

FEDERAL COURT OF AUSTRALIA

Park, in the matter of IG Power (Callide) Ltd (Administrators Appointed) **(No 3) [2024] FCA 1245**

File number: QUD 403 of 2024

Judgment of: **DERRINGTON J**

Date of judgment: 31 October 2024

Catchwords: **CORPORATIONS** – external administration of group of companies – application by administrators under s 439A(6) and s 447A of the *Corporations Act 2001* (Cth) to extend the convening period of the group – application granted

Legislation: *Corporations Act 2001* (Cth)
Federal Court of Australia Act 1976 (Cth)

Cases cited: *Bumbak (Administrator), Re Duro Felguera Australia Pty Limited (Administrators Appointed)* [2020] FCA 422
Chamberlain, in the matter of South Wagga Sports and Bowling Club Ltd (Administrator Appointed) [2009] FCA 25
Hill, in the matter of Autocare Services Pty Ltd (administrators appointed) [2021] FCA 167
Jahani, in the matter of Northern Energy Corporation Ltd (Administrators Appointed) (No 2) [2019] FCA 382
Killer, in the matter of Scooter Group Pty Ltd (Receivers and Managers Appointed) (Administrators Appointed) [2023] FCA 320
Lombe re Australian Discount Retail Pty Ltd [2009] NSWSC 110
Mann v Abruzzi Sports Club Ltd (1994) 12 ACSR 611 and *Re Diamond Press Australia Pty Ltd* [2001] NSWSC 313
Owen (in their capacity as joint and several administrators of Rivercity Motorway Pty Ltd (admins apptd) (recs and mgrs apptd)) v Madden (recs and mgrs) (No 4) (2012) 92 ACSR 255
Re ABC Learning Centres (admins apptd) (recs and mgrs apptd); application by Walker (No 8) (2009) 73 ACSR 478
Re Belmont Sportsmans Club Co-Operative Ltd (admin apptd) [2015] NSWSC 543
Re Daisytek Australia Pty Ltd (admin apptd) (2003) 45 ACSR 446

Re Riviera Group Pty Ltd (admins apptd) (recs and mgrs apptd) (2009) 72 ACSR 352

Re Strawbridge (in their capacity as joint and several voluntary administrators of each of Virgin Australia Holdings Ltd (admins apptd)) (No 2) (2020) 144 ACSR 347

Strawbridge, in the matter of Virgin Australia Holdings Ltd (administrators appointed) (No 7) [2020] FCA 1182

Vickers, in the matter of JM Kelly Builders Pty Ltd (in liquidation) (No 2) [2019] FCA 1789

Wight, in the matter of Responsible Entity Services Ltd (Administrators Appointed) [2024] FCA 458

Division:	General Division
Registry:	Queensland
National Practice Area:	Commercial and Corporations
Sub-area:	Corporations and Corporate Insolvency
Number of paragraphs:	63
Date of hearing:	24 and 30 October 2024
Counsel for the Plaintiffs:	Dr R Higgins SC with Mr R Jameson (on 24 October 2024) Mr B O'Donnell KC with Mr R Jameson and Ms J Sargent (on 30 October 2024)
Solicitor for the Plaintiffs:	White & Case
Counsel for Callide Energy Pty Ltd:	Callide Energy Pty Ltd did not appear (on 24 October 2024) Mr M Hodge KC with Mr S Webster (on 30 October 2024)
Solicitor for Callide Energy Pty Ltd:	Clayton Utz
Counsel for Sev.en Global Investments a.s.:	Mr C Withers SC with Mr M Gvozdenovic and Dr N Lennings (on 24 October 2024) Mr C Withers SC (on 30 October 2024)
Solicitor for Sev.en Global Investments a.s.:	Quinn Emanuel Urquhart & Sullivan
Solicitor for Union Star Developments Limited:	Mr T Schinckel of Corrs Chambers Westgarth (on 30 October 2024)

ORDERS

QUD 403 of 2024

**IN THE MATTER OF IG POWER (CALLIDE) LTD (ADMINISTRATORS
APPOINTED) (ACN 082 413 885)**

**JOHN RICHARD PARK AND BENJAMIN PETER
CAMPBELL IN THEIR CAPACITY AS JOINT AND
SEVERAL ADMINISTRATORS OF EACH OF THE SECOND
TO FIFTH PLAINTIFFS**
First Plaintiff

