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**Jag Civil & Drainage Pty Ltd (In Liquidation)
ACN 082 495 323 (the Company)**

Joint and Several Liquidators' Statutory Report to Creditors

13 February 2019

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Introduction

I refer to my initial correspondence to creditors dated 10 December 2018 in which I advised you of my appointment as liquidator and your rights as a creditor in the liquidation.

The purpose of this report is to:

- Provide you with an update on the progress of the liquidation.
- Provide you with an estimate of the assets and liabilities of the Company.
- Advise you of the likelihood of a dividend being paid in the liquidation.
- Advise you of the estimated timeframe for the finalisation of the liquidation.

The Joint and Several Liquidators have relied on information provided from numerous sources to prepare the report, including:

- Discussions with the Liquidators of Pro Pipe & Civil Pty Ltd ("Pro Pipe").
- Discussions with the Secured Creditor, Westpac and the Commonwealth Bank of Australia.
- Information available from public sources, such as, Australian Securities and Investments Commission (ASIC) and the Personal Property Securities Register (PPSR).
- A review of the Company's books and records provided to date.

Update on the progress of the liquidation

Company Background

The Company was incorporated on 1 May 1998 and traded from Unit 14, 30 Mudgeeraba Road, Worongary QLD 4213.

The Company and Northern NSW.

The Company appears to have begun to wind down its trading operations from around December 2013, when a related entity (Pro Pipe) began its trading operations. On or around 6 June 2018, the director caused the Company to cease trading entirely.

As creditors are aware, on 26 June 2018 we were appointed receivers and managers of the Company on 26 June 2018 pursuant to an order of the Federal Circuit Court of Australia.

Receivership and Managership

Following our appointment as receivers and managers and a review of the books and records of the Company, we determined that the Company did not have sufficient assets to discharge its creditors. Accordingly, we applied to the Federal Court of Australia to have the Company wound up and Cameron Crichton and I were appointed Joint and Several Liquidators pursuant to an order dated 13 November 2018.

Causes for the Company's Failure

The Director has not returned a Report as to Affairs ("RATA") or director questionnaire to advise of the cause of the Company's failure.

The Company was originally placed into receivership due to a Family Law dispute and prior to our appointment the director caused the Company to cease trading. Accordingly, there was no business to continue to trade or realise and the only realisable assets were plant and equipment located at the site.



Assets and liabilities

The Director of the Company is required to complete and provide to the Joint and Several Liquidators a statement about the Company's business, property, affairs and financial circumstances, also known as the Report as to Affairs (RATA). The RATA is a snapshot in time as at the date of my appointment of the assets and liabilities of the Company, disclosing book values and the Director's opinion on the estimated realisable value (ERV) for assets.

On 28 November 2018 a written request was issued to the Director to complete the RATA for the Company. The Company Director is currently serving a jail sentence and has not returned the RATA.

Assets

The following table is a summary of the estimated realisable value of assets secured by the Liquidators:

	ERV (\$)
Physical Asset Held	
Nissan Patrol 102KQZ	3,909
Toyota Hilux 878HNZ	Withheld
Mitsubishi Tip Truck	Withheld
Various other plant & equipment	Withheld
	Withheld
Other	
Claim in relation Hyundai Excavators	9,652
Insurance Refund	8,782
Pre Appointment Cash at Bank	765
	19,199
Total Estimated Assets Realisations	Withheld

Cash at Bank

The Company held bank accounts with Suncorp which were closed on 3 July 2018 following the appointment of Receivers and Managers. A total of \$765 was held by the Company at this time which I have caused to be transferred to the liquidation bank account.

Excavators

I conducted a vehicle registration search which identified two Hyundai excavators which were also identified in the books and records of the Company. A review of the Personal Property Security Register ("PPSR") indicated the two Hyundai Excavators were secured by the Commonwealth Bank of Australia ("CBA") and registered against Pro Pipe.

The excavators were refinanced by Pro Pipe in 2016 and the Liquidators of Pro Pipe asserted the excavators were assets of Pro Pipe. Ultimately, I claimed that the Company had an interest in the Excavators against Pro Pipe and reached an agreement with Pro Pipe to settle the dispute.



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We have received \$9,652 in relation to the settlement of the Liquidators' claim against Pro Pipe for the Excavators.

Motor Vehicles subject to Specific Security

On appointment, I conducted Personal Property Security Register searches against the Company. These searches identified four assets financed to the Company from Westpac. The assets financed by Westpac were:

- Nissan Navara (552TLA)
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- Nissan Navara (554TLA)
- Nissan Navara (555TLA)

On my instruction these vehicles have been collected by Hymans. Westpac have subsequently arranged for the collection of the asset from Hymans and is arranging for their realisation directly. There is not expected to be any equity in these vehicles based off the valuation amounts after discharging Westpac's debt and sales costs.

