



REPORT TO CREDITORS

44 CUMMINS STREET PTY LTD (IN LIQUIDATION)
("THE COMPANY")

ACN: 605 229 463

2 December 2022

PETER KREJCI
LIQUIDATOR

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INTRODUCTION

I refer to my previous reports to creditors in which my appointment as Liquidator was advised along with your rights as a creditor in the liquidation.

The purpose of this report is to provide creditors with information regarding the following:

- To provide an update to the creditors about the progress of the liquidation since the last report dated 20 May 2019; and
- To convene a Meeting of Creditors to consider necessary approvals detailed later in this report;

The Meeting of Creditors has been convened to be held at 11:00AM on Tuesday, 20 December 2022. A Notice of Meeting is attached as **Annexure "A"**.

Please note that this report should be read in conjunction with the previous reports detailed above. If you have any questions relating to the liquidation in general, or specific questions relating to your position, please do not hesitate to contact this office.

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GLOSSARY OF COMMON ACRONYMS & ABBREVIATIONS

| | |
|------------|---|
| 6 Addison | 6 Addison |
| 18 Falcon | 18 Falcon Street Pty Ltd (deregistered) |
| 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 |
| AXL | AXL Financial Pty Limited (in liquidation) |
| CL | Court Liquidation |
| Company | 44 Cummins Street Pty Ltd (In Liquidation) ACN 605 229 463 |
| DCoT | Deputy Commissioner of Taxation |
| Deed | Dee of Funding & Indemnity |
| Director | Alexander Gordon Johann Harmstorf |
| DIRRI | Declaration of Independence, Relevant Relationships & Indemnities |
| DOCA | Deed of Company Arrangement |
| Firm | BRI Ferrier NSW |
| GST | Goods and Services Tax |
| Hyperbuild | Hyperbuild Pty Limited (in liquidation) |
| IPR | Insolvency Practice Rules (Corporations) 2016 |
| IPS | Insolvency Practice Schedule (Corporations) |
| Miss Kwoka | Izabela Kwoka (a.k.a. Izabela Roths & Malgorzata Izabela Kwoka) (former Director) |
| The Funder | KIAT Pty Ltd |
| Lawyers | ERA Legal |
| Liquidator | Peter Krejci |
| Mills | Mills Oakley Lawyers |
| Mr Roths | Oliver Roths (a.k.a Oliver Banovec) (Director of AXL) |
| PE | Public Examination |
| POD | Proof of Debt |
| PPSR | Personal Properties Securities Register |

1 BASIS OF THE REPORT

In order to complete this report and conduct my investigations, I have primarily utilised information obtained from the books and records of the Company and the information received from the following sources:

- Evidence obtained from public examination;
- Documents such as bank statements provided by third parties;
- Financial statements extracted from MYOB;
- Extracts from public information database;
- ASIC searches; and
- Correspondence with creditors.

2 DISCLAIMER

An investigation of the Company's affairs has been conducted. As stated at section 1 above, this report, and the statements made herein, have been prepared based upon available books and records, evidence obtained from public examination, information gathered from third-party documents provided.

Whilst I have no reason to doubt the accuracy of the information provided or contained herein, I reserve the right to alter my opinion or conclusion should the underlying data prove to be inaccurate or materially change after the date of this report.

Neither I, nor any member or employee of BRI Ferrier, accept responsibility in any way whatsoever to any person in respect of any errors in this report arising from incorrect information provided to me, or necessary estimates and assessments made for the purposes of this report.

This report is not for general circulation, publication, reproduction or any use other than to assist creditors in evaluating their position as creditors of the Company and must not be disclosed without the prior approval of the Liquidator.

Creditors should consider seeking their own independent legal advice as to their rights and options available to them.

Should any creditor have material information in relation to the Company's affairs which they consider may impact on my investigations or report, please forward details in writing as soon as possible.

3 EXECUTIVE SUMMARY

I provide this Report as an update to creditors and shareholders on key matters in respect of the Company.

As creditors will recall, the Company was incorporated on 13 April 2015. It is a wholly owned subsidiary of AXL.

AXL is part of a group of companies trading as AXL Group Holdings. The Group operates as a provider of finance to the property sector and its key product offerings are: Broking services to Property

Developers, providing a platform for investors to lend to the Property Sector (under private mortgages); and direct lending to Property developers under private first registered mortgages.

The Company was a special purpose vehicle that acquired property at 44 Cummins Street Unanderra in April 2015 for the purpose of construction, development and sale of ten townhouses.

The Company realised approximately \$5.13M for the sale of dwellings constructed between 2015 and 2018. The Director advised that the Company had ceased trading in August 2018, due to the lender taking possession of the development.

On 23 January 2019, the Deputy Commissioner of Taxation filed a winding application against the Company.

On 20 February 2019, Ms Robyn Karam was appointed Liquidator of the Company pursuant to an Order of the Federal Court of Australia.

On 3 April 2019 the Federal Court of Australia appointed me, Peter Krejci, as replacement Liquidator.

Upon my appointment, I attempted to recover outstanding debtors/loans owed to the Company recorded in the management accounts. However, as discussed in Section 7 of this Report, all outstanding debtors/loans are non-recoverable.

My preliminary investigations identified a number of potential voidable transactions as discussed in the Statutory Report. Further investigations indicate it's uncommercial to pursue these transactions.

I conducted public examination of two individuals in February of this year. Evidence obtained during the course of the examination indicate substantial payments of circa \$1 million were made from the trust account of Mills, the Company's solicitors, to a number of parties under the instructions of Mr Roths a Director of AXL. It appears that these payments were without the authority of the Company's director. As such, demands have been issued to Mills, Mr Roths, Miss Kwoka and the Director requesting repayment of these funds as compensation to the Company.

After reviewing the evidence obtained from the first round of public examinations, I consider another round of examinations would assist with my investigations into potential recovery actions. As such, I have sought funding from external parties to conduct another public examination.

On 14 November 2022, a Deed of Funding and Indemnity ("the Deed") was entered between the Company, myself in my capacity as liquidator of the Company and the Funder. It is a condition precedent in the Deed that the Liquidator obtains approval of the Court or of the Company's creditors to enter into the Deed in accordance with the requirements of section 477(2B) of the Act. Therefore, it is my intention to seek approval from creditors in the forthcoming creditors meeting regarding same.

4 PREVIOUS REPORTS TO CREDITORS

I previously issued my Initial Report to Creditors dated 3 May 2019 and Statutory Report to Creditors dated 20 May 2019, both of which should be read in conjunction to this report.

5 DECLARATION OF INDEPENDENCE RELAVANT RELATIONS AND INDEMNITIES

I confirm that there have been no changes to the DIRRI dated 3 May 2019, which was previously circularised.

