

**Emperial Homes Pty Ltd (In Liquidation)
A.C.N. 617 156 395
("the Company")**

hogan  **sprolles**

Statutory Report to creditors

2 November 2022

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Annexure A Proof of Debt form

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ABBREVIATIONS

Accountant	KST Partners Auditors & Accountants
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
Company	Emperial Homes Pty Ltd (In Liquidation)
Director	Ikbal Singh
DIRRI	Declaration of Independence, Relevant Relationships & Indemnities
ERV	Estimated Realisable Value
Former Director	Harmanjot Singh
FY	Financial Year ended
IPR	Insolvency Practice Rules
K	'000'
Liquidator	Brendan Copeland
Mil	Million
CBA	Commonwealth Bank of Australia
Petitioning Creditor	Peatling Group VIC Pty Ltd
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 3 August 2022, pursuant to an order made by the Supreme Court of Victoria. The petitioning creditor is Peatling Group VIC Pty Ltd A.C.N. 617 808 867 ("**Petitioning Creditor**").

This report should be read in conjunction with my initial report to creditors dated 26 August 2022. If a creditor requires a copy of the previous report, please contact Anny Ngo of this office at anny@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; and
- advise you of the likelihood of a dividend being paid in the liquidation.

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 six (6) to twelve (12) months.

1.3 Estimated return to creditors

There are insufficient assets available in the Liquidation. A dividend to unsecured creditors is reliant on the recoveries from voidable transactions and insolvent trading claim. At this stage, it is unlikely that a dividend will be paid in the liquidation to priority and unsecured creditors.

If a dividend is going to be paid, creditors will be contacted before it happens and if they have not already done so, creditors 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 Ikbal Singh ("**the Director**") and Harmanjot Singh ("**the Former Director**"). A summary of the offences and recovery action is indicated below:

Offences / recovery action	Corporations Act	Parties	Claim (\$)
Insolvent Trading	S588G	Director and Former Director	Uncertain
Voidable transactions	S.588FD, S.588FDA and S.588FE(4)	Director and Former Director	Uncertain

My investigation to date revealed that the Company was insolvent from July 2019 due to inadequate books and records and the inability to meet tax liability and pay trade creditors within their normal trade terms.

With the above recovery actions established, 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

I provide a summary again of the information available from ASIC search conducted for the Company:

Company Details		
Registration Date	2 February 2017	
Current Registered Office	25 Sequoia Drive, Kalkallo VIC 3064	
Current Principal Place of Business	25 Sequoia Drive, Kalkallo VIC 3064	
Director	Appointed	Ceased
Ikbal Singh	2 February 2017	-
Kadir Tekin	7 December 2018	6 July 2021
Harmanjot Singh	2 February 2017	12 February 2020
Share Structure	Amount Paid	Amount Unpaid
1000 Ordinary Shares	\$1,000.00	\$0.00
Current Shareholders	Shares Held/Type	Fully Paid
Ikbal Singh	1000 Ordinary Shares	Yes

I previously provided a summary of the Directorships and shareholdings under the Director’s names in my previous report to creditors.

2.2 Progress of the Liquidation

Please refer to my initial report to creditors dated 26 August 2022 in relation to tasks previously undertaken since my appointment.

Below is a summary of the tasks undertaken since my previous report to creditors:

- Made various requests to Harmanjot Singh (“**Former Director**”) to provide information in respect of six (6) construction projects undertaken by the Company that were assigned or transferred over to Ambition Homes Pty Limited for no consideration;
- Made various requests to debtors of the Company for monies owed to the Company;
- Arranged for the collection of two (2) vehicles from the Director;
- Correspondence issued to KST Partners (“**the Accountant**”) in relation to the Company’s records;
- Reviewed Company’s books and records received;
- Conducted investigation into the Company’s affairs; and
- Corresponded with the Director regarding the affairs of the business.

Further investigations are currently being conducted in respect of the affairs of the Company. Details of the RoCAP submitted by the Director and books and records received are disclosed in the sections below.

2.3 Books & Records

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

- Completed Report of Company Activities and Property (“**RoCAP**”);
- Income Tax Return for the Financial Year ended FY18 and FY19 prepared by the Accountant;
- Business Activity Statements for the period July 2019 to March 2020;
- The financial statements prepared by the Accountant for FY18 and FY19;
- Company’s bank statements provide by Commonwealth Bank of Australia (“**CBA**”) for the period 19 May 2017 to 13 July 2022;
- Company’s bank statements provided by Westpac for the period of 5 June 2018 to 4 August 2022;
- MYOB Management Accounts for FY17 to FY19
- Xero Management Accounts for FY19 to FY21;
- ATO documentation;
- Documentation received from the petitioning creditor’s lawyers; and
- Payroll records.

