



R.H Kenna (L.S.)

Principal Registrar &  
Chief Executive Officer

Form 40 (version 6)  
UCPR 35.1

## AFFIDAVIT OF ALAN WALKER 6 MARCH 2025

### COURT DETAILS

Court	Supreme Court of NSW
Division	Equity
List	Corporations
Registry	Sydney
Case number	2025/00090155

### TITLE OF PROCEEDINGS

First plaintiff	<b>Alan Walker, Glenn Livingstone and Nicholas Charlwood in their capacity as Joint and Several Voluntary Administrators of Finnish Early Childhood Education (Australia) Pty Ltd (Administrators Appointed) and the Third to Seventeenth Plaintiffs named in the Schedule</b>
Number of plaintiffs (if more than two)	<b>17</b>

### FILING DETAILS

Filed for	Plaintiffs
Legal representative	Brit Ibanez, Hamilton Locke
Legal representative reference	48291
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*Alan Walker*

**AFFIDAVIT**

Name Alan Walker  
 Address WLP Restructuring, Suite 19.02, Level 19, 1 Castlereagh Street, Sydney NSW 2000  
 Occupation Registered Liquidator and Chartered Accountant  
 Date 6 March 2025

I, Alan Walker, of WLP Restructuring, at Suite 19.02, Level 19, 1 Castlereagh Street, Sydney NSW 2000, affirm:

- 1 I am a partner of the advisory and restructuring firm trading as WLP Restructuring (**WLP**). I am a Chartered Accountant and Registered Liquidator, and I have more than 23 years' experience as an accountant specialising in restructuring, turnaround and insolvency matters in Australia.
- 2 On 11 February 2025, together with Glenn Livingstone, Nicholas Charlwood (who are both registered liquidators and partners of WLP) (together, the **Administrators**) I was appointed joint and several administrators of the Second to Fifteenth Plaintiffs, and on 27 February 2025 the Administrators were appointed joint and several administrators of the Sixteenth and Seventeenth Plaintiffs (collectively, the **HEI Group of Companies**). Copies of the current ASIC extracts dated 3 March 2025 for the HEI Group of Companies are at pages 1 to 98 of **Exhibit ALW-1**.
- 3 A copy of:
  - (a) my curriculum vitae is at pages 99 of **Exhibit ALW-1**;
  - (b) Glenn Livingstone's curriculum vitae is at pages 100 of **Exhibit ALW-1**; and
  - (c) Nicholas Charlwood's curriculum vitae is at pages 101 of **Exhibit ALW-1**.
- 4 Where I express an opinion in this affidavit, I have spoken to Mr Livingstone and Mr Charlwood about that opinion, and I believe they share my opinion. Mr Livingstone and Mr Charlwood have authorised me to express the collective views of the Administrators in this affidavit. Where I use the term 'we' in this affidavit, I am referring to Glenn Livingstone, Nicholas Charlwood and myself collectively.
- 5 I make this affidavit in support of the relief sought by the Plaintiffs in the Originating Process filed in these proceedings together with this affidavit, namely orders under section 439A(6) of the *Corporations Act 2001* (Cth) (**Act**), extending the Convening Periods for the HEI Group of Companies to 11 June 2025 (**Application**).
- 6 Unless extended, the convening period (pursuant to section 439A(5)(a) of the Act) for the Second to Fifteenth Plaintiffs will expire no earlier than 11 March 2025,




resulting in the second meetings of the creditors having to be held by 18 March 2025. The convening periods for the Sixteenth and Seventeenth Plaintiffs will expire on 27 March 2025, resulting in the second meetings of the creditors having to be held by 3 April 2025. A reference to the **Convening Periods** in this affidavit is a reference to the convening periods for the Second to Seventeenth Plaintiffs.

7 Unless otherwise stated, I make this affidavit from my own knowledge and from information I, and staff members operating under my supervision at WLP, have obtained through my role as one of the Administrators, which I believe to be true.

8 Exhibited to me at the time of making this affidavit is a bundle of documents to which I make reference to in this affidavit marked "**ALW-1**". A reference to a page number in this affidavit is a reference to the relevant page of **Exhibit ALW-1**, unless otherwise stated.

9 For the reasons outlined in this affidavit, the Administrators are of the view that it is in the best interests of the creditors of the HEI Group of Companies for the Convening Periods to be extended up to and including 11 June 2025.

