



**DYLAN O’SULLIVAN EARTHMOVING LIMITED
(IN LIQUIDATION)
 (“Company”)**

Company number: 5864180

New Zealand Business Number: 9429042112310

Liquidators’ Final Report to Creditors and Shareholders

1. Introduction

Iain Bruce Shephard and Jessica Jane Kellow, Licensed Insolvency Practitioners of BDO Wellington, (Registration Numbers: IP71 and IP75 respectively) were appointed joint and several liquidators (“Liquidators”) of Dylan O’Sullivan Earthmoving Limited (“Company”) on 12 March 2021 at 9:00am by special resolution of the shareholders in accordance with section 241(2)(a) of the Companies Act 1993 (“the Act”).

In addition to our statutory obligations, we are also bound by the RITANZ Code of Professional Conduct (“Code”) when carrying out all professional work relating to our appointment as Liquidators.

In accordance with sections 257(1)(a)(i) and 257(1)(c) of the Act we are obliged to report to all creditors, shareholders, and the Registrar that the liquidation has been completed. This report should be read in conjunction with our previous reports pursuant to section 255(2)(d) of the Act.

2. Restrictions

This report is not intended for general circulation, nor is it to be reproduced or used for any purpose other than that outlined above without our written permission in each specific instance.

We do not assume any responsibility or liability for any losses occasioned to any party as a result of the circulation, publication, reproduction or use of this report contrary to the provisions of this paragraph.

We reserve the right (but will be under no obligation) to review this report and if we consider it necessary to revise the report in the light of any information existing at the date of this report which becomes known to us after that date.

3. Background

The Company traded as an earthmoving contractor, operating out of their site in Elsdon, Porirua. The Company employed 13 people at the date of liquidation.

The Company predominately worked for several residential developers in the Wellington region undertaking subdivision section work and landscaping.

The liquidators met with the directors in February to discuss the solvency of the Company and options that may be available to restructure the business. Following a review, it appeared the Company was burdened by too much historical debt to enable a successful restructure. The historical trading losses have arisen from poor gross profit margins and significant repairs and maintenance costs.

Following professional advice, the shareholders resolved to place the Company into liquidation.

4. Liquidators' Actions

The Liquidators advertised their appointment in the relevant publications and made a call for creditor claims. The Liquidators also directly contacted all known creditors and answered any queries they may have had. The Liquidators subsequently reviewed all completed creditor claim forms received.

The Liquidators have liaised with many parties including Inland Revenue, the Companies Office, the New Zealand Gazette and the Accident Compensation Corporation, and completed a review of all information received.

The Liquidators assessed whether the Company was in a position to complete the work in progress. Unfortunately, it was not realistic for any work to continue and as such the contracts were disclaimed and the staff were subsequently terminated.

All of the assets were cleared from the leased premises and transferred to a yard that agreed to store them while a sales process was undertaken. The Company also had assets stored at a yard in Kaitoke and some at the director's property that were transferred later. A full asset register was reconciled and catalogued. Turners Auctions were then engaged to complete a fleet valuation.

The Liquidators initially conducted a private sale for a lot of the Company's heavy machinery and attended viewings with parties that had showed interest. Once the private sales had concluded, all remaining assets were delivered to Turners Auctions.

All Company debtors were contacted and balances were successfully collected.

4.1. Schedule of Receipts and Payments

Attached as **Appendix 1** is a schedule of receipts and payments for the duration of the liquidation.

Attached as **Appendix 2** is a remuneration schedule covering the duration of the liquidation.

4.2. Asset Realisations

Plant & Equipment

The Company's plant and equipment consisted of several excavators, trucks, trailers, and a large amount of earthmoving equipment such as compactors, augers, lasers and tools.

The fixed assets were sold for of \$1,222,566 including GST (prior to auction commission and other expenses). All assets were subject to security as discussed further below.

Debtors

At the date of appointment, the Company's records indicated an accounts receivable balance of \$204,601. Some of the invoices were written off due to incomplete or incorrect work undertaken, or were offset against balances owed to the debtor. \$183,421 including GST was collected from the Company's debtors.

4.3. Creditor Claims

Secured Creditors

Secured creditors were contacted to provide documentation supporting their financing statement registrations. Arrangements were made with those with sufficient documentation to collect the goods pursuant to their securities.

