

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COMMERCIAL AND EQUITY DIVISION
COMMERCIAL COURT

CORPORATIONS LIST
No S CI 2011 6816

IN THE MATTER OF WILLMOTT FORESTS LIMITED (RECEIVERS AND MANAGERS
APPOINTED) (IN LIQUIDATION)
ACN 063 263 650

WILLMOTT FORESTS LIMITED (RECEIVERS AND MANAGERS APPOINTED) (IN
LIQUIDATION) ACN 063 263 650 IN ITS CAPACITY AS RESPONSIBLE ENTITY OF THE
MANAGED INVESTMENT SCHEMES LISTED IN SCHEDULE 2 AND IN ITS CAPACITY
AS MANAGER OF THE UNREGISTERED SCHEMES LISTED IN SCHEDULES 3 AND 4
AND ORS ACCORDING TO SCHEDULE 1

Plaintiffs

AFFIDAVIT OF MARK ALBERT BLAND

Date of Document:	15 December 2011
Filed on behalf of:	Willmott Growers Group Inc
Prepared by:	
CLARENDON LAWYERS	Solicitors Code: 101294
Level 17, Rialto North Tower	Tel: (03) 8681 4400
525 Collins Street	Fax: (03) 8681 4499
Melbourne VIC 3000	Ref: MAB:DXM:1100238
	Dan Mackay
	dan.mackay@clarendonlawyers.com.au

I, **MARK ALBERT BLAND**, of level 17, Rialto North Tower, 525 Collins Street, Melbourne, Victoria, lawyer, AFFIRM AND SAY as follows:

1. I am a director of Clarendon Lawyers.
2. Clarendon Lawyers are solicitors for the Willmott Growers Group Inc (Reg No A0055077L) (**WGG**).
3. I have care and conduct of this matter on behalf of Clarendon Lawyers and am authorised to make this affidavit on the WGG's behalf.
4. I make this affidavit in support of the WGG's application to be heard in this proceeding and in opposition to the Plaintiffs' application for relief as detailed in the originating process dated 13 December 2011 and filed 14 December 2011 on their behalf (**Plaintiffs' Application**) to the extent that relief applies to or may affect:



a. Willmott Forests 1995-1999 Project ARSN 089 598 612 (**1995-1999 Project**);
and/or

b. the following unregistered managed investment schemes:

- i. 1994 Grimsey & Associates Pty Ltd – Forestry Partnership No. 1;
- ii. 1994 Grimsey & Associates Pty Ltd – Forestry Partnership No. 2;
- iii. 1994 Grimsey & Associates Pty Ltd – Forestry Partnership No. 3;
- iv. 1993 McKenzie Private Partnership No.1;
- v. Sharp – Reed Plantation Project – 1998; and
- vi. 1995 No Project;

(collectively the **WGG Unregistered Schemes**).

5. I make this affidavit from information within my own knowledge except where otherwise stated.
6. I have read the affidavit of the Second Plaintiff Craig David Crosbie sworn 13 December 2011 and filed in this proceeding (**Crosbie Affidavit**).

Dictionary

7. Any references in this affidavit to the:

- a. **Liquidators** is a reference to the Second and Third Plaintiffs; and
- b. **WFL** is a reference to the First Plaintiff.

8. Terms are otherwise defined in context or by reference to the Crosbie Affidavit.

Willmott Growers Group

9. The WGG was established as an incorporated association on 28 September 2010 by investors and financial advisers on behalf of, and to promote and represent the interests of, persons with investments in financial projects of which WFL is currently the responsible entity and/or manager.

10. The primary focus of the WGG has been promoting and representing the interests of members of the 1995-1999 Project and the WGG Unregistered Schemes.

WGG Proposal

11. I refer to paragraphs 59 to 72 of the Crosbie Affidavit.

12. In approximately December 2010, WGG developed a proposal in conjunction with other parties including Primary Securities Ltd (**Primary**) for the replacement of the WFL as responsible entity of the 1995-1999 Project and the continuation of the 1995-1999 Project (**WGG Proposal**).

13. On 23 December 2010 WGG facilitated the issue of a notice of meeting calling a meeting of members of the 1995-99 Project to consider the WGG 1995-99 Proposal (**First NOM**).

