



Western Australian Shed Commercial Pty Ltd (In Liquidation)

**ACN 079 288 029
(WASC or Company)**

Statutory Report to Creditors

I refer to my initial information for creditors dated 2 February 2021 in which I advised you of my appointment as Liquidator and your rights as a creditor in the liquidation.

The purpose of this report is to:

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

1 Background and appointment

WASC was incorporated on 9 July 1997, with its registered office (since June 2019) located at 181 Knutsford Avenue, Rivervale 6103. WASC's sole director is Gewei Li (**Director**), who has been a director since February 2014.

I understand WASC was a building company that predominately serviced mining services and construction clients, constructing large warehouse sheds, modular accommodation and ablution blocks in remote mining sites across Western Australia.

From my investigations into the affairs of WASC to date, I understand WASC ceased trading in late 2019 following:

- WASC's termination of a former employee's employment in mid-June 2019;
- WASC being taken to the Fair Work Commission by that former employee in relation to unpaid employee entitlements. In particular, the employee argued WASC had not paid them redundancy pay entitlements as part of their termination; and
- the Fair Work Commission ruling in agreement with the former employee that WASC was liable for the respective employee's redundancy entitlements, including redundancy pay and additional penalties deemed by the Fair Work Commission as appropriate compensation to the employee in light of WASC's delay and failure to appropriately remedy the employee's claim.

Following the above, WASC's trading and corporate activity appears to have declined and attempts by numerous parties to contact the Company and Director, including the Fair Work Commission, ASIC, the ATO, the Company's former accountant, and the former employee, have been unsuccessful.

Consequently, ASIC determined WASC had been abandoned by the Director and that it was in the public interest that WASC be placed into liquidation. Accordingly, on 19 January 2021 I was appointed Liquidator of WASC under 489EA(2) of the Corporations Act (**Act**), by way of my position on ASIC's Abandoned Company Liquidator Panel.

2 Books and records

2.1 Report on Company Activities and Property

In a liquidation, directors are required to submit a Report on Company Affairs and Property (**ROCAP**), setting out a detailed assessment of the company's asset and liability position to the liquidators.

Immediately on my appointment, I requested the Director to provide (i) a completed ROCAP, (ii) a completed questionnaire outlining the causes of failure of WASC and (iii) any other books and records they had on hand.

Despite numerous attempts, as at the date of this report, I have had no contact with the Director of the Company and have not received a completed ROCAP or the books and records of the Company. ASIC's assistance has been requested in relation to the failure of the Company officers to comply with this request.

Similarly, I have not been able to contact any party associated with or reasonably familiar with the Company to obtain any further details regarding the Company's trading status and/or reasons for failure.



2.2 Former accountants

As a result of a request of WASC's former accountant (**Accountant**) to provide any of the Company's books and records held in their possession, I have received copies of WASC's:

- June 2018 financial accounts (**FY18 Accounts**); and
- tax return for June 2018 (**FY18 Tax Return**).

Following enquiries, the Accountant advised that upon completion of the FY18 Financial Report and FY18 Tax Return:

- all source documents, books and records were returned to WASC;
- there had been no contact with the Director since; and
- accordingly, the services agreement between each party had been terminated (by the Accountant).

The Accountant has not been able to provide me with (i) more recent accounts, (ii) an electronic accounting file, (iii) a recent detailed creditors list or (iv) a detailed accounts receivable listing.

As a creditor, if you have any further information or books and records in your possession that may be of assistance, please contact this office.

3 Estimated assets and liabilities

Set out below is a summary of WASC's asset and liability position as at June 2018, and my estimate of realisable value, based on:

- the historical financial information provided by the Accountant, including the FY18 accounts (which may no longer be accurate);
- correspondence with creditors; and
- information received from ASIC.

Summary of financial position			
\$	ROCAP	FY18 Accounts	Liquidator's ERV
Assets			
Property	Not provided	16,606	Unknown
Cash	Not provided	1,061	4
Accounts receivable	Not provided	560,998	Unknown
Plant and equipment	Not provided	1,122,576	Unknown
Other	Not provided	104,678	Unknown
Total assets		1,805,919	Unknown
Liabilities			
Secured creditors	Not provided	(350,000)	(419,990)
Loans	Not provided	(2,364,891)	Unknown
Priority creditors	Not provided	(83,419)	(109,066)
ATO	Not provided	(129,631)	(102,340)
Unsecured creditors	Not provided	(1,026,922)	(5,683)
Total liabilities		(3,954,862)	(637,079)
Net assets / (liabilities)		(2,148,944)	(637,079)

While records obtained to date are insufficient to undertake detailed analysis, I note the FY18 accounts as outlined on the previous page indicate WASC financially was in a significant liability position well prior to my appointment as Liquidator.



