

**Killarnee Civil & Concrete Contractors Pty Ltd  
(In Liquidation)  
ACN 085 230 486 (“the Company”)**

**Liquidators’ Annual Report  
Pursuant to Section 508 of the Corporation Act 2001**

**16 May 2016**

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# Table of Contents

Section	Page
1	Introduction..... 2
2	Appointment of a Replacement Liquidator..... 2
3	Lot 1031 Mardie Road, Karratha Industrial Estate, WA 6714 (the Mardie Road property)..... 2
4	Statement of Position..... 3
5	The director's bankruptcy ..... 7
6	Submission of Formal Proof of Debt / Employee Claim Form..... 8
7	Investigations into the Company's Affairs ..... 8
8	Receipts and Payments..... 8
9	Liquidators' Remuneration..... 8
10	Annual Meeting of Creditors and Members ..... 9
11	Outstanding Matters to Finalise the Liquidation..... 9
	Glossary of terms..... 11

## Annexure

A	Notice of Liquidator's application for court directions
B	Summary of Receipts and Payments for the period 9 December 2014 to 4 May 2016
C	Remuneration Approval Request Report
D	Notice of Annual Meeting of Creditors
E	Form 535: Formal Proof of Debt or Claim / Employee Claim Form
F	Form 532: Appointment of Proxy

## **1 Introduction**

The purpose of this report is to provide information and to update creditors on the Liquidators' acts and dealings since our previous reports.

This report should be read in conjunction with the Administrators' Reports to Creditors dated 26 September 2014 and 1 December 2014 which are also available on the Ferrier Hodgson website at [www.ferrierhodgson.com.au](http://www.ferrierhodgson.com.au).

We provide an update to the progress of the liquidation since our last report under the relevant headings:

## **2 Appointment of a Replacement Liquidator**

Mr Ben Johnson and Mr Darren Weaver both retired as Joint and Several Liquidators of the Company following their resignation from the Ferrier Hodgson partnership in October and December 2015 respectively, leaving Mr Martin Jones as the sole Liquidator of the Company.

In the interest of efficiency and accountability for the conduct of the liquidation, we propose that Mr Andrew Smith, a registered liquidator and a Partner of Ferrier Hodgson be appointed as a joint and several liquidator and advise that he has provided a Consent to Act in that regard. Accordingly, at the forthcoming Annual Meeting of Creditors we will be seeking creditors' approval to appoint Mr Smith as a Joint and Several Liquidator of the Company.

## **3 Lot 1031 Mardie Road, Karratha Industrial Estate, WA 6714 (the Mardie Road property)**

As previously reported, the Company is the registered proprietor of the Mardie Road property which is subject to a mortgage in favour of Westpac. We commenced marketing of the property in December 2014.

From the interest received to date, we are of the view that a contract of sale for the Mardie Road property is likely to contain provisions that establish rights or obligations that cannot be settled within 3 months of entering into the contract of sale with deferred settlement terms and/or lease.

In this regard, section 477 (2B) of the Corporations Act ("the Act") provides that unless approval of either the court or the committee of inspection or resolution of creditors is obtained, a liquidator of a company must not enter into an agreement on the company's behalf if the term of the agreement may end, or obligations of a party to the agreement may be discharged, more than 3 months after the agreement is entered into.

We will therefore seek creditors' approval at the forthcoming annual meeting that the Liquidators be authorised to enter into such contacts.

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#### 4 Statement of Position

We have conducted an analysis of the Company's asset and liability position in order to provide creditors with an indication of the Company financial position as at 5 May 2016. The following notes should be read in conjunction with the table below.

Statement of Position as at 5 May 2016	Note	Liquidators' ERV (\$)
<b>Assets available</b>		
Cash at Bank		202,958
Term Deposit		4,316,874
<b>Total Assets available</b>		<b>4,519,832</b>
<b>Less: Cost of Liquidation</b>		
Outstanding Liquidator's fee to 30 April 2016		(112,032)
Liquidator's disbursements to 4 May 2016		(653)
Estimated future Liquidator's fees (1 May 2016 to completion)		(200,000)
Estimated future Liquidator's disbursements		(10,000)
Payment to Vantage Performance (subject to Creditors' approval)	i	(101,708)
<b>Total estimated cost of Liquidation</b>		<b>(424,393)</b>
<b>Total Funds available for Priority Creditors</b>		<b>4,095,439</b>
<b>Less: Priority Creditors (employee entitlements)</b>		
Payment to Westpac (subrogated)	ii	(2,733,105)
Pre-appointment employee entitlements (incl FEG)	iii	(2,005,000)
<b>Total Priority Creditors</b>		<b>(4,738,105)</b>
Surplus / (Deficit) after Priority Creditors		(642,665)
Estimated further voidable transactions and other recoveries (net of costs)	iv	1,200,000
Surplus Funds available to ordinary unsecured creditors		557,335
Add: Estimated net proceeds from sale of Lot 5 Exploration Drive		1,310,000
Add: Estimated net proceeds from sale of Lot 1031 Mardie Road		
<b>Surplus after satisfaction of Priority Claims &amp; Secured Creditor's Claim</b>		<b>1,867,335</b>
<b>Total Funds Available to meet Ordinary Unsecured Creditors' Claim</b>		<b>1,867,335</b>
<b>Total Unsecured Creditors' Claims</b>	v	<b>(25,307,934)</b>
<b>Estimated Surplus / (Deficiency)</b>		<b>(22,883,265)</b>
<b>Estimated Dividend Rate to unsecured creditors (cents in \$)</b>		<b>7.38</b>

##### i. Fees payable to Vantage Performance

As noted in our previous reports, prior to our appointment as Voluntary Administrators on 1 September 2014, the Director had negotiated and executed a BSA with CS. We note that the BSA provided for payment of outstanding disbursements, charges or fees for professional services as at the date of completion to Vantage Performance, by the Company and/or Killarnee Contracting Pty Ltd and/or Killarnee Equipment Holdings Pty Ltd.

Given the Company's administration, CS' due diligence and negotiations, certain terms and conditions of the BSA were varied and the abovementioned clause in favour of Vantage Performance was removed.

Notwithstanding that the terms and conditions of the BSA were substantially varied, the BSA would not have come into existence without Vantage Performance who managed negotiation and execution of the BSA in the months leading up to and on 1 September 2014 – which provided the basis for CS to advance the necessary funding to the Administrators to continue trading the business and preserve the employment of the Gorgon employees.

In consideration of the above, we submit for creditors' consideration / approval the payment of Vantage Performance's pre-appointment outstanding fees and disbursements totalling \$101,708 (plus GST) as a priority claim in the winding up and otherwise ratifying the Liquidators' power to make such payment in accordance with section 477 (1)(c) of the Act.

**ii. Payment to Westpac (subrogated)**

During the course of the voluntary administration and liquidation period, in the interest of maintaining the Company's operations and maximising the recovery of debtors, the Administrators / Liquidators have made and/or effected payments in respect to pre-appointment employee entitlements and other amounts with respect to the BSA totalling \$3,470,666 from proceeds which would otherwise have been available to Westpac in its capacity as secured creditor from its securities in accordance with section 561 of the Act.

On 5 April 2016, we were advised by the Bank that the total debt owed by the Company is approximately \$2,733,105 plus interest and charges.

Having regard to the recovery of the ATO preference (further details in section iv below), one view is that the Bank would be subrogated to the position of those employees who benefited from the payments and have a statutory priority of payment ahead of unsecured creditors. In this regard, the Bank's priority will be to the extent of the amount owed to the Bank as at the date of payment (instead of the higher amount of \$3,470,666).

There have been recent legal developments in this area of law and given that the law in this area is not settled, we have made an application to the Federal Court of Australia ("FCA") for directions (WAD 181/2016), to determine whether Westpac has a priority in the preference claim recovery to the extent of the amounts paid to the employees by the Administrators / Liquidators.

Subject to what priority payment is appropriate to Westpac, the Company may ultimately stand in Westpac's shoes in respect to the Exploration Drive mortgage or otherwise benefit from a reduction to Westpac's debt if Exploration Drive is sold in the intervening period. The Bank appointed FTI Consulting as Agents for the Mortgagee in Possession on 11 May 2015 of the property located at Lot 5 Exploration Drive, Gap Ridge WA 6714 which is owned by the director, Mr Paul Thompson as trustee for the Killarnee Investment Trust, and is currently pursuing a sale of the property.

We have performed an analysis and set out a side by side comparison in the table overleaf of the estimated dividend rate under two (2) different scenarios:

*This section has been left blank intentionally*

	Westpac entitled to subrogation	Westpac <u>not</u> entitled to subrogation
Statement of Position as at 5 May 2016	Liquidators' ERV \$	\$
Total Funds available for Priority Creditors	4,095,439	4,095,439
Less: Priority Creditors (employee entitlements)		
Payment to Westpac (subrogated)	(2,733,105)	N/A
Pre-appointment employee entitlements	(2,005,000)	(2,005,000)
Total Priority Creditors	(4,738,105)	(2,005,000)
Surplus / (Deficit) after Priority Creditors	(642,665)	2,090,439
Estimated further voidable transactions and other recoveries (net of costs)	1,200,000	1,200,000
Sub-total	557,335	N/A
Add: Estimated net proceeds from sale of Lot 5 Exploration Drive	1,310,000	N/A
Add: Estimated net proceeds from sale of Lot 1031 Mardie Road		N/A
Total Voidable Transactions and funds available for Unsecured Creditors	1,867,335	3,290,439
Total Funds Available to meet Ordinary Unsecured Creditors	1,867,335	3,290,439
Less: Unsecured creditors		
Trade & Other Creditors	(25,307,934)	(25,307,934)
Secured Creditor's claim (estimated)	N/A	(1,423,105)
Total Unsecured Creditors' Claims	(25,307,934)	(26,731,039)
Estimated Surplus / (Deficiency)	(23,440,600)	(23,440,600)
Estimated Dividend Rate to unsecured creditors (cents in \$)	7.38	12.31

From our above analysis, it is anticipated that the estimated dividend rate will be 7.38 cents in the dollar in the event Westpac is entitled to be subrogated to the position of the employees, as compared to 12.31 cents in the dollar if the Bank is not entitled to subrogation. The variance between the two (2) estimated dividend rates is approximately 5 cents in the dollar. For completeness, we note that there is also a possibility that Westpac may be entitled to a partial subrogation, rendering the estimated dividend rate to sit between 7.38 and 12.31 cents in the dollar. That said, the final dividend rate will ultimately be dependent on the funds available (i.e. from further preference recoveries) and quantum of claims adjudicated.

In this regard, please find attached at **Annexure A** - our notice to creditors of the application for court directions. The matter will be heard on **22 June 2016** at 10am AWST. **Should creditors have any objection to the order sought by the Liquidator, you are advised to inform the Liquidator in writing and provide the ground(s) of your objection (including any relevant supporting documents, where applicable) on or before 5pm on Monday, 6 June 2016.** Alternatively, if you wish to be heard, you must file a notice of appearance, in the prescribed form, in the Registry and serve a copy of it on the Liquidator.

### iii. Pre-appointment Employee Entitlements

Amounts owed to priority creditors represent amounts owed for employee entitlements which are afforded a statutory priority of repayment over circulating charge assets pursuant to section 556(1) of the Act.

We set out below a summary of the estimated outstanding employee entitlements:

Employee entitlements	Amount owing as at 01/09/2014 (\$)	Amount paid by VA / Liquidator / Centrals (\$)	Amount paid by FEG (\$)	Amount outstanding (owed to employees) (\$)
<b>Section 556 (1)(e)</b>				
Wages	745,804	(651,624)	(31,750)	62,430
Payment in lieu of notice (PILN)	7,223	-	(7,223)	-
Rostered Day Off (RDO)	388,378	(388,378)	-	-
Superannuation/ SGC	1,834,822	(98,664)	-	1,736,158
<b>Section 556 (1)(g)</b>				
Annual leave	542,305	(540,805)	-	*1,500
Annual leave loading	49,998	(49,998)	-	-
Gorgon special leave	443,844	(443,844)	-	-
Project special leave	99,744	(99,744)	-	-
Sick leave	388,455	(388,455)	-	-
Portable long service leave	23,977	(14,043)	-	9,934
<b>Section 556 (h)</b>				
Severance and redundancy	951,117	(795,112)	(109,067)	46,938
<b>Total</b>	<b>5,475,666</b>	<b>(3,470,666)</b>	<b>(148,040)</b>	<b>1,856,960</b>

\*priority amount per section 556 (1B) in favour of director, Mr Paul Thompson (balance \$55,730 as unsecured claim)

During the course of the liquidation, the Department of Employment has advanced funds totalling \$148,040 to the Liquidators to facilitate payment of 13 former employees' Fair Entitlements Guarantee (FEG) claims, being outstanding wages, pay in lieu of notice and redundancy (subject to maximum weekly wage under section 26 of the FEG Act). Pursuant to sections 29 and 31 of the FEG Act 2012, payments advanced by the FEG have a subrogated priority under section 560 of the Act.

