



**Future World NSW Pty Ltd (In Liquidation)  
A.C.N. 643 152 210  
("the Company")**

**hogan**  **sprolles**

**Statutory Report to creditors**

26 July 2022

## CONTENTS

1	Executive Summary.....	4
2	Update on the Liquidation .....	5
3	Financial Records .....	11
4	Investigations.....	12
5	Likelihood of a dividend .....	18
6	Receipts and Payments .....	19
7	Costs of the Liquidation .....	19
8	What happens next? .....	20
9	Where can you get more information? .....	20

## Annexures

<b>Annexure A</b>	Proof of Debt form
<b>Annexure B</b>	ARITA Information Sheet - Creditor Rights in Liquidation

## ABBREVIATIONS

Accountant	Expert Tax Solutions Pty Ltd
Act	Corporations Act 2001
ALLPAP	All Present And After- Acquired Property – No Exceptions
ARITA	Australian Restructuring Insolvency and Turnaround Association
ASIC	Australian Securities & Investments Commission
ATO	Australian Taxation Office
CBA	Commonwealth Bank of Australia Limited
Company	Future World NSW Pty Ltd (In Liquidation)
Director	Jad Nanai/Ayman Nanai
DIRRI	Declaration of Independence, Relevant Relationships & Indemnities
ERV	Estimated Realisable Value
IPR	Insolvency Practice Rules
Liquidator	Brendan Copeland
NAB	National Australia Bank Limited
Petitioning Creditor	Bizcap Au Pty Ltd/Bizcap
PPSA	Personal Property Securities Act 2009
PPSR	Personal Property and Securities Register
RoCAP	Report on Company Activities and Property
Petitioning Creditor’s Solicitor	Hilton Bradley Lawyers
TBA	To Be Advised
TBC	To be Concluded
YTD	Year To Date

## 1 Executive Summary

### 1.1 Liquidator's appointment

I was appointed Liquidator of the Company on 27 April 2022, pursuant to an order made by the Supreme Court of Victoria. The petitioning creditor is Bizcap Au Pty Ltd (“**the Petitioning Creditor**”).

This report should be read in conjunction with my initial report to creditors dated 20 May 2022. If a creditor requires a copy of the previous report, please contact Mahima Sharma of this office at [msharma@hogansprowles.com.au](mailto:msharma@hogansprowles.com.au).

### 1.2 Purpose of this report

The purpose of this report is to:

- provide you with an update on the progress of the liquidation;
- advise you of the likelihood of a dividend being paid in the liquidation; and
- Seeking approval for Liquidator's remuneration and disbursements.

If creditor have not already done so, you are requested to complete and submit to this office a Proof of Debt form (attached as **Annexure A**).

Creditors have the right to request a meeting that complies with the guidelines set out in the ARITA information sheet “Creditors Rights in Liquidation” (attached as **Annexure B**). I do not propose to hold a meeting of creditors at this time.

I expect to have completed this liquidation within three (3) to six (6) months.

### 1.3 Estimated return to creditors

Sufficient funds were realised to pay the debt of Security interest holder Bizcap Au Pty Ltd in full. However, there are insufficient assets available in the liquidation to enable a distribution to unsecured creditors.

If a dividend is going to be paid, creditors will be contacted before it happens.

If creditors have not already done so, you will be asked to lodge a proof of debt. This formalises creditors' claims in the liquidation and is used to determine all claims against the Company.

### 1.4 Summary of investigations

I am currently conducting investigating into the Company's affairs and the possible offences committed by Jad Nanai (“**the Director**”) a summary of the offences and recovery action is indicated below:

Offences / recovery action	Corporations Act	Parties	Claim (\$)
Breaches of Director duties	S180,181,182,183	Jad Nanai	TBC
Insolvent Trading	S588G	Jad Nanai	Nil
Voidable transactions	S.588FD, S.588FDA and S.588FB	Jad Nanai	Nil

My investigations are ongoing, I will need to assess the commercial viability and the cost benefit of pursuing these actions. Further details in section 4 of this report.

