



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

Case: S ECI 2023 01899

No. S ECI 2023 01899 2025 05:33 PM

**BETWEEN**

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

Plaintiff

and

**JAMES HARDIE INDUSTRIES PLC (ARBN 097829895)**

Defendant

**DEFENCE**

(filed pursuant to the Orders of the Honourable Justice Croft dated 26 August 2025)

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Date of document: 23 September 2025  
~~10 November 2023~~

Solicitor's Code: 420

Filed on behalf of: The Defendant

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To the plaintiff's Amended Statement of Claim dated 26 August 2025 ~~8 May 2023~~, the defendant (**James Hardie**) says as follows:

**Note:** Unless otherwise stated, or required by context, capitalised and abbreviated terms in this Defence have the same meaning as those in the Amended Statement of Claim.

**A. PRELIMINARY**

1. To paragraph 1:

- (a) save that it refers to and repeats paragraph 2 below, it does not admit the allegations in sub-paragraph 1(a) and says further that the allegations are vague and embarrassing insofar as they fail to identify the trading platforms on which it is alleged group members acquired JHX Shares, JHX ADRs and JHX Equity Swaps;

- (b) it denies that the plaintiff and group members have suffered loss or damage, or are entitled to relief, by or resulting from its conduct as alleged in the Amended Statement of Claim, and it therefore denies sub-paragraph 1(b);
- (c) it admits that the proceeding is not commenced on behalf of the persons in sub-paragraphs 1(c)(i) to (v) and therefore admits the allegations in sub-paragraph 1(c).

### **Particulars**

As to paragraph 1(a), it refers to letters from Herbert Smith Freehills Kramer (HSFK) to Echo Law dated 7 May 2025, 13 June 2025 and 30 July 2025, and letters from Echo Law to HSFK dated 21 May 2025, 7 July 2025 and 18 August 2025.

- 2. It admits the allegations in paragraph 2.
- 3. To paragraph 3:
  - (a) it admits that there were seven or more persons who acquired JHX Shares, or JHX ADRs, in the Relevant Period;
  - (b) it does not admit that JHX Equity Swaps were acquired in the Relevant Period;
  - (c) it refers to and repeats sub-paragraph 1(b) above, and otherwise denies the allegations in paragraph 3.
- 4. It admits the allegations in paragraph 4.
- 5. It admits the allegations in paragraph 5 and says further that its fiscal year commenced on 1 April and ended on 31 March of the following year, such that:
  - (a) the first quarter of any given fiscal year commenced 1 April and ended on 30 June of that year **(1Q)**;
  - (b) the second quarter of any given fiscal year commenced 1 July and ended on 30 September of that year **(2Q)**;
  - (c) the third quarter of any given fiscal year commenced 1 October and ended on 31 December of that year **(3Q)**;
  - (d) the fourth quarter of any given fiscal year commenced 1 January and ended on 31 March of that year **(4Q)**.

6. To paragraph 6:
  - (a) it admits the allegations in sub-paragraph 6(a);
  - (b) it admits that the relationship between the number of JHX Shares and JHX ADRs was that one JHX Share represented one JHX ADR, and otherwise denies the allegations in sub-paragraph 6(b).
7. It admits the allegations in paragraph 7.
8. It admits the allegations in paragraph 8.
9. It admits the allegations in paragraph 9.
10. It admits the allegations in paragraph 10.
11. It admits the allegations in paragraph 11, save that ~~“Dean Savers” should be “Dean Seavers”~~. “Susanne B Rowland” should be “Suzanne B Rowland”.
12. To paragraph 12:
  - (a) it admits that, during the Relevant Period, the persons named in sub-paragraphs 12(a), (b), ~~and~~ (c) and (d) were “officers” of James Hardie within the meaning of s 9 of the Corporations Act and the ASX Listing Rules;
  - (b) it otherwise denies the allegations in paragraph 12;
  - (c) it says further that:
    - (i) “Jörg Brinkman” should be “Jörg Brinkmann”; and
    - (ii) David Hill’s role during the Relevant Period was Global Controller.
13. It denies the allegations in paragraph 13.
14. [Not used]
15. To paragraph 15:
  - (a) it admits that an entity relevantly becomes “aware” of information, within the meaning of the ASX Listing Rules, if, and as soon as, an officer of the entity has, or ought reasonably to have, come into possession of the information in the course of the performance of their duties as an officer of that entity, pursuant to the definition of “aware” in rule 19.12 of the ASX Listing Rules;
  - (b) it refers to and repeats paragraphs 7 to 13 above; and

- (c) it otherwise denies the allegations in paragraph 15.
16. Save that it will rely at trial on the full terms and effect of Chapter 3 of the ASX Listing Rules and Chapter 6CA of the Corporations Act, it admits the allegations in paragraph 16.
17. Save that s 12DA of the ASIC Act requires engaging in conduct in trade or commerce in relation to financial services, it admits the allegations in paragraph 17.
18. It admits the allegations in paragraph 18.
- 18A. It admits the allegations in paragraph 18A, save that:
- (a) FY20 concluded on 31 March 2020 (and not on 31 March 2019); and
- (b) 1Q20 was the period from 1 April 2019 to 30 June 2019 (and not to 30 June 2020).
- 18B. To paragraph 18B:
- (a) it admits that during the Relevant Period it was subject to the requirements of ASX Listing Rules 4.3A (including Appendix 4E), 4.3B, 4.3D and 4.5;
- (b) it says that, at trial, it will rely on the full terms and effect of the rules in Chapters 3 and 4 of the ASX Listing Rules;
- (c) to sub-paragraph 18B(a), it admits that by ASX Listing Rules 4.3A and 4.3B it was obliged to give the ASX the information set out in Appendix 4E by no later than two months after the end of the accounting period;
- (d) it admits the allegations in sub-paragraph 18B(b);
- (e) it admits the allegations in sub-paragraph 18B(c); and
- (f) it otherwise denies the allegations therein.

## **B. JAMES HARDIE'S BUSINESS**

19. To paragraph 19:
- (a) it admits that at all material times from at least FY20 ~~FY21~~ and during the Relevant Period, its principal business activities comprised manufacturing and selling fiber cement building materials, fiber gypsum and cement bonded boards, and it conducted business primarily in:

- (i) North America, comprising the United States of America and Canada (**North American Market**);
  - (ii) the Asia-Pacific, principally comprising Australia, New Zealand and the Philippines (**Asia-Pacific Market**); and
  - (iii) Europe, principally comprising Belgium, Denmark, France, Germany, Ireland, Luxembourg, the Netherlands, Switzerland and the United Kingdom (**European Market**);
- (b) it says further that from at least FY20 ~~FY21~~ and during the Relevant Period, it had the following operating segments:
- (i) **North America Fiber Cement**;
  - (ii) **Asia Pacific Fiber Cement**;
  - (iii) **Europe Building Products**, which included the business formerly operated by XI (DL) Holdings GmbH and its subsidiaries acquired by James Hardie on or around 3 April 2018 (**Fermacell Business**);
- (c) it says it does not know ~~what time frame is meant by the expression “all material times” prior to the Relevant Period and~~ what is included in the expression “building materials” and it therefore otherwise does not admit the allegations in paragraph 19.
20. ~~To~~ Save for the period in which the Summerville plant in South Carolina, United States, was not operational from FY20 and during the Relevant Period, it admits the allegations in paragraph 20.
- ~~(a) it admits that, from FY22 and during the Relevant Period it operated 19 manufacturing facilities across North America, the Asia-Pacific and Europe;~~
  - ~~(b) it says it does not know what time frame is meant by the expression “all material times” prior to the Relevant Period and it therefore otherwise does not admit the allegations in paragraph 20.~~
21. To paragraph 21:
- (a) it admits that from at least FY20 ~~FY21~~ and during the Relevant Period, its principal product line was FC Products in the North American Market and the Asia-Pacific Market;

- (b) it otherwise denies the allegations in paragraph 21.
22. To paragraph 22:
- (a) it admits that, as at 18 May 2022, it was the number one manufacturer and marketer of FC Products in the world;
- (b) it otherwise does not admit the allegations in paragraph 22.
23. It admits the allegations in paragraph 23 insofar as the alleged “material times” relate to the period FY20 and FY21 (as alleged in the particulars to paragraph 23), and it otherwise does not admit the allegations therein.
24. It admits the allegations in paragraph 24 ~~insofar as the alleged “material times” relate to the period from FY21 (as alleged in the particulars to paragraph 24), and it otherwise does not admit the allegations therein.~~
25. It admits the allegations in paragraph 25 ~~insofar as the alleged “material times” relate to the period FY21 and FY22 (as alleged in the particulars to paragraph 25), and it otherwise does not admit the allegations therein.~~
26. ~~To~~ It does not admit the allegations in paragraph 26.:
- (a) ~~it says that the expression “very substantial” is vague and embarrassing;~~
- (b) ~~under cover of that objection:~~
- (i) ~~it admits that from FY21 and during the Relevant Period, North America Fiber Cement was the largest producer of FC Products in the North American Market;~~
- (ii) ~~it otherwise does not admit the allegations in paragraph 26.~~
27. It admits the allegations in paragraph 27 from at least FY21 and during the Relevant Period, and it otherwise does not admit the allegations therein.

### C. JAMES HARDIE’S FY23 GUIDANCE

28. To paragraph 28:
- (a) it admits the allegations in paragraph 28 and says that in the results tables:
- (i) “NA” is a reference to North America Fiber Cement;
- (ii) “APAC” is a reference to Asia Pacific Fiber Cement;

- (iii) “EU” is a reference to Europe Building Products;
  - (iv) “ANOP” is a reference to adjusted net operating profit (ANOP);
  - (v) the EBIT for Europe Building Products:
    - (A) in 1Q20, 2Q20 and 3Q20 was adjusted to exclude costs associated with James Hardie’s acquisition of the Fermacell Business;
    - (B) in 4Q20 was adjusted to exclude asset impairment charges and costs associated with the acquisition of the Fermacell Business;
  - (vi) the EBIT for Asia Pacific Fiber Cement in 4Q20 was adjusted to exclude asset impairment charges;
- (b) it says further that, in FY20, James Hardie also published quarterly results in US Dollars for Asia Pacific Fiber Cement (APAC) and Europe Building Products (EU), as set out in Table 1 of Annexure A to this Defence.
29. It admits the allegations in paragraph 29.
30. To paragraph 30:
- (a) it admits the allegations in paragraph 30 and it refers to and repeats subparagraphs 28(a)(i) to (iii) above;
  - (b) it says further that:
    - (i) the EBIT for each of North America Fiber Cement, Asia Pacific Fiber Cement and Europe Building Products in FY21 was adjusted to exclude any restructuring expenses;
    - (ii) in FY21, James Hardie also published quarterly results in US Dollars for Asia Pacific Fiber Cement and Europe Building Products, as set out in Table 2 of Annexure A to this Defence.
31. It admits the allegations in paragraph 31.
32. To paragraph 32:
- (a) it admits the allegations in paragraph 32 and it refers to and repeats subparagraphs 28(a)(i) to (iii) above;

- (b) it says further:
  - (i) the EBIT for each of North America Fiber Cement, Asia Pacific Fiber Cement and Europe Building Products in FY22 was adjusted to exclude any restructuring expenses;
  - (ii) in FY22, James Hardie also published quarterly results in US Dollars for Asia Pacific Fiber Cement and Europe Building Products, as set out in Table 3 of Annexure A to this Defence.
- 33. It admits the allegations in paragraph 33.
- 34. It admits the allegations in paragraph 34.
- 35. To paragraph 35:
  - (a) it admits that the 7 January Announcement contained the statements made in it, including statements substantially to the effect alleged, and says that it will refer at trial to the full terms and effect of the 7 January Announcement;
  - (b) it says further that:
    - (i) earnings guidance involves:
      - (A) an estimate of the future financial performance and results of a company;
      - (B) the use of historical and current information and data to predict future events and the financial performance and results of a company;
    - (ii) the preparation of earnings guidance is a forward-looking exercise based on a range of assumptions about, among other things, macro-economic and market-specific conditions, including the interaction of those conditions on consumer demand;
    - (iii) there is uncertainty and risk regarding whether earnings guidance will be achieved due to, among other things, unexpected events or circumstances arising during the period of the guidance, or anticipated events or circumstances not arising, and upon which reasonable assumptions have been made;



- (iv) earnings guidance involves greater risk and uncertainty, and is generally less reliable, the further into the future the period of the guidance relates to;
- (v) by reason of the matters in (i) to (iv) the preparation of earnings guidance involves an exercise of judgement;
- (vi) earnings guidance prepared by James Hardie in FY21 and FY22 was attended by additional risk and uncertainty as a result of the COVID-19 pandemic;
- (vii) at the time it provided its earnings guidance, James Hardie also warned that:
  - (A) its forward-looking statements and information were subject to risks, uncertainties and assumptions;
  - (B) risks and uncertainties arose from changes in, among other things, interest rates, inflation rates, exchange rates and the level of construction generally; and
  - (C) if one or more of the identified risks or uncertainties materialised, or should underlying assumptions prove incorrect, its actual results may vary materially from those described,  
**(Guidance Warning);**
- (viii) when providing earnings guidance, James Hardie did not represent or promise that it would achieve the financial performance and results within the parameters of its guidance;
- (ix) the plaintiff and group members knew or ought to have known of the matters in sub-paragraphs (i) to (viii) above, by reason of:
  - (A) statements made by James Hardie, such as the Guidance Warning;
  - (B) the plaintiff and group members, being persons who are alleged to have acquired JHX Shares, JHX ADRs, JHX Equity Swaps, had an awareness and understanding of risks and uncertainties

inherent in forward-looking estimates of a company's financial performance and results (as reflected in earnings guidance).

### Particulars

As to sub-paragraphs (vii) and (ix), pages 2 and 3 of the 7 January Announcement.

As to sub-paragraph (vii), see also the particulars to sub-paragraphs 39(c), 64(b)(i), 94(d)(ii) and 106(b)(ii) below.

36. Save that it will rely on the full terms and effect of the January Special Call at trial, it admits the allegations in paragraph 36.
37. It admits the allegations in paragraph 37.
38. It admits the allegations in paragraph 38.
39. To paragraph 39:
  - (a) it admits that the 7 February Announcement contained the statements made in it, including statements substantially to the effect alleged, and says that it will refer at trial to the full terms and effect of the 7 February Announcement;
  - (b) it says further that, in this Defence:
    - (i) its revised guidance range for the James Hardie Group ANI in FY22 of US\$620 million to US\$630 million, made as part of the 7 February Announcement, will be referred to as the **Revised FY22 ANI Guidance**;
    - (ii) its guidance range for the James Hardie Group ANI in FY23 of US\$740 million to US\$820 million and growth of the James Hardie Group ANI in FY23 of between 18% and 31% will be referred to as the **FY23 ANI Guidance**;
    - (iii) its guidance range for North America Fiber Cement in FY23 of Net Sales Growth of between 16% and 20% and EBIT Margin of between 30% and 33% will be referred to as the **FY23 North America Guidance**;
  - (c) it says further that it refers to and repeats sub-paragraph 35(b) above and it provided its Guidance Warning as part of the 7 February Announcement which applied to, among other things, the FY23 ANI Guidance and FY23 North America Guidance.

**Particulars**

Pages 4 and 6 of the Media Release titled “James Hardie Industries Announces Third Quarter Fiscal Year 2022 Results” dated 7 February 2022 in the 3Q22 Results Pack.

Page 18 of the document titled “Management’s Analysis of Results: James Hardie – 3<sup>rd</sup> Quarter Fiscal Year 2022” in the 3Q22 Results Pack.

Pages 2, 22 and 23 of the document titled “Q3 FY22 Management Presentation” dated 7 February 2022 in the 3Q22 Results Pack.