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

- Financial statements and tax return for at least FY20 and FY21;
- Financial records for the period from 1 July 2019 onwards;
- Contracts/Agreements;
- Invoices and receipts;
- Correspondence with stakeholders;
- Customer schedule with works completed or pending;
- Business Activity Statements for FY20, FY21 and YTD FY22;
- Correspondence from creditors;
- Chattel Mortgage agreements; and
- Loan agreements.

Given the above, it is in my opinion that the Company has not properly maintained its books and records from July 2019 required as per 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 (\$)	Liquidator's ERV (\$)
Assets			
Cash at Bank	1	2,300	Nil
Debtors	2	705,350	TBA
Motor Vehicles	3	107,000	TBA
Plant and Equipment	4	1,350	Nil
Total Assets		816,000	Nil
Liabilities			
Less: Secured Creditors	5	Nil	Nil
Priority Creditors - Employees	6	1,000	Nil
Unsecured Creditors	7	759,417	765,867
Total Liabilities		760,417	765,867
Estimated Surplus/Deficiency		55,583	(765,867)

2.4.1 Assets

1. Cash at bank

The Director has disclosed in his RoCAP that there is \$2,300 cash at bank. As advised in my previous report to creditors, since my appointment, I notified all the banks and received correspondence from CBA and Westpac.

CBA confirmed the Company operated one (1) account with CBA, which was closed on 13 July 2022 prior to my appointment as Liquidator.

Westpac confirmed the Company operated two (2) accounts with Westpac. One (1) account had a debit balance of \$16.31 as at the date of my appointment and the other account was closed on 15 March 2021 prior to my appointment.

2. Debtors

The Director has disclosed in his RoCAP that there are \$705,350 owed to the Company by debtors for works completed. On 21 September 2022, correspondence was issued to eight (8) homeowners requesting for payment of the outstanding amounts for works completed by the Company. I have

requested if the amounts have already been paid then the debtors are required to provide evidence of the payment amounts. To date, I have not received any correspondence in response to the letters.

As I have not received any responses from the debtors, I will now commence formal legal proceedings against the debtors for the amounts owing to the Company.

Creditors will be provided with an update in relation to the debtors in my next report to creditors.

3. Motor Vehicles

Since my previous report to creditors, I have arranged collection of two (2) motor vehicles (2018 Ford Ranger and the 2019 Toyota Hilux) owned by the Company. The two vehicles were sold at auction and the proceeds were paid to the liquidator's bank account less the amounts under the leaseholds and realisation costs.

4. Plant and Equipment

The Director has disclosed in his RoCAP that there is \$1,350 in plant and equipment of the Company. I have liaised with Pickles valuers, and they have advised that the Company's plant and equipment has no commercial value.

2.4.2 Liabilities

5. Security Interest Holders

I remind creditors that the following security interests were registered under the name of the Company:

Secured Party	Registration	Collateral class	Registration
Volkswagen Financial Services Australia Pty Limited	201803210043336	Motor vehicle	21 Mar 2018
WACO Kwikform Limited	201901070027609	Other goods	7 Jan 2019
Toyota Finance Australia Ltd	201905250007991	Motor vehicle	25 May 2019

The motor vehicles lease agreements with Volkswagen Financial Services Australia Pty Limited and Toyota Finance Australia Ltd have been paid in full, from the sale proceeds from when the motor vehicles were sold at auction.

6. Employees

The Director has disclosed in his RoCAP that the following entitlements were owed to one related employee as at the date of my appointment for unpaid wages and superannuation totalling \$1,000. However, based on my review of the Company books and records available to me, there are no outstanding employee entitlements.

Pursuant to section 556 of the Act, the priority awarded to related party employee entitlements are capped at \$2,000 for wages and superannuation and \$1,500 for annual leave and retrenchment entitlements. The employee entitlements in each scenario excludes related party's ordinary unsecured component.

The abovementioned amount is subject to change pending further review of the Company books and records and the Proof of Debts received from the former employees.

