STATEMENT OF KYLIE DALE RIKA

I, **Kylie Dale Rika,** of Queensland Health Forensic and Scientific Services, Forensic DNA Analysis, at 39 Kessels Road, Coopers Plains, do solemnly and sincerely declare that:

Background

1. I hold a Bachelor of Science (Molecular Biology) from Massey University and a Post Graduate Diploma in Forensic Science from University of Auckland. I also hold a Diploma in Management (Public Sector) from TAFE, Brisbane.
2. I am currently employed by Queensland Health Forensic and Scientific Services (FSS) as a Senior Scientist, currently within the reporting team of the Forensic DNA Analysis Unit.
3. The duties of my role are to:
   (a) Report on the examination of items submitted in relation to a case for the presence of possible biological material. If identified, a sample of the biological material is analysed in an attempt to obtain a DNA profile.
   (b) Report on the DNA profiles obtained from samples submitted by the Queensland Police Service (QPS) in relation to a case.
   (c) Manage and supervise a team of nine court reporting forensic scientists in their tasks of DNA Profile interpretation, Reporting of DNA results and provision of expert testimony in courts of law.
4. I have worked in this managerial and reporting role since April 2006. Prior to that I was a court reporting scientist within the Forensic DNA Analysis Unit.
5. I have acted in the position of Team Leader, Forensic Reporting and Intelligence Team (FRIT) on numerous occasions for periods lasting two weeks to periods lasting eight weeks. This is ordinarily Justin Howes' (Justin's) position.
6. Previously I was employed in the roles of Senior Technician, Scientist, and Senior Scientist in New Zealand at the Institute of Environmental Science and Research Limited (ESR), within the Forensic Biology team from April 2000 until March 2005. I was trained as a forensic scientist at ESR and much of what I learnt there informs my practices today.

[redacted] .... [redacted] .....

Kylie Dale Rika Witness

JUSTICE OF THE PEACE (QUALIFIED) QUEENSLAND GOVERNMENT Reg.No.: 123943 DEPT. OF JUSTICE & ATTORNEY-GENERAL

Samples that undergo automatic Microcon concentration (the DIFP process)

DIFP process

7. On 7 February 2018, I was advised by email from Justin that an Options Paper was presented to QPS Superintendent of Forensic Services Dale Frieberg on ways forward for QPS to consider – continue with auto-microcon process, or cease auto-microcons. Justin also mentioned in the same email that QPS have advised the laboratory that they do not wish for our efforts to be put to the auto-microcon process (including the efforts in interpretation) for Priority 1 or 2 samples.
8. This meant that samples with low levels of DNA would not be concentrated using the Microcon process. Annexed and marked KR-01 is a copy of the email.
9. As a result, a system was implemented whereby any sample which resulted in a quant value between 0.001 ng/µL and 0.0088 ng/µL would be reported back to the QPS as DNA insufficient for further processing (DIFP).
10. In practice, this DIFP result was reported by an analytical staff member (not a reporting/case managing scientist who usually release DNA results). The results were based on the quant value alone; all samples with quant values in the range of 0.001 and 0.0088 ng/µL were reported this way. The analytical staff member did not assess the context of the sample or case when making this report; it was a strict threshold.
11. The DIFP result was entered into the Forensic Register and nothing further happened with the sample unless:
    (a) a rework was requested by the QPS;
    (b) a statement was requested, and a reporting scientist reviewed the case and requested a rework of the sample; or
    (c) a scientist, by chance, had looked at the sample when looking at others in the case at Profile Data Analysis (PDA) stage and requested a rework of the sample (rare).
12. If a sample is reported as DIFP and a statement is never requested in that matter, then a reporting scientist would not become aware of the sample, unless in the rare event as described under point (c) above occurs. Sometimes the QPS are in the best position to decide whether the sample should be reworked (as they have additional case information), but other times a reporting scientist is in the best position to decide

whether the sample should be reworked due to their specialised knowledge of DNA profiling and given that only the scientists, not QPS, can see the quant values.

