

4 June 2019

TO CREDITORS

Dear Sir/Madam

**Cadwell Construction & Interiors Pty Ltd (Administrators Appointed)
ACN 140 887 636
(the Company)**

I refer to the appointment of Kathryn Evans and myself as Joint and Several Administrators of the Company on 7 May 2019 pursuant to Section 436A of the Corporations Act 2001 (**the Act**).

Please find attached a report for your information that details progress of the administration, information about the Company's business, property and financial affairs and our opinion of what would be in the best interests of creditors for the future of the Company.

The future of the Company is to be decided by the creditors at a meeting to be held on Wednesday 12 June 2019 at 10:30am (AEST) at Chartered Accountants Australia and New Zealand, 33 Erskine Street, Sydney NSW 2000 as detailed in the attached Notice of Meeting.

Should you have any queries regarding this report or the administration in general, please do not hesitate to contact Jack McGrath of this office on (02) 8260 4867 or by email to jackmcgrath@deloitte.com.au.

Yours faithfully



Jason Tracy
Joint and Several Administrator

Encl.



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

Cadwell Construction & Interiors Pty Ltd
(Administrators Appointed)
ACN 140 887 636

4 June 2019

Contents

Glossary	5
1 Executive summary	7
1.1 Appointment	7
1.2 Conduct of administration	7
1.3 Investigation, offences, voidable transactions	7
1.4 Deed of Company Arrangement	7
1.5 Dividend	7
1.6 Administrators' opinion	7
1.7 Second meeting of creditors	7
2 Introduction	8
2.1 Purpose of the appointment and report	8
2.2 First meeting of creditors	8
2.3 Second meeting of creditors	8
2.4 Administrators' independence, relevant relationships and indemnities	9
3 Background information	9
3.1 Company's business activities	9
3.2 Corporate group structure	9
3.3 Shareholders, officers and security interests	10
3.4 Winding up applications	10
3.5 Key events leading up to appointment of Administrators	10
4 Historical financial performance	11
4.1 Financial statements	11
4.2 Profit & loss	11
4.3 Balance sheet	12
4.4 Working capital deficiency and liquidity ratio	13
5 Directors' Report on Company Activities and Property (ROCAP)	14
5.1 Summary	14
5.2 Explanations for difficulties	16
5.3 Related entities	16
6 The Administrators' actions to date	17
6.1 Summary of the Administrators' actions to date	17
6.2 Administrators' summary of receipts and payments	18
7 Investigations	18

7.1	Overview of investigation	18
7.2	Offences by the directors	19
7.3	Voidable transactions	20
7.4	Insolvent trading (Section 588G)	21
7.5	Directors' personal financial positions	26
8	Estimated return from a winding up	26
8.1	Introduction	26
8.2	Comparative scenarios	27
8.3	Debtors	28
8.4	Plant & equipment	30
8.5	Liquidators' potential recovery actions available	30
8.6	Trade, other creditors and accruals	30
8.7	Overall realisations in liquidation scenarios	30
8.8	Effect on employees	31
8.9	Conclusion	31
9	Deed of Company Arrangement	31
10	Administrators' opinion	31
10.1	Introduction	31
10.2	The Company execute a DOCA	31
10.3	The administration should end	32
10.4	The Company be wound up	32
10.5	Recommendation	32
11	Remuneration	32
11.1	Voluntary Administration	32
11.2	Liquidation	33
12	Meeting	33
	Annexure A – Notice of meeting of creditors	35
	Annexure B – Remuneration approval report	36
	Annexure C – ARITA creditor information sheet	37
	Annexure D – ASIC approving fees guide for creditors	38
	Annexure E – Proxy form	39
	Annexure F – Informal proof of debt form	40
	Annexure G – Receipts and payments	41

Glossary

\$	Australian Dollar
Administrators	Jason Tracy and Kathryn Evans
AEST	Australian Eastern Standard Time
AL	Annual leave
ALL PAAP	All present and after acquired property
ANZ	Australia and New Zealand Banking Group Limited
ARITA	Australian Restructuring Insolvency Turnaround Association
ASIC	The Australian Securities & Investments Commission
ATO	Australian Taxation Office
Browne Street Project	Browne Street Mental Health Community Centre project
CG	Cadwell Group Pty Ltd
COD	Cash on delivery
Committee	Committee of Inspection
Company or Cadwell	Cadwell Construction & Interiors Pty Ltd (Administrators Appointed)
Deloitte	Deloitte Financial Advisory Pty Ltd
Directors	Soren Jensen and Hans Thomsen
DIRRI	Declaration of Independence and Relevant Relationships and Indemnities
DOCA	Deed of Company Arrangement
ERV	Estimated Realisable Value
FEG	Fair Entitlements Guarantee Scheme
FYXX	Financial Year Ended 30 June 20XX
IPR	Insolvency Practice Regulations of the Corporations Act 2001
IPS	Insolvency Practice Rules of the Corporations Act 2001
K	Thousand
LSL	Long service leave
M	Million
Management	Management of the Company
NAB	National Australia Bank Limited
North Shore Project	North Shore Vet Hospital project
PILN	Payment in lieu of notice
Reefbreak	Reefbreak Holdings Pty Ltd (Administrators Appointed)

Relation back day	The date of appointment of administrators
ROCAP	Report as to Company Activities and Property
The Act	Corporations Act 2001
The Court	The Federal Court of Australia or any of the state Supreme Courts
The Regulations	Corporations Regulations 2001
V	Versus
YTD19	Ten months ending 30 April 2019

1 Executive summary

1.1 Appointment

On 7 May 2019 we, Kathryn Evans and Jason Tracy, were appointed Joint and Several Administrators of Cadwell Construction & Interiors Pty Ltd (Administrators Appointed) (the **Company** or **Cadwell**) by the Directors pursuant to section 436A of the Act. We were also appointed to a related company, Reefbreak Holdings Pty Ltd (**Reefbreak**) on the same day.

Prior to the first meeting of creditors, we received a nomination to appoint an alternate administrator to the Company. However, the resolution to replace us as Administrators lapsed and our appointment as Joint and Several Administrators was confirmed. Creditors of the Company did not resolve to appoint a committee of inspection.

1.2 Conduct of administration

During the Voluntary Administration period, we are in control of the Company and the Directors' powers are suspended.

Following our appointment, we undertook an urgent review of the Company's financial position and short-term viability. Given we were without funds, there was significant uncertainty about the collectability of the Company's receivables and a number of projects had material disputes, we were unable to continue trading the business and operations ceased on 7 May 2019.

1.3 Investigation, offences, voidable transactions

We have now undertaken our preliminary investigations in relation to the conduct of the Directors and other parties, and whether there are any amounts that could be recovered in a liquidation. Our initial work has revealed that there are limited voidable transactions that may be recoverable in a liquidation. Further investigation work will need to be undertaken if the Company is wound up. At present, our estimated returns to creditors do not include recoveries from this source.

This is discussed further in **Section 7**.

1.4 Deed of Company Arrangement

At the date of writing this report, neither the Directors, nor a third party have put forward a proposal for a Deed of Company Arrangement (**DOCA**). As the Company is insolvent, we recommend for the Company to be wound up (placed into liquidation).

1.5 Dividend

Subject to the completion of our investigation into possible recoveries under the Act, we estimate there could be a dividend to priority creditors of between 2 and 15 cents in the dollar and no dividend payable to ordinary unsecured creditors. Any further amounts will be contingent on voidable transaction recoveries.

1.6 Administrators' opinion

It is our opinion that the Company be placed into liquidation. The reasons for our opinion are discussed in **Section 10**.

1.7 Second meeting of creditors

The second meeting of creditors has been called for Wednesday, 12 June 2019, at 10:30am (AEST) at Chartered Accountants Australia and New Zealand, 33 Erskine Street, Sydney NSW 2000.

Teleconference facilities will be available at this meeting. Please contact Jack McGrath on (02) 8260 4867 or by email to jackmcgrath@deloitte.com.au should you wish to participate by teleconference.

2 Introduction

2.1 Purpose of the appointment and report

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

A voluntary administration attempts to maximise the prospects of a company, or as a much as possible of its business, continuing in existence (via a Deed of Company Arrangement (**DOCA**) or sale of the Company's business), or if that is not possible to achieve a better return to creditors than would ordinarily be achieved through an immediate winding up. During an administration, creditors' claims are put on hold as at the date of the administrators' appointment and remain so for the duration of the administration.

The purpose of this report is to provide creditors with the details about the Company's business, property, affairs and financial circumstances. We are required to investigate the Company's affairs and provide creditors with sufficient information and recommendations to assist them in making an informed decision on the Company's future at the forthcoming second meeting of creditors.

The report also informs creditors about our investigations and our opinion on each of the options available at the second meeting of creditors, including our recommendations as to the course of action that is in the creditors' best interests.

2.2 First meeting of creditors

The first meeting of creditors of the Company was held on Thursday, 16 May 2019 in accordance with Section 436E of the Act.

We received a nomination to appoint an alternate administrator to the Company prior to the meeting, however, the resolution to replace us as Administrators lapsed and our appointment as Joint and Several Administrators was confirmed. Creditors of the Company did not resolve to appoint a committee of inspection.

2.3 Second meeting of creditors

Pursuant to Section 439A of the Act, the second meeting of creditors is to be held on Wednesday, 12 June 2019 at the Sydney office of Chartered Accountants Australia and New Zealand, 33 Erskine Street, Sydney NSW 2000 at 10.30am. Please refer to the Notice of Meeting at **Annexure A**.

At this meeting, creditors will be asked to decide on the Company's future from one of the three options:

1. the Company be wound up (placed into liquidation);
2. the Company to enter into a DOCA (please note that at the date of this report no proposal for a DOCA has been put forward); or
3. the Administration ends and the control of the Company returns to the Directors.

If creditors do not wish to make an immediate decision, they may also resolve to adjourn the meeting for a period up to 45 business days.

In this report, we have recommended that the Company be wound up. We have detailed the reasons as to why we consider this the best option for creditors in **Section 10**.

At this meeting, creditors will also be asked to consider resolutions regarding our remuneration. Further information is provided in **Section 11** and our Remuneration Report attached at **Annexure B**.

2.4 Administrators' independence, relevant 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 Wednesday, 8 May 2019 and was also tabled at the first meeting of creditors.

There have been no changes in the details recorded in the DIRRI.

3 Background information

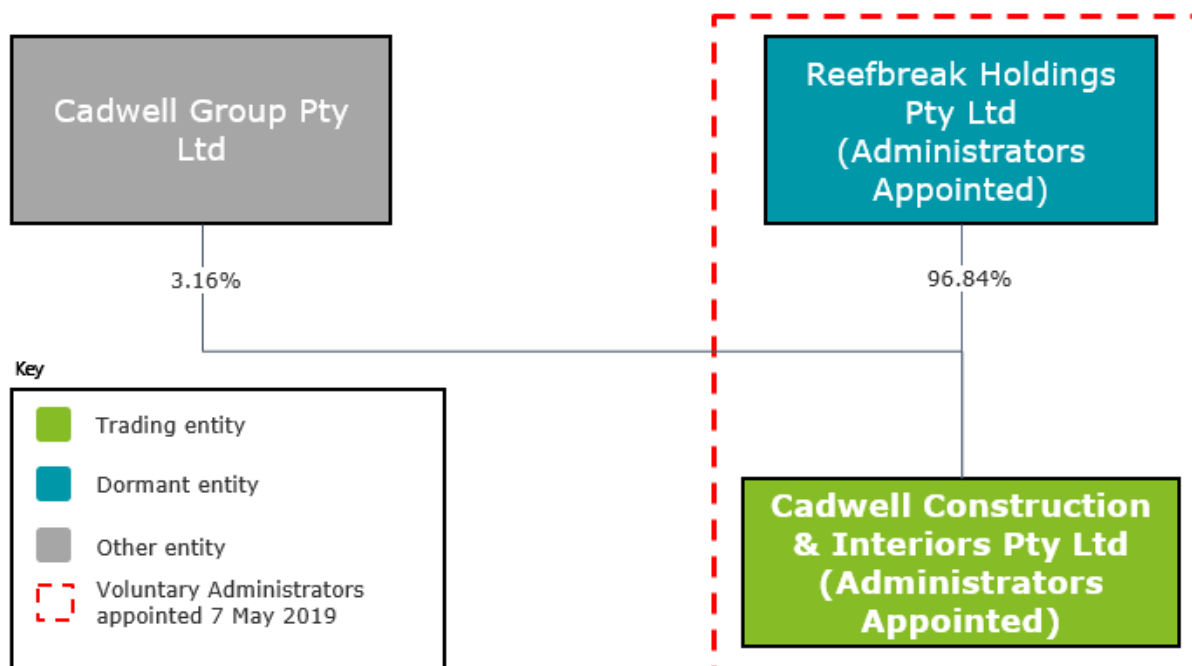
3.1 Company's business activities

The Company was incorporated in New South Wales on 2 December 2009 under the name of Cadwell Construction & Interiors Pty Ltd. The Company operated as head contractor providing commercial fit-outs and refurbishment services. The Company specialised in the healthcare, education and commercial office industries. At the time of appointment, the Company employed over 25 permanent staff.

The Company experienced strong revenue growth from \$15 million in FY17 to over \$30m in FY18. At the time of our appointment there were approximately 20 projects at various stages of completion.

3.2 Corporate group structure

The corporate structure of Cadwell and its related entities is set out below:



The table below sets out the relevant details of each company in the group:

Entity	Purpose / business expectations
Cadwell Group Pty Ltd (CG)	Initially established as an employing entity. Now acts as a dormant holding company. Minimal transactions since FY18.
Reefbreak Holdings Pty Ltd	Main holding entity. Essentially dormant with minimal activity. Has a debt facility with National Australia Bank Limited.

Cadwell Construction & Interiors Pty Ltd	Main trading entity. All contracts are held by this entity. Employer entity.
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3.3 Shareholders, officers and security interests

3.3.1 Shareholders

The Company is limited by shares. The ASIC database records the shareholders as:

Shareholder	Class	Number	%
Cadwell Group Pty Ltd	Ordinary	12,000	3.16%
Reefbreak Holdings Pty Ltd	Ordinary	368,090	96.84%

3.3.2 Officers

The ASIC database indicates that during the 12 month period prior to our appointment the Company's directors (**the Directors**) and officers were:

Name	Position	Appointed	Ceased
Hans Christian Thomsen	Director	2 December 2009	-
Soren Jensen	Director	2 December 2009	-
	Company secretary	2 December 2009	-

3.3.3 Security interests

A search of the Personal Property Securities Register (**PPSR**) identified the following security interests over the Company's assets as at the date of our appointment:

Secured Party	Collateral	Count
Australia and New Zealand Banking Group Limited (ANZ)	All PAAP	2
Online Concrete Cutting Services Pty Ltd	General Intangible	1
Various	Motor Vehicle	10
Various	Other Goods	18
Total		31

We are advised that ANZ are in the process of discharging their all present and after acquired property (**ALL PAAP**) security interest as this relates to an expired loan agreement with the Company that was refinanced with National Australia Bank Limited (**NAB**) on or around 2017.