7. Unsecured Creditors

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

Creditors list	Amount (\$)
Advance Image Plastering	55,000
Arx Engineering	4,730
ATO	33,381
Belgrove Hire	2,607
Best Floors and Tiles	8,700
Bora 66	10,340
Building Surveyors Code	Unknown
CPT Electrical	165
Deposits	9,571
Digway Group	11,786
Empire Thermal	759
Floor Kingdom	13,913
Gahlay Pty Ltd	1,430
Geo Hub	1,045
Goodworks Concrete	10,588
High End Kitchens and Robes	11,000
Hire 4 U	Unknown
Hume Bricks	109,247
In Style Glass	20,395
Jagsir Singh Sidhu	6,902
Kern Bros Earthmoving	32,361
LandSet	880
LB Concrete	9,724
Mahavir Insulation	12,000
Malibue Plumbing	18,161
Melbourne Truss	17,650
Metro Drain	11,666
Metro Tipper	6,395
Mys Roofing	18,798
Peatling Group VIC Pty Ltd	39,729
Plumbcorp	8,879
Rate Energy	5,982
Rent a Fence	706
Roden Plumbing	1,500
Shine Rendering	3,080
Site Protect Pty Ltd	1,960
Supervised Building Services Pty Ltd	45,287
TLJ Stones	89,000
TPD Plumbing	21,314
Trade Creditors	41,732
True Electrical	2,640
T.cooper & Associates	4,620
Unique Timber and Doors	Unknown

Unique Truss	23,000
Universal Stones	19,645
Western Scaffolding	7,599
Windows Now	10,000
Total	765,867

I advise the above creditors list and amount may increase pending on receipt of proof of debts from creditors and further investigations.

My investigations in respect of the assets and liabilities position 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.

This section has been left blank intentionally

3 Financial Records

I have received the below financial statements for the Company for FY18 and FY19 prepared by the Accountant.

Profit and Loss	FY18 (\$)	YTD FY19 (\$)
Operating Income		
Sales	1,371,394	7,085,677
<i>Less: Cost of goods sold</i>	1,335,024	6,941,406
Gross Profit	36,370	144,271
<i>Gross Margin</i>	<i>2.70%</i>	<i>2%</i>
Operating Expense		
Accounting Fee	2,000 6%	7,350 6%
Advertising & Sponsorship	9,405 26%	13,891 10%
Employment Expense	500 1%	8,800 7%
Motor Vehicle Depreciation	7,818 22%	22,815 17%
Motor Vehicle Other	11,879 33%	25,268 19%
Motor Vehicle Term Charges	1,933 5%	7,091 5%
Office Supplies	134 0%	2,493 2%
Rental	- -	27,500 21%
Rental Outgoings	- -	2,322 2%
Wages & Salaries	- -	11,661 9%
Telephone	645 2%	1,407 1%
Other Expenses	1,522 4%	2,701 2%
	35,836	133,299
EBITDA	534	10,972
Less: Interest expenses	-	2,164
Less: Amortisation	1,278	1,657
Less: Depreciation	2,682	11,982
Net Profit/(Loss)	(3,426)	(4,831)

My comments for the above are as follows:

- The Company provided domestic building & constructions project management services of residential homes and engaged sub-contractors to work on the projects. The Company ceased trading in early 2022 upon completion of its last project.
- The Company was loss making in FY18 and FY19 totalling \$8,257.
- The Company's majority costs relate to motor vehicles, rent and advertising & sponsorship which comprises between 67% to 81% of the Company's total expenses.

- I cannot provide any further comments in relation to FY20 and FY21.

Balance Sheet

Balance Sheet	FY18 (\$)	YTD FY19 (\$)
Current Assets		
Cash	69,080	83,440
Non Current Assets		
Prepayment	93,022	12,225
Intangibles	1,000	750
Property, Plant & Equipment	-	96,373
	94,022	109,348
Total Assets	163,102	192,788
Current Liabilities		
GST Payable	11,464	7,225
Provision for Accounting Fee	2,000	4,000
PAYG Withholding Payble	-	1,911
Superannuation Payble	-	1,108
Chattel Mortgage	15,444	24,822
	28,908	39,066
Non Current Liabilities		
Chattel Mortgage	69,792	68,504
Director Loan	66,828	92,475
	136,620	160,979
Total Liabilities	165,528	200,045
Net Assets	(2,426)	(7,257)

My comments for the above are as follows:

- The Company was asset deficient since FY18.
- The Company's major liabilities comprises of chattel mortgages in relation to the leased vehicles and amounts owing to the Director. The Director was injecting working capital to meet the expenses of the Company.
- The Company's FY19 balance sheet recorded approximately \$83K cash. As at the date of my appointment there were no funds held in the Company's bank account.

