

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COMMERCIAL AND EQUITY DIVISION
COMMERCIAL COURT

LIST E

SCI 2010

IN THE MATTER OF TIMBERCORP SECURITIES LIMITED
(IN LIQUIDATION)

ACN 092 311 469

TIMBERCORP SECURITIES LIMITED (IN LIQUIDATION)
ACN 092 311 469 IN ITS CAPACITY AS RESPONSIBLE ENTITY
OF THE 2005 TIMBERCORP CITRUS PROJECT (ARSN 114 091 299)
AND ORS ACCORDING TO THE SCHEDULE

Plaintiffs

CERTIFICATE IDENTIFYING EXHIBIT

Date of document: 25 January 2010

Filed on behalf of: The Plaintiffs

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This is the exhibit marked '**DLM-5**' now produced and shown to DAVID LAURENCE MCEVOY at
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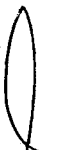
Before me



BENJAMIN PETER RECHTER
of 530 Collins Street, Melbourne
Victoria 3000
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Exhibit 'DLM-5'

**Copy of advertisement
appearing on 27/10/09**





CSR said it was the first time a simultaneous book-build had been done in Australia.

Photo: BRENDAN ESPOSITO

CSR woos retail investors

From page 1

The company is raising cash and writing down assets in a bid to stand up as separate companies its recession-hit building materials unit and sugar operations, which are experiencing record prices.

With about 100,000 retail investors comprising about half the register, CSR was keen to attract shareholder support for the demerger by giving those with smaller holdings a chance to sell, or renounce, their rights to buy shares at the same price as institutional investors if they did not have the funds.

The new CSR shares will be offered at \$1.66 each, a 16 per cent discount to \$1.98 where they closed on Friday. CSR put its shares in a trading halt yesterday ahead of the announcements.

"There's been a lot of concern expressed about the outcome of these renounceable issues in terms of the relative rewards for retail and institutional shareholders," CSR managing director Jerry Maycock said.

"The expectation with this structure is all shareholders will be treated equally with respect to rights that they might decide not to take up."

Details of the capital raising came as CSR revealed more embarrassing write-downs from the Viridian glass unit, which pushed it to a \$155.6 million first-half loss. CSR wrote down \$250 million from the struggling business as a rising Australian dollar hurt exports and because of a botched installation of automated double-glazing equipment in a Victorian factory that resulted in a shutdown and loss of market share.

The company will pay an interim dividend of 2.5¢ a share compared with 6¢ a year earlier. CSR took a \$280 million loss last fiscal year on the \$1 billion of acquisitions in 2007 that comprise the Viridian business.

"It's disappointing," said Australian Foundation Investment managing director Ross Barker, whose fund owns 4.7 per cent of the company's shares.

"The write-downs show they bought it at an inflated price."

The capital raising will help CSR pay down some of its \$1.2 billion in debt.

Retail investors have criticised the approach taken for a record run of capital raisings made by companies to bolster balance sheets and clear debts in the wake of the global financial crisis, arguing they were given limited

Sugar and spice

Capital raisings in which institutions received a better deal than retail investors

Date	Issuer	Discount to theoretical value		Difference between values obtained by retail & institutions
		Institutional	Retail	
Sep 09	Sigma	\$0.050	\$0.000	-\$0.05
Aug 09	ConnectEast	\$0.035	\$0.005	-\$0.03
Jun 09	FKP	\$0.060	\$0.000	-\$0.06
Aug 08	Alumina	\$0.700	\$0.350	-\$0.35
Aug 08	Leighton	\$5.650	\$2.650	-\$3.00
Jul 08	Orica	\$0.250	\$0.100	-\$0.15

SOURCE: UBS

Big demand tipped for CSR raising

With the Melbourne Cup just around the corner, CSR has (finally) given the green light on a capital raising.

As reported in the AFR yesterday.

opportunity to participate.

The preferred approach has been a share placement at a large discount to institutions, in some cases, followed by a smaller share purchase plan (SPP) for other shareholders.

While the initial placement is discretionary, the SPP is capped.

National Australia Bank enraged retail investors after institutional investors reaped huge profits from a \$2 billion capital raising in July. Retail shareholders were offered just \$750 million in the SPP.

