

FORM 5A

Rule 5.02(1)

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
Commercial Court



Case: S ECI 2023 01899

Filed on: 08/05/2023 01:56 PM

No. S ECI

B E T W E E N

RAEKEN PTY LTD ATF DOWRICK SUPERANNUATION FUND (ACN 110 057 684)

Plaintiff

-and-

JAMES HARDIE INDUSTRIES PLC (ARBN 097829895)

Defendant

WRIT

Date of Document:	8 May 2023	Solicitors Code:	11747
Filed on behalf of:	The Plaintiff	DX:	N/A
Prepared by:	Echo Law	Telephone:	(03) 7046 3545
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TO THE DEFENDANT

TAKE NOTICE that this proceeding has been brought against you by the plaintiff for the claim set out in this writ.

IF YOU INTEND TO DEFEND the proceeding, or if you have a claim against the plaintiff which you wish to have taken into account at the trial, **YOU MUST GIVE NOTICE** of your intention by filing an appearance within the proper time for appearance stated below.

YOU OR YOUR SOLICITOR may file the appearance. An appearance is filed by—

- (a) filing a "Notice of Appearance" in the Prothonotary's office, 436 Lonsdale Street, Melbourne, or, where the writ has been filed in the office of a Deputy Prothonotary, in the office of that Deputy Prothonotary; and
- (b) on the day you file the Notice, serving a copy, sealed by the Court, at the plaintiff's address for service, which is set out at the end of this writ.

IF YOU FAIL to file an appearance within the proper time, the plaintiff may **OBTAIN JUDGMENT AGAINST YOU** on the claim without further notice.

***THE PROPER TIME TO FILE AN APPEARANCE** is as follows—

- (a) where you are served with the writ in Victoria, within 10 days after service;
- (b) where you are served with the writ out of Victoria and in another part of Australia, within 21 days after service;
- (c) where you are served with the writ in Papua New Guinea, within 28 days after service;
- (d) where you are served with the writ in New Zealand under Part 2 of the Trans-Tasman Proceedings Act 2010 of the Commonwealth, within 30 working days (within the meaning of that Act) after service or, if a shorter or longer period has been fixed by the Court under section 13(1)(b) of that Act, the period so fixed;
- (e) in any other case, within 42 days after service of the writ.

IF the plaintiff claims a debt only and you pay that debt, namely, \$ and \$ for legal costs to the plaintiff or the plaintiff's solicitor within the proper time for appearance, this proceeding will come to an end. Notwithstanding the payment you may have the costs taxed by the Court.

FILED 8 May 2023

Prothonotary

THIS WRIT is to be served within one year from the date it is filed or within such further period as the Court orders.

**IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COMMERCIAL COURT**

No. S ECI

B E T W E E N

RAEKEN PTY LTD ATF DOWRICK SUPERANNUATION FUND (ACN 110 057 684)
Plaintiff

-and-

JAMES HARDIE INDUSTRIES PLC (ARBN 097829895)
Defendant

STATEMENT OF CLAIM

Date of Document:	8 May 2023	Solicitors Code:	11747
Filed on behalf of:	The Plaintiff	DX:	N/A
Prepared by:	Echo Law	Telephone:	(03) 7046 3545
		Ref:	E22110901
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A PRELIMINARY

A.1 The Plaintiff and the Group Members

1. This proceeding is commenced as a group proceeding pursuant to Part 4A of the *Supreme Court Act 1986* (Vic) by the Plaintiff on its own behalf and on behalf of all persons who:
 - (a) during the period between 7 February 2022 and 7 November 2022 (inclusive) (**Relevant Period**) acquired:
 - (i) an interest in CHESS Units of Foreign Securities in the Defendant (**James Hardie**) traded on the Australian Securities Exchange (**ASX** and **JHX Shares**);
 - (ii) American Depositary Receipts in James Hardie traded on the New York Stock Exchange (**JHX ADRs**);
 - (iii) long exposure to JHX Shares by entering into equity swap confirmations in respect of James Hardie shares (**JHX Equity Swaps**);
 - (b) have suffered loss or damage by or resulting from the conduct of James Hardie pleaded in this Statement of Claim; and
 - (c) were not during any part of the Relevant Period, and are not as at the date of this Statement of Claim, any of the following:
 - (i) a related party (as defined by s 228 of the *Corporations Act 2001* (Cth) (**Corporations Act**) of James Hardie;
 - (ii) a related body corporate (as defined by s 50 of the Corporations Act) of James Hardie;
 - (iii) an associated entity (as defined by s 50AAA of the Corporations Act) of James Hardie;
 - (iv) an officer or a close associate (as defined by s 9 of the Corporations Act) of James Hardie; or

- (v) a Justice or the Chief Justice of the Supreme Court of Victoria or a Justice or the Chief Justice of the High Court of Australia,

(Group Members).

2. The Plaintiff acquired an interest in JHX Shares during the Relevant Period.

PARTICULARS

- (i) *Details of the particular acquisitions of JHX Shares by the Plaintiff are set out below:*

Date	Transaction type	Number of JHX Shares	Price
6 April 2022	BUY	240	\$41.28
26 October 2022	BUY	601	\$33.28
28 October 2022	BUY	449	\$33.44

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

A.2 The Defendant

4. James Hardie, is and at all material times was:
- (a) a public limited company incorporated and registered in Ireland and is capable of being sued;
 - (b) a person within the meaning of ss 1041E and 1041H of the Corporations Act;
 - (c) a person within the meaning of s 12DA of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**);
 - (d) a person within the meaning of s 18 of the Australian Consumer Law set out in Schedule 2 of the *Competition and Consumer Act 2010* (Cth), as applicable pursuant to:
 - (i) s 12 of the *Australian Consumer Law and Fair Trading Act 2012* (Vic);
 - (ii) s 28 of the *Fair Trading Act 1987* (NSW);
 - (iii) s 16 of the *Fair Trading Act 1989* (Qld);
 - (iv) s 6 of the *Australian Consumer Law (Tasmania) Act 2010* (Tas);
 - (v) s 19 of the *Fair Trading Act 2010* (WA);
 - (vi) s 14 of the *Fair Trading Act 1987* (SA);

(vii) s 7 of the *Fair Trading (Australian Consumer Law) Act 1992* (ACT);
and/or

(viii) s 27 of the *Consumer Affairs and Fair Trading Act* (NT);

(individually, or together, **Australian Consumer Law**).

5. At all material times during the Relevant Period, James Hardie followed a fiscal year commencing 1 April of any given year and ending on 31 March of the following year.
6. At all material times during the Relevant Period:
 - (a) JHX ADRs were able to be purchased and sold by investors on the New York Stock Exchange using the code or designation “JHX”; and
 - (b) each JHX ADR represented one JHX Share and the price at which JHX ADRs traded on the NYSE exchange reflected (i) the price of one JHX Share and (ii) the exchange rate between Australian dollars and United States of America dollars.

A.3 Relevant James Hardie personnel

7. Aaron Erter (**Erter**) was, from 2 September 2022 to present, James Hardie’s Chief Executive Officer (**CEO**), and a Director of James Hardie.
8. Harold Wiens (**Wiens**) was, from 7 January 2022 to 2 September 2022, James Hardie’s Interim CEO and a director of James Hardie. After 2 September 2022 Wiens remained a director of James Hardie.
9. Michael Hammes was, from around January 2008 to 3 November 2022, the Chair and a director of James Hardie.
10. Anne Lloyd was, from 3 November 2022, the Chair, previously the Deputy Chair, as well as a director of James Hardie.
11. The following persons were also directors of James Hardie at all times during the Relevant Period (unless otherwise stated):
 - (a) Persio V Lisboa;
 - (b) Rada Rodriguez;
 - (c) Susanne B Rowland;
 - (d) Nigel Stein;
 - (e) Dean Savers (until 21 March 2022); and
 - (f) Peter John Davis (from 10 August 2022).

(together, the **James Hardie Board**).

12. The following persons were also officers during the Relevant Period:

- (a) Jason Miele (**Miele**, Chief Financial Officer);
- (b) Sean Gadd (**Gadd**, President, North America);
- (c) Joe Blasko (Chief Legal and Compliance Officer and Corporate Secretary);
- (d) Ryan Kilcullen (Executive Vice President, Global Operations);
- (e) John Arneil (General Manager, Asia Pacific);
- (f) Joe Liu (Chief Technology Officer);
- (g) James Johnson (Global Chief Information Officer);
- (h) Jill Kolling (VP ESG & Chief Sustainability Officer);
- (i) Stephen Balsavich (Global Head of Transformation);
- (j) Christian Claus (President Europe, from 4 November 2022);
- (k) Chad Fredericksen (VP North America Professional Channel);
- (l) John Madson (VP North America Sales);
- (m) Atousa Ghoreichi (SVP North America Marketing, PR and Communications).

(together, **James Hardie Officers**).

- 13. All persons listed at paragraphs 7 to 12 above were officers of James Hardie within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.
- 14. The persons listed above at paragraphs 7 to 12 do not represent an exhaustive list of persons who were officers of James Hardie within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.
- 15. By reason of the matters pleaded at paragraphs 7 to 12 above, information of which any members of the James Hardie Board or James Hardie Officers became aware, or which ought reasonably to have come into their possession in the course of the performance of their respective duties as directors or officers of James Hardie was information of which James Hardie was aware (within the meaning of aware in ASX Listing Rule 19.12).

A.4 The Defendant's Obligations

- 16. At all material times, James Hardie was:
 - (a) included in the official list of the financial market operated by the ASX;
 - (b) an entity, the securities of which are ED securities for the purposes of s 111AE of the Corporations Act;
 - (c) a listed disclosing entity within the meaning of s 111AL(1) of the Corporations Act;

- (d) subject to and bound by the ASX Listing Rules, which are and at all material times were “listing rules” within the meaning of s 674 of the Corporations Act; and
- (e) obliged (unless any of the exceptions in ASX Listing Rule 3.1A were applicable) to immediately inform the ASX of any information concerning James Hardie upon becoming aware of that information if the information was not generally available and James Hardie knew, or was reckless or negligent with respect to whether, the information would, if it were generally available, have a material effect on the price or value of JHX Shares.

(Continuous Disclosure Obligations).

17. At all material times, James Hardie was prohibited pursuant to:

- (a) section 1041H of the Corporations Act and s 12DA of the ASIC Act, from engaging in conduct in relation to JHX Shares (being a financial product within the meaning of the Corporations Act and ASIC Act); and
- (b) section 18 of the Australian Consumer Law, from engaging in conduct in trade or commerce,

that was misleading or deceptive or likely to mislead or deceive.

18. At all material times, James Hardie was prohibited, pursuant to section 1041E of the Corporations Act, from making a statement or disseminating information if:

- (a) the statement or information was false in a material particular or was materially misleading; and
- (b) the statement or information was likely:
 - (i) to induce persons in this jurisdiction to apply for financial products; or
 - (ii) to induce persons in this jurisdiction to dispose of or acquire financial products; or
 - (iii) to have the effect of increasing, reducing, maintaining or stabilising the price for trading in financial products on a financial market operated in this jurisdiction; and
- (c) when James Hardie made the statement, or disseminated the information:
 - (i) James Hardie did not care whether the statement or information was true or false; or
 - (ii) James Hardie knew, or ought reasonably to have known, that the statement or information was false in a material particular or was materially misleading.

B JAMES HARDIE'S BUSINESS

B.1 James Hardie's business

19. At all material times prior to and during the Relevant Period, James Hardie's principal business activities comprised manufacturing and selling building materials, primarily in the North American market (**NA Market**), European market and the Asia-Pacific market (including Australia).
20. At all material times prior to and during the Relevant Period, James Hardie operated 19 manufacturing facilities across three regions: North America, Asia-Pacific and Europe.
21. At all material times prior to and during the Relevant Period, James Hardie's principal product line was fibre-cement products (**FC Products**).
22. At all materials times prior to and during the Relevant Period, James Hardie was the number one manufacturer of FC Products for the building and construction industry worldwide.

B.2 James Hardie's NA Business

23. At all material times, the North American division of James Hardie's business (**NA Business**) contributed the majority of its revenue, earnings before interest and tax (**EBIT**), and profit.

PARTICULARS

- (i) *For FY20 (financial year ending 31 March 2020), James Hardie Group's total Net Sales was US\$2,607 million, Adjusted EBIT US\$487 million, Adjusted Net Operating Profit (after tax) was US\$353 million: FY20 Annual Report, p 5.*
 - (ii) *For FY20 the NA Business accounted for approximately 70% of Net Sales of the Group and almost 97% of Adjusted EBIT. Net Sales figure of over US\$1,816 million, Adjusted EBIT of US\$471 million and Adjusted EBIT Margin expanded to 25.9%: FY20 Annual Report, p 5.*
 - (iii) *For FY21 (financial year ending 31 March 2021), James Hardie Group's total Net Sales was US\$2,909 million, Adjusted EBIT US\$629 million, Adjusted Net Income US\$458 million: FY21 Annual Report, p 5.*
 - (iv) *For FY21 the NA Business accounted for 70% of Net Sales of the Group and 77% of Adjusted EBIT. Net Sales figure of over US\$2.0 billion, Adjusted EBIT of US\$588 million and Adjusted EBIT Margin expanded to 28.8%: FY21 Annual Report, p 13.*
24. At all material times, the bulk of James Hardie's FC Products sold in the NA Market were sold for residential construction purposes.

PARTICULARS

- (i) *“In US and Canada, the largest application for fibre cement building products is in external siding for the residential building industry,” FY21 Annual Report, p 45.*
25. At all material times, the majority of James Hardie’s revenue, EBIT and profit from the NA Business was derived from the “Repair & Remodel” end market (**R&R Sector**), and the balance from the “new construction” end market (**New Construction Sector**).

PARTICULARS

- (i) *In FY22, approximately 65% of the total volume of James Hardie’s sales in the NA Market were in the R&R Sector: FY22 Annual Report, pp 9 and 17, Investor Day 2022 Presentation Day 1, p 52.*
 - (ii) *In FY21, James Hardie reported that “while it historically has had strong business in the repair and remodel segment, we believe that the opportunity for future growth remains significant...we plan to amplify and accelerate that demand by marketing directly to homeowners...”, FY21 Annual Report, p 6.*
26. At all material times, James Hardie held a very substantial market share of the FC Product market in the NA Market.

PARTICULARS

- (i) *“We are the largest FC producer in North America with ten plants.” FY22 Annual Report, p 151.*
- (ii) *“James Hardie Industries plc is a world leader in the manufacturing of fibre cement building solutions...” FY21 Annual Report, p 41.*
- (iii) *“Our growth above market reflects both market share gains in single family new construction as well as increasing penetration in the repair and remodelling segment.” FY22 Annual Report, p 16,*
- (iv) *“We expect that North American Fiber Cement growth will continue above market – Although there are some strong competitors, we expect James Hardie will continue to push toward its 35/90 target (35% fibre cement market share with 90% market share of fiber cement) given its high-quality product offering, strong branding, and weaker competitors in the vinyl category.” RBC Capital Markets, ‘James Hardie Industries plc: Global Investor Day Takeaways’, 13 September 2022, p 10,*
- (v) *“James Hardie is the leading provider of fiber cement siding in the US housing market and controls more than 90% of that market.” RBC Capital Markets ‘James Hardie Industries plc: Global Investor Day Takeaways’, 13 September 2022, p 11.*
- (vi) *Further particulars will be provided on completion of discovery and expert evidence.*

27. At all material times, the competitors of James Hardie's NA Business in the NA Market included manufacturers of:

- (a) vinyl and wood cladding or panelling (**Competing Products**); and
- (b) other FC Product manufacturers.

