

29 April 2024



Four Corners Plant Hire ACN 109 179 964
("FCPH")

Coalcliff Pty Ltd ACN 009 400 293
("Coalcliff")

(Both in Liquidation)

(Collectively "Companies")

Liquidators' Update Report to Creditors

1. Introduction

I refer to the appointment of Ian Francis and I, Daniel Woodhouse, as Joint and Several Voluntary Administrators of Coalcliff Pty Ltd ("Coalcliff") and Four Corners Plant Hire Pty Ltd ("FCPH") (collectively "the Companies") on 2 November 2018 and subsequent appointment as Liquidators of the Companies on 10 January 2019 (collectively "Former Administrators" or "Liquidators").

Since our last report, we have completed our investigations in the Companies, realised all assets and made a Pooling Determination.

This report is to be read in conjunction with our previous reports to creditors, in particular our report of 8 December 2020 ("Previous Report").

The purpose of this report is to:

- provide an update on the conduct of the liquidation of the Companies;
- advise you of the likelihood of a dividend being paid in the liquidation;
- provide an estimated return to priority and unsecured creditors; and
- convene a meeting of creditors for each of the Companies to seek approval from creditors of the following:
 - my Pooling Determination for the Companies, as outlined in section 8; and
 - my remuneration as outlined in the table below, section 9 and my Remuneration Approval Report at **Annexure A**.

Table 1: Remuneration approval request summary

Period	FCPH (\$) (excl GST)	Coalcliff (\$) (excl GST)
Retrospective: 1 December 2020 to 14 April 2024	130,000.00	125,000.00
Prospective: 15 April 2024 to 5 May 2024	5,000.00	5,000.00
Prospective: 6 May 2024 to completion of the liquidations:		
- If the Pooling Determination is approved	50,000.00	
- If the Pooling Determination is not approved	40,000.00	30,000.00

Attached at **Annexure A** is my detailed Remuneration Approval Report on the cost of the liquidation and the tasks I have undertaken, which supports my claims for which approval is sought by creditors.

Table 2: Liquidators' details

Appointee Name/s	Daniel Woodhouse and Ian Francis
FTI contact	Matt Ottaviano
FTI contact phone number	(08) 9321 8533
FTI contact email	Matt.Ottaviano@fticonsulting.com

Table 3: Meeting details

Date and time	10:30AM (AWST), 6 May 2024
Place of meeting	Central Park, Melaleuca Conference Room, Ground level, 152-158 St Georges Terrace, Perth WA 6000.

2. Progress of the Liquidations and Declaration of Dividend

Since my Previous Report, I have finalised the realisation of all assets (section 3), paid amounts owing under valid, registered security interests (section 4) and completion my investigations (section 5).

After reviewing the Company's operations, and in preparing to declare a dividend to priority creditors, I have also made a Pooling Determination for the Companies (section 8). Subject to creditors approving the pooling of assets, the Liquidators will be in a position to declare a dividend to priority and non-priority creditors forthwith. Once dividend has been paid, the liquidations can be finalised.

The priority dividend will be 100cents and non-priority dividend will be approximately 4.2cents (subject to adjudication of claims).

Further information about these matters is provided in this report.

3. Assets

At the time of my Previous Report, the remaining assets to recover in the liquidations were:

- Debtors totalling \$385,002, which were owed to FCPH; and
- Three real estate properties, which Coalcliff was the registered owner.

3.1 Pre-appointment Debtor Realisations

Shire of Lake Grace

As previously reported, FCPH was undertaking works for the Shire of Lake Grace ("Shire") prior to and during the Administration. At the date of the Former Administrators' appointment:

- the Shire owed FCPH \$687,693 ("Shire Debt");
- FCPH owed \$260,178 to 15 creditors for services provided to the Shire ("Shire Creditors"); and
- FCPH was continuing to provide services to the Shire, including during the administration.

The Former Administrators met with the Shire to discuss the payment of the balance of funds owed to FCPH. The Shire advised that the payment would only be paid on the following conditions:

- The Shire would pay \$260,178 to the Shire Creditors directly;
- The Shire would withhold \$260,178 from the Shire Debt; and
- The Shire would pay FCPH the net balance, being \$427,515 (\$687,693 - \$260,178).

The Former Administrators advised the Shire that the payments to the Shire Creditors would constitute unfair preference payments recoverable from the Shire Creditors by a liquidator under Section 588FA of the *Corporations Act 2001* ("the Act"). Notwithstanding, the Shire chose to pay the Shire Creditors directly and paid FCPH the net amount of \$427,515.

When the Liquidators were appointed, they sought to recover the payments to the Shire Creditors. The recovery action is discussed further in section 5.1 of this report.

WA Eco Pty Ltd (In Liquidation) ("WA Eco")

At the date of our appointment, WA Eco owed FCPH \$124,824. Mr Massara was the Director of both WA Eco and FCPH. The Liquidators issued a statutory demand for payment of the debt, as Mr Massara had represented that WA Eco owned a truck that would be sold and would pay FCPH in full.

Notwithstanding the above, WA Eco defended the statutory demand and, as a result, the matter was heard before Master Sanderson in the Supreme Court of Western Australia. On 18 August 2020, Master Sanderson found in favour of FCPH and ordered the WA Eco be wound up in liquidation. Hayden Leigh White and Clint Peter Joseph, of KPMG, were appointed Liquidators of WA Eco. On 31 December 2022, Hayden Leigh White retired as Liquidator of WA Eco and Matthew David Woods was appointed in his place.

The Liquidators of WA Eco have advised that WA Eco:

- did not have any physical assets and the truck had been sold on an arm's length basis, prior to their appointment; and
- had used the proceeds from the truck to pay a secured debt on the truck, with the balance to pay other unsecured creditors;
- their investigations were ongoing, and the likelihood of a dividend was uncertain.

Accordingly, we have concluded that there will be no dividend paid by WA Eco to FCPH.

3.2 Real Estate

The table below summarises the real estate Coalcliff owned in its capacity as trustee of various trusts:

Table 4: Real Estate

Property	Trust Name	Court Orders to Sell	Sold
17 Throssell Street, Collie	Massara Family Trust	Yes	Yes
11 Samuel Wright Street, Bunbury	Massara Investment Unit Trust	Yes	Yes
2510 Coolawanyah Road, Karratha	Massara Family Trust	Yes	Yes
Unit 2, 43 Wirl Buru Gardens, Broome	Massara Family Trust	Yes	Yes
479 Patstone Road, Collie	Massara Family Trust	Yes	Yes
481 Patstone Road, Collie	Massara Superannuation Trust	No	No
6059 Collie-Williams Road, Palmer	Massara Investment Unit Trust	Yes	Yes

At the time of our Previous Report, the following properties were yet to be sold:

- 479 Patstone Road, Collie WA (“479 Patstone Rd”);
- 481 Patstone Road, Collie WA (“481 Patstone Rd”); and
- 6059 Collie-Williams Road, Palmer 6225 WA (“Collie-Williams Rd”),
(collectively “the Properties”).

479 Patstone Rd and Collie-Williams Rd have now been sold, following applications to the Court to authorise the Liquidators to sell the trust assets.

481 Patstone Rd was beneficially owned by Coalcliff, as trustee of the Massara Superannuation Fund (“MSF”). In accordance with an Order of the Supreme Court of Western Australia, 481 Patstone Rd was transferred to Boronia Heights (WA) Pty Ltd (“Boronia”) for nil consideration (discussed below).

Net proceeds of \$2,529,396 was received from the sale of the real estate, and \$2,309,475 distributed to National Australia Bank Limited (NAB) in full and final satisfaction of its first ranking security interest. A summary of the property sales and flow of sale proceeds is set out below.

Table 5: Real Estate realisations

Property	Sale Price incl. GST (\$)	Costs and GST (\$)	Net Proceeds Excl. GST (\$)	Paid to NAB (\$)
17 Throssell Street, Collie	412,500	68,642	343,858	343,863
11 Samuel Wright Street, Bunbury	640,000	18,420	621,580	621,580
2510 Coolawanyah Road, Karratha	451,000	68,386	382,614	382,614
Unit 2, 43 Wirl Buru Gardens, Cable Beach	506,000	32,582	473,418	473,418
479 Patstone Road, Collie	99,000	20,837	78,163	Nil
6059 Collie-Williams Road, Palmer	704,000	74,238	629,762	488,000
Total	2,812,500	283,104	2,529,396	2,309,475

481 Patstone Rd

479 Patstone Rd and 481 Patstone Rd are adjoining properties and were used as the Companies’ maintenance yard. A large industrial shed was constructed across the border of each property, meaning they could not be sold separately unless the industrial shed was demolished at significant cost.

As stated above, 481 Patstone Rd was owned by Coalcliff, in trust for the MSF. The MSF is the complying self-managed superannuation fund of Terry and Lee Massara. Therefore, 481 Patstone Rd could not be sold by the Liquidators for creditors’ benefit.

Mr Massara, through his solicitors, advised the Liquidators that:

- on 30 September 2010, Coalcliff had been retired as Trustee of the MSF and replaced as Trustee by WA Eco.

- on 29 October 2019, WA Eco had been retired as Trustee of the MSF and replaced as Trustee by Boronia Heights (WA) Pty Ltd (“Boronia”).
- while the required trust resolutions had been made to reflect the change of Trustee, the records at Landgate had never been amended to reflect the change of ownership from Coalcliff to WA Eco and then to Boronia.
- Landgate’s records needed to be amended to show that Boronia owned 481 Patstone Rd.
- he wanted to buy 479 Patstone Rd and Collie-Williams Rd for \$80,000 (incl. GST) and \$630,000 (Inc.GST) respectively.

Under section 126K of the *Superannuation Industry (Supervision) Act 1993* (Cth), the Liquidators of Coalcliff and WA Eco are ‘disqualified persons’ and, therefore, were unable to deal with 479 Patstone Rd without a direction of the Court.

The Liquidators of Coalcliff and WA Eco each filed applications to the Supreme Court of Western Australia to obtain orders and directions that they be justified in transferring 481 Patstone Rd to Boronia.

The Liquidators of Coalcliff and WA Eco gave effect to these orders, allowing 481 Patstone Rd to be transferred to Boronia. Landgate notified the parties that the transfer had been effected on 10 November 2023.

479 Patstone Rd and Collie-Williams Rd

The Liquidators engaged Acumentis Property Valuers (“Acumentis”) to value 479 Patstone Rd and Collie-Williams Rd.

Due to the industrial shed being constructed on both 479 Patstone Rd and 481 Patstone Rd, the valuation obtained from Acumentis was on the basis that both titles could be sold collectively or “In One Line”.

Acumentis valued the properties as follows:

Table 6: Real Estate valuations

Property	Market Value excl. GST (\$)
479 Patstone Road, Collie 481 Patstone Road, Collie	450,000
6059 Collie-Williams Road, Palmer	600,000
Total	1,050,000

In relation to 479 Patstone Rd, Acumentis advised that:

- to achieve market value, a normal 6-month marketing period would apply. However, given weak market conditions in Collie, an extended selling period of up to 12 months could apply. A sale in a shorter timeframe may require a significant price reduction.
- the property was unsaleable on a stand-alone basis, due to the industrial shed traversing 479 and 481 Patstone Road properties.
- the cost to dismantle the shed would make it uncommercial to undertake a stand-alone sale; and
- the sale process would attract commission and marketing fees, which Mr Massara’s offer would avoid.

In light of these factors, the Liquidators accepted an increased offer of \$99,000 (including GST) for 479 Patstone Rd.

In relation to Collie-Williams Rd, Mr Masarra's offer was higher than valuation. Furthermore, it avoided any risks and costs associated with a sales process, including commission and marketing costs. Accordingly, the Liquidators accepted the offer for \$704,000 (Inc. GST).

4. Liabilities

4.1 Secured Creditor (NAB)

As previously advised, NAB held an All Present and After Acquired Property ("ALLPAP") security interest over both Companies. These were cross guaranteed to support each facility, in addition to specific PMSI security interests and mortgages on real estate properties.

NAB has been paid in full, with payments totalling \$5,716,174, as summarised below.

Table 7: NAB Payments

Company	Amount (\$)	Details
Coalcliff	2,309,475	Net proceeds from the sale of real estate.
FCPH	188,940	Two monthly Hire Purchase payments relating to the Administrators' trading period.
FCPH	44,898	FCPH pre-appointment debtors received into FCPH NAB pre-appointment overdraft account.
Coalcliff	3,172,861	Sale of Plant and Equipment to Gordon Brothers.
Total	5,716,174	

4.2 Purchase Money Security Interests ("PMSI")

As advised in our Previous Report, all PMSI claims have been settled. Assets subject to PMSI claims were either sold as part of the sale to Gordon Brothers, disclaimed, or paid out during the Voluntary Administration.

A summary of the PMSI secured assets are as follows:

Table 8: PMSI Secured Creditors

Creditor	Note	Claim at appointment (\$)	Payments (VA Trading / Sale) (\$)	Estimated Shortfall (\$)
Capital Finance	1	53,019	22,106	32,951
CBA	1	47,987	47,987	Nil
Westpac	1	26,115	18,315	7,800
St George	1	91,673	52,469	39,204
Komatsu	1	249,447	14,143	3,740
Macquarie Leasing	2	27,002	959	Nil
Total Shortfall				83,695

Notes:

1. All assets have been sold and net proceeds remitted to the applicable secured creditor. Since our Previous Report, Komatsu confirmed its asset has been sold at a shortfall.
2. The Macquarie Leasing facility was assumed and paid by Ms Massara to Coalcliff's Director. Accordingly, Macquarie will not have a claim in the liquidation.

Capital Finance, Westpac, St George and Komatsu will be able to claim any distribution available to unsecured creditors for their shortfall (\$83,695 in total).

4.3 Employees

FCPH was the employing entity, with 21 staff at the date of the Voluntary Administrators' appointment. After the business operations ceased, all positions with FCPH were made redundant.

The below table summarises estimated employee claims in order of priorities, pursuant to Section 556 of the Act:

Table 9: Employee Claims – FCPH

Entitlement	Priority (\$)	Unsecured (\$)	Total (\$)
Superannuation	198,554.21	18,409.99	216,964.20
Leave	150,645.64	62,048.55	214,249.15
Retrenchment	319,255.32	93,547.64	412,802.96
Total	668,455.17	174,006.18	844,016.31

Pursuant to Section 556(2) of the Act, company directors and their spouses or relatives are "excluded employees". Outstanding entitlements owed to excluded employees are limited to a priority claim of \$2,000 for wages or superannuation, and \$1,500 for unpaid leave of absence (annual leave and long service leave). The amount that exceeds these statutory limits will be unsecured pursuant to sections 556(1A) and 556(1B) of the Act.

Accordingly, \$174,006.18 of entitlements owed to Mr Massara and relatives formerly working in the business are classified as unsecured debts.

Fair Entitlements Guarantee ("FEG") Distributions

At the time employees were made redundant, in order to not unduly delay a potential return to employees of FCPH, all employees were referred to the Fair Entitlements Guarantee Scheme ("FEG") for payment of their unpaid entitlements.