Companies have justified the approach, claiming a quick placement offers greater certainty of funds than an entitlement offer and carries a lower discount, because the underwriters are on the hook for a shorter amount of time.

More recently, companies have bowed to retail furor, reverting to renounceable offers. The stabilisation in financial markets has also made this style of capital raising a less risky proposition.

Renounceable rights issues, in which a pro rata offer is made to all shareholders, are seen as treating retail and institutional investors equally.

Under an accelerated renounceable entitlement offer (AREO), the retail book-build is held three weeks after the institutional book-build.

Because of the discount to the market price at launch, institutional investors are typically paid a premium for their

entitlements, particularly in situations where hedge funds are seeking to cover short positions.

Due to the length of time between the launch of the capital raising and the retail book-build, which entails market risk, the value of the entitlements has recently fallen below what institutional investors have received.

Under the revamped structure designed by UBS, called a simultaneous accelerated renounceable entitlement offer (SAREO), the sale of entitlements of shareholders who did not take up the offer occurs in a single book-build after the close of the retail offer, meaning both sets of investors receive the same value for their entitlements.

CSR said it was the first time a simultaneous book-build had been done in Australia.

UBS's head of capital markets, Robert Vanderzell, said the revamped structure was in response to concerns from company boards that AREOs might provide institutional investors with an unfair advantage.

"This process endeavours to treat both sets of shareholders equally, and will capture demand which would usually go into the institutional book-build," he said.

After the split, which has been in the works since June, is completed CSR will apportion \$300 million of debt to the sugar operations and \$610 million to the building materials business.

The sugar business will pay out 40 per cent of profit before significant items in distributions, compared with between 60 per cent and 80 per cent for the building materials company.

Mackay Sugar will swap a 25 per cent stake in its sugar refining joint venture for an 8.8 per cent stake in the new demerged sugar and renewable energy business.

Write-down sets stage for split

Comment

Jeffrey Hutton

CSR's outgoing managing director, Jerry Maycock, got the bad news out of the way in a sensible move that gives the conglomerate's demerger its best chance yet of success. Maycock, who will hand over the reins of the business next year, unveiled a \$250 million write-down in its Viridian Glass business. CSR took a \$280 million loss on the business last fiscal year.

At yesterday's announcement of its capital raising, CSR brought forward its first-half earnings by more than a week to announce the loss. Write-downs now amount to more than half of the acquisitions at the top of the market that make up the unit.

With commercial building still in the doldrums and residential housing beginning to show signs of life, CSR is hoping to wipe the slate clean for its daughter companies while pumping them up with new capital to take advantage of the coming growth.

"We wanted to make sure that going into this bigger transaction, we had covered off all the questions around carrying value and the like," Maycock said.

CSR will whittle down debt for its building materials business to between 35 and 40 per cent after the demerger, in line with 35 per cent for Boral.

While the timing of the glass acquisitions and their executions were questionable, don't look for incoming managing director Rob Sindel to sell it. CSR has bet heavily on double-glazed glass and other energy-efficient products. The underlying argument for energy-efficient building materials still appears to stack up. Builders will be pushed to use more energy-efficient materials, not fewer.

The company's Brisbane insulation factory, which was commissioned at the start of the year, is running at full

CSR LTD		
Half year	2010	2009
Sales (\$m)	2,077.0	1,807.6
Pretax (\$m)	94.2	67.1
Net (\$m)	-155.	32.9
EPS	-12.1	3.3¢
Interim div*	2.5¢ ff	6.0¢ ff
Shares (last)	\$1.98	(unch)
*Payable	Dec 23	

capacity thanks to government stimulus spending. Overseas makers are considering entering the market.

"We think the strategy in the business is sound," Maycock said. "It's most unlikely we would consider [selling Viridian]."

Nor do insulation materials or windows transport easily, creating a natural boundary to overseas goods.

Branded products, such as CSR's gyprock, and their intellectual property has helped CSR hold the line on prices. Boral, which lacks branded products, has seen four years of declining profit.

Even so, earnings before interest, tax and depreciation at CSR's building materials business slumped 29 per cent to \$53.4 million during the half, while sugar earnings jumped four times to more than \$114 million.

