

# Explanatory Statement

Hills Limited (Subject to Deed of Company  
Arrangement) ACN 007 573 417  
(Hills)

13 October 2023

## Explanatory Statement to shareholders and Independent Expert's Report

This Explanatory Statement provides information to the shareholders (**Shareholders**) of Hills Limited (Subject to Deed of Company Arrangement) ACN 007 573 417 (**Hills**) in respect of the deed of company arrangement entered into by the Hills Group Companies, Starplex International Pty Limited ACN 161 564 834 (**Starplex**) and the Deed Administrators on 23 August 2023 (**DOCA**).

It is a condition to completion and effectuation of the DOCA that the Deed Administrators obtain a Court order under section 444GA(1)(b) of the *Corporations Act 2001* (Cth) (**Act**) granting leave to the Deed Administrators to transfer all of the Hills Shares to Starplex or its nominee for no consideration. The Deed Administrators have made an application for this order in the Supreme Court of New South Wales (**Section 444GA Application**).

On 9 October 2023, the Supreme Court of New South Wales made procedural orders in relation to the Section 444GA Application, which included timetabling directions for the filing of notices of appearance by any interested parties and confirmation of the final hearing date (**Procedural Orders**).

The Section 444GA Application has been listed for a final hearing on 24 October 2023 at 10:00am AEDT in the Supreme Court of New South Wales.

If you wish to appear at the Court hearing and/or oppose the Section 444GA Application, you may do so by filing with the Court, and serving on the Deed Administrators and ASIC, a notice of appearance in the prescribed Court form indicating the grounds of opposition by no later than 4:00pm AEDT on 20 October 2023.

**Shareholders should consider the Independent Expert's Report in full before deciding whether to take any action in relation to the Section 444GA Application. If you are in any doubt as to the action you should take, you are recommended to obtain your own personal legal or financial advice from your legal or other professional adviser(s).**

A copy of the Explanatory Statement (including the Independent Expert's Report) has been provided to ASIC prior to the issuance of this Explanatory Statement. Neither ASIC nor any of its officers take any responsibility for its contents.

## Key information for Shareholders

Capitalised terms used in this Explanatory Statement have the meanings defined in the Glossary in Schedule 1, unless the context requires otherwise or unless a term has been defined in the text of the Explanatory Statement, and a word importing the singular includes the plural (and vice versa).

## 1 Purpose of the Explanatory Statement

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This document is an Explanatory Statement issued by Hills in connection with the DOCA. If the Section 444GA Order is made and the DOCA is completed, all of your shares in Hills will be transferred to Starplex or its nominee for no consideration, and you will cease to own those shares.

Section 4 of this report contains further information regarding the DOCA.

This Explanatory Statement contains information about:

- (a) the Section 444GA Application to the Court for approval to transfer all of the Hills Shares to Starplex or its nominee as part of the DOCA;
- (b) the steps that you need to take if you wish to appear at the Court hearing in respect of the Section 444GA Application, which has been listed for hearing on 24 October 2023 at 10:00am AEDT;
- (c) the effect of the DOCA on you as a Shareholder, in order to assist you in deciding whether to take action in respect of the Section 444GA Application; and
- (d) the requirement to apply for and obtain from ASIC such exemptions or modifications from the takeover requirements of Chapter 6 of the Act as are necessary to enable the transfer of all of the shares in Hills to Starplex in the Section 444GA Application (**ASIC Relief**).

An Independent Expert's Report prepared by the Expert, which contains an objective valuation of the Hills Shares, is attached to this document as **Attachment 1**.

## 2 Administration of the Hills Group Companies

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On 2 June 2023, Sule Arnautovic and John Vouris were appointed as joint and several administrators of the following Hills Group Companies pursuant to section 436C of the Act, by AMAL Security Services Pty Ltd as trustee for Causeway Wholesale Private Debt Master Fund (a creditor entitled to enforce a security interest over the whole, or substantially whole of Hill's property):

- (a) Hills;
- (b) Hills Finance Pty. Ltd. ACN 007 527 040;
- (c) Hills Integrated Solutions Pty Ltd ACN 000 376 394;
- (d) Lan 1 Pty Ltd ACN 159 863 779;
- (e) T.V Rentals Pty Ltd ACN 009 701 213;
- (f) New-Tone (Aust.) Pty. Ltd. ACN 009 753 637;
- (g) Audio Products Group Pty Limited 054 550 499;
- (h) Hospital Telecommunications Pty Ltd ACN 061 558 245; and
- (i) ACN 614 478 090 Pty Limited ACN 614 478 090.

