equipment of \$20.2m, less continuing employee entitlements and payouts of finance leases) to be paid.
- A Creditors' Trust will be become operative upon effectuation of the DOCA.
- Under both the DOCA and ASA, SRG will enter into a 5 + 5 year lease (at market rates) with respect to the 45 Hope Valley Road Property. This enables the 45 Hope Valley Road Property to be sold with a rental return with the proceeds of realisation available for the benefit of creditors.
- Upon completion of the DOCA, the following assets will be available to pay Creditor Trust claims:
  - The DOCA contribution made by SRG.
  - Available cash.
  - Excluded plant and equipment (Vic, Qld & sold P&E).

- Certain project contracts not being acquired by SRG.
- Receivables as of completion.
- Work in Progress as of the time of completion.
- WBHOI litigation claims.
- 45 Hope Valley Road Property.
- Any claim against WBHOA or any of its subsidiaries.
- Under the DOCA, the following contracts are excluded from the Creditors Trust and are to be continued by SRG:
  - Wanneroo Road / Ocean Reef Road Interchange Project with Main Roads.
  - BCI Minerals Initial Earthworks relating to the Mardie Salt & Potash Project.
  - South32 Worsley Alumina - Bauxite Residue Disposal Area, earthworks, construction, operation and maintenance services.
  - Alcoa Refinery on site services and supply of goods and/or services.
  - South 32 Lower Hotham Road Crossing Bridge Construction Contract.
  - North Bannister Resource Recovery Park construction contract, Suez Recycling & Recovery Pty Ltd.
- The key conditions to the effectuation of the SRG DOCA proposal are:
  - Execution of the Trust Deed, which will occur if creditors vote in favour of the DOCA at the second meeting of creditors.
  - Section 444GA consents of shareholders received to effect a share transfer to SRG at effectuation.
  - Provision of payout letters under finance leases which will be paid out at completion.
  - Removal of ALLPAAP registrations against WBHOI or confirmations from ALLPAAP holders that no amounts are outstanding; and
  - Notice has been issued to landlords for any non-continuing leases.
- We believe that these conditions will be satisfied by 31 March 2022 in order to effectuate the DOCA as contemplated in the SID and discussed throughout this report.
- In the event that the resolution in favour of the DOCA is passed at the second meeting of creditors, the DOCA will be executed as soon as possible, with a target date of 30 March 2022. Effectuation of the DOCA would then occur on 31 March 2022.
- Upon effectuation of the DOCA all Creditors' claims against WBHOI will be extinguished and creditors will only have a right to an entitlement from the Creditors' Trust.
- Funds in the Trust Deed will be distributed in the following order of priority:
  - Voluntary Administrators or Deed Administrators for any amount which the Voluntary Administrators or Deed Administrators are entitled to be paid or indemnified for under the DOCA including their remuneration, costs and expenses and all other debts and liabilities incurred by them during the voluntary administration and deed administration of WBHOI.
  - Next, to the trustees of the Creditors Trust in satisfaction of their remuneration and costs.
  - Next, to each relevant Non-Continuing Employee, the amount of any Priority Claim.
  - Next, to each Trust Creditor, an amount equal to its pro rata portion of the remaining assets of the Trust.
  - Notwithstanding above, any Creditor who would have been entitled to priority over other unsecured creditors under section 562 of the Act in respect of any amount forming part of the Trust Fund will retain a priority in respect of the assets of the Trust Fund at least equal to that they would have been entitled to under the Act.

### 9.3 Key features of the ASA

- In the event the resolution in favour of the DOCA is not passed at the second meeting of creditors, the administrator/chair will adjourn the meeting pursuant to IPR 70-140.
- Completion of the ASA is scheduled for 8 April 2022. WBHOI will then proceed into liquidation at the reconvened second meeting of creditors.
- A net contribution of c.\$10.0m (amount equal to the DOCA, less a \$1m deduction before the payment of HP commitments) to be paid into the Trust Fund.
- The key conditions to execute the ASA are similar to the DOCA, in that:

- Provision of payout letters under finance leases which will be paid out at completion; and
- Removal of ALLPAAP registrations against WBHOI or confirmations from ALLPAAP holders that no amounts are outstanding
- Offers of employment by SRG will be issued to continuing employees on completion.

## 9.4 Effect on unsecured creditors

The DOCA will release all debts and claims that would be admissible to proof against a company in the DOCA if that company had been wound up on the date of appointment of the Voluntary Administrators including:

- To the extent permissible by law, any fine or penalty that would be provable but for Section 553B of the Act.
- The claims of secured creditors (without limiting the rights of secured creditors under Section 444D(2) of the Act).
- The claims of lessors (without limiting the rights of lessors under Section 444D(3) of the Act).

In return for the releases, creditors will receive an entitlement to receive a distribution from the Creditors' Trust fund.

### 9.4.1 Excluded claims

The DOCA proposes the claims below be excluded from participating in the Creditors' Trust. These claims will remain with WBHOI and not be extinguished by operation of the relevant DOCA:

- Continuing Employee claims;
- claim of a Continuing Employee in respect of an amount referred to in section 556(1)(e), (g) or (h) of the Corporations Act, including any annual or long service leave accrued from the Appointment Date to Completion;
- insured claims;
- claim arising under an Excluded Contract; and
- other claims that the SRG nominates in writing to the Deed Administrators as an Excluded Claim before Completion.

### 9.4.2 Effect on employees

The Continuing Employees are those who are employed by WBHOI at the date of the DOCA and who remain employees upon completion of the DOCA (being the Western Australian employees).

Under the DOCA, all employee entitlements will either be adopted for continuing employees or paid in full for those employees made redundant. Under the ASA, all continuing employees will be terminated, and entitlements will be crystallised. Under either scenario, entitlements would be paid in full.

In the event an employee has an unpaid claim against WBHOI, these claims will be transferred to the Creditors' Trust as beneficiaries and that employee will retain their priority to receive an amount equal to what they would have been entitled to if the property of WBHOI had been applied in accordance with Sections 556, 560 and 561 of the Act.

### 9.4.3 Excluded contracts

The DOCA contains a list of contracts to which WBHOI is party and which are to be excluded from the DOCA. It is intended that these contracts will remain on foot (and may be subject to varied terms) and that the liabilities under these contracts will not be extinguished under the DOCA, subject to the counterparties agreeing to waive termination and default rights. A list of these contracts is provided in paragraph 9.2 above.

### 9.4.4 Insured claims

Insured claims will be excluded from the DOCA. This is a claim where:

- The WBHOI is insured against that claim under a contract of insurance before the Appointment Date; and
- An amount in respect of that claim would be payable by the insurer to the WBHOI under the contract of insurance, but only to the extent of such part of the Claim as would be discharged by the payment from the insurer.

## 9.5 End date

The SRG DOCA will be effectuated when all completion precedents have been met, including creditors passing a resolution in favour of the DOCA at the second meeting of creditors. This target end date is 31 March 2022.

## 9.6 Conclusion

The SRG DOCA proposal provides ongoing employment for most employees and continued trading with clients and creditors. The SRG DOCA proposal provides a higher return to creditors compared to the sale of the business to SRG is completed via an ASA with WBHOI subsequently being placed into liquidation. Even though the SRG DOCA proposal involves a creditors' trust (which is explained further below), the Administrators considered that such a proposal was in the creditors' best interest.

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## 10 Creditors' Trust

### 10.1 Purpose

A creditors' trust is a mechanism used to accelerate a company's exit from external administration. A creditors' trust provides for a trust to be formed to deal with the claims of creditors while allowing the return of the company back to the directors or to the buyer of the business without them having to operate with the term "Subject to Deed of Company Arrangement" after the company's name.

Under a DOCA, creditors' rights are regulated by both the terms of the DOCA and the provisions of the Act (which deal with such matters as the right of creditors to appeal against a rejection of a proof of debt).

Under the Creditors' Trust, the Deed Administrators will be the Trustees of the Creditors' Trust. Once the DOCA is fully effectuated, creditors will no longer have rights as against the Company or the DOCA but their claims transform from that of creditors to one of a beneficiary under the Creditors' Trust. The Creditors' Trust is not governed by the Act but trust law.

The Trustees become responsible to the beneficiaries for:

- Determining how much each creditor/beneficiary is entitled to receive from the trust.
- Making any distributions to those creditors/beneficiaries of WBHOI.

In this regard, the adjudication of claims and distributions to beneficiaries will occur in accordance with the same rules that apply to a distribution in a liquidation. The Trustees' remuneration will be paid in priority to any distributions to creditors/beneficiaries, as it would in a liquidation scenario. Once the Creditors' Trust has been formed and the assets subject of the DOCA Fund transferred to the Creditors' Trust, the DOCA will be wholly effectuated, and WBHOI will no longer be subject to Deed of Company Arrangement. We anticipate, and based on the agreed timetable in the SID, that WBHOI will only be subject to DOCA for 24 hours.

Creditors need to be aware that while we have taken steps to protect the interests of creditors by ensuring that creditors' claims are not released and the DOCA does not complete until the relevant conditions are met, creditors should understand that their rights under a creditors' trust are different to their rights under a DOCA. The differences are discussed in the sections below.

### 10.2 Key information regarding the Creditors' Trust

In accordance with ASIC's Regulatory Guide 82 titled "External Administrations: deeds of company arrangement involving a creditors' trust", we have provided below the information to be disclosed where a DOCA incorporating a creditors' trust has been proposed.

#### Key elements of the Creditors' Trust

Information for creditors	Further comments
Reasons for the Trust Deed	It is our opinion that the use of the SRG DOCA Structure with a single Creditors' Trust will provide an accelerated exit of WBHOI from external administration. It will also allow the Trustees to finalise the Voluntary Administrators' and Deed Administrators' trading liabilities and responsibilities and deal with the creditor claims of WBHOI. We emphasise it is highly desirable the administration ends



Information for creditors	Further comments
	<p>quickly, and stability is returned to the business. The SRG DOCA was conditional upon a Creditors' Trust and it was the best proposal for all creditors of WBHOI.</p> <p>In the event that a Creditors Trust is not entered into, there would likely be a delay in exit of WBHOI from external administration increasing the risk of instability regarding continue works on projects and ongoing trading with suppliers.</p>
Key events	<p>The key events are as follows:</p> <ul style="list-style-type: none"> <li>• Creditor approval is required for the SRG DOCA to be executed after the second meeting of creditors on 30 March 2022. If approved by the creditors of WBHOI, the DOCA and the Creditors' Trust will be required to be executed as soon as possible after the second meeting of creditors, with a target date of 30 March 2022.</li> </ul> <p>The transaction with the Purchaser and the creation of the Creditors' Trust will complete on the occurrence of the following simultaneous tasks:</p> <ul style="list-style-type: none"> <li>• Transfer of 45 Hope Valley Road Property to the Trust Fund. Westpac currently hold a registered mortgage over this property, albeit there is no debt outstanding, and any transfer requires a duties assessment from the Office of State Revenue in Western Australia. In the event that there is a delay in discharging Westpac's mortgage, or obtaining a duties assessment, a separate side arrangement will need to be entered into with SRG to account for such delay.</li> <li>• Transfer all of the shares in WBHOI to the Deed Proponent such that the Deed Proponent (SRG) will become the owner of WBHOI.</li> <li>• Deed Proponent makes payment of to the Deed Administrators who in turn transfer the Deed Fund (along with other assets which form part of the Trust Fund) to the Trustees.</li> <li>• Deed Proponent makes payment to the Finance Lessors in accordance with the buyout letters provided by finance lessors.</li> </ul> <p>Given the above, the assets that form part of the Creditors' Trust will be transferred to the trust before the DOCA is effectuated, save for the Naval Base property which requires a transfer of title and Landgate to update their records.</p> <p>Claims of creditors will be adjudicated by the Trustees and admitted claims will receive a distribution from the Trust Fund.</p> <p>It is estimated that a distribution to creditors (being the beneficiaries of the Creditors' Trust) will take some time as a considerable number of contingent claims must be crystallised. It may be such that multiple distributions will occur, as the balance of the fund is subject to the recovery of contingent assets, such as litigation recoveries, the orderly sale of the real property and the unwinding of the surety bonding facilities. The Creditors' Trust will permit these multiple distributions.</p> <p>It is important to note that, at the time that the DOCA is effectuated, creditors will no longer have any rights against WBHOI but they will become beneficiaries of the Creditors' Trust and will be able claim against the Creditors' Trust only. Creditor claims will no longer be governed by the Act, but the terms of the Creditors' Trust and trust law.</p>

Information for creditors	Further comments
Return to creditors / beneficiaries	<p>In circumstances where the SRG DOCA Proposal is not approved by creditors at the second meeting, the sale of the business will complete by way of an asset sale (as described in Section 9 of this report) and WBHOI will subsequently proceed to liquidation.</p> <p>The Deed Administrators will be the trustees of the Creditors Trust.</p> <p>The Creditors' Trust will be established and funds will be received from SRG and other assets listed above before completion of the DOCA (save for the property and other assets which will be transferred to the creditors trust shortly after pursuant to a side deed with SRG or the creditors' trust deed). At present, it is anticipated that completion will occur 1 business day post the second meeting of creditors.</p> <p><b>Section 11</b>, shows the estimated return to creditors (both in circumstances where the SRG DOCA is approved and where the SRG DOCA is not approved and WBHOI is placed into liquidation). The estimated return to creditors may vary due to the matters discussed in <b>section 11.2.7</b>.</p> <p>Other than where required by law, the funds in the Trust Deed will be distributed in the following order of priority:</p> <ul style="list-style-type: none"> <li>• Voluntary Administrators or Deed Administrators for any amount which the Voluntary Administrators or Deed Administrators are entitled to be paid or indemnified for under the DOCA including their remuneration, costs and expenses and all other debts and liabilities incurred by them during the voluntary administration and deed administration of WBHOI.</li> <li>• Next, to the trustees of the Creditors Trust in satisfaction of their remuneration and costs.</li> <li>• Next, to each relevant Non-Continuing Employee, the amount of any Priority Claim.</li> <li>• next, to each Trust Creditor, an amount equal to its pro rata portion of the remaining assets of the Trust.</li> <li>• Notwithstanding above, any Creditor who would have been entitled to priority over other unsecured creditors under section 562 of the Act in respect of any amount forming part of the Trust Fund will retain a priority in respect of the assets of the Trust Fund at least equal to that they would have been entitled to under the Act.</li> </ul>
Trustee particulars – identity, skills, experience, and insurance	<p>The Voluntary Administrators / Deed Administrators to be Trustees of the Creditors' Trust.</p> <p>We are registered liquidators and have the relevant experience and necessary skills to undertake the required duties and tasks. We have adequate civil liability insurance (including professional indemnity and fidelity insurance) that would cover our role as trustees of the Creditors' Trust.</p> <p>A summary of our experience is listed on our website <a href="http://www.deloitte.com.au">www.deloitte.com.au</a>.</p> <p>The DOCA requires us to be appointed Deed Administrators and Trustees of the Creditors' Trust. We do not consider that there is any potential conflict in acting as Trustees of the Creditors' Trust.</p>

Information for creditors	Further comments
Remuneration	<p data-bbox="488 353 1385 477">As the Trustees are registered liquidators, ASIC will have supervisory powers over the conduct of the Trustees under Division 40 of Schedule 2 of the Act. We do not consider that we have any potential conflict of interests in acting as trustee of the Creditors' Trust.</p> <p data-bbox="488 499 1385 589">The Creditors' Trust will provide for the payment of the Voluntary Administrators', Deed Administrators' and Trustees' remuneration from the Trust Fund in priority to any payment to admitted creditors. This includes:</p> <ul data-bbox="488 611 1385 869" style="list-style-type: none"> <li data-bbox="488 611 1385 701">• Any approved remuneration and expenses owing to the Voluntary Administrators and Deed Administrators that remained unpaid at the time of the establishment of the Creditors Trust.</li> <li data-bbox="488 712 1385 869">• The Trustees' remuneration and costs. The Trustees' costs will be calculated based on hourly rates and in accordance with Deloitte rates as detailed in our Initial Remuneration Notice sent to creditors on 24 February 2022 which is available on the Deloitte website: <a href="https://aurestructuring.deloitte-halo.com/probuild/">https://aurestructuring.deloitte-halo.com/probuild/</a></li> </ul> <p data-bbox="488 902 1385 992">The Administrators will seek approval for remuneration and disbursements from the COI prior to the second meeting of creditors. Details of the remuneration approved is outlined in <b>section 13</b>.</p> <p data-bbox="488 1037 1385 1283">We estimate that the remuneration and costs of the Deed Administrators and the remuneration and costs of the Trustees will be approximately \$1-2m. The remuneration and costs of the Deed Administrators and Trustees will be charged on an hourly basis on the same rates as those charged during the period of voluntary administration. Our estimate does not consider any litigation or protracted negotiations when adjudicating on creditor claims. Any additional costs will be dependent on the time taken to adjudicate claims and distribute the payment to the beneficiaries of the Creditors' Trust.</p> <p data-bbox="488 1328 1385 1451">In a voluntary administration and DOCA, the approval of fees is subject to the provisions of the IPS, requiring that remuneration be approved by either a COI, by a resolution of creditors, or by applying to Court to review the Administrators' or Deed Administrators' remuneration.</p> <p data-bbox="488 1485 1385 1675">The Trustees' of the Creditor Trust are all Registered Liquidators. Beneficiaries can request to inspect the records of the Creditors Trustee including the Trustees' professional fees and costs in the performance of their role. As noted, ASIC will have supervisory powers over the conduct of the Trustees and therefore, if appropriate, beneficiaries can make a formal complaint to ASIC in relation to the Trustee's conduct.</p>
Indemnities	<p data-bbox="488 1697 1385 1910">The Administrators and Deed Administrators and Trustees will have a lien over and be entitled to be indemnified from the assets of the Creditors' Trust for their remuneration, costs and expenses. Accordingly, any fees or costs incurred by the Trustees that are associated with any legal actions that are required to be undertaken or defended will be met from the funds held in the Creditors' Trust and any such actions may reduce the available funds and diminish the return to creditors.</p>

Information for creditors	Further comments
	<p>This indemnity takes effect from the commencement of the DOCA, is continuing and will endure for the benefit of the Deed Administrator and Trustees.</p> <p>No other indemnity has been provided to the Trustees.</p>
<p>Powers (Deed Administrators / Trustee under the DOCA Proposal)</p>	<p>As Trustees we will administer the Trust fund in accordance with the provisions set out in the DOCA and the Creditors' Trust Deed and do anything incidental to exercising a power set out in the Creditors' Trust Deed and anything else that is necessary or convenient for administering the Creditors' Trust.</p> <p>Primarily, the Trustees' proposed role is to call for proofs of debt, adjudicate the creditors' claims and distribute the Creditors' Trust Funds. The Creditors' Trust Deed also incorporates the powers that would apply to a Deed Administrator. The Deed Administrators have broad powers, including to be able to perform any function and exercise any power or right a director may have performed or exercised, and to do anything else necessary or convenient to exercising their powers under the Deed.</p> <p>The Deed Administrators are governed by the Act, whereas a creditors' trust set up in NSW is governed by the Trust Deed and the Trustees Act 1925 (NSW).</p>
<p>Claims</p>	<p>Creditors are referred to <b>section 11</b> of this report.</p> <p>The Creditor's Trust Deed will include provisions relating to the determination of claims incorporating the provisions of the Act and Regulations applicable to the determination of claims.</p> <p>The terms of section 444DB of the Act will apply to the Creditors' Trust.</p>
<p>Other creditor / beneficiary differences</p>	<p>Creditors' rights in an external administration are set out in the Act. Beneficiaries of a creditors' trust do not have equivalent rights under the Act. Rather, as mentioned above their rights are governed by the Trust Deed and the Trustees Act 1925 (NSW). Although courts can still provide relief under the general law of trusts, the safeguards available to creditors under Pt 5.3A of the Act are not available to beneficiaries of a trust.</p> <p>In a DOCA, creditors have the right to request a meeting of creditors or apply to Court to seek orders to amend or terminate the DOCA pursuant to the Act. They also have certain rights to challenge decisions, actions and omissions of the deed administrator and to be informed about the progress of the external administration. Further, creditors can lodge a complaint with ASIC about the conduct of the Deed Administrator. Beneficiaries of a Creditors' Trust do not have such rights. However, given that the DOCA and Creditors' Trust are provided in this report, we consider that the creditors will have had a sufficient opportunity to consider the terms of the DOCA and Creditors' Trust including to obtain independent legal and financial advice they consider necessary regarding their rights and can decide whether to vote in favour of executing the DOCA and Creditors' Trust at the second meeting of creditors.</p> <p>In terms of the determination and admission of creditors' claims for participation in a distribution from the Trust Fund, creditors will have 14 days to appeal the Trustees' decision to reject their claim, or a longer period if the Trustees permit. In</p>

Information for creditors	Further comments
	<p>a liquidation, the Act stipulates that the appeal must be made within 14 days of the liquidator giving notice of rejection, or such longer period as the Court permits. Accordingly, we do not believe creditors will be disadvantaged.</p> <p>The dividend process will be conducted by the Trustees in the same manner as which deed administrators would under a DOCA or a liquidator in a winding up. As the Trustees are registered liquidators, creditors have the ability to make any complaints about their conduct to ASIC.</p>
Fair Entitlements Guarantee Scheme (FEG)	<p>Should creditors resolve to accept the DOCA, the employees will not have access to the FEG scheme. The FEG scheme may only available if WBHOI is placed into liquidation.</p> <p>In the event an employee has an unpaid claim against WBHOI and to the extent that these claims are determined to be outstanding wages and superannuation contributions, leave entitlements or retrenchment payments and are provable claims falling within section 556(1) of the Act, such claims will be payable in accordance with the priorities prescribed by that Section under the provisions of the Trust Deed.</p> <p>Once again, the contemplated transaction, if settled, will provide for all entitlements and reference to FEG will therefore not be necessary.</p>
Compliance opinion	<p>It is our opinion that WBHOI and SRG is capable of complying with the terms of the Trust Deed and are likely to comply with the obligations to the Trustees, if the DOCAs proposed by SRG is approved by the creditors.</p> <p>Additionally, claims against WBHOI are not extinguished until the funds to satisfy creditor claims are paid into the Trust Fund.</p>
Solvent statement	<p>It is our opinion that WBHOI will become solvent at the date of effectuation of the DOCA on the terms proposed for the following reasons:</p> <ul style="list-style-type: none"> <li>• Creditor claims against WBHOI will be extinguished.</li> <li>• WBHOI is anticipated to trade profitably post-administration.</li> <li>• SRG is a substantial entity and can provide any on-going financial support.</li> </ul>
Tax (company trust)	<p>A Creditors' Trust may create the potential for some taxation issues when compared to a distribution received from an ordinary deed of company arrangement. That is, any taxation that may arise with the administration of the Creditors' Trust will reduce the funds available to creditors. However, we do not expect that there will be any material changes to the funds available as a distribution to creditors under the proposed Creditors' Trust.</p> <p>The transfer of the property from WBHOI to the creditors Trust may result in the payment of duties to the Office of State Revenue of Western Australia. The Trustees' will seek an exception if required.</p>
Tax (creditor beneficiary)	<p>Creditors are advised to seek their own taxation advice as there may be some implications for creditors receiving a distribution from a trust rather than a distribution from a company subject to DOCA. We are unable to provide any advice regarding this issue.</p>
Other	<p>No other material aspects or implications have been identified at this stage.</p>

Information for creditors	Further comments
	The Creditors' Trust Deed will contain other terms that are customary of a creditors trust of this nature and are agreed between the Administrators and SRG, however those terms will not have a material impact on the information provided in this report or the estimated amount to be returned to creditors/beneficiaries.

### 10.3 Creditor claims

As outlined in **section 9.4** the SRG DOCA Structure will release all debts and claims against WBHOI in the SRG DOCA (except for the excluded claims as per **section 9.4.1**). In return for the releases, creditors will receive an entitlement to receive a distribution as beneficiaries under the terms of the Creditors' Trust.

In accordance with the Trust Deed, the Trustees will adjudicate the claims from creditors who had a debt owed by WBHOI as at 23 February 2022 in the same manner as which deed administrators would under a DOCA or a liquidator in a winding up. The Trustees will have access to all the books and records of the WBHOI necessary to determine claims. The Deed Administrators will have the power under the DOCA to commence the adjudication process. Those creditors with debts that have been adjudicated as valid will be considered as admitted creditors in the Creditors' Trust.

The terms of the Creditors' Trust provide for one creditor pool to be created for the benefit of those creditors who have been determined to be admitted creditors by the Trustees. The proposed distribution mechanism of the Trust fund to admitted creditors has been detailed in the table above.

### 10.4 Effect on employees

The DOCA proposal contemplates the full payment, or transfer to SRG, of outstanding employee entitlements owed to employees of the Company. In a liquidation scenario, eligible employees would have access to the FEG Scheme operated by the Attorney-General's Department. This scheme operates as a legislative safety net of last resort and allows for the payment of outstanding employee entitlements, excluding superannuation and subject to certain exceptions detailed in the Fair Entitlements Guarantee Act 2012. Again, if this transaction completes reference to FEG will not be necessary.

Continuing Employees of WBHOI at the date of effectuation (i.e. those employees who have not been terminated) will not be participating in the Creditors' Trust. The entitlements of these employees will remain with the WBHOI.

As the DOCA contemplates a variation to the statutory priorities afforded to these employees, eligible employee creditors (being all employees as at the date of appointment) of WBHOI must pass a resolution approving the same. This is because some employees (continuing employees) receive a different outcome to others (the terminated employees). Continuing employees will continue in their employment and not participate in the Creditors Trust (their entitlements remain intact post-administration). Terminated employees will participate in the Creditors Trust. We are unable to deliver a different outcome to groups of employees without the voting to approve it. We emphasise that all entitlements will be made whole (either by being carried forward under SRG's ownership of WBHOI or by payment from the Creditors Trust).

In this regard and in accordance with Section 444DA(2)(a) of the Act, we have convened a meeting of eligible employee creditors to consider such a resolution. Notice of this meeting has been provided to the relevant employees.

# 11 Estimated return to creditors

## 11.1 Introduction

We have prepared an analysis of the estimated return to creditors of WBHOI under the following scenarios:

- Return to creditors under the SRG DOCA Proposal and Creditors' Trust (**SRG DOCA Proposal**).
- Return to creditors if the Company is placed into Liquidation and the sale of the business was to proceed under an ASA with SRG, and (**ASA – liquidation**).

**Section 11.2** shows the expected return to creditors under the SRG DOCA Proposal versus the ASA – liquidation scenario.

**Completion of a transaction via a DOCA will provide a significantly better return to creditors.**

Under both scenarios, priority creditors (employees) will either receive their entitlements in full, or their employment will be transferred to SRG.

The funds available to pay a distribution to unsecured creditors in the Creditors' Trust after costs, are estimated to be c. \$11.7m, versus \$4.4m under the ASA. At the time of writing this report, we are unable to provide an accurate estimated return to unsecured creditors because:

- Invoices and trade creditor claims are still being processed by the WBHOI accounting and finance team. Not all invoices have been received and entered.
- A large portion of creditors have submitted claims for the purposes of the first meeting of creditors of WBHOI, but not all. Therefore, confirmation of the final creditor pool is subject to these further claims being received.
- In the time available, we have not had an opportunity to review and adjudicate the claims of individual creditors to confirm their outstanding amounts.
- There are contingent and unliquidated damage claims from the principals in relation to OSARS and the QLD projects which will need to be quantified.
- WBHOI is a guarantor to the WBHOA Group's CBA bank guarantee facilities. These additional claims could be substantial. At the time of writing this report, we are unable to quantify the potential exposure as a result of the guarantees.

### Summary of estimated average returns to unsecured creditors

WBHOI		SRG DOCA / Creditors' Trust	ASA - liquidation
All Present and After Acquired Property ( <b>ALL PAAP</b> ) security holders	%	100	100
Priority creditors/employees	%	100	100
Unsecured creditors / average return	%	TBD	TBD
Unsecured creditors – funds available for distribution after costs	\$m	11.7	4.4

## 11.2 Estimated return to creditors

We have provided a summary of the potential return under the different scenarios. Any final return to creditors under any of the possible outcomes will be dependent on the actual level of claims of creditors. Given the timeframe, and the uncertainty regarding guarantees for WBHOA Group projects, it has not been possible for all creditors to fully quantify their claims at this time. This is a process that will take time especially as creditors seek to mitigate any losses they have

suffered. Before a dividend is paid to creditors under any of the scenarios, a detailed process of assessment of all claims, including an assessment of actions undertaken to mitigate their loss, will be undertaken as is the standard procedure in these circumstances.

### Return to creditors by outcome scenarios

	Note	Liquidation	DOCA / CT
<b>Deed Proponent Contribution</b>	11.2.1		
Proceeds from Deed Proponent			20,212,500
Less: Continuing employee entitlements and intangibles			(5,000,000)
<b>Subtotal</b>			<b>15,212,500</b>
Less: Hire purchase payouts			(4,182,948)
<b>Proceeds from Deed Proponent contribution available for distribution</b>			<b>11,029,552</b>
<b>Circulating assets</b>	11.2.2		
Net trading surplus / (deficiency)	11.2.2.1	-	1,800,000
NetFlow Contributions	11.2.2.2	460,000	460,000
PIMSI Claims	11.2.2.3	(681,598)	(681,598)
Voluntary Administrators' fees (Est.)	11.2.2.4	(3,000,000)	(1,500,000)
Legal Fees (Est.)		(2,000,000)	(1,000,000)
Other Professional Fees / Advisors (Est.)		(50,000)	(50,000)
<b>Sub-Total Circulating Assets Available</b>		<b>(5,271,598)</b>	<b>10,057,954</b>
<b>Priority Creditors - Employees</b>	11.2.3		
Non-continuing employees		(1,668,235)	(1,668,235)
Employee expenses		(23,155)	(23,155)
Continuing employees (Annual leave, loading, RDO, LSL)		-	-
Continuing employees (PILN + Redundancy)		-	-
<b>Sub-Total Priority Creditors</b>		<b>(1,691,389)</b>	<b>(1,691,389)</b>
<b>Net Circulating Assets available for distribution to creditors</b>		<b>-</b>	<b>8,366,564</b>
Balance owed to priority creditors		(1,691,389)	
<b>Non-Circulating Assets</b>	11.2.4		
Freehold land and buildings	11.2.4.1	5,600,000	6,100,000
Less: Sale commission		(280,000)	(305,000)
Project Retentions / Performance Guarantees / Litigation Recoveries	11.2.4.2	TBD	TBD
Plant and equipment - ASA	11.2.4.3	10,029,552	-
Excluded plant and equipment		2,928,900	2,928,900
Less: Auction commission		(439,335)	(439,335)
Less: Hire Purchase payout		(817,949)	(817,949)
<b>Subtotal</b>		<b>17,021,168</b>	<b>7,466,616</b>
Voluntary Administrators' fees (Est.)		(1,000,000)	(1,000,000)
Legal Fees (Est.)		(500,000)	(500,000)
Other Professional Fees / Advisors (Est.)		(50,000)	(50,000)
<b>Sub-Total Non-Circulating Assets Available</b>		<b>15,471,168</b>	<b>5,916,616</b>
<b>Total assets available</b>		<b>15,471,168</b>	<b>14,283,180</b>
<b>Cost of Administration</b>			
Deed Administrator / Creditors Trustee Fees (Est.)			(1,000,000)
Legal fees - DOCA / CT (Est.)			(500,000)
Liquidator fees		(2,000,000)	
Legal fees - Liquidation		(1,000,000)	
<b>Total Cost of Administration</b>		<b>(3,000,000)</b>	<b>(1,500,000)</b>

### Secured Creditor Claims



	Note	Liquidation	DOCA / CT
WA Fuel Supplies Pty Ltd	11.2.5	(1,096,756)	(1,096,756)
<b>Total surplus/(Deficiency) After Secured Creditor Claims</b>		<b>11,374,412</b>	<b>11,686,424</b>
Liquidator's Causes of Action		TBD	
Less: Costs of recovery		TBD	
Less: Remaining priority employee claims (from above)		(1,691,389)	
Less: Remaining priority other claims (from above)		(5,271,598)	
<b>Surplus/(deficiency) available for distribution to unsecured creditors</b>		<b>4,411,424</b>	<b>11,686,424</b>
<b>Unsecured Creditor Claims</b>	11.2.6		
Trade Creditors		(37,486,906)	(37,486,906)
Intercompany		(37,651,712)	(37,651,712)
Contingent Liability		(89,487,051)	(89,487,051)
Mondium		(5,674,383)	(5,674,383)
WBHOI surety bonding		(31,177,899)	Unknown
WBHOA surety - contingent		Unknown	Unknown
<b>Total Unsecured Creditor Claims</b>		<b>TBD</b>	<b>TBD</b>
<b>Surplus/(Deficiency) to Unsecured Creditors</b>		<b>TBD</b>	<b>TBD</b>
<b>Secured creditor dividend rate (cents per \$)</b>		100.00	100.00
<b>Employee priority creditor dividend rate (cents per \$)</b>		100.00	100.00
<b>Unsecured creditor dividend rate (cents per \$)</b>		TBD	TBD

We have assessed the returns to creditors should the sale complete via the SRG DOCA proposal or ASA.

### 11.2.1 Deed Proponent Contribution

A sale of the WBHOI's business via the SRG DOCA proposal will allow the completion of the sale of the business as a going concern, whilst providing minimal disruption to trade and operations of WBHOI.

The SRG DOCA will contribute a net amount of \$11m towards circulating assets of WBHOI. This is only available in a DOCA scenario. This value is based upon a \$20.2m paid for the assets of WBHOI, less any finance leases and employee entitlements of Continuing Employees, as set out in table above.

### 11.2.2 Circulating assets

Circulating assets are assets that a company is usually able to use, dispose, and deal with, in the ordinary course of business without the need to obtain the secured creditor's consent. Priority creditors, such as employees, are entitled to be paid from net realisations from circulating assets ahead of other creditors (including secured creditors), in accordance with the Act.

#### 11.2.2.1 Trading surplus

As of the 31 March 2022, the Administrators will have an estimated a net trading surplus of \$1.8m, being combination of cash held at bank, pre-appointment debtors and work in progress completed in the month of March, that is still to be billed.

The ultimate net trading position will be determined towards the end of April 2022 as WIP to 31 March 2022 is billed, purchase order liabilities are discharged, and the revenue is received. It has been estimated that under liquidation scenario, there would be nil trading surplus for distribution, as any surplus would likely be offset by counter claims and set offs. As discussed below, we have paid WA Fuels in relation to their outstanding amounts secured by their ALL PAAP. Accordingly, we have presented the net trading surplus excluding this payment.

#### 11.2.2.2 NetFlow Contribution

On 11 March 2022, the Administrators entered into an agreement with NetFlow, the head contractors of the OSARS – Western Road Updated to novate the Western Roads contract and transfer the WBHOI employees on this project to Netflow. As part of this agreement, NetFlow will contribute \$460k to circulating assets for distribution to creditors.

#### 11.2.2.3 PMSI claims

An estimate of \$681k of creditors' claims with potential retention of title rights (ROT) have been identified to date. These costs represent estimated ROT claims over stock and consumables that are entitled to be paid from circulating assets.

#### 11.2.2.4 Administrators and Liquidators fees, costs and outlays

In addition to the fees and disbursements of the Administrators, we have estimated the costs of under both scenarios, being the Deed Administrators / Creditor Trustees Fees under the SRG DOCA Proposal scenario and Liquidator fees under the ASA – Liquidation scenario. Liquidator fees are higher than DOCA/CT estimates due to quantum of additional work required and anticipated potential litigation. Estimates of the approximate portion of costs of the administration and liquidation relating to activities such as preserving and realising assets have been outlined for illustrative priority position in a liquidation scenario.

The Administrators' fees and internal disbursements are subject to approval from either the COI or creditors at the forthcoming creditors meeting, details of which are further discussed in **section 13**. Please note that for all future remuneration sought, should a lesser amount actually be incurred, only the lesser amount will be charged and drawn.

#### 11.2.3 Priority Creditors - Employees

Under the SRG DOCA Proposal 225 employee will be transferred to SRG, with entitlements also transferring over. In the ASA – Liquidation scenario, all employees would be terminated, meaning that all termination related entitlements would normally crystallise. However, we note that under the ASA, SRG will assume any outstanding employee leave entitlements, and we note that redundancy related entitlements may be payable under the ASA

It is estimated that there would be sufficient net realisable circulating and non-circulating assets to pay employee entitlements out in full in both scenarios.

#### 11.2.4 Non circulating assets

##### 11.2.4.1 Freehold Land and Buildings

WBHOI owns the 45 Hope Valley Rd Property. Under the SRG DOCA Proposal and the ASA-Liquidation scenario, the Deed Proponent will enter into a lease agreement regarding the property with the property being transferred to the Creditors' Trust (in the case of the SRG DOCA Proposal) or remaining with WBHOI (in the case of the ASA-Liquidation Scenario). Under both scenarios, the property would be sold subject to the tenancy with SRG. The valuations prepared by Knight Frank indicated that the 45 Hope Valley Rd Property has a value of between \$5.6m to \$6.1m. An illustrative 5% sale commission fee has been included in both scenarios to represent the cost of sale.

##### 11.2.4.2 Project Retentions / Performance Guarantees / Litigation Recoveries

As noted in **Section 6**, based on the limited investigations conducted to date, we do not believe there are any commercial claims to pursue such as insolvent trading or voidable transaction. Further investigations are required, through either a Trustee or a Liquidator, as to whether a claim exists against the directors or WBHOA and WBHO Ltd relating to WBHOI being bound to a guarantee.

### 11.2.4.3 Plant and Equipment

Pickles Valuation Services were instructed by the Administrators to undertake an independent desktop valuation of the plant and equipment owned by WBHOI. The report was done on both a fair market value and a forced liquidation value.

The table below shows the valuations, split between sale assets and excluded assets for comparative purposes.

#### Summary of estimated net realisable value of plant and equipment

Asset (\$)	FMV (excl. GST)	FLV (exc. GST)
Sale assets	19,212,500	14,173,900
Less: HP Payout	(4,182,948)	(4,182,948)
<b>Sale assets subtotal</b>	<b>15,029,552</b>	<b>9,990,952</b>
Excluded assets	2,674,400	2,283,400
Less: HP Payout	(817,949)	(817,949)
<b>Excluded assets subtotal</b>	<b>1,856,451</b>	<b>2,283,400</b>
<b>Total</b>	<b>16,886,003</b>	<b>12,274,352</b>

Source: Pickles Valuations – Appraisal Report: Valuation of Motor Vehicles, Trucks, Mobile Plant, General Plant and Equipment, dated 3 March 2022, Payout Figures as of 31 March 2022, provided by Toyota, Volvo and Caterpillar Finance

The Administrators have entered into an asset sale agreement with SRG for regarding the sale of the plant and equipment for a purchase price of \$10.0m (\$19.2m, less \$5.0m for employees and intangibles, and less \$4.1m for HP Payout) in the event that the DOCA resolution is not passed, and WBHOI is ultimately placed into liquidation. A purchase price of \$11.0m (\$20.2m, less \$5.0m for employees and intangibles, and less \$4.1m for HP Payout) has been agreed to if the DOCA is accepted by creditors. We note the amount paid under the DOCA is higher than fair market value and this is among the reasons the DOCA represents a compelling proposition for creditors

Under the terms both of the SRG DOCA and the asset sale agreement, there is a class of plant and equipment that is excluded from either agreement (**excluded assets**). These assets consist of surplus plant, and vehicles that are located within Victoria and Queensland. We have included the FMV within the schedule of estimated returns, under both scenarios. An illustrative 15% auctioneer fee has been included in both scenarios to provide an estimate for the cost of realisation.

### 11.2.5 Creditors with security interests

WA Fuel Supplies Pty Ltd (**WA Fuels**) holds an ALL PAAP registration over WBHOI. As of the date of our appointment, we understand that WBHOI had in its possession \$258k worth of fuel from WA Fuels, subject to a PMSI priority claim and \$1.1m of amounts outstanding. These registrations are valid, and we have paid these amounts. A such WA Fuels have removed their registration.

We note that Mine Civil Resource Group Pty Ltd also holds an ALL PAAP registration over WBHOI. We have been provided confirmation that from the Liquidator of Mine Civil Resources that the company does not have a claim regarding WBHOI.

### 11.2.6 Unsecured Creditors

For illustrative purposes, we have included an estimated value of \$37.5m for unsecured trade creditors based on the company books and records and PODs received since our administration. We note that the claim is higher than those disclosed on the ROCAP, however, we have not yet adjudicated creditors' claims, and they are subject to variance. We note this excludes intercompany claims.

As discussed in **Section 5.3**, a large portion PPSR security claims appear to be in relation to wet or dry hired equipment. As a result, secured creditors claims, exclusive of the amounts notes in **Section 11.2.2.3** and **Section 11.2.5**, have been classified and included within unsecured trade creditors in for the purposes of our estimates.

Additionally, as noted in **section 11.1** WBHOA Group's CBA bank guarantee facilities are cross guaranteed with other entities within the WBHOA Group. As of the date of our appointment the WBHOA Group had \$119m contingently owed in the CBA facility, of which WBHOI is a guarantor. Whilst agreements have been entered into for the Victorian projects, discussions are continuing regarding the remaining projects. As a result, the potential exposure for WBHOI is unknown.

