

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 30/07/2021 3:39:21 PM AEST and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

Details of Filing

Document Lodged:	Notice to Admit - Form 41 - Rule 22.01
File Number:	NSD135/2021
File Title:	ALLIANZ AUSTRALIA INSURANCE LIMITED (ACN 000 122 850) v MAYBERG PTY LTD ACN 011 024 070
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink, reading "Sia Lagos".

Dated: 30/07/2021 3:41:11 PM AEST

Registrar

Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



Notice to admit

No. NSD 135 of 2021

Federal Court of Australia
District Registry: New South Wales
Division: General

ALLIANZ AUSTRALIA INSURANCE LIMITED (ACN 000 122 850)

Applicant

MAYBERG PTY LTD (ACN 011 024 070)

Respondent

To the Applicant

The Respondent requires you to admit, for the purpose of the proceeding only, the truth of the following facts:

Situation 1: 64 Tingal Rd, Wynnum Queensland 4178

1. Prior to 23 March 2020, there were at least two people with COVID-19 who had been within a 20 kilometre radius of 64 Tingal Rd, Wynnum Queensland 4178.
2. Prior to 23 March 2020, there was at least one person with COVID-19 who had been within a 20 kilometre radius of 64 Tingal Rd, Wynnum Queensland 4178.
3. Prior to 23 March 2020, there were at least two people:
 - a. with COVID-19;
 - b. who had been within a 20 kilometre radius of 64 Tingal Rd, Wynnum Queensland 4178; and
 - c. who were not self-isolating whilst within a 20 kilometre radius of 64 Tingal Rd, Wynnum Queensland 4178:
 - i. after having contracted COVID-19, but
 - ii. prior to being diagnosed with COVID-19.
4. Prior to 23 March 2020, there was at least one person:

Filed on behalf of (name & role of party)	The Respondent, Mayberg Pty Ltd (ACN 011 024 070)
Prepared by (name of person/lawyer)	Christopher Michael Erfurt
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- a. with COVID-19;
 - b. who had been within a 20 kilometre radius of 64 Tingal Rd, Wynnum Queensland 4178; and
 - c. who was not self-isolating whilst within a 20 kilometre radius of 64 Tingal Rd, Wynnum Queensland 4178:
 - i. after having contracted COVID-19, but
 - ii. prior to being diagnosed with COVID-19.
5. Prior to 23 March 2020, there were at least two people:
 - a. with COVID-19;
 - b. who had been within a 20 kilometre radius of 64 Tingal Rd, Wynnum Queensland 4178; and
 - c. who were not self-isolating whilst within that radius during a period during which they were capable of infecting another person with COVID-19.
6. Prior to 23 March 2020, there was at least one person:
 - a. with COVID-19;
 - b. who had been within a 20 kilometre radius of 64 Tingal Rd, Wynnum Queensland 4178; and
 - c. who was not self-isolating whilst within that radius during a period during which they were capable of infecting another person with COVID-19.
7. Prior to 23 March 2020, there were at least two people with COVID-19 who had been within a 50 kilometre radius of 64 Tingal Rd, Wynnum Queensland 4178.
8. Prior to 23 March 2020, there was at least one person with COVID-19 who had been within a 50 kilometre radius of 64 Tingal Rd, Wynnum Queensland 4178.
9. Prior to 23 March 2020, there were at least two people:
 - a. with COVID-19;
 - b. who had been within a 50 kilometre radius of 64 Tingal Rd, Wynnum Queensland 4178; and
 - c. who were not self-isolating whilst within a 50 kilometre radius of 64 Tingal Rd, Wynnum Queensland 4178:
 - i. after having contracted COVID-19, but
 - ii. prior to being diagnosed with COVID-19.

