FEDERAL COURT OF AUSTRALIA

Australian Securities and Investments Commission v ALAMMC Developments Pty Ltd (No 4) [2026] FCA 1658

File number(s):	QUD 532 of 2024
Judgment of:	**O'SULLIVAN J**
Date of judgment:	20 October 2026
Date of publication of reasons:	4 November 2026
Catchwords:	**PRACTICE AND PROCEDURE** — application by Liquidators for orders pursuant to s 477(2B) of the *Corporations Act 2001* (Cth) retrospectively approving the entering into of a loan agreement on behalf of company in liquidation — application for directions pursuant to s 90-15 of the Insolvency Practice Schedule (Corporations) 2016 — whether the Court should approve Liquidators' entry into loan agreement — where company in liquidation entered into loan agreement with its wholly-owned subsidiary — where loan facilitated the payment of a settlement amount causing secured creditor to discharge its mortgage over Fijian property of the wholly-owned subsidiary — where secured creditor had proposed to exercise security over the Fijian property — where forced sale is likely to realise an amount less than orderly sale — where loan is repayable from proceeds of sale of the Fijian property and any surplus is to be retained by the Liquidators — orders made
Legislation:	*Corporations Act 2001* (Cth), s 477(2B) Sch 2 to Corporations Act, *Insolvency Practice Schedule (Corporations) 2016*, s 90-15
Cases cited:	*Blakely (Liquidator) in the matter of Global Capital Property Fund Ltd* [2025) FCA 484 *In the matter of Courtenay House Capital Trading Group Pty Ltd (in liq)* [2020] NSWC 780 *Re One.Tel Ltd and Ors* (2014) 99 ACSR 247; [2014] NSWSC457 *Stewart, in the matter of Newtronics Pty Ltd* [2007] FCA 1375
Division:	General Division

Registry:	Queensland
National Practice Area:	Commercial and Corporations
Sub-area:	Corporations and Corporate Insolvency
Number of paragraphs:	31
Date of hearing:	20 October 2026
Counsel for the Plaintiff:	Mr M Steele KC with Ms S McLeod
Solicitor for the Plaintiff:	Minter Ellison
Counsel for the Receivers	Mr C Möller SC with Ms S Hooper
Solicitors for the Receivers	Norton Rose Fulbright Australia
Counsel for the 14th and 15th Defendants:	Mr B Hamilton
Solicitor for the 14th and 15th Defendants:	Stone Group Lawyers

ORDERS

QUD 532 of 2024

BETWEEN:	**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION** Plaintiff
	ANDREW PETER FIELDING AND HELEN NEWMAN AS JOINT AND SEVERAL RECEIVERS AND MANAGERS OF THE FIRST TO FIFTEENTH DEFENDANTS Receivers
AND:	**ALAMMC DEVELOPMENTS PTY LTD** First Defendant
	ALAMMC DEVELOPMENTS 2 PTY LTD Second Defendant
	ALAMMC DEVELOPMENTS 3 PTY LTD (and others named in the Schedule) Third Defendant

ORDER MADE BY: **O'SULLIVAN J**

DATE OF ORDER: **20 OCTOBER 2026**

THE COURT ORDERS THAT:

1. Pursuant to s 477(2B) of the *Corporations Act 2001* (Cth) (**Act**) the Court approves, *nunc pro tunc* as and from 14 May 2026, Andrew Peter Fielding and Helen Newman, in their capacities as joint and several liquidators of the twelfth defendant (**CCM Australia**) (**Liquidators**), entering into the Loan Agreement on behalf of CCM Australia (as that term is defined in the open affidavit of Andrew Peter Fielding made 11 August 2026).
2. Pursuant to s 90-15 of the Insolvency Practice Schedule (Corporations) 2016 (being Schedule 2 to the Act), the Liquidators are justified in causing CCM Australia to enter into and perform the Loan Agreement.
3. The Liquidators have leave to uplift the confidential affidavit of Andrew Peter Fielding sworn on 11 August 2026 and confidential annexure APF-F to that affidavit (**Fifth**

Confidential Affidavit) from the Court file and to re-file an amended Fifth Confidential Affidavit.

