

**ANNEXURE – “RAB-1”**

No. of 20

Federal Court of Australia

District Registry: Victoria

Division: Corporations List

**IN THE MATTER OF GLOBAL CAPITAL PROPERTY FUND (IN LIQUIDATION) (ACN 635 565 070)**


**ROSS ANDREW BLAKELEY and KELLY-ANNE TRENFIELD (in their capacities as joint and several liquidators of Global Capital Property Fund Ltd (in Liq))**

First Applicants

**GLOBAL CAPITAL PROPERTY FUND LTD (IN LIQUIDATION) (ACN 635 565 070)**

Second Applicant

This is the annexure marked “**Annexure RAB-1**” referred to in the affidavit of Ross Andrew Blakeley affirmed before me on 24 November 2025:

  
Solicitor

Molly Alexandra Scott  
Appld Bloch Leiber  
Level 21, 223 Collins Street, Melbourne 3000  
An Australian Legal Practitioner  
within the meaning of the  
Legal Profession Uniform Law (Victoria)





Federal Court of Australia

District Registry: Victoria

Division: General

No: VID558/2024

**AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION**

Plaintiff

**UNITED GLOBAL CAPITAL PTY LTD** and another named in the schedule

Defendant

**ORDER**

**JUDGE:** JUSTICE O'CALLAGHAN

**DATE OF ORDER:** 20 June 2024

**WHERE MADE:** Melbourne

**PENAL NOTICE**

**TO: UNITED GLOBAL CAPITAL PTY LTD (ACN 154 158 273) AND GLOBAL CAPITAL PROPERTY FUND LIMITED (ACN 635 565 070)**

**IF YOU (BEING THE PERSON BOUND BY THIS ORDER):**

- (A) REFUSE OR NEGLECT TO DO ANY ACT WITHIN THE TIME SPECIFIED IN THIS ORDER FOR THE DOING OF THE ACT; OR**
- (B) DISOBEY THE ORDER BY DOING AN ACT WHICH THE ORDER REQUIRES YOU NOT TO DO,**

**YOU WILL BE LIABLE TO IMPRISONMENT, SEQUESTRATION OF PROPERTY OR OTHER PUNISHMENT.**

**ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING WHICH HELPS OR PERMITS YOU TO BREACH THE TERMS OF THIS ORDER MAY BE SIMILARLY PUNISHED.**





## THE COURT ORDERS THAT:

### Ex parte/short service orders

1. ASIC have leave to file in Court:
  - a. Originating Process dated 20 June 2024;
  - b. Affidavit of Andrew Anthony Kenneth Smith affirmed 20 June 2024;
  - c. Confidential affidavit of Andrew Anthony Kenneth Smith affirmed 20 June 2024.
2. Service of the Originating Process and the supporting affidavits is dispensed with for the purpose of today's hearing.
3. The application for interim relief contained in the plaintiff's Originating Process are made returnable *instanter*.
4. The time for service on the Defendants of the following documents be abridged to 4:00 pm on 21 June 2024:
  - a. Originating Process dated 20 June 2024;
  - b. Affidavit of Andrew Anthony Kenneth Smith affirmed 20 June 2024;
  - c. Confidential affidavit of Andrew Anthony Kenneth Smith affirmed 20 June 2024; and
  - d. ASIC's written submissions dated 20 June 2024.
5. The plaintiff serve the transcript of today's hearing as soon as reasonably practicable after it is made available to the plaintiff.
6. The plaintiff's Originating Process is made returnable on 25 June 2024 at 10.15am before O'Callaghan J.
7. Anyone served with or notified of the orders may apply to the Court to vary or discharge them, or so much of them, as affects the person served and notified, on the giving of reasonable notice.





### **Non-Publication Orders**

8. Pursuant to sections 37AF(1)(a), 37AF(1)(b) and 37AG(1)(a) of the *Federal Court of Australia Act 1976* (Cth) (**FCA Act**), the publication or disclosure of:
- a. the making of this application by the Plaintiff;
  - b. any orders obtained by the Plaintiff ex-parte;
  - c. this Originating Process; and
  - d. the affidavit of Andrew Anthony Kenneth Smith affirmed on 20 June 2024 and headed 'First Affidavit',

is prohibited until the Plaintiff notifies the Court that it has effected service of these documents on the Defendants, except to enable the Plaintiff to serve the Defendants or provide copies of the orders to the entities set out in paragraph 14 below for the purpose of enforcing the orders.

9. Pursuant to sections 37AF(1)(a) and (b) and 37AG(1)(a) of the FCA Act, in order to avoid prejudice to the proper administration of justice, the publication or disclosure of the confidential affidavit of Andrew Anthony Kenneth Smith affirmed on 20 June 2024 and headed 'Second Affidavit', and the written submissions of the Plaintiff in support of the ex-parte orders, is prohibited without the express consent of all parties or by order of the Court, except to the Court, the parties, their legal representatives and the parties' external litigation service providers (including process servers).

### **Disclosure Orders**

10. Except to the extent that a claim of privilege against self-incrimination or civil penalty privilege is made, each of the First and Second Defendants, deliver or cause to be delivered to the Plaintiff within seven days or such other time as the Court may order an affidavit deposing in detail to the following matters:
- a. the name and address of any bank, building society or other financial institution at which there is an account in the name of or under the control of the relevant Defendant, together with the number of such account, the name of such account and the balance of that account;





- b. the name and address of any person indebted to the relevant Defendant and the amount and nature of the indebtedness;
  - c. an itemised inventory of all property owned or controlled by the relevant Defendant or in which that Defendant has any legal or beneficial interest giving each item's value, location and the extent of the relevant Defendant's interest in the property and the methodology used to value that property;
  - d. in respect of any of the property of the relevant Defendant which has been given as security for any debt, the details of that property and the nature of the security and the nature and amount of the debt;
  - e. the sources and amount of any income, earnings or other payments received by the relevant Defendant in the last 12 months and expected to be received by the relevant Defendant in the next 12 months;
  - f. any sale or sales of any part of any property development project in which the relevant Defendant has invested, or advanced monies in respect of, or has an interest in for in the last 12 months, including the terms of the sales and how the sale proceeds have been distributed;
  - g. any proposed sales of any part of any property developments in which the relevant Defendant has invested, or advanced monies in respect of, or has an interest in, including the terms of the sales and how the proceeds of those sales are to be distributed.
11. If all of the persons who are able to comply with paragraph 10 above on behalf of the First or Second Defendant and with whom it has been able to communicate, wish to object to the First or Second Defendant complying with paragraph 10 on the grounds that some or all of the information required to be disclosed may tend to prove that they:
- a. have committed an offence against or arising under Australian law or a law of a foreign country; or
  - b. are liable to a civil penalty,





the First Defendant or Second Defendant must:

- c. disclose so much of the information required to be disclosed to which no objection is taken; and
- d. prepare an affidavit containing so much of the information required to be disclosed to which objection is taken, and deliver it to the Court in a sealed envelope; and
- e. file and serve on each other party a separate affidavit setting out the basis of the objection.

### Freezing Orders

12. Pursuant to sections 1323(1) and (3) of the *Corporations Act 2001* (Cth) (**Corporations Act**) and section 23 of the FCA Act, until further order, the First and Second Defendants, by themselves and their servants, agents and employees or any other person on their behalf, must not:

- a. remove, or cause or permit to be removed from Australia any of their real or personal property, assets or interests in property of any kind, within or outside Australia including, by virtue of subsection 1323(2A) of the Corporations Act, any property held otherwise than as sole beneficial owner (**Property**), including, but not limited to, funds in bank accounts held by the First and Second Defendants;
- b. sell, charge, mortgage, encumber or otherwise deal with, dispose of and/or diminish the value of any of their Property;
- c. cause or permit to be sold, charged, mortgaged or otherwise dealt with, disposed of, or diminished in value, all or any of their Property;
- d. without limiting the terms of sub-paragraphs a to (c) above, incur new liabilities, including, without limitation, liabilities incurred either directly or indirectly, through the use of a credit card, a credit facility, a drawdown facility or a re-draw facility;
- e. without limiting the terms of sub-paragraphs a to (d) above, withdraw, transfer or otherwise dispose of or deal with, any monies available in any





account with any bank, building society or other financial institution in which the First or Second Defendants have any legal or equitable interest.

13. The order in paragraph 12 above shall not prevent:
- a. any of the Defendants from paying or otherwise incurring a liability for costs reasonably incurred in these proceedings;
  - b. the First and Second Defendants from dealing with or disposing of their Property in the ordinary and proper course of their business in the discharge of obligations bona fide and properly incurred, but only with the written consent of the Plaintiff after providing to the Plaintiff full details and documentary evidence of the obligation in question;
  - c. any bank, building society or financial institution from exercising any right of set-off which it may have in respect of a facility afforded by it to the First or Second Defendant prior to the date of this order.

#### **Notice of Orders to Third Parties**

14. To the extent necessary, the Plaintiff has leave to give notice of any orders made to:
- a. the relevant authorities that record, control and regulate the ownership of real property, motor vehicles and maritime vessels and craft;
  - b. any bank, building society, cryptocurrency exchange or other financial institution with which, to the best of the Plaintiff's belief, any of the Defendants may operate an account or hold Property;
  - c. any securities broking firm, foreign exchange broking or trading firm or futures broking firm with which, to the best of the Plaintiff's belief, any of the Defendants may operate any account; and
  - d. any other person or entity, holding or controlling Property, which, to the best of the Plaintiff's belief, may belong to the First or Second Defendant,
- by giving a copy of the minute of the orders to a person apparently in the employ of that entity or person.





## Other Orders

15. Liberty to apply.

Date that entry is stamped: 20 June 2024

*Sia Lagos*  
Registrar





**Schedule**

No: VID558/2024

Federal Court of Australia

District Registry: Victoria

Division: General

Second Defendant      GLOBAL CAPITAL PROPERTY FUND LIMITED (ACN 635  
565 070)





Federal Court of Australia

District Registry: Victoria Registry

Division: General

No: VID558/2024

**AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION**

Plaintiff

**UNITED GLOBAL CAPITAL PTY LTD** and another named in the schedule

Defendants

**ORDER**

**JUDGE:** Justice Neskovicin

**DATE OF ORDER:** 3 October 2024

**WHERE MADE:** Melbourne

**THE COURT ORDERS BY CONSENT THAT:**

**Winding up on just and equitable grounds**

1. Pursuant to section 461(1)(k) of the *Corporations Act 2001* (Cth), the Second Defendant, Global Capital Property Fund Limited (GCPF), be wound up.
2. Ross Andrew Blakeley and Kelly-Anne Lavina Trenfield of FTI Consulting be appointed as joint and several liquidators of GCPF.
3. ASIC are to provide the joint and several liquidators with copies of such books and records relating to GCPF which have been obtained by ASIC under Part 3, Division 3 of the *Australian Securities and Investments Act 2001* (Cth), that the joint and several liquidators reasonably request in writing for the purpose of performing their duties.

**Non-Publication Orders**

4. Orders 8 and 9 of the orders made on 20 June 2024 and Order 1 of the orders made on 25 June 2024 (relating to non-publication of material filed by ASIC in this proceeding) are vacated.





### **Freezing Orders**

5. Paragraph 13 of the orders made on 20 June 2024 (commencing with the words 'The order in paragraph 12 above shall not prevent') is varied to add the following sub-paragraph:
  - (a) Ross Andrew Blakeley and Kelly-Anne Lavina Trenfield of FTI Consulting in their capacity as joint and several liquidators of the second defendant, or anyone authorised by them, from taking any action in relation to the Property of the Second Defendant.'

### **AND THE COURT ORDERS THAT:**

#### **Costs**

6. GCPF pay ASIC's costs of GCPF's interlocutory application filed on 29 August 2024.
7. GCPF pay ASIC's costs of the winding up application filed on 9 September 2024 to be agreed, or failing agreement, to be taxed.
8. ASIC's costs of the winding up application be paid out of the property of GCPF in accordance with s 466(2) of the Corporations Act.
9. GCPF otherwise pay ASIC's costs of the proceeding as against it.

#### **Other matters**

10. Liberty to apply.

Date orders authenticated: 3 October 2024

  
Registrar

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.





**Schedule**

No: VID558/2024

Federal Court of Australia

District Registry: Victoria Registry

Division: General

Second Defendant

GLOBAL CAPITAL PROPERTY FUND LIMITED (ACN 635  
565 070)



# FEDERAL COURT OF AUSTRALIA

## Australian Securities and Investments Commission v United Global Capital Pty Ltd [2024] FCA 1215

File number(s): VID 558 of 2024

Judgment of: NESKOVCIN J

Date of judgment: 3 October 2024

Date of publication of reasons: 21 October 2024

Catchwords: **CORPORATIONS** – application for winding up order on just and equitable grounds pursuant to s 461(1)(k) of the *Corporations Act 2001* (Cth) – where there is a lack of confidence in the conduct and management of the company’s affairs – winding up ordered

Legislation: *Australian Securities and Investments Commission Act 2001* (Cth) s 13  
*Corporations Act 2001* (Cth) ss 461(1)(k), 466(2), 912A, 961B, 961G, 961K, 961L, 992A, 992AA, 1308  
*Federal Court of Australia Act 1976* (Cth) s 43

Cases cited: *ACCC v Coles Supermarkets Australia Pty Ltd* [2014] FCA 1405  
*ASIC v Aviation* [2019] FCA 377  
*ASIC v Brite Advisors Pty Ltd* [2024] FCA 69  
*ASIC v Groves & Ors* [2009] FCA 915  
*ASIC v M101 Nominees Pty Ltd* [2021] FCA 62  
*ASIC v PayPal Australia Pty Ltd* [2024] FCA 762  
*ASIC v Secure Investments Pty Ltd (No 2)* (2020) 148 ACSR 154; [2020] FCA 1463  
*Australian Securities and Investments Commission v Activesuper Pty Ltd (No 2)* (2013) ACSR 189; [2013] FCA 234  
*EEU20 v Meat Industry Employees’ Superannuation Fund Pty Ltd (Trustee) (No 2)* [2020] FCA 1536  
*One Tel Ltd v Deputy Commissioner of Taxation* (2000) 101 FCR 548; [2000] FCA 270  
*Oshlack v Richmond River Council* (1998) 193 CLR 72; [1998] HCA 11



*Re Minister for Immigration; Ex parte Lai Qin* (1997) 186  
CLR 622; [1997] HCA 6  
*Thomson Australian Holdings Pty Ltd v The Trade Practices  
Commission* (1981) 148 CLR at 164; [1981] HCA 48

Division: General Division

Registry: Victoria

National Practice Area: Commercial and Corporations

Sub-area: General and Personal Insolvency

Number of paragraphs: 46

Date of hearing: 3 October 2024

Counsel for the Applicant: Dr J Moore KC and Ms S Hooper

Solicitor for the Applicant: Johnson Winter Slattery

Counsel for the Respondents: Mr S Maiden KC and Ms V Bell

Solicitor for the  
Respondents: Gadens



# ORDERS

VID 558 of 2024

**BETWEEN:**            **AUSTRALIAN SECURITIES AND INVESTMENTS  
COMMISSION**  
Applicant

**AND:**                **UNITED GLOBAL CAPITAL PTY LTD**  
First Respondent

**GLOBAL CAPITAL PROPERTY FUND PTY LTD**  
Second Respondent

**ORDER MADE BY:**   **NESKOVICIN J**

**DATE OF ORDER:**   **3 OCTOBER 2024**

## **THE COURT ORDERS BY CONSENT THAT:**

### **Winding up on just and equitable grounds**

1. Pursuant to section 461(1)(k) of the *Corporations Act 2001* (Cth), the Second Defendant, Global Capital Property Fund Limited (**GCPF**), be wound up.
2. Ross Andrew Blakeley and Kelly-Anne Lavina Trenfield of FTI Consulting be appointed as joint and several liquidators of GCPF.
3. ASIC are to provide the joint and several liquidators with copies of such books and records relating to GCPF which have been obtained by ASIC under Part 3, Division 3 of the *Australian Securities and Investments Act 2001* (Cth), that the joint and several liquidators reasonably request in writing for the purpose of performing their duties.

### **Non-Publication Orders**

4. Orders 8 and 9 of the orders made on 20 June 2024 and Order 1 of the orders made on 25 June 2024 (relating to non-publication of material filed by ASIC in this proceeding) are vacated.

### **Freezing Orders**

5. Paragraph 13 of the orders made on 20 June 2024 (commencing with the words ‘The order in paragraph 12 above shall not prevent’) is varied to add the following subparagraph:



- (a) Ross Andrew Blakeley and Kelly-Anne Lavina Trenfield of FTI Consulting in their capacity as joint and several liquidators of the second defendant, or anyone authorised by them, from taking any action in relation to the Property of the Second Defendant.

**AND THE COURT ORDERS THAT:**

**Costs**

6. GCPF pay ASIC's costs of GCPF's interlocutory application filed on 29 August 2024.
7. GCPF pay ASIC's costs of the winding up application filed on 9 September 2024 to be agreed, or failing agreement, to be taxed.
8. ASIC's costs of the winding up application be paid out of the property of GCPF in accordance with s 466(2) of the Corporations Act.
9. GCPF otherwise pay ASIC's costs of the proceeding as against it.

**Other matters**

10. Liberty to apply.

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.



## REASONS FOR JUDGMENT

**NESKOVCIN J:**

### INTRODUCTION

- 1 By amended originating process dated 9 September 2024, the plaintiff (**ASIC**) sought orders winding up the second defendant, Global Capital Property Fund Ltd (**GCPF**), on just and equitable grounds pursuant to s 461(1)(k) of the *Corporations Act 2001* (Cth) (**Act**).
- 2 ASIC relied on the following affidavits:
- (a) an affidavit dated 9 September 2024 of Susanne Harris, Acting Senior Manager in ASIC’s Investigation and Enforcement Action team, which outlined ASIC’s concerns in relation to the wrongful conduct of the first defendant, United Global Capital Pty Ltd (**UGC**), GCPF’s awareness of and participation in that conduct and its relevance to how GCPF’s shareholders came to learn about and acquire shares in GCPF (**First Harris Affidavit**);
  - (b) an affidavit dated 26 September 2024 of Christopher Sones, a solicitor at Johnson Winter Slattery, who act for ASIC, regarding the steps taken in the winding up application; and
  - (c) a supplementary affidavit of Ms Harris made 2 October 2024 which clarified certain matters in the First Harris affidavit.
- 3 At the hearing, GCPF consented to the winding up order on a ‘no admissions’ basis. GCPF filed an affidavit of Katarzyna Jaruzelska, a solicitor at Gadens, who act for GCPF, which explained the basis for GCPF’s consent to the winding up order and GCPF’s position that the parties should bear their own costs of the proceeding.
- 4 ASIC submitted that the Court is entitled to treat GCPF’s consent to the winding up orders as an admission of all facts necessary or appropriate to grant that relief: see, for example, *Thomson Australian Holdings Pty Ltd v The Trade Practices Commission* (1981) 148 CLR at 164; [1981] HCA 48 (Gibbs CJ, Stephen, Mason and Wilson JJ); *ACCC v Coles Supermarkets Australia Pty Ltd* [2014] FCA 1405 at [73] (Gordon J); *ASIC v PayPal Australia Pty Ltd* [2024] FCA 762 at [45(e)] (Moshinsky J). However, when deciding whether to make orders that are consented to by the parties, the Court must be satisfied that it has the power to make the orders proposed and that the orders are appropriate: *Coles* at [71] (Gordon J).



5 At the hearing, I was satisfied that it was appropriate to make the winding up orders and I made orders substantially in the form sought by ASIC. These are my reasons for doing so.

## **THE PROCEEDING**

6 This proceeding was commenced by originating process dated 20 June 2024, seeking the appointment of receivers to the property of UGC and GCPF and, in the alternative, freezing orders restraining UGC and GCPF from dealing with their property.

7 On 20 June 2024, O’Callaghan J granted interim relief on an *ex parte* basis, including freezing orders restraining UGC and GCPF from removing any of their real or personal property from Australia, disposing of or diminishing the value of any of their property and incurring new liabilities.

8 On 9 August 2024, the creditors of UGC resolved to place UGC into liquidation and liquidators were appointed.

9 On 29 August 2024, GCPF filed an interlocutory application seeking to vary the freezing orders made on 20 June 2024, to enable it to enter into certain transaction documents. The parties subsequently agreed to orders dismissing the application.

10 On 9 September 2024, ASIC filed an amended originating application and supporting affidavit seeking the winding up of GCPF on just and equitable grounds, pursuant to s 461(1)(k) of the Act.

## **BACKGROUND FACTS**

11 In May 2022, ASIC commenced an investigation under s 13 of the *Australian Securities and Investments Commission Act 2001* (Cth) in relation to suspected contraventions by UGC and/or its officers and representatives of ss 912A, 961B, 961G, 961K, 961L, 992A, 992AA, and/or 1308 of the Act. ASIC’s investigation is ongoing. Through its investigation, ASIC obtained the information set out in the affidavits relied upon in support of the winding up order. GCPF did not seek to challenge that evidence. The findings below are based on the affidavits relied upon by ASIC.

12 GCPF is an unlisted public company, which was incorporated on 15 August 2019. It has 538 shareholders, from whom it has raised around \$85 million in share capital, and approximately 82 million shares on issue.



- 13 At the relevant times, the directors of GCPF were **Mr Joel Hewish, Mr Brett Dickinson and Mr Chris Pappas**. Mr Hewish resigned on 12 August 2024, shortly after ASIC made a banning order against Mr Hewish, banning him from participating in the financial services industry. Since Mr Hewish’s resignation, GCPF has had only two directors and has been unsuccessful in locating and appointing a third director to fill the vacancy left by Mr Hewish’s resignation.
- 14 Mr Hewish was also the sole director of UGC. The shareholders of UGC are Mr and Mrs Hewish. According to GCPF’s financial statements for the year ending 30 June 2023, Mr Dickinson was UGC’s Compliance Officer.
- 15 UGC carried on a financial services business. UGC held an Australian Financial Services Licence (**AFSL**) that authorised it to provide financial product advice to retail and wholesale clients and to provide specified financial products. The AFSL did not authorise UGC to issue financial products. UGC’s AFSL was cancelled by ASIC on 31 May 2024.
- 16 GCPF is a property development investment company. The vast majority of GCPF’s shareholders came to acquire their shares in GCPF through referrals from UGC or its corporate authorised representatives (**CARs**) under what ASIC described as the “**UGC Advice Model**”. In summary, UGC ran promotional campaigns offering prospective clients the opportunity to win an iPhone or similar prize. UGC’s representatives used the contact details provided to contact the prospective clients to offer a “free general superannuation health check”. The prospective clients were asked certain questions to ascertain if they were suitable to be referred to UGC. Under the UGC Advice Model, the CARs called prospective clients to ascertain their superannuation balance, the fund it was held in, whether they were working and their age. Next, a “super specialist” gave a presentation to prospective clients, the effect of which was to recommend that the prospective clients transfer their retirement savings from their regular superannuation accounts into a self-managed superannuation fund (**SMSF**) and invest in related entities, such as GCPF, through the SMSF.
- 17 From January 2020 to 21 June 2022, GCPF issued three prospectuses and four replacement prospectuses seeking to raise around \$490 million from retail and wholesale investors. GCPF has raised funds from the sale of its shares to the public via the prospectuses. Neither GCPF nor UGC held an AFSL (or authorisation from an AFSL-holder) authorising it to issue share capital. ASIC alleges that GCPF therefore carried on a financial services business for which it was not licensed, or authorised, in contravention of s 911 of the Act.



- 18 GCPF has raised approximately \$85 million in share capital. The vast majority of GCPF's shareholders came to acquire their shares in GCPF via the UGC Advice Model and, as a consequence, the money invested in GCPF primarily comprises investors' retirement savings rolled over from their regular superannuation accounts into SMSFs and thereafter invested in GCPF shares.
- 19 In mid-2022, ASIC issued three stop orders to GCPF which prevents GCPF from raising further funds from retail investors.
- 20 GCPF has used funds raised from shareholders to indirectly invest in 15 property development projects. The investments have been made by loaning and/or advancing funds to, or taking an equity interest in, special purpose vehicles (**SPVs**) which own the land on which the projects are being undertaken, or which at the time of the investment proposed, to acquire the land. Five of the 14 projects are being undertaken by SPVs related to GCPF.
- 21 The ability of each of the SPVs to repay GCPF's investments is contingent on the relevant projects turning a profit. Most of the projects have been delayed. Only one of the projects has been completed and 14 are ongoing (or less, if one discounts the projects which GCPF has decided are not viable). Some of the projects are likely to realise a loss to GCPF and, therefore, result in nil return to shareholders.
- 22 Since June 2021, GCPF has incurred monthly "management fees" owed to a related entity, **GCPF Management** Pty Ltd, to manage its portfolio of assets. The directors of GCPF Management are Mr Hewish, Mr Dickinson and Mr Pappas and the shareholders of GCPF Management are entities associated with Mr Hewish (25%), Mr Dickinson (25%) and Mr Pappas (50%). The monthly "management fee" is calculated by reference to GCPF Management's assessment of the value of the portfolio each month.

## RELEVANT PRINCIPLES

- 23 In *Australian Securities and Investments Commission v Activesuper Pty Ltd (No 2)* (2013) ACSR 189; [2013] FCA 234, Gordon J summarised many of the principles that are applicable to an application similar to the present application for a winding up order on just and equitable grounds under s 461(1)(k) of the Act (at [19]-[24]):

[19] In the present case, the appointment of a provisional liquidator is sought where the winding up is sought on the just and equitable ground under s 461(1)(k) of the Act. There is no dispute that ASIC has standing to bring an application to wind up a company on the statutory just and equitable ground: ss 462(2) and 464 of the Act. The



classes of conduct which justify the winding up of a company on the just and equitable ground are not closed, and each application will depend upon the circumstances of the particular case: *Ebrahimi v Westbourne Galleries Ltd* [1973] AC 360 at 374 and 376-379; *Australian Securities and Investment Commission v Kingsley Brown Properties Pty Ltd* [2005] VSC 506 at [95]-[97]; *Nilant v RL & KW Nominees Pty Ltd* [2007] WASC 105 at [117]. Nevertheless, it is possible to discern some guiding principles from the authorities.

[20] It has long been established that a company may be wound up where there is “a justifiable lack of confidence in the conduct and management of the company’s affairs” and thus a risk to the public interest that warrants protection: *Loch v John Blackwood Ltd* [1924] AC 783 at 788. In *Australian Securities and Investments Commission v ABC Fund Managers* (2001) 39 ACSR 443 at [119], Warren J (as her Honour then was) set out three “general fundamental principles”:

First, there needs to be a lack of confidence in the conduct and management of the affairs of the company ... Second, in these types of circumstances it needs to be demonstrated that there is a risk to the public interest that warrants protection. Third, there is a reluctance on the part of the courts to wind up a solvent company.

(Citation omitted.)

[21] In relation to the first, a lack of confidence may arise where, “after examining the entire conduct of the affairs of the company” the Court cannot have confidence in “the propensity of the controllers to comply with obligations, including the keeping of books, records and documents, and looking after the affairs of the company”: *Galanopoulos v Moustafa* [2010] VSC 380 at [32]; see also *Australian Securities Commission v AS Nominees Limited* (1995) 62 FCR 504 at 532-3; *ABC Fund Managers* at [117]-[118]; *Australian Securities and Investments Commission v International Unity Insurance Pty Ltd* (2004) 22 ACLC 1416 at [135]-[139].

...

[23] In relation to the second, a risk to the public interest may take several forms. For example, a winding up order may be necessary to ensure investor protection or where a company has not carried on its business candidly and in a straightforward manner with the public: *International Unity Insurance* at [138]; see also *Australian Securities and Investments Commission v Finchley Central Funds Management Ltd* [2009] FCA 1110 at [3]. Alternatively, it might be justified in order to prevent and condemn repeated breaches of the law: *Kingsley Brown Properties* at [96]; see also *AS Nominees* at 527; *Australian Securities and Investments Commission v Chase Capital Management Pty Ltd* (2001) 36 ACSR 778 at 793. Again, there is an overlap between matters which would pose a risk to the public interest for the purpose of s 461(1)(k) and which are relevant to the appointment of a provisional liquidator.

[24] In relation to the third, it has been said that “a stronger case might be required where the company was prosperous, or at least solvent”: *Kingsley Brown Properties* at [96]. Solvency, however, is not a bar to the appointment of a liquidator on the just and equitable ground, particularly where there have been serious and ongoing breaches of the Act: *ABC Fund Managers* at [124]-[130].



## **GROUND S FOR WINDING UP**

24 ASIC submitted that GCPF should be wound up under s 461(1)(k) because there is a lack of confidence in the conduct and management of GCPF’s affairs and a risk to the public interest that warrants protection. The principal matters relied upon by ASIC were that:

- (a) the vast majority, if not all, shareholders of GCPF were misled into purchasing shares in GCPF and/or purchased their shares – almost invariably using sizable portions or all of their retirement savings – based on inappropriate and conflicted advice provided by UGC, and/or its CARs, pursuant to the UGC Advice Model, which operated in breach of the Act and saw retirement savings of hundreds of UGC clients imperilled by investment in GCPF, which in turn invested in SPVs undertaking high-risk property development projects;
- (b) the investments in GCPF occurred via prospectuses and the issues of shares in GCPF in circumstances where GCPF did not have an AFSL, or authorisation from an AFSL-holder, to sell its shares to the public;
- (c) GCPF is riddled with conflicts of interest and its investments have been improperly managed, are inadequately secured or entirely unsecured, are poorly documented, in disarray and appear in many instances to be loss making;
- (d) GCPF has never declared dividends or offered to buy back shares and, absent a winding up, shareholders’ capital will continue to be locked up in GCPF; and
- (e) GCPF does not have the minimum number of directors required of a public company.

## **CONSIDERATION**

### **UGC Advice Model**

25 The UGC Advice Model involved UGC and/or its CARs cold calling consumers and encouraging consumers with low to medium sized superannuation balances to establish SMSFs, rollover most or all of their superannuation balances to those SMSFs and invest their retirement savings, via their SMSFs, in related-party products, including shares in GCPF.

26 In the determination to cancel UGC’s AFSL, a delegate of ASIC made the following adverse determinations against UGC in relation to the UGC Advice Model:

- 139 To summarise, I am satisfied that UGC acted dishonestly and unfairly by using the client onboarding process because the prospective client - who wanted to win an iPhone - was lured into receiving a free superannuation health check which was nothing of the sort. Rather, the superannuation health check was a



mechanism used by UGC to determine whether the prospective client was worth pursuing or not, and if they were, they were sold an SMSF with most of their retirement savings invested in the highly speculative GCPF or the speculative Pivotal.

140 UGC's submission is that its conduct was the result of inadvertence; I disagree and am satisfied that this dishonest and unfair element of its financial services business was undertaken deliberately.

27 The delegate also made adverse determinations regarding Mr Hewish, finding that he had demonstrated a lack of fairness, honesty, trustworthiness, professionalism and judgement.

### **Management of GCPF's affairs**

28 Mr Hewish is the subject of adverse determinations made by a delegate of ASIC in reaching the determination to make the banning order. He is no longer a director of GCPF, which has only two remaining directors: Mr Dickinson and Mr Pappas. Although Mr Hewish has resigned as a director of GCPF, he remains a director of GCPF Management, a company which is owned by entities controlled by Mr Hewish, Mr Dickinson and Mr Pappas and ultimately benefits from the management fees paid to it by GCPF.

29 Since 1 July 2021, GCPF has paid over \$4.5 million in management fees to GCPF Management. The most recent management fee paid to GCPF Management was a lump sum of \$1,428,439.05 on 7 March 2024. ASIC requested a copy of the Management Agreement and notes that an executed version of the Management Agreement has not been produced.

30 The management fee is calculated as a percentage of GCPF's "Portfolio Value" each month, which GCPF Management is responsible for calculating. ASIC is unclear as to precisely how the "Portfolio Value" has been calculated by GCPF Management, however, it appears to be based on the value of all assets of GCPF, including capital contributed by shareholders, rather than improvement in the net asset value of GCPF per share. As a result, the more capital contributed by investors, the higher GCPF Management's management fee.

31 Over 50% of the management fee paid to GCPF Management has been disbursed to companies controlled by Mr Hewish, Mr Dickinson and Mr Pappas. One week after ASIC commenced this proceeding, GCPF Management transferred \$808,535 out of its bank account to companies controlled by Mr Hewish, Mr Dickinson and Mr Pappas. The bank statements for GCPF Management described the transaction as "management fees".

32 Entities related to each of the directors are shareholders in five of the SPVs that own the projects. In relation to these related-party SPVs:



- (a) GCPF has failed to secure or adequately secure its investment in all of the relevant projects;
- (b) GCPF has advanced (or was proposing to advance) further funds to these related party SPVs in excess of contractually committed amounts; and
- (c) in respect of the “Point Bay Development” which reached completion and was sold in March 2024 for nearly \$50 million, GCPF was to receive \$29,860,000 from the settlement and announced to investors that “approximately \$29 million [was paid] to the company”. However, GCPF received only \$23 million in its bank account, which was less than the principal it had advanced, of \$23.5 million. This seems inexplicable in light of GCPF’s announcement that approximately \$29 million had been paid to it. A further troubling matter is that GCPF held a registered mortgage over the project land and it is unclear why GCPF released the mortgage at settlement, allowing the settlement to go through without GCPF receiving the funds advanced on the project.

33 ASIC contends that the projects are poorly documented and in disarray. Only one of the projects has reached completion and some of the projects are loss making. For example, “The Carlile” project will result in a loss for GCPF of approximately \$5.8 million. The “Fulham Living Development” is no longer viable and GCPF and the SPV are looking to sell the project site, which will likely result in a loss to GCPF of between \$950,000 to \$2,185,478. The “Kooyongkoot House Development” has been ongoing for years, but has not yet reached the construction stage, and the anticipated profit for GCPF is only 3% over a six year period. GCPF has decided to step away from the “River Glen Development” and anticipates a profit of \$4,705 on an investment of over \$5 million. GCPF has made significant investments in other projects, however, some of the projects will require further advances, in excess of existing commitments. Due to the stop order, GCPF is unable to raise further funds from investors.

### **Risk to the public interest that warrants protection**

34 The vast majority of GCPF’s shareholders came to acquire their shares in GCPF as a result of advice from UGC and/or its CARs that involved investors setting up SMSFs, rolling over their superannuation balances to the SMSFs and investing in GCPF, whose shares are illiquid.

35 ASIC submitted, and I accept, that GCPF’s investments are highly speculative and some are likely to be loss making. The profitability of the projects in which GCPF invested will determine the return to shareholders, who have not yet received any return on their investments



and whose capital is locked up in GCPF. Decisions will need to be made in relation to further funding for some of the projects and in relation to the future of the projects that are no longer viable. ASIC submitted, and I accept, that the directors of GCPF are hopelessly conflicted. Moreover, there is a risk of ongoing dissipation of funds to related entities, which may adversely affect the profitability of the projects and ongoing expenses of GCPF, to the detriment of shareholders.

## Conclusion

36 The affairs of GCPF are in an unsatisfactory state. There is a justifiable lack of confidence in the conduct and management of GCPF's affairs and a risk to the public interest that warrants protection. I am therefore satisfied that it is appropriate for a winding up order to be made.

## COSTS

37 ASIC sought the costs of the winding up proceeding against GCPF, including in respect of the interlocutory application filed by GCPF to vary the freezing orders. ASIC also sought an order that its costs of the winding up application be costs of the winding up, to be paid out of the property of GCPF pursuant to s 466(2) of the Act.

38 ASIC relied on authorities where it was the successful party in a winding up application and was granted its costs of the application, including an order that the costs of the winding up application be costs of the winding up pursuant to s 466(2) of the Act: see, *ASIC v Brite Advisors Pty Ltd* [2024] FCA 69 at [68] (O'Sullivan J); *ASIC v M101 Nominees Pty Ltd* [2021] FCA 62 at [7] (Anderson J); *ASIC v Secure Investments Pty Ltd (No 2)* (2020) 148 ACSR 154; [2020] FCA 1463 at [110] (Derrington J) and *ASIC v Aviation* [2019] FCA 377 at [227] (O'Callaghan J).

39 GCPF submitted that the parties should bear their own costs in the proceeding because it had acted reasonably and consented to ASIC's application promptly, on a 'no admissions' basis. It also submitted that investors should not be required to bear ASIC's costs.

40 GCPF further submitted that the usual practice that costs follow the event does not apply where proceedings resolve and do not continue to trial: *Re Minister for Immigration; Ex parte Lai Qin* (1997) 186 CLR 622; [1997] HCA 6 at 624 (McHugh J). GCPF submitted that where orders are made by consent, the Court may order that the parties bear their own costs, relying by way of analogy on cases such as *ASIC v Groves & Ors* [2009] FCA 915 at [54] (Lindgren J)



and *EEU20 v Meat Industry Employees' Superannuation Fund Pty Ltd (Trustee) (No 2)* [2020] FCA 1536 at [25] (Mortimer J, as her Honour then was).

- 41 ASIC submitted that because GCPF consented to the winding up order on a limited basis, it was required to put on substantial material for the Court to consider the application on its merits. ASIC submitted that GCPF had effectively surrendered and it relied on the observation of Burchett J in *One Tel Ltd v Deputy Commissioner of Taxation* (2000) 101 FCR 548; [2000] FCA 270 at [6] that, in such circumstances, “there will commonly be lacking any basis for an exercise of the Court’s discretion otherwise than by an award of costs to the successful party”.
- 42 The disposition of costs is in the Court’s discretion and that discretion must be exercised judicially, having regard to the applicable principles and the justice of the case in all the circumstances: s 43 of the *Federal Court of Australia Act 1976* (Cth). The usual position is that costs follow the event, meaning that the successful party will ordinarily be entitled to its costs: *Oshlack v Richmond River Council* (1998) 193 CLR 72; [1998] HCA 11 at [35] (Gaudron and Gummow JJ).
- 43 GCPF initially opposed the winding up application, on the basis that it considered it to be an expensive way of achieving the same outcome it was trying to achieve, namely, an orderly wind-down. GCPF also filed an interlocutory application seeking to vary the freezing orders. However, GCPF stated that the impact of the freezing orders, ASIC’s ongoing investigation and ASIC’s application for winding up orders ultimately made an orderly wind-down too difficult to execute and, in those circumstances, the directors of GCPF determined that it was in the best interests of GCPF for liquidators to be appointed. Having made that determination, the directors of GCPF also decided to withdraw the interlocutory application to vary the freezing orders.
- 44 GCPF relied on *EEU20* at [25], where Mortimer J (as her Honour then was) observed that the “‘usual’ practice of costs following the event is generally applied where a proceeding is actively contested, not where parties have filed submitting notices”. The full passage at [25] is as follows:

I accept that the applicants have had to incur legal costs in order to challenge the Tribunal’s decision and that, having been successful, the usual practice in an adversarial and costs-based jurisdiction is that they would not have to bear those costs. **The fact that they have been successful is a matter to weigh in the balance in the exercise of the broad discretion the Court has concerning costs.** Nevertheless, that “usual” practice of costs following the event is generally applied where a proceeding is actively contested, not where parties have filed submitting notices. Each case must



be considered on its own facts, but in the circumstances of this proceeding, and taking into account the matters to which I have referred, the appropriate order is that each party bear its own costs of the proceeding.

[Emphasis added]

- 45 *EEU20* is not apposite to GCPF's position and assists ASIC. GCPF did not file a submitting appearance. Ultimately, GCPF consented to the winding up order on a 'no admissions' basis. As Senior Counsel for GCPF submitted, GCPF's consent to the winding up order did not constitute acceptance of the allegations of fact made by ASIC. ASIC was required to satisfy the Court that the orders sought were appropriate: *Coles* at [71] (Gordon J). I was satisfied that it was appropriate for winding up orders to be made and ASIC was successful in obtaining the relief sought.
- 46 ASIC should have its costs and the costs of the winding up application, which should be paid out of the property of GCPF pursuant to s 466(2) of the Act.

I certify that the preceding forty-six (46) numbered paragraphs are a true copy of the Reasons for Judgment of the Honourable Justice Neskovicin.

Associate:



Dated: 21 October 2024



## Form 8 Consent of liquidator/provisional liquidator

(rules 5.5, 6.1)

No. VID 558 of 2024

Federal Court of Australia

District Registry: Queensland

Division: General

**IN THE MATTER OF UNITED GLOBAL CAPITAL PTY LTD (IN LIQUIDATION)**

**ACN: 154 158 273**

**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**

Plaintiff

**UNITED GLOBAL CAPITAL PTY LTD (IN LIQUIDATION) and another named in the schedule**

Defendants

We, Ross Andrew Blakeley and Kelly-Anne Lavina Trenfield, of FTI Consulting, Level 50, 600 Bourke Street Melbourne in the State of Victoria and Level 20, Central Plaza CP1, 345 Queen Street, Brisbane in the State of Queensland, registered liquidators, consent to be appointed by the Court and to act as the joint and several liquidators of Global Capital Property Fund Ltd ACN 635 565 070.

We are not aware of any conflict of interest or duty that would make it improper for us to act as provisional liquidators of the company.

We are not aware of any relevant relationship mentioned in subsection 60 (2) of the *Corporations Act 2001*.

Filed on behalf of (name & role of party)	AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION, the Plaintiff		
Prepared by (name of person/lawyer)	Tom Jarvis		
Law firm (if applicable)	Johnson Winter Slattery		
Tel	+61 3 8611 1336	Fax	+61 3 8611 1300
Email	<a href="mailto:Tom.jarvis@jws.com.au">Tom.jarvis@jws.com.au</a>		
<b>Address for service</b>	Level 34, 55 Collins Street		
(include state and postcode)	MELBOURNE VIC 3000		



The hourly rates currently charged in respect of work done as liquidator by ourselves, and by our partners and employees who may perform work in this administration, are set out below or in the Schedule which is attached to this Consent. We acknowledge that our appointment by the Court does not constitute an express or implied approval by the Court of these hourly rates.

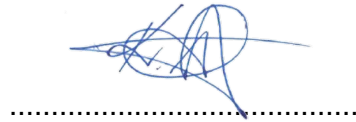
*Note* The requirement to disclose hourly rates should not be taken to imply that remuneration on an hourly basis is the most desirable or appropriate arrangement in every case. The Corporations Act acknowledges that another method of calculating remuneration may be appropriate (see, for example, s 473 (2) and (3)).

Date: 25 September 2024



Ross Andrew Blakely

*Signature of registered liquidator*



Kelly-Anne Lavina Trenfield

*Signature of registered liquidator*



## **Schedule**

[*description of hourly rate(s)*]



## FTI Consulting CF&R Rates

### Global Capital Property Fund Ltd and Associated Entities (excluding GST)

Typical classification	Rates \$/hour	General guide to classifications
Senior Managing Director 1	750	Registered Liquidator and/or Trustee or corporate advisory professional, with specialist skills and experience in all forms of insolvency engagements, turnaround scenarios and restructures. Proven leadership experience in business or industry, bringing specialist expertise and knowledge to the engagement.
Managing Director	675	Broad specialist skills brought to the engagement. Extensive experience in managing large, complex engagements at a senior level over many years. May also be a Registered Liquidator and/or Trustee or has extensive leadership/senior management experience in business or industry.
Senior Director	600	Strong technical and commercial skill with significant experience in managing all types of large, complex engagements. Alternatively, has significant senior management experience in business or industry, with specialist skills and/or qualifications.
Director	560	Significant experience across all types of engagements. Strong technical and commercial skills. Has primary conduct of small to medium engagements, managing a team of professionals. Alternatively, has senior management experience in business or industry, with specialist skills and/or qualifications.
Senior Consultant	485	Typically studying to become or qualified to be a professional member of the Australian Restructuring Insolvency & Turnaround Association. Well developed technical and commercial skills. Has experience in large and complex engagements and may have primary conduct of small engagements, supervising a small team of professionals.
Consultant	395	Typically qualified chartered accountant and member of Chartered Accountants Australia & New Zealand (or similar). Required to control the tasks on small engagements or responsible for select aspects on medium to large-sized engagements under supervision of senior staff.
Associate	335	Typically a degree qualified accountant, who assists with day-to-day tasks under the supervision of senior staff.
Treasury	305	Typically, qualified accountant and/or bookkeeper. Undertakes treasury activities and is skilled in bookkeeping and funds handling activities.
Junior Associate	245	Undergraduate in the latter stage of their university degree.
Administration 2	265	Well developed administrative skills with significant experience supporting professional staff, including superior knowledge of software packages, personal assistance work and/or office management.
Administration 1	205	Has appropriate skills and experience to support professional staff in an administrative capacity.

The FTI Consulting Rates above apply to the Corporate Finance & Restructuring practice for the proposed liquidation, provisional liquidation or receivership of Global Capital Property Fund Ltd and associated entities. All rates are periodically reviewed. It is recognised that any remuneration is subject to the approval of a Court or creditors as applicable.



24 December 2024



**Global Capital Property Fund  
Limited (In Liquidation)  
ACN 635 565 070  
("the Company")**

STATUTORY REPORT TO CREDITORS



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## 1. Introduction

I refer to the appointment of Kelly Trenfield and I, Ross Blakeley, as Joint and Several Liquidators (“**Liquidators**”) of Global Capital Property Fund Limited (In Liquidation) (“**Company**” or “**GCPF**”) by order of the Federal Court of Australia on 3 October 2024.

Since the commencement of the winding up, the Liquidators have conducted investigations into the Company’s affairs, its financial position and the reasons for its failure, and now provide this Statutory Report to Creditors.

The purpose of this report is to:

- provide you with an update on the progress of the Liquidation; and
- advise you of the likelihood of a dividend being paid in the Liquidation.

In the Initial Information for Creditors (“**Initial Report**”) dated 31 October 2024, the Liquidators estimated the total remuneration for the Liquidation would be approximately \$500,000 (exclusive of GST), subject to the variables disclosed in the Initial Report.

Due to the extensive amount of work required to be undertaken in the Liquidation to date, including obtaining and reviewing books and records of the Company, assessing various investments in detail including engaging with borrowers and various parties relevant to those investments, dealing with proceedings issued against the Company during the Liquidation, and the future anticipated work to be undertaken, the Liquidators’ remuneration in the matter will exceed the initial estimate. However, through the Liquidators actions and investigations to date, the Liquidators consider the Company’s interests have been improved in relation to investments, such as through the placement of caveats and formalising of mortgage rights. Other matters have also been identified that warrant further investigation and potential action, in seeking recoveries for the benefit of stakeholders. The Liquidators therefore estimate that the remuneration in the Liquidation will be approximately \$1,500,000 (exclusive of GST), subject to the variables disclosed in this Report to Creditors.

Table 1: Company details				
Company name	Global Capital Property Fund Limited (In Liquidation)			
ACN	635 565 070			
Date of incorporation	15 August 2019			
Date of liquidation	3 October 2024			
Directors and Officers	Name	Type	Appointment Date	Cessation Date
	Brett Dickinson	Director	15/08/2019	Current
	Chris Pappas	Director	15/08/2019	Current
	Joel Hewish	Former Director	15/08/2019	12/08/2024
	Brett Dickinson	Secretary	15/08/2019	Current
	Isabella Pappas	Secretary	15/01/2021	Current
	Joel Hewish	Former Secretary	15/08/2019	12/08/2024
Registered office	MVA Bennett Pty Ltd, 'North Tower' Level 5, 485 La Trobe Street, Melbourne VIC 3000			
Principal place of business	Level 33, 360 Collins Street, Melbourne VIC 3000			
Nature of business	The Company was established to be an investment vehicle to allow investors the ability to invest in large scale property development projects.			



**Table 1: Company details**

	The Company currently has investments in fourteen (14) property developments through a number of special purpose vehicles (“SPV”), predominately by way of joint venture and loan agreements.
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**Table 2: Liquidators’ details**

Liquidators	Kelly Trenfield and Ross Blakeley
FTI contact phone number	(03) 9604 0600
FTI contact email	gcpf.creditors@fticonsulting.com

## 2. Key findings

Description	Findings	Section
What happened to the Company?	<p>The Company is an unlisted public company, which the Directors established to be an investment vehicle purportedly to allow investors the ability to invest in large scale property development projects.</p> <p>The Company raised capital by having investors purchase ordinary shares in the Company, a majority of which were through self-managed superannuation funds (“SMSF”). The investors were sourced through intermediaries, including parties related to the Company.</p> <p>As at the date of the Liquidators’ appointment, the Company had investments in fourteen (14) property developments (“Projects”) through a number of special purpose vehicles (“SPV”), predominately by way of joint venture and/or loan agreements.</p> <p>From 2022 to 2024, the Australian Securities &amp; Investments Commission (“ASIC”) commenced an investigation under section 13 of the Australian Securities and Investments Commission Act 2001 (Cth) (“ASIC Act”) in relation to United Global Capital GCPF and its related officers due to concerns regarding conflicts of interest, failure to act in its best interest of its shareholders or GCPF, breach of directors’ duties and other concerns.</p> <p>On 20 June 2024, ASIC obtained asset preservation orders freezing the assets of the Company. The assets covered by the freezing orders included, amongst other things, the Company’s bank accounts that were being used to fund the property developments.</p> <p>On 3 October 2024, Ross Blakeley and Kelly Trenfield were appointed Liquidators of the Company by order of the Federal Court of Australia.</p>	3.1



Description	Findings	Section
Estimated amount of assets and liabilities	<p>All of the Company's current and former directors have provided a completed Report on Company Activities and Property Part A ("<b>ROCAP</b>").</p> <p>The Liquidators have secured and taken control of pre-appointment Company funds on hand totalling \$15,850,068. Those funds have been deposited into new Company accounts controlled by the Liquidators.</p> <p>Aside from funds on deposit, the Company's assets predominately comprised interests through loans and other agreements in fourteen (14) property developments. c.\$93.8m has been invested (principal only) into the Projects.</p> <p>At this stage, and based on the Liquidators' investigations into the nature of the investments and feasibility of the associated projects, the Liquidators do not anticipate a full recovery of the total amounts invested. Due to the commercially sensitive nature of the ongoing negotiations, the Liquidators do not intend to provide further details regarding the estimated recoveries. Disclosing such information at this time may prejudice the Company's legal rights and commercial position with the relevant parties.</p> <p>To date, the Liquidators have also identified potential creditor claims totalling \$490,349. Such claims are yet to be fully assessed and have not been formally admitted to proof in the liquidation. Further claims may also arise.</p>	3.3
Investigations undertaken to date	<ul style="list-style-type: none"> <li>■ Undertaken initial statutory searches;</li> <li>■ Reviewed the Company's books and records, including the Company's accounting software (Xero) and bank statements;</li> <li>■ Met with the Directors of the Company and discussed the Company's affairs and the reasons for the appointment of the Liquidators;</li> <li>■ Engaged with the borrowers and developers of the Projects to understand the status of the relevant project, and other matters as required;</li> <li>■ Engaged with the directors of joint venture SPVs to understand the Company's investment, status of the relevant project, and other matters as required;</li> <li>■ Reviewed the available agreements relating to the investments and the advancement of funds from the Company;</li> <li>■ Reviewed and considered the securities purportedly ranked prior to GCPF;</li> <li>■ Reviewed the alleged agreements between the Company and related entities, for their terms and commerciality;</li> <li>■ Reviewed the accounting records with particular focus on related party transactions;</li> </ul>	5.1



Description	Findings	Section
	<ul style="list-style-type: none"> <li>Reviewed the bank statements and cash transactions, and compared same to the available accounting records, in summarising the application of funds;</li> <li>Engaged with and obtained information from the lawyers, accountants and the auditor, who had previously provided services to the Company;</li> <li>General and targeted review of records including correspondence, emails, minutes, and investment related communications;</li> <li>Reviewed materials filed by ASIC and the Company in the legal proceedings that led to the Liquidators appointment; and</li> <li>Preliminary assessment of any potential breaches of directors' duties by the Directors of GCPF and the conduct of its officers and representatives.</li> </ul>	
Investigations to be undertaken	<ul style="list-style-type: none"> <li>Assessing the validity of certain alleged agreements with related entities and also further investigate the reasonableness of the commission rates and management fees paid by GCPF;</li> <li>Assessing any potential breaches of directors' duties by the Directors of GCPF and the conduct of its officers and representatives; and</li> <li>Assessing any voidable transactions including unreasonable director related transactions following the assessment of the validity of the abovementioned agreements with related entities.</li> </ul>	5.2
Likelihood of dividend	<p>On the basis of known potential creditor claims, the Liquidators expect that a dividend to unsecured creditors of 100 cents in the dollar will be paid within 3-6 months, subject to the formal adjudication of creditor claims and no further material claims emerging.</p> <p>The Liquidators are unable to provide an estimated dividend to investors (as shareholders) with any certainty at this time. However, the Liquidators anticipate that a material dividend will be payable to investors in due course. The Liquidators will assess the possibility of paying an interim dividend to investors once they are satisfied as to potential creditor claims and that all creditor claims have been paid in full. If the Liquidators declare a dividend to investors, any investor whose claim has not yet been admitted will be contacted and asked to submit an investor claim form.</p>	6



### 3. Progress of the Liquidation

#### 3.1. Background

The Company was incorporated on 15 August 2019 in the state of Victoria with its registered office being MVA Bennett Pty Ltd, 'North Tower' Level 5, 485 La Trobe Street, Melbourne VIC 3000 and its principal place of business being Level 33, 360 Collins Street, Melbourne VIC 3000.

The Company is an unlisted public company, and was established to be an investment vehicle to allow investors the ability to invest in large scale property development projects. The Company issued three (3) prospectuses and four (4) replacement prospectuses which it sought to raise capital from investors. The prospectus identified a target rate of thirteen percent (13%) returns to investors per annum and described the investment as highly speculative.

The Company raised capital by having investors purchase ordinary shares in the Company, a majority of which were through self-managed superannuation funds ("**SMSF**") that were managed by United Global Capital Limited ("**UGC**"), a related party which is also currently in liquidation and the subject of investigation by the Australian Securities & Investments Commission ("**ASIC**").

As at the date of the Liquidators' appointment, the Company had investments in fourteen (14) property developments ("**Projects**") through a number of special purpose vehicles ("**SPV**"), predominately by way of joint venture and/or loan agreements. Some of those SPVs are related parties.

The investments were purportedly managed on behalf of the Company by a related party, GCPF Management Pty Ltd, which was entitled to a fee for the services provided based on the value of the assets under management. The Liquidators are aware of an unsigned and undated version of a management agreement that purports to represent the arrangement governing the agreement for those services. Such arrangement and any agreement remain the subject of investigation by the Liquidators.

On 23 May 2022, ASIC commenced an investigation under section 13 of the *Australian Securities and Investments Commission Act 2001 (Cth)* ("**ASIC Act**") in relation to UGC and its related officers due to concerns regarding conflicts of interest and general obligations as an Australian Financial Services License ("**AFSL**") holder.

From February 2023 to May 2024, the scope of ASIC's investigations extended to alleged breaches of sections 952E and 1041H of the *Corporations Act 2001 (Cth)* ("**the Act**") by UGC and/or its officers and representatives, which included GCPF and/or its officers and representatives.

A high-level summary of ASIC's concerns includes, but is not limited to:

- GCPF required, but did not have, an AFSL or authorisation from an AFSL holder to sell its shares to the public and was in breach of section 911A of the Act;
- approximately \$85m in SMSF funds were sourced from over 500 investors to purchase illiquid shares in the Company and never declared any dividends or offered any share buy-backs since the incorporation of the Company;
- investors' funds were invested in SPVs, including SPVs that are associated with Brett Dickinson, Chris Pappas, and Joel Hewish ("**Directors**"). Furthermore, significant ongoing management fees were paid to entities associated with the Directors for the management of GCPF's investments;



- the Directors of GCPF may have breached their directors' duties; and
- the Directors of GCPF failure to:
  - act in the best interests of its shareholders or GCPF;
  - manage conflicts of interests; and
  - take any or adequate security for monies advanced to SPVs through joint venture and loan agreements.

On 31 May 2024, ASIC cancelled UGC's AFSL pursuant to section 915C(1) of the Act and banned Joel Hewish ("Mr Hewish") for ten (10) years from providing financial services, performing any function involved in carrying on a financial services business and controlling an entity that carries on a financial services business. Until 12 August 2024, when Mr Hewish resigned as a director of GCPF, he was a director of both UGC and GCPF.

On 20 June 2024, ASIC obtained asset preservation orders freezing the assets of the Company. The assets covered by the freezing orders included, amongst other things, the Company's bank accounts that were being used to fund the property developments. As a result of the freezing orders, the SPVs were no longer able to drawdown on funds in accordance with the agreed joint venture and loan agreements, potentially impacting the development of certain projects. The status of the Projects are discussed further in **section 3.3** of this Report.

On 9 September 2024, ASIC made an application to appoint provisional liquidators to GCPF and to wind up GCPF.

On 3 October 2024, the Liquidators were appointed for the Company by order of the Federal Court of Australia.

Shortly after the Liquidators' appointment, their staff liaised with the Directors and briefed them on the effects of the Liquidators' appointment and the restrictions placed upon their powers in relation to the management of the Company.

As at the date of the Liquidators' appointment, the Liquidators conducted a Company search and compared the details of the Company's shareholdings against the share registry platform utilised by the Company as follows:

**Table 3: Company shareholdings**

Source	Number of shareholders	Class	Number of shares	Issued and paid up (\$)
ASIC's records	Undisclosed	Ordinary Shares	10,000,048	10,000,048
Company's records <sup>1</sup>	539	Ordinary Shares	81,999,001	84,552,771

<sup>1</sup>Details obtained from the Company's share registry platform, Registry Direct.

A full reconciliation of the shareholders investments into the Company is presently being undertaken, with shareholders requested to provide evidence of same.

### 3.2. Conduct of the Liquidation

The following matters, amongst others, have been attended to since the commencement of the winding up of the Company:

- Taken immediate steps to secure any pre-appointment cash at bank held with the NAB, La Trobe Financial and Trilogy Funds;



- Written to ASIC confirming the scope of the freezing orders placed on the Company's property;
- Attended to all necessary statutory lodgements and requirements;
- Contacted shareholders/investors advising of the appointment;
- Contacted relevant authorities, account and legal advisors notifying them of the liquidation;
- Met with and obtained information from the current and former directors;
- Engaged with and obtained information from the Company's pre liquidation advisors, including lawyers, an auditor and accountants;
- Engaged with the developers and the directors of the SPV's regarding the Projects to understand the status of each project, estimated return upon completion, timing regarding completion and other matters as required;
- Written to relevant parties requesting further information to assist with the investigations and analysis of each project;
- Reviewed the Company's security and commercial position, and prepared investment reviews for each project;
- Conducted searches and undertook preliminary investigations into the affairs of the Company and/or its officers and representatives concerning alleged concerns by ASIC;
- Conducted searches and undertook investigations into the affairs of the Company concerning possible recoveries for voidable transactions;
- Attended to external enquiries concerning the status of the Liquidation;
- Retained independent lawyers and obtained advice on various matters, including as to the legal arrangements for each investment;
- Retained independent property valuers to obtain advice on certain properties relating to Company investments;
- Responded to legal actions commenced by parties; and
- Prepared this report to creditors.

### 3.3. Assets and liabilities

A completed Report on Company Activities and Property Part A (Form 507) (ROCAP Part A) ("**ROCAP**") has been received from each of the current and former Directors and have been lodged with ASIC and the Federal Court of Australia. A review of the ROCAPs submitted by the Directors indicate the Directors are in agreement with the current position of the Company and its affairs.

The Liquidators have set out below the assets and liabilities as detailed in the Company's books and records and supporting documentation, as well as details of the amounts expected to be realised following the Liquidators' preliminary investigations into the Company's affairs where it does not prejudice the rights of the Company to publicly disclose such information.



**Table 4: Statement of Assets and Liabilities**

\$	Notes	Directors' ROCAP ERV	Liquidators' ERV - Low	Liquidators' ERV - High	Realised to date
<b>Assets</b>					
Cash at bank	1	15,890,736	15,850,069	15,850,069	15,850,069
Investment in Projects:	2				
Pappys Beach		7,800,000	Withheld		-
The Carlile		4,000,000			-
Serpells Road		5,000,000			-
Kooyongkoot		Unknown			-
River Glen		Unknown			-
Mt Atkinson		12,000,000			-
NDIS Preston		2,700,000			-
Hindmarsh Estate		8,500,000			-
Applecross		1,400,000			-
Fulham		7,500,000			-
Symphony		100,000			-
Elster		4,000,000			-
111 Ormond		4,500,000			-
Franklin NDIS		1,200,000			-
Debtors	3	101,761			-
Other assets	4	-	250,000	650,000	-
<b>Total Assets:</b>		<b>74,692,498</b>	<b>16,100,069</b>	<b>16,500,069</b>	<b>15,850,069</b>
<b>Liabilities</b>					
Secured creditors	5	-	TBC	TBC	-
Petitioning creditor costs	6	-	TBC	TBC	-
Employee entitlements	7	-	-	-	-
Unsecured creditors	8	585,302	490,349	490,349	-
<b>Total Liabilities:</b>		<b>585,302</b>	<b>490,349</b>	<b>490,349</b>	<b>-</b>
<b>Net surplus / (deficiency) subject to costs of the Liquidation</b>					
		<b>74,107,196</b>	<b>15,609,720</b>	<b>16,009,719</b>	<b>15,850,069</b>

\*ERV = Estimated Realisable Value

\*TBC = To be confirmed

**Notes:**

The notes set out below should be read in conjunction with the above table.

**1. Cash at bank**

Upon appointment, the Liquidators wrote to all major banks requesting details of any bank accounts held by the Company.

The Liquidators' investigations revealed that the Company held the following pre-appointment bank accounts with the following institutions:



**Table 5: Pre-appointment bank accounts**

Bank / Investment fund	Amount (\$)	Interest distributions (\$)	Total amount realised to date (\$)
National Australia Bank	1,678,647.59	0.00	1,678,647.59
La Trobe Financial	13,149,258.68	0.00	13,149,258.68
Trilogy Funds	1,001,000.00	21,162.23	1,022,162.23
<b>Total:</b>	<b>15,828,906.27</b>	<b>21,162.23</b>	<b>15,850,068.50</b>

The pre-appointment funds totalling \$15,850,068.50, along with any accrued interest, have now been recovered by the Liquidators and deposited into the Company's Liquidation bank accounts, including being placed on term deposit to maximise any interest being earned.

## 2. *Investment in Projects*

As at the date of the Liquidators' appointment, the Company had investments in fourteen (14) property developments through various SPVs, by way of joint venture agreements, loan agreements, unitholder agreement, and investment agreements.

The Directors have provided a summary of the estimated realisable value and the Liquidators are presently conducting their own independent assessment of the recoverability of each of the investments. The Liquidators have undertaken a range of actions to date in relation to each investment, including but not limited to the following:

- Conducted initial meetings with the developers of each of the Projects to broadly discuss the status of same, including as to estimated value on completion, costs to complete, further funding required, estimated date of completion, and other relevant matters. Required information was requested and obtained;
- Reviewed the governing agreements between GCPF and the relevant SPVs. The Liquidators note that certain agreements were unsigned and undated and they have since requested copies of the fully executed agreements from the relevant parties;
- Reconciled amounts advanced/invested in relation to each investment;
- Prepared an independent "investment review" of each matter, comprising a commercial and financial analysis of each Project;
- Obtained a legal review of each investment;
- Commenced preparing preliminary calculations of the amount owing to GCPF (including any accrued interest, minimum rate of return, and/or fees) based on the information and documentation presently available; and
- Engaged an expert to either prepare an independent valuation, or review and critique existing valuations where required.



A summary of the fourteen (14) investments made by the Company and associated projects is detailed below:

Table 6: Investment in Projects						
Project Name	Related Parties Involved	Type of Investment	Directors' ROCAP ERV <sup>1</sup>	Total Amount Invested <sup>2</sup>	Estimated Timeframe to Completion <sup>3</sup>	Estimated Recovery
Pappys Beach	Y	JV Agreement and Loan Agreement	7,800,000	23,500,000	Mid-2025	Withheld
The Carlile	Y	Loan Agreement	4,000,000	12,590,506	Mid-2025	
Serpells Road	Y	Loan Agreement	5,000,000	5,255,419	Early-mid 2025	
Kooyongkoot	Y	Loan Agreement	Unknown	9,194,750	To be confirmed	
River Glen	Y	JV Agreement and Loan Agreement	Unknown	5,134,685	To be confirmed	
Mt Atkinson	N	Unitholders Agreement	12,000,000	7,500,000	To be confirmed	
NDIS Preston	N	Loan Agreement	2,700,000	2,030,000	To be confirmed	
Hindmarsh Estate	N	JV Agreement	8,500,000	5,500,000	To be confirmed	
Applecross	N	Loan Agreement	1,400,000	2,100,000	Mid-2025	
Fulham	N	JV Agreement and Loan Deed	7,500,000	9,142,606	Mid-2025	
Symphony	N	JV Agreement	100,000	1,788,000	Completed	
Elster	N	Investment Agreement	4,000,000	4,000,000	2026	
111 Ormond	N	Investment Agreement	4,500,000	4,500,000	2026	
Franklin NDIS	N	JV Agreement	1,200,000	1,565,172	To be confirmed	
<b>Total:</b>			<b>58,700,000</b>	<b>93,801,138</b>		<b>Withheld</b>

<sup>1</sup>The Liquidators understand that the Directors' ROCAP ERV is net of the total principal invested into each project less any principal and/or dividend repaid plus any unpaid accrued interest and/or minimum rate of return.

<sup>2</sup>These amounts include any initial funding amounts provided by GCPF to the SPV and any subsequent drawdowns. These amounts are based on pre-appointment books and records (Xero) available to the Liquidators and transfers identified in the Company's bank statements and are subject to change based on ongoing investigations. These amounts do not include any interest or other unknown associated costs that may have been paid for by GCPF on behalf of the SPV, including any legal fees, construction costs etc. They cannot be construed as a formal payout figure.

<sup>3</sup>The estimated timeframe for completion may refer to either the time required to achieve practical completion of the project or, if the project is still in its early stages, the expected duration to conduct a sales campaign for the property. The Liquidators cannot provide any certainty regarding these estimated timeframes and note that they are based on discussions with developers and directors of each SPV. As noted before, GCPF is not in control of any of these Projects.

At this stage, and based on the Liquidators' investigations into the investments and associated Projects, the Liquidators do not anticipate a full recovery of the total amount invested and presently due or that would be due to the Company in the future. Due to the commercially and legally sensitive nature of the ongoing negotiations, the Liquidators are unwilling to provide further details regarding the estimated recoveries. Disclosing such information at this time may prejudice the Company's position with the relevant parties.

### 3. Debtors

At the time of the Liquidators' appointment, the Company's books and records disclosed debtors of \$101,761. The Liquidators are currently assessing the recoverability of same. The debtor amounts



relate to outstanding invoices issued to Serpells Road Pty Ltd and Wharton James Developments Yamba Pty Ltd (In Liquidation) for outstanding establishment fees owing.

The Liquidators preliminary review of the agreements for the Projects indicates that there may be establishment fees owing for a number of the Projects which have not yet been invoiced to the respective SPVs. The quantum of outstanding establishment fees and other fees as per the agreements will be considered together with the recoverability of each respective project. The Liquidators investigations are continuing in this regard and a further update to creditors will be provided in due course.

#### 4. *Other assets*

At the time of the Liquidators' appointment, the Company's books and records disclosed \$400,000 in Company's funds being held in the Trust Account of one of the Company's lawyers, Tisher Liner FC Law. Tisher Liner FC Law has provided trust statements showing that funds totalling \$349,765.55 were transferred to another matter number, with the transfer description noting a payment in relation to monies owed to Cobild Pty Ltd on behalf of the Carlie project. The Liquidators will review the application of all Company funds, including those paid through any solicitor's trust account.

The Liquidators' investigations have also established that the Company paid \$250,000 on 6 August 2024 to the Trust Account of a further lawyer who acted on behalf of the Company, Gadens. This transfer was for the pre-payment of legal costs and disbursements. Gadens have asserted a lien over the funds held in their Trust Account in the amount of their outstanding invoice totalling \$88,840.65. Gadens have advised that they intend to set off their invoice against the trust funds they currently hold with the remainder of funds held (estimated to be \$161,159.35) to be transferred to the Company's liquidation account.

Further trust funds were also identified in the Trust Account of Hope Earle Lawyers in the amount of \$7,820. Hope Earle Lawyers have applied these funds in full against their outstanding invoice.

The Liquidators have also written to and requested any other lawyer identified as having acted for the Company prior to it proceeding to liquidation to confirm any funds being held on trust.

#### 5. *Secured creditors*

A PPSR search has disclosed that Cobild Pty Ltd ("**Cobild**") holds a PPSR security interest over all present and after-acquired property – with exceptions. The Liquidators understand that Cobild is the builder for the Carlile project and may have been paid out prior to the appointment of the Liquidators. This is consistent with the transfer made to Tisher Liner FC Law's Trust Account detailed above. The Liquidators have issued correspondence to Cobild advising of the appointment and have not had a response as at the date of this report.

Given that the Liquidators understand that their claim has been paid out and Cobild has not advised otherwise, the ERV is stated as 'to be confirmed' as at the date of this report.



#### 6. *Petitioning creditor costs*

The Liquidators understand that under Paragraphs (6) to (10) of the court order dated 3 October 2024, the Federal Court of Australia ordered GCPF to pay ASIC's costs of GCPF's interlocutory application filed on 29 August 2024 and ASIC's costs as the petitioning creditor.

The Liquidators will write to ASIC to confirm the quantum their costs, noting that petitioning creditor costs rank in priority to all other unsecured claims under section 556 of the Act.

#### 7. *Employee entitlements*

To date, the Liquidators have received a proof of debt from Isabella Pappas, the daughter of Chris Pappas, one of the directors of GCPF. The total claim was for \$24,975 and was in relation to the unpaid monthly salary of \$8,325 for the months of August, September, and October 2024.

The Liquidators' investigations and discussions with the Directors indicate that the Company has never had any employees and Isabella Pappas's employment contract was with GCPF Management Pty Ltd and not the Company. On 7 November 2024, the Liquidators' staff wrote to Isabella Pappas requesting supporting evidence to support her claim but have not had a response as at the date of this report.

Thus, the Liquidators are not aware of any employee entitlements owed by the Company.

#### 8. *Unsecured creditors*

The Liquidators are currently aware of creditor claims totalling \$490,349, details of which are provided below. To date, the Liquidators have received one (1) proof of debt in the amount of \$5,577 from Hope Earle and note that proofs of debts have not been adjudicated at this stage.

As discussed above in point (4), the claim of \$88,840.65 from Gadens will likely be applied against the \$250,000 of funds held on trust.

**Table 7: Unsecured creditor claims**

Creditor Name	Related Party	Directors' ROCAP (\$)	Liquidators' Estimate (\$)
Gadens	N	209,174.49	88,840.65
GCPF Management Pty Ltd	Y	252,317.42	252,317.42
Tisher Liner FC Law	N	123,810.01	123,810.01
Hall & Wilcox	N	Undisclosed	19,804.21
Hope Earle	N	Undisclosed	5,577.00
<b>Total:</b>		<b>585,301.92</b>	<b>490,349.29</b>

The Australian Taxation Office has also advised that they currently do not have a claim in the liquidation of the Company, however there may be a claim when the outstanding tax obligations are lodged and issued. The Liquidators understand that one of the directors of the Company, Chris Pappas, has engaged the pre-appointment accountants to prepare outstanding lodgements. It was further noted by the Directors in their ROCAPs that they anticipated a debt to be owing to the ATO upon finalisation of the outstanding lodgements.



### 3.4. Receipts and payments to date

A summary of the receipts and payments for the Company from the date of the Liquidators' appointment on 3 October 2024 to 18 December 2024 is **enclosed in Annexure B**.

## 4. Legal Actions to date

The Company and Liquidators have been parties to two major legal actions to date, both of which involve and were instigated by related parties, and specifically relate to the below investments.

### Pappy's Beach

Pappy's Beach is a property sub division in Mackay, Queensland. It involved a joint venture and loan agreement between the Company and another entity, Point Bay Developments Pty Ltd ("**Point Bay**"). Chris Pappas, a director of the Company, is the director of Point Bay.

Point Bay recently commenced proceedings in the Supreme Court of Queensland, seeking orders in effect compelling the Company to provide and accept a payout for the loan due, and in doing so to release the mortgage that the Company holds over the relevant secured property.

The Liquidators have concerns regarding the investment and relevant agreements and in particular variations to the agreements, which compromised the Company's entitlement under the joint venture agreement to profit participation in the project.

Accordingly, the Liquidators and the Company successfully resisted the court application and orders sort by Point Bay. The matter is now subject to ongoing proceedings.

### Kooyongkoot Project

The Company has advanced circa \$9.5 million to an entity, Kooyongkoot Project Pty Ltd ("**Kooyongkoot**"), of which entities associated with Brett Dickinson and Joel Hewish are shareholders. The relevant project and property (comprising three titles) is a residential development site in Hawthorn, Victoria.

The Liquidators engaged with the director of Kooyongkoot following their appointment, who asserted that the value of creditors owed money who ranked ahead of the Company exceeded the value of the available assets/property held by Kooyongkoot. Information obtained by the Liquidators also raised concerns regarding the application of funds advanced to Kooyongkoot, and the lack of registered security being in place to support the advances made.

Accordingly, the Liquidators lodged a caveat over the relevant land titles.

Kooyongkoot recently commenced proceedings in the Supreme Court of Victoria seeking an order that the Company lift the caveat. The basis for seeking the order was that the borrower had entered into a contract for the sale of the relevant properties, the value to be received under which was insufficient to discharge any debt due to the Company.

It was established that:-

- The sale was to be to a related party of the director of Kooyongkoot;



- No public sale process had been conducted; and
- Whilst a valuation had been obtained that supported the price achieved, other valuations and appraisals existed which ascribed a higher value.

Accordingly, the Liquidators resisted the application. Ultimately, Kooyongkoot sought to withdraw the application. It has now been dismissed and costs awarded in the Company's favour.

Unfortunately, any litigation adds significantly to the Liquidators' fees and in particular legal costs. However the Liquidators are obliged and shall not resile from defending or instigating proceedings where they consider it is necessary and in the best interests of creditors.

## 5. Investigations and recovery actions

The Liquidators are required to investigate and specify whether there may be any voidable transactions in respect of which money, property or other benefits may be recoverable by the Liquidators of the Company.

The below details the Liquidators' investigations to date and the findings in relation to same.

### 5.1. Investigations undertaken

The following investigations have been undertaken into the Company's affairs to date:

- undertaken initial statutory searches;
- reviewed the Company's books and records, including the Company's accounting software (Xero) and bank statements;
- met with the Directors of the Company and discussed the Company's affairs and the reasons for the appointment of the Liquidators;
- engaged with the borrowers and developers of the Projects to understand the status of the relevant project, and other matters as required;
- engaged with the directors of joint venture SPVs to understand the Company's investment, status of the relevant project, and other matters as required;
- reviewed the available agreements relating to the investments and the advancement of funds from the Company;
- reviewed and considered the securities purportedly ranked prior to GCPF;
- reviewed the alleged agreements between the Company and related entities, for their terms and commerciality;
- reviewed the accounting records with particular focus on related party transactions;
- reviewed the bank statements and cash transactions, and compared same to the available accounting records, in summarising the application of funds;
- engaged with and obtained information from the lawyers, accountants and the auditor, who had previously provided services to the Company;



- general and targeted review of records including correspondence, emails, minutes, and investment related communications;
- reviewed materials filed by ASIC and the Company in the legal proceedings that led to the Liquidators appointment; and
- preliminary assessment of any potential breaches of directors' duties by the Directors of GCPF and the conduct of its officers and representatives.

## 5.2. Findings and possible recoveries

As a result of the Liquidators' preliminary investigations, the following has been established:

- the Company invested monies in property developments in a number of forms, including loans and joint ventures;
- investments made included agreements with a number of related parties, including common directors, relating to property developments;
- arrangements for services provided to the Company also included a purported agreement with a related party to provide management services. That entity has received material funds from the Company, directly benefiting the Directors or other associated entities;
- the Liquidators consider that further investigations are warranted and potential claims may exist against related parties given the nature of the agreements in place;
- considerable work and further engagement and various actions, are required in order to recover monies invested through various arrangements across all fourteen identified investments;
- the ultimate recoveries under the fourteen investments remain unknown;
- the Liquidators' preliminary view is that there are no preference payments made to any ordinary, unrelated creditors; and
- the Liquidators' preliminary investigations indicate that the Company had sufficient funds at the date of appointment to pay all classes of creditors in full (based on the known claims at the date of appointment). However it is possible that other claims may emerge in the liquidation.

The Liquidators intend to undertake further investigations, which includes but is not limited to:

- assessing the validity of certain alleged agreements with related entities and also further investigate the reasonableness of the commission rates and management fees paid by GCPF;
- assessing any potential breaches of directors' duties by the Directors of GCPF and the conduct of its officers and representatives; and
- assessing any voidable transactions including unreasonable director related transactions following the assessment of the validity of the abovementioned agreements with related entities.

Section 533 of the Act requires a liquidator to investigate any offences that 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 their findings to ASIC. The Liquidators will lodge their report with ASIC in due course once sufficient investigation have been undertaken.



If creditors or investors are aware of any other matters which may warrant further investigation, please contact this office with relevant information as soon as possible.

## 6. Likelihood of a dividend

The Liquidators advise that the likelihood of a dividend being paid to creditors and investors will be affected by a number of factors including:

- the realisable value of the investments in the fourteen Projects and costs of realising same;
- the statutory priority of certain claims and costs;
- the value of various classes of claims including unsecured creditor and investor claims; and
- the actions required and thus priority fees and costs required to be incurred in the liquidation.

Based on the information presently available, the extent of the assets realised, the estimated realisable value of the Projects and the investigations undertaken to date, the Liquidators expect to be able to pay a dividend to unsecured creditors of 100 cents in the dollar within 3-6 months, subject to the formal adjudication of creditor claims.

When the Liquidators are ready to declare a dividend, any creditor whose claim has not yet been admitted will be contacted and asked to submit a proof of debt. This formalises creditors claim in the Liquidation and is used to determine all claims against the Company.

The Liquidators are unable to provide an estimated dividend to investors (as shareholders) with any certainty at this time. However, the Liquidators anticipate that a material dividend will be payable to investors in due course. The Liquidators will assess the possibility of paying an interim dividend to investors once they are satisfied as to potential creditor claims and that all creditor claims have been paid in full. If the Liquidators declare a dividend to investors, any investor whose claim has not yet been admitted will be contacted and asked to submit an investor claim form.

## 7. Liquidators' remuneration

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

At this stage, the Liquidators are not seeking creditors' approval for any remuneration resolutions. However, the Liquidators reserve the right to seek fee approval from creditors or a court for the work conducted to date and that they do in completing the liquidation in the future.

## 8. Way forward

The Liquidators will continue to attend to outstanding matters in the Liquidation of the Company including:

- monitoring the status of the Projects and liaising with relevant parties to recover and/or preserve GCPF's investments in the Projects;



- seeking court orders if necessary in relation to any agreement reached by the Liquidators regarding the Company's investments;
- investigating the Company's affairs, including its Directors and/or its officers and representatives;
- reporting to the corporate regulator, ASIC;
- declaring and paying a dividend to unsecured creditors;
- liaising with investors and their general queries as required; and
- declaring and paying potential interim and a final dividend to investors from any surplus funds.

Please note that if the Liquidators receive a request for a meeting that complies with the guidelines set out in the initial information provided to you, the Liquidators will hold a meeting of creditors.

The Liquidators may write to you again with further information on the progress of the Liquidation.

It is difficult for the Liquidators to advise as to a timeframe in which the Liquidation may be completed, as their investigations are only in the preliminary stages and certain matters have been identified which require further investigation and potential action. Further, the nature of the investments made relate to property developments, with funds only to flow to the Company upon their completion. Such development by nature can take years to complete. Whilst the Liquidators will take steps where possible to expedite all actions and recoveries, they currently anticipate that the Liquidation may take two (2) to three (3) years of the date of this report to complete. That timeframe could vary and is subject to revision, being contingent upon the timing of practical completion of certain projects and the investigations into the Company and/or its officers and representatives. However, as noted the Liquidators will consider and endeavour to declare and distribute interim distributions to creditors and investors during the course of the Liquidation.

## 9. 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](http://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 this office on (03) 9604 0600 or by email at [gcpf.creditors@fticonsulting.com](mailto:gcpf.creditors@fticonsulting.com).

Yours faithfully



**Ross Blakeley**

**Joint and Several Liquidator**



## Annexure A | Glossary and terms of reference

Item	Definition
AFSL	Australian Financial Services License
AllPAAP	All present and after-acquired property
ASIC	Australian Securities and Investments Commission
ASIC Act	Australian Securities and Investments Commission Act 2001 (Cth)
ATO	Australian Taxation Office (incorporating the Deputy Commissioner of Taxation, as applicable)
CBA	Commonwealth Bank of Australia
Cobild	Cobild Pty Ltd
GCPF	Global Capital Property Fund Limited (In Liquidation)
Initial Report	Initial Information for Creditors dated 31 October 2024
k, '000	Thousand
Liquidators	Kelly Trenfield and Ross Blakeley
m	Million
Mr Hewish	Joel Hewish
NAB	National Australia Bank
PMSI	Purchase Money Security Interest
Projects	The fourteen (14) property developments invested by the Company
ROCAP	Report on Company Activities and Property Part A (Form 507)
SMSF	self-managed super fund
SPV	Special Purpose Vehicle
the Act	Corporations Act 2001 (Cth)
the Company	Global Capital Property Fund Limited (In Liquidation)
the Directors	Brett Dickinson, Chris Pappas, and Joel Hewish
UGC	United Global Capital Limited (In Liquidation)



## Annexure B | Liquidators' receipts and payments

Receipts and payments from 3 October 2024 to 18 December 2024		AUD (\$)
<b>Receipts:</b>		
Cash at appointment		15,850,068.50
Cash held on trust - Lawyers Trust Account		7,821.00
Interest income		77,599.89
<b>Total Receipts</b>		<b>15,935,489.39</b>
<b>Payments:</b>		
Bank fees		198.83
Pre-appointment legal fees – Lawyers Trust Account		7,821.00
Subscriptions		593.45
Valuation expenses		6,059.90
<b>Total Payments</b>		<b>14,673.18</b>
<b>Cash balance as at 18 December 2024</b>		<b>15,920,816.21</b>

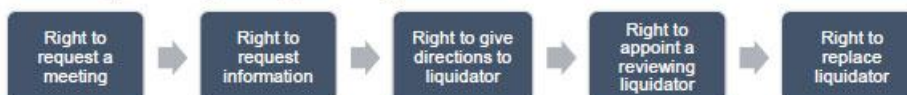


## Annexure C | Creditor rights in liquidation



### Creditor Rights in Liquidations

As a creditor, you have rights to request meetings and information or take certain actions:



If a simplified liquidation process is adopted, these rights are effectively limited to the right to request information.

#### Right to request a meeting

In liquidations, no meetings of creditors are held automatically. However, creditors with claims of a certain value can request in writing that the liquidator hold a meeting of creditors. The right to request meetings, including in the circumstances described below, is not available if a simplified liquidation process is adopted.

A meeting may be requested in the first 20 business days in a creditors' voluntary liquidation by ≥ 5% of the value of the debts held by known creditors who are not a related entity of the company.

Otherwise, meetings can be requested at any other time or in a court liquidation by:

- > 10% but < 25% of the known value of creditors on the condition that those creditors provide security for the cost of holding the meeting
- ≥ 25% of the known value of creditors
- creditors by resolution, or
- a Committee of Inspection (this is a smaller group of creditors elected by, and to represent, all the creditors).

If a request complies with these requirements and is 'reasonable', the liquidator must hold a meeting of creditors as soon as reasonably practicable.

#### Right to request information

Liquidators will communicate important information with creditors as required in a liquidation. In addition to the initial notice, you should receive, at a minimum, a report within the first three months on the likelihood of a dividend being paid.

Additionally, creditors have the right to request information at any time. A liquidator must provide a creditor with the requested information if their request is 'reasonable', the information is relevant to the liquidation, and the provision of the information would not cause the liquidator to breach their duties.

A liquidator must provide this information to a creditor within 5 business days of receiving the request, unless a longer period is agreed. If, due to the nature of the information requested, the liquidator requires more time to comply with the request, they can extend the period by notifying the creditor in writing.

Requests must be reasonable.

They are not reasonable if:

Both meetings and information:

- (a) complying with the request would prejudice the interests of one or more creditors or a third party
- (b) there is not sufficient available property to comply with the request
- (c) the request is vexatious

Meeting requests only:

- (d) a meeting of creditors dealing with the same matters has been held, or will be held within 15 business days

Information requests only:

- (e) the information requested would be privileged from production in legal proceedings
- (f) disclosure would found an action for breach of confidence
- (g) the information has already been provided
- (h) the information is required to be provided under law within 20 business days of the request

If a request is not reasonable due to (b), (d), (g) or (h) above, the liquidator must comply with the request if the creditor meets the cost of complying with the request.

Otherwise, a liquidator must inform a creditor if their meeting or information request is not reasonable and the reason why.

Specific queries about the liquidation should be directed to the liquidator's office.

AUSTRALIAN RESTRUCTURING INSOLVENCY & TURNAROUND ASSOCIATION





### Right to give directions to liquidator

Creditors, by resolution, may give a liquidator directions in relation to a liquidation. A liquidator must have regard to these directions, but is not required to comply with the directions.

If a liquidator chooses not to comply with a direction given by a resolution of the creditors, they must document their reasons. An individual creditor cannot provide a direction to a liquidator.

If a simplified liquidation process is adopted, you may not be able to give directions, because meetings cannot be held to pass a resolution.

