

# Third Report to Creditors

## Pivotal Building Services Pty Ltd

(In Liquidation)

ACN 151 351 576

**4 June 2019**

**Ian Currie  
Liquidator**

BRI Ferrier

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<b>1</b>	Notice of Proposal without Creditors' Meeting
<b>2</b>	Formal Proof of Debt or Claim Form (Form 535)

## 1 INTRODUCTION

I refer to my appointment as Liquidator of Pivotal Building Services Pty Ltd ("the Company") on 3 December 2018 and to my Initial and Statutory Reports to Creditors dated 12 December 2018 and 1 March 2019 respectively.

The purpose of this report is to provide creditors with an update on the progress of the liquidation.

## 2 DECLARATION OF INDEPENDENCE, RELEVANT RELATIONSHIPS & INDEMNITIES

Creditors were provided with my Declaration of Independence, Relevant Relationships and Indemnities with my Initial Report to Creditors dated 12 December 2018.

I have nothing further to disclose in connection with my independence, relevant relationships or indemnities. Accordingly, I have not included a copy with this report; however should you require a copy please do not hesitate to contact my office. A copy has also been lodged with the Australian Securities and Investments Commission ("ASIC").

## 3 INVESTIGATIONS

### 3.1 INVESTIGATIONS TO DATE

My investigations into the Company's affairs were detailed in my Statutory Report to Creditors dated 1 March 2019. Accordingly, I have not repeated the results of my investigations in this report. Please contact my office if you require a copy of my Statutory Report to Creditors.

### 3.2 REPORT TO ASIC

Section 533(1) of the Act requires me to submit a report to ASIC if I suspect that any offence or misconduct has occurred in relation to the Company or, if creditors are unlikely to receive more than 50 cents in the dollar.

This report was lodged with ASIC on 6 February 2019. I have since received a response from ASIC stating that they do not intend to take any action in relation to the matters raised in my report.

### 3.3 STATUTORY RECOVERIES

Part 5.7B of the Act allows me to void certain transactions and make other recoveries for the benefit of creditors. My Statutory Report to Creditors set out potential statutory recoveries in the liquidation and should be read in conjunction with the below information.

#### 3.3.1 Unfair Preference Claim against the Australian Taxation Office ("ATO")

I issued a demand to the ATO for \$31,154.00 in unfair preference payments made to the ATO during the six-month period ending on the date of liquidation. The ATO remitted payment of this amount in full in response to my demand.

#### 3.3.2 Voidable Transaction Claim against Wayne and Barbara Crompton

On 28 and 29 November 2018, the Company paid \$62,000.00 to Wayne and Barbara Crompton, the parents of Victoria Harris, the Company's director, which appear to be voidable both as unfair preference payments and as unreasonable director-related transactions.

Wayne and Barbara Crompton paid \$15,000.00 to the Company on 3 December 2018, which may partially off-set the above amount.

While I am pursuing this claim, subject to my further investigations, it may not be commercial for me to file a legal proceeding in respect of this potential cause of action because:

- ▲ Wayne and Barbara Crompton have advised they have minimal assets and no income other than an aged pension;
- ▲ Wayne Crompton has advised he is being pursued in respect of personal guarantees provided; and
- ▲ Wayne and Barbara Crompton have no land titles registered in their names in Queensland.

### 3.3.3 Assignment of Legal Action

I can assign my right to sue, including in respect of the potential legal actions discussed above, after giving written notice to creditors and lodging the relevant documents with ASIC.

I request that any creditor interested in taking an assignment of any potential legal action contact my office. Please note that I will require payment to cover, at a minimum, my legal costs in attending to any assignment.

## 4 ESTIMATED RETURN TO CREDITORS

I anticipate paying a dividend to priority (employee) creditors at an estimated rate of 35 cents in the dollar for unpaid wages and superannuation only, which holds a statutory priority over other employee entitlements and ordinary unsecured creditors.

The ATO has lodged a proof of debt for \$40,446.25 in respect of unpaid superannuation guarantee charge owing for the period 1 April 2018 to 3 December 2018.

There are insufficient asset realisations or statutory recoveries to pay any further dividends to other classes of creditor.

## 5 REMUNERATION

To minimise the costs of the liquidation, I will seek approval for my current and future remuneration in the liquidation by way of the annexed Notices of Proposal without a Creditors Meeting. You can cast your vote by using the included voting forms.