Creditors are advised that while the NAB provided the refinance to the Company, the NAB did not register their security interest on the PPSR. Accordingly, their claim in relation to the overdraft balance of approximately \$1.25m and any other facilities are not secured against the assets of the Company and the NAB's debt may represent an unsecured claim against the Company.

We note however, that while NAB does not have a registered security interest over the Company, the NAB may be afforded rights under a potential subrogation of rights over ANZ's registration.

Notwithstanding the above, the Directors have provided their personal homes as security to the NAB loans and provided personal guarantees.

3.4 Winding up applications

There were no winding up applications outstanding with respect to the Company as at the date of our appointment.

3.5 Key events leading up to appointment of Administrators

During 2018 and early 2019 Cadwell suffered significant losses on two large projects:

- approximately \$700k at The Orchard Childcare Centre, Kirrawee; and
- approximately \$960k at the Kincoppal Rose Bay School Year 12 Learning Hub.

The losses were due to a combination of estimating errors, contractual complexities and the poor performance of Cadwell's delivery teams.

In addition, during November and December 2018, Cadwell was preparing to commence a large project on behalf of the NSW Department of Education worth approximately \$4.2m. This project was scheduled for completion during January and February 2019. However, on 21 December 2018 the Company was advised that the project would not be proceeding as planned and the project was placed on hold.

In response, the Company focused on business development, generating approximately \$20m in won and preferred tenderer status. During this same period, Cadwell was heavily engaged to close out two projects, namely the North Shore Vet Hospital project (**North Shore Project**) and Browne Street Mental Health Community Centre project (**Browne Street Project**).

During March 2019, it became known to Cadwell management that the Browne Street Project, which was previously showing a profitable return, was now reporting a significant loss in excess of \$500k. The project was also running behind schedule by three months.

Additionally, the North Shore Project was running more than three months behind schedule, while defects and completion issues were also increasing.

It also appears that clients were increasingly reluctant to release retention monies from projects that were due on practical completion. This combined with ongoing legacy issues with finalising items it became increasingly difficult for the Company to meet contractor payment terms.

The Directors explored the option of increasing the existing overdraft by \$1m and were in the final stages of obtaining approval from NAB. At this time, the Directors also analysed forward cash projections from the pipeline and work in progress to determine if they could trade out of the situation. It became apparent that this may not be possible and the Directors became concerned that the Company was, or was likely to become insolvent.

On 7 May 2019, the Directors resolved to place the Company into Voluntary Administration and Jason Tracy and Kathryn Evans of Deloitte were appointed Administrators.

4 Historical financial performance

4.1 Financial statements

Cadwell has external accountant prepared financial statements for the years ended 30 June 2016 (**FY16**) to 30 June 2018 (**FY18**). In addition, we have extracted MYOB management accounts for the ten months to 30 April 2019 (**YTD19**). Please note, whilst we do not have reason to suspect these financials are not correct, we have not audited these figures and cannot guarantee their accuracy or completeness.

4.2 Profit & loss

The Company's profit and loss from the YTD19 management accounts does not disclose specific expense details and these have not been reported below. The Company's profit and loss from FY16 to YTD19 are summarised as follows:

\$'000	FY16	FY17	FY18	YTD19*
INCOME				
Revenue	17,343	15,532	30,359	23,263
EXPENDITURE				
Advertising expenses	(123)	(194)	(299)	
Bad and doubtful debt expenses	-	(1)	-	
Depreciation and amortisation expenses	(82)	(97)	(78)	
Employee benefits expenses	(1,802)	(1,683)	(2,670)	
Finance costs	(38)	(74)	(58)	
Freight and carriage	(0)	(0)	(9)	
Other expenses	(15,269)	(13,441)	(27,240)	
Total expenses	(17,314)	(15,490)	(30,354)	(23,543)
Profit before income tax	29	42	6	(280)
Income tax expense	(13)	(7)	(4)	-
Profit for the year	16	35	2	(280)
Retained earnings (Accumulated losses) at the beginning of the financial year	(30)	(14)	21	23
Profit / (loss)	(14)	21	23	(256)

* Specific expense details have not been disclosed in the YTD19 management accounts

These figures are subject to rounding

We provide the following preliminary analysis and commentary on the Company's profit and loss statements:

- Despite revenue growth of almost \$13m from FY16 to FY18, the Company's expenses increased by a greater amount, resulting in minor decreases in net profit before tax during the same period.
- The Directors have advised the marginal and declining profitability was due to decreasing margins on the Company's contracts.

4.3 Balance sheet

The balance sheets for the period FY16 to YTD19 are summarised as follows:

\$'000	FY16	FY17	FY18	YTD19
Current assets				
Cash and cash equivalents	694	910	2,076	99
Trade and other receivables	4,349	2,023	3,831	2,427
Work in progress	582	784	155	4,168
Total current assets	5,625	3,717	6,062	6,693
Non-current Assets				
Property, plant and equipment	303	262	407	466
Intangible assets	1	1	1	1
Total non-current assets	305	263	408	468
Total assets	5,930	3,980	6,471	7,161
Current liabilities				
Trade and other payables	(4,241)	(1,940)	(5,543)	(6,571)
Borrowings	(933)	(994)	(19)	(179)
Tax liabilities	(5)	(7)	(4)	(49)
Other current liabilities	-	(92)	(0)	(240)
Total current liabilities	(5,179)	(3,034)	(5,565)	(7,040)
Non-current liabilities				
Trade and other payables	(384)	(545)	(502)	(305)
Total non-current liabilities	(384)	(545)	(502)	(305)
Total liabilities	(5,563)	(3,579)	(6,067)	(7,345)
Net assets	366	401	403	(183)
Equity				
Issued capital	380	380	380	380
Retained earnings	(14)	21	23	(564)
Total equity	366	401	403	(183)

These figures are subject to rounding

We provide the following preliminary analysis and commentary on the Company's balance sheet statements:

- The Company's FY18 cash balance largely comprised of \$11k cash, \$1.3m identified in the financial accounts as a term deposit and \$650k held in retention monies. The term deposit account relates to bank guarantees issued and retained by clients, to be returned on satisfactory completion of each respective project. As at the date of this report, a number of bank guarantees have been called to make good on defects and payment to unpaid sub-contractors.
- The level of trade creditors has increased significantly from FY17 to YTD19, indicating that the Company may have been struggling to pay creditors within trading terms.
- On our appointment, there were 20 projects at various stages of completion. The Company's management accounts for YTD19 attributes \$4.2m to work in progress and \$2.4m to accounts receivable. As these projects are at various stages of completion, it will be extremely difficult to collect these amounts given the projects are largely incomplete and subcontractors have significant outstanding balances. We have provided further assessment of the Company's debtor balance in **Section 8**.
- The Company also recognises a loan owing to the Company from a related entity, Cadwell Group Pty Ltd totalling \$189k as part of the \$2.4m trade and other receivables balance. This entity is a shareholder of Cadwell and has common directors. We have written to the Directors requesting more details regarding the financial position of CG to determine the recoverability of this loan. However, based on our initial investigations, CG has minimal assets and therefore is unlikely to be able to repay this loan to Cadwell.
- The level of trade creditors has increased significantly from FY17 to YTD19, which is explained by creditors being outside trading terms and revenue growth.

4.4 Working capital deficiency and liquidity ratio

Working capital is a financial measure which represents operating liquidity available to a company. Net working capital is calculated as current assets minus current liabilities. Detailed below is a comparison of the working capital position of the Company from FY16 to YTD19

The liquidity ratio (sometimes referred to as the current ratio) below is a measure that is used to determine the company's ability to pay its short-term debt obligations. It shows working capital in a ratio format. If there is a working capital deficiency, the ratio is less than 1. The higher the value of the ratio, the more able the company is to meet its short-term debts.

\$'000	FY16	FY17	FY18	YTD19
Total current assets	5,625	3,717	6,062	6,693
Total current liabilities	(5,179)	(3,034)	(5,565)	(7,040)
Net working capital / (deficiency)	446	683	497	(346)
Current Ratio	1.09	1.23	1.09	0.95

These figures are subject to rounding

Negative working capital is an indicator of cash flow difficulties. The above ratio's indicate the Company would have experienced tight liquidity during the last three years, culminating in a working capital deficiency in YTD19. It is likely that the liquidity position of the Company was worse than the ratio's above indicate, given that current assets included term deposits and retention monies which would have been unavailable to fund day-to-day trading operations.

5 Directors' Report on Company Activities and Property (ROCAP)

5.1 Summary

Under section 438B of the Act, the Directors are required to provide a ROCAP for the Company as at the date of our appointment within five business days of receipt of our request or such longer period as we allow.

The Directors provided their ROCAP on 15 May 2019.

The ROCAP, together with the respective accompanying schedules has been lodged and a copy may be obtained from ASIC. Alternatively, it may be inspected by contacting Jack McGrath on (02) 8260 4867 or via email to jackmcgrath@deloitte.com.au.

The ROCAP represents a snapshot of the asset and liability position of the Company as prepared by the Directors. We provide a comparison of these values to the estimated realisable amounts for the benefit of creditors.

We have also commissioned and received an independent valuation of the assets of the Company, which is discussed in more detail in **Section 8**.

The Directors' estimated values shown in the ROCAP do not reflect actual returns to creditors.

The ROCAP is summarised in the table below:

\$'000	Note	Directors' ERV	Administrators' ERV
Assets			
Cash on hand and at bank	5.1.1	99	-
Sundry debtors	5.1.2	2,427	Unknown
Work in progress	5.1.3	4,168	-
Plant & equipment	5.1.4	466	68
Other assets	5.1.5	1	10
Total assets		7,161	Unknown
Liabilities			
Priority creditors (employee entitlements)	5.1.6	(442)	(442)
Available to unsecured creditors		6,719	Unknown
Unsecured creditors	5.1.7	(7,345)	(11,889)
Surplus/(shortfall)		(626)	Unknown

We comment on the estimated realisable values included in the ROCAP as follows:

5.1.1 Cash on hand and at bank

The ROCAP discloses cash on hand and at bank to be \$99k as at the date of our appointment. The available bank balance at the date of our appointment was nil as a result of funds being held in relation to bank guarantees and the freeze of the Company's overdraft account that had a drawn balance of appointment of (\$1.2m).

5.1.2 Sundry debtors

The ROCAP discloses a value for sundry debtors of \$2.4m at the date of our appointment.

To date, we have received \$149k from one sundry debtor. We are continuing our assessment of the debtors and their collectability.

This is discussed further in **Section 8.3**.

5.1.3 Work in progress

The ROCAP discloses a value for work in progress of \$4.2m.

Recoveries from work in progress is currently uncertain and accordingly we have not estimated any recoveries. This is discussed further in **Section 8.3**.

5.1.4 Plant & equipment

The ROCAP discloses plant and equipment owned by the Company totalling \$466k. This also includes leased plant and equipment and motor vehicles. These creditors generally hold security over the equipment provided under their respective lease agreements.

We have commissioned an independent valuation of these assets and estimate the estimated realisable value to be \$68k net of payments that may need to be met to discharge the security over some equipment and motor vehicles. This is discussed further in **Section 8.4**.

5.1.5 Other assets

The ROCAP discloses "Formation Expenses" as an intangible asset. We do not consider there to be any realisable value from this asset.

We have, however, received a refund from the early termination of a leased storage facility totalling \$10k.

5.1.6 Employee entitlements

The ROCAP does not disclose a value for employee entitlements.

We have made an initial estimate of outstanding employee entitlements as follows:

Type of entitlement	\$
Wages	-
Holiday pay (annual leave)	111,082
Long service leave	16,183
Payment in lieu of notice	109,008
Redundancy	178,577
Superannuation	22,660
Employee expense claims	4,926
Total priority claim	442,435
Unsecured claim – Directors' excluded claim	200,520
Total	642,955

The claims of employees represent a priority claim pursuant to Section 556 of the Act. This means employees have the right to be paid their outstanding entitlements in priority to unsecured creditors. The exception to this are entitlements owed to directors who are employees of a Company. The Directors' entitlements total \$206,071 however, they are only entitled to a priority amount up to a cap of \$2,000 each for wages and superannuation as well as a priority amount up to a cap on annual leave of \$1,500. The amounts above these caps total \$200,520 and represents an unsecured claim against the Company.

5.1.7 Unsecured creditors

The ROCAP discloses a value for unsecured creditors of \$7.3m.

The books and records of the Company, together with claims lodged by creditors for the first meeting, indicate total creditor claims of c. \$11.9m. However, I note that we have not undertaken a detailed review of these claims and there may be some duplication between the books and records and claims received from both clients and sub-contractors. This is discussed further in **Section 8.5**.

5.2 Explanations for difficulties

5.2.1 Directors' explanation

The Directors have advised that the reasons for the Company's financial difficulties were as a result of the following:

- significant losses from two projects due to a combination of estimating errors, contractual complexities and performance of the Company's delivery teams;
- cash flow constraints stemming from one customer placing a large contract on hold during a time where there was minimal activity in the market that could offset this loss;
- delays on two projects leading to staff turnover and further cash flow constraints; and
- inconsistencies in the profitability reporting of projects further amplifying liquidity concerns in the period prior to the appointment of the Administrators.

The Directors have advised the above factors led them to explore increasing the Company's overdraft facility to mitigate the working capital constraints, but ultimately they concluded that further cash injections were unviable in the long run and elected to appoint Voluntary Administrators on 7 May 2019.

5.2.2 Administrator's opinion

In our opinion from a review of the Company's operations, correspondence and discussions with the Directors, we concur with the Directors' explanation.

5.3 Related entities

Our investigations have revealed the following related entity creditors that total \$474,517 as at the date of our appointment:

Name	Relationship	Debt \$	Date debt incurred	How debt was incurred
Reefbreak Holdings Pty Ltd	Shareholder and common directors	97,873	Prior to FY14	Fund working capital of the Company
Harp Street Pty Ltd	Common directors	197,679	FY16	Fund working capital of the Company
Soren Jensen	Director	118,405	FY14	Fund working capital of the Company
Hans Thomsen	Director	60,560	FY14	Fund working capital of the Company
Total		474,517		

We have conducted a preliminary investigation into the Company's books and records including a review of the accounting records to verify the above claims by related parties.

Our analysis has revealed that it is likely that the related entity loans were used to fund working capital requirements of the Company.

Given the uncertainty surrounding the potential return to unsecured creditors we have not yet adjudicated on any of the above claims by related entities.

6 The Administrators' actions to date

6.1 Summary of the Administrators' actions to date

On our appointment, we took control of the operations and affairs of the Company and have attended to the following matters:

Taking control of the operations and affairs of the Company

- Attended the Company's head office and took immediate control of the Company's business and operations as well as securing the Company's books and records.
- Held discussions with the Directors and Management regarding the Company's operations, and historical financial performance.
- Made an assessment on the viability of the business and considered a potential trade-on strategy.

