

10 January 2020

TO CREDITORS

Dear Creditor

**MILLENNIUM MINERALS LIMITED
(ADMINISTRATORS APPOINTED) (RECEIVERS AND MANAGERS APPOINTED)
ACN 003 257 556 (the Company)**

I refer to the appointment of Richard Hughes and myself as Administrators of the Company on 24 November 2019.

Please find attached a report pursuant to Section 75-225 of the Insolvency Practice Rules (Corporations) which contains (amongst other things) important information in respect of:

- The progress of the administration to date including the results of our investigations
- Details of the proposed Deed of Company Arrangement (**DOCA**) which creditors will be asked to vote upon
- The estimated return to all classes of creditors across a variety of scenarios
- Our opinion in respect of the option which is in creditors' interests.

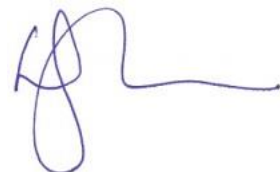
Further to our circular to creditors dated 9 January 2020, the future of the Company is to be decided at the second meeting of creditors which is to be held at **1:00PM on Friday, 17 January 2020** at the Perth Convention Centre, River View Room 4, 21 Mounts Bay Rd, Perth WA 6000 as detailed in the enclosed Notice of Meeting.

A separate meeting of employees will be held prior to the second meeting of creditors, as per the correspondence sent to employees on 9 January 2020.

In summary, it is our opinion that it would be in the creditors' interest for the Company to execute the DOCA. We enclose the relevant information and voting forms for this purpose.

Should you have any queries regarding this report or the administration in general, please do not hesitate to contact Sam Ierino of this office on (08) 9365 8145.

Yours faithfully



Matthew Donnelly
Administrator

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.com/au/about for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.

The entity named herein is a legally separate and independent entity. In providing this document, the author only acts in the named capacity and does not act in any other capacity. Nothing in this document, nor any related attachments or communications or services, have any capacity to bind any other entity under the 'Deloitte' network of member firms (including those operating in Australia).

Liability limited by a scheme approved under Professional Standards Legislation.

Member of Deloitte Touche Tohmatsu Limited



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

Millennium Minerals Limited

(Administrators Appointed)

(Receivers and Managers Appointed)

ACN 003 257 556

10 January 2020

Contents

Glossary		4
1	Executive Summary	6
1.1	Appointment	6
1.2	Administration milestones	6
1.3	Investigation and Offences	6
1.4	Deed of Company Arrangement	6
1.5	Liquidation Comparison	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	Committee Meetings	8
2.4	Extension of Convening Period	9
2.5	Second Meeting of Creditors	9
2.6	Administrators’ independence, relationships and indemnities	9
2.7	Electronic communication	9
3	Background Information	11
3.1	Incorporation and Registered Office	11
3.2	Shareholders, Officers and Security Interests	11
3.3	History of the Company	11
4	Historical Financial Performance	14
4.1	Financial Statements	14
4.2	Profit & Loss	14
4.3	Balance Sheet	14
4.4	Working Capital Deficiency and Liquidity Ratio	15
4.5	Source and application of funds	16
5	Directors’ Report On Company Activities and Property (ROCAP)	17
5.1	Summary	17
5.2	Related entities	20
6	The Administrators’ Actions to Date	21
6.1	Administrators’ Key Actions	21
6.2	Administrators’ Trading Performance and Receipts and Payments	22

7	Investigations	23
7.1	Introduction	23
7.2	Overview of investigation	23
7.3	Offences by the Directors	23
7.4	Solvency	24
7.5	Voidable transactions	25
7.6	Insolvent trading (Section 588G)	27
8	Estimated Return from a Winding up	29
8.1	Introduction	29
8.2	Outcomes for creditors	29
8.3	Cash at bank	29
8.4	Unencumbered Plant & Equipment	29
8.5	Mining tenements and minerals / business assets	30
8.6	Overall Realisations in Liquidation Scenarios	30
8.7	Effect on employees	30
8.8	Conclusion	30
9	Deed of Company Arrangement	31
9.1	Introduction	31
9.2	Key features	31
9.3	Comparative scenarios	32
9.4	Effect on employees	34
9.5	Conclusion	35
10	Comparative scenarios - Liquidation vs DOCA	36
10.1	Introduction	36
10.2	Comparative analysis	37
10.3	Unsecured creditors - dividend estimate breakdown	39
11	Administrators' Opinion	40
11.1	Introduction	40
11.2	The Company execute a DOCA	40
11.3	The administration should end	40
11.4	The Company be wound up/Liquidation	40
11.5	Recommendation	40
12	Remuneration	42
12.1	Voluntary Administration	42
12.2	DOCA and Creditors' Trust	42
12.3	Liquidation	42
13	Meeting	43

Appendix A – DOCA / Creditors' Trust

Appendix B – Draft Term Sheet

Appendix C – Shareholder Registry

Appendix D – Personal Property Securities Register

Appendix E – Receipts and Payments

Appendix F – ARITA Information Sheet on Offences, Recoverables and Insolvent Trading

Appendix G – November Payees Settlement Schedule

Appendix H – ASIC Information Sheet on Creditors' Trusts

Appendix I – ARITA Information Sheet on Approving Remuneration of an External Administrator

Appendix J – Remuneration Report

Appendix K – Form 529 Notice of Meeting

Appendix L – Proxy Form

Appendix M – Formal Proof of Debt

Glossary

Administrators	Mr Richard Hughes and Mr Matthew Donnelly, of Deloitte
ARITA	Australian Restructuring Insolvency and Turnaround Association
ASIC	The Australian Securities & Investments Commission
ASX	Australian Securities Exchange
ATO	Australian Taxation Office
c.	Circa (approximately)
Committee or COI	Committee of Inspection
Company or MOY	Millennium Minerals Ltd (Administrators Appointed) (Receivers and Managers Appointed)
Continuing Employees	Current employees as at the date of the effectuation of the DOCA
Court	The Supreme Court of Western Australia
Deloitte	Deloitte Financial Advisory Pty Ltd
DIRRI	Declaration of Independence, Relevant Relationships and Indemnities
DOCA	Deed of Company Arrangement
DMIRS	Department of Mines, Industry Regulation and Safety
ERV	Estimated Realisable Value
CYXX	Calendar Year and Financial Year Ended 20XX
FEG	Fair Entitlements Guarantee Scheme
IMC	IMC Resources Investments Pte Ltd
IPR	Insolvency Practice Regulations of the Corporations Act 2001
IPS	Insolvency Practice Schedule of the Corporations Act 2001
Kms	Kilometres
Management	Management of the Company
November Payees	Creditors who received unauthorised payments from the Company's bank account on 25 November 2019
ROCAP	Report On Company Affairs and Property
Receivers or Receivers and Managers	Mr Richard Tucker and Mr John Bumbak, of KordaMentha
Relation back day	The date of appointment of Administrators (being 24 November 2019)
ROM Pad	Run Of Mine Pad
Second Meeting	The Second Meeting of Creditors of the Company to be held on 17 January 2020

Secured Creditor	IMC Resources Investments Pte Ltd
The Act	Corporations Act 2001
The Directors	The Directors of the Company as set out in section 3.2.2
The Mine or NGP	The Nullagine Gold Project
The Regulations	Corporations Regulations 2001

1 Executive Summary

1.1 Appointment

On 24 November 2019 we, Mr Richard Hughes and Mr Matthew Donnelly, were appointed joint and several administrators (**the Administrators**) of Millennium Minerals Limited (ASX: MOY) (**the Company** or **MOY**) by resolution of the Directors of pursuant to Section 436A of the Corporations Act 2001 (**the Act**).

1.2 Administration milestones

Upon appointment, the Administrators undertook an urgent assessment of the viability of the Mine and took steps to control and secure the Company's assets. Following this assessment and having regard to the limited funding available to the Company, we commenced a phased cost rationalisation program whilst winding-down production and transitioning the Mine towards care and maintenance.

On 3 December 2019, Mr Richard Tucker and Mr John Bumbak of KordaMentha were appointed receivers and managers (**Receivers**) over the Company by the Company's secured creditor, IMC Resources Investments Pte Ltd (**IMC** or **Secured Creditor**). We understand that the Receivers have continued to transition the Mine into care and maintenance.

In accordance with Section 436E of the Act, the first meeting of creditors of the Company was held on 4 December 2019, at which a Committee of Inspection was formed (**the Committee**).

1.3 Investigation and Offences

Our investigations to date have revealed no evidence of insolvent trading or breaches of directors' duties. Further details of the investigations undertaken to date are discussed in section 7 of this report.

1.4 Deed of Company Arrangement

We have received a DOCA proposal from the Company's major shareholder and secured creditor, IMC. The DOCA proposal contemplates:

- A contribution being made by the Secured Creditor to make a distribution to creditors
- The assumption of all issued share capital in the Company by IMC.
- The release of claims against creditors who received payments from the Company's pre-appointment bank account on 25 November 2019 without the authorisation of the Administrators
- Payment of terminated employee entitlements in full
- Based on the DOCA proposed, estimated returns to creditors from the Deed Fund in both low and high DOCA scenarios, presented in the table below:

Estimated DOCA Fund dividend outcomes	DOCA (low) (c/\$)	DOCA (high) (c/\$)
Employee entitlements	100.0	100.0
Pool A ("Supporting") creditors	8.6	8.6
Pool B (<\$15k debt) creditors	39.5	100.0
Residual Pool creditors	0.0	2.0

- The creation of a creditors' trust to expedite the completion of the DOCA.

Our further comments on the DOCA are contained in sections 9 and 10 of this report.

1.5 Liquidation Comparison

Subject to the completion of our investigations into possible recoveries under the Act, we estimate that in a liquidation scenario there will likely be a partial dividend to priority (employee) creditors of between 34.1 and 89.5 cents in the dollar. We estimate that in a liquidation, there will be no dividend payable to ordinary unsecured creditors.

Should the Company be placed into liquidation at the Second Meeting, employees may be eligible for certain financial assistance under the Fair Entitlements Guarantee Act 2012 to meet any shortfall. Further information on FEG including eligibility for assistance can be found at www.employment.gov.au/feg.

1.6 Administrators' Opinion

Having regard to the estimated return to creditors as set out in section 1.5 above, **it is our opinion that it would be in the creditors' interest for the Company to execute the DOCA**. The reasons for this opinion are discussed in section 11 of this report. The Committee has expressed their support for the DOCA proposal, subject to satisfactory negotiation of the DOCA and Creditor's Trust documents, which are not currently available.

1.7 Second Meeting of Creditors

The second meeting of creditors has been called for 1:00PM WST on Friday, 17 January 2020 at the Perth Convention Centre, River View Room 4, 21 Mounts Bay Rd, Perth WA 6000.

We enclose further information in respect of this meeting (including appointment of proxy forms and formal proofs of debt). **In order to vote at the meeting, creditors should complete and return their formal proof of debt and appointment of proxy form by no later than close of business on Thursday, 16 January 2020.** If you have previously submitted a formal proof of debt form, you are not required to resubmit this form.

Please refer to Appendix K, L and M for the relevant meeting forms.

2 Introduction

2.1 Purpose of the appointment and report

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

We are required to provide creditors with sufficient information and recommendations to assist them in making an informed decision on the Company's future. Creditors then vote on the future of the Company at the second meeting. The purpose of this report is to provide that information and recommendations, including:

- The progress of the administration to date including the results of our investigations
- Details of the proposed Deed of Company Arrangement (**DOCA**) which creditors will be asked to vote upon
- The estimated return to all classes of creditors across a variety of scenarios
- Our opinion in respect of the option which provides for the greatest return to creditors.

2.2 First Meeting of Creditors

On 4 December 2019, a meeting of creditors of the Company was held in accordance with Section 436E of the Act. At this meeting, our appointment as joint and several administrators was confirmed.

Also at that meeting, we advised that we would undertake an investigation into the affairs of the Company whilst we pursued both restructuring strategies in order to formulate a proposed DOCA to be presented to creditors for their approval at the Second Meeting.

It was also resolved that the Committee be formed. The following creditors volunteered and were elected as members:

- Western Plant Hire WA Pty Ltd
- Rivet Mining Services Pty Ltd
- GBF Number 5 Pty Ltd
- Redline Drill and Blast Pty Ltd
- Mr Luke Colgan (Employee of the Company – Head Office)
- Mr Donald Allcorn (Employee of the Company – Nullagine)

2.3 Committee Meetings

We have convened 4 meetings of the Committee to date which were held between 10 December 2019 and 9 January 2020. The purpose of these meetings was to discuss the negotiation of the DOCA and to update the Committee on the administration generally.

To date, the Committee has approved the Administrators' fees from the period of the Administration in the amount of \$608,295. We note that the DOCA proposal does not allow for the payment of these fees in full.

In addition, **the Committee has expressed its support for the DOCA proposal subject to satisfactory negotiation of the DOCA and Creditor's Trust documents, which are not currently available.** We thank the Committee for their efforts on behalf of all creditors.

2.4 Extension of Convening Period

Administrators are required by the Act to hold a second meeting of creditors within five business days before, or within five business days after, the end of the convening period. The convening period in respect of a Company in voluntary administration is defined by Section 439A of the Act (in this instance) as being the period of 20 business days beginning on the first business day after the date of the appointment. In this case of the Company, the convening period was to end on Friday, 20 December 2019. It is at this meeting that creditors determine and vote upon the future of the Company. It is at this meeting that creditors determine and vote upon the future of the Company.

Given our expectation that we would receive a proposal to restructure the Company by way of Deed of Company Arrangement (**DOCA**), combined with the timing of our appointment (which impacted creditors over the Christmas and new year period), we sought an extension to the convening period to 10 January 2020 in accordance with Section 439A(6) of the Act.

A resolution supporting the extension of the convening period was passed unanimously at the first meeting of creditors and we consulted with the members of the Committee prior to seeking an extension of the convening period. This extension request was granted by the Supreme Court of Western Australia on 12 December 2019.

2.5 Second Meeting of Creditors

Pursuant to Section 439A of the Act a second meeting of creditors is to be held at 1:00PM on Friday, 17 January 2020 at the Perth Convention Centre, River View Room 4, 21 Mounts Bay Rd, Perth WA 6000 (See Appendix K for Form 529 - Notice of Meeting).

At this meeting creditors will be asked to make a decision by passing a resolution in respect of options that will be available to them.

We enclose further information in respect of this meeting (including appointment of proxy forms and formal proofs of debt at Appendix L and M respectively). In order to vote at the meeting, creditors should complete and return their formal proof of debt and appointment of proxy form by no later than close of business on **Thursday, 16 January 2020**. If you have previously submitted a formal proof of debt form, you are not required to resubmit this form.

It is our opinion that it would be in the creditors' interest for the Company to execute the DOCA in the form proposed subject to satisfactory negotiation of the DOCA and Creditor's Trust documents, which are not currently available. We have detailed the reasons as to why we consider this the best option for creditors in section 11 of this report.

2.6 Administrators' independence, relationships and indemnities

In accordance with Section 436DA of the Act, a Declaration of Independence, Relevant Relationships and Indemnities (**DIRRI**) was provided with the first report to creditors dated 25 November 2019 and was also tabled at the first meeting of creditors. There have been no changes to our DIRRI.

2.7 Electronic communication

Section 600G of the Act allows for the Administrators to make communications and notifications available for creditors to access electronically, such as via a creditors' portal. The Administrators however must notify creditors when information is made available electronically and provide instructions on how it can be accessed. If a creditor has nominated an email address, the Administrators can send notification of reports or other communication being available electronically by email, otherwise, a notice must be sent by post.

Electronic communication is speedy and cost effective and reduces the expenses incurred in an administration. Creditors have already been notified how to access information and this report via our creditor portal and the portal requires you to nominate an email address for further correspondence, notices and reports. The creditor portal also enables creditors to lodge their claim against the Company and upload supporting documentation.

If you are having difficulty with the portal or have lost your username and password, please contact Sam Ierino at sierino@deloitte.com.au or by phone on (08) 9365 8145. Alternatively, if you do not have access to the internet and would like to receive future correspondence by post, please inform us.

3 Background Information

3.1 Incorporation and Registered Office

A search of the ASIC database disclosed the Company was incorporated in Western Australia on 8 April 1987. The Company's registered office is shown as Unit 7, 140 Abernethy Road, Belmont WA 6104.

3.2 Shareholders, Officers and Security Interests

3.2.1 Shareholders

The Company is limited by shares. The ASIC corporate database records that as at 24 November 2019, the Company had 891,470,031 ordinary shares on issue.

The Company also has various performance shares and options on issue.

The Company's share registry, along with table summarising the top 20 shareholders, is attached as Appendix C.

3.2.2 Officers

The ASIC database indicates that during the 12-month period prior to the Administrators' appointment the Company's directors and officers were:

Name	Position	Appointed	Status
Mr Gregory John Bittar	Director	19 March 2014	Current
Mr Timothy Paul Kennedy	Director	2 May 2016	Current
Mr Peter Robert Lester	Director	1 March 2017	Current
Mr Bruno Coelho Lorenzon	Director	28 May 2018	Current
Mr Warren Shaye Hallam	Director	27 August 2019	Current
Mr Raymond Joseph Parry	CFO/Company Secretary	6 November 2017	Current

3.2.3 Security Interests

A search of the Personal Property Securities Register revealed 113 registrations in respect of the Company, details of which can be found at Appendix D.

3.2.4 Winding Up Applications

There were no winding up applications as at the date of our appointment.

3.3 History of the Company

MOY is an ASX-listed gold explorer and producer with its principal operation being its 100%-owned Nullagine Gold Project located approximately 185 km north of Newman, in the East Pilbara region of Western Australia. Head office and administration functions are conducted from MOY's leased premises at Unit 7, 140 Abernethy Road, Belmont WA 6104.

Figure 1 – Location of Nullagine Gold Project



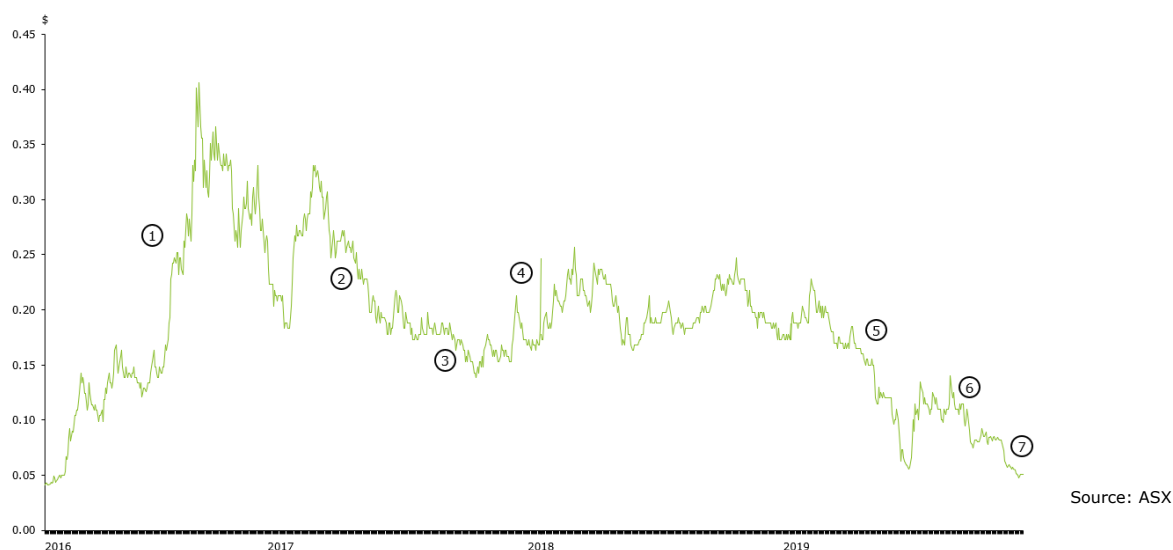
Source: Millennium Minerals Ltd

The NGP is a geographically dispersed operation comprising a series of open pits and one underground mining centre from which mining operations are conducted, with processing taking place at MOY's 1.54Mtpa nameplate capacity plant. A recent strategic review conducted by Management indicated optimised production of approximately 80,000 ounces p.a. at the NGP. Mining and haulage ancillary activities were principally undertaken by contractors.

MOY started the NGP when it acquired tenements in 2001 and commenced active mining and processing in 2012.

Set out below is the price history of the Company from 31 December 2015 up to our appointment:

Figure 2 – MOY Share Price History



Notes:

1. The Company experiences strong production growth and all-in sustaining costs are on target
2. Heavy rainfall interrupts production and increases all-in sustaining costs
3. All-in sustaining costs increase
4. Ongoing exploration in Bartons Underground results in increases in estimated mineral resource
5. The Company undertakes a \$15m rights issue to expand exploration and growth programs
6. Production guidance is revised down from 80-90koz to 70-75koz for CY19
7. Appointment of Administrators

Recent milestones in respect of the Company are set out below:

June 2018	<ul style="list-style-type: none"> MOY enters into a \$17.5 Revolving Loan Facility facility to help fund the acquisition and development of the processing plant to facilitate the treatment of sulphide resources
October 2018	<ul style="list-style-type: none"> MOY begin underground mining for the first time at its NGP Bartons deposit
April 2019	<ul style="list-style-type: none"> MOY raised \$15m by way of a capital raising. The proceeds were intended to be used to fund further underground mining and exploration. The new sulphide ore processing plant begins commissioning
June 2019	<ul style="list-style-type: none"> MOY enters into a \$20m mezzanine financing agreement with major shareholder IMC to help fund increased working capital caused by delays in ramping up underground mining at Bartons and the expansion of the sulphide processing plant, which had led to lower production cash flows. First gold from the sulphide ore plant achieved in late June 2019.
August 2019	<ul style="list-style-type: none"> Mr Warren Hallam was appointed Managing Director and CEO, replacing Mr Peter Cash
October 2019	<ul style="list-style-type: none"> MOY agrees to a \$7.5m increase in its loan facility with IMC to fund further working capital impact caused by mining and processing delays. Water constraints impact production further
November 2019	<ul style="list-style-type: none"> Prospect of corporate transaction becomes unlikely Secured Creditor confirms that no further funding forthcoming Directors appoint Voluntary Administrators on 24 November 2019
December 2019	<ul style="list-style-type: none"> Secured Creditor appoints Receivers & Managers on 3 December 2019

4 Historical Financial Performance

4.1 Financial Statements

The Company's financial statements are prepared at a calendar year end, with the last annual results being prepared to 31 December 2018. For the purposes of our analysis, we have included the Company's management accounts relating to the period ended 31 October 2019. We are in the process of applying for ASIC reporting relief for deferral of the Company's reporting obligations for up to six months from the date of our appointment as Administrators, which is common practice in external administrations.

The Company's financial statements were audited by KPMG, however the management accounts have not been audited and we are unable to attest to the accuracy thereof.

4.2 Profit & Loss

The profit and loss statements for the financial years CY15 to 31 October 2019 are summarised as follows:

(\$000)	31-Dec-15	31-Dec-16	31-Dec-17	31-Dec-18	31-Oct-19
Revenue	142,450	141,591	115,620	127,150	86,494
Cost of goods sold	(110,988)	(115,725)	(112,575)	(126,113)	(116,737)
Gross Profit	31,462	25,866	3,045	1,037	(30,243)
Other income	2,028	162	337	166	14
Admin and other expenses	(6,058)	(5,745)	(6,223)	(7,928)	(5,025)
Exploration expenditure impaired	-	(145)	(1,143)	(1,463)	(526)
Finance income/costs	(4,547)	(3,079)	(1,620)	(1,255)	(2,302)
Net Profit/(Loss)	22,885	17,059	(5,604)	(9,443)	(38,082)

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

- The above analysis indicates that the Company experienced a downturn in revenue from CY16, which was unable to be matched by a reduction in cost of goods sold
- Revenue during the 2019 calendar year was substantially below previous years, attributed primarily to poor production returns due to various factors including lower than anticipated gold recoveries, delays in open pit mining approvals and delay in recoveries from underground operations, and therefore was a key contributing factor to the declining gross profit
- The Company exhibited declining profitability over the period analysed, in particular from December 2017 to 31 October 2019
- The Company recognised impairment charges over 4 of the past 5 accounting periods.

4.3 Balance Sheet

The balance sheets for CY15 to 31 October 2019 are summarised as follows:

(\$000)	31-Dec-15	31-Dec-16	31-Dec-17	31-Dec-18	31-Oct-19
Current Assets	32,825	45,735	39,348	27,565	14,828
Non-current Assets	49,075	60,283	70,317	94,498	124,844
Total Assets	81,900	106,018	109,665	122,063	139,672
Current Liabilities	14,817	11,110	21,034	38,081	46,115
Non-current Liabilities	11,449	19,174	17,527	19,947	53,407
Total Liabilities	26,266	30,284	38,561	58,028	99,522
Net Assets	55,634	75,734	71,104	64,035	40,150

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

- The Company's net asset position appears to have deteriorated substantially from CY18, due to ongoing losses, however the Company appears to have retained a net asset surplus
- Increased use of debt financing resulted in a significant increase in liabilities from CY18 to the date of our appointment
- The bulk of the Company's assets relate to capitalised mining exploration and development costs. These assets are not readily convertible to cash
- Other key assets include the Company's processing plant and mine camp. Refer to section 5.1 of this report for further information.

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 deficiency from CY15 to 31 October 2019.

The liquidity ratio (sometimes referred to as the current ratio) below is a measure that is also used to determine a 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. If the ratio is 1 or greater, the higher the value, the more able the company is to meet its short-term debts.