FEG advanced \$458,778.81 to 17 former employees of FCPH owed outstanding annual leave, long service leave, payment in lieu of notice and redundancy entitlements.

Pursuant to Section 560 of the Act, FEG has a subrogated priority claim in the liquidation of FCPH for the total advanced to former employees.

4.4 Remaining Priority Claims (Not Paid by FEG)

We are also aware of the following priority claims:

- Three (3) employees had a FEG maximum weekly wage cap applied to their advance. The unpaid amounts, totalling \$5,483.11, remain a priority entitlement;
- Three (3) employees had winding up costs in redundancy and PILN applied to their advance. A total of \$1,372.40 owing to two (2) employees have been deemed by FEG to relate to the post-appointment period and, accordingly, remain a liability of the liquidation; and
- Four (4) excluded employees, not eligible for FEG assistance, are owed \$5,639.04 in unpaid annual leave, long service leave and leave loading that remain priority debts pursuant to the statutory caps of Section 556(1B) of the Act.

Additionally, one (1) employee did not submit a claim with FEG, nor have they lodged a Proof of Debt with the Liquidators.

4.5 Superannuation

The ATO initially submitted a default assessment to the Liquidators, claiming \$630,943.07 in relation to unpaid superannuation and superannuation guarantee charge ("SGC") dating back to 1 January 2017.

We performed an extensive review of FCPH's records, including:

- analysing weekly payroll records to calculate superannuation accrual for each employee;
- reviewing bank statements and accounting records to confirm dates and amounts of superannuation paid; and
- corresponding with the Industry Fund Services regarding their records for superannuation arrears for each employee; and
- reconciling amounts verified as paid, to FCPH's payroll records.

Upon completion of our review, we wrote to the ATO and lodged SGC statements advising of outstanding superannuation and SGC, for the period 1 April 2018 to 2 November 2018, in the amount of \$216,964.20. The ATO subsequently submitted a revised Proof of Debt to the Liquidators for the same amount, as follows:

Table 10: Unpaid Superannuation

Claim	Number	\$
Priority Claim (non-excluded employees)	71	190,554.21
Priority Claim Cap (excluded employees)	4	8,000.00
Unsecured Claim (excluded employee)	4	18,409.99
Total		216,964.20

4.6 Unsecured creditors

The below table provides a breakdown of unsecured creditors of the Companies.

Table 11: Unsecured creditor claims

Description	FCPH (\$)	Coalcliff (\$)
Trade suppliers	1,301,227	23,234
Statutory creditors	849,416	164,607
Excluded employee entitlements (unsecured)	174,066	-
PMSI – unsecured creditors (shortfall)	-	83,695
Total	2,324,709	271,536

The above amounts are subject to the Liquidators' adjudication of proofs of debt and claims in the liquidations.

Additionally, Mr Massara has advised that he (personally or through a related company) has paid various unsecured creditors \$239,228, after the Voluntary Administrators' appointment. We understand these payments were made to:

- obtain support from creditors required to supply goods to, or perform services for, a new business venture; and
- discharge caveats lodged on personal property, relevant to company debts backed by personal guarantees.

Accordingly, the pool of unsecured creditors may reduce by this amount. Further work will be undertaken by the Liquidators to verify the amounts paid, prior to paying a dividend to unsecured creditors of the Companies. To assist with this process, we have included a Notice Inviting Formal Proof of Debt or claim and Form 535 to be submitted by **Friday, 31 May 2024**. This formalises your claim in the liquidation and is used to determine all claims against the Pooled Group. The notice is enclosed at **Annexure J** along with the EFT form for bank details if you elect to receive the future dividend by EFT.

4.7 Intercompany Loan

As previously advised, FCPH used Coalcliff's plant and equipment to operate its business. Coalcliff recorded hire charges of c. \$125k per month in an intercompany loan account. However, FCPH paid Coalcliff's equipment loan repayments to NAB.

Recording of the intercompany loan transactions was not accurately recorded and maintained in the Companies' electronic management accounts. Consequently, the true loan position between the two Companies is incorrect and would be prohibitively expensive to reconcile.

Section 571 of the Act, allows a liquidator to make a Pooling Determination for a group of two or more companies that are being wound up if:

- each company is a related body corporate of each other company in the group; or
- the companies are jointly liable for one or more debts or claims; or
- the companies jointly own or operate particular property that is or was used, or for use, in connection with a business, a scheme, or an undertaking, carried only jointly by the group; or
- one or more companies in the group own particular property that is or was used, or for use, by any of the companies in the group in connection with a business, scheme or an undertaking, carried on jointly by the companies in the group.

We note only one of the specified conditions in section 571(1) is required to be satisfied and the Companies meet all of the above conditions.

A liquidator may make a Pooling Determination if he or she considers that it is just and equitable, as between the various creditors of the companies' in the group. Pooling the Companies would have the effect of extinguishing each debt payable between the Companies, in accordance with section 571(2)b).

In our view, pooling the Companies is a just and equitable approach to dealing with the intercompany loan, as it avoids:

- a material claim in one company significantly dissipating the return to creditors of the other, in a situation whereby the group carried on business without distinguishing between the different entities, with shared property, staff and liabilities;
- significant time and cost being incurred by the Liquidators to investigate the true intercompany loan position. Formal adjudication of the intercompany loan may require direction from the Court, which will incur significant further cost and dissipate funds available to creditors of both Companies.

The Pooling Determination will only come into force if approved by creditors. Further information on the Pooling Determination can be found in section 8, **Annexure B** and **Annexure C** of this report.

5. Investigations and Recoveries

As Liquidators, we are required to investigate whether there may be any voidable transactions where we may recover money or property for the benefit of creditors.

In our Previous Report, we provided a summary of investigations undertaken and noted four possible recovery actions that required further investigation.

A summary of our further investigations is provided below.

5.1 Antecedent and Voidable Transactions

The Liquidators identified payments totalling \$1,013,474, which we considered preferential, as summarised below:

Table 12: Unfair Preference Claims

Note	Company	Recipient of Preference	Claim (\$)	Recovered (\$)	Status
1	FCPH	ATO	797,665	630,000	Claim has been settled.
2	FCPH	Trade Suppliers	215,809	35,436	Demands issued to 13 subcontractors. 4 claims settled.
Total			1,013,474	665,436	

1. An unfair preference demand was issued to the ATO in the amount of \$797,665. With consideration given to the quantum of the claim, defences available and costs to pursue through litigation, a commercial settlement was agreed by the parties in the amount of \$630,000.
2. As previously stated, the Shire deducted \$260,178 to pay the Shire Creditors. At the time of the deduction, we advised the Shire that any payments made by the Shire to the Shire Creditors would be unfair preference payments, which a liquidator would seek to recover. Notwithstanding, the Shire proceeded to pay the Shire Creditors directly.

The Shire made 15 payments to the individual Shire Creditors, totalling \$260,178. Of these 15 creditors:

- two suppliers had a valid right of set.
- demands were issued on the remaining 13 creditors, totalling \$215,809.
- four claims were settled, totalling \$35,436.
- the balance of the claims was either defended or ignored by the Shire Creditors and given their quantum, was uncommercial to pursue in court. That is, the costs would have exceeded the claims. Accordingly, these amounts were written off and we do not anticipate making any further recoveries.

5.2 Insolvent Trading

Our investigations into the Companies found they were likely insolvent from at least 1 September 2017 and, therefore, likely traded whilst insolvent for at least 14 months prior to the appointment of the Voluntary Administrators.

The estimated quantum of any insolvent trading claim, in accordance with the definition of Section 588G(1)(b) of the Act, is as follows:

- FCPH: \$464,753, being the increase in creditor claims from the estimated date of insolvency to the date of appointment.
- Coalcliff: No claim, as the obligations to pay the debts (predominantly hire purchase arrangements) arose prior to the date of insolvency and cannot be included in the analysis of an insolvent trading claim.

Proving insolvency is often a complex exercise and usually involves considerable time and expense in thoroughly investigating all aspects of claims. Legal advice on the merits of claims is generally required. Typically, insolvent trading claims are vigorously defended, and directors may seek to rely on statutory defences available to them.

Legal proceedings are often necessary, adding to the time and costs involved. There is also inherent uncertainty involved with any litigation. As a result, commercial considerations are relevant, including whether the amount of the claim is large enough to pursue on a cost and risk/benefit basis.

We are of the view that the Director of FCPH may have the financial capacity to pay such a claim. However, the Director, in our view, has a number of defences, including the ongoing financial support of the secured creditor. Furthermore, given the quantum of the insolvent trading claim, the defences available to the Director and the significant time, legal costs and uncertainties involved in pursuing an action, we do not consider the claim is commercial to pursue.

We note Section 588R of the Act entitles a creditor to commence proceedings for an insolvent trading claim in their own right, subject to the consent of the Liquidators. If any creditor wishes to discuss initiating a claim for insolvent trading, including funding the action, please contact the Liquidators' office to discuss further.

5.3 Reporting to the Australian Securities and Investments Commission ("ASIC")

Section 533 of the Act requires a liquidator to investigate any offences which may have been committed by the directors or persons who took part in the formation, promotion, administration, management or winding up of a company and to lodge a report on the findings to ASIC.

5.3.1 FCPH

Following the Liquidators' report to ASIC under Section 533 of the ACT, ASIC requested a supplementary report be prepared by the Liquidators. After reviewing our supplementary report, ASIC advised that it did not intend investigating the matters raised in our report further and that the Liquidators were able to finalise the liquidation.

5.3.2 Coalcliff

Following the Liquidators' report to ASIC under Section 533 of the Act, ASIC advised that it did not intend investigating the matters raised in our report further and that the Liquidators were able to finalise the liquidation.

6. Receipts and Payments

We have recorded the following receipts and payments during the liquidations:

Four Corners Plant Hire Pty Ltd (In Liquidation)

Table 13: Receipts and payments for FCPH for the period 11 January 2019 to 15 April 2024.

Receipts	\$
Transfer from Administrator	941,910
Antecedent transactions	630,000
Post appointment debtors	487,076
Bank guarantee	74,532
Pre appointment debtors	41,967
Interest	32,477
Pre appointment refund	3,679
Hire purchase refund	2,037
Sale of P&E	825
Cash on hand at appointment	114
Total Receipts	2,214,617
Payments	
Appointee fees and disbursements (approved and paid)	610,650
Repayment of intercompany loan - Coalcliff	191,450
Legal fees and disbursements	155,639
GST paid	86,901
Hire purchase payments	82,836
Refund of incorrectly deposited funds	42,858
Statutory Payments (Superannuation, OSR, Child Support etc.)	41,420

Subcontractors	35,922
Wages and Salaries	34,369
Secured creditors claims	28,192
IT expenses	5,447
Utilities	4,308
Insurance and security	3,669
Trade materials	138
Bank charges	60
Total Payments	1,323,858
Surplus Representing Cash at Bank	890,759

Coalcliff Pty Ltd (In Liquidation)

Table 14: Receipts and payments for FCPH for the period 11 January 2019 to 15 April 2024.

Receipts	\$
Sale of P&E	3,964,641
Sale of real estate	2,830,668
Intercompany Loan - FCPH	191,450
Pre appointment debtors	36,465
Pre appointment refund	5,250
Total Receipts	7,028,474
Payments	
Secured creditors claims	5,353,366
Appointee fees and disbursements (approved and paid)	548,355
GST paid	466,044
Insurance and security	176,196
Legal fees and disbursements	117,884
Commission and advertising	60,671
Council rates	43,434
Utilities	27,644
Valuation fees	18,350
Land tax	8,901
Strata levies	6,956

Repairs and maintenance	4,545
Storage	2,805
Settlement adjustments	1,936
IT expenses	480
Total Payments	6,837,568
Surplus Representing Cash at Bank	190,907

7. Likelihood of a dividend

Pursuant to Section 556 of the Act, any distribution to unsecured creditors only occurs after priority creditors (claims relating to outstanding employee entitlements) are paid in full.

Outcome if Pooling Determination is Approved:

Based on the information presently available, the extent of assets realised and investigations undertaken, under the Pooling Determination, we expect to be able to pay:

- all outstanding employee entitlements within the next three months; and
- an estimated dividend to unsecured creditors in both FCPH and Coalcliff of 4.20 cents in the dollar, within six months (IF Pooling Determination is approved). We note, this is a higher return to the majority of unsecured creditors (by number and value) than would be available if the Companies are not pooled.

Outcome if Pooling Determination is NOT Approved:

Without pooling, we anticipate a return to creditors of:

- 100 cents in the dollar for priority creditors of FCPH;
- between 0.28 cents to 2.03 cents in the dollar to unsecured creditors of FCPH; and
- between nil to 11.84 cents in the dollar to unsecured creditors of Coalcliff.

We note that without pooling, the final dividend timing and rate will be subject to the time and cost incurred by the Liquidators to investigate the intercompany loan position. Formal adjudication of intercompany loan balances may require direction from the Court, which will incur significant time and cost and dissipate funds available to creditors of both companies.

A simplified summary of our calculations is provided in Table 15 below.

Table 15: Simplified estimated return to creditors calculation

\$'000	FCPH		Coalcliff		Pooled
	Low	High	Low	High	
Cash at bank	891	891	191	191	1,082
Less:					
Liquidators' remuneration (retrospective)	(130)	(130)	(125)	(125)	(255)
Liquidators' remuneration (prospective)	(80)	(45)	(70)	(35)	(50)
Total costs	(210)	(175)	(195)	(160)	(305)
Surplus/(shortfall) to priority creditors	681	716	(4)	31	777
Superannuation	(199)	(199)	0	0	(199)
Leave	(151)	(151)	0	0	(151)
Retrenchment	(319)	(319)	0	0	(319)
Cents in the dollar return to priority creditors	100	100	-	-	100
Surplus/(shortfall) to unsecured creditors	12	47	(4)	31	108
Unsecured creditors	(2,151)	(2,151)	(261)	(261)	(2,412)
Intercompany loan	(2,000)	0	(2,000)	0	0
Excluded employees	(174)	(174)	0	0	(174)
Total unsecured creditors	(4,325)	(2,325)	(2,261)	(261)	(2,586)
Estimated dividend (cents in the dollar)	0.3	2.0	0.00	11.8	4.2

In the event of the Determination being approved, the Liquidators would be considering the next step to assess outstanding creditor claims of the proposed Pooled Group. Accordingly, we have included a Notice Inviting Formal Proof of Debt or claim and Form 535 to be submitted by **Friday, 31 May 2024**. This formalises your claim in the liquidation and is used to determine all claims against the Pooled Group. The notice is enclosed at **Annexure J** along with the EFT form for bank details if you elect to receive the future dividend by EFT.

If you have lodged a formal proof of debt during the course of the liquidations and it remains unchanged, you are not required to lodge a further proof of debt. However, you may be required to provide further particulars to substantiate your claim.

Upon receipt of the claims and the Liquidators will issue forthwith a notice of intention to declare a dividend.