### Right to appoint a reviewing liquidator

Creditors, by resolution, may appoint a reviewing liquidator to review a liquidator's remuneration or a cost or expense incurred in a liquidation. This right is not available if a simplified liquidation process is adopted. The review is limited to:

- remuneration approved within the six months prior to the appointment of the reviewing liquidator, and
- expenses incurred in the 12 months prior to the appointment of the reviewing liquidator.

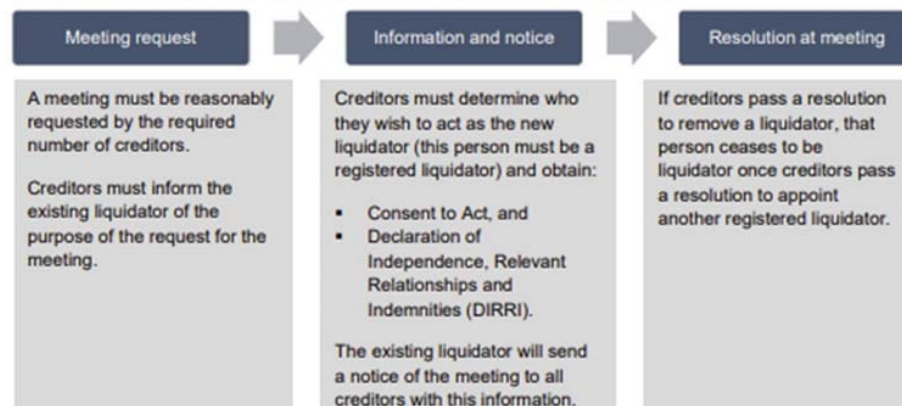
The cost of the reviewing liquidator is paid from the assets of the liquidation, in priority to creditor claims.

An individual creditor can appoint a reviewing liquidator with the liquidator's consent, however the cost of this reviewing liquidator must be met personally by the creditor making the appointment.

### Right to replace liquidator

Creditors, by resolution, have the right to remove a liquidator and appoint another registered liquidator. This right is not available if a simplified liquidation process is adopted, because meetings cannot be held.

To replace a liquidator, there are certain requirements that must be complied with:



For more information, go to [www.arita.com.au/creditors](http://www.arita.com.au/creditors).  
Specific queries about the liquidation should be directed to the liquidator's office.

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## Annexure D | Creditor information sheet



**ASIC**  
Australian Securities &  
Investments Commission

### Liquidation: A guide for creditors

This information sheet (INFO 45) provides information for unsecured creditors of companies in liquidation.

It covers:

- [who is a creditor?](#)
- [the purpose of liquidation](#)
- [the liquidator's role](#)
- [reporting to creditors](#)
- [recoveries from creditors](#)
- [creditors' meetings](#)
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- [directors and liquidation](#)
- [conclusion of liquidation](#)
- [questions and complaints](#)

### Who is a creditor?

You are a creditor if the company owes you money. You may be owed money because you:

- supplied goods or services to the company
- made loans to the company
- paid for goods or services that you have not received
- are an employee owed money for unpaid wages and other entitlements.

A 'contingent creditor' is owed money by the company if a certain event occurs (e.g. if they succeed in a legal claim against the company).

Creditors might be secured or unsecured:

- A **secured creditor** holds a **security interest**, such as a mortgage, in some or all the company's assets, to secure a debt owed by the company. Lenders might require a security interest in company assets when they provide a loan. If the creditor wants to ensure their security interest over personal property other than land is enforceable and given priority in an insolvency, they should register the security on the Personal Property Securities Register (PPSR). You can [search the PPSR](#) to find out if anyone holds a security interest (other than a mortgage over land) in the company's assets.
- An **unsecured creditor** does not hold a security interest in the company's assets.



Employees are a special category or class of unsecured creditor. In a liquidation, outstanding employee entitlements are paid before the claims of other unsecured creditors. For more information, see [Information Sheet 48 Liquidation: A guide for employees](#) (INFO 48).

All references in this information sheet to 'creditors' are to unsecured creditors unless otherwise stated.

## The purpose of liquidation

The liquidation of an insolvent company allows an independent registered liquidator (the liquidator) to take control of the company so its affairs can be wound up in an orderly and fair way to benefit creditors.

There are two types of insolvent liquidation:

- creditors' voluntary liquidation
- court liquidation.

The most common type is a creditors' voluntary liquidation, which begins when:

- an insolvent company's shareholders resolve to liquidate the company and appoint a liquidator, or
- creditors vote for liquidation following a voluntary administration or a terminated [deed of company arrangement](#).

In a court liquidation, a liquidator is appointed by the court to wind up a company following an application (usually by a creditor). Directors, shareholders and ASIC can also make a winding-up application to the court.

After a company goes into liquidation, unsecured creditors cannot commence or continue legal action against the company, unless the court permits.

It is possible for a company in liquidation to also be in receivership. For more information, see [Information Sheet 54 Receivership: A guide for creditors](#) (INFO 54).

## The liquidator's role

Liquidators have a duty to all company creditors. Their role is to:

- protect, collect and sell the company's assets
- investigate and report to creditors about the company's affairs, including:
  - [unfair preferences](#) (payments made to certain creditors over others) that may be recoverable
  - uncommercial transactions that may be set aside
  - possible claims against the company's officers (including insolvent trading)
  - [creditor-defeating dispositions](#), including [illegal phoenix activity](#)
- inquire into the failure of the company – and possible offences by people involved with the company – and report to ASIC
- distribute money from the collection and sale of assets after payment of the costs of the liquidation, including the liquidator's fees (subject to the rights of any secured creditor) – first to priority creditors, including employees, and then to unsecured creditors.

Except for lodging documents and reports required under the *Corporations Act 2001* (Corporations Act), a liquidator is not required to incur an expense for the winding up unless there are enough assets to pay their costs.

If the company does not have enough assets, one or more creditors may agree to reimburse a liquidator's costs and expenses to undertake investigations and act to recover further assets. If additional assets are recovered, the liquidator or a creditor can apply to the court to compensate the creditor for funding the liquidator's recovery action. Compensation is usually paid before other creditors are paid.

If a liquidator suspects that people involved with the company may have committed offences, and the liquidation has no or insufficient assets for the liquidator to be paid for their work to further investigate, the liquidator can apply to ASIC for funding to carry out a further investigation into the allegations and report to ASIC.



## Reporting to creditors

The liquidator will send the following to creditors:

- initial information about creditors' rights in the liquidation
- a statutory report within three months after their appointment
- other reports as the liquidator decides or that creditors reasonably request.

### Initial information

Within 10 business days after their appointment as liquidator in a creditors' voluntary liquidation (or 20 business days in a court liquidation), the liquidator must give creditors notice of their appointment and information advising creditors about their right to:

- request information, reports and documents
- direct that a meeting of creditors be held
- give directions to the liquidator
- appoint a reviewing liquidator
- remove and replace the liquidator

In a creditors' voluntary liquidation, a summary of the company's affairs and a list of the names, addresses and estimated amounts owed to the company's creditors (identifying any creditors of the company) is also given.

The liquidator must also send an initial remuneration notice if they propose to seek fee approval during the liquidation: see [Information Sheet 85 Approving fees: A guide for creditors](#) (INFO 85).

### Statutory report

The liquidator must send a report to creditors within three months after their appointment containing information about:

- the company's estimated assets and liabilities
- inquiries undertaken and further inquiries that may need to be undertaken
- what happened to the company's business
- the likelihood of creditors receiving a dividend (part repayment of their debt)
- possible recovery actions [as outlined above](#).

The report may provide additional information relevant to the liquidation or notify creditors about whether the liquidator will convene a meeting of creditors. The liquidator might also attach details of a proposal for creditors to consider and vote on [without the need to hold a meeting](#).

The liquidator must lodge a copy of the report with ASIC. You can obtain a copy by searching [ASIC Connect](#) for a fee.

### Other reports

While there is no legal requirement to provide further reports to creditors, liquidators often provide further reports to update creditors about the liquidation.

Creditors can ask the liquidator to provide a further report. If the request is reasonable, the liquidator must comply with the request. See [other creditor rights](#) below.

## Recoveries from creditors

A liquidator can recover, for the benefit of all creditors, certain payments the company made to individual creditors (known as '[unfair preferences](#)') in the six months before the start of the liquidation.

A creditor receives an unfair preference if, during the six months before liquidation, the company is insolvent and the creditor suspects (or ought to suspect) the company is insolvent and receives payment of their debt (or part of it) ahead of other creditors. To be an unfair preference, the payment must put the creditor receiving it in a better position in the winding up than other unsecured creditors.



Not all payments from the company to a creditor in the six months before liquidation are unfair preferences. The Corporations Act provides various defences to an unfair preference claim.

If a liquidator seeks to recover a payment that has been made to you, the liquidator should provide you with reasons and evidence to establish that claim. You may wish to obtain independent legal advice on the merits of the liquidator's claim before repaying any money.

## Creditors' meetings

A liquidator may call a creditors' meeting from time to time to inform creditors about the liquidator's progress, to find out creditors' wishes on a matter or to approve the liquidator's fees.

You can use a creditors' meeting to ask questions about the liquidation and tell the liquidator what you know about the company.

ASIC is also entitled to attend and participate in a meeting of creditors should there be a reason to do so.

## Meetings during a court liquidation

In a court liquidation, the liquidator does not have to call a creditors' meeting unless creditors need to approve a matter.

The liquidator can call a creditors' meeting at any time – and must also call a meeting if:

- a committee of inspection directs it (where there is a committee of inspection)
- creditors pass a resolution requiring the liquidator call a meeting
- at least 25% in value of creditors ask the liquidator in writing to call a meeting
- less than 25% but more than 10% in value of creditors ask the liquidator in writing to call a meeting and they pay the costs of calling and holding the meeting.

If a direction to call a meeting by creditors or the committee of inspection is not reasonable, the liquidator does not have to comply. A direction is not reasonable, if the liquidator, acting in good faith, thinks that:

- holding the meeting would cause substantial prejudice to the interests of creditors or a third party and the prejudice outweighs the benefits of complying with the direction
- there is insufficient money available to hold the meeting.

If the direction is not reasonable, the liquidator must notify the person or body that gave the direction and set out reasons why it is not reasonable.

If the liquidator decides not to convene a meeting because it is not reasonable, but the person or body who gave the direction agrees to pay the costs of calling and holding the meeting – and security for those costs is provided at the liquidator's request – then the liquidator must convene the meeting: see s75-250 of the Insolvency Practice Rules (Corporations) 2018.

## Meetings during a creditors' voluntary liquidation

In a creditors' voluntary liquidation, the liquidator does not have to call a creditors' meeting unless creditors need to approve a matter.

The liquidator can call a creditors' meeting at any time and if directed to do so.

Also, the liquidator in a creditors' voluntary liquidation must call a meeting if:

- less than 25% but more than 5% in value of creditors ask the liquidator in writing to do so
- none of the creditors who request the meeting are a related entity of the company
- the request is given no more than 20 business days after the resolution for the voluntary winding up of the company is passed.

Creditors might request a meeting be held to:



- ask questions about the liquidation
- tell the liquidator what they know about the company
- consider replacing the liquidator if they have concerns about the liquidator's independence or conduct.

If a request to call a meeting by creditors or the committee of inspection is not reasonable, the liquidator does not have to comply. However, they must notify the person or body that made the request and set out reasons why it is not reasonable.

### Minutes of meetings

The chairperson of a creditors' meeting (usually the liquidator or one of their senior staff) must prepare minutes of the meeting and a record of those present at the meeting. This must be lodged with ASIC within one month. A copy of the minutes of the meeting can be obtained by searching [ASIC Connect](#) for a fee.

### Voting at a creditors' meeting

To vote at a creditors' meeting you must lodge details of your debt or claim with the liquidator. The liquidator will provide you with a ['proof of debt'](#) form to complete and return before the meeting.

The chairperson of the meeting decides whether to accept the debt or claim for voting purposes. The chairperson may decide a creditor does not have a valid claim and not allow the creditor to vote.

If the chairperson is not sure whether to accept the debt or claim, they must mark the vote as 'objected to' and allow the creditor to vote subject to the vote being declared invalid if the objection is sustained. This decision is only for voting purposes. It is not relevant to whether a creditor will receive payment of their claim.

You can appeal to the court within 10 business days after the chairperson decides to accept or reject a proof of debt or claim for voting purposes.

### Voting by proxy

You can appoint an individual as proxy to attend and vote at a meeting on your behalf. Creditors who are companies will have to nominate a person as proxy. You do this by completing a proxy form that is sent out with the notice of meeting. You must provide the completed proxy form to the liquidator before the meeting. An electronic proxy form may be used if the liquidator allows electronic lodgement.

A 'special proxy' is used when you specify on the proxy form how the proxy holder is to vote on specified resolutions (the actual resolution wording is on the form). The proxy holder must vote in accordance with that instruction and cannot change the voting at the meeting. Further, the resolution specified in the form is the one you are voting on. If a different resolution is proposed (or the resolution is changed) then your special proxy should not be counted because you have not indicated how you will vote on that changed or different resolution. A 'general proxy' is used when you leave it to the proxy holder to decide how to vote on each resolution.

You can appoint the chairperson to represent you through either a special or general proxy. The liquidator or one of their partners or employees must not use a general proxy to vote in favour of a resolution approving payment of liquidator's fees.

### Manner of voting

To vote on any resolution put to a creditors' meeting, creditors state aloud their agreement or disagreement, or a ['poll'](#) is taken.

If voting is on the voices, the resolution is passed if a majority of those present indicate agreement. It is up to the chairperson to decide if a majority is reached.

After the vote, the chairperson must tell those present whether the resolution passed or failed. If the chairperson cannot determine the outcome of a resolution on the voices, they may conduct a poll.

A person participating and entitled to vote can also demand a poll. If a poll is demanded, it must be taken immediately, and the chairperson determines how to take this poll.



If you intend to demand a poll, you must do so before, or as soon as, the chairperson has declared the result of a vote taken on the voices.

When a poll is taken, a resolution is passed if *both*:

- more than half the number of creditors who are voting (in person or by proxy) vote in favour of the resolution
- those creditors owed more than half of the total debt owed to creditors at the meeting vote in favour of the resolution.

This is referred to as a 'majority in number and value'. If a majority in both number and value is not reached under a poll (deadlock), the chairperson has a casting vote.

### Chairperson's casting vote

When there is a deadlock, the chairperson may use their casting vote (except for resolutions to approve their remuneration) either in favour of or against the resolution. If the resolution relates to the liquidator's removal, the chairperson may only exercise the casting vote in favour of their removal. The chairperson may also decide not to use their casting vote, and then the deadlocked resolution is not passed.

The chairperson must inform the meeting (and include in the written minutes of meeting that are lodged with ASIC) the reasons why they did or did not use their casting vote.

If you are dissatisfied with how the chairperson exercised their casting vote or failed to use their casting vote, you may, in specified circumstances, apply to the court for a review of the chairperson's decision. The court may vary or set aside the resolution or order the resolution is taken to have been passed.

### Votes of related creditors

If directors and shareholders, their spouses, relatives and other entities controlled by them are creditors of the company, they are entitled to attend and vote at creditors' meetings.

If a resolution is passed or defeated based on related creditor votes and you are dissatisfied with the outcome, you may, in specified circumstances, apply to the court for the resolution to be set aside and/or for a fresh resolution to be voted on without related creditor votes. Certain criteria must be met before the court will make such an order (e.g. the original result of the vote is against the interests of all or a class of creditors).

## Proposals to creditors without a meeting

Instead of convening a creditors' meeting, the liquidator can put proposals to creditors by giving notice in writing.

This notice must be given to each creditor entitled to receive notice of a meeting and:

- include a statement of the reasons for the proposal and the likely impact the proposal will have on creditors
- invite the creditor to either:
  - vote 'yes' or 'no' for the proposal
  - object to the proposal without a meeting
- specify a reasonable time for the liquidator to receive creditor replies.

To vote on the proposal, you must lodge details of your debt or claim with the liquidator and complete the provided voting documents.

You can vote 'yes' or 'no' on the proposal and/or object to the proposal without a creditors' meeting. You should return your response to the liquidator within the time specified in the notice, which must be at least 15 business days after notice is given to creditors.

A resolution is passed if the majority of creditors in number and value who responded to the notice voted 'yes' and if 25% or less in value of the creditors who responded objected to the proposal being resolved without a creditors' meeting.



The liquidator should provide enough information to allow creditors to make an informed decision about the proposal. Contact the liquidator if you need further information to help you decide.

The liquidator must lodge with ASIC a statement about the outcome of the proposal. A copy of the outcome of the proposal may be obtained by searching [ASIC Connect for a fee](#).

## Committee of inspection

A [committee of inspection](#) may be formed to assist and advise the liquidator in both a court liquidation and creditors' voluntary liquidation. The committee of inspection also:

- monitors the conduct of the liquidator
- may approve certain steps in the liquidation
- may give directions to the liquidator.

The liquidator must have regard to, but is not always required to comply with, such directions.

The committee may be formed by resolution passed at any meeting of creditors called for that purpose. All creditors are entitled to stand for committee membership. Members appointed to the committee of inspection represent the interests of all creditors.

If a creditor is a company, the creditor can nominate, in writing, an individual to represent it on the committee.

A person can be appointed as a member of the committee of inspection by:

- resolution of creditors
- a creditor, or group of creditors, owed at least 10% of the value of creditors' claims
- an employee, or group of employees, owed at least 50% in value of outstanding employee entitlements.

A member of the committee of inspection must not directly or indirectly derive any profit or advantage from the liquidation of the company unless creditors resolve to allow it, or a court grants leave to derive the profit or advantage. Deriving a profit or advantage can arise during ongoing trading with the company after the liquidator is appointed.

A committee of inspection has various powers and functions, including to:

- approve the liquidator's remuneration
- direct the liquidator to convene a creditors' meeting
- request the liquidator to give information, provide a report or produce a document
- obtain specialist advice or assistance (with prior approval of the liquidator or court) that the committee considers desirable about the conduct of the liquidation.

If the request to [convene a meeting](#) or provide information is not reasonable, the liquidator does not have to comply with the request. The same rules about when a request is not reasonable apply to directions given to a liquidator by a committee of inspection.

A committee of inspection can determine its own procedures and exercise its powers through resolutions passed at meetings of the committee. A resolution is passed by a majority in number of members present at a meeting. The committee of inspection can only act if a majority of its members attend.

Minutes of meetings of the committee of inspection must be prepared and lodged with ASIC within one month. A copy of the minutes of committee of inspection meetings may be obtained by searching [ASIC Connect](#) for a fee.

ASIC is also entitled to attend a meeting of the committee of inspection.

## Approval of liquidator's fees

A liquidator is entitled to be paid for the necessary work they properly perform. Their fees will usually be paid from available assets before any payments are made to creditors. If there are no – or only limited assets – the liquidator is



sometimes not paid (or only partially paid) for the work they do. The liquidator may arrange for a third party to contribute to their fees.

A liquidator is also entitled to ask for approval to pay their estimated future fees (for work yet to be done). Usually this is requested to allow the liquidator to continue doing work up to a certain point in time (e.g. to achieve a particular outcome) or to the completion of the liquidation.

The fees cannot be paid until the amount has been approved by creditors, a committee of inspection or the court. The liquidator can also put a proposal to creditors to approve their fees without holding a meeting.

If fees are not approved by the relevant decision-making body, the liquidator is entitled to receive reasonable fees up to a specified maximum (indexed annually).

If you are asked to approve fees at a general meeting of creditors, at a meeting of a committee of inspection, or by a proposal put to creditors without a meeting, the liquidator must give you a report with sufficient information to help you assess whether the requested fees are reasonable. This should be given to you at the same time as the notice of the meeting or with the proposal. This report should be in simple language and set out:

- a summary of the major tasks performed or likely to be performed
- the costs of completing those tasks and how those costs were calculated
- the periods when funds will be drawn to pay the fees
- the estimated total fees, or range of fees
- an explanation of the likely impact the fees will have on any payments to creditors
- other information that will assist you to determine whether the fees claimed are reasonable.

If you are in any doubt about how the fees were calculated, ask the liquidator for more information.

If you do not think the fees are reasonable, raise your concerns with the liquidator.

If fees are approved and you wish to challenge the decision, you can apply to the court for a review of the fees. You may wish to seek your own legal advice about this.

Apart from fees, the liquidator is entitled to reimbursement for out-of-pocket expenses. This reimbursement may require creditor, committee of inspection or court approval. For more information, see [INFO 85](#).

## Distribution of money

If there are funds left over after paying the liquidators' costs and priority creditors, including employees, the liquidator will pay unsecured creditors a dividend. Generally, funds are distributed in the following order:

- costs and expenses of the liquidation, including liquidators' fees
- outstanding employee wages and superannuation
- outstanding employee leave of absence (including annual leave and long service leave)
- employee retrenchment pay
- unsecured creditors.

Each category must be paid in full before the next category is paid. If there are insufficient funds to pay a category in full, the available funds are paid on a pro-rata basis (and the next category or categories will be paid nothing).

## Proving your debt

Before any dividend is paid to you for your debt or claim, you will need to give the liquidator information to prove your debt.

The liquidator will notify you if funds might be available for payment and will call for formal proof of debt forms to be lodged. The liquidator must give you at least 14 days' notice of the deadline for lodging the proof of debt.

This notice must be given to each person claiming to be a creditor whose debt or claim has not already been accepted by the liquidator. It must also be published on ASIC's [Published notices website](#). A copy of the formal proof of debt form will be sent to you with the notice.



You should attach copies of all relevant invoices or other supporting documents to the proof of debt form, because your debt or claim may be rejected if there is insufficient evidence to support it.

If a creditor is a company, the proof of debt form must be signed by a person authorised by the company.

The completed proof of debt form must be delivered or posted to the liquidator. When you submit your claim, ask the liquidator to acknowledge receipt of your claim and if they require any further information.

If the liquidator decides to reject your claim, they must notify you within seven days after making that decision and provide reasons for doing so. If you are dissatisfied with the decision, follow the steps outlined in the notice of rejection and/or seek competent legal advice on your options to appeal the decision to reject your claim. You will have a limited time after you receive the notice, to appeal the liquidator's decision. If you do not appeal within this time, the liquidator's decision on your claim is final.

Contact the liquidator if you have questions about the calculation of your claim, or the timing of the payment.

## Other creditor rights

As well as the various rights involving meetings and participation in dividends, creditors also have a right to:

- inform the liquidator about what they know that is relevant to the company's liquidation
- request the liquidator give information, provide a report or produce a document
- inspect certain books of the liquidator
- appoint a reviewing liquidator
- remove and replace the liquidator by resolution passed at a creditors' meeting
- complain to ASIC or the court about the liquidator's conduct in connection with their duties.

## Request for information

Creditors can, by resolution or individually, request the liquidator to give information, provide a report or produce a document. The liquidator must comply with this request unless:

- the information, report or document is not relevant to the liquidation
- the liquidator would breach their duties if they complied with the request
- it is not reasonable to comply with the request.

There are rules governing when a direction is not reasonable, including if the liquidator, acting in good faith, thinks that:

- complying with the request would substantially prejudice the interests of one or more creditors or a third party and that the prejudice outweighs the benefits of complying with the request
- the information would be privileged from production in legal proceedings
- there is not enough money to cover the costs incurred to comply with the request

The law requires the liquidator to provide the information within 20 business days of the request being made.

If the direction is not reasonable, the liquidator must notify the requesting party and set out reasons why the request is not reasonable.

If the requesting party agrees to pay the costs of providing the information and security for those costs is provided (if the liquidator requires it), the liquidator must comply with the request.

## Liquidator's books

Liquidators must keep sufficient books to give a complete and correct record of their administration of the company's affairs. These include minutes of meetings and details of all the receipts and payments for the liquidation.

These books must be available at the liquidator's office for inspection by creditors and shareholders.

Copies of minutes of meetings and detailed lists of receipts and payments, as well as several other documents, must also be lodged with ASIC. Copies of these documents may be obtained by searching [ASIC Connect](#) for a fee.



## Informing the liquidator

If the liquidator suspects anyone connected to the company may have committed an offence, the liquidator must report this to ASIC. Let the liquidator know if you have any information that might assist the liquidator prepare such a report.

These reports are not available for inspection. ASIC reviews these reports and decides whether to take further action, such as banning a person from acting as a company director for a period or charging the person with a criminal offence. ASIC considers a range of factors when deciding what action, if any, to take. For more information, see [Information Sheet 151 ASIC's approach to enforcement](#) (INFO 151).

## Appoint a reviewing liquidator

Creditors can resolve to appoint a reviewing liquidator to carry out a review into fees and/or costs incurred by the liquidator. With the liquidator's agreement, one or more creditors may also appoint a reviewing liquidator.

A creditor can also apply for ASIC to appoint a reviewing liquidator: see [Form 5605 Application for ASIC to appoint a reviewing liquidator](#).

Where creditors resolve to appoint a reviewing liquidator, the review is limited to:

- remuneration approved within the six months before the reviewing liquidator is appointed
- costs or expenses incurred during the 12-month period before the reviewing liquidator is appointed (unless the liquidator agrees to a longer period).

The reviewing liquidator must be a registered liquidator. A creditor who wishes to appoint a reviewing liquidator must get written consent from the registered liquidator confirming they would be prepared to act as reviewing liquidator. The person must also make a written [declaration about any relationships](#) they or their firm have that might affect their independence to act as reviewing liquidator.

The liquidator, and their staff, must cooperate with the reviewing liquidator.

If creditors pass a resolution to appoint a reviewing liquidator, the reviewing liquidator's costs form part of the expenses of the liquidation. If one or more creditors appoint the reviewing liquidator with the consent of the liquidator without passing a resolution, the reviewing liquidator's costs are borne by the creditor(s) who appoint the reviewing liquidator.

## Remove and replace the liquidator

Creditors may remove and replace the liquidator at any time by resolution of creditors passed at a creditors' meeting for which at least five business days' notice is given.

A creditor who wishes to appoint a replacement liquidator must request the current liquidator to [convene a meeting](#). The liquidator is not required to comply if the request is not reasonable. The liquidator must comply with the request if the creditor agrees to pay the cost of calling the meeting, and security for those costs is provided at the liquidator's request.

A creditor who wishes to remove the current liquidator and appoint a replacement liquidator must approach a registered liquidator to get a written consent confirming they would be prepared to act as liquidator of the company. The person must also make a written declaration about any relationships they or their firm may have that might affect their independence to act as liquidator.

The notice of meeting must include details of the proposed resolution and attach:

- consent to act
- [declaration of relevant relationships](#) of the proposed replacement liquidator.

If the resolution to remove the current liquidator is passed at the meeting, the removal takes effect from when a resolution to appoint the replacement liquidator is passed.

## Applications to the court

The court has the power to make orders as it thinks fit in relation to an [external administration](#). Creditors and other persons with a financial interest in the external administration can apply to the court for these orders, including:



- an order determining any question arising in the external administration
- an order that a person cease to be appointed as the liquidator and that another registered liquidator be appointed
- orders in relation to remuneration.

Making an application to court can be costly. You can consider going to court if you cannot resolve any problems with the liquidator directly.

Liquidators, ASIC and other people can also make applications to the court. For example, a liquidator might apply to have questions decided about how to exercise certain powers in a liquidation.

## Secured creditors' rights

If a company fails to meet its obligations under a security interest (e.g. a charge or a mortgage), a secured creditor can:

- appoint an independent and suitably qualified person (a receiver) to take control of and realise some or all the secured assets in order to repay the secured creditor's debt. This right continues after the company goes into liquidation (see [INFO 54](#))
- ask the liquidator to deal with the secured assets for them and account to them for the proceeds and costs of collecting and selling those assets.

A secured creditor is entitled to vote at creditors' meetings for the amount the company owes them less the amount they are likely to receive from realisation of the secured assets (i.e. their shortfall). The secured creditor can participate in any dividend to unsecured creditors for their shortfall.

## Directors and liquidation

Directors cannot use their powers after a liquidator has been appointed. They have an obligation to assist the liquidator by:

- advising the liquidator of the location of company property and delivering the property in their possession to the liquidator
- providing the company's books and records
- advising the liquidator of the location of other company records
- providing a written report about the company's business, property, affairs and financial circumstances within:
  - 10 business days of the appointment of the liquidator by the court, or
  - five business days of the appointment of a liquidator in a creditors' voluntary liquidation
- meeting with, or reporting to, the liquidator to help them with their inquiries, as reasonably required
- if required by the liquidator, attending a creditors' meeting to provide information about the company and its business, property, affairs and financial circumstances.

A liquidator has the power to apply to the court to conduct a public examination, under oath, of a director (or other person with information about the company).

If the company has traded while insolvent, ASIC, a liquidator or, in certain circumstances, a creditor can commence proceedings against directors personally for amounts lost by creditors.

## Conclusion of liquidation

A liquidation comes to an end when the liquidator has realised and distributed all the company's available property and reported to ASIC.

The liquidator must lodge a final account of their receipts and payments, called an 'end of administration return' and lodge it with ASIC through [ASIC Connect](#).

Alternatively, in a court liquidation, after the liquidator decides the company's affairs are fully wound up, they can:



- seek an order for release from the court
- seek an order for release and deregistration of the company by ASIC.

ASIC will deregister the company three months after the end of administration return is lodged.

## Questions and complaints

Contact the liquidator to raise any questions or complaints. If this fails to resolve your concerns, including any concerns about the liquidator's conduct, you can [lodge a report of misconduct with ASIC](#). Reports of misconduct against companies and their officers can also be made to ASIC.

Lodging your report of misconduct online ensures we can quickly respond to your concerns.

ASIC does not usually become involved in matters of commercial judgement by a liquidator.

## More information

› [Information Sheet 39 \*Insolvency information for directors, employees, creditors and shareholders\* \(INFO 39\)](#)

› [Australian Restructuring Insolvency & Turnaround Association \(ARITA\) website](#)

› [ARITA Code of Professional Practice for Insolvency Practitioners](#)

## Important notice

Please note that this information sheet is a summary giving you basic information about a particular topic. It does not cover the whole of the relevant law regarding that topic, and it is not a substitute for professional advice.

You should also note that because this information sheet avoids legal language wherever possible, it might include some generalisations about the application of the law. Some provisions of the law referred to have exceptions or important qualifications. In most cases your particular circumstances must be taken into account when determining how the law applies to you.

This is **Information Sheet 45 (INFO 45)**, reissued in August 2020.



## Annexure E | Form 535 – Formal Proof of Debt or Claim Form

subregulation 5.6.49(2)  
Corporations Act 2001

### FORM 535 – FORMAL PROOF OF DEBT OR CLAIM

GLOBAL CAPITAL PROPERTY FUND LIMITED (IN LIQUIDATION) ACN 635 565 070

("THE COMPANY")

To the Liquidators of Global Capital Property Fund Limited ACN 635 565 070 ("the Company")

1. This is to state that the Company was on 3 October 2024, 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
	(state how the debt arose)		(include details of voucher substantiating payment)

2. To my knowledge or belief the creditor has not, nor has any person by the creditor's order, had or received any satisfaction or security for the sum or any part of it except for 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?	<input type="checkbox"/>	<input type="checkbox"/>
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? ☐ Yes ☐ No  
(If you are unsure contact the Liquidators)



# The Dynamic Company & Securities Report



ACN, ABN AND NAME REPORT  
- CURRENT & HISTORICAL

Order No: 85777823  
Report Date: 09/10/2024 16:10

Matter Ref: BNM - Global Capital Property Fund  
ACN: 635 565 070

The Dynamic Company and Securities Report contains public record information retrieved from the Australian Securities and Investment Commission, Australian Financial Security Authority and the Australian Taxation Office. This report can be used to confirm key details about a company, its identity, ownership and directors as well as any registered financial interests as reported on the Personal Property and Securities Register.

## COMPANY SNAPSHOT

Company Name: GLOBAL CAPITAL PROPERTY FUND LIMITED

Company Type: Australian Public Company

Registered Office: MVA BENNET PTY LTD, 'NORTH TOWER' LEVEL 5, 485 LA TROBE STREET, MELBOURNE, 3000, VIC

Principal Place of Business: LEVEL 33, 360 COLLINS STREET, MELBOURNE, 3000, VIC

No. Registered Business Names: N/A

ACN: 635 565 070

ASIC Status: **\*\* Under External Administration And/Or Controller  
Appointed \*\***

ABN Status: **Active**

ABN: 92 635 565 070

Current Registered Name: GLOBAL CAPITAL PROPERTY FUND LIMITED

Period From: 15/08/2019

Name Start: 15/08/2019

Company Class: Limited By  
Shares

Sub Class: Unlisted Public  
Company

Registered In: Victoria

Registered Date: 15/08/2019

Place of Registration: N/A

Previous State No: N/A

Governance Type: Replaceable Rules

Review Date: 15/08/2025

Most Recent ASIC Filing Date: 25/09/2024

Disclosing Entity: Yes

## COMPANY OFFICERS SNAPSHOT

No. of Current Company Directors:

2

Average Tenure of Current Directors:

5 Years

No. of New Directors in the last six months:

0

Average Tenure of Former Directors:

4 Years

No. of External Administrators:

2

No. of Former Company Directors:

1

Average Age of Current Directors:

65

Former Directors in the last six months:

0

No. of Current Secretaries:

2

No. of Former Secretaries:

1

## PPSR Grantor Search Details

PPSR Grantor Search Identifiers Used



✓ Grantor ACN: 635 565 070

✓ Grantor ABN: 92 635 565 070

✓ Grantor Name: GLOBAL CAPITAL PROPERTY FUND LIMITED



### PPSR Securities Snapshot

PPSR Registration(s) Recorded		ALLPAAP Registrations(s) Recorded	
No. PPSR Registrations Recorded:	1	No. New Security Interests Last Year:	0
No. PMSIs Recorded:	0	No. New Security Interests Last 3 Months:	0
No. Unique Secured Parties Recorded:	1	No. Transitional Registrations:	0
No. Grantor Identifiers Used:	3	No. Non Transitional Registrations:	1

### PPSR Secured Party Summary

Creditor (Secured Party)	No. PPSR Registrations	No. PMSIs	ALLPAAP Registrations?	Most Recent Registration
COBILD PTY LTD	1	0	Yes	13/06/2023

### Former Company Names

Former Name	From Date	To Date
GLOBAL CAPITAL PROPERTY FUND LIMITED	15/08/2019	02/10/2024

### Former Addresses

Address	From Date	To Date
LEVEL 33, 360 COLLINS STREET, MELBOURNE, 3000, VIC	15/09/2021	05/09/2024
C/- UNITED GLOBAL CAPITAL, 'NORTH TOWER' LEVEL 7, 459 COLLINS STREET, MELBOURNE, 3000, VIC	15/08/2019	14/09/2021
C/- UNITED GLOBAL CAPITAL, 'NORTH TOWER' LEVEL 7, 459 COLLINS STREET, MELBOURNE, 3000, VIC	15/08/2019	24/08/2021

### Company Directors

<b>Name:</b> DICKINSON, BRETT AARON <b>Address:</b> '103', 15 SOMERS AVENUE, MALVERN, 3144, VIC <b>Role:</b> Director <b>Date of Birth:</b> 06/11/1974 <b>Age:</b> 49 <b>Appointment Date:</b> 15/08/2019		<b>Status:</b> CURRENT <b>Place of Birth:</b> FERNTREE GULLY VIC <b>Tenure:</b> 5 Years <b>ASIC Document Number:</b> <a href="#">5EBG02290</a>
<b>Name:</b> PAPPAS, CHRIS <b>Address:</b> '228', 15 ALBERT AVENUE, BROADBEACH, 4218, QLD <b>Role:</b> Director <b>Date of Birth:</b> 07/03/1943 <b>Age:</b> 81 <b>Appointment Date:</b> 15/08/2019		<b>Status:</b> CURRENT <b>Place of Birth:</b> ATHENS GREECE <b>Tenure:</b> 5 Years <b>ASIC Document Number:</b> <a href="#">5EBG02290</a>
<b>Name:</b> HEWISH, JOEL JAMES <b>Address:</b> '1308', 225 ELIZABETH STREET, MELBOURNE, 3000, VIC <b>Role:</b> Director <b>Date of Birth:</b> 13/08/1981 <b>Age:</b> 43 <b>Appointment Date:</b> 15/08/2019 <b>Cease Date:</b> 12/08/2024		<b>Status:</b> FORMER <b>Place of Birth:</b> MELBOURNE VIC <b>Tenure:</b> 4 Years <b>ASIC Document Number:</b> <a href="#">5EBG02290</a>



### **Company Secretary**

Name: DICKINSON, BRETT AARON

Address: '103', 15 SOMERS AVENUE, MALVERN, 3144,  
VIC

Role: Secretary

Date of Birth: 06/11/1974

Age: 49

Appointment Date: 15/08/2019

Status: **CURRENT**

Place of Birth: FERNTREE GULLY  
VIC

Tenure: 5 Years

ASIC Document Number: [5EBG02290](#)

---

Name: PAPPAS, ISABELLA MARY-WOODRUFF

Address: 52 SAILAWAY STREET, MERMAID WATERS, 4218,  
QLD

Role: Secretary

Date of Birth: 19/05/1994

Age: 30

Appointment Date: 15/01/2021

Status: **CURRENT**

Place of Birth: BRISBANE QLD

Tenure: 3 Years

ASIC Document Number: [7EBE62962](#)

---

Name: HEWISH, JOEL JAMES

Address: '1308', 225 ELIZABETH STREET, MELBOURNE, 3000,  
VIC

Role: Secretary

Date of Birth: 13/08/1981

Age: 43

Appointment Date: 15/08/2019

Cease Date: 12/08/2024

Status: **FORMER**

Place of Birth: MELBOURNE VIC

Tenure: 4 Years

ASIC Document Number: [5EBG02290](#)

### **External Administrator**

Name: TRENFIELD, KELLY-ANNE LAVINA

Address: 'FTI CONSULTING' LEVEL 20, 345 QUEEN STREET, BRISBANE, 4000,  
QLD

Role: Appointed Liquidator (Court Winding  
Up)

Date of Birth: N/A

Age: N/A

Appointment Date: 03/10/2024

Status: **CURRENT**

Place of Birth: N/A

Tenure: **0 Years**

ASIC Document Number: [7ECZ45004](#)

---

Name: BLAKELEY, ROSS ANDREW

Address: 'BOURKE PLACE FTI CONSULTING' LEVEL 50, 600 BOURKE STREET, MELBOURNE, 3000,  
VIC

Role: Appointed Liquidator (Court Winding  
Up)

Date of Birth: N/A

Age: N/A

Appointment Date: 03/10/2024

Status: **CURRENT**

Place of Birth: N/A

Tenure: **0 Years**

ASIC Document Number: [7ECZ45004](#)



### Other Roles

Name: O'SHEA, RYAN WILLIAM

Address: 19 WILDWOOD WALK, CROYDON SOUTH, 3136,  
VIC

Role: Appointed  
Auditor

Date of Birth: N/A

Age: N/A

Appointment Date: 24/11/2020

Status: **CURRENT**

Place of Birth: N/A

Tenure: 3 Years

ASIC Document Number: [7EBE62956](#)

Name: AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION

Address: LEVEL 5, 86-100 MARKET STREET, SYDNEY, 2000,  
NSW

Role: Petitioner Court Action

Date of Birth: N/A

Age: N/A

Appointment Date: 10/09/2024

Status: **CURRENT**

Place of Birth: N/A

Tenure: **0 Years**

ASIC Document Number: [032244157](#)

### Documents Relating to External Administration and/or Appointment of Controller

Document Type: 505 NOTICE BY EXTERNAL ADMINISTRATOR/CONTROLLER-APPOINT/CEASE APPOINTMENT OF LIQUIDATOR BY THE COURT

Doc No.: [7ECZ45004](#)

Date Received: 04/10/2024

### Share Capital

Class	Class Type	Shares Issued	Amount Paid	Amount Due	ASIC Document No.
ORD	ORDINARY	10,000,048	\$10,000,048.00	\$0.00	<a href="#">7EAV52208</a>

**Note:** For each class of shares issued by a proprietary company, ASIC records the details of the twenty members of the class (based on shareholdings). The details of any other members holding the same number of shares as the twentieth ranked member will also be recorded by ASIC on the database. Where available, historical records show that a member has ceased to be ranked amongst the twenty members. This may, but does not necessarily mean, that they have ceased to be a member of a company.

### Shareholder and Members

No information regarding shareholder and members was recorded for this company.

### Satisfied Charges

No information regarding satisfied charges were recorded on ASIC for this company.

### ASIC Documents

Date Received	Form Type	Form Description	Date Processed	No. of Pages	Date Effective	ASIC Doc. No.
25/09/2024	519	NOTIFICATION OF APPLICATION TO WIND UP COMPANY UNDER S. 459P, 462 OR 464	01/10/2024	3	10/09/2024	<a href="#">032244157</a>
30/08/2024	484	CHANGE TO COMPANY DETAILS CHANGE OF REGISTERED ADDRESS APPOINTMENT OR CESSATION OF A COMPANY OFFICEHOLDER	30/08/2024	2	30/08/2024	<a href="#">7ECX66575</a>
04/12/2023	388	FINANCIAL REPORT FINANCIAL REPORT - PUBLIC COMPANY OR DISCLOSING ENTITY	04/12/2023	25	30/06/2023	<a href="#">7ECM14431</a>
20/07/2023	7051	HALF YEARLY REPORTS	21/07/2023	20	31/12/2022	<a href="#">031915697</a>
22/11/2022	388	FINANCIAL REPORT FINANCIAL REPORT - PUBLIC COMPANY OR DISCLOSING ENTITY	22/11/2022	24	30/06/2022	<a href="#">7EBY67019</a>
11/10/2022	7107	REVOCATION OF STOP ORDER ALTERS 501 555 466	12/10/2022	1	11/10/2022	<a href="#">501557812</a>
13/09/2022	7105	INTERIM STOP ORDER ISSUED ALTERS 501 555 466	13/09/2022	1	13/09/2022	<a href="#">501557280</a>



Date Received	Form Type	Form Description	Date Processed	No. of Pages	Date Effective	ASIC Doc. No.
29/08/2022	7105	INTERIM STOP ORDER ISSUED ALTERS 501 555 466	29/08/2022	2	29/08/2022	<a href="#">501556796</a>
21/07/2022	7105	INTERIM STOP ORDER ISSUED ALTERS 501 555 466	21/07/2022	1	21/07/2022	<a href="#">501556090</a>
05/07/2022	7105	INTERIM STOP ORDER ISSUED ALTERS 501 555 466	05/07/2022	1	05/07/2022	<a href="#">501555716</a>
28/06/2022	7109	NOTICE OF EXTENSION OF EXPOSURE PERIOD ALTERS 501 555 466	28/06/2022	1	06/07/2022	<a href="#">501555537</a>
21/06/2022	764B	PROSPECTUS FOR EQUITIES - UNQUOTED ALTERED BY 501 555 537 ALTERED BY 501 555 716 ALTERED BY 501 556 090 ALTERED BY 501 556 796 ALTERED BY 501 557 280 ALTERED BY 501 557 812	22/06/2022	75	29/06/2022	<a href="#">501555466</a>
26/05/2022	7051	HALF YEARLY REPORTS		0	31/12/2021	<a href="#">031316869</a>
18/11/2021	388	FINANCIAL REPORT FINANCIAL REPORT - PUBLIC COMPANY OR DISCLOSING ENTITY	18/11/2021	24	30/06/2021	<a href="#">7EBN40902</a>
27/10/2021	754B	REPLACEMENT PROSPECTUS FOR EQUITIES - UNQUOTED ALTERS 501 547 058	27/10/2021	76	27/10/2021	<a href="#">501550813</a>
12/10/2021	754B	REPLACEMENT PROSPECTUS FOR EQUITIES - UNQUOTED ALTERS 501 547 058	12/10/2021	72	12/10/2021	<a href="#">501550134</a>
08/09/2021	484	CHANGE TO COMPANY DETAILS CHANGE OF REGISTERED ADDRESS CHANGE OF PRINCIPAL PLACE OF BUSINESS (ADDRESS)	08/09/2021	2	08/09/2021	<a href="#">7EBL15043</a>
24/05/2021	754B	REPLACEMENT PROSPECTUS FOR EQUITIES - UNQUOTED ALTERS 501 547 058	24/05/2021	91	24/05/2021	<a href="#">501547230</a>
17/05/2021	764B	PROSPECTUS FOR EQUITIES - UNQUOTED ALTERED BY 501 547 230 ALTERED BY 501 550 134 ALTERED BY 501 550 813	17/05/2021	88	25/05/2021	<a href="#">501547058</a>
11/02/2021	484	CHANGE TO COMPANY DETAILS APPOINTMENT OR CESSATION OF A COMPANY OFFICEHOLDER	11/02/2021	2	11/02/2021	<a href="#">7EBE62962</a>
11/02/2021	388	FINANCIAL REPORT FINANCIAL REPORT - PUBLIC COMPANY OR DISCLOSING ENTITY COMPANY - APPOINT CHANGE NAME/ADDRESS OF AUDITOR	11/02/2021	21	30/06/2020	<a href="#">7EBE62956</a>
09/04/2020	484	CHANGE TO COMPANY DETAILS CHANGES TO SHARE STRUCTURE NOTIFICATION OF SHARE ISSUE	09/04/2020	2	09/04/2020	<a href="#">7EAV52208</a>
25/03/2020	7107	REVOCATION OF STOP ORDER ALTERS 501 537 610	26/03/2020	1	25/03/2020	<a href="#">501539159</a>
25/03/2020	754B	REPLACEMENT PROSPECTUS FOR EQUITIES - UNQUOTED ALTERS 501 537 610	25/03/2020	72	25/03/2020	<a href="#">501539097</a>
04/02/2020	7105	INTERIM STOP ORDER ISSUED ALTERS 501 537 610	05/02/2020	1	04/02/2020	<a href="#">501537954</a>
17/01/2020	7105	INTERIM STOP ORDER ISSUED ALTERS 501 537 610	17/01/2020	1	17/01/2020	<a href="#">501537700</a>
10/01/2020	764B	PROSPECTUS FOR EQUITIES - UNQUOTED ALTERED BY 501 537 700 ALTERED BY 501 537 954 ALTERED BY 501 539 097 ALTERED BY 501 539 159	13/01/2020	60	18/01/2020	<a href="#">501537610</a>
15/08/2019	201	APPLICATION FOR REGISTRATION AS A PUBLIC COMPANY	15/08/2019	3	15/08/2019	<a href="#">5EBG02290</a>

**Note:** For each class of shares issued by a proprietary company, ASIC records the details of the twenty members of the class (based on shareholdings). The details of any other members holding the same number of shares as the twentieth ranked member will also be recorded by ASIC on the database. Where available, historical records show that a member has ceased to be ranked amongst the twenty members. This may, but does not necessarily mean, that they have ceased to be a member of a company.

### Annual Returns

No information regarding annual returns was recorded for this company.



## Financial Reports

Outstanding	Balance Due	Report Date Due	AGM Due Date	Extended AGM Due Date	AGM Held Date	ASIC Document No.
N	30/06/2020	31/10/2020	Unknown	Unknown	Unknown	<a href="#">7EBE62956</a>
N	30/06/2021	31/10/2021	Unknown	Unknown	Unknown	<a href="#">7EBN40902</a>
N	30/06/2022	30/09/2022	Unknown	Unknown	Unknown	<a href="#">7EBY67019</a>
N	30/06/2023	30/09/2023	Unknown	Unknown	Unknown	<a href="#">7ECM14431</a>

## Collateral Class Summary

Tangible Property	0	Intangible Property	0	Financial Property	0
Motor Vehicle	0	Account	0	Chattel Paper	0
Watercraft	0	General Intangible	0	Intermediated	0
Aircraft	0	Intellectual Property	0	Document of Title	0
> Aircraft Engine	0	> Copyright	0	Currency	0
> Aircraft Frame	0	> Design	0	Investment Instrument	0
> Helicopter	0	> Patent	0	Negotiable Instrument	0
> Small Aircraft	0	> Plant Breeder's Right	0		
Agriculture	0	> Trade Mark	0		
> Crops	0	> Circuit Layout	0		
> Livestock	0				
Other Goods	0				
General Property	1	Unknown	0	Unsupported	0
ALLPAAP - no exceptions	0				
> Migrated Fixed	0				
> Migrated Floating	0				
> Migrated Fixed & Floating	0				
> Other ALLPAAPs	0				
ALLPAAP - with exceptions	1				

## Collateral Type Summary

Commercial:	1
Consumer:	0
Unknown:	0
Unsupported:	0

## Securities Summary (PPSR Registrations)

Registration Number	PMSI	Start Date	Transitional	Migrated	Collateral Class	Secured Parties
<a href="#">202306130056980</a>	Unknown	13 Jun 2023 15:23	No	No	All PAAP With Except	COBILD PTY LTD



## Securities Details (PPSR Registrations Details)

Registration No.: **202306130056980**

No. of Attachments: 0

Subordinate: No

Transitional: No

Migrated: No

Fixed & Floating Indicator: N/A

Registration Kind: SecurityInterest

Start Date: 13 Jun 2023 15:23

Change Date: 13 Jun 2023 15:23

End Date: 13 Jun 2048 23:59

Change Number: 76366039

Giving of Notice ID: N/A

All PAAP With  
 Collateral Type: Except

PMSI: Unknown

Subject to Control: Unknown

Grantor: GLOBAL CAPITAL PROPERTY FUND LIMITED

Secured Party: COBILD PTY LTD

**Collateral Description:** Except any personal property of the grantor which is not from time to time subject to a security agreement in favour of the secured party. It will be a breach of the security agreement if certain dealings in the collateral (including selling or leasing it) occur without the secured party's consent.

**Collateral Class:**  
 All present and after-acquired property - With exceptions  
**Inventory:** Unknown  
**Proceeds Claimed:** Yes

**Addressee:** Kasi Palaniappa

**Email Address:** kasi@cobild.com.au

**Fax Number:** N/A

**Mailing Address:** Level 8 9-11 Cremorne Street Cremorne 3121, VIC AUSTRALIA

PPSR - Organisation Grantor Search Note: The printer-friendly registration details below do not represent "a written search result in the appropriate form" (PPS Act s174). To obtain these results in "an appropriate form", refer to the PPSR Search Certificates. PPSR Search Details & Result Note: PPSR requires that search results are removed after the specified expiry time (see below). Please print results, and place follow-on orders for search certificates and attachments before this expiry time to avoid incurring additional charges from PPSR

PPSR Search Details & Result Note: PPSR requires that search results are removed after the specified expiry time (see below). Please print results, and place follow-on order for search certificates and attachments before this expiry time to avoid incurring additional charges from PPSR

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### Data sources

- > PPSR data extracted for ACN from PPSR on 09/10/2024 16:10
- > PPSR data extracted for ABN from PPSR on 09/10/2024 16:10
- > PPSR data extracted for Name from PPSR on 09/10/2024 16:10
- > ABN data extracted from the Australian Business Register on 09/10/2024 16:10
- > ASIC information extracted from the Companies Register on 09/10/2024 16:10



## Comparison of FTI Consulting CF&R Standard Rates effective 1 July 2024 (excluding GST)

Typical classification	GCPF Rates \$/hour	Standard Rates \$/hour	General guide to classifications
Senior Managing Director 1	750	850	Registered Liquidator and/or Trustee or corporate advisory professional, with specialist skills and experience in all forms of insolvency engagements, turnaround scenarios and restructures. Proven leadership experience in business or industry, bringing specialist expertise and knowledge to the engagement.
Managing Director	675	750	Broad specialist skills brought to the engagement. Extensive experience in managing large, complex engagements at a senior level over many years. May also be a Registered Liquidator and/or Trustee or has extensive leadership/senior management experience in business or industry.
Senior Director	600	670	Strong technical and commercial skill with significant experience in managing all types of large, complex engagements. Alternatively, has significant senior management experience in business or industry, with specialist skills and/or qualifications.
Director	560	625	Significant experience across all types of engagements. Strong technical and commercial skills. Has primary conduct of small to medium engagements, managing a team of professionals. Alternatively, has senior management experience in business or industry, with specialist skills and/or qualifications.
Senior Consultant	485	540	Typically studying to become or qualified to be a professional member of the Australian Restructuring Insolvency & Turnaround Association. Well developed technical and commercial skills. Has experience in large and complex engagements and may have primary conduct of small engagements, supervising a small team of professionals.
Consultant	395	440	Typically qualified chartered accountant and member of Chartered Accountants Australia & New Zealand (or similar). Required to control the tasks on small engagements or responsible for select aspects on medium to large-sized engagements under supervision of senior staff.
Associate	335	375	Typically a degree qualified accountant, who assists with day-to-day tasks under the supervision of senior staff.
Treasury	305	340	Typically, qualified accountant and/or bookkeeper. Undertakes treasury activities and is skilled in bookkeeping and funds handling activities.
Junior Associate	245	275	Undergraduate in the latter stage of their university degree.
Administration 2	265	295	Well developed administrative skills with significant experience supporting professional staff, including superior knowledge of software packages, personal assistance work and/or office management.
Administration 1	205	230	Has appropriate skills and experience to support professional staff in an administrative capacity.

The discounted FTI Consulting Rates apply to the Corporate Finance & Restructuring practice for the liquidation of Global Capital Property Fund Ltd (“GCPF”). All rates are periodically reviewed. It is recognised that any remuneration is subject to the approval of a Court or creditors as applicable.

The FTI Consulting Standard Rates above apply to the Corporate Finance & Restructuring practice and are subject to periodical review.



**Duplicate**

**SUPREME COURT OF QUEENSLAND**

REGISTRY: BRISBANE

NUMBER: BS5619/24

First Applicant: **ISABELLA PAPPAS ATF THE YEN TRUST ABN 53 430 473 300**

AND

Second Applicant: **CHRISTOPHER PAPPAS ATF THE DYMO TRUST**

AND

First Respondent: **N&J CONSULTANTS PTY LTD ACN 637 744 382 & OTHERS NAMED IN THE SCHEDULE**

**ORDER**

Before: Justice Callaghan

Date: 25 September 2025

Initiating document: Interlocutory Application filed 27 August 2025

**THE ORDER OF THE COURT IS THAT:**

1. A direction pursuant to s 90-15(1) of the *Insolvency Practice Schedule* (Corporations), schedule 2 of the *Corporations Act* (Cth), that the Liquidators are justified and are acting reasonably in distributing the funds they hold pursuant to the Order of his Honour Justice Cooper dated 23 June 2025 by paying the sum of \$400,000 into a Court of competent jurisdiction.
2. The Liquidators' costs of the application be paid from the assets, property and undertaking of the Upton Street Unit Trust.
3. There otherwise be no other order as to costs.

Signed: \_\_\_\_\_



**ORDER**

Filed on behalf of the Liquidators  
Form 59, Version 1  
Uniform Civil Procedure Rules 1999  
Rule 661

**Russells**

Level 18, 300 Queen Street  
Brisbane QLD 4000  
Tel: (07) 3004 8888  
Fax: (07) 3004 8899  
Ref: NJC:20250082



## **SCHEDULE OF PARTIES**

<b>Second Respondent</b>	NEXT GENERATION ADVICE PTY LTD ACN 120 066 113
<b>Third Respondent</b>	NGAA PTY LTD ACN 646 610 225
<b>Fourth Respondent</b>	FBC AUSTRALIA PTY LTD ACN 646 607 178
<b>Fifth Respondent</b>	21 UPTON ST HOLDINGS PTY LTD ACN 646 517 231 ATF THE 21 UPTON STREET UNIT TRUST
<b>Sixth Respondent</b>	SHARPMOVE FINANCE PTY LTD ACN 645 348 321
<b>Seventh Respondent</b>	INTERNAL ADVISORY SOLUTIONS PTY LTD ACN 639 094 956
<b>Eighth Respondent</b>	INTEGRAL WEALTH GROUP PTY LTD ACN 632 978 173
<b>Ninth Respondent</b>	JAMES ANTHONY DOUMANI
<b>Tenth Respondent</b>	JACK DOUMANI



*Duplicate*

**SUPREME COURT OF QUEENSLAND**

REGISTRY: Brisbane  
NUMBER: 16286/24

Plaintiff: **POINT BAY DEVELOPMENTS PTY LTD**  
**ACN 627 498 922**

AND

Defendant: **GLOBAL CAPITAL PROPERTY FUND LIMITED**  
**(IN LIQUIDATION)**  
**ACN 635 565 070**

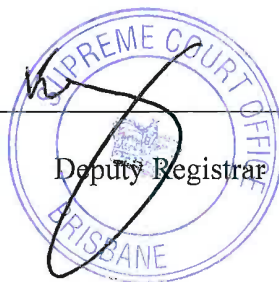
**ORDER**

Before: Kelly J  
Date: 28 March 2025  
Initiating document: Application filed 13 December 2024

THE ORDER OF THE COURT IS THAT:

1. This proceeding be transferred to the Federal Court of Australia (Victorian District Registry) pursuant to s 1337H of the *Corporations Act 2001* (Cth) and/or s 5(1) of the *Jurisdiction of Courts (Cross-vesting) Act 1987* (Qld).
2. Pursuant to Rule 57 of the *Uniform Civil Procedure Rules 1999* (Qld), the Registrar shall send to the Federal Court of Australia all documents filed and all orders made in this proceeding.
3. The parties' cost of the application filed 13 December 2024 be costs in the proceeding.

Signed: \_\_\_\_\_



Deputy Registrar

**Order**  
Filed on Behalf of the Respondent

**HopgoodGanim Lawyers**  
Level 8, Waterfront Place  
1 Eagle Street  
Brisbane QLD 4000

Form 59 Version 1  
Uniform Civil Procedure Rules 1999  
Rule 661

As town agents for  
Arnold Bloch Leibler  
P: 07 3024 0000  
F: 07 3024 0300  
Reference: 2466985



## NOTICE OF FILING

### Details of Filing

Document Lodged:	Statement of Claim - Form 17 - Rule 8.06(1)(a)
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	22/08/2025 6:12:17 PM AEST
Date Accepted for Filing:	25/08/2025 12:51:05 PM AEST
File Number:	VID235/2025
File Title:	GLOBAL CAPITAL PROPERTY FUND LIMITED (IN LIQUIDATION) (ACN 635 565 070) v POINT BAY DEVELOPMENTS PTY LTD (ACN 627 498 944) & ORS
Registry:	VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



*Sia Lagos*

Registrar

### Important Information

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

The date of the filing of the document is determined pursuant to the Court's Rules.



**Statement of Claim**

VID 235/2025

Federal Court of Australia  
District Registry: Victoria  
Division: General

**GLOBAL CAPITAL PROPERTY FUND LIMITED (IN LIQUIDATION)**  
**(ACN 635 565 070)**  
Applicant

**POINT BAY DEVELOPMENTS PTY LTD (ACN 627 498 944) and others**  
(as specified in the attached Schedule)  
Respondents

---

Filed on behalf of: the Applicant  
Prepared by: Justin Vaatstra      Ref: 011928463  
Law firm: **ARNOLD BLOCH LEIBLER**  
Tel: 9229 9999      Fax: 9229 9900  
Email: Jvaatstra@abl.com.au  
**Address for service:** Level 21, 333 Collins Street, Melbourne, VIC 3000



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**A. Relevant Persons**

1. The applicant (**GCPF**):
  - a. is incorporated pursuant to the *Corporations Act 2001* (Cth) (the **Act**) and is capable of suing in its own name;
  - b. was registered as a public company on 15 August 2019; and
  - c. on 3 October 2024, was ordered to be wound up pursuant to s 461(k) of the Act and Ross Andrew Blakeley and Kelly-Anne Lavina Trenfield were appointed as joint and several liquidators (**GCPF Liquidators**).
2. The first respondent (**PBD**):
  - a. is incorporated pursuant to the Act and is capable of being sued in its own name; and
  - b. at all material times has been controlled by Pappas and owned by Josephine Woodruff (**Woodruff**), the de facto partner of Pappas, in her capacity as the trustee of the Josie Pappas Discretionary Trust.
3. The second respondent (**Pappas**):
  - a. is a natural person capable of being sued;
  - b. is, and was at all material times from 15 August 2019, a director of GCPF;
  - c. is, and was at all material times from 10 December 2019, a director of GCPF Management; and
  - d. is, and was at all material times from 13 July 2018, a director and company secretary of PBD.
4. The third respondent (**Hewish**):
  - a. is a natural person capable of being sued;
  - b. was, from 15 August 2019 to 12 August 2024, a director and company secretary of GCPF; and
  - c. is, and was at all material times from 10 December 2019, a director of GCPF Management.
5. The fourth respondent (**Dickinson**):



- a. is a natural person capable of being sued;
  - b. is, and was at all material times from 15 August 2019, a director and company secretary of GCPF; and
  - c. is, and was at all material times from 10 December 2019, a director of GCPF Management.
6. The fifth respondent (**GCPF Management**) is incorporated pursuant to the Act and is capable of being sued in its own name.
7. The sixth respondent (**Isabella Pappas**):
  - a. is a natural person capable of being sued;
  - b. is the daughter of Pappas;
  - c. is, and was at all material times from 15 January 2021, company secretary of GCPF and an officer of GCPF; and
  - d. is, and was at all material times, employed by GCPF Management as Operations Manager.
8. The seventh respondent (**Serpells Road**):
  - a. is incorporated pursuant to the Act and is capable of being sued in its own name; and
  - b. at all material times has had shareholders including companies controlled and owned by Hewish and his wife, Stephanie Juanita Hewish (**Stephanie Hewish**), and Dickinson and his wife, Donna Maree Rowse (**Rowse**).
9. The eighth respondent (**Hewish Capital No. 2**):
  - a. is incorporated pursuant to the Act and is capable of being sued in its own name; and
  - b. at all material times has been controlled and owned by Hewish and Stephanie Hewish.
10. The ninth respondent (**Infinite Capital**):



- a. is incorporated pursuant to the Act and is capable of being sued in its own name; and
  - b. at all material times has been controlled and owned by Dickinson and Rowse.
- 11. The tenth respondent (**CJCDN**):
  - a. is incorporated pursuant to the Act and is capable of being sued in its own name; and
  - b. at all material times has been owned by companies controlled and owned by Isabella Pappas and Woodruff.
- 12. The eleventh respondent (**Benjamin James**) is a natural person capable of being sued.
- 13. The twelfth respondent (**Nicholas James**) is a natural person capable of being sued.

**B. The UGC Advice Model**

- 14. Since 15 August 2019, GCPF has raised approximately \$85 million in share capital from shareholders.
- 15. Approximately 364 of GCPF’s shareholders acquired their shares in GCPF as a result of referrals from United Global Capital Pty Ltd (**UGC**) or its corporate authorised representatives under a model which had one or more of the following features:
  - a. UGC ran promotional campaigns offering prospective clients the opportunity to win prizes, including iPhones;
  - b. UGC’s representatives used the contact details provided through the promotional campaign to contact the prospective clients to offer a “free general superannuation health check”;
  - c. The prospective clients were asked certain questions to ascertain if they were suitable to be referred to UGC;
  - d. the corporate authorised representatives of UGC called prospective clients to ascertain their superannuation balance, the fund it was held in, whether they were working and their age; and



- e. a “super specialist” gave a presentation to prospective clients, the effect of which was to recommend that the prospective clients transfer their retirement savings from their regular superannuation accounts into a self-managed superannuation fund (**SMSF**) and invest in related entities, such as GCPF, through the SMSF.

#### **Particulars**

GCPF refers to ASIC’s Statement of Reasons annexed to the banning order dated 31 May 2024.

- 16. Between about 1 March 2019 and 27 June 2022:
  - a. approximately 364 clients invested about \$70,068,000 in GCPF;
  - b. on average, the investment in GCPF was equal to 79% of the client's total investible SMSF balance;
  - c. 123 of the 364 clients invested between 86% and 100% of their total investible SMSF balance in GCPF;
  - d. the 364 clients had an average SMSF balance of \$245,224; and
  - e. the average fees charged per client were \$6,592 or 3.7% of the invested amount.

#### **Particulars**

GCPF refers to paragraph 86 of ASIC’s Statement of Reasons annexed to the banning order dated 31 May 2024.

### **C. Duties owed by the GCPF Directors**

- 17. By reason of their positions as directors of GCPF, at all material times, each of Pappas, Hewish and Dickinson (the **GCPF Directors**) owed duties to GCPF (the **Fiduciary Duties**):
  - a. not to place themselves in a position in which there was a conflict, or a real and substantial possibility of conflict, between:
    - (i) their duties owed to GCPF; and
    - (ii) their own interests, a third party’s interests, or their duties to third parties



(the **No Conflict Duty**); and

- b. not to derive unauthorised profit from their position as GCPF Directors for their own or a third party's benefit (the **No Profit Duty**).

#### **Particulars**

The duties arise by law.

- 18. Further, by reason of their positions as directors of GCPF, the GCPF Directors owed duties to GCPF (the **Statutory Duties**):
  - a. to exercise their powers and discharge their duties with reasonable care and diligence;
  - b. to exercise their powers and discharge their duties in good faith in the best interests of GCPF and for a proper purpose; and
  - c. not to improperly use their position to gain an advantage for themselves or someone else, or cause detriment to GCPF.

#### **Particulars**

The duties arise under the general law and pursuant to ss 180(1), 181(1) and 182(1) of the Act.

### **D. The Management Agreement**

#### **D.1 GCPF Management**

- 19. GCPF Management was incorporated on 10 December 2019.

- 20. At all material times, GCPF Management:

- a. had the GCPF Directors as its directors; and
- b. had the following shareholders;
  - (i) Hewish Capital Pty Ltd (**Hewish Capital**);
  - (ii) Bird Rock Investments Pty Ltd (**Bird Rock**); and
  - (iii) CJCDN.

- 21. At all material times, Hewish Capital:

- a. was controlled by Hewish; and



- b. was owned by Hewish and Stephanie Hewish, in equal shares.
- 22. At all material times, Bird Rock:
  - a. was controlled by Dickinson; and
  - b. was owned by Dickinson and Rowse, in equal shares.
- 23. At all material times, CJCDN:
  - a. was controlled by Pappas; and
  - b. was owned by:
    - (i) IP Holdings Qld Pty Ltd (being an entity owned and controlled by Isabella Pappas); and
    - (ii) JW Capital Holdings Pty Ltd (being an entity owned and controlled by Woodruff).

## **D.2 Payments to GCPF**

- 24. Since about 15 August 2019, GCPF has paid at least \$4,325,345 to GCPF Management (**GCPF Management Payments**).

### **Particulars**

The GCPF Management Payments include the following:

#	Date	Amount
1.	27 August 2024	\$28,600.00
2.	12 June 2024	\$133,343.28
3.	3 May 2024	\$133,351.53
4.	3 April 2024	\$132,703.21
5.	7 March 2024	\$1,428,439.05
6.	21 December 2023	\$6,000.00
7.	9 October 2023	\$10,000.00
8.	28 February 2023	\$132,337.37
9.	24 January 2023	\$132,754.03
10.	21 December 2022	\$131,473.38
11.	28 November 2022	\$130,718.62
12.	7 November 2022	\$128,850.76
13.	7 October 2022	\$130,363.56
14.	29 August 2022	\$131,700.89
15.	27 July 2022	\$130,830.11
16.	22 July 2022	\$122,967.96



#	Date	Amount
17.	25 May 2022	\$118,458.16
18.	9 May 2022	\$114,036.70
19.	1 April 2022	\$106,581.59
20.	2 March 2022	\$101,651.59
21.	24 January 2022	\$97,753.73
22.	21 December 2021	\$93,769.90
23.	29 November 2021	\$87,801.57
24.	2 November 2021	\$82,967.09
25.	21 September 2021	\$77,269.93
26.	24 August 2021	\$72,382.15
27.	28 July 2021	\$67,348.39
28.	23 June 2021	\$63,104.24
29.	1 June 2021	\$56,825.41
30.	4 May 2021	\$51,229.09
31.	4 May 2021	\$47,656.93
32.	4 May 2021	\$42,075.13
<b>Total</b>		<b>\$4,325,345.35</b>

### D.3 Purported Entry into the Management Agreement

25. In or around July 2024, the GCPF Directors represented that on 12 December 2019, GCPF and GCPF Management entered into an agreement styled ‘Management Agreement’ (the **Management Agreement**).

#### Particulars

The representations included:

1. a letter from Gadens to Johnson Winter Slattery (acting for the Australian Securities and Investments Commission) dated 26 July 2024 [S13665-E0001-00046229], which annexed an unexecuted draft of a document titled ‘Management Agreement’ (Annexure A) [S13665-E0001-00046230]; and
  2. an email from David Hambleton of Rodgers Reidy to Ross Blakeley and Kelly Trenfield dated 31 October 2024, which attached an unexecuted draft of a document titled ‘Management Agreement’.
26. The purported Management Agreement included terms to the following effect:
- a. GCPF appointed GCPF Management to manage a portfolio of assets allocated by GCPF to GCPF Management (‘Portfolio’) (clause 3.1);



- b. GCPF Management was entitled to manage the Portfolio in its absolute discretion and do all things necessary or desirable in relation to the management of the Portfolio (clause 4);
- c. GCPF Management was permitted to undertake investments on behalf of GCPF without the prior approval of the board of directors of GCPF (clause 5(a));
- d. GCPF Management was required to arrange for the value of the Portfolio to be calculated on a monthly basis (clause 6.1);
- e. GCPF was required to pay GCPF Management a monthly 'Management Fee' of 0.1375% of the 'Portfolio Value' (which was determined by GCPF Management in accordance with clause 6) (clause 9);
- f. GCPF was required to pay GCPF Management a 'Performance Fee', being 20% of the amount by which the total returns of the 'Company' exceeded the 'hurdle rate' of 10% (net of fees and expenses and before tax) (clause 10);
- g. GCPF was required to reimburse GCPF Management for fees, costs and expenses incurred by it in connection with the management of the 'Portfolio' (clause 11);
- h. the Management Agreement could be terminated immediately by GCPF if, at any time during the Term, GCPF Management or any of its directors or servants were found guilty of grave misconduct in relation to the affairs of GCPF (clause 16.1(a));
- i. the Management Agreement could be terminated by GCPF, at any time during the Term, by giving three months' written notice if GCPF's shareholders passed a special resolution approving the termination (clause 16.3); and
- j. if the Management Agreement was terminated with notice pursuant to clause 16.3, GCPF was required to pay a 'termination fee' calculated as follows:
  - (i) the total of the preceding financial year's management fees multiplied by 10; plus
  - (ii) the most recently paid 'Performance Fee' multiplied by 10 (clause 16.3(a), (g) and (h)).

### **Particulars**



Each of the above terms were in writing and contained in the unsigned draft version of the Management Agreement provided by Gadens on 26 July 2024 [S13665-E0001-00046230].

27. No executed version of the Management Agreement has been identified GCPF's Liquidators. Accordingly, either:
- a. the Management Agreement was not entered into by GCPF (as pleaded in Part D.4 below) – in which case, the GCPF Directors caused GCPF to make the GCPF Management Payments without a legal obligation to do so and in breach of the Act and the Fiduciary Duties and Statutory Duties (as pleaded in Parts D.6 and D.7 below); or
  - b. alternatively, the Management Agreement was entered into by GCPF – in which case, the GCPF Directors caused GCPF to enter into the Management Agreement and make the GCPF Management Payments in breach of the Act and the Fiduciary Duties and Statutory Duties (as pleaded in Parts D.5, D.6 and D.7 below).

#### **D.4 The Management Agreement was not entered into**

28. The Management Agreement was not entered into by GCPF and GCPF Management.

#### **Particulars**

The absence of a binding and valid Management Agreement is to be inferred from the following matters.

The document provided by Gadens on 26 July 2024 [S13665-E0001-00046230] was an unexecuted draft.

The document attached to the email from David Hambleton of Rodgers Reidy to Ross Blakeley and Kelly Trenfield dated 31 October 2024 was an unexecuted draft.

GCPF's Liquidators have not identified an executed version of the Management Agreement in the books and records of GCPF.

Despite requests from GCPF's Liquidators, the GCPF Directors have failed to produce an executed version of the Management Agreement.

The requests included:

1. an email from the GCPF Liquidators to the GCPF Directors' representatives dated 30 October 2024; and



2. a letter from the GCPF's Liquidators' solicitors to the GCPF Directors' representatives dated 27 November 2024

The absence of the Management Agreement is also to be inferred from the absence of approval by members of GCPF for the entry into the Management Agreement pursuant to s 208 of the Act, as pleaded in Part D.7 below.

#### **D.5 GCPF Directors' breaches of duty - entry into the Management Agreement**

29. If, contrary to Part D.4 above, GCPF entered into the Management Agreement, each of the GCPF Directors caused GCPF to enter into the Management Agreement in circumstances in which:

- a. there was a conflict, or a real or substantial possibility of a conflict, between:

- (i) the duties that each of the GCPF Directors owed to GCPF; and
- (ii) the interests of each of the GCPF Directors,

by reason of the following:

- b. each of the GCPF Directors was also a director of GCPF Management;

- c. the shareholders of GCPF Management were:

- (i) Hewish Capital, which was controlled by Hewish and owned by Hewish and Stephanie Hewish in equal shares;
- (ii) Bird Rock, which was controlled by Dickinson and owned by Dickinson and Rowse in equal shares; and
- (iii) CJCDN, which was controlled by Pappas and owned by IP Holdings Qld Pty Ltd and JW Capital Holdings Pty Ltd, being entities owned and controlled by Isabella Pappas and Woodruff respectively;

- d. from around 2019 onwards, Isabella Pappas received a salary, which was paid by GCPF Management from payments received from GCPF; and

#### **Particulars**

Letter from Gadens dated 5 July 2024 [S13665-E0001-00003072] at [8(a)-(d)].

- e. the shareholders of GCPF never approved entry into the Management Agreement.



30. In the premises, by causing GCPF to enter into the Management Agreement, each of the GCPF Directors breached the No Conflict Duty.
31. Further:
- a. the services provided by GCPF Management under the Management Agreement could have been provided by the GCPF Directors and/or Isabella Pappas without requiring GCPF to enter into the Management Agreement, given that:
    - (i) each of the GCPF Directors was also a director of GCPF; and
    - (ii) Isabella Pappas was the company secretary and an officer of GCPF;
  - b. the effect of the Management Agreement was to divert at least 0.1375% of the 'Portfolio Value' per month to GCPF Management (which was owned by companies in which the GCPF Directors and their family members had interests as set out in paragraphs 20 to 23 above);
  - c. GCPF Management had the power to determine the 'Portfolio Value', which was used to calculate the amount of its fees under the Management Agreement; and
  - d. if the Management Agreement was terminated pursuant to clause 16.3, GCPF was required to pay a 'termination fee' equal to:
    - (i) the total of the preceding financial year's management fees multiplied by 10; plus
    - (ii) the most recently paid 'Performance Fee' multiplied by 10, which was not in the best interests of GCPF or its shareholders.
32. By reason of the matters pleaded in paragraphs 29 and 31 above:
- a. a director acting with reasonable care and diligence, considering whether to approve the entry into the Management Agreement, would not have exercised their power to cause GCPF to enter into the Management Agreement;



- b. the exercise of the GCPF Directors' powers to cause GCPF to enter into the Management Agreement was not in good faith in the best interests of GCPF and for a proper purpose; and
  - c. by causing GCPF to enter into the Management Agreement, each of the GCPF Directors improperly used his position to gain an advantage for themselves or someone else, or cause detriment to GCPF.
33. In the premises, by causing GCPF to enter into the Management Agreement, the GCPF Directors acted in contravention of the Statutory Duties.
34. By reason of the GCPF Directors' breaches of the Fiduciary Duties and/or contravention of the Statutory Duties, GCPF has suffered loss and damage.

### **Particulars**

GCPF's loss and damage includes all fees paid to GCPF Management pursuant to the Management Agreement.

Further particulars may be provided following discovery and prior to trial.

### **D.6 GCPF Directors' breaches of duty - GCPF Management Payments**

35. Each of the GCPF Directors caused GCPF to make each of the GCPF Management Payments in circumstances where:
- a. there was a conflict, or a real or substantial possibility of a conflict, between:
    - (i) the duties that each of the GCPF Directors owed to GCPF; and
    - (ii) the interests of each of the GCPF Directors; and
  - b. by making each of the GCPF Management Payments each of the GCPF Directors derived an unauthorised profit for himself or one or more third parties, by reason of the following:
    - c. the GCPF Directors were also the directors of GCPF Management;
    - d. the shareholders of GCPF Management were:



- (i) Hewish Capital, which was controlled by Hewish and owned by Hewish and Stephanie Hewish in equal shares;
  - (ii) Bird Rock, which was controlled by Dickinson and owned by Dickinson and Rowse in equal shares; and
  - (iii) CJCDN, which was controlled by Pappas and owned by IP Holdings Qld Pty Ltd and JW Capital Holdings Pty Ltd, being entities owned and controlled by Isabella Pappas and Woodruff respectively; and
- e. from around 2019 onwards, Isabella Pappas received a salary, which was paid by GCPF Management from the GCPF Management Payments; and

#### **Particulars**

Letter from Gadens dated 5 July 2024 [S13665-E0001-00003072] at [8(a)-(d)].

- f. the GCPF Management Payments were not approved by the shareholders of GCPF.
36. In the premises, by causing GCPF to make the GCPF Management Payments, each of the GCPF Directors breached the No Conflict Duty and the No Profit Duty.
37. Further,
- a. if GCPF never entered into the Management Agreement, GCPF had no legal obligation to make the GCPF Management Payments;
  - b. if GCPF did enter into the Management Agreement, the Management Agreement was entered into in circumstances in which each of the GCPF Directors breached the No Conflict Duty and contravened the Statutory Duties; and
  - c. GCPF did not obtain legal advice in relation to the purported Management Agreement or the GCPF Management Payments.
38. By reason of the matters pleaded in paragraphs 35 and 37 above:



- a. a director acting with reasonable care and diligence would not have exercised their power to cause GCPF to make the GCPF Management Payments;
  - b. the exercise of the GCPF Directors' powers to cause GCPF to make the GCPF Management Payments was not in good faith in the best interests of GCPF and for a proper purpose; and
  - c. by causing GCPF to make the GCPF Management Payments, each of the GCPF Directors improperly used his position to gain an advantage for themselves or someone else, or cause detriment to GCPF.
39. In the premises, by causing GCPF to make the GCPF Management Payments, the GCPF Directors acted in contravention of the Statutory Duties.
40. By reason of the GCPF Directors' breaches of the Fiduciary Duties and/or contravention of the Statutory Duties, GCPF has suffered loss and damage.

#### **Particulars**

GCPF's loss and damage includes all fees paid to GCPF Management pursuant to the Management Agreement.

Further particulars may be provided following discovery and prior to trial.

#### **D.7 Breaches of ss 208 and 209 of the Act**

41. In the premises, GCPF Management, Hewish Capital, Bird Rock and CJCDN were related parties to GCPF within the meaning of s 228 of the Act.
42. At all relevant times, neither GCPF nor the GCPF Directors obtained shareholder approval to enter into the Management Agreement or to make the GCPF Management Payments.
43. The entry into the Management Agreement and the making of the GCPF Management Payments required approval pursuant to s 208 of the Act, as:
- a. GCPF was a public company;
  - b. GCPF Management, Hewish Capital, Bird Rock and CJCDN were related parties to GCPF within the meaning of s 228 of the Act;



- c. by reason of the entry into the Management Agreement and making the GCPF Management Payments, GCPF gave financial benefits to GCPF Management within the meaning of s 229 of the Act;
  - d. the financial benefits were not on arms-length terms under s 210 of the Act, or otherwise exempt under ss 211 to 216 of the Act.
44. By procuring or allowing GCPF to make the GCPF Management Payments:
- a. each of the GCPF Directors caused GCPF to contravene s 208 of the Act;
  - b. each of the GCPF Directors contravened s 209(2) of the Act, as they were involved in GCPF's contravention of s 208, as each of the GCPF Directors:
    - (i) knew that the members' approval had not been obtained for providing the financial benefits to GCPF Management; and
    - (ii) did not seek to delay GCPF making the GCPF Management Payments until the members' approval had been obtained.
45. Further or alternatively, if contrary to Part D.4 above, GCPF entered into the Management Agreement:
- a. each of the GCPF Directors caused GCPF to contravene s 208 of the Act by procuring or allowing GCPF to enter into the Management Agreement;
  - b. each of the GCPF Directors contravened s 209(2) of the Act, as they were involved in GCPF's contravention of s 208, as each of the GCPF Directors:
    - (i) knew that the members' approval had not been obtained for providing the financial benefits to GCPF Management; and
    - (ii) did not seek to delay GCPF entering into the Management Agreement until the members' approval had been obtained.
46. Further, by reason of the matters pleaded in paragraph 41 to 45 above, a director acting with reasonable care and diligence considering whether to cause GCPF to enter into the Management Agreement and/or make the GCPF Management Payments would not have exercised their power to approve the entry into the Management Agreement or to



make the GCPF Management Payments in circumstances where the entry into the Management Agreement and making the GCPF Management Payments would contravene s 208 of the Act.

47. In the premises, by causing GCPF to enter into the Management Agreement and make the GCPF Management Payments, each of the GCPF Directors acted in contravention of the duty to exercise their powers and discharge their duties with reasonable care and diligence (as pleaded in paragraph 18(a) above).
48. By reason of GCPF's contravention of s 208 of the Act, the GCPF Directors' breaches of s 209(2) of the Act and/or contravention of the Statutory Duty pleaded in paragraph 18(a) above, GCPF has suffered loss and damage.

#### **Particulars**

GCPF's loss and damage includes all fees paid to GCPF Management.

Further particulars may be provided following discovery and prior to trial.

### **D.8 Finding of grave misconduct**

49. On or around 31 May 2024, the Australian Securities and Investments Commission (ASIC) made orders banning Hewish under ss 920A and 920B of the Act (**ASIC Banning Order**).

#### **Particulars**

Banning order dated 31 May 2024.

50. By reason of the ASIC Banning Order, one or more of the GCPF Directors have been found guilty of grave misconduct in relation to the affairs of GCPF, within the meaning of clause 16.1(a) of the Management Agreement.

### **E. The Pappy's Beach Project**

#### **E.1 Corporate Structure**

51. At all material times:
  - a. the sole director of PBD was Pappas, who was also a director of GCPF;



- b. Woodruff was the registered owner of all shares in PBD in her capacity as the trustee of the Josie Pappas Discretionary Trust;
- c. Woodruff was the de facto partner of Pappas; and
- d. Pappas and/or Woodruff and/or Pappas' other family members beneficially owned PBD.

## **E.2 The PBD JV Agreement**

- 52. On or around 25 June 2020, GCPF and PBD entered into a Joint Venture Agreement (**PBD JV Agreement**) to acquire and develop the land described as Lot 4 on RP817122 (title reference 50044594) (the **Land**), located in Shoal Point Bay, Mackay, Queensland, into a property development known as "Pappy's Beach" (**Project**).

### **Particulars**

The PBD JV Agreement was in writing and dated 25 June 2020.

- 53. The PBD JV Agreement was executed by Dickinson and Hewish on behalf of GCPF, and by Pappas on behalf of PBD.
- 54. The PBD JV Agreement provided inter alia that:
  - a. GCPF would provide funds for the Project, being a facility of up to \$15,000,000 (**Advance**), including funding to effect settlement of PBD's contract for purchase of the Land (clauses 6(a) and (b), 8(f), and Annexure A);
  - b. all decisions relating to the joint venture would be made by PBD, which would establish a project management team and be responsible for the day-to-day management of the financial affairs of the joint venture (clauses 9(a) and (c));
  - c. PBD would keep accurate records and books of account, with respect to all dealings concerning the business and the joint venture's affairs, and regularly report to GCPF, including quarterly profit and loss accounts (clause 9(b));
  - d. GCPF would be entitled to a minimum rate of return of 17% on the Advance, compounded annually on the amount of the contribution which has been drawn down (**Minimum Rate of Return**), or a higher rate of return of 1.5% in addition to the Minimum Rate of Return payable as an early exit fee or a late payment fee on the balance outstanding (Annexure A);



- e. profits for the joint venture would be divided equally between GCPF and PBD, provided that prior to distribution of any profits, the Advance would be repaid by PBD to GCPF plus the Minimum Rate of Return. GCPF's profit share included the Minimum Rate of Return (clause 6(c));
  - f. the Advance was provided for business and investment purposes only, to purchase and develop the Land for the Project. The Advance was not for personal, domestic or household purposes (Annexure A); and
  - g. Pappas agreed to provide a guarantee and indemnity in favour of GCPF, which:
    - (i) was limited to recourse against the 'Secured Property' and the 'Project';
    - (ii) did not extend to any other assets of Pappas; and
    - (iii) provided that no other action was to be taken against Pappas with respect to any other matter whatsoever (clauses 20, Annexure A).
55. In the premises, in accordance with the terms of the PBD JV Agreement:
- a. GCPF was required to provide funding for the Project, including to purchase the Land;
  - b. PBD was not required to provide any funding for the Project;
  - c. notwithstanding that PBD was required to provide a project management team for the Project, PBD's sole director, Pappas, could have procured GCPF to perform such project management services, given that Pappas himself was a director of GCPF; and
  - d. the guarantee provided by Pappas was worthless to GCPF, as it was limited to the 'Secured Property' and the 'Project', in respect of which Pappas had no direct interest.
56. On or about 3 July 2020, PBD became the registered owner of the Land.
57. On or about 3 July 2020, GCPF registered a mortgage over the Land in relation to the Advance under the PBD JV Agreement.

### **Particulars**

Instrument number 720137462.



### E.3 Payments under the PBD JV Agreement

58. Between about 2 July 2020 and 4 May 2021, GCPF paid at least \$15,000,000 to PBD, comprising the Advance under the PBD JV Agreement.

