

IN THE MATTER OF GREATCELL SOLAR LIMITED FORMERLY KNOWN AS DYESOL LIMITED  
ACN 111 723 883 (ADMINISTRATORS APPOINTED) & ORS

**PETER PAUL KREJCI AND ANDREW CUMMINS EACH IN THEIR CAPACITY AS JOINT AND  
SEVERAL ADMINISTRATORS OF  
GREATCELL SOLAR LIMITED FORMERLY KNOWN AS DYESOL LIMITED ACN 111 723 883  
(ADMINISTRATORS APPOINTED),  
GREATCELL SOLAR AUSTRALIA PTY LTD FORMERLY KNOWN AS DYESOL AUSTRALIA  
PTY LTD ACN 131 374 064 (ADMINISTRATORS APPOINTED)  
AND  
GREATCELL SOLAR INDUSTRIES PTY LTD FORMERLY KNOWN AS DYESOL INDUSTRIES  
PTY LTD ACN 083 102 498 (ADMINISTRATORS APPOINTED)  
(and others).**

First Plaintiff

**AFFIDAVIT OF PETER PAUL KREJCI**

On 11 January 2019, I, Peter Paul Krejci of Level 30, Australia Square, 264 George Street, Sydney  
NSW 2000, chartered accountant and registered liquidator ~~say on oath:~~

*solemnly declare & affirm*

**INTRODUCTION**

1. I am a chartered accountant, registered liquidator and director at BRI Ferrier (NSW) Pty Ltd  
(**BRI Ferrier**).
2. I am a joint and several administrator of the following entities:
  - (a) Greatcell Solar Limited formerly known as Dyesol Limited ACN 111 723 883  
(Administrators Appointed) (**GSL**);
  - (b) Greatcell Solar Australia Pty Ltd formerly known as Dyesol Australia Pty Ltd ACN 131  
374 064 (Administrators Appointed) (**GSA**); and
  - (c) Greatcell Solar Industries Pty Ltd formerly known as Dyesol Industries Pty Ltd ACN  
083 102 498 (Administrators Appointed) (**GSI**).

Deponent

Witness

Filed on behalf of: Plaintiffs

Prepared by: Peter Harkin

**Colin Biggers & Paisley Pty Ltd**

Lawyers

Level 42, 2 Park Street

SYDNEY NSW 2000

Email: peter.harkin@cbp.com.au - hannah.griffiths@cbp.com.au

DX: 280 SYDNEY

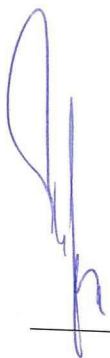
Tel: (02) 8281 4555

Fax: (02) 8281 4567

Ref: PJH:1810410

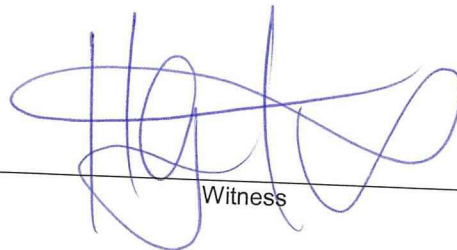
Attention: Peter Harkin

3. Andrew Cummins and I were appointed as joint and several administrators of GSL, GSA and GSI on 10 December 2018 pursuant to section 436A of the *Corporations Act 2001 (Cth)* (**Administrators**).
4. This affidavit has been filed in support of an originating process for orders sought by the plaintiffs under sections 439A(6) and 447A(1) of the *Corporations Act 2001 (Cth)* (**Act**), section 75-225 of the *Insolvency Practice Rules (Corporations)* (**Rules**) and sections 7, 8 and 12 of the *Court Suppression And Non-Publication Orders Act 2010 (NSW)* (**Application**).
5. This affidavit addresses the following matters in turn:
  - (a) structure and operations of the business conducted by GSL, GSA and GSI;
  - (b) the creditors of GSL, GSA and GSI;
  - (c) first meeting of creditors of GSL, GSA and GSI;
  - (d) events leading to administration of GSL, GSA and GSI;
  - (e) conduct of administration of GSL, GSA and GSI;
    - (i) financial position at appointment of Administrators;
    - (ii) employees of GSL and GSA;
    - (iii) work undertaken since appointment of Administrators;
    - (iv) sale of the assets and business conducted by GSL, GSA and GSI;
  - (f) extension of convening period;
  - (g) prejudice in relation to extension of convening period;
  - (h) the basis upon which confidentiality orders are sought by the Administrators;
  - (i) the urgency of orders being made in relation to the Application.
6. Unless otherwise expressly stated, the source of my knowledge of the matters contained in this affidavit is based on my own knowledge and belief following investigations that I have conducted, or that have been conducted by employees of my office, in relation to the affairs of GSL, GSA and GSI.
7. Shown to me at the time of swearing this affidavit is a folder of documents marked "**Exhibit PPK1**". I will refer to documents in Exhibit PPK1 throughout this affidavit, by reference to the page number(s) of the relevant documents.