The Options Paper

13. I understand that this change of process in 2018 arose out of an 'Options Paper' (authored by Cathie Allen and Justin Howes, January 2018) which was presented to QPS. I first became aware of the Options Paper on the 1st February 2018 via the management team meeting held on that day. In the management team meeting on the 7th December 2017 (immediately prior to the one on the 1st February 2018), there was no mention of an Options Paper. I have never heard of an 'Options Paper' being used for any other purpose at FSS. Annexed and marked KR-02 is a copy of the management team meeting minutes of 1st February 2018. Annexed and marked KR-02-1 is a copy of the management team meeting minutes of 7th December 2017.
14. The Options Paper was developed from Project 184.
15. I did not have a good opinion of the Options Paper. Firstly, I was confused by it because I had never heard of an Options Paper being used in our field before. Secondly, I felt that the information within it was based on data analysis done in Project 184, which in my opinion, was not done in the best way possible. The main reason for this is because it appeared that all of the data was grouped and analysed together. There was a lot of data in the lower quant ranges compared to data in the higher quant ranges and therefore by grouping and analysing it all together, outcomes were skewed towards the lower quant ranges. It may be that a better approach would be to split and analyse the data into smaller groups. I do not know what statistics were applied to the data which means that I could not effectively review the data to start with. Finally, I felt that the measure of 'success' reported in the paper was based on obtaining an NCIDD uploadable profile and ignored the value of other DNA evidence we provide such as foreign DNA on a victim or suspect that adds weight to one hypothesis versus the other. The 'success' figure was reported as being 1.45%. I am concerned about how this figure was calculated.
16. With regards to the options presented in the paper, I was concerned to see that there were only 2 options. In my opinion some other options could have been presented including, but not limited to: implementation of the DIFP process for volume crime samples only, any samples where spermatozoa were observed could be excluded

from the DIFP process, and exploration of a different quant range. Prior to the Options Paper, Priority 3 samples were amplified using Profiler Plus once without rework. I was also concerned that there was only one risk mentioned (relating to the 1.45% of cold link information being potentially lost) as we know that we can also potentially lose other pertinent 'warm link' information that is helpful to QPS. A cold link is a DNA link to an unknown person. All other DNA links are considered warm, for example a crime sample matching to a person within a case.

17. On the 3rd of January 2018 and then again on the 9th of January 2018, I had provided feedback about my concerns with the proposed quantification threshold for further processing and the speed at which the proposed quantification threshold was to be implemented in relation to Project 184. This was in response to being asked for my feedback via email from Justin to the management team at the time. Aside from the formal change management process, which includes the dissemination of project plans and proposals to the management team for review and feedback, I do not remember if there were any discussions or conversations about Project 184 (which led to the Options Paper) prior to the commencement of Project 184 and the Options Paper. Annexed and marked KR-03 is a copy of my feedback to Project 184 on 3rd January 2018. Annexed and marked KR-03-01 is a copy of my feedback to Project 184 on 9th January 2018.

18. I did not feel that Justin's response to my first round of feedback adequately addressed the concerns raised. He did not address the loss of other DNA evidence that may be helpful, not just the loss of new intelligence information. My main concerns centred around the reports' focus on what new intelligence information will the QPS miss out on if the auto-microcon process was stopped. The data analysis seemed to be performed in a way so as to diminish the importance of samples that provided non-uploadable DNA profiles (which some, including myself, consider successful) but these results were defined as not valuable, probative or informative. Whilst some changes were made to the report, as seen in version 2 (V2), my overall concern (based on the main focus of the report) as I described above, was not addressed as evidenced in version 2 of the report.

19. A lot of pressure was placed on me to review, provide feedback and potentially sign-off on Project 184 as quickly as possible, as evidenced in the copies of emails annexed and marked KR-04. The timeframes given to me to review the reports and

feedback were from Justin. In January 2018, the lab started processing volume crime (priority 3) samples in PP21/STRmix. This meant that the lab had a much heavier workload which in turn would impact on turnaround times. Given the laboratory's constant emphasis on turnaround times, I can only deduce that the commencement of processing priority 3 samples in PP21/STRmix may be one reason why there was urgency to finalise Project 184 and implement the DIFP process. In support of this, the Project plan for Project 184 mentions under 'Benefit of the project', that "Potentially, a new workflow could be designed based on the success/fail rates observed in the data. This could create time and cost savings for the laboratory and increase the ability to process other higher DNA-yielding samples more quickly." Annexed and marked KR-05 is a copy of the Project Plan.

