



**THIS NOTICE IS SENT BY ORDER OF  
THE SUPREME COURT OF VICTORIA**

**NOTICE OF PROPOSED SETTLEMENT**

**ESANDA CAR LOANS (ANZ AND MACQUARIE BANK)**

**FLEX COMMISSIONS CLASS ACTION**

**PLEASE READ CAREFULLY**

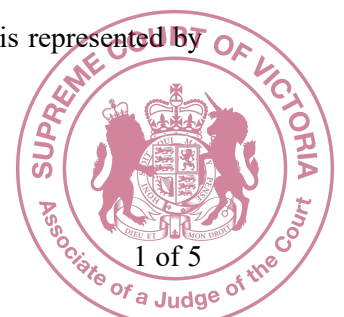
**This notice contains important information about the proposed settlement of the Esanda car loans class action against ANZ and Macquarie Bank. It is an important document which contains information that may affect your legal rights.**

**WHY ARE YOU RECEIVING THIS NOTICE?**

1. You have received this notice because you have been identified as a potential group member in the class action.
2. You are a group member if you had a consumer car loan arranged through a car dealer between 1 January 2011 and 31 March 2016 on which a flex commission was paid by ANZ to a car dealer.
3. If you meet these criteria, you may be eligible to receive money if the Court approves the proposed settlement.

**WHAT IS THE CLASS ACTION ABOUT?**

4. This class action has been brought by Daniel O'Brien (the **Plaintiff**). The Plaintiff has brought this action on his own behalf and on behalf of all group members who entered into similar loan arrangements with ANZ and Macquarie Bank. The Plaintiff is represented by Maurice Blackburn Lawyers.



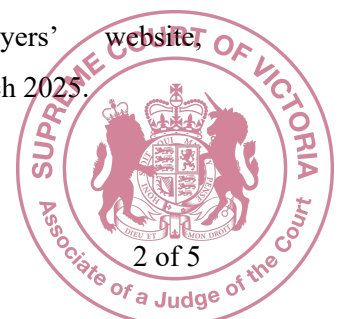
5. The Plaintiff alleges that car dealers acted on ANZ's behalf in providing certain credit services to group members who took out car loans through those dealers. ANZ offered car loans through accredited car dealers through its Esanda business, and Macquarie Bank acquired the Esanda car dealer loan portfolio from ANZ in 2016. The claim alleges that "flex commissions" were paid to those car dealers and that certain features of the flex commission arrangements were unfair and/or not disclosed to consumers who paid higher interest rates on their Esanda car loans than would otherwise have been the case. It is claimed that ANZ and Macquarie Bank are responsible for the flex commission arrangements and non-disclosures, and that they should therefore pay compensation (that is, money) to consumers for the loss they have suffered as a result.
6. ANZ and Macquarie Bank deny the claims made against them in the class action.
7. The parties to the class action have agreed to settle the class action on a no admissions and no liability basis subject to the approval of the Court.

#### **WHAT IS THE PROPOSED SETTLEMENT?**

8. The key elements of the proposed settlement are:
  - a. ANZ will pay (without admission of liability) **\$85 million** inclusive of all legal and other costs to settle the claims in the class action (**the Settlement Sum**);
  - b. the Court must approve the proposed settlement for it to take effect; and
  - c. if the Court approves the proposed settlement, it will apply to all group members. This means that group members will not be able to sue the Defendants for issues arising from or related to the claims that were made against the Defendants in the class action.

#### **HOW MUCH MONEY WILL GROUP MEMBERS RECEIVE?**

9. At this stage, it is not possible to tell group members how much money they will receive if the Court approves the settlement. This will depend on the number of group members who register; an estimate of each registered group member's individual loss; and the deductions to be made from the Settlement Sum.
10. The Court must approve the methods that will be used to determine whether each registered group member is eligible to receive compensation and, if so, the amount of compensation they will receive. Proposed methods will be set out in a "settlement distribution scheme" which will be available on Maurice Blackburn Lawyers' website, [www.mauriceblackburn.com.au/flex](http://www.mauriceblackburn.com.au/flex) from 14 February 2025 until 14 March 2025.



11. It is harder to succeed on legal claims where group members entered their car loans before 21 August 2014. This is because those group members' claims for unfair conduct pursuant to the *National Consumer Credit Protection Act 2009* are statute barred (i.e., out of time). For this reason, group members who entered their car loans before 21 August 2014 are likely to receive significantly less money than those who entered their car loans after this date.

