

17 June 2020

Circular to creditors

Dear Sir/Madam

DECMIL CONSTRUCTION NZ LIMITED (in Liquidation)

I refer to my appointment as Liquidator of Decmil Construction NZ Limited (“**Decmil NZ**” or “**the Company**”) on 15 April 2020 and my previous circulars to creditors.

This is an addendum to my circular to creditors dated 11 June 2020 and is issued for the purpose of the upcoming creditors meeting. Having allowed creditors to nominate an alternate liquidator, I am now providing relevant forms for the meeting.

1 Resolutions

As set out in my circular dated 11 June 2020, the voting forms contain resolutions which will be voted on by postal ballot on 24 June 2020. The first resolution put to creditors is pursuant to section 243 of the Companies Act 1993 for my appointment as liquidator to be confirmed.

I have now received nomination forms for an alternative liquidator to be appointed. The nominees have been put forward by 4 parties who have filed claim forms in the liquidation, including the Department of Corrections (**Corrections**) and Tempest Litigation Funders (**Tempest**), consistent with media reports that these parties are actively seeking to have me replaced.

The voting forms include instructions for voting and return of the forms.

2 Creditor claims and other matters

As outlined in my circular dated 11 June 2020, I have sought to examine under oath, representatives of Decmil Group Limited (**DGL**) and Decmil Construction NZ Limited (in Liquidation) in relation to a number of matters in the liquidation. These examinations are largely complete.

The largest claimant in the liquidation is Corrections. The validity and quantum of the claim is yet to be determined. The information I have obtained to date favours the Company’s claim against Corrections. If that outcome is correct, Corrections’ claim may fall away. The large quantum of our counter-claims and the significance of the prison accommodation contract in the liquidation complicates my ability to provide creditors with useful information regarding potential returns. Nonetheless, **I remain convinced that the best prospect of obtaining a return to unsecured creditors is continuing the pursuit of the Company’s claim against Corrections.**

I have sought to examine representatives from Corrections to obtain further information. The examinations are still to be conducted. Up until 16 June 2020 (yesterday), Corrections had not committed to a date and time following a number of attempts to reschedule to address

availability of records and to accommodate timing commitments raised by representatives of Corrections. Corrections have now sought to defer the examination until after the date of the creditors meeting.

The deferral of the examination by Corrections and the lack of information provided to me not only affects my ability to assess their claim for purposes of the meeting, but also claims by other creditors involved in the prison accommodation contract.

I have received requests from parties (including Corrections who have strongly pressed for my commitment to advance dispute proceedings despite delaying their examination) for my consent to allow proceedings or claims to continue against Decmil NZ. I have advised all parties that with the information I have to hand to date, I am not in position to commit to these requests as it is premature.

Finally, the examination of representatives from DGL and the Company provided useful information about the Company's affairs and the Corrections claim. That information will form part of my investigation into potential claims against DGL and the Company's directors. Those investigations are ongoing and I look forward to providing creditors with a further update in the short term.

3 Creditors meeting

The creditors meeting, in accordance with the Court's orders, will be held **by postal ballot at 4:00pm (New Zealand time) on Wednesday, 24 June 2020**. Physical attendance at the meeting will not be required or possible.

To assist creditors with their deliberations and to enable them to ask questions about the liquidation, **an information session will be held at 2:00pm (New Zealand time) on Monday, 22 June 2020**.