PARTICULARS

- (i) *As to (a) above, see Investor Day 2022 Presentation Day 1, p 47.*
- (ii) *As to (b) above, these included American Fibre Cement and Cembrit Etex Group.*
- (iii) *Further particulars will be provided on completion of discovery and expert evidence.*

C JAMES HARDIE'S FY23 GUIDANCE

C.1 James Hardie's published financials in FY20 to FY22

28. In FY20 (between 1 April 2019 and 31 March 2020), James Hardie published the following quarterly results:

Net Sales	1Q20	2Q20	3Q20	4Q20
Group (USD m)	656.8	660.1	616.7	673.2
NA (USD m)	452.3	459.6	430.0	474.5
APAC (AUD m)	154.4	164.2	149.4	146.1
EU (€ m)	85.4	79.0	76.5	93.3
 EBIT	 1Q20	 2Q20	 3Q20	 4Q20
Group (Adj, USD m)	124.4	134.2	107.2	121.0
NA (USD m)	113.5	124.7	112.3	120.0
APAC (AUD m)	35.4	39.5	34.2	29.9
EU (€ m)	9.1	7.8	6.1	4.1
 ANOP	 1Q20	 2Q20	 3Q20	 4Q20
Group (Adj, USD m)	90.2	98.6	77.4	86.6

PARTICULARS

- (i) *1Q20 Results Pack, pp 7, 8, 22, 23 and 36.*
- (ii) *2Q20 Results Pack, pp 9, 11, 14, 22, 23 and 36.*
- (iii) *3Q20 Results Pack, pp 10, 12, 15, 23 and 24.*
- (iv) *4Q20 Results Pack, pp 7, 10, 13, 26 and 27.*

29. James Hardie published the following financial results for the Group in FY20:

- (a) Total Net Sales of US\$2,607 million;
- (b) Adjusted EBIT of US\$487 million; and
- (c) Adjusted Net Operating Profit of US\$352.8 million.

PARTICULARS

- (i) *FY20 Annual Report, p 5.*

30. In FY21 prior to the commencement of the Relevant Period (between 1 April 2020 and 31 March 2021), James Hardie published the following quarterly results:

Net Sales	1Q21	2Q21	3Q21	4Q21
Group (USD m)	626.3	736.8	738.6	807.0
NA (USD m)	451.8	515.0	518.1	555.3
APAC (AUD m)	138.7	170.6	163.3	162.6
EU (€ m)	75.4	85.3	85.3	104.6
EBIT	1Q21	2Q21	3Q21	4Q21
Group (Adj, USD m)	124.9	163.1	167.9	173.1
NA (USD m)	130.9	148.6	155.6	152.9
APAC (AUD m)	33.6	54.1	45.9	43.7
EU (€ m)	2.0	9.4	8.8	15.7
ANI	1Q21	2Q21	3Q21	4Q21
Group (Adj, USD m)	89.3	120.5	123.3	124.9

PARTICULARS

- (i) *1Q21 Results Pack, pp 6, 7, 8, 10 and 13.*
- (ii) *2Q21 Results Pack, pp 7, 8, 10, 12 and 16.*
- (iii) *3Q21 Results Pack p 4.*
- (iv) *4Q21 Results Pack p 5.*

31. James Hardie published the following financial results for the Group in FY21:

- (a) Total Net Sales of US\$2,909 million;
- (b) Adjusted EBIT of US\$629 million; and
- (c) Adjusted Net Income (ANI) of US\$458 million.

PARTICULARS

- (i) *FY21 Annual Report, p 5.*

32. In FY22 prior to but also including the commencement of the Relevant Period (between 1 April 2021 and 31 March 2022), James Hardie published the following quarterly results:

Net Sales	1Q22	2Q22	3Q22	4Q22
Group (USD m)	843.3	903.2	900.0	968.2
NA (USD m)	577.1	635.3	644.9	694.0
APAC (AUD m)	184.1	196.6	196.5	200.5
EU (€ m)	103.3	104.6	97.6	115.0
EBIT	1Q22	2Q22	3Q22	4Q22
Group (Adj, USD m)	180.5	205.7	204.1	225.3
NA (USD m)	169.3	182.5	183.3	206.1
APAC (AUD m)	50.4	60.6	53.6	52.8
EU (€ m)	13.5	14.2	10.4	16.1
ANI	1Q22	2Q22	3Q22	4Q22
Group (Adj, USD m)	134.2	154.9	154.1	177.5

PARTICULARS

- (i) *1Q22 Results Pack, p 5.*
- (ii) *2Q22 Results Pack, p 6.*
- (iii) *3Q22 Results Pack, p 5.*
- (iv) *4Q22 Results Pack, p 6.*

33. James Hardie published the following financial results for the Group in FY22:

- (a) Total Net Sales of US\$3,614.7 million;
- (b) Adjusted EBIT of US\$815.6 million; and
- (c) ANI of US\$620.7 million.

PARTICULARS

- (i) *FY22 Annual Report, p 2.*

C.2 James Hardie's 7 February 2022 Guidance

34. On 7 January 2022, James Hardie published and released to the ASX an announcement titled "James Hardie Industries Appoints Harold Wiens as Interim CEO" (the **7 January Announcement**).
35. In the 7 January Announcement, James Hardie made the following statements:
- (a) Wiens had been appointed Interim CEO;

- (b) Previous CEO Jack Truong's employment had been terminated, effective immediately, for breaches of the James Hardie Code of Conduct;
- (c) In addition:
 - (i) Chair Michael Hammes had been appointed to the role of Executive Chairman while the CEO succession was undertaken;
 - (ii) Gadd had been promoted to North America President;
- (d) As to FY22 guidance:
 - (i) Based on the continued, strong execution of the global strategy across all three regions and the expectation for continued residential and market growth in the USA, James Hardie's management was raising its guidance for fiscal year 2022, ending 31 March 2022;
 - (ii) Management raised fiscal year 2022 ANI guidance range to US\$605 million to US\$625 million, raised from the prior guidance range of US\$580 million to US\$600 million; and
 - (iii) The comparable prior year ANI for fiscal year 2021 was US\$458 million.

PARTICULARS

- (i) *7 January Announcement, pp 1 and 2.*
36. On 7 January 2022, a call with market analysts was held in conjunction with the 7 January Announcement (the **January Special Call**). At the January Special Call, James Hardie made the following statements:
- (a) James Hardie was "*currently finalizing our annual planning process and expect continued momentum into fiscal year 2023*";
 - (b) James Hardie planned to provide guidance for FY23 at the third quarter earnings release call on 8 February 2022;
 - (c) the guidance for FY23 will "*reflect the continued momentum that we've built this year*";
 - (d) "*there's not going to be any backing away from any of the targets we've set out. The team is well positioned to deliver on them.*"

PARTICULARS

- (i) *The statements (a) to (d) above were express, and made by Miele in the January Special Call.*
37. The proposal that guidance for the coming financial year would be presented at the same time as third quarter earnings represented a departure from usual practice for James Hardie, which had not done so for at least the previous decade.

PARTICULARS

- (i) *3Q12 Results Pack, p 7.*
 - (ii) *3Q13 Results Pack pp 6 and 7.*
 - (iii) *3Q14 Results Pack pp 7 and 8.*
 - (iv) *3Q15 Results Pack p 3.*
 - (v) *3Q16 Results Pack, p 3.*
 - (vi) *3Q17 Results Pack, p 3.*
 - (vii) *3Q18 Results Pack, p 3.*
 - (viii) *3Q19 Results Pack, p 3.*
 - (ix) *3Q20 Results Pack, p 4.*
 - (x) *3Q21 Results Pack, p 4.*
38. On 7 February 2022, James Hardie published and released to the ASX the 3Q22 Results Pack (**7 February Announcement**).
39. In the 7 February Announcement, James Hardie made the following statements:
- (a) as to FY22 guidance:
 - (i) Based on the continued, strong execution of the global strategy across all three regions and the expectation for continued residential and market growth in the USA, James Hardie's management was raising its guidance for fiscal year 2022, ending 31 March 2022;
 - (ii) Management raised fiscal year 2022 ANI guidance range to US\$620 million to US\$630 million, raised from the prior guidance range of US\$605 million to US\$625 million announced on 7 January 2022; and
 - (iii) The comparable prior year ANI for fiscal year 2021 was US\$458 million,
(together the **FY22 Guidance**).
 - (b) as to FY23 guidance:
 - (i) James Hardie's management announced a fiscal year 2023 ANI guidance range of US \$740 million to US \$820 million, an 18-31% increase from FY22 guidance midpoint; and
 - (ii) For the North America division:
 - (A) Net Sales Growth of 16% to 20% from FY22 was expected; and
 - (B) An EBIT Margin of 30% to 33% was expected,(together, the **FY23 Guidance**).

PARTICULARS

- (i) *The FY22 Guidance statements were express, and made in writing in the 3Q22 Results Pack, pp 5 and 47.*
 - (ii) *The FY23 Guidance statements were express, and made in writing in the 3Q22 Results pack, pp 5 and 48.*
40. On 7 February 2022, an earnings call with analysts was held in conjunction with the 7 February Announcement (the **February Earnings Call**). At the February Earnings Call, James Hardie also made the following statements:
- (a) With respect to the R&R Sector:
 - (i) US homeowner wealth had never been higher, with home equity averaging \$US302,000 per property;
 - (ii) even if interest rates rose 100 basis points, that would only cost homeowners an extra \$US25 a month on average, based on those taking out a \$US50,000, 10-year home equity loan to complete renovations;
 - (iii) James Hardie did not believe this potential for interest rates to rise was a deterrent to homeowners deciding to remodel their homes; and
 - (iv) James Hardie saw the R&R Sector as “*pretty robust, at least for the next 24 months*”;
 - (b) “*there's a lot of backlogs within the new construction space as well, a lot of uncompleted homes*”;
 - (c) James Hardie expected to increase market share in North America during FY23; and,
 - (d) in the context of visibility on customer orders in the North American business, James Hardie had “*fairly strong commitments*” from customers and was “*very very confident that the numbers are right*”,
- (together, the **7 February Statements**).

PARTICULARS

- (i) *The 7 February Statements (a), (c) and (d) above were express, and made by Gadd in the February Earnings Call.*
 - (ii) *The 7 February Statement (b) above was express and made by Miele in the February Earnings Call.*
41. On 7 February 2022, by reason of the matters pleaded in paragraphs 39 and 40, James Hardie made the following representations to the market of investors and potential investors in JHX Shares:
- (a) James Hardie would deliver:
 - (i) growth of between 17% to 32% in ANI for the FY23 year; and

- (ii) a range of US\$740 million to US\$820 million for ANI for FY23,
(FY23 Group Guidance Representations);
 - (b) James Hardie's NA Business would achieve:
 - (i) Net Sales Growth of 16% to 20%; and
 - (ii) an EBIT Margin of 30% to 33%,
(NA FY23 Guidance Representations);
 - (c) James Hardie did not consider increases in interest rates to significantly impact the demand for its products **(Demand Guidance Representation);**
 - (d) James Hardie expected to increase market share in FY23 **(Market Share Representation);**
 - (e) James Hardie had strong customer commitments and confidence in its visibility on future orders **(Pipeline Representation),**
- (each being **FY23 Guidance Representations**).

PARTICULARS

- (i) *The FY23 Guidance Representations were express, and the Plaintiff refers to the February Statements pleaded in paragraph 40 and the particulars therein.*
42. On 7 February 2022, by reason of the matters pleaded in paragraphs 38 to 41, James Hardie made the following representations to the market of investors and potential investors in JHX Shares **(Affected Market)**:
- (a) James Hardie had reasonable grounds for making each of the FY23 Guidance Representations **(FY23 Guidance Basis Representation);**
 - (b) James Hardie was able, from the information available to it, to provide a reasonably reliable guide as to:
 - (i) the ANI that James Hardie would derive, both in the short and medium-term, generally and from its NA Business;
 - (ii) its net sales and EBIT margin in FY23, generally and from its NA Business;
 - (iii) the impact of the increase in interest rates by the US Federal Reserve on the demand for FC Products in its NA Business;
 - (iv) the likelihood that James Hardie would increase market share; and
 - (v) the reliability of its forecast future customer orders,
(Guidance Reliability Representation);

- (c) there was no information known to James Hardie which created a material risk that the FY23 Guidance Representations were unreliable (**No Material Risk Representation**),

(each being **February Implied Representations**).

PARTICULARS

Each of the February Implied Representations is to be implied from the making by James Hardie of the FY23 Guidance Representations.

D THE TRUE POSITION AS AT 7 FEBRUARY 2022

D.1 Demand for FC Products in the NA Market in FY21

43. Between early 2021 and early 2022, the suppliers of Competing Products to FC Products, namely vinyl and natural wood, were exposed to short-term supply chain issues, including:
- (a) significant material shortages;
 - (b) significant labour shortages;
 - (c) global supply chain constraints, in respect of products that were manufactured outside of the US.

PARTICULARS

- (i) *Cornerstone Building Brands, Inc. Q3 2021 Earnings Call, 10 November 2021, p 6.*
 - (ii) *Further particulars will be provided on completion of discovery and expert evidence.*
44. Between early 2021 and early 2022, US lumber prices fluctuated significantly, spiking twice at over 300% of the long-term average of approximately US\$400 per 1000 board feet.

PARTICULARS

Current and historical lumber commodity prices available online at <https://nasdaq.com/market-activity/commodities/lbs/>

45. By reason of the matters in paragraphs 43 and 44 above, between early 2021 and early 2022, there was a substantial reduction in supply, and/or significant increases in price, for Competing Products in the NA Market.

PARTICULARS

- (i) *Cornerstone Building Brands, Inc. Q3 2021 Earnings Call, 10 November 2021, p 6.*
- (ii) *Cornerstone Building Brands, Inc. Q1 2022 Results, 3 May 2022, p 1.*
- (iii) *Further particulars will be provided on completion of discovery and expert evidence.*

46. Between November 2021 and early 2022, there was an increase in volume of new construction in the US residential housing construction market (both in total, and for single unit residential construction).

PARTICULARS

*US Census Bureau Monthly New Residential Construction data –
New housing starts:*

Month	Total	Single Unit
Jan 2021	1,602	1,117
Feb 2021	1,430	1,053
Mar 2021	1,711	1,243
Apr 2021	1,505	1,061
May 2021	1,605	1,110
Jun 2021	1,664	1,165
Jul 2021	1,573	1,124
Aug 2021	1,576	1,095
Sep 2021	1,559	1,094
Oct 2021	1,563	1,079
Nov 2021	1,706	1,220
Dec 2021	1,768	1,212
Jan 2022	1,666	1,157

47. By reason of matters raised above at paragraphs 43 to 46 above:
- (a) the demand for James Hardie’s FC Products in the NA Market was elevated between 2021 and the beginning of the Relevant Period; but
 - (b) due to the temporary nature of the factors driving the increase, it was likely that the elevated demand would ease prior to or during FY23,
- (Temporary FC Product Demand Conditions).**

D.2 Inflationary pressures and increased interest rates in the US

48. From in or around October 2021 to January 2022, the inflation rate in the United States increased significantly.

PARTICULARS

*US Bureau of Labor Statistics January 2020 to January 2023 data
– 12 month inflation rate:*

Month	Total
Mar 2021	1.7%
Apr 2021	2.6%
May 2021	4.2%
Jun 2021	5.0%
Jul 2021	5.4%
Aug 2021	5.4%
Sep 2021	5.4%
Oct 2021	6.2%
Nov 2021	6.2%
Dec 2021	6.8%
Jan 2022	7.0%

49. On or around 26 January 2022, the US Federal Reserve published and released a statement that inflation was well above two percent and with a strong labour market and the Committee expected it would soon be appropriate to raise the target range for the federal funds rate (the **January Interest Rate Likely Rise Statement**).

PARTICULARS

The January Interest Likely Rate Rise Statement was express and contained in the US Federal Reserve, 'Federal Reserve press release', 26 January 2022, p 1.

D.3 The likely impacts on James Hardie's NA Business as at 7 February 2022

50. As at 7 February 2022, US inflation was well above two percent and further inflationary pressures for 2022 were likely.

PARTICULARS

The Plaintiff repeats paragraphs 48 to 49 above.

51. As at 7 February 2022, high inflation in the US was likely to increase the cost of building and construction materials in the US.

