



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

Case: S ECI 2022 00256

Filed on: 11/02/2022 03:57 PM

No. S ECI 2022 00256

B E T W E E N

MARK RICHARD SANDERS

First Plaintiff

-and-

BEACH ENERGY LIMITED (ACN 007 617 969)

Defendant

STATEMENT OF CLAIM

Date of Document:	11 February 2022	Solicitors Code:	106092
Filed on behalf of:	The Plaintiff	DX:	236 Sydney NSW 2000
Prepared by:	Shine Lawyer	Telephone:	(02) 8754 7270
	Level 6, 299 Elizabeth Street	Ref:	6341065
	Sydney, NSW 2000	Email:	callsopp@shine.com.au

A. PARTIES

A.1 The plaintiff and Group Members

1. The plaintiff commences this proceeding as a group proceeding pursuant to part 4A of the *Supreme Court Act 1986* (Vic).
 2. The plaintiff brings this claim for and on behalf of himself and on behalf of persons who or which:
 - (a) acquired an interest (directly or indirectly, including without limitation by way of American Depositary Receipt) in ordinary shares in the defendant (**Beach Energy**), or a long exposure to Beach Energy shares by entering into equity swap confirmations in respect of Beach Energy shares, during the period from 17 August 2020 to 30 April 2021 (**Relevant Period**);
 - (b) have suffered loss or damage by reason of the conduct of Beach Energy as pleaded in this Statement of Claim; and
 - (c) were not during any part of the Relevant Period, and were not as at the date of commencement of this proceeding, any of the following:
 - (i) a related party (as defined by s 228 of the *Corporations Act 2001* (Cth) (**Corporations Act**)) of Beach Energy;
 - (ii) a related body corporate (as defined by s 50 of the *Corporations Act*) of Beach Energy;
 - (iii) an associated entity (as defined by s 50AAA of the *Corporations Act*) of Beach Energy;
 - (iv) an officer or close associate (as defined by s 9 of the *Corporations Act*) of Beach Energy; or
 - (v) a Chief Justice, Justice, Associate Justice or Registrar of the Supreme Court of Victoria or the High Court of Australia
- (**Group Members**).
3. On or about 16 October 2020, the plaintiff acquired an interest in ordinary shares in Beach Energy on the market operated by ASX Limited (**ASX**).

Particulars

The plaintiff acquired 28,039 shares in Beach Energy at an average price per security of \$1.4075, for a subtotal of \$39,464.89 excluding GST and brokerage, which with \$39.46 brokerage and \$3.95 GST came to a total amount paid of \$39,508.30.

4. Immediately prior to the commencement of this proceeding, the Group Members comprised more than seven persons.

A.2 The defendant

5. Beach Energy is and was during the Relevant Period:
- (a) incorporated pursuant to the Corporations Act;
 - (b) capable of being sued;
 - (c) a corporation included in the official list of the ASX whose securities are “ED securities” for the purposes of s 111AE of the Corporations Act;
 - (d) a listed disclosing entity within the meaning of s 111AL(1) of the Corporations Act;
 - (e) subject to and bound by:
 - (i) the ASX Listing Rules; and
 - (ii) s 674(2) of the Corporations Act;
 - (f) a person within the meaning of s 1041H of the Corporations Act;
 - (g) a trading corporation within the meaning of the *Australian Securities Investments Commission Act 2001* (Cth) (**ASIC Act**);
 - (h) engaged in trade or commerce within the meaning of ss 12BA and 12DA(1) of the ASIC Act;
 - (i) a person within the meaning of s 12DA of the ASIC Act;
 - (j) a corporation within the meaning of the *Competition and Consumer Act 2010* (Cth) (**CCA**);
 - (k) a person within the meaning of s 18 of the Australian Consumer Law set out in Schedule 2 of the CCA, as applicable pursuant to:
 - (i) s 12 of the *Australian Consumer and Fair Trading Act 2012* (Vic);
 - (ii) s 28 of the *Fair Trading Act 1987* (NSW);
 - (iii) s 16 of the *Fair Trading Act 1989* (Qld);
 - (iv) s 6 of the *Australian Consumer Law (Tasmania) Act 2010* (Tas);
 - (v) s 19 of the *Fair Trading Act 2010* (WA);
 - (vi) s 14 of the *Fair Trading Act 1987* (SA);
 - (vii) s 7 of the *Fair Trading (Australian Consumer Law) Act 1992* (ACT); and/or
 - (viii) s 27 of the *Consumer Affairs and Fair Trading Act* (NT),

(individually, or together, **ACL**); and

(l) engaged in trade or commerce within the meaning of ss 2 and 18 of the ACL.

