



ANNEXURE A
NOTICE OF PROPOSED SETTLEMENT

**Tania Kelehear v Stellar Personnel Brisbane Pty Limited (ACN 158 542 191) and
Another (VID 1662/2018)**

You should read this Notice carefully as it concerns your legal rights. You have been sent this Notice by order of the Federal Court of Australia because you may be a Group Member in the above proceedings. This notice is not legal advice. You should seek independent legal advice if you are unsure what to do, noting the time limit to object to the proposed settlement.

SECTION 1 – INFORMATION ABOUT THE CLASS ACTION

What is this Class Action?

1. On 21 December 2018, a class action was filed in the Federal Court of Australia by the Applicant, Ms Tania Kelehear on behalf of certain persons who were employed by the Respondents, Stellar Personnel Brisbane Pty Limited ACN 158 542 191 and Stellar Recruitment Pty Limited (ACN 157 737 150) (**Stellar**), between 25 December 2012 and 24 December 2018 (**Class Action**). The law firm, Adero Law, acts on behalf of Ms Kelehear in the class action.
2. You are a Group Member if you were at any time, in the period between 25 December 2012 to 24 December 2018, employed by Stellar:
 - 2.1 as a production and engineering employee within the meaning of Schedule A of the Black Coal Mining Industry Award 2010; and
 - 2.2 were treated as a “casual” employee by Stellar.
3. The class action seeks orders from the Court awarding compensation and imposing penalties upon Stellar for alleged underpayments of annual leave to Ms Kelehear and Group Members which Ms Kelehear alleges should have been paid on termination of their employment.



4. The allegations made by Ms Kelehear against Stellar are set out in the Amended Statement of Claim, a copy of which is available at:
<https://www.aderolaw.com.au/class-actions/mining/stellar/>. Stellar denies liability and a copy of its Defence is also available at that link.

Why have you received this Notice?

5. Ms Kelehear and Stellar have agreed to settle the Class Action and will be seeking Court approval of the proposed settlement. You are receiving this Notice because you may be affected by the proposed settlement of the Class Action.
6. 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, then you should contact Adero Law or seek independent legal advice.

What does the Proposed Settlement involve?

7. The parties participated in mediation on 28 March 2024.
8. The parties were subsequently able to agree an in-principle settlement of the Class Action, which means that the parties agreed to resolve the Class Action out of Court without going to trial.
9. Without admission of liability, Stellar has agreed to pay \$500,000 in full and final settlement of the claims of the Applicant and all Group Members and inclusive of all costs, including legal and administration costs, expenses, disbursements, interest, tax and penalties (**Settlement Sum**). The Settlement Sum is paid by Stellar without any admission of liability or wrongdoing and on a commercial basis to resolve the proceedings without the parties incurring further legal fees.
10. The amounts which are proposed to be deducted from the Settlement Sum (each of which is subject to Court approval) before it is distributed to group members who have registered (**Registered Group Members**) or register by the Deadline 6 January 2025 (**Future Registered Group Members**) are for:
 - 10.1 the **Legal Costs** for running the claim, including an amount to litigation funders, Augusta 005 Limited (the **Funder**) who funded the legal costs from 2018 to



March 2022. The total legal costs for running the claim up to 31 October 2024 was \$358,406.70. The Funder has paid \$226,839.82. Adero Law has incurred \$131,566.88 (unpaid by the Funders). Adero Law estimates it will cost an additional \$55,000 to obtain settlement approval. Therefore, the total Legal Costs for running the claim are approximately \$413,406.70; and

10.2 **Administration Costs** of administering the Settlement Distribution Scheme. As noted in paragraph 20 below, it is proposed that Adero Law be appointed as Administrator of the Settlement Distribution Scheme under Court supervision.

11. Adero Law is proposing not to seek to recover all of its fees and to only seek a reduced amount to ensure the settlement is proportionate. The Applicant and Adero Law proposes to seek the following amounts in respect of the deductions:
 - 11.1 a deduction to the Funder of \$50,000;
 - 11.2 a deduction to Adero Law for its deferred legal costs for work already done but not yet paid for, and work which will be done up to and including the Settlement Approval Application hearing, of \$132,000; and
 - 11.3 a deduction to the Settlement Administrator of \$18,000.
12. Ms Kelehear will seek orders from the Court for the Settlement Sum to be distributed to the Registered Group Members and Future Registered Group Members who register by the Deadline of in accordance with the process set out in paragraphs [28] and [32]-[33] respectively.
13. Group members who are already registered are individuals who registered their interest in participating in the Class Action with Adero Law by 4:00pm on 29 February 2024. If you did not register by this date and you do not register by the Deadline, you will not be eligible to receive any compensation, subject to any further order by the Court.
14. The number of Registered Group Members is approximately 50 individuals. The aggregate claim value of the Registered Group Members is approximately \$390,350, being an average of \$7,807. With the proposed deductions of \$200,000 from the Settlement Sum of \$500,000, Registered Group Members would receive an average of approximately \$6,000 each. The average amount group members would receive will



decrease depending on the number of Future Registered Group Members, who register to participate in the proposed settlement.