The ATO has lodged a formal proof of debt with the Liquidators which included outstanding superannuation guarantee charge for the period 1 January 2014 to 30 September 2014 of approximately \$1,736,158. We note that the amount is substantially higher than the amount the Liquidators provided to the ATO in March 2015. In this regard, we are seeking clarification and details from the ATO for reconciliation purposes.

From our analysis, we anticipate that the recoveries from unfair preference claims will provide sufficient funds to enable a dividend to be paid for the outstanding employee entitlements. The dividend rate will be dependent on the funds available and quantum of claim received / adjudicated, however we expect that employee claims will be discharged in full.

Accordingly, please find enclosed a Notice of Intention to declare a First and Final Dividend (Form 548) to **priority** creditors. The following table summarises the dividend timeline:

Milestone events	Timing
Notice of intention to declare first and final dividend	16 May 2016
Final day for priority creditors to submit Employee Claim Form	24 June 2016
Last day for Liquidators to deal with claims	8 July 2016
Dividend to be declared	On or before 14 July 2016

#### iv. Total estimated voidable transaction and other recoveries

Our ongoing investigations into the affairs of the Company have identified a number of possible transactions that may be voidable as unfair preferences under section 588FA of the Corporations Act 2001 (the Act).

On 12 June 2015, we wrote to the ATO to recover payments amounting to \$5,424,783 which it received from the Company during the relation back period from 1 March 2014 to 31 August 2014 which constituted an unfair preference under section 588 of the Act.

On 5 January 2016, negotiations were concluded when the ATO confirmed that it would make payment of \$4.5M in full and final settlement of our claim, with a commitment to pay by 15 January 2016. Payment was subsequently received on 12 January 2016.

After accounting for the recovery of the ATO unfair preference claim, we estimate that a further recovery of up to \$1.2M (net of costs) may be available to the Company from other creditors and in respect to which our investigations continue.

For completeness, we also note that there are inherent risks and significant costs involved in pursuing such claims and therefore the final recovery amount may differ considerably from the estimates.

#### v. Unsecured creditors

Accounting for informal proofs of debts received to date and based upon the Company's records, we estimate the Company's liability to unsecured creditors at approximately \$25.3M, as detailed below. However, this figure is subject to the receipt and adjudication of final proof of debt from creditors.

Particulars	Amount (\$)
Trade creditors	12,343,335
Australian Taxation Office	9,563,674
Payroll tax	642,510
Excluded employee entitlements over capped amount	55,730
Other creditors (related party)	622,769
Beneficiary entitlements	1,627,777
Contingent claims – shortfall to hire purchase financiers (excluding Westpac)	452,141
<b>Total Unsecured Creditors' Claims</b>	<b>25,307,934</b>

To date, no distributions have been made to unsecured creditors of the Company. However, from our analysis, it is anticipated that a dividend may be declared to unsecured creditors in the next 12 months, subject to the successful recover of further preference claims and following the sale of the Mardie Road property and Exploration Drive property.

#### 5 The director's bankruptcy

We note that the director, Mr Thompson became a bankrupt on 20 October 2015 following the sequestration order (WA 1259 of 2015/0) on his estate. Messrs Paul Leroy and Gavin King of Hall Chadwick, Level 40, 2 Park Street, Sydney NSW 2000 were appointed as Trustees of the bankrupt estate of Mr Thompson on that date.



## 6 Submission of Formal Proof of Debt / Employee Claim Form

In the interest of efficiency and to assist the Liquidators to better quantify the amount owing by the Company, unsecured creditors are requested to complete the attached Formal Proof of Debt Form ("FPOD") and return same to us with the relevant supporting documentation on or before **Tuesday, 31 May 2016**.

Priority creditors (i.e. former employees) who wish to attend the upcoming meeting of creditors and members (further details in section 10 below) are required to complete the attached Employee Claim Form and return same to our office with the relevant supporting documentation on or before **Tuesday, 31 May 2016**. Those not attending the said meeting will have until 24 June 2016 to submit their completed Employee Claim Form to the Liquidator for purposes of the dividend distribution.

## 7 Investigations into the Company's Affairs

A liquidator is required to lodge a report to the ASIC pursuant to Section 533 of the Act in circumstances where a past or present officer may have been guilty of an offence, or if it is unlikely that the Company will be able to pay its unsecured creditors more than 50 cents in the dollar.

The report to ASIC includes an examination of various aspects of the Company's trading activities and also gives consideration if offences have been committed by any officers of the Company. These investigations also include the review of any voidable transactions pursuant to section 588FA of the Act and the directors' duty to prevent the Company from trading whilst insolvent pursuant to section 558G of the Act.

Our investigations are progressing. In this regard, we advise that we will soon complete and lodge the report with ASIC upon completion of same.

## 8 Receipts and Payments

We table at **Annexure B**, a summary of the receipts and payments for the period 9 December 2014 to 4 May 2016.

## 9 Liquidators' Remuneration

Set out below is a summary of the Liquidators' remuneration (GST exclusive) from the commencement of the Liquidation to 30 April 2016:

Description	Amount Incurred (\$)	Amount Approved (\$)	Amount Drawn (\$)	Balance to be approved (\$)
Liquidators' remuneration incurred for the period from commencement of liquidation to 30 April 2016	512,032	400,000	400,000	112,032
Liquidators' remuneration for the period 1 May 2016 to conclusion of liquidation				200,000
<b>Total</b>	<b>\$512,032</b>	<b>\$400,000</b>	<b>\$400,000</b>	<b>\$312,032</b>

In respect of the Liquidators' remuneration above, we note that we will be seeking approval from creditors at the meeting for additional Liquidators' fees as detailed in Liquidator' Remuneration Approval Request Report as outlined at **Annexure C**.

## 10 Annual Meeting of Creditors and Members

The annual meeting of creditors and members is scheduled to be held at **11.00am (AWST) on Wednesday, 1 June 2016 at the offices of Ferrier Hodgson, Level 28, 108 St Georges Terrace, Perth WA 6000.**

The main purpose of the meeting is to provide stakeholders with an opportunity:

- To be provided with an account of the Liquidators' acts and dealings and of the conduct of the winding up to date; and
- To fix the further remuneration of the Liquidators.

In this regard, we enclose the following documents:

(a) Notice of Annual Meeting of Creditors and Members (**Annexure D**). Please note that the meeting commences at **11:00AM (AWST) on Monday, 4 April 2016**. Please arrive for registration fifteen (15) minutes prior to the meeting.

(b) Formal Proof of Debt Form / Employee Claim Form (**Annexure E**).

A person is not entitled to vote at the meeting unless they provide particulars of the debt or claim to me before the meeting. All creditors must furnish full details of their claims, indicating whether they rank as secured, preferential or unsecured.

If you have previously submitted the informal proof of debt form, you do not need to submit another form unless you wish to amend your claim. However, for dividend purposes, a FPOD is required and is attached for submission by creditors who have not previously proven their claims.

(c) Appointment of Proxy form (**Annexure F**). The form enables you to appoint a person to act on your behalf at the meeting.

The FPOD Form / Employee Claim Form and Proxy form should be lodged with this office before the meeting and, in any event, **no later than 4.00pm on Tuesday, 31 May 2016**. Forms can be sent by facsimile on (08) 9214 1400 marked to the attention of Nirav Shah or scanned and emailed to nirav.shah@fh.com.au. However, Corporations Regulation 5.6.36A requires lodgement of the original of the Proxy form with the Liquidator's office within 72 hours of lodging the faxed copy.

## 11 Outstanding Matters to Finalise the Liquidation

At the time of writing, the main outstanding task in the liquidation relates to:

- Completion of our investigations and lodgement of our section 533 report to the ASIC;
- Pursuing (and resolution) of further potential unfair preference claims;
- Sale of the Mardie Road property and monitor the outcome on the Exploration Drive property; and
- Distribution of dividends to priority and ordinary unsecured creditors.

Once the above matters have concluded, we will be in a position to finalise the liquidation which will involve the following tasks:

- Convening a final meeting of creditors and members; and
- Attending to final statutory requirements of the liquidation.

Should you have any enquiries in relation to this matter, please do not hesitate to contact Nirav Shah of this office.

Yours faithfully

**Killarnee Civil and Concrete Contractors Pty Ltd**

A handwritten signature in black ink, appearing to read 'Martin Jones', with a large, stylized loop at the end.

**Martin Jones**  
Liquidator

Encl.

## Glossary of terms

Abbreviation	Description
ABN	Australian Business Number
ACN	Australian Company Number
Act	The Corporations Act 2001
ARITA	Australian Restructuring Insolvency & Turnaround Association
ASIC	Australian Securities and Investments Commission
ATO	Australian Taxation Office
Bank	Westpac
BSA	Business Sale Agreement
CS	Central Systems Pty Ltd
ERV	Estimated Realisable Value
M	Million dollars
Vantage Performance	Vantage Performance (WA) Pty Ltd

**Form 548  
CORPORATIONS ACT 2001**

Subregulation 5.6.65(1)

**Killarnee Civil & Concrete Contractors Pty Ltd (In Liquidation)  
ACN 085 230 486 (the Company)**

**Notice to Priority Creditors or Person Claiming to be a Priority Creditor of  
Intention to Declare a First and Final Priority Dividend**

A first and final priority dividend is to be declared on or before 14 July 2016 for the Company.

Priority creditors whose debts or claims have not already been admitted are required on or before 24 June 2016 to formally prove their debts or claims. If they do not, they will be excluded from participation, and I will proceed to make the first and final dividend without having regard to it.

Dated this 16<sup>th</sup> day of May 2016.



**Martin Jones**  
Liquidator  
Killarnee Civil and Concrete Contractors Pty Ltd

Ferrier Hodgson  
GPO Box 2537  
Perth WA 6001

Tel: (08) 9214 1444  
Fax: (08) 9214 1400

## **Annexure A**

### **Notice to Liquidator's application for court directions**

**Killarnee Civil & Concrete Contractors Pty Ltd (In Liquidation)**  
**ACN 085 230 486 (the Company)**

NOTICE IS GIVEN that an application has been made to the Federal Court of Australia for directions (File Number WAD 181/2016), as to whether the secured creditor, Westpac Banking Corporation has a priority in the preference claim recovery to the extent of the amounts paid to the employees by the Administrators / Liquidators.

A copy each of the following are attached:

1. Ex parte Originating Process; and
2. The Liquidator's Affidavit.

The matter has been listed for hearing on 22 June 2016 at 10.00am AWST.

Should creditors have any objection to the order sought by the Liquidator, you are advised to inform the Liquidator in writing and provide the ground(s) of your objection (including any relevant supporting documents, where applicable) **on or before 5pm on Monday, 6 June 2016**. Alternatively, if you wish to be heard, you must file a notice of appearance, in the prescribed form, in the Registry and serve a copy of it on the Liquidator.

Dated this 16<sup>th</sup> day of May 2016.



**Martin Jones**  
Liquidator  
Killarnee Civil and Concrete Contractors Pty Ltd

Ferrier Hodgson  
GPO Box 2537  
Perth WA 6001

Tel: (08) 9214 1444  
Fax: (08) 9214 1400

## NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 11/05/2016 9:52:18 AM AWST and has been accepted for filing under the Court's Rules. Filing and hearing details follow and important additional information about these are set out below.

### Filing and Hearing Details

Document Lodged:	Originating process (Rule 2.2): Federal Court (Corporations) Rules 2000 form 2
File Number:	WAD181/2016
File Title:	In the matter of Killarnee Civil & Concrete Pty Ltd (in liquidation)
Registry:	WESTERN AUSTRALIA REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	Case Management Hearing
Time and date for hearing:	22/06/2016, 10:00 AM
Place:	Court Room Not Assigned, Peter Durack Commonwealth Law Courts Building Level 6, 1 Victoria Avenue, Perth



A handwritten signature in black ink, which appears to read "Warwick Soden".

