## **Report to Creditors**

Pursuant to Insolvency Practice Rule 70-40

Rivet Mining Services East Holdco Pty Limited A.C.N. 616 023 655

Rivet Mining Services (NSW) Pty Limited A.C.N. 616 024 929

Rivet Mining Services (QLD) Pty Limited A.C.N. 616 055 380

Rivet Quarries Pty Limited A.C.N. 616 055 399

(All Receivers and Managers Appointed)(All In Liquidation)

21 November 2017

Andrew Cummins & Peter Krejci Joint & Several Liquidators

BRI Ferrier (NSW) Pty Ltd ABN 97 128 947 848 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: <u>rivet@brifnsw.com.au</u> Website: <u>www.briferrier.com.au</u>





### **TABLE OF CONTENTS**

2
5
<del>6</del>
6
<u>9</u>
g
<u>g</u>
10
10
10

### Annexures

- 1 Formal Proof of Debt Form
- 2 Summary of Liquidator's Receipts and Payments
- 3 ARITA Information Sheet Creditor Rights in Liquidations
- 4 ASIC Information Sheet



#### **DISCLAIMER**

The investigation into the affairs of the Companies has been conducted on a preliminary basis only at this stage, and this Report and the statements made herein have been prepared, based on available books and records, information provided by the Companies' directors and officers, and from our own enquiries.

Whilst we have no reason to doubt the accuracy of the information provided or contained herein, we reserve the right to alter our opinion or conclusions should the underlying data prove to be inaccurate or materially change after the date of this Report.

In undertaking our investigations in relation to the affairs of the Companies, and the preparation of this Report to Creditors, we have necessarily made forecasts of asset realisations and are required to estimate the ultimate quantum of creditor claims against the Companies.

Neither we, as Joint and Several Liquidators, nor any member or employee of this firm, undertake responsibility in any way whatsoever to any person in respect of any errors in this Report arising from incorrect information provided to this office, or necessary estimates and assessments made for the purposes of this Report.

Any creditor that has material information in relation to the Companies' affairs, which they consider may affect our investigation, should forward details to this office as soon as possible.



### 1 EXECUTIVE SUMMARY

As you are aware, on 17 July 2017, Peter Paul Krejci, Andrew Cummins and John Carrello were, pursuant to Section 436C of the Corporations Act 2001 ("the Act"), appointed Joint and Several Voluntary Administrators of the following:

- Rivet Mining Services (NSW) Pty Limited ("Rivet NSW");
- ▲ Rivet Mining Services (QLD) Pty Limited ("Rivet QLD");
- Rivet Mining Services East Holdco Pty Limited ("Rivet East Holdco"); and
- Rivet Quarries Pty Limited ("Rivet Quarries").

The above companies will be collectively referred to as "RMS East Group" or "the Companies". Also on 17 July 2017 Peter Paul Krejci, Andrew Cummins and John Carrello were appointed Joint and Several Administrators of Australian Road Express Pty Ltd, Jolly's Transport Services Pty Ltd, JetStyle Express Pty Ltd and WAFL SPV Pty Limited, collectively known as 'ARX Group'. The ARX Group and RMS East Group operated as part of the wider Rivet Group of Companies.

Andrew Cummins and Peter Krejci were subsequently appointed Joint and Several Liquidators of the Companies at the Second Meeting of Creditors held on 21 August 2017.

This report has been prepared in accordance with Rule 70-40 of the Insolvency Practice Rules (Corporations) 2016 ("IPR"). As required under IPR 70-40, a summary of the conduct of the liquidation over the past 3 months is provided below.

Since our Earlier Report, we have undertaken further investigations into the RMS East Group's affairs. In particular, we have sought to obtain further information regarding the securities held by the Secured Creditors. The Secured Creditors consist of five entities which provided funding to the RMS East Group.

This report should be read in conjunction with our previous Reports to Creditors dated 19 July 2017 ("First Report") and 11 August 2017 ("Second Report"). Information in these reports will not be repeated unless required.

### 1.1 PREVIOUS MEETINGS OF CREDITORS

We advise that the last meeting of creditors held was the Second Meeting of Creditors on 21 August 2017. Minutes of this meeting have been lodged with ASIC.