## **BACKGROUND**

### **The Administrators & their appointment to the HEI Group**

10 On 11 February 2025, the sole director of each entity within the HEI Group of Companies, Mr Kam Ming Yu, resolved pursuant to section 436A of the Act to appoint the Administrators as joint and several administrators of the Second to Fifteenth Plaintiffs (**First Appointment Date**).

11 On 27 February 2025 (**Second Appointment Date**), Mr Yu resolved pursuant to section 436A of the Act to appoint the Administrators to the Sixteenth and Seventeenth Plaintiff.

12 A copy of the executed record of the Director's Resolution appointing the Administrators to the HEI Group of Companies is at pages **102 to 110** of **Exhibit ALW-1**.

13 A copy of each Form 505 I caused to be lodged with ASIC, in respect of the Administrators appointment to the HEI Group of Companies, is at pages **111 to 158** of **Exhibit ALW-1**.

14 As at the date of this affidavit, the Administrators have not received a completed report on company activities and property (**ROCAP**) from Mr Yu in respect of any of the HEI Group of Companies. Mr Yu has informed me that he has instructed an independent accountant to assist him to complete each ROCAP.



### Nature of the business of the HEI Group of Companies

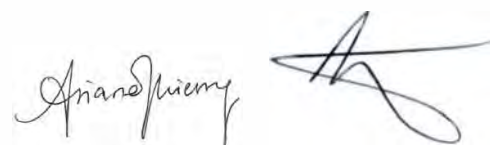
- 15 The HEI Group of Companies are incorporated and operate in Australia. The principal activity of the HEI Group of Companies is the operation of childcare centres (**Business**) from various facilities located in Victoria and New South Wales (**Premises**).
- 16 The HEI Group of Companies is licensed by Helsinki International School Group Oy to provide early education services based on the "Finnish Early Education Model". This model was developed by the University of Helsinki. The HEI Group of Companies is the foremost provider of this model of education in Australia.

### Corporate Structure

- 17 The parent company of the HEI Group of Companies is the Second Plaintiff, Finnish Early Childhood Education (Australia) Pty Ltd (Administrators Appointed) ACN 630 629 435 (**FEC Australia**). FEC Australia is the primary licensee under the licence agreement with the "Helsinki International School Group Oy".
- 18 FEC Australia owns 51% of the issued share capital in the Third, Fifth, Sixth and Eighth to Seventeenth Plaintiffs. FEC Australia does not administer an early childcare centre and acts as a head office for the HEI Group of Companies providing payroll and support services to its subsidiaries.
- 19 The Third Plaintiff, ILO Learning (Australia) Pty Ltd (Administrators Appointed) ACN 649 081 069 (**ILO**), owns approximately 70% of the issued share capital in the Fourth and Seventh Plaintiffs. ILO does not administer an early childcare centre and operates as a holding company only.
- 20 Each of the Fourth to the Seventeenth Plaintiffs administer a single early childcare centre.
- 21 A corporate structure diagram for the HEI Group of Companies is at pages **159** of **Exhibit ALW-1**.

### *Trading*

- 22 The childcare centres operated by the Sixth Plaintiff (located at Hampton Park, Victoria), the Eleventh Plaintiff (located at Brisbane, Queensland) and the Fifteenth Plaintiff (located at Armstrong Creek, Victoria) (collectively, the **Non-Trading Entities**), were closed prior to the First Appointment Date and do not trade as at the date of this affidavit.





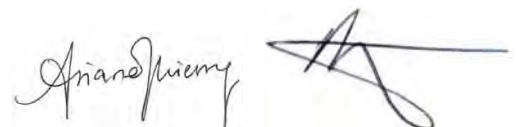
- 23 I understand from my discussions with Mr Yuthat each of the Non-Trading Entities were unable to meet their lease liabilities, and the respective landlords terminated their respective leases prior to the Administrators appointment.
- 24 The balance of the childcare centres administered by the HEI Group of Companies (i.e. those administered by the Second to Fifth Plaintiffs, the Seventh to Tenth Plaintiffs, the Twelfth to Fourteenth Plaintiffs and the Sixteenth and Seventeenth Plaintiffs (collectively, the **Trading Entities**)) were trading as at the First Appointment Date and the Second Appointment Date (collectively, the **Appointment Dates**), and continue to trade as at the date of this affidavit. Copies of the licenses enabling each of these entities to operate childcare centres, issued by the Australian Children's Education & Care Quality Authority (**ACECQA**), are at pages **160** to **180** of **Exhibit ALW-1**.