---

 Deponent




---


 Witness

**A. STRUCTURE AND OPERATIONS OF THE BUSINESS CONDUCTED**

8. GSL, GSA and GSI are part of a larger group known as the Greatcell Solar Group, which has subsidiaries and offices in various overseas locations. GSL, GSA and GSI together invented, developed and commercialised solar photovoltaic technologies and were recognised as a world leader in this field (**Greatcell Business**).
9. A copy of the historical extracts of the records maintained by the Australian Securities and Investment Commission (**ASIC**) referable to GSL, GSA and GSI were shown to me at the time of making this affidavit and commences at the following pages of **Exhibit PPK1**:
  - (a) GSL, page **1** of **Exhibit PPK1**;
  - (b) GSA, page **61** of **Exhibit PPK1**; and
  - (c) GSI, page **65** of **Exhibit PPK1**.
10. GSL is a publicly listed company on the Australian Stock Exchange (**ASX**) trading as GSL and on the German Open Market, with international subsidiary offices located in Italy, United Kingdom, Switzerland and Korea. GSL is engaged principally in the scale-up and commercialisation of third-generation photovoltaic technology. At appointment, GSL had 4 employees.
11. In March 2018, for reasons expanded on in paragraph 21 **below**, GSL was suspended from trading on the ASX. On 11 December 2018, our appointment as Administrators was published on the ASX. A copy of the ASX announcement appears at page **73** to **74** of **Exhibit PPK1**.
12. GSA was the primary trading and employing entity of the Greatcell Business. At appointment, GSA had 15 employees.
13. GSI holds various intellectual property rights and is the intermediary holding company of GSA. At appointment, GSI was not actively trading.
14. The Greatcell Business operated from 2 separate leased premises located at 3 Dominion Place and 11 Aurora Avenue in Queanbeyan, New South Wales (**Leased Premises**).

**B. COMPANY CREDITORS**

15. The majority of the creditors of GSL, GSA and GSI fall into three categories:
  - (a) secured creditor claims totalling AUD \$226,808.97 owed jointly and severally by GSL, GSA and GSI to the Commonwealth Bank of Australia (**CBA**);



Deponent



Witness



(b) priority employee creditors totalling approximately AUD \$918,000 comprising of the following approximate amounts:

(i) GSL: AUD \$270,000; and

(ii) GSA: AUD \$648,000;

**(Priority Employee Claims);**

(c) unsecured creditors, with total potential claims of approximately AUD \$65,519,139 comprising of the following approximate amounts:

(i) GSL: AUD \$2,792,883 including AUD \$157,799 to related parties;

(ii) GSA: AUD \$62,478,600 including AUD \$60,486,233 to related parties; and

(iii) GSI: AUD \$247,656.24 including AUD \$245,275.32 to related parties.

16. The value of the secured creditor, priority employee creditor and unsecured creditor claims in relation to GSL, GSA and GSI are approximately AUD \$66,663,497 and were calculated at the date of the Administrators appointment. These values may have altered as a result of updating records and crystallisation of employee entitlements upon the termination of employment of the employees of GSL and GSA as expanded in paragraphs 25 and 26 below.

17. During the Adminsitrators' appointment, I was provided with various historical management accounts for GSL, GSA and GSI (**Management Accounts**). BRI Ferrier have prepared comparative analysis of the balance sheets and profit and loss statements based on the Management Accounts for the period financial year ending 30 June 2015 to period ending 31 October 2018. A copy of the following documents were shown to me at the time of making this affidavit:

(a) GSL Comparative Balance Sheet for the financial years ending 30 June 2015 to period ending 31 October 2018 (page **75** of **Exhibit PPK1**);

(b) GSL Comparative Profit & Loss for the financial years ending 30 June 2015 to period ending 31 October 2018 (page **76** of **Exhibit PPK1**);

(c) GSA Comparative Balance Sheet for the financial years ending 30 June 2015 to period ending 31 October 2018 (page **77** of **Exhibit PPK1**);

(d) GSA Comparative Profit & Loss for the financial years ending 30 June 2015 to period ending 31 October 2018 (page **78** of **Exhibit PPK1**);

(e) GSI Comparative Balance Sheet for the financial years ending 30 June 2015 to period ending 31 October 2018 (page **79** of **Exhibit PPK1**); and

Deponent

Witness



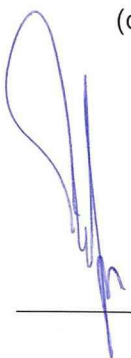
- (f) GSI Comparative Profit & Loss for the financial years ending 30 June 2015 to period ending 31 October 2018 (page 80 of **Exhibit PPK1**).