I enclose the following documents:

Document	Description
Formal notice of meeting	This form contains the details of the meeting of creditors and the meeting's agenda. It was provided to creditors on 11 June 2020 and again now with the voting papers.
Information session instructions and registration form	<p>Registration for the information session involves the completion of an online form. This must be done by 4:00 pm (New Zealand Time), Thursday, 18 June 2020.</p> <p>Please read the instructions carefully as there are requirements to be satisfied prior to the information session date.</p> <p>The information session will be held at 2:00 pm (New Zealand Time), Monday, 22 June 2020.</p>

Document	Description
Proxy form	<p>You may appoint a proxy to complete the postal ballot form on your behalf. The deadline for proxy forms is 4:00 pm (New Zealand Time), Wednesday, 24 June 2020.</p> <p>On the basis that the meeting is occurring by postal ballot, proxies will be accepted up to 4:00 pm (New Zealand Time), Wednesday, 24 June 2020 so creditors attending the information session on Monday 22 June 2020 can appoint a proxy after the session. Proxies will not be rejected for the sole reason that they were received after 22 June 2020.</p>
Postal Vote form	<p>The Postal Voting Form contains instructions on how to complete and return it to my office for the vote to count. If you wish to vote on the resolutions, this document must be returned to me no later 4:00 pm (New Zealand Time), Wednesday, 24 June 2020.</p>
Creditor claim form	<p>To participate in the meeting and have your vote counted, you must be a creditor of the Company. You evidence your position as a creditor by submitting a Creditor Claim Form. If you have not already submitted this form, and you wish to submit your vote, this form must be submitted before 4:00 pm (New Zealand Time), Wednesday, 24 June 2020.</p>

3.1 Resolutions

The meeting will be conducted by postal ballot.

There will be two resolutions to be decided by the creditors, which are:

- whether to confirm my appointment as the liquidator
 - if I am not confirmed, who should be appointed in my place; and
- whether to appoint a liquidation committee, and if so, decide on its members.

Both resolutions are specified in the postal ballot form.

I have received the following nominations for the replacement of the liquidator:

- Iain Shepherd of BDO Wellington Limited; and
- Andrew Bethell of BDO Auckland Limited

4 Use of proxy forms

Given the meeting is being conducted by postal ballot (as per Court orders), a format that is normally not used, I have sought to make it easier for creditors to return forms and to participate in the meeting.

Tempest has raised an issue about the timing of filing of proxies which would otherwise be required to be filed under the Companies Act 1993 by Monday, 22 June 2020. I am aware of this departure. To facilitate creditor participation and reduce the need for creditors filing documents twice, I have chosen to accept proxy forms for the meeting up until 4.00 pm on 24 June 2020. Proxy forms will not be treated as invalid for the sole reason that they were filed after 22 June 2020, provided they are received no later than 4:00 pm on 24 June 2020 with the postal ballot. This measure facilitates creditor involvement in the liquidation and no creditor is prejudiced as a result.

5 Contact details and electronic reporting

Enquiries regarding the meeting, forms to be completed or the liquidation in general should be directed to:

Eve Switka	eswitka@aviorconsulting.com.au
Terrence Chong	tchong@aviorconsulting.com.au
Lucy Lowe	llowe@aviorconsulting.com.au
Kelly Meyn	kmeyn@aviorconsulting.com.au

Phone: +61 8 6145 0700

This report, voting forms and all previous correspondence to creditors are available on my firm's website <https://www.aviorconsulting.com.au/creditors>.

Yours faithfully
For the Company



Dermott McVeigh
Liquidator

Encl.

Notice of Creditors Meeting

DECMIL CONSTRUCTION NZ LIMITED (in Liquidation)

Further to my communication and notice of the creditors meeting dated 11 June 2020, I now enclose voting and proxy forms for the postal ballot meeting to be held on 24 June 2020 at 4:00pm, pursuant to Section 243 of the Companies Act 1993 (**the Act**) and clause 1(c), Schedule 5 of the Act.

The liquidator, Dermott McVeigh, is authorised to receive and count postal votes in relation to the meeting.

For completeness, the details of the meeting are outlined again below.

Creditor claim forms and voting papers must be received by no later than 4:00pm on Wednesday, 24 June 2020 by email to decmilnz@aviorconsulting.com.au.

The purpose of the meeting of the creditors by postal ballot is to:

1. confirm the appointment of the liquidator or to appoint another liquidator in place of the liquidator so appointed in accordance with section 243(1)(a) of the Act; and
2. to agree the establishment of a liquidation committee and if so, who the committee members will be.