15. **If the proposed settlement is approved by the Court, the Class Action will be dismissed, and Registered Group Members and Future Registered Group Members may receive a payment from the Settlement Sum.**
16. If the Court approves the proposed settlement, the Applicant and all Group Members (whether Registered or Unregistered) will release Stellar and its related entities from all claims that are made, or could be made, as against Stellar by all Group Members:
 - 16.1 arising from or under, in connection with or in relation to the Class Action proceedings; and
 - 16.2 that are in respect of, or arise out of, directly or indirectly, the same, similar or related circumstances to the Claims made in the Proceeding (whether known or unknown),

including any claim for compensation, damages, interest, other losses, pecuniary penalties, or costs.
17. **As a Group Member, you will be bound by the proposed settlement if it is approved by the Court regardless of whether you have registered for the Class Action.**
18. The Applicant has agreed to, and seeks the Court approve the proposed settlement for the following reasons:
 - 18.1 the group size that is eligible to participate in the settlement on current orders is approximately 50 Registered Group Members;
 - 18.2 the Class Action has been on foot since 2018, with group members having been given sufficient time to register their interest with Adero Law to participate from 2018 up until February 2024;
 - 18.3 the continuation of the litigation for the interests of potentially a small group of people is likely to incur further legal costs that will dilute the claim value. In a claim where the only compensation is in relation to annual leave entitlements, there is a risk that Registered Group Members would receive less;



- 18.4 the value of the settlement obtained on behalf of Registered Group Members is in comparable terms to the results obtained in the related class action against the labour hire company Hays Specialist Recruitment (Australia) Pty Limited (VID1661/2018); and
- 18.5 an appropriate discount in legal costs and disbursements and funding is being sought in support of the settlement, that the Applicant and Adero Law hopes will allow for an appropriate return to Registered Group Members.

What is a Settlement Distribution Scheme?

19. The Settlement Distribution Scheme outlines the process by which the Settlement Sum is proposed to be paid to eligible Registered Group Members and Future Registered Group Members on a fair and reasonable basis and must also be approved by the Court.
20. If the Court approves the proposed settlement, the parties will seek to have Adero Law appointed as the Administrator of the Settlement Distribution Scheme. The role of the Administrator is to supervise and manage the payment of the Settlement Sum to Group Members in accordance with the Settlement Distribution Scheme.

Are Group Members liable for legal or other costs?

21. If the Court approves the Proposed Settlement, the Settlement Sum will be in full and final satisfaction of all costs. The legal costs incurred by the Applicant in pursuing the Class Action, in an amount approved by the Court, will be paid from the Settlement Sum prior to the distribution of any Settlement Payments to Group Members. This ensures that all Group Members who benefit will contribute to the legal costs and are treated equally.
22. Adero Law is proposing not to seek to recover all of its fees, being the Applicant's costs, to ensure the settlement is proportionate. The Applicant's costs are exclusive of any costs of administering the settlement under the Settlement Distribution Scheme.
23. You will not otherwise be required to pay any legal costs for the Class Action, regardless of whether you receive a Settlement Payment.



What is the settlement approval process?

- 24. The Court still needs to approve the Proposed Settlement. The Proposed Settlement does not come into effect unless it is approved by the Court.
- 25. The Court will determine whether it is fair and reasonable and in the interests of all Group Members. The Court will also determine whether the amount allocated for payment to Adero Law on account of legal costs and settlement administration costs is reasonable.
- 26. You may file a Notice of Objection to the Proposed Settlement and/or any aspect of the proposed distribution of the Settlement Sum to eligible Group Members. If you wish to file a Notice of Objection to the Proposed Settlement, you must do so by no later than 4:00pm on 6 January 2025. The Court will take any objections into account in deciding whether or not to approve the Proposed Settlement.

