

RSM Bird Cameron Partners

Chartered Accountants

8 St Georges Terrace Perth WA 6000
GPO Box R1253 Perth WA 6844
T +61 8 9261 9100 F +61 8 9261 9340
www.rsmi.com.au

Email: clare.hayman@rsmi.com.au
CLHA: C1:B901272

19 May 2010

TO CREDITORS

Dear Sir/Madam

Base Earthmoving Pty Ltd (Administrators Appointed) ACN 079 210 816 (“the Company”)


As previously advised, Mark Conlan and I were appointed Joint and Several Administrators of the Company on 21 April 2010 pursuant to section 436A of the Corporations Act 2001.

For your information and assistance, I attach the following:-

1. Notice of Meeting to be held at the offices of RSM Bird Cameron Partners, 8 St. Georges Terrace, Perth WA 6000 on 27 May 2010 at 11:00am WST;
2. Administrators' Report, including a report on the Company's business, property, affairs and financial circumstances. The report contains a statement setting out our opinion about each of the following matters and our reasons for the those opinions:-
 - a. Whether it would be in the creditors' interests for the Company to execute a Deed of Company Arrangement;
 - b. Whether it would be in the creditors' interests for the Company to be wound up;
 - c. Whether it would be in the creditors' interests for the Administration to end; or
 - d. Whether it would be in the creditors' interests to adjourn the meeting for up to 45 business days.
3. Informal Proof of Debt Form for voting purposes. Any Informal Proof of Debt Forms submitted for the purposes of the first meeting of creditors and accepted by the Chairperson of that meeting for voting purposes will be valid for this meeting; and
4. Instrument of Proxy.

Should you have any questions in relation to this matter, please contact Johnathon Busing of this office on (08) 9261 9279.

Yours faithfully



GREG DUDLEY

Joint & Several Administrator

Encl.

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Major Offices in:
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ABN 36 965 185 036

RSM Bird Cameron Partners is an
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FORM 529
CORPORATIONS ACT 2001

Subregulation 5.6.12(6)

NOTICE OF MEETING OF CREDITORS
BASE EARTHMOVING PTY LTD
(ADMINISTRATORS APPOINTED)
ACN 079 210 816

NOTICE is given that a meeting of the creditors of the Company will be held at the offices of RSM Bird Cameron Partners, on 27 May 2010 at 11.00AM WST.

A G E N D A

1. To receive a Statement about the Company's business, property, affairs and financial circumstances.
2. To receive the report of the Administrators.
3. For creditors to resolve:
 - a. that the Company execute a Deed of Company Arrangement; or
 - b. that the administration should end; or
 - c. that the Company be wound up; or
 - d. pursuant to section 439B(2) of the Corporations Act, creditors may adjourn the meeting for up to 45 business days.
4. To fix the remuneration of the Administrators.
5. If the Company is wound up, to consider appointing a Committee of Inspection.
6. If no Committee is appointed, to fix the remuneration of the Liquidators.
7. If no Committee is appointed, to consider the destruction of the books and records at the conclusion of the winding up.
8. Any other business that may be lawfully brought before the meeting of creditors.

Proxies to be used at the meeting should be lodged at the office of the Administrators by 4:00pm on the day prior to the meeting. A creditor can only be represented by proxy or by an attorney in accordance with Corporations Regulations 5.6.28 to 5.6.32 (inclusive) and, if a body corporate, by a representative appointed pursuant to Section 250D.

In accordance with Regulation 5.6.23(1) of the Corporations Regulations, creditors will not be entitled to vote at this meeting unless they have previously lodged particulars of their claim against the Company in accordance with the Corporations Regulations and that claim has been admitted for voting purposes wholly or in part by the Voluntary Administrators.

DATED this 19th day of May 2010.



GREG DUDLEY
Joint and Several Administrator

RSM Bird Cameron Partners
8 St Georges Terrace
PERTH WA 6000

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Chartered Accountants

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STATEMENT OF ADMINISTRATORS' OPINION

Corporations Act 2001 – Section 439A(4)

**Base Earthmoving Pty Ltd (Administrators Appointed)
ACN 079 210 816 (“the Company”)**

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1. INTRODUCTION

- 1.1. On 21 April 2010, Mark Conlan and I were appointed Joint & Several Voluntary Administrators of the Company pursuant to Section 436A of the Corporations Act 2001 (“the Act”).
- 1.2. The first meeting of creditors was held on 4 May 2010 at which creditors ratified our appointment as Joint & Several Voluntary Administrators.
- 1.3. As required by Section 439A(4)(a) of the Act, and to assist with creditors in determining the future of the Company, we have conducted preliminary investigations into the Company’s business, property, affairs and financial circumstances.
- 1.4. The outcome of our enquiries and opinions in accordance with Section 439A(4) of the Act is contained in this report.
- 1.5. In accordance with the Insolvency Practitioners’ Association of Australia – Code of Professional Conduct under Section 436DA of the Act, a Declaration of Independence, Relevant Relationships and Indemnities (“DIRRI”) was sent to creditors with notification of our appointment and was tabled at the first meeting of creditors. A copy is attached as Annexure A.
- 1.6. There have been no changes to the DIRRI since 21 April 2010.
- 1.7. Accordingly, we remain satisfied that we are not precluded by Section 448 of the Act from acting independently for the benefit of all creditors.

Second Meeting of Creditors

- 1.8. The second meeting of creditors of the Company will be held on 27 May 2010 at 11.00am WST. Notice of the meeting is attached.
- 1.9. The purpose of the meeting is for creditors to decide the future of the Company.
- 1.10. At the meeting creditors may resolve that:
 - 1.10.1. The Company execute a Deed of Company Arrangement (“DOCA”); or
 - 1.10.2. The administration should end; or
 - 1.10.3. The Company should be wound up; or
 - 1.10.4. Pursuant to Section 439B(2) of the Act, creditors may adjourn the meeting for up to 45 working days.

Balance of the Report

1.11. The balance of our report is set out under the following major headings:

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Annexures

A	Declaration of Independence, Relevant Relationships & Indemnities
B	Administrators' Trading Statement as at 14 May 2010
C	Outline of Proposed DOCA Proposal
D	Dividend Estimate
E	Administrators Receipts and Payments for the period 21 April 2010 to 17 May 2010

2. EXECUTIVE SUMMARY

- 2.1. The Company has continued to trade under our control during the Voluntary Administration period with the assistance of the Director and staff for the purpose of facilitating the possible restructure of the Company pursuant to a DOCA.
- 2.2. On 18 May 2010 we had received a letter from the Director advising his intention to put forward a DOCA proposal for creditors' consideration. The draft terms of the proposed DOCA are subject to the Director's ability to obtain third party funding. Accordingly the Director is seeking an adjournment of the second meeting of creditors to allow time for such funding to be obtained.
- 2.3. In summary the Director's proposal would reduce the ordinary unsecured creditor claims by 20% to 33% thus increasing any dividend by the same percentage and negates termination payments to employees.
- 2.4. The draft proposal also negates the potential Liquidators' claims in respect of Unfair Preferences and Insolvent Trading.
- 2.5. Under the draft proposal control of the Company would revert to the Director and as such the Company would continue in existence.
- 2.6. On balance we believe that creditors should consider adjourning the meeting for a short period of time to allow the Director to provide a formal DOCA proposal, subject to the Director providing pertinent information regarding his ability to refinance to the meeting of creditors.
- 2.7. Should creditors resolve to wind up the Company the return to ordinary unsecured creditors may range between 13 and 78 cents in the dollar (refer to Annexure D).
- 2.8. The estimated return to creditors is dependent upon the ultimate realisation from:-
 - 2.8.1. The Company's assets, including debtors, stock and plant and equipment;
 - 2.8.2. The quantum of creditor claims including partly secured creditors; and
 - 2.8.3. Recoveries of Voidable Transactions that can only be pursued by a Liquidator, including:-
 - 2.8.3.1. Unfair preference claims that may recover approximately \$80,000 (Section 9); and
 - 2.8.3.2. Potential insolvent trading claims against the Director that may recover approximately \$130,000 (Section 10).

3. BUSINESS AND STATUTORY INFORMATION

Nature of Company's Business

- 3.1. The Company was incorporated on 14 July 1997 and commenced trading about this time.
- 3.2. The Company's main business is wet and dry plant hire and equipment hire, transportation, supply and hire of crushing and screening plant, production and supply of various aggregates for road base.
- 3.3. At the time of our appointment, the Company operated from a workshop and storage yard at 44 Weston Street, Naval Base ("the premises"). The premises are owned by the Director.

Officers

- 3.4. The current and former Directors and Company Secretaries are detailed in Table 1 below:

Name	Position	Appointed	Cessation
Paul Steele	Director & Company Secretary	14/07/1997	Continuing
Helen May Miller	Director	14/07/1997	01/06/2000
John Nicolls	Company Secretary	11/08/1998	26/06/2008

Table 1: Summary of Directors and Secretaries

Shareholders

- 3.5. The paid up capital of the Company is \$10 being 10 ordinary shares. The current shareholders are detailed below in Table 2:

Name	Number Held	Fully Paid
Paul Steele	9	Yes
Elaine Deborah Greaves	1	Yes

Table 2: Summary of Shareholders

Related Entities

- 3.6. The Director is also a Director and shareholder of a related entity, Wildstrike Pty Ltd ("Wildstrike") ATF the Oldbury Trust. Wildstrike owns land and property in Exmouth which the Company utilises from time to time when the Company is undertaking work for customers in the region.

4. ADMINISTRATORS' PERIOD OF TRADE

- 4.1. The Company has continued to trade under our control during the Voluntary Administrators period with the assistance of the Director and staff.
- 4.2. We have continued to trade the Company's business in the short term to allow our office sufficient time to make a financial assessment of the Company and consider any DOCA proposals formulated by the Director.
- 4.3. Shortly after our appointment and together with the Director, a review of the Company's asset holdings, both freehold and leased, was conducted. This analysis

included consideration of ongoing customer obligations and demands. As a result a number of assets were either sold via auction or private sale or disclaimed to the relevant lessor. We refer you to paragraph 8.29 for further commentary.