Compliance and administrative procedures

- Attended to statutory duties including informing ASIC, Australian Taxation Office (**ATO**), the Office of State Revenue and various other statutory authorities of our appointment.
- Advertising both the Administrators' appointment and the first meeting of creditors on the ASIC Insolvency Notices website.
- Notifying creditors, suppliers, employees, customers, and key stakeholders of our appointment.
- Issuing a request to the Directors to complete a ROCAP, director's questionnaire, and to make available the books and records of the Company.
- Convened and held the first meeting of creditors including the lodgement of minutes with ASIC.
- Preparing a Report to Creditors pursuant to Section 75-225 of the Insolvency Practice Rules (Corporations).

Urgent review of contracts on hand and work in progress

- Reviewed the commerciality for completing any of the construction contracts of the Company.
- Liaised with customers regarding outstanding items in contracts.
- Determined the collectability of the work in progress of the Company.

Attend to enquiries from creditors, employees and stakeholders

- Attended to telephone discussions, correspondence, and queries from creditors and other stakeholders.
- Corresponded with creditors regarding their security interests registered on the PPSR and potential claims.
- Established and updated a creditors' listing to collate claims against the Company.

Attend to employees

- Issued notifications to employees of our appointment and the termination of their employment.
- Prepared correspondence to employees regarding Fair Entitlements Guarantee Scheme (**FEG**) and how they may access their entitlements.
- Calculated employee entitlements and maintained an employee register.

Assets

- Identified and secured all assets of the Company.
- Engaged an independent valuer to provide a valuation of the Company's assets.
- Conducted searches of the PPSR and the relevant land title registries and notified all interested parties to substantiate any claim they may have over the Company's assets.

Conduct investigations into the affairs of the Company

- Conducted a review of the books and records, including historical financial information, management accounts, and other similar documents of the Company to formulate a view as to the reasons for the Company being placed into administration and the potential claims that may be available to a liquidator.
- Conducted searches of public record on the Directors and related entities.
- Our investigations are discussed further in **Section 7** of this report.

6.2 Administrators' summary of receipts and payments

Attached as **Annexure G** is a summary of the Administrators' receipts and payments for the period from 7 May 2019 to 24 May 2019. We advise that this summary does not include accruals incurred to date.

7 Investigations

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

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 explanation of the possible offences by a director and insolvent and voidable transactions that a liquidator could pursue is attached at **Annexure C**. This information sheet has been prepared by ARITA and is intended to reduce the amount of generic information included as part of the body of this report. Creditors who are not familiar with the nature of offences and liquidator actions should refer to the Annexure for explanations. If further explanation is required of the material contained in the ARITA information sheet or of our investigations, creditors should contact us.

7.1 Overview of investigation

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

- ASIC and real property searches;
- PPSR searches;
- review of the books and records of the Company;
- discussions and questionnaires completed by the directors;
- discussions with creditors; and
- review of the financial accounts of the Company.

Access to certain books and records of the Company was delayed as the Company had outstanding invoices for software licences which were required to be paid in order to access records stored in the cloud. This, along with the time constraints imposed under the voluntary administration regime, meant there has been limited time to conduct an extensive investigations into all matters.

However, in our opinion the above has not prevented us from being able to provide sufficient, meaningful information in this report or from being able to form an opinion on what is in the creditors' best interests.

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.

7.2 Offences by the directors

7.2.1 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.

We have undertaken a preliminary investigation of the affairs of the Company in relation to suspected contraventions of Section 180 - 184 of the Act regarding the general duties of directors and officers. These duties include: duty of care and diligence, duty of good faith, duty not to make improper use of position and Duty not to make improper use of information.

From our investigations to date, we have not found that the Directors have acted dishonestly and/or fraudulently in the exercise of their powers and discharge of their duties. To date, there has been no evidence that the Directors have used their powers other than in the Company's interests.

While we have not found anything to indicate offences by the Directors, we have identified a potential offence by the Company in respect to Management signing invoice claims for government projects, which declare that employees and related expenses including payroll tax and workers compensation insurance premiums have been paid.

We will give further consideration to the Directors' discharge of duties if a liquidator is appointed and we are appointed Liquidators.

7.2.2 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 entities.

In our opinion, it appears as though the books and records have been maintained in accordance with Section 286 of the Act.

7.3 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 brought if liquidation occurs. We note that no DOCA proposal has been received as at the date of this report.

Voidable transactions include:

- unfair preferences (Section 588FA);
- uncommercial transactions (Section 588FB);
- unfair loans to a company (Section 588FD);
- arrangements to avoid employee entitlements (Section 596AB);
- unreasonable director-related transactions (Section 588FDA);
- transactions with the purpose of defeating creditors (Section 588FE(5));
- discharging a debt of a Related Entity (Section 588FH); and
- voidable security interests (Section 588FJ).

It is important to note that some transactions are only voidable if they are considered insolvent transactions of the company. In order for a liquidator to recover any amount it would first be necessary to establish that the company was in fact insolvent at the time of the transaction.

Generally such actions are expensive and must be litigated in court. As such, should there be inadequate funds available, or the liquidators consider it uncommercial or not in the creditors' best interests, recovery actions may not be commenced by a liquidator (if appointed).

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 Section 100-5 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 the 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 insurance may also be available to fund actions. However, such funding is generally only available where legal advice indicates that there is a strong potential for success.

A summary of our investigations is provided below:

Types of voidable transactions	Commentary
Unfair Preferences Payments (Section 588FA)	<p>Based on our preliminary investigations, we have identified potential preference payments to 11 creditors.</p> <p>Should the creditors elect for the Company to be placed into Liquidation, investigations into the potential recoverable amount of the unfair preference payments identified will be undertaken.</p> <p>Significant investigative work would need to be undertaken and any amount recoverable will also need to take into consideration the commerciality of a claim or any likely costs of recovery.</p> <p>Our findings in this regard are further detailed in Section 7.4.1 below.</p>
Unfair Loans (Section 588FD)	Whilst there are intercompany balances, we have not identified any loan agreements between the Company and Reefbreak, the Directors and Harp Street Pty Ltd. We have not identified any information suggesting that unfair loans were made.
Uncommercial Transactions (Section 588FB)	Our investigations have not identified any transactions that would constitute an uncommercial transaction of the Company.
Discharging a Debt of a Related Entity (Section 588FH)	We have not identified any transactions of this nature.
Unreasonable Director-Related Transactions (Section 588FDA)	Our investigations to date have not identified any unreasonable director related transactions. Remuneration received by the Directors appears reasonable for the size of the Company.
Arrangements to Avoid Employee Entitlements (Section 596AB)	Our investigations to date have not identified any transactions of this nature.
Transactions with the Purpose of Defeating Creditors (Section 588FE(5))	We have not identified any transactions that appear to have been undertaken for the purpose of defeating creditors.
Circulating security interests created within six months (Section 588FJ)	A search of the PPSR reveals that no circulating security interests were registered on the PPSR in respect of the assets of the Company during the six months prior to the relation back day. On this basis, it would appear that there are no transactions of this nature.

7.3.1 Unfair preferences payments (Section 588FA)

In order to prove a creditor received an unfair preference payment, a liquidator must demonstrate that the company was insolvent at the time the creditor received the payment/benefit. The creditor has a defence to a claim by a liquidator that a transaction is an unfair preference if, at the time the benefit was received the creditor had no reasonable grounds for suspecting that the company was insolvent or would become insolvent through entering into the transaction and valuable consideration was given.

We have examined the books and records of the Company and identified potential unfair preferences to 11 creditors. Further investigations will be conducted should the Company be placed into liquidation to assess the recoverable values of the unfair preferences.

We will also need to assess the unfair preference on a commercial sense, taking into consideration the cost to pursue a claim and the likelihood of the return being a benefit to all creditors.

7.4 Insolvent trading (Section 588G)

Directors have a positive duty to prevent a company from trading whilst it is insolvent (Section 588G). If a director is found to have contravened Section 588G of the Act he may be ordered to pay an amount of compensation to the company equal to the amount of loss or damage suffered by creditors as a result of the contravention.

Information about possible insolvent trading is relevant to creditors when making a decision about the future of the company as directors of the company may generally only be pursued for insolvent trading if the company is in liquidation.

As with the voidable transaction analysis above, creditors have to assess the advantages to them of a DOCA, which cannot include proceeds from insolvent trading actions, compared to the likely return in a liquidation, which could include the proceeds of any successful insolvent trading action.

Before a court will order that a person pay compensation in respect of insolvent trading, a liquidator must establish:

- the person was a director of the company at the time the company incurred the debts that are subject of the claim;
- the company was insolvent at the time or became insolvent by incurring the debt;
- there were reasonable grounds for suspecting the company was insolvent or would become insolvent by incurring the debt; and
- the debt subject to the claim was wholly or partly unsecured and the creditors to whom debts are owed have suffered loss or damage.

Ultimately, the issue of insolvency would need to be determined on the basis of available evidence presented to a court as well as weighing up the costs of pursuing claims against the potential recoveries from such claims (including the resources available to the Directors to meet any claims).

In the event that we are appointed Liquidators, we will consider this issue further.

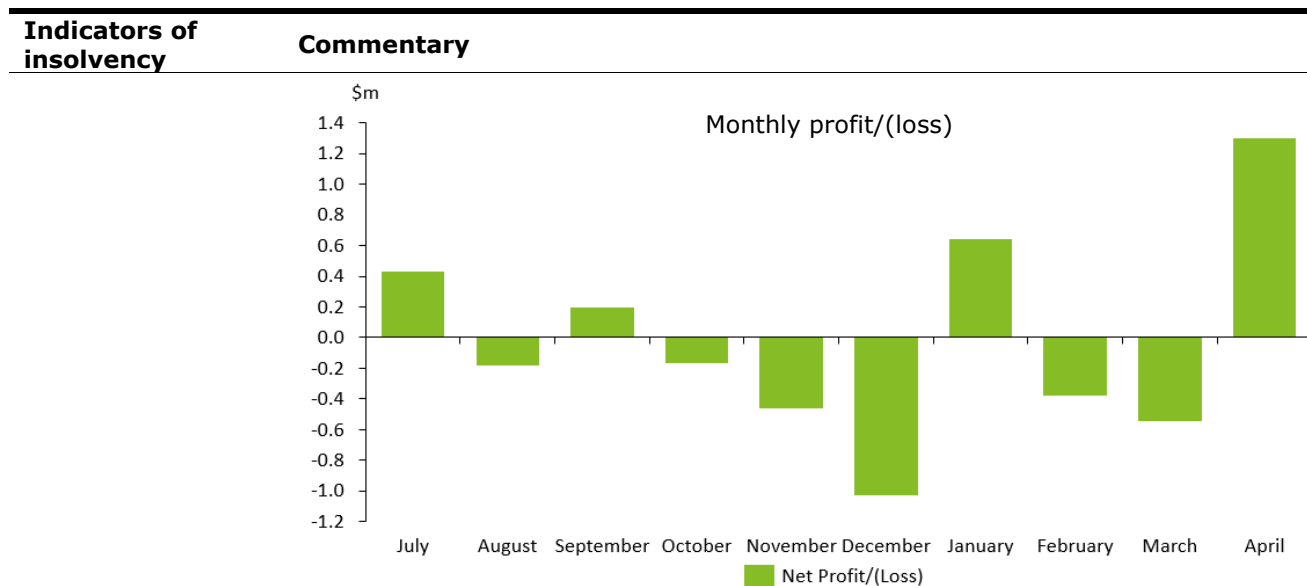
7.4.1 Tests of a company's solvency

Under Section 95A of the Act, a person (including a company) is solvent "if and only if the person is able to pay all the person's debts, as and when they become due and payable." A company is therefore insolvent if it cannot pay its debts as and when they become due and payable.

Whether a company is able to pay its debts as and when they become due and payable is essentially a "cash flow" test rather than a "balance sheet" test (however a company's balance sheet is relevant to the analysis). Proving insolvency generally involves the assessment of the presence of a range of indicia of insolvency. The relevant indicia of insolvency are discussed further in this section.

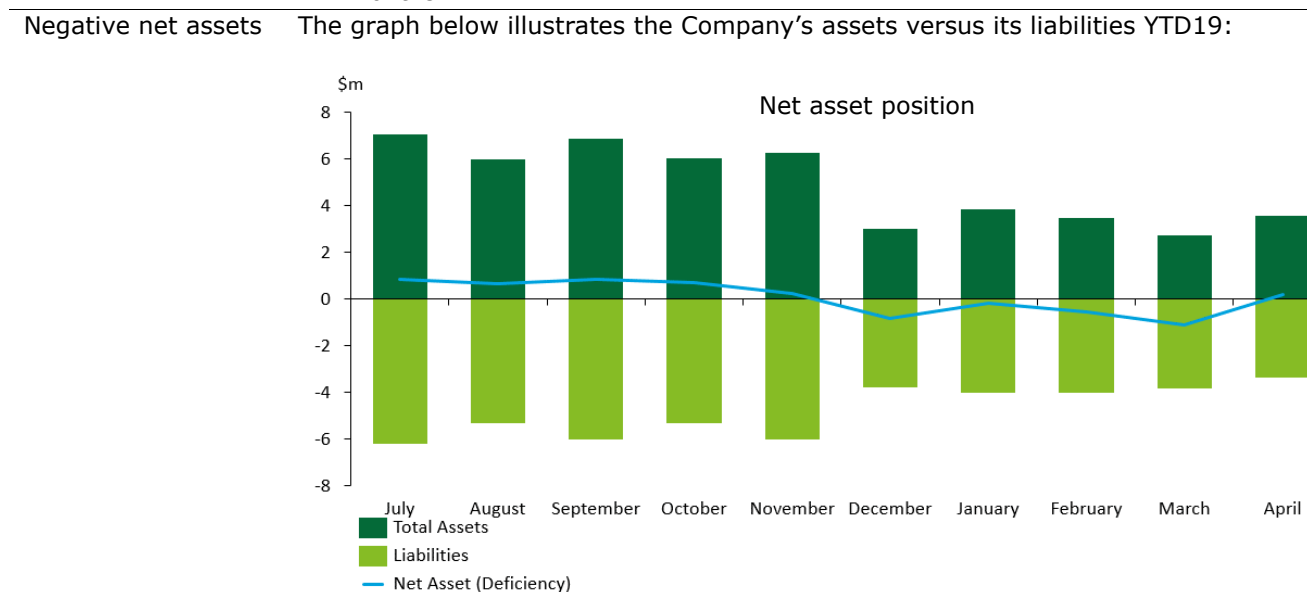
From our preliminary investigations, it appears the Company may have traded insolvent from in or around January 2019.

