



## FIRST REPORT TO CREDITORS

**NEW WILKIE ENERGY PTY LTD**

**ACN: 007 683 454**

**NWE FINANCE PTY LTD**

**ACN: 664 827 141**

**NEC NO.2 PTY LIMITED**

**ACN: 164 937 704**

**NEW RENEWABLE ENERGY PTY LTD**

**ACN: 164 937 633**

**(ALL ADMINISTRATORS APPOINTED)  
(COLLECTIVELY "THE COMPANIES" OR  
"NEW WILKIE GROUP OF COMPANIES")**

**NWE COAL PTY LTD**

**ACN: 664 827 016**

**NWE COAL HOLDINGS PTY LTD**

**ACN: 664 827 098**

**CORVUS COAL PTY LIMITED**

**ACN: 621 700 472**

**29 December 2023**

**ANDREW CUMMINS  
PETER KREJCI  
JONATHON KEENAN  
STEFAN DOPKING  
Joint and Several Administrators**

**Phone 02 8044 0535  
Email [NWE@brifnsw.com.au](mailto:NWE@brifnsw.com.au)  
Website [www.briferrier.com.au](http://www.briferrier.com.au)  
Postal GPO Box 7079, Sydney NSW 2001  
Address Level 26, 25 Bligh Street  
Sydney NSW 2000**

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## GLOSSARY OF COMMON ACRONYMS & ABBREVIATIONS

ABN	Australian Business Number
ACN	Australian Company Number
Act	Corporations Act 2001 (Cth)
ARITA	Australian Restructuring Insolvency and Turnaround Association
ASIC	Australian Securities and Investments Commission
ATO	Australian Taxation Office
Committee	Committee of Inspection
Companies/ New Wilkie Group of Companies	New Wilkie Energy Pty Ltd
	NWE Finance Pty Ltd
	New Renewable Energy Pty Limited
	NEC No.2 Pty Limited
	NWE Coal Holdings Pty Ltd
	NWE Coal Pty Ltd
Corvus Coal Pty Limited	
Director	Andrew Lowy
DIRRI	Declaration of Independence, Relevant Relationships & Indemnities
DOCA	Deed of Company Arrangement
FEG	Fair Entitlements Guarantee
Firm	BRI Ferrier NSW & BRI Ferrier QLD
IPR	Insolvency Practice Rules (Corporations) 2016
IPS	Insolvency Practice Schedule (Corporations)
POD	Proof of Debt
PPSR	Personal Property Securities Register
ROCAP	Report on Company Activities and Property
VA	Voluntary Administration
Voluntary Administrators	Andrew Cummins
	Peter Krejci
	Jonathon Keenan
	Stefan Dopking

## 1 EXECUTIVE SUMMARY

On 27 December 2023, we, Andrew Cummins, Jonathon Keenan, Peter Krejci of BRI Ferrier (NSW), Level 26, 25 Bligh Street, Sydney NSW 2000 and Stefan Dopking of BRI Ferrier (QLD), Level 4, 307 Queen Street, Brisbane QLD 4000 were appointed Joint and Several Administrators of the following companies pursuant to Section 436A of the Act:

- New Wilkie Energy Pty Ltd
- NWE Finance Pty Ltd
- NEC No.2 Pty Limited
- New Renewable Energy Pty Limited
- NWE Coal Holdings Pty Ltd
- NWE Coal Pty Ltd
- Corvus Coal Pty Limited

(collectively “the Companies” or “New Wilkie Group of Companies”)

This Report and the accompanying Notice of Appointment and First Meeting of Creditors advises of our appointment and explains the first stages of the VA.

The First Meeting of the Creditors of the Companies will be held on **Tuesday 9 January 2024** at the following times:

- New Wilkie Energy Pty Ltd at **11:00AM (AEST)**
- NWE Finance Pty Ltd at **1:00PM (AEST)**
- NEC No.2 Pty Limited at **3:00PM (AEST)**
- New Renewable Energy Pty Limited at **3:00PM (AEST)**
- NWE Coal Holdings Pty Ltd at **3:00PM (AEST)**
- NWE Coal Pty Ltd at **3:00PM (AEST)**
- Corvus Coal Pty Limited at **3:00PM (AEST)**

The notices are attached as **Annexure “1”**. The meetings will be held at 11 Cunningham Street Dalby QLD 4405 with virtual meeting technology also made available should creditors wish to attend the meeting virtually. Details to access the virtual meeting will be provided to those who have substantiated their claim by providing a completed Proof of Debt form (**Annexure “2”**).

The Administrators are in control of the business and its operations, and we are conducting an urgent assessment of the financial affairs and set out our preliminary understanding below.

### 1.1 BACKGROUND

The Companies operates as part of larger group of entities known as New Wilkie Energy. New Wilkie Energy (NWE) operates the Wilkie Creek Coal mine located in the Surat Basin in Queensland, approximately 250 km west of Brisbane.

We are undertaking an urgent assessment of the Companies' financial and operation position in an attempt to continue to trade the business on a limited basis. Further information is provided below.

In the forthcoming weeks, we will be conducting an investigation into the affairs of the Companies, reviewing the options available to the Companies and their creditors, including any potential proposal for a DOCA and/or offer to purchase the Companies' business.

## **1.2 FINANCIAL POSITION**

We are undertaking an urgent assessment of the Companies' financial and operational position. We have been provided management accounts up to 30 November 2023, which indicates the following:

- New Wilkie Energy Pty Ltd is the main asset holding and operating entity.
- The other companies are not trading and hold minimal assets.
- We are advised that Corvus Coal Pty Ltd and its subsidiaries have been sold. We are not dealing with the subsidiaries.

We will provide further information at the forthcoming creditors meeting, and in future reports.

## **1.3 DEED OF COMPANY ARRANGEMENT**

Our initial enquiries indicate that there may be a viable business remaining to save or restructure. As such, it may be possible to explore a form of restructure of the business via a DOCA. A DOCA is an agreement with creditors to compromise their debts in return for which they receive a return, immediately or over time.

We note that a DOCA can be proposed by any party, including creditors or shareholders of the Companies. Therefore, we invite any interested parties to contact our office promptly should they wish to formulate a proposal. Any proposal should be submitted without delay.

## **1.4 SALE OF BUSINESS**

It is currently our intention to offer the business for sale. It is expected that the sale campaign will commence early in the New Year.

## **2 EFFECT OF ADMINISTRATION ON CREDITORS**

### **2.1 TRADE CREDITORS**

As mentioned above, the Companies are continuing to trade in a limited capacity to preserve the value in the business. In this regard, as the Companies are now in Administration, all costs incurred by the business need to be authorised by the Administrators in order for payment to be made.

Regardless, all claims against the Companies in respect of goods and/or services provided to the Companies prior to our appointment are effectively frozen as at the date of our appointment.

Please contact Ms Kristine Hu of this office for instructions regarding the continued supply of services. We will not accept any responsibility or liability in respect of any goods or services provided after the date of our appointment unless express written authorisation for those goods and services has been provided. Please refer to **Annexure "4"** for a list of specimen authorised signatures.

## 2.2 EMPLOYEES

The Director has advised that New Wilkie Energy Pty Ltd employs approximately 30 staff members. It is our understanding that employee wages are paid to 31 December 2023. The staff continue to be employed and wages will be paid in the ordinary course of business.

We note that employees have a statutory priority of payment in respect of outstanding entitlements, such as superannuation, annual leave, long service leave and redundancy (to the extent applicable). Should the Companies ultimately be placed into Liquidation, then the government FEG scheme is also available as a safety net.

## 2.3 LANDLORD

Whilst the Companies are in VA, a moratorium is imposed on all debts outstanding as at the date of our appointment. This extends to amounts outstanding to landlords of any premises leased by the Companies.

Pursuant to Section 443B of the Act, the Administrators are not liable for rental or lease payments on goods or property for the first five (5) business days of the VA. Furthermore, landlords are not entitled to terminate leases due to any technical defaults caused by the Companies being placed into VA.

We continue to occupy the premises and the mine site in the interim during the VA period. However, that may change in due course, as the outcome of the VA process become known (ie. sale, restructure or liquidation).