40. To paragraph 40:
- (a) save that it will rely on the full terms and effect of the February Earnings Call at trial, it admits:
    - (i) that it held the February Earnings Call on 7 February 2022 (AEDT);
    - (ii) the allegations in sub-paragraphs 40(a)(i) and (iv), (b) and (d);
  - (b) it denies the allegations in sub-paragraph 40(a)(ii), and says that, in the February Earnings Call, Gadd stated that James Hardie believed the remodel segment had more resilience to interest rates changes than other segments and, specifically for homeowners taking out a home equity loan of US\$50,000, a 100 basis point change in rates would only change their monthly payment by approximately US\$25;
  - (c) it denies the allegations in sub-paragraph 40(a)(iii), and says that, in the February Earnings Call, Gadd stated that James Hardie did not believe that the potential for interest rates changes in the remodel segment would be a deterrent to homeowners deciding to remodel their home, especially considering the record amount of home equity currently held in the United States;
  - (d) it denies the allegations in sub-paragraph 40(c), and says that, in the February Earnings Call, Gadd stated that James Hardie believed the North American Market was going to be fairly favourable, sort of low single-digits; they suspected that North America Fiber Cement’s volume was going to be somewhere between 9% and 13%; and, as a result, they thought they were going to be taking market share;

- (e) it says further that its Guidance Warning applied to the statements alleged in sub-paragraph 40(a)(iv) of the Amended Statement of Claim, and sub-paragraphs 40(b) to (d) above and it refers to and repeats sub-paragraph 35(b) above.
41. It denies the allegations in paragraph 41 and refers to and repeats paragraphs 39 and 40 above.
42. It denies the allegations in paragraph 42 and refers to and repeats paragraphs 39 to 41 above.

### **CA. HOW THE FY23 GUIDANCE WAS PREPARED**

#### **42A. To paragraph 42A:**

- (a) it says that, in FY22 and FY23, it prepared financial forecasts (which included data on volume, net sales, cash cost, freight, selling general and administrative (SG&A) expenses, and adjusted EBIT (together, **Financial Metrics**))  
**(Financial Forecasts):**
- (b) it says further that:
- (i) it prepared Financial Forecasts based on its fiscal year (1 April to 31 March), containing data relating to the Financial Metrics for each month of that fiscal year;
- (ii) Financial Forecasts for a particular fiscal year were generally updated each month during the fiscal year with, and based on, actual results for the prior month;
- (iii) Financial Forecasts were generally prepared for each of its North America Fiber Cement, Asia Pacific Fiber Cement and Europe Building Products operating segments prior to preparing consolidated Group-level Financial Forecasts; and
- (iv) it also prepared Financial Forecasts for the next fiscal year.

#### **Particulars**

For example, in November 2021, it prepared a Financial Forecast for North America Fiber Cement for: (1) FY22, containing 7 months of actual results and 5 months of forecast performance ('FY22 7+5'); and (2) FY23 containing 12 months of forecast performance ('FY23 7+5').

- (c) it otherwise denies the allegations therein.

42B. To paragraph 42B:

- (a) it admits that, in November 2021, it was preparing Financial Forecasts for North America Fiber Cement for both the current fiscal year (FY22) and the next fiscal year (FY23), which included data relating to the matters alleged in the table;
- (b) it otherwise denies the allegations in paragraph 42B; and
- (c) it says further that, at all material times from October 2021, it was preparing and refining its Financial Forecasts for FY23.

42C. To paragraph 42C:

- (a) it admits that, in December 2021, it was preparing Financial Forecasts for North America Fiber Cement for both the current fiscal year (FY22) and the next fiscal year (FY23), which included data relating to the matters alleged in the table;
- (b) it otherwise denies the allegations in paragraph 42C and refers to and repeats paragraph 42B(c) above.

42D. To paragraph 42D:

- (a) it admits that, in January 2022, it was preparing Financial Forecasts for North America Fiber Cement for both the current fiscal year (FY22) and the next fiscal year (FY23), which included data relating to the matters alleged in the table;
- (b) it otherwise denies the allegations in paragraph 42D and refers to and repeats paragraph 42B(c) above.

42E. To paragraph 42E:

- (a) it admits that on 16 January 2022, Miele emailed members of the finance and leadership teams of Asia Pacific Fiber Cement, Europe Building Products and North America Fiber Cement, and that the email foreshadowed a series of forecast review meetings or 'Forecast Blitzes';
- (b) it otherwise denies the allegations in paragraph 42E;
- (c) it says further that:
  - (i) in the email, Miele stated that James Hardie needed a view that was its pure best estimate of what was going to happen, no hedges at the line

item or business unit level, and the series of forecast review meetings were to ensure that James Hardie turned a second version of the ‘9+3’ version of the FY23 Financial Forecast by the end of next week; and

(ii) it will rely on the full terms and effect of the email at trial.

42F. To paragraph 42F:

- (a) it admits that, in late-January 2022, it prepared a further version of its ‘FY23 9+3’ Financial Forecast for North America Fiber Cement which included data relating to the matters alleged in the table (**Further FY23 9+3 NA Forecast**); and
- (b) it otherwise does not admit the allegations in paragraph 42F and refers to and repeats paragraph 42B above.

42G. To paragraph 42G:

- (a) it admits that the Further FY23 9+3 NA Forecast was presented to the Board at its meeting on 3 February 2022;
- (b) it otherwise does not admit the allegations in paragraph 42G;
- (c) it says further that:
- (i) on 3 February 2022, Miele presented a paper to the Board that included:
- (1) the Further FY23 9+3 NA Forecast, save that the presentation did not include ‘unallocated’ costs of US\$39.5 million;
  - (2) forecast Group ANI of US\$837 million in FY23, with growth of 35%;
  - (3) forecast net sales growth for North American Fiber Cement in FY23 of 20.9%; and
  - (4) forecast EBIT Margin for North American Fiber Cement in FY23 of 32.1%;

### **Particulars**

Minutes of the 3 February 2022 Board meeting [JHX.0011.0001.2053\_0001 at 0003 and 0004]. Slide Pack entitled “Financial Summary – Global Strategic Plan” [JHX.0011.0001.2053\_0059 at 0106 and 0111]

- (ii) on 7 February 2022, it gave the FY23 ANI Guidance and FY23 North America Guidance (as defined in paragraph 39(b) above) of:
- (A) James Hardie Group ANI in FY23 of US\$740 to \$820 million, with growth of between 18 and 31%;
- (B) Net Sales Growth for North American Fiber Cement of between 16 and 20%;
- (C) EBIT Margin for North American Fiber Cement of between 30 and 33%.

42H. It denies the allegations in paragraph 42H and says further that:

- (a) on 3 February 2022, the Board was presented with a financial summary which included the data referred to in sub-paragraph 42G(c)(i) above;

**Particulars**

The defendant refers to and repeats the particulars to sub-paragraph 42G(c)(i) above.

- (b) on 12 May 2022, the Board was presented with a financial plan, which included: a 3-year global earnings outlook; a global FY23-25 financial summary together with financial summaries for each operating segment; and a global financial outlook for FY23.

**Particulars**

Minutes of the 12 May 2022 Board meeting [JHX.0011.0001.1802\_0001 at 0006 and 00007]. Slide Pack entitled “Q4 Quarterly Business Update” [JHX.0011.0001.1802\_0120 at 0137]. Slide Pack entitled “Financial Plan: Jason Miele” [JHX.0011.0001.1802\_0120 at 0145 to 0166].

**D. THE POSITION AS AT 7 FEBRUARY 2022**

43. It does not admit the allegations in paragraph 43.

44. To paragraph 44:

- (a) it admits that:
- (i) the price of lumber in the United States between 1 February 2017 and 1 June 2020 was approximately US\$400 per 1,000 board feet;

- (ii) between 1 June 2020 and 7 February 2022, the price of lumber in the United States fluctuated;
  - (iii) ~~[Not used] as compared with the period between 1 February 2017 and 1 June 2020, the price of lumber per 1,000 board feet had a closing price of US\$1,686.00 on 7 May 2021 and US\$1,278.70 on 18 January 2022;~~
  - (b) ~~[Not used] it says that the price of lumber per 1,000 board feet fluctuated in 2021 and was US\$474.40 on 16 August 2022; and~~
  - (c) it otherwise does not admit ~~denies~~ the allegations in paragraph 44.
45. To paragraph 45:
- (a) it refers to and repeats paragraphs 43 and 44 above; and
  - (b) it otherwise denies the allegations in paragraph 45.
46. To paragraph 46:
- (a) insofar as “new construction” means housing starts in the US New Construction Sector, it admits that there was broadly an increase in the volume of new construction in the US residential housing construction market (both in total, and for single unit residential construction) between November and December 2021 as compared with the period April to October 2021;
  - (b) it otherwise denies the allegations in paragraph 46;
  - (c) it says further that:
    - (i) the increase in total and single unit housing starts between February and March 2021 exceeded the increase in total and single unit housing starts between October and November 2021;
    - (ii) the volume of total new starts in March 2021 was higher than in November 2021;
    - (iii) housing starts is only one metric for measuring the volume of construction in the New Construction Sector in the United States;

### **Particulars**

The rate of housing permits and housing completions in the New Construction Sector is also relevant to measuring demand for James Hardie’s FC Products in the United States.



- (iv) housing starts in the New Construction Sector has no, or only limited, relevance to the R&R Sector;
- (v) approximately 65% of the total volume of James Hardie's sales in the North American Market at the time were in the R&R Sector;
- (vi) the data on housing starts in the United States for January 2022 was not published until 17 February 2022; and
- (vii) there had been a month-on-month increase in total housing starts between September 2021 and December 2021.

47. To the allegations in paragraph 47:

- (a) it denies the allegations therein;
- (b) it refers to and repeats paragraphs 43 to 46 above and paragraphs 135(d) and (e) below;
- (c) it says further that:
  - (i) by the time of the 7 February Announcement, the price of lumber had been rising steadily ~~since from US\$540.10 on 8 November 2021 to US\$1,216.00 on 7 February 2022;~~ and
  - (ii) the demand for James Hardie's FC Products in the North American Market could be influenced by various factors.

#### **Particulars**

Demand for James Hardie's products could be impacted by, among other things, the availability of financing; regulatory changes; mortgage and other interest rates; inflation; household income and wage growth; unemployment levels; the inventory of unsold homes; the level of foreclosures; home resale rates; housing affordability; demographic trends; gross domestic product growth; consumer confidence in each of the countries and regions in which it operates; household equity and debt levels; the aging stock of homes; the backlog of homes to be completed; whether mortgages have fixed or variable rates; real estate prices; design trends and consumer preferences; new capacity; customer integration; marketing directly to homeowners; new innovations; and whether there had been any events or factors suppressing demand in prior periods.

Demand for James Hardie's products also varied depending on whether the products were to be used in the New Construction

Sector or the R&R Sector, and whether the products were to be used for single family units or multi-family units.

48. To paragraph 48:

- (a) it admits that the Consumer Price Index (**CPI**) in the United States increased between March 2021 and January 2022 (including in the period October 2021 to January 2022);
- (b) it says that, notwithstanding the increase in CPI between March 2021 and January 2022, there was ongoing demand for James Hardie's FC Products in the North American Market over that period;

#### **Particulars**

See Annexure B to this Defence.

- (c) it otherwise denies the allegations in paragraph 48.

49. To paragraph 49:

- (a) it admits that:
  - (i) on or around 26 January 2022 (EST), the US Federal Reserve published and released a press release (**26 January Press Release**);
  - (ii) the 26 January Press Release contained the statements made in it, including statements substantially to the effect alleged, and says that it will refer at trial to the full terms and effect of the 26 January Press Release;
- (b) it says further that:
  - (i) at its 25 – 26 January 2022 meeting, the Federal Open Market Committee (**Fed Committee**) decided to keep the target range for the Federal funds rate at 0 – 0.25%;
  - (ii) on 26 January 2022, Chair Powell of the US Federal Reserve stated at a press conference in connection with the 26 January Press Release that:
    - (A) the economic outlook remained highly uncertain;

(B) it was not possible to predict with much confidence exactly what path for the US Federal Reserve's policy rate was going to prove appropriate; and

(C) it was not possible to say with any confidence what the precise path would be;

(c) it otherwise denies the allegations in paragraph 49.

50. To paragraph 50:

(a) it admits that the CPI in the United States was 7.9% in February 2022, which was well above 2%;

(b) it refers to and repeats paragraph 49 above;

(c) it says that, as at 7 February 2022, US Federal Reserve Board members and US Federal Reserve Bank presidents projected that the personal consumption expenditure price index (a measure of inflation other than the CPI) would decrease in 2022 in comparison to 2021 and that there would be a further decrease in the personal consumption expenditure price index in 2023 in comparison to 2022;

#### **Particulars**

US Federal Reserve, *Summary of Economic Projections* dated 15 December 2021, Table 1, p 2.

(d) it otherwise does not admit the allegations in paragraph 50.

51. It does not admit the allegations in paragraph 51.

52. It denies the allegations in paragraph 52 and says further that:

(a) the material fact alleged in paragraph 52 does not follow from the premise alleged in paragraph 51 (which is not admitted);

(b) it refers to and repeats paragraphs 47 and 48 above; and

(c) it did not follow that, from a sustained period of high inflation in the US, consumer spending in the US residential housing market would likely slow and/or demand for James Hardie's products would likely decrease.

### **Particulars**

James Hardie refers to and repeats paragraphs 47 and 48 above and the particulars subjoined thereto. Further, as at 7 February 2022:

- (i) US homeowners had a record average amount of equity in their home;
- (ii) median US existing house prices had been rising, year over year, since March 2012 and were continuing to rise; and
- (iii) the backlog of homes under construction in the United States, being the difference between the total number of new privately owned housing units completed and the total number of new privately owned housing unit started, was at the highest level since 1984.

53. To paragraph 53:

- (a) it admits that, as at 7 February 2022, an increase in North America Fiber Cement's cost of building and construction materials was likely to cause it to incur additional input costs;
- (b) it refers to and repeats paragraphs 51 and 52 above;
- (c) it otherwise denies the allegations in paragraph 53;
- (d) it says further that James Hardie had pricing and other strategies to recoup additional input and freight costs caused by inflation.

### **Particulars**

James Hardie had the option of imposing out of cycle increases in the price of its products.

James Hardie typically imposed price increases on 1 January each year. Out of cycle price increases are additional increases in price imposed on other dates during the year.

Further, James Hardie's ability to pass on increased input costs to consumers in the form of higher prices was enhanced by strategies James Hardie could employ as at or from 7 February 2022, including:

- (i) marketing its products directly to homeowners;
- (ii) adjusting its product mix to focus on the manufacture and supply of higher value products;
- (iii) innovating and releasing new, high-value products;
- (iv) entering into long-term contracts with suppliers of raw materials which fixed the price of those input costs.

54. It denies the allegations in paragraph 54 and says further that:

- (a) it refers to and repeats paragraphs 47, 48, 52 and 53 above;
- (b) as at 7 February 2022:
  - (i) CPI in the United States had been above 2%, and was rising, since April 2021 and during that period James Hardie had announced upgrades to its FY22 earnings guidance;

**Particulars**

<b>Announcement date</b>	<b>ANI Guidance range (USD)</b>
18 May 2021	\$520m – \$570m
10 August 2021 (revised)	\$550m – \$590m
9 November 2021 (revised)	\$580m – \$600m
7 January 2022 (revised)	\$605m – \$625m
7 February 2022 (revised, i.e. the ‘Revised FY22 ANI Guidance’)	\$620m – \$630m
<i>Actual result (FY22 ANI):</i>	<i>\$620.7m</i>

- (ii) James Hardie had pricing and other strategies to offset and/or mitigate the effect that an increase in input costs had on the ANI growth and EBIT Margin achieved by North America Fiber Cement and the James Hardie Group.