As or around the time of writing this report, claims totalling \$89.5m have been lodged with us by insurance companies, related to the CBA facility, regarding WBHOA Group guarantees and bonding, as mentioned above. As discussions are continuing, we have classified these as contingent liabilities.

An additional claim to note is a \$5.6m claim received from Mondium. Whilst we have not yet adjudicated this claim, we note that WBHOI has a counterclaim against Mondium in the order of \$28m.

As noted in **Section 5.4** WBHOI holds \$34.7m of guarantees and surety bonds. In the event that WBHOI is put into liquidation, it will be likely that the principals of each project will call upon these bonds, and as a result crystallise these claims against WBHOI.

### 11.2.7 Factors and limitations influencing the return

The above outcomes are based on current available information and as such are a best estimate.

Returns to creditors may be reduced as a result of factors outside of our control such as:

- Fewer Continuing Employees resulting in higher than forecast employee entitlements.
- Unforeseen increases in unsecured creditor claims as a result of contract breaches, damages claims, etc.
- Unanticipated trading expenses arising, including disputes around the validity of PPSR registrations.
- Assets not realising at anticipated values.
- Significant work will need to be undertaken by creditors to mitigate their claims which will be assessed in the adjudication of debts process we will perform prior to a dividend being paid, which could significantly impact the return estimates to unsecured creditors given the unknown actual size of their claims.
- The complexity of the adjudication and distribution process which will impact the Trustees' costs.
- The crystallisation of contingent claims against WBHOI in connection with various contract terminations, and the provision of surety bonding facilities.

As listed above, there are a range of uncertainties and potential developments that could adversely impact the quantum and timing of such recovery for creditors estimated under each scenario.

## 11.3 CCC Estimated Return to Creditors

CCC has no assets capable of being realised. It is also a condition of the SRG SID that, in the event of an asset sale, transfer of this entity occurs as part of the broader SRG transaction.

Further, we understand that the only creditor of CCC is WBHOI regarding an intercompany loan regarding outstanding ASIC fees for \$2.5k. Accordingly, WBHOI is CCC's only creditor. In the event that the SRG DOCA is approved, this amount will be written off following the second meeting of creditors of CCC and the entity will become part of the SRG group and will therefore return to solvency.

## 11.4 WBHOI Conclusion

We are of the opinion that it is in the best interest of creditors of WBHOI to approve the SRG DOCA.

*[This space has been left blank intentionally]*

## 12 Voluntary Administrators' opinion

### 12.1 Introduction

The following options are available to creditors to decide:

- The Company execute a deed of company arrangement; or
- The administration end; or
- The Company be wound up.

Our opinions on each option and our reasons for our opinions are discussed below.

### 12.2 Execute a DOCA proposal

The SRG DOCA has been proposed for WBHOI and summarised in **Section 9** of the report. With respect to the DOCA proposal received, it:

- Meets the objectives of Part 5.3A of the Act in that it maximises the possibility of the business continuing in existence.
- Allows for the continuation of the employment for the majority of the employees of WBHOI.
- Allows for quick settlement of outstanding entitlements non-continuing employees to be paid in full.
- Is likely to result in a superior return to all classes of creditors than compared to a liquidation.

### 12.3 The Administration should end

WBHOI is presently insolvent and unable to pay its debts as and when they fall due. Accordingly, we cannot recommend that the administration end and control be returned to the Directors.

However, CCC is dormant and has been included as part of the sale to SRG and will be solvent. Accordingly, it is appropriate for the Administration to end in relation to this entity.

### 12.4 The Companies be wound up

As there is a proposed DOCA for WBHOI which would result in a greater return than liquidation, we do not recommend that creditors place WBHOI into liquidation.

In addition, and as detailed in section 9.1 of this report, we consider that the appointment of a liquidator will be highly detrimental to the value of the WBHOI's assets.

We do not believe there are significant recoveries that would only be available to a liquidator, such as preferences or insolvent trading claims, that make liquidation an attractive option.

CCC will be sold to SRG as part of the SRG DOCA. There are no extra recoveries available in the liquidation of CCC and we do not recommend it be wound up.

## 12.5 Opinion

### 12.5.1 WBHOI

**We are of the opinion that it is in the best interest of creditors of WBHOI to approve the DOCA** put forward by SRG in relation to WBHOI for the following key reasons:

- Provides the majority of employees with continued employment, and in circumstances where employees have been terminated, it provides for a quick settlement of their outstanding entitlements.
- The DOCA provides a swift exit of WBHOI from external administration. Thereby, removing uncertainty surrounding the future of WBHOI for its employees, customers, suppliers, current and future stakeholders.
- SRG are paying above fair market value for WBHOI's plant and equipment, and assuming all of WBHOI's continuing employee liabilities.
- A fund is established for the benefit of creditors, which includes net income from trading during the administration, cash and debtors as of completion, real property owned by the company, and litigation claims. This fund will facilitate a distribution to unsecured creditors. The rate of that distribution is subject to crystallisation of contingent claims, and quantification of the total creditor pool.
- The Administrators have entered into a SID which provides that, in circumstances where creditors do not approve the DOCA, the Administrator/chairperson will adjourn the second creditors meeting (utilising IPR 75-140), execute and complete on the ASA between the Administrators and SRG (utilising the Administrators power of sale under Section 437A of the Act). In this situation, employees will be terminated, their entitlements will be crystallised, and the return to unsecured creditors will be substantially less than as contemplated under the DOCA.

### 12.5.2 CCC

In relation to CCC, we recommend that the Administration end. There are no realisable assets to this entity, and no liabilities (save for \$2.5k owed to WBHOI which will be forgiven). There are no likely voidable transactions recoverable by a liquidator of CCC either. SRG wish to acquire this entity as part of their WBHOI DOCA, and as such, the administration ending is the appropriate course of action.

## 13 Remuneration

On 24 February 2022 we provided our initial remuneration notice to creditors setting our schedule of hourly rates and method of remuneration. A copy of this notice is available on our website here: <http://www.deloitte.com/au/probuild>

An administrator's remuneration can be approved by resolution of a COI, a company's creditors or by application to Court.

Our past and new requests for remuneration approval in respect to WBHOI and CCC is detailed in the sections below.

### 13.1 WBHOI Remuneration

Our remuneration was approved by the COI prior the second meeting as tabled below:

#### WBHOI remuneration approval sought

Period	\$
Actual Voluntary Administration – 23 February 2022 to 20 March 2022	1,366,897
Future Voluntary Administration – 21 March 2022 to completion of the voluntary administration	1,133,103
<b>Total fee approval sought (excluding GST)</b>	<b>2,500,000</b>

We are seeking further remuneration approval from the creditors at the second meeting regarding the DOCA period as follows:

#### WBHOI remuneration approval sought

Period	\$
Future DOCA – 30 March 2022 to completion of the DOCA	90,000
<b>Total fee approval sought (excluding GST)</b>	<b>90,000</b>

It is noted that in respect to the future approvals, we will only draw the amount incurred. If the actual remuneration exceeds the amount(s) approved, we may seek further approval from creditors.

Our remuneration report also includes resolutions with respect to remuneration for a liquidator if appointed.

We additionally are seeking approval for the following disbursements:

#### WBHOI disbursements approval sought

Period	\$
Actual Voluntary Administration – 23 February 2022 to 21 March 2022	10,241.51
Future Voluntary Administration – 22 March 2022 to completion of the voluntary administration	600.00
<b>Total disbursements approval sought (excluding GST)</b>	<b>10,841.51</b>

Voluntary Administrators are not required to seek creditor approval for expenses paid to third parties at cost, however administrators are required to obtain creditor's consent for the payment of a disbursement where the administrators or a related entity of the administrators, may directly or indirectly obtain a profit. In these circumstances, creditors will be asked to approve these disbursements prior to them being paid from the administration.



Further detail on our remuneration including actual remuneration incurred and estimated future remuneration is contained at **Appendix I**. Creditors are also directed to the Information Sheet – Approving Fees: a guide for Creditors, a copy of which is attached as **Appendix K**.

## 13.2 CCC Remuneration

We will seek for our remuneration to be approved by creditors at the second meeting.

### CCC remuneration approval sought

Period	\$
Future Voluntary Administration – 23 March 2022 to completion of the voluntary administration	20,000
<b>Total fee approval sought (excluding GST)</b>	<b>20,000</b>

Our remuneration report also includes, resolutions with respect to remuneration for a liquidator if appointed.

*[This space has been left blank intentionally]*

# 14 Meeting

## 14.1 Voting procedures

Pursuant to Section 439A(3) of the Act and Section 75-225 of the IPR, attached is a notice convening second meeting of creditors for WBHOI which will be held on **Wednesday 30 March 2022 at 10:00am AWST**. The notice of meeting is enclosed at **Appendix C**.

For creditors of CCC, attached is a notice convening second meeting of creditors which will be held on **Wednesday 30 March 2022 at 12:00pm AWST**. The notice of meeting is also enclosed at **Appendix C**.

Government health guidelines around social distancing means it would be inappropriate to convene a physical meeting. Recent interim amendments to the legislation that governs insolvent administrations provides that meetings of creditors may be held virtually, using technology that will give all persons entitled to attend a reasonable opportunity to participate without being physically present in the same place. To this end, the meeting will be held using Microsoft Teams Live Events platform.

At these meeting creditors will be asked to resolve whether:

- The Company execute a DOCA; or
- The administration end; or
- The Company be wound up.

Again, it is our opinion the DOCA is in creditors best interests and the Administrators recommend creditors approve the DOCA.

We will also be seeking resolutions regarding our remuneration based on the resolutions passed by creditors.

Attendance at this meeting is not compulsory, however, those creditors wishing to attend and vote at the second meetings are required to lodge their Proof of Debt or Claim by **5:00pm (AEDT) Tuesday, 29 March 2022**. Attendance registration as well as voting will open on **Wednesday, 23 March 2022**. Creditors will be notified via emails when that occurs. Individuals attending the meeting on behalf of a corporate creditor also need to also appoint a proxy via the Halo platform by **5:00pm AEST Tuesday 29 March 2022**.

The electronic proxy form in the Halo platform allows for creditors to nominate a special or general proxy to be lodged. If a creditor lodges a special proxy, they will have the right to submit their votes via the Halo platform and nominate a proxy to attend the virtual meeting of creditors on their behalf. If a creditor lodges a general proxy, their nominated proxy will have the right to submit votes via the Halo platform on behalf of the creditor. If they wish, the creditor will still be able to attend the meeting of creditors as an observer.

A creditor with a registered claim in Halo will be able to vote before and at the meeting. However, creditors' voting eligibility and vote power are subject to change pending the claim adjudication process.

Those creditors who have already lodged an informal proof of debt are not required to submit a further proof, unless you have an amended claim, in which case please amend your claim in the Halo platform or if your claim has already been admitted for voting purposes, do not lodge an additional claim. Please contact the Voluntary Administrators at [halohelp@deloitte.com.au](mailto:halohelp@deloitte.com.au) if you have any issues in amending your claim in the Halo platform.

**On the Proof of Debt Form in the Halo platform please ensure you select the relevant company of which you are a creditor.**

We have prepared the attached voting guide at **Appendix D** and ask that you review this document ahead of the second meeting of creditors.

We trust creditors find this report informative and useful. In the event you have any queries regarding the contents of this report, or the administration in general, please do not hesitate to contact us at [WBHOI@deloitte.com.au](mailto:WBHOI@deloitte.com.au)



**Salvatore Algeri**  
Joint and Several  
Voluntary Administrator



**Jason Tracy**  
Joint and Several  
Voluntary Administrator



**Matthew Donnelly**  
Joint and Several  
Voluntary Administrator



**David Orr**  
Joint and Several  
Voluntary Administrator

## Appendix A – Glossary and abbreviations

Term	Definition
\$m	Millions
45 Hope Valley Road Property	Property located at 45 Hope Valley Rd, Naval Base WA 6165
Act	Corporations Act 2001
Adj.	Adjustment
Administration/voluntary administration	The voluntary administration of WBHO Infrastructure Pty Ltd ACN 089 434 220 (WBHOI) and Carr Civil Contracting Pty Ltd ACN 100 438 257 (CCC)
Administrators or Voluntary Administrators or us/we/our	Salvatore Algeri, David Orr, Matthew Donnelly & Jason Tracy
ALL PAAP	All Present and After Acquired Property
Appointment Date	23 February 2022
ARITA	Australian Restructuring Insolvency Turnaround Association
ASA	Asset Sale Agreement
ASIC	The Australian Securities & Investments Commission
ATO	Australian Taxation Office
AUD	Australian dollars
BAS	Business Activity Statement
Board	The Board of Directors of the Companies
BRDA	Bauxite Residue Disposal Area
c	cents
c.	circa
CBA	Commonwealth Bank of Australia
CCC	Carr Civil Contracting Pty Ltd (formerly called WBHO-Carr Pty Ltd)
COI or Committee	Committee of Inspection
Companies	WBHO Infrastructure Pty Ltd (Administrators Appointed) and Carr Civil Contracting Pty Ltd (Administrators Appointed)
Consolidated Group	WBHOA Group, including its ultimate parent entities
Convening Period	The period between the date of the appointment of the Voluntary Administrators and the date the Voluntary Administrators provide notice (convene) of the second meeting of creditors
COVID-19	The 2019 novel Coronavirus pandemic
Creditors' Trust	Proposed Creditors' Trust
CECK	Civil & Earthworks Contractors of Kwinana Pty Ltd
Deed Administrators	Salvatore Algeri, David Orr, Matthew Donnelly & Jason Tracy
Deloitte	Deloitte Financial Advisory Pty Ltd
Directors	Wilhelm Friedrich Grobler, Bradley Raymond Duggan, Charles Victor Henwood and Paul Foley
DIRRI	Declaration of Independence and Relevant Relationships and Indemnities
DOCA	Deed of Company Arrangement

<b>Term</b>	<b>Definition</b>
EBITDA	Earnings before interest, tax, depreciation and amortisation
ERV	Estimated Realisable Value
ESOP	Estimated Statement of Position
FEG	Fair Entitlements Guarantee Scheme
FY	Financial year ended 30 June
Group	Companies in voluntary administration as listed in Appendix (All Administrators Appointed)
GST	Goods and services tax
HFY	Financial half year
IM	Information memorandum
Insolvency Practice Rules/IPR	Insolvency Practice Rules (Corporations) 2016 (Cth)
Insured claim	A claim defined as an Insured Claim under the terms of the DOCA
Insolvency Practice Schedule/IPS	Insolvency Practice Schedule (Corporations) 2016
k	thousand
m	Millions
Management	Management of the Companies
N/A	Not applicable
NBIO	Non-binding indicative offers
Northcoast	Northcoast Holdings Pty Ltd (Administrators Appointed) ACN: 009 296 780
NZ	New Zealand
P&E	Plant and equipment
P&L	Profit and Loss
PAYG	Pay as you go withholding tax
PC	Project Completion
PILN	Payment in Lieu of Notice
PMSI	Purchase money security interest
POD	Proof of Debt
PPSA	Personal Property Securities Act 2009 (Cth)
PPSR / Personal Property Securities Register	The register established and maintained under the PPSA
Probuild Group	Probuild Pty Ltd (Administrators Appointed) and its relevant subsidiaries
Probuild NZ	Probuild Constructions (NZ) Pty Ltd (New Zealand registered company)
Prodev Investment Entities	Prodev Investments Pty Ltd, Prodev Investments 2 Holdings Pty Ltd, Prodev Investments 2 Pty Ltd, Prodev Investments 3 Pty Ltd
Receivables or Receivables Book	Lease receivables and loan receivables
R	Rand
Related entity	Has the meaning given to that term in the Act (see section 9)
Relation back day	The date of appointment of the Voluntary Administrators

<b>Term</b>	<b>Definition</b>
ROCAP	Report on Company Activities and Property
ROT	Retention of title
SRG	SRG Global Civil Ltd
SRG DOCA	DOCA proposal submitted by SRG, as enclosed in Appendix F
SID / Sale Deed	Sale and Implementation Deed
the Companies	WBHO Infrastructure Pty Ltd ACN 089 434 220, Carr Civil Contracting Pty Ltd ACN 100 438 257
the Court	The Federal Court of Australia or any of the state Supreme Courts
the Group	WBHOA Group and its relevant subsidiaries
the Regulations	Corporations Regulations 2001
Trust	Creditors' Trust
Trust Deed	The trust deed establishing the Creditors' Trust
Trust Fund	Amount paid to the Deed Administrators for purpose of the Creditors' Trust (further details in Section 8)
Trustee	Trustees of the Creditors' Trust, proposed to be the Voluntary Administrators/Deed Administrators
UK	United Kingdom
WBHOA Group	All entities under external administration as listed in Appendix B
WBHOA	WBHO Australia Pty Ltd (Administrators Appointed)
WBHOI	WBHO Infrastructure Pty Ltd (Administrators Appointed)
WBHOI Group	WBHO Infrastructure Pty Ltd (Administrators Appointed) ACN 089 434 220, Carr Civil Contracting Pty Ltd (Administrators Appointed) ACN 100 438 257, Northcoast Holdings Pty Ltd (Administrators Appointed) ACN: 009 296 780
WBHO / WBHO Ltd	Wilson Bayly Holmes-Ovcon Ltd (South African ultimate parent)
WRU	Western Roads Upgrade

## Appendix B – Entities under administration

No.	Name	Date of appointment of voluntary administrators	ACN
1	WBHO Australia Pty Ltd	23 February 2022	095 983 681
2	WBHO Construction Australia Pty Ltd	23 February 2022	149 901 931
3	WBHO Infrastructure Pty Ltd (formerly WBHO Civil Pty Ltd)	23 February 2022	089 434 220
4	Carr Civil Contracting Pty Ltd (formerly WBHO-Carr Pty Ltd)	23 February 2022	100 438 257
5	Northcoast Holdings Pty Ltd	23 February 2022	009 296 780
6	Probuild Constructions (Aust) Pty Ltd	23 February 2022	095 250 945
7	Probuild Civil Pty Ltd (formerly Probuild Civil (QLD) Pty Ltd)	23 February 2022	010 870 587
8	PCA (QLD) Pty Ltd (formerly Probuild Constructions (QLD) Pty Ltd)	23 February 2022	141 148 245
9	Probuild Constructions (NSW) Pty Ltd	23 February 2022	165 675 874
10	Probuild Constructions (VIC) Pty Ltd	23 February 2022	165 675 865
11	Probuild Constructions (WA) Pty Ltd	23 February 2022	165 676 095
12	Probuild Constructions (QLD) Pty Ltd	23 February 2022	166 966 034
13	ACN 098 866 794 Pty Ltd (formerly Probuild Constructions (NSW) Pty Ltd)	23 February 2022	098 866 794
14	Contexx Holdings Pty Ltd	23 February 2022	144 707 022
15	Prodev Murphy Pty Ltd	23 February 2022	147 249 796
16	Prodev Murphy Pty Ltd	23 February 2022	120 758 803
17	Prodev Investments 4 Pty Ltd	23 February 2022	629 246 653
18	Monaco Hickey Pty Ltd	23 February 2022	144 945 611

## Appendix C – Notice of meetings

### FORM 529

CORPORATIONS ACT 2001  
Section 439A

Insolvency Practice Rules (Corporations)  
75-10, 75-15, 75-225

**Notice of meeting of creditors**  
**WBHO Infrastructure Pty Ltd ACN 089 434 220**  
**(Administrators Appointed) (the Company)**

Notice is given under *Insolvency Practice Rules (Corporations) (IPR)* section 75-225 that a virtual meeting of creditors of the Companies will be held:

Date: Wednesday 30 March 2022  
Time: 10:00AM Australian Western Standard Time  
URL: <https://aurestructuring.deloitte-halo.com/probuild/>

Due to the threat of COVID-19, and consistent with government policy on gatherings, a virtual meeting will be held. All creditors are expected to attend by electronic means, and no physical place of meeting will be made available.

### AGENDA

1. To receive a Report on the Company's business, property, affairs, and financial circumstances.
2. For creditors to resolve:
  - 1) that the Company execute a Deed of Companies Arrangement; or
  - 2) that the administration should end; or
  - 3) that the Company be wound up.
3. To consider approval of the Voluntary Administrators' disbursements.
4. If the Company executes a Deed of Company, to consider approval of the Deed Administrators' remuneration.
5. If the Company is wound up, to consider approval of the Liquidators remuneration.

### Votes to be taken on a poll

Votes taken at the Meeting will be taken on a poll. This means that, to calculate the outcome of each resolution, the Administrators must calculate the number and dollar value of each vote in favour together with the number and dollar value of each vote against. A resolution is taken to have passed if a majority in both number and dollar value have voted in favour.

### Attendance at this meeting is not compulsory.

Creditors may access and lodge their electronic proofs of debt via the Deloitte Halo platform at <https://aurestructuring.deloitte-halo.com/Probuild/>. Electronic proxy forms will also be available to creditors in the Deloitte Halo platform. Creditors will be notified via email when that occurs.

Proofs of debt must be lodged on the Deloitte Halo platform by **12:00PM (AWST) on Tuesday, 29 March 2022**.



Creditors may attend virtually and vote in person electronically, by proxy or attorney. The appointment of a proxy must be in the approved form. A special proxy can be lodged confirming approval or rejection of each resolution. Proxy forms must be lodged through the Halo platform not later than **12:00PM (AWST) on Tuesday, 29 March 2022**.

An attorney of the creditor must show the instrument by which he or she is appointed to the Chairperson of the meeting, prior to the commencement of the meeting.


Please note under IPR section 75-25 if you wish to participate in the meeting using such facilities you must give the convenor not later than **12:00PM (AWST) on Tuesday, 29 March 2022** a written statement, lodged via the Deloitte Halo platform, setting out:

- i. the name of the person and of the proxy or attorney (if any); and
- ii. an email address to which notices to the person, proxy or attorney may be sent; and
- iii. a method by which the person, proxy or attorney may be contacted for the purposes of the meeting.

Upon receipt of the above mentioned statement of participation, a link for the virtual meeting will be displayed after you log onto the Deloitte Halo platform.

Please note that additional guides on the process of lodging a claim and registering/voting for the meeting can be found in the Halo platform here – <https://aurestructuring.deloitte-halo.com/probuild/?Pg=6>.

DATED this 23<sup>rd</sup> day of March 2022



**Matthew Donnelly**  
Joint and Several Administrator

Deloitte Financial Advisory Pty Ltd  
Tower 2  
Brookfield Place  
123 St Georges Terrace  
PERTH WA 6000

**FORM 529**

CORPORATIONS ACT 2001  
Paragraph 444DA(2)(a)

Insolvency Practice Rules (Corporations) 2016  
s75-40

**NOTICE OF MEETING OF ELIGIBLE EMPLOYEE CREDITORS  
WBHO INFRASTRUCTURE PTY LTD  
(ADMINISTRATORS APPOINTED)  
ACN 089 434 220**

**NOTICE** is given under section 444DA(3) of *the Corporations Act 2001* (Cth) that a virtual meeting of employee creditors of the Company will be held:

Date: Wednesday 30 March 2022  
Time: 9:00AM Australian Western Standard Time  
URL: Microsoft Teams link to be provided after meeting registration:  
<https://forms.office.com/r/thVB83qwZR>

Due to the threat of COVID-19, and consistent with government policy on gatherings, a virtual meeting will be held. All creditors are expected to attend by electronic means, and no physical place of meeting will be made available

**A G E N D A**

1. To consider the proposed DOCA and variation to statutory priorities of eligible employee creditors
2. Any other business that may be lawfully brought forward.

**Votes to be taken on a poll**

Votes taken at the Meeting will be taken on a poll. This means that, to calculate the outcome of each resolution, the Administrators must calculate the number and dollar value of each vote in favour together with the number and dollar value of each vote against. A resolution is taken to have passed if a majority in both number and dollar value have voted in favour.

**Attendance at this meeting is not compulsory.**

Eligible employees will need to register to attend the virtual meeting and participate by completing the following registration form: <https://forms.office.com/r/thVB83qwZR>

Creditors may access electronic proofs of debt via the Deloitte Halo platform at <https://aurestructuring.deloitte-halo.com/Probuild/>.

Proofs of debt must be lodged on the Deloitte Halo platform by **12:00PM (AWST) on Tuesday, 29 March 2022**.

Creditors may attend virtually and vote in person electronically, by proxy or attorney. The appointment of a proxy must be in the approved form. A special proxy can be lodged confirming approval or rejection of each resolution.

An attorney of the creditor must show the instrument by which he or she is appointed to the Chairperson of the meeting, prior to the commencement of the meeting.

Please note under IPR section 75-25 if you wish to participate in the meeting using such facilities you must give the convenor not later than **12:00PM (AWST) on Tuesday, 29 March 2022** a written statement, lodged via the Deloitte Halo platform, setting out:

- i. the name of the person and of the proxy or attorney (if any); and
- ii. an email address to which notices to the person, proxy or attorney may be sent; and
- iii. a method by which the person, proxy or attorney may be contacted for the purposes of the meeting.

Please note that additional guides on the process of lodging a claim for the meeting can be found in the Halo platform here – <https://aurestructuring.deloitte-halo.com/Probuild/>.

DATED this 23<sup>rd</sup> day of March 2022



**Matthew Donnelly**  
**Joint and Several Administrator**

Deloitte Financial Advisory Pty Ltd  
Tower 2  
Brookfield Place  
123 St Georges Terrace  
PERTH WA 6000

Telephone: (08) 9365 7000

## FORM 529

CORPORATIONS ACT 2001  
Section 439A

Insolvency Practice Rules (Corporations)  
75-10, 75-15, 75-225

### Notice of meeting of creditors Carr Civil Contracting Pty Ltd ACN 100 438 257 (Administrators Appointed) (the Company)

Notice is given under *Insolvency Practice Rules (Corporations)* (IPR) section 75-225 that a virtual meeting of creditors of the Companies will be held:

Date: Wednesday 30 March 2022  
Time: 12:00PM Australian Western Standard Time  
URL: Details to be provided upon request

Due to the threat of COVID-19, and consistent with government policy on gatherings, a virtual meeting will be held. All creditors are expected to attend by electronic means, and no physical place of meeting will be made available.

#### AGENDA

1. To receive a Report on the Company's business, property, affairs, and financial circumstances.
2. For creditors to resolve:
  - 1) that the administration should end; or
  - 2) that the Company be wound up.
3. To consider approval of the Voluntary Administrators' remuneration.
4. If the Company is wound up, to consider approval of the Liquidators remuneration.

#### Votes to be taken on a poll

Votes taken at the Meeting will be taken on a poll. This means that, to calculate the outcome of each resolution, the Administrators must calculate the number and dollar value of each vote in favour together with the number and dollar value of each vote against. A resolution is taken to have passed if a majority in both number and dollar value have voted in favour.

#### Attendance at this meeting is not compulsory.

Creditors may access and lodge their electronic proofs of debt via the Deloitte Halo platform at <https://aurestructuring.deloitte-halo.com/Probuild/>. Electronic proxy forms will also be available to creditors in the Deloitte Halo platform. Creditors will be notified via email when that occurs.

Proofs of debt must be lodged on the Deloitte Halo platform by **12:00PM (AWST) on Tuesday, 29 March 2022**.

Creditors may attend virtually and vote in person electronically, by proxy or attorney. The appointment of a proxy must be in the approved form. A special proxy can be lodged confirming approval or rejection of each resolution. Proxy forms must be lodged through the Halo platform not later than **12:00PM (AWST) on Tuesday, 29 March 2022**.

An attorney of the creditor must show the instrument by which he or she is appointed to the Chairperson of the meeting, prior to the commencement of the meeting.

Please note under IPR section 75-25 if you wish to participate in the meeting using such facilities you must give the convenor not later than **12:00PM (AWST) on Tuesday, 29 March 2022** a written statement, lodged via the Deloitte Halo platform, setting out:

- i. the name of the person and of the proxy or attorney (if any); and
- ii. an email address to which notices to the person, proxy or attorney may be sent; and
- iii. a method by which the person, proxy or attorney may be contacted for the purposes of the meeting.

Upon receipt of the above mentioned statement of participation, a link for the virtual meeting will be displayed after you log onto the Deloitte Halo platform.

Please note that additional guides on the process of lodging a claim and registering/voting for the meeting can be found in the Halo platform here – <https://aurestructuring.deloitte-halo.com/probuild/?Pg=6>.

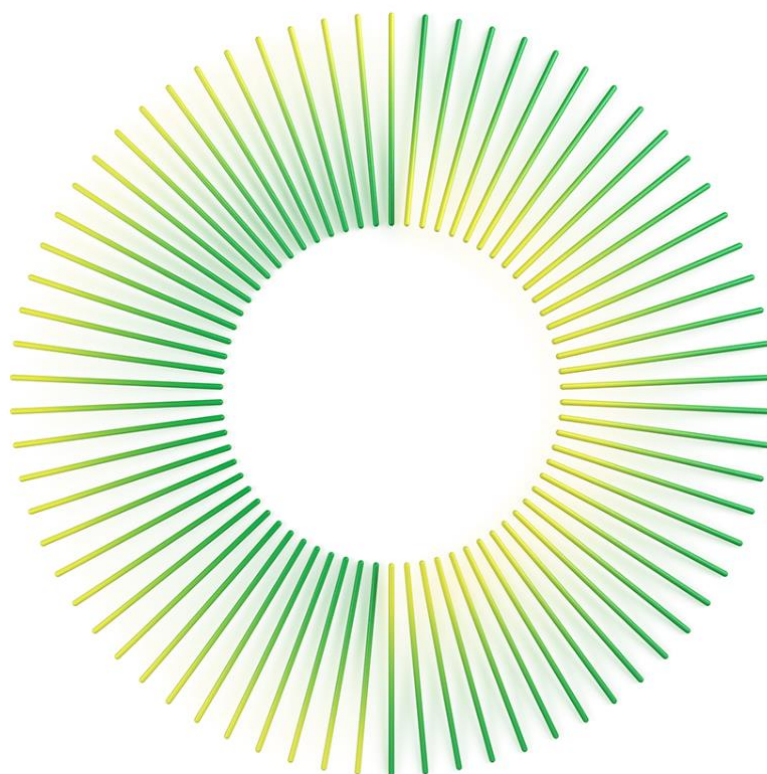
DATED this 23<sup>rd</sup> day of March 2022



**Matthew Donnelly**  
Joint and Several Administrator

Deloitte Financial Advisory Pty Ltd  
Tower 2  
Brookfield Place  
123 St Georges Terrace  
PERTH WA 6000

## Appendix D – Halo Guide (Proxy Nomination & Voting)



## Halo Guide – How to Guide (Proxy Nomination & Voting)

WBHO Australia Pty Ltd ACN 095 983 681

and subsidiaries listed in Appendix A

(all Administrators Appointed) (WBHOA or the Group)

(Trading as Probuild, WBHO Infrastructure and Monaco Hickey)

# i Overview

The Voluntary Administrators of WBHOA and the subsidiaries listed in Appendix A (**the Group**) will be using Deloitte's Halo platform as the primary tool for communicating with creditors and managing claims (known as proofs of debt). Halo will also be used to conduct voting on any resolutions for the first and second meeting of creditors.

The Voluntary Administrators have prepared this guide to assist you as a creditor or potential creditor to understand the steps that must occur to ensure you are appropriately registered and have lodged your claim in Halo. The next three pages set out an overview of these steps. Refer to the later sections of this guide for further details of the specific actions, screens in Halo and FAQs for each of these steps.

These are the key dates in relation to voting in Halo at the Second Meeting of Creditors:

- |   |   |
|---|---|
| • Administrators' Report to Creditors released            | <b>Wednesday, 23 March 2022</b>                 |
| • Deadline for registering and submitting a claim in Halo | <b>Tuesday, 29 March 2022, 12:00pm (AWST)</b>   |
| • Deadline for submitting proxy                           | <b>Tuesday, 29 March 2022, 12:00pm (AWST)</b>   |
| • First meeting of eligible employee creditors*           | <b>Wednesday, 30 March 2022, 9:00am (AWST)</b>  |
| • Second meeting of creditors held and voting closes      | <b>Wednesday, 30 March 2022, 10:00am (AWST)</b> |

**\*Note: this meeting is for employee creditors only. If you are an employee creditor of the Group, you will only need to register and not lodge a claim in Halo. The Administrators will upload details of your claim from the Group's books and records.**

## 1 Register in Halo

You'll need an email address and basic contact information to register at this page:

<https://aurestructuring.deloitte-halo.com/probuild/>

## 2 Add a claim

*All images are indicative, actual Halo screens may look slightly different*

Adding a claim in Halo requires basic details of your claim, including:

- the company that owes you money;
- the claim type (e.g. financier, employee, subcontractor, trade supplier); and
- a description of the amount you are owed.

You can also upload additional documentation to support your claim for consideration by the Voluntary Administrators (e.g. copy of invoice).

## 3 Be admitted for voting

Based on the nature of your claim, the Voluntary Administrators will evaluate your claim for admission for voting at the second meeting. This may include reviewing the details of your claim submitted, assessing supporting documentation submitted (if any) and asking you further questions about your claim (if necessary).



You will be notified by email when you have been admitted for voting. Otherwise you can check your admission status in the Halo system in the 'My Claims' dashboard in Halo at any time.

## 4 Appoint a proxy (required for organisational creditors, optional for individuals)

Once your claim has been admitted for voting, you can appoint a proxy. If you are not sure whether or not you need to appoint a proxy, refer to the FAQs at Section 4 of this guide.

You will need to have your proxy nomination completed by **12:00 pm (AWST) on Tuesday, 29 March 2022**.

When appointing a proxy, you are appointing either (1) the Chairperson, (2) yourself or (3) someone else to vote on behalf of the creditor. If selecting someone else to represent you, you will need their email address so they can be registered in the Halo system. Selecting the proxy option is the first step of appointing a proxy.

You will also need to decide the type of proxy you are appointing. This is either (a) General Proxy or (b) Special Proxy. Refer to FAQs at Section 4 of this guide for further information on Proxy types.

To appoint a proxy, click 'Vote or Select Proxy' on your dashboard. If you are an organisation, the Proxy page will be displayed. If you are an individual, you will need to click the 'Nominate Proxy (Optional)' button. Here you will select the proxy option and the type of proxy. If selecting a Special proxy (displayed), you will submit your vote (Step 5) with the nomination of your proxy and click 'Submit' to appoint your Proxy.

Nominate Proxy  
 Chairperson  Self  Other proxy (enter email address below)

Type of Proxy  
 General Proxy  Special Proxy

**Resolutions**  
Please vote 'For' one resolution below. In voting 'For' a resolution, you will be voting 'Against' the other resolutions proposed in the resolution group. Your vote cannot be submitted if you do not vote 'For' a resolution.

RESOLUTION GROUP #1 ANSWER  
 For  Against  Abstain  
 For  Against  Abstain  
 For  Against  Abstain

RESOLUTION #2 ANSWER  
 For  Against  Abstain

## 5 Cast your vote

If your claim has been admitted for voting, you can log into Halo and click 'Select Proxy or Vote' on your claims dashboard at this time. Once the voting event has started in Halo, there will be a yellow banner on your 'My Claims' dashboard which will say 'Select Proxy or Vote'.

To vote, select the tick box for the creditor you are voting for, and click the 'Select Vote' button. Choose your answer to the displayed resolution(s) and click 'Submit'.

**Voting will close live during the second creditors' meeting on Wednesday, 30 March 2022.**

**Resolutions**  
Please vote 'For' one resolution below. In voting 'For' a resolution, you will be voting 'Against' the other resolutions proposed in the resolution group. Your vote cannot be submitted if you do not vote 'For' a resolution.

RESOLUTION GROUP #1 ANSWER  
 For  Against  Abstain  
 For  Against  Abstain  
 For  Against  Abstain

RESOLUTION #2 ANSWER  
 For  Against  Abstain

If you have been assigned a General proxy vote, the Vote will appear on your 'My Proxy' Dashboard and will need to be actioned in order to vote. Please follow the above steps except click 'Start Voting' on your 'My Proxy dashboard' instead of 'My Claims dashboard'.

When votes are successfully submitted, the voting status is now displayed as **'Voted'**, the appointment of a general proxy is displayed as **'Proxy Selected'**, and the appointment of a special proxy is displayed as **'Proxy Voted'**. Once the general Proxy has exercised their vote, the voting status will change to **'Proxy Voted'**

<input type="checkbox"/>	V1213594C	Creditor 8 Maggie	Entity A	Unsecured Customer	AUD 150,000.00	Admitted for [150,000.00]	VOTED
<input type="checkbox"/>	V1213596C	Creditor 10 Maggie	Tiger International Number 1 Pty Ltd	Unsecured Other	AUD 150,000.00	Admitted for [150,000.00]	PROXY VOTED
<input type="checkbox"/>	V1128018C	Creditor 10 Maggie	s Entity B	Unsecured Other	AUD 4,577.75	Admitted for [4,577.75]	PROXY SELECTED

## Note:

This guide will only focus on how to nominate a proxy and cast your vote in the Halo platform for a meeting of creditors.

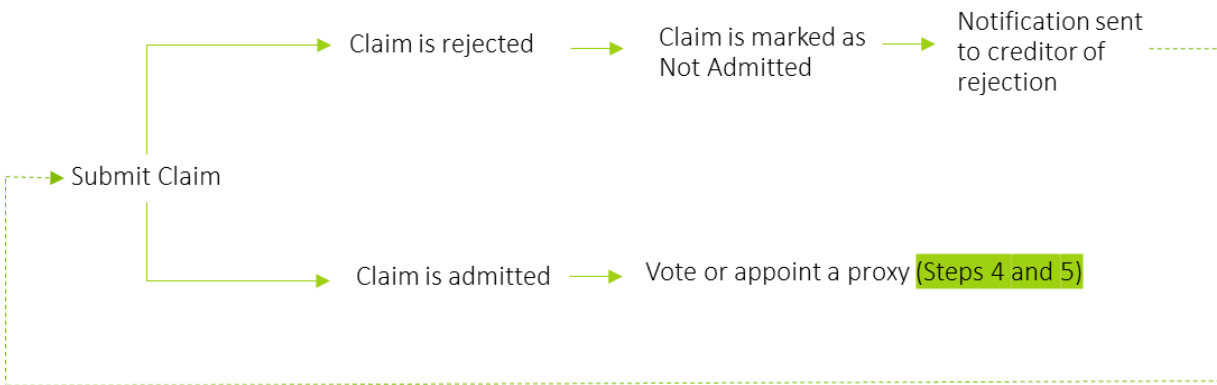
If you are looking for guidance on registering as a user or lodging your claim, please refer to the [Registration and Claim Lodgement Guide here](#).

If you encounter any issues with the Halo platform, please contact our team at [halohelp@deloitte.com.au](mailto:halohelp@deloitte.com.au).

# 3 Be admitted for voting

Based on the nature of your claim, the Voluntary Administrators will evaluate your claim for admission for voting at the second meeting. This will include reviewing the details of your claim submitted, assessing supporting documentation submitted (if any) and asking you further questions about your claim (if necessary).

## Admission Process



You will be notified by email when the Voluntary Administrators have evaluated your submitted claim(s) and the admitted status of your submitted claims has changed. Otherwise, you can check your admission status in the Halo system in the 'My Claims' dashboard at any time.

## Admissions Statuses

Claims are presented in Halo with four admission statuses (labelled 1 to 4 in the image and described on next page):

<input type="checkbox"/>	VI213587C	Creditor 2 - Maggie	WBHO Infrastructure Pty Ltd	Unsecured Trade Supplier	AUD 200,000.00	Submitted	1
<input type="checkbox"/>	VI213587C	Creditor 2 - Maggie	WBHO Infrastructure Pty Ltd	Unsecured Trade Supplier	AUD 200,000.00	Admitted for [200,000.00]	2
<input type="checkbox"/>	VI213587C	Creditor 2 - Maggie	WBHO Infrastructure Pty Ltd	Unsecured Trade Supplier	AUD 200,000.00	Not Admitted	3

- 1. Submitted:** This status indicates that your claim has been registered in Halo and is under review for admission by the Voluntary Administrators. The Administrators may contact you via the Halo communication functions to ask you further details about your claim (if necessary) or request further supporting documentation in relation to your claims (if necessary).
- 2. Admitted:** This status indicates that your claim has been reviewed and admitted for voting at the second meeting of creditors. The amount for which the claim has been admitted for voting will be displayed. Once admitted, the details of your claim (e.g. amount) cannot be changed until after the voting event.

Once you have been admitted, there will be different pathways for you to lodge your vote prior to or at the second meeting in Halo as described in Steps 4 and 5.

- 3. Not admitted:** The Voluntary Administrators may reject (not admit) your claim for voting purposes for a number of reasons including but not limited to the following:
  - The amount you have claimed is higher than the amount recorded as owing to you in the books and records of the WBHO Australia Group and you have provided insufficient evidence to support your claim.
  - Where your claim includes amounts, which have been incurred post appointment and you have not provided sufficient supporting documentation to support this portion of your claim such as a contract with relevant terms. In such circumstances, the Voluntary Administrators may only admit your claim for the portion which relates to the period prior to the date of appointment until further supporting documentation is provided.
  - Your claim does not match the supporting evidence provided.
  - Your claim is not owed by any of the companies in the WBHO Australia Group.
  - Your claim is a duplicate of another claim received by the Voluntary Administrators.
  - Your claim has been submitted after the claim submission deadline of **12:00pm (WST) on Tuesday, 29 March 2022.**

Once the status of your claim has been changed to Not Admitted, you will not be able to change the details of your claim (e.g. amount).