#### Particulars

The payments included the following:

#	Date	Amount
1.	2 July 2020	\$6,800,000
2.	13 August 2020	\$5,200,000
3.	27 August 2020	\$500,000
4.	7 December 2020	\$1,000,000
5.	15 March 2021	\$1,000,000
6.	4 May 2021	\$500,000
<b>Total</b>		<b>\$15,000,000</b>

59. A portion of the payments made on 2 July 2020 and 13 August 2020 was applied by PBD to the purchase of the Land.
60. However, PBD did not utilise the full amount of the Advance provided by GCPF in accordance with the terms of the PBD JV Agreement.
61. With respect to the first and second drawdowns of the Advance, GCPF directed payments to third parties other than for the purposes of the purchase or development of the Land, and as specified as follows in the QC Law trust account statements prepared for the first respondent.

#### Particulars

Date	Party (From / To)	Description	Withdrawal
3 July 2020	GCPF Management	Brokerage fee	\$149,600.00
6 July 2020	NJWK Family Trust	As per client authority	\$37,400.00
6 July 2020	MPDP Family Trust	As per client authority	\$37,400.00
8 July 2020	LR Dittman	As per client authority	\$40,000.00
15 July 2020	N & J Trust	As instructed by client for consultancy	\$55,000.00



<b>Date</b>	<b>Party (From / To)</b>	<b>Description</b>	<b>Withdrawal</b>
19 August 2020	GCPF Management	As per client instructions	\$114,400.00
19 August 2020	NJWK Family Trust	As per client instructions	\$28,600.00
19 August 2020	MPDP Family Trust	As per client instructions	\$28,600.00
19 August 2020	M. Dittman	As per client instructions	\$10,000.00
4 September 2020	N & J Trust	As per client instructions	\$55,000.00
4 February 2021	Department of Justice and Attorney General	Supreme court filing fees for originating application in the application against Perkins W.A. P/L as authorised to be drawn by client authority	\$2,018.14
14 April 2021	Michael J Campbell	Payment of account - barrister fees invoice 6341	\$2,131.25
<b>Total:</b>			<b>\$560,149.39</b>

Further particulars may be provided following discovery and prior to trial.

#### **E.4 Manda Capital Claims**

62. With respect to PBD:

- a. Statemark Pty Ltd (**Statemark**) was the sole shareholder of PBD until about 11 December 2019;
- b. On or about 11 December 2019, Statemark transferred 70 shares in PBD to Woodruff;
- c. On or about 25 February 2020, Woodruff transferred 70 shares in PBD to Pappas, and Pappas transferred those 70 shares back to Woodruff; and

63. On or about 15 May 2020:

- a. Statemark transferred its remaining 30 shares to Woodruff; and
- b. Woodruff became the sole shareholder of PBD.



64. At all relevant times, Statemark and Pappas were the guarantors of a loan in the amount of approximately \$18 million (**Manda Capital Loan**) from Manda Capital Holdings Pty Ltd (**Manda Capital**) to Austpro Management Services Group Pty Ltd (**Austpro Management**).
65. On or about 21 January 2020, Manda Capital issued a default notice with respect to the Manda Capital Loan to Austpro Management (as borrower) and Statemark and Pappas (as guarantors).
66. In December 2022, Manda Capital commenced proceedings against Pappas and Statemark in the Supreme Court of Victoria, being proceeding No. S ECI 2022 05392, in order to enforce the guarantees with respect to the Manda Capital Loan.
67. Subsequently, Manda Capital applied for an injunction to restrain dealings in the PBD shares, as follows:
- a. Woodruff was joined as an additional defendant to the Supreme Court action;
  - b. In applying for the injunction, Manda Capital submitted that Pappas, Statemark and Woodruff had procured the transfer of the PBD shares to Woodruff for no consideration, in order to remove the PBD shares from the operation of the guarantee; and
  - c. By order of Connock J dated 21 August 2024, Woodruff was restrained from disposing of her shares in PBD, and an appeal from that decision was dismissed on 8 July 2025 (*Woodruff v Manda Capital Holdings Pty Ltd* [2025] VSCA 164).
68. At the time when GCPF had entered into the PBD JV Agreement (on or about 25 June 2020), Pappas knew, or ought reasonably to have known, that:
- a. Manda Capital had issued default notices to Statemark and himself as guarantors of the Manda Capital Loan;
  - b. Statemark had transferred its entire shareholding in PBD to Woodruff in December 2019 and May 2020 respectively, and Pappas had been party to share transfers with Woodruff in February 2020; and
  - c. there was a reasonably foreseeable risk that Manda Capital would make claims relating to changes in shareholdings in PBD, which exposed the assets or the value of contractual rights held by or for GCPF to risks.



## **E.5 The PBD Loan Agreement**

69. On or around 23 July 2021, by a purported Mortgage Linked Loan Agreement (**PBD Loan Agreement**), GCPF agreed to loan a further sum of \$8,500,000 to PBD for the Project.

### **Particulars**

The PBD Loan Agreement was in writing and dated 23 July 2021.

70. On 13 August 2021, GCPF registered a second mortgage (instrument number 721012894) over the Land in relation to the amount loaned under the PBD Loan Agreement.
71. The PBD Loan Agreement was subsequently amended by deed of variation dated 2 August 2022, and again by further deed of variation on around 15 May 2023.

### **Particulars**

Each of the deeds of variation were in writing.

72. In the premises, pursuant to the PBD JV Agreement and the PBD Loan Agreement, GCPF advanced a total amount of \$23,500,000 to PBD (**PBD Payments**).

## **E.6 The Option Deed**

73. On 9 February 2023, PBD and Pappy View Pty Ltd (**Pappy View**) agreed to a Put and Call Option Deed pursuant to which PBD agreed to divest part of the Land for \$50,150,000 (**Option Deed**).

### **Particulars**

The Option Deed was in writing and dated 9 February 2023.

74. Pappy View was required to pay a \$12 million deposit to PBD two days after the date of the Option Deed (clause 6(a), Schedule 1, item 6).
75. Of the \$12 million deposit, GCPF was paid approximately \$1 million on 2 and 8 March 2023.

## **E.7 The PBD JV Variation Agreement**

76. On 16 May 2023, GCPF and PBD entered into a purported Variation of Joint Venture Agreement (**PBD JV Variation Agreement**).



### Particulars

The PBD JV Variation Agreement was in writing and dated 16 May 2023.

77. Pursuant to the PBD JV Variation Agreement:
- a. GCPF's loan to PBD under the PBD Loan Agreement, together with interest, was required to be repaid within 18 months from exchange of the Option Deed (clause 3.4); and
  - b. the distribution of funds received in connection with the Project between GCPF and PBD was varied so that GCPF was no longer entitled to any profit share (clause 3.5.1).
78. The PBD JV Variation Agreement was executed by Dickinson and Hewish on behalf of GCPF, and by Pappas on behalf of PBD.
79. At the meeting of GCPF's Investment Review Committee (**IRC**) held on 21 March 2023 (such meeting held after execution of the Option Deed but before execution of the PBD JV Variation Agreement), attended by inter alia the GCPF Directors and Isabella Pappas, it was said:

*"Pappy's Beach – Variations to be signed prior to communicating with GCPF investors. An option agreement has been entered into for the sale of the project. PBD to retain stages 1 & 2A."*

### Particulars

GCPF refers to minutes of the IRC meeting dated 21 March 2023.

#### **E.8 Variations to the Option Deed**

80. On 1 March 2024, PBD and Pappy View entered into a Deed of Variation to the Option Deed (**Deed of Variation**) which reduced the price payable under the Option Deed by \$700,000 and granted an additional put and call option in relation to Lot 57 on draft survey plan SP231214 (Lot 57) for \$700,000 (**Put Call Variation**).

### Particulars

The Deed of Variation was in writing and dated 1 March 2024.



81. The effect of the Deed of Variation and the Put Call Variation was to reduce the total consideration payable by Pappy View by \$700,000.
82. On 1 March 2024, Pappy View exercised its option under the Option Deed to purchase the following parts of the Land:
- a. Lot 1002 on SP336885; and
  - b. Lot 1003 on SP338618,
- (together, the **Option Land**).
83. On 4 March 2024, PBD and GCPF entered into an agreement pursuant to which Pappy View would receive an “incentive” for settling early in the form of land being Lot 57, valued at \$700,000 pursuant to the Put Call Variation (**Incentive Agreement**).

### **Particulars**

The Incentive Agreement was in writing and dated 4 March 2024.

#### **E.9 Settlement of the Land and payments to GCPF**

84. On 7 March 2024:
- a. the contract of sale for the Option Land settled; and
  - b. Pappy View paid the remaining balance of \$37,447,328.53 (excluding the deposit of \$12 million) to PBD.
85. On 7 March 2024, GCPF received from PBD \$23,151,039.42, and the following additional sums were paid to third parties on GCPF’s behalf:
- a. \$14,900 to Maddocks;
  - b. \$1,819,295 to Cobild;
  - c. \$4,525,000 to Prolend Solutions; and
  - d. \$349,765 to Tisher Liner FC Law.
86. PBD has not accounted to GCPF for the remaining proceeds paid by Pappy View with respect to the sale of the Option Land.
87. Following the sale of the Option Land, PBD continues to hold the balance of the land, being Lot 1001 on SP341214 (**Balance Land**).



#### **E.10 Pappas' breaches of the Fiduciary Duties and the Statutory Duties**

88. Pappas caused GCPF to enter into:

- a. the PBD JV Agreement;
- b. the PBD JV Variation Agreement; and
- c. the Incentive Agreement,

in circumstances in which:

- d. there was a conflict, or a real or substantial possibility of a conflict, between:
  - (i) the duties that Pappas owed to GCPF; and
  - (ii) Pappas' own interests,

by reason of the following:

- e. the sole director of PBD was Pappas;
- f. Woodruff was the registered owner of all shares in PBD as the trustee of the Josie Pappas Discretionary Trust;
- g. Woodruff was the de facto partner of Pappas;
- h. Pappas and/or Woodruff and/or Pappas' other family members beneficially owned PBD; and
- i. the shareholders of GCPF never approved entry into the PBD JV Agreement, the PBD JV Variation Agreement or the Incentive Agreement.

89. In the premises, by causing GCPF to enter into the PBD JV Agreement, the PBD JV Variation Agreement and the Incentive Agreement, Pappas breached the No Conflict Duty.

90. Pappas caused GCPF to make the PBD Payments in circumstances where:

- a. there was a conflict, or a real or substantial possibility of a conflict, between:
  - (i) the duties that Pappas owed to GCPF; and



- (ii) Pappas' own interests; and
  - b. by causing GCPF to make each of the PBD Payments, Pappas derived an unauthorised profit for himself or one or more third parties,
- by reason of the following:
- c. the sole director of PBD was Pappas;
  - d. Woodruff was the registered owner of all shares in PBD as the trustee of the Josie Pappas Discretionary Trust;
  - e. Woodruff was the de facto partner of Pappas;
  - f. Pappas and/or Woodruff and/or Pappas' other family members beneficially owned PBD;
  - g. the shareholders of GCPF never approved entry into the PBD JV Agreement, the PBD JV Variation Agreement or the Incentive Agreement; and
  - h. the shareholders of GCPF never approved the making of any of the PBD Payments.
91. In the premises, by causing GCPF to make the PBD Payments, Pappas breached the No Conflict Duty and the No Profit Duty.
92. Further,
- a. at the time the PBD JV Agreement was entered into, Pappas was aware of the matters in paragraph 68 above;
  - b. under the terms of the PBD JV Agreement, PBD acquired an interest in the Land and the Project, notwithstanding that:
    - (i) GCPF provided all of the funding for the Project, including to purchase the Land;
    - (ii) PBD was not required to provide any funding for the Project or the purchase of the Land;
    - (iii) notwithstanding that PBD was required to provide a project management team for the Project, PBD's sole director, Pappas, could



have procured GCPF to perform such project management services, as Pappas himself was a director of GCPF; and

- (iv) the guarantee provided by Pappas was worthless to GCPF, as it was limited to the 'Secured Property' and the 'Project', in respect of which Pappas had no direct interest;
  - c. notwithstanding that GCPF funded the Project and the purchase of the Land, GCPF's interest was limited to the interest set out in the PBD JV Agreement;
  - d. entry into the PBD JV Agreement was not approved by the shareholders of GCPF;
  - e. by reason of the entry into the PBD JV Variation Agreement, GCPF ceased to be entitled to any profit share in the Project or the Land;
  - f. entry into the PBD JV Variation Agreement was not approved by the shareholders of GCPF;
  - g. by reason of the entry into the Incentive Agreement, GCPF agreed to bear 50% of the cost of the incentive provided by PBD to Pappy View purportedly to settle the transfer of the Option Land early;
  - h. GCPF did not receive a benefit from the Incentive Agreement, as:
    - (i) it was not party to the Deed of Variation or the Put Call Variation;
    - (ii) it was not the registered proprietor of the Option Land;
  - i. entry into the Incentive Agreement was not approved by the shareholders of GCPF;
  - j. Pappas caused GCPF to enter into the PBD JV Agreement, the PBD JV Variation Agreement and the Incentive Agreement in breach of the No Conflict Duty;
  - k. Pappas caused GCPF to make the PBD Payments in breach of the No Conflict Duty and the No Profit Duty; and
  - l. the PBD Payments were not approved by the shareholders of GCPF.
93. By reason of the matters pleaded in paragraphs 88, 90 and 92 above:



- a. a director acting with reasonable care and diligence, considering whether to approve the entry into the PBD JV Agreement, the PBD JV Variation Agreement and the Incentive Agreement, and considering whether to approve the PBD Payments, would not have exercised their power to cause GCPF to enter into any of those agreements or make any of those payments;
  - b. the exercise of Pappas' powers to cause GCPF to enter into the PBD JV Agreement, the PBD JV Variation Agreement and the Incentive Agreement, and to cause GCPF to make the PBD Payments, was not in good faith in the best interests of GCPF and for a proper purpose; and
  - c. by causing GCPF to enter into the PBD JV Agreement, the PBD JV Variation Agreement and the Incentive Agreement, and by causing GCPF to make the PBD Payments, Pappas improperly used his position to gain an advantage for himself or someone else, or cause detriment to GCPF.
94. In the premises, by causing GCPF to enter into the PBD JV Agreement, the PBD JV Variation Agreement and the Incentive Agreement, and by causing GCPF to make the PBD Payments, Pappas acted in contravention of the Statutory Duties.
95. By reason of Pappas' breach of the Fiduciary Duties and/or contravention of the Statutory Duties, GCPF has suffered loss and damage.

### **Particulars**

GCPF's loss and damage includes:

- 1. the loss of opportunity to purchase and develop the Land and the Project;
- 2. alternatively, the value of PBD's interest in the Project and/or the Land;
- 3. the reduction in value of GCPF's interest in the Project caused by the PBD JV Variation Agreement;
- 4. the loss of opportunity to earn profits from the Project or the Land;
- 5. the amount paid by GCPF pursuant to the Incentive Agreement; and/or
- 6. alternatively, 50% of the value of Lot 57.



Further particulars may be provided following discovery and prior to trial.

**E.11 Hewish's and Dickinson's breaches of the Fiduciary Duties and the Statutory Duties**

96. Each of Hewish and Dickinson caused GCPF to enter into:

- a. the PBD JV Agreement;
- b. the PBD JV Variation Agreement; and
- c. the Incentive Agreement,

in circumstances in which:

- d. there was a conflict, or a real or substantial possibility of a conflict, between:
  - (i) the duties that each of Hewish and Dickinson owed to GCPF; and
  - (ii) Pappas' interests,

by reason of the following:

- e. the sole director of PBD was Pappas;
- f. Woodruff was the registered owner of all shares in PBD as the trustee of the Josie Pappas Discretionary Trust;
- g. Woodruff was the de facto partner of Pappas;
- h. Pappas and/or Woodruff and/or Pappas' other family members beneficially owned PBD; and
- i. the shareholders of GCPF never approved entry into the PBD JV Agreement, the PBD JV Variation Agreement or the Incentive Agreement.

97. In the premises, by causing GCPF to enter into the PBD JV Agreement, each of Hewish and Dickinson breached the No Conflict Duty.

98. Each of Hewish and Dickinson caused GCPF to make the PBD Payments in circumstances where:



- a. there was a conflict, or a real or substantial possibility of a conflict, between:
    - (i) the duties that each of Hewish and Dickinson owed to GCPF; and
    - (ii) Pappas' interests,by reason of the following:
  - b. the sole director of PBD was Pappas;
  - c. Woodruff was the registered owner of all shares in PBD as the trustee of the Josie Pappas Discretionary Trust;
  - d. Woodruff was the de facto partner of Pappas;
  - e. Pappas and/or Woodruff and/or Pappas' other family members beneficially owned PBD;
  - f. the shareholders of GCPF never approved entry into the PBD JV Agreement, the PBD JV Variation Agreement or the Incentive Agreement; and
  - g. the shareholders of GCPF never approved the making of any of the PBD Payments.
99. In the premises, by causing GCPF to make the PBD Payments, each of Hewish and Dickinson breached the No Conflict Duty.
100. Further:
- a. under the terms of the PBD JV Agreement, PBD acquired an interest in the Land and the Project, notwithstanding that:
    - (i) GCPF provided all of the funding for the Project, including to purchase the Land;
    - (ii) PBD was not required to provide any funding for the Project or the purchase of the Land;
    - (iii) notwithstanding that PBD was required to provide a project management team for the Project, PBD's sole director, Pappas, could have procured GCPF to perform such project management services, as Pappas himself was a director of GCPF; and



- (iv) the guarantee provided by Pappas was worthless to GCPF, as it was limited to the 'Secured Property' and the 'Project', in respect of which Pappas had no direct interest;
  - b. notwithstanding that GCPF funded the Project and the purchase of the Land, GCPF's interest was limited to the interest set out in the PBD JV Agreement;
  - c. entry into the PBD JV Agreement was not approved by the shareholders of GCPF;
  - d. by reason of the entry into the PBD JV Variation Agreement, GCPF ceased to be entitled to any profit share in the Project or the Land;
  - e. entry into the PBD JV Variation Agreement was not approved by the shareholders of GCPF;
  - f. by reason of the entry into the Incentive Agreement, GCPF agreed to bear 50% of the cost of the incentive provided by PBD to Pappy View purportedly to settle the transfer of the Option Land early;
  - g. GCPF did not receive a benefit from the Incentive Agreement, as:
    - (i) it was not party to the Deed of Variation or the Put Call Variation;
    - (ii) it was not the registered proprietor of the Option Land;
  - h. entry into the Incentive Agreement was not approved by the shareholders of GCPF;
  - i. Pappas, Hewish and Dickinson caused GCPF to enter into the PBD JV Agreement, the PBD JV Variation Agreement and the Incentive Agreement in breach of the No Conflict Duty;
  - j. Pappas, Hewish and Dickinson caused GCPF to make the PBD Payments in breach of the No Conflict Duty;
  - k. Pappas caused GCPF to make the PBD Payments in breach of the No Profit Duty; and
  - l. the PBD Payments were not approved by the shareholders of GCPF.
101. By reason of the matters pleaded in paragraphs 96, 98 and 100 above:



- a. a director acting with reasonable care and diligence, considering whether to approve the entry into the PBD JV Agreement, the PBD JV Variation Agreement and the Incentive Agreement, and considering whether to approve the PBD Payments, would not have exercised their power to cause GCPF to enter into any of those agreements or make any of those payments;
  - b. the exercise of Hewish's and Dickinson's powers to cause GCPF to enter into the PBD JV Agreement, the PBD JV Variation Agreement and the Incentive Agreement, and to cause GCPF to make the PBD Payments, was not in good faith in the best interests of GCPF and for a proper purpose; and
  - c. by causing GCPF to enter into the PBD JV Agreement, the PBD JV Variation Agreement and the Incentive Agreement, and to make the PBD Payments each of Hewish and Dickinson improperly used his position to gain an advantage for Pappas, or cause detriment to GCPF.
102. In the premises, by causing GCPF to enter into the PBD JV Agreement, the PBD JV Variation Agreement and the Incentive Agreement, and by causing GCPF to make the PBD Payments, each of Hewish and Dickinson acted in contravention of the Statutory Duties.
103. By reason of Hewish's and Dickinson's breaches of the No Conflict Duty and/or contravention of the Statutory Duties, GCPF has suffered loss and damage.

### **Particulars**

GCPF's loss and damage includes:

- 1. the loss of opportunity to purchase and develop the Land and the Project;
- 2. alternatively, the value of PBD's interest in the Project and/or the Land;
- 3. the reduction in value of GCPF's interest in the Project caused by the PBD JV Variation Agreement;
- 4. the loss of opportunity to earn profits from the Project or the Land;
- 5. the amount paid by GCPF pursuant to the Incentive Agreement; and/or



6. alternatively, 50% of the value of Lot 57.

Further particulars may be provided following discovery and prior to trial.

**E.12 Hewish's and Dickinson's accessory liability**

104. Further or alternatively, Pappas' breaches of the Fiduciary Duties and the Statutory Duties pleaded at Part E.10 above constituted a dishonest and fraudulent design for the following reasons:

- a. those breaches were deliberate;
- b. those breaches were self-interested; and
- c. those breaches were committed in circumstances where:
  - (i) elements of them were concealed from the shareholders of GCPF; and
  - (ii) further or in the alternative, the shareholders of GCPF never approved the conduct entailed in the breaches.

**Particulars**

The shareholders of GCPF did not approve entry into any of the following agreements:

- 1. the PBD JV Agreement;
- 2. the PBD JV Variation Agreement;
- 3. the PBD Incentive Agreement.

The shareholders of GCPF did not approve the making of any of the PBD Payments.

105. Each of Hewish and Dickinson participated in Pappas' breaches of the Fiduciary Duties and the Statutory Duties, including by:

- a. participating in meetings of the GCPF Directors at which the Pappy's View Project was discussed;
- b. signing, on behalf of GCPF, the PBD JV Agreement, the PBD JV Variation Agreement and the Incentive Agreement; and



- c. exercising their powers as GCPF Directors to cause GCPF to make the PBD Payments.

### **Particulars**

Each of Hewish and Dickinson has, at all material times, been a GCPF Director.

Each of Hewish and Dickinson is recorded as present at meetings of the GCPF Board of Directors, GCPF Management, GCPF IRC, and GCPF PCG from 6 August 2020 to 20 June 2024 at which the Pappy's Bay Project was discussed.

- 106. Each of Hewish and Dickinson participated in Pappas' breaches of the Fiduciary Duties and the Statutory Duties in circumstances where they knew:
  - a. the content of Pappas' Fiduciary Duties and Statutory Duties to GCPF; and
  - b. the matters pleaded at paragraphs 88, 90 and 92 above.

### **Particulars**

Each of Hewish and Dickinson is a GCPF Director and is himself bound by the Fiduciary Duties and the Statutory Duties.

Each of Hewish and Dickinson is recorded as present at meetings of the GCPF Board of Directors, GCPF Management, GCPF IRC, and GCPF PCG from 6 August 2020 to 20 June 2024 at which the Pappy's Bay Project was discussed.

- 107. In the premises, each of Hewish and Dickinson:
  - a. knew;
  - b. shut his eyes to the obvious fact;
  - c. wilfully and recklessly failed to make such inquiries as an honest and reasonable person would make, which would establish; or
  - d. further or in the alternative, had knowledge of circumstances which would indicate to an honest and reasonable person,that Pappas was engaged in a dishonest and fraudulent design.



108. In the premises, each of Hewish and Dickinson:
- a. is accountable to GCPF for knowing assistance in a dishonest and fraudulent design on the part of Pappas; and
  - b. is accountable to GCPF for any profits he derived from Pappas' breaches of the Fiduciary Duties.
109. By reason of each of Hewish's and Dickinson's participation in Pappas' breaches of the Fiduciary Duties, GCPF has suffered loss and damage.

#### **Particulars**

GCPF's loss and damage includes:

1. the loss of opportunity to purchase and develop the Land and the Project;
2. alternatively, the value of PBD's interest in the Project and/or the Land;
3. the reduction in value of GCPF's interest in the Project caused by the PBD JV Variation Agreement;
4. the loss of opportunity to earn profits from the Project or the Land;
5. the amount paid by GCPF pursuant to the Incentive Agreement; and/or
6. alternatively, 50% of the value of Lot 57.

Further particulars may be provided following discovery and prior to trial.

#### **E.13 Breaches of ss 208 and 209 of the Act**

110. In the premises, PBD and Woodruff were related parties to GCPF within the meaning of s 228 of the Act.
111. At all relevant times, neither GCPF nor any of the GCPF Directors obtained shareholder approval to enter into:
- a. the PBD JV Agreement;
  - b. the PBD JV Variation Agreement; and/or



c. the Incentive Agreement,

or to make the PBD Payments.

112. The entry into the PBD JV Agreement and the PBD JV Variation Agreement, and the making of the PBD Payments, required approval pursuant to s 208 of the Act, as:

a. GCPF was a public company;

b. PBD and Woodruff were related parties to GCPF within the meaning of s 228 of the Act;

c. by reason of the entry into each agreement, and the making of the PBD Payments, GCPF gave financial benefits to PBD within the meaning of s 229 of the Act, being:

(i) in respect of the PBD JV Agreement, the facility of \$15,000,000; and

(ii) in respect of the PBD JV Variation Agreement, the value of GCPF's interest in the Project; and

d. the financial benefits were not on arms-length terms under s 210 of the Act, or otherwise exempt under ss 211 to 216 of the Act.

113. In the premises:

a. each of the GCPF Directors caused GCPF to contravene s 208 of the Act by procuring or allowing GCPF to enter into the PBD JV Agreement and/or the PBD JV Variation Agreement and to make the PBD Payments;

b. each of the GCPF Directors contravened s 209(2) of the Act, as they were involved in GCPF's contravention of s 208, as each of the GCPF Directors:

(i) knew that the members' approval had not been obtained for providing the financial benefits to PBD; and

(ii) did not seek to delay GCPF entering into the PBD JV Agreement and/or the PBD JV Variation Agreement or making the PBD Payments until the members' approval had been obtained.



114. Further, by reason of the matters pleaded in paragraph 110 to 113 above, a director acting with reasonable care and diligence considering whether to approve the entry into the PBD JV Agreement and/or the PBD JV Variation Agreement, or considering making the PBD Payments, would not have exercised their power to approve the entry into either agreement or make any of the PBD Payments in circumstances where the entry into each agreement or the making of the payments would contravene s 208 of the Act.
115. In the premises, by causing GCPF to enter into the PBD JV Agreement and/or the PBD JV Variation Agreement, and by causing GCPF to make the PBD Payments, each of the GCPF Directors acted in contravention of the duty to exercise their powers and discharge their duties with reasonable care and diligence (as pleaded in paragraph 18(a) above).
116. By reason of the GCPF Directors' breaches of s 209(2) of the Act and/or contravention of the Statutory Duty pleaded in paragraph 18(a) above, GCPF has suffered loss and damage.

### **Particulars**

GCPF's loss and damage includes:

1. the loss of opportunity to purchase and develop the Land and the Project;
2. alternatively, the value of PBD's interest in the Project and/or the Land;
3. the reduction in value of GCPF's interest in the Project caused by the PBD JV Variation Agreement;
4. the loss of opportunity to earn profits from the Project or the Land;
5. the amount paid by GCPF pursuant to the Incentive Agreement; and/or
6. alternatively, 50% of the value of Lot 57.

Further particulars may be provided following discovery and prior to trial.



## **F. The Kooyongkoot Project**

### **F.1 Corporate Structure**

117. Kooyongkoot Project Pty Ltd (**Kooyongkoot**) is a private company that was incorporated on 1 December 2020.

118. At all material times:

- a. Filip Gacesa (**Gacesa**) was Kooyongkoot's sole director;
- b. Dickinson and Gacesa were Kooyongkoot's company secretaries; and
- c. the shareholders of Kooyongkoot were Gacesa Holdings Pty Ltd, Bird Rock and Hewish Capital No. 2 in equal shares.

119. At all material times:

- a. Bird Rock was a private company that was incorporated;
- b. Dickinson was the sole director and secretary of Bird Rock; and
- c. Dickinson and his wife, Rowse, were the shareholders of Bird Rock.

120. At all material times:

- a. Hewish Capital No. 2 was a private company that was incorporated; and
- b. Hewish and his wife, Stephanie Hewish, were the directors and shareholders of Hewish Capital No. 2.

### **F.2 Kooyongkoot Properties**

121. By contracts of sale dated 6 November 2020:

- a. Gacesa or nominee agreed to purchase the property located at 148 Riversdale Road, Hawthorn, Victoria for the sum of \$3,250,000;
- b. Gacesa or nominee agreed to purchase the property located at 150 Riversdale Road, Hawthorn, Victoria for the sum of \$3,250,000; and



- c. Gacesa or nominee agreed to purchase the property located at 152 Riversdale Road, Hawthorn Victoria for the sum of \$3,350,000.

(collectively the **Kooyongkoot Properties**).

### **Particulars**

The contracts of sale were in writing and dated 6 November 2020.

- 122. The settlement date under each contract of sale was 9 November 2022, being two years after executing the contracts of sale.
- 123. On 22 December 2020, Kooyongkoot registered caveats over the following Kooyongkoot Properties, on the grounds of having purchasers' contracts for such properties:
  - a. Certificate of Title Volume 11013 Folio 563 (being residential address 148 Riversdale Road, Hawthorn);
  - b. Certificate of Title Volume 09338 Folio 915 (being residential address 150 Riversdale Road, Hawthorn); and
  - c. Certificate of Title Volume 05124 Folio 615 (being residential address 152 Riversdale Road, Hawthorn).
- 124. On 9 November 2022, Kooyongkoot was registered as the owner of the Kooyongkoot Properties.
- 125. Kooyongkoot purchased the Kooyongkoot Properties for the purpose of demolishing the existing houses, and constructing an apartment development with basement levels (**Kooyongkoot Project**). A planning permit was obtained for the development of the Kooyongkoot Project.

### **F.3 GCPF's financing of the Kooyongkoot Project**

- 126. On or around 15 December 2020, GCPF (as lender), Kooyongkoot (as borrower) and Gacesa, Gacesa Holdings Pty Ltd, Bird Rock and Hewish Capital No.2 (as guarantors), entered into a loan agreement (**Kooyongkoot Loan Agreement**).

### **Particulars**



The Kooyongkoot Loan Agreement was in writing and dated 15 December 2020.

127. The terms of the Kooyongkoot Loan Agreement included:
- a. GCPF would make available to Kooyongkoot a loan facility of up to \$9,500,000 (clause 2.1; item 4, Schedule);
  - b. The loan facility was wholly or predominantly for business purposes, and specifically for the purchase, development and sale of the Kooyongkoot Properties (that is, for the purposes of the Kooyongkoot Project) (clause 2.2);
  - c. The loan facility must be repaid on the earlier of 5 years after the first advance from GCPF to Kooyongkoot, or upon completion of the Kooyongkoot Project (clauses 2.3, 3.1; item 5, Schedule);
  - d. Kooyongkoot would pay GCPF interest at 20% per annum compounding annually, or a higher rate of 25% per annum compounding daily in the event of default (clause 3.2.1; items 2&3, Schedule);
  - e. The guarantors (Gacesa Holdings Pty Ltd, Gacesa, Bird Rock and Hewish Capital No. 2) jointly and severally guaranteed that Kooyongkoot would perform its obligations under the Kooyongkoot Loan Agreement, including to pay on demand any amount owing to GCPF (clause 4.1);
  - f. The guarantors' liabilities were limited to the extent of the guarantors' respective interests in the Kooyongkoot Properties and profit entitlement to the Kooyongkoot Project (item 8.6, Schedule);
  - g. GCPF was granted certain security, including a second ranking registrable mortgage in respect of the Kooyongkoot Properties. Kooyongkoot agreed to the mortgage being registered upon:
    - (i) the occurrence of an 'Event of Default';
    - (ii) within 48 hours prior to making an application for the registration of plan of subdivision relating to the Kooyongkoot Properties;



- (iii) on refinancing any first mortgage (clause 5.1.5);
- h. Kooyongkoot permitted GCPF to register caveats to be lodged over title to the Kooyongkoot Properties to secure GCPF's rights under such mortgage and charge, at any time after completion and settlement of the contracts for the purchase of the Kooyongkoot Properties (clause 5.1.7);
- i. Kooyongkoot and the guarantors covenanted with GCPF that each of them will not further encumber nor seek or obtain an advance of further funds using the Kooyongkoot Properties as security, until such time as the loans from GCPF, together with interest and all other payments due hereunder, have been made to GCPF (except as otherwise agreed in writing by GCPF) (clause 5.3);
- j. Upon any 'Event of Default' occurring, GCPF was entitled to (amongst other things) register the mortgage (subject to any consent of the first mortgagee), register a transfer of shares in Kooyongkoot, and take over completion of the Kooyongkoot Project (clause 5.5);
- k. In the event that the following events occurred (amongst other events), an Event of Default occurred and the principal sum plus interest would at the option of GCPF become immediately due and payable by Kooyongkoot to GCPF:
  - (i) Kooyongkoot and/or the guarantors were in breach of any provision of the Kooyongkoot Loan Agreement;
  - (ii) Kooyongkoot and/or the guarantors were unable to pay their debts as and when they fall due;
  - (iii) Kooyongkoot and/or the guarantors, without the prior consent in writing of GCPF, (amongst other events) did mortgage, charge or otherwise deal with the Kooyongkoot Properties; or
  - (iv) Any of the securities (including the mortgage) were no longer valid or subsisting for any reason whatsoever unless GCPF consented in writing to their removal (clause 6.1);
- l. Kooyongkoot and the guarantors undertook that:



- (i) they would not, without GCPF's prior written consent, create or allow to exist any encumbrance, whether ranking ahead of, *pari passu* with, or after the 'Security' (including GCPF's mortgage) to secure any indebtedness upon any of the Kooyongkoot Properties (clause 8.2.1); and
    - (ii) they would ensure that no assets of Kooyongkoot were transferred to any person otherwise than in the ordinary course of business for proper market value (clause 8.2.8).
  - m. Kooyongkoot acknowledged that it would not draw down or seek further funds from the 'First Mortgagee' as secured against the Kooyongkoot Properties over and above the advance of principal from the 'First Mortgagee' as at the 'Advance Date' (item 8.2.3, Schedule);
  - n. The parties acknowledged that GCPF's loan ranked behind the 'First Mortgage' and would continue to do so at all times (item 8.2.5, Schedule); and
  - o. The 'Advance Date' was defined to mean the date that the first advance was made by GCPF to Kooyongkoot under the Kooyongkoot Loan Agreement, given that:
    - (i) The 'First Advance Date' was defined to mean the date of the first advance made by GCPF to Kooyongkoot, as referred to Item 1 of the Schedule (clause 1.1);
    - (ii) The 'Advance Date' was defined to mean the date referred to in Item 1 of the Schedule (clause 1.1); and
    - (iii) Therefore, the 'Advance Date' and the 'First Advance Date' means the same date, being the date of the first advance made by GCPF to Kooyongkoot.
128. The Kooyongkoot Loan Agreement was executed on behalf of (amongst other parties):
- a. GCPF, by being signed by GCPF's directors, Hewish and Dickinson;
  - b. Kooyongkoot, by being signed by Gacesa;



- c. the guarantor, Bird Rock, by being signed by Dickinson;
  - d. the guarantor, Hewish Capital No. 2, by being signed by Hewish.
129. In the premises, Hewish and Dickinson were acting on behalf of both the lender GCPF and the borrower's guarantors Bird Rock and Hewish Capital No. 2 with respect to the Kooyongkoot Loan Agreement and the Kooyongkoot Project.
130. GCPF made the following transfers to Kooyongkoot under the loan facility specified in the Kooyongkoot Loan Agreement (**Kooyongkoot Payments**):

#	Date	Amount
1.	21 December 2020	\$835,000
2.	22 December 2020	\$965,000
3.	15 March 2021	\$1,000,000
4.	07 February 2022	\$600,000
5.	13 May 2022	\$550,000
6.	03 November 2022	\$2,500,000
7.	14 November 2022	\$500,000
8.	24 February 2023	\$150,000
9.	01 March 2024	\$10,000
10.	11 March 2024	\$2,084,750
<b>Total</b>		<b>\$9,194,750</b>

131. Kooyongkoot executed a mortgage over the Kooyongkoot Properties in favour of GCPF dated 18 December 2020 (**Kooyongkoot Mortgage**). However, the Kooyongkoot Mortgage was never registered in favour of GCPF.

#### **Particulars**

The Kooyongkoot Mortgage was in writing and dated 18 December 2020.

132. Further, the GCPF Directors never caused GCPF to register a caveat over the titles to the Kooyongkoot Properties, in accordance with clause 5.1.7 of the Kooyongkoot Loan Agreement.

#### **F.4 Third party loans to Kooyongkoot**

133. By a Letter of Offer dated 3 November 2022, Perpetual Corporate Trustee Ltd (**PCTL**, by its representative La Trobe Financial Services Pty Ltd) loaned \$7,175,000 to



Kooyongkoot for a term of one year. On 9 November 2022, PCTL's loan was secured by a registered first mortgage over the Kooyongkoot Properties.

#### Particulars

The Letter of Offer was in writing and dated 3 November 2022.

134. At GCPF's IRC meeting on 18 July 2023, attended by all of the GCPF Directors, it was said in relation to the Kooyongkoot Project that the 'Developer' (being Kooyongkoot) was aiming to acquire \$800,000 in additional funding and, as a result, "*GCPF will fall to 3<sup>rd</sup> priority behind the senior lender for the 3<sup>rd</sup> loan.*" The GCPF Directors did not explain why GCPF would agree to subordinate its security over the Kooyongkoot Properties, against GCPF's financial interests.

#### Particulars

GCPF refers to minutes of the IRC meeting dated 18 July 2023.

135. On 19 July 2023, The Specialist Property Group Pty Ltd (**Specialist**) registered caveats over the titles to the Kooyongkoot Properties, with respect to Specialist's interest as third mortgagee of the land for a loan of \$400,000 to Kooyongkoot.
136. On 17 August 2023, Possability Group Pty Ltd (**Possability**) registered caveats over the titles to the Kooyongkoot Properties, with respect to Possability's interest as second mortgagee of the land for a loan of \$1,300,000 to Kooyongkoot.
137. By a Priority and Subordination Deed between GCPF, Possability and Kooyongkoot dated 3 August 2023 (**Priority and Subordination Deed**), it was agreed that Kooyongkoot's debt to GCPF, including the Kooyongkoot Mortgage, would be subordinated to Kooyongkoot's debt to Possability. The Priority and Subordination Deed was signed by Dickinson and Hewish on behalf of GCPF, and by Gacesa and Dickinson on behalf of Kooyongkoot.

#### Particulars

The Priority and Subordination Deed was in writing and dated 3 August 2023.

138. GCPF and the GCPF Directors agreed to subordinate its debt to Possability, even though under the terms of the Kooyongkoot Loan Agreement:



- a. Kooyongkoot had undertaken not to create or allow to exist any encumbrance, whether ranking ahead of, *pari passu* with, or after the proposed mortgage in favour of Kooyongkoot, in order to secure any indebtedness upon any of the Kooyongkoot Properties, without GCPF's prior written consent (clause 8.2.1); and
  - b. Kooyongkoot acknowledged that it would not draw down or seek further funds from the 'First Mortgagee' as secured against the Kooyongkoot Properties over and above the advance of principal from the 'First Mortgagee' as at the 'Advance Date' (item 8.2.3, Schedule).
139. Consequently, GCPF and the GCPF Directors had agreed or allowed any security GCPF held over the Kooyongkoot Properties to be subordinated to the claims of PCTL, Specialist and Possability, notwithstanding that:
- a. GCPF had provided its loans to Kooyongkoot first in time, having made loans of \$6,450,000 before the settlement date for the Kooyongkoot Properties (being 9 November 2022). Paragraph 130 above is repeated;
  - b. GCPF having been entitled to register caveats and mortgages over the titles to the Kooyongkoot Properties under the terms of the Kooyongkoot Loan Agreement; and
  - c. GCPF having been entitled to oppose Kooyongkoot from creating any new encumbrance upon any of the Kooyongkoot Properties, or from drawing down further funds from the 'First Mortgagee' under the terms of the Kooyongkoot Loan Agreement.

#### **F.5 GCPF's additional lending to Kooyongkoot**

140. Hewish and Dickinson attended GCPF's IRC meetings at which GCPF's loan to Kooyongkoot was discussed and considered.
141. At GCPF's IRC meeting on 25 January 2024, attended by all of the GCPF Directors, it was said in relation to the Kooyongkoot Project, that additional funding was requested: *"Urgently require approx. \$1.5 million capital to pay consultants and begin marketing to receive the first mortgage and begin construction."*



### Particulars

GCPF's IRC meeting on 25 January 2024 was recorded in written minutes of meeting.

142. In the PCG meeting for the Kooyongkoot Project in February 2024, which was attended by Dickinson, Hewish, Gacesa, Isabella Pappas and Sean Greene, it was reported that Kooyongkoot's discussions with construction lenders was currently on hold, that the loan from Possability was due to be repaid, and that the loan facility from PCTL was in arrears. It was concluded: *"We are in desperate need of capital to keep this project moving."*

### Particulars

The PCG meeting for the Kooyongkoot Project was recorded in a written PCG report No. 34 dated February 2024.

143. On 11 March 2024, GCPF loaned the sum of \$2,084,750 to Kooyongkoot **(Kooyongkoot Additional Payment)**.
144. At the time when GCPF provided this additional loan, Kooyongkoot had received valuations for the Kooyongkoot Properties to the following effect:
- a. PJM & Co provided a valuation to Specialist for the Kooyongkoot Properties as at 23 June 2023 in the amount of \$10,150,000 on an 'as is' basis.
  - b. M3 provided a valuation to Gacesa for the Kooyongkoot Properties as at 4 August 2023 in the amount of \$10,000,000 on an 'as is' basis.

### Particulars

The PJM & Co valuation was in writing and valued as at 23 June 2023, and the M3 valuation was in writing and valued as at 4 August 2023.

145. With respect to GCPF's additional loans to Kooyongkoot made in March 2024, GCPF was unsecured or was not adequately secured, given that:
- a. PCTL had a first registered mortgage over the Kooyongkoot Properties and had provided a loan facility of \$7,500,000;
  - b. Possability and Specialist had second and third mortgages over the Kooyongkoot Properties;



- c. GCPF had already made total loans of \$7,110,000 to Kooyongkoot, that remained unpaid together with interest;
  - d. GCPF had agreed to subordinate its security over the Kooyongkoot Properties to Possability's security; and
  - e. the valuation of the Kooyongkoot Properties, on an 'as is' basis, was only about \$10,000,000 in total.
146. GCPF made this additional loan to Kooyongkoot notwithstanding that:
- a. GCPF had failed to register the Kooyongkoot Mortgage or to lodge a caveat over the titles of the Kooyongkoot Properties;
  - b. GCPF had failed to oppose Kooyongkoot from creating new encumbrances upon the Kooyongkoot Properties in favour of Specialist and Possability;
  - c. Kooyongkoot had failed to discharge the first mortgage in favour of PCTL, even though the time for repayment of the PCTL loan had expired; and
  - d. Kooyongkoot was in arrears for the PCTL loan facility, was due to repay the Possability loan, and was in desperate need of capital.

#### **F.6 Subsequent developments concerning the Kooyongkoot Properties**

147. On 25 October 2024, PCTL (by its representative La Trobe Financial Services Pty Ltd) appointed a controller to Kooyongkoot and entered into possession and took control of the Kooyongkoot Properties, for the purposes of enforcing its mortgage.
148. On 28 March 2025, GCPF agreed to settle its claims against Kooyongkoot and Gacesa (among others), by which GCPF would be paid \$1,000,000 in full and final settlement, including with respect to claims under the Kooyongkoot Loan Agreement, which settlement was approved by the Court.

#### **Particulars**

The Deed of Settlement & Release between GCPF, Kooyongkoot, Gacesa, Pomeroy Pacific Pty Ltd and Possability Group Ltd was in writing and dated 28 March 2025 (**Kooyongkoot Settlement Deed**).



GCPF refers to the judgment in *Re Global Capital Property Fund Ltd (in liq)* [2025] FCA 484.

**F.7 Hewish's and Dickinson's breaches of the Fiduciary Duties and the Statutory Duties**

149. Each of Hewish and Dickinson caused GCPF to enter into the Kooyongkoot Loan Agreement in circumstances in which:

- a. there was a conflict, or a real or substantial possibility of conflict, between:
  - (i) the duties that each of Hewish and Dickinson owed to GCPF; and
  - (ii) each of Hewish's and Dickinson's own interests,

by reason of the following:

- b. Hewish and Dickinson were shareholders of companies that owned the borrower Kooyongkoot;
  - c. Hewish and Dickinson were shareholders of the guarantors Hewish Capital No. 2 and Bird Rock respectively;
  - d. Hewish and Dickinson were acting on behalf of both GCPF and Kooyongkoot, and executed contractual documents on behalf of GCPF as lender, and on behalf of Kooyongkoot's guarantors;
  - e. the shareholders of GCPF never approved entry into the Kooyongkoot Loan Agreement.
150. In the premises, by causing GCPF to enter into the Kooyongkoot Loan Agreement, each of Hewish and Dickinson breached the No Conflict Duty.
151. Further,
- a. the Kooyongkoot Loan Agreement did not allow for GCPF to immediately register a mortgage over the Kooyongkoot Properties as security for GCPF's loans to Kooyongkoot, thereby exposing GCPF to the risk of third party lenders registering mortgages over the Kooyongkoot Properties in priority; and



- b. the guarantors' liabilities were limited to the extent of the guarantors' respective interests in the Kooyongkoot Properties and profit entitlement to the Kooyongkoot Project.

152. By reason of the matters pleaded in paragraphs 149 and 151 above:

- a. a director acting with reasonable care and diligence considering whether to approve the entry into the Kooyongkoot Loan Agreement, would not have exercised their power to approve the entry into the Kooyongkoot Loan Agreement;
- b. the exercise of Hewish's and Dickinson's powers to approve the entry into the Kooyongkoot Loan Agreement was not in good faith in the best interests of GCPF and for a proper purpose; and
- c. by exercising their powers to approve entry into the Kooyongkoot Loan Agreement, each of Hewish and Dickinson improperly used his position to gain an advantage for himself or someone else, or cause detriment to GCPF.

153. In the premises, by causing GCPF to enter into the Kooyongkoot Loan Agreement, Hewish and Dickinson acted in contravention of the Statutory Duties.

154. Each of Hewish and Dickinson caused GCPF to make the Kooyongkoot Payments and the Kooyongkoot Additional Payment in circumstances where:

- a. there was a conflict, or a real or substantial possibility of conflict, between:
  - (i) the duties that each of Hewish and Dickinson owed to GCPF; and
  - (ii) each of Hewish's and Dickinson's own interests; and
- b. by causing GCPF to make each of the Kooyongkoot Payments and the Kooyongkoot Additional Payment, each of Hewish and Dickinson derived an unauthorised profit for himself or one or more third parties,

by reason of the following:

- c. Hewish and Dickinson were shareholders of companies that owned the borrower Kooyongkoot;



- d. Hewish and Dickinson were shareholders of the guarantors Hewish Capital No. 2 and Bird Rock respectively;
  - e. Hewish and Dickinson were acting on behalf of both GCPF and Kooyongkoot, and executed contractual documents on behalf of GCPF as lender, and on behalf of Kooyongkoot's guarantors;
  - f. the shareholders of GCPF never approved entry into the Kooyongkoot Loan Agreement; and
  - g. the shareholders of GCPF never approved the making of any of the Kooyongkoot Payments.
155. In the premises, by causing GCPF to make the Kooyongkoot Payments and the Kooyongkoot Additional Payment, each of Hewish and Dickinson breached the No Conflict Duty and the No Profit Duty.
156. Further, following entry into the Kooyongkoot Loan Agreement, each of Hewish and Dickinson:
- a. failed to cause GCPF to lodge caveats over the titles to the Kooyongkoot Properties in accordance with the Kooyongkoot Loan Agreement as soon as it was entitled to do so, with respect to GCPF's security interests in the Kooyongkoot Properties;
  - b. failed to cause GCPF to register mortgages over the Kooyongkoot Properties in accordance with the Kooyongkoot Loan Agreement as soon as it was entitled to do so;
  - c. caused or allowed GCPF to enter into the Priority and Subordination Deed;
  - d. failed to cause GCPF to declare an Event of Default under the Kooyongkoot Loan Agreement, and to seek recovery of the principal sum and interest outstanding, when:
    - (i) PCTL registered its first mortgage over the Kooyongkoot Properties in November 2022;



- (ii) Specialist registered caveats over the titles to the Kooyongkoot Properties in July 2023; and
  - (iii) Possability registered caveats over the titles to the Kooyongkoot Properties in August 2023;
- e. caused or allowed GCPF to make the Kooyongkoot Payments; and
- f. caused or allowed GCPF to make the Kooyongkoot Additional Payment to Kooyongkoot in March 2024 in circumstances where:
  - (i) in June and August 2023, GCPF had valuations for the Kooyongkoot Properties of approximately \$10 million on an ‘as is’ basis, and other lenders had registered security interests over the Kooyongkoot Properties with respect to substantial loans, so that GCPF was effectively unsecured;
  - (ii) in January 2024, the GCPF Directors and Isabella Pappas had discussed that Kooyongkoot was in urgent need of funding, notwithstanding the substantial secured loans in favour of third party lenders;
  - (iii) in February 2024, Hewish, Dickinson and Isabella Pappas had attended a meeting at which it was discussed that Kooyongkoot Properties was in desperate need of capital, were in arrears on the PCTL loan facility, and were due to repay the Possability loan; and
  - (iv) Kooyongkoot had not repaid its outstanding loans to GCPF, which exceeded \$11,410,078,69 as at March 2024.

157. By reason of the matters pleaded in paragraphs 154 and 156 above:

- a. a director acting with reasonable care and diligence would not have exercised or failed to exercise their powers in the ways set out in paragraph 156 above;
- b. Hewish’s and Dickinson’s exercise of or failure to exercise their powers in the ways set out in paragraph 156 above was not in good faith in the best interests of GCPF and for a proper purpose; and



- c. by exercising or failing to exercise their powers in the ways set out in paragraph 156 above, each of Hewish and Dickinson improperly used his position to gain an advantage for himself or someone else, or cause detriment to GCPF.
158. In the premises, by exercising or failing to exercise their powers in the ways set out in paragraph 156, each of Hewish and Dickinson acted in contravention of the Statutory Duties.
159. By reason of Hewish's and Dickinson's breaches of the Fiduciary Duties and/or Statutory Duties, GCPF has suffered loss and damage.

### **Particulars**

GCPF has not recovered the loan to Kooyongkoot, being the sum of \$16,903,292.45 including interest as at the date of this statement of claim (less the amount of \$1 million paid to GCPF under the Kooyongkoot Settlement Deed).

Further, GCPF's security as against the Kooyongkoot Properties has been subordinated to PCTL, Possability and Specialist.

Further particulars will be provided following discovery and prior to trial.

### **F.8 Pappas' breaches of the Fiduciary Duties and the Statutory Duties**

160. Pappas caused GCPF to enter into the Kooyongkoot Loan Agreement in circumstances in which:
- a. there was a conflict, or a real or substantial possibility of conflict, between:
    - (i) the duties that Pappas owed to GCPF; and
    - (ii) Hewish's and Dickinson's interests,
- by reason of the following:
- b. Hewish and Dickinson were shareholders of companies that owned the borrower Kooyongkoot;
  - c. Hewish and Dickinson were shareholders of the guarantors Hewish Capital No. 2 and Bird Rock respectively;



- d. Hewish and Dickinson were acting on behalf of both GCPF and Kooyongkoot, and executed contractual documents on behalf of GCPF as lender, and on behalf of Kooyongkoot's guarantors; and
  - e. the shareholders of GCPF never approved entry into the Kooyongkoot Loan Agreement.
161. In the premises, by causing GCPF to enter into the Kooyongkoot Loan Agreement, Pappas breached the No Conflict Duty.
162. Further:
- a. the Kooyongkoot Loan Agreement did not allow for GCPF to immediately register a mortgage over the Kooyongkoot Properties as security for GCPF's loans to Kooyongkoot, thereby exposing GCPF to the risk of third party lenders registering mortgages over the Kooyongkoot Properties in priority; and
  - b. the guarantors' liabilities were limited to the extent of the guarantors' respective interests in the Kooyongkoot Properties and profit entitlement to the Kooyongkoot Project.
163. By reason of the matters pleaded in paragraphs 160 and 162 above:
- a. a director acting with reasonable care and diligence considering whether to approve the entry into the Kooyongkoot Loan Agreement, would not have exercised their power to approve the entry into the Kooyongkoot Loan Agreement;
  - b. the exercise of Pappas' powers to approve the entry into the Kooyongkoot Loan Agreement was not in good faith in the best interests of GCPF and for a proper purpose; and
  - c. by exercising his powers to approve entry into the Kooyongkoot Loan Agreement, Pappas improperly used his position to gain an advantage for himself or someone else, or cause detriment to GCPF.
164. In the premises, by causing GCPF to enter into the Kooyongkoot Loan Agreement, Pappas acted in contravention of the Statutory Duties.



165. Pappas caused GCPF to make the Kooyongkoot Payments and the Kooyongkoot Additional Payment in circumstances where:
- a. there was a conflict, or a real or substantial possibility of conflict, between:
    - (i) the duties that Pappas owed to GCPF; and
    - (ii) Hewish's and Dickinson's interests,
- by reason of the following:
- b. Hewish and Dickinson were shareholders of companies that owned the borrower Kooyongkoot;
  - c. Hewish and Dickinson were shareholders of the guarantors Hewish Capital No. 2 and Bird Rock respectively;
  - d. Hewish and Dickinson were acting on behalf of both GCPF and Kooyongkoot, and executed contractual documents on behalf of GCPF as lender, and on behalf of Kooyongkoot's guarantors;
  - e. the shareholders of GCPF never approved entry into the Kooyongkoot Loan Agreement; and
  - f. the shareholders of GCPF never approved the making of any of the Kooyongkoot Payments.
166. In the premises, by causing GCPF to make the Kooyongkoot Payments and the Kooyongkoot Additional Payment, Pappas breached the No Conflict Duty.
167. Further, following entry into the Kooyongkoot Loan Agreement, Pappas:
- a. failed to cause GCPF to lodge caveats over the titles to the Kooyongkoot Properties in accordance with the Kooyongkoot Loan Agreement as soon as it was entitled to do so, with respect to GCPF's security interests in the Kooyongkoot Properties;



- b. failed to cause GCPF to register mortgages over the Kooyongkoot Properties in accordance with the Kooyongkoot Loan Agreement as soon as it was entitled to do so;
- c. caused or allowed GCPF to enter into the Priority and Subordination Deed;
- d. failed to cause GCPF to declare an Event of Default under the Kooyongkoot Loan Agreement, and to seek recovery of the principal sum and interest outstanding, when:
  - (i) PCTL registered its first mortgage over the Kooyongkoot Properties in November 2022;
  - (ii) Specialist registered caveats over the titles to the Kooyongkoot Properties in July 2023; and
  - (iii) Possability registered caveats over the titles to the Kooyongkoot Properties in August 2023;
- e. caused or allowed GCPF to make the Kooyongkoot Payments; and
- f. caused or allowed GCPF to make the Kooyongkoot Additional Payment to Kooyongkoot in March 2024 in circumstances where:
  - (i) in June and August 2023, GCPF had valuations for the Kooyongkoot Properties of approximately \$10 million on an 'as is' basis, and other lenders had registered security interests over the Kooyongkoot Properties with respect to substantial loans, so that GCPF was effectively unsecured;
  - (ii) in January 2024, the GCPF Directors and Isabella Pappas had discussed that Kooyongkoot was in urgent need of funding, notwithstanding the substantial secured loans in favour of third party lenders;
  - (iii) in February 2024, Hewish, Dickinson and Isabella Pappas had attended a meeting at which it was discussed that Kooyongkoot Properties was in desperate need of capital, were in arrears on the PCTL loan facility, and were due to repay the Possability loan; and



- (iv) Kooyongkoot had not repaid its outstanding loans to GCPF, which exceeded \$11,410,078,69 as at March 2024.

168. By reason of the matters pleaded in paragraph 165 and 167 above:

- a. a director acting with reasonable care and diligence would not have exercised or failed to exercise their powers in the ways set out in paragraph 167 above;
- b. Pappas' exercise of or failure to exercise his powers in the ways set out in paragraph 167 above was not in good faith in the best interests of GCPF and for a proper purpose; and
- c. by exercising or failing to exercise his powers in the ways set out in paragraph 167 above, Pappas improperly used his position to gain an advantage for himself or someone else, or cause detriment to GCPF.

169. In the premises, by exercising or failing to exercise his powers in the ways set out in paragraph 167, Pappas acted in contravention of the Statutory Duties.

170. By reason of Pappas' breaches of the No Conflict Duty and/or contravention of the Statutory Duties, GCPF has suffered loss and damage.

### **Particulars**

GCPF has not recovered the loan to Kooyongkoot, being the sum of \$13,089,150.00 including interest as at the date of this statement of claim (less the amount of \$1 million paid to GCPF under the Kooyongkoot Settlement Deed).

Further, GCPF's security as against the Kooyongkoot Properties has been subordinated to PCTL, Possability and Specialist.

Further particulars will be provided following discovery and prior to trial.

### **F.9 Pappas' accessory liability**

171. Further or alternatively, Hewish's and Dickinson's breaches of the Fiduciary Duties and the Statutory Duties pleaded at Part F.7 above constituted a dishonest and fraudulent design for the following reasons:

- a. those breaches were deliberate;



- b. those breaches were self-interested; and
- c. those breaches were committed in circumstances where:
  - (i) elements of them were concealed from the shareholders of GCPF; and
  - (ii) further or in the alternative, the shareholders of GCPF never approved the conduct entailed in the breaches.

### **Particulars**

The shareholders of GCPF did not approve entry into the Kooyongkoot Loan Agreement.

The shareholders of GCPF did not approve the making of any of the Kooyongkoot Payments or the Kooyongkoot Additional Payment.

172. Pappas participated in Hewish's and Dickinson's breaches of the Fiduciary Duties and the Statutory Duties, including by:
- a. participating in meetings of the GCPF Directors at which the Kooyongkoot Project was discussed;
  - b. exercising his powers as a GCPF Director to cause GCPF to enter into the Kooyongkoot Loan Agreement;
  - c. exercising his powers as a GCPF Director to cause GCPF to make the Kooyongkoot Payments and the Kooyongkoot Additional Payment; and
  - d. exercising or failing to exercise his powers as a GCPF Director in the ways set out in paragraph 167.

### **Particulars**

Pappas has, at all material times, been a GCPF Director.

Pappas is recorded as present at meetings of the GCPF Board of Directors, GCPF IRC, and GCPF PCG from 6 August 2020 to 20 June 2024 at which the Kooyongkoot Project was discussed.

173. Pappas participated in Hewish's and Dickinson's breaches of the Fiduciary Duties and the Statutory Duties in circumstances where he knew:



- a. the content of Hewish's and Dickinson's Fiduciary Duties and Statutory Duties to GCPF; and
- b. the matters pleaded at paragraphs 149, 151, 154 and 156 above.

### **Particulars**

Pappas is a GCPF Director and is himself bound by the Fiduciary Duties and the Statutory Duties.

Pappas is recorded as present at meetings of the GCPF Board of Directors, GCPF IRC, and GCPF PCG from 6 August 2020 to 20 June 2024 at which the Kooyongkoot Project was discussed.

174. In the premises, Pappas:

- a. knew;
- b. shut his eyes to the obvious fact;
- c. wilfully and recklessly failed to make such inquiries as an honest and reasonable person would make, which would establish; or
- d. further or in the alternative, had knowledge of circumstances which would indicate to an honest and reasonable person,

that Hewish and Dickinson were engaged in a dishonest and fraudulent design.

175. In the premises, Pappas:

- a. is accountable to GCPF for knowing assistance in a dishonest and fraudulent design on the part of Hewish and Dickinson; and
- b. is accountable to GCPF for any profits he derived from Hewish's and Dickinson's breaches of the Fiduciary Duties.

176. By reason of Pappas' participation in Hewish's and Dickinson's breaches of the Fiduciary Duties, GCPF has suffered loss and damage.

### **Particulars**



GCPF has not recovered the loan to Kooyongkoot, being the sum of \$13,089,150.00 including interest as at the date of this statement of claim (less the amount of \$1 million paid to GCPF under the Kooyongkoot Settlement Deed);

Further, GCPF's security as against the Kooyongkoot Properties has been subordinated to PCTL, Possability and Specialist.

Further particulars will be provided following discovery and prior to trial.

#### **F.10 Breaches of ss 208 and 209 of the Act**

177. In the premises, Kooyongkoot, Bird Rock and Hewish Capital No. 2 were related parties to GCPF within the meaning of s 228 of the Act.

178. At all relevant times, neither GCPF nor any of the GCPF Directors obtained shareholder approval to enter into:

- a. the Kooyongkoot Loan Agreement;
- b. the Priority and Subordination Deed;
- c. the making of the Kooyongkoot Payments; or
- d. the making of the Kooyongkoot Additional Payment.

179. The entry into each of the agreements, and the making of the payments, referred to in paragraph 178 above required approval pursuant to s 208 of the Act, as:

- a. GCPF was a public company;
- b. Kooyongkoot, Bird Rock and Hewish Capital No. 2 were related parties to GCPF;
- c. by reason of the entry into each of the agreements and the making of each of the payments, GCPF gave financial benefits to Kooyongkoot, within the meaning of s 229 of the Act, being:
  - (i) the provision of finance to Kooyongkoot; and
  - (ii) agreeing to subordinate its security to third party lenders (in order to allow Kooyongkoot to obtain additional finance from such lenders); and



- d. the financial benefits were not on arms-length terms under s 210 of the Act, or otherwise exempt under ss 211 to 216 of the Act.
180. In the premises:
- a. each of the GCPF Directors caused GCPF to contravene s 208 of the Act by procuring or allowing GCPF to enter into each of the agreements and to make each of the payments referred to in paragraph 178 above;
  - b. each of the GCPF Directors contravened s 209(2) of the Act, as they were involved in GCPF's contravention of s 208, as each of the GCPF Directors:
    - (i) knew that the members' approval had not been obtained for providing the financial benefits to Kooyongkoot; and
    - (ii) did not seek to delay GCPF entering into the any of the agreements or making any of the payments referred to in paragraph 178 above until the members' approval had been obtained.
181. Further, by reason of the matters pleaded in paragraphs 178 to 180 above, a director acting with reasonable care and diligence considering whether to approve the entry into the agreements or considering making the payments referred to in paragraph 178 above would not have exercised their power to approve the entry into either agreement or make any of the payments in circumstances where the entry into each agreement or the making of the payments would contravene s 208 of the Act.
182. In the premises, by causing GCPF to enter into the agreements and to make the payments referred to in paragraph 178 above, each of the GCPF Directors acted in contravention of the duty to exercise their powers and discharge their duties with reasonable care and diligence (as pleaded in paragraph 18(a) above).
183. By reason of the GCPF Directors' breaches of s 209(2) of the Act and/or contravention of the Statutory Duty pleaded in paragraph 18(a) above, GCPF has suffered loss and damage.

### **Particulars**



GCPF has not recovered the loan to Kooyongkoot, being the sum of \$13,089,150.00 including interest as at the date of this statement of claim (less the amount of \$1 million paid to GCPF under the Kooyongkoot Settlement Deed);

Further, GCPF's security as against the Kooyongkoot Properties has been subordinated to PCTL, Possability and Specialist.

Further particulars will be provided following discovery and prior to trial.

## **G. The Carlile Project**

### **G.1 Corporate structure**

184. At all material times:

- a. 929 High Street Armadale Pty Ltd (**929 High Street**) was a private company that was incorporated;
- b. Dickinson and Hewish were directors of 929 High Street. Ronald John Wilson was an additional director of 929 High Street until his resignation on 30 September 2020;
- c. the shareholders of 929 High Street were Bird Rock, Hewish Capital and Giftboxesonline Pty Ltd in equal shares.

185. At all material times, Dickinson was the sole director and company secretary of Bird Rock. Dickinson and Rowse were the shareholders of Bird Rock.

186. At all material times:

- a. Hewish Capital was a private company that was incorporated;
- b. Hewish and his wife Stephanie Hewish were the sole directors, company secretaries and shareholders.

### **G.2 Carlile Properties**

187. On 9 April 2019, 929 High Street was registered as the owner of the following properties at 929 High Street, Armadale, Victoria (**Carlile Properties**):

- a. Certificate of Title Volume 3182 Folio 351; and



- b. Certificate of Title Volume 4534 Folio 665.
188. 929 High Street purchased the Carlile Properties for the purpose of constructing an apartment development (**Carlile Project**).

### **G.3 GCPF's financing of the Carlile Project**

189. On 18 December 2020, GCPF (as lender), 929 High Street (as borrower), and Hewish and Dickinson (as guarantors) entered into a loan agreement (**Carlile Loan Agreement**). The terms of the Carlile Loan Agreement included:
- a. GCPF would make available to 929 High Street a loan facility of up to \$8.5 million (clause 2.1; item 4, Schedule);
  - b. The loan facility was for business purposes, and specifically for the development of the Carlile Properties (that is for the Carlile Project) (clause 2.2);
  - c. The loan facility must be repaid on the earlier of 4 years after the first advance from GCPF to 929 High Street on 23 December 2020, or upon completion of the Carlile Project (clauses 2.3, 3.1; items 1, 5, Schedule);
  - d. 929 High Street would pay GCPF interest at 17% per annum compounding annually, or a higher rate of 20% compounding daily in the event of default (clause 3.2.1; items 2& 3, Schedule);
  - e. GCPF was granted certain security, including a second ranking registrable mortgage in respect of the Carlile Properties. 929 High Street agreed to the mortgage being registered upon:
    - (i) the occurrence of an 'Event of Default';
    - (ii) within 48 hours prior to making an application for the registration of plan of subdivision relating to the Carlile Properties;
    - (iii) refinancing of the first mortgage (clause 5.1.2);
  - f. Further, 929 High Street charged all of its present and future right, title and interest in the Carlile Properties (clause 5.1.1);



- g. 929 High Street permitted GCPF to lodge a caveat over title to the Carlile Properties to secure GCPF's rights under such mortgage and charge (clause 5.1.3);
- h. GCPF was not obliged to make the loan facility available to 929 High Street unless various conditions were satisfied, including GCPF lodging the caveat (item 8.1.1, Schedule);
- i. 929 High Street would procure signed forms for the transfer of shares held by its shareholders to be held in escrow by GCPF's solicitors, and lodged with ASIC at GCPF's discretion upon the occurrence of an Event of Default (clause 5.1.4);
- j. 929 High Street and the guarantors covenanted with GCPF that each of them would not further encumber nor seek or obtain an advance of further funds using the Carlile Properties as security, until such as the loans from GCPF, together with interest and all other payments due hereunder, had been made to GCPF (except as otherwise agreed in writing by GCPF) (clause 5.3);
- k. Upon any 'Event of Default' occurring, GCPF was entitled to (amongst other things) register the mortgage (subject to any consent of the first mortgagee), and register a transfer of shares in 929 High Street (clause 5.5);
- l. In the event that the following events occurred (amongst other events), an Event of Default occurred and the principal sum plus interest would at the option of GCPF become immediately due and payable by 929 High Street to GCPF:
  - (i) 929 High Street and/or the guarantors were in breach of any provision of the Carlile Loan Agreement;
  - (ii) 929 High Street and/or the guarantors were unable to pay their debts as and when they fall due;
  - (iii) 929 High Street and/or the guarantors, without the prior consent in writing of GCPF, (amongst other events) did mortgage, charge or otherwise deal with the Carlile Properties; or



- (iv) any of the securities (including the mortgage) were no longer valid or subsisting for any reason whatsoever unless GCPF consented in writing to their removal (clause 6.1);
- m. 929 High Street and the guarantors undertook that:
  - (i) they would not, without GCPF's prior written consent, create or allow to exist any encumbrance, whether ranking ahead of, *pari passu* with, or after the security granted to GCPF (including GCPF's mortgage), to secure any indebtedness upon any of the Carlile Properties (clause 8.2.1); and
  - (ii) they would ensure that no assets of 929 High Street were transferred to any person otherwise than in the ordinary course of business for proper market value (clause 8.2.8);
- n. 929 High Street acknowledged that they would not draw down or seek further funds from the 'First Mortgagee' as secured against the Carlile Properties over and above the advance of principal from the 'First Mortgagee' as at the 'Advance Date', being 23 December 2020 (item 8.2.3, Schedule); and
- o. the parties acknowledged that GCPF's loan ranked behind the 'First Mortgage' and would continue to do so at all times (item 8.2.5, Schedule).

### **Particulars**

The Carlile Loan Agreement was in writing and dated 18 December 2020.

190. Further, under the terms of the Carlile Loan Agreement, Hewish and Dickinson agreed that:
- a. they jointly and severally guaranteed that 929 High Street would fully and punctually pay and perform all its obligations under the Carlile Loan Agreement (clause 4.1.1);
  - b. they would pay on demand any amount owing to GCPF or which GCPF is entitled to recover from 929 High Street under the Carlile Loan Agreement (clause 4.1.2); and



- c. they would indemnify GCPF against all loss resulting from GCPF having entered into the Carlile Loan Agreement from 929 High Street's failure to perform its contractual obligations (clause 4.1.3).
191. The Carlile Loan Agreement was signed on behalf of GCPF by Hewish and Dickinson, on behalf of 929 High Street by Hewish and Dickinson, and by Hewish and Dickinson as guarantors.

#### **G.4 Carlile Guarantees**

192. Further, by Deeds of Guarantee and Indemnity dated 18 December 2020 between (i) GCPF and Hewish; and (ii) GCPF and Dickinson respectively (**Carlile Guarantees**), Hewish and Dickinson agreed that:
- a. they guaranteed to GCPF all monies payable pursuant to the Carlile Loan Agreement and 929 High Street's due performance of all terms and conditions of the Carlile Loan Agreement (clause 2);
  - b. they guaranteed to GCPF the due and punctual payment of all debts and monetary liabilities of 929 High Street to GCPF under the Carlile Loan Agreement (as amended in writing), irrespective of whether (i) the debts or liabilities are present, past or future, (ii) are actual, prospective, contingent or otherwise, and (iii) are at any time ascertained or unascertained (clauses 1.1, 3.1);
  - c. if such guaranteed moneys were not paid when due, the guarantors would pay the guaranteed moneys to GCPF (clause 3.2);
  - d. they would indemnify GCPF from any damage or loss which GCPF incurs, in respect of 929 High Street's failure to pay such guaranteed moneys when due under the Carlile Loan Agreement (clause 7.1); and
  - e. they would pay interest on any amount due in accordance with the Carlile Loan Agreement and the Carlile Guarantees (clause 9.1).

#### **Particulars**

The Carlile Guarantees were in writing and dated 18 December 2020.



193. The Carlile Loan Agreement was varied by the following variations of loan deed:
- a. Deed of Variation of Loan Deed dated 19 November 2021, providing for increase of GCPF's loan facility to 929 High Street to \$9,250,000 (**First Carlile Variation**);
  - b. Deed of Variation of Loan Deed dated 19 August 2022, providing for increase of GCPF's loan facility to 929 High Street to \$11,000,000 (**Second Carlile Variation**);
  - c. Deed of Variation of Loan Deed dated 23 June 2023, providing for increase of GCPF's loan facility to 929 High Street to \$11,500,000 (**Third Carlile Variation**);
  - d. Deed of Variation of Loan Deed dated 2 November 2023, providing for increase of GCPF's loan facility to 929 High Street to \$15,500,000 (**Fourth Carlile Variation**).

(together, the **Carlile Variation of Loan Deeds**.)

#### **Particulars**

1. The First Carlile Variation was in writing and dated 19 November 2021;
  2. The Second Carlile Variation was in writing and dated 19 August 2022;
  3. The Third Carlile Variation was in writing and dated 23 June 2023;
  4. The Fourth Carlile Variation was in writing and dated 2 November 2023.
194. Pursuant to the Carlile Variation of Loan Deeds, Hewish and Dickinson agreed that they would continue to guarantee 929 High Street's obligations under the Carlile Loan Agreement as varied by the Carlile Variation of Loan Deeds (clause 3, Carlile Variation of Loan Deeds).
195. In relation to the execution of the Carlile Variation of Loan Deeds, each of the GCPF Directors (including Hewish and Dickinson) signed contractual documents on behalf of



GCPF. Hewish and Dickinson signed the Carlile Variation of Loan Deeds on behalf of 929 High Street, and as guarantors. In particular:

- a. The First Carlile Variation was signed by Pappas and Isabella Pappas on behalf of GCPF, by Hewish and Dickinson on behalf of 929 High Street, and by Hewish and Dickinson as guarantors;
  - b. The Second Carlile Variation was signed by Pappas and Isabella Pappas on behalf of GCPF;
  - c. The Third Carlile Variation was signed by Pappas and Isabella Pappas on behalf of GCPF, by Hewish and Dickinson on behalf of 929 High Street, and by Hewish and Dickinson as guarantors;
  - d. The Fourth Carlile Variation was signed by Hewish and Dickinson on behalf of GCPF, by Hewish and Dickinson on behalf of 929 High Street, and by Hewish and Dickinson as guarantors.
196. In the premises, Hewish and Dickinson were acting on behalf of each of the lender GCPF, the borrower 929 High Street, and as guarantors with respect to the Carlile Loan Agreement and the Carlile Project.
197. None of the GCPF Directors procured GCPF to:
- a. register caveats against the titles for the Carlile Properties; or
  - b. register mortgages over the Carlile Properties, or to procure 929 High Street to execute such mortgages.
198. GCPF made the following transfers to or on behalf of 929 High Street under the loan facility specified in the Carlile Loan Agreement up until December 2023 (and before the additional loans provided by GCPF in March 2024 as specified in Part G.7) (**Carlile Payments**).

#	Date	Drawdown
1.	23 Dec 2020	\$500,000.00
2.	22 Feb 2021	\$7,500,000.00
3.	15 Jun 2021	\$500,000.00



#	Date	Drawdown
4.	22 Nov 2021	\$200,000.00
5.	25 Jan 2022	\$200,000.00
6.	13 May 2022	\$200,000.00
7.	29 Aug 2022	\$700,000.00
8.	29 Aug 2022	\$703,852.60
9.	16 May 2023	\$300,000.00
10.	01 Jun 2023	\$196,147.40
11.	27 Jun 2023	\$450,000.00
12.	10 Nov 2023	\$200,000.00
13.	07 Mar 2024	\$1,819,295.03
14.	07 Mar 2024	\$14,900.00
15.	07 Mar 2024	\$349,765.55
16.	23 May 2024	\$300,000.00
17.	19 Jun 2024	\$332,247.30
18.	19 Jun 2024	\$187,000.00
19.	27 Aug 2024	\$108,168.76
20.	27 Aug 2024	\$9,790.00
21.	27 Aug 2024	\$3,300.00
<b>Total</b>		<b>\$14,774,466.64</b>

#### **G.5 Third party loans to 929 High Street**

199. As at 18 December 2020, being the date of the Carlile Loan Agreement, the first registered mortgagee of the Carlile Properties was Equity-One Mortgage Fund Ltd (**EOMFL**).
200. On 2 November 2022, the first registered mortgage in favour of EOMFL was discharged.
201. Also on 2 November 2022, Monark Finance Dev 107 Pty Ltd (**Monark**) became the first-registered mortgagee of the Carlile Properties.
202. On 27 July 2023, Cobild Pty Ltd (**Cobild**) became the second-registered mortgagee of the Carlile Properties.
203. In accordance with clause 5.1.2 of the Carlile Loan Agreement, GCPF was entitled to register a mortgage over the Carlile Properties immediately upon:



- a. refinancing the first mortgage of EOMFL on 2 November 2022; and/or
  - b. the occurrence of an Event of Default. In accordance with clause 6.1.9 of the Carlile Loan Agreement, it was an Event of Default for 929 High Street to register the mortgages in favour of Monark and Cobild without GCPF's consent.
204. Nonetheless, GCPF and the GCPF Directors:
- a. failed or refused to register a mortgage over the Carlile Properties;
  - b. failed or refused to lodge a caveat over the titles to the Carlile Properties;
  - c. in accordance with clause 6.1 of the Carlile Loan Agreement, upon an Event of Default, failed or refused to demand the immediate payment of the principal sum plus interest due by 929 High Street to GCPF;
  - d. acquiesced in or accepted the registration of mortgages over the Carlile Properties in favour of Monark and Cobild; and
  - e. extended GCPF's loan facility to 929 High Street pursuant to the Carlile Variation of Loan Deeds.

#### **G.6 The GCPF Directors' knowledge of losses on the Carlile Project**

205. In August 2022, Hub Property Group as property managers prepared a feasibility report for the Carlile Project, addressed to Hewish and Dickinson (amongst others). The feasibility report specified that it was expected that the Carlile Project would suffer net losses of \$3,637,318.

##### **Particulars**

Hub Property Group Report dated August 2022.

206. In June 2024, Argus Estate Master prepared a feasibility report for the Carlile Project, specifying that it was expected that the Carlile Project would suffer net losses of \$5,834,526.

##### **Particulars**

Argus Estate Masters Report dated June 2024.



207. As specified in such feasibility reports, the expected losses for the Carlile Project increased during the period between August 2022 and June 2024.
208. Further, at IRC meetings of GCPF in 2023 and early 2024, attended by each of the GCPF Directors, the participants referred to the Carlile Project experiencing funding difficulties. In particular:
- a. at the IRC meeting in July 2023 it was explained that, in relation to the Carlile Project, the first mortgage lenders had raised concerns, and that *“GCPF will have strict guidelines in place to ensure the project doesn’t continue to perform poorly.”*
  - b. at the IRC meeting in August 2023, it was said in relation to the Carlile Project, that there were not enough funds in the bank to pay certain invoices.
  - c. at the IRC meeting in January 2024, it was said in relation to the Carlile Project, that there was a dispute with the builder Cobild.

#### **Particulars**

GCPF refers to the minutes of the IRC meeting dated 18 July 2023, 22 August 2023 and 25 January 2024.

#### **G.7 GCPF’s additional lending to 929 High Street**

209. Between March and June 2024, GCPF loaned 929 High Street the additional sum of \$2,988,307.88 from the proceeds of sale of the Option Land (**Carlile Additional Payments**).

#### **Particulars**

The sums loaned comprised the following transfers:

#	Date	Amount
1.	7 March 2024	1,819,295.03
2.	7 March 2024	\$14,900
3.	7 March 2024	\$349,765.55
4.	23 May 2024	\$300,000.00



#	Date	Amount
5.	19 June 2024	\$187,000.00
6.	19 June 2024	\$332,247.30
<b>Total</b>		<b>\$3,003,207.88</b>

210. At the time that GCPF loaned such additional funds to 929 High Street:

- a. GCPF had not lodged caveats with respect to title to the Carlile Properties;
- b. GCPF had not registered mortgages over the Carlile Properties;
- c. The GCPF Directors were aware that a first mortgage had been registered in favour of Monark, and a second mortgage in favour of Cobild, which had priority to GCPF's claims against 929 High Street under the Carlile Loan Agreement secured by the Carlile Properties; and
- d. The GCPF Directors were aware that feasibility reports for the Carlile Project prepared in 2022 had forecast that the Carlile Project was projected to suffer losses exceeding \$3.6 million.

#### **G.8 Subsequent developments concerning the Carlile Properties**

211. On 6 September 2024, Mr David Hardy and Mr John Lindholm of KPMG were appointed by Monark as receivers and managers of the Carlile Properties.

#### **G.9 Claim under the Carlile Loan Agreement & under the Carlile Guarantees**

212. In accordance with clauses 2.3 and 3.1 of the Carlile Loan Agreement (as amended), 929 High Street was required to repay the loan facility amount to GCPF on 23 December 2024, being 4 years after the first advance from GCPF to 929 High Street on 23 December 2020.

213. In breach of the Carlile Loan Agreement, 929 High Street has failed or refused to repay the loan facility amount to GCPF in accordance with the Carlile Loan Agreement or at all.



214. As at 22 August 2025, 929 High Street is liable to pay the sum of \$27,887,878.56, including contractual interest, with respect to GCPF's loan to 929 High Street under the Carlile Loan Agreement (as amended).
215. Further, interest continues to accrue on the outstanding sum of \$27,887,878.56 due by 929 High Street to GCPF, being interest at a rate of 20% per annum, equivalent to the sum of \$15,270.57 per day.
216. Further, pursuant to clause 4.1 of the Carlile Loan Agreement, and further or alternatively pursuant to clauses 2, 3.1, 3.2, 7.1 and 9.1 of the Carlile Guarantees, Hewish and Dickinson are liable as guarantors:
- a. to pay the sums owing by 929 High Street to GCPF under the Carlile Loan Agreement (as amended), inclusive of interest, being the sum of \$27,887,878.56 as at 22 August 2025, together with interest accruing at \$15,270.57 per day; and/or
  - b. jointly and severally to indemnify GCPF against all loss resulting from GCPF having entered into the Carlile Loan Agreement (as amended), arising from 929 High Street having failed to repay the sum of \$27,887,878.56 as at 22 August 2025, together with interest accruing at \$15,270.57 per day.
217. By letter dated on or around the date of this statement of claim, GCPF's solicitors Arnold Bloch Leibler wrote to Hewish and Dickinson, demanding payment of \$27,887,878.56 under the terms of the Carlile Loan Agreement (as amended) and the Carlile Guarantees.

### **Particulars**

The letter was in writing and dated on or around the date of this statement of claim.

218. In breach of the Carlile Loan Agreement (as amended) and the Carlile Guarantees, Hewish and Dickinson have failed to pay such sum to GCPF.



**G.10 Hewish's and Dickinson's breaches of the Fiduciary Duties and the Statutory Duties**

219. Each of Hewish and Dickinson caused GCPF to enter into the Carlile Loan Agreement and the Carlile Variation of Loan Deeds in circumstances in which:

- a. there was a conflict, or a real or substantial possibility of a conflict, between:
  - (i) the duties that each of Hewish and Dickinson owed to GCPF; and
  - (ii) each of Hewish's and Dickinson's own interests,

by reason of the following:

- b. Hewish and Dickinson were directors and shareholders of private companies that owned the borrower 929 High Street;
- c. Hewish and Dickinson were directors of 929 High Street;
- d. Hewish and Dickinson acted on behalf of both GCPF and 929 High Street, in circumstances where they had executed contractual documents on behalf of both parties; and
- e. the shareholders of GCPF never approved entry into the Carlile Loan Agreement.

220. In the premises, by causing GCPF to enter into the Carlile Loan Agreement and the Carlile Variation of Loan Deeds, each of Hewish and Dickinson breached the No Conflict Duty.

221. Further, the Carlile Loan Agreement did not allow for GCPF to immediately register a mortgage over the Carlile Properties as security for GCPF's loans to 929 High Street, thereby exposing GCPF to the risk of third party lenders registering mortgages over the Carlile Properties in priority, and for GCPF's security to be subordinated.

222. By reason of the matters pleaded in paragraphs 219 and 221 above:

- a. a director acting with reasonable care and diligence considering whether to approve the entry into the Carlile Loan Agreement or the Carlile Variation of



Loan Deeds, would not have exercised their power to approve the entry into the Carlile Loan Agreement or any of the Carlile Variation of Loan Deeds;

- b. the exercise of Hewish's and Dickinson's powers to approve the entry into the Carlile Loan Agreement and the Carlile Variation of Loan Deeds was not in good faith in the best interests of GCPF and for a proper purpose; and
  - c. by exercising their powers to approve entry into the Carlile Loan Agreement and the Carlile Variation of Loan Deeds, each of Hewish and Dickinson improperly used his position to gain an advantage for himself or someone else, or cause detriment to GCPF.
223. Each of Hewish and Dickinson caused GCPF to make the Carlile Payments and the Carlile Additional Payments in circumstances where:
- a. There was a conflict, or a real or substantial possibility of a conflict, between:
    - (i) the duties that each of Hewish and Dickinson owed to GCPF; and
    - (ii) each of Hewish's and Dickinson's own interests; and
  - b. by causing GCPF to make each of the Carlile Payments and the Carlile Additional Payments, each of Hewish and Dickinson derived an unauthorised profit for himself or one or more third parties,
- by reason of the following:
- c. Hewish and Dickinson were directors and shareholders of private companies that owned the borrower 929 High Street;
  - d. Hewish and Dickinson were directors of 929 High Street;
  - e. Hewish and Dickinson acted on behalf of both GCPF and 929 High Street, in circumstances where they had executed contractual documents on behalf of both parties;
  - f. the shareholders of GCPF never approved entry into the Carlile Loan Agreement or any of the Carlile Variation of Loan Deeds; and



- g. the shareholders of GCPF never approved the making of any of the Carlile Payments or the Carlile Additional Payments.
224. In the premises, by causing GCPF to make the Carlile Payments and the Carlile Additional Payments, each of Hewish and Dickinson breached the No Conflict Duty and the No Profit Duty.
225. Further, following entry into the Carlile Loan Agreement, each of Hewish and Dickinson:
- a. failed to procure GCPF to lodge caveats over the titles to the Carlile Properties in accordance with the Carlile Loan Agreement as soon as it was entitled to do so;
  - b. failed to procure GCPF to register mortgages over the Carlile Properties in accordance with the Carlile Loan Agreement as soon as it was entitled to do so;
  - c. procured or allowed 929 High Street to obtain additional funding for the Carlile Project, and to allow registration of the mortgages of Monark and Cobild over the Carlile Properties, in breach of the Carlile Loan Agreement;
  - d. failed to cause GCPF to declare an Event of Default under the Carlile Loan Agreement, and to seek recovery of the principal sum and interest outstanding, when Monark registered its first mortgage over the Carlile Properties in November 2022 or, alternatively, when Cobild registered its second mortgage in July 2023;
  - e. caused or allowed GCPF to make the Carlile Payments; and
  - f. caused or allowed GCPF to make the Carlile Additional Payments in circumstances where:
    - (i) the GCPF Directors had been informed in 2022 that the Carlile Project was forecast to suffer losses exceeding \$3,600,000;
    - (ii) in 2023 and early 2024, the GCPF Directors had discussed that the Carlile Project was unable to pay invoices and was involved in a dispute with its builders; and



- (iii) 929 High Street had not repaid its outstanding loans to GCPF, which already exceeded \$19,578,514.41 as at March 2024.