6 ASSETS AND LIABILITIES

I provide an update on my further investigations and actions taken regarding the debtors/loans that I previously identified in my Statutory Report. Those debtors/loans are listed in the table below.

| Report Reference | Assets | Amount |
|------------------|---|-------------------|
| 6.1 | Loans owed by Hyperbuild Pty Limited ("Hyperbuild Loans") | 274,945.00 |
| 6.2 | Loans owed by 18 Falcon Pty Ltd ("18 Falcon Loans") | 125,000.00 |
| 6.3 | Interest in 6 Addison Street, Shellharbour ("6 Addison") | 328,047.00 |
| | Total | 727,992.00 |

Further investigations have been conducted with respect to the recoverability of the above debtors/loans. I have determined the debtors/loans are not recoverable. A summary of my investigations are provided as follows:

6.1 Hyperbuild Loans

Hyperbuild failed to respond to my demand requiring for repayment of the Hyperbuild Loan. I then instructed my solicitors to issue Hyperbuild with a statutory demand requesting repayment of the Hyperbuild Loan within 21 days being 18 June 2019.

On 4 July 2019, Domenic Calabretta and Grahame Ward of Mackay Goodwin were appointed Administrators and subsequently Deed Administrators of Hyperbuild upon Hyperbuild entering into a DOCA with its creditors. The DOCA subsequently failed causing Hyperbuild to be placed into Liquidation on 1 September 2019 upon which Mr Calabretta and Mr Ward were appointed Liquidators ("the Hyperbuild Liquidators"). As such, a proof of debt for the sum of \$274,945 dated 16 August 2019 has been submitted by the Company to the Hyperbuild Liquidators.

The Hyperbuild Liquidators' have advised that it is unlikely there will be a return to the creditors of Hyperbuild.

6.2 18 Falcon Loans

In response to my demand dated 18 April 2019, 18 Falcon shareholder, AXL, suggested 18 Falcon was in fact a creditor rather than a debtor of the Company.

Given the above position of AXL, on 28 May 2019, a statutory demand was served to Falcon Steet requiring repayment of the 18 Falcon Loan by 18 June 2019.

Upon failure to comply with the statutory demand, on 9 September 2019, I caused the Company to apply to the NSW Federal Court seeking an Order that 18 Falcon be wound up. On the 19 September 2019 those Orders were granted and Mr Richard Stone of RSM Australia was appointed Liquidator of 18 Falcon. I note that Mr Stone has completed his investigations into the affairs of 18 Falcon and applied to the ASIC for the deregistration of 18 Falcon which took effect on 5 July 2020.

6.3 Interest in 6 Addison

On 9 May 2019, I instructed my solicitors to lodge a caveat against property interests relating to 6 Addison Street, Shellharbour.

On 4 October 2019, Belmore Investments Pty Ltd, as mortgagee in possession of 6 Addison, completed the sale of 6 Addison. Given the mortgagee's debt was not satisfied from the proceeds of sale, I caused the caveat to be withdrawn.

Therefore, I do not expect any recovery from 6 Addison.

Other Assets

I refer to the discussion in the Statutory Report with respect to a bond of \$45,480 held by the NSW Office of Water.

I confirm that, on 24 July 2019, I received \$45,480 from the NSW Office of Water.

Non-Related Entity Creditor

I have since received a proof of debt from one unrelated entity creditor for the sum of \$15,399.

7 INSOLVENT TRADING

I refer to the Statutory Report with respect to my preliminary investigations of the solvency position of the Company and a potential insolvent trading claim.

My investigations indicate that the Company may have been insolvent from as early as 30 June 2016 and an insolvent trading claim is estimated to be circa \$524K. This amount is likely to increase due to the Company having outstanding returns with the DCoT.

I refer to Section 10 of this report with respect to my intention to conduct further public examinations in the Liquidation. My investigations into a potential insolvent trading claim continue and further information is expected to be obtained from the next round of public examinations to assist with the investigations.

8 VOIDABLE TRANSACTIONS

I refer to the Statutory Report with respect to my preliminary investigations of voidable transactions noting the following transactions required further investigations:

| Voidable Transaction | Description | Amount \$ |
|---------------------------|--|-------------------|
| Unfair Preference | Payments to ATO | 64,200.00 |
| Uncommercial Transactions | Disbursement from proceeds of sale of property | 309,344.81 |
| Uncommercial Transactions | Disbursement from proceeds of sale of property | 348,335.00 |
| Total | | 721,879.81 |

As a result of the public examination discussed in section 9, I determined that these recovery actions should not be pursued for legal and commercial reasons.

9 FIRST ROUND PUBLIC EXAMINATION

On 9 December 2021, I made an application for public examination proceedings and examination summons to be issued to various individuals under Section 596 of the Act in the Supreme Court of New South Wales.

On 14 February 2022, a public examination was conducted on the following individuals:

- Tian Wang a recipient of one of the uncommercial transactions detailed in Section 8.
- Lachlan Paterson a partner Mills the Company's lawyers.

Summons for examination was also attempted to be served on Mr Roths, however, the process server was unable to locate him.

Evidence obtained during the course of the examination indicate substantial payments were made from the trust account of Mills, the Company's solicitors, to a number of parties under the instructions of Mr Roths. A summary of these payments is provided as follows:

| Date | Recipient | Amount |
|------------------|-----------------|-----------------------|
| 12 October 2016 | Tian 'Tim' Wang | \$348,335.00 |
| 3 November 2016 | AXL Financial | \$134,427.96 |
| 3 November 2016 | AXL Financial | \$193,620.43 |
| 10 November 2016 | Mr Roths | \$373,554.14 |
| Total | | \$1,049,937.53 |

At the time that these payments were made, the Company was or would become liable to the ATO, given that the Company was an SPV developing and selling the lots located at 44 Cummins Street, Unanderra. In making these payments, the Company was deprived of its assets which ought to have been used to pay its creditors. In that regard, the Deputy Commissioner of Taxation has lodged a proof of debt in the winding up of the Company for an amount of \$524,185.

At this stage, it is unclear who instructed Mills to remit the abovementioned payments. If the Company directors gave those instructions, then it is the Liquidator's view that by allowing the above payments to be made, the Company's directors breached the duties they owed to the Company, including those duties set out in section 180 to 183 of the Act as well as duties at law as a fiduciary. Therefore, the directors are liable to compensate the Company.

On 29 July 2022, demands were issued to Miss Kwoka, the Director and Mr Roths by my solicitors, ERA Legal, requesting repayment of \$1,049,937.53. I have not received any repayments or a response to date from any party.

Further, as the Company's solicitors, it appears that Mills attended to making the payments without the Company's authority and accordingly Mills may be liable to make good the loss occasioned as a consequence of making the payments.

On 23 May 2022, a demand was issued to Mills by my solicitors requesting repayment of \$1,205,647.09 including interest accrued at Court rates from the time of the making of the payments ("the MO Demand").

On 17 June 2022, Mills responded to the MO Demand asserting the payments made under the Company's authority accordingly rejecting the repayment requested in the MO Demand.

I have commenced proceedings in the NSW Supreme Court with the filing of a Statement of Claim against Mills on 11 October 2022. I will provide an update to Creditors at the forthcoming meeting of Creditors on the status of this claim.

10 FURTHER PUBLIC EXAMINATION

After reviewing the evidence obtained from the public examination, I consider another round of examinations would assist with obtaining evidence into potential recovery actions. As such, I have sought funding from external parties to conduct further public examinations.

On 14 November 2022, the Deed was entered between the Company, myself in my capacity as liquidator of the Company and the Funder.

