

**IN THE SUPREME COURT OF VICTORIA  
AT MELBOURNE  
COMMERCIAL COURT  
GROUP PROCEEDINGS LIST**

S ECI 2023 01521

BETWEEN:

**JAMES KENDALL MCCOY**

Plaintiff

- and -

**HINO MOTORS LTD**

First Defendant

**HINO MOTOR SALES AUSTRALIA PTY LTD (ACN 064 989 724)**

Second Defendant

**ORDER**

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JUDGE: The Honourable Justice Delany

DATE MADE: 12 March 2025

ORIGINATING PROCESS: Writ filed on 17 April 2023

HOW OBTAINED: By consent

ATTENDANCE: N/A

OTHER MATTERS: N/A

**THE COURT ORDERS BY CONSENT THAT:**

**Class Deadline**

1. Pursuant to ss 33J(1) and 33ZG of the *Supreme Court Act 1986* (Vic) ('Act'), **4:00pm AEST on 2 May 2025** is fixed as the date by which group members may opt out of this proceeding and by which group members must register their claims in the proceeding ('Class Deadline').

**Consequences of failing to register by the Class Deadline**

2. Pursuant to ss 33ZF and 33ZG of the Act, only group members who are registered with Maurice Blackburn in accordance with these orders ('Registered Group Members') shall be entitled to any relief or payment arising from any settlement of the proceeding for which approval from the Court is sought. Any group member who by the Class



Deadline does not opt out and who is not a Registered Group Member, will remain a group member for all purposes of this proceeding but shall not, without leave of the Court, be permitted to seek any benefit pursuant to any such settlement (subject to Court approval) of this proceeding.

### **Form of notice**

3. Pursuant to ss 33X(1)(a), 33X(4), 33X(5) and 33Y(1) of the Act, the form and content of the notices and correspondence listed below, be approved as the notice that must be given to Group Members under s 33X(4) of the Act in respect of the approval application for the proposed settlement of the proceeding ('Settlement Approval Application') and the Class Deadline:
  - (a) the notice in Annexure A;
  - (b) the notice in Annexure B (the 'Notice of Objection');
  - (c) the notice in Annexure C (the 'Opt Out Notice');(together, the 'Notice');
- (d) the notice in Annexure D (the 'Abridged Notice'); and
- (e) the email and short message service ('SMS') correspondence in Annexure E.

### **Publication, distribution and amendment of Notice**

4. By **13 March 2025** the Defendants shall provide a list of vehicle identification numbers ('VIN') of all Affected Vehicles (as defined at [1(a)] in the Statement of Claim filed on 29 May 2023) and any of the following information available to them including for each VIN (where available):
  - (a) Vehicle make;
  - (b) Vehicle manufacturing year;
  - (c) Model of vehicle;
  - (d) First name;
  - (e) Last name;
  - (f) Entity name;
  - (g) Email address;
  - (h) Mailing address;
  - (i) Mobile phone number;
  - (j) Date of purchase;
  - (k) New purchase (Y/N);
  - (l) Secondhand purchase (Y/N),(the 'Hino List').
5. Pursuant to s 33Y(2) of the Act, the Notice is to be distributed to group members by between **21 March 2025** and **28 March 2025** ('Notice Date') in accordance with the following procedures:



- (a) Maurice Blackburn shall cause the Notice and the Abridged Notice, to be brought to the attention to all persons who as at 4 March 2025 have already registered their interest in this proceeding with Maurice Blackburn ('Existing Registrants'), in accordance with the procedure set out at order 6 below.
- (b) Maurice Blackburn shall cause the Notice and the Abridged Notice, to be brought to the attention of each person listed in any material produced in response to the subpoenas issued on 4 February 2025 to:
  - (i) AustRoads;
  - (ii) Access Canberra, Road Transport Authority;
  - (iii) Transport for New South Wales;
  - (iv) Northern Territory Motor Vehicle Registry;
  - (v) Queensland Department of Transport and Main Roads;
  - (vi) South Australian Department of Infrastructure and Transport;
  - (vii) Tasmanian Department of State Growth;
  - (viii) VicRoads OR Victorian Department of Transport; and
  - (ix) West Australian Department of Transport,

(all identified persons together being the 'STRA List') in accordance with the procedure set out at paragraph 6 and 7 below;

- (c) Maurice Blackburn shall cause the Notice and the Abridged Notice, to be brought to the attention of each person listed in the Hino List in accordance with the procedure set out at paragraph 6 and 7 below;
- (d) Maurice Blackburn shall cause a link to the Notice and the Abridged Notice to be posted on Maurice Blackburn's Facebook and Instagram accounts informing the public of the Notice and the Abridged Notice;
- (e) Maurice Blackburn shall cause a copy of the Notice and the Abridged Notice to be placed on its website ([www.mauriceblackburn.com.au/hino](http://www.mauriceblackburn.com.au/hino)), together with a copy of:
  - (i) the Statement of Claim filed on 29 May 2023;
  - (ii) the Defence filed on 12 April 2024; and
  - (iii) this Order (being the 'Initial Order'),

and Maurice Blackburn shall cause such materials to remain continuously so displayed or available on its website up to and including the final hearing and determination of the Settlement Approval Application; and

- (f) The Notice, Abridged Notice and a copy of this Order will be displayed or made available on the Court's website up to and including the final hearing and determination of the Settlement Approval Application.