**Particulars**

James Hardie refers to and repeats the particulars subjoined to paragraph 53(d) above.

Further, James Hardie:

- (i) was executing its “LEAN” manufacturing strategy, which aimed to reduce variation, increase efficiency and improve quality of its manufacturing processes, and which assisted James Hardie to absorb input cost pressures in 2021 and January 2022; and
- (ii) could reduce costs, such as corporate costs that did not impact revenue generation, including by reducing headcount or freezing new hires, reducing spending on travel and events, and temporarily limiting spending in areas such as information technology, marketing, human resources and administration.

55. It denies the allegations in paragraph 55 and refers to and repeats paragraphs 48 and 50 to 54 above.
56. It admits the allegations in paragraph 56 and says further that, as at 7 February 2022, the median projections of US Federal Reserve Board members and US Federal Reserve Bank presidents were that the Federal funds rate would increase to:
- (a) 0.9% in 2022, with a projected range of 0.4% to 1.1%;
  - (b) 1.6% in 2023, with a projected range of 1.1% to 2.1%; and
  - (c) 2.1% in 2024, with a projected range of 1.9% to 3.1%.

**Particulars**

US Federal Reserve, *Summary of Economic Projections* dated 15 December 2021, Table 1, p 2.

57. It denies the allegations in paragraph 57, refers to and repeats paragraphs 47 to 54 above, and says further that the R&R Sector was more resilient to interest rate increases than the New Construction Sector.

**Particulars**

The decision to repair or remodel a house was and remained less affected by increases in interest rates than the decision to build a new house.

Demand for James Hardie's FC Products in the R&R Sector was and remained a function of, among other things:

- (i) the amount of equity that a homeowner had in their house;
- (ii) the value of the house;
- (iii) the age of the house;
- (iv) consumer preferences, such as the demand for repairs or remodelling by homeowners working from home; and
- (v) the level of a homeowner's disposable income or funds available for repair and remodelling.

It otherwise refers to and repeats the particulars to paragraph 47 above.

58. It denies the allegations in paragraph 58 and refers to and repeats paragraphs 50 to 57 above.
- 58A. It denies the allegations in paragraph 58A and refers to and repeats paragraphs 47, 55 and 58 above.

- 58B. It denies the allegations in paragraph 58B and says that the determination of the volume forecast upon which the FY23 ANI Guidance and the FY23 North America Guidance were based, included considerations such as the extent of projected growth (or retraction) in FY23 in the R&R Sector and New Construction Sector, the extent of above-market growth that it could achieve, its manufacturing capacity, and its order backlog.
- 58C. It denies the allegations in paragraph 58C and refers to and repeats paragraph 58B above.
- 58D. It denies the allegations in paragraph 58D and refers to and repeats paragraph 58B above.
- 58E. It denies the allegations in paragraph 58E and refers to and repeats paragraph 58B above.
- 58F. It denies the allegations in paragraph 58F and refers to and repeats paragraph 58B above.
- 58G. It denies the allegations in paragraph 58G and refers to and repeats paragraphs 47 and 58B above.
- 58H. It denies the allegations in paragraph 58H and refers to and repeats paragraphs 52, 55 and 58B above.
- 58I. It denies the allegations in paragraph 58I and refers to and repeats paragraphs 58 and 58B above.
- 58J. It denies the allegations in paragraph 58J and refers to and repeats paragraphs 58B to 58I above.
- 58K. It denies the allegations in paragraph 58K and refers to and repeats paragraphs 42A to 42H and 58A to 58J above.
- 58L. It denies the allegations in paragraph 58L and refers to and repeats paragraphs refers to and repeats paragraphs 42A to 42H and 58A to 58K above.
59. It denies the allegations in paragraph 59 and refers to and repeats paragraphs 43 to 58L above and paragraph 135 below.
60. It denies the allegations in paragraph 60 and refers to and repeats paragraphs 26 and 50 43 to 59 above.

**E. ALLEGED MAINTENANCE AND REAFFIRMATION OF REPRESENTATIONS BETWEEN 7 FEBRUARY 2022 AND 16 AUGUST 2022**

61. To paragraph 61:
- (a) it refers to and repeats paragraph 41 above, and therefore denies the allegations in paragraph 61;
  - (b) it says further that, in the May Earnings Call, Miele stated that James Hardie’s expectation of cost of goods sold (COGS) inflation in FY23 had shifted significantly since February; where previously James Hardie was expecting global COGS inflation to be between \$40 million to \$60 million, James Hardie was now expecting it to be between \$90 million to \$130 million.
62. It refers to and repeats paragraphs 41 and 61 above, and therefore denies the allegations in paragraph 62.
63. It admits the allegations in paragraph 63.
64. To paragraph 64:
- (a) it admits that the 17 May Announcement contained the statements made in it, including statements substantially to the effect alleged, and says that it will refer at trial to the full terms and effect of the 17 May Announcement;
  - (b) as to the allegations in sub-paragraph 64(c), it says further that:
    - (i1) in this Defence, its revised guidance range for North America Fiber Cement in FY23 of Net Sales Growth of 18% to 22% will be referred to as the **May Revised FY23 North America Net Sales Growth Guidance**;
    - (i) the 17 May Announcement contained Guidance Warnings;

**Particulars**

Pages 4 and 7 of the Media Release titled “James Hardie Industries Announces Fourth Quarter and Fiscal Year 2022 Results” dated 17 May 2022 in the 4Q22 Results Pack.

Page 19 of the document titled “Management’s Analysis of Results: James Hardie – Full Year Ended 31 March 2022” in the 4Q22 Results Pack.

Pages 2 and 20 of the document titled “Q4 FY22 Management Presentation” dated 17 May 2022 in the 4Q22 Results Pack.



- (ii) the Guidance Warnings applied to the statements alleged therein; and
- (iii) it refers to and repeats sub-paragraph 35(b) above.

65. To paragraph 65:

- (a) it admits that, in the 17 May Announcement, it repeated the FY23 ANI Guidance and the FY23 North America Guidance in relation to EBIT Margin, and it made the May Revised FY23 North America Net Sales Growth Guidance;
- (b) it otherwise denies the allegations in paragraph 65;
- (c) it refers to and repeats sub-paragraphs 35(b) and 64(b)(i) above and says further that:
  - (i) the Guidance Warnings referred to in sub-paragraph 64(b)(i) above applied to the FY23 ANI Guidance;
  - (ii) it will rely on the full terms and effect of the 17 May Announcement at trial.

65A. To paragraph 65A:

- (a) it refers to and repeats paragraph 65 above;
- (b) it says that guidance (such as the guidance referred to in paragraph 65(a) above) was not information required to be given to the ASX pursuant to ASX Listing Rule 4.3A; and
- (c) it denies the allegations in paragraph 65A.

66. To paragraph 66:

- (a) it admits that it held the May Earnings Call on 17 May 2022 (AEST), and that it made the statement alleged in sub-paragraph 66(d);
- (b) it denies the allegations in sub-paragraph 66(a), and says that in the May Earnings Call:
  - (i) Miele stated that North America Fiber Cement was at a point now where 65% of its business was repair and remodel;
  - (ii) Gadd stated that the R&R Sector looked pretty robust for North America Fiber Cement;

(c) it denies the allegations in sub-paragraph 66(b), and says that, in the May Earnings Call, Gadd stated that:

(i) James Hardie had not seen any drop off in the conversion rate and did not plan to; he thought the backlog was relatively large in the R&R Sector; when James Hardie had spoken to its contractors and customers, their backlogs were more than double what they traditionally were, which would tell you that they are not getting cancellations; James Hardie did not believe that interest rates for reside were really that big an impact; people seemed to have a fair amount of cash and James Hardie had not seen that drop off; and James Hardie thought they would continue to see growth;

**Particulars**

Gadd's reference to the "conversion rate" was a reference to the conversion of a contractor or builder from one James Hardie product to another. His reference to "reside" was a reference to full siding replacements.

(ii) in the R&R Sector, contractors were talking about a sort of 8- to 12-week backlog with typically 4 to 6 weeks; James Hardie continued to work with its customers, dealers and distributors and had relatively strong visibility of their orders and of their contracts with homeowners which made James Hardie feel fairly confident with its numbers;

(d) it denies the allegations in sub-paragraph 66(c), and refers to and repeats sub-paragraph 66(c)(i) above;

(e) it says further that:

(i) it refers to and repeats sub-paragraph 61(b) above;

(ii) in the May Earnings Call:

(A) Gadd announced a second price increase in 2022 of around 4% for North American FC products that would become effective on or around 20 June 2022;

**Particulars**

The first price increase in 2022 of 5% was implemented on 1 January 2022.

(B) Gadd stated that the second price increase was to help improve North America Fiber Cement's overall top line result while offsetting cost pressures;

(C) Gadd stated that James Hardie would then implement its standard annual price increase on 1 January 2023;

(iii) it will rely on the full terms and effect of the May Earnings Call at trial.

67. It denies the allegations in paragraph 67 and refers to and repeats paragraphs 63 to 66 above.

68. It denies the allegations in paragraph 68 and refers to and repeats paragraphs 41 and 67 above.

69. It denies the allegations in paragraph 69 and refers to and repeats paragraphs 63 to 68 above.

70. ~~[Not used] It denies the allegations in paragraph 70 and refers to and repeats paragraphs 40 and 66 above.~~

71. It denies the allegations in paragraph 71 and refers to and repeats paragraph 67 above.

72. It denies the allegations in paragraph 72 and refers to and repeats paragraphs 67 and 71 above.

#### **EA. HOW THE "MAY REAFFIRMED FY23 GUIDANCE" WAS PREPARED**

72A. To paragraph 72A:

(a) as to the allegations in sub-paragraph 72A(a):

(i) it admits that it did not publish a 'FY23 10+2' Financial Forecast for North America Fiber Cement in February 2022;

(ii) it otherwise denies the allegations in sub-paragraph 72A(a);

(iii) it says further that the Further FY23 9+3 NA Forecast was published on or about 31 January 2022;

(b) as to the allegations in sub-paragraph 72A(b):

(i) it admits that:

- (A) from at least October 2021, it prepared Financial Forecasts which included forecast financial performance for the next fiscal year (FY23);
  - (B) after commencement of that fiscal year on 1 April 2022 it continued to prepare Financial Forecasts for FY23; and
- (ii) it otherwise denies the allegations therein.

72B. To paragraph 72B:

- (a) it admits that, between 6 January and April 2022, it forecast that volume in FY23 for North America Fiber Cement would be 3,414.8 mmstf;
- (b) it otherwise denies the allegations in paragraph 72B.

72C. It refers to and repeats paragraph 42H above and denies the allegations in paragraph 72C.

72D. It refers to and repeats paragraph 42H above and denies the allegations in paragraph 72D.

72E. To paragraph 72E:

- (a) it admits that on or about 10 May 2022, results for North America Fiber Cement for April 2022 were circulated, which included the information set out in the presentation at JHX.0005.0013.1038;
- (b) it otherwise denies the allegations in paragraph 72E.

72F. To paragraph 72F:

- (a) it admits that the April 2022 results referred to in paragraph 72E above indicated that the difference between the EBIT forecast in the 'FY23 0+12' Financial Forecast for North America Fiber Cement and the actual EBIT for North America Fiber Cement in April 2022 was contributed to by, among others, a reduced differential of US\$7.3 million in volume and an increased differential in cash cost of US\$3.1 million; and
- (b) it otherwise denies the allegations in paragraph 72F.

72G. To paragraph 72G:

- (a) it admits that on or about 11 May 2022, Gadd participated in a review of a ‘FY23 1+11’ Financial Forecast for North America Fiber Cement (FY23 1+11 NA Forecast); and
- (b) it otherwise denies the allegations in paragraph 72G;
- (c) it says further that the FY23 1+11 NA Forecast as at 12 May 2022:
  - (i) forecast an EBIT margin for the first quarter of FY23 of 26.1%;
  - (ii) forecast an EBIT margin for the total year of FY23 of 30.3%.

**Particulars**

Excel Spreadsheet, ‘FY23 1+11 NA Forecast Draft v2’, 12 May 2022 [JHX.0050.0002.4972].

72H. To paragraph 72H:

- (a) it denies the allegations in subparagraph (a);
- (b) save that it relies on the full terms and effect of the email, it admits the allegations in subparagraph (b);
- (c) save that it relies on the full terms and effect of the email, it admits the allegations in subparagraph (c);
- (d) it says further that on 12 May 2022, Gadd responded by email to Miele’s email referred to in subparagraph (c) above with words to the effect that Gadd thought there was a path to a 33% EBIT margin for North America Fiber Cement.

**Particulars**

Email from Sean Gadd to Jason Miele, 12 May 2022, [JHX.0005.0010.2423].

72I. To paragraph 72I:

- (a) it admits that:
  - (i) the Board convened on 12 May 2022; and
  - (ii) the Board was provided with financial plans containing the data relating to the matters alleged in the tables at sub-paragraphs 72I(a), (b) and (c); and

- (b) it refers to and repeats paragraph 42H above and otherwise denies the allegations at paragraph 72I.

**F. THE POSITION BETWEEN 7 FEBRUARY 2022 AND 16 AUGUST 2022**

73. To the allegations in paragraph 73:

- (a) it refers to and repeats paragraph 44 above;
- (b) it says that:
- (i) between 7 February 2022 and early 3-March 2022, the price of lumber in the United States increased from a closing price of US\$1,114.90 to a closing price of US\$1,464.40 per 1,000 board feet;
  - (ii) between early March 2022 and 17 May 2022, the price of lumber in the United States continued to fluctuate but generally decreased;
  - ~~(ii) between 4 March 2022 and 30 June 2022, the price of lumber continued to fluctuate and reached a closing price of US\$663.30 per 1,000 board feet;~~
  - (iii) ~~[Not used] between 1 July 2022 to 7 November 2022, the price of lumber fluctuated above and below US\$600 per 1,000 board feet and reached a closing price of US\$455.00 per 1,000 board feet;~~
  - (iv) ~~[Not used] across the period 7 February and June 2022, the average price of lumber materially exceeded the average price of lumber over the period 1 February 2017 and 1 June 2020;~~
- (c) it otherwise denies the allegations in paragraph 73.

73A. To paragraph 73A:

- (a) it says that on 3 May 2022, Louisiana Pacific announced:
- (i) the first production of LP® SmartSide® siding products (**SmartSide**) at its existing Houlton, Maine facility (**LP Houlton**) on 24 March 2022, and the production of the first APA – The Engineered Wood Association approved SmartSide board on 19 April 2022, following the conversion of LP Houston from the manufacture of oriented strand board and laminated strand lumber to SmartSide;

- (ii) that, in the initial phase, LP Houlton would produce soffit and LP® ProStruct® Flooring with SmartFinish®, with SmartSide lap and trim starting production at the end of the second quarter and that the site expected to achieve full operating capacity within a year; and
- (b) it otherwise denies the allegations in paragraph 73A.

**Particulars**

Louisiana Pacific Announcement, “LP Building Solutions Announces the First Production of LP® SmartSide® at Houlton, Maine Facility”, dated 3 May 2022, accessible at: <https://lpcorp.com/about-lp/media-resources/news-releases/product-news/lp-building-solutions-announces-the-first-production-of-lp-smartside-at-houlton-maine-facility>.

- 74. It does not admit the allegations in paragraph 74.
- 75. To paragraph 75:
  - (a) it says that the allegations in paragraph 75 are vague and embarrassing and are liable to be struck out;
  - (b) under cover of that objection:
    - (i) it denies the allegations in paragraph 75; and
    - (ii) it says further that in or around early May 2022, manufacturers of Competing Products announced price increases.