20. My expectation when I gave feedback on Project 184 was that it would be considered and discussed. However, my general perception of the management team's receptiveness to feedback at that time was that if feedback was in line with the end agenda of the project, then it was received well. If it wasn't in line with the end agenda, then it was a nuisance. Additionally, my perception of the management team's receptiveness to feedback was that certain members of the management team had their feedback weighted more heavily than others based on favouritism, allegiances, and ego. In my view, there is a general culture of positively accepting positive feedback as opposed to feedback that challenges the project officer or author. For instance, at the time of Project 184, I observed a colleague of mine, Amanda Reeves, be dealt with inappropriately in a management team meeting for her raising an issue and delivering feedback on Project 181 Sperm Microscopy Sensitivity. In the meeting where Amanda gave this feedback, I witnessed Allan McNevin who was sitting directly adjacent to Amanda, slam his hands on the table and push himself back from the table and yell at Amanda. The most senior managers in the meeting that day allowed Allan to remain in the meeting and did not check on Amanda immediately after she left the room in shock and terrified. I too was shaken and scared and immediately after the meeting emailed Justin to let him know the impact on me. Annexed and marked KR-06 is a copy of that email. This contributed to my perception of how willing or not, the management team would be to seriously consider feedback from Amanda and myself on Project 184. Because of this perception and given that the feedback from Amanda and myself was minimally considered (based on what was and was not

included in version 2 of the report), Amanda and I chose to deliver our final feedback on Project 184 together as representatives of the reporting teams in the hope that our combined feedback may carry the weight needed to be seriously considered.

21. With regards to Amanda and my joint feedback (my second round of feedback), Justin did not provide a written response that I am aware of. I also do not recall him providing a verbal response.

Project 184 was finalised at a time after feedback was provided on version 2 of the report. I do not recall any information being disseminated as to this project being finalised, nor as to the reasons for it being finalised. The Project 184 document checklist was annotated in handwriting by Kirsten Scott on the 6th of August 2018 to mention that Project 184 was replaced with a QPS Options paper (which was implemented on the 12th February 2018). I am not aware of the reason for the delay in finalising the checklist after the DIFP process was implemented. After Amanda and my final feedback, I suspect that it became evident to Justin, Cathie Allen (Cathie) and Paula Brisotto (Paula) that Amanda and I were not going to endorse the report for Project 184 and so without endorsement from us, the recommendations from the project could not be implemented. SOP 22871V17 - Procedure for Change Management in Forensic DNA Analysis, states that the final report of a project must be given to the Forensic DNA Analysis Management Team for consideration/acceptance.

22. If the final report is accepted by the Forensic DNA Analysis Management Team it will be e-signed and the project/change management process closed.

23. Justin acknowledged my first round (original and separate) of feedback to Project 184 and made minimal changes to the report based on it including removal of the rework section of the report and removal of a recommendation to cease processing all Priority 3 samples up to the quant value of 0.0133ng/µL. Justin did not however acknowledge my second round of feedback (combined with Amanda's feedback) which included, amongst other things, that setting the cut-off for no processing at 0.0088ng/µL is probably too high.

24. In order to finalise and implement the proposal in Project 184 in accordance with standard operating procedures, the project would need to be signed off and approved by the managers and senior scientists (or at least a sufficient quorum). From what I know of the background, I expect that it became clear to Cathie and Justin that they

were not going to receive the required approval of the document and this may have led to the creation of the Options Paper. I was not aware of the Options Paper until it was mentioned in the management meeting held on 1st February 2018 that an "Options Paper was drafted for Priority 2 samples – to be provided to QPS for decision". The Options Paper did not require or seek my endorsement/approval.

Raising concerns after implementation

25. The DIFP process, implemented in 2018, has been an area of concern for me and other scientists that I work with at FSS. This is because we have seen interpretable DNA results from these samples after they have been submitted for processing.