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 since July 2019.

Failure to maintain books and records may give rise to a presumption of insolvency pursuant to Section 588 E 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 5.7 B of the Act from the directors and related parties.

Please refer to my comments in section 2.3 of this report.

Any offences identified 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 Former Director and his father taking money from the Company;
- Resignation of the Former Director, which was lodged fraudulently which resulted in the day to day operation of the Company being solely left to the Director: and
- The impact of Covid-19 pandemic on the business;

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

- Inadequate cash flow to meet the liabilities of the Company;
- Potential misappropriation of Company funds by the Director and Former Director.
- Shareholder dispute; and
- Mismanagement of business.

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 5 January 2022 (six months prior 5 July 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.

Based on the information available to me, I have not identified any transactions that would be subject to this Section of the Act.

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 information available to me, I have not identified any transactions that would be subject to this Section of the Act.

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 information available to me, I have not identified any transactions that would be subject to this Section of the Act.

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.

Through my investigation I have found a number of transactions that occurred relating to the Former Director. In light of those transactions, I have requested further information from the Former Director.

On 23 September 2022, I issued a letter to the Former Director in relation to amounts outstanding, which related to his personal home being built by the Company plus an amount of \$37k being withdrawn from the Company's bank account after he resigned as a director. The Former Director has advised that the funds were used to pay a former employee who was owed outstanding wages and entitlements.

I am currently going through all the additional documents provided by the Former Director. Once I have completed my investigation, I will advise creditors in my next report.

In addition to the additional documents provided by the Former Director, he has also advised that the Director, used Company funds for his personal use and that he has evidence to support the above. I have requested the Former Director provide me with this evidence regarding the above.

As at the date of this report the Former Director has not provided any additional evidence to support his statement regarding the Director using Company funds for his personal use.

My investigation against the Director and Former Director are ongoing and I will provide an update to creditors in my next report.

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 into related party transactions is currently ongoing. Creditors will be advised if there are any material updates.

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 maybe rendered void.

There were no circulating security interests that were created within six (6) months before the relation back date. 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"

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, I am of the opinion, that the Company was trading whilst insolvent from at July 2019. The reason for this view is provided below:

a) Presumption of insolvency

The Company did not properly maintain books and records from July 2019 that complied with Section 286 of the Act. Accordingly, it can be presumed that the Company traded insolvently from July 2019.

b) Profit and Loss

- The Company generated net loss of (\$3.4K) in FY18; and
- The Company generated net loss of (\$4.8K) in FY19.

c) Balance Sheet

- The Company generated net deficiency of (\$2.4K) in FY18; and
- The Company generated net deficiency of (\$7.2K) in FY19.

d) Outstanding lodgements

The Australian Taxation Office (“**ATO**”) advised that the balance outstanding to the ATO in respect of the Running Balance Account deficit (“**RBA**”) as at the date of my appointment is in the amount of \$33,381.04.

The ATO commenced on 16 June 2020 when the Company incurred a debt of \$10,574.00 which the Company did not pay. ATO has advised that the Company has, a number of

outstanding statements of Accounts for Income Tax and outstanding Tax Returns for 2020, 2021 and 2022.

The Company had difficulty paying the tax liabilities from and failed to prevent the Company from incurring statutory debts, penalties and interests from at least 16 June 2020.

I have received a proof of debt form from the ATO in respect of the RBA totalling \$33,381.04.

e) Creditor demands

With the limited books and records received, I am unable to comment if the Company had received letter of demands/notices from creditors. Notwithstanding, I have received statements from several creditors disclosing that there are amounts outstanding since November 2021.

Insolvent Trading Claim

The quantum of claim from July 2019 is currently estimated at \$765,867 based on the debts outstanding at the date of my appointment.

This amount is subject to change, pending the receipt of further claims or information in relation to the Company. Further investigations would be required to establish the recoverability of the claim.

Director's personal financial position

According to the ASIC search, the director holds directorship over the following Companies:

Ikbal Singh

Company	Position	Commenced	Ceased
Emperial Homes (Aust) Pty Ltd	Director & Secretary	29 June 2021	-

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

As advised in my previous report, a search conducted on the NSW Land Registry disclosed that there is no property currently registered under the Company or the Director.

There may also be an insolvent trading claim against the Former Director for the period of his directorship between July 2019 and 12 February 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 Anny Ngo of this office on 02 8020 5853 or via email at anny@hogansprowles.com.au by 30 November 2022.