Indicators of insolvency	Commentary
<u>Financial</u> Continuing losses	<p>The Company's management accounts disclose a YTD19 loss of \$279k. The Company incurred a net monthly operating loss in 6 out of the 10 months for the period July 2018 to April 2019.</p> <p>The Company's net operating losses were as follows:</p>



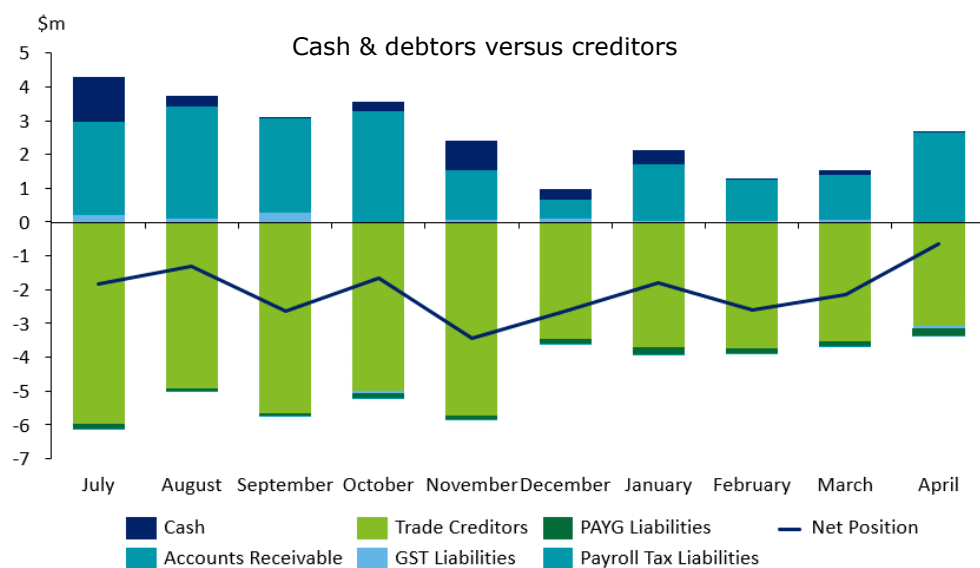
Our comments on the Company's profitability is as follows:

- In late 2018 losses in excess of \$1.5m occurred from two projects due to a combination of estimating errors and contractual complexities.
- During February and March 2019, the Company experienced losses in excess of \$500k from a project running six months behind.
- The Company experienced varied monthly trading conditions and results in the 6 months leading up to appointment and as the results deteriorated, the Company started to struggle to pay debts as and when they fell due.
- In the months of January and April 2019 the Company reported slightly higher sales, which resulted in a monthly profits, however the profit generated in these months was insufficient to overcome the losses incurred in all other months.



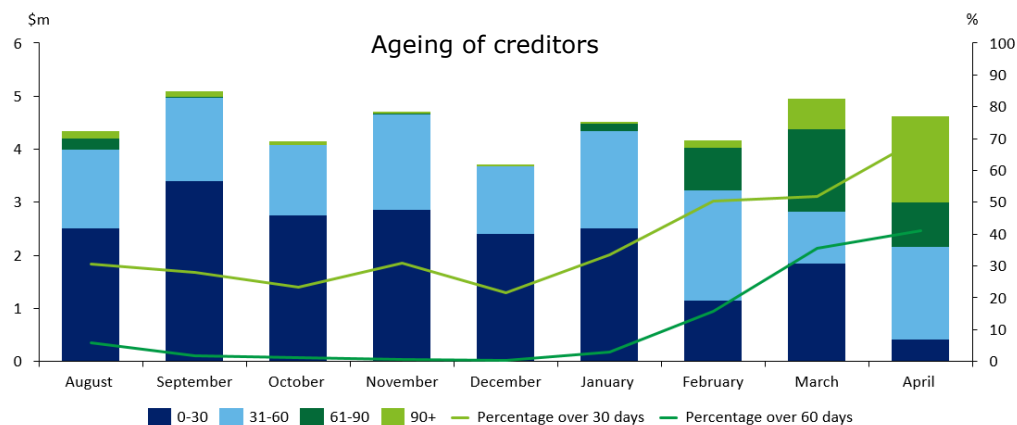
The above graph demonstrates the downward trend in the Company's net asset position, specifically toward the end of calendar year 2018. As discussed above, it was at this point that the Company experienced losses in excess of \$1.5m from

Indicators of insolvency	Commentary
	<p>two projects and was told that a third project, with an estimated value of \$4.2m, would be placed on hold.</p> <p>The Company's net asset position marginally recovered in January and April 2019 as current assets increased from \$2.5m to \$3.3m and from \$2.2m to \$3m, respectively – due to an increase in trade debtors. Notwithstanding the slight improvements in the net asset position in these months, the overall trend demonstrates the decline in net assets from July 2018 onwards.</p>
Debtor and creditor position worsening	The line in the graph below shows the net working capital deficiency (i.e. available overdraft headroom, plus accounts receivable less creditors including statutory liabilities) in the 10 months to April 2019.



The graph shows that the Company was experiencing working capital issues throughout late 2018 and early 2019. The Company's available assets, its cash and accounts receivable balances, peaks at \$4m in July 2018. By March 2019, this has reduced to \$1.4m.

<u>Operations and cash flow</u>	
Ageing of creditors	<p>The ageing of the Company's trade creditors indicates the Company was having difficulties making payments to suppliers from at least February 2019 onwards. During this month, 23% of supplier payments were aged over 60 days. This increases to 53% by the time of our appointment. The graph below compares the ageing of creditors on a monthly basis for YTD19 and illustrates the percentage of supplier payments over 30 and 60 days:</p>



Indicators of insolvency	Commentary
	<p>The two lines above show the percentage of debts over 30 and 60 days. During late 2018, the ageing of the Company's trade creditor balances remain constant, in February 2019 the ageing of the creditors worsens. The debts that are 60 days overdue in February 2019 would have been incurred in December 2018 and remain unpaid.</p> <p>If a Company is unable to pay its debts as and when they fall due and payable the company is deemed to be insolvent.</p>
Overdue Commonwealth and State taxes	Other than the immediate period prior to our appointment, our investigations have not revealed any overdue Commonwealth or state taxes on appointment.
Inability to borrow further funds/ no access to further funds and/or inability to raise further equity capital	<p>Prior to our appointment the NAB had provided a letter of offer to increase the overdraft facility by \$1m.</p> <p>However, as the shortfall in the Company's cash and debtor vs creditor position exceeds this amount, the Company would still have required further access to funds.</p>
Suppliers placing the company on C.O.D or demanding special payments before resuming supply/creditors unpaid outside trading terms	We are aware that on occasion suppliers had stopped work unless paid.
Issuing of post-dated cheques/ dishonoured cheques	We are not aware of any post-dated cheques or dishonoured cheques. Due to this being an outdated method of payment, this indicator of insolvency is less relevant.
Special payments with selected creditors/payments to creditors of rounded sums which are not reconcilable to specific invoices	Our preliminary investigations have not revealed any special payments. Should we be appointed as Liquidators of the Company, further investigations will be conducted into these payments.
Solicitors letters, summons, judgments entered or warrants issued	We are not aware of any claims of this nature or judgments entered against the Company.
Overdue employee wage payments	<p>According to the books and records, there were no overdue wages owing to employees as at the date of the appointment.</p> <p>Accrued superannuation amounts for the April / May 2019 wage period only were outstanding as at appointment.</p>
Overdue landlord payments	Our investigations did not reveal any overdue amounts payable to the lessors on appointment apart from amounts due for the month of May 2019.
Inability to produce timely and accurate financial information to display the company's trading performance and financial position, and make reliable forecasts	<p>The Company prepared monthly management accounts and maintained budgets which were updated regularly in the line with actual trading results.</p> <p>We are of the view that the Company maintained adequate financial records in accordance with Section 286 of the Act.</p> <p>In December 2018 the Directors realised that certain projects had deteriorated and began to review possible actions to improve the performance of the Company.</p>

A liquidator would investigate further the possibility of taking action against the Company's directors for breaches of their duties to prevent insolvent trading. If it is established that a director has breached his or her duties to prevent the Company from incurring debts whilst it was insolvent, a liquidator could recover from those directors an amount equal to the loss that has been suffered by the creditors whose debts remain unpaid.

If a liquidator chooses to pursue an insolvent trading action, creditors are prevented from taking their own action against the director(s) for compensation. If a liquidator does not choose to take any action in this regard, a creditor may commence proceedings on its own behalf but only with the consent of the liquidator or the Court.

7.4.2 Director defences

Section 588H of the Act sets out statutory defences available to the Directors in respect of a claim for insolvent trading. These include:

- at the time of incurring debts, the Director had reasonable grounds to expect that the Company wasn't insolvent;
- the Director relied on information provided by a competent and reliable person which concluded the Company was solvent at the time the debts were incurred; and
- the Director took reasonable steps to prevent the debt from being incurred.

7.5 Directors' personal financial positions

The financial position of directors and their ability to compensate for any damages awarded against them in the event proceedings were taken by a liquidator is relevant to the consideration of the commerciality of further action.

Due to time constraints, our investigations have been limited to public information, information provided by the Directors, or authorised by the Directors to be disclosed by third parties.

Our enquiries and results are as follows:

- A property search reveals the Directors each owns real property with their spouses however, both are mortgaged to NAB;
- The properties are also used as security for the NAB loans to the business; and
- The Directors do not own any vehicles in their name and drove leased vehicles in the Company name.

Our investigations are continuing.

8 Estimated return from a winding up

8.1 Introduction

We have prepared an analysis of the likely realisations under liquidation on two bases, high and low, which are outlined below. Both scenarios involve:

- sale of the Company's assets by a liquidator in a distressed realisation scenario;

- potential recovery of all voidable preferences for the benefit of all creditors and costs associated with pursuing same;
- potential recovery from an insolvent trading claim against the Directors and costs associated with pursuing same;
- no value being realised for the business brand name; and
- costs involved in undertaking the sale of the Company assets including the Administrators' and Liquidators' fees and sale expenses.

Under instructions from the Administrators, Grays (NSW) Pty Ltd (**Grays**) have provided a valuation of the Company's plant and equipment on a going concern bases and a forced sale or auction basis.

8.2 Comparative scenarios

Below is a comparison of the realisations possible should the Company proceed into liquidation:

\$'000	Liquidation	
	Low	High
Asset realisations		
Cash on hand	-	-
Refund of prepayments	10	10
Debtors	149	149
Plant and equipment	68	134
	227	293
Liquidators' potential recovery actions available		
Unfair preference payments	-	Withheld
Insolvent trading	-	Withheld
	-	-
Gross realisations	227	293
Costs of the administration		
Administrators' fees and disbursements (7 May 2019 to 24 May 2019)	(103)	(103)
Estimated Administrators' fees (25 May 2019 to second creditors meeting)	(70)	(60)
Estimated Liquidators' fees and disbursements (second creditors meeting to finalisation)	(31)	(25)
Professional costs (legal, valuation, agents fees)	(14)	(40)
	(217)	(228)
Net realisations available to creditors	10	65
Priority (employee) entitlements		
Wages	-	-
AL and LSL	(127)	(127)
Superannuation	(23)	(23)
PILN	(109)	(109)
Redundancy	(179)	(179)
Employee expense claims	(5)	(5)
	(442)	(442)
Amounts available for unsecured creditors	-	-
Unsecured creditors		
Trade, other creditors and accruals (non-related)	(10,000)	(7,500)
NAB	(1,214)	(1,214)
Related entity unsecured creditors	(475)	(475)
Directors' unsecured employee entitlements	(201)	(201)
	(11,889)	(9,389)
Return to creditors (Cents / \$)		
Priority creditors	2	15
Unsecured creditors	-	-

These figures are subject to rounding

The key differences between the High and Low Scenarios are as follows:

High scenario:

These values assume there is potential for an increased recovery or realisation above that of a low position for specific assets. Where there are two estimates of the value of an asset, the higher value has been included in the high calculations. Achieving these values is subject to a number of factors that would arise during the realisation process. This includes various market forces affecting the value of each asset, including the interest in each asset and the general economic status at the time of sale.

Low scenario:

The values included in this calculation are considered the lower possible values recoverable from the specific assets of the company. These amounts have been calculated by either discounting for a reduced return or where two values were provided for an asset, the lower value was included.

Again, the realisations will be subject to costs and also fluctuations in various other factors outlined in the previous section.

8.3 Debtors

The recoverability of debtors will be dependent upon a number of factors including the settlement of disputes with clients. To date, we have recovered \$149k from debtors.

As discussed in **Section 4**, the balance sheet of the Company identifies accounts receivable of \$2.4m and work in progress of \$4.2m at the date of our appointment. We have made inquiries of the debtors of the Company to ascertain the potential recoveries with respect to outstanding receivables and work in progress. As a result of our findings we estimate that, on a conservative basis, there may be minor future recoveries available. The majority of outstanding accounts receivable balance is uncertain.

We do not estimate the realisable value from additional outstanding debtors to be greater than \$10k.

There are currently ten projects where bank guarantees are being held by customers for the completion of outstanding works and/or the conclusion of defect liability periods. These amounts do not represent a recovery for the Company's creditors as any return from the bank guarantees at the conclusion of these periods will be directly applied to the Company's outstanding bank facility held with NAB that is personally guaranteed by the Directors.

In total, the Company had twenty outstanding projects, which are summarised below.

Section reference					
Summary of outstanding projects	8.3.1	8.3.2	8.3.3	8.3.4	8.3.5
	Amount owed to Cadwell		Less: amounts owed by Cadwell		Equals: possible recoverable sum
Project	Amount outstanding to Cadwell	Retention held by customer	Retentions held by Cadwell	Outstanding payables	
Pittwater Day Surgery	✓	✓	✓	✓	✓
The Orchard Childcare Centre	✗	✗	✓	✓	✗
Fairfield Hospital	✓	✓	✓	✓	✗
KRB Year 12 Learning Hub	✓	✓	✓	✓	✗
RHWFR	✗	✗	✓	✓	✗
Westmead Hospital Library	✗	✗	✓	✗	✗
Browne Street	✗	✗	✓	✓	✗
Prince of Wales Hospital	✗	✗	✓	✓	✗
St Lukes Dee Why	✗	✓	✓	✗	✓
North Shore Veterinary Hospital	✓	✗	✓	✓	✗
Macquarie University Refurb	✗	✗	✓	✓	✗
SVPH SydPath Lab	✗	✓	✓	✓	✗
SVPH Consulting Suite 13.2	✓	✓	✓	✓	✗
St Clair Community Health	✗	✗	✓	✓	✗
NSLHD Macquarie Hospital	✗	✗	✓	✓	✗
NSLHD Mental Health Parkview	✓	✗	✗	✓	✗
Macquarie University 29WW	✓	✗	✓	✓	✗
Nepean Mental Health Centre	✓	✗	✗	✓	✗
St George Hospital MHTCE	✓	✗	✗	✓	✗
DOE Petersham	✗	✗	✗	✓	✗
Total	9	6	16	18	2

8.3.1 Amount outstanding to the Company

We estimate that there are currently nine projects for which there are outstanding amounts owed to the Company. These amounts include work that has been completed but not yet invoiced. These amounts may represent a recovery of debtors to the Company. However, given the amounts owing to sub-contractors, retentions monies held for defects and other completion issues arising on projects it is unlikely that a successful arrangement would be reached between the Company and the customer.

