

## ENFORCEABLE UNDERTAKING

### AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION SECTION 93AA ASIC ACT

The commitments in this undertaking are offered to the Australian Securities & Investments Commission ("ASIC") by:

Afforestation Pty Ltd ACN 008 733 926 ("Afforestation")  
5 Luth Avenue  
Daglish WA 6008

Charles Edward Peaty ("Mr Peaty")  
5 Luth Avenue  
Daglish WA 6008

Mrs Margaret Vera Peaty ("Mrs Peaty")  
5 Luth Avenue  
Daglish WA 6008

#### 1. Background

- 1.1 ASIC has been making inquiries about the Cordinup BlueGum Plantation Scheme ("Scheme"), which is a bluegum plantation managed on behalf of 89 investors ("Investors").
- 1.2 The Scheme involves the land comprising Lot 5 on Strata Plan 16725 (formerly Certificates of Title Volume 1305, Folio 777 and Volume 175, Folio 900 - Plantaganet Location 3836 and part Location 3835) at Cordinup Forest Park, about 75 kms east of Albany.
- 1.3 The Scheme involves the management of a plantation of bluegums and covers approximately 561 hectares of land. The land is owned by Terana Holdings Pty Ltd ("Lessor"). Of the 561 hectares in the Scheme approximately 365 hectares has been leased to 89 investors and the remaining 196 hectares is held by the Lessor.
- 1.4 Interests in the Scheme were made available to investors in and around 1991. At all material times Mr Peaty and Mrs Peaty were directors of Afforestation.
- 1.5 Each of the investors has entered into a lease agreement with the Lessor, and a management agreement with Afforestation to manage the plantation. The management agreement is renewed annually.
- 1.6 Investors are required to pay a yearly fee (currently \$165 per hectare) to Afforestation for the management of the Scheme.

- 1.7 In addition, investors are required to pay a yearly lease fee (currently \$192 per hectare) to the Lessor.
- 1.8 As a result of its inquiries, ASIC is of the view that the Scheme was promoted in contravention of the Corporations Law, and in particular, those provisions which require a prospectus to be lodged, a trust deed in respect of the Scheme and the Scheme promoters or operators to be licensed and regulated by ASIC. ASIC also has concerns about the management of the Scheme and the likely returns to investors under the Scheme.
- 1.9 Afforestation, Mr Peaty and Mrs Peaty ("the Parties") acknowledge the concerns of ASIC set out above. In response to ASIC's concerns, the Parties have offered the undertakings which follow.

## 2. Undertakings

### 2.1 The Parties undertake to:

- (a) do all such things as are reasonably necessary to convene a meeting of Investors at which the future of the Scheme will be discussed ("Investors Meeting");
- (b) do all such things as are reasonably necessary to send to each Investor all information necessary for him or her to make an informed decision as to the future of the Scheme; and
- (c) abide by, and to the extent of their ability give effect to, any decisions reached at the Investor's Meeting.

The specific undertakings which follow do not derogate from the generality of this undertaking.

- 2.2
- (a) The Investors Meeting is to be held by 30 September 1999.
  - (b) The venue for the Investors Meeting is to be within the Perth metropolitan area.
  - (c) Each investor is to be given 21 days notice in writing ("Notice of Meeting") of the Investors Meeting.
  - (d) The Notice Meeting is to be sent by certified mail.
  - (e) The first \$20,000 of the costs associated with complying with this undertaking, including convening the Investors Meeting, preparation of any information memorandum for Investors, venue hire and postage, may be paid from the funds of the Scheme. The remaining costs, if any, are to be paid by the Parties.

- 2.3 The Parties undertake to send with the Notice of Meeting an information memorandum ("Information Memorandum") which will contain the following:
- (a) a statement of each Investor's current rights and obligations under the Scheme and pursuant to their lease with the Lessor;
  - (b) a statement of the average costs per hectare of trees planted which have been incurred by Investors from the commencement of the Scheme to the date of the notice;
  - (c) a statement as to the projected return an Investor is likely to receive from the proceeds of sale of the first harvest of bluegums, expressed both as a figure and an internal rate of return;
  - (d) a statement setting out the assumptions relied on in determining the information in paragraph (c);
  - (e) a copy of the report by Mr A R Gobby of Forest West Pty Ltd dated 12 May 1999 regarding the Scheme;
  - (f) particulars of options or proposals available to Investors in relation to the future direction of the Scheme, including the costs associated with each proposal, the risks and benefits of each proposal, the likely return to Investors under each proposal and when such return is to be received;
  - (g) a statement setting out any assumptions and the reasons underlining any such assumptions in relation to each of the proposals;
  - (h) all such information an investor or his or her professional adviser would reasonably require to make an informed decision on whether to accept one or more of the proposals outlined in the Information Memorandum;
  - (i) an opinion by an independent member of the Institute of Chartered Accountants in Australia or the Australian Society of Certified Practising Accountants wherein he/she reviews the proposals, comments on the fairness of the proposals and makes a recommendation as to the most viable proposal;
  - (j) the name and contact details of the Chairperson of the meeting;
  - (k) details as to the procedures to be followed at the meeting, in particular how decisions will be reached in accordance with clause 2.6 below;
  - (l) a list of the resolutions proposed to be voted on at the meeting;

