

**IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
COMMON LAW DIVISION**

S CI 2012 04538

B E T W E E N :

KATHERINE ROWE

Plaintiff

- and -

**AUSNET ELECTRICITY SERVICES PTY LTD (ACN 064 651 118)
and others according to the Schedule**

Defendants

A N D B E T W E E N :

AUSNET ELECTRICITY SERVICES PTY LTD (ACN 064 651 118)

**Plaintiff by
Counterclaim**

- and -

ACN 060 674 580 PTY LTD and others according to the Schedule

**Defendants
by Counterclaim**

**SPECIAL REFEREE'S REPORT
JOHN DAVID WHITE
30 JUNE 2016**

Date of document : 30 June 2016
Filed : Pursuant to an appointment in Orders made 6 May 2016
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SPECIAL REFEREE'S REPORT

APPOINTMENT

1. By Orders of His Honour Justice John Dixon made 6 May 2016 I was appointed as a special referee pursuant to Rule 50.01 of the Supreme Court (General Civil Procedure) Rules 2015.
2. The appointment requires me to report in writing to the Court on each occasion the Scheme Administrator seeks approval from the Court for payment of the costs of administering the Settlement Distribution Scheme ("the Scheme", or on some occasions "the SDS"). Specifically, my written report is to respond to the two questions set out in Annexure A to the Orders made 6 May 2016 and is to state my opinion with reasons. The two questions set out in Annexure A are as follows :
 - (a) Are the costs sought in relation to the administration of the settlement distribution scheme reasonable ?
 - (b) If not, in what amount should the costs be disallowed ?

MY EXPERIENCE

3. I was admitted to practice on 1 November 1979. After working as a litigation lawyer for some years in 1983 I took a position with the then Department of Professional Conduct and Practice of the Law Institute of Victoria. Subsequently from 1984 to 1987 I was Manager of the Law Institute's then Costs Advisory Service of Victoria. During that period I was Secretary to a number of Costs Committees of the Law Institute and was also Secretary to the Costs (Federal) Committee of the Law Council of Australia. I was one of the Law Institute's representatives on the Attorney-General's 1986 Committee to review the Rules of the Supreme Court relating to costs and the Supreme Court scale of costs.
4. Since leaving the Law Institute in 1987 I have practised exclusively as a costs lawyer and from 1989 I have been engaged in practice on my own behalf.
5. My practice involves tendering advice on the Law of Costs, the preparation of assessments of costs on a solicitor-own-client and an inter partes basis, the preparation of itemized bills of costs in taxable form on both a solicitor-own-client and an inter partes basis, the preparation of Notices of Objections to itemized bills of costs and appearances in all Victorian and Federal jurisdictions on taxations of costs and reviews of costs both on a solicitor-own-client and an inter partes basis.

6. I have also been engaged as a costs expert to prepare reports in respect of security for costs applications and have been instructed to prepare advices in respect of costs disputes, costs agreements, gross sum cost applications and the like.
7. I was a member of the panel established in the 1980's by the Master T Bruce, the then Taxing Master of the Supreme Court of Victoria, to represent the interests of Creditors and Contributories in taxations of costs in respect of liquidations.
8. I have been accredited as a costs law specialist by the Law Institute since 2010. I was a member of the Law Institute of Victoria Review of Scale of Costs Committee and am one of three costs lawyers who co-drafted the new Supreme Court scale of costs which came into operation on 1 April 2013. I was a member of the Law Institute's Costs Lawyers Group and until recently a member of the Law Institute's Costs Law Specialisation Committee. I am currently a member of the Law Institute's Costs Law Section Executive.
9. Since 1984 I have conducted numerous seminars on the law of costs and for more than 20 years until 2010 I delivered the annual introductory lecture on the law of cost to students at the Leo Cussen Institute for Continuing Legal Education.

MATERIALS PROVIDED

10. Following my appointment the Scheme Administrator provided me with three folders of relevant documents which comprised the following :

1	Settlement Distribution Scheme	Undated
2.	Judgment on settlement approval hearing	27 May 2015
3.	Orders made 27 May 2015	27 May 2015
4.	Affidavit of Brooke Wendy Dellavedova and the exhibits thereto	25 Jun 2015
5.	<i>Rowe v AusNet Electricity Services Pty Ltd</i> transcript of hearing	25 Jun 2015
6.	Orders made 26 June 2015	26 Jun 2015
7.	Group member letter enclosing "Personal Injury Compensation in the Murrindindi – Marysville Bushfire Class Action" information booklet	25 Jun 2015
8.	Group member letter enclosing "Property Loss Compensation in the Murrindindi – Marysville Bushfire Class Action" information booklet	23 Jul 2015
9.	Group member update letter	10 Feb 2016
10.	Group member update letter	4 Mar 2016
11.	Affidavit of Kimi Jean Nishimura	9 Mar 2016

12.	Affidavit of Andrew John Watson and the exhibits thereto	16 Mar 2016
13.	Confidential Affidavit of Andrew John Watson and the confidential exhibit thereto	22 Mar 2016
14.	<i>Rowe v AusNet Electricity Services Pty Ltd</i> transcript of hearing	23 Mar 2016
15.	<i>Rowe v AusNet Electricity Services Pty Ltd (Ruling No. 6) [2016] VSC 166</i>	19 Apr 2016
16.	Orders made 19 April 2016	19 Apr 2016

11. Exhibits "BWD-5" to "BWD-7" to the Affidavit of Brooke Wendy Dellavedova sworn 25 June 2015 ("Ms Dellavedova's Affidavit of 25 June 2015") comprise the following Settlement Administration Itemised Invoices :

	<i>Matter – Date of Invoice – Category – Dates of work</i>	<i>Amount</i>
(a)	Murrindindi Settlement Administration – 25 Jun 2015 – General 13 February 2015 to 19 June 2015	51,038.90
(b)	Murrindindi Settlement Administration – 25 Jun 2015 – Personal Injury 17 February 2015 to 19 June 2015	36,216.60
(c)	Murrindindi Settlement Administration – 25 Jun 2015 – Property 17 February 2015 to 19 June 2015	21,822.90
	Subtotal	\$109,078.40

12. Exhibit "AJW-4" to the Affidavit of Andrew John Watson sworn 16 March 2016 comprises the following Settlement Administration Itemised Invoices :

	<i>Matter – Date of Invoice – Category – Dates of work – Invoice No</i>	<i>Amount</i>
	Brought forward	109,078.40
(a)	Murrindindi Settlement Administration – 15 Mar 2016 – General 20 June 2015 to 31 July 2015	39,185.50
(b)	Murrindindi Settlement Administration – 16 Mar 2016 – Personal Injury 20 June 2015 to 31 July 2015	51,930.47
(c)	Murrindindi Settlement Administration – 16 Mar 2015 – Property 20 June 2015 to 31 July 2015	51,789.56
(d)	Murrindindi Settlement Administration – 15 Mar 2016 – General 1 August 2015 to 31 August 2015	2,872.61
(e)	Murrindindi Settlement Administration – 15 Mar 2016 – Personal Injury 1 August 2015 to 31 August 2015	161,713.39
(f)	Murrindindi Settlement Administration – 15 Mar 2015 – Property 1 August 2015 to 31 August 2015	19,526.10
(g)	Murrindindi Settlement Administration – 15 Mar 2016 – General 1 September 2015 to 30 September 2015	7,936.17

(h)	Murrindindi Settlement Administration – 15 Mar 2016 – Personal Injury 1 September 2015 to 30 September 2015	352,192.90
(i)	Murrindindi Settlement Administration – 15 Mar 2015 – Property 1 September 2015 to 30 September 2015	24,319.08
(j)	Murrindindi Settlement Administration – 15 Mar 2016 – General 1 October 2015 to 31 October 2015	4,057.02
(k)	Murrindindi Settlement Administration – 15 Mar 2016 – Personal Injury 1 October 2015 to 31 October 2015	152,807.78
(l)	Murrindindi Settlement Administration – 16 Mar 2015 – Property 1 October 2015 to 31 October 2015	37,351.40
(m)	Murrindindi Settlement Administration – 15 Mar 2016 – General 1 November 2015 to 30 November 2015	5,438.40
(n)	Murrindindi Settlement Administration – 15 Mar 2016 – Personal Injury 1 November 2015 to 30 November 2015	141,310.95
(o)	Murrindindi Settlement Administration – 15 Mar 2015 – Property 1 November 2015 to 30 November 2015	13,737.90
(p)	Murrindindi Settlement Administration – 15 Mar 2016 – General 1 December 2015 to 31 December 2015	5,381.75
(q)	Murrindindi Settlement Administration – 15 Mar 2016 – Personal Injury 1 December 2015 to 31 December 2015	104,515.62
(r)	Murrindindi Settlement Administration – 15 Mar 2015 – Property 1 December 2015 to 31 December 2015	27,333.46
(s)	Murrindindi Settlement Administration – 15 Mar 2016 – General 1 January 2016 to 31 January 2016	13,648.80
(t)	Murrindindi Settlement Administration – 15 Mar 2016 – Personal Injury 1 January 2016 to 31 January 2016	122,992.38
(u)	Murrindindi Settlement Administration – 15 Mar 2015 – Property 1 January 2016 to 31 January 2016	31,509.94
	Subtotal	\$1,480,629.58

13. Since receiving the three folders of relevant documents I have from time to time requested that Maurice Blackburn provide me with additional materials and each of those requests has been promptly and comprehensively complied with. The Scheme Administrator's staff have also provided me from time to time with additional material they consider may be relevant to my task.
14. On 17 June 2016 I was provided with a copy of the Affidavit of Andrew John Watson sworn 16 June 2016 ("Mr Watson's Affidavit of 16 June 2016") and the exhibits to that Affidavit. Exhibit "AJW-2" to Mr Watson's Affidavit of 16 June 2016 comprises the following Settlement Administration Itemised Invoices .