**C. FIRST MEETING OF CREDITORS**

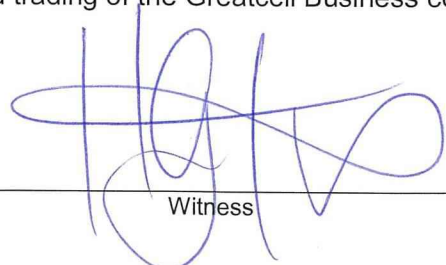
18. On 12 December 2018, pursuant to section 436E of the Act, the Administrators issued a first report to creditors of GSL, GSA and GSI (**First Report to Creditors**). The First Report to Creditors which was shown to me at the time of making this affidavit and appears at pages 81 to 92 of **Exhibit PPK1**.
19. On 20 December 2018, pursuant to section 436E of the Act, the Administrators convened a first meeting of creditors of GSL, GSA and GSI (**First Meeting of Creditors**). The meeting of creditors of GSL, GSA and GSI were held concurrently given the related nature of the Greatcell Business.
20. Mr John Keenan of BRI Ferrier acted as chairman at the First Meeting of Creditors. No alternate administrator was proposed and no committee of inspection was formed at that meeting. A copy of the minutes of First Meeting of Creditors was shown to me at the time of making this affidavit and appears at pages 93 to 109 of **Exhibit PPK1**.

**D. EVENTS LEADING TO THE ADMINISTRATION**

21. On or around the date of our appointment, the Administrators were informed by the directors of GSL, GSA and GSI of the following:
- (a) that they had experienced difficulties in funding its existing major demonstration prototype project (**Project**) which was understood to be the commercialisation of the photovoltaic technologies;
  - (b) the Project was valued at AUD\$25 million and was expected to be funded by a mix of equity investment and government grants (**Proposed Funding**);
  - (c) that there was a change to the eligibility of government grants and the inability of GSL, GSA and GSI to secure long-term funding which resulted in GSL electing to suspend its trading activities on the ASX in March 2018 whilst it considered alternate fund raising opportunities;
  - (d) the discussions between the directors of GSL, GSA and GSI with key investment parties were ultimately unsuccessful which resulted in acute cash flow problems for GSL, GSA and GSI such that the Project and trading of the Greatcell Business could not continue;



Deponent



Witness

22. On 24 December 2018, the Administrators were provided with a report on the company activities and property (**ROCAP**) for GSL, GSA and GSI from the directors of those entities. A copy of the ROCAP for GSL, GSA and GSI received by me was shown to me at the time of making this affidavit and appears at pages **110** to **152** of **Exhibit PPK1**.

## **E. CONDUCT OF THE ADMINISTRATION**

### **E1. FINANCIAL POSITION AT APPOINTMENT**

23. At the date of our appointment:

- (a) the comparative financial analysis prepared by BRI Ferrier provides details of the historical and current financial position for GSL, GSA and GSI;
- (b) the ROCAP for GSL, GSA and GSI revealed that there was a deficit of assets over liabilities in relation to GSL, GSA and GSI;
- (c) [REDACTED]  
[REDACTED]
- (d) the ROCAP for GSL, GSA and GSI identified that the intellectual property held by GSL, GSA and GSI (**IP**) comprised the most significant non-physical asset in respect of the Greatcell Business;
- (e) GSL and GSA held \$18,000 and \$123,000 in cash respectively;
- (f) GSL and GSA collectively employed around twenty employees; and
- (g) there was insufficient cash available to meet the anticipated trading expenses of the Greatcell Business, in particular, payroll costs which were due on the week of our appointment as Administrators.

24. As a result the Administrators' assessment of the financial position of GSL, GSA and GSI at appointment, the Administrators determined that GSL, GSA and GSI were unable to continue to trade or employ staff and took steps to immediately cease those operations.

### **E2. EMPLOYEES**

25. On the date of appointment, the Administrators terminated all employees of GSL, with the exception of 2 essential staff who were asked to continue to work during their notice period to assist with the activities of the administration of GSL, GSA and GSI including the exploration of asset sales.