8.3.2 Retentions held by customer

We estimate that there are currently six projects where retentions are being held by customers for completion of outstanding works and/or the conclusion of defect liability periods. These amounts may represent a recovery of debtors to the Company in the event that an arrangement is able to be reached between the Company and the customer and the expiry of any defect liability periods without claim.

We also note that there are a number of bank guarantees which may be returned on successful completion and expiry of defect liability periods. As mentioned previously, any bank guarantees that are returned will be applied to the NAB loan facilities and therefore is not a direct benefit to unsecured creditors.

8.3.3 Retentions held by the Company

We estimate that there are currently sixteen projects where there are retentions held by the Company on behalf of sub-contractors and other parties for the completion of outstanding works and the conclusion of defect liability periods. These amounts may reduce the potential for the Company to recover amounts in relation to these projects.

8.3.4 Outstanding payables

We estimate that there are currently eighteen projects where there are outstanding amounts owed to third parties including sub-contractors. These amounts may reduce the potential for the Company to recover amounts in relation to these projects.

8.3.5 Possible recoverable sum

We are unable to disclose at this stage the amount that may be recoverable. Further detail remains commercially confidential.

8.4 Plant & equipment

This relates to all plant and equipment owned by the Company and includes assets subject to registered security interests. We are currently in the process of assessing the commerciality of paying-out some of the leased assets, as their estimated recoverable value is higher than the current payout. For other instances, we have disclaimed certain assets as the realisable asset value was less than the debt securing the asset.

The scenarios above are based on the range of values provided by Grays for the equipment on a forced sale basis.

An estimate for the costs to realise the plant and equipment is included in professional costs.

8.5 Liquidators' potential recovery actions available

As a result of our investigations, we have identified certain actions that may result in recoveries for creditors under a liquidation scenario. The actions include pursuing claims for unfair preference payments and insolvent trading. The quantum of the potential recoveries has been withheld at this time as to not prejudice any recovery action that may be taken by a liquidator. This is further discussed in **Section 7**.

8.6 Trade, other creditors and accruals

As discussed in **Section 5.1.7**, unsecured creditor claims are estimated to total \$11.9m of which approximately \$10.0m relates to trade, other creditors and accruals from non-related parties, however given the number of claims received and the uncertainty surrounding the potential of a return to creditors we have not adjudicated on these claims and consider it probable that this figure will be reduced by duplicate claims that have been received by both customers and sub-contractors.

Accordingly, we have included an estimate of \$7.5m on a high scenario that provides for these potential duplicate claims.

As discussed in **Section 3.3.3**, the NAB may have a right of subrogation with regard to ANZ's ALL PAAP registration and may rank as a secured creditor in the event of a distribution. A secured creditor has rights to non-circulating assets and non-circulating assets in an administration. However employee creditors will receive priority out of circulating assets. Circulating assets are defined as assets such as debtors 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. A non-circulating asset is defined as assets that the company may not dispose of without the consent of the secured creditor. Under these circumstances, the NAB as the secured creditor would receive the proceeds from the sale of plant and equipment.

8.7 Overall realisations in liquidation scenarios

The high scenario produces a return of approximately 15 cents in the dollar for priority creditors whereas the low scenario produces a return of approximately 2 cents in the dollar.

Our estimate does not produce a return to unsecured creditors under either scenario.

Creditor Class

Liquidation

	Low	High
Priority claims (employees)	2c	15c
Unsecured creditors	Nil	Nil

Prior to the payment of priority creditors, all of the costs of the administration and the subsequent liquidation of the Company will be deducted.

8.8 Effect on employees

Employees have a priority claim in relation to the realisation of assets.

Should there be inadequate funds in the liquidation for the payment of employee entitlements, employees may be entitled to apply to the federally funded FEG.

FEG may cover successful applicants for outstanding wages, annual leave and termination notice. However, FEG does not cover outstanding superannuation entitlements, nor excluded employees, including the Directors of the Company. The liquidators will assist employees in applying to FEG via their online portal.

8.9 Conclusion

In conclusion, assuming the amount of all debts proved and accepted by the liquidators correspond to the amounts disclosed in our analysis and no recoveries from voidable transactions or insolvent trading, we estimate that there will be no return to unsecured creditors under either scenario.

9 Deed of Company Arrangement

We have not received a proposal for a DOCA. We do not expect to receive a proposal prior to the second meeting.

10 Administrators' opinion

10.1 Introduction

The following options are available to creditors to decide:

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

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

10.2 The Company execute a DOCA

As we have not received a DOCA proposal, we cannot recommend this course of action.

10.3 The administration should end

Based on our analysis, the Company is presently insolvent and unable to pay its debts as and when they fall due. Ending the Administration would not be in the best interests of creditors and would expose the Directors to the possibility of liability for insolvent trading. Accordingly, we cannot recommend that the Administration end and control be returned to the Directors.

10.4 The Company be wound up

As there is no proposed DOCA which would result in a greater return than liquidation, we recommend that creditors place the Company into liquidation.

10.5 Recommendation

In our opinion, creditors would be best served if the Company is wound up.

We reserve the right to change our recommendation to creditors should a DOCA proposal be received subsequent to the date of this report.

Should we receive any new information relevant to creditors between issuing this report and the date of the creditors meeting, a summary will be made available to creditors.

10.5.1 Other material information

We are not aware of any other information that is materially relevant to creditors being able to make an informed decision on the Company's future.

11 Remuneration

11.1 Voluntary Administration

The Administrators' remuneration is based on the firm's hourly rates, which were included in the initial remuneration report dated 8 May 2019. Creditor approval for fees will be sought at the second meeting of creditors.

The time costs incurred for the period 7 May 2019 to 24 May 2019 are as follows:

For the period 7 May 2019 to 24 May 2019		\$
Voluntary Administrators' remuneration		101,983.50
GST		10,198.35
Total (including GST)		112,181.85

A summary of the time spent by us and our staff in the administration to 24 May 2019 at their respective hourly rates is attached with the Remuneration Report at **Annexure B**. We expect that a further \$69,648.00 will be incurred by us in the period from 25 May 2019 to the date of the second creditors meeting.

For the period 25 May 2019 to the second creditors meeting		\$
Voluntary Administrators' remuneration		69,648.00
GST		6,964.80
Total (including GST)		76,612.80

At the second meeting of creditors, we will propose a resolution in relation to the unpaid fees from the Company to 24 May 2019 and estimated future fees for the period 25 May 2019 to the date of the second creditors meeting. If a lesser amount is incurred only the amount actually incurred will be paid.

These fees will be capped and accordingly we will be unable to draw fees more than this amount without further approval by creditors.

11.2 Liquidation

The estimated fees for the liquidation from the second creditors meeting to finalisation are as follows:

For the period of the second creditors meeting to finalisation	\$
Liquidators' remuneration	30,390.00
GST	3,039.00
Total (including GST)	33,429.00

A summary of the estimated time to be spent by the liquidators and their staff in the liquidation from the second creditors meeting to finalisation at their respective hourly rates is attached as with the Remuneration Report at **Annexure B**.

At the second meeting of creditors, we will propose a resolution in relation to the estimated liquidators' fees from liquidation from the second creditors meeting to finalisation. If a lesser amount is incurred only the amount actually incurred will be paid.

These fees will be capped and accordingly we will be unable to draw fees more than this amount without further approval by creditors.

12 Meeting

Pursuant to Section 439A(3) of the Act and s75-225 of the IPR, we have attached a notice convening the second meeting of creditors to be held on Wednesday, 12 June at 10:30am (AEST) at the offices of Chartered Accountants Australia and New Zealand, 33 Erskine Street, Sydney NSW 2000 (see Form 529 enclosed as **Annexure A**). Telephone conference facilities will also be made available at the meeting. Should you wish to attend the meeting via telephone, please email jackmcgrath@deloitte.com.au and we will provide dial in details to join the meeting.

At this meeting creditors will be asked to resolve whether:

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

Attendance at this meeting is not compulsory. Creditors may attend and vote in person, by proxy or by attorney. The appointment of a proxy must be made in accordance with Form 532 (copy attached as **Annexure E**).

A special proxy can be lodged showing approval or rejection of each resolution. Proxy forms or facsimiles thereof must be lodged with us prior to the commencement of the meeting. Where a facsimile copy of a proxy is sent, the original must be lodged with us within 72 hours after receipt of the facsimile. An attorney of the creditor must show the instrument by which he or she is appointed to the Chairman of the meeting, prior to the commencement of the meeting.

Please note that a creditor is required to lodge a proof of debt or claim (copy attached as **Annexure F**) to be entitled to vote at the second meeting of creditors. A creditor will not be able to vote at the meeting unless a proof of debt or claim is lodged with me prior to the commencement of the meeting.

If a creditor wishes to rely upon the proof of debt or claim that they lodged with us at the first meeting of creditors, held on 16 May 2019, they must make reference to that proof of debt or claim when submitting a proxy, or when attending 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 liquidation in general, please do not hesitate to contact Jack McGrath of this office on (02) 8260 4867 or at jackmcgrath@deloitte.com.au.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Jason Tracy', with a stylized, flowing script.

Jason Tracy

Joint and Several Administrator

Annexure A – Notice of meeting of creditors

FORM 529

CORPORATIONS ACT 2001
Section 439A

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

**NOTICE OF MEETING OF CREDITORS
CADWELL CONSTRUCTION & INTERIORS PTY LTD
(ADMINISTRATORS APPOINTED)
ACN 140 887 636
(the Company)**

NOTICE is given that a meeting of the creditors of the Company will be held at the offices of Chartered Accountants Australia and New Zealand, 33 Erskine Street, Sydney NSW 2000 on Wednesday, 12 June 2019 at 10:30AM (AEST).

A G E N D A

1. To receive a Report about the Companies business, property, affairs and financial circumstances.
2. For creditors to resolve:
 - a. that the Company execute a Deed of Company Arrangement; or
 - b. that the Administration should end; or
 - c. that the Company be wound up.
3. To fix the remuneration of the Joint and Several Administrators.
4. If the Company is to execute a Deed of Company Arrangement to fix the remuneration of the Deed Administrator.
5. If the Company is wound up, to consider appointing a Committee of Inspection.
6. If no Committee is appointed, to fix the remuneration of the Liquidators.
7. If no Committee is appointed, to consider the destruction of the books and records at the conclusion of the winding up.
8. Any other business that may be lawfully brought forward.

Telephone conference facilities will be available at the meeting. Should you wish to attend the meeting via telephone, please email jackmcgrath@deloitte.com.au and we will provide dial in details for you to join the meeting. Please note under Insolvency Practice Rules (Corporations) (IPR) 75-35 if you wish to participate in the meeting using such facilities you must give to the convener not later than 5:00PM, Tuesday, 11 June 2019 a written statement setting out:

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

Proxies to be used at the meeting should be given to me as Joint and Several Administrators and to the person named as convening the meeting. A creditor can only be represented by proxy or by an attorney pursuant to IPR 75-150 & 75-155 and if a body corporate by a representative appointed pursuant to Section 250D.

Creditors will not be entitled to vote at this meeting unless they have previously lodged particulars of their claim against the Company in accordance with IPR 75-85 and that claim has been admitted for voting purposes wholly or in part by the Joint and Several Administrators.

DATED this 4th day of June 2019.



Jason Mark Tracy
Joint And Several Administrator

Deloitte Financial Advisory Pty Ltd
Grosvenor Place
225 George Street
SYDNEY NSW 2000
Telephone: (02) 9322 7000

Annexure B – Remuneration approval report

Remuneration Approval Request

Cadwell Construction & Interiors Pty Ltd (Administrators Appointed)
ACN 140 887 636
(the Company)

Contents

1	Declaration	1
2	Executive summary	1
3	Remuneration	2
3.1	Remuneration claim resolutions	2
3.2	Details of remuneration	3
3.3	Likely impact on dividends	4
3.4	Remuneration recovered from external sources	4
4	Disbursements	4
4.1	Externally provided disbursements	4
4.2	Internal disbursement claim	5
4.3	Future basis of internal disbursements	5
5	Report on progress of the administration	6
6	Summary of receipts and payments	6
7	Queries	6
8	Approval of remuneration and internal disbursements	7

1 Declaration

We, Jason Tracy and Kathryn Evans of Deloitte Financial Advisory Pty Ltd, have undertaken a proper assessment of this remuneration claim for our appointment as Administrators of Cadwell Construction & Interiors Pty Ltd (Administrators Appointed) (**the Company**) in accordance with the law and applicable professional standards. We are satisfied that the remuneration claimed is in respect of necessary work, properly performed, or to be properly performed, in the conduct of the Administration.

2 Executive summary

In our initial remuneration notice to creditors dated 8 May 2019, we provided a consolidated remuneration estimate of \$100,000.00 (excluding GST) to complete the voluntary administrations of the Company and Reefbreak Holdings Pty Ltd (Administrators Appointed) (**Reefbreak**). The total remuneration for the Voluntary Administration of the Company is now estimated to be \$202,021.50 (excluding GST).

The total consolidated estimate differs to the estimate of costs dated 8 May 2019, for the following reasons:

- additional work required to deal with registrations on Personal Property Securities Register (**PPSR**);
- additional work required to understand and secure the assets of the Company, including property, plant and equipment;

- complex body of creditors, including time spent on creditors meetings and preparing associated statutory requirements;
- extensive review of contract situation to determine the recoverability of outstanding amounts; and
- additional work required to get access to the Company's books and records.

Remuneration currently claimed is summarised below:

Voluntary Administration – remuneration approval sought	Schedule reference	Amount (Excl. GST)
Current remuneration approval sought:		
Voluntary Administration		
Resolution 2: 7 May 2019 to 24 May 2019	1.1 & 1.2	\$101,983.50
Resolution 3*: 25 May 2019 to the second creditors meeting	2.1 & 2.2	\$69,648.00
Total – Voluntary Administration		\$171,631.50
Liquidation (if applicable)		
Resolution 4*: commencement of liquidation to completion of liquidation	3.1 & 3.2	\$30,390.00
Total remuneration claimed and approved		\$202,021.50
*Approval for the future remuneration sought is based on an estimate of the remuneration necessary to the completion of the Administration/Liquidation. Should additional work be necessary beyond what is contemplated, further approval may be sought from creditors.		

Internal disbursements currently claimed are summarised below:

Voluntary Administration – current disbursements claim	Report reference	Amount (Excl. GST)
Voluntary Administration		
Resolution 5: 7 May 2019 to the second creditors meeting	Section 4.2	\$990.90
Liquidation (if applicable)		
Resolution 6*: commencement of liquidation to completion of liquidation	Section 4.3	\$450.00
Total disbursements claimed and approved		\$1,440.90
* Approval for the future internal disbursements sought is based on an estimate of the internal disbursements necessary to the completion of the Administration/Liquidation. Should additional disbursements be necessary beyond what is contemplated, further approval may be sought from creditors.		