## 2.4 SECURED CREDITORS AND SECURITY INTERESTS

A search of the Personal Property Securities Register ("PPSR") for the Companies as at the date of this Report indicates the following security interests registered against the Companies respectively:

- 231 security interests over New Wilkie Energy Pty Ltd
- 3 security interests over NWE Finance Pty Ltd
- 5 security interests over NEC No.2 Pty Limited
- No security interests over New Renewable Energy Pty Limited
- 3 security interests over NWE Coal Holdings Pty Ltd
- 3 security interests over NWE Coal Pty Ltd
- 1 security interest over Corvus Coal Pty Limited

Pursuant to Section 443B of the Act, the Administrators are not liable for rental or lease payments on goods or property for the first five (5) business days of the administration. We ask all lessors and hirers to contact our office to discuss the effect of our appointment further.

## 2.5 LEGAL ACTIONS AGAINST THE COMPANIES

Pursuant to s440D of the Act, upon our appointment all proceedings are automatically stayed. Creditors cannot commence or continue proceedings against the Companies without our written consent or without leave of the Court.

Please contact our office urgently if you hold instructions to act for the Companies or are involved in any legal proceedings on behalf of the Companies.

## 3 DECLARATION OF INDEPENDENCE, RELEVANT RELATIONSHIPS & INDEMNITIES

Attached as **Annexure "5"** is a copy of the Declaration of Independence, Relevant Relationships and Indemnities ("DIRRI") made pursuant to section 436DA of the Act.

Until being approached by the Companies' legal advisers and our subsequent appointment as Joint and Several Administrators, neither of us, nor any of our fellow Principals, have had any dealings with the Companies, its Director and/or senior management, either socially or professionally, apart from those disclosed in the DIRRI.

We have undertaken a proper assessment as to the risks to our independence prior to accepting this appointment.

## 4 LIKELY RETURN TO CREDITORS

Due to the limited information received to date and the early stages of this administration process, we are not in a position to provide comments on the likelihood of return to creditors.

Further, we have not received any DOCA proposals or offer to purchase the Companies' business to date, and therefore cannot comment on how that may affect any returns. Further enquiries will be made into the estimated return to creditors and will be reported to creditors in subsequent reports.

## 5 EXPLANATION OF THE ADMINISTRATION PROCESS

Generally, two Meetings of Creditors are held during a VA. The purposes of the meetings are as follows.

### 5.1 FIRST MEETINGS OF CREDITORS

This meeting will determine:

- whether to appoint committees of inspection; and
- if so, who are to be the committees' members.

At this meeting, creditors may also, by resolution:

- remove the Joint and Several Administrators from office; and
- appoint someone else as Administrator(s) of the Companies.

The First Meeting is required to be held within eight (8) business days after appointment. It is not possible to provide creditors with a detailed analysis of the Companies' affairs within this time.

## 5.2 SECOND MEETING OF CREDITORS

Following a preliminary investigation into the Companies' affairs, we will convene the Second Meeting of Creditors, known as the "decision meeting". When giving Notice of that meeting, we will also send you a Second Report to Creditors under section 75-225 of the *Insolvency Practice Rules (Corporations)*. The Notice and Report will be sent at least five (5) business days before the Second Meetings of Creditors.

Normally that Report covers such issues as:

- Assessment of the Companies' financial position and the estimated value of assets;
- Comparison of realisations under any DOCA (if proposed) as against Liquidation;
- Review of the conduct of the Companies business including consideration of antecedent/voidable transactions which may be able to be overturned should a Liquidator be appointed; and
- Consideration of insolvent trading by the officer of the Companies and other recoveries potentially available to a Liquidator.

In the Report, we are further required to recommend whether it is in the creditors' interests that:

- An arrangement be entered into between Creditors and the Companies (in the form of a DOCA); or
- The Administrations should end; or
- The Companies should be wound up (placed in Liquidation).

Should any creditor or interested party wish to submit a proposal for a DOCA, please contact us immediately.

## 6 MEETING

### 6.1 FIRST MEETING OF CREDITORS

The First Meeting of the Creditors of the Companies under section 436E of the Act will be held on **Tuesday, 9 January 2024**. Please note the different times for each of the meetings. The notice is attached as **Annexure "1"**. The meetings will be held at 11 Cunningham Street, Dalby QLD 4405 and also virtual meeting technology will be made available should creditors wish to attend the meeting virtually.

Details to access the virtual meeting will be provided to those who have substantiated their claim by providing a completed Proof of Debt form (**Annexure "2"**).



Please find further details in relation to each of the meetings is provided in the tables below:

#### New Wilkie Energy Pty Ltd

<b>Meeting Time</b>	Tuesday, 9 January 2024 at 11:00AM AEST
<b>Address</b>	11 Cunningham Street, Dalby QLD 4405
<b>Registration Link</b>	<a href="https://us06web.zoom.us/meeting/register/tZwuceGgrDsjHtUomh8yTiTA1iuRh9l7wGJq">https://us06web.zoom.us/meeting/register/tZwuceGgrDsjHtUomh8yTiTA1iuRh9l7wGJq</a>

#### NWE Finance Pty Ltd

<b>Meeting Time</b>	Tuesday, 9 January 2024 at 1:00PM AEST
<b>Address</b>	11 Cunningham Street, Dalby QLD 4405
<b>Registration Link</b>	<a href="https://us06web.zoom.us/meeting/register/tZlpuuuqzgiGNWKh1J_GsxtGia8p6l5am0h">https://us06web.zoom.us/meeting/register/tZlpuuuqzgiGNWKh1J_GsxtGia8p6l5am0h</a>

#### NEC NO. 2 Pty Ltd, NWE Coal Pty Ltd, NWE Coal Holdings Pty Ltd, New Renewable Energy Pty Ltd Corvus Coal Pty Ltd

<b>Meeting Time</b>	Tuesday, 9 January 2024 at 3:00PM AEST
<b>Address</b>	11 Cunningham Street, Dalby QLD 4405
<b>Registration Link</b>	<a href="https://us06web.zoom.us/meeting/register/tZAocu2oqzggHtH0FX2B0BRn50HN7rhmJ8qD">https://us06web.zoom.us/meeting/register/tZAocu2oqzggHtH0FX2B0BRn50HN7rhmJ8qD</a>

The purpose of this meeting is to:

- consider the appointment of a Committee of Inspection; and
- consider removal of the Administrators from office and appointment of someone else as administrator(s) of the Companies.

## 6.2 PARTICIPATION IN THE MEETING

To participate as a creditor, you should:

- Provide a Proof of Debt, attached as **Annexure “2”**, detailing your claim to be a creditor if you have not already done so. A Form 535 Formal Proof of Debt is enclosed. Please mark the relevant company to which you have a claim. When returning the Proof of Debt, please also enclose documentation supporting your claim.
- Please provide a Proxy, attached as **Annexure “3”**, or Power of Attorney if you are a company, or are a natural person who is unable to attend the meeting in person. The documentation appointing the Power of Attorney must be provided to the Joint and Several Administrators’ office prior to the meeting.
- You should send your Proof and Proxy to our office at [NWE@brifnsw.com.au](mailto:NWE@brifnsw.com.au) by **no later than 4:00PM AEST on Monday, 8 January 2024**.

- ▶ If you are owed a debt by the Companies in your capacity as a natural person and wish to attend the meeting, you are welcome to attend without the need for a proxy form, but a completed Proof of Debt is still required.
- ▶ Please see the Notice of Meeting for requirements if you wish to participate in the meeting.

### 6.3 COMMITTEE OF INSPECTION

The functions of a Committee of Inspection as set out in section 80–35 of the Insolvency Practice Schedule (Corporations) are to:

- ▶ advise and assist the Administrators;
- ▶ give directions to the Administrators;
- ▶ monitor the conduct of the administration;
- ▶ carry out such other functions as conferred on the Committee by the Act; and
- ▶ do anything incidental or conclusive to the performance of any of the above functions.

Please note, the Administrators must have regard to any directions given by the Committee but are not required to comply with such directions.

Only creditors and their representatives are able to be members of the Committee. Please also note that a creditor or group of creditors representing at least 10% in value of creditors claims may appoint a person as a member of the Committee as may the Commonwealth if a claim for financial assistance is made or likely to be made against the Fair Entitlements Guarantee scheme.

In addition, an employee or group of employees representing at least 50% in value of employees' entitlements may appoint a member of the Committee to represent employees.

If a Committee is appointed at the forthcoming meeting, further information will be provided to the members of the Committee shortly thereafter.