8. Pooling Determination

8.1 Overview

The Liquidators have made a Pooling Determination to pool the liquidations of the Companies ("the Determination") as:

- the operations of the businesses were intertwined, and pooling provides a fairer and more equitable distribution of funds to creditors;
- the cost to reconcile the intercompany loan is not, in our opinion, in creditors' best interests.
- the cost of administering the remaining tasks in the liquidation will be reduced as only one set of statutory reports will need to be lodged moving forward and, importantly, only one unsecured dividend process would be required.
- The pooling requirements are met pursuant to section 577(1A) of the Corporations Act.

Details of the Determination are provided below and in **Annexure B**. Creditors will be required to approve the Determination for it to come into effect.

8.2 Legislative provisions

The Act allows a Liquidator to make a Pooling Determination for a group of two or more companies that are being wound up if the following conditions are satisfied, in accordance with section 571 (1) of the Act:

- each company is a related body corporate of each other company in the group;
- the companies are jointly liable for one or more debts or claims;
- the companies jointly own or operate particular property that is or was used, or for use, in connection with a business, a scheme, or an undertaking, carried only jointly by the group.

The Companies satisfy all of the above conditions. Creditors are required to approve the Determination at a meeting for the Determination to come into effect.

8.3 Pooling Determination

A copy of the Determination is provided at **Annexure B**.

The Act sets out the required contents of a Pooling Determination. The Determination confirms that the liquidations are pooled for the purposes of the Act, provides a contact address for the pooled group and sets out which subdivisions of the Act apply to the pooled group.

The effect of the Determination is to combine the separate liquidations into one liquidation. The funds held in both liquidations are combined to form one pool of assets and any debts or claims between the two companies are extinguished (i.e. debts owed by FCPH to Coalcliff and vice versa).

The Companies are also deemed to be jointly and severally liable for all debts of either company. In practice, this means that a creditor claim submitted against either company becomes a claim against the pooled group.

Employees retain their priority entitlement in the pooled group as they currently hold in the separate liquidations.

8.3 Considerations in making the Determination

We believe it is in creditors' best interests, generally, for the Determination to come into force. Our reasons are set out below:

- The expected cost savings in reduced Liquidators' costs (including remuneration) as less time will be required dealing with the following:

- The Liquidators would not need to trace dealings between the two entities to determine the value of intercompany claims, which we anticipate would be a complex and time intensive process and would reduce the overall dividend to unsecured creditors. If unable to quantify the intercompany claims, the Liquidators would need to seek direction of the Court, which will incur additional cost.
- The Liquidators would only need to undertake one unsecured creditor dividend process, rather two (or more) as all claims would be admitted to the pooled group, rather than against each company individually.
- Given the above, the unsecured creditor dividend would be discharged in a shorter timeframe if the Companies are pooled.
- Duplicated compliance tasks and obligations would be reduced as reports and documents lodged with ASIC and / or sent to creditors and other parties can be prepared and lodged / sent singularly.
- Duplicated administrative tasks (such as maintaining separate bank accounts and ledgers) would be reduced as the liquidations become a single liquidation.

In making our Determination, we also considered the criteria the Court must consider when determining whether it is just and equitable to make a pooling order. An outline of those considerations is provided at **Annexure C**.

8.4 Creditor approval

The Determination of pooling only comes into effect when approved by creditors of the Companies in separate meetings.

We will be seeking creditors approval at the meetings to be on **Monday, 6 May 2024**. Creditors will be asked to vote on the following resolution:

“That the Pooling Determination for Coalcliff Pty Ltd (In Liquidation) and Four Corners Plant Hire Pty Ltd (In Liquidation) dated **29 April 2024** be approved.”

If creditors of both Companies pass the resolution, the Determination will come into effect. If creditors of either company do not pass the resolutions, the Determination does not come into effect and the Companies will continue as separate liquidations.

9. Liquidators' Remuneration

FTI Consulting charge professional fees based on time spent by the Liquidators and their staff at rates reflecting their level of experience.

The Liquidators have received approval for the following remuneration in the liquidations to date:

- \$336,993.96 (excluding GST) for FCPH; and
- \$377,222.34 (excluding GST) for Coalcliff.

This previously approved remuneration has been drawn in full.

The Liquidators have incurred costs above the previous fee cap, as approved by creditors at the meeting of creditors on 22 December 2020. At the meeting, the Liquidators were seeking approval for future remuneration of \$80,000 (excluding GST) for FCPH and \$40,000 (excluding GST) for Coalcliff. However, after some discussions, the Liquidators agreed to seek approval for half of those amounts, noting that the liquidations would costs more than these amounts

and that Liquidators would need to seek these amounts (and potentially more) at a future time. This decision was minuted and lodged with ASIC.

Notwithstanding the above, the Liquidators have been required to undertake significantly more work than initially envisaged at the time of their last remuneration approval report. The additional work includes but not limited to:

- Investigating and obtaining advice with respect to 481 Patstone Rd, and facilitating to the transfer of title;
- Corresponding with the ATO with respect to its proof of debt for outstanding superannuation and SGC. This necessitated additional investigations and evidentiary proof as to the true position of FCPH's superannuation arrears;
- Corresponding and negotiating with the ATO with respect to settlement of the Liquidators' unfair preference claim;
- Considering the requirements of obtaining the pooling orders or Determination;
- Reviewing the merits, completing an analysis and the outcome of the Pooling Determination;
- Corresponding with the liquidators of WA Eco regarding the certainty of a dividend payable to FCPH; and
- Negotiating with the ATO with respect to settlement of the Liquidators' unfair preference claim.

As a result of this additional and unforeseen work, the Liquidators have incurred fees materially more than reasonably anticipated. In this regard, we provide the following summary of fees incurred. We appreciate this is more than creditors had anticipated and after reviewing time entries the Liquidators have discounted the incurred fees by approximately ~30%, as reflected in the table below:

Table 16: Remuneration approval request summary

Company	Fees Incurred	Previous Fees Approved	Discount applied to 14 April 2024	Fee Approval Sought
Coalcliff				
Fees incurred for the period 1 December 2020 to 14 April 2024	192,202.50	(20,000.00)	(47,202.50)	125,000.00
Four Corners				
Fees incurred for the period 1 December 2020 to 14 April 2024	193,533.50	(40,000.00)	(23,533.50)	130,000.00

The liquidations have progressed with major material matters being resolved. Accordingly, the Liquidators are seeking approval for their outstanding remuneration in order to finalise the liquidations, as follows:

Table 17: Remuneration approval request summary

Period	FCPH (\$) (excl GST)	Coalcliff (\$) (excl GST)
Retrospective: 1 December 2020 to 14 April 2024	130,000.00	125,000.00
Retrospective: 15 April 2024 to 5 May 2024	5,000.00	5,000.00
Prospective: 6 May 2024 to completion of the liquidations		
- If the Pooling Determination is approved	50,000.00	
- If the Pooling Determination is not approved	40,000.00	30,000.00

In seeking further approval of our remuneration, we note that the total remuneration incurred for the period from 1 December 2020 to 14 April 2024 exceeds the remuneration being sought. Accordingly, the Liquidators have reviewed their time costs, and at their discretion, elected to reduce the remuneration claimed by approximately ~30% and prospective remuneration incurred to the date of the meeting in excess of amount being sought, will also be written-off.

I note this remuneration was necessarily incurred; however, the Liquidators have reduced the remuneration on the following basis:

- the volume and complexities of further investigations and additional work completed to settle the preference claim, was in excess of what was envisaged, and this will not be charged in full.
- the extra time spent seeking advice from lawyers to understand the possibility and process of pooling the companies, including determining whether to proceed through court orders or Pooling Determination has not been charged in full.
- the additional reporting to creditors, providing an account of the progress of the liquidations and the outcome if the Liquidators' investigations, have not been charged in full.
- correspondence with the liquidators of WA Eco regarding the likelihood of return to creditors (FCPH).

My Remuneration Approval Report is attached to this report and provides more detailed information on the remuneration I am seeking.

10. Meeting of Creditors

A meeting of creditors will be held on **Monday, 6 May 2024 at 10:30AM (AWST)** at Central Park, Melaleuca Conference Room, Ground level, 152- 158 St Georges Terrace, Perth WA 6000.

Virtual meeting facilities will also be provided for the meeting upon request.

The purpose of the meeting is to:

- Discuss the conduct of the liquidations to date and the contents of this update report to creditors;
- Consider the Pooling Determination proposal by the Liquidators;
- Consider, and if thought fit, approve the Liquidators' remuneration (as disclosed in the Liquidators' Remuneration Approval Report enclosed with this report); and
- Discuss any general business which may arise.

The meetings will be run concurrently for convenience, efficiency, and cost savings, as most of the matters to be discussed for each company are the same. Whilst the meetings will run concurrently, resolutions will be proposed to creditors on a company-by-company basis. If you object to holding the meeting concurrently, please contact us as soon as possible.

- Participating in Person via virtual facilities: To participate in the meeting via virtual meeting facilities, creditors must complete the enclosed meeting registration form. Once creditors have registered for the meeting, they will be provided with virtual meeting details.
- You will also need to complete and return the enclosed Form 535 Formal Proof of Debt or Claim form, if one has not already been submitted to the Liquidators – refer to **Annexure E – F**.
- Participating via Proxy: To have someone attend the meeting on your behalf of the creditor or company, please complete the enclosed proxy form – refer to **Annexure G – H**.

The notice of meeting, relevant meeting forms and instructions are enclosed with this report at **Annexure D**.

To enable sufficient time for review, proofs of debt and proxies should be submitted by no later than **4:00PM (AWST)** on **Friday, 3 May 2024** to:

Name: Matt Ottaviano
 Email: Matt.Ottaviano@fticonsulting.com
 Address: PO Box Z5486, PERTH WA 6831

If you choose to return these documents via post, please allow sufficient time for the documents to be received prior to the due date.

11. Way Forward

If the resolutions are passed, we anticipate commencing a priority dividend process shortly following the meeting of creditors, once administration matters around the Determination have been dealt with.

Other actions required to proceed with the liquidations, include:

- prepare for and hold the meeting of creditors in accordance with the Notice of Meeting;
- finalise any additional reporting to ASIC;
- complete lodgements related to the Determination (if approved);
- undertake a first and final dividend process for priority creditors;
- undertake a first and final dividend for unsecured creditors;
- complete all necessary statutory tasks; and
- finalise the liquidations.

12. Further information

The Australian Restructuring Insolvency and Turnaround Association ("ARITA") provides information to assist creditors with understanding liquidations and insolvency. This information, including details of your rights as a creditor, is available from ARITA's website at www.arita.com.au/creditors.

ASIC provides information sheets on a range of insolvency topics. These information sheets can be accessed on ASIC's website at <https://asic.gov.au/> by searching for "insolvency information sheets".

Should you have any queries, please contact Matt Ottaviano of this office on (08) 9321 8533 or by email at Matt.Ottaviano@fticonsulting.com.



Ian Francis

Joint and Several Liquidator

Attachments:

- Annexure A – Remuneration Approval Report
- Annexure B – Pooling Determination
- Annexure C – Pooling Determination criteria review
- Annexure D – Notice of Meeting of Creditors including meeting attendance forms
- Annexure E – Form 535 Formal Proof of Debt for Coalcliff Pty Ltd
- Annexure F – Form 535 Formal Proof of Debt for Four Corners Plant Hire Pty Ltd
- Annexure G – Appointment of Proxy for Coalcliff Pty Ltd
- Annexure H – Appointment of Proxy for Four Corners Plant Hire Pty Ltd
- Annexure I – Guidance for Attendance at Meeting of Creditors
- Annexure J – If Pooling Determination is approved:
 - Notice inviting formal proof of debt or claim; and
 - Electronic Funds Transfer (“EFT”) Payment Details Form.



Annexure A

Remuneration Approval Report

29 April 2024



Remuneration Approval Report

Four Corners Plant Hire Pty Ltd ACN 109 179 964 ("FCPH")
Coalcliff Pty Ltd ACN 009 400 293 ("Coalcliff")
(Both in Liquidation)
(Collectively "the Companies")

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Summary

This remuneration approval report provides you with the information that the *Corporations Act 2001* (Act) and the Code of Professional Practice published by the Australian Restructuring Insolvency and Turnaround Association (ARITA) requires creditors to receive to make an informed decision regarding the approval of our remuneration for undertaking the liquidation of Four Corners Plant Hire Pty Ltd (“FCPH”) ACN 109 179 964 & Coalcliff Pty Ltd (“Coalcliff”) ACN 009 393 686 (together “the Companies”)

We are asking creditors to consider and approve the following remuneration:

Table 1: Summary of remuneration being sought

Period	FCPH (excl GST) \$	Coalcliff (excl GST) \$
Liquidation		
Retrospective: 1 December 2020 to 14 April 2024 (capped)	\$130,000.00	\$125,000.00
Prospective remuneration from 1514 April 2024 to 5 May 2024 (capped)	\$5,000.00	\$5,000
Prospective remuneration from 6 May 2024 to conclusion of the liquidation (inclusive):		
- If the Pooling Determination is approved	\$ 50,000.00	
- If the Pooling Determination is not approved	\$ 40,000.00	\$ 30,000.00

Creditors have previously approved our remuneration and disbursements as follows:

Table 2: Summary of remuneration claimed

Appointment type/Period	Remuneration (excl GST)
FCPH	\$ 336,993.96
Coalcliff	\$ 377,222.34

We estimate the total cost of these liquidations will be \$1,049,029,216.30 (excl. GST) if the Determination is approved and if the Determination is not approved, the total will be as follows:

- \$511,993.96 (excl. GST) for FCPH; and
- \$537,222.34 (excl. GST) for Coalcliff.

As outlined in Previous Report, the Liquidators, at their discretion, did not claim remuneration incurred in the amount of \$50,117.50 for FCPH and 35,492.56 for Coalcliff (both excluding GST). Although this remuneration was generally, necessarily incurred, we elected to discount our fees. In preparation of this remuneration report, a further discount of approximately 30% was applied respective to each entity.

Additionally, at the time of the Liquidators last remuneration approval request, outlined in our remuneration approval report dated 8 December 2020, the Liquidators sought approval for future remuneration of \$80,000 (excluding GST) for FCPH and \$40,000 (excluding GST) for Coalcliff. At the previous meeting of creditors, it was resolved by creditors that only half of the requested remuneration be approved to complete the liquidations. Accordingly, the Liquidators estimated the total cost to complete the liquidations would exceed the amount approved by creditors and that Liquidators would need to seek these amounts (and potentially more) at a future time. This decision was minuted and lodged with ASIC.