14. Between 23 December 2010 and 2 February 2011 Mark Korda, Bryan Webster and Mark Mentha of Korda Mentha (**Receivers**), by their solicitors Allens Arthur Robinson, raised various objections to the First NOM.

15. On 2 February 2011, in order to avoid unnecessary disputes with the Receivers, WGG withdrew the First NOM.

16. On 20 May 2011, WGG facilitated the issue of a notice of meeting (**Second NOM**) calling a meeting of members of the 1995-99 Project to consider and vote upon resolutions to give effect to the WGG Proposal. This is discussed at paragraphs 60 to 62 of the Crosbie Affidavit.

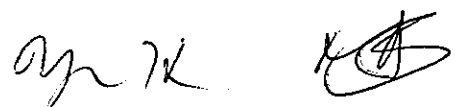
17. On 20 May 2011 the meeting was adjourned to 23 June 2011 at 10:00am.

Supreme Court Proceeding SCI 2011 3155

18. I refer to paragraphs 63 and 64 of the Crosbie Affidavit.

19. By originating process dated 21 June 2011 the Receivers issued proceedings in the Supreme Court of Victoria against WGG, Grimsey Financial Services Pty Ltd, Paul Challis and Redisland Australia Ltd (the **Defendants**) (the **Receivers Injunction Application**) seeking the following orders.

1. *Interim, interlocutory and/or final injunctions under subsections 1324(1) and (4) of the Corporations Act and/or section 37(1) of the Supreme Court Act:*



- (a) *prohibiting any meeting being held pursuant to the notice of meeting issued by the 1st and 2nd Defendants on 20 May 2011;*
- (b) *alternatively, prohibiting resolutions 1 and 2, alternatively resolution 2, as set out in the notice of meeting issued by the 1st and 2nd Defendants on 20 May 2011, or any resolutions to substantially the same effect, being put to the meeting called for 14 June 2011 or to any subsequent meeting of the members of the Scheme.*
2. *Further or alternatively, interim, interlocutory and/or final injunctions under subsections 1324(1) and (4) of the Corporations Act and/or section 37(1) of the Supreme Court Act prohibiting the defendants and each of them from procuring, causing or acquiescing in resolutions 1 and 2, alternatively resolution 2, as set out in the notice of meeting issued by the 1st and 2nd Defendants on 20 May 2011, or any resolutions to substantially the same effect, being put to the meeting called for 14 June 2011 or to any subsequent meeting of the members of the Scheme.*
3. *Such further or other orders as the Court deems appropriate.*

20. This relief was sought on the basis that the amendments to the 1995-99 Project constitution proposed by resolution 2 of the WGG 1995-99 Proposal would constitute a fraud on the power and was supported by an affidavit from Bryan Webster affirmed 21 June 2011 and exhibits thereto.

21. An affidavit of the First Plaintiff sworn 22 June 2011 was filed on behalf of the Liquidators in support of the Receivers' Injunction Application.

22. The Receivers' Injunction Application proceeded before the Honourable Justice Beach the following day, Wednesday 22 June 2011, and His Honour made orders, *inter alia*, restraining the putting of the proposed special resolution and adjourned the further hearing of the matter to 1 July 2011 for further hearing before the Honourable Justice Ferguson.

23. Despite not being a party to the Receivers' Injunction Application, the Liquidators were represented at the hearing and supported the Receivers' application and the making of the interim injunction.

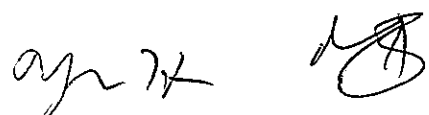
24. The hearing of the Receivers' Injunction Application for interlocutory relief proceeded before Her Honour Justice Ferguson on 1 July 2011. At the conclusion of the day's

hearing Her Honour made orders extending the injunction first granted by His Honour Justice Beach until further order, and indicated she would provide deliver judgement on the application for interlocutory relief the following Monday.