CSR may be helped by the timing of the demerger, which has been on the back burner due to the global financial crisis. Investors seeking exposure to the building materials sector as housing starts grow won't have to discount the overhang of sugar.

CSR's banks were largely happy to back the demerger, with some spreading themselves across daughter companies, Maycock told reporters.

The catch was annoyingly short three-year debt maturities, setting the stage for subsequent offerings overseas where longer tenor debt is easier to sell.

Street Talk, page 22 ■
Chanticleer, back page ■

Citrus Orchard for Sale

OIM #2 Pty Ltd (Receivers and Managers Appointed)

Opportunity to acquire South Australian citrus orchard

Expressions of Interest are sought for the purchase of Solara South, a high-yielding, premium quality citrus orchard in the Loxton region of Southeast South Australia:

- Freehold land of 580 Ha (planted land of 413 Ha)
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- Variety of citrus fruits including oranges, mandarins, lemons, limes and grapefruits
- Orchard established during the period 1960 - 2006, with strong historical harvest volumes to date
- Located in a region considered as the ideal climate for citrus growing, together with excellent transport and water infrastructure

Final bids are due by 5.00pm, Monday 30 November 2009

This sale is under the instructions of David McEvoy and Paul Kirk of PricewaterhouseCoopers as Receivers and Managers of OIM #2 Pty Ltd (as Trustee for the Timbercorp Orchard Trust #2).

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PRICEWATERHOUSECOOPERS

Bendigo warns on liquidity rules

Richard Glynn
Banking

BENDIGO and Adelaide Bank has warned that proposed changes to liquidity rules forcing banks to board enough cash to support 30 days of operations will reduce profits and make it impossible for them to support each other, as they did in the financial crisis.

Chairman Robert Johanson sounded the warning at yesterday's Bendigo annual meeting,

where new chief executive Mike Hirst argued the case for an upgrade to the regional bank's BBS-plus credit rating, which would help ease funding pressures.

Standard & Poor's responded that there was no material change in the bank's outlook to justify lifting Bendigo's rating to A.

Last month, on the anniversary of the Lehman Brothers collapse, the Australian Prudential Regulation Authority released a discussion paper proposing a significant

enhancement to minimum bank liquidity levels to help ensure the industry can meet its obligations in the next crisis.

A revised prudential standard on liquidity, to ensure banks can survive a crisis for 30 days instead of the current minimum of five days, is expected in the first half of next year.

Mr Johanson condemned the proposal, suggesting it could be counter-productive.

"The proposed new rules ... will, in their current form, reduce

profitability, increase borrower costs and make impossible support of banks by other banks," he said.

"This mutual support was a significant part of dealing with the events of a year ago here, when most Australian banks did co-operatively work to support the system and each other."

Mr Hirst, meanwhile, said Bendigo had "never been in a better position" for a rating upgrade, given credit quality remained strong, funding risks had

subsided and the Adelaide Bank merger had been successfully bedded down, with the predicted synergy benefits attained.

But Mr Hirst's argument was shot down by S&P analyst Sharad Jain.

Mr Jain said the agency took a long-term view and, while Bendigo had recently reported sound results, they were supportive only of the current rating.

The local banking industry has stood out from its global peers in the financial crisis, with rating

agencies making only minimal adjustments to bank credit ratings.

An upgrade to A would confer several advantages on Bendigo, notably a reduction in the cost to use the federal government's wholesale funding guarantee from 150 basis points to 100.

Mr Johanson noted yesterday that Bendigo, which is adequately funded by retail deposits, was the only bank not to have used the guarantee to raise funds offshore.

Other regional banks, such as

Bank of Queensland, have argued that the fee to use the guarantee has made it prohibitively expensive.

Mr Johanson also warned about "moral hazard" after the mass bailout of ailing banks offshore.

He said it was a big concern that the bailouts would induce more inappropriate risk-taking, because managers and investors now knew that a taxpayer-funded bailout was always available to them.

ING seeks \$12.2bn, sells off insurance

Banking

ING plans to raise €7.5 billion (\$12.2bn) in a rights offering and sell its insurance and other non-core assets as the biggest Dutch financial services company seeks European Union approval for a taxpayer-funded bailout.

ING, which traces its roots to 1743, fell the most in five months yesterday after saying it planned to sell shares to finance the repurchase of €8bn of core tier-one securities held by the government.