- 4.4. Proceeds from the sale of freehold assets and equity in leasehold assets have been utilised to assist in the continuation of trade.
- 4.5. Attached as Annexure B is a summary of the Company's trading position since the date of my appointment to 14 May 2010.
- 4.6. The summary reveals that the Company has lost an average of \$11,875.72 per week during this period.
- 4.7. Should creditors resolve to adjourn the meeting so as to allow the Director time to refinance and put a formal DOCA proposal to creditors there is a significant risk that the Company will continue to trade at a loss, thus reducing the available funds to creditors.
- 4.8. Further, dependent upon the length on an adjournment, if any, and the cashflow position of the Administration, it is possible that we may suspend trading operations.
- 4.9. Given the nature of the Company's business, i.e. short term/one-off contracts, we are unable to say with any certainty what the trading position will be at the conclusion of the adjournment.
- 4.10. In this regard the Company has recently quoted on two jobs, with an estimated net profit of \$56,315.20. Furthermore, ongoing trade should allow for enhanced realisation values for all assets, particularly the Slag Product that represents the majority of the Company's stock.
- 4.11. At the forthcoming meeting of creditors it is our intention to provide an update to creditors on the current level of expected future trade to assist creditors with their decisions if an adjournment is appropriate, and if so, the period of adjournment.

5. REASONS FOR FAILURE

- 5.1. The Director has cited the following reasons as contributing factors for the failure of the Company:
 - 5.1.1. Excessive lease commitments undertook to "gear up" for the Hismelt Operations located in Naval Base;
 - 5.1.2. Closure/suspension of the Hismelt Operations in December 2008;
 - 5.1.3. Lack of replacement work;
 - 5.1.4. Inability to compete or price match with local competitors; and
 - 5.1.5. Inability to formalise a repayment arrangement with the Australian Taxation Office ("the ATO").
- 5.2. Whilst we accept the Director's comments that a significant contributing factor towards the Company's failure was the closure/suspension of the Hismelt Operations, it is our opinion that the primary cause of the Company's failure was the inability of the Director to obtain a contractual agreement with Hismelt prior to entering into long

term leasing commitments, and subsequent inability to source sufficient alternative work to fully utilise the lease equipment.

5.3. Further, it is apparent from our preliminary investigations that other factors that contributed to Company's financial decline included:

5.3.1. Retaining excessive and highly geared assets; and

5.3.2. The failure of the Director to:

5.3.2.1. Curtail unnecessary expenditure; and

5.3.2.2. To recognise and address financial warning signs on a timely basis.

6. BOOKS AND RECORDS

6.1. Pursuant to Section 286(1) of the Act, a Company is required to maintain sufficient books and records which:

6.1.1. Correctly record and explain transactions and the financial position; and

6.1.2. Enable true and fair financial statements to be prepared and audited.

6.2. Our review of the Company's books and records indicates that adequate books and records have been maintained.

7. HISTORICAL TRADING PERFORMANCE

7.1. Set out below in Table 3 is a summary of the Company's Statement of Financial Performance as detailed in the externally prepared unaudited accounts for the years ended 30 June 2006, 2007, 2008, 2009 and for the period ended 28 February 2010:

	Externally Prepared				
	Year ended 30 June 2006	Year ended 30 June 2007	Year ended 30 June 2008	Year ended 30 June 2009	Period from 1 July 2009 to 28 February 2010
	\$	\$	\$	\$	\$
Trading Income	1,742,139	2,808,471	4,366,692	3,719,879	1,698,995
Cost of Goods Sold	-	(1,338,358)	(1,727,930)	(1,927,373)	(1,062,759)
Gross Profit	1,742,139	1,470,113	2,638,762	1,792,506	636,236
Operating Expenses	(1,774,044)	(1,074,385)	(1,907,284)	(2,577,177)	(1,277,064)
Other Income	88,499	37,526	15,444	100,114	103,135
Net Profit / (loss)	56,594	433,254	746,922	(684,557)	(537,693)

Table 3: Summary of Historical Trading Performance

7.2. As disclosed above the Company traded profitably up until the year ended 30 June 2008. As a result of the closure of the Hismelt operations in December the Company experienced a loss for the year ended 30 June 2009.

7.3. The Company's ability to generate a profit was also impacted by substantial increases in its hire purchase charges and depreciation, as detailed below:

7.3.1. Hire purchase charges for the year ended 30 June 2009 totalled \$516,032, a significant increase from the year ended 30 June 2006, at which time these charges totalled \$151,404; and

7.3.2. Depreciation costs for the year ended 30 June 2009 totalled \$1,297,000 in comparison to that for the year ended 30 June 2006 of \$320,274.

7.4. The significant increase in both costs is attributable to the Company's steady increase of asset acquisitions and lease commitments. These increased costs, without a corresponding increase in trading income, had a significant impact upon the Company's ability to trade profitably.

8. DIRECTOR'S STATEMENT ("the Statement")

8.1. In accordance with Section 438B(2) of the Act, the Director is required to provide us with a statement about the Company's business. The Director provided a Statement detailing the Company's business, property, affairs and financial circumstances as at 21 April 2010.

8.2. The Statement was received from the Director on 29 April 2010.

8.3. Set out below in Table 4 is a summary of the Statement and our estimate of the Company's financial position as at 21 April 2010:

	Paragraph	Director's values		Administrators' Estimate	
		Book Value	Estimated Realisable Value	Low	High
		\$	\$	\$	\$
Assets Freehold					
Debtors - Trade	8.8	312,924	294,273	280,915	299,567
Debtors - Employee	8.11	Nil	Nil	1,784	1,784
Debtors - Related Parties	8.13	188,909	Nil	124,815	188,909
Cash on Hand	8.19	979	979	979	979
Cash at Bank	8.19	32,210	32,210	32,401	32,401
Stock	8.22	1,108,668	1,108,668	50,000	465,400
Plant & Equipment - Freehold	8.29	431,727	602,000	454,575	768,915
Total Freehold Assets		2,075,417	2,038,130	945,469	1,757,955
Assets Financed					
Plant & Equipment - Financed		4,973,000	4,973,000		
Partly-Secured Creditors	8.36	(4,392,018)	(4,392,018)		
Surplus of Assets Financed		580,982	580,982	70,642	384,277
Deficiency of Assets Financed				(1,535,557)	(477,192)
Total Net Assets		2,656,399	2,619,112	(519,466)	1,665,040
Creditors					
Priority Creditors - Employees	8.45	(49,143)	(49,143)	(70,361)	(70,361)
Unsecured Creditors	8.53	(1,266,736)	(1,266,736)	(1,241,942)	(1,241,942)
Total Liabilities		(1,315,879)	(1,315,879)	(1,312,303)	(1,312,303)
Estimated Surplus/(Deficiency)*		1,340,452	1,303,233	(1,831,739)	352,737
*Subject to costs of administration					

Table 4: Summary of the Director's Statement

- 8.4. The Director's Statement estimated that the Company held a \$1,303,233 surplus of assets over liabilities.
- 8.5. The Company's externally prepared financial statements as at 28 February 2010 indicated a net asset deficiency of \$737,354.
- 8.6. An assessment of the two (2) positions revealed that major differences comprised the value of work in progress (Slag Product), being recorded as \$1,108,668 in the Statement and nil in the financial statements, and the value of the freehold and leased plant and equipment.
- 8.7. We now address the above and the remainder of the asset and liability classifications.

Trade Debtors

- 8.8. Since the date of our appointment demands have been issued to all identified debtors in respect to the balances outstanding. As at 17 May 2010 \$117,886.34 of pre-appointment debtors has been received with \$181,680.50 still to be collected.
- 8.9. Set out below in Table 5 is a summary of the debtors position:

	Statement	Write Offs	Balance	Doubtful	Recoverable
	\$	\$	\$	\$	\$
Trade Debtors	312,924.36	13,357.52	299,566.84	18,651.76	280,915.08

Table 5: Summary of Trade Debtors

- 8.10. From our preliminary assessment we have identified two (2) aged debts totalling \$18,651.76 that are considered doubtful. We do not see any reason why the remaining debtor balances will not be collected in full.

Employee Debtors

- 8.11. Our preliminary investigations have revealed a small loan owed by one of the Company's employees.
- 8.12. A review of the Company's MYOB records discloses a loan in the amount of \$1,784. This loan was not disclosed in the Statement.

Related Party Debtors

- 8.13. The Statement disclosed the following related party debts totalling \$188,909:
- 8.13.1. Director's Loan account - \$101,742.37;
- 8.13.2. Shareholder's Loan account - \$25,072.52; and
- 8.13.3. Oldbury Trust Account - \$62,094.00.
- 8.14. These amounts are reflected in an externally prepared financial statement as at 28 February 2010 and have been adjusted for transactions from 1 March 2010 to 21 April 2010.
- 8.15. We understand the Director's and Ms Elaine Greaves' (Shareholder) personal expenses were paid by the Company in lieu of wages.

- 8.16. As referred to in paragraph 3.6 above, Wildstrike which is the corporate trustee for the Oldbury Trust which owns land in Exmouth.
- 8.17. The Company utilises the Exmouth property from time to time when undertaking work for customers in the Exmouth region.
- 8.18. Our preliminary investigations suggest that the amounts payable by the Director and Ms Greaves are likely to be at least partly recoverable, however from the information made available to the Administrators, recoverability from Oldbury Trust remains doubtful.

Cash on Hand and Cash at Bank

- 8.19. As at the date of our appointment the Company's operating bank account was \$32,192 in credit. These funds have been utilised in day to day trading obligations.
- 8.20. The Company else operated a bank account with ING. At the date of my appointment the bank account was \$209 in credit. The account has since been closed and the funds transferred to the Administrators.
- 8.21. Cash of \$978.70 was recovered from the petty cash float. This cash was retained by the Company to be used for daily petty cash and trading requirements.

Stock ("Slag Product")

- 8.22. The Slag Product represents various stockpiles of material that is used for road base or cement aggregate.
- 8.23. The Slag Product is located at the Hismelt Operations in Naval Base.
- 8.24. The Company has a contract in place with Hismelt under which it is allowed access to a slag stockpile to process the slag into various slag products whilst extracting pig iron. The pig iron is retained by Hismelt and the slag product becomes the property of the Company.
- 8.25. At the date of our appointment the Director estimated the Company held approximately 100,420 tonnes of Slag Product with an estimated resale value of \$1,108,668.
- 8.26. No value was attributed to the Slag Product in the externally prepared financial statements.
- 8.27. Subsequent to our appointment we instructed licensed valuers to undertake a valuation of the stockpile in its current form. The valuers valued the stockpile at \$465,400 at market value and significantly less for auction value.
- 8.28. Significant costs may be incurred in realising/removing the Slag Product at the Hismelt operations in the event the Company ceases to trade. It is possible that these costs would significantly reduce the net auction value of the Slag Product and as such we have attributed a minimum value of \$50,000 to the Slag Product.

