

Our Ref: AJ  
Your Ref:



19 November 2008

**By Facsimile (07) 3229 5603**

Alexander Partners  
GPO Box 1087  
BRISBANE QLD 4001

Attention: AD Fraser

Dear Sir

**Collective Olive Groves Limited**

We act for Huntley Management Limited. Our client is the responsible entity for the following managed investment schemes:

1. Australian Olives Project No. 1;
2. Australian Olives Project No. 2;
3. Australian Olives Project No. 4;
4. Australian Olives Project No. 5;
5. Australian Olives Project No. 6.

Our client in its capacity as responsible entity of those Projects represents the interests of Growers in those Projects. We are instructed that the members of these Projects also hold approximately 66.6% of the shares in Collective Olive Groves Limited (**COGL**).

We have been provided with a copy of the audited accounts for the year ended 30 June 2008 for COGL which contains an independent audit report signed by you. The AGM for COGL is planned for Friday 21 November 2008 although we note that the required notice was not given by the directors. A director of our client holds a proxy for that meeting for one of the shareholders of COGL namely Garwood Enterprises Pty Ltd.

We are instructed as follows:

1. The audited accounts provide for a revenue item of \$6,241,165 for the net increment in the value of the trees. We note that under the scheme documentation for each of the above Projects:
  - 1.1 each Grower in the above Projects has entered into a Licence Agreement pursuant to which COGL has granted to the Grower a licence to use and occupy an Olive Grove on the Project Land

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for the term of the Project which in relation to each of the above Projects is:

- (a) Australian Olives Project No. 1 – 30 June 2023;
- (b) Australian Olives Project No. 2 – 30 June 2024;
- (c) Australian Olives Project No. 4 – 30 June 2023;
- (d) Australian Olives Project No. 5 – 30 June 2023;
- (e) Australian Olives Project No. 6 – 30 June 2023.

1.2 In relation to the olive trees which the Growers have planted on their respective Groves:

- (a) with respect to Australian Olives Project No. 1, Australian Olives Project No. 2 the Growers have the right to remove the trees at the end of the term of the Licence Agreement so for the present time they are the owner of those trees not COGL;
- (b) although with respect to the other 3 Projects, title to the trees is reserved to COGL, the Growers are entitled to the olives produced from those trees for the term of the Project so COGL has no entitlement to the fruit until after the dates referred to in clause 1.1 above which in our client's view will affect the valuation;
- (c) there are numerous dead trees for Projects 4, 5 and 6 as set out in the following table and there may well be other dead trees for Projects 1 and 2 which our client has only just been appointed as the responsible entity and therefore has not had the opportunity as yet to assess the numbers of missing trees:

<b>Project No.</b>	<b>Required No of Trees</b>	<b>No. of Dead of Missing Trees</b>	<b>Percentage of Dead or Missing Trees</b>
4	79,307	17834	22.49%
5	64,236	21610	33.64%
6	48,442	15237	31.45%

1.3 Our client holds an interest as lessee in the lease of the land on which the olive trees are located for the term of the Projects as responsible entity for the above 5 Projects on trust for the Growers pursuant to section 601FC(2) and 601FT of the Corporations Act, 2001.

1.4 The trees are not producing economic values of fruit and the forecasts are that there will be no economic production of fruit from the trees in the long term.



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1.5 When a related entity to COGL, Australian Olives Limited (**AOL**) was removed as responsible entity of the above Projects:

- (a) the owner of the land on which the water is located, another related entity called Australian Olives Holdings Pty Ltd (**AOHL**) and COGL were required to **immediately** enter arrangements with each other on substantially the same terms as the current water supply agreement between AOHL, AOL and COGL in order to maintain a water supply to the Groves or that part of the land planted to olive trees, as the case may be;
- (b) AOL must transfer ownership of the Pumping Equipment and Reticulation Equipment to COGL at a price to be agreed between AOHL and COGL which they have agreed will be no less than the replacement cost of the Pumping Equipment and Reticulation Equipment at the time of the removal of AOL as the manager together with the cost of associated civil works that would be required to install such equipment. If there is a dispute between AOL and COGL about the replacement cost then there is a dispute resolution procedure which involves appointment of an expert nominated by the president for the time being of the Australian Institute of Chartered Accountants to determine the replacement cost.

We have been informed by the lawyers of AOHL as follows:

"We are instructed that COGL does not have sufficient funds either to pay for the pumping and reticulation equipment or to pay for water pursuant to a water supply agreement on substantially the same terms as the CWSA. In those circumstances, we are instructed that the directors of COGL have taken the view that compliance with clauses 7.1(b) and/or 7.1(c) would render the company insolvent. Our client has at present not enforced compliance with clause 7.1(b) as it does not consider it to be in its interests to enter into agreements with a company which it reasonably believes will be unable to comply with those agreements."

and

".on our instructions, should COGL enter into a long term agreement to purchase water, with no right to any additional fees or harvest distributions, that transaction could, on our instructions, render COGL insolvent."

We are instructed that water supply to the trees has been cut off by AOHL notwithstanding COGL and AOHL are supposed to enter into an agreement to ensure there is supply of water to the trees. Unless these two entities do so, it is probable that all of the trees will die and therefore have no value.

Our client requests an explanation of the inclusion of the revenue item of \$6,241,165 for the net increment in the value of the trees in view of the above facts and whether the

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inclusion takes into account the above matters. Our client on behalf of the Growers takes exception to any claim by COGL to an entitlement to the trees with respect to Projects 1 and 2. Further our client would take exception if there is any claim by COGL to the fruit from the trees for the term of the Projects.

2. The audited accounts have an item for income tax expense of \$1,902,218. This amount would appear to relate to the net increment in value of the olive trees booked to revenue because the other revenue would not give rise to income tax of this amount. The olive trees form part of the land on which they grow and therefore cannot possibly be trading stock as defined in the Tax Act. Please advise on what basis income tax is payable with respect to the net increment in value of the olive trees.
3. The audited accounts in Note 6 provide for an amount of \$8,383,246 said to be owing by COGL to a related party, AOL for the current replacement cost of water and reticulation equipment installed by AOL at Yallamundi. Please let us know the original cost for this equipment, how the valuation is calculation and whether the dispute resolution clause has been invoked.

In this regard we are instructed to draw to your attention the following matters:

- 3.1 the following product rulings, it is stated that the Growers are entitled to a deduction relating to water facilities (e.g. irrigation):
  - PR 2004/7 – Project 6 - paragraphs 55 and 56
  - PR 2003/26 – Project 5 – paragraphs 57, 57, 64-66
  - PR 2001/66 – Project 4 – paragraph 68
  - PR 2000/36 – Project 3 – paragraph 55
- 3.2 In order for the Growers have been entitled to the deductions for the stated expenditure in the Product Rulings on the water facilities, the Growers must have been the entity which incurred the expenditure.
- 3.3 If the Growers have incurred the expenditure on the water facilities then the water facilities are their property. The licence agreements for each of the above Projects provide for the Growers to remove structures, plant and equipment that belong to them at the end of the term of the Project and COGL would only be entitled to the equipment if the Growers did not remove the same.
- 3.4 If the water facilities for which the expenditure was incurred is the water and reticulation equipment installed by AOL at Yallamundi, then our client on behalf of the Growers claims title to that equipment.

Please let us know whether these matters have been considered in relation to the provision.

4. The auditor's certificate is not qualified in relation to the above matters and there is no expression of any view you may have in relation to "going concern" issues. Please let

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us know whether in the light of the above material you consider your certificate ought to be amended.

Yours faithfully  
**Piper Alderman**

Per:

**Alan Jessup**  
Partner

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