However, you can continue to communicate with the Voluntary Administrators to understand the reasons for your claim not being admitted and, if time allows prior to the claim submission deadline, resubmit your claim or provide further information or documentation which may allow your claim to be admitted.

# 4 Appoint a proxy

Prior to the meeting you can appoint a proxy. A proxy is a document containing instructions to the Voluntary Administrators on who you want to represent you at the meeting.

You aren't required to appoint a proxy unless the creditor you are representing is a company or organisation:

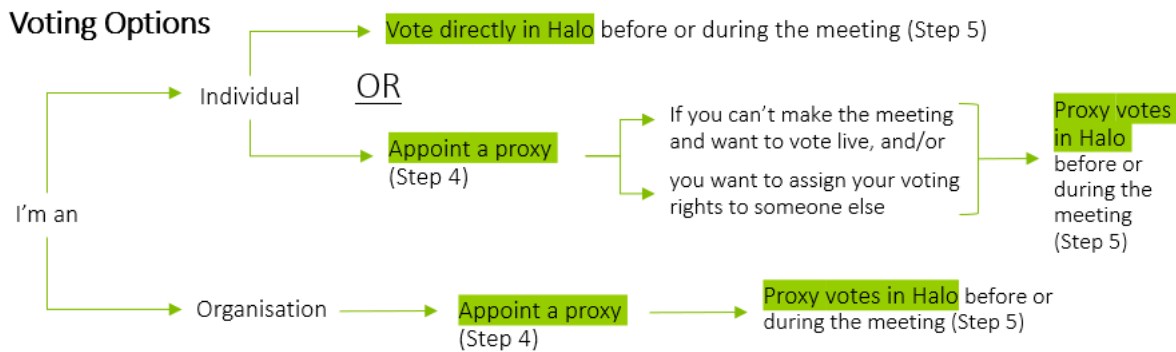
- A company needs to appoint a proxy as they need to appoint someone to vote on behalf of the company.
- If you are an individual and you want to give someone else your right to vote (e.g. a union representative or chairperson), or you can't make the meeting and want to vote live, you can appoint a proxy but it is not required in order for you to vote.

The following sets out the process for submitting a proxy, types of proxies (including some types of proxies which include your voting instructions) and how.

The deadline for submitting a proxy nomination in Halo is 12:00PM (AWST) Tuesday, 29 March 2022

If you do not need to appoint a proxy (for example you are an employee or individual, you can skip to instruction at Step 5 to cast your vote.

Once you have been admitted, there will be different pathways for you to nominate your proxy (if required) and lodge your vote in Halo prior to or at the second meeting of creditors:



When appointing a proxy, you will need to consider both the type of proxy you are nominating and your options as to who you can select as your proxy:

### Type of proxy

There are two kinds of proxies available, a general proxy and a special proxy:

- **General proxy** - allows the person holding the proxy to vote as they wish on a resolution and therefore you won't need to specify the answers to the resolutions. In Halo, nomination of a general proxy practically means that the voting for that creditor will be transferred or attached to the user account of the general proxy. As such, those who are appointed general proxies will need to vote before or during the meeting as outlined in Step 5.
- **Special proxy** - directs the proxy holder to vote in a particular way. If appointing a special proxy, you will need to select and submit your vote with the proxy nomination.

### Proxy options (who)

In terms of your options on who to select as your proxy, Halo has three options (1) the Chairperson, (2) yourself or (3) someone else to vote on behalf of the creditor:

- The Chairperson** – if you would like to assign the Chairperson of the meeting your vote, you are able to do this by selecting 'Chairperson' as your proxy option. The Chairperson of the meeting will be one of the Voluntary Administrators. Part of their role is deciding whether to accept your claim for voting purposes, estimate the value of your claim (if required) and, if necessary, exercise their casting vote at the meeting.
- Yourself** – if the creditor is a company and you are a duly authorised officer of the company (e.g. a director) you can appoint yourself as the proxy. If the 'Yourself' option is chosen, the details and email with which you signed up with Halo will be used.
- Someone else** - if you would like to appoint someone else as the proxy, you can enter the email of the person you would like to appoint in the field which appears when you click 'Other' as the proxy type. If you are selecting someone else to represent you, you will need their email address so they can be registered in the Halo system:
  - If that person is already registered on Halo, their registered Halo details will appear.
  - If they are not registered in Halo, an email invitation will be sent to them to register.

Please note that proxies are nominated at the creditor level. If there are multiple claims that have been registered in Halo under one creditor name, the proxy nominated will be applied to all of those claims.

If you have made an error in the nomination of your proxy, please contact the team at [halohelp@deloitte.com.au](mailto:halohelp@deloitte.com.au) so they can assist you in resetting your proxy nomination. Once reset, you can re-nominate your proxy.

### Appoint a proxy – the process

- ✓ To appoint a proxy, click 'Vote or Select Proxy' on your 'My Claims' dashboard.

WBHOA Group & Subsidiaries (All Administrators Appoint...)

You are currently logged in as Matthew. [Click here to log out](#)

User Profile ▼

My Meeting Dashboard ▼

My Claims Dashboard ▲

You must submit a claim to vote at the first meeting of creditors. Claims must be submitted by 5:00PM (AEDT) on Thursday, 3 March 2021. Voting will close live during the first meeting of creditors on Friday, 4 March 2022. You will be notified by email when voting has opened in the Halo platform. [Click here for an overview of voting process.](#)

[Vote or Select Proxy](#)

Search Claim, Creditor

[Grant Access](#) [Add Claim](#)

2 records

CLAIM ID	CREDITOR	DEBTOR ENTITY	CATEGORY TYPE	AMOUNT (EXCL GST)	STATUS	VOTING STATUS
AD119045C	Test Test	WBHO Australia Pty Ltd	Unsecured Trade Supplier	AUD 100,000.00	AUD110,000.00 admitted for voting	NOT VOTED
AD119128C	Test Test	WBHO Australia Pty Ltd	Secured Financier	AUD 100,000.00	AUD110,000.00 admitted for voting	NOT VOTED

- ✓ If you have multiple creditors who have claims in different resolution groups, you will need to cast a vote / appoint a proxy per resolution group. Please select the resolution group to appoint a proxy for first.

**Deloitte. PROBUILD WBHO MONACO HICKEY**

Home  
Background Information  
Circulars and Notices  
Appointment Details  
Related Links  
FAQs and Halo Guide  
My Account

**Deloitte.**

**WBHOA Group & Subsidiaries (All Administrators Appoint...)**

Voting Event

You are currently logged in as Matthew. [Click here to log out](#)

Dashboard > Resolution Group

Below are the entity(s) that are applicable to your claims.

Select an entity to continue with voting.

If you have claims with more than one entity below, you will need to return to this screen to vote each individually.

WBHO Australia Pty Ltd

- ✓ Select the relevant creditor(s) to Nominate a proxy for and click 'Continue'.

**Deloitte. PROBUILD WBHO MONACO HICKEY**

Home  
Background Information  
Circulars and Notices  
Appointment Details  
Related Links  
FAQs and Halo Guide  
My Account

**Deloitte.**

**WBHOA Group & Subsidiaries (All Administrators Appoint...)**

Voting Event

You are currently logged in as Matthew. [Click here to log out](#)

Dashboard > Resolution Group > Creditor(s)

Entity  
WBHO Australia Pty Ltd

For further details, please click [here](#) for voting instructions.

Below are the creditor(s) that are relevant for voting on the selected entity resolutions.

To continue, select the creditors you wish to vote for and select "Continue".

You can vote one or all of your relevant claims for this resolution at once.

The amount presented as the admitted amount is the total of all claims that have been admitted for each creditor.

<input type="checkbox"/>	CREDITOR	CREDITOR TYPE	ADMITTED AMOUNT	ENTITIES	VOTING STATUS
<input type="checkbox"/>	Test Test	Organisation	110,000.00	WBHO Australia Pty Ltd	NOT VOTED
<input type="checkbox"/>	Test Test	Organisation	110,000.00	WBHO Australia Pty Ltd	NOT VOTED

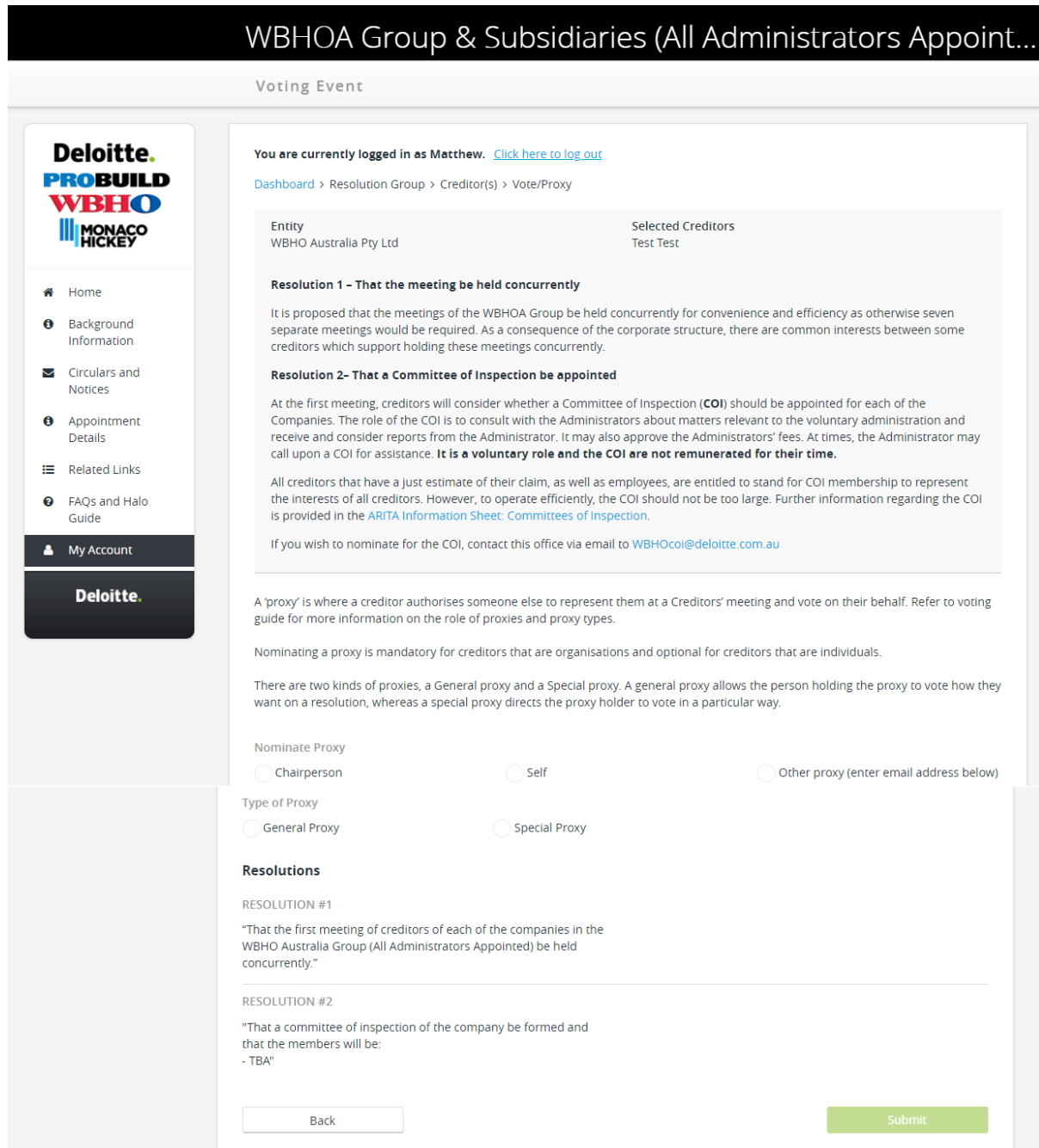
2 records

Back Continue

- ✓ If you are an individual, click 'Nominate Proxy (Optional)' to be redirected to the 'Assign Proxy' page. If you are representing an organisation you will automatically be on the 'Assign Proxy' page.



You will then be directed to the following screen:



**WBHOA Group & Subsidiaries (All Administrators Appoint...)**

Voting Event

You are currently logged in as Matthew. [Click here to log out](#)

Dashboard > Resolution Group > Creditor(s) > Vote/Proxy

Entity	Selected Creditors
WBHO Australia Pty Ltd	Test Test

**Resolution 1 - That the meeting be held concurrently**

It is proposed that the meetings of the WBHOA Group be held concurrently for convenience and efficiency as otherwise seven separate meetings would be required. As a consequence of the corporate structure, there are common interests between some creditors which support holding these meetings concurrently.

**Resolution 2- That a Committee of Inspection be appointed**

At the first meeting, creditors will consider whether a Committee of Inspection (COI) should be appointed for each of the Companies. The role of the COI is to consult with the Administrators about matters relevant to the voluntary administration and receive and consider reports from the Administrator. It may also approve the Administrators' fees. At times, the Administrator may call upon a COI for assistance. **It is a voluntary role and the COI are not remunerated for their time.**

All creditors that have a just estimate of their claim, as well as employees, are entitled to stand for COI membership to represent the interests of all creditors. However, to operate efficiently, the COI should not be too large. Further information regarding the COI is provided in the [ARITA Information Sheet: Committees of Inspection](#).

If you wish to nominate for the COI, contact this office via email to [WBHOcoi@deloitte.com.au](mailto:WBHOcoi@deloitte.com.au)

A 'proxy' is where a creditor authorises someone else to represent them at a Creditors' meeting and vote on their behalf. Refer to voting guide for more information on the role of proxies and proxy types.

Nominating a proxy is mandatory for creditors that are organisations and optional for creditors that are individuals.

There are two kinds of proxies, a General proxy and a Special proxy. A general proxy allows the person holding the proxy to vote how they want on a resolution, whereas a special proxy directs the proxy holder to vote in a particular way.

Nominate Proxy

Chairperson       Self       Other proxy (enter email address below)

Type of Proxy

General Proxy       Special Proxy

**Resolutions**

RESOLUTION #1

"That the first meeting of creditors of each of the companies in the WBHO Australia Group (All Administrators Appointed) be held concurrently."

RESOLUTION #2

"That a committee of inspection of the company be formed and that the members will be:  
- TBA"



- ✓ Select your 'Proxy Option' of either: 'Chairperson', 'Self', or 'Other proxy'. If you are an individual, the 'Self' option will not be available.

Nominate Proxy

Chairperson  Self  Other proxy (enter email address below)

- ✓ If selecting 'Other Proxy', please enter the person you are appointing's email in the designated field. If the email is registered in Halo, their details will appear. If they are not registered, they will receive an email notifying them to register as they have been appointed as a Proxy.

- ✓ Select your 'Type of Proxy' of either 'General Proxy' or 'Special Proxy'.

Type of Proxy

General Proxy  Special Proxy

- ✓ If selecting 'Special Proxy', choose the answers to the displayed resolution(s).

## WBHOA Group & Subsidiaries (All Administrators Appoint...)

If you wish to nominate for the COI, contact this office via email to [WBHOcoi@deloitte.com.au](mailto:WBHOcoi@deloitte.com.au)

A 'proxy' is where a creditor authorises someone else to represent them at a Creditors' meeting and vote on their behalf. Refer to voting guide for more information on the role of proxies and proxy types.

Nominating a proxy is mandatory for creditors that are organisations and optional for creditors that are individuals.

There are two kinds of proxies, a General proxy and a Special proxy. A general proxy allows the person holding the proxy to vote how they want on a resolution, whereas a special proxy directs the proxy holder to vote in a particular way.

Nominate Proxy

Chairperson  Self  Other proxy (enter email address below)

Proxy email address \*

✓ Proxy is registered.

### Proxy Profile

First Name	Matthew
Surname	Carr
Email	matcarr@deloitte.com.au
Representing an organization?	Yes
Organisation	Deloitte

Type of Proxy

General Proxy  Special Proxy

### Resolutions

RESOLUTION #1

"That the first meeting of creditors of each of the companies in the WBHO Australia Group (All Administrators Appointed) be held concurrently."

ANSWER

RESOLUTION #2

"That a committee of inspection of the company be formed and that the members will be:  
- TBA"

ANSWER

- ✓ After reviewing, click 'Submit' to finalise your proxy.

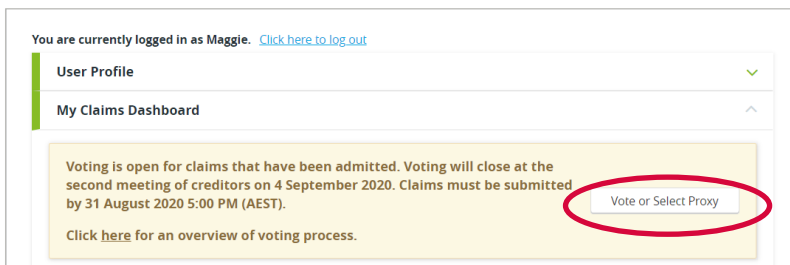


- ✓ After submitting, the relevant claims on your 'My Claims' dashboard will be displayed as 'Proxy Voted' for a Special Proxy, or 'Proxy Selected' for a General Proxy. After a General Proxy exercises their vote, the status too will change to 'Proxy Voted'.

<input type="checkbox"/>	VI213596C	Creditor 10 Maggie	Tiger International Number 1 Pty Ltd	Unsecured Other	AUD 150,000.00	Admitted for [150,000.00]	PROXY VOTED
--------------------------	-----------	-----------------------	---	--------------------	----------------	------------------------------	----------------

<input type="checkbox"/>	VI128018C	Creditor 10 Maggie	Entity B	Unsecured Other	AUD 4,577.75	Admitted for [4,577.75]	PROXY SELECTED
--------------------------	-----------	-----------------------	----------	--------------------	--------------	----------------------------	-------------------

- ✓ To view your Proxy nomination, click 'Vote or Select proxy' on your 'My Claims Dashboard'



- ✓ Find the creditor which you want to view the Proxy for and click the 'Proxy Voted' or 'Proxy Selected' box to view your vote. The selected votes will then be displayed.

Creditor 11 Maggie	Individual	150,000.00	Tiger International Number 1 Pty Ltd	PROXY VOTED
--------------------	------------	------------	--------------------------------------	-------------

Creditor 10 Maggie	Individual	150,000.00	Tiger International Number 1 Pty Ltd	PROXY SELECTED
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## FAQs on appointing a proxy

### What is a proxy?

A proxy is a formal authorisation by a creditor, authorising someone else to represent them at a meeting and vote on their behalf.

### Do I need a proxy?

You don't need to appoint a proxy unless the creditor you are representing is a company or organisation. A company needs to appoint a proxy as they need to appoint an individual who is an authorised officer to vote on behalf of the company. If you are an individual and you want to give someone else your right to vote (e.g. a union, chairperson), or you can't make the meeting and want to vote live, you can appoint a proxy.

### What is the difference between a special proxy and a general proxy?

There are two kinds of proxies, a general proxy and a special proxy. A general proxy allows the person holding the proxy to vote how they wish on a resolution, whereas a special proxy directs the proxy holder to vote in a particular way.

### Can I change my proxy?

If you have made an error, please contact the team at [halohelp@deloitte.com.au](mailto:halohelp@deloitte.com.au) and they will be able to assist you in resetting and then re-selecting your proxy.

### I'm an employee, do I need a proxy?

Employee creditors are individual creditors (i.e. not representing an organisation) so they are not required to nominate a proxy.

However, employees may wish to nominate their union representative, the Chairman, or another person as their special or general proxy.

### What happens if I have not nominated a proxy by the deadline of 12:00 pm (WST) on 29 March 2022?

If you are a creditor that is a company or organisation, unfortunately you will not be able to cast your vote at the meeting of creditors as a proxy is required.

If you are an individual creditor, you will still be able to submit your vote as proxies are not required for individual creditors.

### I have been assigned as a proxy, what do I do?

If you have been assigned as a proxy, you will need to cast the vote as in Step 5 Cast your Vote. If you have been assigned a proxy, the proxy(s) you have been nominated for will be displayed on 'My proxy' dashboard as opposed to 'My Claims' dashboard. If you have been assigned a special proxy, no action is required by you.

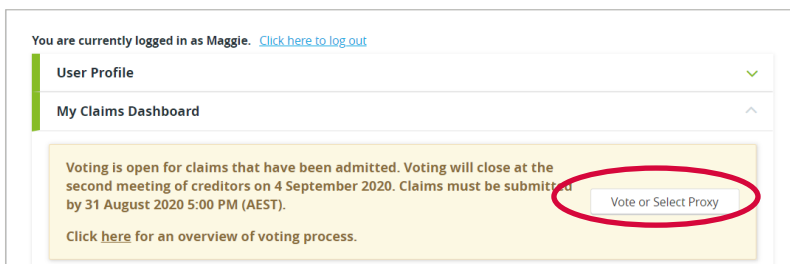
## 5 Cast your vote

Once the voting event has started in Halo, there will be a yellow banner on your 'My Claims' dashboard which will say 'Start Voting'. If your claim is admitted for voting, you can log into Halo and click 'Start Voting' on your claims dashboard.

**Voting will open on 23 March 2022 and will close live at the end of each resolution during the second creditors' meeting on Wednesday 30 March 2022.**

### Cast your vote – the process

- ✓ To cast your vote, click 'Vote or Select Proxy' on your 'My Claims' dashboard. If you have been appointed as a Proxy and need to cast a vote, you will click 'Vote' on your 'My Proxy' dashboard



- ✓ If you are voting for multiple creditors under multiple entities, select the relevant Resolution Group or single company you would like to vote for first.

Select a voting resolution group

Below are the voting resolution group(s) that are applicable to your claims.

Select a resolution group to continue with voting.

If you have more than one voting group below, you will need to return to this screen to vote each individually.

DOCG1

DOCG 2

Short Haul 2017 No. 2 Pty Ltd

- ✓ Select the creditor(s) you would like to cast a vote for and click 'Continue'. You can vote all creditors at once for ease.

<input type="checkbox"/>	CREDITOR	CREDITOR TYPE	ADMITTED AMOUNT	ENTITIES	VOTING STATUS
<input type="checkbox"/>	Creditor 3 - Maggie	Organisation	150,000.00	Short Haul 2018 No. 1 Pty Ltd	NOT VOTED
<input checked="" type="checkbox"/>	Creditor 7 Maggie	Individual	400,000.00	Short Haul 2017 No. 2 Pty Ltd	NOT VOTED

Back Continue

- ✓ Choose your answer to the displayed resolution(s) and click 'Submit'. A warning message will appear explaining that once a vote is submitted, it cannot be changed.

The screenshot shows a voting interface titled 'Resolutions'. At the top right, there is a green button labeled 'Nominate Proxy (Optional)'. Below the title, there is a paragraph of instructions: 'Please vote "For" one resolution below. In voting "For" a resolution, you will be voting "Against" the other resolutions proposed in the resolution group. Your vote cannot be submitted if you do not vote "For" a resolution.' The interface is divided into two sections: 'RESOLUTION GROUP #1' and 'RESOLUTION #2'. Each section has a large grey box for the resolution text and a set of three buttons: 'For' (green), 'Against' (grey), and 'Abstain' (grey). In the 'RESOLUTION #2' section, the 'Against' button is highlighted in red. At the bottom left is a 'Back' button and at the bottom right is a green 'Submit' button.

- ✓ Voting status will now be 'Voted' on relevant claims on your 'My Claims' dashboard.

<input type="checkbox"/>	V1213594C	Creditor 8 Maggie	Entity A	Unsecured Customer	AUD 150,000.00	Admitted for [150,000.00]	VOTED
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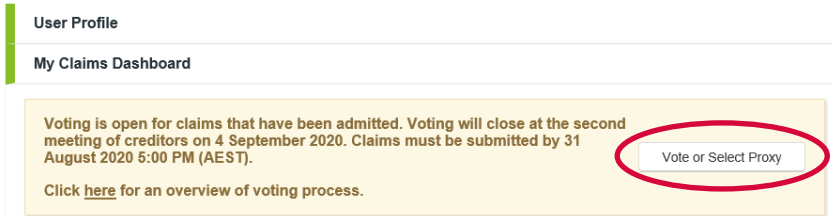
- ✓ To view your vote, click 'Vote' or 'Select proxy' on your 'My Claims Dashboard'

The screenshot shows the 'My Claims Dashboard' with a yellow announcement box. The text in the box reads: 'Voting is open for claims that have been admitted. Voting will close at the second meeting of creditors on 4 September 2020. Claims must be submitted by 31 August 2020 5:00 PM (AEST). Click [here](#) for an overview of voting process.' A button labeled 'Vote or Select Proxy' is circled in red.

- ✓ Find the creditor which you want to view the vote for and click the 'Voted' box to view your vote. The selected votes will then be displayed.

Matthew Simpson 15	Employee	50,000.00	WBHO Australia Pty Ltd	VOTED
-----------------------	----------	-----------	------------------------	-------

- ✓ If you are voting for multiple Resolution Groups, you will need to click '**Vote or Select Proxy**' when returned to the '**My Claims**' dashboard from the first vote. If you have been appointed as a Proxy and need to cast another vote in another Resolution Group, you will click '**Vote**' on your '**My Proxy**' dashboard.



- ✓ Select the next relevant Resolution Group or single company you would like to vote for, then select creditors and resolution voting as per first Resolution Group above.

## FAQs on casting your vote

### How does the voting work?

Interim laws were introduced in May 2020 which change the way resolutions are passed. The interim laws require all votes taken at a virtual meeting to be taken on a poll, not a show of hands. This means that, to calculate the outcome of each resolution, the Chairperson must calculate the number and dollar value of each vote in favour together with the number and dollar value of each vote against. A resolution is taken to have passed if a majority in both number and dollar value have voted in favour.

### Can I change my Vote?

Once a vote is submitted, it cannot be changed unless you contact the Halo Help team. If you have made a voting error, please contact Halo Help team at [halohelp@deloitte.com.au](mailto:halohelp@deloitte.com.au) and they will be able to assist you.

### When do I vote?

The Administrators will notify creditors by email when voting opens on **23 March 2022**. Voting will close during the meeting on **30 March 2022**. Once the voting event has started, there will be a yellow banner on your 'My Claims' dashboard which will say 'Start Voting'.

### Can I attend the meeting and not vote?

As a creditor you are able to attend the meeting and not vote. You will, in those circumstances, be attending as an "observer". For instance, some creditors such as subcontractors and employees may have appointed a proxy to vote on their behalf and may still attend the meeting.

### When will creditors know the outcome of the vote?

The result of the vote will be announced at the meeting of creditors.

### What happens when I submit a new claim and I've already voted?

If the new claim is owed by the same company or owed by a company in the same Resolution Group which has already been voted on with existing claims, you will not have to cast another vote. The creditor's admitted value for the vote will be updated to reflect the newly admitted claim.

If the new claim is owed by a company in a different Resolution Group, you will need to cast another vote. The new claim will appear on your 'My Claims' dashboard and have the voting status of 'Action'.

### Which entities are in each resolution group?

The below table in **Appendix A** provides a list of the entities in each resolution group.

# Appendix A – entities under administration

No.	Name	Date of appointment of voluntary administrators	ACN
1	WBHO Australia Pty Ltd	23-Feb-22	095 983 681
2	WBHO Construction Australia Pty Ltd	23-Feb-22	149 901 931
3	WBHO Infrastructure Pty Ltd (formerly WBHO Civil Pty Ltd)	23-Feb-22	089 434 220
4	WBHO-Carr Pty Ltd	23-Feb-22	100 438 257
5	Northcoast Holdings Pty Ltd	23-Feb-22	009 296 780
6	Probuild Constructions (Aust) Pty Ltd	23-Feb-22	095 250 945
7	Probuild Civil Pty Ltd (formerly Probuild Civil (QLD) Pty Ltd)	23-Feb-22	010 870 587
8	PCA (QLD) Pty Ltd (formerly Probuild Constructions (QLD) Pty Ltd)	23-Feb-22	141 148 245
9	Probuild Constructions (NSW) Pty Ltd	23-Feb-22	165 675 874
10	Probuild Constructions (VIC) Pty Ltd	23-Feb-22	165 675 865
11	Probuild Constructions (WA) Pty Ltd	23-Feb-22	165 676 095
12	Probuild Constructions (QLD) Pty Ltd	23-Feb-22	166 966 034
13	ACN 098 866 794 Pty Ltd (formerly Probuild Constructions (NSW) Pty Ltd)	23-Feb-22	098 866 794
14	Contexx Holdings Pty Ltd	23-Feb-22	144 707 022
15	Contexx Pty Ltd	23-Feb-22	147 249 796
16	Prodev Murphy Pty Ltd	23-Feb-22	120 758 803
17	Prodev Investments 4 Pty Ltd	23-Feb-22	629 246 653
18	ACP Venture Investments Pty Ltd	23-Feb-22	631 304 651
19	Monaco Hickey Pty Ltd	23-Feb-22	144 945 611





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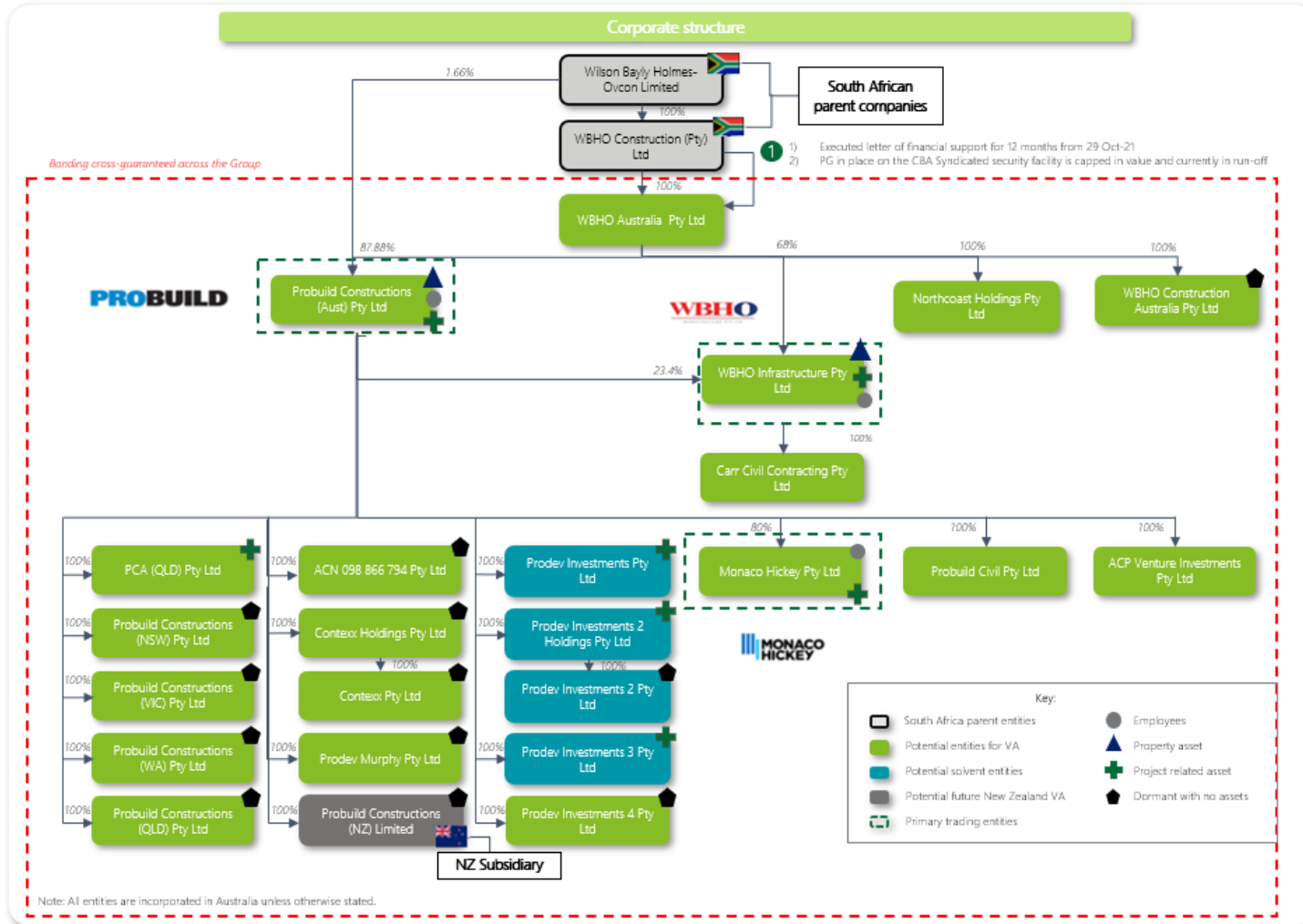
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# Appendix E – Corporate structure



## Appendix F – SRG DOCA



HERBERT  
SMITH  
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Deed

## Deed of company arrangement

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Salvatore Algeri, Jason Tracy, Matthew Donnelly  
and David Orr in their capacity as joint and several  
administrators of the Deed Company

WBHO Infrastructure Pty Ltd (Administrators  
Appointed) ACN 089 434 220

SRG Global Civil Pty Ltd ACN 083 214 439



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### **Schedule 1**

#### **Creditors' Trust Deed**

### **Schedule 2**

#### **Creditor Indemnity**

### **Schedule 3**

#### **Excluded Contracts**

### **Signing page**

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## Deed of Company Arrangement

---

Date ►

Between the parties

---

**Deed Administrators** **Salvatore Algeri, Jason Tracy, Matthew Donnelly and David Orr** each in their capacity as joint and several administrators of the Deed Company, of c/- Deloitte, Level 7-9, Tower 2, Brookfield Place, 123 St Georges Terrace, Perth WA 6000

Email: [saalgeri@deloitte.com.au](mailto:saalgeri@deloitte.com.au), [jtracy@deloitte.com.au](mailto:jtracy@deloitte.com.au), [mddonnelly@deloitte.com.au](mailto:mddonnelly@deloitte.com.au), [dorr@deloitte.com.au](mailto:dorr@deloitte.com.au)

Attention: Salvatore Algeri, Jason Tracy, Matthew Donnelly and David Orr

**Deed Company** **WBHO Infrastructure Pty Ltd (Administrators Appointed) ACN 089 434 220**, of c/- Deloitte, Level 7-9, Tower 2, Brookfield Place, 123 St Georges Terrace, Perth WA 6000

Email: [saalgeri@deloitte.com.au](mailto:saalgeri@deloitte.com.au), [jtracy@deloitte.com.au](mailto:jtracy@deloitte.com.au), [mddonnelly@deloitte.com.au](mailto:mddonnelly@deloitte.com.au), [dorr@deloitte.com.au](mailto:dorr@deloitte.com.au)

Attention: Salvatore Algeri, Jason Tracy, Matthew Donnelly and David Orr

**Deed Proponent** **SRG Global Civil Pty Ltd ACN 083 214 439** of Level 1, 338 Barker Road, Subiaco WA 6008

Email: [david.macgeorge@srgglobal.com.au](mailto:david.macgeorge@srgglobal.com.au), [roger.lee@srgglobal.com.au](mailto:roger.lee@srgglobal.com.au), [corey.maranesi@srgglobal.com.au](mailto:corey.maranesi@srgglobal.com.au), [judson.lorkin@srgglobal.com.au](mailto:judson.lorkin@srgglobal.com.au)

Attention: David Macgeorge, Roger Lee, Corey Maranesi, Judson Lorkin





---

Recitals

- 1 On 23 February 2022, Salvatore Algeri, Jason Tracy, Matthew Donnelly and David Orr were appointed as administrators of the Deed Company pursuant to Part 5.3A of the Corporations Act.
- 2 At a meeting held on **[insert date of Second Meeting of Creditors]** and convened pursuant to section 439A of the Corporations Act (**Second Meeting**), the Creditors of the Deed Company resolved that the Deed Company execute the deed of company arrangement proposed by the Deed Proponent under section 444B(2)(b) of the Corporations Act.
- 3 The Deed Company, the Deed Administrators, and the Deed Proponent have agreed to execute this Deed to give effect to the resolution referred to in recital 2.
- 4 The Deed Administrators have consented to be the administrators of this Deed.
- 5 Subject to the terms of this Deed, this Deed binds all creditors of the Deed Company, in accordance with section 444D of the Corporations Act and also binds the Deed Company, and its Officers and Members in accordance with section 444G of the Corporations Act.

---

This deed witnesses as follows:

---



# 1 Definitions and interpretation

---

## 1.1 Definitions

The meanings of the terms used in this Deed are set out below.

<b>Term</b>	<b>Meaning</b>
<b>45 Hope Valley Road Lease</b>	the lease of the 45 Hope Valley Road Property between the Trustees as lessor and SRG Global (Australia) Pty Ltd ABN 57 006 413 574 (or such other related body corporate of the Deed Company) as lessee in the form annexed to the Sale and Implementation Deed.
<b>45 Hope Valley Road Property</b>	the property with folio identifier Lot 13 on Diagram 14906 and located at 45 Hope Valley Road, Naval Base, Kwinana WA 6185.
<b>Administration Account</b>	the bank account or bank accounts maintained by the Administrators for the Deed Company in accordance with Division 65 of the IPS.
<b>Administration Cash</b>	the unrestricted cash at bank in the Administration Account and any other bank account held by the Company as at Completion.
<b>Administration Debt</b>	any: <ol style="list-style-type: none"><li>1 debt referred to in section 443A(1) of the Corporations Act which was incurred by the Administrators during the Administration Period;</li><li>2 liability to the Commissioner of Taxation referred to in section 443BA(1); and</li><li>3 other debts or liabilities referred to in section 443D(aa) of the Corporations Act,</li></ol> in respect of which the Administrators are entitled to be indemnified under section 443D of the Corporations Act.
<b>Administration Period</b>	the period of time commencing on the Appointment Date and concluding on the Commencement Date.
<b>Administration WIP</b>	the value to the Deed Company of works undertaken, services rendered and goods produced by the Deed Company during the Administration Period or Deed Period where no associated invoice has been issued as at Completion.



<b>Term</b>	<b>Meaning</b>
<b>Administrators</b>	jointly and severally, Salvatore Algeri, Jason Tracy, Matthew Donnelly and David Orr in their capacity as administrators of the Deed Company and any successor to that office appointed pursuant to the Corporations Act.
<b>Appointment Date</b>	23 February 2022.
<b>ASIC</b>	the Australian Securities and Investments Commission.
<b>Asset Sale Agreement</b>	the asset sale agreement entered into or to be entered into between the Administrators, the Deed Company and the Deed Proponent in accordance with the Sale and Implementation Deed.
<b>Business Day</b>	<ol style="list-style-type: none"><li>1 for the purposes of clause 3 – has the meaning given to that term in the Corporations Act; and</li><li>2 otherwise, a day other than a Saturday, Sunday or public holiday and on which banks are open for business generally in Perth.</li></ol>
<b>Carr Civil</b>	Carr Civil Contracting Pty Ltd (Administrators Appointed) ACN 100 438 257, a wholly owned subsidiary of the Deed Company.
<b>Carr Civil Amount</b>	\$20,000
<b>Claim</b>	<p>a debt payable by, and all claims against the Deed Company (present or future, certain or contingent, ascertained or sounding only in damages), being a debt or claim that would be admissible to proof against the Deed Company in accordance with Division 6 of Part 5.6 of the Corporations Act, if the Deed Company had been wound up and the winding up is taken to have commenced on the Appointment Date, and any fine or penalty to which the Deed Company is subject or liable to be subject arising out of circumstances occurring prior to the Appointment Date that would be so admissible but for the operation of section 533B of the Corporations Act.</p> <p>'Claim':</p> <ol style="list-style-type: none"><li>1 includes a Claim of a Secured Creditor; but</li><li>2 does not include an Excluded Claim.</li></ol>
<b>Commencement Date</b>	the date that this Deed is executed by the Deed Administrators and



<b>Term</b>	<b>Meaning</b>
	the Deed Company.
<b>Committee of Inspection</b>	the committee of inspection formed: <ol style="list-style-type: none"><li>1 in accordance with Divisions 75 and 80 of the IPS and Division 75 of the IPR; and</li><li>2 by resolution of creditors dated 4 March 2022.</li></ol>
<b>Completion</b>	completion of the Implementation Steps.
<b>Conditions</b>	each of the conditions in clause 4.1.
<b>Continuing Employee Claims</b>	Claims of a Continuing Employee in respect of an amount referred to in section 556(1)(e), (g) or (h) of the Corporations Act, including any annual or long service leave accrued from the Appointment Date to Completion (but not including Claims in respect of Historical Underpayments).
<b>Continuing Employees</b>	all Employees employed by the Deed Company as at the Commencement Date who remain Employees as at Completion.
<b>Corporations Act</b>	the <i>Corporations Act 2001</i> (Cth).
<b>Costs</b>	includes costs, charges, fees, government charges, taxes and expenses, including those incurred in connection with advisers, incurred in connection with the performance of the Administrators' and Deed Administrators' duties, obligations and responsibilities under the Corporations Act and the Deed during the Administration Period and the Deed Period and includes any Administration Debt.
<b>Courts</b>	the Supreme Court of New South Wales, Supreme Court of Western Australia or the Federal Court of Australia.
<b>Creditor</b>	any person who has a Claim.
<b>Dataroom Asset List</b>	the excel spreadsheet document entitled "Fixed Asset Schedule Updated HP 11 03 2022" provided by email from the Administrators' legal counsel to the Deed Proponent at approximately 7:45pm (Perth time) on 11 March 2022.