Plant and Equipment

- 8.29. At the date of our appointment, the Company had an extensive fleet of both owned and leased plant and equipment and motor vehicles. A valuation was obtained for all plant and equipment and motor vehicles.
- 8.30. As per paragraph 4.3, subsequent to my appointment a review of the business needs was undertaken which resulted in a number of the leased vehicles being disclaimed and returned to the control of the relevant financier.
- 8.31. The majority of freehold equipment, which includes large trucks, earthmoving equipment and various other related plant, appears to be in good working condition.
- 8.32. The valuer placed an auction value on the freehold equipment of \$454,575 and a market value of \$768,915 as at the date of my appointment.
- 8.33. Since the date of my appointment I have attempted to realise the surplus freehold plant and equipment.
- 8.34. To date gross realisation proceeds total \$62,910.
- 8.35. We note that the limited sale values achieved through private sale during the Administration have achieved a value greater than the market value attributed by the valuer. Accordingly it is possible that the overall position may be more positive than represented above.

Partly Secured Creditors

- 8.36. At the date of our appointment the Company held a number of leased assets which are subject to Hire Purchase Agreements with a number of financiers.
- 8.37. As discussed above a number of these assets were disclaimed shortly after our appointment.
- 8.38. In addition an item subject to finance was sold which resulted in \$80,000 being released to the Company.
- 8.39. We will continue to meet the lease payments on the retained assets whilst they are required in operating the business.
- 8.40. The Director has indicated in his Statement that the values for the leased equipment exceeded the lease payouts in the sum of \$580,982. As such this equity is an asset of the Company.
- 8.41. An assessment of the valuations received, the leasing documentation and the payout amounts for the individual leases was undertaken.
- 8.42. Due to the nature of the finance agreements it is necessary to assess the overall position in respect of each individual financier in order to determine if a surplus or deficiency exists in respect of that financier. Our assessment reveals that these items represent both an asset and a liability.
- 8.43. This assessment indicated that at market value and at auction value the position is as follows:

	Auction	Market
	\$	\$
Asset (Surplus)	70,642	384,277
Liability (Deficiency)	(1,535,557)	(477,192)

Table 6: Estimated Partly Secured Assets & Liability Position

8.44. We note that the limited sale values achieved through private sale during the Administration have achieved a value greater than the market value attributed by the valuer. Accordingly it is possible that the overall position may be more positive than represented above.

Priority Creditors - Employees

8.45. Employees are afforded a priority under Section 556 of the Act and include entitlements for wages, superannuation, annual leave and long service leave.

8.46. Set out below in Table 7 is a summary of employee entitlements detailed in the Statement and our current estimate of possible claims:

	Director's Statement	Administrators' Estimate
	\$	\$
Wages	-	-
Annual Leave	19,604	19,604
Superannuation	13,015	13,015
Long Service Leave	16,524	16,524
Payment in Lieu of Notice		21,218
Total	49,143	70,361

Table 7: Summary of Employee Entitlements

8.47. At the date of our appointment, the Company had 10 full time employees, including the Director and three (3) casual staff.

8.48. There is no claim by the Director or Ms Greaves for any employee entitlements.

8.49. Included in the Administrators' estimate is an estimate for all employee claims for payment in lieu of notice, which would be crystallised if the business was to cease trading.

8.50. As the Company has less than 15 full time employees, employees are not eligible for redundancy payouts.

8.51. Should the Company be liquidated, employee claims may be satisfied in the first instance by claims being made under the General Employee and Entitlements Redundancy Scheme (GEERS).

- 8.52. Under GEERS, which is funded by the Commonwealth Government, employees are able to make a claim for their outstanding entitlements (excluding superannuation) once a Company is in liquidation. Where the claims are accepted, GEERS will, through the Liquidator, pay the relevant employee claims and assume a priority claim for the debt in the liquidation.

Unsecured Creditors

- 8.53. Set out below in Table 8 is a summary of unsecured creditor claims as detailed in the Statement and our current estimate of possible claims:

	Director's Statement \$	Administrators' Estimate \$
Unsecured Creditors	1,266,736	1,241,942

Table 8: Summary of Unsecured Creditors

- 8.54. An accurate assessment of unsecured creditors will only be available when all creditors have submitted a Formal Proof of Debt.

BankWest

- 8.55. The Company's largest unsecured creditor is BankWest. Detailed below in Table 9 is a summary of BankWest's debt as at the date of our appointment:

Name of Account	Account Number	\$
Business Edge Loan	089-230503-0	196,845.88
Business Equity Live	089-230505-6	345,182.84
Credit Card (Corporate)	5586 0290 0105 8775	19,128.36
Total		<u>561,157.08</u>

Table 9: Summary of BankWest Debt as at 21 April 2010

- 8.56. BankWest does not hold any security over the assets of the Company, however, as referred to paragraph 10.25 below, BankWest's debt is secured against the Director and his related entities' properties

Australian Taxation Office ("ATO")

- 8.57. The ATO is also a major creditor in the Company's administration in the sum of \$394,807.02.
- 8.58. The balance of unsecured creditors comprises of 36 trade creditors with combined debts of \$285,977.90.

9. VOIDABLE TRANSACTIONS

- 9.1. In accordance with Regulation 5.3.A.02 of the Act, an Administrator is required to specify in this report whether there are any transactions that appear, at first instance, to be voidable and thereby result in the recovery by a Liquidator, of property and other benefits. Such transactions are not recoverable by an Administrator or an

Administrator of a Deed of Company Arrangement but can only be pursued by a Liquidator upon the winding up of a company.

- 9.2. An Administrator is also required to form a view as to whether and from what point in time the director allowed a company to trade whilst insolvent.
- 9.3. In determining whether there are possible voidable transactions available for recovery by a future Liquidator and/or claims arising from insolvent trading, consideration has been given to the following provisions of the Act:-
 - 9.3.1. Unfair Preferences (Section 588FA) – these are transactions between the company and the creditor resulting in the creditor receiving more than the creditor would receive if the transaction were set aside and the creditor claimed for this amount in a liquidation. Any such voidable transactions must arise during the relation back period, beginning six (6) months prior to the commencement of the Voluntary Administration. For the purposes of this Company, the relation back period commences on 21 October 2009;
 - 9.3.2. Uncommercial Transactions (Section 588FB) – these are transactions entered into that a “reasonable person” would not have entered into taking into account the benefit to the company, the detriment to the company and the benefit to the other parties involved in the transaction. It is not necessary that a creditor be a party to a transaction. Such transactions are only voidable where the company was insolvent at the time of the transaction;
 - 9.3.3. Insolvent Transactions (Section 588FC) – these transactions are unfair preferences or uncommercial transactions (refer above) entered into when the company was insolvent or became insolvent as a result of entering into the transaction. Only unfair preferences, which have occurred within the period commencing six (6) months prior to the commencement of the Voluntary Administration and uncommercial transactions, which have occurred within two (2) years of the commencement of the Voluntary Administration, can be recovered;
 - 9.3.4. Unfair Loans to a Company (Section 588FD) – representing loans made to the company where interest or other charges on the loan were extortionate. These transactions can be recovered regardless of when they were entered into;
 - 9.3.5. Unreasonable Director-Related Transactions (Section 588FDA) – representing a transaction of a company including a payment by the company or a conveyance, transfer or other disposition by the company of property of the company to a director of the company or a close associate of a director of the company and where it may be expected that a reasonable person in the company’s circumstances would not have entered into the transaction. This provision does not require the transaction to be an insolvent transaction and may be voidable pursuant to Section 588FE(6A) if the transaction was entered into during the four (4) years ending on the relation back day;
 - 9.3.6. Related Party Transactions (Section 588FE(4)) – representing insolvent transactions (that is unfair preferences or uncommercial transactions) with a related party within four (4) years prior to the commencement of the Voluntary Administration. For this purpose a related party would include a party related to a director or deemed director; and

- 9.3.7. Transactions entered into for the purposes of defeating creditors (Section 588FE(5)) – represented by insolvent transactions (unfair preferences or uncommercial transactions) entered into for the purpose of defeating, delaying or interfering with the rights of creditors which were entered into within a period of ten (10) years prior to the commencement of the Voluntary Administration.

Key Findings of Investigations re Solvency

- 9.4. To provide creditors with an understanding of the pre-cursors to the Company's insolvency and our appointment as Voluntary Administrators, we have set out below a chronology of relevant events:
- 9.4.1. December 2008 – the Company's major customer, Rio Tinto, shut down its Hismelt operations;
 - 9.4.2. March 2009 – the Company received payment reminders from the ATO and its Integrated Client Account went into debit;
 - 9.4.3. April 2009 – the Company recognised a need to sell excessive plant and equipment to assist with its day to day cashflow;
 - 9.4.4. April 2009 – the Company entered into a temporary repayment arrangement with the ATO;
 - 9.4.5. August 2009 – Company's creditor issued writs against the Company and the Company entered into repayment arrangements to satisfy its outstanding debt;
 - 9.4.6. October 2009 - the Company entered into a temporary repayment arrangement with the ATO;
 - 9.4.7. November 2009 – The Director became aware that the Company had suffered a trading loss of \$684,557 for the year ended 30 June 2009;
 - 9.4.8. November 2009 - the Company entered into a temporary repayment arrangement with the State Revenue Office to satisfy its outstanding payroll tax debt;
 - 9.4.9. December 2009 – creditors started pressing for payment;
 - 9.4.10. December 2009 – BankWest advised it was not willing to increase the Company's overdraft facility and the Company resorted to borrowing monies from an unrelated third party to supplement its cashflow;
 - 9.4.11. December 2009 - the Company entered into a temporary repayment arrangement with the ATO;
 - 9.4.12. March 2010 – the Company's accountant attempted to negotiate a further repayment arrangement with the ATO and was not successful;
 - 9.4.13. April 2010 – the ATO pressed for payment;
 - 9.4.14. April 2010 – the Company's Director appointed Voluntary Administrators.

Unfair Preferences

- 9.5. We have conducted a preliminary review of the Company's books and records, including bank statements, cheque books and creditor invoices for the six months prior to 21 April 2010 in an attempt to identify any payments to creditors which may be recoverable by a future liquidator as an unfair preference.
- 9.6. We have identified numerous transactions involving payments to various creditors totalling \$137,186.03. Of this amount we consider a strong claim exists in respect to payments totalling \$80,996.
- 9.7. Should the Company be liquidated, further investigations will be made into these and possibly other unfair preferences.
- 9.8. Pursuant to Section 558FG of the Act, a Liquidator cannot recover funds paid to a creditor where it is established the creditor:
 - 9.8.1. Received the payment in good faith; and
 - 9.8.2. Had no reasonable grounds for suspecting the Company was insolvent at the time of the payment.