- (m) a form to allow for postal voting, along with an explanation as to how postal votes by Investors should be completed and the date by which they are to be received by the Chairman of the meeting; and
  - (n) a clear statement on the front page that Investors should seek their own professional advice in respect of the matters contained in the Information Memorandum and their investment in the Scheme.
- 2.4 The Parties undertake that the Notice of Meeting and Information Memorandum will be prepared by a solicitor or member of the Institute of Chartered Accountants in Australia or the Australian Society of Certified Practising Accountants
- 2.5 The Parties agree to do all things necessary to facilitate the preparation of the Notice of Meeting and Information Memorandum, including but not limited to:
- (a) conducting any inquiries which may be necessary for the formulation of proposals to be put to investors at the meeting;
  - (b) providing any assistance necessary to any Investor, or group of Investors, who wish to place a proposal before the meeting, including to include that proposal in the Information Memorandum;
  - (c) providing all relevant information and any assistance necessary to the solicitors or accountant briefed to prepare the Notice of Meeting and Information Memorandum; and
  - (d) providing all relevant information to the accountant briefed to provide an expert opinion on the proposals to be voted on at the meeting.
- 2.6. The Parties undertake to abide by, and to the extent of their ability give effect to, any decisions reached at the Investor's Meeting reached in the following manner:
- (a) each Investor will be entitled to one vote for each hectare of blue gums which they have leased pursuant to the Scheme; and
  - (b) a decision will be taken to have been made if more than 50% of the votes entitled to be cast at the Investor's Meeting, including postal votes, are cast in favour of the resolution.
- 2.7 The Parties undertake to lodge with ASIC:
- (a) a copy of the Notice of Meeting;
  - (b) a copy of the Information Memorandum;

- (c) a statement setting out the name and contact details of the solicitor or accountant referred to in clause 2.4 above,

not less than 3 business days prior to the Parties sending out the Notice of Meeting

2.8 The Parties undertake to ensure that the meeting of investors is conducted in a fair and orderly manner including, but not limited to ensuring that:

- (a) the meeting is chaired by an independent solicitor or member of the Institute of Chartered Accountants in Australia or the Australian Society of Certified Practising Accountants; and
- (b) the name of any Investor with an apparent conflict of interest on a particular resolution is brought to the attention of the Chairman of the meeting, along with the details of the apparent conflict.

2.9 The Parties undertake that, until the Meeting of Investors is held and appropriate resolutions regarding the future direction of the Scheme are passed, they:

- (a) with the exception of payments pursuant to clause 2.2(e) and monthly payments to Steven Coates to a maximum of \$1,500 per month, will not use any funds already received from investors in the Scheme without the prior written consent of two of the investors named in Schedule 1 ("Authorisees");
- (b) will not seek from any of the investors in the Scheme any further payment or renewal of any management agreement; and
- (c) will place all funds received to date from investors into an interest-bearing trust account, and will bank any further cheques received from any investors into that account, and will not use any of those funds without the prior written consent of two of the Authorisees.

2.10 The Parties agree that, until such time as the decisions of the Investors Meeting have been carried into effect and to the extent within their powers, the Investors' interests in the Scheme will not in any way be prejudiced by them not making any payments, or not signing a request for the continued management of the Scheme.

2.11 The Parties will take any action necessary to protect the investors interest in the Scheme including renewing any insurance that falls due.

### 3. Acknowledgments

3.1 The Parties acknowledge that ASIC:

- (a) may issue a media release on execution of this Undertaking referring to its terms and the concerns of ASIC which led to its execution;
- (b) may from time to time publicly refer to this Undertaking; and
- (c) will make this Undertaking available for public inspection.

3.2 The Parties acknowledge that this Undertaking in no way derogates from the rights and remedies available to ASIC or any other person arising from any conduct described in this Undertaking.

3.3 The Parties acknowledge that ASIC's acceptance of an enforceable undertaking does not affect ASIC's powers to investigate a contravention arising from the conduct of the subject of this Undertaking or future conduct, or pursue a criminal prosecution, or its powers to lay charges or seek a pecuniary civil order.

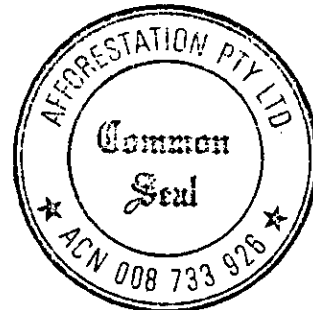
3.4 The Parties acknowledge that this Undertaking has no operative force until accepted by ASIC.

**4. Interpretation**

4.1 Any words in the singular include the plural and words in the plural include the singular.

4.2 Any obligations on the Parties resulting from this Undertaking, are to be considered as both joint and several obligations on each of the Parties.

The Common Seal of  
 Afforestation Pty Ltd ACN 008 733 926  
 was affixed to this Undertaking  
 in the presence of:




*B. E. Peaty*                      *Margaret Peaty*  
 Director                                      Secretary

*B. E. Peaty*  
 Signed by Mr Peaty

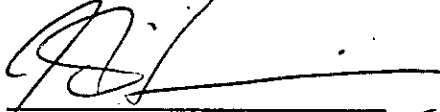
in the presence of:  
 Signed                      *CB*  
 Name in Print                      CAROL WHITE

Margaret v Peaty  
Signed by Mrs Peaty

in the presence of:  
Signed  
Name in Print

  
LINDA WHITE

Accepted by the Australian Securities & Investments Commission  
pursuant to ASIC Act s93AA by its duly authorised delegate



~~Michael Gething, Counsel~~ Jamie Ogilvie, Regional Commissioner

Dated 28th day of July 1999

**SCHEDULE 1**

Mr Christopher White  
Mr Robert Dare  
Dr Don Paskos  
Mr David Lombardo  
Mrs Lorraine Cobb