

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

S ECI 2020 03402

**BETWEEN**

**5 BOROUGHES NY PTY LTD (ACN 632 508 304)**

Plaintiff

- and -

**STATE OF VICTORIA & ORS  
(according to the attached Schedule)**

Defendants

**ORDER**

---

**JUDGE:** The Honourable Justice Watson

**DATE MADE:** 5 June 2026

**ORIGINATING PROCESS:** Amended Writ filed 28 April 2022

**HOW OBTAINED:** On the papers

**ATTENDANCE:** Not applicable

**OTHER MATTERS:**

A. By summons dated 5 May 2026 the plaintiff seeks to amend the group member definition in this proceeding (**amendment application**).

B. This order is signed by the Judge pursuant to r 60.02(1)(b) of the *Supreme Court (General Civil Procedure) Rules 2025* (Vic).

**THE COURT ORDERS THAT:**

**Form and content of notice of proposed amendment to group member definition**

1. Pursuant to ss 33X(4) and 33Y(1) of the *Supreme Court Act 1986* (Vic) (**Act**), the form and content of the following notices and correspondence informing group members of the amendment application be approved:
  - (a) the notice of the proposed amendment to the group definition in Annexure A hereto (**Notice**);
  - (b) the covering email for the Notice in Annexure B hereto (**Correspondence**); and
  - (c) the abridged notice in Annexure C hereto (**Abridged Notice**).



## **Distribution of notice of proposed amendment to group member definition**

2. Pursuant to s 33Y of the Act, the Notice, the Correspondence and Abridged Notice be distributed to group members as follows:

- (a) By 12 June 2026 (**Notice Date**), the plaintiff's solicitors (**Quinn Emanuel**) shall send a copy of the Notice by email to:
  - (i) those group members who have provided an email to Quinn Emanuel in connection with this proceeding as at the date of these orders, under cover of the Correspondence, save for those persons who have requested, in writing, not to be contacted by Quinn Emanuel; and
  - (ii) all persons referred to in paragraph 11 of the affidavit of Damian John Scattini dated 27 April 2026 for whom Quinn Emanuel has an email address.
- (b) On the Notice Date, the first defendant shall post a copy of the Abridged Notice on each of the following:
  - (i) the X account of Business Victoria;
  - (ii) the website of Business Victoria (on the latest updates and news and updates sections of the website); and
  - (iii) the Facebook page of Business Victoria.
- (c) Within 5 business days of the Notice Date, Quinn Emanuel shall publish a copy of the Abridged Notice in each of the following newspapers: Melbourne Herald Sun (online only) and The Age (online only).
- (d) By the Notice Date, Quinn Emanuel shall cause the Notice to be posted on the website of Quinn Emanuel at <https://hotelquarantinesettlement.com.au> to be continuously displayed until 4:00pm AEST on 10 July 2026 (**Notice Deadline**).
- (e) By the Notice Date, the Civil Registry of the Supreme Court of Victoria (**Registry**) shall:
  - (i) display the Notice on the website of the Supreme Court of Victoria continuously until the Notice Deadline; and
  - (ii) make the Notice available for inspection at the Registry continuously from the Notice Date until the Notice Deadline.



### **Objections to the amendment application**

3. Pursuant to s 33ZF of the Act, by 4:00pm AEST on 10 July 2026 (**Objection Deadline**), any group member who wishes to oppose the amendment application shall file and serve any submissions of no more than 5 pages and any affidavits on which they rely.
4. On and after 13 July 2026 the parties' solicitors have leave to inspect the Court file and to copy any submissions filed under order 3.
5. By 4:00pm on 20 July 2026 the parties shall file and serve any submissions of no more than 5 pages in reply and any affidavits on which they rely.
6. The plaintiff's summons dated 5 May 2026 is listed for **10:30am on 27 July 2026**.

### **Amendments to notice material**

7. The materials in Annexures A to C hereto may be amended by Quinn Emanuel before they are given or published to correct any typographical errors, dates, or any postal, website, email address or telephone number.
8. If the Notice is amended by Quinn Emanuel in accordance with order 7 above, a copy of the amended Notice shall be provided to the Registry and the solicitors for the defendants as soon as practicable.

### **Costs of giving notice**

9. The costs of and incidental to preparation and distribution of the materials in Annexures A to C hereto, and the costs of responding to enquiries by group members, will come out of the sum payable to Quinn Emanuel under the Group Costs Order in the proceeding.

