

Circular to Creditors

9 September 2009
Ref: NH:JET:060709

Dear Sir/Madam

HMP Constructions Pty Ltd (Receivers Appointed) (Administrators Appointed) **ACN 109 896 013**

We refer to our appointment as Administrators of HMP Constructions Pty Ltd (HMP).

Please find enclosed a copy of the supplemental Section 439A Report to Creditors together with the following documents:

- Form 529 - Notice of second meeting of creditors
- Form 532 - Appointment of proxy
- Form 535 - Formal proof of debt or claim.

If a creditor wishes to rely upon the Proof of Debt they lodged at the first meeting of creditors they must make reference to that Proof of Debt when submitting a proxy, or when attending the second meeting of creditors.

Please ensure that you complete the relevant company proxy and proof of debt to which you are a creditor.

Should you have any queries and/or require any additional information, please contact Lorraine Smith on (07) 3308 7222 or via lorsmith@deloitte.com.au.

Yours faithfully



Nicholas Harwood & John L Greig
Administrators



**HMP Constructions Pty Ltd
(Receivers Appointed)
(Administrators Appointed)
ACN 109 896 013**

Supplemental Second Report to Creditors

Pursuant to Section 439A of the Corporations Act 2001

9 September 2009

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Definitions

\$	Australian dollars
Administrators	Nicholas Harwood and John Lethbridge Greig
Appointment Date	31 March 2009, the date of the appointment of the Administrators to HMP Constructions Pty Ltd
ASIC	Australian Securities & Investments Commission
ATO	Australian Taxation Office
BMA	BHP Mitsubishi Alliance
Committee	Committee of Creditors
Company or HMP	HMP Constructions Pty Ltd (Receivers Appointed) (Administrators Appointed) ACN 109 896 013
Deloitte	Deloitte Touche Tohmatsu
Directors	Bernhard Francis O'Neill and Anthony Mark Ivory
DOCA	Deed of Company Arrangement
ESOP	Estimated statement of position
Helvory	Helvory Contractors Pty Ltd
FYE	Financial year ended 30 June 200X
GE	GE Commercial Pty Ltd
K	Thousands
M	Millions
Management	Management of HMP Constructions Pty Ltd
Mgmt accounts	Management accounts
NAB	National Australia Bank Ltd of which National Australia Trustees Ltd is a related party
RATA	Report as to Affairs
Receivers (GE)	GE appointed Morgan Kelly and Peter Gothard of Ferrier Hodgson as Receivers and Managers over specific fixed assets pursuant to their fixed charges.
Receivers (NAB and St George)	St George and NAB appointed Peter Ivan Felix Geroff and William Martin Colwell of Ferrier Hodgson as Receivers over specific fixed assets pursuant to their charges.
St George	St George Bank Ltd
The Act	Corporations Act 2001
The Court	The Federal Court of Australia or any of the State Supreme Courts
The Regulations	Corporations Regulations 2001
Westpac	Westpac Banking Corporation Ltd
YTD	Year to date

1 Executive summary

We, John Greig and Nicholas Harwood, were appointed as Voluntary Administrators of HMP on 31 March 2009. The purpose of the appointment of an Administrator is to allow for an independent insolvency practitioner to take control of and investigate the affairs of an insolvent company or one that is expected to become insolvent. During that time creditors' claims are put on hold. At the end of that period the Administrator is required to provide creditors with information and recommendations to assist them to decide upon HMP's future.

Creditors will also be aware of the additional appointments as follows:

- | | |
|---------------|--|
| 26 March 2009 | - GE appointed Receivers and Managers to heavy equipment assets it had financed.
GE also entered into possession of certain components it had financed through a bailment facility. |
| 31 March 2009 | - NAB and St George appointed Receivers to the heavy equipment assets they had financed. |

1.1 Purpose of the administration and Administrators' supplemental report to creditors

Section 435A of the Act states that the objective of a Voluntary Administration is to allow for the business, property and affairs of an insolvent (or likely to become insolvent) company to be administered in a way that either:

- maximises the chances of the company continuing; or
- if it is not possible for the company to continue trading, results in a better return for creditors and members than would result from an immediate winding up.

Section 438A of the Act requires the Administrator to investigate the affairs of the company and consider possible courses of action. The Administrator is to form an opinion about the future of the company and give reasons for that opinion in relation to each of the following matters:

- whether it would be in creditors' interests for the company to execute a Deed of Company Arrangement (DOCA); or
- whether it would be in creditors' interests for the administration to end and control be returned to the directors; or
- whether it would be in creditors' interests for HMP to be wound up.

Creditors will be aware that the Administrators issued their report pursuant to S439A on 7 July 2009. At that time a proposal for a DOCA was being prepared, but was unable to be finalised due to ongoing negotiations regarding a dry hire arrangement. Consequently the Administrators recommended against the above 3 outcomes and recommended an adjournment of the 2nd meeting of creditors to allow time for the DOCA proposal to be explored further. The creditors meeting held on 14 July 2009 was adjourned for up to 45 business days by creditor resolution.

The Administrators are now required to provide creditors with notice of the reconvened meeting of creditors and provide them with information and recommendations to assist them to decide HMP's future. Pursuant to section 439A(3) of the Act, we have attached a notice reconvening the 2nd meeting of creditors. The reconvened meeting is to be held on 16 September 2009 at 10.30am at Deloitte, Level 25, 123 Eagle Street, Brisbane.

1.2 Investigations

Section 438(A)(a) of the Act provides that as soon as possible after an administration begins the Administrator must investigate the company's business, property, affairs and financial circumstances.

The investigations are primarily to determine whether a liquidator can recover funds from transactions entered into prior to the appointment of the Administrator, known as "insolvent transactions". An Administrator is also required to determine whether, in his view, a Liquidator might have cause for action against the Directors.

In our report dated 7 July 2009 we stated that we did not believe HMP was insolvent prior to our appointment. We have not identified any additional information that would lead to us to change that view. Consequently, we have not assumed any recoveries from insolvent transactions in a liquidation scenario.

1.3 Options for creditors and recommendations

In addition to investigating the affairs of the Company, Section 438A of the Act requires the Administrators to form an opinion about the future of the Company and give reasons for that opinion in relation to each of the following matters:

- whether it would be in the interests of creditors' for the Company execute a DOCA; or
- whether it would be in the interests of creditors' of the Company for the administration to end; or
- whether it would be in the interests of creditors' that the Company be wound up.

Creditors will then be required to vote on these matters.

At the time of issuing our S439A report on 7 July, it was expected that a proposed dry hire contract would result in approximately 1/3 of the total equipment fleet being utilised for an extended period of time. It was also expected that HMP would secure a contract to provide the maintenance and management services for the dry hire contract. Negotiations for the contract were being managed by the Receivers (GE, NAB and St George) on behalf of their appointors. In the week commencing 3 August 2009 the Receivers (NAB and St George) advised the Administrators and Directors of the Receivers' decision not to award the maintenance and management contract to HMP. Subsequent to that negotiations with the dry hire party collapsed and all of the equipment has now been included in a tender sale process. As such we have not received a DOCA proposal that is capable of being considered by creditors.

It is our opinion that it is in the creditors' interests for HMP to be wound up. It is not in the creditors' interests for the company to execute a DOCA or for the administration to end and control be returned to the directors. The reasons for this opinion are outlined in section 6 of this report.

1.4 Sources of information

This supplemental second report to creditors must be strictly read in conjunction with and not in place of the second report to creditors dated 7 July 2009. We refer creditors to the previous report, copies of which can be obtained from the Deloitte web site at www.deloitte.com.au under Services/Corporate Reorganisation/Businesses under Administration, or by contacting Lorraine Smith on 07 3308 7222.

This report has been prepared primarily from information received from the directors and the books and records of HMP. We have investigated the affairs of HMP however there may be certain matters of which we are not aware, or which we have not been advised. We have not performed an audit of HMP. In order to complete this report, and in conducting our investigations, we have utilised information from:

- ASIC
- HMP books and records
- questionnaires completed by the directors
- discussions with directors, management and staff
- extensive discussions with the Directors and Receivers.

Whilst we have no reason to doubt any information contained in this report, we reserve the right to alter our conclusions should the underlying data prove to be inaccurate or materially change from the date of this report.

2 Independence statement

Prior to our appointment, neither of us nor the firm Deloitte, of which we are partners, have had a professional, personal or business relationship with the officers or shareholders of HMP. Our pre appointment consideration of the risks to our independence identified no real or potential risks to our independence.

We have and will continue to undertake our duties independently, and do not believe that there is any matter that gives rise to any conflict of interest. We have not been indemnified in relation to this administration, other than any indemnities that we may be entitled to under statute.

A Declaration of Independence, Relevant Relationships and Indemnities is attached as Appendix A.

3 Summary of administration to date

3.1 DOCA proposal

On 7 July 2009 we circulated a 2nd report to creditors which advised that the directors of HMP, Bernard O'Neill and Anthony Ivory, intended to propose a DOCA based on the dry hire of certain equipment. We recommended to creditors to adjourn the 2nd meeting of creditors to enable terms to be negotiated and allow the option to be progressed and analysed. Based on the information to hand at that time we believed that the DOCA proposal was likely to provide a better return to all classes of creditors than the immediate winding up of HMP. At the 2nd meeting of creditors held on 14 July 2009 those present and/or represented resolved to adjourn the meeting for a period of up to 45 business days to allow the directors to further progress their DOCA proposal and present a final version to the Administrators.

Since the adjourned 2nd meeting of creditors held on 7 July 2009 we have continued to control the operations and affairs of HMP and monitor the dry hire negotiations. As you may appreciate the continued operation of a business under administration presents many inherent risks that can affect trading results, however, given the reasons for the adjournment outlined above and our belief that a successful outcome could be achieved for the benefit of all creditors we continued to allow the business to trade. The terms of the proposed DOCA could only be finalised once the terms of the dry hire were finalised. The DOCA proposal as it stood encompassed amongst other things, a portion of HMP's equipment being placed on dry hire for a period of two years.