	<i>Matter – Date of Invoice – Category – Dates of work – Invoice No</i>	<i>Amount</i>
	Brought forward	1,480,629.58
(a)	Murrindindi Settlement Administration – 14 Jun 2016 – General 1 February 2016 to 29 February 2016	28,946.12
(b)	Murrindindi Settlement Administration – 14 Jun 2016 – Personal Injury 1 February 2016 to 29 February 2016	133,339.42
(c)	Murrindindi Settlement Administration – 15 Jun 2015 – Property 1 February 2016 to 29 February 2016	54,372.96
(d)	Murrindindi Settlement Administration – 14 Jun 2016 – General 1 March 2016 to 31 March 2016	97,091.87
(e)	Murrindindi Settlement Administration – 14 Jun 2016 – Personal Injury 1 March 2016 to 31 March 2016	161,089.20
(f)	Murrindindi Settlement Administration – 15 Jun 2015 – Property 1 March 2016 to 31 March 2016	100,976.65
(g)	Murrindindi Settlement Administration – 14 Jun 2016 – General 1 April 2016 to 30 April 2016	47,003.77
(h)	Murrindindi Settlement Administration – 14 Jun 2016 – Personal Injury 1 April 2016 to 30 April 2016	270,974.29
(i)	Murrindindi Settlement Administration – 15 Jun 2015 – Property 1 April 2016 to 30 April 2016	117,535.28
	Subtotal	\$2,491,959.14

15. In respect of the materials provided to me I note the matters canvassed in paragraphs 7 to 15 of the transcript of the hearing before Justice John Dixon on 23 March 2016. Mr Watson advises the court that *"...The process which has been undertaken since the settlement was approved has been undertaken in conjunction with the Kilmore settlement scheme administration. There were obvious advantages in terms of efficiency in doing so. All of the set up work which had occurred in relation to Kilmore, in relation to bespoke databases and other forms of information technology processes was able to be rolled over with minor modification for..."* the Murrindindi settlement scheme administration.
16. Bearing those comments in mind I refer to and reiterate paragraphs 12 and 13 of my report dated 20 June 2016 filed in Supreme Court Proceeding No S CI 2009 04788 ("my Kilmore report") and confirm that on 20 November 2015 I met with Ms Kimi Nishimura, Ms Megan Greaves, Ms Rhiannon Reed and Ms Claire Brown of the Scheme Administrator's staff at the offices of Maurice Blackburn. At that meeting I was given a most comprehensive overview of the work done by the Scheme Administrator's staff in establishing and refining the procedure for processing claims and the electronic systems necessary for the efficient handling of that procedure, work done and continuing to be done in refining the electronic systems and the process generally and work being done by the Scheme Administrator's staff

in actually processing claims. I have also been given full access to the Maurice Blackburn "Collaborate" electronic database as well as the "FileSite" and "Matter Centre" databases which are accessed through "Citrix".

17. I also refer to and reiterate paragraph 16 of my Kilmore report and confirm that on 31 May 2016 I had a further lengthy meeting with Ms Kimi Nishimura, Ms Megan Greaves and Ms Claire Brown of the Scheme Administrator's staff at the offices of Maurice Blackburn at which I was provided with a more detailed review of the assessment processes. At that meeting I was also shown in soft copy and examined the "FileSite" and "Matter Centre" records as well as the "Collaborate" database. In addition at that meeting I also examined and audited a number of hardcopy files in respect of late registrants, interim payment requests and bond waiver applications as well as a file evidencing the review by four solicitors of Counsels' assessments.
18. I have conducted a detailed examination of all of the materials provided to me by both the Court and the Scheme Administrator's staff.

ESTABLISHMENT OF THE SETTLEMENT DISTRIBUTION SCHEME

19. The Murrindindi Bushfire Black Saturday Class Action ("the Class Action") was commenced on 7 August 2012. The trial of the proceeding was set down to be heard over several months. The parties proposed to call 21 expert and 131 lay witnesses, and to tender thousands of pages of exhibits. However, prior to the trial commencing the parties agreed, on 6 February 2015, upon terms for settlement of the Class Action for the sum of \$300,000,000.00.
20. Settlement of the Class Action required that each individual claim be assessed and at the time of settlement there were approximately 393 personal injury and dependency claims and 2,236 economic loss and property damage claims. There were also a number of applications for late registration which needed to be considered and any of those claims subsequently allowed needed to be assessed.
21. The settlement was approved by Her Honour Justice Emerton on 27 May 2015 and on that date the Court also considered and approved the Scheme.
22. Broadly, the Scheme establishes a comprehensive framework for distributing the settlement sum among the Plaintiff and the Class Action group members including (a) the actual procedures to be utilized in assessing the individual claims of group members depending on whether the particular claim relates to personal injury and dependency claims on the one

hand or economic loss and property claims on the other, (b) the manner in which the settlement fund is to be split between the personal injury and dependency claims on the one hand and the economic loss and property claims on the other, (c) the manner in which claims by minors or persons under a disability are to be dealt with and (d) the procedure to be adopted where a claimant is dissatisfied with the initial assessment.

23. The Scheme also provides that the Scheme Administrator's costs of and incidental to the implementation of the scheme be paid out of the settlement sum.

COSTS FOR WHICH APPROVAL IS SOUGHT BY THE SCHEME ADMINISTRATOR

24. This report only deals with costs of administering the Settlement Distribution Scheme over the period 13 February 2015 to 19 June 2015. It does not deal with costs of the proceeding incurred by Maurice Blackburn in May 2015 which will be the subject of a separate report.
25. The first occasion on which the Scheme Administrator applied for approval of costs was at the Case Management Conference on 25 June 2015 when approval was sought for payment of costs of administering the Settlement Distribution Scheme over the period 13 February 2015 to 19 June 2015. On 25 June 2015 Orders were made by the Court approving disbursement from the Distribution Sum of the total amount of \$109,078.40 *on account of* administration costs (including disbursements) for the period up to and including 19 June 2015. The Court however did not specifically *approve* administration costs in the sum of \$109,078.40 as is required under the SDS.
26. Subsequent to the Case Management Conference on 25 June 2015 the Scheme Administrator has incurred further costs over the period 20 June 2015 to 30 April 2016.
27. On 19 April 2016 Orders were made by the Court allowing for the conditional disbursement of funds on account of settlement administration costs.
28. In addition on 21 June 2016 Orders were made by the Court approving settlement administration costs for the period 1 February 2016 to 30 April 2016 at the sum of \$1,011,329.56 and also approving settlement administration costs for the period 1 May 2016 to 30 June 2016 at the sum of \$1,100,000.00.
29. The costs for which approval is sought covered by this report are however all costs incurred over the period 13 February 2015 to 30 April 2016.

THE LAW RELEVANT TO MY TASK AND THE METHODOLOGY TO BE ADOPTED

30. The task for which I was appointed is to assist the Court in making a determination as to whether the costs claimed by the Scheme Administrator have been reasonably incurred and are reasonable in amount.
31. There is well-established case law in respect of the methodology to be adopted when assessing a claim for gross sum costs on an inter partes basis in Class Actions – indeed, in his Judgment delivered on 23 December 2014 in *Matthews v Ausnet Electricity Services Pty Ltd & Ors* [2014] VSC 663 (“the *Kilmore proceeding*”), Osborn J considered the law in relation to the approval of inter partes as costs at considerable length, including the decisions of Sackville J in *Courtney v Medtel Pty Limited* [2013] FCA 636 and Gordon J in *Modtech Engineering Pty Limited v GPT Management Holdings Ltd* [2013] FCA 626 (“*Modtech*”).
32. At paragraph 37 of her Judgment in *Modtech* Gordon J considered the requirement that sufficient information be provided to the Court by the solicitors seeking approval of their professional fees should not be unduly onerous.
33. Her Honour further considered that the information useful to the Court in assessing the reasonableness of the fees and disbursements claimed as a gross sum involved a review and consideration of :
- (a) whether the work in a particular area, or in relation to a particular issue, was undertaken efficiently and appropriately;
 - (b) whether the work was undertaken by a person of appropriate level of seniority;
 - (c) whether the charge out rate was appropriate having regard to the level of seniority of that practitioner and the nature of the work undertaken;
 - (d) whether the task (and associated charge) was appropriate, having regard to the nature of the work and the time taken to complete the task; and
 - (e) whether the ratio of work and interrelation of work undertaken by the solicitors and Counsel retained was reasonable.
34. At paragraph 353 of his Judgment in the *Kilmore proceeding*, Osborn J set out the principles underlying the methodology ultimately accepted by Gordon J in *Modtech Engineering Pty Limited v GPT Management Holdings Limited (No 3)* [2014] FCA 680 as follows :
- (a) there was a need for an appropriate balance in relation to the level of information available to the court and the costs associated with the provision of that information:
Re Medforce Healthcare Services Ltd (in liq) [2001] 3 NZLR 145;