6. For the purposes of paragraphs 5(a), 5(b) and 5(c), Maurice Blackburn shall cause the Notice and Abridged Notice to be brought to the attention of the persons referred to in those subparagraphs in accordance with the following procedure:

- (a) where an email address is available, the Notice and the Abridged Notice shall be sent by email under cover of the correspondence at Annexure E; and
- (b) where a mobile phone number is available, by sending a SMS in the form of Annexure E to that mobile phone number; or



- (c) where an email address and a mobile phone number are both unavailable, or a bounceback is received in response to an email sent in accordance with paragraph 6(a) and no mobile number is available for that person, then the Abridged Notice shall be sent by post, attached under cover of the correspondence at Annexure E, provided that a mailing address can be readily identified.
7. Where the same email addresses, mobile numbers and/or postal addresses appear on both the STRA List and the Hino List in respect of the same VIN, notice shall only be sent once to each unique email address, mobile phone number and/or postal address, in accordance with paragraph 6 above.
8. Annexures A to E (inclusive) may be amended by Maurice Blackburn before they are emailed, posted, displayed or published in order to correct any website or email or telephone number or other non-substantive error.
9. The cost of, and incidental to, the procedure set out in paragraph 5 and 6 above are to be borne by the Plaintiff, and such costs will be costs in the proceeding. For the avoidance of doubt, addressing inquiries by Group Members and members of the public in relation to the Notice shall be costs in the proceeding.
10. If the Notice of Objection and/or the Opt Out Notice is amended by Maurice Blackburn in accordance with paragraph 8 above, a copy is to be provided to the Commercial Court Registry of the Supreme Court of Victoria by email to [hinoclassaction@supcourt.vic.gov.au](mailto:hinoclassaction@supcourt.vic.gov.au) by **4:00pm on 18 March 2025**.

### **Procedure for opting out**

11. Pursuant to s 33J(2) of the Act, any group member who wishes to opt out of this proceeding must, before the Class Deadline either:
- (a) complete and submit an ‘Opt Out Notice’ in the form of Annexure C to this Order; or
- (b) complete and submit the ‘Online Opt Out Notice’ through the Supreme Court of Victoria website at: <https://www.supremecourt.vic.gov.au/areas/group-proceedings/hino-motors-class-action/opting-out>.
12. Each Group Member who wishes to opt out of this proceeding in accordance with paragraph 11 of this Order must complete the Opt Out Notice or the Online Opt Out Notice either:
- (a) by personally signing or personally affixing their electronic signature;
- (b) in the case of a corporation who is a Group Member, by a director of the corporation personally signing or personally affixing their electronic signature;
- (c) by the Group Member’s solicitor personally authorised to act on behalf of the Group Member personally signing or personally affixing their electronic signature as that Group Member’s solicitor;
- (d) in the case of an executor of an estate which is a Group Member, by the executor personally signing or personally affixing their electronic signature; or



- (e) in the case of a person holding a power of attorney for a Group Member, by the attorney personally signing or personally affixing their electronic signature.
13. If, on or before the Class Deadline, the defendants or solicitors for any party receives a written communication or document purporting to be an opt out form that is referable to this proceeding, the defendants or solicitors must provide a copy of the written communication or document to the Registry by email to [hinoclassaction@supcourt.vic.gov.au](mailto:hinoclassaction@supcourt.vic.gov.au), within two (2) business days of the Class Deadline, and that shall be treated as an opt out form received by the Court at the time it was received by the defendants or solicitors.
14. The solicitors for the parties be granted leave to inspect the Court file to obtain details of those persons who opt out in accordance with this Order.

### **Procedure for claim registration**

15. A group member may, by the Class Deadline, register their claim by:
- (a) Completing the online registration process through the “Hino Class Action” website at [www.mauriceblackburn.com.au/hino](http://www.mauriceblackburn.com.au/hino); or
  - (b) If they are unable to register online, contacting the solicitors for the Plaintiff (Maurice Blackburn), by phone (1800 161 343) or email ([hino@mauriceblackburn.com.au](mailto:hino@mauriceblackburn.com.au)).
16. Group members who are persons listed in s 33E(2) of the Act and who seek to register their claim to become a Registered Group Member, are deemed to have provided written consent for the purposes of s 33E(2) of the Act by completing the online registration process through the “Hino Class Action” website at [www.mauriceblackburn.com.au/hino](http://www.mauriceblackburn.com.au/hino).
17. Pursuant to r 2.04 of the Rules, compliance with r 18A.02 of the Rules is dispensed with to the extent necessary to effect paragraph 16 above.
18. A person is deemed to be a Registered Group Member if either:
- (a) they have registered their claim with Maurice Blackburn before the date of these orders (unless they subsequently opt out); and/or
  - (b) notwithstanding they have not provided all the information requested on the registration form by the Class Deadline, they are identifiable as such based on the information provided.

### **Settlement distribution scheme**

19. Maurice Blackburn is to make the Plaintiff’s proposed Settlement Distribution Scheme, being the proposed scheme for the allocation of the settlement monies to group members and Maurice Blackburn (‘Scheme’), available on its website by **16 May 2025**.

### **Objections**

20. Pursuant to s 33ZF of the Act, any group member who wishes to oppose the proposed settlement:



- (a) by 4.00pm (AEST) on **30 May 2025** ('Objection Deadline') must:
    - (i) complete and submit the Online Objection Notice through the Supreme Court of Victoria website; or
    - (ii) submit a completed Notice of Objection as set out in the Notice (at Annexure B) to the Commercial Court Registry of the Supreme Court of Victoria either by email at [hinoclassaction@supcourt.vic.gov.au](mailto:hinoclassaction@supcourt.vic.gov.au) or by post; and (collectively, "Notices of Objection")
  - (b) must, unless the Court otherwise orders, attend, or send a legal representative to attend, the Supreme Court of Victoria on **18 July 2025** when the Settlement Approval Application is to be heard, and may address the Court with reasons why the proposed settlement should not be approved.
21. Each Group Member who wishes to oppose the proposed settlement in accordance with paragraph 20 of this Order must complete the Notice of Objection or Online Notice of Objection either:
- (a) by personally signing or personally affixing their electronic signature;
  - (b) in the case of a corporation who is a Group Member, by a director of the corporation personally signing or personally affixing their electronic signature;
  - (c) by the Group Member's solicitor personally authorised to act on behalf of the Group Member personally signing or personally affixing their electronic signature as that Group Member's solicitor;
  - (d) in the case of an executor of an estate which is a Group Member, by the executor personally signing or personally affixing their electronic signature; or
  - (e) in the case of a person holding a power of attorney for a Group Member, by the attorney personally signing or personally affixing their electronic signature.
22. The parties' solicitors have leave to inspect the Court file and to copy any Notices of Objection filed with the Court.
23. In the event that any Notice of Objection is received by the defendants or the solicitors for any party prior to the Objection Deadline, the defendants or solicitors shall provide such notice to the Court within two (2) business days of the Objection Deadline, and the notice shall be treated as a Notice of Objection received by the Court at the time it was received by the defendants or solicitors.

