

SUPREME COURT OF QUEENSLAND

REGISTRY: BRISBANE

NUMBER: 3657/17

IN THE MATTER OF BLOOMER CONSTRUCTIONS (QLD) PTY LTD
ACN 071 344 100

Applicant HUME DOORS & TIMER (QLD) PTY LTD ACN 009 994 996

AND

Respondent BLOOMER CONSTRUCTIONS (QLD) PTY LTD ACN 071 344
100

AFFIDAVIT

I, LACHLAN MCINTOSH of Level 27, 10 Eagle Street, Brisbane in the State of Queensland, Director, state on oath:

Introduction

1. I am the Executive Chairman of Onterran Limited ACN 117 371 418 (Onterran), and I am duly authorised to swear this affidavit on behalf of Onterran. Exhibited hereto and marked "LM-1" is a true and correct copy of a current and historical extract with respect of Onterran, maintained by ASIC.
2. Onterran is the parent company of the Respondent (Bloomer) and a number of other entities. Exhibited hereto and marked "LM-2" is a true and correct copy of the Onterran corporate structure.
3. Onterran is a creditor of Bloomer in the amount of \$3,233,806.

Signed: 

Taken by: 

Graham Thomas Wall
Solicitor
Notary Public
144 Vincent Street
Cessnock

AFFIDAVIT
Filed on Behalf of the Plaintiffs
Form 46, Version 1
Uniform Civil Procedure Rules 1999
Rule 431

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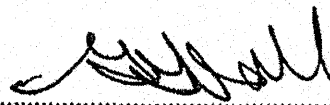
4. Onterran is the proponent of a proposed Deed of Company Arrangement with respect to Bloomer, which was revised on or about 20 June 2017 (the DOCA). Exhibited hereto and marked "LM-3" is a true and correct copy of the current proposed DOCA.

Fiscal Contributions

5. Onterran proposes to make the following fiscal contributions (the Contributions):
- (a) \$20,000.00, within 30 days of the date of execution of the DOCA (the **First Payment**);
 - (b) \$308,412.00 (or thereabouts), on account of the overdraft facility secured to the National Australia Bank (NAB), within 30 days of the date of execution of the DOCA (the **Second Payment**);
 - (c) \$550,000.00, within 60 days of the date of execution of the DOCA (the **Third Payment**);
 - (d) \$250,000.00, within eight (8) months of the date of execution of the DOCA (the **Fourth Payment**);
6. I am aware that some creditors have expressed concerns regarding Onterran's ability to make the Contributions.
7. Where an amount is being sourced through another entity that is wholly owned by Onterran, such an amount will be reflected as an 'intercompany loan' from that entity to Onterran. Onterran intends to source funds from wholly owned subsidiaries as outlined below to make the Contributions.
8. In respect of the First Payment:
- (a) I intend to cause this amount to be paid by Island Resorts Pty Ltd ACN 609 570 729, a wholly owned subsidiary of Onterran;
 - (b) Exhibited hereto and marked "LM-4" is a true and correct copy of a current search in respect of Island Resorts Pty Ltd, maintained by ASIC;
 - (c) Exhibited hereto and marked "LM-5" is a true and correct copy of an extract showing the bank balance of Island Resorts Pty Ltd as at 23 June 2017, as well as the front page of the April 2017 bank statement verifying that the account belongs to Island Resorts Pty Ltd. The First Payment will be paid from this bank account.

Signed:
3473-6055-6549, v. 1

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9. In respect of the Second Payment:

- (a) I intend to cause this amount to be paid from the net proceeds of the sale of an asset known as 'King's Village' by Nomad Properties Pty Ltd ACN 130 613 802, a wholly owned subsidiary of Onterran;
- (b) I am informed by Pat McMahon, the Chief Financial Officer of Onterran, and verily believe, that the Minister for Lands has approved the transfer of the Crown lease to the buyer and settlement of the sale of King's Village is expected to take place within seven (7) to fourteen (14) days of the date of this affidavit; and
- (c) Exhibited hereto and marked "LM-6" is a true and correct copy of a current search in respect of Nomad Properties Pty Ltd, maintained by ASIC;
- (d) Exhibited hereto and marked "LM-7" is a true and correct copy of the contract of sale for King's Village.

10. In respect of the Third Payment:

- (a) I intend to cause this amount to be paid by South Stradbroke Island Apartments Pty Ltd ACN 168 156, 483, a wholly owned subsidiary of Onterran;
- (b) South Stradbroke Island Apartments Pty Ltd is the registered proprietor of four units at the Couran Cove Island Resort, namely:
 - (i) Lot 13 on BRP 106941;
 - (ii) Lot 81 on BRP 106887;
 - (iii) Lot 80 on BRP 106887; and
 - (iv) Lot 121 on BRP 106890;

(the Units);
- (c) I intend to cause South Stradbroke Island Apartments Pty Ltd to obtain finance from a third party which will be secured by first ranking mortgage over the Units in order to make the Third Payment (the Loan);
- (d) The Units are mortgaged to Island Resorts Pty Ltd;
- (e) I intend to cause Island Resorts Pty Ltd to cede priority to the third party financier to allow it to register a first ranking mortgage over the Units to secure the Loan;

Signed:
3473-6055-6549, v. 1

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- (f) Exhibited hereto and marked "LM-8" is a true and correct copy of a current search in respect of South Stradbroke Island Apartments Pty Ltd, maintained by ASIC;
- (g) Exhibited hereto and marked "LM-9" are true and correct copies of registration confirmation statements relating to the Units;
- (h) The value of each of the Units is, conservatively, \$800,000. Exhibited hereto and marked "LM-10" are copies of RP Data property details for the Units.

11. In respect of the Fourth Payment:

- (a) This amount is being funded, initially, by me personally;
- (b) I am the sole director of and currently hold 1 of 2 ordinary shares and 1 B Class share in Isakath Pty Ltd ACN 099 334 755, as trustee for a discretionary family trust. Exhibited hereto and marked "LM-11" is a true and correct copy of a current and historical search in respect of Isakath Pty Ltd, maintained by ASIC;
- (c) My wife is the other shareholder;
- (d) My shareholding in Isakath Pty Ltd is currently valued at \$550,000.00. Exhibited hereto and marked "LM-12" is a true and correct copy of a Statement of Financial Position that I have sworn; and
- (e) I intend to cause Isakath Pty Ltd to obtain finance in the amount of \$250,000 secured by my share, and loan that money to Onterran, to allow the Fourth Payment.

Building Licence

12. As the respondent does not hold a builder's licence, Onterran will engage a third party licenced builder to carry out any works that require a licenced builder.

All the above facts and circumstances herein deposed to are within my own knowledge save such as are deposed to from information only and my means of knowledge and sources of information appear on the face of this my affidavit.

Sworn by LACHLAN MCINTOSH at

in the presence of:

Signed: 

Taken by: 

Graham Thomas Wall
Solicitor
Notary Public
144 Vincent Street
Gessnock

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AND


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CERTIFICATE OF EXHIBITS

Bound and marked "LM-1" to "LM-12" are the exhibits to the affidavit of LACHLAN MCINTOSH sworn 26 June 2017.

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Deponent 

Taken by 

CERTIFICATE OF EXHIBIT
Filed on Behalf of Onterran Limited
Form 47, Version 2
Uniform Civil Procedure Rules 1999
Rule 435

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