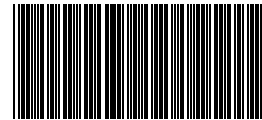




Filed: 23 December 2020 3:43 PM

Form 40
UCPR 35.1



D0001D3UHD

AFFIDAVIT OF Katherine Sozou - 28 October 2020

COURT DETAILS

Court	Supreme Court of NSW
Division	Equity
List	Corporations List
Registry	Supreme Court Sydney
Case number	2019/00155343

TITLE OF PROCEEDINGS

First Applicant	Katherine Sozou
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FILING DETAILS

Filed for	Katherine Sozou, Applicant 1
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Legal representative	Scott Andrew Atkins
Legal representative reference	

Telephone	02 9330 8000
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ATTACHMENT DETAILS

In accordance with Part 3 of the UCPR, this coversheet confirms that both the Affidavit (General) (e-Services), along with any other documents listed below, were filed by the Court.

Affidavit (UCPR 40) (Affidavit of K Sozou.pdf)

[attach.]

IN THE SUPREME COURT OF NEW SOUTH WALES
EQUITY DIVISION: CORPORATIONS LIST
REGISTRY. SYDNEY

No. 2019/00155343

Affidavit

IN THE MATTER OF DSHE HOLDINGS LTD (RECEIVERS & MANAGERS APPOINTED) (IN LIQUIDATION) ACN 166 237 841 & OTHERS

Jason Preston in his capacity as liquidator of DSHE Holdings Ltd (receivers & managers appointed) (in liquidation) ACN 166 237 841 (and others named in the schedule)
First Plaintiff

Katherine Sozou in her capacity as deed administrator of Black Range Metals (Resources) Pty Ltd (subject to deed of company arrangement) ACN 076 987 329
Fourth Plaintiff / First Applicant

I Katherine Sozou, of Level 12, 20 Martin Place, Sydney NSW 2000, registered liquidator say on oath:

- 1 I am a registered liquidator and partner of the firm McGrathNicol.
- 2 I am the Fourth Plaintiff and deed administrator of the Respondent, Black Range Metals (Resources) Pty Ltd (subject to deed of company arrangement) ACN 076 987 329 (Resources).
- 3 I make this affidavit from my own knowledge except where otherwise indicated and from my review of the Reports (defined below), the books and records of Resources and the files maintained by McGrathNicol in connection with the administration of Resources. I have had significant, day-to-day involvement in the administration of Resources since June 2017. Where I make this affidavit from facts outside of my personal knowledge, I am informed by the source stated and believe those facts to be true.

Filed on behalf of (name & role of party)	Katherine Sozou as deed administrator of Black Range Metals (Resources) Pty Ltd (subject to deed of company arrangement) & Ors, Applicants
Prepared by (name of person/lawyer)	Jonathon Turner, Norton Rose Fulbright Australia
Law firm (if applicable)	Norton Rose Fulbright Australia
Tel 02 9330 8000	Fax 02 9330 8111
Email	jonathon.turner@nortonrosefulbright.com; aaron.kam@nortonrosefulbright.com
Address for service (include state and postcode)	Level 5, 60 Martin Place, Sydney NSW 2000

K Sozou

- 4 Where I refer to "I", "me" or "my" throughout this affidavit, this also a reference to the Former Administrators (defined below) and my staff employed by McGrathNicol who carried out investigations into the affairs of Resources under my direction.
- 5 Exhibited to me at the time of swearing this affidavit is a bundle of paginated documents marked "Exhibit KS-1". A reference to a page number in this affidavit refers to the corresponding page number in the Exhibit KS-1.

Purpose

- 6 I make this affidavit in support of the relief sought in the Interlocutory Process which I intend to file after service of this affidavit on the relevant creditors of Resources, seeking orders under section 445D of the *Corporations Act 2001* (Cth) (**Corporations Act**) and section 90-15 of the *Insolvency Practice Schedule (Corporations)* (IPS) comprising schedule 2 to the Corporations Act.
- 7 The primary purpose of this application is to seek orders giving effect to the most efficient and cost effective deregistration of Resources, once creditors have been paid their entitlements. I confirm to this Honourable Court that it is my intention, subject to the grant of the relief sought in this application, that creditors will receive 100 cents in the dollar notwithstanding the quantum of remuneration sought pursuant to paragraph 8 below. In other words, I confirm that, notwithstanding the quantum of remuneration approved, I will adjust the amount of remuneration paid to me to ensure that creditors are paid 100 cents in the dollar.
- 8 I also apply to this Honourable Court under section 60-10(1)(c) of the IPS and rule 9.2 of the *Supreme Court (Corporations) Rules 1999 (NSW)* for approval of:
- (a) the Former Administrators' (defined below) remuneration as former deed administrators of Resources;
 - (b) my remuneration (past and future) as deed administrator of Resources; and
 - (c) my remuneration (future) as liquidator of Resources, subject to the outcome of this application.
- 9 I intend to file a further affidavit deposing to the position of the relevant parties to this application, with a view that, if the application is unopposed, and the Court is so minded, the application can be determined on the papers, or alternatively, be heard via audio-visual link or telephone.

Executive summary

- 10 In this section, I provide a high level summary of the administration of the Black Range Group (including Resources) and the relief I seek from this Honourable Court, with cross references to the relevant sections in my affidavit. Defined terms in this section are defined later in my affidavit.
- 11 My affidavit is structured chronologically where appropriate and includes the following sections:
- (a) My professional background [paragraphs 13 to 16];
 - (b) Appointment to Resources [paragraphs 17 to 23];
 - (c) Black Range Group (including Resources, Syerston and Holdings) [paragraphs 24 to 32];
 - (d) Administration of the Black Range Group (Resources, Syerston and Holdings) [paragraphs 33 to 62];
 - (e) Sale of the INPL Shares [paragraphs 63 to 79];
 - (f) Events following sale of the INPL Shares [paragraphs 80 to 103];
 - (g) Attempts at contacting Resources' creditors [paragraphs 104 to 108];
 - (h) ASIC Payment [paragraphs 109 to 113];
 - (i) Terminating the Resources Deed [paragraphs 114 to 118];
 - (j) Truncated Orders [paragraphs 119 to 122];
 - (k) Deregistration Order [paragraph 123] and
 - (l) Remuneration [paragraphs 124 to 166].
- 12 By way of high level summary, I note that:
- (a) Resources was placed into voluntary administration and subsequently entered into the Resources Deed in December 2003. Prior to being placed into administration, Resources (along with, among others, Syerston and Holdings) formed part of the Black Range Group which carried on the business of exploring and exploiting minerals [paragraphs 24 to 32].
 - (b) Prior to this, Syerston and Holdings were also placed into administration and subsequently entered into the Syerston Deed and Holdings Deed respectively in July 2004. The Syerston Deed and Holdings Deed were terminated in September 2004 [paragraphs 33 to 62].

- (c) Upon termination of the Syerston and Holdings Deeds, property of Syerston and Holdings was transferred to Resources to be realised and distributed to the creditors of Syerston and Holdings under the Resources Deed [paragraphs 48 to 57].
- (d) Following interim distributions to creditors of Resources in October 2005 and May 2010, the primary remaining asset of Resources was the INPL Shares. The Former Administrators were prevented from realising the INPL Shares until INPL became a listed entity in Canada. This did not occur until January 2016. Subsequently, the INPL Shares were realised by the Former Administrators between May and July 2016 for \$564,307.66 [paragraphs 63 to 79].
- (e) After realising the INPL Shares, the Former Administrators undertook extensive investigations to, among other things, ascertain the tax implications of the INPL Shares realisation and whether Resources could utilise any pre-appointment tax losses. This resulted in the Former Administrators identifying additional assets of Resources and Syerston available to be realised under the Resources Deed [paragraphs 80 to 103].
- (f) There will be approximately \$428,000 (including an estimated GST refund) available for distribution under the Resources Deed (paragraphs 109 to 110). As noted above in paragraph 7, I confirm that creditors will, subject to the relief sought in this application being granted, be paid 100 cents in the dollar and I will adjust the amount of remuneration paid to me to ensure creditors are paid as such. I note that creditors have been paid 75 cents in the dollar to date pursuant to interim distributions.
- (g) I understand that there is a question of construction of the Resources Deed as to whether I should make the ASIC Payment (see paragraph 112 below) However, from a commercial perspective and having regard to the objectives of Part 5.3A of the Corporations Act, I consider it appropriate and in the best interests of creditors to make the ASIC Payment. In the circumstances, I seek orders from this Court that I would be justified in making the payment.
- (h) I also seek an order under section 90-15 of the IPS (**Deregistration Order**) that section 509 of the Corporations Act is to operate such that it applies if an end of administration return for Resources is lodged by me with ASIC in respect of the deed administration period of Resources in circumstances where the Resources Deed requires the Former Administrators to use their reasonable endeavours to bring about the deregistration of Resources. In the alternative to this order, I seek an order pursuant to section 90-15 of the IPS that section 601AA(1) of the



Corporations Act is to operate such that an application to deregister Resources may be lodged with ASIC by me in my capacity as deed administrator of Resources.

- (i) In the alternative to the Deregistration Order, I seek an order under section 445D of the Corporations Act terminating the Resources Deed and consequential orders under section 90-15 of the IPS in relation to the truncated operation of a subsequent liquidation (**Truncated Orders**)
- (j) I also seek approval from this Honourable Court of the Retrospective Remuneration and Future Remuneration. In respect of the former, this equates to approximately \$333,892.00 in remuneration incurred during that 6 year period to date, with the majority of the remuneration being incurred since 2016 when the INPL Shares were realised, the subsequent investigations conducted and time spent locating creditors [paragraphs 80 to 108]. As a result, no interim remuneration application was made during the deed administration until now.
- (k) In respect of the latter, this totals \$37,810.00 and includes making this application and finalising the Resources Deed, liquidation of Resources and deregistering Resources [paragraphs 128, 135, 138 and 149].