Total Remuneration Estimate

The total remuneration for the appointment has increased compared to our previous estimate, as outlined below:

Table 3: :Total remuneration claimed including amount being claimed

Company	Estimate (8 December 2020)	Estimate 6 May 2024 (if determination is not approved)	Increase
FCPH	\$ 336,993.96	\$ 511,993.96	\$ 175,000.00
Coalcliff	\$ 377,222.34	\$ 537,222.34	\$ 160,000.00
Total	\$ 714,216.30	\$ 1,049,216.30	\$ 335,000.00

Our remuneration has increased above the previous estimate (refer to Table 3 above) due to the following factors:

- Investigating and obtaining advice with respect to 481 Patstone Rd, and facilitating to the transfer of title;
- Corresponding with the ATO with respect to its proof of debt for outstanding superannuation and SGC. This necessitated additional investigations and evidentiary proof as to the true position of FCPH's superannuation arrears;
- Corresponding and negotiating with the ATO with respect to settlement of the Liquidators' unfair preference claim;
- Considering the requirements of obtaining the pooling orders or Determination;
- Reviewing the merits, completing an analysis and the outcome of the Pooling Determination;
- Corresponding with the Liquidators of WA Eco regarding the certainty of a dividend payable to FCPH; and
- Negotiating with the ATO with respect to settlement of the Liquidators' unfair preference claim.

For further details, please refer to **Schedule D** of this report which provides the reasons for the additional work.

Aside from the remuneration sought as outlined in this report, we do not expect to seek creditor approval for any further remuneration in respect of the liquidations.

Declaration

Ian Francis and I, Daniel Woodhouse, of FTI Consulting, have undertaken a proper assessment of the claims for remuneration and payment for our internal disbursements for the appointment as Liquidators of the Companies in

accordance with the law and applicable professional standards. We are satisfied that the remuneration claim is in respect of necessary work properly performed in the conduct of the appointment and further, that the disbursements that have been incurred in the conduct of the external administration are necessary and proper.

Remuneration Sought

The remuneration we are asking creditors to consider and approve is summarised in the table below. We will only seek approval of resolutions for our future remuneration under the Determination if creditors approve the Determination. Likewise, we will only seek approval of resolutions for our future remuneration without pooling, if creditors do not approve the Determination.

Table 4: Summary of Remuneration Claim for FCPH and Coalcliff

Entity	For	Period	Amount (excl GST) \$	Applicable rates	Timing of payment
Work already completed					
FCPH	work already completed	1 December 2020 to 14 April 2024	\$ 130,000.00	Schedule E of this report	Immediately
Coalcliff	work already completed	1 December 2020 to 14 April 2024	\$ 125,000.00	Schedule E of this report	Immediately
Future work to the date of the meeting					
FCPH	Future work	15 April 2024 to 5 May 2024	\$ 5,000.00	Schedule E of this report	As and when costs are incurred
Coalcliff	Future work	15 April 2024 to 5 May 2024	\$ 5,000.00	Schedule E of this report	As and when costs are incurred
Future work from the date of the meeting:					
<i>If the Determination is approved:</i>					
FCPH and Coalcliff	Future work to the end of the liquidation	6 May 2024 to conclusion of the liquidation	\$ 50,000.00	Schedule E of this report	As and when costs are incurred
<i>If the Determination is not approved:</i>					
FCPH	Future work to the end of the liquidation	6 May 2024 to conclusion of the liquidation	\$ 40,000.00	Schedule E of this report	As and when costs are incurred
Coalcliff	Future work to the end of the liquidation	6 May 2024 to conclusion of the liquidation	\$ 30,000.00	Schedule E of this report	As and when costs are incurred

Details of the work completed for the period 1 December 2020 to 14 April 2024, and work to be completed for the period 15 April 2024 to completion of the liquidations is enclosed at **Schedule A**.

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

The actual resolution being proposed to creditors is included at **Schedule C**.

Previous remuneration approvals

The following remuneration of the Liquidators was previously approved by creditors of the Company:

Table 5: Previously Claimed Remuneration

Period	For	Approving body	Approved amount \$	Amount paid \$
FCPH - remuneration approvals				
11 January 2019 to 31 March 2019	work already completed	Creditors	\$81,687.50	\$81,687.50
1 April 2019 to 30 November 2020	work already completed	Creditors	\$215,306.46	\$215,306.46
1 December 2020 to conclusion	work already completed	Creditors	\$40,000.00	\$20,000.00
Total remuneration previously approved			\$336,993.96	\$336,993.96
Coalcliff - remuneration approvals				
11 January 2019 to 31 March 2019	work already completed	Creditors	\$98,421.50	\$98,421.50
1 April 2019 to 30 November 2020	work already completed	Creditors	\$258,800.84	\$258,800.84
1 December 2020 to conclusion	work already completed	Creditors	\$20,000.00	\$20,000.00
Total remuneration previously approved			\$377,222.34	\$377,222.34

We are now seeking approval of a further \$175,000.00 for FCPH and \$160,000.00 for Coalcliff (both excluding GST), which will bring total remuneration claimed to \$511,993.96 for FCPH and \$537,222.34 for Coalcliff (both excluding GST), if the Determination is not approved.

Disbursements

We are not required to seek creditor approval for costs paid to third parties or where we are recovering a cost incurred on behalf of the liquidations, but we must provide details to creditors. Details of these amounts are included in the receipts and payments in Section 6 of the Liquidators' report, enclosed with this remuneration approval report.

We are required to obtain creditors' consent for the payment of a disbursement where we, or a related entity, may directly or indirectly obtain a profit. We are not currently seeking approval for any internal disbursements.

Likely impact on dividends

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

We estimate that a dividend will be payable to both priority creditors and unsecured creditors in both liquidations. Please refer to the Liquidators' Update Report enclosed with this report for the full details of estimated dividends to creditors.

Queries

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

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

- ARITA at www.arita.com.au/creditors.
- ASIC at www.asic.gov.au (search for INFO 85).

If you have any queries in relation to the information in this report, please contact Matt Ottaviano this office on (08) 9321 8533 or by email at Matt.Ottaviano@fticonsulting.com.



Ian Francis

Joint and Several Liquidator

Attachments:

Schedule A – Details of work performed

Schedule B – Time spent by all staff on each major task (work already done)

Schedule C – Resolution

Schedule D – Explanation where remuneration previously approved

Schedule E – FTI Consulting schedule of rates for the Liquidators and their staff

Schedule A – FCPH Details of work

Task area/General description	Work completed	Future work to meeting date	Future Work if Pooling Determination is approved	Future Work if Pooling Determination is not approved
Period	Details of work previously performed for the period 1 December 2022 to 14 April 2024 of the liquidation of FCPH	15 April 2024 to 5 May 2024	6 May 2024 to completion of the liquidations of Coalcliff and FCPH	6 May 2024 to completion of the liquidation of FCPH
Total Amount \$ (excl GST)	426.0 hours \$193,533.50	\$5,000.00	(total for Coalcliff and Four Corners) \$50,000.00	\$40,000.00
Assets	1.5 hours \$931.00	nil	\$2,000.00	\$1,000.00
Debtors WA Eco and Term deposit	■ Correspondence with WA Eco Liquidators' regarding likelihood of a dividend. ■ Management of the Company term deposit and reinvestment of evaluation at maturity.		■ Management of the Company term deposit and reinvestment of evaluation at maturity. ■ Realisation of term deposit. ■ Correspondence with WA Eco Liquidators' regarding likelihood of a dividend payable to creditors (i.e FCPH).	■ Management of the Company term deposit and reinvestment of evaluation at maturity. ■ Realisation of term deposit. ■ Correspondence with WA Eco Liquidators' regarding likelihood of a dividend payable to creditors (i.e FCPH).
Creditors	228.9 hours \$110,735.70	\$4,000.00	\$18,000.00	\$15,000.00

Task area/General description	Work completed	Future work to meeting date	Future Work if Pooling Determination is approved	Future Work if Pooling Determination is not approved
Estimated Outcome for Creditors	■ Produce multiple versions of the estimated outcome for creditors in the liquidation. ■ Perform scenario analysis of estimated outcome based on various criteria. ■ Review merits and outcome of pooling orders on a return to creditors in the liquidation.			
ATO	■ Review ATO's formal proof of debt for unpaid superannuation arrears (default assessment). ■ Conduct a comprehensive review of the Company's records, evidencing the true arrears for superannuation. ■ Lodge SGC statements with the ATO. ■ Correspondence with the ATO regarding issuing of a revised POD in the liquidation.			
Report to Creditors and meeting of creditors	■ Preparing report to creditors dated 8 December 2020. ■ Prepared meeting of minutes and lodged with ASIC.	■ Preparing this update report to creditors ■ Preparation of meeting notices, proxies and advertisements.	■ Preparing meeting of minutes and lodging with ASIC. ■ Preparation and lodgement of minutes of meetings with ASIC. ■ Responding to stakeholder queries and questions	■ Preparing meeting of minutes and lodging with ASIC. ■ Preparation and lodgement of minutes of meetings with ASIC. ■ Responding to stakeholder queries and questions immediately following meeting.

Task area/General description	Work completed	Future work to meeting date	Future Work if Pooling Determination is approved	Future Work if Pooling Determination is not approved
		■ 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.	immediately following meeting.	
Dealing with proofs of debt	■ Receipting and filing POD when not related to a dividend. ■ Corresponding with FEG, OSR and ATO regarding POD when not related to a dividend.	■ Receipting and filing POD when not related to a dividend.	■ Receipting and filing POD when not related to a dividend.	■ Receipting and filing POD when not related to a dividend.
Creditor Enquiries, Requests & Correspondence	■ Providing ad-hoc updates to creditors as and when required. ■ Liaising with creditors regarding their appetite to pursue an insolvent trading claim and any other matters raised in the update report to creditors. ■ Correspondence to creditors regarding outcome of final material.	■ Receive and respond to creditor enquiries. ■ Maintaining creditor request log.	■ Providing ad-hoc updates to creditors as and when required. ■ Receive and respond to creditor enquiries. ■ Maintaining creditor request log. ■ Documenting and compiling information requested by creditors.	■ Providing ad-hoc updates to creditors as and when required. ■ Receive and respond to creditor enquiries. ■ Maintaining creditor request log. ■ Documenting and compiling information requested by creditors.

Task area/General description	Work completed	Future work to meeting date	Future Work if Pooling Determination is approved	Future Work if Pooling Determination is not approved
	■ Correspondence to creditors regarding outcome of final material matters in the liquidation and preparations to finalise the file.			
Dividend	10.5hours \$5,3334.00	nil	\$20,000.00	\$16,000.00
Dividend procedures	■ Consider the likelihood of priority creditor dividend and subrogated claims. ■ Complete various scenarios of estimated outcome statement to assess possible return to creditors. ■ Analysis of circulating and non-circulating claims to determine available funds to distribute to creditors pursuant to section 556 of the Act. ■ Advertisement of inviting for proof of debt (for adjudication process).		■ Preparation of correspondence to creditors advising of intention to declare dividend. ■ Advertisement of intention to declare dividend. ■ Obtain clearance from ATO to allow distribution of company's assets (for unsecured creditors dividend). ■ Preparation of pooled dividend calculation. ■ Preparation of correspondence to creditors announcing declaration of dividend. ■ Advertise announcement of dividend. ■ Preparation of pooled distribution. ■ Preparation of pooled dividend file.	■ Preparation of dividend calculation. ■ Preparation of correspondence to creditors announcing declaration of dividend. ■ Advertise announcement of dividend. ■ Preparation of distribution. ■ Preparation of dividend file. ■ Preparation of payment vouchers to pay dividend to priority creditors. ■ Preparation of correspondence to creditors enclosing payment of dividend. ■ Corresponding with FEG and ATO regarding POD when related to priority dividend.

Task area/General description	Work completed	Future work to meeting date	Future Work if Pooling Determination is approved	Future Work if Pooling Determination is not approved
			■ Preparation of payment vouchers to pay dividend. ■ Preparation of correspondence to creditors enclosing payment of dividend.	
Investigations	59.7 hours \$32,174.80	nil	nil	nil
Shire of Lake Grace (unfair preferences)	■ Internal meetings to discuss the unfair preference payments paid by the Shire of Lake Grace ("Shire"). ■ Correspondence with the Shire regarding the unfair preference payments made directly to subcontractors, prior to pursuing recipients of the funds from the Shire. ■ Collating all evidence in support of the transactions for unfair preference claim. ■ Correspondence with legal advisors regarding strategy for recovery of unfair preference claims. ■ Draft unfair preference claim to recipients of funds from the Shire. ■ Issue letters for unfair preference payments to recipient of Shire funds.			

Task area/General description	Work completed	Future work to meeting date	Future Work if Pooling Determination is approved	Future Work if Pooling Determination is not approved
	■ Ongoing correspondence regarding defences raised by unfair preference recipients. Negotiate and settle demands.			
Australian Taxation Office ("ATO")	■ Draft claim and collate supporting documents for unfair preference claim received by the ATO. ■ Issue unfair preference claim to the ATO. ■ Correspondence and negotiations to settle unfair preference claims. ■ Review affidavit and originating process to commence proceedings against the ATO.			
ASIC	■ Completing draft of report pursuant to Section 533 of the Act. ■ Finalising and lodging report pursuant to Section 533 of the Act. ■ Preparing supplementary report pursuant to Section 533 of the Act, including all enclosures and annexures. ■ Lodging supplementary report pursuant to Section 533 of the Act.			

Task area/General description	Work completed	Future work to meeting date	Future Work if Pooling Determination is approved	Future Work if Pooling Determination is not approved
	■ Pooling analysis, file notes and commentary of viable solution. ■ Analysis of insolvency and voidable transactions including compiling evidence to potential breaches and misconduct. ■ Preparing investigation file notes to maintain record our findings.			
Administration	125.6 hours \$44,358.00	\$1,000.00	\$10,000.00	\$8,000.00
Correspondence	■ General correspondence with various parties.	General correspondence with various parties.	General correspondence with various parties.	General correspondence with various parties.
Director	■ Meetings with the Director to discuss various matters in the liquidation requiring attention. ■ Review information supplied by Director regarding payments made direct to unsecured creditors of the Company from personal funds.			
Document maintenance/file review/checklist	■ Updating checklists, documents and periodic discussions regarding status of administration and file notes.	■ Updating checklists, documents and periodic discussions regarding status of	■ Preparing grouped checklists, documents and periodic discussions regarding status of administration and file notes.	■ Updating checklists, documents and periodic discussions regarding status of administration and file notes.