Dated: 12/05/2016 12:11:37 PM AWST

Registrar

### Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The Reason for Listing shown above is descriptive and does not limit the issues that might be dealt with, or the orders that might be made, at the hearing.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



Form 2  
Rule 2.2 and 15A.3

### Originating Process

No. of 2016

Federal Court of Australia  
District Registry: Perth  
Division: General

**IN THE MATTER OF KILLARNEE CIVIL & CONCRETE  
CONTRACTORS PTY LTD (IN LIQUIDATION)  
ACN: 085 230 486**

**EXPARTE**

**MARTIN BRUCE JONES IN HIS CAPACITY AS THE  
LIQUIDATOR OF KILLARNEE CIVIL & CONCRETE PTY LTD (IN  
LIQUIDATION)**

Plaintiff

#### A. DETAILS OF APPLICATION

This application is made under Section 511 of the *Corporations Act* for determination of a question arising in the winding up of Killarnee Civil & Concrete Contractors Pty Ltd (In Liquidation) ACN 085 230 586 (**Company**).

On the facts stated in the supporting affidavit, the plaintiff seeks directions on the following questions:

1. Whether it would be proper for the Plaintiff to pay the debt of Westpac Banking Corporation ACN 007 467 141 (**Westpac**) (or some of it) from the Company's monies within the Plaintiff's control in priority to the ordinary unsecured creditors of the Company.
2. If the above direction is yes, how much is Westpac entitled to be paid in priority.

Filed on behalf of (name & role of party)	Applicant
Prepared by (name of person/lawyer)	Fei Fei Xue
Law firm (if applicable)	Gadens
Tel	08 9323 0999
Fax	08 9323 0900
Email	felfei.xue@gadens.com
Address for service (include state and postcode)	Level 7, 150 St Georges Terrace, Perth WA 6000
Reference:	
26027988.1	





3. The costs of the application be costs of the winding up of the Company.

Date: 10 May 2016

A handwritten signature in black ink, appearing to be "Gadens", is written over a horizontal line.

Signed by **Gadens**  
Lawyer for the Applicant

This application will be heard by \_\_\_\_\_ at 1 Victoria Avenue, Perth, Western  
Australia at \_\_\_\_\_ am/pm on \_\_\_\_\_

**B. NOTICE TO DEFENDANT(S) (IF ANY)**

If you or your legal practitioner do not appear before the Court at the time shown above, the application may be dealt with, and an order made, in your absence. As soon after that time as the business of the Court will allow, any of the following may happen:

- (a) the application may be heard and final relief given;
- (b) directions may be given for the future conduct of the proceeding;
- (c) any interlocutory application may be heard.

Before appearing before the Court, you must file a notice of appearance, in the prescribed form, in the Registry and serve a copy of it on the plaintiff.

*Note* Unless the Court otherwise orders, a defendant that is a corporation must be represented at a hearing by a legal practitioner. It may be represented at a hearing by a director of the corporation only if the Court grants leave.

**C. FILING**

Date of filing:

\_\_\_\_\_  
Registrar

This originating process is filed by Gadens for the plaintiff.



**D. SERVICE**

The plaintiff's address for service is [address of plaintiff's legal practitioner or of plaintiff].

It is intended to serve a copy of this originating process on each defendant and on any person listed below:

Westpac Banking Corporation  
109 St Georges Terrace  
PERTH WA 6000  
**Attention: Mark Curran**

Australian Securities and Investments Commission  
Level 1  
11 Mounts Bay Road  
PERTH WA 6000

## NOTICE OF FILING

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### Details of Filing

Document Lodged:	Affidavit - Form 59 - Rule 29.02(1)
File Number:	WAD181/2016
File Title:	In the matter of Killarnee Civil & Concrete Pty Ltd (in liquidation)
Registry:	WESTERN AUSTRALIA REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in black ink, reading "Warwick Soden".

Dated: 12/05/2016 12:11:48 PM AWST

Registrar

### Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



Form 59  
Rule 29.02(1)

**Affidavit**

No. \_\_\_\_\_ of 2016

Federal Court of Australia  
District Registry: Perth  
Division: General

**IN THE MATTER OF KILLARNEE CIVIL & CONCRETE  
CONTRACTORS PTY LTD (IN LIQUIDATION)  
ACN: 085 230 486**

**EXPARTE**

**MARTIN BRUCE JONES IN HIS CAPACITY AS THE  
LIQUIDATOR OF KILLARNEE CIVIL & CONCRETE PTY LTD (IN  
LIQUIDATION)**

Plaintiff

Affidavit of: **MARTIN BRUCE JONES**

Address: Level 28, 108 St Georges Terrace, Perth, Western Australia

Occupation: Registered Liquidator

Date: 9 May 2016

**Contents**

Document number	Details	Paragraph	Page
1.	Affidavit of <b>MARTIN BRUCE JONES</b>		1 - 11
2.	<b>Tab 1</b> of Annexure " <b>MBJ1</b> ", being copy of the search of the records kept by ASIC on Killarnee dated 5 May 2016	7	12 - 20
3.	<b>Tab 2</b> of Annexure " <b>MBJ1</b> ", being copy of the first report to creditors dated 2 September 2014	8a	21 - 52
4.	<b>Tab 3</b> of Annexure " <b>MBJ1</b> ", being copy of the 439A report to creditors dated 26 September 2004	8b	53 - 142

Filed on behalf of (name & role of party)

The plaintiffs

Prepared by (name of person/lawyer)

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(include state and postcode) **PERTH WA 6000**

Document number	Details	Paragraph	Page
5.	<b>Tab 4</b> of Annexure "MBJ1", being copy of the supplementary 439A report to creditors dated 1 December 2014	8c	143 – 190
6.	<b>Tab 5</b> of Annexure "MBJ1", being copy of the Previous BSA	11	191 – 244
7.	<b>Tab 6</b> of Annexure "MBJ1", being copy of the Limited Recourse Facility Loan Agreement dated 2 September 2014	12	245 – 248
8.	<b>Tab 7</b> of Annexure "MBJ1", being copy of the Deed of Variation dated 5 September 2014	13a	249 – 257
9.	<b>Tab 8</b> of Annexure "MBJ1", being copy of the Second Deed of Variation dated 15 September 2014	13b	258 – 265
10.	<b>Tab 9</b> of Annexure "MBJ1", being copy of the Third Deed of Variation dated 19 September 2014	13c	266 – 272
11.	<b>Tab 10</b> of Annexure "MBJ1", being copy of the Fourth Deed of Variation undated but entered into on or about 30 September 2014	13d	273 – 279
12.	<b>Tab 11</b> of Annexure "MBJ1", being copy of the Fifth Deed of Variation dated 14 October 2014	13e	280 – 286
13.	<b>Tab 12</b> of Annexure "MBJ1", being copy of letter dated 5 November 2014 to CS	14	287 – 288
14.	<b>Tab 13</b> of Annexure "MBJ1", being copy of the BSA	15	289 – 340
15.	<b>Tab 14</b> of Annexure "MBJ1", being copy of notice of default and demand dated 2 September 2014	16	341 – 343
16.	<b>Tab 15</b> of Annexure "MBJ1", being copy of the Business Finance Agreement between Westpac and Killarnee dated 26 March 2012	17	344 – 390
17.	<b>Tab 16</b> of Annexure "MBJ1", being copy of the Killarnee Charge	19	391 – 398
18.	<b>Tab 17</b> of Annexure "MBJ1", being copy of a search of the personal property security register dated 6 May 2016	20	399 – 487
19.	<b>Tab 18</b> of Annexure "MBJ1", being copy of the Mardie Road Mortgage	21	488 – 495
20.	<b>Tab 19</b> of Annexure "MBJ1", being copy of Business Finance Agreement	22	496 – 516
21.	<b>Tab 20</b> of Annexure "MBJ1", being copy of the Killarnee Guarantee	24	517 – 520
22.	<b>Tab 21</b> of Annexure "MBJ1", being copy of the Exploration Drive Mortgage	25	521 – 524

Document number	Details	Paragraph	Page
23.	Tab 22 of Annexure "MBJ1", being copy of an email trail between 1 September 2014 and 2 September 2014	26a	525 – 532
24.	Tab 23 of Annexure "MBJ1", being copy of letter to Mark Curran dated 2 September 2014	26b	533 – 536
25.	Tab 24 of Annexure "MBJ1", being copy of further letter to Mark Curran dated 2 September 2014	26c	537 – 544
26.	Tab 25 of Annexure "MBJ1", being copy of email to Thomas Johns dated 3 September 2014	26d	545 – 557
27.	Tab 26 of Annexure "MBJ1", being copy of email to Mark Curran dated 3 September 2014	26e	558 – 566
28.	Tab 27 of Annexure "MBJ1", being copy of email to Thomas Johns dated 11 September 2014	26f	567 – 571
29.	Tab 28 of Annexure "MBJ1", being copy of email to Mark Curran dated 18 September 2014	26g	572 – 578
30.	Tab 29 of Annexure "MBJ1", being copy of email to Thomas Johns dated 23 September 2014	26h	579 – 607
31.	Tab 30 of Annexure "MBJ1", being copy of email to Mark Curran dated 11 November 2014	26i	608 – 610
32.	Tab 31 of Annexure "MBJ1", being copy of email to Mark Curran dated 9 December 2014	26j	611 – 613
33.	Tab 32 of Annexure "MBJ1", being copy of email to Mark Curran dated 9 December 2014	27	614 – 616
34.	Tab 33 of Annexure "MBJ1", being copy of the email trail between 4 December 2014 and 11 December 2014	29	617 – 622
35.	Tab 34 of Annexure "MBJ1", being copy of email from Mark Curran dated 11 December 2014	30	623 – 626
36.	Tab 35 of Annexure "MBJ1", being copy of email from Mark Curran dated 5 April 2016	31	627 – 628
37.	Tab 36 of Annexure "MBJ1", being copy of a bank statement of the Trading Account from 26 August 2014 to 4 September 2014	34	629
38.	Tab 37 of Annexure "MBJ1", being copy of the Receipt Voucher for the Limited Recourse Loan from CS dated 4 September 2014	35	630 – 632
39.	Tab 38 of Annexure "MBJ1", being copy of the Payment Requisition	37	633 – 637
40.	Tab 39 of Annexure "MBJ1", being copy of the bank statement of the Administration Account for the months of September 2014 to December 2014	39	638 – 653

Document number	Details	Paragraph	Page
41.	Tab 40 of Annexure "MBJ1", being copy of Killarnee's Remittance Advice and payment requisition	42	654 – 657
42.	Tab 41 of Annexure "MBJ1", being copy of Killarnee's Remittance Advice and payment requisition	43	658 – 660
43.	Tab 42 of Annexure "MBJ1", being copy of the BSA settlement summary	44	661
44.	Tab 43 of Annexure "MBJ1", being copy of letter to the ATO dated 12 June 2015	46	662 – 672
45.	Tab 44 of Annexure "MBJ1", being copy of ATO's email to Malcolm Field dated 5 January 2016	47	673 – 675
46.	Tab 45 of Annexure "MBJ1", being copy of statement of position prepared on the assumption that Westpac's debts have priority	49a	676
47.	Tab 46 of Annexure "MBJ1", being copy of statement of position prepared on the assumption that Westpac's debts does not have priority	49b	677

**I MARTIN BRUCE JONES say on oath:**

1. I am the Plaintiff.
2. The facts deposed to in this affidavit are within my own knowledge. Where they are not within my knowledge they are stated based on information and belief. Where this occurs, I state the basis of that information or belief.
3. Exhibited to me at the time of swearing this affidavit is a folder of documents marked "MBJ1". When I refer to a document in this affidavit, I do so by reference a Tag number being which the particular document is exhibited.

#### **My Experience**

4. I specialise in the administration of insolvent companies and I am a Chartered Accountant.
5. I have been:
  - (a) a registered liquidator since 19 December 1990; and
  - (b) an official liquidator since 24 December 1992.