10. INSOLVENT TRADING

- 10.1. A company is insolvent when it is unable to meet its debts as and when they fall due.
- 10.2. The determination of insolvency is a question of fact, at a particular point in time, to be assessed by considering the tests of insolvency known as the "cash flow test" and the "balance sheet test". Other factors of a commercial and financial nature will also be considered by the Courts. Common law precedents have determined the "cash flow test" as being the more relevant test.
- 10.3. Pursuant to Section 588G of the Act, a director of a company has a duty to prevent a company from incurring a debt when a company is insolvent or there are reasonable grounds to suspect a company is or would become insolvent.
- 10.4. Pursuant to Section 588M of the Act, a Liquidator (and in some circumstances a creditor) may recover from a director, losses suffered by creditors from transactions entered into at a time when a company was insolvent.
- 10.5. Section 588H of the Act provides a number of defences for directors in respect of actions under Section 588G and 588M of the Act.
- 10.6. In order to establish a case for insolvent trading against a director, a Liquidator must establish that a director or a reasonable person in the director's position ought to have been aware that the company was insolvent at a particular time. Furthermore, the Liquidator ought to investigate the financial position of the director in question, prior to pursuing any claim for insolvent trading to establish whether the potential litigation is commercially viable.
- 10.7. We have undertaken only preliminary investigations into the issue of insolvent trading. Any future Liquidator would be required to undertake further investigations, subject to suitable and adequate funding. In this regard a detailed "cash flow test" analysis has not been undertaken.

- 10.8. We now provide further comment on our investigations and conclusions as to solvency issues.

Creditor Analysis

- 10.9. An analysis of the Company's aged trade payables was completed for the period 30 June 2006 to 21 April 2010.
- 10.10. Prior to 30 June 2009 the majority of the Company's creditors were paid within 30-60 days. However from 30 June 2009 to the date of our appointment creditor payments had been pushed to 60-90 plus days.

Working Capital and Balance Sheet Analysis

- 10.11. Working capital is representative of a company's capacity to meet its current liabilities by the application of its current assets. A shortfall in current assets to meet current liabilities is an indicator of cash flow insolvency. A working capital ratio or current ratio of less than 1 indicates a working capital deficiency and is an indication of insolvency.
- 10.12. A decline in working capital is often a pre-cursor to insolvency.
- 10.13. Set out below in Table 10 is a summary of the Company's Statement of Financial Position as detailed in the externally prepared unaudited accounts as at 30 June 2006, 2007, 2008, 2009 and as at 28 February 2010:-

	As at 30 June 2006	As at 30 June 2007	As at 30 June 2008	As at 30 June 2009	As at 28 February 2010
	\$	\$	\$	\$	\$
Current Assets	383,103	484,253	1,104,788	294,904	414,977
Current Liabilities	242,875	296,229	647,885	764,464	1,036,652
Working Capital Surplus/(Deficiency)	140,228	188,024	456,903	(469,560)	(621,675)
Working Capital Ratio	1.58	1.63	1.71	0.39	0.40
Non-Current Assets	2,772,312	3,900,865	5,656,054	5,525,684	4,451,426
Non-Current Liabilities	2,741,901	3,786,849	5,448,072	5,255,786	4,567,105
Net Asset/(Deficiency)	170,639	302,040	664,885	(199,662)	(737,354)

Table 10: Insolvent Trading Analysis

- 10.14. The Company had a strong working capital position for the three years ended 30 June 2008. There was a significant drop during the year ended 30 June 2009 where the ratio dropped below 1.

Possible Timing of Insolvency and Quantification of Claims

- 10.15. Our preliminary investigations and the above analysis indicate the Company was experiencing cash flow pressures from January 2009 and a decline in working capital position from 30 June 2009.
- 10.16. We consider the Company was balance sheet insolvent as at 30 June 2009 and has remained balance sheet insolvent from that date.
- 10.17. It is likely that the Company was cash flow insolvent from 30 June 2009.
- 10.18. Assuming the date of insolvency is on or around 30 June 2009, a claim for insolvent trading would include all creditors incurred but not paid since 30 June 2009.
- 10.19. On this basis, the potential level of an insolvent trading claim against the Director approximates \$464,585 subject to the merits of any defences raised.

Defences available to the Director

- 10.20. The defences available to the Director for insolvent trading are:
 - 10.20.1. When the debt was incurred the Director had reasonable grounds to expect that the Company was solvent and would remain solvent;
 - 10.20.2. When the debt was incurred the Director had reasonable grounds to believe, and did believe, that a subordinate was competent, reliable and responsible for providing adequate information about the Company's solvency;
 - 10.20.3. When the debt was incurred the Director, because of illness or for some other good reason, did not take part in the management of the Company; and
 - 10.20.4. The Director took all reasonable steps to stop the Company from incurring the debt.
- 10.21. The Director may argue that he undertook the following steps to stop the Company from trading whilst insolvent:
 - 10.21.1. Personal assets were offered as security for Company borrowings;
 - 10.21.2. He at all times had a reasonable expectation that the Hismelt operations would reopen; and
 - 10.21.3. He was able to obtain alternative sources of funding.
- 10.22. The merits of such defences would have to be examined further if an action was taken.

Capacity of the Director to Pay

- 10.23. As discussed at paragraph 10.6 above it is essential to determine if potential litigation is commercially viable given that the costs to gather evidence and prosecute an insolvent trading action can be substantial. In this instance it is estimated that the

costs of gaining a judgement from the court against the Director for insolvent trading and recovering under that judgement would be at least \$50,000.

- 10.24. Our preliminary investigations indicate the Director owns both a residential and investment property, either individually or jointly with Ms Greaves.
- 10.25. These properties are encumbered to BankWest.
- 10.26. The Director has indicated that significant equity exists in respect of the properties, however we are also aware of a significant level of personal guarantees made by the Director, including guarantees in respect to financing agreements.

11. PROPOSAL FOR DEED OF COMPANY ARRANGEMENT

- 11.1. On 18 May 2010 we received a letter from the Director, copy attached as Annexure C that confirmed the Director's desire to provide creditors with a DOCA proposal for their consideration.
- 11.2. The proposal is subject to obtaining refinance and as such only an outline of the proposal, rather than a formal proposal, has been provided.
- 11.3. In summary the Director desires to propose a DOCA in the following terms:
 - 11.3.1. Payment in lieu of retention of certain items of plant and equipment;
 - 11.3.2. Retention of certain items of lease equipment;
 - 11.3.3. The balance of freehold plant and equipment, outstanding debtors (both pre & post appointment) and stock is to be realised by the Deed Administrators for the benefit of creditors;
 - 11.3.4. BankWest's debt will be paid out by the Director and he will not prove in the DOCA;
 - 11.3.5. Employees' employment will continue and their existing entitlements will be paid out of the DOCA funds;
 - 11.3.6. The Director and related parties will not participate in the DOCA; and
 - 11.3.7. The Director will resume control of the Company upon the execution of the DOCA.
- 11.4. The draft terms of the DOCA are subject to the Director's ability to obtain third party funding. Accordingly, the Director is seeking that creditors consider adjourning the second meeting of creditors for a period, allowing him time to obtain the necessary finance approval.

12. ASSESSMENT OF PROPOSED DOCA

- 12.1. Whilst we are unable to quantify the level of return to creditors under the DOCA proposal as the proposal does not provide details of the leased equipment to be retained or the freehold plant and equipment to be purchased, we are able to comment generally as to the benefit or otherwise to creditors:

- 12.1.1. As the proposed payment in respect of the retention of certain items of freehold plant and equipment value is at market value there is likely to be a benefit to creditors in that market value is achieved and there are minimal realisation costs;
 - 12.1.2. Retention of lease equipment will minimise the level of unsecured creditor claims in the event the leased items have a notional shortfall, whilst the full value will be received if the leased items have a surplus;
 - 12.1.3. As the Administrator will realise the balance of assets the result will be the same as in liquidation;
 - 12.1.4. The payment of the BankWest debt, being at least \$561,157.08, reduces the unsecured creditor claims significantly and is estimated to increase the dividend to unsecured creditors by between 20% to 33%;
 - 12.1.5. As employees will continue employment, an estimated \$21,218, representing termination payments not paid, will be available to the general body of creditors;
 - 12.1.6. The Company will continue to trade, thus providing future opportunities for existing suppliers; and
 - 12.1.7. If a DOCA is accepted the Liquidators potential recoveries in respect of claims for Unfair Preference payments and Insolvent Trading will not be available to creditors. This potentially reduces the assets available to creditors (per dividend estimate) by between \$0 and \$210,996.
- 12.2. Given the above factors we consider, on balance, that it is reasonable for creditors to consider a short adjournment to allow the Director to formalise his proposal, subject to the Director providing sufficient evidence at the meeting of creditors regarding his ability to gain refinance and the amount and timing of such refinance.
 - 12.3. In this regard we are advised that any refinance would not be provided by the Director's current primary financier (Bankwest).

13. DIVIDEND ESTIMATE

- 13.1. Attached as Annexure D is a table detailing our dividend estimate under a liquidation scenario.
- 13.2. The dividend return to ordinary unsecured creditors is estimated to range between 13 cents in the dollar and 78 cents in the dollar. This estimated return range is subject to the following:
 - 13.2.1. Actual realisation values in respect to the freehold and leased plant and equipment;
 - 13.2.2. Actual debtor recoveries;
 - 13.2.3. Actual net recoveries of the Slag Product;
 - 13.2.4. Net recoveries in respect of Unfair Preference Claims and the Insolvent Trading Claim;

13.2.5. Quantification of creditor claims; and

13.2.6. Costs of the Liquidation.

13.3. We are unable to provide an estimate of the proposed DOCA return due to reasons stated in Section 12 above.

14. ADMINISTRATORS' OPINION

14.1. Section 439A of the Act requires us to provide our opinion as whether it would be in the creditors' interest for:-

14.1.1. That the Company execute a Deed of Company Arrangement; or

14.1.2. That the Administration should end; or

14.1.3. That the Company should be wound up.

14.2. We are required to form an opinion and make a recommendation to creditors as to which course of action would be in the best interests of creditors and outline the reasons for that opinion.

14.3. Pursuant to Section 439B(2) of the Act, creditors may also resolve to adjourn the meeting for up to 45 working days.

