



Declaration of Independence, Relevant Relationships and Indemnities (DIRRI)

Corporations Act 2001

RCR Tomlinson Ltd (Administrators Appointed)

ACN 008 898 486 (RCR or the Company) and Associated Entities set out in Appendix 1 (collectively the RCR Group)

The *Corporations Act 2001* and professional standards require the Practitioner/s appointed to an insolvent entity to make a declaration as to:

- A. their independence generally;
- B. relationships, including
 - a) the circumstances of the appointment;
 - b) any relationships with the company and others within the previous 24 months;
 - c) any prior professional services for the company within the previous 24 months;
 - d) that there are no other relationships to declare; and
- C. any indemnities given, or up-front payments made, to the Practitioner.

This declaration is made in respect of ourselves, our partners, the firm McGrathNicol, which for the purpose of this declaration includes the McGrathNicol Partnership, the McGrathNicol Advisory Partnership and McGrathNicol Services Pty Ltd.

A. Independence

We, Jason Preston, William James Harris, Matthew Wayne Caddy and Robert Conry Brauer of the firm McGrathNicol have undertaken a proper assessment of the risks to our independence prior to accepting the appointment as Voluntary Administrators of RCR and 40 other companies in the RCR Group in accordance with the law and applicable professional standards. This assessment identified no real or potential risks to our independence. We are not aware of any reasons that would prevent us from accepting those appointments.

B. Declaration of Relationships

(i) *Circumstances of appointment*

On 13 August 2018, Rod Brown the Chairman of RCR approached Robyn McKern, a partner of McGrathNicol and Jason Ireland of McGrathNicol was approached by King & Wood Mallesons (**KWM**), in its capacity as legal advisors to the RCR Group, seeking to engage McGrathNicol on behalf of the RCR Group.

Rod Brown knew Robyn McKern from past professional dealings in the early 2000's in the Perth business community and a very limited number of minor communications since that time.

We have a relationship with KWM as well as with other significant law firms we have worked with on restructuring and insolvency assignments in the Australian market. We believe the involvement of KWM in the referral does not result in a conflict of interest or duty because:



- McGrathNicol undertakes work from time to time to assist clients of KWM, as do practitioners from other firms. This includes the appointment of McGrathNicol's registered liquidators to companies where KWM has provided legal services.
- The referral was unconditional.
- McGrathNicol has not previously undertaken an engagement in relation to the RCR Group either on referral from KWM or otherwise.
- Referrals from lawyers, accountants and other professional advisers are commonplace and do not impact our independence in carrying out our duties as Voluntary Administrators.

(ii) *Our pre-appointment engagements with the RCR Group*

Our involvement with the RCR Group has occurred across two distinct phases of work, details of which are summarised below.

Phase 1

On 30 July 2018, RCR entered a trading halt. On 1 August 2018, trading in the shares of RCR was voluntarily suspended following disclosure to the ASX of cost overruns in certain of its key projects that would have a material impact on its earnings.

Our role during Phase 1 was conducted whilst the company was seeking to raise additional equity capital with a view to ending its ASX trading suspension.

On 14 August 2018, we were engaged on behalf of the RCR Group to provide assistance in assessing the short-term cashflow forecast and the forecasting process of the RCR Group and to undertake contingency planning for a potential appointment of Voluntary Administrators to the RCR Group. In the course of Phase 1, we:

- Held a meeting with RCR's Chairman Rod Brown and RCR senior management and KWM to obtain an understanding of the RCR Group's operations, financial position, key projects, short-term cashflow forecast and the assumptions and process used to prepare the short-term cashflow forecast. Jason Ireland and McGrathNicol staff subsequently attended 3 further meetings with RCR management, including one attended by Bruce James (CEO and director). Details of those meetings are included in appendix 2.
- Prepared a document summarising our preliminary views on the RCR Group's short-term cashflow forecast, including the risks inherent in the forecast.
- Prepared a contingency planning document that could assist in implementing a Voluntary Administration plan should the capital raising have proved unsuccessful and the RCR Group sought to appoint Voluntary Administrators.