It would shed the insurance units through initial public offerings and sales to other firms over the next four years, the Amsterdam-based company said.

The measures are part of a restructuring plan filed with the European Commission, the EU executive, seeking approval for state aid, including a €10bn cash injection and guarantees on €21.6bn of mortgage assets. ING has risen 59 per cent this year in Amsterdam, beating an 18 per cent advance in the 35-member Dow Jones Stoxx 600 Insurance Index.

"ING's settlement with the EU competition commission looks less favourable than we had hoped," said Chris Hitchens, a London-based analyst at Keefe, Bruyette and Woods. Mr Hitchens, who rates ING market perform, said he had estimated a share sale of €3.5bn.

ING dropped €90, or 8.5 per cent, to €10.67 in early Amsterdam trading. That values the company at €22b.

ING was created by the 1991 merger of insurer Nationale Nederlanden and NMB Postbank Group.

Chief executive Jan Hommen, who took over in January, said he would try to sell the insurance business as a single entity, rather than break it up.

"What used to be a benefit became a negative," he said. "Ideally, it's nice to keep the business together, but the market will have to tell us whether that's possible and the market will have to tell us what the price is."

ING said it reached an agreement with the Dutch state to allow early repayment of the government aid, and it planned to repurchase the core tier-one securities in December.

In addition to the face value of the securities, ING will have to pay a premium and accrued interest of as much as €950 million.

Bloomberg

Bunnings slams the kitchen door on rival Woolies

Blair Speedy
Retail

HARDWARE giant Bunnings is opening a new front in the battle for the home improvement dollar, denying incoming competitor Woolworths the opportunity to exploit a gap in the market.

The Wesfarmers-owned chain has begun stocking ovens, cooktops and rangehoods to complement the kitchen range it introduced in 2007.

Bunnings managing director John Gillam said he hoped to capture 14 per cent of the kitchen appliance market, in line with Bunnings' stake in the overall "home improvement and outdoor living" sector.

With Australia's annual sales of kitchens and associated appliances estimated at \$4.6 billion, such a market share would translate into about \$640 million in annual revenue for Bunnings, where sales in 2008-09 amounted to \$5.5bn.

The new range marks a continued expansion into the home improvement category for hardware chain, which has also added floor coverings, landscaping and pool fencing to its product offering in the past five years.

In broadening its product range, Bunnings has reduced the scope for Woolworths and joint venture partner Lowe's to lure shoppers to their new big-box hardware chain, scheduled to open its first store in late 2011.

Woolworths hardware boss Don Stallings said last month that his new chain would satisfy unmet needs in the Australian home improvement market, but declined to specify where these gaps might be found.

Woolworths has also hinted that its hardware chain may seek



Market heats up: Bunnings managing director John Gillam, at the chain's Port Melbourne store yesterday, has acted to head off competition for kitchens

Picture: Stuart Midway

to lure new customers by having a more female-friendly atmosphere than existing competitors, but the size of the market opportunity might not be as great as they had hoped, with Mr Gillam saying yesterday that

more than half of Bunnings' customers were female.

"It's always been pretty competitive ... there's lots of people who fight over good sites — it's never a binary issue," he said.

Mr Gillam said Bunnings had

revised intention to secure 150 sites within five years.

"It's always been pretty competitive ... there's lots of people who fight over good sites — it's never a binary issue," he said.

Mr Gillam said Bunnings had

revised a 15 per cent rise in retail sales during the first nine months of the new financial year, excluding the benefit of new store openings.

But he warned the strength of the company's performance was

exaggerated by comparison with relatively weak sales for the same period a year earlier, and sales growth for the full year was expected to be more modest at between 5 and 9 per cent, excluding new store openings.

'Unviable' Bridgestone in the black

Rebecca Urban
Manufacturing

BRIDGESTONE Australia, the tyre-maker set to close 600 jobs in Adelaide where it says its operations have become unviable, reported a 10 per cent increase in profit last financial year.

And while the company has struggled with a global manufacturing crisis, Bridgestone announced an extensive restructuring on October 23, including the closure of its tyre factories in Adelaide and New Zealand, where a further 275 jobs will be lost. It blamed the increasing difficulty of competing with overseas manufacturers.

