

IN THE SUPREME COURT OF NEW SOUTH WALES No. of 2025

DIVISION: EQUITY

LIST: CORPORATIONS

REGISTRY: SYDNEY

IN THE MATTER OF LIBERTY PRIMARY METALS AUSTRALIA PTY LTD
(ACN 631 112 573) AND OTHERS

Australian Securities and Investments Commission
Plaintiff

**Liberty Primary Metals Australia Pty Ltd (ACN 631 112 573) (and others listed
in the Schedule)**
Defendants

Originating process

A. DETAILS OF APPLICATION

This application is made under section 1274(11) of the *Corporations Act 2001* (Cth) (**Act**), seeking orders directing the defendants to make good defaults under section 319(1) of the Act by lodging reports required to be prepared or obtained under Part 2M.3 of the Act.

On the facts stated in the supporting affidavit(s), the plaintiff claims:

Lodgement of annual financial reports, directors' reports and auditors' reports

1. An order pursuant to section 1274(11) of the Act directing the first defendant (Liberty Primary Metals Australia Pty Ltd) to make good its default under section 319(1) of the Act by lodging the following reports required to be prepared or obtained by the first defendant under Division 1 of Part 2M.3 of the Act for the financial year ending 30 June 2024:

- a. a financial report prepared pursuant to section 292 of the Act,
including:

- i. financial statements within the meaning of section 295(1)(a) of the Act;
 - ii. notes to the financial statements within the meaning of section 295(1)(b) of the Act; and
 - iii. directors' declaration about the statements and notes within the meaning of section 295(1)(c) of the Act;
- b. a directors' report prepared pursuant to sections 292 and 298 of the Act; and
- c. an auditor's report obtained pursuant to section 301 of the Act,

within 14 days of the making of the order, or such other time as determined by the Court.

2. An order pursuant to section 1274(11) of the Act directing the second defendant (Tahmoor Coal Pty Ltd) to make good its default under section 319(1) of the Act by lodging the following reports required to be prepared or obtained by the second defendant under Division 1 of Part 2M.3 of the Act for the financial year ending 30 June 2024:

- a. a financial report prepared pursuant to section 292 of the Act, including:
 - i. financial statements within the meaning of section 295(1)(a) of the Act;
 - ii. notes to the financial statements within the meaning of section 295(1)(b) of the Act; and
 - iii. directors' declaration about the statements and notes within the meaning of section 295(1)(c) of the Act;
- b. a directors' report prepared pursuant to sections 292 and 298 of the Act; and
- c. an auditor's report obtained pursuant to section 301 of the Act,

within 14 days of the making of the order, or such other time as determined by the Court.

3. An order pursuant to section 1274(11) of the Act directing the third defendant (Liberty Bell Bay Pty Ltd) to make good its defaults under section 319(1) of the Act by lodging the following reports required to be prepared or obtained by the third defendant under Division 1 of Part 2M.3 of the Act for the financial years ending on 30 June 2021, 30 June 2022, 30 June 2023 and 30 June 2024:
- a. a financial report prepared pursuant to section 292 of the Act, including:
 - i. financial statements within the meaning of section 295(1)(a) of the Act;
 - ii. notes to the financial statements within the meaning of section 295(1)(b) of the Act; and
 - iii. directors' declaration about the statements and notes within the meaning of section 295(1)(c) of the Act;
 - b. a directors' report prepared pursuant to sections 292 and 298 of the Act; and
 - c. an auditor's report obtained pursuant to section 301 of the Act;
- within 14 days of the making of the order, or such other time as determined by the Court.

Other Orders

- 4. Costs pursuant to section 1274(12) of the Act.
- 5. Such further or other orders as the Court thinks fit.

Date: 27 June 2025

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Nathalie Pietsch
Solicitor for the Australian Securities and Investments Commission

This application will be heard by the Supreme Court of New South Wales at Law Courts Building, 184 Phillip Street, Sydney, New South Wales

at*am/*pm on

B. NOTICE TO DEFENDANTS

TO:

Liberty Primary Metals Australia Pty Ltd ACN 631 112 573 (First Defendant)

Level 34, 50 Bridge Street, Sydney NSW 2000

Tahmoor Coal Pty Ltd ACN 076 663 968 (Second Defendant)

Level 34, 50 Bridge Street, Sydney NSW 2000

Liberty Bell Bay Pty Ltd ACN 004 456 035 (Third Defendant)

Level 34, 50 Bridge Street, Sydney NSW 2000

If you or your legal practitioner do not appear before the Court at the time shown above, the application may be dealt with, and an order made, in your absence. As soon after that time as the business of the Court will allow, any of the following may happen:

- (a) the application may be heard and final relief given,
- (b) directions may be given for the future conduct of the proceeding,
- (c) any interlocutory application may be heard.

Before appearing before the Court, you must file a notice of appearance, in the prescribed form, in the Registry and serve a copy of it on the plaintiff.

Note.

Unless the Court otherwise orders, a defendant that is a corporation must be represented at a hearing by a legal practitioner. It may be represented at a hearing by a director of the corporation only if the Court grants leave.

C. APPLICATION FOR WINDING UP ON GROUND OF INSOLVENCY

Not applicable

D. FILING

Date of filing:

This originating process is filed by Nathalie Pietsch of the Australian Securities and Investments Commission for the plaintiff.

E. SERVICE

The plaintiff's address for service is:

Attention: Nathalie Pietsch
Australian Securities and Investments Commission
Level 5, 100 Market Street, Sydney NSW 2000

It is intended to serve a copy of this originating process on each defendant.

Schedule of Parties

No. of 2025

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DIVISION: CORPORATIONS
REGISTRY: SYDNEY

IN THE MATTER OF LIBERTY PRIMARY METALS AUSTRALIA PTY LTD ACN 631
112 573 AND OTHERS

Australian Securities and Investments Commission
Plaintiff

-and-

Liberty Primary Metals Australia Pty Ltd ACN 631 112 573
First Defendant

Tahmoor Coal Pty Ltd ACN 076 663 968
Second Defendant

Liberty Bell Bay Pty Ltd ACN 004 456 035
Third Defendant