6. During the Relevant Period, Beach Energy:

(a) carried on an oil and gas exploration and production business;

(b) had oil and gas operations in five basins across Australia and New Zealand, including on the Western Flank of the Cooper Basin in South Australia (**Western Flank**); and

(c) estimated its oil and gas reserves and contingent resources using the following metrics:

(i) proven reserves (**1P**) – quantities of petroleum that can be estimated with reasonable certainty (at least 90 per cent) to be commercially recoverable;

(ii) proven and probable reserves (**2P**) – proven reserves plus reserves that are deemed probable (at least 50 per cent likely) to be commercially recoverable;

(iii) proven, probable and possible reserves (**3P**) – proven and probable reserves plus reserves that are deemed possible (at least 10 per cent likely) to be commercially recoverable; and

(iv) best estimate of contingency resources (**2C contingency resources**) – best estimate of contingency resources being those quantities of petroleum estimated, as of a given date, to be potentially recoverable from known accumulations by application of development projects, but which are not currently considered to be commercially recoverable owing to one or more contingencies.

7. During the Relevant Period, the “officers” of Beach Energy within the meaning of s 9 of the Corporations Act and r 19.12 of the ASX Listing Rules (by virtue of r 19.3(a)) included the following persons:

Directors

(a) Matthew Kay – Chief Executive Officer and Managing Director;

(b) Glenn Davis – Independent Non-Executive Chair;

(c) Colin Beckett – Independent Non-Executive Deputy Chair;

(d) Philip Bainbridge – Independent Non-Executive Director;

(e) Joycelyn Morton – Independent Non-Executive Director;

(f) Ryan Stokes – Non-Executive Director;

- (g) Richard Richards – Non-Executive Director;
- (h) Peter Moore – Independent Non-Executive Director;
- (i) Sally-Ann Layman – Independent Non-Executive Director,

Other officers

- (j) Morné Englebrecht – Chief Financial Officer;
- (k) Ian Grant – Chief Operating Officer;
- (l) Geoffrey Barker – Group Executive Development (until 22 February 2021);
- (m) Thomas Nador – Group Executive Development (from 23 February 2021 to the end of the Relevant Period);
- (n) Jeffrey Schrull – Group Executive Exploration and Appraisal (until 22 February 2021);
- (o) Stephen (Sam) Algar – Group Executive Exploration and Subsurface (from 23 February 2021 to the end of the Relevant Period);
- (p) Lee Marshall – Group Executive Corporate Strategy and Commercial;
- (q) Brett Doherty – Group Executive Health, Safety, Environment and Risk;
- (r) Lesley Adams – Group Executive, Human Resources;
- (s) Sheree Ford – General Counsel; and
- (t) Daniel Murnane – Company Secretary.

B. STATEMENTS CONCERNING BEACH ENERGY’S BUSINESS AND FINANCIAL PERFORMANCE

B.1 Western Flank

- 8. In or around 2015:
 - (a) Beach Energy had an established oil business on the Western Flank;
 - (b) oil produced from the Western Flank was providing cash flow to support Beach Energy’s ongoing drilling programs.

Particulars

Beach Energy 2015 Annual Report, pp. 2, 6.

- 9. In or around 2016:
 - (a) Beach Energy placed a strong focus on exploration on the Western Flank to support ongoing growth on its existing portfolio;

- (b) Western Flank oil operations accounted for the majority of Beach Energy's oil production and free cash flow generation.

Particulars

Beach Energy 2016 Annual Report, pp 6, 14.

10. In or around 2017:

- (a) Western Flank oil operations accounted for the majority of Beach Energy's total oil production. The net oil production on the Western Flank was 4.8 millions of barrels of oil (**MMbbl**) in financial year (**FY**) 2017, up 20% from the prior year;
- (b) Western Flank gas operations accounted for a material portion of Beach Energy's total gas and gas liquids production. Net gas and gas liquids production was 1.1 millions of barrels of oil equivalent (**MMboe**) in FY17, up 201% from the prior year.

