



**Evermaze Pty Ltd (In Liquidation) as trustee for the Evermaze Trust trading as Vale IGA**  
**ACN 142 508 058**  
**(Evermaze)**

**Statutory Report to Creditors**

We refer to our initial information for creditors dated 4 May 2021 in which we advised you of our 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.

We will also be requesting that you consider our detailed remuneration approval report and consider a resolution to approve our remuneration.

**1 Update on the progress of the liquidation**

*1.1 Background and trading history*

Evermaze was incorporated on 10 March 2010, with its principle place of business at 77 Swanleigh Parade, Aveley WA 6009, being the Vale IGA supermarket. According to the Company's records, Evermaze was the corporate trustee for the Evermaze Trust.

In its capacity as trustee of Evermaze Trust, the Company commenced trading as Vale IGA during FY13.

At the time of the Liquidators' appointment, Mr Gabriel Pereira was the sole director of Evermaze (**Director**), taking over from the former director (Mr Reinaldo Nunes) in February 2019, with Mr Nunes remaining the sole shareholder of the company. We understand the Director and Mr Nunes are related by marriage.

Evermaze operated the Vale IGA supermarket located in Aveley, WA. The business was part of a larger corporate Group, holding ownership of family interests in other IGA supermarkets in Perth.

Related entities (in addition to Evermaze) are listed below, and are all currently in external administration:

- SKB Australia Pty Ltd atf KBS Family Trust and t/as Darch SUPA IGA (**SKB**);
- Mainteam Holdings Pty Ltd atf Redside Trust and t/as Ellenbrook IGA (**Mainteam**);
- Villanex Pty Ltd atf Villanex Trust and t/as Aveley Liquor (**Villanex**); and
- Family Fresh Growers Market Pty Ltd atf Family Fresh Growers Market Trust (**Family Fresh**).

Evermaze traded at a loss for a number of years prior to the appointment of the Liquidators and was generally the beneficiary of financial support from related entities, including SKB and family members.

Prior to the appointment of the Liquidators, Evermaze had experienced substantial periods of working capital deficiency, cash flow pressure and accumulating liabilities with key creditors.

During March 2020 a Notice of Default was served on Evermaze by IGA Distribution (WA) Pty Ltd (a wholly owned subsidiary of Metcash Trading Limited (**Metcash**), the head-lessor of the Vale IGA premises) in relation to overdue and unpaid rent and outgoings. As a result of Evermaze's inability to remedy the position in relation to rent and outgoings, the landlord took possession of the premises on 9 April 2021.

Subsequently, on 19 April 2021, the Director passed a resolution to appoint Rob Kirman and Rob Brauer as Liquidators of Evermaze.



## 1.2 Report on Company Activities and Property / Books and Records

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 appointment, the Liquidators requested the Director provide (i) a completed ROCAP, (ii) a completed questionnaire outlining the causes of failure of Evermaze, and (iii) any other books and records on hand.

The Director submitted a ROCAP on 16 May 2021. The ROCAP omitted certain secured creditor debts and classes of employee entitlements. According to the Director's ROCAP Questionnaire, the failure of Evermaze was primarily attributable to concentrated market competition.

The Liquidators have obtained Company records, including MYOB management accounts (**MYOB**) and physical books and records.

## 2 Estimated assets and liabilities

Based on MYOB and the Director's ROCAP, set out below is a summary of Evermaze's asset and liability position, as well as the Liquidators view on estimated realisable values.

