

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

No. 4788 of 2009

**B E T W E E N:**

**CAROL ANN MATTHEWS**

Plaintiff

and

**AUSNET ELECTRICITY SERVICES PTY LTD  
(ACN 064 651 118)  
& ORS (according to the schedule of parties)**

Defendants

(by original proceeding)

**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  
& ORS (according to the schedule of parties)**

Defendants by Counterclaim

(by counterclaim)

**AFFIDAVIT OF MARTIN WILLIAM DOUGALL**

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<b>Date of Document:</b>	20 October 2017
<b>Filed on behalf of:</b>	The Plaintiff
<b>Prepared by:</b>	Solicitor's Code: 564
Maurice Blackburn Lawyers	Tel: (03) 9605 2700
Level 10, 456 Lonsdale Street	DX: 466 Melbourne
Melbourne Vic 3000	Ref: AW/3004166

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I, Martin William Dougall, Chartered Accountant, of 727 Collins Street, Melbourne in the State of Victoria, make oath and say as follows:

- I am a partner at KPMG, a member of The Institute of Chartered Accountants of Scotland, The Institute of Chartered Accountants of Australia and New Zealand and The Expert Witness Institute.

  
20/10/17

  
20/10/17

- 2. I make this affidavit from my own knowledge unless otherwise stated. Where statements are not made from my own knowledge, they are made to the best of my information and belief after due enquiry and I have set out the source of my information.
- 3. By letter dated 11 April 2017 the Scheme Administrator engaged KPMG to provide an expert opinion in this matter. Now produced and shown to me marked "MWD-1" is a true copy of my report in respect of the personal injury and dependency claims dated 20 October 2017. Also produced and shown to me marked "MWD-2" is a true copy of my report in respect of the economic loss and property damage claims dated 20 October 2017.

SWORN by the deponent at )  
 Melbourne in the State of Victoria )  
 this 20th day of October 2017 )

*M Dayall*

Before me: *[Signature]*

JOHN ROGER HALL  
 727 COLLINS ST, MELBORNE  
 AN AUSTRALIAN LAWYER (LEGAL PRACTITIONER)  
 MEANING OF THE LEGAL PROFESSION UNIFORM LAW (VIC)  
 FILED on behalf of the Plaintiff

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

No. 4788 of 2009

BETWEEN:

**CAROL ANN MATTHEWS**

Plaintiff

and

**AUSNET ELECTRICITY SERVICES PTY LTD  
(ACN 064 651 118)  
& ORS (according to the schedule of parties)**

Defendants

(by original proceeding)

AND BETWEEN:

**AUSNET ELECTRICITY SERVICES PTY LTD  
(ACN 064 651 118)**

Plaintiff by Counterclaim

and

**ACN 060 674 580 PTY LTD  
& ORS (according to the schedule of parties)**

Defendants by Counterclaim

(by counterclaim)

**CERTIFICATE IDENTIFYING EXHIBIT**

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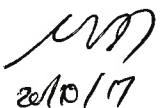
<b>Date of Document:</b>	20 October 2017
<b>Filed on behalf of:</b>	The Plaintiff
<b>Prepared by:</b>	Solicitor's Code: 564
Maurice Blackburn Lawyers	Tel: (03) 9605 2700
Level 10, 456 Lonsdale Street	DX: 466 Melbourne
Melbourne Vic 3000	Ref: AW/3004166

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This is the exhibit marked '**Exhibit MWD-1**' produced and shown to Martin William Dougall at the time of swearing his affidavit on 20 October 2017 before me:



JOHN ROGER HALL  
727 COLLINS ST, MELBOURNE  
AN AUSTRALIAN LEGAL PRACTITIONER WITHIN  
THE MEANING OF THE LEGAL PROFESSION UNIFORM  
LAW (VIC)



20/10/17



# Maurice Blackburn Pty Ltd

**Independent Expert Report – ID Claims**  
Prepared by Martin Dougall

20 October 2017

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# A. Executive Summary

## Qualifications

1. I am a Chartered Accountant and a member of The Institute of Chartered Accountants of Scotland, The Institute of Chartered Accountants of Australia and New Zealand and The Expert Witness Institute.
2. I have prepared expert reports for a number of legal actions and in various litigation support assignments. I have undertaken a large number of financial investigations, loss and damage assessments and valuations in both a litigated context and for other purposes.
3. Further details of my qualifications and experience are in **Annexure A** to this report.

## Instructions

4. I am instructed as an independent expert to:
  - a) Prepare a report addressing the following questions in each of the Kilmore Bushfire Class Action Settlement Administration and the Murrindindi Bushfire Class Action Settlement Administration proceedings, to the extent I am qualified as an expert to do so, and swear an affidavit attesting to the matters contained in any such report in relation to the following ("**the Questions**"):
    - i) Does the assessment data recorded in Maurice Blackburn's Matter Centre database match the assessment amount recorded in the Notice of Assessment or Review Notice of Assessment (where applicable) sent to each registered group member?
    - ii) Have all interim payments made to registered group members been recorded in the relevant registered group members' Matter Centre records?
    - iii) Confirm for all registered group members who are recorded as having lodged a review:
      - a. For successful reviews: Any bonds paid by group members have been reimbursed to the applicable group members
      - b. For unsuccessful reviews where the review costs have not been waived: Review costs are recorded as deductions against applicable group members' Matter Centre records

- iv) For registered personal injury group members, do the following deductions applicable to individual registered personal group members match the relevant registered group members' Matter Centre records?
  - a. Medicare payback
  - b. Private Health Insurance payback
  - c. Centrelink payback and preclusion period, including paybacks and preclusions from any interim payments made
  - d. Department of Veterans' affairs (**DVA**) payback
  - e. Comcare<sup>1</sup> payback
  - f. Other paybacks
  - g. Undertakings to pay a proportion of the settlement monies to a third party
- v) For registered personal injury group members who Matter Centre records as having a dependency claim, does Matter Centre match the assessment amount recorded in the dependency claim Notice of Assessment?
- vi) Have each of the following additions and deductions been made to and from the Settlement Funds prior to determining the pro rata entitlement of group members?
  - a. The addition of interest
  - b. The deduction of taxation liabilities determined by the Australian Taxation Office
  - c. The deduction of settlement administration costs and disbursements approved by the Supreme Court of Victoria
- vii) Following the additions to and deductions from the Settlement Funds referred to above, has the pro rata calculation of registered group members' claims been correctly calculated?

5. I have also subsequently been asked to review:

- a) The calculations of the individual payments after the pro-rata adjustment and the deduction of all paybacks; and
- b) The final payment schedules, specifically that the list of Claimants, their addresses and payment amounts match Matter Centre and the supporting calculations (excluding those that are incomplete and have been marked "Do not Send") for the purpose of sending to a mailing house to cut and send the cheques; and
- c) Schedules calculating each Claimant's proportional share of the distribution fund for each of the Kilmore and Murrindindi I-D funds.

6. A copy of my instructions is attached at **Confidential Annexure B**.

7. This report considers the answer to the questions in respect of the personal injury and dependency claims (**I-D claims**). A separate report considers the answer to the questions in respect of the economic loss and property damage claims (**ELPD claims**).

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<sup>1</sup> Agency responsible for workplace safety, rehabilitation and compensation in the jurisdiction of the Australian Commonwealth (i.e. Federal) Government. In this matter there were no Comcare paybacks applicable in either the Kilmore or Murrindindi populations.



## Conclusions

8. My conclusions in relation to the I-D Claimants (excluding the two Claimants that have not been paid as at the date of this report as discussed in Section L) are as follows:
- i) The assessment data recorded in Maurice Blackburn's Matter Centre database matches the assessment amount recorded in the Notice of Assessment or Review Notice of Assessment (where applicable) sent to each registered group member.
  - ii) All interim payments made to registered group members in relation to the I-D claims have been recorded in the relevant registered group members' Matter Centre records.
  - iii) I confirm that for all registered group members who are recorded as having lodged a review:
    - a. For successful reviews: Any bonds paid by group members have been reimbursed to the applicable group members; and
    - b. For unsuccessful reviews where the review costs have not been waived: Review costs are recorded as deductions against applicable group members' Matter Centre records or have been requested as a direct reimbursement to Maurice Blackburn and adjusted in the calculation of funds available to distribute.
  - iv) For registered personal injury group members, the following deductions applicable to individual registered personal group members match the relevant registered group members' Matter Centre records:
    - a. Medicare payback
    - b. Private Health Insurance payback
    - c. Centrelink payback and preclusion period, including paybacks and preclusions from any interim payments made
    - d. DVA payback
    - e. Comcare payback
    - f. Other paybacks
    - g. Undertakings to pay a proportion of the settlement monies to a third party
  - v) For registered personal injury group members who Matter Centre records as having a dependency claim, Matter Centre matches the assessment amount recorded in the dependency claim Notice of Assessment.
  - vi) The following additions and deductions have been made to and from the Settlement Funds prior to determining the pro rata entitlement of group members:
    - a. The addition of interest;
    - b. The deduction of taxation liabilities determined by the Australian Taxation Office; and
    - c. The deduction of settlement administration costs and disbursements approved by the Supreme Court of Victoria; and

- vii) Following the additions to, and deductions from, the Settlement Funds referred to above, the pro rata calculation of registered group members' claims was calculated based on the assessment data contained in Matter Centre at that time. It was subsequently discovered that an amount in relation to the Personal Injury Claim for one claimant had been missed from Matter Centre, which was subsequently paid out of the Maurice Blackburn office account in February 2017. This claimant also had a Dependency claim that had been paid out in December 2016 as part of the I-D Settlement distribution. This had the effect of overstating the pro-rata percentage and the resulting payments made to the I-D Claimants. The Court has been advised of this. It is proposed that any adjustments to be made in relation to the pro-rata percentage will be as part of any subsequent payment to be made pending resolution of outstanding taxation matters and other issues; and
- viii) Following the assessment of the pro rata percentage above, a late registrant was added to the claim population, whose claim was assessed and paid out of the Maurice Blackburn office account.

9. I further conclude in respect of the I-D Claimants that:

- a) The calculations of the individual payments after the pro-rata adjustment and the deduction of all paybacks are consistent with the work performed detailed in paragraph 8 above; and
- b) For final payment schedules, the list of Claimants, their addresses and payment amounts match Matter Centre and the supporting calculations (excluding those that are incomplete and have been marked "Do not Send") for the purpose of sending to a mailing house to cut and send the cheques; and
- c) For the proportional allocation of I-D distribution sum calculations, these have been calculated appropriately based on the updated Matter Centre total assessment data and represent the percentage of the distribution sum received by each individual group member in each of the Kilmore and Murrindindi funds.

## Constraints

10. I was not subject to any constraints during the preparation of this report.

## Warranties and disclaimer

11. This report has been prepared for the purpose set out above and it is not to be used for any other purpose without KPMG's prior written consent. Accordingly, KPMG accepts no responsibility in any way whatsoever for the use of this report for any purpose other than that for which it has been prepared.
12. Nothing in this report should be taken to imply that I have verified any information supplied to me, or have in any way carried out an audit of any information supplied to me other than as expressly stated in this report.
13. My opinion is based solely on the information set out in this report. I reserve the right to amend any conclusions, if necessary, should any further information become available.
14. This report is private and confidential, has been prepared for the parties to the dispute only and is not to be used for any other purpose or distributed to third parties without KPMG's prior written consent unless it is required to be disclosed to the Court for the purposes of legal proceedings. This report must not be altered or amended in any way once issued in final form. For the avoidance of doubt, the final Deliverable can be filed as an expert witness report in the Supreme Court of Victoria and read into evidence.

## B. Summary of Assumptions

15. The background to this matter is as follows.
- a) Andrew Watson and, for the period 5 December 2016 to 12 February 2017<sup>2</sup>, Brooke Dellavedova of Maurice Blackburn Pty Ltd (**Maurice Blackburn**) have been appointed Scheme Administrators under the Settlement Distribution Schemes (**SDS**) approved by the Supreme Court of Victoria in *Matthews v SPI Electricity Pty Ltd Ors* (SCI 2009 04788) (**Kilmore Bushfire Class Action**) and *Rowe v AusNet Electricity Services Pty Ltd & Ors* (SCI 4538 of 2012) (**Murrindindi Bushfire Class Action**).
  - b) The Kilmore SDS establishes a procedure for distributing the sums paid by the Defendants to the Kilmore Bushfire Class Action pursuant to a settlement of the class action approved by the Supreme Court of Victoria. The Murrindindi SDS establishes a procedure for distributing the sums paid by the Defendants to the Murrindindi Bushfire Class Action pursuant to a settlement of the class action approved by the Supreme Court of Victoria. The procedures set out in the Murrindindi SDS are substantially identical to those set out in the Kilmore SDS.
16. For the purposes of this report I have been instructed to make the following assumptions:
- a) Settlement Funds means:
    - i) In the Kilmore Bushfire Class Action settlement administration: \$434,666,667, split into a fund for registered personal injury and dependency group members (**I-D Claims Fund**) and a fund for registered economic loss and property damage group members (**ELPD Claims Fund**) as follows:
      - 3/8ths to the I-D Claims Fund; and
      - 5/8ths to the ELPD Claims Fund.
    - ii) In the Murrindindi Bushfire Class Action settlement administration: \$279,835,404.74, split into a fund for registered personal injury and dependency group members and a fund for registered economic loss and property damage group members as follows:
      - 34 million to the I-D Claims Fund; and
      - The balance to the ELPD Claims Fund.
  - b) Assessment amounts recorded in Notices of Assessment or Review Notices of Assessment (where applicable) have been determined by I-D Assessors, ELPD

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<sup>2</sup> I am instructed that Mr Watson was on leave between 5 December 2016 and 12 February 2017. In his absence, pursuant to clause A3.1 of the SDS, Mr Watson appointed Brooke Dellavedova as Scheme Administrator.

Assessors, I-D Review Assessors and/or ELPD Review Assessors appointed under the SDS properly and in accordance with the procedures set out in the SDS.

- c) The list of registered group members contained in Maurice Blackburn's Matter Centre database is a complete and accurate record of all registered group members entitled to make claims in the Proceedings.
  - d) That the Notices of Assessment and Review Notices of Assessment (where required) are final for the purposes of distribution (that is, no further rights of review are exercisable).
  - e) That a Review Notice of Assessment will only be required where Matter Centre records that a registered group member has lodged a review.
  - f) For registered personal injury group members:
    - i) A Medicare payback is applicable where a group member has total assessed losses, on a pro-rata basis, exceeding \$5,000.
    - ii) A Private Health Insurance payback is applicable where indicated on Matter Centre.
    - iii) A Centrelink payback is applicable where indicated on Matter Centre.
    - iv) A DVA payback is applicable where indicated on Matter Centre.
    - v) A Comcare payback is applicable where indicated on Matter Centre.
    - vi) Other paybacks are applicable where indicated on Matter Centre.
    - vii) An undertaking to pay a proportion of settlement monies to a third party is applicable where indicated on Matter Centre.
17. In the event that I am provided with information that reveals any of the assumptions made in this report to be incorrect, I reserve the right to amend the opinions expressed in this report.