26. I am concerned about the samples in the cases where a statement is never requested, for example, if the QPS never charge anyone. These samples aren't properly considered and may be able to produce useful results after further processing. This in turn could then lead to the case going to court. After discussions with concerned members of the reporting team, I decided to collate examples of samples that were originally reported as DIFP but then were submitted for processing and produced a profile. The contributors to this spreadsheet are numerous reporting scientists. I provided this spreadsheet to Acting Executive Director Lara Keller on or about the 15th March 2022, and to Paula on 28th April 2022. Annexed and marked KR-07 is a copy of the spreadsheet as at 9 September 2022.I have raised concerns with Justin and other members of management by email and verbally. For example:

(a) On 9 February 2018 I raised concerns about the process in an email to Justin, following on from concerns raised by Emma Caunt (Emma). Annexed and marked KR-08 is a copy of the email thread.

(b) On 26 April 2018 I raised concerns with Justin and Paula regarding a sample that originally gave very high quant values, was diluted and then gave low quant values and was marked as no DNA detected or DNA insufficient for further processing. This was picked up by QPS as they had queried why bloodstained shorts had returned such a result. Paula's response was to put an enhancement in the Forensic Register that would flag a diluted sample and the parent sample. Annexed and marked KR-09 is a copy of the email thread.

I am still concerned about similar samples existing that were processed before the enhancement as these may not have been noticed by QPS or the lab.

(c) On 13 November 2020 I sent the management team via email a draft implementation plan for 3500xL PP21 Casework which included my recommendation to evaluate if the quantification range still holds for defining DIFP as 3500xL might be more sensitive. Annexed and marked KR-10 is a copy of the email and document.

(d) On 11 January 2021 I sent the management team via email an updated draft of the aforementioned implementation plan for 3500xL PP21 Casework which incorporated their feedback that a review of the DIFP quantification ranges be conducted in a post-implementation review. Annexed and marked KR-11 is a copy of the email and document.

(e) On 10 February 2022 I provided another example to Justin of a successful rework of a sample that was originally reported as DIFP. I followed up on my query about reassessing the quant ranges for the DIFP process. Justin responded to say that there was no movement on reassessing quant ranges to his knowledge. Annexed and marked KR-12 is a copy of the email thread.

27. On or around 11 November 2021, not long before the media came out about the Blackburn case, in a management meeting, my colleague Adrian Pippia and I raised that we were getting a lot of results from processed DIFP samples. We suggested that we could consider changing the process. I mentioned that I was collecting samples where better results were obtained after the case manager requested concentration, including profiles for NCIDD. The ensuing discussion made it very clear that most of the management team including Sharon, Kirsten, Justin and Paula did not think it was a good idea at that time. Justin was present at this meeting and did not indicate that he had been reviewing any recent data relating to the DIFP threshold. When Adrian and I walked back to the reporting area after the meeting, Adrian mentioned to me that he was not impressed at Sharon's reasons (centred around the lab being too busy and having such a large workload) for not wanting to review the DIFP quant range. He said "just because we are busy at the moment doesn't mean we should be missing potential DNA evidence", or words to that effect. He also mentioned to me that if we can't obtain data from the FR easily (as was mentioned in the meeting), then he and I could start our own spreadsheet of samples we come

across that were DIFP but then processed to provide a result. Annexed and marked KR-13 is a copy of the meeting notes dated 11 November 2021.

28. Later, on the 3rd of March 2022, I discovered (via an email from Paula) that a datamine had been requested from bdna that covers all DIFP and No DNA Detected (NDNAD) samples and requested reworks since the process was implemented in 2018, which equates to ~4 years' worth of data. I thought this was odd and secretive because I had been requesting a process of data analysis on this issue for a long time and so wondered why no-one let me know. Further, I also learned in a management meeting in June 2022, that Justin and Allan were conducting a data analysis of the recent data received from bdna. On 11 July 2022 and again on 18 August 2022, I requested an update from Justin on the data analysis as this would be helpful for reporters to know. On 1st September 2022, I also requested an update from Lara Keller. On the 7th September 2022, I received a reply email from Lara which directed me to contact Cathie, Justin or Paula for this as all science-related discussions should be with them. I then immediately forwarded the email thread to Cathie, Justin and Paula and asked again if I and the reporting scientists could please get an update. Annexed and marked KR-14 is a copy of the email thread.