**IG ENERGY HOLDINGS (AUSTRALIA) PTY LTD ACN 090
996 142 (ADMINISTRATORS APPOINTED)**
Second Plaintiff

**IG POWER HOLDINGS LIMITED PTY LTD ACN 082 413
876 (ADMINISTRATORS APPOINTED)** (and others named in
the Schedule)
Third Plaintiff

ORDER MADE BY: DERRINGTON J

DATE OF ORDER: 31 OCTOBER 2024

THE COURT ORDERS THAT:

1. Pursuant to s 447A of the *Corporations Act 2001* (Cth) (*Corporations Act*), Pt 5.3A of the *Corporations Act* is to operate in relation to the second to fifth plaintiffs as if, notwithstanding the provisions in s 439A of the *Corporations Act*, the convening period of the second to fifth plaintiffs was the period up to and including 28 February 2025.
2. Pursuant to s 447A of the *Corporations Act*, Pt 5.3A of the *Corporations Act* is to operate in relation to the second to fifth plaintiffs as if, notwithstanding the provisions in s 439A of the *Corporations Act*, the second meeting of the creditors of the second to fifth plaintiffs required under s 439A of the *Corporations Act* may be convened and held at any time during, or within, the convening period as extended under Order 1 above, provided that the administrators give notice of the meeting to creditors of the second to fifth plaintiffs at least five business days before the meeting.
3. Until the conclusion of the external administration of the second to fifth plaintiffs, or further order of the Court, pursuant to s 37AF of the *Federal Court of Australia Act*

1976 (Cth) (*Federal Court Act*), on the ground stated in s 37AG(1)(a), being that the order is necessary to prevent prejudice to the proper administration of justice:

- (a) Confidential Exhibit JRP-6 to the Park Affidavit;
- (b) those parts of the interlocutory process filed 23 October 2024 that are shaded in grey; and
- (c) any written submissions relied upon by the plaintiffs on this application to the extent they refer to the content of Confidential Exhibit JRP-6,

be kept confidential and not be provided or disclosed to any person other than:

- (d) any Judge of this Court, and that Judge's staff and assistants;
- (e) the plaintiffs and their legal representatives; and
- (f) the party identified at paragraph 5(f) of the interlocutory process.

4. Until the conclusion of the external administration of the second to fifth plaintiffs, or further order of the Court, pursuant to s 37AF of the *Federal Court Act*, on the ground stated in s 37AG(1)(a), being that the order is necessary to prevent prejudice to the proper administration of justice:

- (a) Confidential Exhibit JRP-7 to the Park Affidavit;
- (b) those parts of the interlocutory process that are shaded in grey; and
- (c) any written submissions relied upon by the plaintiffs on this application to the extent they refer to the content of Confidential Exhibit JRP-7,

be kept confidential and not be provided or disclosed to any person other than:

- (d) any Judge of this Court, and that Judge's staff and assistants;
- (e) the plaintiffs and their legal representatives; and
- (f) the party identified at paragraph 6(f) of the interlocutory process.

5. Until the conclusion of the external administration of the second to fifth plaintiffs, or further order of the Court, pursuant to s 37AF of the *Federal Court Act*, on the ground stated in s 37AG(1)(a), being that the order is necessary to prevent prejudice to the proper administration of justice, the confidential Exhibit JRP-8 to the affidavit of John Richard Park affirmed on 29 October 2024, be kept confidential and not be provided or disclosed to any person other than:

- (a) any Judge of this Court, and that Judge's staff and assistants; and
- (b) the plaintiffs and their legal representatives.

6. Any person who can demonstrate a sufficient interest to discharge or modify these orders has liberty to apply on three business days' written notice to the plaintiffs and the Court, or within such further time as the Court permits.
7. The remainder of the interlocutory process filed 23 October 2024 be listed for hearing on 28 and 29 January 2025.
8. The plaintiffs' costs of and incidental to this application, including the costs of the hearing on 30 October 2024, are to be treated as costs in the administration of the second to fifth plaintiffs and be paid out of the assets of the second to fifth plaintiffs.
9. Otherwise, the costs of the case management hearing of 24 October 2024 be the parties' costs in the cause.

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.