Task area/General description	Work completed	Future work to meeting date	Future Work if Pooling Determination is approved	Future Work if Pooling Determination is not approved
		administration and file notes.		
Funds handling	■ Entering receipts and payments into accounting system. ■ Requesting bank statements. ■ Bank account reconciliations. ■ Correspondence with bank regarding specific transfers.	■ Entering receipts and payments into accounting system. ■ Requesting bank statements and preparing bank account reconciliations.	■ Entering receipts and payments into accounting system. ■ Requesting bank statements and preparing bank account reconciliations. ■ Preparing dividend payments to creditors. ■ Corresponding with the bank to close bank accounts.	■ Entering receipts and payments into accounting system. ■ Requesting bank statements and preparing bank account reconciliations. ■ Preparing dividend payments to creditors. ■ Corresponding with the bank to close bank accounts.
ASIC Forms and lodgements	■ Preparing and lodging annual ASIC forms including 5602. ■ Correspondence with ASIC regarding statutory forms.		■ Preparing and lodging ASIC forms including 5602, 5011 etc. ■ Lodging pooling determination with ASIC. ■ Correspondence with ASIC regarding statutory forms.	■ Preparing and lodging ASIC forms including 5602, 5011 etc. ■ Correspondence with ASIC regarding statutory forms.
ATO and other statutory reporting	■ Correspondence with the Australian Taxation Office regarding the remising of General Interest Charges incurred during the trading period of the administration. ■ Preparing quarterly BAS reporting. ■ Completing STP reporting obligations.	■ Preparing and lodgement of quarterly BAS.	■ Correspondence with the ATO regarding pooling determination and lodging GST grouping notification. ■ Preparing and lodgement of quarterly grouped BAS. ■ Completing STP reporting obligations post priority dividend payment.	■ Preparing and lodgement of quarterly BAS. ■ Completing STP reporting obligations post priority dividend payment.

Task area/General description	Work completed	Future work to meeting date	Future Work if Pooling Determination is approved	Future Work if Pooling Determination is not approved
Finalisation			■ Notifying ATO of finalisation. ■ Cancelling ABN / GST / PAYG registration. ■ Completing checklists. ■ Finalising WIP.	■ Notifying ATO of finalisation. ■ Cancelling ABN / GST / PAYG registration. ■ Completing checklists. ■ Finalising WIP.

Schedule A – Coalcliff Details of work

Task area/General description	Work completed	Future work to meeting date	Future Work if Pooling Determination is approved	Future Work if Pooling Determination is not approved
Period	Details of work previously performed for the period 1 December 2022 to 14 April 2024 of the liquidation of Coalcliff	15 April 2024 to 5 May 2024	6 May 2024 to completion of the liquidations of Coalcliff and FCPH	6 May 2024 to completion of the liquidation of Coalcliff
Total Amount \$ (excl GST)	417.7 hours 192,202.50	\$5,000.00	(total for Coalcliff and FCPH) \$50,000.00	\$30,000.00
Assets	50.9 hours \$27,687.00	nil	\$2,000.00	\$1,000.00
481 Patstone Road, Collie	■ Review valuation for 481 Patstone Road. ■ Correspondence with Murfett Legal on related parties offer for purchase of 481 Patstone Road. ■ Assess and negotiate sale of 481 Patstone Road.		■ Finalise title ownership transfer.	■ Finalise title ownership transfer.
6059 Collie-Williams Road, Collie	■ Discuss execution of sale contract with Murfett Legal and the Liquidators' legal advisors.			
Debtors - WA Eco			■ Correspondence with WA Eco Liquidators' regarding likelihood of a dividend payable to creditors (i.e Coalcliff).	■ Correspondence with WA Eco Liquidators' regarding likelihood of a dividend payable to creditors (i.e Coalcliff).
Creditors	193.4 hours			

Task area/General description	Work completed	Future work to meeting date	Future Work if Pooling Determination is approved	Future Work if Pooling Determination is not approved
	\$93,618.00	\$4,000.00	\$18,000.00	\$10,000.00
PMSI Creditors	■ Discussion with PMSI holders regarding unsecured claims in liquidation.			
Estimated Outcome for Creditors	■ Produce multiple versions of the estimated outcome for creditors in the liquidation. ■ Perform scenario analysis of estimated outcome based on various criteria. ■ Review merits and outcome of pooling orders on a return to creditors in the liquidation.			
Report to Creditors and meeting of creditors	■ Preparing report to creditors dated 8 December 2020.	■ Preparing this update report to creditors ■ Preparation of meeting notices, proxies and advertisements. ■ 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	■ Preparing meeting of minutes and lodging with ASIC. ■ Preparation and lodgement of minutes of meetings with ASIC. ■ Responding to stakeholder queries and questions immediately following meeting.	■ Preparing meeting of minutes and lodging with ASIC. ■ Preparation and lodgement of minutes of meetings with ASIC. ■ Responding to stakeholder queries and questions immediately following meeting.

Task area/General description	Work completed	Future work to meeting date	Future Work if Pooling Determination is approved	Future Work if Pooling Determination is not approved
		meeting and draft minutes of meeting.		
National Australia Bank Ltd ("NAB")	■ Correspondence with the secured creditor regarding outstanding debt and timing for further secured creditor dividends. ■ Paying funds to NAB through proceeds of sale of real estate. ■ Preparing final account for the payout of the secured creditors' debt.			
Creditor Enquiries, Requests & Directions	■ Receive and respond to creditor enquiries. ■ Maintaining creditor request log. ■ Review and prepare initial correspondence to creditors and their representation. ■ Compiling information requested by creditors.	■ Receive and respond to creditor enquiries. ■ Maintaining creditor request log.	■ Providing ad-hoc updates to creditors as and when required. ■ Receive and respond to creditor enquiries. ■ Maintaining creditor request log. ■ Documenting and compiling information requested by creditors.	■ Providing ad-hoc updates to creditors as and when required. ■ Receive and respond to creditor enquiries. ■ Maintaining creditor request log. ■ Documenting and compiling information requested by creditors.
Dealing with proofs of debt	■ Receipting and filing POD when not related to a dividend. ■ Corresponding with OSR and ATO regarding POD when not related to a dividend.	■ Receipting and filing POD when not related to a dividend.	■ Receipting and filing POD when not related to a dividend.	■ Receipting and filing POD when not related to a dividend.
Dividend	9.1 hours \$5,750.00	nil	\$20,000	\$14,000

Task area/General description	Work completed	Future work to meeting date	Future Work if Pooling Determination is approved	Future Work if Pooling Determination is not approved
Dividend procedure	■ Complete various scenarios of estimated outcome statement to assess possible return to creditors. ■ Consider the likelihood of creditor dividend and subrogated claims. ■ Analysis of circulating and non-circulating claims to determine available funds to distribute to creditors pursuant to section 556 of the Act. ■ Advertisement of inviting for proof of debt (for adjudication process).		■ Preparation of correspondence to creditors advising of intention to declare dividend. ■ Advertisement of intention to declare dividend. ■ Obtain clearance from ATO to allow distribution of company's assets (for unsecured creditors dividend). ■ Preparation of pooled dividend calculation. ■ Preparation of correspondence to creditors announcing declaration of dividend. ■ Advertise announcement of dividend. ■ Preparation of pooled distribution. ■ Preparation of pooled dividend file. ■ Preparation of payment vouchers to pay dividend. ■ Preparation of correspondence to creditors enclosing payment of dividend.	■ Preparation of correspondence to creditors advising of intention to declare dividend. ■ Advertisement of intention to declare dividend. ■ Obtain clearance from ATO to allow distribution of company's asset (for unsecured creditors dividend). ■ Preparation of priority dividend calculation. ■ Preparation of correspondence to creditors announcing declaration of dividend. ■ Advertise announcement of dividend. ■ Preparation of distribution. ■ Preparation of dividend file. ■ Preparation of payment vouchers to pay dividend. ■ Preparation of correspondence to creditors enclosing payment of dividend.
Investigations	8.3 hours \$4,104.00	nil	nil	nil
ASIC	■ Completing draft of report pursuant to Section 533 of the Act.			

Task area/General description	Work completed	Future work to meeting date	Future Work if Pooling Determination is approved	Future Work if Pooling Determination is not approved
	■ Finalising and lodging report pursuant to Section 533 of the Act. ■ Completing draft of report pursuant to Section 533 of the Act. ■ Finalising and lodging report pursuant to Section 533 of the Act. ■ Pooling analysis, file notes and commentary of viable solution. ■ Analysis of insolvency and voidable transactions including compiling evidence to potential breaches and misconduct. ■ Preparing investigation file notes to maintain record our findings.			
Shire of Lake Grace (unfair preferences)	■ Internal meetings to discuss the unfair preference payments paid by the Shire of Lake Grace ("Shire"). ■ Correspondence with the Shire regarding the unfair preference payments made directly to subcontractors, prior to pursuing recipients of the funds from the Shire. ■ Collating all evidence in support of the transactions for unfair preference claim.			

Task area/General description	Work completed	Future work to meeting date	Future Work if Pooling Determination is approved	Future Work if Pooling Determination is not approved
	■ Correspondence with legal advisors regarding strategy for recovery of unfair preference claims. ■ Draft unfair preference claim to recipients of funds from the Shire. ■ Issue letters for unfair preference payments to recipient of Shire funds. ■ Ongoing correspondence regarding defences raised by unfair preference recipients. Negotiate and settle demands.			
Massara Superannuation Fund (Trust)(“MSF”)	■ Investigations into MSF and property 479 Patstone Road, Collie. ■ Correspondence with Murfett Legal regarding true Trustee of the MSF. ■ Liaise with the Liquidators’ legal advisors regarding the strategy to deal with 479 Patstone Road and the MSF. ■ Review draft documents and execute affidavits regarding the transfer of the 479 Patstone Road property to the correct trustee.			
Administration	151.0 hours \$61,188.00	\$1,000.00	\$10,000.00	\$5,000.00

Task area/General description	Work completed	Future work to meeting date	Future Work if Pooling Determination is approved	Future Work if Pooling Determination is not approved
Director	- Meetings with the Director to discuss various matters in the liquidation requiring attention. - Review information supplied by Director regarding payments made direct to unsecured creditors of the Company from personal funds.			
Correspondence	General correspondence with various parties.	General correspondence with various parties.	General correspondence with various parties.	General correspondence with various parties.
Document maintenance/file review/checklist	Updating checklists, documents and periodic discussions regarding status of administration and file notes.	Updating checklists, documents and periodic discussions regarding status of administration and file notes.	Preparing grouped checklists, documents and periodic discussions regarding status of administration and file notes.	Updating checklists, documents and periodic discussions regarding status of administration and file notes.
Funds handling	- Preparing correspondence opening and closing accounts. - Entering receipts and payments into accounting system. - Requesting bank statements and preparing bank account reconciliations. - Correspondence with bank regarding specific transfers.	- Entering receipts and payments into accounting system. - Requesting bank statements and preparing bank account reconciliations.	- Entering receipts and payments into accounting system. - Requesting bank statements and preparing bank account reconciliations. - Preparing dividend payments to creditors. - Corresponding with the bank to close bank accounts.	- Entering receipts and payments into accounting system. - Requesting bank statements and preparing bank account reconciliations. - Preparing dividend payments to creditors. - Corresponding with the bank to close bank accounts.
ASIC Forms and lodgements	Preparing and lodging ASIC forms including 5602.		Preparing and lodging ASIC forms including 5602, 5011 etc.	Preparing and lodging ASIC forms including 5602, 5011 etc.

Task area/General description	Work completed	Future work to meeting date	Future Work if Pooling Determination is approved	Future Work if Pooling Determination is not approved
	■ Correspondence with ASIC regarding statutory forms.		■ Lodging pooling determination with ASIC. ■ Correspondence with ASIC regarding statutory forms.	■ Correspondence with ASIC regarding statutory forms.
ATO and other statutory reporting	■ Correspondence with the Australian Taxation Office regarding the remission of General Interest Charges incurred during the trading period of the administration. ■ Preparing and lodgement of quarterly BAS. ■ Completing STP reporting obligations.	Preparing and lodgement of quarterly BAS.	■ Correspondence with the ATO regarding pooling determination and lodging GST grouping notification. ■ Preparing and lodgement of quarterly grouped BAS. ■ Completing STP reporting obligations post priority dividend payment.	■ Preparing and lodgement of quarterly BAS. ■ Completing STP reporting obligations post priority dividend payment.
Books and records / storage	■ Dealing with records in storage.		■ Dealing with records in storage. ■ Sending job files to storage post finalisation.	■ Dealing with records in storage. ■ Sending job files to storage post finalisation.
Finalisation			■ Notifying ATO of finalisation. ■ Cancelling ABN / GST / PAYG registration. ■ Completing checklists. ■ Finalising WIP.	■ Notifying ATO of finalisation. ■ Cancelling ABN / GST / PAYG registration. ■ Completing checklists. ■ Finalising WIP.

Schedule B – FCPH

Time spent by Liquidators staff on each major task

The below table sets out work performed by the Liquidators, their partners and staff for professional services for the period 1 December 2020 to 14 April 2024. The total figure below includes the \$40,000, which was previously estimated and approved by creditors and the balance forms part of Resolution 1.

Employee	Position	\$ /hour (excl GST)	Total actual hours	Total \$ (excl GST)	Task Area									
					Assets		Creditors		Investigations		Dividends		Administration	
					Hrs	\$	Hrs	\$	Hrs	\$	Hrs	\$	Hrs	\$
Ian Francis	Senior Managing Director	720	0.7	504	0.50	360	-	0	-	0	-	0	0.20	144
Daniel Woodhouse	Senior Managing Director	720	14.3	10,296	0.60	432	5.30	3,816	4.70	3,384	0.20	144	3.50	2,520
Daniel Woodhouse	Managing Director	660	7.6	5,016	-	0	5.40	3,564	2.20	1,452	-	0	-	0
Renae Stirling	Senior Director	580	16.1	9,338	-	0	2.14	1,241	11.56	6,705	-	0	2.40	1,392
Andrew Clowes	Director	520	115.5	60,060	-	0	67.10	34,892	35.60	18,512	7.10	3,692	5.70	2,964
Nicholas Sayer	Director	520	55.3	28,756	-	0	50.70	26,364	-	0	0.20	104	4.40	2,288
Andrew Vacca	Senior Consultant II	470	15.7	7,379	-	0	10.80	5,076	0.20	94	2.60	1,222	2.10	987
Andrew Vacca	Senior Consultant I	430	15.3	6,579	-	0	11.00	4,730	-	0	0.40	172	3.90	1,677
Catherine Jaques	Senior Consultant I	430	35.0	15,050	-	0	28.40	12,212	0.30	129	-	0	6.30	2,709
Loice Taderera	Senior Consultant I	430	32.3	13,889	-	0	25.50	10,965	-	0	-	0	6.80	2,924
Andrew Vacca	Consultant II	390	28.1	10,959	-	0	0.40	156	4.10	1,599	-	0	23.60	9,204
Andrew Vacca	Consultant I	360	23.0	8,280	0.20	72	14.90	5,364	-	0	-	0	7.90	2,844
George Gelevitis	Associate II	335	18.6	6,231	0.20	67	6.30	2,111	-	0	-	0	12.10	4,054
Conor Robson	Associate II	335	2.4	804	-	0	-	0	-	0	-	0	2.40	804
Starli Smith	Associate I	300	7.6	2,280	-	0	-	0	-	0	-	0	7.60	2,280
Conor Robson	Associate I	300	8.6	2,580	-	0	0.50	150	1.00	300	-	0	7.10	2,130
Claire Rees	Administration II	220	1.7	374	-	0	0.20	44	-	0	-	0	1.50	330
Parin Desai	Junior Associate	220	0.6	132	-	0	-	0	-	0	-	0	0.60	132
Selina Naylor	Administration I	185	16.4	3,034	-	0	-	0	-	0	-	0	16.40	3,034
Ho Lam Trinh	Administration I	185	5.9	1,092	-	0	-	0	-	0	-	0	5.90	1,092
Chantelle Antonelli	Junior Accountant	170	5.3	901	-	0	0.30	51	-	0	-	0	5.00	850
Total (ex GST)				193,534		931		110,736		32,175		5,334		44,358
Remuneration previously approved and drawn (Excl. GST)				(40,000)										
Remuneration being sought and capped (Excl. GST)				130,000										
Total hours			426.0		1.5		228.9		59.7		10.5		125.4	
Avg hourly rate (ex GST)				454		621		484		539		508		354

Schedule B – Coalcliff

Time spent by Liquidators staff on each major task

The below table sets out work performed by the Liquidators, their partners and staff for professional services for the period 1 December 2020 to 14 April 2024.

