

From: [Donna Spinks](#)
To: [Grant Whatley](#)
Cc: [Gavin Francis](#); [Lauren Hatton](#); [RL Legal](#)
Subject: FW: AGS Commercial Pty Limited - Application to become Eligible Applicant for Public Examination [HWLE-Matter.C0190225.1065821] [SEC=OFFICIAL]
Date: Thursday, 4 August 2022 9:48:00 AM
Attachments: [image004.gif](#)
[image005.png](#)
[image006.png](#)
[image007.jpg](#)
[20220804 - Authorisation Letter - Waratah on Alstonville Pty Ltd.pdf](#)

Dear Mr Whatley

Letter attached.

Yours sincerely
Donna Spinks

Donna Spinks

Lawyer
Registered Liquidators Team
Australian Securities and Investments Commission
Level 7, 120 Collins Street, Melbourne, 3000
Tel: +61 3 9280 4732
donna.spinks@asic.gov.au

ASIC logo



Note: I work Monday, Tuesday and Thursday, Friday

From: Donna Spinks <Donna.Spinks@asic.gov.au>
Sent: Wednesday, 3 August 2022 11:23 AM
To: Gavin Francis <gfrancis@hwle.com.au>; Jennifer Fine <Jennifer.Fine@asic.gov.au>
Cc: RL Legal <RL.Legal@asic.gov.au>; Grant Whatley <gwhatley@hwle.com.au>; Lauren Hatton <lhatten@hwle.com.au>
Subject: RE: AGS Commercial Pty Limited - Application to become Eligible Applicant for Public Examination [HWLE-Matter.C0190225.1065821] [SEC=OFFICIAL]

Dear Mr Francis

Ms Fine has recently left the Registered Liquidators Team and I now have carriage of this matter.

We do not require any further information from you at this time and anticipate we'll have a decision by the end of next week.

Yours sincerely
Donna Spinks

Donna Spinks

Lawyer
Registered Liquidators Team
Australian Securities and Investments Commission
Level 7, 120 Collins Street, Melbourne, 3000
Tel: +61 3 9280 4732
donna.spinks@asic.gov.au

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From: Gavin Francis <gfrancis@hwle.com.au>

Sent: Tuesday, 2 August 2022 5:52 PM

To: Jennifer Fine <Jennifer.Fine@asic.gov.au>

Cc: RL Legal <RL.Legal@asic.gov.au>; Grant Whatley <gwhatley@hwle.com.au>; Lauren Hatton <lhatton@hwle.com.au>; Donna Spinks <Donna.Spinks@asic.gov.au>

Subject: AGS Commercial Pty Limited - Application to become Eligible Applicant for Public Examination [HWLE-Matter.C0190225.1065821]

Dear Ms Fine,

We refer to your email of 23 June 2022.

Can you please advise if ASIC requires any further details or information to consider our client's application to be an eligible application for the purposes of Division 1 of Part 5.9 of the Corporations Act 2001 (Cth).

We note there is no statutory timeframe within which ASIC has to make its decision in relation to the eligible applicant request. However, could you please provide an estimated timeframe within which you believe this application may be determined, so we can inform our clients accordingly.

If you would like to discuss, please do not hesitate to call.

We look forward to receiving your reply and thank you for your assistance.

Regards,

Gavin Francis
Senior Associate

HWLE



Level 14, Australia Square 264-278 George Street | Sydney NSW 2000
Phone +61 2 9334 8564
gfrancis@hwle.com.au | www.hwlebsworth.com.au

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From: Jennifer Fine <Jennifer.Fine@asic.gov.au>

Sent: Thursday, 23 June 2022 4:48 PM
To: Gavin Francis <gfrancis@hwle.com.au>
Cc: RL Legal <RL.Legal@asic.gov.au>
Subject: RE: AGS Commercial Pty Limited - Application to become Eligible Applicant for Public Examination [HWLE-Matter.C0190225.1065821] [SEC=OFFICIAL]

CAUTION: EXTERNAL EMAIL.

