

NOTICE OF FILING

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(ADMINISTRATORS APPOINTED) ACN 004 651 325
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Sia Lagos

Registrar

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No. VID 324 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 LTD (ADMINISTRATORS APPOINTED) ACN 004 651 325

First Plaintiffs

ONESTEEL MANUFACTURING PTY LIMITED (ADMINISTRATORS APPOINTED)

ACN 004 651 325

Second Plaintiff

FIRST PLAINTIFFS' OUTLINE OF SUBMISSIONS

A. INTRODUCTION

- 1 Sebastian Hams, Mark Mentha, Lara Wiggins and Michael Korda are the voluntary **Administrators** of the Second Plaintiff, **OneSteel**.
- 2 Section 439A(5) of the *Corporations Act 2001* (Cth) provides the statutory framework for convening the **Second Creditors' Meeting** of OneSteel. Unless extended, the Administrators are required to convene the Second Creditors' Meeting by 27 March 2025.
- 3 The Administrators make these submissions in support of their Originating Process filed 17 March 2025, in which they seek:
 - (a) an order pursuant to s 439A(6) of the **Act**¹ that the convening period defined in 439A(5)(b) of the Act be extended until 20 March 2026 (**Extension Order**);
 - (b) an order pursuant to s 447A(1) of the Act and s 90-15 of the **IPS**² that Part 5.3A of the Act is to operate in relation to OneSteel as if it permitted the second meeting of creditors to occur at any time before or within five business days after 20 March 2026 (provided the Administrators provide 5 days' notice).
- 4 The Administrators rely on the affidavit of Lara Luisa Wiggins sworn 17 March 2025 (**Wiggins Affidavit**).

¹ *Corporations Act 2001* (Cth).

² *Insolvency Practice Schedule*, being Schedule 2 to the Act.

B. LEGAL PRINCIPLES

5 The relevant legal principles concerning the extension of a convening period are well established.

6 Barret J stated in *Diamond Press*³ that the function of the Court on an application for such an order is:

to strike an appropriate balance between, on the one hand, the expectation that administration will be a relatively speedy and summary matter, and, on the other hand, the requirement that undue speed should not be allowed to prejudice sensible and constructive actions directed towards maximising the return for creditors and any return for shareholders

7 His Honour's observation was endorsed in *Mighty River*.⁴

8 Thawley J in *About Life*⁵ set out the approach to be adopted by the Court when considering an extension of the convening period. His Honour relied on the statement of Austin J in *Re Riviera*⁶, which sets out the reasons extensions of the convening period have been granted (citations omitted):

- (a) the size and scope of the business;
- (b) substantial offshore activities;
- (c) large number of employees with complex entitlements;
- (d) complex corporate group structure and intercompany loans;
- (e) complex transactions entered into by the company (e.g. securities lending or derivatives transactions);
- (f) complex prospects of recovery proceedings;
- (g) lack of access to corporate financial records;
- (h) the time needed to execute an orderly process of disposal of assets;
- (i) the time needed for thorough assessment of a proposal for a deed of company arrangement;
- (j) where the extension will allow sale of the business as a going concern; and
- (k) more generally, that additional time is likely to enhance the return for unsecured creditors.

9 In *Mighty River*, at [73], Nettle and Gordon JJ (in dissent, but not relevant in this respect), considered a number of authorities, including *Re Riviera* and *Diamond Press*, and concluded:

... Generally speaking, courts have been disposed to grant substantial extensions in cases where the administration has been complicated by, for example, the size and scope of the business, substantial offshore activities, large numbers of employees with complex entitlements, complex corporate

³ *Diamond Press Australia Pty Ltd* [2001] NSWSC 313 at [10].

⁴ *Mighty River International Limited v Hughes* (2018) 359 ALR 181 [73], Nettle and Gordon JJ.

⁵ *Farnsworth v About Life Pty Limited (Administrator Appointed), in the matter of About Life Pty Limited* [2019] FCA 11 at [3]-[8] citing *Silvia, in the matter of Austcorp Group Limited (Administrators Appointed)* [2009] FCA 636 at [18].

⁶ *Re Riviera Group Pty Ltd (Administrators Appointed) (Receivers and Managers Appointed)* [2009] NSWSC 585 at [13].

structures and intercompany loans, and complex recovery proceedings, and, more generally, where the additional time is likely to enhance the return to unsecured creditors. Provided the evidentiary case for extension has been properly prepared, there has been no evidence of material prejudice to those affected by the moratorium imposed by the administration, and the administrator's estimate of time has had a reasonable basis, the courts have tended to grant extensions for the periods sought by administrators ...

