

28 September 2023

**TO THE CREDITOR AS ADDRESSED**

**OAK PARK (TULLAMARINE) PTY LTD IN ITS OWN RIGHT OPT HOLDINGS TRUST  
(IN LIQUIDATION)  
ACN 135 058 776 ("COMPANY")**

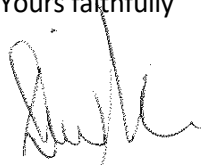
I refer to my appointment as Administrator on 30 March 2022 and subsequent appointment as Liquidator of the Company on 9 May 2022.

I now enclose the following:

Item #	Item	Description	Further Action Required by you
1	Report to Creditors	The purpose of this report is to provide an update regarding the matters undertaken in the Liquidation.	No
2	Notice of meeting	The meeting is to be held virtually on <b>Friday, 13 October 2023</b> .	No
3	Form of Proxy	This document must be returned to us by <b>Thursday, 12 October 2023</b> via email <a href="mailto:jmay@brifvic.com.au">jmay@brifvic.com.au</a> for you attend the meeting in person or by proxy.	Yes
4	Proof of Debt ("POD") form	You must also provide information about what the company owes you and evidence to support your claim. Please complete and return POD form via email <a href="mailto:jmay@brifvic.com.au">jmay@brifvic.com.au</a> with your supporting documents.	Yes Include supporting documentation

Should you have any questions in relation to this matter, please contact Joshua May of this office via phone (03) 9622 1800 or via email [jmay@brifvic.com.au](mailto:jmay@brifvic.com.au).

Yours faithfully



**DAVID COYNE**  
LIQUIDATOR

# Fourth Report to Creditors

## **OAK PARK (TULLAMARINE) PTY LTD**

in its own right and ATF OPT Holdings Trust

(In Liquidation)

ACN 135 058 776

("The Company")

28 September 2023

David Coyne  
Liquidator

BRI Ferrier Victoria Pty Ltd ABN 18 638 454 029  
Level 10, 45 William Street, Melbourne VIC 3000

PO Box 521, Collins Street West VIC 8007

Phone (03) 9622 1800

Email: [info@brifvic.com.au](mailto:info@brifvic.com.au)

Website: [www.briferrier.com.au](http://www.briferrier.com.au)



## TABLE OF CONTENTS

<b>1</b>	<b>Introduction .....</b>	<b>3</b>
<b>2</b>	<b>Liquidators Acts and Dealings to Date .....</b>	<b>3</b>
2.1	Investigations undertaken to date .....	3
2.2	Liquidator Recoveries .....	3
2.3	Progress of the Liquidation .....	4
<b>3</b>	<b>Meeting of Creditors.....</b>	<b>4</b>
<b>4</b>	<b>Acts and Dealings to Be Carried Out .....</b>	<b>5</b>
<b>5</b>	<b>Dividend to Creditors.....</b>	<b>5</b>
<b>6</b>	<b>Receipts and Payments .....</b>	<b>6</b>

## 1 INTRODUCTION

On 30 March 2022, I was appointed Voluntary Administrator of the Company, pursuant to Section 436A of the Corporations Act 2001 ("the Act"). At a meeting of creditors held on 9 May 2022, creditors resolved to wind up the Company and the Administrator became the Liquidator.

Details of the events leading up to my appointment, the Company's financial position and my initial investigations were set out in my reports to creditors dated 1 April 2022, 2 May 2022 and 18 July 2022. This report should be read in conjunction with my previous reports and copies can be provided upon request.

## 2 LIQUIDATORS ACTS AND DEALINGS TO DATE

### 2.1 INVESTIGATIONS UNDERTAKEN TO DATE

My investigations, including reviewing the Company's records, copies of Proofs of Debt submitted by creditors and the Reports on Company Activities and Property submitted by the Director, revealed the following potential claims against the Company's Director, Mr Ian Bell:

Claim	\$
Unreasonable Director Related Transactions	\$1,474,923
Insolvent Trading	\$5,534,520
<b>Total</b>	<b>\$7,009,443</b>

I note that the unreasonable director related transaction claim relates to the accounting treatment of related party loans, in particular, the allocation of these loans to creditor loans owed to the Director.