"Update Paper"

29. On the 8th September 2022, the Commission of Inquiry asked me to address the following question in this statement:

> "Have you had any involvement with the Update Paper prepared in 2022 by Justin Howes and Cathie Allen?"

I have not had any involvement with this paper, nor did I know it even existed. Upon looking at the copy of the paper provided to me from the Commission of Inquiry, I am now even more concerned about the DIFP process that was implemented in 2018. This more recent data analysis shows that instead of 1.45% of uploadable DNA intelligence potentially being lost (as per the Options Paper), there is now ~ 5-6% of uploadable DNA intelligence potentially being lost.

Project 163 Assessment of results obtained from 'automatic-microcon' samples

30. In 2015, myself and three of my colleagues conducted an assessment of results obtained from 'automatic-microcon' samples. The idea to do this was presented to me, as I recall, verbally, by my line manager Justin Howes in an attempt to reduce workload and decrease turnaround times. I was tasked with leading the project and the majority of the work was conducted by my other colleagues assigned to this project.

31. In Proposal #163 at page 4, paragraph 2, the authors state:

> *It has been observed anecdotally that samples which have been sent automatically for concentration (quant between 0.00214 ng/uL and 0.0088ng/uL) more often than not, yield a DNA profile result which is unsuitable for interpretation or comparison.*

32. The observations were made by numerous case managing and reporting scientists, including, but not limited to, myself, Justin Howes, Josie Entwistle, Allison Lloyd, and Emma Caunt (noting that in 2015, we were using less sensitive Capillary Electrophoresis equipment). I also recall in the discussion I had with Justin leading to this project, that he also mentioned observing anecdotally unusable results from samples in the quant range 0.00214ng/µL and 0.0088ng/µL. I don't believe the observations were recorded anywhere, but I do remember conversations with various staff relating to their personal accounts.

33. On 23 June 2015, I emailed the Project plan for Project 163 to the FSS DNA Analysis Management Team for their review and feedback. Included in the feedback that I received was an email from Cathie Allen which included, amongst a couple of other items, the suggestion to include a "Recommendation to be put forward to the Decision-Making Group if there is a clear trend which highlights a different quant value to use which may achieve a DNA profile after Microcon". Also included in her email was a suggestion that I prepare and circulate to the Management Team Project plans prior to the work for the project being done. I forwarded the email onto Justin as I wanted him to know that Cathie preferred that I had circulated, and had the Project Proposal signed off, prior to the commencement of the work. I wanted him to know that I didn't do it that way because Paula and I discussed a data dump only at that stage as a preliminary 'look-see' and it was never classified as a formal project at that

time. This was because the 'look-see' needed to be done quickly given the pressure to have some results for a meeting Justin was attending with QPS to discuss, amongst other things, ways to reduce our turnaround times on all crime scene samples processed. Annexed and marked KR-15 is a copy of the email thread.

34. I remember at the time that there was a lot of pressure applied to the Forensic Reporting and Intelligence Team (FRIT) to find ways to interpret and report results more quickly. This pressure came from Cathie and Justin who explained to us that quicker turnaround times was the main demand from the QPS.

35. Under the 'Conclusions and Recommendations' section of the final report for Project 163, it was stated that "this assessment has indicated that there has been value in the auto-microcon process, with informative results and NCIDD uploads obtained across the quantification value range, including the lowest value ranges, albeit with a high number of non-informative results, which declined as the quantification value increased."

Under the 'General recommendations and considerations' section of the final report, it was recommended that the project be finalised. It was further recommended that a new data analysis/assessment be conducted approximately six months post-implementation of the FR in conjunction with Quant Trio to hopefully provide more and better data to inform options for considerations relating to process changes.

June process

36. On 6 June 2022 I received an email from Justin advising that the DIFP process was suspended and that any new samples in this range were to go directly for amp and not be concentrated using the Microcon. Annexed and marked KR-16 is a copy of the email from Justin Howes dated 6 June 2022.

37. Justin's email forwarded an email from Luke Ryan which stated that "The Premier has requested we test (amp) all samples in the current DNA Insufficient Range (i.e. above 0.001 – 0.0088ng/µl)."