### **Confidentiality**

24. Pursuant to s 18(1)(a) of the *Open Courts Act 2013* (Vic) and/or the Court's inherent jurisdiction, Exhibit LST-2 to the affidavit of Lee Scott Taylor affirmed on 17 February 2025 is confidential and shall not be published or disclosed without prior leave of the Court to any person or entity other than the Plaintiff and his legal representatives, the Defendants and their legal representatives and the Court.

### **Costs referee**

25. The plaintiff is to:
- (a) make enquiries as to a potential costs referee for the purpose of conducting an inquiry ('Reference'), and making a report to the Court ('Report'), as to the

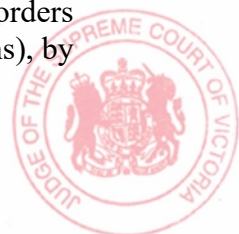


referee's estimate as to the reasonable costs that are likely to be incurred during the settlement administration process; and

- (b) notify the Defendants and the Court (by email to the Chambers of Justice Delany) of the nominated person by **18 April 2025**.
26. Pursuant to s 33ZF of the Act and/or r 50.01 of the Rules, the plaintiffs' nominated costs referee is appointed as a special referee ('Referee') for the purpose set out in paragraph 25 above.
  27. The Reference will commence forthwith and:
    - (a) the Referee is to consider and implement the Reference without undue formality or delay to enable a just, efficient and cost-effective resolution of the Reference;
    - (b) the Referee may give such directions and make such further or other enquiries for the purposes of the Reference as the Referee considers reasonable having regard to the terms of the Reference and the objective in "a" hereof;
    - (c) any directions given by the Referee to any party for the purposes of the Reference shall be mandatory for the party (subject to other orders of the Court);
    - (d) the information provided by any party to the Referee shall, upon that party's request, be treated by the Referee as confidential and not be disclosed to any other party; and
    - (e) the Referee and parties have liberty to seek directions with respect to any matter arising in the Reference upon 24 hours' notice to each other party.
  28. By **4:00pm on 13 June 2025** the Referee shall deliver the Report to:
    - (a) the Court; and
    - (b) with such redactions as may be appropriate having regard to paragraph 27(d) above, to the solicitors for the Plaintiffs,but shall not deliver the Report to the Defendants.
  29. The costs of and incidental to the appointment of the Referee and the conduct of the Reference shall be paid as part of the administration costs (as defined in the Settlement Distribution Scheme to be approved by the Court).

### **Approval Hearing**

30. Maurice Blackburn Pty Ltd ('Maurice Blackburn') is granted leave to intervene in the Settlement Approval Application.
31. By 4.00pm on **13 June 2025**, the Defendants are to provide any Confidential Affidavit and/or Confidential Submissions, on which they propose to rely in relation to the Settlement Approval Application to the solicitors for the Plaintiff and the chambers of the Honourable Justice Delany by email marked "Confidential [Affidavit or Submissions] for Purposes of Settlement Approval Application – Not to be Accessed Except by Direction of a Judge of the Court".
32. Save for any affidavit or written submissions in respect of which confidentiality orders will be sought (respectively, Confidential Affidavit and Confidential Submissions), by



**4:00pm** on **20 June 2025** the Plaintiff, the Defendants and Maurice Blackburn as intervener shall file and serve any affidavit(s) and written submissions on which they seek to rely in relation to the Settlement Approval Application.

33. By **4:00pm** on **20 June 2025**, the Plaintiff and Maurice Blackburn as intervener are to provide any Confidential Affidavit and/or Confidential Submissions on which they propose to rely in relation to the Settlement Approval Application to the chambers of the Honourable Justice Delany by email marked “Confidential [Affidavit or Submissions] for Purposes of Settlement Approval Application – Not to be Accessed Except by Direction of a Judge of the Court”.
34. The Settlement Approval Application be listed for hearing at **10:00am** on **18 July 2025**.

**Liberty to apply**

35. The parties have liberty to apply on 3 days’ notice.

**DATE AUTHENTICATED:** 12 March 2025



The Hon. Justice Delany



## SCHEDULE OF PARTIES

### By Original Proceeding

JAMES MCCOY

Plaintiff

- and -

HINO MOTORS LTD

First Defendant

HINO MOTOR SALES AUSTRALIA PTY LTD  
(ACN 064 989 724)

Second Defendant

ANNEXURE A

SUPREME COURT OF VICTORIA



NOTICE OF PROPOSED SETTLEMENT

HINO CLASS ACTION

*McCoy v Hino Motors Ltd & Ors (S ECI 2023 01521)*

THIS NOTICE IS SENT BY ORDER OF THE SUPREME COURT OF VICTORIA

PLEASE READ CAREFULLY

This notice contains important information about the proposed settlement of a class action against Hino Motor Sales Australia and Hino Motors Ltd (together, Hino) brought on behalf of persons who, by 17 April 2023 have purchased, leased or otherwise acquired an interest in Australia in a Hino branded vehicle fitted with a diesel engine that was manufactured during the period from 1 January 2003 to 22 August 2022.

This is an important legal document which contains information that may affect your legal rights.

**A. WHY DID I RECEIVE THIS NOTICE?**

1. The Supreme Court of Victoria has ordered that this notice be published for persons who may be group members in the class action *McCoy v Hino Motors Ltd & Ors (Hino Class Action)* to let them know about a proposed settlement of the class action.

2. You have received this notice because either you have:
  - a. been identified as someone who may be a group member in the Hino Class Action;  
or
  - b. previously registered with Maurice Blackburn to participate in the Hino Class Action.