**Particulars**

Louisiana Pacific announced a price increase on or about 2 May 2022 [JHX.0005.0033.0101]. Allura announced a price increase on or about 6 May 2022 [JHX.0005.0001.4725].

- 76. It denies the allegations in paragraph 76, ~~and~~ refers to and repeats paragraphs 47, 52, 73 to 75 above and says further that the decision of customers to substitute James Hardie’s FC Products in place of Competing Products could be influenced by various factors other than the matters alleged at paragraphs 73 to 75 of the Amended Statement of Claim.

**Particulars**

The decision to substitute James Hardie’s FC Products could be impacted by, among other things, the products’ quality, integrity, endurance, aesthetics and safety vis-à-vis Competing Products.

77. To the allegations in paragraph 77:
- (a) it admits that the volume of new starts in August 2022 was lower than in February 2022;
  - (b) it says that:
    - (i) the total volume of housing starts increased between March 2022 and April 2022;
    - (ii) the total volume of housing starts in the months of May and June 2022 were commensurate with levels between July and October 2021 (before further increases in November and December 2021);
  - (c) it refers to and repeats paragraph 46(c)(ii) to (iv) above; and
  - (d) it otherwise denies the allegations in paragraph 77.
78. It denies the allegations in paragraph 78 and refers to and repeats paragraphs 43 to 58 and 73 to 77 above and 79 to 81, ~~83~~ and 90 and 97AA below.
79. To paragraph 79:
- (a) it admits that, between 7 February 2022 and 16 August 2022, the CPI in the United States continued to remain at elevated levels as compared to a CPI of 2%;
  - (b) it otherwise does not admit the allegations in paragraph 79.
80. To paragraph 80:
- (a) it admits that:
    - (i) on or around 16 March 2022 (EDT), the US Federal Reserve published and released a press release (**16 March Press Release**);
    - (ii) the 16 March Press Release contained the statements made in it, including statements substantially to the effect alleged, and says that it will refer at trial to the full terms and effect of the 16 March Press Release;



- (b) it says further that, as at 16 March 2022, the median projections of US Federal Reserve Board members and US Federal Reserve Bank presidents were that the Federal funds rate would increase to:
  - (i) 1.9% in 2022, with a projected range of 1.4% to 3.1%;
  - (ii) 2.8% in 2023, with a projected range of 2.1% to 3.6%; and
  - (iii) 2.8% in 2024, with a projected range of 2.1% to 3.6%.

**Particulars**

US Federal Reserve, *Summary of Economic Projections* dated 16 March 2022, Table 1, p 2.

- (c) it otherwise denies the allegations in paragraph 80.

81. To paragraph 81:

- (a) it admits that:
  - (i) on or around 4 May 2022 (EDT), the US Federal Reserve published and released a press release (**4 May Press Release**);
  - (ii) the 4 May Press Release contained the statements made in it, including statements substantially to the effect alleged, and says that it will refer at trial to the full terms and effect of the 4 May Press Release;
- (b) it says further that, as at 4 May 2022, the median projections of US Federal Reserve Board members and US Federal Reserve Bank presidents for the US Federal funds rate were as set out at sub-paragraph 80(b) above;
- (c) it otherwise denies the allegations in paragraph 81.

82. ~~[Not used] To paragraph 82:~~

- ~~(a) it admits that:~~
  - ~~(i) on or around 15 June 2022 (EDT), the US Federal Reserve published and released a press release (**15 June Press Release**);~~

- (ii) — ~~the 15 June Press Release contained the statements made in it, including statements substantially to the effect alleged, and says that it will refer at trial to the full terms and effect of the 15 June Press Release;~~
- (b) ~~it says further that, as at 15 June 2022, the median projections of US Federal Reserve Board members and US Federal Reserve Bank presidents were that the Federal funds rate would:~~
  - (i) — ~~increase to 3.4% in 2022, with a projected range of 3.1% to 3.9%;~~
  - (ii) — ~~increase to 3.8% in 2023, with a projected range of 2.9% to 4.4%; and~~
  - (iii) — ~~decrease to 3.4% in 2024, with a projected range of 2.1% to 4.1%.~~

#### **Particulars**

~~US Federal Reserve, *Summary of Economic Projections* dated 15 June 2022, Table 1, p 2.~~

- (c) ~~it otherwise denies the allegations in paragraph 82.~~
83. [Not used] ~~To paragraph 83:~~
- (a) ~~it admits that:~~
    - (i) — ~~on or around 27 July 2022 (EDT), the US Federal Reserve published and released a press release (**27 July Press Release**);~~
    - (ii) — ~~the 27 July Press Release contained the statements made in it, including statements substantially to the effect alleged, and says that it will refer at trial to the full terms and effect of the 27 July Press Release;~~
  - (b) ~~it says further that, as at 27 July 2022, the median projections of US Federal Reserve Board members and US Federal Reserve Bank presidents for the US Federal funds rate were as set out at sub-paragraph 82(b) above;~~
  - (c) ~~it otherwise denies the allegations in paragraph 83.~~
84. ~~Paragraph 84 does not contain an allegation of material fact and it therefore denies the allegations therein, and it otherwise refers to and repeats paragraphs 50 to 58 above.~~  
To paragraph 84:

- (a) in respect of the allegations in paragraph 50 which are repeated as at 17 May 2022:
- (i) it admits that the CPI was 8.6% in May 2022, which was well above 2%;
  - (ii) it otherwise does not admit the allegations;
  - (iii) it says further that, in the 4 May Press Release, the US Federal Reserve stated that:
    - (A) the implications of the invasion of Ukraine by Russia for the US economy were highly uncertain;
    - (B) with appropriate firming in the stance of monetary policy, the Fed Committee expected inflation to return to its 2 percent objective and the labor market to remain strong;
- (b) in respect of the allegations in paragraph 51 which are repeated as at 17 May 2022, it does not admit the allegations; and
- (c) in respect of the allegations in paragraph 52 which are repeated as at 17 May 2022, it denies the allegations and refers to and repeats paragraph 52 above.

#### **Particulars**

Further to the particulars subjoined to paragraph 52 above, median US existing house prices had been rising, year over year, since March 2012 and continued to rise compared to the prior year until January 2023.

84A. To paragraph 84A:

- (a) it admits that, as at 17 May 2022, an increase in North America Fiber Cement's cost of building and construction materials was likely to cause it to incur additional input costs;
- (b) it refers to and repeats paragraph 53 above;

#### **Particulars**

Further to the particulars subjoined to paragraph 53 above, by May 2022, James Hardie had decided to introduce the second price increase of around 4% in the North American Market which would become effective on or around 20 June 2022 and which was expected to improve its EBIT Margin over the balance of the financial year.

- (c) it otherwise denies the allegations in paragraph 84A.

- 84B. It denies the allegations in paragraph 84B and refers to and repeats paragraph 61(b) above.
- 84C. It denies the allegations in paragraph 84C and refers to and repeats paragraphs 53(d), 84 and 84A above.
- 84D. It denies the allegations in paragraph 84D and refers to and repeats paragraphs 53(d) and 84 to 84C above.
85. It denies the allegations in paragraph 85 and refers to and repeats paragraphs 50 to 55 ~~58~~ and 73 to 79 ~~78~~ above.
86. It denies the allegations in paragraph 86 and refers to and repeats paragraphs 52 to 54 and 84 to 85 above.
- 86A. To paragraph 86A:
- (a) in respect of the allegations in paragraph 56 which are repeated as at 17 May 2022, it admits the allegations and says further that, as at 17 May 2022, the median projections of US Federal Reserve Board members and US Federal Reserve Bank presidents were that the Federal funds rate would increase to:
- (i) 1.9% in 2022, with a projected range of 1.4% to 3.1%;
- (ii) 2.8% in 2023, with a projected range of 2.1% to 3.6%; and
- (iii) 2.8% in 2024, with a projected range of 2.1% to 3.6%;

**Particulars**

US Federal Reserve, *Summary of Economic Projections* dated 16 March 2022, Table 1, p 2.

- (b) in respect of the allegations in paragraph 57 which are repeated as at 17 May 2022, it denies the allegations and refers to and repeats paragraph 57 above.
87. It admits the allegations in paragraph 87 and says further that:
- (a) it refers to and repeats paragraphs 49(b), 50(c), 52(c), 53(d), 56, 57 and 80(b) above and 110 below;
- (b) as at 17 May 2022, the median projections of US Federal Reserve Board members and US Federal Reserve Bank presidents for the US Federal funds rate were as set out at sub-paragraph 80(b) above.

88. It denies the allegations in paragraph 88 and refers to and repeats paragraphs 47(c)(ii), 52 to 57 and 87 above.

88A. It denies the allegations in paragraph 88A and refers to and repeats paragraphs 56 to 57, 80 to 81 and 86A above.

89. It denies the allegations in paragraph 89 and refers to and repeats paragraphs 52 to 57 and 84 to 88 above.

89A. It denies the allegations in paragraph 89A and refers to and repeats paragraphs 47, 78, 86 and 89 above.

90. It denies the allegations in ¶ paragraph 90 and:

(a) ~~[Not used] it says that the allegations are vague and embarrassing and liable to be struck out;~~

(b) ~~[Not used] under cover of that objection, it denies the allegations in paragraph 90;~~

(c) it says further that:

(i) between 2021 and 17 May 2022:

(A) the demand for James Hardie's FC Products in the North American Market exceeded its capacity to supply those products;

(B) North America Fiber Cement sold all, or almost all, the FC Products that it made;

(ii) James Hardie calculated its backlog of unfilled customer orders in the United States as the number of products that had been ordered by James Hardie's customers but not shipped by the requested delivery date **(James Hardie Backlog)**;

(iii) the James Hardie Backlog was one factor taken into account in forecasting total sales; and

(iv) it refers to and repeats paragraphs 73 to 89 above.

90A. It denies the allegations in paragraph 90A.

90B. It refers to and repeats paragraph 72E above and otherwise denies the allegations in paragraph 90B.

90C. To paragraph 90C:

- (a) it says that the term “one-off initiatives” is vague and embarrassing;
- (b) under cover of that objection, it denies the allegations in paragraph 90C.

90D. To paragraph 90D:

- (a) it says that the terms “improved” and “volume results” are vague and embarrassing;
- (b) under cover of that objection, it denies the allegations in paragraph 90D.

90E. To paragraph 90D:

- (a) it says that the terms “improved” and “volume results” are vague and embarrassing;
- (b) under cover of that objection, it denies the allegations in paragraph 90E and refers to and repeats paragraphs 90C and 90D above.

90F. To paragraph 90F:

- (a) it says that the term “one-off initiatives” is vague and embarrassing;
- (b) under cover of that objection, it denies the allegations in paragraph 90F and refers to and repeats paragraphs 90C to 90E above.

90G. To paragraph 90G:

- (a) it refers to and repeats paragraphs 58B and 65 above;
- (b) it denies the allegations in paragraph 90G;
- (c) it says further that:
  - (i) the volume forecast upon which the guidance referred to in paragraph 65(a) was based was informed by a number of considerations, including matters referred to in paragraph 58B above, and James Hardie’s monthly demand planning processes;
  - (ii) as at 17 May 2022, James Hardie’s demand planning processes included consideration of unconstrained orders; and
  - (iii) during FY23, James Hardie’s demand planning process included consideration of orders using a 10-month rolling growth trend at the

region / finish / product group level, with historical seasonality applied; adjustments based on specific interventions undertaken by James Hardie; and judgement calls in relation to regions that had been on allocation.

- 90H. It denies the allegations in paragraph 90H and refers to and repeats paragraphs 58C and 90G above.
- 90I. It denies the allegations in paragraph 90I and refers to and repeats paragraphs 58D and 90G above.
- 90J. It denies the allegations in paragraph 90J and refers to and repeats paragraphs 58E and 90G above.
- 90K. It denies the allegations in paragraph 90K and refers to and repeats paragraphs 58F and 90G above.
- 90L. It denies the allegations in paragraph 90L and refers to and repeats paragraphs 58G and 90G above.
- 90M. It denies the allegations in paragraph 90M and refers to and repeats paragraphs 52, 86 and 90G above.
- 90N. It denies the allegations in paragraph 90N and refers to and repeats paragraphs 89 and 90G above.
- 90O. It denies the allegations in paragraph 90O and refers to and repeats paragraphs 90G to 90N above.
- 90P. It denies the allegations in paragraph 90P and refers to and repeats paragraphs 65, 72G to 72H, 89A, 90B to 90O above.
- 90Q. It denies the allegations in paragraph 90Q and refers to and repeats paragraph 90P above.
91. It denies paragraph 91 and refers to and repeats paragraphs 47, 50 to 59 and 73 to 90 above and paragraph 146 below.
92. It denies the allegations in paragraph 92 and refers to and repeats paragraphs 26, 47, 50 to 59 and 73 to 91 above and paragraph 146 below.

**G. JAMES HARDIE'S REVISED FY23 GUIDANCE**

93. It admits the allegations in paragraph 93.

94. To paragraph 94:

- (a) it admits that the August Announcements contained the statements made in them, including statements substantially to the effect alleged in sub-paragraphs 94(a), (b) and (c), and says that it will refer at trial to the full terms and effect of the August Announcements;
- (b) it denies the allegations in sub-paragraph 94(d) and says that, by the August Announcements, James Hardie stated that, after a strong first quarter of 28% growth by North America Fiber Cement, management saw several scenarios where it could deliver Net Sales Growth above the prior top end of 22% so it no longer believed the top end cap was relevant; however, it also acknowledged the uncertainty in the housing market and the potential for underlying demand to decrease at the tail end of the fiscal year so it held the floor at 18%;
- (c) ~~[Not used] it denies the allegations in sub-paragraph 94(e) and says that, by the August Announcements, James Hardie stated that, based on the conversations it was having with contractors, the backlog that still existed in the R&R Sector was still there and management thought it would probably hold the industry through to January FY23 on average, then in February and March FY23 there would probably be a slight dip;~~
- (d) it says further that:
  - (i) in this Defence:
    - (A) its revised guidance range for the James Hardie Group ANI in FY23 of US\$730 million to US\$780 million will be referred to as the **August Revised FY23 ANI Guidance**; and
    - (B) its revised guidance range for North America Fiber Cement in FY23 of Net Sales Growth of 18%+ versus FY22 and EBIT Margin of between 28% and 32% will be referred to as the **August Revised FY23 North America Guidance**,  
(together, the **August Revised FY23 Guidance**);



- (ii) the August Announcements contained Guidance Warnings;

### Particulars

Pages 4 and 6 of the Media Release titled “James Hardie Industries Announces First Quarter Fiscal Year 2023 Results” dated 16 August 2022 in the 1Q23 Results Pack.

Page 15 of the document titled “Management’s Analysis of Results: James Hardie – 1<sup>st</sup> Quarter Fiscal Year 2023” in the 1Q23 Results Pack.

Pages 2 and 23 of the document titled “Q1 FY23 Management Presentation” dated 16 August 2022 in the 1Q23 Results Pack.

In the August Earnings Call, Miele stated that page 2 of the presentation accompanying the August Earnings Call contained James Hardie’s standard cautionary note on forward-looking statements and that the presentation contained forward-looking statements.

- (iii) the Guidance Warnings applied to the forward-looking statements in the August Announcements ~~alleged in sub-paragraphs 94(a) to (c) of the Statement of Claim (including the August Revised FY23 ANI Guidance) and set out in sub-paragraphs 94(b) and 94(c) above; and~~
- (iv) it refers to and repeats sub-paragraph 35(b) above.