38. Sharon then sent an email to add that "any sample that already had been reported as DNA insufficient is to continue to be reported as such at statement stage." Annexed and marked KR-17 is a copy of the email from Sharon Johnstone dated 6 June 2022.

39. The change to the process meant that any new samples that had a quant value in the range of 0.001ng/µL to 0.0088ng/µL would go directly to amplification stage rather than being reported as DIFP.

40. I was not consulted about this change in process before it was announced.

41. In my view the best process would be for a scientist to use their judgement to decide whether samples should go directly to amplification or be concentrated (using the Microcon) prior to amplification. Some samples are best concentrated before amplification, particularly samples with low levels of DNA. The process after 6 June 2022 means that scientists were unable to process samples to the best of their judgement because the sample might require concentration prior to amplification.

42. If a sample is to be concentrated using the Microcon, it does not need to happen prior to amplification but it might be best depending on the actual quant value, sample type and case circumstances.

43. The amplification process implemented on 6 June 2022 required 15µL of the 90µL of extract. Under that process, if the amplification indicated that further work could be beneficial, the scientist would be able to concentrate the remainder of the sample and then proceed to amplification. However, as there is less sample remaining (15µL has been lost to the initial amplification), there is less DNA to work with, and so the process may not be as successful as if the entire sample was concentrated prior to amplification.

44. In my opinion (based on experience), samples in the low quant range almost always benefit from concentration before amplification. If, for example, there is a higher quant (closer to the threshold of 0.0088ng/µL), you might proceed another way. It depends upon the sample.

Raising concerns

45. At the time this was announced (the June 6 process change), I was conducting a discrete task reviewing the Shandee Blackburn case file, so I was not involved in the management of this change. Justin came to tell me about the change and I recall he said words to the effect of "it will be interesting to see what, if any, useful results this will give".

46. After giving it some further thought and discussing with other staff members, I became concerned about the change in process. I raised the concerns at the management

team meeting with Cathie on 9 June 2022. I explained that while some samples can obtain a good result when they go straight to amplification, others may need the entire amount to be concentrated to obtain a result. I was told by Cathie that she was present at a meeting with a Minister and Lara Keller, and that 'they' (I do not know who 'they' refers to) put forward options as to what could be done with the sample if the DIFP process was removed. I was further told that the Minister chose the option of 15µL amplification and that was final and because it was the Minister's decision, there was nothing that could be done about it. This conversation was not recorded in the meeting minutes as Cathie mentioned that any discussions on items relating to media articles would not be minuted. I did not make a note of the conversation in my diary.

47. Amplifying these samples without the initial option of concentration using the Microcon is not necessarily the optimal way to process these samples (as discussed in paragraph 41).

48. I have formed the impression that Cathie and Justin may want to avoid the use of the Microcon as it is costly in terms of labour/time due to it being a manual process as opposed to an automated process.

49. I have wondered whether this decision has been made in an attempt to support the rationale behind the Options Paper that was presented to the QPS by Justin and Cathie in 2018.

A/Director-General decision

50. On 19 August 2022, I received an email from Helen Gregg, the A/Executive Director attaching a memorandum from the Acting Director-General. This memo requested that the workflow revert to the concentration process for Priority 1 and Priority 2 samples stipulated in Standard Operating Procedure 17117V19 (dating back to prior 2018). This means that all Priority 1 and 2 samples in the DIFP range are now being automatically concentrated down to a volume of 35µL (not a full concentration) and may undergo one amplification process only, so that some of the sample can be preserved.

51. Justin Howes sent a further email to the reporting scientists outlining the process following this memo. Annexed and marked KR-18 is a copy of the email from Justin Howes dated 19th August 2022.

52. I was not consulted about this change in process before it was announced.

53. I have concerns about this process and as soon as it was announced to us, I discussed my concerns with Emma. We then collaborated on formulating a list of potential issues as follows:

(a) Microconning a sample to full (thereby consuming the sample) is a process that has been done in the laboratory for at least the last 15 years, and consuming the sample has never caused an issue in this time.

