

**BRI Ferrier**

## **STATUTORY REPORT TO CREDITORS**

**DARLINGHURST THEATRE LIMITED**

**(IN LIQUIDATION)**

**ACN: 077 963 234 ("COMPANY")**

**21 October 2024**

**JONATHON KEENAN**

**PETER KREJCI**

**Joint and Several Liquidators**

# **DARLINGHURST THEATRE COMPANY**

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## GLOSSARY OF COMMON ACRONYMS & ABBREVIATIONS

ABN	Australian Business Number
ACN	Australian Company Number
ACNC	Australian Charities and Not-For-Profits Commission
Act	Corporations Act 2001 (Cth)
Administrators / Liquidators	Jonathon Keenan and Peter Krejci
AllPAAP	All Property and After-Acquired Property
ARITA	Australian Restructuring Insolvency and Turnaround Association
ASIC	Australian Securities and Investments Commission
ATO	Australian Taxation Office
Company	Darlinghurst Theatre Limited (In Liquidation)
Department	Department of Employment and Workplace Relations
Directors or Board	Jan Van Deventer, James Behringer, Joydeep Hor, Kevin Farmer and Patricia Skalsky
DIRRI	Declaration of Independence, Relevant Relationships & Indemnities
FEG	Fair Entitlements Guarantee scheme
Firm	BRI Ferrier NSW
GST	Goods and Services Tax
IPR	Insolvency Practice Rules (Corporations) 2016
IPS	Insolvency Practice Schedule (Corporations)
LSL	Long Service Leave
O'Maras	O'Maras Auctioneers
POD	Proof of Debt
PPE	Plant and Equipment
PPSR	Personal Properties Securities Register
ROCAP	Report on Company Activity and Property
VA	Voluntary Administration
Westpac	Westpac Banking Corporation

## 1. EXECUTIVE SUMMARY

As you are aware, we, Jonathon Keenan and Peter Krejci, were appointed Joint and Several Administrators of the Company on 17 June 2024 by resolution of the Directors pursuant to Section 436A of the Act. At the Second Meeting of the Creditors held on 22 July 2024 pursuant to Section 439A of the Act, the Company was placed into Liquidation, and we were appointed Joint and Several Liquidators.

This report has been prepared in accordance with Rule 70-40 of the IPR. We provide hereunder a summary of the conduct of the liquidation over the past three (3) months.

As creditors may recall, the Company held various assets in respect of PPE and fitout at the Eternity Playhouse Theatre and minor amount of stock. There were certain disputes regarding ownership of these assets with the landlord, City of Sydney Council, which we were able to resolve mutually and commence a sale process. In this regard, we have completed a commercial sale of the bulk of the assets with City of Sydney Council for \$100K plus GST (after costs of sale). We note that the sale represents improved outcome as compared to valuation and sale via auction, and the Eternity Playhouse Theatre will remain functional for a new operator.

Further, we engaged O'Maras Auctioneers to conduct an online auction sale of the residual PPE and stock. From this sale, we have received net proceeds of circa \$5K plus GST (after costs of sale). The Company has since vacated the various leased premises, and notice of disclaimer has been issued terminating the leases. We have not identified any other material assets to recover for the benefit of creditors.

In respect of the Company's liabilities, we have been liaising with Westpac regarding their claim as first ranking secured creditor. We understand that Westpac are holding at least \$5K, representing the Company's cash at bank funds, which we believe should be sufficient to discharge chargeback claims received to date. However, we are awaiting confirmation from Westpac.

We have also undertaken significant work in verifying employee entitlements claims and assisted former employees to access funds via the FEG scheme. To date, the Department has reviewed and paid outstanding entitlements to employees totalling \$24K. We note that we have received notice of contested claims for redundancy and LSL from former employees, which are not reflected in the available records. This has necessitated further investigations and we are currently working with the Department to resolve the claims.

Additionally, the former Director, Glenn Terry, made a claim that a termination payment of circa \$137K was a priority employee claim owed by the Company. We have reviewed the relevant documentation, including a Deed of Release from Employment, and have formed the view that this is not a valid priority claim against the Company. Mr Terry has accepted our position.

As previously reported, our preliminary investigations into the Company's affairs did not identify any insolvent trading, breach of duty, voidable transaction or other recovery actions to pursue. Nothing further has come to light that would change our views. As such, we have not identified any recovery actions to pursue in the Liquidation.

We intend to submit a report to ASIC pursuant to Section 533(1) of the Act, which is a requirement where there are potential offences of the Act identified and/or the estimated return to Unsecured

Creditors is less than fifty (50) cents in the dollar. This report is confidential and not available to creditors.

**To summarise, based on current estimates and recoveries to date, there may be sufficient funds for return to priority (employee) creditors in full and a partial return to unsecured creditors. However, the returns are largely dependent on finalising the position in respect of Westpac’s secured debts and the contested employee claims. We anticipate that these issues will be resolved shortly and declaring a dividend to priority and/or unsecured creditors within the next six (6) months. The Liquidation would be finalised shortly afterwards.**

## 1.1 PREVIOUS REPORTS TO CREDITORS

This report should be read in conjunction with our previous Reports to Creditors dated 19 June 2024 (“First Report”), 12 July 2024 (“Second Report”) and our Circular to Creditors dated 7 August 2024 (“Circular”). Information in these reports will not be repeated unless required.

## 1.2 PREVIOUS MEETINGS OF CREDITORS

We advise that the last meeting of creditors held was the Second Meeting of Creditors on 22 July 2024. Minutes of this meeting have been lodged with ASIC.

## 1.3 DECLARATION OF INDEPENDENCE, RELEVANT RELATIONSHIPS AND INDEMNITIES

We refer to the DIRRI enclosed in our First Report and note that there have been no changes to same.

## 2. UPDATE ON PROGRESS OF THE LIQUIDATION

### 2.1 STATUTORY INFORMATION & BACKGROUND

In our Second Report to creditors, we provided creditors with the pertinent information regarding the statutory records and background affairs of the Company. We note that the charity status of the Company was revoked by the ACNC on 22 July 2024. Otherwise, there are no further updates required.

Please refer to our Second Report to Creditors for further details.

### 2.2 INVESTIGATIONS UNDERTAKEN

In our role as Administrators, we conducted preliminary investigations into the affairs of the Company to determine the likely date of insolvency and ascertain whether there were any transactions that appeared to be voidable, or other causes of action available whereby money, property or other benefits may be recoverable by a liquidator. We summarise our findings as follows:-

- ▶ Our preliminary investigations identified that the Company became insolvent in around June 2024, shortly prior to the Company being placed into Voluntary Administration.
- ▶ The Company appears to have maintained sufficient records to meet the requirements of Section 286 of the Act.
- ▶ We have not identified any insolvent trading, breach of duty, voidable transaction or other recovery actions to pursue.

Nothing further has come to light that would change our views. As such, we have not identified any recovery actions to pursue in the Liquidation.

Please refer to our Second Report to Creditors for further details of our investigations.

## 2.3 REPORT TO ASIC

We intend to submit a report of our findings to ASIC pursuant to Section 533(1) of the Act. This report to ASIC is a legislative requirement in Liquidations where potential offences and breaches of the Act by Directors and Officers of the Company have been identified and/or the estimated return to Unsecured Creditors is less than fifty (50) cents in the dollar. The report is confidential and not available to creditors.

## 2.4 OTHER MATTERS

A former employee has raised a concern regarding the destruction of the Company's cultural records (non-financial) once the Liquidation is finalised. We understand that the cultural records are stored electronically in the Company's backed up data. We have not reviewed these cultural records, rather our work has necessarily focussed on creditor related activities.

Regardless, in due course, we intend to engage with NSW State Library, to seek whether they will agree to take custody of those cultural records, without cost to creditors.