#### Employees

- 25 Collectively, prior to the appointment of the Administrators to the HEI Group of Companies, the HEI Group of Companies employed approximately 397 employees nationally.
- 26 Since their appointment to the HEI Group of Companies the Administrators have been paying the employees' wages and entitlements. All employees as at the respective dates of our appointment to the HEI Group of Companies remain employed and engaged by the HEI Group of Companies as at the date of this affidavit, except for the following:
- (a) 7 employees of FEC Australia have been made redundant, and 2 permanent employees are now employed on a casual basis;
  - (b) 10 employees of the Third Plaintiff have been made redundant, and 1 permanent employee is now employed on a casual basis; and
  - (c) 2 employees of the Ninth Plaintiff have been made redundant.
- 27 As at the date of this affidavit, the Administrators have not paid these employees their entitlements, which remain outstanding.

#### Property

- 28 As at the respective dates of our appointment to the HEI Group of Companies, the HEI Group of Companies leased the following properties (collectively, the **Premises**):



Plaintiff No.	Entity Name	Leased Premises
Second	FEC Australia	Suite 2115, Level 2, 1 Main Street, Box Hill VIC 3128
Fourth	ILO Early Learning (Kurunjang) Pty Ltd	1911 Gisborne-Melton Road, Kurunjang VIC 3337
Fifth	Finnish Early Childhood Education (Dandenong) Pty Ltd	1-3 Mulgoa Avenue, Dandenong North VIC 3175
Seventh	ILO Early Learning (Ballan) Pty Ltd	80 Steiglitz Street, Ballan VIC 3342
Eighth	Holistic Development Pty Ltd	267-271 Belgrave-Gembrook Road, Emerald VIC 3782
Ninth	Finnish Early Childhood Education (Norlane) Pty Ltd	11 Gerbera Avenue, Norlane VIC 3214
Tenth	Finnish Early Childhood Education (Gosford) Pty Ltd	Level 1, 36-38 Showground Road, Gosford NSW 2250
Twelfth	Finnish Early Childhood Education (St Leonards) Pty Ltd	1 Reserve Road, St Leonards NSW 2065
Thirteenth	Finnish Early Childhood Education (Brunswick East) Pty Ltd	11-15 Brunswick Road, Brunswick East VIC 3057
Fourteenth	Finnish Early Childhood Education (Ballarat Central) Pty Ltd	417 Errard Street South, Ballarat Central VIC 3350
Sixteenth	Finnish Early Childhood Education (Waurin Ponds) Pty Ltd	1-3 Ghazeepore Road, Waurin Ponds VIC 3216
Seventeenth	Finnish Early Childhood Education (Longwarry) Pty Ltd	26 Bennett Street, Longwarry VIC 3816

29 In relation to each of the above Premises, the Administrators:

- (a) have not issued a notice pursuant to section 443(B) of the Act;
- (b) continue to pay ongoing rent to enable the respective entities in the HEI Group of Companies to continue to occupy the Premises, however there is three months of historical rent outstanding for the Premises occupied by the Second Plaintiff, and one month of historical rent outstanding for the other Premises' occupied by the plaintiffs (**Historical Outstanding Rent**).

30 As at the date of this affidavit, the only valuable assets identified by the Administrators are the leases, and the plant and equipment located at each Premises.

### Financial Position

31 Each entity in the HEI Group of Companies prepared financial statements on an individual basis. The Administrators have reviewed the financial statements for the financial year ending 30 June 2024 (FY24) for each of the HEI Group of Companies and compared these records to claims admitted since the First Appointment Date and Second Appointment Date.

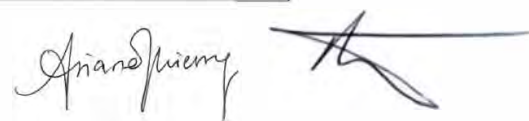
32 Based on the claims admitted at the date of this affidavit (**Admitted Claims**), I regard the financial statements of each company as inaccurate because they appear to understate each entity's debts.

33 Notwithstanding this, my high-level review of the financial statements indicates that the HEI Group of Companies was loss making for at least the last 2 years because each company possessed a negative net asset and working capital position.

34 Copies of the financial statements for FY24 for the HEI Group of Companies are at pages **181 to 327 of Exhibit ALW-1 (2024 Financial Statements)**.