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 Director's 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 Anny Ngo of my office at anny@hogansproawles.com.au or by phone on 02 8020 5853.

5 Likelihood of a dividend

A dividend to unsecured creditors is reliant on the recoveries from voidable transactions and insolvent trading claim.

At this stage, there are insufficient funds to meet the cost of the liquidation and accordingly it is unlikely that a dividend will be paid in the liquidation to any class of creditors.

If a dividend is going to be paid, creditors will be contacted before it happens and if they have not already done so, creditors 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.

6 Receipts and Payments

Receipts and Payments For the period of 3 August 2022 to 2 November 2022	
Receipts	\$ incl GST
Sale of Toyota Hilux at auction	18,300.00
Sale of Ford Ranger at auction	28,000.00
Total Receipts	\$46,300.00
Payments	
Auctioneer's Costs	4,325.75
Toyota Finance Australia Ltd	1,773.93
Volkswagen Financial Services Australia Pty Limited	11,165.25
Legal Fees	7,578.00
Liquidator's Remuneration for 3/8/2022 to 24/8/2022	14,173.50
Liquidator's Disbursements	213.05
Total Payments	\$39,229.48
Net Receipts	\$7,070.52

7 Costs of the Liquidation

Following my previous report to creditors of 26 August 2022, remuneration of \$45,000 (excl GST) and internal disbursements of \$2,000 (excl GST) were approved by creditors on 19 September 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;
- Realisation of Company assets and debtors;
- Voidable transaction recovery (if any);
- Any other matters relevant to the liquidation; and
- Finalisation.

I expect to have completed this liquidation within six (6) to twelve (12) 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
- ASIC at www.asic.gov.au (search for “insolvency information sheets”).

If you have any queries, you can contact my office and speak with Anny Ngo on 02 8020 5853 or by email on anny@hogansprowles.com.au.

Yours faithfully,

Emperial Homes Pty Ltd (In Liquidation)



Brendan Copeland

Liquidator

FORM 535
CORPORATIONS ACT 2001

ACN 617 156 395

Subregulation 5.6.49(2)

FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)

To the Liquidator of Emperial Homes Pty Ltd (in Liquidation)

1. This is to state that the company was, on 3 August 2022⁽¹⁾ and still is, justly and truly indebted to⁽²⁾ (full name):.....
(‘Creditor’).....
of (full address)

for dollars and cents.

Particulars of the debt are:

Date	Consideration ⁽³⁾ <small>state how the debt arose</small>	Amount \$	GST included \$	Remarks ⁽⁴⁾ <small>include details of voucher substantiating payment</small>

2. To my knowledge or belief the creditor has not, nor has any person by the creditor's order, had or received any manner of satisfaction or security for the sum or any part of it except for the following:

Insert particulars of all securities held. Where the securities are on the property of the company, assess the value of those securities. If any bills or other negotiable securities are held, specify them in a schedule in the following form:

Date	Drawer	Acceptor	Amount \$ c	Due Date

 I am **not** a related creditor of the Company ⁽⁵⁾ I am a related creditor of the Company ⁽⁵⁾
relationship: _____3A.^{(6)*} I am employed by the creditor and authorised in writing by the creditor to make this statement. I know that the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.3B.^{(6)*} I am the creditor's agent authorised to make this statement in writing. I know that the debt was incurred and for the consideration stated and that the debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.

DATED this day of 2022

Signature of Signatory

.....
NAME IN BLOCK LETTERS.....
Occupation.....
Address.....
Email

See Directions overleaf for the completion of this form

OFFICE USE ONLY

POD No:		ADMIT (Voting / Dividend) - Ordinary	\$
Date Received:	/ /	ADMIT (Voting / Dividend) – Preferential	\$
Entered into CORE IPS:		Reject (Voting / Dividend)	\$
Amount per CRA/RATA	\$	Object or H/Over for Consideration	\$
Reason for Admitting / Rejection			
PREP BY/AUTHORISED		TOTAL PROOF	\$
DATE AUTHORISED / /			

