WORKERS COMPENSATION COMMISSION

STATEMENT OF REASONS FOR DECISION OF THE APPEAL PANEL IN RELATION TO A MEDICAL DISPUTE

Matter Number:	**M1-2091/19**
Appellant:	**Medusa1 Pty Ltd t/as ACG National Pty Ltd**
Respondent:	**Pieter Homburg**
Date of Decision:	**5 December 2019**
Citation:	**[2019] NSWWCCMA 181**

Appeal Panel:	
Arbitrator:	**Ms Carolyn Rimmer**
Approved Medical Specialist:	**Dr Margaret Gibson**
Approved Medical Specialist:	**Dr John Ashwell**

BACKGROUND TO THE APPLICATION TO APPEAL

1. On 9 October 2019 Medusa1 Pty Ltd t/as ACG National Pty Ltd (the appellant) lodged an Application to Appeal Against the Decision of Approved Medical Specialist. The medical dispute was assessed by Dr Tommasino Mastroianni, an Approved Medical Specialist (AMS), who issued a Medical Assessment Certificate (MAC) on 11 September 2019.

2. The appellant relies on the following grounds of appeal under s 327(3) of the *Workplace Injury Management and Workers Compensation Act 1998* (1998 Act):

   - the assessment was made on the basis of incorrect criteria,
   - the MAC contains a demonstrable error.

3. The Registrar is satisfied that, on the face of the application, at least one ground of appeal has been made out. The Appeal Panel has conducted a review of the original medical assessment but limited to the ground(s) of appeal on which the appeal is made.

4. The Workers compensation medical dispute assessment guidelines set out the practice and procedure in relation to the medical appeal process under s 328 of the 1998 Act. An Appeal Panel determines its own procedures in accordance with the Workers compensation medical dispute assessment guidelines.

5. The assessment of permanent impairment is conducted in accordance with the *NSW Workers Compensation Guidelines for the Evaluation of Permanent Impairment, 4th* ed 1 April 2016 (the Guidelines) and the *American Medical Association Guides to the Evaluation of Permanent Impairment,* 5th ed (AMA 5).

RELEVANT FACTUAL BACKGROUND

6. In these proceedings, Mr Homburg is claiming lump sum compensation in respect of an injury to the right upper extremity (shoulder) which he sustained when he tripped and fell on 30 July 2014 in the course of his employment as a security officer. Mr Homburg alleged that he suffered consequential conditions in the cervical spine and left upper extremity (shoulder) as a result of the injury to the right shoulder on 30 July 2014.

7. In a Certificate of Determination dated 25 July 2019, Arbitrator Wynyard remitted the matter to the Registrar to refer to an AMS for assessment of whole person impairment (WPI) of the right upper extremity (shoulder), left upper extremity (shoulder) and cervical spine as a result of the injury on 30 July 2014.

8. The matter was referred to the AMS, Dr Mastroianni, in the Referral for Assessment of Permanent Impairment to Approved Medical Specialist dated 26 July 2019 for assessment of WPI of the right upper extremity (shoulder), left upper extremity (shoulder), and cervical spine as a result of the injury on 30 July 2014.

9. The AMS examined Mr Homburg on 5 September 2019. He assessed 7% WPI of the cervical spine and made a deduction of one tenth pursuant to s 323 of the 1998 Act, which resulted in an assessment of 6% WPI for the cervical spine. The AMS assessed 9% WPI of the right upper extremity and made no deduction under s323 for that body part. The AMS assessed 2% for the left upper extremity and made a deduction of one tenth pursuant to s 323, which resulted in an assessment of 2% WPI for the left upper extremity. These assessments combined to produce a total assessment of 16% WPI as a result of the injury on 30 July 2014.

PRELIMINARY REVIEW

10. The Appeal Panel conducted a preliminary review of the original medical assessment in the absence of the parties and in accordance with the Workers compensation medical dispute assessment guidelines.