Hamilton Locke has prepared the below tables summarising the collective position of the 2024 Financial Statements:

Balance Sheet	30 June 2023 (\$)	30 June 2024 (\$)
Current Assets	2,867,568	3,296,668
Non-current Assets	45,904,015	45,122,709
<b>Total Assets</b>	<b>50,364,622</b>	<b>49,741,900</b>
Current Liabilities	5,964,072	10,709,541



Non-current Liabilities	38,524,956	39,160,967
<b>Total Liabilities</b>	<b>44,489,028</b>	<b>49,870,508</b>
<b>Working Capital</b>	<b>(3,096,504)</b>	<b>(7,412,873)</b>
<b>Net Assets</b>	<b>5,875,594</b>	<b>(128,608)</b>

<b>As at</b>	<b>Profit / (Loss) (\$)</b>
30 June 2023	(4,386,297)
30 June 2024	(6,249,567)

35 I note the following from my review of the collective position of the HEI Group of Companies:

- (a) the profit and loss statements for the HEI Group of Companies, show from the period 1 July 2022 to 30 June 2024, the group incurred approximately \$10,635,864 in losses;
- (b) the balance sheets for the HEI Group of Companies shows:
  - (i) at all times the group possessed a negative liquidity position, and from 30 June 2024 onwards, a negative net asset position; and
  - (ii) the group possessed disproportionately high non-current assets, in comparison to current assets, with this discrepancy being attributable to non-current assets described as 'Rights of Use of Underlying Asset'. The Administrators understand these amounts relate to the investment from FEC Australia into each individual centre. It is not the Administrators' view that these assets are readily convertible to cash, if at all.

#### *Summary of Financial Position*

36 I observe that the HEI Group of Companies displays a general downward trend in its Current Asset and Loss position. Based on the books and records of the HEI Group of Companies, it is my opinion, and I believe it to be the opinion of Mr Livingstone and Mr Charlwood, that the Financial Statements of each entity in the HEI Group of Companies indicate that each was insolvent at the time of our appointment.



37 The Admitted Claims exacerbate the negative net asset and working capital position. A summary of these claims is set below at paragraph 42.

38 As at the date of this affidavit:

- (a) the Administrators' investigations into the true financial position of the HEI Group of Companies are ongoing; but
- (b) notwithstanding the ongoing investigations, the Administrators believe that each of the entities in the HEI Group of Companies are insolvent.

**The companies' creditors**

39 Because the Administrators are yet to receive a ROCAP in respect of the HEI Group of Companies, as at the date of this affidavit the Administrators' knowledge of the creditors of the HEI Group of Companies is limited to what is contained in the HEI Group's books and records, including in relation to any secured debts. The Administrators are aware that Bizcap AU Pty Ltd appears to be the primary secured creditor in the administration with an "All Present and After Acquired Property" registration (**AIIPAP**) on the Personal Property Securities Register. Bizcap Au Pty Ltd has registered an AIIPAP against the following entities:

- (a) FEC Aus;
- (b) Finnish Early Childhood Education (Gosford) Pty Ltd;
- (c) Finnish Early Childhood Education (Norlane) Pty Ltd;
- (d) Finnish Early Childhood Education (Ballarat Central) Pty Ltd;
- (e) Finnish Early Childhood Education (Hampton Park) Pty Ltd;
- (f) Finnish Early Childhood Education (Waurin Ponds) Pty Ltd;
- (g) Finnish Early Childhood Education (St Leonards) Pty Ltd;
- (h) Holistic Development Pty Ltd;
- (i) ILO; and
- (j) ILO Early Learning (Kuranjang) Pty Ltd.

40 An AIIPAP is also registered by Judo Bank Pty Ltd against ILO Early Learning (Kuranjang) Pty Ltd.

41 A copy of a search of the HEI Group's Personal Property Securities Register for each entity is at pages **328 to 374 of Exhibit ALW-1**.

42 At pages **375 of Exhibit ALW-1** is a consolidated creditor list for the HEI Group of Companies prepared by the Administrators. Due to the number of entities under





administration, the Administrators are yet to confirm the total number of creditors. The listing identifies that as at the date of this Affidavit, the HEI Group of Companies owe:

- (a) a total of \$3,259,347.39 to employee creditors;
- (b) a total of \$223,901.43 to secured creditors; and
- (c) a total of \$14,314,502.55 unsecured creditors.

43 The Administrators are yet to independently verify the validity of the debts allegedly owing to the above creditors. However, as set out above, based on a high-level review of the HEI Group of Companies' financial statements, and the proofs of debt received to date, the Administrators believe that each entity in the HEI Group of Companies was insolvent at the time of our appointment.

44 The Administrators are aware from the Financial Statements and discussions with Mr Yu, that there are substantial intercompany loans between the HEI Group of Companies. However, as at the date of the affidavit the Administrators have not yet reconciled the intercompany loans due to the abovementioned deficiencies in the Financial Statements.