My professional background

- 13 I graduated from the University of New South Wales with a Bachelor of Commerce in 2000 and commenced working as a graduate progressing to a manager at KPMG in Sydney and London. I worked at KPMG between January 2001 and October 2006.
- 14 Since November 2006, I have worked at McGrathNicol in Sydney. I became a partner of McGrathNicol in June 2017 and a registered liquidator on 2 February 2018. I am a member of the Australian Restructuring, Insolvency and Turnaround Association and Chartered Accountants Australia and New Zealand.
- 15 I have over 17 years' experience in independent business and diagnostic reviews for both private and public sector participants, turnaround planning, cash management and operational restructuring.
- 16 At pages 1 to 2 of Exhibit KS-1 is a copy of my curriculum vitae.

Appointment to Resources

- 17 At pages 3 to 23 of Exhibit KS-1 is a copy of a current and historical organisation extract from the records maintained by the Australian Securities and Investments Commission (**ASIC**) for Resources. The extract records, amongst other things:

- (a) on 20 January 1997, Resources was incorporated as Bright Power Corporation Pty Ltd;
 - (b) Resources is a wholly owned subsidiary of Black Range Minerals Pty Ltd (ACN 009 079 047) (**Holdings**) which is a wholly owned subsidiary of Western Uranium Corporation (**Western Uranium**) (see paragraph 26(b));
 - (c) on 25 March 2002, Resources changed its name to Black Range Metals (Resources) Pty Ltd;
 - (d) on 23 September 2003, Joseph Hayes and the Third Plaintiff, Anthony McGrath, were appointed voluntary administrators of Resources until their resignation on 16 December 2003 (**Administrators / Former Administrators**);
 - (e) on 16 December 2003, the Former Administrators were appointed deed administrators of Resources until their respective resignations on 27 June 2018 and 3 June 2019; and
 - (f) on 3 June 2019, I was appointed deed administrator of Resources.
- 18 In relation to the retirement of Mr McGrath and my appointment as deed administrator on 3 June 2019, this occurred as a result of orders made by the Honourable Justice Rees in Supreme Court of New South Wales proceeding no. 2019/00155343 on 3 June 2019. At pages 24 to 28 of Exhibit KS-1 is a copy of these orders.
- 19 That proceeding concerned an application made by, among others, Mr McGrath and I, seeking orders that I be appointed as joint and several deed administrator of Resources.
- 20 The application was made in circumstances where Mr McGrath was the sole deed administrator and, based on the work still to be done in the administration of Resources, including:
- (a) resolving Resources' tax affairs;
 - (b) resolving the manner in which any potential surplus funds was to be distributed under the Resources Deed and variation of the Resources Deed to allow a final Deed to be effectuated; and
 - (c) attending to the final distributions to creditors pursuant to the final Deed
- it would be prudent and in the best interests of creditors that two deed administrators be appointed to Resources.

- 21 Unfortunately, due to an inadvertent administrative error, upon lodgement of my form 505 (notification of appointment as an external administrator) with ASIC, the sole appointee box was marked and resulted in the purported removal of Mr McGrath as deed administrator on 3 July 2019. This issue came to my attention while preparing this application.
- 22 I refer to the Administrators and Former Administrators throughout this affidavit interchangeably as the context requires. A reference to the Administrators / Former Administrators is a reference to their staff employed McGrathNicol who carried out investigations into the affairs of Resources under their direction and supervision.
- 23 At pages 29 to 32 of Exhibit KS-1 is a copy of the Former Administrators' report to Resources creditors dated 6 May 2010 (**May 2010 Report**). I refer to the May 2010 Report and any other reports to creditors of the Resources, Holdings and Syerston which are defined in my affidavit as the **Reports**.

Black Range Group

- 24 Prior to the administration of Resources, it was part of a group of companies known as the Black Range Group.
- 25 The Black Range Group was comprised of the following entities:
- (a) Resources;
 - (b) Holdings;
 - (c) Clean Teq Sunrise Pty Ltd ACN 008 755 155 (**Syerston**); and
 - (d) Syerston Scandium Pty Ltd ACN 078 239 059 (**Investments**).
- 26 At pages 33 to 165 of Exhibit KS-1 is a copy of a current and historical organisation extract of the records maintained by ASIC for Holdings. The extract records, among other things, that:
- (a) Holdings was formerly known as Black Range Minerals NL and Black Range Minerals Ltd;
 - (b) Holdings is a wholly owned subsidiary of Western Uranium which is incorporated in Canada;
 - (c) between 31 March and 23 May 2003, Holdings was in voluntary administration with the Former Administrators appointed voluntary administrators; and
 - (d) between 23 May 2003 and 22 September 2004, Holdings was in deed administration with the Former Administrators appointed deed administrators.

- 27 At pages 166 to 200 of Exhibit KS-1 is a copy of a current and historical organisation extract of the records maintained by ASIC for Syerston. The extract records, among other things, that:
- (a) Syerston was formerly known as U A L Pty Ltd and Black Range Metals (Syerston) Pty Ltd;
 - (b) Syerston was a wholly owned subsidiary of Holdings;
 - (c) between 4 April and 23 May 2003, Syerston was in voluntary administration with the Former Administrators appointed voluntary administrators;
 - (d) between 11 April 2003 and 20 July 2004, Syerston was in receivership with Andrew John Love and Alan Edward Lewis of Ferrier Hodgson appointed receivers and managers of Syerston (**Receivers**); and
 - (e) between 23 May 2003 and 20 July 2004, Syerston was in deed administration with the Former Administrators appointed deed administrators.
- 28 At pages 201 to 223 of Exhibit KS-1 is a copy of a current and historical organisation extract of the records maintained by ASIC for Investments. The extract records, amongst other things, that Investments was formerly known as Tricol Investments Pty Ltd and Black Range Metals (Investments) Pty Ltd.
- 29 The primary business of the Black Range Group was to explore and exploit minerals in a number of tenements including exploration licence (**EL**) 4573, EL 5633 and EL 5634 located in and around Tottenham NSW (**Tottenham Tenements**). These activities were financed by CIBC Australia Ltd ACN 000 067 256 (**CIBC**).
- 30 On or about 15 June 1999, Holdings (as principal), Syerston, Resources, Investments (as guarantors) and CIBC (as agent and financier) entered into a document styled Syndicated Facility Agreement (which was subsequently amended) (**Facility Agreement**).
- 31 On or around this time, the same parties entered into a document styled Deed of Security dated 15 June 1999.
- 32 At pages 224 to 231 of Exhibit KS-1 is a copy of a document styled Mineral Sharing Deed dated 16 December 2002 between Syerston and Rimfire Mining NL (**Rimfire**) (**Mineral Sharing Deed**). The Mineral Sharing Deed records, among other things, that:
- (a) Syerston is the holder of certain mining tenements, namely the Tottenham Tenements;

- (b) Syerston would consent to Rimfire applying for a new tenement over the ground that was subject to the Tottenham Tenements (**New Tenement**), permitting Syerston to explore nickel and cobalt and Rimfire to explore and exploit all other minerals; and
- (c) the Tottenham Tenements would be surrendered upon the grant of the New Tenement to Rimfire

Administration of the Black Range Group

Composite Deed

- 33 At pages 232 to 273 of Exhibit KS-1 is a copy of the Former Administrators' report to Holdings and Syerston's creditors dated 23 April 2003 (**23 April Report**).
- 34 At pages 274 to 295 of Exhibit KS-1 is a copy of the minutes of the meeting of Holdings' and Syerston's creditors held on 2 May 2003 pursuant to section 439A of the Corporations Act dated 7 May 2003. The minutes record that Holdings' and Syerston's creditors resolved that the companies enter into a deed of company arrangement (**DOCA / Deed**) and that the Former Administrators be appointed deed administrators.
- 35 At pages 296 to 315 of Exhibit KS-1 is a copy of a document styled Composite Deed of Company Arrangement dated on or about 23 May 2003 and executed by Holdings, Syerston and the Former Administrators (**Composite Deed**).
- 36 The objectives of the Composite Deed include, among other things:
 - (a) to reach an accommodation with CIBC by which the CIBC Debt is satisfied. 'CIBC Debt' is defined to mean the amount of \$10,000,000 plus interest of \$1,271,333.92 as at 31 March 2003 together with all other amounts owed by Holdings, Syerston, Resources and Investments to CIBC pursuant to the Facility Agreement;
 - (b) to achieve the Sale for consideration which will satisfy part of the CIBC Debt and otherwise be available to creditors. 'Sale' is defined to mean the issue of securities in Holdings; and
 - (c) to enable the Receivers to realise the assets of Syerston to satisfy the CIBC Debt and, in the event of there being a surplus of proceeds, to be available to creditors

Resources Deed

- 37 At pages 316 to 348 of Exhibit KS-1 is a copy of the minutes of the meeting of Resources' creditors held on 25 November 2003 pursuant to section 439A of the Corporations Act and dated 3 December 2003. The minutes record that Resources' creditors resolved that the company enter into a DOCA and that the Former Administrators be appointed deed administrators.
- 38 At pages 349 to 367 of Exhibit KS-1 is a copy of a document styled Deed of Company Arrangement dated 16 December 2003 and executed by Resources and the Former Administrators (**Resources Deed**).
- 39 Terms in the Resources Deed include:
- (a) 'Administrators' means the Former Administrators;
 - (b) 'Fund' means the Holdings Fund, Syerston Fund, Holdings Transferred Fund and Syerston Transferred Fund;
 - (c) 'Holdings Available Property' means the Available Property under the Holdings Deed;
 - (d) 'Holdings Deed' means the DOCA in respect of Holdings executed on 23 May 2003, as varied from time to time;
 - (e) 'Holdings Fund' means the bank account maintained in accordance with clause 6.2 of the Holdings Deed;
 - (f) 'Holdings Transferred Fund' means the bank account maintained in accordance with clause 4.1.;
 - (g) 'Syerston Available Property' means the Available Property under the Syerston Deed;
 - (h) 'Syerston Deed' means the DOCA in respect of Syerston executed on 23 May 2003, as varied from time to time;
 - (i) 'Syerston Fund' means the bank account maintained in accordance with clause 6.2 of the Syerston Deed; and
 - (j) 'Syerston Transferred Fund' means the bank account maintained in accordance with clause 4.2.1.