Unencumbered Motor Vehicles

My review of the vehicle registration search identified the following motor vehicles of the Company which under my instruction have been secured by Hymans:

- Nissan Patrol (102KQZ)
- Toyota Hilux (878HNZ)
- Mitsubishi Tip Truck

The Nissan Patrol (102KQZ) has been sold by Hymans for net proceeds of \$3,909.

The remaining two vehicles will be sold shortly by Hymans.

Other Plant & Equipment

Various other plant & equipment has been secured by Hymans. The remaining plant & equipment will be auctioned shortly by Hymans, however, the indicative valuation of this equipment is minimal.

Liabilities

The below table summarises the liabilities identified to date:



Creditor Type	Number	\$
Priority (employee) creditors	Unknown	Unknown
Secured creditors	2	Unknown
Unsecured creditors		
Related party loans	3	338,464
Finance obligations	3	144,233
Tax obligations	1	30,022
Trade creditors	10	13,889
Other creditors	1	1,442
Total unsecured creditors		528,050
Total Creditors		Unknown

I am yet to adjudicate on the above creditor claims.

The Company appears to have guaranteed certain of the debts of Pro Pipe to Westpac. We understand the guarantee relates primarily to equipment finance and, as noted above, Westpac have collected the assets they hold direct security over for realisation. Until such a time as the realisation of these assets is completed, we are unable to confirm the position regarding any potential residual exposure to Westpac.

Receipts and Payments to date

The following table outlines the receipts and payment in the liquidation to date:

Receipts and payments account	\$
Income	
Settlement of claim against Pro Pipe	9,652
Insurance Refund	8,782
Nissan Patrol 102KQZ	3,909
Vehicle realisations	765
Total income	23,108
Expenses	-
Cash on hand	23,108

Investigations and possible recovery actions

Investigations undertaken

I have commenced my initial investigations into the affairs of the Company prior to my appointment and any potential recovery actions that may be available to the Joint and Several Liquidators to pursue.

To date, we have undertaken the following investigations:

- Insolvent Trading; and
- Voidable Transactions.



My findings of these investigations are detailed below. Given the limited time that has passed in the liquidation, and that further investigations may be undertaken, the below findings are preliminary and may be subject to change.

Insolvent trading

As noted above, the Company appears to have begun to wind down its operations in December 2013 when a related entity, Pro Pipe, was established and began its trading operations. I consider that the Company may have become insolvent on or around this time as its trading position meant that it may not have had the ability to discharge its liabilities.

As the Company appears to have wound down its operations in December 2013, there does not appear to be significant debts outstanding following this date that could form part of an insolvent trading action against the Director.

Any insolvent trading action is limited to the financial position of the Directors and further investigations are required to assess:

- A definitive date of insolvency;
- The debt incurred following the date of insolvency of the Company; and
- The Directors financial capacity to meet any insolvent trading action.

Voidable transactions

My preliminary investigations have not identified any recoverable unfair preference claims, uncommercial transactions or unfair loans that are commercial to pursue.

Unfair director related transaction

My investigations to date have identified a director loan account in the amount of \$295,512 at 30 June 2018 per the Company's MYOB records. Funds were advanced to or on the director of the Director in the amount of \$82,937 between 18 April 2018 and the appointment of Receivers and Managers on 26 June 2018.

Further inquiries to be undertaken

We plan to undertake the following further investigations:

- Assess any potential insolvent trading action against the Director.
- Ascertain quantum of director drawings and pursue recovery of same.

Meetings held

To date, I have not been required to hold and therefore have not held any meetings of the Company's creditors.



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Likelihood of a dividend

At the current time, there is not expected to be sufficient funds to pay a dividend to priority or unsecured creditors. However, if this changes and we do declare a dividend, any creditor whose claim has not yet been admitted will be contacted and asked to submit a proof of debt.

Cost of the liquidation

As previously advised in our initial information to creditors, we have estimated that our total remuneration for the liquidation is likely to be approx. \$20,000. This estimated cost remains unchanged.

Our remuneration for the receivership was approved and fixed by the Court in the amount of \$53,000 and was approved to be paid by the Liquidators in priority from funds available to the Company. There is not expected to be sufficient realisation to discharge this remuneration in full. Accordingly, at this time, I am not seeking remuneration approval for the liquidation.

Timeframe for completion of the liquidation

I expect that this liquidation will be finalised within the next 6 months.

What happens next in the liquidation?

I will proceed with the liquidation, including:

- Realise the remaining assets.
- Complete my investigations into the Company's affairs.
- Complete my reporting to the corporate insolvency regulator, ASIC.

If I receive a request for a meeting that complies with the guidelines set out in the initial information provided to you, I will hold a meeting of creditors.