- (b) the principles applicable to the assessment of costs on a gross sum basis provided some guidance. When assessing costs in that way the methodology adopted and information provided must enable the Court to be confident that the approach taken is logical, fair and reasonable: *Beach Petroleum NL v Johnson (No 2)* (1995) 57 FCR 119; *Seven Network Ltd v News Ltd* (2007) FCA 2059 and *Leary v Leary* [1987] 1 WLR 72;
 - (c) at a minimum, a statement of the work undertaken together with a sufficiently itemised account to enable the charges made to be related to the work done was required: *Re Medforce*;
 - (d) the matters to be taken into account in a review of legal costs under s 3.4.44(1) of the *Legal Profession Act 2004* (Vic) ("the LPA"), which include whether or not it was reasonable to carry out the work to which the legal costs relate, whether or not the work was carried out in a reasonable manner and the fairness and reasonableness of the amount of legal costs in relation to that work, as well as the matters that may be taken into account in considering what costs are fair and reasonable under s 3.4.44(2) of the LPA; and
 - (e) The considerations enunciated in *Modtech and Modtech Engineering Pty Ltd v GPT Management Holdings (No 2)* [2013] FCA 1163.
35. On the basis that it reflected the methodological principles approved by Gordon J in *Modtech* and was very comprehensive Osborn J accepted, at paragraph 381 of his Judgment in the *Kilmore proceeding*, the following as an appropriate methodology to be utilized in determining whether gross sum costs claimed on an inter partes basis are reasonable .
- (i) calculate the time spent on the proceeding by each of the lawyers and non-lawyers;
 - (ii) apply the Supreme Court scale rates and charges to work done by lawyers and non-lawyers;
 - (iii) identify and excise the number of hours relating to non-recoverable matters by reference to costs that are not claimable under the Supreme Court scales;
 - (iv) apply any discounts after considering the nature of the work claimed or the manner in which the work was done;
 - (v). apply the factor for loading for skill, care and attention as claimable under each of the old or new Supreme Court scales;
 - (vi) apply the complexity loading factor as provided for under the Maurice Blackburn conditional costs agreements; and
 - (vii) apply the factor of the 25 per cent uplift fee to professional fees on obtaining a successful outcome as claimable under the Legal Profession Act 2004 and provided for under the Maurice Blackburn conditional costs agreements.

36. My task here is however slightly different. I am asked to advise whether the costs incurred in administering the Scheme are reasonable. The nature of work done in administering the Scheme is inherently different to the nature of work done in prosecuting a claim through the Court – to paraphrase Osborn J at paragraph 400 of his Judgment in the *Kilmore proceeding*, although Mr Watson of Maurice Blackburn is acting as Scheme Administrator, his role is almost entirely administrative and supervisory.
37. In addition, the SDS explicitly provides that the Scheme Administrator will not be involved in assessing claims and is not to act as a lawyer representing individual group members.
38. Further, pursuant to Clause 11.1 of the SDS the costs incurred by the Scheme Administrator and his staff are to be calculated pursuant to the hourly rates specified in Schedule B to the SDS. Reasonable costs are therefore to be calculated on a time basis rather than by reference to a statutory scale of costs.
39. From both paragraph 19 of Ms Dellavedova's Affidavit of 25 June 2015 and the bills of costs/tax invoices referred to above it is evident that in calculating costs on a time basis the hourly rates for work done by the Scheme Administrator and his staff have been applied in units of 6 minutes or part thereof, which accords with what could now be said to be the usual convention in respect of charging on a time basis.
40. Accordingly, bearing in mind the information that Gordon J at paragraph 37 in *Modtech* considered would be useful to the Court in assessing the reasonableness of costs and having regard to the roles of the Scheme Administrator and his staff as well as the scope of the work done by them to date and the likely scope of work still to be done by Mr Watson and his staff, I propose to adopt the following methodology .
- (a) step 1 – identify the scope of work done;
 - (b) step 2 – identify the nature of the costs incurred over particular periods of time;
 - (c) step 3 – examine the copy bills of costs/tax invoices and calculate the time spent on the proceeding by each of the lawyers and non-lawyers;
 - (d) step 4 – examine the copy bills of costs/tax invoices and take and examine :
 - (i) samples of charges claimed for work done by reference to selected operators and selected dates, and
 - (ii) samples of disbursements claimed by reference to selected service providers and selected dates;
 - (e) step 5 – apply the hourly rates to be allowed to the Scheme Administrator and administrator staff as approved by the Court and detailed in Schedule B to the Scheme;

- (f) step 6 – identify the number of hours relating to non-recoverable work by reason of that work not being reasonably incurred or reasonable in amount and, if any, excise that work; and
- (g) step 7 – identify and, if any, reduce or deduct disbursements which appear unreasonably incurred or unreasonable in amount.

STEP 1 – THE SCOPE OF WORK DONE

- 41. The first step in determining whether the costs claimed are reasonable is to identify the nature and scope of work done. This is to some extent evident from the copy bills of costs/tax invoices provided to me however the logistics of implementing the Scheme and the nature of work done is best explained in the Affidavit material filed in this proceeding following establishment of the Scheme.
- 42. That Affidavit material also comprehensively details the scope of work done in particular categories over particular periods of time during the course of the administration of the Scheme to 30 April 2016. For the purposes of this report it is therefore appropriate to briefly summarize those parts of the relevant Affidavit material which detail the scope of work done.
- 43. Ms Dellavedova's Affidavit of 25 June 2015 at paragraphs 27 to 29 provides an overview of the administration costs for each of (i) the "General settlement administration", (ii) the "I-D settlement administration" and (iii) the "ELPD settlement administration" since settlement of this proceeding up to 19 June 2015. The ambit of each of these three "administrations" is detailed in paragraph 53 below. The summary of the scope and nature of work done to 19 June 2015 in respect of each of these three administrations was, as at 25 June 2015:

General settlement administration

- (a) liaising with the defendants regarding payment of the settlement sum, opening the distribution fund and liaising with accountants;
- (b) establishment of systems for claim management and administration;
- (c) management of group member records (such as registration forms) and communications, including letters to claimants about the Scheme and online communications about the settlement; and
- (d) undertaking the late registrant process in accordance with the Settlement Scheme.

I-D settlement administration

- (a) establishing computer systems to manage the processing of personal injury claims including development a bespoke IT and knowledge management system for the personal injury and dependency claims assessment process work in respect of enabling Murrindindi group members to be assessed under this system;
- (b) preparing to send group members personal injury questionnaires to obtain further details of their respective claims;
- (c) preparing to obtain medical records from general practitioners in the Murrindindi bushfire area;
- (d) preparing an I-D Claims brochure to forward to group members about the I-D claims assessment process; and
- (e) managing group records and communications.

ELPD settlement administration

- (a) liaising with Hall & Wilcox, Ligeti Partners, RM Consulting Group and Crawford and Company (Australia) re appointment as ELPD loss assessors to the Scheme;
- (b) preparing to distribute ELPD claims to the ELPD loss assessors,
- (c) preparing an ELPD Claims brochure to forward to group members about the ED claims assessment process; and
- (d) managing group members' records and communications.

44. Ms Nishimura's Affidavit of 9 March 2016 provides an overview of steps taken in respect of the personal injury and dependency ("I-D") claims assessment process in light of a number of issues which arose related to assessor availability and assessment completion rates and which were adversely affecting the progress of assessment of those claims. The steps taken involved taking measures to increase assessing Counsel availability and the timely provision of completed assessments including

- (a) requesting a minimum commitment of assessing Counsel;
- (b) increasing the number of assessing Counsel;
- (c) following up assessing Counsel for outstanding assessments; and
- (d) requesting that assessing Counsel provide increased availability to attend assessment appointments.

45. The Affidavit of Andrew John Watson sworn 16 March 2016 ("Mr Watson's Affidavit of 16 March 2016") deposes that in order to most efficiently administer the claims in this proceeding (i) the assessment process and IT infrastructure, (ii) the SDS Team and (iii) the assessors appointed under the SDS mirror those of the *Kilmore proceeding* (paragraph 5). Mr Watson's

Affidavit of 16 March 2016 also refers to his Affidavits sworn 13 April 2015 and 9 October 2015 filed in the *Kilmore proceeding* which, inter alia, detail the steps taken to establish the personal injury and dependency ("I-D") claims assessment process and the economic loss and property damage ("ELPD") claims assessment process in the *Kilmore proceeding*.

46. Mr Watson further deposes that these steps have been or will be broadly replicated in relation to the current proceeding (paragraphs 6 to 8, 12, 18, 19, 22, 23, 28, 35 and 36) together with a summary of the assessment process in respect of those claims up to the date on which the Affidavit was sworn. The summary of the assessment process in respect of these claims traverses, as at 16 March 2016

I-D settlement administration

- (a) the stages in the assessment process which various registered claims had reached;
- (b) interactions between the SDS team and others regimes, including Centrelink, the Transport Accident Commission, the Victoria WorkCover Authority and the Country Fire Authority;
- (c) administration of the electronic survey;
- (d) development of the personal injury questionnaire;
- (e) recruitment and training of the SDS Team;
- (f) changes made to the SDS Team and the spheres of responsibility of team members;
- (g) engagement and training of assessing Counsel;
- (h) engagement of a medico-legal psychiatrist to undertake medico-legal assessments as required;
- (i) the obtaining of bulk records and details from the Australian Taxation Office and medical clinics; and
- (j) dealings with the Senior Master's office in respect of group members to whom Order 15 of the Supreme Court Rules applies.

ELPD settlement administration

- (a) the five firms then appointed as ELPD assessors, being RM Consulting Group, Hall & Wilcox Lawyers, Crawford and Company (Australia), Ligeti Partners and Technical Assessing;
- (b) the creation of a single database of all registered ELPD claims to include subrogated and above insurance claims;
- (c) the task of reconciling, matching and amending the addresses of registered ELPD claims;

- (d) allocation to ELPD assessors of claims in respect of 1,029 unique property addresses, of which 542 unique property addresses include an above-insurance claim;
- (e) the appointment of Crawford and Company (Australia) as the independent property loss assessor;
- (f) collation of information requested by the ELPD assessors with a view to increasing assessment speed including the development of a property loss workbook to be distributed to all Murrindindi group members;
- (g) alternate proposals should the loss assessment rate not meet stated commitments;
- (h) establishing and reviewing the results of the peer-to-peer audit of each ELPD Assessor, identifying issues arising therefrom which require rectification, discussing these with the relevant ELPD Assessors and arranging an audit conference between all ELPD Assessors and the ELPD SDS team; and
- (i) the position in respect of 113 late registration claims received.