We commenced work on 15 August 2018 and delivered a draft short-term cashflow report to RCR on 23 August 2018. No further work was done on the draft report until a subsequent meeting with Bruce James and RCR Group management on 19 September 2018 where we discussed our draft report. We finalised our report and issued it in final form on 10 October 2018.

Our contingency planning report was submitted in draft on 4 September 2018. We did no further work on that report after that time and we were not requested to issue our report in final form.

We received remuneration totalling \$130,160.80 for our Phase 1 engagement. This represented full payment of our account. The majority of these fees (\$120,000) were paid into the McGrathNicol trust account by the RCR Group in advance of invoicing for that work. The sum of \$10,160.80, representing the GST payable which was inadvertently left out of the original transfer, was paid by the RCR Group immediately after invoicing. We will repay the sum of \$10,160.80 to a bank account of one of the RCR Group companies as soon as practicable, to ensure there are no transactions that present a threat to our independence during the pre-appointment period.



Phase 2

We were approached by KWM on 24 October 2018, again in its capacity as legal advisor to RCR, again seeking McGrathNicol's assistance on behalf of the RCR Group. RCR management was concerned there was a risk of breaching financial covenants with its secured lenders at the end of December 2018 and RCR was in the process of finalising its quarterly compliance certificate for delivery to its secured lenders on 30 October 2018.

In Phase 2, we were engaged to provide further assistance in assessing the RCR Group's cashflow forecast. We were also asked to update the contingency planning work we had undertaken in Phase 1.

In our role in Phase 2, we:

- Obtained an updated understanding of the RCR Group's financial position, recent and forecast trading performance and forecast cashflow.
- Gained a more detailed understanding of the RCR Group's corporate and organisational structure, operations, key project and contracts in order to undertake more detailed contingency planning for a potential Voluntary Administration.
- Participated in meetings with RCR Group management and representatives of its secured lenders where RCR management presented its forecast and funding requirements to its secured lenders.

Between 26 October 2018 and 21 November 2018 we attended 15 meetings, details of which are summarised in appendix 3.

The Group's revised cashflow forecasts indicated a substantial funding requirement in excess of the RCR Group's existing facility limits.

RCR submitted a formal request to its secured lenders for additional financial support in a meeting that we attended on 20 November 2018. On 21 November 2018, the request was declined by its secured lenders, resulting in the directors of RCR and 40 other companies in the RCR Group appointing Voluntary Administrators on 21 November 2018.

We received remuneration totalling \$399,733.95 for our Phase 2 engagement. This amount was paid into McGrathNicol's trust account in two tranches by the RCR Group prior to invoicing. We have no unpaid accounts or accrued work in progress in relation to Phase 2 of the engagement.

(iii) *Our independence*

In our opinion, our pre-appointment engagements with the RCR Group do not affect our independence for the following reasons:

- Our dealings with RCR Group had an information gathering, short term cash flow analysis and planning focus and the nature of this work would not be subject to review and challenge during the course of the Voluntary Administration.
- Our pre-appointment engagements did not involve the provision of any advice to any RCR Group member's board, their individual directors or the management of the RCR Group on their duties under the Corporations Act 2001, the management of the RCR Group or in relation to their management of the affairs of or the solvency or insolvency of the RCR Group.
- It is recognised by the Courts that developing an evolving contingency plan for a potential Voluntary Administration appointment is appropriate and does not represent a threat to the independence of the potential appointees should the Voluntary Administration proceed.



- All amounts received by McGrathNicol from RCR Group were prepaid into our trust account before being applied to pay our fees and expenses. As such, we have never been in the position of being a creditor of any member of the RCR Group.
- The level of work undertaken in Phases 1 and 2 of our engagement is a consequence of the large and complex nature of the RCR Group's businesses across multiple locations in Australia and overseas. In a corporate group the size and complexity of RCR Group, a degree of contingency planning prior to a Voluntary Administration appointment is in the interests of creditors and can support the preservation of value.
- It is recognised by the Courts and the ARITA Code of Professional Practice that pre-appointment advice on the insolvency process and available options does not amount to an impediment to accepting an appointment.
- The nature of the work we undertook was such that it would not be subject to review and challenge during the course of the Voluntary Administration. Nor would the advice influence our ability to be able to fully comply with the statutory and fiduciary obligations associated with the Voluntary Administration of RCR and the other companies in the RCR Group in an objective and impartial manner.