#### **Circumstances of Appointment**

45 From mid-late 2024, it is my understanding based on my discussions with Mr Yu that various creditor statutory demands were issued to, and winding-up applications were lodged against, several of the entities within the HEI Group of Companies. Based on my discussions with Mr Yu, I understand that in early-2025, Mr Yu formed the view that:

- (a) the HEI Group of Companies were insolvent;
- (b) the best chance to achieve the optimal return to creditors of the HEI Group of Companies would be by way of a sale of the Business; and
- (c) the most likely way to achieve a sale of the Business would be if the HEI Group of Companies entered voluntary administration with a view to restructuring the HEI Group of Companies through a deed of company arrangement.

46 The Administrators have formed a preliminary view that the primary reason for the HEI Group of Companies' failure was:

- (a) trading losses caused by low levels of occupancy at several centres;



- (b) high cash burn caused by high overheads that the trading businesses could not support; and
- (c) poor strategic management of the Group.

## THE ADMINISTRATION AND PROPOSED EXTENSION OF THE CONVENING PERIODS

### First Creditors' Meeting

- 47 On 13 February 2025, the Administrators advertised a notice of meeting of the creditors of the Second to Fifteenth Plaintiffs, noting their appointment and giving notice of the first creditors meeting for each company required under Section 436E of the Act (**First Creditors' Meeting – Second to Fifteenth Plaintiffs**). A copy of this notice is at pages **376 to 378** of **Exhibit ALW-1**.
- 48 On 21 February 2025, the Administrators conducted the First Creditors' Meeting – Second to Fifteenth Plaintiffs. During the First Creditors' Meeting – Second to Fifteenth Plaintiffs:
- (a) I explained to the attendees that the Administrators intended to make this Application and that any creditors who had an objection or question in relation to this Application could contact the Administrators to raise those concerns; and
  - (b) it was not resolved to appoint a Committee of Inspection or replace the Administrators.
- 49 A copy of the draft minutes from the First Creditor's Meeting – Second to Fifteenth Plaintiffs is at pages **379 to 388** of **Exhibit ALW-1**.
- 50 The first meeting of creditors for the Sixteenth and Seventeenth Plaintiffs is scheduled for 12 March 2025 (**First Creditors' Meeting – Sixteenth and Seventeenth Plaintiffs**). A copy of the notice dated 3 March 2025 advertising the First Creditors' Meeting – Sixteenth and Seventeenth Plaintiffs, is at pages **389 to 390** of **Exhibit ALW-1**.

### Work conducted to date since the Appointment Date

- 51 Since our appointment, the Administrators (together with members of our staff at WLP) have carried out a wide range of tasks including:
- (a) general administration tasks, including:
    - (i) physical site visits to each of the Premises;
    - (ii) commencing preliminary investigations into the financial position of the HEI Group of Companies;



- (iii) investigating the security held in relation to the assets and property of the HEI Group of Companies;
- (iv) reviewing the books and records of the HEI Group of Companies to identify secured and unsecured creditors of the HEI Group of Companies;
- (v) liaising with a number of secured and unsecured creditors in relation to the administration of the HEI Group of Companies;
- (vi) establishing and maintaining a database to record the various creditor claims and assist with ongoing management of creditor claims;
- (vii) dealing with pre-appointment bank accounts; and
- (viii) conducting meetings with the director;
- (b) tasks relevant to the Administrators' statutory obligations, including:
  - (i) filing of requisite notices with ASIC in respect of the appointment of the Administrators;
  - (ii) issuing the requisite statutory notices to creditors of the HEI Group;
  - (iii) notifying the ATO of the appointment of the Administrators; and
  - (iv) holding the first meeting of creditors for the Second to Fifteenth Plaintiffs;
- (c) notifying relevant stakeholders of the Administrators' appointment, including to each landlord, the guardians of children attending each centre, and liaising with suppliers;
- (d) weekly meetings with centre directors and other staff for all centres;
- (e) meetings and discussions with shareholders;
- (f) tasks relevant to the two first creditors' meetings, including preparing and issuing the requisite notices and, receiving and processing proxy and debt forms;
- (g) liaising with the director regarding a prospective DOCA proposal, including discussions with the directors independent accountant;
- (h) engaging a private consultant to address standards, professional development, policies and procedures review in the Sixteenth Plaintiff; and
- (i) preparing this application.