Please refer to report schedule and section references detailed in the above tables for full details of the calculation and composition of the remuneration and disbursements approval sought.

3 Remuneration

3.1 Remuneration claim resolutions

We will be seeking approval of the following resolutions to approve our remuneration. Details to support these resolutions are included in Section 3.2 and in the attached Schedules.

Resolution 2 –Joint and Several Administrators' remuneration from 7 May 2019 to 24 May 2019

"That the remuneration of the Administrators, their partners, and staff, for the period of the administration from 7 May 2019 to 24 May 2019 is fixed at a sum equal to the cost of time spent by the Administrators, their partners, and staff, calculated at the hourly rates as detailed in the initial remuneration notice of 8 May 2019 of fees equalling \$101,983.50 excluding GST, and that the Administrators can draw the remuneration immediately or as required."

Resolution 3 – Future Joint and Several Administrators’ remuneration from 25 May 2019 to the second creditors meeting

"That the future remuneration of the Administrators from 25 May 2019 to the second creditors meeting is determined at a sum equal to the cost of time spent by the Administrators, their partners, and staff, calculated at the hourly rates as detailed in the initial remuneration notice 8 May 2019, up to a capped amount of \$69,648.00 excluding GST, and that the Administrators can draw the remuneration on a monthly basis or as required. Should a lesser amount actually be incurred, only the lesser amount will be charged to the administration 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."

Resolution 4 – Future Joint and Several Liquidators’ remuneration from commencement of liquidation to completion of liquidation

"That the future remuneration of the Liquidators for the period from commencement of liquidation to completion of the liquidation, is determined at a sum equal to the cost of time spent by the Liquidators, their partners, and staff, calculated at the hourly rates as detailed in the initial remuneration report of 8 May 2019, up to a capped amount of \$30,390.00 excluding GST, and that the Liquidators can draw the remuneration on a monthly basis or as required. Should a lesser amount actually be incurred, only the lesser amount will be charged to the administration 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."

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 2 – Joint and Several Administrators’ remuneration from 7 May 2019 to 24 May 2019

Schedule 1.1 sets out time charged to each major task area by staff members working on the Administration for the period 7 May 2019 to 24 May 2019, which is the basis of the Resolution 2 claim. More detailed descriptions of the tasks performed within each task area, matching the amounts in Resolution 2, are contained in Schedule 1.2.

Resolution 3 – Future Joint and Several Administrators’ remuneration from 25 May 2019 to the second creditors meeting

Schedule 2.1 sets out the expected costs for the major tasks likely to be performed by the Administrators and their staff for the period 25 May 2019 to the second creditors meeting, 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 2.2**.

Resolution 4 – Future Joint and Several Liquidators’ remuneration from commencement of liquidation to completion of liquidation

Schedule 3.1 sets out the expected costs for the major tasks likely to be performed by the Liquidators and their staff from the commencement of the liquidation 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 3.2**.

Note: For future claims, should a lesser amount actually be incurred, only the lesser amount will be charged to the Administration, Liquidation and drawn. Should a greater amount be incurred, only the amount approved by creditors will be charged and we may seek further approval of the additional fees incurred.

3.3 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 my 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 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 realisation achieved by us and the value of creditors' claims that are eligible to receive a distribution. At this stage in the administration, there are still a number of uncertainties all of which will impact on the distributions to creditors.

3.4 Remuneration recovered from external sources

The Directors of the Company and Reefbreak, Soren Jensen and Hans Thomsen, agreed to indemnify the Administrators in relation to their remuneration and liabilities incurred regarding the conduct of these Administrations (as approved in accordance with the Corporations Act 2001) to a maximum of \$100,000 excluding GST.

4 Disbursements

Disbursements are divided into three types:

- **Externally provided professional services such as legal fees** - these are recovered at cost.
- **Externally provided non-professional costs such as travel, accommodation and search fees** - these are recovered at cost.
- **Internal disbursements such as photocopying, printing and postage** - these disbursements, if charged to the administration, would generally be charged at cost; though some expenses such as telephone calls, photocopying and printing may be charged at a rate, which recoups both variable and fixed costs. The recovery of these costs must be on a reasonable commercial basis.

We have undertaken a proper assessment of disbursements claimed for the Company, in accordance with the law and applicable professional standards. We are satisfied that the disbursements claimed are necessary and proper.

We will be seeking creditor approval to pay our internal disbursements.

4.1 Externally provided disbursements

A number of services (both professional and non-professional) have been supplied by external providers. While we do not need to obtain approval for these disbursements, it is appropriate that I disclose details to creditors. These are paid by two different methods:

Professional and non-professional services paid out of the Administration account at cost. For example, legal fees and auctioneer costs. Whilst certain services have been engaged, we have not received invoices for these services and consequently they have not been paid.

Non-professional services paid by Deloitte Financial Advisory Pty Ltd and reimbursed. These disbursements are included in the table at Section 4.2.

4.2 Internal disbursement claim

The following internal disbursements have been claimed by our firm for the Administration. We will be seeking approval of the following resolution to approve our disbursements. Details to support this resolution are included in the table below.

Resolution 5 – Joint and Several Administrators’ disbursements from 7 May 2019 to the second creditors meeting

“That the internal disbursements of the Administration from 7 May 2019 to the second creditors meeting, calculated at the rates as detailed in the initial remuneration report dated 8 May 2019 is approved for payment in the sum of \$990.90 excluding GST, and that the Administrators may draw the disbursements immediately or as required.”

Disbursements claimed 7 May 2019 to the second creditors meeting	Basis (Excl. GST)	Total (Excl. GST)
ASIC fees (lodgements & advertisements)*	\$90 per item x 6 items	\$540.00
Tolls, taxis, parking, trains, mileage	Mileage at \$0.70/km, otherwise at cost	\$450.90
Total		\$990.90

* The ASIC Supervisory Cost Recovery Levy Act 2017 stipulates that the costs of some ASIC lodgements and advertisements in the financial year ended 30 June 2019 will not be known until approx. January 2020, but based on budgeting and forecast modelling prepared by ASIC it is estimated the cost will be in vicinity of \$81. In order to recover this, administrative costs associated with lodgements and the possibility for variances in the budget, we seek to claim \$90 per levy.

ASIC lodgement and advertisements incurred to date:	Number
New appointment acceptance (each appointee incurs a charge)	2
Cessation of appointment	2
PNW notice of meeting	2
Total	6

Approval of the payment of these disbursements at the above rates to a capped amount of \$990.90 excluding GST, is being sought from creditors at the meeting of creditors.

4.3 Future basis of internal disbursements

The following future internal disbursements are being claimed by our firm from the commencement of the liquidation to the completion of the liquidation. We will be seeking approval of the following resolution to approve our future disbursements. Details to support this resolution are included in the table below.

Resolution 6 – Future Joint and Several Liquidators’ disbursements from the commencement of liquidation to completion of liquidation

“That the future internal disbursements of the Liquidation from the commencement of the liquidation to the completion of the liquidation is determined at a sum equal to the cost spent by the Liquidators, their partners and staff, calculated at the rates as detailed in the initial remuneration report dated 8 May 2019, such sum to be capped at the amount of \$450.00 excluding GST, and that the Administration may draw the disbursements on a monthly basis or as required.”

Internal disbursements	Rate (Excl. GST)
ASIC fees (lodgements & advertisements)*	\$90 per item x 5 items
Total	\$450.00

Scale applicable for financial year ending 30 June 2019.

* The ASIC Supervisory Cost Recovery Levy Act 2017 stipulates that the costs of some ASIC lodgements and advertisements in the financial year ended 30 June 2019 will not be known until approx. January 2020, but based on budgeting and forecast modelling prepared by ASIC it is estimated the cost will be in vicinity of \$81. In order to recover this, administrative costs associated with lodgements and the possibility for variances in the budget, we seek to claim \$90 per levy.

ASIC lodgement and advertisements likely to be incurred from commencement of liquidation to completion of liquidation	Number
New appointment acceptance (each appointee incurs a charge)	2
Cessation of appointment	2
Form Ex01	1
Total	5

Approval of the payment of these disbursements at the above rates to a capped amount of \$450.00 excluding GST, is being sought from creditors at the meeting of creditors.

5 Report on progress of the administration

Please refer to the Administrators’ Report to Creditors dated 4 June 2019 attached herein.

6 Summary of receipts and payments

A summary of the receipts and payments for the Administration as at 29 May 2019 is attached at **Annexure H** of the Administrators’ Report to Creditors dated 4 June 2019.

7 Queries

If you have any queries in relation to the information in this report, please contact Jack McGrath on (02) 8260 4867 or by email on jackmcgrath@deloitte.com.au.

You can also access information which may assist you on the following websites:

- ARITA at www.arita.com.au/creditors
- ASIC at www.asic.gov.au (search for “insolvency information sheets”).

8 Approval of remuneration and internal disbursements

Refer to **Annexure D** of the Administrators' Report to Creditors dated 4 June 2019 for ASIC Information Sheet 85 Approving Fees: a guide for creditors attached to this report.

Schedule 1.1 - Time charged to each major task

Resolution 2 – Joint and Several Administrators’ remuneration from 7 May 2019 to 24 May 2019

Employee	Position	\$ /hour (excl. GST)	Actual total hours	Actual Remuneration (\$)	Task Area									
					Assets		Creditors		Employees		Investigations		Administration	
					Hrs	(\$)	Hrs	(\$)	Hrs	(\$)	Hrs	(\$)	Hrs	(\$)
Jason Tracy	Partner	620.00	19.3	11,966.00	1.0	620.00	7.5	4,650.00	1.0	620.00	1.0	620.00	8.8	5,456.00
Ian Niccol	Director	550.00	56.4	31,020.00	32.3	17,765.00	9.3	5,115.00	5.5	3,025.00	5.2	2,860.00	4.1	2,255.00
George Simos	Manager	495.00	1.3	643.50	-	-	0.8	396.00	-	-	-	-	0.5	247.50
Carol Clark	Senior Analyst	430.00	0.2	86.00	-	-	-	-	-	-	-	-	0.2	86.00
Jack McGrath	Analyst	350.00	50.0	17,500.00	6.4	2,240.00	13.0	4,550.00	12.7	4,445.00	9.2	3,220.00	8.7	3,045.00
Samantha Edney	Graduate	260.00	44.8	11,648.00	-	-	20.1	5,226.00	-	-	3.5	910.00	21.2	5,512.00
Barbara Kekatos	Graduate	260.00	53.0	13,780.00	11.5	2,990.00	32.0	8,320.00	2.5	650.00	-	-	7.0	1,820.00
Lauren Webb	Graduate	260.00	59.0	15,340.00	-	-	32.0	8,320.00	12.5	3,250.00	-	-	14.5	3,770.00
TOTAL			284.0	101,983.50	51.20	23,615.00	114.70	36,577.00	34.20	11,990.00	18.90	7,610.00	65.00	22,191.50
GST				10,198.35										
TOTAL (including GST)				112,181.85										
Average hourly rate						461.23		318.89		350.58		402.65		341.41

Schedule 1.2 - Time charged to each major task

Resolution 2 – Joint and Several Administrators' remuneration from 7 May 2019 to 24 May 2019

Task Area	General Description	Includes
Assets 51.20 hours \$23,615.00	Plant and equipment	<ul style="list-style-type: none"> • Liaising with valuers and auctioneers • Reviewing and reconciling asset listings
	Assets subject to specific charges	<ul style="list-style-type: none"> • All tasks associated with realising a charged asset
	Debtors	<ul style="list-style-type: none"> • Reviewing and assessing debtors ledgers
	Other assets	<ul style="list-style-type: none"> • Tasks associated with realising other assets
	Leasing	<ul style="list-style-type: none"> • Reviewing leasing documents • Liaising with owners/lessors • Tasks associated with disclaiming leases
Creditors 114.70 hours \$36,577.00	Creditor enquiries	<ul style="list-style-type: none"> • Receive and follow up creditor enquiries via telephone • Review and prepare correspondence to creditors and their representatives via email and post
	Secured creditor reporting	<ul style="list-style-type: none"> • Notifying PPSR registered creditors of appointment
	Creditor reports	<ul style="list-style-type: none"> • Preparing and issuing initial circular to creditors • Preparing section report for second creditors meeting (75-225), investigation, meeting and general reports to creditors
	Dealing with proofs of debt	<ul style="list-style-type: none"> • Receipting and filing proofs of debt (POD's) when not related to a dividend • Corresponding with OSR and ATO
	Meeting of creditors	<ul style="list-style-type: none"> • 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 of minutes of meetings with ASIC • Responding to stakeholder queries and questions immediately following meeting
Employees 34.20 hours \$11,990.00	Employees enquiries	<ul style="list-style-type: none"> • Receive and follow up employee enquiries via telephone • 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 employees objections to leave entitlements
	Calculation of entitlements	<ul style="list-style-type: none"> • Calculating employee entitlements • Reviewing employee files and Company's books and records • Dealing with superannuation accounts

Task Area	General Description	Includes
		<ul style="list-style-type: none"> Reviewing contracts
	Workers compensation claims	<ul style="list-style-type: none"> Correspondence with insurer regarding any insurer claims Correspondence with previous brokers
	Other employee issues	<ul style="list-style-type: none"> Correspondence with Child Support Correspondence with Centrelink
Investigation 18.90 hours \$7,610.00	Conducting investigation	<ul style="list-style-type: none"> Collection of Company books and records 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 the Directors regarding certain transactions Preparation of investigation file
Administration 65.00 hours \$22,191.50	Document maintenance/file review/checklist	<ul style="list-style-type: none"> Filing of documents File reviews Updating checklists
	Insurance	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> Preparing correspondence opening and closing accounts Requesting bank statements Bank account reconciliations Correspondence with bank regarding specific transfers
	ASIC Form and lodgements	<ul style="list-style-type: none"> Preparing and lodging ASIC forms including 505 Correspondence with ASIC regarding statutory forms
	Planning / review	<ul style="list-style-type: none"> Discussions regarding status of administration
	Books and records / storage	<ul style="list-style-type: none"> Dealing with records
TOTAL 284.00 hours \$101,983.50 (Excl. GST)		

Schedule 2.1 - Time charged to each major task

Resolution 3 – Future Joint and Several Administrators' remuneration from 25 May 2019 to the second creditors meeting