The Deed stipulated that the Funder provide funding to up to a limit of \$52,000 for the purpose of paying legal expenses and indemnifying the Liquidator with respect to any claims which are made against him arising out of or in connection with the carrying out of the public examinations.

It is a condition precedent in the Deed that the Liquidator obtains approval of the Court or of the Company's creditors to enter into the Deed in accordance with the requirements of section 477(2B) of the Act.

Therefore, it is my intention to seek approval from creditors in the forthcoming creditors meeting for the following resolutions:

- That the Liquidator be authorised to enter into an agreement with ERA Legal as disclosed in the Report to Creditors dated 2 December 2022. and
- That the Liquidator be authorised to enter into a deed of funding and indemnity with KIAT Pty Ltd as disclosed in the Report to Creditors dated 2 December 2022.

The major terms of the deed are:

- Creditor or Court approval must be obtained before 23 December 2022, failure to do so will cause the Deed to end.
- The Funder may provide funding prior to approval being obtained at the funders risk.
- The funding is limited to covering the legal expense of ERA Legal in doing all things necessary to conduct the public examinations.
- The funder indemnifies the Liquidator with respect to any Claims which are made against the Liquidator in connection with the public examination.
- The funder will be entitled to repayment of his costs incurred at the time of recovery plus a 30% uplift on those costs on any recovery in connection with future examination.
- Any recoveries made post the execution of the Deed, the funder will be entitled to be repaid only advances made by the funder at that time of the recovery.

11 LIQUIDATORS' RECEIPTS AND PAYMENTS

Enclosed in **Annexure "E"** is a summary receipts and payments report from the date of my appointment to the date of this Report.

Pursuant to section 70-5 of the Insolvency Practice Schedule, set out at Schedule 2 of the Act, I am required to lodge a statement of account annually during the Liquidation. In this regard, I have lodged a statement of account up to 2 April 2022 with ASIC. Creditors may request a copy of the lodged accounts by contacting this office.

12 LIQUIDATORS' REMUNERATION

At the creditors meeting held on 4 June 2019, I sought creditors' approval for my remuneration. Please find a summary of the remunerations sought and the outcome of creditors' approval as follows:

| Period | Remuneration Sought \$ (excl. GST) | Remuneration Drawn \$ (excl. GST) | Approval Obtained |
|--|---------------------------------------|--------------------------------------|----------------------|
| 20 February 2019 to 17 May 2019 | 56,743.50 | 20,000.00 | Yes |
| 18 May 2019 to conclusion of the Liquidation | 43,000.00 | N/A | No |
| Total | 99,743.50 | 20,000.00 | |

I have also drawn an additional remuneration of \$11,550.00 (incl. GST) from funding provided by ASIC for completing a supplementary report requested by ASIC.

During the course of the Liquidation, significant time-costs have been incurred. It is my intention to seek creditors' approval for my remuneration incurred.

The additional time-costs that have been incurred for the period from 3 April 2019 to 23 November 2022 are summarised as follows:

- Considerable work was required with respect to attempts to recover debtors/loan as discussed in Section 7 of this Report;
- Significant work was required with respect to preparing and conducting the public examination as discussed in Section 9 of this Report; and
- Substantial work was required with respect to liaising with my solicitors in relation to recovery actions and seeking funding for further public examination as discussed in Section 9 and Section 10 of this Report.

Creditors are referred to the following items set out at the Remuneration Approval Report attached as **Annexure "D"**:

- The hourly rates which also includes a guide showing the qualifications and experience of staff engaged in the liquidation and the role they take in the liquidation.
- The spreadsheet which sets out the calculation of remuneration by appointee, employee and position for the work undertaken by myself and my staff for the period 3 April 2019 to 23 November 2022.
- A summary sets out a general description of additional necessary work carried out for the period 3 April 2019 to 23 November 2022.

It is my intention to seek approval from creditors with respect to my remuneration incurred for the sum of \$383,167.50 for the period from 3 April 2019 to 23 November 2022. I am seeking approval that will replace the previously approval approved by Creditors for the period I have been appointed as Liquidator of the Company.

13 MEETING OF CREDITORS

A Meeting of Creditors of the Company will be held on Tuesday, 20 December 2022 11:00AM. The formal Notice of Meeting is attached as **Annexure "A"** for your reference.

To participate as a Creditor, you should:

- Provide me with a Proof of Debt detailing your claim to be a Creditor and/or eligible employee Creditor. Proofs of Debt are enclosed as **Annexure "B"**. If you have previously provided a proof of debt and wish to supplement it, you may do so. Otherwise, Creditors who have already lodged a proof of debt are not required to re-lodge for the Meeting of Creditors.
- Creditors may attend and vote in person, by proxy or by attorney. The appointment of a proxy, copies of which is attached as **Annexure "C"**, must be in accordance with Form 532. Persons attending on behalf of a corporate entity are required to have a proxy signed on behalf of that entity.
- A specific proxy can be lodged showing approval or rejection of each proposal.

Proxy forms or facsimiles thereof must be lodged at my office by 4:00 PM one (1) business day prior to the meeting by email. Where a facsimile copy of a proxy is sent, the original must be lodged with my office within seventy-two hours after receipt of the facsimile. An attorney of a Creditor must show the instrument by which he or she is appointed to the Chairperson prior to commencement of the meeting.

14 MATTERS OUTSTANDING

The outstanding matters in the liquidation are:

- Hold meeting of creditors;
- Conduct further public examination subject to approval from creditors or the Court to entering into the Deed;
- Conduct recovery actions if it's commercial to proceed with same;
- Statutory Lodgements; and
- Finalisation.

Subject to the above, I anticipate that this Liquidation could be finalised within 1 to 2 years. ASIC will deregister the Company three (3) month after lodgement of the final return.

15 QUERIES

If creditors have any information which may assist me in my investigations, please contact my office as a matter of urgency.

Please note that Liquidators 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 companies. Creditors are encouraged to visit <http://insolvencynotices.asic.gov.au> throughout the liquidation to view any notices which may be published in respect of the Company.

ARITA provides information to assist creditors with understanding liquidations and insolvency. This information is available from ARITA's website at <http://arita.com.au/creditors>.

ASIC also provides information sheets on a range of insolvency topics. These information sheets can be accessed on ASIC's website at <http://asic.gov.au> (search for "insolvency information sheets").

The BRI Ferrier staff member responsible for this matter is as follows:

- BRI Contacts: Joshua Coorey
- Phone: (02) 8263 2300
- Email: jcoorey@brifnsw.com.au

- ▲ Mailing: GPO Box 7079, Sydney NSW 2001
- ▲ Facsimile: (02) 8263 2399

Yours faithfully

44 CUMMINS PTY LTD (IN LIQUIDATION)



PETER KREJCI
Liquidator

The logo for BRI Ferrier, featuring the text "BRI Ferrier" in white on a dark grey rectangular background. A green diagonal line runs from the bottom right corner of the grey rectangle towards the right edge of the logo.