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

On our appointment as Administrators, we determined that the business could not continue to trade. We took steps to suspend all trade, terminate staff and reduce non-essential costs, whilst we explored restructure opportunities to save the Company.

Unfortunately, we were unable to identify relevant capital to save the business. Therefore, the Company formally ceased to trade, and we have proceeded to realise the available assets during our appointment.

As referred in the Second Report to Creditors, the reasons for failure of the Company remain unchanged. The Directors have advised, in their view, the reasons for the failure of the Company were:-

- Reduction in customer demand for the arts following Covid-19.
- Reduced funding support from government and public donations.
- Change in programming to appeal to a newer audience, which did not result in the required financial returns.
- Combined effect were cashflow challenges, resulting in historical debt with the ATO on top of a Services NSW COVID grant overclaim.

Whilst we agree with the above, we also note the following additional causes of failure based on our investigations to date:-

- The core theatre business was not financially self-sufficient, instead reliant on supplemental government and donation funding, which reduced over recent years given external market forces.
- Changes in management at the Company, led to a lack in the strategic direction for the business, negatively impacting the business model and patronage.

## 4. FINANCIAL POSITION OF THE COMPANY

Below is an updated analysis of the Company's current financial position, incorporating the Directors' ROCAP, available financial records and our enquiries to date.

	Report Reference	Book Value as at 17/06/2024 (\$)	Directors' ERV (per ROCAP) (\$)	Liquidators' ERV (\$)
<b>Assets</b>				
Cash and Cash Equivalents		129,012	194,611	189,605
Trade Debtors		36,481	6,659	-
Plant & Equipment	4.1.1	320,235	324,938	118,844
Stock on Hand	4.1.2	14,105	14,000	3,887
Other	4.1.3	2,250	-	1,385
<b>Total Assets</b>		<b>502,083</b>	<b>540,208</b>	<b>313,722</b>
<b>Liabilities</b>				
Secured Creditors	4.2.1	-	-	-
Priority Creditors	4.2.2	119,894	48,935	100,405
Unsecured Creditors	4.2.3			
Statutory & Government Creditors		232,068	177,030	210,572
Trade Creditors & Deposits		102,462	75,646	90,507
Related Party Creditors		-	53,184	187,484
Customers		6,359	14,980	14,796
<b>Total Liabilities</b>		<b>460,783</b>	<b>369,775</b>	<b>603,765</b>
<b>Estimated Net Asset / (Deficiency)</b>		<b>41,299</b>	<b>170,433</b>	<b>(290,043)</b>

### 4.1 ASSETS

#### 4.1.1 Plant & Equipment

As discussed in our Second Report, the physical assets were primarily the PPE and fitout at the Eternity Playhouse Theatre, plus some sundry theatre equipment held at the Lilyfield storage facility. During our Administration period, the landlord, City of Sydney Council, raised disputes in respect of certain assets owned by the Company, which we able to resolve amicably based on available records.

We invited offers for the assets, via a restructure process, which proved not viable. We engaged with the City of Sydney Council, as the most practical purchaser, inviting a formal bid process as measured against independent valuation. Ultimately, we negotiated a sale of the bulk of the assets to the City of Sydney Council for circa \$105K (plus GST). The offer represented an improved outcome as compared to the independent valuation and sale via auction, also reducing realisation costs and potential

damages dramatically. The sale was completed during the Liquidation period and the proceeds have been received.

In addition, the residual theatre equipment which had commercial value, was sold via online auction, run by O'Maras Auctioneers. There was significant work involved reviewing and cataloguing the residual equipment, including some relocations of items to the Lilyfield storage facility. The gross auction proceeds were circa \$14K (plus GST) and after costs of sale, we received around \$3K (plus GST). We note that completing the sale in this manner maximised that recovery on the bulk of the assets, and minimised damages claims from landlords.

#### **4.1.2 Stock on Hand**

As you may recall, the Company held stock on hand which appeared to have limited value. The stock was relocated to the Lilyfield storage facility and sold via online auction (at the same time as the residual equipment above). The gross proceeds from the sale was circa \$4K (plus GST) and after costs of sale, we received circa \$2K (plus GST).

#### **4.1.3 Other Assets**

In our Second Report, the Company's management accounts included certain prepaid expenses. Following our appointment, we recovered a refund of \$1.4K from the cancellation of the Company's insurance policies.

### **4.2 LIABILITIES**

#### **4.2.1 Secured Creditors**

Creditors may recall that Westpac has a first ranking AllPAAP security interest over the Company's assets. We have been in correspondence with Westpac regarding their security and debt position, where at the time of our appointment, there was no debt owed to Westpac. However, we are advised that there have been a number of "chargeback" claims from customers that had prepaid tickets for certain events that were not held.

Westpac are holding funds of around \$5K, representing the Company's cash at bank. We understand that these funds should be sufficient to meet the chargeback claims received to date by Westpac, however we are awaiting confirmation. If there are insufficient funds to discharge Westpac's secured claim, there may be a claim against the funds we currently hold as realisation of the circulating and non-circulating assets.

#### **4.2.2 Priority Creditors**

As mentioned in the Second Report to Creditors, at the time of our appointment, the Company employed four (4) permanent and around seventeen (17) casual staff. All employees were terminated shortly following our appointment.

During the Liquidation, we have undertaken work to verify the outstanding employee entitlements based on the Company's records. Below is a summary of the potential priority claims, based on information available to us:



Entitlements	Liquidators' ERV (High)	Liquidators' ERV (Low)
Annual Leave	11,163	11,163
Long Service Leave	-	14,816
Wages & Superannuation	3,154	3,154
Payment in Lieu of Notice	14,111	27,553
Redundancy	-	43,719
<b>Total</b>	<b>28,428</b>	<b>100,405</b>

We provide our comments as follows:

- To date, the Department have reviewed and paid outstanding entitlements to employees totalling \$24K.
- Some of the former employees have asserted that the Company does not qualify for the small business exemption and is liable to pay redundancy claims. We have conducted further investigations, reviewing the available records and seeking information from both employees and the Directors. Prima facie it appears that the Company satisfies the small business exemption, however there are some qualifications based on recent case law. We have provided this information to the Department, seeking their views. As this matter is not resolved, we have included both potential outcomes in the estimate of claims. Noting the values involved, the potential redundancy claims may absorb any returns to unsecured creditors.
- A former employee has submitted a claim, disputing the nature of the termination of employment, resulting in additional redundancy and LSL claims. The claim is significant, and we have necessarily had to conduct further investigations in respect of the circumstances. In this regard, we note that the Directors dispute a portion of the claim. We have submitted the available evidence to the Department and anticipate resolving the matter in the near term. The potential outcomes are included in the estimate of claims.
- Former Director, Glenn Terry, had entered into an agreement with the Company, which required the Company to pay him a “Retention Fee” of \$3K per month for 5 years, plus 1% of box office sales up to a cap of \$170K. Mr Terry submitted a proof of debt for the unpaid Retention Fees until expiry totalling \$137K, and formally claimed that the debt was a priority debt akin to unpaid employee entitlements. This material claim was disputed by the Directors. We conducted a detailed review of the documents, including the Deed of Release, and determined that the unpaid Retention Fees did not qualify as a priority entitlement under the Act. After various exchanges, Mr Terry has agreed in writing that he does not have a priority claim against the Company, however he is claiming as an unsecured creditor.

#### 4.2.3 Unsecured Creditors

The unsecured creditor claims largely remain in-line with the estimates disclosed in our Second Report to Creditors. However, those claims may change once a formal adjudication process is completed.

Should creditors, who have not already done so, wish to lodge their claim with this office, please complete the Formal Proof of Debt form, attached as **Annexure "1"**, and return same together with documentary evidence to support your claim.