**DATE AUTHENTICATED:** 5 June 2026



**THE HONOURABLE JUSTICE WATSON**



## SCHEDULE OF PARTIES

S ECI 2020 03402

5 BOROUGHS NY PTY LTD (ACN 632 508 304)

Plaintiff

- and -

STATE OF VICTORIA

First Defendant

THE HONOURABLE JENNY MIKAKOS (IN HER CAPACITY AS THE FORMER MINISTER FOR HEALTH AND THE FORMER MINISTER FOR THE COORDINATION OF HEALTH AND HUMAN SERVICES: COVID-19)

Second Defendant

THE HONOURABLE MARTIN PAKULA (IN HIS CAPACITY AS THE FORMER MINISTER FOR JOBS, INNOVATION AND TRADE AND THE FORMER MINISTER FOR THE COORDINATION OF JOBS, PRECINCTS AND REGIONS: COVID-19)

Third Defendant

KYM LEE-ANNE PEAKE (IN HER CAPACITY AS THE FORMER SECRETARY, DEPARTMENT OF HEALTH AND HUMAN SERVICES)

Fourth Defendant

SIMON GRANT PHEMISTER (IN HIS CAPACITY AS THE SECRETARY, DEPARTMENT OF JOBS, PRECINCTS AND REGIONS)

Fifth Defendant



**ANNEXURE A**

**SUPREME COURT OF VICTORIA**



**IMPORTANT NOTICE**

***5 Boroughs NY Pty Ltd v State of Victoria & Ors***

***(Proceeding No. S ECI 2020 03402)***

**HOTEL QUARANTINE (BUSINESS LOSSES) CLASS ACTION**

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

IT IS IMPORTANT THAT YOU READ THIS NOTICE CAREFULLY BECAUSE IT MAY  
AFFECT YOUR LEGAL RIGHTS



### What is this notice about?

1. The Supreme Court of Victoria has ordered that this notice be published to group members to let them know about a proposed amendment to the group member definition of the Hotel Quarantine (Business Losses) Class Action (the "**class action**").
2. Specifically, this notice provides important information about:
  - (a) the background to the class action;
  - (b) the key things to know about the proposed amendment; and
  - (c) what you need to do if you want to object to the proposed amendment.

### What is a class action?

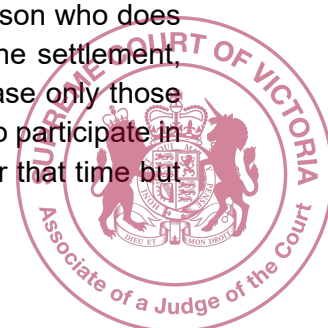
3. A class action is a lawsuit where one or more plaintiffs make a claim for themselves and on behalf of other people whose claims arise out of the same, similar, or related circumstances. The people represented by the plaintiff or plaintiffs are called 'Group Members'.

### The Hotel Quarantine (Business Losses) Class Action

4. The Plaintiff in the class action is 5 Boroughs NY Pty Ltd (**Plaintiff**), represented by Quinn Emanuel Urquhart & Sullivan (**Quinn Emanuel**). The Defendants are the State of Victoria and former Ministers and Secretaries of the Department of Health and Human Services and the Department of Jobs, Precincts and Regions.
5. In summary, the Plaintiff seeks compensation for certain retail businesses for alleged economic losses caused by the second wave lockdowns that occurred in Victoria between July to October 2020. The Plaintiff alleges that the lockdowns were the result of negligence in relation to the State's hotel quarantine program and that the State is liable for this alleged negligence.
6. The Defendants deny the claims made against them in the class action and deny any liability.
7. The parties agreed, in principle, to settle the class action before the trial, which was set to commence on Tuesday, 10 March 2026, and subsequently executed a Deed of Settlement. The Court must approve the settlement for it to take effect.
8. The Plaintiff seeks to amend the group member definition in the proceeding. The Court proposes to hear the Plaintiff's application to amend the group member definition before it considers whether to approve the settlement.

### Why is the group definition important?

9. The group member definition is important because it defines the people who the Plaintiff represents in the class action. A person who does not fall within the group member definition will not be able to participate in the settlement. A person who does fall within the group member definition may be able to participate in the settlement, although it is important to note that the Plaintiff proposes that in this case only those people who fall within the group member definition **and** who registered to participate in any settlement by 4:00pm AEST on 8 July 2024, or who registered after that time but



can provide a reasonable explanation for why they did not register by that time, should participate in the settlement (unless the Court otherwise orders).