226. By reason of the matters pleaded in paragraph 223 and 225 above:

- a. a director acting with reasonable care and diligence would not have exercised or failed to exercise their powers in the ways set out in paragraph 225 above;
- b. Hewish's and Dickinson's exercise or failure to exercise their powers in the ways set out in paragraph 225 above was not in good faith in the best interests of GCPF and for a proper purpose; and
- c. by exercising or failing to exercise their powers in the ways set out in paragraph 225 above, each of Hewish and Dickinson improperly used his position to gain an advantage for himself or someone else, or cause detriment to GCPF.

227. In the premises, by exercising or failing to exercise their powers in the ways set out in paragraph 225, each of Hewish and Dickinson acted in contravention of the Statutory Duties.

228. By reason of Hewish's and Dickinson's breaches of the Fiduciary Duties and/or contravention of the Statutory Duties, GCPF has suffered loss and damage.

### **Particulars**

GCPF has not recovered the loan to 929 High Street, being the sum of \$27,887,878.56 including interest as at 22 August 2025.

Further, GCPF's security as against the Carlile Properties has been subordinated to Monark and Cobild.

Further particulars will be provided following discovery and prior to trial.

### **G.11 Pappas' breaches of the Fiduciary Duties and the Statutory Duties**

229. Pappas caused GCPF to enter into the Carlile Loan Agreement and the Carlile Variation of Loan Deeds in circumstances in which:

- a. there was a conflict, or a real or substantial possibility of a conflict, between:
  - (i) the duties that Pappas owed to GCPF; and



(ii) Hewish's and Dickinson's interests,

by reason of the following:

- b. Hewish and Dickinson were directors and shareholders of private companies that owned the borrower 929 High Street;
  - c. Hewish and Dickinson were directors of 929 High Street;
  - d. Hewish and Dickinson acted on behalf of both GCPF and 929 High Street, in circumstances where they had executed contractual documents on behalf of both parties; and
  - e. the shareholders of GCPF never approved entry into the Carlile Loan Agreement.
230. In the premises, by causing GCPF to enter into the Carlile Loan Agreement and the Carlile Variation of Loan Deeds, Pappas breached the No Conflict Duty.
231. Further, the Carlile Loan Agreement did not allow for GCPF to immediately register a mortgage over the Carlile Properties as security for GCPF's loans to 929 High Street, thereby exposing GCPF to the risk of third party lenders registering mortgages over the Carlile Properties in priority, and for GCPF's security to be subordinated.
232. By reason of the matters pleaded in paragraphs 229 and 231 above:
- a. a director acting with reasonable care and diligence considering whether to approve the entry into the Carlile Loan Agreement or the Carlile Variation of Loan Deeds, would not have exercised their power to approve the entry into the Carlile Loan Agreement or any of the Carlile Variation of Loan Deeds;
  - b. the exercise of Pappas' powers to approve the entry into the Carlile Loan Agreement and the Carlile Variation of Loan Deeds was not in good faith in the best interests of GCPF and for a proper purpose; and
  - c. by exercising his powers to approve entry into the Carlile Loan Agreement and the Carlile Variation of Loan Deeds, Pappas improperly used his position to gain an advantage for himself or someone else, or cause detriment to GCPF.



233. Pappas caused GCPF to make the Carlile Payments and the Carlile Additional Payments in circumstances where:
- a. There was a conflict, or a real or substantial possibility of a conflict, between:
    - (i) the duties that Pappas owed to GCPF; and
    - (ii) Hewish's and Dickinson's interests,
- by reason of the following:
- b. Hewish and Dickinson were directors and shareholders of private companies that owned the borrower 929 High Street;
  - c. Hewish and Dickinson were directors of 929 High Street;
  - d. Hewish and Dickinson acted on behalf of both GCPF and 929 High Street, in circumstances where they had executed contractual documents on behalf of both parties;
  - e. the shareholders of GCPF never approved entry into the Carlile Loan Agreement or any of the Carlile Variation of Loan Deeds; and
  - f. the shareholders of GCPF never approved the making of any of the Carlile Payments or the Carlile Additional Payments.
234. In the premises, by causing GCPF to make the Carlile Payments and the Carlile Additional Payments, Pappas breached the No Conflict Duty.
235. Further, following entry into the Carlile Loan Agreement, Pappas:
- a. failed to procure GCPF to lodge caveats over the titles to the Carlile Properties in accordance with the Carlile Loan Agreement as soon as it was entitled to do so;
  - b. failed to procure GCPF to register mortgages over the Carlile Properties in accordance with the Carlile Loan Agreement as soon as it was entitled to do so;



- c. procured or allowed 929 High Street to obtain additional funding for the Carlile Project, and to allow registration of the mortgages of Monark and Cobild over the Carlile Properties, in breach of the Carlile Loan Agreement;
- d. failed to cause GCPF to declare an Event of Default under the Carlile Loan Agreement, and to seek recovery of the principal sum and interest outstanding, when Monark registered its first mortgage over the Carlile Properties in November 2022 or, alternatively, when Cobild registered its second mortgage in July 2023;
- e. caused or allowed GCPF to make the Carlile Payments; and
- f. caused GCPF to make the Carlile Additional Payments in circumstances where:
  - (i) the GCPF Directors had been informed in 2022 that the Carlile Project was forecast to suffer losses exceeding \$3,600,000;
  - (ii) in 2023 and early 2024, the GCPF Directors had discussed that the Carlile Project was unable to pay invoices and was involved in a dispute with its builders; and
  - (iii) 929 High Street had not repaid its outstanding loans to GCPF, which already exceeded \$19,578,514.41 as at March 2024.

236. By reason of the matters pleaded in paragraph 233 and 235 above:

- a. a director acting with reasonable care and diligence would not have exercised or failed to exercise their powers in the ways set out in paragraph 235 above;
- b. Pappas' exercise or failure to exercise their powers in the ways set out in paragraph 235 above was not in good faith in the best interests of GCPF and for a proper purpose; and
- c. by exercising or failing to exercise his powers in the ways set out in paragraph 235 above, Pappas improperly used his position to gain an advantage for himself or someone else, or cause detriment to GCPF.



237. In the premises, by exercising or failing to exercise their powers in the ways set out in paragraph 235, Pappas acted in contravention of the Statutory Duties.
238. By reason of Pappas' breaches of the No Conflict Duty and/or contravention of the Statutory Duties, GCPF has suffered loss and damage.

#### **Particulars**

GCPF has not recovered the loan to 929 High Street, being the sum of \$27,887,878.56 including interest as at 22 August 2025.

Further, GCPF's security as against the Carlile Properties has been subordinated to Monark and Cobild.

Further particulars will be provided following discovery and prior to trial.

#### **G.12 Pappas' accessory liability**

239. Further or alternatively, Hewish's and Dickinson's breaches of the Fiduciary Duties and the Statutory Duties pleaded at Part G.10 above constituted a dishonest and fraudulent design for the following reasons:
- a. those breaches were deliberate;
  - b. those breaches were self-interested; and
  - c. those breaches were committed in circumstances where:
    - (i) elements of them were concealed from the shareholders of GCPF; and
    - (ii) further or in the alternative, the shareholders of GCPF never approved the conduct entailed in the breaches.

#### **Particulars**

The shareholders of GCPF did not approve entry into the Carlile Loan Agreement or the Carlile Variation of Loan Deeds.

The shareholders of GCPF did not approve the making of any of the Carlile Payments or the Carlile Additional Payments.

240. Pappas participated in Hewish's and Dickinson's breaches of the Fiduciary Duties and the Statutory Duties, including by:



- a. participating in meetings of the GCPF Directors at which the Carlile Project was discussed;
- b. exercising his powers as a GCPF Director to cause GCPF to enter into the Carlile Loan Agreement and the Carlile Variation of Loan Deeds;
- c. exercising his powers as a GCPF Director to cause GCPF to make the Carlile Payments and the Carlile Additional Payments; and
- d. exercising or failing to exercise his powers as a GCPF Director in the ways set out in paragraph 235 above.

### **Particulars**

Pappas has, at all material times, been a GCPF Director.

Pappas is recorded as present at meetings of the GCPF Board of Directors, GCPF IRC, and GCPF PCG from 6 August 2020 to 20 June 2024 at which the Carlile Project was discussed.

241. Pappas participated in Hewish's and Dickinson's breaches of the Fiduciary Duties and the Statutory Duties in circumstances where he knew:
- a. the content of Hewish's and Dickinson's Fiduciary Duties and Statutory Duties to GCPF; and
  - b. the matters pleaded at paragraphs 219, 221, 223 and 225 above.

### **Particulars**

Pappas is a GCPF Director and is himself bound by the Fiduciary Duties and the Statutory Duties.

Pappas is recorded as present at meetings of the GCPF Board of Directors, GCPF IRC, and GCPF PCG from 6 August 2020 to 20 June 2024 at which the Carlile Project was discussed.

242. In the premises, Pappas:
- a. knew;
  - b. shut his eyes to the obvious fact;



- c. wilfully and recklessly failed to make such inquiries as an honest and reasonable person would make, which would establish; or
- d. further or in the alternative, had knowledge of circumstances which would indicate to an honest and reasonable person,

that Hewish and Dickinson were engaged in a dishonest and fraudulent design.

243. In the premises, Pappas:

- a. is accountable to GCPF for knowing assistance in a dishonest and fraudulent design on the part of Hewish and Dickinson; and
- b. is accountable to GCPF for any profits he derived from Hewish's and Dickinson's breaches of the Fiduciary Duties.

244. By reason of Pappas' participation in Hewish's and Dickinson's breaches of the Fiduciary Duties, GCPF has suffered loss and damage.

### **Particulars**

GCPF has not recovered the loan to 929 High Street, being the sum of \$27,887,878.56 including interest as at 22 August 2025.

Further, GCPF's security as against the Carlile Properties has been subordinated to Monark and Cobild.

Further particulars will be provided following discovery and prior to trial.

### **G.13 Breaches of ss 208 and 209 of the Act**

245. In the premises, 929 High Street, Bird Rock and Hewish Capital were related parties to GCPF within the meaning of s 228 of the Act.

246. At all relevant times, neither GCPF nor the GCPF Directors obtained shareholder approval for:

- a. the entry into the Carlile Loan Agreement;
- b. the entry into the Carlile Variation of Loan Deeds;
- c. the making of the Carlile Payments; or



- d. the making of the Carlile Additional Payments.
247. The entry into each of the agreements, and the making of the payments, referred to in paragraph 246 above required approval pursuant to s 208 of the Act, as:
- a. GCPF was a public company;
  - b. 929 High Street, Bird Rock and Hewish Capital were related parties to GCPF;
  - c. by reason of the entry into each of the arrangements, GCPF gave financial benefits to 929 High Street, within the meaning of s 229 of the Act, being:
    - (i) the provision of finance to 929 High Street; and
    - (ii) agreeing to subordinate its security to third party lenders (in order to allow 929 High Street to obtain additional finance from such lenders);
  - d. the financial benefits were not on arms-length terms under s 210 of the Act, or otherwise exempt under ss 211 to 216 of the Act.
248. In the premises:
- a. each of the GCPF Directors caused GCPF to contravene s 208 of the Act by procuring or allowing GCPF to enter into each of the agreements and to make each of the payments referred to in paragraph 246 above;
  - b. each of the GCPF Directors contravened s 209(2) of the Act, as they were involved in GCPF's contravention of s 208, as each of the GCPF Directors:
    - (i) knew that the members' approval had not been obtained for providing the financial benefits to 929 High Street; and
    - (ii) did not seek to delay GCPF entering into the each of the agreements referred to in paragraph 245 above until the members' approval had been obtained.
249. Further, by reason of the matters pleaded in paragraph 246 to 248 above, a director acting with reasonable care and diligence considering whether to approve the entry into each of the agreements or considering making the payments referred to in paragraph



246 above, would not have exercised their power to approve the entry into any of the agreements or make any of the payments in circumstances where the entry into each agreement or the making of the payments would contravene s 208 of the Act.

250. In the premises, by causing GCPF to enter into each of the agreements and to make the payments referred to in paragraph 246 above, the GCPF Directors acted in contravention of the duty to exercise their powers and discharge their duties with reasonable care and diligence (as pleaded in paragraph 18(a) above).
251. By reason of the GCPF Directors' breach of s 209(2) of the Act and/or the Statutory Duty pleaded in paragraph 18(a) above, GCPF has suffered loss and damage.

### **Particulars**

GCPF has not recovered the loan to 929 High Street, being the sum of \$27,887,878.56 including interest as at 22 August 2025.

Further, GCPF's security as against the Carlile Properties has been subordinated to Monark and Cobild.

Further particulars will be provided following discovery and prior to trial.

## **H. The Serpells Place Project**

### **H.1 Corporate structure**

252. At all material times:
- a. Serpells Road was a private company that was incorporated;
  - b. Dickinson and Hewish were the sole directors of Serpells Road; and
  - c. Bird Rock, Hewish Capital, Gacesa Holdings Pty Ltd and Michael Hermans held ordinary shares in Serpells Road in equal proportions.
253. At all material times, Dickinson was the sole director and company secretary of Bird Rock. Dickinson and Rowse were the shareholders of Bird Rock.
254. At all material times, Hewish and his wife Stephanie Hewish were the sole directors, company secretaries and shareholders of Hewish Capital.



## **H.2 Serpells Properties**

255. On 11 June 2021, Serpells Road was registered as the owner of the following properties at 27-29 Serpells Road, Templestowe, Victoria (**Serpells Properties**):
- a. Certificate of Title Volume 8033 Folio 960; and
  - b. Certificate of Title Volume 7940 Folio 056.
256. Serpells Road purchased the Serpells Properties for the purposes of constructing an apartment development (**Serpells Project**).

## **H.3 GCPF's financing of the Serpells Project**

257. By a Loan Deed dated 3 June 2021 (**Serpells Loan Agreement**), GCPF (as lender) and Serpells Road (as borrower) agreed:
- a. GCPF would make available to Serpells Road a loan facility of up to \$4,800,000 (clause 3.1; item 5, Schedule);
  - b. drawdown on the loan facility was subject to conditions precedent, including that caveats be lodged in respect of the titles to the Serpells Properties (clause 2.1; item 14, 18, Schedule);
  - c. Serpells Road would provide the 'Security' in favour of GCPF in order to secure the performance of Serpells Road's obligations under the Serpells Loan Agreement (clause 3.4);
  - d. the 'Security' included a caveat to be registered in respect of the Serpells Properties by GCPF as caveator, which would occur on the 'Drawdown Date', being the purchase settlement date, which was 11 June 2021 (items 6, 14, Schedule);
  - e. further 'Security' included a registered second-ranking mortgage to be executed by Serpells Road in respect of the Serpells Properties, and Serpells Road permitted the mortgage to be registered:
    - (i) upon an Event of Default;



- (ii) on discharge of the first mortgage including any refinance by way of new first mortgage;
  - (iii) within 48 hours of registration of the plan of subdivision (Item 14, Schedule);
- f. Serpells Road would pay interest at 20% per annum compounding annually, or a higher rate of 25% per annum in the event of default (clause 4.1; items 9&10, Schedule);
- g. Serpells Road must repay the loan on the repayment date, being the earlier of the completion of the Serpells Project or 60 months after the Drawdown Date (11 June 2021) (clause 5.1; item 12, Schedule);
- h. Serpells Road undertook:
  - (i) that it would not, except in relation to the 'First Mortgage', or without GCPF's prior written consent, incur any further indebtedness, and create or allow to exist any encumbrance (including a mortgage) whether ranking ahead of, *pari passu* with, or after the security in favour of GCPF;
  - (ii) that it would not increase the principal amount secured by the First Mortgage; and
  - (iii) not to obtain any further encumbrance (including mortgage) or finance secured against the Serpells Properties (clause 9.1);
- i. the 'First Mortgagee' meant the mortgage to be registered by Equity-One Mortgage Fund Ltd (**EOMFL**) on the Purchase Settlement Date, being 11 June 2021 (clause 18.3);
- j. upon an 'Event of Default' occurring:
  - (i) GCPF's loan together with all interest accrued would, at the option of GCPF, become due and payable; and



- (ii) GCPF could enforce any security and/or exercise any right conferred by the Serpells Loan Agreement, including registering its mortgage (clause 10.1; item 14, Schedule);
- k. an 'Event of Default' occurred if (amongst other events):
  - (i) Serpells Road failed to pay money due on the due date;
  - (ii) Serpells failed to perform any of the covenants, undertakings or provisions of the Serpells Loan Agreement, and such default continued after GCPF's notice; or
  - (iii) if Serpells Road created or permitted to exist any security interest over any of its property, other than GCPF's security or pursuant to the First Mortgage (clause 10.2);
- l. Serpells Road further undertook:
  - (i) not to create or to allow to exist any encumbrance or security interest over the Serpells Properties without GCPF's prior written consent; and
  - (ii) not to incur further indebtedness without GCPF's prior written consent (clause 18.1);
- m. Serpells Road acknowledged that it would not draw down or seek further funds from the First Mortgagee as secured against the Serpells Properties over and above the principal as at the Drawdown Date without GCPF's consent (clause 18.3(c)); and
- n. Serpells Road and GCPF acknowledged that this loan ranked behind only the First Mortgage at the amount as secured at the Drawdown Date (clause 18.3(e)).

### **Particulars**

The Serpells Loan Agreement was in writing and dated 3 June 2021.

258. The Serpells Loan Agreement was signed on behalf of GCPF by Pappas and Isabella Pappas, and on behalf of Serpells by Hewish and Dickinson.



259. Serpells Road executed mortgages over the Serpells Properties in favour of GCPF dated 7 June 2021 (**Serpells Mortgages**). The Serpells Mortgages were signed on behalf of Serpells Properties by Hewish and Dickinson.

#### **Particulars**

The Serpells Mortgages were in writing and dated 7 June 2021.

260. The Serpells Mortgages were never registered by GCPF.
261. On 15 June 2021, GCPF lodged caveats in respect of its interest as mortgagee over the Serpells Properties.
262. By a Deed of Variation of Loan Deed between GCPF, Serpells Road, Hewish and Dickinson dated 7 March 2023 (**Serpells Variation of Loan Deed**), it was specified that:
- a. the principal sum of GCPF's loan facility was increased to \$5,300,000 (clause 2.1); and
  - b. Hewish and Dickinson had provided guarantees.

#### **Particulars**

The Serpells Variation of Loan Deed was in writing and dated 7 March 2023.

263. The Serpells Variation of Loan Deed was signed by Pappas and Isabella Pappas on behalf of GCPF, and by Hewish and Dickinson on behalf of Serpells Road.
264. GCPF made the following transfers to or on behalf of Serpells Road under the loan facility specified in the Serpells Loan Agreement as amended by the Serpells Variation of Loan Deed (**Serpells Payments**).

#	Date	Amount Drawdown
1.	9 June 2021	\$2,200,000.00
2.	26 October 2021	\$500,000.00
3.	21 March 2022	\$100,000.00
4.	2 May 2022	\$100,000.00
5.	16 June 2022	\$200,000.00
6.	16 September 2022	\$300,000.00



7.	2 February 2023	\$600,000.00
8.	8 March 2023	\$1,060,000.00
9.	13 March 2024	\$100,000.00
<b>Total</b>		<b>\$5,160,000.00</b>

#### **H.4 Third party loans to Serpells Road**

265. As at 11 June 2021, being the settlement date for Serpells Road purchase, in relation to the Serpells Properties:

- a. Serpells Road was the registered owner;
- b. EOMFL held the registered first mortgage; and
- c. GCPF had lodged a caveat as mortgagee.

266. Under the terms of the EOMFL facility agreement and guarantee dated 4 June 2021, Serpells Road borrowed up to \$2,870,000. Hewish and Dickinson were guarantors of Serpells Road's obligations.

#### **Particulars**

The EOMFL facility agreement and guarantee was in writing and dated 4 June 2021,

267. On 10 March 2023:

- a. the first registered mortgage in favour of EOMFL was discharged;
- b. the caveat lodged by GCPF as mortgagee was withdrawn; and
- c. PCTL became the first-registered mortgagee of the Serpells Properties.

268. Hewish and Dickinson procured or provided for Serpells Road to grant a first ranking mortgage in favour of PCTL.

269. Pursuant to a deed of guarantee and indemnity in favour of PCTL, Hewish and Dickinson guaranteed Serpells Road's obligations to PCTL with respect to a loan facility.

#### **Particulars**



The deed of guarantee and indemnity was in writing  
[LTF.2000.0001.0836].

270. By a loan facility agreement between Jadig Management & Advisory Pty Ltd (**Jadig Management**, lender), Jadig Securities Pty Ltd (**Jadig Securities**, security trustee) and Serpells Road (borrower) dated 15 January 2024, Jadig Management agreed to provide a loan facility of \$1,400,000 to Serpells Road. The loan facility agreement provided for a second registered mortgage over the Serpells Land (Schedule). Hewish and Dickinson signed the loan facility agreement on behalf of Serpells Road.

### Particulars

The loan facility agreement was in writing.

271. On 24 January 2024, Jadig Securities registered a second-ranked mortgage over the Serpells Properties.
272. In accordance with item 14, Schedule of the Serpells Loan Agreement, GCPF was entitled to register a mortgage over the Serpells Properties upon:
- a. discharge of the first mortgage of EOMFL on 10 March 2023, including any refinance by way of new first mortgage; and/or
  - b. the occurrence of an Event of Default. In accordance with clause 9.1, 10.2 and 18.1, it was an Event of Default to:
    - (i) incur any further indebtedness, and create or allow to exist any mortgage ranking ahead of or *pari passu* with the security in favour of GCPF; and
    - (ii) to create or allow to exist any encumbrance or security interest over the Serpells Properties without GCPF's prior written consent.
273. Nonetheless, GCPF and its Directors:
- a. failed or refused to register a mortgage over the Serpells Properties;
  - b. withdrew GCPF's caveat lodged over the titles to the Serpells Properties;
  - c. in accordance with clause 10.1 of the Serpells Loan Agreement, upon an Event of Default, failed to refused to demand the immediate payment of the principal



sum plus interest due by Serpells Road to GCPF, or to enforce its security (including the Serpells Mortgages);

- d. acquiesced in or accepted the registration of mortgages over the Serpells Properties in favour of PCTL and Jadig Securities; and
- e. extended GCPF's loan facility to Serpells Road pursuant to the Serpells Variation of Loan Deed.

#### **H.5 The Directors' involvement in the Serpells Project**

- 274. At all material times, Hewish and Dickinson were directors of Serpells Road.
- 275. Further, Hewish and Dickinson attended GCPF's IRC meetings at which GCPF's loan to Serpells Road was discussed and considered.
- 276. As specified in property searches for the Serpells Properties, Tisher Liner FC solicitors had acted for both:
  - a. Serpells Road, as purchaser, with respect to lodging a caveat over the titles to the Serpells Properties on 6 May 2020; and
  - b. GCPF, as mortgagee, with respect to lodging a caveat over the titles to the Serpells Properties on 15 June 2021.

#### **H.6 Hewish's and Dickinson's breaches of the Fiduciary Duties and the Statutory Duties**

- 277. Each of Hewish and Dickinson caused GCPF to enter into the Serpells Loan Agreement and the Serpells Variation of Loan Deed in circumstances in which:
  - a. there was a conflict, or a real or substantial possibility of a conflict, between:
    - (i) the duties that each of Hewish and Dickinson owed to GCPF; and
    - (ii) each of Hewish's and Dickinson's own interests,by reason of the following:
  - b. Hewish and Dickinson were the sole directors of Serpells Road, and directors and shareholders of private companies that were shareholders of Serpells Road;



- c. Hewish and Dickinson acted on behalf of both GCPF and Serpells Road, and executed contractual documents on behalf of Serpells Road;
  - d. the entry into the Serpells Loan Agreement was not approved by the shareholders of GCPF; and
  - e. the entry into the Serpells Variation of Loan Deed was not approved by the shareholders of GCPF.
278. In the premises, by causing GCPF to enter into the Serpells Loan Agreement and the Serpells Variation of Loan Deed, each of Hewish and Dickinson breached the No Conflict Duty.
279. Further, the Serpells Loan Agreement did not allow for GCPF to immediately register a mortgage over the Serpells Properties as security for GCPF's loans to Serpells Road, thereby exposing GCPF to the risk of third party lenders registering mortgages over the Serpells Properties in priority, and for GCPF's security to be subordinated.
280. By reason of the matters pleaded in paragraphs 277 and 279 above:
- a. a director acting with reasonable care and diligence considering whether to approve the entry into the Serpells Loan Agreement and the Serpells Variation of Loan Deed, would not have exercised their power to approve the entry into any of those agreements;
  - b. the exercise of each of Hewish's and Dickinson's powers to approve the entry into each of the Serpells Loan Agreement and the Serpells Variation of Loan Deed was not in good faith in the best interests of GCPF and for a proper purpose; and
  - c. by exercising their powers to approve the entry into each of the Serpells Loan Agreement and the Serpells Variation of Loan Deed, each of Hewish and Dickinson improperly used his position to gain an advantage for himself or someone else, or cause detriment to GCPF.



281. In the premises, by causing GCPF to enter into the Serpells Loan Agreement and the Serpells Variation of Loan Deeds, each of Hewish and Dickinson acted in contravention of the Statutory Duties.
282. Each of Hewish and Dickinson caused GCPF to make the Serpells Payments in circumstances in which:
- a. there was a conflict, or a real or substantial possibility of a conflict, between:
    - (i) the duties that each of Hewish and Dickinson owed to GCPF; and
    - (ii) each of Hewish's and Dickinson's own interests; and
  - b. by causing GCPF to make each of the Serpells Payments, each of Hewish and Dickinson derived an unauthorised profit for himself or one or more third parties,
- by reason of the following:
- c. Hewish and Dickinson were the sole directors of Serpells Road, and directors and shareholders of private companies that were shareholders of Serpells Road;
  - d. Hewish and Dickinson acted on behalf of both GCPF and Serpells Road, and executed contractual documents on behalf of Serpells Road;
  - e. the entry into the Serpells Loan Agreement was not approved by the shareholders of GCPF;
  - f. the entry into the Serpells Variation of Loan Deed was not approved by the shareholders of GCPF; and
  - g. the payment of the Serpells Payments was never approved by the shareholders of GCPF.
283. In the premises, by causing GCPF to make the Serpells Payments, each of Hewish and Dickinson breached the No Conflict Duty and the No Profit Duty.
284. Further, following entry into the Serpells Loan Agreement, each of Hewish and Dickinson:
- a. Procured GCPF to withdraw its caveat over the titles to the Serpells Properties;



- b. failed to procure GCPF to register mortgages over the Serpells Properties in accordance with the Serpells Loan Agreement as soon as it was entitled to do so;
- c. procured or allowed Serpells Road to obtain additional funding for the Serpells Project, and to allow registration of the mortgages of PCTL and Jadig Securities, in breach of the Serpells Loan Agreement;
- d. failed to cause GCPF to declare an Event of Default under the Serpells Loan Agreement, and to seek recovery of the principal sum and interest outstanding, when PCTL registered its first mortgage over the Serpells Properties in March 2023 or, alternatively, when Jadig Securities registered its second mortgage in January 2024;
- e. executed loan documentation with respect to Serpells Road's loans from PCTL and Jadig Securities; and
- f. caused GCPF to enter into the Serpells Variation of Loan Deed in circumstances in which Serpells Road had not repaid its outstanding loans to GCPF, which already exceeded \$4.48 million in March 2023.

285. By reason of the matters pleaded in paragraph 282 and 284 above:

- a. a director acting with reasonable care and diligence would not have exercised or failed to exercise their powers in the ways set out in paragraph 284 above;
- b. Hewish's and Dickinson's exercise of or failure to exercise their powers in the ways set out in paragraph 284 above was not in good faith in the best interests of GCPF and for a proper purpose; and
- c. by exercising or failing to exercise their powers in the ways set out in paragraph 284 above, each of Hewish and Dickinson improperly used his position to gain an advantage for himself or someone else, or cause detriment to GCPF.

286. In the premises, by exercising or failing to exercise their powers in the ways set out in paragraph 284, each of Hewish and Dickinson acted in contravention of the Statutory Duties.



287. By reason of Hewish's and Dickinson's breaches of the Fiduciary Duties and/or contravention of the Statutory Duties, GCPF has suffered loss and damage.

### **Particulars**

GCPF has not recovered the loan to Serpells Road, being the sum of \$10,473,035.27 including interest as at 22 August 2025.

GCPF's security as against the Serpells Properties has been subordinated to PCTL and Jadig Securities.

Further particulars will be provided following discovery and prior to trial.

### **H.7 Pappas' breaches of the Fiduciary Duties and the Statutory Duties**

288. Pappas caused GCPF to enter into the Serpells Loan Agreement and the Serpells Variation of Loan Deed in circumstances in which:

- a. there was a conflict, or a real or substantial possibility of a conflict, between:
  - (i) the duties that Pappas owed to GCPF; and
  - (ii) Hewish's and Dickinson's interests,

by reason of the following:

- b. Hewish and Dickinson were the sole directors of Serpells Road, and directors and shareholders of private companies that were shareholders of Serpells Road;
- c. Hewish and Dickinson acted on behalf of both GCPF and Serpells Road, and executed contractual documents on behalf of Serpells Road;
- d. the entry into the Serpells Loan Agreement was not approved by the shareholders of GCPF; and
- e. the entry into the Serpells Variation of Loan Deed was not approved by the shareholders of GCPF.

289. In the premises, by causing GCPF to enter into the Serpells Loan Agreement and the Serpells Variation of Loan Deed, Pappas breached the No Conflict Duty.



290. Further, the Serpells Loan Agreement did not allow for GCPF to immediately register a mortgage over the Serpells Properties as security for GCPF's loans to Serpells Road, thereby exposing GCPF to the risk of third party lenders registering mortgages over the Serpells Properties in priority, and for GCPF's security to be subordinated.
291. By reason of the matters pleaded in paragraphs 288 and 290 above:
- a. a director acting with reasonable care and diligence considering whether to approve the entry into the Serpells Loan Agreement and the Serpells Variation of Loan Deed, would not have exercised their power to approve the entry into any of those agreements;
  - b. the exercise of Pappas' powers to approve the entry into each of the Serpells Loan Agreement and the Serpells Variation of Loan Deed was not in good faith in the best interests of GCPF and for a proper purpose; and
  - c. by exercising his powers to approve the entry into each of the Serpells Loan Agreement and the Serpells Variation of Loan Deed, Pappas improperly used his position to gain an advantage for himself or someone else, or cause detriment to GCPF.
292. In the premises, by causing GCPF to enter into the Serpells Loan Agreement and the Serpells Variation of Loan Deed, Pappas acted in contravention of the Statutory Duties.
293. Pappas caused GCPF to make the Serpells Payments in circumstances in which:
- a. there was a conflict, or a real or substantial possibility of a conflict, between:
    - (i) the duties that Pappas owed to GCPF; and
    - (ii) Hewish's and Dickinson's interests,
- by reason of the following:
- b. Hewish and Dickinson were the sole directors of Serpells Road, and directors and shareholders of private companies that were shareholders of Serpells Road;
  - c. Hewish and Dickinson acted on behalf of both GCPF and Serpells Road, and executed contractual documents on behalf of Serpells Road;



- d. the entry into the Serpells Loan Agreement was not approved by the shareholders of GCPF;
  - e. the entry into the Serpells Variation of Loan Deed was not approved by the shareholders of GCPF; and
  - f. the payment of the Serpells Payments was never approved by the shareholders of GCPF.
294. In the premises, by causing GCPF to make the Serpells Payments, Pappas breached the No Conflict Duty.
295. Further, following entry into the Serpells Loan Agreement, Pappas:
- a. caused GCPF to withdraw its caveat over the titles to the Serpells Properties;
  - b. failed to procure GCPF to register mortgages over the Serpells Properties in accordance with the Serpells Loan Agreement as soon as it was entitled to do so;
  - c. procured GCPF to allow registration of the mortgages of PCTL and Jadig Securities, in breach of the Serpells Loan Agreement;
  - d. failed to cause GCPF to declare an Event of Default under the Serpells Loan Agreement, and to seek recovery of the principal sum and interest outstanding, when PCTL registered its first mortgage over the Serpells Properties in March 2023 or, alternatively, when Jadig Securities registered its second mortgage in January 2024; and
  - e. caused GCPF to enter into the Serpells Variation of Loan Deed in circumstances in which Serpells Road had not repaid its outstanding loans to GCPF, which already exceeded \$4.48 million in March 2023.
296. By reason of the matters pleaded in paragraph 293 and 295 above:
- a. a director acting with reasonable care and diligence would not have exercised or failed to exercise their powers in the ways set out in paragraph 295 above;



- b. Pappas' exercise of or failure to exercise his powers in the ways set out in paragraph 295 above was not in good faith in the best interests of GCPF and for a proper purpose; and
  - c. by exercising or failing to exercise his powers in the ways set out in paragraph 295 above, Pappas improperly used his position to gain an advantage for himself or someone else, or cause detriment to GCPF.
297. In the premises, by exercising or failing to exercise his powers in the ways set out in paragraph 295 above, Pappas acted in contravention of the Statutory Duties.
298. By reason of Pappas' breaches of the No Conflict Duty and/or contravention of the Statutory Duties, GCPF has suffered loss and damage.

### **Particulars**

GCPF has not recovered the loan to Serpells Road, being the sum of \$10,473,035.27 including interest as at 22 August 2025.

GCPF's security as against the Serpells Properties has been subordinated to PCTL and Jadig Securities.

Further particulars will be provided following discovery and prior to trial.

### **H.8 Pappas' accessory liability**

299. Further or alternatively, Hewish's and Dickinson's breaches of the Fiduciary Duties and the Statutory Duties pleaded at Parts H.6 above constituted a dishonest and fraudulent design for the following reasons:
- a. those breaches were deliberate;
  - b. those breaches were self-interested; and
  - c. those breaches were committed in circumstances where:
    - (i) elements of them were concealed from the shareholders of GCPF; and
    - (ii) further or in the alternative, the shareholders of GCPF never approved the conduct entailed in the breaches.



### **Particulars**

The shareholders of GCPF did not approve entry into the Serpells Loan Agreement or the Serpells Variation of Loan Deed.

The shareholders of GCPF did not approve the making of any of the Serpells Payments.

300. Pappas participated in Hewish's and Dickinson's breaches of the Fiduciary Duties and the Statutory Duties, including by:
- a. participating in meetings of the GCPF Directors at which the Serpells Project was discussed;
  - b. exercising his powers as a GCPF Director to cause GCPF to enter into the Serpells Loan Agreement and the Serpells Variation of Loan Deed;
  - c. signing, on behalf of GCPF, the Serpells Loan Agreement and the Serpells Variation of Loan Deed;
  - d. exercising his powers as a GCPF Director to cause GCPF to make the Serpells Payments; and
  - e. exercising or failing to exercise his powers as a GCPF Director in the ways set out in paragraph 295 above.

### **Particulars**

Pappas has, at all material times, been a GCPF Director.

Pappas is recorded as present at meetings of the GCPF Board of Directors, GCPF IRC, and GCPF PCG from 6 August 2020 to 20 June 2024 at which the Serpells Project was discussed.

301. Pappas participated in Hewish's and Dickinson's breaches of the Fiduciary Duties and the Statutory Duties in circumstances where he knew:
- a. the content of Hewish's and Dickinson's Fiduciary Duties and Statutory Duties to GCPF; and
  - b. the matters pleaded at paragraphs 277, 279, 282 and 284 above.



### **Particulars**

Pappas is a GCPF Director and is himself bound by the Fiduciary Duties and the Statutory Duties.

Pappas is recorded as present at meetings of the GCPF Board of Directors, GCPF IRC, and GCPF PCG from 6 August 2020 to 20 June 2024 at which the Serpells Project was discussed.

302. In the premises, Pappas:

- a. knew;
- b. shut his eyes to the obvious fact;
- c. wilfully and recklessly failed to make such inquiries as an honest and reasonable person would make, which would establish; or
- d. further or in the alternative, had knowledge of circumstances which would indicate to an honest and reasonable person,

that Hewish and Dickinson were engaged in a dishonest and fraudulent design.

303. In the premises, Pappas:

- a. is accountable to GCPF for knowing assistance in a dishonest and fraudulent design on the part of Hewish and Dickinson; and
- b. is accountable to GCPF for any profits he derived from Hewish's and Dickinson's breaches of the Fiduciary Duties.

304. By reason of Pappas' participation in Hewish's and Dickinson's breaches of the Fiduciary Duties, GCPF has suffered loss and damage.

### **Particulars**

GCPF has not recovered the loan to Serpells Road, being the sum of \$10,473,035.27 including interest as at 22 August 2025.

GCPF's security as against the Serpells Properties has been subordinated to PCTL and Jadig Securities.

Further particulars will be provided following discovery and prior to trial.



## **H.9 Breaches of ss 208 and 209 of the Act**

305. In the premises, Serpells Road was a related party to GCPF within the meaning of s 228 of the Act.

306. At all relevant times, neither GCPF nor the GCPF Directors obtained shareholder approval to enter into:

- a. the Serpells Loan Agreement;
- b. the Serpells Variation of Loan Deed; or
- c. the making of the Serpells Payments.

307. The entry into each of the agreements, and the making of the payments, referred to in paragraph 306 above required approval pursuant to s 208 of the Act, as:

- a. GCPF was a public company;
- b. Serpells Road was a related party to GCPF;
- c. by reason of the entry into each of the arrangements and the making of each of the payments, GCPF gave financial benefits to Serpells Road, within the meaning of s 229 of the Act, being:
  - (i) the provision of finance to Serpells Road; and
  - (ii) agreeing to subordinate its security to third party lenders (in order to allow Serpells Road to obtain additional finance from such lenders);
- d. the financial benefits were not on arms-length terms under s 210 of the Act, or otherwise exempt under ss 211 to 216 of the Act.

308. In the premises:

- a. each of the GCPF Directors caused GCPF to contravene s 208 of the Act by procuring or allowing GCPF to enter into each of the agreements and to make each of the payments referred to in paragraph 306 above;



- b. each of the GCPF Directors contravened s 209(2) of the Act, as they were involved in GCPF's contravention of s 208, as each of the GCPF Directors:
    - (i) knew that the members' approval had not been obtained for providing the financial benefits to Serpells Road; and
    - (ii) did not seek to delay GCPF entering into any of the agreements or making any of the payments referred to in paragraph 306 above until the members' approval had been obtained.
309. Further, by reason of the matters pleaded in paragraphs 306 to 308 above, a director acting with reasonable care and diligence considering whether to approve the entry into the agreements or considering making the payments referred to in paragraph 306 above would not have exercised their power to approve the entry into either agreement or make any of the payments in circumstances where the entry into each agreement or the making of the payments would contravene s 208 of the Act.
310. In the premises, by causing GCPF to enter into each of the agreements and to make the payments referred to in paragraph 306 above, each of the GCPF Directors acted in contravention of the duty to exercise their powers and discharge their duties with reasonable care and diligence (as pleaded in paragraph 18(a) above).
311. By reason of the GCPF Directors' breaches of s 209(2) of the Act and/or contravention of the Statutory Duty pleaded in paragraph 18(a) above, GCPF has suffered loss and damage.

### **Particulars**

GCPF has not recovered the loan to Serpells Road, being the sum of \$10,473,035.27 including interest as at 22 August 2025.

GCPF's security as against the Serpells Properties has been subordinated to PCTL and Jadig Securities.

Further particulars will be provided following discovery and prior to trial.



## **I. The Symphony Project and the River Glen Project**

### **I.1 The Symphony Project – Corporate Structure**

312. Symphony Place Holdings Pty Ltd (**Symphony Place Holdings**) is a private company that is incorporated. At all material times:

- a. Benjamin James was a director of Symphony Place Holdings;
- b. Nicholas James was a director of Symphony Place Holdings between October 2021 and November 2023; and
- c. JW Capital Holdings Pty Ltd and Wharton James Group Symphony Pty Ltd were the shareholders of Symphony Place Holdings.

313. Symphony Place Coomera Pty Ltd (**Symphony Place Coomera**) is a private company that is incorporated. At all material times:

- a. Benjamin James and Nicholas James were the directors of Symphony Place Coomera; and
- b. Symphony Place Holdings was the sole shareholder of Symphony Place Coomera.

### **I.2 The Symphony Project – Symphony JV Agreement and Symphony Mortgage**

314. Pursuant to a joint venture agreement between Symphony Place Holdings, Symphony Place Coomera and GCPF dated 18 January 2022 (**Symphony JV Agreement**):

- a. Symphony Place Coomera was to become the registered owner of the land at 15 Hickey Street, Coomera, Gold Coast, Queensland described as Lot 98, Registered Plan 1864, being title reference 15127192 (**Symphony Property**) (Recital B, clause 4(a));
- b. Symphony Place Holdings and Symphony Place Coomera were to manage the affairs of the joint venture (clause 3);



- c. the purpose of the joint venture was to acquire and develop the Symphony Property, in order to be a 16 suite residential care facility (**Symphony Project**) (clause 4);
- d. GCPF was to contribute funds for the Symphony Project (clauses 6(a), 16);
- e. Symphony Place Holdings and Symphony Place Coomera were responsible for the completion of the Symphony Project, to enable the sale of the 16 residential suites (clause 6(b));
- f. GCPF was entitled to a first registered mortgage against the title to the Symphony Property (**Symphony Mortgage**) (clause 16(b));
- g. GCPF agreed to provide an advance of up to \$6,000,000 for the Symphony Project (Schedule);
- h. interest was to be paid on the advance at 20% per annum compounding annually, or a higher rate of return of 1.5% above the minimum rate after the repayment date (Schedule);
- i. GCPF's advance was to be repaid on completion of the Symphony Project or 24 months after the 'First Advance Date', which was in January 2022 (Schedule);
- j. GCPF was entitled to repayment of the advance, together with a share in profits for the Symphony Project (clause 6(c)); and
- k. Symphony Place Holdings and Symphony Place Coomera were to procure their directors and Symphony Place Holdings Pty Ltd to sign third party personal and corporate guarantees, securing GCPF's advance (Schedule).

### **Particulars**

The Symphony JV Agreement was in writing and dated 18 January 2022.

315. The Symphony JV Agreement was signed on behalf of GCPF by Pappas and Isabella Pappas.



316. By a Deed of Guarantee and Indemnity dated 17 January 2022 (**Symphony Guarantee**), Benjamin James and Nicholas James:

- a. unconditionally and irrevocably guaranteed to GCPF that Symphony Place Holdings and Symphony Place Coomera would perform all of their obligations under the Symphony JV Agreement, and guaranteed the due and punctual payment by Symphony Place Holdings and Symphony Place Coomera of all monies under the Symphony JV Agreement (clause 2); and
- b. unconditionally and irrevocably indemnified GCPF against all loss and damage arising from a default by Symphony Place Holdings and Symphony Place Coomera of the terms of the Symphony JV Agreement (clause 3).

**Particulars**

The Symphony Guarantee was in writing and was Annexure C to the Symphony JV Agreement.

317. On 3 February 2022:

- a. Symphony Place Coomera was registered as the owner of the Symphony Properties; and
- b. GCPF registered the Symphony Mortgage over the Symphony Properties.

318. By a Deed of Variation of Joint Venture Agreement between Symphony Place Holdings, Symphony Place Coomera and GCPF dated October 2022, the sum of GCPF's advance was reduced to \$2,700,000.

**Particulars**

The Deed of Variation was in writing and dated October 2022.

319. GCPF provided the following advances to Symphony Place Holdings and Symphony Place Coomera under the terms of the Symphony JV Agreement:

- a. \$1,400,000 on 14 January 2022; and
- b. \$385,150 on 25 October 2022.



### **I.3 The River Glen Project – Corporate Structure**

320. Wharton James Developments Yamba Pty Ltd (**WJDY**) is a company that is incorporated. With respect to WJDY:
- a. Nicholas James and Benjamin James were directors of WJDY from June 2020 until August 2023;
  - b. Hewish and Sean Greene were directors of WJDY from 12 May 2023 until 15 January 2024;
  - c. Dickinson was appointed as a director of WJDY on 12 May 2023; and
  - d. Wharton James Group Pty Ltd (**WJG**) holds 120 shares of WJDY, and Global Capital Projects Pty Ltd (**Global Capital Projects**) holds 119 shares of WJDY.
321. Global Capital Projects is a company that was incorporated on 28 April 2023. At all material times:
- a. Dickinson, Hewish and Sean Greene were directors of Global Capital Projects since incorporation; and
  - b. Bird Rock holds 2 shares, Hewish Capital holds 2 shares, Greene Developments Pty Ltd (**Greene Developments**) holds 2 shares and NIP Australia Pty Ltd (**NIP Australia**) holds 4 shares.
322. At all material times:
- a. Dickinson was the sole director and company secretary of Bird Rock. Dickinson and Rowse were the shareholders of Bird Rock;
  - b. Hewish and his wife Stephanie Hewish were the sole directors, company secretaries and shareholders of Hewish Capital;
  - c. Sean Greene and Jennifer Greene were the sole directors, companies secretaries and shareholders of Greene Developments; and
  - d. Isabella Pappas and Natasha Pappas (being the children of Pappas) were the sole directors, secretaries and shareholders of NIP Australia.



#### **I.4 The River Glen Project – JV Agreement**

323. Pursuant to a joint venture agreement between WJDY and GCPF dated 18 August 2021 (**River Glen JV Agreement**):

- a. GCPF and WJDY entered into the River Glen JV Agreement for the purpose of acquiring a land subdivision development site at Rannoch Avenue, Maclean, New South Wales, being folio 3/1052069 and folio 2/1101094 (**River Glen Properties**), and developing the River Glen Properties to 177 lots (**River Glen Project**) (clause 4);
- b. WJDY was to manage the affairs of the joint venture (clause 3);
- c. GCPF was to contribute funds for the River Glen Project in accordance with the 'Funding Terms', including to acquire and settle the development site (clause 6(a), 14(a));
- d. WJDY was to develop the River Glen Project, by way of construction, registration of the lots, marketing and sale of the lots (clause 6(b));
- e. the profits on the joint venture would be divided equally between WJDY and GCPF, provided that prior to distribution of profits, all monies contributed by GCPF shall first have been paid and distributed to GCPF (clause 6(c));
- f. in consideration of GCPF providing funding for the River Glen Project, WJDY would prior to settlement of the contract for purchase of the River Glen Properties execute a second registered mortgage in favour of GCPF, which shall be registered over the River Glen Properties (clause 8(g), 14(b));
- g. all decisions relating to the joint venture would be made by WJDY (clause 9(a));
- h. WJDY would comply with the requirements of the Funding Terms (clause 9(e)(viii));
- i. under the Funding Terms, GCPF agreed to provide a loan facility to advance up to \$3,319,000. In this respect, GCPF was required to advance to WJDY (i) \$354,750 in August 2021 (the 'First Advance Date'), and (ii) \$2,964,250 in September 2021 (Annexure A);



- j. interest was to be paid on the advance at 20% per annum compounding annually, or a higher rate of 1.5% above the minimum rate after the repayment date (Annexure A);
- k. GCPF's advance was to be repaid on the earlier of completion of the River Glen Project or 24 months after the 'First Advance Date', which was in August 2023 (Annexure A); and
- l. the directors of WJDY agreed to provide guarantees (clause 20).

### Particulars

The River Glen JV Agreement was in writing and dated 18 August 2021.

- 324. The River Glen JV Agreement was signed on behalf of GCPF by Pappas and Isabella Pappas.
- 325. By a Deed of Guarantee and Indemnity dated 18 August 2021 (**River Glen Guarantee**), Benjamin James and Nicholas James agreed that:
  - a. they would unconditionally and irrevocably guarantee to GCPF that WJDY would perform all of its obligations under the River Glen JV Agreement and the Funding Terms, and each of them *"guarantees the due and punctual payment by Party 1 [WJDY] of the deposit, purchase price, interest, balance and any and all other monies under the Joint Venture Agreement and Funding Terms due and payable"* (clause 2).
  - b. they unconditionally and irrevocably indemnify GCPF against all loss and damage connected with a default by WJDY on the terms of the River Glen JV Agreement. They must pay GCPF the amount of the loss and damage resulting from such default (clause 3).
  - c. their liability under the guarantee and indemnity was as an indemnifier or principal debtor. The rights of a party under the guarantee and indemnity are not affected by various matters, including (i) GCPF compounding or compromising with or releasing WJDY or agreeing not to sue WJDY; or (ii) any variation to the River Glen JV Agreement or Funding Terms (clause 7).



### Particulars

The River Glen Guarantee was in writing and formed Annexure C to the River Glen JV Agreement.

326. By a Deed of Variation of Joint Venture Agreement between WJDY and GCPF dated 12 November 2021 (**River Glen Variation Agreement**), the second drawdown of GCPF's funding was increased to \$3,504,544.60.

### Particulars

The River Glen Variation Agreement was in writing and dated 12 November 2021.

327. GCPF made the following advances to WJDY under the terms of the River Glen JV Agreement as varied by the River Glen Variation Agreement.

#	Date	Drawdown
1.	18 August 2021	\$354,750.00
2.	11 November 2021	\$3,504,544.60
<b>Total</b>		<b>\$3,859,294.60</b>

328. On or around 17 November 2021, WJDY was registered as the owner of the River Glen Properties.
329. By a mortgage signed by Benjamin James and Nicholas James on behalf of WJDY dated 17 August 2021 (**River Glen Mortgage**), WJDY executed a mortgage to secure its obligations to GCPF under the River Glen JV Agreement.
330. The River Glen Mortgage was never registered by GCPF or the GCPF Directors.

### I.5 Restructure of the Symphony Project and the River Glen Project

331. By a Heads of Agreement between WJG, WJDY, Symphony Place Coomera, GCPF and Global Capital Projects (**River Glen Heads of Agreement**), it was specified by way of background:
- WJG is registered as the sole shareholder of WJDY, owning 120 shares (clause 3(1));
  - On 17 August 2021, WJDY entered into a contract to purchase the River Glen Properties (clause 3(2));



- c. Prior to entering into such contract, GCPF and WJDY entered into the River Glen JV Agreement to develop the River Glen Properties, and GCPF contributed \$3,859,294 to WJDY to acquire and develop the River Glen Properties (that is, the River Glen Project) (clause 3(3));
- d. A separate subsidiary of WJG, being Symphony Place Coomera, owns the Symphony Land (clause 3(6));
- e. GCPF entered into the Symphony JV Agreement with Symphony Place Coomera and contributed \$1,800,000 to acquire and develop the Symphony Land (clause 3(7));
- f. Global Capital Projects “*is owned by shareholders of GCPF or entities related to them*”, and is proposing to take an equity stake in WJDY and to enter into a development agreement with WJDY relating to management of the company and development of the River Glen Properties (clause 3(8)).

#### **Particulars**

The River Glen Heads of Agreement was in writing and dated 1 May 2023.

- 332. Clause 3(8) of the River Glen Heads of Agreement was incorrect, because:
  - a. Global Capital Projects was majority owned by companies related to the GCPF Directors and/or other families;
  - b. GCPF was almost exclusively owned by investors who have established self-managed superannuation funds; and
  - c. the Global Capital Projects directors only had small minority shareholdings in GCPF.
- 333. Under the terms of the River Glen Heads of Agreement, it was specified that:
  - a. the River Glen Heads of Agreement were non-binding and subject to the parties entering into final legal agreements giving effect to the matters specified (clause 10(1));



- b. the parties would terminate the Symphony JV Agreement, “*including procuring the release of security granted in relation to funding provided by GCPF under the [Symphony JV Agreement] over the Symphony Land and [Symphony Place Coomera]*” (clause 4(1));
  - c. the parties would amend the River Glen JV Agreement so as to allow GCPF “*to reallocate the funds contributed and accrued under the [Symphony JV Agreement] to be counted as funds contributed and accrued under the [River Glen JV Agreement]*” (clause 4(2));
  - d. WJDY would enter into a development agreement with Global Capital Projects under which WJDY appoints Global Capital Projects solely and exclusively to manage WJDY and develop and manage the River Glen Properties, in return for fees “*as determined at the sole discretion of [Global Capital Projects]*” (clause 4(3));
  - e. WJDY would issue 119 fully paid ordinary class shares to Global Capital Projects at \$1 per share (clause 4(4)(a));
  - f. WJG would remove the current directors of WJDY and would appoint Hewish, Dickinson and Sean Greene as directors (clause 4(4)(b)); and
  - g. WJG would grant an option for Global Capital Projects to acquire all of WJG’s shares in WJDY for \$1 per share within 36 months (clause 4(4)(c)).
334. In the premises, the River Glen Heads of Agreement specified terms that were to the financial benefit of Global Capital Projects, but not to the financial benefit of GCPF.
335. In the River Glen Heads of Agreement, it was further warranted and acknowledged that (Annexure 1):
- a. the River Glen Project has an existing finance facility with ‘Assured Management’, secured by a first and second mortgage, with respect to:
    - (i) loan agreement dated 17 November 2021 providing for total approved loans of \$14,771,446, and funds drawn down of \$5,112,250;



- (ii) loan agreement dated 31 March 2022 providing for total approved loans of \$638,226, and funds drawn down of \$527,520;
  - b. the River Glen Project had a loan agreement and registered mortgage dated 20 December 2022 with 'Lisa Brown', securing a loan of \$700,000; and
  - c. the River Glen Project had a finance facility with GCPF under the River Glen JV Agreement, secured by an "*unregistered mortgage*", for an advance of \$3,859,294.
336. The River Glen Heads of Agreement was signed by Hewish and Dickinson on behalf of GCPF, and by Dickinson and Sean Greene on behalf of Global Capital Projects.
337. Subsequently, the following events occurred with respect to the River Glen Project and the Symphony Project:
- a. on 12 May 2023, Hewish, Dickinson and Sean Greene became directors of WJDY;
  - b. on 24 May 2023, GCPF withdrew the Symphony Mortgage;
  - c. Global Capital Projects became the owner of 119 WJDY shares; and
  - d. on 11 August 2023, Benjamin James and Nicholas James ceased to be directors of WJDY.
338. By a contract of sale dated 1 June 2023 (approximately 1 week after GCPF's withdrawal of the Symphony Mortgage), Symphony Place Coomera agreed to sell the Symphony Properties to the State of Queensland for the sum of \$1,035,000.

### **Particulars**

The Contract of Sale was in writing and dated 1 June 2023.

#### **I.6 Additional GCPF loan to WJDY**

339. Pursuant to a Loan Deed between GCPF and WJDY dated 1 October 2023 (**River Glen Loan Deed**):



- a. GCPF agreed to provide to WJDY a loan facility for up to \$1,500,000 (clause 2.1; item 7, Schedule);
- b. the loan was to be repaid 24 months from the Advance Date, being the date of GCPF's first advance of monies (clause 3.1.1; items 4, 8, Schedule);
- c. interest was to be paid on the loan at 20% per annum, or 30% per annum if an 'Event of Default' was subsisting (clause 3.2.1; items 5, 6, Schedule);
- d. there were no guarantors for the loan (item 11, Schedule); and
- e. the loan was unsecured and no mortgage was provided (item 13, Schedule).

#### **Particulars**

The River Glen Loan Deed was in writing and dated 1 October 2023.

340. The River Glen Loan Deed was signed by Hewish and Dickinson on behalf of GCPF, and by Hewish and Dickinson on behalf of WJDY.
341. At the time when GCPF agreed to provide the additional loan to WJDY, being 1 October 2023:
  - a. WJDY was in default of the repayment of the advance to GCPF under the River Glen JV Agreement; and
  - b. Hewish, Dickinson and Sean Greene were the sole directors of WJDY.
342. GCPF made the following advances to WJDY under the terms of the River Glen Loan Deed, GCPF provided made payments to WJDY (**WJDY Payments**).

#### **Particulars**

The WJDY Payments comprised the following.

#	Date	Drawdown
1.	17 October 2023	\$48,610.68
2.	20 October 2023	\$8,750.00
3.	10 November 2023	\$200,000.00
4.	24 November 2023	\$100,000.00
5.	7 December 2023	\$8,750.00
6.	12 December 2023	\$10,533.65



#	Date	Drawdown
7.	13 December 2023	\$16,86.00
8.	18 December 2023	\$65,894.47
9.	9 January 2024	\$10,902.19
10.	16 January 2024	\$65,894.47
11.	22 January 2024	\$12,691.85
12.	30 January 2024	\$10,664.00
13.	6 February 2024	\$10,872.41
14.	20 February 2024	\$65,894.47
15.	11 March 2024	\$10,170.96
16.	19 March 2024	\$65,894.47
17.	3 April 2024	\$10,872.41
18.	17 April 2024	\$65,894.47
19.	9 May 2024	\$10,521.68
20.	14 May 2024	\$100,000.00
21.	22 May 2024	\$90,000.00
22.	23 May 2024	\$150,000.00
23.	18 June 2024	\$65,894.47
24.	27 August 2024	\$86,666.15
<b>Total</b>		<b>\$1,275,389.66</b>

343. Assured Management Ltd, Coman Super Pty Ltd and Justfine Pty Ltd, and Lisa M Brown Investments Pty Ltd each registered mortgages over the River Glen Properties, which took priority to the River Glen Mortgage (being GCPF's unregistered mortgage).

#### **I.7 Claim under the River Glen Guarantee**

344. In breach of the River Glen JV Agreement as amended by the River Glen Variation Agreement, WJDY failed to repay GCPF's advance by the repayment date (August 2023) or at all.
345. As at 22 August 2025, the sum of \$8,225,976.57 including contractual interest, is outstanding with respect to GCPF's advance to WJDY under the River Glen JV Agreement as amended.
346. Further, interest continues to accrue on the outstanding sum of \$8,225,976.57 due to GCPF, being interest at a rate of 21.5% per annum, equivalent to \$4,846.10 per day.
347. Pursuant to clauses 2 and 3 of the River Glen Guarantee, Benjamin James and Nicholas James are liable as guarantors:



- a. to pay the outstanding sums owing to GCPF, with respect to the advance under the River Glen JV Agreement as amended, inclusive of interest, being the sum of \$8,225,976.57 as at 22 August 2025, together with interest accruing at \$4,846.10 per day; and/or
  - b. to indemnify GCPF against all loss and damage connected with a default by WJDY of the terms of the River Glen JV Agreement as amended, arising from WJDY having failed to repay the sum of \$8,225,976.57 as at 22 August 2025, together with interest accruing at \$4,846.10 per day.
348. By letter dated on or around the date of this statement of claim, GCPF's solicitors Arnold Bloch Leibler wrote to Benjamin James and Nicholas James, demanding payment of \$8,225,976.57 under the terms of the River Glen Guarantee.

### **Particulars**

The letter was in writing and dated on or around the date of this statement of claim.

349. In breach of the River Glen Guarantee, Benjamin James and Nicholas James have failed to pay such sum to GCPF.

### **I.8 GCPF Directors' breaches of the Fiduciary Duties and the Statutory Duties**

350. Each of the GCPF Directors caused GCPF to enter into the River Glen Heads of Agreement and the River Glen Loan Deed in circumstances in which:

- a. there was a conflict, or a real or substantial possibility of conflict, between:
  - (i) the duties that each of the GCPF Directors owed to GCPF; and
  - (ii) the interests of each of the GCPF Directors,

by reason of the following:

- b. the GCPF Directors or their family members were directors and/or shareholders of private companies that owned Global Capital Projects, which held shares in WJDY;



- c. in the River Glen Heads of Agreement, it was falsely stated that Global Capital Projects was owned by shareholders of GCPF or entities related to them;
  - d. the River Glen Heads of Agreement provided financial benefits to Global Capital Projects, but not to GCPF or to its shareholders;
  - e. at the material times, Hewish and Dickinson were directors of WJDY; and
  - f. Hewish and Dickinson were acting on behalf of both GCPF and WJDY, and executed the River Glen Loan Deed on behalf of both parties.
351. In the premises, by causing GCPF to enter into the River Glen Heads of Agreement, each of the GCPF Directors breached the No Conflict Duty.
352. Each of the GCPF Directors caused GCPF to make the WJDY Payments in circumstances where:
- a. there was a conflict, or a real or substantial possibility of conflict, between:
    - (i) the duties that each of GCPF Directors owed to GCPF; and
    - (ii) the interests of each of the GCPF Directors; and
  - b. by causing GCPF to make WJDY Payments, each of the GCPF Directors derived an unauthorised profit for himself or one or more third parties,
- by reason of the following:
- c. the GCPF Directors or their family members were directors and/or shareholders of private companies that owned Global Capital Projects, which held shares in WJDY;
  - d. in the River Glen Heads of Agreement, it was falsely stated that Global Capital Projects was owned by shareholders of GCPF or entities related to them;
  - e. the River Glen Heads of Agreement provided financial benefits to Global Capital Projects, but not to GCPF or to its shareholders;
  - f. at the material times, Hewish and Dickinson were directors of WJDY; and



- g. Hewish and Dickinson were acting on behalf of both GCPF and WJDY, and executed the River Glen Loan Deed on behalf of both parties; and
  - h. each of the GCPF Directors caused GCPF to enter into the River Glen Heads of Agreement and the River Glen :Loan Deed in breach of the No Conflict Duty.
- 353. In the premises, by causing GCPF to make the WJDY Payments, each of the GCPF Directors breached the No Conflict Duty and the No Profit Duty.
- 354. Further:
  - a. the River Glen Heads of Agreement provided for the withdrawal of GCPF's Symphony Mortgage over the Symphony Properties;
  - b. the River Glen Heads of Agreement specified that the Symphony JV Agreement would be terminated, but did not provide for GCPF to recover the advance from Symphony Place Holdings and Symphony Place Coomera under the terms of the Symphony JV Agreement;
  - c. at the time of executing the River Glen Loan Deed, WJDY was in default of repaying the advance to GCPF under the River Glen JV Agreement; and
  - d. the River Glen Loan Deed did not provide for WJDY to provide any security, including any mortgage or any guarantees, for GCPF's loans to WJDY.
- 355. By reason of the matters pleaded in paragraph 350, 352 and 354 above:
  - a. a director acting with reasonable care and diligence considering whether to approve the entry into the River Glen Heads of Agreement and the River Glen Loan Deed, and considering whether to approve the making of the WJDY Payments, would not have exercised their power to approve the entry into either agreement or to make that payment;
  - b. the exercise of each of the GCPF Directors' powers to approve the entry into the River Glen Heads of Agreement and the River Glen Loan Deed and to make the WJDY Payments was not in good faith in the best interests of GCPF and for a proper purpose; and



- c. by exercising his powers to approve the entry into the River Glen Heads of Agreement and the River Glen Loan Deed, and to approve the making of the WJDY Payments, each of the GCPF Directors improperly used his position to gain an advantage for himself or someone else, or cause detriment to GCPF.
356. In the premises, by causing GCPF to enter into the River Glen Heads of Agreement and the River Glen Loan Deed, and by causing GCPF to make the WJDY Payments, each of the GCPF Directors acted in contravention of the Statutory Duties.
357. By reason of the GCPF Directors' breaches of the Fiduciary Duties and/or contravention of the Statutory Duties, GCPF has suffered loss and damage.

### **Particulars**

GCPF has not recovered the advance to Symphony Place Holdings and Symphony Place Coomera pursuant to the Symphony JV Agreement, being the sum of \$3,533,676.23 including interest as at 22 August 2025;

GCPF has not recovered the advance to WJDY pursuant to the River Glen JV Agreement, being the sum of \$8,225,976.57 including interest as at 22 August 2025; and

Further particulars will be provided following discovery and prior to trial.

358. Further, each of the GCPF Directors:
- a. procured GCPF to withdraw the Symphony Mortgage over the Symphony Properties;
  - b. failed to seek or obtain recovery of GCPF's advance from Symphony Place Coomera and Symphony Place Holdings pursuant to the Symphony JV Agreement;
  - c. failed to procure GCPF to register the River Glen Mortgage over the River Glen Properties;
  - d. procured GCPF to make additional loans to WJDY pursuant to the River Glen Loan Deed, at a time when:
    - (i) WJDY was in default of repaying the advance to GCPF under the River Glen JV Agreement; and



- (ii) Assured Management Ltd, Coman Super Pty Ltd and Justfine Pty Ltd, and Lisa M Brown Investments Pty Ltd had mortgages ranking in priority to GCPF's security; and
  - e. failed to seek or obtain recovery of GCPF's advance from WJDY pursuant to the River Glen JV Agreement, and GCPF's loan from WJDY pursuant to the River Glen Loan Deed.
359. By reason of the matters pleaded in paragraph 350, 352, 354 and 358 above:
- a. a director acting with reasonable care and diligence would not have exercised or failed to exercise their powers in the ways set out in paragraph 358 above;
  - b. each of the GCPF Directors' exercise of or failure to exercise their powers in the ways set out in paragraph 358 above was not in good faith in the best interests of GCPF and for a proper purpose; and
  - c. by exercising or failing to exercise their powers in the ways set out in paragraph 358 above, each of the GCPF Directors improperly used his position to gain an advantage for himself or someone else, or cause detriment to GCPF.
360. In the premises, by exercising or failing to exercise their powers in the ways set out in paragraph 358, each of the GCPF Directors acted in contravention of the Statutory Duties.
361. By reason of the GCPF Directors' breaches of the Fiduciary Duties and/or contravention of the Statutory Duties, GCPF has suffered loss and damage.

### **Particulars**

GCPF has not recovered the advance to Symphony Place Holdings and Symphony Place Coomera pursuant to the Symphony JV Agreement, being the sum of \$3,533,676.23 including interest as at 22 August 2025;

GCPF has not recovered the advance to WJDY pursuant to the River Glen JV Agreement, being the sum of \$8,225,976.57 including interest as at 22 August 2025; and

GCPF has not recovered the loan to WJDY pursuant to the River Glen Loan Deed, being the sum of \$1,677,072.44 including interest as at 22 August 2025.



Further particulars will be provided following discovery and prior to trial.

**I.9 Breaches of ss 208 and 209 of the Act**

362. In the premises, WJDY, Global Capital Projects, Bird Rock, Hewish Capital and NIP Australia were related parties to GCPF within the meaning of s 228 of the Act.

363. At all relevant times, neither GCPF nor any of the GCPF Directors obtained shareholder approval to enter into:

- a. the River Glen Heads of Agreement; or
- b. the River Glen Loan Deed.

364. The entry into each of the agreements referred to in paragraph 363 above required approval pursuant to s 208 of the Act, as:

- a. GCPF was a public company;
- b. WJDY, Global Capital Projects, Bird Rock, Hewish Capital and NIP Australia were related parties to GCPF;
- c. by reason of the entry into each of the arrangements, GCPF gave financial benefits to WJDY and Global Capital Projects, within the meaning of s 229 of the Act, being:
  - (i) GCPF withdrew the Symphony Mortgage in consideration for Global Capital Projects being issued shares in WJDY, being granted an option to acquire additional shares in WJDY, and entering into a development agreement with WJDY to develop and manage the River Glen Properties; and
  - (ii) GCPF provided finance to WJDY without receiving any mortgage, guarantees or other security; and
- d. the financial benefits were not on arms-length terms under s 210 of the Act, or otherwise exempt under ss 211 to 216 of the Act.

365. In the premises:



- a. each of the GCPF Directors caused GCPF to contravene s 208 of the Act by procuring or allowing GCPF to enter into each of the agreements referred to in paragraph 363 above;
  - b. each of the GCPF Directors contravened s 209(2) of the Act, as they were involved in GCPF's contravention of s 208, as each of the GCPF Directors:
    - (i) knew that the members' approval had not been obtained for providing the financial benefits to WJDY and Global Capital Projects; and
    - (ii) did not seek to delay GCPF entering into the each of the agreements referred to in paragraph 363 above until the members' approval had been obtained.
366. Further, by reason of the matters pleaded in paragraphs 362 to 365 above, a director acting with reasonable care and diligence considering whether to approve the entry into each of the agreements referred to in paragraph 363 above, would not have exercised their power to approve the entry into either agreement in circumstances where the entry into each agreement would contravene s 208 of the Act.
367. In the premises, by causing GCPF to enter into each of the agreements referred to in paragraph 363 above, the GCPF Directors acted in contravention of the duty to exercise their powers and discharge their duties with reasonable care and diligence (as pleaded in paragraph 18(a) above).
368. By reason of the GCPF Directors' breach of s 209(2) of the Act and/or the Statutory Duty pleaded in paragraph 18(a) above, GCPF has suffered loss and damage.

### **Particulars**

GCPF has not recovered the advance to Symphony Place Holdings and Symphony Place Coomera pursuant to the Symphony JV Agreement, being the sum of \$3,533,676.23 including interest as at 22 August 2025;

GCPF has not recovered the advance to WJDY pursuant to the River Glen JV Agreement, being the sum of \$8,225,976.57 including interest as at 22 August 2025; and

GCPF has not recovered the loan to WJDY pursuant to the River Glen Loan Deed, being the sum of \$1,677,072.44 including interest as at 22 August 2025.



Further particulars will be provided following discovery and prior to trial.

**J. Isabella Pappas' Liability**

**J.1 Isabella Pappas' Liability for Breach of Fiduciary Duties and Statutory Duties**

369. At all material times, Isabella Pappas was the company secretary and an officer of GCPF.

370. Isabella Pappas undertook to act for or on behalf of or in the interests of GCPF in the exercise of discretions or powers that affect the interests of GCPF in a legal or practical sense.

**Particulars**

Isabella Pappas' undertaking to exercise discretionary powers for or on behalf of or in the interests of GCPF may be inferred from:

1. the fact that at all material times she was the company secretary and an officer of GCPF;
2. the fact that she participated in every meeting of the GCPF Board of Directors, the GCPF IRC and the GCPF PCG from 6 August 2020 to 20 June 2024; and
3. the fact that she signed agreements on behalf of GCPF.

Further particulars may be provided following discovery and prior to the trial.

371. In the premises, at all material times Isabella Pappas owed to GCPF the Fiduciary Duties and the Statutory Duties.

372. Isabella Pappas participated in meetings of the GCPF Board of Directors and the GCPF IRC, at which there were discussions about GCPF's dealings with GCPF Management, PBD, Kooyongkoot, 929 High Street, Serpells Place and WJDY, in circumstances where:

a. she was:

- (i) employed by GCPF Management as its operations manager and was paid a salary by GCPF Management;



- (ii) a shareholder of:
    - (A) NIP Australia Pty Ltd, which was a shareholder of Global Capital Projects; and
    - (B) IP Holdings Qld Pty Ltd, which was a shareholder of CJCDN;
  - (iii) a beneficiary of the Josie Pappas Discretionary Trust, the trustee of which was Woodruff, the sole shareholder of PBD; and
  - (iv) Pappas' daughter; and
- b. she knew that the Directors and third parties with relationships to the Directors had interests in GCPF Management, PBD, Kooyongkoot, 929 High Street, Serpells Place and WJDY.

### **Particulars**

Isabella Pappas is recorded as present at all meetings of the GCPF Board of Directors, GCPF Management, GCPF IRC, and GCPF PCG from 6 August 2020 to 20 June 2024.

The Josie Pappas Discretionary Trust was settled by the terms of a written trust deed dated 1 February 2014 and executed by Graeme Anthony Gillard as settlor and Woodruff as trustee.

373. Isabella Pappas participated in the meetings referred to at paragraph 372 above in circumstances where there was a conflict, or a real or substantial possibility of conflict, between:

- a. Isabella Pappas' duties to GCPF; and
- b. Isabella Pappas' own interests and/or the interests of the GCPF Directors and/or the interests of other third parties,

by reason of the following:

- c. Isabella Pappas was being paid a salary by GCPF Management;
- d. Isabella Pappas was a shareholder of NIP Australia Pty Ltd and IP Holdings;



- e. Isabella Pappas was a beneficiary of the Josie Pappas Discretionary Trust, the trustee of which was at all material times the sole shareholder of PBD;
- f. Isabella Pappas is Pappas' daughter; and
- g. The GCPF Directors, and third parties related to the GCPF Directors, had interests in GCPF Management, PBD, Kooyongkoot, PBD, Serpells Road and WJDY as set out at paragraphs 20 to 23, 51, 118 to 120, 184 to 186, 252 to 254 and 321 to 322 above.

374. In the premises, by participating in the meetings referred to at paragraph 372 above, Isabella Pappas breached the No Conflict Duty.

375. Further, Isabella Pappas:

- a. as company secretary and an officer of GCPF who owed fiduciary duties to GCPF; or

- b. alternatively as the fiduciary agent of GCPF,

signed the following agreements on behalf of GCPF:

- c. the first Carlile Deed of Variation;
- d. the second Carlile Deed of Variation;
- e. the third Carlile Deed of Variation; and
- f. the Serpells Variation of Loan Deed,

in circumstances where there was a conflict, or a real and substantial possibility of conflict, between:

- g. Isabella Pappas' duties owed to GCPF; and
- h. Hewish's and Dickinson's interests;

by reason of the following:



- i. Hewish and Dickinson were directors and shareholders of private companies that owned 929 High Street;
  - j. Hewish and Dickinson were the sole directors of Serpells Road, and directors and shareholders of private companies that were shareholders of Serpells Road;
376. In the premises, by signing the agreements referred to at paragraph 375 above, Isabella Pappas breached the No Conflict Duty.
377. Further, by reason of the matters pleaded in paragraphs 372, 373 and 375 above:
- a. an officer acting with reasonable care and diligence would not have exercised their powers to sign the agreements referred to at paragraph 375 above;
  - b. Isabella Pappas' exercises of power in signing the agreements referred to at paragraph 375 above were not in good faith in the best interests of GCPF and for a proper purpose; and
  - c. by exercising her power in signing the agreements referred to at paragraph 375 above, Isabella Pappas improperly used her position to gain an advantage for herself or someone else, or to cause detriment to GCPF.
378. In the premises, Isabella Pappas acted in breach of the Statutory Duties by signing the agreements set out at paragraph 375.
379. By reason of Isabella Pappas' breaches of the Fiduciary Duties and the Statutory Duties, GCPF has suffered loss and damage.

#### **Particulars**

The particulars at paragraphs 34, 95, 159, 228, 298 and 357 above are repeated.

#### **J.2 Isabella Pappas' Receipt-Based liability**

380. Further or in the alternative, on or around 30 July 2021, 21 Upton Street Holdings Pty Ltd (**Holdings**) became the registered proprietor of the property at 21 Upton Street, Bundall, Queensland 4217 (**21 Upton Street**).

#### **Particulars**



The property is Lot 67 on RP 215619 and referred to by title reference number 1737606.

381. The purchase price paid by Holdings for 21 Upton Street was \$5,300,000. Isabella Pappas caused the following contributions to be made to that purchase price.

#	Date	Amount
1.	10 December 2020	\$265,000.00
2.	28 July 2021	\$465,000.00
3.	28 July 2021	\$150,000.00
4.	Unknown	\$200,000.00
<b>Total</b>		<b>\$1,080,000.00</b>

**Particulars**

Those contributions are referred to in letters dated 29 April 2025 and 7 May 2025 from Results Legal (solicitors for Isabella Pappas) to Marino Law (solicitors for the liquidators of Holdings).

382. As a result of contributing \$1,080,000 to the purchase price of 21 Upton Street, Isabella Pappas acquired a beneficial interest in 21 Upton Street under a resulting trust from the time of settlement of the sale of that property to Holdings.

**Particulars**

Isabella Pappas' beneficial interest in 21 Upton Street was declared by Freeburn J of the Supreme Court of Queensland on 23 August 2024.

383. On 23 August 2024, liquidators were appointed to Holdings.

**Particulars**

The liquidators were appointed by an order of Freeburn J of the Supreme Court of Queensland on 23 August 2024.

384. On 21 February 2025, the liquidators of Holdings agreed to sell 21 Upton Street to 23 Upton Pty Ltd for \$9,000,000.

**Particulars**

The agreement was in writing and was executed by Nikita Keramos, one of the liquidators of Holdings, and by Andrew Taylor for 23 Upton Pty Ltd.



385. Settlement of the sale of 21 Upton Street to 23 Upton Pty Ltd took place on or around 22 April 2025.
386. The liquidators of Holdings determined that:
- a. after payment of commission, adjustments and other expenses, the proceeds of sale of 21 Upton Street available for distribution to the beneficial owners of 21 Upton Street amounted to \$5,503,367.34; and
  - b. of those available sale proceeds, \$1,782,676.33 (**Isabella Pappas Receipts**) should be paid to Isabella Pappas, reflecting her beneficial interest in 21 Upton Street under a resulting trust.

#### **Particulars**

GCPF refers to the affidavit of Nikita Keramos affirmed on 16 June 2025 and filed in the Brisbane Registry of the Supreme Court of Queensland in respect of matter number BS5619/24.

387. In May and June 2025, the GCPF Liquidators notified the liquidators of Holdings that GCPF intended to make a claim for at least \$150,000 in respect of Isabella Pappas' beneficial interest in 21 Upton Street and the Isabella Pappas Receipts.

#### **Particulars**

The notification was in letters dated 22 May 2025 and 2 June 2025 from Arnold Bloch Leibler (solicitors for the GCPF liquidators) to Nikita Keramos, one of the liquidators of Holdings.

388. On 12 June 2025, the liquidators of Holdings applied to the Supreme Court of Queensland for directions that they would be justified and acting reasonably in:
- a. paying \$1,632,676.33 of the Isabella Pappas Receipts to Isabella Pappas; and
  - b. paying \$150,000 of the Isabella Pappas Receipts into a court of competent jurisdiction if, by 4 pm on 4 July 2025, the GCPF Liquidators institute proceedings in respect of that sum; or
  - c. paying \$150,000 of the Isabella Pappas Receipts to Isabella Pappas if, by 4 pm on 4 July 2025, the GCPF Liquidators do not institute proceedings in respect of that sum.



### **Particulars**

The application was filed in the Brisbane Registry of the Supreme Court of Queensland in relation to matter number BS5619/24

389. On 23 June 2025, Callaghan J of the Supreme Court of Queensland issued a direction that the liquidators of Holdings were justified and acting reasonably in:
- a. paying \$1,232,676.33 of the Isabella Pappas Receipts to Isabella Pappas;
  - b. paying \$400,000 of the Isabella Pappas Receipts into a court of competent jurisdiction if, by 4 pm on 22 August 2025, the GCPF Liquidators institute proceedings in respect of that sum; or
  - c. paying \$400,000 of the Isabella Pappas Receipts to Isabella Pappas if, by 4 pm on 22 August 2025, the GCPF Liquidators do not institute proceedings in respect of that sum; and
  - d. if, by that date, the GCPF Liquidators institute proceedings for less than \$400,000 of the Isabella Pappas Receipts:
    - (i) paying the amount that is subject of a claim into a court of competent jurisdiction; and
    - (ii) paying the balance of the \$400,000 that is not subject of a claim to Isabella Pappas.
390. Some or all of the \$1,080,000 that Isabella Pappas caused to be contributed to the purchase price of 21 Upton Street were the traceable proceeds of the PBD Payments.

### **Particulars**

The GCPF Liquidators do not know the total amount of the amounts which are the traceable proceeds of the PBD Payments. However, at present, the amount is at least \$150,000.

On 13 August 2020, GCPF paid \$5,200,000 into a QC Law trust account held on behalf of PBD.

That payment was one of the PBD Payments. Paragraph 58 above is repeated.



On 28 July 2021, QC Law transferred \$150,000 from the QC Law trust account held on behalf of PBD to a QC Law trust account held on behalf of Holdings.

On 28 July 2021, a trust receipt for the deposit of the \$150,000 into the QC Law trust account held on behalf of Holdings was issued to Isabella Pappas.

The 28 July 2021 transfer is recorded in a QC Law trust account statement dated 31 July 2022 (payment 7075, with the note 'Paid by cheque to QC Law Trust Account. Reason: Trust Transfer as per authority').

Further particulars of the source of the funds that Isabella Pappas contributed to the purchase of 21 Upton Street may be provided following discovery and prior to the trial.

391. Isabella Pappas received and claims an entitlement to the Isabella Pappas Receipts as a result of the breaches of Fiduciary Duties and the Statutory Duties by Pappas, Hewish and Dickinson that were pleaded in paragraphs 88, 90, 92, 96, 98 and 100 above.
392. Isabella Pappas received and claims an entitlement to the Isabella Pappas Receipts in circumstances where she knew:
- a. the content of Hewish's, Dickinson's and Pappas' Fiduciary Duties and Statutory Duties to GCPF; and
  - b. the matters pleaded in paragraphs 88, 90, 92, 96, 98 and 100 above.

### **Particulars**

Isabella Pappas:

1. is Pappas' daughter;
2. has been the company secretary and an officer of GCPF since 2021;
3. is recorded as present at all meetings of the GCPF Board of Directors, GCPF Management, GCPF IRC, and GCPF PCG from 6 August 2020 to 20 June 2024, including those at which GCPF's dealings with PBD were discussed.

393. In the premises, Isabella Pappas:
- a. knew;
  - b. shut her eyes to the obvious fact;



- c. wilfully and recklessly failed to make such inquiries as an honest and reasonable person would make, which would establish; or
- d. further or in the alternative, had knowledge of circumstances which would indicate to an honest and reasonable person,

that she received and claims the Isabella Pappas Receipts as a result of breaches of fiduciary duty by one or more of Pappas, Hewish and Dickinson.

394. In the premises, Isabella Pappas received and claims the Isabella Pappas Receipts:

- a. as a volunteer; and
- b. further or in the alternative, otherwise than as a good faith purchaser for value without notice of GCPF's equitable interest in the Isabella Pappas Receipts.

395. Further or in the alternative:

- a. Isabella Pappas has not, to date, explained the source of the \$150,000 that she caused to be contributed to the purchase price for 21 Upton Street and that were the traceable proceeds of the PBD Payments;
- b. an honest and reasonable person in Isabella Pappas' position would have known that GCPF did not intend Isabella Pappas to have the benefit of the PBD Payments; and
- c. an honest and reasonable person in Isabella Pappas' position would have known that the use of the PBD Payments to contribute to the purchase price for 21 Upton Street was not authorised by GCPF or by PBD.

396. In the premises:

- a. the \$150,000 that Isabella Pappas caused to be contributed to the purchase price for 21 Upton Street was trust money in her hands held for the benefit of GCPF under the principle set out in *Black v S Freedman & Co* (1910) 12 CLR 105; and
- b. the Isabella Pappas Receipts are the traceable proceeds of that trust money.



### **J.3 Isabella Pappas' participation-based liability**

397. Pappas', Hewish's and Dickinson's breaches of the Fiduciary Duties pleaded at paragraphs 29, 35, 88, 90, 96, 98, 149, 154, 160, 165, 219, 223, 277, 282, 288, 293, 350 and 352 above constituted a dishonest and fraudulent design for the following reasons:

- a. those breaches were deliberate;
- b. those breaches were self-interested; and
- c. those breaches were committed in circumstances where:
  - (i) elements of them were concealed from the shareholders of GCPF; and
  - (ii) further or in the alternative, the shareholders of GCPF never approved the conduct entailed in the breaches.

#### **Particulars**

The shareholders of GCPF did not approve entry into any of the following agreements:

- 4. the GCPF Management Agreement;
- 5. the PBD JV Agreement;
- 6. the PBD JV Variation Agreement;
- 7. the Incentive Agreement;
- 8. the Kooyongkoot Loan Agreement;
- 9. the Kooyongkoot Priority and Subordination Deed;
- 10. the Carlile Loan Agreement;
- 11. the Carlile Variation of Loan Deeds;
- 12. the Serpells Loan Agreement;
- 13. the Serpells Variation of Loan Deed;
- 14. the River Glen Heads of Agreement; or
- 15. the River Glen Loan Deed.

The shareholders of GCPF did not approve:



1. the GCPF Management Payments
2. the PBD Payments
3. the Kooyongkoot Payments
4. the Kooyongkoot Additional Payment
5. the Carlile Payments;
6. the Carlile Additional Payments;
7. the Serpells Payments; or
8. the WJDY Payments.

398. Isabella Pappas participated in the breaches of the Fiduciary Duties and the Statutory Duties by one or more of Pappas, Hewish and Dickinson, including by:

- a. participating in meetings of the GCPF Board of Directors, GCPF Management, GCPF IRC and GCPF PCG at which GCPF's dealings with GCPF Management, PBD, Kooyongkoot, 929 High Street, Serpells Road and WJDY were discussed; and
- b. signing, on behalf of GCPF, the following agreements:
  - (i) the first Carlile Deed of Variation;
  - (ii) the second Carlile Deed of Variation;
  - (iii) the third Carlile Deed of Variation; and
  - (iv) the Serpells Variation of Loan Deed.

#### **Particulars**

Isabella Pappas:

1. has been the company secretary and an officer of GCPF since 2021; and
2. is recorded as present at all meetings of the GCPF Board of Directors, GCPF Management, GCPF IRC, and GCPF PCG from 6 August 2020 to 20 June 2024.



399. Isabella Pappas participated in the breaches of the Fiduciary Duties and the Statutory Duties by one or more of Pappas, Hewish and Dickinson in circumstances where she knew:
- a. the content of Hewish's, Dickinson's and Pappas' Fiduciary Duties and Statutory Duties to GCPF; and
  - b. the matters pleaded at paragraphs 29, 35, 88, 90, 96, 98, 149, 154, 160, 165, 219, 223, 229, 233, 277, 281, 288, 293, 350 and 352 above.

### **Particulars**

Isabella Pappas:

1. has been the company secretary and an officer of GCPF since 2021; and
2. is recorded as present at all meetings of the GCPF Board of Directors, GCPF Management, GCPF IRC, and GCPF PCG from 6 August 2020 to 20 June 2024.