40 Clauses in the Resources Deed include:

- (a) the objective of the arrangement is to minimise the Claims of Resources' only creditor, CIBC, by maximising its return from Holdings and Syerston by transferring their assets and liabilities under the respective DOCAs to Resources (clause 2.1);
- (b) in the event that the Holdings Deed terminates in accordance with clause 9.1, Resources, by the Administrators, will irrevocably, among other things (clause 4.1):
 - (i) accept the transfer or assignment to it of the Holdings Available Property and the Holdings Fund,
 - (ii) realise any remaining Holdings Available Property, and deposit the proceeds of such realisations into a bank account styled 'Black Range Metals (Resources) Pty Limited – creditors of Black Range Minerals Limited Account'; and
 - (iii) distribute the Holdings Transferred Fund in the same manner as specified in clause 6.3 of the Holdings Deed;
- (c) if the Syerston Deed terminates in the circumstances set out in clause 9.1 and 9.2, Resources will irrevocably, among other things (clause 4.2):
 - (i) accept the transfer or assignment to it of the Syerston Available Property and the Syerston Fund;
 - (ii) realise any remaining Syerston Available Property, and deposit the proceeds of such realisations into a bank account styled 'Black Range Metals (Resources) Pty Limited – creditors of Black Range Metals (Syerston) Pty Limited Account'; and
 - (iii) distribute the Syerston Transferred Fund in the same manner as specified in clause 6.3 of the Syerston Deed;
- (d) if the Administrators have completed their distribution of the Funds in the manner contemplated by this deed (and this deed has not been terminated prematurely), the Administrators must, among other things, apply to ASIC on behalf of Resources for the deregistration of Resources, and use their best endeavours to bring about the deregistration of Resources (clause 10.1); and

- (e) if, at the time this deed is ready to terminate in accordance with clause 10.1 but for the Administrators' inability to locate Transferred Creditors with Admitted Claims (as defined in clause 1.1), then the Administrators may pay such money to ASIC to be dealt with in accordance with Part 9.7 of the Corporations Act and such subsections of section 544 of the Corporations Act will apply as necessary as if references to the "liquidator" were references to the Administrators (clause 11.12).

Varied Holdings Deed / Varied Syerston Deed

- 41 At pages 368 to 393 of Exhibit KS-1 are copies of the minutes of meeting of Holdings' and Syerston's creditors held on 19 December 2003 and dated 15 January 2004. The minutes record that Holdings' and Syerston's creditors each resolved to amend the Composite Deed such that separate DOCAs would be entered into between Holdings and Syerston (**Varied Holdings Deed / Varied Syerston Deed**).
- 42 The Composite Deed was amended to enable:
- (a) the recapitalisation of Holdings in order to raise a pool of funds to pay unsecured claims of Holdings and Syerston; and
 - (b) the facilitation of the Receivers' sale of the Syerston Project to achieve the best possible price for Syerston's assets.

Deed of Assignment

- 43 At pages 394 to 406 of Exhibit KS-1 is a copy of a document styled Deed of Assignment, Assumption and Consent dated 27 February 2004 between Syerston, Holdings and Rimfire (**Deed of Assignment**). The Deed of Assignment had the effect of assigning all of Syerston's interest in and under the Mineral Sharing Deed to Holdings.

Syerston Share Sale Agreement

- 44 At pages 407 to 440 of Exhibit KS-1 is a copy of a document styled Syerston Share Sale Agreement dated 30 June 2004 between Holdings, Ivanhoe Nickel & Platinum Ltd (**INPL**), Ivanplats Holdings Company Pty Ltd (**Ivanplats**), Syerston, the Former Administrators and the Receivers (**Syerston Share Sale Agreement**).
- 45 Based on the Recitals to the Syerston Share Sale Agreement, I understand that the transaction was structured as follows:
- (a) Holdings was the registered holder and beneficial owner of 35,530,548 shares in Syerston (being 100% of the shares of Syerston) (**Shares**);
 - (b) Holdings 'funded' the activities of Syerston by providing an unsecured loan in the amount of \$18,190,230.29 (**Original Intercompany Debt**);

- (c) Holdings agreed to forgive Syerston a proportion (\$2.3 million) of the Original Intercompany Debt (**Intercompany Debt**); and
 - (d) Holdings agreed to sell, and Ivanplats agreed to buy, the Shares and the Intercompany Debt on the terms of the Syerston Share Sale Agreement.
- 46 Terms in the Syerston Share Sale Agreement include:
- (a) 'Completion' means completion of the sale and purchase of the Shares and Intercompany Debt in accordance with clause 5; and
 - (b) 'Second Company DOCA' means the proposed DOCA to be executed by CIBC, Syerston and the Administrators in the form set out in schedule 2, or as otherwise agreed between the Buyer, the Administrators and CIBC.
- 47 Clauses in the Syerston Share Sale Agreement include:
- (a) the price payable for the Shares is \$1.00 (clause 3.1);
 - (b) the price payable for the Intercompany Debt is 1.5 million common shares in INPL (**Consideration Shares**) (clause 3.2);
 - (c) on Completion, Ivanplats is to give to or procure that INPL gives Holdings and/or CIBC a certificate or other evidence of the issue of the Consideration Shares in such manner as Holdings directs (clause 5.3(b));
 - (d) on Completion, Ivanplats will pay Holdings the sum of \$1.00 in consideration of the transfer of the Shares (clause 6.1);
 - (e) on Completion, Ivanplats will (clause 6.2):
 - (i) procure that a certain number of Consideration Shares are allotted by INPL to CIBC (**CIBC Shares**); and
 - (ii) to the extent that the CIBC Shares satisfy the CIBC Debt (as defined in the Second Company DOCA), Ivanplats will procure that the Consideration Shares less the CIBC Shares are allotted by INPL to either Holdings or Resources (at the election of the Administrators).

Syerston Deed

- 48 At pages 441 to 448 of Exhibit KS-1 is a copy of the Former Administrators' report to Holdings and Syerston's creditors dated 5 July 2004 (**5 July Report**).
- 49 At pages 449 to 459 of Exhibit KS-1 is a copy of the minutes of the meeting of Syerston's creditors held on 13 July 2004 and dated 20 July 2004. The minutes record that Syerston's creditors resolved to vary the Varied Syerston Deed by Syerston, CIBC and the Former Administrators entering into a further varied DOCA.

- 50 At pages 460 to 482 of Exhibit KS-1 is a copy of an undated document styled Varied Deed of Company Arrangement and executed by Syerston, CIBC and the Former Administrators (**Syerston Deed**).
- 51 Terms in the Syerston Deed include:
- (a) 'Companies' mean Syerston, Holdings and Resources;
 - (b) 'Fund' means the bank account maintained in accordance with clause 6.2;
 - (c) 'Resources Deed' means the DOCA relating to Resources, as varied from time to time;
 - (d) 'Sale' means Sale as defined under the Holdings Deed;
 - (e) 'Syerston Share Sale' means the sale of all of the shares in, and the intercompany debt owed to Holdings by, Syerston.
- 52 Clauses in the Syerston Deed include:
- (a) one of the objectives of the arrangements set out in the deed is to provide for the deed to terminate on a Syerston Share Sale and, if a Sale has yet to occur, for Syerston Creditors to receive a distribution from the proceeds of the sale through the vehicle of the Resources Deed (clause 2.4);

if the deed terminates in accordance with clause 9.1 or 9.2, all Claims (as defined in clause 1.1) are released in full and extinguished (whether or not they have been proved or accepted to participate in a distribution under the deed) (clause 3.2);
 - (b) CIBC agrees that, in the event that the CIBC Debt is satisfied, any surplus subsequently arising from all or some of
 - (i) the proceeds of the realisation of the secured assets of Syerston; and/or
 - (ii) any amount otherwise payable to it under the terms of this deed in respect of the CIBC Debt,
 is to be paid to the Administrators and is to form part of the Fund (clause 4.3.1).
 - (c) subject to clause 4.4.2, Syerston, the Receivers and the Administrators agree to use reasonable endeavours and to take such steps as are necessary to arrange the novation or assignment of Syerston's interest in the Mineral Sharing Deed in favour of Holdings as soon as reasonably practicable after the date of this deed (clause 4.4.1);
 - (d) subject to clause 9.3, the Fund will be distributed by the Administrators in the following order of priority (clause 6.3):

- (i) firstly, to the extent the Companies have not already made these payments, in payment of all remuneration due to and costs, fees, expenses and liabilities incurred by, the Administrators as voluntary administrators of the Companies and as deed administrators of the Companies;
 - (ii) secondly, in payment of Admitted Claims that are Priority Claims under this deed;
 - (iii) thirdly, in payment of a dividend on a *pari passu* basis in respect of all other Admitted Claims, but excluding CIBC in respect of any of the CIBC Debt;
 - (iv) fourthly, in the event that the CIBC Debt has not been satisfied, in payment to CIBC in further reduction of the CIBC Debt; and
 - (v) finally, in making the payment contemplated by clause 6.7;
- (e) the deed shall terminate immediately upon, among other things, completion of a Syerston Share Sale (clause 9.2);
 - (f) Clause 9.3 provides for the effect of termination of the deed on creditors of Syerston. In summary, in the event of termination, Creditors with Claims will, among other things, have their Claims addressed in accordance with the terms of the Resources Deed and will be bound by the Resources Deed in respect of their Claim as if they were creditors of Resources; and
 - (g) Clause 9.4 provides that in the event of termination pursuant to clause 9.1 or 9.2, Syerston's interest in the Available Property (as defined in clause 1.1) and the Fund shall be irrevocably assigned to Resources to be held by Resources subject to the terms of the Resources Deed. The Administrators may carry out such further acts as may be necessary to effect or complete this assignment.

