

NOTICE OF FILING

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(ADMINISTRATORS APPOINTED) ACN 004 651 325
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



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Form 59
Rule 29.02(1)

Affidavit

No. VID 420 of 2025

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

**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 LTD (ADMINISTRATORS
APPOINTED) ACN 004 651 325**

First Plaintiff

**ONESTEEL MANUFACTURING PTY LTD (ADMINISTRATORS APPOINTED) ACN 004 651
325**

Second Plaintiff

WHYALLA PORTS PTY LTD ACN 153 225 364

First Defendant

GOLDING CONTRACTORS PTY LTD ACN 009 732 794

Second Defendant

Affidavit of: **Nathan John Collins**
Address: c/o King & Wood Mallesons
Level 30, QV1 Building
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Perth WA 6000
Occupation: Solicitor
Date: 25 April 2025

Filed on behalf of (name & role of party)	Second Defendant		
Prepared by (name of person/lawyer)	Nathan John Collins		
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I, Nathan John Collins, of Level 30, QV.1 Building, 250 St Georges Terrace, Perth WA 6000, say on oath:

A. Introduction

1. I am a solicitor and partner of King & Wood Mallesons (**KWM**). KWM acts for Golding Contractors Pty Ltd ACN 009 732 794 (**Golding**), which is a secured creditor of Whyalla Ports Pty Ltd ACN 153 225 364 (**Whyalla**).
2. I have day-to-day carriage of this matter, together with another partner of KWM, Samuel James Dundas. I am authorised to make this affidavit on Golding’s behalf.
3. Unless otherwise stated, this affidavit is based on my own knowledge, information and belief. Where I depose to matters on the basis of information and belief, I believe such matters to be true and correct and I state the basis for my information and belief.
4. Annexed to this affidavit is a bundle of documents, to which I refer to in this affidavit marked “NJC-1” (**Annexure NJC-1**). A reference to a tab in this affidavit is a tab in Annexure NJC-1, unless otherwise stated.

B. Overview of Golding’s interest in this proceeding

5. In this affidavit, I first explain the circumstances that led to:
 - (a) The debts owed to Golding by OneSteel Manufacturing Pty Ltd (Administrators Appointed) ACN 004 651 325 (**OneSteel**) under a Mining Services Agreement novated to Golding on or about 1 December 2020 (**Mining Services Agreement**). (At **Tab 1, pp 19-236 of Annexure NJC-1** is a true copy of the Mining Services Agreement.) (The Mining Services Agreement was made between OneSteel and BGC Contracting Pty Ltd on 17 March , under which BGC agreed to provide open pit mining services and rehandle services to OneSteel. The Mining Services Agreement was then novated to Golding on or about 1 December 2020.)
 - (b) The securities granted by, among others, Whyalla, in favour of Golding.




6. Next, I explain why the orders sought by the plaintiffs in the Originating Process filed on 2 April 2024 (**Originating Process**) affect Golding's interests. In essence, the security interest granted by Whyalla in favour of Golding attaches to both Whyalla's assets and its contractual rights. A relevant contractual right is the right given under cl 15.1(a) of the lease dated 29 June 2018 between OneSteel (as lessor) and Whyalla (as lessee) (**Lease**) (At **Tab 2, pp 237-277** of **Annexure NJC-1** is a true copy of the Lease.)
7. Under cl 15.1(a) of the Lease, Whyalla is granted a right to remove all of its chattels and "*Lessee's Improvements*", which have been erected, installed or constructed by or on behalf of Whyalla on the leased premises. As defined, "*Lessee's Improvements*" includes "*all buildings, structures, roads, fences and other improvements*" that are "*situated in or on, or installed or constructed in, on or about the [leased premises] by or on behalf of or at the expense of [Whyalla]*".
8. If the orders sought by the plaintiffs in the Originating Process are granted, and, in particular, the order or declaration that the Lease is void ab initio, unenforceable and of no legal effect, Whyalla would, in effect, be deprived of its rights under cl 15.1(a), and Golding's security under the General Security Agreement would no longer attach to those rights.
9. If that were to occur, Golding would lose a substantial benefit of its security under the General Security Agreement. This is because a receiver appointed by Golding would not be able to exercise Whyalla's contractual rights, including its rights to use the Material Secured Assets and to remove its assets which are located on the Leased Premises within 6 months after termination of the Lease.
10. These adverse consequences would occur in circumstances where Golding has not been paid for amounts owed under the Mining Services Agreement. As I explain further below, Golding is owed approximately \$125.9M by OneSteel.
11. Finally, I set out my understanding of the circumstances relevant to Whyalla's asset ownership and conduct of its business. In the affidavit of Michael Korda sworn on 2 April 2025 (**Korda Affidavit**) filed by the plaintiffs, it appears that the plaintiffs attempt to contest Whyalla's asset ownership and attempt to contest whether Whyalla carried out a business in relation to the Whyalla port. The purpose of setting out my understanding of the circumstances relevant to Whyalla's asset ownership and conduct of its business, by reference to documents available to me, is to demonstrate the reasons why the proper conclusion is that Whyalla owns the relevant assets and conducted a separate business from OneSteel.
12. From the material and documents available to me (which I refer to below), I am informed and believe the following is true.