**Please note, as set out in Clause 80-55 of the IPS, a member of the Committee must not directly or indirectly derive any profit or advantage from the external administration of the company unless the creditors resolve otherwise or the Court gives leave. This includes selling to, or purchasing from, the company during the VA.**

## 7 REMUNERATION

Please find attached as **Annexure "6"** an Initial Remuneration Notice setting out the methods of calculation of remuneration available to an Insolvency Practitioner, together with the advice as to the method chosen.

This document also includes details of our Firm's hourly rates, together with any amendments to that expected remuneration and the reasons for the amendment and also includes a summary of the method for charging of disbursements.

## 8 CREDITORS' RIGHTS

Pursuant to Clauses 70-40, 70-45, 75-15, 85-5, 90-24 and 90-35 of the IPS and Rule 70-30 of the IPR, we are required to give certain information to creditors as to their rights in the VA.

Accordingly, we attach as **Annexure "7"** an Information Sheet on Creditors' Rights in a Voluntary Administration as published by ARITA for creditors' information.

Within one month of the end of the VA, we must lodge an End of Administration Return in the prescribed form. Should any creditor wish to receive notice of the lodgement of this return, please advise our office of your requirements in writing.

## 9 FURTHER INFORMATION

We enclose an information sheet entitled "Insolvency information for directors, employees, creditors and shareholders". This publication provides details to access further information to assist creditors in circumstances where a company has been placed into VA. We specifically refer creditors to the Information Sheet 74 "Voluntary Administration: A Guide for Creditors" and Information Sheet 75 "Voluntary Administration: A Guide for Employees" which are available on the ASIC website at [www.asic.gov.au](http://www.asic.gov.au).

Please note that we are not required to publish notices in the print media. ASIC maintains an online notices page for external administrators to publish notices in respect of the company. Creditors are encouraged to visit [www.insolvencynotices.asic.gov.au](http://www.insolvencynotices.asic.gov.au) throughout the VA to view any notices which may be published by the Administrators in respect of the Companies. These notices include:

- ▶ notices of winding up applications
- ▶ notices relating to appointments
- ▶ notices of meetings of creditors
- ▶ notices of intention to disclaim property
- ▶ notices calling for proofs of debt and intention to declare dividends

We enclose as **Annexure "8"** a summary of Insolvency information sheets available on the ASIC website.

If you would prefer to receive communications (including any Notice of Meeting) from us by email, please complete the details on the POD form attached as **Annexure "2"**.

*[This area is intentionally left blank]*

Should you have any further queries in this matter, please contact us on (02) 8044 0535 or [NWE@brifnsw.com.au](mailto:NWE@brifnsw.com.au).

Yours faithfully

**NWE FINANCE PTY LTD  
NEW WILKIE ENERGY PTY LTD  
NEW RENEWABLE ENERGY PTY LIMITED  
NEC NO.2 PTY LIMITED  
NWE COAL HOLDINGS PTY LTD  
NWE COAL PTY LTD  
CORVUS COAL PTY LIMITED  
(ALL ADMINISTRATORS APPOINTED)**

**ANDREW CUMMINS**

Joint and Several Administrator



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**NEW WILKIE ENERGY PTY LIMITED  
(ADMINISTRATORS APPOINTED)  
ACN 007 683 454 / ABN 93 007 683 454**

**CORVUS COAL PTY LIMITED  
(ADMINISTRATORS APPOINTED)  
ACN 621 700 472 / ABN 51 621 700 472**

**NEW RENEWABLE ENERGY PTY LIMITED  
(ADMINISTRATORS APPOINTED)  
ACN 164 937 633**

**NEC NO.2 PTY LIMITED  
(ADMINISTRATORS APPOINTED)  
ACN 164 937 704 / ABN 97 164 937 704**

**NWE FINANCE PTY LTD  
(ADMINISTRATORS APPOINTED)  
ACN 664 827 141 / ABN 92 664 827 141**

**NWE COAL HOLDINGS PTY LTD  
(ADMINISTRATORS APPOINTED)  
ACN 664 827 098**

**NWE COAL PTY LTD  
(ADMINISTRATORS APPOINTED)  
ACN 664 827 016**

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**Annexure "1"**  
**Notice of Meeting of Creditors**

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CORPORATIONS ACT 2001  
Section 436E

Section 436E  
Insolvency Practice Rules (Corporations)  
75-10, 75-15, 75-20, 75-35

NOTICE OF FIRST MEETING OF CREDITORS OF COMPANY UNDER ADMINISTRATION

NEW WILKIE ENERGY PTY LTD (ADMINISTRATORS APPOINTED)  
ACN 007 683 454 / ABN 93 007 683 454  
("THE COMPANY")

On 27 December 2023, the Company under section 436A appointed Andrew Cummins, Jonathon Keenan, Peter Krejci of BRI Ferrier (NSW) Level 26, 25 Blich Street, Sydney NSW 2000 and Stefan Dopking of BRI Ferrier (South QLD) Level 4, 307 Queen Street, Brisbane QLD 4000 as the Joint and Several Voluntary Administrators of the Company.

Notice is given that a Meeting of Creditors will be held on Tuesday, 9 January 2024 at 11:00 AM AEST. This meeting will be held at 11 Cunningham Street, Dalby QLD 4405.

Virtual meeting technology will also be made available should creditors wish to attend the meeting virtually. To attend virtually, creditors will need to register their details at the following link:

<https://us06web.zoom.us/meeting/register/tZwuceGgrDsjHtUomh8yTiTA1iuRh9I7wGJq>

1. The purpose of the meeting is to determine:
  - a. whether to appoint a committee of inspection; and
  - b. if so, who are to be the committee's members.
  
2. At the meeting, creditors may also, by resolution:
  - a. remove the Administrators from office;
  - b. appoint someone else as administrator(s) of the Company;

Notes:

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 in the approved form.

Proxy forms must be given to the Administrators or the person named as convening the meeting. An attorney of the creditor must show the instrument by which he or she is appointed to the Chairperson of the meeting, prior to the commencement of the meeting.

Special Instructions for Meeting

Attendees who wish to attend the meeting virtually are required to register to attend the meeting at the above link.

You will also need to provide a Formal Proof of Debt Form (including documentation to support your claim) and proxy form if you are a corporate creditor or wish to be represented by another person.

Upon receipt of a valid Formal Proof of Debt Form and Proxy, a link to access the virtual meeting will be emailed to you. This link will be unique for each attendee and unable to be shared with other parties.

Telephone dial-in details will also be available for the virtual meeting. Those wishing to attend via telephone will also be required to complete the above registration process.

In accordance with IPR 5-5, a vote taken on a “show of hands” includes a vote taken using any electronic mechanism that indicates the intentions of a person in respect of a vote. This may include an attendee clicking a “raise a hand”, or similar button, on a virtual meeting computer program, as well as verbally indicating their vote if dialling in to the meeting.

This definition is necessary to ensure that a show of hands may be used at a virtual meeting as an alternative to a poll.

DATED this 29<sup>th</sup> day of December 2023.

ANDREW CUMMINS  
JOINT AND SEVERAL ADMINISTRATOR

BRI FERRIER  
Level 26  
25 Bligh Street  
Sydney NSW 2000

Telephone: 02 8044 0535

**\*Voting at a Meeting the effect of Insolvency Practice Rules (Corporations) 75-85:**

**Entitlement to vote at meetings of creditors**

- (1) A person other than a creditor (or the creditor's proxy or attorney) is not entitled to vote at a meeting of creditors.
- (2) Subject to subsections (3), (4) and (5), each creditor is entitled to vote and has one vote.
- (3) A person is not entitled to vote as a creditor at a meeting of creditors unless:
  - (a) his or her debt or claim has been admitted wholly or in part by the external administrator; or
  - (b) he or she has lodged, with the person presiding at the meeting, or with the person named in the notice convening the meeting as the person who may receive particulars of the debt or claim:
    - (i) those particulars; or
    - (ii) if required—a formal proof of the debt or claim.
- (4) A creditor must not vote in respect of:
  - (a) an unliquidated debt; or
  - (b) a contingent debt; or
  - (c) an unliquidated or a contingent claim; or
  - (d) a debt the value of which is not established;unless a just estimate of its value has been made.
- (5) A creditor must not vote in respect of a debt or a claim on or secured by a bill of exchange, a promissory note or any other negotiable instrument or security held by the creditor unless he or she is willing to do the following:
  - (a) treat the liability to him or her on the instrument or security of a person covered by subsection (6) as a security in his or her hands;
  - (b) estimate its value;
  - (c) for the purposes of voting (but not for the purposes of dividend), to deduct it from his or her debt or claim.
- (6) A person is covered by this subsection if:
  - (a) the person's liability is a debt or a claim on, or secured by, a bill of exchange, a promissory note or any other negotiable instrument or security held by the creditor; and
  - (b) the person is either liable to the company directly, or may be liable to the company on the default of another person with respect to the liability; and
  - (c) the person is not an insolvent under administration or a person against whom a winding up order is in force



CORPORATIONS ACT 2001  
Section 436E

Section 436E  
Insolvency Practice Rules (Corporations)  
75-10, 75-15, 75-20, 75-35

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ACN 664 827 141 / ABN 92 664 827 141  
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Special Instructions for Meeting

Attendees who wish to attend the meeting virtually are required to register to attend the meeting at the above link.