Summary of financial position					
\$	Notes	Director's ROCAP	MYOB	Liquidators' ERV	
				Low	High
<b>Assets</b>					
Cash	2.1	-	(63,681)	4,178	4,178
Stock	2.2	-	1,015,342	-	-
Accounts receivable	2.3	14,728	14,728	-	1,136
Related entity loans	2.4	275,832	455,474	-	-
Plant & equipment	2.5	539,014	529,991	150,195	150,195
Other assets	2.6	-	14,671	10,103	10,103
Total assets		829,574	1,966,524	164,476	165,612
<b>Liabilities</b>					
Priority employee creditors	2.7	(23,999)	(232,144)	(228,662)	(228,662)
Secured creditors	2.8	(282,794)	(2,036,801)	(2,220,026)	(2,220,026)
Related party loans	2.9	(746,181)	(628,704)	(746,181)	(628,704)
Other loans	2.10	(16,215)	(16,215)	(18,000)	(18,000)
Unsecured creditors	2.11	(1,142,390)	(1,115,496)	(2,303,776)	(1,919,813)
Statutory liabilities	2.12	-	(105,983)	(95,743)	(95,743)
Total liabilities		(2,211,579)	(4,135,343)	(5,612,388)	(5,110,949)
<b>Net assets / liabilities</b>		<b>(1,382,005)</b>	<b>(2,168,819)</b>	<b>(5,447,912)</b>	<b>(4,945,337)</b>

### 2.1 Cash

Evermaze maintained three bank accounts with Westpac/St George Bank Limited (**Westpac**) and one bank account with Australia and New Zealand Banking Group (**ANZ**). All three bank accounts were in overdraft as at appointment and therefore there was no cash at bank to recover.

Separately, \$4,178 of cash was collected from cash floats and the on-site safe. This amount was not reported on the Director's ROCAP.



## 2.2 Stock

As detailed in section 1.1 above, prior to the appointment of the Liquidators, Evermaze's head-lessor, Metcash, formally entered into possession of the Vale IGA premises on account of unpaid rent and outgoings. In addition to entering into possession of Evermaze's trading premises, Metcash also took possession of all stock on hand, most of which was the subject of Metcash's security.

For the above reasons, no stock was recovered or realised by the Liquidators. However, Metcash is required to mitigate its losses in accounting for the stock repossessed in submitting its final proof of debt in the liquidation.

## 2.3 Accounts receivable

MYOB and the Director's ROCAP reported accounts receivable of \$14,728.

Of this amount, \$12,294 related to Villanex and Mainteam, which are also in liquidation. Based on information currently available, it is unlikely that a return to unsecured creditors will be achieved in either of the Villanex or Mainteam liquidations.

The Liquidators are corresponding with the remaining four parties that comprise the balance of debtors totalling circa \$2,400 in an attempt to recover these amounts. On the basis that a portion is presently disputed, the Liquidators have assumed recoveries of between nil and 50%.

## 2.4 Related entity loans

The Director's ROCAP and Evermaze's MYOB management accounts reported intercompany loans receivable as set out in the table below:

Intercompany loans receivable				
\$	Director's ROCAP	MYOB	Liquidators' ERV	
			Low	High
Mainteam	160,045	174,854	-	-
Villanex	115,787	280,620	-	-
<b>Total</b>	<b>275,832</b>	<b>455,474</b>	-	-

As discussed in section 2.3, Villanex and Mainteam are currently in liquidation and the Liquidators do not estimate a return to unsecured creditors.

## 2.5 Plant and equipment

As detailed in section 1.1 above, prior to the appointment of the Liquidators, Evermaze's head-lessor, Metcash, formally entered into possession of the Vale IGA premises on account of unpaid rent and outgoings. In addition to entering into possession of Evermaze's trading premises, Metcash also took possession of all plant and equipment on-site, which broadly comprised the following:

- refrigerated display units and cool-rooms;
- shelving units, stands and counters;
- Point of sale systems and registers;
- assorted cooking ovens and equipment and other utensils; and
- office equipment and furniture.

The Directors' ROCAP reported an ERV for the plant and equipment of \$539,014 based on a prior period depreciation schedule for Evermaze. A valuation of the plant and equipment procured by the Director in the months prior to the appointment of the Liquidators assigned a Fair Market Value In Continued Use of \$768,565 and an Orderly Liquidation Value (OLV) of \$55,820.



Despite Metcash taking possession of the Vale IGA premises, Westpac held a first ranking security over the assets and undertakings of Evermaze (including plant and equipment) by way of a registered GSA.