We have provided no other advice to the RCR Group prior to our appointment beyond that outlined in this DIRRI. We did not advise the directors of RCR or any other member of the RCR Group in their capacity as directors and remain independent of them.

(iv) Relevant Relationships (excluding professional services to the Insolvent)

We or a member of our firm, have or have had within the preceding 24 months, a relationship with:

| Name | Nature of relationship | Reasons |
|---|--|--|
| Commonwealth Bank of Australia (CBA), MUFG Bank Ltd (MUFG) and Swiss Re, Chubb, HCC (the Insurance Bond Providers) (together the Syndicate of Lenders) | <p>The Syndicate of Lenders has provided funding and guarantee facilities to the RCR Group and has been granted security in the form of General Security Agreements by the majority of entities within the RCR Group.</p> <p>McGrathNicol undertakes corporate recovery and advisory work from time to time on instructions from each of CBA, MUFG and the Insurance Bond Providers.</p> | <p>We believe this relationship does not result in a conflict of interest or duty because:</p> <ul style="list-style-type: none"> ▪ Each professional engagement undertaken for any member of the Syndicate of Lenders in relation to a particular entity or group of entities is conducted on an entirely separate basis which has no bearing on this appointment. ▪ These engagements are only commenced after full regard is given to potential conflicts of interest in relation to all interested stakeholders. ▪ McGrathNicol has not undertaken an engagement for any member of the Syndicate of Lenders in respect of the RCR Group. Given these factors, our independence in acting as Voluntary Administrator of the RCR Group has not been affected. |



(v) Prior professional services to the Insolvent

Other than as disclosed in this DIRRI, neither we, nor our firm, have provided any professional services to the RCR Group in the previous 24 months.

(vi) No other relevant relationships to disclose

There are no other known relevant relationships, including personal, business and professional relationships, from the previous 24 months with the RCR Group, an associate of the RCR Group, a former insolvency practitioner appointed to the RCR Group, or any person or entity that has security over the whole or substantially the whole of the RCR Group's property that should be disclosed.

C. Indemnities and Up-front Payments

We have not been indemnified in relation to this Voluntary Administration, other than any indemnities that we may be entitled to under statute and we have not received any up-front payments in respect of our remuneration or disbursements.

D. Appointments to Members of a Corporate Group

As specified on page one of this Declaration, we have been appointed as Voluntary Administrators of RCR and 12 other companies within the RCR Group, as listed at Appendix 1.

We are of the view that the appointment to the 41 companies within the RCR Group will have significant benefits to the conduct of the Voluntary Administration particularly in that this will provide for cost-savings and enable an accurate as possible view to be obtained of the activities and financial position of the companies as a whole. We understand that the liabilities of each of the entities to which we have been appointed are subject to a cross guarantee under ASIC Class Order 98/1418. We are aware that there are inter-company transactions within the RCR Group but at this time are not aware of any potential conflicts of interest arising from the appointments over the various RCR Group members. However, to the extent it becomes apparent that pre-appointment dealings between companies in the group may give rise to a conflict which may impact the outcome for creditors of either company, then we undertake to disclose any such conflicts to the creditors and as appropriate, seek Court directions as to the means of resolving the potential conflict.

Dated: 23 November 2018

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Signed, Jason Preston

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Signed, William James Harris

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Signed, Matthew Wayne Caddy

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Signed, Robert Conry Brauer



Note:

- 1 If the circumstances change or new information is identified, we are required under the Corporations Act 2001 and the ARITA Code of Professional Practice to update this Declaration and provide a copy to creditors with our next communication, as well as table a copy of any replacement Declaration at the next meeting of the insolvent's creditors.
- 2 Any relationships, indemnities or up-front payments disclosed in the DIRRI must not be such that the Practitioner is no longer independent. The purpose of components B and C of the DIRRI is to disclose relationships that, while they do not result in the Practitioner having a conflict of interest or duty, ensure that creditors are aware of those relationships and understand why the Practitioner nevertheless remains independent.

