

SUPREME COURT OF QUEENSLAND

CITATION: *Merrett & ors v State of Queensland (Queensland Police Service) & anor (No 2)* [2026] QSC 154

PARTIES: **DELLA MERRETT**
(first plaintiff)
SHANE ALLEN ANDREW BRENT POKAI
(second plaintiff)
DEBORAH POKAI
(third plaintiff)
v
STATE OF QUEENSLAND (QUEENSLAND POLICE SERVICE)
(first defendant)
KATARINA RUHZ CARROLL
(second defendant)

FILE NO/S: BS No 14484 of 2024

DIVISION: Trial Division

PROCEEDING: Application

ORIGINATING COURT: Supreme Court at Brisbane

DELIVERED ON: 26 June 2026

DELIVERED AT: Brisbane

HEARING DATE: 29 May 2026

JUDGE: Williams J

ORDER: **Order as per attachment A to these reasons.**

The Court will hear further from the parties as to the costs of the Soft Class Closure Application.

CATCHWORDS: PROCEDURE – CIVIL PROCEEDINGS IN STATE AND TERRITORY COURTS – CLASS ACTIONS OR GROUP PROCEEDINGS – where the parties agreed on a form of order arising out of a previous decision – where parties disagreed on whether a soft class closure order should be included – where defendants filed an application – where the defendants contended it was an appropriate time in the proceedings to make the order – where the plaintiffs argued that the proceedings were at too early of a stage to make the order – whether the order should be made

Civil Proceedings Act 2011 (Qld), s 103R, s 103T, s 103U, s 103ZA

Information Privacy Act 2009 (Qld), QPP 6, Sch 4
Uniform Civil Procedure Rules 1999 (Qld), r 5

Cayzer v Phoslock Environmental Technologies Ltd (Opt Out and Registration Notice) [2026] FCA 438, cited

J Wisbey & Associates Pty Ltd v UBS AG (No 2) [2024] FCA 147, cited

Lendlease Corporation Ltd v Pallas (2025) 99 ALJR 834, considered

Merrett & ors v State of Queensland (Queensland Police Service) & anor [2026] QSC 19, cited

Mumford v EML Payments Ltd [2026] VSC 143, cited

Nelson v Beach Energy Ltd [2025] VSC 339, cited

Preece v Aristocrat Leisure Limited [2025] FCA 742, considered

COUNSEL: D Villa SC, with B Coyne, for the plaintiffs
 J Horton KC, with D Favell, for the defendants

SOLICITORS: Sibley Lawyers for the plaintiffs
 Crown Law for the defendants

- [1] On 11 March 2026 reasons for decision were delivered in *Merrett & ors v State of Queensland (Queensland Police Service) & anor* [2026] QSC 19 (**Reasons**). These reasons use the defined terms in the Reasons, unless stated to the contrary.
- [2] Orders were made on 11 March 2026 in respect of the costs of the Security for Costs Application and the Class Challenge Application. Further, directions were made for the parties to liaise and agree a form of orders in respect of the Opt-Out Notice Application or for further submissions if the form of orders could not be agreed.
- [3] The parties ultimately have been able to agree the form of orders arising out of the Opt-Out Notice Application (**Opt-Out Procedure Orders**),¹ except for whether a soft class closure order should be included. The defendants were further directed to file an application in respect of whether a soft class closure order should be made. The defendants filed an application on 8 May 2026 and an amended application on 15 May 2026 (**Soft Class Closure Application**). The Soft Class Closure Application was heard on 29 May 2026.
- [4] By way of the Soft Class Closure Application the defendants seek an order that the Notice to Group Members include a registration process to facilitate any mediation or settlement discussions (**Soft Class Closure Order**). The defendants contend that it is appropriate for the Court to make the Soft Class Closure Order in the terms of their proposed draft orders.² The plaintiffs contend that the Soft Class Closure Application should be dismissed, and the Court should otherwise make the agreed Opt-Out Procedure Orders.

¹ These are the form of orders proposed by the plaintiffs, MFI B.

² MFI A includes the Opt-Out Procedure Orders, together with the defendants' the Soft Class Closure Order.

- [5] It is not contentious between the parties that the Court has power to make an order of the nature of the Soft Class Closure Order.³ Nor is it contentious that it may be appropriate to make the Soft Class Closure Order (or a variation of it) in this proceeding at some point. What is contentious between the parties is whether the Soft Class Closure Order should be made at this stage.
- [6] The issue to be determined is whether it is appropriate to make the Soft Class Closure Order at this stage.
- [7] Before considering that issue, it is necessary to consider some relevant context.

Context

- [8] The Class Challenge Application sought various orders including a form of soft class closure in respect of a subset of the Vaccine Coercion Group Members⁴ or sworn/affirmed evidence that the members of the Vaccine Coercion Group were coerced.⁵
- [9] The pleadings in respect of the Vaccine Coercion Group were discussed extensively at the hearing and the plaintiffs had two opportunities to clarify the pleaded case. Ultimately, the defendants did not press for the relief sought in the Class Challenge Application given the “Updated Proposed Amended Claim” and “Updated Proposed Amended Statement of Claim” provided on 6 February 2026. However, costs of the Class Challenge Application and the making of soft class closure orders at some stage remained in issue.
- [10] In respect of the Opt-Out Notice Application, the Reasons expressly acknowledge that the parties would be heard further as to the contents of the Opt-Out Notice and the Notice to Group Members.⁶ As a matter of logic, the respective notices could not be finally settled until the determination of the Class Challenge Application, including the proposed amendments to the claim and statement of claim.
- [11] Following the publication of the Reasons on 11 March 2026, in accordance with the directions the parties did liaise as to the form of orders. At a review on 16 April 2026 further directions were made to crystallise what was in dispute in respect of the form of orders, including the content of the notices. Correspondence on 17 April 2026 on behalf of the plaintiffs and on 1 May 2026 on behalf of the defendants identified the dispute as being in respect of the Soft Class Closure Order only. Subsequently the Soft Class Closure Application was filed.
- [12] The Soft Class Closure Order sought is that the notice to group members pursuant to s 103T(1)(a) of the CP Act is also to notify the group members of the following matters:

“(a) The proceeding is likely to be mediated and a settlement might be reached;

³ *Lendlease Corporation Ltd v Pallas* (2025) 99 ALJR 834. Section 103T(5) of the CP Act is identical to s 175(5) of the *Civil Procedure Act 2005* (NSW) considered by the High Court.

⁴ See [3] of the Class Challenge Application.

⁵ See [3] of the Class Challenge Application.

⁶ At [24] of the Reasons.

- (b) To ensure they are not excluded from receiving a benefit from any settlement, each group member must register and advise the plaintiffs that they wish to be noted as a group member for the purposes of any mediation and/or settlement negotiations;
- (c) Should a group member fail to advise the plaintiffs as per (b) above, then they will be at risk of not being able to benefit in any such settlement.”⁷

- [13] The plaintiffs complain that the defendants did not propose a registration-based process until correspondence on behalf of the defendants on 14 April 2026. That is not determinative of the issue. The legacy of the way that the Class Challenge Application was resolved was that a form of soft closure order may have been sought by the defendants. It was ultimately sought in the form of the proposed Soft Class Closure Order.
- [14] The procedure in the Opt-Out Procedure Orders is also relevant. The procedure involved is relatively complicated due to the changing numbers of relevant people on leave or secondment, or who have left the employment of the Queensland Police Service and also minimising the impact on privacy by limitations on the use of the personal information of the individuals to receive the notice.
- [15] It is in this context that the defendants submit that the Soft Class Closure Order should be made at this stage so the relevant notice can be given as part of the procedure under the Opt-Out Procedure Orders.
- [16] Further, to the extent that there is an impact on privacy rights it is relevant that that impact should be minimised and/or reasonable and proportionate in the circumstances. This would remain consistent with the QPP Privacy Policy, particularly QPP 6 and Schedule 4.
- [17] Turning to consider the matters relevant to whether it is appropriate to make the Soft Class Closure Order at this stage.

Is it appropriate to make the Soft Class Closure Order at this stage?

- [18] Several provisions of the CP Act are relevant, including:
 - (a) Section 103T(5): “The court may, at any stage, order that notice of any matter be given to a group member or group members.”
 - (b) Section 103U(1): “The form and content of a notice under section 103T must be approved by the court.”
- [19] Section 103R is also relevant to the wider purpose of the proposed Soft Class Closure Order in relation to a mediation or negotiated outcome. Section 103R of the CP Act provides:
 - “(1) A representative proceeding may not be settled or discontinued without the approval of the court.

⁷ Soft Class Closure Application at [1].

- (2) If the court gives approval under subsection (1), it may make any orders it considers just for the distribution of money paid under a settlement or paid into the court.”