Reference in this Explanatory Statement to the 'Administrators', is reference to the Deed Administrators acting in that (former) capacity.

The Administrators were also appointed as joint and several administrators of Hills' wholly-owned subsidiary, Hills Health Solutions Pty Ltd ACN 100 173 715 (**Hills Health**) on 2 June 2023 pursuant to a resolution of the sole Director, Mr David Clarke, in accordance with section 436A of the Act.

Further, on 9 June 2023, the Administrators were appointed as joint and several administrators of Hills' wholly-owned subsidiaries, Pacom Security Pty Ltd ACN 096 595 005 and Hills Group Operations Pty Ltd ACN 600 152 261 pursuant to a resolution of the sole director in accordance with section 436A of the Act.

Seven Australian subsidiaries of Hills – EMG Finance Pty Ltd, Step Electronics 2005 Pty Ltd, Hills Technology Solutions Pty Ltd, Hills Share Plans Pty Ltd, Hills Group Employees Share Plan Pty Ltd, ACN 607 134 869 Pty Ltd and Extensia Pty Ltd – are not the subject of any kind of external administration and do not have any assets or liabilities.

Hills NZ Limited (Company No. 53489), a wholly-owned subsidiary of Hills Finance Pty Ltd. ACN 007 527 040, is not the subject of any kind of external administration and continues to trade.

Hills is a public company and was formerly listed on the Australian Securities Exchange (**ASX**). Hills was removed from the ASX official list with effect from close of trading on 28 August 2023.

When the Hills Group Companies entered into administration on 2 June 2023, the companies owed approximately \$19.6 million to unrelated third party creditors, including but not limited to secured creditors, priority employee creditors, and unsecured creditors.

We refer to section 5.6 of the Administrators' Section 75-225 Part One Report, which provides a detailed overview of the Hills Group Companies' creditors, including financial creditors, employees and others.

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### **3 Sale process and formulation of the DOCA**

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Following their appointment, the Administrators commenced a sale of business campaign for the Hills and Hills Health Solutions Pty Ltd businesses (**Sale Process**). Expressions of interest were sought on the basis of the following transactions:

- Deed of company arrangement/creditors' trust.
- Merger/integration opportunity.
- Purchase of business including goodwill, brand, intellectual property, receivables, equipment and inventory.
- All other proposed options would be considered.

From the 13 non-binding indicative offers received from interested parties, seven parties were shortlisted. The shortlisted parties conducted further due diligence and meetings with management with a view to submitting a final offer for the sale/restructure of the Hills Group Companies.

On 17 July 2023, the Administrators received four final offers from shortlisted parties. A summary of the offers is as follows:

- One party sought to acquire the whole of the business and assets of the Hills Group Companies by way of a deed of company arrangement/creditors' trust.

- Two parties proposed to acquire the business of Hills and Hills Health Solutions Pty Ltd by way of an agreement for a sale of business/assets.
- One party sought to acquire the ASX listed shell of Hills only.

Upon review of all offers received, the Administrators agreed to formally consider for recommendation an offer from Starplex to acquire the whole of the business and assets of the Hills Group Companies by way of a deed of company arrangement/creditors' trust. In the Administrators' view the proposal put forward by Starplex provided for a superior return to all creditors of the Hills Group Companies and secured the ongoing employment of the vast majority of employees.

An overview of the Sale Process is provided in section 8.0 of the Administrators' Section 75-225 Part One Report and section 4.0 of the Administrators' Section 75-225 Part Two Report.

As set out in the Administrators' Section 75-225 Part Two Report, the Administrators recommended that creditors vote in favour of the DOCA proposed by Starplex.

## **4 Key information in relation to the DOCA**

### **4.1 Overview**

At the Second Meeting, the creditors of the Hills Group Companies resolved that the Hills Group Companies enter into the DOCA and that the Administrators be appointed as joint and several deed administrators.