## 1.2 DECLARATION OF INDEPENDENCE, RELEVANT RELATIONSHIPS AND INDEMNITIES

We refer to the Updated Declaration of Independence, Relevant Relationships and Indemnities ("DIRRI") enclosed in our Second Report dated 11 August 2017 and note that there have been no changes to same.



### 2 UPDATE ON PROGRESS OF THE LIQUDIATION

### 2.1 INSOLVENCY OF THE COMPANIES

In our Earlier Report, we stated our preliminary conclusion that that the Companies became insolvent on or around 17 July 2017, when the Secured Creditors withdrew funding support to the RMS East Group. Until support was withdrawn, the Companies exhibited some, but not all, of the indicators of insolvency. We understand that there were discussions between financiers and the Companies/Director regarding a solvent restructure of the RMS East Group.

An ASIC Companies search indicates that Rivet Holdco Pty Ltd is the ultimate holding companies of the Companies. Section 588V of the Act provides that a holding company may be held liable for losses suffered by unsecured creditors in respect of debts incurred when the companies is insolvent.

Given our preliminary view that the Companies became insolvent on or about 17 July 2017, we do not believe such an action is likely to have significant value.

#### 2.2 SECURED CREDITORS

Our investigations indicate that the RMS East Group and other related entities entered into negotiations with the Secured Creditors and other parties with a view to obtaining a solvent restructuring. We understand that those negotiations were unsuccessful and resulted in the appointment of Receivers and Managers and Administrators to the RMS East Group.

As previously advised, the Secured Creditors have not been prepared to provide particulars of correspondence between the Secured Creditors and the RMS East Group on the basis that the negotiations involved entities outside the RMS East Group. We have not been successful to date in obtaining this information.

In our Earlier Report, we summarised our views about the likely operation of security interests granted by the Companies and noted that our preliminary investigations indicated that the Secured Creditors held a non-circulating security interest over current assets of the RMS East Group, including Cash and Sundry Debtors, both in respect of the first DOCA and at our appointment.

A "non-circulating" security interest entitles a secured creditor to the net proceeds of the sale or recovery of the assets to which it applies. A "circulating" security interest gives a secured creditor similar priority over unsecured creditors, but is subject, in some cases, to a claim for priority of payment by employee claims arising from their employment. Whether a security interest is circulating or non-circulating requires interpretation of the security instrument, consideration of the operation of the Personal Property Securities Act and an understanding of the operations of the Companies and the securities in practice. At this stage, we believe that these investigations are unlikely to have any material impact on any return to ordinary unsecured creditors of the Companies as we are currently unaware of any employees at the time of our appointment.

We note that these lines of enquiry have been required to be undertaken in the related entities known as Australian Roads Express Pty Ltd and Jolly's Transport Services Pty Ltd (Both Receivers and Managers Appointed) (Both In Liquidation). These entities are part of the ARX Group to which we are also appointed. The Secured creditors hold cross guarantees across all entities within the ARX and Rivet East Groups and



the issues associated with the classification of circulating and non-circulating security interests will ultimately only effect the level of return to the Secured Creditors or employees creditors.

While we have formed preliminary views, we have not yet formed a concluded view about whether the security interests are circulating or non-circulating.

It is anticipated that there will be a significant shortfall to the Secured Creditors and/or employee creditors and as such it is unlikely that a dividend will be payable to ordinary unsecured creditors.

### 2.3 INVESTIGATIONS UNDERTAKEN

To date we have conducted preliminary investigations into the affairs of the Companies to ascertain whether there are any transactions that appear to be voidable, or other causes of action available whereby money, property or other benefits may be recoverable by a liquidator. We have not identified any actions available to creditors at this stage, however, our investigations are still ongoing.

Notwithstanding, we anticipate we will shortly be lodging with ASIC our Report pursuant to Section 533(1) of the Corporations Act. This Report is required where creditors receive a return of less than 50 cents in the dollar and/or the Liquidators identify any offences committed by the director or the Company. This report is granted qualified privilege and is not available to creditors.