The text of the resolutions to be put to the meeting is included in the voting form attached. This includes instructions on how to vote and return of the form.

Please direct any enquiries to decmilnz@aviorconsulting.com.au.

Dated this 17th day of June 2020

Dermott McVeigh



Liquidator

Audio-visual Information Session Instructions

Decmil Construction NZ Limited (In Liquidation)

1. Registration

The first meeting of creditors will be conducted by postal ballot.

In accordance with the Court's direction, the meeting will be preceded by an **information session for creditors** held on the Zoom Audio & Video platform on **Monday, 22 June 2020 at 2:00pm (New Zealand Time)**. It will not be possible to attend the information session in person. Creditors unable to use the video component of the Zoom Audio & Video platform may attend by teleconference by dialling in to the Zoom information session.

Attendance at the information session is not compulsory.

Creditors wishing to attend the information session must register their attendance by completing the "Creditor Registration" form via the link below:

https://aviorconsulting-au.zoom.us/webinar/register/WN_AG1RghmXQWudJf-ua3cpsQ

The completed Creditor Registration form must be submitted by 4:00pm (New Zealand Time) on Thursday, 18 June 2020.

Due to the expected large number of attendees, Creditor Registration forms submitted after the deadline will not be accepted.

2. Joining the information session

On the morning of the information session, creditors will receive an email by 10:00 am (New Zealand Time) to the email address specified on the Creditor Registration form, with a link to join the information session. **DO NOT forward this email link as the forwarded link will not work.**

The "ZOOM Cloud Meetings" App may need to be downloaded before the information session if you are using a mobile device. There is no cost to download this app.

If you hold a Zoom licence, ensure that the email address provided is the same one registered to your licence.

If you would like to test the Zoom function, please contact us **at least 1 day** before the information session. A test link will be provided to ensure the application is working. Technical support on the day of the information session will not be available.

3. Beginning of the information session

At 1:45pm (New Zealand Time) on the day of the information session, the link will become active and creditors will be able to join the information session.

Only the Liquidator and members of his staff will appear on video and be heard. Creditors will not be able to hear or see each other.

4. Agenda

The agenda for the information session is as follows:

1. Liquidator's review of liquidation to date; and
2. Questions from creditors.

5. Questions

Creditors will have the option of submitting questions before the information session via email and using the chat feature on the Zoom application during the information session.

The chat function is accessed by clicking the chat button at the bottom of your screen. Questions will only be visible to the Liquidator and not to other creditors.

A short break will be taken to review the questions submitted. The Liquidator will then read out the questions received and provide his responses.

6. Voting

The purpose of the information session is to provide an update to creditors on matters pertaining to the liquidation and provide the opportunity to raise questions of the liquidator in advance of the postal vote.

No voting will take place during the information session.

Creditors wishing to vote by postal ballot will need to return their Postal Voting form by 4:00pm, Wednesday, 24 June 2020, or Proxy Forms by 4:00pm by Wednesday, 24 June 2020 if someone else is to be casting the vote on their behalf.



Postal Voting Form

DECMIL CONSTRUCTION NZ LIMITED (in Liquidation) (the Company)

A. Name and contact details of creditor

¹

(if entitled in a personal capacity, given name and surname; if a corporate entity, full name of company, etc)

² of

(address)

³ Tel:

⁴ Email:

B. Voting

At the meeting of creditors to be held by postal ballot Wednesday, 24 June 2020 at 4:00pm (New Zealand Time) or at any adjournment of that meeting, the votes are as below:

Resolution	For	Against	Abstain
1. That the appointment of Dermott McVeigh as liquidator of Decmil Construction NZ Limited (in Liquidation) is confirmed and continues.			
2. In the event that the liquidator is not confirmed, I vote to appoint Andrew Bethell of BDO Auckland Ltd and Iain Shephard of BDO Wellington Ltd as replacement liquidators.			
3. That a Liquidation Committee be appointed to act with the appointed liquidator.			
My/our nomination for membership of the Liquidation Committee, is:			
.....			
.....			