Shortly after their appointment, the Liquidators commenced negotiations with Metcash in relation to a sale of the plant and equipment to an incoming lessor of the premises.

Following negotiation, the Liquidators entered into an Asset Sale Agreement with Progressive Trading Pty Ltd for the sale of the plant and equipment of Evermaze in-situ and its business name (Vale IGA) for \$150,000 (excluding GST).

Overall, the Liquidators consider this a positive outcome on the basis that (i) the assets are not in the possession of the Liquidators and subject of enforcement by Metcash, (ii) the sale provides for a favourable return in relation to the pre-appointment OLV procured by the Director when considering the time and cost to otherwise remove and realise the assets, and (iii) it provides a material return to the secured creditor.

Net proceeds of \$130,000 (after liquidator and legal costs of \$20,000) from the sale of the plant and equipment and business name has been distributed to Westpac, as first ranking secured creditor of the company.

In addition, sundry plant and equipment assets belonging to Evermaze that were located at SKB's IGA premises in Darch, WA were also auctioned by Slattery Asset Advisory in late May 2021, netting circa \$195 (after realisation costs).

## 2.6 Other assets

The Liquidators realised an insurance premium refund totalling \$10,103, paid into Evermaze's pre-appointment St George bank account. This amount was not listed in the Director's ROCAP, and has been recovered by the Liquidators.

## 2.7 Priority Creditors

In accordance with section 556(1)(e) of the Corporations Act 2001 (**Act**), employee entitlements such as wages, leave of absence, retrenchment, payment in lieu of notice and superannuation receive a priority ahead of unsecured creditors.

The Liquidators' calculation of priority creditors based on the books and records of Evermaze is set out in the table below:

Priority creditors				
\$	Director's ROCAP	MYOB	Liquidators ERV	
			Low	High
<b>Entitlements afforded priority by FEG</b>				
Wages	(10,508)		(10,508)	(10,508)
Annual leave	(12,852)	(111,895)	(13,585)	(13,585)
Long service leave	-		(11,119)	(11,119)
PILN	-	-	(18,899)	(18,899)
Redundancy	-	-	(56,747)	(56,747)
Subtotal	(23,360)	(111,895)	(110,858)	(110,858)
SGC superannuation liability	(639)	(120,249)	(117,804)	(117,804)
<b>Total</b>	<b>(23,999)</b>	<b>(232,144)</b>	<b>(228,662)</b>	<b>(228,662)</b>

Based on the books and records of Evermaze, and the Director's ROCAP, the Liquidators have verified employee entitlements on behalf of the Fair Entitlements Guarantee (**FEG**) Scheme.

Some of the limitations in the books and records include unpaid wages, unpaid annual leave and long service entitlements being accrued together in MYOB management accounts. The amount provisioned in management accounts for employee liabilities in general totalled \$111,895 as at the date of appointment.

The Liquidators understand Evermaze did not pay employee wages for the week prior to the Vale IGA business ceasing to trade. Based on the Director's ROCAP and statements obtained from former employees, these unpaid wages are estimated to total \$10,508.



Unpaid long service leave, PILN and redundancy were not included in the Director's ROCAP and were calculated by the Liquidators (based on employee start dates and award rates) and have been verified to FEG.

FEG will be entitled to subrogate into the position of employees to whom they make any distributions, and rank as a priority creditor in the liquidation. In effect, this means any amounts owing to an employee will become due to FEG if and when FEG make a distribution to that employee.

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

Subject to eligibility, employees have 12 months from the date of appointment (i.e. until 19 April 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>.

Superannuation is not afforded a priority by FEG, and therefore can only be met by relevant assets recovered in the liquidation. The Liquidators are currently liaising with the ATO in relation to unpaid superannuation of \$117,804, which was not recorded on the Director's ROCAP.

As noted in section 5 following, the Liquidators consider it unlikely there will be sufficient recoveries in the liquidation to satisfy priority creditor claims.