The dry hire negotiations were being conducted by the Receivers (NAB and St George) direct with the proposed customer, as they had control of the equipment that would be subject to the arrangements. Management of HMP submitted a proposal to the Receivers (NAB and St George) for the management and maintenance of the dry hire equipment. Negotiations between the Receivers (NAB and St George) and the customer became protracted. During that process the Receivers (NAB and St George) also sought proposals from other service providers for the management and maintenance contract.

During this period we attended numerous meetings with both the Directors and the Receivers (NAB and St George) to discuss the proposed dry hire contract and ultimately the strategy for the DOCA proposal.

In early August the Receivers (NAB and St George) advised HMP that they would not be awarding the management and maintenance contract to HMP. The main reason provided was that they were concerned that HMP may not be able to meet the obligations of the contract over the two year period, due to its financial position. We are advised that the Receivers (NAB and St George) continued to negotiate with the dry hire customer, however during August the negotiations collapsed. Since then the Receivers (NAB and St George) have advised us that all of the HMP equipment under their control has been included in a tender sale process. In addition, GE has begun to accept offers to sell equipment as and when they received offers satisfactory to them.

As the management and maintenance contract was no longer available to the directors, they have considered other alternatives which could be incorporated into a DOCA proposal for creditors to consider. An alternative proposal was explored that would involve the use of the equipment owned by Westpac (5 items of heavy equipment) and leased to HMP, the maintenance facility at Wacol and the possibility of equipment in the tender process being returned to HMP for its own use due to offers being unacceptable. At the time of issuing this report no DOCA proposal has been received of this nature.

Had such a proposal been received it would have required Westpac to continue to support HMP by leaving their five items of heavy equipment for use by HMP. It is expected that there may be equity in these items after the Westpac debt is repaid in full, so those secured creditors with fixed and floating charges may have an economic interest in any surplus that is realised. Those same secured creditors also have an economic interest in the assets that comprise the Wacol facility. With regard to the equipment in the tender process, the various secured creditors have stated that they are unable to comment on the possibility of the equipment becoming available for use by HMP until the process is completed. The deadline for offers is Friday 11 September 2009.

Discussions and correspondence have also occurred between the Receivers, the Directors and the Administrators regarding the need for working capital to support any DOCA proposal, and the source of any funds for a dividend to unsecured creditors. In the absence of a capital injection from the Directors or 3rd party, the only source of these funds would be the floating charge surplus, ordinarily available to the secured creditors. While we have limited information from these secured creditors regarding their financial position, it has been indicated to us that they expect to suffer a shortfall after realising their fixed charge assets.

On 12 June 2009 the Directors submitted a proposal to the Receivers indicating the likely terms of a DOCA. However, the Receivers and Directors could not subsequently reach consensus. As such and coupled with concerns we had about the lack of working capital to support future trading, we formed a view that there was no DOCA proposal to be considered by the Administrators and put to creditors for their consideration.

3.2 Administrators' trading

Curragh

As noted in our report to creditors dated 7 July 2009 the Curragh contract was terminated in May with an effective finish date on 19 November 2009. HMP has continued to undertake works pursuant to the Curragh contract, as it was considered Curragh may have been supportive of a DOCA proposal. The continuation of the works at Curragh has allowed the equipment finance debt to be reduced through monthly payments and maintained the possibility of a new contract being awarded should circumstances within the industry and at the mine allow.

Since the collapse of the intended dry hire arrangement, HMP has continued to perform its obligations under the contract and allow the receivables due to it by Wesfarmers to be collected. Had the Administrators decided to cease trading when the prospect of a DOCA became unlikely, Wesfarmers may have pursued a damages claim against HMP and withheld payment of outstanding receivables as a set off against the damages claim.

Creditors who were present at the creditors meeting in July 2009 may recall that we mentioned Wesfarmers had sought to terminate the contract with immediate effect for drug test failures. Following our negotiations with them they subsequently withdrew the notice of termination. Since then we have regularly liaised with Wesfarmers to monitor HMP operations in accordance with the contract.

In our estimate for the future trading performance, detailed later in this report, we have assumed that the works at Curragh will continue until 19 November 2009. We have also allowed several weeks for a reduced workforce to clean up the site and assist with the demobilisation of the equipment.

As demonstrated in that estimate, it is not anticipated that the continuation of trade by HMP to finalisation of the Curragh contract will increase the indebtedness of HMP but rather will result in overall revenue for HMP over the period August to December.

Consequently, the recommendation made at paragraph 6(ii) of this report that HMP be wound up, should not impact upon the ability of HMP to meet its obligations under the Curragh contract to 19 November 2009.

Goonyella and Norwich Park

As advised to creditors in our report dated 7 July 2009, the contracts at Goonyella and Norwich Park ceased prior to that date. Since then we have, in conjunction with the Receivers, retained the original equipment manufacturers to provide maintenance support for some of the larger equipment items while they are not in use. We have also retained staff to assist with periodical maintenance inspections and maintenance work as necessary.

Wacol

The work force at Wacol has been reduced in line with reduced activity of the HMP operations to support the operations at the Curragh site. In addition the Wacol facility has been utilised to repair equipment to improve the realisable value.

Details of tasks completed to date are included in Annexure B, Statement of Remuneration.

4 Administrators trading performance, receipts and payments

4.1 Administrators' post appointment trading performance

The table below provides details of the actual and forecast financial performance of HMP from 31 March 2009 to 31 December 2009. This comprises actual performance for the period 31 March 2009 to 31 July 2009 and forecast financial performance from 1 August 2009 to 31 December 2009 which incorporates completion of HMP's obligations at Curragh. It also incorporates wages for staff who will be required to clean up the site and assist with an orderly exit.

Post appointment trading performance		\$'000
Actual trading 1 April 2009 to 31 July 2009		
Revenue		25,535
Expenses		
Wages (and on-costs)		10,886
Other staff amenity costs		90
Repairs & maintenance		1,379
Employee transport costs		159
Vehicle expenses		19
Rent		651
Purchase control account (pre allocation to cost codes)		1,448
Other		746
Committed costs as per unprocessed Purchase Order register		1,973
Total expenses		17,352
Operating net income pre-financing costs		8,183
Less principal and interest payments to secured creditors		(5,177)
Pre-tax trading 1 April 2009 to 31 July 2009		3,005
Forecast August to December pre-tax performance after principal and interest payments		687
		3,692

Please note the expenses/purchase orders may also include costs that are of a capital nature and at a later point may be capitalised but this adjustment has not yet been processed. As such costs and purchase orders may be overstated for the above reporting period.

4.2 Administrators' receipts and payments

The table below provides a summary of all receipts and payments made by the Administrators for the period 31 March 2009 to 31 July 2009.

Post appointment receipts and payments		\$'000
Actual trading 1 April 2009 to 31 July 2009		
Total Receipts		
Debtors - Curragh		15,398
Debtors - Goonyella		10,382
Debtors - Norwich Park		8,844
Debtors - Dawson		724
Proceeds from the sale of assets		1,375
Other sundry receipts		1
		36,723
Total Payments		
Wages including payroll tax, superannuation and long service leave)		10,247
Principal and interest and proceeds from asset sales paid to Secured Creditors		5,622
Taxes (PAYG, GST)		2,829
Employee entitlements		2,040
Repairs and maintenance		1,865
Accommodation /Rent for staff		1,626
Other trading costs		994
Administrators remuneration		674
Transport costs for staff		263
Legal fees		104
Other sundry payments		44
		26,306
Balance as at 31 July 2009		10,417

5 Administrators' investigations

Section 438(A)(a) of the Act provides that as soon as practicable after an administration begins the Administrator must investigate the company's business, property, affairs and financial circumstances.

The purpose of the investigation is to determine whether there are transactions where money, property or other benefits could be recoverable by a liquidator (should creditors resolve to place HMP in liquidation) which would result in a greater dividend to creditors than entering into a DOCA. We seek to identify recoveries that might be pursued by a liquidator exercising the powers that are conferred on him or her by the Act. These transactions are known as "insolvent transactions". They can only be set aside or recovered if HMP was insolvent at the time they occurred. Setting aside these transactions can provide additional funds and increase the return to creditors overall, but the liquidator needs to prove that HMP was insolvent at the time the transaction occurred or if the transaction made HMP insolvent. These can be categorised as follows:

- insolvent trading
- unfair preference payments
- unfair loans
- uncommercial transactions

- transactions with the purpose of defeating creditors

An explanation of the possible offences by Directors and insolvent and voidable transactions that a liquidator could pursue is attached at Appendix C. This information sheet has been prepared by the Insolvency Practitioners Association of Australia and is intended to reduce the amount of generic information included as part of the body of this report. Creditors who are not familiar with the nature of offences and liquidator actions should refer to the appendix for explanations.

The outcomes of our investigations were included in the report to creditors dated 7 July 2009 and we have not identified any further evidence that would lead us to change those opinions. Based on our preliminary investigations there are no insolvent or voidable transactions which could be recovered by a liquidator.

6 Administrators' recommendations

As mentioned earlier in this report, pursuant to section 439A(4) of the Act, an Administrator must provide a statement setting out his opinion about each of the following options:

- i. whether it would be in the creditors' interest for the company to execute a DOCA

As no proposal for a DOCA has been received, this option is not available to creditors.

- ii. whether it would be in the interests of creditors for HMP to be wound up

We recommend that HMP be wound up as it is presently insolvent and unable to pay its debts as and when they fall due.

- iii. whether it would be in the creditors' best interest for the administration to end and control of the company to be returned to the directors

It is clear that HMP is presently insolvent and unable to pay its debts as and when they fall due. Accordingly we cannot recommend that the Administration ends and control be returned to the directors.

The Administrators reserve the right to change their recommendation to creditors subsequent to the date of this report. Should we receive any new information relevant to creditors between issuing this report and the date of the creditors meeting, a summary be made available on our website at www.deloitte.com.au under Services/Corporate Reorganisation/Businesses under Administration.

7 Estimated statement of position

We have prepared an estimated statement of position for HMP as at 31 July 2009 setting out the likely outcomes in a liquidation for two scenarios being high and low. We are advised by the auctioneer and valuer that he considers the low scenario to be more realistic in respect to the heavy equipment. In this scenario there would be insufficient assets to discharge the debts of the secured creditors. Consequently unsecured creditors are not expected to receive a dividend.