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- (a) Whyalla was incorporated in September 2011 to conduct a port business in the inner harbour of the Whyalla port.
- (b) From late 2011 onwards, Whyalla engaged several contractors to construct assets in the inner harbour, many of which are located on the premises the subject to the Lease.
- (c) From about the time when Whyalla acquired ownership of its assets, it appointed OneSteel as agent or service provider to carry on Whyalla's business for and on behalf of Whyalla. OneSteel engaged various subcontractors as agent or service provider to operate Whyalla's business.
- (d) From approximately mid-2018 onwards, Whyalla acted directly as principal in conducting its business. However, OneSteel remained a service provider and continued to contract as agent or service provider for Whyalla as to some parts of Whyalla's business.

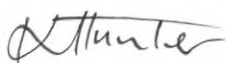
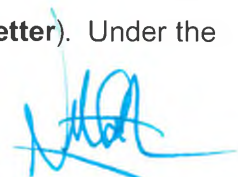
C. Whyalla's obligation to pay OneSteel's debts and Golding's security interest in respect of Whyalla

- 13. Under the Mining Services Agreement, OneSteel engaged Golding to provide mining services (including open pit mining services and rehandle services) at the Iron Knob mine site, the South Middleback Ranges mine site and the Iron Baron mine site. The Mining Services Agreement has been extended and amended a number of times, including most recently on 31 January 2025 by a Deed of Extension & Amendment. Prior to the most recent extension, OneSteel stopped making relevant payments due to Golding for amounts owing under the Mining Services Agreement. I am informed by Carita Martinez, General Counsel of Golding, and I believe that as at the date of this affidavit, the total amount owing to Golding under the Mining Services Agreement for unpaid invoices, including default interest, amounts to \$125,891,122.09 (including GST).
- 14. On 6 December 2024, due to the significant debt owed by OneSteel to Golding under the Mining Services Agreement, OneSteel, Whyalla, Liberty Primary Metals Australia Pty Ltd (**LPMA**) (the direct holding company of OneSteel and Whyalla) and Golding entered into the Standstill Agreement (**Standstill Agreement**). (At **Tab 3, pp 278-402 of Annexure NJC-1** is a true copy of the Standstill Agreement.)
- 15. Under the Standstill Agreement, Golding agreed not to take any enforcement action against OneSteel in respect of the unpaid amounts in consideration for (amongst other things):
 - (a) LPMA and Whyalla guaranteeing and indemnifying Golding in respect of OneSteel's financial obligations to Golding (cl 8);

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- (b) LPMA granting a first ranking specific security over all of the shares in Whyalla (cl 2(d)(1));
 - (c) Whyalla granting a first ranking general security over all of its assets (cl 2(d)(2)); and
 - (d) payments being made to Golding in accordance with the payment plan set out in Schedule 1 to the Standstill Agreement.
16. In accordance with the Standstill Agreement, the parties entered into the following agreements:
- (a) the Guarantee and Indemnity dated 6 December 2024 between LPMA, Whyalla and Golding under which LPMA and Whyalla granted a guarantee and indemnity in favour of Golding in respect of, amongst other things, all amounts owing by OneSteel to Golding under the Mining Services Agreement (**Guarantee and Indemnity**). (At **Tab 4, pp 403-430** of **Annexure NJC-1** is a true copy of the Guarantee and Indemnity.)
 - (b) the Specific Security Agreement dated 6 December 2024 between LPMA and Golding under which LPMA granted specific security over the shares of Whyalla to Golding to secure the repayment of all money which LPMA is liable to pay to Golding under or in connection with (amongst other things) the Guarantee and Indemnity, the Mining Services Agreement, the General Security Agreement and the Standstill Agreement (**Specific Security Agreement**). (At **Tab 5, pp 431-464** of **Annexure NJC-1** is a true copy of the Specific Security Agreement.)
 - (c) the General Security Agreement dated 6 December 2024 between Whyalla and Golding under which Whyalla has granted a security interest over all of Whyalla's present and after-acquired property in favour of Golding in respect of all amounts which Whyalla is liable to pay to Golding under or in connection with (amongst other things) the Guarantee and Indemnity, the Mining Services Agreement, the Specific Security Agreement and the Standstill Agreement (**General Security Agreement**). (At **Tab 6, pp 465-504** of **Annexure NJC-1** is a true copy of the General Security Agreement.)
17. On 5 December 2024, Golding made registrations on the Personal Property Securities Register against LPMA and Whyalla in respect of the security interests granted under the General Security Agreement and Specific Security Agreement. (At **Tab 7, pp 504-516** of **Annexure NJC-1** is a true copy of these registrations.)
18. On 13 February 2025, Golding and Infrabuild Australia Pty Ltd (**Infrabuild**) (as Secured Parties) and Whyalla (as Grantor) executed a priority letter (**Priority Letter**). Under the