## C. Information received

18. KPMG received instructions in October 2016, and the data to facilitate the review has been received progressively since that time.
19. Initially KPMG was provided with an extract of the Matter Centre database (on 17 October 2016, superseded by a version on 21 October, (**Matter Centre Extracts**)) and the supporting documents that had been stored in File Site (as described in the following section) as at 17 October 2016.
20. On 18 November 2016 KPMG was provided with draft pro-rata calculations for Kilmore and Murrindindi to verify the calculation of the interest, tax and costs and the resulting pro-rata amount to be applied to the Claimant amounts (**Pro-Rata Calculations**).
21. On 21 November 2016 KPMG was provided with updated pro-rata calculations for Kilmore and Murrindindi which had been amended for issues identified in the 18 November 2016 calculations.
22. On 29 November 2016 KPMG was provided with draft "In-Hand Calculations" for Kilmore and Murrindindi which calculated each Claimant's pro-rata assessment and deducted all the paybacks (excluding Centrelink Paybacks) (**In-Hand Calculations**). This spreadsheet was prepared for the purposes of sending to Centrelink for their confirmation of the Centrelink paybacks that would be due on those final amounts. KPMG was asked to review this calculation. As part of this, KPMG was provided with data in relation to "Grant of Representation" amounts which formed part of the deductions in calculating the In-Hand amounts relating to certain estate claims.
23. On 5 December 2016 KPMG was provided with the confirmation from Centrelink (**Centrelink Data**) on:
  - a) The paybacks due in relation to 274 of the 313 claimants in the Kilmore population in which Centrelink have an interest; and
  - b) The paybacks due in relation to all but 2 of the Claimants in the Murrindindi population in which Centrelink have an interest.

KPMG was also provided with updated In-Hand Calculations after the deduction of the Centrelink paybacks, to review whether the Centrelink deductions had been reflected in the final payment calculations to be sent to the mailing house (**Schedules of Payments**).
24. On 7 December 2016 KPMG was provided with further Centrelink Data in relation to the remaining 39 Claimants in Kilmore, taking the total number of Kilmore Claimants for which Centrelink Data had been provided to 313. The In-Hand Calculations for these 39 Claimants were provided on 8 December 2016 to verify that the Centrelink deductions had been accurately reflected in the final Schedules of Payments for these Claimants.
25. On 9 December 2016 KPMG was provided with the following additional information:

- a) Updated Centrelink Data for Murrindindi, including the remaining Claimants in which Centrelink had an interest.
  - b) Supporting information in relation to a number of DVA paybacks in both Kilmore and Murrindindi;
  - c) Supporting information in relation to one "Other" payback Claimant in Murrindindi, relating to monies owing to the Department of Defence;
  - d) Further Matter Centre extracts evidencing that this data had been processed in Matter Centre; and
  - e) Updated In-Hand calculations for the above additional populations (a total of 5 for Kilmore and 4 for Murrindindi).
26. On 15 December 2016 KPMG was provided with updated In-Hand Calculations for a further 6 Claimants (4 for Kilmore and 2 for Murrindindi), together with supporting documentation.
  27. On 19 December 2016 KPMG was provided with updated In-Hand Calculations for a further 4 Kilmore Claimants together with supporting documents.
  28. On 20 December 2016 KPMG was provided with schedules of the total payments to be made to Centrelink to confirm the total amount that was to be paid to them.
  29. On 21 December 2016 KPMG was provided with updated In-Hand Calculations for a further Kilmore Claimant, together with supporting documents, and a further In-Hand Calculation for one Kilmore Claimant whose claim for loss of earnings should have been zero (resulting in no Centrelink Payback).
  30. On 4 January 2017 KPMG was provided with a further In-Hand calculation for an additional Kilmore Claimant whose claim for loss of earnings should have been zero (resulting in no Centrelink Payback).
  31. On 8 February 2017 KPMG was provided with a schedule of proposed payments to third parties for both Murrindindi and Kilmore to review.
  32. On 10 March 2017 KPMG was provided with an In-Hand calculation for a Kilmore Claimant whose claim amount had been amended, together with supporting documents.
  33. On 17 March 2017 KPMG was provided with an In-Hand calculation for two additional Murrindindi Claimants together with supporting documents.
  34. The impact of the reduction in Centrelink paybacks and adjustments to the loss of earnings for the Claimants discussed at paragraphs 29 and 30 above, is that there are potentially additional funds available for an additional I-D distribution<sup>3</sup>.
  35. This report is structured as follows:
    - a) **Section D** sets out the process for extracting documents;
    - b) **Sections E to I** set out the process for checking the Matter Centre data;
    - c) **Section J** sets out the process for checking interest, taxation and costs;
    - d) **Section K** sets out the process for checking the pro-rata calculations; and
    - e) **Section L** sets out the process for checking the final Schedule of Payments.

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<sup>3</sup> Paragraphs 197 to 202 of affidavit of Brooke Dellavedova dated 23 January 2017. An update will be provided by Maurice Blackburn to the Court in due course as to the amount and timing of such a distribution.

## D. Process for extracting data

36. KPMG attended the offices of Maurice Blackburn on 17 October 2016 to discuss the commencement of the extraction of data from the Matter Centre database, and to discuss the extraction of the supporting documents from the matter files stored in File Site, an electronic database housing the case documents for each Claimant.

### Matter Centre extract

37. KPMG was provided with two spreadsheets containing the data extracted from Matter Centre for the Murrindindi (“MDI one to one audit report.xlsx”) and Kilmore (“KEK One to one audit report.xlsx”) claim populations. The spreadsheets were provided to me by email on 17 October 2016 after I had attended the offices of Maurice Blackburn to oversee the extract.
38. Upon reviewing these spreadsheets, it became apparent that they did not include all the relevant fields for the analysis. Therefore these were superseded by two spreadsheets provided to KPMG on 21 October 2016, entitled “KEK One to everything report for KPMG.xlsx” and “MDI One to everything report for KPMG.xlsx” which contain all the fields from the Matter Centre database.
39. The claimants total 2,330 across both the Kilmore and Murrindindi claim populations, as follows:

#### Total Group Members

Murrindindi	425
Kilmore	1905 <sup>4</sup>
<b>Total</b>	<b>2,330</b>

<sup>4</sup> One additional claimant was added to the Kilmore claim population in 2017



## Document extract

40. The first step in extracting the relevant documents was to examine the system and file structure.
41. There were two separate matters within which the documents were filed: one for Kilmore and one for Murrindindi. The Claimants were filed alphabetically within those two folders.
42. In consultation with IT personnel at Maurice Blackburn, the process for extracting the documents was agreed to be facilitated via the export tool "Easy Export". This tool extracts documents and maintains the file structure. It also produces a listing of file names (via a word document) and a log of what has been extracted and what has not.
43. Due to the data size, the extract was conducted by individual folders or groups of folders in alphabetical order.
44. The documents were saved onto a KPMG hard drive by the Maurice Blackburn staff and collected and brought to our office.
45. The hard drive was connected to a KPMG computer and saved in an EnCase Forensic logical evidence folder (to preserve the documents as they are) – this provides an untouched set of documents and preserves the information and metadata if ever there are any questions as to the process or if it becomes necessary to re-look at the original data.
46. The documents were then processed into Nuix, which is e-discovery software that creates a searchable database of all documents. It extracts not only the documents as they are, but also any attachments embedded in documents so that every document is able to be searched and reviewed easily. In total, over 800,000 items were extracted through this process.
47. The next step was to perform an Optical Character Recognition process (**OCR**) on any pdf documents to enable them to be searchable (approximately 7,000 to 8,000 documents).
48. Following that process, there was the identification of documents to export into Relativity (a document review platform). That process involved the exclusion of items that were irrelevant, such as logos and other pictures embedded in emails. In total approximately 111,000 relevant documents were imported into Relativity.
49. The documents in Relativity each receive a unique document ID reference. As well as the documents themselves, the metadata in those documents are imported (the document properties) which enables searches on last saved/modified dates, etc.

## Supplementary documents

50. Subsequent to the date of the document extract described above, a small number of additional Notices of Assessment and other documents have been forwarded to me.
51. These are described in the relevant sections below.

## E. Question i): Matching database to Notice of Assessment

53. I am instructed that Matter Centre contains the total population of claims in the I-D proceedings.
54. The claimants total 2,330 across both the Kilmore and Murrindindi claim populations, as follows:

### Total Group Members

Murrindindi	425
Kilmore	1905
<b>Total</b>	<b>2,330</b>

## Electronic searches for matching to Notice of Assessment

55. An electronic search was conducted to match amounts in the Notices of Assessment to the amounts recorded in Matter Centre. In so doing, the following searches were performed:
- A search was conducted to identify the documents in each claimant ID folder. This search identified a number of claimants that had no documents in their folder;
  - The document folders were then searched for the phrase "Notice of Assessment" and identified the number of documents with Notice of Assessment in the file name in each claimant ID folder. That assessment identified a number of Claimant IDs for which there was no Notice of Assessment;
  - The document folders were then searched for "Notice of Assessment" and the "Total Compensation Assessment" values recorded against that claimant ID in Matter Centre. This search identified the Notices of Assessment that matched the Matter Centre amount and the Notices of Assessment that did not match the Matter Centre amount.

56. The following populations to review were then selected based on those searches:
- All of the Claimant IDs with no documents in the folder were tested;
  - All of the Claimant IDs with no Notice of Assessment in their folder were tested;
  - All of the Claimant IDs that had one or more Notices of Assessment, but none that matched the Total Assessment amount in Matter Centre, were tested;
  - All of the Claimant IDs with one or more Notices of Assessment, where there were some that matched the Total Assessment amount in Matter Centre and some that did not match the Total Assessment amount in Matter Centre, were tested; and
  - The remaining population were the Claimant IDs where there were one or more Notices of Assessment, but all of them matched the amount in Matter Centre. Approximately 5% of this remaining population were tested to confirm the software tool based search had operated correctly.
57. This resulted in the following population of Claimant IDs to test for Kilmore:

Sampling for Checking to Notice of Assessment	Total population	Reviewed
Claimant IDs with no documents in the folder	27	27
Claimant IDs with no Notice of Assessment in their folder	83	83
Claimant IDs that had one or more Notices of Assessment, but none that matched the Total Assessment amount in Matter Centre	102	102
Claimant IDs with one or more Notices of Assessment, where there were some that matched the Total Assessment amount in Matter Centre and some that did not match the Total Assessment amount in Matter Centre	174	174
Claimant IDs where there were one or more Notices of Assessment, but all of them matched the amount in Matter Centre	1519	74
	<b>1905</b>	<b>460</b>

58. The process also identified the following population of Claimant IDs to test for Murrindindi:

Sampling for Checking to Notice of Assessment	Total population	Reviewed
Claimant IDs with no documents in the folder	10	10
Claimant IDs with no Notice of Assessment in their folder	39	39
Claimant IDs that had one or more Notices of Assessment, but none that matched the Total Assessment amount in Matter Centre	31	31
Claimant IDs with one or more Notices of Assessment, where there were some that matched the Total Assessment amount in Matter Centre and some that did not match the Total Assessment amount in Matter Centre	34	34
Claimant IDs where there were one or more Notices of Assessment, but all of them matched the amount in Matter Centre	311	15
	<b>425</b>	<b>129</b>

59. I discuss the process of testing, and the results of each review category below.

## Kilmore

### Claimants with no documents in the folder

60. There were 27 Kilmore Claimants with no documents in their folder (see **Confidential Annexure C1**<sup>5</sup>).
61. To locate the Notice of Assessment (if it existed in the document extraction), a search was conducted in Relativity by "Surname" and "Notice of Assessment". Using this process, it was identified that a number of Claimants' Notices of Assessment were misfiled in another Claimant's folder (usually a family member).
62. All of the Claimants' Notices of Assessment were agreed to Matter Centre, except one, which was noted on the exceptions list to raise with Maurice Blackburn. After reviewing the response from Maurice Blackburn, this exception was satisfactorily resolved.

### Claimants with no Notice of Assessment in the folder

63. There were 83 Kilmore Claimants with no Notice of Assessment in their folder (see **Confidential Annexure C1**).
64. The same check was performed for Claimants with no Documents in their folder to attempt to locate the Notice of Assessment, but no Notices of Assessment could be traced for 82 of the Claimants. The one that could be found had a spelling error in the file name and so was not picked up by the electronic search. The located Notice of Assessment agreed to Matter Centre.
65. A check of Matter Centre identified that all the remaining 82 Claimants had indicated that they did not wish to be assessed (and this was confirmed by reference to the supporting documents), and therefore would have no Notice of Assessment. All their Total Assessment Amounts were \$0.

### Claimants with no matching Notice of Assessment in the folder

66. There were 102 Kilmore Claimants with no matching Notice of Assessment in their folder (see **Confidential Annexure C1**). All the Notices of Assessment for each of these Claimants were reviewed and the latest/final Notice of Assessment was identified and checked against Matter Centre. In some instances, where a Dependency claim was also calculated for a claimant, the total of the Notice of Assessment and the Dependency claim totalled the Total Assessment Amount in Matter Centre.
67. The majority of the population was agreed to Matter Centre in this way. After noting a number of exceptions/queries with Maurice Blackburn, and reviewing the responses/additional information provided, all exceptions were satisfactorily resolved.

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<sup>5</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

## Claimants with some matching and some non-matching Notices of Assessment in the folder

68. There were 174 Kilmore Claimants with some matching, and some non-matching Notices of Assessment in their folder (see **Confidential Annexure C2**<sup>6</sup>). Each of these Claimants was checked back to the available documents to ascertain which Notice of Assessment was the final one, and whether it matched Matter Centre.
69. The majority of the population was agreed to Matter Centre in this way. After noting a number of exceptions/queries with Maurice Blackburn, and reviewing the responses/additional information provided, all exceptions were satisfactorily resolved.

## Sample test of Claimants with only matching Notices of Assessment in their folder

70. There were 1,519 Kilmore Claimants where all Notices of Assessment in their folder matched the Total Assessment Amount in Matter Centre. For these, a random sample of 74 Claimants were checked (approximately 5%) to ensure that the electronic review tool had operated correctly (see **Confidential Annexure C2**).
71. No exceptions were identified in the review.

# Murrindindi

## Claimants with no documents in the folder

72. There were 10 Murrindindi Claimants with no documents in their folder (see **Confidential Annexure D1**<sup>7</sup>).
73. To locate the Notice of Assessment (if it existed in the document extraction), a search was conducted in Relativity by "Surname" and "Notice of Assessment". Using this process, it was identified that a number of Claimants' Notices of Assessment were misfiled in another Claimant's folder (usually a family member).
74. All of the Claimants' Notices of Assessment were agreed to Matter Centre.

## Claimants with no Notice of Assessment in the folder

75. There were 39 Murrindindi Claimants with no Notice of Assessment in their folder (see **Confidential Annexure D1**).
76. The same check was performed for Claimants with no Documents in their folder to attempt to locate the Notice of Assessment, but no Notices of Assessment could be traced for all of the Claimants.
77. A check of Matter Centre identified that 38 of the 39 Claimants had indicated that they did not wish to be assessed (and this was confirmed by reference to the supporting documents), and

<sup>6</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

<sup>7</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

therefore would have no Notice of Assessment. All their Total Assessment Amounts were \$0.