- [20] By s 103ZA of the CP Act there is a general power to make “any order the court considers appropriate or necessary to ensure justice is done in the proceeding.” However, the High Court reasoning in *Lendlease Corporation Limited v Pallas*⁸ excludes that section being used to make a soft class closure order.⁹
- [21] A number of authorities are referred to by the parties in their submissions. Many of them pre-date the High Court’s decision in *Lendlease Corporation Limited v Pallas*.¹⁰ Given the High Court’s clarification of the power to make a soft class closure order, authorities decided subsequent to that decision are the most relevant.
- [22] Further, the question of whether it is appropriate to make a soft class closure order is dependent on the particular facts in the case being considered. This is not contentious between the parties. The authorities do provide some assistance in identifying the approach to the exercise of the Court’s discretion and the factors that may be relevant. Again, the authorities that follow the High Court’s decision in *Lendlease Corporation Limited v Pallas*¹¹ are of the most assistance.
- [23] In *Lendlease Corporation Limited v Pallas*,¹² as part of the High Court’s consideration of whether the Court had power to make a soft class closure order (including ahead of a mediation), the purposes of such an order were also considered. The purposes were:
- (a) To encourage unregistered group members to either opt out prior to any mediation or to opt in to avoid the risk of missing out on the benefit of any settlement that may be agreed before final judgment.
 - (b) In respect of any application for approval of a settlement, to arm the plaintiff and the defendant with an argument that non-registered group members should not be permitted to participate in any settlement where they were given the above options and did not avail themselves of that opportunity.¹³
- [24] Gageler CJ, Gleeson and Jagot JJ further “unpacked” the two purposes of the notice as follows:

“[17] Unpacking these two purposes further, it is apparent that the concept of “opting out” of a representative proceeding is a part of the statutory scheme... Fundamental to the statutory scheme is that a person may be a member of the group without their consent... or, indeed, their knowledge. A person who is a member of the group must have an opportunity to opt out of membership before the proceeding is heard... At a practical level, a person must know they are a member of the group to have a meaningful opportunity to opt out of group

⁸ (2025) 99 ALJR 834.

⁹ At [42] per Gageler CJ, Gleeson and Jagot JJ.

¹⁰ (2025) 99 ALJR 834.

¹¹ (2025) 99 ALJR 834.

¹² (2025) 99 ALJR 834.

¹³ At [16].

membership. To facilitate group members knowing they are group members, notice must be given to them of, amongst other things, the commencement of the proceedings and their right to opt out of the proceedings before the date fixed...

[18] In contrast, being “registered” or “unregistered” as a group member is not a part of the statutory scheme. The concept of “registering” as a group member is a result of the practical operation of several aspects of the statutory scheme. The statutory process of a group member opting out of group membership means that the representative plaintiff and the representative plaintiff’s lawyers will know the number of people who are not group members but, without something more, will not know the number of group members. In some cases, estimating the number of group members with a reasonable degree of accuracy may be simple. In other cases, estimating the number of group members with a reasonable degree of accuracy may be impossible...”

[25] Their Honours then went on to describe the various interests in this process. The interests of the representative plaintiff and the representative plaintiff’s lawyers in being able to estimate with a reasonable degree of accuracy the number of group members include:

- (a) Negotiating an appropriate settlement.¹⁴
- (b) Facilitating the Court approving the settlement.
- (c) Facilitating the Court making such orders as are just with respect to the distribution of any money paid under the settlement.
- (d) If the case does not settle, facilitating the Court working out the award of damages and making orders for the payment or distribution of the money to the group members entitled.

[26] The defendant and the defendant’s lawyers have the same interests as identified above, plus some particular interests, including:

- (a) To better estimate the defendant’s total potential liability to those who are group members and also to estimate its potential liability to those who opt out, preserving their own cause of action against the defendant.
- (b) To negotiate a settlement with the representative plaintiff with greater confidence as to the total potential liability, “including by minimising the risk of group members who have neither registered their participation in nor opted out of the representative proceeding, after settlement, seeking to benefit from the terms of the settlement”.¹⁵
- (c) By maximising the number of group members known to the defendant and the defendant’s lawyers before a settlement is negotiated, ensuring the settlement

¹⁴ For example, to ensure that the settlement negotiated involves an amount appropriate for distribution between all participating group members.

¹⁵ At [19].

can be tailored accordingly and ensuring that the maximum number of group members are bound by the approved settlement.

- [27] In particular, their Honours noted that it would be “undesirable” from the perspective of the defendant and the defendant’s lawyers to negotiate with a relatively small portion of the potential group members and then, when seeking approval of the settlement, other group members wanted a share, to increase the settlement amount or to opt out at a late stage.
- [28] Also relevant to the consideration of these interests, Gageler CJ, Gleeson and Jagot JJ went on to observe:

“[22] The salient point is this. It is not to be assumed that the interests of a representative plaintiff and the representative plaintiff’s lawyers are continuously consistent and congruent throughout a representative proceeding. It is not to be assumed that the interests of a defendant and the defendant’s lawyers are continuously consistent and congruent throughout a representative proceeding. It is also not to be assumed that the interests of a representative plaintiff and the representative plaintiff’s lawyers, in respect of each step in a representative proceeding, are opposed to the interests of a defendant and the defendant’s lawyers in that proceeding. Equally, it is not to be assumed that the interest of a representative plaintiff and representative plaintiff’s lawyers are inconsistent and incongruent with the interests of group members who have neither opted out nor registered their participation in the proceeding. There are potential and actual inconsistencies of interests between all of these persons, but those inconsistencies will wax and wane depending on the circumstances. The potential for inconsistencies of interests is inherent in the statutory scheme and is to be managed by the Court in the interests of the administration of justice as they appear in the circumstances of each case.”

- [29] The salient point identified in *Lendlease Corporation Limited v Pallas*¹⁶ is relevant to the consideration of whether it is appropriate to make the Soft Class Closure Order at this stage in the current matter. The various interests may pull in different directions at a point in time, but the Court is to manage those interests, in the interests of justice in the particular circumstances of the case.
- [30] In *Mumford v EML Payments Ltd*¹⁷ the Court considered an application for approval of a settlement where a soft class closure order had been made. Nichols J considered the High Court decision in *Lendlease Corporation Limited v Pallas* and further observed:

“[55] Among other things, the registration scheme provided for by soft closure facilitates a rational foundation for the mediation of the proceeding and the making of credible settlement

¹⁶ (2025) 99 ALJR 834.

¹⁷ [2026] VSC 143.

offers. Considered broadly and prospectively, achieving those things is in the interests of group members.”

[31] Subsequently to the High Court decision in *Lendlease Corporation Limited v Pallas*, Courts have grappled with the exercise of the discretion to make a soft class closure order, and the circumstances in which it is appropriate, or not, to make such an order. Whilst these cases turn on their particular facts, the cases do assist in identifying the considerations relevant to the exercise of the discretion.

[32] Anderson J in *Preece v Aristocrat Leisure Limited*¹⁸ helpfully summarised the relevant considerations. Whilst this decision predates *Lendlease Corporation Limited v Pallas* it remains a helpful starting point. The relevant considerations as stated in *Preece v Aristocrat Leisure Limited*¹⁹ include as follows:

“40 The question before the Court is whether it is an appropriate exercise of that power in the circumstances of this proceeding. The relevant matters for the Court to take into account in exercising its power will differ in each case, with there being no “one size fits all” approach. The courts have found that relevant considerations can include:

- (a) whether it is in the interests of group members as a whole to require registration before any prospective settlement is on the table;
- (b) the point at which the proceeding has reached;
- (c) the attitude of the parties;
- (d) the complexity and likely duration of the case;
- (e) whether group members have adequate notice and a reasonable time to decide whether to register;
- (f) whether an estimate of the size and number of claims can be made; and
- (g) the extent to which a registration process is likely to improve the prospects of achieving a reasonable settlement: *J Wisbey & Associates Pty Ltd v UBS AG (No 2)* [2024] FCA 147 (Beach J), [69] – [70]; *Alford v AMP Superannuation Ltd (No 2)* [2024] FCA 423 (Murphy J), [4].”

[33] The “paramount factor” is the extent to which a registration process is likely to improve the prospects of achieving a reasonable settlement.²⁰

[34] In the current case, the plaintiffs and the defendants agree on the principles but diverge in their application of them. Considering these issues through the considerations summarised in *Preece v Aristocrat Leisure Limited* assists in

¹⁸ [2025] FCA 742.

¹⁹ [2025] FCA 742.

²⁰ *J Wisbey & Associates Pty Ltd v UBS AG (No 2)* [2024] FCA 147 at [70].

identifying the actual difference between them and whether the discretion favours the making of the Soft Class Closure Order or not.

[35] Turning to consider each in turn.