The DOCA was executed by all parties on 23 August 2023 and it is intended to compromise certain claims of creditors of the Hills Group Companies that arose on or prior to 2 June 2023, except in respect of Pacom Security Pty Ltd and Hills Group Operations Pty Ltd, in which case on or prior to 9 June 2023.

The DOCA contemplates that the Deed Administrators will transfer all of the Hills Shares to Starplex or its nominee, free and clear of any encumbrances, on the condition that the orders sought by the Deed Administrators pursuant to the Section 444GA Application are made by the Court.

### **4.2 Conditions**

Completion of the DOCA is conditional upon the satisfaction of certain Conditions, including:

- (a) the Deed Administrators obtaining ASIC Relief;
- (b) the Deed Administrators obtaining a Section 444GA Order;
- (c) transfer of the Hills Shares to Starplex or its nominee; and
- (d) the Deed Administrators, the Trustees and the Hills Group Companies executing the Trust Deed.

### **4.3 Effects of the DOCA**

The key effects of the DOCA include:

- (a) the establishment of the Hills Group Creditors' Trust, whereby upon completion of the DOCA, all eligible creditors' claims against the Hills Group Companies will transfer to the Hills Group Creditors' Trust and a dividend will be paid in respect of those eligible creditor claims to satisfy those claims;

- (b) any Shareholder claims which are subordinated to the claims of other unsecured creditors under the Act will be extinguished, and Shareholders are not eligible to receive a dividend from the Hills Group Creditors' Trust in respect of those claims;
- (c) Starplex would assume control and continue to trade the business as a going concern; and
- (d) the Hills Group Companies will cease to comply with, and will not perform certain of its contracts that were entered into by the Hills Group Companies before the appointment of the Administrators and completion of the DOCA will therefore treat these contracts as coming to an end.

If the conditions precedent under the DOCA are satisfied and completion occurs under the DOCA, Starplex will continue to operate the Hills Group Companies business as a going concern.

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## **5 Independent Expert's Report**

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As noted above, the Section 444GA Application has been commenced by the Deed Administrators in the Supreme Court of New South Wales seeking leave of the Court pursuant to section 444GA(1)(b) of the Act for the transfer of the Hills Shares to Starplex or its nominee.

Under subsection 444GA(3) of the Act, the Court may only grant leave to transfer the Hills Shares to Starplex or its nominee if it is satisfied that the transfer would not unfairly prejudice the interests of the Shareholders. The Deed Administrators intend to rely on the Independent Expert's Report when addressing the issue of unfair prejudice before the Court.

The Expert was engaged to provide an independent opinion on whether the Share Transfer would unfairly prejudice the Shareholders. This involved the Expert valuing the Hills Shares on the liquidation value of the business of Hills as a whole (see ASIC regulatory guide 111.77). Where there is a residual business that could be sold, the Expert is to consider the value of that business and not just the assets and other undertakings that comprise that business interest. The Expert's analysis of the value of assets and liabilities has been undertaken as at 30 September 2023 (**Valuation Date**).

The Independent Expert's Report will be relied upon by the Deed Administrators for the purpose of the Section 444GA Application and also for the purpose of applying for ASIC Relief. See **Attachment 1** for a full copy of the Independent Expert's Report. Shareholders (and their advisers and any other interested parties) should read the Independent Expert's Report carefully and in its entirety.

By way of summary, the key findings of the Expert, as set out in the Independent Expert's Report, is that based on the Expert's assessment that there is a material shortfall of assets available to meet the claims against Hills, with Hills having a negative equity position of between \$11.6 million and \$15.9 million, it is the Expert's opinion that the shares in Hills have nil value as at the Valuation Date.<sup>1</sup>

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<sup>1</sup> See Independent Expert's Report at sections 2.1, 2.2 and 5.1.

## 6 ASIC Relief

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### 6.1 Overview

Section 606 of the Act prohibits a person from acquiring a relevant interest in a listed company or an unlisted company with more than 50 members if, as a result of that acquisition, that person's, or someone else's, voting power in the entity increases from 20% or below to more than 20%, or from a starting point that is above 20% and below 90%, unless the acquisition falls within one of the exceptions set out in section 611.

