

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 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:

For each dollar of any award or settlement that is recovered:	The applicable percentage (including GST) is:
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 from 16 May 2025.

Settlement administration costs

22. The Court will be asked to appoint Maurice Blackburn as the Administrator to 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.
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 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 before the Supreme Court of Victoria, on 15 December 2023 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.

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.
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
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 at:

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 OR contact name (if different from name of Group Member)	
Capacity of person completing Notice of Objection (<i>select one</i>)	<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.

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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

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

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.