



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

**No. S ECI 2021 ~~0440~~ S ECI 2021 04440**

Filed on: 14/07/2023 03:29 PM

**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

**PLAINTIFFS' REPLY**

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Filed on behalf of:	The plaintiffs	DX: 229
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Terms defined in the plaintiffs' amended statement of claim dated 12 August 2022 (**ASOC**) have the same meaning in this reply. In answer to the defendant's defence dated 30 June 2023 (**Defence**), the plaintiffs say as follows:

1 As to paragraph 6 of the Defence:

- (a) they admit paragraph 6(c)(i);
- (b) as to paragraph 6(c)(ii), they admit that at all times during the Relevant Period, Beach was an "oil and gas producing entity" and an "oil and gas entity" as defined in ASX Listing Rule 19.12, and subject to the requirements in Chapter 5 of the ASX Listing Rules, insofar as those rules applied to an "oil and gas producing entity" and/or an "oil and gas entity";
- (c) save that they will rely at trial on the full terms and effect of Chapter 5 of the ASX Listing Rules, they admit paragraphs 6(c)(iii), 6(c)(iv), 6(c)(v) and 6(c)(vi)(A) and (B);

- (d) as to paragraph 6(c)(vi)(C), they admit that at all times during the Relevant Period, ASX Listing Rule 5.32.3 provided that the information required to be provided pursuant to Rule 5.32 includes “[a]ny changes or additions to the information provided under rules 5.31.1 to 5.31.7”;
- (e) as to paragraph 6(c)(vii), they admit that at all times during the Relevant Period, ASX Listing Rule 5.39 provided that an oil and gas entity must include a reserves statement in its annual report which includes all of the information required by ASX Listing Rules 5.39.1 to 5.39.5;
- (f) save that they will rely at trial on the full terms and effect of Chapter 5 of the ASX Listing Rules, they admit paragraph 6(c)(viii);
- (g) as to paragraphs 6(c)(ix) and (x), they:
  - (i) say that the subparagraphs are embarrassing because they do not plead a material fact or a point of law;
  - (ii) say that they will rely at trial on ASX Listing Rules Guidance Note 8 and ASX Listing Rules Guidance Note 32, so far as they are relevant to the construction and application of the ASX Listing Rules, for their full terms and effect;
  - (iii) under cover of those objections, admit that at all times during the Relevant Period, paragraphs 6(c)(ix) and (x) included the content alleged; and
- (h) they otherwise join issue with paragraph 6.

2 As to paragraph 8(b) of the Defence, they:

- (a) admit that document BPT.0038.0010.9180 is a policy document titled “*Continuous Disclosure Policy*” and states in the footer “*Board Approved 1 April 2016*”; and
- (b) otherwise do not know and therefore cannot admit the matters alleged.

3 As to paragraphs 13(b)(i) and 13(d)(i) of the Defence, they do not know and therefore cannot admit the matters alleged.

4 As to paragraph 17(a) of the Defence, they:

- (a) admit that on 2 August 2017, Beach released a Monthly Drilling Report for July 2017, which stated:

**Western Flank Oil – ex PEL 91**

**(Beach 100%)**

*Bauer-26 was drilled as a horizontal oil development well comprising a lateral section of approximately 400 metres. The well targeted the McKinlay Member, a thin sandstone overlaying the Namur Sandstone, with accumulations covering areas larger than the Namur fields. The McKinlay Member is a proven oil reservoir, however has not been subjected to focused development. The formation is considered suitable for geo-steered horizontal drilling, with potential for high daily production rates. Bauer-26, the first Western Flank horizontal well, was landed successfully within the McKinlay Member and intersected net oil pay of approximately 350 metres. The well was completed for production and is expected to be on free flow production in Q1 FY18, with artificial lift scheduled for installation in Q2 FY18. Well results and other studies currently underway will set the scope and design for development of the McKinlay reservoir in H2 FY18 and FY19.*

...

**Western Flank Oil – ex PEL 91**

**(Beach 100%)**

*A two-well oil appraisal campaign was completed in the Chiton Field, located approximately two kilometres south of the Bauer Field. The campaign was designed to appraise the extent and productivity of the McKinlay Member to the south and east of currently producing wells, where there has been limited appraisal drilling to date. The second well of the campaign, Chiton-5, was plugged and abandoned due to lack of commercial pay. Both wells were step-out prospects which helped define field boundaries. Results will assist with design of the final development plan for the Chiton Field*

(b) otherwise do not know and therefore cannot admit paragraph 17(a).