Compliance with best practice

I confirm that this report complies with the requirements in the Insolvency Practice Rules (IPR), specifically IPR 70-40, as well as the statements of best practice issued by the Australian Restructuring Insolvency and Turnaround Association (ARITA) with regard to content of the Statutory Report by Liquidator.



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Where can you get more information?

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

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

Should you have any queries with respect to the above, you may also contact Zac Dullard of my office on +61 7 3222 0341 or via email on zac.dullard@au.gt.com. There is also information about this liquidation on my firm's website.

Dated: 13 February 2019

A handwritten signature in black ink, appearing to read 'Michael Gerard McCann'.

Michael Gerard McCann

Joint and Several Liquidator

List of attachments

- Appendix A – Proof of Debt (Form 535)
- Appendix B – ASIC insolvency information sheet
- Appendix C – ARITA insolvency information sheet

Appendix A

Proof of debt – Form 535

FORM 535

Subregulation 5.6.49(2)

Corporations Act (2001)

**FORMAL PROOF OF DEBT OR CLAIM
(GENERAL FORM)**

To the Liquidators of Jag Civil & Drainage Pty Ltd (In Liquidation)

1. This is to state that the company was on 13 November 2018 (*date of court order in winding up by the Court, or date of resolution to wind up, if a voluntary winding up*), and still is, justly and truly indebted to:

(full name and address of the creditor and, if applicable, the creditor's partners. If prepared by an employee or agent of the creditor, also insert a description of the occupation of the creditor) for \$ _____ and _____ cents.

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

2. 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 \$c	Due Date

- *3. 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.
- *3. 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.

.....
Signature
Occupation:
Address

Dated

Proof of Debt Reference:

*Do not complete if this proof is made by the creditor personally.

Appendix B

Appendix B – ASIC insolvency information sheet



Insolvency information for directors, employees, creditors and shareholders

This information sheet (INFO 39) lists ASIC's information sheets for directors, employees, creditors and shareholders affected by a company's insolvency.

We have produced these with endorsement from the Australian Restructuring Insolvency & Turnaround Association (ARITA).

The information sheets give a basic understanding of the three most common company insolvency procedures – liquidation, voluntary administration and receivership – as well as the independence requirements for external administrators and approving external administrator remuneration. There is also a glossary of commonly used insolvency terms.

List of information sheets

- [INFO 41](#) Insolvency: A glossary of terms
- [INFO 42](#) Insolvency: A guide for directors
- [INFO 43](#) Insolvency: A guide for shareholders
- [INFO 45](#) Liquidation: A guide for creditors
- [INFO 46](#) Liquidation: A guide for employees
- [INFO 54](#) Receivership: A guide for creditors
- [INFO 55](#) Receivership: A guide for employees
- [INFO 74](#) Voluntary administration: A guide for creditors
- [INFO 75](#) Voluntary administration: A guide for employees
- [INFO 84](#) Independence of external administrators: A guide for creditors
- [INFO 85](#) Approving fees: A guide for creditors

Where can I get more information?

Further information is available from the [ARITA website](#). The ARITA website also contains the [ARITA Code of Professional Practice for Insolvency Practitioners](#).

This is **Information Sheet 39 (INFO 39)** updated on 1 September 2017. Information sheets provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Last updated: 01/09/2017 10:57

Appendix C

Appendix C – ARITA insolvency information sheet

Creditor Rights in Liquidations

As a creditor, you have rights to request meetings and information or take certain actions:



Right to request a meeting

In liquidations, no meetings of creditors are held automatically. However, creditors with claims of a certain value can request in writing that the liquidator hold a meeting of creditors.

A meeting may be requested in the first 20 business days in a creditors' voluntary liquidation by $\geq 5\%$ of the value of the debts held by known creditors who are not a related entity of the company.

Otherwise, meetings can be requested at any other time or in a court liquidation by:

- $> 10\%$ but $< 25\%$ of the known value of creditors on the condition that those creditors provide security for the cost of holding the meeting
- $\geq 25\%$ of the known value of creditors
- creditors by resolution, or
- a Committee of Inspection (this is a smaller group of creditors elected by, and to represent, all the creditors).

If a request complies with these requirements and is 'reasonable', the liquidator must hold a meeting of creditors as soon as reasonably practicable.

Right to request information

Liquidators will communicate important information with creditors as required in a liquidation. In addition to the initial notice, you should receive, at a minimum, a report within the first three months on the likelihood of a dividend being paid.

Additionally, creditors have the right to request information at any time. A liquidator must provide a creditor with the requested information if their request is 'reasonable', the information is relevant to the liquidation, and the provision of the information would not cause the liquidator to breach their duties.

A liquidator must provide this information to a creditor within 5 business days of receiving the request, unless a longer period is agreed. If, due to the nature of the information requested, the liquidator requires more time to comply with the request, they can extend the period by notifying the creditor in writing.

Requests must be reasonable.