4. Pursuant to ss 37AF and 37AG of the *Federal Court of Australia Act 1976* (Cth), until further order, the following documents be marked confidential on the Court file, not to be published, disclosed or accessed except pursuant to an order of the Court and that their contents be suppressed on the ground that this order is necessary to prevent prejudice to the proper administration of justice:

   (a) the confidential affidavit of Andrew Peter Fielding sworn on 20 October 2026; and

   (b) confidential annexure "APF-F" to that affidavit.

5. The Liquidators must cause a copy of these orders to be given to the creditors of CCM Australia within three business days of these orders being made by publishing them on the website maintained by the Liquidators in respect of the first to eighteenth defendants, being: https://www.bdo.com.au/en-au/insights/appointments/the-alammc-group.

6. The Liquidators' costs of their application made by interlocutory process dated 13 August 2026 and filed 18 August 2026 be costs in the liquidation of CCM Australia.

7. The parties and any person who can demonstrate sufficient interest have liberty to apply to vary these orders on reasonable notice.

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.

REASONS FOR JUDGMENT

O'SULLIVAN J:

1 Mr Andrew Peter **Fielding** and Ms Helen Newman were appointed **Liquidators** of the 12th defendant, Coral Coast Mutual Pty Ltd (in Liquidation) (Receivers Appointed) (**CCM Australia**), on 14 October 2025. They apply by interlocutory **application** pursuant to s 477(2B) of the *Corporations **Act** 2001* (Cth) and s 90-15 of the **I**nsolvency **P**ractice **S**chedule (**C**orporations) 2016 (being Schedule 2 to the *Act*):

(a) for an order approving as and from 14 May 2026, then as now, the entry by the Liquidators into an unwritten **Loan Agreement** between CCM Australia and its wholly-owned subsidiary, Coral Coast Pte Ltd, a company incorporated in Fiji (**CCM Fiji**); and

(b) for directions that the Liquidators are justified in entering into, performing and causing CCM Australia to enter into and perform the obligations arising under the Loan Agreement, including lending CCM Fiji money pursuant to the terms of that Loan Agreement.

2 On 20 October 2026, I heard the application at which time I made the orders sought.

3 These are the reasons for making those orders.

Background

4 Since 2022, CCM Fiji has been the lessee of certain land in Fiji (**Fiji Property**) which it acquired from a prior lessee.

5 The funds for the Fiji Property were advanced to CCM Fiji by CCM Australia. It seems those funds are likely to have come from investors in two related entities, being the first defendant, ALAMMC Developments Pty Ltd, and the 10th defendant, SDAMF 3 Pty Ltd, from funds received by those specific entities for projects in Townsville, Queensland and North Coogee Western Australia, none of which proceeded.

6 Home Finance Company Pty Limited is a Fijian corporation trading as **HFC Bank** in Fiji. In January 2023, it entered into a loan agreement with CCM Fiji for the purposes of developing a resort on the Fiji Property. That loan agreement was secured by a mortgage over the Fiji Property.

7 On 1 November 2024, the Court appointed Mr Fielding and Ms Newman joint and several **Receivers** of the property of a number of the corporate defendants to these proceedings, one of which was CCM Australia and as I have noted, on 14 October 2025, the Court appointed Mr Fielding and Ms Newman as Liquidators of the corporate defendants, including CCM Australia.

8 The Receivers were appointed directors of CCM Fiji in May 2025.

9 Although no monies were drawn down by CCM Fiji, nonetheless under the agreement with HFC Bank, a fee was payable by CCM Fiji to HFC Bank. CCM Fiji failed to pay that fee with the consequence that in April 2025 HFC Bank sought to foreclose on the Fiji Property for the purposes of recovering its fee, which at that stage totalled approximately AUD$555,000.

10 Since at least April 2025, the Receivers have negotiated with HFC Bank about the outstanding fee but without success.

11 Since September 2025, the Receivers have engaged in a sale process for the Fiji Property. That process is ongoing.

12 In April 2026, the Receivers faced the prospect of HFC Bank enforcing its mortgage if the sum owing was not paid by 28 May 2026.

13 To prevent the possibility of the Fiji Property being sold at a discounted price, the Receivers caused CCM Australia to enter into the Loan Agreement with CCM Fiji in order to pay to HFC Bank a negotiated settlement, as well as a number of other expenses associated with the Fiji Property.

14 The sum payable under the settlement with HFC Bank was paid on 28 May 2026 at which time the mortgage over the Fiji Property was discharged.