Both scenarios have the following assumptions:

- Closure of HMP
- Sale of the HMP assets by the liquidator
- No value being realised for the business or brand name
- Costs involved in undertaking the sale of HMP assets including the Administrators' and Liquidators' fees

Estimated Statement of Position	Notes	Book Value \$'000	ERV High \$'000	ERV Low \$'000
Assets Subject to Fixed Charge				
GE - Plant & Equipment	1	58,121	63,385	44,370
Less: agent fees	1	0	(1,268)	(887)
Less: finance liability - GE	1	(62,355)	(62,355)	(62,355)
Surplus - Finance P&E Fixed Chargeholders - GE		(4,234)	(237)	(18,873)
St George - Plant & Equipment	1	28,174	32,850	22,995
Less: agent fees	1	0	(657)	(460)
Less: finance liability - St George	1	(42,062)	(42,062)	(42,062)
Surplus - Finance P&E Fixed Chargeholders - St George		(13,888)	(9,869)	(19,527)
NAB - Plant & Equipment	1	30,013	39,800	27,860
Less: agent fees	1	0	(796)	(557)
Less: finance liability - NAB	1	(39,054)	(39,054)	(39,054)
Surplus - Finance P&E Fixed Chargeholders - NAB		(9,041)	(50)	(11,751)
Westpac - Plant & Equipment		9,899	6,881	5,554
Less: agent fees		0	(69)	(56)
Less: finance liability - Westpac		(4,887)	(4,887)	(4,887)
Surplus - Finance P&E Fixed Chargeholders - Westpac		5,013	1,925	612
Suncorp - Plant & Equipment		132	65	46
Less: agent fees		0	(1)	(1)
Less: finance liability - Suncorp		(174)	(174)	(174)
Surplus - Finance P&E Fixed Chargeholders - Suncorp	1	(42)	(110)	(130)
Non-specifically charged fixed assets				
Surplus from P&E above	1	5,013	1,925	612
Revaluation of fixed assets	1	15,437	0	0
Other owned P&E, fixtures and fittings	2	37,238	1,086	710
		57,687	3,011	1,322
Less: fixed and floating charge creditors	1	(27,163)	(3,011)	(1,322)
Surplus/(shortfall) Fixed Chargeholders		30,524	0	0
Assets Subject to Floating Charge				
Cash at Bank		10,417	10,417	10,417
Trade Debtors	3	5,224	4,722	2,976
Stock	4	5,071	2,506	2,122
Intangibles	5	700	0	0
Administrators trading liabilities outstanding as at 31 July 2009		(2,823)	(2,823)	(2,823)
Administrators forecast trading performance		687	687	687
Total Assets Subject to Floating Charge		19,275	15,508	13,378
Less: Priority Creditors				
Administrators fees	6	0	(180)	(212)
Liquidators fees	6	0	(70)	(92)
Legal fees	6	0	(25)	(25)
Employee entitlements	6	(2,951)	(5,455)	(5,455)
Assets Available to Fixed & Floating Chargeholders		46,848	9,779	7,595
Less: P&E fixed charge creditors	1	0	(7,145)	(7,595)
Surplus/(Shortfall) as regards Fixed & Floating Chargeholders		46,848	2,634	0
Less: Unsecured Creditors				
Shortfall to chargeholders	1	(42)	(110)	(41,363)
Trade Creditors (at appointment)	7	(9,745)	(12,016)	(12,016)
Statutory Creditors - Taxation (at appointment)	8	(4,227)	(4,227)	(4,227)
Other creditors and accruals	7	(183)	0	0
Total Unsecured Creditors		(14,198)	(16,354)	(57,606)
Estimated Surplus/(Deficiency)		32,650	(13,720)	(57,606)

The above Estimated Statement of Position is based on the balance sheet as at 31 July 2009 plus the forecast trading performance for August to December 2009. As only limited information has been provided from the fixed charge holders, we have adopted the 31 March 2009 fixed charge debt position, being the date the Administrators were appointed, updated for any additional information provided by the fixed charge holders.

7.1 High outcome

These values have been included on the basis that there is potential for an increased recovery or realisation above that of a low outcome position for specific assets. Where there are two estimates of the value of an asset, the higher value has been included in the high outcome calculations. Achieving these values is subject to a number of factors that would arise during the realisation process. This includes various market forces affecting the value of each asset, including the interest in each asset and the general economic status at the time of sale.

7.2 Low outcome

The values included in this calculation are considered the lower possible values recoverable from the specific assets of HMP. These amounts have been calculated by either discounting for a reduced return or where two values were provided for an asset, the lower value was included.

The realisations will be subject to costs and also fluctuations in various other factors outlined in 7.1.

7.3 Notes to the Estimated Statement of Position

1. Assets subject to fixed charge	Book Value \$'000	ERV High \$'000	ERV Low \$'000
Assets subject to fixed charge with GE/NAB/St George			
Net book value/valuation	116,308	136,035	95,225
Less: agent fees	0	(2,721)	(1,904)
Less: finance liability	(143,470)	(143,470)	(143,470)
	(27,163)	(10,156)	(50,150)
Less: realisation from other fixed charge assets	27,163	3,011	1,322
Less: funds available from floating charge assets	0	7,145	7,595
	(0)	(0)	(41,234)
Suncorp shortfall	(42)	(110)	(130)
Assets subject to floating charge	(42)	(110)	(41,363)
Re-assessment of asset lives - impact on net book value	15,437	0	0

The low outcome represents 70% of the high outcome, which is based on a going concern value. It is the Administrators' assessment, in consultation with the independent valuer, that in a liquidation scenario the low outcome is the most likely outcome to be achieved.

Revaluation of the plant and equipment occurred due to the extension of the useful lives of plant and equipment from major overhauls undertaken. No realisable value has been assessed for this asset as its value is already in the estimated of the fixed charge assets, being the heavy equipment.

2. Other owned P&E, fixtures and fittings	Book Value \$'000	ERV High \$'000	ERV Low \$'000
Capital spares	28,227	0	0
Site buildings	4,839	642	488
Site establishment costs	1,952	0	0
Mobile equipment	835	167	83
Computer equipment	657	131	66
Workshop equipment	512	102	51
Fixtures and fittings	144	29	14
Survey equipment	72	14	7
	37,238	1,086	710

HMP's accounts separately disclose balances for other owned P&E and fixtures and fittings. It has not been possible to separately identify the assets that make up these two asset categories. Consequently, we have attributed the aggregated realisable value to fixtures and fittings.

Capital spares consist primarily of major overhauls to equipment to extend the useful economic life of the plant and equipment operated by the business. No realisable value has been assessed for these spares as their value will be reflected in the estimated realisable value of assets subject to fixed charge.

The Administrators have ascribed no value to site establishment costs as these costs cannot be recovered.

High and low estimated realisable values were assessed by an independent valuer (Hassalls). It is the Administrators' assessment that in a liquidation scenario the low outcome is the most likely outcome to be achieved.

It has not been possible to separately identify owned assets.

3. Trade debtors	Book Value \$'000	ERV High \$'000	ERV Low \$'000
Wesfarmers (Curragh)	2,425	2,425	2,425
BMA Coal demobilisation (Goonyella)	1,250	1,250	0
BMA Coal demobilisation (Norwich Park)	496	496	0
BMA Coal (Norwich Park)	260	260	260
Anglo Coal (German Creek)	491	0	0
BMA Coal (Goonyella)	291	291	291
Anglo Coal (Dawson)	11	0	0
	5,224	4,722	2,976

The full recoverability of debtors will be dependent upon a number of factors including the settlement of disputes.

We have contacted all of the debtors of HMP to obtain payment and to understand any disputes that may have caused a delay in payment. As a result of our findings we estimate that, in the low outcome scenario, the collection of approximately \$2,248k may be in doubt.

The reasons are a combination of:

- a dispute regarding price escalation clauses at the Anglo Coal Dawson mine. The disputed amount was \$11k which is unlikely to be recovered.
- a dispute regarding \$491k relating to the existence of an actual contract at the German Creek mine and the recovery of costs associated with preparation for mining works which ultimately did not proceed
- the potential non-payment of de-mobilisation costs claimed by HMP at the BMA Goonyella (\$1,250k) and Norwich Park (\$496k) mines.

We are continuing to work through the disputes and have had some success to date in resolving problems and obtaining payment. However, at this stage I estimate that recoveries in a low outcome scenario will be approximately \$2,976k.

4. Stock	Book Value \$'000	ERV High \$'000	ERV Low \$'000
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Tyres and spare parts	5,071	2,506	2,122
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An updated stock take has been performed by the independent valuer, who has estimated the above realisable values on both a fair market value and an auction basis.

The value of stock excludes stock held at HMP's premises under a GE Bailment Facility which is not owned by HMP until payment has been made to GE.

Third party stock is also stored at HMP's Wacol facility. Whilst every effort was made to exclude this third party stock from the stock take procedures performed, a risk exists that a third party may make a claim against stock included in the above table.

5. Intangibles	Book Value \$'000	ERV High \$'000	ERV Low \$'000
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Intellectual property and systems	700	0	0
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The Directors of HMP and the Administrators do not consider the intellectual property and systems of HMP have a realisable value.

6. Priority creditors	Book Value \$'000	ERV High \$'000	ERV Low \$'000
Administrators fees	0	180	212
Liquidators fees	0	70	92
Legal costs	0	25	25
	0	275	328
Employee entitlements			
Annual Leave	640	640	640
Paid personal leave	998	998	998
Pay in lieu of notice	0	597	597
Severance & retrenchment	0	1,906	1,906
Long Service Leave	83	83	83
Superannuation	18	18	18
Retention bonus	681	681	681
PAYG	531	531	531
	2,951	5,455	5,455
Total priority creditors	2,951	5,730	5,783

7. Trade creditors, other creditors and accruals	Book Value \$'000	ERV High \$'000	ERV Low \$'000
Trade creditors			
Current	6,493	Refer note below	Refer note below
0-30 days	3,259	Refer note below	Refer note below
Greater than 30 days	(7)	Refer note below	Refer note below
	9,745	12,016	12,016
Other creditors and accruals			
Provisions	100	0	0
Other accruals	83	0	0
	183	0	0

The above trade creditors, others creditors and accruals are as at 31 March 2009, the date the Administrator was appointed.

