



**IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
COMMERCIAL COURT
GROUP PROCEEDINGS LIST**

No. S ECI 2021 Case: S ECI 2021 04440

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B E T W E E N

EDWARD JOHN NELSON

First Plaintiff

GAIL CHRISTINE NELSON

Second Plaintiff

-and-

BEACH ENERGY LIMITED (ACN 007 617 969)

Defendant

AMENDED STATEMENT OF CLAIM

Filed pursuant to order 2 of the orders made by the Honourable Justice Nichols on 11 August 2022 and rule 36.04(1)(b) of the *Supreme Court (General Civil Procedure) Rules 2016 (Vic)*

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NOTE: In this statement of claim, the following conventions are used:

- (a) FY20, FY21 etc refer to the financial years ending 30 June 2020, 30 June 2021 etc;
- (b) 1H and 2H refer to the first and second halves of the relevant financial year (for example, 1H21 refers to the six month period ending 31 December 2020);
- (c) 1Q, 2Q, 3Q and 4Q refer to the quarters of the relevant financial year (for example, 4Q20 refers to the three month period ending 30 June 2020);
- (d) boe means barrel of oil equivalent, is a measure of volume of gas, or gas and oil, (for example 50 boe means the amount of gas (or a combination of oil and gas), equivalent to the volume of 50 barrels of oil);
- (e) kbbbl means one thousand barrels of oil;
- (f) MMbbl means one million barrels of oil (for example 3MMbbl means 3 million barrels of oil); and
- (g) MMboe means one million barrels of oil equivalent, being a measurement of gas or a measurement of both oil and gas (for example 3 MMboe means the amount of gas (or a combination of oil and gas), equivalent to the volume of 3 million barrels of oil).

The defined terms are set out in **Annexure B** to this statement of claim.

A THE PLAINTIFFS AND GROUP MEMBERS

- 1 The plaintiffs commence this proceeding as a group proceeding pursuant to Part 4A of the *Supreme Court Act 1986* (Vic) on their own behalf and on behalf of the Group Members (as defined below).
- 2 The plaintiffs and the persons they represent are all persons who:
 - (a) ~~entered into a contract (whether by themselves or by an agent or trustee) to acquire~~acquired:
 - (i) an interest in ordinary shares in the defendant (**Beach Shares**), including:
 - (A) ~~(i)~~ fully paid up ordinary shares in Beach traded on the Australian Stock Exchange (**ASX**); and/or,
 - (B) ~~(ii)~~ American Depository Receipts that represent ordinary shares in Beach, by entering into a contract (whether by themselves or by an agent or trustee);
and/or

(ii) a long exposure to Beach Shares by entering into equity swap confirmations in respect of Beach Shares (**Beach Equity Swaps**).

during the period between 17 August 2020 and 29 April 2021 (inclusive) (**Relevant Period**);

- (a) are alleged to have suffered loss or damage by reason of the conduct of the defendant (**Beach**) alleged in this statement of claim; and
- (b) were not during any part of the Relevant Period, and are not as at the date of the commencement of this proceeding, any of the following:
 - (i) a related party (as defined by s 228 of the *Corporations Act 2001* (Cth) of Beach;
 - (ii) a related body corporate (as defined by s 50 of the *Corporations Act*) of Beach;
 - (iii) an associated entity (as defined by s 50AAA of the *Corporations Act*) of Beach;
 - (iv) a director or officer (or a close associate of such a person) (as defined by s 9 of the *Corporations Act*) of Beach; or
 - (v) the Chief Justice, or a Justice or Registrar, of the Supreme Court of Victoria or the High Court of Australia,

(together, the **Group Members**).

Particulars

- (i) Particulars of the plaintiffs' transactions during the Relevant Period are set out in **Annexure A** to this statement of claim.
- (ii) Particulars of the transactions of the Group Members during the Relevant Period will be provided after the trial and determination of the common questions.

3 As at the date of the commencement of this proceeding, there were more than seven Group Members.

B BEACH

B.1 The defendant

4 At all material times, Beach:

- (a) was and is a company incorporated pursuant to the *Corporations Act* and capable of being sued;

- (b) was and is a person within the meaning of:
 - (i) s 1041H of the *Corporations Act*; and
 - (ii) a person within the meaning of s 12DA of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**),
- (c) was and is included in the official list of the financial market operated by the ASX;
- (d) had and has on issue ordinary shares (Beach Shares) which were and are:
 - (i) quoted ED securities within the meaning of ss 111AD, 111AE and 111AM of the *Corporations Act*;
 - (ii) able to be purchased and sold by investors and potential investors in Beach Shares (**Beach Shares Market**) on the ASX under the designation “BPT”; and
 - (iii) financial products within the meaning of ss 763A(1)(a) and 764A(1)(a) of the *Corporations Act* and s 12BAA of the *ASIC Act*;
- (e) as the issuer of the Beach Shares, was and is:
 - (i) a disclosing entity within the meaning of s 111AC of the *Corporations Act*;
 - (ii) a listed disclosing entity within the meaning of 111AL of the *Corporations Act*;
 - (iii) subject to and bound by the Australian Stock Exchange Listing Rules (**ASX Listing Rules**); and
 - (iv) subject to the requirements of s 674 of the *Corporations Act*;
- (f) was and is operating using a financial year of 1 July to 30 June for reporting purposes.

5 At all material times, the ASX was a market operator of a listing market, namely the ASX’s financial market, in relation to Beach Shares, for the purposes of s 674 of the *Corporations Act*.

5A At all material times there existed a market of investors and potential investors in Beach Equity Swaps, priced by reference to the price for Beach Shares on the ASX (**Beach Equity Swaps Market**).

B.2 Beach’s Continuous Disclosure Obligations

6 At all material times, Rule 3.1 of the ASX Listing Rules provided that once an entity is or becomes aware of any information concerning it that a reasonable person would expect to

have a material effect on the price or value of the entity's securities, the entity must, unless the exceptions in ASX Listing Rules 3.1A apply, immediately tell the ASX that information.

7 At all times during the Relevant Period until 22 March 2021, by operation of ss 111AP and 674 of the *Corporations Act*, Rule 3.1 of the ASX Listing Rules and the *Corporations (Coronavirus Economic Response) Determination (No 1) 2020* (Cth), Beach was required to inform the ASX immediately of any information it became aware of which:

- (i) concerned Beach;
- (ii) was not generally available; and
- (iii) Beach knew or was reckless or was negligent with respect to whether that information would, if it were generally available, have a material effect on the price or value of Beach Shares.

8 At all times during the Relevant Period on and from 23 March 2021 to the end of the Relevant Period, by operation of ss 111AP and 674 of the *Corporations Act* and Rule 3.1 of the ASX Listing Rules, Beach was required to inform the ASX immediately of any information it became aware of which:

- (i) concerned Beach;
- (ii) was not generally available; and
- (iii) a reasonable person would expect, if it were generally available, to have a material effect on the price or value of Beach Shares,

(paragraphs 7 and 8 together, being Beach's **Continuous Disclosure Obligations**).

9 At all material times, by operation of Rule 19.12 of the ASX Listing Rules, Beach was taken to be aware of information if an officer of Beach had, or ought reasonably to have, come into possession of the information in the course of the performance of their duties as an officer of Beach.

B.3 Officers of Beach

10 At all material times (except to the extent noted below):

- (a) the executive officers of Beach included the following:
 - (i) Mr Matthew Kay, Chief Executive Officer and Managing Director (**Kay**);
 - (ii) Mr Morné Englebrect, Chief Financial Officer;
 - (iii) Mr Ian Grant, Chief Operating Officer;

- (iv) Mr Geoffrey Barker, Group Executive Development (until 22 February 2021) (**Barker**);
 - (v) Mr Thomas Nador, Group Executive Development (from 23 February 2021) (**Nador**);
 - (vi) Mr Jeffrey Schrull, Group Executive Exploration and Appraisal (until 22 February 2021) (**Schrull**);
 - (vii) Mr Sam Algar, Group Executive Exploration and Subsurface (from 23 February 2021) (**Algar**);
 - (viii) Mr Lee Marshall, Group Executive Corporate Strategy and Commercial;
 - (ix) Ms Sheree Ford, General Counsel;
 - (x) Mr Brett Doherty, Group Executive Health, Safety, Environment and Risk;
 - (xi) Ms Lesley Adams, Group Executive, Human Resources,
(together, the **Executive Officers**); and
- (b) the following people were directors of Beach:
- (i) Kay, Managing Director as noted above;
 - (ii) Mr Glenn Davis, Independent Non-Executive Chair;
 - (iii) Mr Colin Beckett, Independent Non-Executive Deputy Chair;
 - (iv) Mr Philip Bainbridge, Independent Non-Executive Director;
 - (v) Ms Joycelyn Morton, Independent Non-Executive Director;
 - (vi) Mr Ryan Stokes, Non-Executive Director;
 - (vii) Mr Richard Richards, Non-Executive Director;
 - (viii) Dr Peter Moore, Independent Non-Executive Director; and
 - (ix) Ms Sally-Ann Layman, Independent Non-Executive Director,
(together, the **Directors**).

11 At all material times, each of the Executive Officers and the Directors was an officer of Beach within the meaning of s 9 of the *Corporations Act* (and consequently, also for the purposes of the ASX Listing Rules, pursuant to Rule 19.3(a)), except for Barker, Algar, Schrull and Nador, who were such officers for the periods of time they held their positions as pleaded at paragraph 10 above (together, the **Beach Officers**).

12 By reason of the matters pleaded at paragraphs 9, 10 and 11 above, any information of which any or all of the Beach Officers became aware, or which ought reasonably to have come into his or her possession in the course of the performance of his or her respective duties as an officer of Beach, was information of which Beach was aware for the purposes of Rule 3.1 of the ASX Listing Rules and s 674(2) of the *Corporations Act*.

C FACTUAL CIRCUMSTANCES

C.1 Overview of Beach's Operations

13 At all material times Beach:

- (a) carried on an oil and gas exploration and production business;
- (b) had operations in five hydrocarbon producing basins across Australia and New Zealand, including the overlapping Cooper and Eromanga basins located on the border of South Australia and Queensland (together, the **Cooper Basin**);
- (c) had oil and gas operations in an area on the western side of the Cooper Basin known as the **Western Flank**, which contained a number of oil fields, of which the largest was the Bauer oil field (**Bauer Field**); and
- (d) estimated its oil and gas reserves (being the estimated remaining amount of oil and gas which can be profitably produced in the future) and contingent resources using the following metrics, which are commonly used across the oil and gas production industry:
 - (i) **1P Reserves**: being an estimate of *proven* oil and gas volumes which can be economically produced, with a high likelihood of recoverability;
 - (ii) **2P Reserves**: being an estimate of *proven plus probable* oil and gas volumes which can be economically produced, with a medium likelihood of recoverability;
 - (iii) **3P Reserves**: being an estimate of *proven plus probable plus possible* oil and gas volumes which can be economically produced, with a low likelihood of recoverability; and
 - (iv) **2C Contingent Resources**: being the best estimate at a point in time of volumes of oil and/or gas which can potentially be produced, but in respect of which the question of whether such production would be economically viable is contingent on matters such as financing, potential changes in capital expenditure and/or

product prices, further appraisal drilling, and/or further technical information or studies.