Priority Letter, Golding and Infrabuild agreed that any securities granted in favour of Golding over Whyalla's present or after acquired property would have priority over any securities granted in favour of Infrabuild over Whyalla's present and after acquired property. (At **Tab 8, pp 517-521 of Annexure NJC-1** is a true copy of the Priority Letter.)

19. As at the date of this affidavit, OneSteel has failed to pay in accordance with the Standstill Agreement and, as mentioned, the debt owed by OneSteel to Golding amounts to approximately \$125.9M with interest accruing daily.

D. Golding's security interest covers Whyalla's assets on the leased premises and Whyalla's rights under the Lease

20. The assets of Whyalla which are secured under the General Security Agreement include various assets which are located on the premises (**Leased Premises**) which are subject to the Lease. These assets include:

- (a) a rail unloading facility which is used to offload iron ore product from trains so that the iron ore product may be stored or shipped (**Tip Pocket**);
- (b) two ore storage sheds (**Ore Storage Sheds**);
- (c) the following conveyor systems:
 - (i) a system of conveyors and transfer towers linking the Tip Pocket to the Ore Storage Sheds (**Ore Storage Sheds Infeed System**);
 - (ii) a system of conveyors within the Ore Storage Sheds (**Ore Storage Sheds Reclaim System**);
 - (iii) a system of conveyors and transfer towers linking the Ore Storage Sheds to a shiploader (**Transfer Conveyor System**);
- (d) a shiploader located in the inner harbour (**Shiploader**); and
- (e) a standard gauge rail line (connecting the Tip Pocket to the existing Pt Augusta – Whyalla line) and a narrow gauge line (connecting the Tip Pocket to the existing Iron Baron Narrow Gauge Line) (**Rail Lines**),

(collectively, the **Material Secured Assets**). (At **Tab 9, p 522 of Annexure NJC-1** is a map that depicts these Material Secured Assets.)

21. The assets of Whyalla which are secured under the General Security Agreement also include all of Whyalla's rights under the Lease. These include:

- (a) a right to enter and occupy the areas the subject of the Material Secured Assets and 10 metres either side of the Rail Lines to carry on a business of "*logistics and*

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port operations" (cl 2.1(a), cl 9.1, Reference Schedule [Item 9, Permitted Use], cl 16.5; Annexure A, para 2); and

- (b) a right under cl 15.1(a) of the Lease to remove all of Whyalla's chattels and Lessee's Improvements.
22. Golding's security under the General Security Agreement therefore attaches to both Whyalla's assets (including those which are located on the Leased Premises), and Whyalla's contractual rights including the rights to use the Material Secured Assets and to remove its assets which are located on the Leased Premises within 6 months after termination of the Lease.
23. Pursuant to the Originating Process, the Plaintiffs seek an order declaring, among other things, that the Lease is "*void ab initio, unenforceable and of no legal effect*". If made, this order would directly affect Golding's rights and interests because:
- (a) Whyalla would, in effect, lose its right to use the Material Secured Assets and its right under cl 15.1(a) of the Lease to remove its chattels and Lessee's Improvements within 6 months after the determination of the Lease;
 - (b) any receiver appointed by Golding would not be able to exercise those rights; and
 - (c) Golding would therefore lose a substantial benefit of the security interest granted in favour of it under the General Security Agreement.

E. Summary of Whyalla's acquisition of the Material Secured Assets and an overview of Whyalla's business

24. As mentioned, I now refer to the material and documents, available to me, that inform my belief about the truth of the matters set out in paragraph 12 above.

OST's intention to expand the Whyalla Port

25. On 22 August 2011, OneSteel Limited (ASX:OST) (**OST**) (later renamed Arrium Limited (ASX:ARI) (**Arrium**)) announced to the Australian Securities Exchange (**ASX**) in a document entitled "*Expansion of Iron Ore Sales to Approximately 9-10MPTA*" its intention to expand the Whyalla port for the purposes of increasing its iron ore export capabilities. This expansion was to include the construction and installation of the Material Secured Assets on the Whyalla inner harbour area. (At **Tab 10, pp 523-526 of Annexure NJC-1** is a true copy of the ASX announcement of OST dated 22 August 2011.)
26. This ASX announcement stated:
- (a) OST intended to expand its "*export port facilities at Whyalla, South Australia from its current capacity of approximately 6.5 – 7.0 million tonnes per annum, to*

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approximately 12 million tonnes per annum by around the fourth quarter of calendar year 2012”; and

- (b) those new export facilities would consist of *“additional receival and storage facilities, including rail infrastructure, tip pocket and storage sheds; construction of ship loading facilities including conveyors and loader and berthing infrastructure; and expansion of transshipping operations”*.