Deponent

Witness

26. As at the date of appointment, employee entitlements due to employees of GSL and GSA totalled \$917,842.72 and are comprised of the amounts as outlined in the following table:

Greatcell Solar Group Employee Entitlements Schedule - per the Directors ROCAP dated 24 December 2018								
Company Name	Number of Employees	Wages Owed	Superannuation	Annual Leave	Long Service Leave	Redundancy	PILN	TOTAL
Greatcell Solar Ltd	4	38,591.17	3,666.16	39,573.93	41,237.30	114,727.20	32,513.87	270,309.63
Greatcell Solar Australia Pty Ltd	15	46,793.20	4,445.35	110,215.03	100,876.55	286,421.20	98,781.75	647,533.09
Greatcell Solar Industries Ltd	0	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	19	85,384.37	8,111.51	149,788.96	142,113.85	401,148.40	131,295.62	917,842.72

The source of my knowledge of the matters contained in this paragraph is information provided to the Administrators on the ROCAP and summarised in the table **above**. The abbreviation PILN in the table above means Pay In Lieu of Notice.

### E3. WORK UNDERTAKEN SINCE APPOINTMENT

27. Since our appointment, Mr Cummins and I, with the assistance of our staff, have attended to the following:
- prepared and issued the First Report to Creditors;
  - convened the First Meeting of Creditors;
  - familiarised ourselves generally with the Greatcell Business
  - ceased trade of the Greatcell Business and terminated employees of GSL and GSA with the exception of 2 employees (see paragraphs 25 and 26 **above**);
  - commenced investigations into the financial history of GSL, GSA and GSI in the period leading up to our appointment as Administrators, with a view to determining whether or not any voidable transactions have been made and whether (or not) the directors have breached their directors' duties. These investigations have not been completed, nor have I been able to reach any concluded views on those matters, principally because of the other pressing tasks that I have been required to conduct as expanded on below;
  - my staff have dealt with numerous queries from creditors of GSL, GSA, GSI and the lessors of the Leased Premises;
  - negotiated with the landlords of the Leased Premises a waiver of commercial rent until 14 January 2019;

Deponent

Witness



- (h) Mr Cummins and I have retained and briefed solicitors and counsel to assist us generally in the conduct of the administration of GSL, GSA and GSI;
- (i) I have had several discussions with the directors of GSL, GSA and GSI, management and staff to discuss the background to the financial position of GSL, GSA and GSI, including, in particular, the assets of each of those entities and any associated intellectual property;
- (j) [REDACTED]  
[REDACTED]  
[REDACTED]
- (k) ascertained that the main asset of the Greatcell Business was the IP;
- (l) ascertained that there were negligible other physical assets of GSL, GSA and GSI capable of realisation;
- (m) ascertained that in a liquidation scenario any return to secured, priority and unsecured creditors would be dependent upon successfully pursuing recovery actions (such as any insolvent trading actions and delivery rebate claims) which would be subject to inherent litigation risks and require funding to do so; and
- (n) advertised the sale of the Greatcell Business and liaised with parties whom have expressed an interest in the purchase of the Greatcell Business including communications regarding the extensions of time for providing offers to purchase same.

#### E4. SALE OF THE GREATCELL BUSINESS

- 28. On 13 December 2018, the Administrators commenced a public sale process of the Greatcell Business, including its assets, (**Sale of Greatcell Business**) which was commenced by advertising the sale in the Australian Financial Review on 13 December 2018 (**Advertisement**). A copy of the advertisement in the Australian Financial Review appears at page 153 of **Exhibit PPK1**.
- 29. Shortly after 13 December 2018, and with the assistance of Richard Caldwell, a director of GSL, GSA and GSI, an outline of the assets of the Greatcell Business was prepared and issued to parties identified by Richard Caldwell as potentially interested in purchasing the Greatcell Business (**Greatcell Business EOI Outline**) and invited any interested parties to register an expression of interest with the Administrators. A copy of the Greatcell Business Outline together with a list of the interested parties to which the Greatcell Business Outline was distributed are at pages 154 to 161 of **Exhibit PPK1**.

Deponent

Witness

30. The Administrators, with the assistance of Richard Caldwell, collated details and documents referable to the intellectual property held by GSL, GSA and GSI (**IP**) on an online dataroom available to prospective purchasers of the Greatcell Business subject to signing a non-disclosure agreement with the Administrators (**Non-Disclosure**) and payment of a deposit of AUD\$10,000 (**Deposit**).
31. The Administrators sought, in both the Advertisement and the Greatcell Business EOI Outline, any offers in respect of the purchase of the Greatcell Business to be provided by interested parties by 12 noon on 21 December 2018 (**Offer Deadline**). A truncated Offer Deadline was set by the Administrators given the paucity of working capital available to them and approaching Christmas holiday period noting, in particular, that the Christmas holiday period could be problematic for potential bidders in the purchase of the Greatcell Business.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Deponent