25. On Monday 4 July 2011 Her Honour ruled that the interlocutory injunction should remain in place, to allow the substantive trial of the matter to be heard. Her Honour made procedural orders, *inter alia*, listing the matter for trial on 23 August 2011 and ordering the parties to attend mediation on 15 July 2011.
26. I refer to paragraph 64 of the Crosbie Affidavit and note that it incorrectly states that 'the Court further ordered that the matter proceed by way of pleadings and set down a final hearing for the 14-16 December 2011 [sic]'.
27. The parties attended mediation on 15 July 2011. The Liquidators, by their legal representatives, also attended until being excluded from the mediation by the Honourable Associate Justice Efthim who was presiding.
28. The final hearing of the Receivers' Injunction Application was subsequently adjourned to 17 October 2011. This trial date was in turn vacated and the hearing adjourned to 14 December 2011, before a further adjournment until 13 March 2012.

Settlement of the Receivers' Injunction Application

29. On 9 November 2011 the parties to the Receivers' Injunction Application and Willmott Finance Pty Ltd executed a conditional deed of settlement in respect of the proceeding (**Settlement Deed**).
30. The terms of the Settlement Deed are confidential with limited exceptions. The terms of the Settlement Deed are not relevant to these proceedings beyond the detail provided at paragraph 32 below.
31. By 15 December 2011, the key pre-conditions to the Settlement Deed were satisfied.
32. As a result of those pre-conditions being satisfied, pursuant to the Settlement Deed WFL and the Receivers, plaintiffs in the Receivers' Injunction Application, are obligated to take steps to have the injunction discharged and the proceedings discontinued.
33. On 15 December 2011 the parties to the Receivers' Injunction Application submitted signed minutes of proposed consent orders to the Supreme Court seeking orders, *inter alia*, that the injunction be dissolved and the proceeding be discontinued.

Handwritten signatures in black ink, appearing to be 'ayr H' and a stylized signature.

34. At the time of swearing this affidavit the Court has not yet responded to the consent orders forwarded to it.

New WGG Proposal

35. Between July 2011 and 25 November 2011, the WGG developed a new proposal for the restructure and continuation of the 1995-1999 Project (**New WGG Proposal**).

36. On 25 November 2011, the WGG facilitated the calling of a meeting of members of the 1995-1999 Project for Wednesday 21 December 2011 to consider and vote upon the New WGG Proposal (**Growers Meeting**) and the following were issued:

- a. covering letter notice of meeting addressed to Growers dated 25 November 2011;
- b. notice of meeting dated 25 November 2011 (**New NOM**);
- c. proxy form;
- d. WGG Grower contribution form; and
- e. WGG Grower change of details form.

37. I refer to paragraph 65 of the Crosbie Affidavit which discussed the above, and exhibit **CDC-6** which comprises the documents details at paragraph 36 above.

38. I refer to paragraph 66 of the Crosbie affidavit where Mr Crosbie details his receipt of a letter sent via email from Jonathan Grigg. The letter is exhibited marked CDC-7 to the Crosbie Affidavit.

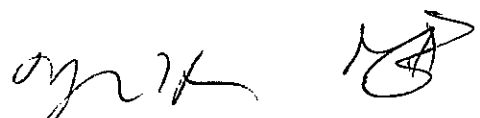
39. I note that exhibit CDC-7 is a letter signed by Anthony Madden, an officer of the WGG, on behalf of the WGG (**WGG Letter**) and is not a letter from Mr Grigg.

40. I refer to the first line of the WGG Letter which reads:


I refer to our meeting of 15 November 2011.

41. I am informed by Mr Grigg and believe that:

- a. the meeting referred to was a meeting between Mr Grigg of Grimsey Financial Services, Mr Paul Pettofrezza, committee member of the WGG and Mr Crosbie and Mr Barry White of PPB; and



