

## NOTICE OF FILING AND HEARING

### Filing and Hearing Details

Document Lodged: Interlocutory process (Rule 2.2): Federal Court (Corporations) Rules 2000 form 3  
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)  
Date of Lodgment: 19/12/2022 3:36:56 PM AWST  
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File Number: WAD256/2022  
File Title: IN THE MATTER OF MURRAY & ROBERTS PTY LTD  
(ADMINISTRATORS APPOINTED) ACN 105 617 865  
Registry: WESTERN AUSTRALIA REGISTRY - FEDERAL COURT OF AUSTRALIA  
Reason for Listing: Interlocutory Hearing  
Time and date for hearing: 21/12/2022, 9:30 AM  
Place: Please check Daily Court List for details



*Sia Lagos*

Registrar

### Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



### Form 3 Interlocutory process

(rules 2.2, 15A.4, 15A.8 and 15A.9)

Federal Court of Australia

WAD256/2022

District Western Australia

Registry:

Division: General

IN THE MATTER OF IN THE MATTER OF MURRAY & ROBERTS PTY LTD  
(ADMINISTRATORS APPOINTED) ACN 105 617 865

**SALVATORE ALGERI, JASON TRACY, GLEN KANEVSKY AND DAVID ORR in their  
capacities as joint and several voluntary administrators of Murray & Roberts  
(administrators appointed) and the Third to Thirteenth Plaintiffs named in the Schedule**

First Plaintiffs

AND THE OTHERS NAMED IN THE SCHEDULE

Second to Thirteenth Plaintiffs

#### A. DETAILS OF INTERLOCUTORY APPLICATION

This interlocutory application is made under sections 439A(6) and 447A(1) of the *Corporations Act 2001* (Cth) (**Corporations Act**) and sections 90-15 and 80-55 of the *Insolvency Practice Schedule (Corporations)*, being Schedule 2 of the *Corporations Act (IPS)*.

On the facts stated in the supporting affidavit of David Michael Orr sworn 19 December 2022 (**Orr Affidavit**), the Plaintiffs seek the following orders:

##### **Extension of convening period**

- 1 Pursuant to section 439A(6) of the *Corporations Act*, the convening period defined in section 439A(5)(a) of the *Corporations Act* in respect of the Second to Thirteenth Plaintiffs (together the **Clough Companies** and each a **Clough Company**) be extended until 17 February 2023.
- 2 Pursuant to section 447A(1) of the *Corporations Act*, that Part 5.3A of the *Corporations Act* is to operate in relation to each of the Clough Companies such that, notwithstanding section 439A(2) of the *Corporations Act*, the second meetings of the creditors of each of

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Filed on behalf of the Plaintiffs:

Prepared by

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Ref: SK/SJD 603-0080890



the Clough Companies required under section 439A of the Corporations Act (**Second Meetings**) may be held at any time during, or within five (5) business days after the end of, the convening period as extended by order 1 above.

### **Voting at the Second Meetings**

- 3 Pursuant to section 90-15 of the IPS, the First Plaintiffs are justified in requiring that any creditors of the Clough Companies who intend to vote at the Second Meetings must register with the Halo Platform by no later than three (3) business days before the Second Meetings are held.

### **Committee of inspection dealing orders**

- 4 Subject to paragraphs 5 and 6 below, pursuant to sections 80-55(5) and 90-15 of the IPS, leave be granted to the members of the committee of inspection formed in relation to the Clough Companies (**Committee**) to derive a profit or advantage from the external administration of each of those companies.
- 5 No leave be granted for the members of the Committee to receive any gift or remuneration from the external administration of any of the Clough Companies by reason of their position as a member of the Committee.
- 6 Pursuant to section 90-15 of the IPS, the First Plaintiffs are to:
  - (a) keep a schedule noting each agreement entered into by the First Plaintiffs on behalf of any of the Clough Companies with a member of the Committee or any related entity of a member (**COI Agreements**); and
  - (b) provide an update to the Committee, at each meeting of the Committee, as to each of the COI Agreements that the First Plaintiffs have entered into on behalf of any of the Clough Companies.