- 14 The operational processes carried out by Beach across its five hydrocarbon producing basins, including the Cooper Basin and the Western Flank, are:
- (a) **Exploration:** being the process to find new pools of hydrocarbons, either within tie-back distance to existing surface processing facilities, or large enough to justify new infrastructure investment;
 - (b) **Appraisal:** being the process to optimise ultimate recovery from Beach’s fields in the most cost-effective way, achieved via delineation of field size as early as possible in the field life and then formation of an efficient field development plan for the life of each field; and
 - (c) **Development:** being the process to unlock the reserves within Beach’s existing oil and gas fields.

Particulars

The plaintiffs refer to Beach’s 2020 Annual Report, pp 16 – 17.

- 15 The geology of the Western Flank is unusual, in that the oil fields within it are very wide and flat, which creates a high degree of uncertainty in estimating reserves until a significant production history is available.

Particulars

The plaintiffs refer to a statement made by Algar during a Business Update Call on 30 April 2021 (**April 2021 Business Update**), from around 11 minutes and 35 seconds to 12 minutes and 32 seconds and Beach’s Business Update Presentation dated 30 April 2021 (**April 2021 Presentation**), slide 9

Further particulars will be provided following discovery.

- 16 In or around 2016, Beach was concerned that its oil and gas production in the Western Flank was in decline.

Particulars

The plaintiffs refer to statements made by Kay in an interview with Elouise Fowler of the *Australian Financial Review* as reported in an article titled “*Out Flanked: Beach Energy’s value drops \$900m*”, published on 30 April 2021.

Further particulars will be provided following discovery and expert evidence.

- 17 In 2017, Beach began using horizontal drilling techniques in the Western Flank, which resulted in an unexpected increase in oil production in the Western Flank.

Particulars

The plaintiffs refer to the April 2021 Presentation, slide 8.

Further particulars will be provided following discovery and expert evidence.

- 18 In FY18, Western Flank oil and gas production accounted for approximately 32% of Beach's total FY18 production and, respectively:
- (a) approximately 82% of Beach's total FY18 oil production; and
 - (b) approximately 9% of Beach's total FY18 gas production.

Particulars

The plaintiffs refer to Beach's 2018 Annual Report, p 14.

- 19 In FY19, Western Flank oil and gas production accounted for approximately 24% of Beach's total FY19 production and, respectively:
- (a) approximately 75% of Beach's total FY19 oil production; and
 - (b) approximately 7% of Beach's total FY19 gas production.

Particulars

The plaintiffs refer to Beach's 2019 Annual Report, p 15.

- 20 In FY20, Western Flank oil and gas production accounted for approximately 36% of Beach's total FY20 production and, respectively:
- (a) approximately 85% of Beach's total FY20 oil production; and
 - (b) approximately 10% of Beach's total FY20 gas production.

Particulars

The plaintiffs refer to Beach's 2020 Annual Report, p 13.

C.2 The Bauer Model

- 21 At a time presently unknown to the plaintiffs but by no later than September 2018, Beach developed a model for estimating its oil reserves in the Bauer Field, including its 2P Reserves (**Bauer Model**).

Particulars

The plaintiffs refer to Beach's FY19 Half Year Results Presentation dated 13 February 2019 (**February 2019 Presentation**), slide 20 and Beach's 2018 Investor Briefing Presentation dated 27 September 2018 (**2018 Investor Presentation**), slide 70.

The Bauer Model was referred to variously by terms including the "Bauer approach", "Bauer strategy" and "Bauer model" and was used to estimate oil reserves in the Bauer Field, as well as reserves in at least the Balgowan, Callawonga, Butlers, Parsons and Congony-Kalladeina fields elsewhere in the Western Flank, as set out in Beach's 2020 Annual Report, p 16.

Further particulars will be provided following discovery and expert evidence.

- 22 The Bauer Model:

- (a) was developed and applied by Beach because it considered that its previous reserves estimation model(s) had underestimated the true size of the Bauer Field;

Particulars

The plaintiffs refer to the April 2021 Presentation, slides 9 and 11 and statements made by Algar during the April 2021 Business Update, at around 13:43 -19:01, including that estimates based on the Bauer Model were larger than previous estimates based on seismic mapping and data and Decline Curve Analysis.

Further particulars will be provided following discovery and expert evidence.

- (b) was a geological model devised using all available data to estimate how big the Bauer field might be;

Particulars

The plaintiffs refer to a statement made by Algar during the April 2021 Business Update, at around 14 minutes and 40 seconds.

- (c) resulted in estimates of Beach's oil reserves in the Bauer Field which were larger than its previous estimates; and

Particulars

The plaintiffs refer to the April 2021 Presentation, slide 9.

Further particulars will be provided following discovery and expert evidence.

- (d) by reason of the matters alleged in the sub-paragraphs (a) and (b), was intended by Beach to have the result alleged in sub-paragraph (c).

23 At a time presently unknown to the plaintiffs but from around at least FY19, Beach applied the Bauer Model to the estimation of its oil reserves, including its 2P Reserves, in nine other oil fields located in the Western Flank.

Particulars

The plaintiffs refer to Beach's:

- (i) February 2019 Presentation, slide 20;
- (ii) April 2021 Presentation, slide 9; and
- (iii) ASX Announcement titled "Business Update" dated 30 April 2021 (**April 2021 ASX Announcement**), p 2.

Further particulars will be provided following discovery and expert evidence.

24 By reason of the matters alleged in paragraphs 22 and 23 above, Beach's use of the Bauer Model in relation to oil fields in the Western Flank:

- (a) resulted in estimates of its oil reserves in the Western Flank, including its 2P Reserves, which were larger than its previous estimates; and
- (b) was intended by Beach to have the result alleged in sub-paragraph (a).

25 At all material times, Beach was aware of the matters alleged in paragraphs 21 – 24 above.

C.3 August 2020 Representations

26 In September 2018:

- (a) Beach announced a five year outlook (**2018 Outlook**) which included:
 - (i) by FY23, a production target of 30 – 36 MMboe and cumulative free cash flow of \$2.3 billion;
 - (ii) assumptions that Western Flank oil would contribute, for the next five years:
 - (A) between 15 – 20% of Beach's overall production; and
 - (B) 35 – 40% of Beach's overall free cash flow; and
- (b) in announcing the 2018 Outlook, Beach stated that it was a low risk prediction.

Particulars

The plaintiffs refer to the 2018 Investor Presentation, p 1 and slides 7 and 73, and comments made by Kay in Beach's Investor Briefing Call on 26 September 2018, at transcript pp 4, 21 and 22.

- 27 In August 2019, Beach announced an updated five year outlook (**2019 Outlook**), which included by FY24, a production target of 34 – 40 MMboe and cumulative free cashflow of \$2.7 billion.

Particulars

The plaintiffs refer to Beach's FY19 Results announcement on 19 August 2019, p 1.

- 28 On 17 August 2020, Beach released its financial results for FY20 and its 2020 Annual Report (**2020 Annual Report**), and in connection with that release, Beach:
- (a) provided guidance for FY21, including that Beach expected to achieve production of between 26 and 28.5 MMboe, underlying earnings before interest, taxes, depreciation and amortisation (**Underlying EBITDA**) of between \$900m to \$1 billion and capital expenditure of between \$650m - \$750m (the **FY21 Guidance**);

Particulars

The plaintiffs refer to Beach's ASX Announcement/Media Release titled "Beach Energy FY20 Full Year Results" dated 17 August 2020 (**August 2020 ASX Release**), p 3.

- (b) updated its five year outlook, in which Beach estimated:
 - (i) annual production of 37 to 43 MMboe in FY25; and
 - (ii) FY21-FY25 cumulative free cash flow of \$2.1 billion;

Particulars

The plaintiffs refer to the August 2020 ASX Release, pp 1 and 3; and Beach's FY20 Full Year Results and Outlook Presentation dated 17 August 2020 (**August 2020 Presentation**), slides 31 to 33.

- (c) stated that it had a "*[r]esilient and growing 2P reserves base*", with 2P Reserves of 352 MMboe; and

Particulars

The plaintiffs refer to the August 2020 ASX Release, p 3, and the August 2020 Presentation, slide 6.

- (d) made the following statements (**August 2020 Statements**):
- (i) *“Beach’s revised low-risk investment profile has a target to deliver between 37 and 43 MMboe of production in FY25”* (August 2020 ASX Release, p 3; see also at p 1);
 - (ii) in relation to Beach’s oil operations on the Western Flank:
 - (A) a *“strategic consideration”* was that the Western Flank was a *“[h]igh returning asset with significant exploration, appraisal and development potential”* (August 2020 Presentation, slide 26);
 - (B) in FY21, Beach proposed to target maintaining gross daily average output above 20,000 barrels of oil per day (August 2020 Presentation, p 26);
 - (C) *“The really pleasing thing to see here is the significant increase in oil production we expect to achieve. Oil output from our Cooper Basin assets increases from 8.8 million barrels in FY '20 to between 9.2 million and 10.2 million barrels in FY '21. Forecast increase is driven through maintaining operated Western Flank output of 20,000 barrels per day through FY '21.”* (Full Year 2020 Beach Earnings Call on 17 August 2020 (**August 2020 Earnings Call**), Kay, at transcript p 7);
 - (D) Beach had achieved *“159% 2P reserves replacement ratio in Western Flank Oil”* (August 2020 ASX Release, p 3; see also August 2020 Presentation, pp 8 and 26);
 - (E) Beach had achieved *“[o]utstanding drilling results in FY20 ... Drilling success added 11.5 MMboe in 2P reserves, a 159% 2P reserves replacement ratio”* (August 2020 Presentation, p 26);
 - (F) *“... wow, what a story it continues to be with more great results in FY’20. ... drilling success stirred a 159% 2P Reserves replacement ratio”* (August 2020 Earnings Call, Kay, at transcript p 6);
 - (G) *“[a]ppraisal drilling of the Bauer Field continues to exceed expectations”* (2020 Annual Report, p 16); and
 - (H) exploration and appraisal had increased Western Flank oil:
 - I. 1P Reserves by 8MMboe in FY20 (2020 Annual Report, p 29); and
 - II. 2P Reserves by 12MMboe in FY20 (2020 Annual Report, p 30);

- (iii) that there was “[l]ow risk” in relation to its forecast “*delivery of 37 MMboe by FY25, with upside*”, which was supported by “*Key assumptions*” including “*33% exploration/appraisal Western Flank success rate*” and “*Western Flank gas expansion*” (August 2020 Presentation, slide 32);
- (iv) it had “*taken a conservative approach to forecasting production of 37 million barrels of oil equivalent by FY’25. In the interest of being prudent, our key assumptions in the low case are things that are virtually certain as opposed to further upside. Even in the 43 million barrel of oil equivalent scenario, you can see outcomes that are likely given our previous track record of delivery especially in the Western Flank and the Perth Basin. The high case does not rely on material exploration success*” (August 2020 Earnings Call, Kay, at transcript p 7); and
- (v) “*production remains on track to deliver between 37 million to 43 million barrels of oil equivalent in FY ‘25*” and that “*the destination hasn’t changed, only the timing and the profile to reach it*” (August 2020 Earnings Call, Kay, at transcript p 7).