Any offences will be reported to the Australian Security and Investments Commission (“ASIC”) in a confidential report issued pursuant to section 533 of the Corporations Act 2001 (“the Act”).

### 1.5 Declaration of Independence, Relevant Relationships and Indemnities

My initial report to creditors included a Declaration of Independence, Relevant Relationships and Indemnities (“DIRRI”) signed by me as Liquidator of the Company. There have been no changes to the position of the DIRRI.

## 2 Update on the Liquidation

### 2.1 Background

Below is a summary of the ASIC extract of the Company:

Company Details		
Registration Date	2 August 2020	
Current Registered Office	42 Graham Avenue, Casula NSW 2170	
Current Principal Place of Business	42 Graham Avenue, Casula NSW 2170	
Director	Appointed	Ceased
Jad Nanai	2 August 2020	
Share Structure	Amount Paid	Amount Unpaid
10 Ordinary Shares	\$10.00	\$0.00
Current Shareholder	Shares Held/Type	Fully Paid
Jad Nanai	100	Yes

A personal historical search conducted of ASIC’s records discloses no other directorship in the Director’s name.

Notwithstanding, my investigations disclose that the Director is also known as Ayman Nanai. A search conducted on the ASIC’s records discloses following directorship in his other name:

#### Jad/Ayman Nanai

Company	Appointed	Ceased
Man’oushe Pty Ltd	25 Feb 2020	-

The Directors' current shareholdings in the companies are indicated below:

**Jad/Ayman Nanai**

Current Shareholding	Shares Held	Type	Fully Paid
Future World NSW Pty Ltd	10	Ordinary	Yes
Man'oushe Pty Ltd	50	Ordinary	Yes

## 2.2 Progress of the Liquidation

Please refer to my initial report to creditors dated 20 May 2022 in relation to tasks previously undertaken since my appointment. Below is a summary of the tasks undertaken since my previous report to creditors:

- Since our appointment, we have made numerous attempts to reach the Director requesting the completion of the Report on Company Activities and Property ("**RoCAP**") and the collection of books and records.
- The Director contacted my office on 30 May 2022 and advised to contact Expert Tax Solutions ("**the Accountant**") and provided his contact details.
- On 30 May 2022, correspondence was issued to the Accountant to provide me with the Company's books and records.
- After various requests, on 21 June 2022 the Accountant sent a completed RoCAP and the Director's questionnaire signed by the Director.
- I have made several attempts to obtain further information in relation to the Company however the Director has not been co-operative in providing the information in respect of the Company.
- The details disclosed by the Director in RoCAP and the Director's questionnaire regarding the Company is as follows:
  - The Company provided Formwork erection services.
  - Traded from premises located at 42 Graham Avenue, Casula NSW 2170.
- On 7 June 2022, the Accountant provided Company's books and records as detailed in the section below.

## 2.3 Books & Records

To date, I have received the following books and records from the Accountant:

- Company's bank statement for the period July 21 to March 22.
- Company Tax Return for the period FY21.
- Engagement letter with the Accountant.
- Superannuation Guarantee and Workers Compensation advice provided by the Accountant.
- Company's Management records (P & L and Balance Sheet for FY21).

In addition to the above, the Accountant advised that there were no electronic records maintained by the Company.

In addition, I have also received including but not limited to the following;

- ATO documentation;
- Company's bank statements; and
- Documentation received from the petitioning creditor's lawyers.

In my opinion the following records including but not limited to, should have also been maintained:

- Management Accounts for FY21 and up to April 22;
- Construction Licence;
- Contracts/Agreements for the projects;
- Project plans and approvals;
- Documentation regarding the projects, stages completed, money received.
- Subcontractor agreements and documentation;
- Subcontractor licences;
- Correspondence between the owners/parties involved with projects;

In my opinion, the records have not been kept in accordance with the Section 286 of the Act. Failure to maintain books and records may give rise to a presumption of insolvency pursuant to Section 588E of the Act. This presumption may be relied upon by the Liquidator in an application for compensation for insolvent trading and other actions for recoveries pursuant to Part 5.7B of the Act from the directors and related parties. The result of my investigations will be reported in my confidential report to ASIC.