14.4. Our comments on each of the options are as follows:

Should the Company Execute a Deed of Company Arrangement

14.5. No formal proposal has been received and as such this is not an option for creditors at this time.

Should the Administration End

14.6. Should creditors resolve that the administration end, control of the Company would revert to the Director without any resolution of creditor claims.

14.7. As Administrators, we are not empowered to make a distribution to any creditor, subject to secured creditor claims, of any existing debt as at the date of our appointment. The Company potentially has a substantial net asset deficiency and in the absence of any arrangement with creditors, the Company is unable to pay its debts as and when they fall due.

14.8. Accordingly, in our opinion, it would not be in creditors' best interests for the administration of the Company to end.

Should the Company be Wound Up

14.9. On balance we do not consider, at this time, it is in the creditors' interests for the Company to be wound up given the potential for a DOCA proposal to be presented to creditors.

14.10. However in the event that the Director fails to provide sufficient evidence regarding his ability to achieve the required refinance at the meeting our recommendation will change and we will recommend that the Company be wound up.

Should the Meeting be Adjourned

14.11. For the reasons outlined in Section 12 above, we recommend creditors resolve to adjourn the second meeting for a short period to allow a DOCA proposal to be presented, subject to the Director providing sufficient evidence of his ability to achieve the required refinance.

15. REMUNERATION

15.1. Refer to the attached Remuneration Report.

16. ADMINISTRATORS' STATEMENT OF RECEIPTS AND PAYMENTS

16.1. An account for receipts and payments during the administration period 21 April 2010 to 18 May 2010 is attached as Annexure E.

17. LIQUIDATION – COMMITTEE OF INSPECTION

17.1. In the event that creditors resolve to wind up the Company, creditors shall have the opportunity to appoint a Committee of Inspection. The purpose of the Committee of Inspection is to assist the Liquidator in the efficient conduct of the liquidation.

17.2. At the forthcoming second meeting of creditors, creditors may propose a resolution to form a Committee of Inspection and the members of that Committee. A Committee of Inspection can comprise of creditors and shareholders and should comprise of no less than 3 members.

17.3. A person will be eligible to appoint a member of a Committee of Inspection if, and only if, in the case of an appointment by creditors, the person is:

17.3.1. A creditor of the Company; or

17.3.2. The attorney of a creditor of the Company by virtue of a Power of Attorney given by a creditor; or

17.3.3. A person authorised in writing by a creditor of the Company to be a member of the Committee of Inspection.

17.4. We hereby invite creditors to contact Clare Hayman or Breck Robertson of our office by no later than 5.00pm (WST) on 26 May 2010 should you wish to be a member of a Committee of Inspection.


18. DESTRUCTION OF BOOKS AND RECORDS

18.1. Should creditors resolve that the Company be wound up at the forthcoming meeting, and no Committee of Inspection be appointed, creditors will be asked to consider and, if thought appropriate, resolve that:

“Subject to obtaining approval of the Australian Securities and Investments Commission pursuant to Section 542(4) of the Corporations Act, the books and records of the Company and of the Liquidator, be destroyed by the Liquidator three months after the dissolution of the Company..”

Should you have any queries regarding the contents of this report or the Company's affairs, please do not hesitate to contact the undersigned or Ms Clare Hayman of this office.

Dated this 19th day of May 2010

A handwritten signature in black ink, appearing to read 'G. Dudley', with a long horizontal stroke extending to the right.

GREG DUDLEY
Joint & Several Administrator

Annexure A

Declaration of Independence, Relevant Relationships and Indemnities

BASE EARTHMOVING PTY LTD
ACN 079 210 816 (“the Company”)

Independence

We, Greg Dudley and Mark Conlan, of RSM Bird Cameron Partners have undertaken a proper assessment of the risks to our independence prior to accepting the appointment as Joint and Several Administrators of the Company. This assessment identified no real or potential risks to our independence. We are not aware of any reasons that would prevent us from accepting this appointment.

Relevant Relationships

Neither we, nor our firm, have, or have had within the preceding 24 months, any relationships with the Company, an associate of the Company, a former insolvency practitioner appointed to the Company or any person or entity that has a charge on the whole or substantially whole of the Company’s property.

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


Prior Engagements with the Insolvent

Neither we, nor our Firm, have undertaken any prior engagements for the Company.

Indemnities

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

Dated:



.....
GREG DUDLEY
Partner



.....
MARK CONLAN
Partner

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

Base Earthmoving Pty Ltd (Administrators Appointed)
ACN 079 210 816

Administrators' Trading Statement as at 14 May 2010

Trade-on dates: 21 April 2010 to 14 May 2010

Sales (excluding GST)	\$	\$
21 April 2010 to 30 April 2010	24,576	
1 May 2010 to 14 May 2010	17,594	
Increase in the value of Slag Stock Pile - Naval Base	37,904	
Increase in value of limestone stockpile - Exmouth	13,961	94,034
	<hr/>	
Costs		
Wages & Salaries	(49,357)	
Leased Assets - Finance Charges	(51,395)	
Purchase Order Register	(26,367)	
Insurance	(7,570)	
Stationary & Printing	(62)	(134,751)
	<hr/>	
Profit / (Loss)		<u><u>(40,717)</u></u>
Estimated Fixed Weekly Costs		(39,302)
Average Daily Loss		(1,697)
Average Weekly Loss		(11,876)

Annexure C

Base Earthmoving Pty Ltd

(Administrator's Appointed)

P.O. 467 Kwinana 6966

Phone 9437 1176 Fax 9410 0496

ABN: 77079210816

admin@baseearthmoving.com.au

18 May 2010

*Mr Greg Dudley
RSM Bird Cameron
8 St Georges Terrace
PERTH WA 6000*

Dear Greg

Base Earthmoving Pty Ltd (Administrators Appointed)

I refer to our recent discussions and write to advise that I wish to put before creditors of the company a Deed of Company Arrangement. The proposal is put subject to obtaining re-financing which is presently underway. All I can give you at this stage is an outline of what is proposed.

What I would propose for the Deed of Company Arrangement is as follows:

- Payment would be made to a deed administrator (yourself) in the amount of \$XXX.XX. This amount would be calculated with respect to the market value of certain freehold plant and equipment of the company in the attached list.*
- The attached list of leased equipment needs to be retained by the company.*
- The balance of the freehold plant and equipment, together with the company's stock and debtors as at the execution of the proposed Deed of Company Arrangement, not referred to above is to be realized by the deed administrator and the proceeds of client to creditors under the terms of the Deed of Company Arrangement.*
- The debt due to BankWest is to be paid out personally by me and through re-financing of my personal property including for purposes of working capital. I will not prove as a result of this transaction.*

- *Employees will continue to be employed so no termination payments will arise, however, it will be necessary to deal with their other entitlements such as accrued annual leave being entitlements being paid out of the funds in the hands of the Deed Administrators (who are to be the present Administrators).*
- *Generally, the directors and parties related to the directors will not prove in the proposed Deed of Company Arrangement.*
- *The Deed of Company Arrangement is to be structured in such a way as to control in the company resumes to its directors after its execution (my solicitor is happy to discuss with you the concept of a creditor's trust and the manner of doing so).*

Unfortunately, until re-financing is processed further, I am unable to provide you with a formal proposal, however, I am happy to work with you to ensure that it is done in the shortest possible timeframe.

If you have any queries please do not hesitate to contact me or my solicitor, Lee Christensen at Gadens Lawyers (9323 0999).

Yours faithfully



*Paul Steele
Managing Director*

Base Earthmoving Pty Ltd (Administrators Appointed)
ACN 079 210 816

Estimated Return to Creditors
As at 18 May 2010

	Liquidation	
	Low	High
	\$	\$
<u>Assets</u>		
Net Cash at Bank (as at 17 May 2010)	95,486	95,486
Debtors (Pre-Appointment)		
Pre-Appointment	163,029	181,681
Related Parties	37,000	51,000
Stock - Slag Product	50,000	400,000
Plant & Equipment		
Free-hold	* 404,571	684,334
Leased	* 31,150	270,807
Voidable Recoveries		
Insolvent Trading Claim	-	130,000
Unfair Preference Claim	-	80,996
Total Assets Available for Distribution	781,236	1,894,303
<u>Distribution per s556(1) of the Corporations Act 2001</u>		
Estimated Trading Loss 15 May 2010 to 27 May 2010	18,662	18,662
Costs, Charges & Expenses of Administrators		
Legal Fees to 17 May 2010	1,500	1,500
Fees & Disbursements to 17 May 2010	105,962	105,962
Fees & Disbursements for the period 18 May 2010 to 27 May 2010	40,000	40,000
Legal Costs - General	10,000	25,000
Insolvent Trading Costs	10,000	50,000
Unfair Preference Costs	5,000	20,000
Future Fees & Disbursements for Liquidation	155,000	155,000
Total Estimated Costs	346,124	416,124
Employee Entitlements (Pre-Appointment)	49,143	49,143
Employee Entitlements - PILN	21,218	21,218
Estimated Surplus Funds for Distribution to Unsecured Creditors	364,751	1,407,818
Unsecured Creditors	2,777,499	1,800,130
Estimated Return to Unsecured Creditors (Cents/\$)	0.13	0.78

* Less cost of realisation - Est 11%

**Base Earthmoving Pty Ltd
(Administrators Appointed)**

**Joint and Several Administrators' Summary Of Receipts And Payments
For the period 21 April 2010 to 17 May 2010**

RECEIPTS	(\$)
Post Appointment Sales	4,270.36
Pre Appointment Debtor Recoveries	117,886.34
Recovery of Cash at Bank	32,400.75
Sale of Skid Steer	1,637.04
Sale of Western Star Prime Mover	180,000.00
Bank Interest	28.05
Total Reciepts	<u>336,222.54</u>
PAYMENTS	
Purchases	6,542.36
Department of Transport - Registration	2,489.94
Repairs & Maintenance	2,178.50
Stationery & Printing	62.27
Telephone & Fax	516.24
Wages & Salaries	40,942.54
Capital Finance	100,000.00
Auctioneers Commission	110.00
Bank Charges	30.90
Total Payments	<u>152,872.75</u>
Cash at Bank 17 May 2010	<u><u>183,349.79</u></u>

RSM Bird Cameron Partners

Chartered Accountants

8 St Georges Terrace Perth WA 6000
GPO Box R1253 Perth WA 6844
T +61 8 9261 9100 F +61 8 9261 9340
www.rsmi.com.au

Email: johnathon.busing@rsmi.com.au

ADMINISTRATORS' REMUNERATION REPORT

Base Earthmoving Pty Ltd (Administrators Appointed) ACN 079 210 816 ("the Company")

1. Statement of Remuneration Claim

- 1.1. This Remuneration Report is prepared in accordance with the Insolvency Practitioners Association of Australia Code of Professional Practice, for the purpose of providing creditors with meaningful disclosure on the work undertaken to allow creditors to make an informed decision on approving the Administrators' current and future remuneration resolutions.