Particulars

Beach Energy 2017 Annual Report, pp 14, 27, 28.

11. In or around 2018:

- (a) Beach Energy introduced horizontal drilling to the Western Flank with the Bauer-26 wells which were located on the Bauer oil field, the largest of the oil fields on the Western Flank;
- (b) Western Flank oil operations accounted for 25% of Beach Energy's FY18 production and the majority of Beach Energy's FY18 oil production. The net oil production on the Western Flank was 4.7 MMbbl, in line with the previous year;
- (c) Western Flank gas operations accounted for 7% of Beach Energy's FY18 production. The net gas production was 1.4 MMboe, a 46% increase over the previous year; and
- (d) at 30 June 2018, Western Flank 2P oil reserves were 34 MMbbl, an increase of 14 MMbbl, net oil production over the previous year.

Particulars

Beach Energy 2018 Annual Report, pp 10, 14, 37.

12. In or around 2019:

- (a) net Western Flank oil production observed a 10% increase over FY18 to 5.2 MMbbl and 7.4 MMbbl of 2P oil reserves was added;
- (b) Western Flank oil operations accounted for 18% of Beach Energy's FY19 production; and

- (c) Western Flank gas operations accounted for 6% of Beach Energy's FY19 production. Western Flank gas/gas liquids production increased to 1.9 MMboe in FY19, representing a 35% increase on FY18 levels.

Particulars

Beach Energy 2019 Annual Report pp 4, 19, 20.

13. In or around 2020:
 - (a) Beach Energy observed record oil production from the Western Flank with Beach Energy's share of oil output of 7.5 MMbbl, a 44% increase on FY19;
 - (b) the drilling programs conducted at the Western Flank resulted in the highest ever number of Beach-participated Cooper Basin wells at 172;
 - (c) the Western Flank oil operation accounted for 28% of Beach Energy's FY20 production;
 - (d) the Western Flank gas operations accounted for 8% of Beach Energy's FY20 production. The Western Flank gas and gas liquids production of 2.1 MMboe was a 12% increase on FY19 levels; and
 - (e) the Western Flank achieved 2P reserves replacement of 137%.

Particulars

Beach Energy 2020 Annual Report, pp 5, 8, 18.

14. In or around 2021, oil operations in the Western Flank accounted for 26% of Beach Energy's FY21 production. Western Flank gas operations accounted for 9% of Beach Energy's FY21 production.

Particulars

Beach Energy 2021 Annual Report, p 24.

B.2 FY20 Full Year Results

15. On 17 August 2020, Beach Energy announced its full year results for the FY ended 30 June 2020 to the ASX and in addition:
 - (a) published an ASX announcement and media release;
 - (b) published its FY20 Full Year Results and Outlook Presentation;
 - (c) held an Earnings Call with investors and analysts

(17 August 2020 Announcements).
16. By the 17 August 2020 Announcements, Beach Energy made the following statements:
 - (a) Revised Growth Strategy:

- (i) revised low-risk investment profile targeting 37 to 43 MMboe production in FY25 from existing portfolio; and
 - (ii) five-year outlook generates >\$2 billion of free cash flow (**FCF**) at lower price assumptions (*ASX announcement, p 1*).
- (b) Western Flank oil again hit new heights, producing as much as 23,000 barrels per day in the second half of FY20, and, significantly Beach Energy achieved an organic 2P reserves replacement above 200% for the third consecutive year (*ASX announcement, p 2*).
- (c) Beach Energy's revised low-risk investment profile has a target to deliver 37 and 43 MMboe of production in FY25, while generating more than \$2 billion of free cash flow at lower price assumptions (*ASX announcement, p 3*).
- (d) Beach Energy has set itself up to be in a position of strength during this downturn. We expect to invest in our high-margin and diverse portfolio and target creating over \$2 billion of free cash flow over the next 5 years (*ASX announcement, p 3*).
- (e) FY21 guidance:
 - (i) production of 26 – 28.5 MMboe;
 - (ii) capital expenditure of \$650 – \$750 million;
 - (iii) underlying EBITDA of \$900 million – \$1 billion;
 - (iv) depreciation, depletion and amortisation (**DD&A**) of \$17.5 – \$18 / barrels of oil equivalent (**boe**); and
 - (v) field operating costs of \$8.25 – \$8.75 / boe (*ASX announcement, p 3*).
- (f) Reserves and contingent resources:
 - (i) Resilient and growing 2P reserve base;
 - (ii) 2P reserves increased by 8% from 326 MMboe to 352 MMboe;
 - (iii) 214% organic 2P reserves replacement ratio;
 - (iv) 263% organic 2P reserves replacement ratio average FY18-20 (*ASX announcement, p 3*);
 - (v) 2P reserves life increased from 12.4 years to 13.2 years;
 - (vi) 159% 2P reserves replacement in Western Flank Oil;
 - (vii) A further 20% reduction in commodity (oil and gas) price assumptions would reduce 2P reserve by less than 3%.