You will also need to provide a Formal Proof of Debt Form (including documentation to support your claim) and proxy form if you are a corporate creditor or wish to be represented by another person.

Upon receipt of a valid Formal Proof of Debt Form and Proxy, a link to access the virtual meeting will be emailed to you. This link will be unique for each attendee and unable to be shared with other parties.

Telephone dial-in details will also be available for the virtual meeting. Those wishing to attend via telephone will also be required to complete the above registration process.

In accordance with IPR 5-5, a vote taken on a “show of hands” includes a vote taken using any electronic mechanism that indicates the intentions of a person in respect of a vote. This may include an attendee clicking a “raise a hand”, or similar button, on a virtual meeting computer program, as well as verbally indicating their vote if dialling in to the meeting.

This definition is necessary to ensure that a show of hands may be used at a virtual meeting as an alternative to a poll.

DATED this 29<sup>th</sup> day of December 2023.

ANDREW CUMMINS  
JOINT AND SEVERAL ADMINISTRATOR

BRI FERRIER  
Level 26  
25 Bligh Street  
Sydney NSW 2000

Telephone: 02 8044 0535

**\*Voting at a Meeting the effect of Insolvency Practice Rules (Corporations) 75-85:**

**Entitlement to vote at meetings of creditors**

- (1) A person other than a creditor (or the creditor's proxy or attorney) is not entitled to vote at a meeting of creditors.
- (2) Subject to subsections (3), (4) and (5), each creditor is entitled to vote and has one vote.
- (3) A person is not entitled to vote as a creditor at a meeting of creditors unless:
  - (a) his or her debt or claim has been admitted wholly or in part by the external administrator; or
  - (b) he or she has lodged, with the person presiding at the meeting, or with the person named in the notice convening the meeting as the person who may receive particulars of the debt or claim:
    - (i) those particulars; or
    - (ii) if required—a formal proof of the debt or claim.
- (4) A creditor must not vote in respect of:
  - (a) an unliquidated debt; or
  - (b) a contingent debt; or
  - (c) an unliquidated or a contingent claim; or
  - (d) a debt the value of which is not established;unless a just estimate of its value has been made.
- (5) A creditor must not vote in respect of a debt or a claim on or secured by a bill of exchange, a promissory note or any other negotiable instrument or security held by the creditor unless he or she is willing to do the following:
  - (a) treat the liability to him or her on the instrument or security of a person covered by subsection (6) as a security in his or her hands;
  - (b) estimate its value;
  - (c) for the purposes of voting (but not for the purposes of dividend), to deduct it from his or her debt or claim.
- (6) A person is covered by this subsection if:
  - (a) the person's liability is a debt or a claim on, or secured by, a bill of exchange, a promissory note or any other negotiable instrument or security held by the creditor; and
  - (b) the person is either liable to the company directly, or may be liable to the company on the default of another person with respect to the liability; and
  - (c) the person is not an insolvent under administration or a person against whom a winding up order is in force

CORPORATIONS ACT 2001  
Section 436E

Section 436E  
Insolvency Practice Rules (Corporations)  
75-10, 75-15, 75-20, 75-35

NOTICE OF FIRST CONCURRENT MEETING OF CREDITORS OF COMPANY UNDER ADMINISTRATION

NEW RENEWABLE ENERGY PTY LIMITED  
ACN 164 937 633

NWE COAL PTY LTD  
ACN 664 827 016

NEC NO.2 PTY LIMITED  
ACN: 164 937 704 / ABN 97 164 937 704

CORVUS COAL PTY LIMITED  
ACN 621 700 472 / ABN 51 621 700 472

NWE COAL HOLDINGS PTY LTD  
ACN 664 827 098

(ALL ADMINISTRATORS APPOINTED)  
(COLLECTIVELY "THE COMPANIES")

On 27 December 2023, the Companies under section 436A appointed Andrew Cummins, Jonathon Keenan, Peter Krejci of BRI Ferrier (NSW) Level 26, 25 Bligh Street, Sydney NSW 2000 and Stefan Dopking of BRI Ferrier (South QLD) Level 4, 307 Queen Street, Brisbane QLD 4000 as the Joint and Several Voluntary Administrators of the Companies.

Notice is given that a concurrent meeting of creditors will be held on Tuesday, 9 January 2024 at 3:00 PM AEST. This meeting will be held at 11 Cunningham Street, Dalby QLD 4405.

Virtual meeting technology will also be made available should creditors wish to attend the meeting virtually. To attend virtually, creditors will need to register their details at the following link:

<https://us06web.zoom.us/meeting/register/tZAocu2oqzggHtH0FX2B0BRn50HN7rhmJ8qD>

1. The purpose of the meeting is to determine:
  - a. whether to appoint a committee of inspection; and
  - b. if so, who are to be the committee's members.
2. At the meeting, creditors may also, by resolution:
  - a. remove the Administrators from office;
  - b. appoint someone else as administrator(s) of the Company;

Notes:

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 in the approved form.

Proxy forms must be given to the Administrators or the person named as convening the meeting. An attorney of the creditor must show the instrument by which he or she is appointed to the Chairperson of the meeting, prior to the commencement of the meeting.

Special Instructions for Meeting

Attendees who wish to attend the meeting virtually are required to register to attend the meeting at the above link.

You will also need to provide a Formal Proof of Debt Form (including documentation to support your claim) and proxy form if you are a corporate creditor or wish to be represented by another person.

Upon receipt of a valid Formal Proof of Debt Form and Proxy, a link to access the virtual meeting will be emailed to you. This link will be unique for each attendee and unable to be shared with other parties.

Telephone dial-in details will also be available for the virtual meeting. Those wishing to attend via telephone will also be required to complete the above registration process.

In accordance with IPR 5-5, a vote taken on a “show of hands” includes a vote taken using any electronic mechanism that indicates the intentions of a person in respect of a vote. This may include an attendee clicking a “raise a hand”, or similar button, on a virtual meeting computer program, as well as verbally indicating their vote if dialling in to the meeting.

This definition is necessary to ensure that a show of hands may be used at a virtual meeting as an alternative to a poll.

DATED this 29<sup>th</sup> day of December 2023.

ANDREW CUMMINS  
JOINT AND SEVERAL ADMINISTRATOR

BRI FERRIER  
Level 26  
25 Bligh Street  
Sydney NSW 2000

Telephone: 02 8044 0535

**\*Voting at a Meeting the effect of Insolvency Practice Rules (Corporations) 75-85:**

**Entitlement to vote at meetings of creditors**

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- (2) Subject to subsections (3), (4) and (5), each creditor is entitled to vote and has one vote.
- (3) A person is not entitled to vote as a creditor at a meeting of creditors unless:
  - (a) his or her debt or claim has been admitted wholly or in part by the external administrator; or
  - (b) he or she has lodged, with the person presiding at the meeting, or with the person named in the notice convening the meeting as the person who may receive particulars of the debt or claim:
    - (i) those particulars; or
    - (ii) if required—a formal proof of the debt or claim.
- (4) A creditor must not vote in respect of:
  - (a) an unliquidated debt; or
  - (b) a contingent debt; or
  - (c) an unliquidated or a contingent claim; or
  - (d) a debt the value of which is not established;unless a just estimate of its value has been made.
- (5) A creditor must not vote in respect of a debt or a claim on or secured by a bill of exchange, a promissory note or any other negotiable instrument or security held by the creditor unless he or she is willing to do the following:
  - (a) treat the liability to him or her on the instrument or security of a person covered by subsection (6) as a security in his or her hands;
  - (b) estimate its value;
  - (c) for the purposes of voting (but not for the purposes of dividend), to deduct it from his or her debt or claim.
- (6) A person is covered by this subsection if:
  - (a) the person's liability is a debt or a claim on, or secured by, a bill of exchange, a promissory note or any other negotiable instrument or security held by the creditor; and
  - (b) the person is either liable to the company directly, or may be liable to the company on the default of another person with respect to the liability; and
  - (c) the person is not an insolvent under administration or a person against whom a winding up order is in force



