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7 March 2025

Circular to Eligible Employee Creditors

Dear Sir/Madam

Nuheara Limited (Administrators Appointed) ACN 125 167 133 (the Company / NUH)

We refer to our appointment as Administrators of the Company on 7 August 2024 pursuant to Section 436A of the Corporations Act 2001 (**the Act**) and our report pursuant to Insolvency Practice Rules (Corporations) 2016 (**IPR**) 75-225 and Section 438A of the Act dated 10 December 2024, the Administrators' Supplementary Report dated 17 February 2025 and the Second Supplementary Report dated 7 March 2025.

This Circular should be read in conjunction with the Reports and previous correspondence to employees and creditors which are available on the KPMG website (<https://kpmg.com/au/en/home/creditors/nuheara.html>).

1 Proposed Deed of Company Arrangement (DOCA) for NUH

In the Administrators' Second Supplementary Report dated 7 March 2025, we have summarised the terms of the proposed Orecchio DOCA and Realtek DOCA for NUH. The terms of both DOCAs gives priority to eligible employee creditors by providing that the DOCA will contain a provision as contemplated in Section 444DA of the Act. However, we note that:

- Under the Orecchio DOCA/ Asset Sale Agreement (**ASA**), the proponent will offer employment to all current employees of NUH consistent with their present employment terms and unless 80% non-administrative employees accept the offer the DOCA/ASA will not complete. This provides greater certainty of continuation of the business and therefore their employment. Further, Orecchio undertakes to fund the ongoing trading for an initial period of 6 months; and
- Under the Realtek DOCA/ ASA, the proponent must offer an interview to all staff, and an offer of employment to all staff who accept to be interviewed on terms no less favourable than their current employment agreement. If however, no employee chooses to be interviewed, then Realtek can still acquire the assets under the ASA and complete the DOCA/ASA.

Employees who ultimately accept an offer of employment with either DOCA proponent will be excluded from the DOCA and are to be paid from the ordinary course of their future employment with the DOCA Proponent.

2 Notice of meeting of eligible employee creditors

Pursuant to Section 444DA(2)(a) of the Act, eligible employee creditors of the Company are required to pass a resolution agreeing to the non-inclusion of the claims of Continuing / Transferring employees from being paid as a priority distribution under the proposed DOCA of the Company, should they accept an offer an employment with either of the DOCA Proponents.

This means that Continuing / Transferring employees will **not** be admitted as an eligible employee for the purposes of the Orecchio DOCA and Realtek DOCA and therefore will not be entitled to receive a dividend at least equal to what they would be entitled to receive if the Contribution contemplated in the Orecchio DOCA and in the Realtek DOCA were applied in accordance with sections 556, 560 and 561 of the Act.

Accordingly, we advise that a meeting of **Eligible Employee Creditors** of the Company will be held on **Monday, 17 March 2025 at 10:00am** at the offices of KPMG, Level 8, 235 St Georges Terrace, PERTH WA 6000 to consider the aforementioned resolution.

For employee creditors who are unable to attend the meeting physically, a conference call facility will be available. Should you wish to attend the meeting via teleconference, please contact KPMG by email at nuheara@kpmg.com.au or by telephone to +61 8 9263 7287 at least one (1) business day prior to the meeting to advise that you will be using the conference facilities and to be provided with the conference call code.

The purpose of this meeting is to provide employees with an opportunity to:

1. Consider the proposed Orecchio DOCA and variation to statutory priorities of eligible employee creditors.
2. Consider the proposed Realtek DOCA and variation to statutory priorities of eligible employee creditors.
3. Any other business that may be lawfully brought forward.

In this regard, we enclose the following documents:

| Document | Description |
|--|---|
| Notice of meeting of eligible employee creditors | <ul style="list-style-type: none">– Please note that the meeting commences at 10:00am (AWST) on Monday, 17 March 2025.– You should arrive for registration at least 15 minutes prior to the meeting. |
| Statement by the Administrators | <ul style="list-style-type: none">– This statement outlines the Administrators' opinion as to the exclusion of the claims of Continuing Employees from a distribution under the Orecchio DOCA and Realtek DOCA being proposed for NUH. |
| Proof of debt form (via the Creditors' Portal) | <ul style="list-style-type: none">– Employee creditors may register and submit a proof of debt form electronically via the Creditors' Portal with documentation to support the amount they have claimed (i.e., payslips etc).– Eligible employees will be admitted for voting purposes at the meeting based upon the amount to them as recorded in the Company's records or others as per their claims previously lodged with the Administrators.– If you have already submitted a proof of debt claim form electronically via the Creditors' Portal for the first or any subsequent meeting of creditors, you are not required to resubmit a form for this meeting. |
| Appointment of proxy (form 532) | <ul style="list-style-type: none">– This form enables you to appoint a person to act on your behalf at the meeting.– Proxy forms submitted for previous meetings are not valid for this meeting. |