Dear Mr Francis

I am reviewing your application and will be in touch by early next week if we require any further information.

Kind regards

Jennifer Fine

Lawyer, Registered Liquidators Team

Australian Securities and Investments Commission

Level 20, 240 Queen St, Brisbane, 4000
Tel: +61 7 3867 4836 | Mob: +61 434 800 155
jennifer.fine@asic.gov.au



From: Gavin Francis <gfrancis@hwle.com.au>
Sent: Wednesday, 22 June 2022 12:11 PM
To: Donna Spinks <Donna.Spinks@asic.gov.au>
Cc: RL Legal <RL.Legal@asic.gov.au>; Grant Whatley <gwhatley@hwle.com.au>; Lauren Hatton <lhatton@hwle.com.au>
Subject: AGS Commercial Pty Limited - Application to become Eligible Applicant for Public Examination [HWLE-Matter.C0190225.1065821]

Dear Ms Spinks,

We refer to our initial letter of 18 March 2022 and note the appropriate filing fee was paid on 13 April 2022.

Can you please advise if ASIC requires any further details or information to consider our client's application to be an eligible application for the purposes of Division 1 of Part 5.9 of the Corporations Act 2001 (Cth).

We note there is no statutory timeframe within which ASIC has to make its decision in relation to

the eligible applicant request. However, could you please provide an estimated timeframe within which you believe this application may be determined, so we can advise our clients accordingly.

If you would like to discuss, please do not hesitate to call.

We look forward to receiving your reply and thank you for your assistance.

Regards,

Gavin Francis
Senior Associate

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From: Donna Spinks <Donna.Spinks@asic.gov.au>

Sent: Monday, 21 March 2022 3:34 PM

To: Gavin Francis <gfrancis@hwle.com.au>

Cc: Grant Whatley <gwhatley@hwle.com.au>; Lauren Hatton <lhatton@hwle.com.au>; RL Legal <RL.Legal@asic.gov.au>

Subject: FW: AGS Commercial Pty Limited - Application to become Eligible Applicant for Public Examination [HWLE-Matter.C0190225.1065821] [SEC=OFFICIAL]

Dear Mr Francis

To consider your client's request to be authorised by ASIC as an eligible applicant so that your client can undertake public examinations under Part 5.9 of the *Corporations Act 2001* (**Act**) please provide the following information:

1. documents confirming your client's relationship with the company. Given you have stated that your client is a creditor, please provide a copy of the proof of debt lodged with the liquidator, and documents to show that it was accepted by the liquidator;
2. the reasons for the proposed public examination;
3. the persons you wish to examine, their relationship to the company and why you think they can provide information about the Company's examinable affairs;
4. why the proposed public examination is for the benefit of the corporation, its creditors or contributories (*Wainter Pty Ltd, in the matter of New Tel Ltd* (in liq) ACN 009 068 955 [2005] FCAFC 114 at [248]);
5. why the proposed public examination will not be an abuse of process;
6. confirmation that your client does not have a conflict of interest in conducting the proposed public examinations;
7. where relevant, details of any current or anticipated court proceedings against any officers or related entities of the Company; and
8. why the matters your client proposes to examine fall within the examinable affairs of the Company (please see section 9 and 53 of the Act).