SECTION 2 – SUMMARY OF YOUR OPTIONS

Step 1 - If you:	Step 2 - Then:	Your Options:
Have registered to participate in the Class Action and have not opted out	You are a Registered Group Member	<ol style="list-style-type: none">1. Do Nothing (and participate in the Proposed Settlement if it is approved)2. Object (and participate in the Settlement if it is nonetheless approved)
Have not previously registered to participate in the Class Action and have not opted out	You are an Unregistered Group Member	<ol style="list-style-type: none">1. Register (and participate in the Settlement if it is approved)2. Do Nothing (and be ineligible for any payment even if the



		<p>Settlement is approved, subject to a further order from the Court and any rights you have to make a claim against Stellar or its related entities shall be extinguished)</p> <p>3. Object (and, if you also register, participate in the Settlement if it is approved, notwithstanding your objection)</p>
<p>Have filed an opt out notice with the Court</p>	<p>You have opted out of the Class Action, and you may disregard the remainder of this notice.</p>	<p>Not Applicable</p>

SECTION 3 – INFORMATION ABOUT YOUR OPTIONS

Your options if you are a Registered Group Member (that is, you have already registered by 4:00 pm on 29 February 2024)

27. If you have registered for the Class Action, you are a Registered Group Member and you have two options.

Option A: Do nothing (and participate in the proposed settlement)

28. If you wish to remain a Registered Group Member and participate in the Proposed Settlement, you do not need to do anything in response to this notice. **If the proposed settlement is approved by the Court, you may be eligible to receive a payment. You will be bound by the settlement and may need to provide certain information to the administrator.**



Option B: Object by 6 January 2025

29. You may object to the Proposed Settlement or any part of it by completing the Notice of Objection to Proposed Settlement Form attached as Schedule 2 to this Notice and submitting it to the Court and the Applicant's solicitors at the emails or postal addresses on the form **by no later than 4:00pm on 6 January 2025**. If you choose to do this, you will still participate in the Proposed Settlement if it is approved.
30. Any objections received by the Court will be considered by the Court, along with any evidence and submissions filed by the Applicant and Stellar, in determining whether or not the Proposed Settlement should be approved. If after considering any objections, the Court does not approve the Proposed Settlement, then the Class Action will continue. At or following a trial of the common issues, the Court may give directions in relation to the determination of any remaining issues.

Your options if you are an Unregistered Group Member

31. If you have not previously registered to participate in the Class Action and you have not opted out of the Class Action, you are an Unregistered Group Member. You have two options.

Option A: Register to participate in the Settlement by 6 January 2025

32. You may register your claim by completing and submitting the Group Member Registration Form either online at <https://www.aderolaw.com.au/class-actions/mining/stellar/> or completing the hard copy form attached as Schedule 1 to this Notice and returning it to Adero Law at the email or postal address on the form **by no later than 6 January 2025**.
33. **If you register, you may be eligible to receive a payment from the Settlement.** The precise amount of the payment is presently unknown and will be determined using a model as part of the Settlement Distribution Scheme. There is no cost associated with registering your claim.

Option B: Do nothing

34. If you do nothing and the proposed settlement is approved by the Court, you will remain a Group Member for all purposes and be bound by the settlement but:



34.1 you will not, unless the Court determines otherwise, be entitled to receive a payment from the proposed settlement; and

34.2 any rights you have to make a claim against Stellar or its related entities as set out at paragraph 16 of this Notice will be extinguished.

Option C: Object to the Proposed Settlement by 6 January 2025

35. You may object to the Proposed Settlement by completing the **Notice of Objection to Proposed Settlement Form** attached as **Schedule 2** to this Notice and submitting it to the Court and the Applicant’s solicitors at the emails or postal addresses on the form **by no later than 4:00pm on 6 January 2025**. If you choose to do this, you must still register if you wish to participate in the Settlement if it is approved by the Court.

36. Any objections received by the Court will be considered by the Court, along with any evidence and submissions filed by the Applicant and Stellar, in determining whether or not the Proposed Settlement should be approved. If after considering any objections the Court does not approve the Proposed Settlement and you have not opted out, then the Class Action will continue. At or following a trial of the common issues, the Court may give directions in relation to the determination of any remaining issues.

SECTION 4 – INFORMATION ON LITIGATION FUNDING

37. At the commencement of the proceedings, the litigation funder, Augusta 005 Limited (the **Funder**) provided funding in respect of the legal costs in connection with claims alleging group members were entitled to:

37.1 benefits non-casuals receive under the National Employment Standards;

37.2 shift work, weekend and public holiday work and overtime, to be paid at “double time” (or similar) at the contract rate of pay rather than the minimum rate of pay allowed under the *Black Coal Mining Industry Award 2020* (previously entitled the Black Coal Mining Industry Award 2010) (the **Award**); and

37.3 annual leave under the Award.



In 2022, all claims but for the Award claim for annual leave entitlements were discontinued following the High Court decision in the *Workpac Pty Ltd v Rossato* proceeding (*Workpac Pty v Rossato* [2021] HCA 23). The Funder terminated the LFAs with group members in March 2022.

