

## SCHEDULE A

### NOTICE OF PROPOSED SETTLEMENT

#### REPRESENTATIVE ACTION REGARDING BINDARRAH LEVEL CROSSING COLLISION CLASS ACTION

**Baiada Pty Ltd (ABN 47 000 426 808) v Blenner's Transport Pty Ltd (ACN 052 473 051) and Blenner's Truck Hire Pty Ltd (ABN 40 155 324 735) (2024/00300823)**

The Supreme Court of New South Wales has issued this notice regarding a class action concerning Blenner's Transport Pty Ltd (ACN 052 473 051) and Blenner's Truck Hire Pty Ltd (ABN 40 155 324 735).

#### **Notice of Proposed Settlement**

1. This notice contains important information about the proposed settlement of the Bindarra Level Crossing Class Action. It has been distributed in accordance with orders made by the Supreme Court of New South Wales (**Court**) on 10 November 2025.
2. **Please read this notice carefully as your legal rights may be affected by the proposed settlement, especially your right to claim compensation from the Defendants. If you think you may be a Group member you should read this notice carefully.**
3. You are receiving this notice because you may be or may have been a Group Member of the Bindarra Level Crossing Class Action.
4. If you do not understand this notice, or you have any questions after reading this notice, please contact Maurice Lynch of Mills Oakley at [mlynch@millsoakley.com.au](mailto:mlynch@millsoakley.com.au) or (02) 8035 7975, or seek independent legal advice.
5. Please note the Court is not able to answer questions about the proposed settlement.

## **1. What is a class action?**

- 1.1. A class action is a Court proceeding brought by the **Plaintiff** on behalf of itself and other people with similar claims (group members) against one or more **Defendants**.
- 1.2. The Plaintiff can commence a class action without the permission of group members. However, the Plaintiff is required to notify potential group members of any proposed settlement. A proposed settlement will not take effect unless it is approved by the Court.

## **2. The Bindarra Level Crossing Collision Class Action**

- 2.1. This class action has been brought against Blenner's Transport Pty Ltd (ACN 052 473 051) and Blenners Truck Hire Pty Ltd (ABN 40 155 324 735) as Defendants. The claim seeks to recover compensation for persons who:

(a) were:

- i. the owners, or persons entitled to possession, of cargo or property that comprised, or was present on, Pacific National Train 7SP5, and which was damaged on or about 31 December 2023; and
- ii. the owners, operators or persons responsible for the repair of transport infrastructure, being road or railway tracks, on or near the Cutana 309X level crossing on the Barrier Highway near Bindarra, South Australia on or about 31 December 2023, and

(b) suffered damage or loss to the cargo, property, road or railway tracks as the result of a collision between Train 7SP5 and a truck at the Cutana 309X level crossing on the Barrier Highway near Bindarra, South Australia.

**(Group Members).**

- 2.2. The Plaintiff alleged that the Defendants are liable for the negligent actions of the driver of a truck which collided with Train 7SP5 at the Cutana 309X level crossing on the Barrier Highway near Bindarra, South Australia, causing losses to the Group Members. The Defendants did not admit the allegations against them.

2.3. Copies of the pleadings are available on the Supreme Court's website at:

<https://supremecourt.nsw.gov.au/cases/class-actions/current-class-actions/bindarra-level-crossing-collision-class-action.html> .

### 3. Proposed Settlement

- 3.1. On 15 September 2025, the Plaintiff, on its own behalf and on behalf of Group Members in the class action, reached an in-principle settlement with the First and Second Defendants. This took into account all of the claims of Group Members who had informed the Plaintiff, or its solicitors, about their loss.
- 3.2. On 23 October 2025, the Plaintiff, on its own behalf and on behalf of Group Members in the class action, and the First and Second Defendants agreed the terms of a "**Settlement Agreement**".
- 3.3. The Settlement Agreement is subject to approval by the Court.
- 3.4. If approved, the First and Second Defendants will pay \$6,809,703.35 inclusive of costs and interest to the Group Members as described in [3.5]-[3.6] below ("**Settlement Sum**").
- 3.5. The Settlement Sum will be distributed to Group Members based on a proposed **Settlement Distribution Scheme** which has been developed by Mills Oakley and which will also need to be approved by the Court. The proposed Settlement Distribution Scheme in summary says that if approved by the Court:
  - (a) all of the Group Members who have contributed to paying the legal costs of the class action will be reimbursed 70% of their client-solicitor costs and 100% of their disbursements as of 5 September;
  - (b) all of the Group Members who have provided information and evidence about their loss or damage and the value of that loss or damage to the Plaintiff and its solicitors will be reimbursed for almost all of their loss or damage plus an amount for interest on their loss or damage; and
  - (c) Group Members who have not provided any information or evidence about their loss or damage, or the value of that loss or damage will not receive any part of the Settlement Sum.

