



McGrathNicol

McGrathNicol Limited

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mcgrathnicol.com

## Second Circular to Employees

**RCR Building Products (New Zealand) Limited (Administrators Appointed)**

**RCR Energy Limited (Administrators Appointed)**

**RCR Infrastructure (New Zealand) Limited (Administrators Appointed)**

**("the Companies")**

### Background

As previously advised, Conor McElhinney and Andrew Grenfell were appointed joint and several administrators of the Companies on 18 December 2018 pursuant to Section 239I of the Companies Act 1993 (the "Act"). The purpose of this letter is to notify you about an upcoming voluntary administration meeting and provide various notices.

### First creditors meeting and employees

We are required to hold a first creditors meeting within eight working days of the Administration commencing. The purpose of the meeting is to determine whether to appoint a creditors' committee and/or replace the administrator. All creditors are entitled to vote at the meeting.

**If you do not want to change the appointed administrators or decide on a creditors committee, it is not necessary for you to complete any of the attached forms or attend the meeting.**

If you do not complete the forms, your legal claim against the company you are employed by ("the Company") will not be affected.

For the purposes of voting at the first creditors meeting, you are required to enter the amount that is stated in the payroll records of the Company as owing to you, which may (for example) include wages, salary, and outstanding holiday pay. As your wages and salaries have been paid up to date, the amount actually owing to you is likely to only include annual leave that has not been taken as at 18 December 2018. However, as we have previously advised, you will be paid your annual leave taken over the Christmas shut down period.

Please contact your usual HR team member who can advise you of your outstanding holiday pay entitlements, which you can enter on the Claim Form provided in this pack. The Companies hold up-to-date payroll records. Whilst the administrators cannot and do not represent and warrant the absolute accuracy of those records, the Administrators believe they have been well maintained by the Companies.

Given the geographical location of some employees in relation to the meeting and or the on-going trading requirements of the business, employees due to work at the time of the first creditors meeting may be unable to attend. Such employees may lodge a postal vote or appoint a proxy should they wish to vote as a creditor at the meeting.

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### **Documents enclosed in respect of first creditors meeting**

For the purposes of the first creditors meeting, we enclose the following documents:

- (a) Notice of Meeting of Creditors. Please note that the meeting commences at 2.00 pm. If you want to attend the meeting, you should arrive for registration at least 30 minutes prior to the meeting.
- (b) Claim Form for Voting Purposes.

The Administrators may elect to estimate for voting purposes the amount of any creditor's claim that is for any reason uncertain. The Administrators reserve all rights to further scrutinise claims for the purpose of a distribution or call for new claims to be filed.

- (c) Appointment of Proxy form. The form enables you to appoint a person to act on your behalf at the meeting should you not be able to attend in person.
- (d) Postal Voting form. The form enables you to cast your vote at the meeting by post, so that you do not need to attend the meeting.

The forms should be lodged with this office before the meeting and, in any event, no later than **2.00 pm on Friday 4 January 2019**. Forms can be sent to:

McGrathNicol  
PO Box 106733  
Auckland City  
Auckland 1143 or

[insolvency@mcgrathnicol.co.nz](mailto:insolvency@mcgrathnicol.co.nz) (please ensure the subject reads "RCR Group Creditors Meeting")

### **Report and second meeting**

All known creditors will receive a report regarding the Companies' affairs before the second statutory meeting of creditors. A decision on the Companies' futures will be made at the second statutory meeting.

### **Court orders**

Generally for a company subject to Voluntary Administration where the business is continuing to trade, all employee contracts with the company would be terminated and employees would be re-engaged under Administration contracts within the first 14 days of the administration. Given the current sale process being undertaken for the businesses which on a successful sale employees are likely to be offered new contracts, or have their existing contracts transferred to the purchaser, this process therefore may be unnecessary. In addition, given the number of employees and the pending holiday break, implementing this process is not possible in the time period. Accordingly, the Administrators applied to Court for an extension of the timeframe. We advise that the Court has granted a time extension until 26 February 2019. The effect of this is that all employment contracts currently remain in force with the Companies.

The Court granted the application on 19 December 2018, and made the following orders:

- a. The period under s 239Y(3) of the Companies Act 1993 within which notice of termination of the Companies' employment agreements is required to be given by the applicants to the employees of the companies is extended until 5:00pm on 26 February 2019.
- b. Formal service of notice of the originating application and any orders is dispensed with. Notice of the orders is to be provided by circular to employees through the ordinary communications channels and posted on the McGrathNicol website at [www.mcgrathnicol.com](http://www.mcgrathnicol.com).
- c. Any person affected by the orders is granted leave to apply on notice to the Court for the appropriate relief.
- d. The applicants are granted leave to apply without notice to the Court for further orders or amendments to any orders made.

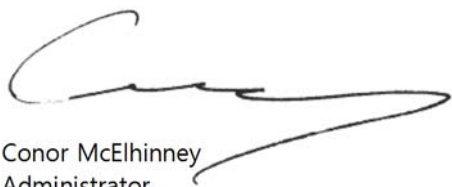


e. The applicants' costs of this application are costs of the voluntary administration of the companies.

We confirm that the granting of this Court Order has no impact on your current terms of employment with the Companies.

**Further information**

For further information concerning the voluntary administration, you may wish to contact Nick Grady on +64 9 926 5114, visit our website at [www.mcgrathnicol.com](http://www.mcgrathnicol.com), raise any questions with HR, or you can speak with any Administrator or their representatives on site.



Conor McElhinney  
Administrator

***Enclosures:***

Notice of meeting

Claim form

Postal/Proxy vote form

Declarations of independence