47 The Affidavit of Andrew John Watson sworn 16 June 2016 ("Mr Watson's Affidavit of 16 June 2016") also refers to his Affidavits sworn 13 April 2015 and 9 October 2015 filed in the *Kilmore proceeding* which, inter alia, detail the steps taken over the periods referred to in those Affidavits in respect of the personal injury and dependency ("I-D") claims assessment process and the economic loss and property damage ("ELPD") claims assessment process in the *Kilmore proceeding*. Mr Watson's Affidavit of 16 June 2016 additionally refers to the matters canvassed in Ms Nishimura's Affidavit of 9 March 2016 filed in this proceeding.

48. The position in respect of I-D claims is further updated in Mr Watson's Affidavit of 16 June 2016 which provides an overview of the I-D claims assessment process (paragraphs 4 and 5 – as at 14 June 2016 the number of I-D claims had increased to 425 in number) together with a summary of the assessment process in respect of the I-D claims from 16 March 2016 to 14 June 2016 (paragraphs 6 to 30). The summary of the assessment process in respect of I-D claims traverses, as at 14 June 2016 :

- (a) changes to the SDS team;
- (b) changes to the team of assessors (now 33 Counsel and 2 solicitors);
- (c) the stages in the assessment process which various registered claims had reached;
- (d) changes to the assessment process;
- (e) the appointment of solicitor assessors;
- (f) measures taken to increase assessor availability and throughput rate;
- (g) increases in assessment conference availability and throughput rate;
- (h) changes to the process for preparing group members' claims for assessment;

- (i) the scheduling of assessment conferences and changes to the medicolegal appointment and reporting process;
- (j) the position re assessors with a large backlog of assessments and/or long outstanding assessments;
- (k) the position re group members who had instructed that they did not wish to proceed;
- (l) the position re uncooperative group members; and
- (m) the position re the 2 group members who for various reasons are uncontactable;

49. Mr Watson's Affidavit of 17 June 2016 also provides a summary of the assessment process in respect of the ELPD claims from 16 March 2016 to 10 June 2016 (paragraphs 33 to 96). The summary of the assessment process in respect of these claims traverses

- (a) the current composition of the ELPD SDS team;
- (b) the increased role of the ELPD SDS team;
- (c) the position re allocation to ELPD loss assessors of more than 2,200 claims at approximately 1,034 unique property addresses, of which 570 include an above insurance claim;
- (d) PNOAs completed as at 10 June 2016;
- (e) the position re PNOAs issued to above insurance group members;
- (f) the position re the assessment of claims for subrogated-only losses;
- (g) finalisation of the process for issuing Final Notices of Assessment;
- (h) the position re initial checks of finalised assessments;
- (i) development with BizData of the "FirstUpload" software program to review finalised assessments and automatically extract and upload the assessment data to the existing database;
- (j) the issuing of Final Notices of Assessment;
- (k) progress made in issuing finalised assessments;
- (l) the position re the ELPD Review process;
- (m) the appointment of new ELPD Assessors;
- (n) the weekly monitoring of ELPD Assessors;
- (o) the implementation of a conditional incentive rate increase and the terms upon which the increased rate is to be paid;
- (p) the position in respect of the ELPD Assessor audit procedure;
- (q) the implementation of an ELPD Assessor high level audit review;
- (r) the estimated duration of the ELPD assessment process with the aim of having all PNOAs issued by the end of July 2016;
- (s) the position in respect of 12 group members who had instructed that they did not wish to proceed; and

(t) the position re the 8 group members who are for various reasons are uncontactable;

50. I observe from the above that the scope of work has of necessity expanded over time as problems have arisen which could not have been foreseen until the Scheme was actually implemented. In addition there has clearly been a concerted effort on the part of the SDS teams to ensure that all claims are being dealt with as expeditiously as possible.

51. I have no reason to consider that the descriptions of the scope of work done over particular periods of time as broadly deposed to in the Affidavits of Ms Dellavedova, Ms Nishimura and Mr Watson are anything other than accurate and in fact my view in this respect has been confirmed as a result of having undertaken the sampling process referred to as step 4(i) in paragraph 40 above and having regard to my examination of the other relevant hard copy and electronic material available to me.

STEP 2 – THE NATURE OF COSTS INCURRED OVER PARTICULAR PERIODS OF TIME

52. The second step in determining whether the costs claimed are reasonable is to identify the nature of the costs incurred over particular periods of time.

The categories of bills of costs/tax invoices

53. The costs and disbursements incurred by the Scheme Administrator to date in the course of the settlement administration have been allocated into three categories, according to whether they relate to :

- (a) processes common to all Group Members, including but not limited to developing and drafting the settlement scheme, developing appropriate electronic systems for handling the distribution process, handling the settlement fund, processing applications for late registration, processing applications for interim payments, processing applications for bond waiver, dealing with Estate claims, dealing with taxation issues and Court reporting and liaison. This aspect is broadly referred to as the “General settlement administration” although in the itemized invoices this category is referred to as the “Murrindindi Settlement Admin: General” category,
- (b) processes specific to the assessment of Group Members’ personal injury and dependency claims. This aspect is broadly referred to as the “I-D settlement administration” although in the itemized invoices this category is referred to as the “Murrindindi Settlement Admin: PI” category, or

(c) processes specific to the assessment of Group Members' economic loss and property damage claims. This aspect is broadly referred to as the "ELPD settlement administration" although in the itemized invoices this category is referred to as the "Murrindindi Settlement Admin: Property" category.

54. The latter two categories correspond to the division of the Distribution Sum into an "I-D Claims Fund" for personal injury and dependency claims and an "ELPD Claims Fund" for economic loss and property damage claims, as set out in clause B1.2 of the Scheme.

55. Costs for each of the above categories are further separated into two sections being (i) professional charges and (ii) disbursements.

The bills of costs/tax invoices

56. Identification of the nature of the costs incurred over particular periods of time is to a very large extent evident from a close examination of the copy bills of costs/tax invoices provided to me. The bills of costs/tax invoices prepared by the Scheme Administrator, copies of which have been exhibited to the various Affidavits filed by the Scheme Administrator and his staff since approval of the SDS, are very comprehensive and by far the greater number of the entries contain a detailed narrative of the work done.

57. Save for the missing element of the statutory requirements for an itemized bill under Order 63.42(2)(a) of the Supreme Court (General Civil Procedure) Rules 2015 that the items be individually numbered, those bills of costs/tax invoices are largely in itemized form and therefore reflective of the actual work done.

The Affidavit material

58. The nature of costs incurred for work done over particular periods of time during the course of the administration of the Scheme to 30 April 2016 is also broadly explained in the Affidavit material filed in this proceeding following establishment of the Scheme. For the purposes of this report it is therefore appropriate to also briefly summarize those parts of the relevant Affidavit material which detail the nature of costs incurred over the relevant periods.

59. Ms Dellavedova's Affidavit of 25 June 2015 provided a broad summary of the tasks carried out by lawyers overseeing (i) general settlement administration, (ii) the I-D settlement administration and (iii) the ELPD settlement administration over the period 13 February 2015 to 19 June 2015. The nature of costs incurred for work done over that period is detailed in paragraph 43 above.

60. Mr Watson's Affidavit of 16 March 2016 provided the following further broad summary of the tasks carried out by lawyers overseeing (i) general settlement administration (paragraph 101), (ii) the I-D settlement administration (paragraph 104) and (iii) the ELPD settlement administration (paragraph 107) over the period 20 June 2015 to 31 January 2016:

(i) General settlement administration :

- (a) establishing and managing the settlement administration process;
- (b) recruiting, training and supervising settlement administration staff;
- (c) developing, implementing and monitoring internal processes for assessing claims, including IT system requirements and infrastructure;
- (d) management and administration of settlement monies;
- (e) reviewing and determining late registrant applications and processes, and providing direction on late registrant enquiries;
- (f) implementing the processes for interim payment applications;
- (g) ongoing liaison work with organisations regarding taxation and interest accrued on the distribution sum;
- (h) implementing practices to monitor and estimate settlement administration costs;
- (i) ongoing liaison with external assessors regarding workflow and assessment rate;
- (j) preparing for the Case Management Conference on 25 June 2015, including preparation of Affidavit and supporting material;
- (k) preparing consent orders in response to subpoenas; and
- (l) reviewing and approving various invoices.

(ii) I-D settlement administration :

- (a) establishing and managing the I-D settlement administration process;
- (b) recruiting, training and supervising I-D settlement administration staff;
- (c) developing, implementing and monitoring internal processes for assessing claims, including IT system requirements and infrastructure;
- (d) reviewing completed I-D assessment received from assessing Counsel;
- (e) attending assessment conferences with sample group members;
- (f) ongoing liaison work with assessing Counsel;
- (g) ongoing liaison work with organisations holding claimant information relevant to the I-D assessment process, including government agencies and medical practices;
- (h) reviewing I-D Claims Books prepared for assessing Counsel;
- (i) responding to individual group member enquiries;
- (j) drafting and settling correspondence to group members;

- (k) providing direction on individual cases;
- (l) administering detailed telephone questionnaire for sample I-D group members;
- (m) preparing assessment memoranda for assessing Counsel for sample I-D group members;
- (n) reviewing and finalising assessment memoranda and action plans for assessing Counsel;
- (o) identifying claims that can be assessed in the absence of certain records;
- (p) monitoring personal injury statistics and data; and
- (q) reviewing and approving various invoices from assessing Counsel and medical practices.

