



**SHERIDANS**  
CHARTERED ACCOUNTANTS

# **CROWN CONSTRUCTION SERVICES PTY LTD**

(In Liquidation)

ACN 109 656 304

ATF CROWN CONSTRUCTION SERVICES UNIT TRUST

ABN 49 897 453 915

## **Report to Creditors**

Section 70-40

Insolvency Practice Rules (Corporations) 2016

**14 December 2022**

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## Enclosure

- (i) Proof of Debt or Claim form

## 1. Introduction

- 1.1 I refer to my appointment as Liquidator of Crown Construction Services Pty Ltd ATF Crown Construction Services Unit Trust (“the company”) on 3 October 2022 and to my Initial information for creditors dated 14 October 2022.
- 1.2 Further to my appointment as Liquidator of the company, I advise that I was appointed as Receiver & Manager of the assets of the Crown Construction Services Unit Trust (“the trust”) by way of a Court Order on 11 November 2022.
- 1.3 Unless stated otherwise, all references to the company in this report should be taken to include the trust.
- 1.4 The purpose of this report is to provide creditors with an update on the progress of the liquidation in accordance with Section 70-40 of the Insolvency Practice Rules (Corporations) 2016, and to advise creditors of the likelihood of a dividend being paid in the liquidation.

## 2. Receipts and payments

- 2.1 The following is a summary of receipts and payments in the liquidation to date:

	\$
<b>Receipts</b>	
Cash at bank	40,000.00
Sale of plant and equipment	3,613.64
FEG payment for work done	7,820.00
	51,433.64
<b>Payments</b>	
Bank charges	11.20
Legal fees	9,975.50
IT services	859.25
Warehouse rent	5,000.00
Liquidator’s fees:	
General	9,090.91
FEG - determining employee claims	7,820.00
Liquidator’s disbursements:	
ASIC IF levy	177.00
Postage	100.10
RP Data	105.00
Searches	39.91
Statutory advertising	32.00
Telephone	53.00
Travel & parking	230.25
GST (net)	2,198.94
	35,693.06
<b>Cash at bank as at 14 December 2022</b>	<b>15,740.58</b>

### 3. Assets

3.1 The company's director gave an estimate in his Report on Company Activities and Property ("ROCAP") of potential realisations. Set out below is a comparison of this estimate with the Liquidator's estimate and actual realisations to date.

	Ref	ROCAP estimate \$	Liquidator's estimate \$	Liquidator's realisations to date \$
Cash at bank	3.2	55,168.75	55,168.75	40,000.00
Stock, plant & machinery	3.3	477,500.00	Unknown	3,613.64
Pre-appointment debts	3.4	849,982.92	Unknown	Nil
Work in progress	3.5	85,064.00	Unknown	Nil
Contingent assets	3.6	1,230,475.93	Unknown	Nil
		<b>2,698,191.60</b>	<b>55,168.75</b>	<b>43,613.64</b>

#### 3.2 Cash at bank

3.2.1 The company held one bank account with Bankwest at the date of liquidation with a balance of \$55,168.75.

3.2.2 To date, I have received \$40,000.00 from Bankwest.

3.2.3 I have requested that Bankwest close the account and transfer the remaining balance, being \$15,168.75, to the liquidation account.

#### 3.3 Stock, plant & machinery ("the equipment")

3.3.1 The company's director, Mr Ruggiero Ambrosino, estimated on his ROCAP that the company held stock to the value of \$477,500.00 at the date of liquidation.

3.3.2 No estimate was provided in Mr Ambrosino's ROCAP regarding the company's plant and machinery at the date of the appointment. Upon review of the company's records, and in discussion with Mr Ambrosino, various of items of plant and machinery have been identified and determined to be assets of the company.

3.3.3 The company's equipment was held at the company's premises in Osborne Park and Armadale, as well as on various work sites across the Perth metro region.

3.3.4 Where possible, the company's equipment has been collected from the work sites, however I note that some contractors have claimed a right to use equipment that remained on site at the date of liquidation.

3.3.5 Discussions with said contractors are ongoing, and legal advice has been sought in this regard.

3.3.6 In addition to the above, the company's related entity, Palebay Holdings Pty Ltd ("Palebay") has advised that it owns numerous pieces of equipment located at the work sites and warehouses.

