

IMPORTANT PUBLIC NOTICE

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 Blenners 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 Blenners Truck Hire Pty Ltd (ABN 40 155 324 735).

You have been identified as a potential group member whose rights might be affected.

Stay In or Opt Out

1. If you **do NOT wish to participate** in the class action, then you must "opt out" by 23 May 2025.
2. If you do not "opt out" by the deadline, you will remain as a participant. Accordingly, if you wish to remain a group member in the class action then **you do not need to do anything** in response to this notice.
3. If you have any questions after reading this notice, please contact Maurice Lynch of Mills Oakley at mlynch@millsoakley.com.au or (02) 8035 7975, or seek independent legal advice.

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 their right to opt out of the class action. This opt out process is governed by legislation and closely supervised 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 alleges 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 do not admit the allegations against them.

2.3. A class action such as the Bindarra Level Crossing Collision Class Action will, if it goes to court, involve an **initial trial** on questions which are common to the Group Members. The class action is being funded by some Group Members and their insurers, who have engaged Mills

Oakley as their solicitors, up to an initial trial. However, if the initial trial is successful for the Group Members, the Plaintiff may seek an order to share its legal costs between all successful Group Members.

- 2.4. If the class action is unsuccessful, the Group Members and insurers that have engaged Mills Oakley will have to pay the Plaintiff's legal costs and the Defendants' legal costs.

3. Group Membership – Stay In or Opt Out

- 3.1. You are a Group Member in the Bindarra Level Crossing Collision Class Action if you:

- (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.

STAY IN - AUTOMATIC

- 3.2. If you are a Group Member and **wish to participate** in the Bindarra Level Crossing Collision Class Action, then **you do not need to do anything in response to this notice**. This notice informs you of the steps you must take if you **DO NOT** wish to participate.

3.3. If you participate in the class action:

- (a) you will be bound by any outcome (such as a settlement or judgment following an initial trial);
- (b) you will be entitled to share in any compensation that is agreed by or ordered against the Defendants, subject to satisfying any requirements designed to prove your eligibility;
- (c) you will not be able to pursue any individual claim against the Defendants relating to the same or similar event or subject matter; even if any settlement or judgment is not to your satisfaction;
- (d) you will not be required to make out-of-pocket contribution towards the cost of running the class action up to the initial trial. Legal costs will be met by the Group Members and insurers who have engaged Mills Oakley. In the event that the class action is successful and there are Group Members who have not contributed to the costs of the class action, an order will be sought for the purpose of ensuring that each Group Member will contribute to legal costs proportionally from any judgment or settlement amount. All legal costs will be scrutinised and approved by the Court;
- (e) you will not be responsible for paying the Defendants' legal costs in the event that the class action is unsuccessful.

3.4. The Court may require you to take further steps in the future to confirm your participation in the class action, any settlement or to claim damages. Please carefully review any further notices you receive.

3.5. If you are unsure whether or not you are a Group Member, please contact Maurice Lynch of Mills Oakley at mlynch@millsoakley.com.au or (02) 8035 7975 or seek independent legal advice, as soon as possible.

3.6. You may choose to, but do not have to, contact Mills Oakley, by emailing mlynch@millsoakley.com.au, to inform them of your interest in the Bindarra Level Crossing Collision Class Action as a Group Member.

Among other things, this will ensure that future notices about the class action can be sent to you, or your legal representative, directly. It may also enable Mills Oakley to seek information from you about your claimed loss.

3.7. You will not become a Group Member responsible for funding the class action by informing the Mills Oakley of your interest.

OPT OUT - OPTIONAL

3.8. If you are a Group Member and **do not wish to participate** in the Bindarra Level Crossing Collision Class Action, then you **must** opt out by no later than 23 May 2025. The process to opt out is set out below.

3.9. If you opt out and therefore do not participate in the class action:

- (a) you will not be bound by any outcome in the class action;
- (b) you will not be entitled to share in any compensation that is agreed by or ordered against the Defendants in the class action;
- (c) you are free to pursue any individual claim against the Defendants relating to the same or similar event or subject matter;
- (d) the running of any limitation period suspended by the commencement of the representative proceedings will recommence.

3.10. If you opt out, it is unlikely that you will be able to change your mind and seek to become a Group Member in the class action again at a later stage.

How to opt out

3.11. Each Group Member who wishes to opt out of the Bindarra Level Crossing Collision Class Action, should fill out a separate Opt Out Notice located at Schedule 1 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 opt out on behalf of more than one Group Member, complete a separate form for each.

3.12. Opt Out Notices 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
- (c) before 23 May 2025.

3.13. Opt Out Notices received by the Court and Mills Oakley after 23 May 2025 will not be accepted without leave of the Court and you will be treated as having not responded to this notice (in other words you will remain a Group Member in the Bindarra Level Crossing Collision Class Action).

4. Uninsured losses

4.1. If you are a Group Member and you have made and received payment on an insurance claim for loss the subject of the class action, you may still have losses outside of the scope of that insurance. If you are concerned that you may have uninsured losses, you may wish to:

- (a) obtain independent legal advice regarding the class action and your rights to opt-out; and/or
- (b) inform Mills Oakley of the uninsured losses. If you choose to do this you are not required to instruct Mills Oakley to act on your behalf and you will not become liable for legal fees.

5. Further information regarding the Bindarra Level Crossing Collision Class Action

- 5.1. 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.
- 5.2. 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 or (02) 8035 7975.