#### **My Appointment as Administrator and Liquidator**



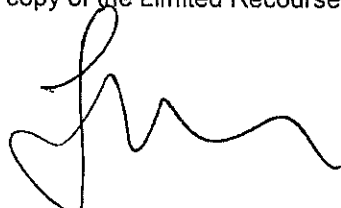

6. Benjamin Michael Johnson (**Johnson**), Darren Gordon Weaver (**Weaver**) and I were appointed the Joint and Several Administrators of Killarnee Civil & Concrete Contractors Pty Ltd ACN 085 230 486 (**Killarnee**) on 1 September 2014 pursuant to s.436A of the *Corporations Act 2001 (Act)*. Subsequently, Johnson, Weaver and I were appointed as the Joint and Several Liquidators of Killarnee on 9 December 2014 pursuant to s.446A of the Act.
7. On 6 October 2015, Johnson resigned as the Liquidator of Killarnee and on 9 December 2015 Weaver resigned as the Liquidator of Killarnee. At **Tab 1** is a true copy of the search of the records kept by ASIC on Killarnee dated 5 May 2016.

### Investigations

8. In my capacity as the Joint and Several Administrator and Liquidator of Killarnee, I have reviewed the books and records of Killarnee, and conducted investigations into the affairs of Killarnee. Attached hereto and marked as follows are the reports to creditors I had prepared during the administration period:
  - (a) at **Tab 2** is a true copy of the first report to creditors dated 2 September 2014;
  - (b) at **Tab 3** is a true copy of the 439A report to creditors dated 26 September 2014;
  - (c) at **Tab 4** is a true copy of the supplementary 439A report to creditors dated 1 December 2014.
9. I have not provided any formal report to creditors during the winding up of Killarnee. To the best of my knowledge and believe, the contents of Tabs 2, 3 and 4 are true and correct.

### Business Sales Agreement

10. Based on my investigations, I am aware that prior to my appointment as the Administrator of Killarnee, on or about 1 September 2014, Killarnee, Killarnee Equipment Holdings Pty Ltd (**Killarnee Equipment**) and Killarnee Contracting Pty Ltd (**Killarnee Contracting**) as the sellers entered into a business sale agreement (**Previous BSA**) with Central Systems Pty Ltd (**CS**) as the buyer.
11. Attached hereto at **Tab 5** is a true copy of the Previous BSA.
12. After my appointment, on or about 2 September 2014, CS as the lender and Johnson, Weaver and I as the Administrators of Killarnee entered into an limited recourse loan for the specific purpose of paying wages of employees of the Killarnee and financial commitments required to be made in order to continue with the contracts the subject of the Previous BSA during the period of the administration (**Limited Recourse Loan**). Attached hereto and at **Tab 6** of "**MBJ1**" is a true copy of the Limited Recourse Facility Loan Agreement dated 2 September 2014.

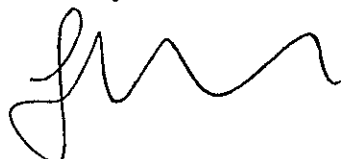




13. After my appointment, I (together with the others) as the Administrator of Killarnee, Killarnee Equipment and Killarnee Contracting entered into several variations to the Previous BSA. Attached hereto and at:
- (a) **Tab 7** is a true copy of the Deed of Variation dated 5 September 2014;
  - (b) **Tab 8** is a true copy of the Second Deed of Variation dated 15 September 2014;
  - (c) **Tab 9** is a true copy of the Third Deed of Variation dated 19 September 2014;
  - (d) **Tab 10** is a true copy of the Fourth Deed of Variation undated but entered into on or around 30 September 2014;
  - (e) **Tab 11** is a true copy of the Fifth Deed of Variation dated 14 October 2014.
14. On or about 5 November 2014, I arranged for the payment of \$830,436 in full and final settlement of Limited Recourse Loan. Attached hereto and at **Tab 12** is a true copy of my letter dated 5 November 2014 to CS attaching the payment of \$830,436.
15. On or about 8 December 2014, I (together with the others) as the Administrators of Killarnee and Killarnee Equipment as the sellers entered into a replacement business sales agreement (**the Final BSA**) with CS as the buyer. Attached hereto and at **Tab 13** is a true copy of the BSA.

#### **Westpac Banking Corporation**

16. On or about 2 September 2014, I received from Westpac Banking Corporation (**Westpac**) a notice of default and demand for the amount of \$4,196,023.95. Behind **Tab 14** is a copy of that notice dated 2 September 2014.
17. Attached hereto and at **Tab 15** is a true copy of the Business Finance Agreement between Westpac and Killarnee dated 26 March 2012 (**Killarnee Facility Agreement**).
18. The Killarnee Facility Agreement provided that the facilities between Westpac and Killarnee are secured amongst other securities by:
- (a) A fixed and floating charge over Killarnee dated 7 July 2011 (**Killarnee Charge**); and
  - (b) A mortgage from Killarnee over 1031 Mardie Road, Karratha WA 6714 dated 7 July 2011 (**Mardie Road Mortgage**).
19. Attached hereto and at **Tab 16** is a copy of the Killarnee Charge.
20. Attached hereto and at **Tab 17** is a true copy of a search of the personal property security register dated 6 May 2016.



21. Attached hereto and at **Tab 18** is a copy of the Mardie Road Mortgage.
22. Attached hereto and at **Tab 19** is a true copy of Business Finance Agreement between Westpac and Mr Earnest Paul Thompson as Trustee for the Killarnee Investment Trust dated 10 December 2011 (**Thompson Facility Agreement**).
23. The Thompson Facility Agreement provided that the facilities between Westpac and Mr Thompson are secured amongst other securities by:
- (a) a debt and interest Guarantee given by Killarnee 15 December 2011 (**Killarnee Guarantee**) supported by
    - (i) the Killarnee Charge; and
    - (ii) the Mardie Road Mortgage.
  - (b) A mortgage from Mr Thompson over Lot 5 Exploration Drive, Gap Ridge Estate, Karratha WA 6714 dated 15 December 2011 (**Exploration Drive Mortgage**).
24. Attached hereto and at **Tab 20** is a true copy of the Killarnee Guarantee.
25. Attached hereto and at **Tab 21** is a true copy of the Exploration Drive Mortgage.
26. During the administration period, in addition to the formal report to creditors (which are attachments "MJ2", "MJ3" and "MJ4"), I also provided to Westpac various reports and updates as to the affairs of Killarnee informing Westpac of various matters including progress made in respect of the Previous BSA, the various deeds of variations and the final BSA. Attached hereto and marked:
- (a) Attached hereto and at **Tab 22** is a true copy of an email trail between staff members of Westpac and I between 1 September 2014 and 2 September 2014.
  - (b) Attached hereto and at **Tab 23** is a true copy of my letter to Mark Curran dated 2 September 2014.
  - (c) Attached hereto and at **Tab 24** is a true copy of my further letter to Mark Curran dated 2 September 2014.
  - (d) Attached hereto and at **Tab 25** is a true copy of my email to Thomas Johns dated 3 September 2014.
  - (e) Attached hereto and at **Tab 26** is a true copy of my email to Mark Curran dated 3 September 2014.



- (f) Attached hereto and at **Tab 27** is a true copy of my email to Thomas Johns dated 11 September 2014.
  - (g) Attached hereto and at **Tab 28** is a true copy of my email to Mark Curran dated 18 September 2014.
  - (h) Attached hereto and at **Tab 29** is a true copy of my email to Thomas Johns dated 23 September 2014.
  - (i) Attached hereto and at **Tab 30** is a true copy of my email to Mark Curran dated 11 November 2014.
  - (j) Attached hereto and at **Tab 31** is a true copy of my email to Mark Curran dated 9 December 2014.
27. After the execution of the Final BSA, on 9 December 2014, I sent an email to Mark Curran requesting that Westpac consent to the release of its security as required under the Final BSA. Attached hereto and at **Tab 32** is a true copy of my email to Mark Curran dated 9 December 2014 at 10.10am.
28. On the 9 December 2014, by email Mark Curran requested that a written confirmation be obtained from the director of Killarnee, Paul Thompson to confirm that the Final BSA is entered into in the best interest of Killarnee.
29. On the 11 December 2014, I sent an email to Mark Curran attaching with the written confirmation from Paul Thompson. Attached hereto and at **Tab 33** is a true copy of the email trail between Mark Curran and I from 4 December 2014 to 11 December 2014.
30. On 11 December 2014, Mark Curran by email confirmed Westpac would consent to release its security at completion of the Final BSA. Attached hereto and at **Tab 34** is a true copy of the email from Mark Curran dated 11 December 2014.
31. On 5 April 2016, I am advised by email that the debt owed by Killarnee to Westpac is \$2,733,104.61 together with accruing interest and charges. Attached hereto and at **Tab 35** is a true copy of an email from Mark Curran to me on 5 April 2016.

#### **Payments in relation to employee benefits**

32. Prior to my appointment, Killarnee operated a bank account with Westpac in the name of Killarnee Civil Trading Account number 036073 258605 (**Trading Account**).
33. After my appointment, for a short time I continued to use the Trading Account and received into the account payment from CS totalling \$384,203.04 in respect of the Limited Recourse Loan.



34. Attached hereto and at **Tab 36** is a true copy of a bank statement of the Trading Account from 26 August 2014 to 4 September 2014.
35. Attached hereto and at **Tab 37** is a true copy of the Receipt Voucher for the Limited Recourse Loan from CS dated 4 September 2014.
36. From the Trading Account, I paid employee entitlements (accrued prior to 2 September 2014) totalling \$421,858.00 resulting in an overdraft in the Trading account in the amount of \$37,655.04 (**the Overdraft**).
37. Attached hereto at **Tab 38** is a true copy of the Payment Requisitions totalling \$421,858.00 and a Journal Entry for the Overdraft.
38. On 2 September 2014, I opened a bank account with National Australian Bank in the name of Killarnee (Administrators Appointed) Account number 74-132 0116 (**Administration Account**). All proceeds received by the Administrators as a result of Killarnee's account receivables were deposited into the Administration Account.
39. Attached hereto and at **Tab 39** are copies of the bank statement of the Administration Account for the months of September 2014 to December 2014.
40. During the period from September 2014 to December 2014, I paid from the Administration Account employee entitlements (accrued prior to 2 September 2014) totalling \$663,065.
41. Pursuant to the Final BSA, Killarnee was required to pay to CS 70% of employee entitlements accrued prior to 2 September 2014. On the completion date (11 December 2014), Killarnee paid two cheques to CS a total of \$947,133.
42. Attached hereto and at **Tab 40** is a copy of Killarnee's Remittance Advice and payment requisition for the amount of \$492,360.
43. Attached hereto and at **Tab 41** is a copy of Killarnee's Remittance Advice and payment requisition for the amount of \$454,773.00.
44. In addition, on the completion date, an amount of \$1,294,468 in CB&I Retention which was due from CS to Killarnee was set-off against Killarnee's obligation to pay 70% of the employee entitlements accrued prior to 2 September 2014. Attached hereto and at **Tab 42** is a copy of the BSA settlement summary showing the set-off of \$1,294,468.00.
45. In total, during the administration and the winding up period, I as the Administrator and then the Liquidator of Killarnee arranged for payments totalling \$3,470,666.39 in relation to employee entitlements accrued prior to 2 September 2014.

**Distribution**

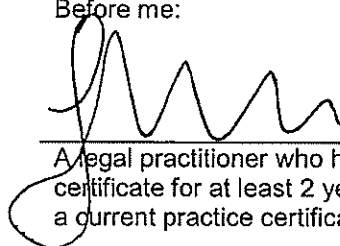


46. On 12 June 2015, I sent a letter to the Australian Taxation Office (ATO) seeking repayment of the unfair preference payments provided by Killarnee to the ATO in the sum of \$5,424,783. Attached hereto and at **Tab 43** is a copy of my letter to the ATO dated 12 June 2015.
47. On 5 January 2016, after negotiations, the ATO agreed to pay to Killarnee the sum of \$4,500,000 in settlement of Killarnee's unfair preference claims against the ATO. Attached hereto and at **Tab 44** is a copy of ATO's email to Malcolm Field of my office dated 5 January 2016.
48. As a result of the recovery of preference payment from the ATO, it is likely that ordinary unsecured creditors would receive a dividend in the winding up of Killarnee. Upon information currently available to me, I estimate that:
- (a) if Westpac is afforded priority, Westpac's debts would be fully repaid and unsecured creditors would receive an estimated dividend of around 9.58c per dollar. Attached hereto and at **Tab 45** is a statement of position I prepared on the assumption that Westpac's debts have priority.
  - (b) If Westpac's is not afforded priority, Westpac's debts would not be fully repaid and unsecured creditors (including Westpac) would receive an estimated dividend of around 12.31c per dollar. Attached hereto and at **Tab 46** is a statement of position I prepared on the assumption that Westpac's debts does not have priority.