## **B. WHAT IS A CLASS ACTION?**

3. A class action is a legal case where one or more plaintiffs make a claim for themselves and on behalf of other people. The people make a claim together because their claims arise out of the same, similar, or related circumstances. The group of people are referred to as 'group members.'

## **C. HOW DO I KNOW IF I AM A GROUP MEMBER?**

4. You may be a "Group Member" in the Hino Class Action if by 17 April 2023 you have purchased, leased or otherwise acquired an interest in Australia in a Hino branded vehicle fitted with a diesel engine that was manufactured during the period from 1 January 2003 to 22 August 2022 (**Affected Vehicles**), and are not any of the following:
  - a. a Hino authorised dealer;
  - b. a related body corporate (as defined by s 50 of the Corporations Act 2001 (Cth) (Corporations Act) of Hino; or
  - c. a Justice or the Chief Justice of the Supreme Court of Victoria or a Justice or the Chief Justice of the High Court of Australia.
5. If you do not fit the description in paragraph 4, you may disregard this Notice.
6. If you believe that you may be a Group Member because you meet the above description, you should read this Notice carefully as it might affect your rights. If there is anything in this Notice that you do not understand, you should seek legal advice.

## **D. INFORMATION ABOUT THE HINO CLASS ACTION**

7. The Hino Class Action concerns allegations of misreporting and misrepresenting of fuel efficiency and emissions performance of certain Hino diesel vehicles.
8. On 4 March 2022, in a press release, Hino identified misconduct concerning falsification of engine performance data in certain applications for vehicle certification to the 2016 emissions regulations in Japan.
9. On 11 March 2022, Hino announced that a Special Investigation Committee (**SIC**), composed of independent experts, would be commissioned to investigate the misconduct, and, on 2 August 2022, Hino published the SIC's findings. The SIC concluded that Hino had falsified engine performance data in certain applications for vehicle certification in Japan dating back to the early 2000s

10. The Hino Class Action alleges that as a result of the misconduct, Affected Vehicles had greater emissions and worse fuel economy than had been certified, and that Hino breached, among other things, certain provisions of the Australian Consumer Law.
11. Hino denies the claims made against it in the Hino Class Action.
12. On 12 December 2024, the parties reached an agreement to settle the Hino Class Action without any admission as to liability or loss (Proposed Settlement), that is subject to Court approval. This Notice provides information about the Proposed Settlement and explains the rights that Group Members have regarding the Proposed Settlement.

## **E. INFORMATION ABOUT THE PROPOSED SETTLEMENT**

### *What are the key terms of the Proposed Settlement?*

13. Some of the key terms of the Proposed Settlement are:
  - a. Hino will pay a sum of AU\$87 million (**Settlement Sum**), inclusive of legal, administration and other costs to settle the Hino Class Action;
  - b. The Proposed Settlement will only take effect if it is approved by the Court.
  - c. The lead plaintiff will apply to the Court for approval of the amounts incurred for legal costs, reimbursement payments (to compensate the lead plaintiff for the time and responsibility of representing Group Members in the proceedings) and settlement administration costs. More information about deductions can be found in Part F below.
  - d. All Group Members will be bound by the terms of the Proposed Settlement, if approved by the Court, and will not be permitted to take any other legal action against Hino in relation to the claims in the proceeding; and
  - e. If the Proposed Settlement is not approved by the Court, the Hino Class Action will continue and there will be no distribution of payments to Group Members unless and until the plaintiff is successful in the proceeding, or a further settlement is reached and approved by the Court.

### *Are all group members eligible to participate in the Proposed Settlement?*

14. As per orders made by the Supreme Court of Victoria dated 12 March 2025, Group Members who are eligible to participate in the Proposed Settlement are those who, by 4.00PM (AEST) on 2 May 2025, have both:
  - a. Not opted out of the Proceeding; and
  - b. Registered with Maurice Blackburn to participate in the Hino Class Action, those persons being "**Registered Group Members**".

15. If you do not register your claim with Maurice Blackburn by 4.00PM (AEST) on 2 May 2025, upon approval of the Proposed Settlement, you will not receive any further correspondence about the Hino Class Actions beyond this notice. Further information about the options available to Group Members can be found at Part H below.

How much will Group Members receive under the settlement?

16. At this stage it is not possible to provide an estimate of how much Registered Group Members will receive from the settlement. This is because:
- a. It is not yet known how much the Court will approve to be deducted from the Settlement Sum for legal costs, settlement administration costs and a reimbursement payment to the lead plaintiff. More information about these deductions can be found at Part F below.
  - b. It is not yet known how many group members will come forward and register their claims with Maurice Blackburn by 4.00PM (AEST) on 2 May 2025.
  - c. The Court has not yet approved a settlement distribution scheme. The settlement distribution scheme that is approved by the Court will detail how payments to Registered Group Members are to be calculated. The settlement distribution scheme will be available online at [www.mauriceblackburn.com.au/Hino](http://www.mauriceblackburn.com.au/Hino) from 16 May 2025.

**F. DEDUCTIONS FROM THE SETTLEMENT SUM**

17. Under the Proposed Settlement, the Court will be asked to approve certain deductions from the Settlement Sum. The balance of the Settlement Sum will then be distributed to Registered Group Members in accordance with the settlement distribution scheme that is approved by the Court.

Legal Costs

18. On 15 December 2023, the Supreme Court of Victoria made a 'group costs order' (**GCO**), that the plaintiff's lawyers will be paid a percentage of the Settlement Sum to cover the legal costs they incurred and the legal risks they took in running the class action. Relevantly, the GCO ordered that:

<b>For each dollar of any award or settlement that is recovered:</b>	<b>The applicable percentage (including GST) is:</b>
Between \$0 to \$75,000,000	25%
Between \$75,000,001 to \$150,000,000	22.5%
Between \$150,000,001 to \$225,000,000	20%
Over \$225,000,000	17.5%

19. This means that for the Settlement Sum of \$87 million, the GCO amount is \$21.45 million, or 24.66% of the Settlement Sum.
20. The Court has the power to adjust the GCO percentage at the settlement approval hearing if it considers the adjustment to be appropriate.