95. To paragraph 95:

- (a) ~~save that the reference to “16 August announcement” should be to “August Announcements”, it admits the allegations in paragraph 95~~ it admits that the August Announcements contained the statements made in them, including statements substantially to the effect alleged in sub-paragraphs 95(a), (b) and (c); and
- (a1) save that the EBIT for North America Fiber Cement in 1Q23 was US\$191.8m and not US\$19.18m, it admits the allegations in sub-paragraph 95(b1);
- (a2) to sub-paragraph 95(b2):
- (i) it admits that in the August Earnings Call, it stated that:
- (A) the margin delivered by the North American business in 1Q23 was below the previously communicated expected range for the

full year, driven by significant and accelerating cost inflation across raw material inputs and freight;

(B) it effectively executed a second price increase effective 22 June 2022 and it expected margins to improve sequentially throughout the fiscal year;

(ii) it otherwise denies the allegations in sub-paragraph 95(b2);

(a3) save that the adjustments made by James Hardie were made in 1Q23 and not 1Q22, it admits the allegations in sub-paragraph 95(b3);

(a4) to sub-paragraph 95(b4):

(i) it denies that, by the August Announcements, it stated that James Hardie was starting to see some improvements in freight (in July 2022);

(ii) it otherwise refers to sub-paragraph (b) below and admits the allegations in sub-paragraph 95(b4);

(iii) it says further that, by the August Announcements, it stated that North America Fiber Cement was starting to see some improvements in its input costs, most notably in freight which was 10% lower in July compared to Q1;

(a5) it denies the allegations in sub-paragraph 95(d) and says that, by the August Announcements, James Hardie stated that, based on the conversations it was having with contractors, the backlog that still existed in the R&R Sector was still there and management thought it would probably hold the industry through to January FY23 on average, then in February and March FY23 there would probably be a slight dip;

(a6) it otherwise denies the allegations in paragraph 95 and says it will rely at trial on the full terms and effect of the August Announcements;

(b) it says further that, in the August Earnings Call, Gadd stated with respect to the EBIT Margin component of the FY23 North America Guidance, James Hardie had lowered its full year FY23 EBIT Margin guidance range from 30% to 33% to a range of 28% to 32%, as continued inflationary pressures had created an environment where James Hardie did not see a path to 33% EBIT Margin for

the full year, and the midpoint of 30% was more reflective of a most likely scenario than the prior midpoint of 31.5%.

95A. To paragraph 95A:

- (a) it admits that:
- (i) by the August Revised FY23 ANI Guidance, it reduced its guidance range for James Hardie Group ANI; and
- (ii) by the August Revised FY23 North America Guidance, it held the floor of its guidance range for net sales growth in North America Fiber Cement, while reducing its guidance range for EBIT Margin in that operating segment, as compared to the guidance given on 12 May 2022;

	<b><u>Particulars</u></b>		
<b><u>Guidance</u></b>	<b><u>7 Feb 2022</u></b>	<b><u>12 May 2022</u></b>	<b><u>16 August 2022</u></b>
<u>Group ANI</u>	<u>US\$740 to \$820 million</u>	<u>US\$740 to \$820 million</u>	<u>US\$730 to \$780 million</u>
<u>North America Net Sales Growth (vs FY22)</u>	<u>16% to 20%</u>	<u>18% to 22%</u>	<u>18%+</u>
<u>North America EBIT Margin</u>	<u>30% to 33%</u>	<u>30% to 33%</u>	<u>28% to 32%</u>

- (b) it otherwise denies the allegations in paragraph 95A and refers to and repeats paragraphs 35(b), 94 and 95 above.

96. To paragraph 96:

- (a) as to sub-paragraph 96(a):
- (i) it admits that on 16 August 2022, James Hardie represented that the primary reasons for having to make the August Revised FY23 ANI Guidance were:
- (A) continued inflationary pressures globally;
- (B) lowered expectations regarding Europe segment EBIT;
- (C) the impact of a strengthening US dollar on the APAC and Europe earnings; and

- (D) housing market uncertainty;
- (ii) it refers to and repeats paragraph 94 above and therefore otherwise denies the allegations in sub-paragraph 96(a);
- (b) it denies the allegations in sub-paragraph 96(b)(i), and it says that, by the August Announcements, James Hardie stated that the full year FY23 ANI guidance had decreased to US\$730 million to US\$780 million (previously US\$740 million to US\$820 million), being the August Revised FY23 ANI Guidance;
- (c) it denies the allegations in sub-paragraph 96(b)(ii), and it says that, by the August Announcements, James Hardie stated that the August Revised FY23 ANI Guidance was a 22% increase at the mid-point relative to FY22;
- (d) it denies the allegations in sub-paragraph 96(b)(iii), and it refers to and repeats sub-paragraphs 94(b), 94(d) and 95(b) above; it says that James Hardie gave revised guidance for North America Fiber Cement of:
- (i) ~~Net Sales Growth of 18%+ (an increase from the bottom end of the guidance of Net Sales Growth of 16% to 20% comprising part of the FY23 North America Guidance);~~
- (ii) ~~an EBIT Margin of 28% to 32%;~~
- ~~(together, **Revised FY23 North America Guidance**);~~
- (e) [Not used] it denies the allegations in sub-paragraph 96(b)(iv) and refers to and repeats sub-paragraph 94(b) above;
- (f) it denies the allegations in sub-paragraph 96(b)(v) and refers to and repeats sub-paragraph 95(a5) 94(e) above;
- (g) it otherwise denies the allegations in paragraph 96;
- (h) it says further that the Guidance Warnings referred to in sub-paragraph 94(d)(ii) above applied to the August Revised FY23 ANI Guidance and the August Revised FY23 North America Guidance, and it refers to and repeats paragraphs 35(b), 94 to 95A above.
97. To paragraph 97:
- (a) it refers to and repeats paragraphs 94 to 96 above; and

- (b) it otherwise denies the allegations in paragraph 97.

#### **GA. PREPARATION OF THE AUGUST REVISED FY23 GUIDANCE**

##### 97A. To paragraph 97A:

- (a) it admits that, by no later than mid-June 2022, results for North America Fiber Cement for May 2022, the second month of FY23, were circulated, which included the information set out in the presentation at JHX.0005.0007.5360; and
- (b) it otherwise denies the allegations in paragraph 97A.

##### 97B. To paragraph 97B:

- (a) it admits that the May 2022 results referred to in paragraph 97A above indicated that the difference between the EBIT forecast in the 'FY23 1+11' Financial Forecast for North America Fiber Cement and the actual EBIT for North America Fiber Cement in May 2022 was contributed to by, among others, a reduced differential of US\$7.6 million in volume and an increased differential in cash cost of US\$2.7 million; and
- (b) it otherwise denies the allegations in paragraph 97B.

##### 97C. It admits the allegations in paragraph 97C.

##### 97D. To paragraph 97D:

- (a) it says that the terms "performance" and "clear decline" are vague and embarrassing;
- (b) under cover of that objection, it denies the allegations in sub-paragraph 97D;

##### 97E. To paragraph 97E:

- (a) it admits that on 10 June 2022, Gadd sent an email to Miele containing the passage quoted in paragraph 97E; and
- (b) it otherwise denies the allegations in paragraph 97E.

##### 97F. To paragraph 97F:

- (a) it admits that:
- (i) a draft of the 'FY23 2+10' Financial Forecast for North America Fiber Cement was prepared on or around 13 June 2022;

(ii) as at 13 June 2022, both Miele and Gadd considered that adjustments needed to be made to North America Fiber Cement's SG&A expenditures;

(b) it otherwise denies the allegations in paragraph 97F;

(c) it says further that, as at around mid-June 2022, sales in North America Fiber Cement were up 30% as compared with the corresponding quarter in FY22.

97G. To paragraph 97G:

(a) it admits that in or about mid-June 2022, Khamille De Lara prepared a spreadsheet at the request of Miele; and

(b) it otherwise denies the allegations in paragraph 97G.

97H. To paragraph 97H:

(a) it admits that, on or about 15 June 2022, it prepared a 'FY23 2+10' Financial Forecast for the James Hardie Group which included data relating to the matters alleged in the table at paragraph 97H;

(b) it otherwise denies the allegations in paragraph 97H.

97I. To the allegations in paragraph 97I:

(a) it admits that by mid-July 2022, results for North America Fiber Cement for June 2022, the third month of FY23, were circulated, which included the information set out in the presentation at JHX.0005.0007.5360;

(b) it otherwise denies the allegations in paragraph 97A; and

(c) it says further that the results referred to in sub-paragraph (a) above largely reflected the 'FY23 2+10' Financial Forecast for North America Fiber Cement referred to in sub-paragraph 97H(a) above.

97J. It denies the allegations in paragraph 97J.

97K. To paragraph 97K:

(a) it admits that, on or about 18 July 2022, it prepared a 'FY23 3+9' Financial Forecast for the James Hardie Group which included data relating to the matters alleged in the table at paragraph 97K;

(b) it otherwise denies the allegations in paragraph 97H.

97L. To paragraph 97L:

- (a) it admits that, by mid-August 2022, results for North America Fiber Cement for July 2022, the fourth month of FY23, were circulated, which included the information set out in the presentation at JHX.0005.0035.2623;
- (b) it otherwise denies the allegations in paragraph 97L.

97M. To paragraph 97M:

- (a) it admits that the July 2022 results referred to in paragraph 97L above indicated that the difference between the EBIT forecast in the 'FY23 3+9' Financial Forecast for North America Fiber Cement and the actual EBIT for North America Fiber Cement in July 2022 was contributed to by, among others, reduced differentials of US\$3.8 million in volume and US\$2.2 million with respect to price mix;
- (b) it otherwise denies the allegations in paragraph 97M.

97N. To paragraph 97N:

- (a) it admits that, on or about 21 August 2022, it prepared a 'FY23 4+8' Financial Forecast 'preview' for the James Hardie Group which included data relating to the matters alleged in the table at paragraph 97N; and
- (b) it otherwise denies the allegations in paragraph 97N.

97O. It denies the allegations in paragraph 97O and refers to and repeats paragraph 94 above.

97P. It denies the allegations in paragraph 97P and refers to and repeats paragraphs 42B(c), 94 and 97I to 97N above.

## **H. THE POSITION AS AT 16 AUGUST 2022**

97Q. To paragraph 97Q:

- (a) it refers to and repeats paragraph 73 above;
- (b) it says that, between early March 2022 and 16 August 2022, the price of lumber in the United States continued to fluctuate but generally decreased;
- (c) it otherwise denies the allegations in paragraph 97Q.

97R. It denies the allegations in paragraph 97R and refers to and repeats paragraph 73A above.

97S. To paragraph 97S:

(a) it says that the paragraph is embarrassing insofar as it refers to “paragraph A and B” which do not exist;

(b) under cover of that objection, it refers to and repeats paragraphs 73A and 74 above and otherwise does not admit the allegations in paragraph 97S.

97T. It denies the allegations in paragraph 97T and it refers to and repeats paragraph 75 above.

97U. It denies the allegations in paragraph 97U and refers to and repeats paragraphs 97S and 97T above.

97V. It denies the allegations in paragraph 97V and refers to and repeats paragraphs 76, 97A to 97E above.

97W. To paragraph 97W:

(a) it says that when read with the definition of ‘US Construction Market Softening’ in paragraph 77, the allegations in paragraph 97W are circular and therefore embarrassing;

(b) under cover of that objection, it refers to paragraph 77 above and otherwise denies the allegations in paragraph 97W.

97X. It denies the allegations in paragraph 97X and refers to and repeats paragraphs 43 to 58A, 73 to 78 and 97Q to 97W above.

97Y. To paragraph 97Y:

(a) it admits that as at 16 August 2022 the CPI in the United States continued to remain at an elevated level as compared to a CPI of 2%;

#### **Particulars**

The CPI in the United States as at 16 August 2022 was 8.3%.

(b) it otherwise does not admit the allegations in paragraph 97Y.

97Z. To paragraph 97Z:

(a) it admits that:



- (i) on or around 15 June 2022 (EDT), the US Federal Reserve published and released a press release titled “Federal Reserve issues FOMC statement” (15 June Press Release);
- (ii) the 15 June Press Release contained the statements made in it, including statements substantially to the effect alleged, and says that it will refer at trial to the full terms and effect of the 15 June Press Release;
- (b) it says further that, as at 15 June 2022, the median projections of US Federal Reserve Board members and US Federal Reserve Bank presidents were that the Federal funds rate would:
  - (i) increase to 3.4% in 2022, with a projected range of 3.1% to 3.9%;
  - (ii) increase to 3.8% in 2023, with a projected range of 2.9% to 4.4%; and
  - (iii) decrease to 3.4% in 2024, with a projected range of 2.1% to 4.1%.

#### Particulars

US Federal Reserve, *Summary of Economic Projections* dated 15 June 2022, Table 1, p 2.

- (c) it otherwise denies the allegations in paragraph 97Z.

97AA. To paragraph 97AA:

- (a) it admits that:
  - (i) on or around 27 July 2022 (EDT), the US Federal Reserve published and released a press release titled “Federal Reserve issues FOMC Statement” (27 July Press Release);
  - (ii) the 27 July Press Release contained the statements made in it, including statements substantially to the effect alleged, and says that it will refer at trial to the full terms and effect of the 27 July Press Release;
- (b) it says further that, as at 27 July 2022, the median projections of US Federal Reserve Board members and US Federal Reserve Bank presidents for the US Federal funds rate were as set out at sub-paragraph 97Z(b) above;
- (c) it otherwise denies the allegations in paragraph 97AA.

97BB. To paragraph 97BB:

- (a) in respect of the allegations in paragraph 50 which are repeated as at 16 August 2022:
  - (i) it admits that the CPI was 8.3% in August 2022, which was well above 2%;
  - (ii) it otherwise does not admit the allegations;
  - (iii) it says further that, in the 27 July Press Release, the US Federal Reserve stated that:
    - (1) the Fed Committee sought to achieve maximum employment and inflation at the rate of 2 percent over the longer run;
    - (2) the Fed Committee was strongly committed to returning inflation to its 2% objective; and
    - (3) the Fed Committee would be prepared to adjust the stance of monetary policy as appropriate if risks emerge that could impede the attainment of the Committee's goals;
- (b) in respect of the allegations in paragraph 51 which are repeated as at 16 August 2022, it does not admit the allegations;
- (c) in respect of the allegations in paragraph 52 which are repeated as at 16 August 2022, it denies the allegations and refers to and repeats paragraphs 52 and 84(c) above;
- (d) in respect of the allegations in paragraph 84 which are repeated as at 16 August 2022, it refers to and repeats paragraph 84 and sub-paragraphs (a) to (c) above;
- (e) in respect of the allegations in paragraph 84A which are repeated as at 16 August 2022:
  - (i) it admits that, as at 16 August 2022, an increase in North America Fiber Cement's cost of building and construction materials was likely to cause it to incur additional input costs;
  - (ii) it refers to and repeats paragraphs 53 and 84A above;
  - (iii) it otherwise denies the allegations;

- (f) in respect of the allegations in paragraph 84B which are repeated as at 16 August 2022, it denies the allegations and refers to and repeats paragraph 84B above;
- (g) in respect of the allegations in paragraph 84C which are repeated as at 16 August 2022, it denies the allegations and refers to and repeats paragraph 84C above;
- (h) in respect of the allegations in paragraph 84D which are repeated as at 16 August 2022:
- (i) it says that:
- (1) on 16 August 2022, it issued the August Revised FY23 ANI Guidance, which revised down the guidance for James Hardie Group ANI to a range of US\$730 million to US\$780 million (previously US\$740 million to US\$820 million);
  - (2) one of its primary reasons for issuing the August Revised FY23 ANI Guidance was continued global inflationary pressures;
  - (3) on 16 August 2022, it also issued the August Revised FY23 North America Guidance, which revised down the expected EBIT margin for North America Fiber Cement to 28% to 32% (previously 30% to 33%);
  - (4) one of its primary reasons for issuing the August Revised FY23 North America Guidance was continued inflationary pressures in North America; and
  - (5) it refers to and repeats paragraphs 94 to 96 above; and

**Particulars**

James Hardie, Results for Announcement to the Market, 16 August 2022, pages 3, 37 and 45 [RAE.001.001.0247].