## 2.4 Report on Company Activities and Property ("RoCAP")

The Act requires the Director to provide to me with a completed RoCAP, detailing the financial position of the Company at the date of my appointment.

Below is a summary of the information provided in the Director's RoCAP and the estimated realisable value ("ERV") as per my investigations:

	Notes	RoCAP	Books (\$)	Liquidator's ERV (\$)
<b>Assets</b>				
Cash at Bank	1	Unknown	832	71,700
Debtors	2	-	204,841	TBC
Intangible Assets	3	-	1,320	-
<b>Total Assets</b>		-	<b>206,993</b>	<b>71,700</b>
<b>Liabilities</b>				
Less: Secured Creditors	4	50,000	Nil	175,268
Priority Creditors - Employees	5	Nil	Nil	Nil
Unsecured Creditors*	6	Unknown	191,810	205,590
<b>Total Liabilities</b>		<b>50,000</b>	<b>191,810</b>	<b>380,858</b>
<b>Estimated Surplus/Deficiency</b>		<b>(50,000)</b>	<b>15,183</b>	<b>(309,158)</b>

## 2.4.1 Assets

### 1. Cash at bank

As advised in my previous report a total of \$71,700 was received from the Company's bank account a Commonwealth Bank of Australia Limited ("**CBA**") and National Australia Bank Ltd ("**NAB**"). There are no further updates or receipts in respect of cash at bank.

### 2. Debtors

The Director has not disclosed any debtors of the Company in his RoCAP. Notwithstanding, the financial statement received for the period FY21 disclose that there were \$204,841 in accounts receivable comprising of the following:

- Other debtors in the amount of \$52,860
- GST on Acquisitions in the amount of \$151,981

Accordingly, correspondence was issued to the Accountant and the Director to confirm regarding the updated position and provide the relevant documentation in relation to any outstanding debtors. I have made numerous requests however I am still awaiting a response from the Accountant and the Director.

### 3. Intangible assets

The Company's financial statement disclose that there is \$1,320 which relates to a formation expense.

I advise creditors that there is no realisable value available from the intangible asset.

## 2.4.2 Liabilities

### 1. Security Interest Holders

As advised in my previous report, a search of the Personal Property Securities Register ("**PPSR**") revealed two security interests registered against the Company. Upon appointment, I notified the security interest holders and a summary of the security interest is displayed below.

Secured Party	Registration	Collateral class	Registration	Notes
Bizcap AU Pty Ltd	202112290041462	ALL PAP	29 Dec 2021	Business Loan
Lumi Finance Pty Ltd	202204200022116	ALL PAP	20 Apr 2022	Business Loan

Bizcap AU Pty Ltd ("**Bizcap**") is also the Petitioning Creditor. The winding up application lodged against the Company disclose that there is \$25,670.76 owed to the Petitioning Creditor.

Lumi Finance Pty Ltd ("**Lumi**") provided the documentation which disclose the balance owed by the Company to Lumi is \$148,612.94. However, considering that the interest was registered by Lumi on 24 April 2022 (i.e. few days prior to my appointment), I engaged services of Hilton Bradley Lawyers to provide legal advice in respect of the validity of their secured interest.

On 25 May 2022, I received an advice from Hilton Bradley lawyers indicating the following:



## Security Interest holders

- On 22 December 2021, the Company executed a loan agreement with Bizcap. In relation to this:
  - Bizcap registered the security interest on 29 December 2021 on “All present and after-acquired property – No exceptions”.
  - Based on Bizcap statement dated 18 February 2022, the total amount payable by the Company under the loan agreement is \$24,645 plus legal cost of \$1,025.76, totalling \$25,670.76.
- On 14 December 2021, the Company executed a loan agreement with Lumi. In relation to this:
  - Lumi registered the security interest on 20 April 2022 (5 days before the winding up orders) on “All present and after-acquired property – No exceptions”.
  - Based on the payout statement dated 3 May 2022, the total amount payable by the Company under the loan agreement is \$149,596.94.
- On 27 April 2022, the Company was wound up by the Court and I was appointed as the Liquidator.