17. By reason of the matters in paragraph 16, Beach Energy represented that:

- (a) Beach Energy's:
 - (i) revised low-risk investment profile targeting 37 to 43 MMboe production in FY25 from existing portfolio; and
 - (ii) five-year outlook generates >\$2 billion of free cash flow at lower price assumptions

(Growth Forecast Representation)

- (b) Beach Energy's five-year production and outlook estimate was conservative or low risk

(Growth Forecast Risk Representation)

- (c) Beach Energy had for the year ended 30 June 2021 forecasted:

- (i) production of 26 – 28.5 MMboe;
- (ii) capital expenditure of \$650 – \$750 million;
- (iii) underlying EBITDA of \$900 million – \$1 billion

(FY21 Guidance Representation)

- (d) the:
 - (i) future production of oil at the Western Flank was stable and reliable; further or alternatively
 - (ii) 2P reserve replacement at the Western Flank was stable and reliable

(Western Flank Stability Representation).

Particulars

Each of the representations were express or implied from the 17 August 2020 Announcements.

- 18. Following the 17 August 2020 Announcements, Beach Energy's share price closed at \$1.58, up \$0.105 or 7.1% from the previous closing price of \$1.475 on 14 August 2020.

B.3 FY21 First Quarter Activities Report

- 19. On 23 October 2020, Beach Energy announced its FY21 First Quarter Activities Report to the ASX.

Particulars

Beach Energy ASX release entitled "FY21 First Quarter Activities Report", reference #036/20, dated 23 October 2020.

- 20. In Beach Energy's FY21 First Quarter Activities Report, Beach Energy stated that:

- (a) its Q1 FY21 production of 6.8 MMboe was 1% below the prior quarter;
- (b) its Western Flank production of gas, gas liquids and oil throughout the quarter ended 30 September 2020 was down 6% on the previous quarter; and
- (c) its FY21 guidance as pleaded at paragraph 16(e) remained unchanged.

Particulars

Beach Energy ASX release entitled "FY21 First Quarter Activities Report", reference #036/20, dated 23 October 2020, pp 1, 3, 6 and 7.

B.4 Beach Energy AGM

21. At the Beach Energy AGM held on 25 November 2020, Beach Energy stated that:
- (a) FY20 saw another fantastic year in the Western Flank in which output reached as high as 23,000 barrels of oil per day and drilling success saw a 159 percent 2P reserves replacement ratio;
 - (b) Beach Energy this month announced its plans to acquire Senex Energy's Cooper Basin assets, increasing our position in the Western Flank and making Beach Energy the sole operator in the Western Flank and associated infrastructure;
 - (c) Production remains on track to deliver 37-43 MMboe in FY25;
 - (d) Under Beach Energy's revised commodity assumptions, Beach Energy is forecast to generate \$2.1 billion in cumulative free cash flow from FY21 – 25.

Particulars

Beach Energy ASX release entitled 2020 Annual General Meeting Addresses and Presentation", reference #039/20, dated 25 November 2020, pp 9-11.

22. By reason of the matters in paragraph 21, Beach Energy repeated:
- (a) the Growth Forecast Representation;
 - (b) the Growth Forecast Risk Representation;
 - (c) the Western Flank Stability Representation.

Particulars

The Growth Forecast Representation, the Growth Forecast Risk Representation, and the Western Flank Stability Representation were express or implied from the statements made by Beach Energy on 25 November 2020 as set out in paragraph 21 above.

