

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
COMMON LAW DIVISION
GROUP PROCEEDINGS LIST

S ECI 2020 03402

BETWEEN:

5 BOROUGHS NY PTY LTD (ACN 632 508 304)

Plaintiff

- and -

STATE OF VICTORIA & ORS

Defendants

ORDER

JUDGE The Honourable Justice Keogh

DATE MADE: 2 January 2025

ORIGINATING PROCESS: Amended Writ filed 28 April 2022

HOW OBTAINED: By consent pursuant to Rule 59.07 of the *Supreme Court (General Civil Procedure) Rules 2015*.

ATTENDANCE: Nil

OTHER MATTERS: A. At 2.22pm on 20 December 2024 I made orders timetabling the hearing of any application filed by the defendants for a second tranche of security for costs ('20 December 2024 orders').

B. By email received at 5.05pm on 20 December 2024, the parties advised my chambers that they have conferred and reached agreement on the defendants' proposal for a second tranche of security for costs, and attached proposed consent orders signed by the solicitors for the parties pursuant to r 59.07 of the *Supreme Court (General Civil Procedure) Rules 2015*.

THE COURT ORDERS THAT:



1. The plaintiff provide security in the amount of \$3,000,000 (\$3 million) ('Security Amount') for the defendants' costs in the proceeding for the period between 3 May 2023 and 14 November 2024 ('Relevant Period') excluding the defendants' costs in the Relevant Period of:
 - (a) work undertaken since 25 July 2024 in relation to giving further discovery; and
 - (b) work undertaken since 16 August 2024 in relation to the plaintiff's discovery (together, 'Carved Out Costs').
2. By 17 February 2025, the plaintiff pay the Security Amount into an interest-bearing account opened by Quinn Emanuel Urquhart and Sullivan LLP ('Quinn Emanuel') at an Australian bank and held jointly in the names of Quinn Emanuel and Herbert Smith Freehills ('Account'), and the Security Amount be held in the Account on the following terms:
 - (a) interest accruing on the Security Amount while it is held in the Account is for the benefit of the party to whom it is eventually paid;
 - (b) the Security Amount and any accrued interest is to be held in, and not withdrawn from, the Account other than with the written authorisation of both Quinn Emanuel and Herbert Smith Freehills, or by further order of the Court;
 - (c) Quinn Emanuel undertakes to approve the transfer of the Security Amount and any accrued interest from the Account to the Defendants or their solicitors, in the event that, following judgment on the initial trial of common questions in the proceeding, the plaintiff or Quinn Emanuel is ordered to pay all or part of the defendants' costs.
3. Alternatively to paragraph 2, by 17 February 2025 the plaintiff pay the Security Amount by way of payment into Court.
4. Failing provision of the Security Amount in accordance with orders 2 and 3, the proceeding be stayed.



5. The defendants have liberty to apply for further security for costs, including in respect of the Carved Out Costs.
6. Orders 34 to 39 of the 20 December 2024 orders are vacated.

DATE AUTHENTICATED:

2 January 2025



THE HONOURABLE JUSTICE KEOGH