Current Remuneration Claim

- 1.2. At the forthcoming meeting of creditors, the Administrators will be seeking creditors' approval for the remuneration of the Administrators, their partners and their staff for the period 21 April 2010 to 17 May 2010 in the amount of \$105,962.50 (plus GST).
- 1.3. Creditors will be asked to consider and, if deemed appropriate, resolve:-
- "That the remuneration of the Administrators, their partners and their staff is hereby fixed on a time basis in accordance with the hourly rates set by RSM Bird Cameron Partners from time to time for the period 21 April 2010 to 17 May 2010 in the sum of \$105,962.50 plus GST, and such remuneration be approved and paid".*
- 1.4. A description of the work completed and a calculation of the remuneration claim for the period 21 April 2010 to 17 May 2010 are attached as Annexure A and Annexure B respectively.
- 1.5. Detailed timesheets and supporting documentation are available for inspection at a mutually convenient time.

Document4

Liability limited by a
scheme approved under
Professional Standards
Legislation

Major Offices in:
Perth, Sydney, Melbourne,
Adelaide and Canberra
ABN 36 965 185 036

RSM Bird Cameron Partners is an
independent member firm of RSM
International, an affiliation of independent
accounting and consulting firms.

Estimated Future Remuneration of the Administrators

- 1.6. Should creditors resolve to adjourn the meeting, we will seek approval of our additional remuneration for the period from 18 May 2010 at that reconvened meeting, together with remuneration of any applicable DOCA period.
- 1.7. Should creditors resolve at the forthcoming meeting that the Company be wound up, the Administrators will also seek creditors' approval for the further remuneration of the Administrators, their partners and their staff for the period 18 May 2010 to 27 May 2010 subject to a limit of \$40,000.00 (plus GST). In this circumstance creditors will be asked to consider, and if appropriate, resolve:

“That the remuneration of the Administrators, their partners and their staff from 18 May 2010 to 27 May 2010 is hereby affixed on a time basis in accordance with the hourly rates set by RSM Bird Cameron Partners from time to time subject to an overall limit of \$40,000.00 plus GST, and that the Administrators be authorised to make payment on account of such accruing remuneration”.

- 1.8. A description of work expected to be undertaken and a calculation of the remuneration claim from 18 May 2010 to 27 May 2010 is attached as Annexure C.

Future Remuneration of Liquidators

- 1.9. Should creditors resolve to wind up the Company at the forthcoming meeting, creditors will be asked to consider, and if deemed appropriate, resolve:

“That the future remuneration of the Liquidators, their partners and their staff from 27 May 2010 be hereby fixed on a time basis in accordance with the hourly rates set by RSM Bird Cameron Partners from time to time subject to an overall limit for the time being of \$155,000 plus GST, beyond which the Liquidators may seek further approval, and that the Liquidators be authorised to make periodic payments on account of such accruing remuneration”.

- 1.10. A description of work which may be undertaken by future liquidators and a calculation of their estimated remuneration claim for the time being, is attached as Annexure D.

2. Remuneration Methods

- 2.1. There are four basic methods that can be used to calculate the remuneration charged by an Insolvency Practitioner. They are:

Time based / hourly rates

- 2.2. 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

- 2.3. 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

- 2.4. The total fee charged is based on a percentage of a particular variable, such as the gross proceeds of asset realisations.

Contingency

- 2.5. The practitioner's fee is structured to be contingent on a particular outcome being achieved.

Method chosen

- 2.6. Given the nature of this administration we propose that our remuneration be calculated on a time basis in accordance with RSM Bird Cameron Partners' scale of fees and hourly rates for staff of various levels of skill and experience.
- 2.7. This is because calculation of remuneration based on a time basis takes into account all tasks performed by the Practitioners and their staff. This includes tasks which may not be represented if remuneration was calculated using another method. The method therefore results in greater transparency and a more accurate reflection of the time necessarily incurred by the Practitioners and their staff.

3. Explanation of Hourly Rates

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

Classification	Rate (\$) (Excl. GST)	Experience
Partner/Appointee	500.00	The Partner/Appointee is a registered Liquidator and member of the ICAA and IPAA bringing specialist skills to the administration or insolvency task. For specific experience and other details of the appointee/s, please visit our website at www.rsmi.com.au
Principal	440.00	Generally, minimum of 12 years experience at least 2 years of which is to be at Manager level. University degree; member of the ICAA and IPAA with deep knowledge and lengthy experience in relevant insolvency legislation and issues.
Manager I	320.00	Generally, more than 7 years experience with at least 2 years as a Manager. University degree; member of the ICAA and IPAA; very strong knowledge of relevant insolvency legislation and issues.
Manager II	250.00	Generally, 5 – 7 years chartered accounting or insolvency management experience. University degree; member of the ICAA and IPAA; sound knowledge of relevant insolvency legislation and issues.
Supervisor	220.00	Generally, 4 – 6 years chartered accounting or insolvency management experience. University degree; member of the ICAA; completing IPAA Insolvency Education Program. Good knowledge of relevant insolvency legislation and issues.

Senior I	195.00	Generally, 2 – 4 years chartered accounting or insolvency management experience. University degree; completing the ICAA’s CA program. Good knowledge of basic insolvency legislation and issues.
Senior II	165.00	Generally, 2 – 3 years chartered accounting or insolvency management experience. University degree, ICAA’s CA program commenced.
Intermediate I	145.00	0 to 2 years experience. Has completed or substantially completed a degree in finance/accounting. Under supervision, takes direction from senior staff in completing administrative tasks.
Intermediate II	125.00	0 – 1 year experience. Undertaking a degree part-time in finance/accounting. Under supervision, takes direction from senior staff in completing administrative tasks.
Personal Assistant	170.00	Appropriate skills including machine usage.
Secretary	135.00	Appropriate skills including machine usage.
Junior	100.00	Completed schooling and plans to undertake further studies. Required to assist in administration and day to day field work under the supervision of more senior staff.

Notes:

1. *Remuneration is calculated on a time basis in accordance with the above rates.*
2. *The Firm maintains its time records in a computerised system.*
3. *Staff are classified in accordance with academic qualifications and insolvency experience.*

4. Disbursements

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

A Disbursements are all externally provided professional services and are recovered at cost. An example of an A disbursement is legal fees.

B1 Disbursements are externally provided non-professional costs such as travel, accommodation and search fees. B1 disbursements are recovered at cost

B2 Disbursements are internally provided non-professional costs such as photocopying and document storage. B2 disbursements are charged at cost except for photocopying, printing and telephone calls which are charged at a rate which is intended to recoup both variable and fixed costs.

4.2. Particulars of disbursements, both current and estimated future, are set out in the attached Annexures, as follows:

4.2.1. Annexure A - Disbursements for the period 21 April 2010 to 17 May 2010;

4.2.2. Annexure C - Estimated disbursements for the period 18 May 2010 to 27 May 2010; and

4.2.3. Annexure D - Estimated disbursements for the period from 27 May 2010.

5. Information Sheet

- 5.1. For further information creditors are directed to review the Australian Securities and Investment Commission's information sheet "Approving fees: a guide for creditors" attached as Annexure E.

Should you have any queries please do not hesitate to contact Mr Breck Robertson of my office or the undersigned.

Dated this 19th day of May 2010

Yours faithfully

A handwritten signature in black ink, appearing to read "G. Dudley", written over a horizontal line.

GREG DUDLEY
Joint & Several Administrator

Base Earthmoving Pty Ltd (Administrators Appointed)

ACN: 079 210 816

Remuneration Report

Part 2: Description of Work Completed

Period From 21 April 2010 to 17 May 2010

Task Area	General Description	Includes
Assets [\$27,183.00]	Plant and Equipment Equipment	Preparation of asset list Liaising with valuers, auctioneers and interested parties Valuation Report
	Debtors	Reviewing and assessing debtors ledgers Correspondence with debtors
	Stock	Conducting reviews of stock pile Reviewing stock values
	Leased Assets	Reviewing leasing documents Liaising with owners / lessors Tasks associated with disclaiming leases Equity assessments
	Assets subject to specific charges	Review of security documents / liaising with secured creditor Valuation of assets Equity assessments Liaising with valuers, auctioneers and interested parties
	Other Assets	All tasks associated with realising other assets
Creditors [\$17,020.00]	Creditor Reports	Preparing 439A reports, investigation, meeting and general reports
	Creditor Enquiries	Receive and follow up creditor enquiries via telephone / email Review and prepare correspondence to creditors via letter/fax/email Correspondence with committee of creditors meetings
	Meetings of Creditors	Preparation of notices, proxies and advertisements Forwarding notice of meeting to all known creditors Preparation for meeting including agenda, attendance register, list of creditors, advertisement, draft minutes Finalisation and lodgement of minutes with ASIC Stakeholders queries re meeting outcomes
	Proofs of Debts - Receipt	Receipting and filing POD's
Employees [\$554.50]	Employees Enquiries	Receive and reply to employee queries Preparation of letters to employees regarding entitlements and options
	Calculation of Entitlements	Review of company records to calculate employee entitlements Reconciliation of superannuation amounts Reviewing awards
	Workers Compensation Claims	Review of insurance policies Liaising with claimant, insurer and solicitors re claims Correspondence with Willis and existing brokers
Trade On [\$37,899.00]	Trade On Tasks	Assessment of activities and cashflow projections Preparation of cashflow budgets Attendance on site, liaising with management and employees Liaising with suppliers, determining terms of trade Authorising purchase orders, purchase order register Liaising with statutory authorities (ATO, OSR, Council) Occupation Health and Safety review / assessment
	Budgeting & Financial Reporting	Review of existing budgets and financial statements Preparation of weekly reports Meetings to discuss trading position Trading profit or loss calculations
	Processing Receipts	Preparation of receipt forms for input into internal computer system Liaising with accounts receivable regarding receipts
	Processing Payments	Preparation of payment forms for input into internal computer system Liaising with accounts payable regarding payments