5 As to paragraphs 21(a) and 21(b) of the Defence, they do not know and therefore cannot admit the matters alleged.

6 As to paragraph 26(d) of the Defence, they:

(a) admit that:

(i) the 2018 Investor Presentation included on page 2 the words “[t]he outlook set out in this presentation is not guidance”;

(ii) Beach’s ASX Release dated 5 October 2018, titled “FY19 guidance and outlook revision following Victorian Otway sale” (**October 2018 ASX Announcement**) included on page 3 the words “Outlook is not guidance”;

(iii) at the 2018 Investor Briefing, Jeffrey Schrull, Beach’s Group Executive of Exploration & Appraisal, said (at page 18 of the transcript): “we doubled the

*reserves in the last 2 years and our field life has gone from 4.2 to 7.2. How did that happen? Some feedback I've got from analysts is that our Western Flank oil business is a bit of an enigma to model, but it shouldn't be. We've had exploration success. The production performance from the fields has been strong and the horizontal drilling techniques that we've used at Bauer-26 and synergies at Growler-15 have proven very successful. So the idea in the future is to have a lower cost per barrel development plans that we can. And I'll just let everybody think about what this is going to look like a year from now in FY '19. My expectation is that number is going to go up from 7.2 to a bigger number."*

(iv) the 2018 Investor Presentation included on page 73 the following text:

*"WESTERN FLANK OIL*

*HIGH MARGIN ASSET WITH MORE TO GIVE*

- *Significant contributor of free cash flow due to high margin production*
- *Capital program is designed to fully appraise the extent of the Bauer Field and other Western Flank fields*
- *Key variables to outlook include:*
  - *Ultimate size of the Bauer Field*
  - *Horizontal well performance*
  - *Future exploration/appraisal success in delineating reserves"*

(b) say further that they will rely at trial on the full terms and effect of the 2018 Investor Presentation, the 2018 Investor Briefing and the October 2018 ASX Announcement; and

(c) otherwise join issue with paragraph 26(d).

7 As to paragraphs 29(a)(iii) and (iv) of the Defence, they do not know and therefore cannot admit the matters alleged.

8 As to paragraph 29(c)(iii) of the Defence, they:

(a) admit that the August 2020 ASX Release (on page 4) and the August 2020 Presentation (on page 2) included the content extracted in the particulars to paragraph 28(e)(ii) of the Defence which is cited as being included in those documents under the headings "*Disclaimer*" and "*Assumptions*";

- (b) say further that they will rely at trial on the full terms and effect of the August 2020 ASX Release, the August 2020 Presentation and the 2020 Annual Report;
- (c) do not know and therefore cannot admit the matters alleged in paragraph 29(c)(iv); and
- (d) otherwise join issue with paragraph 29(c).

9 As to paragraphs 29(f)(iii) and 29(h) of the Defence, they do not know and therefore cannot admit the matters alleged.

10 As to paragraph 36(a)(iv) of the Defence, they:

- (a) admit that the 1Q21 Activities Report:
  - (i) included a “*Disclaimer*” at page 12; and
  - (ii) included footnote 1 on page 3, which referred to the August 2020 Presentation (but not the 2020 Annual Report) in so far as it stated: “*Refer to Beach Energy FY20 Full year results and outlook presentation released to the ASX on 17 August 2020 for further information on FY21 guidance.*”
- (b) say further that they will rely at trial on the full terms and effect of the 1Q21 Activities Report; and
- (c) otherwise join issue with paragraph 36(a)(iv).

11 As to paragraph 38 of the Defence, they:

- (a) admit that page 2 of the November 2020 AGM Address sets out certain “*Disclaimers*”;
- (b) say further that they will rely at trial on the full terms and effect of the November 2020 AGM Address; and
- (c) otherwise join issue with paragraph 38.

12 As to paragraph 43(a)(ii) of the Defence, they do not know and therefore cannot admit the matters alleged.

13 As to paragraph 45 of the Defence, they:

- (a) admit that page 12 of the 2Q21 Activities Report sets out certain “*Disclaimers*”;
- (b) say further that they will rely at trial on the full terms and effect of the 2Q21 Activities Report; and
- (c) otherwise join issue with paragraph 45.

14 As to paragraph 52 of the Defence, they:

- (a) admit that page 2 of the 1H21 Results Presentation includes a “*Disclaimer*”;
- (b) say further that they will rely at trial on the full terms and effect of the 1H21 Results Presentation; and
- (c) otherwise join issue with paragraph 52.

15 The plaintiffs otherwise join issue with the matters pleaded in the Defence.

Dated: 14 July 2023

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*Slater and Gordon*

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**Slater and Gordon Lawyers**

Solicitors for the plaintiffs