

Circular to Creditors

1 December 2023

Dear Sir/Madam

Aurora Metals Limited ACN 126 634 606 ('the HeadCo')
Auctus Chillagoe Holdings Pty Ltd ACN 605 053 610
Auctus Chillagoe Pty Ltd ACN 605 055 285
Auctus Resources Pty Ltd ACN 136 606 338
Auctus Minerals Pty Ltd ACN 602 411 852
CTM Alluvial Mining Pty Ltd ACN 137 305 947
Colinacobre Pty Ltd ACN 601 312 207
Surveyor Mining Pty Ltd ACN 601 108 776
Nyngan Gold Pty Ltd ACN 154 650 585
Vision Exploration Pty Ltd ACN 161 881 018
Twilight Exploration Pty Ltd ACN 161 880 995
Thesaurus Exploration Pty Ltd ACN 163 781 342 ('the Subsidiaries')
(All Administrators Appointed) (All Receivers and Managers Appointed)
(together 'the Companies')

Adjournment of Second Meetings of Creditors

We refer to the appointment of Richard Tucker, David Osborne and Tony Miskiewicz as Voluntary Administrators of the HeadCo pursuant to Section 436C of the Corporations Act 2001 ('the Act') on 30 June 2023 and to their subsequent appointment as Voluntary Administrators of the Subsidiaries pursuant to Section 436A of the Act on 30 June 2023.

We also refer to the Report to Creditors dated 23 November 2023 advising of the Second Meetings of Creditors of the Companies ('the Meetings') and Notice of the Meetings enclosed in this Report to Creditors issued for download from KordaMentha's website on 23 November 2023.

Pursuant to Section 75-140 of the Insolvency Practice Rules (Corporations) 2016 ('the Rules'), we give notice that at the original Meetings convened under Section 439A of the Act held virtually via Microsoft Teams on 30 November 2023 at 10:00am AEST, the Meetings were adjourned for up to 45 business days pursuant to Section 75-140(1) of the Rules.

The Administrators' Report to Creditors dated 23 November 2023 expressed our opinion that it was in the interest of creditors of the Companies that the Companies be wound up and placed into liquidation. Between the date of this report and the Meetings, further information has come to light that has caused us to determine that it is in the best interest of creditors that the Meetings be adjourned for up to 45 business days. The basis and background for the decision to adjourn the Meetings are:

1. Chris Baskerville and Greg Prout from Jirsch Sutherland replaced Philip Campbell-Wilson and Said Jahani of Grant Thornton as Receivers and Managers on Friday, 24 November 2023.

2. On 28 November 2023, we were advised by the new Receivers and Managers that they were pursuing an asset sale and they were enquiring whether liquidation would impact the sale. We advised that given we have not been provided the terms of the asset sale, we cannot know for sure. However, our initial thoughts were that it feels unlikely that liquidation of the entities which owned the assets will have an impact on an asset sale.
3. On 29 November 2023, we were approached by two parties who have conducted Due Diligence on the Companies and their assets. These parties requested that we adjourn the Meetings to allow them to propose a Deed of Company Arrangement ('DOCA').
4. On 29 and 30 November 2023, we held discussions with the two major secured creditors of the Companies, Mt Garnet Mineral Finance Pty Ltd and China Railway Material (Australia) Pty Limited, and both confirmed that they were supportive of an adjournment.
5. We suggested the adjournment of the subsidiaries only to allow the HeadCo to go into liquidation and allow employees to access the Fair Entitlements Guarantee ('FEG') scheme. However, at least one of the proponents advised that they see material value in the carried forward tax losses in Headco.
6. On 30 November 2023, the Department of Employment and Workplace Relations advised that the Minister for Employment and Workplace Relations had exercised his powers under Section 49 of the Fair Entitlements Guarantee Act 2012 (FEG Act) to provide former HeadCo employees with early access to the FEG scheme (prior to liquidation). This means the adjournment will not delay access to FEG for former employees of HeadCo

Please note that in accordance with Section 75-140(3) of the Rules, the Meetings were adjourned to a date that is not more than 45 business days after the first date the original Meetings were held.