### **Other ancillary orders**

- 7 The First Plaintiffs must take all reasonable steps to cause notice of these orders to be given, within one (1) business day after the making of these orders, to:
  - (a) the creditors (including persons or entities claiming to be creditors) of each of the Clough Companies, in the following manner:
    - (i) where the creditor is a registered user on the Halo Platform, by publishing a notice via the Halo Platform;
    - (ii) where the creditor is not a registered user on the Halo Platform but the First Plaintiffs have an email address for a creditor, notifying each such creditor, via email, of the making of the orders and providing a link to a



website where the creditor may download the orders and this Interlocutory Process;

- (iii) where a creditor is not a registered user on the Halo Platform and the First Plaintiffs do not have an email address for a creditor but have a postal address for that creditor (or have received notification of non-delivery of a notice sent by email in accordance with (a)(ii) above), notifying each such creditor, via post, of the making of the orders and providing a link to a website where the creditor may download the orders and the Originating Process; and
- (iv) placing scanned, sealed copies of the orders and the Originating Process on the website maintained by the First Plaintiffs at <https://aurestructuring.deloitte-halo.com/clough>;
- (b) the Australian Securities and Investments Commission;
- (c) the Deputy Commissioner of Taxation; and
- (d) the Attorney-General's Department (administering the Fair Entitlements Guarantee Scheme).

8 Any person who can demonstrate a sufficient interest has liberty to apply to vary or discharge any orders made pursuant to orders 1 to 7 above on three (3) business days' notice being given to the Plaintiffs and the Court.

9 The Plaintiffs' costs of and incidental to this application be costs in the administration of the Clough Companies, joint and severally.

Date: 19 December 2022

A handwritten signature in blue ink, appearing to read 'S. Dundas'.

Sam Dundas  
Lawyer for the Plaintiffs  
King & Wood Mallesons

This interlocutory application will be heard by the Federal Court of Australia at Commonwealth Law Courts, 1 Victoria Avenue, Perth at .....am/pm on.....



**B. NOTICE TO RESPONDENT(S) (IF ANY)**

It is intended to provide a copy of this interlocutory process on each of the persons listed below:

1. Australian Securities and Investments Commission

**C. FILING**

This interlocutory process is filed by Sam Dundas of King & Wood Mallesons, solicitors for the Plaintiffs.

**D. SERVICE**

The Plaintiffs' address for service is:

King & Wood Mallesons  
Level 30, QV.1 Building  
250 St Georges Terrace  
Perth WA 6000  
Sam.Dundas@au.kwm.com



## Schedule

Federal Court of Australia

WAD256/2022

District                    Western Australia  
Registry:

Division:                General

IN THE MATTER OF IN THE MATTER OF MURRAY & ROBERTS PTY LTD  
(ADMINISTRATORS APPOINTED)

ACN, ABN or ARBN: 105 617 865

**MURRAY & ROBERTS PTY LTD (ADMINISTRATORS APPOINTED) ACN 105 617 865**

Second Plaintiff

**CLOUGH LIMITED (ADMINISTRATORS APPOINTED) ACN 008 678 813**

Third Plaintiff

**CLOUGH OPERATIONS PTY LTD (ADMINISTRATORS APPOINTED) ACN 109 444 279**

Fourth Plaintiff

**CLOUGH OVERSEAS PTY LTD (ADMINISTRATORS APPOINTED) ACN 067 272 182**

Fifth Plaintiff

**CLOUGH SEAM GAS PTY LTD (ADMINISTRATORS APPOINTED) ACN 139 610 656**

Sixth Plaintiff

**CLOUGH ENGINEERING & INTEGRATED SOLUTIONS (CEIS) PTY LTD  
(ADMINISTRATORS APPOINTED) ACN 097 480 736**

Seventh Plaintiff

**E20 PTY LTD (ADMINISTRATORS APPOINTED) ACN 125 234 924**

Eighth Plaintiff

**SHARP RESOURCES PTY LTD (ADMINISTRATORS APPOINTED) ACN 166 613 127**

Ninth Plaintiff

**CLOUGH PROJECTS PTY LTD (ADMINISTRATORS APPOINTED) ACN 109 444 831**

Tenth Plaintiff

**CLOUGH ENGINEERING PTY LTD (ADMINISTRATORS APPOINTED) ACN 009 093 869**

Eleventh Plaintiff

**CLOUGH PROJECTS INTERNATIONAL PTY LTD (ADMINISTRATORS APPOINTED) ACN  
109 444 902**

Twelfth Plaintiff

**CLOUGH PROJECTS AUSTRALIA PTY LTD (ADMINISTRATORS APPOINTED) ACN 109  
444 215**

Thirteenth Plaintiff

**Date:** 19 December 2022