

**Section 439A Creditors Meeting**  
**Administrator's**  
**Report to Creditors pursuant to IPR 75-225(3)(a)**

**Dapto Bowling Club Limited**  
**(Administrator Appointed)**  
A.C.N. 001 066 888

Notice of Creditors Meeting

5 October 2017

12 noon

Dapto Bowling Club

66-76 Marshall Street,

DAPTO NSW 2530

Contact: Jo Cahill

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## 1 INTRODUCTION

I refer to my earlier circular dated 8 September 2017 and confirm that on 6 September 2017, I was appointed Administrator of the Dapto Bowling Club Limited ("the Club") in accordance with the provisions of Section 436A of the Corporations Act, 2001 ("the Act"). My appointment was approved by the Independent Liquor and Gaming Authority ("ILGA") on 6 September 2017.

The First Meeting of Creditors was held on 18 September 2017, at the Club and my appointment as the Administrator, was confirmed by creditors, as no alternate Administrator was proposed by any creditor of the Club.

At the first meeting, I provided creditors with an update of recent events, explained in detail the specific matters that I identified with respect to the disclosures made within my declaration of independence, relevant relationships and indemnities attached to my earlier circular and answered any questions.

At this meeting the creditors voted not to appoint a Committee of Inspection in the Voluntary Administration.

The Second Meeting of Creditors has been called for 5 October 2017 and will be held at the Dapto Bowling Club, 66-76 Marshall Street, Dapto NSW, commencing at 12 noon.

Upon my appointment, I have assumed control of the Club and have investigated the Club's affairs with a view to considering, where appropriate, the formulation of a Deed of Company Arrangement ("DOCA"). The Act imposes on the Administrator a strict timetable for the convening of meetings, investigation of the company affairs and reporting to creditors and as such, as required by Section 439A of the Act and Insolvency Practice Rule, IPR 75-225(3)(a), the purpose of this report is to present creditors with information on the three possible directions the Club's future may take and the options available to you as a creditor, together with information about the Club's business, property, affairs and financial circumstances.

The options presented by the Act to be voted on by the creditors at the meeting are that:

- The Administration terminate; or
- The Company by wound up; or
- The Company execute a DOCA.

A DOCA is proposed by me, between the company and its creditors which, if accepted, may affect your legal rights. At the creditors meeting called for 5 October 2017 at 12 noon, creditors will be asked to consider, and if thought fit, approve the proposed DOCA.

If a resolution for a DOCA is passed by creditors voting at the meeting, (including proxies), then the DOCA will become binding on all unsecured creditors by its terms.

## **EXECUTIVE SUMMARY**

This executive summary is provided to assist creditors with the Administrator's opinion with respect to the future direction of the Club. It is advised that creditors read the report in its entirety in order that they may fully understand the circumstances surrounding the Administration and the basis of the Administrator's recommendation and therefore make an informed decision with respect to the creditor's meeting on 5 October 2017.

### **1. The Administration**

On 6 September 2017, I was appointed Administrator of the Club pursuant to Section 436A of the Act, after approval by the ILGA. Since my appointment I have examined the financial circumstances of the Club in order to compile this report and provide detailed information to creditors to enable them to be fully informed in making their determination as to the future of the Club.

This second meeting of creditors to determine the future direction of the Club will be held at the Club premises on Thursday 5 October 2017 at 12 noon.

### **2. On-going trading**

Throughout the period of my appointment, I have continued to trade the Club in order to preserve the value of the business, whilst I examine the financial affairs of the Club and report to creditors. During this time, I have engaged the services of an experienced Club Manager to act as General Manager of the Club, for a minimum 4 week period, and with his assistance, commenced a review to highlight potential operational efficiencies and strategies to increase the Club's trading revenue and reduce the operating cost structure, so as to return the Club to a minimum breakeven cash position.

Additionally, the Director's commenced the process of advertising for expressions of interest for a potential amalgamation partner by advertising within the Club's NSW e-circular on 4 September 2017.

It is my intention to also consider any amalgamation options for the Club and potential refinancing of the Club's secured debt. As well as considering any opportunities to sub-divide the Club's landholding and therefore enter into a sale of either all or part of that landholding, which may also consider a leaseback of the site to the Club. The solution for the establishment of a Deed Fund may be a combination of these options.

### **3. DOCA or Liquidation and the likely return to creditors**

A 12 month DOCA has been proposed which is outlined in more detail at Section 10.1 of the report.

Under this proposal, the Administrator is given 12 months to either complete an amalgamation with another Registered Club, refinancing of the Club's debt, a potential subdivision and therefore sale of a portion or all of the Club's landholding, with a possible leaseback arrangement, or a combination thereof, such that the priority creditors (entitlements of terminated or resigned employees at the date of execution of the DOCA and superannuation for both terminated and continuing employees) are provided with a dividend of 100 cents in the dollar and unsecured creditors are provided with a dividend representing 100 cents in the dollar.

Should the Administrator obtain sufficient funds within the 12 month period to enable the establishment of a Deed Fund, then it is proposed that the unsecured creditors be paid an interim dividend during the DOCA period and a final dividend representing the balance of a dividend of 100 cents in the dollar, with respect to the amount owing to unsecured creditors at the date of my appointment, at the completion of the DOCA.

Should an interim dividend be payable to the unsecured creditors during the DOCA period then the priority creditors would also receive an interim dividend, representing 100 cents in the dollar.

The continuing employees will not be a party to the DOCA and will be paid their leave entitlements accrued, as at the date of my appointment, in the normal course of trade by taking such leave as and when approved and on a first in first out basis.

The only other options available to creditors are that the Administration should end or the Club is wound up.

The winding up of the Club provides all unsecured creditors with the same return than that proposed under a DOCA and represents an estimated dividend (based on the current realisable value of the Club's assets and known creditor claims as at the date of this report) of approximately 100 cents in the dollar. A winding up will provide priority creditors with a dividend of 100 cents in the dollar, which is also equal to that paid to priority creditors under a DOCA.

In my opinion, the DOCA is the preferred option as it provides all unsecured creditors with an equal return to that under a Liquidation, enables the Club to continue for the benefit of its local community, provides continued employment for the Club's employees, provides a meeting place and social venue for the members and the local community and provides on-going business for the Club's trade suppliers, which are predominately local businesses.

The estimated return to creditors is based upon the current estimated realisable value of the Club's assets and known creditor claims, as at the date of this report.

#### **4. Statement of Independence, Relevant Relationships and Indemnities**

Creditors are advised that the previous statement of Independence, Relevant Relationships and Indemnities ("DIRRI") as provided in the first report to creditors dated 8 September 2017 applies to this report.

#### **5. Investigations**

I have undertaken Investigations as required by me pursuant to the Corporations Act, 2001, which are reported at Section 9 of this report.

At this time, there is no further significant matter that needs to be reported to creditors than that reported at Section 9.

#### **6. Administrator's Recommendation**

Based on the information available, I believe that creditors should resolve to execute the proposed DOCA. The DOCA provides for an opportunity to achieve a dividend equal to that likely to be received by creditors should the Club be placed into Liquidation (estimated to be 100 cents in the dollar to unsecured creditors and 100 cents in the dollar to priority creditors under the DOCA and a Liquidation option).

Further, it is proposed that should a Deed Fund be able to be established within the DOCA period that an interim dividend would be paid to both unsecured and priority creditors during the DOCA period.

Additionally, the DOCA allows for the continuation of the Club for the benefit of the local community and the continued employment of approximately 15 employees and the on-going business to the Club's predominately local suppliers.

## **2 BACKGROUND**

### **2.1 PRINCIPAL ACTIVITY**

The Club was founded in 1948 and currently has approximately 760 financial members, including approximately 138 full bowling members, with memberships due next on 30 June 2018.

The Club is a not for profit unlisted Australian public company limited by guarantee whose principal activities are the operation of a licensed bowling club for the provision of lawn bowls activities and competitions food, beverage and other social activities for its members.

