

**IN THE HIGH COURT OF NEW ZEALAND  
AUCKLAND REGISTRY**

**I TE KŌTI MATUA O AOTEAROA  
TĀMAKI MAKĀURAU ROHE**

**CIV-2022-404-1993**

**UNDER** Part 7 of the High Court Rules 2016 and Part 15A of  
the Companies Act 1993

**IN THE MATTER OF** **RUAPEHU ALPINE LIFTS LIMITED  
(ADMINISTRATORS APPOINTED)**

**AND** of an application by **JOHN HOWARD ROSS FISK**  
and **RICHARD JOHN NACEY**, as Administrators of  
**RUAPEHU ALPINE LIFTS LIMITED  
(ADMINISTRATORS APPOINTED)**

Applicants

---

**UPDATING MEMORANDUM OF COUNSEL IN SUPPORT OF WITHOUT  
NOTICE INTERLOCUTORY APPLICATION FOR ORDERS RELATING TO  
VOLUNTARY ADMINISTRATION**

Dated: 23 November 2022

---

**BUDDLE FINDLAY**

Barristers and Solicitors  
Auckland

Solicitor Acting: **D T Broadmore / L C Sizer**  
Email: david.broadmore@buddlefindlay.com / luke.sizer@buddlefindlay.com  
Tel 64 9 358 7010 Fax 64 9 358 2055 PO Box 1433 DX CP24024 Auckland 1010

**MAY IT PLEASE THE COURT:**

1. Counsel for the applicants, John Fisk and Richard Nacey as administrators (**Administrators**) of Ruapehu Alpine Lifts Ltd (in administration) (**Company**), file this updating memorandum in relation to the without notice interlocutory application filed on 21 November 2022. Capitalised terms used in this memorandum are defined in the Affidavit of John Howard Ross Fisk affirmed 18 November 2022 and filed with that application.
2. At the time the application was filed on 21 November 2022, the Administrators' position was that they would be unwilling and unable to drawdown under the new Facility without an order from the Court limiting their personal liability to the amount of the Company's available assets.<sup>1</sup>
3. However, the Administrators have now decided to make a drawdown under the Facility to meet urgent liabilities of the Company, including staff wages that are due this week. Mr Fisk has affirmed an updating affidavit explaining that the Administrators have now decided to drawdown under the Facility to keep the Company trading for a short period, but are unwilling to drawdown the amounts required under the Facility to keep the Company trading until it might be able to be sold as a going-concern.
4. The position remains, as deposed by Mr Fisk, that without the orders sought the Company would likely be placed into liquidation. That is because the Administrators are not prepared to assume the risk of personal liability for the level of borrowing that the Company would need to continue trading for the period of time required to preserve the possibility of selling the Company as a going-concern.
5. One of the conditions precedent to drawdown under the Facility is the obtaining of the Court orders sought in the interlocutory application dated 21 November 2022.<sup>2</sup> However, the Administrators have requested that the Lenders waive that condition for this drawdown, and the Administrators

---

<sup>1</sup> Affidavit of John Howard Ross Fisk affirmed 18 November 2022 at [10]; memorandum of counsel for the Administrators at [28].

<sup>2</sup> Affidavit of John Howard Ross Fisk affirmed 18 November 2022 at JF-1/15.

expect that it will be waived for this drawdown. If that condition is waived, the Administrators would become able to make this drawdown under the Facility.

6. Counsel is filing this memorandum to update the Court on these matters. The updating affidavit on behalf of Mr Fisk is being filed with this memorandum.

Dated: 23 November 2022



.....  
**D T Broadmore / L C Sizer**  
Counsel for the Administrators