11. The appellant did not request that Mr Homburg be re-examined by an AMS, who is a member of the Appeal Panel.

12. As a result of that preliminary review, the Appeal Panel determined that it was not necessary for the worker to undergo a further medical examination because there was sufficient evidence on which to make a determination.

EVIDENCE

Documentary evidence

13. The Appeal Panel has before it all the documents that were sent to the AMS for the original medical assessment and has taken them into account in making this determination.

Medical Assessment Certificate

14. The parts of the medical certificate given by the AMS that are relevant to the appeal are set out, where relevant, in the body of this decision.

SUBMISSIONS

15. Both parties made written submissions. They are not repeated in full but have been considered by the Appeal Panel.

16. The appellant’s submissions include the following:

    (a) The AMS made a demonstrable error in the MAC, as his recorded history that there was no pre-existing right shoulder condition is inconsistent with the available medical evidence.

(b) As a result of the demonstrable error, the AMS based his assessment on incorrect criteria by not applying a deductible portion in accordance with section 323(1) of the 1998 Act and the decision in *Cole v Wenaline Pty Ltd* [2010] NSWSC 78 (*Cole*).

(c) At Part 4 of the MAC, the AMS recorded that Mr Homburg did not have any pre-existing problems with his right shoulder prior to the work injury. The AMS also concluded at Part 10 of the MAC that he was “Being guided by the history of no previous injuries or problems with the right shoulder…”

(d) The medical evidence provided to the AMS clearly supported a history that Mr Homburg suffered from a pre-existing right shoulder condition:

(i) The MRI report of the right shoulder, dated 27 August 2014, reported the following:
A full thickness tear of the anterior bundle of the supraspinatus tendon with tendon retraction and bunching of the retracted tendon medial to the acromion process.
Dr Assem, in his report dated 2 December 2015, stated that the apparent tendon retraction was radiological evidence of a pre-existing rotator cuff pathology.

(ii) In the report dated 5 September 208 Dr Assem confirmed his previous opinion.

(iii) Dr Breit, in his report dated 13 November 2018 noted that there was a pre-existing right shoulder condition, as referenced in a right shoulder MR Arthorgram dated 17 November 2017. This radiological report confirmed the existence of an irreparable rotator cuff tear prior to the work injury.

(e) The AMS used incorrect criteria for his assessment based on the following:

(i) The demonstrable error resulted in the AMS attributing the whole of the permanent impairment for the right shoulder to the work injury;
(ii) As such, section 323(1) of the 1998 Act and the decision in was disregarded and not applied.

(f) The decision in *Cole* held that if a pre-existing condition is a contributing factor causing permanent impairment, a deduction is required even though the pre-existing condition had been asymptomatic prior to the injury.

(g) A 50% deduction for the pre-existing right shoulder condition is appropriate, based on the assessment of Dr Breit. This is supported by Dr Breit’s opinion that the original pathology in the right shoulder is overwhelmingly long-standing and that the condition was irreparable at the time of presentation.

(h) The MAC should be revoked and a new MAC issued with a correct history recorded of Mr Homburg’s pre-existing right shoulder condition and a deduction of 50% applied to the right shoulder.

(i) In the alternative to the above, a revised assessment should be undertaken by another AMS or the Medical Appeal Panel, which applies the above submissions.

17. Mr Homburg’s submissions include the following:

(a) The appeal is limited to the finding by the AMS that there was no relevant pre-existing condition in the right shoulder such that the AMS did not make any deduction in respect of that body part.

(b) The AMS explained his reasoning at part 10. He says "being guided by the history of no previous injuries or problems with the right shoulder, I attribute the impairment to the injury and accepting that there was pre-existing degenerative disease in the shoulder. I therefore concluded that there is no deduction applicable for the right shoulder."

(c) There is no error in the reasoning of the AMS. He had identified that there was some pre-existing degenerative disease in the shoulder however he was satisfied that all of the impairment was attributable to the injury. This is consistent with the fact that Mr Homburg had not had any previous problems with the right shoulder.

