



IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COMMERCIAL COURT
CORPORATIONS LIST

Case: S ECI 2021 03110

S ECI: 27/08/2021 02:36 PM

**IN THE MATTER OF GUNNS PLANTATIONS LIMITED (IN LIQUIDATION)
(RECEIVERS AND MANAGERS APPOINTED) (ACN 091 232 909)**

**DANIEL MATHEW BRYANT and CRAIG DAVID CROSBIE (in their capacities as
joint and several Liquidators of GUNNS PLANTATIONS LIMITED (IN
LIQUIDATION) (RECEIVERS AND MANAGERS APPOINTED)) (ACN 091 232 909)**
First Plaintiffs

and

**GUNNS PLANTATIONS LIMITED (IN LIQUIDATION) (RECEIVERS AND
MANAGERS APPOINTED) (ACN 091 232 909)**
Second Plaintiff

AFFIDAVIT

Date of document: 26 August 2021
Filed on behalf of: The Plaintiffs

Prepared by:

ARNOLD BLOCH LEIBLER

Lawyers and Advisers

Level 21

333 Collins Street

MELBOURNE 3000

Solicitor's Code: 54

Tel: 9229 9999

Fax: 9229 9900

Ref: 011915621

(Justin Vaatstra – jvaatstra@abl.com.au)

I, **CRAIG DAVID CROSBIE** of 2 Riverside Quay, Southbank, in the State of Victoria, Chartered Accountant, **MAKE OATH AND SAY** that:

- 1 Daniel Mathew Bryant and I are the joint and several voluntary liquidators (**Liquidators**) of the companies comprising the Gunns group of companies (**Gunns Group**). A list of all companies in the Gunns Group is at **Schedule 1** to this affidavit.
- 2 Except where I otherwise indicate, I make this affidavit from my own knowledge. Where I depose to matters from information and belief, I believe those matters to be true.
- 3 I make this affidavit on behalf of Mr Bryant and myself. References in the affidavit to “we”, “us” and “our” are references to Mr Bryant and me.

4 I have previously sworn an affidavit dated 13 July 2021 in this proceeding (**First Affidavit**).

5 I make this affidavit in support of the Application to be filed by the Plaintiffs seeking the following orders:

(a) an order pursuant to section 90-15 of the *Insolvency Practice Schedule (Corporations)* (the **IPSC**) and/or rule 2.04 of the *Supreme Court (General Civil Procedure) Rules 2015* that the First Plaintiffs are permitted and justified in giving notice of this Originating Process to all creditors of the Second Plaintiff, including those creditors who were present in person or by proxy at any meeting of creditors, by causing copies of:

(i) this Originating Process;

(ii) the Affidavit of Craig David Crosbie dated 13 July 2021; and

(iii) Form 16 pursuant to rule 9.2 of the *Supreme Court (Corporations) Rules 2013*

to be published on the websites maintained by the First Plaintiffs (www.pwc.com.au) and the Plaintiffs' solicitors, Arnold Bloch Leibler (**ABL**) (www.abl.com.au).

(b) an order pursuant to (former) section 473 of the *Corporations Act 2001* (Cth) and/or sections 60-10 and 90-15 of the IPSC determining that the Liquidators be paid the sum of \$887,023.00 plus GST as remuneration reasonably incurred in relation to the liquidation of the Second Plaintiff (**GPL**) for the period of 1 September 2016 to 31 December 2020 (**Remuneration**).

(c) a direction that the Liquidators are entitled to be paid the Remuneration out of GPL's property and that we be entitled to a lien over GPL's property in respect of those costs, expenses and remuneration.

(d) an order that the Liquidators be indemnified in respect of our costs of and incidental to this application out of GPL's property and that we be entitled to a lien over the GPL's property in respect of those costs.

(e) a direction pursuant to sections 70-35 and / or 90-15 of the IPSC that the First Plaintiffs are justified and are otherwise acting properly and reasonably in

proceeding on the basis that we are entitled to destroy the books and records of the Gunns Group two months after the completion of the liquidation.