The formal proof of debt form and the proxy form should be lodged with this office before the meeting and, in any event, no later than **4.00pm on the last business day prior to the meeting**. The Forms can be sent by facsimile on +61 8 9263 7129 marked to the attention of Bohan Teakle or scanned and emailed to nuheara@kpmg.com.au.

3 Further information

For further information concerning the voluntary administration process, please visit our website at <https://kpmg.com/au/en/home/creditors/nuheara.html>.

Should you have any questions, please contact Bohan Teakle of this office on 08 9263 7287 or email to nuheara@kpmg.com.au.

Yours faithfully

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

Martin Jones
Joint and Several Administrator

Encl.

Form 529
Notice of meeting of eligible employees creditors of a company

Insolvency Practice Rules (Corporations) 2016, Section 75-15

Nuheara Limited (Administrators Appointed)
ACN 125 167 133 (the Company)

NOTICE is given that a meeting of eligible employee creditors of the Company will be held **on Monday, 17 March 2025 at 10:00am at the offices of KPMG, Level 8, 235 St Georges Terrace, PERTH WA 6000.**

Agenda

1. To consider the terms of the proposed Orecchio Deed of Company Arrangement and variation to statutory priorities of eligible employee creditors.
2. To consider the terms of the proposed Realtek Deed of Company Arrangement and variation to statutory priorities of eligible employee creditors.
3. Any other business that may be lawfully brought forward.

Employee creditors wishing to vote at the meeting of eligible employee creditors, who will **not** be attending in person, must complete and return a Proxy Form (by no later than 4pm on the last business day prior to the meeting by email to nuheara@kpmg.com.au or by post to GPO Box A29, PERTH WA 6837). A Form 532, Appointment of Proxy is enclosed for this purpose.

For the purposes of this meeting, eligible employees will be admitted for voting purposes based upon the amount to them as recorded in the Company's records or others as per their claims previously lodged with the Administrators.

For employee creditors who are unable to attend the meeting physically, a conference call facility will be available. Should you wish to attend the meeting via teleconference, please contact KPMG by email at nuheara@kpmg.com.au or by telephone to +61 8 9263 7287 at least one (1) business day prior to the meeting to advise that you will be using the conference facilities and to be provided with the conference call code.

Dated this 7th day of March 2025.



Martin Jones
Joint and Several Administrator

Encl.

Nuheara Limited (Administrators Appointed)
c/- KPMG
GPO Box A29, PERTH WA 6837
Tel: +61 8 9263 7287
Fax: +61 8 9263 7129
Email: nuheara@kpmg.com.au

Statement by Administrators

Corporations Act 2001
Section 444DA(4)

Nuheara Limited (Administrators Appointed) **ACN 125 167 133 (the Company)**

Pursuant to Section 444DA(3) of the Corporations Act 2001 (**the Act**), a meeting of eligible employee creditors of the Company has been called for **Monday, 17 March 2025 at 10.00am (AWST)** to consider a resolution agreeing to the non-inclusion of the claims of Continuing Employees, being those employees who receive and accept an offer of employment from the two (2) proponents of a Deed of Company Arrangement (**DOCA**) for the Company:

- Orecchio Pty Ltd ACN 684 518 723 (**Orecchio**); and
- Realtek Semiconductor Corporation (**Realtek**),

from being paid as a priority distribution under the DOCA proposed them for the Company.

Background to requirement for Eligible Employee Meeting

Section 444DA(1) of the Act stipulates that the DOCAs 'must contain a provision to the effect that any eligible employee creditors will be entitled to a priority at least equal to what they would have been entitled if the property were applied in accordance with sections 556, 560 and 561' (**Priority Provision**). However, pursuant to section 444DA(2), the Priority Provision will not apply where:

- at a meeting of eligible employee creditors, the eligible employee creditors pass a resolution agreeing to the non-inclusion of the priority provision; or
- the Court makes an order approving the non-inclusion of such a provision.