(\$000)	31-Dec-15	31-Dec-16	31-Dec-17	31-Dec-18	31-Oct-19
Current Assets	32,825	45,735	39,348	27,565	14,828
Current Liabilities	14,817	11,110	21,034	38,081	46,115
Working Capital	18,008	34,625	18,314	(10,516)	(31,287)
<i>Ratio</i>	<i>2.22</i>	<i>4.12</i>	<i>1.87</i>	<i>0.72</i>	<i>0.32</i>

We provide the following comments in respect to the Company's working capital deficiency:

- A deterioration of the Company's working capital ratio from 1.87 in CY17 to 0.72 in CY18 may be an indicator of cash flow difficulties
- The Company was experiencing cash flow difficulties by 31 October 2019 when its working capital ratio had fallen to 0.32.

4.5 Source and application of funds

Set out below is the source and application of funds for the period from CY15 to 31 October 2019:

(\$000)	31-Dec-15	31-Dec-16	31-Dec-17	31-Dec-18	31-Oct-19
Receipts in the course of operations	139,464	137,353	116,019	127,150	85,976
Payments in the course of operations	(108,834)	(95,445)	(85,505)	(105,559)	(97,985)
Interest Received	36	155	315	162	10
Net cash from/(used) in operating activities	30,666	42,063	30,829	21,753	(11,999)
Payments for PP&E	(581)	(77)	(2,050)	(1,706)	(18,715)
Exploration and evaluation	(1,494)	(16,065)	(23,308)	(25,574)	(5,588)
Development of mining properties	(4,532)	(10,041)	(12,740)	(11,050)	(14,071)
Other investing cash flows	3,889	10	(15)	(57)	4
Net cash from/(used) in investing activities	(2,718)	(26,173)	(38,113)	(38,387)	(38,370)
Proceeds from borrowings	0	0	0	9,997	34,954
Proceeds from share issue	21,000	1,977	129	127	14,988
Repayment of leases and borrowings	(36,550)	(3,997)	(81)	(5,321)	(1,430)
Other financing cash flows	(2,647)	(109)	(41)	(771)	(1,964)
Net cash from/(used) in financing activities	(18,197)	(2,129)	7	4,032	46,548
Net increase/(decrease) in cash and equivalents	9,751	13,761	(7,277)	(12,602)	(3,821)
Opening cash	1,663	11,414	25,175	17,898	5,296
Closing cash	11,414	25,175	17,898	5,296	1,475

We provide the following comments in respect to the Company's source and application of funds:

- The Company appears to have experienced a cash shortfall from operating activities during the period ending 31 October 2019
- Cash spent on exploration and evaluation appears to have increased significantly from CY15 to CY18
- The Company was reliant on proceeds from borrowings and share issues to remain cash flow positive during the period leading up to our appointment.

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 the request from the Administrators or such longer period as the Administrators allow.

The Directors provided their respective ROCAPs on 2 December 2019. The Company's CFO, Mr Ray Parry, assisted the Directors in the completion of their ROCAPs.

The ROCAPs, together with the respective accompanying schedules have been lodged and a copy may be obtained from ASIC. Alternatively, they may be inspected by contacting Sam Ierino on +61 8 9365 8145 at the Administrators' office.

The ROCAP represents a snapshot of the asset and liability position of the Company on a going concern and forced asset realisation basis, 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 ROCAP is summarised below:

(\$000)	Note	Book Value* (\$)	Directors' ERV (\$)
Assets			
Cash at bank	5.1.1	1,476	1,294
Bank Guarantees	5.1.2	-	103
Sundry debtors	5.1.3	3,443	1,200
Inventory	5.1.4	9,910	6,123
Plant & Equipment	5.1.5	37,118	35,000
Motor Vehicles	5.1.6	-	120
Mine Camp	5.1.7	-	3,000
Other non-current assets	5.1.8	87,726	-
Total Assets		139,673	46,840
Liabilities			
Less: Priority creditors			
Employee entitlements**	5.1.9	5,599	5,599
Less: Secured creditors**	5.1.10	53,312	53,312
Total		58,911	58,911
Available to unsecured creditors		80,762	(12,071)
Unsecured creditors	5.1.11	40,612	28,307
Surplus/(Shortfall)		40,150	(40,378)

*based on management accounts for the month ended 31 October 2019

**amounts not individually listed in management accounts for month ended 31 October 2019.

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

5.1.1 Cash at Bank

Shortly after our appointment we wrote to all major Australian financial institutions requesting details of any accounts held by the Company. Our searches revealed three bank accounts held by Westpac Banking Corporation, which held a balance of approximately \$16k as at the date of our appointment.

On 22 November 2019 the Secured Creditor transferred \$3m to the Company, however this amount was not received into the Company's bank account until 25 November 2019. Shortly after these funds were received, pre-approved payments totaling \$2.25m were made to 46 creditors without the consent or authorisation of the Administrators (**November Payees**). Please refer to section 7.5.1.2 for further information.

As a result of the above, the balance of funds totaling \$1.25m was transferred from the Company's pre-appointment account to the Administrators' bank account.

5.1.2 Bank Guarantees

The Company holds two term deposits which secure bank guarantees held by landlords of the Company's office at Unit 7, 140 Abernethy Road Belmont WA 6104.

The two term deposits are \$18,569.88 and \$83,783.12 respectively. As the Company is currently still occupying the premises these term deposits cannot yet be realised.

5.1.3 Sundry debtors

The Directors' ROCAP indicates the Company had receivables of \$1.2M at the date of our appointment, which were in relation to the estimated GST refund for the period 1 November 2019 to 23 November 2019, being the period prior to our appointment on 24 November 2019. The Administrators have at this time not lodged the Business Activity Statement to obtain the GST refund as this is now the role of the Receivers and Managers.

5.1.4 Inventory

The ROCAP balance for stock on hand indicates that the book value of stock at the date of appointment was \$6.1m comprising of \$1.5m for ore stock pile, \$1.3m of gold in circuit and \$3.3m of consumables. We realised a total of \$1.6m of gold on 2 December 2019, the proceeds of which have been transferred to the Administration account. The remaining consumables and other assets now fall under the control of the Receivers.

5.1.5 Plant & Equipment

The ROCAP discloses the processing plant owned by the Company with an ERV of \$35M. Items of plant and equipment owned by the Company, but not individually listed in the ROCAP include:

- Mine site administration building
- Workshop, lab and yard
- Pit and mine equipment
- Mobile plant
- Bore pumps, and
- Exploration camp.

Please refer to section 8 of this report for further information regarding the estimated realisable value of the assets based on an independent valuation undertaken.

5.1.6 Motor Vehicles

An extract obtained from the Department of Transport indicates the Company holds several vehicles and trailers. The Directors' ROCAP outlined a value of \$120,000 for all motor vehicles. Please refer to section 8 regarding the estimated realisable value of the assets based on the independent valuation undertaken.

5.1.7 Mine Camp

The Directors' ROCAP outlines a value for the mine camp in the amount of \$3m. Please refer to section 8 regarding the estimated realisable value of the assets based on the independent valuation undertaken.

5.1.8 Other non-current assets

As at 31 October 2019 the Company's book value for other non-current assets was \$87.7M. This is primarily made up of the following:

- Exploration and evaluation assets
- Mine development
- Deferred waste asset and
- Right of use assets.

The Directors did not attribute an ERV to these items. Assets of this nature are recorded in accordance with certain accounting standards and may not necessarily reflect the realisable value of the assets as they cannot typically be converted to cash.

5.1.9 Employee Entitlements

The ROCAP discloses employee claims of \$5.6m, however the Directors have included severance and notice entitlements as an unknown contingent liability. We have completed our review of the entitlements of all employees, including those that have been terminated during the Administration period and provide a summary as follows:

Type of Entitlement	Crystallised Liability \$000	Liquidation \$000
Wages/salary sacrifice to appointment	-	-
Superannuation to appointment	-	-
Salary sacrifice	1	1
Annual leave – continuing employee	-	161
Annual leave – terminated/resigned employees	1,306	1,306
Long service leave – continuing employees	-	53
Long service leave – terminated/resigned employees	440	440
Time off in lieu – continuing employees	-	3
Time off in lieu – terminated/resigned employees	93	93
Notice entitlements – continuing employees	-	128
Notice entitlements – terminated employees	1,335	1,335
Notice entitlements superannuation – continuing employees	-	12
Notice entitlements superannuation – terminated employees	127	127
Redundancy – continuing employees	-	137
Redundancy – terminated employees	1,338	1,338
Less: Amounts paid by Administrator	(34)	(34)
Total priority claims	4,606	5,100
Unsecured claim – Directors' excluded claim	-	350
Total	4,606	5,450

The claims of the employees represent a priority claim pursuant to Section 556 of the Act and subject to the normal adjudication process that may result in changes to the above amounts.

The Act provides that excluded employees (including the Directors and their spouses) are each restricted to a total maximum priority claim of \$2,000 for unpaid wages and superannuation entitlements and \$1,500 for leave entitlements. Amounts owed to excluded employees that exceed the statutory limit, and all payments owing in respect of redundancy and payment in lieu of notice will rank as an ordinary unsecured claim.

Should the Company be placed into liquidation at the Second Meeting, employees may be eligible for certain limited financial assistance under the Fair Entitlements Guarantee Act 2012. Further information on FEG including eligibility for assistance can be found at www.employment.gov.au/feg.

5.1.10 Secured Creditor

As per a Company search undertaken on 25 November 2019, Investec Australia Limited held the first ranking security interest over all of the Company's assets and undertakings.

On or around 2 December 2019 Investec Australia Limited assigned its debt to IMC Resources Gold Holdings Pty Ltd, a subsidiary of IMC. Accordingly, IMC is now the first ranking security interest holder. The total amount owed pursuant to these securities at appointment, as per the Directors' ROCAP was \$53.3m. This amount does not include certain interest charges and other fees and is anticipated to increase.

5.1.11 Unsecured Creditors

The Directors' ROCAP outlines an amount of \$28.3m owing to unsecured creditors. At or around the time of writing this report, unsecured creditor claims are estimated at \$34.9m, however not all creditors have submitted a Proof of Debt form at this time and this amount is likely to increase.

A summary of the ROCAP values for this section is shown below:

Creditor	Directors' ERV \$000	Current Claims \$000
Trade creditors	26,313	34,897
Statutory creditors	1,994	19
Total	28,307	34,916

As creditor claims are preliminary, and continue to be clarified, it is expected the total amount of claims will rise.

5.2 Related entities

Section 228 of the Act defines a related party to a public company as "An entity that controls a public company". This includes the Directors and their spouses of the public company and controlling entities.

Our investigations have not revealed any related entities.

6 The Administrators' Actions to Date

Following our appointment, we took control of the operations and affairs of the Company. As noted above Receivers and Managers were appointed to MOY on 3 December 2019 at approximately 12pm. Up until the appointment of the Receivers and Managers our work included all statutory and practical requirements of voluntary administration, as well as operational control of MOY's business. From the time of the Receivers and Managers' appointment, operational control of the business was relinquished to the Receivers and Managers.

6.1 Administrators' Key Actions

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

6.1.1 Operational actions

- Attended MOY's head office and Nullagine sites and took immediate operational control
- Assessed key occupational health, safety, security and environmental issues
- Commissioned an independent occupational health and safety audit
- Engaged Gordon Brothers to undertake a plant and equipment valuation
- Engaged SRK Consulting to provide a valuation of the Company's mineral resources
- Physical inspection of NGP assets and site
- Undertook a stock take of consumables and processed gold
- Prepared and maintained operational cash flow forecast
- Rationalisation of operations, including redundancies, termination letters, notifications and preparation of separation certificates
- Oversight and monitoring of operational performance, break even analysis, attend daily operations meetings
- Ensuring continuation of supply from key suppliers
- Liaised with key suppliers of travel, accommodation, plant and equipment and reagents
- Arranged for collection and sale of gold
- Arranged for alternate suppliers where necessary
- Attended to insurance coverage matters
- Attended to mining lease and tenement matters
- Freezing bank accounts and opening new bank account
- Issuing Purchase Orders and maintain Purchase Order register
- Received supplier invoices and make payments
- Preparations and planning for care and maintenance
- Prepared for and attended to wages payment
- Notification and liaising with DMIRS.

6.1.2 Statutory and other actions

- Notifications to creditors and answering creditor queries
- Notifications to lessors of property, plant and equipment
- Attended to adjudication of PPSR and retention of title claims and disclaimer of assets
- Statutory lodgements
- Convened, prepared and attended first meeting of creditors, preparation and lodgment of minutes
- Convened meeting of the Committee, prepared and lodged minutes
- Commenced data backup and safeguard electronic data

- Notifications to employee groups and answering employee queries
- Calculation of employee entitlements
- Investigations into the Company's affairs
- Preparation of this report
- Considered DOCA proposal, liaise with legal advisors and assessed estimated statements of position of alternate scenarios
- Attended to shareholder queries
- Liaised with IMC and the Receivers and Managers.

6.2 Administrators' Trading Performance and Receipts and Payments

6.2.1 Business Trading

In the days prior to our appointment, a significant contractor ceased to provide mining services and began demobilising its equipment. Review of the operations also indicated that continuing solely with underground mining operations was not commercially viable. As a result, and given the limited cash available, it was not possible to continue the operation of the mine on a business as usual basis.

We conducted an urgent analysis of the Company's cash position and our ability to process the ore stockpile located on the ROM Pad. Our analysis indicated that it would be commercially viable to conduct an orderly wind down to care and maintenance, which would involve processing the available ore stockpile whilst utilising staff and machinery to restrict access to the Mine, as required by the relevant regulations.

As a result of processing the available ore stockpile, during the period from 24 November 2019 to 3 December 2019 we were able to realise 2,152 ounces of gold, receiving proceeds totaling \$1.6m. The costs incurred by the Administrators during the same period total c. \$652k.

Control of the Company's business passed to the Receivers and Managers upon their appointment on 3 December 2019, and we understand that they have continued to transition the Mine to care and maintenance.

6.2.2 Administrators' Receipts and Payments

Enclosed at Appendix E is a copy of the Administrators' receipts and payments relating to the period from 24 November 2019 to 8 January 2020. The summary does not include accruals incurred to date.

7 Investigations

7.1 Introduction

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

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 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 Appendix F. 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 Appendix F for explanations. If further explanation is required of the material contained in Appendix F or of our investigations, creditors should contact us.

7.2 Overview of investigation

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

- Identified and secured the books and records of the Company
- Reviewed the books and records of the Company
- Discussed the history of the Company with the Directors and Management
- Discussed the history of the Company with significant creditors
- Forensically imaged the Company's servers
- Reviewed and analysed the Company's bank accounts, accounting and financial records and statements
- Conducted a comparative analysis of the Company's historical financial statements
- Analysed specific account, e.g. prepayments, debtors and various loan accounts
- Conducted a review of potential voidable transaction and offences
- Conducted ASIC and real property searches
- Conducted Personal Property Securities Register searches.

7.3 Offences by the Directors

7.3.1 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.

From my 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 interest.

Whilst we will continue to investigate any potential breaches of director's duties, at the time of writing this report it is unlikely that there will be actions against the Directors for breach of statutory duties.

7.3.2 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 parties.

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

7.4 Solvency

We have conducted a detailed review of the Company's solvency position in the lead up to our appointment.

In addition to the financial information detailed at section 4 of this report, we have considered the following relevant information in our analysis:

- The Company began to suffer from a shortage of water at the Nullagine mine-site from late September 2019, which impacted production capacity
- The Company's gold production fell significantly below forecast in August, October and November 2019
- Overdue trade creditors, which had increased in May 2019, that had been reduced during June and July, began to climb once again in August 2019
- The Company had entered into several payment arrangements with creditors from June, however these arrangements were breached from as early as October 2019
- A significant contractor issued the Company with several "notice of intention to stand down equipment and personnel" from as early as 10 October 2019. These notices required agreed amounts to be paid. A failure to meet such payments lead to the contractors standing down and demobilising their equipment on or around 22 November 2019
- On 24 November 2019, the Secured Creditor advised that they would not be providing further funding.

Notwithstanding these factors, over the above period, the Company routinely requested, and was provided with, access to funding from its major shareholder and Secured Creditor. This support continued up to the date of our appointment. This is evidenced by the contribution of \$30.5m from June 2019 to November 2019, detailed as follows:

Date	Amount (\$m)
3/06/2019	10.0
9/07/2019	5.0
7/08/2019	5.0
18/10/2019	2.5
25/10/2019	2.5
5/11/2019	2.5
22/11/2019	3.0*
Total	30.5

*Unsecured and subordinated

During the same period, the Company was actively pursuing a corporate transaction that the Directors believed would result in a scrip acquisition of the Company. In or around mid-November 2019, the Directors formed the view that this transaction would be unlikely to proceed and commenced investigations into the prospect of a capital raising and, in parallel, negotiations for further funding from the Secured Creditor.

Based on the history of the provision of funding by IMC and IMC's representations, the Directors may have had a reasonable expectation that they would be able to access such additional funding. On or around 18 November 2019, IMC agreed to provide the Company with additional funding of \$3m, subordinated to rank behind all other unsecured creditors, pending a decision by IMC as to whether it would provide a more substantive tranche of funding. This amount of \$3m was not cleared to the Company's pre-appointment bank account until 25 November 2019. On 24 November 2019, IMC advised the Company that they would not be providing any further funding and the Directors subsequently made the decision to place the Company into Voluntary Administration on the same day.

Having regard to the above factors and circumstances and noting the preliminary nature of our investigations, it appears that the Company was not insolvent until the date of our appointment, being 24 November 2019, when IMC advised that they would not be providing further funding.

Should creditors resolve to place the Company into liquidation, a liquidator would conduct further investigations into the date of insolvency.

7.5 Voidable transactions

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

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

Voidable 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))
- 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. 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 s100-5 of the IPS. This enables the liquidator to quickly realise something for the benefit of the creditors without the time, cost and risks associated with pursuing 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 funding 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.

Whilst these actions are available to a liquidator, our preliminary conclusion is that the Company was insolvent only just prior to our appointment, as set out above. As such, and subject to further investigations of a liquidator, it is unlikely that there would be material recoveries of voidable transactions, were a liquidator to be appointed.

7.5.1.1 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.

As detailed in section 7.4 of this report, our investigations to date indicate that the Company was not insolvent for any significant period, as the Company had a reasonable expectation of additional funding being received from the Secured Creditor. Review of the Company's records indicates that no payments were made to creditors between this date and the date of our appointment that may be recoverable as voidable preference payments. This does not include payments made to creditors after the date of our appointment detailed in section 7.5.1.2 of this report.

Notwithstanding this, our investigations are only preliminary.

In the event of liquidation, a liquidator will need to prove that creditors knew or should have suspected that the Company was insolvent at the time the payments were made. There would need to be significant investigative work undertaken to establish whether:

- The Company was insolvent at the time the transaction occurred
- The party that received the preference suspected that the Company was insolvent or likely to become insolvent at that time
- The recipient has sufficient assets to settle any successful claims
- The cost of undertaking the action is greater than the possible return
- There are sufficient funds available (subject to the approval of creditors) to undertake any proposed preference recovery action.

We have not included any recovery of preference payments in our estimate of expected returns to creditors in liquidation.

7.5.1.2 Payments to creditors on 25 November 2019

On the morning on 25 November 2019 (the day after our appointment), notwithstanding our appointment and without our consent or authority, payments totaling \$2.25m were made to 46 suppliers from the Company's pre-appointment bank account (**November Payees**).

Pursuant to Section 437D of the Act, once the Company is in administration, a transaction (such as these payments) which is not entered into by the Administrators on behalf of the Company or with the Administrators' consent in writing is void. It is therefore arguable that these amounts are recoverable from these creditors on the basis of a restitutionary claim. Accordingly, we wrote to the respective creditors who received payments advising of this position and making demand for the repayment of the amounts received.

The DOCA proposal received (discussed at section 9) contemplates that these claims would be released.

These claims could be recoverable in a liquidation scenario (including as unfair preferences, if the claim under section 437D did not succeed), however we note:

- Such actions can be costly to pursue and the creditors may have defences available to them
- Certain creditors may have utilised the funds received and not have the capacity to make repayment of the amounts
- Creditors' claims against the Company would increase by any amount recovered.

7.5.2 Unfair Loans (Section 588FD)

Our investigations of the Company books and records revealed the Company had not made or received any loans from or to any parties which committed either company to extortionate terms.

7.5.3 Uncommercial Transactions (Section 588FE)

Our review of the Company records has not identified any transactions that would constitute an uncommercial transaction.

7.5.4 Unreasonable Director-Related Transactions (Section 588FDA)

Our investigations have not to date identified any unreasonable director related transactions.

7.5.5 Arrangements to Avoid Employee Entitlements (Section 596AB)

We have not to date identified any transactions or arrangements of this nature.

7.5.6 Transactions with the Purpose of Defeating Creditors (Section 588FE(5))

We have conducted a review of the transactions of the Company for the six months prior to the relation-back day to identify any transactions that may have been entered into with the purpose of defeating creditors.

We have not to date identified any transactions undertaken for the purposes of defeating creditors.

7.5.7 Circulating security interests created within Six Months (Section 588FJ)

A search of the Personal Property Securities Register reveals that no circulating security interests have been perfected over the Company's assets in the six months prior to the relation back day.

7.6 Insolvent trading (Section 588G)

Directors have a positive duty to prevent a company from trading whilst it is insolvent (Section 588G of the Act). If a director is found to have contravened Section 588G he or she 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 detailed in section 7.4 of this report, our preliminary investigations indicate that the Company was not clearly insolvent until 24 November 2019, the day on which we were appointed.

Before a Court will order a director to 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
- The debt subject to the claim was wholly or partly unsecured and the creditors to whom debts are owed have suffered loss or damage.

Relevantly, the Directors may have a defence to an insolvent trading claim if they had reasonable grounds to expect, and did expect, that the company was solvent at the time of incurring the debt and would remain solvent even if they incurred the debt and other debts at that time.

Given that the Company may not have been insolvent until the date of our appointment, it is unlikely that a significant claim for insolvent trading exists against the Directors.

In addition, we understand that, prior to our appointment, the Directors sought Safe Harbour protection in accordance with Section 588GA of the Act. If the provisions of Section 588GA are satisfied, the insolvent trading provisions found in Section 588G do not apply.

Whilst the Safe Harbour protection law is new and untested and our investigations are only preliminary, based on the information available to us we consider it likely that the Directors would likely be protected from an insolvent trading claim, pursuant to the Safe Harbour provisions.

Whilst a liquidator would conduct further investigations into the date of the Company's insolvency, at this time we consider it highly unlikely that any claim against the Directors for insolvent trading would be commercial to pursue given that:

- The defences available to the Directors
- Their ability to rely on the Safe Harbour provisions
- We anticipate that the costs of such a claim would likely outweigh the limited return available
- The likelihood the Company was solvent up to 24 November 2019.

8 Estimated Return from a Winding up

8.1 Introduction

We have prepared the analysis of the likely realisation under liquidation on two scenarios, low and high, which are outlined in the estimated outcome statement at section 10.2.

Valuations have been provided by Gordon Brothers regarding the Company's plant and equipment and stock and from SRK Consulting regarding the value of the Company's reserves and resources. Both valuations were completed under the instructions from the Administrators.

The valuers' reports provide assessments of the worth of the assets of the Company on a high and low basis.

Based on these valuations and in our experience, we consider that **the appointment of a Liquidator would be highly detrimental to the value of the Mine** as a liquidator would be unable to fund the following required expenses:

- Care and maintenance expenses, which are currently funded by the Secured Creditor at a cost of approximately \$600k-\$700k per month. In particular, the requirement for the permanent presence of staff to maintain and secure the camp and related infrastructure. Without this funding, the plant and associated mine infrastructure would quickly fall into disrepair resulting in a significant deterioration in value
- The Company's mining tenements require ongoing expenditure to maintain, and may be forfeited without meeting regulatory requirements.

8.2 Outcomes for creditors

Below is a comparison of the realisations possible should the Company proceed into liquidation, being optimistic (high) and pessimistic (low) scenarios:

Class	Liquidation Low (c/\$)	Liquidation High (c/\$)
1st Ranking Secured Creditor	12.6	78.8
Employee priority creditor dividend rate	34.1	89.5
Unsecured creditor dividend rate	Nil	Nil

Achieving these returns 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.

8.3 Cash at bank

As at the date of our appointment, the Company's cash at bank was \$16k. As detailed above, additional funds were received by the Administrators from the Secured Creditor on 25 November 2019 and this cash was utilised to continue to trade the business in a limited capacity, allowing the realisation of the ore stockpile on the ROM Pad.

As a result, prior to the appointment of the Receivers, we were able to realise stock totaling \$1.64m.

After the costs of trading, we anticipate a balance of \$1.5 - \$1.6m available in a liquidation scenario. From this balance, Administrators' and Liquidators' costs of safeguarding and realising assets, priority employee entitlements (relative to available net circulating asset recoveries) and secured creditor costs must be drawn, meaning there will not be a return to unsecured creditors from any cash currently held.

8.4 Unencumbered Plant & Equipment

This relates to all plant and equipment owned by the Company and therefore unencumbered by other claims of ownership. Whilst there are no specific security interests held against the majority of the Company's plant

and equipment, the Secured Creditor holds a general security interest over all the Company's plant and equipment.

The liquidation scenarios are based on the values provided by Gordon Brothers for the unencumbered equipment on a forced sale basis less an estimate of the costs incurred in realising the assets.