The estimated value for trade creditors takes into account proofs of debt received by the Administrators. Where no proof of debt has been received the book value of the individual trade creditor has been adopted.

8. Statutory creditors - Tax	Book Value \$'000	ERV High \$'000	ERV Low \$'000
GST	1,360	1,360	1,360
Income tax	1,227	1,227	1,227
Deferred tax	971	971	971
PAYG	445	445	445
Payroll tax and fringe benefits tax	225	225	225
	4,227	4,227	4,227

7.4 Overall realisations in liquidation scenarios

The high outcome scenario produces a return of approximately 16 cents in the dollar for unsecured creditors whereas the low outcome scenario does not produce a return to unsecured creditors.

In conclusion, it is the Administrators' assessment, in consultation with their independent valuer, that in the current economic climate the going concern values which support the high outcome scenario will not be achieved and therefore the low outcome scenario is the most likely outcome to be achieved, which will not produce a return for unsecured creditors.

7.5 Liquidators' role and duties

Should the creditors resolve at the second meeting of creditors that HMP be wound up, we, as Administrators, may become liquidators of HMP pursuant to Section 446A of the Act. Pursuant to Section 513C of the Act, the winding up of HMP will be deemed to have commenced as at the date of our appointment as Administrators, being 31 March 2009.

As Liquidators of HMP our primary duties would be to:

- Realise the assets of HMP not subject to the charges held by GE, St. George and NAB
- Continue to investigate the affairs of HMP and its directors
- Instigate legal action to pursue voidable transactions or parties guilty of offences, subject to investigation findings
- Adjudicate creditor claims if a dividend will be paid
- Distribute available funds to creditors in accordance with the priorities set out in the Act.

8 Voluntary Administrator's Fees

8.1 Approval to date

The fees of the Administrators to 30 June 2009, as approved by the creditors and/or the Committee are as follows:

Period of time	Amount (excl GST)
31 March 2009 – 30 April 2009	\$248,812
1 May 2009 – 30 June 2009	\$342,864

8.2 Approval required for the period post 1 July 2009

The costs of the Administration for the period 1 July 2009 to 16 September 2009 are as follows:

Period of time	Amount (excl GST)
1 July 2009 – 31 August 2009	\$171,915
1 September 2009 – 16 September 2009	\$39,653
17 September 2009 – 31 December 2009	\$91,780

The Administrators' remuneration is based on Deloitte's hourly rates which are included in Appendix B to this report. Creditor approval for fees will be sought at the adjourned second meeting of creditors.

At the adjourned second meeting of creditors, the Administrators will propose a resolution in relation to the unpaid fees from 1 July 2009 to 31 August 2009 and estimated future fees from 1 September 2009 to 16 September, being the date of the creditors meeting. A further resolution will be proposed for Liquidators' fees for the period 17 September 2009 to 31 December 2009. The estimate for Liquidators' fees is based on completion of the works for the Curragh contract. If a lesser amount is incurred only the amount actually incurred will be paid.

The resolutions to be sought at the meeting of creditors are:

- i. That the Administrators' remuneration pursuant to the provisions of Section 449E of the Corporations Act for the period 1 July 2009 to 31 August 2009 be fixed in the amount of \$171,915 (plus GST) as outlined in the Report to Creditors; and
- ii. That the Administrators' future remuneration pursuant to the provisions of Section 449E of the Corporations Act for the period 1 September 2009 to 16 September 2009 be fixed and capped to an amount of \$39,653 (plus GST) as outlined in the Report to Creditors
- iii. That the Liquidators' future remuneration pursuant to the provisions of Section 473 of the Corporations Act for the period 17 September 2009 to 31 December 2009 be fixed and capped to an amount of \$91,780 (plus GST) as outlined in the Report to Creditors

The Administrators' fees will be capped and accordingly we will be unable to draw fees more than this amount without further approval by creditors.

Please note that none of these fees include disbursements, which Administrators are entitled to draw as and when incurred.

Attached as Appendix D is a copy of IPA creditor information sheet which provides further information in relation to approving remuneration in external administrations.

If you have any queries please contact Lorraine Smith on 07 3308 7222.

Yours faithfully



John L Greig & Nicholas Harwood
Administrators

Appendix A – Declaration of Independence, Relevant Relationships and Indemnities

HMP Constructions Pty Ltd
ACN: 109896013

Independence

We, Nicholas Harwood and John Lethbridge Greig have undertaken a proper assessment of the risks to our independence prior to accepting the appointment as Voluntary Administrators of HMP Constructions Pty Ltd. This assessment identified no real or potential risks to our independence. We are not aware of any reasons that would prevent us from accepting this appointment.

We have continued to monitor our independence and confirm there are no real or potential risks to our continuing with this appointment.

Relevant Relationships

Our firm does have professional relationships with the following entities, being entities that are entitled to enforce a charge on the whole or substantially whole of HMP Constructions Pty Ltd's property. These professional relationships do not preclude us from acting as Voluntary Administrators of HMP Constructions Pty Ltd and neither we, nor a member of our firm, has, provided any advice to the following entities with respect to HMP Constructions Pty Ltd.

Name	Nature of relationship	Reasons why not an Impediment or Conflict
National Australia Trustees Ltd	From time to time we accept engagements on behalf of National Australia Bank Ltd of which National Australia Trustees Ltd is a related party.	It is a commercial relationship.
GE Commercial Pty Ltd National Australia Trustees Ltd	From time to time we accept engagements on behalf of GE Commercial Pty Ltd.	It is a commercial relationship.
St. George Finance Ltd	From time to time we accept engagements on behalf of St. George Bank Ltd of which St. George Finance Ltd is a related party.	It is a commercial relationship.
St. George Security Holdings Pty Ltd	From time to time we accept engagements on behalf of St. George Bank Ltd of which St. George Security Holdings Ltd is a related party.	It is a commercial relationship.

There are no other prior professional or personal relationships that should be disclosed.

Prior Engagements with the Insolvent

Neither we, nor our Firm, have undertaken any prior engagements for HMP Constructions Pty Ltd.

Indemnities

We have not been indemnified in relation to this administration, other than any indemnities that we may be entitled to under statute.

Dated: 9 September 2009



John Lethbridge Greig



Nicholas Harwood

NOTE: If circumstances change, or new information is identified, we are required under the IPA Code of Professional Practice to update this Declaration and provide a copy to creditors with my next communication as well as table a copy of any replacement declaration at the next meeting of the company's creditors.

Appendix B - Statement of remuneration

Deloitte Hourly Rates

The rates for our remuneration calculation are set out in the following table together with a general guide showing the qualifications and experience of staff engaged in the administration and the role they take in the administration. The hourly rates charged encompass the total cost of providing professional services and should not be compared to an hourly wage. All rates are show exclusive of GST.

Classification	Hourly Rate (exc GST)	Hourly Rate (inc GST)	Description
CRG Partner 1	520.00	572.00	Registered liquidator or bankruptcy trustee. Brings his or her specialist skills to the administration or insolvency task.
CRG Sr Manager 1	375.00	412.50	Typically CA or CPA qualified with in excess of 10 years experience on insolvency matters with a number of years at manager level. Answerable to the appointee but otherwise responsible for all aspects of an administration. Capable of controlling all aspects of an administration. May be appropriately qualified to take appointments in his/her own right.
CRG Sr Manager 2	340.00	374.00	
CRG Manager 1	260.00	286.00	Typically CA or CPA qualified with 6 to 8 years experience working on insolvency matters. Will have experience conducting administrations and directing a number of staff.
CRG Manager 2	220.00	242.00	
CRG Sr Analyst 1	200.00	220.00	Typically completed or near completion of CA or CPA qualifications with 4 to 6 years insolvency experience. Assists in planning and control of smaller matters as well as performing some more difficult tasks on larger matters.
CRG Sr Analyst 2	185.00	203.50	
CRG Sr Analyst 3	160.00	176.00	
CRG Analyst 1	155.00	170.50	Typically studying towards CA or CPA qualification with 2 to 4 years insolvency experience. Works under supervision of more senior staff in performing day-to-day fieldwork.
CRG Analyst 2	145.00	159.50	
CRG Analyst 3	135.00	148.50	
CRG Graduate	130.00	143.00	
CRG Support A	130.00	143.00	Generally a person currently undertakes a university degree. Works under supervision in providing assistance on tasks involved in insolvency matters
CRG Support B	115.00	126.50	
CRG Vacationer	130.00	143.00	

Administrators' Remuneration

At the meeting, we shall be asking that our remuneration as Administrators be approved. Those fees are based on our Rates as shown on the previous page.

Fees incurred 1 July to 31 August 2009: \$ 171,835

Approval to be sought at the second meeting of creditors \$ 171,835

Details of the work to be performed by Administrators are set out in the summary below

Company	HMP Constructions Pty Ltd	Period	1 July 2009 – 31 August 2009
Practitioner	John Lethbridge Greig and Nicholas Harwood	Firm	Deloitte Touche Tohmatsu
Administration Type	Voluntary Administration		

Task Area	General Description	Includes
Assets 30 hours \$9,111	Plant and Equipment	Review asset listings Liaising with valuers, auctioneers and interested parties Liaising with Receivers regarding use of equipment Liaising with Receivers regarding auctions for sale of plant and equipment Arrange sale of plant and equipment at auction Arrange for maintenance inspections and work as required Correspondence with insurer regarding ongoing insurance requirements
	Debtors	Reviewing and monitoring debtor ledgers Correspondence with debtors and collection
	Leasing	Liaising with owners/lessors Preparing lease payments for fixed charge assets
Creditors 181 hours \$51,756	Creditor circulars	Prepare and issue section 439A report Preparation of supplemental second report to creditors
	Proof of Debt	Compiling Proof of Debt documents and updating Proof of Debt register
	Creditor Enquires	Respond to creditor enquiries Review and prepare correspondence to creditors and their representatives via facsimile, email and post

