

NOTICE OF FILING

Details of Filing

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File Title: IN THE MATTER OF ONESTEEL MANUFACTURING PTY LIMITED
(ADMINISTRATORS APPOINTED) ACN 004 651 325
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Sia Lagos

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.

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Cross-Claimant's (First Defendant's) Points of Claim

VID 420 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**

First Plaintiffs and First Cross-Respondents

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

Second Plaintiff and Second Cross-Respondent

**WHYALLA PORTS PTY LTD (ADMINISTRATORS APPOINTED) (RECEIVERS
AND MANAGERS APPOINTED) ACN 153 225 364**

First Defendant and Cross-Claimant

GOLDING CONTRACTORS PTY LTD ACN 009 734 794

Second Defendant

Filed on behalf of (name & role of party)	Whyalla Ports Pty Ltd (administrators appointed) (receivers and managers appointed) the first defendant and cross-claimant		
Prepared by (name of person/lawyer)	Samuel James Dundas		
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[Form approved 01/08/2011]

1. The second defendant, Golding Contractors Pty Ltd (**Golding**), is owed approximately \$131.2 million (including GST) by the second plaintiff, OneSteel Manufacturing Pty Ltd (administrators appointed) (**OneSteel**), under a mining services agreement (**MSA**) made between OneSteel and BGC Contracting Pty Ltd on 17 March 2017 and novated to Golding on or about 1 December 2020 and further amended in January 2025.
2. Pursuant to an agreement entitled “General Security Agreement – Whyalla” and dated 6 December 2024 (**GSA**), the cross-claimant, Whyalla Ports Pty Ltd (administrators appointed) (receivers and managers appointed) (**WP**), as Grantor, granted a security interest in the Collateral (namely, all of WP’s present and after-acquired property) to Golding, as Secured Party, to secure payment of money owing under the MSA (GSA, cl 3.1; cl 1.2 [“Collateral”]) which WP guaranteed under a Guarantee and Indemnity dated 6 December 2024 between Liberty Primary Metals Australia Pty Ltd, WP and Golding.
3. By reason of OneSteel’s failure to pay money owing under the MSA which WP guaranteed, on 11 June 2025, Golding as Secured Party appointed Robert Michael Kirman and Robert Conry Brauer (jointly and severally) to be the receivers and managers (**Receivers**) of all of WP’s property including the assets defined in Schedule 2 (**Assets**) of WP’s notice of amended cross-claim (**cross-claim**).
4. The Assets:
 - (a) were erected or constructed by or on behalf of WP or were transferred to WP for value after WP was incorporated on 14 September 2011;
 - (b) are personal property.
5. WP is and was at all material times the owner and entitled to take possession of the Assets.
6. Further:
 - (a) the Assets referred to in items 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 34 in Schedule 2 of the cross-claim were erected and constructed for WP by Kerman Contracting Limited (**Kerman**) pursuant to an agreement made between WP and Kerman dated 30 November 2011;

- (b) the Assets referred to in item 15 in Schedule 2 of the cross-claim were erected and constructed for WP by Leighton Contractors Pty Ltd (**Leighton**) pursuant to an agreement between WP and Leighton dated 19 April 2012;
 - (c) the Assets referred to in items 5 and 18 in Schedule 2 of the cross-claim were erected and constructed for WP by Leighton pursuant to an agreement between WP and Leighton dated 25 June 2012;
 - (d) the Assets referred to in items 1, 29, 31, 32, 42, 45, 140, 144 and 145 in Schedule 2 of the cross-claim were transferred to WP for value after WP was incorporated on 14 September 2011;
 - (e) when these Assets were erected, constructed, or transferred to WP, WP conducted the business of logistics and port operations at the port at Whyalla as a separate entity, separate from OneSteel.
7. Clause 1 of Schedule 4 of the *Whyalla Steel Works Act 1958* (SA) (as amended by the *Whyalla Steel Works (Port of Whyalla) Amendment Act 2025* (SA)) (***Whyalla Steel Works Act***) defines ***prescribed land*** as the whole of the land comprised in Certificates of Title 6105/304, 6141/526, 5582/363, 5463/457, 5603/813 and “includes any other land that is the subject of the lease to which” Schedule 4 applies.
8. Clause 2(1) of Schedule 4 of the *Whyalla Steel Works Act* provides that its Schedule 4 applies to the lease agreement (**Lease**) executed or purportedly executed on 29 June 2018, being the lease purportedly granted by OneSteel to WP in respect of all or specified parts of the ***prescribed land*** defined in clause 1 of that Schedule 4.
9. Under the Lease:
- (a) OneSteel leased to WP and WP took a lease of the **Premises** (Lease, cl 2.1(a));
 - (b) **Premises** is defined to have the meaning in Item 3 of the Reference Schedule (Lease, General Terms, cl 1);
 - (c) Item 3 of the Reference Schedule defines **Premises** as “That portion of the land in” (and only in) the land comprised in the Certificates of Title defined as the

prescribed land in Schedule 4 of the *Whyalla Steel Works Act*, with that portion of those Certificates of Title being as “described in Annexure A”;

- (d) Annexure A refers:
- (i) to the area directly underneath the structures identified in the plan attached as Part 1 of Annexure A;
 - (ii) to the area directly underneath and 10 metres either side of the rail lines identified in the plan attached as Part 2 of Annexure A.