BRI Ferrier

**44 Cummins Street Pty Ltd
(In Liquidation)
ACN 605 229 463**

**Annexure "A"
Notice of Meeting**

NOTICE OF MEETING OF CREDITORS
44 CUMMINS STREET PTY LTD (IN LIQUIDATION)
ACN 605 229 463 ("the Company")

NOTICE is given that a meeting of the creditors of the Company will be held at the offices of BRI Ferrier Level 30, 'Australia Square', 264 George Street, Sydney NSW 2000, **at 11:00 am on Tuesday, 20 December 2022.**

A G E N D A

- To receive and consider a report from the Liquidator;
- To consider and, if thought fit, approve the engagement of a Solicitor which exceeds three (3) months;
- To consider and, if thought fit, authorise the Liquidator to enter into the deed of funding and indemnity with KIAT Pty Ltd;
- To consider and, if thought fit, approve the remuneration of the Liquidator;
- To consider and, if thought fit, approve the future remuneration of the Liquidator;
- To consider and, if thought fit, approve the internal disbursements of the Liquidator; and
- Any other business that may be lawfully brought forward.

Proxies to be used at the meeting should be given to me as Liquidator or to the person named as convening the meeting. A creditor can only be represented by proxy or by an attorney pursuant to Insolvency Practice Rules (Corporations) (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 Liquidator.

Telephone conference facilities will be available at the meeting. A person, or the proxy or attorney of a person, who participates in the meeting by telephone must pay any costs incurred by the person, proxy or attorney in participating and is not entitled to be reimbursed for those costs from the assets of the Company.

Please note if you wish to participate in the meeting using such facilities, you must give to the convener not later than Monday, 19 December 2022 a written statement setting out:

- (a) the name of the person and of the proxy or attorney (if any); and
- (b) an address to which notices to the person, proxy or attorney may be sent; and

- (c) a method by which the person, proxy or attorney may be contacted for the purposes of the meeting.

DATED this 2nd December 2022.



PETER KREJCI
LIQUIDATOR

BRI FERRIER
Level 30, Australia Square
264 George Street
Sydney NSW 2000

Note 1: Entitlement to vote and completing proofs

IPR (Corp) 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.

IPR (Corp) 75-110 Voting on resolutions

- (7) For the purposes of determining whether a resolution is passed at a meeting of creditors of a company, the value of a creditor of the company who:
 - (a) is a related creditor (within the meaning of subsection 75-41(4) of the Insolvency Practice Schedule (Corporations)), for the purposes of the vote, in relation to the company; and
 - (b) has been assigned a debt; and
 - (c) is present at the meeting personally, by telephone, by proxy or attorney; and
 - (d) is voting on the resolution;is to be worked out by taking the value of the assigned debt to be equal to the value of the consideration that the related creditor gave for the assignment of the debt.

The logo for BRI Ferrier, featuring the text "BRI Ferrier" in white on a dark grey rectangular background. A green diagonal line runs from the bottom right corner of the grey rectangle towards the right edge of the logo.

44 Cummins Street Pty Ltd
(In Liquidation)
ACN 605 229 463

Annexure "B"
Proof of Debt Form

FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)

To the Liquidator of 44 Cummins Street Pty Ltd (In Liquidation) ACN 605 229 463

1. This is to state that the company was, on 3 April 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 (please attach documents to support your claim e.g. purchase orders, invoices, interest schedules):

| Date | Consideration ⁽³⁾ state how the debt arose | Amount \$ (Incl. GST) | 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:

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.

The External Administrators' (whether as Voluntary Administrators/Deed Administrators/Liquidators) will send and give electronic notification of documents in accordance with Section 600G and 105A of Corporations Act 2001. Please provide your email address below:

Contact Name:

Email Address:

DATED this day of 2022

NAME IN BLOCK LETTERS

Occupation

Address

Signature of Signatory

OFFICE USE ONLY

| | | | |
|----------------------------------|----|--|----|
| POD No: | | ADMIT (Voting / Dividend) - Ordinary | \$ |
| Date Received: | | ADMIT (Voting / Dividend) – Preferential | \$ |
| Entered into CORE IPS: | | Reject (Voting / Dividend) | \$ |
| Amount per CRA/RATA | \$ | 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.

The logo for BRI Ferrier, featuring the text "BRI Ferrier" in white on a dark grey rectangular background. A green diagonal line runs from the bottom right corner of the grey rectangle to the right edge of the logo.

**44 Cummins Street Pty Ltd
(In Liquidation)
ACN 605 229 463**

**Annexure "C"
Appointment of Proxy**

APPOINTMENT OF PROXY
CREDITORS MEETING

44 CUMMINS STREET PTY LTD (IN LIQUIDATION)
ACN 605 229 463 ("the Company")

| | |
|---|--|
| *I/*We ⁽¹⁾ | |
| Of | |
| being a creditor of the Company, appoint ⁽²⁾ or in his or her absence | |
| to vote for me/us on my/our behalf at the meeting of creditors to be held on Tuesday, 20 December 2022 at 11:00am , or at any adjournment of that meeting. | |

Proxy Type: ☐ General ☐ Special

| Please mark boxes with an "X" | For | Against | Abstain |
|---|--------------------------|--------------------------|--------------------------|
| Resolution 1: <i>"That the Liquidator be authorised to enter into an agreement with ERA Legal as disclosed in the Report to Creditors dated 2 December 2022."</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Resolution 2: <i>"That the Liquidator be authorised to enter into a deed of funding and indemnity with KIAT Pty Ltd as disclosed in the Report to Creditors dated 2 December 2022."</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Resolution 3: <i>"That the remuneration of the Liquidator, his partner and staff for the period 3 April 2019 to 23 November 2022, be calculated on a time basis in accordance with the rates of charge annexed to the Report to the Creditors dated 2 December 2022, be fixed and approved at \$303,167.50 (excl. GST), and that the Liquidator be authorised to draw that amount as required."</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Resolution 4: <i>"That the remuneration of the Liquidator, his partners and staff for the period 24 November 2022 to the conclusion of the Liquidation, be calculated on a time basis in accordance with the rates of charge annexed to the Report to Creditors dated 2 December 2022 and approved to an interim cap of \$80,000.00"</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

| Please mark boxes with an "X" | For | Against | Abstain |
|--|--------------------------|--------------------------|--------------------------|
| <i>(excl. GST) and that the Liquidator be authorised to draw that amount as and when incurred."</i> | | | |
| Resolution 5: <i>"That the Liquidator be allowed internal disbursements for the period 3 April 2019 to the conclusion of the Liquidation at the rates of charge annexed to the Liquidator's Remuneration Approval Report dated 2 December 2022, up to an amount of \$3,000.00 (excl. GST) and that the Liquidator be authorised to draw that amount as accrued."</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Resolution 6: <i>"That subject to consent of the Australian Securities & Investment Commission, the Liquidator be approved to destroy the books and records of the Company at any time after the dissolution of the Company."</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

DATED this 2nd day of December 2022.

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.
- (3) If a special proxy add the words "to vote for" or the words "to vote against" and specify the particular resolution.

The logo for BRI Ferrier, featuring the text "BRI Ferrier" in white on a dark grey rectangular background. A green diagonal line runs from the bottom right corner of the grey rectangle towards the right edge of the logo.