Particulars

The August 2020 Statements were made, variously, in writing in the August 2020 ASX Release; the August 2020 Presentation; and/or the 2020 Annual Report; and/or verbally in the August 2020 Earnings Call, as set out above.

- 29 By reason of the matters alleged in paragraph 28 above, on or around 17 August 2020, Beach represented to the Beach Shares Market that:
- (a) it had 2P Reserves of 352 MMboe (**2P Reserves Estimate**);
 - (b) its Western Flank oil reserves had materially increased, despite high levels of production, as a result of a successful appraisal and exploration drilling campaign in FY20;
 - (c) it expected to achieve annual production of 37 to 43 MMboe in FY25 (the **5-Year Outlook**);
 - (d) the 5-Year Outlook was based on conservative estimates;
 - (e) there was only a low risk that the 5-Year Outlook would not be met; and
 - (f) it expected to achieve the FY21 Guidance in FY21; and

(g) further or alternatively, it had reasonable grounds for making the 2P Reserves Estimate, ~~and~~ the 5-Year Outlook and the FY21 Guidance,

(together, the **August 2020 Representations**).

30 The representations at sub-paragraphs 29(c), ~~and~~ (e) and (f) were each representations with respect to future matters and the plaintiff relies on s 769C of the *Corporations Act* and s 12BB of the ASIC Act in relation to them.

31 Beach did not withdraw or qualify the August 2020 Representations at any time prior to 30 April 2021, other than:

(a) ___ by representing that the 2P Reserves Estimate would increase as a result of the Senex and Mitsui acquisitions as alleged at paragraphs 39 and 46 below; and

(b) by revising its FY21 Guidance on 15 February 2021 as alleged in paragraph 52 below.

32 By reason of the matters alleged in the preceding paragraph;

(a) the August 2020 Representations, other than the FY21 Guidance, were continuing representations from 17 August 2020 until 30 April 2021; and

(b) the FY21 Guidance was a continuing representation from 17 August 2020 until 15 February 2021.

33 By at least 17 August 2020, it was the case that (the **August 2020 Facts**):

(a) Beach had not undertaken any material exploration in the Western Flank since around 2016;

Particulars

The plaintiffs refer to the 2021 Beach Investor Update dated 28 September 2021, p 85.

Further particulars will be provided following discovery and expert evidence.

(b) in FY20 Beach had undertaken appraisal and exploration drilling in the Western Flank, with largely unsuccessful results, consisting of:

(i) in 1H20, 24 appraisal or exploration wells, of which:

(A) 14 were wholly unsuccessful and abandoned;

(B) four showed such little potential for development that, up to at least 30 April 2021, Beach had not developed them;

- (C) two had such poor results that, although they were developed, they were effectively unsuccessful; and
- (D) only four were successful;

Particulars

Data available at www.peps.sa.gov.au (the **PEPS-SA Database**) records that the following appraisal or exploration wells were drilled by Beach in the Western Flank in 1H20 (production volumes are only available up to 30 April 2021, and volumes in cubic metres have been converted to barrels using the conversion rate of 6.2898 barrels to 1m³):

- I. 13 appraisal oil wells that were plugged and abandoned: Hanson South 001, Hanson East 001, Hanson West 001, Parsons 007, Parsons 008, Bauer Northeast 002, Arno 002, Callawonga 022, Callawonga 019, Callawonga 020, Callawonga 021, Butlers 010 and Butlers 012; and the Wirruna 001 gas exploration well which was also plugged and abandoned;
- II. four appraisal oil wells with no production data up to at least 30 April 2021: Bauer Southwest 002, Arno 004, Arno 003 and Butlers 011;
- III. two appraisal oil wells with approximate total cumulative production as follows, and in respect of which production has now ceased: Bauer Southeast 002: 1.3 kbbl of oil between December 2019 and August 2020; and Bauer Northwest 002: 8.8 kbbl of oil between January and October 2020; and
- IV. four appraisal oil wells could potentially have been considered a success: Parsons 006 (11 kbbl of oil produced since October 2019); Chiton 008 (335 kbbl of oil produced since September 2019); Bauer North 002 (290 kbbl of oil produced since December 2019); and Bauer North 003 (52 kbbl of oil produced since December 2019).

Further particulars will be provided following discovery and expert evidence.

- (ii) in 2H20, 14 oil appraisal or exploration wells, of which:
 - (A) seven were wholly unsuccessful and abandoned;
 - (B) four showed such little potential for development that, up to at least 30 April 2021, Beach had not developed them;
 - (C) one had such poor results that, although it was developed, it was effectively unsuccessful; and
 - (D) only two were successful;

Particulars

Data available in the PEPS-SA Database records that the following appraisal or exploration oil wells were drilled by Beach in the Western Flank in 2H20 (production volumes are only available up to 30 April 2021, and volumes in cubic metres have been converted to barrels using the conversion rate of 6.2898 barrels to 1m³):

- I. seven wells that were plugged and abandoned: appraisal oil wells Butlers 013, Rincon 002, Kalladeina North 002, Kalladeina 010 and Congony 006; and exploration oil wells Sellicks South 001 and Glenelg North 001;
- II. four wells with no production data up to at least 30 April 2021: Rincon 003, Kalladeina 009, Kalladeina 011 and Bauer North 005;
- III. the Balgowan 002 well has produced less than 2 kbbl of oil since July 2020; and
- IV. two wells could potentially have been considered a success: Balgowan 004 (2.7 kbbl of oil produced since January 2021) and Balgowan 003 (56 kbbl of oil produced since November 2020).

Further particulars will be provided following discovery and expert evidence.

- (c) Beach's oil production results in the Western Flank indicated that its oil reserves in the Western Flank had been materially declining since at least March 2020;

Particulars

- (i) Data available in the PEPS-SA Database in respect of Beach production results for its wells in the Western Flank up to and including July 2020 indicates a material continuing decline in Beach's oil reserves in the Western Flank from at least March 2020.
- (ii) Beach' gross daily average oil production rate in the Western Flank increased each quarter from 1Q19 to 3Q20, and then declined in 4Q20, as shown in the chart under heading "*Operated Western Flank gross average oil production rate (kbbl/day)*" in the August 2020 Presentation, slide 27.
- (iii) Beach's monthly oil production in the Western Flank increased from in or around 2017 until a date prior to the start of FY21, and then decreased after that date as shown in the chart under heading "*Introduction of horizontal drilling and development of McKinlay reservoir rejuvenated Western Flank oil and delivered a second production peak in 2020*" in the April 2021 Presentation, slide 8.

Further particulars will be provided following discovery and expert evidence.

- (d) Beach's 2P Reserves Estimate, ~~and~~ 5-Year Outlook and FY21 Guidance were based in part on estimates of its oil reserves in the Western Flank, including in respect of the

Bauer Field and the other nine fields in the Western Flank which were based on the Bauer Model; and

- (e) Beach had decided to reduce its capital expenditure in the Western Flank to 50% of what it had spent in FY20, and move to a “harvest mode” in the Western Flank.

Particulars

August 2020 Earnings Call, pp 6 and 17.

Further particulars will be provided following discovery.

34 Further, by at least 17 August 2020, it was the case that:

- (a) the likely future performance of Beach’s oil wells in the Western Flank was uncertain;

Particulars

This fact is to be inferred from the matters alleged in sub-paragraphs 33(a) – (c) above.

Further particulars will be provided following discovery and expert evidence.

- (b) Beach needed to investigate and re-assess its:

- (i) oil reserves in the Western Flank; and
- (ii) estimated oil production rates for FY21 to FY25;

Particulars

That the matters alleged needed to be investigated and comprehensively re-assessed is to be inferred from the matters alleged in sub-paragraphs 33 (a) – (d) above.

Further particulars will be provided following discovery and expert evidence.

- (c) the Bauer Model could not be relied on to estimate Beach’s oil reserves in the Western Flank; and

Particulars

This fact is to be inferred from the matters alleged in paragraphs 21 – 25, 33 and 34(a) – (b) above and from Beach’s admission in the April 2021 Presentation, slide 11, that seismic was more reliable than the Bauer Model.

Further particulars will be provided following discovery and expert evidence.

- (d) Beach's 2P Reserves Estimate, ~~and its 5-Year Outlook~~ and FY21 Guidance could not be relied upon,

Particulars

This fact is to be inferred from the matters alleged in paragraphs 33 and 34(a) – (c) above.

Further particulars will be provided following discovery and expert evidence.

(together, the **Further August 2020 Information**).

C.4 November 2020 Representations

- 35 Beach's oil production in the Western Flank for 1Q21 decreased by a further 4% compared with the previous quarter.

Particulars

Beach's oil production in the Western Flank in 4Q20 was 2,005 kbbbl, and in 1Q21 was 1,916 kbbbl, as set out in Beach's FY21 First Quarter Activities Report dated 23 October 2020 (**1Q21 Activities Report**), p 6.

Further particulars may be provided following discovery and expert evidence.

- 36 On 23 October 2020, Beach released its 1Q21 Activities Report in which it:
- (a) stated that its oil production in the Western Flank for 1Q21 had decreased by a further 4% compared with the previous quarter;
 - (b) repeated its FY21 Guidance; and
 - (c) was silent as to its 2P Reserves and the 5-Year Outlook.
- 37 On 3 November 2020, Beach announced that it was acquiring a portfolio of assets in the Cooper Basin from Senex Energy (**Senex Assets Acquisition**), and in that announcement it stated that:
- (a) completion of the Senex Assets Acquisition was expected to occur in 3Q21 or earlier (p 2);
 - (b) the acquisition included "6.8 MMboe of 2P reserves and forecast FY21 production of ~0.6 MMboe" (p 1); and
 - (c) "*Beach believes the acquisition will also unlock significant value creation opportunities. These include: ... 2. Application of Beach's proven approach to appraisal and development. Beach has applied new thinking to its Western Flank operations, resulting in a doubling of 2P Estimated Ultimate Recovery over the past 4*

years and the doubling of operated oil production over the past 2 years. Beach will apply this approach to Senex's Assets following completion of the Transaction." (p 2).

Particulars

The plaintiffs refer to the Beach's ASX release titled 'Beach expands Cooper Basin portfolio' dated 3 November 2020, p 2.