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**NEW WILKIE ENERGY PTY LIMITED  
(ADMINISTRATORS APPOINTED)  
ACN 007 683 454 / ABN 93 007 683 454**

**CORVUS COAL PTY LIMITED  
(ADMINISTRATORS APPOINTED)  
ACN 621 700 472 / ABN 51 621 700 472**

**NEW RENEWABLE ENERGY PTY LIMITED  
(ADMINISTRATORS APPOINTED)  
ACN 164 937 633**

**NEC NO.2 PTY LIMITED  
(ADMINISTRATORS APPOINTED)  
ACN 164 937 704 / ABN 97 164 937 704**

**NWE FINANCE PTY LTD  
(ADMINISTRATORS APPOINTED)  
ACN 664 827 141 / ABN 92 664 827 141**

**NWE COAL HOLDINGS PTY LTD  
(ADMINISTRATORS APPOINTED)  
ACN 664 827 098**

**NWE COAL PTY LTD  
(ADMINISTRATORS APPOINTED)  
ACN 664 827 016**

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**Annexure "2"**  
**Formal Proof of Debt with Request to  
Receive Electronic Communications**

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FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)

To the Joint and Several Administrators of: (please tick one)

- NWE Finance Pty Ltd (Administrators Appointed) ACN 664 827 141
- New Wilkie Energy Pty Ltd (Administrators Appointed) ACN 007 683 454
- New Renewable Energy Pty Limited (Administrators Appointed) ACN 164 937 633
- NEC No.2 Pty Limited (Administrators Appointed) ACN 164 937 704
- NWE Coal Holdings Pty Ltd (Administrators Appointed) ACN 664 827 098
- NWE Coal Pty Ltd (Administrators Appointed) ACN 664 827 016
- Corvus Coal Pty Limited (Administrators Appointed) ACN 621 700 472

1. This is to state that the company was, on 27 December 2023<sup>(1)</sup> and still is, justly and truly indebted to<sup>(2)</sup> (full name):

.....  
('Creditor')

.....  
of (full address)

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

Particulars of the debt are:

Date	Consideration <sup>(3)</sup> state how the debt arose	Amount \$	GST included \$	Remarks <sup>(4)</sup> 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 <sup>(5)</sup>

I am a related creditor of the Company <sup>(5)</sup>  
relationship: \_\_\_\_\_

3A.<sup>(6)\*</sup> 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.<sup>(6)\*</sup> 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.

<input type="checkbox"/>	<p>The External Administrators' (whether as Voluntary Administrators/Deed Administrators/Liquidators) will send and give electronic notification of documents. Please provide your email address below:</p> <p>Contact Name: _____</p> <p>Email Address: _____</p>
--------------------------	--

DATED this ..... day of ..... 202...

Signature of Signatory .....

NAME IN BLOCK LETTERS .....

Occupation .....

Address .....

**See Directions overleaf for the completion of this form**



**OFFICE USE ONLY**

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



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**NEW WILKIE ENERGY PTY LIMITED  
(ADMINISTRATORS APPOINTED)  
ACN 007 683 454 / ABN 93 007 683 454**

**CORVUS COAL PTY LIMITED  
(ADMINISTRATORS APPOINTED)  
ACN 621 700 472 / ABN 51 621 700 472**

**NEW RENEWABLE ENERGY PTY LIMITED  
(ADMINISTRATORS APPOINTED)  
ACN 164 937 633**

**NEC NO.2 PTY LIMITED  
(ADMINISTRATORS APPOINTED)  
ACN 164 937 704 / ABN 97 164 937 704**

**NWE FINANCE PTY LTD  
(ADMINISTRATORS APPOINTED)  
ACN 664 827 141 / ABN 92 664 827 141**

**NWE COAL HOLDINGS PTY LTD  
(ADMINISTRATORS APPOINTED)  
ACN 664 827 098**

**NWE COAL PTY LTD  
(ADMINISTRATORS APPOINTED)  
ACN 664 827 016**

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**Annexure "3"  
Appointment of Proxy Form**

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APPOINTMENT OF PROXY  
CREDITORS MEETING

NEW WILKIE ENERGY PTY LTD (ADMINISTRATORS APPOINTED)  
ACN 007 683 454 / ABN 93 007 683 454  
("THE COMPANY")

\*I/\*We (1) .....  
of .....  
a creditor of the Company appoint (2) .....  
.....  
or in his or her absence .....  
as \*my/our \*general/special proxy to vote at the meeting of creditors to be held on 9 January 2024, or at any  
adjournment of that meeting.

Please mark any boxes with an

Proxy Type:  General  Special

DATED this                      day of                      202....

\_\_\_\_\_  
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:

APPOINTMENT OF PROXY  
CREDITORS MEETING

NWE FINANCE PTY LTD (ADMINISTRATORS APPOINTED)  
ACN 664 827 141 / ABN 92 664 827 141  
("THE COMPANY")

\*I/\*We (1) .....  
of .....  
a creditor of the Company appoint (2) .....  
.....  
or in his or her absence .....  
as \*my/our \*general/special proxy to vote at the meeting of creditors to be held on 9 January 2024, or at any  
adjournment of that meeting.

Please mark any boxes with an

Proxy Type:  General  Special

DATED this                      day of                      202....

\_\_\_\_\_  
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:

APPOINTMENT OF PROXY  
CREDITORS MEETING

NEW RENEWABLE ENERGY PTY LIMITED  
ACN 164 937 633

NWE COAL PTY LTD  
ACN 664 827 016

NEC NO.2 PTY LIMITED  
ACN: 164 937 704 / ABN 97 164 937 704

CORVUS COAL PTY LIMITED  
ACN 621 700 472 / ABN 51 621 700 472

NWE COAL HOLDINGS PTY LTD  
ACN 664 827 098

(ALL ADMINISTRATORS APPOINTED)  
(COLLECTIVELY "THE COMPANIES")

\*I/\*We (1) .....

of .....

a creditor of the Company (please tick one)

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

New Renewable Energy Pty Limited (Administrators Appointed) ACN 164 937 633

NEC No.2 Pty Limited (Administrators Appointed) ACN 164 937 704

NWE Coal Holdings Pty Ltd (Administrators Appointed) ACN 664 827 098

NWE Coal Pty Ltd (Administrators Appointed) ACN 664 827 016

Corvus Coal Pty Limited (Administrators Appointed) ACN 621 700 472

appoint (2) .....

or in his or her absence .....

as \*my/our \*general/special proxy to vote at the meeting of creditors to be held on 9 January 2024, or at any adjournment of that meeting.

Please mark any boxes with an

Proxy Type:  General  Special

DATED this                      day of                      202....

\_\_\_\_\_  
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:



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**NEW WILKIE ENERGY PTY LIMITED  
(ADMINISTRATORS APPOINTED)  
ACN 007 683 454 / ABN 93 007 683 454**

**CORVUS COAL PTY LIMITED  
(ADMINISTRATORS APPOINTED)  
ACN 621 700 472 / ABN 51 621 700 472**

**NEW RENEWABLE ENERGY PTY LIMITED  
(ADMINISTRATORS APPOINTED)  
ACN 164 937 633**

**NEC NO.2 PTY LIMITED  
(ADMINISTRATORS APPOINTED)  
ACN 164 937 704 / ABN 97 164 937 704**

**NWE FINANCE PTY LTD  
(ADMINISTRATORS APPOINTED)  
ACN 664 827 141 / ABN 92 664 827 141**

**NWE COAL HOLDINGS PTY LTD  
(ADMINISTRATORS APPOINTED)  
ACN 664 827 098**

**NWE COAL PTY LTD  
(ADMINISTRATORS APPOINTED)  
ACN 664 827 016**

---

**Annexure "4"  
Authorised Signatories**

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**AUTHORISED SIGNATURES  
SPECIMEN SIGNATURES**


**NAME: ANDREW CUMMINS**

**SIGNATURE:**  \_\_\_\_\_


**NAME: JONATHON KEENAN**

**SIGNATURE:**  \_\_\_\_\_

**NAME: PETER KREJCI**

**SIGNATURE:**  \_\_\_\_\_


**NAME: STEFAN DOPKING**

**SIGNATURE:**  \_\_\_\_\_

**NAME: JAMES TAPLIN**

**SIGNATURE:**  \_\_\_\_\_

**NAME: PAULINE YEOW**

**SIGNATURE:**  \_\_\_\_\_



---

**NEW WILKIE ENERGY PTY LIMITED  
(ADMINISTRATORS APPOINTED)  
ACN 007 683 454 / ABN 93 007 683 454**

**CORVUS COAL PTY LIMITED  
(ADMINISTRATORS APPOINTED)  
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**NEW RENEWABLE ENERGY PTY LIMITED  
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ACN 664 827 141 / ABN 92 664 827 141**