Whether it is in the interests of group members as a whole to require registration before any prospective settlement is on the table

[36] The defendants point to the following factors as relevant to this issue:

- (a) All parties will benefit from having an indication as to the number of people that comprise the group membership.
- (b) Waiting until after a settlement, is likely to lead to further costs.
- (c) There is real uncertainty as to the group members in the second sub-group, in respect of the number of group members and the measure of damage.
- (d) A settlement scheme is not appropriate in respect of the second sub-group as definitive criteria cannot be applied.
- (e) The importance of telling group members about the mediation and the defendants' intention to ask the Court to limit the benefit of any settlement, if one is reached, to those who had registered, supports the Soft Class Closure Order being made now.
- (f) The notification process is about to occur, following the Opt-Out Procedure Orders being made, and given the complexities involved in the notice procedure it is preferable to give notice of the registration procedure at the same time. This is particularly so where the numbers of the individuals who are to be mailed letters is constantly changing with people leaving the employment of the Queensland Police Service or going on leave or secondment.
- (g) Multiple notices and correspondence are likely to lose their effect.
- (h) With the passage of time, the reliability of the last known email and postal address is diminished.

[37] The plaintiffs contend that:

- (a) There are characteristics of the current proceeding that would enable a settlement scheme to be negotiated. This could include that sworn evidence of the adverse impacts of being mandated to receive the vaccinations be provided as the threshold to obtain general damages. Further, economic loss could be estimated from employment records.
- (b) The Soft Class Closure Order does not seek any information as to quantum, so the registration process provides no assistance in the negotiation of a settlement scheme.
- (c) The group members could be informed of a mediation and a likely registration process if any settlement is achieved, without a registration process at this early stage.
- (d) A "process settlement" could be achieved requiring engagement by group members with the administrator of a settlement scheme to quantify the individual losses.

- (e) Even if there was a lump sum settlement, further notices to group members would be required, further engagement by group members and further supervision by the Court. The Soft Class Closure Order does not obviate this.
- (f) The legislation provides that notice must be given to group members in certain circumstances. Accordingly, it may be unavoidable that multiple notices are given to group members. Further, if there is a settlement at mediation, it is likely that further notices will have to be given even if the Soft Class Closure Order is made.
- (g) It is common that multiple notices be issued in representative proceedings and there is no rational or evidentiary basis for the assertion that multiple notices are likely to lose their effect. Further, there is no evidentiary or rational basis for the contention that a later opt-in procedure somehow risks the goal of group members receiving notice.

[38] In addition, the plaintiffs contend that it would not be in the interests of justice to make the Soft Class Closure Order.

The point at which the proceeding has reached

[39] The defendants submit that notwithstanding the recent amendments by the plaintiffs, the pleadings are essentially closed. Mediation is the next logical step. The defendants point to the position of the plaintiffs in respect of mediation outlined in September 2025. This was a straight-forward process with a mediation by 12 December 2025, being just over two months after the opt-out notice being issued.

[40] The plaintiffs say that the current proceedings are at a relatively early stage and as a result the Soft Class Closure Order is inappropriate and premature. Here, it is submitted the pleadings are not closed, lists of documents have been provided but documents have not yet been requested, the parties have not conferred about whether a quantum sampling assessment would be of assistance for the mediation and there is no evidence served by any of the parties, including in respect of quantum of the plaintiffs' claims and the group members' claims. The plaintiffs indicate that they intend to seek further disclosure of documents from the defendants in relation to quantum to assist in the preparation for any mediation.

[41] In support of this submission, the plaintiffs contend that the cases where a soft class closure order was made were "much more advanced" than here. This includes pleadings finalised, discovery substantially complete, lay witness evidence filed, expert evidence filed, a mediation scheduled, and the trial listed.²¹

[42] In respect of the September 2025 estimate of the steps prior to mediation, the plaintiffs submit that the previous statement failed to appreciate the time and resources required for the Opt-Out Procedure Orders. Further, that in hindsight a proposal for a mediation by 12 December 2025 was "unrealistic".

The attitude of the parties

[43] The defendants note that the plaintiffs appear to accept a soft class closure order is appropriate, just not at this point of time. At the time of the written submissions, the

²¹ *Nelson v Beach Energy Ltd* [2025] VSC 339.

defendants submitted that the plaintiffs had not identified any particular steps that needed to be taken before the orders could be made. This has now been done in the plaintiffs' responsive submissions and separately addressed.

[44] The plaintiffs are opposed to the Soft Class Closure Order being made at this time. The plaintiffs contend that the opposition of a party to a soft class closure order is a factor that is to be taken into account by the Court in exercising the discretion.²² Further, it is submitted that it is not usually enough to support the exercise of the discretion on the basis of an assertion that a party is unwilling to discuss settlement unless a soft class closure order is made.²³

[45] The plaintiffs also refer to the decision in *J Wisbey & Associates Pty Ltd v UBS AG (No 2)*²⁴ where the proceeding was at a "sufficiently advanced stage", the required expert evidence would be costly and extensive and there were "particular obstacles" to achieving settlement without registration. Despite soft class closure orders usually being made with the support of all parties, in that case Beach J made the orders where there was opposition. The "particular obstacles" included the potential size of the group was not known and was unable to be ascertained given the wide definition of a group member in that case, including that they could be in the group even if they had no trading relationship.

[46] Beach J also observed that:

"[80] In addition to facilitating settlement negotiations, registration will provide the parties with a foundation to ensure that the ongoing conduct of the proceeding is proportionate to the potential size of the claim."

[47] His Honour went on to conclude:

"[127] In my view, a registration process would enable the parties to know how many group members will participate and to estimate the maximum size of their claims after accounting for overseas settlements. It is the only way that information can be obtained. And that information is likely to significantly increase the prospects of achieving a reasonable settlement."

The complexity and likely duration of the case

[48] The defendants contend that the case is relatively straightforward. Further, it is anticipated that there is unlikely to be further lengthy amendments to the pleadings or lengthy disclosure. The trial itself would not be very lengthy.

[49] The plaintiffs' case can be understood to be that the COVID-19 Directions issued by the then Commissioner of Police were unlawful from the outset and as a consequence provided no basis for the Commissioner to direct the Queensland Police Service employees to be vaccinated or to receive a booster.

²² *J Wisbey & Associates Pty Ltd v UBS AG (No 2)* [2024] FCA 147 at [54].

²³ *J Wisbey & Associates Pty Ltd v UBS AG (No 2)* [2024] FCA 147 at [55].

²⁴ [2024] FCA 147.

[50] The case is then slightly different for each of the first to third plaintiffs, and the corresponding sub-groups, namely:

- (a) ***first plaintiff/Vaccine Refusal Group***: could never have been the subject of lawful disciplinary action on account of a failure to comply with the COVID-19 Directions. Relevantly, the damage allegedly suffered is by reason of the disciplinary action that was taken.
- (b) ***second plaintiff/Vaccine Coercion Group***: would not have been vaccinated but for the COVID-19 Directions. Relevantly, damage is alleged to have been suffered by reason of the vaccination/booster being administered without free will, but no specific harm is identified.
- (c) ***third plaintiff/Refused Medical Exemption Group***: would not have been initially vaccinated but for the COVID-19 Directions and then later, having been refused a medical exemption, would not have obtained a booster but for the COVID-19 Directions. Relevantly, damage is alleged to have been suffered by reason of the vaccination/booster being administered without free will. The third plaintiff is alleged to have experienced adverse side effects.

[51] The plaintiffs point to the complexity of the case in *J Wisbey & Associates Pty Ltd v UBS AG (No 2)*²⁵ as being a distinguishing feature. In that case the proceedings were at a more advanced stage and involved multiple overseas proceedings which had settled and there was potential overlap between group members. It also involved extensive expert evidence that was likely to involve millions of dollars.

[52] However, the plaintiffs do agree that this case is relatively straightforward, particularly given:

- (a) There is a known confined class whose upper limit is known to the parties. That is, 18,987 current/former employees of the Queensland Police Service.
- (b) Lay evidence is not likely to be extensive.
- (c) Forensic accounting expert evidence may be required to calculate the economic loss/loss of opportunity of the first, second and third plaintiffs.

[53] As indicated above, the plaintiffs are considering a quantum sampling exercise in preparation for mediation by briefing a forensic accountant. However, this has not yet been done. This could be undertaken in negotiation with the defendants providing relevant employment records.

Whether group members have adequate notice and a reasonable time to decide whether to register

[54] The Soft Class Closure Order proposes a period of 12 weeks from the date of the orders being made for group members to register for the purposes of mediation/settlement. The defendants point to examples in other cases where 12 weeks was considered “demonstrably adequate”²⁶ and in one case the lesser period of six weeks was ordered.²⁷

²⁵ [2024] FCA 147.

²⁶ *Nelson v Beach Energy Ltd* [2025] VSC 339 at [30].

²⁷ *Cayzer v Phoslock Environmental Technologies Ltd (Opt Out and Registration Notice)* [2026] FCA 438, Stewart J.