(b) The workflow does not provide the scientist the ability to assess everything in relation to the sample to get the best result. It may be that the sample could be pooled (or combined) with another sample in the case to maximise the amount of DNA, or if the sample was at the higher end of the quant range, the scientist might want to try amping first rather than microconning, particularly if conserving sample is a requirement.

(c) The process places undue restrictions on the scientist to get the best result as permission is required from the QPS to perform a second amp. The QPS may not necessarily be in the position to determine whether a second amp might make a profile interpretable.

(d) The workflow does not enable the scientist to assess which rework strategy would be the best based on their scientific knowledge and the circumstances of the case.

(e) The workflow places emphasis on conserving sample for future testing, however in doing so reduces the ability of the scientist to get the best result for the case now. Perhaps the better option would be for the QPS to let us know if any particular sample requires conserving before testing commences.

(f) Submitting all samples in the quant range of 0.001-0.0088ng/µL for a microcon to 35µL is not appropriate for those samples at the lower end of the quant range. Our own experience tells us that these samples would benefit from a microcon to full and that a microcon to 35µL for these samples is less likely to yield an interpretable result.

(g) One process for all samples is not appropriate. Each sample should be assessed on its own merits.

(h) One process for all samples compromises quality to obtain short turnaround times (being able to choose the microcon volume would be a lengthier process as a scientist would have to assess for every sample, the merits of specific microcon volumes).

(i) Although a microcon to 35µL was deemed appropriate when the process was implemented prior to 2018, our knowledge and processes have changed. This process is outdated particularly since the improvement of STRmix modelling allowing STRmix to better model low level profiles and the implementation of the more sensitive 3500xL genetic analyser.

(j) Under this 'new' process, all Priority 3 (P3) samples are not being microconned – they are still being amped at 15µL. Why aren't P3 samples being treated the same as Priority 2 samples, especially since conservation of sample is usually less of an issue with P3 samples? It is a waste of sample to do this.

(k) Cold case samples in this range are held after quant to enable the scientist to make a decision on further processing – why is this not the case for all samples.

54. The new process is another way of requiring the scientist to ask permission to do their job. With the process that was implemented post-6 June 2022 where samples went straight for a 15µL amp, we were able to subsequently microcon to full. If a sample has a 15µL amp and then has a microcon to full then there is an approximate 4.9 times concentration.

55. With this new process of the sample going straight to microcon at 35µL there is only a 2.5 times concentration.

56. This means that the new process implemented on 19 August 2022, is potentially much worse in being able to produce a DNA profile than that implemented on 6 June 2022. On 23 August 2022, I asked Justin whether a meeting with staff would be a good way for staff to better understand the changes and allow all questions to be answered in one go. Justin told me to try the workflow he had made first. Annexed and marked KR-19 is a copy of the email from Justin Howes dated 23rd August 2022.

57. Some of us at the laboratory asked Helen Gregg questions about the process. Helen had two meetings with us by video conference on 25th August 2022 and 30th August 2022. At the first meeting, many of the reporting scientists asked Helen clarifying questions including but not limited to:

(a) Do the QPS know that concentrating samples in the DIFP range to 35µl might not be the best option?

(b) Why only now is there a focus on not exhausting the DNA extract on all samples as this focus has never been raised with us in the past?

(c) Does the direction in the memo only relate to samples in the DIFP range, and only for Priority 1 and 2 samples?

58. Staff also expressed frustration at the lack of transparency of the decision and direction and further, the lack of consultation with the reporting scientists who see the different DNA results from the different sample types and reworking options daily.

59. Helen did seem to struggle with answering the questions in that she didn't appear to comprehend some of the scientific concerns. Notably, Cathie, whom I would have expected to liaise with the A/DG as the representative of our lab, and who would have been in a better position to address the scientific concerns and the basis for the decisions, did not appear to be present at the meeting.

60. Towards the end of the meeting I tried to summarise everyone's concerns in my own words and also mentioned to Helen that if it is the A/DG and/or the Minister making the decision, can Helen please give them the information we had just discussed with her so that a more informed decision could be made.

61. At the second meeting, Helen attempted to provide answers to some questions she could not answer the week before for us. Cathie did not appear to be present at this meeting either.