I have annexed a separate Remuneration Approval Report setting out my current remuneration and estimated future remuneration to the completion of the liquidation. This Remuneration Approval Report provides you with the information you need to be able to make an informed decision regarding the approval of my remuneration.

In summary, I will seek approval of the following amounts:

Summary of Remuneration Approval Sought		
Administration	Period	Remuneration Sought (excl GST)
Liquidation	6 March 2019 to 3 June 2019	\$4,008.00
Liquidation	4 June 2019 to completion of the liquidation	\$5,000.00
<b>Total</b>		<b>\$9,008.00</b>

I have also annexed an information sheet regarding Proposals without Meetings produced by the Australian Restructuring Insolvency & Turnaround Association ("ARITA") for the information of creditors.

## 6 SUMMARY OF RECEIPTS AND PAYMENTS

A summary of the receipts and payments in the liquidation to date is below.

<b>Receipts</b>	<b>\$</b>
Cash at Bank	4,130.16
Indemnity provided by the Company	7,500.00
Refunds	211.66
Sale of Plant, Equipment and Motor Vehicle	19,305.71
Unfair Preference Recoveries - ATO	31,154.00
<b>Total Receipts</b>	<b>62,301.53</b>
<b>Payments</b>	<b>\$</b>
Airfares	(722.79)
Advertising	(64.00)
Auctioneers' Fees and Expenses - Grays	(5,143.48)
Liquidator's Remuneration	(21,423.05)
Search Fees	(461.96)
Travel Expenses	(172.56)
<b>Total Payments</b>	<b>(27,987.84)</b>
<b>Cash at Bank as at 2 June 2019</b>	<b>34,313.69</b>

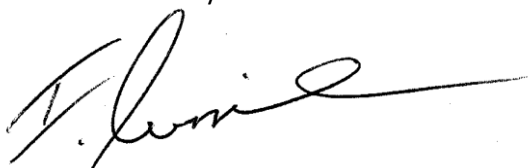
I will lodge an Annual Administration Return showing my receipts and payments and the position of liquidation for each 12-month period from the date of my appointment.

Further, I must lodge an End of Administration Return showing the overall receipts and payments in the liquidation within one (1) month of the end of the liquidation. ASIC will deregister the Company three (3) months after this return is lodged. Should any creditor wish to receive notice of the lodgement of this return, please advise my office of your requirements in writing.

## 7 FURTHER INFORMATION

Should you have any further queries in relation to this report or the liquidation in general, please contact William Clement of my office on (07) 3220 0994 or at [wclement@brifsq.com.au](mailto:wclement@brifsq.com.au).

DATED this 4th day of June 2019



**I A Currie**  
**Liquidator**

# Remuneration Approval Report

**Pivotal Building Services Pty Ltd**  
(In Liquidation)  
ACN 151 351 576

**4 June 2019**

**Ian Currie**  
**Liquidator**

BRI Ferrier

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## 1 DECLARATION

I, Ian Currie of BRI Ferrier, have undertaken a proper assessment of this remuneration claim for my appointment as Liquidator of Pivotal Building Services Pty Ltd ("the Company") in accordance with the law and applicable professional standards. I am satisfied that the remuneration claimed is in respect of necessary work, properly performed or to be properly performed, in the conduct of the liquidation.

## 2 EXECUTIVE SUMMARY

Remuneration currently claimed and previously approved is summarised below.

Remuneration Approval Sought	Report Reference	Amount (excl. GST)
Resolution 1: 6 March 2019 to 3 June 2019	Section 3.2 and sch 1	\$4,008.00
Resolution 2*: 4 June 2019 to completion of the liquidation	Section 3.2 and sch 2	\$5,000.00
Remuneration for the period 3 December 2018 to 11 December 2018		\$8,173.50
Remuneration for the period 12 December 2018 to 5 March 2019		\$21,826.50
<b>Total Remuneration Claimed and Approval</b>		<b>\$39,008.00</b>

\*Approval for future remuneration sought is based on an estimate of the work necessary to the completion of the administration. Should additional work be necessary beyond what is presently contemplated, further approval may be sought from creditors.

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

The total remuneration for this liquidation is estimated to be \$39,008.00 plus GST. This has increased compared to my previous estimate primarily because of:

- ▲ Additional time costs incurred in investigating the Company's affairs and pursuing voidable transactions for the benefit of creditors; and
- ▲ Additional time costs incurred in providing reports and information to creditors and regulators.