The total figure below includes the \$20,000, which was previously estimated and approved by creditors and the balance forms part of Resolution 2.

Employee	Position	\$ /hour (excl GST)	Total actual hours	Total \$ (excl GST)	Task Area									
					Assets		Creditors		Investigations		Dividends		Administration	
					\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Ian Francis	Senior Managing Director	720	0.2	144	0.0	0	0.0	0	0.0	0	0.0	0	0.2	144
Daniel Woodhouse	Senior Managing Director	720	20.4	14,688	9.0	6,480	5.0	3,600	0.2	144	0.8	576	5.4	3,888
Daniel Woodhouse	Managing Director	660	5.3	3,498	0.3	198	4.7	3,102	0.0	0	0.0	0	0.3	198
Renae Stirling	Senior Director	580	17.3	10,034	0.0	0	0.5	290	0.0	0	0.0	0	16.8	9,744
Greg Tomlin	Senior Director	580	2.2	1,276	2.2	1,276	0.0	0	0.0	0	0.0	0	0.0	0
Andrew Clowes	Director	520	88.8	46,176	29.2	15,184	38.7	20,124	5.3	2,756	5.0	2,600	10.6	5,512
Nicholas Sayer	Director	520	82.0	42,640	4.2	2,184	63.8	33,176	0.0	0	3.1	1,612	10.9	5,668
Andrew Vacca	Senior Consultant II	470	12.0	5,640	0.0	0	10.6	4,982	0.0	0	0.0	0	1.4	658
Andrew Vacca	Senior Consultant I	430	5.5	2,365	0.3	129	1.8	774	0.0	0	0.0	-	3.4	1,462
Catherine Jaques	Senior Consultant I	430	29.2	12,556	0.4	172	20.3	8,729	0.0	0	0.0	0	8.5	3,655
Loice Taderera	Senior Consultant I	430	41.0	17,630	0.3	129	25.6	11,008	2.8	1,204	0.0	0	12.3	5,289
Andrew Vacca	Consultant II	390	27.1	10,569	4.5	1,755	0.8	312	0.0	0	0.2	78	21.6	8,424
Andrew Vacca	Consultant I	360	22.1	7,956	0.5	180	14.7	5,292	0.0	0	0.0	-	6.9	2,484
George Gelevitis	Associate II	335	2.4	804	0.0	0	0.0	0	0.0	0	0.0	0	2.4	804
Conor Robson	Associate II	335	3.2	1,072	0.0	0	0.0	0	0.0	0	0.0	-	3.2	1,072
Matthew Ottaviano	Associate II	335	12.9	4,322	0.0	0	6.1	2,044	0.0	0	0.0	0	6.8	2,278
Starli Smith	Associate I	300	9.9	2,970	0.0	0	0.3	90	0.0	0	0.0	-	9.6	2,880
Conor Robson	Associate I	300	10.8	3,240	0.0	0	0.0	0	0.0	0	0.0	0	10.8	3,240
Claire Rees	Administration II	220	1.6	352	0.0	0	0.2	44	0.0	0	0.0	-	1.4	308
Janine Wigham	Administration I	185	3.1	574	0.0	0	0.0	0	0.0	0	0.0	0	3.1	574
Selina Naylor	Administration I	185	3.2	592	0.0	0	0.0	0	0.0	0	0.0	-	3.2	592
Chelsea Fisk	Administration I	185	4.5	833	0.0	0	0.0	0	0.0	0	0.0	0	4.5	833
Zin Thaya Khin	Administration I	185	2.5	463	0.0	0	0.0	0	0.0	0	0.0	-	2.5	463
Alexander Phillis	Administration I	185	1.7	315	0.0	0	0.0	0	0.0	0	0.0	0	1.7	315
Miles Clark	Junior Accountant	170	8.8	1,496	0.0	0	0.3	51	0.0	0	5.2	884	3.3	561
Total (ex GST)				192,203		27,687		93,618		4,104		5,750		61,044
Remuneration previously approved and drawn				(20,000)										
Remuneration being sought and capped (Excl. GST)				125,000										
Total hours			417.7		50.9		193.4		8.3		9.1		150.8	
Avg hourly rate (ex GST)				460		544		484		494		632		405

Schedule C – Resolutions

Remuneration Incurred by the Liquidators:

Resolution 1 – Liquidators’ remuneration FCPH

Period from 1 December 2020 to 14 April 2024 – retrospective

“That the incurred remuneration of the Liquidators of Four Corners Plant Hire Pty Ltd (In Liquidation) and their staff, for the period from 1 December 2020 to 14 April 2024 (inclusive), calculated at the hours spent at the rates detailed in the Schedule of FTI Consulting Standard Rates effective 1 April 2020 provided to creditors, is approved for payment in the capped amount of \$130,000.00, exclusive of GST, to be drawn from available funds immediately.”

Resolution 2 – Liquidators’ remuneration Coalcliff

Period from 1 December 2020 to 14 April 2024 – retrospective

“That the incurred remuneration of the Liquidators of Coalcliff Pty Ltd (In Liquidation) and their staff, for the period from 1 December 2020 to 14 April 2024 (inclusive), calculated at the hours spent at the rates detailed in the Schedule of FTI Consulting Standard Rates effective 1 April 2020 provided to creditors, is approved for payment in the capped amount of \$125,000.00, exclusive of GST, to be drawn from available funds immediately.

Resolution 3 – Liquidators’ remuneration FCPH

Period 15 April 2024 to 5 May 2024– prospective

“That the future remuneration of the Liquidators of Four Corners Plant Hire Pty Ltd (In Liquidation) and their staff, for the period 15 April 2024 to 5 May 2024 (inclusive), calculated at the hours spent at the rates detailed in the Schedule of FTI Consulting Standard Rates effective 1 April 2020 provided to creditors, is approved for payment in the capped amount of \$5,000.00, exclusive of GST, to be drawn when incurred from available funds.”

Resolution 4 – Liquidators’ remuneration Coalcliff

Period 15 April 2024 to 5 May 2024 - prospective

“That the future remuneration of the Liquidators of Coalcliff Pty Ltd (In Liquidation) and their staff, for the period 15 April 2024 to 5 May 2024 (inclusive), calculated at the hours spent at the rates detailed in the Schedule of FTI Consulting Standard Rates effective 1 April 2020 provided to creditors, is approved for payment in the capped amount of \$5,000.00, exclusive of GST, to be drawn when incurred from available funds.

If the Pooled Determination is approved:**Resolution 5 – Liquidators' future remuneration for the Pooled Group (FCPH and Coalcliff)**

Period from 6 May 2024 to conclusion of the liquidation - prospective, to be put forward only if the Determination is approved by creditors

"That the future remuneration of the Liquidators of Coalcliff Pty Ltd and of Four Corners Plant Hire Pty Ltd (In Both in Liquidation) (the Companies) for the period from 6 May 2024 to finalisation of the Liquidation, is determined at a sum equal to the cost of time spent by the Liquidators and their staff, calculated at the hourly rates as detailed in the Schedule of FTI Consulting Standard Rates effective 1 April 2020 provided to creditors, up to a capped amount of \$50,000.00, exclusive of GST, and that the Liquidators can draw the remuneration from available funds as time is incurred on a monthly basis or as funds become available".

If the Pooled Determination is NOT approved:**Resolution 6 – Liquidators' future remuneration FCPH**

Period from 6 May 2024 to conclusion of the liquidation – prospective

"That the future remuneration of the Liquidators of Four Corners Plant Hire Pty Ltd (In Liquidation) for the period from 6 May 2024 to finalisation of the Liquidation, is determined at a sum equal to the cost of time spent by the Liquidators and their staff, calculated at the hourly rates as detailed in the Schedule of FTI Consulting Standard Rates effective 1 April 2020 provided to creditors, up to a capped amount of \$40,000.00, exclusive of GST, and that the Liquidators can draw the remuneration from available funds as time is incurred on a monthly basis or as funds become available".

Resolution 7 – Liquidators' future remuneration Coalcliff

Period from 6 May 2024 to conclusion of the liquidation – prospective

"That the future remuneration of the Liquidators of Coalcliff Pty Ltd (In Liquidation) for the period from 6 May 2024 to finalisation of the Liquidation, is determined at a sum equal to the cost of time spent by the Liquidators and their staff, calculated at the hourly rates as detailed in the Schedule of FTI Consulting Standard Rates effective 1 April 2020 provided to creditors, up to a capped amount of \$30,000.00, exclusive of GST, and that the Liquidators can draw the remuneration from available funds as time is incurred on a monthly basis or as funds become available".

Schedule D – Explanation where remuneration previously approved

As previously stated, the creditors of the Companies approved of the Liquidators' prospective remuneration for the period 1 December 2020 to completion in the amount of \$40,000 for FCPH and \$20,000 for Coalcliff (both excluding GST). Please note, these approved amounts were half of what the Liquidators estimated, at the time, it would cost to complete the liquidations. We have drawn the approved remuneration and applied it in payment of our remuneration.

My remuneration has exceeded the previous cap and, in this report, I am seeking approval of a further capped amount of \$130,000.00 for FCPH and \$125,000.00 for Coalcliff (both exclusive of GST) and an additional capped amount of \$5,000.00 for the period 15 April 2024 to 5 May 2024 for each of the Companies.

In the below two tables, we compare, on a task basis, my estimate from my report of 8 December 2020 to my actual time costs as at 14 April 2024 and provide an explanation for the difference in cost.

FCPH

Task	Fees already approved for the period 1 December 2020 \$	Actual fees incurred to 14 April 2024 (excl GST) (excl GST) \$	Difference \$	Reasons for differences
Assets	Nil	931.00	(931.00)	■ Residual work performed to realise asset and finalise ownership transfers that was not anticipated. ■ Management of the Company term deposit and reinvestment of evaluation at maturity.
Creditors and Employees	12,500.00	110,735.70	(98,235.70)	■ Corresponding with the ATO with respect to its proof of debt for outstanding superannuation and SGC. This necessitated additional investigations and an extensive review of FCPH's records, including: — analysis of weekly payroll records to calculate superannuation accrual for each employee; — review of bank statements and accounting records to confirm dates and amounts of superannuation paid; — correspondence with the Industry Fund Services regarding their records for superannuation arrears for each employee; and

Task	Fees already approved for the period 1 December 2020 \$	Actual fees incurred to 14 April 2024 (excl GST) (excl GST) \$	Difference \$	Reasons for differences
				— performing a reconciliation of amounts verified as paid to FCPH's payroll records. — Review of the Pooling Determination requirements and process. ■ Due to the passage of time since our last update report to creditors dated 8 December 2020, we have received a high volume of inquiries regarding the likelihood of a dividend. ■ Included is the time spent to prepare this update report to creditors, previous meeting held on 22 December 2020 and preparing and lodging minutes of meeting of creditors.
Investigation	20,000.00	32,174.80	(12,174.80)	■ Impromptu work performed to prepare a supplementary report pursuant to section 533(2) and providing substantiation to Australian Security Investments Commission. ■ Corresponding and negotiating with the ATO with respect to settlement of the Liquidators' unfair preference claim. We estimate an additional \$10k incurred was of unanticipated costs, not included in our previous remuneration request. ■ Correspondence with Lavan seeking legal advice in relation to the preference claim. ■ Consideration of Pooling Determination and analysis. ■ Comprehensive analysis of pooling, file notes and commentary viable solution. ■ Analysis of insolvency and voidable transactions including compiling evidence to potential breaches and misconduct. ■ Preparing investigation file notes to maintain record our findings.
Dividend	5,000.00	5,334.00	(334.00)	■ Considering the likelihood of priority dividend and subrogated claims. ■ Thorough analysis of circulating and non-circulating claims to determine available funds to distribute to creditors pursuant to section 556 of the Act. ■ Further work relating to dividend distribution and review of unsecured creditor debts to determine potential dividend payable for both Companies if the Determination is approved.

Task	Fees already approved for the period 1 December 2020 \$	Actual fees incurred to 14 April 2024 (excl GST) (excl GST) \$	Difference \$	Reasons for differences
				■ Consideration of a dividend process and calculations for various scenarios, in comparison to a Pooled Determination.
Administration	2,500.00	44,358.00	(41,858.00)	■ Additional statutory lodgements including but not limited to: — section 533 report; — annual reporting requirements with ASIC; and — quarterly BAS lodgements for the past 3 years. ■ Required internal file notes in relation to matter oversight and management of the file. ■ Management of funds in the past 3 years including, high volume of processing payments, bank reconciliation and processing realisations post sale of assets.
Total (ex GST)	40,000.00	193,533.50		
Less: Previously Approved Remuneration		(40,000.00)		
Total capped remuneration being sought (Excl. GST)		130,000.00		

Coalcliff

Task	Fees already approved for the period 1 December 2020 \$	Actual fees incurred to 14 April 2024 (excl GST) (excl GST) \$	Difference \$	Reasons for differences
Assets	7,500.00	27,687.00	(20,187.00)	■ Dealing with the transfer of title for 481 Patstone Road, Collie, to the current corporate trustee, the Massara Superannuation fund, including: — investigation into legal ownership and the Liquidators' right of sale; — liaising with the Liquidators' lawyers in respect to obtaining advice with respect to legal implications of applying for orders to facilitate transfer of title; — preparing and executing statutory declarations; and — affidavits to Court, and review and executing of transfer documentation.
Creditors	2,500.00	93,618.00	(91,118.00)	■ Due to the passage of time since our last update report to creditors, we received a high level of enquiries from creditors in relation to the likelihood of a dividend. ■ Included in this is the time spent to prepare this update report to creditors, previous meeting held on 22 December 2020 and finalising minutes of meeting of creditors.
Dividend	2,500.00	5,750.00	(3,250.00)	■ Thorough analysis of circulating and non-circulating claims to determine available funds to distribute to creditors pursuant to section 556 of the Act. ■ Further work relating to dividend distribution and review of unsecured creditor debts to determine potential dividend payable for both Companies if the Determination is approved. ■ Consideration of a dividend process and calculations for various scenarios, in comparison to a Pooled Determination.
Investigation	2,500.00	4,104.00	(1,604.00)	■ Comprehensive analysis of pooling, file notes and commentary viable solution. ■ Analysis of insolvency and voidable transactions including compiling evidence to potential breaches and misconduct. ■ Preparing investigation file notes to maintain record our findings.