Employee	Position	\$ / hour (excl. GST)	Actual total hours	Actual Remuneration (\$)	Task Area									
					Assets		Creditors		Employees		Investigations		Administration	
					Hrs	(\$)	Hrs	(\$)	Hrs	(\$)	Hrs	(\$)	Hrs	(\$)
Jason Tracy	Partner	620.00	13.0	8,060.00	1.0	620.00	4.0	2,480.00	1.0	620.00	1.0	620.00	6.0	3,720.00
Kathrn Evans	Partner	620.00	3.0	1,860.00	-	-	2.5	1,550.00	-	-	-	-	0.5	310.00
Ian Niccol	Director	550.00	21.3	11,715.00	6.0	3,300.00	10.0	5,500.00	1.0	550.00	2.0	1,100.00	2.3	1,265.00
Carol Clark	Sr Analyst	430.00	0.2	86.00	-	-	-	-	-	-	-	-	0.2	86.00
Julia Mayne	Sr Analyst	430.00	18.0	7,740.00	-	-	-	-	-	-	15.0	6,450.00	3.0	1,290.00
Jack McGrath	Analyst	350.00	44.1	15,435.00	5.1	1,785.00	7.0	2,450.00	2.0	700.00	26.0	9,100.00	4.0	1,400.00
Samantha Edney	Graduate	260.00	52.8	13,728.00	6.0	1,560.00	34.0	8,840.00	-	-	2.8	728.00	10.0	2,600.00
Barbara Kekatos	Graduate	260.00	42.4	11,024.00	9.2	2,392.00	25.6	6,656.00	2.0	520.00	-	-	5.6	1,456.00
TOTAL			194.8	69,648.00	27.30	9,657.00	83.10	27,476.00	6.00	2,390.00	46.80	17,998.00	31.60	12,127.00
GST				6,964.80										
TOTAL (including GST)				76,612.80										
Average hourly rate						353.74		330.64		398.33		384.57		383.77

Schedule 2.2 - Time charged to each major task

Resolution 3 – Future Joint and Several Administrators’ remuneration from 25 May 2019 to the second creditors meeting

Task Area	General Description	Includes
Assets 27.30 hours \$9,657.00	Plant and equipment	<ul style="list-style-type: none"> • Liaising with valuers and auctioneers
	Assets subject to specific charges	<ul style="list-style-type: none"> • All tasks associated with realising a charged asset
	Debtors	<ul style="list-style-type: none"> • Reviewing and assessing debtors ledgers
	Other assets	<ul style="list-style-type: none"> • Tasks associated with realising other assets
	Leasing	<ul style="list-style-type: none"> • Reviewing leasing documents • Liaising with owners/lessors • Tasks associated with disclaiming leases
Creditors 83.10 hours \$27,476.00	Creditor enquiries	<ul style="list-style-type: none"> • Receive and follow up creditor enquiries via telephone • Review and prepare correspondence to creditors and their representatives via email and post
	Creditor reports	<ul style="list-style-type: none"> • Preparing section report for second creditors meeting (75-225), investigation, meeting and general reports to creditors
	Dealing with proofs of debt	<ul style="list-style-type: none"> • Receipting and filing proofs of debt (POD's) when not related to a dividend
	Meeting of creditors	<ul style="list-style-type: none"> • 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
Employees 6.00 hours \$2,390.00	Employees enquiries	<ul style="list-style-type: none"> • Receive and follow up employee enquiries via telephone • Review and prepare correspondence to creditors and their representatives via email and post • Receive and prepare correspondence in response to employees objections to leave entitlements
	Other employee issues	<ul style="list-style-type: none"> • Correspondence with Child Support • Correspondence with Centrelink
Investigation 46.80 hours \$17,998.00	Conducting investigation	<ul style="list-style-type: none"> • 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 the Directors regarding certain transactions • Preparation of investigation file

Task Area	General Description	Includes
		<ul style="list-style-type: none"> Lodgement of investigation with the ASIC
	ASIC reporting	<ul style="list-style-type: none"> Preparing statutory investigation reports Liaising with ASIC
Administration 31.60 hours \$12,127.00	Document maintenance/file review/checklist	<ul style="list-style-type: none"> First month administration review Filing of documents File reviews Updating checklists
	Bank account administration	<ul style="list-style-type: none"> Requesting bank statements Bank account reconciliations Correspondence with bank regarding specific transfers
	ASIC Form and lodgements	<ul style="list-style-type: none"> Preparing and lodging ASIC forms including 5011 etc. Correspondence with ASIC regarding statutory forms
	Planning / review	<ul style="list-style-type: none"> Discussions regarding status of administration
	Books and records / storage	<ul style="list-style-type: none"> Dealing with records
TOTAL 194.80 hours \$69,648.00 (Excl. GST)		

Schedule 3.1 - Time charged to each major task

Resolution 4 – Future Joint and Several Liquidators’ remuneration from the commencement of the liquidation to the completion of the liquidation

Employee	Position	\$ /hour (excl. GST)	Actual total hours	Actual Remuneration (\$)	Task Area											
					Assets		Creditors		Dividend		Employees		Investigations		Administration	
					Hrs	(\$)	Hrs	(\$)	Hrs	(\$)	Hrs	(\$)	Hrs	(\$)	Hrs	(\$)
Jason Tracy	Partner	620.00	6.0	3,720.00	-	-	2.0	1,240.00	2.00	1,240.00	-	-	-	-	2.0	1,240.00
Kathrn Evans	Partner	620.00	2.0	1,240.00	-	-	-	-	-	-	-	-	1.0	620.00	1.0	620.00
Ian Niccol	Director	550.00	22.0	12,100.00	2.0	1,100.00	5.0	2,750.00	5.00	2,750.00	1.0	550.00	4.0	2,200.00	5.0	2,750.00
Jack McGrath	Analyst	350.00	21.0	7,350.00	3.0	1,050.00	5.0	1,750.00	3.00	1,050.00	2.0	700.00	2.0	700.00	6.0	2,100.00
Samantha Edney	Graduate	260.00	23.0	5,980.00		-	3.0	780.00	6.00	1,560.00	2.0	520.00	5.0	1,300.00	7.0	1,820.00
TOTAL			74.0	30,390.00	5.00	2,150.00	15.00	6,520.00	16.00	6,600.00	5.00	1,770.00	12.00	4,820.00	21.00	8,530.00
GST				3,039.00												
TOTAL (including GST)				33,429.00												
Average hourly rate					430.00		434.67		412.50		354.00		401.67		406.19	

Schedule 3.2 - Time charged to each major task

Resolution 4 – Future Joint and Several Liquidators’ remuneration from the second creditors meeting to finalisation

Task Area	General Description	Includes
Assets 5 hours \$2,150.00	Plant and equipment	<ul style="list-style-type: none"> • Liaising with valuers, auctioneers and interested parties • Reviewing and reconciling asset listings • All tasks associated with realising the plant and equipment
	Assets subject to specific charges	<ul style="list-style-type: none"> • All tasks associated with realising a charged asset
	Debtors	<ul style="list-style-type: none"> • Reviewing and assessing debtors ledgers • All tasks associated with realising outstanding debtors
	Other assets	<ul style="list-style-type: none"> • Tasks associated with realising other assets
	Leasing	<ul style="list-style-type: none"> • Reviewing leasing documents • Liaising with owners/lessors • Tasks associated with disclaiming leases
Creditors 15.0 hours \$6,520.00	Creditor enquiries	<ul style="list-style-type: none"> • Receive and follow up creditor enquiries via telephone • Maintaining creditor enquiry register • Review and prepare correspondence to creditors and their representatives via email and post
	Creditor reports	<ul style="list-style-type: none"> • Preparing investigations, meeting and general reports to creditors
	Dealing with proofs of debt	<ul style="list-style-type: none"> • Receipting and filing proofs of debt (POD’s) when not related to a dividend
Employees 5.0 hours \$1,770.00	Employees enquiries	<ul style="list-style-type: none"> • Receive and follow up employee enquiries via telephone • 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 employees objections to leave entitlements
	FEG/GEERS	<ul style="list-style-type: none"> • Correspondence with FEG • Preparing notification spreadsheet • Preparing FEG quotations • Preparing FEG distributions
	Calculation of entitlements	<ul style="list-style-type: none"> • Calculating employee entitlements • Reviewing employee files and Company’s books and records • Liaising with solicitors regarding entitlements
Investigation 12.0 hours \$4,820.00	Conducting investigation	<ul style="list-style-type: none"> • Reviewing Company’s books and records • Review and preparation of Company nature and history • Conducting and summarising statutory searches

Task Area	General Description	Includes
		<ul style="list-style-type: none"> • Preparation of comparative financial statements • Preparation of deficiency statement • Liaising with Directors regarding certain transactions • Preparation of investigation file • Lodgement of investigation with the ASIC
	ASIC reporting	<ul style="list-style-type: none"> • Preparing statutory investigation reports • Liaising with ASIC
Dividend 16.0 hours \$6,600.00	Processing proofs of debt	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • 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
Administration 21.0 hours \$8,530.00	Document maintenance/file review/checklist	<ul style="list-style-type: none"> • First month, then six monthly administration review • Filing of documents • File reviews • Updating checklists
	Bank account administration	<ul style="list-style-type: none"> • Preparing correspondence opening and closing accounts • Requesting bank statements • Bank account reconciliations • Correspondence with bank regarding specific transfers
	ASIC Form 5602/5603 and other forms	<ul style="list-style-type: none"> • Preparing and lodging ASIC forms including 505, 5602/5603, 5011 etc • Correspondence with ASIC regarding statutory forms
	ATO and other statutory reporting	<ul style="list-style-type: none"> • Notification of appointment • Preparing BAS • Completing PAYG summaries

Task Area	General Description	Includes
	Finalisation	<ul style="list-style-type: none"> • Notifying ATO of finalisation • Cancelling ABN / GST / PAYG registration • Completing checklists • Finalising WIP
	Planning / review	<ul style="list-style-type: none"> • Discussions regarding status of administration
	Books and records / storage	<ul style="list-style-type: none"> • Dealing with records in storage • Sending job files to storage
TOTAL 74.0 hours \$30,390.00 (Excl. GST)		

Annexure C – ARITA creditor information sheet

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.
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.

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.

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. It will only be necessary to satisfy the court that there was a breach on the balance of probabilities. There is no time limit on when the transaction occurred.

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.

Annexure D – ASIC approving fees guide for creditors



ASIC

Australian Securities & Investments Commission

ASIC Guide for

INFORMATION SHEET 85

Approving fees: A guide for creditors

If a company is in financial difficulty, it can be put under the control of an independent external administrator.

This information sheet (INFO 85) gives general information for creditors on the approval of an external administrator's fees in a liquidation of an insolvent company, voluntary administration or deed of company arrangement (the fees of a receiver are fixed by the secured creditor that appoints the receiver and are not discussed in this information sheet). It outlines the rights that creditors have in the approval process.

It covers:

- entitlement to fees and costs
- who may approve fees
- calculation of fees
- initial remuneration notice
- report on proposed fees
- deciding if fees are reasonable
- reimbursement of out-of-pocket costs
- queries and complaints

Entitlement to fees and costs

A liquidator, voluntary administrator or deed administrator (i.e. an 'external administrator') is entitled to be:

- paid reasonable fees, or remuneration, for the necessary work they properly perform, once these fees have been approved by creditors, a committee of inspection or a court
- reimbursed for out-of-pocket costs incurred in performing their role.

External administrators are only entitled to an amount of fees that is reasonable for the necessary work that they and their staff properly perform in the external administration. What is reasonable will depend on the type of external administration and the issues that need to be resolved. Some are straightforward, while others are more complex.

External administrators must undertake some tasks that may not directly benefit creditors. These include reporting potential breaches of the law and lodging with ASIC a detailed listing of receipts

and payments, known as an annual administration return, annually on the anniversary of their appointment and at the end of their administration.

The external administrator is entitled to be paid for completing these statutory tasks.

Note: If the external administration commenced prior to 1 September 2017, the external administrator will continue to lodge the six-monthly Form 524 Presentation of accounts and statement until the six-month period ending on the first anniversary of their appointment date. Thereafter, they will lodge the annual administration return (AAR Form 5602).

Out-of-pocket costs that are commonly reimbursed include:

- legal fees
- valuer's, real estate agent's and auctioneer's fees
- stationery, photocopying, telephone and postage costs
- retrieval costs for recovering the company's computer records
- storage costs for the company's books and records.

Creditors have a direct interest in the level of fees and costs, as the external administrator will generally be paid from the company's available assets before any payments to creditors. If there are not enough assets, the external administrator may have arranged for a third party to pay any shortfall. As a creditor, you should receive details of such an arrangement. If there are not enough assets to pay the fees and costs, and there is no third party payment arrangement, any shortfall is not paid.

Who may approve fees

An external administrator's fees must be approved by one of the following ways:

- by resolution of creditors
- by a committee of inspection (if there is a committee of inspection) if no resolution has been passed by creditors
- by the court if neither the creditors nor a committee of inspection have passed a resolution.

Note: An external administrator in a members' voluntary winding up must have fees approved by a resolution of the company, or the court.

The external administrator must provide sufficient information to enable the relevant decision-making body to assess whether the fees are reasonable.

If fees are not approved by the relevant decision-making body, the liquidator is entitled to be paid reasonable fees up to a maximum of \$5,000 excluding GST (indexed annually).

Creditors' approval at a creditors' meeting

Creditors can approve fees by passing a resolution at a creditors' meeting. Unless creditors call for a poll, the resolution passes if a simple majority of creditors present and voting, in person or by proxy, indicates that they agree to the resolution.

If a poll is taken, rather than a vote being decided on the voices, a majority in number and value of creditors present and voting must agree. A poll requires the votes of each creditor to be recorded.

A separate resolution of creditors is required for approving fees for an administrator in a voluntary administration and an administrator of a deed of company arrangement, even if the administrator is the same person in both administrations.

A proxy is where 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 as they wish 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, their partners or staff must not use a general proxy to vote on approval of their fees; they must hold a special proxy in order to do this. They must vote all special proxies as directed, even those against approval of their fees.

Creditors' approval without a creditors' meeting

Instead of convening a creditors' meeting, the external administrator can put proposals to creditors by giving notice in writing.

This notice must be given to each creditor who would be entitled to receive notice of a meeting and:

- include a statement of the reasons for the proposal and the likely impact the proposal will have on creditors
 - invite the creditor to either:
 - vote 'yes' or 'no' for the proposal
- object to the proposal being resolved without a meeting
- specify a reasonable time for creditors' replies to be received by the external administrator.

To vote on the proposal, a creditor must lodge details of your debt or claim with the external administrator and complete the voting documents provided by the external administrator.

Creditors can vote 'yes' or 'no' on the proposal or object to the proposal being resolved without a creditors' meeting. You should return your response to the external administrator within the time specified in the notice which must be at least 15 business days after the notice is given to creditors.

A resolution is passed if the majority of creditors in number and value who responded to the notice voted 'yes' and if not more than 25% in value of the creditors who responded objected to the proposal being resolved without a creditors' meeting.

The external administrator should provide creditors enough information to allow them to make an informed decision about the proposal. A creditor should contact the external administrator to obtain further information if they think it necessary for them to make a decision.

The external administrator must lodge with ASIC the outcome of the proposal. A copy of the outcome of the proposal may be obtained by searching the ASIC registers and paying the relevant fee.

Committee of inspection approval

If there is a committee of inspection, the committee of inspection can approve an external administrator's fees. In approving the fees, the members represent the interests of all creditors or employees, not just their own individual interests.

