

AMENDED POINTS OF DEFENCE

COURT DETAILS

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| Court | Supreme Court of NSW |
| Division | Common Law |
| List | Common Law General |
| Registry | Sydney |
| Case number | 2019/00150651 |

TITLE OF PROCEEDINGS

| | |
|----------------------|---|
| First plaintiff | Doyle's Farm Produce Pty Ltd (ACN 119 734 539) as trustee for Claredale Family Trust |
| Number of plaintiffs | 5 |
| First defendant | Murray-Darling Basin Authority |
| Second defendant | The Commonwealth of Australia |

FILING DETAILS

| | |
|--------------------------------|---|
| Filed for | Defendants |
| Filed in relation to | Plaintiffs' <u>Amended</u> Points of Claim |
| Legal representative | John Pavlakis, Ashurst |
| Legal representative reference | 1000 045 233 |
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AMENDED POINTS OF DEFENCE

- 1 In response to paragraph 1, the Defendants:
 - a. admit sub-paragraph 1(a);
 - b. in respect of sub-paragraph 1(b):
 - i. admit that RyanAG Pty Ltd had, at all material times, a water licence authorising the use of water for the purpose of irrigation, domestic and stock use, dairy use and general non-irrigation farm use, on the land described in sub-paragraph 1(b); and
 - ii. otherwise do not admit sub-paragraph 1(b); and

c. do not admit sub-paragraph 1(c).

2 In response to paragraph 2, the Defendants:

a. admit sub-paragraphs 2(a) and 2(b)(i);

b. in respect of sub-paragraph 2(b)(ii):

i. say that Ryansfield Pty Limited's and Cananea Pty Ltd's ownership of registered water share WEE064127 was recorded on 14 December 2016; and

ii. otherwise deny sub-paragraph 2(b)(ii).

3 In response to paragraph 3, the Defendants:

a. admit sub-paragraph 3(a);

b. in respect of sub-paragraph 3(b):

i. repeat sub-paragraph 2(b) of the Points of Defence; and

ii. otherwise deny sub-paragraph 3(b).

4 The Defendants:

a. say that Evan William Ryan was also a director and a shareholder of RyanAG Pty Ltd from 8 February 2019; and

b. otherwise admit paragraph 4.

5 The Defendants do not admit paragraph 5.

6 The Defendants:

a. admit paragraph 6;

b. say further that the associated water shares for water-use licence WUL017047 are:

i. WEE027483;

ii. WEE032568;

iii. WEE064127;

Particulars

Registered water-use licence WUL017047

c. water share WEE032568 is a low-reliability water share of 269.8 ML issued under the *Water Act 1989* (Vic) (**Vic Act**) for the Victorian Murray declared water system.

Particulars

Registered water share WEE032568

- 7 The Defendants admit paragraph 7.
- 8 In response to paragraph 8, the Defendants:
- a. rely on the full force and effect of section 64GB of the Vic Act; and
 - b. otherwise do not admit paragraph 8.
- 9 The Defendants admit paragraph 9.
- 10 In response to paragraph 10, the Defendants:
- a. rely on clauses 6 and 15 of the *Bulk Entitlement (River Murray – Goulburn-Murray Water) Conversion Order 1999 (Conversion Order)* for their full force and effect;
 - b. say that Goulburn-Murray Water supplies water to high reliability water shareholders as ordered, limited to:
 - i. those respective holders' available share of water in the Victorian Murray declared water system; and
 - ii. any rationing policy applied by Goulburn-Murray Water during the Relevant Period; and
 - c. otherwise deny paragraph 10.
- 11 In response to paragraph 11, the Defendants:
- a. repeat paragraphs 74(b) to 74(d), 74(k) and 77 of the Defence; and
 - b. otherwise deny paragraph 11.
- 12 The Defendants deny paragraph 12.
- 13 The Defendants deny paragraph 13.
- 14 The Defendants:
- a. deny paragraph 14; and
 - b. repeat paragraph 198A of the Defence.
- 15 The Defendants:
- a. deny paragraph 15;
 - b. repeat paragraphs 2023 to 204 of the Defence; and
 - c. say further that in respect of the 2019/2020 water year:

- i. it was the third consecutive dry year for the River Murray System;
- ii. many areas across the Murray Darling Basin were affected by prolonged drought;
- iii. three year inflows from November 2017 to November 2019 were within the driest 2% of such periods on record;
- iv. River Murray System inflows for the 2019/2020 water year were 3,762 GL, with well below average inflows during winter, spring and summer; and
- v. December 2019 was the warmest and driest December on record.

Particulars

River Murray System Summary of River Operations – 2019-2020 Water Year dated November 2020, <https://www.mdba.gov.au/sites/default/files/pubs/river-murray-system-summary-of-river-operations-2019-20.pdf>

16 The Defendants deny paragraph 16.