**44 Cummins Street Pty Ltd
(In Liquidation)
ACN 605 229 463**

**Annexure "D"
Remuneration Approval Report**

Remuneration Approval Report

44 Cummins Street Pty Ltd
(In Liquidation)
("the Company")

ACN 605 229 463

2 December 2022

Peter Krejci

Novabrif Pty Ltd ABN 61 643 013 610
Level 30, Australia Square, 264 George Street, Sydney NSW 2000
GPO Box 7079, Sydney NSW 2001
Phone (02) 8263 2300
Facsimile (02) 8263 2399
Email: info@brifnsw.com.au
Website: www.briferrier.com.au



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1 EXECUTIVE SUMMARY

I am asking creditors to approve my remuneration of \$383,167.50 (excl. GST) and disbursements of \$3,000 (excl. GST).

Details of remuneration and disbursements can be found in section 3 and 4 of this report.

Creditors will be asked to pass resolutions in relation to remuneration and disbursements at the meeting on Tuesday, 20 December 2022.

Creditors have previously approved my remuneration of \$56,743.50 (excl. GST) and disbursements of \$1,500.00 (excl. GST).

I estimate that the total cost of this Liquidation will be \$383,167.50 (excl. GST). This has increased from my previous estimate of \$43,000 (excl. GST) for the following reasons:

- Further investigations relating to the Company's affairs;
- Conducting public examinations;
- Pursuing recovery actions against third parties;
- Entering into the funding agreement with third party;
- Compiling report and conducting meeting of creditors;
- Change of hourly rates for each person working on the matter. An explanation of the new hourly rates is attached as Schedule E in this report.

If further significant work is required in relation to the recovery of claims, a dividend to creditors and/or adjudication of proofs of debt over and above what has been outlined in this report (additional work), then I will report to creditors and seek additional remuneration approval.

2 DECLARATION

I have undertaken an assessment of this remuneration and disbursement claim in accordance with the law and applicable professional standards. I am satisfied that the remuneration and disbursements claimed are necessary and proper.

I have reviewed the work in progress report for the Liquidation to ensure that remuneration is only being claimed for necessary and proper work performed and have made no adjustments.

3 REMUNERATION SOUGHT

The remuneration I am asking creditors to approve is as follows:

| For | Period | Amount \$ (excl. GST) | Rates | When it will be drawn |
|----------------|----------------------------------|--------------------------|---|---|
| Completed Work | 3 April 2019 to 23 November 2022 | \$303,167.50 | Provided in my Initial Remuneration Notice dated 7 March 2019 and this Remuneration Approval Report dated 2 December 2022 | When funds are available |
| Future Work | 24 November 2022 to conclusion | \$80,000.00 | Provided in this Remuneration Approval Report dated 2 December 2022 | It will be drawn when incurred, and funds are available |
| TOTAL | | \$383,167.50 (excl. GST) | | |

Details of the work done for the period 3 April 2019 to 23 November 2022 and future work to be done for the period 24 November 2022 to conclusion are included at Schedule A.

Schedule B includes a breakdown of time spent by staff members on each major task for work I have already completed.

Actual resolutions to be put to the meeting are included at Schedules C and D for your information. These resolutions also appear in the proxy form provided to you.

4 DISBURSEMENT SOUGHT

I am not required to seek creditor approval for costs paid to third parties or where I am recovering a cost incurred on behalf of the administration, but I must provide details to creditors. I have not paid any such costs to date.

I am required to obtain creditor's consent for the payment of an internal disbursement where I, or a related entity of myself, may directly or indirectly obtain a profit.

For more information about internal disbursements, please refer to Schedule D of this report.

The internal disbursements I would like creditors to approve is as follows:

| For | Period | Amount \$ (excl. GST) |
|---|----------------------------|--------------------------|
| Future disbursements to a capped amount | 3 April 2019 to conclusion | \$3,000.00 |
| | TOTAL | \$3,000.00 |

Details of the internal disbursements incurred, and future internal disbursements are included at Schedule D. Actual resolutions to be put to the meeting are also included at Schedule D. These resolutions also appear in the proxy form for the meeting provided to you.

5 PREVIOUS REMUNERATION APPROVALS

The following remuneration approvals have previously been approved by creditors.

| Period | For | Amount Approved (excl. GST) (\$) | Amount Paid (excl. GST) (\$) |
|------------------------------------|----------------|-------------------------------------|---------------------------------|
| 20 February 2019 to 17 May 2019 | Work completed | \$56,743.50 | \$30,500.00 |
| TOTAL approved and unpaid fees | | \$0.00 | \$26,243.50 |

The previous remuneration approvals I have sought only applies to the hourly rates attached as “**Annexure E**” in my Initial Report to Creditors dated 7 March 2019. The previous remuneration approvals are not applicable for work completed after 30 June 2022 due to increase of hourly rate rates for each person working on the matter. For work completed till 23 November and up to conclusion, new hourly rates attached as **Schedule E** to this report will apply.

I am now seeking approval for a further \$383,167.50 (excl. GST) in remuneration which will bring the total remuneration claimed in the Liquidation to \$439,911.00 (excl. GST).

A full explanation is at Schedule D of this report.

6 LIKELY IMPACT ON DIVIDENDS

The Corporations Act sets the order of payment of claims against the Company, and it provides for remuneration of the Liquidator to be paid in priority to other claims. This ensures that when there are sufficient funds, the Liquidator receives payment for the work done to recover assets, investigate the Company’s affairs, report to creditors and ASIC and distribute any available funds. Even if creditors approve my remuneration, this does not guarantee that I will be paid, as I am only paid if sufficient assets are recovered.

Based on:

- Realisations to date,
- Estimated future realisations,
- My estimated remuneration to complete the Liquidation and
- The estimated total of creditor claims based on the Company’s records and claims lodged now

I am unable at this time to estimate what the dividend to any class of creditor might be as and dividend will be subject to a range of variables, particularly the future realisations and creditor claims.

7 QUERIES & INFORMATION SHEET

If you have any queries in relation to the information in this report, please contact my office.

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

- ▲ ARITA at www.arita.com.au/creditors
- ▲ ASIC at <http://www.asic.gov.au> (search for INFO 85).

Further supporting documentation for my remuneration claim can be provided to creditors on request.