Prior to the resumption of the Meetings, we will provide a notice of the resumed Meetings accompanied by an updated Creditors' Report covering any developments from the original Meetings no less than 5 business days prior to the date of the resumed Meetings on KordaMentha's website. The notice of Meetings will also be published on ASIC's Published Notices Website.

Employee Update

As addressed in the Meetings and above, the Department of Employment and Workplace Relations advised us on 30 November 2023 that the Minister for Employment and Workplace Relations had exercised his powers under Section 49 of the FEG Act to provide former HeadCo employees with early access to the Fair Entitlements Guarantee (FEG) scheme (prior to liquidation). This means the adjournment will not delay access to FEG by former employees of HeadCo.

Employees may now lodge FEG claims with the department. To expediate the initial steps of the FEG process, it is preferable that former employees lodge their FEG claim using the online claim form at:

<https://fegonlineservices.dewr.gov.au>

Any employees who are unable to lodge their FEG claim online can complete a hardcopy FEG claim form. FEG are currently in the process of making some changes to that form and the new versions will be uploaded to FEG's website in the coming days. Any employees who require a hardcopy claim form should contact the FEG hotline for assistance on 1300 135 040 (9am to 5pm, Monday to Friday, ADST).

The Administrators have calculated outstanding employee entitlements based on the records provided by HeadCo. Please note these calculations are our preliminary assessment only. The calculations will be provided to FEG who will undertake a process of reviewing the calculations and usually FEG will work with us to resolve any discrepancies which may arise between FEG's assessment and our assessment. Where a company has insufficient funds to pay a dividend and payments are only available through FEG, please note that there are limitations in terms of the categories of employee entitlements covered under

FEG. FEG applies caps on the amounts payable for certain entitlements and it is FEG, rather than the insolvency practitioner, who is the ultimate decision maker about a person's eligibility for FEG payments and the amount of such payments.

FEG is currently experiencing a high demand for assistance and some claim processing is taking longer than anticipated. The Department of Employment and Workplace Relations will keep you informed of your claim progress if it is expected to be delayed beyond the standard processing timeframes.

Attached to this circular is three 'FEG fact sheets' which we encourage all employees to read. Employees with any queries are encouraged to email us at aurora@kordamentha.com, or direct any FEG specific queries to FEG by email FEG@dewr.gov.au or by phone call to the FEG hotline on 1300 135 040 (9am – 5pm ADST Monday to Friday).

Please contact this office on (07) 4724 9888 or by email at aurora@kordamentha.com if you have any questions.

Yours faithfully



Tony Miskiewicz
Voluntary Administrator

Encs.



Eligibility for FEG assistance

This fact sheet provides information about the eligibility requirements for the Fair Entitlements Guarantee (FEG). The Fair Entitlements Guarantee (FEG) is a scheme of last resort that provides financial assistance for unpaid entitlements to eligible employees when their employer enters liquidation or bankruptcy. FEG assistance is only available where there is no other source of funds to pay employment entitlements to eligible employees retrenched due to insolvency of the employer.

For information about what assistance is available please refer to the [What assistance can FEG provide?](#) fact sheet available on the [FEG website](http://www.dewr.gov.au/fair-entitlements-guarantee) (www.dewr.gov.au/fair-entitlements-guarantee).

The FEG Act

Decisions about eligibility for FEG assistance are made in accordance with the *Fair Entitlements Guarantee Act 2012* (FEG Act). FEG may apply to a person if their employer enters liquidation or bankruptcy and the person has certain unpaid employment entitlements owing to them. For information about what assistance is available please refer to the [What assistance can FEG provide?](#) fact sheet available on the [FEG website](http://www.dewr.gov.au/fair-entitlements-guarantee) (www.dewr.gov.au/fair-entitlements-guarantee).

Am I eligible?

Subject to certain exclusions, you will be eligible for FEG assistance under the FEG Act if:

- your employment has ended
- your former employer entered liquidation or bankruptcy (known as an ‘insolvency event’) on or after 5 December 2012
- the end of your employment:
 - was due to the insolvency of your employer, or
 - occurred less than 6 months before the appointment of an insolvency practitioner for the employer, or
 - occurred on or after the appointment of an insolvency practitioner for the employer
- you are owed employment entitlements
- you have taken reasonable steps to prove those debts in the winding up or bankruptcy of the employer
- if you were owed employment entitlements before the insolvency event occurred, you took reasonable steps to have them paid
- at the time your employment ended, you were an Australian citizen or, under the *Migration Act 1958*, the holder of a permanent visa (i.e. your current visa allows you to live in Australia indefinitely) or special category visa (i.e. your current visa allows you to stay and work in Australia as long as you remain a New Zealand citizen)
- you have made an effective claim (see s. 14).

