

## **NOTICE OF FILING AND HEARING**

### **Filing and Hearing Details**

Document Lodged: Notice of Cross-Claim - Form 31 - Rule 15.02(1)  
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)  
Date of Lodgment: 23/04/2025 2:18:00 PM AEST  
Date Accepted for Filing: 30/04/2025 12:34:02 PM AEST  
File Number: VID420/2025  
File Title: IN THE MATTER OF ONESTEEL MANUFACTURING PTY LIMITED  
(ADMINISTRATORS APPOINTED) ACN 004 651 325  
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA  
Reason for Listing: To Be Advised  
Time and date for hearing: To Be Advised  
Place: To Be Advised

Registrar

### **Important Information**

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.

Form 31  
Rule 15.02(1)

## Notice of cross-claim

No. VID420 of 2025

Federal Court of Australia  
District Registry: Victoria  
Division: Commercial and Corporations List

### **IN THE MATTER OF ONESTEEL MANUFACTURING PTY LIMITED (ADMINISTRATORS APPOINTED) ACN 004 651 325**

**SEBASTIAN DAVID HAMS, MARK FRANCIS XAVIER MENTHA, LARA LUISA WIGGINS AND MICHAEL ANTHONY KORDA IN THEIR CAPACITY AS JOINT AND SEVERAL ADMINISTRATORS OF ONESTEEL MANUFACTURING PTY LIMITED (ADMINISTRATORS APPOINTED) ACN 004 651 325** and another named in schedule 1

Plaintiffs

**WHYALLA PORTS PTY LTD ACN 153 225 364**

Defendant

**WHYALLA PORTS PTY LTD ACN 153 225 364**

Cross-claimant

**SEBASTIAN DAVID HAMS, MARK FRANCIS XAVIER MENTHA, LARA LUISA WIGGINS AND MICHAEL ANTHONY KORDA IN THEIR CAPACITY AS JOINT AND SEVERAL ADMINISTRATORS OF ONESTEEL MANUFACTURING PTY LIMITED (ADMINISTRATORS APPOINTED) ACN 004 651 325** and another named in schedule 1

Cross-respondents

To SEBASTIAN DAVID HAMS, MARK FRANCIS XAVIER MENTHA, LARA LUISA WIGGINS AND MICHAEL ANTHONY KORDA IN THEIR CAPACITY AS JOINT AND SEVERAL ADMINISTRATORS OF ONESTEEL MANUFACTURING PTY LIMITED (ADMINISTRATORS APPOINTED) ACN 004 651 325 and ONESTEEL MANUFACTURING PTY LIMITED (ADMINISTRATORS APPOINTED) ACN 004 651 325, the Cross-respondents.

The cross-claimant, WHYALLA PORTS PTY LTD ACN 153 225 364, the defendant in the proceeding, applies for the relief set out in this cross-claim.

The court will hear this cross-claim, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the court may make orders in your absence.

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Filed on behalf of (name & role of party)	Defendant		
Prepared by (name of person/lawyer)	Laura Johns, Solicitor		
Law firm (if applicable)	Norton Rose Fulbright		
Tel	+61 2 9330 8101	Fax	+61 2 9330 8111
Email	laura.johns@nortonrosefulbright.com		
<b>Address for service</b> (include state and postcode)	Level 5, 60 Martin Place, Sydney NSW 2000		

[Form approved 01/08/2011]

If you have not already done so, you must file a notice of address for service (Form 10) in the Registry before attending court or taking any other steps in the proceeding.

**Time and date for hearing:**

**Place:** Owen Dixon Commonwealth Law Courts Building  
305 William Street  
Melbourne VIC 3000

The court ordered that the time for serving this application be abridged to:

Date:

.....  
Signed by an officer acting with the authority  
of the District Registrar

**Details of cross-claim**

On the grounds stated in the accompanying affidavit, the cross-claimant claims:

1. Leave under s 440D of the *Corporations Act 2001* (Cth) (**Corporations Act**) to commence and proceed with this cross-claim against the second cross-respondent (**OSM**).
2. A direction pursuant to s 90-15 of the Insolvency Practice Schedule (Corporations) (**IPS**), being Schedule 2 to the Corporations Act, alternatively a declaration under s 21 of the *Federal Court of Australia Act 1976* (Cth) (**FCA Act**), to the effect that:
  - (a) the lease entered into by the cross-claimant (**Whyalla Ports**) and OSM and dated 29 June 2018 (**Lease**) is valid and binds the parties to it according to its terms; alternatively
  - (b) OSM is estopped from denying that the Lease is valid and binds it according to its terms, and the first cross-respondents (the **Administrators**) are bound to act accordingly.
3. A direction pursuant to s 90-15 of the IPS, alternatively a declaration under s 21 of the FCA Act, that on the proper construction of the Lease, and in the present circumstances where Whyalla Ports is holding over under the Lease (alternatively, where OSM is estopped from denying as much), OSM cannot terminate the Lease (alternatively, the estoppel) without giving Whyalla Ports:
  - (a) two years' written notice; alternatively
  - (b) six months' written notice.