The club conducts the usual activities of a licensed club, including the operation of 30 gaming machines (the Club owns 30 gaming machine entitlements), the sale of liquor and other beverages, TAB and sports area, KENO and various other forms of entertainment. Catering is provided at the Bistro, which is operated under a catering contract. The Club has 2 bowling greens for the operation of lawn bowls and other such activities and a third green has been converted into 2 mini futsal courts and leased under a five year lease with Golden Goal Pty Limited to operate and run futsal competitions within the local community.

## **2.2 TRADING PREMISES**

The Clubhouse is situated at 66-76 Marshall Street, Dapto NSW 2530. Dapto is a town located on the south coast of New South Wales, with a population of approximately 32,000 based on the 2016 census. The nearest large population centre is Wollongong, located approximately 15 km north of Dapto, with the nearest capital city being Sydney located approximately 105 kilometres to the north.

The Clubhouse is situated on land owned by the Club and comprises Lot 1 in DP 1077277, and representing an area of approximately 12,730 square metres. The clubhouse was originally built on the current site in the early 1950's and there have been a number of extensions and refurbishments over this time.

## **2.3 LEASE OF LAND**

The Club does not lease any land or buildings.

As discussed above, the Club has entered into a five year lease with Golden Goal Pty Limited ("Golden Goal") for the lease of the third bowling green and cottage, located at the front of the Club's property.

The information obtained by me indicates that the lease was executed on 11 October 2013 and that no option agreements, have been entered into by the Club. The lease provides for a three year rent free period and then rent payable from year 4 at \$20,000 per annum plus GST. I understand that year 4 of the lease represents the year ended 10 October 2017 and to date the Club has not received any rental payments. I have met with Golden Goal on 13 September 2017 and have had further correspondence with them and am currently awaiting a response.

Golden Goal has undertaken the conversion of the third bowling greens into two mini futsal courts. It is my understanding that limited competitions have been run on the courts to date.

## **2.4 MEMBERS LIABILITY**

The Club's Constitution enforces a liability on each member of the Club to contribute monies to the Club in the event of a winding up. This liability is limited to five dollars (\$5) per member.

As such, if a Liquidator was appointed, then the Liquidator may seek payment from each member of an amount up to \$5, which would represent an amount of approximately \$3,800. Should the Club enter into a DOCA, then the Deed Administrator cannot exercise this right.

## **2.5 SUBDIVISION, SALE OF EXCESS LAND, SALE AND LEASEBACK**

It is my understanding that prior to my appointment as Administrator, the Club had not investigated the process required to enable either sub-division (as the current landholding is under one title) or approval from members to alter the classification of any smaller parcel of their current landholding, from core property to non-core property, as prescribed under the Registered Clubs Act.

The land, upon which the cottage is located at the front of the Club's car park area, does have potential for a subdivision and sale or redevelopment and as such it is my intention under a DOCA, to further consider this potential opportunity. I will also be looking at any opportunities to sell the Club's landholding and enter into a leaseback of the site to the Club.

This proposal would be subject to member approvals as required under the Registered Clubs Act, with respect to the sale of core land.

At the time of writing this report, I have received a proposal for the sale of the Club's landholding and leaseback of the site to the Club, to enable it to continue its business as a Registered Club.

A valuation of the current club landholding is in the process of being sought by the Australia and New Zealand Banking Group Limited ("ANZ"), (which I will be provided a copy in due course), however at the date of this report this valuation has not yet been completed. The ANZ did undertake a valuation in March 2016, which provided for a valuation on an alternate use basis of \$1.680 million.

## **2.6 AMALGAMATION WITH ANOTHER REGISTERED CLUB**

The Board of the Club advertised on 4 September 2017, within the Clubs NSW e-circular, for expressions of interest with respect to an amalgamation with the Club, with a closing date of 25 September 2017.

At the time of writing this report I have received three expressions of interest for a potential amalgamation with the Club. Once a decision, as to the future of the Club, is made by the creditors, at the 2<sup>nd</sup> meeting of creditors to be held on 5 October 2017, I will consider the expressions of interest provided, so as to progress a potential Amalgamation. An

amalgamation with the Club is subject to member approval and regulatory authority approval, which is estimated to take between 6-12 months to complete.

## **2.7 MEMBERS INFORMATION UPDATES**

Under the Act, I am bound to report and hold meetings of creditors rather than members. However, I recognise the importance of members to the Club now and for its future. I have therefore elected to keep members informed with respect to the progress of the Administration and have held a member information meeting on 18 September 2018 and I will continue to meet with members as and when required to keep them fully informed on the progress of the Administration.

I have continued to meet, both in person and via teleconferencing, with the General Manager and Board of Directors to discuss relevant issues with respect to the Administration.

## **2.8 STATUTORY INFORMATION**

### **2.8.1 COMPANY OFFICE HOLDERS**

According to the records of the Australian Securities and Investments Commission (ASIC), the Company's office holders and other statutory information at the date of my appointment was as follows:

<b>Name</b>	<b>Capacity</b>	<b>Appointment Date</b>
Ronald James Drapper	Chairman/Director	15/11/2010
Robert John Allan	Director	15/09/2013
Terry Murray	Director	19/09/2012
John Bowman	Director	19/09/2012
John Rodney Hennah	Director	11/12/2009
Robert Anthony Ryan	Director	25/11/2008
Karl Sorgsepp	Director	04/09/2006

The company secretary was the General Manager, Darren McNaught, who resigned, just prior to my appointment, on 15 August 2017. I am currently working through this process to have the necessary approvals completed to appoint a new company secretary and notify ASIC accordingly.

### **2.8.2 OTHER INFORMATION**

Date of Incorporation: 11 November 1972

Registered Office: 66-72 Marshall Street, Dapto NSW



Principal Place of Business: 66-72 Marshall Street, Dapto NSW

## **2.9 REGISTERED CHARGES**

The Club has the following registered charges with the ANZ;

- A First Registered Mortgage over the property situated at 66-76 Marshall Street Dapto NSW representing Lot 1 in DP 1077277; and
- A General Security Agreement over all present and after acquired property.

I have completed a search of the Personal Properties Security Register (“PPSR”) and the General Security Agreement charge is shown as registered charge number 201112212449265 and 201112100112137 both dated 30 January 2012 and then registered charge number 201403310043414 dated 31 March 2014. These additional charges are as a result of a change in the Club’s loan facility with ANZ.

The ANZ has provided to the Club a commercial fixed rate bill facility, with a facility limit of \$405,000 and a variable rate business loan, with a facility limit of \$487,000, with a balance owing at the date of my appointment of approximately \$695,250. In addition, the Club has an overdraft facility limit of \$140,000, which at the date of my appointment had a balance owing of approximately \$84,750.

The ANZ has also provided the Club with an Indemnity Guarantee Facility of \$5,000, which has been utilised by the Club as the security under the TAB Agreement, required to enable the provision of TAB services to the Club.

This provides for an approximate amount owing to the ANZ at the date of my appointment of \$785,000.

I provided the ANZ with all the necessary secured creditor notifications as required under the Act and have also meet with representatives of the ANZ on 19 September 2017 to discuss the appointment and to provide them with the progress I have made under the Administration.

On the PPSR there are also a number of charges registered against goods provided by various suppliers to the Club and with respect to a number of leases, loans and rental agreements and general supply agreements entered into by the Club, including Toyota Finance Australia Limited, Sharp Corporation Australia Pty Limited, Thorn Australia Pty Limited, Capital Finance Pty Limited, Leasebank (Australia) Pty Limited, Metcash Pty Limited, Fosters Pty Limited, Tooheys Pty Limited, Treasury Wines Pty Limited, TAB Limited, KENO (NSW) Pty Limited, Elgas Limited and Aristocrat Technologies Australia Pty Limited

## 2.10 BOOKS AND RECORDS

The books and records of the Club in my opinion appear to have been kept and maintained in accordance with Section 286 of the Act.

The last Annual General Meeting (“AGM”) of members, held prior to my appointment on 6 September 2017, was on 30 October 2016, at which audited accounts had been prepared for disclosure to the members of the Club with respect to the financial year ended 30 June 2016.

The audit for the financial year ended 30 June 2017, has not commenced at this time.

## 2.11 REPORTS TO CREDITORS

The Act sets out the minimum content required for inclusion in reports to creditors issued by an Administrator. The Code of Professional Practice (“the Code”) places more onerous requirements on insolvency practitioners.