(iii) ELPD settlement administration :

- (a) establishing and managing the ELPD settlement administration process;
- (b) recruiting, training and supervising ELPD settlement administration staff;
- (c) developing, implementing and monitoring internal processes for assessing claims, including IT system requirements and infrastructure;
- (d) responding to group member inquiries;
- (e) providing direction on individual cases;
- (f) liaison with ELPD loss assessors on assessment processes and progress;
- (g) drafting and settling correspondence to group members;
- (h) drafting, reviewing and finalising an ELPD brochure for distribution to all ELPD group members; and
- (i) establishing processes for plantation assessments and engagement of an expert plantation assessor

61. In addition Mr Watson's Affidavit of 16 March 2016 also provided the following further broad summary of the tasks carried out by non-lawyers undertaking paralegal and administrative work over the relevant period in respect of (i) general settlement administration (paragraph 102), (ii) the I-D settlement administration (paragraph 105) and (iii) the ELPD settlement administration (paragraph 108) over the period 20 June 2015 to 31 January 2016 :

(i) General settlement administration :

- (a) assisting with late registrant processes, enquiries and applications;
- (b) assisting with interim payment processes, enquiries and applications;
- (c) updating accounting database systems; and
- (d) communicating with group members regarding late or excluded claims.

(ii) I-D settlement administration :

- (a) responding to individual group member inquiries;
- (b) assisting I-D group members with completing electronic survey;
- (c) administering detailed telephone questionnaire for I-D group members;
- (d) preparing assessment memoranda for assessing Counsel;
- (e) gathering documents required for I-D assessment from various organisations, including government agencies and medical practices;
- (f) reviewing and identifying I-D group members that are ready to be assessed by assessing Counsel;
- (g) preparing I-D Claim Books for assessing Counsel;
- (h) scheduling I-D assessment conferences with assessing Counsel;
- (i) drafting correspondence to group members;
- (j) updating various system databases including Matter Centre, Collaborate, FileSite and accounting systems;
- (k) updating index, collating, reviewing and processing invoices and vouchers from assessing Counsel and medical practices; and
- (l) reviewing completed I-D assessments received from assessing Counsel.

(iii) ELPD settlement administration :

- (a) responding to individual group member inquiries;
- (b) collating information and documentation in relation to small insurer claims;
- (c) collating priority assessments and interim payment requests;
- (d) drafting internal memoranda regarding ELPD administrative procedures;
- (e) drafting correspondence to group members;
- (f) establishing interactions between group members with ELPD claims and I-D claims;
- (g) updating various system databases including Matter Centre, Collaborate, FileSite and accounting systems;
- (h) preparing, reviewing and allocating files to ELPD assessors;
- (i) liaising with and completing information requests from ELPD assessors;
- (j) conducting various audits to ensure data is reflected accurately in the system databases; and
- (k) updating index, collating, reviewing and processing invoices and vouchers.

62. Finally, Mr Watson's Affidavit of 16 June 2016 provides the following further broad summary of the tasks carried out by lawyers overseeing (i) the General settlement administration

(paragraph 156), (ii) the I-D settlement administration (paragraph 228) and (iii) the ELPD settlement administration (paragraph 162) over the period 1 February 2016 to 30 April 2016 :

(i) General settlement administration :

- (a) overseeing the settlement administration process;
- (b) ongoing recruitment, training and supervision of settlement administration staff;
- (c) ongoing development and monitoring internal of processes for assessing claims, including IT system requirements and infrastructure;
- (d) management and administration of settlement monies;
- (e) ongoing liaison work with organisations regarding taxation and interest accrued on the distribution sum;
- (f) ongoing monitoring and estimating of settlement administration costs and the process of distribution;
- (g) overseeing the late registration process, reviewing and determining late registrant applications and providing direction on late registrant enquiries;
- (h) overseeing the interim payment process, reviewing and determining interim payment applications and providing direction on interim payment enquiries;
- (i) preparing correspondence to group members with updates on the processes and responding to similar enquiries;
- (j) preparation of the procedure for assessing estate claims and distributing funds to estate claims;
- (k) monitoring the process for Order 15 claimants;
- (l) reviewing and approving various invoices;
- (m) liaison with independent costs assessor John White; and
- (n) preparing for the Case Management Conference held on 23 March 2016, including preparation of Affidavit and supporting material.

(ii) I-D settlement administration :

- (a) Ongoing monitoring and development of the I-D settlement administration process;
- (b) overseeing and managing the SDS I-D team;
- (c) ongoing recruitment, training and supervision of I-D settlement administration staff;
- (d) ongoing development and monitoring of internal processes for assessing claims, including IT system requirements and infrastructure;

- (e) reviewing completed I-D assessments from I-D assessors and drafting letters to I-D group members enclosing I-D assessments;
- (f) ongoing liaison work with I-D assessors regarding assessment conferences and assessments;
- (g) reviewing agreements with statutory compensation authorities and preparing procedures for assessment of I-D group members with cross-over claims;
- (h) ongoing liaison work with organisations holding claimant information relevant to the I-D assessment process, including government agencies and medical practices;
- (i) implementing and monitoring the process for reviews by I-D group members, including bond waiver applications;
- (j) reviewing I-D Claims Books prepared for I-D assessors;
- (k) responding to individual I-D group member enquiries;
- (l) drafting and settling correspondence to I-D group members and various organisations;
- (m) providing direction on individual cases;
- (n) administering detailed telephone questionnaire with I-D group members, reviewing and finalising assessment memoranda, action plans and records for the I-D claim book;
- (o) monitoring progress of all I-D group members claims, including those who are not proceeding or uncooperative, by preparing and reviewing various IT reports;
- (p) identifying claims that can be assessed in the absence of certain records;
- (q) overseeing further material requests received from I-D assessors;
- (r) overseeing various audits to ensure data is reflected accurately in system databases;
- (s) monitoring personal injury statistics, preparing and reviewing various reports and interrogating data; and
- (t) reviewing and approving various invoices relating to the assessment of individual group members' claims.

(iii) *ELPD settlement administration :*

- (a) overseeing the ELPD settlement administration process;
- (b) overseeing and managing the SDS ELPD team;
- (c) ongoing recruitment, training and supervision of ELPD settlement administration staff;
- (d) ongoing development and monitoring of internal processes for assessing claims including IT system requirements and infrastructure;

- (e) responding to ELPD group member inquiries;
- (f) providing direction on individual cases;
- (g) monitoring progress of ELPD loss assessors, including capacity and speed;
- (h) ongoing liaison with ELPD loss assessors regarding assessment of ELPD claims including potential new assessors;
- (i) working with ELPD loss assessors on loss assessment principles and methods for streamlining assessment processes whilst maintaining quality control;
- (j) drafting and settling correspondence to ELPD group members and loss assessors;
- (k) designing, implementing and overseeing systems and procedures for issuing final notices of assessment including IT system requirements and infrastructure;
- (l) producing documentation for loss assessors and the SDS ELPD team regarding understanding and responding to ELPD group member inquiries;
- (m) preparing procedures for assessing trusts, business partnerships and deregistered companies' claims;
- (n) reviewing and responding to loss assessor enquiries including estate claims and deregistered companies;
- (o) preparing the procedure for uncontactable group members;
- (p) overseeing the audit of assessments completed by ELPD loss assessors and providing feedback;
- (q) reviewing preliminary and final assessments completed by ELPD loss assessors;
- (r) monitoring the progress of all ELPD group members' claims including those who are not proceeding or who are uncooperative by preparing and reviewing various IT reports;
- (s) overseeing the collection and collation of supporting documentation related to above insurance claims and small insurer claims;
- (t) monitoring ELPD statistics, reviewing and interrogating data; and
- (u) reviewing and approving various invoices and overseeing the auditing of invoices pertaining to ELPD assessments.

63. In addition Mr Watson's Affidavit of 16 June 2016 also provides the following further broad summary of the tasks carried out by non-lawyers undertaking paralegal and administrative work over the relevant period in respect of (i) general settlement administration (paragraph 157), (ii) the I-D settlement administration (paragraph 160) and (iii) the ELPD settlement administration (paragraph 163) over the period 1 February 2016 to 30 April 2016.

(i) General settlement administration :

- (a) assisting with late registrant processes, enquiries and applications including drafting memoranda, collating documentation and maintaining the database and spreadsheets monitoring the status of such applications;
- (b) assisting with interim payment processes, enquiries and applications including drafting memoranda, collating documentation, preparing controlled money withdrawal advices and maintaining the database spreadsheets monitoring the status of such applications;
- (c) assisting with preparation of correspondence to group members regarding update on processes; and
- (d) updating accounting database systems in relation to disbursements relating to the assessment of individual group members' claims.

(ii) I-D settlement administration :

- (a) responding to individual I-D group member inquiries;
- (b) assisting I-D group members with completion of the electronic surveys;
- (c) administering detailed telephone questionnaires for I-D group members;
- (d) preparing assessment memoranda for I-D assessors;
- (e) gathering documents required for I-D assessment from various organisations such as government agencies and medical practices including maintaining the database and spreadsheets monitoring the status of such requests;
- (f) ongoing liaison with I-D group members and various organisations regarding outstanding documentation required for I-D Claim Book;
- (g) reviewing and identifying I-D group members that are ready to be assessed by assessing Counsel;
- (h) monitoring the process and scheduling conferences between I-D group members and the medicolegal expert;
- (i) preparing I-D Claim Books for I-D assessors;
- (j) scheduling I-D assessment conferences between I-D group members and I-D assessors;
- (k) drafting correspondence to group members and various organisations;
- (l) assisting with the process for I-D group members who are not proceeding or who are uncooperative;
- (m) assisting with the process for reviews by I-D group members including bond waiver applications;
- (n) updating various system databases including Matter Centre, Collaborate, FileSite and accounting systems;

- (o) updating index, collating, reviewing and processing invoices and vouchers from I-D assessors and various organisations relating to the assessment of individual group members' claims;
- (p) assisting with various audits to ensure data is reflected accurately in the system databases;
- (q) undertaking initial review of completed I-D assessments received from I-D assessors; and
- (r) assisting with the preparation of reviewed I-D assessments and letter to be sent to I-D group members enclosing the I-D assessment.