Task	Fees already approved for the period 1 December 2020 \$	Actual fees incurred to 14 April 2024 (excl GST) (excl GST) \$	Difference \$	Reasons for differences
Administration	5,000.00	61,044.00	(56,044.00)	■ Additional statutory lodgements including but not limited to: — annual reporting requirements with ASIC; and — quarterly BAS lodgements for the past 3 years. ■ Required internal file notes in relation to matter oversight and management of the file. ■ Management of funds in the past 3 years including, high volume of processing payments, bank reconciliation and processing realisations post sale of assets.
Total (ex GST)	20,000.00	192,202.50	(172,203.00)	
Less: Previously Approved Remuneration		(20,000.00)		
Total capped remuneration being sought (Excl. GST)		125,000.00		

Schedule E – FTI Consulting schedule of rates effective 1 April 2020

Typical classification	Standard Rates \$/hour	General guide to classifications
Senior Managing Director/Appointee	720	Registered Liquidator and/or Trustee, with specialist skills and extensive experience in all forms of insolvency administrations. Alternatively, has proven leadership experience in business or industry, bringing specialist expertise and knowledge to the administration.
Managing Director	660	Specialist skills brought to the administration. Extensive experience in managing large, complex engagements at a very senior level over many years. Can deputise for the appointee. May also be a Registered Liquidator and/or Trustee. Alternatively, has extensive leadership/senior management experience in business or industry.
Senior Director	580	Extensive experience in managing large, complex engagements at a very senior level over many years. Can deputise for the appointee, where required. May also be a Registered Liquidator and/or Trustee or have experience sufficient to support an application to become registered. Alternatively, has significant senior management experience in business or industry, with specialist skills and/or qualifications.
Director	520	Significant experience across all types of administrations. Strong technical and commercial skills. Has primary conduct of small to large administrations, controlling a team of professionals. Answerable to the appointee, but otherwise responsible for all aspects of the administration. Alternatively, has significant senior management experience in business or industry, with specialist skills and/or qualifications.
Senior Consultant 2	470	Typically an Australian Restructuring Insolvency & Turnaround Association professional member. Well developed technical and commercial skills. Has experience in complex matters and has conduct of small to medium administrations, supervising a small team of professionals. Assists planning and control of medium to larger administrations.
Senior Consultant 1	430	Assists with the planning and control of small to medium-sized administrations. May have the conduct of simpler administrations. Can supervise staff. Has experience performing more difficult tasks on larger administrations.
Consultant 2	390	Typically Institute of Chartered Accountants in Australia qualified chartered accountant (or similar). Required to control the tasks on small administrations and is responsible for assisting with tasks on medium to large-sized administrations.
Consultant 1	360	Qualified accountant with several years' experience. Required to assist with day-to-day tasks under the supervision of senior staff.
Associate 2	335	Typically a qualified accountant. Required to assist with day-to-day tasks under the supervision of senior staff.
Associate 1	300	Typically a university graduate. Required to assist with day-to-day tasks under the supervision of senior staff.
Junior Associate	220	Undergraduate in the latter stage of their university degree.
Administration 2	220	Well developed administrative skills with significant experience supporting professional staff, including superior knowledge of software packages, personal assistance work and/or office management. May also have appropriate bookkeeping, accounting support services or similar skills.
Administration 1	185	Has appropriate skills and experience to support professional staff in an administrative capacity. May also have appropriate bookkeeping, accounting support services or similar skills.
Junior Accountant	170	Undergraduate in the early stage of their university degree.



Annexure B

Pooling Determination

Pooling Determination

Four Corners Plant Hire Pty Ltd and Coalcliff Pty Ltd (Both in liquidation)

We, Daniel Woodhouse and Ian Francis, determine that the Group is a pooled group for the purposes of section 571 of the Corporations Act 2001.

The contact address for the Group is c/- FTI Consulting, Level 47 Central Park, 152 – 158 St Georges Terrace, Perth WA 6000.

We determine that the following subdivisions of section 571 of the Corporations Act 2001 apply to the pooled group:

- Subsection 571(2):
 - Each company in the group is taken to be jointly and severally liable for each debt payable by, and each claim against, each other company in the group; and
 - each debt payable by a company or companies in the group to any other company or companies in the group is extinguished; and
 - each claim that a company or companies in the group has against any other company or companies in the group is extinguished.
- Subsection 571(3):
 - Subsection 571 (2) applies to a debt or claim:
 - whether present or future; and
 - whether certain or contingent; and
 - whether ascertained or sounding only in damages.
- Subsection 571(4):
 - Subsection 571(2) does not apply to a debt payable by, or a claim against, a company in the group unless the debt or claim is admissible to proof against the company.
- Subsection 571(5)
 - If a determination under paragraph (1)(c) comes into force in relation to a group of 2 or more companies, the order of priority applicable under sections 556, 560 and 561 is not altered for a company in the group.
- Subsection 571(6):
 - If:
 - (a) a determination under paragraph (1)(c) comes into force in relation to a group of 2 or more companies; and
 - (b) a secured creditor of a company in the group surrenders the relevant security interest to the liquidator of the company for the benefit of creditors of the companies in the group generally;the debt may be recovered as a debt that is jointly and severally payable by the companies in the group.
- Subsection 571(7)
 - If:
 - (a) a determination under paragraph (1)(c) comes into force in relation to a group of 2 or more companies; and

- (b) a secured creditor of a company in the group realises the security interest, so much of the debt as remains after deducting the net amount realised may be recovered as a debt that is jointly and severally payable by the companies in the group.
- Subsection 571(8) The following provisions have effect subject to any modifications under paragraph (1)(d):
 - (a) subsection (2);
 - (b) subsection (3);
 - (c) subsection (4);
 - (d) subsection (5);
 - (e) subsection (6);
 - (f) subsection (7).
- Subsection 571(9) subsection (2) does not apply in relation to a secured creditor unless the relevant debt is payable by a company or companies in the group to any other company or companies in the group.
- Subsection 571(10) If:
 - (a) a pooling determination comes into force in relation to a group of 2 or more companies; and
 - (b) there are one or more eligible employee creditors of a company in the group, those eligible employee creditors are entitled to a priority at least equal to what they would have been entitled if the determination had not been made.

Signed:



Daniel Woodhouse

29 April 2024

Date



Ian Francis

29 April 2024

Date



Annexure C

Pooling Determination Criteria Review

Pooling determination criteria review

Criteria	Consideration
The extent to which: - a company in the group; and - the officers or employees of a company in the group were involved in the management or operations of any of the other companies in the group.	There was significant cross over between the Companies, with Coalcliff holding most assets and FCPH undertaking the trading operations and employing all staff. While employed by FCPH, staff worked across both companies and parties dealing with Coalcliff were unlikely to know that staff were employed by a different entity. Essentially, the group carried on business without distinguishing between the different entities, with shared property, staff and capital.
The conduct of: - a company; and - the officers or employees of a company in the group towards the creditors of any of the other companies in the group.	Creditors of both Coalcliff and FCPH dealt with FCPH employees, who were responsible for the day-to-day operations of both Companies.
The extent to which the circumstances that gave rise to the winding up of any of the companies in the group are directly or indirectly attributable to the acts or omissions of: - any of the other companies in the group; or - the officers or employees of any of the other companies in the group.	The events that led to the winding up of the Companies were attributable to both Companies. The intertwined nature of the Companies' operations meant that any factor impacting one company would impact the other. Specifically, as the trading entity, any cash flow deficiency experienced by FCPH would have directly impacted Coalcliff's ability to maintain its equipment finance facilities.
The extent to which the activities and business of the companies in the group have been intermingled.	The operations of the two entities are so intertwined that one company could not operate without the other. FCPH required the use of Coalcliff's assets to undertake its trading activities and Coalcliff required the income from FCPH's trading activities to maintain its debt repayments, and FCPH's staff to manage Coalcliff's assets and finance function. Coalcliff did not operate a trading business, did not service customers directly and held no employees or customer accounts from which to operate.
The extent to which creditors of any of the companies in the group may be advantaged or disadvantaged by the coming into force of the Determination	We anticipate that the Determination will benefit the vast majority of creditors. The Determination will ensure that: priority (employee) creditors receive 100 cents in the dollar;

Criteria	Consideration
	- the majority of the Companies' unsecured creditors, by number and value, receive a higher return than if the liquidations were not pooled. It is estimated, based on the Companies' books and records, that the group has approximately 156 creditors. Of this 156, 149 are creditors of FCPH and make up 90% of the total value of claims against the group; and - loan balances between the Companies are extinguished, avoiding further time and costs to investigate and determine the loan balances, which would further delay and dissipate the return to creditors of both companies.
Is the determination in the interests of eligible unsecured creditors generally?	Yes, we believe the determination is in the interests of unsecured creditors, generally. It provides for a better return to the vast majority of creditors and a fairer and more equitable distribution of funds.



Annexure D

Notice of Meeting of Creditors

(including Meeting Attendance Forms)

Corporations Act 2001

NOTICE OF MEETING OF CREDITORS OF COMPANY UNDER LIQUIDATION

FOUR CORNERS PLANT HIRE PTY LTD ACN 109 179 964

COALCLIFF PTY LTD ACN 009 400 293

(BOTH IN LIQUIDATION)

(COLLECTIVELY “the COMPANIES”)

Notice is given that a meeting of creditors of the Companies will be held at **10:30 AM (AWST)** on **Monday, 6th of May 2024**, at Central Park, Melaleuca Conference Room, Ground Level, 152 -158 St Georges Terrace, Perth WA 6000. Alternatively, creditors can attend the meeting virtually via teleconference.

Agenda

1. To receive a report by the Liquidators about the business, property, affairs and financial circumstances of the Company.
2. To consider and if seen fit, approve the Pooling Determination pursuant to section 577(1A) of the Corporations Act, section 75-10 of Schedule 2 and Rule 75-40 of the Practice Rules 571 Act.
3. To consider, and if thought fit, approve the Liquidators’ remuneration.
4. Any other business that may lawfully arise.

Attending and voting at the meeting

Creditors are invited to attend the meeting, however they are not entitled to participate and vote at a meeting unless:

- **Proof of debt:** They have lodged with the Liquidators particulars of the debt or claim and the claim has been admitted, wholly or in part, by the Liquidators. If a proof of debt has already been lodged, they do not need to do so again. Refer to Note 1 for further guidance on entitlement to vote.
- **Proxies or attendance:** They are present by electronic facilities and/or validly represented by proxy, attorney or an authorised person under s250D of *the Corporations Act*. If a corporate creditor or represented, a proxy form, power of attorney or evidence of appointment of a company representative pursuant to Section 250D of the *Corporations Act 2001* (“the Act”) must be validly completed and provided to the Liquidator at or before the meeting.

A proxy is only valid for a particular meeting and will need to be resubmitted even if previously provided.

To enable sufficient time to review, proofs of debt and proxies (or document authorising the representation) should be submitted to Matthew Ottaviano on matt.ottaviano@fticonsulting.com or PO BOX Z5486, St Georges Terrace, Perth WA 6831 by no later than **4:00PM (AWST) on Friday, 3 May 2024**. If you choose to return these documents, please allow sufficient time for the documents to be received prior to the due date.

Any queries should be directed to matt.ottaviano@fticonsulting.com or (08) 9521 8533.

Dated this **29th day of April 2024**



Ian Francis

Joint and Several Liquidator

NOTE 1: ENTITLEMENT TO VOTE AND COMPLETING PROOFS

IPR (Corp) 75-85 Entitlement to vote at meetings of creditors

- 1) A person other than a creditor (or the creditor's proxy or attorney) is not entitled to vote at a meeting of creditors.
- 2) Subject to subsections (3), (4) and (5), each creditor is entitled to vote and has one vote.
- 3) A person is not entitled to vote as a creditor at a meeting of creditors unless:
 - a) his or her debt or claim has been admitted wholly or in part by the external administrator; or
 - b) he or she has lodged, with the person presiding at the meeting, or with the person named in the notice convening the meeting as the person who may receive particulars of the debt or claim:
 - i) those particulars; or
 - ii) if required—a formal proof of the debt or claim.
- 4) A creditor must not vote in respect of:
 - a) an unliquidated debt; or
 - b) a contingent debt; or
 - c) an unliquidated or a contingent claim; or
 - d) a debt the value of which is not established;
unless a just estimate of its value has been made.
- 5) A creditor must not vote in respect of a debt or a claim on or secured by a bill of exchange, a promissory note or any other negotiable instrument or security held by the creditor unless he or she is willing to do the following:
 - a) treat the liability to him or her on the instrument or security of a person covered by subsection (6) as a security in his or her hands;
 - b) estimate its value;
 - c) for the purposes of voting (but not for the purposes of dividend), to deduct it from his or her debt or claim.
- 6) A person is covered by this subsection if:
 - a) the person's liability is a debt or a claim on, or secured by, a bill of exchange, a promissory note or any other negotiable instrument or security held by the creditor; and
 - b) the person is either liable to the company directly, or may be liable to the company on the default of another person with respect to the liability; and
 - c) the person is not an insolvent under administration or a person against whom a winding up order is in force.

IPR (Corp) 75-110 Voting on resolutions

- 7) For the purposes of determining whether a resolution is passed at a meeting of creditors of a company, the value of a creditor of the company who:
 - a) is a related creditor (within the meaning of subsection 75-41(4) of the Insolvency Practice Schedule (Corporations)), for the purposes of the vote, in relation to the company; and
 - b) has been assigned a debt; and
 - c) is present at the meeting personally, by telephone, by proxy or attorney; and
 - d) is voting on the resolution;

is to be worked out by taking the value of the assigned debt to be equal to the value of the assigned debt to be equal to the value of the consideration that the related creditor gave for the assignment of the debt.

PLEASE READ CAREFULLY

GUIDANCE FOR ATTENDANCE AT MEETING OF CREDITORS

Attendance at this meeting is not compulsory.

Should you wish to attend the meeting and you would like to vote you must complete the relevant forms and return to my office by **4:00PM (AWST) Friday, 3 May 2024** to matt.ottaviano@fticonsulting.com.

Otherwise, you may be considered an observer and you will not be able to vote.

Please note: all creditors who wish to attend the meeting of creditors must ensure they have a suitable internet connection, The liquidators are unable to assist you with any technical requirements for the virtual meeting.

Relevant forms

Form	Information	Who should complete
Notice of Attendance – Meeting Registration Form	This form is required to be completed should you wish to attend the creditors meeting, and vote at the meeting. Creditors will receive details and instructions for the virtual meeting once you have registered and submitted the relevant forms below.	All creditors attending the meeting.
Appointment of Proxy Form	This form is required to be completed for each creditors meeting. A special proxy can be lodged showing an approval or rejection of each resolution.	Non-individual creditors (companies, trusts, etc) who want to be represented must appoint an individual to act on its behalf by executing a proxy form. Individuals may choose to appoint a proxy/representative to vote on their behalf by executing a proxy form. If an individual is attending in person a proxy form is not required.
Form 535 – Formal Proof of Debt or Claim	This form is required to register your claim against the Company. In order to vote at the meeting, a creditor needs to have a complete proof of debt to register a claim. Documents to substantiate your claim (e.g. invoices) must also be provided.	All creditors, unless already done so.