## 3 REMUNERATION

### 3.1 REMUNERATION CLAIM RESOLUTIONS

I will be seeking approval of the following resolutions for my remuneration. Details to support these resolutions are included in section 3.2

#### **Resolution 1 from 6 March 2019 to 3 June 2019**

*"That the remuneration of the Liquidator for the period 6 March 2019 to 3 June 2019, calculated at the hourly rates detailed in the Initial Remuneration Notice dated 12 December 2018, is approved for payment of \$4,008.00 plus GST and that the Liquidator can draw the remuneration immediately or as required."*



**Resolution 2 from 4 June 2019 to completion of the liquidation**

*“That the future remuneration of the Liquidator for the period from 4 June 2019 to completion of the liquidation is determined at a sum equal to the cost of time spent by the Liquidator and his staff, calculated at the hourly rates detailed in the Initial Remuneration Notice dated 12 December 2018 that may be increased at a rate of up to 5% at 1 July each year, up to a capped amount of \$5,000.00 plus GST, and that the Liquidator can draw the remuneration as required.”*

**3.2 DETAILS OF REMUNERATION**

The basis of calculating the remuneration claims are summarised below and the details of the major tasks performed or to be performed and the costs associated with each of those major tasks are contained in Schedules 1 and 2.

**Resolution 1 from 6 March 2019 to 3 June 2019**

The below table sets out time charged to each major task area by staff members working on the liquidation for the period 6 March 2019 to 3 June 2019 which is the basis of the Resolution 1 claim.

More detailed descriptions of the tasks performed within each task area, matching the amounts below, are contained in Schedule 1.

## REMUNERATION REPORT

FOR THE PERIOD 6 MARCH 2019 TO 3 JUNE 2019

Employee	Position	\$ /hour (ex GST)	Total Actual Hours	Total \$	Task Area									
					Assets		Creditors		Employees		Investigation		Administration	
					Hrs	\$	Hrs	\$	Hrs	\$	Hrs	\$	Hrs	\$
Ian Currie	Appointee	550.00	2.00	1,100.00	0.40	220.00	0.00	0.00	0.40	220.00	0.50	275.00	0.70	385.00
William Clement	Supervisor	365.00	7.20	2,628.00	1.60	584.00	3.50	1,277.50	1.70	620.50	0.30	109.50	0.10	36.50
Elliott Currie	Intermediate 1	230.00	0.20	46.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.20	46.00
Emma Gleeson	Intermediate 2	195.00	1.20	234.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1.20	234.00
Total				4,008.00	2.00	804.00	3.50	1,277.50	2.10	840.50	0.80	384.50	2.20	701.50
GST				400.80										
Total (Incl GST)				4,408.80										
Average hourly rate					402.00		365.00		400.24		480.63		318.86	

## Resolution 2 from 4 June 2019 to completion of the liquidation

The below table sets out the expected costs of the major tasks likely to be performed by me and my staff for the period 4 June 2019 to completion of the liquidation which is the basis of the Resolution 2 claim. More detailed descriptions of the tasks likely to be performed within each task area, matching the amounts below, are contained in Schedule 2.

### REMUNERATION REPORT

FOR THE PERIOD 15 MAY 2019 TO COMPLETION OF THE LIQUIDATION

Employee	Position	\$ /hour (ex GST)	Total Actual Hours	Total \$	Task Area					
					Creditors		Employees		Administration	
					Hrs	\$	Hrs	\$	Hrs	\$
Ian Currie	Appointee	550.00	3.18	1,750.00	1.36	750.00	0.91	500.00	0.91	500.00
William Clement	Supervisor	365.00	6.16	2,250.00	2.05	750.00	2.74	1,000.00	1.37	500.00
Elliott Currie	Senior 2	265.00	3.77	1,000.00	0.00	0.00	0.00	0.00	3.77	1,000.00
<b>Total</b>				<b>5,000.00</b>	<b>3.42</b>	<b>1,500.00</b>	<b>3.65</b>	<b>1,500.00</b>	<b>6.05</b>	<b>2,000.00</b>
GST				500.00						
<b>Total (Incl GST)</b>				<b>5,500.00</b>						
<b>Average hourly rate</b>					438.80		411.09		330.44	

### 3.3 TOTAL REMUNERATION RECONCILIATION

I estimate that the total remuneration for this liquidation will be \$39,008.00 plus GST. This includes the current approval amount of \$9,008.00 plus GST being sought. This is subject to the following variables which may have a significant effect on this estimate and that I am as yet unable to determine:

- ▲ Distributing a dividend to priority (employee) creditors; and
- ▲ Attending to the assignment of any legal action available to me.