400. In the premises, Isabella Pappas:

- a. knew;
- b. shut her eyes to the obvious fact;
- c. wilfully and recklessly failed to make such inquiries as an honest and reasonable person would make, which would establish; or
- d. further or in the alternative, had knowledge of circumstances which would indicate to an honest and reasonable person,

that one or more of Pappas, Hewish and Dickinson were engaged in a dishonest and fraudulent design.

401. Further, by reason of the matters pleaded in paragraph 398 above, Isabella Pappas has:

- a. aided, abetted, counselled or procured;
- b. been directly or indirectly knowingly concerned in or party to; and



- c. further or in the alternative, conspired with others to effect,  
the Directors' breaches of the Statutory Duties and GCPF's contraventions of s 208(1)  
of the Act.

### **Particulars**

Isabella Pappas:

3. has been the company secretary and an officer of GCPF since 2021;  
and
4. is recorded as present at all meetings of the GCPF Board of Directors, GCPF Management, GCPF IRC, and GCPF PCG from 6 August 2020 to 20 June 2024.

402. In the premises, Isabella Pappas:

- a. is accountable to GCPF for:
  - (i) knowing receipt of property transferred to or claimed by her as a result of breaches of fiduciary duty by one or more of Pappas, Hewish and Dickison; and
  - (ii) knowing assistance in a dishonest and fraudulent design on the part of one or more of Pappas, Hewish and Dickinson;
- b. is accountable to GCPF for any profits she derived from the breaches of the Fiduciary Duties of one or more of Pappas, Hewish and Dickinson; and
- c. holds or claims the Isabella Pappas Receipts and any of their traceable substitutes on constructive trust for the benefit of GCPF.

403. By reason of Isabella Pappas' participation in the breaches of Fiduciary Duties and/or Statutory Duties by one or more of Pappas, Hewish and Dickinson, GCPF has suffered loss and damage.

### **Particulars**

GCPF has lost the value of sums paid to GCPF Management, PBD, Kooyongkoot, 929 High Street, Serpells Road, Symphony Place Holdings, Symphony Place Coomera and WJDY.



GCPF's security interests in the Kooyongkoot Properties, the Carlile Properties and the Serpells Properties have been subordinated to those of other lenders.

**K. PBD's Liability**

**K.1 PBD's liability for Breach of Fiduciary Duty**

404. As a joint venture partner of GCPF pursuant to the PBD JV Agreement, PBD:

- a. undertook to act for or on behalf of or in the interests of GCPF in the exercise of powers or discretions which affect the interests of GCPF in a legal or practical sense; or
- b. stands in a relationship of mutual trust and confidence with GCPF.

**Particulars**

Under the PBD JV Agreement, PBD undertook to:

- 1. act at all times in the best interests of the joint venture and in good faith (clause 8(a)(iii));
- 2. not be involved in any undertaking that may compete with the joint venture (clause 8(a)(iv)); and
- 3. owe to GCPF a 'duty of trust' (clause 8(c)).

405. In the premises, PBD stands in a fiduciary relationship with GCPF.

406. As a fiduciary, PBD owed GCPF duties:

- a. not to place itself in a position where there was a conflict, or a real and substantial possibility of conflict, between its duties to GCPF under the PBD JV Agreement and its own interests; and
- b. not to misuse its fiduciary position as GCPF's joint venture partner to its own advantage.

**Particulars**

The duties arise by law and from the PBD JV Agreement.



Clause 8(c) of the PBD JV Agreement states: ‘each venturer owes the others a duty of trust, and must immediately inform the others of any conflict of interest, must not profit separately from the joint venture and must account to the other venturers for all benefits received as a result of a breach of this duty.’

407. PBD:

- a. entered into the PBD JV Agreement in circumstances where it knew that there was a reasonably foreseeable risk that Manda Capital would make claims relating to changes in shareholders in PBD, which may place assets or the value of contractual rights held by or for GCPF at risk;
- b. did not utilise the full amount of the Advance provided by GCPF in accordance with the terms of the PBD JV Agreement;
- c. directed payments from the first and second drawdowns of the Advance to third parties other than for the purposes of the purchase or development of the Land;
- d. procured the PBD JV Variation Agreement, under which the terms of the PBD JV Agreement were varied so that GCPF was no longer entitled to any profit share;
- e. entered into the Deed of Variation with Pappy View on 1 March 2024, which reduced the price payable under the Option Deed by \$700,000 and granted an additional put and call option in relation to Lot 57 on draft survey plan SP231214 (Lot 57) for \$700,000, the effect of which was to reduce by \$700,000 the consideration paid by Pappy View for the Option Land;
- f. has not accounted to GCPF for all of the funds received from Pappy View with respect to the sale of the Option Land; and
- g. has not accounted to GCPF for the Balance Land,

in circumstances where:

- h. there was a real and substantial possibility of conflict between PBD’s duties owed to GCPF under the PBD JV Agreement and PBD’s own interests; and



- i. PBD misused its fiduciary position as GCPF's joint venture partner to secure its own advantage.

### **Particulars**

PBD's duties include the duties referred to in the particulars to paragraph 404 above.

PBD's interests include its interest in maximising its profits from the Point Bay development, its interest in retaining the proceeds of sale of the Option Land, and its interest in retaining the Balance Land.

- 408. In the premises, PBD has acted in breach of fiduciary duty owed to GCPF.
- 409. By reason of PBD's breach of fiduciary duty, GCPF has suffered loss and damage.

### **Particulars**

The particulars to paragraph 95 above are repeated.

#### **K.2 PBD's accessory liability**

- 410. Further or in the alternative, since July 2020, GCPF has paid to PBD, and PBD has received, the PBD Payments.
- 411. GCPF paid, and PBD received, the PBD Payments as a result of breaches of the Fiduciary Duties and the Statutory Duties by one or more of Pappas, Hewish and Dickinson set out in paragraphs 88, 90, 92, 96, 98 and 100 above.
- 412. One or more of Pappas', Hewish's and Dickinson's breaches of the Fiduciary Duties and the Statutory Duties pleaded at paragraphs 88, 90, 96 and 98 above constituted a dishonest and fraudulent design for the following reasons:
  - a. those breaches were deliberate;
  - b. those breaches were self-interested; and
  - c. those breaches were committed in circumstances where:
    - (i) elements of them were concealed from the shareholders of GCPF; and



- (ii) further or in the alternative, the shareholders of GCPF never approved the conduct entailed in the breaches.

### **Particulars**

The shareholders of GCPF did not approve entry into any of the following agreements:

1. the PBD JV Agreement;
2. the PBD JV Variation Agreement; or
3. the PBD Incentive Agreement.

The shareholders of GCPF did not approve the making of any of the PBD Payments.

413. PBD participated in the breaches of the Fiduciary Duties and the Statutory Duties by one or more of Pappas, Hewish and Dickinson by:
- a. entering into the PBD JV Agreement, the PBD Loan Agreement, deeds of variation varying the PBD Loan Agreement, the PBD JV Variation Agreement, the Option Deed, the Deed of Variation of the Option Deed and the Incentive Agreement;
  - b. receiving the PBD Payments;
  - c. entering into the PBD JV Agreement in circumstances where it knew that there was a reasonably foreseeable risk that Manda Capital would make claims relating to changes in shareholders in PBD, which may place assets or the value of contractual rights held by or for GCPF at risk;
  - d. not utilising the full amount of the Advance provided by GCPF in accordance with the terms of the PBD JV Agreement;
  - e. directing payments from the first and second drawdowns of the Advance to third parties other than for the purposes of the purchase or development of the Land;
  - f. failing to account to GCPF for all of the funds received from Pappy View with respect to the sale of the Option Land; and



- g. failing to account to GCPF in respect of the Balance Land.

414. PBD:

- a. received the PBD Payments; and
- b. participated in the breaches of the Fiduciary Duties and the Statutory Duties by one or more of Pappas, Hewish and Dickinson,

in circumstances where it knew:

- c. the content of Hewish's, Dickinson's and Pappas' Fiduciary Duties and Statutory Duties to GCPF; and
- d. the matters pleaded at paragraphs 88, 90, 96 and 98 above.

### **Particulars**

At all material times, Pappas was the sole director of PBD.

Pappas' knowledge of the matters pleaded at paragraphs 88, 90, 96 and 98 above is imputed to PBD.

415. In the premises, PBD:

- a. knew;
- b. shut its eyes to the obvious fact;
- c. wilfully and recklessly failed to make such inquiries as an honest and reasonable person would make, which would establish; or
- d. further or in the alternative, had knowledge of circumstances which would indicate to an honest and reasonable person,

that:

- e. it received the PBD Payments as a result of one or more of Pappas', Hewish's and Dickinson's breaches of fiduciary duty; and



- f. one or more of Pappas, Hewish and Dickinson were engaged in a dishonest and fraudulent design.
416. Further, by reason of the matters set out in paragraphs 413 to 414 above, PBD:
- a. is the corporate creature or alter ego by which Pappas secured profits or inflicted losses by his breaches of fiduciary duty; and
  - b. has:
    - aided, abetted, counselled or procured;
      - (i) been directly or indirectly knowingly concerned in or party to; and
      - (ii) further or in the alternative, conspired with others to effect,
- the Directors' breaches of the Statutory Duties and GCPF's contraventions of s 208(1) of the Act.
417. In the premises, PBD:
- a. is accountable to GCPF for:
    - (i) knowing receipt of property transferred to it as a result of one or more of Pappas', Hewish's and Dickinson's breaches of fiduciary duty; and
    - (ii) knowing assistance in a dishonest and fraudulent design on the part of one or more of Pappas, Hewish and Dickinson;
  - b. holds the PBD Payments and any of their traceable substitutes, including the proceeds of sale of the Option Land, and the Balance Land, on constructive trust for the benefit of GCPF;
  - c. has engaged in 'fraud' within the meaning of s 184(3)(b) of the *Land Title Act 1994* (Qld) such that it does not have an indefeasible title to the Balance Land; and



- d. has engaged in acts from which an equity arises against it, such that it does not have an indefeasible title to the Balance Land, under s 185(1)(a) of the *Land Title Act 1994* (Qld).

#### **Particulars**

The PBD Payments paid to PBD on 2 July 2020 and 13 August 2020 were used by PBD to purchase the Land and the Land was for that reason the traceable substitute of the PBD Payments.

The proceeds of sale of the Option Land are the traceable substitute of the Option Land.

PBD continues to be the registered proprietor of the Balance Land.

418. By reason of PBD's participation in one or more of Pappas', Hewish's and Dickinson's breaches of the Fiduciary Duties and the Statutory Duties, GCPF has suffered loss and damage.

#### **Particulars**

The particulars to paragraph 95 above are repeated.

#### **L. Serpells Road's Accessory Liability**

419. Since 3 June 2021, GCPF has paid to Serpells Road, and Serpells Road has received, the Serpells Payments.
420. GCPF paid, and Serpells Road received, the Serpells Payments as a result of breaches of the Fiduciary Duties and the Statutory Duties by one or more of Pappas, Hewish and Dickinson set out in paragraphs 277, 279, 282, 284, 288, 290, 293 and 295 above.
421. The breaches of the Fiduciary Duties and the Statutory Duties by one or more of Pappas, Hewish and Dickinson pleaded at paragraphs 277, 282, 288 and 293 above constituted a dishonest and fraudulent design for the following reasons:
- a. those breaches were deliberate;
  - b. those breaches were self-interested; and
  - c. those breaches were committed in circumstances where:



- (i) elements of them were concealed from the shareholders of GCPF; and
- (ii) further or in the alternative, the shareholders of GCPF never approved the conduct entailed in the breaches.

### **Particulars**

The shareholders of GCPF did not approve entry into:

- 1. the Serpells Loan Agreement; or
- 2. the Serpells Variation of Loan Deed.

The shareholders of GCPF did not approve the making of the Serpells Payments.

422. Serpells Road participated in the breaches of the Fiduciary Duties and the Statutory Duties by one or more of Pappas, Hewish and Dickinson, including by:

- a. entering into the Serpells Loan Agreement;
- b. entering into the Serpells Variation of Loan Deed which increased the loan facility available to GCPF for the Serpells Road project;
- c. granting a first ranking mortgage over the Serpells Properties in favour of PCTL in breach of the Serpells Loan Agreement;
- d. entering into the loan facility agreement dated 15 January 2024 with Jadig Securities;
- e. granting a second ranking mortgage over the Serpells Properties in favour of Jadig Securities in breach of the Serpells Loan Agreement; and
- f. receiving the Serpells Road Receipts.

423. Serpells Road:

- a. received the Serpells Road Receipts; and
- b. participated in breaches of the Fiduciary Duties and the Statutory Duties by one or more of Pappas, Hewish and Dickinson,

in circumstances where it knew:



- c. the content of Hewish's, Dickinson's and Pappas' Fiduciary Duties and Statutory Duties to GCPF; and
- d. the matters pleaded at paragraphs 277, 282, 288 and 293 above.

### **Particulars**

At all material times, the directors of Serpells Road were Hewish and Dickinson.

Hewish's and Dickinson's knowledge of the matters pleaded at paragraphs 277, 282, 288 and 293 above is imputed to Serpells Road.

424. In the premises, Serpells Road:

- a. knew;
- b. shut its eyes to the obvious fact;
- c. wilfully and recklessly failed to make such inquiries as an honest and reasonable person would make, which would establish; or
- d. further or in the alternative, had knowledge of circumstances which would indicate to an honest and reasonable person,

that:

- e. it received the Serpells Road Receipts as a result of one or more of Pappas', Hewish's and Dickinson's breaches of fiduciary duty; and
- f. one or more of Pappas, Hewish and Dickinson was engaged in a dishonest and fraudulent design.

425. Further, by reason of the matters set out in paragraphs 422 and 423 above, Serpells Road:

- a. is the corporate creature or alter ego by which Hewish and Dickinson secured profits or inflicted losses by their breaches of fiduciary duty; and
- b. has:
  - (i) aided, abetted, counselled or procured;



(ii) been directly or indirectly knowingly concerned in or party to; and

(iii) further or in the alternative, conspired with others to effect,

the Directors' breaches of the Statutory Duties and GCPF's contraventions of s 208(1) of the Act.

426. In the premises, Serpells Road:

a. is accountable to GCPF for:

(i) knowing receipt of property transferred to it as a result of one or more of Pappas', Hewish's and Dickinson's breaches of fiduciary duty; and

(ii) knowing assistance in a dishonest and fraudulent design on the part of one or more of Pappas, Hewish and Dickinson, and

b. is accountable to GCPF for any profits it derived from one or more of Pappas', Hewish's and Dickinson's breaches of fiduciary duty; and

c. holds the Serpells Road Receipts and any of their traceable substitutes on constructive trust for the benefit of GCPF.

427. By reason of Serpells Road's participation in one or more of Pappas', Hewish's and Dickinson's breaches of the Fiduciary Duties and the Statutory Duties, GCPF has suffered loss and damage.

#### **Particulars**

GCPF has lost the value of the Serpells Road Receipts.

GCPF's security interest in the Serpells Properties has been subordinated to those of PCTL and Jadig Securities.

#### **M. GCPF Management's Accessory Liability**

428. Since about 15 August 2019, GCPF has paid to GCPF Management, and GCPF Management has received, the GCPF Management Payments.

#### **Particulars**



The GCPF Management Payments were paid from a GCPF bank account with the BSB number 082-356 and account number 48-312-4795.

429. GCPF Management received the GCPF Management Payments into an account it held with National Australia Bank Ltd (**GCPF Management Account**).

**Particulars**

The GCPF Management Account had the BSB number 083-004 and the account number 10-147-9444.

430. GCPF paid, and GCPF Management received, the GCPF Management Payments as a result of the breaches of the Fiduciary Duties and the Statutory Duties by one or more of Pappas, Hewish and Dickinson that were pleaded at paragraphs 29, 31, 35 and 37 above.
431. One or more of Pappas', Hewish's and Dickinson's breaches of the Fiduciary Duties and the Statutory Duties pleaded at paragraphs 29 and 35 and above were:
- a. deliberate;
  - b. self-interested; and
  - c. committed in circumstances where the shareholders of GCPF had never approved:
    - (i) entry into the Management Agreement; or
    - (ii) the payment of the GCPF Management Payments to GCPF Management,

and for those reasons constituted a dishonest and fraudulent design.

432. GCPF Management participated in the breaches of the Fiduciary Duties and the Statutory Duties by one or more of Pappas, Hewish and Dickinson by:
- a. entering or purporting to enter into the GCPF Management Agreement;
  - b. determining the 'Portfolio Value' in light of which the monthly management fee payable by GCPF to GCPF Management was calculated;



- c. calling for payment of the monthly management fee; and
- d. receiving the GCPF Management Payments.

433. GCPF Management:

- a. received the GCPF Management Payments; and
- b. participated in the breaches of the Fiduciary Duties and the Statutory Duties by one or more of Pappas, Hewish and Dickinson,

in circumstances where it knew:

- c. the content of Hewish's, Dickinson's and Pappas' Fiduciary Duties and Statutory Duties to GCPF; and
- d. the matters pleaded at paragraphs 29 and 35 above.

**Particulars**

At all material times, the directors of GCPF Management were Hewish, Dickinson and Pappas.

Pappas', Hewish's and Dickinson's knowledge of the matters pleaded at paragraphs 29 and 35 above is imputed to GCPF Management.

434. In the premises, GCPF Management:

- a. knew;
- b. shut its eyes to the obvious fact;
- c. wilfully and recklessly failed to make such inquiries as an honest and reasonable person would make, which would establish; or
- d. further or in the alternative, had knowledge of circumstances which would indicate to an honest and reasonable person,

that:

- e. it received the GCPF Management Payments as a result of one or more of Pappas', Hewish's and Dickinson's breaches of fiduciary duty; and



- f. one or more of Pappas, Hewish and Dickinson was engaged in a dishonest and fraudulent design.
435. Further, by reason of the matters pleaded in paragraphs 432 and 433 above, GCPF Management:
- a. is the corporate creature or alter ego by which Pappas, Hewish and Dickinson secured profits or inflicted losses by their breaches of fiduciary duty; and
- has:
- b. aided, abetted, counselled or procured;
    - (i) been directly or indirectly knowingly concerned in or party to; and
    - (ii) further or in the alternative, conspired with others to effect,
- the Directors' breaches of the Statutory Duties and GCPF's contraventions of s 208(1) of the Act.
436. In the premises, GCPF Management:
- a. is accountable to GCPF for:
    - (i) knowing receipt of property transferred to it as a result of one or more of Pappas', Hewish's and Dickinson's breaches of fiduciary duty; and
    - (ii) knowing assistance in a dishonest and fraudulent design on the part of one or more of Pappas, Hewish and Dickinson;
  - b. is accountable to GCPF for any profits it derived from the breaches of the Fiduciary Duties by one or more of Pappas, Hewish and Dickinson; and
  - c. holds the GCPF Management Payments and any of their traceable substitutes on constructive trust for the benefit of GCPF.
437. By reason of GCPF Management's participation in one or more of Pappas', Hewish's and Dickinson's breaches of the Fiduciary Duties and the Statutory Duties, GCPF has suffered loss and damage.



### Particulars

The particulars at paragraph 34 above are repeated.

#### N. Hewish Capital No. 2's Liability

438. On 24 June 2024, GCPF Management paid \$165,035 to Hewish Capital No 2 (**Hewish Capital No. 2 Receipt**).

### Particulars

On 24 June 2024, there was a withdrawal of \$808,535 from the GCPF Management Account with the transaction description 'Management Fees'.

Trace vouchers for this transaction obtained by ASIC show that, of the \$808,535 withdrawn, \$165,035 was paid to Hewish Capital No 2.

439. GCPF Management paid the Hewish Capital No. 2 Receipt to Hewish Capital No 2 at the direction of GCPF Management's shareholder, Hewish Capital.
440. The Hewish Capital No 2 Receipt was the traceable proceeds of the GCPF Management Payments.

### Particulars

Immediately before 7 March 2024, the balance of the GCPF Management Account was \$877.85.

On 7 March 2024 GCPF paid a GCPF Management Payment of \$1,428,439.05 into the GCPF Management Account.

The only further substantial receipt into the GCPF Management Account from an entity other than GCPF between 7 March 2024 and 24 June 2024 was \$60,649.47 from the Australian Taxation Office on 6 June 2024.

Following the withdrawal of \$808,535.00 from the GCPF Management Account on 24 June 2024, the balance of the GCPF Management Account was \$9,618.99.

441. Hewish Capital No. 2 received the Hewish Capital No. 2 Receipt as a result of the breaches of the Fiduciary Duties and the Statutory Duties by one or more of Pappas, Hewish and Dickinson that were pleaded at paragraphs 29, 31, 35 and 37 above.



442. Hewish Capital received the Hewish Capital No. 2 Receipt in circumstances where it knew:
- a. the content of Pappas', Hewish's and Dickinson's Fiduciary Duties to GCPF; and
  - b. the matters pleaded at paragraphs 29 and 35 above.

### **Particulars**

At all material times, Hewish was the directing mind and will of Hewish Capital No. 2.

Hewish's knowledge of the matters pleaded at paragraphs 29 and 35 above is imputed to Hewish Capital No. 2.

443. In the premises, Hewish Capital No. 2:
- a. knew;
  - b. shut its eyes to the obvious fact;
  - c. wilfully and recklessly failed to make such inquiries as an honest and reasonable person would make, which would establish; or
  - d. further or in the alternative, had knowledge of circumstances which would indicate to an honest and reasonable person,
- that it received the Hewish Capital No. 2 Receipt as a result of breaches of fiduciary duty by one or more of Pappas, Hewish and Dickinson.
444. Further, Hewish Capital No. 2 is the corporate creature or alter ego by which Hewish secured profits or inflicted losses by his breaches of fiduciary duty.
445. In the premises, Hewish Capital No. 2 received the Hewish Capital No. 2 Receipt:
- a. as a volunteer; and
  - b. further or in the alternative, otherwise than as a good faith purchaser for value without notice of GCPF's equitable interest in that receipt.
446. In the premises, Hewish Capital No. 2:



- a. is accountable to GCPF for knowing receipt of property transferred to it as a result of breaches of fiduciary duty by one or more of Pappas, Hewish and Dickinson;
  - b. is accountable to GCPF for any profits it derived by Hewish's breaches of fiduciary duty; and
  - c. holds the Hewish Capital No. 2 Receipt, and any of its traceable substitutes on constructive trust for GCPF.
447. By reason of Hewish Capital No. 2's receipt of the Hewish Capital No. 2 Receipt, GCPF has suffered loss and damage.

#### **Particulars**

GCPF has lost the value of the Hewish Capital No. 2 Receipt.

#### **O. Infinite Capital's Liability**

448. Since July 2021, GCPF Management paid at least \$1,234,239.73 to Infinite Capital (**Infinite Capital Receipts**).

#### **Particulars**

The following withdrawals were made from the GCPF Management Account with the transaction description 'Infinite Capital' or with a transaction description referring to an invoice number indicating a payment to Infinite Capital.

#	Date	Amount
1.	12 July 2021	\$5,500.00
2.	12 July 2021	\$5,500.00
3.	24 August 2021	\$5,500.00
4.	24 August 2021	\$5,500.00
5.	24 August 2021	\$16,837.10
6.	29 September 2021	\$5,500.00
7.	29 September 2021	\$17,561.35
8.	13 October 2021	\$328.90
9.	1 November 2021	\$5,500.00
10.	1 November 2021	\$18,856.16
11.	24 November 2021	\$5,500.00
12.	29 November 2021	\$21,950.39
13.	21 December 2021	\$5,500.00



#	Date	Amount
14.	21 December 2021	\$23,442.47
15.	20 January 2022	\$5,500.00
16.	20 January 2022	\$24,438.44
17.	17 February 2022	\$1,885.62
18.	3 March 2022	\$11,000.00
19.	3 March 2022	\$25,412.88
20.	1 April 2022	\$11,000.00
21.	1 April 2022	\$26,645.40
22.	9 May 2022	\$11,000.00
23.	9 May 2022	\$27,500.00
24.	25 May 2022	\$11,074.25
25.	25 May 2022	\$27,500.00
26.	22 June 2022	\$11,099.00
27.	22 June 2022	\$27,500.00
28.	27 July 2022	\$3,208.00
29.	27 July 2022	\$14,218.60
30.	27 July 2022	\$27,500.00
31.	29 August 2022	\$11,227.70
32.	29 August 2022	\$27,500.00
33.	8 November 2022	\$22,000.00
34.	17 November 2022	\$13,649.90
35.	29 November 2022	\$11,335.50
36.	29 November 2022	\$22,000.00
37.	22 December 2022	\$22,123.75
38.	24 January 2023	\$11,000.00
39.	24 January 2023	\$11,123.75
40.	11 February 2023	\$22,000.00
41.	1 March 2023	\$22,000.00
42.	8 March 2023	\$22,000.00
43.	8 March 2024	\$9,416.43
44.	8 March 2024	\$292,340.10
45.	3 May 2024	\$23,563.31
46.	23 May 2024	\$22,164.95
47.	23 May 2024	\$22,835.78
<b>Total</b>		<b>\$997,739.73</b>

On 24 June 2024, there was a withdrawal of \$808,535 from the GCPF Management Account with the transaction description 'Management Fees'

Trace vouchers for this transaction obtained by ASIC show that, of the \$808,535 withdrawn, \$236,500 was paid to Infinite Capital.



449. GCPF Management paid the Infinite Capital Receipts to Infinite Capital at the direction of GCPF Management's shareholder, Bird Rock.
450. The Infinite Capital Receipts were the traceable proceeds of the GCPF Management Payments.

#### **Particulars**

GCPF Management paid each of the Infinite Capital Receipts following receipt of a GCPF Management Payment into the GCPF Management Account.

The particulars to paragraph 440 above are repeated.

451. Infinite Capital received the Infinite Capital Receipts as a result of the breaches of the Fiduciary Duties and the Statutory Duties by one or more of Pappas, Hewish and Dickinson that were pleaded at paragraphs 29, 31, 35 and 37 above.
452. Infinite Capital received the Infinite Capital Receipts in circumstances where it knew:
- a. the content of Pappas', Hewish's and Dickinson's Fiduciary Duties to GCPF; and
  - b. the matters pleaded at paragraphs 29 and 35 above.

#### **Particulars**

At all material times, Dickinson was the directing mind and will of Infinite Capital.

Dickinson's knowledge of the matters pleaded at paragraphs 29 and 35 above is imputed to Infinite Capital.

453. In the premises, Infinite Capital:
- a. knew;
  - b. shut its eyes to the obvious fact;
  - c. wilfully and recklessly failed to make such inquiries as an honest and reasonable person would make, which would establish; or
  - d. further or in the alternative, had knowledge of circumstances which would indicate to an honest and reasonable person,



that it received the Infinite Capital Receipts as a result of breaches of fiduciary duty by one or more of Pappas, Hewish and Dickinson.

454. Further, Infinite Capital is the corporate creature or alter ego by which Dickinson secured profits or inflicted losses by his breaches of fiduciary duty.

455. In the premises, Infinite Capital received the Infinite Capital Receipts:

- a. as a volunteer; and
- b. further or in the alternative, otherwise than as a good faith purchaser for value without notice of GCPF's equitable interest in those receipts.

456. In the premises, Infinite Capital:

- a. is accountable to GCPF for knowing receipt of property transferred to it as a result of breaches of fiduciary duty by one or more of Pappas, Hewish and Dickinson;
- b. is accountable to GCPF for any profits it derived by Dickinson's breaches of fiduciary duty; and
- c. holds the Infinite Capital Receipts and any of their traceable substitutes on constructive trust for GCPF.

457. By reason of Infinite Capital's receipt of the Infinite Capital Receipts, GCPF has suffered loss and damage.

#### **Particulars**

GCPF has lost the value of the Infinite Capital Receipts.

#### **P. CJCDN's Liability**

458. Since July 2021, GCPF Management has paid at least \$1,307,059.58 to CJCDN (CJCDN Receipts).

#### **Particulars**

The following withdrawals were made from the GCPF Management Account with a transaction description including 'CJCDN' or with a



transaction description referring to an invoice number indicating a payment to CJCDN.

#	Date	Amount
1.	1 or 5 July 2021	\$40,000.00
2.	2 September 2021	\$33,674.20
3.	30 September 2021	\$35,122.69
4.	1 November 2021	\$41,483.55
5.	29 November 2021	\$43,900.78
6.	21 December 2021	\$46,884.95
7.	20 January 2022	\$48,876.87
8.	2 March 2022	\$50,825.75
9.	1 April 2022	\$53,290.79
10.	9 May 2022	\$55,000.00
11.	25 May 2022	\$55,000.00
12.	22 June 2022	\$55,000.00
13.	27 July 2022	\$55,000.00
14.	5 September 2022	\$55,000.00
15.	7 October 2022	\$55,000.00
16.	8 November 2022	\$44,000.00
17.	22 December 2022	\$44,000.00
18.	24 January 2023	\$44,000.00
19.	1 March 2023	\$44,000.00
<b>Total</b>		<b>\$900,059.58</b>

On 24 June 2024, there was a withdrawal of \$808,535 from the GCPF Management Account with the transaction description ‘Management Fees’

Trace vouchers for this transaction obtained by ASIC show that, of the \$808,535 withdrawn, \$407,000 was paid to CJCDN.

459. The CJCDN Receipts were the traceable proceeds of the GCPF Management Payments.

### Particulars

GCPF Management paid each of the CJCDN Receipts following receipt of a GCPF Management Payment into the GCPF Management Account.

The particulars to paragraph 440 above are repeated.

460. CJCDN received the CJCDN Receipts as a result of the breaches of the Fiduciary Duties and the Statutory Duties by one or more of Pappas, Hewish and Dickinson that were pleaded at paragraphs 29, 31, 35 and 37 above.



461. CJCDN received the CJCDN Receipts in circumstances where it knew:
- a. the content of Pappas', Hewish's, Dickinson's Fiduciary Duties and Statutory Duties to GCPF; and
  - b. the matters pleaded at paragraphs 29 and 35 above.

### **Particulars**

At all material times, Pappas was the directing mind and will of CJCDN.

Pappas' knowledge of the matters pleaded at paragraphs 29 and 35 above is imputed to CJCDN.

462. In the premises, CJCDN:
- a. knew;
  - b. shut its eyes to the obvious fact;
  - c. wilfully and recklessly failed to make such inquiries as an honest and reasonable person would make, which would establish; or
  - d. further or in the alternative, had knowledge of circumstances which would indicate to an honest and reasonable person,
- that it received the CJCDN Receipts as a result of breaches of fiduciary duty by one or more of Pappas, Hewish and Dickinson.
463. Further, CJCDN is the corporate creature or alter ego by which Pappas secured profits or inflicted losses by his breaches of fiduciary duty.
464. In the premises, CJCDN received the CJCDN Receipts:
- a. as a volunteer; and
  - b. further or in the alternative, otherwise than as a good faith purchaser for value without notice of GCPF's equitable interest in those receipts.
465. In the premises, CJCDN:
- a. is accountable to GCPF for knowing receipt of property transferred to it as a result of breaches of fiduciary duty by one or more of Pappas, Hewish and Dickinson;



- b. is accountable to GCPF for any profits it derived from Pappas' breaches of fiduciary duty; and
  - c. holds the CJCDN Receipts and any of their traceable substitutes on constructive trust for GCPF.
466. By reason of CJCDN's receipt of the CJCDN Receipts, GCPF has suffered loss and damage.

### **Particulars**

GCPF has lost the value of the CJCDN Receipts.

#### **Q. Relief Sought**

##### **Q.1 Directors**

467. In the premises, GCPF claims against each Director:
- a. an account of profits with respect to gains by that Director arising from his breaches of fiduciary duties;
  - b. further or alternatively, a declaration that the Director holds any assets acquired in breach of fiduciary duty, and/or any traceable substitute of such assets, on constructive trust for GCPF;
  - c. alternatively, equitable compensation arising from the Directors' breaches of fiduciary duties;
  - d. further or alternatively, compensation orders pursuant to s 1317H or alternatively equitable compensation with respect to the Directors' breaches of Statutory Duties and/or the Directors' breaches of s 209(2) of the Act; and
  - e. such further or other orders as the Court deems appropriate.

##### **Q.2 Hewish and Dickinson**

468. In the premises, GCPF claims against Hewish and Dickinson:
- a. the sum of \$27,887,878.56 under the terms of the Carlile Loan Agreement (as amended) and under the Carlile Guarantees, inclusive of interest up to and including 22 August 2025;



- b. interest at the rate of 20% per annum on the sum of \$27,887,878.56 from 22 August 2025 until the date of judgment;
- c. alternatively, damages for breach of the Carlile Loan Agreement (as amended) and/or the Carlile Guarantees; and
- d. such further or other orders as the Court considers appropriate.

### **Q.3 Isabella Pappas**

469. In the premises, GCPF claims against Isabella Pappas:

- a. an account of profits with respect to gains by Isabella Pappas arising from her breaches of fiduciary duty;
- b. alternatively, equitable compensation arising from Isabella Pappas' breaches of fiduciary duty;
- c. further or alternatively, compensation orders pursuant to s 1317H or alternatively equitable compensation with respect to Isabella Pappas' breaches of the Statutory Duties;
- d. a declaration that Isabella Pappas holds the Isabella Pappas Receipts, and any part or the traceable substitutes thereof, on constructive trust for GCPF;
- e. an account of Isabella Pappas' dealings and transactions with respect to the Isabella Pappas Receipts, and payment to GCPF of the amount found to be due upon the taking of that account;
- f. alternatively, an account of profits with respect to Isabella Pappas' gains arising from her knowing assistance in the Directors' breaches of fiduciary duty and/or her knowing receipt of the Isabella Pappas Receipts;
- g. alternatively, equitable compensation with respect to Isabella Pappas' knowing assistance in the Directors' breach of fiduciary duties, and/or her knowing receipt of the Isabella Pappas Receipts;
- h. further or alternatively, compensation orders pursuant to s 1317H of the Act or alternatively equitable compensation with respect to Isabella Pappas'



involvement in the Directors' contraventions of the Statutory Duties; and/or  
GCPF's contraventions of s 208(1) of the Act; and

- i. such further or other orders as the Court deems appropriate.

#### **Q.4 PBD**

470. In the premises, GCPF claims against PBD:

- a. an order for rescission of both the PBD JV Agreement and the PBD JV Variation Agreement;
- b. alternatively, an order for rescission of the PBD JV Variation Agreement;
- c. an account of profits with respect to gains by PBD arising from its breaches of fiduciary duty;
- d. alternatively, equitable compensation arising from PBD's breaches of fiduciary duty;
- e. a declaration that PBD holds on constructive trust for GCPF:
  - (i) the Balance Land;
  - (ii) the proceeds of sale of the Option Land that it has not already paid to GCPF; and/or
  - (iii) the PBD Payments,and any part or the traceable substitutes thereof.
- f. an account of PBD's dealings and transactions with respect to the PBD Payments and payment to GCPF of the amount found to be due upon the taking of that account;
- g. alternatively, an account of profits with respect to PBD's gains arising from its knowing assistance in the Directors' breach of fiduciary duties and/or its knowing receipt of the PBD Payments;
- h. alternatively, equitable compensation with respect to PBD's knowing assistance in the Directors' breach of fiduciary duties, and/or its knowing receipt of the PBD Payments;
- i. further or alternatively, compensation orders pursuant to s 1317H of the Act or alternatively equitable compensation with respect to PBD's involvement in the



Directors' contraventions of their Statutory Duties and/or PBD's breaches of s 209(2) of the Act; and

- j. such further or other orders as the Court deems appropriate.

#### **Q.5 Serpells Road**

471. In the premises, GCPF claims against Serpells Road:

- a. an order for rescission of the Serpells Loan Agreement;
- b. a declaration that Serpells Road holds the Serpells Road Receipts, and any part or the traceable substitutes thereof, on constructive trust for GCPF;
- c. an account of Serpells Road's dealings and transactions with respect to the Serpells Road Receipts, and payment to GCPF of the amount found to be due upon the taking of that account;
- d. an account of profits with respect to Serpells Road's gains arising from its knowing assistance in the Directors' breaches of fiduciary duty and/or its knowing receipt of the Serpells Road Receipts;
- e. alternatively, equitable compensation with respect to Serpells Road's knowing assistance in the Directors' breaches of fiduciary duty, and/or its knowing receipt of the Serpells Road Receipts;
- f. compensation orders pursuant to s 1317H of the Act or alternatively equitable compensation with respect to Serpells Road's involvement in the Directors' contraventions of their Statutory Duties; and/or GCPF's contraventions of s 208(1) of the Act; and
- g. such further or other orders as the Court deems appropriate.

#### **Q.6 GCPF Management**

472. In the premises, GCPF claims against GCPF Management:

- a. a declaration that there is no valid and binding Management Agreement between GCPF and GCPF Management;
- b. alternatively, an order for rescission of the Management Agreement;



- c. alternatively, a declaration that Hewish has been found guilty of grave misconduct within the meaning of clause 16.1(a) of the Management Agreement;
- d. a declaration that GCPF Management holds the GCPF Management Payments and any part or the traceable substitutes thereof, on constructive trust for GCPF;
- e. an account of GCPF Management's dealings and transactions with respect to the GCPF Management Payments, and payment to GCPF of the amount found to be due upon the taking of that account;
- f. an account of profits with respect to GCPF Management's gains arising from its knowing assistance in the Directors' breaches of fiduciary duty and/or its knowing receipt of the GCPF Management Payments;
- g. alternatively, equitable compensation with respect to GCPF Management's knowing assistance in the Directors' breaches of fiduciary duty, and/or its knowing receipt of the GCPF Management Payments; and
- h. further or alternatively, compensation orders pursuant to s 1317H of the Act or alternatively equitable compensation with respect to GCPF Management's involvement in the Directors' contraventions of the Statutory Duties; and/or GCPF's contraventions of s 208(1) of the Act; and
- i. such further or other orders as the Court deems appropriate.

**Q.7 Hewish Capital No. 2**

473. In the premises, GCPF claims against Hewish Capital No. 2:

- a. a declaration that Hewish Capital No. 2 holds the Hewish Capital No. 2 Receipt, and any part or the traceable substitutes thereof, on constructive trust for GCPF;
- b. an account of Hewish Capital No. 2's dealings and transactions with respect to the Hewish Capital No. 2 Receipt, and payment to GCPF of the amount found to be due upon the taking of that account;
- c. an account of profits with respect to Hewish Capital No. 2's gains arising from its knowing receipt of the Hewish Capital No. 2 Receipt;
- d. alternatively, equitable compensation with respect to Hewish Capital No. 2's knowing receipt of the Hewish Capital No. 2 Receipt; and



- e. such further or other orders as the Court deems appropriate.

#### **Q.8 Infinite Capital**

474. In the premises, GCPF claims against Infinite Capital:

- a. a declaration that Infinite Capital holds the Infinite Capital Receipts, and any part or the traceable substitutes thereof, on constructive trust for GCPF;
- b. an account of Infinite Capital's dealings and transactions with respect to the Infinite Capital Receipts, and payment to GCPF of the amount found to be due upon the taking of that account;
- c. an account of profits with respect to Infinite Capital's gains arising from its knowing receipt of the Infinite Capital Receipts;
- d. alternatively, equitable compensation with respect to Infinite Capital's knowing receipt of the Infinite Capital Receipts; and
- e. such further or other orders as the Court deems appropriate.

#### **Q.9 CJCDN**

475. In the premises, GCPF claims against CJCDN:

- a. a declaration that CJCDN holds the CJCDN Receipts, and any part or the traceable substitutes thereof, on constructive trust for GCPF;
- b. an account of CJCDN's dealings and transactions with respect to the CJCDN Receipts, and payment to GCPF of the amount found to be due upon the taking of that account;
- c. an account of profits with respect to CJCDN's gains arising from its knowing receipt of the CJCDN Receipts;
- d. alternatively, equitable compensation with respect to CJCDN's knowing receipt of the CJCDN Receipts; and
- e. such further or other orders as the Court deems appropriate.



**Q.10 Benjamin James & Nicholas James**

476. In the premises, GCPF claims against Benjamin James and Nicholas James:

- a. the sum of \$8,225,976.57 under the terms of the River Glen Guarantee, inclusive of interest up to and including 22 August 2025;
- b. interest at the rate of 21.5% per annum on the sum of \$8,225,976.57 from 22 August 2025 until the date of judgment;
- c. alternatively, damages for breach of the River Glen Guarantee; and
- d. such further or other orders as the Court considers appropriate.

**Dated:** 22 August 2025

Signed: 

Description: Solicitor for the Applicant

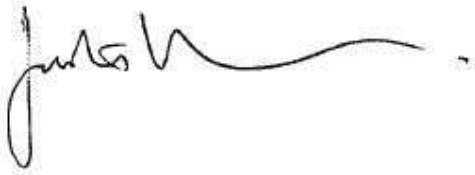
This Statement of Claim was settled by Premala Thiagarajan SC, Paul Annabell, Nick Luxton and Matthew Harding of counsel.



### **Certificate of lawyer**

I, Justin Vaatstra, certify to the Court that, in relation to the statement of claim filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 22 August 2025

A handwritten signature in black ink, appearing to read 'Justin Vaatstra', with a long horizontal flourish extending to the right.

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**Justin Vaatstra**  
Lawyer for the Applicant



## Schedule

VID 235/2025

Federal Court of Australia  
District Registry: Victoria  
Division: General

Applicant:	<b>GLOBAL CAPITAL PROPERTY FUND LIMITED (IN LIQUIDATION) (ACN 635 565 070)</b>
First Respondent:	<b>POINT BAY DEVELOPMENTS PTY LTD (ACN 627 498 944)</b>
Second Respondent:	<b>CHRIS PAPPAS</b>
Third Respondent:	<b>JOEL JAMES HEWISH</b>
Fourth Respondent:	<b>BRETT AARON DICKINSON</b>
Fifth Respondent:	<b>GCPF MANAGEMENT PTY LTD (ACN 637 974 479)</b>
Sixth Respondent	<b>ISABELLA MARY-WOODRUFF PAPPAS</b>
Seventh Respondent	<b>SERPELLS ROAD PTY LTD</b>
Eighth Respondent	<b>HEWISH CAPITAL NO. 2 PTY LTD</b>
Ninth Respondent	<b>INFINITE CAPITAL PTY LTD</b>
Tenth Respondent	<b>CJCDN PTY LTD</b>
Eleventh Respondent	<b>BENJAMIN WHARTON HAMMOND JAMES</b>
Twelfth Respondent	<b>NICHOLAS SEAN HAMMOND JAMES</b>



## NOTICE OF FILING AND HEARING

### Filing and Hearing Details

Document Lodged: Interlocutory Application - Form 35 - Rule 17.01(1)(a)  
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)  
Date of Lodgment: 22/08/2025 6:12:17 PM AEST  
Date Accepted for Filing: 25/08/2025 12:51:08 PM AEST  
File Number: VID235/2025  
File Title: GLOBAL CAPITAL PROPERTY FUND LIMITED (IN LIQUIDATION)  
(ACN 635 565 070) v POINT BAY DEVELOPMENTS PTY LTD (ACN 627  
498 944) & ORS  
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA  
Reason for Listing: Case Management Hearing  
Time and date for hearing: 03/09/2025, 10:00 AM  
Place: Court Room Not Assigned, Owen Dixon Commonwealth Law Courts Building  
Level 7, 305 William Street, Melbourne



*Sia Lagos*

Registrar

### Important Information

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

The date of the filing of the document is determined pursuant to the Court's Rules.



## Interlocutory application

No. 235 of 2025

Federal Court of Australia  
District Registry: Victoria  
Division: General

**GLOBAL CAPITAL PROPERTY FUND LIMITED (IN LIQUIDATION)**  
**(ACN 635 565 070)**  
Applicant

**POINT BAY DEVELOPMENTS PTY LTD (ACN 627 498 944) and others**  
(as specified in the attached Schedule)  
Respondents

To the Respondents

The Applicant applies for the interlocutory orders set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

**Time and date for hearing:**

**Place:** Federal Court of Australia, Owen Dixon Commonwealth Law Courts Building, 305 Williams Street, Melbourne VIC 3000

The Court ordered that the time for serving this application be abridged to

Date:

.....  
Signed by an officer acting with the authority  
of the District Registrar



### Interlocutory orders sought

1. Pursuant to r 9.05 of the *Federal Court Rules 2011* (Cth), the following parties be joined to the present proceedings:
  - a. Isabella Mary-Woodruff Pappas;
  - b. Serpells Road Pty Ltd (ACN 639 564 391);
  - c. Hewish Capital No. 2 Pty Ltd (ACN 639 858 147);
  - d. Infinite Capital Pty Ltd (ACN 119 426 185);
  - e. CJCDN Pty Ltd (ACN 635 345 201);
  - f. Benjamin Wharton Hammond James;
  - g. Nicholas Sean Hammond James.
2. Pursuant to r 8.21 of the *Federal Court Rules 2011* (Cth), the Applicant be granted leave to file and serve an Amended Originating Process in substantially the same form as annexed to the affidavit sworn by Molly Alexandra Scott on 22 August 2025 at page 13.
3. Such further order as the Court deems fit.

### Service on the Respondents

It is intended to serve this application on all Respondents.

Date: 22 August 2025




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Signed by Justin Vaatstra  
Lawyer for the Applicant





Federal Court of Australia

District Registry: Victoria Registry

Division: General

No: VID235/2025

**GLOBAL CAPITAL PROPERTY FUND LIMITED (IN LIQUIDATION) (ACN 635 565 070)**

Applicant

**POINT BAY DEVELOPMENTS PTY LTD (ACN 627 498 944)** and others named in the schedule

Respondents

### **ORDER**

**JUDGE:** Justice Neskovicin

**DATE OF ORDER:** 4 September 2025

**WHERE MADE:** Melbourne

#### **THE COURT ORDERS THAT:**

1. Pursuant to r 9.05 of the *Federal Court Rules 2011* (Cth) (the Rules), the following parties are joined to the proceeding as the sixth to tenth respondents:
  - (a) Isabella Mary-Woodruff Pappas;
  - (b) Serpells Road Pty Ltd (ACN 639 564 391);
  - (c) Hewish Capital No. 2 Pty Ltd (ACN 639 858 147);
  - (d) Infinite Capital Pty Ltd (ACN 119 426 185); and
  - (e) CJCDN Pty Ltd (ACN 635 345 201).
2. The applicant's interlocutory application dated 22 August 2025 to join Benjamin Wharton Hammond James and Nicholas Sean Hammond James as the proposed eleventh and twelfth respondents is adjourned to 10.00 am on 10 October 2025.
3. Pursuant to r 8.21 of the Rules, by 4.00 pm on 10 September 2025, the Applicant have leave to file and serve an amended Originating Process in substantially the same form (excluding the proposed 11<sup>th</sup> and 12<sup>th</sup> respondents) set out at pages 13 to 21 of exhibit MUS-1 to the affidavit of Molly Alexandra Scott affirmed on 22 August 2025.





4. To the extent necessary, the applicant have leave, *nunc pro tunc*, to file and serve the Statement of Claim dated 22 August 2025.
5. The costs of the applicant's interlocutory application dated 22 August 2025 are costs in the cause.
6. The proceeding is listed for a case management hearing at 10.00 am on 10 October 2025.
7. There is liberty to apply.
8. Costs otherwise are reserved.

Date orders authenticated: 4 September 2025

*Sia Lagos*  
Registrar

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.





## Schedule

No: VID235/2025

Federal Court of Australia

District Registry: Victoria Registry

Division: General

Second Respondent	CHRIS PAPPAS
Third Respondent	JOEL JAMES HEWISH
Fourth Respondent	BRETT AARON DICKINSON
Fifth Respondent	GCPF MANAGEMENT PTY LTD (ACN 637 974 479)



IN THE SUPREME COURT OF VICTORIA  
AT MELBOURNE  
COMMON LAW DIVISION  
PRACTICE COURT

S ECI 2024 06779

BETWEEN:

**KOOYONGKOOT PROJECT PTY LTD (ACN 646 309 686)**

Plaintiff

v

**GLOBAL CAPITAL PROPERTY FUND LIMITED  
(ACN 635 565 070) (IN LIQUIDATION)**

First Defendant

**THE REGISTRAR OF TITLES FOR VICTORIA**

Second Defendant

### ORDER

JUDGE: The Honourable Justice Harris

DATE MADE: 20 December 2024

ORIGINATING PROCESS: Originating Motion filed 13 December 2024

METHOD OBTAINED: At hearing

ATTENDANCE: Mr J Minter, a solicitor, appeared for the plaintiff.

Ms P Thiagarajan SC and Mr A Petridis of counsel appeared for the first defendant.

- OTHER MATTERS:
- A. The first defendant sought an order that, if the plaintiff fails to pay the first defendant's costs of and incidental to the proceeding in accordance with Order 2 above, those costs be paid by Filip Gacesa. The Court was not willing to make such an order because Mr Gacesa was not present in Court, the plaintiff's solicitors did not have instructions to act for Mr Gacesa, and so Mr Gacesa had no opportunity to be heard on the matter.
  - B. This order is signed by the Judge pursuant to Rule 60.02(1)(b) of the *Supreme Court (General Civil Procedure) Rules 2015*.

### THE COURT ORDERS THAT:

1. The proceedings be dismissed.
2. The plaintiff pay the first defendant's costs of and incidental to this proceeding, to be taxed on a standard basis if not agreed.
3. The question of any further special costs order is reserved.





4. There be liberty to apply.

DATE AUTHENTICATED: 20 December 2024



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THE HONOURABLE JUSTICE HARRIS





# FEDERAL COURT OF AUSTRALIA

## Blakeley (Liquidator), in the matter of Global Capital Property Fund Ltd [2025] FCA 484

File number: VID 474 of 2025

Judgment of: **WHEATLEY J**

Date of judgment: 23 April 2025

Catchwords: **BANKRUPTCY AND INSOLVENCY** — Liquidators — Application for directions under s 477 of the *Corporations Act 2001* (Cth) — Principles and practices applicable — Whether Court should retrospectively declare past conduct of liquidators to have been proper — Applications for approvals under s 477(2A) and (2B) — *Corporations Act 2001* (Cth) ss 477(2A), (2B) and s 1322 — Orders made

Legislation: *Corporations Act 2001* (Cth) ss 477, 1322  
*Corporations Regulations 2001* (Cth) reg 5.4.02  
*Insolvency Practice Schedule (Corporations)* s 90-15

Cases cited: *Australian Securities and Investments Commission v United Global Capital Pty Ltd* [2024] FCA 1215  
*Re One.Tel Ltd and Others* (2014) 99 ACSR 247; [2014] NSWSC 457  
*Stewart, in the matter of Newtronics Pty Ltd* [2007] FCA 1375

Division: General Division

Registry: Victoria

National Practice Area: Commercial and Corporations

Sub-area: Corporations and Corporate Insolvency

Number of paragraphs: 37

Date of hearing: 23 April 2025

Counsel for the Plaintiffs: Mr A Petridis

Solicitor for the Plaintiffs: Arnold Bloch Leibler



## ORDERS

VID 474 of 2025

**IN THE MATTER OF GLOBAL CAPITAL PROPERTY FUND LTD (ACN 635 565 070) (IN LIQUIDATION)**

**BETWEEN:**                    **ROSS ANDREW BLAKELEY AND KELLY-ANNE LAVINA  
TRENFIELD IN THEIR CAPACITY AS JOINT AND  
SEVERAL LIQUIDATORS OF GLOBAL CAPITAL  
PROPERTY FUND LTD (IN LIQUIDATION) (ACN 635 565  
070)**

First Plaintiff

**GLOBAL CAPITAL PROPERTY FUND LTD (IN  
LIQUIDATION) (ACN 635 565 070)**

Second Plaintiff

**ORDER MADE BY: WHEATLEY J**

**DATE OF ORDER: 23 APRIL 2025**

### **THE COURT ORDERS THAT:**

1. Pursuant to section 477(2A) of the *Corporations Act 2001* (Cth) (**Corporations Act**), the Court approves the First Plaintiffs (as joint and several Liquidators of Global Capital Property Fund Ltd (In Liquidation)) *nunc pro tunc* to cause Global Capital Property Fund Ltd (**GCPF**) to enter into the “Deed of Settlement & Release” executed on 28 March 2025 between GCPF, Kooyongkoot Project Pty Ltd, Pomeroy Pacific Pty Ltd, Filip Gacesa and Possability Group Ltd (**Deed of Settlement**).
2. Pursuant to section 477(2B) of the Corporations Act, the Court approves the First Plaintiffs *nunc pro tunc* to cause GCPF to enter into the Deed of Settlement.
3. The costs of and incidental to this application be costs and expenses in the liquidation of the Second Plaintiff and paid out of the assets of the Second Plaintiff.

### **THE COURT DECLARES THAT:**

4. Pursuant to section 1322(4)(a) of the Corporations Act, the Deed of Settlement is not invalid by reason of it having been entered into without the Court’s prior approval.

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.



## REASONS FOR JUDGMENT

### (REVISED FROM TRANSCRIPT)

**WHEATLEY J:**

#### INTRODUCTION

- 1 By an originating application filed on 10 April 2025, the First Plaintiff, being the joint and several liquidators of Global Capital Property Fund Limited (in liquidation) (**GCPF**) seeks orders, primarily under s 477(2A) and s 477(2B) of the *Corporations Act 2001* (Cth) (**Corporations Act**), that the Court authorise *nunc pro tunc* the entering into the deed of settlement and release executed on 28 March 2025 between GCPF, **Kooyongkoot Project Pty Ltd**, **Pomeroy Pacific Pty Ltd**, **Filip Gacesa**, and **Possibility Group Pty Ltd** (**Deed of Settlement**). The First Plaintiff also seek orders pursuant to s 90-15 of the *Insolvency Practice Schedule (Corporations)* at Sch 2 to the Corporations Act (which was not the focus of the application), s 1322(4)(a) of the Corporations Act, and an order in relation to costs.
- 2 GCPF was the subject of winding up orders in this Court on 3 October 2024: *Australian Securities and Investments Commission v United Global Capital Pty Ltd* [2024] FCA 1215 (**Winding-up Judgment**). The liquidators, who are the First Plaintiff in this proceeding, were appointed pursuant to those orders of 3 October 2024. GCPF is owed various debts, including one relevant to these proceedings by Kooyongkoot.
- 3 The Loan Agreement (defined below) was for a maximum amount of \$9.5 million. The Deed of Settlement for which approval is sought compromises a debt pursuant to that Loan Agreement. The First Plaintiff seeks to compromise this debt for a sum of \$1 million.
- 4 Furthermore, the Deed of Settlement has perpetual obligations.
- 5 Approval of the compromise of the debt under s 477(2A) of the Corporations Act by way of the Deed of Settlement is required as the debt is more than \$100,000. That exceeds the prescribed amount in reg 5.4.02 of the *Corporations Regulations 2001* (Cth) (**Corporations Regulations**) for the purposes of s 477(2A).
- 6 Also, as the Deed of Settlement has perpetual obligations which extend beyond the three months prescribed in s 477(2B), approval of the Court is also required.



7 For the reasons given below, I am satisfied that it is appropriate to make orders under s 477(2A) and s 477(2B) giving the Court’s approval to the liquidators to enter the Deed of Settlement *nunc pro tunc*. I also am satisfied that it would be prudent in the circumstances to make the declaration sought under s 1322(4)(a) of the Corporations Act and costs.

## BACKGROUND

8 The liquidators have filed a detailed affidavit of Mr Blakeley on behalf of both of the liquidators. Mr Blakeley is an experienced registered liquidator and chartered accountant, having more than 30 years’ experience in corporate restructuring, insolvency and corporate turnaround matters. Mr Blakeley provides that affidavit on behalf of both of the liquidators.

9 GCPF is an unlisted company which was incorporated on 15 August 2019 and was placed into liquidation by an order of the Federal Court made on 3 October 2024. GCPF has around 538 shareholders. The majority of those shareholders came to invest in GCPF through the “UGC Advice Model”: Winding-up Judgment at [25]-[27].

10 GCPF invested around \$9.2 million in the Kooyongkoot Project. That investment was pursuant to the **Loan Agreement**. Pursuant to the Loan Agreement, GCPF was entitled to have a second-ranking mortgage. However, prior to the appointment of the liquidators, GCPF did not register any mortgage pursuant to the Loan Agreement. On 25 October 2024, shortly after the winding-up order, La Trobe Financial, being another of the financiers of the Kooyongkoot Project, indicated its intent to exercise its mortgagee’s power of sale. La Trobe Financial held a first-ranking registered mortgage over the **Land**, the subject of the Kooyongkoot development Project.

11 The liquidators are of the view that, given the amounts outstanding to creditors and where GCPF stands in the ranking of priority, if the Land was sold by La Trobe Financial, GCPF would receive little, if any, return.

12 Prior to the winding-up orders, earlier proceedings were taken by ASIC on 20 June 2024, and orders were made by O’Callaghan J. Those orders included freezing orders in relation to the “property” of GCPF. A carveout order was also made which permitted GCPF to pay, or otherwise incur, a liability in certain circumstances.

13 As part of the orders made in the Winding-up Judgment, a variation of the earlier freezing orders was made. This permitted the liquidators, in their capacity as joint and several



liquidators of GCPF or anyone authorised by them, from taking action in relation to the “property” of GCPF.

14 The Loan Agreement related to the Kooyongkoot Project, which was situated at 148 to 152 Riversdale Road, Hawthorn. The Loan Agreement was entered on or around 15 December 2020, and, pursuant to its terms, it defined the principal sum (in the schedule), as \$9.5 million.

15 Although the terms of the Loan Agreement provided that a mortgage could be registered, the liquidators have given evidence that no mortgage was registered over the Land prior to their appointment. Further, Mr Blakeley gives evidence that the amount drawn down under the Loan Agreement was \$9,194,750. The total amount outstanding under the Loan Agreement, which includes that principal amount, establishment fees and interest accrued, is approximately \$13.42 million.

16 In addition to the funding from GCPF for the Kooyongkoot Project, the liquidators are aware that Kooyongkoot has obtained additional funding of approximately \$8.3 million, that being the principal-only amount. Interest to that amount must also be added. A substantial part of that additional funding is an amount of \$7.175 million from La Trobe Financial, which is secured by a first-registered mortgage over the Land.

17 Having regard to the additional funders of the Kooyongkoot Project, Mr Blakeley’s evidence is that GCPF ranks behind the first, second and third mortgage. Furthermore, based on the liquidators’ inquiries to date, the total amount outstanding pursuant to the first, second and third mortgages is approximately \$9,483,087.

18 On 25 October 2024, La Trobe Financial appointed a controller to Kooyongkoot, entered into possession and took control of the Land for the purposes of enforcing its mortgage. However, it has provided an opportunity to Kooyongkoot to first sell the properties.

19 Mr Blakeley also gives evidence that on 8 November 2024, the liquidators, on behalf of GCPF, registered a caveat over the Land, in respect of GCPF’s interest as mortgagee. It is not necessary to detail the precise matters which took place in relation to that caveat. It is sufficient to observe that Kooyongkoot commenced proceedings to have the caveat removed, those proceedings were dismissed, and that the caveat will be released as part of the Deed of Settlement.



20 The liquidators are in possession of various valuations of the Land:

<b>Valuation</b>	<b>“As Is” valuation</b>	<b>Development Costs</b>	<b>Gross realisation</b>
PJM Valuation	\$10.15 million	Not provided	Not provided
M3 Valuation	\$10 million	\$30,011,892	\$56.5 million
Draft Urbis Valuation	\$8.6 million	\$37,253,602	\$60.05 million
Savills Valuation	\$10.750 million	\$26,149,964	\$57.77 million
Jones Lang LaSalle Valuation	\$11.5 million to \$12 million	Not provided	Not provided

21 The valuations available to the liquidators contained a significant range of values. The liquidators then sought an independent valuation, by way of a review of those above listed valuations from Sutherland Farrelly. The advice provided to the liquidators was to provide support for the M3 valuation, which valued the Land at \$10 million.

22 From 6 January 2025 and 28 February 2025, the liquidators and Mr Gacesa exchanged correspondence with a view to reaching a commercial settlement. A first settlement deed was entered into, but that was on the basis of a particular purchaser buying the Land. That purchaser did not complete its purchase.

23 On 28 March 2025, the Deed of Settlement was entered.

24 The liquidators’ solicitors have also provided an additional affidavit which establishes that copies of the originating application and supporting affidavit of Mr Blakeley have been provided to the Australian Securities and Investment Commission (ASIC) and to the parties to the Deed of Settlement, prior to the hearing. That notification also contained details and notice of the hearing. On 17 April 2025, the liquidators also issued a circular to creditors and shareholders, which provided details of the Deed of Settlement. Relevantly, from that circular, the liquidators stated the following:

The liquidators have obtained an independent assessment of the valuations obtained by Kooyongkoot, which indicated that if the Kooyongkoot properties are sold as is in the current market, the Kooyongkoot Properties are unlikely to achieve a sale price which would be enough to pay out the other secured lenders who rank ahead of GCPF and provide any return to GCPF.



25 Further, the circular to creditors and shareholders noted that the Deed of Settlement was subject to GCPF obtaining Court approval. The time and date for the hearing of that Court approval was also provided in that circular to creditors. Finally, in that circular, the liquidators stated:

The liquidators have formed a view that this settlement provides a better commercial outcome for GCPF and its stakeholders than alternative options, such as continued litigation, and will provide a return on its investment in the Kooyongkoot project.

## **LEGAL PRINCIPLES & CONSIDERATION**

26 The relevant principles to be applied when considering s 477(2A) and s 477(2B) of the Corporations Act are well settled. Section 477(2A), read together with reg 5.4.02 of the Corporations Regulations, effectively provides that, except with the approval of the Court, of the committee of inspection or of a resolution of the creditors, a liquidator of a company must not compromise a debt to the company if the amount claimed by the company is more than \$100,000.

27 Further, s 477(2B) effectively provides that except with the approval of the Court, of the committee of inspection or of a resolution of the creditors, a liquidator of a company must not enter into an agreement on the company's behalf if the term of the agreement may end or obligations of a party to the agreement may, according to the terms of the agreement, be discharged by performance, more than three months after the agreement was entered into.

28 Each of these provisions are engaged given the amount of the debt involved which is proposed to be compromised and the terms of the Deed of Settlement.

29 The Court has been helpfully referred to a number of authorities in the written submissions filed on behalf of the liquidators. It is sufficient for these purposes to outline the following principles from his Honour Justice Brereton in *Re One.Tel Ltd and Others* (2014) 248 ACSR 247; [2014] NSWSC 457 at [23] to [30]. I would summarise those relevant principles as follows:

- (1) Both of those provisions, being s 477(2A) and s 477(2B), are concerned to ensure that the Court exercises some oversight over the liquidators' actions.
- (2) The Court's assessment must be made in light of the purposes for which the liquidators' powers exist. One overriding purpose is to serve the interests of those concerned in the winding up, being the creditors.



- (3) The role of the Court is to grant or deny approval to the liquidators' proposal, not to reconsider every issue considered by the liquidator nor to develop some alternative proposal.
- (4) Importantly, the Court's approval is not an endorsement of the proposed agreement but merely permission for the liquidator to exercise his or her own commercial judgment in the matter.
- (5) The Court pays regard to the commercial judgment of the liquidator. That is not to say that it rubber stamps whatever is put forward but, as is made clear, it is not attempting to second guess a liquidator in the exercise of his or her powers.
- (6) The Court does not exhaustively or closely consider the commercial merits or otherwise of the transaction.
- (7) If the liquidator expresses the opinion that it is an appropriate commercial compromise and there does not appear to be any such lack of good faith, error in law or principle, or real or substantial ground for doubting the reasonableness of the liquidators' view, the court will generally give its approval.

30 In relation to s 477(2B), the principles were usefully summarised by her Honour Justice Gordon (then of this Court), which I gratefully adopt, in *Stewart, in the matter of Newtronics Pty Ltd* [2007] FCA 1375 at [26]:

26 There are a number of principles relevant to the exercise of the Court's power under s 477(2B) which are worth restating:

- (1) the court does not simply "rubber stamp" whatever is put forward by a liquidator. As Giles J said in *Re Spedley Securities Ltd (In liq)* (1992) 10 ACLC 1,742 at 1,745 in relation to the powers of a liquidator to compromise claims:

*"[T]he Court is necessarily confined in attempting to second guess the liquidator in the exercise of his powers, and generally will not interfere unless there can be seen to be some lack of good faith, some error in law or principle, or real and substantial grounds for doubting the prudence of the liquidator's conduct. The same restraint must apply when the question is whether the liquidator should be authorised to enter into a particular transaction the benefits and burdens of which require assessment on a commercial basis. Of course, the compromise of claims will involve assessment on a legal basis, and a liquidator will be expected (as was made plain in Re Chase Corporation (Australia) Equities Ltd) to obtain advice and, as a prudent person would in the conduct of his own affairs, advice from practitioners appropriate to the nature and value of the claims. But in all but the simplest case, and demonstrably in the present case, commercial considerations play a significant part in whether a compromise will*



*be for the benefit of creditors.”*

- (2) a court will not approve an agreement if its terms are unclear: *Re United Medical Protection (No 4)* (2002) 20 ACLC 1,647;
- (3) the role of the Court is to grant or deny approval to the liquidator’s proposal. Its role is not to develop some alternative proposal which might seem preferable: *Corporate Affairs Commission v ASC Timber Pty Ltd* (1998) 16 ACLC 1,642;
- (4) in reviewing the liquidator’s proposal, the task of the Court is:

*“[not] to reconsider all of the issues which have been weighed up by the liquidator in developing the proposal, and to substitute its determination for his in....a hearing de novo [but]... simply to review the liquidator's proposal, paying due regard to his or her commercial judgment and knowledge of all of the circumstances of the liquidation, satisfying itself there is no error of law or ground for suspecting bad faith or impropriety, and weighing up whether there is any good reason to intervene in terms of the "expeditious and beneficial administration" of the winding up.”*

See *ASC Timber* at 1,650; see also *Re Gate Gourmet Australia Pty Ltd (in liq)* (2005) 23 ACLC 834 at [10] and *Warne v GDK Financial Solutions; Peridon Village Nominees* (2006) 24 ACLC 1,019 at [60]. The Court’s approval is not an endorsement of the proposed agreement but is merely a permission for the liquidator to exercise his or her own commercial judgment in the matter;

- (5) further, in judging whether or not a liquidator should be given permission to enter into a funding agreement (whether retrospective or not), it is important to ensure, inter alia, that the entity or person providing the funding is not given a benefit disproportionate to the risk undertaken in light of the funding that is promised or a “grossly excessive profit”: *Anstella Nominees Pty Ltd v St George Motor Finance Ltd* (2003) 21 ACLC 1,347 at [11] and *Re ACN 076 673 875 Ltd* (2002) 20 ACLC 1,551 at [28];
- (6) generally, the Court grants approval under s 477(2B) of the Act only where the transaction is the proper realisation of the assets of the company or otherwise assists in the winding up of the company: *GDK Financial Solutions* at [58] and the cases cited therein.

31 The date of the Deed of Settlement is 28 March 2025. In the recitals to the Deed of Settlement, it expressly refers to the requirement that the liquidators must obtain approval of the Court pursuant to the relevant sections in order for the obligations of GCPF to become effective.

32 Clause 8.1 of the Deed of Settlement provides that it is conditional on Court approval, and that is a defined term within the document. It requires pursuant to clause 8.5 that within 14 days of receipt of the deposit, GCPF will procure the liquidators to commence the Court approval application and use its best endeavours to obtain that Court approval. Mr Blakeley gives evidence that the deposit was paid on 31 March 2025 and these proceedings were filed on



10 April 2025 and hence are within time in accordance with those provisions of the Deed of Settlement. The Deed of Settlement also provides that on the settlement date, the “GCPF Settlement Sum” will be paid, and GCPF must provide to Kooyongkoot and Pomeroy a discharge and release of the “GCPF Securities”. The “GCPF Securities” is defined under the Deed of Settlement and relevantly includes the caveat registered by the liquidators. By the liquidators registering that caveat in circumstances where the mortgage had not been previously registered, that has assisted the liquidators in being able to negotiate this position.

33 I have considered the remaining terms of the Deed of Settlement which appear to be clear and appropriate, although obviously requiring the Court’s approval.

34 The range of valuations provided to the liquidators may suggest that there was more scope for negotiation. However, when consideration is given to the lower end of those valuations being \$8.6 million, and the outstanding \$9,483,087 to the first mortgagee, that scope dissipates. The independent valuation obtained by the liquidators provided support for the M3 valuation of \$10 million. On that figure, there would be potentially some amount (although it may be quite limited) which might be paid to the liquidators of GCPF on any sale of the Land.

35 Mr Blakeley estimates that a sale price of at least \$10.8 million would be necessary before there would be any moneys available to make a payment pursuant to the Loan Agreement. The available valuations to the liquidator, particularly noting the independent additional valuation obtained, do not support a sale price of \$10.8 million. As was submitted at the hearing, the Land would actually need to be sold for greater than \$11.8 million for the liquidators of GCPF to obtain a better result than what they have achieved pursuant to the Deed of Settlement. I make these observations in relation to the valuations, sale prices and potential payments not because it is for the Court to weigh into the commercial merits or otherwise of the transaction. However, this is to engage in the oversight which is required by the Court and to consider whether or not the proposal by the liquidators, on its face, appears to have any lack of good faith or any real or substantial ground for doubting the reasonableness of the liquidators’ actions or views. As is clear from this consideration, there is no reason to doubt the reasonableness of the liquidators’ actions or views.

36 In this regard, I also observe that the Deed of Settlement does not preclude the liquidators from bringing separate proceedings against the directors. A compromise of any such claims is not part of the Deed of Settlement.



37 In conclusion, the liquidators have made a commercial assessment of entering into the Deed of Settlement and given evidence that they believe the settlement is in the best interests of GCPF's stakeholders, being its creditors and shareholders. For all of these reasons, including the relevant background I am satisfied that it is appropriate to grant the approval that is sought.

I certify that the preceding thirty-seven (37) numbered paragraphs are a true copy of the Reasons for Judgment of the Honourable Justice Wheatley.

Associate:

A handwritten signature in blue ink, appearing to be 'G. W. H.', written over a rectangular box.

Dated: 14 May 2025





Federal Court of Australia

District Registry: Victoria Registry

Division: General

No: VID474/2025

**ROSS ANDREW BLAKELEY AND KELLY-ANNE LAVINA TRENFIELD (IN THEIR CAPACITY AS JOINT AND SEVERAL LIQUIDATORS OF GLOBAL CAPITAL PROPERTY FUND)** and another named in the schedule  
Plaintiff

**GLOBAL CAPITAL PROPERTY FUND LTD (IN LIQUIDATION) (ACN 635 565 070)**  
Third Defendant

### ORDER

**JUDGE:** Justice Wheatley

**DATE OF ORDER:** 23 April 2025

**WHERE MADE:** Brisbane

### THE COURT ORDERS THAT:

1. Pursuant to section 477(2A) of the *Corporations Act 2001* (Cth) (**Corporations Act**), the Court approves the First Plaintiffs (as joint and several Liquidators of Global Capital Property Fund Ltd (In Liquidation)) *nunc pro tunc* to cause Global Capital Property Fund Ltd (**GCPF**) to enter into the “Deed of Settlement & Release” executed on 28 March 2025 between GCPF, Kooyongkoot Project Pty Ltd, Pomeroy Pacific Pty Ltd, Filip Gacesa and Possability Group Ltd (**Deed of Settlement**).
2. Pursuant to section 477(2B) of the Corporations Act, the Court approves the First Plaintiffs *nunc pro tunc* to cause GCPF to enter into the Deed of Settlement.
3. The costs of and incidental to this application be costs and expenses in the liquidation of the Second Plaintiff and paid out of the assets of the Second Plaintiff.

### THE COURT DECLARES THAT:

4. Pursuant to section 1322(4)(a) of the Corporations Act, the Deed of Settlement is not invalid by reason of it having been entered into without the Court’s prior approval.





Date orders authenticated: 23 April 2025

*Sia Lagos*  
Registrar

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.





## **Schedule**

No: VID474/2025

Federal Court of Australia

District Registry: Victoria Registry

Division: General

Second Plaintiff

GLOBAL CAPITAL PROPERTY FUND LTD (IN  
LIQUIDATION) (ACN 635 565 070)



9 October 2024

## INITIAL INFORMATION FOR INVESTORS

### GLOBAL CAPITAL PROPERTY FUND LIMITED (IN LIQUIDATION)

ACN 635 565 070

("Company")

The purpose of this notice is to advise and provide you with information about the liquidation of the Company.

#### Notification of Appointment

Kelly Trenfield and I were appointed Joint and Several Liquidators of the Company by Order of the Federal Court of Australia on 3 October 2024. A copy of the Order is **enclosed** at **Appendix A**.

#### What is a Court Liquidation?

A court liquidation is where an order to wind up and place a company into liquidation is made by a court. In this case the Order to wind up the Company was made on just and equitable grounds.

The appointment is a result of and follows proceedings commenced by the Australian Securities and Investments Commission ("**ASIC**") against the Company originally on 20 June 2024, initially seeking orders to protect Investor funds. A copy of the most recent ASIC media release regarding their action is **enclosed** at **Appendix B**. Previous media releases on the matter can be obtained from the ASIC website at [asic.gov.au/newsroom/media-releases/](https://asic.gov.au/newsroom/media-releases/).

According to the Company's records, you may have invested funds in and thus be a shareholder of the Company.

General information regarding the liquidation process is contained in the ASIC information sheet included at **Appendix C** titled "*Insolvency information for directors, employees, creditors and shareholders*".

The Liquidators recognise that the Investors in the Company are important stakeholders and will be provided with updates during the course of the liquidation.

#### What is the effect of the Appointment?

The broad effect of the appointment is that the Liquidators are now in control of the Company, its assets, and affairs, to the exclusion of the Directors. The Liquidators have taken initial steps to identify and secure assets and obtain records, and have attended to statutory requirements. The Liquidators have also made preliminary enquiries regarding the affairs of the Company including

FTI Consulting (Australia) Pty Limited

ABN 49 160 397 811 | ACN 160 397 811

Level 50, Bourke Place | 600 Bourke Street | Melbourne VIC 3001 | Australia

Postal Address | GPO Box 538 | Melbourne VIC 3001 | Australia

+61 3 9604 0600 telephone | +61 3 9604 0699 fax | [fticonsulting.com](https://fticonsulting.com)

*Liability limited by a scheme approved under Professional Standards Legislation.*



having met with the Directors. An initial assessment of the general position and affairs of the Company is currently being undertaken, and particularly matters requiring prompt attention.

More detailed investigations will be conducted in due course. In that regard, it is appreciated that Investors will desire an explanation as to the affairs of the Company and circumstances leading to the winding up, including the application of their invested funds. Key findings from the Liquidators' investigations and any potential actions will be conveyed in due course. The Liquidators will also engage with and report to ASIC regarding their findings.

It is particularly appreciated that Investors will desire advice as to the possibility of any return of their invested funds. It is too early to advise as to the potential quantum and timing of any return, which shall be impacted by a number of factors including recoverable assets, any other potential sources of recovery, the steps and costs required to effect recoveries, the general costs of the Liquidation, and the quantum of any creditor claims that will rank ahead of Investors (shareholders).

#### Details of Investment

Whilst the Liquidators will be reviewing the Company's records, to assist in the assessment of the financial position and affairs of the Company, Investors are invited to complete the accompanying Investor Claim Form in **Appendix D**, detailing their asserted investment and thus claim, and confirming current contact details. There is also the opportunity to nominate and authorise another party to receive information on your behalf.

Please note, for efficiency and cost benefits, it is the intention of the Liquidators to communicate with Investors where possible via email only. Should any Investor wish to receive communications by post, please indicate same on the enclosed form.

#### Where can you get more information?

The Australian Restructuring Insolvency and Turnaround Association ("**ARITA**") provides information to assist creditors with understanding liquidations and insolvency. This information is available from ARITA's website at [arita.com.au/creditors](http://arita.com.au/creditors).

ASIC also provides information sheets on a range of insolvency topics. These information sheets can be accessed on ASIC's website at [asic.gov.au](http://asic.gov.au) (search for "insolvency information sheets").

Statutory notices and advertisements about the Company will be published on ASIC's Published Notices website at [publishednotices.asic.gov.au](http://publishednotices.asic.gov.au). As included above, ASIC has also issued a number of media releases in this matter and the Liquidators understand that any future releases will be published on their website at [asic.gov.au/newsroom/media-releases/](http://asic.gov.au/newsroom/media-releases/).



### Next Steps and Queries

As noted, the Liquidators will continue to keep Investors apprised of the conduct of the Liquidation, potential and timing of any return, and outcome of investigations.

Should Investors have any specific matters or information they wish to bring to the Liquidators' attention to assist in their investigations, please do so via the dedicated email address noted below.

Investors are also encouraged to complete and submit the enclosed Investor Claim form.

Should you have any queries in the interim, you may contact this office by email at [gcpf.investors@fticonsulting.com](mailto:gcpf.investors@fticonsulting.com).

Dated this 9<sup>th</sup> day of October 2024



**Ross Blakeley**

**Joint and Several Liquidator**

**Encl.**



## Appendix A | Court Order





Federal Court of Australia

District Registry: Victoria Registry

Division: General

No: VID558/2024

**AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION**

Plaintiff

**UNITED GLOBAL CAPITAL PTY LTD** and another named in the schedule

Defendants

**ORDER**

**JUDGE:** Justice Neskovicin

**DATE OF ORDER:** 3 October 2024

**WHERE MADE:** Melbourne

**THE COURT ORDERS BY CONSENT THAT:**

**Winding up on just and equitable grounds**

1. Pursuant to section 461(1)(k) of the *Corporations Act 2001* (Cth), the Second Defendant, Global Capital Property Fund Limited (**GCPF**), be wound up.
2. Ross Andrew Blakeley and Kelly-Anne Lavina Trenfield of FTI Consulting be appointed as joint and several liquidators of GCPF.
3. ASIC are to provide the joint and several liquidators with copies of such books and records relating to GCPF which have been obtained by ASIC under Part 3, Division 3 of the *Australian Securities and Investments Act 2001* (Cth), that the joint and several liquidators reasonably request in writing for the purpose of performing their duties.

**Non-Publication Orders**

4. Orders 8 and 9 of the orders made on 20 June 2024 and Order 1 of the orders made on 25 June 2024 (relating to non-publication of material filed by ASIC in this proceeding) are vacated.





### **Freezing Orders**

5. Paragraph 13 of the orders made on 20 June 2024 (commencing with the words ‘The order in paragraph 12 above shall not prevent’) is varied to add the following sub-paragraph:

- (a) Ross Andrew Blakeley and Kelly-Anne Lavina Trenfield of FTI Consulting in their capacity as joint and several liquidators of the second defendant, or anyone authorised by them, from taking any action in relation to the Property of the Second Defendant.’

### **AND THE COURT ORDERS THAT:**

#### **Costs**

- 6. GCPF pay ASIC’s costs of GCPF’s interlocutory application filed on 29 August 2024.
- 7. GCPF pay ASIC’s costs of the winding up application filed on 9 September 2024 to be agreed, or failing agreement, to be taxed.
- 8. ASIC’s costs of the winding up application be paid out of the property of GCPF in accordance with s 466(2) of the Corporations Act.
- 9. GCPF otherwise pay ASIC’s costs of the proceeding as against it.

#### **Other matters**

- 10. Liberty to apply.

Date orders authenticated: 3 October 2024

  
Registrar

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.





**Schedule**

No: VID558/2024

Federal Court of Australia

District Registry: Victoria Registry

Division: General

Second Defendant

GLOBAL CAPITAL PROPERTY FUND LIMITED (ACN 635  
565 070)



## Appendix B | ASIC Media Release





MEDIA RELEASE (24-221MR)

## Federal Court appoints liquidators to Global Capital Property Fund

Published 4 October 2024

The Federal Court has made orders for property investment company Global Capital Property Fund Limited (**GCPF**) to be wound up on just and equitable grounds, appointing Ross Blakeley and Kelly-Anne Trenfield of FTI Consulting as liquidators.

ASIC applied for the winding-up of GCPF as it holds numerous concerns about the management of GCPF's business.

On 20 June 2024, ASIC obtained interim orders from the Federal Court freezing the assets of GCPF and related financial advice licensee United Global Capital Pty Ltd (UGC) (now in liquidation) ([24-135MR](#)).

The Court subsequently discharged the freezing orders against UGC following the appointment of a liquidator to that company and on 1 October 2024, dismissed the proceeding against UGC by consent.

On 9 September 2024, ASIC filed an amended application seeking orders including the appointment of liquidators to GCPF. GCPF consented to the liquidators' appointment.

At a hearing yesterday, the Court appointed liquidators to GCPF and varied the freezing orders to allow the liquidators to take any action regarding GCPF's property.

Investors and creditors can contact the liquidators with any queries by emailing:

- **GCPF Investors** – [investors@fticonsulting.com](mailto:investors@fticonsulting.com)
- **GCPF Creditors** – [creditors@fticonsulting.com](mailto:creditors@fticonsulting.com)
- **GCPF (general)** – [gcpf@fticonsulting.com](mailto:gcpf@fticonsulting.com)

ASIC's investigation into UGC and GCPF is continuing.

### Download

[Orders](https://download.asic.gov.au/media/3gtlk4od/24-221mr-asic-v-ugc-order.pdf) <<https://download.asic.gov.au/media/3gtlk4od/24-221mr-asic-v-ugc-order.pdf>>

### Background

UGC operated a financial advice business holding an Australian financial services licence with Joel Hewish its sole director and key person on the licence. GCPF has been an authorised representative of UGC since 25 March 2020.

ASIC made interim stop orders on 5 and 21 July preventing the offer of shares to retail investors under GCPF's prospectus as well as further interim stop orders on 29 August and 13 September 2022 preventing the issue of shares due to a deficient target market determination ([23-002MR](#)).

On 3 June 2024, as a result of ASIC's investigation into UGC, ASIC cancelled UGC's Australian financial services licence pursuant to section 915C(1) of the Corporations Act. Additionally, ASIC made an order under sections 920A and 920B of the Corporations Act ([24-170MR](#)) banning Mr Hewish for 10 years from involvement in a financial services business. Mr Hewish has applied to the Administrative Appeals Tribunal for a review of the banning decision.

On 5 July 2024, UGC entered voluntary administration and on 9 August 2024 UGC's creditors resolved to wind-up UGC and appoint David Stimpson of SV Partners as liquidator. SV Partners' contact details are: [svpartners.com.au](http://www.svpartners.com.au) <<http://www.svpartners.com.au>>, 22 Market Street Brisbane QLD 4000, (07) 3310 2000.

### More information

Further details and updates are on ASIC's enforcement activities webpage which can be accessed via [Enforcement Activities UGC](#).

ASIC's website has further information on the liquidation process and what it means for shareholders and creditors, including this [insolvency](#) webpage.







[Home](#)[> Regulatory resources](#)[> Insolvency](#)[> Insolvency information for directors, employees, creditors and shareholders](#)

## Insolvency information for directors, employees, creditors and shareholders

This information sheet (INFO 39) lists ASIC's information sheets for directors, employees, creditors and shareholders affected by a company's insolvency.

We have produced these with endorsement from the Australian Restructuring Insolvency & Turnaround Association (ARITA).

The information sheets give a basic understanding of the three most common company insolvency procedures – liquidation, voluntary administration and receivership – as well as the independence requirements for external administrators and approving external administrator remuneration. There is also a glossary of commonly used insolvency terms.

### List of information sheets

- [INFO 41](#) Insolvency: A glossary of terms
- [INFO 42](#) Insolvency: A guide for directors
- [INFO 43](#) Insolvency: A guide for shareholders
- [INFO 45](#) Liquidation: A guide for creditors
- [INFO 46](#) Liquidation: A guide for employees
- [INFO 54](#) Receivership: A guide for creditors
- [INFO 55](#) Receivership: A guide for employees
- [INFO 74](#) Voluntary administration: A guide for creditors
- [INFO 75](#) Voluntary administration: A guide for employees
- [INFO 84](#) Independence of external administrators: A guide for creditors
- [INFO 85](#) Approving fees: A guide for creditors

### Where can I get more information?

Further information is available from the [ARITA website](#). The ARITA website also contains the [ARITA Code of Professional Practice for Insolvency Practitioners](#).

This is **Information Sheet 39 (INFO 39)** updated on 1 September 2017. Information sheets provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Last updated: 01/09/2017 10:57



## Appendix D | Investor Claim Form



**INVESTOR CLAIM FORM**  
**GLOBAL CAPITAL PROPERTY FUND LIMITED (IN LIQUIDATION)**  
**ACN 635 565 070**

To the Liquidators of Global Capital Property Fund Limited ACN 635 565 070 ("the Company")

**DETAIL OF INVESTMENT**

This is to state that as at 3 October 2024, I/we are an investor of the Company and confirm the following details::

Name: .....

Address: .....

ABN (if applicable): .....

I/we own ..... shares in the Company.

I/we purchased these shares in the following tranches for the following sums:

Date	Number of shares	Cost per share (\$)	Total Amount paid (\$)	Comments
------	------------------	---------------------	------------------------	----------

---

\*please attach documentation to support each tranche of shares to confirm claim i.e. share certificate or other document

**AUTHORITY TO ACT**

I nominate and authorise the following to act on my/our behalf and receive all information in relation to the Liquidation and my/our investment:

Name: ..... Company: .....

Phone No.: ..... Email: .....

**Execution and Contact**

Signature: ..... Dated: .....

Name: ..... Position (if company/trustee): .....

Phone No.: ..... Email:.....



31 October 2024

**INITIAL INFORMATION FOR CREDITORS**  
**GLOBAL CAPITAL PROPERTY FUND LIMITED (IN LIQUIDATION) ACN 635 565 070**  
**("THE COMPANY")**

The purpose of this document is to provide you with information about the liquidation of the Company and your rights as a creditor.