(d) The Appellant seeks to argue that the medical evidence provided to the AMS supported the history that Mr Homburg suffered from a pre-existing right shoulder condition. Reference was made to an MRI of the right shoulder dated 27 August 2014 (28 days after the injury) and to Dr Assem who, in his report dated 2 December 2015, stated that the apparent tendon retraction was radiological evidence of a pre-existing rotator cuff pathology.

(e) This history does not contradict the conclusion of the AMS. The AMS accepted that there was pre-existing degenerative disease in the shoulder but he did not think that it contributed to the current impairment. This was consistent with the opinion of Dr Assem, who said in his report of 5 September 2018, that "although the tendon retraction would indicate an old injury the joint effusion and thickening of the subacromial/subdeltoid bursa would indicate a recent aggravation of a previous asymptomatic degenerative rotator cuff pathology. He denied any previous injuries to his right shoulder."

(f) The history taken by Dr Assem confirmed that the shoulder was asymptomatic prior to the work injury. The current impairment was based on loss of range of movement and there was no evidence that the pre-existing degenerative condition was contributing to any loss of range of movement in the right shoulder.

(g) The arthrogram of 17 November 2017 showed was that there had been a failure of the attempted repair of the right rotator cuff. That attempted repair had been carried out as a consequence of the work injury. Whilst Dr Breit was of the view that Mr Homburg had a pre-existing tear of the rotator cuff, that view was not based upon the arthrogram of 17 November 2017. The arthroscopic repair referred to by Dr Breit had been carried out on 27 November 2014. Dr Breit said his opinion was based upon the initial investigations yet the only investigation of the right shoulder seen by Dr Breit was the arthrogram of 17 November 2017 which was performed more than three years after the injury and after the attempted arthroscopic repair.

(h) The important point in *Cole* was that it was not sufficient merely to identify a pre-existing condition abnormality or previous injury. It was necessary to show how the pre-existing condition etc contributed to impairment that now existed.

(i) In any event the AMS expressly considered whether the pre-existing degenerative condition contributed to the current impairment. He found that it did not. The appellant did not explain why it is that the AMS had to conclude that the pre-existing condition contributed to the impairment.

(j) If, despite the above, it is concluded that there should have been a deduction, then it should only be one tenth. It is clear from the history that prior to the work injury, Mr Homburg had no limitations in his right shoulder. The injury has caused a significant aggravation to the right shoulder which has resulted in the necessity for two surgical procedures to the shoulder. He is now left with a limitation of movement which did not previously exist and which is attributable to the work injury. In those circumstances, a deduction of one tenth is consistent with the medical evidence.

(k) In making a 50% deduction, Dr Breit did not explain how the pre-existing condition contributed to that much of the impairment. No complaint was made about the one tenth deduction in respect of the left shoulder yet in the case of the left shoulder, there was a clear history of pre-existing disability including the fact that surgery had been carried out on the left shoulder. Logically, the deduction in the right shoulder should be less than the deduction in the left shoulder.

(l) The appeal should be dismissed.

FINDINGS AND REASONS

18. The procedures on appeal are contained in s 328 of the 1998 Act. The appeal is to be by way of review of the original medical assessment but the review is limited to the grounds of appeal on which the appeal is made.

19. In *Campbelltown City Council v Vegan* [2006] NSWCA 284 the Court of Appeal held that the Appeal Panel is obliged to give reasons. Where there are disputes of fact it may be necessary to refer to evidence or other material on which findings are based, but the extent to which this is necessary will vary from case to case. Where more than one conclusion is open, it will be necessary to explain why one conclusion is preferred. On the other hand, the reasons need not be extensive or provide a detailed explanation of the criteria applied by the medical professionals in reaching a professional judgement.