On 7 November 2022, I submitted the findings of my investigations into the affairs of the Company, including its failure, the conduct of its officer to the Australian Securities and Investments Commission ("ASIC") pursuant to Section 533 of the Corporations Act 2001 ("the Act").

ASIC has advised that it will not be commencing an investigation into the affairs of the Company.

### 2.2 LIQUIDATOR RECOVERIES

During the course of the Liquidation, I sought legal advice regarding the above potential claims against the Director. The lawyers advised that in the particular circumstances of this Company, these claims were highly complicated. They advised that if proceedings were issues and defended, the costs of pursuing these to trial would be very significant. After further consideration, I instructed my solicitors to issue letters of demand with respect to the unreasonable director related transaction and insolvent trading claims.

On 13 March 2023, the demand letters were issued to the Director.

On 28 March 2023, the Director offered a settlement of \$150,000 and provided documentation defending the accounting treatment of the loan accounts subject to the unreasonable director related transaction claim.

I rejected this offer following the advice of my solicitors and as my investigations with respect to the Director's financial capacity had identified a real property in Park Orchards, Victoria in the name of the Director. This is the only real property I have identified in the name of the director.

During the course of the Liquidation, I undertook discussions with the Director regarding his financial capacity and my position regarding the unreasonable director related transaction claim.

On 27 September 2023, the Director submitted a settlement offer of \$400,000 with respect to all claims against him due to be paid on or before 30 June 2024.

I reverted to the Director to increase the offer due to the need to seek creditor approval and for the Director to provide the right to secure the settlement sum against the Director's property. The Director subsequently amended his offer to \$410,000 and that payment of the settlement sum would be secured by the lodgement of a caveat on the Park Orchards property.

The settlement is contingent on creditors providing me with the authority to compromise debts greater than \$100,000 and entering into agreements longer than three (3) months pursuant to Sections 477(2A) and 477(2B) of the Act at the upcoming creditors meeting.

It is my intention to accept this offer should creditors resolve to provide me with the above authority at the meeting of creditors on Friday, 13 October 2023.

I am satisfied that the settlement is in the interest of creditors generally given the financial capacity of the Director and the defences available with respect to the claims.

## 2.3 PROGRESS OF THE LIQUIDATION

During the course of the Liquidation, I have realised \$549,589 of the Company's debtors and retentions. This is in addition to the realisations during the Voluntary Administration

I note that a defect liability period retention of \$148,900 is expected to be recovered in October 2023. I do not expect any further recoveries with respect to the Company's debtors and retentions.

I advise that the Company continued to trade during the course of the Liquidation to facilitate the collection of debtors and retentions. I confirm that all progress claims relating to the trade-on have been remitted to the Company and that all works undertaken in the Liquidation have been completed.

On 29 August 2022, I declared a first dividend to creditors with a dividend return rate of 100 cents in the dollar to priority creditors. Please see section 5 of this Report for details regarding the expected dividend to unsecured creditors.

## 3 MEETING OF CREDITORS

A meeting of creditors will be held:

<b>Date:</b>	Friday, 13 October 2023
<b>Time:</b>	11:00AM
<b>Location:</b>	Virtually

The Notice of Meeting is attached to this Report.

This meeting will be held virtually. Please contact Joshua May on 03 9622 1800 or [jmay@brifvic.com.au](mailto:jmay@brifvic.com.au) for details.

## 4 ACTS AND DEALINGS TO BE CARRIED OUT

The following matters remain to be undertaken before completion of the winding up of the Company:

- Hold meeting of creditors;
- Execute Deed of Settlement and ensure terms of settlement are followed; and
- Declare and distribute a second and final dividend to creditors (including formal adjudication of claims process).

