

## Brisbane Floods Class Action (Wivenhoe) Conditional Settlement with State of Queensland and Sunwater

### Summary

- **Victims of long-running Queensland Wivenhoe Dam case to be compensated in partial settlement (subject to execution of a deed and to court approval)**
- **The State of Queensland and Sunwater have settled their collective 50% share of the liability in the Wivenhoe Dam class action for A\$440 million**
- **There is no settlement at this stage of the 50% portion of the liability allocated to Seqwater**

Omni Bridgeway Limited (**Omni Bridgeway**) refers to its most recent announcement dated 7 December 2020 regarding the Wivenhoe class action mediation. The mediation has resulted in a settlement with the State of Queensland and Sunwater, in an aggregate amount of A\$440m (**Settlement Amount**). The settlement is subject to execution of a deed of settlement and to court approval.

This has been a hard-fought and extremely expensive case on behalf of approximately 6,700 claimants, against determined defendants over many years.

The case against State owned enterprise Seqwater has not settled at this stage. Seqwater has been allocated 50% of the aggregate liability by the New South Wales Supreme Court (**Court**) at first instance. Seqwater's appeal against the first instance judgment, together with the representative's appeal against certain findings at first instance, are due to be heard in May 2021 (**Appeal**).

Based on the allocation of liability by the Court at first instance, the implied aggregate settlement value for the whole case from the settlement with the State of Queensland and Sunwater is A\$880 million. This may not reflect the actual outcome achieved with respect to the remaining respondent (Seqwater) in the future, however estimates of total loss made by the lawyers for the class based on the findings in the first instance judgment exceed this total amount.

If the settlement is approved by the Court, the Settlement Amount, some of which will be paid after a period of time, will be held on trust by Maurice Blackburn as the lawyers to the group members. Omni Bridgeway has a contractual right to recover from the Settlement Amount the

project costs, the project management fee, and commission. As at the date of this announcement the project costs paid by Omni Bridgeway that are recoverable and the project management fee total approximately \$30 million, net of the amount of costs and share of project management fee due to the participating funder.

Omni Bridgeway intends to derecognise the portion of its investment attributable to the settlement and recognise initial income of approximately \$30 million thereby generating a profit (after overheads) of approximately \$11 million in respect to the project costs and project management fee, this financial year. There will be further income to be recognised from the settlement in respect of the commission which is likely to be recognised in future financial periods. The portion of the investment that remains unsettled will continue to be carried as an intangible investment at cost pending future resolution.

Whilst Omni Bridgeway is also entitled to receive a funding commission from the Settlement Amount, the calculation of that total amount requires that the resolution sum of each group member be determined. It is currently proposed that the balance of the Settlement Amount (after reimbursement of costs and payment of project management fee to date) shall remain held on trust by the lawyers and will be available to meet the ongoing costs of the Appeal, potential adverse costs if the final determination is not in our clients' favour, any subsequent ancillary proceedings which Omni Bridgeway would otherwise be required to fund together with its participating funder, and any interim distribution.

In light of the settlement, Omni Bridgeway considers the upper level of the previously provided estimated potential income range for the investment, of A\$130 million to A\$170 million, to be more likely and to be conservative.

#### **Authorised by the Disclosure Committee**

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