**Notification of appointment**

Kelly Trenfield and I, Ross Blakeley were appointed Joint and Several Liquidators ("**Liquidators**") of the Company by order of the Federal Court of Australia on 3 October 2024. A copy of the Order is **attached** at **Appendix A**.

A copy of the Liquidators' Declaration of Independence, Relevant Relationships and Indemnities ("**DIRRI**") is **attached** at **Appendix B**. The DIRRI assists you to understand any relevant relationships that the Liquidators have, and any indemnities or upfront payments that have been provided to the Liquidators. The Liquidators have considered each relationship and it is their opinion that none of the relationships disclosed in the DIRRI result in a conflict of interest or duty or affect their independence.

**What is a Court Liquidation?**

A court liquidation is where an order to place a Company into liquidation is made by the court, usually on application by a creditor where the Company has not paid its outstanding debt. Usually this means that the Company is insolvent. In this case, the application to wind up the Company was made on just and equitable grounds pursuant to section 461(1)(k) of the *Corporations Act 2001 (Cth)* ("**the Act**").

According to the Company's records, you may be a creditor of the Company.

Information regarding the liquidation process is contained in the Australian Securities and Investments Commission ("**ASIC**") information sheet **attached** at **Appendix C** titled "*Insolvency information for directors, employees, creditors and shareholders*".



### What happens to your debt?

All creditors of the Company are now creditors in the liquidation. As a creditor, you have certain rights, although your debt will now be dealt with in the liquidation.

In the event that there are monies to be distributed to creditors in the future, you will need to submit a formal proof of debt form, which is **attached at Appendix D**. A proof of debt is also used for voting purposes at any meetings of creditors.

If you have leased the Company property, have a retention of title claim or hold a Personal Property Security in relation to the Company, please contact this office as soon as possible. Further information is **attached at Appendix E**.

### Your rights as a creditor

Information regarding your rights as a creditor is provided in the information sheet **attached at Appendix F**.

### Summary of the Company's affairs

The following table summarises the directors' details and other relevant information relation to the Company according to the ASIC register as at 3 October 2024:

Statutory information			
Incorporation Date	15 August 2019		
Registered Address	MVA Bennet Pty Ltd, 'North Tower' Level 5, 485 La Trobe Street, Melbourne VIC 3000		
Principal Place of Business	Level 33, 360 Collins Street, Melbourne VIC 3000		
Directors and Officers	Name	Type	Appointment Date
	Brett Dickinson	Director	15/08/2019
	Chris Pappas	Director	15/08/2019
	Brett Dickinson	Secretary	15/08/2019
	Isabella Pappas	Secretary	15/01/2021

In the twelve (12) months prior to the Liquidators appointment, Mr Joel Hewish ("**Mr Hewish**") resigned from his position as director of the Company. Mr Hewish was a director from the date of incorporation of the Company until 12 August 2024.

Pursuant to sections 475(1) and 475(4) of the Act, the Directors are required to submit to the Liquidators, within ten (10) business days of the Liquidation, a Report on Company Activities and Property ("**ROCAP**").

As at the date of this report, the Liquidators have received a ROCAP from the two (2) current directors of the Company. The Liquidators have also granted Mr Hewish, the former director, a 10-



business day extension to complete his ROCAP. Mr Hewish is due to complete and submit his ROCAP on or before 1 November 2024.

Based on the Liquidators review of Part A of the ROCAP's received, discussions with the Company's current and former directors and other information received to date, the Liquidators understand:

- The Company was established to be an investment vehicle to allow investors the ability to invest in large scale property development projects and was designed to obtain higher levels of return due to strategies used in the developments.
- The Directors goal was to achieve thirty percent (30%) returns to investors per annum which they considered a reasonable target to achieve through an investment cycle through their strategies deployed.
- The Company currently has investments in fourteen (14) property developments through a number of special purpose vehicles ("SPV"), by way of joint venture and loan agreements.
- The Company raised capital by having investors purchase ordinary shares in the Company, majority of which were through a self-managed super fund ("SMSF") that was managed by United Global Capital Limited ("UGC"), which is currently in liquidation.
- Due to concerns regarding UGC and its representatives under an Australian Financial Services Licence, ASIC lodged proceedings against UGC and the Company. The sole director of UGC, Mr Hewish, elected to place UGC into voluntary administration on 5 July 2024. ASIC subsequently continued proceedings against the Company to obtain a winding up order against the Company.
- As at the date of the Liquidators appointment, the Company's primary assets included:
  - Cash at bank totalling \$15,828,906.27 held in the Company's pre-appointment bank accounts held with the following banking institutions:
    - \$1,678,647.59 held with the National Australia Bank ("NAB");
    - \$13,149,258.68 held with La Trobe Financial; and
    - \$1,001,000.00 held with Trilogy Funds.
  - Investments, by way of loan agreements and equity agreements, in the fourteen (14) property developments through their respective SPVs. The realisable value of these investments is currently unknown.
- According to the books and records of the Company and the ROCAP Part A submitted by the current directors, the only liabilities are amounts owed to creditors of c.\$485k. The Liquidators assessment of these liabilities will form part of their investigations into the Company's affairs.

#### Update on liquidation to date

The major tasks completed to date include:

- Taking immediate steps to secure any pre-appointment cash at bank held with the NAB, La Trobe Financial and Trilogy Funds;
- Writing to ASIC confirming the scope of the freezing orders placed on the Company's property;



- Attending to statutory requirements;
- Contacted shareholders/investors advising of the Liquidators appointment;
- Contacting relevant authorities, account and legal advisors notifying them of the liquidation;
- Meeting with and obtaining information from the current and former directors;
- Meeting with and obtaining information from the Company's advisors;
- Meetings with the developers and the directors of the SPV's regarding the fourteen (14) property development projects to understand the status of each project, estimated return upon completion, timing regarding completion and other matters as required;
- Writing to relevant parties requesting further information to assist with the Liquidators investigations and analysis of each project;
- Reviewing and assessing the Company's books and records regarding the projects; and
- Preparing this circular to creditors.

The Liquidators will provide a further and more detailed update to creditors on the progress of the liquidation in the Liquidators' Statutory Report to be sent to creditors within three (3) months of the Liquidators' appointment pursuant to Section 70-40 of the Insolvency Practices Rules.

### **What happens next?**

The Liquidators will proceed with the liquidation, including:

- Evaluating the status and risks involved with each project and determining the next steps;
- Investigating the Company's affairs;
- Reporting to the corporate regulator, ASIC, pursuant to Section 533 of the Act; and
- Distribution of surplus funds in the Liquidation to Creditors and/or Investors (if any).

If the Liquidators receive a request for a meeting that complies with the guidelines set out in the creditor rights information sheet, they will hold a meeting of creditors.

The Liquidators will write to you within three (3) months of their appointment advising whether a dividend is likely and update you on the progress of their investigations.

The Liquidators may write to you again after that with further information on the progress of the liquidation.



### Costs of the liquidation

Included at **Appendix G** is the Liquidators' Initial Remuneration Notice. This document provides you with information about how the Liquidators propose to be paid for undertaking the liquidation.

The Liquidators may write and ask that you approve their remuneration for the work that they do in completing the liquidation. If the Liquidators do, they will provide you with detailed information so that you can understand what tasks the Liquidators have undertaken and the costs of those tasks.

### Where can you get more information?

The Australian Restructuring Insolvency and Turnaround Association ("**ARITA**") provides information to assist creditors with understanding liquidations and insolvency.

This information is available from ARITA's website at [arita.com.au/creditors](http://arita.com.au/creditors).

ASIC also provides information sheets on a range of insolvency topics. These information sheets can be accessed on ASIC's website at [asic.gov.au](http://asic.gov.au) (search for "insolvency information sheets").

Statutory notices and advertisements about the Company will be published on ASIC's Published Notices website at [publishednotices.asic.gov.au](http://publishednotices.asic.gov.au).

Should you have any queries, please contact this office on (03) 9604 0600 or by email at [gcpf.creditors@fticonsulting.com](mailto:gcpf.creditors@fticonsulting.com)

Dated this 31<sup>st</sup> day of October 2024



**Ross Blakeley**

**Joint and Several Liquidator**



## LIST OF APPENDICES

No	Appendix	Description
1	Appendix A	<i>Court Order from the Federal Court of Australia</i>
2	Appendix B	<i>Declaration of Independence, Relevant Relationships and Indemnities ("DIRRI").</i>
3	Appendix C	<i>ASIC information sheet titled "Insolvency information for directors, employees, creditors and shareholders".</i>
4	Appendix D	<i>Form 535 – Formal Proof of Debt or Claim form.</i>
5	Appendix E	<i>Important statements for all creditors and suppliers.</i>
6	Appendix F	<i>ARITA information sheet titled "Creditor Rights in Liquidations".</i>
7	Appendix G	<i>The Liquidators' Initial Remuneration Notice.</i>









Federal Court of Australia

District Registry: Victoria Registry

Division: General

No: VID558/2024

**AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION**

Plaintiff

**UNITED GLOBAL CAPITAL PTY LTD** and another named in the schedule

Defendants

**ORDER**

**JUDGE:** Justice Neskovic

**DATE OF ORDER:** 3 October 2024

**WHERE MADE:** Melbourne

**THE COURT ORDERS BY CONSENT THAT:**

**Winding up on just and equitable grounds**

1. Pursuant to section 461(1)(k) of the *Corporations Act 2001* (Cth), the Second Defendant, Global Capital Property Fund Limited (**GCPF**), be wound up.
2. Ross Andrew Blakeley and Kelly-Anne Lavina Trenfield of FTI Consulting be appointed as joint and several liquidators of GCPF.
3. ASIC are to provide the joint and several liquidators with copies of such books and records relating to GCPF which have been obtained by ASIC under Part 3, Division 3 of the *Australian Securities and Investments Act 2001* (Cth), that the joint and several liquidators reasonably request in writing for the purpose of performing their duties.

**Non-Publication Orders**

4. Orders 8 and 9 of the orders made on 20 June 2024 and Order 1 of the orders made on 25 June 2024 (relating to non-publication of material filed by ASIC in this proceeding) are vacated.





### **Freezing Orders**

5. Paragraph 13 of the orders made on 20 June 2024 (commencing with the words ‘The order in paragraph 12 above shall not prevent’) is varied to add the following subparagraph:

- (a) Ross Andrew Blakeley and Kelly-Anne Lavina Trenfield of FTI Consulting in their capacity as joint and several liquidators of the second defendant, or anyone authorised by them, from taking any action in relation to the Property of the Second Defendant.’

### **AND THE COURT ORDERS THAT:**

#### **Costs**

- 6. GCPF pay ASIC’s costs of GCPF’s interlocutory application filed on 29 August 2024.
- 7. GCPF pay ASIC’s costs of the winding up application filed on 9 September 2024 to be agreed, or failing agreement, to be taxed.
- 8. ASIC’s costs of the winding up application be paid out of the property of GCPF in accordance with s 466(2) of the Corporations Act.
- 9. GCPF otherwise pay ASIC’s costs of the proceeding as against it.

#### **Other matters**

- 10. Liberty to apply.

Date orders authenticated: 3 October 2024

  
Registrar

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.





**Schedule**

No: VID558/2024

Federal Court of Australia

District Registry: Victoria Registry

Division: General

Second Defendant

GLOBAL CAPITAL PROPERTY FUND LIMITED (ACN 635  
565 070)







## DECLARATION OF INDEPENDENCE, RELEVANT RELATIONSHIPS AND INDEMNITIES

### GLOBAL CAPITAL PROPERTY FUND LIMITED (IN LIQUIDATION)

#### ACN 635 565 070 ("THE COMPANY")

The purpose of this document is to assist creditors with understanding any relevant relationships that we have with parties who are closely connected to the Company and any indemnities or upfront payments that have been provided to us. None of the relationships disclosed in this document are such that our independence is affected.

This information is provided so you have trust and confidence in our independence and, if not, you can ask for further explanation or information and can act to remove and replace us if you wish.

This declaration is made in respect of ourselves, our fellow Senior Managing Directors/Managing Directors, FTI Consulting (Australia) Pty Ltd ("**FTI Consulting**" or "**Firm**") and associated entities, as detailed in **Annexure A**.

We are Professional Members of the Australian Restructuring Insolvency and Turnaround Association ("**ARITA**"). We acknowledge that we are bound by the ARITA Code of Professional Practice.

## Independence

We have assessed our independence and we are not aware of any reasons that would prevent us from accepting this appointment.

There are no other known relevant relationships, including personal, business and professional relationships that should be disclosed beyond those we have disclosed in this document.

## Circumstances of appointment

### How we were referred this appointment

On 23 July 2024, Dawna Wright of this office was approached by Johnson Winter Slattery ("**JWS**"), acting for the Australian Securities and Investments Commission ("**ASIC**"), to confirm that FTI Consulting was not conflicted and to discuss the Firm's credentials to potentially provide expert services in relation to the investigations and court action instigated by ASIC regarding the Company.

Following appropriate internal enquiries, confirmation was provided that the Firm did not have any conflict in potentially acting in relation to the Company, with the following relevant further engagement occurring with JWS:-



Date	Medium	FTI Consulting attendees / Recipients	External party / Recipients	Agenda/purpose/discussion
29 July 2024	Email	Dawna Wright Ross Blakeley	JWS	<ul style="list-style-type: none"> <li>■ Provided JWS with the Firm's credentials and relevant experience</li> <li>■ Provided forensic and litigation consulting schedule of rates</li> <li>■ Introduced Ross Blakeley to JWS in the circumstances of a formal insolvency appointment arising</li> </ul>
2 August 2024	Email	Dawna Wright Ross Blakeley	JWS	<ul style="list-style-type: none"> <li>■ Obtained update regarding timing of the Court proceedings</li> </ul>
26 August 2024	Telephone call	Dawna Wright Ross Blakeley	JWS	<ul style="list-style-type: none"> <li>■ Received background regarding the Company and proceedings, and discussed possible services to be provided by FTI Consulting as detailed in email of 29 July 2024</li> </ul>
28 August 2024	Telephone call and emails	Ross Blakeley	JWS	<ul style="list-style-type: none"> <li>■ Obtained update in telephone call regarding orders made on 27 August 2024</li> <li>■ Discussed possibility of orders being made in future for a provisional liquidator or receiver being appointed, and potential terms of such appointments</li> <li>■ Received through subsequent email a copy of the Company's prospectus issued in June 2022</li> <li>■ Issued further email nominating Kelly Trenfield as a proposed joint appointee for any formal insolvency appointment, and providing FTI Consulting standard Corporate Finance and Restructuring schedule of rates</li> </ul>
3 October 2024	Telephone call	Kelly Trenfield	JWS	<ul style="list-style-type: none"> <li>■ Discussion as to proposed Order in the winding up and in particular requested releases of freezing orders to be obtained at the hearing in the event of any formal insolvency appointment</li> </ul>



On 18 September 2024, ASIC, who is the plaintiff in the winding up proceedings against the Company, directly approached Ross Blakeley, with the following relevant engagement occurring with ASIC:

Date	Medium	FTI Consulting attendees / Recipients	External party / Recipient	Agenda/purpose/discussion
18 September 2024	Telephone call and emails	Ross Blakeley Kelly Trenfield	ASIC	<ul style="list-style-type: none"> <li>Received a request for schedule of rates for the proposed matter</li> <li>Introduced Kelly Trenfield as a secondary point of contact and as a proposed joint appointee for any formal insolvency appointment</li> </ul>
19 September 2024	Email	Ross Blakeley Kelly Trenfield	ASIC	<ul style="list-style-type: none"> <li>Provided proposed FTI Consulting Corporate Finance and Restructuring schedule of rates to be specific to the potential appointment</li> </ul>
20 September 2024	Email	Ross Blakeley Kelly Trenfield	ASIC	<ul style="list-style-type: none"> <li>Received update regarding the status of the proceedings commenced by ASIC and the nature of the proposed insolvency appointment</li> <li>To assist in understanding key matters, provided information regarding circumstances leading to the proceedings and the status of the Company's financial position</li> <li>Received a request to provide a formal consent to act</li> </ul>
23 September 2024	Email	Ross Blakeley Kelly Trenfield	ASIC	<ul style="list-style-type: none"> <li>Provision of formal consent to act for a provisional liquidator appointment and Corporate Finance and Restructuring schedule of rates specific to the proposed appointment type</li> </ul>
24 September 2024	Email	Ross Blakeley Kelly Trenfield	ASIC	<ul style="list-style-type: none"> <li>Provision of amended formal consent to act for a provisional liquidator appointment and Corporate Finance and Restructuring schedule of rates specific to the proposed appointment type</li> </ul>



Date	Medium	FTI Consulting attendees / Recipients	External party / Recipient	Agenda/purpose/discussion
25 September 2024	Email	Ross Blakeley Kelly Trenfield	ASIC	<ul style="list-style-type: none"> <li>■ Received an update regarding the date of the proposed hearing and request for a revised consent to act</li> <li>■ Provision of consent to act for a liquidator appointment and Corporate Finance and Restructuring schedule of rates specific to the proposed appointment type</li> </ul>
1 October 2024	Email	Ross Blakeley Kelly Trenfield	ASIC	<ul style="list-style-type: none"> <li>■ Received request for relevant contact details following any formal insolvency appointment</li> <li>■ Provided email addresses and telephone numbers to be specific to the appointment</li> </ul>

We did not receive and shall not be seeking any remuneration for time incurred prior to 3 October 2024, in conducting conflict checks, providing our consent to act and communicating with JWS or ASIC, in this matter

JWS and FTI Consulting, acting on behalf of clients, refer matters requiring varied professional services to each firm from time to time.

FTI Consulting also provides various direct services to ASIC from time to time on unrelated matters, which are the subject of a governing forensic services agreement.

Further, registered liquidators employed by FTI Consulting, engage with ASIC in meeting statutory requirements regarding unrelated corporate entities subject to external administration or pertaining to their registration as a liquidator.

We believe that the specific pre liquidation dealings in relation to the Company, and any other unrelated dealings involving FTI Consulting, JWS and ASIC, do not result in us having a conflict of interest or affect our independence for the following reasons:

- Neither the Liquidators nor FTI Consulting have any formal or informal referral arrangements with JWS or ASIC regarding requests to act in external administrations, and to our knowledge they do not exclusively refer such matters to us or FTI Consulting.
- FTI Consulting is not reliant upon referrals from JWS, who are one of a considerable number of firms, organisations and persons who refer work to, or seek advice from, FTI Consulting. This engagement is not financially significant to FTI Consulting and the receiving or otherwise of other referrals from JWS or ASIC is not material to FTI Consulting.
- ASIC is a corporate regulator and has the function of monitoring and promoting market integrity and consumer protection. In that role ASIC instigates proceedings in Court which results in orders being made for



the winding up of a company. Registered liquidators employed by FTI Consulting have from time to time been requested by ASIC to act in such matters. To our knowledge they do not exclusively make such requests of us or other registered liquidators at FTI Consulting. The number of matters where FTI Consulting have been appointed where ASIC has commenced proceedings is immaterial. Similarly the other services provided by FTI Consulting to ASIC is also immaterial.

- The nature of the very limited pre-appointment involvement is such that it would not be subject to review and challenge during the course of our appointment.
- There was no interaction with the Company Directors, any security interest holder, or other creditors and their representatives prior to our appointment. Specifically, no advice has been given to the Directors in their capacity as Directors of the Company or in relation to their personal circumstances.
- The limited pre-appointment involvement will not influence our ability to be able to fully comply with the statutory and fiduciary obligations associated with our appointment as Liquidators of the Company in an objective and impartial manner.

Did we meet with the Company, the directors or their advisers before we were appointed?

☐ Yes ☒ No

## Declaration of Relationships

Within the previous two (2) years we or our firm have had a relationship with:

The Company	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
The Directors	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Any associates of the Company?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
A former insolvency practitioner appointed to the Company?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
A secured creditor entitled to enforce a security over the whole or substantially the whole of the Company's property?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Do we have any other relationships that we consider are relevant to creditors assessing our independence?**

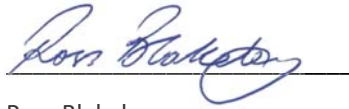
☐ Yes ☒ No

## Indemnities and up-front payments

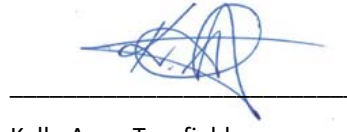
We have not received any up-front payments or indemnities for this appointment. This does not include any indemnities we may be entitled to under the law.



Dated this 31<sup>st</sup> day of October 2024



Ross Blakeley



Kelly-Anne Trenfield

**Notes:**

1. *The assessment of independence has been made based on an evaluation of the significance of any threats to independence and in accordance with the requirements of the relevant legislation and professional Standards.*
2. *If circumstances change, or new information is identified, we are required under the Corporations Act 2001 or Bankruptcy Act and ARITA's Code of Professional Practice to update this Declaration and provide a copy to creditors with our next communication as well as table a copy of any replacement declaration at the next meeting of the insolvent's creditors. For creditors' voluntary liquidations and voluntary administrations, this document and any updated versions of this document are required to be lodged with ASIC.*



## ANNEXURE A

### FTI Consulting (Australia) Pty Ltd and associated entities

FTI Consulting Inc (ultimate holding entity)

FTI Consulting – FD Australia Holdings Pty Ltd

FTI Consulting (Australia) Pty Ltd

FTI Technology (Sydney) Pty Ltd

FTI Consulting (Perth) Pty Ltd

FTI Consulting (Sydney) Pty Ltd

FTI Capital Advisors (Australia) Pty Ltd

FTI Consulting Australia Nominees Pty Ltd



## Appendix C | ASIC Information Sheet – Insolvency Information





[Home](#)

> [Regulatory resources](#)

> [Insolvency](#)

> [Insolvency information for directors, employees, creditors and shareholders](#)

## Insolvency information for directors, employees, creditors and shareholders

This information sheet (INFO 39) lists ASIC's information sheets for directors, employees, creditors and shareholders affected by a company's insolvency.

We have produced these with endorsement from the Australian Restructuring Insolvency & Turnaround Association (ARITA).

The information sheets give a basic understanding of the three most common company insolvency procedures – liquidation, voluntary administration and receivership – as well as the independence requirements for external administrators and approving external administrator remuneration. There is also a glossary of commonly used insolvency terms.

### List of information sheets

- [INFO 41](#) Insolvency: A glossary of terms
- [INFO 42](#) Insolvency: A guide for directors
- [INFO 43](#) Insolvency: A guide for shareholders
- [INFO 45](#) Liquidation: A guide for creditors
- [INFO 46](#) Liquidation: A guide for employees
- [INFO 54](#) Receivership: A guide for creditors
- [INFO 55](#) Receivership: A guide for employees
- [INFO 74](#) Voluntary administration: A guide for creditors
- [INFO 75](#) Voluntary administration: A guide for employees
- [INFO 84](#) Independence of external administrators: A guide for creditors
- [INFO 85](#) Approving fees: A guide for creditors

### Where can I get more information?

Further information is available from the [ARITA website](#). The ARITA website also contains the [ARITA Code of Professional Practice for Insolvency Practitioners](#).

This is **Information Sheet 39 (INFO 39)** updated on 1 September 2017. Information sheets provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Last updated: 01/09/2017 10:57







FORM 535 – FORMAL PROOF OF DEBT OR CLAIM

GLOBAL CAPITAL PROPERTY FUND LIMITED (IN LIQUIDATION) ACN 635 565 070

("THE COMPANY")

To the Liquidators of Global Capital Property Fund Limited ACN 635 565 070 ("the Company")

1. This is to state that the Company was on 3 October 2024, 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
	(state how the debt arose)		(include details of voucher substantiating payment)

2. To my knowledge or belief the creditor has not, nor has any person by the creditor's order, had or received any satisfaction or security for the sum or any part of it except for 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?	<input type="checkbox"/>	<input type="checkbox"/>
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? ☐ Yes ☐ No  
(If you are unsure contact the Liquidators)



## Appendix E | Important Statements for Creditors and Suppliers

### IMPORTANT STATEMENTS FOR ALL CREDITORS AND SUPPLIERS

#### NO ADOPTION OF ANY CONTRACTS OR ASSUMPTION OF LIABILITIES OF THE COMPANY BY THE LIQUIDATORS

The Liquidators are not personally adopting, and will not adopt, any agreement or contract that you may have with the Company. The Liquidators will not be liable for any liability of the Company under any agreement or contract with you. Any payments made by the Liquidators for any goods or services does not constitute, nor in any way imply, adoption of any contract or an assumption of any liability of the Company by the Liquidators.

#### PARTIES WHO ARE REQUIRED TO CONTACT US

Please contact the Liquidators as soon as possible if you:

- Have supplied any goods or collateral to the Company and you have registered a security interest in such property on the Personal Property Security Register (“PPSR”);
- Are otherwise claiming security or proprietary rights in any asset or property owned by or in possession of the Company;
- Lease or hire goods or property to the Company;
- Are claiming a lien over property of the Company; and/or
- Have commenced legal proceedings against the Company.

#### PARTIES WITH PMSI, RETENTION OF TITLE AND CONSIGNMENT CLAIMS OVER PROPERTY

Parties with these claims are requested as soon as possible to give the Liquidators details of the items supplied to the Company (including any features by which that property is able to be identified, for example - serial number/s) and which remain unpaid for, and provide details of your registration on the PPSR with all relevant supporting documents.

#### GENERAL STATEMENT

The Liquidators will consider the information and details provided to them in support of any claims. Where a claim is valid and not disputed, the Liquidators will comply with their obligations at law. This should not be interpreted as, in any way, limiting or restricting the rights of the Liquidators or the Company, whose rights are expressly reserved.

Please note the Liquidators may require payment of their reasonable expenses and remuneration incurred in the identification, preservation and distribution of property to secured parties, purchasers and/or other persons that the property belongs to. This also includes circumstances where property (such as inventory, for example) is made available for collection.

Affected parties should seek their own advice as applicable and as they deem appropriate.

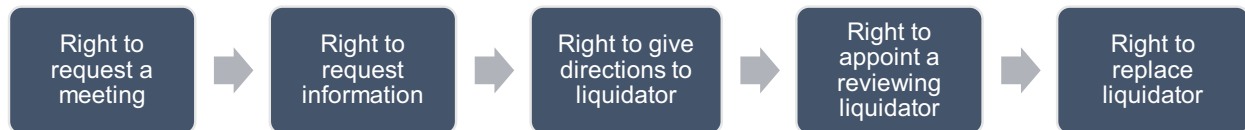






# Creditor Rights in Liquidations

As a creditor, you have rights to request meetings and information or take certain actions:



If a simplified liquidation process is adopted, these rights are effectively limited to the right to request information.

## Right to request a meeting

In liquidations, no meetings of creditors are held automatically. However, creditors with claims of a certain value can request in writing that the liquidator hold a meeting of creditors. The right to request meetings, including in the circumstances described below, is not available if a simplified liquidation process is adopted.

A meeting may be requested in the first 20 business days in a creditors' voluntary liquidation by  $\geq 5\%$  of the value of the debts held by known creditors who are not a related entity of the company.

Otherwise, meetings can be requested at any other time or in a court liquidation by:

- $> 10\%$  but  $< 25\%$  of the known value of creditors on the condition that those creditors provide security for the cost of holding the meeting
- $\geq 25\%$  of the known value of creditors
- creditors by resolution, or
- a Committee of Inspection (this is a smaller group of creditors elected by, and to represent, all the creditors).

If a request complies with these requirements and is 'reasonable', the liquidator must hold a meeting of creditors as soon as reasonably practicable.

## Right to request information

Liquidators will communicate important information with creditors as required in a liquidation. In addition to the initial notice, you should receive, at a minimum, a report within the first three months on the likelihood of a dividend being paid.

Additionally, creditors have the right to request information at any time. A liquidator must provide a creditor with the requested information if their request is 'reasonable', the information is relevant to the liquidation, and the provision of the information would not cause the liquidator to breach their duties.

A liquidator must provide this information to a creditor within 5 business days of receiving the request, unless a longer period is agreed. If, due to the nature of the information requested, the liquidator requires more time to comply with the request, they can extend the period by notifying the creditor in writing.

## Requests must be reasonable.

### They are not reasonable if:

Both meetings and information:

- (a) complying with the request would prejudice the interests of one or more creditors or a third party
- (b) there is not sufficient available property to comply with the request
- (c) the request is vexatious

Meeting requests only:

- (d) a meeting of creditors dealing with the same matters has been held, or will be held within 15 business days

Information requests only:

- (e) the information requested would be privileged from production in legal proceedings
- (f) disclosure would found an action for breach of confidence
- (g) the information has already been provided
- (h) the information is required to be provided under law within 20 business days of the request

If a request is not reasonable due to (b), (d), (g) or (h) above, the liquidator must comply with the request if the creditor meets the cost of complying with the request.

Otherwise, a liquidator must inform a creditor if their meeting or information request is not reasonable and the reason why.



## Right to give directions to liquidator

Creditors, by resolution, may give a liquidator directions in relation to a liquidation. A liquidator must have regard to these directions, but is not required to comply with the directions.

If a liquidator chooses not to comply with a direction given by a resolution of the creditors, they must document their reasons. An individual creditor cannot provide a direction to a liquidator.

If a simplified liquidation process is adopted, you may not be able to give directions, because meetings cannot be held to pass a resolution.

## Right to appoint a reviewing liquidator

Creditors, by resolution, may appoint a reviewing liquidator to review a liquidator's remuneration or a cost or expense incurred in a liquidation. This right is not available if a simplified liquidation process is adopted. The review is limited to:

- remuneration approved within the six months prior to the appointment of the reviewing liquidator, and
- expenses incurred in the 12 months prior to the appointment of the reviewing liquidator.

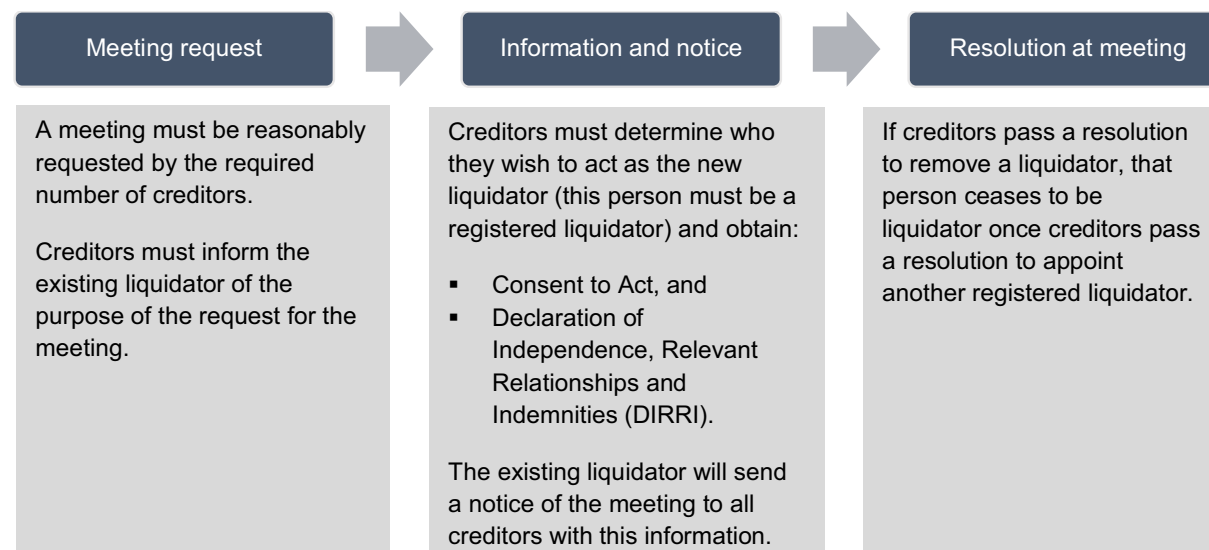
The cost of the reviewing liquidator is paid from the assets of the liquidation, in priority to creditor claims.

An individual creditor can appoint a reviewing liquidator with the liquidator's consent, however the cost of this reviewing liquidator must be met personally by the creditor making the appointment.

## Right to replace liquidator

Creditors, by resolution, have the right to remove a liquidator and appoint another registered liquidator. This right is not available if a simplified liquidation process is adopted, because meetings cannot be held.

To replace a liquidator, there are certain requirements that must be complied with:



**For more information, go to [www.arita.com.au/creditors](http://www.arita.com.au/creditors).  
Specific queries about the liquidation should be directed to the liquidator's office.**







31 October 2024

**INITIAL ADVICE TO CREDITORS – BASIS OF APPOINTEES’ REMUNERATION**  
**GLOBAL CAPITAL PROPERTY FUND LIMITED (IN LIQUIDATION)**  
**ACN 635 565 070 (“THE COMPANY”)**

### **Remuneration methods**

There are four basic methods that can be used to calculate the remuneration charged by an insolvency practitioner. They are:

#### **Time based / hourly rates**

This is the most common method. The total fee charged is based on the hourly rate charged for each person who carried out the work multiplied by the number of hours spent by each person on each of the tasks performed.

#### **Fixed fee**

The total fee charged is normally quoted at the commencement of the administration and is the total cost for the administration. Sometimes a practitioner will finalise an administration for a fixed fee.

#### **Percentage**

The total fee charged is based on a percentage of a particular variable, such as the gross proceeds of assets realisations.

#### **Contingency**

The practitioner’s fee is structured to be contingent on a particular outcome being achieved.

### **Method proposed**

The Liquidators propose that their remuneration is calculated on a time basis. The Liquidators believe this method is appropriate as it ensures that only the actual work performed is charged for. There are also various tasks required to be completed which do not involve the realisation of assets, such as reporting to ASIC, undertaking investigations, corresponding with creditors, corresponding with investors and answering their queries, and completing other statutory tasks required by law.



## Estimate of remuneration for the Administration

The Liquidators estimate their remuneration for undertaking the Liquidation will be approximately \$500,000 (exclusive of GST), subject to the following variables which may have a significant effect on this estimate and that we are unable to determine until the administration has commenced:

- The full scope and extent of necessary work (from experience, unforeseen matters typically arise and may require us to perform additional work beyond that currently anticipated). This includes, but is not limited:
  - The extent of work required to understand the status of each project and liaising with developers, directors of the special purpose vehicles, and reviewing the Company's books and records regarding same;
  - The extent of work and timeframe to realise the Company's investment in these projects;
  - The extent of work required to determine and adjudicate on all creditor claims (if required);
  - The extent of work required to determine and adjudicate on all shareholder/investor claims (if required), liaising with shareholders regarding the progress of the liquidation and general queries;
  - The extent of investigations required regarding the Company's affairs and the dealings between the directors, associated individuals and associated entities;
  - The extent of the tasks necessary to pursue any antecedent transactions;
  - Whether any party initiates litigation against the Company;
  - Any dividends that may ultimately become available for creditors and shareholders/investors; and
  - The actual length of the Liquidation.

## Explanation of hourly rates

The rates for the Liquidators remuneration calculation are **attached** together with a general guide showing the qualifications and experience of staff that will be engaged in the administration and the role they take in the administration. The hourly rates charged encompass the total cost of providing professional services and should not be compared to an hourly wage.

## Disbursements

Disbursements are divided into three types:

- Externally provided professional services - these are recovered at cost. An example of an externally provided professional service disbursement is legal fees.
- Externally provided non-professional costs such as travel, accommodation and search fees - these are recovered at cost.



- Internal disbursements such as photocopying, printing and postage. These disbursements, if charged to the administration, would generally be charged at cost; though some expenses such as telephone calls, photocopying and printing may be charged at a rate which recoups both variable and fixed costs.

The Liquidators are not required to seek creditor approval for disbursements paid to third parties, but must account to creditors. However, the Liquidators must be satisfied that these disbursements are appropriate, justified and reasonable.

The Liquidators are required to obtain creditor approval for the payment of internal disbursements which were not charged at cost (and which may therefore have a profit or advantage attached to them), prior to these disbursements being paid from the liquidation. These disbursements typically would include internal photocopying, printing, mail out and facsimile costs.

Details of the basis of recovering internal and external disbursements in this administration are provided in the table below. Full details of any actual costs incurred will be provided with future reporting.



**FTI Disbursements Schedule**

<b>Disbursement type</b>	<b>Charge type</b>	<b>Charge rate (excl GST)</b>
Advertising	External, non-professional	At cost
ASIC Industry Funding Model Levy – metric events	External, non-professional	At cost (at prescribed ASIC rates)
Couriers and deliveries	External, non-professional	At cost
Data Room Charges	External, professional	At cost
Facsimile	Internal (FTI)	Not charged
Legal Fees	External, professional	At cost
Postage	External, non-professional	At cost
Photocopying – internal	Internal (FTI)	Not charged
Photocopying – outsourced	External, non-professional	At cost
Printing – internal	Internal (FTI)	Not charged
Printing – outsourced	External, non-professional	At cost
Records costs – storage, destruction, boxes	External, non-professional	At cost
Search fees	External, non-professional	At cost
Staff motor vehicle use - mileage	Cents per km	At prescribed ATO rates
Staff travel - accommodation, meals etc	External, non-professional	At cost
Stationery and other incidental disbursements	External, non-professional	At cost
Telephone	Internal (FTI)	Not charged
Valuation Fees	External, professional	At cost
Other externally provided professional services		At Cost
Other externally provided non-professional services		At Cost



**FTI Consulting CF&R Rates**  
**Global Capital Property Fund Limited (In Liquidation)**  
**(excluding GST)**

Typical classification	Rates \$/hour	General guide to classifications
Senior Managing Director 1	750	Registered Liquidator and/or Trustee or corporate advisory professional, with specialist skills and experience in all forms of insolvency engagements, turnaround scenarios and restructures. Proven leadership experience in business or industry, bringing specialist expertise and knowledge to the engagement.
Managing Director	675	Broad specialist skills brought to the engagement. Extensive experience in managing large, complex engagements at a senior level over many years. May also be a Registered Liquidator and/or Trustee or has extensive leadership/senior management experience in business or industry.
Senior Director	600	Strong technical and commercial skill with significant experience in managing all types of large, complex engagements. Alternatively, has significant senior management experience in business or industry, with specialist skills and/or qualifications.
Director	560	Significant experience across all types of engagements. Strong technical and commercial skills. Has primary conduct of small to medium engagements, managing a team of professionals. Alternatively, has senior management experience in business or industry, with specialist skills and/or qualifications.
Senior Consultant	485	Typically studying to become or qualified to be a professional member of the Australian Restructuring Insolvency & Turnaround Association. Well developed technical and commercial skills. Has experience in large and complex engagements and may have primary conduct of small engagements, supervising a small team of professionals.
Consultant	395	Typically qualified chartered accountant and member of Chartered Accountants Australia & New Zealand (or similar). Required to control the tasks on small engagements or responsible for select aspects on medium to large-sized engagements under supervision of senior staff.
Associate	335	Typically a degree qualified accountant, who assists with day-to-day tasks under the supervision of senior staff.
Treasury	305	Typically, qualified accountant and/or bookkeeper. Undertakes treasury activities and is skilled in bookkeeping and funds handling activities.
Junior Associate	245	Undergraduate in the latter stage of their university degree.
Administration 2	265	Well developed administrative skills with significant experience supporting professional staff, including superior knowledge of software packages, personal assistance work and/or office management.
Administration 1	205	Has appropriate skills and experience to support professional staff in an administrative capacity.

The FTI Consulting Standard Rates above apply to the Corporate Finance & Restructuring practice for the liquidation of Global Capital Property Fund. All rates are periodically reviewed. It is recognised that any remuneration is subject to the approval of the Cort or creditors as applicable.



# Frequently Asked Questions (“FAQ”)

## Global Capital Property Fund Limited (In Liquidation) ACN 635 565 070 (“GCPF” or “Company”)

Question	Answer
<i>What is the current status of the Liquidation?</i>	<p>Ross Blakeley and Kelly Trenfield of FTI Consulting were appointed as Joint and Several Liquidators (“<b>Liquidators</b>”) of the Company by order of the Federal Court of Australia on 3 October 2024 (“<b>Appointment Date</b>”).</p> <p>Prior to the Appointment Date, the Company’s records indicate that there were 81,999,001 shares on issue in the Company. This FAQ has been prepared to provide an update on the liquidation process to all shareholders in the Company (<b>Shareholders</b> or <b>Investors</b>).</p> <p>Since their appointment, the Liquidators have spent significant time conducting investigations into the Company’s affairs, its financial position, and the Australian Securities and Investments Commission’s concerns regarding the conduct of the Company prior to the Liquidators’ appointment by its officers and representatives.</p> <p>At the Appointment Date, the Company had invested funds in fourteen (14) property developments through a number of related and unrelated entities, predominantly by way of joint venture and loan agreements (“<b>Investments</b>”).</p> <p>The Liquidators and their team have liaised with the entities relevant to each Investment (joint venture partners and borrowers) and conducted their own independent investigations, to better understand the issues relevant to, and to assess the recoverability of, each of the Investments.</p> <p>Whilst the Liquidators recognise and appreciate that Investors desire information and advice as to the expected outcome of the liquidation, particularly the quantum and timing of any recovery of their invested funds, the Liquidators’ assessment of and engagement with various parties related to the Investments is commercially sensitive at this time. In some cases, the Liquidator’s engagements are governed by legal agreements and in others, formal disputes.</p> <p>To comment publicly (including by providing recovery estimates) may compromise the Company’s rights and the Liquidators’ negotiations in relation to the Investments, which would be detrimental to the longer term interests of Investors.</p>
<i>How long will the liquidation process take?</i>	<p>The duration of the liquidation will be dictated by a number of factors, including the time and actions required to recover monies invested in the Investments, together with any broader investigations and potential recovery actions.</p> <p>Although extensive investigations have been undertaken to date, it is not possible to definitively determine when the liquidation process will be completed.</p> <p>The Liquidators will endeavour to assist Investors by making progressive distributions during the liquidation process, in compliance with their statutory obligations</p>
<i>When will the next update to investors be issued?</i>	<p>The Liquidators will update this FAQ for Investors as significant progress is made in the liquidation process. Milestones in respect of which future updates may be provided include realisation of specific Investments, outcomes of court proceedings and/or distribution announcements.</p>
<i>How can I access details of my holding balances and reports?</i>	<p>You can access your holding balances, details of your investment and reports via the Company’s registry system, Registry Direct (<a href="http://www.registrydirect.com.au">www.registrydirect.com.au</a>).</p>



	<p>All Investors should have received an email prior to the Appointment Date from Registry Direct to set up an account. If you cannot recall your login details, please reset your password through the website.</p> <p>Should you wish to authorise a third party to gain access to your Registry Direct account, please contact <a href="mailto:gcpf.investors@fticonsulting.com">gcpf.investors@fticonsulting.com</a> with details of your request.</p> <p>For any other queries regarding accessing Registry Direct, please contact <a href="mailto:gcpf.investors@fticonsulting.com">gcpf.investors@fticonsulting.com</a>.</p>
<p><i>What is the value of my holdings in the Company?</i></p>	<p>The Liquidators understand that as at the Appointment Date, the Company's books and records valued the shares at \$1.189 per share.</p> <p>The Liquidators cannot provide an update as to the current value of your shares in the Company.</p> <p>However, based on the Liquidators' preliminary investigations, Investors are unlikely to receive a full return on their investments. Consequently, the value of the shares is likely to be less than the value ascribed by the board of the Company as at the Appointment Date. Please note that this is not considered tax advice. The Liquidators recommend that Investors obtain their own independent tax advice in relation to their shareholding in the Company.</p>
<p><i>Do the Liquidators still have my funds?</i></p>	<p>As at the Appointment Date, the Company held approximately \$15.85m cash on varying deposits. The Liquidators have taken control of this cash and deposited it, including in interest bearing accounts, with major Australian banks.</p> <p>The application of the balance of funds advanced by Investors is still being investigated by the Liquidators. The Liquidators' investigations to date show that, generally, the funds have been invested in the Investments, or otherwise expended, including in the payment of management fees.</p>
<p><i>What amount or percentage of my investment is recoverable and what is the estimated timeframe?</i></p>	<p>It is too early to advise on the potential quantum and timing of any return to investors. Factors which may impact any return include:</p> <ol style="list-style-type: none"> <li>1. the value and realisation of recoverable assets (i.e. Investments);</li> <li>2. whether there are other potential sources of recovery;</li> <li>3. the steps and costs required to effect recoveries;</li> <li>4. the general costs of the liquidation; and</li> <li>5. the quantum of any creditor claims and their respective ranking.</li> </ol> <p>At this stage, the Liquidators do not expect to recover all of the initial principal invested in all of the Investments.</p> <p>As noted above, due to the commercially sensitive nature of the ongoing negotiations, the Liquidators are unable to provide further details regarding any anticipated recoveries at this time.</p>
<p><i>Can I transfer or withdraw my investment from the Company?</i></p>	<p>Investors are not able to transfer their shares or withdraw their investment from the Company. The majority of Investors' funds are allocated and invested across the Investments, which are currently 'locked-in' and illiquid until a viable commercial position is realised for each of the Investments.</p> <p>Funds will be distributed in due course according to the statutory dividend process under the Corporations Act 2001 (Cth) (the "<b>Act</b>"). This process provides, at a high level, that the costs and expenses of the liquidation and claims of creditors of the Company are afforded priority ahead of Shareholders / Investors of the Company. Investors will be notified via email when a dividend to Investors is declared by the</p>



	Liquidators. It is likely that distributions will be made progressively, the timing of which however cannot be advised at this stage.
<i>What do I have to give you to prove my claim?</i>	<p>At this stage, you are only required to complete the Investor Claim Form attached to the Initial Information for Investors dated 9 October 2024.</p> <p>Additionally, please send through any documents available to support your shareholding (Portfolio Valuation, Holding Statements etc.). Holding statements can be sourced through Registry Direct.</p> <p>All correspondence to Shareholders can be accessed and downloaded at the FTI Consulting Creditor Portal (<a href="https://www.fticonsulting.com/creditors/global-capital-property-fund-limited-in-liquidation">https://www.fticonsulting.com/creditors/global-capital-property-fund-limited-in-liquidation</a>).</p>
<i>How can I obtain the Company's financial statements?</i>	As the Liquidators' assessment of the Company's financial position is incomplete, the Liquidators are not currently in a position to finalise and provide financial statements. This includes the financial statements to 30 June 2024, which were not finalised prior to appointment.
<i>Does my status as an Investor of GCPF qualify me as a creditor?</i>	<p>Please refer to the Australian Securities &amp; Investments Commission's regulatory resource on <a href="#">insolvency for investors and shareholders</a> for general information for shareholders. A copy of the information sheet is included at <b>Appendix A</b>.</p> <p>The Liquidators understand that Investors were allocated shares in the Company in exchange for funds received from Investors. Accordingly, as shareholders, Investors are equity holders and are not creditors of the Company.</p>
<i>Do I need to seek my own advice?</i>	<p>You are entitled to, and the Liquidators recommend, that you seek your own independent legal and/or accounting advice to consider your individual circumstances.</p> <p>The liquidation process is governed by the Act and subject to regulatory overview by the Australian Securities and Investments Commission. The Liquidators will continue to report to all stakeholders on the progress and outcome of the liquidation in accordance with the Act.</p>
<i>Who pays for the liquidation?</i>	<p>The Liquidators and their staff charge professional fees based on the time spent on the liquidation, with rates determined by their level of experience. Before these fees can be paid from the Company's assets, the Liquidators must seek approval from either the creditors or the Court.</p> <p>The Liquidators professional fees and expenses will be paid from the Company's assets, including those realised by the liquidation. Investors are not required to contribute any additional funds for the completion of the liquidation.</p>
<i>When will further updates be provided?</i>	<p>The Act does not prescribe any specific reporting requirements in a liquidation for shareholders. The Liquidators however intend providing ongoing updates to Investors by way of email and via the FTI Consulting Creditors Portal approximately every two (2) months or as circumstances warrant during the course of the Liquidation.</p> <p>The Liquidators do not intend to hold a formal meeting of Investors at this time, however should matters in the Liquidation warrant such a meeting to be held the Liquidators will update and provide the appropriate notice to Investors.</p>



# Appendix A | ASIC – Shareholder Information Sheet



**ASIC**  
Australian Securities &  
Investments Commission

## Insolvency for investors and shareholders

If a company is in financial difficulty, it can be put under the control of an independent external administrator (liquidator or voluntary administrator) or receiver. The role of the external administrator or receiver depends on the type of appointment.

This information sheet (INFO 43) gives general information for shareholders on:

- liquidation
- voluntary administration
- receivership

### Liquidation

There are two types of liquidation for an insolvent company – creditors' voluntary liquidation and court liquidation. The most common type is a creditors' voluntary liquidation, which usually begins when:

- an insolvent company's shareholders resolve to liquidate the company and appoint a liquidator, or
- creditors vote for liquidation following a voluntary administration or a terminated deed of company arrangement (DOCA).

In a court liquidation, a liquidator is appointed by the court to wind up a company following an application, usually by a creditor. Directors, shareholders and ASIC can also make a winding-up application to the court.

### The liquidator's role

The liquidator's role is to:

- protect, collect and sell the company's assets
- investigate and report to creditors about the company's affairs, including:
  - unfair preference payments (payments to certain creditors over others) that may be recoverable
  - uncommercial transactions that may be set aside
  - possible claims against the company's officers (including insolvent trading)
  - creditor defeating dispositions, including illegal phoenix activity.
- inquire into the failure of the company – and possible offences by people involved with the company – and report to ASIC
- distribute money from the collection and sale of assets after payment of the costs of the liquidation, including the liquidator's fees (subject to the rights of any secured creditor) – first to priority creditors, including employees, and then to unsecured creditors.

Except for lodging documents and reports required under the *Corporations Act 2001* (Corporations Act), a liquidator is not required to incur an expense for the winding up unless there are enough assets to pay their costs.

### The directors' role



Directors cannot use their powers after a liquidator has been appointed. They must help the liquidator, including providing the company's books and records, and a report about the company's affairs.

## Shareholders and liquidation

The liquidator's main duty is to all the company's creditors. The shareholders will only get paid any return on their shares in an insolvent liquidation after all creditors get paid in full. If shareholders also have a claim as a creditor, then they may receive a payment as a creditor (separate from any return on shares).

### Reporting to shareholders

An external administrator or receiver is not required to report to shareholders on the progress or outcome of the liquidation.

An external administrator (liquidator or voluntary administrator) must keep books that give a complete and correct record of the administration of the company's affairs – and shareholders are entitled to inspect these books at the external administrator's office. A managing controller (or receiver and manager) must also keep books that correctly record and explain all transactions entered into as managing controller – and allow shareholders to inspect these records.

Every year, on the anniversary of their appointment and at the end of the liquidation (or administration or receivership), the liquidator (or voluntary administrator or receiver) must lodge with ASIC a detailed list of receipts and payments (i.e. an annual administration return). A copy of these returns can be found on ASIC Connect.

### Transfer or alteration of shares

A transfer of shares in a company or alteration of status of shareholders during liquidation (or voluntary administration or receivership) will not be effective unless the liquidator (or voluntary administrator or receiver) gives written consent or the court permits. The liquidator (or voluntary administrator or receiver) or court will need to be satisfied the transfer of shares, or the alteration in the status of shareholders, is in the best interest of the company's creditors and does not breach the rights of shareholders under the Corporations Act.

When giving written consent to a transfer of shares in a company or alteration of status of shareholders, the liquidator (or voluntary administrator or receiver) can impose conditions that must be satisfied before the transfer or alteration is effective. For share transfers, the affected shareholder, prospective shareholder or creditor may apply to the court to set aside any or all these conditions.

Similarly, a shareholder or a creditor may apply to the court to set aside any or all conditions that must be satisfied for an alteration in the status of shareholders to have effect. A shareholder or creditor may also apply to the court to authorise an alteration in the status of shareholders if the liquidator (or voluntary administrator or receiver) refuses the alteration.

A liquidator can call on the holders of any unpaid or partly paid shares in the company to pay the amount outstanding on those shares to the company.

If a liquidator makes a written declaration that they have reasonable grounds to believe there is no likelihood shareholders will receive any further distribution in the winding up, shareholders can realise a capital loss. To realise a loss, the shares in the company must have been purchased on or after 20 September 1985. If no such declaration is made by a liquidator, the deregistration of a company at the end of a liquidation also enables realisation of any capital loss.

### Financial reporting and annual general meeting (AGM) requirements

The Corporations Act imposes financial reporting obligations on listed and very large companies. These obligations do not apply if the company is in liquidation. Companies in liquidation that are also AFS licensees may only rely on our relief from the financial reporting and AFS licensee reporting obligations if they have cancelled and do not hold an AFS license on the date they would be required to lodge the relevant report with ASIC. For more information, see ASIC Corporations (Externally-Administered Bodies) Instrument 2015/251.

Public companies in liquidation do not need to hold AGMs.



## Voluntary administration

Voluntary administration is designed to resolve a company's future direction quickly. An independent registered liquidator (the voluntary administrator) takes full control of the company to try save the company or the company's business.

The voluntary administrator aims to administer the company's affairs to obtain a better return to creditors than if the company had been placed straight into liquidation. A better return may be achieved through a DOCA which is generally proposed by the directors or other third-parties, usually in consultation with the voluntary administrator.

### The voluntary administrator's role

After taking control of the company, the voluntary administrator investigates and reports to creditors about the company's business, property, affairs and financial circumstances. They also report on the three options available to creditors:

- end the voluntary administration and return the company to the directors' control
- approve a DOCA through which the company will pay all or part of its debts and then be free of those debts
- wind up the company and appoint a liquidator.

The voluntary administrator must give an opinion on each option, including an opinion on any DOCA proposal and recommend which option is in the best interests of creditors.

The voluntary administrator has all the powers of the company and its directors, including the power to sell or close the company's business or sell individual assets in the lead up to the creditors' decision on the company's future.

The voluntary administrator is also responsible for reporting possible offences committed by people involved with the company to ASIC.

If a DOCA proposal is approved, the voluntary administrator will usually become the deed administrator and oversee its operation.

### The directors' role

Directors cannot use their powers while the company is in voluntary administration. They must help the voluntary administrator by providing the company's books and records and completing ASIC form Report on Company Activities and Property (ROCAP) – as well as any further information about these that the voluntary administrator reasonably requires.

If the company goes from voluntary administration into a DOCA, the directors' powers depend on the DOCA's terms. When the DOCA is completed, the directors regain full control of the company, unless the DOCA provides for the company to go into liquidation on completion.

If the DOCA is not completed and the company goes into liquidation, the directors cannot use their powers.

## Shareholders and voluntary administration

### Reporting to shareholders

Shareholders do not get to vote on the future of the company. A voluntary administrator (or receiver) is not required to report to shareholders on the progress or outcome of the voluntary administration.

### Transfer or alteration of shares

Shareholders are bound by a DOCA approved by creditors. The deed administrator may transfer shares in the company with the written consent of the shareholder or with the court's permission. A shareholder, a creditor, ASIC or any other interested person can oppose a court application to approve a share transfer.

## Financial reporting and annual general meeting (AGM) requirements



While subject to voluntary administration or under a DOCA (or in receivership), listed and very large companies must still comply with their statutory financial reporting obligations.

ASIC provides relief so that a company in voluntary administration (or receivership) automatically has a six-month extension of time for lodging financial reports that are due when the administrator (or receiver and manager) is appointed or will become due in the six-month period after the appointment. The automatic relief applies even if the company enters a DOCA during the six-month period after the voluntary administrator's appointment. If a voluntary administrator is appointed before a receiver and manager is appointed, then our automatic deferral relief will apply from the date the voluntary administrator is appointed.

To get the benefit of this automatic deferral relief, the voluntary administrator (or receiver and manager) must have arrangements during the deferral period to answer, free of charge, reasonable questions from shareholders about the administration (or receivership). At the end of this deferral period, if the company remains in voluntary administration or under a DOCA (or in receivership), the company may apply to ASIC for further deferral relief.

A public company in voluntary administration (or receivership) may also apply for an extension of time to hold an AGM. A public company under a DOCA may also apply for an extension of time to hold an AGM in certain circumstances.

Listed companies should also inform the relevant securities exchange if the company relies on automatic relief or is granted further relief or an extension of time to hold an AGM. This information should also be available on the company's website and the voluntary administrator's (or receiver and manager's) website.

For more information on ASIC's automatic relief or applying for other relief, see [Regulatory Guide 174](#) *Relief for externally administered companies and registered schemes being wound up* (RG 174).

## Receivership

A company goes into receivership when an independent registered liquidator (the receiver) is appointed by a secured creditor or by the court to take control of some or all the company's assets.

Court receiverships and controllerships are not covered in this information sheet.

A secured creditor is someone who holds a security interest, such as a mortgage, in some or all the company's assets, to secure a debt owed by the company. Lenders usually require a security interest in company assets when they provide a loan.

Security interests over personal property other than land are registered on the Personal Property Securities Register (PPSR) if the creditor wants to ensure their security interest is enforceable and given priority in an insolvency. You can search the PPSR to find out if anyone holds a security interest (other than a mortgage over land) in the company's assets.

The powers of the receiver are set out in the security agreement between the company and the secured creditor, the appointment documentation and the Corporations Act.

Under the terms of appointment, if a receiver has the power to manage the company's affairs, they are known as a receiver and manager or a managing controller.

### The receiver's role

Generally, the receiver's role is:

- to collect and sell enough of the secured assets to repay the debt owed to the secured creditor
- if they have been appointed under a non-circulating security interest (e.g. over land, plant or equipment), to pay the money collected:
  - first, to the secured creditor
  - second, to the company or an external administrator (if appointed) if there are any funds left over
- if they have been appointed under a circulating security interest (e.g. over cash, debtors or stock), to pay the money collected:



- o first, to priority creditors (including certain employee entitlements)
  - o second, to the secured creditor
  - o third, to the company or an external administrator (if appointed) if there are funds left over
- to report to ASIC any possible offences or irregular matters.

The receiver is usually paid from the money collected during the receivership.

### The directors' role

Receivership does not affect the legal existence of the company. The directors continue to hold office, but their powers depend on the powers of the receiver and the extent of the assets over which the receiver is appointed. Control of the secured assets, including the company's business, is taken away from the directors.

Directors must provide the receiver with a [ROCAP](#) and must allow the receiver access to books and records relating to the charged property.

### Shareholders and receivership

The receiver's main duty is to the company's secured creditor. The duty owed to unsecured creditors and shareholders is an obligation to take reasonable care to sell the secured assets for not less than its market value or, if there is no market value, the best price reasonably obtainable. A receiver also has the same general duties as a company director.

### Reporting to shareholders

See above for information on [reporting to shareholders](#).

### Financial reporting and annual general meeting (AGM) requirements

See above for information on [financial reporting and AGM requirements](#).

## More information

- › [Information Sheet 39](#) *Insolvency information for directors, employees, creditors and shareholders* (INFO 39)
- › [Australian Restructuring Insolvency & Turnaround Association \(ARITA\) website](#)
- › [ARITA Code of Professional Practice for Insolvency Practitioners](#)

## Important notice

Please note that this information sheet is a summary giving you basic information about a particular topic. It does not cover the whole of the relevant law regarding that topic, and it is not a substitute for professional advice.

You should also note that because this information sheet avoids legal language wherever possible, it might include some generalisations about the application of the law. Some provisions of the law referred to have exceptions or important qualifications. In most cases your particular circumstances must be taken into account when determining how the law applies to you.

This is **Information Sheet 43 (INFO 43)**, reissued in August 2020.

Last updated: 11/08/2020 11:40



17 April 2025

## CIRCULAR TO CREDITORS AND SHAREHOLDERS

Dear Sir/Madam

**Global Capital Property Fund Pty Ltd (In Liquidation) ACN 635 565 070 ("Company" or "GCPF")**  
**RE: Update on the Deed of Settlement with Kooyongkoot Project Pty Ltd ("Kooyongkoot")**

I refer to:

- the appointment of Kelly Trenfield and I, Ross Blakeley, as Joint and Several Liquidators ("**Liquidators**") of the Company by Order of the Federal Court of Australia on 3 October 2024; and
- the latest FAQ update sent to investors on 12 March 2025.

By way of background:

1. Before the appointment of the Liquidators, GCPF applied the funding it raised from shareholders into various property development projects, one of which is a development project located at 148-152 Riversdale Road, Hawthorn VIC 3122 ("**Kooyongkoot Project**").
2. As at the date of the Liquidators' appointment, GCPF had loaned the developer, Kooyongkoot Project Pty Ltd ("**Kooyongkoot**"), approximately \$9.2 million to develop the Kooyongkoot Project. GCPF is now owed approximately \$13.4 million (including interest accrued and establishment fees owing). The loan is secured by an unregistered mortgage and a caveat on title on the properties comprising the Kooyongkoot Project ("**Kooyongkoot Properties**").
3. Kooyongkoot borrowed additional funds from other parties such that three (3) secured lenders now rank ahead of GCPF. The Liquidators understand that the senior ranking lenders are collectively owed more than \$9.2 million. The senior secured lender, Latrobe Financial, has appointed a controller and entered into possession of the Kooyongkoot Properties to enforce its security by selling the Kooyongkoot Properties. The Liquidators have obtained an independent assessment of the valuations obtained by Kooyongkoot, which indicated that if the Kooyongkoot Properties are sold "as is", in the current market, the Kooyongkoot Properties are unlikely to achieve a sale price which would be enough to pay out the other secured lenders who rank ahead of GCPF and provide any return to GCPF.
4. Given that GCPF is unlikely to receive any money if Latrobe Financial enforces its security by selling the Kooyongkoot Properties, the Liquidators have negotiated with Kooyongkoot over an extended period between October 2024 and January 2025 to reach an in principal

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agreement to compromise the \$13.4 million debt owed to GCPF. During that period, the Liquidators obtained necessary information from Kooyongkoot and its associated parties and entities to ensure the Liquidators had sufficient grounds to justify making a court application to enter into a compromise with Kooyongkoot.

5. On 28 March 2025, GCPF entered into a deed of settlement with Kooyongkoot its director Filip Gacesa, the second secured lender Possability Group Ltd and the purchaser of the Kooyongkoot Properties, Pomeroy Pacific Pty Ltd ("**Deed of Settlement**"). Under the Deed of Settlement, GCPF has agreed to compromise its claims against Kooyongkoot and its director Mr Gacesa for a fixed sum of \$1 million plus a \$25,000 deposit (excluding GST). The Deed of Settlement is subject to GCPF obtaining court approval.

The Liquidators have formed a view that this settlement provides a better commercial outcome for GCPF and its stakeholders than alternative options such as continued litigation and will provide a return on its investment in the Kooyongkoot Project.

The Liquidators are required pursuant to sections 477(2A) and (2B) of the Corporations Act 2001 (Cth) to seek the approval of the Court to compromise any debts owed to GCPF in excess of \$50,000 and which have obligations which endure for more than three (3) months.

The Liquidators hereby give notice that on 10 April 2025, an originating process was filed with the Federal Court of Australia seeking the Court's approval of the Deed of Settlement. The originating application and the Liquidators' affidavit are **enclosed** for your reference. The court approval application hearing has been listed for 23 April 2025 at 2:15pm.

As and when the Liquidators reach commercial positions in relation to the balance of the investments held by GCPF, information in relation to each of these investments will be shared with investors. However, at present, the Liquidators are working to reach a position in relation to a number of these investments and as such they remain commercially sensitive.

Should you have any queries, or wish to be heard in relation to the application, you may contact this office by email at [gcpf.investors@fticonsulting.com](mailto:gcpf.investors@fticonsulting.com).

Yours faithfully



**Ross Blakeley**

**Joint and Several Liquidator**

Encl.



## NOTICE OF FILING AND HEARING

### Filing and Hearing Details

Document Lodged:	Originating process (Rule 2.2): Federal Court (Corporations) Rules 2000 form 2
Court of Filing:	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	10/04/2025 2:24:51 PM AEST
Date Accepted for Filing:	15/04/2025 5:22:12 PM AEST
File Number:	VID474/2025
File Title:	IN THE MATTER OF GLOBAL CAPITAL PROPERTY FUND LTD (ACN 635 565 070) (IN LIQUIDATION)
Registry:	VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised



*Sia Lagos*

Registrar

### Important Information

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

The date of the filing of the document is determined pursuant to the Court's Rules.





## ORIGINATING PROCESS

No. of 2025

Federal Court of Australia  
District Registry: Victoria  
Division: Corporations List

### IN THE MATTER OF GLOBAL CAPITAL PROPERTY FUND LTD (ACN 635 565 070) (IN LIQUIDATION)

ROSS ANDREW BLAKELEY AND KELLY-ANNE LAVINA TRENFIELD IN THEIR CAPACITY AS JOINT AND SEVERAL LIQUIDATORS OF GLOBAL CAPITAL PROPERTY FUND LTD (IN LIQUIDATION) (ACN 635 565 070)

First Plaintiffs

GLOBAL CAPITAL PROPERTY FUND LTD (IN LIQUIDATION) (ACN 635 565 070)

Second Plaintiff

#### A. DETAILS OF APPLICATION

This application is made under sections 477(2A) and (2B) and 1322 of the *Corporations Act 2001* (Cth) (**Corporations Act**) and section 90-15 of the Insolvency Practice Schedule (Corporations) (**IPSC**) being schedule 2 to the Corporations Act.

On the facts stated in the supporting affidavit of Ross Andrew Blakeley dated 10 April 2025, the Plaintiffs seek the following relief:

- 1 An order pursuant to section 477(2A) of the Corporations Act that the First Plaintiffs, as the liquidators of the Second Plaintiff, Global Capital Property Fund Ltd (in liquidation) (**GCPF**), be authorised *nunc pro tunc* to cause GCPF to enter into the “Deed of Settlement & Release” executed on 28 March 2025 between GCPF, Kooyongkoot Project Pty Ltd, Pomeroy Pacific Pty Ltd, Filip Gacesa and Possability Group Ltd (**Deed of Settlement**).
- 2 An order pursuant to section 477(2B) of the Corporations Act that the First Plaintiffs be authorised *nunc pro tunc* to cause GCPF to enter into the Deed of Settlement.
- 3 A direction pursuant to section 90-15 of the IPSC that the First Plaintiffs were justified in causing GCPF to enter into, and are justified in giving effect to, the Deed of Settlement.

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Filed on behalf of: the Plaintiffs

Prepared by: Justin Vaatstra Ref: 011928463

Law firm: **ARNOLD BLOCH LEIBLER**

Tel: 9229 9999 Fax: 9229 9900

Email: [jvaatstra@abl.com.au](mailto:jvaatstra@abl.com.au)

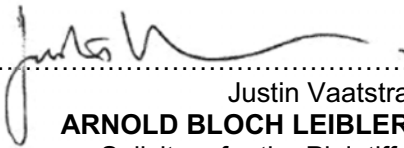
**Address for service:** Level 21, 333 Collins Street, Melbourne, VIC 3000





- 4 A declaration pursuant to section 1322(4)(a) of the Corporations Act that the Deed of Settlement is not invalid by reason if it having been entered into without the Court's prior approval.
- 5 An order that the costs of and incidental to this application be costs and expenses in the liquidation of the Second Plaintiff and paid out of the assets of the Second Plaintiff.
- 6 Such further or other orders as the Court deems fit.

DATE: 10 April 2025

  
 Justin Vaatstra  
**ARNOLD BLOCH LEIBLER**  
 Solicitors for the Plaintiffs

This application will be heard by the Federal Court of Australia, 305 William Street, Melbourne, at . . . . . on . . . . .

**B. NOTICE TO DEFENDANT**

Not applicable.

**C. APPLICATION FOR WINDING UP ON GROUND OF INSOLVENCY**

Not applicable.

**D. FILING**

Date of filing: 10 April 2025

.....  
**REGISTRAR**

This originating process is filed by Arnold Bloch Leibler Level 21, 333 Collins Street, Melbourne, VIC, 3000, for the plaintiffs.

**E. SERVICE**

The plaintiffs' address for service is C/- Arnold Bloch Leibler, Level 21, 333 Collins Street, Melbourne, VIC, 3000.

Email: jvaatstra@abl.com.au





It is intended to serve a copy of this originating process the persons listed below:

- The Australian Securities and Investments Commission;
- The shareholders and creditors of the Plaintiff;
- Pomeroy Pacific Pty Ltd;
- Kooyongkoot Project Pty Ltd
- Filip Gacesa
- Possability Group Ltd



## NOTICE OF FILING

### Details of Filing

Document Lodged:	Affidavit - Form 59 - Rule 29.02(1)
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	10/04/2025 2:24:51 PM AEST
Date Accepted for Filing:	15/04/2025 5:22:29 PM AEST
File Number:	VID474/2025
File Title:	IN THE MATTER OF GLOBAL CAPITAL PROPERTY FUND LTD (ACN 635 565 070) (IN LIQUIDATION)
Registry:	VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink that reads "Sia Lagos". The signature is fluid and cursive, with the first letters of "Sia" and "Lagos" being capitalized and prominent.

Registrar

### Important Information

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

The date of the filing of the document is determined pursuant to the Court's Rules.



## AFFIDAVIT

No. of 20

Federal Court of Australia  
District Registry: Victoria  
Division: Corporations List

**IN THE MATTER OF GLOBAL CAPITAL PROPERTY FUND (IN LIQUIDATION) (ACN 635 565 070)**

**ROSS ANDREW BLAKELEY AND KELLY-ANNE LAVINA TRENFIELD (IN THEIR CAPACITY AS JOINT AND SEVERAL LIQUIDATORS OF GLOBAL CAPITAL PROPERTY FUND)**  
First Plaintiff

AND

**GLOBAL CAPITAL PROPERTY FUND (IN LIQUIDATION) (ACN 635 565 070)**  
Second Plaintiff

Affidavit of: **ROSS ANDREW BLAKELEY**  
Address: Bourke Place, Level 50/600 Bourke St, Melbourne, VIC 3000  
Occupation: Senior Managing Director  
Date: 10 April 2025

### Contents

Document number	Details	Paragraph	Page
1	Affidavit of Ross Andrew Blakeley support of an application for court approval pursuant to s 447(2A) and (2B) of the <i>Corporations Act 2001</i> (Cth) affirmed on 10 April 2025	1 - 77	1 - 22
2	Annexure RAB-1 being a bundle of documents referred to in this affidavit	4	21 - 1063

I **ROSS ANDREW BLAKELEY** of Bourke Place, Level 50/600 Bourke St, Melbourne, VIC 3000 **AFFIRM:**

1 I am, together with Kelly-Anne Trenfield, an appointed liquidator of the Plaintiff, being Global Capital Property Fund Limited (in Liquidation) (ACN 635 565 070) (**GCPF**).

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Filed on behalf of: Plaintiff  
Prepared by: Justin Vaatstra Ref: 011928463  
Law firm: **ARNOLD BLOCH LEIBLER**  
Tel: 9229 9999 Fax: 9229 9900  
Email: jvaatstra@abl.com.au  
Address for service: Level 21, 333 Collins Street, Melbourne, VIC 3000





- 2 I make this affidavit on behalf of myself and Kelly-Anne Trenfield (the **Liquidators**). References in this affidavit to "we", "us", "our" are references to the Liquidators.
- 3 Except where I otherwise indicate, I make this affidavit from my own knowledge. Where I depose to matters from information and belief, I believe those matters to be true.
- 4 Annexed and shown to me at the time of swearing this affidavit is a bundle of documents to which I refer in this affidavit that are paginated and marked **Annexure RAB-1**. Where I refer to a document within Annexure RAB-1, I do so by referring to the page number within the bundle.
- 5 I make this affidavit in support of the Plaintiff's application to the Court for orders:
- (a) pursuant to section 477(2A) of the **Corporations Act 2001** (Cth) that the First Plaintiffs, as the Liquidators GCPF, be authorised *nunc pro tunc* to cause GCPF to enter into the "Deed of Settlement & Release" executed on 28 March 2025 between GCPF, Kooyongkoot Project Pty Ltd (**Kooyongkoot**), Pomeroy Pacific Pty Ltd (**Pomeroy**), Filip **Gacesa** and **Possability** Group Ltd (**Deed of Settlement**).
  - (b) pursuant to section 477(2B) of the Corporations Act that the First Plaintiffs be authorised *nunc pro tunc* to cause GCPF to enter into the Deed of Settlement.
  - (c) directing pursuant to section 90-15 of the Insolvency Practice Schedule (Corporations) that the First Plaintiffs were justified in causing GCPF to enter into, and are justified in giving effect to, the Deed of Settlement; and
  - (d) declaring pursuant to section 1322(4)(a) of the Corporations Act that the Deed of Settlement is not invalid by reason if it having been entered into without the Court's prior approval.

#### A INTRODUCTION

- 6 I make this affidavit in support of the orders sought by the Liquidators in the Originating Process. I briefly summarise the issues raised by this application below.
- 7 GCPF is an unlisted public company which was placed into liquidation by order of the Federal Court of Australia made on 3 October 2024. GCPF has around 538 shareholders. The majority of those shareholders came to invest in the GCPF through the "UGC Advice Model", whereby GCPF paid a related company, United Global






Capital Pty Ltd (**UGC**) and its representatives to find potential investors and recommend that they convert their (mostly low to medium-sized) superannuation savings into GCPF shares, via self-managed superannuation funds. GCPF raised approximately \$85 million in share capital from investors in that way.

- 8 GCPF applied the funding it raised to invest in 15 property development projects on land owned, or proposed to be purchased by, Special Purpose Vehicles (**SPVs**) including SPVs associated with the then directors of GCPF, Mr Joel **Hewish**, Mr Brett **Dickinson** and Mr Chris **Pappas**. Of those 14 property development projects, five involved related parties. Kooyongkoot is one of those related-party SPVs.
- 9 GCPF invested circa \$9.2 million in the purchase and development of land situated at 148 to 152 Riversdale Road, Hawthorn (**Kooyongkoot Project**) pursuant to a loan agreement secured by guarantees and a second ranking mortgage. Prior to the appointment of the Liquidators, GCPF did not register its mortgage in respect of its loan, despite being entitled to do so under the loan agreement.
- 10 Prior to the appointment of the Liquidators, Kooyongkoot borrowed additional funds from other parties such that other secured creditors with claims totalling approximately \$8.715 million plus interest now rank in priority to GCPF.
- 11 On 25 October 2024, **Latrobe Financial** via Perpetual Corporate Trust Limited appointed controllers to Kooyongkoot and entered possession of the properties the subject of the Kooyongkoot Project and has indicated it intends to exercise its mortgagee's power of sale.
- 12 Given the amount outstanding to creditors ranking in priority to GCPF, the interest accruing on those monies, and having regard to the valuations of the properties, the Liquidators believe that, if the land was sold by Latrobe Financial, GCPF would receive little, if any, return on its investment.
- 13 The Liquidators therefore believe that it is in the best interests of GCPF and its stakeholders that GCPF entered into the Deed of Settlement to compromise its claim against Kooyongkoot and Gacesa in exchange for an agreed settlement sum of \$1 million.

#### **Personal background and experience**

- 14 I am an ASIC Registered Liquidator and Chartered Accountant. I hold a Bachelor of Business from Monash University and I am a member of Chartered Accountants






Australia and New Zealand, the Australian Restructuring Insolvency and Turnaround Association (ARITA) and the Australian Institute of Company Directors Turnaround Management Association (TMA). I have over 30 years' experience in corporate restructuring, insolvency and complex turn-around situations across a range of industries including property, construction, manufacturing, engineering, technology, wholesale trade, retail, hospitality, food processing and professional services. I also have experience in leading complex forensic investigations and recovery actions on behalf of stakeholders.

## **B BACKGROUND**

### ***Court ordered liquidation of GCPF***

- 15 On 20 June 2024, the Australian Securities and Investments Commission (**ASIC**) commenced proceedings in the Victorian Registry of the Federal Court of Australia against UGC and GCPF, proceeding No. VID558/2024 (**ASIC Proceeding**).
- 16 On 20 June 2024, Justice O'Callaghan of the Federal Court made orders against UGC and GCPF including freezing orders pursuant to section 1323 of the Corporations Act. A copy of the Federal Court's orders dated 20 June 2024 are at **pages 22-29 of Annexure RAB-1**.
- 17 On 9 September 2024, ASIC filed an Amended Originating Process in the ASIC Proceeding that sought, among other things, that GCPF be wound up on the just and equitable ground pursuant to section 461(1)(k) of the Corporations Act.
- 18 On 3 October 2024, Neskovic J of the Federal Court made further orders in the ASIC Proceeding including that:
  - (a) pursuant to section 461(1)(k) of the Corporations Act, GCPF be wound up; and
  - (b) Ms Trenfield and I be appointed as joint and several liquidators of GCPF.
 A copy of the Federal Court's order dated 3 October 2024 are at **pages 30-32 of Annexure RAB-1** and Reasons for Judgment are at **pages 33-47 of Annexure RAB-1**.
- 19 Justice Neskovic's orders of 3 October 2024 varied the freezing orders made on 20 June 2024 to the following effect:






*Paragraph 13 of the orders made on 20 June 2024 (commencing with the words 'The order in paragraph 12 above shall not prevent') is varied to add the following subparagraph:*

*(a) Ross Andrew Blakeley and Kelly-Anne Lavina Trenfield of FTI Consulting in their capacity as joint and several liquidators of the second defendant, or anyone authorised by them, from taking any action in relation to the Property of the Second Defendant.*

- 20 The freezing orders dated 20 June 2024 otherwise remain in effect with respect to GCPF.

#### **GCPF**

- 21 GCPF is an unlisted public company which was incorporated on 15 August 2019. A company search for GCPF is at **pages 48-54 of Annexure RAB-1**.
- 22 The current directors of GCPF are Pappas and Dickinson. Hewish was a director of GCPF from its incorporation until he resigned on 12 August 2024, following an order made by ASIC on 31 May 2024 banning him from participating in the financial services industry.
- 23 GCPF is a property investment company. Most of its shareholders came to acquire their shares in GCPF through referrals from UGC.
- 24 Hewish is the sole director of UGC. He and his wife are its shareholders. A company search for UGC is at **pages 55-62 of Annexure RAB-1**.
- 25 The money raised by GCPF from investors was used to fund 15 property development projects. GCPF invested those funds by loaning or advancing monies, or taking an equity interest in, SPVs which own or acquire development land. Of these, 5 involved related parties to the directors of GCPF. Kooyongkoot is one such related party SPV.

#### **Kooyongkoot**

- 26 Gacesa is the sole director and company secretary of Kooyongkoot. A company search for Kooyongkoot is at **pages 63-69 of Annexure RAB-1**. The ordinary share capital of Kooyongkoot is held in equal shares by:






- (a) Gacesa Holdings Pty Ltd (**Gacesa Holdings**). Gacesa Holdings is wholly owned and controlled by Gacesa. A company search for Gacesa Holdings is at **pages 70-72 of Annexure RAB-1**;
- (b) Bird Rock Investments Pty Ltd (**Bird Rock**). Dickinson, one of GCPF's directors, is the sole director of Bird Rock. Dickinson and Donna Rowse are equal shareholders of Bird Rock. A company search for Bird Rock is at **pages 73-77 of Annexure RAB-1**. It appears from the company search that Dickinson and Ms Rowse reside at the same address; and
- (c) Hewish Capital No. 2 Pty Ltd. (**Hewish Capital**). Hewish is the sole director of Hewish Capital, and was previously a director of GCPF before the ASIC banning order (see paragraph 22 above). Hewish's wife, Stephanie Hewish, is the sole shareholder of Hewish Capital. A company search for Hewish Capital is at **pages 78-81 of Annexure RAB-1**.

#### ***Kooyongkoot Project***

27 The Deed of Settlement relates to the Kooyongkoot Development at 148-152 Riversdale Road, Hawthorn. The existing site comprised of two single dwellings and one medical centre on approximately 1,812 sqm of land with an extensive frontage onto Riversdale Road and Kooyongkoot Road. In November 2020, Kooyongkoot purchased the land at 148-152 Riversdale Road, Hawthorn comprising the following titles:

- (a) Certificate of Title Volume 11013 Folio 563 (being residential address 148 Riversdale Road, Hawthorn VIC 3122).
- (b) Certificate of Title Volume 09338 Folio 915 (being residential address 150 Riversdale Road, Hawthorn VIC 3122); and
- (c) Certificate of Title Volume 05124 Folio 615 (being residential address 152 Riversdale Road, Hawthorn VIC 3122);

#### **(Kooyongkoot Properties).**

Copies of the certificates of title for the Kooyongkoot Properties are at **pages 82-87 of Annexure RAB-1**.






- 28 Based on my review of GCPF's records, I believe that the purchase price for the Kooyongkoot Properties was \$9.85 million.
- 29 The Kooyongkoot Development proposes the construction of 19 apartments with two basement levels. Based on our investigations to date, the Liquidators understand that:
- (a) Kooyongkoot has obtained a town planning permit, a copy which is at **pages 88-98 of Annexure RAB-1**;
  - (b) a builder is yet to be engaged; and
  - (c) demolition works have recently been carried out to demolish the houses located on the Kooyongkoot Properties.

***Financing of the Kooyongkoot Project***

- 30 On or around 15 December 2020, Kooyongkoot (as borrower) and GCPF (as lender) entered into a loan agreement pursuant to which GCPF agreed to make available to Kooyongkoot a sum of \$9.5 million (**Loan Agreement**). The terms of the Loan Agreement include:
- (a) GCPF would make available the sum of \$9.5 million to Kooyongkoot (Facility);
  - (b) Kooyongkoot acknowledges and warrants to GCPF that the Facility is borrowed wholly or predominantly for business or investment purposes and specifically for the project (Clause 2.2);
  - (c) Kooyongkoot pays to GCPF interest of 20% compounding annually, or a higher rate of 25% compounding daily in the event of default (Clause 3.2.1 and the Schedule, item 3);
  - (d) termination of the Loan Agreement is to occur on the earlier of the completion of the project, 60 months after the first advance date or such other date as agreed in writing (Schedule, item 5);
  - (e) the security in respect of the Facility is expressed to be:
    - (i) guarantees and indemnities from each of Filip Gacesa, Gacesa Holdings, Bird Rock and Hewish Capital (**Guarantors**) (Clause 4.1), which guarantees are purported to be limited to the extent of the Guarantor's interest in the Kooyongkoot Properties and profit entitlements to the Kooyongkoot Project;






- (ii) a charge of all Kooyongkoot and the Guarantors' present and future right, title and interest in the Kooyongkoot Properties (Clause 5.1.1);
  - (iii) a second ranking registerable mortgage (Clause 5.1.5);
  - (iv) a caveat (5.1.8);
  - (v) resignation of Filip Gacesa as director of Kooyongkoot in the event of default (Clause 5.1.9); and
- (b) Kooyongkoot and the Guarantors undertake that no assets of, or under the control of, Kooyongkoot are transferred or otherwise alienated to any person otherwise than in the ordinary course of business for proper market value for money or money's worth (Clause 8.2.8).

A copy of the Loan Agreement is at **pages 99-127 of Annexure RAB-1**.

- 31 On or around 17 December 2020, Gacesa as director and secretary on behalf of Kooyongkoot executed a mortgage in favour of GCPF in respect of the Kooyongkoot Properties. A copy of the mortgage is at **pages 128-129 of Annexure RAB-1**.
- 32 From our investigations to date:
- (a) as at the date of our appointment as Liquidators, and notwithstanding Clause 5.1.5 of the Loan Agreement, GCPF's second ranking mortgage had not been registered on the title of the Kooyongkoot Properties;
  - (b) Kooyongkoot has drawn down \$9,194,750 under the Loan Agreement; and
  - (c) the total amount outstanding under the Loan Agreement as at the date of the Liquidators' appointment was circa \$13.42 million (which represents the amount drawn down plus establishment fees and interest accrued).
- 33 Based upon our investigations to date, Kooyongkoot has obtained funding of approximately \$17.5 million (principal only) from the following parties:
- (a) GCPF – \$9,194,750;
  - (b) Latrobe Financial – \$7.175 million pursuant to a Letter of Offer dated 3 November 2022 secured by a first ranking mortgage (**First Mortgage**). A copy of the letter of offer is at **pages 130-144 of Annexure RAB-1**;






- (c) Possability Group Pty Ltd (**Possability**) – \$1.3 million pursuant to a Loan Offer and Business Loan and Line of Credit dated 3 August 2023 between Kooyongkoot and Possability (**Possability Loan**) secured by a first registered caveat as an interest as unregistered mortgagee (**Second Mortgage**). Based on discussions I have had with Gacesa, I understand that circa \$570,000 of the \$1.3 million was used to paydown the loan facility with Specialist Property Group. A copy of the loan offer is at **pages 145-162 of Annexure RAB-1**; and
  - (d) Specialist Property Group (**Specialist**) – \$400,000 pursuant to a Business Loan and Line of Credit dated 4 July 2023 secured by a second registered caveat as an interest as unregistered mortgage (**Third Mortgage**). A copy of the loan offer is at **pages 163-180 of Annexure RAB-1**.
- 34 Prior to the Liquidators' appointment, on 3 August 2023 GCPF, Possability and Kooyongkoot entered into a deed of Priority and Subordination pursuant to which GCPF agreed that its loan would be subordinated to the Possability Loan. A copy of the Deed of Priority and Subordination is at **pages 181-211 of Annexure RAB-1**.
- 35 Accordingly, GCPF's security interest ranks behind the First Mortgage, Second Mortgage and Third Mortgage.
- 36 Based on my enquiries with the lenders, on or around 18 December 2024, I believe that the total amount outstanding including interest pursuant to the First Mortgage, Second Mortgage and Third Mortgage is approximately \$9,483,087.
- 37 On 25 October 2024, Latrobe appointed a controller to Kooyongkoot and entered into possession and took control of the Kooyongkoot Properties for the purpose of enforcing its mortgage. A copy of the notification of appointment of a controller form 505 lodged with ASIC is at **pages 212-216 of Annexure RAB-1**.