### 3. Assets (cont.)

- 3.3.7 Accordingly, an exhaustive effort has been undertaken to determine what equipment is owned by the company. I note that this exercise is ongoing.
- 3.3.8 An auction was recently conducted for the sale of the majority of the equipment located at the Osborne Park warehouse, which resulted in gross sale proceeds of \$79,204.00 (excl. GST).
- 3.3.9 I expect to receive the above amount shortly, less my auctioneer's transport, auction and valuation costs.
- 3.3.10 Separately, on 26 October 2022 I sold six column shutters for \$2,250.00 (excl. GST). On 13 December 2022 I sold miscellaneous assets located at one of the work sites for \$1,363.64 (excl. GST).
- 3.3.11 Located at the Osborne Park warehouse, but not made available for the recent auction, was a Meva Carofalt, a Meva Mammut and a Meva Automatic Climbing system.
- 3.3.12 Due to the unique and specialist nature of these systems, a separate valuation from an experienced construction expert, as well as advice regarding the subsequent strategy for the sale of this equipment, was sought.
- 3.3.13 I have recently received the valuation report for the Meva systems and I am currently in negotiations with a potential purchaser.
- 3.3.14 If creditors are interested in purchasing one or all of the three Meva systems, they are welcome to contact my office to express their interest.
- 3.3.15 Finally, and as noted above, efforts in realising the company's equipment located at the Armadale warehouse and collected from the work sites are ongoing.
- 3.3.16 Once the remaining equipment has been realised, including the three Meva systems, I will write to creditors again to provide an update in this regard.

#### 3.4 *Pre-appointment debts*

- 3.4.1 Mr Ambrosino disclosed pre-appointment debts owed to the company of \$849,982.92. This figure relates to retentions due to the company that are currently payable, or will become due and payable in the near future.
- 3.4.2 Based on current information, I estimate the retentions owed to the company total approximately \$321,481.63. However, I note that at least one debtor has advised that intends to it invoke its right of set-off against the amount owed to the company.
- 3.4.3 Discussions with pre-appointment debtors is ongoing and legal advice has been sought in this regard.
- 3.4.4 I expect to provide creditors with updates regarding the recovery of the company's pre-appointment debts in due course.

### 3. Assets (cont.)

#### 3.5 Work in progress (“WIP”)

3.5.1 Mr Ambrosino disclosed un-billed WIP owed to the company of \$85,064.00 in his ROCAP.

3.5.2 This amount is owed by Broad Construction (WA) Pty Ltd (“Broad”). Broad has advised that it intends to apply its right of set-off against the amount owed to the company.

3.5.3 Discussions with Broad regarding this matter are ongoing and legal advice has been sought in this regard.

3.5.4 I expect to provide creditors with updates regarding the recovery of the company’s unbilled WIP in due course.

#### 3.6 Contingent assets

3.6.1 Mr Ambrosino disclosed contingent assets due to the company of \$1,230,475.93.

3.6.2 The above amount relates to purportedly agreed to, but as yet unpaid, variations and programme revision works (“the variations”) conducted by the company at the Casuarina Prison work site.

3.6.3 I am currently reviewing the documentation available to me regarding the variations and determining if the company has a claim to some, or all, of this amount. I have also sought legal advice in this regard.

### 4. Secured creditors

4.1 According to a search of the Personal Property Securities Register (“PPSR”) on 28 September 2022, the following security interests were registered against the company’s ACN and the trust’s ABN:

Secured creditor	Security interest	Status
Air Liquide Australia Ltd	AllPaaP (other goods)	No responses received. Currently determining validity of security interests
Boral Resources (W.A.) Pty Ltd	AllPaaP (other goods)	
Stramit Global Ltd	AllPaaP (other goods)	
Big River Group Pty Ltd	AllPaaP (other goods)	Valid security interests. Interests have been disclaimed. Residual unsecured claims
Canon Finance Australia Pty Ltd	AllPaaP (other goods)	
Kailis Consolidated Pty Ltd Kondil Nominees Pty Ltd	AllPaaP (intangible property)	
Rapid Metal Developments (Australia) Pty Ltd	AllPaaP (other goods)	
Novatec (WA) Pty Ltd	Inventory (other goods)	Currently determining validity of security interest

#### 4. Secured creditors (cont.)

Secured creditor	Security interest	Status
Acrow Formwork and Scaffolding Pty Ltd	AllPaaP (other goods)	No debt is owed to these creditors
Coates Hire Operations Pty Ltd	AllPaaP (other goods)	
Commonwealth Bank of Australia	AllPaaP (no exceptions)	
Crown Equipment Pty Ltd ①	AllPaaP (other goods)	
Hemalo Pty Ltd Palorra Pty Ltd Wilmaur Pty Ltd	AllPaaP (other goods)	
ILHA Pty Ltd	AllPaaP (motor vehicle)	
Peri Australia Pty Ltd	AllPaaP (other goods)	
SRG Global Pty Ltd	AllPaaP (other goods)	
Ultimate Positioning Group Pty Ltd	AllPaaP (other goods)	