**NWE COAL HOLDINGS PTY LTD  
(ADMINISTRATORS APPOINTED)  
ACN 664 827 098**

**NWE COAL PTY LTD  
(ADMINISTRATORS APPOINTED)  
ACN 664 827 016**

---

**Annexure "5"  
Declaration of Independence, Relevant  
Relationships and Indemnities**

---

# Declaration of Independence, Relevant Relationships and Indemnities

**NWE FINANCE PTY LTD**  
ACN 664 827 141

**NWE COAL HOLDINGS PTY LTD**  
ACN 664 827 098

**NEW WILKIE ENERGY PTY LTD**  
ACN 007 683 454

**NWE COAL PTY LTD**  
ACN 664 827 016

**NEC NO.2 PTY LIMITED**  
ACN: 164 937 704

**CORVUS COAL PTY LIMITED**  
ACN 621 700 472

**NEW RENEWABLE ENERGY PTY LIMITED**  
ACN 164 937 633

**(ALL ADMINISTRATORS APPOINTED)  
(COLLECTIVELY "THE COMPANIES"/"NEW WILKIE GROUP OF  
COMPANIES")**

29 December 2023

**ANDREW CUMMINS PETER KREJCI  
JONATHON KEENAN STEFAN DOPKING**  
Joint and Several Administrators

Novabrif Pty Ltd ABN 61 643 013 610  
Level 26, 25 Bligh Street, Sydney NSW 2000  
GPO Box 7079, Sydney NSW 2001  
Phone (02) 8044 0535  
Email: [nwe@brifnsw.com.au](mailto:nwe@brifnsw.com.au)  
Website: [www.briferrier.com.au](http://www.briferrier.com.au)

**BRI Ferrier**

The purpose of this document is to assist creditors with understanding any relevant relationships that we, the Joint and Several Administrators, have with parties who are closely connected to the Companies and any indemnities or upfront payments that have been provided to us. None of the relationships disclosed in this document are such that our independence is affected.

This information is provided so you have trust and confidence in our independence and, if not, you can ask for further explanation or information and can act to remove and replace us if you wish.

This declaration is made in respect of ourselves, our partners and the BRI Ferrier network.

We are Professional Members of ARITA – Australian Restructuring Insolvency and Turnaround Association. We acknowledge that we are bound by the ARITA Code of Professional Practice.

## **A. INDEPENDENCE**

We, Andrew Cummins, Peter Krejci Jonathon Keenan and Stefan Dopking, of BRI Ferrier have assessed our independence prior to accepting the appointment as Joint and Several Administrators of the Companies in accordance with the law and applicable professional standards and we are not aware of any reasons that would prevent us from accepting these appointments.

There are no other known relevant relationships, including personal, business and professional relationships that should be disclosed beyond those we have disclosed in this document.

## **B. CIRCUMSTANCES OF APPOINTMENT**

### **I. HOW WE WERE REFERRED THESE APPOINTMENTS**

These appointments were referred to us by Shane Williamson of Sparke Helmore Lawyers, the external legal representatives for the Companies. Spark Helmore are a firm of solicitors who we have dealt with from time to time.

We have not been referred other matters from Spark Helmore prior to this appointment. Therefore, we are of the view that the referral source will not give rise to a conflict of interest.

There is no expectation, agreement or understanding between us and Spark Helmore regarding the conduct of the Administrators and we are free to act independently and in accordance with the law and applicable professional standards.

### **II. DID WE MEET WITH THE COMPANIES, THEIR DIRECTOR OR THEIR ADVISORS BEFORE WE WERE APPOINTED?**

Yes  No

We have engaged in various discussions regarding the potential appointment, as detailed below:

- On 12 December 2023, Mr Cummins held an initial telephone call with Simon Raftery of Remagen Finance regarding a potential voluntary administration appointment. Mr Raftery advised that Mr Williamson of Sparke Helmore would contact Mr Cummins shortly to discuss this matter further.
- On 15 December 2023, Mr Cummins and Mr Williamson had a brief telephone conversation to discuss the timing of an appointment to the New Wilkie Group of Companies.
- Later that day, Mr Cummins, Mr Krejci met with Mr Raftery via zoom, where a briefing was provided as to the New Wilkie Group of Companies organisational structure, financial position as well as current operational and investigations issues experienced by the Companies.
- Between 16 and 26 December 2023, Mr Cummins had a number telephone discussions with Mr Raftery regarding the timing of an appointment.
- On 18 December 2023, Mr Cummins had a further telephone discussion with Mr Williamson regarding the timing of the appointment and possible legal issues which may arise as a result of an appointment.
- On 21 December 2023, Messrs Cummins, Keenan, Krejci and Dopking attended a meeting with Mr Williamson and Raftery together with the New Wilkie Group of Companies' senior management team where a further briefing was provided organisational structure, financial position as well as current operational and investigations issues experienced by the Companies.
- In the evening of 27 December 2023, the voluntary administration appointment documents were executed by the Director.

None of us, nor our firm have received any remuneration for the abovementioned correspondence and advice.

In our opinion, the above does not affect our independence for the following reasons:

- The Courts and the ARITA Code of Professional Practice specifically recognise the need for practitioners to provide advice on the insolvency practice and the options available and do not consider that such advice in a conflict or is an impediment to accepting the appointment.
- We did not provide any advice to the Companies or current/former Directors prior to our appointment.
- The Directors obtained their own advice regarding the financial position of the Companies.

We have provided no other information or advice to the Companies, their Director or advisors prior to our appointment beyond that outlined in this DIRRI.

## C. RELEVANT RELATIONSHIPS (EXCLUDING PROFESSIONAL SERVICES TO THE INSOLVENT)

Within the previous two years, we, or members of our firm, have, or have had a relationship with:	
The Companies?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
The directors?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Any associates of the Companies?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
A former insolvency practitioner appointed to the Companies?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
A secured creditor entitled to enforce a security over the whole or substantially the whole of the Companies' property?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

### Do we have any other relationships that we consider are relevant to creditors assessing our independence?

Yes  No

#### Australian Taxation Office

The records identify that the ATO may be a creditor of the Companies.

The ATO is a sophisticated statutory creditor and is administratively bound to act as a Model Litigant. In our experience the ATO does not seek to exert improper pressure on insolvency practitioners in connection with the discharge of their duties to creditors generally.

Principals and Directors of BRI Ferrier around Australia, were, until its expiration at the end of 2014, members of a panel of Official Liquidators established by the ATO and accepted appointments by Australian Courts initiated by the Federal Commissioner. These Official Liquidators had undertaken to the ATO to accept appointments as Liquidator appointed by a Court under the Corporations Act where the ATO is the applicant creditor, whether the Companies has assets or not. BRI Ferrier is likely to seek inclusion in any comparable panel should one be established in future. Membership of the panel was not conditional upon any preference or benefit being conferred upon the ATO.

In addition to the above, we also note that Principals of BRI Ferrier routinely accept nominations and appointment as insolvency practitioners by the major trading banks, in addition to creditors such as the ATO (as discussed above). The nature of these relationships varies over time depending on the nature of the engagements. Such relationships do not impede our independence or give rise to a conflict of duties because we accept such engagements only on the basis that our independence will be maintained and the relationships are maintained on professional commercial terms.

## Do we have any other relationships that we consider are relevant to creditors assessing our independence?

### **Simon Raftery**

Mr Simon Raftery was previously employed by the BRI Ferrier. That employment ceased in 2013.

Our Firm has been referred other matters from time to time by Mr Raftery but we have not received any referrals from Mr Raftery in the 2 years prior to our appointment. Also, work that has been carried out in respect of other administrations referred to us does not have any bearing on this administration and will not affect our ability to comply with our statutory and fiduciary duties.