### Conclusion

49. I swear this affidavit in support of the Plaintiff's application for orders set out in the Originating Process.

SWORN BY:  
**MARTIN BRUCE JONES**  
at Perth, Western Australia  
on 9 May 2016  
Before me:

  
A legal practitioner who has held a practice  
certificate for at least 2 years and who holds  
a current practice certificate

**Hector West**  
A legal practitioner who  
has held a practice certificate for  
at least 2 years and who holds a  
current practice certificate

  
\_\_\_\_\_  
**MARTIN BRUCE JONES**

## **Annexure B**

### Summary of Receipts and Payments for the period 9 December 2014 to 4 May 2016

Receipts and Payments for the period 9 December 2014 to 4 May 2016		Amount (\$)
<b>Receipts</b>		
<b>Opening balance at 9 December 2014 / Transfer from Administrators</b>		2,533,647
Accounts Receivable (Post-Appointment)		1,972,137
Bond Refund		3,615
Business Names		1
Business Records		1
Key Contracts		1
Inventory		1
Intellectual Property Rights		1
Goodwill		1
Advance from the FEG		154,576
Hire and Leasing Refund		6,539
Insurance Refund		138,716
Sale of Plant & Equipment		132,109
Interest Income		16,925
Workers Compensation Refund		25,942
Recovery of Preference Payment		4,500,000
<b>Total Receipts</b>		<b>9,484,211</b>
<b>Payments</b>		
Voluntary Administrators' Fees		(898,988)
Voluntary Administrators' Disbursements		(21,958)
Liquidators' Fees		(440,000)
Liquidators' Disbursements		(3,289)
Valuation Costs		(4,373)
Auctioneer's Costs		(18,118)
Distribution to Secured Creditor		(78,853)
Printing Cost		(1,204)
Transportation Costs		(14,261)
Hire & Leasing		(21,399)
Telephone & Fax		(35,422)
Utilities		(7,455)
Rent and Rates		(70,770)
Repairs & Maintenance		(7,177)
Legal Fees		(86,591)
Costs of Lodging Caveats		(1,578)
Assignment Receipts to Central Systems		(1,312,610)
BSA -Trading Activities Profit		(454,773)
OHS Expense		(9,281)
Wages & Salaries		(210,916)
Superannuation		(24,021)
PAYG Control (Non-Trading): PAYG Paid		(412,456)
Payroll Tax		(22,466)
Payroll Consultant Costs		(5,275)
Payment to Construction Industry Long Service Leave Board		(2,004)
FEG Scheme Payment		(135,661)
Refund of Unused Funds to the FEG		(6,536)
BSA - 30% share of Pre-Appointment Gorgon Employee Entitlements		(492,360)
Miscellaneous Expenses		(17,635)
Marketing Costs for Property at 1031 Mardie Road Karratha		(4,895)
GST Control: GST Paid		(142,055)
<b>Total Payments</b>		<b>(4,964,378)</b>
<b>Net Receipts / (Payments)</b>		<b>4,519,832</b>

**Annexure C**

Corporations Act 2001  
Section 499(7)

**Killarnee Civil & Concrete Contractors Pty Ltd (In Liquidation)**  
**ACN 085 230 486 (the Company)**

**Remuneration Approval Request Report**

**1 Declaration**

I, Martin Jones of Ferrier Hodgson, have undertaken a proper assessment of this remuneration claim for my appointment as Liquidator of the Company in accordance with the Corporations Act 2001 (Cth) (**the Act**), the Australian Restructuring Insolvency & Turnaround Association (**ARITA**) Code of Professional Practice (**the Code**) and applicable professional standards.

I am satisfied that the remuneration claimed is in respect of necessary work, properly performed, or to be properly performed, in the conduct of the liquidation.

This remuneration report must be read in conjunction with the Liquidators' Annual Report dated 16 May 2016.

**2 Executive summary**

**2.1 Summary of remuneration approval sought for the Company**

To date, remuneration totalling \$400,000 has been approved and paid in the liquidation of the Company. This remuneration report details approval sought for the following fees:

Period	Amount (ex. GST) (\$)
<b>Past remuneration approved:</b>	
<b>Liquidation</b>	
9 December 2014 to conclusion of Liquidation	400,000
<b>Total past remuneration approved</b>	<b>\$400,000</b>
<b>Current remuneration approval sought:</b>	
<b>Liquidation</b>	
Resolution 1:	
9 December 2014 to 30 April 2016	112,032
Resolution 2:	
1 May 2016 to conclusion of Liquidation	200,000
<b>Total current remuneration approval sought*</b>	<b>\$312,032</b>

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

Summary of remuneration drawn and to be approved:

Description	Amount Approved (\$)	Amount Incurred (\$)	Amount Drawn (\$)	Fees to be approved (\$)
Liquidators' remuneration incurred for the period 9 December 2014 to 30 April 2016	400,000	512,032	400,000	112,032
Future Liquidators' remuneration for the period 1 May 2016 to conclusion of Liquidation	-	-	-	200,000
<b>Total</b>	<b>\$400,000</b>	<b>\$512,032</b>	<b>\$400,000</b>	<b>\$312,032</b>

As detailed in the summary above, at the forthcoming annual meeting I intend to seek an approval for additional Liquidator's remuneration of:

- \$112,030 (plus GST) for the period 9 December 2014 to 30 April 2016;
- and a further approval of \$200,000 (plus GST) for the period 1 May 2016 to conclusion of Liquidation.

The summary of work completed / to be completed is detailed in Part 5 of this report.

## 2.2 Comparison to estimate of costs provided in Initial Advice to Creditors

The remuneration approval sought differs to the estimate of costs provided in our statement regarding remuneration dated 1 December 2014 for the following reason(s):

- Investigations carried out on the voidable transactions and unfair preference claims and dealing with the ATO for unfair preference recovery. Investigations are still progressing and it is our intention to continue pursuing recovery of the remaining preference claims.



### 3 Schedule of Hourly Rates & General Guide to Staff Experience

Title	Rate (\$)	Experience
Partner / Appointee	595	The Partner/Appointee is a registered bankruptcy trustee and registered liquidator and member of the ICAA and, generally, the ARITA (formerly IPA), bringing specialist skills to the administration or insolvency task. For specific experience and other details of the appointee/s, please visit our website at <a href="http://www.ferrierhodgson.com">www.ferrierhodgson.com</a>
Executive Director / Director	525 / 510	Generally, minimum of 12 years' experience at least 2 years of which is to be at Manager level. University degree; member of the ICAA and, generally, ARITA, with deep knowledge and lengthy experience in relevant insolvency legislation and issues.
Senior Manager	465	Generally, more than 7 years' experience with at least 2 years as a Manager. University degree; member of the ICAA and, generally, ARITA; very strong knowledge of relevant insolvency legislation and issues.
Manager	400	Generally, 5-7 years chartered accounting or insolvency management experience. University degree; member of the ICAA and generally, ARITA; sound knowledge of relevant insolvency legislation and issues.
Assistant Manager	360	Generally, 4-6 years chartered accounting or insolvency management experience. University degree; member of the ICAA; completing ARITA Insolvency Education Program. Good knowledge of relevant insolvency legislation and issues.
Senior Analyst	305	Generally, 2-4 years chartered accounting or insolvency management experience. University degree; completing the ICAA's CA program. Good knowledge of basic insolvency legislation and issues.
Analyst	270	Generally, 2-3 years chartered accounting or insolvency management experience. University degree, ICAA's CA program commenced.
Accountant	230	0 to 2 years' experience. Has completed or substantially completed a degree in finance/accounting. Under supervision, takes direction from senior staff in completing administrative tasks.
Junior Accountant	150	0 – 1 years' experience. Undertaking a degree part-time in finance/accounting. Under supervision, takes directions from senior staff in completing administrative tasks.
Personal / Team Assistant	180	Appropriate skills including machine usage.
Administration Supervisor / Assistant	140	Completed schooling and plans to undertake further studies. Required to assist in administration and day to day field work under the supervision of more senior staff.

**Notes:**

- The hourly rates are exclusive of GST.
- The guide to staff experience is intended only as a general guide to the qualifications and experience of staff engaged in the liquidation. Staff may be engaged under a classification considered appropriate for their experience.
- Time is recorded and charged in six-minute increments.
- The hourly rates reflect the total cost of providing professional services and should not be compared to an hourly rate. See Part 8 for details of disbursements.

#### 4 Description of work completed

**Company:** Killarnee Civil & Concrete Contractors Pty Ltd (In Liquidation)  
**Administration Type:** Creditors Voluntary Liquidation  
**Liquidators:** Martin Jones and Darren Weaver (Ferrier Hodgson Perth)  
**Period:** 9 December 2014 to 30 April 2016

Task Area	General Description	Includes
<b>Assets</b>  188.6 hours \$73,176 (excl. GST)	Sale of real property	<ul style="list-style-type: none"> <li>Tasks associated with the sale of property at 1031 Mardie Road, Karratha.</li> </ul>
	Plant and equipment	<ul style="list-style-type: none"> <li>Liaising with Buyer under the BSA, valuers, auctioneers and interested parties.</li> <li>Reviewing asset listings.</li> </ul>
	Debtors	<ul style="list-style-type: none"> <li>Collection from debtors.</li> </ul>
	Asset subject to specific charges	<ul style="list-style-type: none"> <li>All tasks associated with realising a charged asset including liaising with financiers to determine strategy.</li> </ul>
<b>Creditors</b>  300.1 hours \$103,872 (excl. GST)	Creditor enquiries	<ul style="list-style-type: none"> <li>Receive and follow up creditor enquiries via telephone and email.</li> <li>Review and prepare correspondence to creditors and their representatives via facsimile, email and post.</li> </ul>
	Dealing with proofs of debt	<ul style="list-style-type: none"> <li>Receipting and filing proofs of debt when not related to a dividend.</li> <li>Corresponding with OSR and ATO regarding proofs of debt when not related to a dividend.</li> </ul>
	Secured creditor reporting	<ul style="list-style-type: none"> <li>Preparing reports to secured creditor.</li> <li>Responding to queries.</li> <li>Consultations with lawyers in regard to the secured creditor entitlement to the preference claim recovery.</li> </ul>
	Creditor reports/circulars	<ul style="list-style-type: none"> <li>Prepare further reports to creditors.</li> </ul>
	Meeting of creditors	<ul style="list-style-type: none"> <li>Preparation of meeting notices, proxies and advertisements.</li> <li>Forward notice of meeting to all known creditors/stakeholders.</li> <li>Preparation of meeting file, including agenda, certificate of postage, attendance register, list of creditors, reports to creditors, advertisement of meeting and draft minutes of meeting.</li> </ul>
	Employee enquiries	<ul style="list-style-type: none"> <li>Receive and follow up employee enquiries via telephone.</li> <li>Review and prepare correspondence to employees and their representatives via facsimile, email and post.</li> <li>Preparation of letters to employees advising of their entitlements.</li> </ul>
<b>Employees</b>  326.7 hours \$97,469 (excl. GST)	Calculation of entitlements	<ul style="list-style-type: none"> <li>Calculating employee entitlements.</li> <li>Reviewing employee files and Company's books and records.</li> <li>Reconciling superannuation accounts.</li> <li>Reviewing awards and contracts.</li> </ul>
	Fair Entitlement Guarantee scheme (FEG)	<ul style="list-style-type: none"> <li>Correspondence with FEG.</li> </ul>
	Other employee issues	<ul style="list-style-type: none"> <li>Correspondence with Child Support agency.</li> <li>Correspondence with Centrelink.</li> </ul>