AllPaaP = All Present and after-acquired Property

① Not related to the company

4.2 I have not identified any related party secured creditors.

#### 5. Priority creditors

5.1 Set out below is the director's estimate of the company's priority creditors compared to my estimate:

	ROCAP estimate \$	Liquidator's estimate \$
Wages	31,721.62	78,028.50
Superannuation	84,025.26	79,679.14
Leave of absence	202,379.09	101,089.40
Retrenchment	103,291.28	34,532.75
	<b>421,417.25</b>	<b>293,329.79</b>

5.2 The company has one related party priority creditor, being Mr Ambrosino. Accordingly, as an excluded employee, Mr Ambrosino's priority claims in respect of superannuation and leave of absence are capped at \$2,000.00 and \$1,500.00 respectively, pursuant to the Corporations Act 2001.

5.3 If you were an employee of the company at the date of liquidation, or you have previously been employed by the company, you may be a creditor of the company for any or all of the following debts: outstanding wages, annual leave, long service leave, pay in lieu of notice, redundancy and/or superannuation.

5.4 If you are owed accrued entitlements, you may be eligible for assistance under the Federal Government's Fair Entitlements Guarantee Act 2012 ("FEG"). For further information regarding FEG, please call the FEG hotline: 1300 135 040 or go to the website: [www.employment.gov.au/fair-entitlements-guarantee-feg](http://www.employment.gov.au/fair-entitlements-guarantee-feg). **Former employees have only 12 months from the date of liquidation to lodge a FEG claim and FEG has no discretion to extend this time.**

## 5. Priority creditors (cont.)

- 5.5 Please find enclosed a Proof of Debt or Claim form to enable any priority creditors who have not already done so to lodge their claim against the company. Note that any FEG claim must be lodged separately with FEG.

## 6. Unsecured creditors

- 6.1 According to the director's ROCAP, the company had 58 unsecured creditors, whose claims totalled \$3,292,948.19.
- 6.2 On the basis of current information, I estimate that the total amount owed to unsecured creditors is \$3,785,875.90.
- 6.3 In addition to Mr Ambrosino's unsecured claim for outstanding employee entitlements, I have identified two related party unsecured creditors of the company, being the SRA Trust and Palebay who are owed \$117,500.72 and \$102,526.00 respectively.
- 6.4 Please find enclosed a Proof of Debt or Claim form to enable any unsecured creditors who have not already done so to lodge their claim against the company.

## 7. Dividend

- 7.1 The likelihood that a dividend will be paid to creditors will be affected by a number of factors including:
- (i) The size and complexity of the administration.
  - (ii) The amount of assets realisable and the costs of realising those assets.
  - (iii) The statutory priority of certain claims and costs.
  - (iv) The value of various classes of claims including secured, priority and unsecured creditor claims.
  - (v) The volume of enquiries by creditors and other stakeholders.
- 7.2 On the basis of current information, I consider it possible that a dividend may be paid to priority creditors, and unclear whether a dividend will be paid to unsecured creditors.
- 7.3 The likelihood of a dividend being paid in the administration is dependent on the total realisations made from the sale of the company's equipment, the recovery of amounts owed to the company, and any recovery actions resulting from my investigations into the affairs, which I expect to be extensive.
- 7.4 If a dividend is payable, creditors will be contacted prior to payment of the dividend and will be asked to lodge a Proof of Debt. This will formalise creditors' claims against the company.



## 8. Reasons for the company's failure

- 8.1 I note that company's business ceased to trade on 1 October 2022.
- 8.2 From my preliminary inquiries to date (see Section 9), I consider that the reasons for the company's failure are likely to be as follows:
- (i) Difficulties arising out of construction contracts, including delays, cost increases and inability to collect amounts owed.
  - (ii) Inability to meet taxation liabilities.
  - (iii) Poor strategic management of the business and cash flow.