23. Between 3 November 2020 and 7 December 2020, Beach Energy's share price increased by 64% from a closing price of \$1.15 on 2 November 2020 to a closing price of \$1.885 on 7 December 2020.

B.5 FY21 Second Quarter Activities Report

24. On 27 January 2021, Beach Energy announced its FY21 Second Quarter Activities Report to the ASX (**27 January 2021 Announcement**).

Particulars

Beach Energy ASX release styled "FY21 Second Quarter Activities Report", reference #002/21, dated 27 January 2021.

25. In the 27 January 2021 Announcement, Beach Energy stated that:
- (a) its second quarter FY21 production was 6.2 MMboe, which was 8% below the prior quarter and 3% below prior corresponding period; and
 - (b) its Western Flank production of gas, gas liquids and oil throughout the quarter ended 31 December 2020 was down 4% on the previous quarter;
 - (c) in November, Beach Energy announced the acquisition of Senex Energy's Cooper Basin oil and gas assets and associated infrastructure for a cash consideration of \$87.5 million. The acquisition include 6.8 MMboe of 2P reserves, approximately 0.6 MMboe of forecast FY21 production and will result in Beach being the sole Western Flank operator.

Particulars

Beach Energy ASX release styled "FY21 Second Quarter Activities Report", reference #002/21, dated 27 January 2021, pp 1, 6, 7 and 10.

26. By reason of the matters in paragraph 25, Beach Energy:
- (a) represented that the FY21 production would increase as a result of the acquisition (**FY21 Increased Production Representation**);
 - (b) repeated the Western Flank Stability Representation.

Particulars

Each of the representations were express or implied from the 27 January 2021 Announcement.

27. Due to lower production in the first two quarters of FY21, Beach Energy required production of between 13 and 15.5 MMboe in the remaining two quarters of FY21 in order to reach its FY21 full-year guidance.

Particulars

This fact arises from Beach Energy's lower production in the first two quarters.

28. Following the 27 January 2021 Announcement, Beach Energy's share price fell from \$1.885 to \$1.76, which constituted a fall of 6.6%.

B.6 FY21 Half Year Results

29. On 15 February 2021, Beach Energy announced its FY21 half year results to the ASX (**15 February 2021 Announcement**).

Particulars

Beach Energy ASX release entitled “Beach Energy FY21 Half Year results”, reference #006/21, dated 15 February 2021.

30. By the 15 February 2021 Announcement, Beach Energy made the following statements:
- (a) Beach Energy had significant commercial and exploration achievements in the half year including announcing two acquisitions including Senex Energy’s Cooper Basin portfolio and Mitsui’s Bass Basin assets which provide a platform for further synergies and growth;
 - (b) Production of 13.0 MMboe, in line with H1 FY20, and pro forma production of 13.7 MMboe (up 6%);
 - (c) Despite NPAT falling 53 per cent on the corresponding half, reflecting the 40 percent decline in realised oil price, production remained steady at 13.0 MMboe;
 - (d) Western Flank oil production was up ~8% on the corresponding period following the FY20 drilling program, which saw 27 horizontal oil wells drilled across the Western Flank oil fields. Beach Energy has seen higher than expected decline rates in a number of the wells. The Company was focused on understanding the reasons for the decline prior to deciding the optimum production strategy for these assets;
 - (e) Beach Energy’s achievements in the first half year only increased the Company’s confidence around its five-year targets.
 - (f) Updated FY21 guidance:
 - (i) pre-acquisition guidance of 25.5 – 26.5 MMboe;
 - (ii) pro-forma production of 26.5 – 27.5 MMboe;
 - (iii) capital expenditure of \$720 – \$760 million;
 - (iv) underlying EBITDA of \$900 million – \$950 million;
 - (v) unit operating costs (\$ per boe) of \$9.00 – 9.40;
 - (vi) unit DD&A (\$ per boe) of \$16.50 and 17.50.
31. By reason of the matters in paragraph 30, Beach Energy:
- (a) represented that Beach Energy had increased its confidence around its five-year targets namely:
 - (i) 37 to 43 MMboe production in FY25 from existing portfolio; and

- (ii) >\$2 billion of FCF at lower price assumptions

(Further Growth Strategy Representation)

- (b) represented that Beach Energy had for the year ended 30 June 2021 updated forecasts:
 - (i) production of 25.5 – 26.5 million MMboe;
 - (ii) pro-forma production of 26.5 – 27.5 MMboe (reflecting the contracted acquisition of Senex Energy’s Cooper Basin and Mitsui’s Bass Basin, with an effective date of 1 July 2020);
 - (iii) capital expenditure of \$720 – \$760 million;
 - (iv) underlying EBITDA of \$900 – \$950 million;
 - (v) DD&A of \$16.50 - \$17.50 / boe; and
 - (vi) field operating costs of \$9.00 – \$9.40 / boe

(Updated FY21 Guidance Representation)

- (c) repeated the Growth Forecast Risk Representation and the Western Flank Stability Representation.