	Secured Creditor	Correspondence and meetings with Receiver appointed by secured creditors
	Meetings of Creditors	<p>Preparation of meeting notices, proxies and advertisements for first meeting</p> <p>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.</p> <p>Preparation and lodgement of minutes of meetings with ASIC</p> <p>Responding to stakeholder queries and questions immediately following meeting</p>
Employees 65 hours \$10,889	Employees	<p>Meetings with Union representatives</p> <p>Updating employee information</p>
	Legal and Professional Advice	<p>Discussion with lawyers regarding employee entitlements</p> <p>Analysing employment contracts and awards</p> <p>Analysing employee entitlements position based on legal advice from HWL Ebsworth</p>
	Employee Enquiry	<p>Receive and respond to employee enquires</p> <p>Review and prepare correspondence to employees and their representatives via facsimile, email and post</p> <p>Preparation of letters to employees advising of their entitlements</p> <p>Verifying super amounts for employees</p> <p>Receive and prepare correspondence in response to employees objections to leave entitlements</p> <p>Answering employee calls regarding employee entitlements</p>
	Calculation of Entitlements	<p>Updating calculations for employee entitlements (LSL, Super, AL, PILN, Redundancy)</p> <p>Updating entitlement calculations for changes in details</p> <p>Reviewing employee files and company's books and records</p>
	Other Employee Issues	<p>Correspondence with Child Support Agency</p> <p>Correspondence with Centrelink</p>

Trade On 444 hours \$94,066	Trade on Management	Review of management reports and monitoring of trading performance Review of mining contracts Discussions with BMA and Wesfarmers Liaising with suppliers Liaising with management and staff Attendance on site Arranging and authorising purchase orders Maintaining purchase order register Liaising with superannuation funds and Auscoal for long service leave regarding contributions, termination of employees employment Liaising with OSR regarding payroll tax issues Payments to creditors, contractors and employees on a weekly basis Discussions in relation to proposed dry hire arrangements Discussions with creditors relating to the explanation of pre appointment debt and post appointment debt
	Creditor Accounts	Setting up new supplier accounts Processing credit account applications Making creditor payments and processing purchase orders Query and discuss credit limits with creditors as necessary
	Processing receipts and payments	Entering receipt and payments into accounting system Review of and payment of wages to staff Summarise and account for asset sales Preparation and lodgement of BAS Payment of finance payments to Receivers and Westpac Match and reconcile creditor purchase orders to invoices Reconcile and pay superannuation payments and long service leave levies

	Bank account administration	<p>Preparing correspondence opening and closing accounts</p> <p>Requesting bank statements</p> <p>Bank account reconciliations</p> <p>Correspondence with bank regarding specific transfers</p>
	Budgeting and financial reporting	<p>Development of Forecast Trading Model</p> <p>Discussion with HMP management on future repairs and maintenance costs</p> <p>Reviewing company's budget and financial statements</p> <p>Meetings with Receivers to discuss forecasts and other issues</p> <p>Analysis on actual compared to budgeted position</p> <p>Maintaining trading profit and loss</p> <p>Preparation of financial reports</p> <p>Meetings with HMP management to discuss trading position</p>
Administration 31 hours \$6,014	Appointment	<p>Discussions with Directors and Receivers on proposed DOCA</p> <p>Preparing insurance, checklist and advertisement for the media</p>
	Document maintenance/file review/checklist	<p>Filing of documents</p> <p>File reviews and updating checklists</p>

Calculation of Remuneration

Employee	Position	\$ / hour (excl GST)	Total actual hours	Total \$	Assets		Creditors		Task area Employees		Trade on		Administration	
					Hrs	\$	Hrs	\$	Hrs	\$	Hrs	\$	Hrs	\$
Harwood, Nicholas	Appointee	520	51	26,728	2	832	23	11,960	2	884	25	13,052	-	-
Hughes, Richard	CRG Partner 2	520	0.2	108	-	-	-	-	-	-	0.2	108	-	-
Leech, Martin	CRG Director 1	375	64	23,813	6	2,063	28	10,500	-	-	22	8,250	8	3,000
Smith, Lorraine	CRG Director 1	375	14	5,213	-	-	-	-	-	-	14	5,213	-	-
Taplin, James	CRG Director 1	375	94	35,288	13	4,988	41	15,450	-	-	40	14,850	-	-
Lippstreu, Debbie	CRG Manager 1	270	2	621	-	-	2	621	-	-	-	-	-	-
Wong, Bernard	CRG Snr Analyst 1	200	30	4,848	-	-	22	3,568	-	-	8	1,280	-	-
Montemor, Camila	CRG Snr Analyst 3	160	13	2,063	1	83	4	627	8	1,238	0.7	116	-	-
Sommerfeld, Amanda	CRG Snr Analyst 3	160	119	19,008	-	-	-	-	9	1,392	110	17,616	-	-
Buscombe, Kerry	CRG Analyst 2	145	8	1,014	-	-	-	-	-	-	8	1,014	-	-
Seow, Nadyne	CRG Analyst 2	145	79	12,168	-	-	36	5,534	28	4,263	15	2,372	-	-
Bennett, Alexandra	CRG Graduate	130	20	2,692	-	-	-	-	2	306	11.4	1,538	7	848
Rutter, Matthew	CRG Graduate	130	72	9,576	8	1,042	16	2,093	-	-	47	6,242	2	200
Acharya, Aneesh	CRG Vacationer	130	8	770	1	105	-	0	-	-	6	523	2	143
Bennett, Alexandra	CRG Vacationer	130	4	507	-	-	4	507	-	-	-	-	-	-
Prentice, Jack	CRG Vacationer	130	2	286	-	-	1	65	0	39	1.4	182	-	-
Bird, Esther	CRG Support A	130	14	1,781	-	-	-	-	-	-	-	-	14	1,781
Stanton, Lindsay	DPR Partner 3	430	0	43	-	-	-	-	-	-	-	-	0.1	43
Sommerfeld, Amanda	DPR Sr Analyst 1	160	158	25,264	-	-	5	832	17	2,768	135	21,664	-	-
Shepherd, Phillip	DPR Grad 1	96	1	48	-	-	-	-	-	-	0.5	48	-	-
Total			751	171,835	30	9,111	181	51,756	65	10,889	444	94,066	31	6,014
GST				17,183										
Total (including GST)				189,018										
Average Hourly Rate				229		306		285		167		212		192



Disbursements

Disbursements are divided into three types: **A, B1, B2.**

- A disbursements are all externally provided professional services and are recovered at cost. An example of an A disbursement is legal fees.
- B1 disbursements are externally provided non-professional costs such as travel, accommodation and search fees. B1 disbursements are recovered at cost.
- B2 disbursements are internally provided non-professional costs such as photocopying and document storage. B2 disbursements are charged at cost except for photocopying, printing and telephone calls which are charged at a rate which is intended to recoup both variable and fixed costs.

Full details of disbursements on this appointment are provided

Disbursement	Amount \$
A Disbursements	2,311.55
B1 Travel, Accommodation, Search Fees etc	136.94
B2 Materials (Photocopying, Faxes, Telephone expenses)	13,028.09
Total	15,476.58

Future Fees – Administration period

Company	HMP Constructions Pty Ltd	Period	1 September – 16 September 2009
Practitioner	John Lethbridge Greig and Nicholas Harwood	Firm	Deloitte Touche Tohmatsu
Administration Type	Voluntary Administration		

Task Area	General Description	Includes
Assets 5 hours \$2,600	Plant and Equipment	Review insurance requirements
	Assets subject to specific charges	All tasks associated with charged assets
	Debtors	Correspondence with debtors Reviewing and assessing debtor ledgers Liaising with debtors
	Leasing	Payments for leased equipment
Creditors 35 hours \$13,795	Creditor circulars	Preparation of report to creditors reconvening second meeting
	Proof of Debt	Compiling Proof of Debts and updating Proof of Debt register in preparation for second meeting
	Creditor Enquires	Respond to creditor queries Review and prepare correspondence to creditors and their representatives Correspondence with committee of creditors members
	Secured Creditor	Correspondence and meetings with Receiver regarding Deed of Company Arrangement and proposed dry hire agreements
	Meeting of Creditors	Re convening second meeting of creditors Forward notice of meeting to all known creditors 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. Responding to stakeholder queries and questions immediately following meeting
Employees 19 hours \$5,115	Employees	Preparation of PAYG payment summaries
	Employee Enquiry	Receive and respond to employee enquires Answering employee calls regarding employee

		entitlements
	Calculation of Entitlements	<p>Calculating employee entitlements (LSL, Super, AL, PILN)</p> <p>Updating entitlement calculations for changes in details</p> <p>Reviewing employee files and company's books and records</p>
	Other Employee Issues	<p>Correspondence with Child Support</p> <p>Correspondence with Centrelink</p>
Trade On 86 hours \$18,143	Trade on Management	<p>Review of management reports</p> <p>Discussions with Wesfarmers regarding continued operations</p> <p>Discussions with BMA regarding demobilisation costs</p> <p>Discussions with suppliers, management and staff</p> <p>Arranging and authorising purchase orders and maintaining purchase order registry</p> <p>Preparing and authorising payment and receipt vouchers</p>
	Processing receipts and payments	<p>Entering receipt and payments into accounting system</p> <p>Payments to creditors, contractors and employees</p> <p>Payment of finance payments to Ferrier Hodgson and Westpac</p>
	Budgeting and financial reporting	<p>Review of cash flows against performance</p> <p>Discussion with HMP management on future repairs and maintenance costs</p> <p>Reviewing company's budget and financial statements</p> <p>Meetings with HMP management to discuss trading position</p>
	Receipts and Payments	<p>Review and payment of wages</p> <p>Preparation of financial reports</p> <p>Review of receipts and discussion with HMP management on debtor collection</p>