You must meet all of the above requirements to be eligible for FEG assistance.

Exclusions from eligibility

FEG is a scheme for employees only. Other classes of workers, for example contractors and sub-contractors, are not eligible for assistance. Contract outworkers in the textile clothing and footwear industry may be covered under a special scheme for employees in that industry.

Some classes of employees are also ineligible for FEG assistance. You will be ineligible for assistance under the FEG Act if:

- you are an excluded employee (as defined by the *Corporations Act 2001*)
- you converted from contractor status to employee status with the same employer within 6 months of the insolvency event or the end of employment
- your former employer was within the scope of the Special Employee Entitlement Scheme for Ansett Group Employees.

Making an effective claim

You must make an effective claim to be eligible for FEG assistance. It is important that you submit your claim as soon as possible because FEG has strict time limits.

To make an effective claim, you must:

- lodge a FEG claim form
- include all mandatory information and documentation requested on the form
- lodge your claim no more than 12 months after the end of your employment or the date of the insolvency event (whichever is later) and
- lodge your claim before the discharge of your former employer's bankruptcy (if your employer was a bankrupt).

If your claim is not made within this timeframe, or does not include all required information and documentation, it will not be effective and you will not be eligible for FEG assistance.

For more information about lodging a FEG claim form, please refer to the [How do I apply for FEG assistance](#) fact sheet available on the [FEG website](#) (www.dewr.gov.au/fair-entitlements-guarantee).

How can you help?

While information provided by the insolvency practitioner is generally relied upon, it is important that you provide as much information as possible to decide if you are eligible for FEG assistance and, if so, to work out the amount of assistance you are eligible for.

For more information about the type of information you should provide please refer to the [How do I apply for FEG assistance](#) fact sheet available on the [FEG website](#) (www.dewr.gov.au/fair-entitlements-guarantee).

Want more information?

You can contact the FEG Hotline if you would like more information about eligibility for FEG assistance. To contact the FEG Hotline:

- 1300 135 040
Mon - Fri, 9 am - 5 pm (AEST/ADST)
- email FEG@dewr.gov.au.

If you speak a language other than English, call the Translating and Interpreting Service (TIS) on 13 14 50 for free help anytime. If you speak an Indigenous language, call the Aboriginal Interpreter Service on 1800 334 944.

Further information is also available on the [FEG website](http://www.dewr.gov.au/fair-entitlements-guarantee) (www.dewr.gov.au/fair-entitlements-guarantee).

The information contained in this fact sheet is of a general nature and explains, in summary form, the intended operation of the *Fair Entitlements Guarantee Act 2012* - it is not legal advice. Where necessary, you should seek your own independent legal advice relevant to your particular circumstances. The Commonwealth does not make any representation or warranty about the accuracy, reliability, currency or completeness of the information contained in this fact sheet and is not liable for any loss resulting from any action taken or reliance made by you on the information contained in this fact sheet.



How we assess FEG claims

Decisions about eligibility for assistance under the Fair Entitlements Guarantee (FEG) are made in accordance with the *Fair Entitlements Guarantee Act 2012* (the FEG Act). This fact sheet provides information about the best way to track the progress of your claim, and information about each stage of the claim assessment process.

Registering a claim online

The best way to follow the assessment of your claim is to register with [FEG Online Services](http://www.dewr.gov.au/FEGOnline) (www.dewr.gov.au/FEGOnline). Using FEG Online Services will:

- allow you to lodge your claim online
- allow you to upload and submit mandatory and supporting documentation
- ensure we receive your claim as soon as it is submitted
- let you check the status of your claim at any time.

To register go to [FEG Online Services](http://www.dewr.gov.au/FEGOnline) (www.dewr.gov.au/FEGOnline).