Particulars

Each of the representations were express or implied from the 15 February 2021 Announcement.

- 32. Following the 15 February 2021 Announcement, Beach Energy’s share price fell from \$1.755 to \$1.68, constituting a drop of 4.3%.

B.7 30 April 2021 announcement

- 33. On 30 April 2021, Beach Energy published a “Business Update” to the ASX (**30 April 2021 Announcement**) which included:
 - (a) 18.4 MMboe net downgrade to 2P reserves across Western Flank oil and gas assets;
 - (b) FY22 Western Flank oil production is expected to be 4.0 – 5.0 MMbbl below previous estimates;
 - (c) withdrawal of the five-year outlook and that Beach Energy will no longer provide a five-year outlook in its current form;
 - (d) revised FY21 guidance that Beach Energy would achieve by FY ended 30 June 2021:
 - (i) production of 25.2 – 25.7 million MMboe;

- (ii) capital expenditure of \$700 – \$740 million;
 - (iii) underlying EBITDA of \$850 – \$900 million;
 - (iv) DD&A of \$16.25 - \$16.75 / boe; and
 - (v) field operating costs of \$10.00 – \$10.50 / boe;
- (e) the geological model used to determine reserve volumetrics for the Bauer oil field had difficulty in prognosing depth in low relief Western Flank oil structures.

Particulars

Beach Energy ASX release entitled “Business Update”, reference #013/21, dated 30 April 2021. See in particular pp 1, 2, 4 and 5.

34. Following the 30 April 2021 Announcement, Beach Energy’s share price fell to \$1.275, constituting a drop of 24.1% on the previous day’s closing price of \$1.68.

C. RESERVE VOLUMETRICS MODEL

35. At a time presently unknown to the plaintiff, Beach Energy developed a geological model used to estimate reserve volumetrics in the Bauer oil field, located in the Western Flank (**the Model**).

Particulars

This modelling is referred to, e.g., at p 20 of Beach Energy’s ASX release entitled “FY19 Half Year Results Presentation” dated 13 February 2019.

36. The Model was used by Beach Energy to determine reserve volumetrics for:
- (a) the Bauer oil field;
 - (b) nine other oil fields across the Western Flank.
37. The results or outputs from the Model were utilised or otherwise relied upon by Beach Energy in making one or more of the:
- (a) the Growth Strategy Representation;
 - (b) the Growth Forecast Risk Representation;
 - (c) the FY21 Guidance Representation;
 - (d) the Western Flank Stability Representation;
 - (e) the FY21 Increased Production Representation;
 - (f) the Further Growth Strategy Representation;
 - (g) the Updated FY21 Guidance Representation
- (together, **the Representations**).

38. Beach Energy has admitted and it is the fact that:

(a) elements of the Model were not applicable to the oil fields across the Western Flank
(**Model Information**),

and that

(b) there is difficulty in prognosing depth in low relief Western Flank oil structures due to natural variability;

(c) new well data results from non-Bauer Fields suggest that seismic data is more reliable than the Model

(**Reliability Information**).

Particulars

The admissions are made in Beach Energy ASX release entitled "Business Update", reference #013/21, dated 30 April 2021 (**30 April 2021 Business Update**) and ASX release of a presentation entitled "Business Update", dated 30 April 2021 (**30 April Business Update Presentation**). See in particular 30 April 2021 Business Update pp 1, 2, 4 and 5 and 30 April Business Update Presentation p 11.

39. Seismic data acquisition and interpretation is a standard process well known in the oil and gas industry by which seismic surveys and testing is used to locate and estimate oil reserves and resources.

40. At the time of making each of the Representations, Beach Energy had not adequately checked or cross-checked the Model and the results from the Model against relevant seismic data (**Seismic Data Information**).