Proof of Debt Form Directions

- * Strike out whichever is inapplicable.
- (1) Insert date of Court Order in winding up by the Court, or date of resolution to wind up, if a voluntary winding up.
 - (2) Insert full name and address (including ABN) of the creditor and, if applicable, the creditor's partners. If prepared by an employee or agent of the creditor, also insert a description of the occupation of the creditor.
 - (3) Under "Consideration" state how the debt arose, for example "goods sold and delivered to the company between the dates of", "moneys advanced in respect of the Bill of Exchange".
 - (4) Under "Remarks" include details of vouchers substantiating payment.
 - (5) Related Party / Entity: Director, relative of Director, related company, beneficiary of a related trust.
 - (6) If the Creditor is a natural person and this proof is made by the Creditor personally. In other cases, if, for example, you are the director of a corporate Creditor or the solicitor or accountant of the Creditor, you sign this form as the Creditor's authorised agent (delete item 3A). If you are an authorised employee of the Creditor (credit manager etc), delete item 3B.

Annexures

- A. If space provided for a particular purpose in a form is insufficient to contain all the required information in relation to a particular item, the information must be set out in an annexure.
- B. An annexure to a form must:
 - (a) have an identifying mark;
 - (b) and be endorsed with the words:
 - i) "This is the annexure of *(insert number of pages)* pages marked *(insert an identifying mark)* referred to in the *(insert description of form)* signed by me/us and dated *(insert date of signing)*;
and
 - (c) be signed by each person signing the form to which the document is annexed.
- C. The pages in an annexure must be numbered consecutively.
- D. If a form has a document annexed the following particulars of the annexure must be written on the form:
 - (a) the identifying mark; and
 - (b) the number of pages.
- E. A reference to an annexure includes a document that is with a form.

Creditor Rights in Liquidations

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



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.

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.

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

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.

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. 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.

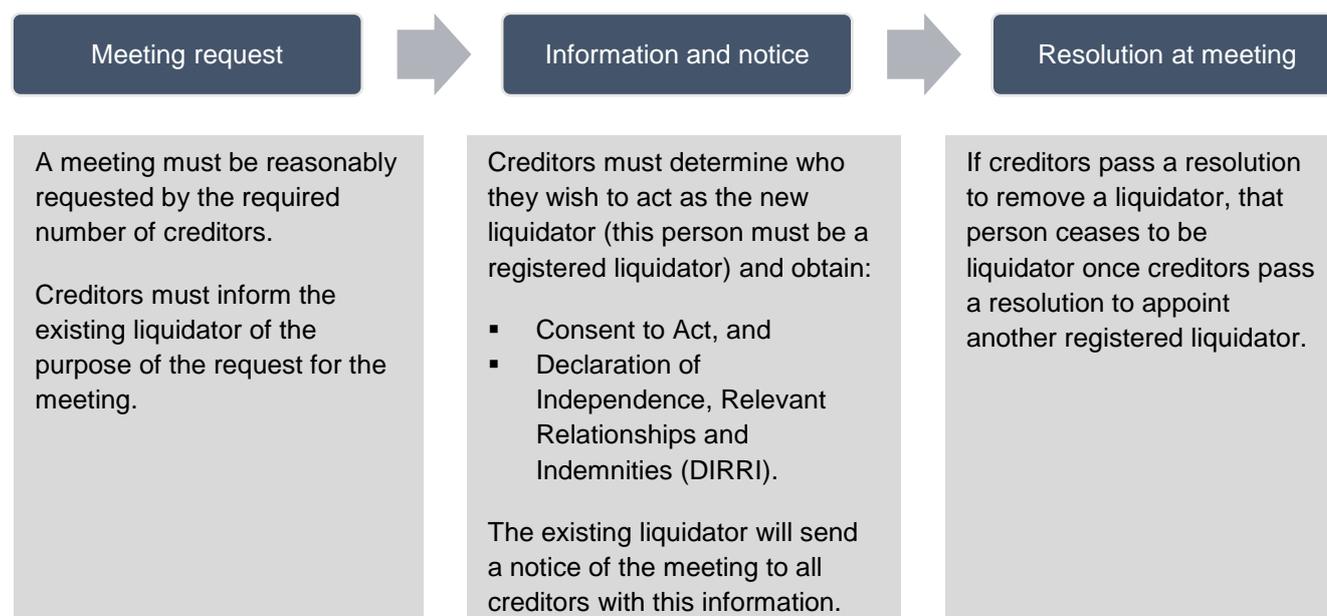
The cost of the reviewing liquidator is paid from the assets of the liquidation, in priority to creditor claims.

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.

For this to happen, there are certain requirements that must be complied with:



**For more information, go to www.arita.com.au/creditors.
Specific queries about the liquidation should be directed to the liquidator's office.**