This estimate differs to that provided in my Initial Remuneration Notice dated 12 December 2018, which estimated a cost of the liquidation of \$30,000.00 plus GST for the following reasons:

- ▲ Additional time costs incurred in investigating the Company's affairs and pursuing voidable transactions for the benefit of creditors;
- ▲ Additional time costs incurred in providing reports and information to creditors and regulators; and
- ▲ Additional time spent in lodging superannuation returns with the ATO and declaring a dividend to priority (employee) creditors.

To date, creditors have approved my remuneration up to a capped amount of \$30,000.00 plus GST. My remuneration has exceeded this cap and in this report, I am seeking approval of a further capped amount of \$9,008.00 plus GST to enable me to complete the liquidation.

In the following table I compare, on a task basis, my estimate from my prior Remuneration Approval Report dated 12 December 2018 to my actual remuneration incurred as at 4 June 2019 and provide an explanation for the difference in cost.

Task	Estimate \$	Actual \$	Reasons for Differences
Assets	8,249.50	8,176.00	▲ My actual remuneration incurred in dealing with and realising the Company's assets is materially in line with my previous estimate.
Creditors	7,161.00	9,758.00	▲ I incurred additional remuneration in preparing reports and other information to creditors to provide updates as to the progress and conduct of the liquidation.
Employees	2,000.00	1,589.00	▲ My actual remuneration incurred in dealing with the Company's former employees and their claims for unpaid entitlements is less than my previous estimate.
Investigation	6,436.50	9,187.00	▲ I incurred additional remuneration in undertaking my statutory investigation into the Company's affairs and lodging a report on the same with the Australian Securities and Investments Commission ("ASIC"). ▲ I also incurred additional remuneration in identifying and pursuing recovery of unfair preference payments made by the Company.
Administration	6,153.00	5,214.50	▲ My actual remuneration incurred in administering the liquidation is less than my previous estimate.

I have provided an explanation of tasks remaining to be completed, including my estimated costs to complete those tasks, to support my current remuneration approval request at section 3.2 of this report and in Schedule 2.

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

### 3.4 LIKELY IMPACT ON DIVIDENDS

If passed, these proposals will have minimal impact on creditors. The passing of this proposal will merely allow me to be remunerated from the available funds in the liquidation, as and when that remuneration is earned.

Section 556 of the *Corporations Act 2001* ("the Act") provides that my remuneration is paid in priority to unsecured creditors' claims. The effect of approving our remuneration is to fix my proper remuneration which is then paid in accordance with s 556 of the Act. If the remuneration is not approved, I will make application to the Court to decide our remuneration which application will incur further costs in the liquidation and may reduce any dividend payable to creditors.

### 3.5 REMUNERATION RECOVERED FROM EXTERNAL SOURCES

I have received an up-front payment from the Company of \$7,500.00 (including GST) as disclosed in my Declaration of Independence, Relevant Relationships and Indemnities dated 12 December 2018.

## 4 DISBURSEMENTS

Disbursements are divided into three (3) types:

- ▲ **Externally provided professional services** - these are recovered at cost. An example of an externally provided professional 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 liquidation, would generally be charged at cost; though some expenses such as telephone calls, photocopying and printing may be charged at a rate which recoups both variable and fixed costs. The recovery of these costs must be on a reasonable commercial basis.

I am not required to seek creditor approval for disbursements paid to third parties but must account to creditors. However, I must be satisfied that these disbursements are appropriate, justified and reasonable.

I am required to obtain creditor's consent for the payment of internal disbursements where there may be a profit or advantage. Creditors will be asked to approve my internal disbursements where there is a profit or advantage prior to these disbursements being paid from the liquidation.

The details of the basis of recovering disbursements in this liquidation are provided below:

Disbursement Type	Rate (excluding GST)
Externally provided professional services	At Cost
Externally provided non-professional services	At Cost
<b>Internal disbursements</b>	
Photocopying/Printing	\$0.50 per page
Telephone Calls	At Cost
Stationery	At Cost
Staff vehicle use	\$0.66 per km

*Scale applicable for the financial year ending 30 June 2019*

I am not currently seeking any creditor approval for internal disbursements. Externally provided disbursements are noted in the summary of receipts and payments provided in Section 5.1 of this report.