For more information please refer to the [How do I apply for FEG assistance](#) and [How do I access FEG Online Services](#) fact sheets available on the [FEG website](http://www.dewr.gov.au/fair-entitlements-guarantee) (www.dewr.gov.au/fair-entitlements-guarantee).

The assessment process

Once we have received your FEG claim, a number of steps are taken to assess your claim. Information about each of these steps is set out below.

Determining if your claim is effective

The first thing we do is make sure that your claim is effective (see s. 14 of the FEG Act). This includes checking that you have completed the required FEG claim form and included all mandatory information and documentation requested on that form. We will also verify that your claim was made no more than 12 months after the end of your employment or the liquidation or bankruptcy date of your former employer (whichever is later), and before the discharge of your former employer's bankruptcy (if your former employer was a bankrupt).

If your claim is not made within this timeframe, or does not include all required information and documentation, it will not be effective and you will not be eligible for FEG assistance.

In the event that your claim is not effective we will send you a letter to explain the reasons why.

Gathering Information

Once you have made an effective claim, the next thing we do is gather information to help us determine whether you are eligible for FEG assistance and, if so, the amount of unpaid employment entitlements you are legally entitled to be paid. This may include requesting information from you, your employer, the relevant insolvency practitioner or other parties.

We aim to complete the process of gathering information as quickly as possible. However, for some claims the process may take longer during periods of high demand for FEG assistance or if your former employer had complex corporate arrangements in place or the state of the books and records of your former employer make it difficult to substantiate your claim.

Assessing your claim

After receiving all relevant information provided by you, the insolvency practitioner and/or appropriate third parties, we will begin to assess your claim. This includes calculating the outstanding employment entitlements you may be eligible for and checking whether the information provided by the insolvency practitioner is consistent with the governing instrument under which you were employed.

Recommendation

Once we have enough information to make a recommendation, a report will be prepared for the decision maker to decide whether you are eligible for FEG assistance and, if so, the amount you are legally entitled to receive.

The decision maker will consider all the information relating to your claim and make a decision in accordance with the FEG Act. If the decision maker considers that further information and assessment is required we may contact you or the insolvency practitioner to request more information.

Decision

After a decision has been made about your claim you will be notified in writing of the outcome. The outcome letter will outline the decision, the reasons for the decision and your rights to have the decision reviewed.

Payment of your FEG claim

If you are eligible for FEG assistance and the Department of Employment and Workplace Relations (the department) approves your payment, the department will generally pay your FEG payment directly into the account you nominated on your claim form after deducting the appropriate amount of tax and other relevant payments (such as child support payments).

When completing your FEG claim form, you will need to advise the department whether you wish to provide your tax file number (TFN) or claim an exemption from providing it and, if so, provide a completed TFN declaration.

The department is authorised to collect your TFN under the *Taxation Administration Act 1953*. You are not required to provide your TFN; however the department is required to withhold tax from your FEG assistance at the top marginal rate (currently 47 percent) if you do not provide your TFN or claim a relevant exemption on a TFN declaration.

Disagree with our decision?

If you do not agree with our decision, or if you have additional information that may change our decision, you have the right to have the decision reviewed. Your rights of review are set out in the FEG Act and are explained in your outcome letter.

For more information please refer to the [Reviewing a FEG decision](#) fact sheet available on the [FEG website](#) (www.dewr.gov.au/fair-entitlements-guarantee).

Want more information?

You can contact the FEG Hotline if you would like more information about how your FEG claim will be assessed.

To contact the FEG Hotline:

- phone 1300 135 040
Mon - Fri, 9 am - 5 pm (AEST/ADST)
- email FEG@dewr.gov.au

If you speak a language other than English, please call the Translating and Interpreting Service (TIS) on 13 14 50 for free help anytime. If you speak an Indigenous language, please call the Aboriginal Interpreter Service on 1800 334 944. Further information is also available on the [FEG website](#) (www.dewr.gov.au/fair-entitlements-guarantee).

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What assistance can FEG provide?

This fact sheet provides information about what assistance is available under the Fair Entitlements Guarantee (FEG). FEG is a legislative safety net scheme of last resort with assistance available for eligible employees. The scheme provides financial assistance to eligible employees who have lost their job due to the liquidation or bankruptcy of their employer and who are owed employee entitlements which are not able to be paid by their employer or from another source.