You may wish to read the following judgements regarding the authorisation of eligible applicant by ASIC:

- *Re Excel Finance Corporation Ltd John Frederick Worthley v Richard Anthony Fountayne England* [1994] FCA 1251 (paragraphs 40 - 47 may be of interest to you) available at: <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/1994/1251.html>
- *Wainter Pty Ltd, in the matter of New Tel Ltd* (in liq) ACN 009 068 955 [2005] FCAFC 114 available at: <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCAFC/2005/114.html>

Yours sincerely
Donna Spinks

Donna Spinks

Lawyer

Registered Liquidators Team

Australian Securities and Investments Commission

Level 7, 120 Collins Street, Melbourne, 3000

Tel: +61 3 9280 4732

donna.spinks@asic.gov.au

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From: Gavin Francis <gfrancis@hwle.com.au>

Sent: Monday, 21 March 2022 12:24 PM

To: Donna Spinks <Donna.Spinks@asic.gov.au>

Cc: Grant Whatley <gwhatley@hwle.com.au>; Lauren Hatton <lhatton@hwle.com.au>; RL Legal <RL.Legal@asic.gov.au>

Subject: AGS Commercial Pty Limited - Application to become Eligible Applicant for Public Examination [SEC=OFFICIAL] [HWLE-Matter.C0190225.1065821]

Dear Ms Spinks

Thank you for your email.

We would like to pay the filing fee by credit card.

Can you please provide an invoice addressed to:

HWL Ebsworth Lawyers
Level 14
264-278 George Street
Sydney, NSW, 2000

Upon receipt of the invoice we will organise payment today.

Thank you

Gavin Francis
Senior Associate



Level 14, Australia Square 264-278 George Street | Sydney
NSW 2000
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gfrancis@hwle.com.au | www.hwlebsworth.com.au

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From: Donna Spinks <Donna.Spinks@asic.gov.au>

Sent: Monday, 21 March 2022 9:29 AM

To: Gavin Francis <gfrancis@hwle.com.au>

Cc: Grant Whatley <gwhatley@hwle.com.au>; Lauren Hatton <lhatton@hwle.com.au>; RL Legal

<RL.Legal@asic.gov.au>

Subject: FW: AGS Commercial Pty Limited - Application to become Eligible Applicant for Public Examination [HWLE-Matter.C0190225.1065821] [SEC=OFFICIAL]

Dear Mr Francis,

Thank you for your email and the documents.

There is an application fee of \$468 for this type of application. I have attached below the ASIC document setting out the fee. Please refer to page 196 'Eligible Applicant Requests'.

(See attached file: cris-asic-industry-funding-model-2020-21-published-11-november-2021.pdf)

There is no statutory timeframe for ASIC to make a decision in relation to an eligible applicant request.

Please respond in writing advising whether you intend to pay the fee.

Next steps:

1. If you do not intend to pay the fee ASIC will not undertake any further steps regarding your application.
2. If you do intend to pay the fee:
 - a. Please also provide your postal/residential address to assist us in preparing an invoice.
 - b. We'll then issue an invoice to you for payment.
 - c. ASIC will commence reviewing your application including advising, whether we require any further information from you.

Yours sincerely
Donna Spinks

Donna Spinks

Lawyer

Registered Liquidators Team

Australian Securities and Investments Commission

Level 7, 120 Collins Street, Melbourne, 3000

Tel: +61 3 9280 4732

donna.spinks@asic.gov.au

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From: Gavin Francis <gfrancis@hwle.com.au>

Sent: Monday, 21 March 2022 8:41 AM

To: RL Legal <RL.Legal@asic.gov.au>

Cc: 'Grant Whatley' <grant.whatley@me.com>; Lauren Hatton <lhatten@hwle.com.au>

Subject: AGS Commercial Pty Limited - Application to become Eligible Applicant for Public Examination [HWLE-Matter.C0190225.1065821]

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Dear Sir / Madam

We act for AGS Commercial Pty Limited (AGS).

We find attached our letter in which AGS makes its application to become an eligible applicant for the public examination of relevant officers pursuant to s.596A of the *Corporations Act* 2001.

The following link contains the Annexures that are referred to within our attached letter;

<https://docdrop.hwlebsworth.com.au/message/ZicJp5aJMqQZaC11bjRc2P>

If you have any questions, please contact our office.

We await your reply.

Regards,

Gavin Francis

Senior Associate

HWLE



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NSW 2000

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