**The Convening Periods should be extended to allow the Administrators to conduct and complete a sale process**

52 In my opinion, based on my experience, my review of the books of the HEI Group of Companies obtained to date and my discussions with Mr Yu, the strategy that is most likely to achieve the best return for creditors is a sale of the business of the HEI Group of Companies as a going concern to third parties (**Proposed Sale**). I have formed this opinion because amongst other things:

- (a) as a result of my experience, I am aware there are a number of parties, including international parties, who are interested in purchasing established businesses which operate childcare centres;
- (b) there are certain assets of the HEI Group of Companies which are likely to be valuable to a number of potential third-party purchasers including furnished centres, trained staff, and enrolled children.

53 In preparing for the Proposed Sale, the Administrators have retained a third party, "Lilley Childcare Sales" to assist as a broker (**Broker**). My understanding of the Proposed Sale is derived from both my own knowledge, and my conversations with the Broker.

54 Based on my experience, selling the business and assets as a going concern or entering into a deed of company arrangement (**DOCA**) is likely to maximise the chances of the Business continuing to operate and will result in a better return to creditors than an immediate winding up.

55 On 20 February 2025, the Administrators caused "Lilley Childcare Sales" to issue an initial advertisement seeking expressions of interest for the purchase of the assets of the HEI Group of Companies to potentially interested buyers (**Advertisement**). The Advertisement requested expressions of interest (**EOI**) be submitted by 6 March 2025.

56 The Administrators have received over 400 enquiries and several expressions of interest in response to the Advertisement (**Interested Parties**).

57 Based on my experience I anticipate in order to arrange and facilitate the Proposed Sale; the Administrators will need to do the following amongst other things:

- (a) identifying specifically the assets of the HEI Group of Companies which are capable of being sold and ascertaining an approximate value for those assets;



- (b) preparing a sale 'teaser' document for interested parties outlining the investment opportunity;
- (c) preparing a virtual data drive, in order for interested parties to complete due diligence on the sale assets and confirm their interest and/or offers;
- (d) issuing confidentiality agreements to all interested parties;
- (e) seeking non-binding expressions of interest by 6 March 2025 to enable the Administrators to review initial offers for the sale assets and determine which parties will progress to a phase of more detailed due diligence and management meetings (**Short-Listed Parties**);
- (f) facilitating meetings with Mr Yu and answering due diligence queries of the Short-Listed Parties;
- (g) seeking binding, final offers from the Short-Listed Parties by a date to be determined by the Administrators;
- (h) finalising documentation with the successful bidder; and
- (i) obtaining the relevant approvals from ACECQA to transfer or sell the licences for the childcare centres (see paragraph 58 below).

58 The Administrators anticipate steps 57(a) to 57(h) above will take approximately three weeks from the date of this affidavit. However, for the reasons expanded upon in paragraph 59 below, the Administrators expect step 57(i) may take up to 60-days from the date of step 57(h).

59 Based on my conversations with the Broker and my prior experience arranging the sale of childcare businesses as an administrator, I am aware that any transfer in control or sale of a childcare centre will require service approval under the Childcare National Law from ACECQA (**ACECQA Statutory Service Approval**). Practically, ACECQA Statutory Service Approval can only be sought around the time sales negotiations are concluding. Due to this, it is my understanding that any Proposed Sale will require a Form PA09 Transfer of Provider Declaration to be submitted to ACECQA. This will take least 60-days from the date of accepting an offer from the successful bidder in order to attain the requisite ACECQA Statutory Service Approval.

60 Based on my experience conducting sales of business in my capacity as an Administrator, I expect the process set out at paragraph 57 above could take up to another three months from the date of this affidavit (including the 60 day period required for the ACECQA Statutory Service Approval).





### The reasons for seeking an extension of the convening periods

61 In my opinion, based on my discussions with Messrs. Livingstone and Charlwood, the Proposed Sale is most likely to achieve a better return for creditors of the HEI Group of Companies if the Convening Periods is extended, as compared to if it is not extended and the Proposed Sale completes, and the companies are placed into liquidation because:

- (a) an extension of the Convening Periods will enable a more commercially reasonable amount of time to complete the steps identified at paragraph 57 above;
- (b) an extension of the Convening Periods will allow for the ACECQA Statutory Service Approval to be sought;
- (c) the extension of the Convening Periods will cause the lease moratorium under the Act (**Lease Moratorium**) to be extended in relation to the Property which allows the Administrators to maintain stability of the HEI Group of Companies whilst progressing and completing the Proposed Sale;
- (d) the extension of the Convening Periods will allow the Proposed Sale to be structured by way of a DOCA if that is desirable for the purchaser, potentially increasing the sale price and any return to creditors;
- (e) if the Convening Periods is not extended and the Administrators do not receive a binding offer that is more beneficial than a liquidation scenario prior to the expiry of the Convening Periods, the Administrators are likely to recommend the HEI Group of Companies be wound up (as it is our view the HEI Group of Companies is likely insolvent and therefore should not be returned to the directors);
- (f) if the HEI Group of Companies is wound up, the landlords of the Premises could seek to repossess the Premises which would likely complicate the Proposed Sale (if the potential buyer wanted to take over the leases for the Premises) and result in a lower sale price;
- (g) if the HEI Group of Companies is wound up, the Proposed Sale will not be able to be structured by way of a DOCA, potentially resulting in a less desirable transaction structure to a potential purchaser which may reduce the sale price;
- (h) if the HEI Group of Companies is wound up, the Trading Entities will cease to trade, and be unable to be sold as a going concern;




- (i) if the Proposed Sale completes within the Convening Periods and the Lease Moratorium remains in place, there is a higher possibility all employees will retain their jobs as part of the Proposed Sale than if the Premises are repossessed by the landlords prior to completion of the Proposed Sale;
- (j) if the HEI Group of Companies is wound up, certain claims and liabilities of the HEI Group of Companies may crystallise whereas if the Proposed Sale completes within the Convening Periods, these claims and liabilities may not crystallise resulting in a better outcome for creditors of the HEI Group of Companies.

62 In addition to the matters set out above, it is the Administrators' view that an extension of the Convening Periods, to 11 June 2025, is in the best interests of the creditors of the HEI Group of Companies, for the following reasons:

- (a) if the Convening Periods are not extended, the Administrators may recommend the second meeting of creditors of each of the HEI Group of Companies (**Second Meeting**) be adjourned for 45 business days pursuant to section 75-140(3) of the Insolvency Practice Rules (Corporations) 2016 (Cth) (**Rules**) to give the Proposed Sale a greater chance of completing within the Convening Periods, which would result in further meetings and further costs from the need to prepare a supplementary report pursuant to section 75-225 of the Rules to be required at a total estimated cost of **\$10,000 to \$15,000**;
- (b) absent completion of the Proposed Sale prior to the expiry of the Convening Periods, the Administrators would not be in a position to make a quantitative assessment of the returns to creditors as is required under the Act and Australian Restructuring Insolvency and Turnaround Association Code because the returns are predicated on the outcome of the Proposed Sale; and
- (c) the Administrators are unlikely to be able to make a comprehensive or complete recommendation to creditors on the future of the HEI Group in accordance with our obligations under section 439A of the Act and section 75-225(3)(b) of the Rules, with the consequence that creditors will not be able to make a properly informed decision.

63 The Administrators are seeking to extend the convening periods of all the Companies for the reasons that:



- (a) it will be more efficient and cost-effective to deal with all of the Companies together in terms of issuing reports to creditors, holding meetings and potentially negotiating deeds of company arrangement; and
- (b) retaining the current corporate structure will give flexibility for any recapitalisation of the business or potential purchaser.

### **No prejudice to creditors**

- 64 Subject to paragraph 68 below, the Administrators are not aware of any creditor or other stakeholder that would be adversely affected by the Court granting the extension of the Convening Periods and I do not consider that there is any prejudice to creditors or other interested persons that will arise from the proposed extension.
- 65 The Administrators will continue to pay employee wages and entitlements as and when they fall due. However, this will be reconsidered on an ongoing basis, provided the Administrators remain of the view that a going concern sale or DOCA for the operating business remains a viable option and in the best interests of creditors.
- 66 The Administrators will continue to pay the rent incurred in relation to the Premises, as and when it falls due. However, this will be reconsidered on an ongoing basis, provided the Administrators remain of the view that a going concern sale or DOCA for the operating business remains a viable option and in the best interests of creditors.
- 67 The landlords owed the Historical Outstanding Rent may suffer prejudice as a result of the extension of the Convening Periods. However, given the Proposed Sale is anticipated to take less than 12 weeks, and the Administrators are paying ongoing rent, in my opinion these landlords will not be disproportionately prejudiced by the extension of the Convening Periods.
- 68 The only potential prejudice to the creditors of the HEI Group of Companies if the Court extends the Convening Periods is to employees who have been made redundant or whose roles have been changed from fulltime to casual, on the basis that their employee entitlements are outstanding. In the event the HEI Group of Companies are placed into liquidation these employees would be entitled to be paid out of the Fair Entitlements Guarantee (FEG). Given the Proposed Sale is anticipated to take less than 12 weeks, in my opinion these employees will not be disproportionately prejudiced by the extension of the Convening Periods.