Transcript: James Hardie Industries plc, Q1 2023 Earnings Call, 16 August 2022, page 6 [RAE.001.001.2335].

- (ii) it otherwise denies the allegations.

97CC. It denies the allegations in paragraph 97CC and refers to and repeats paragraphs 50 to 52, 84 to 84D, 97A to 97H, 97L and 97BB above.

97DD. To paragraph 97DD:

- (a) it refers to and repeats paragraph 97BB(h) above; and
- (b) it otherwise does not admit the allegations in the paragraph.

97EE. To paragraph 97EE:

- (a) in respect of the allegations in paragraphs 56 and 87 which are repeated as at 16 August 2022, it admits the allegations and says further that, as at 16 August 2022, the median projections of US Federal Reserve Board members and US Federal Reserve Bank presidents were that the Federal funds rate would increase to:
  - (i) 3.4% in 2022 with a projected range of 3.1 to 3.9%;
  - (ii) 3.8% in 2023 with a projected range of 2.9 to 4.4%; and
  - (iii) 3.4% in 2024 with a projected range of 2.1 to 4.1%;

**Particulars**

US Federal Reserve, *Summary of Economic Projections* dated 15 June 2022, Table 1, p 2.

- (b) in respect of the allegations in paragraphs 57 and 88 which are repeated as at 16 August 2022, it denies the allegations and refers to and repeats paragraphs 57 and 88 above.

97FF. To paragraph 97FF:

- (a) it refers to and repeats paragraphs 87 to 88, 97W to 97X, and 97EE above; and
- (b) it otherwise does not admit the allegations in the paragraph.

97GG. To paragraph 97GG:

- (a) it refers to and repeats paragraph 97BB(h) above; and
- (b) it otherwise does not admit the allegations in the paragraph.

98. To paragraph 98:

- (a) save that it understands the reference to paragraphs ~~79 to 83~~ 97J to 97K to be to paragraphs 80, 81, 97Z and 97AA ~~to 83~~, it admits the allegations in sub-paragraph 98(a);
- (b) as to the allegations in sub-paragraph 98(b):

- (i) it admits that the overall volume of housing starts in the United States decreased between February 2022 and July 2022;
- (ii) it says further that the US housing construction market is broader than single unit new construction and also includes multi-family new construction and the R&R Sector;
- (iii) it refers to and repeats paragraphs 46(c)(iii) to (iv) and 77 above;
- (iv) it otherwise denies the allegations in sub-paragraph 98(b);

(b1) as to the allegations in sub-paragraph 98(b1):

- (i) it admits that the presentation at JHX.0032.0045.4717 stated that average public builder cancellation rates for new home orders in the June quarter increased as compared to the March quarter;
- (ii) it otherwise denies the allegations in sub-paragraph 98(b1);
- (c) it denies the allegations in sub-paragraphs 98(c) ~~to (e)~~;
- (d) ~~[Not used] it denies the allegations in sub-paragraph 98(f) and refers to and repeats paragraph 90 above;~~
- (e) it denies the allegations in sub-paragraph 98(g) and refers to and repeats paragraphs 50 to 60 and 84 to 92 and 97Q to 97GG above and paragraphs 135, 146 and 157 below.

98A. It denies the allegations in paragraph 98A and refers to and repeats paragraphs 47, 97DD and 97GG above and 122C below.

98B. It denies the allegations in paragraph 98B and refers to and repeats paragraphs 97A to 97B, 97I to 97J and 97L to 97M above.

98C. It denies the allegations in paragraph 98C.

98D. It denies the allegations in paragraph 98D.

98E. It denies the allegations in paragraph 98E and refers to and repeats paragraphs 98B to 98E above.

98F. It denies the allegations in paragraph 98F and refers to and repeats paragraph 90G above.

98G. To paragraph 98G:

- (a) it says that the paragraph is vague and embarrassing to the extent that it states “[a]s from the date pleaded in paragraph 98G”;
- (b) under cover of that objection, it denies the allegations in paragraph 98G and refers to and repeats paragraphs 90H and 98G above.

98H. It denies the allegations in paragraph 98H and refers to and repeats paragraphs 90I and 98F above.

98I. It denies the allegations in paragraph 98I and refers to and repeats paragraphs 90J and 98F above.

98J. It denies the allegations in paragraph 98J and refers to and repeats paragraphs 90K and 98F above.

98K. It denies the allegations in paragraph 98K and refers to and repeats paragraphs 90L and 98F above.

98L. It denies the allegations in paragraph 98L and refers to and repeats paragraphs 52, 97BB to 97DD and 98F above.

98M. It denies the allegations in paragraph 98M and refers to and repeats paragraphs 97EE to 97GG and 98F above.

98N. It denies the allegations in paragraph 98N and refers to and repeats paragraphs 98F to 98M above.

98O. It denies the allegations in paragraph 98O and refers to and repeats paragraphs 97A to 97N and 98 to 98M above.

98P. It denies the allegations in paragraph 98P and refers to and repeats paragraphs 97A to 97N and 98 to 98O above.

99. It denies the allegations in paragraph 99 and refers to and repeats paragraphs 47, 50 to 54 and ~~73~~ 97A to 98P ~~98~~ above and paragraph 157 below.

100. It denies the allegations in paragraph 100 and refers to and repeats paragraphs 47, 50 to 54 and 73 to 99 above and paragraph 157 below.

#### **I. PERIOD BETWEEN 16 AUGUST 2022 AND 8 NOVEMBER 2022**

101. It denies the allegations in paragraph 101 and refers to and repeats paragraphs ~~70 and~~ 94 to 96 above.

102. It denies the allegations in paragraph 102 and refers to and repeats paragraphs 97 and 101 above.

103. It admits the allegations in paragraph 103.

104. To paragraph 104:

(a) as to the allegations in sub-paragraph 104(a):

(i) it admits that on Investor Day 1, it reaffirmed the August Revised FY23 ANI Guidance and the August Revised FY23 North America Guidance ~~save that the expression “August FY23 Guidance” is not defined and is therefore understood as the August Revised FY23 ANI Guidance defined above, it admits the allegations in sub-paragraph 104(a);~~

(ii) it refers to and repeats paragraph 94 above and therefore otherwise denies the allegations in sub-paragraph 104(a);

(ii) it says further that:

(A) the presentations released to the market on Investor Day 1 and on 13 September 2022 (**Investor Day 2**) each contained Guidance Warnings;

#### **Particulars**

Page 2 of the Investor Day 1 presentation.

Page 2 of the Investor Day 2 presentation.

(B) the Guidance Warnings referred to in the preceding sub-paragraph and in sub-paragraph 94(d)(ii) above applied to the August Revised FY23 ANI Guidance and the August Revised FY23 North America Guidance;

(b) as to the allegations in sub-paragraph 104(b):

(i) ~~save that it understands the word “including” to be “and”, and the word “New” to be “Net”,~~ it admits the allegations in sub-paragraph 104(b);

(ii) it says further that the Guidance Warnings referred to in sub-paragraph 104(a)(ii)(A) above applied to the statements that it was expected that there would be a 10-year volume CAGR of 9%, 10-year Net Sales CAGR of 12% and a 10-Year Adjusted EBIT CAGR of 16%;

- (c) ~~save that the word “stated” is missing from the start of sub-paragraph 104(e), it admits the allegations in sub-paragraph 104(c);~~
- (d) it refers to and repeats sub-paragraph 35(b) above and otherwise denies the allegations in paragraph 104.

**J. NOVEMBER 2022**

105. It admits the allegations in paragraph 105.

106. To paragraph 106:

- (a) it admits that the November Announcements contained the statements made in it, including statements substantially to the effect alleged (save that the expression “Adjusted FY2023 ANI Guidance Range” in sub-paragraph 106(a) is not defined and is therefore understood as the August Revised FY23 ANI Guidance defined above), and that it will refer at trial to the full terms and effect of the November Announcements;
- (b) it says further that:
  - (i) in this Defence, its further revised guidance range for the James Hardie Group ANI in FY23 of US\$650 million to US\$710 million will be referred to as the **November Revised FY23 ANI Guidance**;
  - (ii) the November Announcements contained Guidance Warnings;

**Particulars**

Pages 4 and 6 of the Media Release titled “James Hardie Industries Announces Second Quarter Fiscal Year 2023 Results” dated 8 November 2022 in the 2Q23 Results Pack.

Page 16 of the document titled “Management’s Analysis of Results: James Hardie – 2<sup>nd</sup> Quarter Fiscal Year 2023” in the 2Q23 Results Pack.

Pages 2 and 18 of the presentation titled “Q2 FY23 Management Presentation” dated 8 November 2022 in the 2Q23 Results Pack.

In the November Earnings Call, James Brennan-Chong stated that page 2 of the presentation accompanying the November Earnings Call contained James Hardie’s standard cautionary note on forward-looking statements



and that the presentation contained forward-looking statements.

(iii) the Guidance Warnings applied to the November Revised FY23 ANI Guidance; and

(iv) it refers to and repeats sub-paragraph 35(b) above.

107. To paragraph 107:

(a) save that it understands “Updated 2023 ANI” to be the November Revised FY23 ANI Guidance, it admits the allegations in sub-paragraphs 107(a), (b), (f) and (g);

(b) as to sub-paragraph 107(c):

(i) it admits that James Hardie stated that for North America Fiber Cement, the guidance for Net Sales Growth in FY23 was revised down to 13%+ (from 18%+) growth and the expected EBIT margin was revised down to 28% to 30% (previously 28% to 32%);

(ii) it says that the Guidance Warnings referred to in sub-paragraph 106(b)(ii) above applied to the statement set out in the previous sub-paragraph, and it refers to and repeats sub-paragraph 35(b) above;

(c) it denies the allegations in sub-paragraph 107(d), and it says further that, in the November Earnings Call, Erter stated that the primary reason for the reduction in North America Fiber Cement’s outlook for volumes in the second half of FY23 was new construction in that, first, single-family housing starts were down 17% versus the same 2-month period last year; and, second, for the first time this year, housing completions were now outpacing housing starts over the 2-month period when housing completions were 11% higher than housing starts, which reduced the new construction backlog;

(d) it denies the allegations in sub-paragraph 107(e), and it says further that, in the November Earnings Call, Erter stated that:

(i) the (new construction) backlogs were less than James Hardie thought, which really involved the fundamental change in building practices in North America where products were going up in a different order than

they usually did, which reduced the addressable backlog for North America Fiber Cement;

- (ii) in full transparency, this was probably the piece James Hardie should have identified sooner, but it was a change to a well-rooted practice that had existed since James Hardie started doing business in the United States over 30 years ago;
- (e) it says further that, by the November Announcements, James Hardie stated that further reasons for the November Revised FY23 ANI Guidance were that:
  - (i) over the 45 days prior to 8 November 2022, James Hardie had seen a significant change to the outlook of housing market activity for the second half of FY23 in most of the geographies in which it participated;
  - (ii) volume expectations had reduced significantly in the 45 days prior to 8 November 2022;
  - (iii) in North America:
    - (A) single family new construction starts had slowed significantly and market expectations for the remainder of its fiscal year had declined sharply;
    - (B) the R&R Sector was seeing moderation due to a number of factors including, but not limited to, falling home prices and declining consumer confidence due to the uncertain economic outlook;
  - (iv) on 20 September 2022 and 19 October 2022, the US census data was released for new construction for August and September activity, which showed that completions were now outpacing housing starts; and
  - (v) recent big builder quarterly announcements stated that their cancellation rates had increased substantially, which also reduced the new construction backlogs.

108. To paragraph 108:

- (a) it admits that the price of JHX Shares and JHX ADRs fell between the close of trade on 7 November 2022 and the close of trade on 10 November 2022;

(b) it otherwise does not admit the allegations in paragraph 108.

**K. JAMES HARDIE'S ALLEGED KNOWLEDGE**

109. It denies the allegations in paragraph 109 and refers to and repeats paragraphs 43 to 50, 52, 57 and 90 above and sub-paragraphs 135(d) and (e) below.

109A. It denies the allegations in paragraph 109A and refers to and repeats paragraphs 48, and 50 to 53, 85 and 97CC above and sub-paragraphs 135(d) and (e) below.

109B. It denies the allegations in paragraph 109B and refers to and repeats paragraphs 48, 50 to 55 and 109A above and sub-paragraphs 135(d) and (e) below.

110. ~~Save that it denies that the likely increase in interest rates through FY23 was to address increasing inflation (because, *inter alia*, as at 7 February 2022, inflation was not forecast to increase through FY23), it admits the allegations in paragraph 110 and refers to and repeats paragraphs 49(b), 50(c), 52(e), 53(d), 56, 57, 80(b), and 87 above.~~  
To paragraph 110:

(a) it says that when read with the definition of "Interest Rate Conditions" in paragraph 56, the allegations in paragraph 110 are unclear and therefore embarrassing;

(b) under cover of that objection, it refers to and repeats paragraphs 49(b), 50(c), 52(c), 53(d), 54(b), 56, 57, 80(b), and 87 above and paragraphs 115 and 123 below and otherwise denies the allegations in paragraph 110.

111. It denies the allegations in paragraph 111 and refers to and repeats paragraphs 43 to 50, ~~52, 54(b), 57, 88A, 110 and 90, 97FF and 110~~ above and sub-paragraphs 135(d) and (e) below.

111A. To paragraph 111A:

(a) it says that "Interest Rate Impacts" is not a defined term in the Amended Statement of Claim;

(b) under cover of that objection, it denies the allegations in paragraph 111A and refers to and repeats paragraphs 50 to 58A, 84 to 89A, 97BB to 98, 110 and 111 above and sub-paragraphs 135(d) and (e) below.