PARTICULARS

- (i) *See for example James Hardie's statements in the 2Q23 Results Pack, p 10.*
 - (ii) *Further particulars will be provided on completion of discovery and expert evidence.*
52. By reason of the matters pleaded in paragraph 51 above, as at and from 7 February 2022 a sustained period of high inflation in the US was likely to have an adverse impact on the demand for James Hardie's products, as consumer spending in the residential housing market slowed.

PARTICULARS

- (i) *It was likely from around January 2022, as a consequence of high inflation in the US, that interest rates were set to increase.*
- (ii) *By reason of matters above, it was likely as at February 2022, that expected housing construction levels in FY23 would be adversely affected by increases in interest rates.*
- (iii) *Any drop in the housing construction market resulted in a decrease in demand for James Hardie's FC Products in North America.*
- (iv) *By reason of the matters above, it was likely that the decrease in demand for James Hardie's products would not be offset by any increase in prices due to the increased inflation.*
- (v) *By reason of the matters above, sustained high inflation in the US was likely to have an adverse impact on the Net Sales growth experienced by James Hardie's NA Business, and therefore the James Hardie Group.*
- (vi) *Further particulars will be provided on completion of discovery and expert evidence.*

53. As at 7 February 2022, an increase in the cost of building and construction materials was likely to cause James Hardie's NA Business to incur additional "input and freight costs", which would not be recouped from customers.

PARTICULARS

- (i) *The Plaintiff refers to, for example, James Hardie's express statements in the 1Q23 Results Pack, "Q1 FY23 vs Q1 FY22", p 10.*
- (ii) *The Plaintiff refers to the increased costs of freight, pulp, natural gas, labour and cement from increased inflation: 2Q23 Results Pack, p 10.*
- (iii) *Further particulars will be provided on completion of discovery and expert evidence.*

54. By reason of the matters pleaded in paragraph 53 above, as at 7 February 2022, high inflation in the US was likely to adversely impact the ANI growth and EBIT Margin achieved by James Hardie's NA Business, and James Hardie Group.

PARTICULARS

- (i) *The Plaintiff repeats the particulars to paragraph 53. The additional costs referred to in paragraph 53 would result in an impact in underlying ANI growth because of its impact on the Gross Margins.*
- (ii) *Further particulars will be provided on completion of discovery and expert evidence.*

55. By reason of the matters pleaded in paragraphs 48 to 54, as at 7 February 2022, sustained high inflation in the US was likely to cause adverse impacts on the Net Sales Growth, ANI growth and EBIT Margin achieved by James Hardie's NA Business, and James Hardie Group in FY23 (together, the **7 February Inflation Impacts**).
56. By no later than 7 February 2022, it was likely that the US Federal Reserve would increase interest rates through FY23 in order to combat inflation in the US.

PARTICULARS

(i) *The January Interest Rate Likely Rise Statement is repeated.*

57. As at 7 February 2022, increases in interest rates by the US Federal Reserve were likely to adversely impact the demand for James Hardie's FC Products in the NA Market in FY23, in that they:
- (a) were likely to increase the cost of debt-funded building and construction materials; and
 - (b) were likely to dampen the demand for the R&R Sector and New Construction in the US residential housing construction market.
58. As at 7 February 2022, the ANI growth, Net Sales growth and EBIT Margin achieved by James Hardie's NA Business, and James Hardie in FY23 was likely to be adversely impacted by the matters pleaded in paragraphs 50 to 57.

D.4 The February Information

59. As at 7 February 2022:
- (a) it was likely that the financial performance and financial results of James Hardie's NA Business in FY23 would be adversely affected by the impact of high inflation on the cost of and demand for FC Products;
 - (b) it was likely that the financial performance and financial results of James Hardie's NA Business in FY23 would be adversely affected by the impact of increased interest rates on the demand for FC Products;
 - (c) it was likely that the financial performance and financial results of James Hardie's NA Business in FY23 would be adversely affected by the end of the Temporary FC Product Demand Conditions;
 - (d) it was unlikely that James Hardie's NA Business would achieve net sales or earnings growth rates in FY23 in the order conveyed by the FY23 Guidance; and
 - (e) it was unlikely (given the likely performance of the NA Business in FY23) that James Hardie would achieve EBIT and ANI growth rates in FY23 in the order conveyed by the FY23 Guidance,
- ((a) to (e) each being the **February Information**).

PARTICULARS

- (i) *Paragraphs 50 to 58 above are repeated.*
- (ii) *Further particulars will be provided on completion of discovery and expert evidence.*

60. Further, or alternatively, as at 7 February 2022, James Hardie's market share and position in the NA Market for FC Products was not likely to support net sales or earnings growth rates in FY23 in the order conveyed by the FY23 Guidance (**Additional February Information**).

PARTICULARS

- (i) *Paragraphs 50 to 59 above are repeated.*
- (ii) *Further particulars will be provided on completion of discovery and expert evidence.*

E JAMES HARDIE'S MAINTENANCE AND REAFFIRMATION OF THE FY23 GUIDANCE BETWEEN 7 FEBRUARY 2022 AND 16 AUGUST 2022

E.1 Maintenance of the FY23 Guidance Representations

61. Between 7 February 2022 and 16 August 2022, James Hardie did not say anything to modify, qualify or contradict any of the FY23 Guidance Representations.

PARTICULARS

James Hardie reaffirmed the FY23 Guidance Representations, and paragraphs 63 to 69 below are repeated.

62. By reason of the matters pleaded in paragraph 61, from 7 February 2022 to 15 August 2022 inclusive, James Hardie continued to make each of the FY23 Guidance Representations.

E.2 Reaffirmation of the FY23 Guidance Representations

63. On 17 May 2022, James Hardie published and released to the ASX the 4Q22 Results Pack (**17 May Announcement**).
64. In the 17 May Announcement, James Hardie stated:
- (a) ANI for the James Hardie Group had increased 36% to US\$620.7 million for FY22;
 - (b) There was a 20% increase in 4Q22 Group Net Sales; and
 - (c) For the North America division, FY23 guidance of:

- (i) Net Sales Growth of 18% to 22% (increase by 2% points from February); and
- (ii) An EBIT Margin of 30% to 33% (no change from February).

PARTICULARS

These statements were express and contained in the 4Q22 Results Pack, pp 2, 5, 39 and 47.

65. Further, in the 17 May Announcement, James Hardie reaffirmed the FY23 Guidance, (save for the Net Sales Growth for the North America division which was increased), of US\$740 million to US\$820 million (the **May Reaffirmed FY23 Guidance**).

PARTICULARS

The May FY23 Reaffirmed Guidance was express and contained in the 4Q22 Results Pack, pp 2 and 47.

66. On 17 May 2022, an earnings call with analysts was held in conjunction with the 17 May Announcement (the **May Earnings Call**). At the May Earnings Call, James Hardie also made the following statements:

- (a) about 65% of the company's business was centred on the R&R Sector, which was showing robust growth;
- (b) renovation backlogs were running at more than double the normal levels;
- (c) rising interest rates were having little effect on R&R Sector demand; and
- (d) James Hardie was "*taking [market] share and we believe we'll continue to do that*".

PARTICULARS

- (i) *The statement at (a) above was expressly made by Miele in the May Earnings Call.*
- (ii) *The statements at (b) to (d) above were expressly made by Gadd in the May Earnings Call.*

67. On 17 May 2022, by reason of the matters pleaded in paragraphs 63 to 66, James Hardie represented to the market of investors and potential investors in JHX Shares that, notwithstanding the US interest rate rises experienced since 7 February 2022:

- (a) James Hardie would achieve sufficient growth over FY23 to deliver:
 - (i) growth of 26% at the mid-point relative to FY22 in ANI for the FY23 year; and
 - (ii) a range of US\$740 million to US\$820 million for ANI for FY23,

(Reaffirmed FY23 Group Guidance Representation);
- (b) the North American division would achieve:

- (i) Net Sales Growth of 18% to 22% (an increase from 16% to 20%); and
- (ii) EBIT Margin of 30% to 33%,

(Increased NA FY23 Guidance Representations);

- (c) James Hardie did not consider increases in interest rates would significantly impact the demand for its FC Products **(Reaffirmed Demand Guidance Representation)**;
- (d) James Hardie was increasing its market share, and expected this to continue **(Reaffirmed Market Share Representation)**; and
- (e) James Hardie had a significant backlog of customer orders for its FC Products **(Reaffirmed Pipeline Representation)**,

(each being **Reaffirmed FY23 Guidance Representations**).

PARTICULARS

- (i) *The Reaffirmed FY23 Guidance Representations were both express and implied, and the Plaintiff refers to the May Statements pleaded in paragraphs 63 to 66 and the particulars referred to therein.*
- (ii) *To the extent they were implied, the Plaintiff refers to the express statements pleaded in paragraphs 63 to 66, and says that the absence of any modification, qualification or contradiction to the FY23 Guidance Representations, either in the May Announcements, or prior to them, gave rise to the Reaffirmed FY23 Guidance Representations.*

68. Further, by reason of the matters pleaded in paragraph 67, James Hardie repeated each of the FY23 Guidance Representations.

PARTICULARS

- (i) *The Reaffirmed FY23 Guidance Representations were in substance a repetition of the FY23 Guidance Representations.*
- (ii) *The Increased NA FY23 Guidance Representations were in substance a repetition of the NA FY23 Guidance Representations.*
- (iii) *The Reaffirmed Pipeline Representation was in substance a repetition of the Pipeline Representation.*

69. Further, on 17 May 2022, by reason of the matters pleaded in paragraphs 63 to 68, James Hardie:

- (a) represented to the market of investors and potential investors in JHX Shares that James Hardie had reasonable grounds for:
 - (i) making each of the Reaffirmed FY23 Guidance Representations; and/or

- (ii) repeating, as at 17 May 2022, each of the FY23 Guidance Representations,

(Reaffirmed FY23 Guidance Basis Representations); and

- (b) repeated, as at 17 May 2022, each of:

- (i) the Guidance Reliability Representation; and

- (ii) the No Material Risk Representation,

(each being **May Implied Representations**).

PARTICULARS

Each of the May Implied Representations is to be implied from the making by James Hardie of the Reaffirmed FY23 Guidance Representations, and the repetition by James Hardie of the FY23 Guidance Representations.

70. Throughout the Relevant Period, James Hardie represented to the market of investors and potential investors in JHX Shares that, notwithstanding the US interest rate rises and the US Construction Market Softening:

- (a) there was a significant backlog of orders in New Construction;
- (b) James Hardie expected to increase market share in North America during FY23;
- (c) R&R Sector backlogs were running at double the normal levels;
- (d) rising interest rates were having little effect on demand in the R&R Sector, which was showing robust growth;
- (e) management were confident that the assumptions used regarding backlogs and future customer orders generally were correct,

(Customer Backlog Representation.)

PARTICULARS

- (i) *As to (a), statements expressly made by Miele in the February Earnings Call.*
- (ii) *As to (b), statements expressly made by Gadd in the February Earnings Call and the May Earnings Call.*
- (iii) *As to (c), statements expressly made by Gadd in the May Earnings Call and then again was expressly stated in Jefferies, 'James Hardie: It's FY24 That We Really Focus On', 16 August 2022, p 4 and RBC, 'James Hardie Industries plc: Setting themselves up to thrive, 16 August 2022, p1.*
- (iv) *As to (d), statements expressly made by Gadd in the February Earnings Call, and by Miele and Gadd in the May Earnings Call and then again was expressly made at the Investor Day 1*

presentation and published in UBS 'James Hardie Industries: Investor Day – Key Takeaways 14 September 2022', p 1.

- (v) *As to (e), statements expressly made by Gadd in the February Earnings Call.*

E.3 Maintenance of the Reaffirmed FY23 Guidance Representations

71. Between 17 May 2022 and 16 August 2022, when the August Announcements were released, James Hardie did not say anything to modify, qualify or contradict any of the Reaffirmed FY23 Guidance Representations.
72. By reason of the matters pleaded in paragraph 71, from 17 May 2022 until 16 August 2022, when the August Announcements were released, James Hardie continued to make each of the Reaffirmed FY23 Guidance Representations.

F THE TRUE POSITION BETWEEN 7 FEBRUARY 2022 AND 16 AUGUST 2022

F.1 Demand for FC Products in the NA Market after 7 February 2022

73. After 7 February 2022, and by no later than June 2022, the spike in the lumber prices in the NA Market stabilised.

PARTICULARS

The lumber price peaked at approximately \$US1,300 per thousand feet on or around 16 February 2022, before falling to approximately:

- (a) *\$US1,000 per thousand feet on 28 March 2022;*
- (b) *\$US800 per thousand feet on 10 May 2022; and*
- (c) *\$US600 per thousand feet on 6 June 2022.*

Current and historical lumber commodity prices available online at <https://nasdaq.com/market-activity/commodities/lbs/>

74. By reason of matters raised above at paragraph 73, the supply of Competing Products made from natural wood, relative to James Hardie's FC Products, improved.
75. Throughout 2022, supply-chain issues that had impacted the supply of Competing Products resolved, increasing the supply (or lowering the price) of Competing Products.
76. By reason of matters raised above at paragraph 73 to 75, customers became less likely to substitute James Hardie's FC Products in place of Competing Products, reducing demand for James Hardie's FC Products.

77. Between February 2022 and August 2022, there was a continuing decrease in the volume of new starts in the NA Market for US residential construction, including single unit construction (**US Construction Market Softening**).

PARTICULARS

US Census Bureau Monthly New Residential Construction data – New Starts:

Month	Total	Single Unit
Feb 2022	1,777	1,213
Mar 2022	1,716	1,191
Apr 2022	1,805	1,173
May 2022	1,562	1,073
Jun 2022	1,575	1,013
Jul 2022	1,377	900

78. By reason of matters pleaded at paragraphs 43 to 58 above and 79 to 83 below, the demand for James Hardie's FC Products in the NA Market in FY23 was likely to either decrease, or increase at a reduced rate from that experienced in FY22.

F.2 Continuing inflationary pressures and increased interest rates in the US

79. Between 7 February 2022 and 16 August 2022, the inflation rate in the United States continued to remain at elevated levels.

PARTICULARS

US Bureau of Labor Statistics January 2020 to January 2023 data:

Month	Total
Feb 2022	7.5%
Mar 2022	8.5%
Apr 2022	8.0%
May 2022	8.6%
Jun 2022	9.1%
Jul 2022	8.5%

80. On 16 March 2022, the US Federal Reserve published and released a statement that the Committee had decided to raise the target range for the federal funds rate to 0.25% to 0.5% and anticipated that ongoing increases in the target range would be appropriate (the **March US Interest Rate Rise Statements**).

PARTICULARS

The March Interest Rate Rise Statements were express and contained in the US Federal Reserve, 'Federal Reserve press release', 16 March 2022, p 1.

81. Further, on 4 May 2022, the US Federal Reserve published and released a statement that the Committee had decided to raise the target range for the federal funds rate to 0.75% to 1.0% and anticipated that ongoing increases in the target range would be appropriate (the **May US Interest Rate Rise Statements**).

PARTICULARS

The May Interest Rate Rise Statements were express and contained in the US Federal Reserve, 'Federal Reserve press release', 4 May 2022, p 1.

82. On 15 June 2022, the US Federal Reserve published and released a statement that the Committee had decided to raise the target range for the federal funds rate to 1.5% to 1.75% and anticipated that ongoing increases in the target range would be appropriate (the **June US Interest Rate Rise Statements**).

PARTICULARS

The June Interest Rate Rise Statements were express and contained in the US Federal Reserve, 'Federal Reserve press release', 15 June 2022, p 1.

83. Further, on 27 July 2022, the US Federal Reserve published and released a statement that the Committee had decided to raise the target range for the federal funds rate to 2.25% to 2.5% and anticipated that ongoing increases in the target range would be appropriate (the **July US Interest Rate Rise Statements**).

PARTICULARS

The July Interest Rate Rise Statements were express and contained in the US Federal Reserve, 'Federal Reserve press release', 27 July 2022, p 1.