Although the mine is currently in a care and maintenance program, funded by the Secured Creditor, without this funding, the Company's unencumbered plant and equipment would experience a significant deterioration in value with any prospective buyer required to invest substantial funds to restart mining activities.

8.5 Mining tenements and minerals / business assets

This represents the value of the Company's mining tenements and minerals. The independent valuation report received from SRK Consulting indicated a valuation range of \$32m to \$43m for the mine (business), mining tenements and minerals (not including plant and equipment). These values would however need to be heavily discounted in a liquidation scenario, given the care and maintenance status of the mine, the significant costs to restart the mine and the likelihood that the liquidator would have insufficient funds to service the mine and tenements, meaning the potential forfeiture of tenements and loss of mine value.

Further detail on the likely values and discounting factors for the mining tenements, minerals and business assets is detailed at Section 10.2.9.

8.6 Overall Realisations in Liquidation Scenarios

Given the quantum of outstanding employee entitlements and debt owing to the Secured Creditor (both of which would need to be satisfied in full from available realisations prior to any funds being available for distribution to unsecured creditors), we do not anticipate a return to any unsecured creditors under the high or low liquidation scenarios.

Prior to the payment of the secured creditor and priority creditors, costs of the administration and the subsequent liquidation of the companies would be deducted.

Any returns from potential net liquidators' recoveries (i.e. potential recoveries against November Payee amounts) would flow direct to the remaining employee entitlements, however would be insufficient to cover all outstanding entitlements.

Further detail on realisations and outcomes in the potential liquidation scenarios is provided at section 10.2.

8.7 Effect on employees

In relation to employee entitlements, a priority exists over the secured creditor in relation to circulating 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 Fair Entitlements Guarantee (**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 would assist employees in applying to FEG via their online portal.

8.8 Conclusion

In conclusion, assuming the amount of all debts proved and accepted by the Liquidators correspond to the amounts disclosed in our analysis, we estimate that returns to every class of creditor would be less than a DOCA, and that ordinary unsecured creditors would not receive any return in a liquidation scenario. As noted above, a detailed breakdown of liquidation scenarios is set out in section 10.2.

9 Deed of Company Arrangement

9.1 Introduction

A DOCA has been proposed by the Secured Creditor, IMC (**the Proponent**).

We have attached the Draft Term Sheet at Appendix B.

The DOCA and Creditors' Trust documents are yet to be finalised, and are therefore not available as an appendix to this report. We are advised that the DOCA and Creditors' Trust documents will be available for creditors to review either prior to the second creditors meeting (in which case the documents will be provided to creditors via the creditors portal as soon as possible after they become available), or tabled at the second meeting of creditors.

Importantly, we note the Committee supports the DOCA subject to the satisfactory negotiation of the DOCA and Creditors' Trust documentation in line with the information presented to the Committee in the meeting held on 9 January 2020.

9.2 Key features

The Proponent has stated the key features of the DOCA to be as follows:

- The Deed Administrators will be the Administrators, ie, Mr Matthew Donnelly and Mr Richard Hughes
- Following the execution of the DOCA, the Proponent will nominate new directors to be appointed to the Company
- A Deed Fund totaling c. \$7.75m will be established which comprises of c. \$1.55m currently held by the Administrators and a contribution of \$6.2m to be made by the Proponent
- The Deed Administrators will make an application to the Court pursuant to Section 444GA of the Act to transfer all of the Company's shares to the Proponent or its nominee
- The Deed Administrators will also make an application to ASIC for relief under Chapter 6 of the Act
- The Proponent to make any required applications to government bodies (such as FIRB) to obtain the required regulatory approvals
- A Creditors' Trust consisting of the Deed Fund will be become operative upon effectuation of the DOCA (further details regarding creditors trusts can be found below).
- Upon effectuation of the DOCA, the Company will be released from external administration and control of the Company will revert to its new directors
- The Proponent and any Continuing Employees of the Company will not participate in any distribution from the Deed Fund under the Creditors' Trust. This has the effect of increasing the estimated return to creditors
- Upon effectuation of the DOCA all Participating Creditors' claims against the Company will be extinguished and they will only have a right to an entitlement under the Creditors' Trust
- Participating Creditors must accept their entitlement under the DOCA/Creditors' Trust in full satisfaction and completely discharge all debts and claims against the Company
- Creditors' claims (including contingent claims under pre-administration contracts) must have arisen before 24 November 2019 if they are to be admissible under the DOCA
- The claims of the Company against the November Payees who received payments on 25 November 2019 (as discussed at 7.5.1.2 above) will be released, which means that these creditors will be entitled to retain these funds if the DOCA is effectuated
- Creditors entitlement to a distribution from the Deed Fund in the Creditors' Trust will depend on their categorisation, summarised below:
 - First, priority creditors pursuant to Section 556(1)(a) of the Act, including former employees but excluding Continuing Employees, estimated at \$5.1m

- Secondly, \$1.2m to be distributed between “Pool A” or “Supporting” creditors, being:
 - GBF Number 5 Pty Ltd
 - Redline Drill and Blast Pty Ltd
 - Chinchester Metals Pty Ltd
 - Rivet Mining Services Pty Ltd
 - Cater Care Pty Ltd
 - UON Pty Ltd.
 - Thirdly, \$550k to be distributed to “Pool B” creditors, being those with claims determined to be an amount of less than \$15,000, receiving an estimated distribution of 100 cents in the dollar
 - Fourthly, the balance of funds to be distributed pro rata to all other Participating Creditors (“Residual Pool”), up to a maximum distribution of 2 cents in the dollar
 - Finally, any surplus funds to be returned to the Company.
- In addition to the distribution out of Pool A, the Company has agreed to use its best endeavours to engage the services of the Supporting Creditors after the effectuation of the DOCA
 - In addition to receiving a distribution from the Residual Pool, if Western Plant Hire Pty Ltd support the DOCA, the potential claim against it arising out of its demobilisation from the site on or about 22 November 2019 will be released
 - The fees and disbursements of the Voluntary Administrators, Deed Administrators and Trustees will be paid according to the priority afforded to the fees and disbursements under the Act (i.e. in priority to unsecured creditors).

Some of the terms above are conditions precedent to the effectuation of the DOCA and the creation of the Creditors’ Trust, the specifics of which are set out in Appendix B.

9.3 Comparative scenarios

Based on the DOCA proposed, we have prepared a summary of the likely returns to creditors from the Deed Fund, presented in the table below:

Estimated DOCA Fund dividend outcomes	DOCA (low) (c/\$)	DOCA (high) (c/\$)
Employee entitlements	100.0	100.0
Pool A ("Supporting") creditors	8.6	8.6
Pool B (<\$15k debt) creditors	39.5	100.0
Residual Pool creditors	0.0	2.0

We emphasise the low case scenario is based on pessimistic assumptions and therefore represents the “worst case” rather than a likely scenario. We believe it is likely (but not certain) Pool B creditors will be paid in full, and there will be some dividend for Residual Creditors.

9.3.1 Creditors’ Trust

Creditors need to be aware that in the case of the Company, when the DOCA terminates, the Deed Fund will be distributed through a creditors' trust mechanism. A creditors’ trust is a standard and common mechanism used to accelerate a company’s exit from external administration. Normally, a DOCA is terminated when:

- the terms under which it was established have been completed (normally resulting in a distribution to creditors); or
- it cannot be completed as expected and the company is placed into liquidation.

Under a DOCA, creditors' rights are regulated by both the terms of the DOCA and the provisions of the Act (which deal with such matters as the right of creditors to appeal against a rejection of a proof of debt). Under a creditors' trust, the rights of creditors will transform into the rights of a beneficiary under the terms of the trust instrument with any additional rights under the Trustees Act (WA). The Administrators have made attempts to ensure that the rights of creditors under the Creditors' Trust in this case are as similar as possible to the rights they would have under a DOCA. By proposing a Creditors' Trust the DOCA can be accepted by creditors and wholly effectuated in a time efficient manner.

Under the Creditors' Trust, the Deed Administrators will be the Trustees of the Creditors' Trust.

The Trustees (and also the Deed Administrators) become responsible to the beneficiaries for:

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

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

9.3.2 Key Risks

Whilst we have taken all possible steps to protect the interests of creditors by ensuring that their claims are not released and the DOCA does not terminate until the relevant conditions are met, creditors should understand that their rights under a creditors' trust are different to their rights under the DOCA.

There are different and additional risks for creditors where a Deed proposal involves a creditors' trust. In this proposal, we have identified the following key risks:

- The Deed will be finalised and creditors' claims transitioned to the trust prior to receiving a dividend
- Governance of the Trust under State legislation rather than the Corporations Act
- Differences in the way trustees and registered liquidators are regulated and supervised, particularly by ASIC and the Courts
- Potential difficulties for ASIC and affected creditors (as beneficiaries of the trust) in monitoring and enforcing proper conduct by the Trustees
- Legal uncertainties and other issues for ASIC, creditors bound by the DOCA or other persons in challenging a DOCA that has already terminated
- Creditors may agree to the DOCA proposal without being aware or fully appreciating these matters.

In our opinion, we believe that we are able to mitigate these risks sufficiently to still recommend the DOCA (incorporating a creditors trust mechanism), as:

- Creditors' claims will remain with the Company (and their rights as creditors of the Company) until the entire Deed Fund has been received and the fund is not contingent on the future performance of the Company or other contingent events
- The priority provisions mirror those outlined by the Act (i.e. employees receive priority to ordinary unsecured creditors) and accordingly, in our view, the proposed distribution arrangements do not disadvantage any creditor/beneficiary when comparing their respective positions under a DOCA scenario
- The provisions for dealing with proofs of debt and the declaration and payment of distributions to creditors mirror those outlined by the Act and are the same as in a liquidation scenario
- The Trustees are Registered Liquidators.

9.3.3 Moratorium

A moratorium upon actions against the Company, as outlined in Section 444E of the Act, applies throughout the period of any DOCA entered into by the Administrators.

9.3.4 Taxation

Company and trust

There may be taxation and stamp duty implications for the Company and the creditors' trust if a DOCA is approved by creditors. The Administrators are not presently able to provide details of these implications (including any impact on the anticipated return to creditors/beneficiaries).

We are not able to provide specific advice to creditors in respect of any individual taxation implications. Accordingly, if these implications are of concern to creditors, we recommend creditors obtain independent advice prior to voting at the second meeting of creditors.

Creditor and beneficiary

We also wish to draw to creditors' attention there may be potential taxation implications for a creditor in receiving distributions as a beneficiary of a trust rather than in their capacity as a creditor of the Company.

In general terms, the distribution of funds under a DOCA (or in a liquidation scenario) is simply a payment in respect of a debt. Conversely, a distribution of money under a creditors' trust does not have the same character but involves the payment of amounts either on capital or revenue account, thereby creating potential income and capital gains tax consequences.

We are not able to provide specific advice to creditors in respect of any individual taxation implications. Accordingly, if these implications are of concern to creditors, we recommend creditors obtain independent advice prior to voting at the second meeting of creditors.

9.3.5 Summary – creditors' trusts

Having regard to the above, we are of the opinion that the use of a creditors' trust mechanism does not disadvantage any creditor/beneficiary in comparison to their respective position in a DOCA or liquidation scenario. For further information regarding creditors' trusts, please refer to the ASIC information sheet contained at Appendix H.

9.4 Effect on employees

The DOCA proposal contemplates the full payment of outstanding employee entitlements owed to former employees of the Company.

In a liquidation scenario, eligible employees would have access to the FEG Scheme operated by the Attorney-General's Department. This scheme operates as a legislative safety net of last resort and allows for the payment of outstanding employee entitlements, excluding superannuation and subject to certain exceptions detailed in the *Fair Entitlements Guarantee Act 2012*.

Continuing Employees of the Company at the date of effectuation (i.e. those employees who have not been terminated) **will not be participating in the Creditors' Trust**. The entitlements of these employees will remain with the Company. As the DOCA contemplates a variation to the statutory priorities afforded to these employees, eligible employee creditors (being all employees as at the date of appointment) of the Company must pass a resolution approving same.

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

9.5 Conclusion

It is apparent that the DOCA/Creditors' Trust provides the following benefits over liquidation of the Company as follows:

- The DOCA/Creditors' Trust contemplates a return for all classes of creditors which is likely to be superior to the return in a liquidation
- The return to all creditors will be considerably faster and more certain under a DOCA/Creditors' Trust than under liquidation
- The potential ongoing employment for several employees
- The DOCA allows for all non-continuing employees to be paid in full
- A continuing business with which creditors may wish to continue to trade.

10 Comparative scenarios - Liquidation vs DOCA

10.1 Introduction

A DOCA has been proposed by the Secured Creditor, IMC (**the Proponent**). We have provided a detailed summary of the DOCA proposal at Section 9.

We have also analysed the potential outcome of the Company proceeding into liquidation. Further details regarding the estimated return from a winding up are provided at Section 8.

This space has been intentionally left blank

10.2 Comparative analysis

Below is a comparison of the estimated realisations possible should the Company either enter into a DOCA or proceed into liquidation:

\$'000 (Excl. GST)		Note	Liquidation		DOCA	
			Low	High	Low	High
Deed Proponent Contribution						
Proceeds from Deed Proponent contribution available for distribution	10.2.1		N/A	N/A	6,200	6,200
			-	-	6,200	6,200
Circulating assets						
Cash	10.2.2		1,930	1,930	1,930	1,930
Less: Expenses incurred by Administrator to safeguard assets and trade business up to 3/12/2019	10.2.3		(258)	(258)	(718)	(431)
Contingency	10.2.4		(100)	(50)	(100)	(50)
Sub-total			1,572	1,622	1,112	1,449
Stock/consumables	10.2.5		4,000	4,000	Nil	Nil
Less: ROT and costs of realisation	10.2.6		(4,000)	(3,000)	Nil	Nil
GST Receivable	10.2.7		168	143	38	28
Total net circulating assets			1,740	2,765	1,150	1,477
Total net circulating assets plus Deed Proponent contribution			1,740	2,765	7,350	7,677
Non-circulating assets						
Plant and equipment	10.2.8		5,424	26,560	-	-
Mining tenements and minerals	10.2.9		1,615	-	-	-
Business assets	10.2.10		-	32,300	-	-
Discount for illustrative restart costs			-	(15,000)	-	-
Total net non-circulating assets			7,039	43,860	-	-
Total net assets			8,779	46,625	7,350	7,677
Cost of administration						
Voluntary Administrators' fees			(270)	(270)	(250)	(250)
Deed Administrator / Trustee fees			N/A	N/A	(250)	(250)
Liquidators' fees			(425)	(350)	N/A	N/A
Legal fees - VA			(200)	(125)	(175)	(125)
Legal fees - DOCA			N/A	N/A	(100)	(70)
Legal fees - CT			N/A	N/A	(70)	(50)
Legal fees - Liquidation			(250)	(150)	N/A	N/A
Subtotal: Approximate portion of costs for asset realisation/safeguarding			(458)	(358)	(338)	(298)
Subtotal: Remaining costs of administration (not in relation to asset realisation)			(687)	(537)	(507)	(447)
Total cost of administration	10.2.11		(1,145)	(895)	(845)	(745)
Surplus/(deficiency) available after costs of administration (asset realisation portion)			8,321	46,267	7,012	7,379
Priority employee claims						
Less: Priority employee claims (circulating asset recoveries)	10.2.12		(1,740)	(2,765)	(5,100)	(4,807)
Surplus/(deficiency) available for distribution to secured creditor			6,581	43,502	1,912	2,572
Secured creditor claims						
Less: Amounts payable to 1st ranking Secured Creditor	10.2.13		(54,029)	(54,029)	N/A	N/A
Less: Illustrative additional interest and costs	10.2.14		(6,000)	(4,000)	N/A	N/A
Total surplus/(deficiency) after secured creditor claims			(53,448)	(14,527)	N/A	N/A
Priority employee claims						
Less: Remaining priority employee claims	10.2.15		(3,360)	(2,335)	N/A	N/A
Cost of administration						
Less: Remaining costs of administration (not in relation to asset realisation)			(687)	(537)	(507)	(447)
Surplus/(deficiency) available for distribution to unsecured creditors			(57,495)	(17,399)	1,405	2,125
Unsecured creditors (capped contributions)						
Pool A	10.2.16				(1,200)	(1,200)
Pool B	10.2.17				(205)	(520)
Remaining funds available (to be applied to Residual Pool up to 2c cap)					-	405
Applied to Residual Pool	10.2.18				-	(309)
Final balance of funds (to remain with the Company)					-	96
Total remaining debt owing to unsecured creditors	10.2.19		(32,644)	(32,644)	(31,259)	(30,519)
Contingent creditor claims	10.2.20		(20,000)	(10,000)	(20,000)	(10,000)
Total estimated surplus/(deficiency)			(110,139)	(60,043)	(51,259)	(40,519)
Potential November Payees (preference) recoveries in liquidation scenario	10.2.21		Nil	2,000	N/A	N/A
Potential other recoveries in liquidation scenario	10.2.22		Unknown	Unknown	N/A	N/A
Less: recovery costs			Unknown	Unknown	N/A	N/A

Source: DOCA term sheet, Management accounts and ROCAPs, PODs, Deloitte analysis

The above outcomes are based on current available information and as such are a best estimate. Returns to creditors may be reduced as a result of factors outside of our control such as:

- Objections or issues arising as a result of the application to the Court required in accordance with Section 444GA or to ASIC under Chapter 6 of the Act, or any other legislative or regulatory matter
- Fewer Continuing Employees resulting in higher than forecast employee entitlements
- Failure by the Proponent to receive necessary Foreign Investment Review Board approvals
- Unforeseen increases in unsecured creditor claims as a result of contract breaches, damages claims etc.
- Unanticipated trading expenses arising, including disputes around the validity of PPSR registrations.
- Assets not realising at anticipated levels.

Notes:

- 10.2.1 Secured creditor DOCA contribution of \$6.2m. Only available in DOCA scenario.
- 10.2.2 Cash balance of \$1,930,156 held by the Voluntary Administrators as at 7 January 2020. This amount is net of receipts and payments to date, as set out in Appendix E.
- 10.2.3 Includes circulating Administrator costs (including purchase orders, reagents etc.) to trade to 3 December 2019. High value assumes that PPSR claims are settled successfully. Liquidation values are lower than DOCA values given the costs of realising and consuming stock are captured in the "ROT and costs of realisation" line item.
- 10.2.4 Contingency for unforeseen costs of the Administration period.
- 10.2.5 Approximate value of stock and consumables held at the date of appointment of Administrators.
- 10.2.6 Estimated costs of retention of title / PPSR claims over stock and consumables held, plus estimate of costs to realise stock and consumables. The total value includes the estimated costs of reagents utilised during the Administration period up to 3 December 2019.
- 10.2.7 Net GST receivable for the Administration/DOCA/liquidation periods, including PAYG and super payments on Administration employee wages to be paid.
- 10.2.8 Per Gordon Brothers valuation report, the low liquidation scenario includes plant and equipment valuation at a forced sale value. The high liquidation scenario includes the going concern valuation of plant and equipment from the Gordon Brothers valuation, discounted at 50% given the mine is current in care and maintenance, and therefore there would be a limited window to realise the mine as the Liquidators would be without any funds or personnel to maintain the plant and equipment.
- 10.2.9 Mining tenements and minerals included at estimate of approximately 5% of SRK Consulting valuation in low liquidation scenario, given limited value until mine operational and assuming no cash available in a low liquidation scenario to maintain tenement requirements and therefore they are effectively abandoned. No value included at high liquidation range as captured within "Business assets" line item.
- 10.2.10 Per SRK Consulting low range valuation for the mine resources, assuming buyer can be found to purchase the mine in time available to liquidator on a holding cost basis and noting the current care and maintenance status of the mine as noted at 8.2.8. Illustrative estimate of costs to restart the mine listed below.
- 10.2.11 Voluntary Administration remaining fees to completion capped at \$250k + GST (although approved by CoI on 7 January 2020 at \$270k). Liquidator fee estimates slightly higher than DOCA/CT estimates due to quantum of additional work required and anticipated litigation. Estimates of the approximate portion of costs of the administration and liquidation relating to activities such as preserving and realising assets have been outlined for illustrative priority position in a liquidation scenario.
- 10.2.12 Estimate of repayment of employee entitlements from net circulating assets available in a liquidation scenario. Entitlements estimate based on Receiver and Managers' planned care and maintenance employee schedule (subject to change) and includes a contingency of \$200k for additional claims in the low DOCA scenario.
- 10.2.13 IMC secured debt as at 31 January 2020 as advised by Receivers and Managers.
- 10.2.14 Additional costs incurred on high and low estimates based on Receivers and Managers advice on interest, care and maintenance holding costs and Receivers and Managers fees to 30 April 2020.
- 10.2.15 Remaining balance of estimated employee entitlements (less the portion covered from net circulating assets). In a liquidation scenario, it is likely Fair Entitlements Guarantee ("FEG") would be required to cover remaining outstanding employee entitlements.

- 10.2.16 Capped contribution to Pool A ("Supporting") creditors at \$1.2m, per DOCA terms. Approximate group debt of \$13.88m (net of November Payee payments).
- 10.2.17 Capped contribution to Pool B ("<\$15k total debt") creditors at \$550k, per DOCA terms. Approximate group debt of \$520k (net of November Payee payments).
- 10.2.18 Pro-rata contribution of all remaining funds to Residual Pool of creditors, per DOCA terms. Approximate group debt of \$15.47m (net of November Payee payments).
- 10.2.19 Remaining unsecured creditor values, net of November Payee payments and available DOCA contributions attributed to unsecured debt.
- 10.2.20 Contingency for further unsecured creditor claims not yet received, including crystallisation potential demobilisation costs and other unfinalised pre-appointment debts.
- 10.2.21 Potential recoveries available from payments made to November Payees. Refer to section 7.5.1.2.
- 10.2.22 As noted in the report, unlikely there will be any additional recoveries available to a liquidation in a winding up scenario.

10.3 Unsecured creditors - dividend estimate breakdown

The estimated dividend and ranges of potential returns for creditors in under a liquidation and DOCA scenario are provided below.

10.3.1 Liquidation

As noted in section 8.2 and per the table below, it is expected there would insufficient realisations to provide a return to unsecured creditors in any liquidation scenario.

Class	Liquidation Low (c/\$)	Liquidation High (c/\$)
1st Ranking Secured Creditor	12.6	78.8
Employee priority creditor dividend rate	34.1	89.5
Unsecured creditor dividend rate	Nil	Nil

10.3.2 DOCA

Under the DOCA proposal, given the November Payee amounts are settled and released, unsecured creditors will receive varying returns based on whether they fell in the November Payee process, and depending on what pool of creditors they sit (and therefore, what allocation of the Deed funds are they likely to receive). To emphasise, one of the benefits of the DOCA is the value of the settlement of these claims.

Given these amounts are specific to each creditor who received a payment in the November Payee process, we do not analyse the financial effect of this further within the report, however details of this effect are set out in Appendix G.

The estimated returns to the pools of creditors from the DOCA funds in both the low and high DOCA scenarios are provided below:

Estimated DOCA Fund dividend outcomes	DOCA (low) (c/\$)	DOCA (high) (c/\$)
Employee entitlements	100.0	100.0
Pool A ("Supporting") creditors	8.6	8.6
Pool B (<\$15k debt) creditors	39.5	100.0
Residual Pool creditors	0.0	2.0

The estimated returns are based on the funding caps ascribed in the DOCA for each pool of creditors (detailed in section 9.2 of this report), assuming the respective DOCA scenario allows for sufficient funds for each pool in cascading priority. The returns are also based on the current approximate total creditor debt for each pool, net of November Payee settlements.

We emphasise the low case scenario is based on pessimistic assumptions and therefore represents the "worst case" rather than a likely scenario. We believe it is likely (but not certain) Pool B creditors will be paid in full, and there will be some dividend for Residual Creditors.

11 Administrators' Opinion

11.1 Introduction

The following options are available to creditors to decide:

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

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

11.2 The Company execute a DOCA

A DOCA has been proposed, however, as advised at Section 9.1, the DOCA and Creditors' Trust documents have not yet been finalised. These will be tabled at the second meeting of creditors at the latest. The key features of the DOCA have been summarised at Section 9.2 of this report, and the Draft Terms Sheet has been attached at Appendix B.

With respect to the DOCA proposal received, it:

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

11.3 The administration should end

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

11.4 The Company be wound up/Liquidation

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

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

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

11.5 Recommendation

In our opinion, creditors would be best served if the Company executes a DOCA in the form proposed.

We reserve the right to change our recommendation to creditors should there be any change to the DOCA proposal, or if an alternate DOCA proposal is 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 on the creditor portal which can be accessed using the username and password previously sent to you.

11.5.1 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.

12 Remuneration

Creditors are directed to the Information Sheet – Approving Fees: a guide for Creditors, a copy of which is attached as Appendix I.

12.1 Voluntary Administration

The Administrators' remuneration is based on the firm's hourly rates which were provided to creditors in our initial notification to creditors.

Members of the Committee have approved our remuneration for the period of the Voluntary Administration totaling \$608,295. Full details of the remuneration were provided to the Committee prior to the approval. We note that the DOCA terms do not provide for payment in full of approved fees.