78. The one exception was raised as a query for Maurice Blackburn. After reviewing the response from Maurice Blackburn, this exception was satisfactorily resolved.

### Claimants with no matching Notice of Assessment in the folder

79. There were 31 Murrindindi Claimants with no matching Notice of Assessment in the folder (see **Confidential Annexure D1**). All the Notices of Assessment for each of these Claimants were reviewed and the latest/final Notice of Assessment was identified and checked against Matter Centre. In some instances, where a Dependency claim was also calculated for a claimant, the total of the Notice of Assessment and the Dependency claim totalled the Total Assessment Amount in Matter Centre.
80. The majority of the population was agreed to Matter Centre in this way. After noting a number of exceptions/queries with Maurice Blackburn, and reviewing the responses/additional information provided, all exceptions were satisfactorily resolved.

### Claimants with some matching and some non-matching Notices of Assessment in the folder

81. There were 34 Murrindindi Claimants with some matching, and some non-matching Notices of Assessment in their folder (see **Confidential Annexure D2<sup>8</sup>**). Each of these Claimants was checked back to the available documents to ascertain which Notice of Assessment was the final one, and whether it matched Matter Centre.
82. The majority of the population was agreed to Matter Centre in this way. After noting a number of exceptions/queries with Maurice Blackburn, and reviewing the responses/additional information provided, all exceptions were satisfactorily resolved.

### Sample test of Claimants with only matching Notices of Assessment in their folder

83. There were 311 Murrindindi Claimants where all Notices of Assessment in their folder matched the Total Assessment Amount in Matter Centre. For these, a random sample of 15 Claimants were checked (approximately 5%) to ensure that the electronic review tool had operated correctly (see **Confidential Annexure D2**).
84. No exceptions were identified in the review.

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<sup>8</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

## F. Question ii): Interim Payments

### Kilmore

85. From the 21 October 2016 Kilmore Matter Centre Extract, a total of 105 Claimants were identified as having received Interim Payments.
86. For these claimants their interim payments were checked into the Accounting records for the Kilmore Fund, which had been provided to me in a spreadsheet entitled "16.10.21 Kilmore Account Summary.xls".
87. In addition to checking from Matter Centre into the accounting records, a check was also performed from the accounting records into Matter Centre to ensure that all interim payments had been reflected in the database.
88. I attach at **Confidential Annexure E<sup>9</sup>** the results of this testing. Interim payments made between 21 October 2016 and January 2017 were also tested. After noting a number of exceptions/queries with Maurice Blackburn, and reviewing the responses/additional information provided, all exceptions were satisfactorily resolved.

### Murrindindi

89. From the 21 October 2016 Murrindindi Matter Centre Extract, a total of 19 Claimants were identified as having received Interim Payments.
90. For these claimants their interim payments were checked into the Accounting records for the Murrindindi Fund, which had been provided to me in a spreadsheet entitled "16.10.21 MDI Account Summary.xls".
91. In addition to checking from Matter Centre into the accounting records, a check was also performed from the accounting records into Matter Centre to ensure that all interim payments had been reflected in the database.
92. I attach at **Confidential Annexure F<sup>10</sup>** the results of this testing. Interim payments made between 21 October 2016 and January 2017 were also tested. After noting a number of exceptions/queries with Maurice Blackburn, and reviewing the responses/additional information provided, all exceptions were satisfactorily resolved.

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<sup>9</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

<sup>10</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

## G. Question iii): Reviews

### Kilmore

94. From the 21 October 2016 Kilmore Matter Centre Extract, a total of 37 Claimants were identified who had requested reviews. Given that a number of the reviews were still incomplete at the date of the original extract, a further Matter Centre extract was received on 21 November 2016 which contained a total of 38 Claimants who had requested a review.
95. Maurice Blackburn sent the supporting documents for the reviews to KPMG by email. This data consisted of correspondence in relation to the bond payments/waived bonds; the letter to the Group Member notifying them of the result of the review ("**Review Result Letter**"), file notes and other relevant data.
96. The following tests were performed on this population:
- The Review Result Letter was reviewed for each Claimant, and it was noted whether it was a successful or unsuccessful review;
  - The details in relation to bonds and costs were noted from this letter. For claimants where the bond had been waived, but this was not noted in the Review Result Letter, separate evidence was viewed in the form of either a bond waiver letter or a file note;
  - For successful reviews, it was noted when the bond was returned, and the amount was traced to the accounting records;
  - For unsuccessful reviews, the costs net of bond were noted and traced into Matter Centre as listed as deductions from the compensation payment; and
  - For unsuccessful reviews where there is no compensation claim, evidence in relation to the refund of costs or waiver of those costs was sighted.
97. I attach at **Confidential Annexure G<sup>11</sup>** the results of this testing. After noting a number of exceptions/queries with Maurice Blackburn, and reviewing the responses/additional information provided, all exceptions were satisfactorily resolved.

### Murrindindi

98. From the 21 October 2016 Murrindindi Matter Centre Extract, a total of 9 Claimants were identified who had requested reviews. Given that a number of the reviews were still incomplete at the date of the original extract, a further Matter Centre Extract was received on 21 November 2016 which contained a total of 11 Claimants who had requested a review.
99. Maurice Blackburn sent the supporting documents for the reviews to KPMG by email.

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<sup>11</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.



100. The following tests were performed on this population:
- a) The Review Result Letter was reviewed for each Claimant, and it was noted whether it was a successful or unsuccessful review;
  - b) The details in relation to bonds and costs were noted from this letter. For claimants where the bond had been waived, but this was not noted in the Review Result Letter, separate evidence was viewed in the form of either a bond waiver letter or a file note;
  - c) For successful reviews, it was noted when the bond was returned, and the amount was traced to the accounting records;
  - d) For unsuccessful reviews, the costs net of bond were noted and traced into Matter Centre as listed as deductions from the compensation payment; and
  - e) For unsuccessful reviews where there is no compensation claim, evidence in relation to the refund of costs or waiver of those costs was sighted.
101. I attach at **Confidential Annexure H<sup>12</sup>** the results of this testing. After noting a number of exceptions/queries with Maurice Blackburn, and reviewing the responses/additional information provided, all exceptions were satisfactorily resolved.

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<sup>12</sup> This Annexure is marked “Confidential” as it contains personal data in relation to individual Claimants.

## H. Question iv): Deductions

102. For registered personal injury group members, I was asked whether the following deductions applicable to individual registered personal group members match the relevant registered group members' Matter Centre records:
- a. Medicare payback
  - b. Private Health Insurance payback
  - c. Centrelink payback and preclusion period, including paybacks and preclusions from any interim payments made
  - d. DVA payback
  - e. Comcare payback
  - f. Other paybacks
  - g. Undertakings to pay a proportion of the settlement monies to a third party

## Kilmore

103. From the Matter Centre Extract of 21 October 2016, an initial review was performed to test the Private Health insurance paybacks only (89 Claimants), as the remaining deductions were not then finalised.
104. The Pro-Rata Calculations included a further Matter Centre Extract of 21 November 2016 which provided the following populations to test for the following additional deductions:
- a. DVA payback (9 Claimants);
  - b. Comcare payback (0 Claimants);
  - c. Other paybacks (2 Claimants); and
  - d. Undertakings to pay a proportion of the settlement monies to a third party (2 Claimants).
105. On 29 November 2016 KPMG was provided with the draft In-Hand calculations, which enabled the Medicare paybacks to be tested.
106. On 5 and 8 December 2016 KPMG was provided with data to enable testing of the Centrelink deductions.
107. I detail the testing performed on each population in turn, below.

### **Medicare paybacks**

108. I am instructed that any claim over \$5,000 (on a pro-rata basis) will require a Medicare payback.
109. Further, I have been provided with a copy of the “Bulk Payment Agreement” between the Department of Human Services and Maurice Blackburn, signed on 19 November 2015<sup>13</sup>. At Clause 3.1 of this agreement the repayment amount is \$420 per eligible Claimant.
110. The In-Hand Calculations<sup>14</sup> calculate a Medicare payback for any claimant with a pro-rata claim in excess of \$5,000.
111. In order to check the Medicare paybacks, the following tests were performed:
- a) The total claim for each Claimant was checked back to the Matter Centre extract (included as a separate sheet in the In-Hand Spreadsheets);
  - b) The formula calculating the pro-rata claim was checked for each Claimant; and
  - c) The formula calculating the Medicare payback at \$420 for each eligible claimant was checked to ensure it was performing the calculation correctly.
112. No exceptions were noted for Kilmore.

### **Private Health Insurance paybacks**

113. I am orally instructed by Maurice Blackburn that any Claimant where the field “List of Past Benefits requested” is marked as “yes”, will have a Private Health Insurance payback. By filtering on the “List of Past Benefits Requested” field in the data, a total of 89 Claimants were identified for testing<sup>15</sup>.
114. The support for the amount of Private Health Insurance payback was identified by Maurice Blackburn as:
- a) The “Notice of Charges” document that is provided by the Private Health Insurer; and
  - b) The estimated deduction in the Notice of Assessment.
115. An electronic search was performed of the documents to identify the “Notice of Charge” for each of the Claimants that were identified in the Matter Centre database as requiring a Private Health Insurance payback.
116. In reviewing the Private Health Insurance paybacks in Matter Centre, the following checks were performed:
- a) That the amount in the Notice of Charge matched the amount in the PHI Payback field in the database; and

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<sup>13</sup> “Bulk Payment agreement (Dept Human Services).pdf”

<sup>14</sup> “16 11 29 KEK Draft in hand amounts for KPMG review” and “16 11 29 Murrindindi draft in-hand amounts for KPMG review”

<sup>15</sup> Subsequent Matter Centre extracts identified 90 claimants which have all been tested. The Matter Centre Extract of 8 December 2016 identifies 88 Claimants.

- b) That the amount in the Notice of Assessment matched the amount in the PHI Payback field in the database.
117. I attach at **Confidential Annexure I<sup>16</sup>** the results of this testing. After noting a number of exceptions/queries with Maurice Blackburn, and reviewing the responses/additional information provided, all exceptions were satisfactorily resolved.
118. I note that, subsequent to this testing, an agreement was reached with a number of Private Health Insurers whereby they would accept a pro-rata share of the amount of payback in line with the pro-rata percentage that the Claimants would be receiving, or other agreed reduced amount. This was amended in the In-Hand Spreadsheets.
119. As part of reviewing the In-Hand Spreadsheets, I was provided with the correspondence from the relevant Private Health Insurers and checked that the percentage recoveries in the calculations matched the correspondence. The calculations of the reduced recoveries were also checked.
120. There were no exceptions as a result of checking the reduced PHI paybacks for Kilmore.

### Centrelink paybacks

121. I have been provided with two spreadsheets entitled "16.12.05 Kilmore East Kinglake Fires\_final settlement figures\_DHS assessments-Part 1.xls" and "16.12.7 Kilmore East Kinglake Fires\_final settlement figures\_DHS assessments-Part 1.xls" which I am instructed were provided to Maurice Blackburn by Centrelink. These spreadsheets detail the paybacks to Centrelink on the interim and final settlement amounts for each Kilmore Claimant for which Centrelink have an interest (**Centrelink Data**).
122. In order to check the Centrelink paybacks in the In-Hand Calculations, the following tasks were performed:
- a) The Centrelink payback amounts recorded in the In-Hand Calculations were agreed to the corresponding amount in Matter Centre; and
  - b) The Centrelink payback amounts recorded in the In-Hand Calculations were agreed to the Centrelink Data.
123. I attach the results of the testing at **Confidential Annexure J1<sup>17</sup>** (for the original population) and **Confidential Annexure J2<sup>18</sup>** (for the additional claimants subsequently provided). After noting one exception/query with Maurice Blackburn, and reviewing the responses/additional information provided, the exception was satisfactorily resolved.

### DVA paybacks

124. I am instructed that DVA paybacks are confirmed by reference to correspondence from the Department of Veterans' Affairs.
125. From the Updated Matter Centre Extract there were 10 Claimants in which the DVA has an interest.

<sup>16</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

<sup>17</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

<sup>18</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

126. I attach the results of the testing at **Confidential Annexure K<sup>19</sup>**. After noting one exception/query with Maurice Blackburn, and reviewing the responses/additional information provided, the exception was satisfactorily resolved.

### Comcare paybacks

127. From the Updated Matter Centre Extract there were no Claimants with a Comcare payback.

### Other paybacks

128. From the Updated Matter Centre Extract there were 2 Claimants with an "Other" payback. These both relate to Department of Defence paybacks.
129. I attach the results of the testing at **Confidential Annexure L<sup>20</sup>**. No exceptions were noted for Kilmore.

### Undertakings

130. From the Updated Matter Centre Extract there were two Claimants with an Undertaking to pay a portion of their claim to a third party.
131. The following tests were performed for these two Claimants:
- a) The correspondence evidencing the Undertakings was reviewed; and
  - b) The amount of the undertaking in Matter Centre was agreed to the correspondence.
132. I attach the results of the testing at **Confidential Annexure M<sup>21</sup>**. After noting one exception/query with Maurice Blackburn, and reviewing the responses/additional information provided, the exception was satisfactorily resolved.

## Murrindindi

133. From the Matter Centre Extract dated 21 October 2016, an initial review was performed to test the Private Health insurance paybacks only (19 Claimants), as the remaining deductions were not then finalised.
134. The Matter Centre Extract of 21 November 2016 provided the following populations to test for the following additional deductions:
- a. DVA payback (3 Claimants);
  - b. Comcare payback (0 Claimants);
  - c. Other paybacks (2 Claimants); and
  - d. Undertakings to pay a proportion of the settlement monies to a third party (0 Claimants).
135. On 30 November 2016 KPMG was provided with the draft In-Hand calculations, which enabled the Medicare paybacks to be tested.

<sup>19</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

<sup>20</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

<sup>21</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

136. On 5 and 9 December 2016 KPMG was provided with data to enable testing of the Centrelink deductions.
137. I detail the testing performed on each population in turn, below.

### Medicare paybacks

138. The In-Hand Spreadsheets calculate a Medicare payback for any claimant with a pro-rata claim in excess of \$5,000.
139. In order to check the Medicare paybacks, the following tests were performed:
- The total claim for each Claimant was checked back to the Matter Centre extract (included as a separate sheet in the In-Hand Spreadsheets);
  - The formula calculating the pro-rata claim was checked for each Claimant; and
  - The formula calculating the Medicare payback at \$420 for each eligible claimant was checked to ensure it was performing the calculation correctly.
140. No exceptions were noted for Murrindindi.

### Private Health Insurance paybacks

141. By filtering on the "List of Past Benefits Requested" field in the data, a total of 19 Claimants were identified for testing in Murrindindi<sup>22</sup>.
142. In reviewing the Private Health Insurance paybacks in Matter Centre, the following checks were performed:
- That the amount in the Notice of Charge matched the amount in the PHI Payback field in the data; and
  - That the amount in the Notice of Assessment matched the amount in the PHI Payback field in the data.
143. I attach at **Confidential Annexure N<sup>23</sup>** the results of this testing and the list of exceptions that was sent to Maurice Blackburn.
144. I note that, subsequent to this testing, an agreement was reached with a number of Private Health Insurers whereby they would accept a pro-rata share of the amount of payback in line with the pro-rata share that the Claimants would be receiving, or other agreed reduced amount. This was amended in the In-Hand Spreadsheets.
145. As part of receiving the In-Hand Spreadsheets, I was provided with the correspondence with the relevant Private Health Insurers and checked that the percentage recoveries in the calculations matched the correspondence. The calculations of the reduced recoveries were also checked.
146. There were no exceptions as a result of checking the reduced PHI paybacks for Murrindindi.

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<sup>22</sup> The Matter Centre Extract of 8 December 2016 identifies 20 Claimants, which have all been tested

<sup>23</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

### Centrelink paybacks

147. I have been provided with two spreadsheets entitled "Murrindindi – Settlement assessments as at 5 December 2016.xls" and "Murrindindi – Settlement amounts for Centrelink as at 6 Dec 2016\_final.xlsx" which I am instructed were provided to Maurice Blackburn by Centrelink. These spreadsheets detail the paybacks to Centrelink on the interim and final settlement amounts for each claimant for which Centrelink have an interest (Centrelink Data).
148. In order to check the Centrelink paybacks in the In-hand Calculations, the following tasks were performed:
- a) The Centrelink payback amounts recorded in the In-Hand Calculations were agreed to the corresponding amount in Matter Centre; and
  - b) The Centrelink payback amounts recorded in the In-Hand Calculations were agreed to the Centrelink Data.
149. I attach the results of the testing at **Confidential Annexure O1<sup>24</sup>** (for the initial population) and **Confidential Annexure O2<sup>25</sup>** (for the additional claimants subsequently provided). No exceptions were noted for Murrindindi.

### DVA paybacks

150. I am instructed that DVA paybacks are confirmed by reference to correspondence from the Department of Veterans' Affairs.
151. From the Updated Matter Centre Extract there were 3 Claimants in which the DVA has an interest.
152. I attach the results of the testing at **Confidential Annexure P<sup>26</sup>**. I have been provided with supporting documentation in relation to two of the Claimants at this stage (for which no exceptions were noted). For the remaining Claimant I have been advised by Maurice Blackburn that they are marked as "Do not Distribute" until final details are received, and a check was performed to confirm this.

### Comcare paybacks

153. From the Updated Matter Centre Extract there were no Claimants with a Comcare payback.

### Other paybacks

154. From the Updated Matter Centre Extract there were 2 Claimants with an "Other" payback. One related to a Department of Defence payback, and the other a payback to the SA Government.
155. I attach the results of the testing at **Confidential Annexure Q<sup>27</sup>**. No exceptions were noted for Murrindindi.

<sup>24</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

<sup>25</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

<sup>26</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

<sup>27</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

## **Undertakings**

156. From the Updated Matter Centre Extract there were no Claimants with an Undertaking to pay a portion of their claim to a third party.



# I. Question v): Dependency Claims

## Kilmore

157. From the Kilmore Matter Centre Extract, a total of 37 Claimants were identified as having Dependency Claims.
158. For these claimants a check was performed of their Dependency Notice of Assessment to Matter Centre.
159. I attach at **Confidential Annexure R<sup>28</sup>** the results of this testing. After noting a number of exceptions/queries with Maurice Blackburn, and reviewing the responses/additional information provided, the exceptions were satisfactorily resolved.

## Murrindindi

160. From the Murrindindi Matter Centre Extract, a total of 22 Claimants were identified as having Dependency Claims.
161. For these claimants a check was performed of their Dependency Notice of Assessment to Matter Centre.
162. I attach at **Confidential Annexure S<sup>29</sup>** the results of this testing. After noting one exception/query with Maurice Blackburn, and reviewing the responses/additional information provided, the exception was satisfactorily resolved.

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<sup>28</sup> This Annexure is marked “Confidential” as it contains personal data in relation to individual Claimants.

<sup>29</sup> This Annexure is marked “Confidential” as it contains personal data in relation to individual Claimants.

# J. Question vi): Interest, Taxation and Costs

## Kilmore and Murrindindi

163. A calculation of the draft pro-rata percentage for Kilmore was provided to KPMG in a spreadsheet entitled "16 11 16 KEK Pro-rata calculation.xlsx" and for Murrindindi in a spreadsheet entitled "16 11 16 MDI Pro-rata calculation.xlsx". The draft pro-rata percentage calculates the available funds for distribution to the I-D Claim members as a proportion of the total assessed losses. The calculation takes into account the total settlement amount, interest that has been received on the settlement amount (which has been placed in various term deposits over the period), the anticipated maximum taxation liability on the interest of 49% (which I am instructed is based on advice received), the settlement administration costs and any amounts recoverable from Claimants for outstanding review costs.
164. In reviewing the Interest, Taxation and Costs calculation, and the resulting pro-rata percentage to be applied to the assessed claims, the following checks were performed:
- a) The costs to the date of the spreadsheet were agreed to the court orders that had been made to that date;
  - b) The costs incurred to the date of the spreadsheet but not yet approved by the Court were agreed to Affidavits dated 31 October 2016 sworn by Andrew Watson in each of the Kilmore and Murrindindi matters;
  - c) The interest received to date was agreed to the accounting system;
  - d) For estimated interest to be received, interest rates were confirmed by the institutions with whom funds were deposited and the interest formulae were checked to ensure they were operating as described;
  - e) Bonds and review costs due to the fund were agreed to the review testing performed; and
  - f) The taxation provision was reviewed to ensure it was calculated correctly as 49% of the interest received.
165. The review revealed a number of issues that were discussed with Maurice Blackburn in relation to the draft pro-rata calculation, and which were altered by Maurice Blackburn in the final calculation (as set out in the spreadsheets "16 11 21 KEK Pro rata calculation (KPMG reviewed for Centrelink)" and "16 11 21 MDI Pro rata calculation (KPMG reviewed for Centrelink)", as follows:

- a) The draft pro-rata calculation included an estimate of future interest to the estimated date of payment of all the claims including the ELPD claims. The final calculation included the interest that was receivable on term deposits and the at call account to 30 November 2016. Any interest that would be earned on residual funds after that date will be included in the ELPD pro-rata calculations;
  - b) The draft pro-rata calculation included an estimate of costs that would be incurred in the period after 30 November 2016 to the date that the ELPD Claims would be expected to be paid. The final calculation removed these future estimated ELPD costs, given the uncertainty of these estimates and the fact that they relate to the second round of payments from the fund, and instead these will be deducted in the calculation of the ELPD pro-rata percentage; and
  - c) Costs for unsuccessful reviews were added in the draft calculation to the total I-D claims. In the final calculation, these amounts were added to the total fund (consistent with the treatment of the costs).
166. The results of the testing for Kilmore is attached at **Annexure T1** (for the draft calculation) and **Annexure T2** (for the final calculation), and for Murrindindi at **Annexure U1** (for the draft calculation) and **Annexure U2** (for the final calculation). As can be seen from these Annexures, the final pro-rata recovery amount was 64.497% for Kilmore, and 63.628% for Murrindindi.
167. Following the assessment of the pro rata percentage above, the following events occurred:
- a) It was subsequently discovered that an amount in relation to the Personal Injury Claim for one claimant (see **Confidential Annexure V1**<sup>30</sup>) had been missed from Matter Centre, which was subsequently paid out of the Maurice Blackburn office account in February 2017. This claimant also had a Dependency claim that had been paid out in December 2016 as part of the I-D Settlement distribution. This had the effect of overstating the pro-rata percentage and the resulting payments made to the I-D Claimants. The Court has been advised of this. It is proposed that any adjustments to be made in relation to the pro-rata percentage will be as part of any subsequent payment to be made pending resolution of outstanding taxation matters and other issues; and
  - b) A late registrant was added to the claim population, whose claim was assessed and paid out of the Maurice Blackburn office account (see **Confidential Annexure V2**<sup>31</sup>).

<sup>30</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

<sup>31</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

## K. Question vii): Pro-rata calculations

### Kilmore and Murrindindi

168. Draft calculations of the In-Hand claim amounts (the pro-rata claim amounts net of deductions) were provided to KPMG in two spreadsheets entitled "16 11 29 KEK Draft in hand amounts for KPMG review.xlsx" and "16 11 29 MDI Draft in hand amounts for KPMG review.xlsx". These calculations contained the In-Hand amounts prior to the deduction of final Centrelink paybacks.
169. In reviewing the In-Hand Calculations, the following checks were performed:
- a) The Assessment amounts in the In hand calculation sheet were agreed to the Matter Centre Extract sheet;
  - b) The pro-rata calculations of each claimant's assessment amounts were checked that they correctly applied the pro-rata percentage (derived from the Pro-Rata calculation described in section J);
  - c) The deductions that had been derived from Matter Centre were agreed to the Matter Centre Extract sheet;
  - d) The Medicare deductions, which had been derived by calculation from the pro-rata amounts were reviewed to ensure the formula correctly calculated the relevant paybacks;
  - e) "Grant of Representation" deductions relating to certain estate claims were checked to supporting documents; and
  - f) The reductions to the PHI deductions were reviewed to ensure they agreed to the correspondence with the Private Health Insurer (as described in Section H).
170. I attach at **Confidential Annexure W1**<sup>32</sup> the result of this testing for Kilmore and at **Confidential Annexure W2**<sup>33</sup> the results for Murrindindi. After noting a number of exceptions/queries with Maurice Blackburn, and reviewing the responses/additional information provided, all exceptions were satisfactorily resolved.
171. The resulting calculations were then sent to Centrelink to derive the final payback amounts which have been discussed in section H.

<sup>32</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

<sup>33</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

## L. Checking the final Schedules of Payments

172. As described in Section C above, the payments to the Claimants are set out in the In-Hand Calculations as sent in emails dated 5 December 2016, 8 December 2016, 9 December 2016, 15 December 2016, 19 December 2016, 21 December 2016 and 4 January 2017.
173. Those calculations were contained in the following spreadsheets:
- a) "16 12 05 Kilmore in hand amounts for KPMG review.xlsx";
  - b) "16 12 05 Murrindindi in hand amounts for KPMG review.xlsx";
  - c) "16.12.07 Kilmore schedule of in-hand payments for remaining 39 gms with Clink interest and eco loss.xlsx";
  - d) "16.12.09 Kilmore updated schedule of in-hand payments for 4 DVA claimant...xlsx";
  - e) "16.12.09 MDI in-hand payment schedule fo (sic) 1 DVA, 1SA WC and 2 remaining Clink gms for KPMG review.xlsx";
  - f) "16.12.15 Kilmore schedule of payment to D Gibson for KPMG review.xlsx";
  - g) "16.12.15 Kilmore schedule of payment to 1 DVA and 1 Department of Defence claimant for KPMG review.xlsx";
  - h) "Murrindindi schedule of payment to 1 DVA and 1 Department of Defence claimant for KPMG review.xlsx" (400047303\_1.xlsx);
  - i) "16.12.15 Kilmore schedule of payment to C Gardiner for KPMG review.xlsx";
  - j) "16.12.19 Kilmore – 2 DVA and 2 family dispute payments for KPMG reviews.xlsx";
  - k) "16.12.20 Kilmore schedule of payments to the Estate of G Fennell and Robert Beech for KPMG review.xlsx";
  - l) "17.01.04 KEK – K Holmes amended in-hand figure for KPMG review.xlsx";
  - m) "17.03.10 – Kilmore schedule of I-D payments.xlsx"; and
  - n) "17.03.10 – MDI schedule of I-D payments.xlsx"

### **(Schedules of Payments).**

174. Those spreadsheets contain the In-Hand calculations, a download from Matter Centre, and a calculation of the list of Claimants (including amount and addresses) to send to the mailing house.
175. As described in Section K, the In-Hand Calculations were checked up to the point at which the data was sent to Centrelink for the paybacks to be calculated. On the provision of the final

Schedules of Payments, the Centrelink deductions were agreed to the Centrelink Data, as described in section H.

176. After checking that the In-Hand Amounts for the entire population were appropriately calculated, the population of Claimants that were to be sent to the mailing house was checked as follows:
- a) Claimants marked as “Do not Distribute” were checked to confirm they were excluded from the list to send to the mailing house;
  - b) Claimants with a zero net payment or a negative net payment were checked to confirm they were excluded from the list to send to the mailing house; and
  - c) All addresses for the population of Claimants to send to the mailing house were checked to confirm they were appropriately extracted from the Matter Centre extract.
177. The resulting lists of Claimants to send to the mailing house for Kilmore is attached at **Confidential Annexure X**<sup>34</sup>, and for Murrindindi at **Confidential Annexure Y**<sup>35</sup>. No exceptions were noted.
178. The population of “Do not Distribute” claimants have progressively been paid, apart from two Murrindindi claimants that are still outstanding as at the date of this report. Where information has changed since the In-Hand calculation, KPMG was provided with updated schedules to perform the checks for those claimants. Those additional populations are also included on **Confidential Annexure X** and **Confidential Annexure Y**.
179. I attach at **Confidential Annexure Z**<sup>36</sup> the lists of Claimants that were withheld as “Do not Distribute”. Some of those Claimants have since been paid without need for a further KPMG check where the amounts have not changed since the In-Hand Calculation. As noted above there are two Murrindindi Claimants whose payments are still outstanding as at the date of this report. All Kilmore Claimants have been paid.

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<sup>34</sup> This Annexure is marked “Confidential” as it contains personal data in relation to individual Claimants.

<sup>35</sup> This Annexure is marked “Confidential” as it contains personal data in relation to individual Claimants.

<sup>36</sup> This Annexure is marked “Confidential” as it contains personal data in relation to individual Claimants.

## M. Schedules of each claimant's share of the I-D distribution sums

180. In August 2017 I was provided with the following Schedules to review:
- a) "17.08.20 KEK PI calculation of each gm\_s share of distribution sum for K...xlsx": and
  - b) "17.08.20 MDI PI calculation of each gm\_s share of distribution sum for K...xlsx".
181. These schedules set out the percentage of the distribution sum received by each individual group member for the Kilmore and Murrindindi funds respectively. These percentages will be used to calculate the entitlement of the claimants to any future potential distributions upon the resolution of taxation and other outstanding matters.
182. The results of the review are attached at **Confidential Annexure AA**<sup>37</sup> for Kilmore and **Confidential Annexure AB**<sup>38</sup> for Murrindindi. No exceptions were noted.

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<sup>37</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

<sup>38</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

## N. Declaration

183. In preparing this report, I have complied with APES 215 – Forensic Accounting Services, issued by the Accounting Professional and Ethical Standards Board. This Standard includes mandatory requirements which must be complied with by members of the Institute of Chartered Accountants in Australia when they provide Forensic Accounting Services (including Expert Witness Services and Valuation Services). This Expert Witness Service was conducted in accordance with these Standards.
184. My instructions enclosed a copy of Order 44 of the Supreme Court (General Civil Procedure) Rule 2005 and the Expert Witness Code of Conduct contained in Form 44A to those rules. I have read Order 44 of the Supreme Court (General Civil Procedure) Rule 2005 and the Expert Witness Code of Conduct contained in Form 44A to those rules and agree to be bound by it.
185. I have made all the enquiries which I believe are desirable and appropriate and no matters of significance which I regard as relevant have to my knowledge been withheld.



MARTIN DOUGALL





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

No. 4788 of 2009

BETWEEN:

**CAROL ANN MATTHEWS**

Plaintiff

and

**AUSNET ELECTRICITY SERVICES PTY LTD  
(ACN 064 651 118)  
& ORS (according to the schedule of parties)**

Defendants

(by original proceeding)

AND BETWEEN:

**AUSNET ELECTRICITY SERVICES PTY LTD  
(ACN 064 651 118)**

Plaintiff by Counterclaim

and

**ACN 060 674 580 PTY LTD  
& ORS (according to the schedule of parties)**

Defendants by Counterclaim

(by counterclaim)

**CERTIFICATE IDENTIFYING EXHIBIT**

---

<b>Date of Document:</b>	20 October 2017
<b>Filed on behalf of:</b>	The Plaintiff
<b>Prepared by:</b>	Solicitor's Code: 564
Maurice Blackburn Lawyers	Tel: (03) 9605 2700
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Melbourne Vic 3000	Ref: AW/3004166

---

This is the exhibit marked 'Exhibit MWD-2' produced and shown to Martin William Dougall at the time of swearing his affidavit on 20 October 2017 before me:

JOHN ROGER HALL  
727 COLLINS ST, MELBOURNE  
AN AUSTRALIAN LEGAL PRACTITIONER WITHIN  
THE MEANING OF THE LEGAL PROFESSION  
UNIFORM LAW (VIC)

20/10/17



# Maurice Blackburn Pty Ltd

**Independent Expert Report – ELPD Claims**  
Prepared by Martin Dougall

20 October 2017

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# A. Executive Summary

## Qualifications

1. I am a Chartered Accountant and a member of The Institute of Chartered Accountants of Scotland, The Institute of Chartered Accountants of Australia and New Zealand and The Expert Witness Institute.
2. I have prepared expert reports for a number of legal actions and in various litigation support assignments. I have undertaken a large number of financial investigations, loss and damage assessments and valuations in both a litigated context and for other purposes.
3. Further details of my qualifications and experience are in **Annexure A** to this report.

## Instructions

4. I am instructed as an independent expert to prepare a report addressing the following questions in each of the Kilmore Bushfire Class Action Settlement Administration and the Murrindindi Bushfire Class Action Settlement Administration proceedings in relation to the Above Insurance claims ("**the Above Insurance Questions**"):
  - a) Does the assessment data recorded in Maurice Blackburn's Matter Centre database match the assessment amount recorded in the Final Notice of Assessment, Review Notice of Assessment or letter to claimant confirming amendment to allocation split (where applicable) sent to each registered Economic Loss and Property Damage ("**ELPD**") claimant in respect of each address for which the claimant has a claim?
  - b) Have all interim payments made to registered ELPD claimants been recorded in the relevant claimant's Matter Centre records?
  - c) For all registered ELPD claimants who have requested a Review Assessment:
    - (i) For successful reviews, where a bond was required to be paid, has the bond been reimbursed to the claimant?
    - (ii) For unsuccessful reviews where review costs are required to be paid (review costs were not waived), have the review costs been recorded as deductions against the claimant's claim?
  - d) Confirm for all registered ELPD claimants who requested a review of their Personal Injury/Dependency ("**I-D**") assessment but have not yet paid the cost of the review, have the review costs been recorded as deductions against the claimant's ELPD claim?
  - e) Have all review costs that need to be deducted from a claimant's compensation (whether due to an I-D review or an ELPD review) been recorded accurately in Maurice Blackburn's Matter Centre database?

- f) Have all costs owed to Maurice Blackburn's Wills department pursuant to a retainer to obtain a grant of representation been correctly deducted from a claimant's compensation?
  - g) For all ELPD claimants noted in Matter Centre as 'withdrawn', confirm that a letter was saved in their respective I-D folder confirming that the Above Insurance claimant would receive a \$Nil assessment? Have all split instructions contained on the Final Notice of Assessment or amended split instructions contained in Maurice Blackburn correspondence been recorded in Matter Centre correctly?
  - h) Has the pro-rata entitlement been correctly calculated in accordance with the instructions referred to at 2.1 (vi) of the retainer dated 12 October 2016?
  - i) Has the final in-hand amount to be distributed been calculated in accordance with the instructions referred to at 2.1(vii) of the retainer dated 12 October?
5. I am also instructed to address the following question in each of the Kilmore Bushfire Class Action Settlement Administration and the Murrindindi Bushfire Class Action Settlement Administration proceedings in relation to the Subrogated Claims ("**the Subrogated Claims Question**"):
- a) Does the assessment data recorded in Maurice Blackburn's Matter Centre database match the assessment amount recorded in the Final Notice of Assessment?
6. I have also subsequently been asked to review schedules calculating each Claimant's proportional share of the distribution fund for each of the Kilmore and Murrindindi ELPD funds.
7. A copy of my instructions is attached at **Confidential Annexure B** to this report.
8. This report considers the answer to the questions in respect of the ELPD claims. A separate report considers the Personal Injury and Dependency (**I-D**) claims.

## Conclusions

9. My conclusions in relation to the Above Insurance Questions (excluding the claimants listed as at the date of this report as "Do not Distribute" as discussed in **Section I** to this report) are as follows:
- a) The assessment data recorded in Maurice Blackburn's Matter Centre database matches the assessment amount recorded in the Final Notice of Assessment, Review Notice of Assessment, or letter to the claimant confirming amendment to allocation split (where applicable), sent to each registered ELPD claimant in respect of each address for which the claimant has a claim;
  - b) All interim payments made to registered ELPD claimants have been recorded in the relevant claimant's Matter Centre records;
  - c) For all registered ELPD claimants who have requested a Review Assessment:
    - (i) For successful reviews, where a bond was required to be paid, the bond has been reimbursed to the claimant; and

- (ii) For unsuccessful reviews where review costs are required to be paid (i.e. review costs were not waived), the review costs have been recorded as deductions against the claimant's claim;
  - d) For all registered ELPD claimants who requested a review of their I-D assessment but have not yet paid the cost of the review, the review costs have been recorded as deductions against the claimant's ELPD claim, except for one claimant whose costs have been written off by Maurice Blackburn (see **Section G** to this report);
  - e) All review costs that need to be deducted from a claimant's compensation (whether due to a PI review or an ELPD review), have been recorded accurately in Maurice Blackburn's Matter Centre database;
  - f) All costs owed to Maurice Blackburn's Wills department pursuant to a retainer to obtain a grant of representation have been correctly deducted from the relevant claimant's compensation;
  - g) For all ELPD claimants noted in Matter Centre as 'withdrawn', a letter was saved in their respective ID folder confirming that the Above Insurance claimant would receive a \$Nil assessment. All split instructions contained on the Final Notice of Assessment or amended split instructions contained in Maurice Blackburn correspondence have been recorded in Matter Centre correctly;
  - h) The pro-rata entitlement has been correctly calculated in accordance with the instructions referred to in paragraph 2.1 (vi) of the retainer, dated 12 October 2016; and
  - i) The final in-hand amount to be distributed has been calculated in accordance with the instructions referred to in paragraph 2.1(vii) of the retainer, dated 12 October 2016.
10. I further conclude, in respect of the Subrogated Claim Question, that the assessment data recorded in Maurice Blackburn's Matter Centre database matches the assessment amount recorded in the Final Notice of Assessment.
11. In respect of the Schedules calculating each Claimant's share of the distribution fund for each of the Kilmore and Murrindindi ELPD funds, I conclude that these have been calculated appropriately based on the pro-rata payments made to the claimants in both the Above Insurance and Subrogated Claim populations.

## Constraints

12. I was not subject to any constraints during the preparation of this report.



## Warranties and disclaimer

13. This report has been prepared for the purpose set out above and it is not to be used for any other purpose without KPMG's prior written consent. Accordingly, KPMG accepts no responsibility in any way whatsoever for the use of this report for any purpose other than that for which it has been prepared.
14. Nothing in this report should be taken to imply that I have verified any information supplied to me, or have in any way carried out an audit of any information supplied to me other than as expressly stated in this report.
15. My opinion is based solely on the information set out in this report. I reserve the right to amend any conclusions, if necessary, should any further information become available.
16. This report is private and confidential, has been prepared for the parties to the dispute only and is not to be used for any other purpose or distributed to third parties without KPMG's prior written consent. This report must not be altered or amended in any way once issued in final form unless it is required to be disclosed to the Court for the purposes of legal proceedings. For the avoidance of doubt, the final Deliverable can be filed as an expert witness report in the Supreme Court of Victoria and read into evidence.

## B. Summary of Assumptions

17. The background to this matter is set out in my report considering the I-D claims, dated 22 September 2017. I do not repeat it here.
18. I am instructed that the additional background and assumptions specific to the ELPD claims are as set out in the remainder of this section.

## ELPD Assessment Overview

### Above Insurance claims

19. Every ELPD claimant has been issued with one or more final notices of assessment (**FNOA**), pursuant to the Settlement Distribution Scheme (**SDS**).
20. The FNOA assess losses on a property address basis. This means that multiple claimants' losses may be assessed on a single FNOA. Claimants generally receive a separate FNOA for each loss address, except where it has been determined that it is more logical for multiple loss addresses to be combined into a single FNOA.
21. Each claimant has been assigned a unique Group Member ID (**GMID**), which allows their claim to be individually tracked. A number of claimants have multiple (additional) addresses which relate to a single GMID. These claims are denoted by [GMID]-[n], where n represents the nth additional address for a single GMID.

### Subrogated Claims

22. Each insurer has been issued with FNOAs covering multiple ELPD claims.
23. As Subrogated FNOAs were sent out in 'tranche' spreadsheets organised by insurer, the process for checking Subrogated Claims is much less complex than that for Above Insurance. Subrogated claimants do not have individual claimant folders on Filesite, Maurice Blackburn's document management system, and thus there are no individual FNOAs to locate.
24. A comparison needs to be completed between the Subrogated FNOAs (Excel documents), stored on Filesite and the Subrogated assessed values (with class closure caps applied), on the Matter Centre reports.
25. There are a number of Subrogated Claims which have had FNOAs reissued. In these cases, only the latest version of the FNOA that went out should be referred to.

# Documentation

## Above Insurance claims

26. Every registered Above Insurance claimant has a folder saved on Filesite. KPMG extracted this data from Maurice Blackburn on 23 December 2016.
27. All assessment data has been saved in the folder labelled 'Assessments.' This folder contains the following material:
  - a) Copy of FNOA (Excel document);
  - b) Copy of FNOA (PDF document); and
  - c) Letter sent to Above Insurance claimant enclosing FNOA.
28. Where an ELPD claimant has elected to withdraw their claim, a letter was also saved in this location confirming that the Above Insurance claimant would receive a \$Nil assessment.
29. Where an ELPD claimant has amended their instructions with respect to the split of compensation, correspondence has been sent to the claimant to confirm the amendment to their total assessed losses. A letter has been saved in their filesite folder. This documentation has been separately provided to KPMG.

## Subrogated Claims

30. The FNOAs sent to the insurers were provided to KPMG by email on 31 January 2017.

# The FNOA

## Above Insurance claims

31. The FNOA contains a table summarising the assessed losses. The total Above Insurance assessed losses appears in the bottom right hand cell of the table.
32. A number of FNOAs have had to be reissued. Re-issued FNOAs supersede the originally issued FNOA.
33. Where claimants have received reissued FNOAs, these were uploaded to Filesite along with the accompanying PDF version and an updated accompanying letter. These claimants will therefore have multiple assessments, letters and PDFs in their Filesite folders with the re-issued FNOA named accordingly on Filesite.
34. The 'PGM – unique identifier and payment arrangements' table in the FNOA details the proposed split of funds between Above Insurance claimants who have made claims on the losses included in the FNOA. The 'Agreed' column indicates whether the proposed split has been agreed to or disputed by all affected Above Insurance claimants. The total proposed split between all claimants on a single FNOA should equal 100%.

35. In some instances, the proposed split recorded on a FNOA between Above Insurance claimants has been amended by agreement between the affected Above Insurance claimants after the FNOA was issued. In these cases, agreements to the changes were confirmed with all relevant claimants, and correspondence was sent to each claimant to confirm the changes. A new FNOA was not sent to each claimant. However, an internal-use only Excel FNOA which reflected the amended split was created and saved to each claimant's Filesite folder. This document was then uploaded to the Matter Centre to ensure that the Matter Centre correctly reflected the amended proposed split.

## Subrogated Claims

36. The SDS Team collated Subrogated Claims by insurer and issued a FNOA to each insurer. As a result, a single FNOA in many instances contained assessments completed by multiple ELPD assessors. The FNOAs were issued in tranches by the SDS Team.
37. The FNOA records the following information:
- a) Group member ID;
  - b) Loss Address as recorded by Maurice Blackburn;
  - c) Original Loss Address (pre-clean up);
  - d) Whether an Above Insurance claim was at the same address as the Subrogated claim;
  - e) The name of the insured;
  - f) The ELPD Assessor;
  - g) Insurance Amount registered during class closure; and
  - h) Individual Assessed Loss with class closure caps applied.
38. Insurers were required by Court order to register the insurance payment that they were seeking to recover in the Class Action. Where the total assessed value of a claim exceeded the amount registered by the insurer, the FNOA issued to the insurer limits the assessment to the amount as registered (the class closure cap). The column 'Individual Assessed Loss with class closure caps applied' represents the final assessment value for the Subrogated claim.

## Matter Centre data

39. KPMG has been provided with a copy of the "Everything Report" which provides Matter Centre data. The ELPD settlement distribution was effected on the basis of the data contained in Matter Centre rather than by reference to the assessments. As a result, it was imperative that the Matter Centre data accurately recorded the information relevant to the assessed value of each ELPD claim.
40. This data has been uploaded from the Excel FNOAs through use of a data upload tool.

## Above Insurance claims

41. The relevant data contained in this report for Above Insurance claims is as follows:

- a) Individual Assessed Loss (Primary Address): This data is the claimant's individual assessed loss at the loss address and is the product of the claimant's allocation split and the total assessed losses from the FNOA;
- b) Individual Assessed Loss (including additional addresses): Where a claimant has multiple losses assessed, this field calculates the multiple tracking IDs;
- c) Interim payment data: Where a claimant has received an interim payment from the ELPD funds pursuant to section F1 of the SDS, the interim payment amount is recorded in the 'Amount of Interim Payment' field in Matter Centre; and
- d) Nil assessment data:
  - (i) Where there was insufficient evidence on file to support a claim, and the claimant was uncontactable or uncooperative, \$Nil assessments were issued as the claimant's 'final notice of assessment' by the Scheme Administrator. This is as distinct from those claimants who were simply assessed at \$0 Above Insurance losses;
  - (ii) \$Nil assessed claimants can be identified in the Everything Reports by identifying those with 'Scheme Administrator' as their allocated assessor, in the 'Assessment In Progress' field; and
  - (iii) These claimants' folders were not deleted from the claimant folder structure; however, their folders will only contain the withdrawal correspondence and \$Nil assessment letter they were sent.

## Subrogated Claims

42. KPMG was provided with a copy of the Insurer spreadsheet providing Matter Centre data on 8 February 2017.
43. The relevant data contained in this report for Subrogated Claims is as follows:
  - a) Individual assessed loss: This data represents the assessed loss before class closure caps have been applied. This field does not represent the total assessed value for Subrogated Claims;
  - b) Claimant Insurer Paid Out (Amended amount approved by Scheme Administrator): This field is relevant only to Subrogated Claims, and contains the claim's 'class closure caps' as described above. At the time of the original registration of Subrogated Claims by insurers, registration amounts were provided as an 'upper cap' on the amount an insurer could claim. This generally represented the full amount paid out by the insurer to the policyholder. Some of these caps have had to be amended on a case-by-case basis. This explains the difference between the fields 'Claimant Insurer Paid Out (Amended amount approved by Scheme Administrator)' and 'Claimant Insurer Paid Out (Class Closure)' (now superseded); and
  - c) Individual assessed loss with class closure caps applied (Subrogated Claims only): This field is relevant only to Subrogated Claims. It applies the class closure cap to the Individual Assessed Loss.
44. Unlike Above Insurance claims, the FNOAs to the insurers were issued on a claim basis. This facilitated the application of the class closure cap. Each Subrogated claim has been assigned a

unique GMID, which allows the claim to be individually tracked. A number of Subrogated Claims have multiple (additional) addresses which relate to a single GMID. These claims are denoted by [GMID]-[n], where n represents the nth additional address for a single GMID. The tracking Ids are shown in the Everything Report but this does not reflect how the claims were issued to insurers.

45. When the FNOA was issued to the insurer, the value of the separate assessments pertaining to multiple properties was combined and issued together. The Insurer spreadsheet contains this information on a claim basis rather than the assessed amount pertaining to each additional address.

## Fields relevant to both Above Insurance and Subrogated Claims

46. The relevant data contained in this report for both Above Insurance and Subrogated Claims is as follows:
- a) Withdrawn ELPD claimant data: Prior to the final assessment of claims, there were provisions in place to allow claimants to withdraw their ELPD claims from each of these proceedings. While this would not remove them from the Matter Centre database, these claimants would no longer be contacted by Maurice Blackburn and would receive a \$0 assessment. Withdrawn claimants can be identified in the Everything reports by identifying those with 'NA' as their allocated assessor (in the 'Assessment in Progress' field) and 'Withdrawn' as the reason for non-assessment (in the 'Do not allocate for assessment' field);
  - b) Duplicate claimant data: The SDS Team also identified instances where a claim had been registered twice. This usually occurred where an Above Insurance claimant registered a claim and an insurer registered a claim on their behalf, to preserve their rights at the time of class closure. These duplicate claims were not allocated for assessment. Their claimant folders are saved in Filesite at the following location: 'Claimants > \*\*\*\*\*Duplicate claims'. Duplicate claimants can be identified in the Everything reports by identifying those with 'NA' as their allocated assessor (in the 'Assessment in Progress' field) and 'Duplicate' as the reason for non-assessment (in the 'Do not allocate for assessment' field); and
  - c) Data in relation to claims registered in error: There were a small number of claims which were registered in the incorrect class action – as confirmed with either the Above Insurance claimant or the insurer that had registered the claim. These claims were also not assessed, and can be identified in the Everything Reports by identifying those with 'NA' as their allocated assessor (in the 'Assessment in Progress' field) and 'Other' as the reason for non-assessment (in the 'Do not allocate for assessment' field).
47. In the event that I am provided with information that reveals any of the assumptions made in this report to be incorrect, I reserve the right to amend the opinions expressed in this report.

## C. Information received

48. The data to facilitate the ELPD review has been received progressively.
49. KPMG was provided with an extract of the Matter Centre database on 16 December 2016.
50. The supporting documents that had been stored in Filesite (as described in the previous section), were extracted by Maurice Blackburn on 22 December 2016 and collected by KPMG on 23 December 2016.
51. Further extracts of Matter Centre for both Murrindindi and Kilmore were provided on:
  - a) 31 January 2017;
  - b) 20 February 2017;
  - c) 23 February 2017;
  - d) 1 March 2017; and
  - e) 3 March 2017, for both Kilmore and Murrindindi; and
  - f) 6 March 2017, I was provided with a further extract of Matter Centre for Kilmore.
52. Various supporting documents were provided over the course of my review in response to queries raised by KPMG.
53. On 15 February 2017, KPMG was provided with preliminary pro-rata calculations Kilmore and Murrindindi to verify the calculation of the interest, tax and costs and the resulting pro-rata amount to be applied to the Claimant amounts (**Pro-Rata Calculations**). Preliminary calculations were initially provided to assist in reconciling the calculations.
54. On 21 February 2017, KPMG was provided with updated draft pro-rata calculations for Kilmore and Murrindindi, which had been updated for issues identified in the reconciliation.
55. On 24 February 2017, KPMG was provided with updated pro-rata calculations for Kilmore and Murrindindi which had been amended for issues identified in the review of the draft calculations. These were further amended on 3 March 2017 for Kilmore as a result of reductions to costs.
56. On 6 March 2017, KPMG was provided with a final pro-rata calculation for Murrindindi and on 7 March 2017, a final pro-rata calculation for Kilmore.
57. On 7 March 2017, KPMG was provided with draft "In-Hand Calculations" for Kilmore and Murrindindi which calculated each Claimant's pro-rata assessment and deducted all the paybacks (**In-Hand Calculations**). As part of this we were provided with data in relation to "Grant of Representation" amounts which formed part of the deductions in calculating the In-Hand amounts relating to certain estate claims.
58. On 17 March 2017, KPMG was provided with a further pro-rata calculation for Kilmore and In-Hand schedules, after amendments had been made in relation to two property addresses.
59. On 22 March 2017, KPMG was provided with In-Hand Schedules for the Subrogated claimants.

60. On 23 March 2017, KPMG was provided with In-Hand Schedules for Kilmore to check the pro-rata calculation of the underlying property address amounts in those schedules making up the overall claim total.
61. After 23 March 2017, KPMG was progressively provided with a number of updated schedules for claimants that had previously been included on the "Do not Distribute" list pending resolution of split allocations or where splits had been disputed (but no change to the underlying property assessments), as follows:
- a) On 24 March 2017, KPMG was provided with updated schedules for four additional claimants in the Kilmore population.
  - b) On 30 March 2017, KPMG was provided with updated schedules for one additional claimant in the Murrindindi population.
  - c) On 4 April 2017, KPMG was provided with updated schedules for two additional claimants in the Kilmore population, eight claimants with a part distribution in the Kilmore population, and four claimants with a part distribution in the Murrindindi population.
  - d) On 12 April 2017, KPMG was provided with updated schedules for eight additional claimants in the Kilmore population, and two additional claimants in the Murrindindi population.
  - e) On 24 April 2017, KPMG was provided with updated schedules for four additional claimants in the Kilmore population.
  - f) On 3 May 2017, KPMG was provided with updated schedules for four additional claimants in the Kilmore population.
  - g) On 10 May 2017, KPMG was provided with updated schedules for five additional claimants in the Kilmore population.
  - h) On 12 May 2017, KPMG was provided with updated schedules for three additional claimants in the Kilmore population and one additional claimant in the Murrindindi population.
  - i) On 9 June 2017, KPMG was provided with an updated schedule for one additional claimant in the Kilmore population.
  - j) On 13 June 2017, KPMG was provided with an updated schedule for two additional claimants in the Murrindindi population.
  - k) On 22 August 2017, KPMG was provided with schedules calculating the proportion of the distribution sum received by the group member, for each of the Murrindindi and Kilmore populations.
62. As at the date of this report there are still a number of claimants remaining on the "Do not Distribute" list as detailed in Section I.



63. This report is structured as follows:

- a) **Section D** sets out the process for extracting documents;
- b) **Section E** sets out the process for checking Matter Centre to the Notices of Assessment for the Above Insurance claimants, which included checking withdrawn claimants and splits (Above Insurance Questions a and g);
- c) **Section F** sets out the process for checking the interim payments (Above Insurance Question b);
- d) **Section G** sets out the process for checking reviews and review costs (Above Insurance Questions c to e);
- e) **Section H** sets out the process for checking the pro-rata calculations (Above Insurance Question h); and
- f) **Section I** sets out the process for checking the In-Hand calculations (Above Insurance Question i), which includes review of the Wills department costs (Above Insurance Question f); and
- g) **Section J** sets out the process for checking Matter Centre to the NOA for the Subrogated Claims.

## D. Process for extracting data

64. KPMG attended the offices of Maurice Blackburn on 14 December 2016, to discuss the commencement of the extraction of ELPD data from the Matter Centre database, and to discuss the extraction of the supporting documents from the matter files stored in Filesite.

### Matter Centre extract

65. KPMG was provided with two spreadsheets containing the data extracted from Matter Centre for the Murrindindi and Kilmore ELPD claim populations. The spreadsheets were provided to KPMG by email on 15 October 2016 after we had attended the offices of Maurice Blackburn to discuss the extraction of the ELPD data for the review.
66. The ELPD claimants total 11,646 across both the Kilmore and Murrindindi claim populations, as follows:

Total Group Members	Above Insurance	Subrogated	Total
Murrindindi	1,211	1,261	2,472
Kilmore	4,138	5,036	9,174
<b>Total</b>	<b>5,349</b>	<b>6,297</b>	<b>11,646</b>

### Document extract

67. The process for extracting documents is detailed in my report considering the I-D claims and is not repeated here.
68. Adopting the same general process as for the I-D claims, a total of approximately 140,000 relevant ELPD documents were imported into Relativity, to create a fully searchable database of data to facilitate the review.

### Supplementary documents

69. Subsequent to the date of the document extract described above, a number of additional FNOA and other documents have been forwarded to KPMG in response to queries raised as part of the review.
70. These are described in the relevant sections below.

## E. Above Insurance Questions a) and g): Matching database to FNOA

71. I am instructed that Matter Centre contains the total population of claims in the ELPD proceedings.
72. The Above Insurance claimants total 5,349 across both the Kilmore and Murrindindi claim populations, as follows:

Total Group Members	Above Insurance
Murrindindi	1,211
Kilmore	4,138
<b>Total</b>	<b>5,349</b>

73. I was instructed that the data was uploaded into Matter Centre from the Excel FNOA through the use of an upload tool (paragraph 38). I have also been instructed that the claimants received the FNOA in pdf format (or a hard copy equivalent) and that the pdf version of the FNOA should be matched to Matter Centre.

## Electronic searches for matching to Notice of Assessment

74. As described in paragraph 39, the amount captured in Matter Centre as “Individual Assessed Losses (Primary Address)” is the claimant’s individual assessed loss at the loss address and is the product of the claimant’s allocation split and the total assessed losses from the FNOA.
75. Because the amount in Matter Centre is a calculated amount, the “Individual Assessed Losses (Primary Address)” amount does not appear on the face of the FNOA. Rather, to have comfort over the information contained in Matter Centre it is necessary to check three separate amounts for each claimant:
- Total Above Insurance amount for that property;
  - The split applicable to that claimant; and
  - Whether or not the split was agreed or disputed.

## Checking the total Above Insurance amount for each property

76. It was possible to electronically identify the Above Insurance amount for each property by writing a search to locate the following phrase, located underneath the table setting out the total claim amount in the FNOA:

*“Estimated Above Insurance Entitlement*

*The total above-insurance amount calculated for this property is”*

The total Above Insurance amount is located directly next to this phrase.

77. As described in paragraph 73, the amount in Matter Centre is the product of the total assessed losses for each property address multiplied by the split applicable to that claimant. Therefore to calculate the total assessed losses for each property address to facilitate the check to the FNOA, the Individual Assessed Losses (Primary Address) amount in Matter Centre was divided by the split to calculate the total assessed loss for each property.
78. An electronic search was then conducted to match amounts in the FNOA to the amounts calculated in Matter Centre in this way. In so doing, the following searches were performed:
- a) A search was conducted to identify the documents in each claimant ID folder. This search identified a number of claimants that had no documents in their folder;
  - b) The document folders were then searched for the phrase “Final Notice of Assessment”, “FNOA” or “Final NOA”, and the file type “pdf” to identify the number of documents of this type in the file name in each claimant ID folder. That assessment identified a number of claimant IDs for which there was no pdf FNOA; and
  - c) The document folders were then searched for “Notice of Assessment” and “The total above-insurance amount calculated for this property is” values recorded against that claimant ID in Matter Centre. This search identified any FNOA that matched the Matter Centre amount and any FNOA that did not match the Matter Centre amount.
79. The following populations to review were then selected based on those searches:
- a) All of the Claimant IDs with no documents in the folder were tested;
  - b) All of the Claimant IDs with no pdf FNOA in their folder were tested;
  - c) All of the Claimant IDs that had one or more pdf FNOA, but none that matched the total assessed loss amount for that property in Matter Centre, were tested;
  - d) All of the Claimant IDs with one or more pdf FNOA, where there were some that matched the total assessed loss amount for that property in Matter Centre and some that did not match the total assessed loss amount for that property in Matter Centre, were tested; and
  - e) The remaining population were the Claimant IDs where there were one or more FNOA, but all of them matched the amount in Matter Centre. Approximately 5% of this remaining population was tested to confirm the software tool based search had operated correctly.

80. This resulted in the following population of Above Insurance claimant IDs to test for Kilmore:

Sampling for Checking to FNOA	Total population	Reviewed
Claimant IDs with no documents in the folder	2	2
Claimant IDs with no pdf FNOA in their folder	808	808
Claimant IDs that had one or more pdf FNOA, but none that matched the total assessed loss amount for that property in Matter Centre	464	464
Claimant IDs with one or more pdf FNOA, where there were some that matched the total assessed loss amount for that property in Matter Centre and some that did not match the total assessed loss amount for that property in Matter Centre	219	219
Claimant IDs where there were one or more FNOA, but all of them matched the amount in Matter Centre	2645	132
	<b>4,138</b>	<b>1,625</b>

81. The process also identified the following population of Above Insurance claimant IDs to test for Murrindindi:

Sampling for Checking to FNOA	Total population	Reviewed
Claimant IDs with no documents in the folder	1	1
Claimant IDs with no pdf FNOA in their folder	127	127
Claimant IDs that had one or more pdf FNOA, but none that matched the total assessed loss amount for that property in Matter Centre	127	127
Claimant IDs with one or more pdf FNOA, where there were some that matched the total assessed loss amount for that property in Matter Centre and some that did not match the total assessed loss amount for that property in Matter Centre	156	156
Claimant IDs where there were one or more FNOA, but all of them matched the amount in Matter Centre	800	40
	<b>1,211</b>	<b>451</b>

82. In testing the above population of claimants, the following items were matched between Matter Centre and the FNOA:

- Total Above-Insurance amount for that property;
- The split applicable to that claimant; and
- Whether or not the split was agreed or disputed.

### Checking the splits, and whether it was agreed/disputed for each Claimant ID

83. The pdf FNOA is the document being matched to Matter Centre. These pdfs contain a number of tables setting out the splits and the calculation of the Above Insurance amounts for each property, containing multiple rows and columns. The way that the data from the pdf documents

are stored electronically is column by column, which means that the values that are searched for are not stored immediately next to the description of that item. This is further complicated by the fact that the number of claimants listed for a particular property is not fixed, so the size of these tables varies from property to property.

84. The limitations of how the data is stored meant that it was not possible to write a search to electronically match the splits to the NOA.
85. As described in paragraph 84 above, the entire population of exceptions in the total Above Insurance amount testing were checked to the FNOA for the split, and whether it was agreed or disputed. This provided approximately 39% coverage for Kilmore and 37% coverage for Murrindindi.
86. The remaining splits and whether they were agreed/disputed were matched manually as a separate review.
87. I discuss the process of testing, and the results of each review category below.

## Results of Kilmore testing

### Claimants with no documents in the folder

88. There were two Kilmore ELPD Claimants with no documents in their folder (see **Confidential Annexure C1<sup>1</sup>** to this report).
89. One of the claimants was a duplicate entry (and thus did not proceed) and the other elected not to be assessed for which correspondence was sighted to confirm.

### Claimants with no FNOA in the folder

90. There were 808 Kilmore Claimants with no Notice of Assessment in their folder (see **Confidential Annexure C1** to this report).
91. A search was performed for the claimant ID in the total documents folder to attempt to locate the FNOA. The following results were obtained:
  - a) 533 of the claimants had a FNOA but the name did not contain "Final Notice of Assessment", "FNOA" or "Final NOA" and so was not picked up by the search;
  - b) 49 of the claimants had a properly named FNOA but it was filed in a folder other than "Assessments" for that claimant; and
  - c) 14 of the claimants had a properly named FNOA but it was filed in another claimant's folder.
92. For the remaining 212 claimant IDs for which a Notice of Assessment could not be located:
  - a) 172 of the claimants had elected not to be assessed and documentation was sighted to confirm this;
  - b) 2 were duplicates for which documentation was sighted to confirm;

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<sup>1</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

- c) 23 of the claimants were duplicated entries for other existing claimant IDs as instructed by Maurice Blackburn;
- d) 9 of the claimants were uncontactable and correspondence on file confirmed the claim to be \$Nil; and
- e) The remaining six claimants were queried with Maurice Blackburn and further information provided that matched Matter Centre.

93. All exceptions were satisfactorily resolved.

### Claimants with no matching FNOA in the folder

- 94. There were 464 Kilmore claimants with no matching FNOA in their folder (see **Confidential Annexure C2<sup>2</sup>** to this report). All the FNOA for each of these claimants were reviewed and the latest FNOA was identified and checked against Matter Centre.
- 95. As noted previously, the amount captured in Matter Centre as “Individual Assessed Losses (Primary Address)” is the claimant’s individual assessed loss at the loss address and is the product of the claimant’s allocation split and the total assessed losses from the FNOA. Given that the check to FNOA was to the pdf version of the FNOA, there were instances where the amount that could be calculated from the face of the pdf did not agree to Matter Centre due to rounding. For these items, the Excel FNOA was located to confirm the unrounded split.
- 96. The majority of the population was agreed to Matter Centre in this way. After noting a number of exceptions/queries with Maurice Blackburn, and reviewing the responses/additional information provided, all exceptions were satisfactorily resolved.

### Claimants with some matching and some non-matching FNOA in the folder

- 97. There were 219 Kilmore claimants with some matching, and some non-matching FNOA in their folder (see **Confidential Annexure C3<sup>3</sup>** to this report).
- 98. The reason for the large number of claimants with some non-matching NOA in the folders is largely due to the way in which documents are filed in the ELPD population. A claimant can have a number of sub-claims underneath the “head” claim, for which the documents are all filed in the “head” claim folder. Therefore any claimants with sub-claims will fall into this group of exceptions.
- 99. Further, a number of claimants have other documents filed in their folder which have “Notice of Assessment” or “FNOA” in the name, but which are actually supporting documents for the assessment (such as plantation reports) or the letter to the claimant attaching the FNOA. Again, all of these claimants would fall into this group of exceptions.
- 100. Each of these claimants was checked back to the available documents to ascertain which FNOA was the final matching one, whether it matched Matter Centre, and the nature of the non-matching documents to ascertain whether they should be reflected in Matter Centre.
- 101. The majority of the population was agreed between Matter Centre and the supporting documents in this way. After noting a number of exceptions/queries with Maurice Blackburn,

<sup>2</sup> This Annexure is marked “Confidential” as it contains personal data in relation to individual Claimants.

<sup>3</sup> This Annexure is marked “Confidential” as it contains personal data in relation to individual Claimants.

and reviewing the responses/additional information provided, all exceptions were satisfactorily resolved.

### Sample test of claimants with only matching FNOA in the folder

102. There were 2,645 Kilmore Claimants where all Notices of Assessment in their folder matched the Total Assessment Amount in Matter Centre. For these, a random sample of 132 claimants (5%) were checked to ensure that the electronic review tool had operated correctly (see **Confidential Annexure C4<sup>4</sup>** to this report).
103. After raising one query with Maurice Blackburn, in relation to the name of one of the NOAs (but for which all amounts in the document agreed to Matter Centre), no exceptions were identified in the review.

### Checking the splits for each claimant ID

104. As noted at paragraph 84 above, all exceptions were checked to the FNOA and the total assessment amount, split, and whether the split was agreed/disputed was checked.
105. For the total of 2,645 claimants that had a total assessment amount that was electronically matched, a sample of 132 (5%), were checked to the FNOA (including checking of the splits and whether it was agreed or disputed). Therefore for the remaining 2,513 claimants it was necessary to only check these to the FNOA for the split and whether it was agreed/disputed.
106. I attach the results of this check at **Confidential Annexure C5<sup>5</sup>** to this report. The majority of the population was agreed between Matter Centre and the FNOA in this way. After noting a number of exceptions/queries with Maurice Blackburn, and reviewing the responses/additional information provided, all exceptions were satisfactorily resolved.

### Checks of items that changed between versions of Matter Centre

107. As noted at paragraph 49 above, a number of updated extracts of Matter Centre were provided as the review progressed. On receipt of each update, an analysis of the changes between versions was performed and all changes checked back to supporting documentation. I attach the results of these reviews at **Confidential Annexure C6<sup>6</sup>** to this report.
108. After noting a number of exceptions/queries with Maurice Blackburn, and reviewing the responses/additional information provided, all exceptions were satisfactorily resolved.

## Results of Murrindindi testing

### Claimants with no documents in the folder

109. There was one Murrindindi ELPD claimant with no documents in the folder (see **Confidential Annexure D1<sup>7</sup>** to this report).

<sup>4</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

<sup>5</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

<sup>6</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

<sup>7</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.



110. To locate the FNOA (if it existed in the document extraction), a search was conducted in Relativity by "Surname" and "Notice of Assessment". Using this process, it was identified that this claimant's FNOA was filed in related claimants' folders.
111. The claimant's FNOA was agreed to Matter Centre.

### **Claimants with no FNOA in the folder**

112. There were 127 Murrindindi ELPD claimants with no FNOA in their folder (see **Confidential Annexure D1** to this report).
113. A search was performed for the claimant ID in the total documents folder to attempt to locate the FNOA. The following results were obtained:
- a) 70 of the claimants had a FNOA but the name did not contain "Final Notice of Assessment", "FNOA" or "Final NOA" and so was not picked up by the search;
  - b) Five of the claimants had a properly named FNOA but it was filed in a folder other than "Assessments" for that claimant; and
  - c) 11 of the claimants had a properly named FNOA but it was filed in another claimant's folder.
114. For the remaining 41 claimant IDs for which a FNOA could not be located:
- a) 28 of the claimants had elected not to be assessed and documentation was sighted to confirm this;
  - b) One claimant was registered in the Murrindindi action in error. That claimant is actually now part of the Kilmore action (as instructed by Maurice Blackburn);
  - c) 11 of the claimants were duplicated entries (as instructed by Maurice Blackburn); and
  - d) The remaining claimant was queried with Maurice Blackburn and further information was provided which matched Matter Centre.
115. All exceptions were satisfactorily resolved.

### **Claimants with no matching FNOA in the folder**

116. There were 127 Murrindindi ELPD claimants with no matching FNOA in the folder (see **Confidential Annexure D2**<sup>8</sup> to this report). All the Notices of Assessment for each of these Claimants were reviewed and the latest FNOA was identified and checked against Matter Centre.
117. As noted previously, the amount captured in Matter Centre as "Individual Assessed Losses (Primary Address)" is the claimant's individual assessed loss at the loss address and is the product of the claimant's allocation split and the total assessed losses from the FNOA. Given that the check to FNOA was to the pdf version of the FNOA, there were instances where the amount that could be calculated from the face of the pdf did not agree to Matter Centre due to rounding. For these items, the Excel FNOA was located to confirm the unrounded split.

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<sup>8</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

118. The majority of the population was agreed to Matter Centre in this way. After noting a number of exceptions/queries with Maurice Blackburn, and reviewing the responses/additional information provided, all exceptions were satisfactorily resolved.

### **Claimants with some matching and some non-matching FNOA in the folder**

119. There were 156 Murrindindi ELPD claimants with some matching, and some non-matching FNOA in their folder (see **Confidential Annexure D2** to this report).
120. The reason for the large number of claimants with some non-matching FNOA in the folders is largely due to the way in which documents are filed in the ELPD population. A claimant can have a number of sub-claims underneath the “head” claim, for which the documents are all filed in the “head” claim folder. Therefore any claimants with sub-claims will fall into this group of exceptions.
121. Further, a number of claimants have other documents filed in their folder which have “Notice of Assessment” or “FNOA” in the name, but which are actually supporting documents for the assessment (such as plantation reports) or the letter to the claimant attaching the FNOA. Again, all of these claimants would fall into this group of exceptions.
122. Each of these claimants was checked back to the available documents to ascertain which FNOA was the final matching one, whether it matched Matter Centre, and the nature of the non-matching documents to ascertain whether they should be reflected in Matter Centre.
123. The majority of the population was agreed between Matter Centre and the supporting documents in this way. After noting a number of exceptions/queries with Maurice Blackburn, and reviewing the responses/additional information provided, all exceptions were satisfactorily resolved.

### **Sample test of claimants with only matching FNOA in the folder**

124. There were 800 Murrindindi claimants where all FNOA in their folder matched the Total Assessment Amount in Matter Centre. For these, a random sample of 40 claimants (5%) were checked to ensure that the electronic review tool had operated correctly (see **Confidential Annexure D2** to this report).
125. No exceptions were identified in the review.

### **Checking the splits for each claimant ID**

126. As noted at paragraph 84 above, all exceptions were checked to the FNOA and the total assessment amount, split, and whether the split was agreed/disputed was agreed.
127. For the total of 800 claimants that had a total assessment amount that was electronically matched, a sample of 40 (5%), were checked to the FNOA (including checking of the splits and whether it was agreed or disputed). Therefore for the remaining 760 claimants it was necessary to only check these to the FNOA for the split and whether it was agreed/disputed.
128. I attach the results of this check at **Confidential Annexure D3<sup>9</sup>** to this report. The majority of the population was agreed between Matter Centre and the NOA in this way. After noting a number of exceptions/queries with Maurice Blackburn, and reviewing the responses/additional information provided, all exceptions were satisfactorily resolved.

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<sup>9</sup> This Annexure is marked “Confidential” as it contains personal data in relation to individual Claimants.

### Checks of items that changed between versions of Matter Centre

129. As noted at paragraph 49 above, a number of updated extracts of Matter Centre were provided as the review progressed. On receipt of each update, an analysis of the changes between versions was performed and all changes checked back to supporting documentation. I attach the results of these reviews at **Confidential Annexure D4**<sup>10</sup> to this report.
130. After noting a number of exceptions/queries with Maurice Blackburn, and reviewing the responses/additional information provided, all exceptions were satisfactorily resolved.

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<sup>10</sup> This Annexure is marked “Confidential” as it contains personal data in relation to individual Claimants.

## F. Above Insurance Question b): Interim Payments

### Kilmore

131. From the 1 March 2017 Kilmore Matter Centre Extract<sup>11</sup>, a total of 95 claimants were identified as having received Interim Payments. I am instructed that interim payments relate to a claimant, and if that claimant also has sub-claims then the interim payment is reflected in the head claim and the sub claim. Therefore, excluding sub-claims, the total number of claimants with an interim payment is 93 in Kilmore.
132. For these claimants their interim payments were checked into the Accounting records for the Kilmore Fund, which had been provided to me in a spreadsheets entitled "16.10.21 Kilmore Account Summary.xls", "17 01 17 Account Summary – Kilmore.xlsx" and "17 02 21 Account Summary – Kilmore.xlsx".
133. In addition to checking from Matter Centre into the accounting records, a check was also performed from the accounting records into Matter Centre to ensure that all interim payments had been reflected in Matter Centre.
134. I attach at **Confidential Annexure E**<sup>12</sup> to this report the results of this testing. After noting a number of exceptions/queries with Maurice Blackburn, and reviewing the responses/additional information provided, all exceptions were satisfactorily resolved.

### Murrindindi

135. From the 20 February 2017 Murrindindi Matter Centre Extract<sup>13</sup>, a total of 37 claimants were identified as having received Interim Payments. Excluding sub-claims the total number of claimants is 30 for Murrindindi.
136. For these claimants their interim payments were checked into the Accounting records for the Murrindindi Fund, which had been provided to me in spreadsheets entitled "16.10.21 MDI Account Summary.xls", "17 01 17 Account Summary – Murrindindi.xlsx" and "17 02 17 Account Summary – Murrindindi.xlsx".

<sup>11</sup> Being the most recent version of Matter Centre at the time the testing was performed. This has been reconciled to the In-Hand Schedules to ensure the entire population of interim payments were tested.

<sup>12</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

<sup>13</sup> Being the most recent version of Matter Centre at the time the testing was performed. This has been reconciled to the In-Hand Schedules to ensure the entire population of interim payments were tested.

137. In addition to checking from Matter Centre into the accounting records, a check was also performed from the accounting records into Matter Centre to ensure that all interim payments had been reflected in Matter Centre.
138. I attach at **Confidential Annexure F<sup>14</sup>** to this report the results of this testing. After noting a number of exceptions/queries with Maurice Blackburn, and reviewing the responses/additional information provided, all exceptions were satisfactorily resolved.

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<sup>14</sup> This Annexure is marked “Confidential” as it contains personal data in relation to individual Claimants.

# G. Above Insurance Questions c)-e): Reviews

## ELPD reviews - Kilmore

139. From the 20 February 2017 Kilmore Matter Centre Extract, a total of 24 Claimants were identified who had indicated that they would request reviews, relating to 14 loss addresses. Similar to the interim payments, data in relation to reviews is reflected in the head claim and the sub-claim IDs for the same claimant, resulting in data being reflected in connected properties entries in Matter Centre even if a review was not requested for the connected properties. For Kilmore there were two addresses for which the review data was duplicated simply because the claimant had a claim at another address, which results in a total of 12 loss addresses where the group member indicated that they would seek a review. Of these, four claimants did not ultimately request a review, leaving a total of eight claimants that actually had a review conducted.
140. Maurice Blackburn sent the supporting documents for the reviews to KPMG by email. This data consisted of correspondence in relation to the bond payments/waived bonds; the letter to the Group Member notifying them of the result of the review ("**Review Result Letter**"), any updated assessment as a result of the review ("**Review FNOA**") file notes and other relevant data.
141. The following tests were performed on this population:
- a) The Review Result Letter was reviewed for each claimant, and it was noted whether it was a successful or unsuccessful review;
  - b) The Review FNOA was reviewed and matched to Matter Centre;
  - c) The details in relation to bonds and costs were noted from this letter. For claimants where the bond had been waived, but this was not noted in the Review Result Letter, separate evidence was viewed in the form of either a bond waiver letter or a file note;
  - d) For claimants where a bond was paid, the amount was traced to the accounting records;
  - e) For successful reviews, it was noted when the bond was returned, and the amount was traced to the accounting records;
  - f) For unsuccessful reviews, the costs net of bond were noted and traced into Matter Centre as listed as deductions from the compensation payment; and
  - g) For unsuccessful reviews where there is no compensation claim, evidence in relation to the refund of costs or waiver of those costs was sighted.

142. I attach at **Confidential Annexure G<sup>15</sup>** to this report the results of this testing. After noting a number of exceptions/queries with Maurice Blackburn, and reviewing the responses/additional information provided, all exceptions were satisfactorily resolved.

## ELPD reviews - Murrindindi

143. From the 20 February 2017 Murrindindi Matter Centre Extract, a total of 17 Claimants were identified who had indicated that they would request reviews, relating to nine property addresses. Similar to the interim payments, data in relation to reviews is reflected in the head claim and the sub-claim IDs for the same claimant. Removing the one address for which the review data was duplicated, results in a total of eight loss addresses where the group member indicated that they would seek a review. Of these, two claimants did not ultimately request a review, leaving a total of six claimants that actually had a review conducted
144. Maurice Blackburn sent the supporting documents for the reviews to KPMG by email.
145. The following tests were performed on this population:
- a) The Review Result Letter was reviewed for each Claimant, and it was noted whether it was a successful or unsuccessful review;
  - b) The Review FNOA was reviewed and matched to Matter Centre;
  - c) The details in relation to bonds and costs were noted from this letter. For claimants where the bond had been waived, but this was not noted in the Review Result Letter, separate evidence was viewed in the form of either a bond waiver letter or a file note;
  - d) For claimants where a bond was paid, the amount was traced to the accounting records;
  - e) For successful reviews, it was noted when the bond was returned, and the amount was traced to the accounting records;
  - f) For unsuccessful reviews, the costs net of bond were noted and traced into Matter Centre as listed as deductions from the compensation payment; and
  - g) For unsuccessful reviews where there is no compensation claim, evidence in relation to the refund of costs or waiver of those costs was sighted.
146. I attach at **Confidential Annexure H<sup>16</sup>** to this report the results of this testing. After noting a number of exceptions/queries with Maurice Blackburn, and reviewing the responses/additional information provided, all exceptions were satisfactorily resolved.

## Remaining I-D review costs - Kilmore

147. From the I-D report, dated 22 September 2017, I note that the total costs in relation to I-D reviews for Kilmore that were to be deducted from the ELPD claims totalled \$15,123<sup>17</sup>. I am

<sup>15</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

<sup>16</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

<sup>17</sup> Annexure V to the I-D report.

instructed that the costs in relation to one claimant were written off as this claimant was ultimately entitled to no I-D or ELPD compensation<sup>18</sup>. The total of all of the recoverable amounts is \$12,123. These amounts have been deducted from the in-hand payments (**Confidential Annexure K**<sup>19</sup> to this report).

## Remaining I-D review costs - Murrindindi

148. From the I-D report dated 22 September 2017 I note that the total costs in relation to I-D reviews for Murrindindi that were to be deducted from the ELPD claims totalled \$1,965<sup>20</sup>. These have been deducted from the in-hand payments (**Confidential Annexure L**<sup>21</sup> to this report).

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<sup>18</sup> In relation to one claimant, see Annexure I

<sup>19</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

<sup>20</sup> Annexure W to the I-D report: total costs to be deducted were \$2,200 (Annexure G to the ID report) but the pro-rata claim amount for this claimant was \$235 leaving a balance of \$1,965 to be deducted from ELPD claim.

<sup>21</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.



# H. Above Insurance Question h): Pro-rata calculation

## Kilmore and Murrindindi

149. The draft pro-rata percentage calculates the available funds for distribution to the ELPD claim members as a proportion of the total assessed losses. The calculation takes into account the total settlement amount, interest that has been received on the settlement amount (which has been placed in various term deposits over the period), the anticipated maximum taxation liability on the interest of 49% (which I am instructed is based on advice received), the settlement administration costs and any amounts recoverable from Claimants for outstanding review costs. It also removes the I-D settlement fund amounts from the calculation. Calculations of the draft pro-rata percentage for Kilmore and Murrindindi were provided to KPMG progressively, as follows:

- a) On 15 February 2017, KPMG was provided with preliminary pro-rata calculations Kilmore and Murrindindi to assist in reconciling the calculations. These were contained in spreadsheets entitled "17.02.15 KEK ELPD draft pro rata calculation.xlsx" and "17.02.15 MDI ELPD Pro rata calculation.xlsx";
- b) On 21 February 2017, KPMG was provided with updated draft pro-rata calculations for Kilmore and Murrindindi, which had been updated for issues identified in the reconciliation. These were superseded on 24 February 2017 by updated pro-rata calculations for Kilmore and Murrindindi, which had been amended for issues identified in the review of the draft calculations, in spreadsheets entitled "17.02.24 Draft MDI ELPD Pro rata calculation.xlsx" and "17.02.24 KEK ELPD draft pro rata calculation.xlsx". These were further amended on 3 March 2017 for Kilmore as a result of a reduction to costs ("17.03.03 KEK ELPD draft Distribution Sum calculation.xlsx", which I note was described as a distribution sum calculation as the total assessed losses were not yet finalised);
- c) On 6 March 2017, KPMG was provided with a final pro-rata calculation for Murrindindi ("17.03.06 MDI ELPD pro rata calculation for KPMG review.xlsx");
- d) On 7 March 2017, KPMG was provided with a final pro-rata calculation for Kilmore ("17.03.07 KEK ELPD Pro rata calculation.xlsx"); and
- e) On 17 March 2017, KPMG was provided with an updated final pro-rata calculation for Kilmore in a spreadsheet entitled "17.03.17 KEK ELPD pro rata calculation.xlsx", after adjustment to include amounts for a property address which, due to an issue with the assessor overriding the percentage splits in the NOA, had been excluded in the total claim amount.

150. In reviewing the Interest, Taxation and Costs calculation, and the resulting pro-rata percentage to be applied to the assessed claims, the following checks were performed:
- a) The costs to the date of the spreadsheet were agreed to the court orders that had been made to that date;
  - b) The costs incurred to the date of the spreadsheet but not yet approved by the Court were agreed to Affidavits, dated January and February 2017, sworn by Brooke Dellavedova and Andrew Watson, in each of the Kilmore and Murrindindi matters, and to reports by John White, the special referee in relation to costs in these matters;
  - c) The interest received to date was agreed to the accounting system;
  - d) The estimated interest to be received was agreed to estimates provided by the banking institutions with which the funds are held;
  - e) The bonds and review costs due to the fund were agreed to the review testing performed;
  - f) The taxation provision was reviewed to ensure it was calculated correctly as 49% of the interest received; and
  - g) The total I-D settlement fund amount was agreed to the work done as part of preparing the I-D report, dated 22 September 2017.
151. The pro-rata calculations contain a deduction for a contingency amount of \$750,000 for each of the Murrindindi and Kilmore funds. I consider this to be a reasonable amount to withhold for unforeseen issues in matters as large and complex as these. I note that these amounts are to be withheld until the completion of this matter, at which time a second distribution will be provided to the claimants for any remaining funds.
152. The results of the testing for Kilmore is attached at **Annexure I** to this report, and for Murrindindi at **Annexure J** to this report. As can be seen from these Annexures, the final pro-rata recovery amount was 28.4674% for Kilmore, and 64.8618% for Murrindindi.

# I. Above Insurance Question i): In-Hand calculations

## Kilmore and Murrindindi

153. Calculations of the In-Hand claim amounts (the pro-rata claim amounts net of deductions) were provided to me in two spreadsheets, entitled “17.03.17 KEK in-hand payments for KPMG review.xlsx”, and “17.03.07 MDI Schedule of in-hand amounts for KPMG review.xlsx”.
154. In reviewing the In-Hand Calculations, the following checks were performed:
- a) The Assessment amounts in the In-Hand calculation sheet were agreed to Matter Centre;
  - b) The pro-rata calculations of each claimant’s assessment amounts were checked that they correctly applied the pro-rata percentage (derived from the Pro-Rata calculation described in **Section H** to this report);
  - c) Deductions for interim payments, review costs and Grant of Representation costs relating to certain estate claims were agreed to Matter Centre (and in the case of Grant of Representation costs, these were also checked to supporting documents); and
  - d) Outstanding I-D review costs were agreed to testing performed as part of the I-D report.
155. After checking that the In-Hand Amounts for the entire population were appropriately calculated, the population of Claimants that were to be sent to the mailing house for cutting the cheques was checked as follows:
- a) Claimants marked as “Do not Distribute” were checked to confirm they were excluded from the list to send to the mailing house;
  - b) Claimants with a zero net payment or a negative net payment were checked to confirm they were excluded from the list to send to the mailing house; and
  - c) All addresses for the population of claimants to send to the mailing house were checked to confirm that they were appropriately extracted from Matter Centre.
156. The In-Hand Calculations for Kilmore are attached at **Confidential Annexure K<sup>22</sup>**. The In-Hand Calculations for Murrindindi are attached **Confidential Annexure L<sup>23</sup>** to this report. No exceptions were noted.

<sup>22</sup> This Annexure is marked “Confidential” as it contains personal data in relation to individual Claimants.

<sup>23</sup> This Annexure is marked “Confidential” as it contains personal data in relation to individual Claimants.

157. The claimants on the “Do not Distribute” lists are progressively being checked by KPMG as the relevant issues that caused them to be on this list are resolved. These issues relate to matters such as disputes over percentage splits for particular properties, or grant of representation for deceased estates, and do not impact the underlying property loss assessments. Where resolution of issues have resulted in no change to the previously checked In-Hand Amounts, Maurice Blackburn have sent these cheques without the need for a further KPMG review.
158. I note that at the date of this report there remain a number of claimants that are marked as ‘Do not Distribute’ due to awaiting receipt of information, and for which final checking of the In-Hand Amount is yet to be performed. I attach at **Confidential Annexure M<sup>24</sup>** to this report the lists of claimants which are yet to be checked.

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<sup>24</sup> This Annexure is marked “Confidential” as it contains personal data in relation to individual Claimants.

## J. Subrogated Claims Question a): Checking Matter Centre to NOA

159. I have detailed in **Section E** to this report, the process for matching the Above Insurance claims to the FNOA.
160. The Subrogated Claims testing was performed differently to that process as the FNOA for the Subrogated Claims consisted of a number of spreadsheets sent to each insurer rather than individual FNOAs for claim addresses. The data for Subrogated Sub-claims is also rolled up into the head claim number for this purpose. Therefore only the head claim IDs need to be checked to the FNOA.
161. To check the Subrogated Claims to the FNOA, the following tests were performed:
- a) The numerous spreadsheets for each insurer were combined to create one spreadsheet for each insurer;
  - b) These insurer spreadsheets were all combined in one workbook with the Subrogated data for the head claims as extracted from Matter Centre;
  - c) Formulae were used to look up the values of the losses with class closure caps applied to match the data from Matter Centre to the insurer spreadsheets; and
  - d) Any amounts that did not match were queried with Maurice Blackburn.
162. I attach the results of this testing at **Confidential Annexure N<sup>25</sup>** for Kilmore and **Confidential Annexure O<sup>26</sup>** for Murrindindi. After noting a number of exceptions/queries with Maurice Blackburn, and reviewing the responses/additional information provided, all exceptions were satisfactorily resolved.

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<sup>25</sup> This Annexure is marked “Confidential” as it contains personal data in relation to individual Claimants.

<sup>26</sup> This Annexure is marked “Confidential” as it contains personal data in relation to individual Claimants.

# K. Schedules of each claimant's share of the ELPD distribution sums

163. In August 2017 I was provided with the following Schedules to review:
- a) "17.08.21 KEK ELPD calculation of each gm\_s share of distribution sum for K...xlsx":  
and
  - b) "17.08.21 MDI ELPD calculation of each gm\_s share of distribution sum for K...xlsx".
164. These schedules set out the percentage of the distribution sum received by each individual group member for the Kilmore and Murrindindi funds respectively. These percentages will be used to calculate the entitlement of the claimants to any future potential distributions upon the resolution of taxation and other outstanding matters.
165. The results of the review are attached at **Confidential Annexure P<sup>27</sup>** for Kilmore and **Confidential Annexure Q<sup>28</sup>** for Murrindindi. No exceptions were noted.

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<sup>27</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

<sup>28</sup> This Annexure is marked "Confidential" as it contains personal data in relation to individual Claimants.

## L. Declaration

166. In preparing this report, I have complied with APES 215 – Forensic Accounting Services, issued by the Accounting Professional and Ethical Standards Board. This Standard includes mandatory requirements which must be complied with by members of the Institute of Chartered Accountants in Australia when they provide Forensic Accounting Services (including Expert Witness Services and Valuation Services). This Expert Witness Service was conducted in accordance with these Standards.
167. My instructions enclosed a copy of Order 44 of the Supreme Court (General Civil Procedure) Rule 2005 and the Expert Witness Code of Conduct contained in Form 44A to those rules. I have read Order 44 of the Supreme Court (General Civil Procedure) Rule 2005 and the Expert Witness Code of Conduct contained in Form 44A to those rules and agree to be bound by it.
168. I have made all the enquiries which I believe are desirable and appropriate and no matters of significance which I regard as relevant have to my knowledge been withheld.



MARTIN DOUGALL



## Contact us

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**SCHEDULE OF PARTIES**

<b>CAROL ANN MATTHEWS</b>	Plaintiff
- and -	
<b>SPI ELECTRICITY PTY LTD (ACN 064 651 118)</b>	First Defendant
<b>ACN 060 674 580 PTY LTD</b>	Second Defendant
<b>SECRETARY TO THE DEPARTMENT OF ENVIRONMENT AND PRIMARY INDUSTRIES (formerly Secretary to the Department of Sustainability and Environment)</b>	Third Defendant
<b>COUNTRY FIRE AUTHORITY</b>	Fourth Defendant
<b>STATE OF VICTORIA</b>	Fifth Defendant

- AND -

<b>SPI ELECTRICITY PTY LTD (ACN 064 651 118)</b>	Plaintiff by Counterclaim
- and -	
<b>ACN 060 674 580 PTY LTD</b>	First Defendant to Counterclaim
<b>SECRETARY TO THE DEPARTMENT OF ENVIRONMENT AND PRIMARY INDUSTRIES (formerly Secretary to the Department of Sustainability and Environment)</b>	Second Defendant to Counterclaim
<b>COUNTRY FIRE AUTHORITY</b>	Third Defendant to Counterclaim
<b>STATE OF VICTORIA</b>	Fourth Defendant to Counterclaim
<b>CAROL ANN MATTHEWS</b>	Fifth Defendant to Counterclaim

  
20/10/17

  
20/10/17