## 5. THE LIKELIHOOD OF A DIVIDEND BEING PAID IN THE LIQUIDATION

Attached as **Annexure "2"** is an analysis of the estimated returns that may be available to creditors in the Liquidation. Please note that these figures are estimates only and actual results may vary materially.

To summarise, based on current estimates and recoveries to date, on an optimistic scenario there may be sufficient funds for return to priority (employee) creditors in full and a partial return to unsecured creditors. However, as discussed earlier, the returns are largely dependent on finalising the position in respect of Westpac's secured debts and the contested employee claims. If redundancy claims are applicable, then that will likely absorb any funds that would otherwise be available for unsecured creditors. We anticipate resolving the contested claims shortly.

Further, before we can pay a dividend to unsecured creditors, we are required to obtain "tax clearance" from the ATO, which requires lodgement of all outstanding pre-appointment tax lodgements. We intend to engage an external tax accountant to assist with the pre-appointment tax lodgements, assuming sufficient funds are available.

Subject to the above matters being resolved promptly, we anticipate declaring a dividend within the next six (6) months.

## 6. RECEIPTS AND PAYMENTS

Attached as **Annexure "3"** is a summary of our receipts and payments during the Liquidation period 22 July 2024 to date.

Liquidators are required to lodge a statement of account annually during the Liquidation. To date, we have not lodged same but will proceed to do so in accordance with the statutory timeframe.

We have previously lodged a statement of account with ASIC for the Voluntary Administration period.

## 7. REMUNERATION

At the Second Meeting of Creditors held on 22 July 2024, creditors approved our remuneration in respect of the Liquidation up to an interim cap of \$45,000 (excl. GST). Having regard to the additional claims, disputes and investigations we have had to undertake, we anticipate that we will incur additional professional costs for the Liquidation period. Accordingly, we are seeking creditor approval of our further remuneration of \$30,000 (plus GST) for the period from 18 October 2024 to the end of the Liquidation.

In compliance with the ARITA Code of Professional Practice and the requirements of the Act, we are required to provide detailed information in respect of our remuneration. We attach our Remuneration Approval Report as **Annexure “4”** which details the major tasks that have been and will be conducted in this Liquidation. Our remuneration is calculated on the time spent by staff at hourly rates used by BRI Ferrier, as detailed in our Remuneration Matrix. This document is contained within the Remuneration Report. In addition, a schedule of hourly rates is attached as **Annexure “5”**.

To date, our remuneration has been calculated on this “Time-Cost” basis, and we propose that it continue to be calculated on this basis. The Time-Cost method for calculating remuneration reflects the cost to our firm of the work undertaken, rather than a measure of the assets realised. In our view, the Time-Cost method is the preferable basis for calculating remuneration in an engagement such as this.

For Creditors’ information, ASIC information sheets (**Annexure “6”**) that relate to specific circumstances once an insolvency practitioner is appointed to a Company and approval of remuneration can be found at the following websites:

- ▲ <http://www.asic.gov.au/insolvencyinfosheets>
- ▲ [https://arita.com.au/ARITA/ARITA/Insolvency\\_help/Insolvency\\_explained/Insolvency-Fact-Sheets.aspx](https://arita.com.au/ARITA/ARITA/Insolvency_help/Insolvency_explained/Insolvency-Fact-Sheets.aspx)

Please note that if our professional fees are not approved by creditors, then we may approach the Court for those approvals. We note that this will likely incur additional costs, which will be borne from the available assets.

We advise that considering the size of the matter and approval sought, we are not convening a creditors’ meeting currently. Instead, we enclose Proposals without Meeting Forms, attached as **Annexure “8”**, for creditors’ consideration in lieu of convening a Meeting of Creditors, in accordance with Insolvency Practice Schedule 75-40 and Insolvency Practice Rule 75-130. If we receive a request for a meeting that complies with the guidelines set out in the creditor rights information sheet, we will hold a meeting of creditors.

## 8. TASKS REQUIRED IN THE LIQUIDATION

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

- ▲ Finalising claims with the Department regarding termination entitlements for former employees;
- ▲ Liaising with Westpac regarding their secured debt position, and discharging those secured claims;
- ▲ Lodgement of confidential report pursuant to Section 533(1) of the Act and await ASIC response;
- ▲ Correspondence with creditors and employees;

- Engage tax accountant to prepare and lodge the Company’s outstanding pre-appointment tax lodgements;
- Seek tax clearance from the ATO;
- Declare a first and final dividend to Priority and Unsecured Creditors, if applicable;
- Explore government bodies to take custody of the “cultural records”;
- Other statutory lodgements and general administrative matters; and
- Conduct finalisation procedures.

Subject to completing the above matters without delay, and any unforeseen circumstances, we estimate that the Liquidation could be finalised within six (6) to nine (9) months.

## 9. CREDITORS’ RIGHTS

Pursuant to Clauses 70-40, 70-45, 75-15, 85-5, 90-24 and 90-35 of the Insolvency Practice Schedule (Corporations) and Rule 70-30 of the Insolvency Practice Rules (Corporations) 2016, we are required to give certain information to creditors as to their rights in the administration.

Accordingly, we attach as **Annexure “7”** further information regarding ‘Creditor Rights in Liquidations’.

## 10. FURTHER INFORMATION

We have attached as **Annexure “6”** 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](http://www.asic.gov.au) .

Please note that we are not required to publish notices in the print media. ASIC maintains an online notices page for external administrators to publish notices in respect of the Company. Creditors are encouraged to visit <http://insolvencynotices.asic.gov.au> throughout the liquidation to view any notices which may be published by the Liquidator in respect of the Company. These notices include:

- Notices relating to appointments
- Notices of meetings of creditors
- Notices calling for proofs of debt and intention to declare dividends

## 11. QUERIES

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

- BRI Contact: Vijay Rajmohan
- Phone: (02) 8263 2333

- ▶ Email: [vrajmohan@brifnsw.com.au](mailto:vrajmohan@brifnsw.com.au) (preferred)
- ▶ Mailing: GPO Box 7079, Sydney NSW 2001

Yours faithfully,

**DARLINGHURST THEATRE LIMITED (IN LIQUIDATION)**



**JONATHON KEENAN**

Joint and Several Liquidator

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The logo for BRI Ferrier, featuring the text "BRI Ferrier" in white on a dark grey background, with a green triangle pointing upwards and to the right.

**BRI Ferrier**

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**Darlinghurst Theatre Limited  
(In Liquidation)**

**ACN 077 963 234**

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**Annexure "1"  
Formal Proof of Debt Form**

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FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)

To the Joint and Several Liquidators of Darlinghurst Theatre Limited (In Liquidation) ACN 077 963 234

1. This is to state that the company was, on 17 June 2024 <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> <small>state how the debt arose</small>	Amount \$	GST included \$	Remarks <sup>(4)</sup> <small>include details of voucher substantiating payment</small>

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

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

Date	Drawer	Acceptor	Amount \$ c	Due Date

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

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

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

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

The External Administrators' (whether as Voluntary Administrators/Deed Administrators/Liquidators) will send and give electronic notification of documents. Please provide your email address below:

Contact Name: \_\_\_\_\_

Email Address: \_\_\_\_\_

DATED this.....day of.....2024

Signature of Signatory .....

NAME IN BLOCK LETTERS .....

Occupation.....

Address.....

**OFFICE USE ONLY**

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

### Proof of Debt Form Directions

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

### Annexures

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



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The logo for BRI Ferrier, featuring the text "BRI Ferrier" in white on a dark grey background, with a green triangle on the right side.