## Validity of Bizcap’s and Lumi’ PPSR

Section 588FL of the Act provides the security interest will vest in the Company if it is not perfected by PPSR registration by the later of:

1. 6 months before liquidation (in this case, by 27 October 2021);
2. The end of 20 business days after the security agreement that created the security interest came into force (in this case, Bizcap by mid-January 2022 and Lumi by 9 March 2022); or
3. A time order by the court pursuant to section 588FM.

The relevant time by when Lumi and Bizcap must lodge PPSR registrations (without a court order) are therefore:

- Bizcap by mid-January 2022 (20 days from execution of loan agreement);
- Lumi by 9 March 2022 (20 Business Days after an Event of Default occurred pursuant to the loan agreement, which is 11 February 2022 at the latest).

## Registration:

- Bizcap lodged the PPSR registration within 20 business days of executing the loan agreement. The registration is therefore valid.
- Lumi lodged the PPSR registration out of time on 20 April 2022. The registration is therefore invalid pursuant to section 588FL. The security interest is vested in the Company.

## Validity

The PPSR lodged by Bizcap AU Pty Ltd (Bizcap) is valid, however Lumi Finance Pty Limited (Lumi) lodged the PPSR registration out of time and therefore the security interest is vested in the Company.

On 25 May 2022, correspondence was issued by Hilton Bradley lawyers to Lumi advising them regarding invalidity of their security interest.

On 7 July 2022, I paid Bizcap \$25,670.76 in respect of their security over the assets of the Company

## 2. Priority Creditors – Employees

Employees have the right, if there are funds left over after payment of the fees and expenses of the liquidator, to be paid their outstanding entitlements in priority to other unsecured creditors pursuant to section 556 of the act.

FEG is safety net for employees in the event that a company is placed into liquidation and has insufficient funds to pay the employees entitlements. The attorney-general's department operates the FEG scheme and has a right of subrogation in respect of employee claims once it has paid these amounts, i.e. Stands in the shoes of employees in liquidation. However, FEG does not cover outstanding superannuation.

The priority claims of directors and their spouses or relatives for the period they are a director, spouse or relative of a director are limited to a maximum of \$2,000 for outstanding wages and superannuation, and \$1,500 for outstanding leave entitlements. Directors and their spouses or relatives are not entitled to any priority retrenchment pay for the period they are a director, spouse or relative of a director. The balance of the entitlements ranked as unsecured claim and is not covered by FEG.

I am not aware of any employee entitlements at this stage.

Should you be aware of outstanding employees entitlements, please contact my office to provide further information.

## 3. Unsecured Creditors

The completed RoCAP and records received to date disclose the following creditors of the Company:

Unsecured Creditors	RoCAP (\$)	Estimated Amount (\$)
Australian Taxation Office ("ATO")	Unknown	40,373
GST payable as per records	-	163,107
Trade Creditors	-	790
Related party loan	-	1,320
<b>Total Unsecured Creditors</b>	<b>-</b>	<b>205,590</b>

My investigations in respect of the trade creditors are continuing. Creditors will be notified should there be any material updates.

Should you be aware of any other creditors, please contact my office for further information.

### 3 Financial Records

I have received the below financial statements for the Company for the financial year ended 2021 prepared by the Accountant. I advise FY21 covers the period from 1 July 2020 to 30 June 2020.