## 2.8 Secured creditors

Evermaze's secured creditors comprise Westpac, Metcash and Bizcap AU Pty Ltd (**Bizcap**), summarised as follows:

Secured creditors				
\$	Director's ROCAP	MYOB	Liquidators' ERV	
			Low	High
Westpac	-	1,748,276	1,748,276	1,748,276
Metcash*	282,794	282,794	466,019	466,019
Bizcap	-	5,732	5,732	5,732
<b>Total</b>	<b>282,794</b>	<b>2,036,801</b>	<b>2,220,026</b>	<b>2,220,026</b>

\*Excludes rental arrears owed to IGA Distribution (Property) WA Pty Ltd, a subsidiary of Metcash

### 2.8.1 Westpac

As at the date of appointment, Westpac held an ALLPAP registration supported by a first ranking GSA over all or substantially all of the assets of Evermaze.

As at the date of appointment, Westpac's direct secured debt totalled circa \$1.74 million, comprising a trading overdraft facility and market rate loan facility. The Director's ROCAP did not specify any amounts owed by Evermaze to Westpac.

Following sale of the assets of Evermaze (and net proceeds of \$130,000 being paid direct to Westpac), Westpac will suffer a shortfall of circa \$1.6 million on its security specific to Evermaze.

Across the Nunes corporate group (comprising Evermaze, Mainteam and SKB), Westpac's total outstanding debt exceeds \$6.0 million secured by the assets of Evermaze, Mainteam and SKB, together with specific properties of the Director and other family members.

### 2.8.2 Metcash

Metcash, Evermaze's major grocery line supplier, held two ALLPAP registered security interests relating to in-store stock on hand at appointment.



In the months leading up to their appointment, stock levels had been severely impacted by the lack of working capital and resulted in stop-supply and/or stop-credit arrangements being instigated by Metcash, and other suppliers.

Metcash also took possession of all stock on hand pursuant to their PPSR security.

Metcash's total debt (as at the date of appointment) totalled approximately \$584,945 in relation to both rent arrears (\$118,495) and supply of supermarket stock (\$466,450). The \$466,450 outstanding to Metcash in relation to stock supplied is secured to the extent of stock recovered by Metcash, the remaining balance of the debt represents an unsecured claim. The Director's ROCAP only specified the amount owing to Metcash in respect of rent arrears.

### *2.8.3 Bizcap*

Bizcap held two registered security interests in relation to Evermaze (and Mainteam and SKB), being:

- an ALLPAP registration supported by a loan agreement dated 10 September 2020; and
- an "Account" registration with collateral comprising three bank accounts in the name of Evermaze (two with St. George and one with ANZ). These bank accounts were all in overdraft as at the date of the Administrators' appointment.

Per the books and records of Evermaze, Bizcap's outstanding liability as at the date of appointment totalled circa \$5,200. The Director's ROCAP did not list Bizcap as a creditor of Evermaze. On review of available statements, the Liquidators estimate the amount owed from Evermaze to Bizcap to be consistent with the Director's ROCAP.

### *2.8.4 Other PPSR registrations*

At appointment, the following parties each held ALLPAP PPSR registrations in relation to Evermaze:

- Monde Nissin (grocery supplier); and
- Grovehill Investments Pty Ltd and Napet Pty Ltd, the landlord of related entity Mainteam (**Mainteam Landlord**).

After the Liquidators wrote to Monde Nissin shortly following their appointment, that PPSR registration has been discharged.

Grovehill and Napet are the former landlord of Mainteam in relation to the Ellenbrook IGA. In June 2019, as a result of an accrual of substantial rent arrears (in excess of \$450,000 at that time) owed by Mainteam, the Director and other family members (including directors of SKB, Mainteam and Villanex) entered into a General Security Deed with the Mainteam Landlord. The effect of the General Security Deed granted a security interest in favour of the Mainteam Landlord over all of the property of each of the entities (including Evermaze) and the personal property of the family members party to the deed.

The relevant security interest against Evermaze was registered on the PPSR on 20 October 2020.