10. Prior to 23 March 2020, there was at least one person:
 - a. with COVID-19;
 - b. who had been within a 50 kilometre radius of 64 Tingal Rd, Wynnum Queensland 4178; and
 - c. who was not self-isolating whilst within a 50 kilometre radius of 64 Tingal Rd, Wynnum Queensland 4178:
 - i. after having contracted COVID-19, but
 - ii. prior to being diagnosed with COVID-19.
11. Prior to 23 March 2020, there were at least two people:
 - a. with COVID-19;
 - b. who had been within a 50 kilometre radius of 64 Tingal Rd, Wynnum Queensland 4178; and
 - c. who were not self-isolating whilst within that radius during a period during which they were capable of infecting another person with COVID-19.
12. Prior to 23 March 2020, there was at least one person:
 - a. with COVID-19;
 - b. who had been within a 50 kilometre radius of 64 Tingal Rd, Wynnum Queensland 4178; and
 - c. who was not self-isolating whilst within that radius during a period during which they were capable of infecting another person with COVID-19.

Situation 2: 66-68 Bloomfield St, Cleveland Queensland 4163

13. Prior to 23 March 2020, there were at least two people with COVID-19 who had been within a 20 kilometre radius of 66-68 Bloomfield St, Cleveland Queensland 4163.
14. Prior to 23 March 2020, there was at least one person with COVID-19 who had been within a 20 kilometre radius of 66-68 Bloomfield St, Cleveland Queensland 4163.
15. Prior to 23 March 2020, there were at least two people:
 - a. with COVID-19;
 - b. who had been within a 20 kilometre radius of 66-68 Bloomfield St, Cleveland Queensland 4163; and
 - c. who were not self-isolating whilst within a 20 kilometre radius of 66-68 Bloomfield St, Cleveland Queensland 4163:

- i. after having contracted COVID-19, but
 - ii. prior to being diagnosed with COVID-19.
- 16. Prior to 23 March 2020, there was at least one person:
 - a. with COVID-19;
 - b. who had been within a 20 kilometre radius of 66-68 Bloomfield St, Cleveland Queensland 4163; and
 - c. who was not self-isolating whilst within a 20 kilometre radius of 66-68 Bloomfield St, Cleveland Queensland 4163:
 - i. after having contracted COVID-19, but
 - ii. prior to being diagnosed with COVID-19.
- 17. Prior to 23 March 2020, there were at least two people:
 - a. with COVID-19;
 - b. who had been within a 20 kilometre radius of 66-68 Bloomfield St, Cleveland Queensland 4163; and
 - c. who were not self-isolating whilst within that radius during a period during which they were capable of infecting another person with COVID-19.
- 18. Prior to 23 March 2020, there was at least one person:
 - a. with COVID-19;
 - b. who had been within a 20 kilometre radius of 66-68 Bloomfield St, Cleveland Queensland 4163; and
 - c. who was not self-isolating whilst within that radius during a period during which they were capable of infecting another person with COVID-19.
- 19. Prior to 23 March 2020, there were at least two people with COVID-19 who had been within a 50 kilometre radius of 66-68 Bloomfield St, Cleveland Queensland 4163.
- 20. Prior to 23 March 2020, there was at least one person with COVID-19 who had been within a 50 kilometre radius of 66-68 Bloomfield St, Cleveland Queensland 4163.
- 21. Prior to 23 March 2020, there were at least two people:
 - a. with COVID-19;
 - b. who had been within a 50 kilometre radius of 66-68 Bloomfield St, Cleveland Queensland 4163; and

- c. who were not self-isolating whilst within a 50 kilometre radius of 66-68 Bloomfield St, Cleveland Queensland 4163:
 - i. after having contracted COVID-19, but
 - ii. prior to being diagnosed with COVID-19.
- 22. Prior to 23 March 2020, there was at least one person:
 - a. with COVID-19;
 - b. who had been within a 50 kilometre radius of 66-68 Bloomfield St, Cleveland Queensland 4163; and
 - c. who was not self-isolating whilst within a 50 kilometre radius of 66-68 Bloomfield St, Cleveland Queensland 4163:
 - i. after having contracted COVID-19, but
 - ii. prior to being diagnosed with COVID-19.
- 23. Prior to 23 March 2020, there were at least two people:
 - a. with COVID-19;
 - b. who had been within a 50 kilometre radius of 66-68 Bloomfield St, Cleveland Queensland 4163; and
 - c. who were not self-isolating whilst within that radius during a period during which they were capable of infecting another person with COVID-19.
- 24. Prior to 23 March 2020, there was at least one person:
 - a. with COVID-19;
 - b. who had been within a 50 kilometre radius of 66-68 Bloomfield St, Cleveland Queensland 4163; and
 - c. who was not self-isolating whilst within that radius during a period during which they were capable of infecting another person with COVID-19.