This report has been prepared for creditors in accordance with both the Act and the Code.

# 3 HISTORIC TRADING

## 3.1 PROFIT AND LOSS SUMMARY

With respect to the audited financial statements, the Club has recorded a **net trading loss** for the financial year ended 30 June 2015 and 30 June 2016 of \$37,098 and \$97,841, respectively. The Club’s unaudited management accounts for the year ended 30 June 2017 records a **net trading loss** of \$116,699.

The table below provides an analysis of these results:

<b>Dapto Bowling Club Limited (Administrator Appointed)</b>						
<b>Historic Trading Results</b>						
	<b>Y/E 30/6/2015</b>		<b>Y/E 30/6/2016</b>		<b>Y/E 30/6/2017</b>	
	<b>Audited</b>		<b>Audited</b>		<b>Unaudited</b>	
	<b>\$</b>	<b>%</b>	<b>\$</b>	<b>%</b>	<b>\$</b>	<b>%</b>
Bar	1,007,103	45.86%	925,560	50.27%	887,302	49.37%
Gaming	668,858	30.46%	636,888	34.59%	600,103	33.39%
Catering	207,606	9.45%	2,924	0.16%	-	0.00%
Greens & Bowls	56,746	2.58%	40,079	2.18%	43,966	2.45%
Other	255,709	11.64%	235,785	12.81%	265,877	14.79%
<b>Total Revenue</b>	<b>2,196,022</b>	<b>100.00%</b>	<b>1,841,236</b>	<b>100.00%</b>	<b>1,797,248</b>	<b>100.00%</b>
Net Operating Loss	- 37,098		- 97,841		- 116,699	
EBITDARD	122,916		62,790		54,036	
EBITDARD % of TR	5.60%		3.41%		3.01%	
Bar Gross Profit %	53.70%		53.88%		54.89%	
Direct Wages % of TR	33.23%		32.65%		33.70%	
PEMA % of TR	7.24%		8.28%		7.90%	
Overhead Costs % of TR	37.85%		46.27%		47.44%	
PM revenue per machine per day	\$59.51		\$56.44		\$53.23	

*Source: Annual Reports and Management Accounts*

I make the following comments in relation to the financial statements:

- For the 2016 financial year, the total revenue of the club decreased as compared to the 2015 financial year by approximately 16%, principally as a result of the Club outsourcing the operation of catering. For the year ended 30 June 2017, as compared to the 2016 financial year, there has been a small decrease in total revenue of approximately 2%, principally this as a result of the continuing decline of both bar and gaming revenue;
- Bar revenue has decreased by \$81,543 (8%) and gaming machine revenue has decline by \$31,970 (5%) in the 2016 financial year as compared to the 2015 financial year. For the year ended 30 June 2017, as compared to the 2016 financial year, there has been a further decline in bar revenue of approximately 4% and a fall in gaming machine revenue of approximately 6%;
- The bar gross profit margin has remained relatively stable for the review period representing the financial year ended 30 June 2015, 30 June 2016 and 30 June 2017 of 53.7%, 53.88% and 54.89%, respectively. From best practice industry benchmarks, the gross profit margin is low and should represent a minimum of 58%;
- Promotions, entertainment, marketing and advertising (“PEMA”) has also remained relatively stable over the review period and represents 7.24%, 8.28% and 7.92% of total revenue for the financial years ended 30 June 2015, 30 June 2016 and 30 June 2017, respectively. This remains within best practice industry benchmarks;
- Direct wages have remained significantly above best practice industry benchmarks over the review period and represent 33.23%, 32.65% and 33.70% of total revenue for

the financial years ended 30 June 2015, 30 June 2016 and 30 June 2017, respectively. The high wages will need to be addressed if the Club is to return to a breakeven cash position; and

- EBITDARD (earnings before interest, tax depreciation, amortisation, rent and donations) is reflective of the Club's poor trading performance and cashflow position and represents 5.6% of total revenue for the 2015 financial year, 3.41% of total revenue for the 2016 financial year, and 3.01% of total revenue for the year ended 30 June 2017. Significant operational changes and increased revenue are needed to return the Club to a financially viable EBITDARD position.

## 4 ADMINISTRATOR'S PRIOR INVOLVEMENT

I am a member of the Australian Restructuring Insolvency and Turnaround Association ("ARITA"). ARITA is committed to preserving the quality, integrity and professionalism of all parties practicing in insolvency. ARITA has released version 3 of its "Code of Professional Practice" (the Code), which commenced on 1 January 2014, (with updates and amendments in the 2015 and 2016 years). This Code binds all members with respect to their actions in accepting and undertaking formal appointments.

Under the Code I am required to make declarations as to:

- A. independence generally;
- B. relationships, including
  - i the circumstances of the appointment;
  - ii any relationships with the Club and others within the previous 24 months;
  - iii any prior professional services for the Club within the previous 24 months;
  - iv. that there are no other relationships to declare; and
- C. any indemnities given, or up-front payments made, to me.

This declaration is made in respect of myself, my partner, RT Hospitality Solutions, RM Four Pty Limited and Jotwo Pty Limited.

I advise creditors that the previous statement of Independence, Relevant Relationships and Indemnities as provided in the first report to creditors dated 8 September 2017 applies to this report. At the first meeting of creditors on 18 September 2017, I both tabled and explained the disclosures made within my statement of Independence, Relevant Relationships and Indemnities.

## 5 CONDUCT OF THE ADMINISTRATION

At the date of my appointment, I assumed control of the Club's assets and conducted the following:

- Inspected the premises and conducted a stocktake;
- Reconciled and confirmed the cash on the Club premises;
- Implemented procedures for the ongoing trading of the Club;
- Notified ASIC of my appointment;
- Corresponded with the secured creditor;
- Corresponded with the Club's banks in order to control cash and opened new bank accounts for the Administration with the St George Bank;
- Corresponding with the various statutory authorities, including the Australian Taxation Office and Office of State Revenue regarding my appointment;

- Corresponded with my insolvency insurance broker, who will correspond on my behalf with the Club's general insurance provider and workers compensation insurance provider and broker;
- Corresponded with other asset financiers and determined whether any contracts would be disclaimed;
- Corresponded with the Club Directors and assisted them with the completion of their RATA;
- Convened a meeting with the Club's employees to discuss the Administration process and the ongoing trading of the Club;
- Convened a meeting with Members of the Club to discuss the Administration process and discussed ideas for the future direction of the Club;
- Corresponded with Valuer's to obtain a valuation of the Club assets;
- Dealt with enquires from creditors;
- Corresponded and discussed various issues with suppliers to ensure continued supply and trading for the Club;
- Prepared and forwarded advertisement for the first meeting of creditors and notification of my appointment under the Act;
- Prepared and forwarded all necessary statutory documents to the Club creditors;
- Determine the list of unsecured creditors and assessment of the unsecured debt, including calculation of all employee entitlement liabilities;
- Calling and convening the first meeting of creditors;
- Preparation of the minutes for the first meeting of creditors and reporting to ASIC;
- Corresponded with the Club's auditor and accountant;
- Considered the options available to me, including providing information and holding discussions/meetings with potential Amalgamation partners of the Club, following the advertising within the ClubsNSW e-circular by the Directors of the Club on 4 September 2017, seeking an Amalgamation with another Registered Club;
- Considered an initial high level review of any potential sub-division of the Club's landholding;
- Completed a preliminary analysis of the Club's financials and trading result;
- Appointed a new Club General Manager and together discussed and implemented some initial operational changes at the Club;
- Review current wage rates of employees to ensure that amounts are in line with the Club Employees Award;
- Authorisation of purchase orders and payment of Club creditors and employee wages;
- Commenced an initial investigation into the company's affairs and conduct of the directors;
- Issued an extensive report to creditors and employees for the second creditors meeting and employees meeting;
- Prepare documents for second creditors meeting and employees meeting; and
- Deal with creditor enquiries and creditor correspondence prior to second creditors meeting.