## 9. Inquiries undertaken to date

- 9.1 The following inquiries have been made to date:
- (i) Undertaking searches including a company search, PPSR search, vehicle search, director search and property search.
  - (ii) Contacting PPSR creditors and determining validity and status of numerous security interests.
  - (iii) Contacting the Sheriff's Office to determine whether any recovery action has been undertaken on behalf of creditors.
  - (iv) Contacting the Child Support Agency and Workcover WA to determine the company's outstanding liabilities.
  - (v) Contacting the Office of State Revenue and the Australian Taxation Office ("ATO") to determine the company's outstanding tax-related liabilities.
  - (vi) Requesting that the ATO provide me with access to the company's taxation records via the Business Portal.
  - (vii) Collecting and preparing a listing of the company's books and records.
  - (viii) Reviewing the company's financial statements and draft accounts to determine whether there are any unaccounted-for assets and/or liabilities.
  - (ix) Reviewing the ROCAP.
  - (x) General inquiries of the company's director regarding assets and liabilities.
  - (xi) Sending an initial notice to creditors, encouraging creditors to submit their claim against the company.
  - (xii) Determining outstanding employee entitlements and liaising with FEG.
  - (xiii) Determining which assets are registered in the company's name and its related parties.
  - (xiv) Arranging for the valuation and subsequent sale of the company's equipment.

## 9. Inquiries undertaken to date (cont.)

- (xv) Attending the company's former premises and warehouses.
- (xvi) Numerous site visits to ascertain the location of assets and liaise with relevant project managers to arrange for inspection and removal of assets.
- (xvii) Obtaining legal advice with respect to various matters in the administration.

## 10. Further inquiries that may need to be undertaken

10.1 I note the following further inquiries may need to be undertaken:

- (i) Extensive review of the company's books and records.
- (ii) Conducting an investigation into the company's affairs and the conduct of its officer.
- (iii) Determining whether there are any possible recovery actions (see Section 11).
- (iv) Lodging a report with ASIC detailing my investigation findings.
- (v) General inquiries of the company's director regarding assets and liabilities.
- (vi) Investigate and recover amounts owed to the company.
- (vii) Continue to realise the company's equipment located at the company's warehouses and work sites.
- (viii) Continue to liaise with my legal representatives regarding the above inquiries.
- (ix) Prepare further reports to provide creditors with updates of the administration.

10.2 If creditors are aware of a particular matter that requires investigation, please contact this office immediately.

## 11. Possible recovery actions

11.1 I have not yet determined any possible recovery actions but note that the most common recovery actions available to a liquidator are as follows:

- (i) Insolvent trading.
- (ii) Unfair preferences.
- (iii) Uncommercial transactions.
- (iv) Unfair loans.
- (v) Unreasonable director-related transactions.

## 12. What happens next?

- 12.1 I will proceed with the liquidation, including:
- (i) Realising the remaining assets.
  - (ii) Recovering any further available property.
  - (iii) Completing my investigations into the company's affairs.
  - (iv) Completing my reporting to the corporate insolvency regulator, ASIC.
- 12.2 I may write to creditors again with further information on the progress of the liquidation.

## 13. More information

- 13.1 Creditors can access information which may be of assistance on the following websites:
- (i) Sheridans at [www.sheridansac.com.au/downloads/](http://www.sheridansac.com.au/downloads/)
  - (ii) ARITA at [www.arita.com.au/creditors](http://www.arita.com.au/creditors)
  - (iii) ASIC at [www.asic.gov.au](http://www.asic.gov.au) (search for "insolvency information sheets")

If you wish to discuss the above matters, please contact Shaun Carrington or Nicholas D'Alesio of this office.

Yours faithfully



JENNIFER E. LOW  
Liquidator of  
Crown Construction Services Pty Ltd

**CROWN CONSTRUCTION SERVICES  
PTY LTD  
(In Liquidation) ("the company")  
ACN 109 656 304  
ATF CROWN CONSTRUCTION SERVICES UNIT TRUST  
ABN 49 897 453 915**

**PROOF OF DEBT OR CLAIM**

This is to state that the company was on 3 October 2022 and still is justly and truly indebted to \_\_\_\_\_ for:

\$ \_\_\_\_\_ and \_\_\_\_\_ cents

Date	Consideration (how the debt arose)	Amount \$	Remarks (include details of voucher substantiating payment)

To my knowledge or belief the creditor has not, nor has any person by the creditor's order, had or received any satisfaction or security for the sum or any part of it except for the following: *(insert particulars of all securities held. If the securities are on the property of the company, assess the value of those securities. If any bills or other negotiable securities are held, show them in a schedule in the following form).*

Date	Drawer	Acceptor	Amount \$	Due date

I am employed by the creditor and authorised in writing by the creditor to make this statement. I know that the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, remains unpaid and unsatisfied. ①

I am the creditor's agent authorised in writing to make this statement in writing. I know that the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, remains unpaid and unsatisfied. ①

① *Delete both if this proof is made by the creditor personally. Otherwise, strike out or leave, as appropriate.*

**Please ensure this proof is signed for completion, before lodgement.**

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Occupation: \_\_\_\_\_

Creditor's address: \_\_\_\_\_

\_\_\_\_\_