10. Further:

- (a) Item 3 of the Reference Schedule of the Lease does not refer to any other portion of land the subject of any other Certificate of Title or of any Crown Lease; and
- (b) Annexure A of the Lease also does not refer to any other portion of land the subject of any other Certificate of Title or of any Crown Lease.

11. The land on which the Assets are located are under the control of OneSteel and the first plaintiffs (**Administrators**).

12. The Assets referred to in items 3, 4, part of 9, part of 10, part of 11, 18, 29 and 145 in Schedule 2 of the cross-claim are WP’s personal property located in land that is not *prescribed land* defined in clause 1 of Schedule 4 of the *Whyalla Steel Works Act*, namely:

- (a) the Assets referred to in items 4, part of 9 and part of 10 in Schedule 2 of the cross-claim are located on Crown land the subject of Perpetual Licence 319A granted to OneSteel;
- (b) the Assets referred to in items 3, part of 9, part of 10, part of 11 and 145 in Schedule 2 of the cross-claim are located on freehold land comprised in Certificate of Title 6144/964 held by OneSteel;
- (c) the Assets referred to in part of item 11 and all of item 18 in Schedule 2 of the cross-claim are located on freehold land comprised in Certificate of Title

6144/965 held by the Minister for Transport, Infrastructure and Local Government.

13. The Assets referred to in items 2, part of 9, part of 10 and part of 11 in Schedule 2 of the cross-claim are WP's personal property located on land that is *prescribed land* defined in clause 1 of Schedule 4 of the *Whyalla Steel Works Act*.
14. Notwithstanding the matters set out in paragraph 13 above, the Assets referred to in paragraph 13 above remain WP's personal property despite clause 4(1)(b) of Schedule 4 of the *Whyalla Steel Works Act* in that:
 - (a) clause 4(1)(b) of Schedule 4 provides that any interest or purported interest in any person or body (other than OneSteel) in any works "erected or constructed by or on behalf of the Company [i.e. OneSteel] on the prescribed land" is taken to be void and of no force and effect and always to have been void and never to have had force or effect;
 - (b) the Assets referred to in items 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 15, 18, 34 and 145 in Schedule 2 of the cross-claim were not works erected or constructed "*by or on behalf of*" OneSteel (within clause 4(1)(b) of Schedule 4) but were erected or constructed *by or on behalf of* WP;
 - (c) clause 4(3) of Schedule 4 provides that clause 4(1) of Schedule 4 "has effect whether the interest was created by or on behalf of the Company [i.e. OneSteel], Whyalla Ports Pty Ltd (ACN 153 225 364) [i.e. WP] or any other person or body";
 - (d) on the proper construction of clauses 4(1)(b) and 4(3) of Schedule 4, only the *interests* of any person or body *created* in works erected or constructed *by* OneSteel (whether by its employees, agents or contractors) relevantly *for* any person or body (including WP) are rendered void and of no force or effect;
 - (e) the Assets referred to in items 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 15, 18, 34 and 145 in Schedule 2 of the cross-claim were erected or constructed *by* WP (by its employees, agents or contractors) *for* itself (i.e. WP), and this gave WP an *interest* that was not *created* by reason of works erected or constructed *by*

OneSteel (whether by its employees, agents or contractors) within clause 4(1)(b) of Schedule 4.

15. OneSteel and the Administrators are wrongfully in possession of the Assets and have thereby converted the Assets to their own use and have wrongfully deprived WP of the Assets and by reason of these matters WP has suffered loss or damage.
16. By reason of the matters set out in paragraphs 1-15 above, WP claims as follows.
 - (1) Leave under s 440D of the *Corporations Act 2001* (Cth) to commence and proceed with this cross-claim against OneSteel.
 - (2) A direction pursuant to s 90-15 of the *Insolvency Practice Schedule (Corporations)* (**IPS**), being Schedule 2 to the *Corporations Act 2001* (Cth), alternatively a declaration under s 21 of the *Federal Court of Australia Act 1976* (Cth) (**FCA Act**), that the Assets (as defined in Schedule 2 of the cross-claim) are the property of WP.
 - (3) An order under s 90-15 of the IPS, alternatively a declaration under s 21 of the FCA Act, that:
 - (a) by causing employees of OneSteel to use the Assets on and after 28 March 2025, the Administrators are wrongfully in possession of the Assets and converted the Assets to their own use; and
 - (b) OneSteel is also wrongfully in possession of the Assets and converted the Assets to its own use.
 - (4) Damages for conversion including exemplary damages.
 - (5) Costs.

Dated: 12 June 2025

Brahma Dharmananda SC

Long Pham