Situation 3: Shop 24 2-34 Bunker Rd, Victoria Point Queensland 4165

- 25. Prior to 23 March 2020, there were at least two people with COVID-19 who had been within a 20 kilometre radius of Shop 24 2-34 Bunker Rd, Victoria Point Queensland 4165.
- 26. Prior to 23 March 2020, there was at least one person with COVID-19 who had been within a 20 kilometre radius of Shop 24 2-34 Bunker Rd, Victoria Point Queensland 4165.

27. Prior to 23 March 2020, there were at least two people:
- a. with COVID-19;
 - b. who had been within a 20 kilometre radius of Shop 24 2-34 Bunker Rd, Victoria Point Queensland 4165; and
 - c. who were not self-isolating whilst within a 20 kilometre radius of Shop 24 2-34 Bunker Rd, Victoria Point Queensland 4165:
 - i. after having contracted COVID-19, but
 - ii. prior to being diagnosed with COVID-19.
28. Prior to 23 March 2020, there was at least one person:
- a. with COVID-19;
 - b. who had been within a 20 kilometre radius of Shop 24 2-34 Bunker Rd, Victoria Point Queensland 4165; and
 - c. who was not self-isolating whilst within a 20 kilometre radius of Shop 24 2-34 Bunker Rd, Victoria Point Queensland 4165:
 - i. after having contracted COVID-19, but
 - ii. prior to being diagnosed with COVID-19.
29. Prior to 23 March 2020, there were at least two people:
- a. with COVID-19;
 - b. who had been within a 20 kilometre radius of Shop 24 2-34 Bunker Rd, Victoria Point Queensland 4165; and
 - c. who were not self-isolating whilst within that radius during a period during which they were capable of infecting another person with COVID-19.
30. Prior to 23 March 2020, there was at least one person:
- a. with COVID-19;
 - b. who had been within a 20 kilometre radius of Shop 24 2-34 Bunker Rd, Victoria Point Queensland 4165; and
 - c. who was not self-isolating whilst within that radius during a period during which they were capable of infecting another person with COVID-19.
31. Prior to 23 March 2020, there were at least two people with COVID-19 who had been within a 50 kilometre radius of Shop 24 2-34 Bunker Rd, Victoria Point Queensland 4165.

32. Prior to 23 March 2020, there was at least one person with COVID-19 who had been within a 50 kilometre radius of Shop 24 2-34 Bunker Rd, Victoria Point Queensland 4165.
33. Prior to 23 March 2020, there were at least two people:
 - a. with COVID-19;
 - b. who had been within a 50 kilometre radius of Shop 24 2-34 Bunker Rd, Victoria Point Queensland 4165; and
 - c. who were not self-isolating whilst within a 50 kilometre radius of Shop 24 2-34 Bunker Rd, Victoria Point Queensland 4165:
 - i. after having contracted COVID-19, but
 - ii. prior to being diagnosed with COVID-19.
34. Prior to 23 March 2020, there was at least one person:
 - a. with COVID-19;
 - b. who had been within a 50 kilometre radius of Shop 24 2-34 Bunker Rd, Victoria Point Queensland 4165; and
 - c. who was not self-isolating whilst within a 50 kilometre radius of Shop 24 2-34 Bunker Rd, Victoria Point Queensland 4165:
 - i. after having contracted COVID-19, but
 - ii. prior to being diagnosed with COVID-19.
35. Prior to 23 March 2020, there were at least two people:
 - a. with COVID-19;
 - b. who had been within a 50 kilometre radius of Shop 24 2-34 Bunker Rd, Victoria Point Queensland 4165; and
 - c. who were not self-isolating whilst within that radius during a period during which they were capable of infecting another person with COVID-19.
36. Prior to 23 March 2020, there was at least one person:
 - a. with COVID-19;
 - b. who had been within a 50 kilometre radius of Shop 24 2-34 Bunker Rd, Victoria Point Queensland 4165; and
 - c. who was not self-isolating whilst within that radius during a period during which they were capable of infecting another person with COVID-19.