- [55] The plaintiffs submit that there is a risk that a period of 12 weeks for class registration is an insufficient period given a significant number of group members are no longer employed by the Queensland Police Service and may not receive the personal service pursuant to the Opt-Out Procedure Orders. There is a risk that group members could “fall through the cracks” and they could suffer significant prejudice by failing to register.

Whether an estimate of the size and number of claims can be made

- [56] The defendants accept that for the purposes of a mediation/settlement it is possible to estimate the number of people in the Vaccine Refusal Group and the Refused Medical Exemption Group, as there would be available records in respect of those who had been subject to disciplinary action or who made an application for a medical exemption.
- [57] However, in respect of the Vaccine Coercion Group the defendants contend that without a registration process the only way of estimating the number of people in this sub-group is to assume all of the Queensland Police Service employees would not have received a vaccination or booster but for the Police Commissioner’s Directions. The estimate would be the total 18,987 employees, less those in the first and third sub-groups.
- [58] The plaintiffs agree that it is possible to estimate the number of people that comprise the Vaccine Refusal Group and the Refused Medical Exemption Group given the employment records. Given the notice for the Soft Class Closure Order does not request information as to quantum, there is no basis identified by the defendants that the registration process will assist the defendants in estimating quantum.
- [59] In respect of the Vaccine Coercion Group, the plaintiffs submit that the number of group members could be estimated based on the “upper limit of potential group members”, being the 18,987 people employed. The plaintiffs submit that employment records may show the number of persons who voluntarily received the vaccine prior to the Directions being imposed and that could give an estimate of persons who did not fit within the definition of group members. Deducting that number from the 18,987 could provide a reasonable estimate.
- [60] In any event, even if the Soft Class Closure orders are made and a settlement scheme agreed to, the defendants may still require sworn/affirmed evidence that the people were coerced before being able to access any settlement money. That would involve additional cost and a further registration process in any event.
- [61] The proposed notice as part of the Soft Class Closure Order could have sought quantum information as to general damages and economic loss but does not. In any event, a settlement could be structured to account for any uncertainty. For example, placing caps on the total amount to be paid and caps on individual claims.

The extent to which a registration process is likely to improve the prospects of achieving a reasonable settlement

- [62] In respect of the Vaccine Coercion Group, the defendants submit that the registration process is likely to provide some indication of how many Queensland Police Service employees allege they would not have received a vaccination and/or booster but for

the declarations issued by the then Police Commissioner. It is submitted that such an indication would improve the prospects of a credible settlement offer being made and also a rational settlement being achieved.

- [63] The plaintiffs submit that the approach to any settlement negotiations is unknown until the parties appear at any mediation. The notice for the purpose of mediation/settlement does not request any additional quantum information than what is already available. In these circumstances, the plaintiffs contend that it appears that the Soft Class Closure Order is an attempt to impermissibly narrow the size of the class, rather than assisting the Court to attempt to progress the proceedings in accordance with the statutory regime.
- [64] The defendants have access to information to be able to estimate the number of group members and the size of each sub-group. Consequently, it is possible to undertake an estimate of quantum for the purposes of a mediation. No further quantum information is sought to assist with the quantum estimation, in any event.
- [65] In these circumstances, the plaintiffs submit that the proposed Soft Class Closure Order will not assist the mediation and should not be included in the Opt-Out Procedure Orders.

Consideration

- [66] As is evident from the positions taken by the parties in respect of each of the factors discussed above, the considerations pull in different directions, at least to some extent. Some aspects favour the making of the Soft Class Closure Order and some tend against the making of the order.
- [67] The Court is also to consider the broader interests of justice. This includes consideration of the purpose in r 5 of the UCPR to facilitate the just and expeditious resolution of the real issues in civil proceedings at a minimum of expense and that the parties impliedly undertake to proceed in an expeditious way. This purpose is reinforced in *Practice Direction Number 8 of 2023 "Class Actions List"* (**Class Actions List Practice Direction**).²⁸
- [68] The Class Actions List Practice Direction provides that as a matter of general practice a matter managed on the Class Actions List will be referred to mediation "at an appropriate time".²⁹ Whilst the parties are to decide the timing of the mediation, that is in the context of the on-going case management of a matter on the Class Actions List.
- [69] Here, the proceeding has been case managed and several interlocutory applications have now been dealt with.
- [70] At the end of the hearing of the Soft Class Closure Application, it was proposed that the defendants could file a further amended defence in a reasonably short period of time. The amended reply could then follow. It is not apparent that the pleadings would require the postponement of the Soft Class Closure Order as the pleadings are likely to be closed in a short period of time.

²⁸ At [7].

²⁹ At [34].

- [71] Further, at the hearing an issue in respect of disclosure of a limited category of documents³⁰ was raised by the plaintiffs, but again that is narrow and confined and would not justify the postponement of the Soft Class Closure Order.
- [72] This is not a case where there is likely to be extensive lay and expert evidence. While some work may need to be done in respect of quantum, in relation to both the plaintiffs and wider group members, for any mediation, that also could be done in parallel to the procedure in the Opt-Out Procedure Orders, including the Soft Class Closure Orders.
- [73] The foreshadowed quantum sampling exercise can also occur in parallel and would not justify the postponement of the Soft Class Closure Order. The registration of group members and the notification of which sub-group they believe they are in may assist in a quantum sampling exercise.
- [74] The proposed Mediation/Settlement Notice has provision for a postal and email address to be provided and also that the group members indicate whether they believe they are a Vaccine Refusal Group Member, a Vaccine Coercion Group Member or a Refusal Medical Exemption Group Member.
- [75] In respect of the Vaccine Coercion Group there is currently no information about how many are in that sub-group of the total “upper bound” of Queensland Police Service Employees less those in sub-group one and three. While some estimate may be able to be done based on identifying those who had a vaccination before the Directions were made, that may not provide a principled approach to identifying the size of the sub-group.
- [76] Given that some people may have received the vaccination or booster for other reasons (for example, due to the wider restrictions in the community for those who were unvaccinated or to protect vulnerable family members) without registration the number of people in the second sub-group is at best a “guess-timate” and may not be indicative of the true number of people in the sub-group.
- [77] As was recognised by Beach J in *J Wisbey & Associates Pty Ltd v UBS AG (No 2)*³¹ registration may operate to provide the parties with “a foundation to ensure that the ongoing conduct of the proceeding is proportionate to the potential size of the claim”.³² That is likely to occur here. It is currently not known whether the group members in the Vaccine Coercion Group are in the tens, the hundreds, the thousands or towards the “upper bound” of 18,987. The proportionality should become clearer through the registration process.
- [78] This will also enable more detailed consideration to be given to the quantum sampling exercise, as the approach may differ depending on the number of people in each of the sub-groups. Whilst the plaintiffs rely on the intention to engage in quantum sampling exercise as a factor against making the Soft Class Closure Order at this stage, it may in fact support the contrary position. That is, it may be more consistent with purpose in r 5 of the UCPR that the quantum sampling exercise be tailored and

³⁰ In respect of personnel files held by the first defendant.

³¹ [2024] FCA 147.

³² At [80].

focussed to the proportionate size of the sub-groups, and consequently favouring the making of the Soft Class Closure Order at this stage.

- [79] A registration process that would enable the parties to know how many group members will participate is likely to increase the prospects of achieving a reasonable settlement, in circumstances where there is really no other way of knowing with any level of precision how many people are in sub-group two.
- [80] The plaintiffs complain that there is no evidence as to how the prospects of achieving a settlement are increased. However, that is not really something that can be addressed by admissible opinion evidence. Rather, it can be inferred, is largely common sense and is consistent with the purposes and interests identified by the High Court in *Lendlease Corporation Limited v Pallas*.³³ Knowing the number of people in each sub-group will inform the analysis and preparation by both the plaintiffs and the defendants for the mediation,³⁴ which in turn will inform and shape the approach to the mediation itself and the structuring of offers. The likely consequence is, therefore, that the prospects of achieving a settlement are increased by making the Soft Class Closure Orders at this stage.
- [81] Further, the notification of a postal and email address updates the known contact details for the group members, which may also streamline them being contacted again in the future. It also minimises the impact on privacy and the concerns previously articulated about the QPP Privacy Policy. Consequently, the two step process of preparation of the envelopes with the notices by the plaintiffs and the Queensland Police Service affixing the address labels to minimise the inconsistencies with the QPP Privacy Policy may be able to be avoided or minimised in respect of any further notices to be given in the future.
- [82] Another factor to consider is timing. Firstly, the 12 week period to opt-out or register is an appropriate period of time. The plaintiffs' complaint that some people may not receive a notice by mail is not remedied by an extended period of time to either opt-out or register. The Opt-Out Procedure Orders include the placement of notices in key newspapers as the "safe guard" in respect of the possibility of out of date mail addresses. The 12 week period provides adequate time to consider the information, get advice if someone chooses to do so, make a decision regarding opting-out or registering, completing the appropriate form and filing/lodging it as required.
- [83] The second aspect of timing concerns the progress of the proceeding and the likely scheduling of a mediation. The position of the plaintiffs is that a mediation within two months of the end of the notice period is "unrealistic". It is preferable that group members are given notice as soon as possible of the intention to go to mediation and for them to register using the Mediation/Settlement Notice. The necessary further work can then be undertaken as expeditiously as possible this year. It may be that a mediation can then be scheduled early 2027.
- [84] Any further notices to be sent to group members will have the benefit of updated mail and postal addresses, as well as the minimisation of the privacy issues that previously arose. With it more likely that people are away over the Christmas/New Year period

³³ (2025) 99 ALJR 834.