These tasks form the basis of my actual remuneration claim for the period 6 September 2017 to 22 September 2017 and for my future remuneration claims for the period from 23 September 2017, as detailed in my Remuneration Approval Report, which is annexed.

## **6 REASONS FOR FAILURE**

The Directors have attributed the failure of the company to the following:

- The strong competition within a 1-2 kilometre radius of the clubhouse from other Clubs and Hotels with both similar and highly competitive facilities;
- Low utilisation of the clubhouse facility by members and failure to generate new clubhouse business via functions, catering or other events;
- Inability to adequately reinvest in the Club's facilities and products;
- Significant cost of providing and maintaining bowling to a small number of the Club's membership. Lack of a user pay system and process in place; and
- Failure by Management to provide a timely and accurate analysis of the Club's financial performance and cashflow position to the Club's Board.

## **7 REPORT AS TO AFFAIRS**

Pursuant to Section 438B (2) of the Act, notices were forwarded to the Directors of the Club requiring them to prepare a Report as to Affairs ("RATA") for the company. A RATA sets out the Club's assets and liabilities as at the date of my appointment as Administrator, and in this regard, the RATA provided by the Directors is as follows:

<b>Dapto Bowling Club Limited (Administrator Appointed)</b> <b>Report as to Affairs (Estimated Realisable Value)</b> <b>Completed by the Club Directors as at 6 September 2017</b>	
	\$
<b>Assets</b>	
Cash on Hand and at Bank	29,277
Stock	6,819
Plant and Equipment	52,105
Intangible Assets -Gaming Machine Entitlements (30)	700,000
Land & Buildings	1,700,000
<b>Total Assets</b>	<b>2,488,201</b>
<b>Liabilities</b>	
Trade and Other Payables	424,235
Secured Debt - ANZ Bank	785,000
Employee Entitlements	63,779
Employee Superannuation	16,454
Partly Secured Creditors	89,611
Contingent Liabilities	84,132
<b>Total Liabilities</b>	<b>1,463,211</b>
<b>Estimated Surplus/(Deficiency)</b>	<b>\$1,024,990</b>
<i>Source: Directors RATA</i>	

## 7.1 CASH (\$29,277)

The Directors reported that cash on hand as at the date on my appointment on 6 September 2017 was \$25,279, comprising safe, floats, eftpos reserve and ATM machine.

At 6 September 2017, the Club held three bank accounts with the ANZ, which provided cash at bank of \$3,998 and represented as follows:

- TAB trading account - \$514; and



- Keno trading account - \$3,485.

The Club has a trading account overdraft facility with the ANZ, which at the date of my appointment provided for a debit balance of approximately \$86,242. This liability is discussed further at Section 7.9.

The amount of \$3,998 will not be transferred to the Administrator's bank accounts.

## **7.2 DEBTORS**

As discussed in Section 2.3, the Club has entered into a five year lease with Golden Goal with respect to the lease of the third bowling green for use as 2 mini futsal courts.

We are currently seeking to confirm the execution date of the lease, so as to determine if any amounts are owing to the Club, at the date of my appointment, with respect to outstanding rent and outgoings.

## **7.3 STOCK (\$34,115)**

Stock comprises an amount of \$13,638, representing the estimated bar stock on hand as at the close of business on 6 September 2017, subject to any retention of title claims. This provides for a total amount for stock, at cost of \$13,638 and an estimated realisable value of \$6,819.

There has been no retention of title claims lodged with me as at the date of this report.

## **7.4 PROPERTY, PLANT AND EQUIPMENT (\$1,752,105)**

The Club owns the clubhouse land and buildings located at 66-76 Marshall Street Dapto, representing Lot 1 in DP 1077277.

The ANZ Bank had the property valued on 5 January 2011, by LandMark White on an alternate use basis, which provided for a valuation of \$1.9 million, with vacant possession. Additionally, the ANZ had a valuation completed on 29 March 2016 by MMJ Wollongong, also on an alternate use basis, which provided for a valuation of \$1.680 million, with vacant possession. The Directors have valued the property at the date of my appointment, based on a net realisable value at \$1.7 million.

I have not undertaken a new valuation with respect to the land and building assets of the Club, however I understand that the ANZ are required to complete a valuation within 6 months of my appointment and that they will shortly commence this process and once complete make the valuation available to me.

The Club also has plant and equipment assets representing gaming machines, bar equipment, kitchen equipment, office machines, computers and furniture and fittings, televisions and audio equipment, POS terminals and audio receivers which have a written

down value as at 6 September 2017 of approximately \$169,500. The Directors have provided an estimated realisable value for this plant and equipment as at the date of my appointment of \$52,105.

I obtained a valuation from Pickles Valuation Services dated 19 September 2017, which estimates the realisable value for the Club's plant and equipment to be \$110,105 and representing as follows:

- Plant and Equipment, and gaming machines – unencumbered - \$52,105
- Gaming machines– encumbered - \$32,000; and
- Motor Vehicle – encumbered - \$26,000.

## 7.5 CONTINGENT ASSET (\$700,000)

The Club currently owns 30 gaming machine entitlements and operates 30 gaming machines at the Club premises.

The value of gaming machine entitlements varies from time to time and also can be dependent upon the locality band of those entitlements. The Directors have provided an estimated realisable value for the entitlements of approximately \$70,000 for a block of 3 entitlements and providing a value of \$700,000.

I believe that this is a fair market value of these entitlements.

## LIABILITIES OF THE CLUB

### 7.6 TRADE CREDITORS (\$424,325)

The Directors have included an amount of \$424,235 within their RATA as presenting trade creditors as at the date of my appointment.

This represents the value of trade creditors at the date of my appointment in accordance with my investigations to 19 September 2017 and are as follows:

	(\$)
Trade creditors	129,636
ATO GST and PAYG payable – as per their POD	189,981
ATO GST and PAYG payable (estimated for OS returns)	87,767
OSR – Payroll Tax	<u>16,851</u>
<b>Total</b>	<b>424,235</b>

The estimated trade creditors are attached as Annexure 2.

Please note that the amounts shown in Annexure 2 are as per the Club's accounts payable system and known creditor claims identified post my appointment.

This schedule also identifies all proof of debt claims lodged as at the date of this report and therefore if I have not received your proof of debt and you wish to vote at the meeting of creditors on 5 October 2017, then a proof of debt is required to be lodged with me, prior to the commencement of the meeting.

No formal adjudication against any of the proof of debts lodged by creditors, has been made by me at this time.

#### **7.7 PRIORITY CREDITORS - EMPLOYEE ENTITLEMENTS (\$80,233)**

The Directors have provided details as to the employee claims as at 6 September 2017, as representing an amount of \$80,233 and are as follows:

	(\$)
Wages (Days in Lieu)	1,282
Superannuation	16,454
Annual Leave Entitlements (includes 17.5% loading)	25,398
Long Service Leave Entitlements	<u>37,099</u>
<b>Total Claims by Employees</b>	<b>\$80,233</b>

The Club's payroll system has not been set up to accrue long service leave entitlements and as such I have calculated an estimate of the amount owing as at 6 September 2017. As at the date of my appointment as Administrator, there are approximately 6 employees that have been employed by the Club for greater than 5 years, and this long service liability represents approximately \$37,099.

The above superannuation represents an amount owing with respect to the compulsory superannuation guarantee of \$15,579 and \$875 with respect to superannuation deductions from the employees weekly wages. This superannuation is for the period 1 June 2017 to 6 September 2017 and as such some of these amounts have not be paid by the due date and therefore the amount of superannuation outstanding is claimable by the Australian Taxation Office, as a priority creditor together with interest and an administration fee (which is not included above). The Australian Taxation Office upon receipt of the above superannuation will on pay the superannuation to the individual superannuation funds of the Club employees.

The estimated claim by employees is approximately \$16,454, excluding interest and administration fees payable to the ATO with respect to the outstanding superannuation liabilities, which we have been unable to estimate at this time

## 7.8 CONTINGENT LIABILITIES (\$84,132)

The following represents the contingent liabilities as provided by the Directors as at the date of my appointment:

	(\$)
Members Points Balance (6/9/17)	12,500
Redundancy and Notice (estimate)	<u>71,632</u>
	<u><b>84,132</b></u>

The member points balance represents the contingent liability owing to members of the Club with respect to the points acquired on their membership card for funds spent in the Club.