20. The role of the Medical Appeal Panel was considered by the Court of Appeal in the case of *Siddik v WorkCover Authority of NSW* [2008] NSWCA 116 (*Siddik*). The Court held that while prima facie the Appeal Panel is confined to the grounds the Registrar has let through the gateway, it can consider other grounds capable of coming within one or other of the section 327(3) heads, if it gives the parties an opportunity to be heard. An appeal by way of review may, depending upon the circumstances, involve either a hearing de novo or a rehearing. Such a flexible model assists the objectives of the legislation.

21. Section 327(2) was amended with the effect that while the appeal was to be by way of review, all appeals as at 1 February 2011 were limited to the ground(s) upon which the appeal was made. In *New South Wales Police Force v Registrar of the Workers Compensation Commission of New South Wales* [2013] SC 1792 Davies J considered that the form of the words used in s 328(2) of the 1998 Act being, 'the grounds of appeal on which the appeal is made' was intended to mean that the appeal is confined to those particular demonstrable errors identified by a party in its submissions.

22. In this matter, the Registrar has determined that he is satisfied that at least one of the grounds of appeal under s 327(3)(d) is made out, in relation to the application of s 323 of the 1998 Act in respect of the right upper extremity.

23. The Appeal Panel reviewed the history recorded by the AMS, his findings on examination, and the reasons for his conclusions as well as the evidence referred to above. The Appeal Panel accepted the findings on examination that the AMS made in the MAC.

Assessment of the upper right extremity (shoulder) – s 323 deduction

24. The approach to be taken in assessing the s 323 deduction was considered by the Supreme Court in *Cole*. Schmidt J said:

> "29. …The section is directed to a situation where there is a pre-existing injury, pre-existing condition or abnormality. For a deduction to be made from what has been assessed to have been the level of impairment which resulted from the later injury in question, a conclusion is required, on the evidence, that the pre-existing injury, pre-existing condition or abnormality caused or contributed to that impairment.

30. Section 323 does not permit that assessment to be made on the basis of an assumption or hypothesis, that once a particular injury has occurred, it will always, 'irrespective of outcome', contribute to the impairment flowing from any subsequent injury. The assessment must have regard to the evidence as to the actual consequences of the earlier injury, pre-existing condition or abnormality. The extent that the later impairment was due to the earlier injury, pre-existing condition or abnormality must be determined. The only exception is that provided for in s 323(2), where the required deduction 'will be difficult or costly to determine (because, for example, of the absence of medical evidence)'. In that case, an assumption is provided for, namely that the deduction 'is 10% of the impairment'. Even then, that assumption is displaced, if it is at odds with the available evidence.

31. …That is a matter of fact to be assessed on the evidence led in each case".

25. In *Pereira v Siemens Ltd* [2015] NSWSC 1133, Garling J said:

"81. The assessment required by s 323 is one which must be based on fact, not assumptions or hypotheses: *Elcheikh v Diamond Formwork (NSW) Pty Ltd (In Liq)* [2013] NSWSC 365 at [89]; *Matthew Hall Pty Ltd v Smart* [2000] NSWSC 284 at [33]; *Ryder v Sundance Bakehouse* [2015] NSWSC 526 at [40].

82. The process encompassed by s 323 requires the application of each of the following steps before reaching the ultimate conclusion of the existence of a pre-existing injury which has an impact on the assessment of the injury the subject of the worker's claim.

83. The first step requires a finding of fact that the worker has suffered an injury at work which has resulted in a degree of permanent impairment which has been assessed pursuant to s 322 of the 1998 Act: see *Elcheikh* at [125].

84. The second step which needs to be addressed is, assuming such an injury has been sustained and impairment has resulted, what is the extent of that impairment expressed as a percentage of the whole person: see *Cole* at [38]; *Elcheikh* at [126].