**BRI Ferrier**

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**Darlinghurst Theatre Limited  
(In Liquidation)**

**ACN 077 963 234**

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**Annexure "2"  
Estimated Outcome Statement**

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**Darlinghurst Theatre Limited (In Liquidation)**  
**Estimated Outcome Statement**

	Book Value as at 17/06/2024 (\$)	Liquidators' ERV Liquidation (High)	Liquidators' ERV Liquidation (Low)
<b>ASSETS</b>			
Cash and Cash Equivalents	129,012	189,605	189,605
Trade Debtors	36,481	-	-
Plant & Equipment	320,235	118,844	118,844
Stock on Hand	14,105	3,887	3,887
Less: Realisation Costs for PPE and Stock	-	(20,153)	(20,153)
Other	2,250	1,385	1,385
<b>Total Assets</b>	<b>502,083</b>	<b>293,569</b>	<b>293,569</b>
<b>Recoveries in Liquidation</b>			
FEG Service Fees for Employee Verification		6,279	6,279
Voidable Transactions & Recoveries		-	-
Breach of Director Duties Claims		-	-
<b>Total Recovery</b>	-	<b>6,279</b>	<b>6,279</b>
<b>Administration Costs</b>			
Administration Costs			
Administrators' Remuneration from 17 June 2024 to 22 July 2024 (Accrued)		91,291	91,291
Administrators' Disbursements		212	212
Administrators' Operating Costs (Valuation, Utilities, Wages, Insurance, Rent, etc)		24,412	24,412
<b>Liquidation Costs</b>			
Liquidators' Remuneration from 22 July 2024 to date		45,000	45,000
Liquidators' Disbursements		1,000	3,000
Liquidators Additional Remuneration (Future)		20,000	30,000
Liquidators' Legal Fees		-	-
Litigation Funder (40% of recovery)		-	-
Accounting Fees		3,000	7,000
<b>Total Costs of Administration Costs</b>	-	<b>184,915</b>	<b>200,915</b>
<b>Estimated Surplus Available for Secured Creditors</b>		<b>114,933</b>	<b>98,933</b>
<b>Secured Creditor Claims (Estimated)</b>			
Secured Creditor Claims		-	-
<b>Total Secured Creditor Claims</b>		-	-
<b>Estimated Surplus Available to Priority Creditors</b>		<b>114,933</b>	<b>98,933</b>
<b>Priority Creditors</b>			
Wages and Superannuation	10,787	3,154	3,154
Annual Leave & Long Service Leave	109,107	11,163	25,979
PILN and Redundancy	-	14,111	71,272
<b>Total Priority Creditors</b>	<b>119,894</b>	<b>28,428</b>	<b>100,405</b>
<b>Estimated Surplus Available to Unsecured Creditors</b>		<b>86,505</b>	<b>(1,473)</b>
<b>Unsecured Creditors</b>			
Statutory & Government Creditors	232,068	210,572	210,572
Trade Creditors & Deposits	102,462	90,507	90,507
Related Party Creditors	-	187,484	187,484
Customers	6,359	14,796	14,796
Contingency		-	50,000
<b>Total Other Unsecured Creditors</b>	<b>340,889</b>	<b>503,360</b>	<b>553,360</b>
<b>Estimated Surplus/(Shortfall)</b>		<b>(416,855)</b>	<b>(554,832)</b>

Summary of Return to Creditors	Liquidation High Cents/\$	Liquidation Low Cents/\$
Secured Creditors	N/A	N/A
Priority Creditors	100	99
Unsecured Creditors	17	Nil

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The logo for BRI Ferrier, featuring the text "BRI Ferrier" in white on a dark grey background, with a green triangle on the right side.

**BRI Ferrier**

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**Darlinghurst Theatre Limited  
(In Liquidation)**

**ACN 077 963 234**

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**Annexure "3"  
Summary of Liquidators' Receipts  
and Payments**

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## Summarised Receipts & Payments

### Darlinghurst Theatre Limited

(In Liquidation)

Transactions From 22 July 2024 To 21 October 2024

A/C	Account	Net	GST	Gross
74	Cash at Bank	179,514.18	0.00	179,514.18
75	Stock	3,887.27	388.73	4,276.00
77	Plant & Equipment	118,844.00	11,884.40	130,728.40
88	FEG Service Fees for Verification	6,279.00	627.90	6,906.90
89	Insurance Refund	1,385.10	138.51	1,523.61
<b>Total Receipts (inc GST)</b>		<b>\$309,909.55</b>	<b>\$13,039.54</b>	<b>\$322,949.09</b>
130	Agents/Valuers Fees (1)	18,778.10	1,877.81	20,655.91
131	Agents/Valuers Fees (2)	3,600.00	360.00	3,960.00
138	Insurance of Assets	1,375.00	137.50	1,512.50
142	IT Services	1,283.70	128.37	1,412.07
166	Subscriptions	384.54	38.46	423.00
167	Accounting Fees	1,100.00	110.00	1,210.00
168	Utilities	33.13	3.31	36.44
169	Administrators Remuneration	91,291.00	9,129.10	100,420.10
<b>Total Payments (inc GST)</b>		<b>\$117,845.47</b>	<b>\$11,784.55</b>	<b>\$129,630.02</b>
<b>Balance in Hand - By Bank Account</b>				
212	Cheque Account			193,319.07
213	NBF Trust Account			0.00
				<b>\$193,319.07</b>

John Keenan  
Liquidator

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**BRI Ferrier**

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**Darlinghurst Theatre Limited  
(In Liquidation)**

**ACN 077 963 234**

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**Annexure "4"  
Remuneration Approval Report**

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# Remuneration Approval Report

**Darlinghurst Theatre Limited**  
(In Liquidation)  
("the Company")

ACN 077 963 234

21 October 2024

Jonathon Keenan & Peter Krejci

Novabrif Pty Ltd ABN 61 643 013 610  
Level 26, 25 Bligh Street, Sydney NSW 2000  
Phone (02) 8263 2333  
Email: [info@brifnsw.com.au](mailto:info@brifnsw.com.au)  
Website: [www.briferrier.com.au](http://www.briferrier.com.au)



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## 1 EXECUTIVE SUMMARY

We are asking creditors to approve our additional remuneration of \$30,000 (excl. GST).

Creditors will be asked to pass a resolution in relation to remuneration via a Proposal without Meeting Form, attached as Annexure "8".

Creditors have previously approved our remuneration and disbursements of:

	Remuneration (\$, excl GST)	Disbursements (\$, excl GST)
Liquidation	45,000.00	1,000.00
Previous voluntary administration	88,291.00	-

We estimate the total cost of this Liquidation will be approximately \$75,000 (excl. GST). This has increased from our previous estimate for the following reasons:

- ▲ Conducting further investigations in relation to contested termination entitlement claims with the Department;
- ▲ Finalising the asset sale with City of Sydney Council;
- ▲ Conducting sale of residual assets with the assistance of O'Maras Auctioneers; and
- ▲ Liaising with Westpac regarding their secured debt position.

We anticipate that this is our final remuneration approval request. If further information is provided by creditors and additional work is required, then we will seek further remuneration approval from creditors as necessary in due course.

## 2 DECLARATION

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

We have reviewed the work in progress report for the Liquidation to ensure that remuneration is only being claimed for necessary and proper work performed. In order to maximise the return to creditors, we have applied a discount to remuneration incurred.

## 3 REMUNERATION SOUGHT

The remuneration we are asking creditors to approve is as follows:

For	Period	Amount \$ (excl. GST)	Rates	When it will be drawn
Future Work	18 October 2024 to Conclusion	\$30,000.00	Provided in Advice to Creditors About	It will be drawn when incurred,



For	Period	Amount \$ (excl. GST)	Rates	When it will be drawn
			Remuneration dated 21 October 2024	subject to creditor approval
<b>TOTAL</b>		<b>\$30,000.00 (excl. GST)</b>		

Details of the work already completed for the period 22 July 2024 to 17 October 2024 and future work that we intend to complete are included at Schedule A. We note that we have incurred remuneration of approximately \$50,794.00 (excl. GST) during this period, however, in order to maximise the return to creditors, we have applied a discount of approximately \$6K to improve the outcomes for creditors.