38 On 25 November 2020, Beach held its Annual General Meeting (**2020 AGM**), at which Beach:

- (a) was silent as to its FY21 Guidance;
- (b) expressly repeated its 5-Year Outlook; and

Particulars

The plaintiffs refer to Beach's ASX Announcement titled "*2020 Annual General Meeting Addresses and Presentation*" dated 25 November 2020 (**November 2020 AGM Address**), at p 10.

- (c) made the following statements (**November 2020 Statements**):
 - (i) "*FY20 saw another fantastic year in the Western Flank in which ... drilling success saw a 159 per cent 2P reserves replacement ratio*" (November 2020 AGM Address, p 9);
 - (ii) the Senex Asset Acquisition would add over 6 million barrels of oil to Beach's 2P Reserves (November 2020 AGM Address, p 9);
 - (iii) Beach "*enjoy[ed] a resilient and growing 2P reserves base*" (November 2020 AGM Address, p 12);
 - (iv) drilling success had added 11.5 MMboe in Western Flank oil 2P Reserves (November 2020 AGM Address, Presentation slide 20);
 - (v) there would be a "*temporary slowing down [of] activity to integrate all data to date*" but that would not affect the target maintaining gross average output above 20,000 barrels of oil per day in FY21 (November 2020 AGM Address, Presentation p 20); and
 - (vi) Western Flank oil was a "*[h]igh margin asset with plenty of running room remaining*" (November 2020 AGM Address, Presentation slide 20).

Particulars

The November 2020 Statements were made in writing in the November 2020 AGM Address and/or verbally by Kay during Beach's 2020 AGM which was held online on 25 November 2020, as set out above.

- 39 By reason of the matters alleged in paragraphs 37 and 38 above, on 25 November 2020, Beach:
- (a) repeated to the Beach Shares Market:
 - (i) the representation alleged at paragraph 29(b) above (that its Western Flank oil reserves had materially increased); and
 - (ii) the 5-Year Outlook;
 - (b) represented to the Beach Shares Market that, following completion of the Senex Acquisition, Beach's 2P Reserves:
 - (i) would increase; and
 - (ii) would be at least 358 MMboe (**Revised 2P Reserves Estimate**); and
 - (c) further or alternatively, represented to the Beach Shares Market that it had reasonable grounds for making the Revised 2P Reserves Estimate and the 5-Year Outlook, (together, the **November 2020 Representations**).
- 40 The representations at sub-paragraphs 39(a) and (b) above were each representations with respect to future matters and the plaintiffs rely on s 769C of the *Corporations Act* and s 12BB of the ASIC Act in relation to them.
- 41 Beach did not withdraw or qualify the November 2020 Representations at any time prior to 30 April 2021, other than by representing that the Revised 2P Reserves Estimate would increase (as a result of the Mitsui acquisition) as alleged at paragraph 46 below.
- 42 By reason of the matters alleged in the preceding paragraph, the November 2020 Representations were continuing representations from November 2020 until 30 April 2021.
- 43 By at least 25 November 2020, it was the case that (the **November 2020 Facts**):
- (a) the August 2020 Facts remained the case; and
 - (b) Beach's oil production results in the Western Flank between August and November 2020 indicated that its oil reserves in the Western Flank had continued to materially decline;

Particulars

Data available in the PEPS-SA Database in respect of Beach production results for its wells in the Western Flank between August and November 2020 indicate a material continuing decline in Beach's oil reserves in the Western Flank.

Further particulars will be provided following discovery and expert evidence.

44 Further, by at least 25 November 2020, it was the case that:

- (a) the likely future performance of Beach's oil wells in the Western Flank was uncertain;

Particulars

This fact is to be inferred from the matters alleged in paragraph 43 above.

Further particulars will be provided following discovery and expert evidence.

- (b) Beach needed to investigate and re-assess its:
 - (i) oil reserves in the Western Flank; and
 - (ii) estimated oil production rates for FY21 to FY25;

Particulars

That the matters alleged needed to be investigated and comprehensively re-assessed is to be inferred from the matters alleged in paragraphs 43 and 44(a) above.

Further particulars will be provided following discovery and expert evidence.

- (c) the Bauer Model could not be relied on to estimate Beach's oil reserves in the Western Flank; and

Particulars

This fact is to be inferred from the matters alleged in paragraphs 21 – 25, 43 and 44(a) – (b) above.

Further particulars will be provided following discovery and expert evidence.

- (d) Beach's 2P Reserves Estimate and its 5-Year Outlook could not be relied upon,

Particulars

This fact is to be inferred from the matters alleged in paragraphs 43 and 44(a) – (c) above.

Further particulars will be provided following discovery and expert evidence.

(together, the **Further November 2020 Information**).

C.5 January 2021 Representations

- 45 On 27 January 2021, Beach released its 2Q21 Activities Report (**2Q21 Activities Report**), in which it:
- (a) stated that its total production for 2Q21 was 6.2 MMboe for 2Q21, which was 8% below the previous quarter (p 1);
 - (b) stated that its oil production from the Western Flank was down 9% compared to 1Q21 (p 6);
 - (c) stated that its “[g]ross average daily oil production from the Western Flank was 20.5 kbbl (down 9%) and 21.5 kbbl during the first half, averaging ahead of the 20 kbbls FY21 target” (p 7);
 - (d) repeated that the Senex Assets Acquisition would add 6.8 MMboe to Beach’s 2P Reserves (p 10);
 - (e) announced that (p 11):
 - (i) Beach had entered into an agreement with subsidiaries of Mitsui & Co. Ltd to purchase their assets in the Bass Basin offshore gas field (**Mitsui Asset Acquisition**);
 - (ii) settlement of this purchase was anticipated to occur in 3Q21; and
 - (iii) the Mitsui Asset Acquisition would result in “*associated 2P reserve additions to be updated as part of Beach’s FY21 year-end reserves process*”;
 - (f) stated that its FY21 Guidance would be updated on 15 February 2021 and would “*include the recent acquisitions of Senex Energy’s Cooper Basin and Mitsui’s Bass Basin assets*” (p 3); and
 - (g) was silent as to its 5-Year Outlook.
- 46 By reason of the matters alleged in paragraph 45 above, on or around 27 January 2021, Beach represented to the Beach Shares Market that, as a result of the Senex Asset Acquisition and the Mitsui Asset Acquisition, its 2P Reserves would increase (the **January 2021 Representation**).
- 47 The January 2021 Representation was a representation with respect to future matters and the plaintiffs rely on s 769C of the *Corporations Act* and s 12BB of the *ASIC Act* in relation to it.

48 Beach did not withdraw or qualify the January 2021 Representation at any time prior to 30 April 2021.

49 By reason of the matters alleged in the preceding paragraph, the January 2021 Representation was a continuing representation from 27 January 2021 until 30 April 2021.

50 By at least 27 January 2021, it was the case that (the **January 2021 Facts**):

- (a) the August 2020 Facts and the November 2020 Facts remained the case;

Particulars

In addition to the particulars to paragraphs 33 and 43 above, the plaintiffs:

- (i) refer to statements made by Kay during Beach's Half Year 2021 Earnings Call on 14 February 2021 (the **February 2021 Earnings Call**), at transcript p 11; and
- (ii) refer to the fact that, as stated in the April 2021 Presentation, slide 10:
 - (A) Beach had developed a new Bauer reservoir model which incorporated FY21 drilling results, supported by decline curve analysis, to re-forecast estimated ultimate recovery; and
 - (B) Beach's re-assessment of its reserves had been reviewed by three external reserves experts, including its reserves auditor RISC Pty Ltd; and
- (iii) say that it is to be inferred from the matters set out in sub-paragraph (ii) that Beach either commenced, or knew that it would need to conduct, a re-assessment and review of its 2P Reserves.

Further particulars will be provided following discovery and expert evidence.

- (b) Beach's oil production in the Western Flank for 2Q21 had decreased by a further 9% compared with the previous quarter;

Particulars

Beach's oil production in the Western Flank in 1Q21 was 1,916 kbbl, and in 2Q21 was 1,741 kbbl, as set out in Beach's announcement of its 2Q21 Activities Report, p 6.

- (c) Beach's FY21 drilling program had highlighted difficulties in prognosing depth in low relief Western Flank oil structures due to natural variability;

Particulars

The plaintiffs refer to the April 2021 Presentation, slide 11.

Further particulars will be provided following discovery and expert evidence.

- (d) the production declines in the Western Flank were larger and more rapid than the Bauer Model had estimated;

Particulars

The plaintiffs refer to the April 2021 Presentation, slide 10.

Further particulars will be provided following discovery.

- (e) Beach's gas production results in the Western Flank indicated that its gas reserves in the Western Flank had been materially declining since at least June 2020;

Particulars

Data available in the PEPS-SA Database in respect of Beach production results for its gas wells in the Western Flank indicate a material continuing decline in Beach's gas reserves in the Western Flank from at least June 2020.

Further particulars will be provided following discovery and expert evidence.

51 Further, by at least 27 January 2021, it was the case that:

- (a) the likely future performance of Beach's oil wells in the Western Flank was uncertain;

Particulars

This fact is to be inferred from the matters alleged in paragraph 50 above.

Further particulars will be provided following discovery and expert evidence.

- (b) Beach needed to investigate and re-assess its:
 - (i) oil reserves in the Western Flank; and
 - (ii) estimated oil production rates for FY21 to FY25;

Particulars

That the matters alleged needed to be investigated and comprehensively re-assessed is to be inferred from the matters alleged in paragraphs 50 and 51(a) above.

Further particulars will be provided following discovery and expert evidence.

- (c) in addition to the investigation and assessment required in relation to Beach's oil reserves as set out in sub-paragraph (b) above, Beach also needed to investigate and comprehensively re-assess its:
 - (i) gas reserves in the Western Flank; and
 - (ii) estimated gas production rates for FY21 to FY25.

Particulars

That the matters alleged needed to be investigated and comprehensively re-assessed is to be inferred from the matters alleged in paragraph 50(e) above.

Further particulars will be provided following discovery and expert evidence.

- (d) the Bauer Model could not be relied on to estimate Beach's oil reserves in the Western Flank; and

Particulars

This fact is to be inferred from the matters alleged in paragraphs 21 – 25, 50 and 51(a) – (b) above.

Further particulars will be provided following discovery and expert evidence.

- (e) Beach's 2P Reserves Estimate, ~~and its~~ 5-Year Outlook and FY21 Guidance could not be relied upon,

Particulars

This fact is to be inferred from the matters alleged in paragraphs 50 and 51(a) – (d) above.

Further particulars will be provided following discovery and expert evidence.

(together, the **Further January 2021 Information**).

C.6 February 2021 Representations

52 On or around 15 February 2021, Beach announced its 1H21 results, and in connection with that announcement Beach:

- (a) revised its FY21 Guidance as follows (the **Revised FY21 Guidance**):
 - (i) its estimated production was revised to a range of 26.5 to 27.5 MMboe (from the previous range of 26 to 28.5 MMboe), which included production from acquisitions (including the Senex Acquisition) which had not been included in the FY21 Guidance;
 - (ii) the pre-acquisition calculation of ~~the~~its ~~estimated~~estimated production was revised to a range of 25.5 to 26.5 MMboe; and
 - (iii) its Underlying EBITDA was revised to a range of between \$900m to \$950m and capital expenditure was increased to a range of between \$720m - \$760m;

Particulars

Beach's FY20 Half Year Results and Outlook Presentation dated 15 February 2021 (**1H21 Results Presentation**), at slide 11.