#### Profit and Loss

Profit and Loss	FY21 (\$)
<b>Trading Income</b>	<b>1,631,071</b>
Less: Cost of Sales	
Materials & Supplies	113,895
Sub Contractors	<u>1,362,864</u>
	<b>1,476,759</b>
<b>Gross Profit</b>	<b>154,312</b>
<b>Gross Margin</b>	<b>9%</b>
<b>Operating Expenses</b>	
Computer & Software expense	7,018 5%
Motor Vehicle Expenses	21,100 16%
Salaries	90,783 68%
Tools	12,575 9%
Other	<u>2,452 2%</u>
	<b>133,928</b>
<b>EBITDA</b>	<b>20,384</b>
Less: Interest expense	1
Less: Income tax expense	5,300
<b>Net Profit</b>	<b>15,083</b>

My comments for the above are as follows:

- Although the Company has net profit of \$15K in FY21, I am unable to comment on the accuracy and true financial position of the Company in the absence of sufficient books and records.
- The Company's majority cost relates to subcontractor charges which comprises of 85% of the Company's total expenses.
- The Company's P&L revealed salaries expenses totalling \$90K for FY21. According to the Accountant the Company employed three (3) employees including the Director during FY21, however no further information with respect to the employees has been provided.
- Director's completed RoCAP and a search conducted on Transport for NSW disclosed that there are no vehicles owned by the Company. I have written to the Director and Accountant to provide me with further explanation in relation to these expenses. My investigations with respect to the motor vehicle expenses is currently ongoing.

## Balance Sheet

Balance Sheet	FY21 (\$)
<b>Current Assets</b>	
Cash and cash equivalents	832
Account receivable	<u>204,841</u>
	<b>205,673</b>
<b>Non-Current Assets</b>	
Intangible assets	1,320
<b>Total Assets</b>	<b>206,993</b>
<b>Current Liabilities</b>	
Account payable - GST on supplies	163,107
PAYG withholding payable	22,083
Provision for income tax	5,300
Shareholders loans (unsecured) at call	<u>1320</u>
	<b>191,810</b>
<b>Total Liabilities</b>	<b>191,810</b>
<b>Net Assets/(Liabilities)</b>	<b>15,183</b>

My comments for the above are as follows:

- Although the Company has net asset of \$15K in FY21, I am unable to comment on the accuracy and true financial position of the Company in the absence of sufficient books and records.
- The Company's major liabilities include trade payables and statutory debt. As to the date of my appointment, the Company owed a total of \$40,373.49 to the ATO with respect to income tax amount and BAS RBA deficit. The Company has not lodged activity statements since September 2021, Payroll for FY22 and Income Tax return for FY22 which may increase the tax liability. The statement disclose that the Company has \$163,107 in outstanding GST.
- The Company's largest asset is its accounts receivables, please refer to section 2.4.1 for further details.
- The adjusted net assets after excluding the unrecoverable debtors shows that the Company was trading at a net asset deficiency of circa \$190K in FY21.

## 4 Investigations

### 4.1 Company books and records

Liquidators are required to provide an opinion as to whether the Company's books and records are maintained in accordance with Section 286 of the Act for a period of seven years. The Act requires that a company maintain financial records that correctly record and explain its transactions, financial position, and performance, and enable true and fair financial statements to be prepared.

I refer to Section 2.3 of this report, to date, I have not been provided with sufficient Company's books and records. As such, I am of the view that the Company's books and records have not been kept in a manner that complies with Section 286 of the Act.

Failure to maintain books and records may give rise to a presumption of insolvency pursuant to Section 588 E of the Act. This presumption maybe relied upon by the Liquidator in an application for compensation for insolvent trading and other actions for recoveries pursuant to Park 5.7 B of the Act from the directors and related parties.

Any offences will be reported to the Australian Security and Investments Commission ("ASIC") in a confidential report issued pursuant to section 533 of the Corporations Act 2001 ("the Act").

#### **4.2 Reasons for Failure**

The Director's completed RoCAP explained the below factors for the business failure:

- The impact of Covid-19 pandemic on the business; and
- The inflated cost of material.

In my opinion, the Company's failure appears to be due to the following:

- Lack of working capital;
- Inadequate cash flow;
- Outstanding statutory liabilities;
- Mismanagement of business; and
- Inadequate books and records.

The above opinion is subject to change pending the receipt of further information and documentation from the Director.