4. A direction pursuant to s 90-15 of the IPS, alternatively a declaration under s 21 of the FCA Act, to the effect that:
  - (a) the **Assets** (as defined in Schedule 2 attached) are the property of Whyalla Ports; and
  - (b) on the proper construction of the Lease, the Assets are each '**Lessee's Improvements**' as defined in cl 1 of the Lease.
5. An order under s 90-15 of the IPS, alternatively a declaration under s 21 of the FCA Act, that by causing employees of OSM to enter the land the subject of the Lease (the **Premises**) on and after 28 March 2025, the Administrators trespassed on the Premises.
6. An order under s 90-15 of the IPS, alternatively a declaration under s 21 of the FCA Act, that by causing employees of OSM to use the Assets on and after 28 March 2025, the Administrators converted the Assets to their own use.
7. Damages for trespass and conversion, including exemplary damages (with the question of damages to be referred for assessment or tried separately following the determination of questions of liability).
8. If the court grants the relief sought by the plaintiffs in the originating process, a direction pursuant to s 90-15 of the IPS that the cross-respondents must permit Whyalla Ports to access and enter the Premises and remove the Assets for a period of six months commencing on the date of the order (or, if the Lease is terminated by disclaimer, commencing from the date that the disclaimer takes effect).
9. Costs.

#### **Cross-claimant's address**

The Cross-claimant's address for service is:

Place: Level 5, 60 Martin Place, Sydney NSW 2000

Email: laura.johns@nortonrosefulbright.com

The Cross-claimant's address is C/- Norton Rose Fulbright, Level 5, 60 Martin Place, Sydney NSW 2000

**Service on the Cross-respondents**

Whyalla Ports intends to serve this cross-claim on all cross-respondents.

Date: 29 April 2025

A handwritten signature in black ink, appearing to read 'Laura Johns', written in a cursive style.

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Signed by Laura Johns  
Solicitor for the cross-claimant

**Schedule 1**

No. VID420 of 2025

Federal Court of Australia

District Registry: Victoria

Division: Commercial and Corporations List

Second Plaintiff: **ONESTEEL MANUFACTURING PTY LIMITED (ADMINISTRATORS APPOINTED) ACN 004 651 325**

Second Cross-respondent: **ONESTEEL MANUFACTURING PTY LIMITED  
(ADMINISTRATORS APPOINTED) ACN 004 651 325**

Date: 29 April 2025

## Schedule 2

### Assets

	Description
1.	Site Services Buildings
2.	Shed 1
3.	Shed 2
4.	Tip Pocket
5.	Fire Fighting System
6.	Dust Collection System
7.	Water Spray System
8.	Sampler Equipment
9.	Conveyor 1 - from Tip Pocket to Transfer Tower 1
10.	Inloading Conveyors and Transfer Towers
11.	Outloading Conveyors and Transfer Towers
12.	Standard Gauge Rail Network
13.	Narrow Gauge Rail Network
14.	Products Berth Upgrade
15.	Rolls Royce Mooring Winches
16.	B&W Shiploader
17.	Permanent Berth
18.	Permanent Shiploader
19.	Wharf Front Power Supply-Generator
20.	IHEF Shiploader Exclusion Zone
21.	Rail Infrastructure
22.	Material Handling Facility
23.	Permanent Berth / Shiploader 2
24.	Temporary Berth
25.	Transshipment
26.	Permanent Utilities
27.	Bulk Berth Timber Wharf
28.	Wharf Front Power Supply-Generator
29.	Shiploader
30.	Building Structure Etc.
31.	Bypass Conveyor & Other Conveyor (Feed Out)
32.	Incoming Conveyors & Support Structure & Gantry
33.	The Shed (Incl. Foundation, Walkway, Drainage)
34.	Inner Harbour Control System
35.	Inner Harbour 3 Navigation Beacons
36.	IH2 Navigation Beacon
37.	IH6 Navigation Beacon
38.	Ih12 Navigation Beacon
39.	J2 Navigation Beacon
40.	J3 Navigation Beacon
41.	J9 Navigation Beacon
42.	Mobile Solution For Sampling
43.	9 Navigation Beacons Jet 1,4,5,7,9,11,Ih 1,16,14
44.	Replace Inner Harbour Pilot Steps
45.	Mobile Harbour Crane - Mobile Hopper

