



Annexure B

IMPORTANT NOTICE

FEDERAL COURT OF AUSTRALIA

BHP CLASS ACTION

Vince Impiombato, and Klemweb Nominees Pty Ltd (as trustee for the Klemweb Superannuation Fund) v BHP Group Limited (VID649/2018)

**IMPORTANT NOTICE TO REGISTERED GROUP MEMBERS
PLEASE READ CAREFULLY**

This is an important Notice issued to you by the Federal Court of Australia about the BHP Class Action. The Notice is sent to you because you are a "Registered Group Member" in the BHP Class Action. You should read this Notice carefully as the matters set out in the Notice may affect your rights.

You should read this Notice carefully. If there is anything in this Notice that you do not understand, you should use the contact information at Section 3 below to make enquiries or seek independent legal advice. Do not contact the Federal Court with any questions about this Notice.



1 KEY INFORMATION ABOUT THE BHP CLASS ACTION AND THIS NOTICE

- 1.1 This notice provides important information regarding Registered Group Members in the BHP Class Action.
- 1.2 The Joint Applicants in this class action, Vince Impiombato and Klemweb Nominees Pty Ltd (as trustee for the Klemweb Superannuation Fund), are bringing the BHP Class Action on behalf of persons who, between 8 August 2012 and 9 November 2015 (inclusive) (**Claim Period**) acquired an interest in fully-paid BHP Billiton Limited (**BHP Ltd**) shares and/or BHP Billiton Plc (**BHP Plc**) shares (**BHP Class Action**). BHP Billiton Limited and BHP Billiton Plc changed their names to BHP Group Limited and BHP Group Plc, respectively, effective 19 November 2018.
- 1.3 A previous Court notice was issued to Group Members in the BHP Class Action on or around 22 March 2024 (**Registration and Opt Out Notice**). Paragraphs 5.2 and 5.12 of the Registration and Opt Out Notice, foreshadowed that the parties may apply for an order from the Court which, if made, would have the effect that group members who neither opted out nor registered for the BHP Class Action, would be bound by but not able to seek any benefit under a settlement reached before final judgment.
- 1.4 You are a Registered Group Member because either:
 - (a) you entered into litigation funding agreement with G&E KTMC Funding LLC (G&E KTMC Funding Agreement) before 4.00pm (AEDT) on 31 May 2024;
 - (b) you entered into a retainer and costs agreement with Maurice Blackburn before 4.00pm (AEDT) on 31 May 2024;
 - (c) you submitted your claim registration before 4.00pm (AEDT) on 31 May 2024 through the online portal accessible through the webpage <https://www.bhpclassaction.com>; or
 - (d) your claim registration was submitted after 4.00pm (AEDT) on 31 May 2024, but by order of the Court you have been deemed to be a Registered Group Member.
- 1.5 This notice is being provided to inform Registered Group Members of a change in the funding entitlements associated with the BHP Class Action.
- 1.6 The Federal Court of Australia has ordered that this Notice be published for the information of persons who may be affected by the BHP Class Action.

2 FUNDING OF THE BHP CLASS ACTION

- 2.1 The Joint Applicants are bringing the BHP Class Action with funding from G&E KTMC. Pursuant to the financial terms and funding terms for the BHP Class Action, G&E KTMC is exclusively responsible for adverse costs orders and security for costs and has agreed to pay:
 - (a) all disbursements incurred in the BHP Class Action;
 - (b) Phi Finney McDonald under its current terms of engagement for performing legal work;
 - (c) premiums associated with after-the-event insurance arrangements procured for the BHP Class Action.
- 2.2 Maurice Blackburn is performing its legal work on a No Win, No Fee basis, charging a 6.25% uplift in the event the class action is successful.
- 2.3 Group Members who have either entered into the G&E KTMC Funding Agreement or the Maurice Blackburn Retainer Agreement are known as **Funded Group Members**. Group Members who have not entered into either the G&E KTMC Funding Agreement or the Maurice Blackburn Retainer Agreement are known as **Unfunded Group Members**.
- 2.4 Paragraph 7.3 of the Registration and Opt Out Notice notified Group Members that if the class action is successful, G&E KTMC was entitled to recover a funding commission of 18% of any compensation to which Group Members who had entered into the G&E KTMC Funding Agreement became entitled after deduction of the recovery of the legal costs, disbursements,



other litigation expenses, costs and premiums paid or payable by G&E KTMTC under the after-the-event insurance arrangements procured for the BHP Class Action.

INTENTION TO SEEK COMMON FUND ORDER

- 2.5 In the event of a settlement or judgment in favour of the Joint Applicants, the Joint Applicants intend to apply to the Court for an order that both Funded and Unfunded Group Members to the Proceeding contribute a pro-rata amount to the costs incurred in conducting the Proceeding and to pay to G&E KTMTC a percentage of any compensation to which the Funded and Unfunded Group Members become entitled as commission for funding the BHP Class Action. These orders are called "common fund orders" (**CFOs**).
- 2.6 Group Members will only be liable to contribute to a CFO if there is a successful outcome in the Proceeding. If there is a successful outcome, the amounts payable to G&E KTMTC by Group Members will be deducted from the settlement or judgment sum (in addition to the reimbursement of reasonable costs incurred including the recovery of premiums associated with after-the-event insurance arrangements procured for the BHP Class Action) before the balance is distributed to Group Members.
- 2.7 The total amounts deducted for legal costs and the funder's commission from compensation payable to Group Members by way of a CFO will never exceed the amount a Group Member receives in the event of a successful outcome.
- 2.8 The Joint Applicants intend to seek common fund orders for:
- (a) reimbursement of legal costs inclusive of uplift, disbursements and other litigation expenses incurred by the Joint Applicants in the BHP Class Action;
 - (b) reasonable settlement administration costs;
 - (c) reimbursement of costs and premiums paid or payable under the after-the-event insurance arrangements procured for the BHP Class Action; and
 - (d) a percentage commission to G&E KTMTC calculated on the basis of the total settlement or judgment sum minus G&E KTMTC's expenses under Paragraph 2.1 above (**net recovery**) as follows:
 - (i) 27.5% of any net recovery up to \$200 million;
 - (ii) 25% of the net recovery of the next \$100 million;
 - (iii) 22.5% of the net recovery of the next \$100 million;
 - (iv) 20% of the net recovery of the next \$100 million; and
 - (v) 15% of any net recovery over \$500 million.
- 2.9 The Applicant intends to apply for a CFO for the following reasons:
- (a) it would be unfair for only those Funded Group Members who entered into an agreement with G&E KTMTC to be the only Group Members required to pay a commission in circumstances where all Group Members would benefit from a successful outcome in the Proceeding;
 - (b) the ultimate percentage commission rate under the CFO must be approved as fair and reasonable by the Court; and
 - (c) Group Members who do not wish to pay a commission to G&E KTMTC from the net recoveries, may opt out of the Proceeding in accordance with Section 3 of this Notice.
- 2.10 The Court will assess whether any amounts proposed to be deducted from any settlement sum (including legal costs/disbursements and funding costs) are fair and reasonable. You will be given notice at that time informing you of the amounts which are proposed to be deducted and given an opportunity to tell the Federal Court of Australia if you agree or disagree with what is proposed.



3 FURTHER QUESTIONS ABOUT THE BHP CLASS ACTION

- 3.1 Please consider the above matters carefully.
- 3.2 If there is anything within this Notice that you do not understand, or if you have any questions or comments about the Notice, you should contact the Joint Applicants' lawyers by emailing enquiries@bhpclassaction.com, or seek independent legal advice.