Investigation [\$10,654.00]	Conducting Investigation	Collection / copying relevant company books and records Searches (property, charges, ASIC) ASIC correspondence regarding access to RATA and records Review of company records / financial statements Review of cashbook for voidable transactions Preparation of investigation file
Administration [\$12,652.00]	Checklists / File Review	File review Checklist completion
	Appointment Documents	Directors minutes
	RATA	Liaising with Directors / accountants / debtor re preparation Receipt and lodgement at ASIC Processing into internal computer system
	Directors / Officers	Correspondence and meetings with Directors including interviews Directors questionnaire
	ASIC Forms	Preparing and lodgement of ASIC forms including 524,505, 911 etc Correspondence with ASIC regarding statutory forms
	ATO & other statutory reporting	Notification of appointment Preparation and lodgement of BAS returns
	Bank Account Administration	Opening administration bank accounts Bank account reconciliations Bank correspondence
	Insurance	Notification to Willis and prior broker Review of existing policies and determination of any underinsurance Work of insurance claims
	Books and Records	Completing books and records listing of records collected from Company's premises
	Remuneration	Workpapers re WIP reports / Billings Schedule of Fee approvals Preparation of billing reports

Base Earthmoving Pty Ltd (Administrators Appointed)

ACN: 079 210 816

Remuneration Report

Part 1: Calculation of Remuneration

Period From 21 April 2010 to 17 May 2010

Employee	Position	Average \$ / hour (ex GST)	Total actual hours	Total (\$)	Task Area					
					Assets (\$)	Creditors (\$)	Employees (\$)	Trade on (\$)	Investigation (\$)	Administration (\$)
Mark Conlan	Partner	500.00	0.6	300.00				200.00	100.00	
Neil Cribb	Partner	500.00	0.2	100.00		50.00				50.00
Greg Dudley	Partner	500.00	62.4	31,200.00	7,800.00	4,650.00	150.00	13,700.00	1,700.00	3,200.00
Clare Hayman	Manager 1	320.00	96.2	30,784.00	6,464.00	6,656.00	128.00	11,552.00	2,912.00	3,072.00
Geoffrey Lasscock	Supervisor	220.00	0.2	44.00				44.00		
Breck Robertson	Senior 1	215.00	124.6	26,789.00	8,944.00	1,655.50		10,169.50	3,225.00	2,795.00
Benjamin Ward	Senior 1	215.00	3.7	795.50	172.00	193.50	64.50	107.50		258.00
Prissha Balakrishnan	Intermediate 2	150.00	3.6	540.00	540.00					
Johnathon Busing	Intermediate 1	130.00	80.6	10,478.00	2,743.00	2,379.00	156.00	871.00	2,327.00	2,002.00
Mei Huang	Intermediate 2	130.00	10.4	1,352.00	52.00	416.00		338.00	390.00	156.00
Corey Turner	Junior	115.00	2.0	230.00	230.00					
Terri Hoy	Personal Assistant	170.00	9.0	1,530.00		782.00		595.00		153.00
Hayley Forshaw	Secretary	140.00	13.0	1,820.00	238.00	238.00	56.00	322.00		966.00
TOTAL (excluding GST)		260.67	406.50	105,962.50	27,183.00	17,020.00	554.50	37,899.00	10,654.00	12,652.00

GST \$10,596.25

TOTAL (including GST) \$ 116,558.75

Disbursements

Type \$

A Legal Fees -

B1 Advertising and Searches 944.92

B2 Faxes, postage stationery and printing 336.70

TOTAL 1,281.62

GST 128.16

TOTAL (Including GST) \$1,409.78

GRAND TOTAL \$117,968.53

Base Earthmoving Pty Ltd (Administrators Appointed)
ACN: 079 210 816

Estimated Future Remuneration of Administrators – For the Period 18 May 2010 to 27 May 2010

Task Area	General Description	Includes
Assets Estimated Hours: 20 Estimated Cost: \$6,000	Debtors	Reviewing and assessing debtors ledgers Correspondence with debtors
	Creditors Estimated Hours: 60 Estimated Cost: \$21,000	Creditor Enquiries Creditor reports Meeting of Creditors
Trade On Estimated Hours: 40 Estimated Cost: \$10,000	Trade on Tasks	Assessment of activities and cash flow projection Preparation of cashflow budgets Attendance on site, liaising with management and employees Liaising with suppliers, determining terms of trade Authorising purchase orders, purchase order register
	Budgeting and Financial Reporting	Review of existing budgets and financial statements Preparation of weekly reports Meetings to discuss trading position Trading profit or loss calculations
	Processing Receipts	Preparation of receipt forms for input into internal computer system Liaising with accounts receivable regarding receipts
	Processing Payments	Preparation of payment forms for input into internal computer system Liaising with accounts payable regarding receipts
Administration Estimated Hours: 20 Estimated Cost: \$3,000	Document maintenance/file review/checklist	Filing of documents Updating checklists
	Bank account administration	Bank account reconciliations Correspondence with bank
	ATO & other statutory reporting	Preparing BAS
	Planning / Review	Discussions regarding status of administration
	Remuneration	Work papers re WIP reports / Billings Schedule of Fee approval and Preparation of Billing reports

Estimated Future Disbursements - For the Period 18 May 2010 to 27 May 2010

Full details of estimated disbursements are as follows:

- A** Legal Fees \$0;
- B1** Advertising and searches \$1,500; and
- B2** Faxes, postage, stationery and printing \$1,000

The above listed tasks and associated costs are estimates only. These estimates are based on our limited understanding of the Company's affairs. Actual tasks undertaken and associated costs will be dependent on the matters encountered.

Base Earthmoving Pty Ltd (Administrators Appointed)
ACN: 079 210 816

Estimated Remuneration of a Future Liquidator – For the Period from 27 May 2010 Onwards

Task Area	General Description	Includes
Assets Estimated No. of hours: 180 Estimated Costs: \$60,000	Plant and Equipment	Liaise with auctioneer regarding auction of company's plant and equipment Deal with interested parties
	Debtors	Correspondence and subsequent communications Reviewing and assessing debtors ledgers Liaising with solicitors Recovery of debts outstanding
	Stock	Liaise with auctioneer regarding company's stock Liaising with interested parties
Creditors Estimated No. of hours: 110 Estimated Cost: \$27,000	Creditor Enquiries	Receive and follow up creditor enquiries via telephone Review and prepare correspondence to creditors and their representatives via facsimile, email and post
	Creditor reports	Preparing general reports to creditors
	Meeting of Creditors	In respect of committee of inspection and general body of creditors Preparation meeting notices, proxies and advertisements Forward notice of meeting to all known creditors Preparation of meeting file, including agenda, certificate of postage, attendance register, list of creditors, reports to creditors, advertisement of meeting and draft minutes of meeting. Preparation and lodgement minutes of meetings with ASIC Respond to stakeholder queries and questions immediately following meeting
	Dealing with Proofs of debt	Receipting and filing of POD's when received Corresponding with creditors regarding POD's when not filled in correctly
Trade On Estimated No. of hours: 70 Estimated Cost: \$15,000	Processing receipts and payments	Entering receipt and payments into accounting system
	Finalising Trade	Notification to suppliers Finalising jobs Analysis of current jobs to be continued
Employees Number of hours: 45 Estimated Cost: \$13,000	Employee Enquiry	Receive and reply to employee queries Preparation of letters to employees regarding entitlements and options
	GEERS	Correspondence with GEERS Preparing notification spreadsheet and quotation to GEERS Preparing GEERS distributions
	Calculation of Entitlements	Review of company records to calculate employee entitlements Reconciliation of superannuation amounts Reviewing awards Liaising with solicitors regarding employee entitlements

Task Area	General Description	Includes
	Employee Dividends	Correspondence with employees Correspondence with ATO regarding SGC proof of debt Calculation of the dividend rate, advertisement of the dividend Receipting and adjudication of POD's Payment of the dividend and PAYG to ATO
	Workers Compensation Claims	Review of insurance policies Liaising with claimant, insurer and solicitors re claims Correspondence with Willis and existing brokers
Dividend Number of hours: 40 Estimated Cost: \$10,000	Processing Proofs of Debt	Correspondence to creditors calling for POD's Receipt and registration of POD's Assessment and adjudication of POD's Correspondence to claimant requesting further information Advising claimant of outcome of adjudication (admit/reject)
	Dividend Procedures	Preparation of notices to creditors of intention to declare dividend Advertisement of dividend Calculation of dividend Preparation of dividend distribution (cheques/letters) Preparation of dividend file Correspondence to creditors with dividend payment
Investigation Number of hours: 80 Estimated Cost: \$23,000	Litigation / Recoveries	Internal meetings to discuss status of litigation Preparing brief to solicitors Liaising with solicitors regarding recovery actions Attending to negotiations Attending to settlement matters
	Conducting Investigation	Collection / Copying relevant company books and records Searches (property, charges, ASIC) ASIC correspondence books and records Reviews of company records / financial statements Review of cashbook for voidable transactions Preparation of investigations file
	ASIC Reporting	Preparation of statutory investigations reports (eg. 476/533) Liaising with ASIC
Administration Estimated No. of hours: 40 Estimated Cost: \$7,000	Document maintenance/file review/checklist	First month, then 6 monthly administration review Filing of documents File reviews Updating checklists
	Bank account administration	Preparing correspondence closing accounts Requesting bank statements Bank account reconciliations Correspondence with bank regarding specific transfers
	Insurance	Correspondence with Willis (Insurance Broker) regarding ongoing insurance requirements
	ASIC Form 524 and other forms	Preparing and lodging ASIC forms including 505, 524, 911 etc Correspondence with ASIC regarding statutory

Task Area	General Description	Includes
		forms
	ATO & other statutory reporting	Preparing BAS' Completing payment summaries
	Finalisation	Notifying ATO of finalisation Cancelling ABN / GST / PAYG registration Completing checklists Finalising WIP
	Books and records / storage	Dealing with records in storage

Estimated Future Disbursements - For the period from 27 May 2010

Details of estimated disbursements are as follows:

- A** Legal Fees \$25,000 to \$95,000;
- B1** Advertising and searches \$2,500; and
- B2** Faxes, postage, stationery and printing \$2,500.

The above listed tasks and associated costs are estimates only. These estimates are based on our limited understanding of the Company's affairs. Actual tasks undertaken and associated costs will be dependent on the matters encountered in the Liquidation.



ASIC

Australian Securities & Investments Commission

INFORMATION SHEET 85

Approving fees: a guide for creditors

If a company is in financial difficulty, it can be put under the control of an independent external administrator.