- 3.6. The Group Members who it is proposed will receive amounts from the Settlement Distribution Scheme are set out in the document described at paragraph [5.3] below.
- 3.7. Under the terms of the Settlement Agreement, all Group Members, regardless of whether they receive amounts from the proposed Settlement Distribution Scheme or not, will release the First and Second Defendants, as well as any related entities, from any claim that they might have had as part of the class action.
- 3.8. This means that if the settlement is approved by the Court and you are a Group Member, you will be bound by the Settlement Agreement and not be able to commence your own proceedings against the First and Second Defendants or their related entities to make any claim against them that you might have had as part of the class action.
- 3.9. If the Court approves the Settlement Distribution Scheme, this means that you will not be able to challenge the way in which the Settlement Sum is distributed between the Group Members which is broadly described at paragraph [3.5] above.
- 3.10. A settlement is a compromised resolution which in this case reflects the risks and costs of continuing the litigation against the First and Second Defendants. The most significant of these risks are the high costs of preparing evidence to prove that the First and Second Defendants are liable for the Group Members' losses at the initial trial and the additional costs of proving the actual losses of all of the Group Members, who wish to make a claim, and the value of those losses in a second process following the initial trial.

***Who can attend the settlement approval hearing?***

- 3.11. All Group Members are entitled to attend the Settlement Approval Hearing which is listed on 15 December 2025 at 10:00am AEDT. The Settlement Approval Hearing will be held at the Supreme Court of New South Wales at Queens Square, 194 Philip Street Sydney NSW 2000.
- 3.12. The hearing room for the Settlement Approval Hearing will be listed on the New South Wales Supreme Court's daily list website one business day before

the Settlement Approval Hearing:

<https://supremecourt.nsw.gov.au/cases/courtlists/daily-court-lists.html>

***Who will be eligible to receive money from the settlement?***

- 3.13. The terms of the Settlement Agreement are confidential and are subject to Court approval. However, if you are a Group Member who is assessed under the proposed Settlement Distribution Scheme, you will be entitled to receive money from the settlement.
- 3.14. The proposed Settlement Distribution Scheme is subject to court approval.

***How much money will group members receive from the settlement?***

- 3.15. The terms of the Settlement Agreement are confidential and are subject to Court approval. However, the entitlements of the Group Members are set out in a proposed Settlement Distribution Scheme document which is available to all Group Members by emailing Maurice Lynch of Mills Oakley at [mlynch@millsOakley.com.au](mailto:mlynch@millsOakley.com.au).

***When will Group Members receive money from the settlement?***

- 3.16. A number of steps will need to be taken to allow for the Settlement Sum to be distributed to Group Members.
- 3.17. First, the Settlement Agreement and the Settlement Distribution Scheme must be approved by the Court.
- 3.18. Following this approval, the First and Second Defendants must pay the Settlement Sum to the Plaintiff's solicitor's trust account and the Plaintiff's solicitors must wait until the end of any appeal period to expire before distributing the Settlement Sum.

**4. Costs of the legal proceedings**

- 4.1. Legal costs of the class action have been paid by some Group Members. Subject to Court approval, those Group Members will be reimbursed for a portion of those legal costs that they have paid in accordance with the proposed Settlement Distribution Scheme. The Plaintiff will not be seeking any orders in relation to the sharing of legal costs by Group Members.

- 4.2. The Group Members who have contributed to paying the legal costs of the class action will also continue to pay the legal costs of the class action up to and including the settlement hearing on 15 December 2025.

**5. What Group Members must do**

- 5.1. The proposed settlement must be approved by the Court as being fair and reasonable, and in the interests of group members, before it can be implemented. If approved, the settlement will be binding on all group members.
- 5.2. The Court will be asked to approve the proposed settlement at a hearing commencing on 15 December 2025 which is listed for 1 day at the Supreme Court of New South Wales, at Queens Square, Sydney.

- 5.3. If you are a Group Member and you wish to **access**:

- (a) **the Settlement Agreement;**
- (b) **proposed Settlement Distribution Scheme; and/or**
- (c) **any public evidence** filed in support of the settlement approval application,

please contact Maurice Lynch of Mills Oakley at [mlynch@millsoakley.com.au](mailto:mlynch@millsoakley.com.au).

When you request a copy of the Settlement Agreement and proposed Settlement Distribution Scheme please:

- (d) provide your name, and the name of the Group Member that you represent if you are not personally a Group Member (for example you are the director or representative of a company who is a Group Member); and
- (e) provide any information about your loss or damage which makes you a Group Member.

- 5.4. **If you wish to object to the proposed Settlement Agreement and Settlement Distribution Scheme, then you must send written Notice of Objection by 10 December 2025** to the Court and to Mills Oakley at [mlynch@millsoakley.com.au](mailto:mlynch@millsoakley.com.au).

- 5.5. **If you do not wish to object** to the proposed Settlement Agreement and Settlement Distribution Scheme, then **you do not need to do anything** in response to this notice.

