NOTICE TO GROUP MEMBERS

FEDERAL COURT OF AUSTRALIA

Live Cattle Trade Ban Class Action – NSD 1102 of 2014

PRODUCER GROUP MEMBERS – ALLOCATION

Please read this Notice carefully as it contains information affecting your legal rights.

Brett Cattle Company Pty Ltd v Minister for Agriculture, Fisheries and Forestry & Commonwealth of Australia (NSD 1102 of 2014)

1 Why is this Notice important?

1.1 On 2 June 2020, the Federal Court of Australia found in favour of Brett Cattle Company Pty Ltd (**Lead Applicant**) in a representative proceeding (also known as a 'Class Action'), brought against the **Former Minister** for Agriculture, Fisheries and Forestry, Senator the Honourable Joe Ludwig and the Commonwealth of Australia (the **Respondents**). The action was brought by the Lead Applicant on its own behalf and on behalf of members of the class (**Group Members**).

1.2 In the judgment, the Court found that the Lead Applicant suffered loss due to the Former Minister's invalid decision to temporarily suspend the trade of live cattle to the Republic of Indonesia on 7 June 2011 (**Live Cattle Trade Ban**). The Court found that the Former Minister committed the tort of misfeasance in public office.

1.3 On 5 June 2025, the Federal Court of Australia issued a further judgment on the question of how many additional cattle would have been exported in the years 2011, 2012 and 2013 if the Former Minister had not issued the invalid Live Cattle Trade Ban and had instead issued an "Exceptions Order". The Court found that a further 88,000 cattle would have been exported in 2011, but that no more live cattle would have been exported in 2012 and 2013 than were in fact exported in those years (**Exceptions Order Scenario**). An appeal from this judgment by the Lead Applicant to the Full Federal Court of Australia was dismissed on 15 May 2026.

1.4 On 20 August 2026, the Court ordered that an independent referee be appointed to undertake an inquiry and then report to the Court as to how many of the additional 88,000 head of cattle in an Exceptions Order Scenario each Producer Group Member would have sold for live export in 2011, and approximately when those exports would have been made (**Producer 2011 Referee Question**). 916 of these lost exports have already been allocated to the Lead Applicant in the Federal Court's judgment, leaving **87,084 cattle for allocation to other Producer Group Members.**

1.5 The Court has ordered this Notice be published to inform Producer Group Members (defined at 2.1 below) of the requirements to be eligible to receive compensation in this Class Action and the date for compliance for the filing and service of particulars and evidence in relation to the Producer 2011 Referee Question. More information about the due dates and the reference process is set out below.

1.6 **You are receiving this notice because you may be a Producer Group 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 this Notice that you do not understand, you should contact the Applicant's solicitors, Mr Andrew Gill at Johnson Winter Slattery on (02) 5114 9006, email livetradeclassaction@jws.com.au or seek your own legal advice.

2 Are you a Producer Group Member?

2.1 You are a Producer Group Member if, on or around 7 June 2011:

(a) you derived financial benefit from ***producing*** cattle in Australia which were sold for live export to the Republic of Indonesia;

(b) you suffered loss and/or financial harm or damage as a result of the Live Cattle Trade Ban; and

(c) you did not opt-out of the Class Action.

2.2 There are other categories of Group Members in this Class Action, including exporters and incidental service providers. **This Notice does not apply to those categories of Group Members. It only applies to Producer Group Members**.

2.3 If you are unsure whether or not you are a Producer Group Member, you should:

(a) contact the Applicant's solicitor, Mr Andrew Gill at Johnson Winter Slattery on (02) 5114 9006, email livetradeclassaction@jws.com.au; or

(b) seek your own legal advice.

3 Funding arrangements

3.1 The Applicant entered into an arrangement with the Australian Farmers' Fighting Fund (**AFFF**) for the AFFF to fund legal costs and disbursements in this Class Action. In accordance with those arrangements, the AFFF has paid the Applicant's legal costs and out-of-pocket expenses (disbursements) for the Live Cattle Trade Ban Class Action. The Applicant's solicitors are **Johnson Winter Slattery** (formerly MinterEllison).

3.2 Some Group Members (**Funded Group Members**) have also entered into litigation funding arrangements with the AFFF, to fund the costs of the claims brought on their behalf in the Live Cattle Trade Ban Class Action, in return for the payment of a commission of 10 per cent of whatever they ultimately recover through this proceeding, either by way of settlement or judgment.

3.3 Funded Group Members have retained the Applicant's solicitors, Johnson Winter Slattery led by Andrew Gill (formerly MinterEllison), to assist with the preparation of evidence and to advance their individual loss claims.