Calculation of Remuneration

Employee	Position	\$ / hour (excl GST)	Total actual hours	Total \$	Task area											
					Assets		Creditors		Employees		Trade on		Investigations		Administration	
					Hrs	\$	Hrs	\$	Hrs	\$	Hrs	\$	Hrs	\$	Hrs	\$
Harwood, Nicholas	Appointee	520	21	10,920	5	2,600	8	4,160	2	1,040	6	3,120	-	0	-	0
Hughes, Richard	CRG Partner 2	520	-	-		0		0		0		0	-	0	-	0
Leech, Martin	DCF Partner	375	15	5,625		0	5	1,875		0	10	3,750	-	0	-	0
Smith, Lorraine	CRG Director 1	375	25	9,375		0	20	7,500	5	1,875		0	-	0	-	0
Taplin, James	CRG Director 1	375	2	750	-	0		0	2	750		0	-	0	-	0
Lippstreu, Debbie	CRG Manager 1	270	-	-		0		0		0		0	-	0	-	0
Wong, Bernard	CRG Snr Analyst 1	200	10	2,000		0		0		0	10	2,000	-	0	-	0
Dalais, Daniel	CRG Snr Analyst 3	160	-	-		0		0		0	-	0	-	0	-	0
Draper, Rory	CRG Snr Analyst 3	160	-	-		0		0		0		0	-	0	-	0
Franci, Nerida	CRG Snr Analyst 3	160	-	-		0		0		0		0	-	0	-	0
Montemor, Camila	CRG Snr Analyst 3	160	-	-		0		0		0		0	-	0	-	0
Sommerfeld, Amanda	CRG Snr Analyst 3	160	48	7,680		0		0		0	48	7,680	-	0	-	0
Grabbe, Andrew	CRG Analyst 1	155	-	-		0		0		0		0	-	0	-	0
Buscombe, Kerry	CRG Analyst 2	145	5	725		0		0		0	5	725	-	0	-	0
Seow, Nadyne	CRG Analyst 2	145	12	1,668		0		0	10	1,450	2	218	-	0	-	0
Adler, Jonathan	CRG Analyst 3	135	-	-		0		0		0		0	-	0	-	0
Ridgley, Peter	CRG Analyst 3	135	-	-		0		0		0		0	-	0	-	0
Bennett, Alexandra	CRG Graduate	130	-	-		0		0		0		0	-	0	-	0
McPherson, Jozef	CRG Graduate	130	-	-		0		0		0		0	-	0	-	0
Rutter, Matthew	CRG Graduate	130	5	650		0		0		0	5	650	-	0	-	0
Acharya, Aneesh	CRG Vacationer	130	-	-		0		0		0		0	-	0	-	0
Bennett, Alexandra	CRG Vacationer	130	2	260		0	2	260		0		0	-	0	-	0
Prentice, Jack	CRG Vacationer	130	-	-		0		0		0		0	-	0	-	0
Bird, Esther	CRG Support A	130	-	-		0		0		0		0	-	0	-	0
Stanton, Lindsay	DPR Partner 3	430	-	-		0		0		0		0	-	0	-	0
Sommerfeld, Amanda	DPR Sr Analyst 1	160	-	-		0		0		0		0	-	0	-	0
Rippon, Sam	DPR Analyst 2	130	-	-		0		0		0		0	-	0	-	0
Shepherd, Phillip	DPR Grad 1	96	-	-		0		0		0		0	-	0	-	0
Total			145	39,653	5	2,600	35	13,795	19	5,115	86	18,143	-	-	-	-
GST				3,965												
Total (including GST)				43,618												
Average Hourly Rate				274		520		394		269		212		-		0

Future Fees – Liquidation period

Company	HMP Constructions Pty Ltd	Period	17 September 2009 – 31 December 2009
Practitioner	John Lethbridge Greig and Nicholas Harwood	Firm	Deloitte Touche Tohmatsu
Administration Type	Liquidation		

Task Area	General Description	Includes
Assets 85 hours \$21,525	Plant and Equipment	Review insurance requirements
	Assets subject to specific charges	All tasks associated with charged assets and dealing with Receiver
	Debtors	Correspondence with debtors Reviewing and monitoring debtor ledgers Liaising with debtors
	Leasing	Payments for leased equipment
Creditors 5 hours \$650	Creditor circulars	Preparation of report to creditors re liquidation Responding to stakeholder queries and questions immediately following meeting
Employees 25 hours \$8,525	Employees	Preparation of PAYG payment summaries
	Employee Enquiry	Receive and respond to employee enquires Answering employee calls regarding employee entitlements
	Calculation of Entitlements	Calculating employee entitlements (LSL, Super, AL, PILN) Updating entitlement calculations for changes in details Reviewing employee files and company's books and records
	Other Employee Issues	Correspondence with Child Support Correspondence Centrelink
Trade On 275 hours \$60,300	Trade on Management	Review of management reports Discussions with Wesfarmers regarding continued operations and tidy of site following completion of contract Discussions with suppliers, management and staff Arranging and authorising purchase orders and maintaining purchase order registry Preparing and authorising payment and receipt

		vouchers
	Processing receipts and payments	<p>Entering receipt and payments into accounting system</p> <p>Payments to creditors, contractors and employees</p> <p>Payment of finance payments to Ferrier Hodgson and Westpac</p>
	Budgeting and financial reporting	<p>Review of cash flows against performance</p> <p>Discussion with HMP management on future repairs and maintenance costs</p> <p>Reviewing company's budget and financial statements</p> <p>Finalising trading profit and loss</p> <p>Meetings with HMP management to discuss trading position</p>
	Receipts and Payments	<p>Review and payment of wages</p> <p>Preparation of financial reports</p> <p>Review of receipts and discussion with HMP management on debtor collection</p>
Administration 3 hours \$780	Appointment	Statutory notices re liquidation

Calculation of Remuneration

Employee	Position	\$ / hour (excl GST)	Total actual hours	Total \$	Task area											
					Assets		Creditors		Employees		Trade on		Investigations		Administration	
					Hrs	\$	Hrs	\$	Hrs	\$	Hrs	\$	Hrs	\$	Hrs	\$
Harwood, Nicholas	Appointee	520	41	21,320	10	5,200	0	0	10	5,200	20	10,400	0	0	1	520
Hughes, Richard	CRG Partner 2	520	-	-		0	0	0		0		0	-	0		0
Leech, Martin	CRG Director 1	375	10	3,750		0	0	0		0	10	3,750	-	0		0
Smith, Lorraine	CRG Director 1	375	70	26,250	15	5,625	0	0	5,000	1,875	50	18,750	-	0		0
Taplin, James	CRG Director 1	375	10	3,750	10	3,750	0	0		0		0	-	0		0
Lippstreu, Debbie	CRG Manager 1	270	-	-		0	0	0		0		0	-	0		0
Wong, Bernard	CRG Snr Analyst 1	200	10	2,000		0	0	0		0	10	2,000	-	0		0
Dalais, Daniel	CRG Snr Analyst 3	160	-	-		0	0	0		0	-	0	-	0		0
Draper, Rory	CRG Snr Analyst 3	160	-	-		0	0	0		0		0	-	0		0
Franci, Nerida	CRG Snr Analyst 3	160	-	-		0	0	0		0		0	-	0		0
Montemor, Camila	CRG Snr Analyst 3	160	-	-		0	0	0		0		0	-	0		0
Sommerfeld, Amanda	CRG Snr Analyst 3	160	5	800		0	0	0		0	5	800	-	0		0
Grabbe, Andrew	CRG Analyst 1	155	-	-		0	0	0		0		0	-	0		0
Buscombe, Kerry	CRG Analyst 2	145	10	1,450		0	0	0		0	10	1,450	-	0		0
Seow, Nadyne	CRG Analyst 2	145	110	15,950	30	4,350	0	0	10	1,450	70	10,150	-	0		0
Adler, Jonathan	CRG Analyst 3	135	-	-		0	0	0		0		0	-	0		0
Ridgley, Peter	CRG Analyst 3	135	-	-		0	0	0		0		0	-	0		0
Bennett, Alexandra	CRG Graduate	130	-	-		0	0	0		0		0	-	0		0
McPherson, Jozef	CRG Graduate	130	-	-		0	0	0		0		0	-	0		0
Rutter, Matthew	CRG Graduate	130	127	16,510	20	2,600	5	650		0	100	13,000	-	0	2	260
Acharya, Aneesh	CRG Vacationer	130	-	-		0	0	0		0		0	-	0		0
Bennett, Alexandra	CRG Vacationer	130	-	-		0	0	0		0		0	-	0		0
Prentice, Jack	CRG Vacationer	130	-	-		0	0	0		0		0	-	0		0
Bird, Esther	CRG Support A	130	-	-		0	0	0		0		0	-	0		0
Stanton, Lindsay	DPR Partner 3	430	-	-		0	0	0		0		0	-	0		0
Sommerfeld, Amanda	DPR Sr Analyst 1	160	-	-		0	0	0		0		0	-	0		0
Rippon, Sam	DPR Analyst 2	130	-	-		0	0	0		0		0	-	0		0
Shepherd, Phillip	DPR Grad 1	96	-	-		0	0	0		0		0	-	0		0
Total			393	91,780	85	21,525	5	650	25	8,525	275	60,300	-	-	3	780
GST				9,178												
Total (including GST)				100,958												
Average Hourly Rate				234		253		130		341		219		-		260

Appendix C – Creditor information sheet for offences, recoverable transactions and insolvent trading

Creditor Information Sheet

Offences, Recoverable transactions and Insolvent Trading



Offences

A summary of offences that may be identified by the administrator:

180	Failure by officer to exercise a reasonable degree of care and diligence in the exercise of his powers and the discharge of his duties.
181	Failure to act in good faith.
182	Making improper use of position as an officer or employee, to gain, directly or indirectly, an advantage.
183	Making improper use of information acquired by virtue of his position.
184	Reckless or intentional dishonesty in failing to exercise duties in good faith for proper purpose. Use of position or information dishonestly to gain advantage or cause detriment.
206A	Contravening an order against taking part in management of a corporation.
206A, B	Taking part in management of corporation while being an insolvent under an administration.
206A, B	Acting as a director or promoter or taking part in the management of a company within five years after conviction or imprisonment for various offences.
209(3)	Dishonest failure to observe requirements on making loans to directors or related companies.
254T	Paying dividends except out of profits.
286	Failure to keep proper accounting records.
312	Obstruction of auditor.
314-7	Failure to comply with requirements for financial statement preparation.
437C	Performing or exercising a function or power as officer while a company is under administration.
437D(5)	Unauthorised dealing with company's property during administration.
438B(4)	Failure by directors to assist administrator, deliver records and provide information.
438C(5)	Failure to deliver up books and records to administrator.
590	Failure to disclose property, concealed or removed property, concealed a debt due to the company, altered books of the company, fraudulently obtained credit on behalf of the company, material omission from Report as to Affairs or false representation to creditors.