- (b) made the following statements (**February 2021 Statements**):
- (i) in its ASX Announcement titled "Beach Energy FY21 Half Year results" (**1H21 Results Announcement**) dated 15 February 2021:
- (A) in 1H21 Beach had discovered additional reserves in its Enterprise gas field (**Enterprise Discovery**), increasing its net 2P Reserves by 21 MMboe (p 1);
- (B) "*Western Flank oil production was up ~8% on the corresponding period following the FY20 drilling program ... However, we have seen higher than expected decline rates in a number of these wells. The Company is focused on understanding the reasons for this prior to deciding the optimum production strategy for these assets*" (p 2);
- (C) "*Mr Kay said the achievements in the first half only increased the Company's confidence around its five-year targets*" (p 2); and
- (D) in relation to Beach's reserves disclosure, "*Beach most recently released reserves information in its 2020 Annual Report. ... [Apart from the announcements of the Senex Asset Acquisition, the Mitsui Asset Acquisition and the Enterprise Discovery] Beach confirms that it is not aware of any other new information or data that materially affects the information included in this report and that all the material assumptions and technical parameters underpinning the estimates in the aforesaid market announcement continue to apply and have not materially changed*" (p 4);
- (ii) in the 1H21 Results Presentation:
- (A) "*Five-year outlook remains on track*" (slide 3);
- (B) "*Delivering on targets: Already delivering on our requirements to meet 37 MMboe in FY25*", and that "*Key assumptions*" for this target were:
- I. "*33% exploration/appraisal Western Flank success rate*"; and
- II. "*Western Flank gas expansion*",

(slide 6);

- (C) *“Cooper Basin production currently being maintained”* (slide 6);
- (D) *“H1 FY21 impacted by plant maintenance and natural field declines”* but *“Cooper Basin Western Flank production up 8% on [the prior corresponding period of 1H20]”* (slide 17);
- (E) the Enterprise Discovery had net 2P reserves of 21 MMboe which increased Beach’s 2P Reserves by around 6% (slide 27);
- (F) in relation to Western Flank oil production *“Reviewing production model from current field performance to optimise future development”* (slide 29);
- (G) the Senex Asset Acquisition would increase Beach’s 2P Reserves by 6.8 MMboe (slide 30); and
- (H) *“Key takeaways: Five-year outlook remains on track: Already delivering on requirements to meet >37 MMboe by FY25 ...”* (slide 34); and

(iii) in the February 2021 Earnings Call:

- (A) *“Beach is on track to deliver on its 5-year plan. Growth is happening and it’s happening across the portfolio”* (Kay, at transcript p 2);
- (B) *“Beach is already delivering on the key requirements to meet our 37 million barrels of oil equivalent production target by FY’25”* (Kay, at transcript p 2);
- (C) the Enterprise Discovery *“has resulted in the booking of 21 million barrels of oil equivalent of 2P reserves net to Beach”* (Kay, at transcript p 3);
- (D) *“we now have increased confidence in meeting the production target of 37 million barrels of oil equivalent in FY ‘25”* (Kay, at transcript p 3);
- (E) *“We’ve also been questioned from time to time about the longevity of our reserves base. ... almost all of our assets have lives beyond 15 years. ... In my opinion, that legacy concern over our reserves should now be put to bed. When you look at the combination of project IRRs, expected payback periods and the life of these assets, Beach truly boasts a high-quality asset portfolio. Frankly, I can tell you from 30 years of experience that it doesn’t get much better than this”* (Kay, at transcript pp 5-6);

- (F) *“I once again want to provide assurance that the Western Flank remains a very good asset but also not shy away from the fact that we’ve had some production decline above expectations in the past quarter. ... What we’ve seen in the past few months is a higher-than-expected well interference ... and, as a result, faster decline rates. That means the team is busy taking stock of all the production data before we execute our next steps. It also means we won’t have all of the answers for you today. We need to do the work. We have a further 6 horizontal wells planned for the second half of FY ‘21 and 8 wells to be connected. Do we still believe in a strong future for the Western Flank? Yes, we do, but we need to determine the best way to exploit the reservoirs moving forward”* (Kay, at transcript p 7);
- (G) *“we still see the Western Flank remaining a key asset for us. It’s a quality asset. And as I’ve said, we need to do some extra work; and better understand how we continue to best explore, develop and produce there. In short: Growth is happening at Beach. It’s happening across our portfolio with high-quality and long-life assets, and we’re very excited about delivering on these growth plans and delivering shareholder value as a result”* (Kay, at transcript p 8);
- (H) *“We’ve fully disclosed today anything that’s happening on the assets. And I think we’ve been very clear about the Western Flank, or as clear as we can be right now. All we’re saying is that, that 37 [MMboe], we always said, was base target and then we had an upside target above that. ... And what we’re seeing at the moment is a high degree of confidence in terms of delivering on the base ...”* (Kay, at transcript p 9);
- (I) *“we’re very, very confident on the 37 [MMboe]”* (Kay, at transcript p 9);
- (J) *“... what we said is we were expecting the Western Flank to be running by the 20,000 a day, and what we’re seeing at the moment is we’re now sitting at around 18,000. And that’s purely really because predominantly the interference that we’re seeing between those new wells from the FY ‘20 program across the existing producers. So that’s been the key impact. I think that’s the focus area for us”* (Kay, at transcript p 10);
- (K) the production decline on the Western Flank *“doesn’t necessarily mean it will have an impact on reserves. There’s a lot of data obviously that we’re working through now”* (Kay, at transcript p 11);

- (L) *“there’s a lot of data to get through”* but *“the work can’t go on forever”* (Kay, at transcript p 15) and
- (M) *“In relation to Western Flank, obviously not dissimilar to our current production targets. We’d had them starting over 20 a day, but we did certainly have decline coming in over the 5-year period [of the 5-Year Outlook]. We haven’t released exact numbers on that, but naturally we had decline coming in. And really the dependency on that will be what we’ll work through in the coming months around Western Flank going forward. ... but don’t be too quick to put a line through Western Flank would be my advice. It’s still a very, very strong asset; still has great returns. And we’ve just got to get our heads around the current data that we’re seeing which we didn’t expect”* (Kay, at transcript p 15).

Particulars

The February 2021 Statements were made, variously, in writing in the 1H21 Results Presentation or the 1H21 Results Announcement; or verbally by Kay in the February 2021 Earnings Call, as set out above.

- 53 By reason of the matters alleged in paragraph 52 above, on or around 15 February 2021, Beach represented to the Beach Shares Market that:
- (a) Beach expected to achieve at least the bottom end of the range in the 5-Year Outlook (being at least 37 MMboe by FY25);
 - (b) the Western Flank was a key, quality asset with a strong future;
 - (c) production declines at the Western Flank were predominantly the result of “interference” caused by new wells drilled in FY20;
 - (d) Beach’s ability to achieve at least the bottom end of the range in the 5-Year Outlook was not affected by declines in production from the Western Flank; ~~and~~
 - (e) Beach’s 2P Reserves Estimate would not be affected by the production declines on the Western Flank;
 - (f) it expected to achieve the Revised FY21 Guidance in FY21; and
 - (g) further or alternatively, it had reasonable grounds for making the Revised FY21 Guidance,
- (together, the **February 2021 Representations**).

54 The representations at sub-paragraphs 53(a), (b), (d), ~~and (e)~~ and (f) were representations as to future matters and the plaintiffs rely on s 769C of the *Corporations Act* and s 12BB of the ASIC Act in relation to them.

55 Beach did not withdraw or qualify the February 2021 Representations at any time prior to 30 April 2021.

56 By reason of the matters alleged in the preceding paragraph, the February 2021 Representations were continuing representations from 15 February 2021 until 30 April 2021.

57 By at least 15 February 2021, it was the case that (together, the **February 2021 Facts**):

- (a) the August 2020 Facts, the November 2020 Facts, and the January 2021 Facts remained the case; and

Particulars

The plaintiffs refer to and repeat the particulars to paragraphs 33, 43 and 50 above. Further particulars will be provided following discovery and expert evidence.

- (b) in addition to the oil production declines in each of 2H20, 1Q21 and 2Q21 alleged in paragraphs 33(c), 35 and 45(a) above, Beach's oil production in the Western Flank had declined further to a daily average of around 18,000 barrels of oil per day; and

Particulars

The plaintiffs rely on the statement made by Kay in the February Earnings Call as alleged in paragraph 52(b)(iii)(J) above.

Further particulars will be provided following discovery.

- (c) Beach had production data from the majority of the oil wells in the Western Flank.

Particulars

The plaintiffs rely on statements made by Kay and Barker in the February 2021 Earnings Call that Beach had 100 producing wells "on pump" with only 14 wells yet to be drilled and/or connected, transcript pp 11, 14.

Further particulars will be provided following discovery.

58 Further, by at least 15 February 2021, it was the case that:

- (a) the likely future performance of Beach's oil wells in the Western Flank was uncertain;

Particulars

This fact is to be inferred from the matters alleged in paragraph 57 above.

Further particulars will be provided following discovery and expert evidence.

- (b) Beach needed to investigate and re-assess its:
 - (i) oil reserves in the Western Flank; and
 - (ii) estimated oil production rates for FY21 to FY25;

Particulars

That the matters alleged needed to be investigated and comprehensively re-assessed is to be inferred from the matters alleged in paragraphs 57 and 58(a) above.

Further particulars will be provided following discovery and expert evidence.

- (c) Beach also needed to investigate and comprehensively re-assess its:
 - (i) gas reserves in the Western Flank; and
 - (ii) estimated gas production rates for FY21 to FY25.

Particulars

That the matters alleged needed to be investigated and comprehensively re-assessed is to be inferred from the matters alleged in paragraph 50(e) above.

Further particulars will be provided following discovery and expert evidence.

- (d) the Bauer Model could not be relied on to estimate Beach's oil reserves in the Western Flank; and

Particulars

This fact is to be inferred from the matters alleged in paragraphs 21 – 25, 57 and 58(a) – (c) above.

Further particulars will be provided following discovery and expert evidence.

- (e) Beach's 2P Reserves Estimate, ~~and its 5-Year Outlook~~ and Revised FY21 Guidance could not be relied upon,

Particulars

This fact is to be inferred from the matters alleged in paragraphs 57 and 58(a) – (d) above.

Further particulars will be provided following discovery and expert evidence.

(together, the **Further February 2021 Information**).

