

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

S ECI 2023 01835

BETWEEN:

**JUSTINE LIDGETT & ANOR (according to the attached  
Schedule)**

Plaintiffs

- and -

**DOWNER EDI LIMITED (ACN 003 872 848) & ANOR (according  
to the attached Schedule)**

Defendants

**ORDER**

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JUDGE: The Honourable Justice Delany

DATE MADE: 2 July 2025

ORIGINATING PROCESS: Writ filed on 4 May 2023

HOW OBTAINED: By consent

ATTENDANCE: N/A

OTHER MATTERS: N/A

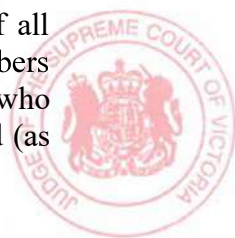
**THE COURT ORDERS BY CONSENT THAT:**

**Opt Out and Class Deadline**

1. Pursuant to s 33J(1) of the *Supreme Court Act 1986* (Vic) (Act), the date and time by which a “Group Member” (as defined in paragraph 1 of the Amended Consolidated Statement of Claim) may opt out of this proceeding be fixed at **4:00pm AEST on 10 September 2025** (‘Class Deadline’).

**Approval and Distribution of Opt Out and Claim Registration Notice**

2. Pursuant to ss 33X(1)(a) and (5) and 33Y of the Act, the form and content of the opt out and claim registration notice set out in Annexure A to these Orders (‘Notice’) are approved.
3. Pursuant to s 33Y of the Act, the Notice be given to Group Members in this proceeding on or before **18 July 2025** (‘Notice Date’) according to the following procedure:
  - (a) by **4:00pm on 4 July 2025**, the First Defendant and Maurice Blackburn are to jointly engage Computershare Investor Services Pty Limited (or related entity) (‘Computershare’) to distribute the Notice;
  - (b) by **4:00pm on 7 July 2025**, the First Defendant shall provide a copy of these Orders to Computershare and instruct Computershare to prepare a list of all persons or entities recorded on the First Defendant’s register of members maintained pursuant to ss 168 and 169 of the *Corporations Act 2001* (Cth) who or which acquired an interest in Downer Shares during the Relevant Period (as



defined in Annexure A), including those persons or entities whose qualifying transactions were recorded on the register within the two-day settlement following 24 February 2023;

- (c) by **11 July 2025**, the First Defendant shall request that Computershare send the Notice to all the persons or entities referred to in paragraph 3(b) above:
  - (i) by email, to their last known email address, where an email address is available; and
  - (ii) where no such email address is available, by ordinary post, to their last known postal address, where a postal address is available,

and confirm in writing to the parties once distribution has been attempted for all such persons or entities. The parties must co-operate to seek to remedy any issues with this distribution process as soon as possible;

- (d) by **11 July 2025**, the solicitors for the Plaintiffs shall cause a copy of this Order and, separately, the Notice to be displayed on their website until the Class Deadline;
  - (e) by **11 July 2025**, the solicitors for the Plaintiffs shall cause, either directly or through a third party retained by them, the Notice to be sent to each person or entity who has retained the solicitors for the Plaintiffs to act for them in relation to this proceeding, with such Notices to be sent by email where an email address is available and otherwise by ordinary post; and
  - (f) by **11 July 2025**, the Commercial Court Registry of the Supreme Court of Victoria shall cause the Notice to be displayed on the Supreme Court of Victoria website and available for inspection at the Commercial Court Registry of the Supreme Court of Victoria.
4. Where a Notice is sent by email (in accordance with paragraphs 3(c)(i) or 3(e) above) and a ‘bounce-back’ notification is received within two days after dispatch by the sender of the email to the effect that an email was not delivered, or the sender otherwise notified within two days after dispatch that the email was not delivered, then within 5 business days of the notification, Notice is to be sent by ordinary post to the last known postal address of the intended recipient, if the sender of the email has a postal address for that person or entity.
5. The Notice may be amended by agreement between the parties before it is sent or published and without any further approval of the Court in order to correct any typographical error or any email, website, postal address or telephone number.
6. If the Notice is amended by the parties in accordance with paragraph 5, the Plaintiffs’ solicitors shall provide a copy of the amended Notice to the Commercial Court Registry 5 days prior to the Notice Date.
7. The costs of and incidental to the procedures set out in paragraphs 3 and 4 in connection with distributing the Notice shall be paid by the Plaintiffs as to 50% and the First Defendant and the Second Defendant as to 25% each, with such costs ultimately to be costs in the cause. For the avoidance of doubt, addressing inquiries by group members and members of the public in relation to the Notice is work that is “incidental to” the Notice.