Holdings Deed

- 53 At pages 483 to 496 of Exhibit KS-1 is a copy of the minutes of the meeting of Holdings' creditors held on 13 July 2004 and dated 20 July 2004. The minutes record that Holdings' creditors resolved to vary the Varied Holdings Deed by Holdings, CIBC and the Former Administrators entering into a further varied DOCA.
- 54 At pages 497 to 524 of Exhibit KS-1 is a copy of an undated document styled Varied Deed of Company Arrangement and executed by Holdings, CIBC and the Former Administrators (**Holdings Deed**).
- 55 The terms of the Holdings Deed are similar to the Syerston Deed (see for example clauses 4.4.1, 6.3 and 6.7). However, a difference is the effect of termination of the Holdings Deed.

- 56 Terms in the Holdings Deed include:
- (a) 'Fund' means the bank account maintained in accordance with clause 6.2 (i.e. the Holdings Fund as defined in the Resources Deed);
 - (b) 'Other Proposal' means, if the Proposal does not proceed, any other proposal made by a prospective purchaser of Holdings to the Administrators' satisfaction;
 - (c) 'Proposal' means the proposal by Ascent Capital for the restructure and recapitalisation of Holdings as set out in the Term Sheet (as defined in clause 1.1) or as varied from time to time; and
 - (d) 'Sale' means the recapitalisation of Holdings in terms of the Proposal or Other Proposal or as otherwise agreed by the Administrators from time to time.
- 57 Clause 9.1.1 of the Holdings Deed provides that:
- (a) the deed shall terminate in respect of Holdings upon the following occurring:
 - (i) if the Proposal proceeds, the later of the following:
 1. the receipt by the Administrators of \$360,000 in cleared funds from Ascent Capital;
 2. the passing of the resolutions in terms of clauses 7.11.1(a) to (d); and
 3. the transfer to Holdings of the asset referred to in clause 4.4; or
 - (ii) if the Other Proposal proceeds, the receipt by the Administrators of the full amount of the purchase consideration to be agreed between the Administrators and any other prospective purchaser following the shareholders meeting in clause 7.11.2; or
 - (iii) if the Proposal or, as the case may be, the Other Proposal does not proceed, receipt by the Administrators of cleared funds representing the full proceeds of the Sale.

Subscription Agreement

- 58 At pages 525 to 543 of Exhibit KS-1 is a copy of a document styled **Subscription Agreement** dated 19 July 2004 between INPL and Resources (**Subscription Agreement**). Based on the Recitals to the Subscription Agreement, I understand that the transaction was structured as follows:
- (a) as part of consideration under the Syerston Share Sale Agreement, INPL, offered, by way of public placement, Common Shares of INPL; and
 - (b) Resources wished to receive Common Shares of INPL in accordance with the terms of the Subscription Agreement.

- 59 Clause 4(n) of the Subscription Agreement provides a resale restriction, whereby Resources agrees to hold the Common Shares of INPL for an indefinite period until INPL becomes a reporting issuer. During that period, none of the Common Shares are able to be resold.
- 60 On 19 July 2004, Resources received 105,560 Common Shares in INPL in accordance with the Subscription Agreement, representing the residual after the CIBC Debt was satisfied (**INPL Shares**). At page 595 of Exhibit KS-1 is a copy of an INPL Shares certificate dated 19 July 2004.

Syerston and Holdings exit DOCA

- 61 On 20 September 2004, the Syerston Deed was terminated and the Former Administrators resigned as deed administrators.
- 62 On 22 September 2004, the Holdings Deed was terminated and the Former Administrators resigned as deed administrators.

Realising the INPL Shares

- 63 At pages 544 to 545 of Exhibit KS-1 is a copy of an email from Michael Newbold of McGrathNicol to Jim Askew dated 30 July 2004 requesting assistance in respect of the realisation of the INPL Shares.
- 64 At pages 546 to 547 of Exhibit KS-1 is a copy of a letter from McGrathNicol to MinterEllison dated 30 July 2004 advising that the Former Administrators intended to realise the INPL Shares.
- 65 At pages 548 to 551 of Exhibit KS-1 is a copy of a letter from McGrathNicol to Mr Askew dated 25 August 2004 documenting the terms of an agreement between Mr Askew and the Former Administrators in relation to the realisation of the INPL Shares.
- 66 At page 552 of Exhibit KS-1 is a copy of an email chain commencing with an email from David Steinepreis of Ascent Capital dated 24 September 2004 and ending with an email from Mr Hayes dated 27 September 2004 in relation to realisation of the INPL Shares.
- 67 In around October 2005, an interim dividend of 30 cents in the dollar was paid to Resources' creditors.

At pages 553 to 573 of Exhibit KS-1 is a copy of an email from Vincent Pirina of McGrathNicol to Matthew Kersey of Henry Davis York (HDY) dated 7 January 2010. I understand that HDY were the Former Administrators' solicitors until HDY merged with Norton Rose Fulbright (NRF) on 1 December 2017. Based on this email and my subsequent review of McGrathNicol's files in connection with the administration of Resources, I understand that:

- (a) in around January 2010, the Former Administrators commenced the process of realising the INPL Shares; and
- (b) through that process, identified the resale restriction clause in the Subscription Agreement (clause 4(n)).

69 I refer to the Former Administrators' report to Resources' creditors dated 6 May 2010 (i.e the May 2010 Report). The May 2010 Report provides Resources' creditors with an update on the sale of the INPL Shares.

70 On or about 24 May 2010, a further interim dividend of 45 cents in the dollar was paid to Resources' creditors. This meant that creditors had been paid 75 cents in the dollar in total to that date.

71 At pages 574 to 580 of Exhibit KS-1 is a copy of the minutes of the meeting of Resources' creditors held on 31 May 2010 and dated 7 June 2010. The minutes record, among other things, that:

- (a) Resources' creditors were notified of the resale restriction clause in the Subscription Agreement which prevented Resources from selling the INPL Shares until INPL became a listed entity in Canada, and INPL could not provide a timeframe on how long this would take;
- (b) Resources' creditors resolved that the Former Administrators' remuneration between the period 20 July 2004 to 30 April 2010 be approved in the amount of \$46,274.00 plus GST;
- (c) on the basis that the sale of the INPL Shares did not eventuate, it was unlikely that the Former Administrators would incur any further significant costs; and
- (d) Resources' creditors resolved that the Former Administrators' remuneration from 30 April 2010 be approved in the amount of \$40,000.00 plus GST.

At pages 581 to 582 of Exhibit KS-1 is a copy of Ivanplats' market announcement dated 16 October 2012. The announcement records that Ivanplats filed a final prospectus in all provinces and territories of Canada for its initial public offering of Class A common shares to raise approximately C\$300 million.

- 73 At pages 583 to 584 of Exhibit KS-1 is a copy of Ivanplats' market announcement dated 23 October 2012. The announcement records that Ivanplats successfully closed its initial public offering and its shares were trading on the Toronto Stock Exchange under the symbol IVP.
- 74 At pages 585 to 587 of Exhibit KS-1 is a copy of Ivanplats' market announcement dated 28 August 2013. The announcement records that Ivanplats changed its name to Ivanhoe Mines Pty Ltd (**Mines**) effective 28 August 2013.
- 75 At pages 588 to 589 of Exhibit KS-1 is a copy of Mines' market announcement dated 22 January 2016. The announcement records that the final tranche of locked-up Class A common shares will be released on 23 January 2016 and that this will be the last of the 12 quarterly tranches of locked up Class A common shares to be released in connection with Ivanplats' October 2012 initial public offering.
- 76 At pages 590 to 595 of Exhibit KS-1 is a copy of an email trail between Mr Pirina to Bill Trenaman and Katarina Benovska of Mines dated 22 to 24 March 2016 wherein Mr Pirina requests an update on the initial public offering of INPL and subsequently seeks to convert the INPL Shares to shares in Mines.
- 77 At page 596 of Exhibit KS-1 is a copy of a Mines share certificate dated 7 April 2016. The share certificate records Resources as a holder of 527,800 Class A common shares in Mines (I continue to refer to these as the INPL Shares in my affidavit).
- 78 In or around April 2016, the Former Administrators engaged Morgans Financial Ltd (**Morgans**) to sell the INPL Shares
- 79 Between 22 May and 13 July 2016, the INPL Shares were realised for a total of \$564,307.66 net of brokerage and other fees (**INPL Shares Proceeds**). At pages 597 to 604 of Exhibit KS-1 are copies of the Sell Confirmations from Morgans. Below is a table which my staff have prepared which summarises the individual transactions of the INPL Shares:

Date	Shares sold	Price per share (\$)	Total consideration (\$)	Brokerage (\$)	Other fees (\$)	Realised value (\$)
25.5.16	46,900	1.1101	52,063.69	(260.32)	(86.90)	51,716.47
26.5.16	1,700	1.0757	1,828.69	(9.14)	-	1,819.55
30.5.16	31,700	1.1208	35,529.36	(177.65)	-	35,351.71
31.5.16	8,500	1.1181	9,503.85	(47.52)	-	9,456.33
7.7.16	73,600	1.0844	79,811.84	(399.06)	-	79,412.78

13.7.16	365,400	1.0632	388,493.28	(1,942.47)	-	386,550.81
Total	527,800		567,230.71	(2,836.15)	(86.9)	564,307.66

Events following sale of INPL Shares

80 Following the realisation of the INPL Shares, between September 2016 and February 2017, the Former Administrators sought advice from HDY in respect of the:

- (a) progress of the Resources Deed;
- (b) potential realisation of the proceeds of the INPL Shares;
- (c) tax implications of the INPL Shares realisation; and
- (d) ability to utilise any pre-appointment tax losses

81 The reference to the advice sought from HDY is not intended to constitute any waiver of privilege over the advice unless otherwise stated in this affidavit.