Due to (i) the appointment of the Liquidators on 19 April 2021, within 6 months of the registration of the Mainteam Landlord's security interest over Evermaze, and (ii) registration of the relevant PPSR registrations in excess of 20 days after entry into the General Security Deed, the Liquidators consider that the Mainteam Landlord's security interests in Evermaze are unperfected and invalid, and therefore the relevant debt (which at appointment was c.\$1.2m) is ultimately unsecured in nature.

### *2.9 Related party loans*

The books and records of Evermaze record related party loans totalling \$628,704 owing to the Director, SKB (which is in Administration) and eight Related Party family members.



## Related party loans

\$	Director's ROCAP	MYOB	Liquidators' ERV	
			Low	High
Director	29,269	29,269	29,269	29,269
SKB	252,093	247,888	252,093	247,888
Nunes Group Family members	464,819	351,547	464,819	351,547
<b>Total</b>	<b>746,181</b>	<b>628,704</b>	<b>746,181</b>	<b>628,704</b>

The Liquidators have not yet verified the related party claims, but have assumed the position of the Director's ROCAP in the low scenario and MYOB management accounts in the high scenario for the purposes of this report.

### 2.10 *Other loans*

A further loan account has been asserted by a third party since the appointment of the Liquidators, involving a former employee of Evermaze who appears to have paid an amount of \$16,215 owing to Metcash by Evermaze on their personal credit card. The Liquidators have received a proof of debt (**POD**) for \$18,000 comprising the loan portion of \$16,215 (as listed in the Director's ROCAP) together with interest.

The Liquidators note that this loan ranks as unsecured claim in the liquidation.

### 2.11 *Unsecured creditors*

The Director's ROCAP discloses outstanding unsecured creditors totalling circa \$1.14 million which is broadly consistent with the books and records of the Company.

The Liquidators have reviewed various source documents and identified:

- a number of duplicate entries within the Director's ROCAP that are also disclosed as secured creditors or intercompany loans; and
- the Director's ROCAP does not account for c.\$1.2 million owed to the landlord of Mainteam, which is guaranteed by Villanex (and a number of other related parties).

Having regard to the above, the Liquidators currently estimate unsecured creditors (including the Mainteam landlord guarantee) to be circa \$1.9 million and circa \$2.3 million. The Liquidators have not sought proofs of debts from creditors to date, nor have they adjudicated any claims received.

### 2.12 *Statutory liabilities*

The books and records of the company report statutory liabilities of \$105,983. While the Liquidators are yet to receive a POD from the ATO, outstanding statutory liabilities are estimated to be \$95,743 comprising outstanding payroll tax of circa \$9,000 with the ATO's running balance account making up the balance.

## 3 **Investigations**

The Liquidators have obtained books and records of Evermaze, which includes historical financial statements, bank statements and various trading records. The Liquidators have also obtained further documents available via public register information and the Freedom of Information Act.

The Liquidators have carried out a high-level review of the above documents and conducted preliminary investigations in relation to potential Liquidator recoveries, including:

- insolvent trading;
- uncommercial transactions; and
- unfair preference payments.

To date the Liquidators have identified (i) a potential material insolvent trading claim against the Director, and (ii) the potential for unfair preferences or uncommercial transactions that require further investigation.



On review of Evermaze's available financial statements and books and records, the Company:

- was loss making between FY17 to FY19 incurring losses of circa \$182,000 in FY17, \$455,000 in FY18, \$215,000 in FY19;
- made a profit of circa \$208,000 in FY20, which appears to be supported largely by Covid-19 stimulus income and potentially inflated reporting of closing inventory;
- has reported a net liability position in each financial year since at least FY17; and
- is likely to have been insolvent for a number of years prior to the Liquidators' appointment.

