

Brisbane Floods Class Action (Wivenhoe) – Update

Summary

- **Income of A\$94 million recognised from the Wivenhoe partial settlement in FY21.**
- **Estimate of potential future income from the remainder of the investment is a range of A\$103 to A\$238 million.**

Background

Omni Bridgeway Limited (**Omni Bridgeway**) refers to its announcement dated 3 May 2021 regarding court approval of the settlement for A\$440 million of part of the Brisbane Floods class action (**Wivenhoe**) with the State of Queensland and Sunwater (**Settlement**). Justice Adamson, in approving the Settlement, noted:

"the returns to funders need to take account of the risk of an adverse costs order. But for the willingness of solicitors and litigation funders to bear both the financial costs of bringing such proceedings and the risk of defeat, the rights of the group members to obtain compensation for losses caused by the negligence of others would be, in many cases, worthless. I consider the costs and fees to be paid from the settlement sum to be reasonable and commensurate with the work done and the risk undertaken"

The prior announcement noted that Omni Bridgeway would recognise income in FY21 from the Settlement of A\$30 million comprising its cost reimbursement and project management fee, plus an amount of its funding commission which remained to be determined. Omni Bridgeway has now made this determination together with an estimation of the future income from the Settlement comprising the balance of its funding commission not recognised in FY21 and the potential future income from the ongoing claims against Seqwater.

Income from Settlement with the State of Queensland and Sunwater

Omni Bridgeway confirms that it has recognised A\$94 million from the Settlement, representing costs reimbursement, project management fee and funding commission. This income recognition is subject to year-end review with the auditors and any associated adjustments from that process. Omni Bridgeway estimates that its additional income from the Settlement, which will be recognised in future financial periods, will be approximately A\$18 million (**Settlement EFI**). The Settlement EFI is subject to assumptions 1 and 2 detailed in the annexure to this announcement.

Assuming the Settlement EFI is received, the first half of the Wivenhoe investment would yield the following financial results¹:

	Cash Basis (A\$m)	P&L Basis after capitalized overheads (A\$m)
Gross income (excluding GST)	112	112
Profit	99	93
ROIC	7.9	4.9

Estimate of Future Potential Income from Seqwater (Seqwater EPI)

The residual 50 per cent of the Wivenhoe investment relates to Seqwater's apportioned share of the liability. Seqwater's appeal against the first instance judgment is due to be heard in the New South Wales Appeal Court from 17 May 2021.

In light of the approval of the Settlement and the imminent commencement of Seqwater's appeal, Omni Bridgeway updates the Seqwater EPI to a range of A\$85 million to A\$220 million. The Seqwater EPI is subject to the assumptions detailed in the annexure to this announcement.

Authorised by the Disclosure Committee

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¹ IRR has been excluded at this time due to the uncertainty of both the amount and timing of the EFI

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Annexure - Assumptions

Estimating the future income, including funding commission, to be earned by Omni Bridgeway from the Wivenhoe investment requires a number of assumptions to be made because a final determination of each group member's loss has not yet taken place and the commission rates are tiered and decrease with the increased size of a group member's resolution sum. In addition, clients who are insurers gain the benefit of aggregation of their claims. In this context, the estimates outlined above, both for the EFI and the Seqwater EPI are based on a number of assumptions including the following:

1. The funding commission rates and amounts payable by group members are in line with those provisionally calculated based upon an analysis of a sample group of group members, noting that formal loss assessment for the vast majority of group members is yet to be undertaken. This analysis involves complex statistical extrapolation from the assessed losses of a sample group of group members and consequently has an associated margin of error.
2. The entitlement of insurer clients to have their claims aggregated is in line with the provisional analysis undertaken to date, calculations of the effect of which similarly involve complex statistical extrapolation from the assessed losses of a sample group of group members and consequently has an associated margin of error.
3. The claims against Seqwater for 50% of the liability resolve within a range of:
 - o an aggregate amount of A\$440 million, being the same amount for which the State and Sunwater settled their combined 50 per cent liability; and
 - o the amount of the group member's lawyers current best estimate of 50% of the aggregate damages of group members, including interest and costs to 1 March 2021, assuming Seqwater's appeal is dismissed entirely on all points, including both as to liability and apportionment.