#### **4.3 Recoveries, offences and voidable transactions**

The Liquidator is required to complete and lodge a report with ASIC pursuant to Section 533 of the Act where it appears that a past or present officer of the Company may have been guilty of an offence in relation to the Company and in other circumstances. I intend to lodge a report pursuant to this section of the Act.

Pursuant to Part 5.8B of the Act, a liquidator is permitted to recover transactions that appear to be voidable transactions in respect of money, property, or other benefits. To the extent that information has been available, I have reviewed the Company books and records for the period approximately six months prior to my appointment and determined whether any creditors have been preferred over the general body of creditors as a result of any transaction.

The relation back date period is 28 September 2021 (six months prior to 28 March 2022, the day the winding up petition was filed).

##### **a) Unfair preferences (Section 588FA)**

Unfair preferences are transactions between the Company and a creditor resulting in the creditor receiving more than the creditor would receive if the transaction were set aside and

the creditor was to prove for this amount in the winding-up. Voidable transactions must have taken place in the period beginning six months prior to the relation back day and ending on the date of liquidation.

Based on the limited books and records available to me, I have not identified any transactions that would be subject to the section of this Act. However, subject to the availability of further records/information, my investigations are continuing.

**b) Uncommercial Transactions (Section 588FB)**

Section 588FB of the Corporations Act provides for transactions that were not beneficial or detrimental to the Company as being void. The transaction must have occurred when the Company was insolvent or would become insolvent.

Based on the limited books and records available to me, I have not identified any transactions that would be subject to the section of this Act. However, subject to the availability of further records/information, my investigations are continuing.

**c) Unfair Loans (Section 588FD)**

Section 588FD of the Act provides for loans to be voided in circumstances where interest or charges are considered extortionate.

Based on the limited books and records available to me, I have not identified any transactions that would be subject to this Section of the Act. However, subject to the availability of further records/information, my investigations are continuing.

**d) Unreasonable Director-Related Transactions (Section 588FDA)**

Section 588FDA of the Corporations Act provides for transactions where it may be expected that a reasonable person in the Company's circumstances would not have entered into the transaction having regard to the benefits, detriments, and respective benefits to other parties.

Based on the limited books and records available to me, I have not identified any transactions that would be subject to the section of this Act. However, subject to the availability of further records/information, my investigations are continuing.

**e) Related Party Transactions (Section 588FE(4))**

Section 588FE(4) of the Act provides for payments to related parties may be voided where the Company was insolvent at the time of the transaction. My investigations are currently ongoing in regard to these transactions.

Based on the limited books and records available to me, I have not identified any transactions that would be subject to this Section of the Act. However, subject to the availability of further records/information, my investigations are continuing.

**f) Circulating security interest created within six months before relation back date (Section 588FJ)**

Section 588FJ of the Act provides that a circulating security interest created within six months before relation back date may be rendered void.

Please refer to section 2.4.2 for further details.

**4.4 Insolvent Trading (Section 588G)**

Section 588G of the Act provides that a company's director(s) has a duty to protect the Company from incurring debt when there are reasonable grounds for suspecting that the Company will be unable to pay its debts as and when they fall due. Section 588M of the Act provides that a liquidator is able to recover 'damages' from the director(s) of an insolvent company, in an amount equal to the loss or damage suffered by the Company as a result of a breach of duty.

Section 95A(1) of the Corporations Act 2001 provides a definition of a solvent entity as follows:

"A person is Solvent if, and only if, the person is able to pay all of its debts, as and when they become due and payable"

An insolvent entity is defined under Section 95A(2) of the Corporations Act 2001 as:

"A person which is not Solvent is Insolvent"

I can also rely on the presumption of insolvency pursuant to section 588E of the Act whereby a director has failed to deliver adequate Company books and records. I have determined that the Company was likely insolvent since its incorporation on 2 August 2020 given its unpaid debts to creditors and lack of books and records.