12.2 DOCA and Creditors' Trust

In the event the DOCA is approved, the remuneration of the Deed Administrators and Trustees is based on our hourly rates which were provided to creditors in our initial remuneration notification. Creditor approval for fees will be sought at the second meeting of creditors (see Remuneration Report at Appendix J for a detailed narrative together with an estimated fee breakdown of work anticipated to be performed by the Deed Administrators, Trustees and their staff).

The fees for the Deed Administrators and Trustees will be capped at an aggregate of \$250,000 plus GST and disbursements.

A summary of the estimated time to be spent by the Deed Administrators and the Trustees and their staff in the DOCA from the commencement to the effectuation of the DOCA and from the execution to the finalisation of the Trust at their respective hourly rates is attached as Appendix J.

At the second meeting of creditors, we will propose and seek approval of a resolution in relation to the aforementioned fee.

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

12.3 Liquidation

In the event the Company is wound up, the Liquidators' remuneration is based on our hourly rates which were provided in our initial remuneration notification. Creditor approval for fees will be sought at the second meeting of creditors (see Remuneration Report at Appendix J for a detailed narrative together with an estimated fee breakdown of work anticipated to be performed by the Liquidators' staff).

The estimated fees for the liquidation from the commencement to completion of the liquidation is \$425,000 plus GST and disbursements.

A summary of the estimated time to be spent by the liquidators and their staff in the liquidation from the commencement to completion of the liquidation at their respective hourly rates is attached as Appendix J.

At the second meeting of creditors, we will propose a resolution in relation this estimate. 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.

13 Meeting

Pursuant to Section 439A(3) of the Act and Section 75-225 of the IPR, we have attached a notice convening the second meeting of creditors to be held on at 1:00PM on Friday, 17 January 2020 at the Perth Convention Centre, River View Room 4, 21 Mounts Bay Rd, Perth WA 6000 (see Form 529 – Notice of Meeting enclosed as Appendix K). Facilities will also be made available to attend and participate by telephone.

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 enclosed as Appendix L).

A special proxy can be lodged showing approval or rejection of each resolution. Proxy forms or facsimiles thereof must be lodged with the Administrators prior to the commencement of the meeting. Where a facsimile copy of a proxy is sent, the original must be lodged with the Administrators 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. Note, you can lodge a special proxy online via the creditor portal. Simply log in using the password and login information previously supplied to you and, from the case landing page, scroll down to "options" and select the "vote" button. Follow the prompts from there.

A creditor is required to lodge a proof of debt or claim (copy attached as Appendix M) 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 us prior to the commencement of the meeting. If you have already lodged a formal proof of debt you are not required to resubmit this form.

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 4 December 2019, they must make reference to that proof of debt or claim when submitting a proxy, or when attending the second meeting of creditors. If not already done so, you can lodge a claim via the creditor portal. From the case landing page, scroll down to "options" and select the "I am owed money" button. Follow the prompts from there.

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 Mr Sam Ierino of this office on (08) 9365 8145.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Matthew Donnelly', with a stylized flourish at the end.

Matthew Donnelly
Administrator

Appendix A – DOCA / Creditors' Trust

NOTE: The DOCA and Creditors' Trust documents are yet to be finalised, and are therefore not available as an appendix to this report. We are advised that the DOCA and Creditors' Trust documents will be available for creditors to review either prior to the second creditors meeting (in which case the documents will be provided to creditors via the creditors portal as soon as possible), or tabled at the second meeting of creditors.

Appendix B – Draft Term Sheet

Draft for discussion purposes only

Millennium Minerals Limited (Administrators Appointed)

Key Element	DOCA Proposal
Date	- [insert] January 2020
Company	- Millennium Minerals Limited (Administrators Appointed) (Receivers and Managers Appointed) (MOY or the Company)
Proponent	- IMC Resources Investments Pte Ltd or its nominee (IMC or Proponent)
Purpose and Rationale for Proposal	<ul style="list-style-type: none"> - This term sheet records the key terms of the Deed of Company Arrangement (DOCA Proposal or DOCA) proposed by the Proponent in relation to the Company which will have the effect of: <ol style="list-style-type: none"> 1. providing creditors of the Company with a better return than they would otherwise receive in liquidation; 2. maximising the Company's chances of survival and continuing to exist; 3. facilitating an orderly and cost effective transition of the Company's operations to the Proponent in a manner that minimises disruption and maximises the return available to creditors; and 4. minimising the holding costs and ongoing expenses in relation to the Company including further Administrators' and Receivers' fees and other costs associated with external administration. - The DOCA Proposal is subject to the conditions set out below.
Background	<ul style="list-style-type: none"> - The Company owns and operates the Nullagine Gold Operation, approximately 185kms north of Newman. - On 24 November 2019 the Board of the Company resolved to appoint Matthew Donnelly and Richard Hughes as voluntary administrators of the Company pursuant to section 436A of the Corporations Act (Cth) (the Act). - The Proponent is the Company's largest secured creditor and equity holder. - The Proponent is also the Company's only all property secured creditor. The Company's indebtedness to the Proponent as at the date of the appointment was estimated to be approximately \$28M secured debt and \$3M subordinated debt. - The Proponent acquired the secured debt of Investec on around 2 December 2019. Investec's secured debt, after crystallisation of existing hedging facilities was estimated to be approximately \$22.3M. - The Proponent, via instruction to the security trustee of the secured facilities, (namely IMC Resources Gold Holdings Pte Ltd (IMC Gold) as security trustee for the Millennium Minerals Security Trust), (Secured Creditors) appointed Richard Scott Tucker and John Allan Bumbak of KordaMentha as Receivers and Managers to the Company (Receivers). - On 10 December 2019 the Administrators applied to the Court to extend the convening period until 10 January 2020 pursuant to section 439A(6) of the Act. The Court made the orders on 12 December 2019.
Deed Administrators	- The Administrators will become the Deed Administrators.
Trustees	- The Deed Administrators will become the Trustees of the Creditors' Trust.

Key Element	DOCA Proposal
Trust Fund	<ol style="list-style-type: none"> 1. The Proponent will make a cash contribution of \$6.2 million (Cash Contribution) in respect of the DOCA. The Cash Contribution is exclusive of GST, provided that if GST applies, the Trustees must provide a tax invoice to the Company. 2. The Cash Contribution will be a payment from the Proponent to MOY (via the Receivers) and MOY will then pay the Creditors' Trust. On completion of the DOCA the Cash Contribution will be a loan from the Proponent to MOY. 3. The Proposed Cash Contribution will be payable upon the satisfaction of various conditions precedent, including the creation of the Creditors' Trust described below. 4. A Creditors' Trust will be established and the Trust Fund to be held by the Creditors Trust will comprise the following property (Available Property): <ol style="list-style-type: none"> i. the Cash Contribution of the Proponent; and ii. any residual cash held by the administrators expected to be \$1.55 million (cash less liabilities, fees and disbursements to the date of appointment of the Receivers).
Distribution of Trust Fund	<p>The Available Property will be applied from the Trust Fund in the following order to the following creditors (Participating Creditors):</p> <ol style="list-style-type: none"> I. Firstly, to: <ol style="list-style-type: none"> 1. the Administrators' professional fees incurred from 4 December 2019 to execution of the DOCA pursuant to section 443D of the Act and the provisions of the Insolvency Practice Schedule (Corporations) and Insolvency Practice Rules (Corporations) 2016 (Cth), subject to a cap of \$250,000 (excluding GST) in aggregate; 2. \$290,000 (excluding GST) for legal costs (including, without limitation, counsel fees and disbursements) arising from the administration; and 3. the costs of expert reports and other external liabilities of the Administrators, in each case as reasonably incurred and arising from the administration. II. Secondly, to: <ol style="list-style-type: none"> 1. the Deed Administrators' and Trustees' professional fees and the Trustees' disbursements, subject to a cap of \$250,000 (excluding GST) in aggregate; 2. for legal costs (including, without limitation, counsel fees and disbursements) for the administration, deed administration and creditors' trust, any unused portion of the \$290,000 (excluding GST) allocated for legal costs under paragraph I above (except that those properly and reasonably incurred legal costs will not be capped to the extent that the s444GA application referred to below is contested); and 3. the costs of expert reports and other external liabilities of the Deed Administrators, in each case as reasonably incurred and arising from the deed administration. III. Thirdly, to Priority Creditors pursuant to section 556(1)(a) of the Act (estimated at \$5.1 million) including former employees but excluding employees who are still employees at the date of Effectuation (who are Non-Participating Creditors). IV. Fourthly, pro rata between Pool A Creditors who vote in favour of the DOCA up to a cap of \$1.2 million which should result in a distribution of 7.5 cents to 10 cents in the dollar return;

Key Element	DOCA Proposal
	<p>V. Fifthly, pro rata between Pool B Creditors up to a cap of \$0.55 million which should result in each Pool B Creditor receiving an estimated dividend of 100 cents in the dollar;</p> <p>VI. Sixthly, pro rata between remaining Participating Creditors (which excludes Non-Participating Creditors) in the amount of no more than a 2 cents in the dollar return; and</p> <p>VII. Finally, to the Company.</p> <p>For the avoidance of doubt, the cap on Trustees' professional fees and disbursements (ie including legal fees) does not apply to reasonably incurred Trustees' professional fees and disbursements arising from a Participating Creditor appealing against an adjudication upon its proof of debt.</p>
Non-Participating Creditors	The claims of Non-Participating Creditors will not be released or compromised by the DOCA and Non-Participating Creditors will not participate in the Creditors' Trust. However, after effectuation of the DOCA, the Proponent and IMC Gold agree that their claims will become non-current claims.
Management of the Company	<p>The Deed Administrators will have the power to appoint and remove directors of the Company and must do so in accordance with the directions of the Proponent.</p> <p>As soon as practicable after execution of the DOCA, the Proponent will nominate directors to be appointed to the Company. (New Directors)</p>
Transfer of Share Capital	The Deed Administrators will make an application to the Court pursuant to section 444GA of the Act approving the transfer to the Proponent and/or the Proponent's nominees of all shares in the Company which are not yet owned by the Proponent or the Proponent's associates (as specified by the Proponent) (Transfer Orders) and all parties to use their best endeavours to obtain such orders.
FIRB and Regulatory Approval	The Proponent (or, in the case of the application to the Australian Securities and Investments Commission referred to in Condition Precedent 7 below, the Company) to make any applications to any government or regulatory body to obtain FIRB or other regulatory approvals needed to give effect to the transactions contemplated by the DOCA, and all parties to use their best endeavours to obtain such orders.
Conditions Precedent	<p>- The DOCA will complete and be fully effectuated (Effectuation) upon a date which is 2 business days after each of the following conditions precedent are satisfied (or waived to the extent permitted by the DOCA) (Conditions Precedent):</p> <ol style="list-style-type: none"> 1. the execution of a Deed Poll by the Company releasing (with effect upon Effectuation) the claims of the Company against parties with a Claim who received payments from the Company on 25 November 2019 (Deed Poll); 2. all options and performance right on issue in the Company being cancelled for nil consideration, such that ordinary shares are the sole class of securities in the Company; 3. the execution of a Creditors' Trust Deed; 4. establishment of the Creditors' Trust; 5. payment of the Cash Contribution by the Proponent (or the Proponent's nominee) to the Company; 6. payment of the Cash Contribution by the Company to the Trustees to form part of the Trust Fund for the Creditors' Trust; 7. the obtaining of all requisite regulatory approvals required to permit the transfers of shares in the Company pursuant to the Transfer Orders (including the

Key Element	DOCA Proposal
	<p>Australian Securities and Investments Commission granting relief from Chapter 6 of the Corporations Act);</p> <ol style="list-style-type: none"> 8. the Court make the Transfer Orders pursuant to 444GA of the Act; 9. the Deed Administrators transfer the shares to the Proponent or the Proponent's nominee as per the Transfer Orders and the terms of the DOCA; 10. the obtaining of all and any FIRB or other regulatory approvals needed to give effect to the transactions contemplated by the DOCA; and 11. the New Directors have been appointed.
Upon Effectuation	<p>- Upon the date of Effectuation:</p> <ol style="list-style-type: none"> 1. the Company will be released from external administration; 2. the DOCA will terminate (other than for those clauses expressed to survive termination of the DOCA); 3. the control of the Company will revert to control of the directors; 4. the Creditors' Trust will be operated in accordance with the Creditors' Trust Deed for and on behalf of all Participating Creditors; 5. the Deed Administrators become the Trustees of the Creditors' Trust; 6. the Participating Creditors will become beneficiaries in the Creditors' Trust and will, subject to the terms of the Creditors' Trust Deed, only have a right to prove their claim in the Creditors' Trust; 7. the Participating Creditors' claims against the Company will be released and forever extinguished; 8. the Receivers will retire; and 9. all of the costs of IMC and the Receivers will be classified as loans from IMC to MOY which will survive the DOCA as loans. However, after Effectuation, the Proponent, IMC Gold and the Receivers agree that their claims will become non-current claims.
Moratorium	<p>Until the date of Effectuation:</p> <ul style="list-style-type: none"> - the provisions in sections 440A, 440B and 440D will continue to apply as if the Company remained in voluntary administration; - a moratorium will apply to all claims of Participating Creditors which will be stayed and no step, action or proceeding may be taken in respect of such claim against the Company.
Participating Creditors	<p>All creditors of the Company who had a claim at the Appointment Date and who will be bound by the DOCA, including any contingent creditors (but excluding the Proponent and other Non-Participating Creditors)</p>
Participation in the Creditors' Trust	<p>- The following classes are established with respect to Participating Creditors:</p> <ol style="list-style-type: none"> 1. Priority Creditors – Claims pursuant to Section 556(1) of the Act (including Participating Creditors who were employees of the Company but cease to be employees of the Company prior to the date of Effectuation) estimated at \$5.1M 2. Pool A Creditors – The Supporting Creditors (defined below) who vote in favour of the DOCA – c. 7.5c to 10c on the dollar

Key Element	DOCA Proposal
	<p>3. Pool B Creditors – Creditors whose proofs of debt are properly determined to be for an amount of less than \$15,000 - c. 100 cents on the dollar</p> <p>4. Other Creditors – Creditors other than:</p> <ol style="list-style-type: none"> 1. Pool A Creditors who vote in favour of the DOCA; 2. Pool B Creditors; and 3. Priority Creditors, <p>will receive a rateable distribution up to a maximum amount of 2 cents per dollar owed (if there are funds remaining in the Trust Fund for the Creditors' Trust).</p> <p>The Company will be paid any remaining funds available in the Trust Fund amounts under the Creditors' Trust.</p> <p>For the avoidance of doubt, for the purpose of adjudicating upon proofs of debt and for the purpose of determining whether a creditor is within Pool B, the quantum of the debt owed to that creditor is to be calculated having regard to any payment received by that creditor on 25 November 2019.</p>
Non-Participating Creditors	<ul style="list-style-type: none"> - The following creditors are considered Non-Participating Creditors for the purposes of the DOCA <ol style="list-style-type: none"> 1. The Proponent, IMC Gold and their nominees or related entities including in respect of all Secured and Unsecured Indebtedness and all claims however so arising including: <ul style="list-style-type: none"> • the holders of the Secured Creditors Indebtedness. • IMC's subordinated unsecured claim estimated at \$3M. 2. Current employees of the Company as of the date of Effectuation <ul style="list-style-type: none"> - Non-Participating creditors are not entitled to prove their claim in the Creditors Trust. Claims of the Non-Participating creditors will otherwise be uncompromised and remain on the balance sheet of the Company post-effectuation of the DOCA.
Secured Creditors	IMC and IMC Gold
Ongoing Trade Creditors	<ul style="list-style-type: none"> - The following are creditors which the Company will use its best endeavours to the extent it considers it commercial to do so, to engage the services of post-Effectuation upon the recommencement of operations and who support the DOCA proposal (subject to change depending on support): <ol style="list-style-type: none"> 1. GBF Number 5 Pty Ltd - \$7.8 million 2. Redline Drill and Blast Pty Ltd - \$2.8 million 3. Chichester Metals Pty Ltd - \$1.0 million 4. Rivet Mining Services Pty Ltd - \$0.8 million 5. Cater Care Services Pty Ltd - \$0.5 million 6. UON Pty Ltd – \$0.5 million. <p>(Collectively referred to as the Supporting Creditors)</p>
WPH	If Western Plant Hire WA Pty Ltd (WPH) votes in favour of the DOCA, the Company will release any claims it may have against WPH including but not limited to those arising out of WPH demobilising from the Company's site on or about 22 November 2019 are released.
Establishment of Creditors' Trust	<ul style="list-style-type: none"> - A Creditors' Trust will be established for the purposes of the DOCA, and named Millennium Minerals Limited Creditors' Trust (Creditors' Trust). - The Creditors' Trust will be established for and on behalf of all Participating Creditors. - The Deed Administrators become the Trustees of the Creditors' Trust. The Participating Creditors will become beneficiaries in the Creditors' Trust and will have a right to prove in the Creditors' Trust after the Effectuation.

Key Element	DOCA Proposal
	<ul style="list-style-type: none"> - The Deed Administrators and the Trustees will be entitled to be indemnified out of the Creditors' Trust in the amounts set out above.
Claims	<ul style="list-style-type: none"> - Any claim or cause of action identified by the Company, the Administrators or the Receivers, being a cause of action in favour of the Company or claim by the Company, including but not limited to: <ol style="list-style-type: none"> 1. against any third parties (including in relation to those parties with a Claim who received payments from the Company on 25 November 2019); 2. pursuant to section 437D of the Act; or 3. against any directors and officers of the Company, will in each case remain with the Company and will not form part of the Trust Fund or Available Property. Such causes of action and claims are exclusively available to the Company and are an asset of the Company (including, except to the extent they become released by the Deed Poll, after Effectuation). This extends to the benefit of any causes of action or claims by the Company which pre-appointment insurances may respond to. - Pursuant to the Deed Poll, the Company will release (with effect upon Effectuation) the claims of the Company against parties with a Claim who received payments from the Company on 25 November 2019.
Remuneration	<ul style="list-style-type: none"> - The Trustees' costs and expenses are capped as described above, unless there is a Court challenge to the Trustees' determination of a proof of debt or there is any other dispute in connection with the administration of the Creditors' Trust in which case, the Trustee will be entitled to be indemnified out of the Creditors' Trust.
Deed Administrators / Trustees of the Creditors Trust	<ul style="list-style-type: none"> - Matthew Donnelly and Richard Hughes of Deloitte Financial Advisory Pty Ltd (Administrators) will be the Deed Administrators and will have the necessary powers to administer the DOCA - The Deed Administrators will become the Trustees of the Creditors' Trust.
Distribution of the Trust Fund	<ul style="list-style-type: none"> - The funds held in the Creditors' Trust will be distributed from time to time by the Trustees as soon as reasonably practicable after receipt of funds. - The terms of section 556, 560 and 561 of the Act shall apply as if the references to Liquidator were references to the Trustee, references to winding up were references to the Creditors Trust and with such other modifications as necessary to give the effect to the terms in the DOCA. - Further, sections 444DA and 444DB of the Act will apply to the DOCA.
Termination of the DOCA	<ul style="list-style-type: none"> - The DOCA will terminate upon any of the following events occurring: <ol style="list-style-type: none"> 1. If the Conditions Precedent are not satisfied (or waived to the extent permitted by the DOCA) by 30 April 2020 (or by such later date as the Deed Administrators and the Proponent agree) in accordance with requirements to be set out in the DOCA 2. Court Order 3. Effectuation
Other Terms	<ul style="list-style-type: none"> - Except for paragraphs 3(c), 10 and 11, and except to the extent inconsistent with the terms of this Term Sheet, the terms and conditions in Schedule 8A of the Corporations Regulations apply to and will be incorporated into the DOCA.

Key Element	DOCA Proposal		
	<ul style="list-style-type: none">- The powers of a deed administrator are as set out in the DOCA and also sections of the Act, to the extent that they are applicable. Trusts are not governed by the Act and therefore the powers of trustees are also outside of the Act. Their powers are provided by the general law and the Trustees Act of WA.- The priorities set out in section 556 of the Act shall apply as if references to 'liquidator' were references to the 'Trustees', references to 'winding up' were references to the 'Creditors' Trust' and with such other modifications as are necessary to give effect to the terms of the DOCA.		
Governing Law	<ul style="list-style-type: none">- Western Australia		
Sources and Uses Table	Fund flow	\$ million	Estimated Return
	Sources		
	Funding from IMC	6.20	
	Funding from administrators	1.55	
	Total sources	7.75	
	Uses		
	Employees	5.10	100.0%
	Administrators', Deed Administrators and Trustees' fees, disbursements and legal costs	0.79	
	Supporting Creditors	1.20	10.0%
	Small creditors owed <\$15k	0.55	100.0%
	Other creditors	0.11	1.1%
	Total uses	7.75	

Appendix C – Shareholder Registry

Shareholder	Class	Number	%
J P MORGAN NOMINEES AUSTRALIA PTY LIMITED	ORD	377,857,982.00	42.39%
IMC RESOURCES LTD	ORD	53,476,922.00	6.00%
IMC RESOURCES GOLD HOLDINGS PTE LTD	ORD	24,500,000.00	2.75%
DAVID TEOH	ORD	12,515,020.00	1.40%
CITICORP NOMINEES PTY LIMITED	ORD	11,015,966.00	1.24%
HSBC CUSTODY NOMINEES (AUSTRALIA) LIMITED	ORD	10,055,225.00	1.13%
MR CLAUDE CAINERO & MR HAK HAU KWOK	ORD	8,878,392.00	1.00%
MR GOLSHAN KHAN	ORD	6,780,000.00	0.76%
ROSS SUTHERLAND PROPERTIES PTY LTD	ORD	6,344,890.00	0.71%
MR GREGORY JOHN BITTAR	ORD	5,334,054.00	0.60%
BNP PARIBAS NOMINEES PTY LTD	ORD	4,534,476.00	0.51%
CHANOFF CO PTY LTD	ORD	3,916,441.00	0.44%
LECKFORD PTY LTD	ORD	3,811,656.00	0.43%
COLECO NOMINEES PTY LTD	ORD	3,500,000.00	0.39%
L D & R HOLDINGS PTY LTD	ORD	3,200,000.00	0.36%
MR HAO FAN	ORD	3,098,595.00	0.35%
MS LAY KHENG ONG	ORD	3,000,000.00	0.34%
MR BORIS BENSKY & MRS GALINA BENSKY	ORD	3,000,000.00	0.34%
MR GLENN LESLIE DOVASTON	ORD	2,998,511.00	0.34%
KILTAN PTY LTD	ORD	2,650,000.00	0.30%
MR ADAM JOHN MENAGLIO	ORD	2,600,000.00	0.29%
MR DYLAN COLES	ORD	2,503,881.00	0.28%
LEEJAMES NOMINEES PTY LTD	ORD	2,500,000.00	0.28%
MR DAVID LEROY BOYLES	ORD	2,500,000.00	0.28%
YANDAL INVESTMENTS PTY LTD	ORD	2,454,546.00	0.28%
AMSJ CASH PTY LTD	ORD	2,430,000.00	0.27%
MRS VICKY WEI MIN TEOH	ORD	2,399,626.00	0.27%
IAM EQUITIES PTY LTD	ORD	2,173,295.00	0.24%
MR DEAN ARTHUR HOBDEN	ORD	2,000,000.00	0.22%
MR JOHN MURPHY	ORD	1,831,261.00	0.21%
MR PETER MCDONALD INGLEBY	ORD	1,801,000.00	0.20%
MS BEIQI SUN	ORD	1,750,000.00	0.20%
IAM EQUITIES PTY LTD	ORD	1,742,042.00	0.20%
MR GAVIN DYER & MRS SHERYL DYER	ORD	1,735,323.00	0.19%
TIERRA DE SUENOS SA BETANIA DOS MARES	ORD	1,721,384.00	0.19%
MS AISHA KHAN	ORD	1,717,786.00	0.19%
EPIC CORPORATION PTY LTD	ORD	1,700,000.00	0.19%
MS SERENELLA TONELLO	ORD	1,686,387.00	0.19%
GW & EA THOMAS SUPER PTY LTD	ORD	1,632,896.00	0.18%
BNP PARIBAS NOMS PTY LTD	ORD	1,612,627.00	0.18%
MR HUGH ROBINSON BEGGS	ORD	1,572,476.00	0.18%
MR MICHAEL SKOUENBORG	ORD	1,518,184.00	0.17%
GOT555 PTY LTD	ORD	1,500,000.00	0.17%
LAWSTAR PTY LTD	ORD	1,486,595.00	0.17%
MR RONALD ANDREW GRAHAM	ORD	1,480,000.00	0.17%
MR ZHEN LU	ORD	1,470,000.00	0.16%
CRONEN PTY LTD	ORD	1,430,000.00	0.16%
MR PAUL STUART NICHOLS & MS THERESE MARY NICHOLS	ORD	1,429,090.00	0.16%
ZILSTAME NOMINEES PTY LTD	ORD	1,400,001.00	0.16%
LEET INVESTMENTS PTY LIMITED	ORD	1,350,000.00	0.15%
DR PETER DENNETT MEIER & MRS LYNETTE SUZANNE MEIER	ORD	1,340,000.00	0.15%
ABEH PTY LTD	ORD	1,200,000.00	0.13%
MR LUKE DANIEL COLGAN	ORD	1,191,200.00	0.13%
ALSKYCY PTY LTD	ORD	1,188,000.00	0.13%
MR TREVOR PITMAN	ORD	1,151,345.00	0.13%
BNP PARIBAS NOMS (NZ) LTD	ORD	1,144,743.00	0.13%
HELUSS NOMINEES PTY LTD	ORD	1,113,636.00	0.12%
LAWSTAR PTY LTD	ORD	1,113,636.00	0.12%
MS SERENELLA TONELLO	ORD	1,113,623.00	0.12%
DR KELVIN LO	ORD	1,100,000.00	0.12%
CARPE DIEM ENTERPRISES (QLD) PTY LTD	ORD	1,100,000.00	0.12%
FRIJLINK PTY LTD	ORD	1,093,136.00	0.12%
MUSGRAVE INVESTMENTS PTY LIMITED	ORD	1,044,732.00	0.12%
MR ANTHONY DAVID SMITH	ORD	1,040,000.00	0.12%
OTHER MINORITY SHAREHOLDERS (EACH HOLDING LESS THAN 0.12%)	ORD	621,530,581.00	30.28%