Further, in the event of Liquidation, employee redundancy entitlements, notice in lieu and superannuation (on notice in lieu payments) has been calculated as representing approximately \$71,632 for redundancy and notice in lieu, but does not include the superannuation payable on notice in lieu, which is estimated to be approximately \$1,958. I confirm that based on the information available, as at the date of this report the amount with respect to employee redundancy, notice in lieu and superannuation (on notice only) is approximately \$73,590.

As such, the contingent liabilities as at the date of my appointment, are now estimated by me to be approximately \$86,090.

## 7.9 SECURED FACILITY FROM THE ANZ (\$785,000)

The ANZ has provided to the Club a commercial fixed rate bill facility, with a facility limit of \$405,000 and a variable rate business loan, with a facility limit of \$487,000, the Directors have advised that the balance owing at the date of my appointment is approximately \$695,250.

The terms of the ANZ bill facility is a 5 year term commencing in February 2016, principal and interest was payable on the variable portion of the facility with a monthly principal reduction of \$6,750. The facility has a monthly handling fee of \$150, a line usage fee of 1.45% p.a. and a commitment fee of 1.45% p.a, all payable monthly. As discussed at Section 2.9, the ANZ has a first registered mortgage and general security agreement over all present and after acquired property of the club.

The ANZ have confirmed that the balance of the commercial bill facilities as at the date of my appointment is approximately \$695,250.

Additionally, the Club has an overdraft facility, which as at the date of my appointment represented a balance of approximately \$84,750. The overdraft facility limit is \$140,000, with an interest rate of approximately 7.27%.

The letter of offer provided by the ANZ and dated 29 February 2016, also provides the Club with an Indemnity/Guarantee Facility of \$5,000, which I understand has been provided to the TAB with respect to the operation of the TAB facilities at the Club and at the date of my appointment has not been drawn upon. In addition, there was also an ANZ Business One Visa Card facility with a \$5,000 limit provided to the Club, which I understand has not been utilised by the Club for sometime and which has an account balance of \$Nil as at the date of my appointment.

Thereby, providing for a total amount owing to the ANZ of approximately \$785,000 as at the date of my appointment.

## **7.10 PARTLY SECURED CREDITORS (\$89,611)**

The Club has entered into a lease agreement with Thorn Equipment Finance for 3 Konami gaming machines, a rental agreement with Sharp Finance for a photocopier, a licence/loan agreement with both Ainsworth and Aristocrat with respect to three and two gaming machine assets, respectively and a business finance loan with Toyota Finance for the courtesy bus.

The estimated payout value of these leases as at the date of my appointment is approximately \$141,884, which after adjustment for the estimated net realisable value of the various assets of approximately \$58,000, represents a total amount payable by the Club of approximately \$89,611 (after an estimated excess amount recoverable of approximately \$5,727 on the courtesy bus).

The amounts payable to partial secured creditors as at the date of my appointment are therefore estimated to represent \$89,611.

## **8 ADMINISTRATOR'S TRADING**

### **Continuation of trade**

At the date of my appointment, I met with the company's directors to ascertain the viability of continuing to trade the business. I have continued trading the business to allow its value as a going concern to be preserved, whilst investigating the company's affairs and attempting to negotiate a suitable DOCA for the creditors benefit including any potential amalgamation opportunity for the Club.

A detailed summary of the receipts and payments for my administration bank accounts for the period 6 September 2017 (accounts opened 12 September 2017) to 22 September 2017 is attached as Annexure 3.

## **9. INVESTIGATIONS – VOIDABLE TRANSACTIONS**

In circumstances where a Liquidator is appointed he may be able to recover certain payments or dispositions of property that appear to the Liquidator to be voidable transactions pursuant to Part 5.7B of the Act.

Voidable transactions include:

Unfair preferences – being payment made to one or more creditors in preference to the wider body of creditors; and

Uncommercial transactions – being transactions that a reasonable person would not have entered into having regard to the benefit (if any) and detriment to the Company of entering into the transaction and the benefit to other parties of entering into the transaction.

The assessment of voidable transactions is relevant to creditors in choosing between the three options available at the second meeting of creditors, as they are only recoverable in a liquidation scenario.

### **9.1 UNFAIR PREFERENCES**

Section 588FA of the Act deals with unfair preferences and to be recoverable, the following circumstances must have existed at the time the unfair preference transaction was entered into:

The company is insolvent or becomes insolvent at the time of entering into the transaction and the creditor ought to have suspected the insolvency;

Transactions with unrelated parties entered into during the six months prior to the appointment of the Voluntary Administrator, being the period 6 March 2017 to 6 September 2017. This period is extended to 4 years where the payment is made to a related party; and

The transaction results in the creditor receiving from the company more than the creditor would receive from the company in respect of the debt in a winding up of the company.

If a creditor is required to repay an amount as a result of a successful claim by a Liquidator, then the creditor may submit a proof of debt for the amount repaid and rank as an unsecured creditor.

I have commenced to review payments made by the Club in the six months prior to my appointment. In the month leading up to my appointment, the Club was paying creditors by cash and as such I am still in the process of obtaining the necessary information to complete my review. My review has been delayed due to the fact that the financial accounts were not up to date at my appointment, as the Administration Manager and General Manager had both resigned effective 10 August 2017 and 15 August 2017, respectively.

I consider that there may be payments made prior to my appointment, that could be classified as an unfair preference. However, given the net asset position of the Club, I do not consider than any creditor, who may have received a preference payment, will receive more than they would have received in respect of their debt in a winding up, as the Club has a significant net surplus, and therefore it is considered that all creditors will receive a dividend of 100 cents in the dollar in any winding up.

The Liquidator would need to determine from a more detailed examination as to the circumstances surrounding these payments and as to whether they are commercial to pursue.

## **9.2 UNCOMMERCIAL TRANSACTIONS**

Under Section 588FB of the Act a transaction of a company is an uncommercial transaction if it may be expected that a reasonable person in the company's circumstances would not have entered into the transaction having regard to the following:

- The benefit (if any) of entering into the transaction;
- The detriment of entering into the transaction; and
- The respective benefits to the other party of entering into the transaction.

The company must be insolvent at the time of the transaction or become insolvent as a result of the transaction and the transaction must have occurred within two years of liquidation for unrelated parties and within four years for related parties.

I have not identified any uncommercial transactions.

## **9.3 UNFAIR LOANS**

Section 588FD of the Act provides that a loan is unfair if and only if:

- The interest on the loan was extortionate when the loan was made or has become extortionate due to a variation to the loan even if the interest or charges are not longer extortionate.

Regard is to be had to the following at the time of the loan

- The risk that the lender was exposed;
- The value of any security with respect to the loan;

- The term of the loan;
- The schedule of payments for interest and repayments of principal;
- The amount of the loan; and
- Any other relevant matters.

No unfair loans have been identified in my investigations.

#### **9.4 FLOATING CHARGE CREATED WITHIN SIX (6) MONTHS**

Under Section 588FJ of the Act a charge may be void against a Liquidator if it is created in the period beginning six months prior to the commencement of the administration. However, charges that are created within this period for consideration paid at or after the date of creation of the charge remain valid.

The ANZ General Security Agreement charge was created initially in January 2012 and then re-registered as a PPSR charge in March 2014 and therefore not within 6 months of my appointment.

#### **9.5 DISCHARGING OF A DEBT TO A RELATED ENTITY**

The company has no related entity.

#### **9.6 TRANSACTIONS ENTERED INTO FOR THE PURPOSE OF DEFEATING CREDITORS**

Transactions involving the removal or concealment of assets of the company for the purpose of preventing the Liquidator from realising their value are voidable transactions and recoverable by the Liquidator. These actions may constitute fraud by the Directors or any other person.

I have not identified any transactions for the purpose of defeating creditors.

#### **9.7 INSOLVENT TRADING**

The Act provides that a liquidator and under certain circumstances a creditor, may recover from the directors of an insolvent company damages in respect of losses suffered by creditors from transactions entered into at a time when a company is insolvent.