#### Reimbursement payment

21. The Court will also be asked to approve an amount be deducted from the Settlement Sum for a reimbursement payment to the lead plaintiff. The reimbursement payment is to compensate the lead plaintiff for the time they have spent representing Group Members in the proceedings. The proposed reimbursement payment will be set out in the settlement distribution scheme that will be made available online at [www.mauriceblackburn.com.au/Hino](http://www.mauriceblackburn.com.au/Hino) from 16 May 2025.

#### Settlement administration costs

22. The Court will be asked to appoint Maurice Blackburn as the Administrator of the implement the distribution process set out in the settlement distribution scheme.
23. Regardless of who is appointed as the Administrator, there will be costs associated with the implementation of the settlement distribution scheme. The Court will be asked to authorise those costs to be paid from the Settlement Sum before the balance is shared among eligible Registered Group Members.
24. The settlement administration costs are difficult to estimate at this stage given it will depend upon factors which are presently unknown such as the number of group members who ultimately register to participate in the settlement and the settlement distribution scheme. In any case, the Court will ultimately have to approve any settlement administration costs that are sought by the Administrator.

### **G. WHAT IS THE PROCESS FOR SETTLEMENT APPROVAL?**

25. As noted at paragraph 13 above, the Proposed Settlement will only take effect if it is approved by the Court. In deciding whether to approve the Proposed Settlement, the Court will consider whether the Proposed Settlement is fair and reasonable and in the interests of Group Members as a whole.
26. The Court will have a hearing on 18 July 2025 to determine whether to approve the Proposed Settlement (**Settlement Approval Hearing**). Group Members are entitled to attend the Settlement Approval Hearing.
27. All Group Members (excluding persons who opt out) have the right to object to the Proposed Settlement. If you are a Registered Group Member, exercising that right will not affect your eligibility to participate in the Proposed Settlement in the event it is approved.

### Objecting to the Proposed Settlement

28. **If you wish to object to the Proposed Settlement**, by 4.00PM (AEST) on 30 May 2025, you need to either:
  - a. complete and submit the Online Objection Notice through the Supreme Court of Victoria website at <https://www.supremecourt.vic.gov.au/areas/group-proceedings/hino-motors-class-action/objection>; or
  - b. complete the Notice of Objection form below (Annexure B of this document), and send it to the Court by email or post at the addresses on the form.
29. **If you lodge a Notice of Objection, you or your legal representative must also attend the Settlement Approval Hearing (unless the Court orders otherwise), which is on 18 July 2025 in the Supreme Court of Victoria.**
30. The Notice of Objection or Online Objection Notice must be completed in one of the following ways, depending on, for example, whether the group member is a person, a corporation or represented by a solicitor or another person:
  - a. if the group member is a **person**, by that person personally signing or personally inserting their electronic signature;
  - b. if the group member is a **corporation**, by a director of the corporation personally signing or personally inserting their electronic signature;
  - c. if the group member is **represented by a solicitor**, by the solicitor personally signing or personally inserting their electronic signature;
  - d. if the group member is an **estate**, by the executor of the estate personally signing or personally inserting their electronic signature; or
  - e. if there is a person holding a **power of attorney** for the group member, by the attorney personally signing or personally inserting their electronic signature.
31. Aside from objecting group members, there is no requirement that any group member attend the settlement approval hearing.

### **H. WHAT ACTIONS CAN I TAKE?**

32. As noted at paragraph 14 above, the Supreme Court of Victoria has ordered that Group Members who are eligible to participate in the Proposed Settlement are those who, by 4.00PM (AEST) on 2 May 2025, have both:
  - a. Not opted out of the Proceeding; and
  - b. Registered with Maurice Blackburn to participate in the Hino Class Action.
33. If you think you might be a Group Member, you have three options which are explained further below:
  - a. **Option 1** - Register your interest to receive compensation;

- b. **Option 2** – Opt out and cease to be a group member;
- c. **Option 3** – Do nothing.

## **OPTION 1 – REGISTER YOUR INTEREST TO RECEIVE COMPENSATION**

34. You must register by 4.00PM (AEST) on 2 May 2025 if you wish to be eligible to claim money from the Proposed Settlement of the Hino Class Action if it is approved by the Court.

### What is Registration?

35. You may register your claim online with Maurice Blackburn Lawyers (who are acting for the lead plaintiff in the Hino Class Action) at: [www.mauriceblackburn.com.au/Hino](http://www.mauriceblackburn.com.au/Hino).
36. You must register your claim by 4.00PM (AEST) on 2 May 2025 to be eligible to participate in the Proposed Settlement.
37. If you choose to register a claim as a group member and become a Registered Group Member, you will be required to provide information including:
- a. Your name and contact details; and
  - b. Information in relation to your vehicle, including your vehicle identification number (**VIN**) and ownership information such as when you acquired or disposed of the vehicle.
38. Registered Group Members will be provided with updates about the Hino Class Action and Proposed Settlement by Maurice Blackburn. Registering will ensure that your specific claim will be considered in the Proposed Settlement.
39. If you have **already registered**, you do not need to register again. You have already registered if you have already:
- a. Provided your name and information about your claim in the Hino Class Action to Maurice Blackburn; and
  - b. Received an email from Maurice Blackburn confirming receipt of your registration.
40. If you are unsure whether you have already registered your claim, you may contact Maurice Blackburn by emailing [hino@mauriceblackburn.com.au](mailto:hino@mauriceblackburn.com.au) or calling 1800 161 343.

### What are the consequences of not registering?

41. If you are a Group Member and do not register with Maurice Blackburn by 4.00PM (AEST) on 2 May 2025, you will be bound by the terms of the Proposed Settlement if it is approved by the Court, but you will not be entitled to receive any payment pursuant to the terms of the Proposed Settlement.



42. This means that should the Court approve the Proposed Settlement and you have not registered with Maurice Blackburn by the deadline, you will not be permitted to take any other legal action against Hino in relation to the claims in the proceeding, and you will not receive any money pursuant to the terms of the Proposed Settlement.