27. On 14 September 2011, Whyalla was incorporated. (At **Tab 11, pp 527-543** of **Annexure NJC-1** is a true copy of the Australian Securities and Investments Commission company search conducted on 24 April 2025 in respect of Whyalla.) Whyalla was a wholly owned subsidiary of OST (or Arrium) until August 2017.

Limited Agency Agreement

28. On 13 October 2011, Whyalla and OneSteel entered into the Limited Agency Agreement (**Limited Agency Agreement**). (At **Tab 12, pp 544-555** of **Annexure NJC-1** is a true copy of the Limited Agency Agreement.) By the Limited Agency Agreement, for a period from 13 October 2011 until at least 31 August 2017, Whyalla appointed OneSteel as Whyalla’s agent for the purposes of conducting and operating the assets owned and operated by Whyalla’s at the expanded Whyalla port.
29. The Limited Agency Agreement defined Whyalla’s *“Principal Business”* as *“operat[ing] and own[ing] assets used in the development of a new port development at Whyalla, South Australia, and infrastructure associated with that development”* (Recital C). Under this agreement, Whyalla appointed OneSteel *“as their agent to provide the Services”* (cl 3.1(8)), which was defined to include *“conduct[ing] and operat[ing] the Principal Business”* (Schedule 1).
30. The initial term of the Limited Agency Agreement expired on 1 October 2012. According to the document entitled *“Summary of Port Intercompany Contracts”* produced by Whyalla on 20 September 2018 (**Summary of Port Intercompany Contracts**), the Limited Agency Agreement was extended from 1 October 2012 to 31 August 2017. (At **Tab 13, p 556** of **Annexure NJC-1** is a true copy of the Summary of Port Intercompany Contracts.)
31. According to the Summary of Port Intercompany Contracts:
- (a) the Limited Agency Agreement was extended from 1 October 2012 to 31 August 2017;
- (b) the Limited Agency Agreement was to be superseded by the Maintenance Services Agreement, the Administrative Services Agreement and the Port Assets Licence Agreement; and

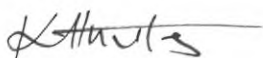
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(c) under the Port Assets Licence Agreement, it was intended that Whyalla would grant a licence for OneSteel to “*occupy and use the WP assets for the purposes of operating port and related logistics services*”.

32. The Limited Agency Agreement operated including during the period between April 2016 and August 2017 when voluntary administrators were appointed to OneSteel and Whyalla. OneSteel, entered into agreements in relation to transshipping, stevedoring services and port and logistics services.
33. I refer to paragraph 24 of the affidavit of Theunis Jacobus Victor affirmed on 17 April 2025. Mr Victor explains that the commercial relationship was governed by the Maintenance Services Agreement or the Administrative Services Agreement from 1 September 2017 (pages 914-930 and 931-946 of Exhibit TB-1 of Mr Victor’s affidavit). From the documents available to me, I have no reason to doubt that the commercial relationship continued on this basis.

Execution of EPC contracts by Whyalla / OneSteel

34. In the year following its incorporation, Whyalla entered into two “*engineering procurement and construction*” (**EPC**) contracts, pursuant to which the Material Secured Assets (other than the Rail Lines) were installed or constructed on the inner harbour.
35. On 30 November 2011, Whyalla executed a document entitled “*Formal Instrument of Agreement*” with Kerman Contracting Pty Ltd (**Kerman** and **Kerman EPC Contract**) under which Kerman agreed to engineer, procure and construct all of the Material Secured Assets other than the Shiploader and the Rail Lines. (At **Tab 14, pp 557-735** of **Annexure NJC-1** is a true copy of the Kerman EPC Contract.)
36. OneSteel and Leighton executed an EPC contract between OneSteel and Leighton Contracting Pty Ltd (**Leighton**) dated 9 February 2012 (**Leighton Rail Contract**) pursuant to which Leighton constructed the Rail Lines. (At **Tab 15, pp 736-938** of **Annexure NJC-1** is a true copy of the Leighton Rail Contract.) The Rail Lines were installed or constructed on the Leased Premises.
37. On 30 March 2012, OneSteel and Whyalla executed a trust deed in relation to the Leighton Rail Contract (**Trust Deed**). (At **Tab 16, pp 939-946** of **Annexure NJC-1** is a true copy of the Trust Deed.) Under the Trust Deed:
- (a) OneSteel declared that it held the right, title and interest in the Trust Property (which included the engineering, procurement and construction of certain railway works in South Australia by Leighton under the Leighton Rail Contract) on trust for Whyalla absolutely and that OneSteel had no beneficial interest whatsoever in the Trust Property; and




