

SUPREME COURT OF VICTORIA  
GNOTUK (CAMPERDOWN) BUSHFIRE CLASS ACTION

HAWKER

V

POWERCOR AUSTRALIA LIMITED

(S CI 2018 01833)

**IMPORTANT NOTICE**

**NOTICE OF PROPOSED SETTLEMENT OF GNOTUK BUSHFIRE CLASS ACTION**

The Supreme Court has ordered that this notice be published for the information of persons who might be group members of the Gnotuk Bushfire Class Action.

**You should read this notice carefully as it may affect your rights. 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 seek legal advice.

**1. What is the Gnotuk Bushfire Class Action?**

The plaintiff alleges that Powercor owed him and the group members a duty to take reasonable precautions to prevent a fire starting as a result of the electrical infrastructure operated and maintained by Powercor. The plaintiff alleges Powercor breached that duty because of negligence by Powercor in the construction, maintenance and operation of the powerline causing the plaintiff and group members to suffer loss and damage.

**2. Are you a group member?**

You are a group member in the class action if you:

- (a) Suffered personal injury or loss of or damage to property as a result of the Gnotuk Fire or are the legal personal representative of the estate of any deceased person who would otherwise have qualified as a group member;
- (b) Are not any of the following:
  - (i) A related party of Powercor;
  - (ii) A related body corporate of Powercor;
  - (iii) An associated entity of Powercor;
  - (iv) An officer or close associate of Powercor;

**3. The Defendant**

The defendant to the class action is Powercor Australia Ltd.

**4. The Allegations**

The plaintiff makes a number of allegations in the class action to which the defendants raise a

number of responses. In summary, the plaintiff alleges and the defendant disputes that:

- (a) at all material times the defendant knew or ought to have known that a discharge of electricity from powerlines could cause the emission of electricity, heat or sparks from the point of discharge and this discharge of electricity could cause ignition of flammable material in the vicinity of the point of discharge;
- (b) on 17 March 2018, the defendant failed to adequately respond to reports that a powerline was down on Cross Forest Road and accordingly failed to prevent the continuing supply of electricity to the powerline within a reasonable time;
- (c) the Gnotuk bushfire started as a result of a powerline that broke as a consequence of a falling branch of a eucalyptus tree shortly after 9pm. At 9:05pm the defendant was notified of the broken powerline and at 9:25pm heat and sparks ejected from the fallen powerline and the sparks landed in and ignited long, dry grass near the base of the power pole.

The full allegations and responses of the parties are set out in the statement of claim and defence which may be accessed at the website <http://maddenslawyers.com.au>.

## **5. Proposed settlement**

The parties have agreed to a settlement of the class action, under which the proceeding will be dismissed, with each party bearing their own legal costs. Any costs orders previously made in this proceeding will be vacated and the proceeding will not continue to trial. The defendant will be released from any claims that the plaintiff and the group members may have arising out of or relating in any way to the facts, matters or circumstances set out in the statement of claim.

The settlement cannot take effect without Court approval. The Court will consider whether or not to approve the settlement on **29 July 2019**.

If you are a group member in the proceeding and the settlement is approved, you will be bound by the settlement and you will not be able to bring any case against the defendant for any loss suffered as a result of the Gnotuk bushfire.

## **6. Legal costs**

As Maddens Lawyers act on a 'no-win no-fee' basis, in accordance with Maddens Lawyers Conditional Costs Agreement, you will not be required to pay any legal fees if the settlement is approved. The plaintiff's costs of running the proceeding will be borne by Maddens Lawyers.

## **7. What You Must Do**

There are only two options which you must consider.

**Option A**     *If you support the settlement* then you do not need to do anything. If the settlement is approved, you will be bound by the settlement and unable to bring any further legal proceedings in relation to the Gnotuk bushfire.

**Option B**     *If you oppose the settlement and wish to object* then you must complete the "Notice of Objection to Proposed Settlement" which is Annexure 1 to this Notice. You must return the Notice to Maddens Lawyers before **4pm on 21 June 2019**. If

you object you are entitled to attend Court on **29 July 2019** when the Court considers whether to approve the proposed settlement to argue your objection. You may need to advise the Court whether you are prepared to replace Mr Hawker as the plaintiff to continue the class action.

**Please note:** even if you take this Option B and object to the proposed settlement and the Court nonetheless approves the settlement, you will still be bound by the settlement.

If you are not sure what to do, you should contact Maddens Lawyers or seek independent legal advice. You must act quickly because the deadline for objections is **4pm on 21 June 2019**.

#### **8. When your objection will be considered**

The Court has ordered that any objections to the proposed settlement (from group members who take Option B above) will be considered by the Court at the Supreme Court, Melbourne, 210 William Street, Victoria on **29 July 2019**.

If there are no objections, or the objections are overruled, then the proposed settlement will be given final approval by the Court. It will then take effect and the proceeding will be considered finalised.

#### **9. Addresses for questions**

If you have any questions about the settlement or this notice, you can contact Maddens Lawyers at any time, or seek your own independent legal advice.

##### **Contact details for Maddens Lawyers**

Att: Jess Walker

Gnotuk Bushfire Class Action

Maddens Lawyers

219 Koroit Street

Warrnambool VIC 3280

Telephone: (03) 5560 2000

Email: [jlw@maddenslawyers.com.au](mailto:jlw@maddenslawyers.com.au)

##### **Contact details for the Supreme Court of Victoria**

Note: Questions you have concerning the matters contained in this notice should **not** be directed to the Court.

Att: Deputy Registrar – Common Law

Supreme Court

Ground Floor, 436 Lonsdale Street, Melbourne 3000

Telephone: 03 9603 9300

Email: [cldclassactions@supremecourt.vic.gov.au](mailto:cldclassactions@supremecourt.vic.gov.au)

**NOTICE OF OBJECTION TO PROPOSED SETTLEMENT**

The person identified below:

1. was affected by the Gnotuk bushfire; and
2. is a group member in this class action; and
3. wishes to object to the proposed settlement of the class action.

The group member's contact details are as follows:

Name of group member:

Telephone number:

Postal address:

Email address:

Signed:

If nominating a contact person who is not the named group member, please state the contact's name and relationship to the group member:

The group member has read the "Notes for Objectors" below: Yes / No (circle one)

**Notes for Objectors:** Orders 5-6 of the Court's Orders made on **28 May 2019** require that Objectors deliver to Maddens Lawyers, by **4.00 pm** on **21 June 2019**, any written submissions (not exceeding 2 pages in length) and any affidavit evidence the Objector wishes to rely on in support of their objection to the proposed settlement.