- b. in the course of the meeting, Mr Grigg and Mr Pettofrezza indicated that the WGG intended to continue the 1995-1999 Project and were willing to cooperate with a prospective purchaser of the land on which the 1995-1999 Project is operated in its continuation;
 - c. further, in the course of the meeting, Mr Crosbie made statements to the effect that he may be willing to arrange a meeting with the prospective purchaser at their office.
42. On 16 November 2011 Mr Grigg emailed Mr Crosbie to thank him for meeting them and to advise Mr Crosbie that he would be interstate and provide contact details for that period.
43. On 21 November 2011 Mr Crosbie responded by email stating, *inter alia*, '[o]nce we have an agreement with the bidder I will come back to you regarding our last meeting.'
44. Between 21 November 2011 and 28 November 2011 I am informed by Mr Grigg and believe that neither Mr Grigg, nor the WGG, heard anything further from Mr Crosbie in this respect.
45. On 28 November 2011 Mr Grigg sent the WGG Letter to Mr Crosbie. The WGG Letter reiterated the WGG's intentions in respect of continuation of the 1995-1999 Project and requested that Mr Crosbie communicate to the prospective purchaser the WGG's willingness to work cooperatively with them and that Mr Crosbie consider a meeting between himself, the WGG and the prospective purchaser prior to finalisation of the Sale Contracts.
46. I am informed by Mr Grigg and believe that no response to the WGG Letter was ever received from Mr Crosbie.
47. I refer to paragraph 68 to 69 of the Crosbie Affidavit and exhibit CDC-9.
48. Despite Clarendon Lawyers request in the letter dated 28 November 2011 exhibited marked CDC-9 that Ms Sheridan confirm that the proposed purchaser had been provided with our letter, Clarendon Lawyers did not receive any response from the Liquidators' lawyers.
49. On 9 December 2011 an explanatory memorandum in relation to the business to be conducted at the Growers Meeting and the New WGG Proposal was issued (**Explanatory Memorandum**). I refer to paragraph 70 of the Crosbie Affidavit where Mr



Crosbie details his receipt of the Explanatory Memorandum and to exhibit **CDC-10** which is a copy of the Explanatory Memorandum.

50. The New NOM outlines the following four resolutions to be considered at the meeting:

- a. Resolution 1 provides for approval of the New WGG Proposal;
- b. Resolution 2 provides for amendments to the constitution of the 1995-99 Project to implement the WGG 1995-99 Proposal;
- c. Resolution 3 provides for the removal of WFL as responsible entity of the 1995-99 Project; and
- d. Resolution 4 provides for the replacement of WFL by Primary as responsible entity of the 1995-99 Project.

51. If the four resolutions proposed in the New NOM are passed at the meeting, WFL will be removed as responsible entity of the 1995-99 Project and replaced with Primary.

52. Upon the removal and replacement of the responsible entity, pursuant to section 601FS of the *Corporations Act 2001 (Act)*, the rights, obligation and liabilities of WFL in relation to the 1995-99 Project will become rights, obligations and liabilities of Primary.

53. Furthermore, if Primary replaces WFL as responsible entity, the Plaintiffs will have no standing to seek the proposed relief in respect of the 1995-1999 Project in this proceeding.

54. On 15 December 2011 the WGG published on its website the final report of MBAC Consulting Pty Ltd regarding the viability of the plantations comprising the 1995-1999 Project (**MBAC Report**). Access to this report is restricted to Growers in the 1995-1999 Project, the Liquidators, the Receivers and the auditors of the 1995-1999 Project.

WGG Unregistered Schemes

55. WGG is currently undertaking key investigations into the status of the WGG Unregistered Schemes and, pending the outcome of those investigations, intends to pursue the continuation of the WGG Unregistered Schemes through recapitalisation and then the engagement of a maintenance contractor for the continued maintenance of the WGG Unregistered Schemes.

56. I expect that these investigations will be completed in the early New Year and if the continuation of the WGG Unregistered Schemes is to be pursued, proposals for their continuation will be well advanced by mid to late January 2011.

Earlier Federal Court application

57. I refer to paragraphs 19 to 22 of the Crosbie affidavit where the Second Plaintiff discusses Federal Court proceeding VID 382 of 2011 (**Federal Court Proceedings**).

58. WGG was granted leave to appear as an intervener in those proceedings pursuant to Order 6 Rule 17 of the Federal Court Rules.

59. In its capacity as an intervener the WGG filed submissions in the Federal Court Proceedings as follows:

- a. Outline of WGG's Submissions dated 22 June 2011; and
- b. Outline of WGG's Submissions in Reply in Reply dated 24 June 2011.