# 3 LIQUIDATORS' OPINION AS TO WHAT HAPPENED TO THE BUSINESS

The Director has advised in his questionnaire that the Companies' failure was due to the secured creditor's appointment of external administrators to the RMS East Group. Over the 6 months prior to the appointment of the Voluntary Administrators, the Secured Creditors have monitored the progress of the RMS East Group. The projected turnaround of the RMS East Group has been unsuccessful. Various forecasts and performance targets were not met. This required additional funding from the secured creditors, as well as Companies within the wider Rivet Group.

The management team of the RMS East Group has indicated that they were actively negotiating with the secured creditors and other parties for a solvent restructure up to the date of the appointment of external administrators. These negotiations were ultimately unsuccessful and led to the appointment of the Receivers and Managers by the Secured Creditors. The Receivers and Managers assessed the viability of the business of the Companies to continue to trade. We understand that the Receivers sought to sell the business of the RMS East Group, however, this has not occurred and as such the Receivers have arranged for the sale of the assets of the RMS East Group, and made the decision to cease trading.

### 4 FINANCIAL POSITION OF THE COMPANIES

Creditors are referred to our Previous Report of 11 August 2017 for our comments regarding the Companies' assets. However, IPR 70-40 requires that we provide creditors with an estimate of the amount of assets and liabilities of the Companies.



### 4.1 ASSETS

The RATAs provided by the Director indicate assets of the Companies as follows:

Company	RATA Amount (\$)	Liquidator's Estimated Realisable Value (\$)
Rivet East Holdco	130,340	Unknown
Rivet QLD	14,518,864	Unknown
Rivet NSW	3,789,205	Unknown
Rivet Quarries	10,000	Unknown
TOTAL	18,448,409	

Creditors are referred to my Report dated 11 August 2017 for a further breakdown of these assets.

We note that the assets of the Companies are subject to the control of the Receivers and Managers. At this stage we have not been provided with an update regarding the realisations made. As such, we are unable to provide any significant details regarding the current position of the Receivership. We are advised however, that the realisation of assets will be insufficient to discharge the Secured Creditors in full. It is anticipated that we will be provided details of all realisations made once recoveries are at a more advanced stage.

### 4.2 LIABILITIES

### 4.2.1 **Priority Creditors**

The RATA discloses no priority creditor claims. However, the consolidated management accounts for the Companies as at 30 June 2017 disclose payroll liabilities totalling \$935K. It is our understanding that the Companies did not employ, but rather another entity in the broader Rivet group, Rivet Employees Operational Pty Limited, provided labour to the Companies. As such, the Director has not disclosed any amounts owing to Priority Creditors in the RATAs.

### 4.2.2 Secured Creditors

We note that the debt owing to the Secured Creditors are a joint and several liability between the Companies. The Secured Creditors have lodged informal proofs of debt totalling \$63.75 million in each of the Companies.

The Receivers and Managers have advised that there will be a significant shortfall of assets to the secured creditor's debt, and accordingly there is unlikely to be any return to Unsecured Creditors.

#### 4.2.3 Unsecured Creditors

The RATAs indicate that Unsecured Creditors are owed \$3.5M. This amount is broken down in each of the entities as follows:



Company	RATA Amount (\$)	Liquidator's Estimated Realisable Value (\$)
Rivet East Holdco	102	641,870
Rivet QLD	3,057,503	3,749,552
Rivet NSW	413,624	1,051,335
Rivet Quarries	-	641,548
TOTAL	3,471,229	6,084,305

However, based on the records and Formal Proofs of Debt received to date, we have formed the view that Unsecured Creditors may be owed \$6.08M. This is based on claims received to date and is subject to adjudication. We also note that the ATO has lodged a claim in each of these entities of \$641K. Given that it is unlikely that a distribution will be made to unsecured creditors, we have not sought to verify or adjudicate these creditors claims.

Our comments are as follows:

### 4.2.3.1 Trade Creditors

Company	RATA Amount (\$)	Liquidator's Estimated Realisable Value (\$)
Rivet East Holdco	-	-
Rivet QLD	415,015	590,444
Rivet NSW	79,821	79,627
Rivet Quarries	-	-
TOTAL	494,836	670,071

The RATAs indicated that Trade Creditors claims total \$494K for the Companies. However, based on the Formal Proofs of Debt received to date, it appears that trade creditors may be owed approximately \$670K.