#### **Return of opt-out notices**

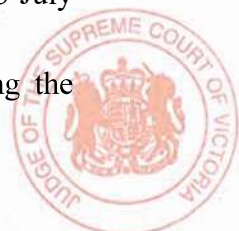
8. Pursuant to s 33J(2) of the Act, any Group Member who wishes to opt out of this proceeding must, on or before the Class Deadline:



- (a) deliver a completed “notice of opting out” in the form of Attachment B to the Notice (‘Opt Out Notice’) to the Commercial Court Registry of the Supreme Court of Victoria by email or post; or
  - (b) submit the required information in the ‘Online Opt Out Notice’ through the Supreme Court of Victoria website.
- 9. If, on or before the Class Deadline, the solicitors for any party, either directly or through a third party retained by the Plaintiffs’ solicitors, receive an Opt Out Notice referable to this proceeding, the solicitors are to send such notice to the Commercial Court Registry of the Supreme Court of Victoria within 5 business days of receipt, together with a notation specifying the date on which the Opt Out Notice was received. Such Opt Out Notice shall be treated as having been received by the Court at the time it was received by the solicitors, or the third party retained by the Plaintiffs’ solicitors, whichever is the earlier.
- 10. The solicitors for any party be granted leave to inspect the Court file and copy any Opt Out Notice(s) received by the Court.

### **Claim Registration**

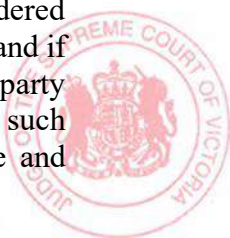
- 11. Subject to paragraph 15 below, pursuant to ss 33ZF and 33ZG of the Act, any Group Member who wishes to obtain any benefit arising from any in-principle settlement (subject to Court approval) of the proceeding reached at the mediation conducted in accordance with paragraph Order 22 of this Order (‘Court Ordered Mediation’) or within 12 weeks of the conclusion of the Court Ordered Mediation must register their claim by the Class Deadline (‘Registered Group Member’).
- 12. A Group Member may register their claim by:
  - (a) completing and submitting, in accordance with the method provided in the Notice, a registration form in the form of Attachment A to the Notice, which will include requesting that the data points referred to in paragraph 13 below be provided in accordance with that order; or
  - (b) completing, in accordance with the method provided in the Notice, an online registration process, which will include requesting that the data points referred to in paragraph 13 below be provided in accordance with that paragraph; or
  - (c) if they are unable to register online, contacting the solicitors for the Plaintiffs, or a third party retained by the solicitors for the Plaintiffs for that purpose, indicating their intention to register using the contact details provided in the Notice, and arranging for the online registration process to be completed on their behalf and it being done so.
- 13. In order to register their claim, Group Members, or those registering on behalf of Group Members, shall be requested to use their best endeavours to provide the following:
  - (a) the Group Member’s full name (or full names, where the Downer Shares are jointly held), postal address and, where applicable, email address (together, Contact Details);
  - (b) any relevant Holder Identification Number (HIN) or Security Reference Number (SRN) or equivalent reference number;
  - (c) the number of fully paid ordinary Downer Shares held by the Group Member at the commencement of trading on the first day of the Relevant Period, 23 July 2019 (even if that number is nil);
  - (d) details of the Group Member’s acquisition(s) of Downer Shares during the Relevant Period, including:
    - (i) the date of acquisition(s);



- (ii) quantity acquired;
    - (iii) the price per share;
    - (iv) if relevant, the amount of any commission/ brokerage paid at each acquisition; and
  - (e) details of the Group Member's sale(s) and/or disposal(s) of ordinary Downer Shares, during the Relevant Period, including:
    - (i) the date of sale(s)/disposal(s);
    - (ii) quantity sold/disposed of;
    - (iii) the price of each sale/disposal (per share or in total) at each sale/disposal;
    - (iv) if relevant, the amount of commission/ brokerage paid at each sale / disposal; and
  - (f) if the Group Member is not the registered owner of the Downer Shares:
    - (i) the full name and postal address of the registered owner of the Downer Shares; and
    - (ii) a copy of the system-generated report of the kind described at paragraph 20 to the affidavit of Samuel Taylor affirmed 4 June 2025 ('System-Generated Report'); and
    - (iii) confirmation that, to the best of their knowledge, the trades have not been registered by any other person or entity.
14. For the avoidance of doubt, failure by a Group Member to provide every item of information specified in paragraph 13 will not render the Group Member's registration invalid provided the Group Member is identifiable as such based on the information provided.
15. A Group Member is deemed to be a Registered Group Member if, by **18 July 2025**, the Group Member has retained the Plaintiffs' solicitors in writing to act for that Group Member in connection with this proceeding.
16. Group Members who are deemed to have registered by the operation of paragraph 15 above will be requested to use their best endeavours to submit to the Plaintiffs' solicitors, either directly or through a third party retained by them, as soon as practicable but, in any event, by the Class Deadline, the same information as other Registered Group Members are requested to submit pursuant to paragraph 13 above.