## 5 GENERAL SUPPORTING INFORMATION

### 5.1 SUMMARY OF RECEIPTS AND PAYMENTS

A summary of the receipts and payments in the liquidation to date is provided in my Third Report to Creditors dated 4 June 2019.

### 5.2 QUERIES AND INFORMATION SHEETS

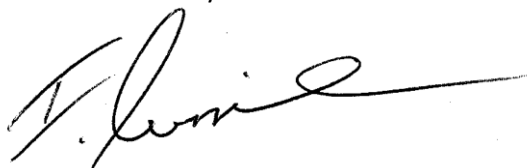
The above information is provided to assist creditors to consider the appropriateness of the remuneration that is being sought for approval.

The Australian Restructuring Insolvency & Turnaround Association ("ARITA") has produced a document entitled "Creditors Information Sheet: Approving Remuneration in External Administrations" which may be downloaded from the ARITA website at [www.arita.com.au](http://www.arita.com.au).

ASIC has also produced a document entitled "Information Sheet 85, Approving Fees: a guide for creditors" that may be downloaded from the ASIC website at [www.asic.gov.au](http://www.asic.gov.au).

Creditors should feel free to contact William Clement of this office on (07) 3220 0994 or via email at [wclement@brifsq.com.au](mailto:wclement@brifsq.com.au) to seek further information concerning the remuneration claim if required.

DATED this 4th day of June 2019



**I A Currie**  
**Liquidator**

## SCHEDULE 1 - RESOLUTION 1 TABLE OF MAJOR TASKS FOR REMUNERATION

The below table provides a description of the work undertaken in each major task area for the period 6 March 2019 to 3 June 2019.

Task Area	General Description	Includes
<b>Assets</b>  [2.00 hours] [\$804.00]	Other Assets	Tasks associated with realising other assets including pursuing voidable transaction claims
	Leasing	Tasks associated with disclaiming leases
<b>Creditors</b>  [3.50 hours] [\$1,277.50]	Creditor Enquiries, Requests & Directions	Receive and respond to creditor enquiries
	Secured creditor reporting	Preparing reports to secured creditor
	Creditor reports	Preparing reports to creditors
	Dealing with proofs of debt	Receipting and filing PODs when not related to a dividend Corresponding with ATO regarding PODs when not related to a dividend
<b>Employees</b>  [2.10 hours] [\$840.50]	Employees enquiry	Receive and follow up employee enquiries via telephone
	Calculation of entitlements	Calculating employee entitlements Reviewing employee files and company's books and records Reconciling superannuation accounts
<b>Investigation</b>  [0.80 hours] [\$384.50]	Litigation / Recoveries	Investigate potential legal actions Issuing correspondence seeking recovery of unfair preference payments
<b>Administration</b>  [2.20 hours] [\$701.50]	Correspondence	General correspondence and calls
	Document maintenance/file review/checklist	Filing of documents File reviews Updating checklists
	Bank account administration	Preparing correspondence opening and closing accounts Requesting bank statements Bank account reconciliations
	ASIC forms	Preparing and lodging ASIC forms
	ATO and other statutory reporting	Preparing BAS
	Finalisation	Notifying ATO of finalisation Cancelling ABN / GST / PAYG registration Completing checklists Finalising WIP

## SCHEDULE 2 - RESOLUTION 2 TABLE OF MAJOR TASKS FOR REMUNERATION

The below table provides a description of the work to be undertaken in each major task area for the period 4 June 2019 to completion of the liquidation.

This report is a summary of the expected major tasks and estimated costs relating to professional services for the remainder of liquidation. Please note these estimates are based on very broad assumptions. The actual time cost could vary substantially (either increase or decrease) subject to the degree of difficulty encountered in the liquidation.

These amounts do not represent the limit on my future remuneration and if remuneration exceeds this amount, further approval will be required.