*Important information regarding a Competing Proceeding*

43. There was a separate and overlapping class action that was commenced by Gerard Malouf & Partners (**GMP Law**) against Hino (**Maglio Proceeding**).
44. Following a carriage contest on 15 December 2023 before the Supreme Court of Victoria, the Honourable Justice Osborne decided that this proceeding should continue, and that the Maglio Proceeding should be permanently stayed.
45. Consequently, this proceeding (the “Hino Class Action”) is the only class action that continued against Hino in relation to misreporting and misrepresenting the fuel efficiency and emissions performance of certain Hino diesel vehicles.
46. If you previously registered your interest in the claim against Hino with GMP Law, Maurice Blackburn does not have access to that registration and your prior registration with GMP Law will not be an eligible registration for the purposes of this proposed settlement. If you wish to participate in the Hino Class Action and the Proposed Settlement, you must take active steps to do so, by registering online at: [www.mauriceblackburn.com.au/Hino](http://www.mauriceblackburn.com.au/Hino).

**OPTION 2 – OPT OUT AND CEASE TO BE A GROUP MEMBER**

47. If you do not want your rights determined by the Hino Class Action, you must opt out of the Hino Class Action.

*What is opting out?*

48. If you are a Group Member and you **decide to opt out**, you will:
- a. cease to be a Group Member in the Hino Class Action;
  - b. not be bound by the outcome of the Hino Class Action (regardless of if the Proposed Settlement is approved by the Court);
  - c. not receive any money from the Hino Class Action, including from the Proposed Settlement if approved by the Court, or in the event the Proposed Settlement is not approved, if the case succeeds at trial or reaches another agreed settlement that is approved by the Court; and
  - d. be able to commence your own court proceedings against Hino if you wish, provided you commence that proceeding within the time limits applicable to your claim.

49. However, if you **decide not to opt out**, then you will remain as a group member in the Hino Class Action and you have the option of registering to receive compensation (see Option 1) or doing nothing (see Option 3). In either case, by not opting out:
- a. you will be bound by the outcome of the proceeding; and
  - b. you will not be able to bring any individual claim against Hino in relation to the subject matter of the Hino Class Action.
50. If you are unsure how opting out will affect your rights, you should seek legal advice before opting out.

*How can you opt out?*

51. If you decide to opt out, you must do so by no later than 4.00PM (AEST) on 2 May 2025 by:
- a. completing the online opt out notice at the Supreme Court of Victoria website at: <https://www.supremecourt.vic.gov.au/areas/group-proceedings/hino-motors-class-action/opting-out>; or
  - b. completing an 'opt out notice' in the form attached to this notice (Annexure C) and returning the completed notice to the Registry of the Supreme Court of Victoria at the address on the form.
52. If you do not opt out before 4.00PM (AEST) on 2 May 2025, you will remain a group member and will be bound by the settlement if it is approved. Opt out notices received after 4.00PM (AEST) on 2 May 2025 will not be effective, unless the Court makes a further order.
53. Each Group Member who wants to opt out must complete their own separate opt out Notice. The opt out notice must be completed in one of the following ways, depending on, for example, whether the group member is a person, a corporation or represented by a solicitor or another person:
- a. if the group member is a **person**, by that person personally signing or personally inserting their electronic signature;
  - b. if the group member is a **corporation**, by a director of the corporation personally signing or personally inserting their electronic signature;
  - c. if the group member is **represented by a solicitor**, by the solicitor personally signing or personally inserting their electronic signature;
  - d. if the group member is an **estate**, by the executor of the estate personally signing or personally inserting their electronic signature; or
  - e. if there is a person holding a **power of attorney** for the group member, by the attorney personally signing or personally inserting their electronic signature.

### **OPTION 3 – DO NOTHING**

54. If you are a Group Member and you decide **not to opt out and you do not register** by 4.00PM (AEST) on 2 May 2025 and if the Proposed Settlement:
- a. is approved, you will not be entitled to any compensation pursuant to the terms of the Proposed Settlement if it is approved by the Court and you will be bound by the terms of the settlement, as noted at paragraphs 41 and 42 above; or
  - b. is not approved and the proceeding proceeds to trial, you will be bound by the outcome of the trial and will remain a Group Member.

#### **I. WHERE CAN I GET FURTHER INFORMATION?**

55. Further information regarding the Proposed Settlement can be obtained from Maurice Blackburn's website: [www.mauriceblackburn.com.au/Hino](http://www.mauriceblackburn.com.au/Hino).
56. If you have any questions about the Proposed Settlement or your status as a Group Member, you may also contact Maurice Blackburn by:
- a. Phone: 1800 161 343; or
  - b. Email: [hino@mauriceblackburn.com.au](mailto:hino@mauriceblackburn.com.au)
57. If there is anything of which you are unsure and you do not want to speak with Maurice Blackburn (or you want to understand their involvement better), you may get legal advice from another lawyer of your choice.

ANNEXURE B

NOTICE OF OBJECTION TO PROPOSED SETTLEMENT

SUPREME COURT OF VICTORIA

HINO CLASS ACTION

*McCoy v Hino Motors Ltd & Ors (S ECI 2023 01521)*

**ONLY COMPLETE THIS NOTICE IF YOU DO NOT WANT THE COURT TO APPROVE THE PROPOSED SETTLEMENT OF THE HINO CLASS ACTION**

The court will consider all notices of objection returned by 4.00PM (AEST) on 30 May 2025.

You can object to the Proposed Settlement even if you also wish to participate in settlement.

You are unable to object to the proposed settlement if have 'opted out' of the Hino Class Action.

To: Commercial Court Registry

Supreme Court of Victoria 210 William Street  
Melbourne Victoria 3000  
hinoclassaction@supcourt.vic.gov.au

**A. DETAILS OF OBJECTING GROUP MEMBER**

Name of Group Member <b>OR</b> contact name (if different from name of Group Member)	
Capacity of person completing Notice of Objection (select one)	<input type="checkbox"/> Group Member;
	<input type="checkbox"/> Director of [company name] .....
	<input type="checkbox"/> Executor for the estate of [name] .....
	<input type="checkbox"/> Power of attorney for [name] .....
	<input type="checkbox"/> Solicitor acting for [name] .....
Postal address	

Email address	
Telephone number(s)	

**B. REASONS**

Explain why you object to the proposed settlement. Please include all details that you think relevant.