15 The sum advanced to CCM Fiji by CCM Australia has been sourced from assets of CCM Australia. The Loan is repayable to CCM Australia from the proceeds of the sale of the Fiji Property.

16 At the time of entering into the Loan Agreement with CCM Fiji, the Liquidators considered that the Fiji Property would be sold and the loan repaid within three months. That has not occurred and it is for those reasons that the Liquidators now seek orders pursuant to s 477(2B) of the *Act* and s 90-15 of the IPSC.

Principles – s 477(2B) of the *Act*

17 Section 477 of the *Act* deals with the powers of liquidators. Section 477(2B) imposes a restriction on those powers by providing that, among other things, except with the approval of the Court, a liquidator of a company must not enter into an agreement on the company's behalf if the term of the agreement may end more than three months after the agreement is entered into.

18 The principles governing the application of s 477(2B) are well-settled.

19 In *Blakely (Liquidator) in the matter of Global Capital Property Fund Ltd* [2025] FCA 484: at [29], Wheatley J set out a helpful summary of the relevant principles by reference to the judgment of Brereton J in *Re One.Tel Ltd and Others* (2014) 99 ACSR 247; [2014] NSWSC 457:

> [29] … It is sufficient for these purposes to outline the following principles from his Honour Justice Brereton in *Re One.Tel Ltd and Others* (2014) 99 ACSR 247; [2014] NSWSC 457 at [23] to [30]. I would summarise those relevant principles as follows:
>
> (1) Both of those provisions, being s 477(2A) and s 477(2B), are concerned to ensure that the Court exercises some oversight over the liquidators' actions.
>
> (2) The Court's assessment must be made in light of the purposes for which the liquidators' powers exist. One overriding purpose is to serve the interests of those concerned in the winding up, being the creditors.
>
> (3) The role of the Court is to grant or deny approval to the liquidators' proposal, not to reconsider every issue considered by the liquidator nor to develop some alternative proposal.
>
> (4) Importantly, the Court's approval is not an endorsement of the proposed agreement but merely permission for the liquidator to exercise his or her own commercial judgment in the matter.
>
> (5) The Court pays regard to the commercial judgment of the liquidator. That is not to say that it rubber stamps whatever is put forward but, as is made clear, it is not attempting to second guess a liquidator in the exercise of his or her powers.
>
> (6) The Court does not exhaustively or closely consider the commercial merits or otherwise of the transaction.
>
> (7) If the liquidator expresses the opinion that it is an appropriate commercial compromise and there does not appear to be any such lack of good faith, error in law or principle, or real or substantial ground for doubting the reasonableness of the liquidators' view, the court will generally give its approval.

20 I adopt Wheatley J's summary.

21 Wheatley J continued: at [30] by referring to the summary of Gordon J (as a member of this Court) in relation to s 477(2B) in *Stewart, in the matter of Newtronics Pty Ltd* [2007] FCA 1375: at [26]:

> 26 There are a number of principles relevant to the exercise of the Court's power under s 477(2B) which are worth restating:
>
> (1) the court does not simply "rubber stamp" whatever is put forward by a liquidator. … *Re Spedley Securities Ltd (In liq)* (1992) 10 ACLC 1,742 at 1,745 [(Giles J)] …
>
> (2) a court will not approve an agreement if its terms are unclear: *Re United Medical Protection (No 4*) (2002) 20 ACLC 1,647;
>
> (3) the role of the Court is to grant or deny approval to the liquidator's proposal. Its role is not to develop some alternative proposal which might seem preferable: *Corporate Affairs Commission v ASC Timber Pty Ltd* (1998) 16 ACLC 1,642;
>
> (4) in reviewing the liquidator's proposal, the task of the Court is:
>
> *"[not] to reconsider all of the issues which have been weighed up by the liquidator in developing the proposal, and to substitute its determination for his in….a hearing de novo [but]… simply to review the liquidator's proposal, paying due regard to his or her commercial judgment and knowledge of all of the circumstances of the liquidation, satisfying itself there is no error of law or ground for suspecting bad faith or impropriety, and weighing up whether there is any good reason to intervene in terms of the "expeditious and beneficial administration" of the winding up."*
>
> See *ASC Timber* at 1,650; see also *Re Gate Gourmet Australia Pty Ltd (in liq)* (2005) 23 ACLC 834 at [10] and *Warne v GDK Financial Solutions; Peridon Village Nominees* (2006) 24 ACLC 1,019 at [60]. The Court's approval is not an endorsement of the proposed agreement but is merely a permission for the liquidator to exercise his or her own commercial judgment in the matter;
>
> (5) further, in judging whether or not a liquidator should be given permission to enter into a funding agreement (whether retrospective or not), it is important to ensure, inter alia, that the entity or person providing the funding is not given a benefit disproportionate to the risk undertaken in light of the funding that is promised or a "grossly excessive profit": *Anstella Nominees Pty Ltd v St George Motor Finance Ltd* (2003) 21 ACLC 1,347 at [11] and *Re ACN 076 673 875 Ltd* (2002) 20 ACLC 1,551 at [28];
>
> (6) generally, the Court grants approval under s 477(2B) of the Act only where the transaction is the proper realisation of the assets of the company or otherwise assists in the winding up of the company: *GDK Financial Solutions* at [58] and the cases cited therein.
>
> (Emphasis in original, square brackets provided)