When considering insolvent trading it must be determined at what point the Directors knew or ought to have suspected insolvency, or when a reasonable person in the Director's position would have been aware of or suspected insolvency. It is ultimately the Court's role to determine the actual date of insolvency based on the evidence provided.

During the 2015 to 2017 financial years, the Club sustained on going and increasing trading losses, however it is understood that the Club was able to continue to pay its ongoing debts



and liabilities and on the information provided to the Directors, they did not believe that there were any issues with regard to the Club's solvency.

In August 2017, the Board became concerned as to the financial circumstances and solvency of the Club. At this time, the Board was considering the possible refinancing of its debt with the ANZ, after an earlier offer had been provided by the Bank on 26 April 2017, which did not proceed due to the Club not satisfying the conditions precedent.

The Directors also considered the advertising for expressions of interest for an amalgamation partner, so as to obtain both strong stable management for the Club (given their General Manager had resigned), but also to provide an injection of cash and reinvestment into the business, which they had been unable to do given their poor cashflow position over the last 3 financial years.

It is understood that during July and August 2017, the General Manager, prior to his resignation, had monitored the cashflow position of the Club and provided the Directors with regular updates. However, upon the resignation of both the Administration Manager and the General Manager, the Directors no longer felt that they had the ability and the relevant financial information to accurately monitor the cashflow position of the Club.

The Directors became increasingly concerned that the Club was not able to meet all of its ongoing debts and liabilities and that the cashflow position of the Club was in decline. Additionally, the Directors obtained knowledge that the Club had failed to meet its payment plan obligations with the ATO.

I received a telephone call from one of the Directors on 30 August 2017, and met with them on that same day to undertake a solvency review of the Club. I concluded that based on the financial position presented to me and all known facts at that time, the Club was insolvent.

The Directors met on 31 August 2017 and unanimously concluded that the Club was insolvent or likely to become insolvent in the near future. The Directors then acted to appoint me as Administrator on 31 August 2017, following the approval of my appointment, as required by the Registered Clubs Act, from the Independent Liquor and Gaming Authority, my appointment became effective on 6 September 2017.

I believe that the Directors acted in good faith and in a responsible manner by identifying potential cashflow problems and seeking advice from an insolvency practitioner in a timely manner, albeit that I believe that the Directors did not receive all the information relevant to making a decision on the cashflow of the business, in a timely manner, given the lack of a senior administration staff member and the resignation of the General Manager.

If the Directors were guilty of insolvent trading in the immediate days or weeks prior to my appointment, significant further investigation would be required by a Liquidator. Given the short time period involved it is likely that the quantum of any potential claim would be uncommercial to pursue.

The provision of additional financial information, subsequent to my appointment, has led me to confirm that the Club is insolvent.

## **The Director's Personal Financial Position**

I have not sought any details of the personal financial position of the Directors, as I do not recommend that any action against them is required.

At this time it is my view that an insolvent trading action is either not relevant or not commercial to pursue.

## **Other Investigations**

There are no further matters of investigation to report.

## **10. PROPOSAL FOR A DOCA**

I recommend that a Deed of Company Arrangement ("DOCA") be considered which would provide for the following objectives:

- (a) offer the opportunity for the Club to continue to trade and consider the opportunities available for the Club to either, refinance the Club's current debt, or amalgamate with another Registered Club, or investigate the potential to complete a subdivision, so as to enable a sale of that landholding, or consider any potential sale and leaseback of the Club's current landholding, or a combination thereof. As such, the Club's business and activities are preserved outside of a liquidation and continue to provide employment for its employees and a Club for its members and for the benefit of the wider community, by preserving a community asset;
- (b) provide 100 cents in the dollar to priority creditors (entitlements of terminated or resigned employees as at the date of the execution of the DOCA and superannuation for both terminated and continuing employees); and
- (c) provide a dividend of 100 cents in the dollar to unsecured creditors.

Following my appointment as Administrator, I have commenced implementation of initiatives designed to improve the Club's operating results with a view to reducing the cash deficiency and return to a minimum breakeven cashflow position.

### **10.1 Key Features of the Proposed DOCA**

The key features of the proposed DOCA are as follows:

- 1 Mr Robert Brennan will be appointed Administrator of the Deed ("Deed Administrator").
- 2 The Deed Administrator will continue to trade the Club for a period of up to 12 months from the execution of the DOCA. During this time, the Deed Administrator will undertake the following:

- Continue to restructure the business and implement operational efficiencies so as to achieve improved profitability and return to a minimum breakeven operating cash position;
- Parallel consideration of proposals to;
  - Amalgamate the Club with another Registered Club to secure a Deed Fund. This process is well underway with expressions of interest due at close of business on 25 September 2017. At the time of writing this report, I have received three expressions of interest for amalgamation with the Club;
  - Review the opportunities available with respect to subdivision, DA approval and sale of all or a portion of the Club's landholding (in the case of a complete sale of the Club's landholding a leaseback arrangement would be required), so as to secure a Deed Fund. At the time of writing this report, I have received an offer for a potential sale and leaseback of the whole of the Club's landholding; or
  - Refinance the Club's secured debt to secure a Deed Fund.
- Under either of these parallel proposals, I will endeavour to achieve the following:
  - a. payment of a dividend to unsecured creditors equal to 100 cents in the dollar, within 12 months of the execution of the DOCA or such further period as allowed by creditors in extending the period of the DOCA;
  - b. payment of an interim dividend to unsecured creditors will be made should sufficient funds be available to establish a deed fund prior to the completion of the DOCA; and
  - c. ensure the survival and continuation of the Club, for the benefit of its members and their guests and the provision of employment for its employees and preservation of a community asset.
- The priority creditors (entitlements of terminated or resigned employees as at the date of the execution of the DOCA and superannuation for both terminated and continuing employees) will continue to be afforded priority under the Deed pursuant to Sections 556, 560 and 561 of the Act and receive a distribution of 100 cents in the dollar, within 12 months of the execution of the DOCA or such further period as allowed by creditors in extending the period of the DOCA;
- If sufficient funds become available to establish a deed fund to enable the payment of an interim dividend to unsecured creditors, then priority creditors (entitlements of terminated or resigned employees as at the date of the execution of the DOCA and superannuation for both terminated and continuing employees) will receive a distribution of 100 cents in the dollar at this time and prior to completion of the DOCA;
- The continuing employee creditors will not be a party to the DOCA and will be paid their leave entitlements accrued, as at the date of my appointment, in the normal course of trade by taking such leave as and when approved on a first in first out basis;

The Directors advertised seeking expressions of interest with respect to an amalgamation with the Club in the ClubsNSW e-circular on 4 September 2017 and as stated above,

expressions of interest close at 5pm on 25 September 2017. At the date of writing, I have received 3 expressions of interest for an amalgamation.

- 3 The Deed Fund will comprise funds that are sufficient to satisfy the payment of a dividend of 100 cents in the dollar for priority creditors, the creditor approved fees of the Administrator and Deed Administrator, and a dividend of 100 cents in the dollar for unsecured creditors;
- 4 The ANZ as a secured creditor will not be a party to the DOCA and will retain all of its rights under its loan and security agreements;
- 5 All partially secured creditors will be a party to the DOCA, with respect to any shortfall in their security and will rank as an unsecured creditor;
- 6 The Deed Fund shall be distributed as follows:
  - i. Firstly, to pay the approved Administrator's remuneration and expenses, including GST;
  - ii. Secondly, to pay the approved Deed Administrator's remuneration and expenses, including GST;
  - iii. Thirdly, to pay any creditors who would be entitled to payment in priority to unsecured creditors, in a winding up, as provided for in the Corporations Act 2001 (especially Section 556); and
  - iv. Fourthly, all participating creditors bound by the DOCA.

All creditors are requested to complete a formal proof of debt in the event that they have not already done so, or if the quantum of their debt has changed, for amounts owing to them as at 6 September 2017.