*Please note if you are completing this form online there is a 2,000-character limit.*

*continued over page*

**C. EVIDENCE OR SUBMISSIONS**

- I attach evidence and/or submissions in support of my objection (limited to 2 pages)
- I do not attach any evidence and/or submissions in support of my objection, but wish for my objection to be considered based on my submission set out above

(please tick one of the above two options)

**D. ATTENDANCE AT HEARING ON 18 JULY 2025 AT 10:00AM:**

At the hearing:

- I will appear on my behalf
- I will be represented by a lawyer: *[insert name]* .....

(please tick one of the above two options)

**E. SIGNING OF NOTICE:**

.....  
*Please sign notice here*

Date:

**IMPORTANT NOTE** – if you want this form to be considered by the Court you must ensure that you complete this form online via the Supreme Court of Victoria website OR ensure that it reaches the Supreme Court of Victoria at the postal or email address above by **4.00PM (AEST) on 30 May 2025**.

ANNEXURE C

NOTICE OF OPTING OUT BY A GROUP MEMBER

Hino Class Action – Proceeding No. S ECI 2023 01521

James McCoy v Hino Motors Ltd Anor

**OPTION 2: NOTICE OF OPTING OUT BY GROUP MEMBER**

ONLY COMPLETE THIS FORM IF YOU WISH TO **OPT OUT** OF THE HINO CLASS ACTION. IF YOU OPT OUT, YOU WILL NO LONGER BE A GROUP MEMBER.  
  
IF YOU WANT TO **REGISTER**, DO NOT COMPLETE THIS FORM. YOU MUST COMPLETE OPTION 1: REGISTRATION ONLINE AT [www.mauriceblackburn.com.au/hino](http://www.mauriceblackburn.com.au/hino)

THIS FORM MAY ONLY BE COMPLETED BY A GROUP MEMBER PERSONALLY, OR BY A DIRECTOR OF A COMPANY WHICH IS A GROUP MEMBER, A PERSON WHO IS AN EXECUTOR OF AN ESTATE OF A PERSON WHO IS A GROUP MEMBER, A POWER OF ATTORNEY OF A PERSON WHO IS A GROUP MEMBER OR A SOLICITOR ACTING FOR A GROUP MEMBER.

To: Commercial Court Registry  
Supreme Court of Victoria  
210 William Street  
Melbourne VIC 3000  
[hinoclassaction@supcourt.vic.gov.au](mailto:hinoclassaction@supcourt.vic.gov.au)

I, *[print name]*....., am  
(select **one** option only)

- a group member;
- a director of *[company]*.....which is a group member;
- an Executor for the Estate of *[print name]*.....who is a group member;
- a power of attorney for *[print name]*.....who is a group member; or
- a solicitor acting for *[print name]*.....who is a group member.

in the above group proceeding, and give notice under section 33J(2) of the *Supreme Court Act 1986* that the group member identified is **opting out** of this proceeding.

Dated:	
Signature of group member, director of group member, Executor, power of attorney or solicitor for group member:	
Address of group member:	
Email address of group member:	

VIN/s (if known)	
------------------	--

***If you would like to opt out of the Hino Class Action, please complete this form online via the Supreme Court of Victoria website OR return this completed form to the Supreme Court of Victoria by email or by post, at the addresses on this form, by 4:00pm (AEST) on 2 May 2025 - Class Deadline.***

## SUPREME COURT OF VICTORIA



### ABRIDGED NOTICE OF PROPOSED SETTLEMENT

#### HINO CLASS ACTION

*McCoy v Hino Motors Ltd & Ors (S ECI 2023 01521)*

#### WHAT IS THIS?

The Supreme Court of Victoria has ordered that this abridged notice be published to let persons who may be Group Members in a class action against Hino Motor Sales Australia and Hino Motors Ltd (together, **Hino**) know about a proposed settlement of the class actions.

**IMPORTANT: There is a Notice of Proposed Settlement which you should read. You can access the Notice of Proposed Settlement on Maurice Blackburn's website at [www.mauriceblackburn.com.au/hino](http://www.mauriceblackburn.com.au/hino). This is an abridged version of that Notice.**

#### AM I PART OF THE CLASS ACTION?

You may be a "**Group Member**" in the Hino Class Action if by 17 April 2023 you purchased, leased, or otherwise acquired an interest in Australia in a Hino branded vehicle fitted with a diesel engine that was manufactured during the period from 1 January 2003 to 22 August 2022 (**Affected Vehicles**).

#### WHAT ARE THE CLASS ACTIONS ABOUT?

The Hino Class Action concerns allegations of misreporting and misrepresenting of fuel efficiency and emissions performance of certain Hino diesel vehicles. In early 2022, Hino identified misconduct concerning falsification of engine performance data in certain applications for vehicle certification to the 2016 emissions regulations in Japan. In mid-August 2022, a committee composed of independent experts concluded that Hino had falsified engine



## ANNEXURE D

performance data in certain applications for vehicle certification in Japan dating back to the early 2000s.

The Hino Class Action alleges that because of the misconduct, Affected Vehicles had greater emissions and worse fuel economy than had been certified, and that Hino breached, among other things, certain provisions of the Australian Consumer Law. Hino denies the claims made against it in the Hino Class Action.