10 Finally, an administrator's opinion as to the need for an extension will be given weight in an application of this kind.⁷

C. REASONS FOR RELIEF

11 The Court should extend the convening period for the Second Creditors' Meeting for the following reasons.

12 *First*, OneSteel is a significant commercial entity which operates large and complex business operations with various stakeholders both locally and internationally, including trade creditors, employees, unions, customers, associated corporate entities and the State and Commonwealth Governments. Prior to the appointment of the Administrators, OneSteel was losing between \$1.5 million per day: Wiggins Affidavit [16]-[18]; [27]-[28].

13 *Second*, because of the underinvestment, inadequate maintenance and servicing of critical infrastructure, OneSteel's steelworks are in a state of disrepair. This has resulted in significant occupational health and safety risks which the Administrators are urgently addressing with the assistance of BlueScope: Wiggins Affidavit [19]-[21].

14 *Third*, OneSteel and its associated entities in the GFG Alliance are part of a complicated corporate group structure involving numerous local and international entities (and other corporate groups) which include substantial offshore activities. These relationships include intercompany trading and loans, as well as shared services arrangements. The Administrators need to untangle a web of related party transactions between OneSteel and entities in the GFG Alliance group, both for the purposes of optimising OneSteel's operations and investigating the nature, impact and lawfulness of related party transactions: Wiggins Affidavit [23]-[26].

15 *Fourth*, the intermingling of the operations and administrative functions of entities within the GFG Alliance group has meant that the Administrators do not have a complete and accurate set of the books and records of OneSteel. The Administrators do not have unfettered access to the books and records and have not received specific documents and information that they have requested: Wiggins Affidavit [23]-[26].

16 *Fifth*, OneSteel has a significant number of direct employees and contractors, who have substantial entitlements: Wiggins Affidavit [18], [31].

17 *Sixth*, OneSteel appears to have accepted prepayments from customers for inventory that it has not yet delivered and is not yet in existence: Wiggins Affidavit [30].

18 *Seventh*, the Administrators require more time to stabilise and investigate the business of OneSteel. An extension to the convening period will permit the Administrators to stabilise the OneSteel business for the purpose of considering a

⁷ *Strawbridge, in the matter of Virgin Australia Holdings Ltd (administrators appointed) (No 2) [2020] FCA 717*, at [68].

sale of the business as a going concern or recapitalisation through execution of a deed of company arrangement: Wiggins Affidavit [19]-[33], [42]-[47].

- 19 *Eighth*, an extension of up to 12 months is in the interests of the creditors and shareholders as it will facilitate the stabilisation of the business and consideration of a sale or recapitalisation, which is likely to produce a better price for the business and preserve existing relationships with employees, creditors and other stakeholders. A sale in liquidation will not have the benefit of preserving those relationships and may achieve a lower price due to a negative market perception of assets sold in liquidation.
- 20 *Ninth*, the Administrators have sought an extension of up to 12 months in light of the complexity of the OneSteel business. The Administrators have sought orders in accordance with *Re Daisytek Australia Pty Ltd* (2003) 45 ACSR 446; [2003] FCA 575 at [10]-[18] allowing them to call the Second Creditors' Meeting prior to 20 March 2026. This flexibility means that there is no prejudice to creditors by the extension of the convening period. The administrators will seek to call the Second Creditors' Meeting before the end of the extended convening period, if it is possible to do so: Wiggins Affidavit [48].
- 21 *Tenth*, the Administrators raised the prospect of the extension of the Second Creditors' Meeting at the first meeting of the creditors on 3 March 2025 and there was no opposition expressed by creditors at that meeting: Wiggins Affidavit [35]-[38].
- 22 *Eleventh*, the Administrators asked each member of the Committee of Inspection for their position in relation to the timing of an extension to the convening period. Of those who responded, the State of South Australia, the AWU, Aurizon Bulk Central Pty Ltd, Gavin Hobart and the Commonwealth Department of Industry, Science and Resources expressed support for an extension of up to twelve (12) months. The Department of Employment and Workplace Relations sought further information about the impact of the proposed extension on employees, and asked that such matters be raised before the Court: Wiggins Affidavit [51].

D. CONCLUSION

- 23 OneSteel will not be viable and investable in the long term unless it is able to stabilise the business in the short term. Once the OneSteel business has been stabilised, the Administrators intend to engage 333 Capital to prepare for a future transaction of the business to a new owner including considering any required capital expenditure to transition the business into an investable proposition. The Administrators also intend to engage an external corporate advisor to run a sale and recapitalisation process. The Administrators expect both the stabilisation and any sale and recapitalisation process to each take at least four to six months: Wiggins Affidavit [44]-[46].
- 24 The Administrators therefore seek that the Court should make orders in the form of the short minutes of order that will be provided at the hearing of the Originating Process.

17 March 2025

Arnold Bloch Leibler