C. Signature

Please complete ALL sections

¹ Dated:

² Enter Name Here:

Tick here to indicate your mark

³ Capacity:

D. Submitting the Postal Vote

The Postal Voting Form when signed must be received by no later than 4:00 pm (New Zealand Time) on Wednesday, 24 June 2020 to:

Email: decmilnz@aviorconsulting.com.au
Post: Attn: Lynne Van & Dan Hughes
Anthony Harper
PO Box 2646
AUCKLAND 1140



Creditor Assistance Sheet: Completing a Postal Vote

Section A – Name and contact details of creditor

1. Insert the full name of the employee, individual, sole trader, partnership or company that the debt is owed to.
2. Insert the address of the employee, individual, sole trader, partnership or company that the debt is owed to.
3. Insert the telephone number of the employee, individual, sole trader, partnership or company that the debt is owed to.
4. Insert the email address of the employee, individual, sole trader, partnership or company that the debt is owed to.

Section B – Voting

1. As a creditor to the company indicated on the front you may attend the meeting via a postal ballot form and vote, or you may appoint a proxy to cast your vote on your behalf, subject to your claim being accepted by the Liquidator.
2. If you vote by Postal Vote but also complete the general Proxy Form, this Postal Voting Form will take precedence over the general Proxy Form.
3. If a creditor votes by casting a Postal Vote in respect of a resolution that is to be submitted to the meeting and a different resolution is submitted to the meeting:
 - a. The creditor's Postal Vote is invalid in respect of that different resolution; BUT
 - b. The creditor may vote, in respect of that different resolution, either by being present in person or by proxy.
4. The Postal Voting Form must be signed by the creditor or on behalf of the creditor company by a person acting under the company's express or implied authority.
5. For this Postal Vote to be valid, you must complete and sign it and return it to be received by the Liquidator by no later than the time and date specified at Section D.
6. If this Postal Voting Form has been signed under a power of attorney, a copy of the power of attorney and a signed certificate of non-revocation of the power of attorney dated the same as this Postal Voting Form must be attached to this Postal Voting Form.

Section C – Signature

1. Insert the date that the form is being signed.
2. The form should be signed by **one** of the following persons:
 - If the debt is owed to an employee/individual, then the individual that the debt is owed to; or
 - If the debt is owed to a sole trader, then the sole trader that the debt is owed to; or
 - If the debt is owed to a partnership, then one of the partners of the partnership; or
 - If the debt is owed to a company, then a duly authorised officer of the company (normally a director or secretary of the company).
3. Insert the name of the person signing the form, and note their capacity (that is, their role):
 - If the debt is owed to a sole trader, note their capacity as proprietor, eg: "[Full name], proprietor"; or
 - If the debt is owed to a partnership, note their capacity as partner, eg: "[Full name], partner of the firm named in Section A above"; or
 - If the debt is owed to a company, note their capacity as director or secretary, eg: "[Full name], director/secretary of the company named in Section A above".

Appointment of Proxy Form

DECMIL CONSTRUCTION NZ LIMITED (in Liquidation) (the Company)

Instructions: In completing this proxy form, please refer to the instructions on the last page.

A. Name and contact details of creditor

¹

(if entitled in a personal capacity, given name and surname; if a corporate entity, full name of company, etc)

² of

(address)

³ Tel:

⁴ Email:

B. Appointment of person to act as proxy

(You may nominate "the Chairperson" of the meeting as your proxy)

I / We, a creditor of the Company, appoint:

¹

(name of person appointed as proxy)

²

as my / our proxy

(address)

to vote at the meeting of creditors to be held by postal ballot on Wednesday, 24 June 2020 at 4:00pm (New Zealand Time) or at any adjournment of that meeting, for a term not exceeding 12 months, in accordance with the instructions in Section C below.