Principles – s 90-15 of the IPSC

22 Section 90-15 of the IPSC is an overarching section empowering the Court to make such orders as it thinks fit in relation to the external administration of a company: s 90-15(1).

23 As with s 477(2B) of the *Act*, the principles are well-settled.

24 In general terms, the Court will not give a direction under this section where the issue involves the making or implementation of a business or commercial decision. It may do so, however where there is the prospect of an attack on a liquidator's decision. The making of a direction under those circumstances and where full disclosure is made to the Court, serves the purpose of protecting the liquidator in question from liability for either a breach of duty and/or unreasonable behaviour: *In the matter of Courtenay House Capital Trading Group Pty Ltd (in liq)* [2020] NSWSC 780 at [6] and the cases cited therein.

Consideration

25 The reality of the position the Liquidators found themselves in was that prior to their appointment as Receivers and subsequently as Liquidators, CCM Fiji had negotiated a loan with HFC Bank which was secured by a mortgage taken over the Fiji Property. Notwithstanding that no money was drawn down by CCM Fiji, nonetheless it had a potential liability to HFC Bank for fees associated with that loan.

26 Given CCM Fiji's failure to pay HFC Bank, HFC Bank was proposing to exercise its security over the Fiji Property in order to recover the funds it alleged was owing from CCM Fiji.

27 There is little doubt that under a forced sale, the amount likely to be realised for the Fiji Property will be less than that which would be recovered on an orderly sale of the Fiji Property.

28 The amount advanced under the Loan Agreement covers the required payment by CCM Fiji to HFC Bank, as well as some other creditors of CCM Fiji.

29 After payment of those amounts, the balance remaining will be used to repay CCM Australia. Further, since CCM Australia owns 100% of the shares in CCM Fiji, any surplus will be retained by the Liquidators as part of CCM Australia's assets.

30 Under those circumstances, the Loan Agreement between CCM Australia and CCM Fiji is a transaction which allows for the proper realisation of the assets of CCM Australia and the orderly winding up of the affairs of CCM Australia.

Conclusion

31 It is for these reasons that the orders sought by the Liquidators were made.

I certify that the preceding thirty-one (31) numbered paragraphs are a true copy of the Reasons for Judgment of the Honourable Justice O'Sullivan.

Associate: 

Dated: 4 November 2026

SCHEDULE OF PARTIES

QUD 532 of 2024

Defendants

Fourth Defendant:	ALAMMC DEVELOPMENTS 4 PTY LTD
Fifth Defendant:	ALAMMC DEVELOPMENTS 5 PTY LTD
Sixth Defendant:	ALAMMC DEVELOPMENTS 6 PTY LTD
Seventh Defendant:	ALAMMC DEVELOPMENTS 7 PTY LTD
Eighth Defendant:	HARVEY MADISON CAPITAL PTY LTD
Ninth Defendant:	SDAMF 2 PTY LTD
Tenth Defendant:	SDAMF 3 PTY LTD
Eleventh Defendant:	SDAMF 4 PTY LTD
Twelfth Defendant:	CORAL COAST MUTUAL PTY LTD
Thirteenth Defendant:	MORTGAGE MUTUAL FUND PTY LTD
Fourteenth Defendant:	DAVID GEORGE MCWILLIAMS
Fifteenth Defendant:	LAURA MARY FULLARTON