112. It denies the allegations in paragraph 112 and refers to and repeats paragraphs 58A, 89A, 98A and 109 to 111A above ~~43 to 50, 52 to 54, 57 and 90 above~~ and sub-paragraphs 135(d) and (e) below.
- 112A. It denies the allegations in paragraph 112A and refers to and repeats paragraphs 58B to 58I and 90G above.
- 112B. It denies the allegations in paragraph 112B and refers to and repeats paragraphs 58B to 58J, 90O and 109 to 112A above.
113. It denies the allegations in paragraph 113 ~~and refers to and repeats paragraphs 50 to 60 above.~~
114. It denies the allegations in paragraph 114 and refers to and repeats paragraphs ~~43 to 50, 52 to 54, 57~~ 58A, 84 to 90 above and sub-paragraphs 146(d) and (f) below.
- 114A. It denies the allegations in paragraph 114A and refers to and repeats paragraphs 73 to 76, 97S, 97T, 97V and sub-paragraphs 146(d) and (f) below.
- 114B. It denies the allegations in paragraph 114B and refers to and repeats paragraphs 77 and 97W above and paragraphs 114D to 116, 122B and sub-paragraphs 146(d) and (f) below.
- 114C. It denies the allegations in paragraph 114C and refers to and repeats paragraphs 78, 114A and 114B above and sub-paragraphs 146(d) and (f) below.
- 114D. It denies the allegations in paragraph 114D and refers to and repeats paragraphs 48, 50 to 53, 79, 84 to 84D, 85, 97CC and 109A above, paragraph 122D below and sub-paragraphs 146(d) and (f) below.
- 114E. It denies the allegations in paragraph 114E and refers to and repeats paragraphs 86, 109B and 114D above and sub-paragraphs 146(d) and (f) below.
115. ~~Save that it says the word “rises” is missing after “interest rates”, it admits the allegations in paragraph 115 and refers to and repeats paragraphs 47(c)(ii), 49(b), 50(c), 52(e), 54(b), 53(d), 56, 57, 80(b), 87, and 110 above.~~ To paragraph 115:
- (a) it says that when read with the definition of “Interest Rate Conditions” in paragraph 56, the allegations in paragraph 115 are unclear and therefore embarrassing;

- (b) under cover of that objection, it refers to and repeats paragraphs 47(c)(ii), 49(b), 50(c), 52(c), 54(b), 53(d), 56, 57, 80(b), 87, 97Z, 97AA and 110 above and paragraph 123 below and otherwise denies the allegations in paragraph 115.
116. It denies the allegations in paragraph 116 and refers to and repeats paragraphs 43 to 50, 52 to 54, 57, 58, 88A, 89, ~~and 90~~, 97FE, 97GG, 111, 111A and 114 above and sub-paragraphs 146(d) and (f) below.
- 116A. It denies the allegations in paragraph 116A and refers to and repeats paragraphs 73 to 78, 112, 114 to 116 above and sub-paragraphs 146(d) and (f) below.
117. ~~[Not used] It denies the allegations in paragraph 117 and refers to and repeats paragraphs 35(b), and 84 to 89 above.~~
118. ~~[Not used] It denies the allegations in paragraph 118 and refers to and repeats paragraph 117 above.~~
119. ~~[Not used] It denies the allegations in paragraph 119 and refers to and repeats paragraphs 43 to 50, 52 to 54, 57 and 89 to 90 above and paragraph 146 below.~~
120. It denies the allegations in paragraph 120 and refers to and repeats paragraphs ~~70 and 90~~ and 90A above.
- 120A. It denies the allegations in paragraph 120A and refers to and repeats paragraphs 58B to 58I, 90G to 90N and 112A above.
- 120B. It denies the allegations in paragraph 120B and refers to and repeats paragraphs 58B to 58J, 90G to 90O, 98N, 112B and 114 to 120A above.
121. It denies the allegations in paragraph 121 ~~and refers to and repeats paragraphs 43 to 50, 52 to 54, 57 and 90 to 92 above and paragraph 146 below.~~
122. ~~[Not used] It denies the allegations in paragraph 122.~~
- 122A. It denies the allegations in paragraph 122A and refers to and repeats paragraphs 74 to 76 and 97Q to 97V above and sub-paragraphs 157(d), (e) and (f) below.
- 122B. It denies the allegations in paragraph 122B and refers to and repeats paragraphs 77 and 97W above and sub-paragraphs 157(d), (e) and (f) below.
- 122C. It denies the allegations in paragraph 122C and refers to and repeats paragraphs 97X and 122A to 122B above and sub-paragraphs 157(d), (e) and (f) below.

122D. It denies the allegations in paragraph 122D and refers to and repeats paragraphs 51 to 53, 79 to 85 97Y to 97CC and 114D above and sub-paragraphs 157(d), (e) and (f) below.

122E. It denies the allegations in paragraph 122E and refers to and repeats paragraphs 97BB to 97DD and 122D above and sub-paragraphs 157(d), (e) and (f) below.

123. ~~On the premise that the word “increases” should appear between “interest rates” and “were likely”, it denies the allegations in~~ To paragraph 123:

(a) it says that when read with the definition of “Interest Rate Conditions” in paragraph 56, the allegations in paragraph 123 are unclear and therefore embarrassing;

(b) under cover of that objection, it refers to and repeats paragraphs 47(c)(ii), 49(b), 50(c), 52(c), 54(b), 53(d), 56, 57, 80(b), 87, 97Z, 97AA, 110 and 115 above and otherwise denies the allegations in paragraph 123.

124. It denies the allegations in paragraph 124.

124A. It denies the allegations in paragraph 124A and refers to and repeats paragraphs 116A and 122A to 123 above and sub-paragraphs 157(d), (e) and (f) below.

124B. It denies the allegations in paragraph 124B and refers to and repeats paragraphs 90G, 98G to 98M and 120A above.

124C. It denies the allegations in paragraph 124C and refers to and repeats paragraphs 90G, 120B, 122A to 124B above.

125. It denies the allegations in paragraph 125 ~~and refers to and repeats paragraphs 73 to 92, 98 to 100 above and paragraph 157 below.~~

126. It denies the allegations in paragraph 126 and refers to and repeats paragraphs ~~70 and 90~~ above.

## **L. ALLEGED CONTINUOUS DISCLOSURE CONTRAVENTIONS**

127. It denies the allegations in paragraph 127 and refers to and repeats paragraphs 109 to 126 above.

128. It denies the allegations in paragraph 128 and says further that if any of the alleged “Material Information” existed (which is denied), it was generally available within the meaning of s 676 of the Corporations Act.

129. It denies the allegations in paragraph 129 and refers to and repeats paragraph 127 above.

130. It denies the allegations in paragraph 130 and refers to and repeats paragraph 127 above.

131. It denies the allegations in paragraph 131, refers to and repeats paragraphs 127 to 130 above, and says further or alternatively that:

(a) if any item of the alleged “Material Information” existed and it was aware of it (which is denied), it was information that:

(i) a reasonable person would not expect to be disclosed for the reasons set out in sub-paragraphs (ii) and/or (iii) below;

(ii) was confidential, and the ASX had not formed the view that the information had ceased to be confidential; and

(iii) comprised matters of supposition, further or alternatively, was insufficiently definite to warrant disclosure;

within the meaning of ASX Listing Rules 3.1A.1 to 3.1A.3; and

(b) by reason of the matters in sub-paragraph (a) above:

(i) was not information to which ASX Listing Rule 3.1 applied; and

(ii) was not information which s 674(2) or s 674A(2) of the Corporations Act required disclosure at any time before 8 November 2022.

132. It denies the allegations in paragraph 132 and refers to and repeats paragraph 127 above.

133. It denies the allegations in paragraph 133.

133A. To paragraph 133A:

(a) it admits that its Appendix 4E for FY22 did not contain the May Information or Additional May Information;

(b) it says the allegations in paragraph 133A are vague and embarrassing; and

(c) under cover of that objection, it refers to and repeats paragraphs 91 and 92 above, and denies the allegations in paragraph 133A.

133B. To paragraph 133B:

(a) it refers to and repeats paragraphs 127 to 130 and 133A above; and

(b) it denies that it contravened s 674(2) and/or s 674A(2) of the Corporations Act;

- (c) it says further that:
- (i) s 674A of the Corporations Act does not apply to any obligation arising under ASX Listing Rule 4.3A of the ASX Listing Rules, as ASX Listing Rule 4.3A does not require an entity to notify the ASX of information about specified events or matters as they arise; and
  - (ii) from 14 August 2021, s 674 of the Corporations Act was not a civil penalty provision under s 1317E of the Corporations Act and consequently the plaintiff and group members are not entitled to a declaration pursuant to s 1317E of the Corporations Act or compensation pursuant to s 1317HA of the Corporations Act in respect of any contravention of s 674 of the Corporations Act (which is denied).

133C. To paragraph 133C:

- (a) it says that the allegations are vague and embarrassing;
- (b) under cover of that objection, it denies the allegations in paragraph 133C and says further that:
  - (i) it refers to and repeats paragraphs 62 to 65A and 127 above;
  - (ii) “Reaffirmed FY23 Guidance” and “Reaffirmed FY23 Guidance Representations” are not defined terms in the Amended Statement of Claim;
  - (iii) in circumstances where guidance (such as the guidance referred to in paragraph 65(a) above) was not information required to be given by it to ASX pursuant to ASX Listing Rule 4.3A, ASX Listing Rule 4.3D was not capable of being engaged;
  - (iv) further or alternatively, any obligation arising under ASX Listing Rule 4.3D ceased to apply upon the provision of the annual documents required by ASX Listing Rule 4.5, which, in the case of James Hardie, was the provision of its FY22 Annual Report on 18 May 2022.

133D. It denies the allegations in paragraph 133D and refers to and repeats paragraphs 127 to 130, 133B(c)(ii) and 133C above.



**M. ALLEGED MISLEADING OR DECEPTIVE CONDUCT CONTRAVENTIONS**

134. It refers to and repeats paragraphs 41 and 42 above, and therefore denies the allegations in paragraph 134.

135. It denies the allegations in paragraph 135 and says further that if and to the extent that it made the FY23 Guidance Representations as alleged (which is denied), then it had reasonable grounds for making the said representations at the time they were made because:

- (a) of the matters set out in paragraphs ~~42A~~ 43 to 60, 90 and 109 to ~~114~~ 113 above;
- (b) any such representations were made knowing James Hardie's actual performance over the first nine months of FY22;

**Particulars**

The results for the first three quarters of FY22 relevantly included:

- (i) for the James Hardie Group, an increase in Net Sales of 26%, as against the first three quarters of FY21;
- (ii) for North America Fiber Cement, an increase in Net Sales of 25% as against the first three quarters of FY21;
- (iii) for North America Fiber Cement, an adjusted EBIT Margin of 29.3% for the first three quarters of FY22.

The James Hardie Group ANI for the first three quarters of FY22 was \$443.2 million, representing a 33% increase as against the first three quarters of FY21.

- (c) any such representations were made following James Hardie's Financial Forecast process based on its forecast for FY23, which was prepared as formed part of James Hardie's usual business planning processes (FY23 Forecast);

**Particulars**

The preparation of James Hardie's ~~three-year integrated strategic plan~~ (Strategic Plan) commenced in around October 2021. The Strategic Plan was prepared simultaneously with, and informed, the Financial Forecast process provided a starting point for the preparation of the annual forecast.

The preparation of the annual Financial Forecast for FY23 Forecast commenced in ~~October November and December~~ 2021 with each of James Hardie's three operating segments — North America Fiber Cement, Asia Pacific Fiber Cement and Europe Building Products — participating in its preparation and submitting a forecast for that region.

In around November late December 2021, the regional forecasts were consolidated into an initial James Hardie Group Financial f Forecast for FY23.

Following the preparation of this initial group forecast, Jason Miele, Group CFO, devised and oversaw a review process of the consolidated forecast.

In around late January 2022, a revised consolidated Financial Forecast for FY23 forecast was prepared (~~the **FY23 Forecast**~~).

On 3 February 2022, the Board was presented with the forecasts referred to in sub-paragraph 42G(c)(i) above.

From around April 2022, the process of preparing an annual Financial Forecast for FY23 was replaced with the process of preparing monthly Financial Forecasts, beginning with the 'FY23 0+12' representing 0 months of actual results and 12 months of forecast in FY23.

It otherwise refers to and repeats paragraphs 42A and 42B(c) above.

- (d) as part of its Financial Forecast process for FY23 in ~~preparing the FY23 Forecast~~, James Hardie had regard to publicly available information and information from third-party market intelligence sources as to forecast market conditions for the residential housing construction market in FY23, which incorporated the potential impact of inflation and interest rates rises on those markets;

#### **Particulars**

Publicly available information included the following:

- (i) competitors' financial performance;
- (ii) interest rates, mortgage rates and announcements by the US Federal Reserve;
- (iii) CPI (inflation);
- (iv) housing indicators, including rates of housing starts, housing permits and housing completions;
- (v) supply and demand trends in the housing market (including number of houses on the market);
- (vi) statistics relevant to the R&R Sector, including statistics on house pricing, construction spending and levels of home owner equity;
- (vii) macro indicators such as consumer sentiment and Google search trends;

- (viii) changes in input and freight costs; and
- (ix) measures taken in response to the COVID-19 pandemic, including lockdown measures, in the countries in which James Hardie operated.

Third-party market intelligence sources included John Burns, Dodge Construction Network, Zonda, Zelman & Associates and the National Association of Home Builders.

In correspondence dated 3 October 2023, the plaintiff confirmed that the intention of paragraph 135 is to allege that, in preparing its guidance, James Hardie did not take account (or adequate account) of publicly known market conditions.

- (e) the information referred to in (d) did not indicate that demand for James Hardie's FC Products in the North American Market would, or would be likely to, slow in FY23;
  - (f) in respect of Net Sales by North America Fiber Cement, the Further FY23 9+3 NA Forecast ~~FY23 Forecast~~ assumed, relevantly, that:
    - (i) demand for James Hardie's products in the North American Market would continue to exceed its capacity to supply those products;
    - (ii) James Hardie would increase its supply capacity in FY23 through new manufacturing lines and efficiency improvements;
    - (iii) James Hardie would continue to transition its product mix towards a higher value product mix; and
  - (g) the Financial Forecast for FY23 ~~Forecast~~ as at 7 February 2022 involved an exercise of judgement based on the information available, and was a fair and reasonable estimate of James Hardie's future financial performance for FY23.
136. It refers to and repeats paragraphs 41, ~~42A~~ 43 to 60, 109 to 114 and 135 above and therefore denies the allegations in paragraph 136.
137. It denies the allegations in paragraph 137 and says further that if and to the extent that it made the February Implied Representations as alleged (which is denied), then it had reasonable grounds for making the said representations at the time they were made and it refers to and repeats paragraph 135 above.
138. It refers to and repeats paragraphs 42 to 60, 109 to 114, 128 to 133 and 136 to 137 above and therefore denies the allegations in paragraph 138.

139. It refers to and repeats paragraphs 136 and 138 above and therefore denies the allegations in paragraph 139.
140. It denies the allegations in paragraph 140 and refers to and repeats paragraphs 41, 42A ~~43~~ to 60, 109 to 113 ~~114~~ and 136 above.
141. It denies the allegations in paragraph 141 and refers to and repeats paragraphs 42 to 60, 109 to 113 ~~114~~ and 138 above.
142. It denies the allegations in paragraph 142.
143. It denies the allegations in paragraph 143 and refers to and repeats paragraphs 41 to 60; and 109 to 113 ~~114~~ ~~and 127 to 133~~ above.
144. It denies the allegations in paragraph 144.
145. It refers to and repeats paragraphs ~~67~~ to ~~and~~ 69 above and therefore denies the allegations in paragraph 145.
146. It denies the allegations in paragraph 146 and says further that if and to the extent that it made the Reaffirmed FY23 Guidance Representations as alleged (which is denied), then it had reasonable grounds for making the said representations at the time they were made because:
- (a) of the matters pleaded at paragraphs ~~42A~~43 to 60, ~~72A to 9290~~, 115 to 121 and 135 above;
  - (b) any such representations were made knowing the full year results for FY22;

### **Particulars**

The full year results for FY22 relevantly included:

- (i) for the James Hardie Group, a full year increase in Net Sales of 24%, with volume growth of 14% and price/mix growth of 10%;
- (ii) for North America Fiber Cement, a full year increase in Net Sales of 25% with volume growth of 15% and price/mix growth of 10%;
- (iii) for North America Fiber Cement, a full year adjusted EBIT Margin of 29.1%, delivered through continued LEAN manufacturing improvements combined with high-value product mix helping to offset cost inflation.

The James Hardie Group ANI for FY22 was \$620.7 million, which was within the Revised FY22 ANI Guidance (which itself was the

fourth upgrade to the original FY22 guidance): see the particulars to sub-paragraph 54(b)(i) above.

- (c) any such representations were made following James Hardie's Financial Forecast ~~monthly reforecast~~ process, which formed part of James Hardie's usual business planning processes;

#### **Particulars**

James Hardie's ~~re~~forecasting processes included assessing year-to-date performance against the ~~annual forecast~~ previous Financial Forecasts and taking into account the most recent information relevant to the forecast for the remainder of the financial year, in accordance with the practice referred to in paragraphs 42A and 42B(c) above.

Each of James Hardie's three operating segments—North America Fiber Cement, Asia Pacific Fiber Cement and Europe Building Products—were also involved in that process, as was Miele.

It further refers to and repeats the particulars to paragraph 135(c) above.