Porter Finance Limited held security interests against a Bomag Roller and a Skidsteer. In total, Porter Finance Limited were repaid \$107,845 following the sale of these assets settling their debt in full.

UDC Finance Limited and Oxford Finance Limited both had specific security against an asset and were repaid in full \$23,163 and \$16,216 respectively following the sale of their respective asset.

Kiwi Asset Finance Limited held the first ranking general security agreement and several specific securities. At the date of liquidation they were owed approximately \$1.16m. Distributions totalling \$809,471 were paid to Kiwi Asset Finance Limited following the sale of the Company's assets.

Four other secured creditors filed claims totalling \$73,683 mostly relating to the supply of inventory. No inventory was on hand upon the liquidators' appointment and as such these claims were treated as unsecured.

Preferential Creditors

The Liquidators received 14 preferential claims from employees relating to holiday pay and wages totalling a gross amount of \$40,459. These amounts have been paid in full.

A preferential claim was also filed from Inland Revenue valued at \$255,600. A distribution of approximately 13 cents in the dollar was made towards this claim.

Unsecured Creditors

Excluding residual balances from secured creditors, the Liquidators received 21 unsecured claims totalling \$337,706. Included in this is a claim from Inland Revenue of \$43,210.

4.4. Other Matters

The preferential and unsecured creditors' claims were unable to be satisfied in full due to a shortfall in the realisation of the Company's assets.

The final remaining balance owed to creditors that filed a claim is outlined below:

Secured creditors -	\$459,788
Preferential creditors -	\$222,100
Unsecured creditors -	\$337,706

5. Liquidators' Statement

All known assets have been disclaimed, or realised, or distributed without realisation.

All proceeds of realisation have been distributed.

The Company is ready to be removed from the New Zealand Register of Companies.

For the purposes of regulation 9(g) of the Companies (Reporting by Insolvency Practitioners) Regulations 2020, the liquidation of the Company is completed at the date and time the notice is provided to the Registrar of Companies.

6. Removal from New Zealand Register of Companies

As Liquidators, we are obliged to give public notice of the intention to have the Company removed from the Register of Companies. A copy of our notice is attached as **Appendix 3**.

The attention of all creditors and shareholders is drawn to section 321 of the Act which provides that, where public notice is given of an intention to remove a company from the Register, any person may send or deliver to the Registrar, not later than the date specified in the notice, an objection to the removal on any one or more of the following grounds:

- (a) That the company is still carrying on business or there is other reason for it to continue in existence; or

- (b) That the company is party to legal proceedings; or
- (c) That the company is in Receivership, or Liquidation, or both; or
- (d) That the person is a creditor, or a shareholder, or a person who has an undischarged claim against the company; or
- (e) That the person believes that there exists, and intends to pursue, a right of action on behalf of the company under Part IX of this Act; or
- (f) That for any other reason, it would not be just and equitable to remove the company from the New Zealand register.

Creditors and shareholders should be aware of section 321(2)(b)(ii) of the Act which provides that a claim by a shareholder or any other person against a company is not an “undischarged claim” if a receiver or liquidator has notified the shareholder or that person that the company has no surplus assets.

7. Contact information

If you require any further information, please direct enquiries to:

Ryan Kilkolly
DDI: (+64 4) 472 5812
Email: ryan.kilkolly@bdo.co.nz

BDO Wellington
PO Box 10-340
Level 1, Chartered Accountants Building
50 Customhouse Quay
Wellington

Dated this 5th day of April 2022



JESSICA KELLOW
Liquidator

Appendices

- Appendix 1 - Statement of Receipts and Payments
- Appendix 2 - Remuneration Schedule
- Appendix 3 - Notice of Intention to Remove