82 HDY provided their advice to the Former Administrators in mid-February 2017.

83 Following receipt of the HDY advice, in or around March 2017, the Former Administrators and their staff undertook a review of the books and records (hard and electronic records) of Resources and McGrathNicol's files to ensure that all available assets of Resources were captured ahead of preparing to distribute a final dividend to creditors. That review resulted in the following matters.

Term deposits and Bank Guarantee

84 The review of the books and records and files around March 2017 revealed additional pre-appointment term deposits held with National Australia Bank (NAB) which had not been identified earlier in the administration. As at July 2017, the following balances were held:

Entity	Account number	Investment amount (\$)	Maturity date
Resources	082057 - 194773668	28,060.45	9 April 2017
Resources	082057 - 484949609	6,745.37	19 September 2017
Syerston	082780 - 489814906	19,969.57	20 June 2017

- 85 Between April 2017 and January 2018, the Former Administrators and their staff took steps to realise and consolidate the remaining, known assets of Resources, namely the majority of the INPL Shares Proceeds and the term deposits identified in the preceding paragraph into a new term deposit (account number 42-520-9299). At page 605 of Exhibit KS-1 is a copy of a letter from NAB to Resources dated 13 June 2019 in respect of the new term deposit.
- 86 A further review by the Former Administrators and their staff of the books and records of Resources and the files maintained by McGrathNicol has revealed that the term deposit referred to in the preceding paragraph may relate to a bank guarantee given by Holdings in favour of NSW Mining and Energy (which I understand is now part of NSW Planning & Environment) in 1998 (**Bank Guarantee**).
- 87 Between August 2018 and June 2020, my staff and I made numerous enquiries with NSW Planning & Environment and NAB to cancel the Bank Guarantee. These discussions were protracted due to the passage of time and the inability to locate certain original documents, and ultimately could not be resolved with the Department. On 26 June 2020, and as a result of our enquiries and our communications with the relevant parties, NAB cancelled the Bank Guarantee and released the deposit referred to in paragraph 86. At pages 606 to 608 of Exhibit KS-1 is a copy of a NAB bank statement recording the release of the deposit.

Historical Tax Returns

- 88 The review of the books and records and files revealed tax returns for Resources, Syerston and Holdings. At pages 609 to 664 of Exhibit KS-1 are copies of the tax returns for (**Historical Tax Returns**):
- (a) Resources – FY00, FY01 and FY02;
 - (b) Holdings – FY01 and FY02; and
 - (c) Syerston – FY02.
- 89 Based on my review of the Historical Tax Returns, the most accurate information about tax losses in respect of Resources, Syerston and Holdings was found in the tax returns for FY00, FY01 and FY02, as they included detailed loss schedules in the submissions to the Australian Taxation Office (**ATO**). I also identified that the relevant tax loss schedule for Resources shows that the tax losses had been incurred but not recouped (as at July 2017) and that the losses were not capital in nature.
- 90 Below is a table which summarises the tax losses of Resources, Syerston and Holdings between FY97 to FY02 based on the Historical Tax Returns:

Year	Resources	Syerston	Holdings
FY97	\$258,014	-	-
FY98	\$761,696	-	\$621,902
FY99	\$253,467	-	\$768,607
FY00	\$132,447	\$20,785,142	\$1,600,452
FY01	\$8,255	\$3,571,214	\$894,273
FY02	-	\$1,077,705	\$308,369
Total	\$1,413,879.00	\$25,434,061.00	\$4,193,603.00

- 91 Following the review of the Historical Tax Returns, on 7 August 2017, the Former Administrators engaged KPMG to prepare and lodge the Australian income tax returns for Resources for the period FY03 to FY17 and prepare and lodge an application for a Private Binding Ruling from the ATO in respect of Resources' ability to utilise carried forward losses
- 92 On 16 August 2017, KPMG identified, among other things, that Holdings had formed a tax consolidated group on 19 August 2005 (as set out in the FY14 Holdings annual report) (**Tax Consolidated Group**) and that Resources was part of the Tax Consolidated Group if it is a wholly owned subsidiary of Holdings. At pages 665 to 733 of Exhibit KS-1 is a copy of an email from Kayvon Babi of KPMG to Mr Johnstone dated 16 August 2017 and a copy of the FY14 Holdings annual report.
- 93 On or about 22 August 2017, the Former Administrators contacted Mr Cunningham as the sole director of Holdings, to advise him of the situation deposed to above and seek his assistance in resolving the tax affairs of Resources.
- 94 Mr Cunningham subsequently referred the tax matters to Robert Klein who is the US based representative of Western Uranium, the parent company of Holdings.
- 95 On or about 6 September 2017, Mr Klein then contacted the Former Administrators to assist to resolve the tax matters.
- 96 At pages 734 to 755 of Exhibit KS-1 is a copy of an email from me to Mr Cunningham dated 22 August 2017 (including attachments). In the email, I requested:
- (a) confirmation of the status of the Tax Consolidated Group i.e. whether it had been deconsolidated or was still in existence; and

- (b) amendments to the tax returns of Holdings for the period FY06 to FY17 (or whenever the Tax Consolidated Group was deconsolidated) to reflect Resources' tax position in those years (**Outstanding Tax Returns**).
- 97 The Former Administrators subsequently worked with Mr Klein, Mr Cunningham and Holdings' tax advisors, Marsdens Stantons, to lodge the Outstanding Tax Returns. At pages 756 to 759 of Exhibit KS-1 is a copy of an email chain commencing with an email from Mr Johnstone dated 17 August 2018 and ending with an email from Mr Klein dated 12 October 2018 in relation to the lodgement of the Outstanding Tax Returns.
- 98 On 24 September 2018, the Former Administrators engaged Grant Thornton Australia Ltd to:
- (a) review the tax compliance status of Resources, taking into account the history of Resources, specifically, the matters deposed to in paragraphs 88 to 97 above;
 - (b) engage with the ATO regarding the tax position of Resources and the Former Administrators' obligations in the circumstances; and
 - (c) advise the Former Administrators on any steps required to resolve the tax affairs of Resources.
- This engagement has been completed.
- 99 On or about 12 October 2018, the Outstanding Tax Returns were lodged with the ATO.
- 100 On or about 13 March 2019, the tax returns for Resources for FY04 to the period ended 18 August 2005 (being the period which Resources was not part of the Tax Consolidated Group) were lodged with the ATO.
- 101 The tax lodgements for the period referred to in the preceding two paragraphs resulted in no claims from the ATO. At page 760 of exhibit KS-1 is a copy of a letter from the ATO dated 3 March 2020 confirming this.
- 102 On 19 November 2019, I provided further information to Marsden Stantons to allow them to prepare the tax returns of Holdings for FY18 and FY19. At pages 761 to 763 of Exhibit KS-1 is a copy of an email from Mr Johnstone to Marissa Bennet of Marsdens Stanton dated 19 November 2019.
- 103 I am still waiting for these tax returns to be prepared and lodged however I do not expect any claim from the ATO for these years as Resources has not received any income for this period.

Attempts at contacting Resources' creditors

- 104 At pages 764 to 765 of Exhibit KS-1 is a copy of a circular to Resources' creditors dated 6 September 2018. The circular updated creditors on the events that had occurred since the May 2010 Report and requested the creditors' confirmation of bank account details for the purpose of paying a final dividend.
- 105 As at 3 June 2019, being the date of my appointment, I was only aware of two responses to the circular, namely:
- (a) Arthur Stutchbury Furniture & Fit-Out Pty Ltd (**Arthur Stutchbury**) which has been deregistered; and
 - (b) Maitee Pty Ltd which completed and returned Annexure A to the circular.
- 106 Following the limited response to the circular dated 6 September 2018 and the matters deposed to in paragraphs 80 to 103 above, in or around November 2019, I instructed my staff to conduct a follow up of each creditor that did not respond to the circular. The following steps were undertaken:
- (a) an initial creditor listing was taken from a list which was created for the previous circular to creditors;
 - (b) searches were completed through various databases, directories, search engines and company websites available on the internet such as White Pages to determine the phone numbers of creditors with admitted claims;
 - (c) ASIC and ABN searches identified that a small number of creditors had been deregistered (where the creditor was a company), dissolved (where the creditor was a partnership) or that the creditor's business name had changed;
 - (d) in order to deal with the issues identified in subparagraph (c):
 - (i) obtained advice in respect of the effect of the deregistered company, Arthur Stutchbury;
 - (ii) in respect of the dissolved partnerships, I instructed my staff to conduct individual name searches of the partners of the partnerships in the relevant state; and
 - (iii) in respect of the changed business names, I instructed my staff to conduct new business name searches and seek specific confirmation of the change in business name in writing from the relevant creditor,