Voidable Transactions

Preferences

A preference is a transaction such as a payment between the company and one or more of its creditors, in which the creditor receiving the payment is preferred over the general body of creditors. The relevant time period is six months before the commencement of the liquidation. The company must have been insolvent at the time of the transaction, or become insolvent as a result of the transaction.

Where a creditor receives a preferred payment, the payment is voidable as against a liquidator and is liable to be paid back to the liquidator subject to the creditor being able to successfully maintain any of the defences available to the creditor under either the Corporations Act.

Uncommercial Transaction

An uncommercial transaction is one that it may be expected that a reasonable person in the company's circumstances would not have entered into having regard to:

- the benefit or detriment to the company;
- the respective benefits to other parties; and,
- any other relevant matter.

To be voidable, an uncommercial transaction must have occurred during the two years before the liquidation. However, if a related entity is a party to the transaction, the time period is four years and if the intention of the transaction is to defeat creditors, the time period is ten years.



The company must have been insolvent at the time of the transaction, or become insolvent as a result of the transaction.

Unfair Loan

A loan is unfair if and only if the interest was extortionate when the loan was made or has since become extortionate. There is no time limit on unfair loans – they only have to have been entered into any time on or before the day when the winding up began.

Arrangements to avoid employee entitlements

If an employee suffers loss because a person (including a director) enters into an arrangement or transaction to avoid the payment of employee entitlements, the liquidator or the employee may seek to recover compensation from that person. It will only be necessary to satisfy the court that there was a breach on the balance of probabilities. There is no time limit on when the transaction occurred.

Unreasonable payments to directors

Liquidators have the power to reclaim "unreasonable payments" made to directors by companies prior to liquidation. The provision relates to transactions made to, on behalf of, or for the benefit of, a director or close associate of a director. To fall within the scope of the section, the transaction **must** have been unreasonable, and have been entered into during the 4 years leading up to a company's liquidation, regardless of its solvency at the time the transaction occurred.

Voidable charges

Certain charges are voidable by a liquidator:

- Floating charge created with six months of the liquidation unless it secures a subsequent advance;
- Unregistered charges; and
- Charges in favour of related parties who attempt to enforce the charge within 6 months of its creation.

Insolvent Trading

In the following circumstances, directors may be personally liable for insolvent trading by the company:

- a person is a director at the time a company incurs a debt;
- the company is insolvent at the time of incurring the debt or becomes insolvent because of incurring the debt;
- at the time the debt was incurred, there were reasonable grounds to suspect that the company was insolvent;
- the director was aware such grounds for suspicion existed; and
- a reasonable person in a like position would have been so aware.

The law provides that the liquidator, and in certain circumstances the creditor who suffered the loss, may recover from the director, an amount equal to the loss or damage suffered. Similar provisions exist to pursue holding companies for debts incurred by their subsidiaries.

A defence is available under the law where the director can establish:

- there were reasonable grounds to expect that the company was solvent and they actually did so expect;
- they did not take part in management for illness or some other good reason; or,
- they took all reasonable steps to prevent the company incurring the debt.

The proceeds of any recovery for insolvent trading by a liquidator are available for distribution to the unsecured creditors before the secured creditors.

Important note: This information sheet contains a summary of basic information on the topic. It is not a substitute for legal advice. Some provisions of the law referred to may have important exceptions or qualifications. This document may not contain all of the information about the law or the exceptions and qualifications that are relevant to your circumstances.

Appendix D - Creditor information sheet for remuneration

Approving remuneration in external administrations

If a company is in financial difficulty, it can be put under the control of an independent insolvency administrator. Such a person is called a 'liquidator' or a 'voluntary administrator' or an 'administrator of a deed of company arrangement' depending on the type of administration involved. For the purposes of this guide, we use the collective word 'administrator'.

This information sheet gives general information for creditors on the approval of an administrator's fees in a liquidation, a voluntary administration or a deed of company arrangement (other forms of insolvency administration are beyond the scope of this information sheet). It outlines the rights that creditors have in the approval process.

Work undertaken by administrators

The work undertaken by administrators depends on the type of administration concerned and the issues that need to be resolved. Some issues are straightforward, while others are more complex.

However, what is common amongst all administration types is that an administrator is, by law, required to undertake a number of tasks which **may** not directly benefit creditors (for example, the preparation of reports to the Australian Securities and Investments Commission or the preparation of six monthly receipts and payments). An administrator is still entitled to remuneration for undertaking these statutory tasks.

For more information on the tasks involved in different administrations, see ASIC's information sheets: 'Liquidation: a guide for creditors' and 'Voluntary administration: a guide for creditors'.

Entitlement to fees and costs

An administrator is entitled:

- to be paid reasonable *fees*, or remuneration, for the work they perform, once these fees have been approved by a creditors' committee, creditors or a court, and
- to be reimbursed for out-of-pocket *costs* incurred in performing their role (these costs do not need creditors' committee, creditor or court approval).

Administrators are entitled to an amount of fees for the necessary work that they and their staff properly perform in the administration.

Out-of-pocket costs that are commonly reimbursed include:

- legal fees
- valuer's, real estate agent's and auctioneer's fees
- trading costs involved in running the company's business during the administration (e.g. for the purchase of stock)
- stationery, photocopying, telephone and postage costs
- retrieval costs for recovering the company's computer records, and
- storage costs for the company's books and records.

Creditors have a direct interest in the level of fees and costs, as the administrator will, generally, be paid from the company's available assets before any payments to creditors are made. If there are not enough assets, the administrator **may** arrange for a third party, for example another creditor, to pay any shortfall. As a creditor, you should receive details of such arrangements.

If there are not enough assets to pay the fees and costs, and there is no third party payment arrangement, any shortfall is not paid and the administrator is in effect 'out of pocket'.

Calculation of fees

Fees of an administrator **may** be calculated using one of a number of different methods, such as:

- on the basis of *time spent* by the administrator and their staff, according to hourly rates,
- a quoted *fixed fee*, based on an estimate of the costs, or

- a *percentage*, usually of asset realisations.

Charging on the basis of time spent is the most common method. Administrators have a scale of hourly rates, with different rates for each category of staff working on the administration, including the administrator.

If the administrator intends to charge on a time basis, you should receive a copy of these hourly rates before the administrator requests approval of their fees.

The administrator and their staff will record the time taken for the various tasks involved, and a record will be kept of the nature of the work performed.

It is important to realise that administrators are professionals who are required to have accounting qualifications and maintain up-to-date knowledge of accounting, business and legal issues. They have serious responsibilities under the law. Their hourly rates and those of their qualified staff reflect this.

The hourly rates do not represent an hourly wage for the administrator and their staff. The administrator is running a business—an insolvency practice—and the hourly rates will be based on the cost of running the business, including overheads such as rent for business premises, utilities, wages and superannuation for staff who are not charged out at an hourly rate (such as personal assistants), information technology support, office equipment and supplies, insurances, and taxes with allowance then made for profit.

Many of the costs of running an insolvency practice are fixed costs that must be paid, even if there are insufficient assets available to pay the administrator for their services.

These are all matters that committee members or creditors should be aware of when considering the fees presented. However, regardless of these matters, creditors have a right to question the administrator about the fees and whether the rates are negotiable.

It is up to the administrator to justify why the method chosen for calculating fees is an appropriate method for the particular administration. As a creditor, you also have a right to question the administrator about the calculation method used and how the calculation was made.

Report on proposed fees

In order to seek approval of fees, the administrator must hold a meeting of the members of any committee of creditors, or, if there is no committee, the creditors themselves. A report must be sent, with the notice of meeting, setting out:

information that will enable the committee members/creditors to make an informed assessment of whether the proposed fees are reasonable

a summary description of the major tasks performed, or to be performed, and

the costs associated with each of these tasks.

The report should also provide a summary of out-of-pocket costs incurred or expected to be incurred.

Committee members/creditors may be asked to approve fees for work already performed or fees based on an estimate of work yet to be carried out.

If the work is yet to be carried out, it is advisable for creditors to set a maximum limit ('cap') on the amount that the administrator may receive. For example, 'future fees are approved calculated on hours worked at the rates charged (as set out in the provided rate scale) up to a cap of \$X'. If the work involved then exceeds this figure, the administrator will have to ask the creditors' committee/creditors to approve a further amount of fees, after accounting for the fees already incurred.

Who may approve fees

Who may approve fees depends on the type of external administration: see Table 1. The administrator must provide sufficient information to enable the creditors' committee, the creditors or the court to make an informed assessment as to whether the fees are reasonable.

Table 1: Who may approve fees

	Creditors' committee	Creditors	Court
Administrator in a voluntary administration	✓ ¹	✓ ²	✓ ³
Administrator of a deed of company arrangement	✓ ¹	✓ ²	✓ ³
Creditors' voluntary liquidator	✓ ¹	✓ ⁴	✗ ⁵
Court-appointed liquidator	✓ ^{1, 6}	✓ ^{2, 6}	✓ ³

¹ If there is one.

- ² If there is no creditors' committee or the committee fails to approve the fees.
- ³ If there is no approval by creditors.
- ⁴ If there is no creditors' committee.
- ⁵ Unless an application is made for a fee review.
- ⁶ If insufficient creditors turn up to the meeting called by the liquidator to approve fees, the liquidator is entitled to be paid up to a maximum of \$5,000, or more if specified in the *Corporations Regulations 2001*.

Creditors' committee approval

If there is a creditors' committee, members are chosen by a vote of creditors as a whole. In approving the fees, it is important that the members realise that they represent all the creditors, not just their own individual interests.

A creditors' committee will generally only be set up where there are a large number of creditors. If there is one, then they will ask the committee to approve their fees.

A creditors' committee makes its decision by a majority in number of its members present in person at a meeting, but it can only act if a majority of its members attend.

If you would like to know more about creditors' committees and how they are formed, see ASIC's information sheets: 'Liquidation: a guide for creditors', 'Voluntary administration: a guide for creditors' and 'Insolvency: a glossary of terms'.