85. The third matter to be addressed is whether the worker had any previous injury, or any pre-existing condition or abnormality. The previous injury does not have to be one in respect of which compensation is payable under the 1998 Act. If the phrase 'pre-existing condition or abnormality' is to be relied upon, then such condition or abnormality must be a diagnosable or established clinical entity: *Fire & Rescue NSW v Clinen* [2013] NSWSC 629.

86. A finding of the existence of a previous injury can be made without the presence of symptoms, but there must be evidence which demonstrates the existence of that pre-existing condition: *Mathew Hall* at [31]-[32].

87. The pre-existing injury or condition must, on the available evidence, have caused or contributed to the assessed whole person impairment: see *Matthew Hall* at [32]; *Cole* at [29]-[31]; *Elcheikh* at [88] and *Ryder* at [42].

88. It cannot be assumed that the mere existence of a pre-existing injury means that it has contributed to the current whole person impairment: *Clinen* at [32]; *Cole* at [30]; *Elcheikh* at [91]. What must occur is that there must be an enquiry into whether there are other causes of the whole person impairment which reflect a difference in the degree of impairment: *Ryder* at [45].

> 89. Next in dealing with the application of s 323, the extent of the contribution, if any, of the pre-existing condition to the current impairment must be assessed in order to fix the deductible proportion. If the extent of the deductible proportion will be difficult or costly to determine, an assumption is made that the deductible proportion will be fixed at 10%, unless that is at odds with the available evidence: s 323(2) of the 1998 Act.
>
> 90. Each of these steps, and considerations, is a necessary element of a determination that an assessed whole person impairment is to be reduced by a deductible proportion by virtue of the application of s 323 of the 1998 Act."

26. The Appeal Panel accepts that s 323 of the 1998 Act requires that a deduction be made "for any proportion of the impairment that is due to any previous injury or that is due to any pre-existing condition or abnormality." The assessor must point to the actual consequences of the pre-existing condition or abnormality on the assessed impairment, and how it contributes to that assessment.

27. The Guidelines at Parts 1.27 and 1.28 provide:

> "1.27. The degree of permanent impairment resulting from pre-existing impairments should not be included in the final calculation of permanent impairment if those impairments are not related to the compensable injury. The assessor needs to take account of all available evidence to calculate the degree of permanent impairment that pre-existed the injury.
>
> 1.28 In assessing the degree of permanent impairment resulting from the compensable injury/condition, the assessor is to indicate the degree of impairment due to any previous injury, pre-existing condition or abnormality. This proportion is known as 'the deductible proportion' and should be deducted from the degree of permanent impairment determined by the assessor. For the injury being assessed, the deduction is 1/10th of the assessed impairment, unless that is at odds with the available evidence. "

28. The appellant submitted that the AMS made a demonstrable error in the MAC, as his recorded history that there was no pre-existing right shoulder condition was inconsistent with the available medical evidence.

29. The AMS in the MAC under "Details of any previous or subsequent accidents, injuries or condition" noted Mr Homburg stated that he did not have any problems with his right shoulder prior to this fall.

30. Under Investigation he referred to MR arthrogram of 27 August 2014 by Dr Leroux. The AMS noted:

> "Full thickness tear of the anterior bundle of supraspinatus tendon with tendon retraction and bunching of the retracted tendon medial to the acromion process. There is a tear of the anterior glenoid labrum."

31. At 8(f) of the MAC, the AMS indicated that the left shoulder and cervical spine were affected by previous injury, pre-existing condition or abnormality.

32. Under “Reasons for Assessment” at part 10(a) of the MAC the AMS wrote:

> “I assess 15% right upper extremity impairment and 4% left upper extremity impairment which equates to 9% and 2% WPI respectively (1) (see 10b). Being guided by the history of no previous injuries or problems with the right shoulder, I attribute the impairment to the injury and accepting that there was pre-existing degenerative disease in the shoulder. I therefore conclude that there is no deduction applicable for the right shoulder.”