- 7 In the event that the Deed Administrator forms the opinion that he cannot secure the funds required for the Deed Fund via either, an amalgamation with another Registered Club, or a refinancing of the Club's debt, or completion of a subdivision DA approval and sale of a portion or all of the Club's landholding (including the negotiation of a leaseback arrangement in the event of a complete sale of the Club's landholding), within a period of 12 months (or such further period as allowed by the creditors), so as to enable a payment in full to priority creditors and unsecured creditors, then the Club is taken to have passed a special resolution under Section 491 of the Act, that the Club is wound up and Robert Michael Brennan is appointed Liquidator.
- 8 All liabilities arising during the Administration and Deed of Company Arrangement are to be paid in full.
- 9 While the DOCA remains in force, there will be a moratorium preventing action being taken against the Club.
- 10 There are no related party creditor claims.
- 11 Terminated employees of the Club have a priority claim payable with respect to wages, superannuation and leave entitlements owing as at 6 September 2017.

12 Admitted creditor claims against the Club will be paid an amount equal to that provided under a Liquidation, being approximately 100 cents in every dollar.

I will be endeavouring to secure a dividend for unsecured and priority creditors representing 100 cents in the dollar, within 12 months of execution of the DOCA, or such further period as is approved by the creditors. This amount received will be in full satisfaction and complete discharge of all debts or claims, which they have or claim to have against the Club as at the day when the Administration began, being 6 September 2017.

13 It is proposed that should a deed fund be able to be established prior to the period, which is 12 months from the execution of the DOCA, that an interim dividend be paid to the admitted unsecured and priority creditors, with a final dividend payable within 12 months from the execution of the DOCA or such further period which is allowed by the creditors. As discussed in Section 11, should the Club go into Liquidation then, the priority employee creditors may receive their entitlement within an earlier timeframe, under a successful application to the FEG scheme.

14 Except as provided for above, the Deed will terminate, subject to creditors resolving otherwise within 21 days, or if, in the opinion of the Administrator the objectives of the Deed are no longer likely to be achieved within a reasonable timeframe or the company is unable to pay its post appointment debts as and when they fall due.

## **10.2 Monitoring & Reporting Arrangement**

In terms of reporting, the Deed Administrator will report to all creditors quarterly upon the progress of the completion of the requirements under the DOCA.

## **10.3 Remuneration of Deed Administrator**

Remuneration of the Deed Administrator will be sought on the basis of an hourly rate charge as previously detailed within my Initial Remuneration Report to creditors, which was provided, with the first creditors report on 8 September 2017.

The hourly rate charged by the Deed Administrator, his partner and his employees is calculated on the basis of the skills and experience of each person. Each task conducted within the Administration is assigned to a person having regard to the difficulty of the task and the commensurate skills of the particular person.

I estimate that the remuneration payable to the Deed Administrator in administering the DOCA would be capped to a total fee of \$240,000 (excl. GST) for the period of the DOCA. Details of this calculation are included in the attached, Remuneration Approval Report.

## **11.0 DIVIDEND COMPARISON BETWEEN LIQUIDATION & DOCA**

In summary, the estimated return to creditors, based on the current estimated realisable value of the Club's assets and known creditor claims as at the date of this report, should the Club be placed into Liquidation or execute a DOCA is as follows:

<b>Creditor Type</b>	<b>Liquidation (cents in the \$)</b>	<b>DOCA (cents in the \$)</b>
Priority Creditor	100	100
Unsecured Creditor	100	100

*Source: RTHS*

It is estimated that priority and unsecured creditors will receive 100 cents in the dollar under both the Liquidation and DOCA scenario.

## **11.1 LIQUIDATION SCENARIO**

Creditors may resolve to wind the Club up pursuant to Section 439C of the Act. A winding up of the Club would mean that the Club would close within a short period of time, followed by an orderly sale of all assets owned by the Club with the proceeds to be distributed to creditors in accordance with their entitlements and in the order of priority prescribed in the Act

The amounts shown as the estimated realisable amounts for the sale of the Club's plant and equipment assets and the Club's land and building assets is based upon the valuations available to us at the date of this report, including the Pickles Valuation Services valuation received on 19 September 2017, and the valuation undertaken by the ANZ bank by MMJ Valuations Wollongong on 29 March 2016, together with market information that is available and our experience in respect of other appointments of this nature.

As at the date of this report we are awaiting an updated independent valuation with respect to the Club's land and building assets, to be commissioned over the next few months by the ANZ. The sale price achieved at auction may be different to that stated, as it is dependent on the state of the market at the time of sale.

Further, the sale price quoted for the gaming machine entitlements is considered to be achievable, with the prices fluctuating based upon the market conditions at the time of sale, which changes month to month.

With regard to priority employee creditors, under the Liquidation scenario, there will be sufficient funds available, to pay these entitlements in full. However, in order to ensure employees receive their entitlements in a timely manner, under a Liquidation scenario only, I will refer this matter to the Government's Fair Entitlements Guarantee (FEG) in order for FEG to provide payment in the first instance.

FEG is a safety net scheme for unpaid employee entitlements where employees are terminated as a result of their employer being placed into liquidation. Under FEG, where employees have a legal entitlement derived from legislation, an award, a statutory agreement or a written contract of employment, they are eligible to receive the following:

All unpaid wages up to a period of 13 weeks (including amounts deducted from your wage such as superannuation that was not passed onto your superannuation fund):

All unpaid annual leave including annual leave loading:

All unpaid pay in lieu of notice, up to a maximum of 5 weeks;

Up to four (4) weeks unpaid redundancy entitlement for each completed year of service (provided this agrees with your Award or other employment instrument), and

All unpaid long service leave.

Should the Club go into Liquidation, then I will seek to advise FEG of my appointment and provide them with all necessary information to process employee claims.

Please note that should a payment to employees be made by FEG, these funds are recoverable by FEG pursuant to Section 560 of the Act. That is, FEG will take over the employee's priority position as a creditor of the Club to the extent of amounts paid by FEG.

The payment of employee entitlements by FEG does not affect the likelihood or quantum of potential recoveries available for distribution to ordinary unsecured creditors.

Accordingly, the estimated return under a Liquidation scenario (given the current estimated realisable value of the Club's asset and known creditors at the date of this report) is estimated to be 100 cents in the dollar to priority creditors and 100 cents in the dollar to unsecured creditors.

## 11.2 DOCA SCENARIO

The DOCA scenario provides the Deed Administrator with a period of 12 months to formulate a solution for the survival of the Club, together with the payment of a dividend to both priority and unsecured creditors, within 12 months of the execution of the DOCA (or such further timeframe as approved by creditors), representing 100 cents in the dollar for both unsecured creditors and priority creditors (given the estimated realisable value of the Club's assets and known creditors at the date of this report).

An interim dividend will be paid to both priority and unsecured creditors, if a Deed Fund is able to be established during the DOCA period. This provides an equal return to both priority creditors and unsecured creditors as that provided under a Liquidation.

*Additionally, the DOCA allows for the potential survival and continuation of the Club (a community asset), the provision of a meeting and social place for the members, their guests*

***and the broader community and continued employment for the employees, which is not provided under a Liquidation scenario.***

### **11.3 ADMINISTRATOR'S RECOMMENDATION**

It is my recommendation that creditors resolve to execute the proposed DOCA, based on the following:

- i. The DOCA allows for the continuation of the Club, and the survival of a community asset;
- ii. Continuation of the Club allows:
  - a. Ongoing employment for the employees.
  - b. A meeting and social venue for the members, their guests and the local community.
  - c. The creditors can undertake ongoing trade with the Club; and
- iii. The DOCA provides an equal return to both priority and unsecured creditors to that provided under a Liquidation, of 100 cents in the dollar. This dividend will be paid within 12 months of execution of the DOCA, or such further period as allowed by creditors, with the possible payment of an interim dividend should I be able to establish a Deed Fund earlier.

## **12 ADMINISTRATOR'S OPINION**

The following options are available to creditors at a meeting convened pursuant to Section 439A of the Act and I provide my comments concerning my opinion as to which is in the best interests of creditors as required by IPR 75-225(3)(b):

### **The Administration Terminates**

Creditors may resolve to terminate the Voluntary Administration and if this occurs the Company would be handed back to the control of the directors and creditors would be free to pursue any debt recovery action.

I do not see this as a viable option as in my opinion the Club is presently insolvent and there is a need for creditors' claims to be dealt with under a formal administration.