3.4 For Funded Group Members, if your claim for damages is not successful, you will not have to pay any legal costs.

3.5 There are also Group Members that are not funded by the AFFF (**Unfunded Group Members**).

3.6 Regardless of whether Johnson Winter Slattery act for you or whether you are an Unfunded Group Member, the Applicant intends to seek a cost equalisation order from the Court and the AFFF may also seek a 'common fund order' from the Court. This was the subject of an earlier Group Notice dated 8 October 2020. If you need further information about what a cost equalisation order or a 'common fund order' is, please contact the Applicant's solicitor, Andrew Gill at Johnson Winter Slattery.

4 What is the reference process that the Court has ordered?

4.1 A reference allows the Court to refer questions to a referee who will, subject to the control and directions of the Court, conduct an inquiry and produce a report to the Court. The Court may then adopt the report and make orders making the findings binding on all group members.

4.2 On 20 August 2026, the Court ordered that the following questions be referred to a referee for inquiry and report:

> *Noting that 88,000 additional head of cattle (for slaughter) would have been exported into Indonesia in the 2011 calendar year had the Minister made an Exceptions Order on or about 7-10 June 2011 instead of the Second Control Order:*
>
> *(a) How many of those additional 88,000 head of cattle would each Producer Group Member have sold for live export in 2011?*
>
> *(b) Approximately when would those exports would have been made?*

(**the Producer 2011 Referee Question**).

4.3 The reference will resolve a key factual issue that will help determine the amount of compensation payable to Producer Group Members. The reference process will seek to work out how many live cattle each Producer Group Member would have sold for export to Indonesia in 2011 in the Exceptions Order Scenario. The total number of lost exports for the whole industry in 2011 has been found to be 88,000, and the Court has already found that there were no lost exports in 2012 or 2013. Because 916 of the 88,000 lost exports have already been allocated to the Lead Applicant, **there are 87,084 lost exports in 2011 remaining. The referee will determine how many head of cattle each Producer Group Member would have sold for live export to Indonesia in the Exceptions Order Scenario, up to the total maximum of 87,084.**

4.4 If you are a Producer Group Member, the referee's determination on the above question will, if accepted by the court, become binding on you and all other group members. This means that you would only be able to obtain compensation for the number of exports sales that the referee found you had lost (although there may also be other losses caused by the Live Cattle Trade Ban.

4.5 With the consent of the Lead Applicant and the Respondents, the Court has appointed former Chief Justice of the Supreme Court of New South Wales Mr Tom Bathurst AC KC to act as the Referee in relation to the Producer 2011 Referee Question. Similarly, by consent, the Court has appointed Mr Ian McLean, an Accredited Chartered Agriculturalist and the managing director of Bush Agribusiness Pty Ltd, as an independent subject matter expert to assist the Referee in such ways and to the extent that the Referee requires for the purposes of the reference. Mr Bathurst may also appoint a forensic accountant as a further independent subject matter expert if he deems this necessary in due course.

4.6 Each Producer Group Member who claims damages for losses arising from lost exports in 2011 must file and serve particulars of the claimed lost exports and when those exports would have occurred, together with any evidence in support of their claim by **31 March 2027**.

4.7 Each Producer Group Member may also (but is not required to) provide to the Referee, by **5 May 2027**, submissions as to how the Referee should determine the total number of lost export sales.

4.8 The referee is to provide their report to the Court on the Producer 2011 Referee Question by 30 June 2027. The final allocation will then be determined in orders made by the Court.

5 What do Producer Group Members need to do?

5.1 As part of the reference process, the Court has ordered that each Producer Group Member who claims damages for losses arising from lost exports in 2011 must file and serve particulars of the claimed lost export sales and when those sales would have occurred, together with any evidence in support of their claim, by **31 March 2027**.

5.2 This means that any Producer Group Member who wishes to be eligible for compensation for lost sales of cattle for live export to Indonesia must submit a document to the court containing details of:

(a) how many more cattle you believe you would have sold for export to Indonesia in 2011 if the Minister had not made the Second Control Order, and had instead made an Exceptions Order;

(b) approximately when in 2011 you would have sold those additional cattle to Indonesia; and

(c) any other information which you consider is relevant to the above issues (for example, any details about the types of cattle that you believe you would have sold).

5.3 At the same time (ie by **31 March 2027**), you must also submit to the Court copies of any evidence which you wish the referee to consider in support of your claimed lost export sales in 2011. This could include records from your business such as sales records, sales forecasts, historical sales data, livestock schedules, livestock trading accounts or financial statements. These documents could cover the years leading up to the making of the Second Control Order on 7 June 2011. You may also submit a witness statement or statutory declaration relating to these issues.

5.4 Each Producer Group Member may also (but is not required to) provide to the Referee, by **5 May 2027**, a brief submission of up to 5 pages in respect of the Producer 2011 Referee Question, which should include any proposed findings of fact and law.