- (e) due to difficulties identifying an individual creditor's phone number, individual name searches were conducted based on the individual's last known postal address;
 - (f) each creditor was phoned to follow up receipt of the circular dated 6 September 2018 and in some cases, where a creditor had numerous matching phone numbers, all numbers were contacted accordingly;
 - (g) upon contact with a creditor, confirmation was sent via email or fax to detail the recent events and where available, an email, fax number or updated address was recorded by my staff for future correspondence. Creditors were requested to acknowledge receipt of the email or fax and provide updated bank account details; and
 - (h) voicemails were left in the event there was no response from a creditor and followed up at a later date.
- 107 At page 766 of Exhibit KS-1 is a table prepared by my staff following this process which records the contact details of each creditor and my staffs' attempts at contacting them (**Creditor Listing**).
- 108 The Creditor Listing arranges the creditors into two categories – (1) creditors who have provided sufficient information to allow a dividend to be paid; and (2) creditors who have not been responsive. In summary:
- (a) there are 12 creditors with admitted claims totalling \$267,380 (i.e. 98.3% of the admitted claims) (including Arthur Stutchbury) that have responded and provided sufficient details for me to pay a final dividend;
 - (b) the remaining six creditors (ASX Perpetual, Vodafone Pty Ltd (Global Star), National 1, Grace Records Management Pty Ltd, East Coast Business Equipment, Mail Call Couriers Pty Ltd) have been unresponsive (with admitted claims of \$4,919 representing 1.7% of admitted claims) and I consider that all potential search avenues have been exhausted. After payment of dividends in October 2005 and May 2010, there was a balance outstanding of \$1,229.

ASIC Payment

- 109 Following the resolution of the matters referred to in the 'Events following sale of INPL Shares' section of my affidavit [paragraphs 80 to 103], I instructed my staff to prepare an estimated outcome statement in respect of the Resources Deed. At page 767 of Exhibit KS-1 is a copy of the estimated outcome statement as at 18 September 2020.
- 110 I note the following in respect of the estimated outcome statement:

- (a) there is approximately \$428,000 for distribution under the Resources Deed; and
- (b) Resources' unsecured creditors will be paid 100 cents in the dollar and I will, subject to grant of the relief sought, only seek payment of my remuneration in an amount that allows for creditors debts to be fully satisfied.

111 As at the date of swearing this affidavit, I have not been able to contact the creditors referred to in paragraph 108(b) (**Missing Creditors**).

112 By way of summary, I understand that:

- (a) Clause 11.12 of the Resources Deed provides that at the time the deed is ready to terminate in accordance with clause 10.1 but for the Administrators' inability to locate Transferred Creditors with Admitted Claims, the Administrators may pay such money to ASIC to be dealt with in accordance with Part 9.7 of the Corporations Act and such subsections of section 544 (**ASIC Payment**).
- (b) there may be uncertainty, based on the wording of clause 11.12 of the Resources Deed, as to whether I should make the ASIC Payment in respect of the Missing Creditors. I understand that there may be some uncertainty in the law as to whether the ASIC Payment should be made. However for the reasons deposed to below, my preference is to make the ASIC Payment:
 - (i) the amount of \$1,229 payable to the Missing Creditors is relatively insignificant;
 - (ii) to avoid any later criticism by the Missing Creditors (over payment of a relatively insignificant amount) in the event that the ASIC Payment is not made;
 - (iii) the Missing Creditors will later have recourse to claim these amounts from ASIC under the relevant provisions in the Corporations Act; and
 - (iv) from a commercial perspective and having regard to the objectives of part 5.3A of the Corporations Act, I consider it appropriate and in the best interests of creditors to make the ASIC Payment.

113 In the circumstances referred to in the preceding paragraph, I seek an order or direction from this Honourable Court that I would be justified in making the ASIC Payment.

Termination of the Resources Deed

114 By way of high level summary, I understand that clause 10.1 provides that if the Former Administrators have completed the distributions in the manner contemplated by the Resources Deed, the Former Administrators must, among other things, apply to ASIC on

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- behalf of Resources for the deregistration of Resources, and use their best endeavours to bring about the deregistration.
- 115 In the circumstances and noting that there will be no further funds to distribute under the Resources Deed once the relevant distributions (including the ASIC Payment) are made and no longer any purpose for Resources remaining in DOCA, I seek an order under section 445D of the Corporations Act terminating the Resources Deed, which comes into effect once the relevant distributions under the Resources Deed have been made. I seek this in the alternative to the Deregistration Order (see paragraph 123 below).
- 116 If this Honourable Court is minded to make an order under sections 445D which would result in Resources being placed into liquidation, I will use reasonable endeavours to deregister Resources with ASIC.
- 117 At pages 768 to 769 of Exhibit KS-1 is a copy of a letter from me to Holdings dated 6 May 2020. Holdings has executed the letter and consents to the termination of the deed administration and following this, Resources' deregistration.
- 118 At pages 770 to 771 of Exhibit KS-1 is a copy of a letter from me to Western Uranium dated 6 May 2020. Western Uranium has executed the letter and consents to the termination of the deed administration and following this, Resources' deregistration.

Truncated Orders

- 119 In the event that this Court makes an order terminating the Resources Deed, I seek orders under section 90-15 of the IPS in relation to the truncated operation of a subsequent liquidation of Resources (i.e. the Truncated Orders). Namely, I seek orders/directions that the following requirements under the Corporations Act, IPS and *Insolvency Practice Rules (Corporations) 2016* (IPR) be dispensed with (or that I would be justified in dispensing with them): the reporting requirements under sections 70-30 and 70-40 of the IPR and sections 497 and 533 of the Corporations Act.
- 120 In circumstances where Resources has been in external administration since September 2003 and the conduct of the external administration has been extensively reported to creditors in the Reports, I consider there to be significant utility to the external administration in the Truncated Orders for the following reasons:
- (a) The creditors of Resources have been provided with regular updates over the course of the external administration and will be served with a copy of this affidavit and application (and have the opportunity to object to any of the relief sought) The creditors have been/will be provided with the type of information specified in section 70-40 of the IPR and the Report on Company Activities and

Property including the assets and liabilities and affairs of Resources and the estimated dividend payable to creditors;

- (b) Notwithstanding the quantum of remuneration approved, and in the event that the steps I am required to take in the liquidation are limited by the Truncated Orders, I will adjust the amount of remuneration paid to me to ensure that creditors are paid 100 cents in the dollar;
- (c) The purpose of Resources going into liquidation is to facilitate its deregistration and it is not intended that any further inquiries or investigations into the affairs of Resources will be undertaken by me and my staff (including what happened to the business of Resources and possible recovery actions) as this has already been covered in the Reports; and
- (d) The reporting requirements are unlikely to have much (if any) benefit to creditors of Resources (noting the matters referred to in the preceding two subparagraphs) and dispensation with these requirements is likely to decrease the costs, and length, of the liquidation of Resources, resulting in a larger dividend to creditors than if the reporting requirements were not dispensed with.

- 121 Prior to the hearing of this application, I will swear a further affidavit dealing with any responses by the creditors of Resources to this application, in particular in respect of the Truncated Orders.
- 122 If this Honourable Court is minded to make the Truncated Orders, I only intend to seek remuneration for the period required to finalise the Resources Deed, being \$20,000 [paragraph 135]. I do not intend on seeking any remuneration for the Resources' liquidation period, estimated at \$18,000, in circumstances where the tasks I will be required to complete as liquidator would be limited to lodging notifications of the liquidation and appointment as liquidator (ASIC forms 505 and 509D) and the end of administration return (ASIC form 5603). In the event that I am required to complete all of the steps ordinarily required in a liquidation without the benefit of the Truncated Orders then I will be required to seek remuneration in the order of \$18,000.

Deregistration Order

- 123 In the alternative to an order under section 445D and the Truncated Orders, I seek the Deregistration Order. In addition to the reasons deposed to paragraph 120, I consider there to be significant utility to the external administration in the Deregistration Order, in circumstances where:

- (a) the purpose of seeking the section 445D order and the Truncated Orders is to allow me, as liquidator of Resources, to bring about its deregistration as quickly and cost effectively as possible; and
- (b) the Deregistration Order would avoid the costs of any Resources liquidation altogether and would result in a quicker deregistration of Resources.

Remuneration

- 124 The total remuneration that has been approved for the period of the prior administration and the Resources Deed period is \$182,736.02. As deposed to in paragraph 71 above, Resources' creditors approved the Former Administrators' remuneration from 30 April 2010 onwards in the amount of \$40,000.00 excluding GST (**Approved Remuneration**).
- 125 The Approved Remuneration was calculated on the basis that the sale of the INPL Shares was not going to eventuate and as a result, the Former Administrators would unlikely incur any further significant costs.
- 126 However, as deposed above, the Former Administrators, my staff and I realised the INPL Shares in 2016 and subsequently conducted significant investigations in relation to, among other things, the tax implications of the INPL Shares realisation and whether Resources could utilise any pre-appointment tax losses. This ultimately resulted in significant additional funds becoming available to potentially pay the unsecured creditors of Resources 100 cents in the dollar
- 127 No interim application for the determination of remuneration was made by the Former Administrators because the INPL Shares were not realised until 2016 and the tax implications in relation to the realisation of those shares was not known until March 2020. In those circumstances, an interim application may have been premature in the event that there were insufficient proceeds from the realisation of the INPL Shares to cover the Former Administrators' remuneration.
- 128 At pages 772 to 792 of Exhibit KS-1 is a copy of a Remuneration Approval Report (**Remuneration Report**) prepared by my staff in respect of the work undertaken by the Former Administrators, me and my staff employed by McGrathNicol, from 22 March 2014 to 18 September 2020 in the amount of \$333,892.00 (excluding GST) (**Retrospective Remuneration**) and future remuneration to the completion of the Resources Deed and subsequent liquidation of Resources in the amount \$38,000.00 (excluding GST) (**Future Remuneration**). I note that the Future Remuneration is, as identified at paragraph 135 below, split into an amount in relation to the completion of the Resources Deed (\$20,000 excluding GST) and an amount in relation to the conduct of any liquidation (\$18,000 excluding GST). Subject to the Court being minded to make the Truncated Orders sought, it is contemplated that I will not seek payment of the

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amount in relation to the conduct of the liquidation in order to ensure that creditors receive 100 cents in the dollar

- 129 No approval from the creditors of Resources has been sought in respect of Retrospective and Future Remuneration in circumstances where I have had difficulties, due to the length of the external administration of Resources, locating and contacting the creditors of Resources (as deposed to in paragraphs 104 and 108) and I am uncertain whether I would obtain the necessary quorum required for the purposes of a meeting to vote on resolutions approving the Retrospective Remuneration and Future Remuneration. In any event, I consider there will be a cost benefit to the creditors of Resources in seeking approval of the Retrospective and Future Remuneration along with the other relief sought in this application (rather than attempting to hold a meeting and/or making a separate application to the Court after any meeting, if required).