<b>Term</b>	<b>Meaning</b>
<b>Deed</b>	this deed of company arrangement as amended from time to time.
<b>Deed Administrators</b>	jointly and severally, Salvatore Algeri, Jason Tracy, Matthew Donnelly and David Orr in their capacity as administrators of the Deed and any successor to that office appointed pursuant to the Corporations Act.
<b>Deed Company</b>	WBHO Infrastructure Pty Ltd (Administrators Appointed) ACN 089 434 220.
<b>Deed Period</b>	means the period commencing on the Commencement Date and ending on the Termination Date.
<b>Deed Proponent</b>	SRG Global Civil Pty Ltd ACN 083 214 439.
<b>Deposit</b>	the 'Deposit' as defined in, and paid in accordance with clause 2.6 of, the Sale and Implementation Deed.
<b>Directors</b>	the directors of the Deed Company from time to time.
<b>Employee</b>	any person who was an employee of the Deed Company as at or prior to the Appointment Date and any person who made an advance of money to the Deed Company for which section 560 of the Corporations Act would apply if the Deed Company was taken to be in liquidation as at the Appointment Date.
<b>Encumbrance</b>	any: <ol style="list-style-type: none"><li>1 security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power, or title retention or flawed deposit arrangement and any 'security interest' as defined in sections 12(1) or (2) of the PPSA; or</li><li>2 right, interest or arrangement which has the effect of giving another person a preference, priority or advantage over creditors including any right of set-off; or</li><li>3 right that a person (other than the owner) has to remove something from land (known as a profit à prendre), easement, public right of way, restrictive or positive covenant, lease, or licence to use or occupy; or</li><li>4 third party right or interest or any right arising as a consequence</li></ol>



<b>Term</b>	<b>Meaning</b>
	of the enforcement of a judgment, or any agreement to create any of them or allow them to exist.
<b>Enforcement Process</b>	has the meaning given to that term in the Corporations Act.
<b>Entitlements and Intangibles Amount</b>	the amount of \$5,000,000 (being the agreed sum reflecting the value of employee entitlements and other intangibles of the Deed Company).
<b>Estimated Equipment Differential Adjustment Amount</b>	has the meaning given to that term under the Sale and Implementation Deed.
<b>Excluded Assets</b>	the assets marked as having the locations "QLD", "VIC" or "Pickles" in column AH of the tab entitled "QLD, VIC, Pickles, Sold" in the Dataroom Asset List and any Missing Items agreed or determined by an Expert pursuant to clause 7.3 of the Sale and Implementation Deed.
<b>Excluded Claim</b>	any: <ol style="list-style-type: none"><li>1 Continuing Employee Claim;</li><li>2 Claim of a Continuing Employee in respect of an amount referred to in section 556(1)(e), (g) or (h) of the Corporations Act, including any annual or long service leave accrued from the Appointment Date to Completion;</li><li>3 Insured Claim;</li><li>4 Claim arising under an Excluded Contract;</li><li>5 other Claim that the Deed Proponent nominates in writing to the Deed Administrators as an Excluded Claim before Completion.</li></ol>
<b>Excluded Contract</b>	means any contract set out in Schedule 3 provided that either: <ol style="list-style-type: none"><li>1 the Creditor has waived or waives, prior to or with effect from Completion, any event of default or breach (including a breach of a change of control provision) by the Deed Company which occurred on or prior to the Commencement Date or which may occur during the Deed Period or on Completion insofar as the Creditor would be entitled to terminate the contract or take possession of or otherwise recover from the Deed Company property leased under that contract; or</li><li>2 the Deed Proponent confirms to the Deed Administrators in writing that the contract is an Excluded Contract notwithstanding that the Creditor has not satisfied the</li></ol>



<b>Term</b>	<b>Meaning</b>
	requirements in paragraph 1.
<b>Excluded Superannuation Debt</b>	a Superannuation Debt (as defined in clause 10.7(b)) in respect of which the Deed Administrators make a determination under clause 10.7(b).
<b>Expert</b>	has the meaning given to that term in the Sale and Implementation Deed.
<b>Expert's Statement</b>	has the meaning given to that term in the Sale and Implementation Deed.
<b>Finance Lease Buyout Letter</b>	in respect of a Finance Lessor, the buyout letter or correspondence provided by the Deed Company under clause 7.1(a)(6) of the Sale and Implementation Deed.
<b>Finance Lessor</b>	each of: <ol style="list-style-type: none"><li>1 Toyota Finance Australia Ltd;</li><li>2 Caterpillar Financial Australia Limited; and</li><li>3 Volvo Finance Australia Pty Limited.</li></ol>
<b>Finance Lessor Buyout Amount</b>	in respect of a Finance Lessor, the amount set out in the Finance Lease Buyout Letter for that Finance Lessor.
<b>Fuel Adjustment Amount</b>	an amount equal to the purchase price of the fuel stored by the Deed Company in fuel storage tanks in Western Australia as at the Implementation Date calculated based on: <ol style="list-style-type: none"><li>1 the value and amount of fuel in those fuel storage tanks on 30 March 2022 (or, if later, the day which is 1 Business Day prior to the Implementation Date) as confirmed in writing by WA Fuel Supplies Pty Ltd to the Deed Company or the Deed Administrators with such written confirmation provided to the Deed Proponent prior to Completion;</li><li>1 plus or minus, as relevant, the amount of fuel the Deed Administrators reasonably estimate will be added or removed from those fuel storage tanks as a result of the normal operation of the business between the time of such measurement and the Implementation Date based on the price per litre paid by the Deed Company to buy fuel from WA Fuel Supplies Pty Ltd most recently on or prior to 30 March 2022.</li></ol>



<b>Term</b>	<b>Meaning</b>
<b>Fund Amount</b>	<p>an amount equal to Initial Market Value, plus the:</p> <ol style="list-style-type: none"><li>1 Fuel Adjustment Amount;</li><li>2 Prepaid Services Adjustment Amount;</li></ol> <p>less the:</p> <ol style="list-style-type: none"><li>3 aggregate of the Finance Lessor Buyout Amounts;</li><li>4 amount of the Deposit;</li><li>5 Equipment Differential Adjustment Amount;</li><li>6 Entitlements and Intangibles Amount,</li></ol> <p>plus/minus, as applicable:</p> <ol style="list-style-type: none"><li>7 the Wages Adjustment Amount; and</li><li>8 any adjustments under clause 10.8(b).</li></ol>
<b>GST</b>	<p>has the meaning given to that term in the GST Act and any value added tax, goods and services tax or other similar tax.</p>
<b>GST Act</b>	<p>the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).</p>
<b>Historical Underpayments</b>	<p>any historical underpayment of superannuation or wages.</p>
<b>Implementation Date</b>	<ol style="list-style-type: none"><li>1 31 March 2022; or</li><li>2 such other date as is agreed in writing by the Deed Administrators and the Deed Proponent.</li></ol>
<b>Implementation Steps</b>	<p>has the meaning given in clause 10.1.</p>
<b>Initial Market Value</b>	<p>the aggregate of the market value of each asset, other than an Excluded Asset, set out in column AG ('Purchaser Value (Excl GST)') of the tab entitled "Equipment" in the Dataroom Asset List, being \$20,212,500.00.</p>
<b>Insured Claim</b>	<p>a Claim which a Creditor has against the Deed Company where:</p> <ol style="list-style-type: none"><li>1 the Deed Company is insured against that Claim under a contract of insurance (not being a contract of reinsurance) entered into before the Appointment Date; and</li><li>2 an amount in respect of that Claim would be payable by the</li></ol>





<b>Term</b>	<b>Meaning</b>
	insurer to the Deed Company under the contract of insurance, but only to the extent of such part of the Claim as would be discharged by the payment from the insurer.
<b>IPR</b>	the <i>Insolvency Practice Rules (Corporations) 2016</i> (Cth).
<b>IPS</b>	the <i>Insolvency Practice Schedule (Corporations)</i> set out at Schedule 2 to the Corporations Act.
<b>Legal Personal Representative</b>	a trustee or executor appointed to the Deed Administrators upon death, incapacity, insanity or any combination of them.
<b>Liabilities</b>	any liability or obligation (whether actual, contingent or prospective), including for any Loss of whatever description irrespective of when the acts, events or things giving rise to the liability or obligation occurred.
<b>Loss</b>	includes any loss, damage, liability, obligation, compensation, fine, penalty, charge, payment, cost or expense (including any legal cost or expense) however it arises and whether it is present or future, fixed or unascertained, actual or contingent but excluding any consequential or indirect loss, economic loss or loss of profits.
<b>Member</b>	has the meaning given to that term in the Corporations Act.
<b>Missing Items</b>	has the meaning given to that term in the Sale and Implementation Deed.
<b>Non-Continuing Leases</b>	<ol style="list-style-type: none"><li>1 the lease of the premises located at 14 Beaver Street, Geraldton WA 6530 dated 24 January 2022 between GCo Australia Pty Ltd, as lessor, and the Deed Company, as lessee (as amended, extended or varied from time to time); and</li><li>2 the West Perth Lease.</li></ol> but, for the avoidance of doubt, does not include the lease of the premises located at 43 Deakin Street, Collie WA 6225 dated 11 September 2020 between Barry Creighton, as lessor, and the Deed Company, as lessee (as amended, extended or varied from time to time).
<b>Non-Participating</b>	<ol style="list-style-type: none"><li>1 any Claim against the Deed Company in respect of which a</li></ol>



<b>Term</b>	<b>Meaning</b>
<b>Claim</b>	Creditor has agreed with the Administrators or Deed Administrators not to participate as a Creditor in respect of the Deed Company; or 2 an Excluded Superannuation Debt.
<b>Northcoast Holdings</b>	Northcoast Holdings Pty Ltd (Administrators Appointed) ACN 009 296 780, a wholly owned subsidiary of Carr Civil on the Appointment Date.
<b>Northcoast Holdings Shares</b>	all of the shares in the capital of Northcoast Holdings.
<b>Officer</b>	has the meaning given to that term in the Corporations Act.
<b>Owner</b>	any person who is the legal or beneficial owner (including a lessor) of property in the possession of the Deed Company as at the Appointment Date.
<b>PPSA</b>	the <i>Personal Property Securities Act 2009</i> (Cth).
<b>PPSR</b>	the register established pursuant to Part 5.2 of the PPSA.
<b>Prepaid Services Adjustment Amount</b>	means any amounts paid, or based on purchase orders, will be paid, by the Administrators or Deed Administrators prior to Completion which relates to services rendered or goods delivered after Completion as notified by the Administrators or Deed Administrators (acting reasonably) to the Deed Proponent on 28 March 2022 (or if later, at least 2 Business Days prior to the Implementation Date).
<b>Priority Claim</b>	in respect of the Deed Company, a Claim of an Employee that would have been entitled to priority over the Claims of other unsecured creditors under section 556(1) of the Corporations Act if the Deed Company had been wound up and the winding up was taken to have commenced on the Appointment Date.
<b>Receivables</b>	all debts and claims owing to the Deed Company by trade debtors and invoiced prior to Completion (including any amount on account of GST).



<b>Term</b>	<b>Meaning</b>
<b>Regulations</b>	the <i>Corporations Regulations</i> 2001 (Cth).
<b>Related Body Corporate</b>	has the meaning given to that term in the Corporations Act.
<b>Relevant Security Interest</b>	any Security Interest recorded on the PPSR against the Deed Company pursuant to a financing statement which describes the relevant collateral as “all present and after-acquired security” or “all present and after-acquired security with exceptions”.
<b>Remuneration</b>	the remuneration payable to the Administrators and Deed Administrators for acting as: <ol style="list-style-type: none"><li>1 the administrators of the Deed Company under Part 5.3A of the Corporations Act; and</li><li>2 the Deed Administrators of the Deed Company under this Deed.</li></ol>
<b>Sale and Implementation Deed</b>	the Sale and Implementation Deed dated [insert] between the Administrators, the Deed Company and the Deed Proponent.
<b>Second Meeting</b>	has the meaning given in the Recitals.
<b>Section 439C Resolution</b>	the resolution referred to in recital 2.
<b>Section 444GA Consents</b>	the prior written consent from each of the WBHOI Shareholders pursuant to section 444GA(1)(a) of the Corporations Act in respect of the transfer of the Shares to the Deed Proponent in accordance with clause 10.3 of this Deed.
<b>Secured Creditor</b>	any Creditor with the benefit of a Security Interest at the Commencement Date over all or any property of the Deed Company securing all or any part of the Creditor’s Claim.
<b>Security Interest</b>	any mortgage, chattel mortgage, pledge, charge, agreement, encumbrance, lien, letter of credit, deposit, cash reserve, right of set-off (arising otherwise than by operation of law or as a result of a banker’s right to combine accounts) and assignment (including over insurance policies) and any other type of security which provides for and secures the payment of any debt or monetary liability or the performance of any obligation as at the Appointment Date and any



<b>Term</b>	<b>Meaning</b>
	'security interest' as defined in sections 12(1) or (2) of the PPSA, in respect of the Deed Company and includes any proceeds from dealing with any security.
<b>Shares</b>	all of the shares in the capital of the Deed Company.
<b>Termination Date</b>	the date upon which the Deed is terminated.
<b>Trust</b>	the WBHOI Creditors' Trust to be established under the Trust Deed.
<b>Trust Creditors</b>	a Creditor who has a Claim except to the extent that that Claim is a Non-Participating Claim.
<b>Trust Creditors' Available Assets</b>	the assets described in clause 10.5 of this Deed.
<b>Trust Creditors' Available Contracts</b>	means the contracts related to the following projects of the Deed Company: <ol style="list-style-type: none"><li>1 Bruce Highway (Prosperine to Bowen)</li><li>2 Bruce Highway (Bowen to Ayr)</li><li>3 Dam Construction Work - Telfer Mine</li><li>4 Great Northern Highway Upgrade – Ord River North Section</li><li>5 Great Northern Highway Upgrade – Maggie Creek to Wyndham Project</li><li>6 Great Northern Highway Upgrade – Construction of Muchea North</li><li>7 Great Eastern Highway (Southern Cross to Kalgoorlie) Project</li><li>8 Rio Tinto Western Turner Syncline Phase 2 Project</li><li>9 Mitchell Freeway Southbound Upgrade – Hodges Drive to Hepburn Avenue (eg. H2H)</li><li>10 OSAR - Western Roads Upgrade</li><li>11 FMG Bigge Tunnel; and</li><li>12 Stockyard Windfarm</li></ol>
<b>Trust Deed</b>	the trust deed to be entered into between the Deed Company, the Deed Administrators and the Trustees substantially in the form of



<b>Term</b>	<b>Meaning</b>
	that contained in Schedule 1, which creates the Trust.
<b>Trust Fund</b>	has the meaning given to that term in the Trust Deed.
<b>Trustees</b>	the trustees of the Trust established under the Trust Deed, being Salvatore Algeri, Jason Tracy, Matthew Donnelly and David Orr in their capacity as joint and several deed administrators of the Deed Company.
<b>Wages Adjustment Amount</b>	<p>all wages (other than leave entitlements) paid by the Company to the Continuing Employees prior to, or as at, 5:00pm on the Implementation Date, in respect of work that has not been undertaken as at that time; less</p> <p>all wages (other than leave entitlements) in respect of work undertaken by the Continuing Employees prior to Completion but not paid by the Company to the Continuing Employees as at 5:00pm on the Implementation Date,</p> <p>as reasonably estimated by the Administrators and notified to the Deed Proponent on or around 25 March 2022 (but in any event, at least 1 Business Day before Completion).</p>
<b>WBHO Australia</b>	WBHO Australia Pty Ltd ACN 095 983 681.
<b>WBHO Claim</b>	has the meaning given to that term in clause 10.5(i) of this Deed.
<b>WBHOI Litigation Claims</b>	any action, claim, suit, cause of action, arbitration, debt, cost, demand, verdict and judgment at law or in equity or under any statute (whether certain or contingent, present or future, ascertained or sounding only in damages) which the Deed Company may have against any person other than respect of an Excluded Contract and which arises or is in respect of circumstances existing on or prior to the Implementation Date
<b>WBHOI Shareholders</b>	the holders of the Shares as at the Implementation Date.
<b>WBHOI Subsidiaries</b>	Carr Civil and Northcoast Holdings Pty Ltd.
<b>West Perth Lease</b>	the lease of the premises located at 30 Delhi Street, West Perth WA 6005 dated 1 October 2021 between Rudi Nominees Pty Ltd, as lessor, and the Deed Company, as lessee (as amended,



**Term**

**Meaning**

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extended or varied from time to time).

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## 1.2 Interpretation

In the Deed, unless the subject or context otherwise requires:

- (a) headings and bold type are for convenience only and do not affect the interpretation of this Deed;
- (b) the singular includes the plural and the plural includes the singular;
- (c) words of any gender include all genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this Deed have a corresponding meaning;
- (e) a reference to a person includes any company, partnership, joint venture, association, corporation or other body corporate and any government agency as well as an individual;
- (f) a reference to a clause, party, part, schedule, attachment or exhibit is a reference to a clause or part of, and a party, schedule, attachment or exhibit to, this Deed;
- (g) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them;
- (h) a reference to a document (including this Deed) includes all amendments or supplements to, or replacements or novations of, that document;
- (i) a reference to '\$', 'A\$' or 'dollar' is to Australian currency unless denominated otherwise;
- (j) a reference to any time is, unless otherwise indicated, a reference to that time in Perth;
- (k) a term defined in or for the purposes of the Corporations Act has the same meaning when used in this Deed;
- (l) a reference to a party to a document includes that party's successors and permitted assignees;
- (m) no provision of this Deed will be construed adversely to a party because that party was responsible for the preparation of this Deed or that provision;
- (n) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (o) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally; and
- (p) a reference to a body, other than a party to this Deed (including an institute, association or authority), whether statutory or not:



- (1) which ceases to exist; or
  - (2) whose powers or functions are transferred to another body,
- is a reference to the body which replaces it or which substantially succeeds to its powers or functions.

### **1.3 Inconsistency with Act or Regulations**

If there is any inconsistency between the provisions of this Deed and the Corporations Act or Regulations, this Deed prevails to the extent permitted by law.

### **1.4 Other inconsistencies**

If there is any inconsistency between the provisions of this Deed and the constitution of the Deed Company and any other obligation binding on the Deed Company, the provisions of this Deed prevail to the extent of the inconsistency, and all persons bound by this Deed agree to sign all documents and do all things necessary to remove such inconsistency, the costs of which will be borne by the Deed Company.

### **1.5 Business Days**

Except where otherwise expressly provided, if the day on or by which any act, matter or thing is to be done as required by this Deed is a day other than a Business Day, that act, matter or thing will be done on the immediately succeeding Business Day.

### **1.6 Bar to Claims**

Subject to section 444D of the Corporations Act, this Deed may be pleaded and tendered by:

- (a) the Deed Company or the Deed Administrators against any person having or asserting a Claim released, discharged and extinguished by clause 6.4; and
- (b) the recipient of any release or covenant contained in this Deed

as an absolute bar and defence to any legal proceeding brought or made at any time in respect of a claim, release or covenant as the case may be.

### **1.7 Exclusion of Prescribed Provisions**

Subject to clause 12.1, the prescribed provisions contained in Schedule 8A of the Regulations do not apply to this Deed.

### **1.8 Required Provisions**

To the extent that the Corporations Act requires any provision to be included in this Deed which is not expressly included in this Deed, such provision will be deemed to be included in this Deed.

### **1.9 Deed components**

This Deed includes any Schedule.



## 2 Operation

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### 2.1 Commencement Date

Subject to clause 3(a), this Deed will commence and take effect on the Commencement Date.

### 2.2 Interim Effect

To the extent that a person would be bound by this Deed if it had already been executed, the person must not, at any time after the Section 439C Resolution is passed but before this Deed is executed, do anything inconsistent with the terms of this Deed, except with the leave of the Court.

### 2.3 Termination

This Deed continues until it is terminated in accordance with clause 18 of this Deed.

## 3 Execution by all parties

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- (a) This Deed is subject to and conditional upon:
- (1) the Section 439C Resolution being passed in respect of the Deed Company; and
  - (2) the execution of this Deed by each person named as a party to it.
- (b) If as a result of clause 3(a), this Deed has not come into full force and effect on or prior to the expiration of 15 Business Days (or such further period as the Court allows) after the Section 439C Resolution is passed, then this Deed will terminate automatically.

## 4 Conditions

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### 4.1 Conditions

The operation of clause 10 is conditional upon each of the following events taking place:

- (a) **(execution of Trust Deed)** the Deed Administrators, the Trustees and the Deed Companies have executed the Trust Deed;
- (b) **(procure consents)** the Deed Administrators have procured the Section 444GA Consents;
- (c) **(asset leases)** the Deed Administrators have provided the Finance Lease Buyout Letter for each Finance Lessor to the Deed Proponent pursuant to clause 7.1(a)(7) of the Sale and Implementation Deed in a form acceptable to the Deed Proponent (acting reasonably);
- (d) **(Encumbrances):**
  - (1) **(Westpac Banking Corporation)** all Relevant Security Interests in favour of Westpac Banking Corporation have been discharged prior to





the Implementation Date, and that such discharges are reflected on the PPSR;

- (2) **(Mine Civil Resource Group Pty Ltd)** either:
  - (A) all Relevant Security Interests in favour of Mine Civil Resource Group Pty Ltd (Liquidators Appointed) have been discharged prior to the Implementation Date, and that such discharges are reflected on the PPSR; or
  - (B) by no earlier than 5 Business Days prior to the Implementation Date, the Deed Administrators confirm to the Deed Proponent that Mine Civil Resource Group Pty Ltd (Liquidators Appointed) has not asserted any claim or debt against the Deed Company which may be secured by the Relevant Security Interests in favour of Mine Civil Resource Group Pty Ltd; and
- (3) **(WA Fuel Supplies Pty Ltd)** the Deed Administrators have procured that by no later than 5 Business Days prior to the Implementation Date, the Company pays all amounts owing to WA Fuel Supplies Pty Ltd, such that all Relevant Security Interests granted by the Deed Company in favour of WA Fuel Supplies Pty Ltd are discharged;
- (e) **(Non-Continuing Leases)** prior to the Implementation Date, issue a notice under each Non-Continuing Lease (other than the West Perth Lease) and the West Perth Lease if required to under clause 7.1(a)(9) of the Sale and Implementation Deed:
  - (1) stating that the Deed Company does not propose to exercise rights in respect of the relevant Non-Continuing Lease pursuant to section 443B(3) of the Corporations Act; and
  - (2) stating that the Deed Company exercises any right it has under the relevant lease or at law to terminate or surrender the relevant lease.
- (f) **(Sale and Implementation Deed)** the Sale and Implementation Deed has not been terminated.

## 4.2 Obligation to satisfy Conditions

The parties must promptly take all reasonable steps within their control to ensure that the Conditions are satisfied.

## 4.3 Waiver of Conditions

- (a) The Conditions in clause 4.1(a), (b) and (f) are for the benefit of the Deed Proponent and the Deed Administrators and may only be waived by written agreement between them.
- (b) The Conditions in clauses 4.1(c), (d) and (e) are for the benefit of the Deed Proponent and may only be waived by the Deed Proponent in writing.

## 4.4 Consequence of non-satisfaction of the Conditions

- (a) If:
  - (1) each of the Conditions is not satisfied or waived by the Implementation Date (or such later date as may be agreed in writing by the Deed Administrators and the Deed Proponent); or



- (2) the Deed Administrators and the Deed Proponent are of the opinion that one or more of the Conditions is incapable of being satisfied,  
then:
  - (3) the parties must complete the acquisition of the assets of the Deed Company under the Asset Sale Agreement in accordance with its terms; and
  - (4) this Deed will continue in operation until completion of the Asset Sale Agreement.
- (b) Following completion of the Asset Sale Agreement, the Deed Administrators will convene a meeting to consider the future of the Deed Company pursuant to clause 16.

## 5 The Officers and Members

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### 5.1 Effect of the Deed on Officers of the Deed Company

- (a) The Directors of the Deed Company will remain in office throughout the Deed Period unless they resign or are removed by the Deed Administrators.
- (b) During the Deed Period, unless authorised in writing by the Deed Administrators, the Directors and Officers of the Deed Company cannot perform or exercise, and must not purport to perform or exercise, a function or power as an Officer of the Deed Company.
- (c) For the avoidance of doubt, the Directors of the Deed Company will not pass a resolution to place the entity into voluntary administration or take any step to wind up that entity except with the written approval of the Deed Administrators.
- (d) While they remain Directors, the Directors will not be relieved of their statutory duties as Directors and for the avoidance of doubt, the Deed Administrators will not be responsible for such statutory obligations during the Deed Period.
- (e) During the Deed Period, the Directors must:
  - (1) co-operate with and assist the Deed Administrators in the performance by the Deed Administrators of their obligations under this Deed;
  - (2) carry out and perform such operations, functions, powers and other matters as may be delegated to them by the Deed Administrators; and
  - (3) perform their obligations pursuant to the Deed.

### 5.2 Effect of this Deed on Members

Other than as provided in clause 10.3, until this Deed terminates any Member of the Deed Company must not without the prior written consent of the Deed Administrators deal with any shares in the Deed Company or exercise shareholder rights over any shares in the Deed Company in a way that is contrary to this Deed or the purpose of the Deed.



## 6 Moratorium and Release

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### 6.1 Binding Effect

The Deed binds:

- (a) in accordance with section 444D of the Corporations Act, all Creditors; and
- (b) in accordance with section 444G of the Corporations Act, the Deed Company, its Officers and Members and the Deed Administrators.

### 6.2 No Limitation

Nothing in the Deed limits the rights in law or equity of the Deed Administrators:

- (a) to make an application under section 444F of the Corporations Act; or
- (b) to apply for orders or directions pursuant to the Corporations Act (including, without limitation, section 447A(1) of the Corporations Act or section 90-15 of the IPS), or otherwise.

### 6.3 Moratorium

Subject to clauses 7 and 9 and subject to clause 8 in relation to Insured Claims, during or after the Deed Period, a Creditor may not, in relation to that Creditor's Claim:

- (a) make or proceed with an application for an order to wind up the Deed Company or for the appointment of a provisional liquidator or a court appointed receiver to the Deed Company or any of its property;
- (b) institute, revive or continue any action, suit, arbitration, mediation or proceeding against the Deed Company or in relation to the property of the Deed Company;
- (c) institute, revive or continue with any Enforcement Process against the property of the Deed Company;
- (d) take any action whatsoever to seek to recover any part of its Claim;
- (e) exercise any right of set-off or defence, cross claim or cross action to which that Creditor would not have been entitled had the Deed Company been wound up on the Appointment Date;
- (f) commence or take any further step in any arbitration against the Deed Company or to which the Deed Company is a party in relation to any matter arising or occurring before the Appointment Date;
- (g) subject to clause 7, in the case of a Secured Creditor, enforce, realise or otherwise deal with its Security Interest or take possession, sell or otherwise recover property subject to its Security Interest;
- (h) otherwise enforce any right it may have or acquire,

except to the extent of that Creditor's entitlement, if any, to participate in the Trust Fund in accordance with the terms of the Trust Deed.

### 6.4 Release upon Completion

Subject to clauses 6.6 and 8, each Creditor agrees that on Completion, its Claims are extinguished and released.



## 6.5 Execution of all necessary documents

- (a) Each Creditor must, if required by the Deed Company or the Deed Administrators, execute any document that the Deed Company or a Deed Administrator may require from time to time to give effect to the releases in clause 6.4.
- (b) The Deed Administrators must take all steps reasonably required by the Deed Proponent to obtain such releases from any Creditors nominated by the Deed Proponent.

## 6.6 Conversion of Claims

- (a) Subject to clause 6.6(b), the Deed Administrators and the Creditors agree that, upon all Claims being released pursuant to clause 6.4, each Trust Creditor who had a Claim, will be entitled to make a claim against the Trust Fund, in accordance with the Trust Deed, which is equal in amount to their released Claim.
- (b) A Creditor is not entitled to make a claim against, participate in or receive any distribution from, the Trust Fund in respect of a Non-Participating Claim.

## 6.7 WBHOI Subsidiaries

Each Creditor acknowledges and agrees that the Trustees may draw an amount up to \$20,000 for the costs and expenses in connection with the voluntary administration and/or liquidation of Northcoast Holdings (notwithstanding that Carr Civil transferred the Northcoast Holdings Shares to WBHO Australia or a subsidiary of WBHO Australia prior to the date of this Deed).

## 7 Secured Creditors

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- (a) Nothing in this deed will restrict the right of a Secured Creditor to realise or otherwise deal with its security to the extent permitted by section 444D(2) of the Corporations Act.
- (b) Subject to clause 7(c), each Secured Creditor who votes in favour of the Section 439C Resolution will be subject to the restrictions in clause 6.3.
- (c) The restrictions in clause 6.3 will cease to apply to a Secured Creditor who votes in favour of the Section 439C Resolution on the termination of this Deed for any reason prior to Completion.

## 8 Insured Claims

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### 8.1 Rights of Creditors who have Claims covered by insurance

If insurance is held by or on behalf of the Deed Company in respect of an Insured Claim:

- (a) the Creditor may, in relation to its Insured Claim and notwithstanding that Completion has occurred, take action to recover the amount due in respect of the Claim against the Deed Company, but such action must not exceed what is necessary to obtain payment from the insurer;



- (b) to the extent that the Creditor is able, by settlement, arbitral award or judgment, to obtain payment from the insurer on account of the Claim, the Creditor may retain that amount in full satisfaction of its right to receive a distribution from the Trust Fund in respect of that Claim;
- (c) the Deed Company is not required to provide assistance to a Creditor in relation to a Claim under this clause or take any action in response to enforcement action taken by a Creditor in accordance with this clause; and
- (d) where a Creditor intends to take enforcement action in relation to a Claim under this clause:
  - (1) if requested by the Deed Company, the Creditor must, prior to taking any enforcement action in relation to the Claim, provide the Deed Company with an indemnity in the form of Schedule 2 (**Creditor Indemnity**);
  - (2) if requested by the Deed Company, provide the Deed Company with evidence, to the reasonable satisfaction of the Deed Company, that the Creditor will be (and will continue to be) in a financial position, or have access to sufficient funds, to enable it to satisfy the Creditor Indemnity; and
  - (3) the Deed Company may plead this Deed as a bar to any enforcement action taken by a Creditor in relation to the Claim in circumstances where the Creditor has not, prior to commencing that enforcement action, given the Creditor Indemnity referred to in clause 8.1(d)(1) to the Deed Company.

## 8.2 Release of Insured Claims where payment not obtained from insurer

To the extent that the Creditor is unable to seek or obtain payment on account of its Insured Claim from the insurer (including, without limitation, by reason of any excess or deductible applicable to the insurance policy, or failure by the Deed Company to take action) this Deed operates as a complete release and bar to that part of the Creditor's Claim which has not been met by the insurer.

## 9 Owners of property in the possession of the Deed Company

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Nothing in this deed will restrict a right that an Owner has in relation to the property of that Owner under section 444D(3) of the Corporations Act.

## 10 Implementation

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### 10.1 Implementation Steps

On the Implementation Date, the parties must take the steps specified in clauses 10.2, 10.3, 10.4 and 10.6, or such other steps as are reasonably required by the Deed Proponent and agreed by the Deed Administrators (**Implementation Steps**).



## 10.2 Transfer of 45 Hope Valley Road Property

By this deed, the Deed Company is taken to have transferred the freehold title in 45 Hope Valley Road Property to the Trust Fund immediately prior to the transfer of the Shares to the Deed Proponent.

## 10.3 Share transfer

The Deed Administrators will, pursuant to the Section 444GA Consents, transfer the Shares to the Deed Proponent, free from any Encumbrances or Security Interest, by:

- (a) delivering to the Deed Proponent, or procuring the delivery to the Deed Proponent of, duly completed share transfers, executed on behalf of each of the WBHOI Shareholders, for registration (**Share Transfers**);
- (b) the Deed Proponent duly executing the Share Transfers, attending to the stamping of the Share Transfers (if required) and delivering them to the Deed Administrators for registration; and
- (c) immediately following receipt of the executed Share Transfers from the Deed Proponent, entering, or procuring the entry of, the name of the Deed Proponent in the share register for the Deed Company in respect of all the Shares transferred to the Deed Proponent in accordance with this Deed.

## 10.4 Payment under the DOCA

The Deed Proponent must pay:

- (a) the Fund Amount to the Administration Account or as otherwise directed by the Deed Administrators in writing to be administered under the Trust as the Trust Fund, including distribution of the Fund Amount to Creditors in the order specified by clause 7.2 of the Trust Deed;
- (b) the Finance Lessor Buyout Amount to the Finance Lessors in accordance with the Finance Lessor Buyout Letters; and
- (c) the Carr Civil Amount to the Deed Administrators, in their capacity as administrators of Carr Civil, for the payment or reimbursement of fees, costs and expenses in connection with the voluntary administration of Carr Civil.

## 10.5 Trust Creditors' Available Assets

The only property of the Deed Company that is available to pay the Trust Creditors' Claims is the assets of the Trust Fund comprising the following assets and their proceeds:

- (a) Fund Amount;
- (b) Administration Cash;
- (c) Excluded Assets;
- (d) rights under the Trust Creditors' Available Contracts;
- (e) Receivables;
- (f) Administration WIP;
- (g) WBHOI Litigation Claims; and
- (h) the 45 Hope Valley Road Property; and



- (i) any debt payable by and all claims (present or future, certain or contingent, ascertained or sounding only in damages) against WBHO Australia Pty Ltd or any of its subsidiaries (**WBHO Claim**).

## 10.6 Transfer of the other Trust Creditors' Available Assets

- (a) The Deed Proponent must take all reasonably necessary steps and provide all necessary consents to transfer the Administration Account and the Excluded Assets into the name of the Trustees; and
- (b) by this Deed and to the extent permitted by law, the Deed Company will be taken to have assigned the Excluded Assets, rights under the Trust Creditors' Available Contracts, Receivables, Administration WIP, WBHOI Litigation Claims and any WBHO Claim to the Trustees to be held on trust for the Trust Creditors pursuant to clause 5.1 of the Trust Deed; and
- (c) the Deed Company acknowledges that it will use reasonable endeavours to invoice the Administration WIP that is able to be invoiced and direct that the relevant payor make payment directly to the Trustees pursuant to clause 4.2 of the Trust Deed.

Notwithstanding Completion and the termination of this Deed, the Deed Administrators (in their capacity as Trustees) may retain control of the Administration Cash in the Administration Account for the benefit of the Trust Creditors.

## 10.7 Consistency with the Corporations Act

- (a) Notwithstanding any other provision of this Deed, for the purposes of section 444DA of the Corporations Act, any Priority Claims of an Employee will retain a priority until Completion in respect of the assets of the Deed Company under the Deed Administrators' control, and thereafter, in respect of the assets of the Trust Fund at least equal to that they would have been entitled to if the property of the Deed Company had been applied in accordance with sections 556, 560 and 561 of the Corporations Act.
- (b) For the purposes of section 444DB of the Corporations Act, the Deed Administrators (including in their capacity as Trustees) must determine that a debt (or part thereof) by way of superannuation contribution (**Superannuation Debt**) is not admissible to proof as a Claim or a Claim against the Trust Fund if:
  - (1) that debt (or that part of the debt) by way of superannuation guarantee charge:
    - (A) has been paid; or
    - (B) is, or is to be admissible against the Deed Company; and
  - (2) the Deed Administrators are satisfied that the superannuation guarantee charge is attributable to the Superannuation Debt.
- (c) If the Deed Administrators make a determination in accordance with clause 10.7(b), the Superannuation Debt is to be treated as extinguished as against the Deed Company.

## 10.8 Inspection of Plant and Equipment

- (a) If following completion of the inspection and reconciliation process under clauses 7.3(a) – 7.3(e) (inclusive) of the Sale and Implementation Deed the parties cannot agree on the list of Missing Items (if any) by Completion, then the



Deed Proponent may withhold from the Fund Amount the Estimated Equipment Differential Adjustment Amount.

- (b) If following the conclusion of an Expert process carried out in accordance with clause 7.3(f)-(m) (inclusive) of the Sale and Implementation Deed, the value of the Missing Items set out in the Expert's Statement together with the value of those Missing Items that were not in dispute is:
- (1) equal to the Estimated Equipment Differential Adjustment Amount then the Fund Amount will be adjusted so that it is reduced by the Estimated Equipment Differential Adjustment Amount; or
  - (2) less than the Estimated Equipment Differential Adjustment Amount then the Fund Amount will be adjusted so that it is reduced by the value of the Missing Items set out in the Expert's Statement and the Deed Proponent must pay the Trustees the difference in immediately available funds within 5 Business Days.

## 11 Deed Administrators' Appointment

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### 11.1 Appointment

On the Commencement Date, the Deed Administrators are appointed joint and several administrators of the Deed.

### 11.2 Acceptance of Appointment

The Deed Administrators:

- (a) accept the appointment as administrators of the Deed; and
- (b) agree to act as administrators of the Deed during the Deed Period or until the Deed Administrators retire or are removed from office in accordance with the Deed or the Corporations Act.

### 11.3 Deed Administrators are agents

In exercising the powers conferred by the Deed and carrying out the duties arising under the Deed, the Deed Administrators will act as agent for and on behalf of the Deed Company.

### 11.4 Management

The Deed Administrators will retain day to day management and control of the Deed Company until the Termination Date to the exclusion of the Directors of the Deed Company.

### 11.5 Joint and several

The rights, powers and privileges of the Deed Administrators may be exercised by them jointly and severally.





## 11.6 Deed Administrators' resignation

Any Deed Administrator may resign at any time by giving not less than 28 days' prior written notice to the Deed Company unless that resignation would result in there being no remaining Deed Administrator in which event the Deed Administrator must:

- (a) convene a meeting of Creditors the Deed Company in accordance with clause 16 for the purpose of nominating a replacement deed administrator;
- (b) assign to a replacement deed administrator nominated by the Creditors the Deed Administrators' rights, title and benefit under this Deed; and
- (c) do all things reasonably necessary to effect the assignment referred to in clause 11.6(b).

## 12 Powers of the Deed Administrators

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### 12.1 General Powers

For the purposes of administering this Deed, the Deed Administrators have the following powers:

- (a) all the powers set out in paragraph 2 of Schedule 8A of the Regulations, provided that the Deed Administrators must not, without the prior written consent of the Deed Proponent:
  - (1) bring an application for the winding up of the Deed Company;
  - (2) exercise any of the powers set out in items (c), (n), (za), (zb), (zc) or (ze) of paragraph 2 of Schedule 8A of the Regulations; or
  - (3) except in the ordinary course of business of the Deed Company, exercise any of the powers set out in items (h) or (s) of paragraph 2 of Schedule 8A of the Regulations;
- (b) to remove from office a Director;
- (c) to appoint a person as a director of the Deed Company, whether to fill a casual vacancy or not;
- (d) to perform any function and exercise any power that the Deed Company or any of its Officers could perform or exercise if the Deed Company were not subject to this Deed;
- (e) in accordance with the Section 444GA Consents, transfer shares in the Deed Company; and
- (f) to do anything that is incidental to exercising a power set out in this clause 12.1.

### 12.2 Calling for proofs of debt

The Deed Administrators may exercise any of the powers conferred on the Trustees under the Trust Deed for the purpose of commencing the process for the adjudication of Claims under the Trust Deed, which exercise will be treated for all purposes under the Trust Deed as if those powers had been exercised by the Trustees after the commencement of the Trust.



### 12.3 Solicitors, Advisers and Consultants

- (a) The Deed Administrators may engage the services of their partners, employees, directors, officers, contractors, advisers, delegates, solicitors and consultants to assist them in the performance or exercise of their duties, obligations, responsibilities and powers under this Deed and the Deed Company will pay all costs of any solicitors and consultants engaged by the Deed Administrators out of the Administration Account or Trust Fund.
- (b) The Deed Administrators may delegate their powers under this clause 12 including by way of appointing agents and authorises such agents to act on behalf of the Deed Administrators or the Deed Company.

### 12.4 No Personal Liability

During the Deed Period, the Deed Administrators are acting as the agent of the Deed Company and, subject to the Corporations Act and to the extent permitted by law, are not personally liable for any acts, matters or omissions relating to things done or not done in that capacity, including (without limitation):

- (a) any debt payable or liability relating to any amounts payable by the Deed Administrators for services rendered, goods bought or property hired, leased, used or occupied by or on behalf of the Deed Company;
- (b) any debt, liability or other obligation which the Deed Administrators themselves or any of their partners, employees, directors, officers, contractors, advisers, authorised agents or delegates may incur on behalf of the Deed Company; or
- (c) any loss or damage caused by any act, default or omission by or on behalf of the Deed Administrators or any of their partners, employees, directors, officers, contractors, advisers, authorised agents or delegates except where such loss, damage, claim, liability or expense is caused by fraud, wilful default or is contrary to the terms of the Deed.

## 13 Reporting

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Except as required by law, the Deed Administrators are not required to report to Creditors. However, the Deed Administrators may, in their absolute discretion, report to Creditors during the Deed Period at such times as the Deed Administrators consider appropriate and on matters which the Deed Administrators consider ought to be brought to the attention of the Creditors.

## 14 Committee of Inspection

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- (a) The Committee of Inspection, which was formed for the purposes of the administration of the Deed Company will continue to operate for the purposes contemplated by this Deed and to assist the Deed Administrators in respect of the Deed Company, with such modifications as necessary.
- (b) The members of the Committee of Inspection are permitted to continue dealing with the Deed Company on a business as usual basis during the Deed Period.