60. Now produced and shown to me:

- a. marked **MAB-1** is a true copy of the Outline of WGG's Submissions dated 22 June 2011;
- b. marked **MAB-2** is a true copy of the Outline of WGG's Submissions in Reply dated 24 June 2011; and
- c. marked **MAB-3** is a true copy of the transcript of the Federal Court Proceeding, 28 June 2011 to 29 June 2011.

61. Prior to making the orders referred to at paragraph 21 of the Crosbie Affidavit and exhibited at **CDC-3**, the Honourable Justice Dodds-Streeton delivered brief ex-tempore reasons for judgement and indicated that full reasons would in turn be published.

62. I refer to paginated page 147 of **MAB-3** (T167) which is the relevant section of the transcript.

63. I am informed by Yu-chiao Hsueh, a lawyer at Clarendon Lawyers, and believe, that on 15 December 2011:

- a. he made inquiries of the Honourable Justice Dodds-Streeton's executive assistant regarding the publication of reasons and was advised by Her Honour's

executive assistant that reasons had not yet been published and she was unsure when they would be; and

- b. he made enquiries of Auscript Australasia Pty Ltd (**Auscript**), the relevant transcript provide, regarding whether Her Honour's brief oral reasons could be transcribed and was advised that Auscript could not publish transcript of oral reasons for judgment without first providing them in draft to the relevant Judge and having their release authorised.

Relevant confidential exhibits

64. I refer to:

- a. paragraph 95 of the Crosbie Affidavit, in which Mr Crosbie exhibits **Confidential CDC-14**, a schedule summarising the highest indicative non-binding offers received;
- b. paragraph 101 of the Crosbie Affidavit, in which Mr Crosbie exhibits **Confidential CDC-15**, a spreadsheet summarising bids received on a property-by-property basis;
- c. paragraph 106 of the Crosbie Affidavit, in which Mr Crosbie exhibits **Confidential CDC-16**, containing the final binding offers received from the 5 preferred bidders;
- d. paragraph 113 of the Crosbie Affidavit, in which Mr Crosbie exhibits **Confidential CDC-17**, being a true copy of GFP's revised offer; and
- e. paragraph 118 of the Crosbie Affidavit, in which Mr Crosbie exhibits **Confidential CDC-18**, being further offers received from the three other preferred bidders.

65. I consider that without access to **Confidential CDC-14 to CDC-18**, it is not possible for any party other than the Plaintiffs, or an intervener or contradictor, to assess to what extent agreement with the Receivers identified in paragraphs 104 and 105 of the Crosbie Affidavit affected the Liquidators' selection of preferred bidders and to assess values attributed to Trees and land by the interested bidders.

66. More fundamentally, I consider that without access to **Confidential CDC-14 to CDC-18**, it is not possible for any party or intervener other than the Plaintiffs to:

- a. assess whether the Liquidators are justified in procuring WFL to:
 - i. enter into and perform the Sale Contracts;

- ii. terminate or surrender each of the Project Documents; and/or
 - iii. surrender, relinquish or release the rights of Growers in the Trees the subject of the Sale Contracts;
- b. assess risks to the rights of third parties; and/or
 - c. make meaningful submissions in respect of the 1995-1999 Project and the WGG Unregistered Schemes in order to assist the Court.

67. I refer to paragraph 120 of the Crosbie Affidavit, in which Mr Crosbie exhibits **Confidential CDC-19**, being the six regional Sale Contracts for Bombala Victoria, Bombala New South Wales, Murray Valley New South Wales, North Coast New South Wales and North Coast Queensland.

68. I consider that without access to the Sale Contracts for Bombala Victoria and Bombala New South Wales, it is not possible for any party other than the Plaintiffs, or an intervener or contradictor, to make the assess or make submissions in relation to the matters identified at paragraph 66 of this my affidavit.

69. In particular, Mr Crosbie deposes to general provisions of the Sale Contracts at paragraph 120 of the Crosbie Affidavit. The provisions are expressed in general terms at paragraphs (e) and (f), and do not give any party other than the Plaintiffs, or an intervener or contradictor, the ability to assess the materiality of the risk of threshold amounts being exceeded, potentially leading to rescission of the Sale Contracts.