Notice of Application

- 6 At paragraphs 47 to 50 of my First Affidavit, I set out the procedures by which the Liquidators intended to give notice of this application.
- 7 Further, at paragraph 26 of my First Affidavit, I explained the significant costs that would be incurred in locating the current addresses and contact details of growers in the Gunns Woodlot Schemes and creditors of GPL.
- 8 The Liquidators have now completed these notice procedures, as explained further below.
- 9 On 22 July 2021, I instructed the Liquidators' solicitors, ABL, to send a letter to Mr Ross McClymont of Ashurst Australia, solicitors for:
- (a) the Banking Syndicate (the sole remaining member of GPL's COI); and
 - (b) Mark Korda and Bryan Webster of KordaMentha, in their capacity as Receivers and Managers of Gunns Plantations Limited (in liquidation) (receivers and managers appointed).
- 10 The letter provided Ashurst's clients with notice of this application and enclosed copies of the relevant application materials, including copies of the Form 16 notice addressed to each of the Banking Syndicate and KordaMentha. A copy of ABL's letter and covering email to Ashurst dated 22 July 2021 and the enclosed copies of the Form 16 notices, which I have seen, are at **Exhibit CDC-10**.
- 11 On 22 July 2021, I instructed ABL to send a letter to the Australian Securities and Investments Commission (**ASIC**) providing them with notice of this application and enclosing copies of the relevant application materials. A copy of ABL's letter to ASIC dated 22 July 2021 and its covering email, which I have seen, are at **Exhibit CDC-11**.
- 12 On 22 July 2021, I caused staff members of PwC Australia to update the website maintained by the Liquidators in relation to the liquidation of the Gunns Group of Companies (**PwC Website**), in order to notify creditors of the Liquidators' intention to make this application. The relevant section of the PwC Website (<https://www.pwc.com.au/business-restructuring/insolvency-cases/2846.html>) states:



The Liquidators of Gunns Plantations Limited (in liquidation) (receivers and managers appointed) (ACN 091 232 209) currently intend to file an originating process with the Supreme Court of Victoria, seeking orders and directions in respect of:

- *their remuneration reasonably incurred in relation to the liquidation of GPL from 1 September 2016 to 31 December 2020;*
- *the early destruction of the books and records of the Gunns Group of Companies following the completion of the liquidation.*

The Liquidators hereby give notice to all Creditors of Gunns Plantations Limited (GPL) of their intention to apply for orders approving their remuneration in respect of the liquidation of GPL. Any Creditor may file a notice of objection to the remuneration claimed, stating the grounds of objection, by contacting Leah Campbell at leah.campbell@pwc.com.

The originating process will be filed on 16 August 2021 (21 days after the publication of this notice).

Copies of the following Court documents are available below:

- *Form 16 addressed to all Creditors of GPL – Notice of Intention to Apply for Remuneration;*
- *Affidavit of Craig David Crosbie sworn 13 July 2021;*
- *Supporting exhibits to Affidavit of Craig David Crosbie sworn 13 July 2021;*
- *Originating Process (unfiled).*

13 I am informed by PwC staff that the PwC Website was fully updated and the relevant documents uploaded by 26 July 2021. A copy of the Form 16 notice addressed to creditors of GPL as uploaded to the PwC Website is at **Exhibit CDC-12**.

14 Also on 22 July 2021, I instructed ABL to update the webpage maintained by ABL in respect of the liquidation of the Gunns Group (**ABL Website**) in order to provide notice to creditors. The relevant page on the ABL Website (<https://www.abl.com.au/insolvency-administrations/gunns/>) states:

The Liquidators of Gunns Plantations Limited (in liquidation) (receivers and managers appointed) (ACN 091 232 209) currently intend to file an originating process with the Supreme Court of Victoria, seeking orders and directions in respect of:

- *their remuneration reasonably incurred in relation to the liquidation of GPL from 1 September 2016 to 31 December 2020;*

Two handwritten signatures in blue ink are located at the bottom left of the page. The first signature is a stylized, cursive 'L' or 'M'. The second signature is a stylized 'SC'.

- *the early destruction of the books and records of the Gunns Group of Companies following the completion of the liquidation.*

Copies of the notice given by the Liquidators to all Creditors of GPL of their intention to apply for the above orders, and the associated Court documents for the application, are available on the PwC Australia website or by contacting us.

- 15 I am informed by ABL that the ABL Website was fully updated by 26 July 2021. The ABL Website provided a link to the PwC Website in order to facilitate creditors' access to the relevant court documents and application materials.
- 16 Since publication of the notice on the PwC Website on 26 July 2021, the Liquidators have not received any objections from growers in the Gunns Woodlot Schemes or creditors of GPL in relation to this application or the remuneration sought by the Liquidators.
- 17 The only correspondence received by the Liquidators in relation to this application was from a grower in certain Gunns Woodlot Schemes, Mr Trevor Burdon. Mr Burdon sent an email to PwC and KordaMentha on 9 August 2021 at 6:11 PM. The email did not raise or object to the Liquidators' proposed remuneration but "*note[d] with concern the court request for the early destruction of Gunns records*". A copy of the email is at **Exhibit CDC-13**.
- 18 On 26 July 2021 at 11:40 AM, ABL received an email from Jennifer Fine, a lawyer in ASIC's Registered Liquidators Team. The email confirmed receipt of ABL's letter of 22 July 2021 and its enclosures. A copy of the email (which I have seen) is at **Exhibit CDC-14**.
- 19 I am informed by ABL that they have not received any response from Mr McClymont of Ashurst, or any email correspondence or contact from growers in the Gunns Woodlot Schemes or creditors of GPL, since the publication of the notice on the ABL Website on 26 July 2021.