62. In the first meeting, Helen suggested she would follow up with QPS regarding some of our suggestions in response to the A/DG direction. In the second meeting there was no mention of talking to QPS and her main concern seemed to be not to change anything again. It seemed to me that upper management did not want to change the process again, despite our request, because the first change that occurred on 6 June 2022 was overturned by the new direction on the 19 August 2022 (i.e. we had already had two process changes in three months) and it was mentioned in the Directions Hearing of the Commission of Inquiry as an area of interest.

63. I raised some of the above points to Helen in an email prior to the first meeting as well as in the first meeting with her. I have not raised my concerns further with her or any of the other members of the FSS DNA Analysis Management Team as it was made clear to us in both meetings with Helen that "the direction in the memorandum from the Acting Director-General was clear and the big take away message is if you want to work a sample which will result in exhaustion of the DNA extract, you must obtain QPS permission first". I also feel that pushing the issue is pointless given the lack of

transparency around the decision making, including who may have been involved and the agenda behind the decisions.

All the facts and circumstances declared in my statement, are within my own knowledge and belief, except for the facts and circumstances declared from information only, and where applicable, my means of knowledge and sources of information are contained in this statement.

I make this solemn declaration conscientiously believing the same to be true by and virtue of the provisions of the *Oaths Act 1867*.

TAKEN AND DECLARED before me at Brisbane in the State of Queensland this 16th day of September 2022.

[redacted] .... [redacted] .....

Kylie Dale Rika Witness René Jurkov (JP-Qual)

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[redacted] .... [redacted] .....

Kylie Dale Rika Witness

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Schedule of Exhibits

KR-01	Email from Justin Howes, Subject: Auto-microcons, 7 February 2018.
KR-02	Management team meeting minutes, 1st February 2018.
KR-02-1	Management team meeting minutes, 7th December 2017.
KR-03	Project 184 with feedback annotated, 3rd January 2018.
KR-03-01	Project 184 with feedback annotated, 9th January 2018.
KR-04	Email from Justin Howes, Subject: Project #184 for review, 30th November 2017.
KR-04-1	Email from Cathie Allen, Subject: FW: Proposal #184, 31st July 2017.
KR-04-2	Email from Justin Howes, Subject: Microcon project, 30th August 2017.
KR-04-3	Email from Justin Howes, Subject: Project #184 for review, 30th November 2017.
KR-04-4	Email from Justin Howes, Subject: Project #184, 8th January 2018.
KR-04-05	Email from Justin Howes, Subject: #184 report v2, 8 January 2018.
KR-05	Project Plan for Project 184, start date 25/07/2017.
KR-06	Email from Justin Howes, Subject: RE: today, 9th June 2016.
KR-07	Five (5) page spreadsheet as at 9 September 2022.
KR-08	Email from Kylie Rika, Subject: RE: Auto-microcons, 23rd February 2018.
KR-09	Email from Paula Brisotto, Subject: RE: no DNA detected process and dilutions, 2th April 2018.
KR-10	Email from Kylie Rika, Subject: Implementation Plan for 3500xL PP21 Casework_13Nov2020, 13th November 2020.
KR-11	Email from Kylie Rika, Subject: Project 230 - Implementation Plan for 3500/PP21 CW, 11 January 2021.
KR-12	Email from Justin Howes, Subject: RE: DIFP, 10 February 2022.

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Kylie Dale Rika Witness

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KR-13	Management team meeting minutes, 11th November 2021.
KR-14	Email from Kylie Rika, Subject FW: data, 7th September 2022.
KR-15	Email from Kylie Rika, Subject: CONFIDENTIAL FW: Project plan Proposal #163 Auto Mic, 8th July 2015.
KR-16	Email from Justin Howes, Subject: FW: DNA Insufficient - Quant transition to Amp, 6th June 2022
KR-17	Email from Sharon Johnstone, Subject: FW: DNA Insufficient - Quant transition to Amp, 6th June 2022.
KR-18	Email from Justin Howes, Subject: Process following A/DG memo, 19th August 2022.
KR-19	Email from Justin Howes, Subject: RE: Exhaustion of extract, 23rd August 2022.

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Kylie Dale Rika Witness

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