F.3 The Post-February likely impacts on James Hardie's NA Business

84. Paragraphs 50 to 58 are repeated.
85. Further, as at 17 May 2022, each of the matters pleaded in paragraphs 50 to 58 were (or remained) the case, or had been exacerbated by the matters pleaded in paragraphs 73 to 78 above.
86. By reason of the matters pleaded in paragraph 85, as at 17 May 2022, the further sustained high inflation in the US pleaded in paragraph 79 was likely to cause adverse (or increased adverse) impacts on the Net Sales Growth, ANI growth and EBIT Margin achieved by James Hardie's NA Business, and James Hardie in FY23 for the reasons set out above in paragraphs 51 to 53 (together, the **May Inflation Impacts**).
87. As from 7 February 2022, alternatively 17 May 2022, it was likely that the US Federal Reserve would continue to increase interest rates through FY23 in order to combat inflation in the US.

PARTICULARS

- (i) *As from 7 February 2022, the January US Interest Rate Likely Rise Statement is repeated.*
 - (ii) *As from 17 May 2022, the January US Interest Rate Likely Rise Statement, the March US Interest Rate Rise Statements and the May US Interest Rate Rise Statements are repeated.*
88. As from 7 February 2022, alternatively 17 May 2022, further increases in interest rates by the US Federal Reserve (and/or the interest rate rises in fact implemented) were likely to adversely impact (or increasingly adversely impact) the demand for James Hardie's FC Products in the NA Market in FY23, in that they:
- (a) were likely to increase the cost of debt-funded building and construction materials; and
 - (b) were likely to dampen the demand for the R&R Sector and New Construction in the US residential housing construction market.
89. As at 7 February 2022, alternatively 17 May 2022, ANI growth, Net Sales growth and EBIT Margin achieved by James Hardie's NA Business, and James Hardie in FY23 was likely to be adversely impacted by the matters pleaded in paragraphs 84 to 88.

F.4 Overestimation of customer backlogs

90. As at 17 May 2022, the method used by James Hardie to calculate the backlog of unfilled customer orders in the US was unlikely to be a reliable guide for actual sales in FY23 (**Customer Backlog Information**), in that, by reason of the matters pleaded in paragraphs 73 to 89:
- (a) it was likely that, with the increased inflation and interest rate pressures, new home construction in North America would decrease;
 - (b) interest rate rises would tend to lead a proportion of customers to cancel orders with James Hardie as end-market clients postponed or cancelled R&R Sector projects, and the risk of that phenomenon occurring would increase as interest rates increased;
 - (c) increases in inflation would also tend to lead to "big builders" cancelling large projects as the increased input prices would mean that to the extent that the builders had already agreed to a fixed price for building projects, the margin between their costs and their revenue for those projects would be reducing, and the risk of this phenomenon occurring would continue to increase as inflation continued to rise;
 - (d) reduction in supply chain constraints affecting Competing Products would tend to reduce the backlog as some customers would cancel orders and switch to Competing Products;
 - (e) reduction in supply chain constraints affecting Competing Products would tend to reduce James Hardie's market share;

- (f) the US Construction Market Softening would likely lead a proportion of customers in retail and wholesale channels “destocking” by selling existing inventory at a faster rate than it was being replenished by purchasing new FC Products from James Hardie, with the effect being to run down customer warehouse stocks, such that sales to end-consumers would not result in new orders from James Hardie.

F.5 The May Information

91. As from 17 May 2022:

- (a) it was likely that the financial performance and financial results of James Hardie’s NA Business in FY23 would be adversely affected by the impact of high inflation on the cost of and demand for FC Products;
- (b) it was likely that the financial performance and financial results of James Hardie’s NA Business in FY23 would be adversely affected by the impact of increased interest rates on the demand for FC Products;
- (c) it was likely that the financial performance and financial results of James Hardie’s NA Business in FY23 would be adversely affected by the end of the Temporary FC Product Demand Conditions;
- (d) it was unlikely that James Hardie’s NA Business would achieve net sales or earnings growth rates in FY23 in the order conveyed by the FY23 Guidance, as reaffirmed by the May Reaffirmed FY23 Guidance; and
- (e) it was unlikely (given the likely performance of the NA Business in FY23) that James Hardie would achieve EBIT and ANI growth rates in FY23 in the order conveyed by the FY23 Guidance, as reaffirmed by the May Reaffirmed FY23 Guidance,

((a) to (e) each being the **May Information**).

PARTICULARS

- (i) *Paragraphs 73 to 90 above are repeated.*
- (ii) *Further particulars will be provided on completion of discovery and expert evidence.*

92. Further, or alternatively, as at 17 May 2022, James Hardie’s market share and position in the NA Market for FC Products was not likely to support net sales or earnings growth rates in FY23 in the order conveyed by the FY23 Guidance, as reaffirmed by the May Reaffirmed FY23 Guidance) (**Additional May Information**).

PARTICULARS

- (i) *Paragraphs 73 to 91 above are repeated.*
- (ii) *Further particulars will be provided on completion of discovery and expert evidence.*

G JAMES HARDIE'S REVISED FY23 GUIDANCE

G.1 16 August 2022 Announcement

93. On 16 August 2022, James Hardie:

- (a) published and released to the ASX the 1Q23 Results Pack (**16 August Publication**); and
- (b) convened an earnings call (**August Earnings Call**), in a manner likely to bring things said during it to the attention of the market of investors and potential investors in JHX Shares,

(together, the **August Announcements**).

PARTICULARS

- (i) *The August Earnings Call was convened at 8:30am Australian Eastern Standard Time.*
- (ii) *The participants on the August Earnings Call included Weins, Miele and Gadd.*

G.2 Revised FY23 Guidance

94. On 16 August 2022, by the August Announcements, James Hardie stated that:

- (a) management adjusts the full year FY23 ANI guidance to a range of US\$730 million to US\$780 million (previously US\$740 million to US\$820 million);
- (b) the adjusted full year FY23 ANI guidance represents a 22% increase at the midpoint relative to FY22;
- (c) for the North America division:
 - (i) Net Sales Growth of 18%+ (previously 18% to 22%) increase was now expected; and
 - (ii) an EBIT Margin of 28% to 32% (previously 30% to 33%) increase was now expected;
- (d) the business saw plenty of scenarios where Net Sales Growth for the North America Division would actually exceed 22%, so they no longer believed that the top-end cap was relevant; and
- (e) James Hardie had a significant backlog of work in the US housing construction market and Management were reasonably confident that the strong backlogs would carry through to January 2023,

(together the **Revised FY23 Guidance**).

PARTICULARS

- (i) *Statements (a) to (c) were expressly made in the 1Q23 Results Pack, p 45;*
- (ii) *Statement (d) was expressly made by Miele in the August Earnings Call;*
- (iii) *Statement (e) was expressly made by Gadd in the August Earnings Call.*

95. By the 16 August announcement, James Hardie also stated:

- (a) as to reasons for James Hardie's revised guidance:

- (i) unprecedented levels of inflation;
- (ii) global supply chain disruptions; and
- (iii) war in Europe,

saw the macroeconomic environment change around James Hardie significantly, creating uncertainty for the housing markets in all three regions that the company does business in and was putting pressure on the FY23 financial results due to increased input and freight costs;

- (b) the primary reasons for adjusting guidance downward were said to be: "*continued inflationary pressures globally, lowered expectations regarding Europe segment EBIT, the impact of a strengthening US dollar on the translation of our APAC and Europe earnings and housing market uncertainty*"; and
- (c) despite this, James Hardie was prepared for a variety of US housing market outcomes and was focused on ensuring delivering growth above market and strong returns regardless of market conditions.

PARTICULARS

- (i) *Statements (a) and (b) above were expressly made in the 1Q23 Results Pack, pp 2 to 4.*
- (ii) *In regards to (c) above, this statement was expressly made by Gadd as follows: "Our team is also prepared for a variety of US housing market outcomes and are focused on ensuring we will deliver growth about market and strong returns regardless of market conditions."*

96. On 16 August 2022, by reason of the matters pleaded in paragraphs 94 to 95, James Hardie represented to the market of investors and potential investors in JHX Shares that:

- (a) the reasons for having to revise down the FY23 Guidance were:
 - (i) continued inflationary pressures globally;
 - (ii) lowered expectations regarding Europe segment EBIT;

- (iii) the impact of a strengthening US dollar on the APAC and Europe earnings; and
- (iv) housing market uncertainty,

(FY23 Guidance Modification Reason Representation),

- (b) notwithstanding that James Hardie would not achieve the FY23 Guidance and the Reaffirmed May FY23 Guidance, James Hardie stated that:

- (i) the full year FY23 ANI guidance had decreased to US\$730 million to US\$780 million (previously US\$740 million to US\$820 million) **(Revised FY23 Group Guidance Representation);**
- (ii) the August FY23 Guidance was still a 22% increase at the mid-point relative to FY22;
- (iii) the North America division would achieve:
 - (A) Net Sales Growth of 18% to 22% (an increase from 16% to 20% estimated in May 2022); and
 - (B) an EBIT Margin of 30% to 33%,

(Revised NA FY23 Guidance Representation);

- (iv) James Hardie envisaged several scenarios where the Net Sales Growth in the North American division would actually exceed 22%;
- (v) James Hardie still had a significant backlog of work in the US housing construction market, **(Revised Pipeline Representation);** and
- (vi) James Hardie still expected to increase market share in North America during FY23 **(Revised Market Share Representation),**

(together the **Revised FY23 Guidance Representations**).

PARTICULARS

- (i) *The FY23 Guidance Modification Reason Representation was express and made by James Hardie in the 1Q23 Results Pack, p 4.*
- (ii) *The Revised FY23 Group Guidance Representation were made expressly by James Hardie in the 1Q23 Results Pack, pp 2, 4 and 45.*
- (iii) *The Revised NA FY23 Guidance Representations were made expressly by James Hardie in the 1Q23 Results Pack, p 45.*
- (iv) *The Revised Pipeline Representations was express, and made by Gadd in the August Earnings Call.*
- (v) *The Revised Market Share Representations was express, and made by Gadd in the August Earnings Call.*

97. Further, on 16 August 2022, by reason of the matters pleaded in paragraphs 94 to 96, James Hardie represented to the market of investors and potential investors in JHX Shares that:

- (a) James Hardie had reasonable grounds for making each of the Revised FY23 Guidance Representations, the Revised NA FY23 Guidance Representations and the Revised Pipeline Representation (**Revised Guidance Basis Representations**);
- (b) James Hardie was able, from the information available to it, to provide a reasonably reliable guide as to:
 - (i) the net income that James Hardie would derive, both in the short and medium-term, generally and from the North American division;
 - (ii) the net sales and EBIT margin growth in the FY23 fiscal year for the North American division; and
 - (iii) the impact of the increase in interest rates by the US Federal Reserve on the demand for its products,

(Revised Guidance Reliability Representation);

- (c) there was no information known to James Hardie which it had not disclosed as part of the August FY23 Announcements which created a material risk that the August FY23 Announcements were unreliable (**Revised No Material Risk Representation**),

(each being, **August Implied Representations**).

PARTICULARS

- (i) *The Revised Guidance Basis Representations and the Revised Guidance Reliability Representations are to be implied from the making by James Hardie of the express representations.*
- (ii) *The Revised No Material Risk Representation is to be implied from the making by James Hardie of the August FY23 Representations.*

H THE TRUE POSITION AS AT 16 AUGUST 2022

98. At the time of the Revised FY23 Guidance, and by no later than 16 August 2022, the following matters had occurred and/or continued:

- (a) there had been four consecutive interest rate rises as pleaded above at paragraphs 79 to 83;
- (b) the US housing construction market continued to contract, seeing approximately a 12% drop from the previous month (in terms of single unit residential construction figures);

PARTICULARS

- (i) *The Plaintiff refers to and repeats particulars to paragraph 77 above.*
- (c) the US housing construction market was likely to continue to decline, or alternatively remain depressed, for the remainder of FY23 and into FY24;

PARTICULARS

- (i) *the Plaintiff refers to Jefferies, 'James Hardie: It's FY24 That We Really Focus On', 16 August 2022, p 5, "We don't think this issue will be as acute for JHX but nonetheless not everything in the cycle is within management's control. Should inflation remain persistent, interest rates would continue to rise and debt and demand pressure could build for employers that leads to a slackening in employment. House prices fall in that environment and with it demand for residing. Consumer confidence in the US may already be factoring in this expectation given the multi-decade lows it is plumbing."*
- (ii) *Further particulars will be provided on completion of discovery and expert evidence.*
- (d) a decrease in the volume of R&R Sector projects and/or new builds would have a materially adverse effect on the profitability of the North American Division of the James Hardie business;
- (e) a decrease in the profitability of the North American division would result in a decrease in profitability to the overall Group given the significance of the North American division to overall earnings;

PARTICULARS

- (i) *The Plaintiff refers to and repeats particulars to paragraph 23 above.*
- (ii) *Further particulars will be provided on completion of discovery and expert evidence.*
- (f) the overstatement of the customer backlog by James Hardie's management continued;

PARTICULARS

- (i) *the Plaintiff refers and repeats particulars to paragraph 70 (item (iii)) and paragraph 90.*
- (ii) *Further particulars will be provided on completion of discovery and expert evidence.*
- (g) James Hardie's Revised FY23 Guidance was based upon a FY23 budget that assumed substantially higher revenue than what was reasonable due to the matters pleaded above at paragraphs 50 to 60, 84 to 92.

H.1 The August Information

99. By 16 August 2022, by reason of the matters in paragraphs 73 to 98 above:
- (a) it was likely that the financial performance and financial results of James Hardie's NA Business in FY23 would be adversely affected by the impact of high inflation on the cost of and demand for FC Products;
 - (b) it was likely that the financial performance and financial results of James Hardie's NA Business in FY23 would be adversely affected by the impact of interest rates on demand for FC Products;
 - (c) it was likely that the financial performance and financial results of James Hardie's NA Business in FY23 would be adversely affected by the end of the Temporary FC Product Demand Conditions;
 - (d) it was unlikely that James Hardie's NA Business would achieve net sales or earnings growth rates in FY23 in the order conveyed by the Revised FY23 Guidance; and
 - (e) it was unlikely (given the likely performance of the NA Business in FY23) that James Hardie would achieve EBIT and ANI growth rates in FY23 in the order conveyed by the Revised FY23 Guidance,
- ((a) to (d) each being the **August Information**).
100. Further, or alternatively, by 16 August 2022, by reason of the matters in paragraphs 73 to 99 above, James Hardie's market share and position in the NA Market for FC Products was not likely to support net sales or earnings growth rates in FY23 in the order conveyed by the Revised FY23 Guidance (**Additional August Information**).

I JAMES HARDIE'S MAINTENANCE AND REAFFIRMATION OF THE REVISED FY23 GUIDANCE BETWEEN 16 AUGUST 2022 AND 8 NOVEMBER 2022

I.1 Maintenance of Revised FY23 Guidance

101. Between 16 August 2022 and 8 November 2022, when the November Publications were released, James Hardie did not say anything to modify, qualify or contradict any of the Revised FY23 Guidance Representations or Customer Backlog Representation.

PARTICULARS

James Hardie reaffirmed the Revised FY23 Guidance Representations and the Customer Backlog Representation, and paragraph 103 below is repeated.

102. By reason of the matters pleaded in paragraph 101, from 16 August 2022 to 8 November 2022 when the November Announcements were released, James Hardie continued to make each of the Revised Guidance Basis and Reliability Representations.

I.2 12 September 2022 – Reaffirmation of Revised FY23 Guidance

103. On 12 September 2022 (**Investor Day 1**) and 13 September 2022, James Hardie held investor day sessions in New York, with the relevant presentations released to the market after ASX close of trade on 12 and 13 September respectively.
104. On Investor Day 1, James Hardie:
- (a) reaffirmed the August FY23 Guidance, including the Net Sales Growth and EBIT Margin for the North America Division;
 - (b) stated that the North America operations were “built for growth”, including that it was expected that there would be a 10 year volume Compound Annual Growth Rate (**CAGR**) of 9%, 10 year New Sales CAGR of 12% and a 10 Year Adjusted EBIT CAGR of 16%;
 - (c) the North American division was now 65% “Repair & Remodel” and 35% “New Construction”; and
 - (d) the strong backlog of work in the US housing construction market remained and management were reasonably confident that the strong backlogs supported the FY23 outlook.