38. The Funder is asserting it has an entitlement to a proportion of the Project Costs¹ which is to be calculated by reference to the proportion that the amount of the claims of the group members who entered into LFAs bear to the total amount of the claims of the group members who are participating in the settlement (subject to the settlement being approved by the Court).
39. The entitlement described above is presently restricted to individuals that signed an LFA and may result in a nil payment to those individuals. It is the position of the Applicant and Adero Law that a proportion of any awarded legal costs by the Court be made payable to the funder. Adero has negotiated with the Funder such that the Funder has agreed to reduce its costs to \$50,000 (down from the \$226,839.82 which it spent). Adero will ask the Court to spread that reimbursement across all group members, including non-funded group members on the basis that their cost was to the benefit of all group members. The cost to group members would therefore be relatively modest, but are not able to be estimated as the number of group members is unknown at present.
40. The Court will need to assess the suitability of any orders in favour of the Funder under s 33V of the *Federal Court of Australia Act 1976* (Cth) when considering whether to approve the settlement.
41. The Court will determine what, if any, deductions from the settlement should be made to the Funder at the hearing on 21 February 2025.
42. Adero Law has identified group members that it considers entered into an LFA with the Funder at a period prior to March 2022. Adero Law will separately notify impacted group members of that position via email. A copy of the LFA for those that have signed one can be obtained by emailing stellaraction@aderolaw.com.au.

¹ Project Costs means the costs paid by the Funder in respect of the claim in the period of 2018 to 2022. The Funder says this cost was \$226,839.82. The funder relies on the contractual assignment under clause 8 and in respect of clauses 12.2 and 12.8 of the LFAs.



43. If you have signed an LFA or wish to otherwise object to the Court making any orders in favour of the Funder by way of a deduction from the settlement sum, please follow the details in the following section. If you do not wish to object to the position of the Funder or the settlement, you are not required to take any further steps in addition to those outlined in section 3 above.

Objections

44. Should you wish to object to the settlement on the basis of the above, you may object to the Proposed Settlement by completing the **Notice of Objection to Proposed Settlement Form** attached as **Schedule 2** to this Notice and submitting it to the Court and the Applicant's solicitors at the emails or postal addresses on the form **by no later than 6 January 2025**. If you choose to do this, you will still be considered registered to participate in the settlement should it be approved by the Court.
45. Any objections received by the Court will be considered by the Court, along with any evidence and submissions filed by the Applicant and Stellar, in determining whether or not the Proposed Settlement should be approved. If after considering any objections the Court does not approve the Proposed Settlement, then the Class Action will continue. At or following a trial of the common issues, the Court may give directions in relation to the determination of any remaining issues.

Where can I get more information?

46. If you have any questions or queries, you may contact the Applicant's solicitors, Adero Law, at stellaraction@aderolaw.com.au with the subject line: Proposed Settlement VID1662/2018.

If you are unsure of what to do, you should seek independent legal advice.



SCHEDULE 1 – GROUP MEMBER REGISTRATION FORM

**TANIA KELEHEAR v STELLAR PERSONNEL BRISBANE PTY LIMITED (ACN
158 542 191) AND ANOTHER (VID1662/2018)**

Please return this form to:

By post: Adero Law, 3 Hobart Place, CANBERRA ACT 2601

OR

By email: stellaraction@aderolaw.com.au with subject line: Registration Form
VID1662/2018

YOU MAY ALSO COMPLETE THIS FORM ONLINE

at <https://www.aderolaw.com.au/class-actions/mining/stellar/>

The person named below gives notice that the person wishes to **REGISTER** for the
Settlement of this proceeding.

Details of Group Member

Name of Group Member	
Date of Birth	
Telephone	
Email Address	
Postal Address	
Employing Entity (from payslips or employment contract)	
Stellar Personnel Brisbane Pty Limited or Stellar Recruitment Pty Limited Employee ID(s) (from payslips) (optional)	



SCHEDULE 2 – OBJECTION TO PROPOSED SETTLEMENT

**TANIA KELEHEAR v STELLAR PERSONNEL BRISBANE PTY LIMITED (ACN
158 542 191) AND ANOTHER (VID1662/2018)**

Please return this form to:

By post: Federal Court of Australia (VIC Registry), 305 William Street, Melbourne
VIC 3000

and

Adero Law, 3 Hobart Place, CANBERRA ACT 2601

OR

By email: vicreg@fedcourt.gov.au with subject line: Notice of Objection VID1662/2018

and

stellaraction@aderolaw.com.au with subject line: Notice of Objection
VID1662/2018

The person named below gives notice that the person **OBJECTS** to the proposed settlement of this proceeding.

Details of Objector

Name of Individual	
Telephone	
Email Address	
Postal Address	



Ground(s) of Objection

I am a Group Member in the above proceedings and I object to the Proposed Settlement of because *[set out below any submissions, attaching additional pages if necessary]*:

Signed	
Name of Person Signing	
Date	