- (b) OneSteel agreed that, at the request of Whyalla, it would take all steps to vest any or all its interest in the Trust Property in Whyalla.
38. On 25 June 2012, Whyalla and Leighton executed a document entitled "*Formal Instrument of Agreement*" (**Leighton Bulk Products Berth Contract**) under which Leighton was obliged to install the Shiploader on the Leased Premises. (At **Tab 17, pp 947-1128** of **Annexure NJC-1** is a true copy of the Leighton Bulk Products Berth Contract.)
39. By reason of the matters to which I have referred, I am informed and believe that Whyalla was the legal owner (or in the case of the Rail Lines, the beneficial owner) of the Material Secured Assets at the time at which they were installed or constructed on the Leased Premises in accordance with the EPC contracts referred to above.

Appointment of voluntary administrators to OneSteel and Whyalla

40. On 7 April 2016, Said Jahani, Paul Billingham, Michael McCann and Matthew Byrnes of Grant Thornton (together **Grant Thornton Administrators**) were appointed as voluntary administrators of Arrium and 93 other related entities (including OneSteel and Whyalla) (together **Arrium Group**). (At **Tab 18, pp 1129-1132** of **Annexure NJC-1** is a true copy of the ASX announcement of Arrium dated 7 April 2016.)
41. On 13 April 2016, Mark Mentha, Bryan Webster, Martin Madden and Cassandra Mathews of KordaMentha (together **KordaMentha Administrators**) were appointed joint and several voluntary administrators of the Arrium Group, replacing the Grant Thornton Administrators. (At **Tab 19, pp 1133-1136** of **Annexure NJC-1** is a true copy of the ASX announcement of Arrium dated 13 April 2016.)

The Whyalla RATA and OneSteel RATA

42. On 2 September 2016, the KordaMentha Administrators lodged with ASIC a "*Report as to Affairs*" (**Whyalla RATA**). The Ore Storage Sheds are listed in Schedule A of the Whyalla RATA (with a valuation of approx. \$24.9M) and the remainder of the Material Secured Assets are listed in Annexure 1, with a total value of approx. \$199.39M. (At **Tab 20, pp 1137-1146** of Annexure NJC-1 is a true copy of the Whyalla RATA.)
43. Paragraph 60 of the Korda Affidavit refers to a "*Report as to Affairs*" in relation to OneSteel, which was lodged with ASIC on 30 August 2016 (**OneSteel RATA**). (At **Tab 21, pp 1147-1437** of Annexure NJC-1 is a true copy of the OneSteel RATA.) From the material and documents available to me, the position appears to be as follows.
- (a) Mr Korda states that page 152 of the OneSteel RATA (**Tab 21, p 1325**) discloses rail assets including a "*rail trackwork, rail track and alterations to railway*". In so

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stating, Mr Korda appears to suggest that the Rail Lines constructed under the Leighton Rail Contract were listed on the OneSteel RATA.

- (b) This is not correct. The Rail Lines in fact are listed in the Whyalla RATA. For example, the Whyalla RATA assigns asset numbers "10100693" and "10100694" to the Rail Lines. Contrary to Mr Korda's suggestion, rail assets with these asset numbers do not appear in the OneSteel RATA.
- (c) I have reviewed the asset numbers of the Material Secured Assets in the Whyalla RATA and the OneSteel RATA. From my review, there are no assets in the OneSteel RATA that have asset numbers which match the asset numbers given to the Material Secured Assets in the Whyalla RATA.

Sale of shares in Whyalla and completion of KordaMentha Administrators' voluntary administration

- 44. On 5 July 2017, a share sale agreement was executed between Arrium and seven other entities (**Arrium Vendor Companies**) and SIMEC Group Limited in respect of the sale to SIMEC Group Limited of the shares in 15 entities owned by the Arrium Vendor Companies, including the shares in OneSteel and Whyalla (**SSA**). (At **Tab 22, pp 1437-1763** of **Annexure NJC-1** is a true copy of the SSA.) From the documents available to me, I understand that SIMEC Group Limited is ultimately owned by Mr Sanjeev Gupta and is a member entity of the GFG Alliance.
- 45. On 31 August 2017, the KordaMentha Administrators announced to the ASX that the sale of the "*Arrium Group Companies ... to the GFG Alliance*" was complete. (At **Tab 23, p 1764** of **Annexure NJC-1** is a true copy of the ASX announcement of Arrium dated 31 August 2017.)
- 46. As mentioned at paragraph 6 above, on 29 June 2018, OneSteel and Whyalla executed the Lease.