The company's most recent financial accounts lodged with

the Australian Securities & Investments Commission reveals that profit tumbled 29 per cent during the 12 months to December 31, 2008, despite a 5 per cent rise in revenue.

However, the fact that the local business has been making money at all puts it in stark contrast to its Japanese-based parent, which lost ¥363 billion during the six months ended June 30 as the economic downturn stifled demand for its products in Japan, the US and Europe.

Having warned it would be lucky to break even by the year's end, Bridgestone has since forecast a ¥6bn profit and is reviewing projections after scaling back its Australian operations.

Bridgestone Australia's senior executive, Andrew Moffatt, last week denied that the decision to close the Adelaide plant, which

has been operating since 1965, was a result of the global financial crisis.

"As the last tyre manufacturer in Australia and New Zealand, we have all worked hard over many years to avoid today's decision," he said. "The unfortunate reality is that Bridgestone Australia can no longer commercially justify the continued operation of these facilities."

Despite the company's ongoing attempts to improve the competitiveness of its manufacturing operations, its financial accounts reveal the extent that costs have soared. Payments made to suppliers and employees rose 15 per cent to \$644m last year, while sales and marketing costs rose from \$66m to \$78.8m.

Bridgestone's Christchurch operations have since been incorporated under the Australian

business. According to press releases in New Zealand, that business has packed up close to \$20m in losses over the past two years.

A spokesman for Bridgestone Australia said the company's accounts did not accurately reflect the poor performance of its manufacturing operations.

"The financial results for Bridgestone Australia include all areas of the company's business in Australia, including distribution, wholesale, retail as well as manufacturing," said Phil Martin, an Adelaide-based public relations consultant.

"As was stated in Friday's press conference, the company's manufacturing business has not been profitable for many years."

He declined to provide specific figures.

Profits to fall but Argo forecasts better days

Investments

STOCK picker Argo Investments still expects its first-half profit to decline but says improving conditions in the market and economy mean there is likely to be a modest increase over the full year.

Chairman Chris Harris told shareholders at the group's annual general meeting yesterday that Argo had kept its forecast for net operating profit for the half year ending December 31 to fall by 25-28 per cent from the same period last year.

The forecast excluded realised gains or losses on its stock-market investments and any unrealised impairment revaluation charges. "This forecast, based on expected lower divi-

dend and interest income, is unlikely to be representative of the company's results for the current full year," he added.

Argo announced in August it expected continued downward pressure on profits and dividends in the first half, before a modest improvement in the second half.

Mr Harris said listed companies faced moderate improvements in revenue and margins as the economy recovered.

"Revenue growth should moderately improve and profit margins increase. However, further cost-cutting is likely to be limited as credit costs remain relatively high and input costs begin to pick up," he said.

AAP

Foreign buyer pays \$185m for GPT hotel

Bridget Carter
Property

An offshore investor has agreed to pay \$185 million for GPT's trophy asset, The Four Points by Sheraton at Sydney's Darling Harbour, more than a year after the country's oldest listed property trust placed its \$600m tourism portfolio on the market.

The 45-star hotel is one of the few major hospitality assets to sell in the last two years.

It went at a 10 per cent discount to GPT's June valuations and at an 8 per cent yield.

The sale came after The Weekend Australian revealed GPT was one of the parties lining up to buy \$700m Sydney building Aurora Place — the biggest office tower to sell since the start of the global financial crisis.

GPT announced that its tourism portfolio was for sale in July 2008, in an effort to recoup \$900m to drive down debt. A year later, the portfolio's book value had declined to about \$600m.

The 630-room Four Points hotel, the jewel in the crown of GPT's tourism portfolio, was once in the company's books at \$250m, but this year analysts said the group would struggle to get more than \$20m for it.

An earlier offer of \$170m from an offshore investor did not result in a sale, after a \$1.7bn capital raising reduced the urgent need to offload the asset.

In August, GPT announced the sale of its portfolio of Voyagers Island resorts for \$84.5m, a 40 per cent discount to book value.

The latest transaction lifts the total property sales across the group at almost \$900m, leaving the GPT with just one major tourism asset — the \$400m, 930-room Ayers Rock Resort.