8 ATTACHMENTS

Schedule A – Details of work

Schedule B – Time spent by staff on each major task

Schedule C – Resolutions

Schedule D – Disbursements

Schedule E – Schedule of Hourly Rates

SCHEDULE A – DETAILS OF WORK

| | | | | | |
|---------------------|-------------------------------------|-------------|--------------|----|------------|
| Company | 44 Cummins Pty Ltd (In Liquidation) | Period From | 3 April 2019 | To | Conclusion |
| Practitioner | Peter Krejci | Firm | BRI Ferrier | | |
| Administration Type | Court Liquidation | | | | |

| | Tasks | |
|---------------------------|---|---------------------------------------|
| | Work already completed (excl. GST) | Future work (excl. GST) |
| Period | 3 April 2019 to 23 November 2022 | 24 November 2022 to Conclusion |
| Amount (excl. GST) | \$303,167.50 | \$80,000.00 |

| Task Area | General Description | | |
|------------------|-----------------------------|---|---|
| Assets | | 10.7 hours \$5,225.50 | \$0.00 |
| | Debtors | Correspondence with debtors Reviewing and assessing debtors' claims Liaising with Director for documentation to support debtor claim Internal discussions regarding the prospects of recoverability Liaising with debt collectors and solicitors Commencing proceeding and winding up debtor | N/A |
| | Other Assets | Liaising with solicitors to follow up on recoveries from NSW Office of Water | N/A |
| Creditors | | 52.8 hours \$19,363.50 | \$10,000.00 |
| | Creditor Reports | Finalising and issuing Statutory Report to Creditors detailing investigations and convening meeting of creditors Finalising annexures in support of Statutory Report | Preparing Report to Creditors regarding update on liquidation and convening meeting of creditors Preparing annexures in support of Report to Creditors |
| | Dealing with proofs of debt | Receipting and filing Proofs of Debt | Receipting and filing Proof of Debts when not related to a dividend |

| Task Area | General Description | | |
|---------------|--------------------------|---|--|
| | | | Corresponding with OSR and ATO regarding Proofs of Debt when not related to a dividend |
| | Meeting of Creditors | Preparation of meeting notices, proxies and advertisements Forward notice of meeting to all known creditors Preparation of meeting file, including agenda, attendance register, list of creditors, reports to creditors, advertisement of meeting and draft minutes of meeting Preparation and lodgement of minutes of meetings with ASIC Responding to stakeholder queries and questions immediately following meeting | Preparation of meeting notices, proxies and advertisements Forward notice of meeting to all known creditors Preparation and lodgement of minutes of meetings with ASIC Responding to stakeholder queries and questions immediately following meeting |
| | Creditor Enquiries | Receive and follow up creditor enquiries by telephone Review and prepare correspondence to creditors and their representatives by facsimile, email and post | Receive and follow up creditor enquiries by telephone Review and prepare correspondence to creditors and their representatives by email and post |
| Investigation | | 448 hours \$235,461.50 | \$43,000.00 |
| | Conducting Investigation | Correspondence with ASIC to receive assistance in obtaining reconstruction of financial statements, Company's books and records and Report on Company Affairs and Property Reviewing available statutory records Review and preparation of company history Investigating reasons for company's failure Conducting and summarising statutory searches | Further review of company's books and records Further correspondence with external accountant Further consideration of statutory searches Finalising comparative financial statements Finalising deficiency statement Review of specific transactions and liaising with directors regarding certain transactions Conclude investigations in relation to voidable transactions. |

| Task Area | General Description | | |
|-----------|------------------------|---|--|
| | | Conducting investigation into related parties Correspondence with external parties to receive assistance in obtaining banking documents Review and preparation of narrative of business nature and history Review of specific transactions and liaising with directors regarding certain transactions Preliminary Investigations in relation to uncommercial transactions, insolvent transactions and director related transactions | Finalisation of investigation file Lodgement of investigation with the ASIC Preparation and lodgement of supplementary report with ASIC if required |
| | Examinations | Preparing brief to solicitors Correspondence with ASIC regarding funding for public examinations Liaising with solicitors regarding parties for public examinations Assisting solicitors with preparing orders for production Assisting solicitors with preparing Court application for public examinations Attendance at examination Reviewing examination transcripts Liaising with solicitor(s) regarding outcome of examinations and further actions available | Liaising with solicitors regarding parties for public examinations Assisting solicitors with preparing orders for production Assisting solicitors with preparing Court application for public examinations Attendance at examination Reviewing examination transcripts Liaising with solicitor(s) regarding outcome of examinations and further actions available |
| | Litigation/ Recoveries | Preparing brief to solicitors Liaising with solicitors regarding potential claims against Director Consider any claims to be made in respect of insolvent trading Issuing demand to Directors regarding potential insolvent trading and/or breach of duty claims | Preparing brief to solicitors Liaising with solicitors regarding potential claims against Director Consider any claims to be made in respect of insolvent trading Issuing demand to Directors regarding potential insolvent trading and/or breach of duty claims Internal meetings to discuss status of litigation |

| Task Area | General Description | | |
|-----------------|---------------------------|---|---|
| | | Conducting searches regarding Director's personal financial position Internal meetings to discuss status of litigation | Engage solicitor to commence recovery action |
| Dividend | | N/A | \$15,000.00 |
| | Processing proofs of debt | N/A | Preparation of correspondence to potential creditors inviting lodgement of Proofs Receipt of Proofs Maintain Proof of Debt register Adjudicating Proofs of Debt Request further information from claimants regarding Proofs of Debt Preparation of correspondence to claimant advising outcome of adjudication Calculating employee entitlements Reviewing employee files and company's books and records Reviewing awards Liaising with solicitors regarding entitlements |
| | Dividend procedures | N/A | 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 dividend file Preparation of payment vouchers to pay dividend Preparation of correspondence to |

| Task Area | General Description | | |
|-----------------------|--|---|---|
| | | | creditors enclosing payment of dividend |
| Administration | | 123 hours \$43,117.00 | \$12,000.00 |
| | ASIC Forms and lodgements | Preparing and lodging ASIC forms including 505, 507 5601, EX01 Correspondence with ASIC regarding statutory forms Preparing and lodging annual returns (5602) with ASIC Preparing and lodging ASIC funding request | Preparing and lodging annual returns (5602) with ASIC and (5603) final return Correspondence with ASIC regarding statutory forms |
| | Correspondence | General correspondence Correspondence with company accountant Liaising with solicitors to settle costs | Correspondence regarding the Company not detailed above |
| | Document maintenance/file review/checklist | File review Filing of documents Updating checklists Periodic administration review | Filing of documents File review Updating checklists Periodic administration review |
| | Bank account administration | Preparing receipt and payment vouchers Bank account reconciliations | Preparing correspondence closing accounts Bank reconciliations |
| | ATO and other statutory reporting | Preparing BAS | Preparing BAS |
| | Planning / Review | Discussion regarding status of liquidation, procedural requirements, priority milestones and future direction | Discussion regarding status of liquidation, procedural requirements, priority milestones and future direction |
| | Finalisation | N/A | Notifying ATO of finalisation Cancelling ABN/GST/PAYG registration Completing checklists Finalising WIP |

SCHEDULE B – TIME SPENT BY STAFF ON MAJOR TASKS (COMPLETED WORK)