Characterisation of work

- 130 The process for characterisation and recording of fees undertaken by the Former Administrators, me and my staff in connection with the administration of Resources is described below
- 131 My staff and I maintain a computerised time sheet system, capturing time spent on a daily basis. Time spent on various matters is recorded in that time sheet in the usual course of business on the basis of six minute units.
- 132 The system requires the person entering the time to record in the computerised system to first nominate the category of work performed before entering their time. I have allocated my time to the following categories (**Categories**):
- (a) Assets;
 - (b) Creditors;
 - (c) Dividends;
 - (d) Statutory;
 - (e) Taxation; and
 - (f) Administration
- 133 These records have been extracted from the computerised system for the purpose of the application for approval of the Retrospective and Future Remuneration. The extracts for a particular administration record, to the best of my knowledge and belief, only time spent by each of my partners, staff members and myself in relation to that particular administration.

Remuneration claimed

- 134 A summary of the remuneration claim in respect of the Retrospective Remuneration is contained in the table below:

Category	Hours	Total (\$) (excl. GST)
Assets	117.2	49,584.00
Creditors	181.5	79,741.00
Dividends	100.0	48,925.00
Statutory	49.9	22,535.00
Taxation	148.5	72,257.00
Administration	136.6	60,850.00
Total	733.7	333,892.00

- 135 A summary of the remuneration claim in respect of the Future Remuneration is contained in the table below:

Stage	Total (\$) (excl. GST)
To completion of the Resources Deed	20,000
For the subsequent liquidation	18,000
Total	38,000

- 136 As noted above in paragraph 122, in the event that the Court is minded to make the Truncated Orders then I only intend to seek remuneration to completion of the Resources Deed in the amount of \$20,000 (i.e. I will not seek remuneration for the subsequent liquidation on the basis that only limited steps will be required to be undertaken). In the event that the Court is not minded to make the Truncated Orders and I am required to conduct an ordinary liquidation then I will be required to seek remuneration of approximately \$18,000.
- 137 A detailed statement of the work carried out by the Former Administrators, me and my staff (with reference to the Categories) in respect of the Retrospective Remuneration is set out in the table at page 3 of the Remuneration Report.

- 138 A detailed statement of the anticipated future work to be carried out by me and my staff (with reference to the Categories) in respect of the Future Remuneration is set out in the table at page 5 of the Remuneration Report.
- 139 At pages 793 to 801 of Exhibit KS-1 is a copy of an Excel spreadsheet recording the work in progress (WIP) time entries for work performed by Former Administrators, me and my staff in respect of the Retrospective Remuneration period (WIP Ledger).
- 140 The detailed statements of work and WIP Ledger were prepared under my supervision and the detailed statement of work (for Retrospective Remuneration) and WIP Ledger have been extracted from the computerised system used to record time. In reviewing the WIP Ledger, I have removed all time associated with the change in appointees over the course of the external administration of Resources such as time spent by staff in reading into the file and being briefed in relation to the background of the administration, as these are not costs which should be borne by the estate.
- 141 To the best of my knowledge, the WIP Ledger accurately and completely records time spent by each professional (and myself) engaged in relation to the appointment.

Nature of the work performed (Retrospective Remuneration)

- 142 A summary of the tasks (with reference to the Categories) undertaken by the Former Administrators, me and my staff in respect of the Retrospective Remuneration period is set out below. Further detail of these tasks is set out in Appendix 1 of the Remuneration Report.

Assets

- 143 The work undertaken by the Former Administrators, me and my staff in relation to the assets of Resources involved:
- (a) engaging Morgans to realise the INPL Shares, monitoring the sale process and reconciling the sale of the INPL Shares and proceeds receipts;
 - (b) seeking advice (and compiling extensive information for the purposes of that advice) in relation to the Resources Deed and tax implications of the realisation of the INPL Shares and the potential utilisation of pre-appointment tax losses;
 - (c) researching tax obligations within the Tax Consolidated Group with regard to the realisation of the INPL Shares, considering obligations to be met and subsequently liaising with Marsdens Stanton to update and lodge tax returns on behalf of Holdings and instructed Grant Thornton Australia Ltd to lodge tax returns on behalf of Resources, to ensure compliance with those obligations;

- (d) reviewing various documentation to determine bank guarantee position and liaising with relevant parties such as NAB and NSW Planning and Environment to have it released;
- (e) corresponding with relevant parties to consolidate term deposits and drafting statutory declaration for recovery of the term deposits; and
- (f) reviewing historical books and records of Resources to determine all available assets were realised.

Creditors

144 The work undertaken by the Former Administrators, me and my staff in relation to the creditors of Resources involved:

- (a) reporting (i.e. the Reports) to creditors of Resources on the status of the Resources Deed and asset realisations (including the INPL Share) in accordance with statutory requirements;
- (b) preparing to distribute a final dividend to creditors including extensive searches to contact creditors as deposed to above;
- (c) determining outcomes in relation to the distribution of a dividend to companies which had been deregistered since the date of the Resources Deed; and
- (d) reviewing and considering the mechanics of the Resources Deed, in particular the payment of potential surplus funds as a result of the INPL Shares realisation (and subsequent investigations in relation to the tax implications) and liaising with legal advisors in relation to the preparation of this application.

Dividends

145 The work undertaken by the Former Administrators, me and my staff in relation to the dividends payable to creditors of Resources involved, in addition to the matters deposed to in the preceding paragraph:

- (a) verifying outstanding creditors' balances from books and records of Resources;
- (b) reviewing unclaimed dividends and balances owing to creditors;
- (c) preparing estimated realisable value calculation based on expected future costs; and
- (d) researching statutory interest requirements.

Statutory

146 The work undertaken by the Former Administrators, me and my staff in relation to the statutory requirements of the administration of Resources involved:




- (a) preparing quarterly business activity statements,
- (b) reviewing Resources' fee statement and ASIC payment schedule and lodging letters to ASIC outlining position on annual ASIC fees;
- (c) reviewing and considering Resources Deed mechanics with regard to ASIC lodgements; and
- (d) preparing ASIC forms and corresponding with ASIC as required over the course of the administration.

Taxation

147 The work undertaken by the Former Administrators, me and my staff in relation to the taxation requirements of the administration of Resources, in addition to the matters deposited to in paragraph 143, involved:

- (a) preparing detailed note of the current status of Resources in the Tax Consolidated Group;
- (b) determining tax treatment of the proceeds from the sale of INPL shares;
- (c) reviewing historical tax returns from books and records and compiling a detailed analysis of Resources historical tax losses and corresponding with the ATO to obtain historical tax return information; and
- (d) liaising with relevant parties to compile required information to assist with finalisation and lodgement of Resources' tax returns.

Administration

148 The work undertaken by the Former Administrators, me and my staff in relation to the general administration of the administration of Resources, involved:

- (a) requesting bank statements and dealing with general banking queries;
- (b) project management of the administration, including creation of workflow plans and meetings to discuss progress and statutory tasks; and
- (c) reviewing historical documentation and maintaining physical and electronic engagement file.

Nature of the work to be performed (Future Remuneration)

149 A summary of the tasks which I anticipate will be undertaken by me and my staff in respect of the Future Remuneration is set out below. Further detail of these tasks is set out in Appendix 3 of the Remuneration Report:

- (a) preparing a final report to the creditors of Resources including an update on the status of the Resources Deed, recent realisations and intention to retire;
- (b) liaising with unsecured creditors to confirm their correct account details and outstanding claim amounts for the purposes of the final dividend distribution;
- (c) finalising estimated realisable value calculation based on expected future costs;
- (d) preparing correspondence to creditors and relevant notices in relation to distribution of final dividend to unsecured creditors;
- (e) disbursing any remaining/unclaimed funds to ASIC;
- (f) completing end of administration return and finalising deed administration and liquidation, including Resources' deregistration.

Rates and time-based method

150 The rates claimed in the Remuneration Report are the hourly rates in force for the relevant operator (at the time each task was being performed) for insolvency work performed by McGrathNicol as set out in the Remuneration Approval Report at page 789 of Exhibit KS-1 (**Rates**)

151 I believe that the Rates were reasonable given:

- (a) the work actually performed,
- (b) the experience of each operator;
- (c) the responsibility of each operator in relation to the work performed by them;
- (d) the complexity of the various tasks performed by each operator;
- (e) rates charged, at the time each task was being performed, by comparable firms for similar work;
- (f) costs incurred by McGrathNicol in performing the work in relation to the Former Administrators' and my appointment; and
- (g) the risks undertaken by McGrathNicol to accept the appointment, and conducting the work in relation to the appointment.