Task Area	General Description	Includes
<b>Creditors</b> [3.42 hours] [\$1,500.00]	Proposals to Creditors	Preparing proposal notices and voting forms Forward notice of proposal to all known creditors Reviewing votes and determining outcome of proposal Preparation and lodgement of proposal outcome with ASIC
<b>Employees</b> [3.65 hours] [\$1,500.00]	Employee dividend	Correspondence with employees regarding dividend Correspondence with ATO regarding SGC proof of debt Calculating dividend rate Preparing dividend file Advertising dividend notice Preparing distribution Receipting PODs Adjudicating PODs
<b>Administration</b> [6.05 hours] [\$2,000.00]	Correspondence	General correspondence and calls
	Document maintenance/file review/checklist	Filing of documents File reviews Updating checklists
	Bank account administration	Preparing correspondence opening and closing accounts Requesting bank statements Bank account reconciliations Correspondence with bank regarding specific transfers
	ASIC forms	Preparing and lodging ASIC forms
	ATO and other statutory reporting	Preparing BAS
	Finalisation	Notifying ATO of finalisation Cancelling ABN / GST / PAYG registration Completing checklists Finalising WIP



## NOTICE OF PROPOSAL WITHOUT A CREDITORS' MEETING

**Pivotal Building Services Pty Ltd (In Liquidation)**  
**ACN 151 351 576**  
**("The Company")**

### SUMMARY

This Notice contains information on the Proposal, Voting, Statement of Reasons for the Proposal and Likely Impact of Passing the Proposal. Please complete and email or otherwise return the attached Proof of Debt and Response to this Notice **by no later than 26 June 2019** for your vote to be taken into account.

### PROPOSAL

*"That the remuneration of the Liquidator for the period 6 March 2019 to 3 June 2019, calculated at the hourly rates detailed in the Initial Remuneration Notice dated 12 December 2018, is approved for payment of \$4,008.00 plus GST and that the Liquidator can draw the remuneration immediately or as required."*

### VOTING

This Proposal will be taken to have been passed if:

- ▲ At least one (1) creditor voting in favour has voted in writing within the specified time;
- ▲ Of the creditors who have voted, there is a majority in both number and value of those voting, in favour of the Proposal within the specified time; and
- ▲ Not more than 25% in value of the responding creditors object to the Proposal being resolved without a meeting of creditors.

### STATEMENT OF REASONS FOR THE PROPOSAL


I have incurred remuneration totalling \$4,008.00 plus GST and now seek creditors' approval of the same.

### LIKELY IMPACT OF PASSING THE PROPOSAL

If passed, this proposal will have minimal impact on creditors. The passing of this proposal will merely allow me to be remunerated from the available funds in the liquidation, as and when that remuneration is earned.

Section 556 of the *Corporations Act 2001* ("the Act") provides that my remuneration is paid in priority to unsecured creditors' claims. The effect of approving my remuneration is to fix my proper remuneration which is then paid in accordance with s 556 of the Act. If the remuneration is not approved, I will make application to the Court to decide my remuneration which application will incur further costs in the liquidation and may reduce any dividend payable to creditors.

DATED this 4th day of June 2019



**I A Currie**  
**Liquidator**

## RESPONSE TO NOTICE OF PROPOSAL WITHOUT A CREDITORS MEETING

**Pivotal Building Services Pty Ltd (In Liquidation)**  
**ACN 151 351 576**  
**("The Company")**

### PROPOSAL

*"That the remuneration of the Liquidator for the period 6 March 2019 to 3 June 2019, calculated at the hourly rates detailed in the Initial Remuneration Notice dated 12 December 2018, is approved for payment of \$4,008.00 plus GST and that the Liquidator can draw the remuneration immediately or as required."*

### VOTING

Please place a tick in the box which applies

In Favour of the Proposal ☐

Against the Proposal ☐

Object to the Proposal being resolved without a meeting of creditors ☐

Creditor's Name \_\_\_\_\_

Signature of Authorised Officer \_\_\_\_\_

Name of Authorised Officer \_\_\_\_\_

Title/Position of Authorised Officer \_\_\_\_\_

Date \_\_\_\_\_

Please return, together with your completed Formal Proof of Debt or Claim (Form 535) by:

**Email:** [wclement@brifsq.com.au](mailto:wclement@brifsq.com.au)

**Post:** GPO Box 890, Brisbane QLD 4001

## NOTICE OF PROPOSAL WITHOUT A CREDITORS' MEETING

**Pivotal Building Services Pty Ltd (In Liquidation)**  
**ACN 151 351 576**  
**("The Company")**

### SUMMARY

This Notice contains information on the Proposal, Voting, Statement of Reasons for the Proposal and Likely Impact of Passing the Proposal. Please complete and email or otherwise return the attached Proof of Debt and Response to this Notice **by no later than 26 June 2019** for your vote to be taken into account.