Operation by Whyalla of its business as principal

- 47. A Transhipment Agreement dated 2 September 2016 was made between OneSteel and CSL Transhipment Pty Ltd (**2016 Transhipment Agreement**), under which CSL Transhipment Pty Ltd was engaged to provide, operate and maintain barges which tranship OneSteel's iron ore from transhipment berths located in the inner and outer harbours to ocean going vessels. The 2016 Transhipment Agreement was novated by CSL Transhipment to CSL Australia Pty Ltd (**CSL Australia**) on 1 October 2018. (At **Tab 24, pp 1765-1950** of **Annexure NJC-1** is a true copy of the 2016 Transhipment Agreement.) On 27 August 2021, the 2016 Transhipment Agreement was novated by OneSteel in favour of Whyalla pursuant to a document entitled "*Amendment and*

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Novation Deed to the Transshipment Agreement” (**Amendment and Novation Deed to Transshipment Agreement**). At **Tab 25, pp 1951-1966** of **Annexure NJC-1** is a true copy of the Amendment and Novation Deed to Transshipment Agreement.

Execution of agreements relating to harbour towage and port services by Whyalla

48. Also on 27 August 2021, Whyalla and CSL Australia executed a document entitled “*Harbour Towage Licence Agreement*” (**Harbour Towage Licence Agreement**). Recital A states that Whyalla was the “*operator of the port facilities and operations at Whyalla and seeks to facilitate the passage of its own and certain third party cargoes through the Port of Whyalla*”. The services to be provided by CSL Australia included towing, pushing, escorting and standing by, assisting in transshipping and emergency response services. (At **Tab 26, pp 1967-2000** of **Annexure NJC-1** is a true copy of the Harbour Towage Licence Agreement.)
49. On 31 March 2022, Whyalla and Flinders Ports Pty Ltd (**Flinders**) executed a document entitled “*Contract for Purchase of Services*” (**2022 Flinders Contract**) under which Whyalla agreed to provide services to Flinders including, but were not limited to, marine traffic communication, surveys and inspections, mooring and unmooring activities and cargo management services. Flinders was also granted a non-exclusive licence to use the “*Contractor’s Site*”, which included the land where the Ore Storage Sheds, Transfer Conveyor System and Shiploader were located. (At **Tab 27, pp 2001-2020** of **Annexure NJC-1** is a true copy of the 2022 Flinders Contract.)

The 2022 SIMEC Presentation

50. On 16 May 2022, SIMEC Mining (which is the trading name of OneSteel) produced a presentation entitled “*Whyalla Port operating model, commercial and regulatory summary*” (**2022 SIMEC Presentation**). The 2022 SIMEC Presentation described the relationship between OneSteel and Whyalla as follows:
- (a) OneSteel is authorised to operate Whyalla port under various instruments and legislation;
 - (b) however, it is Whyalla that “*provides port services*”, “*manages all services at Whyalla Port*” and is the “*single point of contact for all customers*”.

(At **Tab 28, pp 2021-2028** of **Annexure NJC-1** is a true copy of the 2022 SIMEC Presentation.)

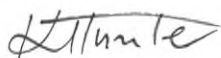
Execution of agreements relating to port services, logistics and transshipment by Whyalla

51. On 20 March 2023, Whyalla and Australia Ocean Logistics Pty Ltd (**AOL**) executed a document entitled “*Whyalla Port Export Services Agreement Iron Ore Lump and Fines*” (**Whyalla Port Export Services Agreement**) under which Whyalla agreed to provide