5.5 The submission may also address how the Referee should determine the number of lost export sales for which each Producer may recover damages in the event that the total number of lost export sales claimed by Producer Group Members totals more than the 87,084 head of cattle available to be distributed among Producer Group Members in this reference process.

5.6 The particulars, evidence and submissions filed by each Producer Group Member will be provided to the referee for consideration as part of their inquiry and report. The referee has the power to request any further information which they consider relevant to their inquiry and report. The parties may also provide the referee with an agreed set of assumptions to consider when determining the allocation of lost export sales.

5.7 If you are a Funded Group Member, you will be contacted by the Applicant's solicitors, Jonhson Winter Slattery, to assist with preparing your particulars and evidence. If you are not a Funded Group Member, you are encouraged to seek legal advice to assist you in preparation of the above documentation.

6 I'M A PRODUCER GROUP MEMBER. DO I HAVE TO SUBMIT MATERIAL TO THE COURT TO BE ABLE TO CLAIM COMPENSATION FOR LOSSES ARISING FROM LOST EXPORTS TO INDONESIA?

6.1 **You have two options:**

OPTION 1: PROVIDE PARTICULARS AND EVIDENCE BY 31 MARCH 2027	**OPTION 2: DO NOTHING**
To be eligible to receive compensation for lost export sales from the additional 87,084 head of cattle to be allocated in the Producer 2011 Referee Question, you will need to comply with Order 5 of the orders made by the Court on 20 August 2026: *By **31 March 2027*** (**Deadline**)*, each Producer Group Member who claims damages for losses arising from lost exports in 2011 is to file and serve particulars of the claimed lost exports and when those exports would have occurred, together with any evidence in support detailing the basis of the Producer Group Member's claim addressing the Producer 2011 Referee Question.* The obligation to provide particulars and any evidence of claimed lost exports by the Deadline applies to all Producer Group Members. If you are a Funded Group Member (as defined at 3.2 above), you will be contacted by the Applicant's solicitors, Johnson Winter Slattery, between now and the Deadline to prepare and submit your particulars and evidence of claimed lost export sales by the Deadline. If you are not a Funded Group Member (as defined at 3.2 above), you are strongly encouraged to prepare and provide particulars and any evidence of your claimed lost exports to the Court before the Deadline so as not to risk missing out on any potential compensation from an in-principle settlement or damages awarded. Additionally any Producer Group Member may also (but is not required to) provide to the Referee, by **5 May 2027**, a brief written submission of up to 5 pages in respect of the Producer 2011 Referee Question, which is to include any statement of proposed findings of fact and law. The submission may also address how the Referee should determine the number of lost export sales for which each Producer may recover damages in the event that the total number of lost export sales claimed by Producer Group Members totals more than the 87,084 head of cattle available to be distributed among Producer Group Members in this reference process.	If you do nothing by the Deadline in Option 1, you will remain a Group Member in the Live Cattle Trade Ban Class Action. If the Court agrees with and adopts the Referee's report, the Court will make orders which make the allocation of the 87,084 exports among the Producer Group Members binding on all Group Members. This means that Producer Group Members who do nothing will be bound by the ultimate outcome of the Producer 2011 Referee Question in accordance with any Court orders made following the inquiry and report. Those Producer Group Members will therefore not be able to pursue the same claim for economic loss arising from lost export sales from the additional head of cattle to be allocated against the Respondents in this or other legal proceedings in the future. Thus, if you wish to receive compensation as a Producer Group Member for lost export sales from the additional 87,084 head of cattle to be allocated in the Producer 2011 Referee Question, you are strongly encouraged to prepare and provide particulars and evidence of your claimed lost exports **(Option 1) before 31 March 2027** so as not to **risk missing out** on any potential compensation from an in-principle settlement or damages awarded.

7 This is not a scam

7.1 If you are concerned about the contents of this Notice, you can verify that this is a genuine Notice ordered by the Court by visiting the dedicated webpage for current Class Action documents on the Federal Court of Australia website:

www.fedcourt.gov.au/law-and-practice/class-actions/class-actions/documents

8 Independent legal advice

8.1 Group Members are entitled to seek legal assistance from either the Applicant's solicitor, Mr Andrew Gill, or independent legal representation, to assist them in complying with the Court's orders to serve particulars and evidence in support of the Producer 2011 Referee Question.

Please consider the above matters carefully. If there is anything of which you are unsure, you should contact the Applicant's solicitor, Mr Andrew Gill at Johnson Winter Slattery on **(02) 5114 9006** or email **livetradeclassaction@jws.com.au**. There will be no cost to you for contacting Mr Gill in order to make an initial inquiry of this kind. Alternatively, you should seek your own legal advice. You should not delay in making your decision.