They are not reasonable if:

Both meetings and information:

- (a) complying with the request would prejudice the interests of one or more creditors or a third party
- (b) there is not sufficient available property to comply with the request
- (c) the request is vexatious

Meeting requests only:

- (d) a meeting of creditors dealing with the same matters has been held, or will be held within 15 business days

Information requests only:

- (e) the information requested would be privileged from production in legal proceedings
- (f) disclosure would found an action for breach of confidence
- (g) the information has already been provided
- (h) the information is required to be provided under law within 20 business days of the request

If a request is not reasonable due to (b), (d), (g) or (h) above, the liquidator must comply with the request if the creditor meets the cost of complying with the request.

Otherwise, a liquidator must inform a creditor if their meeting or information request is not reasonable and the reason why.

Specific queries about the liquidation should be directed to the liquidator's office.

Right to give directions to liquidator

Creditors, by resolution, may give a liquidator directions in relation to a liquidation. A liquidator must have regard to these directions, but is not required to comply with the directions.

If a liquidator chooses not to comply with a direction given by a resolution of the creditors, they must document their reasons.

An individual creditor cannot provide a direction to a liquidator.

Right to appoint a reviewing liquidator

Creditors, by resolution, may appoint a reviewing liquidator to review a liquidator's remuneration or a cost or expense incurred in a liquidation. The review is limited to:

- remuneration approved within the six months prior to the appointment of the reviewing liquidator, and
- expenses incurred in the 12 months prior to the appointment of the reviewing liquidator.

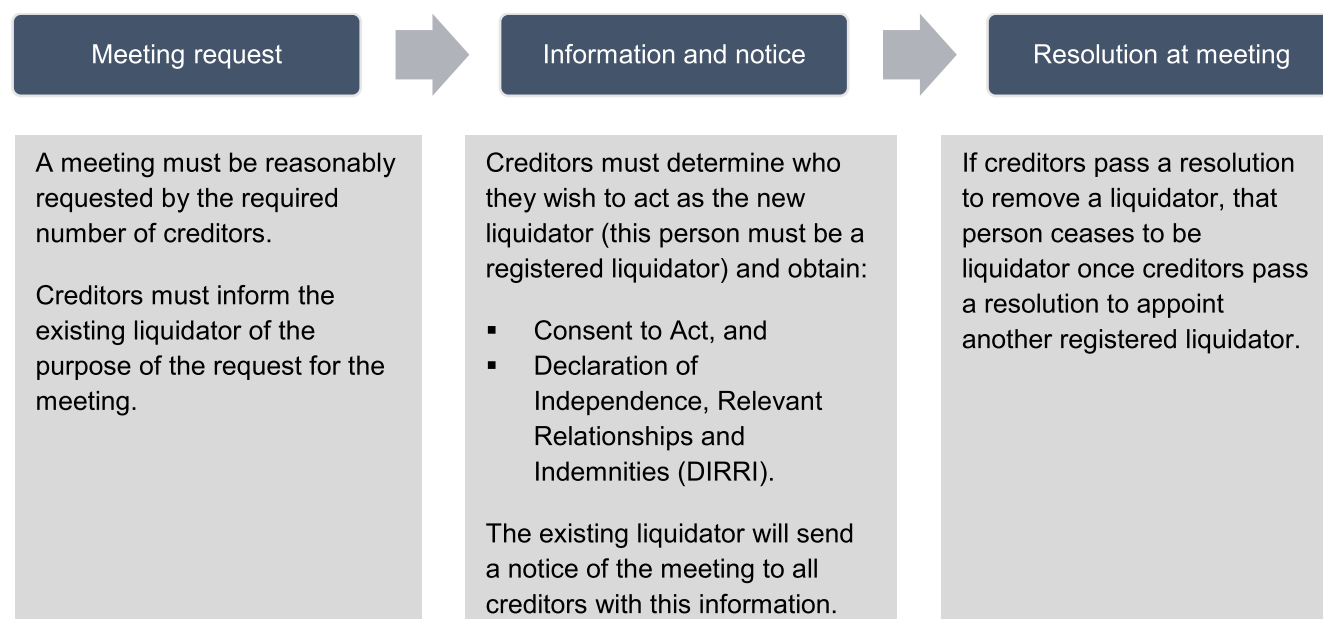
The cost of the reviewing liquidator is paid from the assets of the liquidation, in priority to creditor claims.

An individual creditor can appoint a reviewing liquidator with the liquidator's consent, however the cost of this reviewing liquidator must be met personally by the creditor making the appointment.

Right to replace liquidator

Creditors, by resolution, have the right to remove a liquidator and appoint another registered liquidator.

For this to happen, there are certain requirements that must be complied with:



**For more information, go to www.arita.com.au/creditors.
Specific queries about the liquidation should be directed to the liquidator's office.**