- 69 The Administrators also intend to convene the Second Meetings at the earliest opportunity following receipt of a favourable final offer from one of the Short-Listed Parties. Accordingly, the Second Meeting may be held prior to the extended date for the Convening Periods sought by the Administrators in this Application.

### Notice

- 70 As set out at paragraph 43, during the First Creditors' Meeting – Second to Fifteenth Plaintiffs, the Administrators explained to the attendees that the Administrators intended to make this Application and that any creditors who had an objection or question in relation to this Application could contact the Administrators to raise those concerns. The Administrators have not been contacted by any creditors in response to this statement, or in relation to the Application, at all.
- 71 Notwithstanding the above, the Administrators will cause notice of this Application to be issued to the creditors of the HEI Group of Companies (including specifically the creditors of the Sixteenth and Seventeenth Plaintiff) as well as ASIC. The Administrators will cause a further short affidavit to be filed in these proceedings exhibiting that notice and any responses.

AFFIRMED at SYDNEY

Signature of deponent



Name of witness ARIANE MAYA JEFFRIES THIERRY

Address of witness c/- Level 35, 180 George St, Sydney NSW 2000

Capacity of witness Solicitor

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

- 1 I saw the face of the deponent.
- 2 I have known the deponent for at least 12 months

Signature of witness



This affidavit was signed in counterpart and witnessed over audio visual link in accordance with section 14G of the *Electronic Transactions Act 2000* (NSW).



## SCHEDULE

### **IN THE MATTER OF FINNISH EARLY CHILDHOOD EDUCATION (AUSTRALIA) PTY LTD (ADMINISTRATORS APPOINTED) ACN 630 629 435 & ORS**

#### **Plaintiffs**

- |                       |   |
|-----------------------|---|
| First Plaintiffs:     | Alan Walker, Glenn Livingston and Nicholas Charlwood, in their capacity as joint and several voluntary administrators of the Second to Seventeenth Plaintiffs |
| Second Plaintiff:     | Finnish Early Childhood Education (Australia) Pty Ltd (Administrators Appointed) ACN 630 629 435  |
| Third Plaintiff:      | ILO Early Learning (Australia) Pty Ltd (Administrators Appointed) ACN 649 081 069   |
| Fourth Plaintiff:     | ILO Early Learning (Kurunjang) Pty Ltd (Administrators Appointed) ACN 649 106 909   |
| Fifth Plaintiff:      | Finnish Early Childhood Education (Dandenong) Pty Ltd (Administrators Appointed) ACN 630 411 675  |
| Sixth Plaintiff:      | Finnish Early Childhood Education (Hampton Park) Pty Ltd (Administrators Appointed) ACN 637 712 951   |
| Seventh Plaintiff:    | ILO Early Learning (Ballan) Pty Ltd (Administrators Appointed) ACN 652 090 465  |
| Eighth Plaintiff:     | Holistic Development Pty Ltd (Administrators Appointed) ACN 621 106 287   |
| Ninth Plaintiff:      | Finnish Early Childhood Education (Norlane) Pty Ltd (Administrators Appointed) ACN 630 411 791  |
| Tenth Plaintiff:      | Finnish Early Childhood Education (Gosford) Pty Ltd (Administrators Appointed) ACN 643 367 720  |
| Eleventh Plaintiff:   | Finnish Early Childhood Education (Charlotte) Pty Ltd (Administrators Appointed) ACN 646 582 881  |
| Twelfth Plaintiff:    | Finnish Early Childhood Education (St Leonards) Pty Ltd (Administrators Appointed) ACN 645 781 460  |
| Thirteenth Plaintiff: | Finnish Early Childhood Education (Brunswick East) Pty Ltd (Administrators Appointed) ACN 641 722 607   |
| Fourteenth Plaintiff: | Finnish Early Childhood Education (Ballarat Central) Pty Ltd (Administrators Appointed) ACN 649 365 006   |



- Fifteenth Plaintiff: Finnish Early Childhood Education (Armstrong Creek) Pty Ltd  
(Administrators Appointed) ACN 660 849 374
- Sixteenth Plaintiff: Finnish Early Childhood Education (Waurin Ponds) Pty Ltd  
(Administrators Appointed) ACN 638 461 579
- Seventeenth Plaintiff: Finnish Early Childhood Education (Longwarry) Pty Ltd  
(Administrators Appointed) ACN 637 227 546