In addition to the above, there are defences available to directors pursuant to section 588FGB of the Act which include:

- If it is provided that, at the payment time, the person had reasonable grounds to expect, and did expect, that the company was solvent at that time and would remain solvent if it made the payment;
- Had reasonable grounds to believe and did believe:
  - That a competent and reliable person (the other person) was responsible for providing to the first-mentioned person adequate information about whether the company was solvent; and
  - That the other person was fulfilling that responsibility.
- Expected, on the basis of information provided to the first mentioned person by the other person, that the company was solvent at that time and would remain solvent even if it made the payment.

- Because of illness or for some other good reason, the person did not take part in the management of the company at the payment time.
- The person took all reasonable steps to prevent the company from making the payment; or there were no such steps the person could have taken.

Based on the current information available and the director's failure to deliver adequate Company books and records to me, I am of the opinion that the Company was trading whilst insolvent from its inception based on the presumption of insolvency pursuant to Section 588E of the Act. The quantum of the claim against the Director is likely to be at least \$355,187, being the debt incurred by the Company since its incorporation, 2 August 2020. This amount is subject to change, pending the receipt of further claims or information in relation to the Company.

#### **Director's personal financial position**

The Director has not provided his personal assets and liabilities position.

A search conducted on the NSW Land Registry disclosed that there is currently no property owned by the Director. For directorship and shareholding, please refer to section 2.1 of this report.

Given the above, I have determined to not commence pursuing for insolvent trading as the director will not have capacity to settle the claim. In addition, it will not be commercial to bring an insolvent trading claim given the possibility of a defence under Section 588GAAA of the Act which provided temporary relief to distressed businesses as per Coronavirus Economic Response Package Omnibus Bill 2020.

In addition, I am currently unfunded to pursue any recoveries against the Director.

Should a creditor intend to fund for any of the recovery actions, please contact Mahima Sharma of this office on 02 8020 5870 or via email at [msharma@hogansprowles.com.au](mailto:msharma@hogansprowles.com.au).

#### **4.5 Breach of Directors Duties**

Section 180 to 184 of the Act sets out duties and powers of directors and officers of a company to enable Directors act in the interest of the Company. The duties include:

- Section 180 – Care and Diligence
- Section 181 – Good Faith
- Section 182 – Use of Position
- Section 183 – Use of Information
- Section 184 - Good faith, use of position and use of information



### **Section 180 – Care and Diligence**

Pursuant to Section 180 of the Act a director or other officer of a corporation must exercise their powers and discharge their duties with the degree of care and diligence that a reasonable person would exercise if they:

- (a) were a director or officer of a corporation in the corporation's circumstances; and
- (b) occupied the office held by, and had the same responsibilities within the corporation as, the director or officer.

### **Section 181 – Good Faith**

Pursuant to Section 181 of the Act, a director or other officer of a corporation must exercise their powers and discharge their duties:

- (a) in good faith in the best interest of the corporation; and
- (b) for a proper purpose

### **Section 182 – Use of Position**

Pursuant to Section 182 of the Act, a director or other officer or employee of a corporation must not improperly use their position to:

- (a) Gain advantage for themselves or someone else; or
- (b) Cause detriment to the corporation.

In considering whether a director has met their duties in exercising care and diligence, various circumstances may be considered including the type of company, the size and nature of its business, the composition of its board and the distribution of the work between the board.

My investigations are ongoing into whether the Director have contravened any of the above sections in relation to his duty as director.

Further to the points outlined in this report, my investigations into the nature and history of Company are ongoing to identify any personal advantages and detriments to the Company.

I will be preparing my report to ASIC pursuant to Section 533 of the Act with regards to any breaches.

If creditors have any information which may assist my investigations, please email Mahima Sharma of my office at [msharma@hogansprowles.com.au](mailto:msharma@hogansprowles.com.au) or by phone on 02 8020 5870.