### **What is the current group member definition?**

10. The current group member definition is all persons:
- (a) who as at 1 July 2020 carried on a business involving the supply of goods or services to members of the general public from one or more premises physically located within Victoria; and
  - (b) whose ability to supply goods or services to members of the general public from their premises was adversely affected by one or more of the stage 3 and stage 4 restrictions in place in Melbourne and regional Victoria between July and October 2020; and
  - (c) who suffered economic loss as a result.

The full group member definition is contained in paragraph 1 of the Indorsement of Claim on the Writ filed in this proceeding a copy of which is available at <https://hotelquarantinesettlement.com.au/>

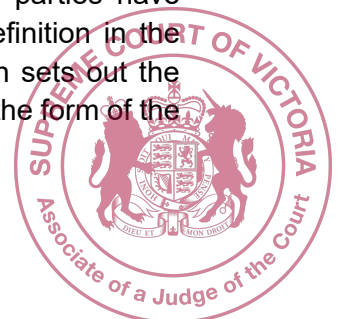
### **What is the proposed amended group member definition?**

11. Under the proposed amended group member definition you are a group member if you meet all three of the following criteria:
- (a) as at 1 July 2020, you carried on a business the ordinary operations of which involved:
    - (i) the supply of goods or services at premises physically located in Victoria; and
    - (ii) the attendance by members of the public at those premises for the acquisition of the goods or services supplied at those premises; and
  - (b) as a result of the stage 3 and stage 4 restrictions in place in Melbourne and regional Victoria between July and October 2020, your business was prohibited from supplying, or was restricted in its ability to supply goods or services to members of the general public at such premises, or the attendance by members of the public at those premises was prohibited or restricted; and
  - (c) this caused your business to suffer economic loss.

The full group member definition appears at paragraph 1 of the Plaintiff's Further Amended Statement of Claim, a copy of which is available at <https://hotelquarantinesettlement.com.au/>

### **Why is the change proposed?**

12. On 12 February 2021 the Plaintiff prepared a Statement of Claim in this proceeding which contained a group definition which was different to the group member definition in the Writ and which was substantially in the same form as the proposed group member definition which the Plaintiff now seeks. Since that time the parties have conducted themselves on the basis that this is the group member definition in the proceeding. The Plaintiff's Further Amended Statement of Claim which sets out the claims made on behalf of the group members uses a group definition in the form of the proposed amended group member definition.



13. However, the Plaintiff did not amend the group definition in the Writ and so that is the group member definition which currently applies. The Plaintiff and the Defendants agree that the group member definition should be changed to bring it in line with the definition which is used in the Further Amended Statement of Claim and which is the basis upon which the parties have conducted themselves since February 2021.
14. The Plaintiff and the Defendants say that the proposed change to the group member definition is one of form only and does not affect anyone's substantive rights and agree that the amendment should apply retrospectively from 12 February 2021.

**Who might be affected by the proposed amendment?**

15. You may be affected by the proposed amendment if:
  - (a) you meet the current group member definition but would not meet the proposed group member definition;
  - (b) you would meet the proposed group member definition but do not meet the current group member definition; or
  - (c) you meet both the current and proposed group member definitions.

If any of those three scenarios apply then the proposed amendment might affect your legal rights. If you have any concerns regarding this issue you are strongly advised to obtain legal advice as to whether you should object to the proposed amendment.

**What do I need to do?**

16. Unless you wish to object to the proposed amendment to the group member definition you do not need to do anything.
17. If you wish to object to the proposed amendment you are strongly encouraged to obtain legal advice.
18. If you wish to object to the proposed amendment by no later than **4:00pm AEST on 10 July 2026** you should:
  - (a) file written submissions of no more than 5 pages together with any affidavit material on which you wish to rely (**objection materials**) by sending the objection materials to the Supreme Court via email at [covidblclassaction@supcourt.vic.gov.au](mailto:covidblclassaction@supcourt.vic.gov.au);
  - (b) serve the Plaintiff by emailing the objection materials to **[insert email address]**; and
  - (c) serve the Defendants by emailing the objection materials to **[insert email address]**.
19. The Court will hear the Plaintiff's application to amend the group member definition on **27 July 2026 at 10:30am**. If you wish to attend the hearing to make oral submissions in opposition to the Plaintiff's proposed amendment you should do so.
20. **PLEASE NOTE THE HEARING ON 27 JULY 2026 IS NOT FOR THE PURPOSES OF HEARING THE APPLICATION TO APPROVE THE PROPOSED SETTLEMENT. IT IS ONLY FOR THE PURPOSES OF CONSIDERING WHETHER TO APPROVE THE PLAINTIFF'S APPLICATION TO AMEND THE GROUP MEMBER DEFINITION.**