Please note that the presentation of the above information is in accordance with the standard format suggested by ARITA.



Appendix 1 – entities in Voluntary Administration

| Company | ACN |
|--|-------------|
| RCR Tomlinson Ltd | 008 898 486 |
| RCR Tomlinson (Custodian) Pty Ltd | 060 012 419 |
| RCR Corporate Pty. Ltd. | 009 246 182 |
| RCR Resources Pty Ltd | 063 053 814 |
| RCR Energy (Gladstone) Pty Ltd | 010 941 054 |
| RCR Resources (Tripower) Pty Ltd | 075 567 734 |
| RCR Mining Pty Ltd | 060 002 940 |
| RCR Energy Pty Ltd | 080 753 680 |
| RCR Energy Service Pty Ltd | 009 133 475 |
| Positron Group Pty Ltd | 053 751 009 |
| RCR Power Pty Ltd | 106 084 879 |
| RCR Laser Pty Ltd | 116 641 144 |
| RCR Oil & Gas Pty Ltd | 121 838 702 |
| RCR Infrastructure Pty Ltd | 060 002 959 |
| RCR Infrastructure Group (XNFK) Pty Ltd | 125 709 971 |
| RCR O'Donnell Griffin Pty Ltd | 003 905 093 |
| RCR Haden Pty Ltd | 000 694 173 |
| RCR Haden (Telco) Pty Ltd | 086 284 871 |
| RCR Haden (Holdings) Pty Ltd | 111 148 844 |
| RCR Resolve FM Pty Ltd | 054 527 865 |
| RCR Resolve FM (Holdings) Pty Ltd | 111 148 862 |
| RCR Infrastructure (Corporate) Pty Ltd | 126 817 883 |
| RCR Water Pty. Ltd. | 606 869 005 |
| RCR Water (WA) Pty Ltd | 134 043 815 |
| RCR O'Donnell Griffin (Holdings) Pty Ltd | 111 148 835 |
| RCR O'Donnell Griffin (Projects) Pty Ltd | 151 990 573 |
| Applied Laser Pty Ltd | 123 597 991 |
| RCR Energy (Stelform) Pty Ltd | 003 416 564 |
| RCR Energy (Stelform VRBT) Pty Ltd | 099 683 584 |
| Stelform Piping Systems Pty Ltd | 099 683 566 |
| Sartap Pty Ltd | 003 412 628 |
| RCR Resources (Heat Treatment) Pty Ltd | 060 002 968 |
| Positron Power Pty. Ltd. | 100 647 756 |
| RCR Asset Maintenance Pty Ltd | 123 094 735 |
| RCR Building Products (Holdings) Pty Ltd | 111 148 853 |



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|---|-------------|
| A.C.N. 076 421 755 Pty Limited | 076 421 755 |
| RCR Trafalgar Building Products Pty Ltd | 004 924 252 |
| RCR Building Services (Egan Bros) Pty Ltd | 056 237 006 |
| RCR Resolve FM (Engineering) Pty Ltd | 064 596 854 |
| RCR Rel Corp Management Services Pty Ltd | 080 877 756 |
| RCReate Pty Ltd | 614 291 879 |



Appendix 2 – Phase 1 meetings

| Date | McGrathNicol attendees | External attendees | Agenda / Purpose |
|-----------------|--|--|---|
| 13/08/18 | Jason Ireland and other McGrathNicol staff | Rod Brown (Chairman), RCR senior management KWM representatives | Introduction and general background discussion |
| 15/08/18 | Jason Ireland and other McGrathNicol staff | RCR senior management | Discuss short-term cashflow structure and assumptions |
| 17/08/18 | Jason Ireland and other McGrathNicol staff | RCR senior management | Discuss key projects and impact on cashflow forecast |
| 19/09/18 | Jason Ireland and other McGrathNicol staff | Bruce James (Director, CEO), RCR senior management | Finalise short-term cashflow document |



Appendix 3 – Phase 2 meetings

| Date | McGrathNicol attendees | External attendees | Agenda / Purpose |
|--|---|--|---|
| 25/10/18 | Jason Ireland, Jason Preston | RCR directors: Rod Brown, Bruce James, David Robinson, Lloyd Jones, Sue Palmer, RCR senior management | Introduction and general background update discussion |
| 30/10/18 | Jason Ireland, Jason Preston and other McGrathNicol staff | Bruce James, RCR senior management KWM representatives | Discuss approach to cashflow forecast, options analysis and the impact of options developed by RCR management on future earnings and cashflows. |
| 05/11/18 | Jason Ireland and other McGrathNicol staff | RCR senior management | Discuss key solar and rail projects and impact on cashflow forecast |
| 06/11/18 | Jason Ireland and other McGrathNicol staff | RCR senior management | Discuss updated cashflow forecast and assumptions |
| 07/11/18 | Jason Ireland, Jason Preston and other McGrathNicol staff | RCR directors: Rod Brown, Bruce James, David Robinson, Lloyd Jones, Sue Palmer, RCR senior management | Board discussion and update on cashflow forecast |
| 08/11/18 and continuing on 09/11/18 | Jason Ireland, Jason Preston and other McGrathNicol staff | RCR directors: Rod Brown, Bruce James, David Robinson, Lloyd Jones, Sue Palmer, RCR senior management | Discuss group financial position, latest cashflow forecast and options available to the Group, including formal insolvency appointments |
| 12/11/18 | Jason Ireland, Jason Preston and other McGrathNicol staff | Bruce James, RCR senior management | Discuss Group cash position, cashflow forecast, funding requirement and impact of RCR management's restructuring options on future cashflows |
| 13/11/18 | Jason Ireland, Jason Preston and other McGrathNicol staff | Bruce James, RCR senior management | Discuss RCR management's restructuring options and impact on forecast P&L and cashflow |
| 14/11/18 | Jason Ireland, Jason Preston and other McGrathNicol staff | Rod Brown, Bruce James, David Robinson, Lloyd Jones, Sue Palmer, RCR senior management Representatives of the Group's secured lenders | Discuss Group cash position, cashflow forecast, funding requirement and potential need for support of the secured lenders |



| | | | |
|-----------------|---|--|---|
| | | Representatives of KWM Representatives of Herbert Smith Freehills | |
| 14/11/18 | Jason Ireland, Jason Preston and other McGrathNicol staff | Bruce James, RCR senior management | Discuss Group cash position, cashflow forecast, funding requirement and impact of RCR management's restructuring options on future cashflows |
| 15/11/18 | Jason Ireland and other McGrathNicol staff | Bruce James, RCR senior management | Discuss restructuring of Group overheads |
| 16/11/18 | Jason Ireland, Jason Preston and other McGrathNicol staff | Rod Brown, Bruce James, David Robinson, Lloyd Jones, Sue Palmer, RCR senior management Representatives of the Group's secured lenders Representatives of KWM Representatives of Herbert Smith Freehills acting for the secured lenders | Discuss Group cash position, cashflow forecast, funding requirement and potential need for support of the secured lenders |
| 19/11/18 | Jason Ireland and other McGrathNicol staff | Bruce James, RCR senior management | Discuss restructuring plan and presentation of the plan by management to the secured lenders |
| 20/11/18 | Jason Ireland, Jason Preston and other McGrathNicol staff | Rod Brown, Bruce James, David Robinson, Lloyd Jones, Sue Palmer, RCR senior management | Discuss Group cash position, cashflow forecast, funding requirement and request for support of the secured lenders |
| 20/11/18 | Jason Ireland, Jason Preston and other McGrathNicol staff | Rod Brown, Bruce James, David Robinson, Lloyd Jones, Sue Palmer, RCR senior management Representatives of the Group's secured lenders Representatives of KWM Representatives of Herbert Smith Freehills acting for the secured lenders | Discuss Group cash position, cashflow forecast, funding requirement, request for support of the secured lenders and consequences of support not being provided |