In relation to insolvent trading, the Liquidators note:

- the preliminary estimate of the quantum of such a claim would likely be substantial, albeit at this stage unquantified;
- relevant claims would likely be apportioned between the Director and Mr Reinaldo Nunes (former director) based on the respective periods in which they were directors of Evermaze during the period of insolvency (noting the Director assumed the role following Mr Nunes' resignation on 11 February 2019); and
- notwithstanding the size of the potential claim (i) both the Director and Mr Nunes declared bankruptcy in late June 2021 and early July 2021 respectively, and (ii) the liquidators are not aware of a Directors & Officers insurance policy that would respond to an insolvent trading claim, therefore any recoveries are unlikely and potentially uncommercial to pursue.

In relation to unfair preferences, a review of bank statements and company records indicate:

- significant pressure was applied to Evermaze by a number of creditors to repay outstanding amounts and/or enter into payment arrangements; and
- some material payments appear to have been made to creditors in the six month period prior to the Liquidators' appointment (**Relation Back Period**).

Accordingly, the Liquidators will investigate the potential for any unfair preferences, and pursue those where commercial to do so.

It should be noted that the Liquidators are yet to complete their investigations, and a further update to creditors will be provided should any information come to attention that alters the current view.

As part of their statutory obligations, the Liquidators of Evermaze are also required to lodge an investigative report with ASIC pursuant to section 533 of the Act in relation to the affairs of Evermaze, and the conduct of the Director. This report will be prepared and lodged on completion of the Liquidators' investigations.

#### 4 **Receipts and payment to date**

Enclosed are details of all receipts and payments in the liquidation to date.

#### 5 **Likelihood of a dividend**

A number of factors will 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.

As noted previously, Evermaze's available assets at appointment were predominately limited to plant and equipment, less than \$5k in cash and a small quantum of debtors. Westpac as first ranking secured creditor has



received a distribution of net sale proceeds from the Liquidators' sale of plant and equipment totalling \$130,000. Westpac will incur a substantial shortfall of over \$1.6m in respect of its direct debt with Evermaze.

Based on (i) information available to the Liquidators at this time, (ii) there being minimal (if any) other assets available to creditors, and (iii) the shortfall to Westpac as first ranking secured creditor, we consider it unlikely that a dividend will be payable to any class of creditor absent material recoveries being made from liquidators' recovery actions (refer section 3).

Should this position change, the Liquidators will contact you to lodge a proof of debt, which formalises the record of your claim in the liquidation and is used to determine all claims against Evermaze.

## **6 Cost of the liquidation**

We enclose a detailed report on our remuneration, called a Remuneration Approval Report.

We propose to have our remuneration approved by a proposal without a meeting.

To vote on the proposal, you must return the enclosed voting form to our office by post, fax or email by 6 August 2021. You must also include a completed proof of debt and supporting information to substantiate your claim. A proof of debt form is enclosed, together with guidance notes to assist you when you complete it.

We also enclose an Australian Restructuring Insolvency and Turnaround (**ARITA**) information sheet on passing resolutions without a meeting.

## **7 What happens next?**

We will proceed with the liquidation, which will include:

- realising any remaining assets;
- recovering any further available property;
- completing our investigations into Evermaze's affairs;
- if identified, pursuing any viable claims for statutory recovery actions; and
- completing our reporting to the corporate insolvency regulator, the Australian Securities and Investments Commission (**ASIC**).

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

We expect to have completed this liquidation within 12 months.

## **8 Where can you get more information?**

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

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



If you have any queries, please contact Phoebe Donaldson on 08 6363 7619. For further information about this engagement, please refer to the website [www.mcgrathnicol.com/creditors](http://www.mcgrathnicol.com/creditors).

Dated: 19 July 2021

Rob Kirman  
*Liquidator*

Enclosures:

- 1 Remuneration Approval Report
- 2 ARITA Information Sheet – Approving remuneration of an external administrator
- 3 Notice of Proposal to Creditors
- 4 ARITA Information Sheet – Proposals without meeting
- 5 Proof of Debt (Form 535)
- 6 Proof of Debt Guidance Notes
- 7 ARITA Information Sheet – Offences, Recoverable Transactions & Insolvent Trading