The above list is not exhaustive.

## 5 DIVIDEND TO CREDITORS

A dividend is expected to be paid to unsecured creditors however, the quantum and timing of the distribution is subject to the terms of the settlement being complied with and the recovery of Company retentions.

A summary of the claims received, amounts likely to be admitted (based on particulars received to date) are provided below:

Estimated Outcome Statement	
Cash at Bank	660,457
Retentions to be realised	148,900
Settlement of Insolvent Trading Claim	410,000
<b>Total Realisations</b>	<b>1,219,357</b>
<b>Less:</b>	
- Liquidators Remuneration approved but not yet drawn	130,100
- Legal Costs	30,000
<b>Balance available for Unsecured Creditors</b>	<b>1,059,257</b>
<b>Unsecured Creditors</b>	
Statutory Creditors	5,920,734
Trade Creditors	906,798
Related Party Creditors	326,944
<b>Total Unsecured Creditors</b>	<b>7,154,476</b>
<b>Estimated return to unsecured Creditors (cents per dollar)</b>	<b>14.81</b>

Please note that the estimated return is subject to the final admitted amounts being as set out above. The final return may change as a result of receiving additional claims or existing claims are substantiated in part or in full.

I invite creditors to submit a formal proof of debt form if they have not previously, so to register their claims against the Company. A formal proof of debt form is enclosed.

## 6 RECEIPTS AND PAYMENTS

### FOR THE PERIOD FROM 9 MAY 2022 TO 27 SEPTEMBER 2023

	Amount (\$)
<b>Receipts</b>	
Sales	199,075.97
Sundry Debtors	549,589.52
Transfer from Voluntary Administration	470,263.74
Settlement of Preferences	22,000.00
GST Clearing Account	18,228.00
<b>Total (inc GST)</b>	<b>1,259,157.23</b>
<b>Payments</b>	
Trade-On Expenses	192,688.39
Bank Charges	89.60
Legal Fees	21,570.09
Liquidators Remuneration	50,230.40
Liquidators Expenses	500.00
Voluntary Administration Remuneration	101,511.30
Voluntary Administration Expenses	375.00
Dividend to Priority Creditors	229,029.40
GST Clearing Account	2,706.00
<b>Total (inc GST)</b>	<b>598,700.18</b>
<b>Balance in Hand</b>	<b>660,457.05</b>

An account of the Company's receipts and payments for the period between 9 May 2022 and 8 May 2023 was submitted to ASIC on 16 May 2023 and can be inspected upon request.

Creditors are advised pursuant to IPS 70-10(2) of the Act that the Liquidator's account of receipts and payments can be inspected at the offices of BRI Ferrier, Level 10, 45 William Street, Melbourne VIC 3000 during business hours.

Should you require any further information concerning the contents of this report or the Liquidation in general, please contact Joshua May of this office on 03 9622 1800.

DATED this 28<sup>th</sup> day of September 2023.



DAVID COYNE  
Liquidator

CORPORATIONS ACT 2001

*Insolvency Practice Rules (Corporations) 2016*  
75-15

NOTICE OF MEETING OF CREDITORS

OAK PARK (TULLAMARINE) PTY LTD IN ITS OWN RIGHT OPT HOLDINGS TRUST  
(IN LIQUIDATION)  
ACN 135 058 776 ("COMPANY")

NOTICE is hereby given that a meeting of the creditors of the Company will be held virtually on Friday, 13 October 2023 at 11.00AM

The purpose of this meeting is:

1. To consider the Liquidators' Report to Creditors dated 28 September 2023.
2. To consider whether, pursuant to Section 477(2A) of the Corporations Act 2001, creditors authorise the Liquidator to compromise the debt owed by the director with respect to insolvent trading and other claims.
3. To consider whether, pursuant to Section 477(2B) of the Corporations Act 2001, creditors authorise the Liquidator to enter into an agreement with the director with respect to the settlement of the insolvent trading and other claims to be repaid over a period greater than three (3) months.
4. To consider any other business that may be lawfully brought forward.