The FEG Act

Decisions about eligibility for FEG assistance are made in accordance with the [Fair Entitlements Guarantee Act 2012](#) (FEG Act). FEG may apply to a person if their employer enters liquidation or bankruptcy (known as an 'insolvency event') and the person has certain unpaid employment entitlements owing to them. For more information about eligibility requirements for FEG please refer to the [Eligibility for FEG assistance](#) fact sheet available on the [FEG website](#).

What assistance is available?

Under the FEG Act, the Department of Employment and Workplace Relations (the department) can pay what is owed to you under your existing terms and conditions of employment for the entitlements listed below. Some entitlements are subject to maximum thresholds as set out in the relevant sections ('s.') of the FEG Act.

- **wages** – up to 13 weeks (see s. 5 and s. 24)
- **annual leave** (see s. 20)
- **long service leave** (see s. 21)
- **payment in lieu of notice** – up to 5 weeks (see s. 22)
- **redundancy pay** – up to 4 weeks per full year of service (see s. 23) – note the governing instrument that provides for your redundancy entitlement may also specify an upper limit

FEG does not cover unpaid superannuation guarantee amounts. If you have unremitted superannuation guarantee amounts you should contact the insolvency practitioner managing your former employer's affairs to discuss your rights as an employee creditor.

Working out the amount of assistance FEG will pay

FEG assistance for unpaid entitlements is calculated based on your existing terms and conditions of employment (eg: industrial award, enterprise agreement, contract of employment, National Employment Standards).

The department liaises with the insolvency practitioner managing the affairs of your employer to obtain as much information as possible on:

- your circumstances with the insolvent employer
- your salary/wage rate
- what entitlements have been left unpaid
- whether your employer has sufficient funds to pay those entitlements within a reasonable period.

The department will not pay FEG assistance for amounts that you have already been paid or amounts that are payable by another party (see s. 19 of the FEG Act). For example, if you are entitled to redundancy pay and your employer contributed to an industry redundancy fund, your unpaid redundancy should be paid by that fund and will not be paid under FEG. Similar arrangements may apply in some states or industries for long service leave.

FEG maximum weekly wage

When calculating the amount of FEG assistance payable, the FEG maximum weekly wage is applied. If you earn more than the maximum weekly wage, your FEG assistance can only be paid at the maximum weekly wage capped rate (\$2,673 between 1 July 2023 and 30 June 2024).

The remaining unpaid entitlement for the portion of wages over the maximum weekly wage cap can be claimed from the insolvent estate.

Recently agreed changes in terms and conditions

Any favourable changes to your terms and conditions of employment within 6 months of your employment ending or the appointment of an insolvency practitioner may be disregarded (see s. 25). If the department considers it was not reasonable to expect that your employer would have been in a financial position to satisfy improved conditions, the amount of FEG assistance may be calculated as if the terms and conditions had not been changed.

Other things that may affect the amount of FEG assistance paid

Under the FEG Act, the amount of FEG assistance payable may be reduced by any debts you owe your former employer (see s. 17).

FEG assistance may also not be payable in circumstances where the insolvency practitioner expects to have sufficient funds to pay your employment entitlements in full within 112 days of you lodging an effective claim or the date of the insolvency event (whichever is later) (see s. 18).

How can you help?

You should provide all the information and documents requested in the FEG claim form to establish that you meet the eligibility conditions.

For more information about the type of information you should provide please refer to the [How do I apply for FEG assistance](#) fact sheet.

The department will try to obtain as much information as possible from the insolvency practitioner about what you are owed. Sometimes, particularly if your employer had poor books and records, other information from your own records will be needed. If we contact you to ask for more information, getting that information to us quickly will help us to finalise your claim quickly.

Want more information?

You can contact the FEG Hotline if you would like more information about eligibility for FEG assistance.

To contact the FEG Hotline:

- phone 1300 135 040
Monday - Friday, 9am - 5pm (AEST/ADST)
- email FEG@dewr.gov.au

If you speak a language other than English, call the Translating and Interpreting Service (TIS) on 13 14 50 for free help anytime. If you speak an Indigenous language, call the Aboriginal Interpreter Service on 1800 334 944.

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