- (c) The Committee of Inspection may approve the remuneration of the Deed Administrators (and the Administrators) in accordance with Division 60 of the IPS.

## 15 Administrators' and Deed Administrators' remuneration and indemnity

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### 15.1 Remuneration

- (a) The Administrators and the Deed Administrators are entitled to:
- (1) payment of Costs; and
  - (2) receive in accordance with Division 60 of the IPS their Remuneration on the basis of the time spent by the Administrators and Deed Administrators (as the case may be) themselves or any of their partners, employees, directors, officers, contractors, advisers, authorised agents or delegates in the performance of services in connection with or in relation to the administration of the Deed Company under Part 5.3A of the Corporations Act and this Deed and such time will be charged at the Administrators' and Deed Administrators' standard rates, from time to time, for work of that nature by the firm of which the Administrators and Deed Administrators are partners or employees.
- (b) The Administrators and Deed Administrators acknowledge that their Remuneration and Costs will only be paid or reimbursed by the Deed Company to the extent of the Administration Cash held by the Deed Administrators or otherwise from the Trust Fund. The Administrators and the Deed Administrators (whether or not they are still acting in either capacity) can request the Trustees to draw such amounts from the Trust Fund from time to time

### 15.2 Indemnity

The Deed Administrators and Administrators (whether or not they are still acting in either capacity) are entitled to be indemnified by the Deed Company until Completion, and after Completion from the Trust Fund in respect of:

- (a) all debts, liabilities, actions, suits, proceedings, accounts, claims, damages, awards and judgments whatsoever arising out of or in any way connected to the administration of the Deed Company or their role as Administrators and incurred or sustained in good faith and without negligence;
- (b) any amount which the Administrators are, or but for the transactions contemplated by this Deed would be, entitled to be indemnified out of the assets of the Deed Company for, in accordance with the Corporations Act, at law or in equity, including any amounts payable pursuant to section 443A, section 443B or section 443BA of the Corporations Act;
- (c) any debts, liabilities, damages, losses and remuneration to which the statutory indemnity under section 443D of the Corporations Act applies;
- (d) any amount for which the Administrators and Deed Administrators are entitled to exercise a lien at law or in equity on the property of the Deed Company;
- (e) the Administrators' and Deed Administrators' Remuneration and Costs; and



- (f) all debts, liabilities, actions, suits, proceedings, accounts, claims, damages, awards and judgments arising out of or in the course of the Deed and incurred or sustained in good faith and without negligence.

### **15.3 Continuing Indemnity**

The indemnity in the Deed is a continuing indemnity and will endure for the benefit of the Legal Personal Representatives despite the removal of the Deed Administrators and the appointment of new Deed Administrators or the termination of the Deed for any reason whatsoever.

### **15.4 Indemnity not to be affected or prejudiced**

The indemnity under clauses 15.2 and 15.3 will not:

- (a) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the Administrators or Deed Administrators and extends to cover any actions, suits, proceedings, accounts, liabilities, claims and demands arising in any way out of any defect in the appointment of the Administrators or Deed Administrators or defect in the approval or execution of the Deed or otherwise; or
- (b) affect or prejudice all or any rights that the Administrators or Deed Administrators may have against the Deed Company or any other person to be indemnified against the Costs, and liabilities incurred by the Administrators or Deed Administrators in the performance of, or incidental to, any of the powers or authorities conferred on the Administrators or Deed Administrators by this Deed or otherwise.

### **15.5 Administrators' and Deed Administrators' lien**

Until Completion, the Deed Administrators and Administrators (whether or not they are still acting in either capacity) are entitled to exercise a lien over the Deed Company's assets for all amounts in respect of which they are entitled to an indemnity from the Deed Company under clause 15.2.

### **15.6 Priority**

The Administrators' and Deed Administrators' right of indemnity under clause 15.2 and their lien under clause 15.5 have priority over the claims of all Creditors.

### **15.7 Resort first to Administration Account and Trust Fund**

The Deed Administrators are to have recourse first to the Administration Account and Trust Fund before relying on the indemnities or liens under this clause 15.

## **16 Creditors' Meetings**

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The Deed Administrators may convene a meeting or meetings of Creditors at any time, and except to the extent (if any) they are excluded or modified by or are inconsistent with the terms of this Deed, Division 75 of Part 3 of the IPR applies, with such modifications as are necessary, to meetings of Creditors held under this Deed as if references to the



'external administrator' or chairperson, as the case may be, were references to the Deed Administrators.

## 17 Application to Court

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- (a) If any unforeseen circumstances arise that are not contemplated by the Deed, the Deed Administrators may, in their absolute discretion, if they think fit, apply to the Court for directions.
- (b) No person bound by the Deed (other than the Deed Administrators or the Deed Proponent) may make any application to the Court in relation to any matter arising under the Deed unless at least 5 Business Days' prior notice in writing has been given to the Deed Administrators. The notice must give particulars of the proposed application.

## 18 Termination of the Deed

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### 18.1 Termination on effectuation of Deed

The Deed will terminate immediately after Completion.

### 18.2 Termination on failure of Deed

This Deed automatically terminates in respect of the Deed Company upon the happening of any one of the following events:

- (a) the Court makes an order terminating this Deed under section 445D of the Corporations Act; and
- (b) the creditors of the Deed Company with a Claim pass a resolution terminating this Deed in accordance with sections 445C(b) and 445CA of the Corporations Act.

### 18.3 Notice of Effectuation of Deed

Upon termination in accordance with the provisions of clause 18.1, the Deed Administrators or one of them must immediately certify, in writing that the terms of this Deed have been fulfilled and, as soon as practicable, must lodge with ASIC a notice substantially in the following form in respect of the Deed Company:

'We, [***name of administrators***] of [***address***] as administrators of the deed of company arrangement executed on [***date***], CERTIFY that the deed has been wholly effectuated in respect to WBHO Infrastructure Pty Ltd ACN 089 434 220.'

and the execution of the notice terminates this Deed and, subject to clauses 6.6 and 8, all Claims of Creditors of the Deed Company will be extinguished, discharged and released if not extinguished or released earlier under the Deed.

### 18.4 Effect of Termination

In accordance with section 445H of the Corporations Act, the termination or avoidance, in whole or in part, of this Deed does not affect the previous operation of this Deed.



## **18.5 Severance**

If any part of this Deed is or becomes illegal, ineffective, invalid or unenforceable, that part will be severed from this Deed and that severance will not affect the effectiveness, validity or enforceability of the remaining part of this Deed.

## **18.6 Consequences of Termination of the Deed for non-performance**

Upon termination of the Deed under clause 18.2:

- (a) the Deed Company will be taken to have passed special resolutions under section 491 of the Corporations Act that the Deed Company be voluntarily wound up and that the Deed Administrators be the Deed Company's liquidators; and
- (b) the Deed Company will be wound up.

## **18.7 Survival of clauses**

Despite any other provision of this Deed, clauses 1, 6, 7, 8, 9, 15, 17, 18, 19, 20 and 21 survive the termination of this Deed.

# **19 General**

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## **19.1 Variation**

Subject to the provisions of the Corporations Act, a variation of any term of this Deed must be in writing and signed by all parties to this Deed.

## **19.2 Assignment**

Rights arising out of or under this Deed are not assignable by a party, except if the assignor is required to make the assignment pursuant to clauses 10.6 or 11.6, or makes the assignment with the prior written consent of the other parties.

## **19.3 Further Assurances**

Each party and each person bound by this deed must, at its own expense, do all things and execute all documents necessary to give full effect to this Deed and the transactions contemplated by it.

## **19.4 Governing Law and Jurisdiction**

This Deed is governed by the law in force in New South Wales and the parties submit to the non-exclusive jurisdiction of the Courts of and any Court which may hear appeals from those Courts.

## **19.5 Waiver**

No party to this Deed may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

The meanings of the terms used in this clause 19.5 are set out below.



<b>Term</b>	<b>Meaning</b>
<b>conduct</b>	includes delay in the exercise of a right.
<b>right</b>	any right arising under or in connection with this Deed and includes the right to rely on this clause.
<b>waiver</b>	includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel.

## **19.6 Counterparts**

- (a) This Deed may be executed in any number of counterparts.
- (b) All counterparts, taken together, constitute one instrument.
- (c) A party may execute this Deed by signing any counterpart.
- (d) Counterparts may be exchanged by email or other electronic means.

## **19.7 Creditor's Power of Attorney**

Each Creditor irrevocably appoints each of the Deed Administrators jointly and severally as its attorney to execute any document to give effect to the releases in clause 6.

## **19.8 Joint Parties**

If two or more parties are included within the same defined term in this Deed:

- (a) liability of those parties under this Deed is a joint liability of all of them and a several liability of each of them;
- (b) a right given to those parties under this deed is a right given severally to each of them; and
- (c) a representation, warranty or undertaking made by those parties is made by each of them.

## **19.9 Costs**

Each party must pay its own costs of negotiating, preparing and executing this Deed.

## **19.10 Stamp duty**

- (a) The Deed Proponent must pay all stamp duties and any related interest, fines and penalties in respect of any necessary stamping of this Deed, and must indemnify each other party against any liability arising from failure to comply with this clause 19.10.
- (b) The Deed Administrators (in their capacity as Deed Administrators or Trustees) must pay any stamp duty arising under the transfers of assets to the Trust Fund contemplated in this Deed, including under clauses 10.2 and 10.6 out of the Administration Account or Trust Fund.



## 20 GST

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### 20.1 Interpretation

The parties agree that:

- (a) except where the context suggests otherwise, terms used in this clause 20 have the meanings given to those terms by the GST Act (as amended from time to time);
- (b) any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause 20;
- (c) unless otherwise expressly stated, all consideration to be provided under any other provision of this Deed is exclusive of GST. Any consideration that is specified to be inclusive of GST must not be taken into account in calculating the GST payable in relation to a supply for the purpose of this clause 20;
- (d) a reference to the GST payable by an entity or the input tax credit entitlements of an entity will include a reference to the GST payable or input tax credit entitlements of the representative member of any GST group to which that entity may belong;
- (e) a reference to something done (including a supply made) by a party includes a reference to something done by any entity through which that party acts; and
- (f) if any value added tax, goods and services tax or other similar tax is payable pursuant to a law of another jurisdiction on any supply made under or in connection with this Deed, then the provisions of this clause 20 apply as if references to a word or expression defined in the GST Act were to the corresponding concepts in the law of that other jurisdiction.

### 20.2 Reimbursements and similar payments

Any reimbursement or similar payment required to be made under this Deed that is calculated by reference to a cost, expense, or other amount paid or incurred will be limited to the total cost, expense or amount less the amount of any input tax credit to which an entity is entitled for the acquisition to which the cost, expense or amount relates plus an amount calculated in accordance with clause 20.3 where applicable.

### 20.3 GST payable

- (a) If GST is payable in relation to a supply made under or in connection with this Deed then any party (**Recipient**) that is required to provide consideration to another party (**Supplier**) for that supply must pay an additional amount to the Supplier equal to the GST-exclusive consideration for that supply multiplied by the rate of GST prevailing at the time the supply is made.
- (b) The Recipient must make payment of the additional amount in respect of GST at the same time as the other consideration is to be first provided for that supply, or if any of the consideration has been already paid or provided, within 5 Business Days of receiving a written demand from the Supplier.

### 20.4 Tax invoice/adjustment notes

The right of the Supplier to recover any amount in respect of GST under this Deed on a supply is subject to the issuing of the relevant tax invoice or adjustment note to the





Recipient, except where the Recipient is required to issue the tax invoice or adjustment note.

## 20.5 Variation to GST payable

If the GST payable in relation to a supply made under or in connection with this Deed varies from the additional amount paid by the Recipient under clause 20.3 then the Supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient. Any payment, credit or refund under this paragraph is deemed to be a payment, credit or refund of the additional amount payable under clause 20.3.

## 21 Notices

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### 21.1 Notice to be in writing

Any notice or document required to be given to or served upon any of the parties pursuant to or in connection with the Deed must be in writing.

### 21.2 Signing of Notice

Any notice or document may be given or signed on behalf of the party giving or serving the same by a director, secretary or other duly authorised person thereof.

### 21.3 How notice must be given and when notice is received

- (a) Any notice or document must be given by one of the methods set out in the table below.
- (b) A notice or document is regarded as given and received at the time set out in the table below.

However, if this means the notice or document would be regarded as given and received outside the period between 9.00am and 5.00pm (addressee's time) on a Business Day (**business hours period**), then the notice or document will instead be regarded as given and received at the start of the following business hours period.

Method of giving Notice	When Notice is regarded as given and received
By hand to the nominated address	When delivered to the nominated address
By pre-paid post	When it would have been delivered in the ordinary course of post
By email to the nominated email address (set out in the details for each party to this Deed)	When the email (including any attachment) has been sent to the addressee's email address (unless the sender receives a delivery failure notification indicating that the email has not been delivered to the addressee)



#### **21.4 Notice must not be given by electronic communication**

A notice or document must not be given by electronic means of communication (other than email in accordance with clause 21.3).



## Schedule 1

### Creditors' Trust Deed

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Attached.



## Schedule 2

### Creditor Indemnity

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To: WBHO Infrastructure Pty Ltd (**Company**)

#### **INDEMNITY IN RELATION TO INSURED CLAIM**

I/We [**insert creditor name**] refer to the deed of company arrangement in respect of the Company (**DOCA**) dated [**insert date**].

I/We wish to take legal proceedings to enforce a Claim under clause 8 of the DOCA (**Insured Claim**) against the Company. The Insured Claim is [**insert full description**].

I/We irrevocably and unconditionally indemnify the Company against any costs, expenses, judgments (including but not limited to any judgment or order obtained by me/us against the Company, or any amounts required to be paid by the Company in connection with any judgment or order), suits or actions incurred directly or indirectly as a consequence of commencing legal proceedings in relation to the Insured Claim (**Costs**) to the extent that the Company is not indemnified for such costs pursuant to a contract of insurance entered into before 23 February 2022 or such Costs are not otherwise paid by the Company's insurer.

I/We confirm our agreement to be bound by the terms of clause 8 of the DOCA in respect of the Insured Claim.

Dated: [**insert date**]

Executed as a deed poll in favour of WBHO Infrastructure Pty Ltd.

**Signed sealed and delivered** for and on behalf of

[**Creditor name**]

by its duly authorised representative  
in the presence of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised representative

\_\_\_\_\_  
Name of witness (please print)

\_\_\_\_\_  
Name of authorised representative  
(please print)

## Schedule 3

### Excluded Contracts

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- 1 the contract titled 'Wanneroo Road / Ocean Reef Road Interchange Project – Design & Construct Project Deed Contract No. 63/17' dated on or around 30 January 2019 (as amended from time to time) between, among others, the Commissioner of Main Roads, the Deed Proponent and the Deed Company;
- 2 the contract titled 'BCI Minerals Initial Earthworks Contract 1000-CON-MAR022' relating to the Mardie Salt & Potash Project dated on or around 29 March 2021 entered into between Mardie Minerals Pty Ltd ACN 152 574 457 and the Deed Company (as amended from time to time);
- 3 the contract titled 'Services Contract – Bauxite Residue Disposal Area Earthworks, Construction, Operation and Maintenance Services' entered into on 5 September 2016 between South32 Worsley Alumina Pty Ltd ABN 58 008 905 155 and the Deed Company;
- 4 the contract titled 'Alcoa Supply Contract for On-Site Services No. CW2253873' entered into on or around 1 September 2017 between Alcoa of Australia Limited ABN 93 004 879 298 and the Deed Company (as amended from time to time) and includes the supplementary contract titled 'Supplementary Contract for Kwinana Vehicle Workshop Maintenance No. 7100561' entered into on or around 8 September 2020 between the same parties;
- 5 the contract titled 'Alcoa Contract Supply of Goods and/or Services CW2273244' dated on or around 14 July 2019 between Alcoa of Australia Limited ABN 93 004 879 298 and the Deed Company (as amended from time to time);
- 6 the contract titled 'Construction Contract CW2381252– Lower Hotham Road Crossing Bridge Construction' dated 30 September 2020 between South32 Worsley Alumina Pty Ltd ABN 58 008 905 155 and the Deed Company (as amended from time to time, including on 3 November 2021); and
- 7 the contract titled 'Construct only contract (amended AS 4000-1997) relating to North Bannister Resource Recovery Park' dated 11 November 2021 between SUEZ Recycling & Recovery (Perth) Pty Ltd ACN 118 828 872 and the Deed Company.



## Signing page

Executed as a deed

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**Administrator**

Signed, sealed and delivered by  
**Salvatore Algeri**

*sign here* ► \_\_\_\_\_

*print name* \_\_\_\_\_

in the presence of

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_

---

**Administrator**

Signed, sealed and delivered by  
**Jason Tracy**

*sign here* ► \_\_\_\_\_

*print name* \_\_\_\_\_

in the presence of

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_

---



**Administrator**

Signed, sealed and delivered by  
**Matthew Donnelly**

*sign here* ► \_\_\_\_\_

*print name* \_\_\_\_\_

in the presence of

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_

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**Administrator**

Signed, sealed and delivered by  
**David Orr**

*sign here* ► \_\_\_\_\_

*print name* \_\_\_\_\_

in the presence of

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_

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## Deed Company

Signed, sealed and delivered by  
**WBHO Infrastructure Pty Ltd (Administrators Appointed)**  
by its joint and several administrator

*sign here* ► \_\_\_\_\_  
Administrator

*print name* \_\_\_\_\_

in the presence of

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_

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## Deed Proponent

Signed, sealed and delivered by  
SRG Global Civil Pty Ltd ACN 083 214  
439by

*sign here* ► \_\_\_\_\_  
Company Secretary/Director

*sign here* ► \_\_\_\_\_  
Director

*print name* \_\_\_\_\_

*print name* \_\_\_\_\_

## Appendix G – DIRRI

## Declaration of Independence, Relevant Relationships and Indemnities

**WBHO Australia Pty Ltd (ACN 095 983 681)**  
**And certain entities listed in Schedule A**  
**(All Administrators Appointed)**  
**(WBHOA or the Group)**  
**(Trading as Probuild, WBHO Infrastructure and Monaco Hickey)**

This document requires the Practitioners appointed to an insolvent entity to make declarations as to:

- A. their independence generally;
- B. relationships, including:
  - (i) the circumstances of the appointment;
  - (ii) any relationships with the companies and others within the previous 24 months;
  - (iii) any prior professional services for the companies within the previous 24 months;
  - (iv) that there are no other relationships to declare; and
- C. any indemnities given, or up-front payments made, to the Practitioner.

This declaration is made in respect of ourselves, our partners and Deloitte Australia. In this document, Deloitte Australia means the Australian partnership of Deloitte Touche Tohmatsu and each of the entities under its control, including Deloitte Financial Advisory Pty Limited.

### A. Independence

We, Salvatore Algeri, Jason Tracy, Matthew James Donnelly and David Orr of Deloitte Australia have undertaken a proper assessment of the risks to our independence prior to accepting the appointment as Voluntary Administrators of the Companies in accordance with the law and applicable professional standards. This assessment identified no real or potential risks to our independence. We are not aware of any reasons that would prevent us from accepting this appointment.

### B. Declaration of Relationships

#### Circumstances of appointment

On 18 February 2022, Deloitte Australia was engaged by King & Wood Mallesons (**KWM**), external legal advisors to the Group, to assess the financial position of the Companies and develop contingency plans in the event they would be required. This engagement is detailed in section 5 below.



### Prior Professional services to the Group

We, Deloitte Australia have provided the professional services set out in the table below to the Group in the 24 months prior to the acceptance of this appointment. The engagements were of limited scope, and immaterial to both the Group and Deloitte Australia. We therefore do not consider that those prior services hamper, impede or influence our capacity to fully discharge the statutory and fiduciary obligations associated with the external administration of the Companies.

#### 1. Project control reviews

	Details	Reasons why there is no conflict of interest or duty
Description of services	Low-level sample-based compliance reviews of adherence to the Companies' project policies and procedures	<ul style="list-style-type: none"><li>• This engagement was immaterial to the Group and to Deloitte Australia, as it was limited with respect to fees, time incurred and scope.</li><li>• The engagement was limited to testing certain processes and controls (on a sample basis) associated with operational aspects of a limited selection of projects undertaken by the Group for compliance with the Group's policies and procedures in a defined time period. Consequently, this engagement did not involve consideration of the broader financial performance (including solvency) of the company or the Group.</li><li>• The engagement was across 6 projects selected by Group management on an ad-hoc basis at the Group's request and discretion.</li><li>• The work done did not confer upon Deloitte any responsibility for designing processes, undertaking management functions or conducting external audit services in relation to the company's</li></ul>
Parties	WBHO Australia Pty Ltd and Deloitte Australia	
Date of commencement and completion	Ad hoc services each of less than one month duration throughout the last 24 months	
Scope	Each review comprised: <ul style="list-style-type: none"><li>• A project review to assess the adequacy, effectiveness and consistency of selected operational processes and controls for certain projects undertaken by the Group.</li><li>• Determining whether adequate project controls exist to mitigate associated operating risks</li></ul>	

	<ul style="list-style-type: none"> <li>• Ascertaining whether the project controls defined are operational and effective</li> <li>• Providing recommendations to assist in enhancing processes, where necessary</li> </ul>	<p>business or financial affairs. The company's management retained sole responsibility for considering and implementing any changes to the company's systems and processes.</p>
Fees	<p>Deloitte Australia billed and received payment of a total of \$197,080 (excluding GST) to WBHO Australia Pty Ltd for these services within the last 24 months. Of this amount, \$44,200 (excluding GST) was billed and received within the last 6 months.</p>	

## 2. Oracle services

	Details	Reasons why there is no conflict of interest or duty
Description of services	Oracle Cloud IT support services	<ul style="list-style-type: none"> <li>• The engagement was immaterial to the Group and to Deloitte Australia, as it was limited with respect to fees, time incurred and scope.</li> <li>• These services were restricted to assisting in the enhancement and on-going maintenance of the finance analytics interface software with the Companies' ERP system. The Group maintains a contract directly with Oracle for the provision of its Cloud service. Deloitte Australia does not control this relationship and/or system access.</li> <li>• At no time did Deloitte Australia have any responsibility for any financial and/or management functions of the Companies. We did not undertake any work involving data input, review and/or</li> </ul>
Parties	Probuild Pty Ltd and Deloitte Australia	
Date of commencement and completion	Software enhancement (refer scope below) undertaken from December 2019 to January 2020 (more than 24 months prior to our appointment), with support services provided since that time	
Scope	<ul style="list-style-type: none"> <li>• Assisting the Group with enhancing the Oracle Cloud as the Group's data analytics software solution (completed in January 2020)</li> </ul>	

	<ul style="list-style-type: none"> <li>Provision of ongoing support services for Oracle Cloud software</li> </ul>	<p>verification, or reporting in relation to the Companies' financial performance and/or position, and we have not created or modified any financial records of the Companies.</p>
Fees	<p>Deloitte Australia billed a total of \$197,649 (excluding GST) to Probuild Pty Ltd for these services within the last 24 months and has since reduced this amount by \$7,500 (excluding GST).</p> <p>Deloitte Australia received \$255,969 (excluding GST) in relation to these services in the last 24 months (including amounts that were billed prior to this period), of which \$45,000 (excluding GST) was received within the last 6 months.</p>	

### 3. Divestment Review

	Details	Reasons why there is no conflict of interest or duty
Description of services	Strategic divestment review	<ul style="list-style-type: none"> <li>The engagement was immaterial to the Group and to Deloitte Australia, as it was limited with respect to fees, time incurred and scope.</li> <li>The services were limited to high-level assessment of management's pre-determined divestment options and possible valuation guides to any proposed divestment of the Group.</li> <li>The services were provided for internal management purposes only and did not include a valuation that could be relied upon by the Group or any third party.</li> <li>No advice was provided to the Company's parent.</li> </ul>
Parties	WBHO Australia Pty Ltd and Deloitte Australia	
Date of commencement and completion	Review commenced in July 2021 and was finalised during August 2021	
Scope	A high-level assessment of considerations and valuation guides required to be incorporated into any planned divestment of Probuild	

Fees	Deloitte Australia billed and received payment of a total of \$50,000 (excluding GST) to WBHO Australia Pty Ltd for these services within the last 24 months, all of which was within the last 6 months.	<ul style="list-style-type: none"> <li>• We are not aware of any action having been taken by the Companies' management to pursue any of the matters which were the subject of the Divestment Review.</li> <li>• Our work was based on summary financial information provided by the Group, and at no time did Deloitte Australia have any responsibility for any financial and/or management functions of the Companies.</li> </ul>
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#### 4. Working Capital Management assessment

	Details	Reasons why there is no conflict of interest or duty
Description of services	Cashflow review	<ul style="list-style-type: none"> <li>• The engagement was immaterial to the Group and to Deloitte Australia, as it was limited with respect to fees, time incurred and scope.</li> <li>• This engagement involved a high level and narrowly focused review of the Group's cash flow forecast for the period to December 2022 including a review of material underlying assumptions and sensitivity analysis of those assumptions.</li> <li>• This engagement was a limited recent engagement of approximately 1 month duration which did not involve the provision of specific personal advice to individual board members.</li> <li>• The work undertaken during this engagement has assisted us to develop an understanding of the Group's affairs and its activities which will enhance our ability to discharge our statutory and fiduciary duties as administrators in the best interests of the Group's creditors. This is particularly so given</li> </ul>
Parties	WBHO Australia Pty Ltd and Deloitte Australia	
Date of commencement and completion	Review commenced in November 2021 and was finalised during December 2021	
Scope	<ul style="list-style-type: none"> <li>• A high-level review of the Group's cash flow forecast for the period to December 2022, including a review of material underlying assumptions</li> <li>• Meeting with management to understand critical trading forecast assumptions</li> <li>• Review of management's current initiatives for managing liquidity</li> </ul>	

	<ul style="list-style-type: none"> <li>Understanding the profile of project related contingent liabilities and their potential impact on liquidity</li> <li>Sensitivity analysis of key cash flow forecast assumptions</li> </ul>	<p>that much of the work undertaken includes the collation of information required to report to creditors under rule 75-225 of the Insolvency Practice Rules (Corporations) 2016 and which will be provided to creditors when we report to them in due course.</p>
Fees	<p>Deloitte Australia initially billed the sum of \$85,238 (excluding GST) to WBHO Australia Pty Ltd for these services and has since reduced this amount by \$52,738 (excluding GST). Deloitte Australia received payment of a total of \$32,500 (excluding GST) within the last 24 months, all of which was within the last 6 months.</p>	

## 5. Liquidity and Key Contract Analysis

	Details	Reasons why there is no conflict of interest or duty
Description of services	Pre-appointment planning	<ul style="list-style-type: none"> <li>This engagement was an immaterial prior professional engagement for the Group and to Deloitte Australia, as it was limited with respect to fees, time incurred and scope.</li> <li>The engagement involved the assessment of the Group's liquidity and alternative courses of action open to the Group and the planning of a potential voluntary administration.</li> <li>Deloitte Australia undertakes work from time to time on behalf of KWM, as do insolvency practitioners from other firms. This includes the appointment of Deloitte Australia's registered</li> </ul>
Parties	KWM and Deloitte Australia	
Date of commencement and completion	Engagement commenced on 18 February 2022 and terminated on our appointment as Administrators of the Companies	
Scope	<ul style="list-style-type: none"> <li>Understanding the Group's current position, including its liquidity</li> </ul>	



	<ul style="list-style-type: none"> <li>• Determining the sensitivity of key contractual agreements to an insolvency event affecting the Group</li> <li>• Considering options available to the Group if management’s turnaround plans are not achievable, including planning for a voluntary administration</li> <li>• During the course of this engagement, we held 9 meetings with Group management and/or KWM, with these meetings taking place daily between 18 February 2022 and the day prior to our appointment. A detailed list of all meetings held during this period, including the attendees and agenda/subject of the meeting is attached at Schedule B</li> </ul>	<p>liquidators to companies as a formal appointment where KWM has asked us to consent to act.</p> <ul style="list-style-type: none"> <li>• We have not identified any issue in relation to this relationship that would give rise to a conflict in undertaking the administration of the Group. The relationship has not impeded our independence.</li> <li>• We are not paid any commissions, inducements or benefits by KWM to undertake any appointments. There is no arrangement between us and KWM which entails a commitment or undertaking that we will give any work arising out of the Administration to KWM.</li> <li>• We do not expect any of the work done would be subject to review or challenge during the course of the Administration or in the event of the Group’s liquidation, due to the nature of the engagement.</li> <li>• Referrals from lawyers, accountants, business advisors and government agencies are commonplace and do not affect our independence in discharging our duties as voluntary administrators.</li> </ul>
Fees	<p>Deloitte Australia has received remuneration of \$90,909 (excluding GST) for this engagement, which was invoiced and paid by KWM in accordance with our terms of engagement.</p>	<ul style="list-style-type: none"> <li>• The Courts and the ARITA Code of Professional Practice specifically recognise the need for practitioners to provide advice on the insolvency process and the options available and do not consider that such advice results in a conflict or is an impediment to accepting the appointment.</li> <li>• An element of pre-planning is necessary in respect of an administration of this size and complexity, particularly given the multiple entities comprising the Group.</li> <li>• The Courts also recognise that where an insolvency practitioner is engaged by a company’s legal advisors and such engagement</li> </ul>

		<p>includes undertaking planning work in preparation for a possible voluntary administration of that company, such a pre-appointment engagement does not prevent the practitioner from accepting a voluntary administration appointment provided that the engagement does not involve the practitioner advising the company or its board, directors, management, creditors or other stakeholders regarding the company's affairs, management or insolvency or the obligations and duties of the board, individual directors and management. We are satisfied that Deloitte Australia's engagement by KWM meets these requirements.</p> <ul style="list-style-type: none"><li>• The pre-appointment advice provided will not influence our ability to fully discharge the statutory and fiduciary obligations associated with the voluntary administration of the Group in an objective and impartial manner.</li><li>• The engagement was not predicated on any specific outcome, including the outcome of the voluntary administration.</li></ul>
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As detailed above, Deloitte Australia received fees totalling \$171,700 (excluding GST) from Group entities in relation to these engagements in the 6 months immediately prior to our appointment. This amount has been refunded to the Group out of abundance of caution in the event that the Companies proceed to liquidation and the payments received could be deemed to be preferential.

This excludes the Liquidity and Key Contract Analysis engagement under which our fees were paid by KWM in accordance with our terms of engagement.

## Relevant Relationships (excluding Professional Services to the Group)

We, or Deloitte Australia, have, or have had within the preceding 24 months, a relationship with:

Name	Nature of relationship	Reasons why this relationship does not result in a conflict of interest
Australia and New Zealand Banking Group Limited (ANZ)	<p>We understand that ANZ is a significant actual or contingent creditor of certain Group entities.</p> <p>We have undertaken a number of formal insolvency and advisory engagements for ANZ in the usual course of business.</p> <p>Deloitte Australia has provided and continues to provide Accounting, Advisory, Assurance, Consulting, Forensic, Risk Services and Tax services to ANZ.</p>	<p>We have never undertaken any work for ANZ in respect of the Group.</p> <p>We do not consider previous formal insolvency and advisory engagements accepted for ANZ to present a conflict as there is no connection between these engagements and the Group.</p> <p>The provision of Accounting, Advisory, Assurance, Consulting, Forensic, Risk Services and Tax services to ANZ brings about a commercial relationship that in our opinion does not present a conflict or impediment as it does not impact upon the position of the Companies.</p> <p>We are not paid any commissions, inducements or benefits to undertake any engagements with ANZ and do not consider ourselves to be bound or in any way obligated to deliver a favourable outcome to any party.</p> <p>Therefore there is no relationship with ANZ which in our view would restrict us from properly exercising our judgment and duties in relation to the appointment.</p>
Commonwealth Bank of Australia Limited (CBA)	<p>We understand that CBA is a significant creditor of certain Group entities.</p> <p>We have undertaken a number of formal</p>	<p>We have never undertaken any work for CBA in respect of the Group.</p> <p>We do not consider previous formal insolvency and advisory engagements accepted for CBA to present a conflict as</p>

	<p>insolvency and advisory engagements for CBA in the usual course of business.</p> <p>Deloitte Australia has provided and continues to provide Accounting, Advisory, Consulting, Data Analytics, Forensic, Risk Services and Tax services to CBA.</p>	<p>there is no connection between these engagements and the Group.</p> <p>The provision of Accounting, Advisory, Consulting, Data Analytics, Forensic, Risk Services and Tax services to CBA brings about a commercial relationship that in our opinion does not present a conflict or impediment as it does not impact upon the position of the Companies.</p> <p>We are not paid any commissions, inducements or benefits to undertake any engagements with CBA and do not consider ourselves to be bound or in any way obligated to deliver a favourable outcome to any party.</p> <p>Therefore there is no relationship with CBA which in our view would restrict us from properly exercising our judgment and duties in relation to the appointment.</p>
<p>National Australia Bank Limited (<b>NAB</b>)</p>	<p>We understand that NAB is a significant actual or contingent creditor of certain Group entities.</p> <p>We have undertaken a number of formal insolvency and advisory engagements for NAB in the usual course of business.</p> <p>Deloitte Australia has provided and continues to provide Accounting, Advisory, Consulting, Data Analytics, Forensic, Risk</p>	<p>We have never undertaken any work for NAB in respect of the Group.</p> <p>We do not consider previous formal insolvency and advisory engagements accepted for NAB to present a conflict as there is no connection between these engagements and the Group.</p> <p>The provision of Accounting, Advisory, Consulting, Data Analytics, Forensic, Risk Services and Tax services to NAB brings about a commercial relationship that in our opinion does not present a conflict or impediment as it does not impact upon the position of the Companies.</p>

	<p>Services and Tax services to NAB.</p>	<p>We are not paid any commissions, inducements or benefits to undertake any engagements with NAB and do not consider ourselves to be bound or in any way obligated to deliver a favourable outcome to any party.</p> <p>Therefore there is no relationship with NAB which in our view would restrict us from properly exercising our judgment and duties in relation to the appointment.</p>
<p>Euler Hermes Group (Euler Hermes)</p>	<p>We understand that Euler Hermes is a significant actual or contingent creditor of certain Group entities.</p> <p>Deloitte Australia has provided legal services to Euler Hermes.</p>	<p>We have never undertaken any work for Euler Hermes in respect of the Group.</p> <p>We do not consider previous engagements for Euler Hermes to present a conflict as there is no arrangement between us that we will give any work arising out of the Administration to them.</p> <p>The provision of legal services to Euler Hermes brings about a commercial relationship that in our opinion does not present a conflict or impediment as it does not impact upon the position of the Companies.</p> <p>We are not paid any commissions, inducements or benefits to undertake any engagements with Euler Hermes and do not consider ourselves to be bound or in any way obligated to deliver a favourable outcome to any party.</p> <p>Therefore there is no relationship with Euler Hermes which in our view would restrict us from properly exercising our judgment and duties in relation to the appointment.</p>

<p>AIG Australia Limited (AIG)</p>	<p>We understand that AIG is a significant actual or contingent creditor of certain Group entities.</p> <p>Deloitte Australia has provided actuarial and expert witness services to AIG.</p>	<p>We have never undertaken any work for AIG in respect of the Group.</p> <p>We do not consider previous engagements for AIG to present a conflict as there is no arrangement between us that we will give any work arising out of the Administration to them.</p> <p>The provision of actuarial and expert witness services to AIG brings about a commercial relationship that in our opinion does not present a conflict or impediment as it does not impact upon the position of the Companies.</p> <p>We are not paid any commissions, inducements or benefits to undertake any engagements with AIG and do not consider ourselves to be bound or in any way obligated to deliver a favourable outcome to any party.</p> <p>Therefore there is no relationship with AIG which in our view would restrict us from properly exercising our judgment and duties in relation to the appointment.</p>
<p>Insurance Australia Group Limited (IAG)</p>	<p>We understand that IAG is a significant actual or contingent creditor of certain Group entities.</p> <p>Deloitte Australia has provided economic and consulting services to IAG.</p>	<p>We have never undertaken any work for IAG in respect of the Group.</p> <p>We do not consider previous engagements for IAG to present a conflict as there is no arrangement between us that we will give any work arising out of the Administration to them.</p> <p>The provision of economic and consulting services to IAG brings about a commercial relationship that in our opinion does not</p>

		<p>present a conflict or impediment as it does not impact upon the position of the Companies.</p> <p>We are not paid any commissions, inducements or benefits to undertake any engagements with IAG and do not consider ourselves to be bound or in any way obligated to deliver a favourable outcome to any party.</p> <p>Therefore there is no relationship with IAG which in our view would restrict us from properly exercising our judgment and duties in relation to the appointment.</p>
<p>Tokio Marine HCC (Tokio)</p>	<p>We understand that Tokio is a significant actual or contingent creditor of certain Group entities, as well as having a significant secondary exposure as an actual or contingent creditor of certain Group entities as part of a syndicated facility. However, in relation to the syndicated facility, we understand that CBA is the primary creditor that has the capacity to make a claim in the administration on behalf of syndicate members.</p> <p>Deloitte Australia has provided tax, global mobility and marketing consulting services to Tokio.</p>	<p>We have never undertaken any work for Tokio in respect of the Group.</p> <p>We do not consider previous engagements for Tokio to present a conflict as there is no arrangement between us that we will give any work arising out of the Administration to them.</p> <p>The provision of tax, global mobility and marketing consulting services to Tokio brings about a commercial relationship that in our opinion does not present a conflict or impediment as it does not impact upon the position of the Companies.</p> <p>We are not paid any commissions, inducements or benefits to undertake any engagements with Tokio and do not consider ourselves to be bound or in any way obligated to deliver a favourable outcome to any party.</p> <p>Therefore there is no relationship with Tokio which in our view would restrict us from</p>

		properly exercising our judgment and duties in relation to the appointment.
Liberty Mutual Insurance (Liberty)	<p>We understand that Liberty has a significant secondary exposure as an actual or contingent creditor of certain Group entities as part of a syndicated facility. However, in relation to the syndicated facility, we understand that CBA is the primary creditor that has the capacity to make a claim in the administration on behalf of syndicate members.</p> <p>Deloitte Australia has provided various tax, actuarial, merger integration, global mobility and IFRS services to Liberty.</p>	<p>We have never undertaken any work for Liberty in respect of the Group.</p> <p>We do not consider previous engagements for Liberty to present a conflict as there is no arrangement between us that we will give any work arising out of the Administration to them.</p> <p>The provision of tax, actuarial, merger integration, global mobility and IFRS services to Liberty brings about a commercial relationship that in our opinion does not present a conflict or impediment as it does not impact upon the position of the Companies.</p> <p>We are not paid any commissions, inducements or benefits to undertake any engagements with Liberty and do not consider ourselves to be bound or in any way obligated to deliver a favourable outcome to any party.</p> <p>Therefore there is no relationship with Liberty which in our view would restrict us from properly exercising our judgment and duties in relation to the appointment.</p>
Swiss Re	<p>We understand that Swiss Re has a significant secondary exposure as an actual or contingent creditor of certain Group entities as part of a syndicated facility. However, in relation to the</p>	<p>We have never undertaken any work for Swiss Re in respect of the Group.</p> <p>We do not consider previous engagements for Swiss Re to present a conflict as there is no arrangement between us that we will give any work arising out of the Administration to them.</p>



	<p>syndicated facility, we understand that CBA is the primary creditor that has the capacity to make a claim in the administration on behalf of syndicate members.</p> <p>Deloitte Australia has provided various actuarial, governance, marketing, global mobility , accounting and associated services to Swiss Re.</p>	<p>The provision of actuarial, governance, marketing, global mobility , accounting and associated services to Swiss Re brings about a commercial relationship that in our opinion does not present a conflict or impediment as it does not impact upon the position of the Companies.</p> <p>We are not paid any commissions, inducements or benefits to undertake any engagements with Swiss Re and do not consider ourselves to be bound or in any way obligated to deliver a favourable outcome to any party.</p> <p>Therefore there is no relationship with Swiss Re which in our view would restrict us from properly exercising our judgment and duties in relation to the appointment.</p>
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A Deloitte Touch Tohmatsu Limited Member Firm (DTTL Member Firm) have, or have had within the preceding 24 months, a relationship with:

<b>Name</b>	<b>Nature of relationship</b>	<b>Reasons why this relationship does not result in a conflict of interest</b>
<p>Wilson Bayly Holmes-Ovcon Limited and its subsidiary entities outside of Australia (WBHO Limited)</p>	<p>WBHO Limited is the South African ultimate parent company of the Group.</p> <p>WBHO Limited is a material creditor of the group for shareholder funding advanced to support the trading of the Group.</p> <p>Deloitte Australia does not have a relationship with WBHO Limited and has not</p>	<p>Deloitte Australia does not act for WBHO Limited.</p> <p>Deloitte South Africa is a separate legal entity to Deloitte Australia. No profits are shared between Deloitte Australia and Deloitte South Africa.</p> <p>The provision of advisory services by other DTTL Member Firms does not present a conflict given there is no connection between Deloitte Australia and WBHO Limited.</p>

	<p>provided services to WBHO Limited.</p> <p>Deloitte &amp; Touche in the Republic of South Africa (Deloitte South Africa) have provided and continue to provide consulting services to WBHO Limited.</p>	<p>There are no relationships with WBHO Limited which in our view would restrict us from properly exercising our judgement and duties in relation to the appointments.</p>
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## Group Appointment

As specified on page 1, we have been appointed as Voluntary Administrators of 18 companies in the Group. We are of the view that the appointment to the group of companies together will have practical benefits to our conduct, particularly in that this will enable an accurate view to be obtained of the financial position of the Group as a whole. We are aware that there may be inter-company transactions within the Group but at this time we are not aware of any potential conflicts arising from our appointment over the group companies. However, if in the future any inter-company dealings give rise to a conflict then we undertake to disclose any such conflicts to the creditors and, if appropriate, seek Court directions or other relief that may be necessary.