³⁴ Including for example, the quantum sampling exercise.

that may also need to be factored into that planning of any notices before the mediation.

- [85] The Soft Class Closure Order being made at this stage is more consistent with the purpose in r 5 of the UCPR for the expeditious and efficient progress of the proceeding.
- [86] The factors of the point at which the proceeding has reached, the complexity and likely duration of the case, whether group members have adequate notice and a reasonable time to decide whether to register, whether an estimate of the size and number of claims can be made and the extent to which a registration process is likely to improve the prospects of achieving a reasonable settlement all largely point in favour of making the Soft Class Closure Order at this stage. The factor of the attitude of the parties is neutral: one supports, and one opposes. Opposition by a party is not determinative.
- [87] The question of whether it is in the interests of group members as a whole to require registration before any prospective settlement is on the table also tends to favour the Soft Class Closure Order being made at this stage. Here, the proceeding was commenced in 2024 in respect of events that occurred whilst people were employed in the period of 7 September 2021 and 12 December 2022. The issues underlying the lawfulness of the COVID-19 Directions were the subject of separate Supreme Court proceedings. There is an interest of group members to have the proceeding progress efficiently and expeditiously to mediation and if no settlement is reached, then to trial.
- [88] The salient point identified by Gageler CJ, Gleeson and Jagot JJ in *Lendlease Corporation Limited v Pallas*³⁵ is that interests of the plaintiffs, the plaintiffs' lawyers, the defendants, the defendants' lawyers and group members may vary between them and over time. The inconsistencies of interests are inherent in the statutory scheme and fall to be managed by the Court in the interests of the administration of justice as they appear in the circumstances of the case.
- [89] The purposes and interests described by the High Court in *Lendlease Corporation Limited v Pallas*³⁶ (and discussed and/or summarised at [23] to [28] above) are all advanced in the current case by all the parties knowing the number of people in each of the sub-groups and this is readily achieved by the proposed registration process.
- [90] In these circumstances, the interests of group members as a whole and the interests of justice favour making the Soft Class Closure Order at this stage.

Orders

- [91] In the circumstances, it is appropriate to make the orders in the terms of the draft provided by the defendants with some minor corrections, including typographical errors and formatting.³⁷ The orders have been updated with the dates calculated from the date the orders are made.³⁸

³⁵ (2025) 99 ALJR 834.

³⁶ (2025) 99 ALJR 834.

³⁷ MFI A.

³⁸ There were a couple of places where the Schedules to the proposed orders had not been updated with the date calculated from the date of the order. These dates have also been updated.

- [92] Accordingly, the orders are made as per Attachment A to these reasons.
- [93] The format of the Schedules in Attachment A was changed in the reproduction of the notices in these reasons. Formatting changes may need to be made to finalise the notices (for example, the style of numbering). Further, matters of style (for example, “Opt Out” not being hyphenated) may also need to be standardised. A revised version of the orders can be prepared and provided to the Associate to Williams J if any variation of the orders is required.
- [94] I will hear further from the parties as to the costs of the Soft Class Closure Application.

ATTACHMENT A

SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane

NUMBER: BS14484/24

First Plaintiff **DELLA MERRETT**

AND

Second Plaintiff **SHANE ALLEN ANDREW BRENT POKAI**

AND

Third Plaintiff **DEBORAH POKAI**

AND

First Defendant **STATE OF QUEENSLAND (QUEENSLAND
POLICE SERVICE)**

AND

Second Defendant **KATARINA RUHZ CARROLL**

ORDER

Before: Williams J

Date: 26 June 2026

Initiating document: Application filed by the plaintiffs on 20 October 2025 and
Amended application filed by the defendants on 15 May 2026

THE ORDER OF THE COURT IS THAT:

Opt-Out and Class Deadline

1. Pursuant to ss 103G(1) of the *Civil Proceedings Act 2011* (Qld) (the **Act**) and r 77D(1) of the *Uniform Civil Procedure Rules 1999* (Qld) (**UCPR**), the date and time by which a group member (as defined in the statement of claim) may opt out of this representative proceeding is fixed at **4:00pm on 18 September 2026 (Opt-Out Deadline)**.

Notice and Opt-Out

2. The form and content of the notice agreed by the parties and set out in **Schedule A** to these orders (**Notice to Group Members**) is approved for the purposes of ss 103T and 103U of the Act.

3. Pursuant to s 103ZA of the Act, the “Notice of Opting Out by Group Member” (Form135) set out in **Schedule B** to this Order (**Opt-Out Notice**) be approved for this proceeding for the purpose of r 77D of the UCPR.
4. Pursuant to ss 103T(5) and 103ZA of the Act, the “Notice for Purposes of Mediation/Settlement” set out in **Schedule D** to this Order (**the Mediation/Settlement Notice**) is to be used for the purposes of allowing group members to register their interest with respect to the mediation and/or settlement of this proceeding.
5. Pursuant to ss 103T(5), 103U and 103ZA of the Act, the Notice to Group Members, the Opt-Out Notice and the Mediation/Settlement Notice must be given to all group members and potential group members according to the following procedure:
 - a) by **4:00pm on 17 July 2026**, the plaintiffs are to cause an advertisement in terms of the Abridged Newspaper Notice to Group Members set out in **Schedule C** to be published in the legal notices or equivalent section in one weekday edition of the following publications:
 - (i) The Courier Mail;
 - (ii) The Gold Coast Bulletin;
 - (iii) The Townsville Bulletin; and
 - (iv) The Cairns Post.
 - b) by **4:00pm on 17 July 2026**, the plaintiffs’ solicitors shall cause a copy of the Notice to Group Members, the Opt-Out Notice and the Mediation/Settlement Notice to be sent to each person who has provided their contact details to the plaintiffs’ solicitors because they are or may be a group member (regardless of whether that person has retained them) with such Notices sent:
 - (a) by email in accordance with order 5(h)(i), where an email address is available and otherwise by ordinary post; and
 - (b) otherwise, by ordinary post in accordance with order 5(h)(ii).
 - c) by **4:00pm on 17 July 2026**, the defendants shall display (by way of a hyperlink) the Notice to Group Members, the Opt-Out Notice and the Mediation/Settlement Notice on the intranet of the Queensland Police Service until the Opt-Out Deadline with the following message:

Dear Colleagues,

Re: Supreme Court Notice regarding QPS COVID-19 Vaccine Mandate Class Action (BS 14484/24)

Please see below an important notice from the Supreme Court of Queensland.

The Supreme Court of Queensland has ordered that this notice be displayed on the intranet of the Queensland Police Service, notifying all

*persons who at any time in the period from 7 September 2021 to 12 December 2022 were employed by the Queensland Police Service and were subject to the “Instrument of Commissioner’s Direction No 12” dated 7 September 2021 (**Direction No 12**) and/or the “Instrument of Commissioner’s Direction No 14” dated 14 December 2021 (**Direction No 14**) (the **Covid-19 Directions**).*

If you have any questions about this notice, please direct them to Sibley Lawyers, whose contact details are in the notice, or seek your own legal advice.

- d) by **4:00pm on 17 July 2026**, the defendants shall cause the Queensland Police Service to send an email (attaching the Notice to Group Members, the Opt-Out Notice and the Mediation/Settlement Notice) to the current Queensland Police Service email addresses of those persons, who:
 - (i) were employed by the Queensland Police Service between 7 September 2021 and 12 December 2022; and
 - (ii) remain employed by the Queensland Police Service.
- e) by **4:00pm on 10 July 2026** the defendants are to file and serve an affidavit deposing as to the exact number of persons requiring a postage paid envelope to be prepared by the Plaintiffs in accordance with order 5(f) below as at the date the orders are made.
- f) by **4:00pm on 17 July 2026** the plaintiffs arrange for postage paid envelopes (without windows) containing a generic cover letter (with the content of the letter being as described in order 5(h)(ii)), the Notice to Group Members, the Opt-Out Notice and the Mediation/Settlement Notice to be prepared and delivered to the Queensland Police Service for posting to:
 - (i) former employees of the Queensland Police Service who were employed by the QPS between 7 September 2021 and 12 December 2022 at the mailing address held by the Queensland Police Service at the date of ceasing employment; and
 - (ii) current employees of the Queensland Police Service on leave or secondment sent to the mailing address held by the Queensland Police Service at the date the person went on leave or secondment.