46.	Ihef Tip Pocket Remediation
47.	Development Of Tug Berth
48.	Whyalla Port Lan Connection
49.	Installation Electromagnetic Brake On Boom Hoist
50.	Canopy From Shear Legs Over Walkways - Nos.1 & 2
51.	Safety Handrails-Inside Girder Platform & Cantil.
52.	Stockbridge Unloader With Two Grabs - 26t Cap.
53.	No.2 Stockbridge Electrical Upgrade
54.	Stockbridge Concrete Platform And Support Brackets
55.	Excavations + Concrete Foundations
56.	Building Structure
57.	Plumbing Fixtures + Fittings Sanitary Ware
58.	Foundations
59.	Concrete Floor
60.	Foundations
61.	Building
62.	Concrete Foundations
63.	Building Structure
64.	Plumbing Fixtures + Fittings
65.	IRON CLAD 8M X 13M EXT.TO INST.WORKSHOP
66.	Foundations
67.	Concrete Floor
68.	Channel Beacon
69.	Safety Barrier & Alterations To Corner Of Road
70.	Concrete Storage Pad At Blast Furnace Wharf
71.	Monorail
72.	Front Lead Light - Tower
73.	Rear Lead Light - Tower.
74.	Rebuilding-106 Metres Of Sheet Piled Wharf
75.	Piling + Peine Piling For Wharf Rebuilding
76.	Rubber Fenders
77.	Ext.Of Dolphin Platform- No.4 B/Fnce Wharf
78.	Upgrade Sheet Piling At West End Of Bulk Wharf
79.	Stonework On North Side Of Harbour
80.	Extending South Protection Bank By 700 Feet
81.	Boat Harbour Extensions
82.	Bollards
83.	Retaining Wall Ext. Tie Rods And Beams Etc.)
84.	Wharf Decking
85.	Timber Piles For Wharf Fenders
86.	Tracks And Wharf Anchorage
87.	Sheet Piling Incl. False Work
88.	Timber Work Decking And Rubber Fenders
89.	Misc. Concrete Work Inc. Concrete Anchors
90.	Piling
91.	Rubber Fenders

92.	Bollards And Mooring Cleats
93.	25 Ton Capacity Lifting Beam
94.	Ret Walls And Stockbridge Front Track Foundations
95.	Stockbridge Back Track-Incl. Foundations
96.	Trackwork Inc. Buffers Etc. For Stockbridge
97.	Piling
98.	Foundations
99.	Piling
100.	Foundations
101.	Trackwork
102.	Luffing Crane Collector Trench
103.	Piling
104.	Concrete Foundations
105.	Inner Harbour Additional Beacon 8a
106.	14 Sola - Chan Marine Navigation Beacons
107.	Shore Beacons
108.	Front Lead Light - Piling
109.	Front Lead Light - Concrete Foundations
110.	Rear Lead Light - Concrete Foundations
111.	Piling And Structural Steelwork
112.	Sealing Of Wharf Stacking Area
113.	Harbour Lead Lights (Located In Shipyard Area)
114.	Plumbing Fixtures Fittings Sanitary Ware
115.	Toilet Cisterns And Urinals
116.	Structural Supports For 3 Lights
117.	Lights - P/Bar Shop - No.3 Crane Track Tailing Dam
118.	Lighting Towers For Bulk Stock Wharf Area
119.	Floodlighting (9 Off) On Wharf
120.	Upgrade Lights & Wiring In Gear Shed
121.	Upgrade Lighting Wharf Material Handling Area
122.	Timber Wharf
123.	Dredging
124.	Dredging Basin And Channel Reclamation
125.	Harbour Dredging (Re Wharf Extension)
126.	Outside Cyclone Fencing (Compound)
127.	Sewers And Sumps
128.	Storage Area - Tar Paving
129.	Septic Tank
130.	Sewerage
131.	Concrete Paths
132.	Safety Fence -Areas Around Shipping Office
133.	Wharf Stockbridge Upgrade
134.	Install Ship Loading Material Deflectors At Wharf
135.	No.2 Stockbridge Cabin Air Conditioner
136.	Stage 3 Seawall Rock Armour
137.	Security Fence To BF Wharf Area

138.	Coke Shipping Wharf Pier
139.	Coke Wharf Rem
140.	Csl Compound Potable Water Filtration Skid
141.	Csl Potable Water Project
142.	Jetty Conveyor Motor Upgrade
143.	Boarding Platforms
144.	Jetty Conveyor - Shiploader
145.	Bis Equipment Transition
146.	Ohef Control System Upgrade1