



Australian Government
The Treasury



Australian Government
Attorney-General's Department

21 October 2021

Mr Jason Lange
Executive Director
Office of Best Practice Regulation
Department of the Prime Minister and Cabinet
1 National Circuit
BARTON ACT 2600
Email: helpdesk-OBPR@pmc.gov.au

Dear Mr Lange

CERTIFICATION OF INDEPENDENT REVIEWS: AUSTRALIAN LAW REFORM COMMISSION AND PARLIAMENTARY JOINT COMMITTEE ON CORPORATIONS AND FINANCIAL SERVICES INQUIRIES INTO LITIGATION FUNDING AND CLASS ACTIONS

We are writing to certify that, with regards to amendments to the corporations laws to ensure a fair and reasonable return of class action proceeds to class members, the enclosed reports undertook a process and analysis equivalent to a Regulation Impact Statement (RIS):

- Australian Law Reform Commission (ALRC), *Integrity, Fairness and Efficiency – An Inquiry into Class Action Proceedings and Third-Party Litigation Funders: Final Report*, tabled 24 January 2019
- Parliamentary Joint Committee on Corporations and Financial Services (PJC), *Litigation funding and the regulation of the class action industry*, tabled 21 December 2020.

We certify that these documents, together with the supporting analysis attached with this letter, adequately address all seven RIS questions, and are submitted to the Office of Best Practice Regulation for the purposes of a final policy decision.

We attach a list of the elements in the policy proposal, alongside the sections and recommendations of the PJC and ALRC reports providing support for those elements at **Attachment A**. This list also sets out the elements for which supplementary analysis is necessary and has been provided at **Attachment B**. We are satisfied that with the addition of Attachment B, the scope of the certified documents matches the policy proposal.

Where fewer than three policy options are examined, Treasury and the Attorney-General's Department have assessed that this is feasible in light of the well established policy problems and the extensive review processes which informed this policy proposal.

Regulatory analysis for the proposal was undertaken jointly by Treasury and the Attorney-General's Department. To assist stakeholders, Attachment A to this letter also identifies the Department leading regulatory analysis, policy development and oversight in respect of each listed element of the proposal.

The regulatory burden to business, community organisations or individuals of the policy proposal is quantified using the Australian Government's *Regulatory Burden Measurement* framework and is provided below.

We note that the implementation of this policy proposal will increase regulatory burden. Treasury is reviewing whether there are regulatory burden reductions elsewhere in the Mid-Year Economic and Fiscal Outlook process to identify offset measures. Treasury is also seeking to pursue net reductions in compliance costs and will work with affected stakeholders and across Government to identify regulatory burden reductions where appropriate.

Regulatory burden estimate table				
Average annual regulatory costs (from business as usual)				
Change in costs	Business	Community organisations	Individuals	Total change in costs
Total, by sector	\$68,000 to \$95,000	Nil	Nil	\$68,000 to \$95,000

Accordingly, we are satisfied that the attached reports, together with the supplementary analysis, are consistent with the *Australian Government Guide to Regulatory Impact Analysis*.

Yours sincerely



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