## No other relevant relationships to disclose

There are no other known relevant relationships, including personal, business and professional relationships, from the previous 24 months with the Companies, an associate of the Companies, a former insolvency practitioner appointed to the Companies or any person or entity that has security over the whole or substantially whole of the Companies' property that should be disclosed.

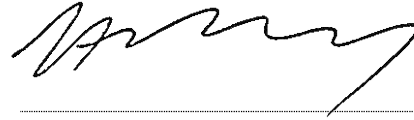
## C. Indemnities and up-front payments

We have not been indemnified in relation to this Administration, other than any indemnities that we may be entitled to under statute, and we have not received any up-front payments in respect of our remuneration or disbursements.

DATED this 23<sup>rd</sup> day of March 2022



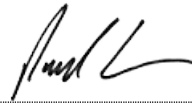
Salvatore Algeri  
Joint and Several Administrator



Jason Tracy  
Joint and Several Administrator



Matthew Donnelly  
Joint and Several Administrator



David Orr  
Joint and Several Administrator

**Notes:**

1. If circumstances change, or new information is identified, we are required under the Corporations Act 2001 and the ARITA Code of Professional Practice to update this Declaration and provide a copy to creditors with our next communication as well as table a copy of any replacement declaration at the next meeting of the insolvent's creditors.
2. Any relationships, indemnities or up-front payments disclosed in the DIRRI must not be such that the Practitioner is no longer independent. The purpose of Components A, B and C of the DIRRI is to disclose relationships that, while they do not result in the Practitioner having a conflict of interest or duty, ensure that creditors are aware of those relationships and understand why the Practitioner nevertheless remains independent.

### Schedule A – WBHO Australia Group of companies, all Administrators Appointed

Company Name	ACN
WBHO Australia Pty Ltd	095 983 681
WBHO Construction Australia Pty Ltd	149 901 931
WBHO Infrastructure Pty Ltd (formerly WBHO Civil Pty Ltd)	089 434 220
Carr Civil Contracting Pty Ltd (formerly WBHO-Carr Pty Ltd)	100 438 257
Northcoast Holdings Pty Ltd	009 296 780
Probuild Constructions (Aust) Pty Ltd	095 250 945
Probuild Civil Pty Ltd (formerly Probuild Civil (QLD) Pty Ltd)	010 870 587
PCA (QLD) Pty Ltd (formerly Probuild Constructions (QLD) Pty Ltd)	141 148 245
Probuild Constructions (NSW) Pty Ltd	165 675 874
Probuild Constructions (VIC) Pty Ltd	165 675 865
Probuild Constructions (WA) Pty Ltd	165 676 095
Probuild Constructions (QLD) Pty Ltd	166 966 034
ACN 098 866 794 Pty Ltd (formerly Probuild Constructions (NSW) Pty Ltd)	098 866 794
Contexx Holdings Pty Ltd	144 707 022
Contexx Pty Ltd	147 249 796
Prodev Murphy Pty Ltd	120 758 803
Prodev Investments 4 Pty Ltd	629 246 653
Monaco Hickey Pty Ltd	144 945 611

## Schedule B – Detailed list of KWM engagement meetings

Date	Deloitte Australia attendees	External attendees	Agenda / subject of discussion
18 February 2022	Salvatore Algeri, Jason Tracy and Deloitte Australia team members	Group: Luke Stambolis (CEO), Bradley Duggan (CFO) and other Group staff KWM	Background discussion regarding contingency planning purpose and process
20 February 2022	Salvatore Algeri, Jason Tracy and Deloitte Australia team members	Group: Luke Stambolis, Bradley Duggan and other Group staff KWM	Background discussion regarding the Group's operations
21 February 2022	Salvatore Algeri, Jason Tracy and Deloitte Australia team members	Group: Luke Stambolis, Bradley Duggan and other Group staff KWM	Background discussion regarding the Group's operations
21 February 2022	Matthew Donnelly and Jason Tracy	Group: Wilhelm Grobler (GM WBHOI) and other Group staff	Contingency planning in relation to WBHO Infrastructure Pty Ltd's Western Australian operations
22 February 2022	Salvatore Algeri, Jason Tracy and Deloitte Australia team members	Group: Luke Stambolis, Bradley Duggan and other Group staff KWM	Contingency planning progress
22 February 2022	Matthew Donnelly and Deloitte Australia team members	Group: Wilhelm Grobler and one other member of Group staff	Contingency planning in relation to WBHO Infrastructure Pty Ltd's Western Australian operations
22 February 2022	Salvatore Algeri, Jason Tracy and Deloitte Australia team members	Group: Group entity Board Members ( <i>as detailed in Note 1 below</i> ) KWM	Combined Board Meeting of the Companies to receive an update on the Group's global ultimate parent company's position in relation to provision of funding of the Group's business. Provide overview of a Voluntary Administration process
23 February 2022	Salvatore Algeri, Jason Tracy and Deloitte Australia team members	Group: Luke Stambolis, Bradley Duggan and other Group staff KWM	Contingency planning progress
23 February 2022	Matthew Donnelly and Deloitte Australia team members	Group: Wilhelm Grobler and other Group staff	Contingency planning in relation to WBHO Infrastructure Pty Ltd's Western Australian operations

**Note 1**

The Board Members of each Group company are summarised in the table below. All listed individuals were present at Combined Board Meeting of the Companies on 22 February 2022.

Company Name all Administrators Appointed	ACN	Directors (Directorships marked with a "Y")								
		Stambolis, Luke	Duggan, Bradley	Henwood, Charles	Foley, Paul	Grobler, Wilhelm	Neff, Wolfgang	Gaudry, Nicholas	Meyerowitz, Eric	Hickey, Paul
WBHO Australia Pty Ltd	095 983 681	Y	Y	Y	Y					
WBHO Construction Australia Pty Ltd	149 901 931			Y	Y					
WBHO Infrastructure Pty Ltd	089 434 220		Y	Y	Y	Y				
Carr Civil Contracting Pty Ltd	100 438 257					Y				
Northcoast Holdings Pty Ltd	009 296 780					Y				
Probuild Constructions (Aust) Pty Ltd	095 250 945	Y	Y	Y	Y			Y		
Probuild Civil Pty Ltd	010 870 587		Y	Y	Y					
PCA (QLD) Pty Ltd	141 148 245	Y	Y	Y	Y					
Probuild Constructions (NSW) Pty Ltd	165 675 874							Y		
Probuild Constructions (VIC) Pty Ltd	165 675 865	Y	Y							
Probuild Constructions (WA) Pty Ltd	165 676 095		Y							
Probuild Constructions (QLD) Pty Ltd	166 966 034		Y							
ACN 098 866 794 Pty Ltd	098 866 794			Y	Y					
Contexx Holdings Pty Ltd	144 707 022		Y	Y						
Contexx Pty Ltd	147 249 796		Y	Y						
Prodev Murphy Pty Ltd	120 758 803			Y	Y					
Prodev Investments 4 Pty Ltd	629 246 653	Y	Y	Y	Y					
Monaco Hickey Pty Ltd	144 945 611	Y	Y		Y				Y	Y

## Appendix H – ARITA Information Sheet on Offences, Recoverable Transactions and Insolvent Trading

# Creditor Information Sheet

## Offences, Recoverable Transactions and Insolvent Trading



### Offences

**A summary of offences under the Corporations Act that may be identified by the administrator:**

180	Failure by company officers to exercise a reasonable degree of care and diligence in the exercise of their powers and the discharge of their duties.
181	Failure to act in good faith.
182	Making improper use of their position as an officer or employee, to gain, directly or indirectly, an advantage.
183	Making improper use of information acquired by virtue of the officer's position.
184	Reckless or intentional dishonesty in failing to exercise duties in good faith for a proper purpose. Use of position or information dishonestly to gain advantage or cause detriment. This can be a criminal offence.
198G	Performing or exercising a function or power as an officer while a company is under administration.
206A	Contravening a court order against taking part in the management of a corporation.
206A, B	Taking part in the management of corporation while being an insolvent, for example, while bankrupt.
206A, B	Acting as a director or promoter or taking part in the management of a company within five years after conviction or imprisonment for various offences.
209(3)	Dishonest failure to observe requirements on making loans to directors or related companies.
254T	Paying dividends except out of profits.
286	Failure to keep proper accounting records.
312	Obstruction of an auditor.
314-7	Failure to comply with requirements for the preparation of financial statements.
437D(5)	Unauthorised dealing with company's property during administration.
438B(4)	Failure by directors to assist administrator, deliver records and provide information.
438C(5)	Failure to deliver up books and records to the administrator.
588G	Incurring liabilities while insolvent
588GAB	Officer's duty to prevent creditor-defeating disposition
588GAC	A person must not procure a company to make a creditor-defeating disposition
590	Failure to disclose property, concealed or removed property, concealed a debt due to the company, altered books of the company, fraudulently obtained credit on behalf of the company, material omission from Report as to Affairs or false representation to creditors.
596AB	Entering into an agreement or transaction to avoid employee entitlements.

### Recoverable Transactions

#### **Preferences**

A preference is a transaction, such as a payment by the company to a creditor, in which the creditor receiving the payment is preferred over the general body of creditors. The relevant period for the payment commences six months before the commencement of the liquidation. The company must have been insolvent at the time of the transaction, or become insolvent because of the transaction.

Where a creditor receives a preference, the payment is voidable as against a liquidator and is liable to be paid back to the liquidator subject to the creditor being able to successfully maintain any of the defences available to the creditor under the Corporations Act.

#### **Creditor-defeating disposition**

Creditor-defeating dispositions are the transfer of company assets for less than market value (or the best price reasonably obtainable) that prevents, hinders or significantly delay creditors' access to the company's assets in liquidation. Creditor-defeating dispositions are voidable by a liquidator.



### **Uncommercial Transaction**

An uncommercial transaction is one that it may be expected that a reasonable person in the company's circumstances would not have entered into, having regard to the benefit or detriment to the company; the respective benefits to other parties; and any other relevant matter.

To be voidable, an uncommercial transaction must have occurred during the two years before the liquidation. However, if a related entity is a party to the transaction, the period is four years and if the intention of the transaction is to defeat creditors, the period is ten years. The company must have been insolvent at the time of the transaction, or become insolvent because of the transaction.

### **Unfair Loan**

A loan is unfair if and only if the interest was extortionate when the loan was made or has since become extortionate. There is no time limit on unfair loans – they only must be entered into before the winding up began.

### **Arrangements to avoid employee entitlements**

If an employee suffers loss because a person (including a director) enters into an arrangement or transaction to avoid the payment of employee entitlements, the liquidator or the employee may seek to recover compensation from that person or from members of a corporate group (Contribution Order).

### **Unreasonable payments to directors**

Liquidators have the power to reclaim '*unreasonable payments*' made to directors by companies prior to liquidation. The provision relates to payments made to or on behalf of a director or close associate of a director. The transaction must have been unreasonable, and have been entered into during the 4 years leading up to a company's liquidation, regardless of its solvency at the time the transaction occurred.

### **Voidable charges**

Certain charges over company property are voidable by a liquidator:

- circulating security interest created within six months of the liquidation, unless it secures a subsequent advance;
- unregistered security interests;
- security interests in favour of related parties who attempt to enforce the security within six months of its creation.

## **Insolvent trading**

In the following circumstances, directors may be personally liable for insolvent trading by the company:

- a person is a director at the time a company incurs a debt;
- the company is insolvent at the time of incurring the debt or becomes insolvent because of incurring the debt;
- at the time the debt was incurred, there were reasonable grounds to suspect that the company was insolvent;
- the director was aware such grounds for suspicion existed; and
- a reasonable person in a like position would have been so aware.

The law provides that the liquidator, and in certain circumstances the creditor who suffered the loss, may recover from the director, an amount equal to the loss or damage suffered. Similar provisions exist to pursue holding companies for debts incurred by their subsidiaries.

A defence is available under the law where the director can establish:

- there were reasonable grounds to expect that the company was solvent and they did so expect;
- they did not take part in management for illness or some other good reason; or
- they took all reasonable steps to prevent the company incurring the debt.

The proceeds of any recovery for insolvent trading by a liquidator are available for distribution to the unsecured creditors before the secured creditors.

**Important note:** This information sheet contains a summary of basic information on the topic. It is not a substitute for legal advice. Some provisions of the law referred to may have important exceptions or qualifications. This document may not contain all of the information about the law or the exceptions and qualifications that are relevant to your circumstances.

**Queries about the voluntary administration should be directed to the administrator's office.**

## Appendix I – Remuneration Report

## Remuneration Approval Report

WBHO INFRASTRUCTURE PTY LTD ACN 089 434 220 (WBHOI)  
CARR CIVIL CONTRACTING PTY LTD ACN 100 438 257 (CCC)  
(All Administrators Appointed)  
(collectively the Companies)

The report contains the following information:

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### 1. Summary

We are asking creditors to approve the following remuneration and disbursements (GST exclusive):

	Remuneration	Disbursements
Voluntary Administration (CCC)	\$20,000.00	-
Voluntary Administration (WBHOI)	-	\$10,841.51
If a DOCA is accepted (WBHOI)	\$90,000.00	-
If company is liquidated (WBHOI)	\$2,000,000.00	-
If company is liquidated (CCC)	\$75,000.00	-

Details of remuneration and disbursements can be found in sections 3 and 4 of this report.

Creditors will be asked to pass resolutions at the meeting on 30 March 2022.

We previously sought approval for current and future remuneration for the period 23 February 2022 through to the completion of the voluntary administration for the WBHOI entity only. This was put forward to, and approved by, the Committee of Inspection (COI) on 23 March 2022.

	Remuneration	Disbursements
Voluntary Administration (WBHOI) - 23 February 2022 to 20 March 2022	\$1,366,896.50	-
Voluntary Administration (WBHOI) - 21 March 2022 to completion	\$1,133,103.50	-
Total	\$2,500,000.00	-

We estimate the total costs of the voluntary administrations will be \$2,520,000 (plus GST). In our Initial Remuneration Notice dated 24 February 2022, we estimated the cost of the voluntary administration (VA) for WBHO Australia Pty Ltd and certain entities listed in **Schedule F** (All Administrators Appointed) (**WBHOA Group**) to be \$4m to \$5m (excluding GST, legal fees and disbursements) to complete.

This is our second remuneration approval request and based on the information available to us at this time, we are not anticipating further approval requests will be required.

## 2. Declaration

We, Salvatore Algeri, Jason Tracy, Matthew Donnelly and David Orr of Deloitte Financial Advisory Pty Ltd, have undertaken a proper assessment of this remuneration claim for our appointment as Voluntary Administrators of the Companies in accordance with the law and applicable professional standards. We are satisfied that the remuneration claimed is in respect of necessary work, properly performed, in the conduct of the voluntary administration.

We have reviewed the work in progress report for the voluntary administration to ensure that remuneration is only being claimed for necessary and proper work performed and no adjustment was necessary.

The estimates for prospective fees sought in this Remuneration Approval Request are based on a reasonable estimate. We are satisfied that the prospective remuneration and disbursements claimed are in respect of necessary work, properly performed, in the conduct of the voluntary administrations, and prospective Deed of Company Arrangement (DOCA) and liquidations.

## 3. Remuneration sought

The remuneration we are asking creditors to approve is detailed below.

We will only seek approval of resolutions for the DOCA if creditors agree to the DOCA proposal being offered. Similarly, we will only seek approval of the resolution for the liquidation if creditors vote to place the company into liquidation.

For	Period	Entity	Amount	Rates to apply	When it will be drawn
Work we have already done and future work to completion	23 February 2022 to completion of voluntary administration	CCC	\$20,000.00 (excluding GST)	As provided in our IRN sent to creditors on 24 February 2022	Immediately, when funds are available or at the end of the voluntary administration
<b>Voluntary Administration (CCC) total</b>			<b>\$20,000.00</b> (excluding GST)		

**If the creditors agree to the DOCA proposal (WBHOI):**

For	Period	Amount	Rates to apply	When it will be drawn
Future work – DOCA	Execution of DOCA to finalisation of DOCA	\$90,000.00 (excluding GST)	As provided in our IRN sent to creditors on 24 February 2022	Immediately, when funds are available or at the end of the DOCA
<b>DOCA total</b>		<b>\$90,000.00</b> (excluding GST)		

**If the creditors vote to place the company in liquidation (WBHOI):**

For	Period	Amount	Rates to apply	When it will be drawn
Future work – Liquidation	30 March 2022 to finalisation of liquidation	\$2,000,000.00 (excluding GST)	As provided in our IRN sent to creditors on 24 February 2022	Immediately, when funds are available or at the end of the liquidation
<b>Liquidation total (WBHOI)</b>		<b>\$2,000,000.00</b> (excluding GST)		

**If the creditors vote to place the company in liquidation (CCC):**

For	Period	Amount	Rates to apply	When it will be drawn
Future work – Liquidation	30 March 2022 to finalisation of liquidation	\$75,000.00 (excluding GST)	As provided in our IRN sent to creditors on 24 February 2022	Immediately, when funds are available or at the end of the liquidation
<b>Liquidation total (CCC)</b>		<b>\$75,000.00</b> (excluding GST)		

**3.1 Remuneration claim resolutions**

We will be seeking approval of the following resolutions to approve our remuneration from 23 February 2022 to the completion of the voluntary administration for tasks completed in relation to CCC and for the DOCA period, execution through to completion. Details to support these resolutions are included in Section 3.2.

We will be seeking approval from creditors at the meeting held 30 March 2022.

**Resolution 1: Administrators' remuneration from 23 February 2022 to completion of the voluntary administration (CCC)**

*"That the current and future remuneration of the Voluntary Administrators from 23 February 2022 to completion of the voluntary administration is determined at a sum equal to the cost of time spent by the Voluntary Administrators and their staff, calculated at the hourly rates as detailed in the Initial Remuneration Notice dated 24 February 2022, up to a capped amount of \$20,000, plus GST of \$2,000, and that the Voluntary Administrators can draw the remuneration as required."*

**Resolution 2: Prospective Deed Administrators' remuneration from execution to the finalisation of the DOCA (WBHOI)**

*"That the future remuneration of the Deed Administrators for the period from the execution of the DOCA is determined at a sum equal to the cost of time spent by the Deed Administrators and their staff, calculated at the hourly rates as detailed in the Initial Remuneration Notice dated 24 February 2022, up to a capped amount of \$90,000 plus GST of \$9,000, and that the Deed Administrators can draw the remuneration as required".*

**Resolution 3: Prospective Liquidators' remuneration from commencement of the Liquidation to completion (WBHOI)**

*"That the future remuneration of the Joint and Several Liquidators from the commencement of the liquidation to the completion of the Liquidation is determined at a sum equal to the cost of time spent by the Joint and Several Liquidators and their partners and staff, calculated at the hourly rates as detailed in the Initial Remuneration Notice dated 24 February 2022, up to a capped amount of \$2,000,000 plus GST of \$200,000, and that the Joint and Several Liquidators can draw the remuneration as required".*

**Resolution 4: Prospective Liquidators' remuneration from commencement of the Liquidation to completion (CCC)**

*"That the future remuneration of the Joint and Several Liquidators from the commencement of the liquidation to the completion of the Liquidation is determined at a sum equal to the cost of time spent by the Joint and Several Liquidators and their partners and staff, calculated at the hourly rates as detailed in the Initial Remuneration Notice dated 24 February 2022, up to a capped amount of \$75,000 plus GST of \$7,500, and that the Joint and Several Liquidators can draw the remuneration as required".*

**Note:** Should a lesser amount actually be incurred, only the lesser amount will be charged to the voluntary administration and/or DOCA and drawn. Should a greater amount be incurred, only the capped amount approved by creditors will be charged.

### **3.2 Details of remuneration**

The basis of calculating the remuneration claims are summarised in the attached schedules together with details of the major tasks performed and the costs associated with each of those major tasks.

**Resolution 1: Administrators' remuneration from 23 February 2022 to 20 March 2022 (CCC)**

**Schedule A** sets out time charged to each major task area by staff members working on the voluntary administration for the period which is the basis of the Resolution 1 claim. More detailed descriptions of the tasks performed within each task area, matching the amounts in Resolution 1, are contained in **Schedule A**.

**Resolution 2: Prospective Deed Administrators' remuneration from execution to the finalisation of the DOCA (WBHOI)**

**Schedule B** sets out the expected costs for the major tasks likely to be performed by the Deed Administrators and their staff for the period from execution to completion of the DOCA which is the basis of the Resolution 2 claim. More detailed descriptions of the tasks likely to be performed within each task area, matching the amounts in Resolution 2, are contained in **Schedule B**.

**Resolution 3: Prospective Liquidators' remuneration from commencement of the Liquidation to completion (WBHOI)**

**Schedule C** sets out the expected costs for the major tasks likely to be performed by the Liquidators and their staff for the period from commencement to completion of the liquidation which is the basis of the Resolution 3 claim. More detailed descriptions of the tasks likely to be performed within each task area, matching the amounts in Resolution 3, are contained in **Schedule C**.

**Resolution 4: Prospective Liquidators' remuneration from commencement of the Liquidation to completion (CCC)**

**Schedule D** sets out the expected costs for the major tasks likely to be performed by the Liquidators and their staff for the period from commencement to completion of the liquidation which is the basis of the Resolution 4 claim. More detailed descriptions of the tasks likely to be performed within each task area, matching the amounts in Resolution 4, are contained in **Schedule D**.

**Note:** Should a lesser amount actually be incurred, only the lesser amount will be charged to the voluntary administration and/or DOCA and drawn. Should a greater amount be incurred, only the capped amount approved by creditors will be charged and we may seek further approval of the additional fees incurred.

## 4. Disbursements sought

We are not required to seek creditor approval for costs paid to third parties or where we are recovering a cost incurred on behalf of the administration, but I must provide details to creditors. Details of these amounts are included in the Receipts and Payments schedule detailed in **Schedule F**.

We are required to obtain creditor's consent for the payment of a disbursement where I, or a related entity of myself, may directly or indirectly obtain a profit. For more information about disbursements, please refer to the Initial Remuneration Notice sent to you on 24 February 2022.

The disbursements I would like creditors to approve is as follows:

For	Period	Amount (excl. GST)
Disbursements I have already incurred	23 February 2022 to 20 March 2022	\$10,841.51
Future disbursements	21 March 2022 to completion of voluntary administration	\$600.00
	<b>TOTAL</b>	<b>\$10,841.51</b>

### 3.1 Disbursement claim resolutions

Actual resolutions to be put to the meeting are:

#### *Resolution 5: Disbursements from 23 February 2022 to 20 March 2022 (WBHOI)*

*"That the internal disbursements of the Voluntary Administrators from 23 February 2022 to 20 March 2022, calculated at the rates as detailed in the remuneration report dated 24 February 2022 is approved for payment in the sum of \$10,241.51, plus GST of \$1,024.15, and that the Voluntary Administrators may draw the disbursements immediately or as required."*

Disbursements claimed for period from 23 February 2022 to 20 March 2022	Basis (Excl GST)	Total \$ (Excl GST)
Advertising (other than ASIC public notices)	At cost	10,023.62
Search fees	At cost	217.89
<b>Total</b>		<b>10,241.51</b>

#### *Resolution 6: From 21 March 2022 to completion of voluntary administration (WBHOI)*

*"That the future internal disbursements of the Voluntary Administrators from 21 March 2022 to completion of the voluntary administration is determined at a sum equal to the cost spent by the Voluntary Administrators and their staff, calculated at the rates as detailed in the remuneration report dated 24 February 2022 such sum to be capped at the amount of \$600, plus GST of \$60, and that the Voluntary Administrators may draw the disbursements on a monthly basis or as required."*

Internal disbursements for period from 21 March 2022 to completion of Voluntary Administration	Rate (Excl GST)
Administration fee*	\$600.00

Internal disbursements for period from 21 March 2022 to completion of Voluntary Administration	Rate (Excl GST)
Advertising (other than ASIC public notices)	At cost
Photocopying, printing & postage (externally provided)	At cost
Search fees	At cost
Travel – flights, accommodation, meals	Per diem at \$70.00 per staff member per day, otherwise all travel and accommodation at cost
Tolls, taxis, parking, public transport, mileage	Mileage at \$0.70/km, otherwise at cost

\*This fee contributes towards costs incurred by our firm in the administration of the engagement. Such costs include, amongst other things, variable levies incurred when certain notices are lodged with ASIC or advertised on the ASIC public notice website pursuant to The ASIC Supervisory Cost Recovery Levy Act 2017, the licensing and use of insolvency software to assist with the creation, preparation and maintenance of proper administration records. Based upon internal analysis of average costs incurred, \$600 is, in our opinion, a reasonable commercial claim.

Approval of the payment of these internal disbursements at the above rates to a capped amount of \$600 (exclusive of GST) is being sought from creditors at the meeting held 30 March 2022.

## 5. Previous remuneration approvals

The following remuneration approvals have previously been provided by the Committee of Inspection at a meeting held 23 March 2022:

Period	Entity	For	Amount Approved	Amount paid
23 February 2022 to 20 March 2022	WBHIO	Work already done	\$1,366,896.50	\$0
21 March 2022 to completion of Voluntary Administration	WBHIO	Future work	\$1,133,103.50	\$0
<b>Total</b>			<b>\$2,500,000.00</b>	<b>\$0</b>

## 6. Likely impact on dividends

The Corporations Act provides for certain costs, expenses and claims to be paid in priority to all other unsecured claims against the company and this includes our fees and disbursements properly incurred in preserving, realising or getting in the property of the company or in carrying on the Company's business and generally undertaking the duties associated with conducting this voluntary administration. As a consequence, our remuneration will reduce the pool of funds remaining for distribution amongst other creditors.

Any distributions ultimately available will be impacted not just by our fees and expenses, but also by the realisations achieved by us and the value of creditors' claims that are eligible to receive a distribution. At this stage in the voluntary administration there are still a number of uncertainties, all of which will impact on the distributions (if any) to creditors, including:

- Final amount yet to be realised from the sale of business/assets, and the structure of a potential Deed of Company Arrangement
- Final amount yet to be realised from disputed debts



- The estimated total of creditor claims based on the companies' records and claims lodged now
- Whether we commence legal recovery actions and the amounts that may be realised (after paying legal fees and expenses).

## 7. Report on progress of the voluntary administration

The Remuneration Approval Request must be read in conjunction with the Voluntary Administrators' Report to creditors dated 23 March 2021 which outlines the progress of the administration.

## 8. Summary of receipts and payments

A summary of the receipts and payments for the voluntary administration to 18 March 2022 is included at Schedule F.

## 9. Queries

If you have any queries in relation to the information in this report, please email us at [WBHOI@deloitte.com.au](mailto:WBHOI@deloitte.com.au).

You can also access information which may assist you on the following websites:

- ARITA at [www.arita.com.au/creditors](http://www.arita.com.au/creditors)
- ASIC at [www.asic.gov.au](http://www.asic.gov.au) (search for INFO 85).

Further supporting documentation for my remuneration claim can be provided to creditors on request.

## Attachments:

Schedule A – Details of Resolution 1

Schedule B – Details of Resolution 2

Schedule C – Details of Resolution 3

Schedule D – Details of Resolution 4

Schedule E – Entities under administration

Schedule F – Summary of receipts and payments 24 February 2022 to 18 March 2022



Schedule A – Voluntary Administrators’ remuneration (CCC) from 23 February 2022 to completion of voluntary administration

Position	\$/hr (ex GST)	Total actual hours	Total \$ (ex GST)	Task Area					
				Administration		Creditors		Investigations	
				Hrs	Total (\$)	Hrs	Total (\$)	Hrs	Total (\$)
Partner	825.00	4.00	3,300.00	2.0	1,650.00	10	825.00	10	825.00
Principal	750.00	3.00	2,250.00	-	-	2.0	1,500.00	10	750.00
Director	650.00	3.50	2,275.00	0.5	325.00	2.0	1,300.00	10	650.00
Senior Manager	575.00	3.50	2,012.50	0.5	287.50	2.0	1,150.00	10	575.00
Manager	550.00	5.00	2,750.00	1.0	550.00	3.0	1,650.00	10	550.00
Senior Analyst	475.00	5.30	2,517.50	1.0	475.00	3.3	1,567.50	10	475.00
Analyst	425.00	5.00	2,125.00	1.0	425.00	3.0	1,275.00	10	425.00
Graduate	325.00	5.00	1,625.00	1.0	325.00	3.0	975.00	10	325.00
Undergraduate	230.00	4.00	920.00	1.0	230.00	3.0	690.00	-	-
Support Staff	225.00	1.00	225.00	1.0	225.00	-	-	-	-
<b>TOTAL</b>		<b>39.3</b>	<b>20,000.00</b>	<b>9.0</b>	<b>4,492.50</b>	<b>22.3</b>	<b>10,932.50</b>	<b>8.0</b>	<b>4,575.00</b>
GST			2,000.00						
<b>TOTAL (including GST)</b>			<b>22,000.00</b>						
<i>Average hourly rate</i>			<i>508.91</i>		<i>499.17</i>		<i>490.25</i>		<i>571.88</i>

## Schedule A – Detailed description of tasks (CCC VA – current and future)

		Work already done/Future work
Period		23 February 2022 to completion of voluntary administration
Amount (ex GST)		\$20,000.00
Task Area	General Description	
Creditors	Sub-total	22.3 hours \$10,932.50
	Creditor reports	Preparing Voluntary Administrators' report to creditors
	Dealing with proofs of debt	Receipting and filing POD when not related to a dividend Corresponding with OSR and ATO regarding POD when not related to a dividend
	Meeting of Creditors	Preparation of meeting notices, proxies and advertisements Forward notice of meeting to all known creditors Preparation of meeting file, including agenda, certificate of postage, attendance register, list of creditors, reports to creditors, advertisement of meeting and draft minutes of meeting. Preparation and lodgement of minutes of meetings with ASIC Responding to stakeholder queries and questions immediately following meeting Preparation of meeting notices, proxies and advertisements for meetings with Committee of Inspection Hold meetings with Committee of Inspection, and lodgement of minutes of same
Investigation	Sub-total	8.0 hours \$4,575.00
	Conducting investigation	Collection of company books and records Correspondence with ASIC Reviewing company's books and records Review and preparation of company nature and history Conducting and summarising statutory searches Preparation of comparative financial statements Preparation of deficiency statement Review of specific transactions and liaising with directors regarding certain transactions Liaising with directors regarding certain transactions Preparation of investigation file
	ASIC reporting	Conducting ASIC searches / liaising with ASIC
Administration	Sub-total	9.0 hours \$4,492.50
	Correspondence	
	Document maintenance/file review/checklist	Administration reviews Filing of documents File reviews Updating checklists
	Insurance	Identification of potential issues requiring attention of insurance specialists Correspondence with insurer regarding initial and ongoing insurance requirements Reviewing insurance policies Correspondence with previous brokers
	Bank account administration	Preparing correspondence opening and closing accounts Requesting bank statements Bank account reconciliations Entering receipts and payments into accounting system

		<b>Work already done/Future work</b>
	ASIC Forms and lodgements	Preparing and lodging ASIC forms
	ATO and other statutory reporting	Notification of appointment Completing STP reporting obligations
	Planning / Review	Discussions regarding status of administration



Schedule B - Prospective Deed Administrators' remuneration from execution to the finalisation of the DOCA (WBHOI)

Position	\$/hr (ex GST)	Total actual hours	Total \$ (ex GST)	Task Area							
				Administration		Creditors		Trade On		Employees	
				Hrs	Total (\$)	Hrs	Total (\$)	Hrs	Total (\$)	Hrs	Total (\$)
Partner	825.00	22.00	18,150.00	5.0	4,125.00	10.0	8,250.00	5.0	4,125.00	2.0	1,650.00
Principal	750.00	2.00	1,500.00	-	-	2.0	1,500.00	-	-	-	-
Director	650.00	14.00	9,100.00	2.0	1,300.00	5.0	3,250.00	5.0	3,250.00	2.0	1,300.00
Senior Manager	575.00	11.00	6,325.00	2.0	1,150.00	5.0	2,875.00	2.0	1,150.00	2.0	1,150.00
Manager	550.00	11.00	6,050.00	2.0	1,100.00	5.0	2,750.00	2.0	1,100.00	2.0	1,100.00
Senior Analyst	475.00	45.00	21,375.00	5.0	2,375.00	20.0	9,500.00	15.0	7,125.00	5.0	2,375.00
Analyst	425.00	35.00	14,875.00	10.0	4,250.00	10.0	4,250.00	10.0	4,250.00	5.0	2,125.00
Graduate	325.00	20.54	6,675.50	5.0	1,625.00	5.0	1,625.00	5.5	1,800.50	5.0	1,625.00
Undergraduate	230.00	20.00	4,600.00	5.0	1,150.00	5.0	1,150.00	5.0	1,150.00	5.0	1,150.00
Support Staff	225.00	6.00	1,350.00	2.0	450.00	10	225.00	2.0	450.00	10	225.00
<b>TOTAL</b>		<b>186.5</b>	<b>90,000.00</b>	<b>38.0</b>	<b>7,675.00</b>	<b>68.0</b>	<b>18,625.00</b>	<b>51.5</b>	<b>9,625.00</b>	<b>29.0</b>	<b>5,200.00</b>
GST			9,000.00								
<b>TOTAL (including GST)</b>			<b>99,000.00</b>								
<i>Average hourly rate</i>			<i>482.47</i>		<i>20197</i>		<i>273.90</i>		<i>186.75</i>		<i>179.31</i>

## Schedule B – Detailed description of tasks (WBHOI DOCA - future estimate)

		Future work
Period		<i>Execution to the finalisation of the DOCA</i>
Amount (ex GST)		\$90,000.00
Task Area	General Description	
Creditors	Sub-total	68.0 hours \$18,625.00
	Creditor Enquiries, Requests & Directions	Receive and respond to creditor enquiries Maintaining creditor request log Review and prepare correspondence to creditors and their representatives Documenting Considering reasonableness of creditor requests Obtaining legal advice on requests Documenting reasons for complying or not complying with requests or directions Compiling information requested by creditors
	Retention of Title Claims	Receive completed retention of title claim form Maintain retention of title file Meeting claimant on site to identify goods Adjudicate retention of title claim Forward correspondence to claimant notifying outcome of adjudication Preparation of payment vouchers to satisfy valid claim Preparation of correspondence to claimant to accompany payment of claim (if valid)
	Secured creditor reporting	Responding to secured creditors' queries
	Dealing with proofs of debt	Receipting and filing POD when not related to a dividend Corresponding with OSR and ATO regarding POD when not related to a dividend
Employees	Sub-total	29.0 hours \$5,200.00
	Employees' enquiries	Receive and follow up employee enquiries via telephone Maintain employee enquiry register Review and prepare correspondence to creditors and their representatives via email and post Preparation of letters to employees advising of their entitlements and options available Receive and prepare correspondence in response to employee's objections to leave entitlements
	Workers' compensation claims	Review insurance policies Receipt of claim Liaising with claimant Liaising with insurers and solicitors regarding claims Identification of potential issues requiring attention of insurance specialists Correspondence with insurer regarding initial and ongoing workers compensation insurance requirements Correspondence with previous brokers
	Other employee issues	Correspondence with MyLeave and Construction Industry Long Service Leave Board Correspondence with Centrelink Correspondence with Department of Immigration
Administration	Sub-total	38.0 hours \$7,675.00
	Correspondence	
	Document maintenance/file review/checklist	Administration reviews Filing of documents

		<b>Future work</b>
		File reviews Updating checklists
	Insurance	Correspondence with insurer regarding initial and ongoing insurance requirements
	Bank account administration	Preparing correspondence opening and closing accounts Requesting bank statements Bank account reconciliations Entering receipts and payments into accounting system Correspondence with bank regarding specific transfers
	ASIC Forms and lodgements	Preparing and lodging ASIC forms Correspondence with ASIC regarding statutory forms
	ATO and other statutory reporting	Notification of appointment as Deed Administrator Preparing BAS Completing STP reporting obligations
	Finalisation	Notifying ATO of finalisation Cancelling ABN / GST / PAYG registration Completing checklists Finalising WIP
<b>Trade On</b>	<b>Sub-total</b>	<b>51.5 hours</b> <b>\$9,625.00</b>
	Trade on management	Liaising with suppliers Liaising with management and staff Attendance on site Authorising purchase orders Maintaining purchase order registry Preparing and authorising receipt vouchers Preparing and authorising payment vouchers Liaising with superannuation funds regarding contributions, termination of employees
	Budgeting and financial reporting	Reviewing company's budgets and financial statements Preparing budgets Preparing weekly financial reports Finalising trading profit or loss Preparing and maintaining daily/weekly cash flows reporting Meetings to discuss trading position



Schedule C - Prospective Liquidators' remuneration from commencement of the Liquidation to completion (WBHOI)

Position	\$/hr (ex GST)	Total actual hours	Total \$ (ex GST)	Administration		Creditors		Task Area Employees		Investigations		Dividend	
				Hrs	Total (\$)	Hrs	Total (\$)	Hrs	Total (\$)	Hrs	Total (\$)	Hrs	Total (\$)
Partner	825.00	120.00	99,000.00	20.0	16,500.00	20.0	16,500.00	20.0	16,500.00	50.0	41,250.00	10.0	8,250.00
Principal	750.00	140.00	105,000.00	20.0	15,000.00	20.0	15,000.00	20.0	15,000.00	60.0	45,000.00	20.0	15,000.00
Director	650.00	130.00	84,500.00	20.0	13,000.00	10.0	6,500.00	20.0	13,000.00	60.0	39,000.00	20.0	13,000.00
Senior Manager	575.00	260.00	149,500.00	40.0	23,000.00	20.0	11,500.00	40.0	23,000.00	60.0	34,500.00	100.0	57,500.00
Manager	550.00	614.00	337,700.00	100.0	55,000.00	50.0	27,500.00	100.0	55,000.00	264.0	145,200.00	100.0	55,000.00
Senior Analyst	475.00	950.00	451,250.00	200.0	95,000.00	200.0	95,000.00	150.0	71,250.00	300.0	142,500.00	100.0	47,500.00
Analyst	425.00	1,000.00	425,000.00	200.0	85,000.00	200.0	85,000.00	150.0	63,750.00	300.0	127,500.00	150.0	63,750.00
Graduate	325.00	640.00	208,000.00	200.0	65,000.00	200.0	65,000.00	160.0	52,000.00	-	-	80.0	26,000.00
Undergraduate	230.00	560.00	128,800.00	160.0	36,800.00	160.0	36,800.00	160.0	36,800.00	-	-	80.0	18,400.00
Support Staff	225.00	50.00	11,250.00	50.0	11,250.00	-	-	-	-	-	-	-	-
<b>TOTAL</b>		<b>4,464.0</b>	<b>2,000,000.00</b>	<b>1,010.0</b>	<b>415,550.00</b>	<b>880.0</b>	<b>358,800.00</b>	<b>820.0</b>	<b>346,300.00</b>	<b>1,094.0</b>	<b>574,950.00</b>	<b>660.0</b>	<b>304,400.00</b>
GST			200,000.00										
<b>TOTAL (including GST)</b>			<b>2,200,000.0</b>										
Average hourly rate			448.03		411.44		407.73		422.32		525.55		461.21



## Schedule C – Detailed description of tasks (WBHOI Liquidation - future estimate)

		Future work
Period		<i>From commencement of the Liquidation to completion</i>
Amount (ex GST)		\$2,000,000.00
Task Area	General Description	
Creditors	Sub-total	880.0 hours \$358,800.00
	Creditor Enquiries	Receive and respond to creditor enquiries Maintaining creditor request log Review and prepare initial correspondence to creditors and their representatives Considering reasonableness of creditor requests Obtaining legal advice on requests Documenting reasons for complying or not complying with requests or directions Compiling information requested by creditors
	Secured creditor reporting	Notifying PPSR registered creditors of appointment Preparing reports to secured creditor Responding to secured creditor's queries
	Creditor reports	Preparing statutory report by liquidator, investigations, meeting and general reports to creditors as required
	Dealing with proofs of debt	Receipting and filing POD when not related to a dividend Corresponding with OSR and ATO regarding POD when not related to a dividend
	Meeting of Creditors	Preparation of meeting notices, proxies and advertisements Forward notice of meeting to all known creditors Preparation of meeting file, including agenda, certificate of postage, attendance register, list of creditors, reports to creditors, advertisement of meeting and draft minutes of meeting Preparation and lodgement of minutes of meetings with ASIC Responding to stakeholder queries and questions immediately following meeting
	Shareholder enquiries	Responding to any shareholder queries
Employees	Sub-total	820.0 hours \$346,300.00
	Employees' enquiries	Receive and follow up employee enquiries via telephone Maintain employee enquiry register Review and prepare correspondence to creditors and their representatives via email and post Preparation of letters to employees advising of their entitlements and options available Receive and prepare correspondence in response to employee's objections to leave entitlements
	Calculation of entitlements	Calculating employee entitlements Reviewing employee files and company's books and records Reconciling superannuation accounts Reviewing awards Dealing with solicitors regarding entitlements
	Employee dividend	Correspondence with employees regarding dividend Correspondence with ATO regarding SGC proof of debt Calculating dividend rate Preparing dividend file Advertising dividend notice Preparing distribution Receipting POD Adjudicating POD