In the Administrators' Second Supplementary Report dated 7 March 2025, we have summarised the terms of the proposed Orecchio DOCA and Realtek DOCA for NUH. The terms of both DOCAs gives priority to eligible employee creditors by providing that the DOCA will contain a provision as contemplated in Section 444DA of the Act. However, we note that:

- Under the Orecchio DOCA/ASA, the proponent will offer employment to all current employees of NUH consistent with their present employment terms and unless 80% non-administrative employees accept the offer the DOCA/ASA will not complete. This provides greater certainty of continuation of the business and therefore their employment. Further, Orecchio undertakes to fund the ongoing trading for an initial period of 6 months; and
- Under the Realtek DOCA/ASA, the proponent must offer an interview to all staff, and an offer of employment to all staff who accept to be interviewed on terms no less favourable than their current employment agreement. If however, no employee chooses to be interviewed, then Realtek can still acquire the assets under the ASA and complete the DOCA/ASA.

Employees who ultimately accept an offer of employment with either DOCA proponent will be excluded from the DOCA and are to be paid from the ordinary course of their future employment with the DOCA Proponent.

A 'Continuing Employee' is defined as being those employees who receive and accept an offer of employment with the DOCA Proponent.

In deciding whether to approve the non-inclusion of the priority provision in a DOCA, the Court in *Re TLC Marketing Worldwide Pty Ltd (Subject to a Deed of Company Arrangement) [2018] NSWSC 454 at [17]* found that the issue of excluding continuing employees from the deed fund and instead paying their entitlements through the ordinary course by the company, is a matter that 'could readily have been addressed, by a meeting of eligible employees conducted under s 444DA(2) of the Act'.

The above case law confirms that where the transition contemplate an exclusion of continuing employees claim from a DOCA, those continuing employees are 'eligible employee creditors' and pursuant to s 444DA(2), a meeting of the eligible employee creditors must be held.

Eligible Employee Creditors of the Company and their position under the DOCA

At the time of our appointment, Nuheara employed approximately twenty (20) employees. At the time of writing there are fourteen (14) employees that remain with the Company, that may be classified as Continuing Employees (subject to being offered and accepting an offer of employment).

Continuing Employees, should they choose to accept the continuity of employment with either DOCA proponents, will not be able to claim in the Orecchio DOCA or Realtek DOCA for any entitlements accrued or owed to them prior to the Administrators' appointment on 7 August 2024. Instead, their entitlements will be preserved and carried over to the new entity.

The position and estimated returns for employees under both DOCAs as are follows:

- Priority employee creditors (other than Continuing Employees) will be allocated a sum under the Orecchio DOCA/Trust Fund and Realtek DOCA to enable a payment of 100 cents in the \$ for their entitlements.
- Continuing Employees who are being offered the continuity of employment with either DOCA Proponent, will have their employee entitlements (such as annual leave or long service leave accrued) preserved and continued as is with the DOCA Proponent. No other entitlements will have been crystallised for payment. Those employees who do not accept the offer of employment will be paid out 100 cents in the \$ for their entitlements.

In summary, the position for eligible employee creditors under the Orecchio DOCA and Realtek DOCA can be summarised below:

| Eligible Employee Creditors classes | DOCA Proponent | Effect of DOCA on entitlements and estimated return |
|--|----------------|--|
| Terminated /resigned Employees (currently 6 employees) | Orecchio | Allocated a sum from the Orecchio DOCA / Creditors Trust. This will enable a payment of 100 cents in the \$ for their entitlements. |
| | Realtek | Allocated a sum from the Realtek DOCA. This will enable a payment of 100 cents in the \$ for their entitlements. |
| Continuing Employees (if transferred to the DOCA Proponent) (currently 14 employees) | Orecchio | Under the Orecchio DOCA/ASA, the proponent will offer employment to all current employees of NUH consistent with their present employment terms and unless 80% non-administrative employees accept the offer the DOCA/ASA will not complete. If the offer of employment is accepted, the entitlement accrued of Continuing Employees with the Company will be preserved and continued as is with Orecchio Pty Ltd. In this regard, those who continue the employment with Orecchio Pty Ltd will not be entitled to claim in the proposed Orecchio DOCA and associated Creditors Trust. Those not accepting continuing employment will be able to claim 100 cents in the dollar for their entitlements (same as Terminated employees), as they will be terminated prior the effectuation of the Orecchio DOCA. |

| Eligible Employee Creditors classes | DOCA Proponent | Effect of DOCA on entitlements and estimated return |
|-------------------------------------|----------------|--|
| | Realtek | <p>Under the Realtek DOCA/ASA, the proponent must offer an interview to all staff to discuss with them offering ongoing employment with the Realtek (or its nominated SPV).</p> <p>Realtek (or its nominated SPV) must make an offer of employment to all staff who accept to be interviewed on terms no less favourable than their current employment agreement.</p> <p>Those not accepting continuing employment will be able to claim 100 cents in the dollar for their entitlements (same as Terminated employees), as they will be terminated prior the effectuation of the Realtek DOCA.</p> |

