

FILE NO :	19/150651
PARTIES :	Doyle's Farm Produce Pty Ltd v Murray Darling Basin Authority
DIVISION :	Common Law
DATES :	9.4.24
CORAM :	Garling J

GARLING J MAKES THE FOLLOWING ORDERS:

Third Further Amended Statement of Claim and Amended Points of Claim

1. The Plaintiffs have leave to file and serve the:
 - a. Third Further Amended Statement of Claim in the form annexed to these orders and marked "**A**"; and
 - b. Amended Points of Claim in the form annexed to these orders and marked "**B**".
2. The Plaintiffs are to pay the Defendants costs thrown away by reason of the amendments.

Plaintiffs' costs of the funding necessary to bring the present proceedings, [Particular 205(h)] (Funding Commission Claim)

3. The Plaintiffs are to serve any lay and expert evidence in chief in respect of the Funding Commission Claim by 17 May 2024.
4. The Defendants are to serve any lay or expert evidence in response by 21 June 2024.
5. The Plaintiffs are to serve any lay or expert evidence in reply by 12 July 2024.

Opt-Out

6. An order pursuant to section 176 of the *Civil Procedure Act 2005* (NSW) that the form and content of the notice to Group Members advising of the commencement of the proceedings and their right to opt out of the proceedings before the Opt-Out Deadline is annexed and marked "**C**" (**Notice**), is approved.
7. Pursuant to s162 of the *Civil Procedure Act 2005* (NSW):

- a. 31 May 2024 be fixed as the date by which a Group Member (as defined in the Third Further Amended Statement of Claim at annexure A to these orders (3FASOC) may opt out of the proceeding (**Opt-Out Deadline**); and
 - b. Any Group Member who wishes to opt out of this proceeding must, on or before the Opt-Out Deadline, deliver to the Sydney Registry of the Supreme Court of New South Wales, an Opt Out Notice in the form of Schedule A of the Notice.
8. If, on or before the Opt-Out Deadline, the solicitors for any party receive a notice purporting to be an Opt Out Notice referable to this proceeding, the solicitors must file that notice with the Court, within three (3) days of receipt of the notice by the solicitors and the notice will be as an Opt Out Notice received by the Court at the time it was received by the solicitors.
9. The solicitors for the parties have leave to inspect the Court file and to copy any Opt Out Notices filed.
10. An order pursuant to section 176 of the *Civil Procedure Act 2005* (NSW) that on or before 26 April 2024 the Notice be:
 - a. sent by the plaintiffs' solicitors to each of the Group Members by email (where available) and otherwise ordinary prepaid post; and
 - b. published by the plaintiffs in the form set out at annexure "**D**" as a half page advertisement in the following newspapers:
 - i. the Sydney Morning Herald; and
 - ii. the Country News.
11. The costs of sending, displaying and publishing the Notices as described in Order 10 above (including, without limitation, costs incurred in addressing enquiries by group members and members of the public in relation to the Notice) are to be borne in the first instance by the Plaintiffs but shall be costs in the cause.
12. Liberty to apply on three days' notice.