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

The resolution to be put to creditors by way of a proposal are included at Schedule C for your information. This resolution also appears in the proposal without a meeting form provided to you.

## 4 PREVIOUS REMUNERATION APPROVALS

The following remuneration approvals have previously been approved by creditors.

Period	For	Amount Approved (\$, excl. GST)	Amount Paid (\$, excl. GST)
<b>Voluntary Administration</b>			
17 June 2024 to 10 July 2024	Work completed	56,291.00	56,291.00
11 July 2024 to 22 July 2024	Future work	35,000.00	35,000.00
<b>Liquidation</b>			
22 July 2024 to Conclusion	Future work	45,000.00	-
<b>TOTAL remuneration previously approved</b>		<b>136,291.00</b>	<b>91,291.00</b>

We are now seeking approval of a further \$30,000.00 (excl. GST) in remuneration which will bring the total remuneration claimed in the Liquidation to \$75,000.00 (excl. GST).

## 5 LIKELY IMPACT ON DIVIDENDS

The Corporations Act sets the order for payment of claims against the Company and it provides for the remuneration of the Liquidators to be paid in priority to other claims. This ensures that if there are sufficient funds, the Liquidators receives payment for the work done to recover assets, investigate the Company's affairs, report to creditors and ASIC and distribute any available funds.

Based on:

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

We estimate that there may be sufficient funds for a return to priority (employee) creditors in full and a partial return to unsecured creditors.

## 6 FUNDING RECEIVED FOR REMUNERATION AND DISBURSEMENTS

We have received from the Department an amount of \$6,279.00 (plus GST) in respect of employee entitlement verification services provided under the FEG scheme.

## 7 QUERIES & INFORMATION SHEET

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

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

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

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

## 8 ATTACHMENTS

Schedule A – Details of work

Schedule B – Time spent by staff on each major task

Schedule C – Resolutions

Schedule D – Explanation where Remuneration Previously Approved

Schedule E – Schedule of Hourly Rates

## SCHEDULE A – DETAILS OF WORK

<b>Company</b>	Darlinghurst Theatre Limited (In Liquidation)	<b>Period From</b>	22 July 2024	<b>To</b>	Conclusion
<b>Practitioner</b>	Jonathon Keenan & Peter Krejci	<b>Firm</b>	BRI Ferrier		
<b>Administration Type</b>	Creditors Voluntary Liquidation				

		Tasks	
		Work already completed (excl. GST)	Future work (excl. GST)
<b>Period</b>		<b>22 July 2024 to 17 October 2024</b>	<b>18 October 2024 to Conclusion</b>
<b>Amount (excl. GST)</b>		<b>\$50,794.00</b> <i>But reduced to \$45,000.00</i>	<b>\$30,000.00</b>
<b>Task Area Assets</b>	<b>General Description</b>	<b>10.6 hours</b> <b>\$4,863.00</b>	<b>N/A</b>
	Plant and Equipment	Correspondence with independent valuers regarding valuation for the sale of assets Conducting online auction for residual PPE	N/A
	Leasing	Correspondence with landlords, City of Sydney City Council & Create NSW in relation to disclaiming property for Lilyfield Storage and Eternity Playhouse Preparing and lodging ASIC form 525 in relation to disclaimed leases Discussion with Directors in relation to handover access of leased premises to landlords	N/A
<b>Creditors</b>		<b>44.60 hours</b> <b>\$17,105.00</b>	<b>\$8,000.00</b>
	Creditor Reports	Prepare and issue Circular to Creditors regarding Liquidation Prepare Statutory Report to Creditors Preparation of necessary	Prepare and issue Statutory Report to Creditors Preparation of necessary annexures for Statutory Report to Creditors Prepare further reports to creditors, if necessary

		annexures for Statutory Report to Creditors	
	Dealing with proofs of debt	Receipting and filing PODs Investigating and engaging correspondence with Glenn Terry and other former Directors regarding creditor claim	Receipting and filing PODs
	Secured creditor reporting	Correspondence with Westpac regarding security over assets Reviewing security documents provided by Westpac	Continued correspondence with Westpac regarding secured creditor claim
	Proposal to Creditors	N/A	Prepare and issue 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
	Meeting of Creditors	Preparation and lodgement of minutes of second meeting of creditors with ASIC Respond to stakeholder queries and questions immediately following second meeting of creditors	N/A
	Creditor Enquiries	Receive and follow up creditor enquiries by telephone Review and prepare correspondence to creditors and their representatives by, email and post Correspondence with interested parties regarding sale of assets	Receive and respond to creditor enquiries Receive and follow up creditor enquiries by telephone Review and prepare correspondence to creditors and their representatives by email and post
<b>Employees</b>		<b>31.40 hours</b> <b>\$13,433.00</b>	<b>\$11,000.00</b>

	<p>Employees enquiries</p>	<p>Liaising with the Directors in relation to status of employment of certain employees          Receive and follow up employee enquiries by telephone and email          Collating and reviewing employee payroll documents for contested employee entitlements claims          Correspondence with former employee regarding outstanding wages and superannuation entitlements</p>	<p>Receive and follow up employee enquiries by telephone or email</p>
	<p>Calculation of entitlements</p>	<p>Liaising with the Company's external accountant in relation to outstanding employee entitlements          Collating employee payroll information          Updating calculations of employee entitlements</p>	<p>Liaising with employees regarding queries to assist with calculation of outstanding employee entitlements          Internal discussions in relation to assessment of outstanding employee entitlements</p>
	<p>FEG</p>	<p>Correspondence with FEG          Preparing initial FEG questionnaire          Correspondence and engagement with FEG regarding employee verification          Correspondence with FEG regarding small business redundancy exemption          Preparing FEG quotations          Preparing FEG verification spreadsheet          Reviewing Company records regarding discrepancies identified by FEG          Preparing calculations to support discrepancies identified by FEG          Liaising with FEG regarding discrepancies</p>	<p>Reviewing Company records regarding discrepancies identified by FEG          Preparing calculations to support discrepancies identified by FEG          Liaising with FEG regarding any discrepancies          Finalising employee entitlement claims</p>

	Employee dividend	N/A	<p>Correspondence with employees regarding dividend</p> <p>Correspondence with ATO regarding SGC proof of debt</p> <p>Calculating dividend rate</p> <p>Advertising dividend notice</p> <p>Preparing dividend file</p> <p>Preparing distribution</p> <p>Receipting POD</p> <p>Adjudicating POD</p> <p>Ensuring PAYG remitted to ATO</p>
<b>Investigation</b>		<b>0.70 hours</b> <b>\$469.00</b>	<b>N/A</b>
	Conducting Investigation	Dealing with Company MYOB subscription Liaising with former employee regarding Company's cultural records	N/A
<b>Dividend</b>		<b>N/A</b>	<b>\$7,000.00</b>
	Processing proofs of debt (POD)	N/A	<p>Preparation of correspondence to potential creditors inviting lodgement of POD</p> <p>Receipt of POD</p> <p>Maintain POD register</p> <p>Adjudicating POD</p> <p>Request further information from claimants regarding POD</p> <p>Preparation of correspondence to claimant advising outcome of adjudication</p>
	Dividend Procedures	N/A	<p>Engaging tax accountant to prepare and lodge outstanding pre-appointment tax lodgements</p> <p>Obtain clearance from ATO to allow distribution of Company assets</p> <p>Preparation of correspondence to creditors advising of intention to declare dividend</p> <p>Advertisement of intention to declare dividend</p>