### PROPOSAL

*"That the future remuneration of the Liquidator for the period from 4 June 2019 to completion of the liquidation is determined at a sum equal to the cost of time spent by the Liquidator and his staff, calculated at the hourly rates detailed in the Initial Remuneration Notice dated 12 December 2018 that may be increased at a rate of up to 5% at 1 July each year, up to a capped amount of \$5,000.00 plus GST, and that the Liquidator can draw the remuneration as required."*

### VOTING

This Proposal will be taken to have been passed if:

- ▲ At least one (1) creditor voting in favour has voted in writing within the specified time;
- ▲ Of the creditors who have voted, there is a majority in both number and value of those voting, in favour of the Proposal within the specified time; and
- ▲ Not more than 25% in value of the responding creditors object to the Proposal being resolved without a meeting of creditors.

### STATEMENT OF REASONS FOR THE PROPOSAL

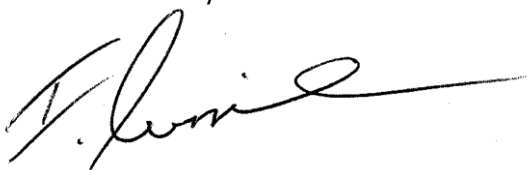
I expect to incur future remuneration in the amount of \$5,000.00 plus GST and now seek creditors' approval of same. Capping of future remuneration will avoid the costs associated with convening further meetings of creditors to consider approval of remuneration.

### LIKELY IMPACT OF PASSING THE PROPOSAL

If passed, this proposal will have minimal impact on creditors. The passing of this proposal will merely allow me to be remunerated from the available funds in the liquidation, as and when that remuneration is earned.

Section 556 of the *Corporations Act 2001* ("the Act") provides that my remuneration is paid in priority to unsecured creditors' claims. The effect of approving my remuneration is to fix my proper remuneration which is then paid in accordance with s 556 of the Act. If the remuneration is not approved, I will make application to the Court to decide my remuneration which application will incur further costs in the liquidation and may reduce any dividend payable to creditors.

DATED this 4th day of June 2019



**I A Currie**  
**Liquidator**

## RESPONSE TO NOTICE OF PROPOSAL WITHOUT A CREDITORS MEETING

**Pivotal Building Services Pty Ltd (In Liquidation)**  
**ACN 151 351 576**  
**("The Company")**

### PROPOSAL

*"That the future remuneration of the Liquidator for the period from 4 June 2019 to completion of the liquidation is determined at a sum equal to the cost of time spent by the Liquidator and his staff, calculated at the hourly rates detailed in the Initial Remuneration Notice dated 12 December 2018 that may be increased at a rate of up to 5% at 1 July each year, up to a capped amount of \$5,000.00 plus GST, and that the Liquidator can draw the remuneration as required."*

### VOTING

Please place a tick in the box which applies

In Favour of the Proposal

☐

Against the Proposal

☐

Object to the Proposal being  
resolved without a meeting of creditors

☐

Creditor's Name

---

Signature of Authorised Officer

---

Name of Authorised Officer

---

Title/Position of Authorised Officer

---

Date

---

Please return, together with your completed Formal Proof of Debt or Claim (Form 535) by:

**Email:** [wclement@brifsq.com.au](mailto:wclement@brifsq.com.au)

**Post:** GPO Box 890, Brisbane QLD 4001

## Information sheet: Proposals without meetings

You may be a creditor in a liquidation, voluntary administration or deed of company arrangement (collectively referred to as an external administration).

You have been asked by the liquidator, voluntary administrator or deed administrator (collectively referred to as an external administrator) to consider passing a proposal without a meeting.

This information sheet is to assist you with understanding what a proposal without a meeting is and what your rights as a creditor are.

### What is a proposal without a meeting?

Meetings of creditors were previously the only way that external administrators could obtain the views of the body of creditors. However, meetings can be very expensive to hold.

A proposal without a meeting is a cost effective way for the external administrator to obtain the consent of creditors to a particular course of action.

### What types of proposals can be put to creditors?

The external administrator is able to put a range of proposals to creditors by giving notice in writing to the creditors. There is a restriction under the law that each notice can only contain a single proposal. However, the external administrator can send more than one notice at any single time.

### What information must the notice contain?

The notice must:

- include a statement of the reasons for the proposal and the likely impact it will have on creditors if it is passed
- invite the creditor to either:
  - vote yes or no to the proposal, or
  - object to the proposal being resolved without a meeting, and
- specify a period of at least 15 business days for replies to be received by the external administrator.