Task Area	General Description	Includes
<b>Trade On</b> <b>105.2 hours</b> <b>\$33,237</b> <b>(excl. GST)</b>	Trade-on management	<ul style="list-style-type: none"> <li>• Liaising with suppliers and closing accounts.</li> <li>• Closing out remaining purchase orders.</li> <li>• Preparing and authorising receipt vouchers.</li> <li>• Preparing and authorising payment vouchers.</li> </ul>
	Processing receipts and payments	<ul style="list-style-type: none"> <li>• Entering receipts and payments into accounting system.</li> </ul>
<b>Investigation</b> <b>377.6 hours</b> <b>\$111,014</b> <b>(excl. GST)</b>	Conducting investigation	<ul style="list-style-type: none"> <li>• Collection of Company books and records.</li> <li>• Reviewing Company's books and records.</li> <li>• Review and preparation of Company nature and history.</li> <li>• Conducting and summarising statutory searches.</li> <li>• Preparation of comparative financial statements.</li> <li>• Preparation of deficiency statement.</li> <li>• Review of specific transactions and liaising with director regarding certain transactions.</li> <li>• Liaising with director regarding certain transactions including solvency analysis.</li> <li>• Tasks associated with investigation of unfair preference claims.</li> <li>• Preparation of investigation file.</li> </ul>
	Litigation / recoveries	<ul style="list-style-type: none"> <li>• Liaising with solicitors regarding Downer claim.</li> <li>• Correspondence with Downer.</li> <li>• Attend reconvened mediation meeting.</li> </ul>
	ASIC reporting	<ul style="list-style-type: none"> <li>• Preparing statutory investigation reports.</li> <li>• Liaising with the ASIC.</li> </ul>
	Processing proofs of debt (POD)	<ul style="list-style-type: none"> <li>• Receipt and adjudication of PODs.</li> <li>• Maintenance of POD register.</li> <li>• Request further information from claimants regarding POD.</li> </ul>
<b>Dividend</b> <b>6.6 hours</b> <b>\$2,803</b> <b>(excl. GST)</b>	Planning / review	<ul style="list-style-type: none"> <li>• Discussions regarding status / strategy of administration.</li> </ul>
	Correspondence	<ul style="list-style-type: none"> <li>• General correspondence</li> </ul>
	Document maintenance / file review / checklist	<ul style="list-style-type: none"> <li>• Filing of documents.</li> <li>• File reviews.</li> <li>• Updating checklists.</li> </ul>
	Insurance	<ul style="list-style-type: none"> <li>• Correspondence with insurance broker, regarding initial and ongoing insurance requirements.</li> <li>• Reviewing insurance policies.</li> <li>• Correspondence with previous brokers.</li> <li>• Completion of workers compensation wages declaration.</li> </ul>
	Bank account administration	<ul style="list-style-type: none"> <li>• Preparing correspondence opening and closing accounts.</li> <li>• Requesting bank statements.</li> <li>• Bank account reconciliations.</li> <li>• Correspondence with bank regarding specific transfers.</li> </ul>
	ASIC Form 524 and other forms	<ul style="list-style-type: none"> <li>• Preparing and lodging ASIC forms including 505, 524, 5011, etc.</li> </ul>
	ATO and other statutory reporting	<ul style="list-style-type: none"> <li>• Notification of appointment to ATO.</li> <li>• Preparing business activity statements (BAS's).</li> <li>• Completing group certificates.</li> </ul>
<b>Administration</b> <b>320.6 hours</b> <b>\$90,461</b> <b>(excl. GST)</b>		

## Summary of work completed for the period 9 December 2014 to 30 April 2016

Employee	Position	Rate (\$/Hr)	Total		Task Area													
			(Hrs)	(\$)	Assets		Creditors		Employees		Trade On		Investigation		Dividend		Administration	
			(Hrs)	(\$)	(Hrs)	(\$)	(Hrs)	(\$)	(Hrs)	(\$)	(Hrs)	(\$)	(Hrs)	(\$)	(Hrs)	(\$)	(Hrs)	(\$)
Martin Jones	Partner	595	22.5	13,388	3.5	2,083	3.5	2,083	0.5	298	2.0	1,190	-	-	-	-	13.0	7,735
Darren Weaver	Partner	595	0.5	298	-	-	-	-	-	-	-	-	-	-	0.1	60	0.4	238
Malcolm Field	Executive Director	525	41.2	21,630	7.8	4,095	15.9	8,348	0.5	263	0.4	210	10.3	5,408	2.0	1,050	4.3	2,258
Malcolm Field	Director	510	37.6	19,176	13.9	7,089	4.9	2,499	2.1	1,071	5.5	2,805	7.4	3,774	0.2	102	3.6	1,836
Sean Powell	Director	510	2.7	1,377	-	-	-	-	-	-	0.1	51	2.6	1,326	-	-	-	-
Kieran Chu	Manager	400	204.7	81,880	88.1	35,240	33.1	13,240	37.4	14,960	18.8	7,520	4.8	1,920	3.1	1,240	19.4	7,760
Lauren McCann	Manager	400	6.0	2,400	-	-	-	-	1.3	520	0.2	80	3.0	1,200	-	-	1.5	600
Lauren McCann	Assistant Manager	360	47.1	16,956	7.1	2,556	0.2	72	1.0	360	21.9	7,884	13.4	4,824	-	-	3.5	1,260
Miranda Stephens	Assistant Manager	360	2.5	900	-	-	-	-	-	-	-	-	-	-	-	-	2.5	900
Dawn Murchison	Assistant Manager	360	6.5	2,340	6.3	2,268	-	-	-	-	-	-	-	-	-	-	0.2	72
Yvonne Liew	Assistant Manager	360	265.2	95,472	30.9	11,124	140.8	50,688	76.9	27,684	2.7	972	0.7	252	0.3	108	12.9	4,644
William Hulmes	Senior Analyst	305	53.7	16,379	0.6	183	0.1	31	0.9	275	-	-	47.6	14,518	-	-	4.5	1,373
Jason Soo	Senior Analyst	305	68.6	20,923	14.7	4,484	8.3	2,532	21.6	6,588	0.4	122	2.8	854	-	-	20.8	6,344
Deepa Sivarajasingam	Senior Analyst	305	2.0	610	-	-	0.5	153	-	-	0.2	61	-	-	-	-	1.3	397
William Hulmes	Analyst	270	293.6	79,272	-	-	1.6	432	5.2	1,404	-	-	284.4	76,788	-	-	2.4	648
Jason Soo	Analyst	270	34.9	9,423	10.5	2,835	14.6	3,942	-	-	3.8	1,026	0.3	81	-	-	5.7	1,539
Nirav Shah	Analyst	270	211.6	57,132	0.6	162	55.9	15,093	69.7	18,819	-	-	-	-	0.9	243	84.5	22,815
Dana James	Analyst	270	0.5	135	-	-	-	-	0.5	135	-	-	-	-	-	-	-	-
Nirav Shah	Accountant	230	252.6	58,098	4.6	1,058	20.3	4,669	86.2	19,826	46.1	10,603	0.3	69	-	-	95.1	21,873
Max Gould	Accountant	230	23.8	5,474	-	-	0.4	92	17.3	3,979	1.8	414	-	-	-	-	4.3	989
William George	Accountant	230	15.6	3,588	-	-	-	-	5.6	1,288	1.3	299	-	-	-	-	8.7	2,001
Caldera/Tillestad/Kroon/ Dwyer	Personal Assistant	180	8.1	1,458	-	-	-	-	-	-	-	-	-	-	-	-	8.1	1,458
Amy Jamieson	Accounts Assistant	180	9.4	1,692	-	-	-	-	-	-	-	-	-	-	-	-	9.4	1,692
Smith/Newland/ Herriman	Admin Assistant	140	14.5	2,030	-	-	-	-	-	-	-	-	-	-	-	-	14.5	2,030
Total (excluding GST)			1,625.4	512,032	188.6	73,176	300.1	103,872	326.7	97,469	105.2	33,237	377.6	111,014	6.6	2,803	320.6	90,461
GST				51,202		7,318		10,387		9,747		3,324		11,100		280		9,046
Total (including GST)				563,234		80,494		114,259		107,216		36,561		122,114		3,083		99,507
Average Hourly Rate				312		388		346		298		316		294		425		282

## 5 Description of work to be completed

**Company:** Killarnee Civil & Concrete Contractors Pty Ltd (In Liquidation)  
**Administration Type:** Creditors Voluntary Liquidation  
**Liquidator:** Martin Jones (Ferrier Hodgson Perth)  
**Period:** 1 May 2016 to conclusion of Liquidation

Task Area	General Description	Includes
<b>Assets</b>  55.0 hours \$22,425 (excl. GST)	Sale of real property	<ul style="list-style-type: none"> <li>Tasks associated with the sale of property at 1031 Mardie Road, Karratha.</li> </ul>
	Asset subject to specific charges	<ul style="list-style-type: none"> <li>All tasks associated with realising a charged asset including liaising with financiers to determine strategy.</li> </ul>
	Creditor enquiries	<ul style="list-style-type: none"> <li>Receive and follow up creditor enquiries via telephone and email.</li> <li>Review and prepare correspondence to creditors and their representatives via facsimile, email and post.</li> <li>Correspondence with Committee of Inspection (if any).</li> </ul>
	Dealing with proofs of debt	<ul style="list-style-type: none"> <li>Receipting and filing proofs of debt when not related to a dividend.</li> <li>Corresponding with OSR and ATO regarding proofs of debt when related to a dividend.</li> </ul>
	Secured creditor reporting	<ul style="list-style-type: none"> <li>Correspondence with secured creditor - liaise regarding sale of property.</li> <li>Responding to queries.</li> <li>Application to court for directions in respect to secured creditor entitlement to the preference claim recovery.</li> </ul>
<b>Creditors</b>  125.0 hours \$47,985 (excl. GST)	Creditor reports/circulars	<ul style="list-style-type: none"> <li>Prepare further reports to creditors.</li> </ul>
	Meeting of creditors	<ul style="list-style-type: none"> <li>Preparation of meeting notices, proxies and advertisements.</li> <li>Forward notice of meeting to all known creditors/stakeholders.</li> <li>Preparation of meeting file, including agenda, certificate of postage, attendance register, list of creditors, reports to creditors, advertisement of meeting and draft minutes of meeting.</li> <li>Preparation of reports for annual meetings and/or ASIC lodgement.</li> <li>Meeting with Committee of Inspection (if applicable).</li> </ul>
	Employee enquiries	<ul style="list-style-type: none"> <li>Receive and follow up employee enquiries via telephone.</li> <li>Review and prepare correspondence to employees and their representatives via facsimile, email and post.</li> <li>Preparation of letters to employees advising of their entitlements.</li> </ul>
<b>Employees</b>  56.0 hours \$20,105 (excl. GST)	Calculation of entitlements	<ul style="list-style-type: none"> <li>Calculating employee entitlements.</li> <li>Reviewing employee files and Company's books and records.</li> <li>Reconciling superannuation accounts.</li> <li>Reviewing awards and contracts.</li> </ul>
	FEG	<ul style="list-style-type: none"> <li>Correspondence with FEG.</li> </ul>
	Other employee issues	<ul style="list-style-type: none"> <li>Correspondence with Child Support agency.</li> <li>Correspondence with Centrelink.</li> </ul>

