

ORDERS:

- 1 On or before 31 October 2025 the plaintiff is to file an interlocutory application seeking orders (a) approving the proposed settlement of the proceeding pursuant to section 173 of the Civil Procedure Act 2005 (NSW); (b) empowering the plaintiff's solicitor to sign a settlement agreement reflecting the proposed settlement; (c) the discontinuance of the proceeding; and (d) the distribution of the settlement amount ("Settlement Approval Application").
- 2 The Settlement Approval Application to be listed on 15 December 2025.

Timing and mode of distribution of Settlement Notice

- 3 On or before 5 November 2025:
 - a. the plaintiff to provide to the Court a proposed form of notice to Group Members in respect of the Settlement Approval Application ("Settlement Notice") including a Notice of Objection agreed by the plaintiff and defendants, and a proposed minute of order for the Court to approve the same and the mode of its distribution pursuant to ss 175 and 176 of the Civil Procedure Act 2005 (NSW); and
 - b. should the plaintiff and the defendants be unable to reach agreement as to the form of the Settlement Notice, the plaintiff and the defendants to provide to the Court brief outlines as to the form and content of the Settlement Notice.
- 4 Pursuant to ss 175(4)-(5) of 176(2) of the Civil Procedure Act 2005 (NSW), following approval by the Court and by no later than 7 November 2025:
 - a. The plaintiff's solicitors are to send or cause to be sent the Settlement Notice by email or post to:
 - i. the last known email address of Group Members; or
 - ii. if no email address is known, to the Group Member's last known postal address; and
 - iii. the email address of any agent, representative, solicitor, subrogated insurer, freight forwarder or claims agent of the Group Member known to the plaintiff's solicitors; or
 - iv. if no email address is known, to the last known postal address of any agent, representative, solicitor, subrogated insurer, freight forwarder or claims agent of the Group Member known to the plaintiff's solicitors, or
 - b. where a Group Member is a Group Member by reason of it engaging the Australian Postal Corporation to carry cargo or other property on that Group Member's behalf, the requirements of order 4a above will be taken to have been satisfied by the Australian Postal Corporation sending a copy of the Settlement Notice to that Group Member's last known email address; and
 - c. The Settlement Notice is to be published on the website of the plaintiff's solicitors, Mills Oakley at <https://www.millsoakley.com.au/insights/bindarra-level-crossing-collision-class-action/>

- 5 The costs of and incidental to the procedure set out in Order 4 to be paid by the Plaintiff in the first instance or on their behalf, but otherwise shall be costs in the proceeding.
- 6 Any Group Members who wish to be heard in respect of the Settlement Approval Application (including any objection to settlement approval) following receipt of the Settlement Notice must, by no later than 5 December 2025 provide to the Court:
 - a. an outline of their grounds for supporting or opposing the Settlement Approval Application and any other document relied upon; and
 - b. an indication as to whether or not they seek to supplement their written material with oral submissions at the Settlement Approval Hearing.
- 7 The solicitors for the plaintiff provide to the Court (copied to the defendants) any non-privileged communications from Group Members which ought to have been provided to the Court pursuant to Order 6.
- 8 If the legal representatives for any party receive a document purporting to be an objection to the settlement on or before 5 December 2025, that document be filed with the Sydney Registry of the Supreme Court of New South Wales within two business days of receipt of the document, and upon filing such document, shall be treated as a notice of objection received by the Court at the time it was received by the legal representatives.
- 9 The parties and any Group Member who wishes to be heard in respect of the Settlement Approval Application have leave to inspect the court file and take copies of any objections filed with the Court pursuant to Orders 6 and 8.

Timetable for the Settlement Approval Application

- 10 Save for any affidavit or written submissions in respect of which confidentiality orders will be sought, on or before 21 November 2025, the plaintiff to file and serve (including on each Group Member who has indicated they wish to be heard at the Settlement Approval Hearing in accordance with Order 6b) any affidavit(s) and written submissions on which they propose to rely in support of the Settlement Approval Application.
- 11 Subject to any further order, the plaintiff and the defendants have leave to file any affidavit or annexures or part thereof, any written submissions, in respect of which they seek confidentiality orders, by email to the Associate of Garling J marked in the subject line with the word “confidential” and is excused from any requirement to electronically file, or serve any such affidavit or annexure or any part thereof or any written submissions on any party in that form, but shall instead electronically file and serve that affidavit or annexure or written submissions in redacted form, such evidence to be filed and served in this manner on the date referred to in Order 10.
- 12 The defendants be granted leave to file and serve any affidavit material and any outline of submissions in relation to the Settlement Approval Application on or before 28 November 2025.

Costs

- 13 There be no order as to costs.

Other

- 14 If any Group Member indicates an objection to the settlement, the parties and any objecting Group Member shall have liberty to apply on two days' notice to the Court to seek orders that any confidential material filed in accordance with Order 11 above be amended.