

MEDIA RELEASE

13 APRIL 2022 – MELBOURNE, AUSTRALIA

Mayfair 101 Sues Mission Beach Lender and Receivers for Unconscionable Conduct and Contraventions of Enabling Laws

Private equity firm Mayfair 101 today filed legal proceedings in the Federal Court of Australia alleging unconscionable conduct and contraventions of multiple laws by financier, Naplend Pty Ltd, and four receivers from the insolvency firm, McGrathNicol.

Mayfair 101 purchased properties at Mission Beach in Far North Queensland during 2019 and 2020, with a \$14.2 million bridging loan from Sydney-based Napla. When the Australian Securities and Investments Commission froze Mayfair's activities later in 2020, Napla appointed four receivers from McGrathNicol to administer the realisation of the security assets – more than 100 properties at Mission Beach.

In its statement of claim Mayfair 101 alleges that the receivers constructed an unlawful, drawn-out receivership process in contravention of the *Corporations Act* and the *Australian Securities and Investments Commission Act*, resulting in the potential for Napla to misappropriate tens of millions of dollars from Mayfair's property portfolio in Mission Beach and the receivers to incur millions in fees.

Rather than offer adequate properties for sale and take advantage of the strong regional property market, the statement of claim alleges Napla and the receivers never listed sufficient properties for sale to extinguish the debt and as a result their conduct has breached sections of *Corporations Act*, the *ASIC Act*, Australian Consumer Law, the *Property Law Act* (Qld) and the *Conveyancing Act* (NSW).

Mayfair 101 obtained bridging finance from Napla between late 2019 and early 2020, to settle properties over the Christmas period, as part of its plans to rejuvenate Mission Beach and Dunk Island.

A week after ASIC froze Mayfair's activities on 13 August 2020, Napla appointed receivers to administer the discharge of their loan which was secured by mortgages over 109 individually-titled properties in the region, valued at more than \$45 million.

Default interest has been compounding monthly at the rate of 40.2% per annum, with Napla claiming on 30 November 2021 it was owed \$13,556,584, of which \$10,389,645 was accrued interest.

Managing director of Mayfair 101, James Mawhinney, said the 126 noteholders who invested approximately \$63 million with Mayfair 101 are entitled to expect the Napla loan would have been easily discharged within 12 months given that the portfolio of security assets was capable of repaying the principal amount three times over.

"The noteholders who had their investment secured against the Mission Beach portfolio are presently watching the substantial equity in the portfolio being eroded by Napla because of their decision to engage in a drawn-out receivership process.

“By way of example, the receivers currently have just three properties listed for sale on their website www.missionbeachportfolio.com.au. After 18 months, they still hold around half the portfolio, roughly 50 properties, that have never been offered for sale.”

Mr Mawhinney said his firm initiated the legal action to protect the interests of noteholders by ensuring the value of their security is not compromised by Napla’s alleged unconscionable conduct.

“The Mission Beach property market is red hot because of COVID-19 and the interest Mayfair 101 has brought to the region. However, Napla and the receivers are using this to their advantage by unlawfully milking the equity out of the properties. They are taking advantage of the misfortune of Mayfair’s noteholders and it needs to be stopped.”

Mr Mawhinney said that in 2021 he and various investors had asked ASIC – which regulates insolvency practitioners – to intervene in the receivership, to protect the interests of Mayfair’s investors, but the regulator took no action.

The proceedings were filed by Roberts Gray Lawyers who are also acting for Mr Mawhinney and Mayfair 101 in the appeal of two Federal Court decisions which resulted from litigation initiated by ASIC in 2020.

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MEDIA ENQUIRIES

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Note to Editors:

Federal Court of Australia, District Registry: Victoria

Applicants: MAINLAND PROPERTY HOLDINGS PTY LTD (ACN 635 667 435) and others named in the Schedule (**Mainland Property Holdings 2, 3, 4, 5 & 8**)

Respondents: NAPLEND PTY LTD (ACN 619 325 889) and others named in the Schedule being the registered insolvency practitioners of the firm McGrathNicol: Respondent 2. **BARRY FREDERIC KOGAN**; Respondent 3. **JONATHAN PHILIP HENRY**; Respondent 4. **WILLIAM JAMES HARRIS**; Respondent 5. **ANTHONY NORMAN CONNELLY**.