PARTICULARS

- (i) *Statement (a) was expressly made in the Investor Day 2022 Presentation Day 1, p 7.*
- (ii) *Statement (b) was expressly made in the Investor Day 2022 Presentation Day 1, p 44.*
- (iii) *Statement (c) was expressly made in the Investor Day 2022 Presentation Day 1, p 52.*
- (iv) *Statement (d) was expressly made at the Investor Day 1 presentation and published in UBS ‘James Hardie Industries: Investor Day – Key Takeaways 14 September 2022, p 1.*

J CORRECTIVE DISCLOSURE

J.1 8 November 2022 Announcements

105. On 8 November 2022, James Hardie:
- (a) published and released to the ASX an announcement entitled “James Hardie Industries Announces Second Quarter Fiscal Year 2023 Results” (the **8 November Publication**); and
 - (b) convened an earnings call (**November Earnings Call**), in a manner likely to bring things said during it to the attention of the market of investors and potential investors in JHX Shares,

(together, the **November Announcements**).

PARTICULARS

- (i) *The November earnings call was convened at 8:30am Australian Eastern Daylight Time.*
- (ii) *The participants on the November earnings call included Erter and Miele.*

106. On 8 November 2022, by the November Announcements, James Hardie stated that:

- (a) Adjusted FY2023 ANI Guidance Range had been revised downwards to a range of US\$650 million to US\$710 million (changed from the prior range of US\$730 million to US\$780 million) (the **Updated 2023 ANI**);
- (b) Global Net Sales increased by 10% to US\$997.6 million for 2Q23;
- (c) ANI increased by 13% to US\$175.8 million for 2Q23; and
- (d) It was announcing a new capital allocation framework, including US\$200 million share buyback.

PARTICULARS

Statements (a) to (d) were expressly made in the 2Q23 Results Pack, p 2.

107. As to reasons for James Hardie's revised guidance, James Hardie stated that:

- (a) the Updated 2023 ANI, changed from the prior range of US\$730 million to US\$780 million, due to a decline in volume expectations;
- (b) the Updated 2023 ANI was based on the challenging macro-economic conditions, and housing market uncertainty; and
- (c) for the North America division, Net Sales Growth was revised down to 13%+ (from 18%+) growth and the expected EBIT margin was revised down to 28% to 30% (previously 28% to 32%);
- (d) new home construction was down, with completions outstripping starts;
- (e) the builder backlog was less significant than expected, including due to a change in building practices, and that this was something that James Hardie ought to have identified sooner;
- (f) cancellations amongst the big builders were up; and
- (g) there was some destocking and inventory reduction amongst customers, but that the company believed that this phase was over,

PARTICULARS

- (i) *Statements (a) and (b) were expressly made in the 2Q23 Results Pack, p 4.*

- (ii) *Statement (c) was expressly made in the 2Q23 Results Pack, p 41.*
- (iii) *Statements (d) to (g) were expressly made by Erter in the November Earnings Call.*

(together the **Revised November FY23 Guidance**).

J.2 Price response following the November Announcements

108. Following the release of the November Announcements and the Revised November FY23 Guidance, the price of JHX Shares and JHX ADRs fell substantially.

PARTICULARS

- (i) *The price of JHX Shares fell on the ASX from a closing price of \$33.39 on 7 November 2022 to a closing price of \$28.16 on 10 November 2022, on a traded volume of over 10 million JHX Shares (being a decline of approximately 13.7% on 8 November 2022 and a further 2% over the subsequent two days);*
- (ii) *The price of JHX ADRs fell in a manner correlating to the falls in the price of JHX Shares.*

K WHAT JAMES HARDIE KNEW OR OUGHT TO HAVE KNOWN

K.1 February 2022 and the timing of the FY23 Guidance

109. As at February 2022, and by reason of matters raised above at paragraphs 43 to 47 above, James Hardie knew or ought to have known that the demand for James Hardie's FC Products in the NA Market was elevated only temporarily between November 2021 and the beginning of the Relevant Period vis-à-vis its competitors.

PARTICULARS

- (i) *"Competition in this market comes primarily from substitute products, such as natural wood or OSB, vinyl, stucco and brick. We believe we can continue to increase our market share from these competing products through targeted marketing programs designed to educate customers and homeowners on our brand and the performance, design and cost advantages of our products." FY21 Annual Report, p 45.*
- (ii) *James Hardie Officers, including Wiens, Miele and Gadd, ought reasonably to have come into possession of this knowledge by reference to their own statements about who their main competitors were, and that it would therefore be expected that the JHX officers tracked competitor market conditions as it impacted their business planning and financial position which the officers were responsible for managing, and in their position as officers they were uniquely able to assess the true impact of the market conditions on the Company's financial performance.*

- (iii) *Further particulars will be provided on completion of discovery and expert evidence.*

110. As at 7 February 2022, and by reason of matters pleaded in paragraphs 48 to 49 above, James Hardie knew or ought to have known that the US Federal Reserve was likely to increase interest rates for consecutive periods through FY23 to address increasing inflation.

PARTICULARS

- (i) *James Hardie Officers, including Wiens, Miele and Gadd, ought reasonably to have come into possession of this knowledge by reference to their own statements about the impact on James Hardie's business caused by economic conditions such as higher interest rates, and that it would therefore be expected that JHX officers tracked such economic conditions as it impacted their business planning and financial position which the officers were responsible for managing, and in their position as officers they were uniquely able to assess the true impact of the economic conditions such as higher interest rates on the Company's financial performance.*
- (ii) *The Plaintiff refers to and repeats particulars to paragraphs 48 to 49 above.*
- (iii) *Further particulars will be provided on completion of discovery and expert evidence.*

111. As at 7 February 2022 and at the time of the FY23 Guidance, James Hardie knew or ought to have known that an increase in interest rates in the US was likely to cause a decrease in demand in the US housing construction market for FC Products.

PARTICULARS

- (i) *"Our business is dependent on the residential and commercial constructions markets". "Any slowdown in the markets we serve would likely result in decreased demand for our products and cause us to experience decreased sales and operating income. In addition, deterioration or continued weaknesses in general economic conditions, such as higher interest rates... could have a material adverse effect on our financial position, liquidity, results of operations and cash flows." FY21 Annual Report, p 194.*
- (ii) *The Plaintiff refers to and repeats particulars to paragraphs 50 to 52 above.*
- (iii) *The Plaintiff refers to and repeats the particulars to paragraph 110 above.*
- (iv) *Further particulars will be provided on completion of discovery and expert evidence.*

112. As at 7 February 2022 and at the time of the FY23 Guidance, James Hardie knew or ought to have known that a decrease in demand that superseded any increase in price

received for FC Products due to increased prices (higher inflation) was likely to have an adverse impact on the revenue growth experienced by the North American division, and therefore the James Hardie Group.

PARTICULARS

- (i) *The North American division of James Hardie accounted for approximately 76% of the total Group in terms of Adjusted EBIT percentage of total James Hardie Group: FY22 Annual Report, p 17.*
- (ii) *James Hardie Officers, including Wiens, Miele and Gadd, ought reasonably to have come into possession of this knowledge by reference to their own statements about the importance and size of the NA Market vis-à-vis the James Hardie Group, and that it would therefore be expected that JHX officers tracked the impact of decreased demand on revenue as it impacted their business planning and financial position which the officers were responsible for managing and in their position as officers they were uniquely able to assess the true impact of decreased demand on the Company's financial performance.*
- (iii) *Further particulars will be provided on completion of discovery and expert evidence.*

113. As at 7 February 2022 and at the time of the FY23 Guidance, James Hardie knew or ought to have known the February Information and the Additional February Information by reason of matters pleaded above at paragraphs 50 to 58.

PARTICULARS

- (i) *James Hardie Officers, at least Wiens, Miele and Gadd, ought reasonably to have come into possession of this knowledge as it may be reasonably inferred from the existence of the information identified above (i.e. the inflation and interest rate increase information).*
- (ii) *The Plaintiff refers to and repeats particulars to paragraphs 50 to 58.*
- (iii) *Further particulars will be provided on completion of discovery and expert evidence.*

K.2 Between February and May 2022 and the Reaffirmed FY23 Guidance

114. By reason of matters pleaded at paragraph 80 above, by no later than 16 March 2022, James Hardie knew or ought to have known that high inflation and increases in interest rates:
- (a) were likely to increase the cost of building and construction materials;
 - (b) were likely to dampen the demand for R&R Sector and new construction in the US residential housing construction market; and

- (c) were likely to adversely impact James Hardie's ANI, Net Sales Growth and EBIT Margin.

PARTICULARS

- (i) *"Our business is dependent on the residential and commercial constructions markets". "Any slowdown in the markets we serve would likely result in decreased demand for our products and cause us to experience decreased sales and operating income. In addition, deterioration or continued weaknesses in general economic conditions, such as higher interest rates... could have a material adverse effect on our financial position, liquidity, results of operations and cash flows." FY21 Annual Report, p 194*
- (ii) *James Hardie Officers, including Wiens, Miele and Gadd, ought reasonably to have come into possession of this knowledge by reference to their own statements about the impact on James Hardie's business caused by economic conditions such as higher interest rates and inflation, and that it would therefore be expected that JHX officers tracked such economic conditions as it impacted their business planning and financial position which the officers were responsible for managing, and in their position as officers they were uniquely able to assess the true impact of the economic conditions including higher interest rates and inflation on the Company's financial performance.*
- (iii) *The Plaintiff refers to and repeats matters stated above in paragraphs 50 to 58 and the particulars referred to therein.*
- (iv) *Further particulars will be provided on completion of discovery and expert evidence.*

115. On and from 4 May 2022, when the US Federal Reserve made the May US Interest Rate Rise Statements, James Hardie knew or ought to have known that further interest rates were likely.

PARTICULARS

- (i) *The Plaintiff repeats paragraph 114 above and says further that the likelihood of further interest rates increases was clear from the US Federal Reserve announcements.*
- (ii) *Further particulars will be provided on completion of discovery and expert evidence.*

116. By reason of matters pleaded at paragraph 115 above, by no later than 17 May 2022, James Hardie knew or ought to have known that any further increase in interest rates or inflation:

- (a) was likely to increase the cost of building and construction materials;
- (b) was likely to dampen the demand for R&R Sector and new construction in the US residential housing construction market; and

- (c) was likely to adversely impact James Hardie's ANI, Net Sales Growth and EBIT Margin.

PARTICULARS

- (i) *The Plaintiff repeats particulars to paragraph 115*
- (ii) *Further particulars will be provided on completion of discovery and expert evidence.*

117. At all material times on and from 17 May 2022, an increase in inflation and increased interest rates caused a decline in the volume of new construction builds and R&R Sector projects in the US.

PARTICULARS

- (i) *The Plaintiff repeats paragraphs 84 to 89 above.*
- (ii) *Further particulars will be provided on completion of discovery and expert evidence.*

118. By no later than 17 May 2022, James Hardie knew or ought to have known that there was decline in the volume of new construction and R&R Sector builds, due to its awareness of the inflation increases and interest rate increases as pleaded above at paragraphs 115 to 117.

PARTICULARS

- (i) *The Plaintiff repeats matters pleaded above at paragraphs 77 and 84 to 89 above.*
- (ii) *Further particulars will be provided on completion of discovery and expert evidence.*

119. At all material times from 17 May 2022, James Hardie knew or ought to have known that a downturn in the housing market would cause:

- (a) A decrease in the volume of sales that James Hardie could expect to achieve in the North American division for FY23;
- (b) An adverse impact on the revenue growth experienced by the Group, as pleaded above at paragraph 89; and
- (c) An adverse impact on James Hardie's ANI, Net Sales Growth and EBIT Margin, as pleaded in paragraph 89 above.

PARTICULARS

- (i) *The Plaintiff repeat the particulars to paragraphs 50 to 58 above.*
- (ii) *Further particulars will be provided on completion of discovery and expert evidence.*

120. By reason of the matters pleaded at paragraphs 70 and 90 above, by no later than 17 May 2022, James Hardie knew or ought to have known that it was overstating its level of customer backlog orders in the US.

PARTICULARS

- (i) *The Plaintiff repeats paragraphs 70 and 90 above.*
- (ii) *James Hardie Officers, including Wiens, Miele and Gadd, ought reasonably to have come into possession of this knowledge by reference to their own statements about the extent of the customer backlogs and pipeline of work that James Hardie had, and that it would therefore be expected that JHX officers tracked such information and changes in that information as it impacted their business planning and financial position which the officers were responsible for managing.*
- (iii) *Further particulars will be provided on completion of discovery and expert evidence.*

121. As at 17 May 2022 and at the time of the Reaffirmed FY23 Guidance, James Hardie knew or ought to have known the May Information and the Additional May Information.

PARTICULARS

- (i) *The Plaintiff refers to and repeats particulars to paragraphs 50 to 58.*
- (ii) *Further particulars will be provided on completion of discovery and expert evidence.*

K.3 August 2022 and the Revised FY23 Guidance

122. By reason of matters pleaded at paragraph 82 above, by no later than 15 June 2022, James Hardie knew or ought to have known that any further increase in interest rates or inflation:

- (a) was likely to increase the cost of building and construction materials;
- (b) was likely to dampen the demand for R&R Sector and new construction in the US residential housing construction market; and
- (c) was likely to adversely impact James Hardie's ANI, Net Sales Growth and EBIT Margin.

PARTICULARS

- (i) *The Plaintiff repeats particulars to paragraph 116.*
- (ii) *Further particulars will be provided on completion of discovery and expert evidence.*

123. At all material times on and from 27 July 2022, when the US Federal Reserve made the July US Interest Rate Rise Statements, James Hardie knew or ought to have known that further interest rates were likely.

PARTICULARS

The Plaintiff repeats paragraph 83 above and says further that the likelihood of further interest rates increases was clear from the US Federal Reserve announcements.

124. By reason of matters pleaded at paragraph 123 above, by no later than 27 July 2022, James Hardie knew or ought to have known that any further increase in interest rates or inflation:
- (a) was likely to increase the cost of building and construction materials;
 - (b) was likely to dampen the demand for R&R Sector and new construction in the US residential housing construction market; and
 - (c) was likely to adversely impact James Hardie's ANI, Net Sales Growth and EBIT Margin.

PARTICULARS

- (i) *The Plaintiff repeats particulars to paragraph 116.*
- (ii) *Further particulars will be provided on completion of discovery and expert evidence.*

125. As at 16 August 2022 and at the time of the Revised FY23 Guidance, James Hardie knew or ought to have known the August Information and the Additional August Information by reason of matters pleaded above at paragraphs 73 to 92, 98 to 100.

PARTICULARS

- (i) *The Plaintiff refers to and repeats particulars to paragraphs 73 to 92, 98 to 100.*
- (ii) *James Hardie Officers, including Wiens, Miele and Gadd, ought reasonably to have come into possession of this knowledge by reference to their own statements about the impact on James Hardie's business caused by economic conditions such as higher interest rates and inflation, as well as the impact of changes in demand for FC Products vis-à-vis their competitors' products, and that it would therefore be expected that JHX officers tracked such information as it impacted their business planning and financial position which the officers were responsible for managing.*
- (iii) *Further particulars will be provided on completion of discovery and expert evidence.*

126. Further, on or around 16 August 2022, James Hardie knew or ought to have known that James Hardie continued to overstate the customer backlog levels and therefore was aware of the Customer Backlog Information.

PARTICULARS

- (i) *The Plaintiff refers to and repeats particulars to paragraphs 90.*

- (ii) *James Hardie Officers, including Wiens, Miele and Gadd, ought reasonably to have come into possession of this knowledge by reference to their own statements about the extent of the customer backlogs and pipeline of work that James Hardie had, and that it would therefore be expected that JHX officers tracked such information and changes in that information as it impacted their business planning and financial position which the officers were responsible for managing.*
- (iii) *Further particulars will be provided on completion of discovery and expert evidence.*

L CONTINUOUS DISCLOSURE CONTRAVENTIONS

L.1 James Hardie's awareness of the information

127. Each of:

- (a) the February Information;
- (b) the Additional February Information;
- (c) the May Information;
- (d) the Additional May Information;
- (e) the Customer Backlog Information;
- (f) the August Information; and
- (g) the Additional August Information,

(each being **Material Information**), was information of which James Hardie was aware within the meaning of ASX Listing Rule 19.12.