**This meeting will be held virtually. Please contact Joshua May on 03 9622 1800 or [jmay@brifvic.com.au](mailto:jmay@brifvic.com.au) for details** pursuant to Insolvency Practice Rule (Corporations) ("IPR") 75-35 of the Corporations Act 2001 ("the Act").

Attendance at this meeting is not compulsory. Creditors may attend and vote in person, by proxy or by attorney. The appointment of a proxy must be made in accordance with the Appointment of Proxy Form.

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") section 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 section 75-85 and that claim has been admitted for voting purposes wholly or in part by the Liquidator.

Pursuant to IPR 75-25 and 75-150 a special proxy can be lodged showing approval or rejection of each resolution. Proxy forms or emails thereof must be lodged with our office by 4.00pm on the day prior to the meeting. Where an email copy of a proxy is sent, the original must be lodged with our office within 72 hours after receipt of the email. An attorney of the creditor must show the instrument by which he or she is appointed to the Chairperson of the meeting, prior to the commencement of the meeting.



Pursuant to Insolvency Practice Rule 75-85, creditors or members wishing to participate in the meeting by telephone must return to the convenor of the meeting not later than the second last working day before the day of the meeting, a written statement setting out the name of the person and of the proxy or attorney, (if any), an address to which notices to the person, proxy or attorney may be sent, a telephone number at which the person, proxy or attorney may be contacted and any facsimile number to which notices to the person, proxy or attorney may be sent. A person, or the proxy or attorney of a person who participates in the meeting by telephone, must pay any costs incurred in participating and is not entitled to be reimbursed for those costs from the assets of the company.

DATED this 28<sup>th</sup> day of September 2023.

A handwritten signature in dark ink, appearing to read 'D Coyne', is written above the printed name.

DAVID COYNE  
LIQUIDATOR

BRI FERRIER  
Level 10, 45 William Street  
Melbourne VIC 3000

**Form 532***Insolvency Practice Rules (Corporations) 2016*

75-15 &amp; 75-150

**APPOINTMENT OF PROXY****OAK PARK (TULLAMARINE) PTY LTD IN ITS OWN RIGHT OPT HOLDINGS TRUST****(IN LIQUIDATION)****ACN 135 058 776 ("COMPANY")**

\*I/\*We<sup>(1)</sup>.....of.....  
.....a creditor of the  
Company, appoint(2)..... or in his or her absence  
.....as \*my/our general/special proxy to vote at the meeting of creditors of the  
Company to be held virtually on Friday, 13 October 2023 at 11.00AM AEST, or at any adjournment of that  
meeting.<sup>(3)</sup>

To vote as follows: <sup>(3)</sup>

	FOR	AGAINST	ABSTAIN
(1) "That the Liquidator be authorised to compromise the debt owed by the director with respect to insolvent trading and other claims in accordance with Section 477(2A) of the Corporations Act 2001."			
(2) "That creditors authorise the Liquidator to enter into an agreement with the director with respect to the settlement of the insolvent trading and other claims to be repaid over a period greater than three (3) months in accordance with Section 477(2B) of the Corporations Act 2001."			

The person so appointed as \*my/\*our \*general/\*special proxy is herewith authorised to accept nomination as a member of the Committee of Inspection, should he or she be so nominated or appointed.

**INSTRUCTIONS FOR COMPLETING:**

1. Insert name and address.
2. Insert name of person to be appointed as proxy. Where the proxy does not appoint a person the proxy will be deemed to be in favour of the Chairman.
3. To vote in favour of one of the first four options regarding the future of the Company tick (✓) the "for" box next to the desired option and tick (✓) the "against" box for all other options. In relation to remuneration, you may tick (✓) either "for" or "against" or "abstain".

DATED ..... Signature .....