44 Cummins Street Pty Ltd (In Liquidation)
ACN 605 229 463
For the Period 3 April 2019 to 23 November 2022

| Staff Classification | Name | Hourly Rate \$ | Administration | | Assets | | Creditors | | Investigations | | Total | Sum of Net_WIP |
|------------------------------|-----------------------|-------------------|----------------|------------------|-------------|-----------------|-------------|------------------|----------------|-------------------|-------------------|-------------------|
| | | | Hrs | \$ | Hrs | \$ | Hrs | \$ | Hrs | \$ | Hrs | \$ |
| Appointee | John Keenan | 680.00 | 0.2 | 136.00 | - | - | - | - | 0.5 | 340.00 | 0.7 | 476.0 |
| Appointee | Peter Krejci | 680.00 | 7.3 | 4,964.00 | 1.3 | 884.00 | 1.0 | 680.00 | 205.8 | 139,944.00 | 215.4 | 146,472.0 |
| Appointee | John Keenan | 650.00 | 0.5 | 325.00 | 0.2 | 130.00 | - | - | - | - | 0.7 | 455.0 |
| Director | David Cocker | 590.00 | 3.5 | 2,065.00 | - | - | 0.3 | 177.00 | 12.3 | 7,257.00 | 16.1 | 9,499.0 |
| Director | David Cocker | 570.00 | 6.3 | 3,591.00 | 1.3 | 741.00 | 0.6 | 342.00 | 45.5 | 25,935.00 | 53.7 | 30,609.0 |
| Director | John Keenan | 570.00 | 0.7 | 399.00 | - | - | 2.8 | 1,596.00 | 0.3 | 171.00 | 3.8 | 2,166.0 |
| Senior Manager | Katherine La | 545.00 | 0.2 | 109.00 | - | - | - | - | - | - | 0.2 | 109.0 |
| Senior Manager | Katherine La | 525.00 | 3.7 | 1,942.50 | 0.2 | 105.00 | - | - | 25.8 | 10,313.50 | 29.7 | 12,361.0 |
| Senior Manager | Joseph Karam | 525.00 | 23.0 | 12,075.00 | 3.9 | 2,047.50 | - | - | 42.8 | 22,470.00 | 69.7 | 36,592.5 |
| Manager | Katherine La | 505.00 | 3.0 | 1,515.00 | 1.3 | 656.50 | 2.4 | 1,212.00 | 2.9 | 1,464.50 | 9.6 | 4,848.0 |
| Assistant Manager | Savio Monis | 470.00 | - | - | - | - | - | - | 0.6 | 282.00 | 0.6 | 282.0 |
| Supervisor | Kristine Hu | 435.00 | 1.2 | 522.00 | - | - | 11.2 | 4,872.00 | 0.6 | 261.00 | 13.0 | 5,655.0 |
| Supervisor | Katherine La | 420.00 | 1.0 | 420.00 | 0.4 | 168.00 | 9.4 | 3,948.00 | - | - | 10.8 | 4,536.0 |
| Supervisor | Kira Yu | 420.00 | - | - | - | - | 1.9 | 798.00 | - | - | 1.9 | 798.0 |
| Supervisor | Chris Garvey | 420.00 | 0.1 | 42.00 | - | - | - | - | 11.3 | 4,746.00 | 11.4 | 4,788.0 |
| Supervisor | Savio Monis | 420.00 | - | - | - | - | - | - | 0.4 | 168.00 | 0.4 | 168.0 |
| Senior 1 | Chris Garvey | 360.00 | 2.9 | 1,044.00 | - | - | 2.4 | 864.00 | 39.6 | 8,280.00 | 44.9 | 10,188.0 |
| Senior 1 | Luke O'Connor | 360.00 | 0.2 | 72.00 | - | - | - | - | - | - | 0.2 | 72.0 |
| Senior 2 | Jenny Kwok | 310.00 | 1.5 | 465.00 | - | - | - | - | 0.2 | 62.00 | 1.7 | 527.0 |
| Senior 2 | Chris Garvey | 290.00 | 0.6 | 174.00 | - | - | - | - | - | - | 0.6 | 174.0 |
| Intermediate 1 | Joshua Coorey | 270.00 | 0.6 | 162.00 | - | - | - | - | 30.1 | 8,127.00 | 30.7 | 8,289.0 |
| Intermediate 1 | Jenny Kwok | 260.00 | 4.0 | 1,040.00 | - | - | - | - | 1.9 | 494.00 | 5.9 | 1,534.0 |
| Intermediate 1 | Mamata Giri | 260.00 | 0.1 | 26.00 | - | - | - | - | - | - | 0.1 | 26.0 |
| Intermediate 1 | Zen Taruka | 260.00 | 0.4 | 104.00 | - | - | - | - | - | - | 0.4 | 104.0 |
| Intermediate 2 | Sushma Mandira | 245.00 | 0.4 | 98.00 | - | - | - | - | - | - | 0.4 | 98.0 |
| Intermediate 2 | Clair Daher | 235.00 | 17.8 | 4,183.00 | 0.7 | 164.50 | 18.3 | 4,300.50 | 16.3 | 3,830.50 | 53.1 | 11,131.0 |
| Intermediate 2 | Jenny Kwok | 235.00 | 2.8 | 658.00 | 1.4 | 329.00 | - | - | 6.7 | 282.00 | 10.9 | 1,269.0 |
| Intermediate 2 | Jordan Gueli-Quaresma | 235.00 | 1.2 | 282.00 | - | - | 1.6 | 376.00 | - | - | 2.8 | 658.0 |
| Intermediate 2 | Karen Enriquez | 235.00 | 1.6 | 376.00 | - | - | - | - | - | - | 1.6 | 376.0 |
| Intermediate 2 | Mamata Giri | 235.00 | 4.1 | 963.50 | - | - | - | - | 1.7 | 399.50 | 5.8 | 1,363.0 |
| Intermediate 2 | Max Florian | 235.00 | - | - | - | - | - | - | 2.7 | 634.50 | 2.7 | 634.5 |
| Intermediate 2 | Patrick Mao | 235.00 | 5.9 | 1,386.50 | - | - | - | - | - | - | 5.9 | 1,386.5 |
| Intermediate 2 | Xiaoyan Lin | 235.00 | 1.6 | 376.00 | - | - | - | - | - | - | 1.6 | 376.0 |
| Senior Administration | Ashleigh Hartigan | 220.00 | 1.5 | 330.00 | - | - | - | - | - | - | 1.5 | 330.0 |
| Senior Administration | Jessica Mula | 220.00 | 1.7 | 374.00 | - | - | 0.9 | 198.00 | - | - | 2.6 | 572.0 |
| Senior Administration | Liam Moran | 220.00 | 1.1 | 242.00 | - | - | - | - | - | - | 1.1 | 242.0 |
| Senior Administration | Mirsina Houvardas | 220.00 | 0.4 | 88.00 | - | - | - | - | - | - | 0.4 | 88.0 |
| Senior Administration | Renee Rosier | 220.00 | 4.0 | 880.00 | - | - | - | - | - | - | 4.0 | 880.0 |
| Senior Administration | Sarita Gurung | 220.00 | 0.4 | 88.00 | - | - | - | - | - | - | 0.4 | 88.0 |
| Senior Administration | Sonia Stelmach | 220.00 | 2.3 | 506.00 | - | - | - | - | - | - | 2.3 | 506.0 |
| Senior Administration | Vivienne McCarthy | 220.00 | 2.3 | 506.00 | - | - | - | - | - | - | 2.3 | 506.0 |
| Junior Administration | Joanna Miralis | 150.00 | 0.6 | 90.00 | - | - | - | - | - | - | 0.6 | 90.0 |
| Junior Administration | Patrick Mao | 150.00 | 0.7 | 105.00 | - | - | - | - | - | - | 0.7 | 105.0 |
| Junior Administration | Phoebe Cummins | 150.00 | 0.2 | 30.00 | - | - | - | - | - | - | 0.2 | 30.0 |
| Junior Administration | Sarita Gurung | 150.00 | 11.4 | 1,710.00 | - | - | - | - | - | - | 11.4 | 1,710.0 |
| Grand Total | | | 123.0 | 43,117.00 | 10.7 | 5,225.50 | 52.8 | 19,363.50 | 448.0 | 235,461.50 | 634.5 | 303,167.50 |
| | | | | | | | | | | | GST | 30,316.75 |
| | | | | | | | | | | | Total (incl. GST) | 333,484.25 |
| Average rate per hour | | | | 350.54 | | 488.36 | | 366.73 | | 525.58 | | 477.81 |

SCHEDULE C – RESOLUTIONS

I will be seeking approval of the following resolutions to approve my remuneration. Details to support these resolutions are included in section 3 and 4 and in the attached Schedules.