We have not paid any benefit to Mr Raftery with respect to these referrals. Therefore, we are of the view that the referral source will not give rise to any impediment conflict of interest.

### **Appointment to a Group of Companies**

We note our appointment to 7 entities within the larger New Wilkie Energy Group of Companies. We are not aware of any conflicts between the Companies. Should a conflict arise, we will keep creditors informed and take appropriate action to resolve the conflict including potentially appointing a Special Purpose Administrator.

Appointment to group and/or related parties are permitted under the ARITA Code of Professional Practice and should generate efficiencies in conducting the appointments. This is particularly relevant given the mixing of the financial and operational matters between the Companies.

The affairs of the Companies are closely linked given the group operation, and therefore the appointment to multiple entities will assist in seeking to maximise the outcomes for creditors.

The role undertaken by us as Joint and Several Voluntary Administrators will not influence our ability to fully comply with the statutory and fiduciary obligations associated the administration of the Companies in an objective and impartial manner.

### **Andrew Lowy – Director of the Companies**

Mr Cummins previous acted as Liquidator of Efficient Data Communications Pty Ltd (“EDC”). Mr Lowy was the sole director of EDC. The liquidation of EDC has been finalised and EDC deregistered in October 2022.

## III. NO OTHER RELEVANT RELATIONSHIPS TO DISCLOSE

There are no other known relevant relationships, including personal, business and professional relationships, from the previous 24 months with the Companies, an associate of the Companies, a former insolvency practitioner appointed to the Companies or any person or entity that has a valid and

enforceable security interest on the whole or substantially whole of the Companies' property that should be disclosed.

## D. INDEMNITIES AND UP-FRONT PAYMENTS

We have not been indemnified in relation to this administration, other than any indemnities that we may be entitled to under statute, and have not received any up-front payments.


This does not include any indemnities we may be entitled to under the law. We have not received any other indemnities or upfront payments. We also note that the provision of the indemnity will not influence the work undertaken by us.

Dated: 29 December 2023

  
 .....  
 Andrew Cummins  
 Joint and Several Administrator

  
 .....  
 Peter Krejci  
 Joint and Several Administrator

  
 .....  
 Jonathon Keenan  
 Joint and Several Administrator

  
 .....  
 Stefan Dopking  
 Joint and Several Administrator

### NOTE:

1. *The assessment of independence has been made based on an evaluation of the significance of any threats to independence and in accordance with the requirements of the relevant legislation and professional Standards.*
2. *If circumstances change, or new information is identified, we are required under the Corporations Act 2001 and ARITA's Code of Professional Practice to update this Declaration and provide a copy to creditors with our next communication as well as table a copy of any replacement declaration at the next meeting of the insolvent's creditors. For creditors' voluntary liquidations and voluntary administrations, this document and any updated versions of this document are required to be lodged with ASIC.*





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**NEW WILKIE ENERGY PTY LIMITED  
(ADMINISTRATORS APPOINTED)  
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**CORVUS COAL PTY LIMITED  
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**NEC NO.2 PTY LIMITED  
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**NWE FINANCE PTY LTD  
(ADMINISTRATORS APPOINTED)  
ACN 664 827 141 / ABN 92 664 827 141**

**NWE COAL HOLDINGS PTY LTD  
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**NWE COAL PTY LTD  
(ADMINISTRATORS APPOINTED)  
ACN 664 827 016**

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**Annexure "6"  
Initial Remuneration Notice**

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## INITIAL REMUNERATION NOTICE

Insolvency Practice Schedule (Corporations) 70-50  
Insolvency Practice Rules (Corporations) 70-35

**NWE FINANCE PTY LTD**  
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**NEC NO.2 PTY LIMITED**  
**ACN: 164 937 704 / ABN 97 164 937 704**

**(ALL ADMINISTRATORS APPOINTED)**  
**(COLLECTIVELY "THE COMPANIES")**

The purpose of the Initial Remuneration Notice is to provide you with information about how our remuneration for undertaking the Administration will be set.

### A. REMUNERATION METHOD

There are four methods for calculation of remuneration that can be used to calculate the remuneration of an Insolvency Practitioner. They are:

- Time based / hourly rates or "Time Cost"

This is the most common method. It provides for remuneration to be charged at an hourly rate for each person working on the matter. The hourly rate charged will reflect the level of experience each person has.

- Fixed Fee

The total remuneration for the administration is quoted at commencement of the appointment and is the total charge for the administration. Sometimes a practitioner will finalise an administration for a fixed fee.

- Percentage

The remuneration for the appointment is based on a percentage of a particular variable, such as the gross proceeds of asset realisations.

- Contingency

The total remuneration for the matter is structured to be contingent on a particular outcome being achieved.

## B. METHOD CHOSEN

BRI Ferrier normally charges to use a Time Cost basis, because:

- It is often difficult to estimate accurately the likely cost of undertaking an appointment, as appointments differ in unforeseeable ways as to their factual or legal complexity;
- The Time Cost method reflects the opportunity cost to BRI Ferrier of the use of staff on a particular engagement;
- The Time Cost method reflects the extent of work undertaken, reflecting in turn the nature of the appointment; and
- The Time Cost method can be applied equally to all aspects of an appointment, while percentage or contingent remuneration normally only reflect parts of an appointment, such as the recovery of assets. Our duties include activities, such as reporting to creditors and ASIC, that do not directly yield asset recovery, while contributing to the overall return to creditors.

BRI Ferrier reviews its hourly rates every twelve months. The hourly rates quoted below remain current. BRI Ferrier may increase the hourly rates charged for work performed and if hourly rates are increased, we will seek creditors' approval.

## C. EXPLANATION OF HOURLY RATES

The rates applicable are set out in the table on the following page together with a general guide to the qualifications and experience of staff engaged in administration and the role they undertake in the administration. The hourly rates charged encompass the total cost of providing professional services and are not comparable to an hourly wage rate.

Title	Description	Hourly Rates	Hourly Rates	Hourly Rates
		(ex GST) NSW	(ex GST) QLD (2023 Rates)	(ex GST) QLD (2024 Rates)
Appointee / Principal	Senior member of the firm. May be a Registered Liquidator and/or Registered Trustee. A senior accountant with over 10 years' experience who brings specialist skills and experience to the appointment. Leads staff carrying out appointments.	\$730	\$600	\$650
Director	An accountant with more than 10 years' experience. May be a Liquidator. Fully qualified and able to control all aspects of an appointment. May have specialist industry knowledge or skills. Assists with all facets of appointment.	\$640	\$530	\$600
Senior Manager	An accountant with more than 7 years' experience. Qualified and answerable to the Team Leader. Self-sufficient in completing and planning all aspects of large appointments.	\$590	\$490	\$560
Manager	An accountant with at least 6 years' experience. Typically qualified with well-developed technical and commercial skills. Controls and plans all aspects of medium to larger appointments, reporting to the Team Leader.	\$550	\$450	\$520
Supervisor	An accountant with more than 4 years' experience. Typically qualified with sound knowledge of insolvency principles and developing commercial skill. Assists to plan and control specific tasks on medium to larger appointments. Often	\$480	\$390	\$470

Title	Description	Hourly Rates	Hourly Rates	Hourly Rates
		(ex GST) NSW	(ex GST) QLD (2023 Rates)	(ex GST) QLD (2024 Rates)
Senior 1	undertaking post qualification study specialising in Insolvency and Reconstruction. An accountant with more than 2 years' experience. Typically a graduate undertaking study leading to professional qualification as a Chartered Accountant or CPA. Able to complete work on appointments with limited supervision.	\$420	\$350	\$380
Senior 2	An accountant with less than 2 years' experience. Typically a graduate who has commenced study leading to professional qualifications. Able to complete many tasks on medium to large appointments under supervision.	\$380	\$290	\$310
Intermediate 1	An accountant with less than 2 years' experience. Typically a graduate and commencing study for qualifications. Able to complete multiple tasks on smaller to medium appointments under supervision.	\$330	\$260	\$270
Intermediate 2	An accountant with less than 1 year's experience. A trainee undertaking degree with an accountancy major. Assists in the appointment under supervision.	\$280	\$220	\$230
Senior Administration	Appropriately skilled and undertakes support activities including but not limited to treasury, word processing and other administrative, clerical and secretarial tasks.	\$240	\$180	\$185
Junior Administration	Appropriately skilled and undertakes support activities including but not limited to treasury, word processing and other administrative, clerical and secretarial tasks.	\$180	\$160	\$160