Witness

41. Mr Cummins and I are of the opinion that it is in the interests of creditors of GSL, GSA and GSI to continue the administration of the Company and extend the convening period to 15 March 2019 would serve the objects of Part 5.3A of the Act for the following reasons:

[illegible]

*[Handwritten signature]*

  
Witness

Witness



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- (f) the Revised Convening Period may be shortened, if we the Administrators are able to obtain the Indicative DOCA Proposal prior to the date anticipated. If this occurs, the Administrators will immediately look to convene the meeting of creditors for the purposes of section 439A of the Act and s 75-225 of the *Insolvency Practice Rules (Corporations)*, together with the finalisation of the associated report; and
- (g) the Revised Convening Period should provide sufficient time for steps set out above to occur and for the report for the purposes of section 439A of the Act and s 75-225 of the *Insolvency Practice Rules (Corporations)* to be prepared.

[REDACTED]

Deponent

Witness

[REDACTED]

[REDACTED]

[REDACTED]

G. PREJUDICE

[REDACTED]

[REDACTED]

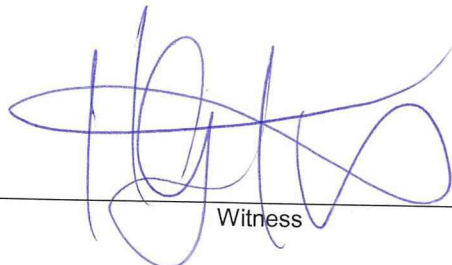
[REDACTED]

[REDACTED]

[REDACTED]



Deponent




Witness

H. BASIS OF CONFIDENTIALITY ORDERS SOUGHT

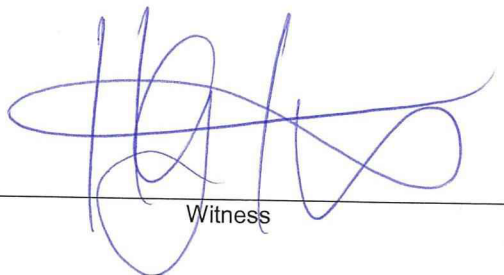
[REDACTED]

[REDACTED]

[REDACTED]



Deponent



Witness



**I. URGENCY OF ORDERS BEING MADE IN RELATION TO THE APPLICATION**

54. In my opinion, it is necessary for the Application to be dealt with by the Court on an urgent basis for the following reasons:

- (a) the convening period in respect of GSL, GSA and GSI ends on 17 January 2019 and a second report to creditors of each of GSL, GSA and GSI is due to be issued by the Administrators no later than 17 January 2019 pursuant to s 75-225 of the *Insolvency Practice Rules (Corporations)*; and
- (b) I estimate the costs of preparing the second report to be in the order of approximately \$40,000 having regard to the complexity of the affairs of GSL, GSA and GSI. This report would need to be prepared prior to 16 January 2019. Therefore, if an extension of the convening period is not granted, the Administrators will need to commence preparing the report no later than tomorrow, Saturday, 12 January 2019.

*[Signature]*  
**AFFIRMED.**

**SWORN** at

Signature of deponent

*[Signature]*  
Sydney

Name of witness

Address of witness

Capacity of witness

*Hannah Kate Griffiths*

*Lvl 42, 2 Park Street, Sydney NSW 2000*

Solicitor

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 I saw the face of the deponent.
- 2 I have confirmed the deponent's identity using the following identification document:  
NSW Driver's Licence No: [REDACTED]

Signature of witness

*[Signature]*

Deponent

Witness

**SCHEDULE**

**Peter Paul Krejci and Andrew Cummins each in their capacity as joint and several administrators of Greatcell Solar Limited formerly known as Dyesol Limited ACN 111 723 883 (administrators appointed), Greatcell Solar Australia Pty Ltd formerly known as Ddyesol Australia Pty Ltd ACN 131 374 064 (administrators appointed) and Greatcell Solar Industries Pty Ltd formerly known as Dyesol Industries Pty Ltd ACN 083 102 498 (administrators appointed)**

First Plaintiff

**Greatcell Solar Limited formerly known as Dyesol Limited ACN 111 723 883 (administrators appointed)**

Second Plaintiff

**Greatcell Solar Australia Pty Ltd formerly known as Dyesol Australia Pty Ltd ACN 131 374 064 (administrators appointed)**

Third Plaintiff

**Greatcell Solar Industries Pty Ltd formerly known as Dyesol Industries Pty Ltd ACN 083 102 498 (administrators appointed)**

Fourth Plaintiff

---

Deponent

---

Witness