			Preparation of dividend calculation Preparation of distribution Preparation of dividend file Preparation of correspondence to creditors enclosing payment of dividend
<b>Trade On</b>		<b>0.50 hours</b> <b>\$362.00</b>	<b>N/A</b>
	Trade on Management	Finalising payments for costs & utilities relating to leased premises	N/A
<b>Administration</b>		<b>40.20 hours</b> <b>\$14,562.00</b>	<b>\$4,000.00</b>
	ASIC Forms and lodgements	Preparing and lodging ASIC forms including 5011, 525 509D and 5603 Preparing and lodging ASIC advert regarding notice of appointment	Preparing and lodging ASIC forms including 5602 and 5603 Correspondence with ASIC regarding statutory forms
	Books and records/storage	Liaising with the Directors to arrange storage of the Company's records Reviewing Company's books and records Backing up electronic books and records Dealing with books and records Sending books and records to storage	Arrange the storage of the Company's records
	Correspondence	Preparing and issuing notifications of appointment to banks, utilities and statutory bodies Preparing and issuing letter to Directors regarding their obligations	General correspondence with stakeholders
	Document maintenance/file review/checklist	Filing of documents File review Updating checklists	Filing of documents File review Updating checklists Periodic administration review

Bank account administration	Preparing correspondence opening accounts Prepare receipts and payment vouchers Bank account reconciliations	Bank account reconciliations Prepare receipts and payment forms Preparing correspondence closing accounts
Insurance	Correspondence with Insurance broker regarding cancellation of insurance policies	N/A
ATO and other statutory reporting	Notification of appointment Requesting taxation documents Following up delay in online ATO portal access	Preparing BAS Completing STP reporting obligations
Planning / Review	Discussion regarding status of administration Internal meetings to discuss progress of the Liquidation	Discussion regarding status of administration Internal meetings to discuss progress of the Liquidation
Finalisation	N/A	Notifying ATO of finalisation Cancelling ABN/GST/PAYG registration Completing checklists Finalising WIP

We note that we have incurred remuneration of approximately \$50,794.00 (excl. GST) during this period, however in order to maximise the return to creditors, we have applied a discount of approximately \$6K (excl. GST).



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

Darlinghurst Theatre Limited (In Liquidation)  
 ACN 077 963 234  
 For the period 22 July 2024 to 17 October 2024

Staff Classification	Name	Hourly Rate	Administration		Assets		Creditors		Employees		Investigation		Trade On		Total		
			Hrs	\$	Hrs	\$	Hrs	\$	Hrs	\$	Hrs	\$	Hrs	\$	Hrs	\$	
Principal	John Keenan	750	1.90	1,425.00	3.10	2,325.00	4.20	3,150.00	4.70	3,525.00	0.40	300.00	0.40	300.00	14.70	11,025.00	
Senior Manager	Katherine La	620	5.10	3,162.00	0.90	558.00	5.50	3,410.00	3.40	2,108.00	0.20	124.00	0.10	62.00	15.20	9,424.00	
Senior 1	Nicole Feng	450	0.10	45.00			0.50	225.00	5.40	2,430.00	0.10	45.00			6.10	2,745.00	
Intermediate 2	Vijay Rajmohan	300	4.70	1,410.00	1.80	540.00	16.40	4,920.00	16.60	4,980.00					39.50	11,850.00	
Intermediate 2	Frane Babic	300	16.90	5,070.00	4.80	1,440.00	17.80	5,340.00	1.30	390.00					40.80	12,240.00	
Senior Administration	Andrea Moulikova	300	1.50	450.00											1.50	450.00	
Senior Administration	Ashtleigh Hartigan	300	2.60	780.00											2.60	780.00	
Senior Administration	Hugh Matthews	300	0.40	120.00											0.40	120.00	
Senior Administration	Sarita Gurung	300	7.00	2,100.00			0.20	60.00							7.20	2,160.00	
<b>Grand Total</b>			<b>40.20</b>	<b>14,562.00</b>	<b>10.60</b>	<b>4,863.00</b>	<b>44.60</b>	<b>17,105.00</b>	<b>31.40</b>	<b>13,433.00</b>	<b>0.70</b>	<b>469.00</b>	<b>0.50</b>	<b>362.00</b>	<b>128.00</b>	<b>50,794.00</b>	
<b>But Reduced to</b>				<b>13,000.00</b>		<b>4,863.00</b>		<b>14,137.00</b>		<b>13,000.00</b>		<b>-</b>		<b>-</b>		<b>45,000.00</b>	
																<b>GST</b>	<b>4,500.00</b>
																<b>Total Fee Approval Sought</b>	<b>49,500.00</b>
<i>Average rate per hour</i>				<u>323.38</u>		<u>458.77</u>		<u>316.97</u>		<u>414.01</u>		<u>-</u>		<u>-</u>			<u>351.56</u>

## SCHEDULE C – RESOLUTION

We will be seeking approval of the following resolution to approve our remuneration. Details to support this resolution is included in section 3 and 4 and in the attached Schedules.

***Resolution 1: Liquidators' Future Remuneration for the period 18 October 2024 to Conclusion***

*“That the additional remuneration of the Liquidators, their partners and staff for the period 18 October 2024 to the conclusion of the Liquidation, be calculated on a time basis in accordance with the rates of charge annexed to the Liquidators' Statutory Report to Creditors dated 21 October 2024 and approved to an interim cap of \$30,000.00 (plus GST) and that the Liquidators be authorised to draw that amount as and when incurred.”*

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## SCHEDULE D – EXPLANATION WHERE REMUNERATION PREVIOUSLY APPROVED

At the Second Meeting of Creditors held on 22 July 2024, creditors approved our prospective remuneration for the Liquidation period up to an interim cap amount of \$45,000.00 (excl. GST). To date, we have yet to draw this amount. Our remuneration has exceeded this interim cap and as previously foreshadowed, in this report, we are now seeking approval of a further capped amount of \$30,000.00 (excl. GST) to enable us to complete the Liquidation.

To assist creditors with understanding how total remuneration has and/or will be incurred, this table shows remuneration to date, including the current claims, divided by task categories.

Task	Fees already approved	Approval sought for work already done	Approval sought for future work	Total per task
	(\$, excl GST)	(\$, excl GST)	(\$, excl GST)	(\$, excl GST)
Asset	4,000.00	4,863.00	N/A	4,863.00
Creditors	15,000.00	14,137.00	8,000.00	22,137.00
Employees	5,000.00	13,000.00	11,000.00	24,000.00
Investigation	6,000.00	N/A	N/A	0.00
Administration	10,000.00	13,000.00	4,000.00	17,000.00
Dividend	5,000.00	N/A	7,000.00	7,000.00
	<b>45,000.00</b>	<b>45,000.00</b>	<b>30,000.00</b>	<b>75,000.00</b>
Total remuneration previously approved				45,000.00
Difference (see table below for further explanation)				30,000.00
<i>Payment reconciliation:</i>				
<b>TOTAL (incl. amount claimed now)</b>				<b>75,000.00</b>
Amount paid to date (Liquidation period)				0.00
Amount outstanding (incl amount claimed now)				75,000.00

In this table we compare, on a task basis, the difference between our previous remuneration report and this report, together with explanations for the difference.

Task	Fees already approved as at 22 July 2024	Total per task (from previous table)	Difference	Reasons for differences
	(\$, excl GST)	(\$, excl GST)	(\$, excl GST)	
Assets	4,000.00	4,863.00	863.00	The difference is immaterial.