The number of postage paid envelopes will accord with the information contained in the Defendants’ affidavit filed in accordance with order 5(e).

- g) by **4:00 pm on 31 July 2026** the defendants cause the Queensland Police Service to prepare address labels and attach the address labels to the pre-prepared envelopes received from the plaintiffs and the defendants arrange to deposit them in the post to send to the recipients in accordance with order 5(h)(ii);
- h) where a Notice to Group Members, the Opt-Out Notice and the Mediation/Settlement Notice is sent:

- (i) via email (in accordance with orders 5(b)(i) and 5(d)) it shall be attached to an email with the subject line of the email shall be: “*Supreme Court Notice regarding QPS COVID-19 Vaccine Mandate Class Action (BS 14484/24)*” and the content of the email shall be as follows:

Dear Sir/Madam,

*The Supreme Court of Queensland has ordered that notice be given to all persons who were employed by the Queensland Police Service (QPS) between 7 September 2021 and 12 December 2022 and were subject to the “Instrument of Commissioner’s Direction No 12” dated 7 September 2021 (**Direction No 12**) and/or the “Instrument of Commissioner’s Direction No 14” dated 14 December 2021 (**Direction No 14**).*

*Please find **attached** to this email a copy of this important notice that explains the Court Proceeding (BS 14484/24) that has been commenced in the Supreme Court of Queensland.*

Please do not reply to this email. If you have any questions about this notice, please direct them to Sibley Lawyers, whose contact details are in the notice, or seek your own legal advice.

- (ii) via post (in accordance with orders 5(b)(ii), 5(f) and 5(g)) it shall be sent with a generic cover letter which contains the following:

Dear Sir/Madam ,

Re: Supreme Court Notice regarding QPS COVID-19 Vaccine Mandate Class Action (BS 14484/24)

*The Supreme Court of Queensland has ordered that notice be given to all persons, who were employed by the Queensland Police Service (QPS) between 7 September 2021 and 12 December 2022 and were subject to the “Instrument of Commissioner’s Direction No 12” dated 7 September 2021 (**Direction No 12**) and/or the “Instrument of Commissioner’s Direction No 14” dated 14 December 2021 (**Direction No 14**).*

*Please find **enclosed** this important notice that explains the Court Proceeding (BS 14484/24) that has been commenced in the Supreme Court of Queensland.*

If you have any questions about this notice, please direct them to Sibley Lawyers, whose contact details are in the notice, or seek your own legal advice.

- i) by **4:00pm on 14 August 2026**, the defendants file and serve an affidavit stating:
 - (i) the steps taken to complete the distribution in accordance with orders 5(c), 5(d) and 5(g) above, including steps taken to identify all persons on the distribution list;

- (ii) the total number of persons sent a copy of the Notice to Group Members, the Opt-Out Notice and the Mediation/Settlement Notice; and
 - (iii) the number of persons in relation to whom the defendants received notification (in any form) that the communication was not received.
- 6. The Notice to Group Members 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.
- 7. Pursuant to s 103G(2) of the Act and r 77D of the UCPR, any group member who wishes to opt out of this proceeding must, before the Opt-Out Deadline, deliver a completed Opt-Out Notice, in the form of **Schedule B** to the Notice to Group Members, to the Registry of the Supreme Court of Queensland by email or post.
- 8. If, on or before, the Opt-Out Deadline, the solicitors for any party receive a notice purporting to be an Opt-Out Notice referable to this proceeding, the solicitors are to send such notice to the Registry of the Supreme Court of Queensland, within five (5) business days after 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.
- 9. The solicitors for any party be granted leave to inspect the Court file and copy any Opt-Out Notice(s) received by the Court.
- 10. Pursuant to r 77E(1) of the UCPR, if one or more group members to whom this proceeding relates file and serve an Opt-Out Notice (each an **opt-out group member**), no later than 14 days after the Opt-Out Deadline, the plaintiffs are to provide to the defendants a list of all opt-out group members.
- 11. Pursuant to s 103U(3)(b) of the Act, the disbursement costs of and incidental to distributing the Notice to Group Members, the Opt-Out Notice and the Mediation/Settlement Notice, as set out in:
 - a) orders 5(a), 5(b) and 5(f) above, are initially to be borne by the plaintiffs;
 - b) orders 5(c), 5(d), 5(e), 5(g) and 5(i) above, are initially to be borne by the defendants,

on the basis that those costs will subsequently fall to be dealt with by the Court as part of the costs of the proceeding.
- 12. Pursuant to ss 103T(5), 103U and 103ZA of the Act:
 - a) for the purposes of any mediation and/or settlement negotiations, the Group Members will be taken to be those persons who deliver a completed Mediation/Settlement Notice to the solicitors for the plaintiffs before **18 September 2026**;
 - b) by 4pm on **2 October 2026**, the plaintiffs are to provide to the defendants a copy of any completed Mediation/Settlement Notice that they have received;

- c) in the event that the plaintiffs receive any completed Mediation/Settlement Notice after **2 October 2026**, they are to provide a copy to the defendants immediately.
- 13. The costs of the Opt-Out Notice Application be each party's costs in the proceeding.

SCHEDULE A

OPT OUT NOTICE

SUPREME COURT OF QUEENSLAND

IMPORTANT NOTICE**QPS OFFICERS & STAFF MEMBERS COVID-19 VACCINATION MANDATE
CLASS ACTION**

*Merrett & Ors -v- State of Queensland (Queensland Police Service) & Katarina Ruzh
Carrol APM (Proceeding No. BS14484/24)*

**THIS NOTICE IS IMPORTANT
PLEASE READ IT CAREFULLY,
AS IT MAY AFFECT YOUR LEGAL RIGHTS**

1. Why is this notice important?

On 25 October 2024, a representative proceeding or class action was commenced in the Supreme Court of Queensland by Della Merrett, Shane Pokai and Deborah Pokai (“**Lead Plaintiffs**”) on their own behalf and on behalf of all persons who are a “Group Member” as defined in the proceeding (see below) against the State of Queensland (Queensland Police Service) (“**First Defendant**”) and the former Queensland Police Commissioner, Katarina Ruzh Carroll APM (“**Second Defendant**”).

The class action arises out of the COVID-19 vaccine mandate imposed upon police officers and staff members of the Queensland Police Service (“**QPS**”) for loss and damage suffered because of the vaccine mandate including tortious claims (misfeasance in public office, and/or negligence, and/or breach of statutory duty) and which include breaches of human rights under the *Human Rights Act 2019* (Qld).

The Supreme Court of Queensland has ordered that this notice be published for the information of persons who might be members of the class on whose behalf the action is brought and may be affected by the action. You have been identified as a potential class member. **You should read this notice carefully. Any questions you have concerning the matters contained in this notice should not be directed to the Court.** If there is anything in it that you do not understand, you should seek legal advice.

2. What is a class action or representative proceeding?

A representative proceeding is commonly known as a class action. It is an action that is brought by one or more persons (“**Lead Plaintiffs**”) on their own behalf and on behalf of a class or group of people (“**Group Members**”) against another person or persons (“**Defendants**”) where the Lead Plaintiffs and the Group Members have similar claims against the Defendants.

Group Members in a class action **are not** individually responsible for the legal costs associated with bringing the class action. In a class action, only the Lead Plaintiffs are responsible for the costs.

Group Members are “bound” by the outcome in the class action, **unless they have opted out of the proceeding**. A binding result can happen in two ways being either a **judgment** following a trial, or a **settlement** of the class action at any time. If there is a judgment or a settlement of a class action, Group Members *will not* be able pursue the same claims in the future and *may not* be able to pursue similar or related claims against the Defendants in other legal proceedings.

Group Members should note that:

- (a) in a **judgment** following trial, the Court will decide various factual and legal issues in respect of the claims made by the Lead Plaintiffs and Group Members. Unless those decisions are successfully appealed, they bind the Lead Plaintiffs, Group Members and the Defendants. Importantly, if there are other proceedings between a Lead Plaintiff / a Group Member and one or more of the Defendants, it is likely that neither of them will be permitted to raise arguments in that proceeding which are inconsistent with a factual or legal issue decided in the class action.
- (b) in a **settlement** of a class action, where the settlement provides for compensation to the Lead Plaintiffs and Group Members it is likely to extinguish *all* rights to compensation which a Lead Plaintiff or a Group Member might have against the Defendants which arise in any way out of the events or transactions which are the subject-matter of the class action.

