

ANNEXURE B

NOTICE OF PROPOSED SETTLEMENT

“MICKLEHAM CLASS ACTION”

You are registered as a group member of the Mickleham bushfire class action in the Supreme Court of Victoria (**class action**).

The Supreme Court has ordered that this notice be provided to you to inform you about a proposed settlement of the class action.

You should read this notice carefully as the matters set out below may affect your legal rights.

The Class Action

Steven Elliot Williams (**plaintiff**) commenced the class action on his own behalf and on behalf of all those who suffered loss as a result of the bushfire which started near the eastern edge of Mickleham Road between Mt Ridley Road and Bardwell Drive, Mickleham, on 9 February 2014 (**Mickleham bushfire**).

Group Members

The group members in the class action are all those who suffered personal injury, damage to or loss of property or economic loss in the Mickleham bushfire.

On 8 April 2015, the Court ordered that:

- (a) group members; and
- (b) any insurer who had made payments to group members for losses suffered in the Mickleham bushfire;

who wished to participate in any settlement of the class action, register their claims with the plaintiff's solicitors, Maddens Lawyers, by 22 May 2015. Additional group members and insurers were registered by orders of the Court made on 5 May 2016 and 31 March 2017.

As a result, in addition to the plaintiff, 336 group members (**Registered Group Members**) have registered claims with Maddens Lawyers, including claims which were registered by group member's insurers (**Registered Insurers**).

The Defendants

The defendants to the class action are:

- (a) AusNet Electricity Services Pty Ltd (**AusNet Services**);
- (b) Hume City Council (**Hume**);
- (c) Active Tree Services Pty Ltd (ACN 002 919 299) (**Active**); and



(d) Homewood Consulting Pty Ltd (ACN 113 595 430) (**Homewood**).

The Allegations

The plaintiff makes a number of allegations in the class action to which the defendants raise a number of responses. In summary, the plaintiff alleges and the defendants dispute that:

- (a) the Mickleham bushfire started because a large stem of a sugar gum tree failed and fell onto powerlines owned and operated by AusNet Services;
- (b) in the years prior to the fire, each of the defendants had responsibilities in relation to inspection of the trees on Mickleham Road for the purpose of identifying vegetation that was a hazard and at risk of contacting the powerlines;
- (c) AusNet Services and Active negligently failed to detect that the tree was a hazard to the powerlines;
- (d) Hume failed to carry out works on the tree recommended by Homewood in 2007;
- (e) Homewood failed to carry out inspections and assessments of the tree with reasonable care in the years prior to the Mickleham bushfire;
- (f) the defendants' negligence caused the bushfire because, had the defendants exercised reasonable care, they would have identified that the tree was a hazard to the powerlines and it would have been cut back or removed to make sure that it could not contact the powerlines.

The full allegations and responses of the parties are set out in the statement of claim and defences which may be accessed at the website <http://maddenslawyers.com.au/class-actions/2014-mickleham-bushfire/>.

Proposed Settlement

The parties have agreed to a settlement of the class action, under which the defendants have agreed to pay **\$16,000,000** (\$16 million) without admission of liability.

AusNet Services and Homewood have each agreed to pay \$5,000,000 (\$5 million) and Hume has agreed to pay \$6,000,000 (\$6 million). Active has agreed to bear its own costs of the proceeding.

The settlement cannot take effect without Court approval. The plaintiff has asked the Court to approve the settlement and to approve:

- (a) the payment of the plaintiff's legal costs from the settlement sum; and
- (b) a scheme for the distribution of the balance of the settlement sum to Registered Group Members and Registered Insurers (**Settlement Distribution Scheme**).

You may request a copy of the proposed Settlement Distribution Scheme from Maddens Lawyers on a confidential basis.



The Court will consider whether or not to approve the settlement, the plaintiff's legal costs and the Settlement Distribution Scheme on 4 July 2017.

If the settlement is approved, only Registered Group Members and Registered Insurers will be entitled to participate in the settlement and receive compensation.

If the settlement is approved, you will be entitled to participate in the settlement in accordance with the Settlement Distribution Scheme. You will also be bound by the settlement and you will not be able to bring any case against any of the defendants or any other person for any loss suffered as a result of the Mickleham bushfire.

Legal Costs

If the settlement is approved, the plaintiff's legal costs payable to Maddens Lawyers, including the costs of administering the Settlement Distribution Scheme, will be paid from the settlement sum.

The plaintiff's costs will be assessed by an independent costs assessor and the assessment will be provided to the Court. Only costs approved by the Court will be payable.

How Much are the Legal Costs?

Until the costs are assessed and approved by the Court, it is not possible to tell you precisely how much the plaintiff's costs will be. As a preliminary indication only, Maddens Lawyers estimates that the total costs will not exceed \$9,000,000 (\$9 million).

What Costs will You be Liable for?

If the settlement and the plaintiff's costs are approved by the Court, the plaintiff's costs incurred for the benefit of all of the Registered Group Members including Registered Insurers will be paid out of the overall settlement sum received from the defendants. You will not have any additional liability for those costs.

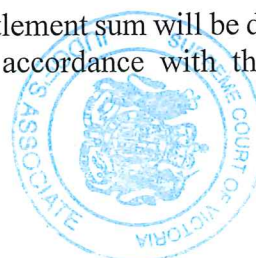
If you wish, you may separately engage lawyers to represent you in the settlement approval and assessment process. Should you choose to do so, you will need to make separate arrangements with those lawyers for the payment of their fees. They will not be deductible from the settlement sum.

Plaintiff's Reimbursement Payment

If the settlement is approved, the plaintiff will receive \$25,000 from the settlement sum. This payment is intended to compensate him for the personal burden of being the lead plaintiff, a role which has benefitted the group members as a whole. It is in addition to any amount he may be entitled to by way of compensation for loss suffered in the Mickleham bushfire.

Distribution of the Balance of the Settlement Sum

If the settlement is approved, the balance of the settlement sum will be distributed to Registered Group Members and to Registered Insurers in accordance with the approved Settlement Distribution Scheme.



You may request a copy of the proposed Settlement Distribution Scheme from Maddens Lawyers on a confidential basis.

Under the proposed Settlement Distribution Scheme, the assessed loss of the plaintiff and each Registered Group Member, including those insured by Registered Insurers, will be determined by the Administrator of the Settlement Distribution Scheme. The determination of the assessed loss will be based on the information which Maddens Lawyers has received and obtained in relation to each Registered Group Member's loss and damage. That information includes information provided by Registered Group Members and their insurers and assessments conducted by independent loss assessing firms engaged to assess property loss and damage of a sample of Registered Group Members.

Under the proposed Settlement Distribution Scheme, all Registered Group Members will receive an equal proportion of their assessed loss and all Registered Insurers will receive a refund of the same proportion of the insurance payments which they made to Registered Group Members in respect of the assessed loss.

Registered Group Members and Registered Insurers should note that their assessed losses will, in many instances, be significantly less than the estimates provided by Registered Group Members to Maddens Lawyers.

Personal injury claims will be assessed by an experienced personal injury barrister from the Victorian Bar.

What You Must Do

There are only two (2) options which you must consider.

Option A *If you support the settlement* then you do not need to do anything. If the settlement is approved, you will be entitled to receive your share of the settlement sum in accordance with the Settlement Distribution Scheme.

Option B *If you oppose the settlement and wish to object* then you must complete the "Notice of Objection to Proposed Settlement" which is Annexure A to this Notice. You must return the Notice to Maddens Lawyer before **4pm on 19 May 2017**, and be ready to come to Court to argue your objection. You may need to advise the Court whether you are willing to replace Mr Williams as the lead plaintiff to continue the class action.

Please note: even if you take this Option B and object to the proposed settlement and the Court nonetheless approves the settlement, you will still be entitled to receive your share of the settlement sum in accordance with the Scheme.

If you are not sure what to do, you should contact Maddens Lawyers or seek independent legal advice. You must act quickly because the deadline for objections is **4pm on 19 May 2017**.

When will your Objection be Considered

The Court has ordered that any objections to the proposed settlement (from group members who take Option B above) will be heard by the Court at the Supreme Court, Melbourne, Victoria on **4 July 2017**.



If there are no objections, or the objections are overruled, then the proposed settlement will be given final approval by the Court. It will then take effect. When it takes effect, Registered Group Members and Insurers will have their claims assessed in accordance with the Settlement Distribution Scheme to determine their compensation entitlements.

Addresses for questions

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

Contact details for Maddens Lawyers

Mickleham Bushfire Class Action
Maddens Lawyers
219 Koroit Street
Warrnambool VIC 3280
Telephone: (03) 5560 2000
Email: cam@maddenslawyers.com.au

Contact details for the Supreme Court of Victoria

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

Att:
Class Actions Co-ordinator – Common Law
Supreme Court
Ground Floor, 436 Lonsdale Street, Melbourne 3000
Telephone: 03 9603 9300
Email: cldclassactions@supremecourt.vic.gov.au



Annexure A

Williams v AusNet Electricity Services & Anor SCI 2014 / 05162

Mickleham Class Action

NOTICE OF OBJECTION TO PROPOSED SETTLEMENT

The person identified below:

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

The group member's contact details are as follows:

Name:

Telephone number:

Postal address:

Email address:

Medicare No:

Signed:

(If not the named group member, please
state the relationship to group member:

The group member is a registered group member: Yes / No (circle one)

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

Notes for Objectors: Order 11 of the Court's Orders made on 31 March 2017 require that Objectors deliver to Maddens Lawyers, by **4.00 pm on 19 May 2017**, any written submissions (not exceeding 2 pages in length) and any affidavit evidence the Objector wishes to rely on in support of their objection to the proposed settlement.