#### **Caveat**

- 38 On 8 November 2024, the Liquidators, on behalf of GCPF, registered caveat AY579000P (**Caveat**) over the Kooyongkoot Properties, in respect of GCPF's interest as mortgagee. A copy of a screenshot from PEXA displaying the Caveat as registered is at **page 217 of Annexure RAB-1**.
- 39 Between 28 October 2024 and 11 November 2024, Kooyongkoot and the Liquidators had discussions and exchanged correspondence, marked "without prejudice", with a






view to reaching a commercial agreement in relation to the refinancing of the Kooyongkoot Development.

- 40 On 28 November 2024, Moray & Agnew, solicitors acting for Kooyongkoot sent a letter to the Liquidators advising that the Kooyongkoot Properties were in the process of being sold and that Latrobe Financial had afforded to Kooyongkoot an opportunity to sell the Kooyongkoot Properties in the first instance, failing which Latrobe Financial would take steps to sell the Kooyongkoot Properties. Moray & Agnew requested that the Liquidators remove the Caveat, on the basis that:

*"..the registration of the Caveat over the Properties poses a hindrance to the upcoming sale. We understand that the sale will be at or above market value, obtained by way of a sworn valuation. Notwithstanding this, given the rules of priority, GCPF will obtain no financial benefit from the sale of the Properties".*

A copy of the correspondence from Moray & Agnew is at **pages 218-219 of Annexure RAB-1.**

#### **Caveat Proceeding**

- 41 On 13 December 2024, Kooyongkoot commenced an urgent proceeding in the Supreme Court of Victoria seeking an order pursuant to s 90(3) of the *Transfer of Land Act 1958* (Vic), requiring the First Defendant to remove caveat AY579000P on Certificate of Title Volume 09338 Folio 915, Certificate of Title Volume 05124 Folio 615 and Certificate of Title Volume 11013 Folio 563 (**Caveat Proceeding**). A copy of the summons and originating motion are at **pages 220-225 of Annexure RAB-1.**
- 42 Gacesa filed an affidavit in support of the Caveat Proceeding dated 13 December 2024 (**Gacesa Affidavit**), in which he deposed, among other things, that:
- (a) Kooyongkoot sought the removal of the Caveat to permit the sale of the Kooyongkoot Properties to a company named Sophi Hawthorn Pty Ltd (**Sophi Hawthorn**) for a purchase price of \$9 million;
  - (b) Sophi Hawthorn intended to fund the acquisition of the Kooyongkoot Properties with a secured loan from Australian Unity Funds Management Limited (**Australian Unity**);
  - (c) Latrobe Financial and Possability were willing to accept a reduced settlement sum to enable completion of the project;



- (d) Australian Unity was unwilling to finance Kooyongkoot to complete the project but was willing to finance Sophi Hawthorn to allow the project to proceed; and
- (e) If Kooyongkoot was unable to complete a sale of the Kooyongkoot Properties, Latrobe Financial as first ranking mortgagee intended to exercise its power of sale.

A copy of the Gacesa Affidavit (without exhibits) is at **pages 226-232 of Annexure RAB-1.**

- 43 Sophi Hawthorn was incorporated on 29 November 2024. Its sole director and secretary is Gacesa. The shareholders are Gacesa Holdings Pty Ltd (a company in which Gacesa owns all the shares and is the sole director) and Simraw Developments Pty Ltd in equal shares. The director of Simraw Developments is Simon Rawadi and the shareholders are Simon Rawadi and Yetta Rawadi in equal shares. ASIC searches for Sophi Hawthorn and Simraw Developments Pty Ltd are at **pages 233-241 of Annexure RAB-1.**
- 44 On 17 December 2024, the Liquidators filed an application to transfer the Caveat Proceeding to the Victorian Registry of the Federal Court and otherwise opposed the orders sought by Kooyongkoot. I swore an affidavit in support of the transfer in which I deposed, among other things, that:
- (a) the Gacesa Affidavit contained material omissions, including that it did not disclose that Sophi Hawthorn was a related party of Gacesa, it did not exhibit any correspondence between Kooyongkoot and Australian Unity to explain why Australian Unity was willing to fund Sophi Hawthorn but unwilling to fund Kooyongkoot, and it did not refer to or exhibit several other valuations which had been obtained in relation to the Kooyongkoot Properties which ascribed an 'as is' value higher than \$9 million.
  - (b) removing the Caveat to facilitate completion of the sale of the Kooyongkoot Properties to Sophi Hawthorn for a price of \$9 million would cause prejudice to GCPF because, based on the Liquidators' understanding of the financial position of Kooyongkoot, no monies would be available to repay the Facility under the Loan Agreement once the First Mortgage and Second Mortgage, ranking in priority to GCPF's mortgage, were repaid; and






- (c) by virtue of clause 8.6 of the Special Conditions to the Loan Agreement, if the Kooyongkoot Properties were sold to Sophi Hawthorn, GCPF may lose its guarantee rights as against Bird Rock and Hewish Capital, as those entities would no longer have a profit entitlement or interest in the Kooyongkoot Properties.

A copy of my affidavit is at **pages 242-256 of Annexure RAB-1.**

- 45 The parties appeared before Justice Harris of the Supreme Court on 17 December 2024. Her Honour made orders permitting the parties to file any further affidavits by 18 December 2024 and listed the matter on 19 December 2024. A copy of the orders are at **page 257 of Annexure RAB-1.**
- 46 On 19 December 2024, Moray & Agnew sent an email to ABL informing ABL that due to circumstances outside the control of Kooyongkoot, it was no longer in a position to proceed with the Caveat Proceeding. The email attached a proposed form of orders dismissing the Caveat Proceeding. A copy of the email from Moray & Agnew to ABL is at **pages 258-271 of Annexure RAB-1.**
- 47 On 19 December 2024, ABL sent an email to Moray & Agnew attaching an amended form of order dismissing the proceeding and providing that the director of Kooyongkoot, Mr Gacesa, pay GCPF's costs of the proceeding in the event that Kooyongkoot failed to do so. A copy of the email from ABL to Moray & Agnew is at **pages 272-287 of Annexure RAB-1.**
- 48 On 20 December 2024, Justice Harris made orders dismissing the Caveat Proceeding and providing that Kooyongkoot was to pay GCPF's costs on a standard basis with the question of any further special costs order reserved. A copy of the orders made on 20 December 2024 are at **pages 294-295 of Annexure RAB-1.**

### Value of the Kooyongkoot Properties

- 49 On around 17 October 2024, Gacesa provided the Liquidators with a copy of an unsworn market appraisal of the of the Kooyongkoot Properties prepared by Jones Lang LaSalle (VIC) Pty Limited (**JLL**) dated 15 July 2024 which indicated that the likely value of the Kooyongkoot Properties was between \$11.5 million and \$12 million. A copy of the valuation by JLL is at **pages 296-300 of Annexure RAB-1**.

Don Bittaly

*Mark*



50 On 21 October 2024, the Liquidators sent a letter to Kooyongkoot requesting information about the Kooyongkoot Development. A copy of the letter from FTI Consulting to Kooyongkoot is at **pages 301-302 of Annexure RAB-1**.

51 On 21 October 2024, Mr Gacesa sent the Liquidators an email which attached various documents in relation to the Kooyongkoot Development, including:

- (a) valuation conducted by PJM & Co. on 23 June 2023 (**PJM Valuation**);
- (b) valuation conducted by M3 Property dated 4 August 2023 (**M3 Valuation**);
- (c) draft Urbis valuation report dated 8 September 2024 (**Draft Urbis Valuation**); and
- (d) valuation conducted by Savills Valuations dated 15 May 2024 (**Savills Valuation**).

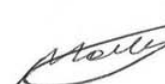
A copy of the email from Mr Gacesa dated 21 October 2024 is at **pages 303-308 of Annexure RAB-2** and the valuations referred to therein are at **pages 309-807 of Annexure RAB-1**.

52 I have read the valuations in paragraph [51] above. The findings of those valuations are summarised below:

Valuation	"As Is" valuation	Development Costs	Gross realisation
PJM Valuation	\$10.15 million	Not provided	Not provided
M3 Valuation	\$10 million	\$30,011,892	\$56.5 million
Draft Urbis Valuation	\$8.6 million	\$37,253,602	\$60.05 million
Savills Valuation	\$10.750 million	\$26,149,964	\$57.77 million

53 The Gacesa Affidavit exhibited a further valuation from Urbis dated 24 November 2024 ascribing the 'as is' market value of the Kooyongkoot Properties for first mortgage security purposes at \$8.6 million (**Urbis Valuation**). A copy of the Urbis valuation is at **pages 808-888 of Annexure RAB-1**.

54 In around November 2024, I provided copies of the valuations referred to at paragraph [52] to Sutherland Farrelly for the purpose of estimating the likely value of the Kooyongkoot Properties. Sutherland Farrelly provided their report on 21 November



2024 which estimated that the M3 Valuation appeared, on face value, to be in the ballpark, whereas the Savills Valuation appeared to be above what could be achievable in the current market. A copy of the report from Sutherland Farrelly is at **pages 888-893 of Annexure RAB-1**.

- 55 In a further affidavit I swore for the purposes of the Caveat Proceeding on 18 December 2024, I addressed, among other things, the Liquidators' concerns with the Urbis Valuation. A copy of the affidavit is at **pages 894-901 of Annexure RAB-1**.
- 56 Based on the above valuations, if the Kooyongkoot Properties are sold, they may realise a value between \$8.6 million to \$10.750 million. Having regard to the total amount of \$9,483,087 outstanding under the First Mortgage, Second Mortgage and Third Mortgage as at or around 18 December 2024, after accounting for outstanding outgoings, interest accrued since 18 December 2024 and an estimated further accrual of interest over a six month sale and settlement period, I estimate that the Kooyongkoot Properties would need to achieve a sale price of at least \$10.8 million before any monies are available to repay the Facility under the Loan Agreement, once the First Mortgage, Second Mortgage and Third Mortgage, ranking in priority to GCPF's mortgage, are repaid. The amount of \$10.8 million is above the value of recent valuations in paragraph [52].

## **C SETTLEMENT**

- 57 Between 6 January 2025 and 28 February 2025, the Liquidators and Gacesa exchanged extensive correspondence, some of which is marked "without prejudice", with a view to reaching a commercial agreement in relation to the refinancing of the Kooyongkoot Development. Copies of the correspondence, except that which is marked "without prejudice" is at **pages 902-1014 of Annexure RAB-1**.
- 58 During those negotiations, Gacesa made offers to settle GCPF's claims in exchange for a payment upon the completion of the Kooyongkoot Project. Those offers were not acceptable to the Liquidators.
- 59 The Liquidators ultimately agreed to compromise GCPF's claim in exchange for a payment of \$1 million following approval of the settlement agreement by a Court. I explain my reasons for agreeing to compromise GCPF's claim on those terms further below. The negotiations culminated in a signed Deed of Settlement dated 28 February 2025 between Gacesa, GCPF, Sophi Hawthorn and Possability (**First Deed of Settlement**). The First Deed of Settlement was premised on the understanding that






the Kooyongkoot Properties would be sold to Sophi Hawthorn. A copy of the First Deed of Settlement is at **pages 1015-1029 of Annexure RAB-1**.

- 60 Shortly after the First Deed of Settlement was executed, Gacesa advised the Liquidators that Sophi Hawthorn would no longer proceed with the settlement and instead a revised arrangement had been reached with Pomeroy. For a period of four weeks in March 2025, the Liquidators, Pomeroy, Possability and Gacesa negotiated a new deed of settlement substantially on the same terms as the First Deed of Settlement. The new deed of settlement is the subject of this application.
- 61 On 28 March 2025, the parties executed the Deed of Settlement. A copy of the Deed of Settlement is at **pages 1030-1046 of Annexure RAB-1**. The terms of the Deed of Settlement provide, inter alia:
- (a) **Deposit:** settlement is conditional upon Kooyongkoot paying, or directing Pomeroy to pay a deposit of \$25,000 (excl. GST) to GCPF in respect of its costs in connection with the application for court approval (Clauses 1.1 and 1.5);
  - (b) **Settlement sum:** Pomeroy must pay a **GCPF Settlement Sum** of \$1 million to GCPF and the **Possability Group Settlement Sum** of \$1.165 million on the **Settlement Date**, being 14 days after Court Approval (Clauses 1.1 and 2.1(a));
  - (c) **Discharge and release:** on the Settlement Date, GCPF and Possability must provide to Kooyongkoot and Pomeroy a discharge and release of the **GCPF Securities** and the **Possability Group Securities**, respectively (Clauses 1.1 and 2.1(b));
  - (d) **Releases:** on and from the date on which Possability and GCPF receive their respective settlement sums:
    - (i) GCPF releases Gacesa and Gacesa Holdings from the **Gacesa Claims**, being any claim which GCPF may have against Gacesa or Gacesa Holdings arising from the Loan Deed, the Kooyongkoot Properties, the Project or the Caveat Proceeding (Clause 3.1);
    - (ii) GCPF agrees not to bring or pursue any proceedings or claim against Gacesa or Gacesa Holdings in respect of the Gacesa Claims (Clause 3.2);






- (iii) GCPF releases Kooyongkoot from all **Kooyongkoot Loan Claims**, being any claim GCPF may have against Kooyongkoot for repayment of the debt owing by Kooyongkoot to GCPF under the Loan Deed, and will forgive and compromise the balance of the Kooyongkoot Loan Claim loan balance (Clause 3.3);
  - (iv) GCPF agrees not to bring or pursue any proceedings or claim against Kooyongkoot in respect of the Kooyongkoot Loan Claims (Clause 3.4);
  - (v) Kooyongkoot, Gacesa and Possability release each other in relation to the Possability securities (Clause 4.1);
  - (vi) Kooyongkoot, Gacesa, Pomeroy and Possability absolutely and irrevocably releases and forever discharges GCPF and the Liquidators from all **GCPF Claims**, being any claim Kooyongkoot, Gacesa, Possability and Pomeroy may have against GCPF in connection with the Loan Deed, the Kooyongkoot Properties or the Project (Clause 7.1);
  - (vii) Kooyongkoot, Gacesa and Pomeroy and Possability agree they will not bring or pursue and proceedings or claim of any nature against GCPF or the Liquidators in respect of the GCPF claims (Clause 7.2);
- (e) **Court Approval:** the Deed is conditional upon Court Approval. Within 3 days of the execution of the Deed, Pomeroy must provide GCPF with evidence, to the reasonable satisfaction of GCPF, that it has sufficient funding to pay the GCPF Settlement Sum. If not so satisfied, the Deed is void. GCPF must commence an application for court approval within 14 days of receipt of the Deposit. GCPF must use its best endeavours to obtain Court Approval by the Final Court Approval Date, being 45 days from the execution of the Deed (Clauses 8.1, 8.2, 8.3, 8.4 and 8.5);
- (f) **Void if no Court Approval:** unless there is agreement to extend the Final Approval Date, the Deed is void if the Court declines to make approval orders, or the Liquidators are unable to obtain Court Approval, or have not obtained Court Approval by the Final Approval Date (Clause 8.9);
- (g) **Liquidators' limitation of liability:** the Liquidators do not incur any personal liability to any party and no claims may be brought against the Liquidators personally in relation to the deed (Clause 9);






- (h) **Representations and warranties:** Each party (other than GCPF and Possability Group) represents and warrants that neither Brett Dickinson nor Joel Hewish have any financial interest in Pomeroy or (following the Settlement Date) the Kooyongkoot Properties (Clause 10).

- 62 I am informed by Mark Pomeroy, Chief Executive Officer of Pomeroy, and believe that on or around 31 March 2025, Pomeroy paid to GCPF the amount of \$27,500, being the Deposit plus GST. A copy of an email from Mr Pomeroy to my colleague, Mr Harlond, attaching a "Domestic Payment Report" from the National Australia Bank (**NAB**) displaying an amount of \$27,500 being paid from an NAB bank account is at **pages 1047-1050 of Annexure RAB-1**. A copy of an extract of the transaction history of GCPF's NAB bank account displaying the receipt of \$27,500 from Pomeroy is at **page 1051 of Annexure RAB-1**.
- 63 I am further informed by Mr Pomeroy and believe that as at 31 March 2025, Pomeroy had in an NAB bank account funds of \$3,493,372.44. On that basis, I am satisfied that Pomeroy has sufficient funding to pay the GCPF Settlement Sum. The email referred to above in paragraph 62 includes a screenshot from an NAB bank account.

***Reasons for entering into the Deed of Settlement***

- 64 Based on my experience as a Liquidator and my discussions with Gacesa and the financiers, I believe the settlement as recorded in the Deed of Settlement is in the best interests of the GCPF and its stakeholders for the following reasons.

***Counterfactual to settlement***

- 65 GCPF presently claims:
- (a) As at the Liquidators' appointment, \$13,432,611 (which represents the amount drawn down plus establishment fees owing and interest accrued); and
  - (b) approximately \$117,000 in respect of its legal costs of defending the Caveat Proceeding, subject to those costs being taxed.
- 66 I am informed by Gacesa and believe that Latrobe Financial has appointed a sales agent to sell the Kooyongkoot Properties and will exercise its mortgagee power of sale if its debt is not discharged pursuant to the Deed of Settlement. I have also seen an email from Joshua Lydford, Manager at Latrobe Financial dated 4 March 2025 confirming that Latrobe Financial is not able to delay its enforcement and realisation






action and will proceed in that regard, a copy of which is at **pages 1052-1057 of Annexure RAB-1**.

- 67 As I explain in paragraph [56] above, the Kooyongkoot Properties would need to be sold for at least \$10.8 million for GCPF to be paid anything in respect of the Facility owing under the Loan Agreement. For GCPF to receive more than the \$1 million payment contemplated in the Deed of Settlement, the Kooyongkoot Properties would need to be sold for \$11.8 million. Based on the sworn valuations set out in paragraph [52] above, I believe it is highly unlikely that the Kooyongkoot Properties could be sold for that price.
- 68 The Liquidators have also considered the value of any claims against Kooyongkoot and or Gacesa, in the event the Kooyongkoot Properties are sold and GCPF suffers loss.
- 69 On around 29 November 2024, I caused property searches to be conducted in respect of Gacesa and Gacesa Holdings, copies of which are at **pages 1058-1063 of Annexure RAB-1**. The searches show that:
- (a) Gacesa does not own any real property in Australia;
  - (b) no security interests are registered in respect of Gacesa on the PPSR;
  - (c) Gacesa Holdings does not own any real property in Australia;
  - (d) the following security interests are registered in respect of Gacesa Holdings on the PPSR:
    - (i) AllPAAP no exceptions registered on 7 November 2024 by GCPF;
    - (ii) AllPAAP no exceptions registered on 27 November 2024 by Real Estate Advance Pty Ltd; and
    - (iii) Commissions pursuant to the Commission Assignment Agreement between the parties, registered 27 November 2024 by Real Estate Advance Pty Ltd.
- 70 Kooyongkoot appears to only own the Kooyongkoot Properties and does not hold any registered interests in any other property. A copy of a property search for Kooyongkoot is at **pages 288-293 of Annexure RAB-1**.






- 71 I am informed by my solicitor, Justin Vaatstra, partner of Arnold Bloch Leibler, that enforcing GCPF's rights under the Loan Agreement would likely involve commencing court proceedings against Kooyongkoot and/or Gacesa. Depending on whether Gacesa and/or Kooyongkoot defend the proceedings or brought a counterclaim, the cost of such proceedings up to and including final judgement could be hundreds of thousands of documents. It is also possible that (without the benefit of the releases under Clause 7 of the Deed of Settlement), Kooyongkoot and/or Gacesa could bring a counterclaim against GCPF for an alleged failure to fund the Project. I am further informed by Mr Vaatstra that any court proceeding could take at least 6 months or more to finally resolve.
- 72 Based on my experience as a liquidator, and having regard to the matters set out above at paragraphs 65 to 71, I consider that any claim brought against Kooyongkoot and/or Gacesa would involve a considerable risk that a significant proportion of any judgment would not be recoverable given the creditors with mortgages ranking ahead of GCPF.

#### ***Certain outcome***

- 73 The outcome under the Deed of Settlement, as opposed to the counterfactuals set out above at paragraphs 65 to 71, will provide a certainty for GCPF and its stakeholders. The ultimate beneficiaries of the GCPF Settlement Sum are GCPF's creditors and shareholders, many of whom are small investors who have invested their retirement savings in GCPF. Early settlement in the form of the Deed of Settlement, as opposed to waiting for a court resolution provides certainty of recovery at relatively modest cost for the stakeholders of GCPF.

#### ***Releases***

- 74 Under the Deed of Settlement, GCPF and the Liquidators are released from any claims which Kooyongkoot, Gacesa, Possability and Pomeroy may have against GCPF in connection with the Loan Deed, the Kooyongkoot Properties and the Kooyongkoot Project.
- 75 Without admitting any liability to Kooyongkoot, Gacesa, Possability or Pomeroy, it is possible that, in the event the Court does not approve entry into the Deed of Settlement, any of Kooyongkoot, Gacesa, Possability or Pomeroy could bring claims against GCPF. This could include another application to the Court to remove the Caveat, or a proceeding against GCPF for an alleged failure to fund the Kooyongkoot Project.





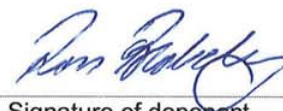

- 76 If Kooyongkoot, Gacesa, Possability or Pomeroy were to commence proceedings against GCPF or apply for the removal of the Caveat, I am informed by Mr Vaatstra and believe that the costs of any such court proceedings could run into hundreds of thousands of dollars.

***Arms-length settlement negotiations***

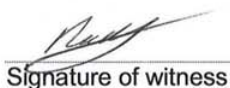
- 77 The Liquidators engaged in extensive settlement negotiations with Gacesa and Kooyongkoot, represented by Moray & Agnew, and, by January 2025, Sophi Hawthorn, for a two-month period. The Liquidators subsequently engaged in negotiations with Pomeroy, represented by Rigby Cooke and Possability Group, represented by Piper Alderman. The negotiations were at arms-length between legally represented parties. In light of the financial position of Gacesa, Kooyongkoot and Gacesa Holdings, believe that the Liquidators negotiated the best outcome for GCPF and its stakeholders.

**AFFIRMED** by the deponent  
at Melbourne  
in Victoria  
on 10 April 2025  
Before me:

)  
)  
)  
)  
)



Signature of deponent



Signature of witness

**Molly Alexandra Scott**  
Arnold Bloch Leibler  
Level 21, 333 Collins Street, Melbourne 3000  
An Australian Legal Practitioner  
within the meaning of the  
Legal Profession Uniform Law (Victoria)

A person authorised under section 19(1) of the *Oaths and Affirmations Act 2018* (Vic) to take an affidavit.



6 August 2025

## UPDATE TO INVESTORS

### GLOBAL CAPITAL PROPERTY FUND PTY LIMITED (IN LIQUIDATION) ACN 635 565 070 (“COMPANY” OR “GCPF”)

We refer to the appointment of Kelly Trenfield and Ross Blakeley of FTI Consulting, as Joint and Several Liquidators (“**Liquidators**”) of the Company by Order of the Federal Court of Australia on 3 October 2024 and the previous updates to Investors/Shareholders. The Liquidators provide the following update regarding the Company.

## 1. Progress on the Liquidation

The Liquidators have attended to the following key matters since their Statutory Report to Creditors (“**Statutory Report**”) dated 24 December 2024. Creditors and Investors should refer to the Statutory Report for further details of key matters attended to prior to 24 December 2024.

You can access all correspondence, reports, and updates relating to GCPF, including the above Statutory Report to Creditors through the link - [Global Capital Property Fund Limited | Creditors Portal | FTI Consulting](#)

The following matters, amongst others, have been attended to since the commencement of the winding up of the Company:

### 1.1 Assets

- Held initial meetings with borrowers/developers/joint venture parties (“**Counterparties**”) to discuss project status, including estimated value, costs, and funding requirements.
- Conducted general investigations into each investment, including reviewing loan agreements, joint venture (“**JV**”) agreements, financial information and conducting due diligence on properties.
- Prepared reports, including investment reviews, to provide a comprehensive overview of each investment and available options for recovery.
- Requested missing information from Counterparties and pre-appointment solicitors to assist with the Liquidators' investigations into investments, due to incomplete and/or missing executed versions of agreements and correspondence.
- Engaged experts to prepare independent valuations or review existing valuations where required.
- Conducted and co-ordinated comprehensive legal and property due diligence, including reviewing GCPF's securities over its investments and registering mortgages and caveats as necessary.

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*Liability limited by a scheme approved under Professional Standards Legislation.*



- Prepared and issued correspondence to Counterparties to request information and updates on project status, and conducted site visits and met with Counterparties on site.
- Considered recovery actions, including exploring legal rights to enforcement, and identified breaches and events of default under existing investment agreements and issued default notices (where appropriate) to relevant Counterparties.
- Engaged with Counterparties in reaching agreement for compromised settlements where deemed necessary and appropriate.
- Identified and lodged claims in the liquidation of related party entities.
- Responded to proceedings issued against the Company during the Liquidation, including but not limited to, preparing evidence, drafting affidavits and concise statements, and responding to court orders.

## 1.2 Investigations

- Collated pre-appointment records into e-discovery platform (Relativity) and undertook a review of documentation and email records to identify previous discussions between Counterparties and the Directors of GCPF regarding investment status, development updates, variations, funding and consent requests, disputes and other relevant matters.
- Investigated financial records, tracing funds, and examining potential misappropriation of funds, through reviewing solicitors' trust statements, email correspondence on Relativity, and general investigative work.
- Investigated potential claims against related and third parties.
- Defended and initiated various legal proceedings against or involving the Company by related parties.

## 1.3 Statutory and General Obligations

- Communicated with a large number of stakeholders, including responding to over 500 queries from shareholders and their representatives via email and telephone, as well as engaging with creditors and other independent bodies, including the Compensation Scheme of Last Resort.
- Liaised with the pre-appointment accountant regarding the lodgement of the outstanding pre-appointment business activity statements and the outstanding FY24 Income Tax Return and obtained tax advice given the expected losses in GCPF's investments.
- Notified the required statutory authorities, including ASIC, the ATO, workers' compensation.
- Attended to all necessary statutory lodgements and reporting, accounting and administrative matters.



## 2. GCPF's Investment in Projects

Stakeholders will appreciate that legal and commercial sensitivities continue to exist regarding certain of the investments made by the Company. The Liquidators must therefore limit their public statements regarding matters that remain to be resolved in order to not compromise the interests of the Company and therefore the Investors. An update on the position with each investment and the associated project, is detailed below:

GCPF: Estimated Recovery Outcomes on Investments								
Project Name	Notes	Investment to a Related Entity	Type of Investment	Total Principal Invested <sup>1</sup>	Directors' ROCAP ERV <sup>2</sup>	Recovery since commencement of Liquidation	Recovery Finalised	Potential Future Recoveries <sup>3</sup>
Pappy's Beach	1	Yes	JV Agreement and Loan Agreement	23,500,000 <sup>4</sup>	7,800,000	326,141	No	Yes - subject to litigation.
The Carlile	2	Yes	Loan Agreement	12,590,506	4,000,000	-	No	Yes – dependent on future apartment sales.
Serpells Road	3	Yes	Loan Agreement	5,255,419	5,000,000	-	No	Yes – dependent future apartment sales.
Kooyongkoot	4	Yes	Loan Agreement	9,194,750	Unknown	1,025,000	Yes	Settlement deed effected. No further recoveries anticipated.
River Glen	5	Yes	JV Agreement and Loan Agreement	5,134,685	Unknown	-	Yes	First mortgagee sold and incurred shortfall. No further recoveries anticipated.
NDIS Preston	6	No	JV Agreement	2,030,000	2,700,000	-	No	Status commercially sensitive.
Applecross	7	No	Loan Agreement	2,100,000	1,400,000	-	No	Yes – subject to sale of property or refinancing.
Franklin NDIS	8	No	JV Agreement	1,565,172	1,200,000	-	No	Yes – subject to sale of property.
Hindmarsh Estate	9	No	JV Agreement and Investment Agreement	5,500,000	8,500,000	591,343	No	Status commercially sensitive.
Fulham	10	No	JV Agreement and Loan Deed	9,142,606	7,500,000	-	No	Yes – subject to sale of property.
Mt Atkinson	11	No	Unitholder Agreement	7,500,000	12,000,000	-	No	Status commercially sensitive.
111 Ormond	12	No	Investment Agreement	4,500,000	4,500,000	-	No	Unlikely – contingent on enforceability of guarantee.
The Elster	12	No	Investment Agreement	4,000,000	4,000,000	-	No	Unlikely – contingent on enforceability of guarantee.
Symphony	13	No	JV Agreement	1,788,000	100,000	-	No	Unlikely – further investigations required.
				93,801,138	58,700,000	1,942,484		

<sup>1</sup>These amounts include any initial funding amounts provided by GCPF to the relevant Counterparty or associated Special Purpose Vehicle ("SPV") and any subsequent drawdowns. These amounts are exclusive of repayments made prior to commencement of Liquidation. These amounts are based on pre-appointment books and records (Xero) available to the Liquidators and transfers identified in the Company's bank statements and are subject to change based on ongoing investigations. These amounts do not include any interest or other entitlements or associated recoverable costs to which GCPF may be entitled from the Counterparty or SPV, including any legal fees, construction costs etc. They are therefore not formal 'payout' figures.

<sup>2</sup>The current and former Directors have lodged a Report on Company Activities Part A ("ROCAP"). The ROCAP details the Directors' estimated realisable value ("ERV") of each investment and the associated project.

<sup>3</sup>The anticipated further action involves the Liquidators' anticipated next steps to advance potential recoveries, as outlined below. The Liquidators note this is based on discussions with the Counterparties and are subject to change. GCPF does not have control over any of the projects, and the outcome of any potential recoveries are to be determined.

<sup>4</sup>This figure excludes any repayments made to GCPF.



## Notes:

The notes set out below are a high-level summary of each project and should be read in conjunction with the above table.

### 1. *Pappy's Beach (Related Party Project)*

The investment in Pappy's Beach involved a development site situated at 100 Hodges Road, Shoal Point QLD 4750. The borrower/developer of the project is Point Bay Developments Pty Ltd ("**Point Bay**").

The Liquidators investigations have identified that GCPF advanced at least \$23.5 million to Point Bay in respect of the Pappy's Beach project, comprising:

- (a) \$15 million advanced pursuant to a purported JV agreement dated 25 June 2020 between Point Bay and GCPF in exchange for a minimum rate of return and share in half the profit of the Pappy's Beach project; and
- (b) \$8.5 million advanced pursuant to a loan agreement dated on or around 23 July 2021.

The sole director of Point Bay is Mr Pappas, who is also a director of GCPF. Point Bay's sole shareholder is Mr Pappas' de facto partner, Josephine Woodruff.

On or around 9 February 2023, Point Bay entered into a Put and Call Option Deed pursuant to which Point Bay agreed to sell the majority of the project land ("**Option Land**") to a purchaser for \$50.15 million.

On 16 May 2023, Point Bay and GCPF entered into a purported variation of the JV Agreement which, among other things, extinguished GCPF's right to share in the profits of the Pappy's Beach project. On 8 March 2024, the sale settled for \$50.15 million and Point Bay repaid GCPF approximately \$30 million, including accrued interest. The Liquidators' investigations indicate that the majority of the \$30 million was re-invested in the other investments of GCPF, including in related-party projects, or paid in management fees.

As at the date of our appointment, there were a number of lots which remained for sale, which GCPF held and still holds a first ranking security over ("**Balance Land**"). Point Bay is currently selling the remaining lots and the Liquidators are liaising with Point Bay regarding the removal of the relevant mortgage as required. The Liquidators understand that no further development is being undertaken by Point Bay and that they are seeking to sell the Balance Land 'as is'. After our appointment, additional information was requested from Point Bay to assist with the Liquidator's investigations, including but not limited to the financials of the developer. These documents have not been provided to date.

On 6 December 2024, Point Bay lodged an urgent application in the Supreme Court of Queensland against GCPF seeking, amongst other things, a payout figure from GCPF in respect of the debt owed by Point Bay to GCPF in relation to the Balance Land ("**Queensland Proceeding**").

On 4 March 2025, GCPF commenced proceedings in the Federal Court of Victoria against Point Bay, Mr Pappas, Mr Hewish, Mr Dickinson ("**GCPF Directors**"), and GCPF Management Pty Ltd. GCPF



claims, amongst other things, that the GCPF Directors breached their fiduciary duties to GCPF in relation to the Pappy's Beach project and that Point Bay was involved, and knowingly assisted in, the breaches of duty ("**Federal Court Proceeding**"). GCPF seeks orders for an account of profits, equitable compensation, an order for the rescission of the JV Agreement and JV Variation Agreement, a declaration that Point Bay holds the Balance Land, and the proceeds of sale of the Option Land, on constructive trust for GCPF.

The Liquidators successfully applied to transfer the Queensland Proceeding to the Federal Court, where it will be heard together with the Federal Court Proceeding. The Federal Court Proceeding is complex and given this matter remains commercially sensitive, the Liquidators shall not be commenting further on the detail of the proceeding at this time.

## 2. *The Carlile (Related Party Project)*

The investment in The Carlile involved a development site situated at 929-931 High Street, Armadale VIC 3143. The borrower of the project is 929 High Street Armadale Pty Ltd ("**929 High Street**").

The Liquidators investigations have identified that GCPF advanced at least \$12,590,506 to 929 High Street pursuant to a loan agreement dated 18 December 2020 and subsequent variations which increased the maximum commitment amount to \$15.5 million. The directors of 929 High Street are Brett Dickinson and Joel Hewish, who are also directors of GCPF.

On 9 September 2024, KPMG were appointed as Receivers and Managers of The Carlile property by the first ranking mortgagee. GCPF currently holds a second ranking mortgage. The Receivers and Managers have completed the development of The Carlile project, achieving practical completion on 19 April 2025. The project comprises of eleven apartments, with seven sold, and the remaining four apartments currently listed for sale.

The Liquidators will continue to monitor and liaise with the Receivers and Managers as to the potential for any return from this investment, which will ultimately be dependent on various factors, including but not limited to the time it takes to sell the residual stock and offers received on the remaining apartments.

## 3. *Serpells Road (Related Party Project)*

The investment in Serpells Road involved a development site situated at 27-29 Serpells Road Templestowe VIC 3106. The borrower/developer of the project is Serpells Road Pty Ltd ("**Serpells**").

The Liquidators investigations have identified that GCPF advanced at least \$5,255,419 to Serpells pursuant to a loan deed dated 3 June 2021 and subsequent variation which increased the maximum commitment amount to \$5.3 million ("**Loan Deed**"). The directors of Serpells are Brett Dickinson and Joel Hewish. The ordinary shareholders of Serpells include Gacesa Holdings Pty Ltd, Bird Rock Investments Pty Ltd and Hewish Capital Pty Ltd, entities related to Fil Gacesa, Brett Dickinson and Joel Hewish respectively.



The development of the Serpells project has reached practical completion. The project comprises 19 apartments, of which six have been pre-sold and settlement has occurred. The remaining apartments are on the market for sale.

There are two senior ranking financiers that are owed a residual debt of approximately \$18 million. GCPF holds the third ranking mortgage and has agreed, under the terms of the Loan Deed, to rank equally with 13 other redeemable preference shareholders who have invested \$1.8 million. The directors of Serpells have advised that, due to rising material costs, delays, and various other factors, there have been significant cost blowouts which have increased the costs of the development and reduced the potential return to GCPF.

The Liquidators have been approached by Serpells for a potential refinance of the senior secured financier into a residual stock loan. At a high level, the Liquidators have conducted an options analysis and determined that a refinance of the senior secured financier is likely to result in a better return to GCPF and therefore do not currently intend to object to the proposed refinance by the borrower/developer.

The Liquidators will continue to monitor and liaise with Serpells as to the potential for any return from this investment, which will ultimately be dependent on various factors, including but not limited to the time it takes to sell the residual stock and resultant sale price.

#### *4. Kooyongkoot (Related Party Project)*

The investment in Kooyongkoot involved a development situated at 148-152 Riversdale Rd, Hawthorn VIC 3122 ("**Kooyongkoot Development**"). The borrower of the project is Kooyongkoot Project Pty Ltd ("**Kooyongkoot**"). The developer of the project is the director of Kooyongkoot, Filip Gacesa. The shareholders of Kooyongkoot are companies associated with Mr Gacesa, Mr Dickinson, and Mr Hewish.

The Liquidators investigations have identified that GCPF advanced at least \$9,194,750 to Kooyongkoot pursuant to a loan agreement dated 12 December 2020.

Kooyongkoot borrowed additional funds from other parties, resulting in three secured financiers ranking ahead of GCPF, with the senior ranking financiers collectively being owed more than \$9.2 million.

The senior secured financier appointed a controller and entered into possession of the properties comprising the Kooyongkoot Development ("**Kooyongkoot Properties**") to enforce its security by exercising its power of sale. The Liquidators obtained an independent assessment of the valuations obtained by Kooyongkoot, which indicated that if the Kooyongkoot Properties were sold "as is", in the current market, the Kooyongkoot Properties were unlikely to achieve a sale price which would be enough to pay out the other secured financiers who rank ahead of GCPF and provide any return to GCPF.



Given that GCPF was unlikely to receive any money if the senior secured financier enforced its security by selling the Kooyongkoot Properties, the Liquidators negotiated with Kooyongkoot over an extended period between October 2024 and January 2025 to reach an in principal agreement to compromise the \$13.4 million debt (including interest) owed to GCPF. During that period, the Liquidators obtained necessary information from Kooyongkoot and its associated parties and entities to ensure the Liquidators were justified in entering into a deed of settlement and making a court application for approval to compromise the Kooyongkoot debt.

On 28 March 2025, GCPF entered into a deed of settlement with Kooyongkoot, Mr Gacesa, the second secured financier and the purchaser of the Kooyongkoot Properties, Pomeroy Pacific Pty Ltd (**"Deed of Settlement"**). Under the Deed of Settlement, GCPF agreed to compromise its claims against Kooyongkoot and its director, Mr Gacesa, for a fixed sum of \$1 million plus a \$25,000 deposit (excluding GST) (**"Settlement Funds"**).

The Federal Court of Australia approved the Deed of Settlement and the Liquidators have received payment of the Settlement Funds. No further recoveries are expected in relation to this investment.

Please refer to the Circular to Creditors and Shareholders dated 17 April 2025 for further details of the Kooyongkoot investment and the Deed of Settlement.

#### *5. River Glen (Related Party Project)*

The investment in River Glen involved a development site situated at 1 Rannoch Avenue, Maclean NSW 2463. The borrower of the project is Wharton James Developments Yamba Pty Ltd (**"WDJY"**).

The Liquidators investigations have identified that GCPF advanced at least \$5,134,685 to WDJY in respect of the River Glen project, comprising of:

- (a) \$3,859,295 advanced pursuant to a purported JV agreement dated 18 August 2021 between WDJY and GCPF in exchange for a minimum rate of return and share in half the profit of the River Glen project; and
- (b) \$1,275,390 advanced pursuant to a loan agreement dated on or around 1 October 2022.

As at the date of our appointment, the sole director of WDJY is Brett Dickinson and the shareholders of WDJY are Wharton James Group Pty Ltd and Global Capital Projects Pty Ltd. There were three senior ranking financiers ranked ahead of GCPF, who were owed a collective total of approximately \$7.5 million. GCPF held a fourth ranking mortgage.

The Liquidators understand that the project was first initiated by the original directors and shareholders of WDJY. However, when they were unable to obtain the necessary permits and financing, Global Capital Projects Pty Ltd (**"GCP"**), which is a company owned and controlled by the GCPF Directors stepped in. The basis for this step in is unclear. After stepping in, GCPF determined that it did not want to take the development risk to develop the project and tried to sell the project to several other parties, however were unsuccessful.



On 30 May 2024, WJDY entered into a Heads of Agreement with a third party to purchase all of WJDY's interests in the property in return for paying out the first, second, and third ranking financiers in full. However, the Liquidators understand that the Heads of Agreement has fallen through, and were unable to contact the third party.

On or around October 2024, the first ranking mortgagee appointed Ray White to initiate an expressions of interest campaign, and subsequently sold the property as mortgagee in possession. The property was sold for approximately \$6.95 million, and settlement occurred on 28 May 2025. The sale price achieved was only sufficient to pay out the first and second ranking mortgagees in full, and delivered a partial return to the third ranking mortgagee. GCPF, as the fourth ranking mortgagee, received no return. No further recoveries are expected in relation to this investment.

#### 6. *NDIS Preston*

The investment in NDIS Preston involved a development situated at 314-318 Bell Street, Preston VIC 3072. The borrower of the project is Equal 314 Bell St Preston Pty Ltd ("**Equal 314**"). The developer is Equisent Group.

The Liquidators investigations have identified that GCPF advanced at least \$2.03 million to Equal 314 pursuant to a loan agreement dated 10 December 2021. This investment is secured by a second ranking mortgage over the Preston property.

The Preston property is situated on a corner site, comprising three regular-shaped adjoining lots that form a 613 m<sup>2</sup> site with a combined street frontage of 50.6 meters to Bell and Irene Street. The completed building will be a five-level mixed-use building, designated for medium term accommodation and specialist disability accommodation purposes, and will feature fitted accommodation.

The Liquidators understand that practical completion is estimated to occur around mid-August 2025.

This matter remains commercially sensitive and as such the Liquidators shall not be commenting further on this investment or likely recovery at this time.

#### 7. *Applecross*

The investment in Applecross involved a development site situated at 5A & 5B Macrae Road, Applecross WA 6153. The borrower/developer of the project is 5 Macrae Pty Ltd as trustee for the 5 Macrae Unit Trust ("**5 Macrae**").

The Liquidators investigations have identified that GCPF advanced at least \$2.1 million to 5 Macrae pursuant to a loan agreement dated 9 September 2021.

As at the date of the Liquidators appointment, the development was still in its early stages, and construction had not commenced. This situation remains unchanged. GCPF holds a second ranking mortgage, behind the first ranking mortgagee, owed approximately \$1.65 million as at 1 May 2025.



The GCPF loan facility was already in default prior to our appointment, with the first notice of default issued on 31 March 2023.

On 12 March 2025, the first ranking mortgagee advised that they had taken possession of the property and would sell it as mortgagee in possession. The Liquidators understand that the property has been sold for \$2.7 million (plus GST), with settlement due on 25 August 2025. The Liquidators will continue to monitor and liaise with 5 Macrae and the first ranking mortgagee's solicitors as to GCPF's return from this investment.

#### 8. *Franklin NDIS*

The investment in Franklin NDIS involved a development site situated at 13-15 Franklin Street, Urraween QLD 4655. The borrower of the project is 13 Franklin St Pty Ltd ("**13 Franklin**").

The Liquidators investigations have identified that GCPF advanced at least \$1,565,172 to 13 Franklin pursuant to a JV agreement dated 12 January 2022 between 13 Franklin and GCPF in exchange for a minimum rate of return and share in half the profit of the Franklin NDIS project.

GCPF holds a first ranking mortgage over the property.

As at the date of our appointment, the Liquidators understood that no works had commenced, and further development was deemed unviable. Following our appointment, the Liquidators identified events of default under the joint venture agreement and issued a notice of default and reservation of rights to 13 Franklin and its directors on 7 April 2025. The directors of 13 Franklin responded with a claim for damages arising from GCPF's alleged breach of the joint venture agreement, totalling \$1.58 million. The Liquidators have assessed and formally adjudicated this claim and subsequently rejected it.

The Liquidators have obtained a valuation of the Franklin property and are proceeding with the next steps, which are likely to include enforcing GCPF's rights as the first ranking mortgagee and appointing an agent to sell the Franklin property as mortgagee in possession. As the first ranking mortgagee, all net sale proceeds will be directed to GCPF and the return from this investment will ultimately be dependent on various factors, including but not limited to, offers received from the sale campaign, agent's commission and advertising expenses, and standard settlement costs and adjustments.

#### 9. *Hindmarsh Estate*

Hindmarsh Estate is a land sub division situated at 88-90 Hindmarsh Road, Murray Bridge SA 5253 ("**Hindmarsh 1**") and 77-101 Hindmarsh Road, Murray Bridge SA 5253 ("**Hindmarsh 2**"). The borrower of the project is Hindmarshestate Pty Ltd. ("**Hindmarsh**"). The developer is Oceanic Properties & Investment Group ("**OPIG**").



The Liquidators investigations have identified that GCPF advanced at least \$5.5 million to Hindmarsh pursuant to a JV agreement dated 22 July 2021 between Hindmarsh and GCPF in exchange for a minimum rate of return and share in half the profit of the Hindmarsh project. The Hindmarsh agreement is cross-collateralised with the Fulham agreement (discussed below), meaning that a default under one agreement constitutes a default in the other agreement, and that amounts recovered under one agreement can be applied to satisfy amounts owed to GCPF under the other.

#### Hindmarsh 1

Hindmarsh 1 is split into five stages. Lots in Stage 1 and 2 were sold and settled prior to the Liquidators' appointment, with the sale proceeds used to re-invest and purchase the land in Hindmarsh 2. As at the date of our appointment, Stages 3, 4, and 5 of Hindmarsh 1 were close to practical completion, with the lots pre-sold and awaiting settlement. GCPF originally held a first ranking mortgage over the properties located in Hindmarsh 1. However, prior to the Liquidators' appointment, a Deed of Priority was signed between GCPF and the second ranking mortgagee to vary the priority of the mortgages such that GCPF became the second ranking mortgagee, and to enable the first ranking mortgagee to be paid in priority from any Hindmarsh 1 settlement proceeds and prohibit GCPF from taking any recovery action without their consent.

Settlement of the 50 lots in Stages 3, 4, and 5 of Hindmarsh 1 occurred from March 2025 to May 2025. The first ranking mortgagee was paid out in full from the settlement of the 45<sup>th</sup> lot on or around 11 April 2025, leaving GCPF's mortgage as the only mortgage on title for the remaining lots. To date, \$591,343.12 have been recovered from the settlement of the remaining lots, with a further \$281,931.73 held in a solicitor's trust account, expected to be released to GCPF.

There are four lots remaining in Hindmarsh 1 that have not been sold, over which GCPF holds a first ranking mortgage. The sale of these lots will be part of any future recovery actions. Additionally, there are outstanding landscaping and footpath works, which the Council is expected to complete and reimburse itself from a bank guarantee already provided by the developer.

#### Hindmarsh 2

Hindmarsh 2 is in the early stages of its development and is a vacant block of land earmarked for sub division. Further funding is required to complete the development, and the Liquidators understand that the developers have been seeking alternative avenues of funding. The Liquidators engaged with the developer seeking the registration of GCPF's mortgage over Hindmarsh 2, however were notified on 27 June 2025 that they were unwilling to grant a first mortgage in favor of GCPF, citing their efforts to secure finance to continue the development of Hindmarsh 2.

This matter remains commercially sensitive and as such the Liquidators shall not be commenting further on this investment or likely recovery at this time.



## 10. *Fulham*

The investment in Fulham involved a development site situated at 452, 454 and 470 Grange Road, Fulham Gardens SA 5024. The borrower of the project is Fulham Living Pty Ltd ("**Fulham Living**"). The developer (as for Hindmarsh) is Oceanic Properties & Investment Group ("**OPIG**").

The Liquidators' investigations have identified that GCPF advanced at least \$9,142,606 to Fulham Living in respect of the Fulham project, comprised of:

- (a) \$4.5 million advanced pursuant to a JV agreement dated 25 May 2022 between Fulham and GCPF in exchange for a minimum rate of return and share in half the profit of the Fulham project; and
- (b) \$4,642,606 advanced pursuant to a loan agreement dated on or around 7 March 2024 (which was an assignment of debt from a previous lender).

As noted earlier, the Fulham agreement is cross-collateralised with the Hindmarsh agreement, meaning that a default under one agreement constitutes a default under the other agreement. GCPF holds a first ranking mortgage over the Fulham property. The Liquidators understand the development has not progressed with queries regarding its' viability with its current capital structure.

On 19 June 2025, the Liquidators issued a notice of default to Fulham. The directors of Fulham provided a copy of a sale contract to the Liquidators on 31 July 2025, that they entered in to for Fulham on 6 June 2025. Settlement is due on 6 October 2025. As the first ranking mortgagee, any net sale proceeds from the Fulham property must be directed to GCPF. The Liquidators have not had the opportunity to fully assess the sale contract and its likelihood to complete. Ultimately the Liquidators consider that the property requires to be realised. The Liquidators will continue to reserve all rights and consider and assess the available options.

## 11. *Mt Atkinson*

The investment in Mt Atkinson involves a residential land sub division situated at 207-279 Troups Road, Truganina VIC 3029. The borrower of the project is Troups Rd JV Pty Ltd ("**Troups Rd**") (ACN 638 108 362) as trustee for the Mt Atkinson Unit Trust. The developer is Solovey.

The Liquidators investigations have established that GCPF invested at least \$7.5 million to Troups Rd pursuant to a unitholder agreement and unitholder loan dated 18 March 2021. GCPF holds 55 units in the Mt Atkinson trust and Solovey DM Services holds 45 units.

The subject property comprises two super lots, Lot C (82 lots) and Lot D (90 lots). The Liquidators understand that civil works have been largely completed for Lot C and titles are considered imminent for the 82 lots. Civil works have commenced for Lot D however are considered preliminary.

GCPF's loan is secured by a caveat over the Mt Atkinson properties, which was registered following the Liquidators' appointment. Another financier holds a first ranking mortgage over the Mt Atkinson



properties. The Liquidators have reached agreement with the developer to register GCPF's mortgage over the Mt Atkinson properties as the second ranking mortgagee (however this has not yet occurred as at the date of this circular).

This matter remains subject to ongoing engagement with the developer, which is commercially sensitive. As such the Liquidators shall not be commenting further on this investment or likely recovery at this time.

## 12. 111 Ormond / The Elster

The 111 Ormond and The Elster projects involved development sites situated at 109 and 111 Ormond Esplanade, Elwood VIC 3184 ("**111 Ormond and Elster Properties**"). The project entities are 111 Ormond Esplanade Pty Ltd ("**111 Ormond**") and The Elster Pty Ltd ("**Elster**"). The manager of the projects is Lion Property Group ("**LPG**"), which is now itself in provisional liquidation.

### 111 Ormond

The Liquidators investigations have identified that GCPF invested at least \$4.5 million in 111 Ormond to subscribe for redeemable preference shares in 111 Ormond pursuant to an investment agreement dated 9 July 2021. The 111 Ormond investment agreement entitled GCPF to receive an annual dividend payment of \$900,000 per year. To date, GCPF has received a total of \$1,443,300 in dividend payments. The outstanding debts payable by 111 Ormond total \$5,756,700, comprising of the investment amount of \$4.5 million and the aggregate amount of the outstanding dividends payable of \$1,256,700. LPG provided a limited recourse guarantee in favour of GCPF to guarantee repayment of the investment amount and the annual dividend payments by 111 Ormond.

### The Elster

The Liquidators investigations have identified that GCPF invested at least \$4 million in Elster to subscribe for redeemable preference shares in Elster pursuant to an investment agreement dated 7 May 2021. The Elster investment agreement entitled GCPF to receive an annual dividend payment of \$800,000 per year. To date, GCPF has received a total of \$1,600,000 in dividend payments. The outstanding debts payable by The Elster total \$5,600,000, comprising of the investment amount of \$4 million and the aggregate amount of the outstanding dividends payable of \$1.6 million. LPG provided a limited recourse guarantee in favour of GCPF to guarantee repayment of the investment amount and the annual dividend payments by Elster.

### Mortgagee Sale

The amounts advanced by GCPF are secured by a charge over the 111 Ormond and Elster Properties in respect of which GCPF has a registered caveat, with another financier holding first and second registered mortgages over the 111 Ormond and Elster Properties. In May 2025, the 111 Ormond and Elster Properties were sold by the financier as mortgagee in possession, exercising its power of sale pursuant to its registered mortgages, for a total of \$6,658,000. The Liquidators understand settlement is due to occur on 23 September 2025. However after repayment of the senior secured



financier's debt of approximately \$6.552 million and total recovery costs and statutory debts totaling approximately \$390,000, the Liquidators do not expect there to be any surplus available to GCPF.

#### Legal Proceedings

On 17 February 2025, legal proceedings were commenced in the Supreme Court of Victoria against LPG, its directors, and its developer entities, including Elster. Orders were made on 2 July 2025 winding up LPG and The Elster Pty Ltd. Receivers were appointed to LPG on 11 July 2025.

#### Termination Notice

Pursuant to the investment agreements, GCPF is entitled to terminate the investment agreements immediately by notice should 111 Ormond or Elster be subject to liquidation or the performance of the investment agreement becomes impossible due to the company's material assets being repossessed or becoming subject to legal action. On 23 June 2025, the Liquidators issued a Notice of Termination and Reservation of Rights to 111 Ormond and Elster to terminate the investment agreement as result of the mortgage sale of the 111 Ormond and Elster Properties and the legal proceedings against Elster. The termination notices demanded immediate repayment of the investment amounts and outstanding dividend payments by 111 Ormond and Elster, and also demanded that LPG pay GCPF an amount totaling \$3,610,750, pursuant to its limited recourse guarantee provided under the investment agreements. In a liquidation of 111 Ormond, Elster or LPG, GCPF's claims will rank equally with the claims of other unsecured creditors of 111 Ormond, Elster and LPG (as applicable).

This matter remains commercially sensitive and as such the Liquidators shall not be commenting further on this investment or likely recovery at this time.

### *13. Symphony*

The investment in Symphony involved a development site situated at 15 Hickey Street, Coomera QLD 4209. The borrower of the project is Symphony Place Coomera Pty Ltd ("**Symphony**"). The developer is Wharton James Group ("**WJG**").

The Liquidators investigations have identified that GCPF advanced at least \$1,788,000 to Symphony pursuant to a joint venture agreement dated 18 January 2022 between Symphony and GCPF, in exchange for a minimum rate of return and share in half the profit of the Symphony project.

The Liquidators understand that the property was sold without GCPF's consent in 2023. Our investigations into the investment are ongoing; however given that the property was sold in 2023, there is a high likelihood that the net sale proceeds have been dissipated.

Due to the circumstances surrounding the sale of the property and the potential dissipation of funds without having paid GCPF, the Liquidators are continuing to investigate and explore possible avenues for recovery.



### 3. Other recovery actions

#### 21 Upton Street Holdings Pty Ltd

The Liquidators' investigations to date indicate that Mr Pappas (the sole director of Point Bay) caused Point Bay to provide funds to 21 Upton Street Holdings Pty Ltd ("**21 Upton**") for the benefit of his daughter, Ms Isabella Pappas, as part of her contribution to the purchase price of 21 Upton Street, Bundall, Queensland, 4217 ("**21 Upton Street Property**").

The liquidators of 21 Upton sought judicial advice as to whether they would be justified in making a distribution to Ms Pappas in proportion to her contribution to the purchase of the 21 Upton Street Property. The Liquidators of GCPF opposed the Court making those orders.

The Supreme Court of Queensland instead made orders that the liquidators of 21 Upton could pay out the undisputed portion of Ms Pappas's contribution, however they cannot distribute the disputed contribution unless the Liquidators of GCPF do not commence a proceeding in respect of that sum.

The Liquidators are continuing to investigate the amount paid by Point Bay to 21 Upton for the purchase of the 21 Upton Street Property and it is not possible to estimate the amount recoverable at this time.

#### Other investigations

The Liquidators are continuing to investigate and explore other possible avenues for recovery from other parties, including the recovery of any voidable transactions, and are considering potential breaches of various sections of the Corporations Act, including directors' duties under sections 180, 181, 182, 183, and other relevant provisions such as 201A, 327A, 590(1)(c)(iii), 911A, 952D, 963K, 1041E, and 1041H.

### 4. Value of your shareholding

As discussed in the FAQ to Investors, the Liquidators cannot provide an update as to the current value of your shares in the Company, given the recovery of the above investments are still ongoing and remain uncertain.

Based on the Liquidators' investigations, Investors are unlikely to receive a full return on their investments. Consequently, the value of the shares is likely to be less than the value ascribed by GCPF as at the appointment date of the Liquidators, 3 October 2024. Please note that this is not considered tax advice. The Liquidators recommend that Investors obtain their own independent tax advice in relation to their shareholding in the Company.



## 5. Likelihood of a dividend to creditors

Based on the information presently available, the extent of the assets realised and that further realisations are anticipated however still to be determined, and given known creditors, the Liquidators expect to pay a dividend to unsecured creditors of 100 cents in the dollar within 3-6 months, subject to the formal adjudication of creditor claims.

When the Liquidators are in a position to declare a dividend to creditors, the Liquidators will initiate a formal process for creditors to submit their claims. The formal dividend process generally takes two months, although it may be extended if any creditors appeal against the Liquidators' determination through the court.

## 6. Likelihood of a dividend to Shareholders / Investors

Given known creditor claims, the Liquidators anticipate a surplus will exist for distribution to Shareholders. The quantum of that anticipated surplus is still unknown and subject to the outcome from the potential recoveries outlined in this report. Once the Liquidators are satisfied all creditor claims have been paid in full and recoveries determined, the Liquidators will declare a dividend to Investors (as Shareholders). The Liquidators are unable to provide an estimated dividend to Investors with any certainty at this time. When the Liquidators declare an interim or final dividend to Investors, any investor whose claim has not yet been admitted will be contacted and asked to submit an investor claim form.



## 7. Summary of receipts and payments for the Liquidation as at 30 June 2025

GCPF Receipts and Payments as at 30 June 2025		AUD (\$)
<b>Receipts</b>		
Pre-appointment cash		15,850,068.50
Kooyongkoot - Recoveries		1,000,000.00
Hindmarsh - Recoveries		591,343.12
Pappy's Beach - Recoveries		326,140.70
Interest income		416,762.20
Recovery of funds held on trust		257,821.00
Pre-appointment GST refund		109,446.00
GST refunds		87,374.00
Kooyongkoot - Third party cost recoveries		27,500.00
Pre-appointment debtors		10.00
<b>Total Receipts</b>		<b>18,666,465.52</b>
<b>Payments</b>		
Legal Fees		1,053,801.11
Duress payments <sup>1</sup>		165,391.94
Counsel's Fees		268,859.91
Legal Disbursements		43,276.00
Valuation Fees		74,589.90
IT Subscriptions / Services		1,734.06
Bank fees		198.83
<b>Total Payments</b>		<b>1,607,851.75</b>
<b>Cash balance as at 30 June 2025<sup>2</sup></b>		<b>17,058,613.77</b>

<sup>1</sup>Payments made to legal advisors with outstanding pre-appointment fees to obtain access to their legal files.

<sup>2</sup>The cash balance is currently held in interest-bearing accounts with major Australian banks.

## 8. Liquidators' Remuneration and Disbursements

The Liquidators shall shortly be seeking a determination with the Court for their remuneration and disbursements from the start of the Liquidation to 30 June 2025 pursuant to section 60-10 of the Insolvency Practice Schedule (Corporations) in Schedule 2 of the Corporations Act for work performed in relation to the liquidation of GCPF.

The Liquidators are preparing a remuneration application report and affidavit in support of the remuneration application to the Court. Once filed, the Court will assess whether the time and disbursements incurred are necessary, proportionate, and reasonable in this Liquidation. The Liquidators will advise stakeholders once the application is made and share a copy of the remuneration application report on the FTI portal once it is available.



## 9. Way Forward

The outcome in relation to each of the investments will be progressively shared with Investors once determined. However, at present, the Liquidators are working to reach a position in relation to a number of these investments and as such their actions remain commercially sensitive.

The Liquidation of GCPF is not complete and there are still several statutory, asset and investigation related tasks required in the Liquidation. These tasks are expected to include:

- pursuing the Federal Court Proceeding regarding Point Bay;
- realising GCPF's interests in the property development projects and liaising with relevant parties to recover and preserve GCPF's investments;
- seeking Court approval, where necessary, of settlement agreements between GCPF and borrowers;
- further investigating GCPF's affairs including the affairs of its directors, officers and representatives;
- reporting to ASIC;
- declaring and paying a dividend to creditors; and
- declaring and paying potential interim and a final dividend to Shareholders from any surplus funds.

Should you have any queries, you may contact this office by email at [gcpf.investors@fticonsulting.com](mailto:gcpf.investors@fticonsulting.com).

Yours faithfully



**Ross Blakeley**  
**Joint and Several Liquidator**



24 November 2025



# Remuneration Approval Report

Global Capital Property Fund Limited (In Liquidation)  
ACN 635 565 070



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## 1. Summary

This remuneration approval report provides you with the information that the Corporations Act 2001 (*Cth*) (**"the Act"**) and the Code of Professional Practice published by the Australian Restructuring Insolvency and Turnaround Association (**"ARITA"**) requires the Court to receive to make an informed decision regarding the approval of our remuneration for undertaking the liquidation of Global Capital Property Fund Limited (In Liquidation) ACN 635 565 070 (**"Company"** or **"GCPF"**).

We are requesting the Courts' approval under section 60-10 of the Insolvency Practice Schedule (Corporations) (being Schedule 2 to the Corporations Act) (**"IPSC"**) for the following remuneration and disbursements:

For	Period	Remuneration \$ (excl GST)	Internal Disbursements \$ (excl GST)
Work already completed	3 October 2024 to 30 September 2025	\$1,227,317.10	\$64,791.30
<b>Total</b>		<b>\$1,227,317.10</b>	<b>\$64,791.30</b>

We estimate that the total Liquidators' fees in this Liquidation will be \$2,500,000 plus GST. This has increased from our previous estimate of \$1,500,000 plus GST provided in our Statutory Report to Creditors dated 24 December 2024 because more time than expected has been and will be required to:

- Obtain and review books and records of the Company, including joint venture and loan agreements, variations to those agreements, and reconciliations of drawdowns recorded on the Company's accounting system (Xero) against bank statements;
- Review email records on Relativity (specialist eDiscovery software) to identify previous discussions between developers and the Directors of GCPF regarding investment status, development updates, disputes, and other relevant matters;
- Request missing information from developers and pre-appointment solicitors to assist with the Liquidators' investigations into investments, due to incomplete and/or missing executed versions of agreements and correspondence;
- Conduct a detailed commercial assessment of fourteen (14) investments by engaging with borrowers, developers, senior ranking financiers, their legal representatives, reviewing project control group reports, feasibility analysis, and previous valuation reports;
- Respond to several proceedings issued against the Company during the Liquidation in proceedings, including but not limited to preparing evidence, drafting/reviewing and swearing affidavits and concise statements, reviewing records, and responding to court orders;
- Negotiate an outcome with respect to the Kooyongkoot project, including drafting and preparing a Deed of Settlement with relevant parties, and seeking court approval to enter into the Deed of Settlement;
- Take steps to realise and recover assets, including reviewing agreements for events of default, assessing GCPF's security position and powers of enforcement, preparing and issuing default notices, negotiating with developers, taking enforcement action against developers and assessing counterclaims for alleged damages;



- Investigate financial records, tracing funds, and examining potential misappropriation of funds, through reviewing bank statements, solicitors' trust statements, email correspondence on Relativity, and general investigative work;
- Communicate with a large number of stakeholders, including responding to queries from over 500 shareholders via email and telephone, as well as engaging with creditors and other independent bodies, such as the Compensation Scheme of Last Resort. Parties who invested monies in GCPF were issued shares and became "shareholders" and "investors" of GCPF under the Corporations Act and are collectively referred to as "investors" in this report;
- Prepare and issue updates to stakeholders, including a general FAQ for Investors;
- Review the FY24 Income Tax Return and obtaining appropriate tax advice to minimise income tax payable, given the expected losses in GCPF's investments;
- Investigate potential claims against third parties, which requires significant time and resources to gather evidence and prepare analysis; and
- Potentially instigate formal recovery proceedings.

We expect to make further remuneration approval applications to the Court as the Liquidation continues to progress but only after substantial time has been incurred in the Liquidation.

## 2. Declaration

We, Kelly Trenfield and Ross Blakeley of FTI Consulting, have undertaken a proper assessment of the claims for remuneration and disbursements for the appointment as Liquidators of the Company in accordance with the law and applicable professional standards.

We are satisfied that the remuneration and disbursements claimed are in respect of necessary work and properly performed in the conduct of this appointment, that the disbursements that have been incurred in the conduct of the external administration are necessary and proper.



### 3. Remuneration sought

The remuneration we are asking the Court to approve is summarised as follows:

For	Period	Amount \$ (excl GST)	Applicable rates	Timing of payment
Work already completed	3 October 2024 to 30 June 2025	\$945,215.50	Provided in <b>Schedule F</b>	Immediately
Work already completed	1 July 2025 to 30 September 2025	\$282,101.60	Provided in <b>Schedule G</b>	Immediately
<b>Total</b>		<b>\$1,227,317.10</b>		

Details of the work already done is **enclosed** at **Schedule A**. We note that legal and commercial sensitivities exist regarding the investments made by GCPF and the potential claims we are considering pursuing. We have therefore limited public statements regarding matters that remain to be resolved to protect the interests of GCPF and its investors.

**Schedule B** includes a breakdown of time spent by staff members on each major task for work we have already done.

Orders sought in relation to the Liquidators' remuneration to be approved by the Court in the form of Court Orders are set out in **Schedule C**.

### 4. Disbursements

We are not required to seek court approval for costs paid to third parties or where we are recovering a cost incurred on behalf of the administration, but we must provide details to the court. Details of these amounts are included in the Receipts and Payments enclosed in **Schedule E**, and the below table under the heading "External non-professional fees".

We are required to obtain court consent for the payment of a disbursement where we, or a related entity, may directly or indirectly obtain a profit.

On 23 October 2024, we engaged FTI Consulting Technology (Sydney) Pty Ltd to provide electronic discovery services to assist with the electronic investigations required for the matter.

For more information about disbursements, please refer to the Initial Remuneration Notice dated 31 October 2024 at **Schedule H**.



Provided below is a schedule of disbursements incurred since our appointment.

Classification	Type	Basis of charge	Total disbursement \$ (excl GST)
<b>External non-professional costs</b>	Searches	At cost	\$13,501.57
	Travel (e.g. tolls and mileage)	At cost	\$1,084.87
	Stationery and other incidental disbursements	At cost	\$154.55
	Postage	At cost	\$883.37
<b>External Disbursements Total</b>			<b>\$15,624.36</b>
<b>Internal professional fees</b>	FTI Consulting Technology Professional Fees	At prescribed rates provided in <b>Schedule J</b>	\$16,510.50
	Relativity Hosting Fees	At cost	\$48,280.80
<b>Internal Disbursements Total</b>			<b>\$64,791.30</b>
<b>Disbursements Total</b>			<b>\$80,415.66</b>

The above disbursements do not include legal fees and other costs incurred which have been paid directly from the Liquidation bank account.

Court approval is not required for the payment of external non-professional disbursements outlined above as these costs were paid to third parties or otherwise paid at cost. We are seeking court approval for the approval of internal disbursements.

Orders sought in relation to the internal disbursements to be approved by the Court in the form of Court Orders are set out in **Schedule C**.

Details of the internal disbursements incurred in the Liquidation is enclosed at **Schedule D**.



## 5. Likely impact on dividends

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

The Liquidators highlight that there may be a distinction in the Liquidation of any potential dividend/distribution to:

- Creditors of the Company; and
- Investors of the Company

Based on:

- realisations to date;
- estimated future realisations;
- total estimated remuneration from the commencement of the Liquidation to the completion of the Liquidation; and
- the estimated total of creditor claims based on the Company's records and claims lodged;

we estimate that creditors may receive 100 cents in the dollar.

Following a dividend to creditors, surplus funds estimated between \$27.85 million and \$49.62 million may be available for distribution to investors. With 81,999,001 shares on issue at the date of the Liquidators' appointment, the estimated returns to investors may range between \$0.34 and \$0.61 per share.

These estimates are contingent upon various factors, including but not limited to:

- The future recoveries from GCPF's investments;
- Any potential creditor claims that may emerge;
- Any potential recoveries from other claims identified and pursued by the Liquidators;
- The actual costs associated with the realisation of the future recoveries and claims identified and costs to defend any potential legal actions;
- The actual costs associated with the Federal Court Proceeding and the position taken by the respondents in that proceeding; and
- Any unforeseen matters that arise when pursuing recovery actions in respect of GCPF's investments.

The Liquidators will continue to update creditors and investors on the likelihood and timing of any dividend as the liquidation progresses. At this time, and given the current proceedings in the Federal Court, there are insufficient recoveries to make any interim dividends and/or distributions.

Furthermore, due to the current estimated range of surplus funds available for distribution to investors, the Liquidators are not yet in a position to provide a revised valuation of GCPF shares. However, the Liquidators consider that the value would be less than the last value that had been recorded prior to the appointment of the Liquidators and/or listed on the Company's registry platform, Registry Direct.



If a dividend is declared, any creditor whose claim has not yet been admitted will be contacted and asked to submit a proof of debt.

Please refer to the Statutory Report to Creditors dated 24 December 2024 for further information.

## 6. Summary of receipts and payments

A summary of the receipts and payments for the Liquidation from the Liquidators' appointment on 3 October 2024 to 31 October 2025 is **enclosed at Schedule E** of this report.

## 7. Queries

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

If you have any queries in relation to the information in this report, please contact the Liquidator's office on (03) 9604 0669 or by email at [gcpf.creditors@fticonsulting.com](mailto:gcpf.creditors@fticonsulting.com).

Yours faithfully



**Ross Blakeley**

**Joint and Several Liquidator**

Encl.



**Enclosures:**

Schedule A – Details of work

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

Schedule C – Orders Sought

Schedule D – Internal Disbursements

Schedule E – Summary of receipts and payments

Schedule F – FTI Consulting Schedule of Rates to 30 June 2025

Schedule G – FTI Consulting Schedule of Rates effective 1 July 2025

Schedule H – Initial Remuneration Notice dated 31 October 2024

Schedule I – Letter of Engagement with FTI Consulting Technology (Sydney) Pty Ltd

Schedule J – FTI Consulting Technology (Sydney) Pty Ltd Fee Schedule dated 21 October 2024



## Schedule A – Details of work

Task area/General description	Work already done	Anticipated future work to be completed for the next 6 months
Period	3 October 2024 to 30 September 2025	1 October 2025 to 31 March 2026
Amount \$ (excl GST)	\$1,227,317.10	
Assets	1,175.10 hours \$687,053.80	
Other General Developments Matters	<ul style="list-style-type: none"> <li>■ Updated and maintained a master investment status spreadsheet to track the status of each investment, including outstanding action items and priority tasks.</li> <li>■ Prepared and issued correspondence to developers to advise of the Liquidators' appointment, request information to assist with our commercial assessment of each investment, and request for updates on project status.</li> <li>■ Internal discussions regarding the status of various development projects, including progress updates, priority action items, and next steps.</li> <li>■ Attended and hosted meetings between the Liquidator's solicitors and the Liquidators' team in relation to matter planning.</li> <li>■ Conducted general investigations into each investment, including, but not limited to, reviewing financial information, loan and legal agreements, security positions, development viability, previous valuation reports, title searches, and company records, to understand the status of investments prior to the Liquidators' appointment and to assess available recovery options and next steps.</li> <li>■ Liaised with borrowers regarding the status of each project, including obtaining updates as the project progresses.</li> <li>■ Prepared and finalised various reports, including project summaries and investment reviews for each investment.</li> </ul>	<ul style="list-style-type: none"> <li>■ Update and maintain a master investment status spreadsheet to track the status of each investment, including outstanding action items and priority tasks.</li> <li>■ Internal discussions regarding the status of various development projects, including progress updates, priority action items, and next steps.</li> <li>■ Attend and host meetings between the Liquidator's solicitors and the Liquidators' team in relation to matter planning.</li> <li>■ Liaise with the borrowers regarding the status of each project, including obtaining updates as the project progresses.</li> </ul>
Applecross	<ul style="list-style-type: none"> <li>■ Review the Applecross loan agreement, project status, title searches, and the Company's books and records concerning its investment.</li> <li>■ Reconciled amounts drawn under the loan facility and cross-referenced the amounts drawn against the loan agreement, Xero, and bank statements to ensure accuracy.</li> </ul>	<ul style="list-style-type: none"> <li>■ Consider enforcement actions and taking necessary legal actions to enforce GCPF's rights, as required.</li> </ul>



Task area/General description	Work already done	Anticipated future work to be completed for the next 6 months
	<ul style="list-style-type: none"> <li>■ Reviewed and recalculated the amounts owing to GCPF under the loan agreement.</li> <li>■ Considered issues in relation to the Applecross project including the requirements to progress the development and GCPF's recovery and enforcement actions.</li> <li>■ Considered next steps in relation to the site, given the first ranking mortgagee's intention to take possession, and reviewed provisions regarding personal liability of the borrower and guarantor(s).</li> <li>■ Liaised with the first ranking mortgagee and other stakeholders to discuss the status of the Applecross project sale process, and requested updates on the progress of engaging a sales agent.</li> <li>■ Drafted and issued various correspondence, including a letter of default and valuation submission request letters.</li> <li>■ Prepared and issued correspondence to the borrower's solicitors regarding the existing events of default.</li> <li>■ Assessed a valuation report prepared for the Liquidators in respect of the Applecross project, comparing the assessed value to the actual sale price achieved by the first ranking mortgagee.</li> <li>■ Determined the estimated return to GCPF based on the contract sale price.</li> <li>■ Reviewed the Applecross project agreement, verified interest calculations to quantify GCPF's payout figures and issued correspondence to relevant parties.</li> <li>■ Analysed settlement proposals, reviewed settlement statements and liaised with solicitors to confirm receipt of funds for the settlement of the property.</li> <li>■ Reviewed and finalised the Applecross project loan statement and issued notices of demand to the guarantor(s).</li> </ul>	
Franklin NDIS	<ul style="list-style-type: none"> <li>■ Reviewed the Franklin NDIS project joint venture ("JV") agreement, project status, titles searches, and the Company's records regarding the investment.</li> <li>■ Prepared and attended meetings with borrower to discuss the status of the project, proposals, outstanding costs, and other items.</li> <li>■ Drafted and issued various correspondence, including valuation submission request letters, correspondence to ABL, and letters to the borrower.</li> </ul>	<ul style="list-style-type: none"> <li>■ Review and consider agent submissions regarding the sale of the Franklin property.</li> <li>■ Liaise with the sales agent regarding inspection, status of enquiries, and level of interest.</li> <li>■ Attend to securing the Franklin property.</li> <li>■ Attend to the clean-up and maintenance of the Franklin property.</li> <li>■ Review and consider offer(s) received from interested parties.</li> </ul>



Task area/General description	Work already done	Anticipated future work to be completed for the next 6 months
	<ul style="list-style-type: none"> <li>■ Reconciled amounts drawn under the Franklin NDIS project facility and cross-referenced the amounts drawn against the JV agreement, Xero, and bank statements to ensure accuracy.</li> <li>■ Reviewed and considered various correspondence in relation to the Franklin NDIS project, including breach notices, default notices, and emails between GCPF and the borrower.</li> <li>■ Reviewed and considered the feasibility study for the Franklin NDIS project, calculated any potential lost profit element, and reviewed the JV agreement to identify potential breaches and repercussions.</li> <li>■ Considered any potential claims by GCPF in respect of the Franklin NDIS project JV agreement.</li> <li>■ Prepared and issued a default notice to the borrower.</li> <li>■ Reviewed recordings of the Franklin NDIS project control group meetings.</li> <li>■ Considered GCPF's funding requirements.</li> <li>■ Adjudicated on the borrower's counterclaim against GCPF for alleged damages.</li> <li>■ Assessed a valuation report prepared for the Liquidators in respect of the Franklin NDIS project and the estimated return to GCPF based on the assessed value.</li> <li>■ Reviewed and considered requirements for taking possession of the Franklin NDIS property and prepared necessary ASIC lodgements and correspondence, including, letter to directors, utility providers, councils and other relevant parties.</li> <li>■ Finalised the formal notice of possession and obtained possession over the Franklin NDIS project property.</li> <li>■ Liaised with insurer regarding ongoing insurance requirements and cover.</li> <li>■ Lodged the necessary ASIC lodgements such as Form 504 and 505 to appoint GCPF as mortgagee in possession of the Franklin property.</li> <li>■ Issued letters to the director of the special purpose vehicle, utility providers, councils and other relevant parties regarding the appointment.</li> <li>■ Reviewed correspondence from director regarding ROCAP extension and issued letter approving extension.</li> </ul>	<ul style="list-style-type: none"> <li>■ Oversee the preparation and execution of the contract of sale and the settlement process.</li> <li>■ Execute necessary documents related to the sale.</li> <li>■ Consent to the release of GCPF's mortgage over the Franklin property upon settlement.</li> <li>■ Liaise with insurer regarding ongoing insurance requirements and cover.</li> <li>■ Prepare and lodge ASIC lodgements upon cessation of appointment as mortgagee in possession, as required.</li> <li>■ Consider enforcement actions and taking necessary legal actions to enforce GCPF's rights, as required.</li> </ul>



Task area/General description	Work already done	Anticipated future work to be completed for the next 6 months
Fulham	<ul style="list-style-type: none"> <li>■ Coordinated the agent submission process, including circulating letters to prospective agents, evaluating agent submissions, and assessing marketing strategies.</li> <li>■ Reviewed the Fulham project background information, JV agreement, loan agreement, and financial statements to understand the project status and requirements for taking possession and selling the project.</li> <li>■ Attended to a site visit of the Fulham project and met with developers to discuss issues and consider next steps.</li> <li>■ Prepared and issued correspondence to the developers requesting additional information to support our investigations into the Fulham project.</li> <li>■ Reconciled amounts drawn under the Fulham facility and cross-referenced the amounts drawn against the agreements, Xero, and bank statements to ensure accuracy.</li> <li>■ Considered an enforcement strategy for the Fulham project, including reviewing GCPF's security position and commissioning a valuation report.</li> <li>■ Prepared and issued default notices to the borrower, including reviewing and considering event(s) of default.</li> <li>■ Assessed a valuation report prepared for the Liquidators in respect of the Fulham project and considered the estimated return to GCPF based on the assessed value.</li> <li>■ Reviewed the Fulham project contract of sale and compared sale price achieved against the Fulham project valuation report.</li> <li>■ Liaised with the conveyancers, developers and directors to discuss Fulham Garden site and address queries on the Fulham project contract of sale.</li> </ul>	<ul style="list-style-type: none"> <li>■ Execute necessary documents related to the sale.</li> <li>■ Consent to the release of GCPF's mortgage over the property upon settlement.</li> <li>■ Consider enforcement actions and taking necessary legal actions to enforce GCPF's rights, as required.</li> </ul>
Hindmarsh Estate	<ul style="list-style-type: none"> <li>■ Reviewed the Hindmarsh Estate project background information, JV agreement, and financial statements to understand the project status and requirements.</li> <li>■ Attended to a site visit of the Hindmarsh Estate project and met with developers to discuss issues and consider next steps.</li> <li>■ Reconciled amounts drawn under the Hindmarsh facility and cross-referenced the amounts drawn against the JV agreement, Xero, and bank statements to ensure accuracy.</li> </ul>	<ul style="list-style-type: none"> <li>■ Attend to the realisation of future recoveries and undertake recovery action as necessary.</li> <li>■ Consider enforcement actions and taking necessary legal actions to enforce GCPF's rights, as required.</li> </ul>



Task area/General description	Work already done	Anticipated future work to be completed for the next 6 months
	<ul style="list-style-type: none"> <li>■ Prepared and reviewed the upcoming settlement statements for various lots of Hindmarsh 1. Consented to the release of GCPF's mortgage over the pre-sold lots upon settlement.</li> <li>■ Considered next steps in relation to the Hindmarsh Estate project, including reviewing previous valuation reports, preparation of an estimated outcome statement, and discussing payout to the first ranking mortgagee.</li> <li>■ Liaised with various stakeholders, including ABL and the developers, regarding Hindmarsh Estate project settlements, GCPF's mortgage and providing GCPF's consent to subdivide lots.</li> <li>■ Assessed the Hindmarsh Estate project valuation report prepared for the Liquidators and assessed GCPF's estimated return based on the assessed value.</li> <li>■ Reviewed the feasibility study and funding requirements for Hindmarsh 2, and undertook an options analysis to assess the potential financial outcomes for GCPF, should the decision be made to proceed with the project's development.</li> <li>■ Prepared and issued notices of default to the borrower.</li> <li>■ Considered alleged claims made by the directors and liaised with the directors' solicitors regarding the development.</li> </ul>	
Kooyongkoot	<ul style="list-style-type: none"> <li>■ Reviewed the Kooyongkoot project background information, loan agreement, and financial statements to understand the project status and requirements.</li> <li>■ Reconciled amounts drawn under the Kooyongkoot facility and cross-referenced the amounts drawn against the loan agreement, Xero, and bank statements to ensure accuracy.</li> <li>■ Attended meetings and calls with the developer, solicitors, and other senior ranking financiers to discuss the project status, proposals, and next steps.</li> <li>■ Reviewed and considered expert reports, including previously conducted valuations and feasibility analyses.</li> <li>■ Reviewed financials and various information provided by the developer.</li> <li>■ Analysed the source and use of funds used in the development.</li> <li>■ Considered requirements for the Kooyongkoot project, including reviewing and discussing potential funding options, refinancing proposals, and settlement agreements.</li> </ul>	<ul style="list-style-type: none"> <li>■ Pursue enforcement action in the Federal Court in respect of the guarantees to recover the shortfall owed to GCPF.</li> </ul>



Task area/General description	Work already done	Anticipated future work to be completed for the next 6 months
	<ul style="list-style-type: none"> <li>■ Reviewed GCPF's security position on the investment.</li> <li>■ Negotiated with the developer and guarantor regarding potential settlement offers to maximize recovery on the investment.</li> <li>■ Prepared and executed various documents, including the Settlement Deed, affidavits, and court applications.</li> <li>■ Provided update to Shareholders regarding the Settlement Deed.</li> <li>■ Prepared a loan statement for the Kooyongkoot project.</li> </ul>	
Mt Atkinson	<ul style="list-style-type: none"> <li>■ Reviewed the Mt Atkinson project background information, unitholders' agreement, and unitholder loan to understand the project status and requirements.</li> <li>■ Reconciled amounts drawn under the Mt Atkinson facility and cross-referenced the amounts drawn against the unitholder loan agreement, Xero, and bank statements to ensure accuracy.</li> <li>■ Attended a meeting with the developer and their solicitors to discuss the project's status, proposals, and next steps.</li> <li>■ Considered next steps in relation to Mt Atkinson, including reviewing and discussing potential settlement offer(s), and assessing GCPF's security position on the investment.</li> <li>■ Requested additional information from the developer to assist with our investigations and reviewed information provided, including feasibility studies, sales agent reports, statements of compliance, plans of subdivision, PCG reports, status of sold lots and competitor analysis.</li> <li>■ Registered a caveat over the titles after the Liquidators' appointment.</li> <li>■ Liaised with the first ranking mortgagee regarding the priority deed.</li> <li>■ Liaised with the developer regarding an agreement made under s 173 of the Planning and Environmental Act 1987 (Vic) and completed the verification of identify process to register GCPF's mortgage over the titles.</li> <li>■ Assessed the Mt Atkinson valuation report prepared for the Liquidators and the estimated return to GCPF based on the assessed value.</li> <li>■ Analysed the financial statements, cash flow forecasts and bank statements to assess the source and use of funds.</li> </ul>	<ul style="list-style-type: none"> <li>■ Review upcoming settlement statements and consent to the release of GCPF's mortgage over the sub-divided lots as necessary.</li> <li>■ Liaise with the developer regarding the status of the development, including but not limited to, the sales of completed lots and address any issues should they arise..</li> <li>■ Attend to all necessary matters to protect GCPF's interests and ensure compliance with relevant obligations.</li> <li>■ Review information provided by the developer.</li> </ul>



Task area/General description	Work already done	Anticipated future work to be completed for the next 6 months
	<ul style="list-style-type: none"> <li>■ Attended to a site visit of the Mt Atkinson investment and met with developers to discuss status of the development, progress with sales, and next steps.</li> <li>■ Reviewed and considered the implications of the increase in the first ranking mortgagee's facility limit and attended to the execution of the new priority deed.</li> <li>■ Reviewed settlement statements and authorised the release of GCPF's mortgage over the relevant lots as necessary.</li> <li>■ Updated settlement tracker and maintained records of the settlement process.</li> <li>■ Prepared for and attended PCG meetings with the developer.</li> <li>■ Conducted regular reviews of GCPF's position in the investment.</li> <li>■ Analysed updated price listing for lots, feasibility study and Unitholder Agreement and Trust Deed terms.</li> </ul>	
Pappy's Beach	<ul style="list-style-type: none"> <li>■ Reviewed and considered the Pappy's Beach project background information, JV Agreement, loan agreement, and variations to the existing agreements to understand the project status and timeline of key events.</li> <li>■ Reconciled amounts drawn under the JV Agreement and loan facility and cross-referenced the amounts drawn against the agreements, Xero, and bank statements to ensure accuracy.</li> <li>■ Reviewed records and documentation related to Pappy's Beach, including town planning documents, feasibility studies and previous valuation reports prepared for the various lots within the estate.</li> <li>■ Instructed valuers to provide updated valuations on the subdivided development lots.</li> <li>■ Investigated pre-appointment settlements and disbursement of funds by the developer.</li> <li>■ Conducted title searches on the lots within the estate.</li> <li>■ Reviewed GCPF's security position on the investment.</li> <li>■ Reviewed and issued correspondence, including but not limited to requests for additional information from the developer to assist with the Liquidators' investigations and queries regarding the development.</li> <li>■ Attended to the settlement of Lot 61.</li> </ul>	<ul style="list-style-type: none"> <li>■ Review upcoming settlement statements and consent to the release of GCPF's mortgage over the sub-divided lots as necessary.</li> <li>■ Liaise with the developer regarding the status of the development, including but not limited to, the sales of completed lots and address any issues that may arise as required.</li> <li>■ Attend to all necessary matters to protect GCPF's interests and ensure compliance with relevant obligations.</li> <li>■ Review information provided by the developer.</li> <li>■ Attend to the proceeding in the Federal Court against the borrower and other relevant parties, including but not limited to, preparing evidence, drafting/reviewing and swearing affidavits and concise statements, reviewing records, and responding to court orders.</li> </ul>