The contents of this affidavit are true and correct and I make it knowing that a person making a false affidavit may be prosecuted for the offence of perjury.



SWORN at Melbourne in the State of
Victoria on
26 August 2021

)
)
)
)



Before me:



on 26 August 2021

SAMUEL MARTIN CROCK
Arnold Bloch Leibler
Level 21, 333 Collins St, Melbourne 3000
An Australian Legal Practitioner within the
meaning of the Legal Profession Uniform
Law (Vic)

A person authorised under section 19(1) of
the *Oaths and Affirmations Act 2018* to take
an affidavit.

This affidavit was signed and sworn by the
deponent and witnessed by audio-visual link
in accordance with section 18A of the *Oaths
and Affirmations Act 2018* and section 12 of
the *Electronic Transactions (Victoria) Act
2000*. This jurat was completed by using an
electronic copy of the affidavit, not the
original.

SCHEDULE 1

GUNNS GROUP COMPANIES

- 1 Associated Forest Holdings Proprietary Limited (ACN 004 352 078)
- 2 Auspine Limited (ACN 004 289 730)
- 3 Auspine Plantations Pty Ltd (ACN 002 327 808)
- 4 Auspine Tree Farms Pty Ltd (ACN 100 307 373)
- 5 East Coast Pastoral Co Pty Ltd (ACN 009 519 528)
- 6 GTP Alexandra Pty Ltd (ACN 121 653 772)
- 7 GTP China Pty Ltd (ACN 093 919 414)
- 8 GTP Heyfield Pty Ltd (ACN 000 041 814)
- 9 GTP Holdings Pty Ltd (ACN 009 478 068)
- 10 GTP Seymour Pty Ltd (ACN 091 652 550)
- 11 GTP Southwood Pty Ltd (ACN 081 613 710)
- 12 Gunns Consolidated Investments Pty Ltd (ACN 128 619 045)
- 13 Gunns Finance Pty Ltd (ACN 091 861 700)
- 14 Gunns Forest Products Pty Ltd (ACN 004 208 904)
- 15 Gunns Holdings Pty Ltd (ACN 009 520 085)
- 16 Gunns Limited (ACN 009 478 148)
- 17 Gunns New Zealand Pty Ltd (ACN 069 051 378)
- 18 Gunns Plantations Limited (ACN 091 232 209)
- 19 Kauri Timber Company Ltd (ACN 004 085 714)
- 20 KVVIC Pty Ltd (ACN 126 089 950)



- 21 Manna Holdings Pty Ltd (ACN 008 008 197)
- 22 Northern Forest Investments Pty Ltd (ACN 009 493 707)
- 23 S.E.A.S. Estates Pty Ltd (ACN 007 923 971)
- 24 S.E.A.S. Plantations Pty Ltd (ACN 005 791 695)
- 25 S.E.A.S. Sapfor Forests Proprietary Limited (ACN 007 872 120)
- 26 S.E.A.S. Sapfor Harvesting Proprietary Limited (ACN 007 511 211)
- 27 S.E.A.S. Sapfor Investment Services Proprietary Limited (ACN 008 164 289)
- 28 Sapfor Trading Proprietary Limited (ACN 007 924 254)
- 29 Sorisdale Pty Ltd (ACN 054 548 971)
- 30 South East Afforestation Services Proprietary Limited (ACN 007 898 259)
- 31 Tasmanian Pulp & Forest Holdings Limited (ACN 009 488 733)
- 32 Tasmanian Softwoods Pty Ltd (ACN 009 501 786)
- 33 Taspine Pty Ltd (ACN 009 477 730)
- 34 TBVIC Pty Ltd (ACN 004 161 782)
- 35 Timbersales Proprietary Limited (ACN 004 848 864)
- 36 Wesley Vale Engineering Pty Ltd (ACN 006 955 568)

(ALL RECEIVERS AND MANAGERS APPOINTED)

(ALL IN LIQUIDATION)