(iii) ELPD settlement administration :

- (a) preparing, reviewing and allocating files for ELPD loss assessors including running a subrogated claim checks;
- (b) responding to individual ELPD group member enquiries;
- (c) drafting correspondence to ELPD group members and ELPD loss assessors;
- (d) liaising with & completing information requests to and from ELPD loss assessors;
- (e) assisting with the process for ELPD group members who are not proceeding, uncooperative or an contactable;
- (f) ongoing monitoring of interactions between group members with ELPD claims and I-D claims including ELPD group members who have met the I-D assessment threshold;
- (g) administering the collection and collation of supporting documentation related to above insurance claims and small insurer claims;
- (h) reviewing and amending preliminary notices of assessments to rectify errors;
- (i) updating various system databases including Matter Centre, Collaborate, FileSite and accounting systems;
- (j) investigating and amending errors in ELPD group member data population;
- (k) amending and maintaining the ELPD Allocation reports and ELPD statistics reports;
- (l) assisting with the assessment of Estate and Trust claims;
- (m) assisting with the assessment of plantation claims and responding to expert plantation loss assessor enquiries;
- (n) conducting various audits to ensure data is reflected accurately in the system databases; and
- (o) updating index, collating, reviewing and processing invoices relating to the assessment of ELPD claims.

64. It is clear from the material provided that all administration staff, and particularly those who were not involved in developing and establishing the administrative systems, initially undertook substantial training in all aspects of the settlement distribution process. That training was mostly conducted by the more senior Administrative staff who continue to oversee the general conduct of the scheme.
65. It is also clear from an examination of (a) the bills of costs/tax invoices and (b) those parts of the relevant Affidavit material which detail the nature of costs incurred over the relevant periods that as the settlement distribution process was increasingly implemented and as more claims were progressively dealt with administrative and/or logistic issues arose or otherwise became evident. Dealing with those issues at times resulted in changes to the software and also at times resulted in some changes to the process generally.
66. Further it is clear from the material I have examined that both lawyer and non-lawyer staff have been actively involved in effecting change when and where necessary and have embraced the changes once made.
67. It is worth noting at this point that, as with the Kilmore Settlement Administration, those file operators (generally paralegals) whose task it was to make contact with and interview claimants once the SDS was approved were required to bring an extraordinary degree of tact, skill and compassion to the conduct of these interviews – I am advised it was at these interviews that claimants in most cases for the first time discussed with a lawyer or paralegal, in the context of the litigation, intimate details of the devastation of the bushfires and the effect that the loss of life of family and/or friends and treasured possessions had on them. It is not surprising that some of these interviews may have taken quite some time to complete.
68. Accordingly, I have no reason to consider that the descriptions of the nature of the costs incurred over particular periods of time as broadly deposed to in the Affidavits of Ms Dellavedova and Mr Watson are anything other than accurate and once again my view in this respect has been confirmed as a result of having undertaken the sampling process referred to as step 4(i) in paragraph 40 above and having regard to my examination of the other relevant hard copy and electronic material available to me.

STEP 3 – CALCULATE THE TIME SPENT BY LAWYERS AND NON-LAWYERS

69. The Scheme Administrator's staff have, from time to time and at my request, provided me with copies of updated staff lists which detail (i) the name of the file operator, (ii) the file operator's billing code, (iii) the position held by the file operator, (iv) whether the file operator

does work in respect of the I-D settlement administration and/or the ELPD settlement administration, (v) the period of time worked by the file operator and (v) the nature of work carried out by the file operator. The most recent updated staff list is **Attachment 1** to this report.

70. It is apparent from the updated staff list and the bills of costs/tax invoices that over the period 13 February 2015 to 30 April 2016 one Administration Assistant [REDACTED] was promoted to the position of Paralegal, one Paralegal [REDACTED] obtained his law degree and was promoted to the position of Trainee Lawyer, one Paralegal [REDACTED] who in fact was at all times admitted to practice but did not hold a practicing certificate until her promotion) was promoted to the position of Solicitor and one Solicitor [REDACTED] was promoted to the position of Associate.
71. In examining the updated staff list and the bills of costs/tax invoices that over the period 13 February 2015 to 30 April 2016 some issues in respect of charge out rates became evident and I have discussed these issues with the Scheme Administrator's staff. These issues and the outcome of my discussions with the Scheme Administrator's staff are as follows
- (a) In advance of the March 2016 Case Management Conference it was realised by the Scheme Administrator that one file operator [REDACTED] although admitted to practice on 6 June 2011, had been incorrectly charged out at the Solicitor rate of \$440.00 when in fact she should have been charged out at the Associate rate of \$540.00 under Schedule B to the SDS. I am advised that in respect of [REDACTED] charge-out rate the Scheme Administrator determined not to apply for a retrospective increase to bills previously presented to the Court for approval but rather applied the increased rate from 1 February 2016;
- (b) [REDACTED] was erroneously charged out at the Trainee Lawyer rate of \$350.00 per hour for a 2 unit conference in December 2015. At the time she was conducting a Seasonal Clerkship with Maurice Blackburn and should have been charged out at a lower rate. She was subsequently employed as a Paralegal from January 2016 at the correct rate of \$320.00 per hour. The error in [REDACTED] December rate resulted in an overcharge of \$6.00 for her time in assisting I-D group members with completion of the electronic surveys;
- (c) [REDACTED] was promoted to the position of Paralegal on 1 March 2016 however his rate was not updated on the system for the Murrindindi SDS from the Administrative Assistant rate of \$230.00 per hour to the Paralegal rate of \$320.00 per hour. This error

resulted in an undercharge of \$2,259.00 for 251 units of work done by [REDACTED] over the period 1 March 2016 to 30 April 2016;

- (d) [REDACTED] was promoted to the position of Paralegal on 4 April 2016 however her rate was not updated on the system for the Murrindindi SDS from the Administrative Assistant rate of \$230 00 per hour to the Paralegal rate of \$320 00 per hour. This error resulted in an undercharge of \$801 00 for 89 units of work done by [REDACTED] over the period 1 March 2016 to 30 April 2016.

I am advised that the Scheme Administrator does not intend to pursue the amount of \$3,060.00 undercharged in relation to work done by [REDACTED] and [REDACTED]. Whilst the Scheme Administrator has also confirmed his willingness to reimburse the \$6.00 overcharge in respect of work done by [REDACTED] I do not consider that would be necessary in all the circumstances and accordingly I have made no adjustment in this respect.

72. In order to calculate the time spent by lawyers and non-lawyers on the work claimed in the bill of costs/tax invoices I instructed my assistant, Mrs Nadine Straney, to review all the bills of costs/tax invoices and prepare three separate tables in respect of each of (a) the General settlement administration, (b) the I-D settlement administration and (c) the ELPD settlement administration which detailed (i) the name of each of the file operators, (ii) the hourly rate of each of the file operators, (iii) the number of 6 minute units of time worked by each file operator over each bill period in respect of the bills of costs/tax invoices detailed on pages 4 to 6 of this report, (iv) the total amount claimed for each file operator over each bill period and (v) the total amount claimed for each file operator from 13 February 2015 to 30 April 2016. These tables are, respectively, **Attachments 2, 3 and 4** to this report.
73. I have cross-referenced each of the attached tables with the attached most recent updated staff list and am satisfied that the charges claimed in the bills of costs/tax invoices prepared for the period 13 February 2015 to 30 April 2016 have been calculated by applying the appropriate Court approved hourly rates under the SDS to the items of work done by the respective file operators.

STEP 4 – SAMPLE THE BILLS OF COSTS/TAX INVOICES

Charges

74. The bill of costs/tax invoices prepared for the period 13 February 2015 to 30 April 2016 in respect of (i) the general settlement administration, (ii) the I-D settlement administration and

(iii) the ELPD settlement administration comprise more than 750 pages including formal parts and pages detailing summaries, disbursement accounts and the like. In order to conduct the sampling process referred to as step 4(i) in paragraph 40 above, I therefore determined to :

- (a) examine in detail the work done by all file operators on a particular date on approximately every 20th page of the bills of costs/tax invoices, and
- (b) examine in detail a sample of the claims for work done by a particular file operator on approximately every alternate 20th page of the bills of costs/tax invoices.

In other words on approximately every 10th page of the bills of costs/tax invoices I examined in detail either the work done on a particular date or the work done by a particular file operator.

Where the work done on a particular date extended beyond the randomly selected page I also examined in detail all other work done on that date as noted in the surrounding pages. Likewise if the work done by a particular file operator on a particular date extended beyond the randomly selected page I also examined in detail all other work done by that particular file operator on that particular date as noted in the surrounding pages.

- 75. My detailed examination of the randomly selected claims involved considering (a) the nature of work done, (b) whether the work was reasonably done at the time, (c) whether the work was done by the appropriate level of file operator given the nature of the task, (d) whether the time claimed for the work was reasonable and (e) whether the correct hourly rate had been applied given the level of file operator doing the work. Where a claim referred to an attendance (such as a delegation and/or reporting conference) on another file operator in addition to considering (a) to (e) above I cross-referenced the claims of both file operators to confirm that the time claimed was accurate and reasonable.
- 76. As part of my detailed examination of the randomly selected work I also compared the work noted in the bill of costs/tax invoice with other relevant material provided to me, particularly the documents referred in paragraph 10 above. In some instances I also compared the work noted in the bill of costs/tax invoice with the electronic files maintained by the Scheme Administrator. I observe that a random comparison with the electronic files, which are compiled over a period of time, was not particularly helpful in confirming that particular items of work were done by particular file operators on particular dates however the electronic files themselves are solid evidence of the substantial amount of work actually done by the respective file operators in relation to particular claims.