152 I consider that the time-based method rather than one of the other methods – fixed fee, percentage (i.e. the fee is based on a percentage rate of a particular variable, such as assets recovered in the external administration) and contingency (i.e. contingent on a particular outcome), is the most appropriate for reasons including:

- (a) the method allows me to produce a detailed analysis of time spent on each task by each individual staff member utilised in the administration;

- (b) the method provides full accountability to creditors in the method of calculation and ensures that creditors are only charged for work that is actually performed; and
- (c) the method fairly reflects the necessary work performed – there are a number of tasks that are required to be performed but do not relate to the realisation of assets, for example, responding to creditors enquiries, statutory reporting to creditors and administration.

Section 60-12 – matters to which the Court must have regard

153 I am of the view that the Retrospective Remuneration and Future Remuneration is reasonable having regard to the following matters.

The necessary and proper connection between the work performed and the administration period (ss. 60-12(a)-(b))

154 The work performed by the Former Administrators, me and my staff as set out in paragraphs 142 to 148 was properly incurred as part of the administration of Resources and necessary in order for the Former Administrators and me to discharge our duties under Part 5.3A of the Corporations Act and to secure the best outcome for creditors. In this regard, I note that the work performed by the Former Administrators, me and my staff related, for the most part, to the taxation (\$72,257.00), creditors (\$79,741.00) and assets (\$49,584.00) categories and included issuing the Reports and the realisation of the INPL Shares and associated tax issues – the latter resulted in approximately \$428,000.00 for distribution under the Resources Deed to Resources' creditors (equating to a dividend of approximately 100 cents in the dollar).

155 The work to be performed by me and my staff as set out in paragraphs 149 primarily relates to creditors (\$10,325.00), statutory (9,577.50) and administration (\$10,780.00). I consider all of this work to necessary in order to finalise the Resources Deed, pay a final dividend to Resources' creditors and finalise the liquidation of Resources and bring about its deregistration.

The proportionality between the complexity of the external administration and the costs incurred (ss 60-12(c)-(i))

156 The work performed by the Former Administrators and me was performed over a long period of time (approximately 10 years) and involved considerably complex work including the realisation of the INPL Shares and the consequential issues as deposed to in paragraphs 80 to 103 in respect of the tax implications of the INPL Shares realisation and ability to utilise Resources pre-appointment tax losses.

- 157 The work performed by the Former Administrators and me was made more difficult in circumstances where the duration of the Resources Deed has been protracted due to the INPL Shares realisation process, implications of the inclusion of Resources in a tax consolidated group and also the difficulties in contacting Resources' creditors as a result of the extended Resources Deed period. I anticipate that the work to be performed will also be impacted by the same difficulties in contacting Resources' creditors.
- 158 I am not aware of any circumstances where the Former Administrators were required to deal with any extraordinary issues or otherwise required to accept a higher level of risk in this administration (nor have I).

The reasonableness of the billing method (s. 60-12(j))

- 159 In addition to the matters deposed to in paragraphs 150 to 152 above in relation to the Rates and the calculation of the Former Administrators and my remuneration during the Retrospective Remuneration period, I note that:
- (a) The work performed by the Former Administrators and me was delegated to staff members having regard to their respective Rates, their skill and experience and the complexity of the administration.
 - (b) The majority of work was performed by Stuart Johnstone (Manager) and Calypso Lowrey (Senior Accountant) who had the experience to carry out day-to-day task under the supervision of more senior staff. Mr Johnstone's average charge out rate over this period is \$479.51 and Ms Lowrey's is \$331.75 and they accounted for approximately 43.3% of the Retrospective Remuneration.
 - (c) Mr Johnstone and Ms Lowrey were primarily supervised by me (Partner) at an average charge out rate of \$696.98 over this period. This accounted for approximately 19% of the Retrospective Remuneration.
- 160 I anticipate that a similar breakdown will apply in respect of Future Remuneration.

Summary

- 161 Having regard to the matters deposed to in paragraphs 154 to 159:
- (a) I am of the view that the work performed by the Former Administrators, me and my staff was proportionate to the difficulty and importance of the tasks in the context in which they were required to be performed. That is, the work performed during the Retrospective Remuneration period was necessary in order for the Former Administrators and me to discharge our duties under Part 5.3A of the Corporations Act.

Johnstone

(b) I am of the view that the anticipated work to be performed by me and my staff is to necessary in order to finalise the Resources Deed, pay a final dividend to Resources' creditors and finalise the liquidation of Resources and bring about its deregistration.

162 I consider that the work performed by the Former Administrators and me during the Remuneration Approval period directly resulted in the increasing of funds available for distribution to creditors. The fact that work does not increase the funds available for the distribution of creditors (such as the anticipated work in respect of the Future Remuneration), does not mean that an external administrator is not entitled to be remunerated for it, where it was reasonable to carry out that work and the amount charged was reasonable.

163 I note that this equates to approximately \$26,000 of fees per year in respect of the period Retrospective and Future Remuneration period.

Other matters

164 At page 792 of Exhibit KS-1 is a summary of receipts and payments for the Retrospective Remuneration period.

165 In respect of the liquidation of Resources (in the event that this Court grants the relief sought under section 445D of the Corporations Act), I do not propose on undertaking any further investigations for the reasons deposed to in the Truncated Orders section of this affidavit and anticipate that I will seek an order that Resources be deregistered by ASIC shortly after dividends have been paid to creditors of Resources.

166 I will swear a further affidavit which annexes the notices to be issued under section 9.2(2) of the *Supreme Court (Corporations) Rules 1999 (NSW)* and any response from creditors of Resources.

SWORN at Sydney NSW

on 28 October 2021

Signature of deponent [Signature]

Name of witness JONATHAN LUCAS TURNER

Address of witness LVL 5, 60 MARTIN PLACE, SYDNEY

Capacity of witness Solicitor

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 #I saw the face of the deponent (~~OR, delete whichever option is inapplicable~~)
- #I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had ~~a special justification for not removing the covering.~~
- #I have known the deponent for at least 12 months. (~~OR, delete whichever option is inapplicable~~)
- ~~#I have confirmed the deponent's identity using the following identification document:~~

N/A

Identification document relied on (may be original or certified copy)²

Signature of witness _____

Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.

[¹ The only "special justification" for not removing a face covering is a legitimate medical reason (at April 2012).]

[² "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

Schedule

IN THE SUPREME COURT OF NEW SOUTH WALES
EQUITY DIVISION: CORPORATIONS LIST
REGISTRY: SYDNEY

No. 2019/00155343

IN THE MATTER OF DSHE HOLDINGS LTD (RECEIVERS & MANAGERS APPOINTED) (IN LIQUIDATION) ACN 166 237 841 & OTHERS

First Plaintiff:	Jason Preston in his capacity as liquidator of DSHE Holdings Ltd (receivers & managers appointed) (in liquidation) & other companies identified in Schedule A
Second Plaintiff:	Anthony McGrath in his capacity as liquidator of Allco Finance Group Ltd (in liquidation) & other companies identified in Schedule B
Third Plaintiff	Barry Frederick Kogan in his capacity as deed administrator of Parkview Estate Pty Ltd (subject to a deed of company administration)
Fourth Plaintiff / Applicant	Katherine Sozou in her capacity as deed administrator of Black Range Metals (Resources) Pty Ltd (subject to deed of company arrangement) ACN 076 987 329
Second Applicant	Black Range Metals (Resources) Pty Ltd (subject to deed of company arrangement) ACN 076 987 329

Schedule A

IN THE SUPREME COURT OF NEW SOUTH WALES
 EQUITY DIVISION: CORPORATIONS LIST
 REGISTRY: SYDNEY

No. 2019/00155343

IN THE MATTER OF DSHE HOLDINGS LTD (RECEIVERS & MANAGERS APPOINTED) (IN LIQUIDATION) ACN 166 237 841 & OTHERS

No	Company
1.	DSHE Holdings Ltd (Receivers & Managers Appointed) (In Liquidation) ACN 166 237 841
2.	DSSH Pty Ltd (Receivers & Managers Appointed) (In Liquidation) ACN 160 162 925
3.	DSHG Pty Ltd (Receivers & Managers Appointed) (In Liquidation) ACN 001 456 720
4.	DSG Wholesale Pty Ltd (Receivers & Managers Appointed) (In Liquidation) ACN 000 445 956
5.	DSG Electronics Pty Ltd (Receivers & Managers Appointed) (In Liquidation) ACN 000 908 716
6.	INTT Pty Ltd (Receivers & Managers Appointed) (In Liquidation) ACN 002 511 944
7.	DSG Franchising Pty Ltd (Receivers & Managers Appointed) (In Liquidation) ACN 054 295 733
8.	DMSG Pty Ltd (Receivers & Managers Appointed) (In Liquidation) ACN 001 585 735
9.	Dick Smith Electronics Staff Superannuation Fund Pty Ltd (In Liquidation) ACN 059 802 470
10.	ACN 136 849 584 Pty Ltd (In Liquidation) (formerly known as Mac 1 Pty Ltd) ACN 136 849 584

Schedule B

IN THE SUPREME COURT OF NEW SOUTH WALES
EQUITY DIVISION: CORPORATIONS LIST
REGISTRY: SYDNEY

No. 2019/00155343

IN THE MATTER OF DSHE HOLDINGS LTD (RECEIVERS & MANAGERS APPOINTED) (IN LIQUIDATION) ACN 166 237 841 & OTHERS

No	Company
1.	ACME Funds Management Pty Limited (In Liquidation) ACN 095 162 879
2.	Allco Finance (Australia) Pty Limited (In Liquidation) ACN 003 315 446
3.	Allco Finance Group Limited (In Liquidation) ACN 077 721 129