Particulars

This fact may be inferred from the admission made in the 30 April 2021 Business Update and the 30 April Business Update Presentation. Further particulars will be provided after discovery and prior to trial.

41. During the Relevant Period, by reason of:

(a) material declines in production of oil at its wells as referred to in paragraph 33; and

(b) the matters referred in paragraphs 15 to 32;

the:

(c) 2P reserves across the Western Flank oil and gas assets of Beach Energy; further or alternatively

(d) five-year targets referred to in paragraphs 16 and 30 above; further or alternatively

(e) the FY21 guidance; further or alternatively

- (f) the updated FY21 guidance
was unreliable, alternatively was materially uncertain
(Unreliable Forecast Information).

D. MISLEADING OR DECEPTIVE CONDUCT

42. Each of the Representations were continuing representations at the time they were made.
43. The making and failing to correct or qualify the:
- (a) the Growth Strategy Representation in the period from 17 August 2020 to 30 April 2021;
 - (b) the Growth Strategy Risk Representation in the period from 17 August 2020 to 30 April 2021;
 - (c) the FY21 Guidance Representation in the period from 17 August 2020 to 15 February 2021;
 - (d) the Western Flank Stability Representation from 17 August 2020 to 30 April 2021;
 - (e) the FY21 Increased Production Representation from 27 January 2021 to 30 April 2021.
 - (f) the Further Growth Strategy Representation in the period from 15 February 2021 to 30 April 2021;
 - (g) the Updated FY21 Guidance Representation in the period from 15 February 2021 to 30 April 2021.
- was conduct engaged in by Beach Energy:
- (h) in trade or commerce; and
 - (i) in relation to Beach Energy Shares.
44. Each of the Representations, were with respect to future matters, namely the business and financial performance that Beach Energy would achieve in the future, in respect of which the plaintiff relies on s 769C of the Corporation Act, s 12BB(1) of the ASIC Act and s 4 of the ACL.
45. Beach Energy did not have reasonable grounds for making the Representations:

Particulars

The plaintiff refers to and relies upon the matters set out in section C above.

Further particulars will be provided after discovery and prior to trial.

46. Further or alternatively, the Growth Forecast Risk Representation was false in that Beach Energy's five-year production and outlook estimate was not conservative or low risk.
47. Further or alternatively, the Western Flank Stability Representation was false in that:
 - (a) future production of oil at the Western Flank was not stable and reliable; further or alternatively;
 - (b) 2P reserve replacement at the Western Flank was not stable and reliable.
48. By reason of the matters in paragraphs 42 to 47, Beach Energy engaged in misleading or deceptive conduct in contravention of s 1041H(1) of the Corporations Act, s 12DA(1) of the ASIC Act and/or s 18 of the ACL (**Misleading Conduct Contraventions**).
49. By reason of the matters pleaded in paragraph 48, the plaintiff and Group Members are entitled to compensation for the loss and damage suffered by them pursuant to s 1041I(1) of the Corporations Act, s 12GF(1) of the ASIC Act and/or s 236 of the ACL.

E. CONTINUOUS DISCLOSURE

50. Between a date not presently known by the plaintiff but on or after 17 August 2020 and before 30 April 2021:
 - (a) the Model Information; further or alternatively
 - (b) the Reliability Information; further or alternatively
 - (c) the Seismic Data Information; further or alternatively
 - (d) the Unreliable Forecast Information
 was information:
 - (e) of which Beach Energy was "aware" for purposes of the ASX Listing Rule 19.12;
 - (f) Beach Energy was negligent or reckless with respect to whether the information would have a material effect on the price or value of Beach Energy's Shares within the meaning of s 674(2)(d) of the Corporations Act (as applicable up to 23 March 2021);
 - (g) a reasonable person would expect the information would have a material effect on the price or value of Beach Energy's Shares within the meaning of section 674(2)(d) of the Corporations Act (from 23 March 2021).

Particulars

Beach Energy ought to have been aware of these matters by reason of:

- (1) its industry expertise;
- (2) the importance of the Western Flank to its business and performance as pleaded at paragraphs 8-14 above;

- (3) its access to seismic data being the industry standard for locating and estimating oil reserves and resources as pleaded at paragraph 39 above.