D MISLEADING OR DECEPTIVE CONDUCT

59 The making of each of the August 2020 Statements and Representations, the November 2020 Statements and Representations, the January 2021 Statements and Representations and the February 2021 Statements and Representations as alleged above was conduct engaged in by Beach:

- (a) in relation to financial products (being Beach Shares), within the meaning of ss 1041H(1) and (2)(b) of the *Corporations Act*; and
- (b) in trade or commerce, in relation to financial services within the meaning of s 12DA(1) of the ASIC Act.

D.1 August 2020 Conduct

60 The August 2020 Representations were misleading or deceptive or likely to mislead or deceive because they:

- (a) did not incorporate, or alternatively adequately incorporate, the August 2020 Facts and the Further August 2020 Information; and/or
- (b) were based on assumptions that did not incorporate, or alternatively adequately incorporate, the August 2020 Facts and the Further August 2020 Information.

61 Further or alternatively, by at least 17 August 2020, Beach:

- (a) was aware of the August 2020 Facts; and
- (b) was or ought to have been aware of the Further August 2020 Information.

Particulars

Beach obtained knowledge and control of the information on which the relevant data available in the PEPS-SA Database is based contemporaneously with the events it was recording.

Beach's process of assessing its reserves in respect of the Western Flank included review by Beach's internal reserves expert, management, Beach's Risk and Corporate Governance Committee and Beach's Board (August 2020 Earnings Call, Kay, at transcript p 13).

That Beach was or ought to have been aware of the Further August 2020 Information is to be further inferred from its awareness of the matters alleged in paragraphs 15 and 21 – 25 above, and of the August 2020 Facts.

The plaintiffs further refer to and repeat the particulars to paragraph 34.

Further particulars will be provided following discovery.

62 By reason of the matters alleged at paragraphs 60 – 61 above, on and from 17 August 2020, Beach did not have reasonable grounds for the August 2020 Representations.

63 By reason of the matters alleged at paragraphs 60 – 62 above, on and from 17 August 2020, by making the August 2020 Representations, Beach engaged in conduct that was misleading or deceptive or likely to mislead or deceive.

D.2 November 2020 Conduct

64 Further or alternatively, the November 2020 Representations were misleading or deceptive or likely to mislead or deceive because they:

- (a) did not incorporate, or alternatively adequately incorporate, the November 2020 Facts and the Further November 2020 Information; and/or
- (b) were based on assumptions that did not incorporate, or alternatively adequately incorporate, the November 2020 Facts and the Further November 2020 Information.

65 Further or alternatively, by at least 25 November 2020, Beach:

- (a) was aware of the November 2020 Facts; and
- (b) was or ought to have been aware of the Further November 2020 Information.

Particulars

The plaintiffs refer to and repeat the particulars to paragraph 61 above.

That Beach was or ought to have been aware of the Further November 2020 Information is to be inferred from its awareness of the matters alleged in paragraphs 15 and 21 – 25 above, and of the November 2020 Facts, and the plaintiffs further refer to and repeat the particulars to paragraph 44 above.

Further particulars will be provided following discovery and expert evidence.

66 By reason of the matters alleged at paragraphs 64 – 65 above, on and from November 2020, Beach did not have reasonable grounds for the November 2020 Representations.

67 By reason of the matters alleged at paragraphs 64 – 66 above, on and from November 2020, by making the November 2020 Representations, Beach engaged in conduct that was misleading or deceptive or likely to mislead or deceive.

D.3 January 2021 Conduct

68 Further or alternatively, the January 2021 Representations were misleading or deceptive or likely to mislead or deceive because they:

- (a) did not incorporate, or alternatively adequately incorporate, the January 2021 Facts and the Further January 2021 Information; and/or
- (b) were based on assumptions that did not incorporate, or alternatively adequately incorporate, the January 2021 Facts and the Further January 2021 Information.

69 Further or alternatively, by at least 27 January 2021, Beach:

- (a) was aware of the January 2021 Facts; and
- (b) was or ought to have been aware of the Further January 2021 Information.

Particulars

The plaintiffs refer to and repeat the particulars to paragraph 61 above.

Further, Beach's awareness of the January 2021 Facts is to be inferred from its statements to the effect alleged.

That Beach was or ought to have been aware of the Further January 2021 Information is to be inferred from its awareness of the matters alleged in paragraphs 15 and 21 – 25 above, and of the January 2021 Facts, and the plaintiffs further refer to and repeat the particulars to paragraph 51 above.

Further particulars will be provided following discovery and expert evidence.

70 By reason of the matters alleged at paragraphs 68 – 69 above, on and from 27 January 2021, Beach did not have reasonable grounds for the January 2021 Representations.

71 By reason of the matters alleged at paragraphs 68 – 70 above, on and from 27 January 2021, by making the January 2021 Representations, Beach engaged in conduct that was misleading or deceptive or likely to mislead or deceive.

D.4 February 2021 Conduct

72 Further or alternatively, the February 2021 Representations were misleading or deceptive or likely to mislead or deceive because they:

- (a) did not incorporate, or alternatively adequately incorporate, the February 2020 Facts and the Further February 2021 Information; and/or
- (b) were based on assumptions that did not incorporate, or alternatively adequately incorporate, the February 2021 Facts and the Further February 2021 Information.

73 Further or alternatively, by at least 15 February 2021, Beach:

- (a) was aware of the February 2021 Facts; and
- (b) was or ought to have been aware of the Further February 2021 Information.

Particulars

The plaintiffs refer to and repeat the particulars to paragraph 61 above.

Further, Beach's awareness of the February 2021 Facts is to be inferred from its statements to the effect alleged.

That Beach was or ought to have been aware of the Further February 2021 Information is to be inferred from its awareness of the matters alleged in paragraphs 14 and 22 – 24 above, and of the February 2021 Facts, and the plaintiffs further refer to and repeat the particulars to paragraph 58 above.

Further particulars will be provided following discovery and expert evidence.

74 By reason of the matters alleged at paragraphs 72 – 73 above, on and from 15 February 2021, Beach did not have reasonable grounds for the February 2021 Representations.

75 By reason of the matters alleged at paragraphs 72 – 74 above, on and from 15 February 2021, in making the February 2021 Representations, Beach engaged in conduct that was misleading or deceptive or likely to mislead or deceive.

D.5 Misleading Conduct Contraventions

76 By reason of the matters alleged in paragraphs 59 – 75 above, by making each of:

- (a) the August 2020 Representations;
- (b) the November 2020 Representations;
- (c) the January 2021 Representations;
- (d) the February 2021 Representations;
- (e) further or alternatively, failing to correct or qualify each of:
 - (i) the August 2020 Representations;
 - (ii) the November 2020 Representations;
 - (iii) the January 2021 Representations; and
 - (iv) the February 2021 Representations,

Beach engaged in conduct that was misleading or deceptive or likely to mislead or deceive in contravention of:

- (f) s 1041H of the *Corporations Act*; and/or
 - (g) s 12DA(1) of the ASIC Act,
- (the **Misleading Conduct Contraventions**).

E CONTINUOUS DISCLOSURE CONTRAVENTIONS

77 Further or alternatively, Beach was aware of, for the purposes of Rules 3.1 and 19.2 of the ASX Listing Rules, and had, for the purposes of s 674(2)(b) of the *Corporations Act*:

- (a) the information alleged at sub-paragraphs 33(b) and (c) (together, the **August 2020 Production and Drilling Facts**), on and from at least 17 August 2020;
- (b) further or alternatively, the Further January 2021 Information, on and from at least 27 January 2021; and
- (c) further or alternatively, the Further February 2021 Information, on and from 15 February 2021.

Particulars

The plaintiffs refer to and repeat the particulars to paragraphs 33, 34, 43, 44, 50, 51, 57, 58, 61, 65, 69 and 73 above.

78 On and from:

- (a) 17 August 2020, the August 2020 Production and Drilling Facts;
 - (b) further or alternatively, 27 January 2021, the Further January 2021 Information; and/or
 - (c) further or alternatively, 15 February 2021, the Further February 2021 Information,
- was information that:

- (i) was not generally available within the meaning of ss 674(2)(c)(i) and 676 of the *Corporations Act*; and
- (ii) a reasonable person would expect to have a material effect on the price or value of Beach Shares within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the *Corporations Act*.

79 Further to the preceding paragraph:

- (a) during the Relevant Period up to 22 March 2021, Beach was negligent and/or reckless, as to whether the August 2020 Production and Drilling Facts;
- (b) further or alternatively, during the period from 27 January 2021 up to 22 March 2021, Beach was negligent and/or reckless, as to whether the Further January 2021 Information; and/or
- (c) further or alternatively, during the period from 15 February 2021 up to 22 March 2021, Beach was negligent and/or reckless, as to whether the Further February 2021 Information,

would, if generally available, have had a material effect on the price or value of Beach Shares, within the meaning of s 674(2)(d) of the *Corporations Act* (as in force from the start of the Relevant Period to 22 March 2021).

Particulars

Beach's negligence and/or recklessness is to be inferred from the nature of the the August 2020 Production and Drilling Facts, the Further January 2021 Information, and the the Further February 2021 Information, respectively, and in particular the matters set out at sub-paragraph 33(d) above, the Further August 2020 Information, the Further November 2020 Information, the Further January 2021 Information and the Further February 2021 Information.

Further, the August 2020 Production and Drilling Facts, the Further January 2021 Information, and the the Further February 2021 Information was materially relevant to questions put to Beach in the February 2021 Earnings Call by the following participants, and this questioning put Beach on notice that this information would, if generally available, have a material effect on the price or value of Beach Shares:

- I. James Byrne, Citigroup Inc. Exchange Research – Research Analyst (at transcript pp 8-9);
- II. Mark Samter, MST Marquee – Energy Analyst (at transcript pp 10-11);
- III. Adam Martin, Morgan Stanley, Research Division – Research Analyst (at transcript p 11); and
- IV. Saul Kavonic, Crédit Suisse AG, Research Division – Research Analyst (at transcript pp 14-15).

Further particulars will be provided following discovery and expert evidence.

80 By reason of Beach's Continuous Disclosure Obligations, and the matters pleaded in paragraphs 77 – 79 above, Beach became obliged to tell the ASX:

- (a) the August 2020 Production and Drilling Facts on and from 17 August 2020;

- (b) further or alternatively, the Further January 2021 Information on and from 27 January 2021;
- (c) further or alternatively, the Further February 2021 Information on and from 15 February 2021.

81 Beach did not inform the ASX:

- (a) of the August 2020 Production and Drilling Facts immediately on 17 August 2020;
- (b) alternatively, of the Further January 2021 Information immediately on 27 January 2021;
- (c) alternatively, of the Further February 2021 Information immediately on 15 February 2021,

or at all, until 30 April 2021.

82 By reason of the matters pleaded in paragraphs 77 to 81 above, Beach contravened s 674(2) of the *Corporations Act* (each being a **Continuous Disclosure Contravention**).