Appendix D – Personal Property Securities Register

Secured Party	PMSI	Collateral class	Registration date
INVESTEC AUSTRALIA LIMITED	N/A	Circulating	27/06/2018
MACQUARIE LEASING PTY LTD	Yes	Non-circulating	30/01/2012
TOYOTA FINANCE AUSTRALIA LTD	Yes	Non-circulating	30/01/2012
ILHA PTY LTD AS TRUSTEE FOR OSBORNE TRUCK RENTALS UNIT TRUST, ILHA PTY LTD	Yes	Non-circulating	25/10/2012
AUTOMOTIVE HOLDINGS GROUP LIMITED	Yes	Non-circulating	26/11/2012
WESTERN PLANT HIRE (WA) PTY LTD	No	Non-circulating	20/05/2013
WESTERN PLANT HIRE (WA) PTY LTD	No	Non-circulating	29/05/2013
WESTERN PLANT HIRE (WA) PTY LTD	Yes	Non-circulating	9/09/2013
WESTERN PLANT HIRE (WA) PTY LTD	Yes	Non-circulating	25/10/2013
WESTERN PLANT HIRE (WA) PTY LTD	Yes	Non-circulating	17/06/2014
ONSITE RENTAL GROUP OPERATIONS PTY LTD	Yes	Non-circulating	14/08/2014
WESTERN PLANT HIRE (WA) PTY LTD	Yes	Non-circulating	26/08/2014
WESTERN PLANT HIRE (WA) PTY LTD	Yes	Non-circulating	26/08/2014
WESTERN PLANT HIRE (WA) PTY LTD	Yes	Non-circulating	7/10/2014
WESTERN PLANT HIRE (WA) PTY LTD	Yes	Non-circulating	30/10/2014
WESTERN PLANT HIRE (WA) PTY LTD	Yes	Non-circulating	30/10/2014
WESTERN PLANT HIRE (WA) PTY LTD	Yes	Non-circulating	30/10/2014
WESTERN PLANT HIRE (WA) PTY LTD	Yes	Non-circulating	30/10/2014
WESTERN PLANT HIRE (WA) PTY LTD	Yes	Non-circulating	21/11/2014
WESTERN PLANT HIRE (WA) PTY LTD	Yes	Non-circulating	24/11/2014
WESTERN PLANT HIRE (WA) PTY LTD	Yes	Non-circulating	19/02/2015
WESTERN PLANT HIRE (WA) PTY LTD	Yes	Non-circulating	19/02/2015
WESTERN PLANT HIRE (WA) PTY LTD	Yes	Non-circulating	1/04/2015
WESTERN PLANT HIRE (WA) PTY LTD	Yes	Non-circulating	2/04/2015
WESTERN PLANT HIRE (WA) PTY LTD	Yes	Non-circulating	18/05/2015
WESTERN PLANT HIRE (WA) PTY LTD	Yes	Non-circulating	16/06/2015
BARROOGHUMBA WPH PTY LTD	Yes	Non-circulating	7/08/2015
BARROOGHUMBA WPH PTY LTD	Yes	Non-circulating	24/09/2015
TOYOTA FINANCE AUSTRALIA LTD	Yes	Non-circulating	8/12/2015
BARROOGHUMBA WPH PTY LTD	Yes	Non-circulating	26/02/2016
BARROOGHUMBA WPH PTY LTD	Yes	Non-circulating	26/02/2016
BARROOGHUMBA WPH PTY LTD	Yes	Non-circulating	26/02/2016
BARROOGHUMBA WPH PTY LTD	Yes	Non-circulating	26/02/2016
FREO GROUP PTY LTD	Yes	Non-circulating	2/12/2016
BARROOGHUMBA WPH PTY LTD	Yes	Non-circulating	8/02/2017
WESTPAC BANKING CORPORATION	No	Non-circulating	30/05/2017
WESTPAC BANKING CORPORATION	No	Non-circulating	30/05/2017
WESTPAC BANKING CORPORATION	No	Non-circulating	30/05/2017
WESTPAC BANKING CORPORATION	No	Non-circulating	30/05/2017
WESTPAC BANKING CORPORATION	No	Non-circulating	30/05/2017
STRIKE DRILLING PTY LTD	Yes	Non-circulating	4/07/2018
COATES HIRE OPERATIONS PTY LIMITED	Yes	Non-circulating	9/08/2018
GBF NUMBER 5 PTY LTD	Yes	Non-circulating	27/05/2019
RIVET MINING SERVICES PTY LTD	Yes	Non-circulating	25/07/2019
Swinney, Ronald Lane, SIMBA HOLDINGS PTY LTD, LIVESTOCK MARKETING PTY. LTD., Young, Duncan Thomas	No	Non-circulating	14/02/2012
TIGER TEK PTY LTD	Yes	Non-circulating	27/02/2012
AUSCO MODULAR PTY LIMITED	Yes	Non-circulating	22/03/2012
PACIFIC ENERGY (KPS) PTY LTD	Yes	Non-circulating	6/08/2012
PROMINENT FLUID CONTROLS PTY LIMITED	Yes	Non-circulating	17/08/2012
FREO GROUP PTY LTD	Yes	Non-circulating	26/06/2013
FUELFIX PTY LTD	Yes	Non-circulating	3/09/2013
CNW PTY LTD	Yes	Non-circulating	9/12/2013
NATIONAL-OILWELL PTY. LTD.	Yes	Non-circulating	19/12/2013
AUTOMOTIVE HOLDINGS GROUP LIMITED	Yes	Non-circulating	3/01/2014
AGGREKO GENERATOR RENTALS PTY. LIMITED	Yes	Non-circulating	14/01/2014
CSBP LIMITED	Yes	Non-circulating	24/01/2014
BOC LIMITED	Yes	Non-circulating	30/01/2014
HAYCARB HOLDINGS (AUSTRALIA) PTY. LIMITED	Yes	Non-circulating	13/03/2014
HAYCARB HOLDINGS (AUSTRALIA) PTY. LIMITED	Yes	Non-circulating	25/03/2014

CENTREL PTY LTD	Yes	Non-circulating	20/05/2014
TOSHIBA INTERNATIONAL CORPORATION PTY LTD	Yes	Non-circulating	26/05/2014
METSO AUSTRALIA LIMITED	No	Non-circulating	25/09/2014
APPLIED INDUSTRIAL TECHNOLOGIES PTY LTD	Yes	Non-circulating	26/09/2014
CASTROL AUSTRALIA PTY. LIMITED	Yes	Non-circulating	29/01/2015
INTEGRATED INDUSTRIAL PTY LTD	Yes	Non-circulating	11/02/2015
AUSDRILL LIMITED, BTP PARTS PTY LTD, SYNEGEX HOLDINGS PTY LTD, BTP EQUIPMENT PTY LTD, ENERGY DRILLING AUSTRALIA PTY LIMITED, SUPPLY DIRECT PTY LTD, DRILL RIGS AUSTRALIA PTY LTD, AUSDRILL NORTHWEST PTY LTD	Yes	Non-circulating	16/03/2015
ENERGY DRILLING AUSTRALIA PTY LIMITED, SUPPLY DIRECT PTY LTD, AUSDRILL NORTHWEST PTY LTD, DRILL RIGS AUSTRALIA PTY LTD, SYNEGEX HOLDINGS PTY LTD, AUSDRILL LIMITED, BTP PARTS PTY LTD, BTP EQUIPMENT PTY LTD	No	Non-circulating	16/03/2015
WEIR MINERALS AUSTRALIA LTD	No	Non-circulating	20/03/2015
AUTOMOTIVE HOLDINGS GROUP LIMITED	Yes	Non-circulating	1/04/2015
WEIR MINERALS AUSTRALIA LTD	No	Non-circulating	20/04/2015
WEIR MINERALS AUSTRALIA LTD	No	Non-circulating	20/04/2015
METAL MANUFACTURES LIMITED	No	Non-circulating	5/05/2015
INTERQUIP PTY LTD	Yes	Non-circulating	8/05/2015
INTERQUIP PTY LTD	Yes	Non-circulating	8/05/2015
WESTERN PLANT HIRE (WA) PTY LTD	Yes	Non-circulating	16/06/2015
HOLCIM (AUSTRALIA) PTY LTD	Yes	Non-circulating	21/07/2015
FUCHS LUBRICANTS (AUSTRALASIA) PTY LTD	Yes	Non-circulating	3/11/2015
TOYOTA FINANCE AUSTRALIA LTD	Yes	Non-circulating	8/12/2015
NATIONAL PUMP & ENERGY LTD	No	Non-circulating	21/03/2016
ELECTRICAL DISTRIBUTORS OF W.A. PTY LTD	Yes	Non-circulating	30/03/2016
ELGAS LIMITED	No	Non-circulating	25/05/2016
WACO KWIKFORM LIMITED	Yes	Non-circulating	1/06/2016
DYNAMICS G-EX PTY LTD	Yes	Non-circulating	19/07/2016
GALVLINE TASMANIA PTY. LTD., DONHAD PTY LTD, GRATINGS DGA PTY LTD, VALMONT GROUP HOLDINGS PTY LTD, VALMONT AUSTRALIA PTY LTD, VALMONT IRRIGATION AUSTRALIA PTY LTD, LOCKER GROUP PTY LTD, WEBFORGE AUSTRALIA PTY LTD, INDUSTRIAL GALVANIZERS CORPORATION PTY LTD, DELTA GALVANIZING PTY. LTD., VALMONT HIGHWAY INTERNATIONAL PTY LIMITED	Yes	Non-circulating	1/08/2016
H-E PARTS INTERNATIONAL CRUSHING SOLUTIONS PTY LTD	Yes	Non-circulating	23/08/2016
CSBP LIMITED	Yes	Non-circulating	17/10/2016
ONSITE RENTAL GROUP OPERATIONS PTY LTD	Yes	Non-circulating	10/11/2016
B P AUSTRALIA PTY LTD	Yes	Non-circulating	24/11/2016
FREO GROUP PTY LTD	Yes	Non-circulating	2/12/2016
CSBP LIMITED, AUSTRALIAN GOLD REAGENTS PTY. LTD.	Yes	Non-circulating	20/12/2016
UON PTY LTD	Yes	Non-circulating	5/01/2017
UON PTY LTD	No	Non-circulating	5/01/2017
ROYAL WOLF TRADING AUSTRALIA PTY LIMITED	Yes	Non-circulating	6/01/2017
BARROOGHUMBA WPH PTY LTD	Yes	Non-circulating	8/02/2017
ELGAS LIMITED	Yes	Non-circulating	1/04/2017
ALFA LAVAL AUSTRALIA PTY LTD	Yes	Non-circulating	24/05/2017
KALGOORLIE CONVEYORS & RUBBER PTY LTD	Yes	Non-circulating	27/08/2017
WESTPAC BANKING CORPORATION	No	Non-circulating	30/08/2017
WESTPAC BANKING CORPORATION	No	Non-circulating	30/08/2017
ACU-TECH PTY LTD, ULTRAPLAST PTY LTD	Yes	Non-circulating	3/10/2017
PLASCORP PTY LTD	Yes	Non-circulating	19/01/2018
STRIKE DRILLING PTY LTD	Yes	Non-circulating	4/07/2018
COATES HIRE OPERATIONS PTY LIMITED	Yes	Non-circulating	9/08/2018
WESTPAC BANKING CORPORATION	Yes	Non-circulating	13/08/2018
THE LIFTING COMPANY PTY LTD, RPC SURFACE TREATMENT PTY LTD, TLC DISTRIBUTION PTY LTD	Yes	Non-circulating	14/08/2018
CASTROL AUSTRALIA PTY. LIMITED	Yes	Non-circulating	21/12/2018
METSO AUSTRALIA LIMITED	Yes	Non-circulating	28/02/2019
GROWTH STEEL AUSTRALIA PTY LTD	Yes	Non-circulating	15/04/2019
GLOBAL SYNTHETICS PTY LTD	Yes	Non-circulating	26/04/2019
GBF NUMBER 5 PTY LTD	Yes	Non-circulating	27/05/2019
RIVET MINING SERVICES PTY LTD	Yes	Non-circulating	25/07/2019
TOSHIBA INTERNATIONAL CORPORATION PTY LTD	Yes	Non-circulating	28/10/2019

Appendix E – Receipts and Payments

Summary of Receipts and Payments To 08 January 2020

RECEIPTS	TOTAL (AUD)
Sales	1,642,245.59
November settlement payments	27,718.57
Cash at Bank	1,251,501.40
	<hr/>
	2,921,465.56
 PAYMENTS	
Electricity	56,222.22
Hire of Equipment	103,336.80
Casual Labour	5,657.14
Insurance Premium Funding	143,128.04
Rent Paid (Commercial)	12,800.76
Sundry Expenses	13,203.52
Superannuation Expense	32,124.62
Telephone & Fax	981.60
Transport / Courier	6,618.76
Wages & Salaries	244,716.38
Bank Charges	8.60
Administrators Remuneration	372,124.50
	<hr/>
	990,922.93
 Balance in Hand	<hr/>
	<u>1,930,542.63</u>

Note:

Gross payments without allowing for GST

Appendix F – ARITA Information Sheet on Offences, Recoverables and Insolvent Trading

Creditor Information Sheet

Offences, Recoverable Transactions and Insolvent Trading



Offences

A summary of offences under the Corporations Act that may be identified by the administrator:

180	Failure by company officers to exercise a reasonable degree of care and diligence in the exercise of their powers and the discharge of their duties.
181	Failure to act in good faith.
182	Making improper use of their position as an officer or employee, to gain, directly or indirectly, an advantage.
183	Making improper use of information acquired by virtue of the officer's position.
184	Reckless or intentional dishonesty in failing to exercise duties in good faith for a proper purpose. Use of position or information dishonestly to gain advantage or cause detriment. This can be a criminal offence.
198G	Performing or exercising a function or power as an officer while a company is under administration.
206A	Contravening a court order against taking part in the management of a corporation.
206A, B	Taking part in the management of corporation while being an insolvent, for example, while bankrupt.
206A, B	Acting as a director or promoter or taking part in the management of a company within five years after conviction or imprisonment for various offences.
209(3)	Dishonest failure to observe requirements on making loans to directors or related companies.
254T	Paying dividends except out of profits.
286	Failure to keep proper accounting records.
312	Obstruction of an auditor.
314-7	Failure to comply with requirements for the preparation of financial statements.
437D(5)	Unauthorised dealing with company's property during administration.
438B(4)	Failure by directors to assist administrator, deliver records and provide information.
438C(5)	Failure to deliver up books and records to the administrator.
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.

Appendix G – November Payees Settlement Schedule

November Payee Settlement Schedule

Creditor	Pool	Total Debt (\$)	November Payee amount received	Debt (after payment) (\$)	Value of settlement (c/\$)
1	A	3,006,736.32	300,000.00	2,706,736.32	10.0
2	A	1,222,139.74	300,000.00	922,139.74	24.5
3	A	1,536,252.21	185,853.00	1,350,399.21	12.1
4	A	776,968.06	71,387.00	705,581.06	9.2
5	A	477,391.83	59,007.00	418,384.83	12.4
6	B	34,817.50	13,945.00	20,872.50	40.1
7	B	11,983.40	11,983.00	0.40	100.0
8	B	12,199.19	4,883.00	7,316.19	40.0
9	B	7,970.44	4,790.00	3,180.44	60.1
10	B	11,426.72	4,693.00	6,733.72	41.1
11	B	8,862.40	4,689.00	4,173.40	52.9
12	B	7,152.90	4,360.00	2,792.90	61.0
13	B	9,754.00	3,099.00	6,655.00	31.8
14	B	7,023.29	3,021.00	4,002.29	43.0
15	Residual	299,169.66	152,088.00	147,081.66	50.8
16	Residual	402,830.08	130,148.00	272,682.08	32.3
17	Residual	147,483.00	58,559.00	88,924.00	39.7
18	Residual	157,806.67	58,528.00	99,278.67	37.1
19	Residual	426,605.97	45,470.00	381,135.97	10.7
20	Residual	123,376.98	41,974.00	81,402.98	34.0
21	Residual	93,621.06	35,783.00	57,838.06	38.2
22	Residual	102,388.25	35,654.00	66,734.25	34.8
23	Residual	110,707.73	34,044.00	76,663.73	30.8
24	Residual	116,597.87	32,853.00	83,744.87	28.2
25	Residual	121,057.29	28,174.00	92,883.29	23.3
26	Residual	42,103.60	27,599.00	14,504.60	65.6
27	Residual	73,109.34	24,403.00	48,706.34	33.4
28	Residual	84,065.57	21,202.00	62,863.57	25.2
29	Residual	90,242.78	20,508.00	69,734.78	22.7
30	Residual	63,081.98	12,958.00	50,123.98	20.5
31	Residual	43,065.00	12,760.00	30,305.00	29.6
32	Residual	66,736.57	10,893.00	55,843.57	16.3
33	Residual	33,880.00	7,920.00	25,960.00	23.4
34	Residual	20,909.73	7,147.00	13,762.73	34.2
35	Residual	36,087.03	3,698.00	32,389.03	10.2
36	N/A	177,468.00	177,468.00	-	100.0
37	N/A	88,704.00	88,704.00	-	100.0
38	N/A	74,924.00	74,924.00	-	100.0
39	N/A	53,736.00	53,736.00	-	100.0
40	N/A	45,378.00	45,378.00	-	100.0
41	N/A	14,685.00	14,685.00	-	100.0
42	N/A	9,680.00	9,680.00	-	100.0
43	N/A	8,536.00	8,536.00	-	100.0
44	N/A	3,227.00	3,227.00	-	100.0
45	N/A	1,430.00	1,430.00	-	100.0
46	N/A	1,335.00	1,335.00	-	100.0
TOTAL		9,785,604.16	1,774,073.00	8,011,531.16	

Appendix H – ASIC Information Sheet on Creditors' Trusts



ASIC
Australian Securities &
Investments Commission

REGULATORY GUIDE 82

External administration: Deeds of company arrangement involving a creditors' trust

December 2018

About this guide

This guide is for registered liquidators appointed under Pt 5.3A of the Corporations Act as a voluntary administrator or deed administrator (administrator).

It explains:

- our interpretation of administrators' obligations under the Corporations Act and the general law where they are considering a proposed deed of company arrangement (DOCA) or a proposed variation of a DOCA (collectively, a DOCA proposal) involving a creditors' trust; and
- in particular, the information that we consider is material to creditors and should therefore be disclosed when a DOCA proposal involves a creditors' trust.

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Document history

This guide was issued in December 2018 and is based on legislation and regulations as at the date of issue.

Previous versions:

- Superseded Guide 220, issued May 2005, rebadged as Regulatory Guide 82 on 5 July 2007

Disclaimer

This guide does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act and other applicable laws apply to you, as it is your responsibility to determine your obligations.

Examples in this guide are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

Contents

A	Overview	4
	DOCAs and creditors' trusts	4
	Administrators' obligations about using creditors' trusts	4
B	DOCAs and creditors' trusts	6
	What is a creditors' trust?	6
	What are the special risks for creditors?	7
	'Holding' DOCAs	8
C	Administrators' obligations about creditors' trusts	9
	What are the obligations of administrators?	9
D	Disclosing material information	13
	What is material information?	13
	Reasons	15
	Key events	16
	Return to creditors	16
	Trustee particulars	17
	Remuneration and expenses	17
	Indemnities	18
	Powers	18
	Claims	18
	Other creditor/beneficiary differences	19
	Fair Entitlements Guarantee scheme	20
	Compliance opinion	20
	Solvency statement	20
	Taxation issues for company and trust	21
	Taxation issues for individual creditor/beneficiary	21
	Other issues	21
	Key terms	22
	Related information	23

A Overview

Key points

A creditors' trust in a deed of company arrangement (DOCA) is a mechanism that is used to accelerate a company's exit from external administration.

It is important that voluntary administrators and deed administrators (administrators) are aware of their obligations and properly consider all the relevant issues raised by the use of a creditors' trust.

This guide indicates how we think administrators will adequately and properly perform all their duties and functions when a DOCA proposal involves a creditors' trust.

DOCAs and creditors' trusts

- RG 82.1 A creditors' trust in a DOCA is a mechanism used to accelerate a company's exit from external administration: see RG 82.6–RG 82.11.
- RG 82.2 We have issued this guide to outline our views on the use of creditors' trusts and indicate our interpretation of adequate and proper performance by administrators of their duties and functions in this situation.

Administrators' obligations about using creditors' trusts

- RG 82.3 Administrators should be aware of and properly consider all the relevant issues raised by the use of a creditors' trust, to avoid:
- (a) submitting a DOCA proposal to creditors that involves a creditors' trust without properly considering whether such an arrangement is appropriate in the company's circumstances;
 - (b) failing to disclose all the material information about the creditors' trust and its implications; and/or
 - (c) making an inappropriate recommendation about the DOCA proposal.

Is a creditors' trust appropriate in this situation?

- RG 82.4 We consider that DOCA proposals should not involve creditors' trusts unless administrators have:
- (a) adequately considered the appropriateness of using a creditors' trust in the particular case; and

- (b) disclosed all material information about the creditors' trust and its implications to enable creditors to consider the advantages and disadvantages for the company, the creditors and the administrator.

RG 82.5 DOCAs involving a creditors' trust create special risks for creditors. Once the creditors' trust has been constituted and the DOCA terminates, the arrangement is no longer governed by Pt 5.3A of the *Corporations Act 2001* (Corporations Act) and the protective mechanisms of that part—including the supervisory and remedial jurisdiction of the courts—cease to apply. Administrators recommending a creditors' trust bear a heavy burden of explaining to creditors the implications of adopting such a proposal.

B DOCA and creditors' trusts

Key points

A creditors' trust in a DOCA is a mechanism used to accelerate a company's exit from external administration.

The company and/or third parties promise to make payment (or transfer other property) to the trustee to satisfy the creditors' claims, and to extinguish their rights, against the company.

We consider that there are different and additional risks for creditors where a DOCA proposal involves a creditors' trust.

We are aware that creditors (particularly of large companies) have been asked to approve a 'holding' DOCA.

What is a creditors' trust?

- RG 82.6 A creditors' trust in a DOCA is a mechanism used to accelerate a company's exit from external administration. It has been used most commonly (but not exclusively) in connection with the rehabilitation of public companies listed on ASX. In some cases, this leads to a 'backdoor' listing.
- RG 82.7 Typically, under the terms of the DOCA and one or more interconnected deeds, a trust entity is created and the company's obligations to some or all of the creditors bound by the DOCA are compromised and transferred to the trust. Those creditors become beneficiaries of the trust. Occasionally, there may be separate creditors' trusts for employee and non-employee creditors, or for secured and unsecured creditors.
- RG 82.8 The company and/or third parties promise to make one or more payments (or transfer other property) to the trustee to satisfy the creditors' claims against the company. In return, the creditors' rights against the company are extinguished.
- RG 82.9 The trustee of the new trust becomes solely responsible to the former creditors (now beneficiaries) for:
- (a) ensuring that the company and/or other third parties perform their payment and other obligations to the trustee;
 - (b) determining how much each of the former creditors is entitled to receive from the trust; and
 - (c) in due course, making any distribution to those former creditors.

- RG 82.10 Usually, the DOCA is 'effectuated' (and terminates) after the creditors' claims against the company have been removed in this way. In most cases, the DOCA terminates immediately on creation of the trust, which usually occurs when or shortly after the DOCA is executed.
- RG 82.11 When the DOCA terminates, the company ceases to be externally administered, the directors regain full control of the company and the company is no longer required to use the notification 'subject to deed of company arrangement' on its public documents (as otherwise would be required by s450E(2) of the Corporations Act).

What are the special risks for creditors?

- RG 82.12 We consider that there are different and additional risks for creditors where a DOCA proposal involves a creditors' trust. The significance of the risks in a particular case will depend on the quality of the information the administrator provides to creditors and the actual terms of the DOCA, trust deed and any other related documentation.
- RG 82.13 The key additional risks are that:
- (a) under the DOCA proposal, the DOCA may be effectuated and creditors' rights against the company extinguished before:
 - (i) the amount available for distribution to creditors of the company/beneficiaries of the trust has been ascertained;
 - (ii) the trust fund has been received in full by the trustee; or
 - (iii) creditors of the company/beneficiaries of the trust have received any payment from either the deed administrator or the trustee;
 - (b) creditors may have fewer (or, in some circumstances, no) legal rights if the DOCA proposal is not fully complied with by all relevant parties; and
 - (c) creditors may agree to the DOCA proposal without being aware (or fully appreciating the implications) of these matters.
- RG 82.14 The following factors increase the severity of these risks:
- (a) creditors' lack of knowledge and inexperience;

Note: The use of a creditors' trust in a DOCA will be beyond the reasonable knowledge or experience of most creditors bound by the DOCA. Creditors (particularly unsecured creditors) of an insolvent company usually have limited knowledge of (or previous experience with) corporate insolvency laws and processes. Any previous experience is likely to be with the Corporations Act and ASIC as the relevant regulator, and they will generally expect their claims against the company and their dealings with the external administrator to be governed by the Corporations Act. Many creditors will have no or limited knowledge of trust law.