33. At part 10(c) when commenting on Dr Breit’s reports, the AMS wrote:

> “The doctor assesses 12% whole person impairment. I found a better range of movement for the right upper extremity than Dr Breit. He deducts 50% for pre-existing condition.
> In my opinion no deduction is applicable as outlined under 10a.”

34. The AMS accepted that Mr Homburg had no problems with right shoulder before the fall on 30 July 2014. Although the AMS was of the view that Mr Homburg had pre-existing degenerative disease in the right shoulder, he made no deduction pursuant to s 323 of the 1998 Act. The wording used by the AMS in Part 10(a) of the MAC lacked clarity but the AMS appeared to attribute the impairment in the right shoulder to the injury on 30 July 2014 while accepting that there was pre-existing degenerative disease in the right shoulder. The Appeal Panel was of the view that the AMS failed to provide adequate reasons for not making a deduction in respect of the degenerative disease in the right shoulder given the medical evidence in this matter. In particular, the Appeal Panel noted that the AMS did not refer to the Operation record dated 27 November 2014 and the findings made in that record.

35. The Appeal Panel reviewed the evidence.

36. Dr Assem in his report dated 5/9/18 noted under “history”:

> “Mr Hamberg is a 57-year-old, right-hand man who fell on his outstretched right hand sustaining a soft tissue injury to the right shoulder. He aggravated pre-existing asymptomatic degenerative rotator cuff pathology.
>
> Although he has evidence of pre-existing degenerative rotator cuff pathology in his right shoulder, it was asymptomatic and did not interfere with his usual activities.
>
> According to the limitations observed at the time of my assessment, he has 14% RUE I4 or 8% WPI. After applying a one-tenth deduction', he has 7%WPI.”

37. In the Operation Record dated 27/11/14 and headed “Procedure - R Shoulder arthroscopy, decompression, biceps tenodesis and suturebridge cuff repair”, the following was noted:

> “FINDINGS
> Intra-articular:
> Labrum – mild degeneration.
> Articular – Some early OA with inferior osteophytes.
> Biceps anchor – Biceps wear with pulley disruption.
> Rotator cuff – Subscapularis FT retracted tear. Intra articular portion of supraspinatus and infraspinatus – FT tear 3.5cm retracted to glenoid.
> Subacromial:
> Rotator cuff – Complete tear measuring 3.5 cm with small residual stump on GT.
> Acromion – Anterolateral spur.
> AC joint – good”

38. Dr Breit in his report dated 13 November 2018 wrote:

> "The right upper extremity is assessed according to SIRA Guides, chapter 2, and AMA Guides, chapter 16, paragraph 16.4i, page 474 and figure 16.40, 16.43 and 16.46. That results in 20% right upper extremity impairment, which converts to 12% WPI. The original pathology is overwhelmingly long-standing and has nothing to do with the nature and conditions of his employment. As I indicated above, it was irreparable at the time of presentation, so that the deductible quantum for pre-existing disease has to be more than one tenth. In this situation, I would indicate the contribution from the pre-existing disease is at least half, leaving 6% WPI."

39. The Appeal Panel accepted that there was no prior history of any right shoulder symptoms. However, the imaging, namely, the MR arthrogram of 27 August 2014 by Dr Leroux demonstrated that Mr Homburg had pre-existing pathology. The Operation record dated 27/11/14 described tears in three of the four rotator cuff tendons. The Appeal Panel noted that these tears could be described as massive tears with retraction and it was more probable than not, given the extent of the tears, that Mr Homburg had some or all of those tears prior to the fall on 30 July 2014 even though he was asymptomatic. The Appeal Panel considered that the pre-existing degenerative condition in the right shoulder had contributed to some degree to the impairment assessed by the AMS.