70. Further, I consider that other details of the Sale Contracts (such as settlement period and other conditions precedent) are required to place any party other than the Plaintiffs, or an intervener or contradictor, in a position where it can better inform the Court in relation to the risks and urgency deposed by Mr Crosbie, including but not limited to the Sale Contracts falling through, compliance with statutory maintenance obligations and protection against public liability and satisfying the terms and conditions of insurance policies.

71. I refer to paragraph 130 of the Crosbie Affidavit, in which Mr Crosbie exhibits **Confidential CDC-20**, being the:

- a. M3 Report on the value of various parcels of land owned or leased by Willmott in its present condition and in a cleared and rehabilitated condition; and

Two handwritten signatures in black ink are located at the bottom right of the page. The first signature is a cursive 'J. M.' and the second is a more stylized signature.

- b. the Poyry Valuation Report on the value of the trees on a plantation-by-plantation basis.

72. I refer to paragraph 132 of the Crosbie Affidavit, where Mr Crosbie deposes that the Plaintiffs considered that an adjustment to transfer a portion of the value ascribed to the Bombala Land to the trees on the Bombala Land is in the best interests of unsecured creditors and Growers, and at paragraph 133 that the Plaintiffs considered that the GFP revised Offer was fair and reasonable.

73. Further, I refer to paragraph 160 of the Crosbie Affidavit where Mr Crosbie deposes that:

There did not appear to be much correlation between the Revised GFP Offer and the Poyry Valuation Report. We considered it would be fair and reasonable to rely on the Poyry Valuation Report given its expertise in the valuation of trees and since its valuation was consistent with the harvesting model provided in the scheme documents. Accordingly, we intend to take the total amount offered for all trees in a Region under the Revised GFP Offer (including the Bombala Adjustment) and reapportion this in accordance with the Poyry Valuation Report for trees in that Region.

74. With respect to paragraphs 132 to 133 of the Crosbie Affidavit, I note that there is no detail of the valuation methodologies and assumptions utilised by M3 and Poyry. Further, to the extent paragraph 133 seeks to compare the GFP Revised Offer against the Poyry Valuation Report and M3 Report, this comparison is meaningless without detail of the underlying figures.

75. Further, with respect to paragraph 160 of the Crosbie Affidavit, it appears that the Poyry Valuation Report has been prepared based on the assumption that conventional silviculture will be applied to the plantations. It is not clear whether Poyry considered alternative, or non-conventional, silvicultural treatment of the plantations which may have increased the value of particular plantations. I consider that this impacts on the ability of any party other than the Plaintiffs, or an intervener or contradictor, to assess the reasonableness of the Liquidators' reliance on the Poyry Valuation Report.

76. In addition, I consider that without access to the Poyry Valuation Report and the Revised GFP Offer, it is not possible to understand what is meant by the statements at paragraph 160 of the Crosbie Affidavit. It is unclear what did not correlate, to what extent and for what reasons. Moreover, it is not possible to understand what is meant by the Liquidators' intention to 'take the total amount offered for all trees in a Region under the

Revised GFP Offer (including the Bombala Adjustment) and reapportion this in accordance with the Poyry Valuation Report for trees in that Region' or evaluate the reasonableness of such an intention.

77. I consider that without access to the Poyry Valuation Report, it is not possible to assess the basis of Poyry's valuation and the reasonableness and appropriateness of the assumptions which have been applied, and in turn, the reasonableness of the Liquidators' reliance on the Poyry Valuation Report.

78. I consider that without access to **Confidential CDC-20** (the M3 Report and Poyry Valuation Report) and **Confidential CDC-17** (the Revised GFP Offer), potential parties other than the Plaintiffs, and any interveners or contradictors, will be unable to assess:

- a. the matters detailed in paragraphs 74 to 77 of this my affidavit; and
- b. assess or make submissions in relation to the matters identified at paragraph 52 of this my affidavit.