- (b) inadequate disclosure by administrators of material information about the DOCA proposal;
- (c) the additional complexity of the legal and documentary arrangements needed to support the use of a creditors' trust under a DOCA;
- (d) the trustee's identity, skills, remuneration and insurance arrangements;
- (e) non-uniformity of the state and territory Trustee Acts governing trusts and trustees;
- (f) differences in the ways trustees and registered liquidators are regulated and supervised, particularly by ASIC and the courts;
- (g) potential difficulties for ASIC and creditors (as beneficiaries of the trust) in monitoring and enforcing proper conduct by the trustee; and
- (h) legal uncertainties and other issues for ASIC, creditors bound by the DOCA or other persons in challenging a DOCA that has already terminated.

'Holding' DOCAs

RG 82.15 Creditors are sometimes asked to approve a 'holding' DOCA. A holding DOCA may be proposed when it is not in the interests of creditors that the administration end, nor that the company be wound up. Holding DOCAs give a voluntary administrator more time to develop proposals for restructuring or otherwise resuscitating the company. Where this is the case, the voluntary administrator does not need to seek an extension from the court of the convening period for the second creditors' meeting under s439A.

Note: See *Mighty River International Limited v Hughes* [2018] HCA 38.

RG 82.16 Generally, we think a holding DOCA should not propose the subsequent creation of a creditor's trust unless all the information specified in this guide is provided to creditors voting on the holding DOCA. We think it is unlikely that information will be available to a voluntary administrator at the time of proposing a holding DOCA, given the nature and purpose of a 'holding' DOCA. In our view, the appropriate course is to obtain express creditor approval of the creditors' trust by means of a formal variation of the DOCA when that information is available.

RG 82.17 Where a holding DOCA is proposed, we consider that its terms should:

- (a) exclude an open-ended or very lengthy period to formulate a concrete proposal for continuing the company or its business; and
- (b) include a program for interim reporting to creditors on steps taken and results obtained by the deed administrator, so that creditors can monitor the deed administrator's efforts.

C Administrators' obligations about creditors' trusts

Key points

Administrators have an overriding obligation to perform their duties and functions adequately and properly. Where a DOCA proposal is concerned, we consider that an administrator who is fulfilling this obligation will:

- evaluate the proposal before submitting it to creditors (see RG 82.20–RG 82.23);
- disclose all material information about the proposal to creditors (see RG 82.24–RG 82.27), and
- express an opinion about the proposal that adequately protects the interests of creditors (see RG 82.28–RG 82.30).

Administrators may be subject to disciplinary or other action if they do not fulfil their obligations when a DOCA proposal involving a creditors' trust is put to creditors.

What are the obligations of administrators?

- RG 82.18 Administrators have an overriding obligation to perform their duties and functions adequately and properly. This includes ensuring that the interests of creditors are adequately protected. Where a DOCA proposal is concerned, we consider that an administrator who is fulfilling this obligation will:
- (a) evaluate the proposal before submitting it to creditors (see RG 82.20–RG 82.23);
 - (b) disclose all material information about the proposal to creditors (see RG 82.24–RG 82.26); and
 - (c) express an opinion about the proposal that adequately protects the interests of creditors (see RG 82.28).
- RG 000.19 Administrators may be subject to disciplinary or other action if they do not fulfil their obligations when a DOCA proposal involving a creditors' trust is put to creditors.

Evaluating the proposal

- RG 82.20 Before submitting any DOCA proposal to creditors, administrators should consider whether the proposal is suitable to submit. For example, it will rarely be appropriate for an administrator to submit a DOCA proposal to creditors where the administrator does not have sufficient concrete details to comply with all of their disclosure obligations: see RG 82.24–RG 82.26.

RG 82.21 Where the DOCA proposal involves a creditors' trust, administrators should specifically consider whether such a mechanism is appropriate in the company's circumstances. We think this includes considering whether the DOCA proposal (if accepted) may be an abuse of Pt 5.3A or otherwise contrary to the public interest. If so, it may be appropriate for the administrator to seek directions from the court before submitting the DOCA proposal to creditors.

RG 82.22 Section 435A sets out the policy objective of Pt 5.3A:

... for the business, property and affairs of an insolvent company to be administered in a way that:

- (a) maximises the chances of the company, or as much as possible of its business, continuing in existence; or
- (b) if it is not possible for the company or its business to continue in existence, results in a better return for the company's creditors and members than would result from an immediate winding up of the company.

RG 82.23 We consider that any mechanism for a creditors' trust should only be included in a DOCA:

- (a) when there is a sound commercial reason that persuades the administrators that in all the circumstances it is in the best interests of creditors to adopt a DOCA with a creditors' trust—to obtain a better return than from an immediate winding-up;
- (b) if it is consistent with the policy objective of Pt 5.3A, as outlined in s435A; and
- (c) if it is consistent with the public interest.

Note 1: We consider, for example, that it is likely to be an abuse of Pt 5.3A, or otherwise contrary to the public interest, for a DOCA to involve a creditors' trust where the DOCA proposal contemplates that the company would or could (after the DOCA has been effectuated in accordance with its terms) continue in existence in an insolvent financial condition. See Australian Law Reform Commission, [Report No. 45, General Insolvency Inquiry](#), 13 December 1988 (the Harmer Report), vol. 1, pp. 62–63.

Note 2: See *Re Beville Pty Ltd (in voluntary administration)* [2011] NSWSC 417. Regarding the importance of the statutory regime under Pt 5.3A and the protections or advantages provided to creditors see also *Sydney Land Corp P/L v Kalon P/L* (1998) 26 ACSR 427 at 430, *Young v Sherman* (2002) 170 FLR 86, *Bovis Lend Lease P/L v Wily* (2003) 45 ACSR 612 and *Blacktown City Council v Macarthur Telecommunications P/L* (2004) 47 ACSR 391.

Disclosing material information

RG 82.24 Section 75–225 of the Insolvency Practice Rules (Corporations) 2016 (Insolvency Practice Rules) sets out matters that a voluntary administrator must include in their report and statement that accompany the notice of the second meeting of creditors convened under s439A of the Corporations Act.

The report must contain all information that is material to the creditors' decision, including material details of what a proposed DOCA will contain.

Note: See *M&S Butler Investments Pty Ltd v Granny May's Franchising Pty Ltd* (1997) 24 ACSR 695 and *Commissioner of Taxation v Comcorp Australia Ltd* (1996) 70 FCR 356; 21 ACSR 590 which were decided under the predecessor to s75–225 of the Insolvency Practice Rules and s439A(4) of the Corporations Act.

- RG 82.25 Section 445D of the Corporations Act reinforces the disclosure obligations of administrators by providing that the court may terminate a DOCA if (among other things) information that is material to the creditors' decision to approve the proposed DOCA was omitted or was false or misleading.
- RG 82.26 When submitting a DOCA proposal to creditors that involves a creditors' trust, administrators should disclose all the information that is material to the creditors' decision about whether to accept the particular risks associated with the proposal. In Section D, we set out the information we think is material to that decision.

Disclosure before variation of DOCA

- RG 82.27 We consider that deed administrators have an implied obligation to include similar matters in the documents that accompany a notice of meeting when a DOCA variation is proposed.

Expressing an opinion that protects creditors' interests

- RG 82.28 Administrators have an obligation to provide creditors with a statement setting out (among other things) the administrator's opinion about whether it would be in the creditors' interests for the company to execute a proposed DOCA or DOCA variation and the reasons for that opinion: see s75–225(3)(b) of the Insolvency Practice Rules and RG 82.27.
- RG 82.29 Where a DOCA proposal involves a creditors' trust, we consider that administrators fulfilling this obligation will discuss the advantages and disadvantages for creditors of the proposed creditors' trust when making their recommendation.
- RG 82.30 We also consider that the obligation to ensure the interests of creditors are adequately protected means that there are some circumstances when an administrator should not recommend that creditors approve a DOCA proposal involving a creditors' trust: see Table 1.

Table 1: Examples of circumstances when an administrator should not recommend a proposal involving a creditors' trust

Circumstance	Details
The proposed value of the creditors' trust fund cannot be reasonably estimated	<p>When the proposed value of the creditors' trust fund cannot be reasonably estimated at the time the proposal will be voted on by the creditors. This is because the amount that may become available to the creditors (as beneficiaries of the trust) will be so speculative that it will never be in the creditors' interests for the company to execute a DOCA that terminates, almost immediately, their status and rights as creditors.</p> <p>Note: DOCAs that do not involve a creditors' trust may, in some cases, propose a return to creditors that could be described as speculative. However, in those cases, the interests of creditors are different because the creditors' status as creditors (and their rights against the company under Pt 5.3A) will not be prematurely extinguished as may occur when a creditors' trust is used.</p>
There is concern about whether the trustee will receive all of the trust fund	<p>When the administrator has reason for concern about whether the trustee will receive all of the trust fund, or at least adequate and enforceable security for the trust fund, before the DOCA terminates and the creditors' rights (as creditors) against the company are extinguished. This is because it will rarely be in the creditors' interests to place on them (and the trustee) all the risks of failure of the trust if there is future non-performance of obligations undertaken under the DOCA by the company or a third party.</p> <p>Note: See also <i>Kalon v Sydney Land Corp P/L</i> (1998) 26 ACSR 593 upholding <i>Sydney Land Corp P/L v Kalon P/L</i> (1998) 26 ACSR 427.</p>
The DOCA or trust deed provisions will permit the trustee (or any replacement trustee) of the creditors' trust to be a person who does not have the necessary skills and experience	<p>When the DOCA or trust deed provisions will permit the trustee (or any replacement trustee) of the creditors' trust to be a person who does not have the necessary skills and experience or is otherwise unsuitable to be the trustee. The risk to creditors from an unsuitable trustee is severe. In our view, the interests of creditors are likely to be adequately protected if the trustee of the creditors' trust is a registered liquidator, but will never be adequately protected if the trustee will or could be the company the subject of the proposed DOCA.</p> <p>Note: This does not imply that the trustee should always be the same person as the deed administrator; the trustee could be another registered liquidator.</p>
Concern about adequate civil liability insurance for the trustee	<p>When there is reason for concern about whether the proposed trustee will have adequate civil liability insurance for their conduct as trustee of the creditors' trust.</p>
DOCA/trust will not provide rights at least as favourable as rights of creditors under the Corporations Act	<p>When the DOCA and/or the trust deed will not provide processes and rights that are at least as favourable to the beneficiaries as the processes for and rights of creditors under the Corporations Act.</p>
Concrete details about the proposed structure and terms of the DOCA and trust deed cannot be provided	<p>When concrete details about the proposed structure and terms of the DOCA and trust deed cannot be provided. Because of the additional complexity of creditors' trust arrangements, we do not consider that a broad outline of the proposed DOCA and proposed creditors' trust deed is sufficient. In practical terms, we think it is unlikely that administrators will be able to satisfy their disclosure obligations to creditors unless a draft DOCA and a draft trust deed have been prepared.</p> <p>Note: See also <i>Kirwan v Cresvale Far East Ltd (in liq)</i> [2002] NSWCA 395 at [382] per Young CJ; (2003) 44 ACSR 21 and <i>Commissioner of Taxation v Comcorp Australia Ltd</i> (1996) 70 FCR 356 at 389; 21 ACSR 590 at 624.</p>

D Disclosing material information

Key points

Administrators have an obligation to give creditors material information that will enable them to understand a DOCA proposal for a creditors' trust and make an informed decision whether to approve it.

Table 2 lists some of the types of information we consider an administrator must disclose to creditors and/or express an opinion about.

What is material information?

RG 82.31 Administrators have an obligation to give creditors material information that will enable them to:

- (a) understand a DOCA proposal; and
- (b) appreciate the legal and practical implications for them of authorising the company to execute the proposed DOCA (or DOCA variation).

RG 82.32 In this section, we set out what we think is material information when a DOCA proposal involves a creditors' trust. Depending on the particular case, administrators may also need to disclose other material information.

Note: Parts of this section may also be relevant to DOCAs that do not involve a creditors' trust.

RG 82.33 The information should be set out in the report and statement made under s75–225 of the Insolvency Practice Rules (or explanation that accompanies the notice of meeting where a DOCA variation is proposed) as simply, clearly and succinctly as possible in the circumstances.

RG 82.34 When the DOCA proposal involves a creditors' trust, we consider this obligation means that information should be provided that enables creditors to understand the actual and potential implications and specific risks for them of the proposed creditors' trust arrangements. Creditors should be able to make a realistic and informed assessment of the proposal and whether they should approve it (including, but not limited to, whether they are likely to receive a better return under the particular DOCA proposal, under a DOCA that does not involve a creditors' trust, or under a winding-up). In *Parkview Constructions Pty Ltd v Tayeh and Others* [2009] NSWSC 186 at [76], Justice Barrett said that:

Administrators recommending to creditors the adoption of a deed of company arrangement that will give birth immediately to a creditors' trust and then itself promptly die bear a heavy burden of explaining to creditors

the implications of the shift from a regime incorporating a court administered scheme of creditor protection to one in which creditors become passive trust beneficiaries.

- RG 82.35 Much of the information that we think should be provided to creditors will describe the administrator's understanding of the law. Therefore, we consider that administrators should base such information on legal advice received by them that is applicable to the particular DOCA proposal.
- RG 82.36 Because of the additional complexity involved in a DOCA proposal involving a creditors' trust, we consider that creditors should be given adequate opportunity to obtain (if they wish) professional advice about the proposal, its implications and risks before they vote on the proposal. This may affect the appropriate period of notice of a meeting, the need for an extension of the convening period, or the need for an adjournment of the meeting.
- RG 82.37 ASIC, creditors and the public can only properly understand the DOCA by also understanding the associated arrangements. Where a DOCA (or DOCA variation) involving a creditors' trust is approved and executed, we expect administrators to lodge the DOCA (or DOCA variation) with ASIC, as well as lodging:
- (a) a copy of the creditors' trust deed; and
 - (b) any other associated document (such as an 'implementation deed') that is referred to in the DOCA or is otherwise necessary to support the creditors' trust arrangements.

Table 2: Material information to disclose to creditors

Information	Description	Reference
Reasons	The reasons why the DOCA proposal involves a creditors' trust	RG 82.38–RG 82.40
Key events	The anticipated sequence of key events if the DOCA proposal is approved, and the implications for creditors	RG 82.41–RG 82.42
Return	The anticipated return to creditors/beneficiaries	RG 82.43
Trustee particulars	The identity, skills, experience and insurance of the proposed trustee	RG 82.44
Remuneration	The proposed remuneration and expenses of the deed administrator and trustee	RG 82.46–RG 82.47
Indemnities	Details of any indemnities for fees or liabilities	RG 82.48
Powers	The differences between the powers of a deed administrator under the Corporations Act and the trustee under the DOCA proposal	RG 82.49–RG 82.50

Information	Description	Reference
Claims	How creditors' claims will be dealt with under the DOCA proposal and in what priority	RG 82.51–RG 82.52
Other creditor/beneficiary differences	A comparison of the protections and rights of creditors under the Corporations Act and of beneficiaries under the DOCA proposal	RG 82.53–RG 82.56
Fair Entitlements Guarantee scheme (FEG)	Any effect on employee entitlements under FEG	RG 82.57
Compliance opinion	An opinion on the capability of the company (and relevant third parties) to comply with obligations to the trustee	RG 82.58
Solvency statement	The basis for an opinion that the company will be solvent at the date of effectuation of the DOCA	RG 82.59
Tax issues for company/trust	Details of the taxation and stamp duty implications for the company and the trust	RG 82.61
Tax issues for individual creditor/beneficiary	Potential differences in taxation implications for creditors and beneficiaries	RG 82.62
Other	Any other material aspects or implications	RG 82.63–RG 82.64

Reasons

- RG 82.38 Administrators should provide an explanation of the reasons why the DOCA proposal involves a creditors' trust, instead of a DOCA where creditors' claims and rights would be dealt with directly under the DOCA and the Corporations Act.
- RG 82.39 We expect this explanation to include identification of any legal or commercial reasons, and a discussion of why it is considered to be in the interests of creditors as a whole to use the proposed creditors' trust.
- RG 82.40 If one of the stated reasons is to enable listing of the company or re-quotation of the company's financial products on a financial market such as ASX, the administrator should also provide details of:
- the market operator's requirements for listing or re-quotation and how it is proposed that the company would meet those requirements; and
 - how and why listing or re-quotation would be in the interests of the creditors (as opposed to the directors, shareholders or some other party).

Key events

- RG 82.41 Administrators should explain the anticipated sequence and relative timing for each of the following key events if the DOCA proposal is approved, and the implications of each event for creditors:
- (a) execution of the DOCA;
 - (b) creation of the creditors' trust;
 - (c) termination of the DOCA;
 - (d) receipt of the creditors' trust fund by the trustee; and
 - (e) distribution to creditors/beneficiaries.
- RG 82.42 The explanation of implications should include the nature of the legal relationship of the creditors to the company after each event (and specifically, when they would cease to be creditors), and what will happen if any of these events, or their timing, does not occur as anticipated.

Return to creditors

- RG 82.43 Administrators should provide information about the anticipated return to creditors/beneficiaries under the DOCA proposal, including:
- (a) the anticipated date(s) when the trust fund will be received by the trustee and from which sources;
 - (b) the anticipated value of the total trust fund and of the portion that would be available for distribution to beneficiaries, with an explanation of any difference in those values;
- Note: See also Table 1.
- (c) the anticipated date(s) for distribution by the trustee to the beneficiaries;
 - (d) the anticipated rate(s) of distribution by the trustee;
 - (e) risks to creditors/beneficiaries associated with any delay in receipt of the trust fund by the trustee, or in distribution by the trustee to the beneficiaries; and
 - (f) the potential return to creditors if the DOCA proposal did not involve a creditors' trust.

Note: We consider that the information in this paragraph should be linked to other information provided (e.g. information about remuneration, expenses and taxation) so that creditors are able to identify and weigh up the additional overall costs involved because of the creditors' trust and any potential increase in the distribution to them, against the likelihood of, and any delay in, receiving that distribution.

Trustee particulars

- RG 82.44 Administrators should provide information about the proposed trustee, including:
- (a) why that trustee is proposed and is considered appropriate, with details of their qualifications, skills and relevant experience to perform the duties and functions they will have as trustee of the creditors' trust;
- Note: See also Table 1.
- (b) whether the DOCA proposal requires the trustee (and any replacement trustee) of the creditors' trust to be the deed administrator or other person registered by ASIC under s20–30 of Sch 2 to the Corporations Act as a liquidator;
 - (c) whether ASIC or any other government regulator will have supervisory powers over conduct by the proposed trustee in that capacity, and if so, the nature of those powers;
- Note: Administrators should note our view that ASIC has certain supervisory powers under Div 40 of Sch 2 to the Corporations Act over conduct by the trustee where the DOCA and trust deed provide that the trustee is a registered liquidator.
- (d) whether the proposed trustee would have any potential conflict of interests when acting as trustee, and, if so, the nature of the conflict and how it would be managed; and
 - (e) whether the proposed trustee has civil liability insurance (including professional indemnity and fidelity) that will cover conduct by them in their capacity as trustee of the proposed trust, and the nature and aggregate value of any such insurance.
- Note: See also Table 1 and RG 82.45.
- RG 82.45 If the proposed trustee is a registered liquidator, administrators should confirm whether that insurance policy covers conduct by the registered liquidator in the capacity of trustee. If not, additional insurance would be needed.

Remuneration and expenses

- RG 82.46 Administrators should provide details of the remuneration and anticipated expenses of the deed administrator and proposed trustee, and a comparison of the remuneration process for the deed administrator and the trustee.
- RG 82.47 The information should cover:
- (a) how and when the deed administrator and trustee would be paid and at what rates;

- (b) the effect of the fees and expenses of each of the deed administrator and trustee on the anticipated distribution to beneficiaries of the trust (see also RG 82.43). This includes identifying any additional fees and expenses involved because of the use of a creditors' trust (such as through duplication of activity); and
- (c) the rights that beneficiaries would have to approve and/or challenge fees charged by the trustee (including what law and courts would decide those rights), compared with the rights they would have as creditors of a company subject to a DOCA.

Note: See also Table 1.

Indemnities

- RG 82.48 Administrators should provide the details and implications for creditors/beneficiaries of any indemnity for fees or liabilities that has been (or will be) provided to the deed administrator or trustee, including the relationship between the indemnifier, the company, the deed administrator and the trustee. This includes any indemnity or lien in favour of the deed administrator or trustee over the assets of the company or over the trust fund under the proposed terms of the DOCA or trust deed.

Powers

- RG 82.49 Administrators should explain the differences between the powers of a deed administrator under the Corporations Act and the powers the trustee would have under the proposed trust deed and the relevant state or territory Trustee Act.
- RG 82.50 This includes identification of any likely deficiencies in the powers of the trustee to perform the functions envisaged under the proposed trust deed, and which may lead to applications to court (and associated costs) by the trustee that would not be necessary for a deed administrator.

Claims

- RG 82.51 Administrators should explain how creditors' claims against the company will be dealt with under the DOCA proposal and in what priority. This includes whether the value of those claims will be determined by the deed administrator or by the trustee. If by the trustee, there should be an explanation of what the process of determination will be and confirmation that the trustee will have unrestricted and free access to all the books and records of the company necessary to determine claims.

- RG 82.52 If unsecured creditors' priorities (as beneficiaries of the trust) will not follow the priorities set out in s556 of the Corporations Act, the nature of and reasons for the divergence from s556 should be explained. If the claims adjudication processes by the trustee and the associated rights of beneficiaries would differ from the processes and rights under the Corporations Act for creditors' claims, the differences and their implications for beneficiaries should also be explained.

Note: See also Table 1.

Other creditor/beneficiary differences

- RG 82.53 The difference between Pt 5.3 of the Corporations Act, a creditors' trust and general trust law must be drawn to the attention of creditors. The use of a creditors' trust results in the loss of court supervision under the Corporations Act. Although courts can still provide relief under the general law of trusts, the safeguards available to creditors under Pt 5.3A are no longer available.
- RG 82.54 Administrators should provide a comparison of the protections and rights that creditors would have under the Corporations Act as creditors of a company subject to a DOCA, and the protections and rights they would have as beneficiaries of the proposed creditors' trust.
- RG 82.55 In relation to creditors, we expect this comparison to include explanation of the ability of a creditor to:
- (a) challenge decisions, actions or omissions by a deed administrator, including decisions about the value of their claim against the company;
 - (b) be informed (including through reports to creditors, meetings of creditors, and lodgement of statements of receipts and payments with ASIC, where these are required) about the progress of the external administration;
 - (c) require a deed administrator to call a meeting of creditors to put a resolution to vary or terminate a DOCA;
 - (d) apply to the court for the DOCA to be varied, terminated or avoided; and
 - (e) complain to ASIC about conduct by the deed administrator.
- RG 82.56 In relation to beneficiaries of the proposed trust, we expect this comparison to include explanation of:
- (a) the law that would govern interpretation of the trust deed and the trustee's powers and duties;
 - (b) how beneficiaries, individually and collectively, would be able to monitor and enforce compliance by the trustee, the company and any relevant third parties with the terms of the DOCA, the trust deed and any 'implementation deed' or other document setting out obligations

connected with the creditors' trust. This includes the rights that beneficiaries would have (and against whom) if any part of the trust fund is not paid to the trustee in accordance with the proposed DOCA, trust deed or other aspect of the arrangements;

- (c) the rights that a beneficiary would have to challenge decisions, actions or omissions by the trustee, including decisions about the value of their entitlement to a distribution out of the trust fund;
- (d) how, when and by whom the terms of the trust deed could be varied, including the rights that a beneficiary would have to call, or require the trustee to call, a meeting of beneficiaries to vary or terminate the trust deed; and
- (e) how, and to which supervisory body, a beneficiary could complain about decisions or other conduct by the trustee.

Fair Entitlements Guarantee scheme

RG 82.57 Administrators should disclose the effect (if any) for employee creditors of becoming a beneficiary of a creditors' trust on their rights under the FEG, or on the Australian Government's rights of subrogation under FEG.

Compliance opinion

RG 82.58 Administrators should state:

- (a) the inquiries they have made about the capability (including financial capability) of the company and any relevant third party to comply with their obligations under the DOCA proposal;
- (b) the information they have received in response to those inquiries; and
- (c) based on this information, their opinion on whether the company (and any relevant third party) is capable of complying and is likely to comply with its obligations to the trustee, if the DOCA proposal is approved by creditors.

Note: See also Table 1.

Solvency statement

RG 82.59 Administrators should state the reasons why they have formed the opinion that the company will be solvent at the date of effectuation of the DOCA, if the DOCA is wholly effectuated on the terms proposed.

RG 82.60 An administrator who has not formed or cannot form this opinion should re-evaluate the proposal: see RG 82.23.

Taxation issues for company and trust

RG 82.61 Administrators should provide details of the taxation (including capital gains tax), stamp duty and other financial implications for the company and for the trust of:

- (a) establishing the trust;

Note: Trusts are entities that are subject to Australian Business Number (ABN) registration requirements and to Australian income tax legislation.