### THE PROPOSED SETTLEMENT

The parties to the class action have agreed to a proposed settlement of the class action, where Hino will pay (without admission of liability or loss), a total of \$87 million (inclusive of legal, administration and other costs) (**Settlement Sum**) to settle the claims of the plaintiff and Group Members. The proposed settlement is subject to the approval of the Supreme Court of Victoria. If the Court approves the settlement, then:

- a) some of the Settlement Sum will be used to pay legal costs (\$21.45 million or 24.66% of the Settlement Sum), a reimbursement payment to the lead plaintiff, and the costs of distributing the Settlement Sum to eligible group members, which will all need to be approved by the Court;
- b) the balance of the Settlement Sum will then be distributed to eligible group members in accordance with a 'formula' or method to be approved by the Court;
- c) all group members (regardless of whether they are registered) will 'bound' by the settlement and will not be permitted to take any other legal action against Hino for issues arising from, in connection with, in respect of, or related to the claims against Hino in the class action.

Further information about the legal costs, funding costs and reimbursement payments to be deducted from the Settlement Sum can be found in the Settlement Notice which is available online at [www.mauriceblackburn.com.au/hino](http://www.mauriceblackburn.com.au/hino).

### WHAT ARE MY OPTIONS?

**OPTION 1 - REGISTER:** if you wish to participate in the settlement and be eligible to receive a distribution from the Settlement Sum if it is approved by the Court, you must register your claim with Maurice Blackburn by 4.00PM (AEST) on 2 May 2025.

**OPTION 2 – OPT OUT:** If you do not want your rights determined by the Hino Class Action or to participate in the settlement, you must opt out of the Hino Class Action by 4.00PM (AEST) on 2 May 2025. You will cease to be a group member and you will not be bound by the settlement.

**OPTION 3 – DO NOTHING:** If you do not register by 4.00PM (AEST) on 2 May 2025 and the proposed settlement is approved by the Court, you will not be entitled to any compensation, but you will still be bound by the settlement.

If you do not opt out and remain a group member, you can also object to the proposed settlement if you think it should not be approved. You can object to the proposed settlement even if you decide to register your claim. If you decide to object, you must do so by 4.00PM

## ANNEXURE D

(AEST) on 30 May 2025 - Objection Deadline. Information about how to register a claim, how to opt out and how to object to the proposed settlement is contained in the Notice of Proposed Settlement.

**IMPORTANT:** You can access the full Notice of Proposed Settlement with more detail about the above at [www.mauriceblackburn.com.au/hino](http://www.mauriceblackburn.com.au/hino). You should read the Notice of Proposed Settlement before deciding what to do. This notice is not a substitute for the Notice of Proposed Settlement, and you should read the Notice of Proposed Settlement on Maurice Blackburn's website carefully as it may affect your legal rights.

### WHO SHOULD I CONTACT FOR MORE INFORMATION?

If you have any questions, you may contact Maurice Blackburn on 1800 161 343 or by email to [hino@mauriceblackburn.com.au](mailto:hino@mauriceblackburn.com.au). If you have any questions and you do not want to speak to Maurice Blackburn, you may get independent legal advice.

Please do not ask any questions to the Supreme Court. The Court staff are not permitted to give you legal advice

**ANNEXURE E**  
**CORRESPONDENCE TO POTENTIAL GROUP MEMBERS**

**Email correspondence**

Dear [Name]

You are receiving this email by order of the Supreme Court of Victoria.

This email has been sent to you because you have been identified as someone who may be a group member in a class action against Hino Motors. A proposed settlement has been reached in the class action and is subject to Court approval.

The Supreme Court of Victoria has ordered that the attached notices (an abridged and a full version) be sent to you to inform you about the proposed settlement of the Hino class action. The abridged notice is a short form notice that provides you with high-level information about the proposed settlement and is designed to make the full version of the notice easier to understand. Both are important legal documents which contain information that may affect your legal rights.

Please note, there is an important deadline of 4.00PM (AEST) on 2 May 2025 by which you **must** act if you wish to participate in the settlement or opt out of the class action.

You can read more information, as well as access copies of these notices, on Maurice Blackburn's website [www.mauriceblackburn.com.au/hino](http://www.mauriceblackburn.com.au/hino)

Alternatively, you can search for the notices and proposed settlement online: Maurice Blackburn + Hino Class Action).

Please note: at this stage we cannot answer any questions about potential individual compensation amounts. If the settlement is approved by the Court and you register to participate by 4.00PM (AEST) on 2 May 2025, you will be contacted at a later stage.

Kind regards

**SMS**

You are receiving this SMS by order of the Supreme Court of Victoria.

This SMS has been sent to you because you have been identified as someone who may be a group member in a class action against Hino Motors. A proposed settlement has been reached in the class action and is subject to Court approval.

Please note that there is an important deadline of 4.00PM (AEST) on 2 May 2025 by which you **must** act if you wish to participate in the settlement or opt out of the class action. Details are contained in a Court approved notice that can be viewed at the following link: [www.mauriceblackburn.com.au/hino](http://www.mauriceblackburn.com.au/hino)

Alternatively, you can also search for the notices and proposed settlement online: Maurice Blackburn + Hino Class Action.

## ANNEXURE E

### Postal correspondence

Dear [Name]

You are receiving this correspondence by order of the Supreme Court of Victoria.

This correspondence has been sent to you because you have been identified as someone who may be a group member in a class action against Hino Motors. A proposed settlement has been reached in the class action and is subject to Court approval.

The Supreme Court of Victoria has ordered that the enclosed abridged notice be sent to you to inform you about the proposed settlement of the Hino class action. The abridged notice is a short form notice that provides you with high-level information about the proposed settlement. There is also a full version of the notice setting out more information about the proposed settlement.

Both notices are important legal documents which contain information that may affect your legal rights.

Please note, there is an important deadline of 4.00PM (AEST) on 2 May 2025 by which you **must** act if you wish to participate in the settlement or opt out of the class action.

You can read more information, as well as access copies of the full version of the notice, on Maurice Blackburn's website [www.mauriceblackburn.com.au/hino](http://www.mauriceblackburn.com.au/hino).

Alternatively, you can search for the notices and proposed settlement online: Maurice Blackburn + Hino Class Action.

Please note: at this stage we cannot answer any questions about potential individual compensation amounts. If the settlement is approved by the Court and you register to participate by 4.00PM (AEST) on 2 May 2025, you will be contacted at a later stage.

Kind regards