79. I refer to:

- a. paragraph 161 of the Crosbie Affidavit, in which Mr Crosbie deposes to Non-Scheme Costs and Scheme Related Costs incurred by the Plaintiffs;
- b. paragraph 162 of the Crosbie Affidavit, in which Mr Crosbie exhibits **Confidential CDC-22**, an analysis of the Revised GFP Offer for Trees and Scheme Related Costs on project-by-project basis; and
- c. paragraph 163 of the Crosbie Affidavit, in which Mr Crosbie states:

*As can be seen from **Confidential CDC-22** referred to in paragraph 162 above, GFP's offer is insufficient to cover our Scheme Related Costs in 12 of the 44 projects. Accordingly, growers in these projects will not receive any proceeds of the sale.*

80. I consider that without access to both **Confidential CDC-22** and further details of the Scheme Related Costs:

- a. it is not possible for parties other than the Plaintiffs, and any interveners or contradictors, to assess or make submissions in relation to the matters identified at paragraph 66 of this my affidavit; and

ay 276 

- b. to the extent that the Scheme Related Costs might be unreasonable or contain errors in its calculation, it could positively or negatively impact on the figures in **Confidential CDC-22** and also exhibit **CDC-23**, the spreadsheet setting out estimated amounts which Growers will receive per hectare on a scheme by scheme basis.

Concerns regarding confidential exhibits

81. Mr Crosbie justifies the confidentiality claims on the following bases:

- a. in relation to **Confidential CDC-14** and **CDC-15**, that:
 - i. it contains personal information;
 - ii. a number of the parties advised that they wished for their details to remain confidential; and
 - iii. the bid values should remain confidential in the event that this application is unsuccessful and the sale falls through. The Plaintiffs do not want to prejudice any future offers they may receive by disclosing the prices each party initially indicated they were willing to pay in this process.
- b. in relation to **Confidential CDC-16**, **CDC-17**, **CDC-18** and **CDC-20** that the offers should remain confidential in the event that this application is unsuccessful and the sale falls through. The Plaintiffs do not want to prejudice any future offers they may receive by disclosing the price offered or potential value of Sale Assets; and
- c. in relation to **Confidential CDC-19** that the Sale Contracts should remain confidential in the event that this application is unsuccessful and the sale falls through. The Plaintiffs do not want to prejudice any future negotiations by disclosing the terms of the Sale Contracts.

82. I note that Mr Crosbie does not provide any justification in relation to **Confidential CDC-22** and **CDC-25**.

83. With respect to Mr Crosbie's concern regarding personal information, I consider that the relevance of the documents to both the interests of Growers and the ability of any parties other than the Plaintiffs to scrutinise the Plaintiffs' application and make meaningful submissions to the Court takes precedence over the confidentiality concerns.

84. To the extent that the Court considers that confidentiality of personal information should be preserved, I consider that redactions of personal information can alleviate any such concerns.

85. With respect to Mr Crosbie's concern regarding the potential prejudice to future offers and negotiations that may be caused to the extent that information about price, potential value of Sale Assets and terms of the Sale Contracts are disclosed, I consider that although sensitive, this information is critical for any other potential party to scrutinise and make submissions in response to the Plaintiffs' application.

86. It appears that Mr Crosbie is concerned that such information may be disclosed to the market and prejudice future sales, should the current sale fall through. I consider that limiting access to information relating to price, potential value of Sale Assets and the terms of the Sale Contracts to solicitors and Counsel for any other potential party and imposing conditions on use and disclosure of the confidential exhibits will be sufficient to avoid disclosure to the market or any collateral advantage gained by third parties through acquiring the information.

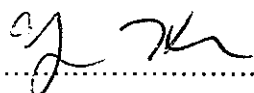
Submission

87. For the reasons set out in paragraphs 64 to 87 above, we respectfully submit to the Court that the confidential exhibits of the Crosbie Affidavit identified in paragraphs 81 and 82 of this my affidavit be provided to solicitors and Counsel for any other potential party on the condition that the confidential information not be disclosed to any third parties, including the clients of such solicitors and Counsel.

88. To the extent that the Court determines that personal information should be subject to confidentiality, we respectfully submit that such personal information can be redacted.