		Future work
		Ensuring PAYG is remitted to ATO
<b>Administration</b>	<b>Sub-total</b>	<b>1,010 hours \$415,550.00</b>
	Correspondence	General correspondence
	Document maintenance/file review/checklist	First month, then six monthly administration reviews Filing of documents File reviews Updating checklists
	Insurance	Identification of potential issues requiring attention of insurance specialists Correspondence with insurer regarding initial and ongoing insurance requirements
	Bank account administration	Preparing correspondence opening and closing accounts Requesting bank statements Bank account reconciliations Correspondence with bank regarding specific transfers Processing payments and receipts
	ASIC Forms and lodgements	Preparing and lodging ASIC forms Correspondence with ASIC regarding statutory forms
	ATO and other statutory reporting	Notification of appointment as Liquidator Preparing BAS Completing STP reporting obligations
	Finalisation	Notifying ATO of finalisation Cancelling ABN / GST / PAYG registration Completing checklists Finalising WIP
	Planning / Review	Discussions regarding status of administration
	Books and records / storage	Dealing with records Sending job files to storage / destruction
<b>Dividend</b>	<b>Sub-total</b>	<b>660.0 hours \$304,400.00</b>
	Processing proofs of debt (POD)	Preparation of correspondence to potential creditors inviting lodgement of POD Receipt of POD Maintain POD register Adjudicating POD Request further information from claimants regarding POD Preparation of correspondence to claimant advising outcome of adjudication
	Dividend procedures	Preparation of correspondence to creditors advising of intention to declare dividend Advertisement of intention to declare dividend Obtain clearance from ATO to allow distribution of company's assets Preparation of dividend calculation Preparation of correspondence to creditors announcing declaration of dividend Advertise announcement of dividend Preparation of distribution Preparation of dividend file Preparation of payment vouchers to pay dividend Preparation of correspondence to creditors enclosing payment of dividend
<b>Investigations</b>	<b>Sub-total</b>	<b>1,094 hours \$574,950.00</b>
	Conducting investigation	Collection of company books and records Correspondence with ASIC to receive assistance in obtaining reconstruction of financial statements, company's books and records and Report on Company Affairs and Property Reviewing company's books and records Review and preparation of company nature and history Conducting and summarising statutory searches Preparation of comparative financial statements Preparation of deficiency statement Review of specific transactions

		<b>Future work</b>
		Liaising with directors regarding certain transactions Preparation of investigation file Lodgement of investigation with the ASIC Preparation and lodgement of supplementary report if required
	Examinations	Preparing brief to solicitor Liaising with solicitor(s) regarding examinations Attendance at examination Reviewing examination transcripts Liaising with solicitor(s) regarding outcome of examinations and further actions available
	Litigation / recoveries	Internal meetings to discuss status of litigation Preparing brief to solicitors Liaising with solicitors regarding recovery actions Attending to negotiations Attending to settlement matters
	Processing proofs of debt (POD)	Preparing statutory investigation reports Preparing affidavits seeking non lodgements assistance Liaising with ASIC



Schedule D - Prospective Liquidators' remuneration from commencement of the Liquidation to completion (CCC)

Position	\$ /hr (ex GST)	Total actual hours	Total \$ (ex GST)	Task Area							
				Administration		Creditors		Investigations		Dividend	
				Hrs	Total (\$)	Hrs	Total (\$)	Hrs	Total (\$)	Hrs	Total (\$)
Partner	825.00	10.00	8,250.00	2.0	1,650.00	2.0	1,650.00	5.0	4,125.00	10	825.00
Principal	750.00	10.00	7,500.00	2.0	1,500.00	2.0	1,500.00	5.0	3,750.00	10	750.00
Director	650.00	6.00	3,900.00	2.0	1,300.00	1.0	650.00	2.0	1,300.00	1.0	650.00
Senior Manager	575.00	9.00	5,175.00	5.0	2,875.00	1.0	575.00	2.0	1,150.00	1.0	575.00
Manager	550.00	30.94	17,015.90	8.0	4,400.00	2.0	1,100.00	15.9	8,765.90	5.0	2,750.00
Senior Analyst	475.00	36.00	17,100.00	8.0	3,800.00	8.0	3,800.00	15.0	7,125.00	5.0	2,375.00
Analyst	425.00	26.00	11,050.00	8.0	3,400.00	8.0	3,400.00	5.0	2,125.00	5.0	2,125.00
Graduate	325.00	7.00	2,275.00	2.0	650.00	5.0	1,625.00	-	-	-	-
Undergraduate	230.00	7.00	1,610.00	2.0	460.00	5.0	1,150.00	-	-	-	-
Support Staff	225.00	5.00	1,125.00	5.0	1,125.00	-	-	-	-	-	-
<b>TOTAL</b>		<b>146.9</b>	<b>75,000.00</b>	<b>44.0</b>	<b>21,160.00</b>	<b>34.0</b>	<b>15,450.00</b>	<b>49.9</b>	<b>28,340.90</b>	<b>19.0</b>	<b>10,050.00</b>
GST			7,500.00								
<b>TOTAL (including GST)</b>			<b>82,500.0</b>								
<i>Average hourly rate</i>			<i>510.42</i>		<i>480.91</i>		<i>454.41</i>		<i>567.52</i>		<i>528.95</i>

## Schedule D – Detailed description of tasks (CCC Liquidation - future estimate)

		Future work
Period		<i>From commencement of the Liquidation to completion</i>
Amount (ex GST)		\$75,000.00
<b>Task Area</b>	<b>General Description</b>	
<b>Creditors</b>	<b>Sub-total</b>	<b>34.0 hours \$15,450.00</b>
	Creditor Enquiries	Receive and respond to creditor enquiries Maintaining creditor request log Review and prepare initial correspondence to creditors and their representatives Considering reasonableness of creditor requests Obtaining legal advice on requests Documenting reasons for complying or not complying with requests or directions Compiling information requested by creditors
	Secured creditor reporting	Preparing reports to secured creditor Responding to secured creditor's queries
	Creditor reports	Preparing statutory report by liquidator, investigations, meeting and general reports
	Dealing with proofs of debt	Receipting and filing POD when not related to a dividend Corresponding with OSR and ATO regarding POD when not related to a dividend
	Meeting of Creditors	Preparation of meeting notices, proxies and advertisements Forward notice of meeting to all known creditors Preparation of meeting file, including agenda, certificate of postage, attendance register, list of creditors, reports to creditors, advertisement of meeting and draft minutes of meeting Preparation and lodgement of minutes of meetings with ASIC Responding to stakeholder queries and questions immediately following meeting
	Shareholder enquiries	Responding to any shareholder queries
<b>Administration</b>	<b>Sub-total</b>	<b>44.0 hours \$21,160.00</b>
	Correspondence	General correspondence
	Document maintenance/file review/checklist	First month, then six monthly administration reviews Filing of documents File reviews Updating checklists
	Insurance	Identification of potential issues requiring attention of insurance specialists Correspondence with insurer regarding initial and ongoing insurance requirements
	Bank account administration	Preparing correspondence opening and closing accounts Requesting bank statements Bank account reconciliations Correspondence with bank regarding specific transfers Processing payments and receipts
	ASIC Forms and lodgements	Preparing and lodging ASIC forms Correspondence with ASIC regarding statutory forms
	ATO and other statutory reporting	Notification of appointment as Liquidator Preparing BAS

		<b>Future work</b>
	Finalisation	Notifying ATO of finalisation Cancelling ABN / GST / PAYG registration Completing checklists Finalising WIP
	Planning / Review	Discussions regarding status of administration
	Books and records / storage	Dealing with records Sending job files to storage / destruction
<b>Dividend</b>	<b>Sub-total</b>	<b>19.0 hours</b> <b>\$10,050.00</b>
	Processing proofs of debt (POD)	Preparation of correspondence to potential creditors inviting lodgement of POD Receipt of POD Maintain POD register Adjudicating POD Request further information from claimants regarding POD Preparation of correspondence to claimant advising outcome of adjudication
	Dividend procedures	Preparation of correspondence to creditors advising of intention to declare dividend Advertisement of intention to declare dividend Obtain clearance from ATO to allow distribution of company's assets Preparation of dividend calculation Preparation of correspondence to creditors announcing declaration of dividend Advertise announcement of dividend Preparation of distribution Preparation of dividend file Preparation of payment vouchers to pay dividend Preparation of correspondence to creditors enclosing payment of dividend
<b>Investigations</b>	<b>Sub-total</b>	<b>49.9 hours</b> <b>\$28,340.00</b>
	Conducting investigation	Collection of company books and records Correspondence with ASIC to receive assistance in obtaining reconstruction of financial statements, company's books and records and Report on Company Affairs and Property Reviewing company's books and records Review and preparation of company nature and history Conducting and summarising statutory searches Preparation of comparative financial statements Preparation of deficiency statement Review of specific transactions Liaising with directors regarding certain transactions Preparation of investigation file Lodgement of investigation with the ASIC Preparation and lodgement of supplementary report if required
	Examinations	Preparing brief to solicitor Liaising with solicitor(s) regarding examinations Attendance at examination Reviewing examination transcripts Liaising with solicitor(s) regarding outcome of examinations and further actions available
	Litigation / recoveries	Internal meetings to discuss status of litigation Preparing brief to solicitors Liaising with solicitors regarding recovery actions Attending to negotiations Attending to settlement matters
	Processing proofs of debt (POD)	Preparing statutory investigation reports Preparing affidavits seeking non lodgements assistance Liaising with ASIC

## Schedule E – Entities under administration

No.	Name	Date of appointment of voluntary administrators	ACN
1	WBHO Australia Pty Ltd	23 February 2022	095 983 681
2	WBHO Construction Australia Pty Ltd	23 February 2022	149 901 931
3	WBHO Infrastructure Pty Ltd (formerly WBHO Civil Pty Ltd)	23 February 2022	089 434 220
4	Carr Civil Contracting Pty Ltd (formerly WBHO-Carr Pty Ltd)	23 February 2022	100 438 257
5	Northcoast Holdings Pty Ltd	23 February 2022	009 296 780
6	Probuild Constructions (Aust) Pty Ltd	23 February 2022	095 250 945
7	Probuild Civil Pty Ltd (formerly Probuild Civil (QLD) Pty Ltd)	23 February 2022	010 870 587
8	PCA (QLD) Pty Ltd (formerly Probuild Constructions (QLD) Pty Ltd)	23 February 2022	141 148 245
9	Probuild Constructions (NSW) Pty Ltd	23 February 2022	165 675 874
10	Probuild Constructions (VIC) Pty Ltd	23 February 2022	165 675 865
11	Probuild Constructions (WA) Pty Ltd	23 February 2022	165 676 095
12	Probuild Constructions (QLD) Pty Ltd	23 February 2022	166 966 034
13	ACN 098 866 794 Pty Ltd (formerly Probuild Constructions (NSW) Pty Ltd)	23 February 2022	098 866 794
14	Contexx Holdings Pty Ltd	23 February 2022	144 707 022
15	Prodev Murphy Pty Ltd	23 February 2022	147 249 796
16	Prodev Murphy Pty Ltd	23 February 2022	120 758 803
17	Prodev Investments 4 Pty Ltd	23 February 2022	629 246 653
18	Monaco Hickey Pty Ltd	23 February 2022	144 945 611

## Schedule F – Summary of receipts and payments 24 February 2022 to 18 March 2022

<b>Receipts</b>	<b>\$ '000</b>
Cash at Bank at 24 February 2022	2,452,851
Deposit - SRG Global	2,000,000
Pre appointment debtor	5,677,199
Netflow Receipt	460,000
Interest	73
Workers Compensation	12,185
Other Receipts	3,660
<b>Total Receipts</b>	<b>10,605,967</b>
<b>Payments</b>	
Rent	30,415
Vehicle Freight Cost	6,550
Fuel (Includes ALL PAAP Settlement)	1,516,241
Subcontractors	348,733
Child Support	1,154
Union Fees	162
Wages	1,681,398
Valuation Report	17,050
Plant and Equipment	21,104
Bank Fees	45
Materials	16,352
Lease Cost	1,505
Licencing	11,000
Credit Card Payment	36,395
<b>Total Payments</b>	<b>3,688,105</b>
<b>Net Receipts/Payments</b>	<b>6,917,862</b>



## Appendix J – Creditors Trust



HERBERT  
SMITH  
FREEHILLS

Deed

## WBHOI Creditors' Trust Deed

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Salvatore Algeri, Jason Tracy, Matthew Donnelly  
and David Orr in their capacity as joint and several  
deed administrators of the Deed Company

Salvatore Algeri, Jason Tracy, Matthew Donnelly  
and David Orr in their capacity as trustees

WBHO Infrastructure Pty Ltd (subject to deed of  
company arrangement) ACN 089 434 220

SRG Global Civil Pty Ltd ACN 083 214 439 as Deed  
Proponent



## WBHOI Creditors' Trust Deed

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Date ►

Between the parties

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**Deed Administrators** **Salvatore Algeri, Jason Tracy, Matthew Donnelly and David Orr** each in their capacity as joint and several administrators of the Deed Company, of c/- Deloitte, Level 7-9, Tower 2, Brookfield Place, 123 St Georges Terrace, Perth WA 6000

Email: [saalgeri@deloitte.com.au](mailto:saalgeri@deloitte.com.au), [jtracy@deloitte.com.au](mailto:jtracy@deloitte.com.au), [mtonnelly@deloitte.com.au](mailto:mtonnelly@deloitte.com.au), [dorr@deloitte.com.au](mailto:dorr@deloitte.com.au)

Attention: Salvatore Algeri, Jason Tracy, Matthew Donnelly and David Orr

**Trustees** **Salvatore Algeri, Jason Tracy, Matthew Donnelly and David Orr** each in their capacity as joint and several trustees of the Trust, of c/- Deloitte, Level 7-9, Tower 2, Brookfield Place, 123 St Georges Terrace, Perth WA 6000

Email: [saalgeri@deloitte.com.au](mailto:saalgeri@deloitte.com.au), [jtracy@deloitte.com.au](mailto:jtracy@deloitte.com.au), [mtonnelly@deloitte.com.au](mailto:mtonnelly@deloitte.com.au), [dorr@deloitte.com.au](mailto:dorr@deloitte.com.au)

Attention: Salvatore Algeri, Jason Tracy, Matthew Donnelly and David Orr

**Deed Company** **WBHO Infrastructure Pty Ltd (Administrators Appointed) ACN 089 434 220**, of c/- Deloitte, Level 7-9, Tower 2, Brookfield Place, 123 St Georges Terrace, Perth WA 6000

Email: [saalgeri@deloitte.com.au](mailto:saalgeri@deloitte.com.au), [jtracy@deloitte.com.au](mailto:jtracy@deloitte.com.au), [mtonnelly@deloitte.com.au](mailto:mtonnelly@deloitte.com.au), [dorr@deloitte.com.au](mailto:dorr@deloitte.com.au)

Attention: Salvatore Algeri, Jason Tracy, Matthew Donnelly and David Orr

**Deed Proponent** **SRG Global Civil Pty Ltd ACN 083 214 439** of Level 1, 338 Barker Road, Subiaco WA 6008

Email: [david.macgeorge@srgglobal.com.au](mailto:david.macgeorge@srgglobal.com.au), [roger.lee@srgglobal.com.au](mailto:roger.lee@srgglobal.com.au), [corey.maranesi@srgglobal.com.au](mailto:corey.maranesi@srgglobal.com.au), [judson.lorkin@srgglobal.com.au](mailto:judson.lorkin@srgglobal.com.au)

Attention: David Macgeorge, Roger Lee, Corey Maranesi, Judson Lorkin

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Recitals

- 1 On 23 February 2022, Salvatore Algeri, Jason Tracy, Matthew Donnelly and David Orr were appointed as administrators of the Deed Company pursuant to Part 5.3A of the Corporations Act.
- 2 At a meeting held on **[insert date of Second Meeting of Creditors]** and convened pursuant to section 439A of the Corporations Act, the Creditors of the Deed Company resolved that the Deed Company execute a deed of company arrangement proposed under section 444B(2)(b) of the Corporations Act.
- 3 On **[insert date of execution of DOCA]**, the Deed Administrators and the Deed Company executed the DOCA pursuant to section 444B(2)(b) of the Corporations Act.
- 4 The Fund Amount will be transferred to the Trustees to settle the Trust in accordance with clause 10 of the DOCA.
- 5 The Deed Company and the Trustees enter into this Deed as contemplated by the DOCA in order to facilitate a distribution by the Trustees to the Trust Creditors in their capacity as beneficiaries of the Trust Fund.

Governing law

New South Wales

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This deed witnesses as follows:

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# 1 Definitions and interpretation

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## 1.1 Definitions

The meanings of the terms used in this Deed are set out below. Otherwise, terms used in this Deed that are not set out below have the meaning set out in the DOCA.

<b>Term</b>	<b>Meaning</b>
<b>45 Hope Valley Road Lease</b>	has the meaning given to it in the DOCA.
<b>45 Hope Valley Road Property</b>	has the meaning given to it in the DOCA.
<b>Administration Account</b>	the bank account or bank accounts maintained by the Administrators for the Deed Company in accordance with Division 65 of the IPS or any replacement bank account nominated in writing by Trustees to the Deed Company and the Deed Proponent.
<b>Administration Debt</b>	any: <ol style="list-style-type: none"><li>1 debt referred to in section 443A(1) of the Corporations Act which was incurred by the Administrators during the Administration Period in respect of a Deed Company;</li><li>2 liability to the Commissioner of Taxation referred to in section 443BA(1); and</li><li>3 other debts or liabilities referred to in section 443D(aa) of the Corporations Act,</li></ol> in respect of which the Administrators are entitled to be indemnified under section 443D of the Corporations Act.
<b>Administration Period</b>	the period of time commencing on the Appointment Date and concluding on the Commencement Date.
<b>Administration WIP</b>	has the meaning given to it in the DOCA.
<b>Administrator Trading Liabilities</b>	means the Liabilities which are incurred by the Administrators in trading the business carried on by the Deed Company during the Administration Period (and all associated and incidental activities) and for which the Administrators are personally liable under sections 443A, 443B and 443BA of the Corporations Act.



<b>Term</b>	<b>Meaning</b>
<b>Administrators</b>	Salvatore Algeri, Jason Tracy, Matthew Donnelly and David Orr in their capacity as administrators of the Deed Company and any successor to that office appointed pursuant to the Corporations Act.
<b>Admitted Claim</b>	the Claim of any Trust Creditor admitted by the Trustees after adjudication in accordance with clause 9 of this Deed.
<b>Admitted Creditor</b>	a Trust Creditor who has an Admitted Claim.
<b>Appointment Date</b>	the date on which the Administrators were appointed as joint and several administrators of the Deed Company, being the 'Appointment Date' as defined in a DOCA.
<b>ASIC</b>	the Australian Securities and Investments Commission.
<b>Bank Guarantee</b>	a bank guarantee, bond, letter of credit or contingent instrument and any replacement bank guarantee, bond, letter of credit or contingent instrument.
<b>Business Day</b>	a day other than a Saturday, Sunday or public holiday and on which banks are open for business generally in Perth.
<b>Carr Civil</b>	Carr Civil Contracting Pty Ltd (Administrators Appointed) ACN 100 438 257, a wholly owned subsidiary of the Deed Company.
<b>Claim</b>	a 'Claim' as defined in the DOCA.
<b>Commencement Date</b>	the date on which the DOCA is executed by the Deed Administrators, the Deed Company and the Deed Proponent.
<b>Committee of Inspection</b>	the committee of inspection formed: <ol style="list-style-type: none"><li>1 in accordance with Divisions 75 and 80 of the IPS and Division 75 of the IPR; and</li><li>2 by resolution of creditors dated 4 March 2022.</li></ol>
<b>Continuing Employees</b>	has the meaning given in the DOCA.



<b>Term</b>	<b>Meaning</b>
<b>Corporations Act</b>	the <i>Corporations Act 2001</i> (Cth).
<b>Courts</b>	the Supreme Court of New South Wales, the Supreme Court of Western Australia, the Federal Court or any court having jurisdiction to hear and determine matters under the Corporations Act and the Trustees Act.
<b>Creditor</b>	any person who has a Claim.
<b>Deed</b>	this creditors' trust deed as amended from time to time.
<b>Deed Administrators</b>	jointly and severally, Salvatore Algeri, Jason Tracy, Matthew Donnelly and David Orr in their capacity as administrators of the Deed and any successor to that office appointed pursuant to the Corporations Act.
<b>Deed Administrators' Costs</b>	includes costs, charges and expenses, including those incurred in connection with advisers, incurred in connection with the performance of the Deed Administrators' duties, obligations and responsibilities under the Corporations Act and the DOCA during the Administration Period and the Deed Period.
<b>Deed Period</b>	has the meaning given in the DOCA.
<b>Deed Proponent</b>	SRG Global Civil Pty Ltd ACN 083 214 439
<b>Dividend</b>	any amount paid to a Trust Creditor in respect of that creditors' Admitted Claim.
<b>DOCA</b>	the deed of company arrangement executed by the Deed Company, the Administrators and the Deed Proponent on the Commencement Date.
<b>DOCA Completion</b>	completion of the DOCA in accordance with its terms.
<b>Encumbrance</b>	any: <ol style="list-style-type: none"><li>1 security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power, or title retention or flawed deposit arrangement and any</li></ol>



<b>Term</b>	<b>Meaning</b>
	<p>'security interest' as defined in sections 12(1) or (2) of the PPSA; or</p> <ol style="list-style-type: none"><li>right, interest or arrangement which has the effect of giving another person a preference, priority or advantage over creditors including any right of set-off; or</li><li>right that a person (other than the owner) has to remove something from land (known as a profit à prendre), easement, public right of way, restrictive or positive covenant, lease, or licence to use or occupy; or</li><li>third party right or interest or any right arising as a consequence of the enforcement of a judgment, or any agreement to create any of them or allow them to exist.</li></ol>
<b>Excluded Contract</b>	has the meaning given in the DOCA.
<b>Excluded Superannuation Debt</b>	has the meaning given in the DOCA.
<b>Final Dividend</b>	the last Dividend payment to be made by the Trustees to any Trust Creditor under this Deed.
<b>Fund Amount</b>	has the meaning given in the DOCA.
<b>GST</b>	has the meaning given to that term in the GST Act.
<b>GST Act</b>	the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
<b>Implementation Date</b>	has the meaning given in the DOCA.
<b>IPR</b>	the <i>Insolvency Practice Rules (Corporations) 2016</i> (Cth).
<b>IPS</b>	the <i>Insolvency Practice Schedule (Corporations)</i> contained in Schedule 2 of the Act
<b>Non-Continuing Employee</b>	any person who: <ol style="list-style-type: none"><li>was an employee of the Deed Company as at or prior to the Appointment Date; and</li></ol>





<b>Term</b>	<b>Meaning</b>
	2 any person who made an advance of money to the Deed Company for which section 560 of the Corporations Act would apply if the Deed Company was taken to be in liquidation as at the Appointment Date in respect of that Deed Company, but does not include Continuing Employees.
<b>Non-Participating Claim</b>	has the meaning given in the DOCA.
<b>Northcoast Holdings</b>	Northcoast Holdings Pty Ltd (Administrators Appointed) ACN 009 296 780, a wholly owned subsidiary of Carr Civil.
<b>Northcoast Holdings Shares</b>	all of the shares in the capital of Northcoast Holdings.
<b>Post-Completion Receivables</b>	all trade debts invoiced to the Deed Company following DOCA Completion and owing to the Deed Company (including any amount on account of GST), excluding any trade debts owing as the result of an invoice issued following DOCA Completion pursuant to clause 4.2 for Administration WIP.
<b>Post-Completion WIP</b>	the value to the Deed Company of works undertaken, services rendered and goods produced by the Deed Company following DOCA Completion.
<b>Priority Claim</b>	a Claim of a Non-Continuing Employee that would have been entitled to priority over the Claims of other unsecured creditors under section 556(1) of the Corporations Act if the Deed Company had been wound up and the winding up was taken to have commenced on the Appointment Date in respect of the Deed Company.
<b>Regulations</b>	the <i>Corporations Regulations 2001</i> (Cth).
<b>Representatives</b>	in relation to a person or entity, any director, officer, executive or employee of that person or entity and any contractor, agent, legal or financial adviser or financier of that person or entity.
<b>Restricted Cash</b>	cash held by a counterparty to a contract, cash held in a restricted bank account (including retention monies) or cash held in a special purpose bank account including a joint venture bank account for the purposes of a contract.



<b>Term</b>	<b>Meaning</b>
<b>Sale and Implementation Deed</b>	has the meaning given to it in the DOCA.
<b>Termination Date</b>	the date on which the Trust terminates in accordance with clause 18.
<b>Trust</b>	the trust established by this Deed.
<b>Trust Creditor</b>	a 'Trust Creditor' as defined in the DOCA.
<b>Trust Creditors' Available Assets</b>	has the meaning given to it in the DOCA.
<b>Trust Creditors' Available Contracts</b>	has the meaning given to it in the DOCA.
<b>Trust Creditor's Claim</b>	a Claim of a Trust Creditor.
<b>Trust Fund</b>	the trust fund contemplated by the DOCA and established under this Deed.
<b>Trustee Act</b>	the <i>Trustees Act 1925</i> (NSW).
<b>Trustees</b>	jointly and severally, Salvatore Algeri, Jason Tracy, Matthew Donnelly and David Orr, in their capacity as trustees of the Trust and any successor to that office appointed pursuant to the Trustee Act.
<b>Trustees' Costs</b>	the costs, charges and expenses, incurred by the Trustees in connection with the performance of their duties, obligations and responsibilities as trustees of the Trust, including those incurred in connection with advisers.
<b>Trustees' Remuneration</b>	The remuneration of the Trustees referred to in clause 12.1.
<b>WBHO Australia</b>	WBHO Australia Pty Ltd ACN 095 983 681.



## 1.2 Interpretation

In the Deed, unless the subject or context otherwise requires:

- (a) headings and bold type are for convenience only and do not affect the interpretation of this Deed;
- (b) the singular includes the plural and the plural includes the singular;
- (c) words of any gender include all genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this Deed have a corresponding meaning;
- (e) a reference to a person includes any company, partnership, joint venture, association, corporation or other body corporate and any government agency as well as an individual;
- (f) a reference to a clause, party, part, schedule, attachment or exhibit is a reference to a clause or part of, and a party, schedule, attachment or exhibit to, this Deed;
- (g) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them;
- (h) a reference to a document (including this Deed) includes all amendments or supplements to, or replacements or novations of, that document;
- (i) a reference to '\$', 'A\$' or 'dollar' is to Australian currency unless denominated otherwise;
- (j) a reference to any time is, unless otherwise indicated, a reference to that time in Perth;
- (k) a term defined in or for the purposes of the Corporations Act has the same meaning when used in this Deed;
- (l) a reference to a party to a document includes that party's successors and permitted assignees;
- (m) no provision of this Deed will be construed adversely to a party because that party was responsible for the preparation of this Deed or that provision;
- (n) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (o) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally; and
- (p) a reference to a body, other than a party to this Deed (including an institute, association or authority), whether statutory or not:
  - (1) which ceases to exist; or
  - (2) whose powers or functions are transferred to another body,is a reference to the body which replaces it or which substantially succeeds to its powers or functions.



### **1.3 Inconsistency with Corporations Act or Regulations**

If there is any inconsistency between the provisions of this Deed and the Corporations Act, Regulations or the IPR, this Deed shall prevail to the extent permitted by law.

### **1.4 Other inconsistencies**

If there is any inconsistency between the provisions of this Deed and the constitution of the Deed Company and any other obligation binding on the Deed Company, the provisions of this Deed shall prevail to the extent of the inconsistency, and all persons bound by this Deed agree to sign all documents and do all things necessary to remove such inconsistency, the costs of which shall be borne by the Deed Company.

### **1.5 Business Days**

Except where otherwise expressly provided, if the day on or by which any act, matter or thing is to be done as required by this Deed is a day other than a Business Day, such act, matter or thing shall be done on the immediately succeeding Business Day.

### **1.6 Deed components**

This Deed includes any Schedule.

## **2 Commencement of this Deed**

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The Trust will come into effect and the Deed Administrators will act as Trustees pursuant to the terms of this Deed immediately upon DOCA Completion.

## **3 Payment of Fund Amount and transfer of other Trust Creditors' Available Assets to the Trustees**

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Subject to the terms of the DOCA and DOCA Completion otherwise occurring:

- (a) on the Implementation Date, the Deed Proponent must pay the Fund Amount to the Administration Account or as directed in writing by the Deed Administrators in accordance with clause 10.4 of the DOCA; and
- (b) the Trust Creditors' Available Assets, other than the Fund Amount, are to be transferred to the Trustees at the times and in accordance with the terms set out in clause 10.6 of the DOCA and clause 4 of this Deed.

## **4 Post DOCA Completion Obligations**

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### **4.1 45 Hope Valley Road**

- (a) As soon as practicable (and no later than 1 Business Day) following DOCA Completion, the Deed Company shall (and the Deed Proponent will procure that the Deed Company will):



- (1) execute a transfer of land for the freehold title in the 45 Hope Valley Road Property in a form reasonably requested by the Trustees;
  - (2) execute or procure the execution of the 45 Hope Valley Road Lease; and
  - (3) deliver such executed documents to the Trustees.
- (b) Promptly following registration of the transfer of land for the freehold title in the 45 Hope Valley Road Property in the name of the Trustees at the Western Australian Land Information Authority, the Trustees shall execute the 45 Hope Valley Road Lease and lodge such lease for registration at the Western Australian Land Information Authority.

## 4.2 Administration WIP

- (a) The Deed Company shall use reasonable endeavours (including taking such reasonable steps (including performing a claim certification exercise) that the Deed Company would take in the ordinary course of business if such Administration WIP was Post-Completion WIP):
- (1) to, within 30 days after DOCA Completion, issue invoices and/or progress claims in respect of that Administration WIP that is able to be invoiced (as part of its normal billing cycle) and direct the relevant payor to make payment directly to the Trustees into the Administration Account; and
  - (2) to take its ordinary administrative steps to seek to recover payment of those invoices and/or payment claims in respect of Administration WIP and Receivables (provided that this clause shall not require the Deed Company to incur any external costs or commence any legal proceedings in respect of any such recovery).
- (b) Once the Deed Company has issued an invoice in respect of Administration WIP under clause 4.2(a), the Deed Company shall, to the extent it is permitted to do so under the relevant contract, assign any entitlement it has to receive the amount payable under that invoice to the Trustees (with such assignment being deemed to occur, where permitted, upon issuance of such invoice).
- (c) The Deed Company may not compromise in part or in full (or take any other step that has a similar effect) any invoiced Administration WIP without the consent of the Trustees.
- (d) The Deed Company may not set-off any Administration WIP against any amounts owed by the Deed Company to such debtor. To the extent that a debtor sets off any Administration WIP against any amounts owed by the Deed Company to such debtor, the Deed Company shall pay an amount equal to the amount of the Deed Company's liability to the debtor that is satisfied by such set-off to the Trustees promptly (and within 10 Business Days) following such set-off.
- (e) At the request of the Trustees, the Deed Company shall provide the Trustees with reasonable information and the relevant documentation for the purposes of allowing the Trustees to verify the accuracy and completeness of the invoices and process claims issued by the Deed Company.

## 4.3 Litigation

- (a) To the extent that there is any dispute between the Trustees and any counterparty in relation to non-payment by that counterparty of amounts owing



and outstanding to the Deed Company in respect of Administration WIP, Receivables or a Trust Creditors' Available Contracts (and where such amounts owing and outstanding have not and cannot be assigned or transferred to the Trustees), the Trustees and the Deed Company shall consult in good faith to discuss whether the Deed Company, subject to the terms of this clause 4.3, will commence legal proceedings or arbitral proceedings against such counterparty to recover such amounts owing or outstanding. The Deed Company shall consider any such request made by the Trustees in good faith, but any decision to commence legal proceedings or arbitral proceedings shall be at the discretion of the Deed Company (acting reasonably).

- (b) If the Deed Company agrees to commence legal proceedings or arbitral proceedings against a person under paragraph (a), the Trustees shall indemnify the Deed Company in respect of all costs and expenses in connection with such proceedings (including for the avoidance of doubt, any adverse cost orders or counter-claims) on terms to the satisfaction of the Deed Company and the Deed Company shall pursue such proceedings at the reasonable direction of the Trustees (including, but not limited to selection of legal counsel and agreeing any settlement), provided that the Deed Company shall not be required to take any steps that it reasonably considers prejudicial to its reputation or business.

#### 4.4 Performance of Contracts

- (a) The Deed Company shall use all reasonable endeavours, acting reasonably and in a commercial reasonable manner in the ordinary course of business, to exercise its rights and perform its obligations under each Excluded Contract where, prior to DOCA Completion:
  - (1) the Deed Company had provided a Bank Guarantee to the counterparty in connection with that Excluded Contract; or
  - (2) the Deed Company had rights to Restricted Cash in connection with that Excluded Contract.
- (b) If the Trustees request that the Deed Company provide services to the Trustees with respect to the performance of services under a Trust Creditors' Available Contract, the Deed Company and the Trustees shall negotiate in good faith to agree the scope of such services and the terms and conditions (including amounts payable) by the Trustees to the Deed Company in relation to the performance of such services. For the avoidance of doubt, the Deed Company is not obliged to agree to perform such services.
- (c) The Deed Company shall, at the request and cost of the Trustees, facilitate and provide reasonable assistance to the Trustees with respect to the recovery of money or a Bank Guarantee from a counterparty to a Trust Creditors' Available Contract on terms to be agreed between the parties, acting reasonably.

#### 4.5 Return of Bank Guarantee or retention money

- (a) If the Deed Company receives a Bank Guarantee which was originally provided by the Deed Company prior to DOCA Completion with respect to an Excluded Contract or Trust Creditors' Available Contract (**Relevant Bank Guarantee**), the Deed Company shall return such Bank Guarantee to the Trustees or, at the Trustees' direction, to the issuer of such Bank Guarantee.
- (b) If, cash collateral was provided for a Relevant Bank Guarantee and is released to the Deed Company, the Deed Company shall promptly (and in any event, within 10 Business Days of receipt) transfer such cash collateral to the Trustees.



- (c) If the Deed Company:
- (1) prior to DOCA Completion, provided to a counterparty or permitted a counterparty to retain, Restricted Cash in connection with an Excluded Contract or Trust Creditors' Available Contract; and
  - (2) subsequent to DOCA Completion, receives some or all of that Restricted Cash, or becomes entitled to withdraw, transfer or otherwise deal with such Restricted Cash,
- the Deed Company shall promptly (and in any event, within 10 Business Day of receipt or becoming aware of its entitlement to withdraw, transfer or otherwise deal) transfer such Restricted Cash to the Administration Account or as directed in writing by the Trustees.

#### 4.6 Wrong pockets

- (a) For the period of 24 months after DOCA Completion (the **Wrong Pockets Period**), if:
- (1) the Deed Company becomes aware that it has received payment of funds on account of a Receivable or Administration WIP, the Deed Company must use reasonable endeavours to notify the Trustees of that fact and take all steps reasonably within its control to transfer the funds to the Administration Account or at the direction of the Trustees for the benefit the Trust Fund;
  - (2) the Trustees become aware they have received payment of funds on account of Post-Completion WIP or Post-Completion Receivables, the Trustees must use reasonable endeavours to notify the Deed Company of that fact and take all steps reasonably within its control to transfer the funds to the Deed Company; and
  - (3) the Deed Company becomes aware that legal title to, or the beneficial interest in, or possession in, any Trust Creditors' Available Asset remains vested in the Deed Company or, following DOCA Completion, the Deed Company acquires legal title to, or the beneficial interest in, or possession in any Trust Creditors' Available Asset (**Missing Available Asset**), to the extent permitted by law, the Deed Company must, as soon as reasonably practicable and on terms that no additional consideration is provided by any person, including the Trustees for such transfer, execute any such documents as may be necessary for the purpose of transferring to the Trustees for the benefit of the Trust Creditors (free of any Encumbrance) all right, title, interest and possession in such Trust Creditors' Available Asset.
- (b) The Deed Company and the Deed Proponent must notify the Trustees as soon as reasonably practicable if, during the Wrong Pockets Period, it comes to the Deed Company's or the Deed Proponent's attention that there are any Missing Available Assets in the Deed Company's possession or control.
- (c) From the time it comes to the Deed Company's or Deed Proponent's attention that there are any Missing Available Assets in the Deed Company's possession or control, the Deed Company must maintain the Missing Available Assets, as applicable, until the date of completion of the transfer of the Missing Available Assets.
- (d) The Trustees shall reimburse the Deed Company for any reasonable out of pocket costs incurred by the Deed Company with respect to the transfer of the Missing Available Assets to the Trustees.



- (e) This clause does not apply to Administration WIP or the 45 Hope Valley Road Property to the extent that the Deed Company complied with clauses 4.1 and 4.2.

#### **4.7 General Application**

- (a) The Deed Proponent shall procure that the Deed Company complies with its obligations under this clause 4.
- (b) For the avoidance of doubt, any costs of or payable by the Trustees under this clause 4 shall be Trustees' Costs and recoverable by the Trustees from the Trust Fund.

## **5 Declaration of Trust**

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### **5.1 Declaration**

The Trustees acknowledge and declare that the Trust Fund will be held on trust by the Trustees for the Trust Creditors on the terms in this Deed.

### **5.2 Name of Trust**

The trust constituted by this Deed will be called the WBHOI Creditors' Trust.

### **5.3 Trustees' powers**

Without limiting the powers that the Trustees have by operation of the Trustees Act, for the purposes of administering the trust created by this Deed, the Trustees have the following powers:

- (a) to administer and distribute the Trust Fund in accordance with the provisions set out in the DOCA and this Deed;
- (b) to fulfil the Trustees' obligations in accordance with the terms of this Deed including to take such legal proceedings or other steps as the Trustees think fit to fulfil these obligations;
- (c) to sell, re-invest or otherwise deal with the assets of the Trust Fund;
- (d) to perfect title in any assets of the Trust Fund;
- (e) to insure any assets of the Trust Fund;
- (f) to, at any time, call meetings of the Trust Creditors for the purpose of considering the variation or termination of this Deed in accordance with the provisions of this Deed;
- (g) to admit Claims to proof in accordance with the provisions of the DOCA and this Deed;
- (h) to determine Admitted Claims and then to pay Dividends in accordance with the terms of this Deed;
- (i) to act as attorney for the Deed Company or any other person for any purpose associated with the Trust or this Trust Fund;
- (j) to enforce compliance with the terms of this Deed and the DOCA;





- (k) to accept the transfer of any shares, stocks, debentures, debenture stock, annuities, bonds, obligations or other securities of whatever nature that may at any time be transferred to it;
- (l) to enter upon or take possession of the Trust Fund and to collect the revenue or income from or interest on the Trust Fund and exercise any rights or powers relating to any part of the Trust Fund;
- (m) to bring, prosecute and defend any claim, action, suit or proceeding, which power includes the power to bring and defend any claim, counter-claim, set-off, action, suit or proceeding in the Deed Company's name or (after assignment) in the Trustees' name, to enforce any right, claim or cause of action that forms part of the Trust Fund, and to that end:
  - (1) to issue or accept service of any writ, summons or other legal process and to appear or be represented in any court and before all wardens, magistrates or judicial or other officers as the Trustees think fit and to commence or defend and conduct any action or other proceeding in any court of justice in relation to the Trust Fund and any claim, proceeding or action forming part of the Trust Fund and to prosecute, discontinue, compromise, stay, terminate or abandon that proceeding or action as the Trustees think fit;
  - (2) to appoint any solicitor and counsel to prosecute or defend in those proceedings as occasion may require; and
  - (3) to take any other lawful ways and means for the recovering or getting in any of the Trust Fund;
- (n) to convene and hold meetings of the Trust Creditors for any purpose as the Trustees consider fit;
- (o) to permit any person authorised by the Trustees to operate any account in the name of the Trust;
- (p) to do all acts and execute in the name and on behalf of the Trust all deeds, receipts and other documents;
- (q) to draw, accept, make or endorse any bill of exchange or promissory note in the name and on behalf of the Trust;
- (r) subject to the Corporations Act, to prove in the winding up of or under any scheme of arrangement entered into by, or deed of company arrangement executed by, any contributory or debtor of the Trust;
- (s) to bring or defend an application for the vesting or winding up of the Trust;
- (t) to report to the Trust Creditors from time to time;
- (u) to make interim or other distributions of the Trust Fund;
- (v) to appoint agents to do any business or attend to any matter or affairs of the Trust that the Trustees are unable to do, or that it is unreasonable to expect the Trustees to do, in person;
- (w) to appoint a solicitor, accountant or other professionally qualified person to assist the Trustees;
- (x) to compromise any claim, action, suit or proceeding brought by or against the Trustees on such terms as the Trustees consider fit, which includes the power to compromise any claim, action, suit or proceeding referred to in paragraph (m) of this clause;



- (y) to provision for and set aside a sum or sums equal to an amount which the Trustees reasonably anticipate may be payable in respect of any tax, including income tax, capital gains tax or GST;
- (z) to do anything incidental to exercising a power set out in this Deed;
- (aa) to do anything else that is necessary or convenient for administering the Trust; and
- (bb) to pay any amounts from the Trust Fund for which an indemnity exists under this Deed.