PARTICULARS

- (i) *The Plaintiff refers to and repeats paragraphs 109 to 126 and the particulars referred to therein.*
- (ii) *Further particulars will be provided on completion of discovery and expert evidence.*

L.2 Material information not generally available

128. Each item of the Material Information was information that, until 8 November 2022, was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and

129. Each item of the Material Information was information that a reasonable person would expect, if it were generally available, to have a material effect on the price or value of JHX Shares within the meaning of s 674(2)(c)(ii) of the Corporations Act.

PARTICULARS

The information was not generally available because James Hardie had made express statements to investors to the effect that it was insulated from the impact of the pleaded market conditions, and information about the impact of the pleaded market conditions on James Hardie's current and future financial performance was not generally available.

130. James Hardie was negligent with respect to whether each item of the Material Information would have a material effect on the price or value of the JHX Shares within the meaning of s 674A(2)(d) of the Corporations Act.

PARTICULARS

- (i) *From time to time throughout the Relevant Period and by no later than 12 September 2022, James Hardie had made the statements pleaded in Parts C.2, E.2, G.2 and I.2 above.*
- (ii) *Each of the statements set out in (i) above was published in a manner likely to bring what was said in those statements to the attention of the Affected Market.*
- (iii) *By reason of (ii) above, the contents of those statements in (i) above were objectively likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares.*
- (iv) *During the Relevant Period, the true position was as pleaded in Part K but was not known to the Affected Market.*
- (v) *Had the true position referred to in (iv) above been revealed to the Affected Market, this would have qualified or contradicted some or all of the statements set out in (i) above, and JHX (and its directors and officers) acting reasonably would have considered that such qualification or contradiction was objectively likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares.*
- (vi) *James Hardie's directors and officers knew that it made the statements set out in (i) above, that they had been made to the Affected Market as set out in (ii) above and having regard to their inherent nature knew or ought reasonably to have known that the contents of those statements were objectively likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares, as set out in (iii) above.*
- (vii) *During the Relevant Period, some of James Hardie's directors and officers had actual knowledge of the matter particulars in (iv) above.*
- (viii) *Having regard to (iv) above, James Hardie's directors and officers who had the actual knowledge as set out in (vii) above failed to:*

- a. *consider whether their actual knowledge qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made; and*
 - b. *communicate their actual knowledge to all James Hardie directors and officers (and those persons with responsibility for James Hardie's compliance with ASX Listing Rule 3.1) so that James Hardie could properly consider whether the actual knowledge qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made.*
- (ix) *Alternatively, having regard to (vi) above, James Hardie failed to ensure that its systems involved processes to ensure that those James Hardie directors and officers who had actual knowledge as set out in (vii) above:*
 - a. *considered whether their actual knowledge qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made; and*
 - b. *communicated their knowledge to all James Hardie directors and officers (and those persons with responsibility for monitoring James Hardie's compliance with ASX Listing Rule 3.1) so that James Hardie could properly consider whether their actual knowledge qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made.*
- (x) *Alternatively, having regard to (iv) above, James Hardie's directors and officers who did not have actual knowledge as set out in (vii) above failed to obtain that information which they ought to have obtained in the course of their duties and:*
 - a. *consider whether it qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made; and*

- b. *communicate it to all James Hardie directors and officers (and those persons with responsibility for monitoring James Hardie's compliance with ASX Listing Rule 3.1) so that James Hardie could properly consider whether it qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made.*
- (xi) *Alternatively, having regard to (vi) above, James Hardie failed to ensure that its systems involved processes to ensure that those James Hardie directors and officers who did not have actual knowledge as set out in (vii) above obtained that information which they ought to have obtained in the course of their duties and:*
 - a. *considered whether their knowledge so obtained qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made; and*
 - b. *communicated their knowledge so obtained to all James Hardie directors and officers (and those persons with responsibility for monitoring James Hardie's compliance with ASX Listing Rule 3.1) so that James Hardie could properly consider whether their actual knowledge qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made.*
- (xii) *Further particulars will be provided on completion of discovery and expert evidence.*

L.3 Contravention of Listing Rules

- 131. By reason of the matters pleaded in paragraphs 127 to 130, pursuant to ASX Listing Rule 3.1, James Hardie became obliged to tell the ASX the Material Information on and from the date that James Hardie had, or obtained that information.
- 132. James Hardie did not communicate any of the Material Information to the ASX before 8 November 2022.
- 133. In the circumstances set out in paragraphs 128 to 132, James Hardie contravened subsections 674(2) and 674A(2) of the Corporations Act (**Continuous Disclosure Contraventions**).

M MISLEADING OR DECEPTIVE CONDUCT AND MATERIALLY MISLEADING STATEMENTS

M.1 Misleading Conduct Contraventions from 8 February 2022

134. The making of each of the FY23 Guidance Representations and the February Implied Representations was conduct engaged in by James Hardie:
- (a) in trade or commerce; and
 - (b) in relation to JHX Shares.
135. As at and from 7 February 2022, James Hardie did not have reasonable grounds for making the FY23 Guidance Representations, by reason of the circumstances set out in paragraphs 43 to 60 and 109 to 114.

PARTICULARS

- (i) *Each of the FY23 Guidance Representations was a representation as to future matters, and s 12BB of the ASIC Act, s 769C of the Corporations Act and/or s 4 of the Australian Consumer Law are relied upon.*
136. As at and from 7 February 2022, by making and/or failing to correct or qualify each of the FY23 Guidance Representations, in the circumstances set out in paragraphs 43 to 60 and 109 to 114; James Hardie engaged in conduct which was misleading or deceptive or was likely to mislead or deceive.
137. As at and from 7 February 2022, James Hardie did not have reasonable grounds for making and maintaining the February Implied Representations, by reason of, in the case of:
- (a) the Guidance Reliability Representations, the circumstances set out in paragraphs 43 to 60 and 109 to 114 and 136; and
 - (b) the No Material Risk Representation, the circumstances set out in paragraphs 128 to 133.
138. By making and/or failing to correct or qualify each of:
- (a) the Guidance Reliability Representations; and
 - (b) the No Material Risk Representation,
- James Hardie engaged in conduct which was misleading or deceptive or was likely to mislead or deceive.
139. By reason of the matters pleaded in:
- (a) paragraph 136, in relation to the FY23 Guidance Representations;

- (b) paragraph 138, in relation to the February Implied Representations,

James Hardie contravened section 1041H of the Corporations Act and/or s 12DA of the ASIC Act and/or s 18 of the Australian Consumer Law (each a **Misleading Conduct Contravention**).

M.2 Misleading Statements Contraventions from 8 February 2022

140. By reason of the matters pleaded in paragraphs 43 to 60 and 109 to 114 and 136, each of the FY23 Guidance Representations was materially misleading.
141. By reason of the matters pleaded in paragraphs 43 to 60 and 109 to 114 and 138, each of the February Implied Representations was materially misleading.
142. Each of the FY23 Guidance Representations and February Implied Representations was likely:
- (a) to induce persons in this jurisdiction to dispose of or acquire JHX Shares; and/or
 - (b) to have the effect of increasing, reducing, maintaining or stabilising the price for trading in JHX Shares.
143. Each of the FY23 Guidance Representations and February Implied Representations was made by James Hardie when James Hardie ought reasonably to have known that the representation was materially misleading, in the case of:
- (a) the FY23 Guidance Representations being the circumstances set out in paragraphs 43 to 60 and 109 to 114;
 - (b) the February Implied Representations being the:
 - (i) Guidance Reliability Representations, the circumstances set out in paragraphs 43 to 60 and 109 to 114 ; and
 - (ii) No Material Risk Representation, the circumstances set out in paragraphs 127 to 133.

PARTICULARS

- (i) *The Plaintiff refers to and repeats matters stated above in paragraphs 43 to 60, 109 to 114, 127 to 133 and the particulars referred to therein.*
 - (ii) *Further particulars will be provided on completion of discovery and expert evidence.*
144. By reason of the matters pleaded in:
- (a) paragraphs 140, 142 and 143(a) by making each of the FY23 Guidance Representations; and

- (b) paragraphs 141, 142 and 143(b) by making each of the February Implied Representations,

James Hardie contravened section 1041E of the Corporations Act (each a **Misleading Statements Contravention**).

M.3 Misleading Conduct Contraventions from 17 May 2022

- 145. The making of each of the Reaffirmed FY23 Guidance Representations (including the repetition of the FY23 Guidance Representations) and May Implied Representations was conduct engaged in by James Hardie:
 - (a) in trade or commerce; and
 - (b) in relation to JHX Shares.
- 146. As at and from 17 May 2022, James Hardie did not have reasonable grounds for making and maintaining the Reaffirmed FY23 Guidance Representations in the circumstances set out in paragraphs 73 to 8392, 115 to 121 and 134 to 136.

PARTICULARS

Each of the Reaffirmed FY23 Guidance Representations was a representation as to a future matter, and s 12BB of the ASIC Act, s 769C of the Corporations Act and/or s 4 of the Australian Consumer Law are relied upon.

- 147. As at and from 17 May 2022, by making and/or failing to correct or qualify each of the Reaffirmed FY23 Guidance Representations in the circumstances set out in paragraphs 73 to 8392, 115 to 121 and 134 to 136, James Hardie engaged in conduct which was misleading or deceptive or was likely to mislead or deceive.
- 148. As at and from 17 May 2022, James Hardie did not have reasonable grounds for making and maintaining the May Implied Representations, by reason of, in the case of:
 - (a) the Reaffirmed FY23 Guidance Basis Representations, the circumstances set out in paragraphs 73 to 8392, 115 to 121, 134 to 136 and 147;
 - (b) the Reaffirmed Guidance Reliability Representation, the circumstances set out in paragraphs 73 to 8392, 115 to 121, 134 to 136 and 147; and
 - (c) the Reaffirmed No Material Risk Representation, the circumstances set out in paragraphs 127 to 133.
- 149. By making and/or failing to correct or qualify each of:
 - (a) the Reaffirmed FY23 Guidance Basis Representations;
 - (b) the Reaffirmed Guidance Reliability Representation; and
 - (c) the Reaffirmed No Material Risk Representation,

James Hardie engaged in conduct which was misleading or deceptive or was likely to mislead or deceive.

150. By reason of the matters pleaded in:

- (a) paragraph 147, in relation to the Reaffirmed FY23 Guidance Representations;
- (b) paragraph 149, in relation to the May Implied Representations;

James Hardie engaged in Misleading Conduct Contraventions.

M.4 Misleading Statements Contraventions from 17 May 2022

151. By reason of the matters pleaded in paragraphs 73 to 92, 115 to 121, 134 to 136, 147 and 148, each of the Reaffirmed FY23 Guidance Representations was materially misleading.

152. By reason of the matters pleaded in paragraphs 73 to 92, 115 to 121, 134 to 136, 147 to 149, each of the May Implied Representations was materially misleading.

153. Each of the Reaffirmed FY23 Guidance Representations and May Implied Representations was likely:

- (a) to induce persons in this jurisdiction to dispose of or acquire JHX Shares; and/or
- (b) to have the effect of increasing, reducing, maintaining or stabilising the price for trading in JHX Shares.

154. Each of the Reaffirmed FY23 Guidance Representations and May Implied Representations was made by James Hardie when James Hardie ought reasonably to have known that the representation was materially misleading, in the case of:

- (a) the Reaffirmed FY23 Guidance Representations being the circumstances set out in paragraphs 73 to 92, 115 to 121, 134 to 136 and 147;
- (b) the May Implied Representations being the:
 - (i) Reaffirmed FY23 Guidance Basis Representations, the circumstances set out in paragraphs 73 to 92, 115 to 121, 134 to 136 and 147;
 - (ii) Reaffirmed Guidance Reliability Representation, the circumstances set out in paragraphs 73 to 92, 115 to 121, 134 to 136 and 147; and
 - (iii) Reaffirmed No Material Risk Representation, the circumstances set out in paragraphs 127 to 133.

PARTICULARS

- (i) *The Plaintiff refers to and repeats matters stated above in paragraphs 73 to 92, 115 to 121, 127 to 136 and the particulars referred to therein.*

- (ii) *Further particulars will be provided on completion of discovery and expert evidence.*

155. By reason of the matters pleaded in:

- (a) paragraphs 151, 153 and 154(a), by making each of the Reaffirmed FY23 Guidance Representations; and
- (b) paragraph 152, 153 and 154(b), by making each of the May Implied Representations,

James Hardie engaged in Misleading Statements Contraventions.

M.5 Misleading Conduct Contraventions from 16 August 2022

156. The making of each of the Revised FY23 Guidance Representations and the August Implied Representations was conduct engaged in by James Hardie:

- (a) in trade or commerce; and
- (b) in relation to JHX Shares.

157. As at and from 16 August 2022, James Hardie did not have reasonable grounds for making the Revised FY23 Guidance Representations, by reason of the matters pleaded in paragraphs 98 to 100, 122 to 126, 134 to 136 and 145 to 148.

PARTICULARS

Each of the Revised FY23 Guidance Representations was a representation as to future matters, and s 12BB of the ASIC Act, s 769C of the Corporations Act and/or s 4 of the Australian Consumer Law are relied upon.

158. As at and from 16 August 2022, by making and/or failing to correct or qualify each of the Revised FY23 Guidance Representations, by reason of the matters pleaded in paragraphs 98 to 100, 122 to 126, 134 to 136, 145 to 148 and 157 above, James Hardie engaged in conduct which was misleading or deceptive or was likely to mislead or deceive.

159. As at and from 16 August 2022, James Hardie did not have reasonable grounds for making the August Implied Representations, by reason of, in the case of:

- (a) the Revised Guidance Basis Representations, the circumstances set out in paragraphs 98 to 100, 122 to 126, 134 to 136, 145 to 148, 157 to 158;
- (b) the Revised Guidance Reliability Representation, the circumstances set out in paragraphs 98 to 100, 122 to 126, 134 to 136, 145 to 148, 157 to 158; and
- (c) the Revised No Material Risk Representation, the circumstances set out in paragraphs 127 to 133.

160. By making and/or failing to correct or qualify each of:

- (a) the Revised Guidance Basis Representations;
- (b) the Revised Guidance Reliability Representation; and
- (c) the Revised No Material Risk Representation,

James Hardie engaged in conduct which was misleading or deceptive or was likely to mislead or deceive.

161. By reason of the matters pleaded in:

- (a) paragraph 158, in relation to the Revised FY23 Guidance Representations;
- (b) paragraph 160, in relation to the August Implied Representations,

James Hardie engaged in Misleading Conduct Contraventions.

M.6 Misleading Statements Contraventions from 16 August 2022

162. By reason of the matters pleaded in paragraphs 98 to 100, 122 to 126, 134 to 136, 145 to 148 and 157, each of the Revised FY23 Guidance Representations was materially misleading.

163. By reason of the matters pleaded in 98 to 100, 122 to 126, 134 to 136, 145 to 148, 157 to 159, each of the August Implied Representations was materially misleading.

164. Each of the Revised FY23 Guidance Representations and the August Implied Representations was likely:

- (a) to induce persons in this jurisdiction to dispose of or acquire JHX Shares; and/or
- (b) to have the effect of increasing, reducing, maintaining or stabilising the price for trading in JHX Shares.

