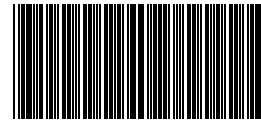




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### Commercial List Statement

#### COURT DETAILS

|             |                      |
|-------------|----------------------|
| Court       | Supreme Court of NSW |
| Division    | Equity               |
| List        | Commercial           |
| Registry    | Supreme Court Sydney |
| Case number | 2018/00076580        |

#### TITLE OF PROCEEDINGS

|                      |                                                                |
|----------------------|----------------------------------------------------------------|
| First Plaintiff      | Giabal Pty Ltd                                                 |
| Second Plaintiff     | Geoffry Underwood                                              |
| First Defendant      | Gunns Plantations Limited (in Liquidation)                     |
| Second Defendant     | Gunns Limited (in Liquidation)(Receivers & managers Appointed) |
| Number of Defendants | 11                                                             |

#### TITLE OF THIS CROSS-CLAIM

|                        |                                                                |
|------------------------|----------------------------------------------------------------|
| First Cross Claimant   | Gunns Plantations Limited (in Liquidation)                     |
| Second Cross Claimant  | Gunns Limited (in Liquidation)(Receivers & managers Appointed) |
| First Cross Defendant  | Andrew Gray                                                    |
| Second Cross Defendant | Mathew Gary Wallace                                            |

#### FILING DETAILS

|                                |                                                                                                                                                  |
|--------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|
| Filed for                      | Gunns Plantations Limited (in Liquidation), Cross Claimant 1<br>Gunns Limited (in Liquidation)(Receivers & managers Appointed), Cross Claimant 2 |
| Filed in relation to           | Cross-Claim 2                                                                                                                                    |
| Legal representative           | Benjamin Renfrey                                                                                                                                 |
| Legal representative reference |                                                                                                                                                  |
| Telephone                      | (08)82397158                                                                                                                                     |
| Your reference                 | B8450                                                                                                                                            |

## **ATTACHMENT DETAILS**

In accordance with Part 3 of the UCPR, this coversheet confirms that both the Lodge Document, along with any other documents listed below, were filed by the Court.

Commercial List Statement (Amended Second Cross-Claim Commercial List Cross-Claim Statement.pdf)

[attach.]

**AMENDED SECOND CROSS-CLAIM**  
**COMMERCIAL LIST CROSS-CLAIM STATEMENT**

**COURT DETAILS**

|             |                                  |
|-------------|----------------------------------|
| Court       | Supreme Court of New South Wales |
| Division    | Equity                           |
| List        | Commercial                       |
| Registry    | Sydney                           |
| Case number | 2018/76580                       |

**TITLE OF PROCEEDINGS**

|                  |                          |
|------------------|--------------------------|
| First plaintiff  | <b>Giabal Pty Ltd</b>    |
| Second plaintiff | <b>Geoffry Underwood</b> |

|                      |                                                   |
|----------------------|---------------------------------------------------|
| First defendant      | <b>Gunns Plantations Limited (In Liquidation)</b> |
| Number of defendants | 11                                                |

**TITLE OF THIS CROSS-CLAIM**

|                                            |                                                                                              |
|--------------------------------------------|----------------------------------------------------------------------------------------------|
| <del>Third-First</del> Cross-Claimant      | <b>Gunns Plantations Limited (In Liquidation)</b><br>First Defendant)                        |
| <del>Fourth-Second</del> Cross-Claimant    | <b>Gunns Limited (In Liquidation)(Receivers &amp; managers Appointed)</b> (Second Defendant) |
| <del>Tenth-First</del> Cross-Defendant     | <b>Andrew Gray</b><br>(Tenth Defendant)                                                      |
| <del>Eleventh-Second</del> Cross-Defendant | <b>Matthew Wallace</b><br>(Eleventh Defendant)                                               |

**FILING DETAILS**

|                                |                                                                                                                                                                                                                |
|--------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Filed for                      | <b>Gunns Plantations Limited (In Liquidation),<del>Third-First</del> Cross-Claimant</b><br><b>Gunns Limited (In Liquidation) (Receivers &amp; managers Appointed), <del>Fourth-Second</del> Cross-Claimant</b> |
| Legal representative           | Ben Renfrey, Johnson Winter & Slattery                                                                                                                                                                         |
| Legal representative reference | B8450                                                                                                                                                                                                          |
| Contact name and telephone     | Ben Renfrey 08 8239 7111                                                                                                                                                                                       |

## PRELIMINARIES

A The terms defined in the Amended Commercial List Statement filed by the Plaintiffs on 6 August 2018 (**CLS**) and in the Amended Commercial List Response filed by the First and Second Defendants on 20 July 2018 (**CLR**) have the same meaning in this document, unless otherwise defined or stated.