Task Area	General Description	Includes
Investigation	Conducting investigation	<ul style="list-style-type: none"> <li>• Collection of Company books and records.</li> <li>• Reviewing Company's books and records.</li> <li>• Review and preparation of Company nature and history.</li> <li>• Conducting and summarising statutory searches.</li> <li>• Preparation of comparative financial statements.</li> <li>• Preparation of deficiency statement.</li> <li>• Review of specific transactions and liaising with director regarding certain transactions.</li> <li>• Liaising with director regarding certain transactions.</li> <li>• Tasks associated with investigation of unfair preference claims.</li> <li>• Preparation of investigation file.</li> </ul>
	Examinations (if applicable)	<ul style="list-style-type: none"> <li>• Preparing brief to solicitor.</li> <li>• Liaising with solicitor(s) regarding examinations.</li> <li>• Attendance at examination.</li> <li>• Reviewing examination transcripts.</li> <li>• Liaising with solicitor(s) regarding outcome of examinations and further actions available.</li> </ul>
	ASIC reporting	<ul style="list-style-type: none"> <li>• Preparing statutory investigation reports.</li> <li>• Liaising with the ASIC.</li> </ul>
	Processing proofs of debt	<ul style="list-style-type: none"> <li>• Preparation of correspondence to potential creditors inviting lodgement of PODs.</li> <li>• Receipt and adjudication of PODs.</li> <li>• Maintenance of POD register.</li> <li>• Request further information from claimants regarding POD.</li> <li>• Preparation of correspondence to claimant advising outcome of adjudication.</li> </ul>
Dividend	Dividend procedures	<ul style="list-style-type: none"> <li>• Preparation of correspondence to creditors advising of intention to declare dividend.</li> <li>• Advertisement of intention to declare dividend.</li> <li>• Obtain clearance from ATO to allow distribution of Company's assets and liaise with taxation accountant in respect to lodgements.</li> <li>• Preparation of dividend calculation.</li> <li>• Preparation of correspondence to announcing declaration of dividend.</li> <li>• Advertise announcement.</li> <li>• Preparation of distribution and dividend file.</li> <li>• Preparation of payment vouchers to pay dividend.</li> <li>• Preparation of correspondence to creditors enclosing payment of dividend.</li> </ul>
	Planning / review	<ul style="list-style-type: none"> <li>• Discussions regarding status / strategy of administration.</li> </ul>
Administration	Correspondence	<ul style="list-style-type: none"> <li>• General correspondence</li> </ul>
	Document maintenance / file review / checklist	<ul style="list-style-type: none"> <li>• Filing of documents.</li> <li>• File reviews.</li> <li>• Updating checklists.</li> </ul>
	Insurance	<ul style="list-style-type: none"> <li>• Correspondence with insurance broker regarding ongoing insurance requirements.</li> <li>• Reviewing insurance policies.</li> </ul>

Task Area	General Description	Includes
	Bank account administration	<ul style="list-style-type: none"> <li>• Preparing correspondence opening and closing accounts.</li> <li>• Requesting bank statements.</li> <li>• Bank account reconciliations.</li> <li>• Correspondence with bank regarding specific transfers.</li> </ul>
	ASIC Form 524 and other forms	<ul style="list-style-type: none"> <li>• Preparing and lodging ASIC forms including 505, 524, 5011, etc.</li> </ul>
	Finalisation	<ul style="list-style-type: none"> <li>• Notifying ATO of finalisation.</li> <li>• Cancelling ABN / GST / PAYG registration.</li> <li>• Completing checklists.</li> <li>• Finalising WIP.</li> </ul>
	ATO and other statutory reporting	<ul style="list-style-type: none"> <li>• Notification of appointment to ATO.</li> <li>• Preparing BAS's</li> </ul>

Summary of work to be completed for the period 1 May 2016 to the conclusion of Liquidation

Employee	Position	Rate (\$/Hr)	Total		Task Area											
			(Hrs)	(\$)	Assets		Creditors		Employees		Investigation		Dividend		Administration	
			(Hrs)	(\$)	(Hrs)	(\$)	(Hrs)	(\$)	(Hrs)	(\$)	(Hrs)	(\$)	(Hrs)	(\$)	(Hrs)	(\$)
Martin Jones	Partner	595	48.0	28,560	5.0	2,975	17.0	10,115	4.0	2,380	2.0	1,190	5.0	2,975	15.0	8,925
Malcolm Field	Executive Director	525	52.0	27,300	10.0	5,250	17.0	8,925	5.0	2,625	10.0	5,250	5.0	2,625	5.0	2,625
Kieran Chu	Manager	400	69.0	27,600	16.0	6,400	15.0	6,000	2.0	800	16.0	6,400	15.0	6,000	5.0	2,000
Lauren McCann	Manager	400	24.0	9,600	4.0	1,600	-	-	-	-	15.0	6,000	-	-	5.0	2,000
Yvonne Liew	Assistant Manager	360	85.0	30,600	5.0	1,800	25.0	9,000	20.0	7,200	5.0	1,800	25.0	9,000	5.0	1,800
William Hulmes	Senior Analyst	305	125.0	38,125	5.0	1,525	5.0	1,525	10.0	3,050	90.0	27,450	5.0	1,525	10.0	3,050
Jason Soo	Senior Analyst	305	10.0	3,050	5.0	1,525	-	-	-	-	-	-	-	-	5.0	1,525
Nirav Shah	Analyst	270	106.0	28,620	5.0	1,350	46.0	12,420	15.0	4,050	-	-	15.0	4,050	25.0	6,750
Caldera/Titlestad	Personal Assistant	180	10.0	1,798	-	-	-	-	-	-	-	-	-	-	10.0	1,798
Amy Jamieson	Accounts Assistant	180	19.0	3,420	-	-	-	-	-	-	-	-	-	-	19.0	3,420
Newland/Herriman	Admin Assistant	140	9.5	1,327	-	-	-	-	-	-	-	-	-	-	9.5	1,327
Total (excluding GST)			557.5	200,000	55.0	22,425	125.0	47,985	56.0	20,105	138.0	48,090	70.0	26,175	113.5	35,220
GST				20,000		2,242		4,798		2,011		4,809		2,618		3,522
Total (including GST)				220,000		24,667		52,783		22,116		52,899		28,793		38,742
Average Hourly Rate				359		408		384		359		348		374		310



## **6 Statement of remuneration claim**

### ***Resolutions to be put to creditors at the annual general meeting convened for 1 June 2016.***

At the annual meeting convened for 1 June 2016, creditors will be requested to consider the following resolutions:

#### **Resolution 1:**

"That the further remuneration of the Liquidators, as set out in the Remuneration Approval Request Report dated 16 May 2016, for the period from 9 December 2014 to 30 April 2016, be fixed at \$112,032 (plus GST), and may be paid."

#### **Resolution 2:**

"That the remuneration of the Liquidators, as set out in the Remuneration Approval Request Report dated 16 May 2016, for the period from 1 May 2016 to the conclusion of Liquidation, be fixed at the hourly rates summarised in the said Report up to a maximum amount of \$200,000 (plus GST), but subject to upward revision by resolution of creditors, or the Committee of Inspection should one be appointed, and that the Liquidators be authorised to make monthly payments on account of such accruing remuneration as incurred."

Please note that the above is an estimate only. If costs exceed the estimate, creditors will be advised accordingly and further approval of the Liquidators remuneration will be sought in the future.

## **7 Remuneration recoverable from external sources**

The Liquidators have not received, and are not entitled to receive, any funding from external sources in respect of remuneration other than the below:

The Liquidators received \$23,971 (plus GST) from FEG for the services provided in relation to the calculation and distribution of employee entitlements on their behalf. As this was insufficient to cover the costs incurred, the shortfall was drawn from the existing fee approval of \$400,000.

## **8 Disbursements**

### **8.1 Types of disbursements**

Disbursements are divided into three types:

- Externally provided professional services. These are recovered at cost. An example is legal fees.
- Externally provided non-professional costs such as travel, accommodation and search fees. These disbursements are recovered at cost.
- Internal disbursements such as photocopying, printing and postage. These disbursements, if charged to the liquidation, would generally be charged at cost; though some expenses such as telephone calls, photocopying and printing may be charged at a rate which recoups both variable and fixed costs. The relevant rates are set out overleaf:

Disbursement type	Charges (excl. GST)
Advertising	At cost
Couriers	At cost
Mileage reimbursement	\$0.76 per kilometre
Photocopying (colour)	\$0.50 per page
Photocopying (mono)	\$0.20 per page
Photocopying (outsourced)	At cost
Printing (colour)	\$0.50 per page
Printing (mono)	\$0.20 per page
Printing (outsourced)	At cost
Postage	At cost
Searches	At cost
Storage and storage transit	At cost
Telephone calls	At cost

*Note: Above rates are applicable for the financial year ending 30 June 2016*

## 8.2 Disbursements paid from the liquidation to Ferrier Hodgson

The following disbursements have been paid and incurred from the liquidation to Ferrier Hodgson for the period from 9 December 2014 to 4 May 2016:

Disbursements paid	Basis	Total (excl. GST) (\$)
<b>Externally provided non-professional services</b>		
Advertising	At Cost	198.70
Search Fees	At Cost	367.50
Travel Cost – Taxi Fares	At Cost	775.85
<b>Internal disbursements</b>		
Computer Hardware	At Cost	90.00
Courier	At Cost	31.36
Mileage Reimbursement	88 kms @ \$0.76 per km	66.88
Other Disbursements	At Cost	193.00
Photocopying - mono	701 pages @ \$0.20/page	140.20
Photocopying – colour	100 pages @ \$0.50/page	50.00
Printing – mono	4017 pages @ \$0.20/page	803.40
Printing – colour	30 pages @ \$0.50/page	150.00
Postage	125 letters @ \$1.30 per letter	161.54
Stationery	At Cost	61.45
Telephone Calls	At Cost	95.36
<b>Total</b>		<b>3,185.24</b>
Less: Disbursements Paid		(2,532.68)
<b>Total Unpaid Disbursements</b>		<b>652.56</b>

In relation to disbursements paid and incurred from the liquidation to Ferrier Hodgson for the period from 9 December 2014 to 4 May 2016, we advise the following:

- We have undertaken a proper assessment of disbursements claimed for the Company, in accordance with the law and applicable professional standards. We are satisfied that the disbursements claimed are necessary and proper.

- Where amounts have been paid to Ferrier Hodgson for externally provided services and costs, those payments are in reimbursement of costs previously paid by Ferrier Hodgson, either due to a lack of funds in the liquidation at the time the payment was due, or the direct invoicing of Ferrier Hodgson by the supplier.
- All of the transactions in the above table appear in the summary of receipts and payments at Part 10 as Appointee disbursements. Where payments to third parties are paid directly from the liquidation bank account, they are included in the summary of receipts and payments at Part 10.
- Creditor approval for the payment of disbursements is not required. However, the Liquidators must account to creditors. Creditors have the right to question the incurring of disbursements and can challenge disbursements in court.
- Future disbursements provided by Ferrier Hodgson will be charged to the liquidation on the same basis as the table in Part 8.1.

## **9 Report on progress of the liquidation**

The Remuneration Approval Request Report must be read in conjunction with the Liquidators' Annual Report to Creditors and Members dated 16 May 2016 which outlines the progress of the liquidation.

## **10 Summary of receipts and payments**

Please refer to Annexure B of the Liquidators' Annual Report dated 16 May 2016 for an account of the receipts and payment for the period 9 December 2014 to 4 May 2016.

## **11 Queries**

If you require further information in respect of the above, or have other questions, please contact Nirav Shah of this office on (08) 9214 1444.

## **12 Information available**

The partners of Ferrier Hodgson are members of ARITA. Ferrier Hodgson follows the Code. A copy of the Code may be found on the ARITA website at [www.arita.com.au](http://www.arita.com.au).

An information sheet concerning approval of remuneration in external administrations can also be obtained from the Australian Securities & Investments Commission website at [www.asic.gov.au](http://www.asic.gov.au).

Dated this 16<sup>th</sup> day of May 2016.



**Martin Jones**  
Liquidator

## **Annexure D**

### **Form 529**

### **Notice of annual meeting of creditors and members**

*Corporations Act 2001*

*Section 508, Subregulation 5.6.12(2)*

**Killarnee Civil & Concrete Contractors Pty Ltd (In Liquidation)**  
**ACN 085 230 486 (the Company)**

NOTICE IS GIVEN that pursuant to section 508 of the Corporations Act 2001 an annual meeting of the creditors and members of the Company will be held at the **offices of Ferrier Hodgson, Level 28, 108 St Georges Terrace, PERTH WA 6000** on **Wednesday, 1 June 2016 at 11:00am (AWST)**.

#### AGENDA

1. To receive an account of the Liquidators' acts and dealings and of the conduct of the winding up to date.
2. To consider the appointment of Mr Andrew Smith of Ferrier Hodgson as Joint and Several Liquidator.
3. To consider whether, pursuant to Section 477(2B) of the Act, creditors authorise the Liquidator to enter into contracts on the Company's behalf where the duration is longer than three (3) months.
4. To approve the further remuneration of the Liquidators.
5. To consider whether, pursuant to Section 477(1)(c) of the Act, creditors authorise the Liquidators to make payment to Vantage Performance.
6. To consider the appointment of a Committee of Inspection.
7. Any other business that may be lawfully brought forward.

Dated this 16<sup>th</sup> day of May 2016.