77. My detailed examination revealed that some of the work was in respect of tasks which would normally not be allowed on a taxation of costs as between solicitor and own client (such as administrative claims for reviewing spreadsheets, cleaning document metadata, updating accounting database systems, etc) but in my view those claims should be allowed in the context of the SDS since the work was done either as a result of particular requirements under the SDS or simply to ensure the integrity and efficiency of the settlement distribution process, particularly having regard to the number of claims to be dealt with. It should also be recalled that the nature of the SDS means that by far the greater bulk of work done is almost entirely in respect of an administrative process rather than a legal process.
78. I am therefore satisfied that the randomly sampled work I examined was in all instances reasonably done at the time by the appropriate level of file operator, that the time claimed for the randomly sampled work was reasonable and that the correct hourly rate had been applied given the level of file operator doing the work.
79. This task was particularly involved and time consuming however I am satisfied that the cross-referenced sample was sufficiently large and provided a sufficiently accurate series of "snapshots" of the work done for me to extrapolate the results across the total of the charges claimed by file operators in all of the bills of costs/tax invoices covering the period 13 February 2015 to 30 April 2016 and to state that in my view the work claimed in those tax invoices was reasonably done at the time by the appropriate level of file operator, that the time claimed for the randomly sampled work was reasonable and that the correct hourly rate had been applied given the level of file operator doing the work.
80. In order to give a visual representation of the time spent by lawyers and non-lawyers in administering the SDS to date I requested that the Scheme Administrator provide me with "stack graphs" which break down the total time spent by each type of file operator for work done in respect of administration of (a) all aspects of the SDS ("Murrindindi – Overview"), (b) the General settlement administration aspect only ("Murrindindi – General File"), (c) the I-D settlement administration aspect only ("Murrindindi – Personal Injury File") and (d) the ELPD settlement administration aspect only ("Murrindindi – Property File"). These stack graphs are, respectively, **Attachments 5, 6, 7 and 8** to this report.
81. Examination of the attached stack graphs reveals that (a) in respect of all aspects of the SDS by far the greater bulk of work has been done by paralegals; (b) in respect of the General settlement administration aspect the greater bulk of the work has been done by lawyers, i.e. principals and special counsel, senior associates, associates, solicitors and trainee lawyers; (c) in respect of the I-D settlement administration aspect by far the greater bulk of the work

has been done by paralegals and legal assistants/litigation support staff and (d) in respect of the ELPD administration aspect the greater bulk of the work has been done by paralegals and legal assistants/litigation support staff.

82. Having regard to the scope of work done from 13 February 2015 to 30 April 2016 and given the nature of costs incurred over particular periods of time from 13 February 2015 to 30 April 2016 I make the following observations :

- (a) it is appropriate that in respect of all aspects of the SDS far less time was spent by principals and special counsel, senior associates, associates, solicitors, trainee lawyers and legal assistants/litigation support staff;
- (b) it is appropriate that in respect of the General settlement administration aspect more time was spent by principals and special counsel, senior associates, associates, solicitors and trainee lawyers;
- (c) it is appropriate that in respect of the I-D settlement administration aspect by far the greatest amount of time was expended by paralegals; and
- (d) it is appropriate in respect of ELPD settlement administration aspect a relatively higher amount of time was spent by principals and special counsel, senior associates, associates, solicitors and trainee lawyers than in respect of the I-D settlement administration but a larger amount of time was spent by paralegals and legal assistants/litigation support staff.

83. In my opinion the division of time amongst file operators apparent from the attached stack graphs also reflects an appropriate and reasonable allocation of work across all file operators and particularly as between lawyers and non-lawyers.

Disbursements – Counsel, providers of medico-legal reports and ELPD assessors

84. Pursuant with clause A1.1(b)(iii) of the Scheme all reasonable disbursements are to be allowed.

85. In paragraph 5 of the Affidavit of Kimi Jean Nishimura affirmed 9 March 2016 (“Ms Nishimura’s Affidavit of 9 March 2016”) It is deposed that Counsel retained to conduct assessments of group members with personal injury and dependency (“I-D”) claims in the *Kilmore* proceeding have also been retained to conduct assessments of group members with personal injury and dependency (“I-D”) claims in this proceeding.

86. In respect of disbursements incurred in processing both the personal injury and dependency ("I-D") claims and the economic loss and property damage ("ELPD") claims, Mr Watson's Affidavit of 13 April 2015 filed in the *Kilmore proceeding* deposes that the following fixed rates of remuneration had been established in respect of service providers .
- (a) \$400.00 per hour for Counsel attending training in the I-D assessment process conducted by Dr Nigel Strauss, Mr Andrew Keogh SC and Mr Rory Walsh of Maurice Blackburn;
 - (b) \$2,000.00 for each I-D assessment conducted by Counsel;
 - (c) \$3,500.00 for each I-D review assessment conducted by Senior Counsel;
 - (d) \$4,000.00 for each I-D assessment of sample and special Group Members conducted by Senior Counsel;
 - (e) \$1,100.00 per hour for training in the medico-legal assessment process conducted by Dr Nigel Strauss;
 - (f) \$1,650.00 for each comprehensive psychiatric assessment;
 - (g) \$880.00 for each comprehensive psychological assessment;
 - (h) \$550.00 for psychiatric oversights;
 - (i) \$300.00 for ELPD assessments of insured only losses conducted to a reasonable standard but not in accordance with the Settlement Distribution Scheme;
 - (j) \$650.00 for ELPD assessments of incurred only losses conducted by ELPD assessors in accordance with the Settlement Distribution Scheme;
 - (k) \$1,800.00 for ELPD assessments of above-insurance claims (non-business); and
 - (l) \$2,400.00 for ELPD assessment of above-insurance business claims.
87. In addition, Mr Watson's Affidavit of 16 June 2016 filed in this proceeding deposes that in respect of I-D claims from 1 April 2016 the standard rate per assessment paid to I-D assessors was increased by \$250.00 and a further incentive payment of \$250.00 was also introduced at that time for those assessments submitted within two weeks of the I-D assessor meeting with the group member. Additionally, on 3 June 2016 a further incentive payment was introduced to encourage assessments to be submitted by 30 June 2016.
88. Further, Mr Watson's Affidavit of 16 June 2016 filed in this proceeding deposes that in order to facilitate the timely completion of ELPD claims a conditional rate increase was implemented payable to Hall & Wilcox and Crawford and Company (Australia) if they were able to increase the volume of assessments completed over a four week cycle above the agreed-upon numbers. The conditional rate payable is \$250.00 for all above insurance assessment completed over two specified four week cycles. I note the Scheme Administrator

has recently proposed a similar conditional rate increase to RM Consulting Group although as at 16 June 2016 RM Consulting Group had not confirmed their interest in such a proposal.

89. According to the bills of costs/tax invoices provided to me and the matters deposed to in Ms Dellavedova's Affidavit of 25 June 2015, the only disbursements incurred from 13 February 2015 to 19 June 2015 totalled \$14,299.10 inclusive of GST (of which disbursements totalling \$120.20 did not attract GST) comprised the following :

- (a) \$4,290.00 to Curated Content Pty Ltd for work on the I-D Personal Injury brochure;
- (b) \$7,458.00 to Milo's in Good Company Pty Ltd for work on the I-D Personal Injury brochure;
- (c) \$394.29 to medical practitioners for providing I-D claimant treatment records; and
- (d) \$2,156.81 to Law In Order Pty Ltd for photocopying and electronic document processing charges in respect of the I-D settlement administration.

90. According to the bills of costs/tax invoices provided to me and the matters deposed to in Mr Watson's Affidavit of 16 March 2016, disbursements incurred from 19 June 2015 to up 31 January 2016 totalled \$146,713.94 and comprised the following :

(i) General settlement administration :

- (a) \$1,916.24 for general administrative expenses incurred in relation to the General settlement administration.

(ii) I-D settlement administration :

- (a) \$26,945.89 to medical practitioners, hospitals, psychiatrists, psychologists and counsellors for providing I-D group member treatment records;
- (b) \$24,945.89 for the design, edits and printing of Personal Injury brochure;
- (c) \$12,000.00 to Counsel for conducting I-D assessments;
- (d) \$6,017.00 to BizData for providing services to improve IT systems and create reports;
- (e) \$4,104.06 to Law in Order for electronic document processing charges;
- (f) \$616.21 to NuLegal for web-hosting fees; and
- (g) miscellaneous administrative disbursements including telephone calls, photocopying and postal charges, totalling \$16,963.84.

(iii) ELPD settlement administration :

- (a) \$28,790.30 to various providers for the design, edits and printing of the ELPD brochure;
- (b) \$20,000.00 to RM Consulting Group for providing initial setup and ongoing design of the SDS ELPD settlement administration scheme;
- (c) \$2,046.00 to BizData for providing services to improve IT systems and create reports;
- (d) \$1,375.00 to NuLegal for web-hosting fees;
- (e) \$184.71 to Law in Order for electronic document processing charges; and
- (f) miscellaneous administrative disbursements including telephone calls, photocopying and postal charges, totalling \$897.99.

91. According to the bills of costs/tax invoices provided to me and the matters deposed to in Mr Walsh's Affidavit of 16 June 2016, disbursements incurred between 1 February 2016 and 30 April 2016 totalled **\$245,435.86** and comprised the following :

(i) General settlement administration :

- (a) \$3,134.75 to Law in Order for photocopying charges;
- (b) \$737.21 to e.law International for web-hosting fees;
- (c) \$133.24 to Victorian Transcript Services for the transcript of the Case Management Conference held 23 March 2016; and
- (d) miscellaneous administrative disbursements including telephone calls and photocopying totalling \$22.66.