Administrators Opinion

It is the Administrators' opinion that the exclusion of the claims of Continuing Employees from both DOCAs being proposed for NUH would likely to result in the same or better outcome for eligible employee creditors as a whole than would result from an immediate winding up of the Company.

Therefore, the Administrators recommend that employees vote in favour of both the resolutions as ultimately, they are pre-conditions to Continuing Employees being offered employment with either DOCA Proponent which they can then choose whether to accept or reject.

The Administrators' opinion is based on the following factors:

- Continuing Employees who are being offered employment with either DOCA Proponent will have their entitlements preserved and continued as is, they will also benefit from continued employment with the new entity acquiring the business of NUH, if either the Orecchio DOCA or Realtek DOCA is accepted.
- No other entitlements of Continuing Employment will have been crystallised for payment. Those employees who have resigned, or do not accept an offer of employment with either DOCA Proponent will be able to claim 100 cents in the dollar for their entitlements.
- It is unlikely that there would be any funds available to pay outstanding employee entitlements in a winding up of the Company. Although eligible employees may be able to make a claim under the Fair Entitlements Guarantee Scheme (**FEG**) subject to its terms and conditions, FEG does not provide funding to meet outstanding employee superannuation entitlements.

Dated this 7th day of March 2025.



Martin Jones

Joint and Several Administrator

ELIGIBLE EMPLOYEE PROXY FORM – 17 MARCH 2025

Form 532 - Appointment of Proxy

Insolvency Practice Rules (Corporations) 2016, Section 75-25

Return to no later than 4pm on 14 March 2025 to:

KPMG, GPO Box A29, PERTH WA 6837

Tel: +61 8 9263 7287

Fax: +61 8 9263 7129

Email: nuheara@kpmg.com.au

Nuheara Limited (Administrators Appointed)

ACN 125 167 133

Date of Appointment: 07/08/2024

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

¹

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

² of

(address)

³ Tel:

⁴ Email:

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).

¹ I/We, as named in Section A above, an eligible employee creditor of the Company, appoint

²

(name of person appointed as proxy)

³

⁴ or in his / her absence

(address of person appointed as proxy)

⁵

(name of person appointed as alternate proxy)

⁶

⁷ as *my / *our proxy

(address of person appointed as alternate proxy)

to vote at the **meeting of eligible employee creditors to be held on Monday 17 March 2025 at 10:00 am (AWST)**, at the offices of KPMG, L8, 235 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

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

² **general proxy**, to vote on *my / *our behalf **and / or**

³ **special proxy**, to vote on *my / *our behalf specifically as follows:

| Resolution | For | Against | Abstain |
|---|--------------------------|--------------------------|--------------------------|
| 1. "That pursuant to section 444DA(2) of the Corporations Act 2001 (Cth) (Act), under the terms of the Orecchio Deed of Company Arrangement (Orecchio DOCA) for NUH to be voted on by creditors at the reconvened meeting of creditors on 17 March 2025 or at any adjournment to that meeting, eligible employees that are classified as Continuing Employees in the Orecchio DOCA will not be admitted as an eligible employee for the purposes of the Orecchio DOCA and therefore will not be entitled to receive a dividend at least equal to what they would be entitled to receive if the contribution contemplated in the Orecchio DOCA were applied in accordance with sections 556, 560 and 561 of the Act". | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. That pursuant to section 444DA(2) of the Corporations Act 2001 (Cth) (Act), under the terms of the Realtek Deed of Company Arrangement (Realtek DOCA) for NUH to be voted on by creditors at the reconvened meeting of creditors on 17 March 2025 or at any adjournment to that meeting, eligible employees that are classified as Continuing Employees in the Realtek DOCA will not be admitted as an eligible employee for the purposes of the Realtek DOCA and therefore will not be entitled to receive a dividend at least equal to what they would be entitled to receive if the contribution contemplated in the Realtek DOCA were applied in accordance with sections 556, 560 and 561 of the Act". | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

D. Signature

¹ Dated:

² Signature:

³ Name / Capacity:

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 email address 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 office 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"]