40. The Appeal Panel considered the question of the deduction to be made "for any proportion of the impairment that is due to any previous injury or that is due to any pre- existing condition or abnormality". While there was a significant amount of degeneration evident in the MR arthrogram of 27 August 2014, there were no scans taken before the fall and it was difficult to assess the precise extent of degeneration present before 30 July 2014. On balance, the Appeal Panel considered that a deduction of one tenth should be made pursuant to section 323(2) as it was too difficult to assess the extent of the degenerative condition before the injury, particularly, in view of the fact Mr Homburg was asymptomatic. The Appeal Panel decided that this deduction of one tenth was not at odds with the evidence.

41. The Appeal Panel made a deduction of one tenth in respect of the 9% WPI assessed for the right upper extremity (shoulder). This resulted in a deduction of 0.9% resulting in 8.1% WPI which was rounded down to 8%. The 8 % WPI was combined with 6% for the cervical spine and 2% for the left upper extremity (shoulder). Using the Combined Values Chart in AMA 5 this produced a total of 16% WPI, that is, the same as the total WPI (16%) assessed by the AMS.

42. In summary, the assessment of total WPI by the Appeal Panel was the same as that made by the AMS. In those circumstances the Appeal Panel will confirm the MAC as the review has not led to a different result and should not be interfered with (*Robinson v Riley* [1971] 1 NSWLR 403).

43. For these reasons, the Appeal Panel has determined that the MAC issued on 17 July 2019 should be confirmed. However, the Appeal Panel will issue a new certificate to reflect the correct deductions made pursuant to s 323 of the 1998 Act.

I CERTIFY THAT THIS IS A TRUE AND ACCURATE RECORD OF THE REASONS FOR DECISION OF THE APPEAL PANEL CONSTITUTED PURSUANT TO SECTION 328 OF THE *WORKPLACE INJURY MANAGEMENT AND WORKERS COMPENSATION ACT 1998*.

A MacLeod

Ann MacLeod
Dispute Services Officer
As delegate of the Registrar

WORKERS COMPENSATION COMMISSION

APPEAL PANEL
MEDICAL ASSESSMENT CERTIFICATE

Injuries received after 1 January 2002

Matter Number: **2091/19**
Applicant: **Pieter Homburg**
Respondent: **Medusa1 Pty Ltd t/as ACG National Pty Ltd**

This Certificate is issued pursuant to s 328(5) of the *Workplace Injury Management and Workers Compensation Act 1998*.

The Appeal Panel revokes the Medical Assessment Certificate of Dr Tommasino Mastroianni and issues this new Medical Assessment Certificate as to the matters set out in the Table below:

Table - Whole Person Impairment (WPI)

Body Part or system	Date of Injury	Chapter, page and paragraph number in the Guidelines	Chapter, page, paragraph, figure and table numbers in AMA 5 Guides	% WPI	Proportion of permanent impairment due to pre-existing injury, abnormality or condition	Sub-total/s % WPI (after any deductions in column 6)
1.Right upper extremity (shoulder)	30/7/14	Chapter 2 Pages 10-12	Chapter 16 Pages 433 to 521	9%	1/10th	(8.1) 8%
2.Left upper extremity (shoulder)	30/7/14	Chapter 2 Pages 10-12	Chapter 16 Pages 433 to 521	2%	1/10th	(1.8) 2%
3.Cervical Spine	30/7/14	Chapter 4 Pages 24-29	Chapter 15 Page 392 Table 15-5	7%	1/10th	(6.3) 6%
Total % WPI (the Combined Table values of all sub-totals)					**16%**	

Carolyn Rimmer
Arbitrator

Dr Margaret Gibson
Approved Medical Specialist

Dr John Ashwell
Approved Medical Specialist

5 December 2019

I CERTIFY THAT THIS IS A TRUE AND ACCURATE RECORD OF THE MEDICAL ASSESSMENT CERTIFICATE OF THE APPEAL PANEL CONSTITUTED PURSUANT TO SECTION 328 OF THE *WORKPLACE INJURY MANAGEMENT AND WORKERS COMPENSATION ACT 1998*.

A MacLeod

Ann MacLeod
Dispute Services Officer
As delegate of the Registrar