C. Voting instructions

Option 1: If appointed as a general proxy, as he/she determines on my/our behalf.

and / or

Option 2: If appointed as a special proxy for some or all resolutions, specifically in the manner set out below (please tick).

Resolution	For	Against	Abstain	General proxy to vote
1. That the appointment of Dermott McVeigh as liquidator of Decmil Construction NZ Limited (in Liquidation) is confirmed and continues.				
2. In the event that the liquidator is not confirmed, I vote to appoint Andrew Bethell of BDO Auckland Ltd and Iain Shephard of BDO Wellington Ltd as replacement liquidators.				



Resolution	For	Against	Abstain	General proxy to vote
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3. That a Liquidation Committee be appointed to act with the appointed liquidator.

My/our nomination for membership of the Liquidation Committee, is:

.....

D. Signature

Please complete ALL sections

¹ Dated:

² Enter Name Here:

Tick here to indicate your mark

³ Capacity:

E. Submitting the Proxy

For a person to be eligible to vote at the meeting on your behalf, this completed form must be received by no later than 4:00 pm (New Zealand Time) on Wednesday, 24 June 2020 to:

Email: decmilnz@aviorconsulting.com.au
 Post: Attn: Lynne Van & Dan Hughes
 Anthony Harper
 PO Box 2646
 AUCKLAND 1140

Creditor Assistance Sheet: Completing a Proxy Form

Section A – Name and contact details of creditor

1. Insert the full name of the employee, individual, sole trader, partnership or company that the debt is owed to.
2. Insert the address of the employee, individual, sole trader, partnership or company that the debt is owed to.
3. Insert the telephone number of the employee, individual, sole trader, partnership or company that the debt is owed to.
4. Insert the email address of the employee, individual, sole trader, partnership or company that the debt is owed to.

Section B – Appointment of person to act as proxy

1. Insert the name of the person who will be exercising the creditor's vote at the meeting. This is the person who will be completing the Postal Voting Form on your behalf. Alternatively, you can appoint the Chairperson of the meeting to vote on your behalf by inserting the words 'the Chairperson' here.
2. Insert the address of the person nominated at (1) that will be completing the Postal Voting Form on your behalf as proxy. If you have elected 'the Chairperson', leave this row blank.

Section C – Voting instructions

Tick Option 1 if you want the person who is completing your Postal Voting Form to vote as they see fit on each of the resolutions in the 'Resolution' table. Do not tick more than one box for each resolution. If you select this option, proceed to Section D.

Tick Option 2 if you want the person who is completing your Postal Voting Form, to vote exactly in accordance with your instructions. If you select this option, you must select 'For', 'Against' or 'Abstain' for each of the resolutions in the 'Resolution' table. Do not tick more than one box for each resolution.

You may also tick Option 1 and Option 2, if you want the person who is completing your Postal Voting Form to vote specifically on some resolutions, and as they see fit on other resolutions. For the resolutions you wish to specify how to vote, you must select 'For', 'Against' or 'Abstain'. For the resolutions you wish to leave the person to vote as they see fit, you must select "General proxy to vote". Do not tick more than one box for each resolution.

Section D – Signature

1. Insert the date that the proxy form is being signed.
2. The form should be signed by **one** of the following persons:
 - If the debt is owed to an employee/individual, then the individual that the debt is owed to; or
 - If the debt is owed to a sole trader, then the sole trader that the debt is owed to; or
 - If the debt is owed to a partnership, then one of the partners of the partnership; or
 - If the debt is owed to a company, then a duly authorised officer of the company (normally a director or secretary of the company).
3. Insert the name of the person signing the form, and note their capacity (that is, their role):
 - If the debt is owed to a sole trader, note their capacity as proprietor, eg: "[Full name], proprietor"; or
 - If the debt is owed to a partnership, note their capacity as partner, eg: "[Full name], partner of the firm named in Section A above"; or
 - If the debt is owed to a company, note their capacity as director or secretary, eg: "[Full name], director/secretary of the company named in Section A above".



