

Information Sheet
Regarding Proposed
Settlement

**MURRINDINDI
BUSHFIRE
CLASS ACTION**

Katherine Rowe (**the plaintiff**) has brought an action on her own behalf and on behalf of group members (**the group members**) in relation to the Murrindindi Bushfire (**the Murrindindi bushfire**) on 7 February 2009 (**the class action**).

The defendants to the class action are:

- (a) AusNet Electricity Services Pty Ltd (**AusNet Services**);
- (b) ACN 060 674 580 Pty Ltd (**UAM**); and
- (c) the Secretary to the Department of Environment, Land, Water, and Planning, the Country Fire Authority and the State of Victoria (collectively **the State Parties**).

There have been many allegations made in the class action, and many defences raised in response. You may inspect copies of the most recent versions of the Statement of Claim and defences in the class action

by following this link <http://www.mauriceblackburn.com.au/legal-services/general-law/class-actions/current-class-actions/bushfire-class-actions/murrindindimarysville-bushfire-class-action/>.

On 6 February 2015, the plaintiff and the defendants agreed upon terms for a settlement of the class action which include the defendants paying the sum of \$300,000,000 inclusive of legal costs (**Settlement Sum**) without admission of liability in settlement of the class action. The proposed settlement is described in more detail below.

If you are a group member in the class action the proposed settlement, if approved, will affect your rights. Please read the materials below carefully. If you have any queries regarding the proposed settlement you should contact Maurice Blackburn lawyers or seek your own independent legal advice.

Who are group members?

The group members in the class action are:

- (a) persons identified in the confidential exhibit known as the “List of Registered Personal Injury and Dependency Claimants” filed pursuant to court orders;
- (b) the estates or dependants of any person who died in or as a result of the Murrindindi Bushfire (including, without limitation, a death resulting from attempts to escape the Murrindindi Bushfire or other emergency action in response to the Murrindindi Bushfire);
- (c) all those persons who suffered loss of or damage to property as a result of the Murrindindi Bushfire (including, without limitation, loss or damage resulting from emergency action taken by any person in response to the Murrindindi Bushfire); and

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(d) all those persons who at the time of the Murrindindi Bushfire resided in, or had real or personal property in, the Murrindindi Bushfire area and who suffered economic loss, which loss was not consequent upon injury to that person or loss of or damage to his or her property.

What are the Class Closure Orders?

The Court ordered group members to register their claims by 6 June 2014 and permitted late registration of certain group members (**class closure orders**). The class closure orders applied to:

- (a) **personal injury and dependency claimants** – any group member wishing to make a claim in respect of personal injury as a result of the Murrindindi Bushfire, or pursuant to Part III of the *Wrongs Act 1958* (Vic) in relation to a person who died as a result of the fire. Previously identified personal injury and dependency claimants were automatically registered;
- (b) **ELPD claimants** – any group member wishing, in any settlement of property or economic loss claims in the proceeding, to claim compensation for property loss or damage or economic loss for which they were uninsured or not fully insured. Group members who were clients of the plaintiff's solicitors as at the registration date were automatically registered; and
- (c) **subrogated claimants** – any insurer wishing to claim compensation in respect of indemnity provided to a client of the insurer in respect of property loss or damage or economic loss caused by the Murrindindi Bushfire.

If you did not register your claim in compliance with the class closure orders you will not be eligible to participate in any distribution of the Settlement Sum (unless the Court otherwise orders). As part of the approval of the proposed settlement, the plaintiff seeks that persons who did not register in time under the class closure orders be able to request that they participate in the distribution of the Settlement Sum. These requests would need to be supported by a statutory declaration and would be considered by the Settlement Distribution Scheme Administrator (as defined below).

If you are a personal injury or dependency claimant who did not register a claim you may have a right to bring your own proceedings. Strict time limits apply and you should immediately seek legal advice. Maurice Blackburn lawyers cannot act for you in relation to that advice or any such proceedings.

If you are an ELPD or subrogated claimant and you did not register your claim in accordance with the class closure orders you will not be eligible to participate in any distribution of the Settlement Sum (unless the Court otherwise orders), and your rights to claim in relation to property damage or economic loss will be extinguished if the proposed settlement is approved.

If you are not sure whether you are registered or if you want further information, you can contact Maurice Blackburn Lawyers on **1800 182 645** or **murrindindica@mauriceblackburn.com.au**

Proposed settlement of the class action

The plaintiffs and the defendants have reached an agreement for the settlement of the class action. The proposed settlement will not take effect unless it is approved by the Court.

The defendants are contributing the following amounts to the proposed settlement:

AusNet Services	\$260,900,000
State Parties	\$29,100,000
UAM	\$10,000,000
Total	\$300,000,000

If the proposed settlement is approved then:

- (a) the plaintiff's costs and disbursements as assessed by an independent costs assessor and approved by the Court will be deducted from the Settlement Sum;
- (b) the balance of the settlement sum (**Distribution Sum**) will be distributed in accordance with a Settlement Distribution Scheme (**Scheme**), to be administered by the Settlement Distribution Scheme Administrator (**Scheme Administrator**).

Under the Scheme, persons who registered their claims under the class closure orders and who wish to claim compensation for the losses and damage they suffered as a result of the Murrindindi Bushfire will participate in a process of "claims assessment." Those persons will submit proofs of their losses to the plaintiff's solicitors, Maurice Blackburn. Independent assessors will assess those proofs, subject to certain "assessment principles" set out in the Scheme.

How many claims will be assessed?

There are approximately 1,100 claims to be assessed.

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How much will group members receive and when?

It will only be possible to calculate each group member's entitlements once the claims of all group members are properly assessed. The plaintiff's solicitors estimate that it may be 12 to 18 months after Court approval before all claims are assessed.

The plaintiff's solicitors anticipate that:

- (a) personal injury and dependency claimants may receive about 70% of their assessed losses (after deduction of the plaintiff's costs and disbursements); and
- (b) ELPD and subrogated claimants may receive about 60% of their assessed losses (after deduction of the plaintiff's costs and disbursements).

Please note that these assessments are necessarily only indicative.

Will I have to pay back my property insurer or Victorian Bushfire Relief Fund (VBRF) grants?

If the proposed settlement is approved and you have claimed for uninsured or underinsured property losses your distribution will be in addition to any insurance receipt or VBRF grants and you will not have to pay back any receipt or grant. Under the Scheme, insurers will receive distributions completely separately to group members claiming uninsured and underinsured losses.

How much are Maurice Blackburn's fees?

Maurice Blackburn will only receive whatever fees are assessed by independent costs assessors as reasonable, approved by the Court.

Maurice Blackburn does not receive fees based on a percentage of the settlement amount. Fees are calculated based on what the cost

assessors consider reasonable in light of the work performed. Maurice Blackburn's present estimate is that those fees will be in an amount equivalent to approximately 4% of the overall settlement sum (approximately \$12m) and expenses on barristers, experts and other expenses will constitute less than a further 2% (approximately \$5m). These figures must be verified by independent costs assessors and approved by the Court. These estimates may change for various reasons, including because further work performed in respect of the application for approval of the settlement. The estimates of returns to group members set out above have been calculated after deducting Maurice Blackburn's estimated costs and expenses.

Will there be other deductions from the Settlement Sum?

If the proposed settlement is approved the Scheme Administrator will be entitled to deduct certain other amounts from the Distribution Sum prior to distributions to group members. It is anticipated that the total of these amounts will be less than the interest earned on the Distribution Sum. Deductions permitted under the Settlement Scheme would include:

- Administration Costs associated with assessing claims (as approved by the Court);
- Reimbursement payments to the representative plaintiffs who spent a significant amount of time bringing the proceeding for the benefit of group members;
- Amounts repayable to Medicare, the Commonwealth Rehabilitation Service and Centrelink under the provisions of various statutes; and
- Certain other amounts pursuant to indemnities offered by the plaintiff or Maurice Blackburn under the

deed of settlement which may not be payable at all and if payable are in the opinion of Maurice Blackburn unlikely to materially affect the level of distribution to claimants.

Can I obtain a copy of the Settlement Distribution Scheme?

The Scheme is available on request from Maurice Blackburn.

What must group members do?

The plaintiff has applied to the Court for approval of the proposed settlement, so that it can take legal effect. The application will be heard in Court 6 at the Supreme Court of Victoria at 223 William Street, Melbourne on 13 and 14 May 2015.

If you are a group member and you do *not* wish to oppose the settlement then there is nothing you need to do at the present time. If the settlement is approved, you will be contacted by the plaintiff's solicitors about the steps you will need to take.

If you are a group member and you wish to *object* to the settlement, you must notify the Court of your intention and the basis of your objection. The notice of objection is attached to the Information Sheet (Attachment 1). You must file the notice by 4.00 pm on 1 May 2015 and you should attend the settlement approval hearing on 13 and 14 May 2015 to put your reasons for objecting to the Court. You should also be ready at that hearing to tell the Court whether you are willing to replace Katherine Rowe as the plaintiff in the class action if the settlement is not approved. If you are unable to attend the hearing you must set out the reasons for your objection in as much detail as possible when completing the notice of objection. Your written objection will be considered by the Court.

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Attachment 1

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

No. SCI 4538 of 2012

BETWEEN

KATHERINE ROWE

Plaintiff

And

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

& ORS

Defendants

NOTICE OF OBJECTION TO PROPOSED SETTLEMENT

THIS NOTICE IS TO BE COMPLETED ONLY BY THOSE GROUP MEMBERS WHO HAVE NOT OPTED OUT OF THE PROCEEDING.

TO: Kevin Reddy, Class Actions Registrar

Supreme Court Registry

Level 2, 436 Lonsdale St

Melbourne VIC 3000

murrindindifire@justice.vic.gov.au

Name of Group Member:

Address:

Email address:

If you are legally represented please fill out the following:

Lawyer who is representing you:

Name of Law Firm:

Address:

Email Address:

I am a Group Member in these proceedings and I object to the proposed settlement of these proceedings on the terms proposed [and/or object to the proposed Settlement Distribution Scheme] because;

Please indicate whether you intend to give or lead evidence in support of your objection

- I intend to give or lead evidence in support of my objection
- I do not intend to give or lead evidence in support of my objection

Date:

Signature:

Name of person signing notice:

Position in Company:

(if on behalf of a company)