



McGrathNicol

31 January 2023

Private & Confidential

To the creditor as addressed

**McGrathNicol
Restructuring**

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Dear Sir/Madam

**Pasminco Cockle Creek Smelter Pty Limited (In Liquidation)
ACN 000 083 670 (PCCS or the Company)**

I refer to the appointment by the Supreme Court of NSW of Shaun Fraser and Barry Kogan of McGrathNicol as additional liquidators (**Special Purpose Liquidators**) of PCCS on 2 December 2019.

Appointment of the Special Purpose Liquidators

The appointment of the Special Purpose Liquidators was notified to creditors of PCCS in the Statutory Report prepared by John Lindholm, the liquidator of PCCS (**Liquidator**), dated 11 December 2019, which annexed a copy of the orders made by the Supreme Court of NSW (**Orders**).

As creditors have been made aware, land owned by PCCS in the Lake Macquarie local government area (**PCCS Land**) was compulsorily acquired by the Hunter and Central Coast Development Corporation (**HCCDC**) pursuant to the *Lake Macquarie Smelter (Perpetual Care of Land) Act 2019 (NSW)*, following which Fiddletown Investments Limited (a wholly owned subsidiary of Avenue Capital) (**FIL**) made the application to the Supreme Court of NSW to appoint the Special Purpose Liquidators.

The "Scope of Work" contained in the Orders sets out the scope of the role and tasks to be undertaken by the Special Purpose Liquidators, which included investigating all dealings or transactions in relation to the acquisition of the PCCS Land and commencing any claim that may be available to PCCS or the Special Purpose Liquidators in relation to the PCCS Land.

FIL is a priority creditor of PCCS having provided funding to the former Deed Administrators of PCCS for the purposes of preparing the PCCS Land for sale, including the completion of infrastructure works and other related works and the payment of consultant and planning fees. Pursuant to the terms of the facility agreement by which FIL lent money to the Deed Administrators, FIL's right to be repaid was subrogated to the Deed Administrators' right of indemnity and lien under the relevant provisions of the Corporations Act, the Deeds of Company Arrangement entered into by PCCS and its related entities, and any equitable lien the Deed Administrators' may have with respect to the assets of PCCS and those related entities.

In addition, FIL funded the work undertaken by the Special Purpose Liquidators in full, pursuant to the terms of a funding agreement approved by the Supreme Court of NSW on 2 December 2019 (as amended with Court approval on 19 October 2020).

The Liquidator's report to creditors dated 5 May 2021 referred to certain aspects of the conduct of the Special Purpose Liquidation. This circular to creditors sets out in greater detail the work that the Special Purpose Liquidators have carried out and the impact on creditors.



Outcome of the Special Purpose Liquidation

On 23 October 2020, the Special Purpose Liquidators caused PCCS to commence a proceeding in the Land and Environment Court of NSW against HCCDC (**Proceeding**).

On or about 29 November 2021, a settlement was finalised as between PCCS, the Special Purpose Liquidators, the Liquidator and HCCDC in connection with the Proceeding. In accordance with the terms of the settlement, the Proceeding has been discontinued and an amount was paid by HCCDC to the Special Purpose Liquidators on behalf of PCCS (**Settlement**).

The terms of the Settlement are confidential and, as such, we are not at liberty to disclose the amount paid by HCCDC in accordance with the terms of the Settlement.

However, the payment received from HCCDC pursuant to the Settlement was not sufficient to repay, in full, the amount owing to FIL. Accordingly, there were insufficient funds available for the Special Purposes Liquidators to return to the Liquidator to be used for the purpose of payment of a dividend to unsecured creditors of the Company.

Due to the discontinuance of the Proceeding and the payment of monies to FIL, the purpose for which the Special Purpose Liquidators were appointed has come to an end.

The Special Purpose Liquidators therefore intend to retire shortly and, as part of this process, will make an application in the Supreme Court of NSW for a release pursuant to section 480 of the Corporations Act in the immediate future. Because of the limited purpose of the Special Purpose Liquidation and the limited impact on unsecured creditors, at this stage the Special Purpose Liquidators do not propose to give further notice of that application to creditors of PCCS.

If you have any questions in relation to this matter, please contact Richard Woolf on (02) 9248 9924 or rwoolf@mcgrathnicol.com, including if you would like to be given notice of the proposed application by the Special Purpose Liquidators.

Yours faithfully

Pasminco Cockle Creek Smelter Pty Limited (In Liquidation)

A handwritten signature in blue ink, appearing to read 'Shaun Fraser'.

Shaun Fraser

Joint and Several Special Purpose Liquidator