## D. ESTIMATED REMUNERATION

Having received further information about the Company's affairs, we estimate that this administration may cost approximately total \$4M (exclusive of GST, disbursements and legal costs, as necessary) to complete as a voluntary administration a breakdown of which is provided in the table below:

Company	Estimate Cost \$
New Wilkie Energy Pty Ltd	3,400,000
NWE Finance Pty Ltd	200,000
New Renewable Energy Pty Limited	80,000
NEC No.2 Pty Limited	80,000
NWE Coal Holdings Pty Ltd	80,000
NWE Coal Pty Ltd	80,000
Corvus Coal Pty Limited	80,000
<b>Total</b>	<b>4,000,000</b>

This estimate is also based on a number of assumptions, including:

- Information provided to us before appointment about the Company's assets, its liabilities and its trading performance is substantially accurate;
- The records of the Company are made available immediately on our appointment in a form

permitting examination and investigation;

- ▶ All relevant officers comply with their statutory duties to provide information about the Company's affairs;
- ▶ No appointment is made by any secured creditors;
- ▶ There is no, or minimal, disputes regarding the conduct of the administration, adjudication of claims and dealing with the Company's assets;
- ▶ There is prompt engagement regarding a viable DOCA proposal;
- ▶ The Administration period does not need to be extended; and
- ▶ There will be no actions requiring the commencement of legal proceedings.

Should any of the above circumstances change, we believe that costs will likely increase from our estimate above. However, as mentioned previously, actual remuneration sought to be approved may exceed this estimate and this higher amount must be approved by the Creditors, Committee of Inspection or Court.

We also note that this estimate relates only to the conduct of a Voluntary Administration and does not relate to any later administration of a Deed of Company Arrangement or Liquidation for the Company.

## **E. DISBURSEMENTS**

We also note that this estimate relates only to the conduct of a Voluntary Administration and does not relate to any later administration of a Deed of Company Arrangement or Liquidation for the Company.

- ▶ Externally provided professional services - these are recovered at cost. An example of an externally provided service disbursement is legal fees.
- ▶ 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 are not required to seek creditor approval for disbursements paid to third parties but must account to creditors. However, we must be satisfied that these disbursements are appropriate, justified and reasonable.

We are required to obtain creditors' consent for the payment of internal disbursements. Creditors will be asked to approve our internal disbursements prior to these disbursements being paid from the administration.

Details of the basis of recovering disbursements in this administration are provided below.

Disbursement Type	Rate (excl GST)
Externally provided professional services	At cost
Externally provided non-professional costs	At cost
Internal disbursements	
ASIC Charges for appointments and notifiable events	At cost
Faxes and Photocopying	\$0.25 per page
Postage	At cost
Staff vehicle use	In accordance with ATO mileage allowances

Dated this 29<sup>th</sup> day of December 2023.



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**Annexure "7"**  
**ARITA Information Sheet on Creditors'**  
**Rights – Voluntary Administration**

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# Creditor Rights in Voluntary Administrations

As a creditor, you have rights to request meetings and information or take certain actions:



## Right to request information

Information is communicated to creditors in a voluntary administration through reports and meetings.

In a voluntary administration, two meetings of creditors are automatically held. You should expect to receive reports and notice of these meetings:

- The first meeting is held within 8 business days of the voluntary administrator's appointment. A notice of meeting and other information for this meeting will be issued to all known creditors.
- The second, or decision, meeting is usually held within 6 weeks of the appointment, unless an extension is granted. At this meeting, creditors will get to make a decision about the company's future. Prior to this meeting the voluntary administrator will provide creditors with a notice of the meeting and a detailed report to assist in making your decision.

Important information will be communicated to creditors prior to and during these meetings. Creditors are unable to request additional meetings in a voluntary administration.

Creditors have the right to request information at any time. A voluntary administrator must provide a creditor with the requested information if their request is 'reasonable', the information is relevant to the voluntary administration, and the provision of the information would not cause the voluntary administrator to breach their duties.

A voluntary administrator must provide this information to a creditor within 5 business days of receiving the request, unless a longer period is agreed. If, due to the nature of the information requested, the voluntary administrator requires more time to comply with the request, they can extend the period by notifying the creditor in writing.

## Requests must be reasonable.

### They are not reasonable if:

- (a) complying with the request would prejudice the interests of one or more creditors or a third party
- (b) the information requested would be privileged from production in legal proceedings
- (c) disclosure would found an action for breach of confidence
- (d) there is not sufficient available property to comply with the request
- (e) the information has already been provided
- (f) the information is required to be provided under law within 20 business days of the request
- (g) the request is vexatious

If a request is not reasonable due to (d), (e) or (f) above, the voluntary administrator must comply if the creditor meets the cost of complying with the request.

Otherwise, a voluntary administrator must inform a creditor if their information request is not reasonable and the reason why.



## Right to give directions to voluntary administrator

Creditors, by resolution, may give a voluntary administrator directions in relation to a voluntary administration. A voluntary administrator must have regard to these directions, but they are not required to comply with the directions.

If a voluntary administrator chooses not to comply with a direction given by a resolution of the creditors, they must document their reasons for not complying.

An individual creditor cannot provide a direction to a voluntary administrator.

## Right to appoint a reviewing liquidator

Creditors, by resolution, may appoint a reviewing liquidator to review a voluntary administrator's remuneration or a cost or expense incurred in a voluntary administration. The review is limited to:

- remuneration approved within the six months prior to the appointment of the reviewing liquidator, and
- expenses incurred in the 12 months prior to the appointment of the reviewing liquidator.

The cost of the reviewing liquidator is paid from the assets of the voluntary administration, in priority to creditor claims.

An individual creditor can appoint a reviewing liquidator with the voluntary administrator's consent, however the cost of this reviewing liquidator must be met personally by the creditor making the appointment.

## Right to replace voluntary administrator

At the first meeting, creditors have the right to remove a voluntary administrator and appoint another registered liquidator to act as voluntary administrator.

A creditor must ensure that they have a consent from another registered liquidator prior to the first meeting if they wish to seek the removal and replacement of a voluntary administrator.

Creditors also have the opportunity to replace a voluntary administrator at the second meeting of creditors:

- If creditors vote to accept a proposed deed of company arrangement, they can appoint a different registered liquidator as the deed administrator.
- If creditors vote to place the company into liquidation, they can appoint a different registered liquidator as the liquidator.

It is however usual for the voluntary administrator to act as deed administrator or liquidator. It would be expected that additional costs would be incurred by an alternate deed administrator or liquidator to gain the level of knowledge of the voluntary administrator.

Like with the first meeting, a creditor must ensure that they have a consent from another registered liquidator prior to the second meeting if they wish to seek to appoint an alternative registered liquidator as deed administrator or liquidator.

**For more information, go to [www.arita.com.au/creditors](http://www.arita.com.au/creditors).  
Specific queries about the voluntary administration should be directed to the voluntary administrator's office.**



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**Annexure "8"  
Insolvency Information Sheet**

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# Insolvency information for directors, employees, creditors and shareholders

This is **Information Sheet 39 (INFO 39)**. It lists ASIC's information sheets for directors, employees, creditors and shareholders affected by a company's insolvency.

We have produced these with endorsement from the Australian Restructuring Insolvency & Turnaround Association (ARITA).

The information sheets give a basic understanding of the three most common company insolvency procedures – liquidation, voluntary administration and receivership – as well as the independence requirements for external administrators and approving external administrator remuneration. There is also a glossary of commonly used insolvency terms.

## List of information sheets

- [INFO 41](#) *Insolvency: A glossary of terms*
- [INFO 42](#) *Insolvency: A guide for directors*
- [INFO 43](#) *Insolvency: A guide for shareholders*
- [INFO 45](#) *Liquidation: A guide for creditors*
- [INFO 46](#) *Liquidation: A guide for employees*
- [INFO 54](#) *Receivership: A guide for creditors*
- [INFO 55](#) *Receivership: A guide for employees*
- [INFO 74](#) *Voluntary administration: A guide for creditors*
- [INFO 75](#) *Voluntary administration: A guide for employees*
- [INFO 84](#) *Independence of external administrators: A guide for creditors*
- [INFO 85](#) *Approving fees: A guide for creditors*

## Where can I get more information?

Further information is available from the [ARITA website](#). The ARITA website also contains the [ARITA Code of Professional Practice for Insolvency Practitioners](#).

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

This information sheet was updated on 1 September 2017.