Situation 4: 681 New Cleveland Rd, Gumdale Queensland 4154.

37. Prior to 23 March 2020, there were at least two people with COVID-19 who had been within a 20 kilometre radius of 681 New Cleveland Rd, Gumdale Queensland 4154.
38. Prior to 23 March 2020, there was at least one person with COVID-19 who had been within a 20 kilometre radius of 681 New Cleveland Rd, Gumdale Queensland 4154.
39. Prior to 23 March 2020, there were at least two people:
 - a. with COVID-19;
 - b. who had been within a 20 kilometre radius of 681 New Cleveland Rd, Gumdale Queensland 4154; and
 - c. who were not self-isolating whilst within a 20 kilometre radius of 681 New Cleveland Rd, Gumdale Queensland 4154:
 - i. after having contracted COVID-19, but
 - ii. prior to being diagnosed with COVID-19.
40. Prior to 23 March 2020, there was at least one person:
 - a. with COVID-19;
 - b. who had been within a 20 kilometre radius of 681 New Cleveland Rd, Gumdale Queensland 4154; and
 - c. who was not self-isolating whilst within a 20 kilometre radius of 681 New Cleveland Rd, Gumdale Queensland 4154:
 - i. after having contracted COVID-19, but
 - ii. prior to being diagnosed with COVID-19.
41. Prior to 23 March 2020, there were at least two people:
 - a. with COVID-19;
 - b. who had been within a 20 kilometre radius of 681 New Cleveland Rd, Gumdale Queensland 4154; and
 - c. who were not self-isolating whilst within that radius during a period during which they were capable of infecting another person with COVID-19.
42. Prior to 23 March 2020, there was at least one person:
 - a. with COVID-19;
 - b. who had been within a 20 kilometre radius of 681 New Cleveland Rd, Gumdale Queensland 4154; and

- c. who was not self-isolating whilst within that radius during a period during which they were capable of infecting another person with COVID-19.
- 43. Prior to 23 March 2020, there were at least two people with COVID-19 who had been within a 50 kilometre radius of 681 New Cleveland Rd, Gumdale Queensland 4154.
- 44. Prior to 23 March 2020, there was at least one person with COVID-19 who had been within a 50 kilometre radius of 681 New Cleveland Rd, Gumdale Queensland 4154.
- 45. Prior to 23 March 2020, there were at least two people:
 - a. with COVID-19;
 - b. who had been within a 50 kilometre radius of 681 New Cleveland Rd, Gumdale Queensland 4154; and
 - c. who were not self-isolating whilst within a 50 kilometre radius of 681 New Cleveland Rd, Gumdale Queensland 4154:
 - i. after having contracted COVID-19, but
 - ii. prior to being diagnosed with COVID-19.
- 46. Prior to 23 March 2020, there was at least one person:
 - a. with COVID-19;
 - b. who had been within a 50 kilometre radius of 681 New Cleveland Rd, Gumdale Queensland 4154; and
 - c. who was not self-isolating whilst within a 50 kilometre radius of 681 New Cleveland Rd, Gumdale Queensland 4154:
 - i. after having contracted COVID-19, but
 - ii. prior to being diagnosed with COVID-19.
- 47. Prior to 23 March 2020, there were at least two people:
 - a. with COVID-19;
 - b. who had been within a 50 kilometre radius of 681 New Cleveland Rd, Gumdale Queensland 4154; and
 - c. who were not self-isolating whilst within that radius during a period during which they were capable of infecting another person with COVID-19.
- 48. Prior to 23 March 2020, there was at least one person:
 - a. with COVID-19;

- b. who had been within a 50 kilometre radius of 681 New Cleveland Rd, Gumdale Queensland 4154; and
- c. who was not self-isolating whilst within that radius during a period during which they were capable of infecting another person with COVID-19.

If you dispute the truth of any fact or the authenticity of any document specified in this notice, you may, within 14 days after service of this notice on you, serve on the Respondent a notice of dispute (Form 42).

If you do not serve a notice of dispute on the Respondent within 14 days, you will be taken to have admitted the truth of each fact or the authenticity of each document specified.

Date: 30 July 2021



Signed by Christopher Michael Erfurt
Lawyer for the Respondent