Beach Energy was aware that the Western Flank gas and oil fields were “complex” and ought to have known prior to 30 April 2021 that its estimate of reserves was not conservative or low risk: 30 April 2021 Announcement, p 2.

Further, based on the content of Beach Energy’s investor presentations and calls, Beach Energy knew or ought to have known that such information was material.

The plaintiff will provide further particulars after discovery and expert evidence.

The plaintiff relies on the concept of “aware” under Listing Rule 19.12 including constructive awareness (i.e. information that an officer “ought reasonably to have” possessed).

51. By reason of the matters in paragraph 50, during the Relevant Period, Beach Energy contravened s 674 of the Corporations Act and ASX Listing Rule 3.1 by failing to disclose some or all of the information referred to in paragraph 50, causing loss and damage to the plaintiff and Group Members (**Continuous Disclosure Contraventions**).
52. By reason of the matters pleaded in paragraph 51 the plaintiff and Group Members are entitled to compensation for the loss and damage suffered by them pursuant to s 1317HA of the Corporations Act.

F. LOSS OR DAMAGE

53. During the Relevant Period, if Beach Energy had not engaged in the contravening conduct pleaded in Sections D and E above, the market price of Beach Energy’s shares would have been lower.

Particulars

The multiple of earnings that the market previously awarded Beach Energy during the Relevant Period would have been lower. This will be addressed in the plaintiff’s expert evidence on quantum.

54. The plaintiff and Group Members have suffered market-based loss and damage as a result of Beach Energy’s contravening conduct.

Particulars

The market-based loss and damage suffered by the plaintiff and Group Members will be calculated by reference to:

- (A) the difference between the price paid for Beach Energy shares and the true value at the time of purchase (“*Potts v Miller* loss”);
- (B) the difference between the price paid for Beach Energy shares and the market value at the time of purchase;

- (C) the difference between the price paid for Beach Energy shares and the value left in hand at trial;
- (D) the quantum of inflation removed from the purchase price for Beach Energy shares as a result of the corrective disclosure ("*Dura* loss"); or
- (E) any of (A)-(D) but with an offset for the amount of inflation in the price of any Beach Energy shares acquired and sold during the Relevant Period.

G. COMMON QUESTIONS

55. The questions of law or fact common to the claims of the group members are as follows:

- (a) Whether Beach Energy had reasonable grounds for making the Representations.
- (b) Whether the Growth Forecast Risk Representation was false.
- (c) Whether the Western Flank Stability Representation was false.
- (d) Whether Beach Energy engaged in the Misleading Conduct Contraventions in the circumstances alleged in this Statement of Claim.
- (e) Whether Beach Energy was aware of the Model Information, the Reliability Information, the Seismic Data Information and/or the Unreliable Forecast Information during some or all of the Relevant Period and, if so, whether the respondent contravened s 674A of the Corporations Act by failing to disclose any or all such information.
- (f) Whether Beach Energy engaged in the Continuous Disclosure Contraventions in the circumstances alleged in this Statement of Claim.
- (g) Whether any, and if so what, conduct by Beach Energy in contravention of statutory norms had the effect that the market prices of Beach Energy's shares were higher than those prices would otherwise have been and, if so, to what extent.
- (h) Whether compensation is recoverable by the plaintiff and Group Members and, if so, the correct measure of any loss or damage.

H. RELIEF

56. And the plaintiff claims for himself and on behalf of Group Members:

- (a) Declarations that:
 - (i) Beach Energy has contravened s 1041H of the Corporations Act, s 12DA of the ASIC Act and/or s 18 of the ACL by reason of the Misleading Conduct Contraventions; and/or

- (ii) the Defendant has contravened s 674 of the Corporations Act by reason of the Continuous Disclosure Contraventions.
- (b) An order pursuant to s 1317HA of the Corporations Act that the defendant pay to the plaintiff and Group Members compensation for the loss and damage caused by its contravention of s 674A of the Corporations Act.
- (c) An order for compensation pursuant to s 1041I(1) of the Corporations Act, s 12GF(1) of the ASIC Act or s 236 of the ACL.
- (d) Interest on any statutory compensation awarded.
- (e) Costs.
- (f) Such further or other order as the Court sees fit.

Date: 11 February 2022



.....
Shine Lawyers
Solicitors for the Plaintiff