This information sheet gives general information for creditors on the approval of an external administrator's fees in a liquidation of an insolvent company, voluntary administration or deed of company arrangement (other forms of external administration are not discussed in this information sheet). It outlines the rights that creditors have in the approval process.

Entitlement to fees and costs

A liquidator, voluntary administrator or deed administrator (i.e. an 'external administrator') is entitled to be:

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

External administrators are only entitled to an amount of fees that is reasonable for the work that they and their staff properly perform in the external administration. What is reasonable will depend on the type of external administration and the issues that need to be resolved. Some are straightforward, while others are more complex.

External administrators must undertake some tasks that may not directly benefit creditors. These include reporting potential breaches of the law and lodging a detailed listing of receipts and payments with ASIC every six months. The external administrator is entitled to be paid for completing these statutory tasks.

For more on the tasks involved, see ASIC's information sheets INFO 45 *Liquidation: a guide for creditors* and INFO 74 *Voluntary administration: a guide for creditors*.

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

Important note: This information sheet contains a summary of basic information on the topic. It is not a substitute for legal advice. Some provisions of the law referred to may have important exceptions or qualifications. This document may not contain all of the information about the law or the exceptions and qualifications that are relevant to your circumstances. You will need a qualified professional adviser to take into account your particular circumstances and to tell you how the law applies to you.

- legal fees
- valuer's, real estate agent's and auctioneer's fees
- stationery, photocopying, telephone and postage costs
- retrieval costs for recovering the company's computer records, and
- storage costs for the company's books and records.

Creditors have a direct interest in the level of fees and costs, as the external administrator will, generally, be paid from the company's available assets before any payments to creditors. If there are not enough assets, the external administrator may have arranged for a third party to pay any shortfall. As a creditor, you should receive details of such an arrangement. If there are not enough assets to pay the fees and costs, and there is no third party payment arrangement, any shortfall is not paid.

Who may approve fees

Who may approve fees depends on the type of external administration: see Table 1. The external administrator must provide sufficient information to enable the relevant decision-making body to assess whether the fees are reasonable.

Table 1: Who may approve fees

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

¹ If there is one.

² If there is no approval by the committee or the creditors.

³ Unless an application is made for a fee review.

⁴ If there is no creditors' committee or the committee fails to approve the fees.

⁵ If insufficient creditors turn up to the meeting called by the liquidator to approve fees, the liquidator is entitled to be paid up to a maximum of \$5000, or more if specified in the Corporations Regulations 2001.

Creditors' committee approval

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

There is not a creditors' committee in every external administration. A creditors' committee makes its decision by a majority in number of its members present at a meeting, but it can only act if a majority of its members attend.

To find out more about creditors' committees and how they are formed, see ASIC's information sheets INFO 45 *Liquidation: a guide for creditors*, INFO 74 *Voluntary administration: a guide for creditors* and INFO 41 *Insolvency: a glossary of terms*.

Creditors' approval

Creditors approve fees by passing a resolution at a creditors' meeting. Unless creditors call for a poll, the resolution is passed if a simple majority of creditors present and voting, in person or by proxy,

indicate that they agree to the resolution. Unlike where acting as committee members, creditors may vote according to their individual interests.

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

A separate resolution of creditors is required for approving fees for an administrator in a voluntary administration and an administrator of a deed of company arrangement, even if the administrator is the same person in both administrations.

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

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

Calculation of fees

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

- on the basis of *time spent* by the external administrator and their staff
- a quoted *fixed fee*, based on an upfront estimate, or
- a percentage of asset realisations.

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

If the external administrator intends to charge on a time basis, you should receive a copy of these hourly rates soon after their appointment and before you are asked to approve the fees.

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

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

External administrators are professionals who are required to have qualifications and experience, be independent and maintain up-to-date skills. Many of the costs of running an insolvency practice are fixed costs that must be paid, even if there are insufficient assets available to pay the external administrator for their services. External administrators compete for work and their rates should reflect this.

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

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

Report on proposed fees

When seeking approval of fees, the external administrator must send committee members/creditors a report with the notice of meeting setting out:

- information that will enable the committee members/creditors to make an informed assessment of whether the proposed fees are reasonable
- a summary description of the major tasks performed, or to be performed, and
- the costs associated with each of these tasks.

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

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

Deciding if fees are reasonable

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

You may find the following information from the external administrator useful in deciding if the fees claimed are reasonable:

- the method used to calculate fees
- the major tasks that have been performed, or are likely to be performed, for the fees
- the fees/estimated fees (as applicable) for each of the major tasks
- the size and complexity (or otherwise) of the external administration
- the amount of fees (if any) that have previously been approved
- if the fees are calculated, in whole or in part, on a time basis:
 - the period over which the work was, or is likely to be performed
 - if the fees are for work that has already been carried out, the time spent by each level of staff on each of the major tasks
 - if the fees are for work that is yet to be carried out, whether the fees are capped.

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

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

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

Generally, if fees are approved by a creditors' committee/creditors and you wish to challenge this decision, you may apply to the court and ask the court to review the fees. Special rules apply to court liquidations.

You may wish to seek your own legal advice if you are considering applying for a court review of the fees.

Reimbursement of out-of-pocket costs

An external administrator should be very careful incurring costs that must be paid from the external administration—as careful as if they were dealing with their own money. Their report on fees should also include information on the out-of-pocket costs of the external administration.

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

Queries and complaints

You should first raise any queries or complaints with the external administrator. If this fails to resolve your concerns, including any concerns about their conduct, you can lodge a complaint with ASIC at www.asic.gov.au/complain, or write to:

ASIC Complaints
PO Box 9149
TRARALGON VIC 3844

ASIC will usually not become involved in matters of commercial judgement by an external administrator. Complaints against companies and their officers can also be made to ASIC. For other enquiries, email ASIC through infoline@asic.gov.au, or call ASIC's Infoline on 1300 300 630 for the cost of a local call.

To find out more

For an explanation of terms used in this information sheet, see ASIC's information sheet INFO 41 *Insolvency: a glossary of terms*. For more on external administration, see ASIC's related information sheets at www.asic.gov.au/insolvencyinfosheets:

- INFO 74 *Voluntary administration: a guide for creditors*
- INFO 75 *Voluntary administration: a guide for employees*
- 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 43 *Insolvency: a guide for shareholders*
- INFO 42 *Insolvency: a guide for directors*
- INFO 84 *Independence of external administrators: a guide for creditors*

These are also available from the Insolvency Practitioners Association (IPA) website at www.ipaa.com.au. The IPA website also contains the IPA's Code of Professional Practice for Insolvency Professionals, which applies to IPA members.

INFORMAL PROOF OF DEBT FORM

Regulation 5.6.47

BASE EARTHMOVING PTY LTD
(ADMINISTRATORS APPOINTED)
ACN 079 210 816

Name of creditor:

Address of creditor:

.....

ABN:

Telephone number:

Amount of debt claimed: \$..... (including GST of \$.....)

Consideration for debt (i.e, the nature of goods or services supplied and the period during which they were supplied):

.....
.....
.....

Is the debt secured? YES/NO

If secured, give details of security including dates, etc:

.....
.....
.....

Other information:

.....
.....
.....

.....
Signature of Creditor
(or person authorised by creditor)

Notes:

Under the Corporations Regulations, a creditor is not entitled to vote at a meeting unless (Regulation 5.6.23):

- a. his or her claim has been admitted, wholly or in part, by the Administrator; or
- b. he or she has lodged with the Administrator particulars of the debt or claim, or if required, a formal proof of debt.

At meetings held under Section 436E and 439A, a secured creditor may vote for the whole of his or her debt without regard to the value of the security.

Proxies must be made available to the Administrator.

CORPORATIONS ACT 2001

APPOINTMENT OF PROXY
CREDITORS MEETING

BASE EARTHMOVING PTY LTD
(ADMINISTRATORS APPOINTED)
ACN 079 210 816

*I/*We (1)
of.....
a creditor of Base Earthmoving Pty Ltd, appoint (2)
.....
or in his or her absenceas *my/our

* general proxy to vote at the meeting of creditors to be held on Thursday, 27 May 2010 at 11:00am at the offices of RSM Bird Cameron Partners, 8 St Georges Terrace, Perth WA or at any adjournment of that meeting.

* special proxy to vote at the meeting of creditors to be held on Thursday, 27 May 2010 at 11:00am at the offices of RSM Bird Cameron Partners, 8 St Georges Terrace, Perth WA or at any adjournment of that meeting in the manner detailed below on the proposed resolutions 1 to 8.

Resolution	For	Against	Abstain
1. The Company Execute a Deed of Company Arrangement.			
2. That the Administration should end.			
3. That the Company be wound up.			
4. That the meeting be adjourned for up to forty five (45) business days.			
5. That the remuneration of the Administrators, their partners and their staff is hereby fixed on a time basis in accordance with the hourly rates set by RSM Bird Cameron Partners from time to time for the period 21 April 2010 to 17 May 2010 in the sum of \$105,962.50 plus GST, and such remuneration be approved and paid.			
6. That the remuneration of the Administrators, their partners and their staff is hereby fixed on a time basis in accordance with the hourly rates set by RSM Bird Cameron Partners from time to time for the period 18 May 2010 to 27 May 2010 in the sum of \$40,000.00 plus GST, and such remuneration be approved and paid.			
Where the creditors resolve at the forthcoming meeting that the Company be wound up: 7. "That the future remuneration of the Liquidators, their partners and their staff from 27 May 2010 be hereby fixed on a time basis in accordance with the hourly rates set by RSM Bird Cameron Partners from time to time subject to an overall limit for the time being of \$155,000 plus GST, beyond which the Liquidators may seek further approval, and that the Liquidators be authorised to make periodic payments on account of such accruing remuneration".			

<p>Where the creditors resolve at the forthcoming meeting that the Company be wound up:</p> <p>8. That subject to obtaining the approval of the Australian Securities and Investments Commission pursuant to section 542(4) of the Corporations Act, the books and records of the Company and of the Liquidator, be destroyed by the Liquidator three months after the dissolution of the Company.</p>			
--	--	--	--

DATED this day of 2010.

Signature

CERTIFICATE OF WITNESS

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

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

Dated:

Signature of Witness:

Description:

Place of Residence: _____

* Strike out if inapplicable

- (1) If a firm, strike out "I" and set out the full name of the firm.
- (2) Insert the name, address and description of the person appointed.
- (3) If a special proxy add the words "to vote for" or the words "to vote against" and specify the particular resolution.