In view of the Club's current financial circumstances, I believe this would not be appropriate. Accordingly, in my opinion it would not be in creditors' best interests for the administration to end.

### **The Company be Wound Up**



A winding up of the Club would mean that the Club would close, followed by an orderly sale of all assets owned by the Club with the proceeds to be distributed to creditors in accordance with their entitlements and in the order of priority prescribed in the Act.

Based on the issues discussed in 11 above, a liquidation of the Club would provide priority and unsecured creditors both with an estimated return of 100 cents in the dollar, with the DOCA providing the same estimated outcome for both priority and unsecured creditors, but also providing the Club with the opportunity for survival.

In addition, it is my opinion, that a liquidation at this time does not achieve the fundamental intentions of the Administration process, which is to provide an opportunity for the continued existence of the business, at least until investigation of any amalgamation, subdivision and sale of the Club's landholding, or refinancing options are exhausted, so as to benefit the employees and the members of the Club.

Accordingly, I am not recommending a winding up of the Club at this time.

### **The Company Execute a Deed of Company Arrangement**

The provisions of Part 5.3A of the Act allow the company and its creditors to negotiate a proposal to deal with the Company's affairs and in such circumstances execute, a Deed of Company Arrangement (DOCA).

On the basis of information presently available, it is my opinion that it would be in the best interests of creditors to execute a DOCA in the form described in Section 10.1.

I believe that this proposal will give the Administrator and the Club the opportunity to investigate all options for the survival of the business and for the provision of an equal return to both priority and unsecured creditors as that provided by a Liquidation. Additionally, the DOCA will provide for the survival of the business and a community asset, the ongoing employment of the priority creditors and ongoing business opportunities for the unsecured creditors.

## **13 ADMINISTRATOR'S REMUNERATION**

The Act sets out the methods by which approval of an Administrator's remuneration can be obtained. The professional standards sets out what is expected of insolvency practitioners in terms of their disclosure requirements when setting the basis for the calculation of future remuneration or seeking approval of remuneration from creditors.

I have complied with the Code of Professional Practice and the Act, throughout my appointment and, in particular, I refer creditors to the Remuneration Approval Report attached, which details the remuneration sought and a breakdown of the tasks undertaken and proposed future tasks.

An Administrator's remuneration must be approved by either the creditors committee of inspection (if there is one), by the passing of a resolution at a creditors' meeting, by the passing of a proposal forwarded to all creditors or by application to the Court. I will seek to have my remuneration approved at the second meeting of creditors to be held on 5 October 2017.

The approval requires a simple majority of creditors present and voting, in person or by proxy, indicating that they agree to the resolution proposed.

I am seeking approval of fees for work already performed, together with fees based on an estimate of work yet to be completed and subject to a monetary cap. If the work performed exceeds the monetary cap then the Administrator is required to seek a further approval of fees from the creditors, after accounting for the fees already approved.

The remuneration resolutions and the detailed tasks undertaken by me and to be undertaken by me in the future are detailed within the attached Remuneration Approval Report.

At this stage it is difficult to calculate the extent of the work to be completed in the future. However, I have made my best estimate at what I believe the future time costs will be and in doing so I have calculated my fees on a time basis in accordance with the scale of rates provided to creditors within my Initial Remuneration Report dated 8 September 2017.

Once approved by creditors my remuneration will be drawn as and when it is incurred and in accordance with the cashflow requirements of the business (under the DOCA). In all likelihood my fees may not be paid until the establishment of the Deed Fund. In the event that my remuneration exceeds the amount that has been approved by creditors, I can only draw additional fees by seeking further approval from creditors.

## **14 DISCLAIMER**

I have prepared this report from information and documentation supplied by the staff and Directors of the Club. I have not conducted an audit of the information supplied.

Creditors are encouraged to read the entire report and not base their decision only on the Administrator's opinion section of the report.

This concludes my IPR 75-225 (3)(a) report to creditors. Please ensure you read and understand all annexures to this report, including my Remuneration Approval Report.

Should you have any queries in relation to any matter raised in this report then please do not hesitate to contact myself or Jo Cahill on (02) 9986-3166.

Yours faithfully

A handwritten signature in black ink, appearing to be 'R Brennan', written in a cursive style.

**ROBERT BRENNAN**  
**ADMINISTRATOR**

26 September 2017

## ANNEXURE 2 – Unsecured Creditor

Creditor Name	RATA Amount	POD Amount
ABnote	\$1,111.00	
Active Security	\$1,302.40	
Advanced Pest Control	\$220.00	
Aero Bowls	\$508.20	
Ainsworth Gaming Technology		\$2,049.00
Akele Kinnas & Co	\$5,098.50	
Asahi	\$1,066.24	
Austar	\$2,280.00	
Australian Taxation Office	\$189,980.71	\$189,980.71
Australian Taxation Office (est)	\$87,766.85	
Bidvest	\$89.35	
Booth Partners	\$1,320.00	
Brain Teasers	\$704.00	
Cabbage Tree Hotel	\$4,579.81	
Corporate Interactive	\$1,588.86	\$2,050.70
Dapto Sand and Soil	\$670.00	
Data Monitoring	\$1,508.58	
Elgas	\$382.96	
Fire Service Plus	\$2,210.62	\$2,210.62
Fosters Australia	\$1,702.84	
Gavin Fennell	\$807.85	
Greasetrapologist	\$1,320.00	
HM Industries	\$936.10	\$3,350.60
Hunter Bowls	\$100.00	
Illawarra Business Equipment - Asset	\$242.19	
J & A Machines	\$6,408.60	\$6,408.60
Jimani	\$60.00	
Lakeline Butchery	\$9,795.00	\$9,795.00
Laser Pro	\$770.00	
Leisure Coast Packaging	\$110.00	
Lf Workman	\$660.00	
Meharg Electrical	\$307.00	
Murphys Plumbing	\$1,705.00	\$1,705.00
Office of State Revenue	\$16,851.05	\$16,851.05
Packaging Direct	\$2,760.24	
Pallisters	\$1,210.74	
Probe Maintenance	\$1,819.57	\$1,621.59
Remondis	\$1,728.14	
Romteck	\$2,760.13	\$2,760.13
RTA	\$983.00	

RT Hospitality Solutions	\$4,769.05	\$4,769.05
SA Industries	\$1,408.00	
Sanokil	\$1,682.24	
Shellharbour Fish Market	\$500.00	
Sky channel	\$3,715.86	
South Tamworth Bowling Club Limited	\$360.00	\$360.00
Sportsturf	\$2,772.00	
PJC Sportsturf	\$2,772.00	\$2,772.00
Steves Air Conditioning	\$1,136.50	\$1,494.00
Swish N Swash	\$384.00	
Technoprom	\$180.40	\$100.40
Telstra	\$487.67	
Tooheys Pty Ltd	\$33,752.64	\$33,752.64
Turfcare	\$130.06	
Wave Fm	\$5,337.20	
Wave Fm Hot country	\$110.00	
Williamson Isabella Lawyers	\$3,961.42	
Wollongong Council	\$5,350.30	
<b>Total</b>	<b>\$424,234.87</b>	

### ANNEXURE 3 – Receipts and Payments

<b>Dapto Bowling Club Limited (Administrator Appointed)</b>	
<b>Administrator's Summary of Receipt and Payments</b>	
<b>For the period 12 September 2017 to 22 September 2017</b>	
	\$
<b>Receipts</b>	
ATM Settlements	31,792
EFTPOS Settlement	21,660
Daily Takings Deposit	3,000
TAB & Keno Reports	13,018
<b>Total Receipts</b>	<b>69,470</b>
<b>Payments</b>	
Keno Settlement	2,009
TAB Settlement	3,896
Wages & Salaries	17,145
Stationary	180
Bank Charges	17
Raffle Purchases	2,370
Food Purchases	147
Beverage Purchases	8,507
<b>Total Payments</b>	<b>34,270</b>
<b>Balance in Hand</b>	<b>\$35,200</b>
Reconciliation Of Cash	
St George Bank accounts	<b>\$35,200</b>
<i>Source: St George Bank Statements</i>	