F **CORRECTIVE DISCLOSURES**

83 On 30 April 2021, Beach:

- (a) downgraded its Revised FY21 Guidance to:
 - (i) production of 25.2 to 25.7 MMboe (from 26.5 to 27.5 MMboe); and
 - (ii) Underlying EBITDA of a range of \$850m to \$900m and capital expenditure to \$700m to \$740m;
- (b) withdrew the 5-Year Outlook and stated that it would no longer provide a five-year outlook in its current form;
- (c) announced:
 - (i) production data from Bauer Field oil wells drilled throughout FY21 (which was completed in March 2021) confirmed production decline in the Western Flank;

Particulars

April 2021 ASX Announcement, pp 1-2.

- (ii) recent results from oil wells drilled outside of the Bauer Field had come in toward the low end of expectations (pp 1-2);

Particulars

April 2021 ASX Announcement, pp 1-2.

- (iii) Beach typically commenced an annual audit of its reserves between March and August, but in light of “recent” drilling results, it had undertaken an urgent review of reserves in the Western Flank;

Particulars

April 2021 ASX Announcement, p 2.

- (iv) in relation to its estimate of its Western Flank 2P Reserves:
 - (A) Western Flank 2P Reserves were being reduced by 18.4 MMboe;
 - (B) this downgrade was calculated taking into account:
 - I. a reduction in the estimate of Western Flank 2P Reserves of 24.8MMboe (consisting of a 17.6 MMbbl downgrade re 2P oil reserves and a 7.2 MMboe downgrade re 2P gas reserves), being about 5% of Beach’s total 2P Reserves as at 30 June 2020; and
 - II. an increase in 2P Reserves of 6.4 MMboe as a result of the Senex Asset Acquisition;
 - (C) the downgrade in oil reserves occurred in the Bauer Field (a reduction of 6 MMbbl), eight other oil fields (a reduction of 10.4 MMbbl) and in some acquired Senex acreage (a reduction of 1.2 MMbbl);
 - (D) the estimation of Western Flank 2P Reserves as at 30 June 2021 (allowing for forecast production) was 34.6MMboe;

Particulars

April 2021 ASX Announcement, p 3; April 2021 Presentation, slide 5.

- (v) the 7.2 MMboe downgrade in Western Flank 2P gas reserves resulted from “*recent pressure and production data*” in respect of several wells which had shown increased water production;

Particulars

April 2021 ASX Announcement, p 2.

- (vi) Western Flank oil was producing around 15,000 barrels a day;

Particulars

April 2021 Business Update, Kay, at around 5 minutes and 58 seconds.

- (vii) production levels in the Western Flank for FY22 were now expected to be around 4-5 MMbbl below previous estimates;

Particulars

April 2021 Presentation, slide 6.

- (viii) the use of the Bauer Model to determine reserves in the Western Flank (at the Bauer Field as well as nine other oil fields) had proven to be optimistic, and some elements of that model were not entirely applicable to the fields it had been applied to, as they had shown “greater complexity”;

Particulars

April 2021 ASX Announcement, p 2.

- (ix) the Bauer Field had proven to be “*the exception and not the rule when it comes to the Western Flank*” and Beach had reverted to a seismic based model to assess non-Bauer fields;

Particulars

The plaintiffs refer to a statement made by Algar during the April 2021 Business Update, at around 19 minutes and 2 seconds.

- (x) Beach had developed new reservoir models to optimise field development;

Particulars

April 2021 ASX Announcement, p 2.

- (xi) Beach had engaged three independent reserve consultants to confirm its revised approach to reserve assessment;

Particulars

April 2021 ASX Announcement, p 2.

- (xii) Beach was reviewing its plans regarding its outlook, which would be completed in conjunction with the FY21 full year audited results; and

Particulars

April 2021 ASX Announcement, p 5.

- (xiii) Beach would no longer provide a five-year outlook in its current form due to an acknowledgement of continuing variability to the business,

Particulars

April 2021 ASX Announcement, p 5.

(together, the **Corrective Disclosures**).

- 84 On and after 30 April 2021, following and as a result of the Corrective Disclosures, the price at which Beach Shares traded on the ASX declined substantially.

Particulars

On 30 April 2021 the price of Beach Shares dropped by \$0.405 (being a decline of 24.1%).

- 84A. Further, on and after 30 April 2021, by reason of the matters alleged in the preceding paragraph, the value of Beach Equity Swaps entered into during the Relevant Period declined substantially.

G CONTRAVENING CONDUCT CAUSED LOSS OR DAMAGE

- 85 During the Relevant Period, the Beach Shares Market was a market:

- (a) regulated by, *inter alia*, ss 674(2) and 1041H of the Corporations Act, Rule 3.1 of the Listing Rules and s 12DA of the ASIC Act; and
- (b) in which the price at which Beach Shares traded on the ASX was, or was reasonably expected to have been, influenced by the material information concerning Beach that was published on the ASX or that otherwise became publicly available.

- 86 During the Relevant Period, each of the:

- (a) the Misleading Conduct Contraventions; and/or
- (b) the Continuous Disclosure Contraventions,

(together, the **Contraventions**) separately or together caused the price at which Beach Shares traded on the ASX to be higher than their true value and/or the market price that would have prevailed but for the Contraventions (or any of them).

Particulars

This fact is to be inferred from the matters alleged at paragraph 84 above.

- 87 By reason of the matters alleged at paragraph 84 above, at the times during the Relevant Period when the plaintiffs and each of the Group Members entered into a contract to acquire Beach Shares, the price of the shares they acquired had been inflated by one or more of the Contraventions.

Particulars

Particulars of the plaintiffs' transactions during the Relevant Period are set out in Annexure A to this Statement of Claim.

Particulars of the shareholdings of the Group Members in the Relevant Period will be provided after the trial and determination of the common questions.

- 88 Further and in the alternative to the matters pleaded at paragraphs 85 and 87 above, the plaintiffs and Group Members entered into a contract to acquire an interest in Beach Shares during the Relevant Period as a result of holding and acting upon the reasonable assumption that the price of the Beach Shares they acquired represented the market price in a market:
- (a) in which Beach's conduct had not been misleading or deceptive or likely to mislead or deceive; and/or
 - (b) that had been informed of all material concerning Beach that was required to be disclosed by it in accordance with Rule 3.1 of the ASX Listing Rules and s 674(2) of the *Corporations Act*.

Particulars

Investors and potential investors in shares on the ASX, including Beach Shares, are generally aware that there is a complex and comprehensive regulatory regime including the ASX Listing Rules and ss 674(2) and 1041H of the *Corporations Act*, one purpose of which is to ensure that the market is promptly informed of all information which is relevant to the price at which securities are traded and that representations made to the market are not misleading or deceptive.

Particulars of the plaintiffs' holding and reliance upon the alleged assumption will be provided prior to trial.

88A During the Relevant Period, the Beach Equity Swaps Market was a market which traded on the basis that the Beach Shares Market had the features pleaded in paragraph 85 above.

88B At the times during the Relevant Period when each of the Group Members entered into Beach Equity Swaps:

- (a) the Beach Equity Swaps had been defined by reference to the price of Beach Shares which were inflated by reason of the matters pleaded in paragraph 86 above; and
- (b) by reason of the matters pleaded in paragraphs 84 to 87, 88A and sub-paragraph 88B(a) above, the value of future cashflows to be received by the equity amount receiver pursuant to the Beach Equity Swap by reference to the performance of Beach Shares was diminished and/or the value of cashflows to be paid by the equity amount receiver in return was inflated.

Particulars

Particulars of Group Members' holdings of Beach Equity Swaps in the Relevant Period will be provided after the trial and determination of the common questions.

88C Further and in the alternative to the matters pleaded at paragraphs 88A and 88B above, Group Members who entered into Beach Equity Swaps during the Relevant Period did so as a result of holding and acting upon the reasonable assumption that the price at which they entered into Beach Equity Swaps was set by reference to the market price for Beach Shares in a market with the features pleaded in sub-paragraphs 85(a) and (b) above.

89 If Beach had not engaged in the Contraventions or any one or any combination of the Contraventions:

- (a) the plaintiffs and the Group Members would have acquired their interests in Beach Shares at a lower prevailing market price; and/or
- (aA) the Group Members would have entered into Beach Equity Swaps on terms that were more favourable to them in that the Beach Equity Swaps would have been defined by reference to a price for Beach Shares that was lower; and/or
- (b) the plaintiffs and/or some or all of the Group Members would not have acquired an interest in Beach Shares or entered into Beach Equity Swaps.

90 By reason of the matters pleaded at paragraph 89 above, the plaintiffs and each of the Group Members suffered loss and/or damage in relation to their interests in Beach Shares and/or Beach Equity Swaps as a result of the Contraventions (or any one or combination of them) as alleged in this statement of claim.

Particulars

The loss alleged in sub-paragraph 89(a), above, will be calculated by reference to the difference between the price at which the plaintiffs and the Group Members acquired an interest in Beach Shares during the Relevant Period and the price at which the Beach Shares would have traded at that time had the Contraventions (or any one or combination of the Contraventions) not occurred.

The loss alleged in sub-paragraph 89(b), above, will be calculated by reference to:

- (i) the price at which Group Members acquired an interest in Beach during the Relevant Period, adjusted to deduct the true value of that interest at the time of the transaction; or
- (ii) for those Group Members who would have, but for the Contraventions (or any one or combination of the Contraventions) retained or acquired an alternative investment, the difference between the actual position as a result of having acquired an interest in Beach Shares during the Relevant Period and the position they would have been in had they made that alternative investment.

Particulars of the plaintiffs' losses will be provided after the filing of expert reports.

The losses suffered by Group Members who acquired an interest in Beach Shares and/or Beach Equity Swaps during the Relevant Period are not particularised in this statement of claim. Particulars in relation to Group Members' losses will be obtained and provided following opt out, the determination of the plaintiffs' claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.

H ENTITLEMENT TO RELIEF

91 By reason of the matters pleaded at paragraphs 85 to 90 above, the plaintiffs and each of the Group Members are entitled to recover the amount of loss and damage suffered by them from Beach as a result of the conduct alleged in the statement of claim, pursuant to s 1041I of the *Corporations Act* and/or s 12GF of the ASIC Act.

92 Further or alternatively, pursuant to s 1317HA of the *Corporations Act*, Beach is required to compensate the plaintiffs and the Group Members for the damage which resulted from its contravention of s 674(2) of the *Corporations Act* alleged in this statement of claim.