Creditor Claim Form

<p>NAME & POSTAL ADDRESS OF CREDITOR IN FULL</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Email: _____</p> <p>Telephone Number: _____</p> <p>My Reference is: (if Applicable) _____</p>	<p>* Any personal information collected is for the purpose of administering the liquidation in accordance with the Companies Act 1993.</p> <p>The information will be used and retained by Insolvency Management and will be released to the other parties only with your authorisation or in compliance with the Privacy Act 1993.</p> <p>Under section 304(1) of the Companies Act 1993 any claim by an unsecured creditor against a company in liquidation must be in this prescribed form and must:</p> <p>(a) Contain full particulars of the claim; and (b) Identify any documents that evidence or substantiate the claim.</p> <p>You may have access to and request correction of any personal information.</p> <p>(*Not applicable, if creditor is not an individual within the meaning of the Privacy Act 1993.)</p>
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NAME OF COMPANY IN LIQUIDATION:
 DECMIL CONSTRUCTION NZ LIMITED (In Liquidation)

I _____
 (If claim is made on behalf of creditor, specify relationship to creditor and authority)

Claim that the company was, at the date it was put into liquidation, indebted to the abovementioned creditor for the sum of
 (Amount in words & figures:) _____

\$ _____

Either: I hold no security for the amount claimed or I am surrendering my security and I am claiming as an unsecured creditor (Omit whichever does not apply)

Full particulars of the claim are set out, and any supporting documents that substantiate the claim, are identified on the reverse of this form.

(The liquidator may require the production of a document under Section 304(2) of the Companies Act 1993. You are **required to attach supporting documents** to aid the Liquidator in assessing your claim).

SIGNED: _____ Date: / /

WARNING - It is an offence under Section 304(6) of the Companies Act to –

Make or authorise the making of, a claim that is false or misleading in a material particular knowing it to be false or misleading; or

Omit, or authorise the omission from a claim of any matter knowing that the omission makes the claim false or misleading in a material particular.

Received (Date Stamp)	<p>RESERVED FOR OFFICE USE:</p> <p>Claim admitted/rejected for voting purposes: (Delete one)</p> <div style="display: flex; justify-content: space-between;"> <div style="border: 1px solid black; padding: 5px; width: 45%;">Signed:</div> <div style="border: 1px solid black; padding: 5px; width: 45%;">Date: / /</div> </div>
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<u>CLAIM REJECTED FOR PAYMENT:</u>	<div style="border: 1px solid black; padding: 5px; width: 100%;">Signed:</div>	<div style="border: 1px solid black; padding: 5px; width: 100%;">Date: / /</div>
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Or	<u>CLAIM ADMITTED FOR PAYMENT:</u>		
Preferential Claim for:	Ordinary Claim for	Deferred Claim for:	
\$ <input style="width: 150px;" type="text"/>	\$ <input style="width: 150px;" type="text"/>	\$ <input style="width: 150px;" type="text"/>	
<div style="border: 1px solid black; padding: 5px; width: 100%;">Signed Liquidator:</div>		<div style="border: 1px solid black; padding: 5px; width: 100%;">Date: / /</div>	
<p>Note: If the decision to admit or reject a claim is amended, the Companies Act 1993 Liquidation Regulations 1994 requires that it be recorded in writing.</p>			

PARTICULARS OF CLAIM

Where the claim includes goods supplied by the creditor to the company under a Retention of the Title clause, please give full details including description of the goods and their value.

If the creditor owes money to the company, please give full details.

Date	Details of Claims and Identification of Documents that Evidence or Substantiate the Claim	Amount \$

If applicable record here your GST registration number: _____
and total GST included in your claim: \$ _____