The DOCA provides that, if the Section 444GA Application is approved, (amongst other conditions), Starplex will acquire 100% of the shares in Hills. Accordingly, the transfer of shares pursuant to the Section 444GA Application would increase Starplex's voting power in Hills from less than 20% to more than 20%.

In the absence of any relief from ASIC, the transfer would be prohibited under section 606 of the Act. For this reason, it is necessary to apply ASIC for such exemptions or modifications from the requirements of Chapter 6 of the Act as are necessary to enable the share transfer to proceed.

A copy of this Explanatory Statement has been provided to ASIC for the purposes of the application for ASIC Relief. The application for ASIC Relief is made separately to the Deed Administrators' Section 444GA Application.

## 7 Section 444GA Application

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### 7.1 Overview

The Section 444GA Application has been filed in the Supreme Court of New South Wales. A copy of the Originating Process filed by the Deed Administrators is provided as **Attachment 4** of this Explanatory Statement. On 9 October 2023, the Court made the Procedural Orders pursuant to which:

- (a) a timetable was set for the preparation of the matter for final hearing, which includes the dates by which any interested person (including any Shareholder who wishes to oppose the Section 444GA Application) must file with the Court and serve on the Deed Administrators and ASIC a notice of appearance in the prescribed form and indicating the ground of opposition, being no later than 4:00pm AEDT on 20 October 2023; and
- (b) the final hearing date and time was set for 10:00am AEDT on 24 October 2023.

A copy of the Procedural Orders is provided as **Attachment 5** of this Explanatory Statement. If you wish to appear at and/or oppose the Section 444GA Application at the final hearing, you will need to file with the Court and serve on the Deed Administrators and ASIC a notice of appearance in the prescribed Court form and indicate your grounds of opposition. Pursuant to paragraph 5 of the Procedural Orders, any appearance and grounds of opposition must be filed and served by an interested party who wishes to oppose the Section 444GA Application at the final hearing by no later than 4:00pm AEDT on 20 October 2023.

The Deed Administrators will accept service of any appearance at Mills Oakley, Level 7, 151 Clarence Street, Sydney NSW 2000 (Attention: Peter Hodges and David Armstrong) or [phodges@millsoakley.com.au](mailto:phodges@millsoakley.com.au) and [darmstrong@millsoakley.com.au](mailto:darmstrong@millsoakley.com.au).



## 7.2 Important Dates

We draw your attention to the following key dates in relation to the Section 444GA Application

Event	Date
Notice of appearance and grounds of opposition to be served by any Shareholder (or other interested person) seeking to appear at the hearing of the Section 444GA Application	4:00pm AEDT on 20 October 2023
Hearing date for the Section 444GA Application	10:00am AEDT on 24 October 2023
Proposed date for the Share Transfer	27 October 2023

*The dates, including the proposed hearing date, may be subject to any further directions made by the Court.*

## 7.3 What will happen if the Section 444GA Order is not made?

As the Section 444GA Order is one of the Conditions (see section 4.2 above) to completion of the DOCA, the DOCA will not be effectuated if the Section 444GA Order is not made. In those circumstances, should the Deed Administrators elect not to appeal, or should any such appeal fail, the Deed Administrators will convene a meeting of the creditors of the Hills Group Companies to determine the future of the Hills Group Companies. If this occurs the Deed Administrators will require further funding in order to continue to operate the business of the Hills Group Companies. In the absence of further funding, or an alternate transaction capable of completing, the Hills Group Companies will be placed into liquidation.

## 7.4 Effect of the Section 444GA Order on Shareholders

If the Section 444GA Order is made and the DOCA is fully implemented, all of your shares in Hills will be transferred by the Deed Administrators to Starplex or its nominee and you will not receive any money or form of consideration.

## 7.5 Australian income tax consequences

This section of the Explanatory Statement is provided as general information for Shareholders who are Australian resident taxpayers holding their Hills Shares on capital account, not as trading stock, and who are not subject to the Taxation of Financial Arrangements rules in Division 230 of the *Income Tax Assessment Act 1997* (Cth) for the purposes of calculating any gains or losses arising from financial arrangements. It does not take account of the circumstances of any individual Shareholder. Each Shareholder should seek its own tax advice on the consequences for it of the DOCA being effectuated.