NOTICE OF ATTENDANCE – MEETING REGISTRATION FORM

MEETING OF CREDITORS

FOUR CORNERS PLANT HIRE CAN 109 179 964 (“FCPH”)

COALCLIFF PTY LTD ACN 009 400 293 (“COALCLIFF”)

(BOTH IN LIQUIDATION) (“the COMPANIES”)

Attendance

Attendance at this meeting is not compulsory.

Should you wish to attend the meeting and you would like to vote you **must** complete the relevant forms and return to my office by **4:00PM (AWST) Friday, 3 May 2024**.

Name of Creditor:

Contact Name:	
Position:	
Email Address:	
Contact Number:	

Signature of Creditor (or person authorised by creditor)

Once you have returned this completed form, you will be provided by email with instructions and a link to the meeting.

Please also ensure you have lodged a Proof of Debt Form and Proxy Form (if applicable), otherwise you may only be an observer at the meeting and will be unable to vote.



Annexure E

Form 535 Formal Proof of Debt

Coalcliff Pty Ltd

FORM 535 – FORMAL PROOF OF DEBT OR CLAIM

subregulation 5.6.49(2)
Corporations Act 2001

COALCLIFF PTY LTD (IN LIQUIDATION) ACN 009 400 293 ("THE COMPANY")

To the Liquidators of Coalcliff (In Liquidation) ACN 009 400 293 ("the Company")

4. This is to state that the Company was on 11 January 2019, and still is, justly and truly indebted to:
-
-
- (full name, ABN and address of the creditor and, if applicable, the creditor's partners)*
- for \$*(dollars and cents)*

Particulars of the debt are:

Date	Consideration	Amount (\$/c)	Remarks
	<i>(state how the debt arose)</i>		<i>(include details of voucher substantiating payment)</i>

5. To my knowledge or belief the creditor has not, nor has any person by the creditor's order, had or received any satisfaction or security for the sum or any part of it except for the following:
-
- (insert particulars of all securities held. If the securities are on the property of the company, assess the value of those securities. If any bills or other negotiable securities are held, show them in a schedule in the following form).*

Date	Drawer	Acceptor	Amount (\$/c)	Due Date
------	--------	----------	---------------	----------

6. Signed by *(select correct option)*:

- ☐ I am the creditor personally
- ☐ 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, remains unpaid and unsatisfied
- ☐ I am the creditor's agent authorised in writing to make this statement in writing. I know the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, remains unpaid and unsatisfied.

Signature: Dated:

Name: Occupation:

Address:

** If prepared by an employee or agent of the creditor, also insert a description of the occupation of the creditor*

RECEIVE REPORTS BY EMAIL	YES	NO
Do you wish to receive all future reports and correspondence from our office via email?	☐	☐
Email:		

If being used for the purpose of voting at a meeting:

- a) Is the debt you are claiming assigned to you? ☐ Yes ☐ No
- b) If yes, attach written evidence of the debt, the assignment and consideration given. ☐ Attached
- c) If yes, what value of consideration did you give for the assignment (eg, what amount did you pay for the debt?) \$
- d) If yes, are you a related party creditor of the Company?
(If you are unsure contact the Liquidator) ☐ Yes ☐ No



Annexure F

Form 535 Formal Proof of Debt

Four Corners Plant Hire Pty Ltd

FORM 535 – FORMAL PROOF OF DEBT OR CLAIM

subregulation 5.6.49(2)
Corporations Act 2001

FOUR CORNERS PLANT HIRE PTY LTD (IN LIQUIDATION) ACN 109 179 964

To the Liquidators of Four Corners Plant Hire Pty Ltd (In Liquidation) ACN 109 179 964 ("the Company")

1. This is to state that the Company was on 11 January 2019, and still is, justly and truly indebted to:.....
.....
.....
(full name, ABN and address of the creditor and, if applicable, the creditor's partners)
for \$*(dollars and cents)*

Particulars of the debt are:

Date	Consideration	Amount (\$/c)	Remarks
	<i>(state how the debt arose)</i>		<i>(include details of voucher substantiating payment)</i>

2. To my knowledge or belief the creditor has not, nor has any person by the creditor's order, had or received any satisfaction or security for the sum or any part of it except for the following:
.....
(insert particulars of all securities held. If the securities are on the property of the company, assess the value of those securities. If any bills or other negotiable securities are held, show them in a schedule in the following form).

Date	Drawer	Acceptor	Amount (\$/c)	Due Date
------	--------	----------	---------------	----------

3. Signed by *(select correct option)*:

- ☐ I am the creditor personally
- ☐ 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, remains unpaid and unsatisfied
- ☐ I am the creditor's agent authorised in writing to make this statement in writing. I know the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, remains unpaid and unsatisfied.

Signature: Dated:

Name: Occupation:

Address:

** If prepared by an employee or agent of the creditor, also insert a description of the occupation of the creditor*

RECEIVE REPORTS BY EMAIL	YES	NO
Do you wish to receive all future reports and correspondence from our office via email?	☐	☐
Email:		

If being used for the purpose of voting at a meeting:

- a) Is the debt you are claiming assigned to you? ☐ Yes ☐ No
- b) If yes, attach written evidence of the debt, the assignment and consideration given. ☐ Attached
- c) If yes, what value of consideration did you give for the assignment (eg, what amount did you pay for the debt?) \$
- d) If yes, are you a related party creditor of the Company?
(If you are unsure contact the Liquidator) ☐ Yes ☐ No



Annexure G

Appointment of Proxy

Coalcliff Pty Ltd

APPOINTMENT OF PROXY

COALCLIFF PTY LTD ACN 009 400 293

(IN LIQUIDATION) ("THE COMPANY")

I/We _____ (name of signatory)
 of _____ (creditor name)
 a creditor of the Company, appoint _____ (name of proxy)
 of _____ (address of proxy)
 or in his/her absence _____ (details of alternate proxy)

as my/our ☐ general proxy or ☐ special proxy to vote at the meeting of creditors to be held on **Monday, 6th of May 2024 at 10:30AM (AWST)** or at any adjournment of that meeting.

Resolutions	For	Against	Abstain
1. "That the remuneration of the Liquidators of Coalcliff Pty Ltd (In Liquidation) and their staff, for the period from 1 December 2020 to 14 April 2024 (inclusive), calculated at the hours spent at the rates detailed in the Schedule of FTI Consulting Standard Rates effective 1 April 2020 provided to creditors, is approved for payment in the capped amount of \$125,000.00, exclusive of GST, to be drawn from available funds immediately or as funds become available."	☐	☐	☐
2. "That the remuneration of the Liquidators of Coalcliff Pty Ltd (In Liquidation) and their staff, for the period 15 April 2024 to 5 May 2024 (inclusive), calculated at the hours spent at the rates detailed in the Schedule of FTI Consulting Standard Rates effective 1 April 2020 provided to creditors, is approved for payment in the amount of \$5,000.00, exclusive of GST, to be drawn from available."	☐	☐	☐
3. "That the Pooling Determination for Coalcliff Pty Ltd (In Liquidation) and Four Corners Plant Hire Pty Ltd (In Liquidation) dated 29 April 2024 be approved."	☐	☐	☐
If the Determination is approved			
4. "That the future remuneration of the Liquidators of Coalcliff Pty Ltd and of Four Corners Plant Hire Pty Ltd (In Both in Liquidation) (the Companies) for the period from 6 May 2024 to finalisation of the Liquidation, is determined at a sum equal to the cost of time spent by the Liquidators and their staff, calculated at the hourly rates as detailed in the Schedule of FTI Consulting Standard Rates effective 1 April 2020 provided to creditors, up to a capped amount of \$50,000.00, exclusive of GST, and that the Liquidators can	☐	☐	☐

draw the remuneration from available funds as time is incurred on a monthly basis or as funds become available”.

If the Pooled Determination is NOT approved:

5. “That the future remuneration of the Liquidators of Coalcliff Pty Ltd (In Liquidation) for the period from 6 May 2024 to finalisation of the Liquidation, is determined at a sum equal to the cost of time spent by the Liquidators and their staff, calculated at the hourly rates as detailed in the Schedule of FTI Consulting Standard Rates effective 1 April 2020 provided to creditors, up to the capped amount of \$30,000.00, exclusive of GST, and that the Liquidators can draw the remuneration from available funds as time is incurred on a monthly basis or as funds become available”.

☐☐☐

**I/*We authorise *my/*our proxy to vote as a general proxy on resolutions other than those specified above*

Dated:

.....
Name and signature of authorised person



Annexure G

Appointment of Proxy

Four Corners Plant Hire Pty Ltd

APPOINTMENT OF PROXY

FOUR CORNERS PLANT HIRE PTY LTD ACN 109 179 964

(IN LIQUIDATION) ("THE COMPANY")

I/We _____ (name of signatory)
 of _____ (creditor name)
 a creditor of the Company, appoint _____ (name of proxy)
 of _____ (address of proxy)
 or in his/her absence _____ (details of alternate proxy)

as my/our ☐ general proxy or ☐ special proxy to vote at the meeting of creditors to be held on **Monday, 6th of May 2024 at 10:30AM (AWST)** or at any adjournment of that meeting.

Resolutions	For	Against	Abstain
1. "That the remuneration of the Liquidators of Four Corners Plant Hire Pty Ltd (In Liquidation) and their staff, for the period from 1 December 2020 to 14 April 2024 (inclusive), calculated at the hours spent at the rates detailed in the Schedule of FTI Consulting Standard Rates effective 1 April 2020 provided to creditors, is approved for payment in the capped amount of \$130,000.00, exclusive of GST, to be drawn from available funds immediately or as funds become available."	☐	☒	☐
2. "That the remuneration of the Liquidators of Four Corners Plant Hire Pty Ltd (In Liquidation) and their staff, for the period 15 April 2024 to 5 May 2024 (inclusive), calculated at the hours spent at the rates detailed in the Schedule of FTI Consulting Standard Rates effective 1 April 2020 provided to creditors, is approved for payment in the capped amount of \$5,000.00, exclusive of GST, to be drawn from available funds immediately or as funds become available."			
3. "That the Pooling Determination for Coalcliff Pty Ltd (In Liquidation) and Four Corners Plant Hire Pty Ltd (In Liquidation) dated 29 April 2024 be approved."	☐	☐	☐
4. If the Determination is approved			
5. "That the future remuneration of the Liquidators of Coalcliff Pty Ltd and of Four Corners Plant Hire Pty Ltd (In Both in Liquidation) (the Companies) for the period from 6 May 2024 to finalisation of the Liquidation, is determined at a sum equal to the cost of time spent by the Liquidators and their staff, calculated at the hourly rates as detailed in the Schedule of FTI Consulting Standard Rates effective 1 April 2020 provided to creditors, up to a capped amount of	☐	☐	☐

\$50,000.00, exclusive of GST, and that the Liquidators can draw the remuneration from available funds as time is incurred on a monthly basis or as funds become available”.

If the Pooled Determination is NOT approved:

6. “That the future remuneration of the Liquidators of Four Corners Plant Hire Pty Ltd (In Liquidation) for the period from 6 May 2024 to finalisation of the Liquidation, is determined at a sum equal to the cost of time spent by the Liquidators and their staff, calculated at the hourly rates as detailed in the Schedule of FTI Consulting Standard Rates effective 1 April 2020 provided to creditors, up to a capped amount of \$40,000.00, exclusive of GST, and that the Liquidators can draw the remuneration from available funds as time is incurred on a monthly basis or as funds become available”.

☐☐☐

**I/*We authorise *my/*our proxy to vote as a general proxy on resolutions other than those specified above*

Dated:

.....

Name and signature of authorised person



Annexure I

Guidance for Attendance at Meeting of Creditors

GUIDANCE AND INSTRUCTIONS

FORM OF PROXY

A person can appoint another person to attend the meeting on their behalf by completing the Form of proxy.

If the member is a company or a firm, a person needs to be appointed to represent the company.

This representative needs to be appointed by completing the Form of proxy in accordance with section 127 of the Corporations Act. Alternatively, the appointed person must be authorised to act as a representative for the company per section 250D of the Corporations Act.

The Form of proxy is valid only for the meeting indicated (or any adjournment).

You may appoint either a general proxy (a person who may vote at their discretion on motions at the meeting) or a special proxy (who must vote according to your directions). If you appoint a special proxy, you should indicate on the form what directions you have given. In many instances, there will be a box or section on the proxy form where you can mark how you want your proxy to vote for you.

If you are unable to attend the meeting and you do not have a representative who can attend on your behalf, you may if you wish, appoint any person, including the Chairperson of the Meeting, as either your general or special proxy.



Annexure J

If Pooling Determination is Approved:

- a. Notice Inviting Formal Proof of Debt or Claim;
- b. Formal Proof of Debt or Claim; and
- c. Electronic Funds Transfer (“EFT”) Payment Details Form.

FORM 534

Subregulation 5.6.48(3)

Corporations Act 2001

NOTICE INVITING FORMAL PROOF OF DEBT OR CLAIM

FOUR CORNERS PLANT HIRE PTY LTD ACN 109 179 964

COALCLIFF PTY LTD (IN LIQUIDATION) ACN 009 400 293

(BOTH IN LIQUIDATION) ("THE COMPANIES")

Take notice that creditors of the Companies (as a proposed Pooled Group), whose debts or claims have not already been admitted, are required on or before **Friday, 31 May 2024** to prove their debts or claims and to establish any title they may have to priority by delivering or posting to me at my address a formal proof of debt or claim in accordance with Form 535 or 536 containing their respective debts or claims.

If they do not, they will be excluded from:

- (a) the benefit of any distribution made before their debts or claims are proved or their priority is established; and
- (b) objecting to the distribution.

Form of proof may be obtained from me.

Dated this 29th day of April 2024



Ian Francis

Joint and Several Liquidator

CONFIRMATION OF ELECTRONIC FUNDS TRANSFER ("EFT") PAYMENT DETAILS

CREDITOR NAME: _____

I/We authorise the Liquidators of Four Corners Plant Hire Pty Ltd (In liquidation) ACN 109 179 964
Coalcliff Pty Ltd (In liquidation) ACN 009 400 293 (Both in Liquidation) ("the Companies") to pay the
cash component of all dividends by EFT to the following bank account:

Bank: _____

Account Name: _____

BSB: _____

Account no: _____

AUTHORISED PERSON

Signature: _____

Company: _____

Position: _____

Dated: _____

Please complete and return to:

Email: Matt.ottaviano@fticonsulting.com **OR**

Post: C/- FTI Consulting (Australia) Pty Ltd

Four Corners Plant Hire and Coalcliff (Both in Liquidation)

PO BOX Z5486

PERTH WA 6830