Mr Carter, who has previously confirmed that GPT's strategy was to sell its overseas investments, wrote about \$1bn, and focus solely on expanding its Australian retail, office and industrial property business.

Major city hotel assets have sold in the last two years. Sheraton on the Park in Sydney, owned by Starwood Hotels & Resorts, is on offer.

Meanwhile, reports suggest Pears Australia, an Indian-backed joint venture linked to the founders of the failed Resort Corporation, is preparing to buy the Gold Coast Sheraton Mirage Hotel from the mortgagee in possession, St George Bank, in a deal worth about \$70m.

One Investment Group takes RFML

Florence Chong

CREDITORS agreed yesterday to set up a deed of company arrangement with One-Investment Group, owned by former Allico executive Frank Tearle, to take over Record Funds Management Limited.

RFML, ultimately owned by the failed Allico Financial group, is the responsible entity for Record Realty, which owns almost \$2 billion of highly geared property.

One Investment Group beat RR Consortium, led by Record Realty non-executive chairman Robert West and backers including former Allico co-head of corporate finance Chris West, to take

over RFML. PPB partner Neil Singleton, the administrator of the management company, said yesterday that following the creditors' resolution, One Investment Group would be able to continue to manage the trust.

One Investment Group is controlled by former Allico executive Frank Tearle and Justin Epstein.

Under the resolution, Mr Singleton said One Investment Group would have to pay out the company's assets of about \$600,000 to the creditors.

Mr Singleton said the next step for him would be to distribute assets to the creditors who were owed between \$2m and \$8m. The largest creditor was Allico Finance Group.

He said the creditors had agreed to extinguish the rest of the debt.

The ownership of the management company would be transferred to the new owner in the next week or so.

He said the creditors decided that it was not good for the management company to be under an administrator and that it should have a fresh start.

PPB, a corporate recovery specialist, was appointed administrator to RFML in August — four months after receivers were appointed to the ASX-listed trust, Record Realty.

The position of unitholders in the suspended Record Realty will not be immediately affected.

Dexus stands firm on distribution

Florence Chong
Property trusts

ONE of Australia's largest property trusts, the \$7 billion-plus Dexus Property Group, has reiterated that it has no plans to lift its distribution payout.

In response to a unitholder's question at its annual general meeting in Sydney yesterday, Dexus chairman Chris Beare said it did not plan to return to distributing 100 per cent of earnings per security.

During its 2008 annual meeting, the company said it would distribute 70 per cent of earnings from this year, retaining 30 per cent of capital for operating and capital expenditure.

Mr Beare said it was not prudent and did not make good business sense to

historically all its earnings. Although it had distributed a 100 per cent payout policy, he said Australia was an "anomaly in the world".

Unitholders were also disappointed that their distribution had been diluted by an increase in units, following two rounds of capital raising in the past 12 months.

Barring unforeseen changes to operating conditions, Dexus chief executive Victor Hoog Antink reaffirmed earnings guidance of 7.3c per security and distributions of about 5.1c for the year ending June 30 next year.

Distribution in 2008-09 was 7.3c and 11.7c in 2007-08.

Unitholders also questioned the board on its investment strategies.

Shareholders' associate Dan Steiner said shareholders were increasingly con-

cerned that their company was able to execute the right strategy in future, having already seen how they had retraced on past investments.

Dexus invested in 21 markets in the US, but had now decided to dispose of assets in all but four markets on the West Coast gateway to trade with Asia.

Mr Steiner said values of those assets had fallen by 30 per cent and to dispose of the assets now would realise the losses.

He said the company agreed there would be losses but argued it would free the cash to capture growth opportunities.

Mr Hoog Antink said the trust continued to implement its strategy to become the leading owner of quality office and industrial assets.

Dexus securities traded up 15c to close at 84.5c yesterday.

Citrus Orchard for Sale

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- Freehold land of 580 Ha (planted land of 413 Ha)
- Owned permanent water entitlements of 4,510 ML, equivalent to 10.9 ML per hectare at full maturity
- Variety of citrus fruits including oranges, mandarins, lemons, limes and grapefruits

- Orchard established during the period 1960-1965, with strong historical harvest volumes to date
- Located in a region considered as the ideal climate for citrus growth, together with excellent transport and water infrastructure

Final bids are due by 5.00pm, Monday 30 November 2009

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