

Snapshot into a large-scale residential builder collapse – the Porter Davis Group

Client:

The Porter Davis Group

Client challenge:

Financial difficulties led to halting construction on all sites due to overdrawn banking and lack of shareholder funding.

Grant Thornton services:

Oversaw the liquidation and asset management of the Porter Davis Group.



On 31 March 2023, Grant Thornton restructuring partner, Said Jahani, Matt Byrnes and Cameron Crichton were appointed Liquidators of the Porter Davis Group of Companies (the Group), with 14 entities in total.

At the time of appointment, there were over 2,600 onsite and pre-site building contracts across multiple entities within the Group. The Group's banking facilities were overdrawn, and the shareholders had confirmed they were not in a position to inject further funding. With no funding line, the Liquidators had little choice but to cease active construction operations at all building sites of the Companies.

Where's the value in a failed residential builder?

The Liquidators commenced an accelerated sale process to identify potential purchasers for the business and assets of the Companies, or parts thereof, which included:

- Building contracts and associated work in progress for current and future construction projects.
- Intellectual property and associated trademarks of the Companies within the Group; and
- Real property of the Companies within the Group, including display homes (under construction/vacant), vacant development lots, deposits paid in relation to property acquisitions and put/call options for the acquisition of real property.

The Liquidators did not receive any credible offers for the purchase of the Group's business as a whole. Accordingly, we sought to split the various asset classes of the business to assess any interest from parties for the purchase of these asset bundles.

Close to completion building contracts

We identified approximately 200 contracts where there was an opportunity to finalise the build and assist customers into their homes in a timely manner.

To assist in this process, we engaged a team of Porter Davis employees to liaise with surveyors, certifiers and third-party trades and suppliers to undertake the final works necessary to obtain an Occupancy Permit (OP) for these properties.

At the date of publishing, the team had achieved handover of 44 homes to homeowners during the period of the liquidation. This will result in final settlement payments of c.\$1.4m being paid into the liquidations which would otherwise not be available had this exercise not been undertaken.

A further 400 building contracts at close to completion stages were novated to a new home builder.

Townhouse developments

PDH undertook townhouse developments, where the customer paid 10 per cent of the contract price upfront and the remaining 90 per cent upon completion. The Liquidators entered into an agreement to novate the onsite or under construction 10/90 contracts, being 126 partially completed townhouses at varying stages of construction. The total consideration payable under the agreement is conditional on novation deeds being executed with each of the developers.

Speculative home developments

PDH constructed various detached dwellings under agreements with developers whereby PDH marketed the completed property as a land and home package. The Liquidators were able to novate 36 speculative home contracts under construction and are currently in negotiation with developers and homeowners over a further 14 homes.

Display homes

The Group held 25 freehold titles in display villages which are currently in the process of being sold by the secured creditor. A further four freehold titles were held directly in the name of the Queensland building entity. Numerous caveats were registered over the titles and after reaching a consensus with caveators on the priority of their interests, the Liquidators agreed on a process to realise these properties.

Sale of intellectual property

Over the years of its operation, PDH accumulated a library of intellectual property, including its home designs and drawings. This amounted to approximately one terabyte of data containing designs, plans and drawings as well as marketing materials, floorplans, brand collateral and in-house developed proprietary information. This workstream also included the Liquidators working with PDH Management to allow the delivery of Domain Name Licences and a reassignment of associated trademarks of the Companies.

The Liquidators entered into an agreement for the sale of PDH's intellectual property. The Liquidators have agreed with the purchasers to grant a one-time licence to allow for the continued use of intellectual property (i.e. designs, plans and drawings) referable to each customer's build, for the sole purpose of completing any PDH contracted and novated building works at no cost to the customers.

Helping stakeholders

General stakeholder communication

Key stakeholders included customers, trade creditors, lessors, employees (former and current), various regulatory and industry bodies, and the general public via various media outlets including print, broadcast and online. Since our appointment, we received and responded to almost 7,000 discrete queries from stakeholders.

Due to the large volume of stakeholders in the liquidations we implemented a system for communicating with these stakeholders via a combination of dedicated contact centres providing phone and email responses, and regular updates to publicly available frequently asked questions (FAQ). We also provided regular updates on key aspects of the liquidation via notices to customers, a customer webinar and our media statements.

Introducing replacement builders

Given the Liquidators did not receive any credible offers to purchase either the Queensland or Victorian businesses, they proceeded to seek submissions from over 80 builders to take on and complete the builds for PDH customers.

To assist customers with engaging replacement builders, the Liquidators issued correspondence introducing PDH customers to a list of builders, across Victoria and Queensland, who had represented having the willingness, scale, capability, and financial capacity to complete a minimum volume of retail builds.

Separately, an agreement was executed with a replacement builder providing a direct introduction to homeowners on certain pre-site builds. While these customers are not obliged to engage with the introduced builder, it appears that many have, due to general capacity constraints in the industry.

Building documentation made available to customers and builders

Customer drawings, plans and documentation

The Liquidators worked with PDH Management to procure, collate and prepare certain documents extracted from numerous PDH servers (including extracts out of SAP, OnBase etc) and external sources to make these documents available to customers on their MyHome Portal. This suite of documents included construction drawings, bill of quantities, engineering drawings and surveys, various permits obtained, particulars of each customer's building contract including any extensions or variations agreed, and certificates of inspection/compliance in relation to stages of work already completed and paid for.

This work was undertaken to assist customers with the completion of their builds by providing a suite of building documentation they are entitled to (available via the MyHome Portal) on a fee-free basis.

Building insurance

A major focus for the liquidators immediately following our appointment was establishing the status and availability of contract works and public liability insurance having regard to the number of sites where works had commenced (c.1,600) across Victoria and Queensland, and the risk associated with ceasing works on these sites.

All pre-appointment contract works insurance that had remained in place for Porter Davis customers ultimately expired and we had concerns over the inability of customers to take out appropriate insurance cover if they did not have a new builder engaged to complete their home. We were able to locate an insurer that was willing to assist ex-PDH customers with contract works and public liability insurance policy options where customers had not already engaged a new builder.

Building regulators and home warranty insurance

By maintaining regular dialogue with the VMIA, VBA, QBCC, Jobs Victoria, DEWR and various other Government departments, we were able to ensure homeowners received the correct advice and were able to make informed decisions on the best approach to completing their build whilst not unduly compromising their ability to participate in the relevant home warranty schemes.

What we're proud of

As a result of our actions, we were able to protect the interests of homeowners, providing them with time to properly consider their best option to complete their home build. In many cases, subcontractors caught with outstanding claims for partially complete work have been able to mitigate their losses by continuing services for replacement builders.

While it is too early to tell if there will be any material distribution to suppliers and subcontractors, we are certain that employees will not be out of pocket for any outstanding superannuation or other entitlements. And thanks to Australia's strong labour market, almost all employees have now found new jobs, in some cases assisting replacement builders complete PDH homes.



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