### **WHAT ARE YOUR OPTIONS?**

12. If you previously opted out of the class action, you are not eligible to participate in the proposed settlement and you can disregard this notice. Group members who opted out of the class action completed and returned an opt out notice to the Court by 28 September 2023 or were the subject of a Court order permitting them to opt out.
13. Group members who did not opt out have two options:

#### **OPTION 1: REGISTER YOUR INTEREST TO RECEIVE COMPENSATION**

To participate in the proposed settlement, you must register your details with Maurice Blackburn Lawyers **by 14 March 2025** at <https://esandaflexclassaction.mauriceblackburn.com.au>. If the online registration portal is not suitable for your needs, please contact Maurice Blackburn Lawyers on 1800 318 063 or at [esandaflexca@mauriceblackburn.com.au](mailto:esandaflexca@mauriceblackburn.com.au). If you have already registered with Maurice Blackburn Lawyers to participate in the class action, there is no need for you to do so again. This is a Court ordered deadline and Maurice Blackburn Lawyers will not have discretion to accept registrations after this time.

#### **OPTION 2: DO NOTHING**

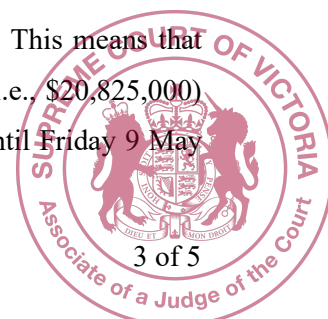
If you have not previously registered and do not register by the deadline of 14 March 2025 you will not be entitled to any money from the settlement, but you will still be bound by it (if it is approved). This means that any claims you may have had against the Defendants covered by the class action will be extinguished.

### **WHAT DEDUCTIONS WILL BE MADE FROM THE SETTLEMENT SUM?**

14. The Court will be asked to approve the following deductions from the Settlement Sum before the remainder is distributed to eligible group members.

#### **LEGAL COSTS**

15. The Court has made a "group costs order" of 24.5% in the Proceeding. This means that Maurice Blackburn Lawyers will be paid 24.5% of the Settlement Sum (i.e., \$20,825,000) for legal costs and the legal risks it took in running the class action up until Friday 9 May



2025. The Court may adjust the “group costs order” percentage if it considers an adjustment to be appropriate.

#### **PLAINTIFF’S REIMBURSEMENT PAYMENT**

16. The Court will be asked to approve a reimbursement payment of \$30,000 to the Plaintiff to compensate him for his time associated with acting as the Plaintiff in the class action.

#### **SETTLEMENT ADMINISTRATION COSTS**

17. The Court will be asked to appoint Maurice Blackburn as the Administrator to implement the distribution process set out in the settlement distribution scheme.
18. There will be up to an estimated \$3.5m in settlement administration costs associated with the distribution of the Settlement Sum to group members. This estimate depends on certain assumptions, including the number of group members who register to participate in the proposed settlement. The costs of the settlement distribution will be offset in part by the interest earned on the Settlement Sum. The Court will be asked to authorise those costs to be paid from the Settlement Sum before the balance is shared among eligible group members. The Court might fix a lower or higher amount if it thinks that a different figure is appropriate.

#### **HOW CAN YOU OBJECT TO THE PROPOSED SETTLEMENT?**

19. Group members have the right to object to the proposed settlement and to make submissions as to why the Court should not approve it (or any aspect of it). If you wish to exercise those rights, you must complete the **Notice of Objection** form available at [www.mauriceblackburn.com.au/flex](http://www.mauriceblackburn.com.au/flex) and email it to Maurice Blackburn Lawyers at [esandaflexca@mauriceblackburn.com.au](mailto:esandaflexca@mauriceblackburn.com.au) by 10 March 2025.
20. Any group member who objects may (but is not obliged to) appear before the Court at the hearing of the application to approve the proposed settlement on Friday 9 May 2025 at 10.30 am.
21. Any objections will be considered by the Court in determining whether to approve the proposed settlement.
22. If you want to object to the proposed settlement, but nevertheless participate in it if your objection is overruled and the proposed settlement is approved, you should register as set out above.

#### **WHAT NEXT?**

23. The Court will conduct a hearing on Friday 9 May 2025 at 10.30 am to decide whether to approve the proposed settlement, including how the Settlement Sum will be distributed.



**WHERE CAN YOU FIND MORE INFORMATION ABOUT THE CLASS ACTION?**

24. You can obtain more information and key documents about the class action by visiting:
- a. [www.mauriceblackburn.com.au/flex](http://www.mauriceblackburn.com.au/flex) and
  - b. <https://www.supremecourt.vic.gov.au/areas/group-proceedings/flex-commissions-anz-macquarie> .
25. If you have any questions, you can contract Maurice Blackburn Lawyers via:
- a. [esandaflexca@mauriceblackburn.com.au](mailto:esandaflexca@mauriceblackburn.com.au); or
  - b. 1800 318 063.
26. Please do not contact the Supreme Court of Victoria. **The Court staff are not permitted to give you legal advice.**
27. If you have any questions and you do not want to speak to Maurice Blackburn Lawyers, you may get independent legal advice.