165. Each of the Revised FY23 Guidance Representations and the August Implied Representations was made by James Hardie when James Hardie ought reasonably to have known that the representation was materially misleading, in the case of:

- (a) the Revised FY23 Guidance Representations, in the circumstances set out in paragraphs 98 to 100, 122 to 126, 134 to 136, 145 to 148, 155(a) and 157;
- (b) the August Implied Representations being the:
 - (i) the Revised Guidance Basis Representations, the circumstances set out in paragraphs 98 to 100, 122 to 126, 134 to 136, 145 to 148, 155(b), 157 to 161;
 - (ii) the Revised Guidance Reliability Representation, the circumstances set out in paragraphs 98 to 100, 122 to 126, 134 to 136, 145 to 148, 155(b), 157 to 161; and

- (iii) the Revised No Material Risk Representation, the circumstances set out in paragraphs 127 to 133,

PARTICULARS

- (i) *The Plaintiff refers to and repeats matters stated above in paragraphs 98 to 100, 122 to 136, 145 to 148 and the particulars referred to therein.*
- (ii) *Further particulars will be provided on completion of discovery and expert evidence.*

166. By reason of the matters pleaded in:

- (a) paragraph 162, 164 and 165(a), by making each of the Revised FY23 Guidance Representations; and
- (b) paragraph 163, 164 and 165(b), by making each of the August Implied Representations,

James Hardie engaged in Misleading Statements Contraventions.

N CONTRAVENING CONDUCT CAUSED GROUP MEMBERS' LOSS

N.1 Acquisition of JHX Shares

167. During the Relevant Period, the Plaintiff and the Group Members acquired interests in JHX Shares, JHX ADRs or JHX Equity Swaps.

PARTICULARS

- (i) *Paragraph 2 is repeated.*
- (ii) *Particulars of acquisitions by Group Members will be provided after the trial of the Plaintiff's claim.*

N.2 Market-based causation

168. The Plaintiff and the Group Members acquired their interests in JHX Shares in a market of investors or potential investors in JHX Shares:

- (a) operated by the ASX;
- (b) regulated by, inter alia, the ASX Listing Rules and sections 674(2) and 674A(2) of the Corporations Act;
- (c) where James Hardie had the obligations pleaded in paragraphs 16 to 18;
- (d) where the price or value of JHX Shares would reasonably be expected to have been informed or affected by information disclosed in accordance with the ASX Listing Rules and sections 674(2) and 674A(2) of the Corporations Act;

- (e) where:
- (i) material information had not been disclosed, which a reasonable person would expect, had it been disclosed, would have had a material effect on the price or value of JHX Shares (namely the Material Information);
 - (ii) misleading or deceptive conduct had been engaged in (namely the conduct the subject of the Misleading Conduct Contraventions and/or Misleading Statements Contraventions) that a reasonable person would expect to have a material effect on the price or value of JHX Shares, in that if they had not been made no investors or potential investors in JHX Shares would have been in a position to read or rely upon them.
169. During the Relevant Period, the market for JHX ADRs was a market that traded on the basis that the market for JHX Shares had the features pleaded in paragraph 168 above.
170. During the Relevant Period, the market for JHX Equity Swaps was a market that traded on the basis that the market for JHX Shares had the features pleaded in paragraph 168 above.
171. By reason of the matters pleaded at 168 above, at all times during the Relevant Period when Group Members who entered into JHX Equity Swaps entered into such JHX Equity Swaps, they did so at a time when:
- (a) the market price for JHX Shares was substantially greater than:
 - (i) their true value; and/or
 - (ii) the market price that would have prevailed but for the Market Contraventions;
 - (b) the JHX Equity Swaps had been defined by reference to the price of JHX Shares which had the features described at sub-paragraph (a);
 - (c) by reason of the matters pleaded in sub-paragraphs (a) and (b), the value of the future cashflows to be received by the equity amount receiver pursuant to the JHX Equity Swaps by reference to the performance of JHX Shares was diminished and/or the value of the cashflows to be paid by the equity amount received in return was inflated.

PARTICULARS

Particulars will be provided prior to the trial of the individual claims of Group Members following the determination of the common questions.

172. In the Relevant Period, the Continuous Disclosure Contraventions and/or the Misleading Conduct Contraventions and/or the Misleading Statements Contraventions (and each of them) (**Market Contraventions**) caused the market price of JHX Shares to be, or materially contributed to the market price of JHX Shares being, substantially greater than:

- (a) their true value; and/or
 - (b) the market price that would have prevailed but for the Market Contraventions,
- from the respective dates that those Market Contraventions commenced, as pleaded in this Statement of Claim.

PARTICULARS

Particulars will be provided at the time of service of the Plaintiff's evidence in chief.

173. The declines in the price of JHX Shares pleaded in Part J.2 above was caused or materially contributed to by:
- (a) the market's reaction to the information released to the ASX in the 16 August 2022 Announcement; and
 - (b) the Market Contraventions.

PARTICULARS

Particulars will be provided at the time of service of the Plaintiff's evidence in chief.

174. Further, or alternatively, if James Hardie had:
- (a) disclosed to the market the Material Information at any time in the Relevant Period; and/or
 - (b) not engaged in the conduct the subject of the Misleading Conduct Contraventions and/or Misleading Statements Contraventions,
- the price of JHX Shares would have fallen substantially.

PARTICULARS

Particulars will be provided at the time of service of the Plaintiff's evidence in chief.

N.3 Reliance

175. Further, or in the alternative, in the decision to acquire JHX Securities:
- (a) the Plaintiff and some Group Members would not have acquired JHX Shares and/or JHX ADRs, or entered into JHX Equity Swaps, at the prices and in the volumes they were acquired, if the Material Information had been disclosed to them and/or the ASX, the non-disclosure of which for the reasons pleaded in paragraphs 128 to 133 constituted contravening conduct;
 - (b) the Plaintiff and some Group Members acquired JHX Shares and/or JHX ADRs at the prices and in the volumes they were acquired in reliance upon some or all

of the following representations (and/or James Hardie not having corrected or qualified such representations):

- (i) the FY23 Guidance Representations (or any of them);
- (ii) the February Implied Representations (or any of them),

which, for the reasons pleaded in paragraphs 134 to 144 constituted contravening conduct.

- (c) the Plaintiff and some Group Members acquired JHX Shares and/or JHX ADRs at the prices and in the volumes they were acquired in reliance upon some or all of the following representations (and/or James Hardie not having corrected or qualified such representations):

- (i) the Reaffirmed FY23 Guidance Representations (or any of them);
- (ii) the May Implied Representations (or any of them),

which, for the reasons pleaded in paragraphs 145 to 155 constituted contravening conduct.

- (d) the Plaintiff and some Group Members acquired JHX Shares at the prices and in the volumes they were acquired in reliance upon some or all of the following representations (and/or James Hardie not having corrected or qualified such representations):

- (i) the Revised FY23 Guidance Representations (or any of them);
- (ii) the August Implied Representations (or any of them),

which, for the reasons pleaded in paragraphs 156 to 166 constituted contravening conduct.

PARTICULARS

- (i) *The Plaintiff would not have acquired JHX Shares at the price and volume referred to in paragraphs 2 and 167 had the Material Information been disclosed to the ASX and the fact that they were not corrected or qualified prior to the Plaintiff acquiring JHX Shares.*
- (ii) *The identity of all those Group Members which or who relied directly on any or all of the representations referred to in sub-paragraph (b) are not known with the current state of the Plaintiff's knowledge and cannot be ascertained unless and until those advising the Plaintiff take detailed instructions from all Group Members on individual issues relevant to the determination of those individual Group Members' claims. Those instructions will be obtained (and particulars of the identities of those Group Members will be provided) following opt-out, the determination of the Plaintiff's claim and identification of 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.

N.4 Loss and damage

176. The Plaintiff and the Group Members suffered loss and damage resulting from the Market Contraventions.

PARTICULARS

- (i) *The loss alleged in paragraph 176 is calculated by reference to:*
 - 1. *the difference between the price at which the Plaintiff and group members acquired an interest in the shares and the price that would have prevailed but for the Market Contraventions;*
 - 2. *alternatively, the price at which some group members acquired an interest in the shares, adjusted to deduct the true value of that interest at the time of the transaction;*
 - 3. *in addition to the loss in 1 and 2, the loss of the opportunity to achieve a reasonable rate of return on the monies used to purchase the interest in the shares.*
- (ii) *Further particulars will be provided at the time of service of the Plaintiff's expert evidence.*
- (iii) *Particulars of the losses of Group Members are not known with the current state of the Plaintiff's knowledge and cannot be ascertained unless and until those advising the Plaintiff take detailed instructions from all Group Members on individual issues relevant to the determination of those individual Group Member's claims; those instructions will be obtained (and particulars of the losses of those Group Members will be provided) following opt-out, the determination of the Plaintiff's claim 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.*

O COMMON QUESTIONS OF LAW OR FACT

1. When did James Hardie become aware (within the meaning of Listing Rule 19.12) of:
- (a) the February Information;
 - (b) the Additional February Information;
 - (c) the May Information;
 - (d) the Additional May Information;

- (e) the Customer Backlog Information;
- (f) the August Information; and
- (g) the Additional August Information?

2. Whether:

- (a) the February Information;
- (b) the Additional February Information;
- (c) the May Information;
- (d) the Additional May Information;
- (e) the Customer Backlog Information;
- (f) the August Information;
- (g) the Additional August Information,

was:

- (h) material information; and
- (i) not generally available,

within the meaning of ASX Listing Rule 3.1 or Chapter 6CA of the Corporations Act that James Hardie was obliged to disclose, but failed to disclose such that James Hardie contravened section 674(2) of the Corporations Act?

3. Whether James Hardie was negligent with respect to whether each item of the:

- (a) the February Information;
- (b) the Additional February Information;
- (c) the May Information;
- (d) the Additional May Information;
- (e) the Customer Backlog Information;
- (f) the August Information; and
- (g) the Additional August Information,

was material information and would have a material effect on the price or value of the JHX Shares within the meaning of s 674A(2)(d) of the Corporations Act?

4. Whether James Hardie contravened section 1041E of the Corporations Act or s 12DB(1) of the ASIC Act by making, maintaining and/or failing to qualify:

- (a) the FY23 Guidance Representations;
 - (b) the Reaffirmed FY23 Guidance Representations; and
 - (c) the Revised FY23 Guidance Representations?
5. Whether James Hardie contravened section 1041H of the Corporations Act or section 12DA(1) of the ASIC Act or s 18 of the ACL by making, maintaining and/or failing to qualify:
- (a) the FY23 Guidance Representations;
 - (b) the Reaffirmed FY23 Guidance Representations; and
 - (c) the Revised FY23 Guidance Representations?
6. Whether the Market Contraventions had the effect that the price of acquisition for JHX Shares was greater than their true value and/or the market price that would have prevailed but for the Market Contraventions and if so:
- (a) whether statutory compensation is recoverable by the Plaintiff and some or all of the Group Members?
 - (b) the correct measure of the statutory compensation for which James Hardie may be liable to the Plaintiff and some or all of the Group Members?
7. Whether any, and if so what, relief other than monetary relief should be granted in favour of the Plaintiff and some or all of the Group Members?

AND THE PLAINTIFF CLAIMS on their own behalf and on behalf of the Group Members:

- A. A declaration that the Defendant contravened ASX Listing Rule 3.1 and section 674(2) of the Corporations Act by not informing the ASX immediately of some or all of:
- (a) the February Information;
 - (b) the Additional February Information;
 - (c) the May Information;
 - (d) the Additional May Information;
 - (e) the Customer Backlog Information;
 - (f) the August Information;
 - (g) the Additional August Information; and
 - (h) any combination of two or more items of the information referred to in subparagraphs (a) to (g).

- B. An order pursuant to section 1317HA(1) of the Corporations Act that the Defendant pay compensation to the Plaintiff and Group Members for damage caused by its contraventions of section 674(2) of the Corporations Act.
- C. A declaration that the Defendant engaged in conduct in contravention of:
 - (a) section 1041E of the Corporations Act;
 - (b) section 1041H(1) of the Corporations Act;
 - (c) section 12DA(1) of the ASIC Act;
 - (d) section 12DB(1) of the ASIC Act; and
 - (e) section 18 of the ACL.
- D. An order pursuant to:
 - (a) section 1041I of the Corporations Act that the Defendant pay compensation to the Plaintiff and Group Members for damage caused by the conduct of the Defendant in contravention of sections 1041E and 1041H of the Corporations Act.
 - (b) section 12GF of the ASIC Act that the Defendant pay compensation to the Plaintiff and Group Members for damage caused by the conduct of the Defendant in contravention of sections 12DA(1) and 12DB(1) of the ASIC Act.
 - (c) section 236 of the ACL that the Defendant pay compensation to the Plaintiff and Group Members for damage caused by the conduct of the Defendant in contravention of section 18 of the ACL.
- E. Interest pursuant to statute.
- F. Costs.
- G. Such further or other order as the Court determines is appropriate.

Date: 8 May 2023



Signed by Mathew Chuk
Lawyer for the Plaintiff

This pleading was prepared by Sahrah Hogan of counsel, and settled by W.A.D. Edwards of Senior Counsel.

ANNEXURE A

Defined Terms

1Q20 Results Pack means the document published by the ASX at 7:30am AEST on 9 August 2019, containing a cover page summarising James Hardie’s financial results for the three months ended 30 June 2019 and including the following documents:

1. Media Release titled “James Hardie Industries Announces Adjusted Net Operating Profit of US\$90.2 million for Q1 Fiscal Year 2020” (pp 2-4);
2. Management’s Analysis of Results (pp 5-27);
3. Management Presentation (pp 28-76);
4. Condensed Consolidated Financial Statements (pp 77-103).

1Q21 Results Pack means the document published by the ASX at 7:30am AEST on 11 August 2020, containing a cover page summarising James Hardie’s financial results for the three months ended 30 June 2020 and including the following documents:

1. Media Release titled “James Hardie Announces First Quarter Fiscal Year 2021 Results” (pp 2-4);
2. Management’s Analysis of Results (pp 5-21);
3. Management Presentation (pp 22-53);
4. Condensed Consolidated Financial Statements (pp 54-70).

1Q22 Results Pack means the document published by the ASX at 7:30am AEST on 10 August 2021, containing a cover page summarising James Hardie’s financial results for the three months ended 30 June 2021 and including the following documents:

1. Media Release titled “James Hardie Industries Announces Record First Quarter Fiscal Year 2022 Results” (pp 2-7);
2. Management’s Analysis of Results (pp 8-23);
3. Management Presentation (pp 24-56);
4. Condensed Consolidated Financial Statements (pp 57-73).

1Q23 Results Pack means the document published by the ASX at 7:30am AEST on 16 August 2022, containing a cover page summarising James Hardie’s financial results for the three months ended 30 June 2022 and including the following documents:

1. Media Release titled “James Hardie Industries Announces First Quarter Fiscal Year 2023 Results” (pp 2-7);
2. Management’s Analysis of Results (pp 8-22);
3. Management Presentation (pp 23-61);

4. Condensed Consolidated Financial Statements (pp 62-77).

2Q20 Results Pack means the document published by the ASX at 7:30am AEDT on 7 November 2019, containing a cover page summarising James Hardie’s financial results for the six months ended 30 September 2019 and including the following documents:

1. Media Release titled “James Hardie Announces Adjusted Net Operating Profit of US\$98.6 million for Q2 Fiscal Year 2020 and US\$188.8 million for the half year ended 30 September 2019” (pp 2-4);
2. Management’s Analysis of Results (pp 5-27);
3. Management Presentation (pp 28-75);
4. Condensed Consolidated Financial Statements (pp 76-106)
5. Half-Yearly Directors’ Report.(pp 106-107)

2Q21 Results Pack means the document published by the ASX at 8:12am AEDT on 10 November 2020, containing a cover page summarising James Hardie’s financial results for the six months ended 30 September 2020 and including the following documents:

1. Media Release titled “James Hardie Industries Announces Record Second Quarter Fiscal Year 2021 Results” (pp 2-5);
2. Management’s Analysis of Results (pp 6-24);
3. Management Presentation (pp 25-56);
4. Condensed Consolidated Financial Statements (pp 57-75)

2Q22 Results Pack means the document published by the ASX at 8:08am AEDT on 9 November 2021, containing a cover page summarising James Hardie’s financial results for the six months ended 30 September 2021 and including the following documents:

1. Media Release titled “James Hardie Industries Announces Record Second Quarter Fiscal Year 2022 Results” (pp 2-8);
2. Management’s Analysis of Results (pp 9-26);
3. Management Presentation (pp 27-63);
4. Condensed Consolidated Financial Statements (pp 64-81)
5. Half-Yearly Directors’ Report (pp 82-83).

