

AT THE TIME THE COMMUNICATION / DOCUMENT ('X') WAS CREATED.....

Was 'X' confidential?

Yes

Was litigation on foot or reasonably contemplated?

Yes

Was 'X' created for the dominant purpose of use in litigation?

Yes

LITIGATION PRIVILEGE

No

Was 'X' either:  
• a lawyer/client communication, or;  
• a communication involving a third party which was made to allow the client to receive legal advice?

Yes

Was 'X' created for the dominant purpose of giving/obtaining legal advice?

Yes

LEGAL ADVICE PRIVILEGE

No

No

No

SINCE CREATION....

Has 'X' or the gist, substance or conclusion of 'X' been disclosed to a third party, or has the person in possession of 'X' otherwise acted in a way that is inconsistent with the privileged communication or document remaining confidential?

Yes

Did the third party recipient(s) have a common interest in the legal advice or litigation, or did they hold joint privilege?

Yes

No

Was the disclosure on a confidential basis for a strictly limited and specific purpose, without waiving LPP generally?

Yes

No

Was the disclosure in response to a compulsory order (e.g. to a regulator) under terms of confidentiality and has remained confidential?

Yes

No

Was 'X' inadvertently disclosed and reasonable steps have been taken to protect its confidentiality once the disclosure was detected?

Yes

No

No



PRIVILEGED



NOT PRIVILEGED