In the event there is a dividend distribution to Unsecured Creditors, we will request that Formal Proofs of Debts to be submitted and the actual claims may vary from this estimate.

However, as mentioned above, given the significant estimated shortfall owing to the Secured Creditors, it is unlikely there will be any return to Unsecured Creditors.

### 4.2.3.2 Australian Taxation Office

The RATAs state that the ATO is owed \$148K by the Companies. However, the ATO has lodged a Formal Proof of Debt in each entity, based on a liability arising as a member of a GST Group, which likely includes other entities in the broader Rivet group. The claim lodged totals \$641K.



We are advised that there are minimal lodgements outstanding at the date of our appointment as Voluntary Administrators.

### 4.2.3.3 Related Party Creditors

The Directors RATA indicates that the related parties are owed \$2.8M by the Companies as at the date of appointment. We note that these claims are from entities within and outside the appointed RMS Group. We have not sought to determine the accuracy of these claims at this stage.

### 5 THE LIKELIHOOD OF A DIVIDEND BEING PAID IN THE LIQUIDATIONS

We have communicated with the Receivers and Managers to obtain an update regarding the progress of asset realisations. We have been advised that realisations from circulating assets will be insufficient to enable a dividend to unsecured creditors. We are not currently aware of any employee claims in the Liquidation of the RMS East Group.

However, any voidable transaction recoveries are not subject to the security interests registered by the Secured Creditors. At this stage, we have not identified any uncommercial transaction recoveries that may be available to the Liquidator. However, should any such action be identified and result in a recovery Then a dividend may be declared to ordinary unsecured creditors.

### 6 RECEIPTS AND PAYMENTS

Attached as **Annexure "3"** is a summary of our receipts and payments for the period up to the date of this report. We note that no asset recoveries have been made by the Liquidator with exception to the indemnity paid to us by the Receivers and Managers.

### 7 TASKS REQUIRED IN THE LIQUIDATION

As detailed above, we anticipate that the following matters will be dealt with during the Liquidation moving forward:

- ▲ Lodge my Report pursuant to Section 533(1) of the Corporations Act 2001;
- Complete further investigations to ASIC and prepare Supplementary Report to ASIC, if required;
- Liaise with the Receivers and Managers to determine if there will be any surplus available for unsecured creditors;
- Correspond with creditors;
- Prepare Statutory lodgements; and
- Finalisation.



### 8 CREDITORS' RIGHTS

Pursuant to Section 70-40, 70-45, 75-15, 85-5, 90-24 and 90-35 of the Insolvency Practice Schedule (Corporations) and IPR 70-30, we are required to give certain information to creditors as to their rights in the administration.

Accordingly, we attach as Annexure "3" further information regarding 'Creditor Rights in Liquidations'.

### 9 FURTHER INFORMATION

We have attached as **Annexure "4"** an ASIC information sheet entitled "Insolvency information for directors, practitioners, employees, creditors and investors". This publication provides basic information about the different types of external administrations, including Liquidation, and reference to further sources of information available on the ASIC website at www.asic.gov.au.

### 10 QUERIES

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

■ BRI Contact:

Mr Anthony Locascio

■ Phone:

(02) 8263 2300

■ Email:

rivet@brifnsw.com.au

GPO Box 7079, Sydney NSW 2001

**∡** Facsimile:

(02) 8263 2399

Yours faithfully

RIVET MINING SERVICES EAST HOLDCO PTY LTD

RIVET MINING SERVICES (QLD) PTY LTD

RIVET MINING SERVICES (NSW) PTY LTD

RIVET QUARRIES PTY LTD

(ALL RECEIVERS AND MANAGERS APPOINTED) (ALL IN LIQUIDATION)

**ANDREW CUMMINS** 

Joint and Several Liquidator

Rivet Mining Services East Holdco
Pty Limited
A.C.N. 616 023 655
Rivet Mining Services (NSW) Pty
Limited
A.C.N. 616 024 929
Rivet Mining Services (QLD) Pty
Limited
A.C.N. 616 055 380
Rivet Quarries Pty Limited
A.C.N. 616 055 399

Annexure "1"
Form 535: Formal Proof of Debt

### FORM 535 CORPORATIONS ACT 2001

Subregulation 5.6.49(2)

### FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)

RIVET MINING SERVICES (QLD) PTY LTD
(RECEIVERS AND MANAGERS APPOINTED) (IN LIQUIDATION)
ACN 616 055 380
("THE COMPANY")

To the	Liquidator of Riv	vet Mining Service	es (QLD) Pty Ltd (In	Liquidatio	on)	
1.	This is to state	that the Compar	ny was, on 17 July	2017 <sup>(1)</sup> aı	nd still is, justly and to	ruly indebted to <sup>(2)</sup>
			dollars a	nd		cents.
	Particulars of t	he debt are:				
	Date	Consideration <sup>(3)</sup>	Am	ount (\$)	GST included (\$)	Remarks <sup>(4)</sup>
2.	received any n	nanner of satisfac	ction or security fo	r the sum	or any part of it exce	editor's order, had or pt for the following: <sup>(5)</sup>
3. <sup>(6)</sup> *	I am employe know that the	d by the creditor debt was incurr	and authorised i ed for the consid	n writing eration st	by the creditor to m ated and that the de	ake this statement. I bt, to the best of my
3. <sup>(6)</sup> *	knowledge and	d belief, still rema	ains unpaid and un	nsatisfied. make this	statement in writing	. I know that the debt
<b>J.</b> *	was incurred a	and for the consinains unpaid and	deration stated a	nd that th	ne debt, to the best	of my knowledge and
DATED	this	day of	2017			
Signatı	ure of Signatory			•••••		
NAME	IN BLOCK LETTE	RS	•••••			
Occupa	ation			••••••		
Addres	SS					
If you v	would like to rec	eive future corre	spondence via ema	ail, please	complete your details	s below:
Email A	Address					
Teleph	one Number		***************************************			
		Soo Directio	ons overleaf for the	e complet	ion of this form	
OFFICE	USE ONLY	Jee Direction	ons overlear for the	Complet		
POD No	:			ADMIT - O	rdinary	\$
		§ ·		l		II .

POD No:		ADMIT - Ordinary	\$
Date Received:	/ /	ADMIT - Preferential	\$
Entered into IPS/Computer:		Reject	\$
Amount per RATA	\$	H/Over for Consideration	\$
PREP BY/AUTHORISED			
		TOTAL PROOF	\$
DATE AUTHORISED / /			

#### **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) 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	Date Due
	\$	¢		

(6) If proof is made by the creditor personally, strike the two (2) paragraphs numbered 3.

### **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.

Rivet Mining Services East Holdco
Pty Limited
A.C.N. 616 023 655
Rivet Mining Services (NSW) Pty
Limited
A.C.N. 616 024 929
Rivet Mining Services (QLD) Pty
Limited
A.C.N. 616 055 380
Rivet Quarries Pty Limited
A.C.N. 616 055 399

Annexure "2"
Summary of Liquidator's Receipts
and Payments

### Summarised Receipts & Payments

## Rivet Mining Services (Qld) Pty Limited (In Liquidation)

Transactions From 21 August 2017 To 21 November 2017

Account	Net Amount
Funds under Indemnity for VA's Costs GST on Receipts	\$30,510.26 \$3,051.03
Total Receipts (inc GST)	\$33,561.29
Bank Charges Administrators' Remuneration Administrators' Disbursements GST on Payments	\$1.20 \$28,308.00 \$2,188.26 \$3,049.63
Total Payments (inc GST)	\$33,547.09
alance in Hand	\$14.20

Rivet Mining Services East Holdco
Pty Limited
A.C.N. 616 023 655
Rivet Mining Services (NSW) Pty
Limited
A.C.N. 616 024 929
Rivet Mining Services (QLD) Pty
Limited
A.C.N. 616 055 380
Rivet Quarries Pty Limited
A.C.N. 616 055 399

Annexure "3"

ARITA Information Sheet – Creditor

Rights in Liquidation



## Creditor Rights in Liquidations

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



### Right to request a meeting

In liquidations, no meetings of creditors are held automatically. However, creditors with claims of a certain value can request in writing that the liquidator hold a meeting of creditors.

A meeting may be requested in the first 20 business days in a creditors' voluntary liquidation by  $\geq 5\%$  of the value of the debts held by known creditors who are not a related entity of the company.