- (b) transferring to the trust the company's liabilities to its creditors and, where applicable, other property of the company;
- (c) where applicable, realising trust assets; and
- (d) distributing trust assets to the beneficiaries.

RG 82.62 This should include explanation of how these costs will impact on the anticipated return to creditors/beneficiaries: see also RG 82.45.

Taxation issues for individual creditor/beneficiary

RG 82.63 Administrators should provide a statement in general terms about the potential taxation implications for a creditor of receiving distributions (in their capacity as beneficiary) from a trust, rather than payment from the company in their capacity as creditors, with a statement advising creditors to seek professional advice about their individual taxation circumstances.

Other issues

RG 82.64 Administrators should provide information about any other material aspects or implications of the particular DOCA proposal, such as:

- (a) whether an Australian financial services (AFS) licence or authorisation would be needed by the trustee and, if so, the financial and other implications for creditors/beneficiaries;

Note: Administrators should note that the automatic AFS licensing exemptions available to external administrators under s911A(2)(f) of the Corporations Act may not apply to registered liquidators acting as trustee of a creditors' trust.

- (b) if the DOCA proposal involves preservation of the corporate shell, any independent opinion about the estimated value of the corporate shell; and
- (c) if the DOCA proposal involves a proposed equity raising and reorganisation of the company's share capital, information about what this would involve (including costs and the implications of those costs for the return to creditors/beneficiaries), and the implications of relevant fundraising or takeover laws.

Key terms

Term	Meaning in this document
ABN	Australian Business Number
administrator	Has the meaning given in s9 of the Corporations Act Note: It therefore includes both deed administrators and voluntary administrators.
AFS licence	An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries on a financial services business to provide financial services Note: This is a definition contained in s761A.
AFS licensee	A person who holds an AFS licence under s913B of the Corporations Act
ASIC	Australian Securities and Investments Commission
ASX	ASX Limited or the exchange market operated by ASX Limited
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
deed administrator	A person appointed to administer a deed of company arrangement under Pt 5.3A of the Corporations Act
DOCA	A deed of company arrangement
DOCA proposal	A proposed DOCA or proposed variation of a DOCA
FEG	Fair Entitlements Guarantee scheme
Insolvency Practice Rules	Insolvency Practice Rules (Corporations) 2016
Pt 5.3A (for example)	A part of the Corporations Act (in this example numbered 5.3A), unless otherwise specified
registered liquidator	A person registered by ASIC under s20–30 of Sch 2 to the Corporations Act
s439A (for example)	A section of the Corporations Act (in this example numbered 439A), unless otherwise specified
voluntary administrator	An administrator of a company but not of a deed of company arrangement

Related information

Headnotes

creditors' trust, deed of company arrangement, DOCA, material information, registered liquidator

Regulatory guides

[RG 33](#) *Security deposits*

Legislation

Corporations Act, Pt 5.3A; s435A, 439A, 445D, 450E(2), 556, 911A; Sch 2, Div 40, s20–30

Insolvency Practice Rules, s75–225

Cases

Blacktown City Council v Macarthur Telecommunications P/L (2004) 47 ACSR 391

Bovis Lend Lease P/L v Wily (2003) 45 ACSR 612

Commissioner of Taxation v Comcorp Australia Ltd (1996) 70 FCR 356; 21 ACSR 590

Kalon v Sydney Land Corp P/L (1998) 26 ACSR 593

Kirwan v Cresvale Far East Ltd (in liq) [2002] NSWCA 395; (2003) 44 ACSR 21

M&S Butler Investments Pty Ltd v Granny May's Franchising Pty Ltd (1997) 24 ACSR 695

Mighty River International Limited v Hughes [2018] HCA 38

Parkview Constructions Pty Ltd v Tayeh and Others [2009] NSWSC 186

Re Bevillesta Pty Ltd (in voluntary administration) [2011] NSWSC 417

Sydney Land Corp P/L v Kalon P/L (1998) 26 ACSR 427

Young v Sherman (2002) 170 FLR 86

Appendix I – ARITA Information Sheet on Approving Remuneration of an External Administrator

Information sheet: Approving remuneration of an external administrator

If you are a creditor in a liquidation, voluntary administration or deed of company arrangement you may be asked to approve the external administrator's remuneration. An external administrator can be a liquidator, voluntary administrator or deed administrator. The process for approving the remuneration for each of these is the same.

This information sheet gives general information to help you understand the process of approving an external administrator's remuneration and your rights in this process. The following topics are covered in this information sheet:

- About external administrations
- External administrator's remuneration and costs
- Calculating remuneration
- Information you will receive
- Approving remuneration
- Who may approve remuneration
- Deciding if remuneration is reasonable
- What can you do if you decide the remuneration is unreasonable?
- Reimbursement of out of pocket costs
- Queries and complaints
- More information.

About external administrations

If a company goes into liquidation, voluntary administration or enters into a deed of company arrangement, an independent person is appointed to oversee the administration. They are called an external administrator and include a liquidator, voluntary administrator and deed administrator, depending on the type of administration involved. In this information sheet they are simply referred to as an external administrator.

The duties of an external administrator are specified in legislation and they must adhere to certain standards while conducting the administration.

All external administrators are required by law to undertake certain tasks which may not benefit creditors directly (e.g. investigating whether any offences have been committed and reporting to the Australian Securities and Investments Commission (ASIC)).

External administrator's remuneration and costs

External administrators are entitled to be paid for the necessary work they properly perform in the administration.

An external administrator is entitled:

- to be paid reasonable remuneration, for the work they perform, once this remuneration has been approved,
- to be paid for internal disbursements they incur in performing their role (these costs do need approval), and
- to be reimbursed for out-of-pocket costs incurred in performing their role (these costs do not need approval).

Common internal disbursements are stationery, photocopying and telephone costs.

Commonly reimbursed out-of-pocket costs include:

- legal fees
- a valuer's, real administration agent's and auctioneer's fees
- postage costs
- retrieval costs for recovering the company's computer records, and
- storage costs for the company's books and records.

Creditors have a direct interest in the amount of an external administrator's remuneration and costs, as these will generally be paid from the administration before any payments are made to creditors.

Remuneration and internal disbursements must be approved in accordance with the Corporations Act and Insolvency Practice Rules (Corporations) before it can be paid.

If there is a shortfall between the external administrator's remuneration and the assets available from the administration, in certain circumstances the external administrator may arrange for a third party to pay the shortfall. As a creditor, you will be provided details of any such arrangement.

If there are not enough assets to pay the external administrator's remuneration and costs, and there is no third party payment arrangement, the external administrator remains unpaid.

Calculating remuneration

An external administrator may calculate their remuneration using one (or a combination) of a number of methods, such as:

- on the basis of time spent working on the administration, according to hourly rates
- a quoted fixed fee, based on an estimate of the costs
- a percentage (usually of asset realisations), or
- a contingent basis on a particular outcome being achieved.

Charging on the basis of time spent is the most common method used. External administrators have a set of hourly rates that they will seek to charge. These rates are set to reflect the seniority, skills and experience of staff and, where applicable, the complexity and risks of the bankruptcy. They cover staff costs and overheads.

If remuneration is being charged on a time basis, the external administrator must keep time sheets noting the number of hours spent on the tasks performed.

Creditors have a right to question the external administrator about the remuneration and the rates to be charged. They also have a right to question the external administrator about the fee calculation method used and how the calculation was made. The external administrator must justify why the chosen fee calculation method is appropriate for the administration.

Information you will receive

There are different types of remuneration reports that you may receive during the course of an external administration. The following table details the reports and when you might receive them.

Document	Information it contains	When you will receive it
Initial Remuneration Notice (IRN)	<ul style="list-style-type: none"> • A brief explanation of the types of methods that may be used to calculate fees. • The external administrator's chosen fee calculation method(s) and why it is appropriate. • Details of the external administrator's rates, including hourly rates if time spent basis is used. • An estimate of the external administrator's remuneration. • The method that will be used to calculate disbursements. 	<p>Voluntary Administration – with the notice of first meeting.</p> <p>Creditors' voluntary liquidation – within 10 business days of appointment.</p> <p>Court liquidation – within 20 business days of appointment.</p>
Remuneration Approval Report (RAR)	<ul style="list-style-type: none"> • A summary description of the major tasks performed, or likely to be performed. • The costs associated with each of those major tasks and the method of calculation. • The periods at which the external administrator proposes to withdraw funds from the administration for remuneration. • An estimated total amount, or range of total amounts, of the external administrator's remuneration. • An explanation of the likely impact of that remuneration on the dividends (if any) to creditors. • Where internal disbursements are being claimed, the external administrator will report to creditors on the amount and method of calculation of these disbursements. 	<p>Sent at the same time as:</p> <ul style="list-style-type: none"> • the notice to creditors of the meeting at which approval of remuneration will be sought; or • the notice to creditors of the proposal without a meeting by which approval of remuneration will be sought <p>If approval of remuneration is not being sought, a RAR will not be provided.</p>

Approving remuneration

The meeting of creditors (or committee of inspection) gives a chance for those participating to ask questions about the external administrator's remuneration. Fees are then approved by a vote of the creditors. Alternatively, the external administrator may seek approval of remuneration via a proposal without a meeting. Whichever method is used, the external administrator must provide the same report to creditors about their remuneration (Remuneration Approval Report).

Creditors may be asked to approve remuneration for work already performed and/or remuneration estimate for work not yet carried out. If the work is yet to be carried out, the external administrator must set a maximum limit (cap) on the future remuneration approval. For example, 'future remuneration is approved, calculated on hours worked at the rates charged (as set out in the provided rate scale) up to a cap of \$X'.

If the remuneration for work done then exceeds this figure, the external administrator will have to ask the creditors to approve a further amount of remuneration, after accounting for the amount already incurred.

If an external administrator can't get the creditors' approval, an application can be made to the Court to determine their remuneration.

When there are limited funds available in the administration, or the external administrator's remuneration is below a statutory threshold, an external administrator is entitled to draw a one-off amount of up to that threshold plus GST, without creditor approval. This amount is currently \$5,000 (indexed).

Who may approve remuneration?

Committee of inspection approval

A committee of inspection will generally only be established where there are a large number of creditors and/or complex matters which make having a committee desirable. Committee members are chosen by a vote of all creditors and work with the external administrator to represent the creditors' interests.

If there is a committee, the external administrator will ask it to approve the remuneration. A committee makes its decision by a majority in number of its members present in person at a meeting, but it can only vote if a majority of its members attend.

In approving the remuneration, it is important that committee members understand that they represent all the creditors, not just their own individual interests.

Creditors' approval

Creditors approve remuneration by passing a resolution at a creditors' meeting. Creditors may vote according to their individual interests.

To approve an external administrator's remuneration, a resolution is put to the meeting to be decided on the voices or by a 'poll' (if requested by the external administrator or a person participating and entitled to vote at the meeting). A poll requires a count of each vote and its value to be taken and recorded for each creditor present and voting.

A proxy is a document whereby a creditor appoints someone else to represent them at a creditors' meeting and to vote on their behalf. A proxy can be either a general proxy or a special proxy. A general proxy allows the person holding the proxy to vote how they want on a resolution, while a special proxy directs the proxy holder to vote in a particular way.

A creditor will sometimes appoint the external administrator as a proxy to vote on the creditor's behalf. An external administrator is only able to vote on remuneration if they hold a special proxy.

There are provisions for a resolution to be passed by creditors without a meeting. This still requires a majority in value and number of creditors voting to vote in favour of the resolution. Creditors representing at least 25% in value of those responding to the external administrator's proposal can object to the proposal being resolved without a meeting of creditors.

Deciding if remuneration is reasonable

If you are asked to approve an external administrator's remuneration, your task is to decide if the amount of remuneration is reasonable, given the work carried out in the administration and the results of that work.

You may find the following information from the external administrator useful in deciding if the remuneration claimed is reasonable:

- the method used to calculate remuneration
- the major tasks that have been performed, or are likely to be performed, for the remuneration
- the remuneration/estimated remuneration (as applicable) for each of the major tasks
- the size and complexity (or otherwise) of the administration
- the amount of remuneration (if any) that has previously been approved
- if the remuneration is calculated, in whole or in part, on a time basis:
 - the period over which the work was, or is likely to be performed
 - if the remuneration is for work that has already been carried out, the time spent by each level of staff on each of the major tasks
 - if the remuneration is for work that is yet to be carried out, whether the remuneration is capped.

ARITA's Code of Professional Practice ('the Code') outlines the steps external administrators should take to make sure they fulfil their responsibilities to creditors when asking creditors to approve remuneration, including when those creditors are acting in their capacity as committee members. The Code is available on the ARITA website at www.arita.com.au.

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

What can you do if you think the remuneration is unreasonable?

If you think the remuneration being claimed is unreasonable, you should raise your concerns with the external administrator. It is your decision whether to vote in favour of, or against, a resolution to approve remuneration. You may also choose to not vote on the resolution (abstain).

You also have the power to put a resolution to the meeting. For example, you could put forward a resolution to change the way the external administrator charges for remuneration, or the periods at which the external administrator may withdraw funds. Any amending resolution must occur before the vote being taken on the resolution to approve remuneration. If the amended proposal is passed, the resolution is binding on the external administrator. However, such an amendment may result in the external administrator seeking to be replaced by another external administrator.

If the external administrator is seeking approval of remuneration via a resolution without a meeting and more than 25% in value of the creditors responding object using the form provided by the external administrator, the proposal will not pass. If the external administrator wants the proposal passed, a meeting will need to be convened and any creditor entitled to participate in the meeting has the right, before the vote is taken, to put a resolution to the meeting as mentioned above.

A creditor may apply to Court for a review of an external administrator's remuneration. Creditors also have the power to appoint, by resolution, a reviewing liquidator to review any remuneration approved within the six months and any disbursements incurred in the 12 months before the reviewing liquidator's appointment. The cost of a reviewing liquidator is paid from the assets of the external administration. An individual creditor may also appoint a reviewing liquidator with the external administrator's consent. An individual creditor seeking the appointment of a reviewing liquidator must pay the cost of the reviewing liquidator.

Reimbursement of out-of-pocket costs

An external administrator should be very careful incurring costs that must be paid from the administration; as careful as if they were incurring the expenses on their own behalf. Their report on remuneration sent to creditors must also include information on the out-of-pocket costs of the administration (disbursements).

Where these out-of-pocket costs are internal disbursements paid to the external administrator's firm (for example photocopying and phone calls) the external administrator must request creditor approval of these amounts. The external administrator may also ask for approval of internal disbursements in advance. If they do so, they will set the rates for those disbursements and a cap on the maximum amount that can be drawn.

If you have questions about any of these costs, you should ask the external administrator and, if necessary, bring it up at a creditors' or committee meeting. If you are still concerned, you have the right to seek the appointment of a reviewing liquidator (refer above).

Queries and complaints

You should first raise any queries or complaints with the external administrator or their firm.

If this fails to resolve your concerns, including any concerns about their conduct, you can lodge a complaint with ARITA at www.arita.com.au or with ASIC at www.asic.gov.au. ARITA is only able to deal with complaints in respect of their members.

More information

The [ARITA website](http://www.arita.com.au) contains the ARITA Code of Professional Practice which is applicable to all its members. ARITA also provides general information to assist creditors at www.arita.com.au/creditors.

ASIC includes information on its website which may assist creditors. Go to www.asic.gov.au and search for 'insolvency information sheets'.

Important note: This information sheet contains a summary of basic information on the topic. It is not a substitute for legal advice. Some provisions of the law referred to may have important exceptions or qualifications. This document may not contain all of the information about the law or the exceptions and qualifications that are relevant to your circumstances.

Appendix J – Remuneration Report



Millennium Minerals Limited
(Administrators Appointed) (Receivers & Managers Appointed)
ACN 003 257 556
("the Company")

Contents

1	Declaration	1
2	Executive summary	1
3	Remuneration	3
3.1	Remuneration claim resolutions	3
3.2	Details of remuneration	3
3.3	Total remuneration reconciliation	4
3.4	Future remuneration requests	4
3.5	Likely impact on dividends	4
4	Disbursements	5
4.1	Externally provided disbursements	5
4.2	Future basis of internal disbursements	5
5	Report on progress of the administration	6
6	Summary of receipts and payments	6
7	Queries	6

1 Declaration

We, Matthew Donnelly and Richard Hughes of Deloitte Financial Advisory Pty Ltd, have undertaken a proper assessment of the remuneration claims for our appointment as Voluntary Administrators of 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, in the conduct of the voluntary administration. For completeness we note, the fees and disbursements for the voluntary administration have been approved by the Committee of Inspection.

The estimates for prospective fees sought in this Remuneration Approval Request are based on a reasonable estimate. We are satisfied that the prospective remuneration and disbursements claimed are in respect of necessary work, properly performed, in the conduct of the proposed Deed of Company Arrangement and Creditors' Trust, or alternatively liquidation of the Company.

2 Executive summary

The total remuneration for the voluntary administration is \$608,295.00. The remuneration approval requests for the voluntary administration fees have been approved by the Committee of Inspection (COI). The total cost of the voluntary administration is consistent with our previous estimated total remuneration of \$500,000.00 to \$800,000.00 detailed in our Initial Remuneration Notification dated 25 November 2019.

We now seek approval for future remuneration to be incurred for the proposed Deed of Company Arrangement and administration of the Creditors' Trust, or alternatively liquidation of the Company.

Remuneration currently claimed and previously approved is summarised below:

Period	Report Reference	Amount \$ (Excl GST)
Past remuneration approved:		
24 November 2019 to 3 December 2019		\$338,295.00
3 December to 3 January 2020		\$210,574.98
4 January 2020 to completion of voluntary administration		\$59,425.02
Total past remuneration approved – Voluntary administration*		\$608,295.00
Current remuneration approval sought:		
Deed of company arrangement (DOCA) and Creditors' Trust (if applicable)		
Resolution 4: Execution of DOCA to completion of Creditors Trust**	3.1	\$250,000.00
Total remuneration approval sought – DOCA and Creditors' Trust (If applicable)		\$250,000.00
Liquidation (if applicable)		
Resolution 6: Commencement of liquidation to completion**	3.1	\$425,000.00
Total remuneration approval sought – Liquidation (If applicable)		\$425,000.00
*Appropriate reports have been provided to the COI and can be provided to creditors upon request.		
**Approval for the future remuneration sought is based on an estimate of the work necessary to the completion of the administration. Should additional work be necessary beyond what is contemplated, further approval may be sought from creditors.		

Disbursements currently claimed and previously approved are summarised below:

Period	Report Reference	Amount \$ (Excl GST)
Past Disbursements approved:		
24 November 2019 to 3 January 2020		\$5,463.64
4 January 2020 to completion of voluntary administration		\$2,500.00
Total past internal disbursements approved – Voluntary administration		\$7,963.64
Current disbursements claim:		
Deed of company arrangement (DOCA) and Creditors' Trust (if applicable)		
Resolution 5: Execution of DOCA to completion of Creditors Trust*	4.2	\$1,500.00
Total disbursements approval sought – DOCA and Creditors' Trust (If applicable)		\$1,500.00
Liquidation (if applicable)		
Resolution 7: Commencement of liquidation to completion*	4.2	\$1,500.00
Total disbursements approval sought – Liquidation (If applicable)		\$1,500.00
* Approval for the future internal disbursements sought is based on an estimate of the internal disbursements necessary to the completion of the administration. Should additional disbursements be necessary beyond what is contemplated, further approval may be sought from creditors.		

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

Note: Whilst we are seeking approval for disbursements, the Deed Administrators' and Creditors' Trust Trustees' fees and disbursements are capped at \$250,000.00 (excluding GST) in accordance with the DOCA proposal.

3 Remuneration

3.1 Remuneration claim resolutions

We will be seeking approval of the below outlined resolutions. Details to support these resolutions are included in Section 3.2 and in the attached schedules.

Deed of Company Arrangement (If applicable)

Resolution 4: Execution of DOCA to completion of Creditors' Trust

"That the future remuneration of the Deed Administrators (when aggregated with the total remuneration of the Trustees of the Creditors' Trust) for the period from the execution of the DOCA is determined at a sum equal to the cost of time spent by the Deed Administrators, Trustees and their staff, calculated at the hourly rates as detailed in the Initial Remuneration Notification of 25 November 2019, up to a capped amount of \$250,000.00, plus GST of \$25,000.00, and that the Deed Administrators and/or Trustees can draw the remuneration on a monthly basis or as required."

Liquidation (If applicable)

Resolution 6: From commencement of liquidation to completion

"That the future remuneration of the Liquidators from commencement of the liquidation to the completion is determined at a sum equal to the cost of time spent by the Liquidators and their staff, calculated at the hourly rates as detailed in the Initial Remuneration Notification of 25 November 2019, up to a capped amount of \$425,000.00, plus GST of \$42,500.00, and that the Liquidators can draw the remuneration on a monthly basis or as required."

3.2 Details of remuneration

The basis of calculating the remuneration claims are summarised in the attached schedule together with details of the major tasks performed and the costs associated with each of those major tasks.

Deed of Company Arrangement and Creditors Trust (If applicable)

Resolution 1: Execution of DOCA to completion of Creditors Trust

Schedule 1 sets out the expected costs for the major tasks likely to be performed by the Deed Administrators, Trustees and their staff for the period from the execution of the DOCA to the completion of the Creditors' Trust which is the basis of the Resolution 1 claim. More detailed descriptions of the tasks likely to be performed within each task area, matching the amounts in Resolution 1, are contained in Schedule 2.

Note: Should a lesser amount actually be incurred, only the lesser amount will be charged to the administration of the DOCA or Creditors' Trust 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, however we note that any additional remuneration must be agreed in accordance with the terms of the DOCA and Creditors Trust.

Liquidation (If applicable)

Resolution 2: From commencement of liquidation to completion

Schedule 3 sets out the expected costs for the major tasks likely to be performed by the Liquidators and their staff for the period from commencement of the liquidation to completion of the liquidation which is the basis of the Resolution 2 claim. More detailed descriptions of the tasks likely to be performed within each task area, matching the amounts in Resolution 2, are contained in Schedule 4.

Note: Should a lesser amount actually be incurred, only the lesser amount will be charged to the liquidation 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.

3.3 Total remuneration reconciliation

The total remuneration for the voluntary administration is estimated to be \$608,295.00. The remuneration approval requests for the voluntary administration fees have been approved by the Committee of Inspection. The total cost of the voluntary administration is consistent with our previous estimated total remuneration of \$500,000.00 to \$800,000.00 detailed in our Initial Remuneration Notification dated 25 November 2019. The total remuneration for this appointment is estimated to fall materially below the upper limit previously advised, principally due to the limitations of the scope of our role following the appointment of Richard Tucker and John Bumbak of KordaMentha as Receivers and Managers of the Company on 3 December 2019.

3.4 Future remuneration requests

The current approval amount being sought of \$250,000.00 (excluding GST) for the period from the Execution of the DOCA to the completion of Creditors' Trust or alternatively, the current approval amount being sought of \$425,000.00 (excluding GST) for the liquidation, are in addition to the fees already approved by the Col for the voluntary administration.

In preparing this remuneration approval report, we have made our best estimate at what we believe the different administrations will cost to complete and we do not anticipate that we will have to ask creditors to approve any further remuneration. However, should the different administrations not proceed as expected, we will advise creditors and we may seek approval of further remuneration and provide details on why the remuneration has changed.

Matters that may affect the progress and the cost of the administration include:

- Outcome of second creditors' meeting
- Volume of creditor queries
- Issues with adjudication of creditor claims
- Objections or issues arising as a result of the application to the Court required in accordance with Section 444GA or Section 606 of the Act, or any other legislative or regulatory matter (if applicable)
- Failure by the DOCA proponent to obtain the required regulatory approvals
- Any other unexpected matters.

We note that any additional remuneration must be agreed in accordance with the terms of the DOCA and Creditors Trust.

3.5 Likely impact on dividends

The Corporations Act provides for certain costs, expenses and claims to be paid in priority to all other unsecured claims against the company and this includes our fees and disbursements properly incurred in preserving, realising or getting in the property of the company or in carrying on the company's business and generally undertaking the duties associated with conducting these administrations. As a consequence, our remuneration will reduce the pool of funds remaining for distribution amongst other creditors.

Any distributions ultimately available will be impacted not just by our fees and expenses, but also by the realisations achieved by us and the value of creditors' claims that are eligible to receive a distribution. At this stage in the voluntary administration there are still a number of uncertainties, all of which will impact on the distributions to creditors, including the future of the Company to be decided at the second meeting of creditors to be held at 1:00PM on Friday, 17 January 2020 at Perth Convention and Exhibition Centre, River View Room 4, 21 Mounts Bay Rd, Perth WA 6000.

Please refer to section 10.3 of the Administrators' Report dated 10 January 2020 for further information on the likely impact on dividends.

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 made a reasonable estimate for disbursements claimed for the administration of Millennium Minerals Limited (Administrators Appointed) (Receivers and Managers Appointed) in accordance with the law and applicable professional standards. We are satisfied that the disbursements estimates are reasonable, necessary and proper.

4.1 Externally provided disbursements

A number of services (both professional and non-professional) are expected to be supplied by external providers. While we do not need to obtain approval for these disbursements, it is appropriate that we 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. These costs are detailed in the receipts and payments enclosed as Appendix E of the Administrators' report, showing the name of the provider, brief description of the service and amount 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 Future basis of internal disbursements

The following future internal disbursements are being claimed by our firm for the period from 4 January 2020 to the completion of voluntary administration. 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.