- (d) as part of its Financial Forecast ~~monthly reforecasting~~ process for May 2022, James Hardie had regard to:
- (i) publicly available information and information from third-party market intelligence sources as to forecast market conditions for the residential housing construction market in FY23;

#### **Particulars**

James Hardie refers to and repeats the particulars to paragraph 135(d) above.

- (ii) its rising input and freight costs, driven (at least in part) by inflation caused by Russia's invasion of Ukraine on 24 February 2022;
- (e) as at 17 May 2022 in the financial plans presented to the Board on 12 May 2022, for FY23:
- (i) its global Net Sales were forecast to be US\$4,240 million;
- (ii) its global ANI was forecast to be US\$779 million (within the FY23 ANI Guidance of \$740 million to \$820 million);
- (iii) Net Sales for North America Fiber Cement were forecast to be US\$3,056 million (being 20% growth as compared with FY22) (within the May

Revised FY23 North America Net Sales Growth Guidance of 18% to 22%); and

- (iv) Adjusted EBIT Margin for North America Fiber Cement was forecast to be 30.4% (within the FY23 North America Guidance in relation to EBIT Margin of 30% to 33%);
- (f) the information referred to in (d)(i) did not, as at 17 May 2022, indicate that demand for James Hardie’s FC Products in the North American Market would, or would be likely to, slow in FY23;
- (g) the information referred to in (d)(ii) did not, as at 17 May 2022, indicate that a revision to the FY23 ANI Guidance and/or the FY23 North America Guidance in relation to EBIT Margin was necessary; and
- (h) James Hardie had taken and was taking measures to maintain its EBIT Margin.

#### **Particulars**

The measures taken by James Hardie included the following:

- (i) it had increased prices by 5% effective from 1 January 2022 which had contributed to price/mix growth of 14% in Q422 without a corresponding decrease in demand for James Hardie’s FC Products in the North American Market;
- (ii) it had decided to introduce the second price increase of around 4% in the North American Market on or around 20 June 2022 which was expected to improve its EBIT Margin over the balance of the financial year.

147. It refers to and repeats paragraphs 69, 72A-73 to 92-83, 115 to 121, 134 to 136 and 146 above and therefore denies the allegations in paragraph 147.

148. To paragraph 148:

- (a) ~~[Not used]—it says that the expressions “Reaffirmed Guidance Reliability Representation” and “Revised No Material Risk Representation” are not defined and are therefore understood as comprising the matters alleged in subparagraphs 69(b) of the Statement of Claim;~~
- (b) it denies the allegations in paragraph 148 and says further that if and to the extent that it made the May Implied Representations as alleged (which is denied), then it had reasonable grounds for making the said representations at

the time they were made and it refers to and repeats paragraphs 135 and 146 above.

149. It refers to and repeats paragraphs 42, 69, 72A ~~73~~ to 92~~83~~, 115 to 121, 134 to 136 and 146 to 148 above and therefore denies the allegations in paragraph 149.
150. It refers to and repeats paragraphs 147 and 149 and therefore denies the allegations in paragraph 150.
151. It refers to and repeats paragraphs 69, 72A~~73~~ to 92, 115 to 121, 134 to 136, 146 to 147 above and therefore denies the allegations in paragraph 151.
152. It refers to and repeats paragraphs 69, 72A ~~73~~ to 92, 115 to 121, 134 to 136 and 148 to 149 and therefore denies the allegations in paragraph 152.
153. It denies the allegations in paragraph 153.
154. It refers to and repeats paragraphs 67 to 69, 72A ~~73~~ to 92, 115 to 121, 134 to 136, 146 to 149 and therefore denies the allegations in paragraph 154.
155. It refers to and repeats paragraphs 151 to 154 and therefore denies the allegations in paragraph 155.
156. It refers to and repeats paragraphs 96 and 97 above and therefore denies the allegations in paragraph 156.
157. It denies the allegations in paragraph 157 and says further that if and to the extent that it made the Revised FY23 Guidance Representations as alleged (which is denied), then it had reasonable grounds for making the said representations at the time they were made because:
  - (a) of the matters pleaded in paragraphs 42A~~43~~ to 60, 90, 97A to 100, 122A to 126, 135 and 146 above;
  - (b) any such representations were made knowing the actual results for the financial year to date;
  - (c) any such representations were made following James Hardie's Financial Forecast ~~monthly reforecast~~ process, which formed part of James Hardie's usual business planning processes;

**Particulars**

James Hardie refers to and repeats the particulars to paragraph 146(c) above.

- (d) as part of its Financial Forecast ~~monthly re-forecasting~~ process for August 2022, James Hardie had regard to:
- (i) publicly available information and information from third-party market intelligence sources as to forecast market conditions for the residential housing construction market in FY23;

**Particulars**

James Hardie refers to and repeats the particulars to paragraph 135(d) above.

- (ii) the continued upward pressure of inflation on its input and freight costs;
- (e) as at 16 August 2022; ~~Net Sales for North America Fiber Cement were forecast to meet the FY23 Forecast;~~
- (i) Net Sales for the James Hardie Group were forecast (at \$4.28 billion in the ‘FY23 3+9’ Financial Forecast) to meet the forecast presented to the Board on 3 February 2022 (being \$4.2 billion) and the financial plan presented to the Board on 11 May 2022 (being \$4.24 billion);
- (ii) Net Sales for North America Fiber Cement were forecast (at \$3.16 billion in the ‘FY23 3+9’ Financial Forecast) to meet the forecast presented to the Board on 3 February 2022 (being \$3.09 billion) and the financial plan presented to the Board on 11 May 2022 (being \$3.06 billion);

**Particulars**

- (i) Enterprise Readiness paper presented to the Board on 10 August 2022 [JHX.0011.0001.1508\_0047 at 0068 and 0069];
- (ii) Slide Pack entitled “Financial Summary – Global Strategic Plan” [JHX.0011.0001.2053\_0059 at 0107]; and
- (iii) Slide Pack entitled “Financial Plan: Jason Miele” [JHX.0011.0001.1802\_0120 at 0147, 0149 and 0150].



- (f) the information referred to in (d)(i) and (e) as at 16 August 2022 did not indicate that demand for James Hardie's FC Products in the North American Market would, or would be likely to, slow in FY23;
- (g) the information referred to in (d)(ii) indicated that James Hardie's costs would increase, which would adversely affect its EBIT Margin;
- (h) in response to the matter pleaded in (g), James Hardie:
  - (i) identified measures to improve its EBIT Margin;

### Particulars

#### Measures included:

- (i) implementing the second price increase of around 4% in the North American Market on or around 20 June 2022;
  - (ii) reducing its ~~selling, general and administrative~~ (SG&A) expenses;
  - (iii) engaging in business optimisation and alignment to address the economic uncertainty (**Operation BOA**), including by: selective price increases; optimisation of production schedules; updating repairs and maintenance; streamlining SG&A spending; delaying hiring and promotions; and limiting travel and events; and
  - (iv) in relation to North America Fiber Cement: increasing sales; reducing controllable spend; obtaining a commitment from James Hardie's supply chain to reduce freight expenses; and reducing investment in marketing spend.
- (ii) revised down the guidance range for James Hardie Group ANI to the August Revised FY23 ANI Guidance; and
  - (iii) revised down the guidance range for North America Fiber Cement's EBIT Margin as part of the August Revised FY23 North America Guidance.
158. It refers to and repeats paragraphs 96, 97Q ~~98~~ to 100, 122A to 126, 134 to 136, 145 to 148 and 157 above and therefore denies the allegations in paragraph 158.
159. It denies the allegations in paragraph 159 and says further that if and to the extent that it made the August Implied Representations as alleged (which is denied), then it had

reasonable grounds for making the said representations at the time they were made and it refers to and repeats paragraphs 135, 146 and 157 above.

160. It refers to and repeats paragraphs 97,~~98~~ to 100, 122A to 136, 145 to 148 and 157 to ~~158~~ 159 above and therefore denies the allegations in paragraph 160.
161. It refers to and repeats paragraphs 158 and 160 above and therefore denies the allegations in paragraph 161.
162. It refers to and repeats paragraphs 96, 97Q ~~98~~ to 100, 122A to 126, 134 to 136, 145 to 148, 157 to 159 above and therefore denies the allegations in paragraph 162.
163. It refers to and repeats paragraphs 97,~~98~~ to 100, 122A to 126, 134 to 136, 145 to 148, 157 to 159 above and therefore denies the allegations in paragraph 163.
164. It denies the allegations in paragraph 164.
165. It refers to and repeats paragraphs 96 to 100, 122A to 136, 145 to 148, 155 to 161 above and therefore denies the allegations in paragraph 165.
166. It refers to and repeats paragraphs 162 to 165 above and therefore denies the allegations in paragraph 166.

#### **N. ALLEGED CAUSATION AND LOSS**

167. To paragraph 167:
- (a) it admits that, during the Relevant Period, the Plaintiff acquired an interest in JHX Shares;
  - (b) it otherwise does not admit the allegations in paragraph 167.
168. To paragraph 168:
- (a) it says that the amended allegations regarding the market are vague and embarrassing, and under cover of that objection, it admits that, during the Relevant Period:
    - (i) the JHX Shares were listed on the ASX and the market for JHX Shares was operated by the ASX and was regulated by, *inter alia*, the ASX Listing Rules and ss 674(2) and 674A(2) of the Corporations Act;

- (ii) it had the obligations set out in paragraphs 16 to 18B of the Amended Statement of Claim, save for the matters pleaded in paragraphs 16 to 18B above;
- (b) it says that:
  - (i) it will refer to the full terms and effect of the rules in Chapters 3 and 4 of the ASX Listing Rules, 3.1, 3.1A and ASX Listing Rule 19.12 and Chapter 6CA of the Corporations Act;
  - (ii) the price of JHX Shares would reasonably be expected to have been informed or affected by material information disclosed to the ASX and by other publicly available information, amongst other factors affecting the price at which those shares were traded; and
  - (iii) it refers to and repeats paragraph 1(a) above;
- (c) it otherwise denies the allegations in paragraph 168.

#### **Particulars**

As to paragraph 168(a) above, it refers to letters from HSFK to Echo Law dated 7 May 2025, 13 June 2025 and 30 July 2025, and letters from Echo Law to HSFK dated 21 May 2025, 7 July 2025 and 18 August 2025.

- 169. It does not admit the allegations in paragraph 169 and it refers to and repeats paragraph 168 above.
- 170. It does not admit the allegations in paragraph 170 and it refers to and repeats paragraph 168 above.
- 171. To paragraph 171:
  - (a) it denies the allegations in sub-paragraph 171(a);
  - (b) it does not admit the allegations in sub-paragraphs 171(b) and (c);
  - (c) it refers to and repeats paragraph 168 above and it says further that for the reasons set out in this Defence, the market for JHX Equity Swaps had been informed of all information about which James Hardie was obligated to inform the market.
- 172. It denies the allegations in paragraph 172, it refers to and repeats paragraphs 133A to 133D and 168 above, and it says further that, for the reasons set out in this Defence, the

market for JHX Shares had been informed of all information about which James Hardie was obligated to inform the market.

- 173. It denies the allegations in paragraph 173.
- 174. It denies the allegations in paragraph 174.
- 175. It denies the allegations in paragraph 175.
- 176. It denies the allegations in paragraph 176.

Date: 23 September 2025 ~~10 November 2023~~

MICHAEL D RUSH

KANE A LOXLEY

ANNA G BATROUNEY

STEPHANIE C B BRENKER

*Herbert Smith Freehills Kramer*  
.....

**Herbert Smith Freehills Kramer**

Solicitors for the Defendant

## ANNEXURE A

TABLE 1 – JAMES HARDIE FY20 QUARTERLY RESULTS IN USD

<b>Net sales (US\$ m)</b>	<b>1Q20</b>	<b>2Q20</b>	<b>3Q20</b>	<b>4Q20</b>
Group	656.8	660.1	616.7	673.2
North America Fiber Cement	452.3	459.6	430.0	474.5
Asia Pacific Fiber Cement	108.0	112.6	102.0	95.8
Europe Building Products	95.9	87.9	84.7	102.9
<b>EBIT (US\$ m)</b>	<b>1Q20</b>	<b>2Q20</b>	<b>3Q20</b>	<b>4Q20</b>
Group (adjusted)	124.4	134.2	107.2	121.0
North America Fiber Cement	113.5	124.7	112.3	120.0
Asia Pacific Fiber Cement	24.8	27.0	23.4	19.6 (adj)
Europe Building Products (adjusted)	10.3	8.7	6.7	4.7
<b>ANOP (US\$ m)</b>	<b>1Q20</b>	<b>2Q20</b>	<b>3Q20</b>	<b>4Q20</b>
Group (adjusted)	90.2	98.6	77.4	86.6

**TABLE 2 – JAMES HARDIE FY21 QUARTERLY RESULTS IN USD**

<b>Net sales (US\$ m)</b>	<b>1Q21</b>	<b>2Q21</b>	<b>3Q21</b>	<b>4Q21</b>
Group	626.3	736.8	738.6	807.0
North America Fiber Cement	451.8	515.0	518.1	555.3
Asia Pacific Fiber Cement	91.3	122.1	119.7	125.7
Europe Building Products	83.2	99.7	101.4	126
<b>EBIT (US\$ m)</b>	<b>1Q21</b>	<b>2Q21</b>	<b>3Q21</b>	<b>4Q21</b>
Group (adjusted)	124.9	163.1	167.9	173.1
North America Fiber Cement (adjusted)	130.9	148.6	155.6	152.9
Asia Pacific Fiber Cement (adjusted)	22.3	38.7	33.5	33.7
Europe Building Products (adjusted)	2.4	9.4	10.3	18.9
<b>ANOP (US\$ m)</b>	<b>1Q21</b>	<b>2Q21</b>	<b>3Q21</b>	<b>4Q21*</b>
Group (adjusted)	89.3	120.5	123.3	124.9

*\*Adjusted Net Income (ANI), which refers to the same metric as ANOP. Excludes asbestos related expenses and adjustments, tax adjustments and restructuring expenses.*

**TABLE 3 – JAMES HARDIE FY22 QUARTERLY RESULTS IN USD**

<b>Net sales (US\$ m)</b>	<b>1Q22</b>	<b>2Q22</b>	<b>3Q22</b>	<b>4Q22</b>
Group	843.3	903.2	900.0	968.2
North America Fiber Cement	577.1	635.3	644.9	694.0
Asia Pacific Fiber Cement	141.8	144.4	143.3	145.4
Europe Building Products	124.4	123.5	111.8	128.8
<b>EBIT (US\$ m)</b>	<b>1Q22</b>	<b>2Q22</b>	<b>3Q22</b>	<b>4Q22</b>
Group (adjusted)	180.5	205.7	204.1	225.3
North America Fiber Cement (adjusted)	169.3	182.5	183.3	206.1
Asia Pacific Fiber Cement (adjusted)	38.8	44.5	39.1	38.4
Europe Building Products (adjusted)	16.3	16.7	11.9	18.0
<b>ANI (US\$ m)</b>	<b>1Q22</b>	<b>2Q22</b>	<b>3Q22</b>	<b>4Q22</b>
Group (adjusted)	134.2	154.9	154.1	177.5

**ANNEXURE B**

Table of North America Fiber Cement Monthly Order Volumes, March 2021 to January 2022.  
In this table, “Mmstf” stands for million standard feet.

<b>Month</b>	<b>Orders Volume (mmstf)</b>	<b>Orders (Daily rate)</b>
March 2021	317	13.79
April 2021	277	12.61
May 2021	263	13.13
June 2021	271	12.31
July 2021	242	11.55
August 2021	261	11.88
September 2021	257	12.24
October 2021	252	12.02
November 2021	255	12.73
December 2021	285	13.59
January 2022	249	11.85