### Where can I obtain further information?

21. You can obtain copies of the relevant documents, including:
  - (a) the Writ;
  - (b) the Further Amended Statement of Claim;
  - (c) the Plaintiff's Summons dated 5 May 2026;
  - (d) the affidavit of Damian John Scattini dated 5 May 2026;
    - (i) by downloading them from Quinn Emanuel's website at <https://hotelquarantinesettlement.com.au>; or
    - (ii) by downloading them from the Supreme Court of Victoria's website at [URL to be inserted]
22. If there is anything in this notice of which you are unsure, you should seek independent legal advice or contact Quinn Emanuel, the solicitors for the Plaintiff, by email at [enquiries@hotelquarantinesettlement.com.au](mailto:enquiries@hotelquarantinesettlement.com.au)
23. The Supreme Court should not be contacted for legal advice.
24. This notice was approved by the Supreme Court and published pursuant to orders made on 5 June 2026.



## **ANNEXURE B**

### **[SUBJECT] IMPORTANT LEGAL NOTICE: HOTEL QUARANTINE (BUSINESS LOSSES) CLASS ACTION**

Dear Registrant

**RE: HOTEL QUARANTINE (BUSINESS LOSSES) CLASS ACTION – NOTICE OF PROPOSED  
AMENDMENT TO GROUP MEMBER DEFINITION**

This email contains important information that may affect your legal rights. Please read it carefully and consider your options.

This email has been sent pursuant to Court orders made on 5 June 2026.

You are receiving this email because you have been identified as a person who may be a group member in the Hotel Quarantine (Business Losses) Class Action or because you were advised you were ineligible to be a group member in the class action.

The class action seeks compensation for retail businesses as a result of the “second wave” lockdown that occurred in Victoria from July to October 2020. The Plaintiff in the class action alleges that the lockdowns were a result of negligence in relation to the hotel quarantine program. The Defendants deny the Plaintiff’s claims and any liability.

The Plaintiff and the Defendants have agreed to settle the class action, subject to the approval of the Court.

The Plaintiff seeks to amend the group member definition in the class action. The Court has decided to hear the Plaintiff’s application to amend the group member definition before it hears the application for the approval of the settlement.

Attached to this email is a notice that sets out important details regarding the proposed amendment to the group member definition. The notice also contains information about how you can object to the proposed amendment, should you wish to do so.

It is important that you read the attached notice carefully.

If there is anything in the attached notice that you do not understand, or if you have any questions about the notice, you may seek independent legal advice or contact Quinn Emanuel, the solicitors for the Plaintiff, by email at [enquiries@hotelquarantinesettlement.com.au](mailto:enquiries@hotelquarantinesettlement.com.au)

Yours sincerely,

Quinn Emanuel Urquhart & Sullivan



## **ANNEXURE C**

### **HOTEL QUARANTINE (BUSINESS LOSSES) CLASS ACTION** 5 Boroughs NY Pty Ltd v State of Victoria & Ors (S ECI 2020 03402)

#### **NOTICE OF PROPOSED AMENDMENT TO GROUP MEMBER DEFINITION**

THIS NOTICE IS VERY IMPORTANT AND IS ISSUED PURSUANT TO AN ORDER OF THE SUPREME COURT OF VICTORIA – PLEASE READ IT CAREFULLY

#### **The class action**

The Plaintiff has been conducting a class action in the Supreme Court of Victoria, on its own behalf and on behalf of “group members”, against the State of Victoria and certain other Defendants. The class action seeks compensation for certain retail businesses as a result of the “second wave” lockdown that occurred in Victoria from July to October 2020. The Plaintiff alleges that the lockdown was a result of negligence in relation to the hotel quarantine program. The Defendants deny the Plaintiff’s claims and any liability.

#### **Proposed settlement of the class action**

The Plaintiff and the Defendants have agreed to settle the class action. However, the Court must approve the proposed settlement for it to take effect. If the Court approves the proposed settlement, it will apply to all group members, except group members who have opted out.

#### **Proposed amendment of group member definition**

The Plaintiff proposes to amend the group member definition. If the Court approves this amendment it may change who the group members are and this might have an impact on who is affected by the proposed settlement. The Court has therefore determined to hear the application for the amendment of the group member definition before hearing the application for approval of the settlement.

#### **More information**

Further details of the proposed amendment to the group member definition, including how you can object to the proposed amendment, can be found in the long-form notice of proposed amendment to group member definition available on the website of Quinn Emanuel, the solicitors for the Plaintiff in the class action, at <https://hotelquarantinesettlement.com.au>