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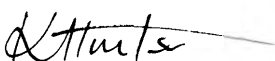
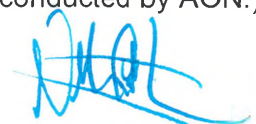
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- AOL with the "Port Services" listed in Schedule B, including receiving product at the "Inner Harbour Tip Pocket", transferring the product to its "storage facilities located in the Port", before reclaiming the product from the storage facilities and transferring the product to "a berth at the Port". (At **Tab 29, pp 2029-2084** of **Annexure NJC-1** is a true copy of the Whyalla Port Export Services Agreement.)
52. On 2 December 2019, OneSteel (trading as SIMEC Mining) and Oz Minerals Services Pty Ltd (Oz Minerals) executed a document entitled "*Port and Logistics Services (OZL) Agreement*" (**2019 OZL Agreement**). OneSteel agreed to, among other things, unload and transport containers from the "*Whyalla rail siding to the Storage Area*", transport the product from the Storage Area to the products berth, stack and transport the empty containers to the "*Whyalla rail siding*" and load containers onto trains/vehicles arranged by Oz Minerals. (At **Tab 30, pp 2085-2141** of **Annexure NJC-1** is a true copy of the 2019 OZL Agreement.) From my review of the material and documents available to me, it appears that OneSteel made this agreement on behalf of Whyalla. In any event, on 18 April 2023, Mark Henderson of SIMEC Mining wrote to Oz Minerals, confirming that the term of the 2019 OZL Agreement was extended to 14 March 2025, and requested Oz Mineral's consent for the 2019 OZL Agreement to be novated from OneSteel Manufacturing to Whyalla. In that regard, the letter stated: "*Whyalla Ports is the owner of the majority of the assets used in the performance of the Services under our Contract, and is the current operator of the Whyalla Port under licence from OneSteel*". (At **Tab 31, pp 2142-2143** of **Annexure NJC-1** is a true copy of the letter dated 18 April 2023.)
53. On 30 January 2024, Whyalla and CSL Australia executed a Transshipment Agreement (**2024 Transshipment Agreement**) under which CSL Australia was to provide, operate and maintain the "Vessel" (the MV Whyalla) to transport cargo from the transshipment berths located in the inner and outer harbour to various ocean going vessels. (At **Tab 32, pp 2144-2280** of **Annexure NJC-1** is a true copy of the 2024 Transshipment Agreement.)
54. On 6 August 2024, Whyalla and Qube Bulk Pty Ltd (**Qube Bulk**) executed a document entitled "*Services Contract Export facilities*" (**2024 Qube Bulk Contract**). Pursuant to the 2024 Qube Bulk Contract, Qube Bulk was engaged to operate the "*Facility*", which included receiving product at the Tip Pocket and directing the product to the Ore Storage Sheds or to the Shiploader directly. Qube Bulk was also granted a non-exclusive licence to use the "*Contractor's Site*", which included the area of land where the Ore Storage Sheds and the Shiploader were located. (At **Tab 33, pp 2281-2381** of **Annexure NJC-1** is a true copy of the 2024 Qube Bulk Contract.)




F. Financial records of Whyalla

55. The financial reports of Whyalla that I have reviewed are also consistent with Whyalla continuing to be the owner of the assets until the date of the most recent management reports of Whyalla on 31 January 2025.
56. The following financial records appear relevant:
- (a) trial balances of Whyalla as at June 2014 and June 2015 (true copies of which are respectively found at **Tab 34, pp 2382-2383** and **Tab 35, p 2384** of **Annexure NJC-1**);
 - (b) audited financial reports of Whyalla for the 2015/2016, 2016/2017, 2017/2018, 2018/2019 and 2019/2020 financial years (true copies of which are respectively found at **Tab 36, pp 2385-2407**, **Tab 37, pp 2408-2430**, **Tab 38, 2431-2453**, **Tab 39, pp 2454-2474** and **Tab 40, pp 2475-2496** of **Annexure NJC-1**);
 - (c) the Whyalla RATA (a true copy of which is found at **Tab 20, pp 1137-1146** of **Annexure NJC-1**);
 - (d) a fixed asset reconciliation of Whyalla as at 31 August 2017 (a true copy of which is found at **Tab 41, pp 2497-2498** of **Annexure NJC-1**); and
 - (e) draft management accounts of Whyalla as at 31 January 2025 (a true copy which is found at **Tab 42, pp 2499-2501** of **Annexure NJC-1**).
57. These financial records show that:
- (a) Whyalla held property, plant and equipment which totalled approx. USD\$190.5M as at June 2014 (**Tab 34, pp 2383-2383** of **Annexure NJC-1**) and approx. AUD\$123.3M as at 31 January 2025 (**Tab 42, pp 2499-2503** of **Annexure NJC-1**);
 - (b) the Ore Storage Sheds were valued at approx. AUD\$24.9M and the balance of the Material Secured Assets were valued at approx. AUD\$199.39M as at 29 August 2016 (**Tab 20, pp 1137-1146** of **Annexure NJC-1**); and
 - (c) the Material Secured Assets were valued at approx. USD\$155.16M as at 31 August 2017 (**Tab 41, pp 2497-2498** of **Annexure NJC-1**).
58. Furthermore, a valuation of Whyalla's inner harbour assets conducted by AON as at November 2018 lists the Material Secured Assets as assets of Whyalla. This document values the Tip Pocket, Ore Storage Sheds, Ore Storage Sheds Infeed System, Ore Storage Sheds Reclaim System, Transfer Conveyor System and the Rail Lines at approx. AUD\$162M. (At **Tab 43, pp 2502-2517** of **Annexure NJC-1** is a true copy of a valuation of Whyalla's inner harbour assets as at November 2018, conducted by AON.)