### A NATURE OF DISPUTE

1 The Plaintiffs in the Proceedings have brought representative proceedings against the ~~Third-First~~ and ~~Fourth-Second~~ Cross-Claimants (**the Cross-Claimants**) and the ~~Tenth-First~~ and ~~Eleventh-Second~~ Cross-Defendants (**the Cross-Defendants**) on their behalf and on behalf of Group Members in relation to investments that they made in the Gunns Woodlot Schemes for the 2002-2003, 2005-2006 and 2008-2009 financial years.

2 As set out in the CLR, the Cross-Claimants deny that the Plaintiffs or the Group Members are entitled to the relief claimed by them against the Cross-Claimants.

3 However, for the purposes of this Cross-Claim only, the Cross-Claimants allege that, if they are liable to the Plaintiffs, then the Cross-Defendants are liable.

### B ISSUES LIKELY TO ARISE

If (which is denied) the ~~Third-First~~ and/or ~~Fourth-Second~~ Cross-Claimants are liable to the Plaintiffs then the key issues likely to arise as between the Cross-Claimants and the Cross-Defendants are the following:

1 Whether any or all of the Cross-Defendants are liable for the same loss or damage as the ~~Third-First~~ and/or ~~Fourth-Second~~ Cross-Claimants within the meaning of s 3(1)(c) of the *Wrongs Act 1954* (Tas) (**Tas Act**), or alternatively s 5(1)(c) of the *Law Reform (Miscellaneous Provisions) Act 1946* (NSW) (**NSW Act**), or alternatively any other similar or equivalent provision of any other applicable legislation.

2 Whether the ~~Third-First~~ and/or ~~Fourth-Second~~ Cross-Claimants are entitled to contribution from any or all of the Cross-Defendants in equity.

3 The amount of contribution recoverable from those Cross-Defendants.

### C ~~THIRD-FIRST~~ CROSS-CLAIMANTS' CONTENTIONS

For the purposes of this Cross-Claim only, if, contrary to the denials and non-admissions set out in the CLR, the Plaintiffs prove the allegations they have made against the Cross-Claimants and one or both of them is liable to the Plaintiffs, then:

**Allegations made by the Plaintiffs**

- 1 The Cross-Claimants repeat against the Cross-Defendants the allegations made by the Plaintiffs in paragraphs 12, 13, 14-64, 70-78, 86 and 97-103 of section C of the CLS.

**Contribution at law or equity**

- 2 On the basis of the facts and matters alleged by the Plaintiffs and repeated as set out in paragraph 1 above:
- a. each of the Cross-Defendants is liable in respect of the same damage as the ~~Third-First~~ and/or ~~Fourth-Second~~ Cross-Claimants, within the meaning of s 3(1)(c) of the Tas Act, or alternatively s 5(1)(c) of the NSW Act, or alternatively any other similar or equivalent provision of any other applicable legislation;
  - b. to the extent the Plaintiffs' claims are not apportionable, then the Cross-Claimants are entitled to contribution from the Cross-Defendants against the Plaintiffs' claims to the extent as may be found by the Court to be just and equitable pursuant to s 3(1)(c) and (2) of the Tas Act, or alternatively s 5(1)(c) and (2) of the NSW Act, or alternatively any other similar or equivalent provision of any other applicable legislation;
  - c. further or alternatively, the Cross-Claimants are entitled to contribution in equity from the Cross-Defendants against the Plaintiffs' claims on the basis that the Cross-Defendants are liable in equity to make good the Plaintiffs' loss.

**Relief**

- 3 Accordingly, the Cross-Claimants claim against each of the Cross-Defendants the relief set out in the Cross-Summons of the same date.

**D QUESTIONS APPROPRIATE FOR REFERRAL TO A REFEREE**

None.

**E MEDIATION STATEMENT**

A mediation has not yet taken place in this proceedings. The Cross-Claimants consider that these proceedings should be mediated at the same time as the principal proceedings.

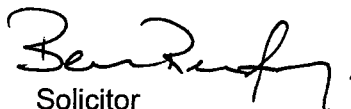
**SIGNATURE OF LEGAL REPRESENTATIVE**

I certify under clause 4 of Schedule 2 to the Legal Profession Uniform Law Application Act 2014 that there are reasonable grounds for believing on the basis of provable facts and a

reasonably arguable view of the law that the claim for damages in this statement of cross-claim has reasonable prospects of success.

I have advised the Cross-Claimants that court fees may be payable during these proceedings. These fees may include a hearing allocation fee.

Signature

  
Solicitor

Capacity

Date of signature

31 August 2018

**NOTICE TO CROSS-DEFENDANT**

If you do not file a defence you will be bound by any judgment or order in the proceedings so far as it is relevant to this cross-claim.