2Q23 Results Pack means the document published by the ASX at 7:30am AEDT on 8 November 2022, containing a cover page summarising James Hardie’s financial results for the six months ended 30 September 2022 and including the following documents:

1. Media Release titled “James Hardie Industries Announces Second Quarter Fiscal Year 2023 Results” (pp 2-7);

2. Management's Analysis of Results (pp 8-22);
3. Management Presentation (pp 23-61);
4. Condensed Consolidated Financial Statements (pp 62-74)
5. Half-Yearly Directors' Report (pp 75-76).

3Q12 Results Pack means the document published by the ASX at 8:55am AEDT on 28 February 2012, containing a coversheet summarising James Hardie's financial results for the nine months ended 31 December 2011 and including the following documents:

1. Media Release titled "3rd quarter net operating profit US\$27.7m Nine month net operating profit US\$108.3m" (pp 2-14);
2. Management's Analysis of Results (pp 15-36);
3. Management Presentation (pp 37-64);
4. Consolidated Financial Statements (pp 65-92).

3Q13 Results Pack means the document published by the ASX at 9:02am AEDT on 27 February 2013, containing a coversheet summarising James Hardie's financial results for the nine months ended 31 December 2012 and including the following documents:

5. Media Release titled "3rd quarter net operating profit US\$28.8m Nine month net operating profit US\$113.1m" (pp 2-14);
6. Management's Analysis of Results (pp 15-37);
7. Management Presentation (pp 38-65);
8. Condensed Consolidated Financial Statements (pp 66-94).

3Q14 Results Pack means the document published by the ASX at 8:57am AEDT on 28 February 2014, containing a coversheet summarising James Hardie's financial results for the nine months ended 31 December 2013 and including the following documents:

1. Media Release titled "3rd quarter net operating profit US\$43.7m Nine month net operating profit US\$152.0m" (pp 2-18);
2. Management's Analysis of Results (pp 19-43);
3. Management Presentation (pp 44-101);
4. Condensed Consolidated Financial Statements (pp 102-132).

3Q15 Results Pack means the document published by the ASX at 7:30am AEDT on 20 February 2015, containing a coversheet summarising James Hardie's financial results for the nine months ended 31 December 2014 and including the following documents:

1. Media Release titled “James Hardie announces Adjusted Net Operating Profit of US\$48.6 million for Q3 Fiscal 2015 and US\$164.1 million for the nine months ended 31 December 2014” (pp 2-4);
2. Management’s Analysis of Results (pp 5-26);
3. Management Presentation (pp 27-76);
4. Condensed Consolidated Financial Statements (pp 77-106).

3Q16 Results Pack means the document published by the ASX at 7:32am AEDT on 19 February 2016, containing a coversheet summarising James Hardie’s financial results for the nine months ended 31 December 2015 and including the following documents:

1. Media Release titled “James Hardie Announces Adjusted Net Operating Profit of US\$56.2 million for Q3 Fiscal 2016 and US\$185.0 million for the nine months ended 31 December 2015” (pp 2-4);
2. Management’s Analysis of Results (pp 5-26);
3. Management Presentation (pp 27-65);
4. Condensed Consolidated Financial Statements (pp 66-90).

3Q17 Results Pack means the document published by the ASX at 9:27am AEDT on 3 February 2017, containing a coversheet summarising James Hardie’s financial results for the nine months ended 31 December 2016 and including the following documents:

1. Media Release titled “James Hardie Announces Adjusted Net Operating Profit of US\$52.6 million for Q3 Fiscal Year 2017 and US\$194.0 million for the nine months ended 31 December 2016” (pp 2-5);
2. Management Presentation (pp 6-43);
3. Management’s Analysis of Results (pp 44-66);
4. Condensed Consolidated Financial Statements (pp 67-91).

3Q18 Results Pack means the document published by the ASX at 7:30am AEDT on 2 February 2018, containing a coversheet summarising James Hardie’s financial results for the nine months ended 31 December 2017 and including the following documents:

1. Media Release titled “James Hardie Announces Adjusted Net Operating Profit of US\$69.9 million for Q3 Fiscal Year 2018 and US\$205.5 million for the nine months ended 31 December 2017” (pp 2-4);
2. Management’s Analysis of Results (pp 5-25);
3. Management Presentation (pp 26-66);
4. Condensed Consolidated Financial Statements (pp 67-89).

3Q19 Results Pack means the document published by the ASX at 8:32am AEDT on 5 February 2019, containing a coversheet summarising James Hardie’s financial results for the nine months ended 31 December 2018 and including the following documents:

1. Media Release titled “James Hardie Announces Adjusted Net Operating Profit of US\$65.9 million for Q3 Fiscal Year 2019 and US\$226.7 million for the nine months ended 31 December 2018” (pp 2-5);
2. Management’s Analysis of Results (pp 6-32);
3. Management Presentation (pp 33-89);
4. Condensed Consolidated Financial Statements (pp 90-119).

3Q20 Results Pack means the document published by the ASX at 5:07pm AEDT on 11 February 2020, containing a cover letter and a coversheet summarising James Hardie’s financial results for the nine months ended 31 December 2019 and including the following documents:

5. Media Release titled “James Hardie Announces Adjusted Net Operating Profit of US\$77.4 million for Q3 Fiscal Year 2020 and US\$266.2 million for the nine months ended 31 December 2019” (pp 3-5);
6. Management’s Analysis of Results (pp 6-28);
7. Management Presentation (pp 29-76);
8. Condensed Consolidated Financial Statements (pp 77-106).

3Q21 Results Pack means the document published by the ASX at 8:18am AEDT on 9 February 2021, containing a cover page summarising James Hardie’s financial results for the nine months ended 31 December 2020 and including the following documents:

1. Media Release titled “James Hardie Industries Announces Record Third Quarter Fiscal Year 2021 Results” (pp 2-6);
2. Management’s Analysis of Results (pp 7-24);
3. Management Presentation (pp 25-58);
4. Condensed Consolidated Financial Statements (pp 59-77).

3Q22 Results Pack means the document published by the ASX at 7:30am AEDT on 7 February 2022, containing a cover page summarising James Hardie’s financial results for the nine months ended 31 December 2021 and including the following documents:

9. Media Release titled “James Hardie Industries Announces Third Quarter Fiscal Year 2022 Results” (pp 2-7);
10. Management’s Analysis of Results (pp 8-25);
11. Management Presentation (pp 26-66);

12. Condensed Consolidated Financial Statements (pp 67-83).

4Q20 Results Pack means the document published by the ASX at 7:30am AEST on 19 May 2020, containing a cover page summarising James Hardie’s financial results for the year ended 31 March 2020 and including the following documents:

1. Media Release titled “James Hardie Announces Net Operating Profit of US\$86.6 million for Q4 Fiscal Year 2020 and US\$352.8 million for the full year ended 31 March 2020” (pp 2-4);
2. Management’s Analysis of Results (pp 5-32);
3. Management Presentation (pp 33-82);
4. Consolidated Financial Statements (pp 83-138).

4Q21 Results Pack means the document published by the ASX at 7:33am AEST on 18 May 2021, containing a cover page summarising James Hardie’s financial results for the year ended 31 March 2021 and including the following documents:

1. Media Release titled “James Hardie Industries Announces Record Fourth Quarter And Fiscal Year 2021 Results” (pp 2-7);
2. Management’s Analysis of Results (pp 8-26);
3. Management Presentation (pp 27-68);
4. Consolidated Financial Statements (pp 69-113).

4Q22 Results Pack means the document published by the ASX at 7:30am AEST on 17 May 2022, containing a cover page summarising James Hardie’s financial results for the year ended 31 March 2022 and including the following documents:

1. Media Release titled “James Hardie Industries Announces Fourth Quarter And Fiscal Year 2022 Results” (pp 2-8);
2. Management’s Analysis of Results (pp 9-27);
3. Management Presentation (pp 28-68);
4. Consolidated Financial Statements (pp 69-111).

7 February Announcement has the meaning set out in paragraph 38 and is the 3Q22 Results Pack.

7 February Inflation Impacts has the meaning set out in paragraph 55.

7 February Statements has the meaning set out in paragraph 40.

7 January Announcement has the meaning set out in paragraph 34 and is the document published by the ASX at 8:05am AEDT on 7 January 2022 titled “James Hardie Industries Appoints Harold Wiens as Interim CEO”.

8 November Publication has the meaning set out in paragraph 105(a) and is the 2Q23 Results Pack.

16 August Publication has the meaning set out in paragraph 93(a) and is the 1Q23 Results Pack.

17 May Announcement has the meaning set out in paragraph 63 and is the 4Q22 Results Pack.

Additional August Information has the meaning set out in paragraph 100.

Additional February Information has the meaning set out in paragraph 60.

Additional May Information has the meaning set out in paragraph 92.

Affected Market has the meaning set out in paragraph 42.

ANI has the meaning set out in paragraph 31(c).

ASIC Act has the meaning set out in paragraph 4(c).

ASX has the meaning set out in 1(a)(i).

August Announcements has the meaning set out in paragraph 93.

August Earnings Call has the meaning set out in paragraph 93(b).

August Implied Representations has the meaning set out in paragraph 97

August Information has the meaning set out in paragraph 99.

Australian Consumer Law has the meaning set out in paragraph 4(d).

CEO has the meaning set out in paragraph 7.

Competing Products has the meaning set out in paragraph 27(a).

Continuous Disclosure Contraventions has the meaning set out in paragraph 133.

Continuous Disclosure Obligations has the meaning set out in paragraph 16.

Corporations Act has the meaning set out in paragraph 1(c)(i).

Customer Backlog Information has the meaning set out in paragraph 90.

Customer Backlog Representation has the meaning set out in paragraph 70.

Demand Guidance Representation has the meaning set out in paragraph 41(c).

EBIT has the meaning set out in paragraph 23.

Erter has the meaning set out in paragraph 7.

FC Products has the meaning set out in paragraph 21.

February Earnings Call has the meaning set out in paragraph 40.

February Implied Representations has the meaning set out in paragraph 42.

February Information has the meaning set out in paragraph 59.

FY20 Annual Report means the document published by the ASX at 4:04pm AEST on 24 August 2020 with the document description “Australian Annual Review Fiscal Year 2020”.

FY21 Annual Report means the document published by the ASX at 8:32am AEST on 19 May 2021 with the document description “Combined Annual Report/Annual Report on Form 20-F”.

FY22 Annual Report means the document published by the ASX at 8:21am AEST on 18 May 2022 with the document description “Combined FY22 Annual Report/Annual Report on Form 20-F”.

FY22 Guidance has the meaning set out in paragraph 39(a).

FY23 Group Guidance Representation has the meaning set out in paragraph 41(a).

FY23 Guidance has the meaning set out in paragraph 39(b).

FY23 Guidance Basis Representation has the meaning set out in paragraph 42(a).

FY23 Guidance Modification Representation has the meaning set out in paragraph 96(a).

FY23 Guidance Representations has the meaning set out in paragraph 41.

Gadd has the meaning set out in paragraph 12(b).

Group Members has the meaning set out in paragraph 1.

Guidance Reliability Representation has the meaning set out in paragraph 42(b).

Increased NA FY23 Guidance Representations has the meaning set out in paragraph 67(b).

Investor Day 1 has the meaning set out in paragraph 103.

Investor Day 2022 Presentation Day 1 means the document published by the ASX at 4:35pm AEST on 12 September 2022 with the document description “JHX Investor Day 2022 Presentation Day 1”.

January Interest Rate Likely Rise Statement has the meaning set out in paragraph 49.

January Special Call has the meaning set out in paragraph 36.

James Hardie has the meaning set out in paragraph 1(a)(i).

James Hardie Board has the meaning set out in paragraph 11.

James Hardie Officers has the meaning set out in paragraph 12.

JHX ADRs has the meaning set out in paragraph 1(a)(ii).

JHX Equity Swaps has the meaning set out in paragraph 1(a)(iii).

JHX Shares has the meaning set out in paragraph 1(a)(i).

June US Interest Rate Rise Statements has the meaning set out in paragraph 82.

July US Interest Rate Rise Statements has the meaning set out in paragraph 83.

March US Interest Rate Rise Statements has the meaning set out in paragraph 80.

Market Contraventions has the meaning set out in paragraph 172.

Market Share Representation has the meaning set out in paragraph 41(d).

Material Information has the meaning set out in paragraph 127.

May Earnings Call has the meaning set out in paragraph 66.

May Implied Representations has the meaning set out in paragraph 69(b).

May Inflation Impacts has the meaning set out in paragraph 86.

May Information has the meaning set out in paragraph 91.

May Reaffirmed FY23 Guidance has the meaning set out in paragraph 65.

May US Interest Rate Rise Statements has the meaning set out in paragraph 81.

Miele has the meaning set out in paragraph 12(a).

Misleading Conduct Contravention has the meaning set out in paragraph 139.

Misleading Statements Contravention has the meaning set out in paragraph 144.

NA Business has the meaning set out in paragraph 23.

NA FY23 Guidance Representations has the meaning set out in paragraph 41(b).

NA Market has the meaning set out in paragraph 19.

New Construction Sector has the meaning set out in paragraph 25.

No Material Risk Representation has the meaning set out in paragraph 42(c).

November Announcements has the meaning set out in paragraph 105.

November Earnings Call has the meaning set out in paragraph 105(b).

Pipeline Representation has the meaning set out in paragraph 41(e).

R&R Sector has the meaning set out in paragraph 25.

Reaffirmed Demand Guidance Representation has the meaning set out in paragraph 67(c).

Reaffirmed FY23 Guidance Basis Representation has the meaning set out in paragraph 69(a).

Reaffirmed FY23 Group Guidance Representation has the meaning set out in paragraph 67(a).

Reaffirmed FY23 Guidance Representations has the meaning set out in paragraph 67.

Reaffirmed Market Share Representation has the meaning set out in paragraph 67(d).

Reaffirmed Pipeline Representation has the meaning set out in paragraph 67(e).

Relevant Period has the meaning set out in paragraph 1(a).

Revised FY23 Guidance has the meaning set out in paragraph 94.

Revised FY23 Guidance Representations has the meaning set out in paragraph 96(b).

Revised FY23 Group Guidance Representation has the meaning set out in paragraph 96(b)(i).

Revised Guidance Basis Representations has the meaning set out in paragraph 97(a).

Revised Guidance Reliability Representation has the meaning set out in paragraph 97(b).

Revised Market Share Representation has the meaning set out in paragraph 96(b)(vi).

Revised NA FY23 Guidance Representation has the meaning set out in paragraph 96(b)(iii).

Revised No Material Risk Representation has the meaning set out in paragraph 97(c).

Revised November FY23 Guidance has the meaning set out in paragraph 107.

Revised Pipeline Representation has the meaning set out in paragraph 96(b)(v).

Temporary FC Product Demand Conditions has the meaning set out in paragraph 47.

Updated 2023 ANI has the meaning set out in paragraph 106(a).

US Construction Market Softening has the meaning set out in paragraph 77.

Wiens has the meaning set out in paragraph 8.

Certificate of lawyer

I, Mathew Chuk, certify to the Court that, in relation to the statement of claim filed on behalf of the Plaintiff, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 8 May 2023



Signed by Mathew Chuk
Lawyer for the Plaintiff

1. Place of trial— Melbourne
2. Mode of trial— Judge
3. This writ was filed for the plaintiff by Echo Law of 2/6 Saltriver Place, Footscray VIC 3011
4. The address of the plaintiff is— Unit 2, Level 1, 78-80 Emu Bank, Belconnen ACT 2617
5. The address for service of the plaintiff is— c/o Echo Law, 2/6 Saltriver Place, Footscray VIC 3011
6. The email address for service of the plaintiff is— mathew.chuk@echolaw.com.au
7. The address of the defendant is— Second Floor, Europa House, Harcourt Centre, Harcourt Street, Dublin 2, D02, WR20, Ireland