I COMMON QUESTIONS OF LAW OR FACT

93 The questions of fact or law common to the claims of the plaintiffs and the Group Members are:

- (a) whether Beach made any or all of the:
 - (i) August 2020 Representations;
 - (ii) November 2020 Representations;
 - (iii) January 2021 Representations;
 - (iv) February 2021 Representations,(together, the **Representations**);
- (b) whether the making of any or all of the Representations constituted conduct:
 - (i) in relation to financial products (being Beach Shares), within the meaning of ss 1041H(1) and (2)(b) of the *Corporations Act*; and
 - (ii) in trade or commerce, in relation to financial services within the meaning of s 12DA(1) of the ASIC Act;
- (c) whether Beach had reasonable grounds for making any or all of the Representations at the time they were made;
- (d) whether, by making of any or all of the Representations or failing to withdraw or correct any or all of the Representations before 30 April 2021, Beach engaged in conduct that was misleading or deceptive or likely to mislead or deceive in contravention of s 1041H(1) of the *Corporations Act* or s 12DA(1) of the ASIC Act;
- (e) whether Beach was aware of, for the purposes of Rules 3.1 and 19.2 of the ASX Listing Rules, and had, for the purposes of s 674(2)(b) of the *Corporations Act*:
 - (i) the August 2020 Production and Drilling Facts as at 17 August 2020;
 - (ii) the Further January 2021 Information as at 27 January 2021; or
 - (iii) the Further February 2021 Information as at 15 February 2021;
- (f) whether the:
 - (i) August 2020 Production and Drilling Facts;
 - (ii) Further January 2021 Information; and/or

(iii) Further February 2021 Information;

was information that was not generally available within the meaning of ss 674(2)(c)(i) and 676 of the *Corporations Act*;

(g) whether the:

(i) August 2020 Production and Drilling Facts;

(ii) Further January 2021 Information; and/or

(iii) Further February 2021 Information;

was information that a reasonable person would expect to have a material effect on the price or value of Beach Shares within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the *Corporations Act*;

(h) in relation to the period from 17 August 2020 to 22 March 2021, whether Beach was negligent and/or reckless:

(i) in relation to the period from 17 August 2020 to 22 March 2021, as to whether the August 2020 Production and Drilling Facts;

(ii) in relation to the period from 27 January 2021 to 22 March 2021, as to whether the Further January 2021 Information; and/or

(iii) in relation to the period from 15 February 2021 to 22 March 2021, as to whether the Further February 2021 Information;

would, if generally available, have had a material effect on the price or value of Beach Shares, within the meaning of s 674(2)(d) of the *Corporations Act* (as in force from the start of the Relevant Period to 22 March 2021);

(i) whether Beach contravened ASX Listing Rule 3.1 or s 674(2) of the *Corporations Act* by failing to immediately tell the ASX:

(i) the August 2020 Production and Drilling Facts on 17 August 2020;

(ii) the Further January 2021 Information on 27 January 2021; and/or

(iii) the Further February 2021 Information on 15 February 2021;

- (j) whether any or all of the Contraventions caused the price at which Beach Shares traded on the ASX to be higher than their true value and/or the market price that would have prevailed but for the Contraventions (or any of them); and
- (k) in relation to Beach Equity Swaps, whether any or all of the Contraventions caused the value of future cashflows:
 - (i) to be received by the equity amount receiver to be lower; and/or
 - (ii) to be paid by the equity amount receiver in return to be higher,
than would have prevailed but for the Contraventions (or any of them); and
- (l) whether the plaintiffs and the Group Members are persons who suffered loss and damage as a result of the Contraventions (or any of them) and, if so, what is the proper method of assessment of that loss or damage.

AND THE PLAINTIFFS CLAIM on their own behalf and on behalf of the Group Members:

- A. A declaration that Beach contravened s 1041H of the *Corporations Act* and/or s 12DA of the ASIC Act by making, and/or failing to correct or withdraw before 30 April 2021, any or all of the Representations;
- B. Damages pursuant to s 1041I of the *Corporations Act* and/or s 12GF of the ASIC Act on behalf of the plaintiffs and the Group Members;
- C. Further or alternatively, a declaration that Beach contravened s 674(2) of the *Corporations Act* by failing to immediately tell the ASX:
 - (i) the August 2020 Production and Drilling Facts on and from 17 August 2020;
 - (ii) the Further January 2021 Information on and from 27 January 2021;
alternatively
 - (iii) the Further February 2021 Information on and from 15 February 2021;
 until 30 April 2021;
- D. An order pursuant to s 1317HA of the *Corporations Act* that Beach compensate the plaintiffs and the Continuous Disclosure Sub-Group Members for damage suffered by them as a result of Beach's contravention of s 674(2) of the *Corporations Act*;
- E. Interest pursuant to statute;
- F. Costs; and

G. Such further order as the Court determines is appropriate.

Dated: 12 August 2022 ~~25 November 2021~~

A D POUND

K S DOVEY

Slater and Gordon

.....
Slater and Gordon Lawyers

Solicitors for the plaintiffs

1. Place of trial— Melbourne.
2. Mode of trial— Judge alone.
3. This writ was filed— for the plaintiffs by Slater and Gordon Lawyers of 485 La Trobe Street, Melbourne 3000 as solicitors for the plaintiffs.
4. The address of the plaintiffs is— 11A View Road Mount Pleasant WA 6153.
5. The address for service of the plaintiffs is— c/ Slater & Gordon, 485 La Trobe Street, Melbourne, Victoria 3000.
6. The email address for service of the plaintiffs is— mathew.chuk@slatertgordon.com.au
7. The address of the defendant is— Beach Energy Ltd, Level 8, 80 Flinders Street Adelaide, South Australia 5000.

ANNEXURE A
Plaintiffs' transactions during the Relevant Period

Date	Transaction type	Number of Beach Securities	Price per share	Total paid (excl. brokerage)
28/4/2021	Purchase	3,000	1.70	\$5,100

ANNEXURE B

Defined Terms

- 1H21 Results Announcement** has the meaning set out in paragraph 52(b)(i).
- 1H21 Results Presentation** has the meaning set out in the particulars to paragraph 52(a).
- 1P Reserves** has the meaning set out in paragraph 13(d(i)).
- 1Q21 Activities Report** has the meaning set out in the particulars to paragraph 35.
- 2018 Investor Presentation** has the meaning set out in the particulars to paragraph 21.
- 2018 Outlook** has the meaning set out in paragraph 26(a).
- 2019 Outlook** has the meaning set out in paragraph 27.
- 2020 AGM** has the meaning set out in paragraph 38.
- 2020 Annual Report** has the meaning set out in paragraph 28.
- 2C Contingent Resources** has the meaning set out in paragraph 13(d(iv)).
- 2P Reserves** has the meaning set out in paragraph 13(d(ii)).
- 2P Reserves Estimate** has the meaning set out in paragraph 29(a).
- 2Q21 Activities Report** has the meaning set out in paragraph 45.
- 3P Reserves** has the meaning set out in paragraph 13(d(iii)).
- 5-Year Outlook** has the meaning set out in paragraph 29(c).
- Algar** has the meaning set out in paragraph 10(a)(vii).
- Appraisal** has the meaning set out in paragraph 14(b).
- April 2021 ASX Announcement** has the meaning set out in the particulars to paragraph 23.
- April 2021 Business Update** has the meaning set out in the particulars to paragraph 15.
- April 2021 Presentation** has the meaning set out in the particulars to paragraph 15.
- ASIC Act** has the meaning set out in paragraph 4(b)(ii).
- ASX** has the meaning set out in paragraph 2(a)(i).
- ASX Listing Rules** has the meaning set out in paragraph 4(e)(iii).
- August 2020 ASX Release** has the meaning set out in the particulars to paragraph 28(a).

August 2020 Earnings Call has the meaning set out in paragraph 28(d)(ii)(C).

August 2020 Facts has the meaning set out in paragraph 33.

August 2020 Presentation has the meaning set out in the particulars to paragraph 28(b).

August 2020 Production and Drilling Facts has the meaning set out in paragraph 77(a).

August 2020 Representations has the meaning set out in paragraph 29.

August 2020 Statements has the meaning set out in paragraph 28(d).

Barker has the meaning set out in paragraph 10(a)(iv).

Bauer Field has the meaning set out in paragraph 13(c).

Bauer Model has the meaning set out in paragraph 21.

Beach has the meaning set out in paragraph 2(b).

Beach Officers has the meaning set out in paragraph 11.

Beach Equity Swaps has the meaning set out in paragraph 2(a)(ii).

Beach Equity Swaps Market has the meaning set out in paragraph 5A.

Beach Shares has the meaning set out in paragraph 2(a)(i).

Beach Shares Market has the meaning set out in paragraph 4(d)(ii).

boe has the meaning set out in (d) of the note at the beginning of the Statement of Claim.

Continuous Disclosure Contravention has the meaning set out in paragraph 82.

Continuous Disclosure Obligations has the meaning set out in paragraphs 7 and 8.

Contraventions has the meaning set out in paragraph 86.

Cooper Basin has the meaning set out in paragraph 13(b).

Corporations Act has the meaning set out in paragraph 2(c)(i).

Corrective Disclosures has the meaning set out in paragraph 83.

Development has the meaning set out in paragraph 14(c).

Directors has the meaning set out in paragraph 10(b).

Enterprise Discovery has the meaning set out in paragraph 52(b)(i)(A).

Executive Officers has the meaning set out in paragraph 10(a).

Exploration has the meaning set out in paragraph 14(a).

February 2019 Presentation has the meaning set out in the particulars to paragraph 21.

February 2021 Earnings Call has the meaning set out in the particulars to paragraph 50.

February 2021 Facts has the meaning set out in paragraph 57.

February 2021 Representations has the meaning set out in paragraph 53.

February 2021 Statements has the meaning set out in paragraph 52(b)

Further August 2020 Information has the meaning set out in paragraph 34.

Further February 2021 Information has the meaning set out in paragraph 58.

Further January 2021 Information has the meaning set out in paragraph 51.

Further November 2020 Information has the meaning set out in paragraph 44.

FY21 Guidance has the meaning set out in paragraph 28(a).

Group Members has the meaning set out in paragraph 2.

January 2021 Facts has the meaning set out in paragraph 50.

January 2021 Representation has the meaning set out in paragraph 46.

Kay has the meaning set out in paragraph 10(a)(i).

kbbl has the meaning set out in (e) of the note at the beginning of the Statement of Claim.

Misleading Conduct Contraventions has the meaning set out in paragraph 76.

Mitsui Asset Acquisition has the meaning set out in paragraph 45(e)(i).

MMbbl has the meaning set out in (f) of the note at the beginning of the Statement of Claim.

MMboe has the meaning set out in (g) of the note at the beginning of the Statement of Claim.

Nador has the meaning set out in paragraph 10(a)(v).

November 2020 AGM Address has the meaning set out in the particulars to paragraph 38(b).

November 2020 Facts has the meaning set out in paragraph 43.

November 2020 Representations has the meaning set out in paragraph 39.

November 2020 Statements has the meaning set out in paragraph 38(c).

PEPS-SA Database has the meaning set out in the particulars to paragraph 33(b)(i)(D).

Relevant period has the meaning set out in paragraph 2(a).

Representations has the meaning set out in paragraph 93.

Revised 2P Reserves Estimate has the meaning set out in paragraph 39(b)(ii).

Revised FY21 Guidance has the meaning set out in paragraph 52(a).

Schrull has the meaning set out in paragraph 10(a)(vi).

Senex Assets Acquisition has the meaning set out in paragraph 37.

Underlying EBITDA has the meaning set out in paragraph 28(a).

Western Flank has the meaning set out in paragraph 13(c).