#### **5.4 Exercise of discretion and powers**

- (a) The Trustees may exercise any discretion under this Deed in the Trustees' absolute and unfettered discretion.
- (b) The Trustees shall not be required to give any reason for the exercise of, or failure to exercise, any of the Trustees' powers.

#### **5.5 Objects of the Trust**

The Trustees shall receive and hold the Trust Fund on trust for the benefit of the Trust Creditors and will distribute the Trust Fund in accordance with the terms of this Deed.

### **6 Obligation to discharge Administrator Trading Liabilities**

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- (a) The Trustees must discharge all Administrator Trading Liabilities as soon as reasonably practicable following DOCA Completion and, in any event, by no later than 90 days after DOCA Completion.
- (b) The Deed Company shall provide any assistance or information (including, for example, invoices) reasonably requested by the Administrators or their Representatives in connection with fulfilling their obligation in clause 6(a).

### **7 Trust Fund**

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#### **7.1 Trust Fund**

If DOCA Completion occurs, the Trust Fund shall be comprised of:

- (a) Trust Creditors' Available Assets paid, transferred or otherwise held by the Trustees following DOCA Completion in accordance with clause 10 of the DOCA;
- (b) any other assets transferred to the Trustees to be held on trust for the benefit of the Trust Creditors which, for the avoidance of doubt, excludes any amounts paid to the Trustees referred to in clause 4.6(a)(2); and
- (c) the proceeds of the assets described in paragraphs (a) and (b).



## 7.2 Distribution of the Trust Fund

- (a) If DOCA Completion occurs, subject to clause 7.2(b), the Trust Fund will be available for distribution to the Trust Creditors as follows:
- (1) first, to the Administrators or Deed Administrators for any amount which they are entitled to be paid or indemnified for under clause 15 of the DOCA (which, for the avoidance of doubt, includes the Administrator Trading Liabilities including those to be discharged pursuant to clause 6) (even though they may have ceased to be Administrators or Deed Administrators);
  - (2) next, to the Trustees in satisfaction of the Trustees' Remuneration and the Trustee's Costs (which may include an amount of the Trustees' Remuneration and the Trustees' Costs which are estimated to be incurred by the Trustees up to the Termination Date);
  - (3) next, to each relevant Non-Continuing Employee, the amount of any Priority Claim; and
  - (4) next, to each Trust Creditor, an amount equal to its pro rata portion of the remaining assets of the Trust in accordance with the dollar value of the Admitted Claims of those Trust Creditors to the extent not satisfied pursuant to paragraphs (1) to (3).
- (b) Notwithstanding clause 7.2(a), any Creditor who would have been entitled to priority over other unsecured creditors under section 562 of the Corporations Act in respect of any amount forming part of the Trust Fund will retain a priority in respect of the assets of the Trust Fund at least equal to that they would have been entitled to if the property of the Deed Company had been applied in accordance with section 562 of the Corporations Act.
- (c) Notwithstanding any other provision of this Deed, for the purposes of section 444DA of the Corporations Act and clause 7.2(a), any Priority Claims of a Non-Continuing Employee will retain a priority in respect of the assets of the Trust Fund at least equal to that they would have been entitled to if the property of the Deed Company had been applied in accordance with sections 556, 560 and 561 of the Corporations Act.
- (d) No distributions will be made to Trust Creditors, other than those referred to in paragraphs 7.2(a)(1) and (2), unless those claims are Admitted Claims.
- (e) The Trustees may distribute the Trust Fund at such times as the Trustees consider, in their absolute discretion, that is appropriate and feasible to do so, including making distributions (whether interim or final) under any provision of clause 7.2(a) in advance of making any payments under any other provision of clause 7.2(a) on the basis that they have retained sufficient funds to ensure that any payments to be made under any provision of clause 7.2(a) having higher priority may be made when the time comes to do so.

## 7.3 Surplus in the Trust Fund

In the event that there is:

- (a) a surplus or balance in the Trust Fund after the Trust Creditors have received their distribution in accordance with clause 7.2; or
- (b) a remaining balance of any distribution of trust property to Trust Creditors which has remained under the control of the Trustees and has been unclaimed for more than 6 months after the day on which the Trustees declare their intention to distribute a Final Dividend in accordance with this Deed,



such surplus or balance will be paid by the Trustees to the Deed Proponent.

#### **7.4 Postponement**

Should proceedings be brought by any person in respect of the distribution of the Trust Fund, then the Trustees are entitled at their sole discretion to postpone the payment of any entitlement until determined by the Trustees.

#### **7.5 Payments not made**

In the event that the Trustees, for any reason, are unable to locate an Admitted Creditor, or if any cheque sent by the Trustees to an Admitted Creditor has not been presented by the time the Trust would otherwise terminate, then:

- (a) the Trustees will stop payment of such cheque;
- (b) the moneys represented by such stopped cheque or held by the Trustees on behalf of the Admitted Creditor must be paid to ASIC; and
- (c) the provisions of sections 544(1) and 544(3) of the Act apply, with such modifications as are necessary, to such payment as if references in those sections to "liquidator" were references to the "Trustees" and references to "company" were references to the "Trust" (however, the terms of this Deed and the DOCA prevail to the extent of any inconsistency).

## **8 Perpetuity Period**

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Notwithstanding any other provision in this Deed, each

- (a) interest in property; and
- (b) Trustees' power over or in connection with property, created or granted by this Deed that, but for this provision, might vest, take effect, or be exercisable after the expiry of eighty (80) years commencing on the date of this Deed, but which has not vested or taken effect by that date,
- (c) will vest or take effect on the last day of that period; and
- (d) is exercisable only on or before the last day of that period.

## **9 Claims**

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### **9.1 Admissibility of Claims**

- (a) Upon this Deed being settled, and in accordance with clause 6.6 of the DOCA, all Claims of the Trust Creditors against the Deed Company will convert to and become claims against the Trust Fund under this Deed, equal in amount to the Trust Creditor's entitlement to a distribution in respect of the Trust Creditor's released Claim in accordance with clause 7.2 of this Deed.
- (b) Interest will not accrue or be payable on any Admitted Claim.



## 9.2 Trustees' discretion

The Trustees may, in their absolute discretion:

- (a) call for proofs of debt or claim;
- (b) admit all or part of a Claim;
- (c) reject all or part of a Claim; or
- (d) pay any Admitted Claim,

in accordance with the provisions of this Deed.

## 9.3 Determination of Claims

- (a) Subdivisions A, B, C and E of Division 6 of Part 5.6 of the Corporations Act apply to Claims under this Deed as if references to the liquidator were references to the Trustees and references to winding up were references to this Deed, and with such other modifications as are necessary to give effect to this Deed, except to the extent that those provisions are varied or excluded expressly or impliedly by this Deed.
- (b) Regulations 5.6.11A, 5.6.37, 5.6.39 to 5.6.43 (inclusive), 5.6.44 to 5.6.53 (inclusive) and 5.6.55 to 5.6.72 (inclusive) of the Regulations shall apply to this Deed and to the Trustees as if references to the liquidator were references to the Trustees and references to winding up were references to this Deed, and with such other modifications as are necessary to give effect to this Deed, except to the extent that those provisions are varied or excluded expressly or impliedly by this Deed.
- (c) The Trustees may make interim distributions of trust property under this Deed.
- (d) The Trustees may make any distribution by electronic funds transfer to a bank account nominated by the relevant Trust Creditor.
- (e) The Trustees must declare and distribute trust property under this Deed as soon as practicable after the Trust comes into effect under clause 5.1. However, subject to clauses 9.3(a) and 9.3(b), the Trustees have an absolute and unfettered discretion as to the admission of Claims, and the amount and timing of the distribution of the trust property in payment of Admitted Claims.
- (f) Where the Trustees propose to reject a Claim (whether in part or in full) the Trustees shall send a notice to the Creditor informing the Creditor of the proposed rejection and giving the party 21 days within which to make an application to the Court to determine the questions relating to the Claim.
- (g) The Trustees are entitled to rely upon any steps and determinations made by the Deed Administrators for the purposes of this clause in respect of whether a claim asserted for the purposes of claiming under this Deed is an Admitted Claim, together with any information and proofs or particulars of debt provided to the Administrators or Deed Administrators.

## 9.4 Access to Records

On and from DOCA Completion, and subject to the Sale and Implementation Deed, the Deed Proponent and Deed Company must, on reasonable notice from the Trustees, provide the Trustees and any of their Representatives, during normal business hours, with reasonable access to all pre-DOCA Completion business records of the Deed Company (including taking copies of those records) for the purposes of the Trustees complying with their fiduciary duties and statutory obligations and responsibilities as



Trustees under this Deed and doing anything else necessary or desirable in the exercise of their powers and discretions and performance of their duties, obligations and responsibilities as Trustees under this Deed.

### **9.5 Excluded Superannuation Debts not admissible**

An Excluded Superannuation Debt is not admissible to proof against the Trust Fund.

### **9.6 Creditors' costs and expenses**

Any costs and expenses incurred by a Trust Creditor in asserting a Claim under this Deed will be borne by that Trust Creditor and will not form part of that Trust Creditor's Claim under this Deed.

### **9.7 Abandonment of Claims**

A Trust Creditor will have abandoned, and will be taken for all purposes to have abandoned, all Claims and all other entitlements (if any) in the Trust Fund:

- (a) which are not the subject of a proof lodged with the Deed Administrators or the Trustees in the form required by the Trustees prior to the declaration of a Final Dividend; or
- (b) which have been rejected by the Trustees and which are not the subject of any appeal or application to the Court within the time allowed under clause 9.3(f).

### **9.8 Discharge of Claims**

- (a) All persons having a Claim must accept their Admitted Claims under this Deed (if any) in full satisfaction and complete discharge of all claims which they have or claim to have against the Trustees or the Trust Fund and each of them will, if called upon to do so, execute and deliver to the Trustees such forms of release of any such claim as the Trustees require.
- (b) The Trustees must take all steps reasonably required by the Deed Proponent to obtain such releases from any Trust Creditors nominated by the Deed Proponent.

### **9.9 Claims extinguished**

On payment of the Final Dividend to the Trust Creditors from the Trust Fund:

- (a) all Claims against the Trust Fund are extinguished; and
- (b) the obligations of the Trustees to the Trust Creditors under the Trust will be fully and finally discharged.

### **9.10 Bar**

After distribution of the Final Dividend from the Trust Fund, the Trustees may plead this Deed in bar to any Claim.

### **9.11 Non-Participating Claims**

No Creditor is entitled to participate in or receive any distribution from the Trust Fund in respect of a Non-Participating Claim.



## 10 GST on Claims

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### 10.1 Definitions

Words and expressions used in this clause 10 which are defined in the GST Act have the same meaning in this clause.

### 10.2 GST credits on Claims which have been or will be claimed by the Deed Company

To the extent that input tax credits on Admitted Claims have been or will be claimed by the Deed Company, the parties agree and acknowledge that following the payment of distributions to those Creditors by the Trustees from the Trust Fund, the Deed Company by its directors will be responsible for making any adjustment required by the provisions of the GST Act insofar as those adjustments relate to those Admitted Claims and Practice Statement PS LA 2012/1 (GA) will be applied by the Deed Company to calculate the impact of those adjustments.

### 10.3 GST credits for Administration Debts and Deed Administrators' Costs

To the extent that:

- (a) an input tax credit is available in respect of an Administration Debt or a Deed Administrators' Cost; and
- (b) neither the Administrator nor the Deed Administrator is able to claim that input tax credit because it is attributable to a tax period that arises after the date on which the GST registration of the Administrator or the Deed Administrator's ends,

then, the parties agree and acknowledge that the Deed Company is responsible for claiming that input tax credit.

### 10.4 GST credits during operation of Trust

The parties agree and acknowledge that to the extent that an input tax credit is available in respect of a Trustee Cost which is incurred and paid for by the Trustees during the operation of the Trust, the Trustees (acting in their capacity as Trustees of the Trust) will be responsible for the claiming those input tax credits.

## 11 Meetings of Trust Creditors

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- (a) The Trustees may at any time convene a meeting of Trust Creditors and except to the extent (if any) they are excluded or modified by or are inconsistent with the terms of this Deed, Division 75 of Part 3 of the IPR applies, with such modifications as are necessary, to meetings of the Trust Creditors as if references to the 'external administrator' or chairperson, as the case may be, were references to one or more of the Trustees.
- (b) Trust Creditors who have been paid the full amount of their entitlement in respect of their Admitted Claim under this Deed will no longer be entitled to attend and participate in meetings of Trust Creditors.



## 12 Remuneration

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### 12.1 Remuneration of Trustees

The Trustees:

- (a) are to be remunerated at the usual rates charged by Deloitte Financial Advisory Pty Ltd from time to time in respect of any work done by the Trustees, and any partner or employee of the Trustees, in connection with:
  - (1) the exercise of their powers and discretions and performance of their duties, obligations and responsibilities as Administrators and/or Deed Administrators, even though that remuneration has not been approved by the Creditors pursuant to Division 60 Subdivision B of the IPS;
  - (2) the calling for and adjudicating upon proofs of Claims;
  - (3) the distribution of the Trust Fund;
  - (4) the exercise of their powers and discretions and performance of their duties, obligations and responsibilities as Trustees under this Deed; and
- (b) acknowledge that the Trustees' Costs, including costs, charges and expenses (including those incurred in connection with advisers) incurred in connection with the foregoing, including any stamp duty payable by them in respect of this Deed will be payable from the Trust Fund.

The Trustees' Remuneration and the Trustees' Costs referred to in this clause 12.1 and all other costs shall be reimbursed or paid out of the Trust Fund.

### 12.2 Acknowledgement

The parties acknowledge that the Trustee's Remuneration as referred to at clause 12.1(a) includes remuneration and costs incurred by the Trustees in connection with or as a result of their duties, obligations and responsibilities as Administrators and/or Deed Administrators.

### 12.3 Northcoast Holdings

The parties acknowledge that the Trustees shall be entitled to withdraw \$20,000 from the Trust Fund for costs and expenses in connection with the voluntary administration and/or liquidation of Northcoast Holdings (notwithstanding that Carr Civil may have transferred the Northcoast Holdings Shares to WBHO Australia or a subsidiary of WBHO Australia prior to the date of this Deed) and such withdrawal will be treated as part of the Trustees' Costs.

## 13 Committee of Inspection

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- (a) The Trustees may convene meetings of the Committee of Inspection from time to time for the purpose of consulting with the Committee of Inspection on matters arising in the course of the administration of the Trust.
- (b) The Committee of Inspection will operate as a consultative committee and will not have power to direct or bind the Trustees in any way.
- (c) The:





- (1) appointment or removal of members of the Committee of Inspection will be governed by Division 80-15 of the IPS and Division 80-10 of the IPR;
- (2) power to convene meetings of the Committee of Inspection will be governed by Division 80-27 of the IPS; and
- (3) obligations of members of the Committee of Inspection will be governed by Division 80-55 of the IPS,

with such amendments in form and substance as are necessary to give efficacy to the administration of the Trust by the Trustees.

- (d) Subject to the discretion of the Trustees to make such disclosures as are necessary or convenient for the purposes of the administration of the Trust, the affairs of the Committee of Inspection will be conducted on a confidential basis.

## 14 Indemnity

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### 14.1 Indemnity

The Trustees are entitled to be indemnified out of the Trust Fund for all actions, suits, proceedings, accounts, claims and demands arising out of or relating to this Deed which may be commenced, incurred by or made on the Trustees by any person and against all costs, charges and expenses incurred by the Trustees in respect of them, provided that the Trustees shall not be entitled to an indemnity in respect of any liabilities or demands to the extent that the indemnification contravenes the Corporations Act or the Trustee Act.

### 14.2 Continuing indemnity

This indemnity takes effect on and from the Commencement Date and will be without limitation as to time and will operate notwithstanding the removal of the Trustees (or either of them) and the appointment of new trustees or the termination of this Trust for any reason whatsoever.

### 14.3 Indemnity not to be affected or prejudiced

The indemnity under clause 14.1 will not:

- (a) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the Trustees and will extend to all actions, suits, proceedings, accounts, liabilities, claims and demands arising in any way out of any defect in the appointment of the Trustees, the approval and execution of this Deed or otherwise; or
- (b) affect or prejudice all or any rights that the Trustees may have against any other person to be indemnified against the costs, charges, expenses and liabilities incurred by the Trustees of or incidental to the exercise or performance of any of the powers of authorities conferred on the Trustees by this Deed or otherwise.



## 15 Liability

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### 15.1 Exclusion of liability

- (a) The Trustees, and the Trustees' partners and employees, are not liable for any loss or damage occasioned to the trust property or to any person by:
  - (1) the exercise of any discretion or power conferred by this Deed or by law on the Trustees or any delay or failure to exercise any of those discretions or powers;
  - (2) any breach of duty or trust, unless it is proved to have been committed, made or omitted in personal, conscious and fraudulent bad faith by the Trustees, partner or employee; or
  - (3) any disclosure by the Trustees or the officer of any document, matter or thing relating to the Trust, the trust property or any Trust Creditor.
- (b) All persons claiming any interest in the trust property must be treated as taking it with and subject to notice of the protection conferred by this clause 15.

### 15.2 Proceedings against co-trustee

The Trustees are not bound to take any proceeding against a co-trustee for any breach or alleged breach of trust committed by the co-trustee.

### 15.3 Reliance on advice

Where the Trustees act in reliance upon the advice of any solicitor instructed on behalf of the Trust in relation to the interpretation of the provisions of this Deed or any document or statute or any matter concerning the administration of the Trust, the Trustees are not liable to any person in respect of any act done or omitted to be done by the Trustees in accordance with the advice.

## 16 Trustees' resignation

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Any Trustee may resign at any time by giving not less than 28 days' prior written notice to the Deed Company unless that resignation would result in there being no remaining Trustees, in which event the Trustees must:

- (a) convene a meeting of Trust Creditors in accordance with clause 11 of this Deed for the purpose of nominating a replacement trustee;
- (b) assign to a replacement trustee nominated by the Trust Creditors the Trustees' rights, title and benefit under this Deed; and
- (c) do all things reasonably necessary to effect the assignment referred to in clause 16(b).



## 17 Trustees not obliged to take action

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The Trustees will not be obliged to take any action under this Deed until such time as there are sufficient funds in hand and immediately available to them to pay the Trustees' Remuneration and Trustees' Costs.

## 18 Termination

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### 18.1 Termination of the Trust

This Trust will terminate and the Trustees will resign as soon as reasonably practicable:

- (a) after distribution of the Final Dividend from the Trust Fund; or
- (b) upon the expiry of the perpetuity period referred to in clause 8, whichever occurs first.

### 18.2 Meeting of Trust Creditors

The Trustees must convene a meeting of Trust Creditors to consider a resolution to vary this Deed or terminate the Trust if:

- (a) at any time prior to the termination of the Trust, the Trustees determine that it is no longer practicable or desirable to continue to implement or carry out this Deed; or
- (b) the Court so orders.

### 18.3 Termination of the Trust by Court order and Trust Creditors' resolution

This Trust will terminate if:

- (a) a Court so orders; or
- (b) the Trust Creditors pass a resolution terminating this Trust at a meeting duly convened pursuant to clause 18.2.

In that event, either of the following may occur:

- (c) if all Trust Creditors have received their distribution in accordance with clause 7.2, any remaining part of the Trust Fund must be immediately paid to the Deed Proponent and shall not be available for distribution to Trust Creditors; or
- (d) if any Trust Creditors have not received their distribution in accordance with clause 7.2, then any remaining part of the Fund Amount will be refunded to the Deed Proponent and any other remaining funds in the Trust Fund will be returned to the Deed Company and shall not be available for distribution to Trust Creditors.

### 18.4 Report to Trust Creditors

Upon a meeting being convened pursuant to clause 18.2, the Trustees must send each Trust Creditor prior to the meeting a report as to the state of affairs of the Trust accompanied by such financial statements as the Trustees think fit. The report must include:



- (a) a statement explaining the circumstances which have caused the Trustees to convene the meeting pursuant to clause 18.2; and
- (b) a statement that this Trust will be terminated if the Trust Creditors so resolve.

### **18.5 Previous operation of this Deed preserved**

The termination or avoidance, in whole or in part, of this Trust does not affect the efficacy of any act done prior to the termination or avoidance.

### **18.6 Variation of Deed**

This Deed may be varied:

- (a) with the consent of the Trustees by resolution passed at a meeting of Trust Creditors by a majority of Trust Creditors in number and in value, but only if the variation is not materially different from the proposed variation set out in the notice of that meeting and provided that the variation does not materially prejudice the interests of any class of Trust Creditors without the approval of a majority of that class of Trust Creditors in number and value; or
- (b) by the Court upon application of any of the Trust Creditors or the Trustees pursuant to the Trustee Act,

provided that no amendment may be made to clauses 4, 6 and 9.4, or that otherwise imposes new obligations on the Deed Proponent or Deed Company or affects the operation of clauses 4, 6 and 9.4, without the consent of the Deed Proponent or Deed Company, respectively.

### **18.7 Survival**

Despite any other provision of this Deed, clauses, 1, 10, 12, 14, 15, 18 and 19 survive the termination of this Deed.

## **19 General**

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### **19.1 Invalidity and enforceability**

- (a) If any provision of this Deed is invalid under the law of any jurisdiction the provision is enforceable in that jurisdiction to the extent that it is not invalid, whether it is in severable terms or not.
- (b) Clause 19.1(a) does not apply where enforcement of the provision of this Deed in accordance with clause 19.1(a) would materially affect the nature or effect of the parties' obligations under this Deed.

### **19.2 Waivers**

No party to this Deed may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

The meanings of the terms used in this clause 19.2 are set out below.



<b>Term</b>	<b>Meaning</b>
<b>conduct</b>	includes delay in the exercise of a right.
<b>right</b>	any right arising under or in connection with this Deed and includes the right to rely on this clause.
<b>waiver</b>	includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel.

### **19.3 Counterparts**

- (a) This Deed may be executed in any number of counterparts.
- (b) All counterparts, taken together, constitute one instrument.
- (c) A party may execute this Deed by signing any counterpart.
- (d) Counterparts may be exchanged by email or other electronic means.

### **19.4 Governing law**

This Deed is governed by the law in force in the State of New South Wales and the parties submit to the non-exclusive jurisdiction of the Courts and any Court which may hear appeals from those Courts.

### **19.5 Further action to be taken at each party's own expense**

Each party must, at its own expense, do all things and execute all documents necessary to give full effect to this Deed and the transactions contemplated by it.

### **19.6 Assignment**

Unless expressed otherwise, rights arising out of or under this Deed are not assignable by a party without the prior written consent of the other parties.

### **19.7 Entire agreement**

This Deed states all the express terms agreed by the parties in respect of its subject matter. It supersedes all prior discussions, negotiations, understandings and agreements in respect of its subject matter.

### **19.8 No reliance**

No party has relied on any statement by any other party not expressly included in this Deed.

### **19.9 Relationship of the parties**

Nothing in this Deed gives a party authority to bind any other party in any way.



### 19.10 Exercise of rights

- (a) Unless expressly required by the terms of this Deed, a party is not required to act reasonably in giving or withholding any consent or approval or exercising any other right, power, authority, discretion or remedy, under or in connection with this Deed.
- (b) A party may (without any requirement to act reasonably) impose conditions on the grant by it of any consent or approval, or any waiver of any right, power, authority, discretion or remedy, under or in connection with this Deed. Any conditions must be complied with by the party relying on the consent, approval or waiver.

### 19.11 Stamp duty

- (a) Any stamp duty assessed on this Deed is to be paid out of the Trust Fund.
- (b) The Trustees must pay any stamp duty arising under the transfers of assets to the Trust Fund which is contemplated in this Deed, including under clause 4, out of the Trust Fund.

### 19.12 Creditor's Power of Attorney

Each Trust Creditor irrevocably appoints each of the Trustees jointly and severally as its attorney to execute any document to give effect to the releases in clause 9.

### 19.13 Joint Parties

If two or more parties are included within the same defined term in this Deed:

- (a) liability of those parties under this Deed is a joint liability of all of them and a several liability of each of them.
- (b) a right given to those parties under this deed is a right given severally to each of them; and
- (c) a representation, warranty or undertaking made by those parties is made by each of them.

### 19.14 Costs

Each party must pay its own costs of negotiating, preparing and executing this Deed.

## 20 Notices

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### 20.1 Form of Notice

A notice or other communication to a party under this Deed (**Notice**) must be:

- (a) in writing and in English and signed by or on behalf of the sending party; and
- (b) addressed to that party in accordance with the details nominated in Schedule 1 (or any alternative details nominated to the sending party by Notice).



## 20.2 How Notice must be given and when Notice is received

- (a) A Notice must be given by one of the methods set out in the table below.
- (b) A Notice is regarded as given and received at the time set out in the table below.

However, if this means the Notice would be regarded as given and received outside the period between 9.00am and 5.00pm (addressee's time) on a Business Day (**business hours period**), then the Notice will instead be regarded as given and received at the start of the following business hours period.

Method of giving Notice	When Notice is regarded as given and received
By hand to the nominated address	When delivered to the nominated address
By pre-paid post to the nominated address	At 9.00am (addressee's time) on the second Business Day after the date of posting
By email to the nominated email address	When the email (including any attachment) has been sent to the addressee's email address (unless the sender receives a delivery failure notification indicating that the email has not been delivered to the addressee).

## 20.3 Notice must not be given by electronic communication

A Notice must not be given by electronic means of communication (other than email as permitted in clause 20.2).



## Schedule 1

### Notice details

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#### Clause 20.1

<b>Trustees</b>	Salvatore Algeri, Jason Tracy, Matthew Donnelly and David Orr in their capacity as joint and several deed administrators of the Deed Company
Address	c/- Deloitte, Level 7-9, Tower 2, Brookfield Place, 123 St Georges Terrace, Perth WA 6000
Attention	Salvatore Algeri, Jason Tracy, Matthew Donnelly and David Orr
Email	saalgeri@deloitte.com.au, jtracy@deloitte.com.au, mdonnelly@deloitte.com.au, dorr@deloitte.com.au

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<b>Company</b>	WBHO Infrastructure Pty Ltd (subject to deed of company arrangement) ACN 089 434 220
Address	c/- Deloitte, Level 7-9, Tower 2, Brookfield Place, 123 St Georges Terrace, Perth WA 6000
Attention	Salvatore Algeri, Jason Tracy, Matthew Donnelly and David Orr
Email	saalgeri@deloitte.com.au, jtracy@deloitte.com.au, mdonnelly@deloitte.com.au, dorr@deloitte.com.au

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<b>Deed Proponent</b>	SRG Global Civil Pty Ltd ACN 083 214 439
Address	Level 1, 338 Barker Road, Subiaco WA 6008
Attention	David Macgeorge, Roger Lee, Corey Maranesi, Judson Lorkin
Email	david.macgeorge@srgglobal.com.au, roger.lee@srgglobal.com.au, corey.maranesi@srgglobal.com.au, judson.lorkin@srgglobal.com.au

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## Signing page

Executed as a deed

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**Trustee**

Signed sealed and delivered by  
**Salvatore Algeri**

*sign here* ► \_\_\_\_\_

*print name* \_\_\_\_\_

in the presence of

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_

---

**Trustee**

Signed sealed and delivered by  
**Jason Tracy**

*sign here* ► \_\_\_\_\_

*print name* \_\_\_\_\_

in the presence of

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_

---



**Trustee**

Signed sealed and delivered by  
**Matthew Donnelly**

*sign here* ► \_\_\_\_\_

*print name* \_\_\_\_\_

in the presence of

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_

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**Trustee**

Signed sealed and delivered by  
**David Orr**

*sign here* ► \_\_\_\_\_

*print name* \_\_\_\_\_

in the presence of

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_

---



**Deed Administrator**

Signed sealed and delivered by  
**Salvatore Algeri**

*sign here* ► \_\_\_\_\_

*print name* \_\_\_\_\_

in the presence of

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_

---

**Deed Administrator**

Signed sealed and delivered by  
**Jason Tracy**

*sign here* ► \_\_\_\_\_

*print name* \_\_\_\_\_

in the presence of

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_

---



**Deed Administrator**

Signed sealed and delivered by  
**Matthew Donnelly**

*sign here* ► \_\_\_\_\_

*print name* \_\_\_\_\_

in the presence of

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_

---

**Deed Administrator**

Signed sealed and delivered by  
**David Orr**

*sign here* ► \_\_\_\_\_

*print name* \_\_\_\_\_

in the presence of

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_

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Signed sealed and delivered by  
**WBHO Infrastructure Pty Ltd (subject to deed of company arrangement)**  
by one of its joint and several Deed Administrators

*sign here* ► \_\_\_\_\_  
Deed Administrator

*print name* \_\_\_\_\_

in the presence of

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_

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**Deed Proponent**

Signed, sealed and delivered by  
**SRG Global Civil Pty Ltd**  
by

*sign here* ► \_\_\_\_\_  
Company Secretary/Director

*sign here* ► \_\_\_\_\_  
Director

*print name* \_\_\_\_\_

*print name* \_\_\_\_\_

## Appendix K – ARITA Information Sheet: Approving Remuneration

## Information sheet: Approving remuneration of an external administrator

If you are a creditor in a liquidation, voluntary administration or deed of company arrangement you may be asked to approve the external administrator's remuneration. An external administrator can be a liquidator, voluntary administrator or deed administrator. The process for approving the remuneration for each of these is the same.

This information sheet gives general information to help you understand the process of approving an external administrator's remuneration and your rights in this process. The following topics are covered in this information sheet:

- About external administrations
- External administrator's remuneration and costs
- Calculating remuneration
- Information you will receive
- Approving remuneration
- Who may approve remuneration
- Deciding if remuneration is reasonable
- What can you do if you decide the remuneration is unreasonable?
- Reimbursement of out of pocket costs
- Queries and complaints
- More information.

### About external administrations

If a company goes into liquidation, voluntary administration or enters into a deed of company arrangement, an independent person is appointed to oversee the administration. They are called an external administrator and include a liquidator, voluntary administrator and deed administrator, depending on the type of administration involved. In this information sheet they are simply referred to as an external administrator.

The duties of an external administrator are specified in legislation and they must adhere to certain standards while conducting the administration.

All external administrators are required by law to undertake certain tasks which may not benefit creditors directly (e.g. investigating whether any offences have been committed and reporting to the Australian Securities and Investments Commission (ASIC)).

### External administrator's remuneration and costs

External administrators are entitled to be paid for the necessary work they properly perform in the administration.

An external administrator is entitled:

- to be paid reasonable remuneration, for the work they perform, once this remuneration has been approved,
- to be paid for internal disbursements they incur in performing their role (these costs do need approval), and
- to be reimbursed for out-of-pocket costs incurred in performing their role (these costs do not need approval).



Common internal disbursements are stationery, photocopying and telephone costs.

Commonly reimbursed out-of-pocket costs include:

- legal fees
- a valuer's, real administration agent's and auctioneer's fees
- postage costs
- retrieval costs for recovering the company's computer records, and
- storage costs for the company's books and records.

Creditors have a direct interest in the amount of an external administrator's remuneration and costs, as these will generally be paid from the administration before any payments are made to creditors.

Remuneration and internal disbursements must be approved in accordance with the Corporations Act and Insolvency Practice Rules (Corporations) before it can be paid.

If there is a shortfall between the external administrator's remuneration and the assets available from the administration, in certain circumstances the external administrator may arrange for a third party to pay the shortfall. As a creditor, you will be provided details of any such arrangement.

If there are not enough assets to pay the external administrator's remuneration and costs, and there is no third party payment arrangement, the external administrator remains unpaid.

## Calculating remuneration

An external administrator may calculate their remuneration using one (or a combination) of a number of methods, such as:

- on the basis of time spent working on the administration, according to hourly rates
- a quoted fixed fee, based on an estimate of the costs
- a percentage (usually of asset realisations), or
- a contingent basis on a particular outcome being achieved.

Charging on the basis of time spent is the most common method used. External administrators have a set of hourly rates that they will seek to charge. These rates are set to reflect the seniority, skills and experience of staff and, where applicable, the complexity and risks of the bankruptcy. They cover staff costs and overheads.

If remuneration is being charged on a time basis, the external administrator must keep time sheets noting the number of hours spent on the tasks performed.

Creditors have a right to question the external administrator about the remuneration and the rates to be charged. They also have a right to question the external administrator about the fee calculation method used and how the calculation was made. The external administrator must justify why the chosen fee calculation method is appropriate for the administration.

## Information you will receive

There are different types of remuneration reports that you may receive during the course of an external administration. The following table details the reports and when you might receive them.

Document	Information it contains	When you will receive it
Initial Remuneration Notice (IRN)	<ul style="list-style-type: none"> <li>• A brief explanation of the types of methods that may be used to calculate fees.</li> <li>• The external administrator's chosen fee calculation method(s) and why it is appropriate.</li> <li>• Details of the external administrator's rates, including hourly rates if time spent basis is used.</li> <li>• An estimate of the external administrator's remuneration.</li> <li>• The method that will be used to calculate disbursements.</li> </ul>	<p>Voluntary Administration – with the notice of first meeting.</p> <p>Creditors' voluntary liquidation – within 10 business days of appointment.</p> <p>Court liquidation – within 20 business days of appointment.</p>
Remuneration Approval Report (RAR)	<ul style="list-style-type: none"> <li>• A summary description of the major tasks performed, or likely to be performed.</li> <li>• The costs associated with each of those major tasks and the method of calculation.</li> <li>• The periods at which the external administrator proposes to withdraw funds from the administration for remuneration.</li> <li>• An estimated total amount, or range of total amounts, of the external administrator's remuneration.</li> <li>• An explanation of the likely impact of that remuneration on the dividends (if any) to creditors.</li> <li>• Where internal disbursements are being claimed, the external administrator will report to creditors on the amount and method of calculation of these disbursements.</li> </ul>	<p>Sent at the same time as:</p> <ul style="list-style-type: none"> <li>• the notice to creditors of the meeting at which approval of remuneration will be sought; or</li> <li>• the notice to creditors of the proposal without a meeting by which approval of remuneration will be sought</li> </ul> <p>If approval of remuneration is not being sought, a RAR will not be provided.</p>

## Approving remuneration

The meeting of creditors (or committee of inspection) gives a chance for those participating to ask questions about the external administrator's remuneration. Fees are then approved by a vote of the creditors. Alternatively, the external administrator may seek approval of remuneration via a proposal without a meeting. Whichever method is used, the external administrator must provide the same report to creditors about their remuneration (Remuneration Approval Report).

Creditors may be asked to approve remuneration for work already performed and/or remuneration estimate for work not yet carried out. If the work is yet to be carried out, the external administrator must set a maximum limit (cap) on the future remuneration approval. For example, 'future remuneration is approved, calculated on hours worked at the rates charged (as set out in the provided rate scale) up to a cap of \$X'.

If the remuneration for work done then exceeds this figure, the external administrator will have to ask the creditors to approve a further amount of remuneration, after accounting for the amount already incurred.

If an external administrator can't get the creditors' approval, an application can be made to the Court to determine their remuneration.

When there are limited funds available in the administration, or the external administrator's remuneration is below a statutory threshold, an external administrator is entitled to draw a one-off amount of up to that threshold plus GST, without creditor approval. This amount is currently \$5,000 (indexed).

## Who may approve remuneration?

### Committee of inspection approval

A committee of inspection will generally only be established where there are a large number of creditors and/or complex matters which make having a committee desirable. Committee members are chosen by a vote of all creditors and work with the external administrator to represent the creditors' interests.

If there is a committee, the external administrator will ask it to approve the remuneration. A committee makes its decision by a majority in number of its members present in person at a meeting, but it can only vote if a majority of its members attend.

In approving the remuneration, it is important that committee members understand that they represent all the creditors, not just their own individual interests.

### Creditors' approval

Creditors approve remuneration by passing a resolution at a creditors' meeting. Creditors may vote according to their individual interests.

To approve an external administrator's remuneration, a resolution is put to the meeting to be decided on the voices or by a 'poll' (if requested by the external administrator or a person participating and entitled to vote at the meeting). A poll requires a count of each vote and its value to be taken and recorded for each creditor present and voting.

A proxy is a document whereby a creditor appoints someone else to represent them at a creditors' meeting and to vote on their behalf. A proxy can be either a general proxy or a special proxy. A general proxy allows the person holding the proxy to vote how they want on a resolution, while a special proxy directs the proxy holder to vote in a particular way.

A creditor will sometimes appoint the external administrator as a proxy to vote on the creditor's behalf. An external administrator is only able to vote on remuneration if they hold a special proxy.

There are provisions for a resolution to be passed by creditors without a meeting. This still requires a majority in value and number of creditors voting to vote in favour of the resolution. Creditors representing at least 25% in value of those responding to the external administrator's proposal can object to the proposal being resolved without a meeting of creditors.

## Deciding if remuneration is reasonable

If you are asked to approve an external administrator's remuneration, your task is to decide if the amount of remuneration is reasonable, given the work carried out in the administration and the results of that work.

You may find the following information from the external administrator useful in deciding if the remuneration claimed is reasonable:

- the method used to calculate remuneration
- the major tasks that have been performed, or are likely to be performed, for the remuneration
- the remuneration/estimated remuneration (as applicable) for each of the major tasks
- the size and complexity (or otherwise) of the administration
- the amount of remuneration (if any) that has previously been approved
- if the remuneration is calculated, in whole or in part, on a time basis:
  - the period over which the work was, or is likely to be performed
  - if the remuneration is for work that has already been carried out, the time spent by each level of staff on each of the major tasks
  - if the remuneration is for work that is yet to be carried out, whether the remuneration is capped.

ARITA's Code of Professional Practice ('the Code') outlines the steps external administrators should take to make sure they fulfil their responsibilities to creditors when asking creditors to approve remuneration, including when those creditors are acting in their capacity as committee members. The Code is available on the ARITA website at [www.arita.com.au](http://www.arita.com.au).

If you need more information about remuneration than is provided in the external administrator's report, you should let them know before the meeting at which remuneration will be voted on.

## What can you do if you think the remuneration is unreasonable?

If you think the remuneration being claimed is unreasonable, you should raise your concerns with the external administrator. It is your decision whether to vote in favour of, or against, a resolution to approve remuneration. You may also choose to not vote on the resolution (abstain).

You also have the power to put a resolution to the meeting. For example, you could put forward a resolution to change the way the external administrator charges for remuneration, or the periods at which the external administrator may withdraw funds. Any amending resolution must occur before the vote being taken on the resolution to approve remuneration. If the amended proposal is passed, the resolution is binding on the external administrator. However, such an amendment may result in the external administrator seeking to be replaced by another external administrator.

If the external administrator is seeking approval of remuneration via a resolution without a meeting and more than 25% in value of the creditors responding object using the form provided by the external administrator, the proposal will not pass. If the external administrator wants the proposal passed, a meeting will need to be convened and any creditor entitled to participate in the meeting has the right, before the vote is taken, to put a resolution to the meeting as mentioned above.

A creditor may apply to Court for a review of an external administrator's remuneration. Creditors also have the power to appoint, by resolution, a reviewing liquidator to review any remuneration approved within the six months and any disbursements incurred in the 12 months before the reviewing liquidator's appointment. The cost of a reviewing liquidator is paid from the assets of the external administration. An individual creditor may also appoint a reviewing liquidator with the external administrator's consent. An individual creditor seeking the appointment of a reviewing liquidator must pay the cost of the reviewing liquidator.

### Reimbursement of out-of-pocket costs

An external administrator should be very careful incurring costs that must be paid from the administration; as careful as if they were incurring the expenses on their own behalf. Their report on remuneration sent to creditors must also include information on the out-of-pocket costs of the administration (disbursements).

Where these out-of-pocket costs are internal disbursements paid to the external administrator's firm (for example photocopying and phone calls) the external administrator must request creditor approval of these amounts. The external administrator may also ask for approval of internal disbursements in advance. If they do so, they will set the rates for those disbursements and a cap on the maximum amount that can be drawn.

If you have questions about any of these costs, you should ask the external administrator and, if necessary, bring it up at a creditors' or committee meeting. If you are still concerned, you have the right to seek the appointment of a reviewing liquidator (refer above).

### Queries and complaints

You should first raise any queries or complaints with the external administrator or their firm.

If this fails to resolve your concerns, including any concerns about their conduct, you can lodge a complaint with ARITA at [www.arita.com.au](http://www.arita.com.au) or with ASIC at [www.asic.gov.au](http://www.asic.gov.au). ARITA is only able to deal with complaints in respect of their members.

### More information

The [ARITA website](http://www.arita.com.au) contains the ARITA Code of Professional Practice which is applicable to all its members. ARITA also provides general information to assist creditors at [www.arita.com.au/creditors](http://www.arita.com.au/creditors).

ASIC includes information on its website which may assist creditors. Go to [www.asic.gov.au](http://www.asic.gov.au) and search for 'insolvency information sheets'.

**Important note:** This information sheet contains a summary of basic information on the topic. It is not a substitute for legal advice. Some provisions of the law referred to may have important exceptions or qualifications. This document may not contain all of the information about the law or the exceptions and qualifications that are relevant to your circumstances.



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