## 6. How to Object

- 6.1. Each Group Member who wishes to object to the proposed settlement of the Bindarra Level Crossing Collision Class Action, should fill out the form below at **Annexure A** to this Notice. If you are opting out on behalf of a company or business, please provide your name, the name of the company or business and your position within the company or business (e.g. director or partner). If you wish to object on behalf of more than one Group Member, complete a separate form for each.
- 6.2. It is very important that you act promptly in deciding what you want to do because any Notice of Objection must be filed to the Court and provided to Mills Oakley by **10 December 2025**.
- 6.3. Notices of Objection and any supporting documents must be submitted directly to the Court and also to Plaintiff's solicitor, Mills Oakley:
- (a) by post to:  
Maurice Lynch  
Mills Oakley  
Level 7, 151 Clarence Street  
Sydney NSW 2000; or
  - (b) by email at [mlynch@millsoakley.com.au](mailto:mlynch@millsoakley.com.au)
  - (c) before 10 December 2025.
- 6.4. Notices of Objection received by the Court and Mills Oakley after 10 December 2025 will not be accepted without leave of the Court and you will be treated as having not responded to this notice.
- 6.5. If you are a Group Member and you file a Notice of Objection, you will have the right to:
- (a) attend the hearing of the settlement approval hearing on 15 December 2025 and request to make oral submissions at that hearing;
  - (b) inspect the court file and take copies of any other Notices of Objection;
  - (c) receive copies of submissions and evidence that the parties rely on at the settlement approval hearing; and

- (d) apply on two days' notice to seek orders varying any orders relating to confidential material filed in the proceedings.

### **WHO ARE GROUP MEMBERS?**

- 6.6. You are a Group Member in the Bindarra Level Crossing Collision Class Action if you are:
  - (a) a person described in paragraph [2.1] above; and
  - (b) you have not previously opted out of this class action.
- 6.7. If you have previously opted out of this class action you are no longer a Group Member and do not need to do anything in response to this notice.
- 6.8. If you are unsure whether or not you are a Group Member, please contact Maurice Lynch of Mills Oakley at [mlynch@millsoakley.com.au](mailto:mlynch@millsoakley.com.au) or (02) 8035 7975 or seek independent legal advice, as soon as possible.

### **7. Further information regarding the Bindarra Level Crossing Collision Class Action**

- 7.1. Please consider the above matters carefully and seek your own legal advice if required. Mills Oakley are able to provide representation and legal advice if you wish to engage them directly.
- 7.2. If you are unsure about anything in this notice, or if you would like to request a copy of documents filed with the Court by the parties in the Bindarra Level Crossing Collision Class Action, please contact Maurice Lynch of Mills Oakley at [mlynch@millsoakley.com.au](mailto:mlynch@millsoakley.com.au) or (02) 8035 7975.

### **8. Contact details for the Supreme Court of NSW**

- 8.1. Please note that questions should not be directed to the Court.
- 8.2. If you wish to file a Notice of Objection or have questions about how to do this, please file this at the below address and use the below email or telephone number to contact the Registry.

Law Courts Building, 184 Phillip Street, Sydney NSW 2000

GPO Box 3, Sydney NSW 2001

Telephone: 1300 679 272



Email: [supremecourt.enquiries@courts.nsw.gov.au](mailto:supremecourt.enquiries@courts.nsw.gov.au)

## **ANNEXURE A**

*Baiada Pty Ltd (ABN 47 000 426 808) v Blenner's Transport Pty Ltd (ACN 052 473 051)  
& Anor 2024/00300823*

### **(Bindarra Level Crossing Class Action)**

### **NOTICE OF OBJECTION TO PROPOSED SETTLEMENT**

The person identified below:

(a) was

- i. an owner, or person entitled to possession, of cargo or property that comprised, or was present on, Pacific National Train 7SP5, and which was damaged on or about 31 December 2023; and
- ii. the owners, operators or persons responsible for the repair of transport infrastructure, being road or railway tracks, on or near the Cutana 309X level crossing on the Barrier Highway near Bindarra, South Australia on or about 31 December 2023, and

(b) suffered damage or loss to the cargo, property, road or railway tracks as the result of a collision between Train 7SP5 and a truck at the Cutana 309X level crossing on the Barrier Highway near Bindarra, South Australia;

(c) is a group member in this class action; and

(d) wishes to object to the proposed settlement of this class action.

The group member's contact details are as follows:

Group Member Name:

Contact person's name (if different  
to the Group Member):

Telephone number

Email address:

Address:

Signed (if not the named group  
member, state relationship to group  
member)

I, the Group Member named above, object to the settlement of this class action on the following grounds:

The group member has attached documents in support of this Notice:      Yes    No  
(circle one)

The group member wishes to make oral submissions at the Settlement Approval Hearing on 15 December 2025:      Yes    No  
(circle one)

The group member has read the 'Notes for Objectors' below:      Yes    No  
(circle one)

**Notes for Objectors:** Order 6 of the Court's Orders made on 23 October 2025 require that Objectors provide an outline of their grounds for supporting or opposing the Settlement Approval and any other document relied upon, and an indication as to whether or not they seek to supplement their written material with oral submissions at the Settlement Approval Hearing.