Otherwise, meetings can be requested at any other time or in a court liquidation by:

- > 10% but < 25% of the known value of creditors on the condition that those creditors provide security for the cost of holding the meeting
- ≥ 25% of the known value of creditors
- creditors by resolution, or
- a Committee of Inspection (this is a smaller group of creditors elected by, and to represent, all the creditors).

If a request complies with these requirements and is 'reasonable', the liquidator must hold a meeting of creditors as soon as reasonably practicable.

### Right to request information

Liquidators will communicate important information with creditors as required in a liquidation. In addition to the initial notice, you should receive, at a minimum, a report within the first three months on the likelihood of a dividend being paid.

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

A liquidator 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 liquidator 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:

Both meetings and information:

- (a) complying with the request would prejudice the interests of one or more creditors or a third party
- (b) there is not sufficient available property to comply with the request
- (c) the request is vexatious

Meeting requests only:

(d) a meeting of creditors dealing with the same matters has been held, or will be held within 15 business days

Information requests only:

- (e) the information requested would be privileged from production in legal proceedings
- (f) disclosure would found an action for breach of confidence
- (g) the information has already been provided
- (h) the information is required to be provided under law within 20 business days of the request

If a request is not reasonable due to (b), (d), (g) or (h) above, the liquidator must comply with the request if the creditor meets the cost of complying with the request.

Otherwise, a liquidator must inform a creditor if their meeting or information request is not reasonable and the reason why.

ARITA ACN 002 472 Level 5, 191 Clarence Street, Sydney NSW 2000 Australia | GPO Box 4340, Sydney NSW 2001 t+61 2 8004 4344 | e admin@arita.com.au | arita.com.au



### Right to give directions to liquidator

Creditors, by resolution, may give a liquidator directions in relation to a liquidation. A liquidator must have regard to these directions, but is not required to comply with the directions.

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

An individual creditor cannot provide a direction to a liquidator.

### Right to appoint a reviewing liquidator

Creditors, by resolution, may appoint a reviewing liquidator to review a liquidator's remuneration or a cost or expense incurred in a liquidation. 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 liquidation, in priority to creditor claims.

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

### Right to replace liquidator

Creditors, by resolution, have the right to remove a liquidator and appoint another registered liquidator.

For this to happen, there are certain requirements that must be complied with:

### Meeting request



#### Information and notice



### Resolution at meeting

A meeting must be reasonably requested by the required number of creditors.

Creditors must inform the existing liquidator of the purpose of the request for the meeting.

Creditors must determine who they wish to act as the new liquidator (this person must be a registered liquidator) and obtain:

- Consent to Act, and
- Declaration of Independence, Relevant Relationships and Indemnities (DIRRI).

The existing liquidator will send a notice of the meeting to all creditors with this information.

If creditors pass a resolution to remove a liquidator, that person ceases to be liquidator once creditors pass a resolution to appoint another registered liquidator.

### For more information, go to www.arita.com.au/creditors

Version: July 2017 12112 (LIQ) - INFO - CREDITOR RIGHTS INFORMATION SHEET V1\_0.DOCX

Rivet Mining Services East Holdco
Pty Limited
A.C.N. 616 023 655
Rivet Mining Services (NSW) Pty
Limited
A.C.N. 616 024 929
Rivet Mining Services (QLD) Pty
Limited
A.C.N. 616 055 380
Rivet Quarries Pty Limited
A.C.N. 616 055 399

Annexure "4"
ASIC Information Sheet



# Insolvency information for directors, employees, creditors and shareholders

This information sheet (INFO 39) 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
- <u>INFO 43</u> Insolvency: A guide for shareholders
- <u>INFO 45</u> Liquidation: A guide for creditors
- INFO 46 Liquidation: A guide for employees
- <u>INFO 54</u> Receivership: A guide for creditors
  <u>INFO 55</u> 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 <u>ARITA website</u>. The ARITA website also contains the <u>ARITA Code of</u> Professional Practice for <u>Insolvency Practitioners</u>.

This is Information Sheet 39 (INFO 39) updated on 1 September 2017. Information sheets provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Last updated: 01/09/2017 10:57