### **Class Closure**

17. Pursuant to ss 33ZF and 33ZG of the Act, and subject to any further order of the Court, any Group Member who, by the Class Deadline, does not register or opt out of the proceeding in accordance with the manner provided for in this Order:
- (a) will remain a Group Member in this proceeding for all purposes, including for the purpose of being bound by any judgment in this proceeding and being bound by the terms (including releases) of any approved settlement of the proceeding; and
  - (b) shall not, without leave of the Court, be permitted to seek any benefit pursuant to any in-principle settlement (subject to the approval of the Court) of this proceeding reached at the Court Ordered Mediation or within 12 weeks of the conclusion of the Court Ordered Mediation ('Class Closure Order').
18. If no in-principle settlement of this proceeding is reached at the Court Ordered Mediation or within 12 weeks of the conclusion of the Court Ordered Mediation, and if any party intends to seek to extend the operation of the Class Closure Order, any party may approach chambers seeking such orders. At that point, any party may propose such regime for notification of Group Members that the party considers reasonable and



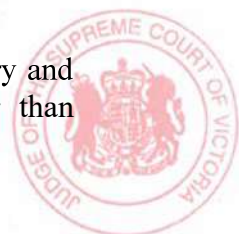
appropriate in the interests of Group Members, including by proposing that Group Members not be provided with further notification.

### **Registered Group Member Information**

19. By **4:00pm** on **22 October 2025**, the Plaintiffs must deliver to the solicitors for the Defendants and the Third Parties (together, the ‘Responsive Parties’) a list of Registered Group Members, which list shall contain (if available):
- (a) a unique identification number for each Registered Group Member;
  - (b) the information listed at paragraph 13(a) to 13(f)(i) and 13(f)(iii) for each Registered Group Member, to be provided in .csv format or in a tabbed delimited text file;
  - (c) any amendments to the information as notified to the solicitors for the Plaintiffs, either directly or through a third party retained by them, by that date.
- 19A For any Registered Group Member for whom a System-Generated Report was provided to the solicitors for the Plaintiffs, the information contained in the list referred to in paragraph 19 shall accord with that contained in the System-Generated Report, subject to specific amendments to the information in that report which are either expressly confirmed by the Registered Group Member or result in the removal of ineligible transactions.
- 19B Access to the list of Registered Group Members provided to the solicitors for the Responsive Parties in accordance with paragraph 19, and the information contained in that list, unless and until ordered by the court or otherwise agreed in writing by the parties, is to be restricted to:
- (a) the Responsive Parties’ external legal advisers who are directly working on this proceeding; and
  - (b) any experts retained by the Responsive Parties in the proceeding.
20. By **4:00pm** on **22 October 2025**, the Plaintiffs must file, by email to the Associate to the Honourable Justice Delany on a confidential basis, a list of Registered Group Members which list shall contain (if available):
- (a) a unique identification number for each Registered Group Member;
  - (b) the information listed at paragraph 13 for each Registered Group Member; and
  - (c) any amendments to the information as notified to the solicitors for the Plaintiffs, either directly or through a third party retained by them, by that date.
21. The list of Registered Group Members provided in accordance with paragraph 19, and any information contained therein, are to be kept and treated at all times as confidential by:
- (a) the solicitors for the Responsive Parties;
  - (b) those officers and employees of the Responsive Parties who have the conduct of this proceeding on behalf of the First Defendant and Second Defendant;
  - (c) the Responsive Parties’ insurers (and their legal advisors); and
  - (d) experts retained by the Responsive Parties’ in the proceeding.

### **Mediation**

22. The parties are to mediate the parties’ claims in the proceeding, and all ancillary and consequential matters by Court Ordered Mediation to commence no later than **12 December 2025**.



23. The Court Ordered Mediation is to be conducted by a private mediator agreed between the parties, or in default of agreement to be appointed by the Court.
24. The parties must serve mediation position papers on dates to be mutually agreed, in advance of the scheduled Court Ordered Mediation.
25. Subject to the terms of this Order, the solicitor for the plaintiff must, after consultation with all parties, deliver to the mediator a copy of this order, all pleadings (including requests for further and better particulars) and a copy of any other necessary information, and take all steps necessary to ensure that the mediation commences as soon as practicable.
26. The mediation must be attended by those persons who have the ultimate responsibility for deciding whether to settle the dispute and the terms of any settlement and the lawyers who have ultimate responsibility to advise the parties in relation to the dispute and its settlement.
27. By **12 January 2025**, the mediator is to report back to the Court, by email to [chambers.delany@supcourt.vic.gov.au](mailto:chambers.delany@supcourt.vic.gov.au), as to the status of the mediation.
28. Subject to further order, the costs of the mediation be paid in the first instance by the parties in equal shares.

**Costs and further directions**

29. The proceeding be listed for a case management conference on **13 February 2025** before Justice Delany.
30. Costs reserved.
31. Liberty to apply.

**DATE AUTHENTICATED: 2 July 2025**



The Hon. Justice Delany

## **SCHEDULE OF PARTIES**

JUSTINE LIDGETT

First Plaintiff

CAMERON LIDGETT

Second Plaintiff

- and -

DOWNER EDI LIMITED (ACN 003 872 848)

First Defendant

KPMG (A FIRM) (ABN 51 194 660 183)

Second Defendant