Task	Fees already approved as at 22 July 2024	Total per task (from previous table)	Difference	Reasons for differences
	(\$, excl GST)	(\$, excl GST)	(\$, excl GST)	
Creditors	15,000.00	22,137.00	7,137.00	<p>Additional time has been incurred in relation to the following:</p> <ul style="list-style-type: none"> <li>- Correspondence with Westpac regarding secured creditor claim</li> <li>- Discussions with Directors regarding handover access of leased premises to landlords</li> <li>- Investigating and engaging correspondence with Glenn Terry and other former Directors regarding creditor claim</li> </ul> <p>Additional time anticipated to be incurred in relation to the following:</p> <ul style="list-style-type: none"> <li>- Continued correspondence with Westpac regarding secured creditor claim</li> <li>- Prepare and issue proposal notices and voting forms</li> <li>- Reviewing votes and determining outcome of proposal</li> </ul>
Employees	5,000.00	24,000.00	19,000.00	<p>Substantial additional time incurred in relation to the following:</p> <ul style="list-style-type: none"> <li>- Reviewing the books and records and assessing the outstanding employee entitlements</li> <li>- Liaising with the Directors in relation to status of employment of certain employees</li> <li>- Updating employee entitlement calculations</li> <li>- Liaising with FEG regarding employee entitlements verification</li> <li>- Liaising with FEG regarding discrepancies</li> </ul>

Task	Fees already approved as at 22 July 2024	Total per task (from previous table)	Difference	Reasons for differences
	(\$, excl GST)	(\$, excl GST)	(\$, excl GST)	
				<ul style="list-style-type: none"> <li>- Investigating contested termination entitlements claims from employees</li> <li>- Collating employee payroll information for contested employee entitlements claims</li> </ul> <p>Additional time anticipated to be incurred in relation to the following:</p> <ul style="list-style-type: none"> <li>- Liaising with FEG regarding discrepancies identified</li> <li>- Preparing calculations to support discrepancies identified by FEG</li> <li>- Resolving contested employee entitlement claims</li> <li>- Finalising employee entitlement claims</li> </ul>
Investigation	6,000.00	0.00	(6,000.00)	It was anticipated there may be further investigations required, however there has been no further information or documents provided that would change our findings in the Administration period. Accordingly, we do not anticipate any further investigation work.
Administration	10,000.00	17,000.00	7,000.00	<p>Additional time incurred in relation to the following:</p> <ul style="list-style-type: none"> <li>- Dealing with books and records and considering storage options</li> <li>- Following up regarding delay in ATO online portal access</li> </ul> <p>Additional time anticipated to be incurred in relation to the following:</p> <ul style="list-style-type: none"> <li>- Statutory lodgements with ASIC and ATO</li> <li>- File reviews and planning/review internally</li> </ul>

Task	Fees already approved as at 22 July 2024	Total per task (from previous table)	Difference	Reasons for differences
	(\$, excl GST)	(\$, excl GST)	(\$, excl GST)	
				- General administration maintenance
Dividend	5,000.00	7,000.00	2,000.00	Additional time anticipated to be incurred in relation to the following: - Liaising with tax agent regarding outstanding pre-appointment tax lodgements - Dealing with and adjudicating Glenn Terry claim
<b>TOTAL</b>	<b>45,000.00</b>	<b>75,000.00</b>	<b>30,000.00</b>	

We also make the following general comments regarding the progress of the Liquidation that have affected our previous remuneration estimate:

- ▲ Conducting further investigations in relation to contested termination entitlement claims with the Department;
- ▲ Finalising the asset sale with City of Sydney Council;
- ▲ Conducting sale of residual assets with the assistance of O'Maras Auctioneers; and
- ▲ Liaising with Westpac regarding their secured debt position.

We have provided an explanation of tasks remaining to be completed, including our estimated costs to complete those tasks, to support our current remuneration approval request, at section 3 and Schedule A of this remuneration report.

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The logo for BRI Ferrier, featuring the text "BRI Ferrier" in white on a dark grey background, with a green triangle on the right side.

**BRI Ferrier**

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**Darlinghurst Theatre Limited  
(In Liquidation)**

**ACN 077 963 234**

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**Annexure "5"  
Advice to Creditors About  
Remuneration**

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## ADVICE TO CREDITORS ABOUT REMUNERATION

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

### **DARLINGHURST THEATRE LIMITED** **(IN LIQUIDATION) (“THE COMPANY”)**

#### **A. REMUNERATION METHOD**

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

- ▶ Time based / hourly rates or “Time Cost”

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

- ▶ Fixed Fee

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

- ▶ Percentage

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

- ▶ Contingency

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

#### **B. METHOD CHOSEN**

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

- ▶ It is often difficult to estimate accurately the likely cost of undertaking an appointment, as appointments differ in unforeseeable ways as to their factual or legal complexity;
- ▶ The Time Cost method reflects the opportunity cost to BRI Ferrier of the use of staff on a particular engagement;
- ▶ The Time Cost method reflects the extent of work undertaken, reflecting in turn the nature of the appointment; and



- The Time Cost method can be applied equally to all aspects of an appointment, while percentage or contingent remuneration normally only reflect parts of an appointment, such as the recovery of assets. Our duties include activities, such as reporting to creditors and ASIC, that do not directly yield asset recovery, while contributing to the overall return to creditors.

BRI Ferrier reviews its hourly rates every twelve months. The hourly rates have been increased from FY2024 to FY2025. The hourly rates quoted below remain current to 30 June 2025. BRI Ferrier may increase the hourly rates charged for work performed and if hourly rates are increased, we will seek creditors' approval.

### C. EXPLANATION OF HOURLY RATES

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

Title	Description	Hourly Rates (ex GST) 1 July 23	Hourly Rates (ex GST) 1 July 24
Principal	Senior member of the firm. May be a Registered Liquidator and/or Registered Trustee. A senior accountant with over 10 years' experience who brings specialist skills and experience to the appointment. Leads staff carrying out appointments.	\$730	\$750
Director	An accountant with more than 10 years' experience. May be a Liquidator. Fully qualified and able to control all aspects of an appointment. May have specialist industry knowledge or skills. Assists with all facets of appointment.	\$640	\$670
Senior Manager	An accountant with more than 7 years' experience. Qualified and answerable to the Team Leader. Self-sufficient in completing and planning all aspects of large appointments.	\$590	\$620
Manager	An accountant with at least 6 years' experience. Typically qualified with well-developed technical and commercial skills. Controls and plans all aspects of medium to larger appointments, reporting to the Team Leader.	\$550	\$580
Supervisor	An accountant with more than 4 years' experience. Typically qualified with sound knowledge of insolvency principles and developing commercial skill. Assists to plan and control specific tasks on medium to larger appointments. Often undertaking post qualification study specialising in Insolvency and Reconstruction.	\$480	\$510
Senior 1	An accountant with more than 2 years' experience. Typically a graduate undertaking study leading to professional qualification as a Chartered Accountant or CPA. Able to complete work on appointments with limited supervision.	\$420	\$450
Senior 2	An accountant with less than 2 years' experience. Typically a graduate who has commenced study leading to professional qualifications. Able to complete many tasks on medium to large appointments under supervision.	\$380	\$400

Title	Description	Hourly Rates (ex GST) 1 July 23	Hourly Rates (ex GST) 1 July 24
Intermediate 1	An accountant with less than 2 years' experience. Typically a graduate and commencing study for qualifications. Able to complete multiple tasks on smaller to medium appointments under supervision.	\$330	\$350
Intermediate 2	An accountant with less than 1 year's experience. A trainee undertaking degree with an accountancy major. Assists in the appointment under supervision.	\$280	\$300
Senior Administration	Appropriately skilled and undertakes support activities including but not limited to treasury, word processing and other administrative, clerical and secretarial tasks.	\$240	\$300
Junior Administration	Appropriately skilled and undertakes support activities including but not limited to treasury, word processing and other administrative, clerical and secretarial tasks.	\$220	\$00

## D. DISBURSEMENTS

Disbursements are divided into three types:

- Externally provided professional services - these are recovered at cost. An example of an externally provided service disbursement is legal fees.
- Externally provided non-professional costs such as travel, accommodation and search fees. These are recovered at cost.
- Internal disbursements such as photocopying, printing and postage. These disbursements, if charged to the Administration, would generally be charged at cost; though some expenses such as telephone calls, photocopying and printing may be charged at a rate which recoups both variable and fixed costs. The recovery of these costs must be on a reasonable commercial basis.