APPENDICES

Appendix 1 - Statement of Receipts and Payments

Dylan O'Sullivan Earthmoving Limited (in Liquidation)	
Summary of Receipts & Payments	
12 March 2021 - 5 April 2022	
\$	
RECEIPTS	
Accounts Receivable	187,210
GST Refund - Yet to be Received	723
GST Refunds	2,803
Interest	44
Miscellaneous Deposits	71
Sale of Assets	1,222,566
Total Receipts	1,413,418
PAYMENTS	
Auctioneers Commission	39,031
Accounting	2,070
Inland Revenue - GST	157,528
Inland Revenue - PAYE	14,068
Insurance	14,091
Legal Fees	7,180
Liquidators' Costs and Disbursements	151,134
Preferential Holiday Pay	26,391
Resident Withholding Tax	15
Secured Creditor Distributions	956,695
Site Clearance	500
Storage	380
Preferential Creditor Distribution	33,500
Valuation Costs	8,740
Vehicle Expenses	2,097
Total Payments	1,413,418
Cash on hand	-



Appendix 2 - Remuneration Schedule

Dylan O'Sullivan Earthmoving Limited (In Liquidation)

Remuneration Report - Period: 12 March 2021 - 5 April 2022

	Hourly Rate (\$)	Assets		Company Records		Creditors		Day One/Initial Tasks		Debtors		Employees		Financial	
		Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours
Partners	395 - 495	19,818.25	41.35	-	-	791.25	1.75	11,328.75	24.25	2,336.25	5.25	890.00	2.00	6,436.57	14.02
Managers	195 - 325	2,437.50	7.50	-	-	162.50	0.50	1,137.50	3.50	81.25	0.25	568.75	1.75	81.25	0.25
Analysts	110 - 295	16,212.50	81.00	112.50	0.50	2,840.00	13.25	708.75	3.25	112.50	0.50	4,660.00	22.50	1,365.00	6.50
Finance / Administration	195	243.75	1.25	-	-	341.25	1.75	2,388.75	12.25	-	-	48.75	0.25	5,554.25	28.48
Support Staff	100	-	-	-	-	-	-	-	-	-	-	-	-	-	-
		38,712.00	131.10	112.50	0.50	4,135.00	17.25	15,563.75	43.25	2,530.00	6.00	6,167.50	26.50	13,437.07	49.25

	Hourly Rate (\$)	Admin/General		Litigation		On-Going Trading		Planning/Review		Secured Creditors		Reporting		Total	
		Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours
Partners	395 - 495	6,133.75	13.25	2,970.00	6.00	-	-	3,128.75	6.75	2,621.25	5.75	2,708.75	5.75	59,163.57	126.12
Managers	195 - 325	-	-	-	-	-	-	1,056.25	3.25	7,718.75	23.75	155.00	0.50	13,398.75	41.25
Analysts	110 - 295	1,767.50	8.75	-	-	-	-	1,517.50	7.50	7,878.75	35.25	3,998.75	18.25	41,173.75	197.25
Finance / Administration	195	7,286.50	37.37	-	-	-	-	-	-	731.25	3.75	48.75	0.25	16,643.25	85.35
Support Staff	100	-	-	-	-	-	-	-	-	-	-	-	-	-	-
		15,187.75	59.37	2,970.00	6.00	-	-	5,702.50	17.50	18,950.00	68.50	6,911.25	24.75	130,379.32	449.97

Disbursements	Costs
Advertising	407.34
Miscellaneous	186.56
Overheads	-
Travel Costs	602.26
Total	1,196.16

Note: The hours and costs shown in the table above are the actual WIP totals to date. All totals are exclusive of GST. Payment of \$131,421 (excl. GST) has been received on account for both fees and disbursements.



Appendix 3 - Notice of Intention to Remove

DYLAN O’SULLIVAN EARTHMOVING LIMITED (IN LIQUIDATION)
Company Number: 5864180
(“the Company”)

Notice of Intention to Remove Company from Register
(Pursuant to Section 320 of the Companies Act 1993)

We, Iain Shephard and Jessica Kellow, joint and several liquidators of the Company whose registered office is situated at:

BDO Wellington
PO Box 10-340
Level 1, Chartered Accountants Building
50 Customhouse Quay
Wellington

Hereby give notice that pursuant to section 318(1)(e) of the Companies Act 1993, and having filed with the Registrar our final report on the liquidation, it is intended to remove the Company from the New Zealand register.

Any objection to the removal pursuant to section 321 of the Companies Act 1993 must be delivered to the Registrar no later than 28 April 2022.

DATED this 7TH Day of April 2022.

A handwritten signature in blue ink, appearing to read 'Kellow', written in a cursive style.

JESSICA KELLOW
Liquidator