Deed of Company Arrangement and Creditors Trust (If applicable)

Resolution 3: Execution of DOCA to completion of Creditors Trust

"That the future internal disbursements of the Deed Administrators (when aggregated with the total internal disbursements of the Trustees of the Creditors' Trust) for the period from the execution of the DOCA is determined at a sum equal to the cost of time spent by the Deed Administrators, Trustees and their staff, calculated at the rates as detailed in the Initial Remuneration Notification of 25 November 2019, up to a capped amount of \$1,500.00, plus GST of \$150.00, and that the Deed Administrators and/or Trustees can draw the disbursements on a monthly basis or as required."

Internal disbursements		Rate (Excl GST)
Advertising (other than ASIC public notices)	At cost	
Photocopying, printing & postage (externally provided)	At cost	
Search fees	At cost	
Travel – flights, accommodation, meals	Per diem at \$70.00 per staff member per day, otherwise all travel and accommodation at cost	
Tolls, taxis, parking, public transport, mileage	Mileage at \$0.70/km, otherwise at cost	

Scale applicable for financial year ending 30 June 2020

Approval of the payment of these disbursements at the above rates to a capped amount of \$1,500.00 (exclusive GST) is being sought from creditors at the meeting of creditors.

Note: Whilst we are seeking approval for disbursements, the Deed Administrators' and Creditor Trust Trustees' fees and disbursements are capped at \$250,000.00 (excluding GST) in accordance with the terms of the DOCA proposal.

Liquidation (If applicable)

Resolution 4: From commencement of liquidation to completion

"That the future internal disbursements of the Liquidators from commencement of the liquidation to the completion is determined at a sum equal to the cost spent by the Liquidators and their staff, calculated at the rates as detailed in the Initial Remuneration Notification of 25 November 2019 such sum to be capped at the amount of \$1,500.00, plus GST of \$150.00, and that the Liquidators may draw the disbursements on a monthly basis or as required."

Internal disbursements		Rate (Excl GST)
Advertising (other than ASIC public notices)	At cost	
Photocopying, printing & postage (externally provided)	At cost	
Search fees	At cost	
Travel – flights, accommodation, meals	Per diem at \$70.00 per staff member per day, otherwise all travel and accommodation at cost	
Tolls, taxis, parking, public transport, mileage	Mileage at \$0.70/km, otherwise at cost	

Scale applicable for financial year ending 30 June 2020

Approval of the payment of these disbursements at the above rates to a capped amount of \$1,500.00 (exclusive GST) is being sought from creditors at the meeting of creditors.

5 Report on progress of the administration

The Remuneration Approval Request must be read in conjunction with the Voluntary Administrators' Report to creditors dated 10 January 2020 which outlines the progress of the administration.

6 Summary of receipts and payments

A summary of the receipts and payments for the voluntary administration as at 9 January 2020 is enclosed in the Administrators Report dated 10 January 2020.

7 Queries

If you have any queries in relation to the information in this report, please contact Sam Ierino on (08) 9365 8145 or by email at sierino@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").

Schedule 1 Time charged to each major task

Resolution 1: Execution of DOCA to completion of Creditors Trust

Employee	Position	\$ /hour (ex GST)	Total actual hours	Total (\$)	Task Area											
					Assets		Creditors		Employees		Trade on		Dividend		Administration	
					Hrs	(\$)	Hrs	(\$)	Hrs	(\$)	Hrs	(\$)	Hrs	(\$)	Hrs	(\$)
Donnelly, Matt	Partner	725.00	27.0	19,575.00	1.0	725.00	10.0	7,250.00	5.0	3,625.00	1.00	725.00	5.0	3,625.00	5.0	3,625.00
Morris, Jude	Director	550.00	11.0	6,050.00	-	-	6.0	3,300.00	-	-	-	-	-	-	5.0	2,750.00
Holmes, Sean	Director	550.00	15.0	8,250.00	-	-	5.0	2,750.00	-	-	-	-	5.0	2,750.00	5.0	2,750.00
Gordon, Aidan	Director	550.00	69.0	37,950.00	1.0	550.00	15.0	8,250.00	15.0	8,250.00	1.00	550.00	30.0	16,500.00	7.0	3,850.00
Clarkson, Michael	Manager	490.00	83.0	40,670.00	3.0	1,470.00	30.0	14,700.00	-	-	-	-	40.0	19,600.00	10.0	4,900.00
Fraser, Matthew	Senior Analyst	430.00	59.0	25,370.00	4.0	1,720.00	30.0	12,900.00	-	-	-	-	20.0	8,600.00	5.0	2,150.00
Kast, Corina	Senior Analyst	430.00	85.0	36,550.00	-	-	20.0	8,600.00	40.0	17,200.00	-	-	20.0	8,600.00	5.0	2,150.00
Ierino, Sam	Analyst	350.00	83.0	29,050.00	2.0	700.00	40.0	14,000.00	-	-	3.00	1,050.00	30.0	10,500.00	8.0	2,800.00
Xu, Lily	Graduate	260.00	128.5	33,410.00	-	-	30.0	7,800.00	80.0	20,800.00	-	-	10.0	2,600.00	8.5	2,210.00
Bonnar, Mitchell	Vacationer	230.00	55.0	12,650.00	-	-	20.0	4,600.00	20.0	4,600.00	-	-	10.0	2,300.00	5.0	1,150.00
Haines, Donna	Support	225.00	2.1	475.00	-	-	-	-	-	-	-	-	-	-	2.1	475.00
TOTAL			617.6	250,000.00	11.0	5,165.00	206.0	84,150.00	160.0	54,475.00	5.0	2,325.00	170.0	75,075.00	65.6	28,810.00
GST				25,000.00												
TOTAL (including GST)				275,000.00												
Average hourly rate				404.79		469.55		408.50		340.47		465.00		441.62		439.10

Schedule 2 Detailed description of tasks performed

Resolution 1: Execution of DOCA to completion of Creditors' Trust

Task Area	General Description	Includes
Assets 11.0 hours \$5,165.00	Other assets	<ul style="list-style-type: none"> Attend to queries regarding cash management and minor refunds as required
Creditors 206.0 hours \$84,150.00	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 facsimile, email and post
	DOCA	<ul style="list-style-type: none"> Tasks associated with the execution of the DOCA Maintaining compliance with DOCA requirements Liaising with DOCA proponent and their advisors Liaising with ASIC with respect to application to Court pursuant to section 444GA Preparing application to Court pursuant to section 444GA to transfer Company's shares, including preparing explanatory statements Engaging and assisting solicitors with respect to application to Court pursuant to section 444GA Internal meetings to discuss status of application pursuant to section 444GA
	Maintaining Creditors' Trust	<ul style="list-style-type: none"> Tasks associated with the creation and maintenance of the creditors' trust
	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 regarding POD when not related to a dividend
	Shareholder enquiries	<ul style="list-style-type: none"> Responding to any shareholder queries
Employees 160.0 hours \$54,475.00	Employees enquiries	<ul style="list-style-type: none"> Receive and follow up employee enquiries via telephone Maintain employee enquiry register Review and prepare correspondence to creditors and their representatives via facsimile, email and post 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 Reconciling superannuation accounts Reviewing awards Liaising with solicitors regarding entitlements
	Employee dividend	<ul style="list-style-type: none"> Correspondence with employees regarding dividend Correspondence with ATO regarding SGC POD Calculating dividend rate

Task Area	General Description	Includes
		<ul style="list-style-type: none"> • Preparing dividend file • Advertising dividend notice • Preparing distribution • Receipting POD • Adjudicating POD • Ensuring PAYG is remitted to ATO
	Other employee issues	<ul style="list-style-type: none"> • Correspondence with Child Support • Correspondence with Centrelink
Trade On 5.0 hours \$2,325.00	Processing receipts and payments	<ul style="list-style-type: none"> • Entering receipts and payments into accounting system • Other matters relating to account management
Dividend 170.0 hours \$75,075.00	Processing proofs of debt	<ul style="list-style-type: none"> • Preparation of correspondence to potential creditors inviting lodgment 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 • Preparation of dividend calculation • Preparation of correspondence to creditors announcing declaration of dividend • Advertise announcement of dividend • Preparation of distribution • Preparation of payment vouchers to pay dividend • Preparation of correspondence to creditors enclosing payment of dividend
Administration 65.6 hours \$28,810.00	Correspondence	<ul style="list-style-type: none"> • General Correspondence
	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"> • 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 • Correspondence with ASIC regarding statutory forms
	ATO and other statutory reporting	<ul style="list-style-type: none"> • Notification of appointment • Preparing BAS
	Planning / review	<ul style="list-style-type: none"> • Discussions regarding status of administration

Task Area	General Description	I ncludes
	Books and records / storage	<ul style="list-style-type: none">• Dealing with records in storage• Sending job files to storage
TOTAL		
617.6 hours		
\$250,000.00		

Schedule 3 Time charged to each major task

Resolution 2: From commencement of liquidation to completion

Employee	Position	\$ /hour (ex GST)	Total actual hours	Total		Task Area													
				(\$)	Assets		Creditors		Employees		Trade on		Investigations		Dividend		Administration		
					Hrs	(\$)	Hrs	(\$)	Hrs	(\$)	Hrs	(\$)	Hrs	(\$)	Hrs	(\$)	Hrs	(\$)	
Donnelly, Matt	Partner	725.00	50.0	36,250.00	15.0	10,875.00	5.0	3,625.00	5.0	3,625.00	-	-	5.0	3,625.00	5.0	3,625.00	15.0	10,875.00	
Morris, Jude	Director	550.00	32.0	17,600.00	10.0	5,500.00	10.0	5,500.00	-	-	-	-	5.0	2,750.00	-	-	7.0	3,850.00	
Holmes, Sean	Director	550.00	48.0	26,400.00	15.0	8,250.00	10.0	5,500.00	-	-	-	-	8.0	4,400.00	8.0	4,400.00	7.0	3,850.00	
Gordon, Aidan	Director	550.00	106.0	58,300.00	20.0	11,000.00	20.0	11,000.00	15.0	8,250.00	1.00	550.00	15.0	8,250.00	20.0	11,000.00	15.0	8,250.00	
Clarkson, Michael	Manager	490.00	110.0	53,900.00	25.0	12,250.00	30.0	14,700.00	-	-	-	-	20.0	9,800.00	20.0	9,800.00	15.0	7,350.00	
Fraser, Matthew	Senior Analyst	430.00	120.0	51,600.00	20.0	8,600.00	15.0	6,450.00	20.0	8,600.00	-	-	35.0	15,050.00	15.0	6,450.00	15.0	6,450.00	
Kast, Corina	Senior Analyst	430.00	140.0	60,200.00	25.0	10,750.00	15.0	6,450.00	40.0	17,200.00	-	-	30.0	12,900.00	15.0	6,450.00	15.0	6,450.00	
Ierino, Sam	Analyst	350.00	147.0	51,450.00	35.0	12,250.00	40.0	14,000.00	-	-	2.00	700.00	30.0	10,500.00	25.0	8,750.00	15.0	5,250.00	
Xu, Lily	Graduate	260.00	215.0	55,900.00	35.0	9,100.00	30.0	7,800.00	75.0	19,500.00	-	-	35.0	9,100.00	20.0	5,200.00	20.0	5,200.00	
Bonnar, Mitchell	Vacationer	230.00	56.0	12,880.00	-	-	10.0	2,300.00	10.0	2,300.00	-	-	15.0	3,450.00	10.0	2,300.00	11.0	2,530.00	
Haines, Donna	Support	225.00	2.3	520.00	-	-	-	-	-	-	-	-	-	-	-	-	2.3	520.00	
TOTAL				1,026.3	425,000.00	200.0	88,575.00	185.0	77,325.00	165.0	59,475.00	3.0	1,250.00	198.0	79,825.00	138.0	57,975.00	137.3	60,575.00
GST					42,500.00														
TOTAL (including GST)					467,500.00														
Average hourly rate					414.10		442.88		417.97		360.45		416.67		403.16		420.11		441.15

Schedule 4 Detailed description of tasks performed

Resolution 2: From commencement of liquidation to completion

Task Area	General Description	Includes
Assets 200.0 hours \$88,575.00	Sale of business	<ul style="list-style-type: none"> Preparing an information memorandum Liaising with purchasers and interested parties Meetings to discuss/review offers received
	Plant and equipment	<ul style="list-style-type: none"> Liaising with valuers, auctioneers and interested parties Reviewing asset listings
	Sale of real property	<ul style="list-style-type: none"> Liaising with valuers Attendance at auction
	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"> Correspondence with debtors
	Other assets	<ul style="list-style-type: none"> Tasks associated with realising other assets
Creditors 185.0 hours \$77,325.00	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 facsimile, email and post Correspondence with committee of inspection members
	Secured creditor reporting	<ul style="list-style-type: none"> Notifying PPSR registered creditors of appointment Preparing reports to secured creditor Responding to secured creditor's queries
	Creditor reports	<ul style="list-style-type: none"> Statutory report (70-40) 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 regarding POD 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 (if required) 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 lodgment of minutes of meetings with ASIC Responding to stakeholder queries and questions immediately following meeting

Task Area	General Description	Includes
Employees 165.0 hours \$59,475.00	Employees enquiries	<ul style="list-style-type: none"> • Receive and follow up employee enquiries via telephone • Maintain employee enquiry register • Review and prepare correspondence to creditors and their representatives via facsimile, 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	<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 • Reconciling superannuation accounts • Reviewing awards • Liaising with solicitors regarding entitlements
	Employee dividend	<ul style="list-style-type: none"> • Correspondence with employees regarding dividend • Correspondence with ATO regarding SGC proof of debt • Calculating dividend rate • Preparing dividend file • Advertising dividend notice • Preparing distribution • Receipting POD • Adjudicating POD • Ensuring PAYG is remitted to ATO
	Workers compensation claims	<ul style="list-style-type: none"> • Review insurance policies • Receipt of claim • Liaising with claimant • Liaising with insurers and solicitors regarding claims • Identification of potential issues requiring attention of insurance specialists • Correspondence with insurer regarding initial and ongoing workers compensation insurance requirements • Correspondence with previous brokers
	Other employee issues	<ul style="list-style-type: none"> • Correspondence with Child Support • Correspondence with Centrelink
Trade On 3.0 hours \$1,250.00	Processing receipts and payments	<ul style="list-style-type: none"> • Entering receipts and payments into accounting system

Task Area	General Description	Includes
Investigation 198.0 hours \$79,825.00	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 directors regarding certain transactions • Liaising with directors regarding certain transactions • Preparation of investigation file • Lodgment of investigation with the ASIC • Preparation and lodgment of supplementary report if required
	Examinations	<ul style="list-style-type: none"> • Preparing brief to solicitor • Liaising with solicitor(s) regarding examinations • Attendance at examination • Reviewing examination transcripts • Liaising with solicitor(s) regarding outcome of examinations and further actions available
	Litigation / recoveries	<ul style="list-style-type: none"> • Internal meetings to discuss status of litigation • Preparing brief to solicitors • Liaising with solicitors regarding recovery actions • Attending to negotiations • Attending to settlement matters
	ASIC reporting	<ul style="list-style-type: none"> • Preparing statutory investigation reports • Liaising with ASIC
Dividend 138.0 hours \$57,975.00	Processing proofs of debt	<ul style="list-style-type: none"> • Preparation of correspondence to potential creditors inviting lodgment 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

Task Area	General Description	Includes
Administration 137.3 hours \$60,575.00	Correspondence	<ul style="list-style-type: none"> General correspondence
	Document maintenance/file review/checklist	<ul style="list-style-type: none"> Six monthly administration review Filing of documents File reviews Updating checklists
	Insurance	<ul style="list-style-type: none"> Correspondence with insurer regarding ongoing insurance requirements Correspondence with previous brokers
	Bank account administration	<ul style="list-style-type: none"> Preparing correspondence closing accounts 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"> Preparing BAS
	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		
1,026.3 hours		
\$425,000.00		

Appendix K – Form 529 Notice of Meeting

CORPORATIONS ACT 2001
Section 439A

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

NOTICE OF MEETING OF CREDITORS
MILLENNIUM MINERALS LIMITED
(ADMINISTRATORS APPOINTED) (RECEIVERS AND MANAGER APPOINTED)
ACN 003 257 556

NOTICE is given that a meeting of the creditors of the Company will be held at 1:00PM on Friday, 17 January 2020 at Perth Convention and Exhibition Centre, River View Room 4, 21 Mounts Bay Rd, Perth WA 6000

A G E N D A

1. to receive the report by the Administrators about the business, property, affairs and financial circumstances of the Company; and
2. to receive a statement of Administrators' opinion and reasons for the opinion:
 - a. whether it would be in the creditors' interests for the Company to execute a deed of company arrangement;
 - b. whether it would be in the creditors' interests for the administration to end;
 - c. whether it would be in the creditors' interests for the company to be wound up;
3. to receive a statement of such other information known to the Administrators as will enable the creditors to make an informed decision about the matters at paragraphs 2(a) – (c) above;
4. to receive details of any transactions that appear to the Administrators to be a voidable transaction in respect of which money, property, or other benefits may be recoverable by a liquidator under part 5.7B of the Act
5. to receive details of any proposed deed of company arrangement; and
6. for the creditors of the Company to resolve that:
 - a. the Company execute a deed of company arrangement; or
 - b. the administration should end; or
 - c. the Company be wound up.
7. to determine the deed administrators' and or liquidators' future remuneration if appointed
8. Any other business that may be lawfully brought forward.

Telephone conference facilities will be available at the meeting. The telephone number to call is 1800 762 325 and the conference ID is 7599540453.


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 COB on 16 January 2020 a written statement setting out:

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

Proxies to be used at the meeting should be given to us as Joint and Several Administrators to the person named and 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 9th day of January 2020.

A handwritten signature in blue ink, consisting of a large loop followed by a horizontal line.

Matthew Donnelly
Joint & Several Administrator

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

Telephone: (08) 9365 7000

Appendix L – Proxy Form

APPOINTMENT OF PROXY
CREDITORS MEETING

MILLENNIUM MINERALS LIMITED (ADMINISTRATORS APPOINTED)
ACN 003 257 556 (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 at 1:00PM (AWST) on Friday, 17 January 2020 at Perth Convention Centre, River View Room 4, 21 Mounts Bay Rd, Perth WA 6000, or at any adjournment of that meeting.	

Please mark any boxes with an ☒

Proxy Type: ☐ General ☐ Special

	For	Against	Abstain
Resolution 1 "That the Administration should end."	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 2 "That the Company enters into a Deed of Company Arrangement as detailed in the Voluntary Administrators' Report dated 10 January 2020"	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 3 "That the Company be wound up"	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Deed of Company Arrangement and Creditors' Trust Resolutions (If applicable)			
Resolution 4 "That the future remuneration of the Deed Administrators (when aggregated with the total remuneration of the Trustees of the Creditors' Trust) for the period from the execution of the DOCA is determined at a sum equal to the cost of time spent by the Deed Administrators, Trustees and their staff, calculated at the hourly rates as detailed in the Initial Remuneration Notification of 25 November 2019, up to a capped amount of \$250,000.00, plus GST of \$25,000.00, and that the Deed Administrators and/or Trustees can draw the remuneration on a monthly basis or as required."	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 5 "That the future internal disbursements of the Deed Administrators (when aggregated with the total internal disbursements of the Trustees of the Creditors' Trust) for the period from the execution of the DOCA is determined at a sum equal to the cost of time spent by the Deed Administrators, Trustees and their staff, calculated at the rates as detailed in the Initial Remuneration Notification of 25 November 2019, up to a capped amount of \$1,500.00, plus GST of \$150.00, and that the Deed Administrators and/or Trustees can draw the disbursements on a monthly basis or as required."	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Liquidation Resolutions (If applicable)			
Resolution 6 "That the future remuneration of the Liquidators from commencement of the liquidation to the completion is determined at a sum equal to the cost of time spent by the Liquidators and their staff, calculated at the hourly rates as detailed in the Initial Remuneration Notification of 25 November 2019, up to a capped amount of \$425,000.00, plus GST of \$42,500.00, and that the Liquidators can draw the remuneration on a monthly basis or as required."	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 7 "That the future internal disbursements of the Liquidators from commencement of the liquidation to the completion is determined at a sum equal to the cost spent by the Liquidators and their staff, calculated at the rates as detailed in the Initial Remuneration Notification of 25 November 2019 such sum to be capped at the amount of \$1,500.00, plus GST of \$150.00, and that the Liquidators may draw the disbursements on a monthly basis or as required."	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATED this day of 2020.

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.

Appendix M – Formal Proof of Debt

FORM 535
CORPORATIONS ACT 2001

ACN 003 257 556

Subregulation 5.6.49(2)

FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)

To the Joint and Several Administrators of Millennium Minerals Limited (Administrators Appointed) (Receivers and Managers Appointed)

1. This is to state that the company was, on 24 November 2019 ⁽¹⁾ and still is, justly and truly indebted to ⁽²⁾ (full name):

.....
(‘Creditor’)

.....
of (full address)

for \$.....dollars and cents.

Particulars of the debt are:

Date	Consideration ⁽³⁾ state how the debt arose	Amount \$	GST included \$	Remarks ⁽⁴⁾ include details of voucher substantiating payment

2. To my knowledge or belief the creditor has not, nor has any person by the creditor's order, had or received any manner of satisfaction or security for the sum or any part of it except for the following:

Insert particulars of all securities held. Where the securities are on the property of the company, assess the value of those securities. If any bills or other negotiable securities are held, specify them in a schedule in the following form:

Date	Drawer	Acceptor	Amount \$ c	Due Date

☐

I am **not** a related creditor of the Company ⁽⁵⁾

☐

I am a related creditor of the Company ⁽⁵⁾

relationship:

If the form is being used for the purpose of voting at a meeting:

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?) \$

3A.^{(6)*} I am employed by the creditor and authorised in writing by the creditor to make this statement. I know that the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.

3B.^{(6)*} I am the creditor's agent authorised to make this statement in writing. I know that the debt was incurred and for the consideration stated and that the debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.

DATED this day of 2020

Signature of Signatory.....

NAME IN BLOCK LETTERS

Occupation.....

Address

See Directions overleaf for the completion of this form

OFFICE USE ONLY

POD No:		ADMIT (Voting / Dividend) - Ordinary	\$
Date Received:	/ /	ADMIT (Voting / Dividend) – Preferential	\$
Entered into CORE IPS:		Reject (Voting / Dividend)	\$
Amount per ROCAP	\$	Object or H/Over for Consideration	\$
Reason for Admitting / Rejection			
PREP BY/AUTHORISED		TOTAL PROOF	\$
DATE AUTHORISED / /			

Proof of Debt Form Directions

- * Strike out whichever is inapplicable.
- (1) Insert date of Court Order in winding up by the Court, or date of resolution to wind up, if a voluntary winding up.
- (2) Insert full name and address (including ABN) of the creditor and, if applicable, the creditor's partners. If prepared by an employee or agent of the creditor, also insert a description of the occupation of the creditor.
- (3) Under "Consideration" state how the debt arose, for example "goods sold and delivered to the company between the dates of", "moneys advanced in respect of the Bill of Exchange".
- (4) Under "Remarks" include details of vouchers substantiating payment.
- (5) Related Party / Entity: Director, relative of Director, related company, beneficiary of a related trust.
- (6) If the Creditor is a natural person and this proof is made by the Creditor personally. In other cases, if, for example, you are the director of a corporate Creditor or the solicitor or accountant of the Creditor, you sign this form as the Creditor's authorised agent (delete item 3A). If you are an authorised employee of the Creditor (credit manager etc), delete item 3B.

Annexures

- A. If space provided for a particular purpose in a form is insufficient to contain all the required information in relation to a particular item, the information must be set out in an annexure.
- B. An annexure to a form must:
 - (a) have an identifying mark;
 - (b) and be endorsed with the words:
 - i) "This is the annexure of *(insert number of pages)* pages marked *(insert an identifying mark)* referred to in the *(insert description of form)* signed by me/us and dated *(insert date of signing)*; and
 - (c) be signed by each person signing the form to which the document is annexed.
- C. The pages in an annexure must be numbered consecutively.
- D. If a form has a document annexed the following particulars of the annexure must be written on the form:
 - (a) the identifying mark; and
 - (b) the number of pages.
- E. A reference to an annexure includes a document that is with a form.



Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.com/au/about for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.

The entity named herein is a legally separate and independent entity. In providing this document, the author only acts in the named capacity and does not act in any other capacity. Nothing in this document, nor any related attachments or communications or services, have any capacity to bind any other entity under the 'Deloitte' network of member firms (including those operating in Australia).

About Deloitte

Deloitte provides audit, tax, consulting, and financial advisory services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries, Deloitte brings world-class capabilities and high-quality service to clients, delivering the insights they need to address their most complex business challenges. Deloitte's approximately 200,000 professionals are committed to becoming the standard of excellence.

About Deloitte Australia

In Australia, the member firm is the Australian partnership of Deloitte Touche Tohmatsu. As one of Australia's leading professional services firms, Deloitte Touche Tohmatsu and its affiliates provide audit, tax, consulting, and financial advisory services through approximately 6000 people across the country. Focused on the creation of value and growth, and known as an employer of choice for innovative human resources programs, we are dedicated to helping our clients and our people excel. For more information, please visit our web site at www.deloitte.com.au.

Liability limited by a scheme approved under Professional Standards Legislation.

Member of Deloitte Touche Tohmatsu Limited

© 2020 Deloitte Touche Tohmatsu