If you wish to vote or object, you will also need to lodge a Proof of Debt (POD) to substantiate your claim in the external administration. The external administrator will provide you with a POD to complete. You should ensure that you also provide documentation to support your claim.

If you have already lodged a POD in this external administration, you do not need to lodge another one.

The external administrator must also provide you with enough information for you to be able to make an informed decision on how to cast your vote on the proposal. With some types of proposals, the law or ARITA's Code of Professional Practice sets requirements for the information that you must be provided.

For example, if the external administrator is asking you to approve remuneration, you will be provided with a Remuneration Approval Report, which will provide you with detailed information about how the external administrator's remuneration for undertaking the external administration has been calculated.

### What are your options if you are asked to vote on a proposal without a meeting?

You can choose to vote yes, no or object to the proposal being resolved without a meeting.

### How is a resolution passed?

A resolution will be passed if more than 50% in number and 50% in value (of those creditors who did vote) voted in favour of the proposal, but only so long as not more than 25% in value objected to the proposal being resolved without a meeting.

### What happens if the proposal doesn't pass?

If the proposal doesn't pass and an objection is not received, the external administrator can choose to amend the proposal and ask creditors to consider it again or the external administrator can choose to hold a meeting of creditors to consider the proposal.

The external administrator may also be able to go to Court to seek approval.

### What happens if I object to the proposal being resolved without a meeting?

If more than 25% in value of creditors responding to the proposal object to the proposal being resolved without a meeting, the proposal will not pass even if the required majority vote yes. The external administrator will also be unable to put the proposal to creditors again without a meeting.

You should be aware that if you choose to object, there will be additional costs associated with convening a meeting of creditors or the external administrator seeking the approval of the Court. This cost will normally be paid from the available assets in the external administration.

This is an important power and you should ensure that it is used appropriately.

### Where can I get more information?

The Australian Restructuring Insolvency and Turnaround Association (ARITA) provides information to assist creditors with understanding external administrations and insolvency.

This information is available from ARITA's website at [artia.com.au/creditors](http://artia.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 [asic.gov.au](http://asic.gov.au) (search for "insolvency information sheets").

## CORPORATIONS ACT 2001

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

To the Liquidator of:

**PIVOTAL BUILDING SERVICES PTY LTD (IN LIQUIDATION)**  
**ACN 151 351 576**  
**("THE COMPANY")**

1. This is to state that the Company was on **3 December 2018** and still is, justly and truly indebted to:

\_\_\_\_\_ <sup>1</sup> ABN \_\_\_\_\_ for  
 \_\_\_\_\_ dollars and \_\_\_\_\_ cents.

## Particulars of the debt are:

Date	Consideration (state how the debt arose) <sup>2</sup>	Total (Incl. GST) <sup>3</sup> \$	GST amount <sup>4</sup> \$	Remarks <sup>5</sup>

2. To my knowledge or belief the creditor has not, nor has any person by the creditor's order, had or received any satisfaction or security for the sum or any part of it except for the following<sup>6</sup>:

Date	Drawer	Acceptor	Amount	Due Date

\*3. 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, remains unpaid and unsatisfied.

\*3. I am the creditor's agent authorised in writing 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, remains unpaid and unsatisfied.

**\*Do not complete this part if this proof is made by the creditor personally.**

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2019

Signature ..... Occupation .....

Name ..... Daytime Telephone .....

Address ..... Email Address .....

.....

## OFFICE USE ONLY

REVIEWED BY:		ADMIT	\$
		GST INCLUDED ABOVE	\$
AUTHORISED BY:		REJECT	\$
Date entered:	/ /	WITHDRAW	\$
AMT. Per RATA	\$	CONSIDERATION	\$
		TOTAL PROOF	\$

### DIRECTIONS

1. Insert full name and address 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.
2. Under "Consideration" state how the debt arose, for example "goods sold and delivered to the company between the dates of .....", or "moneys advanced in respect of the Bill of Exchange."
3. Total amount is inclusive of GST
4. Notate separately the GST portion of the total amount
5. Under "Remarks" include details of vouchers substantiating payment. Notate separately the GST portion of the total amount.
6. 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 above form.

#### OFFICE USE ONLY (tick appropriate)

Ranking of Claim	
Secured	
Priority	
Unsecured	

Type of Claim	
RATA	
Additional	
Employee	