Task area/General description	Work already done	Anticipated future work to be completed for the next 6 months
	<ul style="list-style-type: none"> <li>■ Attend to review and finalisation of affidavits, statements of defence, and other court documents in relation to proceedings initiated by developer.</li> <li>■ Liaised with the Liquidators' solicitors in relation to the project.</li> <li>■ Liaised with the Liquidators' solicitors and developer regarding the disputed infrastructure levy requirements.</li> <li>■ Reviewed and considered legal documents, including originating application, statement of claim, interlocutory application to join parties, interlocutory application for freezing orders, and supporting affidavits for the Federal Court proceedings.</li> <li>■ Conducted a review of the special purpose vehicle's general ledger and identified receipts and payments made to related parties.</li> <li>■ Liaised with the Liquidators' solicitors in relation to the court proceedings.</li> </ul>	
NDIS Preston	<ul style="list-style-type: none"> <li>■ Reviewed and considered the NDIS Preston project background information and loan agreement to understand the project status and timeline of key events.</li> <li>■ Reconciled amounts drawn under the loan facility and cross-referenced the amounts drawn against the agreement, Xero, and bank statements to ensure accuracy.</li> <li>■ Conducted an initial meeting with the developer.</li> <li>■ Reviewed documents provided by the developer, including agreements and project control group reports.</li> <li>■ Reviewed documents concerning the NDIS Preston project, including previous valuation reports, the project term sheet and heads of agreement.</li> <li>■ Summarised facility agreements and contracts related to the NDIS Preston project.</li> <li>■ Considered the development's viability.</li> <li>■ Drafted and issued letters to the developer, including requests for additional information and updates on the status of the project.</li> <li>■ Attended to a site visit of the NDIS Preston project and met with the developer to discuss status of the development.</li> <li>■ Reviewed and responded to correspondence from the developer regarding their allegations and counterclaims.</li> </ul>	<ul style="list-style-type: none"> <li>■ Liaise with the developer regarding the sale of the property and review contract of sale.</li> <li>■ Review settlement statement and consent to the release of GCPF's mortgage over the titles as appropriate.</li> <li>■ Attend to all necessary matters to protect GCPF's interests and ensure compliance with relevant obligations.</li> <li>■ Review information provided by the developer.</li> </ul>



Task area/General description	Work already done	Anticipated future work to be completed for the next 6 months
River Glen	<ul style="list-style-type: none"> <li>■ Reviewed and considered the River Glen project background information, JV agreement, and loan agreement to understand the project status and timeline of key events.</li> <li>■ Reconciled amounts drawn under the facilities and cross-referenced the amounts drawn against the agreement, Xero, and bank statements to ensure accuracy.</li> <li>■ Prepared and issued a letter to the developer, requesting for additional information to assess the status of the project.</li> <li>■ Considered requirements for the River Glen project, including a review of and discussion regarding potential funding options, status of the development, review of the Heads of Agreement and GCPF's security position.</li> <li>■ Liaised with senior ranking lenders regarding their position, payout figure, and their general intentions regarding the project.</li> <li>■ Responded to queries from the liquidators of the special purpose vehicle.</li> <li>■ Attended a call with a senior financier to discuss their position, their enforcement strategy and the sale of the River Glen property.</li> <li>■ Reviewed and considered the results of the expression of interest campaign from Ray White and the estimated return to GCPF.</li> <li>■ Issued letter of demand to guarantors.</li> <li>■ Lodged a court application to join the guarantors to the Federal Court Proceeding, which orders were granted to GCPF.</li> </ul>	<ul style="list-style-type: none"> <li>■ Liaise with the liquidators of the special purpose vehicle regarding the status of the liquidation and potential recoveries.</li> <li>■ Consider enforcement actions and taking necessary legal actions to enforce GCPF's rights, as required.</li> </ul>
Serpells Road	<ul style="list-style-type: none"> <li>■ Reviewed and considered the Serpells Road project background information and loan agreement to understand the project status and timeline of key events.</li> <li>■ Reconciled amounts drawn under the facility and cross-referenced the amounts drawn against the agreement, Xero, and bank statements to ensure accuracy.</li> <li>■ Prepared and issued a letter to the developer, requesting additional information to assist with the Liquidators' assessment of the status of the project and reviewed updated information from the developer.</li> <li>■ Prepared, and updated on an ongoing basis, an estimated outcome statement for Serpells Road.</li> </ul>	<ul style="list-style-type: none"> <li>■ Monitor and liaise with the developer regarding the progress to sell the residual stock and resultant sale price.</li> <li>■ Review settlement statement and consent to the release of GCPF's mortgage over the titles as required.</li> <li>■ Attend to all necessary matters to protect GCPF's interests and ensure compliance with relevant obligations.</li> <li>■ Liaise with senior ranking financiers as necessary.</li> <li>■ Pursue claims in the Federal Court including in respect of receipt of moneys paid by GCPF to Serpells Road Pty Ltd.</li> </ul>



Task area/General description	Work already done	Anticipated future work to be completed for the next 6 months
	<ul style="list-style-type: none"> <li>■ Considered requirements for the Serpells Road project, including reviewing and discussing potential funding options to improve GCPF's security position, the status of the development and GCPF's security position.</li> <li>■ Executed a priority deed with the senior ranking lenders.</li> <li>■ Reviewed valuation reports, project control group reports, and various other documentation relating to the development.</li> <li>■ Liaised with the developer and senior ranking lenders regarding the status of pre-sold lots and a residual stock loan facility.</li> <li>■ Liaise with solicitors regarding the plan of subdivision proposed by the developer and upcoming settlements.</li> <li>■ Attended a site visit of the Serpells Road project and met the directors to discuss status of the development, sales progress, and next steps.</li> <li>■ Reviewed settlement statements, conduct analysis on return to various mortgagees and authorised the release of GCPF's mortgagee over the relevant lots as required.</li> <li>■ Considered and assessed the estimated return to GCPF in the refinance of the senior ranking financiers lending facilities and liaised with solicitors in relation to an inter-creditor deed.</li> </ul>	
Symphony	<ul style="list-style-type: none"> <li>■ Reviewed and considered the Symphony project background information and JV agreement to understand the project status and timeline of key events.</li> <li>■ Reconciled amounts drawn under the facility and cross-referenced the amounts drawn against the agreement, Xero, and bank statements to ensure accuracy.</li> </ul>	<ul style="list-style-type: none"> <li>■ Finalise the review of the Symphony project's background information and JV agreement to understand the project status and timeline of key events.</li> </ul>
The Carlile	<ul style="list-style-type: none"> <li>■ Reviewed and considered the Carlile project background information and loan agreement to understand the project status and timeline of key events.</li> <li>■ Reconciled amounts drawn under the facility and cross-referenced the amounts drawn against the agreement, Xero, and bank statements to ensure accuracy.</li> <li>■ Liaised with the Receivers and Managers of the special purpose vehicle ("Carlile Receivers and Managers") regarding the status of the development.</li> <li>■ Registered GCPF's mortgage over the titles.</li> <li>■ Liaised with Cobild regarding its PPS registration against GCPF.</li> </ul>	<ul style="list-style-type: none"> <li>■ Liaise with the Receivers and Managers regarding any potential disputes with the builder.</li> <li>■ Monitor and liaise with the Receivers and Managers regarding the progress to sell the residual stock and resultant sale price.</li> <li>■ Review settlement statement and consent to the release of GCPF's mortgage over the titles as required.</li> <li>■ Attend to all necessary matters to protect GCPF's interests and ensure compliance with relevant obligations.</li> <li>■ Liaise with senior ranking financiers as necessary.</li> </ul>



Task area/General description	Work already done	Anticipated future work to be completed for the next 6 months
	<ul style="list-style-type: none"> <li>■ Considered requirements for the Carlile project, including review of and discussion regarding potential funding options to improve GCPF's return and security position, the status of the development and GCPF's security position.</li> <li>■ Prepared a sales analysis for pre-sold and unsold stock and GCPF's estimated return on the investment.</li> <li>■ Engaged with the Carlile Receivers and Managers to address issues concerning outstanding contract payments and construction loan matters.</li> <li>■ Investigated disputes with Cobild, including outstanding debts and historical correspondence.</li> <li>■ Reviewed and assessed guarantees provided by the guarantors.</li> <li>■ Liaised with GCPF's solicitors concerning guarantee claims.</li> <li>■ Issued letter of demand to guarantors.</li> <li>■ Conducted a review of Relativity to retrieve historical valuation reports and prepared a counterfactual analysis of returns to GCPF throughout various stages of the development.</li> </ul>	<ul style="list-style-type: none"> <li>■ Pursue enforcement action in the Federal Court including in respect of the guarantees to recover any shortfall owed to GCPF.</li> </ul>
111 Ormond and Elster	<ul style="list-style-type: none"> <li>■ Reviewed and considered the 111 Ormond and Elster projects' background information and investment agreements to understand the project status and timeline of key events.</li> <li>■ Reconciled amounts drawn and dividends received under the facilities and cross-referenced the amounts drawn against the agreement, Xero, and bank statements to ensure accuracy.</li> <li>■ Attended a meeting with the borrowers to discuss the status of the 111 Ormond and Elster projects.</li> <li>■ Conducted due diligence on the 111 Ormond and Elster projects, including performing updated title searches and reviewing GCPF's security position.</li> <li>■ Prepared and issued correspondence to the developers requesting additional information to assist with the Liquidators' investigations.</li> <li>■ Reviewed and considered various documents concerning the 111 Ormond and Elster projects, including construction finance letters, feasibility studies and previous project control group reports.</li> <li>■ Reviewed and considered existing event(s) of default and prepared default notices to be issued to the developer.</li> </ul>	<ul style="list-style-type: none"> <li>■ Liaise with the Liquidators of the borrower regarding the status of the liquidation and potential recoveries.</li> <li>■ Consider enforcement actions and taking necessary legal actions to enforce GCPF's rights, as required</li> </ul>



Task area/General description	Work already done	Anticipated future work to be completed for the next 6 months
	<ul style="list-style-type: none"> <li>■ Considered guarantee clauses in the agreements and quantified the guarantor's estimated liability.</li> <li>■ Considered the impact an application to wind up Elster.</li> <li>■ Liaised with the first ranking mortgagee regarding the mortgagee sale of the 111 Ormond and Elster properties and the considered GCPF's position once the first ranking mortgagee is paid out.</li> <li>■ Assessed a valuation report prepared for the Liquidators in respect of the 111 Ormond and Elster projects, comparing the assessed value to the actual sale price achieved.</li> <li>■ Extracted and analysed financial data, including general ledger and bank transactions to understand the sources and uses of funds.</li> <li>■ Prepared a memorandum comparing the final investment agreement against the initial term sheet.</li> </ul>	
Other assets	<ul style="list-style-type: none"> <li>■ Issued correspondence to banks notifying them of our appointment and instruct them to freeze bank accounts in the name of GCPF.</li> <li>■ Coordinated with Trilogy, La Trobe, and NAB to request and obtain bank statements, and consolidate funds as necessary.</li> <li>■ Liaised with external counsel and solicitors that had acted on behalf of GCPF prior to the Liquidators' appointment to arrange for the transfer of funds held in solicitors' trust account and request responses to correspondence.</li> <li>■ Tasks associated with realising other assets.</li> </ul>	<ul style="list-style-type: none"> <li>■ Tasks associated with realising other assets, if required.</li> </ul>
<b>Creditors and Investors</b>	<b>272.60 hours</b> <b>\$133,370.40</b>	
Shareholder Enquiries	<ul style="list-style-type: none"> <li>■ Prepared and issued the Initial Notice to Shareholders/Investors notifying them of the Liquidators' appointment.</li> <li>■ Prepared and issued updates about the liquidation to Shareholders, including a document outlining the Frequently Asked Questions ("FAQ").</li> <li>■ Prepared and issued a further update on the progress of the liquidation to Shareholders/Investors, which included an update on the status of GCPF's investment in each property development project.</li> </ul>	<ul style="list-style-type: none"> <li>■ Respond to Shareholders' queries via email and telephone, which generally included requests for updates on the progress of the liquidation, the expected return to shareholders, and estimated duration of the liquidation.</li> <li>■ Maintain a Shareholder register to recorded the nature of requests received from shareholders, their contact information and any third party representative authorisations provided by the shareholders</li> <li>■ Continue to arrange for access to be granted to Shareholders who cannot access the Company's Registry platform.</li> <li>■ Review and maintain the Shareholder mailbox.</li> </ul>



Task area/General description	Work already done	Anticipated future work to be completed for the next 6 months
	<ul style="list-style-type: none"> <li>■ Responded to Shareholders' queries via email and telephone, which generally included requests for updates on the progress of the liquidation, the expected return to shareholders, and estimated duration of the liquidation.</li> <li>■ Maintained a Shareholder register which recorded the nature of requests received from shareholders, their contact information and any third party representative authorisations provided by the shareholders.</li> <li>■ Arranged for access to be granted to Shareholders who could not access the Company's Registry platform.</li> <li>■ Reviewed and maintained the Shareholder mailbox established for the liquidation.</li> <li>■ Requested, reviewed and recorded the Investor Claim Forms and supporting documents submitted by Shareholders.</li> </ul>	<ul style="list-style-type: none"> <li>■ Request, review and record the Investor Claim Forms and supporting documents submitted by Shareholders.</li> <li>■ Prepare and issue a further update(s) to creditors / Shareholders.</li> </ul>
Correspondence, Enquiries, Requests & Directions	<ul style="list-style-type: none"> <li>■ Reviewed and responded to creditor enquiries.</li> <li>■ Maintained a creditor request log.</li> <li>■ Prepared and issued initial correspondence to creditors and their representatives.</li> <li>■ Considered certain creditor claims.</li> <li>■ Considered claims from pre-appointment solicitors that we had to make payment of to obtain copies of the pre-appointment files.</li> <li>■ Liaised with ABL regarding correspondence received.</li> </ul>	<ul style="list-style-type: none"> <li>■ Review and respond to creditor enquiries.</li> <li>■ Maintain a creditor request log.</li> <li>■ Consider certain creditor claims.</li> <li>■ Consider ransom claims from pre-appointment solicitors to obtain copies of the pre-appointment files.</li> <li>■ Liaise with ABL.</li> </ul>
Secured creditor reporting & correspondence	<ul style="list-style-type: none"> <li>■ Notified the PPSR registered creditor of the Liquidators' appointment.</li> <li>■ Prepared initial correspondence requesting the discharge of the registration and prepared subsequent correspondence requesting evidence of their debt.</li> </ul>	<ul style="list-style-type: none"> <li>■ Liaise further with the PPSR creditor as required.</li> </ul>
Creditor reports	<ul style="list-style-type: none"> <li>■ Prepared and issued the Initial Notice to Creditors to all known creditors.</li> <li>■ Prepared and issued the Statutory Report by Liquidators to all known creditors.</li> <li>■ Prepared comprehensive estimated statement of position for all investments for the purpose of reporting to creditors and investors.</li> <li>■ Prepared and drafted this remuneration approval report for the court.</li> </ul>	<ul style="list-style-type: none"> <li>■ Prepare comprehensive estimated statement of position for all investments.</li> <li>■ Prepare this remuneration approval report for approval by the court.</li> <li>■ Prepare future remuneration approval reports for approval by the court.</li> </ul>
Dealing with proofs of debt	<ul style="list-style-type: none"> <li>■ Receipted and filed PODs received.</li> <li>■ Receipt of requests for adjudication on related party claims.</li> </ul>	<ul style="list-style-type: none"> <li>■ Receipt and file PODs as received.</li> <li>■ Receipt of requests for adjudication on related party claims.</li> </ul>



Task area/General description	Work already done	Anticipated future work to be completed for the next 6 months
	<ul style="list-style-type: none"> <li>Instructed solicitors in relation to claims submitted by potential creditors.</li> </ul>	<ul style="list-style-type: none"> <li>Instruct solicitors in relation to claims submitted by potential creditors.</li> </ul>
<b>Investigations</b>	<b>512.90 hours</b> <b>\$276,298.00</b>	
Conducting investigation	<ul style="list-style-type: none"> <li>Issued day one letters to the Office of State Revenue and the Company's former legal advisors notifying them of the Liquidators' appointment.</li> <li>Issued a letter to GCPF's Directors regarding their obligations during the Liquidation.</li> <li>Reviewed the Directors Report on Company Affairs and Property ("ROCAP") and lodged the ROCAP with ASIC and the Court.</li> <li>Conducted searches and undertook an assessment of companies and individuals known to be associated with the Company and/or the Directors to identify and related party dealings entered into by the Company.</li> <li>Conducted company and directorship searches in relation to related parties and entities and prepared analyses of our findings.</li> <li>Conducted internal planning meetings in relation to the status, progress and priorities of the Liquidators' investigations.</li> <li>Conducted calls with current and former directors to obtain information concerning GCPF's loans and investments in property development.</li> <li>Secured the Company's books and records saved on Sharepoint and all email accounts operated through the Company's domain and undertook a review of recently deleted documents from each of the relevant accounts.</li> <li>Obtained the books and records of the Company saved on United Global Capital Pty Ltd's Sharepoint.</li> <li>Liaised with the liquidators appointed to entities known to be related to the Company and/or its Directors.</li> <li>Reviewed all bank statements since GCPF's incorporation, analysed the usage of shareholder-funding, and identified unknown transactions requiring additional tracing.</li> <li>Conducted company and directorship searches on related parties and entities. Prepared a related party matrix utilising the company searches and director/Shareholder information.</li> </ul>	<ul style="list-style-type: none"> <li>Conduct internal planning meetings regarding enquiries and investigations.</li> <li>Secure Company's books and records stored on United Global Capital's email server.</li> <li>Conduct investigations into the potential misappropriation of GCPF's funds and maintain an ongoing record of such findings.</li> <li>Review bank transactions to identify potential voidable transaction claims.</li> <li>Liaise with the Liquidators' solicitors regarding potential voidable transaction claims with respect to related party transactions identified.</li> <li>Review and compare management and referral fees paid to related entities against prospectuses located in GCPF's Sharepoint.</li> <li>Prepare an investigation file.</li> </ul>



Task area/General description	Work already done	Anticipated future work to be completed for the next 6 months
	<ul style="list-style-type: none"> <li>■ Reviewed the Company's Xero and financials including a review of transactions deleted or voided in the Xero file.</li> <li>■ Examined the Company's pre-appointment books and records to identify and verify the existence of a Directors and Officers insurance policy.</li> <li>■ Reviewed court documents, including affidavits, filed in the ASIC Proceeding.</li> <li>■ Secured and examined the Company's files held by the solicitors who represented the Company prior to the Liquidators' appointment including any pre-appointment advice provided to the Company.</li> <li>■ Reviewed the Company's auditor's working papers and audited statements, and prepared a memorandum of our findings to consider potential claims.</li> <li>■ Conducted investigations into the potential misappropriation of GCPF's funds, and maintained an ongoing record of the findings.</li> <li>■ Investigated the management fees and referral fees paid to related entities and the valuation methodology used to value GCPF's investments.</li> <li>■ Liaised with the Liquidators' solicitors.</li> <li>■ Prepared an investigation file.</li> <li>■ Reviewed company records to assess the income tax payable for the FY24 period.</li> </ul>	
ASIC reporting	<ul style="list-style-type: none"> <li>■ Prepared statutory investigation reports which included consideration of misconduct of the Directors and/or their advisors.</li> <li>■ Liaised and attended meetings with ASIC regarding the status of the Liquidation.</li> <li>■ Investigated potential misconduct and breaches of the Act.</li> <li>■ Finalisation and lodgement of the Section 533 report to ASIC.</li> <li>■ Prepared and produced documents in response to a Section 33 Notice issued by ASIC to the Company.</li> <li>■ Liaised with ASIC regarding an extension of time to comply with the Section 33 Notice.</li> <li>■ Liaised with the FTI Tech team, ASIC, ABL and the GCPF directors' solicitors regarding the provision of documents to the GCPF directors' to review the production for privilege claims.</li> </ul>	<ul style="list-style-type: none"> <li>■ Liaise and attend meetings with ASIC regarding the status of the Liquidation.</li> <li>■ Prepare and lodge supplementary statutory report with ASIC.</li> <li>■ Compile any further documentation as requested by ASIC.</li> </ul>



Task area/General description	Work already done	Anticipated future work to be completed for the next 6 months
Litigation / Recoveries	<ul style="list-style-type: none"> <li>■ Attended weekly calls with the Liquidators' solicitors in relation to matter management, litigation and ongoing workstreams.</li> <li>■ Conducted meetings to discuss status of litigation.</li> <li>■ Liaised with the Liquidators' solicitors regarding recovery actions, as required.</li> <li>■ Liaised with the liquidators of companies that received payments from GCPF, issued formal notices to preserve assets and withhold distributions until investigations into the utilisation of GCPF's funds are complete.</li> <li>■ Instructed the Liquidators' solicitors and Counsel regarding litigation in respect of GCPF's investments, including reviewing drafts of court documents.</li> <li>■ Made a claim on behalf of GCPF in respect of its interest in real property purchased by 21 Upton St Holdings Pty Ltd (In Liquidation).</li> <li>■ Reviewed and issued letter of demand to Next Generation Advice Pty Ltd ("NGA"), and compiled information as requested by the Liquidators of NGA.</li> <li>■ Developed and implemented strategies for recovery actions and legal proceedings and liaised with lawyers.</li> <li>■ Prepared and finalised affidavits and other documents for various interlocutory applications in the court proceedings to which GCPF is a party.</li> </ul>	<ul style="list-style-type: none"> <li>■ Attend weekly calls with the Liquidators' solicitors in relation to matter management, litigation and ongoing workstreams.</li> <li>■ Conduct meetings to discuss status of litigation.</li> <li>■ Liaise with the Liquidators' solicitors regarding recovery actions and preparing affidavits, as required.</li> <li>■ Liaise with the Liquidators of companies that received payments from GCPF, issuing formal notices to preserve assets and withhold distributions, until investigations into the utilisation of GCPF's funds are completed.</li> </ul>
<b>Dividends</b>	<b>0.00 hours \$0.00</b>	
Processing proofs of debt (POD)	<ul style="list-style-type: none"> <li>■ N/A</li> </ul>	<ul style="list-style-type: none"> <li>■ Preparation of correspondence to potential creditors inviting lodgement of POD, if required.</li> <li>■ Receipt of POD.</li> <li>■ Maintain POD register.</li> <li>■ Adjudicating POD, as required.</li> <li>■ Request further information from claimants regarding POD, if required.</li> <li>■ Preparation of correspondence to claimant advising outcome of adjudication, if required.</li> </ul>
Dividend procedures (creditors)	<ul style="list-style-type: none"> <li>■ N/A</li> </ul>	<ul style="list-style-type: none"> <li>■ Preparation of correspondence to creditors advising of intention to declare dividend.</li> <li>■ Advertisement of intention to declare dividend.</li> </ul>



Task area/General description	Work already done	Anticipated future work to be completed for the next 6 months
		<ul style="list-style-type: none"> <li>■ Obtain clearance from ATO to allow distribution of assets.</li> <li>■ Prepare dividend calculation.</li> <li>■ Preparation of correspondence to creditors announcing declaration of dividend.</li> <li>■ Advertise announcement of dividend.</li> <li>■ Preparation of distribution.</li> <li>■ Preparation of dividend file.</li> <li>■ Preparation of payment vouchers to pay dividend.</li> <li>■ Preparation of correspondence to creditors enclosing payment of dividend.</li> <li>■ Consider and prepare for the future distribution(s) to investors.</li> </ul>
Dividend procedures (Investors)	<ul style="list-style-type: none"> <li>■ N/A</li> </ul>	
<b>Administration</b>	<b>275.00 hours \$130,594.90</b>	
Correspondence	<ul style="list-style-type: none"> <li>■ General correspondence with various parties including circulating reports to creditors.</li> <li>■ Uploaded creditor and Shareholder correspondence to Creditors Portal.</li> </ul>	<ul style="list-style-type: none"> <li>■ Upload creditor and Shareholder correspondence to Creditors Portal.</li> </ul>
Matter oversight/file review/checklist	<ul style="list-style-type: none"> <li>■ Filed documents on receipt.</li> <li>■ Conducted regular file reviews.</li> <li>■ Updated checklists.</li> </ul>	<ul style="list-style-type: none"> <li>■ Filing of documents.</li> <li>■ File reviews.</li> <li>■ Updating checklists.</li> </ul>
Insurance	<ul style="list-style-type: none"> <li>■ Correspondence with insurer regarding initial insurance requirements.</li> </ul>	<ul style="list-style-type: none"> <li>■ Correspondence with insurer regarding ongoing insurance requirements.</li> </ul>
ASIC Forms and lodgements	<ul style="list-style-type: none"> <li>■ Prepared and lodged ASIC forms including forms 505, 507, 484, and 5601.</li> </ul>	<ul style="list-style-type: none"> <li>■ Prepare and lodging ASIC forms as required.</li> </ul>
ATO and other statutory reporting	<ul style="list-style-type: none"> <li>■ Notified ATO of appointment as Liquidators.</li> <li>■ Prepared and lodged Quarterly BAS.</li> <li>■ Reviewed and lodged outstanding pre-appointment BAS lodgements.</li> <li>■ Reviewed and obtained tax advice regarding the Company's FY24 income tax return.</li> </ul>	<ul style="list-style-type: none"> <li>■ Prepare and lodge Quarterly BAS.</li> <li>■ Correspondence with ATO regarding the Company's FY24 income tax return.</li> </ul>



Task area/General description	Work already done	Anticipated future work to be completed for the next 6 months
Planning / Review	<ul style="list-style-type: none"> <li>■ Prepared and maintained task lists of tasks and priorities.</li> <li>■ Held internal meetings to discuss status of the Liquidation and priorities.</li> <li>■ Examined and reviewed the WIP entries of the Liquidators' fees to ensure they are reasonable and commensurate for the work done.</li> </ul>	<ul style="list-style-type: none"> <li>■ Discussions regarding status of Liquidation.</li> <li>■ Prepare task lists.</li> <li>■ Attend meetings to discuss status of the Liquidation and priorities.</li> <li>■ Examine and review the WIP entries of the Liquidators' fees to ensure they are reasonable and commensurate for the work done.</li> </ul>
Books and records / storage	<ul style="list-style-type: none"> <li>■ Created backups of the Company's books and records stored on Sharepoint and email servers.</li> <li>■ Obtained access to the Company's pre-appointment systems including Xero and Registry Direct and maintain access to same.</li> </ul>	<ul style="list-style-type: none"> <li>■ Obtain backups of the Company's books and records stored on United Global Capital's Sharepoint and emails.</li> </ul>
Funds Handling	<ul style="list-style-type: none"> <li>■ Opened new liquidation bank accounts and IPS accounts.</li> <li>■ Entered receipts and payments into accounting system.</li> <li>■ Recording pre-appointment assets into accounting system and allocating receipts against each respective asset.</li> <li>■ Requested for bank statements for various post-appointment accounts held.</li> <li>■ Correspondence with bank regarding specific transfers and setting up term deposits.</li> <li>■ Maintained term deposit accounts and obtain updates regarding current interest rates available.</li> <li>■ Conducted monthly bank reconciliation for all accounts held.</li> </ul>	<ul style="list-style-type: none"> <li>■ Enter receipts and payments into accounting system.</li> <li>■ Record the receipt of recovered pre-appointment assets against each respective asset.</li> <li>■ Request for bank statements for various post-appointment accounts held.</li> <li>■ Correspondence with bank regarding specific transfers.</li> <li>■ Maintaining term deposit accounts and obtain updates regarding current interest rates available.</li> <li>■ Conduct monthly bank reconciliation for all accounts held.</li> </ul>



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

The below table sets out work performed by the FTI Corporate Finance & Restructuring Team and various treasury employees for the period 3 October 2024 to 30 June 2025 calculated at the hours spent at the rates detailed in the Initial Remuneration Notice dated 31 October 2024 provided to creditors.

Time spent from appointment 3 October 2024 to 30 June 2025							Task Area					
Employee	Position	\$/hr	Total Hrs	Total \$	Assets Hrs	\$	Creditors and Investors Hrs	\$	Investigation Hrs	\$	Admin Hrs	\$
Corporate Finance & Restructuring												
Ross Blakeley	Senior Managing Director 1	750	122.1	91,575.00	46.4	34,800.00	4.5	3,375.00	60.3	45,225.00	10.9	8,175.00
Kelly Trenfield	Senior Managing Director 1	750	3.3	2,475.00	0.3	225.00	0.2	150.00	1.2	900.00	1.6	1,200.00
Paul Harlond	Senior Managing Director 1	750	342.0	256,500.00	272.2	204,150.00	3.1	2,325.00	52.1	39,075.00	14.6	10,950.00
James Rogers	Managing Director	675	17.0	11,475.00	16.2	10,935.00	-	-	0.8	540.00	-	-
Jessica Jedynak	Managing Director	675	58.1	39,217.50	58.1	39,217.50	-	-	-	-	-	-
Jeremy Dalais	Senior Director	600	81.5	48,900.00	77.4	46,440.00	-	-	3.0	1,800.00	1.1	660.00
Brittany Rach	Senior Director	600	38.1	22,860.00	7.3	4,380.00	4.4	2,640.00	19.0	11,400.00	7.4	4,440.00
Brittany Rach	Director	560	164.0	91,840.00	42.0	23,520.00	30.7	17,192.00	69.2	38,752.00	22.1	12,376.00
Simon Li	Director	560	12.0	6,720.00	-	-	-	-	-	-	12.0	6,720.00
Joshua Furman	Director	560	23.3	13,048.00	23.3	13,048.00	-	-	-	-	-	-
Starli Smith	Senior Consultant	485	5.8	2,813.00	4.5	2,182.50	-	-	-	-	1.3	630.50
Yan Shun Kan	Senior Consultant	485	247.1	119,843.50	109.8	53,253.00	52.1	25,268.50	59.3	28,760.50	25.9	12,561.50
Yan Shun Kan	Consultant	395	469.9	185,610.50	263.1	103,924.50	70.0	27,650.00	73.8	29,151.00	63.0	24,885.00
William Aitken	Consultant	395	17.0	6,715.00	-	-	-	-	17.0	6,715.00	-	-
Cassandra Friedman	Consultant	395	3.8	1,501.00	0.8	316.00	-	-	-	-	3.0	1,185.00
Kristine Davis	Consultant	395	4.7	1,856.50	-	-	4.3	1,698.50	-	-	0.4	158.00
Brydie Goodman	Associate	335	1.3	435.50	1.0	335.00	-	-	-	-	0.3	100.50
Daniel Pryce	Associate	335	7.4	2,479.00	-	-	2.6	871.00	0.1	33.50	4.7	1,574.50
Jaspreet Kaur	Associate	335	14.8	4,958.00	1.3	435.50	4.4	1,474.00	5.7	1,909.50	3.4	1,139.00
William Murray	Junior Associate	245	24.7	6,051.50	6.4	1,568.00	0.5	122.50	10.4	2,548.00	7.4	1,813.00
Daniel Pryce	Junior Associate	245	70.6	17,297.00	1.8	441.00	14.9	3,650.50	51.2	12,544.00	2.7	661.50
Tanya Kratz	Administration 2	265	0.3	79.50	-	-	-	-	-	-	0.3	79.50
Ashleigh Ubank	Administration 2	265	1.9	503.50	0.1	26.50	0.2	53.00	1.5	397.50	0.1	26.50
Subtotal Corporate Finance & Restructuring			1,730.7	934,754.00	932.0	539,197.50	191.9	86,470.00	424.6	219,751.00	182.2	89,335.50
Various Treasury Employees			305	34.3	10,461.50	-	-	-	-	-	34.3	10,461.50
Total (ex GST)			1,765.0	945,215.50	932.0	539,197.50	191.9	86,470.00	424.6	219,751.00	216.5	99,797.00
GST				94,521.55								
Total (Incl GST)				1,039,737.05								
Avg hourly rate (ex GST)				535.53		578.54		450.60		517.55		460.96



The below table sets out work performed by the FTI Corporate Finance & Restructuring Team and various treasury employees for the period 1 July 2025 to 30 September 2025 calculated at the hours spent at the rates detailed in **Schedule G**.

Time spent from 1 July 2025 to 30 September 2025					Task Area							
Employee	Position	\$/hr	Total Hrs	Total \$	Assets Hrs	Assets \$	Creditors and Investors Hrs	Creditors and Investors \$	Investigation Hrs	Investigation \$	Admin Hrs	Admin \$
<b>Corporate Finance &amp; Restructuring</b>												
Ross Blakeley	Senior Managing Director 1	794	36.0	28,584.00	9.1	7,225.40	4.9	3,890.60	19.2	15,244.80	2.8	2,223.20
Kelly Trenfield	Senior Managing Director 1	794	0.4	317.60	-	-	-	-	-	-	0.4	317.60
Paul Harlond	Senior Managing Director 1	794	75.7	60,105.80	56.3	44,702.20	8.0	6,352.00	7.4	5,875.60	4.0	3,176.00
James Rogers	Managing Director	756	5.9	4,460.40	5.0	3,780.00	-	-	0.9	680.40	-	-
Brittany Rach	Senior Director	681	53.3	36,297.30	15.5	10,555.50	8.1	5,516.10	21.7	14,777.70	8.0	5,448.00
Isabella Jansen	Senior Consultant	557	1.7	946.90	1.7	946.90	-	-	-	-	-	-
Yan Shun Kan	Senior Consultant	557	220.9	123,041.30	123.9	69,012.30	48.1	26,791.70	28.3	15,763.10	20.6	11,474.20
Mitchell Rix	Consultant	449	2.1	942.90	-	-	-	-	2.1	942.90	-	-
Jaspreet Kaur	Associate	375	65.8	24,675.00	29.6	11,100.00	11.6	4,350.00	8.7	3,262.50	15.9	5,962.50
Molly Sanderson-Baker	Junior Associate	267	2.0	534.00	2.0	534.00	-	-	-	-	-	-
<b>Subtotal Corporate Finance &amp; Restructuring</b>			<b>463.8</b>	<b>279,905.20</b>	<b>243.1</b>	<b>147,856.30</b>	<b>80.7</b>	<b>46,900.40</b>	<b>88.3</b>	<b>56,547.00</b>	<b>51.7</b>	<b>28,601.50</b>
<b>Various Treasury Employees</b>		<b>323</b>	<b>6.8</b>	<b>2,196.40</b>	-	-	-	-	-	-	<b>6.8</b>	<b>2,196.40</b>
<b>Total (ex GST)</b>			<b>470.6</b>	<b>282,101.60</b>	<b>243.1</b>	<b>147,856.30</b>	<b>80.7</b>	<b>46,900.40</b>	<b>88.3</b>	<b>56,547.00</b>	<b>58.5</b>	<b>30,797.90</b>
<b>GST</b>				<b>28,210.16</b>								
<b>Total (Incl GST)</b>				<b>310,311.76</b>								
<b>Avg hourly rate (ex GST)</b>				<b>599.45</b>		<b>608.21</b>		<b>581.17</b>		<b>640.40</b>		<b>526.46</b>



The below table sets out work performed by the FTI Technology team for the period 3 October 2024 to 30 September 2025.

Professional Tech Fees from appointment 3 October 2024 to 30 September 2025						Task Area	
Employee	Position	Work Type	\$/hr	Total Hrs	Total \$	Hrs	Technology \$
Philip Smith	Managing Director	Discovery Consulting	675	0.4	270.00	0.4	270.00
Philip Smith	Managing Director	Document Database Services <sup>1</sup>	395	5.8	2,291.00	5.8	2,291.00
Stuart Hall	Managing Director	Document Database Services <sup>1</sup>	395	8.5	3,357.50	8.5	3,357.50
Kelly Czurajewski	Senior Director	Document Database Services <sup>1</sup>	395	1.0	395.00	1.0	395.00
Michael Russell	Senior Director	Document Database Services <sup>1</sup>	395	0.8	316.00	0.8	316.00
Simon Li	Director	Forensic Advisory Services	515	1.0	515.00	1.0	515.00
Simon Li	Director	Forensic Analysis	515	2.0	1,030.00	2.0	1,030.00
Simon Li	Director	Forensic Data Collection and Management	515	1.0	515.00	1.0	515.00
Marc Hobson	Director	Document Database Services <sup>1</sup>	395	19.6	7,742.00	19.6	7,742.00
Mauricio Ollani	Director	Document Database Services <sup>1</sup>	395	0.2	79.00	0.2	79.00
<b>Total (ex GST)</b>				<b>40.3</b>	<b>16,510.50</b>	<b>40.3</b>	<b>16,510.50</b>
<b>GST</b>					<b>1,651.05</b>		
<b>Total (Incl GST)</b>					<b>18,161.55</b>		
<b>Avg hourly rate (ex GST)</b>					<b>409.69</b>		<b>409.69</b>

<sup>1</sup> General technology task billed at blended rate of \$395 per hour per schedule of technology fees at **Schedule J**



## Schedule C – Orders Sought

The Liquidators have sought orders from the Court in relation to approval of the Liquidators' remuneration and internal disbursements from 3 October 2024 to 30 September 2025. The below sets out an extract of the court order sought in relation to this remuneration approval report.

### *Liquidators' remuneration and internal disbursements*

1. Pursuant to section 60-10 of the Insolvency Practice Schedule (Corporations) (being Schedule 2 to the Corporations Act) ("IPSC"), the Joint and Several Liquidators shall be entitled to reasonable remuneration properly incurred in the performance of their duties totalling \$1,227,317.10, exclusive of GST, and internal disbursements totalling \$64,791.30, exclusive of GST, for the period 3 October 2024 to 30 September 2025, to be drawn from the Property of GCPF, comprising:
  - (a) remuneration incurred by the Liquidators of Global Capital Property Fund Limited (In Liquidation) ACN 635 565 070 and their staff, for the period from 3 October 2024 to 30 June 2025 (inclusive), calculated at the hours spent at the rates detailed in the Initial Remuneration Notice dated 31 October 2024 provided to creditors, is approved for payment in the amount of \$945,215.50, exclusive of GST, to be drawn from available funds immediately or as funds become available;
  - (b) remuneration incurred by the Liquidators of Global Capital Property Fund Limited (In Liquidation) ACN 635 565 070 and their staff, for the period from 1 July 2025 to 30 September 2025 (inclusive), calculated at the hours spent at the rates detailed in **Schedule G** of the Remuneration Approval Report dated 24 November 2025, is approved for payment in the amount of \$282,101.60, exclusive of GST, to be drawn from available funds immediately or as funds become available; and
  - (c) internal disbursements claimed by the Liquidators of Global Capital Property Fund Limited (In Liquidation) ACN 635 565 070 and their firm, for the period from 3 October 2024 to 30 September 2025 (inclusive), calculated at the hours spent at the rates detailed in the **Schedule J** of the FTI Consulting Technology Fee Schedule dated 21 October 2024, are approved for payment in the amount of \$64,791.30, exclusive of GST, to be drawn from available funds immediately or as funds become available.



## Schedule D – Internal Disbursements

Task area/General description	Internal Disbursements already incurred
Period	3 October 2024 to 30 September 2025
<b>Internal Disbursements Total Amount \$ (excl GST)</b>	<b>\$64,791.30</b>
FTI Consulting Technology Professional Fees	<ul style="list-style-type: none"> <li>■ Prepared documents and emails for processing and review.</li> <li>■ Hosted a Relativity training session with the Liquidators' solicitors.</li> <li>■ Prepared keyword searches, highlighting and dashboards in Relativity.</li> <li>■ Reviewed Microsoft 365 data retention settings, collecting user audit logs.</li> <li>■ Reviewed and prepared documents in response to ASIC's s33 notice.</li> </ul>
Relativity Hosting Costs and Other Related Data Costs	<ul style="list-style-type: none"> <li>■ Monthly hosting fee of c.\$3k to access Relativity.</li> <li>■ Relativity is utilised for electronic discovery services, specifically to analyse the Directors' previous email correspondence.</li> <li>■ Inbound data processing and processing fees.</li> <li>■ Monthly Relativity user fees for matter team as required.</li> <li>■ The analysis supports the investigations required for the matter, enabling the identification and retrieval of relevant communications to facilitate the recovery of investments.</li> </ul>



## Schedule E – Summary of receipts and payments

Global Capital Property Fund Limited (In Liquidation)   3 October 2024 to 31 October 2025		AUD (\$)
<b>Receipts</b>		
Pre-appointment cash		15,850,068.50
Fulham - Recoveries		7,006,318.55
Kooyongkoot - Recoveries		1,000,000.00
Applecross - Recoveries		827,802.22
Hindmarsh - Recoveries		728,913.02
Pappy's Beach - Recoveries		326,140.70
Interest income		625,236.62
Recovery of funds held on trust		257,821.00
GST refunds		198,112.00
Pre-appointment GST refund		109,446.00
Kooyongkoot - Third party cost recoveries		27,500.00
Pre-appointment debtors		10.00
<b>Total Receipts</b>		<b>26,957,368.61</b>
<b>Payments</b>		
Legal fees		1,526,057.79
Counsel's fees		515,367.12
Duress payments		165,391.94
Valuation fees		116,609.90
Legal disbursements		61,113.13
IT subscriptions / services		2,844.21
Other professional fees		2,750.00
Other government charges		1,843.00
Insurance		937.00
Bank fees		198.83
<b>Total Payments</b>		<b>2,393,112.92</b>
<b>Cash balance as at 31 October 2025</b>		<b>24,564,255.69</b>



## Schedule F – FTI Consulting Corporate Finance & Restructuring Rates to 30 June 2025 for Global Capital Property Fund Limited (In Liquidation)

Typical classification	Rates \$/hour	General guide to classifications
Senior Managing Director 1	750	Registered Liquidator and/or Trustee or corporate advisory professional, with specialist skills and experience in all forms of insolvency engagements, turnaround scenarios and restructures. Proven leadership experience in business or industry, bringing specialist expertise and knowledge to the engagement.
Managing Director	675	Broad specialist skills brought to the engagement. Extensive experience in managing large, complex engagements at a senior level over many years. May also be a Registered Liquidator and/or Trustee or has extensive leadership/senior management experience in business or industry.
Senior Director	600	Strong technical and commercial skill with significant experience in managing all types of large, complex engagements. Alternatively, has significant senior management experience in business or industry, with specialist skills and/or qualifications.
Director	560	Significant experience across all types of engagements. Strong technical and commercial skills. Has primary conduct of small to medium engagements, managing a team of professionals. Alternatively, has senior management experience in business or industry, with specialist skills and/or qualifications.
Senior Consultant	485	Typically studying to become or qualified to be a professional member of the Australian Restructuring Insolvency & Turnaround Association. Well developed technical and commercial skills. Has experience in large and complex engagements and may have primary conduct of small engagements, supervising a small team of professionals.
Consultant	395	Typically qualified chartered accountant and member of Chartered Accountants Australia & New Zealand (or similar). Required to control the tasks on small engagements or responsible for select aspects on medium to large-sized engagements under supervision of senior staff.
Associate	335	Typically a degree qualified accountant, who assists with day-to-day tasks under the supervision of senior staff.
Treasury	305	Typically, qualified accountant and/or bookkeeper. Undertakes treasury activities and is skilled in bookkeeping and funds handling activities.
Junior Associate	245	Undergraduate in the latter stage of their university degree.
Administration 2	265	Well developed administrative skills with significant experience supporting professional staff, including superior knowledge of software packages, personal assistance work and/or office management.
Administration 1	205	Has appropriate skills and experience to support professional staff in an administrative capacity.

The FTI Consulting Schedule of Rates above apply to the Corporate Finance & Restructuring practice for the liquidation of Global Capital Property Fund Limited (In Liquidation), and are subject to periodical review. It is acknowledged that any remuneration in the matter will be subject to the approval of the Court.



## Schedule G – FTI Consulting Corporate Finance & Restructuring Rates effective 1 July 2025 for Global Capital Property Fund Limited (In Liquidation)

Typical classification	Rates \$/hour	General guide to classifications
Senior Managing Director 1	794	Registered Liquidator and/or Trustee or corporate advisory professional, with specialist skills and experience in all forms of insolvency engagements, turnaround scenarios and restructures. Proven leadership experience in business or industry, bringing specialist expertise and knowledge to the engagement.
Managing Director	756	Broad specialist skills brought to the engagement. Extensive experience in managing large, complex engagements at a senior level over many years. May also be a Registered Liquidator and/or Trustee or has extensive leadership/senior management experience in business or industry.
Senior Director	681	Strong technical and commercial skill with significant experience in managing all types of large, complex engagements. Alternatively, has significant senior management experience in business or industry, with specialist skills and/or qualifications.
Director	627	Significant experience across all types of engagements. Strong technical and commercial skills. Has primary conduct of small to medium engagements, managing a team of professionals. Alternatively, has senior management experience in business or industry, with specialist skills and/or qualifications.
Senior Consultant	557	Typically studying to become or qualified to be a professional member of the Australian Restructuring Insolvency & Turnaround Association. Well developed technical and commercial skills. Has experience in large and complex engagements and may have primary conduct of small engagements, supervising a small team of professionals.
Consultant	449	Typically qualified chartered accountant and member of Chartered Accountants Australia & New Zealand (or similar). Required to control the tasks on small engagements or responsible for select aspects on medium to large-sized engagements under supervision of senior staff.
Associate	375	Typically a degree qualified accountant, who assists with day-to-day tasks under the supervision of senior staff.
Treasury	323	Typically, qualified accountant and/or bookkeeper. Undertakes treasury activities and is skilled in bookkeeping and funds handling activities.
Junior Associate	267	Undergraduate in the latter stage of their university degree.
Administration 2	269	Well developed administrative skills with significant experience supporting professional staff, including superior knowledge of software packages, personal assistance work and/or office management.
Administration 1	223	Has appropriate skills and experience to support professional staff in an administrative capacity.

The FTI Consulting Schedule of Rates above apply to the Corporate Finance & Restructuring practice for the liquidation of Global Capital Property Fund Limited (In Liquidation), and are subject to periodical review. It is acknowledged that any remuneration in the matter will be subject to the approval of the Court.



## Schedule H – Initial Remuneration Notice dated 31 October 2024

31 October 2024

### INITIAL ADVICE TO CREDITORS – BASIS OF APPOINTEES' REMUNERATION

GLOBAL CAPITAL PROPERTY FUND LIMITED (IN LIQUIDATION)

ACN 635 565 070 ("THE COMPANY")

#### Remuneration methods

There are four basic methods that can be used to calculate the remuneration charged by an insolvency practitioner. They are:

##### Time based / hourly rates

This is the most common method. The total fee charged is based on the hourly rate charged for each person who carried out the work multiplied by the number of hours spent by each person on each of the tasks performed.

##### Fixed fee

The total fee charged is normally quoted at the commencement of the administration and is the total cost for the administration. Sometimes a practitioner will finalise an administration for a fixed fee.

##### Percentage

The total fee charged is based on a percentage of a particular variable, such as the gross proceeds of assets realisations.

##### Contingency

The practitioner's fee is structured to be contingent on a particular outcome being achieved.

#### Method proposed

The Liquidators propose that their remuneration is calculated on a time basis. The Liquidators believe this method is appropriate as it ensures that only the actual work performed is charged for. There are also various tasks required to be completed which do not involve the realisation of assets, such as reporting to ASIC, undertaking investigations, corresponding with creditors, corresponding with investors and answering their queries, and completing other statutory tasks required by law.



### Estimate of remuneration for the Administration

The Liquidators estimate their remuneration for undertaking the Liquidation will be approximately \$500,000 (exclusive of GST), subject to the following variables which may have a significant effect on this estimate and that we are unable to determine until the administration has commenced:

- The full scope and extent of necessary work (from experience, unforeseen matters typically arise and may require us to perform additional work beyond that currently anticipated). This includes, but is not limited:
  - The extent of work required to understand the status of each project and liaising with developers, directors of the special purpose vehicles, and reviewing the Company's books and records regarding same;
  - The extent of work and timeframe to realise the Company's investment in these projects;
  - The extent of work required to determine and adjudicate on all creditor claims (if required);
  - The extent of work required to determine and adjudicate on all shareholder/investor claims (if required), liaising with shareholders regarding the progress of the liquidation and general queries;
  - The extent of investigations required regarding the Company's affairs and the dealings between the directors, associated individuals and associated entities;
  - The extent of the tasks necessary to pursue any antecedent transactions;
  - Whether any party initiates litigation against the Company;
  - Any dividends that may ultimately become available for creditors and shareholders/investors; and
  - The actual length of the Liquidation.

### Explanation of hourly rates

The rates for the Liquidators remuneration calculation are attached together with a general guide showing the qualifications and experience of staff that will be engaged in the administration and the role they take in the administration. The hourly rates charged encompass the total cost of providing professional services and should not be compared to an hourly wage.

### Disbursements

Disbursements are divided into three types:

- Externally provided professional services - these are recovered at cost. An example of an externally provided professional service disbursement is legal fees.
- Externally provided non-professional costs such as travel, accommodation and search fees - these are recovered at cost.



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- Internal disbursements such as photocopying, printing and postage. These disbursements, if charged to the administration, would generally be charged at cost; though some expenses such as telephone calls, photocopying and printing may be charged at a rate which recoups both variable and fixed costs.

The Liquidators are not required to seek creditor approval for disbursements paid to third parties, but must account to creditors. However, the Liquidators must be satisfied that these disbursements are appropriate, justified and reasonable.

The Liquidators are required to obtain creditor approval for the payment of internal disbursements which were not charged at cost (and which may therefore have a profit or advantage attached to them), prior to these disbursements being paid from the liquidation. These disbursements typically would include internal photocopying, printing, mail out and facsimile costs.

Details of the basis of recovering internal and external disbursements in this administration are provided in the table below. Full details of any actual costs incurred will be provided with future reporting.



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**FTI Disbursements Schedule**

Disbursement type	Charge type	Charge rate (excl GST)
Advertising	External, non-professional	At cost
ASIC Industry Funding Model Levy – metric events	External, non-professional	At cost (at prescribed ASIC rates)
Couriers and deliveries	External, non-professional	At cost
Data Room Charges	External, professional	At cost
Facsimile	Internal (FTI)	Not charged
Legal Fees	External, professional	At cost
Postage	External, non-professional	At cost
Photocopying – internal	Internal (FTI)	Not charged
Photocopying – outsourced	External, non-professional	At cost
Printing – internal	Internal (FTI)	Not charged
Printing – outsourced	External, non-professional	At cost
Records costs – storage, destruction, boxes	External, non-professional	At cost
Search fees	External, non-professional	At cost
Staff motor vehicle use - mileage	Cents per km	At prescribed ATO rates
Staff travel - accommodation, meals etc	External, non-professional	At cost
Stationery and other incidental disbursements	External, non-professional	At cost
Telephone	Internal (FTI)	Not charged
Valuation Fees	External, professional	At cost
Other externally provided professional services		At Cost
Other externally provided non-professional services		At Cost



**FTI Consulting CF&R Rates**  
**Global Capital Property Fund Limited (In Liquidation)**  
**(excluding GST)**

Typical classification	Rates \$/hour	General guide to classifications
Senior Managing Director 1	750	Registered Liquidator and/or Trustee or corporate advisory professional, with specialist skills and experience in all forms of insolvency engagements, turnaround scenarios and restructures. Proven leadership experience in business or industry, bringing specialist expertise and knowledge to the engagement.
Managing Director	675	Broad specialist skills brought to the engagement. Extensive experience in managing large, complex engagements at a senior level over many years. May also be a Registered Liquidator and/or Trustee or has extensive leadership/senior management experience in business or industry.
Senior Director	600	Strong technical and commercial skill with significant experience in managing all types of large, complex engagements. Alternatively, has significant senior management experience in business or industry, with specialist skills and/or qualifications.
Director	560	Significant experience across all types of engagements. Strong technical and commercial skills. Has primary conduct of small to medium engagements, managing a team of professionals. Alternatively, has senior management experience in business or industry, with specialist skills and/or qualifications.
Senior Consultant	485	Typically studying to become or qualified to be a professional member of the Australian Restructuring Insolvency & Turnaround Association. Well developed technical and commercial skills. Has experience in large and complex engagements and may have primary conduct of small engagements, supervising a small team of professionals.
Consultant	395	Typically qualified chartered accountant and member of Chartered Accountants Australia & New Zealand (or similar). Required to control the tasks on small engagements or responsible for select aspects on medium to large-sized engagements under supervision of senior staff.
Associate	335	Typically a degree qualified accountant, who assists with day-to-day tasks under the supervision of senior staff.
Treasury	305	Typically, qualified accountant and/or bookkeeper. Undertakes treasury activities and is skilled in bookkeeping and funds handling activities.
Junior Associate	245	Undergraduate in the latter stage of their university degree.
Administration 2	265	Well developed administrative skills with significant experience supporting professional staff, including superior knowledge of software packages, personal assistance work and/or office management.
Administration 1	205	Has appropriate skills and experience to support professional staff in an administrative capacity.

The FTI Consulting Standard Rates above apply to the Corporate Finance & Restructuring practice for the liquidation of Global Capital Property Fund. All rates are periodically reviewed. It is recognised that any remuneration is subject to the approval of the Court or creditors as applicable.



## Schedule I – Letter of Engagement with FTI Consulting Technology (Sydney) Pty Ltd



FTI Consulting Technology (Sydney) Pty Ltd  
Level 22, Gateway  
1 Macquarie Place  
Sydney NSW 2000  
Australia  
+61 2 9235 9300 telephone  
www.ftitechnology.com

**Private & Confidential**

23 October 2024

Ross Blakeley, Senior Managing Director of  
FTI Consulting (Australia) Pty Ltd on behalf of Global Capital Property Fund Limited  
Level 50, Bourke Place  
600 Bourke Street  
Melbourne VIC 3000

**Re: Global Capital Property Fund Limited**

Dear Ross,

This letter will confirm the retention of FTI Consulting Technology (Sydney) Pty Ltd ("FTI") by FTI Consulting Australia PTY LTD (Intercompany - Entity 058) (the "Client"), in connection with its representation of the above referenced matter (the "Engagement"). FTI will work under the direction of the Client in all engagements.

FTI's work is to provide electronic discovery services and analysis and to perform such other tasks as may be identified during the course of this Engagement.

FTI will provide a project manager who will maintain overall administrative responsibility for the Engagement. Charges for this assignment will be rendered monthly and will be billed at established hourly and unit rates as presented in the attached proposal 'Tech Proposal – 21102024', plus any out-of-pocket expenses.

FTI understands that Client will be solely responsible for payment of its fees and expenses. As such, FTI will submit invoices for its fees and expenses incurred in connection with this Engagement directly to the designee indicated on the signature page of this document.

FTI's Standard Terms and Conditions (collectively with this letter, the "Engagement Contract"), which Client accepts and hereby agrees to, is attached.





We very much appreciate this opportunity to work with you. If the foregoing is in accordance with your understanding, please sign this letter in the space provided and return this document to us.

Yours sincerely,

FTI Consulting Technology (Sydney) Pty Ltd

By: 

Name: Michael Khoury

Title: Senior Managing Director

Date: 23 October 2024

Accepted and approved by: FTI Consulting Australia PTY LTD (Intercompany - Entity 058)

By: 

Name: Ross Blakeley

Title: Senior Managing Director

Date: 4 November 2024

Name and Address of person designated to receive and approve invoices related to this Engagement:

Name: Paul Harlond

Address: Level 50, 600 Bourke Street, MELBOURNE VIC 3000

Country: Australia

Phone: 0434 586 020

E-Mail: paul.harlond@fticonsulting.com

Does Client require invoices to be submitted via an electronic billing system?





#### Standard Business Terms and Conditions

These Standard Business Terms and Conditions, together with the accompanying Engagement Letter, set out the terms on which the contracting party listed in the Engagement Letter (FTI Consulting Technology (Sydney) Pty Ltd ACN 112 944 439) ("FTI" or "we" or "our" or "us") will provide services to you ("Client" or "you" or "your") as described in the attached Engagement Letter ("the Engagement").

Your signed acceptance of the Engagement Letter or the commencement of performance of our services at your request, whichever occurs earlier, shall constitute your acceptance of the Standard Business Terms and Conditions and the accompanying Engagement Letter.

#### 1. Responsibilities

- 1.1 We shall perform our Engagement by using the standards of care normally and customarily exercised by professional consulting firms in performing comparable services under similar conditions.
- 1.2 You acknowledge that the success of the performance of our Engagement is dependent on your timely co-operation, including:
  - (a) providing the materials and information we reasonably require from time to time for the Engagement, and (if stated in your brief, our proposal or our Engagement Letter) your staff to work with us;
  - (b) ensuring that appropriate back-up, security and virus checking procedures are in place for any computer facilities you provide;
  - (c) making your staff with relevant skills and experience (including senior executives and management) available for consultation on request at no charge; and
  - (d) making decisions promptly, to facilitate the performance of the Engagement.
- 1.3 You acknowledge that estimates of time for completion of the Engagement are given on the assumption that we receive this co-operation and commitment from employees in your organisation. If you do not provide, or delay in providing that co-operation, you agree to pay us any additional consulting fees and expenses that may result.
- 1.4 We are entitled to rely upon the accuracy of all information provided to us by the Client or by others on behalf of the Client, without independently verifying it.
- 1.5 We will not assume any role in advising the Client's management or managing the Client's affairs. Any advice arising from the Engagement will be provided to you in our capacity as consultants. The decision to implement any or all of the recommendations arising

from this Engagement will be entirely at the discretion of the Client's directors and senior management.

#### 2. Scope of the Engagement

- 2.1 You acknowledge that you are retaining us to provide the services described in the Engagement Letter. This Engagement shall not constitute an audit, review or compilation, or any other type of financial statement reporting engagement that is subject to the rules of the Australian Securities and Investments Commission, the Australian Securities Exchange or any other state or national professional or regulatory body. We will not be under any obligation to update any advice or report we provide to you, whether oral or written, for events occurring after the advice or report has been issued to you.
  - 2.2 Subject to your payment of our fees and expenses, a copy of all information, materials, reports and other work product that we create or develop for your exclusive use shall become your property at the end of the Engagement. Any advice given or report issued by us is provided solely for your use and benefit and only in connection with the purpose in respect of which the Engagement is performed. Unless required by law, you shall not provide such report to any third party or refer to us or the Engagement without our prior written consent which we may at our discretion grant, withhold or grant subject to conditions. In no event, regardless of whether consent has been provided, shall we assume any responsibility to any third party to which any advice or report is disclosed or otherwise made available. No copy, extract or quote from it may be made available to any other party without our prior written consent as to the form and content of the disclosure.
  - 2.3 You acknowledge that no reliance shall be placed on draft reports, conclusions or advice, whether oral or written, issued by us as they may be subject to further work, revision and other factors which may mean that such drafts are substantially different from any final report or advice issued.
- #### 3. Intellectual Property
- 3.1 All methodologies, procedures, management tools, source code, enabling technology, know-how, scripts, sub-routines, workshops, manuals, software, data files, concepts, ideas and other intellectual property that we create or acquire (whether pre-existing or new) ("FTI IP") are and shall remain our sole and exclusive property and you will not acquire any interest in this intellectual property.
  - 3.2 Except as expressly set forth in this agreement, all rights and licenses granted to you are non-transferable and non-assignable. You may make a reasonable number of back-up copies of the FTI IP in accordance with your normal backup procedures so long as all copyright and other proprietary rights notices are included on all copies.
  - 3.3 We reserve all rights not expressly granted under this agreement. You acknowledge and agree we shall be







the sole and exclusive owner and copyright proprietor of all rights and title in and to the FTI IP in whatever stage of completion.

- 3.4 Except as otherwise agreed to by us, no express or implied license or right of any kind is granted to you regarding the FTI IP including, but not limited to, any right to know, use, produce, receive, reproduce, copy, market, sell, distribute, transfer, modify, or adapt the FTI IP or create derivative works based on the FTI IP or any portions thereof, or obtain possession of any source code or other technical material relating to the FTI IP. The FTI IP specifically excludes the content of any documents collected by or furnished to us by or on behalf of you which shall remain your sole and exclusive property (the "Client Data"). You represent and warrant that you are the owner of the Client Data or otherwise have the express right to provide the Client Data to us in connection with our provision of services.

- 3.5 Subject to any terms set out in the Data Protection Addendum (the "DPA") which is published at <https://www.ftitechnology.com/trust/dpa>, we may retain information or data relating to this Engagement for a period of no less than 2 years from the end of the Engagement, as evidenced by the final billing for the Engagement.

#### 4. Data Protection

- 4.1 Both parties will comply with the *Privacy Act 1988* (Cth) when handling personal information in relation to this Engagement.

- 4.2 You acknowledge and agree that you must have all rights, consents and permissions and have otherwise taken all necessary steps required by applicable laws to provide personal information to us in connection with this Engagement and for us to use personal information as set out in these terms and conditions and the accompanying Engagement Letter.

- 4.3 Notwithstanding the foregoing, if this Engagement involves, or is expected to involve, the processing of (i) personal data as governed by Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 as amended; and/or (ii) personal information as governed by the *Privacy Act 1988* (Cth) or any other data subject to the data protection laws of any other country, state or territory which apply to such processing, the terms of the DPA shall apply to this Engagement and it shall form an integral part of this Engagement. In the event of a conflict between the terms of this Engagement and the terms of the DPA, the terms of the DPA shall prevail in relation to the processing of such personal data and/or personal information. If such personal data or personal information is anticipated to be processed in connection with this Engagement, you shall notify us in writing before any personal data or personal information is disclosed to us and the applicable published DPA shall apply to this Engagement. In the event the parties do not execute the DPA, both Client and Counsel represent and warrant that they will not disclose personal data or personal information to FTI,

FTI's sub-processors or FTI's Affiliates. As such, FTI shall not be in breach of this Engagement in connection with any processing of such personal data should it be included in other data provided to FTI. Client and Counsel further acknowledge that if they are found to have transferred personal information and/or personal data subject to any applicable data protection laws without notifying FTI, FTI could face significant material legal and regulatory ramifications. Accordingly, Client agrees to indemnify, defend and hold FTI harmless against any and all losses, claims and expenses which may arise from FTI processing any data provided in a manner inconsistent with the requirements of this paragraph.

- 4.4 For purposes of these Standard Business Terms and Conditions: (i) the term "Affiliate" shall mean and include any entity that directly or indirectly controls, is controlled by, or is under common control with a party, for as long as such relationship remains in effect; and (ii) "control" means the possession of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, through contract or otherwise.

#### 5. Confidentiality

- 5.1 Both we and you agree to take all reasonable steps to maintain the confidentiality of any proprietary or confidential information of the other party. If you wish to provide a third party with copies of any of our reports, letters, information or advice you must first obtain our written permission (except where the information is being provided to your lawyers or other professional advisors involved in the subject of the services). In any event, however, our duty of care extends only to you and to no other person. If we consent to the provision to third parties as just referred to, then please note that we reserve the right to: (i) set the terms on which those copies are given or used; and (ii) require the third parties to enter into a direct relationship with us.

- 5.2 We retain copyright in all material provided to you by us or otherwise generated in the course of providing the services. Our obligation to maintain your confidentiality does not apply when we are required to disclose confidential information belonging to you by law, professional duty or in our view to protect our own interests.

- 5.3 We will notify you if we are required by law or a competent authority to provide information (including giving evidence or producing documents) in relation to any matters we have undertaken for you or on your behalf. In the event that this occurs, we reserve the right to invoice you for same and you must pay our fees and disbursements at our then standard rates and you agree that the basis for undertaking that work is under these Terms.

- 5.4 Subject to any terms set out in the DPA, we reserve the right (and you authorise us) to liaise with any third party that we believe is necessary to fully provide the services to you.







- 6. Independent Contractor Status**
- 6.1 In performing the services of the Engagement, we will be acting solely as an independent contractor, and neither we nor any of our employees shall be deemed to be employees of the Client for any purpose.
- 6.2 We will not have the authority to bind or commit the Client, incur any liability on behalf of the Client, or to otherwise act in any way as an agent or representative of the Client.
- 7. Employees of FTI**
- 7.1 During the period of the Engagement, and for a period of one year after the termination of the Engagement (for whatever reason), you may not directly or indirectly, on any account or pretext or by any means whatsoever, solicit, endeavour to entice away, employ, offer to employ, retain or otherwise engage in any way, any person who is employed by us, or was employed by us, during the period of the Engagement, and who was involved in any respect in providing services to you, regardless of whether that person would commit a breach of his or her contract of service by leaving such employment.
- 8. Disclaimer of Warranty**
- 8.1 To the extent permitted by law, we make no representations or warranties, express or implied, regarding any matter, including without limitation:
- (a) that any recommendations we make arising from the Engagement may be implemented at the cost or with the results that we may estimate or project; or
  - (b) the merchantability, suitability, originality, fitness for a particular use or purpose of any service, software or other deliverable provided under this Engagement; or
  - (c) that results to be derived from the use of any service, software or other deliverable provided under this Engagement, will be uninterrupted or error free.
- 9. Limitations on Liability**
- 9.1 In no event shall either of us be liable for any incidental, indirect, special or consequential damages whatsoever (including damages for lost profits, income or savings or interruption of business) that may be suffered or incurred by the other party or any person or entity affiliated or associated with the other party.
- 9.2 In addition, our liability for losses, damages, liabilities, suits and claims suffered by any person in connection with the Engagement, regardless of the form of action and the person or entity bringing such action, shall not exceed, in aggregate, the amount of the fees paid to us by you for this Engagement.
- 9.3 Where the Professional Standards Act and Chartered Accountants Australia and New Zealand Professional Standards Scheme in force in Australian states and territories applies or may apply, our liability for losses, damages, liabilities, suits and claims suffered by any person in connection with this Engagement, regardless of the form of action and the person or entity bringing such action, shall not exceed, in aggregate, the lower of the cap in clause 9.2 or the limit set in accordance with the Scheme.
- 10. Indemnity**
- 10.1 You agree to indemnify us and our respective partners, officers, directors, employees, agents and representatives (collectively "the Indemnified Parties") in full for and against any third party claim, loss, expenses or liability of whatever nature and in whichever jurisdiction, which we or an Indemnified Party may suffer or incur in connection with this Engagement together with costs and expenses as they are reasonably incurred (including legal fees) in connection with pending or threatened litigation in which we are a party, excluding any direct claims brought by you or your related entities in relation to the Engagement.
- 11. Professional Fees**
- 11.1 We will provide you with invoices for our fees and expenses on the basis set out in the Engagement Letter until the Engagement is completed. You must pay each invoice within fourteen (14) days from the date of the invoice unless stated otherwise on the invoice. In addition to our fees, you agree to pay for all reasonable expenses including (but not limited to) travel, meals and accommodation incurred in relation to the performance of the Engagement; and if we are required (pursuant to a summons, notice or other legal process) to produce documents, attend court or respond to a regulator in relation to the Engagement for matters or proceedings to which we are not a party, an amount at our standard billing rates to reimburse us for our professional time and expenses, including but not limited to reasonable legal fees, travel and other out-of-pocket expenses, incurred in responding to such requests.
- 11.2 To the extent we agree to offer you any discounts to the fees payable to us, you must be current on all prior outstanding invoices in order for any discounts to apply.
- 11.3 In the event you dispute any of the fees or expenses on a specific invoice, you must notify us within seven (7) days from invoice date of such a dispute. If you fail to notify us within the seven (7) day period, you shall have waived the right to dispute such invoice. Invoices with disputed line items shall be paid in full, excepting such disputed line items.
- 11.4 Without limiting our other rights and remedies, in the event any payment is not paid by you within thirty (30) days of the date of invoice, then interest shall accrue, from the thirty-first (31st) day until payment in full is received, at the rate of three (3%) percent over the Reserve Bank of Australia Cash Rate Target on the





outstanding fees in the invoice, per month. Nothing herein shall be construed as extending the due date of payments to be made by you under this Engagement. In addition to any other remedies set forth above, and any other remedies available at law, we reserve the right to halt further services until payment is received on past-due invoices. It is our normal practice to be paid in full for all work performed to date prior to issuance of a report, giving evidence, or prior to the return of Client Data. You agree to pay all court costs, legal fees and other expenses which may be associated with the collection of unpaid invoices.

11.5 We will review our rates from time to time. The rates quoted in the Engagement Letter may be increased based on any such review.

11.6 Either party may request changes to the scope of the Engagement. We shall work with you to consider and, if appropriate, to vary any aspect of the Engagement, subject to payment of reasonable additional fees and a reasonable additional period to provide any additional services. Any variation to the Engagement, including any variation to fees, services or time for performance of the Engagement, shall be detailed in writing and shall form part of the Engagement and be subject to these terms and conditions.

11.7 You shall be solely responsible for the work and fees of any other party engaged by you to participate in the Engagement regardless of whether such party was introduced to you by us. Except as provided in the Engagement Letter, we shall not be responsible for providing or reviewing specialist advice or services including legal, regulatory, accounting or taxation matters, due diligence or any other investigative services.

## 12. Goods and Services Tax

12.1 Unless expressly stated otherwise, all costs and charges quoted in these Standard Business Terms and Conditions and the accompanying Engagement Letter are exclusive of the Goods and Services Tax ("GST"). In addition to these amounts, you will be required to pay a further sum on account of our GST liability. We will provide you with a valid tax invoice for any taxable supplies.

## 13. Electronic Communications

13.1 To facilitate communication and the expedient delivery of service, we may sometimes communicate with you via electronic means, including e-mail, internet-facilitated and other forms of electronic communication. We do not and cannot ensure the security of such communications. By engaging us, you consent to and agree to accept the risks involved in these forms of electronic communication, including the risk that such communications may be corrupted or accessed by an unauthorised person. Additionally, it is your responsibility to scan electronic communications and any files attached for computer viruses and other defects. We do not accept liability for any loss or damage (whether direct, indirect, consequential or economic) however caused, and whether by

negligence or otherwise, which may result directly or indirectly from any electronic communication or attached files or from any corruption or unauthorised access of such communication. In any event, our liability is limited to the cost of re-supplying the communication.

13.2 Client acknowledges that FTI's email and associated collaboration records are processed through Microsoft 365 which is configured based on the designated location of the FTI personnel the email was addressed to and in accordance with multi-geo locations as published on: <https://learn.microsoft.com/en-us/microsoft-365/enterprise/microsoft-365-multi-geo?view=0365-worldwide#microsoft-365-multi-geo-availability>. FTI's global email archiving and spam filtering are provided through Mimecast which is replicated and retained, unless otherwise subject to an applicable legal process or litigation hold, for up to three (3) years in Germany. Client acknowledges and agrees that any Client Data provided to FTI by email will be replicated and retained accordingly. To the extent that the Client wishes to transmit certain information or any data to FTI and objects to that data being replicated and retained in accordance with this clause, Client will use a communication or transmission method other than e-mail and agrees to not transmit or otherwise disclose Client Data or personal data via email to FTI.

## 14. Termination

14.1 Either party may terminate the Engagement prior to its completion if:

- (a) the other party fails to remedy a material breach (which includes but is not limited to, any breach of by you of clause 11.1) of these terms and conditions within 14 days of written notice of such breach; or
- (b) the other party breaches a material provision of this agreement which is not capable of remedy within 14 days of written notice of such breach; or
- (c) the other party becomes insolvent, or is presented with a winding-up petition dependent on jurisdiction, in which case the termination will be forthwith upon a written notice; or
- (d) they provide 30 days' notice in writing to the other party.

14.2 If the Engagement is terminated prior to its completion, we shall be entitled to be paid for services that have been completed or expenses incurred in accordance with the fees detailed in the Engagement subject to any agreed upper limit. Any termination of the Engagement pursuant to this Clause 14 shall be without prejudice to any other rights or remedies a party may be entitled to under this Engagement or any applicable law.







- 14.3 If the Engagement is terminated for any reason by you or by us, we will exercise a lien over all documents and property held on your behalf until all money owing by you to us for bills rendered, work in progress yet to be invoiced or for any other purpose has been paid.
- 14.4 Upon termination of the Engagement:
- (a) each party shall upon written request from the other return to the other all property and documentation of the other that is in its possession provided that we shall be entitled to retain one copy of such documents that we require to maintain a professional record of our involvement in the Engagement;
  - (b) you shall immediately pay on request all fees and expenses due in respect of the services provided up to the date of termination together with our reasonable costs and expenses incurred in connection with the termination of the Engagement.
- 14.5 Sections 3, 4, 5, 7, 8, 9, 10, 12, 13 and 14 of these Terms and the obligation to pay accrued fees and expenses shall survive the expiration or termination of the Engagement.
15. Governing Law
- 15.1 The Engagement is governed by and shall be construed in accordance with laws within the Australian jurisdiction, based on the laws of the state where the Engagement Letter was issued.
16. Dispute Resolution
- 16.1 In the event of a dispute relating to the services, these Terms and/or the Engagement Letter, the parties agree to submit to mediation before having recourse to any other dispute resolution process. Where a party has a dispute, written notice of it shall be given to the other party and if the parties cannot resolve the matter, they shall attempt to agree on a mediator to determine the dispute. Where the parties cannot agree on a mediator, the Australian Disputes Centre ("ADC") shall be requested to choose a mediator. Any mediation shall be conducted in accordance with the ADC Mediation Guidelines. In the event that the dispute is not resolved within 60 days of the written notice referred to above, the mediation shall terminate (unless the parties otherwise agree).
17. Conflict of Interest
- 17.1 You acknowledge that you have not engaged us and we have not provided the services to you on an exclusive basis so we will not be prevented or restricted by anything in the Engagement from performing services for other clients. There are occasions where accepting instructions from one client can give rise to a conflict, or potential conflict, with the interests of another client. Prior to accepting new instructions from you we will routinely undertake a conflict check to establish whether any such conflict exists on the basis of the information then known to us. If necessary and as

appropriate, we will establish ethical walls and institute additional procedures to further protect the confidentiality of your information. Notwithstanding this check, or because of changed circumstances during the course of the Engagement or by virtue of new information which was not known to us at the time we conducted our initial conflict checks, a conflict of interest may become apparent after we have commenced services for you. We request that you notify us promptly of any potential conflict affecting any Engagement of us by you of which you are, or become, aware. We reserve the right to terminate this Engagement without penalty at any time if a conflict of interest becomes known to us that, in our opinion, would prejudicially impact on our obligations, either to you or a third party. In the event that we cannot continue our Engagement with you, you agree to pay our fees for performing the services up to the date that our Engagement ceases, together with any costs, charges and other out-of-pocket expenses reasonably incurred by us in connection with the performance of the services. You also agree that we shall have no liability to you arising out of or in connection with the conflict situation.

#### 18. Use of FTI Personnel Outside of Australia and Third Parties

18.1 You agree that in connection with the provision of services set out in this agreement, and to provide you with 24 hour support, we may utilise the services of personnel of the FTI group outside of Australia and/or independent contractors.

18.2 You agree that we may utilise the services of third parties in connection with:

- (a) data retrieval, storage and transmission;
- (b) the support of our data centre operations (including, but not limited to, uptime monitoring, business continuity, security testing and disaster recovery); and
- (c) products licensed by us for our delivery of services.

#### 19. Miscellaneous Provisions

19.1 You agree that you will comply with all modern slavery, anti-corruption, anti-money laundering, anti-bribery and other economic sanctions laws and regulations of Australia, the United States, United Kingdom, European Union and United Nations (collectively, "the Applicable Laws") in connection with this Engagement. You further agree that you shall not, and you shall procure your employees not to, pay or cause other person(s) to pay FTI using any funds that would result in a violation of any of the Applicable Laws by either you or FTI. You shall promptly notify FTI in the event of any violation or failure to comply with the Applicable Laws in connection with this Engagement, or allegations relating thereto, by you or your directors, officers, employees or agents.





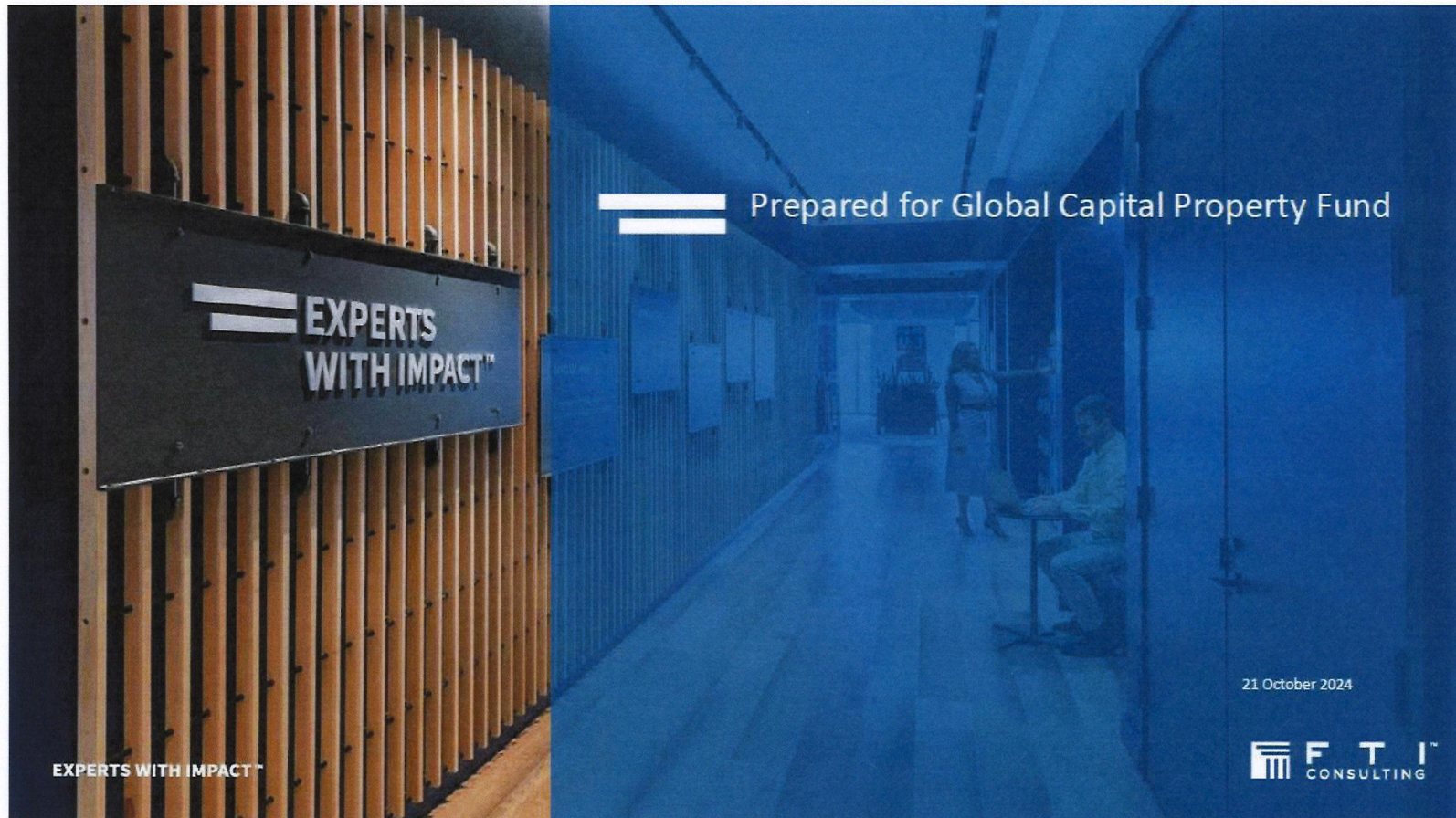


- 19.2 If any provision of these terms is held to be invalid, in whole or in part, such provision shall be deemed not to form part of the Engagement. In any event, the enforceability of the remainder of the Engagement will not be affected, provided always that if any such deletion substantially affects or alters the commercial basis of these terms and conditions, the parties shall negotiate in good faith to amend and modify them as may be necessary or desired in the circumstances.
- 19.3 Any written notice to be given to a party may be delivered in person, by letter or by email, to our address, clearly marked for the attention of the engagement partner, appearing in the letter of engagement in the case of notices to us, and to the address last notified by you in the case of notices to you.
- 19.4 Nothing in the Engagement shall prevent us from taking any such action as may be required by law or statute or to comply with the regulations of any relevant professional or regulatory body.
- 19.5 Neither of us will be liable to the other for any delay or failure to fulfil obligations caused by circumstances outside our reasonable control. If such reasons continue to prevent performance of either party's duties and obligations for a period of more than 60 days, we will consult each other for the purpose of agreeing what action should be taken.
- 19.6 We may without your consent assign or novate this Engagement to a successor to our business to which this Engagement relates.

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## Schedule J – FTI Consulting Technology Fee Schedule dated 21 October 2024







## Estimate of Fees – Option 1

This option is for **all** the data into Nuix or relativity so that it can be searched etc, ie all SharePoint, one drives and emails

Data Source	Volume (GB)
SharePoint	163.3
OneDrive	21.3
Emails	41.8
<b>Total</b>	<b>226.4</b>

Initial Month's Fees	Unit	Volume	Rate	Total
eDiscovery Processing	Per GB	226.4	\$35	\$7,924
Data Hosting – minimum hosting fee of \$1,000	Per GB/Per month	226.4	\$20	\$4,528
User fee	Per user/Per month	6	\$120	\$720
Tasked Based Billing	Hourly rate	As required	\$395	As required
<b>Total Initial Month's Charges (Processing, Hosting &amp; Consulting) ex GST</b>				<b>\$13,172</b>

On-Going Monthly Fees	Unit	Volume	Rate	Total
Data Hosting – minimum hosting fee of \$1,000	Per GB/Per month	226.4	\$20	\$4,528
User fee	Per user/Per month	6	\$120	\$720
Tasked Based Billing	Hourly rate	As required	\$395	As required
<b>Total On-Going Monthly Charges ex GST</b>				<b>\$5,248</b>





## Estimate of Fees – Option 2

This option is to upload just the email data and one drive data to Nuix or Relativity

Data Source	Volume (GB)
OneDrive	21.3
Emails	41.8
<b>Total</b>	<b>63.1</b>

Initial Month's Fees	Unit	Volume	Rate	Total
eDiscovery Processing	Per GB	63.1	\$35	\$2,208.50
Data Hosting – minimum hosting fee of \$1,000	Per GB/Per month	63.1	\$20	\$1,262
User fee	Per user/Per month	6	\$120	\$720
Tasked Based Billing	Hourly rate	As required	\$395	As required
<b>Total Initial Month's Charges (Processing, Hosting &amp; Consulting) ex GST</b>				<b>\$4,190.50</b>

On-Going Monthly Fees	Unit	Volume	Rate	Total
Data Hosting – minimum hosting fee of \$1,000	Per GB/Per month	63.1	\$20	\$1,262
User fee	Per user/Per month	As required	\$120	\$720
Tasked Based Billing	Hourly rate	As required	\$395	As required
<b>Total On-Going Monthly Charges ex GST</b>				<b>\$1,982</b>



## Fee Information



### Data Fees

Range	Rate per GB
<b>Hosting (Monthly) Nuix Discover OR RelativityOne</b>	
Flat Fee Per GB	\$25-\$20
Minimum hosting fee	\$1,000
*Online data hosting pricing is charged on high watermark. (within the month)	
<b>Users and Data Storage (monthly)</b>	
User per user	\$120
Near Line Storage per GB	\$5

Range	Rate per GB
<b>Processing</b>	
1 GBs – 2 TBs	\$45-\$35
> 2 TBs	\$35
<b>Data Engineering</b>	
Emerging Data Handling	\$95
Minimum fee of \$175 per request applies.	
*eDiscovery processing pricing is a step through tier and a one-off cost.	



## Further Fee Information



### Professional Fees – Technology Consulting

Professional fees will be billed hourly as incurred according to the rates listed below. Professional fees include training, project management and required support.

Role	Description	Rate
Tech Time	Blended rate regardless of staff level. See next page for included services.	\$395
Emerging Data   Data Transformation	Custom handling and transformation of emerging data sources, such as linked content, cloud-based collaboration platforms, chat messaging applications etc.	\$475
Consultant	Performs detailed data and systems analysis, identified risks, gathers additional data, interprets data and provides recommendations for improvements. Higher level technical skills, broader experience base, business process & industry knowledge and requiring less supervision than an analyst.	\$405
Senior Consultant	Field leadership role, moderate level of technical and subject matter expertise; provides business system advise and consulting services	\$455
Director	Junior level of entity management, manages assignment schedules and resource allocation	\$515
Senior Director	Senior employee with significant specialist expertise and team leadership capabilities	\$620
Managing Director	Management member with deep expertise (as needed) and/or digital forensics expertise.	\$675
Senior Managing Director	Senior management member (as needed) for expert services, court testimony etc	\$815

Most clients engage our Professional Services team for consultative assistance. Most tasks will be addressed by regular consultants, hence the bulk of all support work is charged at the **blended Tech Time rate of \$395**. However, Directors and more senior personnel are available to assist with regard to complex workflows and any oversight requirements for all projects. Professional fees will be billed hourly as incurred according to the rates listed in the table above. Professional fees include training, project management and required support. FTI strives to staff its engagements with sensitivity to the requested tasks and skill level required.



Task	Tasked Based Billing (DDS) \$395	Hourly Rate (DISC) professional fees apply
User management	X	
Database creation and setup	X	
Field, binder, security, saved searches	X	
Training	X	
Running standardised reports	X	
Daily reports	X	
Hyperlinking	X	
Archiving	X	
Exporting of documents	X	
Meetings as secondary consultants	X	
Downloading of other parties productions	X	
QA of other parties productions	X	
Importing of documents	X	
Preparing processing instructions of non emerging data	X	
Workflow solutions		X
Setting up CAL		X
Matter team meetings as lead		X
Methodology reports		X
Customised reports		X
QA and production preparation		X
Review of exchange protocols and suggestions		X
Data and production conversions		X
High level or multi party matter security		X
Co-ordination of emerging data		X






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