



HIGH COURT OF AUSTRALIA

NOTICE OF FILING

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Details of Filing

File Number: B32/2023
File Title: Carmichael Rail Network Pty Ltd as Trustee for the Carmichael
Registry: Brisbane
Document filed: Form 27B - Appellant's chronology-Appellant's Chronology
Filing party: Appellant
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Important Information

This Notice has been inserted as the cover page of the document which has been accepted for filing electronically. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties and whenever the document is reproduced for use by the Court.

Form 27B – Appellant’s chronology

Note: see rule 44.02.3.

B32/2023

IN THE HIGH COURT OF AUSTRALIA
BRISBANE REGISTRY

BETWEEN:

**CARMICHAEL RAIL NETWORK PTY LTD AS TRUSTEE FOR THE
CARMICHAEL RAIL NETWORK TRUST**
Appellant

and

BBC CHARTERING CARRIERS GMBH & CO. KG
First Respondent

ONESTEEL MANUFACTURING PTY LTD
Second Respondent

APPELLANT’S CHRONOLOGY

Part I: This chronology is in a form suitable for publication on the internet.

Part II:

Date	Event	Source
19 December 2019	Appellant (CRN) and Second Respondent (Liberty) enter into Supply Contract for the manufacture and supply by Liberty of 21,647 tonnes of 60k head hardened steel rails (Goods).	<i>Carmichael Rail Network Pty Ltd v BBC Chartering Carriers GmbH & Co. KG (BBC Nile)</i> (2022) 295 FCR 81 (J) [6]; Core

Date	Event	Source
		Appeal Book (CAB) p 29
6 August 2020	CRN and Liberty enter into Goods and Services Agreement for transport of Goods from Liberty’s Whyalla Facility to a loading berth at Port of Whyalla and for loading Goods onto vessel.	J[6]; CAB p 29
19 June 2020	Booking Note executed by First Respondent (BBC) and by Norwest Group Logistics Pty Ltd (NGL) on CRN’s behalf.	J[6]; CAB p 29; Appellant’s Book of Further Material (ABFM) page 8, para 6 and page 11 (Exhibit FH3)
13 November 2020	Stowage plan prepared by BBC.	J[6]; CAB p 29
9 to 17 December 2020	Liberty, through its subcontractor Qube Bulk Pty Ltd, loads the Consignment onto the MV “BBC Nile” (the ship).	J[6]; CAB p 29
17 December 2020	Bill of lading issued by BBC to NGL, with CRN named as consignee, for shipment of 8,669 lengths of hardened steel rail (Consignment) from Whyalla to Mackay aboard the ship.	J[6]; CAB p 29; ABFM page 8, para 8 and page 14 (Exhibit FH5).
17 December 2020	Master of the ship confirms receipt of the Consignment on board the ship.	J[6]; CAB p 29
17 December 2020	The ship departs the Port of Whyalla.	J[6]; CAB p 29

Date	Event	Source
24 December 2020	The ship arrives at the Port of Mackay. Master of the ship issues a Notice of Readiness for the Consignment's discharge.	J[6]; CAB p 29
25 December 2020	Members of the ship's crew observe that a collapse had occurred in hold 1 of the ship on the starboard side.	J[6]; CAB p 29
29 January 2021	CRN's Engineering Manager determines that the damage caused to the rails by the hold collapse had rendered them non-compliant with the specifications for their use in railway construction, with the result that they could not be used for that purpose.	J[6]; CAB p 29
8 July 2021	CRN sells the damaged rails as scrap to a raw metals buyer.	J[6]; CAB p 29
21 December 2021	CRN's solicitor and BBC's P&I Club representative agree to a time extension from 24 December 2021 to 24 March 2022 for the commencement of proceedings in a competent court or tribunal as per the bill of lading in respect of any claim under the bill of lading, such extension being given without any admission by the carrier of liability for the alleged claim.	J[6]; CAB p 30
16 March 2022	CRN's solicitor and BBC's P&I Club representative agree to a further extension of the time for the commencement of proceedings from 24 March 2022 to 24 June 2022 on the same terms as agreed in December 2021.	J[6]; CAB p 30

Date	Event	Source
14 June 2022	CRN’s solicitor sends a letter of a demand to BBC’s P&I Club representative.	J[6]; CAB p 30; ABFM page 10, para 19 and page 16 (Exhibit FH14).
17 June 2022	BBC’s P&I Club representative agree to grant CRN another extension of the time to commence proceedings from 24 June 2022 to 24 September 2022 on the same terms as agreed in December 2021 and March 2022.	J[6]; CAB p 30
2 August 2022	BBC’s solicitor in London issues to CRN a notice of arbitration (purportedly) under the bill of lading, to be seated in London and in relation to damage done to the Consignment while on board the ship, and purporting to require CRN to appoint an arbitrator by 16 August 2022.	J[6]; CAB p 30
12 August 2022	CRN commences Federal Court of Australia proceeding QUD277/2022 and files an interlocutory application seeking an anti-suit injunction restraining the London arbitration from proceeding.	J[7]; CAB p 30
12 August 2022	Orders made by SC Derrington J for leave to serve out and (in order 1) restraining BBC from taking any steps in the London arbitration until 5pm on Tuesday 16 August 2022	CAB pp 13–14, orders 1–3
15 August 2022	BBC and CRN agree that, without prejudice to the interlocutory application and without submitting to or accepting the validity of the arbitration commenced in London by BBC, the time for any step to be taken in the London arbitration (including for the appointment of additional arbitrators) is	CAB p 17, order 8

Date	Event	Source
	deferred until 14 days after the determination of the interlocutory applications by the Court (including any appeal). Agreement recorded in consent orders made by SC Derrington J on 16 August 2022.	
16 August 2022	Further orders made by consent by SC Derrington J including extending order 1 of the orders made on 12 August 2022 until orders are made determining the parties' respective Interlocutory Applications or until further order	CAB p 16, order 1
17 August 2022	BBC files interlocutory application seeking a stay of the whole of CRN's claim against BBC in the Federal Court of Australia proceeding QUD277/2022.	CAB pp 20–23

Dated 28 July 2023



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