(ii) I-D settlement administration :

- (a) \$216,143.07 to I-D assessors for conducting I-D assessments;
- (b) \$13,512.29 to medical practitioners, hospitals, psychiatrists, psychologists and counsellors for providing I-D group member treating records;
- (c) \$4,783.31 to Law in Order Pty Ltd for electronic document processing charges; and
- (d) miscellaneous administrative disbursements including telephone calls, photocopying, courier fees and Cabcharge expenses totalling \$439.54.

(iii) ELPD settlement administration :

- (a) \$6,433.26 to Law in Order Pty Ltd for electronic document processing and photocopying charges; and
- (b) miscellaneous administrative disbursements including telephone calls and photocopying totalling \$96.53.

92. In respect of disbursements incurred I requested that the Scheme Administrator provide me with one folder comprising a random sample of the disbursement accounts received in this matter in order to cross-reference those disbursement accounts with the disbursement claims in the bills of costs/tax invoices. Pursuant to that request I have been provided with a folder containing copies of a selection of disbursement accounts rendered by :

- (a) Crawford & Company (Australia) and RM Consulting Group for ELPD assessment work;
- (b) service providers such as BizData, Curated Content Pty Ltd, Dynamic Direct Pty Ltd, e.law International, Law In Order, LitSupport, Milo's in Good Company Pty Ltd, NuLegal and Victorian Transcript Services Pty Ltd; and
- (c) Pitcher Partners Pty Ltd for accounting services and advice.

93. I have examined in detail the folder of copy disbursement accounts provided to me and have generally reviewed the claims for disbursements as made out in the bills of costs/tax invoices. I make the following observations :

Counsel, Medical providers and ELPD assessors

94. The rates fixed for Counsel, including Senior Counsel and Junior Counsel appointed as assessors in the I-D settlement administration are detailed in paragraphs 86 and 87 above.

95. In my experience the rates negotiated for Senior and Junior Counsel are all well within the range of hourly and daily rates one would expect and in my view they are reasonable. Likewise the rates fixed for comprehensive psychiatric assessments, comprehensive psychological assessment and psychiatric oversights all appear to be well within the range of rates one would expect and again in my view they are reasonable.

96. In my experience the rates charged by providers of medical reports and clinical notes are well within the range one would expect and are therefore reasonable.

97. Whilst I am not especially familiar with the usual rates charged by assessors in respect of economic loss/property damage assessments of insured only losses, above-insurance non-business claims and above-insurance business claims, the negotiated rates do not appear to me to be unreasonable and I note in passing that two of the ELPD assessors are firms of solicitors.

Court and transcript fees

98. As Court fees are fixed there is no dispute that they are reasonable however it appears from my examination of the bills of costs/tax invoices for the period 13 February 2015 to 30 April 2016 that no Court fees have been incurred. Likewise, in my view the fees for transcripts of the Case Management Conferences have been reasonably incurred and are reasonable in amount.

Other service providers and miscellaneous disbursements

99. Having reviewed the bills of costs/tax invoices and examined in detail a random selection of disbursement accounts rendered by other service providers, such as BizData, Curated Content Pty Ltd, Dynamic Direct Pty Ltd, e.law International, Law In Order, LitSupport, Milo's in Good Company Pty Ltd, NuLegal and Victorian Transcript Services Pty Ltd I am satisfied that all remaining disbursements have been reasonably incurred and are reasonable in amount.

100. In this context I consider it appropriate for me to make two further observations .

- (a) there are separate claims for mobile telephone call charges. I am advised that when a mobile phone call is made by a file operator that file operator enters a matter specific code so that the call is electronically billed to the correct SDS account. Whilst historically telephone charges have been subsumed into the scale allowances for attendances (with the exception of STD and ISD telephone charges) modern communication is such that the use of a mobile phone is commonplace and indeed many people now no longer have landlines. In addition the advent of the mobile phone has allowed for reminder messaging and the like all of which contribute a greater degree of efficiency in the conduct of matters such as this. Finally, mobile telephone call charges are generally time-based and it is therefore in my view reasonable that these charges be claimed as disbursements; and
- (b) courier charges and cab charges are a fact of modern practice and I consider the thoughtful use of courier and cabs to be reasonable in all the circumstances of this matter.

STEP 5 – APPLY THE HOURLY RATES APPROVED BY THE COURT

Administration Costs

101. Administration Costs are defined in clause A1.1 of the Scheme as :

- (b)(i) any obligation described in clause A4.1;*
- (b)(ii) all professional costs, and disbursements, incurred by the Scheme Administrator and administrator staff in the preparation, testing, implementation or administration of this Scheme; and*
- (b)(iii) all fees and reasonable disbursements incurred by any person appointed by the Scheme Administrator to perform any function in connection with the preparation, testing, implementation or administration of this Scheme (including reasonable preparation or training in anticipation of involvement in this Scheme), which fees and disbursements shall be invoiced to the Scheme Administrator and paid by him as a disbursement.*

102. Clause A4.1 provides that :

Notwithstanding any other provision of this Scheme, and without reducing any other rights which the Scheme Administrator might have :

- (a) all costs, expenses, taxes, levies, duties, charges, fees or other imposts or obligations arising in connection with the administration of this Distribution Scheme (including without limitation the creation, retention, investment or disbursement of any part of the Distribution Sum) shall be paid from the Distribution Sum held by the Scheme Administrator from time to time; and*
- (b) the Scheme Administrator and the administrator staff shall be indemnified from the Distribution Sum against all liabilities (including without limitation or liabilities described in (a) above) arising from or in connection with the administration of this Scheme.*

103. Administrator staff are also defined in clause A1.1 of the Scheme as

- (c)the persons delegated by the Scheme Administrator to perform the functions necessary or convenient for the efficient implementation of this Scheme, and includes Maurice Blackburn in respect of those administrator staff;*

104. The GST exclusive hourly rates to be allowed to the Scheme Administrator and administrator staff have been approved by the Court and as mentioned in paragraph 38 above are detailed in Schedule B to the Scheme. Those hourly rates are apparently applicable for the "life" of the administration of the SDS.

Time recording

105. I am advised that the Scheme Administrator utilises the "Elite" automated time and billing system for time recording and that the Scheme Administrator and all administration staff are required to enter their time on the "Elite" system at the time or shortly after specific tasks are completed. As mentioned in paragraph 39 above the "Elite" system records time in units of 6 minutes or part thereof.
106. In this connection I have been provided with a document entitled "Time Recording Protocols" which I am advised is given to all fee earners at Maurice Blackburn and which in particular has been given to the SDS file operators. That document provides a comprehensive list of "DOs" and "DON'Ts" for data entry to the "Elite" system and also canvasses the importance of using the "non-billable codes" where appropriate. In addition, I have also been provided with a copy of a memorandum which deals with time recording protocols specific to the SDS.
- 107 My examination of the bills of costs/tax invoices, both in a broad sense as referred to in paragraph 18 above and in a detailed sense as part of the sampling process referred to as step 4(i) in paragraph 40 above, suggests that these time recording protocols have been conscientiously followed and applied.

Application of the approved hourly rates to the recorded time

108. Utilising the tables in Attachment 1, Attachment 2 and Attachment 3 and the updated staff list in Attachment 4 to this report I have reviewed the hourly rates applied as detailed in all of the itemized invoices covering the period 13 February 2015 to 30 April 2016 for the Scheme Administrator and for each member of his administration staff in light of the "qualification" of each file operator.
109. Having done that exercise and as a result of the sampling process referred to as step 4(i) in paragraph 40 above, I am satisfied that in all instances the appropriately qualified operator has done the work at the appropriate standard hourly rate approved by the Court.

STEP 6 – EXCISE WORK UNREASONABLY DONE or UNREASONABLE IN AMOUNT

110. In light of my review of the materials provided to me, having regard to the outcome of the sampling process referred to as step 4(i) in paragraph 40 above and reiterating the matters generally canvassed, I do not consider it could reasonably be said that any of the work

claimed in the bills of costs/tax invoices was unreasonably done or is unreasonable in amount.

STEP 7 – DISBURSEMENTS UNREASONABLY INCURRED or UNREASONABLE IN AMOUNT

111. In light of my review of the materials provided to me and reiterating the matters generally canvassed above, I do not consider that any of the disbursements claimed in the bills of costs/tax invoices were unreasonably incurred and or are unreasonable in amount.

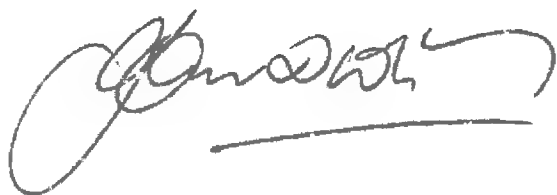
CONCLUSION

112. Having regard to the matters canvassed in this report and the reasons expressed in paragraphs 41 to 83 and 101 to 110 above of this report the quantum of charges claimed in the bills of costs/tax invoices covering the period 13 February 2015 to 30 April 2016 is reasonable.

113. Having regard to the matters canvassed in this report and the reasons expressed in paragraphs 41 to 68, 84 to 100 and 111 above of this report the quantum of disbursements claimed in the bills of costs/tax invoices covering the period 13 February 2015 to 30 April 2016 is reasonable.

114. Should however the Court require any further information or analysis I would of course be most pleased to oblige.

DATED : 30 June 2016

A handwritten signature in black ink, appearing to read 'John D White', with a horizontal line underneath it.

JOHN D WHITE