**Martin Jones**  
Liquidator

**Annexure E**

**KILLARNEE CIVIL & CONCRETE CONTRACTORS PTY LTD  
(IN LIQUIDATION)  
ACN 085 230 486**

**CLAIM OF EMPLOYEE**

Name \_\_\_\_\_

Address: Street Number and Name: \_\_\_\_\_

Suburb: \_\_\_\_\_ State: \_\_\_\_\_ Postcode: \_\_\_\_\_

Contact number: \_\_\_\_\_

Position: \_\_\_\_\_

Wages/Salary: \$ \_\_\_\_\_ per week/fortnight \_\_\_\_\_

Period of Employment: From    /    /    to    /    /   

Details of Claim: Wages and salaries for the period from    /    /    to    /    /    \$ \_\_\_\_\_

Superannuation: \_\_\_\_\_

Unused annual leave: \_\_\_\_\_

Long service leave: \_\_\_\_\_

Sick Leave: \_\_\_\_\_

Pay in Lieu of Notice: \_\_\_\_\_

Redundancy: \_\_\_\_\_

Other (provide details): \_\_\_\_\_

\_\_\_\_\_

Total \$ \_\_\_\_\_

Please complete to the best of your knowledge with the relevant supporting documents and return to Ferrier Hodgson using any of the following methods:

Mail:  
Ferrier Hodgson  
GPO Box 2537  
Perth WA 6001

Facsimile:  
(08) 9214 1400  
  
Attention:  
Nirav Shah

Email:  
[Nirav.Shah@fh.com.au](mailto:Nirav.Shah@fh.com.au)

## **Annexure E**

### **Form 535**

### **Formal Proof of Debt or Claim (General Form)**

*Corporations Act 2001*

*Regulation 5.6.49(2)*

**Killarnee Civil & Concrete Contractors Pty Ltd (In Liquidation)**  
**ACN 085 230 486 (the Company)**

#### ***Instructions:***

Please complete Sections A, B and C and submit to:  
Killarnee Civil & Concrete Contractors Pty Ltd (In Liquidation)

c/- Ferrier Hodgson

GPO Box 2537, PERTH WA 6001

Tel: 08 9214 1444

Fax: 08 9214 1400

Email: nirav.shah@fh.com.au

\* Strike out if inapplicable.

---

#### **A. Name and Contact Details of Creditor**

**(the Creditor)**

*(if in a personal capacity, given name and surname; if a corporate entity, full name of company, etc.)*

of

*(address)*

Tel:

Fax:

Email:

☐ Tick this box to elect to receive electronic notification of notices or documents, in accordance with Section 600G of the Corporations Act 2001, at the email address or fax number specified above.

---

#### **B. Details of Debt or Claim**

To the Liquidators of the Company

1. This is to state that the Company was, on Monday, 1 September 2014, and still is justly and truly indebted to the Creditor for

dollars

*(amount in words)*

and

cents (inclusive of GST, if applicable).

Particulars of the debt are:

Date	Consideration <sup>1</sup>	Net (\$)	GST (\$)	Total (\$)	Remarks <sup>2</sup>

1. 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".
2. Under "Remarks" include details of vouchers 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 satisfaction or security for the sum or any part of it,  
\*except for:

(insert particulars of all securities held. If the securities are on the property of the company, assess the value of those securities. If any bills or other negotiable securities are held, indicate "refer attached" above and show them in a schedule in the following form:)

Date	Drawer	Acceptor	Amount (\$)	Due Date

3. \*I am employed by the Creditor / \*I am the Creditor's agent  
\*and authorised in writing by the Creditor to make this statement.

I know that the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, remains unpaid and unsatisfied.

---

### C. Signature

Dated: .....

Signature: .....

Name / Capacity #: .....

# If the Creditor is an individual, insert full name

If the Creditor is a sole trader, insert in accordance with the following example: "full name, proprietor"

If the Creditor is a partnership, insert in accordance with the following example: "full name, partner of the firm named in Section A above"

If the Creditor is a company, insert in accordance with the following example: "full name, director / secretary / director/secretary of the company named in Section A above" or under the hand of some officer duly authorised in that capacity, and the fact that the officer is so authorised must be stated in accordance with the following example: "full name, for the company named in Section A above (duly authorised under the seal of the company)".

Where this form is completed by, for example, a solicitor or accountant of the Creditor, sign this form as the Creditor's authorised agent; where this form is completed by an authorised employee of the Creditor, indicate occupation (e.g.: credit manager, etc.).

## **Annexure F**

### **Form 532 Appointment of Proxy**

*Corporations Act 2001  
Regulation 5.6.29*

**Killarnee Civil and Concrete Contractors Pty Ltd (In Liquidation)  
ACN 085 230 486 (the Company)**

#### ***Instructions:***

Please complete Sections A, B, C and D and submit in accordance with the Section E. See back page for instructions on completion.

---

#### **A. Name and Contact Details of Person or Entity Entitled to Attend Meeting**

<sup>1</sup>

*(if entitled in a personal capacity, given name and surname; if a corporate entity, full name of company, etc)*

<sup>2</sup> of

*(address)*

<sup>3</sup> Tel:

<sup>4</sup> Fax:

---

#### **B. Appointment of Person to Act as Proxy**

*Note: You may nominate "the Chairperson of the meeting" as your proxy (or your alternate proxy in the event that the first-named proxy is not in attendance).*

<sup>1</sup> \*I / \*We, as named in Section A above, a \*creditor / \*contributory / \*debenture holder / \*member of the Company / \*eligible employee creditor, appoint

<sup>2</sup>

*(name of person appointed as proxy)*

<sup>3</sup>

<sup>4</sup> or in his / her absence

*(address of person appointed as proxy)*

<sup>5</sup>

*(name of person appointed as alternate proxy)*

<sup>6</sup>

<sup>7</sup> as \*my / \*our proxy

*(address of person appointed as alternate proxy)*

to vote at the annual meeting of creditors and members to be held on **Wednesday, 1 June 2016 at 11:00am (AWST) at the offices of Ferrier Hodgson, Level 28, 108 St Georges Terrace, PERTH WA 6000** or at any adjournment of that meeting in accordance with the instructions in Section C below.



### C. Voting Instructions

<sup>1</sup> \*My / \*Our proxy, as named in Section B above, is entitled to act as \*my / \*our :

- ☐ <sup>2</sup> **general proxy**, to vote on \*my / \*our behalf generally, as \*he / \*she determines, subject to any specific instructions below, if applicable.

and / or

- ☐ <sup>3</sup> **special proxy**, to vote on \*my / \*our behalf specifically, in accordance with the following special instructions: *(for each resolution for which you wish to give specific voting instructions, please tick one option only)*

Resolution	For	Against	Abstain
1. The appointment of Mr Andrew Smith of Ferrier Hodgson as Joint and Several Liquidator of the Company.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. That, pursuant to Section 477(2B) of the Act, creditors authorise the Liquidators to enter into any agreement on the Company's behalf where the duration is longer than three (3) months.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. That the further remuneration of the Liquidators, as set out in the Remuneration Approval Request Report dated 16 May 2016, for the period from 9 December 2014 to 30 April 2016, be fixed at \$112,032 (plus GST), and may be paid.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. That the remuneration of the Liquidators as set out in the Remuneration Request Approval Report dated 16 May 2016, for the period from 1 May 2016 to the conclusion of Liquidation be fixed at the hourly rates summarised in the said Report up to a maximum amount of \$200,000 (plus GST), but subject to upward revision by resolution of creditors, or the Committee of Inspection should one be appointed, and that the Liquidators be authorised to make monthly payments on account of such accruing remuneration as incurred.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. That, pursuant to Section 477(1)(c) of the Act, creditors authorise the Liquidators to make payment of the pre-appointment outstanding fees and disbursements of \$101,708 (plus GST) to Vantage Performance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. To consider the appointment of a Committee of Inspection.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### D. Signature

<sup>1</sup> Dated:

<sup>2</sup> Signature:

<sup>3</sup> Name / Capacity:

**Certificate of Witness (to be completed only in special circumstances – see below)**

*This certificate is only to be completed **only if the person giving the proxy is blind or incapable of writing**. The certificate of the creditor, contributory, debenture holder or member must not be witnessed by the person nominated as proxy.*

I

(name of witness)

of

(address of witness)

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/her before he/she signed or marked the instrument.

Dated:

Signature:

---

**E. Submitting the Proxy**

For a person to be eligible to attend and vote at the meeting on your behalf, this form is to be completed and submitted by **no later than 4pm on Tuesday, 31 May 2016** to:

Killarnee Civil and Concrete Contractors Pty Ltd (In Liquidation)

C/- Ferrier Hodgson

GPO Box 2537

PERTH WA 6001

Tel: 08 9214 1444

Fax: 08 9214 1400

Email: [Nirav.Shah@fh.com.au](mailto:Nirav.Shah@fh.com.au)

*Note: In accordance with Regulation 5.6.36A of the Corporations Regulations 2001, if a proxy is submitted by facsimile, the original document must be lodged within 72 hours after lodging the faxed copy.*

## Creditor Assistance Sheet: Completing a Proxy Form

### Section A – Name and Contact Details of Person or Entity Entitled to Attend Meeting

1. Insert the full name of the employee, individual, sole trader, partnership or company that the debt is owed to.
2. Insert the address of the employee, individual, sole trader, partnership or company that the debt is owed to.
3. Insert the telephone number of the employee, individual, sole trader, partnership or company that the debt is owed to.
4. Insert the fax number of the employee, individual, sole trader, partnership or company that the debt is owed to.

### Section B – Appointment of Person to Act as Proxy

1. Cross out any wording that is **not** applicable. For example, if the employee/individual/sole trader/partnership/company is a creditor, cross out ‘\*eligible employee creditor’, ‘\*contributory’, ‘\*debenture holder’ and ‘\*member’.
2. Insert the name of the person who will be exercising the creditor’s vote at the meeting. If someone is attending the meeting in person, that person’s name should be inserted. Alternatively, if someone is unable to attend, but you still want to cast a vote at the meeting, then you can appoint the Chairperson of the meeting to vote on your behalf by inserting the words ‘the Chairperson’ here.
3. Insert the address of the person nominated at (2) that will be attending the meeting as proxy. If you have elected ‘the Chairperson’ because no one is attending in person, leave this row blank.
4. Cross out any wording that is **not** applicable.
5. If the person you have elected to attend is unavailable on the day, you may nominate a second person to attend in their absence. Alternatively, you can appoint the Chairperson of the meeting to vote on your behalf by inserting ‘the Chairperson’.
6. Insert the address of the second person here. If you have elected ‘the Chairperson’, leave this row blank.
7. Cross out any wording that is not applicable.

### Section C – Voting Instructions

1. Cross out any wording that is not applicable.
2. Insert an ‘X’ in this box if you want the person who is attending the meeting to vote as they see fit on each of the resolutions in the ‘Resolution’ table. If you select this option, proceed to Section D, **unless** you wish to vote specifically on certain resolutions, in which case you also insert an ‘X’ in the special proxy box and select ‘For’, ‘Against’ or ‘Abstain’ on the resolutions. The person voting at the meeting will have discretion to vote as they see fit on any resolutions where you have **not** selected ‘For’, ‘Against’ or ‘Abstain’.
3. Insert an ‘X’ in this box if you want the person who is attending the meeting, to vote exactly in accordance with your instructions. If you select this option, you must select ‘For’, ‘Against’ or ‘Abstain’ for each of the resolutions in the ‘Resolution’ table. Do not tick more than one box for each resolution.

### Section D – Signature Instructions

1. Insert the date that the proxy form is being signed.
2. The form should be signed by **one** of the following persons:
  - If the debt is owed to an employee/individual, then the individual that the debt is owed to; or
  - If the debt is owed to a sole trader, then the sole trader that the debt is owed to; or
  - If the debt is owed to a partnership, then one of the partners of the partnership; or
  - If the debt is owed to a company, then a duly authorised officer of the company (normally a director or secretary of the company).
3. Insert the name of the person signing the form, and note their capacity (that is, their role):
  - If the debt is owed to a sole trader, note their capacity as proprietor, eg: “[Full name], proprietor”; or
  - If the debt is owed to a partnership, note their capacity as partner, eg: “[Full name], partner of the firm named in Section A above”; or
  - If the debt is owed to a company, note their capacity as director or secretary, eg: “[Full name], director/secretary of the company named in Section A above”]