A committee of inspection makes its decision by a majority in number of its members present at a meeting, but it can only act if a majority of its members attend.

To find out more about committees of inspection and how they are formed, see Information Sheet 45 Liquidation: A guide for creditors (INFO 45), Information Sheet 74 Voluntary administration: A guide for creditors (INFO 74) and Information Sheet 41 Insolvency: A glossary of terms (INFO 41).

Calculation of fees

Fees may be calculated using one of a number of different methods, such as:

- on the basis of time spent by the external administrator and their staff
- a quoted fixed fee, based on an upfront estimate
- a percentage of asset realisations.

Charging on a time basis is the most common method. If an external administrator seeks approval for charging wholly or partly on a time basis, and the work is yet to be carried out, the approval sought must include a maximum limit ('cap') on the amount of remuneration the external administrator is entitled to receive. For example, future fees calculated according to time spent may be approved on the basis of the number of hours worked at the rates charged (as set out in the provided rate scale) up to a cap of \$X. If the work involved then exceeds this figure, the external administrator will have to ask the creditors/committee to approve a further amount of fees, after accounting for the fees already incurred.

The external administrator and their staff will record the time taken for the various tasks involved, and a record will be kept of the nature of the work performed.

External administrators have a scale of hourly rates, with different rates for each category of staff working on the external administration, including the external administrator. If the external administrator intends to charge on a time basis, you should receive a copy of these hourly rates soon after their appointment and before you are asked to approve the fees. It is important to note that the hourly rates do not represent an hourly wage for the external administrator and their staff. The external administrator is running a business – an insolvency practice – and the hourly rates will be based on the cost of running the business, including overheads such as rent for business premises, utilities, wages and superannuation for staff who are not charged out at an hourly rate (such as personal assistants), information technology support, office equipment and supplies, insurances, taxes, and a profit.

External administrators are professionals who are required to have qualifications and experience, be independent and maintain up-to-date skills. Many of the costs of running an insolvency practice are fixed costs that must be paid, even if there are insufficient assets available to pay the external administrator for their services. External administrators compete for work and their rates should reflect this.

These are all matters that committee members or creditors should be aware of when considering the fees presented. However, regardless of these matters, creditors have a right to question the external administrator about the fees and whether the rates are negotiable.

It is up to the external administrator to justify why the method chosen for calculating fees is an appropriate method for the particular external administration. As a creditor, you also have a right to question the external administrator about the calculation method used and how the calculation was made.

Initial remuneration notice

The external administrator must send creditors a notice setting out the following information if they propose to seek fee approval for the external administration:

- the method by which they seek to be paid

- the rate of fees
- an estimate of the expected amount of total fees
- the method how out-of-pocket costs will be calculated
- a brief explanation of the different methods to calculate fees
- an explanation why they chose the particular fee method by which they seek to be paid
- if a time-cost basis was chosen, the hourly rates of the external administrator and other staff who will work on the external administration.

This initial remuneration notice must be sent to creditors:

- in a voluntary administration – at the same time as the notice of the first meeting of creditors is sent
- in a court liquidation – within 20 business days after the liquidator's appointment
- in a voluntary liquidation – within 10 business days after the day of the meeting at which the resolution to wind up the company is passed.

Report on proposed fees

When seeking approval of fees, the external administrator must send creditors/committee members a report setting out:

- a summary description of the major tasks performed, or likely to be performed
- the costs associated with each of these tasks and the method of calculation of the costs
- the periods when funds will be drawn to pay the fees
- an estimated total amount, or range of amounts, of total fees
- an explanation of the likely impact the fees will have on any dividends to creditors
- such other information that will assist in assessing the reasonableness of the fees claimed.

Creditors/committee members may be asked to approve fees for work already performed or an estimate of work yet to be carried out. For more on the tasks involved, see INFO 45 and INFO 74.

Deciding if fees are reasonable

If asked to approve an amount of fees, your task is to decide if that amount of fees is reasonable, given the work carried out in the external administration and the results of that work.

In addition to the information the external administrator must provide to you before seeking approval of fees, you may find the following additional information from the external administrator useful in deciding if the fees claimed are for necessary work properly performed and reasonable:

- an explanation of why the work performed was necessary
- the size and complexity (or otherwise) of the external administration
- the value and nature of the property dealt with
- the level of risk or responsibility involved with the external administration
- whether there are any extraordinary issues that were required to be dealt with
- the amount of fees (if any) that have previously been approved

- if the fees are calculated, in whole or in part, on a time basis:
 - the period over which the work was or is likely to be performed
 - the time spent by each level of staff on each of the major tasks performed or likely to be performed
 - if the fees are for work that is yet to be carried out, whether the fees are capped.

If you need more information about fees than is provided in the external administrator's report, you should let them know before the meeting at which fees will be voted on.

What can you do if you think the fees are not reasonable?

If you do not think the fees claimed are reasonable, 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 fees.

Generally, if creditors or a committee of inspection approves fees and you wish to challenge this decision, you may apply to the court and ask the court to review the fees.

You may wish to seek your own legal advice if you are considering applying for a court review of the fees.

As well as a court review of the external administrator's fees, creditors (by resolution of creditors) or one or more creditors (with the external administrator's consent) can appoint a registered liquidator to carry out a review of fees and/or costs incurred by the external administrator of the company.

Note: A creditor can also apply to ASIC in the approved form for it to appoint a reviewing liquidator (see Form 5605 Application for ASIC to appoint a reviewing liquidator).

This review is limited to:

- remuneration approved within the six months before the reviewing liquidator is appointed
- costs or expenses incurred during the 12-month period before the reviewing liquidator is appointed (unless the external administrator agrees to a longer period).

The reviewing liquidator must be a registered liquidator. A creditor who wishes to appoint a reviewing liquidator must approach a registered liquidator to get a written consent from that person that they would be prepared to act as reviewing liquidator. The person must also make a written declaration about any relationships they or their firm may have that might affect their independence to act as reviewing liquidator.

The external administrator and their staff, must cooperate with the reviewing liquidator.

If creditors pass a resolution to appoint the reviewing liquidator, the reviewing liquidator's costs form part of the expenses of the external administration of the company. If one or more of the creditors appoint the reviewing liquidator with the consent of the external administrator, the reviewing liquidator's costs are borne by the creditor(s) appointing the reviewing liquidator.

Reimbursement of out-of-pocket costs

An external administrator should be very careful incurring costs that must be paid from the external administration – as careful as if they were dealing with their own money. Their report on fees must also include information on the out-of-pocket costs of the external administration.

Out of pocket expenses (or disbursements) can be categorised into:

- external services or costs such as legal fees, valuation fees, travel, accommodation and search fees
- internal services or costs such as photocopying, printing and postage.

External costs are usually charged at cost and do not require prior approval of creditors.

Internal costs may be charged at a rate higher than actual cost in order to recover overheads and similar costs. In instances where costs are charged at a rate higher than cost, the external administrator will need to obtain creditor approval before being reimbursed.

When seeking approval of out-of-pocket expenses, the external administrator must send creditors/committee members a report setting out:

- a summary description of the out-of-pocket expenses
- how they were calculated
- the total amount the external administrator is seeking reimbursement for
- why the expenses were necessary.

Creditors/committee members may be asked to approve reimbursement of out-of-pocket expenses for expenses already incurred or an estimate of expenses to be incurred.

If the expenses are yet to be incurred, a maximum limit ('cap') should be placed on the amount that the external administrator may incur and reimbursed for.

Queries and complaints

You should first raise any queries or complaints with the external administrator. If this fails to resolve your concerns, including any concerns about their conduct, you can lodge a report of misconduct with ASIC – see How to complain.

Lodging your report of misconduct online ensures the quickest response from ASIC to your concerns.

ASIC usually does not become involved in matters of an external administrator's commercial judgement.

Reports of misconduct against companies and their officers can also be made to ASIC.

If you cannot report misconduct online to ASIC, you can contact us on 1300 300 630.

Where can I get more information?

For an explanation of terms used in this information sheet, see Information Sheet 41 Insolvency: A glossary of terms (INFO 41). For more on external administration, see the related information sheets listed in Information Sheet 39 Insolvency information for directors, employees, creditors and shareholders (INFO 39).

Further information is available from the Australian Restructuring Insolvency & Turnaround Association (ARITA) website. The ARITA website also contains the ARITA Code of Professional Practice for Insolvency Practitioners.

Important notice

Please note that this information sheet is a summary giving you basic information about a particular topic. It does not cover the whole of the relevant law regarding that topic, and it is not a substitute for professional advice. You should also note that because this information sheet avoids legal language wherever possible, it might include some generalisations about the application of the law. Some provisions of the law referred to have exceptions or important qualifications. In most cases your particular circumstances must be taken into account when determining how the law applies to you.

This is Information Sheet 85 (INFO 85), updated on 1 September 2017. Information sheets provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Annexure E – Proxy form

APPOINTMENT OF PROXY
CREDITORS MEETINGCADWELL CONSTRUCTION & INTERIORS PTY LTD
(ADMINISTRATORS APPOINTED)
ACN 140 887 636
(the Company)

*I/*We ⁽¹⁾	
Of	
being a creditor of the Company, appoint ⁽²⁾ or in his or her absence	
to vote for me/us on my/our behalf at the meeting of creditors to be held on Wednesday, 12 June 2019, or at any adjournment of that meeting.	

Please mark any boxes with an ☒Proxy Type: ☐ General ☐ Special

Resolutions	For	Against	Abstain
Resolution 1 To consider and if thought fit, pass the following resolution (choose ONE of a,b or c): <ul style="list-style-type: none"> a) "That the Company executed a Deed of Company Arrangement (DOCA)" b) "That the Administration end" c) "That the Company be wound up and Jason Tracy and Kathryn Evans be appointed Joint and Several Liquidators" 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Resolution 2 "That the remuneration of the Administrators, their partners, and staff, for the period of the administration from 7 May 2019 to 24 May 2019 is fixed at a sum equal to the cost of time spent by the Administrators, their partners, and staff, calculated at the hourly rates as detailed in the initial remuneration notice of 8 May 2019 of fees equaling \$101,983.50 excluding GST, and that the Administrators can draw the remuneration immediately or as required."	<input type="checkbox"/> 	<input type="checkbox"/> 	<input type="checkbox"/>
Resolution 3 "That the future remuneration of the Administrators from 25 May 2019 to the second creditors meeting is determined at a sum equal to the cost of time spent by the Administrators, their partners, and staff, calculated at the hourly rates as detailed in the initial remuneration notice 8 May 2019 , up to a capped amount of \$69,648.00 excluding GST, and that the Administrators can draw the remuneration on a monthly basis or as required. Should a lesser amount actually be incurred, only the lesser amount will be charged to the administration 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."	<input type="checkbox"/> 	<input type="checkbox"/> 	<input type="checkbox"/>
Resolution 4 "That the future remuneration of the Liquidators for the period from commencement of liquidation to completion of the liquidation , is determined at a sum equal to the cost of time spent by the Liquidators, their partners, and staff, calculated at the hourly rates as detailed in the initial remuneration report of	<input type="checkbox"/> 	<input type="checkbox"/> 	<input type="checkbox"/>

8 May 2019 , up to a capped amount of \$30,390.00 excluding GST, and that the Liquidators can draw the remuneration on a monthly basis or as required. Should a lesser amount actually be incurred, only the lesser amount will be charged to the administration 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."			
Resolution 5 "That the internal disbursements of the Administration from 7 May 2019 to the second creditors meeting , calculated at the rates as detailed in the initial remuneration report dated 8 May 2019 is approved for payment in the sum of \$990.90 excluding GST, and that the Administrators may draw the disbursements immediately or as required."	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 6 "That the future internal disbursements of the Liquidation from the commencement of the liquidation to the completion of the liquidation is determined at a sum equal to the cost spent by the Liquidators, their partners and staff, calculated at the rates as detailed in the initial remuneration report dated 8 May 2019 , such sum to be capped at the amount of \$450.00 excluding GST, and that the Administration may draw the disbursements on a monthly basis or as required."	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 7 "That a Committee of Inspection be appointed." I am prepared / not* prepared to sit on the Committee of inspection.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 8 "That subject to obtaining the approval of the Australian Securities and Investments Commission under Section 542(4) of the Corporations Act 2001, the books and records of the Company and of the liquidation be disposed of by the Liquidators six months after the dissolution of the Company or earlier at the discretion of the Australian Securities and Investments Commission."	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATED this day of 2019.

Signature

CERTIFICATE OF WITNESS

This certificate is to be completed only if the person giving the proxy is blind or incapable of writing. The signature of the creditor, contributory, debenture holder or member must not be witnessed by the person nominated as proxy.

I, of
certify that the above instrument appointing a proxy was completed by me in the presence of and at the request of the person appointing the proxy and read to him or her before he or she signed or marked the instrument.

Dated:

Signature of Witness:

Description:

Place of Residence:

* Strike out if inapplicable

(1) If a firm, strike out "I" and set out the full name of the firm.

(2) Insert the name, address and description of the person appointed.

Annexure F – Informal proof of debt form

INFORMAL PROOF OF DEBT FORM

Regulation 5.6.47

CADWELL CONSTRUCTION & INTERIORS PTY LTD ACN 140 887 636
(ADMINISTRATORS APPOINTED)
(THE COMPANY)

Name of creditor:

Address of creditor:

ABN:

Telephone number:

Amount of debt claimed: \$ (including GST \$)

Consideration for debt (i.e, the nature of goods or services supplied and the period during which they were supplied):

Is the debt secured? YES/NO

If secured, give details of security including dates, etc:

Other Information:☐ I am **not** a related creditor of the Company*☐ I am a related creditor of the Company¹
relationship:

*Related Party / Entity: Director, relative of Director, related company, beneficiary of a related trust.

Is the debt you are claiming assigned to you? No ☐ Yes ☐**If yes**, attach written evidence of the debt, the assignment and consideration given. ☐ Attached**If yes**, what value of consideration did you give for the assignment (eg, what amount did you pay for the debt?) \$
Signature of Creditor
(or person authorised by creditor)..... p
Dated**Notes:**

Under the Insolvency Practice Rules (Corporations) (IPR) 75-85, a creditor is not entitled to vote at a meeting unless:

- a. his or her claim has been admitted, wholly or in part, by the Joint and Several Administrators; or
- b. he or she has lodged with the Joint and Several Administrators particulars of the debt or claim, or if required, a formal proof of debt.

At meetings held under Section 436E and 439A, a secured creditor may vote for the whole of his or her debt without regard to the value of the security (IPR 75-87).

Proxies must be made available to the Joint and Several Administrators.

Annexure G – Receipts and payments

Cadwell Construction & Interiors Pty Ltd (Administrators Appointed)
ACN 140 887 636
(the Company)

Summary of receipts and payments for the period 7 May 2019 to 24 May 2019		\$'000s
Receipts		
Refund of prepayments		10
Debtors		149
Total receipts		159
Total payments		-
Funds on hand		159



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