Creditors' approval

Creditors approve fees by passing a resolution at a creditors' meeting. The vote requires a simple majority of creditors present and voting, in person or by proxy, indicating that they agree to the resolution. Unlike committee members, creditors may vote according to their individual interests.

If a 'poll' is taken at the meeting (that is, rather than a vote being decided on the voices or by a show of hands, a count of each vote and its value is taken), a majority in number and value of creditors present and voting must agree. A poll requires the votes of each creditor to be recorded.

A proxy is a document whereby a creditor appoints someone else to represent them at a creditors' meeting and to vote on their behalf. A proxy can be either a general proxy or a special proxy. A general proxy allows the person holding the proxy to vote how they want on a resolution, while a special proxy directs the proxy holder to vote in a particular way.

A creditor will sometimes appoint the administrator as a proxy to vote on the creditor's behalf. An administrator, their partners or staff must not use a general proxy to vote on approval of their fees; they must hold a special proxy in order to do this. They must vote all special proxies as directed, even those against approval of their fees.

Deciding if fees are reasonable

If you are asked to approve an amount of fees either as a committee member or by resolution at a creditors' meeting, your task is to decide if that amount of fees is reasonable, given the work carried out in the administration and the results of that work.

The IPA's Code of Professional Practice: Remuneration outlines the steps administrators should take to make sure they fulfil their responsibilities to creditors when asking creditors to approve fees, including when those creditors are acting in their capacity as committee members. This guide is available on the IPA website at www.ipaa.com.au

If you need more information about fees than is provided in the administrator's report, you should let them know before the meeting at which fees will be voted on.

What can you do if you think the fees are not reasonable?

If you do not think the fees being claimed are reasonable, you should raise your concerns with the administrator. It is your decision whether to vote in favour of, or against, a resolution to approve fees.

Generally, if fees are approved by a creditors' committee/creditors and you wish to challenge this decision, you may apply to the court and ask the court to review the fees. Special rules apply to court liquidations. You may wish to seek your own legal advice if you are considering applying for a court review of the fees.

Reimbursement of out-of-pocket costs

An administrator should be very careful incurring costs that must be paid from the administration - as careful as if they were incurring the expenses on their own behalf. Their report on fees sent to creditors should also include information on the out-of-pocket costs of the administration.

If you have questions about any of these costs, you should ask the administrator and, if necessary, bring it up at a creditors' committee/creditors' meeting. If you are still concerned, you have the right to ask the court to review the costs.

Queries and complaints

You should first raise any queries or complaints with the administrator. If this fails to resolve your concerns, including any concerns about their conduct, you can lodge a complaint with the IPA at www.ipaa.com.au or write to:

Complaints Manager
IPA
GPO Box 3921
SYDNEY NSW 2001

You can also contact ASIC at www.asic.gov.au, or write to:

Manager National Assessment & Action
ASIC
GPO Box 9827
IN YOUR CAPITAL CITY

Complaints against companies and their officers can also be made to ASIC. For other enquiries, email ASIC through infoline@asic.gov.au, or call ASIC's Infoline on 1300 300 630 for the cost of a local call.

To find out more

For an explanation of terms used in this information sheet, see ASIC's 'Insolvency: a glossary of terms'. For more on insolvency administration, see ASIC's related information sheets at www.asic.gov.au/insolvencyinfosheets:

- Voluntary administration: a guide for creditors
- Voluntary administration: a guide for employees
- Liquidation: a guide for creditors
- Liquidation: a guide for employees
- Receivership: a guide for creditors
- Receivership: a guide for employees
- Insolvency: a guide for shareholders
- Insolvency: a guide for Directors

These are also available from the Insolvency Practitioners Association (IPA) website at www.ipaa.com.au.

The IPA website also contains the IPA's Code of Professional Practice that is applicable to its members.

Important note: This information sheet contains a summary of basic information on the topic. It is not a substitute for legal advice. Some provisions of the law referred to may have important exceptions or qualifications. This document may not contain all of the information about the law or the exceptions and qualifications that are relevant to your circumstances.

Form 529
Corporations Act 2001

Notice of reconvened second meeting of creditors

HMP Constructions Pty Ltd
(Receivers Appointed) (Administrators Appointed)
ACN 109 896 013

1. On 31 March 2009, Nicholas Harwood and John Lethbridge Greig of Deloitte Touche Tohmatsu were appointed as Administrators of the above company by resolution of the directors of the company pursuant to Section 436A of the Corporations Act 2001.
2. Notice is now given that the reconvened second meeting of the creditors of the company will be held at Deloitte Touche Tohmatsu, Level 25, Riverside Centre, 123 Eagle Street, Brisbane QLD 4000, on Wednesday 16 September 2009 at 10:30 am, AEST.
3. **AGENDA**
 - a) To receive and consider the report from the Administrators
 - b) To resolve:
 - i. that the administration should end; or
 - ii. that the company be wound up; or
 - iii. that the Company execute a Deed of Company Arrangement; and
 - iv. if wound up, whether to appoint a committee of creditors; and
 - v. if so, who are to be the committee's members
 - c) That the Administrators' remuneration pursuant to the provisions of Section 449E of the Corporations Act for the period 1 July 2009 to 31 August 2009 be fixed in the amount of \$171,915 (plus GST) as outlined in the Report to Creditors; and
 - d) That the Administrators' future remuneration pursuant to the provisions of Section 449E of the Corporations Act for the period 1 September 2009 to 16 September 2009 be fixed and capped to an amount of \$39,653 (plus GST) as outlined in the Report to Creditors
 - e) That the Liquidators' future remuneration pursuant to the provisions of Section 473 of the Corporations Act for the period 17 September 2009 to 31 December 2009 be fixed and capped to an amount of \$91,780 (plus GST) as outlined in the Report to Creditors
 - f) General business.
4. A person is not entitled to vote as a creditor at the meeting unless he or she has made known the particulars of the debt or claim and the debt or claim has been admitted wholly or in part by the Administrators of that company.
5. In providing particulars of the debt or claim, we request that that a Proof of Debt form be completed and lodged with us on or before 4pm Brisbane time on Friday 11 September 2009 to facilitate checking and recording.
6. A creditor entitled to attend and vote at the meeting may appoint a natural person over the age of 18 years (whether a creditor or not) as his or her proxy to attend and vote at the meeting. Proxies will be accepted at any time before the start of the meeting.

Dated this 9th day of September 2009



Nicholas Harwood & John L Greig
Administrators

FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)

To the Administrators of HMP Constructions Pty Ltd (Receivers Appointed) (Administrators Appointed),

1. This is to state that the company was, on 31 March 2009 ⁽¹⁾ and still is, justly and truly indebted to ⁽²⁾ for dollars and cents.

Particulars of the debt are:

Date	Consideration ⁽³⁾	Amount \$	GST included	Remarks ⁽⁴⁾
------	------------------------------	--------------	-----------------	------------------------

2. To my knowledge or belief the creditor has not, nor has any person by the creditor's order, had or received any manner of satisfaction or security for the sum or any part of it except for the following:⁽⁵⁾
- 3.^{(6)*} I am employed by the creditor and authorised in writing by the creditor to make this statement. I know that the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.
- 3.^{(6)*} I am the creditor's agent authorised in writing to make this statement in writing. I know that the debt was incurred and for the consideration stated and that the debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.

DATED this day of September 2009

Signature of Signatory

NAME IN BLOCK LETTERS

Occupation

Address

I would like to receive future notices electronically. My email address is

See Directions overleaf for the completion of this form

**OFFICE USE
ONLY**

POD No:		ADMIT - Ordinary	\$
Date Received:	/ /	ADMIT - Preferential	\$
Entered into IPS/Computer:		Reject	\$
Amount per RATA	\$	H/Over for Consideration	\$
PREP BY/AUTHORISED		TOTAL PROOF	\$
DATE AUTHORISED / /			

Corporations Act 2001
APPOINTMENT OF PROXY

HMP Constructions Pty Ltd ACN 109 896 013
(RECEIVERS APPOINTED) (ADMINISTRATORS APPOINTED)

*I/*We
 of
 a creditor of HMP Constructions Pty Ltd (Receivers Appointed) (Administrators Appointed) ACN 109 896 013
 Appoint.....
 (*name, address and description of the person appointed*) or *in his or her absence the Chairman as *my/our
 *general/*special proxy to vote at the meeting of creditors to be held on Wednesday 16 September 2009 at
 10:30 am Brisbane time at the offices of Deloitte, Level 25, 123 Eagle Street, Brisbane Queensland or at
 any adjournment of that meeting and to vote:

* generally as *he/she determines on *my/our behalf
 OR
 *specifically in accordance with the following special directions:

FOR AGAINST ABSTAIN

- | | | | |
|--------------------------|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | That the administration should end |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | The company should be wound up and in the absence of any other nominations, that Nicholas Harwood & John Lethbridge Greig be appointed Liquidators |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | That the company execute a Deed of Company Arrangement |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | That a Committee of Inspection be formed |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | I nominate (<i>name of individual or corporate entity</i>).....
.....to be a member of the Committee of Inspection |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | That the Administrators' remuneration pursuant to the provisions of Section 449E of the Corporations Act for the period 1 July 2009 to 31 August 2009 be fixed in the amount of \$171,915 (plus GST) as outlined in the Report to Creditors |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | That the Administrators' future remuneration pursuant to the provisions of Section 449E of the Corporations Act for the period 1 September 2009 to 16 September 2009 be fixed and capped to an amount of \$39,653 (plus GST) as outlined in the Report to Creditors |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | That the Liquidators' future remuneration pursuant to the provisions of Section 473 of the Corporations Act for the period 17 September 2009 to 31 December 2009 be fixed and capped to an amount of \$91,780 (plus GST) as outlined in the Report to Creditors |

Dated this day of September 2009

.....
 Signature (Individual)

CERTIFICATE OF WITNESS

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

I, _____, of _____, certify that the above instrument appointing a proxy was completed by me in the presence of and at the request of the person appointing the proxy and read to him or her before he or she signed or marked the instrument.

Dated this _____ day of September 2009

.....

Signature of Witness

Place of residence

*Omit if not applicable

(1) for" or the words "to vote against" and specify the particular resolution.