(If Company - Sign under Seal)

Proxies should be returned to the offices of BRI Ferrier Pty Ltd, PO Box 521, Collins Street West VIC 8007, prior to the meeting.

**CERTIFICATE OF WITNESS (5) -(to be completed only where person giving proxy is blind or incapable of writing)**

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 before he attached his signature or mark to the instrument.

DATED this .....day of ..... 2023

Signature of Witness .....

Description .....

Place of Residence .....

FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)

To the Liquidator of Oak Park (Tullamarine) Pty Ltd in its own right and ATF OPT Holdings Trust (In Liquidation)

1. This is to state that the company was, on 30 March 2022 <sup>(1)</sup> and still is, justly and truly indebted to <sup>(2)</sup> (full name):

.....  
(‘Creditor’)

.....  
of (full address)

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

Particulars of the debt are:

Date	Consideration <sup>(3)</sup> state how the debt arose	Amount \$	GST included \$	Remarks <sup>(4)</sup> include details of voucher substantiating payment

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

Insert particulars of all securities held. Where the securities are on the property of the company, assess the value of those securities. If any bills or other negotiable securities are held, specify them in a schedule in the following form:

Date	Drawer	Acceptor	Amount \$ c	Due Date

☐

I am **not** a related creditor of the Company <sup>(5)</sup>

☐

I am a related creditor of the Company <sup>(5)</sup>

relationship: .....

**If the form is being used for the purpose of voting at a meeting:**

Is the debt you are claiming assigned to you?

No ☐ Yes ☐

**If yes**, attach written evidence of the debt, the assignment and consideration given.

☐ Attached

**If yes**, what value of consideration did you give for the assignment (eg, what amount did you pay for the debt?) \$ .....

3A.<sup>(6)\*</sup> I am employed by the creditor and authorised in writing by the creditor to make this statement. I know that the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.

3B.<sup>(6)\*</sup> I am the creditor's agent authorised to make this statement in writing. I know that the debt was incurred and for the consideration stated and that the debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.

DATED this ..... day of ..... 2023

Signature of Signatory.....

NAME IN BLOCK LETTERS .....

Occupation .....

Address .....

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

**OFFICE USE ONLY**

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

### Proof of Debt Form Directions

- \* Strike out whichever is inapplicable.
- (1) Insert date of Court Order in winding up by the Court, or date of resolution to wind up, if a voluntary winding up.
- (2) Insert full name and address (including ABN) of the creditor and, if applicable, the creditor's partners. If prepared by an employee or agent of the creditor, also insert a description of the occupation of the creditor.
- (3) Under "Consideration" state how the debt arose, for example "goods sold and delivered to the company between the dates of .....", "moneys advanced in respect of the Bill of Exchange".
- (4) Under "Remarks" include details of vouchers substantiating payment.
- (5) Related Party / Entity: Director, relative of Director, related company, beneficiary of a related trust.
- (6) If the Creditor is a natural person and this proof is made by the Creditor personally. In other cases, if, for example, you are the director of a corporate Creditor or the solicitor or accountant of the Creditor, you sign this form as the Creditor's authorised agent (delete item 3A). If you are an authorised employee of the Creditor (credit manager etc), delete item 3B.

### Annexures

- A. If space provided for a particular purpose in a form is insufficient to contain all the required information in relation to a particular item, the information must be set out in an annexure.
- B. An annexure to a form must:
  - (a) have an identifying mark;
  - (b) and be endorsed with the words:
    - i) "This is the annexure of *(insert number of pages)* pages marked *(insert an identifying mark)* referred to in the *(insert description of form)* signed by me/us and dated *(insert date of signing)*; and
  - (c) be signed by each person signing the form to which the document is annexed.
- C. The pages in an annexure must be numbered consecutively.
- D. If a form has a document annexed the following particulars of the annexure must be written on the form:
  - (a) the identifying mark; and
  - (b) the number of pages.
- E. A reference to an annexure includes a document that is with a form.