Upon the effectuation of the DOCA, the Share Transfer will trigger a capital gains event (**CGT Event**) for Shareholders and may crystallise a capital loss. Depending upon each individual taxpayer's financial position and tax profile, this capital loss may be available to offset against the taxpayer's capital gains (if any) derived in the same tax year, potentially reducing any net capital gain for the tax year or resulting in a net capital loss which may be available for carry forward and use in offsetting future capital gains.



The Australian resident Shareholders who hold their Hills Shares on capital account will incur a capital loss to the extent the reduced cost base of the Hills Shares transferred exceeds the capital proceeds received for the Hills Shares.

The reduced cost base in the Hills Shares includes:

- (a) the acquisition cost of the Hills Shares;
- (b) incidental acquisition costs incurred to acquire and hold the Hills Shares;
- (c) expenditure incurred to increase or preserve the value of the Hills Shares; and
- (d) capital expenditure incurred to establish, preserve or defend their title to the Hills Shares.

Given the transfer will occur by way of Court order, the time of the CGT Event for Shareholders will be when the Share Transfer takes effect in accordance with the DOCA.

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## 8 ASIC Relief

As Hills is an unlisted Australian public company with more than 50 members, ASIC Relief will be required to enable completion of the Share Transfer.

The Deed Administrators have engaged with ASIC by providing a copy of this Explanatory Statement (in draft) along with additional information relevant to the relief being sought.

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## 9 What do you need to do now?

Shareholders (and their advisers and any other interested parties) should read this Explanatory Statement (including the documents referred to in this Explanatory Statement) in its entirety before making a decision regarding whether or not to take any action in relation to the Section 444GA Application.

Please note that this Explanatory Statement does not constitute financial product advice and has been prepared without reference to the investment objectives, financial situation, taxation position or particular needs of any and every Shareholder. Whether or not to take any action in relation to the DOCA or in respect of the Section 444GA Application is a decision for each individual Shareholder and may depend, amongst other things, on an assessment of the relevant Shareholder's individual financial circumstances.

Accordingly, as the professional, financial, legal and taxation consequences of such a decision may be different for each particular Shareholder, each Shareholder should seek professional, financial, legal and taxation advice before making a decision.

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## 10 What information is available to assist you?

To assist you in deciding whether to take any action in relation to the Section 444GA Application, this Explanatory Statement attaches copies of the following documents:

- (a) Independent Expert's Report as **Attachment 1**;
- (b) DOCA and Trust Deed as **Attachment 2**;
- (c) Administrators' Section 75-225 Report to Creditors as **Attachment 3**;
- (d) Originating Process filed by the Deed Administrators in relation to the Section 444GA Application as **Attachment 4**; and
- (e) Procedural Orders as **Attachment 5**.

Should you have any queries regarding this Explanatory Statement, the Independent Expert's Report, the Section 444GA Application or the Procedural Orders, please email Dave Kennedy at [djkennedy@hallchadwick.com.au](mailto:djkennedy@hallchadwick.com.au) and Jessica Webb at [JWebb@hallchadwick.com.au](mailto:JWebb@hallchadwick.com.au).

## Schedule 1 Glossary of terms

In this Explanatory Statement, capitalised terms have the meanings set out in the following table:

<b>Act</b>	<i>Corporations Act 2001</i> (Cth)
<b>ASIC</b>	Australian Securities and Investments Commission
<b>ASIC Relief</b>	ASIC granting an exemption pursuant to section 655A(1)(a) of the Act from the application of section 606 of the Act to permit the transfer of all of the Hills Shares to Starplex or its nominee
<b>Conditions</b>	The conditions set out in clause 3.1 of the DOCA
<b>Court</b>	Supreme Court of New South Wales
<b>Deed Administrators</b>	Sule Arnautovic and John Vouris of Hall Chadwick Chartered Accountants
<b>DOCA</b>	The deed of company arrangement entered into between the Hills Group Companies, Starplex and the Deed Administrators on 23 August 2023 annexed to this Explanatory Statement as <b>Attachment 2</b>
<b>Expert</b>	Jennifer Nettleton of KordaMentha Pty Ltd as trustee for the KM Unit Trust (ABN 36 220 576 038)
<b>Explanatory Statement</b>	This document as described in section 1
<b>Hills</b>	Hills Limited (Subject to Deed of Company Arrangement) ACN 007 573 417
<b>Hills Group Companies</b>	<ul style="list-style-type: none"> <li>(a) Hills</li> <li>(b) Hills Finance Pty Ltd (Subject to Deed of Company Arrangement) ACN 007 527 040</li> <li>(c) Hills Integrated Solutions Pty Ltd (Subject to Deed of Company Arrangement) ACN 000 376 394</li> <li>(d) Lan 1 Pty Ltd (Subject to Deed of Company Arrangement) ACN 159 863 779</li> <li>(e) T.V. Rentals Pty Ltd (Subject to Deed of Company Arrangement) ACN 009 701 213</li> <li>(f) New-Tone (Aust.) Pty Ltd (Subject to Deed of Company Arrangement) ACN 009 753 637</li> <li>(g) Audio Products Group Pty Limited (Subject to Deed of Company Arrangement) ACN 054 550 499</li> <li>(h) Hospital Telecommunications Pty Ltd (Subject to Deed of Company Arrangement) ACN 061 558 245</li> <li>(i) ACN 614 478 090 Pty Limited (Subject to Deed of Company Arrangement) ACN 614 478 090</li> <li>(j) Hills Health Solutions Pty Ltd (Subject to Deed of Company Arrangement) ACN 100 173 715</li> </ul>

	(k) Pacom Security Pty Ltd (Subject to Deed of Company Arrangement) ACN 096 595 005
	(l) Hills Group Operations Pty Ltd (Subject to Deed of Company Arrangement) ACN 600 152 261
<b>Hills Group Creditors' Trust</b>	Has the meaning given to the term 'Trust' as defined in the DOCA
<b>Hills Shares</b>	All the issued share capital of Hills
<b>Independent Expert's Report</b>	The report by the Expert as described in section 5 and as annexed to this Explanatory Statement as <b>Attachment 1</b>
<b>Second Meeting</b>	The second meeting of creditors of the Hills Group Companies held on 7 August 2023 in accordance with section 439A of the Act
<b>Section 75-225 Part One Report</b>	The report to creditors (part one of two) dated 6 July 2023 prepared by the Administrators in accordance with section 75-225 of the <i>Insolvency Practice Rules (Corporations) 2016</i> as annexed to this Explanatory Statement as <b>Attachment 3</b>
<b>Section 75-225 Part Two Report</b>	The report to creditors (part two of two) dated 28 July 2023, prepared by the Administrators in accordance with section 75-225 of the <i>Insolvency Practice Rules (Corporations) 2016</i> as annexed to this Explanatory Statement as <b>Attachment 3</b>
<b>Section 75-225 Report</b>	Together, the Section 75-225 Part One Report and Section 75-225 Part Two Report, prepared by the Administrators in accordance with section 75-225 of the <i>Insolvency Practice Rules (Corporations) 2016</i> as annexed to this Explanatory Statement as <b>Attachment 3</b>
<b>Section 444GA Application</b>	The application by the Deed Administrators pursuant to section 444GA of the Act as described in section 7
<b>Section 444GA Order</b>	The orders sought by the Deed Administrators pursuant to the Section 444GA Application
<b>Shareholders</b>	Means the shareholders of Hills as at the date of the Explanatory Statement
<b>Share Transfer</b>	The transfer of the Hills Shares to Starplex or its nominee pursuant to the DOCA
<b>Starplex</b>	Starplex International Pty Limited ACN 161 564 834
<b>Trustees</b>	Sule Arnautovic and John Vouris of Hall Chadwick Chartered Accountants in their capacity as trustees of the Hills Group Creditors' Trust
<b>Trust Deed</b>	The document entitled 'Hills Group Creditors' Trust Deed' between the Hills Group Companies, the Deed Administrators and the Trustees, substantially in the form of that contained in Schedule 1 to the DOCA

## **Attachment 1     Independent Expert's Report**

## **Attachment 2      DOCA and Trust Deed**

## **Attachment 3      Administrators' Section 75-225 Report**



## **Attachment 4    Originating Process**

## **Attachment 5      Procedural Orders**