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

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

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

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

Dated: 21 October 2024.

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**BRI Ferrier**

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**Darlinghurst Theatre Limited  
(In Liquidation)**

**ACN 077 963 234**

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**Annexure "6"  
ASIC Information Sheet – Insolvency  
Information for Directors,  
Employees, Creditors and  
Shareholders**

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**ASIC**

Australian Securities & Investments Commission

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

### Where can I get more information?

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

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

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**BRI Ferrier**

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**Darlinghurst Theatre Limited  
(In Liquidation)**

**ACN 077 963 234**

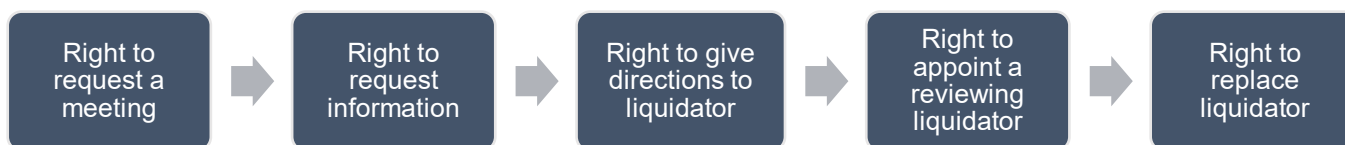
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**Annexure "7"  
ARITA Creditor Rights in Liquidation  
Sheet**

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# Creditor Rights in Liquidations

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



If a simplified liquidation process is adopted, these rights are effectively limited to the right to request information.

## 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. The right to request meetings, including in the circumstances described below, is not available if a simplified liquidation process is adopted.

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
- $\geq 25\%$  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.

## 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.

If a simplified liquidation process is adopted, you may not be able to give directions, because meetings cannot be held to pass a resolution.

## 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. This right is not available if a simplified liquidation process is adopted. 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.

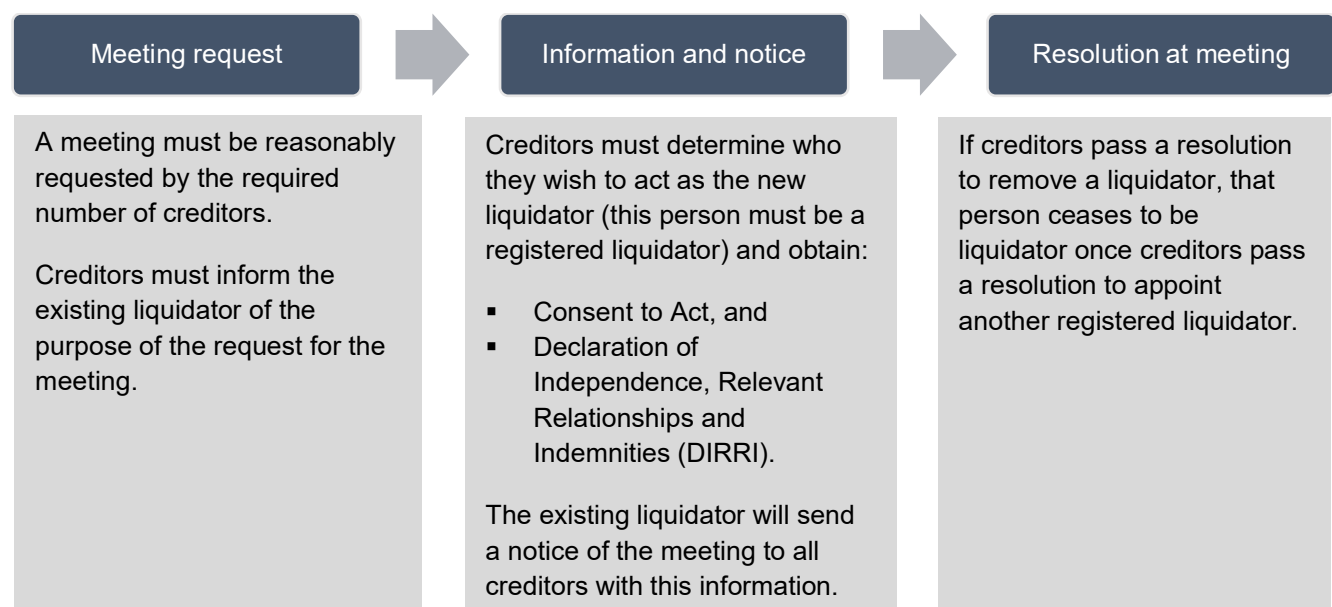
The cost of the reviewing liquidator is paid from the assets of the liquidation, in priority to creditor claims.

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. This right is not available if a simplified liquidation process is adopted, because meetings cannot be held.

To replace a liquidator, there are certain requirements that must be complied with:



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



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**BRI Ferrier**

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**Darlinghurst Theatre Limited  
(In Liquidation)**

**ACN 077 963 234**

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**Annexure "8"  
Proposals Without Meeting Forms**

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NOTICE OF PROPOSAL TO CREDITORS

Dated: 21 October 2024

Voting Poll Closes: 14 November 2024

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**DARLINGHURST THEATRE LIMITED (IN LIQUIDATION)**  
**ACN 077 963 234**  
**("the Company")**

**Proposal No. 1 for creditor approval**

*"That the additional remuneration of the Liquidators, their partners and staff for the period 18 October 2024 to the conclusion of the Liquidation, be calculated on a time basis in accordance with the rates of charge annexed to the Liquidators' Statutory Report to Creditors dated 21 October 2024 and approved to an interim cap of \$30,000.00 (plus GST) and that the Liquidators be authorised to draw that amount as and when incurred."*

**Reasons for the proposal and the likely impact it will have on creditors if it is passed**

- A Liquidator is entitled to be fairly remunerated for undertaking statutory and other duties, including reporting obligations in acting as a liquidator.
- We are unable to pay our remuneration without the approval of the Committee of Inspection (if one has been appointed), Creditors, or the Court.
- Approval by Creditors is efficient and timely and is less costly than an application to the Court.
- Approval of our remuneration will allow us to progress further investigations in a timely manner to ensure the prospect of any dividends can be maximised.

**Vote on the Proposal No. 1**

Please select the appropriate Yes, No or Object box referred to below with a  to indicate your preferred position.

- Yes  I approve the proposal
- No  I do not approve the proposal
- Object  I object to the proposal being resolved without a meeting of creditors

For your vote to count, your claim against the Company must have been admitted for the purposes of voting by the Liquidator. Please select the option that applies:

- I have previously submitted a proof of debt form and supporting documents
- I have **enclosed** a proof of debt form and supporting documents with this proposal form

**Creditor details**

Name of creditor

Address

ABN (if applicable)

Contact number

Email address

I am **not** a related creditor of the Company

I am a related creditor of the Company\*

relationship: \_\_\_\_\_

\*eg Director, relative of Director, related company, beneficiary of a related trust.

**Name of creditor  
/authorised person:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

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For your vote to count, you **must complete** this document and return it together with any **supporting documents** by no later than close of business on **14 November 2024**, by email to Vijay Rajmohan at [vrajmohan@brifnsw.com.au](mailto:vrajmohan@brifnsw.com.au). Should you have any queries in relation to this matter, please contact Vijay Rajmohan on (02) 8263 2333.

BRI FERRIER  
Level 26  
25 Bligh Street  
Sydney NSW 2000