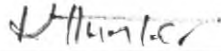



Sworn by Nathan John Collins
at Perth
in Western Australia
on 25 April 2025
Before me: Kathryn Jane Hunter, Solicitor

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Signature of deponent



Signature of witness

IN THE FEDERAL COURT OF AUSTRALIA

No. VID 420 of 2025

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 LTD (ADMINISTRATORS
APPOINTED) ACN 004 651 325**
First Plaintiff

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

WHYALLA PORTS PTY LTD ACN 153 225 364
First Defendant

GOLDING CONTRACTORS PTY LTD ACN 009 732 794
Second Defendant

Annexure "NJC-1"

This is the annexure referred to as "NJC-1" in the affidavit of **NATHAN JOHN COLLINS** sworn on 25 April 2025.

Before me: Kathryn Jane Hunter

Signature: 

Filed on behalf of (name & role of party)	Second Defendant		
Prepared by (name of person/lawyer)	Nathan Collins		
Law firm (if applicable)	King & Wood Mallesons		
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Address for service (include state and postcode)	Level 30, QV.1 Building, 250 St Georges Terrace Perth WA 6000		

Contents of Annexure “NJC-1”

Tab	Document	Para	Page
1	A true copy of the Mining Services Agreement.	[5(a)]	19-236
2	A true copy of the Lease.	[6]	237-277
3	A true copy of the Standstill Agreement.	[14]	278-402
4	A true copy of the Guarantee and Indemnity.	[16(a)]	403-430
5	A true copy of the Specific Security Agreement.	[16(b)]	431-464
6	A true copy of the General Security Agreement.	[16(c)]	465-504
7	A true copy of Golding’s registrations on the PPSR against LPMA and Whyalla.	[17]	504-516
8	A true copy of the Priority Letter.	[18]	517-521
9	A map that depicts the approximate location of the Material Secured Assets.	[20]	522
10	A true copy of the ASX announcement of OST dated 22 August 2011.	[25]	523-526
11	A true copy of the Australian Securities and Investments Commission company search conducted on 24 April 2025 in respect of Whyalla.	[27]	527-543
12	A true copy of the Limited Agency Agreement.	[28]	544-555
13	A true copy of the Summary of Port Intercompany Contracts.	[30]	556
14	A true copy of the Kerman EPC Contract.	[35]	557-735
15	A true copy of the Leighton Rail Contract.	[36]	736-938
16	A true copy of the Trust Deed.	[37]	939-946
17	A true copy of the Leighton Bulk Products Berth Contract.	[38]	947-1128
18	A true copy of an ASX announcement of Arrium dated 7 April 2016.	[40]	1129-1132
19	A true copy of an ASX announcement of Arrium dated 13 April 2016.	[41]	1133-1136
20	A true copy of the Whyalla RATA.	[42]	1137-1146
21	A true copy of the OneSteel RATA.	[43]	1147-1437
22	A true copy of the SSA.	[44]	1437-1763
23	A true copy of the ASX Announcement of Arrium dated 31 August 2017.	[45]	1764
24	A true copy of the 2016 Transshipment Agreement.	[47]	1765-1950
25	A true copy of the Amendment and Novation Deed Transshipment Agreement.	[47]	1951-1966

26	A true copy of the Harbour Towage Licence Agreement.	[48]	1967-2000
27	A true copy of the 2022 Flinders Contract.	[49]	2001-2020
28	A true copy of the 2022 SIMEC Presentation.	[50]	2021-2028
29	A true copy of the Whyalla Port Export Services Agreement.	[51]	2029-2084
30	A true copy of the 2019 OZL Agreement.	[52]	2085-2141
31	A true copy of the letter dated 18 April 2023.	[52]	2142-2143
32	A true copy of the 2024 Transshipment Agreement	[53]	2144-2280
33	A true copy of the 2024 Qube Bulk Contract.	[54]	2281-2381
34	A true copy of the trial balance of Whyalla as at June 2014.	[56(a)]	2382-2383
35	A true copy of the trial balance of Whyalla as at June 2015.	[56(a)]	2384
36	A true copy of audited financial reports of Whyalla for the 2015/2016 financial year.	[56(b)]	2385-2407
37	A true copy of audited financial reports of Whyalla for the 2016/2017 financial year.	[56(b)]	2408-2430
38	A true copy of audited financial reports of Whyalla for the 2017/2018 financial year.	[56(b)]	2431-2453
39	A true copy of audited financial reports of Whyalla for the 2018/2019 financial year.	[56(b)]	2454-2474
40	A true copy of audited financial reports of Whyalla for the 2019/2020 financial year.	[56(b)]	2475-2496
41	A true copy of fixed asset reconciliation of Whyalla as at 31 August 2017.	[56(d)]	2497-2498
42	A true copy of the draft management accounts of Whyalla as at 31 January 2025.	[56(e)]	2499-2501
43	A true copy of the valuation of Whyalla's inner harbour assets as at November 2018, conducted by AON.	[58]	2502-2517