If you consider that you have claims against either, or both, of the Defendants which are based on your individual circumstances or otherwise additional to the claims described in the class action, then it is important that you seek independent legal advice about the potential binding effects of the class action **before** the deadline for opting out (see below).

3. What is this class action?

This class action, the QPS COVID-19 Vaccine Mandate Class Action, is brought by the Lead Plaintiffs, Della Merrett, Shane Pokai and Deborah Pokai on their own behalf and on behalf of all persons who are a “Group Member” as defined in the proceeding (see **below**).

The Lead Plaintiffs allege in the statement of claim and in the amended statement of claim filed in the Supreme Court of Queensland on 25 October 2024 and 16 February 2026 respectively (*Supreme Court Proceeding No. BS14484/24*) that from 7 September 2021 to 12 December 2022 they were subjected to an unlawful COVID-19 Vaccine Mandate (*Instrument of Commissioner’s Direction No. 12* and *Instrument of Commissioner’s Direction No. 14* (“**COVID-19 Directions**”)) by the Defendants which constituted misfeasance in public office, and/or negligence, and/or breach of statutory duty by the Defendants and which caused loss and damage to the Lead Plaintiffs and Group Members.

The Defendants to the class action are the State of Queensland (Queensland Police Service) and the former Queensland Police Commissioner, Katarina Ruzh Carroll APM. The Defendants deny the allegations and are defending the class action.

4. Who are the legal representatives for the class action?

The legal representatives for the Lead Plaintiffs and Group Members in this class action are **Sibley Lawyers** (“**Class Action Lawyers**”).

If you wish to contact the legal representatives in relation to this class action you can contact **Sibley Lawyers** on **(07) 3180 0120** or email classaction@sibleylawyers.com.au

5. What is ‘Opt Out’?

The Lead Plaintiffs in a class action do not need to seek the consent of Group Members to commence a class action on their behalf or to identify a specific Group Member. Group Members are determined and identified according to the definition of a “Group Member” as defined in the statement of claim.

However, any individual who meets the definition of a Group Member can cease to be a Group Member by opting out of the class action. An explanation of how class members are able to opt out is found below in the section headed “***How can you opt out of the class action?***”.

6. Are you a Group Member?

You are a Group Member if between 7 September 2021 and 12 December 2022 you were a QPS Police Officer or QPS staff member, and

- (a) you refused to comply with one or more of the requirements of the COVID-19 Directions and were, or would have been liable to be, subjected to disciplinary action under Chapter 6 of the *Public Service Act 2008* (Qld) or Part 7, Part 7A or Part 8 of the *Police Service Administration Act 1990* (Qld) by reason of your non-compliance with one or more of the requirements of the COVID-19 Directions (“**Vaccine Refusal Group Members**”);
- (b) you complied with the requirements of the COVID-19 Directions under duress/coercion/undue influence/ a practical compulsion AND but for the COVID-19 Directions, you would not have received any dose of the COVID-19 vaccination (including a booster dose) AND you did not seek a medical exemption (“**Vaccine Coercion Group Members**”); or
- (c) you applied for but were refused an exemption from complying with the requirements of the COVID-19 Directions on medical grounds and upon being refused an exemption, complied with the requirements of the COVID-19 Directions to be vaccinated but you only did so under duress/ coercion /undue influence/ a practical compulsion AND but for the COVID-19 Directions and being refused an exemption, you would not have received any dose of the COVID-19 vaccination (including a booster dose) (“**Refused Medical Exemption Group Members**”).

If you are unsure whether or not you are a Group Member, you should contact Sibley Lawyers on (07) 3180 0120 or email classaction@sibleylawyers.com.au or **seek your own legal advice without delay.**

7. Will you be liable for legal fees if you remain a Group Member?

You will **not become liable for any up-front legal fees** simply by remaining as a Group Member for the determination of the common questions in the class action. However:

- (a) if the preparation or finalisation of your personal claim (external to the resolution of the common questions in the class action) requires work to be done in relation to issues that are specific to your individual claim, you can engage Sibley Lawyers or other lawyers to do that work for you. A copy of the terms on which Sibley Lawyers are acting in the class action may be obtained from them on (07) 3180 0120 or email classaction@sibleylawyers.com.au;
- (b) if any compensation becomes payable to you as a result of any order, judgment or settlement in the class action, the Court may make an order that some of that compensation be used to help pay a share of the legal costs and other fees to the Litigation Funder (in accordance with the Funding Agreement (see below)) which are incurred by the Lead Plaintiffs in running the class action but which are not able to be recovered from the Defendants; and
- (c) class actions are often settled out of court. If this occurs in the class action, you may be able to claim from the settlement amount without retaining a lawyer. However, you may be liable to pay a share of the legal costs and other fees to the Litigation Funder (in accordance with the Funding Agreement (see below)).

8. Who is funding the class action and how much could they charge if compensation is payable?

A company known as Mineralogy Pty Ltd (“**Mineralogy**”) is funding the proceeding. It is controlled by Mr Clive Palmer and he is the Managing Director. A class action funding agreement entitled “Queensland Police and Paramedics Class Action Funding Agreement” (“**Funding Agreement**”) was signed by the Plaintiffs with Mineralogy on the following dates: First Plaintiff on 9 July 2024, Second Plaintiff on 7 July 2024 and the Third Plaintiff on 12 February 2025. An updated version of the Funding Agreement was signed by the Plaintiffs with Mineralogy on the following dates: First Plaintiff on 3 November 2025, Second Plaintiff on 17 October 2025 and the Third Plaintiff on 17 October 2025. Pursuant to the Funding Agreement and Updated Funding Agreement, Mineralogy will cover the costs of the class action and also any costs of the Defendants if they are ordered by the Court to be payable via an adverse costs order, this is the risk undertaken by Mineralogy in funding the class action.

Neither Mineralogy nor the class action lawyers are providing their services for free. If compensation becomes payable to you in the class action (whether via settlement or judgment), the litigation funder (Mineralogy) may be entitled to take up to 25% - 40% (or a lesser amount ordered by the Court in accordance with clause 12.1.3(a)(i)

of the Funding Agreement¹ and the Updated Funding Agreement) from the amount of compensation you receive to cover the costs of funding the legal fees of the legal representatives of the Lead Plaintiffs and the risk taken by the litigation funder (Mineralogy) to indemnify the class action from any adverse costs orders. That amount would be deducted from any compensation you may receive, and before you receive it.

9. What will happen if you choose to remain a Group Member?

Unless you opt out, you will be bound by any settlement or judgment of the class action. If the class action is successful, you will be entitled to share in the benefit of any order or judgment in favour of the Lead Plaintiffs and Group Members, although you may have to satisfy certain conditions before your entitlement arises.

If a settlement is reached with respect to the class action, you may only be entitled to share in the benefit of that settlement if you have completed the “Notice for Purposes of Mediation/Settlement” (a copy of which is enclosed) (**the Mediation/Settlement Notice**). The reasons as to why it is necessary to identify the Group Members for the purposes of mediation/settlement are explained below.

If the class action is unsuccessful or is not as successful as you might have wished, you will not be able pursue the same claims and may not be able to pursue related claims against one, or both, of the Defendants in other legal proceedings.

10. Reasons to identify Group Members for purposes of mediation/settlement AND why you should notify that you are a Group Member?

It is likely that the Lead Plaintiffs and the Defendants will at some stage participate in a mediation and/or settlement discussions. If a settlement was to be reached, the Court has the power to make orders it considers just for the distribution of any money that might be paid under the settlement.

The proceeding may be more likely to settle if the parties know the size of the Class Action. At present, it is not known how many Group Members there are. That uncertainty has the potential to make any settlement negotiations difficult.

If you are a Group Member (ie. you fall within one of the three categories described above under the heading “Are you a Group Member?”) then it is important that complete the Mediation/Settlement Notice (a copy of which is enclosed) and return it to Sibley Lawyers in the way described below.

If a settlement were to be reached, it is likely that the Lead Plaintiffs and the Defendants, or alternatively, just the Defendants, will seek an order from the Court that only those persons who completed a Mediation/Settlement Notice by **18 September 2026** be permitted to share in the benefit of any such settlement. The Court may or may not make such an order.

If you do not complete a Mediation/Settlement Notice, then there is a risk that you will not be able to benefit from any settlement. By completing the

¹ A copy of the Funding Agreement and Updated Funding Agreement are available from Sibley Lawyers who are contactable on (07) 3180 0120 or email classaction@sibleylawyers.com.au.

Mediation/Settlement Notice in the way described below, you will take away that risk.

11. What Group Members can do

(a) OPTION 1: Do nothing?

If you do nothing, you will remain a Group Member for the purposes of the proceeding. There is **nothing you need to do** at the present time.

Subject to any settlement that might be reached, the Lead Plaintiffs will continue to bring the proceeding on your behalf up to the point where the Court determines those questions that are common to the claims of the Lead Plaintiffs and the Group Members.