## 5 Likelihood of a dividend

The dividend position of the Company is detailed below:

Estimated Position	Notes	Liquidation ERV Incl GST (\$)
<b>Assets Subject to Security Interest</b>		
Cash at Bank		25,671
Less Bizcap	5.1	(25,671)
<b>Circulating assets</b>		
Cash at Bank not subject to PPSR	5.2	46,029
Debtors	5.3	Nil
Voidable transaction recovery	5.4	Nil
<b>Liabilities</b>		
Less Petitioners Costs	5.5	(8,521)
Less: Approved Appointees Fees and disbursements	5.6	(51,700)
<b>Total surplus/deficiency for priority creditors</b>		<b>Nil</b>
<b>Less : Employee Entitlements</b>		
Superannuation	5.7	Nil
<b>Total surplus/deficiency to unsecured creditors</b>		<b>Nil</b>
<b>Dividend to priority creditors (cents/\$)</b>		<b>Nil</b>
<b>Unsecured creditors</b>		
ATO	5.8	40,373
Lumi Finance		149,597
Other Creditors		163,897
Related Parties		
Loan		1,320
<b>Total Unsecured Creditors</b>		<b>355,187</b>
<b>Total surplus/deficiency</b>		<b>Nil</b>
<b>Dividend to unsecured (cents/\$)</b>		<b>Nil</b>

- 5.1 Please refer to section 2.4.2.1 of this report.
- 5.2 The balance that remains after the payment of security interest holder is \$46,029.
- 5.3 Please refer to section 2.4.1.2 of this report. I advise that the Director has not been co-operative in providing the information and as such, for the purpose of dividend estimation, I have taken the realisation value as nil.
- 5.4 Please refer to section 4.3 and 4.4 of this report.
- 5.5 Petitioners legal cost has been paid in the amount of \$8,521 on 3 June 2022.
- 5.6 Remuneration of \$45,000 (excl GST) and internal disbursements of \$2,000 (excl GST) were approved by creditors on 14 June 2022.
- 5.7 Currently there are no employee entitlements known at this stage.
- 5.8 Please refer to section 2.4.2.1 and 2.4.2.3 of this report.

## 6 Receipts and Payments

The receipts and payments from the date of my appointment to date is provided below:

**Future World NSW Pty Ltd (In Liquidation)**  
**R&P for the period 27 April 2021 to 26 July 2022**

<b>Receipts</b>	<b>\$ (Incl GST)</b>
Debtors	71,700.00
	71,700.00
<b>Payments</b>	
Legal Fees	6,084.39
Petitioning Costs	8,520.97
Liquidator's Remuneration	29,648.33
Liquidator's Disbursements	351.67
Secured Creditor - Bizcap Au Pty Ltd	25,670.76
	70,276.12

<b>Net Receipts/(Payments)</b>	<b>1,423.88</b>
--------------------------------	-----------------

## 7 Costs of the Liquidation

Following my previous report to creditors of 20 May 2022, remuneration of \$45,000 (excl GST) and internal disbursements of \$2,000 (excl GST) were approved by creditors on 14 June 2022.

At this stage, I will not be seeking further approval of fees from creditors.

## 8 What happens next?

I will proceed with the liquidation, including, but not limited to:

- Finalise my investigations into the affairs of the Company;
- Reporting to the corporate insolvency regulator ASIC;
- Voidable transaction recovery (if any);
- Any other matters relevant to the liquidation; and
- Finalisation.

I expect to have completed this liquidation within three (3) to six (6) months subject to pursuit of any recoveries.

If I receive a request for a meeting that complies with the guidelines set out in the ARITA information sheet “Creditors Rights in Liquidation” as attached at **Annexure B**, I will hold a meeting of creditors.

## 9 Where can you get more information?

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

- ARITA at [www.arita.com.au/creditors](http://www.arita.com.au/creditors)
- ASIC at [www.asic.gov.au](http://www.asic.gov.au) (search for “insolvency information sheets”).

If you have any queries, you can contact my office and speak with Mahima Sharma on 02 8020 5870 or by email on [msharma@hogansprowles.com.au](mailto:msharma@hogansprowles.com.au).

Yours faithfully

**Future World NSW Pty Ltd (In Liquidation)**



**Brendan Copeland**  
Liquidator