3.1 Assets

3.1.1 Property

After making enquiries as part of our initial investigations, we have identified that WASC owns a vacant block of land (circa 1,500sqm) located four hours north of Perth in Port Denison, WA (**Property**). As discussed further at section 4.2.1, nab has a registered mortgage over the Property in relation to a debt of circa \$419,990.

As of the date of this report, the Liquidator is liaising with nab in relation to the optimal strategy to realise the Property, and in doing so have:

- sighted the Property;
- researched and sought marketing proposals from respective selling agents;
- obtained a quote to undertake a valuation of the Property; and
- implemented appropriate insurance cover for the Property while a realisation program is carried out.

Noting nab's amount outstanding, it is unknown whether there is any equity value in the property that would result in a return to creditors.

3.1.2 Cash

On appointment, I issued correspondence to all major banks and was advised of one active bank account with a nominal balance of \$3.70. I have arranged for this account to be closed, with the balance to be transferred to the liquidation account.

3.1.3 Plant and Equipment

The FY18 Accounts indicated WASC owned a Triton Ute and a Triton Diesel Dual Cab as at 30 June 2018, valued at circa \$22,000. A search of the Department of Transport's records by the Liquidator did not identify any vehicles registered to WASC as at the date of our appointment, indicating the vehicles were likely sold by the Company well prior to our appointment.

Where commercial and possible to do so via further books and records becoming available, the sale of the vehicles and any other assets prior to my appointment will be investigated and the outcome reported to creditors in due course if required.

3.2 Liabilities

Set out below is a summary of the liabilities of WASC as at the date of my appointment based on information available to me.

Summary of liabilities	
Entitlements	Total (\$)
Secured creditors	(419,990)
Priority creditors	(109,066)
ATO (excluding superannuation)	(102,340)
Unsecured creditors	(5,683)
Total	(637,079)

3.2.1 Secured creditors

To assist identifying any creditors of the Company, I conducted a search of the Personal Properties Securities Register (**PPSR**) and wrote to the 21 parties with registrations to confirm (i) if they have a current security interest in WASC and/or (ii) if they have a debt with WASC.

To date, six parties have responded to my correspondence, of which:



- five parties have confirmed they are not owed any monies from WASC and accordingly discharged their PPSR registrations; and
- nab confirmed their security interest in the Property, and indicated it was owed circa \$419,990 (across two separate facilities) in relation to its mortgage.

Given nab's first ranking security position, any proceeds from the sale of the Property will be in the first instance, utilised to (i) meet any realisation costs, and (ii) repay nab's debt.

As noted in section 4.1.2, I am currently in dialogue with nab in relation to realising the Property and further updates, including the likelihood of a dividend to creditors will be provided to creditors in due course.

3.2.2 Priority creditors

The appointment of a liquidator enables employees to claim their outstanding entitlements from the Fair Entitlements Guarantee (**FEG**) scheme.

Based on information provided to me by ASIC and the Australian Taxation Office (**ATO**), I understand the employee entitlements as set out below are outstanding:

Priority creditors	
Entitlements	Total (\$)
Entitlements afforded priority by FEG	
Wages	(16,192)
Annual Leave	(14,984)
Redundancy	(13,960)
Pay in Lieu of Notice	(7,691)
Subtotal	(52,827)
SGC superannuation liability (claimed by ATO)	(56,240)
Total	(109,066)

I am currently liaising with:

- a sole employee who has identified themselves as a creditor with outstanding employee entitlements of which may be paid by the Department (circa \$52,827) and assisting them where possible in submitting and progressing their claims with FEG;
- the Department regarding the employee claim and assisting where possible to support the claim being processed in a timely manner; and
- the ATO in relation to unpaid SGC superannuation of circa \$56,240 which is not afforded a priority by the Department, and therefore can only be met by any assets that may be recovered in the liquidation. The ATO position is discussed further at section 4.2.4.

The above amounts are consistent with the documents I have received from ASIC regarding the former employee's action brought against the Company at the Fair Work Commission.

If you are a former employee of WASC, you may be eligible to make a claim under FEG for your outstanding pre-appointment entitlements. If so, please contact my office to lodge the details of your claim and obtain further information regarding the FEG process.

Subject to eligibility, employees have 12 months from the date of my appointment (i.e. until 19 January 2022) to lodge their claims with FEG, however employees are encouraged to commence lodging their claims with FEG as soon as possible.



Online lodgement of claims is the preferred method to make your claim. If you are unable to lodge an online form you can submit a paper based form available from the FEG website: <http://www.employment.gov.au/fair-entitlements-guarantee-feg>

3.2.3 ATO

In addition to outstanding superannuation, the ATO has indicated it is owed circa \$102,340 in respect of unpaid GST from the Company, which has accrued over a two year period prior to my appointment.

3.2.4 Unsecured creditors

Other than those set out above, the only other claims that I am aware of, which are unsecured, relate to outstanding land tax and rates for the Property totalling circa \$5,683 owed to respective Shires and the Office of State Revenue.

At the date of this report I am yet to receive a proof of debt from any creditor to enable me to verify the quantum of any other claims.

4 Investigations

As noted previously, the FY18 Accounts indicate WASC financially was in a significant liability position well prior to my appointment as Liquidator.

However, at this stage, insufficient records are available to conduct proper investigations into the affairs of WASC, such as quantifying any insolvent trading claims against the Director and pursuing potential preference claims.

The Liquidator will continue the investigation into the Property owned by WASC and discussions with NAB regarding the Property.

Creditors will be notified should any funds be realised for the benefit of the creditors.

5 Receipts and payment to date

There have not been any receipts or payments in the liquidation to date.

6 Likelihood of a dividend

A number of factors affect the likelihood of a dividend being paid to creditors; including:

- the size and complexity of the liquidation;
- the amount of assets realisable and the costs of realising those assets;
- the statutory priority of certain claims and costs;
- the value of various classes of claims including secured, priority and unsecured creditor claims; and
- the volume of enquiries by creditors and other stakeholders.

Based on information available to me at this time, I consider it unlikely that a dividend will be payable to creditors with admitted claims in the liquidation. However, this position will largely be determined by the outcome achieved from the sale of the Property, and whether there are any surplus proceeds after (i) realisation costs incurred, and (ii) nab's debt.

If a dividend is going to be paid, you will be contacted before that happens and, if you have not already done so, you will be asked to lodge a proof of debt. This formalises the record of your claim in the liquidation and is used to determine all claims against WASC.

7 Cost of the liquidation

I have not been paid any remuneration to date and no approval is currently sought from creditors.

Given we will likely be shortly commencing a realisation program to sell the Property, remuneration approval is expected to be sought from creditors in due course.



Further to my initial report to creditors, the Liquidator will receive up to \$12,000 (exclusive of GST) from the ASIC Assetless Administration Fund for remuneration and disbursements in relation to the winding up of WASC. The Liquidator will also receive remuneration from the Department for processing employee claims.

This portion of remuneration will not be paid from the Company's assets and such creditors are not required to approve this component of the Liquidator's remuneration.

8 **What happens next?**

I will proceed with the liquidation, which will include:

- pursuing receipt of information from the Director;
- liaising with the Department in relation to the verification of employee entitlements;
- if sufficient additional information is received, investigating and pursuing any viable claims for statutory recovery actions; and
- completing my reporting to the corporate insolvency regulator, ASIC.

I may write to you again with further information on the progress of the liquidation.

I expect to have completed this liquidation within 12 months.

9 **Where can you get more information?**

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

- ARITA at www.arita.com.au/creditors.
- ASIC at www.asic.gov.au (search for "insolvency information sheets").

If you have any queries, please contact Phoebe Donaldson on (08) 6363 7619. For further information about this engagement, please refer to the website www.mcgrathnicol.com/creditors/western-australian-shed-commercial.

Dated: 19 April 2021

Rob Brauer
Liquidator

Enclosures:

- 1 Proof of Debt (Form 535)
- 2 Proof of Debt Guidance Notes
- 3 ARITA Information Sheet – Offences, Recoverable Transactions & Insolvent Trading