However, you are invited to contact the legal representatives of the Lead Plaintiffs and Group Members by contacting Sibley Lawyers on (07) 3180 0120 or via the following email classaction@sibleylawyers.com.au, **to register as a Group Member** so that future notices about the class action can be sent to your preferred address.

Unless you identify yourself to Sibley Lawyers as a “group member”, no one may be aware of the fact, and at a later stage you may not be able to share in any possible benefit flowing from the class action.

(b) OPTION 2: Register for purposes of mediation/settlement?

If you wish to ensure that you will not be excluded from receiving a benefit from any settlement, you must complete the following two steps:

- (i) complete the “Notice for Purposes of Mediation/Settlement” (a copy of which is enclosed) (**the Mediation/Settlement Notice**); and,
- (ii) deliver to the Lead Plaintiffs, a copy of the completed Mediation/Settlement Notice, by either emailing it to classaction@sibleylawyers.com.au or by posting/hand delivering it to Sibley Lawyers, Level 10, 95 North Quay, Brisbane Qld 4000.

IMPORTANT: a completed Mediation/Settlement Notice must be delivered to Sibley Lawyers by no later than 4.00pm on 18 September 2026, otherwise there is a risk that it might not be effective.

(c) OPTION 3: Opt out of the class action?

If you do not wish to remain a Group Member you must opt out of the class action. If you opt out you will **not** be bound by or entitled to share in the benefit of any order, judgment or settlement in the class action, but you will be at liberty to bring your own claim against the Defendants, provided that you issue Court proceedings within the time limit applicable to your claim.

If you wish to bring your own claim against the Defendants, you should seek your own legal advice without delay about your claim and the applicable time limit **before** opting out.

If you wish to opt out of the class action you must do so by completing the three steps below:

- (i) completing a “**Notice of Opting Out by Group Member**” (a copy of which is enclosed); and,
- (ii) filing it in registry of the Supreme Court of Queensland located at QEII Courts of Law Complex, 415 George Street, Brisbane Qld 4000; and
- (iii) serving a copy of the filed version of the Lead Plaintiffs via their legal representatives: Sibley Lawyers via email classaction@sibleylawyers.com.au or in person/via post to Sibley Lawyers, Level 10, 95 North Quay, Brisbane Qld 4000.

IMPORTANT: the “Notice of Opting Out by Group Member” must be filed in the Registry of the Supreme Court of Queensland and served upon the Class Action Lawyers (Sibley Lawyers) by no later than 4:00pm on 18 September 2026 (Opt Out Deadline), otherwise it will not be effective.

Each Group Member seeking to opt out should fill out, file and serve a separate form.

12. Where can you obtain copies of relevant documents?

Copies of relevant documents, including the claim, the statement of claim, and the defence and reply, may be obtained by:

- (a) contacting the legal representatives of the Lead Plaintiffs and Group Members by contacting **Sibley Lawyers** on **(07) 3180 0120** or via the following email classaction@sibleylawyers.com.au
- (b) inspecting them between 9am and 5pm at one of the offices of the legal representatives of the Lead Plaintiffs and Group Members, contact details for which are available from www.sibleylawyers.com.au or by calling **(07) 3180 0120**;
- (c) by contacting the Registry of the Supreme Court of Queensland (contact details are available at www.courts.qld.gov.au/courts/supreme-court/supreme-court-registry) and paying the appropriate fee.

A copy of this Notice is also available on the website of Sibley Lawyers at the following link: www.sibleylawyers.com.au/essential-services/classactions

Please consider the above matters carefully. If there is anything of which you are unsure, you should contact the legal representatives of the Lead Plaintiffs and Group Members by contacting **Sibley Lawyers** on **(07) 3180 0120** or via the following email classaction@sibleylawyers.com.au or seek your own legal advice.

You should not delay in making your decision.

SCHEDULE B

SUPREME COURT OF QUEENSLAND

REGISTRY: BRISBANE

NUMBER: BS14484/24

First Plaintiff: **DELLA MERRETT**
AND
Second Plaintiff: **SHANE ALLEN ANDREW BRENT POKAI**
AND
Third Plaintiff: **DEBORAH POKAI**
AND
First Defendant: **STATE OF QUEENSLAND
(QUEENSLAND POLICE SERVICE)**
AND
Second Defendant: **KATARINA RUZH CARROLL APM**

NOTICE OF OPTING OUT BY GROUP MEMBER

.....(*name of group member*), of (*address*) by
this notice opts out of this proceeding under section 103G of the *Civil Proceedings Act 2011*
(Qld).

SIGNATURE

Signed:

Description:

Dated:

SCHEDULE C

ABRIDGED NEWSPAPER NOTICE

SUPREME COURT OF QUEENSLAND

IMPORTANT NOTICE**QPS OFFICERS & STAFF MEMBERS COVID-19 VACCINATION MANDATE
CLASS ACTION**

The Supreme Court of Queensland has ordered that this notice be published for the information of persons who might be Group Members in the Queensland Police Service (QPS) COVID-19 Vaccination Mandate Class Action (Supreme Court of Queensland proceeding BS14484/24). Any person who might be a Group Member (see **section 2**) should read this notice carefully.

1. What is the QPS Officers & Staff Members COVID-19 Vaccination Mandate Class Action?

A class action has been commenced by Della Merrett, Shane Pokai and Deborah Pokai (the **Lead Plaintiffs**) against the State of Queensland (Queensland Police Service) and the former Queensland Police Commissioner, Katarina Ruzh Carroll APM (the **Defendants**).

The Lead Plaintiffs allege in the statement of claim and in the amended statement of claim filed in the Supreme Court of Queensland on 25 October 2024 and 16 February 2026 respectively that from 7 September 2021 to 12 December 2022 they were subjected to an unlawful COVID-19 Vaccine Mandate (*Instrument of Commissioner's Direction No.12* and *Instrument of Commissioner's Direction No.14* (the **COVID-19 Directions**)) by the Defendants which constituted misfeasance in public office, and/or negligence, and/or breach of statutory duty by the Defendants and which caused loss and damage to the Lead Plaintiffs and Group Members.

The legal representatives for the Lead Plaintiffs and Group Members in the class action are **Sibley Lawyers** who can be contacted on **(07) 3180 0120** or via email at: classaction@sibleylawyers.com.au.

2. Are you a Group Member?

You are a Group Member if between 7 September 2021 and 12 December 2022 you were employed as a QPS Police Officer or QPS staff member and

- (a) you refused to comply with one or more of the requirements of the COVID-19 Directions and were, or would have been liable to be, subjected to disciplinary action under Chapter 6 of the *Public Service Act 2008* (Qld) or Part 7, Part 7A or Part 8 of the *Police Service Administration Act 1990* (Qld) by reason of your

non-compliance with one or more of the requirements of the COVID-19 Directions (“**Vaccine Refusal Group Members**”);

- (b) you complied with the requirements of the COVID-19 Directions under duress/coercion/undue influence/ a practical compulsion AND but for the COVID-19 Directions, you would not have received any dose of the COVID-19 vaccination (including a booster dose) AND you did not seek a medical exemption (“**Vaccine Coercion Group Members**”); or
- (c) you applied for but were refused an exemption from complying with the requirements of the COVID-19 Directions on medical grounds and upon being refused an exemption, complied with the requirements of the COVID-19 Directions to be vaccinated but you only did so under duress/ coercion /undue influence/ a practical compulsion AND but for the COVID-19 Directions and being refused an exemption, you would not have received any dose of the COVID-19 vaccination (including a booster dose) (“**Refused Medical Exemption Group Members**”).

If you believe you may be a Group Member **it is very important** that you read the further information in the ‘Notice to Group Members’ available at Sibley Lawyers’ website as soon as possible: www.sibleylawyers.com.au/class-actions/

3. Opt Out Deadline

The Court has made orders that any person who wishes to have no part in the class action must opt-out of the proceeding **by 4:00pm on 18 September 2026 (Opt Out Deadline), otherwise it will not be effective.**

If you are unsure whether or not you are a Group Member, you should contact **Sibley Lawyers** on (07) 3180 0120 or email classaction@sibleylawyers.com.au or seek your own legal advice without delay.

SCHEDULE D

***NOTICE FOR PURPOSES OF
MEDIATION/SETTLEMENT***

I (Name) of
..... (Postal Address) and
.....(email address),

CONFIRM THAT:

1. I believe that I am a Group Member for the purposes of Proceeding No. BS14484/24, in particular: (tick applicable)

☐ Vaccine Refusal Group Member

☐ Vaccine Coercion Group Member

☐ Refused Medical Exemption Group Member

2. I wish to be noted as a Group Member for the purposes of any mediation and/or settlement negotiations that might occur between the Lead Plaintiffs and the Defendants.

Signed:

Dated: