

'CUDLEE CREEK BUSHFIRE' DECEMBER 2019

NOTICE OF A CLASS ACTION

This notice contains important information about the Cudlee Creek Fire Class Action. You should read this notice carefully as it may affect your rights.

On 10 March 2021, Mr Kristen Thrower ("the **Applicant**") commenced a representative proceeding or "class action" in the Supreme Court of South Australia against SA Power Networks and Mr Michael and Ms Marianne Georgiou ("the **Respondents**"). This class action arises out of a fire that commenced near Hollands Creek Road, Cudlee Creek on 20 December 2019 (**Cudlee Creek Fire**) and is brought by the Applicant on his own behalf and on behalf of persons who suffered personal injury or loss of or damage to property as a result of the Cudlee Creek Fire.

The Supreme Court has ordered that this notice be published. Any questions you have concerning the matters contained in this notice should not be directed to the Court. If there is anything in it that you do not understand, you should seek legal advice.

What is a Class Action?

A class action, is a proceeding brought by the Applicant on his own behalf and on behalf of represented parties against the Respondent(s), where the Applicant and the represented parties have similar claims against the Respondent.

Represented parties are bound by any judgment or settlement entered into in the class action unless they choose not to participate by "opting out" of the proceeding. This means that:

- (a) if the class action is successful or settles, represented parties may be eligible for a share of any settlement monies or Court-awarded damages;
- (b) if the class action is unsuccessful, represented parties are bound by that result; and
- (c) regardless of the outcome of the class action, represented parties will not be able to pursue their claims against the Respondents in separate legal proceedings unless they have opted out.

What is the Cudlee Creek Fire Class Action?

The Applicant alleges that the Cudlee Creek Fire started as a result of a pine tree located on Mr and Mrs Georgiou's land which failed and fell across high voltage electrical assets operated by SA Power Networks. The Applicant further alleges that the Respondents breached their duty of care owed to represented parties. The Respondents deny liability and are defending the class action.

Are you eligible to participate in the class action?

This class action is brought by the Applicant on his behalf, and as a representative party on behalf of all persons who suffered any of the following:

- (a) personal injury (whether physical or psychiatric); or
- (b) loss of or damage to property, including consequential and/or economic losses;

as a result of the Cudlee Creek Fire. If you fit this description, then you are a member of the group on whose behalf the class action is brought and you are defined as a "**represented party**".

The group also includes any legal personal representatives of the estates of any deceased person who would otherwise have qualified as a represented party under (a) or (b) above.

What if your insurer has contacted you about the class action?

Many group members had insurance and received insurance payments arising out of the Cudlee Creek Fire.

Your insurer may wish to participate in the class action to seek recovery of compensation from the Respondents for the insurance payout made to you.

Alternatively, you may have been contacted by your insurer, insurance broker or insurer's lawyers regarding your participation in the class action and the rights and obligations you may have under the terms of your policy of insurance. Your insurer may also make various assertions about its contractual rights to conduct recovery proceedings on your behalf.

Consenting to your insurer taking steps on your behalf and/or opting out of the class action because your insurer requests that you do so could have a considerable impact on the recovery of your uninsured losses.

If you have been contacted by or on behalf of your insurer about your participation in the class action you can contact Maddens Lawyers on 1800 815 228 or alternatively you may wish to seek independent legal advice.

It is important to note: -

- (a) any obligations you may owe to your insurer may depend on the terms and conditions of your individual policy of insurance;
- (b) the terms and conditions of each policy of insurance will vary;
- (c) a policy of insurance will not necessarily provide an insurer with a contractual right to pursue recovery proceedings on behalf of insureds, particularly in respect of uninsured losses and/or where an insured is participating in a representative proceeding; and
- (d) the interpretation of the terms and conditions of a policy of insurance is a legal issue.

What is Opt Out?

The Applicant in a class action does not need to seek the consent of represented parties to commence a class action on their behalf. However, represented parties can cease participating in the class action by “opting out”. If you are a represented party in the Cudlee Creek Fire Class Action but you do not want to continue to be a represented party, you can opt out now.

What Should You Do?

If you fit the definition of a “represented party” in the class action the following three options are available to you: -

Option 1: Register

If you wish to remain a represented party and make a claim for loss or damage you have suffered a result of the Cudlee Creek Fire, you should contact Maddens Lawyers to tell them what your loss and damage is, as follows:

Postal: Kathryn Emeny
Maddens Lawyers
PO Box 320
Warrnambool VIC 3280

Email: kae@maddenslawyers.com.au

Represented parties who register with Maddens will be bound by the outcome of the class action. If the class action is successful, you will be entitled to share in the benefit of any order, judgment or settlement in favour of the Applicant and represented parties. You may have to satisfy certain conditions and establish elements of your claim that are relevant specifically to you before your entitlement arises.

If the Cudlee Creek Fire Class Action is unsuccessful or is not as successful as you might have wished, you will not be able to sue on the same claim in any other proceeding.

If you wish to remain a represented party, even if you do not wish to retain Maddens Lawyers to act for you as a client, you may wish to contact Maddens to “**register**” as a represented party to ensure that future notices about the class action can be sent to you directly.

Option 2: Do Nothing

If you do nothing, you will remain a represented party and remain bound by any order, judgment or settlement in the Cudlee Creek Fire Class Action. The Applicant will continue to bring the proceeding on your behalf up to the point where the Court determines the questions that are common to the claims of the Applicant and the represented parties.

However, unless you identify yourself as a “represented party” no one may be aware that you are a represented party and you may not be able to share in any benefit flowing from the class action. You may also have to satisfy certain conditions before your entitlement to a share in any benefit arises.

Option 3: Opt Out

If you do not wish to be a represented party, you should opt out of the class action by completing the “Opt Out Notice” below. If you opt out then you will cease to be a represented party and will not be affected by any orders made in the class action.

If you wish to bring your own claim against the Respondents, you should seek your own legal advice about your claim before opting out.

You must decide what to do BEFORE 10 September 2021. If you want to opt out you must send your “Opt Out Notice” to Maddens Lawyers and the Supreme Court so that it arrives **before** that deadline.

It is very important that you act promptly in deciding what you want to do. If you are not sure whether you are a represented party, or you want further information or advice, you can contact Maddens Lawyers on **1800 815 228** or email kae@maddenslawyers.com.au. Please **do not** contact the Court.

Will you be liable for costs?

Represented parties will **not become liable** for any legal costs simply by participating in the class action.

However, if the class action is successful and there is a judgment or settlement that results in compensation becoming payable to represented parties, then:

- (a) If the preparation or finalisation of your personal claim requires work to be done in relation to issues that are specific to your claim, you can engage Maddens Lawyers or other solicitors to do that work for you. You may be liable for costs associated with the determination of issues concerned only with your claim;
- (b) If any compensation becomes payable to you as a result of any order, judgment or settlement in the class action, the Court may make an order that some of that compensation be used to help pay a share of the costs which are incurred by the Applicant in running the class action but which are not able to be recovered from the Respondents. Mr Thrower will ask the Court to make such an Order if the occasion arises; and
- (c) Class actions are often settled out of Court. If this occurs in this representative proceeding, you may be able to claim from the settlement amount without retaining a lawyer.

Where can you obtain further information?

Please consider the above matters carefully. If you are not sure whether you are eligible to participate in the class action or want further information, you can contact Maddens Lawyers on **1800 815 228** or seek your own legal advice.

Copies of relevant documents including the Statement of Claim and Defence may also be obtained by inspecting them by visiting the Registry of the Supreme Court at Lower Ground Floor, Sir Samuel Way Building, 241—259 Victoria Square, Adelaide, South Australia

You should not delay in making your decision, as the deadline for opting out is **10 September 2021**.

Notice of Opting Out

Case number: CIV-21-002144

SUPREME COURT OF SOUTH AUSTRALIA
CIVIL JURISDICTION

KRISTEN TROY THROWER

Applicant

SA POWER NETWORKS

First Respondent

MICHAEL GEORGIU

Second Respondent

MARIANNE GEORGIU

Third Respondent

NOTICE OF OPTING OUT

To: Maddens Lawyers
PO Box 320
Warrnambool VIC 3280

And to: The Prothonotary
Supreme Court of South Australia - Registry
Lower Ground Floor, Sir Samuel Way Building,
241—259 Victoria Square
Adelaide SA 5000

Name of Represented Party:

Address of Represented Party:

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The abovenamed Represented Party gives notice that the Represented Party is **opting out** of this proceeding.

Dated: 2021

Signed:

Name of person signing (print)

Telephone

Email

Postal address

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