AFFIRMED by the said)
MARK ALBERT BLAND)
at Melbourne in the State of Victoria)
this 15th day of December 2011)



Before me: 

YU-CHIAO HSUEH
of Clarendon Lawyers Pty Ltd
Level 17, Rialto North Tower
525 Collins St, Melbourne Victoria 3000
an Australian Legal Practitioner within the
meaning of the *Legal Profession Act 2004* 15

SCHEDULE 1 – SCHEDULE OF PARTIES

**WILLMOTT FORESTS LIMITED (RECEIVERS AND MANAGERS APPOINTED) (IN LIQUIDATION) (ACN 063 263 650)
IN ITS PERSONAL CAPACITY AND IN ITS CAPACITY AS RESPONSIBLE ENTITY OF EACH OF THE MANAGED INVESTMENT SCHEMES LISTED IN SCHEDULE 2 AND IN ITS CAPACITY AS MANAGER OF THE UNREGISTERED MANAGED INVESTMENT SCHEMES LISTED IN SCHEDULES 3 AND 4**

First Plaintiff

and

**CRAIG DAVID CROSBIE
IN HIS CAPACITY AS LIQUIDATOR OF WILLMOTT FORESTS LIMITED (RECEIVERS AND MANAGERS APPOINTED) (IN LIQUIDATION) (ACN 063 263 650)**

Second Plaintiff

and

**IAN MENZIES CARSON
IN HIS CAPACITY AS LIQUIDATOR OF WILLMOTT FORESTS LIMITED (RECEIVERS AND MANAGERS APPOINTED) (IN LIQUIDATION) (ACN 063 263 650)**

Third Plaintiff

SCHEDULE 2 - REGISTERED MANAGED INVESTMENT SCHEMES

1. Willmott Forests 1989-1991 Project (ARSN 092 516 651).
2. Willmott Forests 1995-1999 Project (ARSN 089 598 612).
3. Willmott Forests Project (ARSN 089 379 975).
4. BioForest Dual Income Project 2006 (ARSN 119 153 623).
5. BioForest Sustainable Timber and Biofuel Project 2007 (ARSN 124 135 535).
6. Willmott Forests Premium Forestry Blend Project (ARSN 131 549 589).
7. Willmott Forests Premium Forestry Blend Project - 2010 Project (ARSN 142 702 585).
8. Willmott Forests Premium Timberland Fund No. 1 (ARSN 136 768 520).

**SCHEDULE 3 - UNREGISTERED MANAGED INVESTMENT SCHEMES:
PROFESSIONAL INVESTOR SCHEMES**

1. Willmott Forests - Professional Investor - 2001 Project - 2001 Information Memorandum.
2. Willmott Forests - Professional Investor - 2002 Project - 2002 Information Memorandum.
3. Willmott Forests - Professional Investor - 2003 Project - 2003 Information Memorandum (2003) and 2003 Information Memorandum (2004).
4. Willmott Forests - Professional Investor - 2004 Project - 2004 Information Memorandum (2004) and 2004 Information Memorandum (2005).
5. 2005 BioForest Wholesale Project No. 2 - 2005 Wholesale Forestry Memorandum (Bioforest).
6. Willmott Forests - Professional Investor - 2006 Project - 2006 Information Memorandum.

**SCHEDULE 4 - UNREGISTERED MANAGED INVESTMENT SCHEMES:
CONTRACTUAL SCHEMES AND PARTNERSHIP SCHEMES**

Contractual Schemes

1. 1983 (No Project).
2. 1984 (No Project).
3. 1985 (No Project).
4. 1986 (No Project).
5. 1987 (No Project).
6. 1989 (No Project).
7. 1990 (No Project) Interest Only Offer.
8. 1991 (No Project).
9. 1995 (No Project) (Custom).
10. Sharp/Reed Plantation Project - 1998 Information Memorandum.
11. 2001 (No Project).

Partnership Schemes

12. McKenzie & Partners - Forestry Partnership No. 1 (1993).
13. Grimsey & Associates Pty Ltd - Forestry Partnership No. 1 (1994).
14. Grimsey & Associates Pty Ltd - Forestry Partnership No. 2 (1994).
15. Grimsey & Associates Pty Ltd - Forestry Partnership No. 3 (1994).
16. McKenzie & Partners - Forestry Partnership No. 2 (1994).