Resolution 1: Liquidator's Remuneration for the period 3 April 2019 to 23 November 2022

"That the remuneration of the Liquidator, his partner and staff for the period 3 April 2019 to 23 November 2022, be calculated on a time basis in accordance with the rates of charge annexed to the Report to the Creditors dated 2 December 2022, be fixed and approved at \$303,167.50 (excl. GST), and that the Liquidator be authorised to draw that amount as required."

Resolution 2: Liquidator's Remuneration for the period 24 November 2022 to Conclusion

"That the remuneration of the Liquidator, his partners and staff for the period 24 November 2022 to the conclusion of the Liquidation, be calculated on a time basis in accordance with the rates of charge annexed to the Report to Creditors dated 2 December 2022 and approved to an interim cap of \$80,000.00 (excl. GST) and that the Liquidator be authorised to draw that amount as and when incurred."

SCHEDULE D – DISBURSEMENTS

Disbursements are divided into three types:

- 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 charge 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.

I advise that to date, I have not paid any disbursements incurred during this Liquidation by my Firm.

I am not obliged to seek creditor approval for disbursements paid to third parties, but must account to creditors, this includes providing details of the basis of charging for these types of disbursements to creditors as part of the Remuneration Approval Report. I have incurred the following disbursements paid to third parties:

| Disbursement Type | Rate | Amount (\$, excl GST) |
|--|--------------|--------------------------|
| Externally provided non-professional costs | | |
| Statutory Searches | At cost | 4,553.33 |
| | TOTAL | 4,553.33 |

I am required to seek creditor approval for internal disbursements where there could be a profit or advantage. I have incurred the following internal disbursements to date:

| Disbursement Type | Rate | Amount (\$, excl GST) |
|------------------------|------------------------|--------------------------|
| Internal disbursements | | |
| Postage | At cost | 86.23 |
| | 431 pages @ \$0.25 per | |
| Faxes and Photocopying | page | 341.25 |
| | TOTAL | 427.48 |

Accordingly, I will be seeking approval from creditors for the following resolutions:

Resolution 3: Liquidator's Internal Disbursements for the period 3 April 2019 to Conclusion

"That the Liquidator be allowed internal disbursements for the period 3 April 2019 to the conclusion of the Liquidation at the rates of charge annexed to the Liquidator's Remuneration Approval Report dated 2 December 2022, up to an amount of \$3,000.00 (excl. GST) and that the Liquidator be authorised to draw that amount as accrued."

Future disbursements provided by my Firm will be charged to the administration on the following basis:

| 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 allowance |

SCHEDULE E – SCHEDULE OF HOURLY RATES

There are four methods for calculation of remuneration that can be used to calculate the remuneration of an Insolvency Practitioner. BRI Ferrier normally charges to use a Time Cost basis.

The rates applicable are set out in the table below together with a general guide to the qualifications and experience of staff engaged in the 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 (ex GST) |
|-----------------------|---|-----------------------|
| Principal/Appointee | A Liquidator and/or Registered Trustee. A senior accountant with over 10 years' experience who brings specialist skills and experience to the appointment. Leads the team carrying out the appointment. | \$680 |
| Director | An accountant with more than 10 years' experience. May be a Registered 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. | \$590 |
| 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. | \$545 |
| Manager | An accountant with at least 6 years' experience. Qualified with well-developed technical and commercial skills. Controls and plans all aspects of medium to larger appointments, reporting to the Team Leader. | \$505 |
| Assistant Manager | An accountant with more than 5 years' experience. Typically qualified with sound technical and commercial skills. Plans and controls smaller matters independently. Assists with management of staff and medium to large appointments. | \$470 |
| Supervisor | An accountant with more than 3 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 undertaking post qualification study specialising in Insolvency and Reconstruction. | \$435 |
| Senior 1 | 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. | \$370 |
| 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. | \$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. | \$270 |
| Intermediate 2 | An accountant with less than 1 years' experience. A trainee undertaking degree with an accountancy major. Assists in the appointment under supervision. | \$245 |
| Senior Administration | Appropriately skilled and undertakes support activities including but not limited to treasury, word processing and other administrative, clerical and secretarial tasks. | \$220 |
| Junior Administration | Appropriately skilled and undertakes support activities including but not limited to treasury, word processing and other administrative, clerical and secretarial tasks. | \$150 |

The logo for BRI Ferrier, featuring the text "BRI Ferrier" in white on a dark grey rectangular background. A green diagonal line runs from the bottom right corner of the grey rectangle towards the right edge of the logo.

44 Cummins Street Pty Ltd
(In Liquidation)
ACN 605 229 463

Annexure "E"
Summary of Receipts and Payments

Summarised Receipts & Payments

44 Cummins Street Pty Ltd

(In Liquidation)

Transactions From 03 April 2019 To 02 December 2022

| A/C | Account | Net | GST | Gross |
|---|----------------------------------|--------------|------------|--------------|
| Brought Forward Receipts of 289,434.80 less Payments of (10.00) | | | | 289,424.80 |
| 79 | Bond Recovery | 45,480.00 | 0.00 | 45,480.00 |
| 89 | Assetless Administration Funding | 10,500.00 | 1,050.00 | 11,550.00 |
| 233 | GST Clearing Account | 3,630.00 | 0.00 | 3,630.00 |
| Total Receipts (inc GST) | | \$59,610.00 | \$1,050.00 | \$60,660.00 |
| 132 | Bank Charges | 2.50 | 0.00 | 2.50 |
| 139 | Legal Fees (1) | 13,353.43 | 1,335.34 | 14,688.77 |
| 140 | Legal Fees (2) | 6,912.73 | 0.00 | 6,912.73 |
| 145 | Petitioners Costs | 2,759.09 | 275.91 | 3,035.00 |
| 152 | Liquidators Remuneration | 30,500.00 | 3,050.00 | 33,550.00 |
| 153 | Liquidators Expenses | 1,353.29 | 135.33 | 1,488.62 |
| 240 | Mistaken Deposit Account | 289,424.80 | 0.00 | 289,424.80 |
| Total Payments (inc GST) | | \$344,305.84 | \$4,796.58 | \$349,102.42 |
| Balance in Hand - By Bank Account | | | | |
| 212 | Cheque Account | | | 982.38 |
| 213 | Pre-appointment Account | | | 0.00 |
| | | | | \$982.38 |